Intelligence MEMOS

From: Benjamin Dachis

To: Peter Watson, Chair of the National Energy Board

Date: May 31, 2017

Re: **Don't Assess Upstream Greenhouse Gas Emissions in Energy East Review**

As you look ahead to reviewing TransCanada's Energy East pipeline proposal to ship eastward Western Canadian oil, you've asked for the public's advice on whether the National Energy Board's review should consider the upstream and downstream greenhouse gas (GHG) emissions of the pipeline.

My advice: assessing upstream GHGs in pipeline reviews is a mistake for two reasons.

First, requiring the National Energy Board to consider upstream emissions of GHGs in its pipeline approval process could exceed the constitutional grounds for federal environmental reviews and intrude into provincial jurisdiction. Federal environmental assessments must be connected to other federal powers. The Supreme Court has emphasized that federal environmental assessment should not be a "Trojan horse" for the federal government to inject itself into general industrial regulation. GHG pricing is a good example of that.

And second, counting upstream GHGs against an inter-provincial pipeline would be economically costly without actually resulting in a reduction of emissions if a carbon price were in place instead. Adding a pipeline would improve the profitability of oil producers and make society as a whole better off without increasing total emissions if we were instead to rely on carbon pricing. We could have a carbon pricing system, GHG reductions and a profitable oil sector to help drive a growing economy as long as we have pipelines. Carbon pricing is fully compatible with market access for Canadian oil and gas.

Carbon pricing is the right way to address the effect of emissions from energy production and users. Indeed, Ottawa put out more details just last week about how it plans to put a comprehensive price on Canadian emissions.

A gram of carbon dioxide has the same effect in the atmosphere whether emitted from oil extraction or other activities. There is no reason to presuppose that each tonne of carbon emissions generated by oil production in Alberta, Newfoundland, or Saskatchewan would yield less economic value for Canada's economy than, say, cement production in Quebec, steel manufacturing in Hamilton or coal mining in Cape Breton. Any rulings against pipelines on GHG grounds make this judgment on behalf of Canadians.

Limiting pipelines only addresses the emissions from oil. Limiting pipelines reduces the economic returns that oil workers and companies get. That's a very indirect way of getting companies to reduce emissions. If we want Canadians to reduce emissions, the Canadian government is right to have put in place emissions pricing to directly target emissions.

It is important that regulatory bodies are asked to adjudicate only on issues that they have the power to address. In the case of pipelines, matters such as GHG emissions should not be part of the regulatory approval process. A GHG policy led by governments would mean that a regulatory decision on building a pipeline would have no net effect on Canadian emissions.

The federal government should put all means of getting oil to market on a level playing field. That means it should not rule against a pipeline because of its potential effects on upstream emissions.

Benjamin Dachis is Associate Director of Research at the C.D. Howe Institute and Co-Author of The National Energy Board's Limits in Assessing Upstream Greenhouse Gas Emissions.