



# Land Matters Consultation Initiative

Canada

## **Supplementary Information for the LMCI Final Report - List of Issues Raised Through LMCI and NEB Comments**

May 2009

National Energy  
Board



Office national  
de l'énergie

## Permission to Reproduce

Materials may be reproduced for personal, educational and/or non-profit activities, in part or in whole and by any means, without charge or further permission from the National Energy Board, provided that due diligence is exercised in ensuring the accuracy of the information reproduced; that the National Energy Board is identified as the source institution; and that the reproduction is not represented as an official version of the information reproduced, nor as having been made in affiliation with, or with the endorsement of the National Energy Board.

For permission to reproduce the information in this publication for commercial redistribution, please e-mail: [info@neb-one.gc.ca](mailto:info@neb-one.gc.ca)

## Autorisation de reproduction

Le contenu de cette publication peut être reproduit à des fins personnelles, éducatives et/ou sans but lucratif, en tout ou en partie et par quelque moyen que ce soit, sans frais et sans autre permission de l'Office national de l'énergie, pourvu qu'une diligence raisonnable soit exercée afin d'assurer l'exactitude de l'information reproduite, que l'Office national de l'énergie soit mentionné comme organisme source et que la reproduction ne soit présentée ni comme une version officielle ni comme une copie ayant été faite en collaboration avec l'Office national de l'énergie ou avec son consentement.

Pour obtenir l'autorisation de reproduire l'information contenue dans cette publication à des fins commerciales, faire parvenir un courriel à : [info@neb-one.gc.ca](mailto:info@neb-one.gc.ca)

© Her Majesty the Queen in Right of Canada 2009 as represented by the National Energy Board

Cat No. NE23-152/1-2009E  
ISBN 978-1-100-12811-5

This report is published separately in both official languages. This publication is available upon request in multiple formats.

### Copies are available on request from:

The Publications Office  
National Energy Board  
444 Seventh Avenue S.W.  
Calgary, Alberta, T2P 0X8  
E-Mail: [publications@neb-one.gc.ca](mailto:publications@neb-one.gc.ca)  
Fax: 403-292-5576  
Phone: 403-299-3562  
1-800-899-1265

### For pick-up at the NEB office:

Library  
Ground Floor

Printed in Canada

© Sa Majesté la Reine du Chef du Canada 2009 représentée par l'Office national de l'énergie

N° de cat. NE23-152/1-2009F  
ISBN 978-1-100-91770-2

Ce rapport est publié séparément dans les deux langues officielles. On peut obtenir cette publication sur supports multiples, sur demande.

### Demandes d'exemplaires :

Bureau des publications  
Office national de l'énergie  
444, Septième Avenue S.-O.  
Calgary (Alberta) T2P 0X8  
Courrier électronique : [publications@neb-one.gc.ca](mailto:publications@neb-one.gc.ca)  
Fax : 403-292-5576  
Téléphone : 403-299-3562  
1-800-899-1265

### Des exemplaires sont également disponibles à la bibliothèque de l'Office

(rez-de-chaussée)

Imprimé au Canada

## **Table of Contents**

<b>Stream 1 – Company Interactions with Landowners .....</b>	<b>1</b>
<b>Stream 2 – Improving the Accessibility of NEB Processes .....</b>	<b>5</b>
<b>Stream 4 – Pipeline Abandonment - Physical Issues .....</b>	<b>10</b>

## Supplementary Information for the LMCI Final Report: List of Issues Raised Through LMCI and NEB Comments

These tables give an overview of the issues and questions raised through the consultations on Streams 1, 2 and 4 for the Land Matters Consultation Initiative. The Supplementary Information has been provided so that parties can see how the information shared during the LMCI has been considered by the Board. More details on the consultation results can be found in the Consultation Summaries for Streams 1, 2 and 4, available on the NEB website.

