



OLTHUIS KLEER
TOWNSHEND - LLP

B A R R I S T E R S A N D S O L I C I T O R S

Kate Kempton
kkempton@oktlaw.com
416.981.9374

May 7, 2018

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attn: Ms. Kirsten Walli
Board Secretary

Dear Ms Walli:

Re: NextBridge motion for the dismissal of Hydro One's Lake Superior Link Application
OEB File No. EB-2017-0364
Affidavits - BLP First Nations

Pursuant to the Ontario Energy Board ("OEB") Procedural Order No. 1 dated April 27, 2018, Bamkushwada Limited Partnership ("BLP") and the following First Nations: Pays Plat First Nation, Fort William First Nation, Red Rock Indian Band, Pic Mobert First Nation and Biigtigong Nishnaabeg (all five First Nations with BLP being referred to as the "BLP First Nations") are filing their evidence in the form of affidavit. The following affidavits are attached to the present letter:

- An Affidavit from Chief Collins, President of BLP and Chief of Fort William First Nation;
- An Affidavit from Chief Desmoulin, Pic Mobert First Nation;
- An Affidavit from Chief Michano, Biigtigong Nishnaabeg.

Please contact the undersigned if you have any questions.

Yours truly,

Olthuis, Kleer, Townshend LLP

JULIE-ANNE PARISEAU FOR KATE KEMPTON

cc. Chief Patricia Tangie, Michipicoten First Nation

Chief Michano, Biigtigong Nishnaabeg
Chief Mushquash, Pays Plat First Nation
Chief Collins, Fort William First Nation
Chief Desmoulin, Pic Mobert First Nation
Chief Wawia, Red Rock Indian Band
Oliver MacLaren, Olthuis Kleer Townshend LLP

ONTARIO ENERGY BOARD
EB-2017-0364

BAMKUSHWADA LIMITED PARTNERSHIP ("BLP")
and
BIIGTIGONG NISHNAABEG
PAYS PLAT FIRST NATION
FORT WILLIAM FIRST NATION
PIC MOBERT FIRST NATION
RED ROCK INDIAN BAND
("Five First Nations")
(BLP and the Five First Nations being "BLP First Nations")

AFFIDAVIT EVIDENCE FROM
JOHANNA DESMOULIN, CHIEF OF PIC MOBERT FIRST NATION

To:

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attn: Ms. Kirsten Walli
Board Secretary

AFFIDAVIT OF JOHANNA DESMOULIN,
CHIEF OF PIC MOBERT FIRST NATION

I, Chief Johanna Desmoulin, of the Pic Mobert First Nation in the Province of Ontario, make oath and say as follows:

1. I am the Chief of Pic Mobert First Nation and have been since July 2017. I have previously acted as Chief from 2009 to 2015 and as deputy Chief from 2015 to 2017 and as such have knowledge of the matters attested to herein.
2. Pursuant to the Procedural Order No.1 dated April 27, 2018 issued by the Ontario Energy Board ("OEB"), the BLP First Nations were recognised as an Intervenor in the Motion filed by Nextbridge seeking the dismissal of Hydro One Networks Inc.'s ("HONI") Lake Superior Link ("LSL") application.
3. The following evidence is from my direct knowledge in my role as Chief, unless otherwise stated to be based on specific sources of information in which case I believe such information to be true.

Routing through Pukaskwa National Park

4. Pic Mobert First Nation has filed and is actively pursuing an aboriginal title claim in court, and the area claimed overlaps with the Pukaskwa National Park. The Statement of Claim in this court file number CV-2006-142 is attached hereto as Exhibit A. The maps of the claimed aboriginal title areas are attached as Exhibit B.
5. Pic Mobert First Nation is engaged with Canada and Ontario in respect of this aboriginal title claim in an on going process.
6. Pic Mobert First Nation members engage in many traditional practices in and around Pukaskwa National Park, such as hunting, fishing, trapping, ceremonies, sacred practices, plant harvesting for food and medicine. The land, animals, plants and water in and around the Park are very important to Pic Mobert First Nation exercise of rights. Other parts of Pic Mobert asserted title area and traditional territory are impacted already by third party uses, and the Park is still not as impacted.
7. HONI's proposed LSL project depends in part on being routed through Pukaskwa National Park. Any such routing and the attendant construction and disturbance and ongoing use would impact Pic Mobert First Nation's asserted aboriginal title and other aboriginal rights exercised in the area. The more such claimed title land is taken up for transmission

Affidavit of Chief Johanna Desmoulin
for Intervenor BLP First Nations

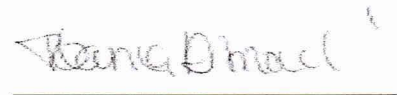
purposes, the less such land can be used for other purposes that Pic Mobert First Nation may wish to pursue and govern.

8. Significant consultation with and accommodation of Pic Mobert First Nation's concerns about impacts must be completed prior to any development that affects our asserted title and our rights. The more the land in our claimed title area, including the Park, is used or used up by third parties, the harder it will be for Pic Mobert to use that and the surrounding lands for our own purposes when our title is confirmed. As a result, Pic Mobert First Nation takes the position that HONI will need our consent to develop any project in the Park or elsewhere in our claimed title area.
9. No consultation by HONI or the Crown related to the proposed LSL project has been initiated or undertaken yet with Pic Mobert First Nation. No accommodation measures have been discussed. Discussions with Nextbridge started about 5 years ago and the consultation process is still not complete, so I cannot see how the timelines proposed by HONI can result in meaningful engagement with us, in particular given the importance and strength of our rights and title claim in this area.

SWORN (OR AFFIRMED) BEFORE ME at Batchewana First Nation, in the Algoma Region of Ontario on May 7, 2018.

