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ONTARIO ENERGY BOARD

BARRISTERS, SOLICITORS & NOTARIES

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195 LAMBTON STREET EAST
DURHAM, ONTARIO
CANADA, N0G 1R0

May 3rd, 2007

VIA REGISTERED MAIL

VIA FAX: 1-416-440-7656

Ontario Energy Board

P.O. Box 2319
2300 Young Street
TORONTO, ON, M4P 1E9 *2/5*

Attention: Ms. Kirsten Walli - Board Secretary

-and-

Hydro One Networks Inc.

8th Floor, South Tower
433 Bay Street
TORONTO, Ontario.
M5G 2P5

VIA FAX: 1-416-345-5866

Attention: Mr. Glen MacDonald - Senior Advisor

Dear Sir & Madam:

Re: LETTER OF INTERVENTION

EB-2007-0050

OEB BOARD SECRETARY	
File No:	Sub File: <i>4</i>
Panel	<i>PN, CC, BR</i>
Licensing	<i>NM, ZC, KS, DR</i>
Other	<i>RC, N McKay</i>
00/04 <i>AB</i>	

Please find enclosed, at this time, the **Letter of Intervention** which is served upon you by the following Interveners:

MERVYN WAYNE LEWIS
JENNIFER LYNNE LEWIS
JOHN LESLIE FLANAGAN
PHYLLIS DIANNE FLANAGAN
DEAN ALEXANDER FLANAGAN
ALLAN ERIC FOSTER
KARYN FOSTER
JAMES DOUGLAS LEWIS
PENNY JOANNE LEWIS

**JOHN MULHALL
CATHERINE BLANCHE MULHALL
CALVIN JOHN HUGHES**

Personally, and on behalf of

ALL LAND OWNERS OWNING LANDS WITHIN THE PROJECT CORRIDOR SELECTED BY THE APPLICANT FOR THE CONSTRUCTION OF TRANSMISSION FACILITIES BETWEEN THE BRUCE POWER FACILITY IN KINCARDINE AND THE APPLICANT'S SWITCHING STATION IN MILTON, WHO MAY OR MAY NOT HAVE RECEIVED AN *OEB* NOTICE OF APPLICATION FOR APPROVAL TO CONSTRUCT, BUT WHO, AS OF MAY 3RD, 2007, HAS YET TO FILE A 'LETTER OF INTERVENTION' WITH THE *OEB*, WITH THE EXPRESS INTENTION THAT THE ABOVE INTERVENERS DO ALSO MAKE THIS 'LETTER OF INTERVENTION' ON BEHALF OF EACH OF SUCH LAND OWNERS IN A REPRESENTATIVE CAPACITY, AS IF THE PROCEEDINGS WERE BROUGHT IN COURT UNDER THE 'CLASS PROCEEDINGS ACT, 1992' TO CERTIFY THE PROCEEDINGS AS A CLASS PROCEEDING AND APPOINTING THE INTERVENERS AS A REPRESENTATIVE PARTY ON THEIR BEHALF.

Please acknowledge receipt by return fax or e-mail.

Yours truly,

FALLIS FALLIS & McMILLAN



Peter T. Fallis

PTF:
Encls.

ONTARIO ENERGY BOARD

IN THE MATTER OF *THE ONTARIO ENERGY BOARD ACT*,
1998

And in the matter of an APPLICATION BY HYDRO ONE NETWORKS INC. for an Order or Orders granting leave to construct a new 500 kV transmission line in southwestern Ontario and the Greater Toronto Area, from the Bruce Power Complex on Lake Huron to the town of Milton (the "Bruce to Milton Transmission Reinforcement Project" or the "Project").