### Stream 1 – Company Interactions with Landowners

Issue	NEB Comment
1.a <u>Additional guidance on the NEB’s expectations for company consultation programs</u> <ul style="list-style-type: none"> <li>• definition of minimum requirements and associated timelines</li> <li>• definition of the term “potentially affected persons or groups”</li> <li>• consequences of not meeting the minimum requirements</li> </ul>	The NEB’s current regulatory approach that is in place for other aspects of the NEB’s mandate, such as safety, security and protecting the environment, will be extended to encompass respecting the rights and interests of those affected by NEB-regulated facilities and activities.  Final Report, Appendix 1, Action 1.1
1.b <u>Additional guidance on NEB’s expectations for pipeline crossings</u> <ul style="list-style-type: none"> <li>• while landowners understand the importance of pipeline safety, some have concerns over the time it takes to get crossing approvals, the inconvenience and disruption to farming practices, the inconsistency of the approval process between companies, and the lack of a blanket crossing approval for certain vehicle types.</li> </ul>	The NEB encourages interested parties to continue to work together collaboratively to develop additional guidance on crossings.  The NEB has included the requirement for a Damage Prevention Program, including provisions for the movement of vehicles and mobile equipment across the pipeline, in the current draft version of the Damage Prevention Regulations and associated guidance notes.  In January 2010, the NEB will assess whether further steps toward standards are required to promote safety and security in the area of crossings.  Final Report, Appendix 1, Action 1.2
1.c <u>Additional guidance on NEB’s expectations for easement agreements</u> <ul style="list-style-type: none"> <li>• changes in regulation and farming practices have not been reflected in either existing or new easement agreements</li> <li>• description of the minimum requirements and best practices for easement agreements including clarification of s. 86, the intention of periodic vs. lump sum payments, fairness, basis for estimating compensation</li> </ul>	The NEB encourages interested parties to continue to work together collaboratively to develop additional guidance on the land acquisition process and easement agreements. Upon request, the NEB would be pleased to assist in these discussions.  Final Report, Section 4
1.d <u>Additional guidance or the development of a best practices document regarding impact assessment related to land matters</u> <ul style="list-style-type: none"> <li>• cumulative effects</li> <li>• existing and future land uses</li> </ul>	The NEB’s current regulatory approach that is in place for other aspects of the NEB’s mandate, such as safety, security and protecting the environment, will be extended to encompass

## Stream 1 – Company Interactions with Landowners

Issue	NEB Comment
	<p>respecting the rights and interests of those affected by NEB-regulated facilities and activities.</p> <p>Final Report, Appendix 1, Action 1.1</p>
<p>1.e <u>Additional guidance around the NEB’s regulatory oversight during different phases of the project</u></p>	<p>The NEB is developing a standard landowner information package to improve the understanding of existing rights and responsibilities of all parties within the NEB’s mandate.</p> <p>Final Report, Appendix 1, Action 1.3</p> <p>The NEB will expand its outreach efforts to provide more information about NEB’s role and processes.</p> <p>Final Report, Appendix 1, Action 2.5</p>
<p>1.f <u>Set expectations for industry regarding land use planning as it relates to energy infrastructure</u></p> <ul style="list-style-type: none"> <li>• consideration of thresholds on the number of parallel pipelines</li> <li>• consideration of utility corridors</li> </ul>	<p>The NEB does not have a mandate to be involved in land use planning. The NEB will continue to monitor the development of land use planning in order to stay informed.</p>
<p>1.g <u>The NEB should re-evaluate the structure of the NEB Act to encourage the early resolution of issues</u></p> <ul style="list-style-type: none"> <li>• the resolution of landowner issues prior to the NEB issuing a Certificate of Public Convenience and Necessity</li> <li>• leave to construct should not be granted until at certain percentage of landowners have signed agreements</li> <li>• the timing of the Detailed Route Hearing</li> </ul>	<p>In the NEB’s view, a number of the LMCI actions will encourage the early resolution of issues. If the actions identified in Appendix 1 are not effective mechanisms to encourage the early resolution of issues, then the NEB would consider whether further action should be taken.</p> <p>Final Report, Appendix 1, Stream 2 Actions</p>
<p>1.h <u>The NEB should champion a change to existing CSA classification of pipe</u></p> <ul style="list-style-type: none"> <li>• current classification is based on population density but this should be expanded to include existing and future land use</li> </ul>	<p>For future consideration if there is evidence that indicates that changes are warranted.</p>
<p>1.i <u>Arbitration and Negotiation of Compensation</u></p> <ul style="list-style-type: none"> <li>• landowners commented that arbitration and negotiation processes can be intimidating, onerous, uncertain and slow. Landowners commented that their right to annual or periodic payments was being denied and that the right to be compensated for impacts resulting from regulatory change (30 metre safety zone) has been denied.</li> </ul>	<p>The NEB is providing an overview of input that was received through the LMCI relating to policy matters within the mandate of NRCan, which could be helpful to NRCan if it were to consider policy changes in these areas. For example, NRCan may wish to consider developing guidance material and assessing possible changes to NRCan processes for negotiation and arbitration related to compensation matters.</p> <p>Final Report, Section 5</p>