 LSUC# 50389N

COMMISSIONER for taking Affidavits



Signature of Deponent

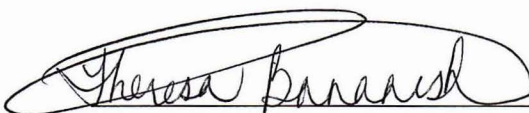
Filed: 2018-05-07

EB-2017-0364

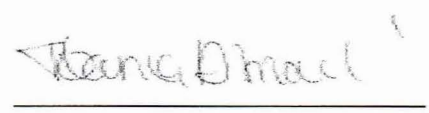
Exhibit A to Chief Desmoulin Affidavit
for Intervenor BLP First Nations

Exhibit 'A'
to Chief Desmoulin Affidavit
for Intervenor BLP First Nations

This is Exhibit 'A' referred to in the affidavit of Chief Johanna Desmoulin SWORN (OR AFFIRMED)
BEFORE ME at the Town of Batchewana First Nation, in the Province of Ontario on May 7, 2018.

 LSUC# 50389 N

COMMISSIONER for taking Affidavits



Signature of Deponent

Court File # CV-2006-142
Parry Sound

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN

JEFF DESMOULIN, Chief, and CHRISTOPHER BANANISH, RANDAL
DESMOULIN, JAMES KWISSIWA, CHERYL MCWATCH, WAYNE
SABOURIN, HOWARD TWANCE, AND GERALDINE WITZELL,
Councillors of the Pic Mobert Band, and the PIC MOBERT BAND (PIC
MOBERT FIRST NATION)

plaintiffs

- and -

THE ATTORNEY GENERAL OF CANADA and
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiffs' lawyer or, where the plaintiffs do not have a lawyer, serve it on the plaintiffs, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

DATE June 14, 2006

ISSUED BY "C.A. Collison, Deputy"
Local Registrar

Address of Court Office:
89 James Street
Parry Sound, Ontario P2A1T7

TO: Attorney General of Canada
Department of Justice
234 Wellington Street
East Tower, Room 1235
Ottawa, ON K1A 0H8

AND TO: Her Majesty the Queen in Right of Ontario
Ministry of the Attorney General
Crown Law office Civil
720 Bay Street, 8th Floor
Toronto, ON M5G 2K1

CLAIM

1. The individual plaintiffs are members of the plaintiff Pic Mobert Band, which is a band of Indians within the meaning of the *Indian Act*, R.S.C. 1985, and is known as the Pic Mobert First Nation.
2. The Pic Mobert First Nation is among the aboriginal peoples of Canada referred to in s. 35 of the *Constitution Act, 1982*. It is also part of a larger society or nation known as the Ojibway, Chippewa or *Anishnabek* (referred to herein as "Ojibway" or "Ojibway Nation").
3. The First Nation includes all of those Indians registered as or entitled to be registered as members of the Pic Mobert band, including the individual plaintiffs. The plaintiffs say the said members, collectively, through their First Nation government, are entitled to the relief claimed herein.
4. The Attorney General of Canada is the representative of Her Majesty the Queen in Right of Canada, pursuant to s. 23(1) of the *Crown Liability and Proceedings Act*, R.S.C. 1985. The defendants Her Majesty the Queen in Right of Canada and Her Majesty the Queen in right of Ontario are referred to herein as the "Crown".
5. The plaintiffs have their principal place of residence at the Pic Mobert Indian Reserve, in the District of Thunder Bay, in the Province of Ontario.
6. The plaintiffs and other First Nations since time immemorial have used, occupied and possessed lands and waters in and around the territory on the north shore of Lake Superior, now in the Province of Ontario, being generally all those lands and waters lying north of the coastline of Lake Superior between the mouths of the Michipicoten and Nipigon Rivers to the natural north

boundary of the Lake Superior watershed, and north thereof in the vicinity of Long Lake and Lake Nipigon; and lying south of the said coastline to the international boundary; which lands and waters will be more particularly described prior to trial.

7. The plaintiffs state, and the fact is, that their title to the said lands and waters was confirmed to them by the terms of the *Royal Proclamation* of October 7, 1763, which terms were communicated to and accepted by the predecessors of the plaintiffs, who were the Ojibway Indians residing in the area of the north shore of Lake Superior.

8. During the early decades of the nineteenth century mineral deposits were located in areas on the north shore of Lake Huron and the north shore of Lake Superior, and there was an influx of miners and settlers to these areas. A period of mining activity followed and several locations for opening and working mines were granted by the Government of the Province of Canada during the decade from 1840 to 1850, despite the fact that the aforesaid title of the predecessors of the plaintiffs had never been extinguished.

9. The predecessors of the plaintiffs who lived in these areas petitioned the Governor-General of Canada with respect to the land taken by non-Indians for mining and settlement purposes. They asserted their ownership of the land and complained that the mining activities drove away game and destroyed the land and the timber on it. They wished to be compensated for the minerals and lands taken in an equitable settlement of their claims.

10. In or about the month of July, 1849, the Chief of the Garden River Ojibways near Sault Ste Marie and several other Ojibways traveled to Montreal to personally lay their complaints before the Governor-General. Shortly thereafter, the Governor-General appointed a Royal Commission to travel throughout the areas around the north shore of Lake Huron and the north shore of Lake

Superior and to report on the number of Indian tribes or bands in the territory, the area controlled by each, the population and the places at which they lived.

11. The Commissioners, Thomas G. Anderson and Alexander Vidal, met at Sault Ste Marie on September 15, 1849, and traveled to Fort William. They met with the Ojibways at Fort William on September 25 and 26, 1849, and then traveled easterly through Lakes Superior and Huron, stopping at different points in an attempt to collect the required information. They completed their journey on November 7, 1849 and submitted their report to the Government on the 5th day of December, 1849.

12. The Commissioners, Anderson and Vidal, reported that there were bands of Ojibway Indians living on the north shore of Lake Superior at Fort William, Nipigon, Pic, Michipicoten and Batchewana; and that other bands of Ojibway Indians were living to the north of Lake Superior at Long Lake and other inland lakes, including Lake Nipigon, although they indicated that some of these bands had not been identified. In their report, the Commissioners noted that "it was found impossible to obtain any complete census on which reliance could be placed". It was also noted that each band or tribe had its own territory and its own chief, and that each must be dealt with "in order to make a treaty that would be generally approved of, and leave no just ground for complaint in the future on the part of any band."

13. On or about the 20th day of November, 1849, the Ojibway Chiefs from Garden River and Batchewana, together with about one hundred other Ojibway people, occupied a mining location of the Quebec Mining Company north of Sault Ste. Marie near Michipicoten. The Ojibways also prevented a survey team from completing a survey of land in the area.