DATE: MAY 3rd, 2007

by the following
INTERVENERS:

MERVYN WAYNE LEWIS
JENNIFER LYNNE LEWIS
JOHN LESLIE FLANAGAN
PHYLLIS DIANNE FLANAGAN
DEAN ALEXANDER FLANAGAN
ALLAN ERIC FOSTER
KARYN FOSTER
JAMES DOUGLAS LEWIS
PENNY JOANNE LEWIS
JOHN MULHALL
CATHERINE BLANCHE MULHALL
CALVIN JOHN HUGHES

Personally, and on behalf of

ALL LAND OWNERS OWNING LANDS WITHIN THE PROJECT CORRIDOR SELECTED BY THE APPLICANT FOR THE CONSTRUCTION OF TRANSMISSION FACILITIES BETWEEN THE BRUCE POWER FACILITY IN KINCARDINE AND THE APPLICANT'S SWITCHING STATION IN MILTON, WHO MAY OR MAY NOT HAVE RECEIVED AN *OEB* NOTICE OF APPLICATION FOR APPROVAL TO CONSTRUCT, BUT WHO, AS OF MAY 3RD, 2007, HAS YET TO FILE A '*LETTER OF INTERVENTION*' WITH THE *OEB*, WITH THE EXPRESS INTENTION THAT THE ABOVE INTERVENERS DO ALSO MAKE THIS '*LETTER OF INTERVENTION*' ON BEHALF OF EACH OF SUCH LAND OWNERS IN A REPRESENTATIVE CAPACITY, AS IF THE PROCEEDINGS WERE BROUGHT IN COURT UNDER THE '*CLASS PROCEEDINGS ACT, 1992*' TO CERTIFY THE PROCEEDINGS AS A CLASS PROCEEDING AND APPOINTING THE INTERVENERS AS A REPRESENTATIVE PARTY ON THEIR BEHALF.

LETTER OF INTERVENTION

This Letter of Intervention is made in the above proceedings for reasons including the following:

1. The Interveners own the following lands, (the "Lands"):

MERVYN WAYNE LEWIS

- *Lot 19, Concession 2, Township of Southgate, (formerly Township of Egremont), County of Grey*
- *Lot 25, Concession 3, Township of Southgate, (formerly Township of Egremont), County of Grey*

JENNIFER LYNNE LEWIS

- *Lot 19, Concession 2, Township of Southgate, (formerly Township of Egremont), County of Grey*
- *Lot 25, Concession 3, Township of Southgate, (formerly Township of Egremont), County of Grey*

JOHN FLANAGAN

- *Lot 3 and Part of Lot 4, Concession 16, Township of Southgate, (formerly Township of Egremont), County of Grey*

PHYLLIS DIANE FLANAGAN

- *Lot 3 and Part of Lot 4, Concession 16, Township of Southgate, (formerly Township of Egremont), County of Grey*

DEAN FLANAGAN

- *Lot 1 and Part of Lot 2, Concession 16, Township of Southgate, (formerly Township of Egremont), County of Grey*

ALLAN ERIC FOSTER

- *Lot 10 and 11, Concession 14, Township of Southgate, (formerly Township of Egremont), County of Grey*

KARYN FOSTER

- *Lot 10 and 11, Concession 14, Township of Southgate, (formerly Township of Egremont), County of Grey*

JAMES DOUGLAS LEWIS

- *Lot 8 and 9, Concession 14, Township of Southgate, (formerly Township of Egremont), County of Grey*

PENNY JOANNE LEWIS

- *Lot 7, Concession 14, Township of Southgate, (formerly Township of Egremont), County of Grey*

JOHN MULHALL

- *Part of Lot 14, Concession 14, Township of Wellington North, (former Township of West Luther) County of Wellington*

CATHERINE BLANCHE MULHALL

- *Part of Lot 14, Concession 14, Township of Wellington North, (former Township of West Luther) County of Wellington*

CALVIN JOHN HUGHES

- *Lot 20, Concession 2, Township of Southgate, (formerly Township of Egremont), County of Grey*