## Stream 1 – Company Interactions with Landowners

Issue	NEB Comment
<p>1.j <u>Some landowners are concerned that companies are not adequately consulting with, and respecting the rights of, those potentially affected</u></p> <ul style="list-style-type: none"> <li>• companies should use an inclusive process</li> <li>• unsatisfactory resolution of issues</li> <li>• timing of consultation and responsiveness</li> <li>• lack of NEB oversight for company consultation programs during lifecycle (e.g., planning – NEB involvement during company open houses, operation – proactive NEB oversight)</li> </ul>	<p>The NEB’s current regulatory approach that is in place for other aspects of the NEB’s mandate, such as safety, security and protecting the environment, will be extended to encompass respecting the rights and interests of those affected by NEB-regulated facilities and activities.</p> <p>Final Report, Appendix 1, Action 1.1</p>
<p>1.k <u>Some landowners have expressed concerns about how environmental, socio-economic and safety matters (e.g., soil, agriculture, drainage) are being addressed by companies during different phases of the project (i.e., planning, construction, operation and abandonment)</u></p> <ul style="list-style-type: none"> <li>• request to include input from landowners and Aboriginal groups when verifying company performance</li> <li>• request for NEB inspectors to be on-site during construction activities and available to answer landowners’ questions</li> <li>• request for inspection reports and audit reports to be publicly available</li> <li>• more transparent process for condition compliance, including an opportunity for public input when conditions are requested by an intervenor</li> <li>• lack of abandonment funding and existence of potential landowner liability (see Stream 4)</li> </ul>	<p>The NEB’s current regulatory approach that is in place for other aspects of the NEB’s mandate, such as safety, security and protecting the environment, will be extended to encompass respecting the rights and interests of those affected by NEB-regulated facilities and activities.</p> <p>Final Report, Appendix 1, Action 1.1</p>
<p>1.l <u>Some Aboriginal groups expressed concerns that company consultation programs do not adequately address the issues and concerns of Aboriginal peoples</u></p> <ul style="list-style-type: none"> <li>• importance of traditional knowledge</li> <li>• economic benefits</li> <li>• differences between groups</li> </ul>	<p>The NEB’s Aboriginal Engagement Program will continue to provide information to Aboriginal groups so that they can participate effectively in NEB processes.</p> <p>In addition, the NEB’s current regulatory approach that is in place for other aspects of the NEB’s mandate, such as safety, security and protecting the environment, will be extended to encompass respecting the rights and interests of those affected by NEB-regulated facilities and activities.</p> <p>Final Report, Appendix 1, Action 1.1</p>

## Stream 1 – Company Interactions with Landowners

Issue	NEB Comment
<p>1.m <u>Land agents:</u> some landowners have a perception that pipeline companies and their agents are not treating them with the appropriate respect and attention when it comes to negotiating land use agreements.</p>	<p>The NEB encourages interested groups to continue to work together collaboratively to develop additional guidance on the land acquisition process and easement agreements. Upon request, the NEB would be pleased to assist in these discussions.</p> <p>Final Report, Section 4</p> <p>The NEB’s current regulatory approach that is in place for other aspects of the NEB’s mandate, such as safety, security and protecting the environment, will be extended to encompass respecting the rights and interests of those affected by NEB-regulated facilities and activities.</p> <p>Final Report, Appendix 1, Action 1.1</p>
<p>1.n <u>Agricultural Capacity:</u> landowners perceive that the NEB has a low capacity to understand the impacts of energy projects on farming.</p>	<p>The NEB will improve communications to ensure that the NEB’s awareness of and expertise in agricultural matters are clearly demonstrated.</p> <p>Final Report, Appendix 1, Action 1.4</p>
<p>1.o <u>The NEB should conduct an assessment of landowner satisfaction with company performance.</u></p>	<p>The NEB will periodically assess landowner satisfaction.</p>
<p>1.p <u>The role of the NEB in enforcement regarding land matters could be clarified and improved</u></p> <ul style="list-style-type: none"> <li>• consistent use of enforcement tools with audits (i.e., findings), inspections (i.e., verbal warnings, AVCs, orders, directives) and company meetings to improve company performance</li> <li>• quicker resolution of complaints by companies and the NEB (e.g., NEB service standards, company commitments for response times)</li> <li>• a process to determine the validity of a complaint</li> </ul>	<p>The NEB’s current regulatory approach that is in place for other aspects of the NEB’s mandate, such as safety, security and protecting the environment, will be extended to encompass respecting the rights and interests of those affected by NEB-regulated facilities and activities.</p> <p>Final Report, Appendix 1, Action 1.1</p>