14. On or about January 8, 1850, Mr. William Benjamin Robinson was authorized by Order in

Council to negotiate with the several tribes of Indians in the vicinity of Lakes Superior and Huron for the adjustment of their claims to their lands or any portion of them required for mining purposes.

15. On or about the 18th day of August, 1850, the said William Benjamin Robinson arrived at Sault Ste. Marie to begin the treaty discussions. The Governor-General of Canada was present at Sault Ste. Marie at that time and personally vested Commissioner Robinson with authority to negotiate and settle the Indian Claims.

16. On or about the 7th day of September, 1850, certain Ojibways referred to as "Chiefs and Principal Men of the Ojibway Indians inhabiting the northern shore of Lake Superior" entered into an agreement with Her Majesty the Queen, which agreement is commonly known as, and will be hereinafter referred to as, the "Robinson-Superior Treaty".

17. Under the terms of the Robinson-Superior Treaty, as published by Her Majesty the Queen in Right of Canada, the Ojibway parties purported to surrender to Her Majesty the Queen, all their right, title and interest in the whole of the territory on the northern shore of Lake Superior "from Batchewanaung to Pigeon River, at the western extremity of said Lake, and inland throughout that extent to the height of land which separates the territory covered by the charter of the Honourable the Hudson's Bay Company from the said tract. And also the islands in the said lake within the boundaries of the British possessions therein, ...", with the exception of three tracts of land; at Fort William, Gull River, and Gross Cap, which were reserved by the subscribing Ojibway parties. In consideration, Her Majesty undertook, inter alia, to pay the sum of two thousand pounds of good and lawful money of Upper Canada to them and to provide for a further perpetual annuity.

18. Of the bands or tribes which had been identified by the Commissioners, Anderson and Vidal, in their report of 1849, members of only three actually attended at the making of the Robinson-Superior Treaty, being the bands at Fort William, Gull River, and Gros Cap.

19. The plaintiffs allege and the fact is that the Ojibways who did attend at the time of the treaty as aforesaid had no authority or representative capacity whatsoever from the predecessors of the plaintiffs and that the said Commissioner Robinson knew or ought to have known this fact.

20. The plaintiffs allege that they are successors to the Ojibway people whose claim and title to the lands mentioned in paragraphs 6 and 26 herein has never been sold, surrendered or extinguished and that as such they continue to have rights and title therein. The plaintiffs further allege that they have never been dispossessed of the said lands, except very small portions thereof which have been from time to time up to and including the present actually occupied by persons other than the plaintiffs without the consent of the plaintiffs, and the plaintiffs allege such occupation amounts to wrongful dispossession.

21. More specifically, the plaintiffs say they are successors to the aboriginal people identified in the English and French language historical record - including the report by the Commissioners Vidal and Anderson - by the Ojibway word rendered in English as "Pic", and variations thereof.

22. The term "Pic" is also applied to the Pic River, which flows into Lake Superior from the north. This river and its surrounding area, including the nearby White River, was a place of aboriginal occupancy for thousands of years. When Europeans set up outposts, these were located at points where Ojibway settlement and harvesting sites were long established, such as Heron Bay at the mouth of the Pic River, and at White Lake, on the White River.

23. The collectivity referred to historically by Europeans as the "Pic" people is made up of two bodies of Indians. The plaintiffs are one, the people who live around the White River, and the other is the Begetikong Anishnabe First Nation, or the Pic Heron Bay Indian band, who live around the Pic River.

24. The plaintiffs and their predecessors, and the Begetikong Anishnabe First Nation and their predecessors, jointly exercised exclusive control and jurisdiction over the territory referred to in paragraph 26 herein.

25. According to the customs, laws or practices of the Ojibway, title and control of territory was divided among the bands and resided with the bands as separate collectivities; alternatively, title and control resided with the bands as part of, or by virtue of, said bands being part of the Ojibway Nation collectivity. In either case, title and control resided at the band level and this included the right to dispose of lands. At all material times the plaintiffs asserted their title and control according to said customs, laws and practices, except to the extent it has been interfered with by the defendants or third parties authorized by the defendants.

26. The exclusive territory of the Pic people, as they were called, at the time of the Robinson-Superior Treaty is shown cross-hatched on the map attached hereto as "Schedule 1". The plaintiffs say this is the territory that the Crown is obligated to treat for. The plaintiffs also say that they had exclusive land interests jointly with neighbouring First Nations in a wider territory, and the Crown is also obligated to treat for these interests. The plaintiffs will more specifically delineate the applicable territory prior to trial.

27. In 1922 the plaintiffs purchased with their own money a small parcel at White Lake, on the White River, at a place known as Mobert. In 1983 another 250 acres of land was added. These

parcels are known as the Pic Mobert Indian Reserve.

28. The plaintiffs say that the Crown governments chose to cover up and deny that the treaty process was flawed, instead of negotiating with the plaintiffs' predecessors. Because the aboriginal land interests remained unsurrendered, Her Majesty's governments were at all material times required to conduct themselves so as to: (a) not infringe, or only minimally and justifiably infringe, the rights of the plaintiffs; and (b) not profit from their own dilatoriness in negotiating a treaty, or allow others to profit, by granting rights to third parties, at the expense of the plaintiffs.

29. The plaintiffs say that the Crown governments did not conduct themselves in the aforesaid required manner. Following the making of the Robinson-Superior Treaty the Crown commenced to regulate in the traditional territory of the "Pic" people. Most of the regulation related to (a) creation of transportation and other corridors to link distant regions of Euro-Canadian settlement; and (b) licencing of natural resource extraction undertakings, and the establishment of small towns to furnish labour for them. Although few non-aboriginal people settled in the territory, these regulations substantially infringed the land interests and interfered with the preferred land uses of the plaintiffs.

30. The plaintiffs plead and rely upon the *Royal Proclamation* of October 7, 1763; the principle of Imperial constitutional law that the rights of indigenous people will be acknowledged and respected, section 91(24) of the *Constitution Act, 1867*; section 35 of the *Constitution Act, 1982*; the *Indian Act*, R.S.C. 1985, as amended, and all predecessors thereto, including legislation of the Province of Canada respecting Indians.