2. All of the Interveners reside upon and/or carry on farming operations on all of the Lands describe in Clause 1 above.
3. The proposed 500 KV transmission line of the Project will cross over all of the Lands described in Clause 1 above, as well as over all of the additional lands owned by each of the land owners owning lands within the Project Corridor selected by the Applicant for the construction of transmission facilities between the Bruce Power Facility in Kincardine and the Applicant's switching station in Milton, and who may or may not have received an *OEB* Notice of Application for Approval to Construct herein, but who, as of May 3rd, 2007, has yet to file a '*Letter of Intervention*' with the *OEB*, ('such other land owners being hereinafter referred to as "Other Land Owners")
4. The Notice of Application, as given by the Ontario Energy Board, (the "Board"), to which was attached the Application by Hydro One Networks Inc., (the "Applicant"), fails to provide sufficient locational information to allow any one of these Interveners or the Other Land Owners, to properly inform himself/herself/itself of the intended location of the proposed transmission towers, the proposed transmission lines and associated set backs within the Project Corridor, in order to properly comprehend and fully understand the ground location of the intended taking by the Applicant for the Project.
5. The additional material, as set out in Clause '7' below, first ought to have been provided to each effected land owner within the Project Corridor by the Applicant, and so insisted upon

by the Board, as a condition precedent to the service of such Notice of Application of the Board, upon the Interveners and Other Land Owners, before these proceedings should be allowed to continue.

6. The Interveners now request that Board make an Order to stay the proceedings until such time as the following materials, as set out in Clause '7' below, are first provided by the Applicant to each effected land owner within the Project Corridor Route selected by the Applicant.
7. The Interveners submit that the Board has acted in a precipitous and unlawful manner, and contrary to the rules of natural justice, by requiring each of the Intervener parties and all owners within the Project Corridor Route as selected by the Applicant, to make an informed decision as to whether or not to intervene in these proceedings before the Board, in the absence of being first provided by Board and/or the Applicant with the following necessary information which would be needed by any such Intervener Party or Other Land Owners, namely:
 - a. A photo-base map of a sufficiently enlarged scale to allow each of the Interveners and other Land Owners to fully understand and comprehend the intended location of the outside limits on the ground of the intended Project Corridor Route selected by the Applicant, and, also showing the location of the entire land holdings of each Intervener and the location of the adjacent 500KV and 230KV transmission lines and the outside limits of the existing easement holdings.
 - b. A copy of the scaled particulars of estimated distances of any buildings or other constructed improvements for any of the lands of any of the Interveners or Other Land Owners from both within and outside of the proposed Project Corridor Route.
8. Only with the information and documents first in hand, as outlined in Clause '7' above, could each of the Interveners and each of the Other Land Owners make an informed decision on reasonable notice of at least 21 days, as to whether or not any one of the Interveners and Other Land Owners may wish to persist in any formal intervention before the Board in respect to the Project, whether to intervene in writing or by an oral hearing, and whether any Intervener or any one of the Other Land Owners, may require the assistance of professional experts capable of giving expert evidence to support any submissions or opinions that may warrant an adjustment of the location of the Corridor Route within or outside of the lands of any one of the Interveners or Other Land Owners.
7. The Interveners personally, and on behalf of the Other Land Owners, submit that it is both unjust and unfair for the Board to limit the time frame of the right of each to intervene in these proceedings, to an abrupt and extremely abbreviated, 10 day time period following the receipt of the Letter dated April 17th, 2007, as sent by the Applicant containing a 20 sheet Notice package containing the information on the two applications EB-2007-0050 and EB-2007-0051 as filed with your Board, (the "Package"), for the following reasons, amongst others:

