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ONTARIO ENERGY BOARD

May 9, 2011

ONTARIO ENERGY BOARD
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OUR FILE NO. 02226

DELIVERED

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

RE: OEB File No. EB-2011-0106, Request to Intervene in Goldcorp's Application for Leave to Construct 115 Kv Transmission Facilities in the Municipality of Red Lake

Our firm is legal counsel for the Lac Seul First Nation (LSFN). We have been instructed to request, on behalf of the First Nation, intervenor status for the above proceeding, in response to the Board's Notice of Application and Hearing dated April 29, 2011.

LSFN is a beneficiary of Treaty 3, however it has occupied and utilized its traditional territory since time immemorial. LSFN would be affected by the outcome of this proceeding and any approval of Goldcorp's proposed transmission facilities, because 100% of the proposed transmission corridor is within LSFN's traditional and treaty territory.

The proposed facilities will likely have a significant impact on LSFN's continuing ability to use and occupy its traditional territory as promised by the Treaty and protected by s. 35 of the *Constitution Act, 1867*. This means present and future impacts on LSFN's treaty and aboriginal rights including, but not limited to, hunting, trapping, wildlife stewardship practices, traditional medicine harvesting, cultural practices and heritage, archaeological and sacred sites, and religion via a relationship with the land. LSFN has substantive and procedural rights to be consulted and accommodated where the Crown contemplates any decision or action that could have an adverse impact on known or asserted aboriginal or treaty rights. Granting Goldcorp its request for Leave to Construct exposes LSFN's constitutionally protected rights to adverse impact. As such, its substantive and procedural rights to be consulted and if necessary accommodated cannot be overlooked in this proceeding.

As an active participant in this proceeding, LSFN intends to submit evidence, argument or interrogatories, and conduct cross-examinations where necessary and permitted.

LSFN will seek costs from the applicant in this proceeding, in accordance with section 3.03 of the OEB Practice Direction on Costs. In addition to having a land interest that will be affected by this process, LSFN represents a public interest relevant to the Board's mandate as a Crown agency. This proposed project is captured by the Crown's duty to consult and accommodate, and any delegation of the procedural aspects of that duty. To date, neither the Crown nor the applicant (as a delegate of the Crown for this purpose) has discharged this duty to LSFN with respect of this proposed project. This continues to be the case despite the fact that consultation and accommodation must occur at the earliest possible stage, or at the strategic planning stage, of any proposed project.

Because this duty has yet to be discharged, LSFN's intervention in this proceeding is necessary in order to ensure the protection of its rights and interests, and it will incur costs to do so. Typically, the proponent or the Crown is required to pay certain costs incurred by the First Nation in such proceedings. This permits informed First Nation participation, which the courts are increasingly recognizing as essential for consultation to be meaningful.

LSFN requests that this proceeding be conducted by way of an oral hearing, in addition to a request for written evidence. LSFN is of an oral cultural tradition, and so out of respect for this tradition and to enable the First Nation's representatives to participate in a manner that is common and familiar to them, an oral hearing will be warranted to ensure clarity, accessibility, and fairness.

LSFN requests that documents filed with the Board in this proceeding be served to:

Keshen & Major
Suite 200 - 120 Second Street South
Kenora, ON P9N 1E9

Attention: William Major

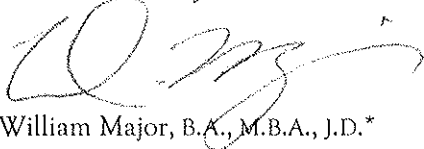
Tel: 807-469-3073

Fax: 807-468-4893

Email: wjmajor@mac.com

In the meantime, feel free to contact the undersigned, should you have any questions.

Sincerely,
KESHEN & MAJOR



William Major, B.A., M.B.A., J.D.*

cc Goldcorp

*Practising through William J. Major Professional Corporation.