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DATE: August 18, 2009

TIME: 4:15 p.m.

TO: Ms. Kirsten Walli

ORGANIZATION: Ontario Energy Board

FAX NUMBER: 416-440-7656

FROM: John B. H. Edmond

RE: Letter of today's date.

Number of pages including cover: 3

NOTES:

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delayed A-9/18/09
Resending*

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August 18, 2009

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4By fax to: 416-440-7656

Dear Ms. Walli:

WITHOUT PREJUDICE**Re: Yellow Falls Power Limited Partnership
Application for Leave to Construct a Transmission Line
Board File No. EB-2009-0120**

You will by now have received my submission of August 13, 2009, on behalf of the Wabun Tribal Council and the Mattagami, Flying Post and Wahgoshig First Nations, in respect of Procedural Order No. 1 of July 24, 2009.

Please advise if you require an electronic copy of this submission.


That submission argued that the Board has a duty to ensure that all appropriate Aboriginal consultation, and accommodation arrangements if required, have occurred before granting final approval of a transmission line where treaty rights are at issue. It is, as our submission explains, the position of the Wabun Tribal Council that the duty to consult, as a constitutional duty, is superimposed on the Board's jurisdiction.

My purpose in writing is to acknowledge that the Board cannot be expected to respond to this submission in only a day or two. We are hopeful of a positive outcome to our submission. However, should the Board choose not to accept the Wabun submission, notice of that decision is likely not to be available in time to permit the filing of an application for judicial review or an appeal of Procedural Order No. 1 within the thirty days provided by statute. The time for commencing such a proceeding expires August 24, 2009, unless leave is granted for an extension of time.

I am therefore requesting the following courtesy, in these circumstances: That should the Board's decision be unfavourable to Wabun, the Board consent to an application by Wabun for an extension of time in which to file an application for judicial review or an appeal of Procedural Order No. 1. Alternatively, if the Board were to issue a new Order in response to the Wabun submission, that would restart the clock.

In the meantime, we are of course hopeful that such action will not be necessary.

Yours truly,



John Edmond

c.c. Mr. Jason Batise, Wabun Tribal Council

Mr. Scott Hossie, Canadian Hydro Developers, Inc.

Ms. Sharon Wong, Blake, Cassels & Graydon LLP