31. To the extent the said *Royal Proclamation* of 1763 recognizes or creates their claim and title to lands and waters the plaintiffs allege they were connected with and under the protection of the

Crown, within the meaning of the said *Proclamation*, at all material times .

32. The plaintiffs plead that although they have been wrongfully dispossessed, as alleged in paragraph 20, they do not ask this Court to in turn dispossess persons who hold title from the Crown and are in good faith occupation of portions of the territory. Instead, the plaintiffs ask that their wrongful dispossession be dealt with according to the type of occupation allowed by the defendants.

(A) The plaintiffs allege that some of the aforesaid wrongful dispossession is manifested in Crown grants to private parties, and in lands within incorporated municipalities required for actual use by the residents thereof or by the applicable municipality. The plaintiffs do not request that such titles or allocations be vacated by the Court; but if the Court awards damages, pursuant to the alternative claims herein, the plaintiffs ask that such damages be assessed so the plaintiffs receive compensation commensurate with the benefits conferred by such grants or allocations.

(B) The plaintiffs further allege that some of the wrongful dispossession is in the form of hydro electricity generation sites licenced by the Crown, and flowage easements associated therewith. The plaintiffs do not request that such interests be vacated by the Court; but if this Court awards damages, pursuant to the alternative claims herein, the plaintiffs ask that such damages be assessed so the plaintiffs receive compensation commensurate with the benefits conferred by such licences and easements.

(C) The plaintiffs further allege that some of the wrongful dispossession is in the form of licences or easements for transportation, communication, electrical transmission and pipeline corridors. The plaintiffs do not request that such interests be vacated by the

Court; but if the Court awards damages, pursuant to the alternative claims herein, the plaintiffs ask that such damages be assessed so the plaintiffs receive compensation commensurate with the benefits conferred by such licences or easements.

(D) The plaintiffs further allege that some of the wrongful dispossession is in the form of licences or leases from the Crown to private parties for mining purposes. The plaintiffs do not request that such interests be vacated by this court, during their currency, but if this Court awards damages, pursuant to the alternative claims herein, the plaintiffs ask that such damages be assessed so the plaintiffs receive compensation commensurate with the benefits conferred by such licences or leases.

(E) The plaintiffs further allege that some of the wrongful dispossession is in the form of permits from the Crown to private parties for specific local uses. The plaintiffs do not request that such permits be vacated by this court, during their currency, but if this Court awards damages, pursuant to the alternative claims herein, the plaintiffs ask that such damages be assessed so the plaintiffs receive compensation commensurate with the benefits conferred by such permits.

(F) The plaintiffs further allege that large portions of their traditional land have been licenced to participants in the forest industry. The plaintiffs say that the privileges conferred by such licences severely and unjustifiably infringe their land interests. The plaintiffs ask that the declaration requested herein include that all such new or renewed licences, or interests derived therefrom, require the consent of the plaintiffs before they are effective.

(G) The plaintiffs further allege that portions of their traditional land have been

appropriated by the Crown, for its own use, or for conservation, preservation, or recreation purposes. The plaintiffs say that these purposes have a lower priority than their land interests, and ask that the declaration requested herein include that all such new or renewed appropriations require the consent of the plaintiffs before they are effective.

33. The plaintiffs claim:

(A) A declaration that they have not surrendered or otherwise alienated and continue to have rights and title to the lands and waters mentioned in paragraph 6 and 26 herein; and that the Crown is obligated to negotiate and attempt to settle in a treaty or in an adhesion to the Robinson-Superior Treaty the terms under which the plaintiffs will consent to infringement of their aforesaid land interests. The plaintiffs ask that the declaration include guiding principles for negotiations, including (a) that the plaintiffs are entitled to compensation for the land uses referred to in paragraph 32, (b) that the plaintiffs' interests in the lands referred to in sub-paragraphs 32 (B) and (C) will be reinstated when the land is no longer used for the purposes mentioned, unless otherwise agreed; (c) that the plaintiffs' interests in the lands referred to in sub-paragraphs 32(D) and (E) will be reinstated upon expiry of the applicable leases, licences or permits, unless otherwise agreed; (d) that the plaintiffs' interests in the lands referred to in sub-paragraph 32(F) will be reinstated and that the applicable licences may not be renewed without their consent, unless otherwise agreed; and (e) that the plaintiffs' interests in the lands referred to in sub-paragraph 32(G) will be reinstated by a fixed date, unless otherwise agreed. The plaintiffs say that at least the following topics are necessary parts of such negotiations; and they are ready, willing and able to commence such negotiations:

- (i) reservations of land over which they will have jurisdiction,

- (ii) continuing land use interests in traditional areas, and
- (iii) financial compensation for infringement of land interests, both retrospectively and prospectively, based on the wealth produced from the land.

(B) If the aforesaid negotiations produce no settlement, or if the Court does not grant the aforesaid declaration, the plaintiffs claim in the alternative damages, including aggravated, exemplary and punitive damages, for breach of fiduciary duty. The plaintiffs say that the Crown governments at all relevant times enjoyed a monopoly on the right to treat for or purchase the plaintiffs' land interests, and simultaneously enjoyed the exclusive power to infringe those interests by regulation, and thus the plaintiffs were exquisitely vulnerable to the discretion and power of the defendants. The plaintiffs say that instead of treating for their land interests, and respecting them until dealt with in a treaty, the Crown governments acted so as to damage the plaintiffs. The plaintiffs say this constituted a breach of fiduciary duty, and dishonoured the Crown, and they claim compensation to be assessed in accordance with paragraphs 32 and 34 to 38.

(C) In the further alternative, if the Court finds that the plaintiffs do not have unsundered rights and title as aforesaid and their rights and title are subject to the Robinson-Superior Treaty, and if the Robinson-Superior Treaty is a binding instrument, all of which is denied, the plaintiffs claim damages, including aggravated, exemplary and punitive damages, for failure of the Crown to provide to the plaintiffs the consideration called for in the treaty. The plaintiffs say the Robinson-Superior treaty includes promises by the Crown of:

- (i) reservations of land over which each "Tribe" would have jurisdiction,
- (ii) continuing land use interests in traditional areas, and

(iii) financial compensation for infringement of land interests, based on the wealth produced from the land.