## Stream 2 – Improving the Accessibility of NEB Processes

Issue	NEB Comment
<p>2.a It can be difficult to resolve certain issues within a formal, adjudicated process. In some cases, resolution of certain issues could be effectively achieved through negotiation or mediation, possibly precluding the need for an oral hearing.</p>	<p>The NEB will apply its ADR program more extensively in the pre-hearing phase to try to resolve conflicts between parties, prior to a hearing.</p> <p>Final Report, Appendix 1, Action 2.1</p>
<p>2.b Many people who are affected by NEB-regulated facilities do not know who the NEB is and what role it plays in the regulation of the Canadian energy industry. This issue is especially important in areas where there is potential new pipeline development, for example, in the North. The NEB could have offices in other locations, for example in the North, to improve access to its processes.</p>	<p>The NEB will expand its outreach efforts to provide more information about NEB’s role and processes, particularly in areas where there is a possibility for new proposed facilities.</p> <p>Final Report, Appendix 1, Action 2.5</p>
<p>2.c Many people do not know how to access information related to the Canadian energy industry.</p>	<p>The NEB will expand its outreach efforts to provide more information about NEB’s role and processes, which would include reviewing how to make the NEB’s website more user-friendly.</p> <p>Final Report, Appendix 1, Action 2.5</p>
<p>2.d Many people find it challenging to access information through the NEB’s website. The NEB could also make other relevant information available, including expanding the public registries to include all oil and gas activity approvals and inspection reports.</p>	<p>Same as previous.</p> <p>Final Report, Appendix 1, Action 2.5</p>
<p>2.e The NEB should consider lands issues not only from a landowner view but also from an Aboriginal view.</p>	<p>The NEB’s Aboriginal Engagement Program will continue to provide information to Aboriginal groups so that they can participate effectively in NEB processes. The NEB takes all of the evidence about Aboriginal rights and interests into consideration as part of its assessment of a project’s impacts and determination of whether a proposed project is in the public interest.</p>
<p>2.f Provide information on how the cumulative effects of multiple facilities and linear developments that could be regulated under different jurisdictions are considered within the NEB’s assessment of a proposed facility.</p>	<p>When reviewing the environmental and socio-economic aspects of a proposed facility, the NEB looks at how the proposed project may interact with other existing or proposed developments to identify appropriate mitigation measures and to determine the significance of the cumulative environmental effects. The NEB considers the information presented to it in the application and in any evidence presented by intervenors, in letters of comments, and in oral statements to identify the potential for cumulative environmental effects.</p>



