



RE: ONTARIO ENERGY BOARD FILE NO: EB-2011-0063

**RE: APPLICATION FOR LEAVE TO CONSTRUCT TRANSMISSION
FACILITIES FOR GRAND RENEWABLE WIND LP**

RE: REQUESTS FOR INTERVENOR STATUS AND ORAL HEARING

Introduction

1. I am the Director of Lands and Resources for the Six Nations Council and as such, am writing on behalf of the Six Nations Council. The Six Nations Council is the elected government of the Six Nations of the Grand River pursuant to the provisions of the *Indian Act (Canada)*. The Lands and Resources Department of the Six Nations Council is the department of the council responsible for acting as the consultation resource and co-ordination unit of the council.
2. Very recently, before the Easter long weekend holiday, the office of the Chief of the Six Nations Council was served with a letter dated April 11, 2011 on the letterhead of Samsung Renewable Energy Inc. signed by Mr. Jeong Tack Lee addressed to no specific person, enclosing copies of the following documents:
 - (a) an Ontario Energy Board "Notice of Application and Written Hearing" dated April 1, 2011 advising of an application dated February 28, 2011 for leave to construct transmission facilities for Grand Renewable Wind LP, along with a map of sorts showing the location of a proposed transmission line and interconnection and transitioning stations and a collector substation; and

- (b) an Application for Leave to Construct consisting of six pages only and noted in the upper left hand corners of each page to be Exhibit A, Tab 2, Schedule 1, a corporate chart, and an application exhibit list of two pages for Grand Renewable Energy Project Park which is shown to be Exhibit A, Tab 1, Schedule 1 (without copies of the exhibits listed).
3. Although I am the responsible director of the Lands and Resources Department overseeing consultation activities of the Six Nations Council, I was not served by the applicant with Mr. Jeong Tack Lee's letter and attachments. I subsequently received from the Chief's office, on April 19, a copy of the letter and materials which had been provided by Samsung Renewable Energy Inc. and Grand Renewable Wind LP to the Chief's office.
 4. At no time did I ever receive any informal notification from the applicant Grand Renewable Wind LP that it intended to make an application for leave to construct to the Ontario Energy Board or did I ever receive any application documents or supporting documents from the applicant, even though that application was made two months ago.
 5. This application at this time is a surprise to the Six Nations Council, given the lack of proper prior communication from the applicant.
 6. Given only the recent notice mentioned above, the Six Nations Council has not yet been able to obtain, review and consider the "copies of the application and the pre-filed evidence in support of the application" from the Ontario Energy Board's offices or the Applicant's offices and website.

Six Nations Council Request for Intervenor Status

7. The Six Nations Council requests Intervenor status in this Ontario Energy Board proceeding and further requests an award of costs in order to be able to participate in this proceeding in a meaningful way.

8. In particular, Six Nations Council would like to retain qualified, experienced legal counsel to represent it in this proceeding. It is presently canvassing potentially available representation.
9. Briefly, the Six Nations Council seeks Intervenor status for reasons which include the following:
 - (1) The transmission facilities are proposed to be located in the Haldimand Tract area covered by the Haldimand Treaty of 1784 and the subject of unresolved claims by the Six Nations. Those unresolved claims include ones involving the failure of the Crown to protect for the Six Nations areas of lands as reserve lands and for which the Six Nations continues to seek reserve status entitlement. The areas where the proposed transmission facilities appear to be proposed for location fall within such areas. The Six Nations Haldimand Tract properties are also the subject of on-going litigation against both the Ontario and Federal Crowns.
 - (2) The transmission facilities are proposed to be located in areas also subject to the Nanfan Treaty of 1701.
 - (3) The Six Nations treaty rights are protected under section 35 of the Constitution Act, 1982.
 - (4) The Six Nations, the Six Nations Council, and the Lands and Resources Department of the Six Nations Council have not been properly consulted concerning the subject matter and details for the application.
 - (5) Neither the applicant nor the Ontario Crown has properly consulted with the Six Nations or accommodated in any way the Six Nations' hunting, gathering and resource rights protected by the Nanfan Treaty and likely impacted by the proposed transmission facilities.

- (6) Similarly, neither the applicant nor the Ontario Crown has properly consulted with the Six Nations concerning the likely negative impacts on the Six Nations reserve land entitlement claims which will be caused by the proposed new facilities and there has been no accommodation to date on such impacts.
- (7) Such further grounds as legal counsel for the Six Nations Council may advise once retained in connection with this proceeding.

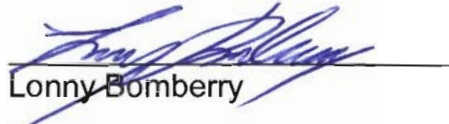
Request for Oral Hearing

10. Subject to the consideration of the application materials and the receipt of advice from legal counsel who may represent Six Nations on this proceeding, the Six Nations Council requests at this time the benefit of an oral hearing for the following reasons:
 - (a) To facilitate the presentation and explanation of Six Nations treaty rights and interests which would likely be impacted by the proposed transmission facilities;
 - (b) To have a proper hearing on the lack of consultation of Six Nations specifically in relation to its rights and interests as well as the lack of accommodation for those rights and interests including the proper testing of the applicant's evidence on those issues;
 - (c) To facilitate the observance by the Six Nations community of the Ontario Energy Board proceedings in a public forum before any decision may be made affecting its interests and rights; and
 - (d) Such further grounds as may be advised by legal counsel on behalf of the Six Nations Council once retained.

11. All of which is respectfully submitted for the Six Nations Council.

Dated April 27, 2011 at Oshweken, Ontario

SIX NATIONS COUNCIL
by its Director of Lands and Resources


Lonny Bomberry

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