The plaintiffs say the Crown has breached each of the above promises, and claim damages to be assessed in accordance with paragraphs 32 and 34 to 39.

34. The plaintiffs say that their damages, under either subparagraph 33(B) or subparagraph 33(C), are:

(i) for failure to create reservations of land over which they have jurisdiction, commensurate in size with those promised and delivered to the "Tribes" that were represented at the treaty.

(ii) for failure to honour the plaintiffs' continuing land interests in traditional areas, and

(iii) for failure to pay financial compensation for infringement of land interests, based on the wealth produced from the land.

35. The plaintiffs say that their aforesaid damages cannot be calculated by reference to market value of the affected land, because the Crown has conducted itself such that there is no market to serve as a reference. The Crown has retained legal title to virtually all of the territory, and bestows interests in the produce of the land, principally timber and minerals, at low non-market prices, to subsidize industrial resource extraction. The plaintiffs say their lack of reservations of land over which they exercise jurisdiction, and their exclusion from exercising land interests in their traditional areas, enhance such subsidies, by depopulating the land.

36. The plaintiffs therefore say their compensation or damages should be assessed according to the benefits accruing to the Crown, and through the Crown to other interests, from the above failures.

37. The plaintiffs say the aforesaid benefits are the value of the gross benefit in each year, as if such benefit had been paid to the plaintiffs or to trustees on their behalf, on a timely basis, and prudently invested, to the date of judgment herein. The plaintiffs claim \$792,000,000.00.

38. The plaintiffs further say that the Crown's conduct, as aforesaid, has been so callous, unjust, predatory, discriminatory, and contrary to the honour of the Crown and to constitutional principles, that the Court should award a further sum for aggravated, exemplary and punitive damages, in the amount of \$396,000,000.00.

39. The plaintiffs say that the duties of the Crown referred to herein are duties of the Crown in its integrity, to be carried out by whichever of Her Majesty's governments or ministers possess the relevant power. The plaintiffs claims for relief are therefore against the defendants jointly and severally.

40 The plaintiffs further claim:

(A) their costs, including interim and advance costs,

(B) such interim and interlocutory relief as may be required to prevent the plaintiffs' land interests from being permanently damaged or altered pending final disposition of this proceeding,

(C) pre and post judgment interest, and

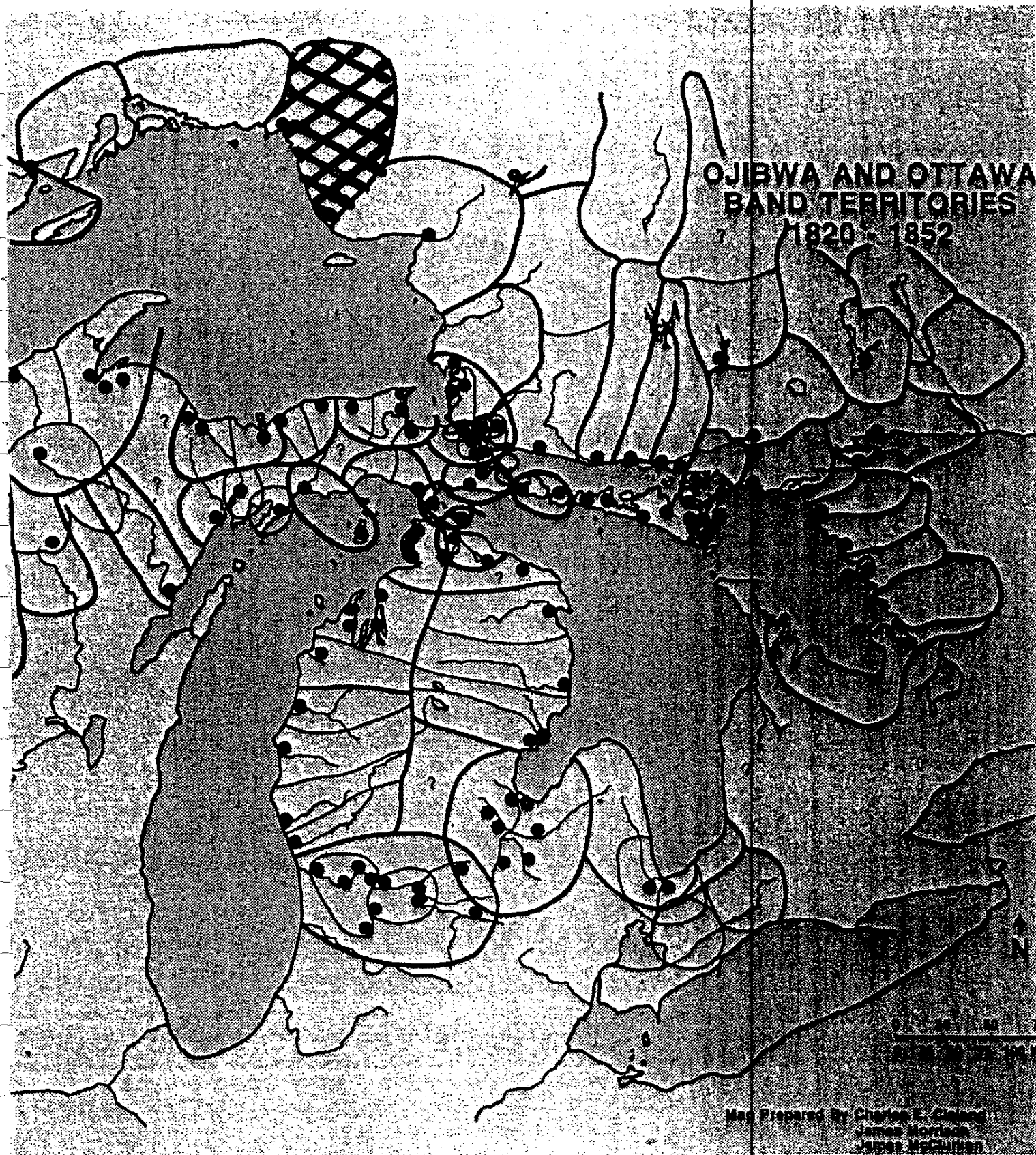
(D) such further and other relief as this Honourable Court may deem just.