## Stream 2 – Improving the Accessibility of NEB Processes

Issue	NEB Comment
<p>2.g The routing of pipeline rights-of-way and the classification of pipelines can affect existing and future land uses.</p>	<p>Issues such as general routing, pipe design, and the location of above ground facilities are taken into consideration by the NEB when making any decision about a proposed project. The NEB considers the information presented to it in any evidence provided by the applicant, intervenors, in letters of comments, and in oral statements, to assess the effects of a proposed project on landowners and others who may be affected.</p>
<p>2.h The location of above ground facilities can affect existing land uses.</p>	<p>Same as previous.</p>
<p>2.i Non-industry participants would like access to technical experts and process advice related to NEB facility applications in order to:</p> <ul style="list-style-type: none"> <li>• decide if and how to best participate in an NEB hearing;</li> <li>• better understand technical issues related to pipeline and power line development;</li> <li>• better prepare evidence to support their argument;</li> <li>• better understand the NEB’s hearing process; and</li> <li>• represent them when they do not have the time or resources to represent themselves at a hearing.</li> </ul>	<p>The NEB is proposing to provide additional process-support to intervenors to help them better understand and access the NEB’s hearing processes.</p> <p>Participant funding is a policy matter that could be considered by NRCan. If NRCan decided to examine this policy area, the NEB would be pleased to work with NRCan to assess, and if appropriate, to implement any changes.</p> <p>Final Report, Section 5 and Appendix 1, Actions 2.2 and 2.3</p>
<p>2.j Non-industry parties need information about all NEB processes early enough to decide if and how best to participate. They need to understand the rights and responsibilities associated with each process and method of participating.</p>	<p>In part, this issue will be addressed by some of the solutions presented in Stream 1, in particular through the implementation of Actions 1.1 and 1.3. In addition, the NEB is proposing to expand its outreach efforts to provide more information about NEB’s role and processes.</p> <p>Final Report, Appendix 1, Actions 1.1, 1.3 &amp; 2.5</p>
<p>2.k Are there opportunities for sharing and exchanging information on technical issues within the NEB’s hearing process?</p>	<p>The NEB will consider additional procedural options for its hearing processes to improve the accessibility of those processes to intervenors and other participants. Improvements could include using technical conferences more extensively to provide a less formal forum to discuss certain technical issues.</p> <p>Final Report, Appendix 1, Action 2.4</p>
<p>2.l The timelines to respond to landowner complaints should be communicated, enforced and timely.</p>	<p>The NEB has established service standards for responding to landowner complaints within the NEB’s existing landowner complaint process. These services standards and the reports on past performance can be accessed at: <a href="http://www.neb-one.gc.ca/clf-nsi/rthnb/whwrndrgvmnc/nbsrvcestndrd/nbsrvcestndrd-eng.html#s5">http://www.neb-one.gc.ca/clf-nsi/rthnb/whwrndrgvmnc/nbsrvcestndrd/nbsrvcestndrd-eng.html#s5</a></p>

## Stream 2 – Improving the Accessibility of NEB Processes

Issue	NEB Comment
2.m The date of the oral hearing can sometimes create challenges for non-industry participants.	The NEB will consider changes to its hearing processes to improve accessibility.  Final Report, Appendix 1, Action 2.4
2.n The timelines within the hearing schedule (i.e., deadline for becoming an intervenor, submitting/responding to IRs, etc.) can sometimes be challenging for participants.	Same as previous.  Final Report, Appendix 1, Action 2.4
2.o The timelines to trigger a Detailed Route Hearing can sometimes be challenging for non-industry participants.	The timelines to trigger a Detailed Route Hearing are established in Section 34 of the NEB Act. At this time, the NEB is not considering pursuing changes to the NEB Act to adjust these timelines.
2.p Are there opportunities for the NEB Panel to take a more interactive role within the hearing process, either in a formal or an informal manner, without violating the rules of natural justice?	The opportunities for the Panel members to interact with intervenors during a hearing are limited, given that a perception of bias could be created. However, NEB staff are able to interact with intervenors before, during or after a hearing, to answer questions about the NEB and the hearing process.
2.q The physical set-up of the hearing room could be improved to accommodate the needs of intervenors.	As a best practice, the NEB will continue to change the physical set-up of the hearing room to accommodate cultural and special needs. Other requests from intervenors will be considered and accommodated, if possible.  Final Report, Appendix 1, Action 2.4
2.r Are there opportunities to choose Panel members with skills that are relevant to the proceeding?	Panel members for each hearing are chosen from the roster of Board Members who bring a variety of skills and experience relevant to the NEB's mandate and to issues related to energy development. In addition, the Board Members are supported by technical experts with a broad range of skills and experience.
2.s It would be helpful to have more clarity on the role of public participation in regulatory proceedings and how it impacts the NEB's decision.	The NEB makes its decision based on the information and evidence provided within the proceeding in the form of the application, evidence from intervenors, letters of comment and oral statements, which is why it is so important for affected parties to participate in a proceeding to contribute relevant information to the Panel's decision. The NEB is proposing to provide additional process support to non-industry intervenors so that they can participate more effectively.  Final Report, Appendix 1, Action 2.3
2.t What is the role of oral statements and letters of comment on the NEB's decision?	The NEB considers all submissions received during its proceedings, including oral statements and letters of comment.