- a. To be able to properly inform himself/herself/itself as to whether an intervention ought to be made with the Board in this proceedings, each candidate Intervener Land Owner and any one of the Other Land Owners ought to have been provided with detailed ,photo-base, information, as described in Clause '7' above, in respect to the lands of each Intervener and any one of the Other Land Owners, including information about the estimated distances of any buildings or other constructed improvements for any of the lands of any of the Interveners or any one of the Other Land Owners from both within and outside of the proposed Project Corridor Route selected by the Applicant.
- b. The deadline of 10 days following receipt of such Package, as imposed by the Board, constitutes a denial of natural justice, by forcing any candidate landowner within the Project Corridor Route as selected by the Applicant, to submit a '*letter of intervention*' as a protective measure prior to being provided by the Board or the Applicant, with any of the prerequisite and needed material and information as described in Clause '7' that ought reasonably have been first so provided.
- c. The provision only of an "*illustrator's sketch*",
 - not done to scale, and
 - without any ownership fabric being marked thereon, and
 - prepared only on a 8.5" x 11" piece of paper ,on which is marked with a '*dotted line*' representing the intended location of the proposed Project Corridor Route running some 250 kilometers from the Bruce Power Facility to the Applicant's Switching Station at Milton, and
 - without any lot locational information for any candidate intervener to first review and, if thought necessary, to obtain legal and professional advice thereon, and accompanying a package contained with the Notice of Application that is void of content in respect to minimum prerequisite material required, as outlined in Clause '7' above,cannot be considered by this Board, as sufficient reason to allow these proceedings to be further continued, and not stayed.
- d. Such a denial of natural justice may have already served to force many or all of the Other Land Owners to acquiesce and not intervene without the benefit of reasonable information that any Court might otherwise determine ought to have been so provided as a condition precedent with, or in advance of the delivery of the Package.
- e. Such a denial of natural justice has forced this *Letter of Intervention* to be made, both specifically for those individual Landowners, as Interveners, who have determined

to cause a *Letter of Intervention* to now be filed with the Board, and also on the collective behalf of Other Land Owners, in respect of the Project for the construction of a transmission line between the Bruce Power Facility, and the Switching Station of the Applicant, at Milton.

- f. The named Interveners herein do also seek recognition by this Board, by way of a Board Order, to represent all Other Land Owners as each of the Other Land Owners are an identifiable class, who have issues in common with each of the named Interveners, and which Interveners are in a position to fairly and adequately represent the interests of such class of Other Land Owners.
- A. Each of the Interveners seeks 'intervener status' in these proceedings, both personally, and on behalf of the Other Land Owners, as a representative class.
- B. The Interveners require an oral hearing for the following reasons;
 - i.) They wish to call and present planning, and engineering evidence to be given by experts
 - ii) They wish to summon witnesses who reside in the vicinity to allow the Board to evaluate and measure the impacts of the intended taking.
 - iii They wish the opportunity to cross examine witnesses for the Applicant as to the locational choice selections for the Corridor Route, and the estimated construction and acquisition costs of the proposed Corridor Route of the Applicant,.
- B. The Interveners personally and on behalf of the Other Land Owners seek recovery from the Applicant of the full legal and professional costs incurred and recoupment of all other additional expenses incurred in the conduct of this Intervention.
- C. As land owners effected by the proposed taking and construction under the Project, the Interveners and the Other Land Owners claim entitlement to the recovery of all of their incurred costs and expenses, regardless of outcome.

DATED AT Durham, this 3rd day of May, 2007

FALLIS, FALLIS & McMILLAN

Barristers & Solicitors
195 Lambton Street East
DURHAM, Ontario
N0G 1R0

Peter T. Fallis, LSUC # 12371W

Phone: 1-519-369-2515

Fax: 1-519-369-2522

Solicitors for the above Interveners, in their personal capacity, and collectively in a representative capacity on behalf of the Other Land Owners

TO:

ONTARIO ENERGY BOARD

P.O. Box 2319
2300 Yonge Street
Toronto, ON, M4P 1E4

Attention: Ms. Kirsten Walli, - Board Secretary

AND TO:

HYDRO ONE NETWORKS INC. ("Hydro One") - "Applicant"

8th Floor, South Tower
483 Bay Street
Toronto, ON, M 5G 2P5

Attention: Glen MacDonald - Senior Advisor