41. The plaintiffs propose that this action be tried at Parry Sound.

DATE _____

Donald R. Colborne
Barrister and Solicitor
RR #13, Site 14-67
Thunder Bay ON P7B 5E4
(807) 344-6628
Fax (807) 983-3079
LSUC 15901 O

"Schedule 1" to Pic Nobeet claim



Court file # CV. 2006-142

Jeff Desmoulin, Pic Mobert Band, et al

and

Attorney General of Canada,
and Her Majesty the Queen
in Right of Ontario

plaintiffs

defendants

I certify this to be a true copy of the original

Statement of claim herein.

SUPERIOR COURT OF JUSTICE

Proceeding commenced at Parry Sound

STATEMENT OF CLAIM

Donald R. Colborne
RR #13, Site 14-67
Thunder Bay, Ont. P7B 5E4
807-344-6628
Fax 807-983-3079
LSUC #15010

Solicitor for the plaintiffs

Exhibit 'B'
to Chief Desmoulin Affidavit
for Intervenor BLP First Nations

This is Exhibit 'B' referred to in the affidavit of Chief Johanna Desmoulin SWORN (OR AFFIRMED)
BEFORE ME at the Town of Batchewana First Nation, in the Province of Ontario, on May 7, 2018.

 LSUC #50389N

COMMISSIONER for taking Affidavits

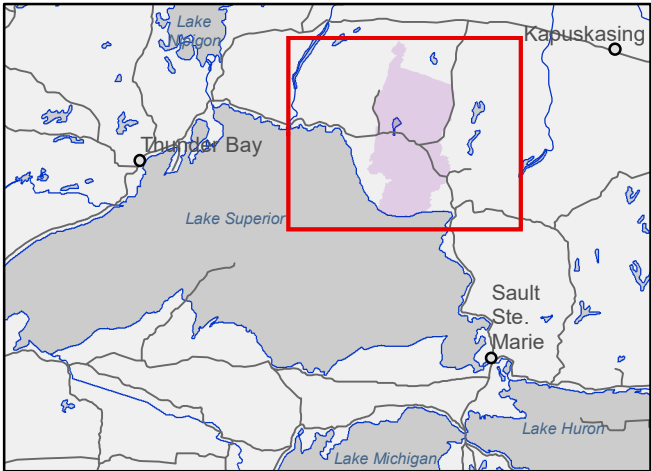


Signature of Deponent

Pic Mobert First Nation DRAFT Exclusive Title Area

Total Area: 4,189 Square Miles

 Pic Mobert Draft Exclusive Title Area



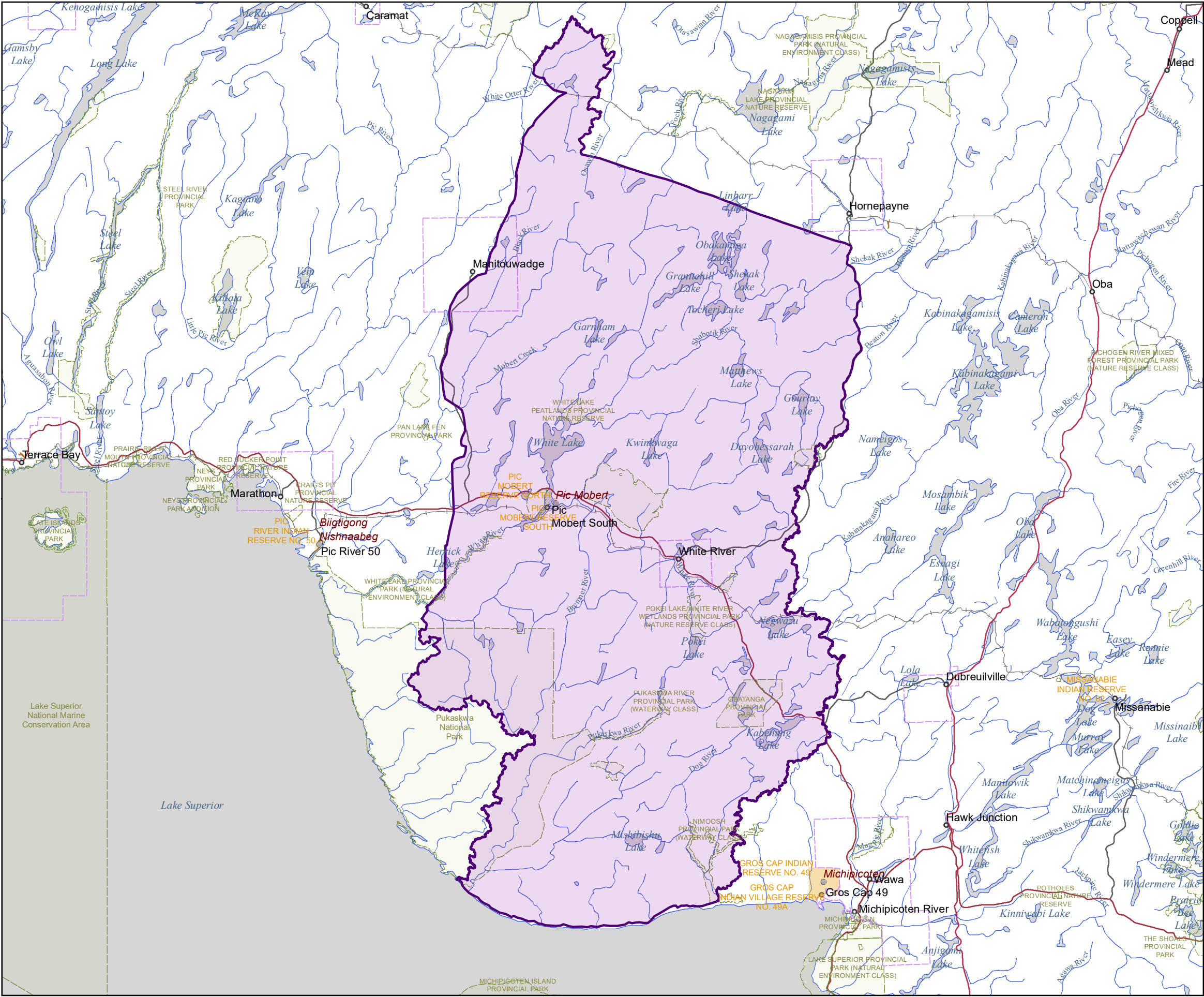
Confidential - not for circulation. Areas mapped are for discussion purposes only. Without prejudice to Aboriginal Rights and Title, including Title case and negotiations with the Crown. Areas mapped are not representative of all priority areas.