## Stream 2 – Improving the Accessibility of NEB Processes

Issue	NEB Comment
<p>2.u Obtaining and using expert advice in the hearing process can be a challenge for some participants due to:</p> <ul style="list-style-type: none"> <li>• The accessibility of limited technical resources</li> <li>• The perceived credibility of expert witnesses providing information to the Panel and the public.</li> </ul>	<p>The NEB will consider changes to its hearing processes to improve the accessibility for intervenors and other participants. Improvements could include using technical conferences more extensively to provide a less formal forum to discuss certain technical issues. Another improvement the NEB could consider is to hire third-party experts to provide evidence on technical matters related to the proposed project – these experts could be accessible to all the parties involved in the hearing.</p> <p>Final Report, Appendix 1, Action 2.4</p>
<p>2.v The language, content, and readability of NEB decisions could be improved.</p>	<p>Over the past several years, the NEB has evolved to writing its Reasons for Decision in plain and simple language. The NEB will continue to look for ways to simplify the content of the Reasons for Decision to improve readability.</p>
<p>2.w The role of the NEB in inspecting, monitoring, and doing follow-up on its regulated facilities could be clarified and improved.</p>	<p>The NEB has committed to clarifying and expanding its role during the construction and operation of approved facilities. Through this action, the NEB hopes to increase affected stakeholders’ understanding of the NEB’s role throughout the life of a facility; create opportunities to more effectively involve parties; and identify and resolve conflicts before they escalate.</p> <p>Final Report, Appendix 1, Action 2.6</p>
<p>2.x What is the role of the NEB to involve the public and address conflicts throughout the life of a regulated facility?</p>	<p>The NEB will continue to expand its existing ADR program in the pre-hearing phase and throughout the lifecycle of facilities.</p> <p>Final Report, Appendix 1, Action 2.1</p>
<p>2.y How does the NEB take into consideration the conditions of Environmental Farm Plans (EMFs) when assessing proposed facilities that may affect agricultural land governed by an EMF?</p>	<p>When reviewing an application for a proposed project, the NEB considers the information and evidence provided to it in the form of the application, evidence from intervenors (which could include information about EMFs), letters of comment and oral statements, which is why it is so important for affected parties to participate in the review of an application to contribute information relevant to the NEB’s decision.</p> <p>The NEB is also seeking to improve its communications to ensure that the NEB’s awareness of and expertise in agricultural matters are clearly demonstrated.</p> <p>Final Report, Appendix 1, Action 1.4</p>

## Stream 2 – Improving the Accessibility of NEB Processes

Issue	NEB Comment
<p>2.z What are the opportunities for public input into the development of NEB regulations and could these opportunities be improved/expanded upon?</p>	<p>The NEB will involve potentially affected stakeholders when proposing to develop or amend regulations. New guidelines outlining public consultation requirements for the regulatory development process were implemented by the Government of Canada in 2007 and will guide how the NEB involves affected parties when it proposes regulatory changes.</p>
<p>2.aa Non-industry parties noted that funding to support their participation of the public in the development of NEB regulations would be helpful, if not a necessary condition to their participation.</p>	<p>The NEB will continue to explore options to address this issue.</p>
<p>2.bb The public needs to understand the effects of regulatory changes on their rights and interests in order to participate effectively in the development of new regulations.</p>	<p>The NEB will involve potentially affected stakeholders when proposing to develop or amend regulations. New guidelines outlining public consultation requirements for the regulatory development process were implemented by the Government of Canada in 2007 and will guide how the NEB involves affected parties when it proposes regulatory changes.</p>
<p>2.cc Providing a rationale and context for regulatory change will help the public understand the effects of regulatory change.</p>	<p>Same as previous.</p> <p>When the NEB proposes to develop or amend regulations, it includes a rationale and the context for the proposed change as part of the information provided during any public comment period.</p>