June 13, 2017
For more information, contact:
Chief Wayne Sabourin,
Pic Mobert First Nation
P.O. Box 717, Mobert, ON
P0M 2J0



Map layout by David Carruthers
Framework: Atlas of Canada 1M
Projection: UTM Zone 16N, NAD83



ONTARIO ENERGY BOARD
EB-2017-0364

BAMKUSHWADA LIMITED PARTNERSHIP ("BLP")
and
BIIGTIGONG NISHNAABEG
PAYS PLAT FIRST NATION
FORT WILLIAM FIRST NATION
PIC MOBERT FIRST NATION
RED ROCK INDIAN BAND
("Five First Nations")
(BLP and the Five First Nations being "BLP First Nations")

AFFIDAVIT EVIDENCE FROM
DUNCAN MICHANO, CHIEF OF BIIGTIGONG NISHNAABEG

To:

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attn: Ms. Kirsten Walli
Board Secretary

**AFFIDAVIT OF DUNCAN MICHANO
CHIEF OF BIIGTIGONG NISHNAABEG**

I, Chief Duncan Michano, of Biigtigong Nishnaabeg in the Province of Ontario, make oath and say as follows:

1. I am the Chief of Biigtigong Nishnaabeg and have been since Nov 28, 2013 and as such have knowledge of the matters attested to herein.
2. Pursuant to the Procedural Order No.1 dated April 27, 2018 issued by the Ontario Energy Board ("OEB"), the BLP First Nations were recognized as an Intervenor in the Motion filed by Nextbridge asking for the dismissal of Hydro One Network Inc.'s ("HONI") Lake Superior Link ("LSL") application.
3. The following evidence is from my direct knowledge in my role as Chief, unless otherwise stated to be based on specific sources of information in which case I believe such information to be true.

Routing through Pukaskwa National Park

4. Biigtigong Nishnaabeg filed on January 7, 2003, and is actively pursuing, an aboriginal title claim in the Ontario Superior Court of Justice. The title area claimed overlaps with the Pukaskwa National Park. The Statement of Claim in this matter is attached hereto as Exhibit A.
5. Canada and Ontario have initiated and are pursuing settlement negotiations with Biigtigong Nishnaabeg about this claim. These negotiations are on-going.
6. Biigtigong Nishnaabeg members engage in many traditional activities in and around the Park, including hunting, fishing, trapping, gathering, ceremonial and sacred practices. The lands, waters and wildlife in and around the Park are very important to Biigtigong Nishnaabeg. Other parts of Biigtigong Nishnaabeg's asserted title area and traditional territory are impacted already by third party uses, and the Park is still not as impacted.
7. As a result, any development on these lands to which we claim title and on which we exercise rights, has the potential to adversely impact Biigtigong Nishnaabeg's asserted and practiced rights and reduce our options on how we use these lands if our title claim is successful in court or in associated negotiations.
8. HONI's LSL project depends in part on being routed through Pukaskwa National Park. Any such routing and the attendant construction and disturbance and ongoing use for

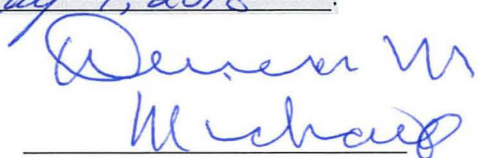
another transmission line, would impact Biigtigong Nishnaabeg asserted aboriginal title and other aboriginal rights in the area. The more such claimed land is taken up for transmission purposes, the less we can use it for our own self-determined purposes when our title is confirmed.

9. Because of all this, significant consultation with and accommodation of, Biigtigong Nishnaabeg's concerns about impacts must be completed prior to any development that affects our asserted title and rights. Biigtigong Nishnaabeg takes the position that any development in our claimed title area requires our consent.
10. No consultation by HONI or the Crown related to the proposed LSL project has been initiated or undertaken yet with Biigtigong Nishnaabeg. No accommodation measures have been discussed. Discussions with Nextbridge started about 5 years ago and the consultation process is still not complete, so I cannot see how the timelines proposed by HONI can result in meaningful engagement with us, in particular given the importance and strength of our rights and title claim in this area.
11. I have written to Parks Canada telling them that, among other things, Parks Canada needs to obtain Biigtigong Nishnaabeg's permission before approving or conducting any activity in the Park, and that there is a higher requirement for consultation in the case, such as here, when the land is subject to an active aboriginal title claim. This consultation is of paramount importance when our lands and economic development aspirations are, or may be affected. Attached as Exhibit B to this affidavit, is that correspondence.

SWORN (OR AFFIRMED) BEFORE ME at the Town of
Marathon, in the Province of
Ontario on (date) May 4, 2018.



COMMISSIONER for taking Affidavits



Signature of Deponent

**CHUCK VERBO, a Commissioner, etc.,
District of Thunder Bay, for the Corporation of the
Town of Marathon**

Filed: 2018-05-07

EB-2017-0364

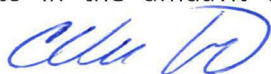
Exhibit A to Chief Michano Affidavit
for Intervenor BLP First Nations

Exhibit 'A'

to Chief Michano Affidavit

for Intervenor BLP First Nations

This is Exhibit 'A' referred to in the affidavit of Chief Duncan Michano sworn before me
this 4th day of May, 2018 .