## Stream 4 – Pipeline Abandonment - Physical Issues

Issue	NEB Comment
4.a <u>Timing of abandonment plan development</u> <ul style="list-style-type: none"> <li>When should abandonment plans be developed?</li> </ul>	Currently, the NEB requires that abandonment planning be completed as part of an application for leave to abandon.
4.b <u>Triggers for abandonment applications</u> <ul style="list-style-type: none"> <li>Should the NEB be able to compel abandonment?</li> </ul>	The NEB does not have the authority to compel abandonment under the NEB Act.
4.c <u>Jurisdiction and authority</u> <ul style="list-style-type: none"> <li>clarification of the exact nature of authority post-abandonment and development of transition mechanisms between jurisdictions</li> </ul>	The NEB has clarified the nature of the NEB's jurisdiction post-abandonment in its letter dated 2 February 2009. Further, the NEB has committed to initiating discussions with industry and other jurisdictions to determine the need for agreements and protocols for the abandonment phase and the transition of residual property.  Final Report, Appendix 1, Action 4.2 and 4.5
4.d <u>Landowner liability</u> <ul style="list-style-type: none"> <li>determination of how to mitigate responsibility for post-abandonment liabilities</li> </ul>	The NEB is of the view that the actions taken in Stream 4 should contribute to the mitigation of risk of liability for landowners. The NEB has outlined its regulatory approach to abandonment in its letter dated 2 February 2009.  Final Report, Appendix 1, Action 4.1 to 4.6
4.e <u>Post-abandonment regulatory framework</u> <ul style="list-style-type: none"> <li>development of criteria to determine when further oversight is in the public interest</li> </ul>	The need for a post-abandonment regulatory framework will be considered through the NEB's discussions to explore requirements of other jurisdictions and authorities.  Final Report, Appendix 1, Action 4.5
4.f <u>Compensation for damages</u> <ul style="list-style-type: none"> <li>understanding of the existing legislative framework for compensation and the arbitration or negotiation of compensation for damages incurred during abandonment to determine if it is fair and reasonable</li> </ul>	The NEB has provided an overview of the issues it heard that may be helpful to NRCan if it were to consider policy changes in this area.  Final Report, Section 5.
4.g <u>Multiple pipeline owners in a corridor</u> <ul style="list-style-type: none"> <li>best practice development for management of a common right-of-way to the end of their life</li> </ul>	The NEB intends to initiate discussions with stakeholders to develop a multi-stakeholder study group to address knowledge gaps related to physical issues of abandonment.
4.h <u>Easement agreements</u> <ul style="list-style-type: none"> <li>How should the NEB factor easement agreements into its assessment of abandonment plans?</li> </ul>	Final Report, Appendix 1, Actions 4.3 and 4.4  This comment applies to issues 4.g to 4.w.
4.i <u>How clean is clean?</u> <ul style="list-style-type: none"> <li>development of allowable threshold criteria for contaminants in abandoned pipelines</li> </ul>	
4.j <u>Corrosion and its effects</u> <ul style="list-style-type: none"> <li>a better understanding of the rate of corrosion in various soil types, the effects of corrosion on surrounding soil and water sources as well as an understanding of the actual collapse mechanism due to corrosion</li> </ul>	

## Stream 4 – Pipeline Abandonment - Physical Issues

Issue	NEB Comment
4.k <u>Practical experience with pipeline-related soil subsidence</u> <ul style="list-style-type: none"> <li>field investigation program that would lead to the development of tolerance criteria for pipeline related soil subsidence</li> </ul>	
4.l <u>Quantification of subsidence threat and algorithms to model structural collapse</u>	
4.m <u>Retirement of facilities at water crossings</u> <ul style="list-style-type: none"> <li>knowledge surrounding the impact of corrosion on water surrounding an abandoned-in-place pipeline as well as the impacts of pipeline exposure in a water crossing</li> </ul>	
4.n <u>Pipeline coatings</u> <ul style="list-style-type: none"> <li>rate of disintegration of coatings and effect of contamination</li> </ul>	
4.o <u>Effects of freeze/thaw cycles</u> <ul style="list-style-type: none"> <li>determination of effect of freeze/thaw cycles on pipelines abandoned in-place</li> </ul>	
4.p <u>Monitoring and tracking</u> <ul style="list-style-type: none"> <li>How should abandoned-in-place facilities be monitored and tracked?</li> </ul>	
4.q <u>Performance measurement</u> <ul style="list-style-type: none"> <li>What are appropriate performance measures for retirement and reclamation?</li> </ul>	
4.r <u>Next-to-last retirement</u> <ul style="list-style-type: none"> <li>determination of best practices for decommissioning or abandonment of facilities adjacent to other operating facilities</li> </ul>	
4.s <u>Cumulative impact</u> <ul style="list-style-type: none"> <li>consideration of cumulative impacts of multiple facilities abandoned in-place</li> </ul>	
4.t <u>Standards for the removal of facilities</u> <ul style="list-style-type: none"> <li>consideration whether the NEB's guidance for construction is adequate (i.e., restoration of ground contours and use of fill)</li> </ul>	
4.u Is it possible to identify an appropriate matrix of criteria to guide <u>abandonment methodology choice</u> ?	
4.v <u>Class-based planning</u> <ul style="list-style-type: none"> <li>Can abandonment planning be done on a class basis?</li> </ul>	
4.w <u>Environmental Farm Plans</u> <ul style="list-style-type: none"> <li>How should EFPs impact abandonment planning?</li> </ul>	