CHUCK VERBO, a Commissioner, etc.,
District of Thunder Bay, for the Corporation of the
Town of Marathon

SUPERIOR COURT OF JUSTICE

BETWEEN:

**CHIEF ROY MICHANO AND COUNCILLOR ARTHUR H. FISHER,
suing on their own behalf and on behalf of all other members of
the OJIBWAY NATION who are also members of THE BEGETIKONG
ANISHNABE FIRST NATION (also known as The Ojibways of Pic River
PLAINTIFFS**

and

THE ATTORNEY GENERAL OF CANADA

and

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

and

THE TOWN OF MARATHON

DEFENDANTS

AMENDED STATEMENT OF CLAIM

TO THE DEFENDANT(S)

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff(s). The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff(s) lawyer or, where the plaintiff(s) do(es) not have a lawyer, serve it on the plaintiff(s), and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date:

amended September 27, 2004
original issued January 7, 2003

Issued by:

' <signature removed>

Local registrar

+ Deputy!

Address of court office:
89 James Street
Parry Sound, Ontario
P2A 1T7

TO:

THE ATTORNEY GENERAL OF CANADA
Attention: Morris Rosenberg,
Deputy Attorney General
284 Wellington Street, Ottawa
K1A 0H8

Fax: (613)941-2279

AND TO:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
Crown Law Office - Civil,
Ministry of the Attorney General
8th Floor,
720 Bay Street, Toronto
M5G 2K1

Fax (416)326-4181

AND TO:

**Cassels, Brock
Barristers and Solicitors
2100 - 40 King Street West
Toronto, ON M5H 3C2**

Attention: Mark Smyth

CLAIM

1. Chief Roy Michano and Councillor Arthur H. Fisher claim, on their own behalf and on behalf of all other members of the Ojibway Nation who are also members of the Begetikong Anishnabe First Nation ("Plaintiffs"), against the Defendants:
 - (a) A declaration that the Plaintiffs hold exclusive Aboriginal title over the territory encompassed by boundary "A" , the "Exclusive Aboriginal Title Area", in Schedule "I", attached hereto, and joint exclusive Aboriginal title over the territory encompassed between boundaries "A" and "B", the "Joint Exclusive Aboriginal Title Area" (the total area shall be referred to as the "Aboriginal Title Area"), and that said rights are existing Aboriginal rights within the meaning of s.35 of the *Constitution Act, 1982*. The declaration herein claimed shall specifically exclude those lands held in fee simple by third parties as hereinafter defined. Third parties means individuals and corporations, which are not owned or controlled by any of the Defendants, and municipalities. ~~other than the Defendant, The Town of Marathon.~~
 - (b) Damages or compensation for breach of fiduciary duty, infringement of Aboriginal title and unjust enrichment, in relation to those parts of the Exclusive Aboriginal Title Area in which the Plaintiffs' Aboriginal title has been ~~unjustifiably~~ interfered with;
 - (c) An accounting for all profits, taxes, stumpage dues, royalties and other similar ~~benefits in connection therewith~~ acquired by or accruing to the Defendants and/or their servants, agents or contractors in respect of the Exclusive Aboriginal Title Area;
 - (d) An order for, or a declaration that the Plaintiffs are entitled to, the following:

- (i) the return to the exclusive use and occupation of the Plaintiffs ~~of a fair share of the lands and resources within the Exclusive Aboriginal Title Area not held in fee simple by third parties, which are deemed necessary by the Plaintiffs for their exclusive use for residential purposes, traditional land use needs or for their economic development;~~ and
 - (ii) the allocation of ~~a fair share of~~ revenues for to the Plaintiffs, including profits, taxes, stumpage dues, royalties and other benefits, derived from any economic activities, including resource developments, being carried out within the Exclusive Aboriginal Title Area, on lands that are not held in fee simple by third parties;
 - (iii) the imposition of a constructive trust, in favour of the Plaintiffs, over the lands and resources held by the Defendants in the Exclusive Aboriginal Title Area.
- (e) In addition, or in the alternative to sub-paragraph 1(d), an order or a declaration that the Defendants are required to enter into good faith negotiations with the Plaintiffs for the reconciliation of Aboriginal title with the assertion of sovereignty by the Crown, ~~based upon the principles contained in sub-paragraphs 1(d)(i) and (ii).~~
- (f) Interlocutory relief as required to prevent any further or new interference with the Plaintiffs' Aboriginal title over the Exclusive Aboriginal Title Area, including, more specifically, an order that the Defendants shall not carry-out any further developments, dispositions, appropriations or activities with respect to the lands and resources within the Exclusive Aboriginal title Area without consultation with the plaintiffs;

- (g) All further and proper declarations, accounts, inquiries, orders and directions to carry out the remedies awarded;
 - (h) Pre-judgment and post-judgment interest according to the *Courts of Justice Act*, and its predecessor legislation;
 - (i) Costs on a solicitor and client basis; and
 - (j) Such further and other relief as this Honourable Court may deem just.
2. For greater certainty, the Plaintiffs are not claiming Aboriginal title to any property held in fee simple by third parties.

The Parties

3. The Plaintiffs, Chief Roy Michano and Councillor Arthur H. Fisher, are Indians within the meaning of the *Indian Act*, members of the Ojibway Nation, members of the Begetikong Anishnabe First Nation and duly elected members of the Council of the First Nation. Both reside on the Pic Heron Bay Reserve, No. 50 ("the Reserve"). They are suing on their own behalf and on behalf of all other members of the Ojibway Nation who are also members of the First Nation. The term "Plaintiffs", in this statement of claim, unless otherwise indicated, refers to the collectivity of members on whose behalf Chief Roy Michano and Councillor Arthur H. Fisher are suing and its predecessors.
4. The Begetikong Anishnabe First Nation (the "First Nation") is a band within the meaning of the *Indian Act*, R.S.C., 1985, as amended ("*Indian Act*"), and an Aboriginal people within the meaning of s.35 of the *Constitution Act, 1982*. The First Nation's administrative offices are located on the Reserve, on the north shore of Lake Superior, east of Thunder Bay and about 15 km southeast of Marathon. The Reserve measures approximately 800 acres in size.

5. The Defendant, Attorney General of Canada ("Canada"), is the representative of Her Majesty the Queen in Right of Canada, pursuant to s.23(1) of the *Crown Liability and Proceedings Act*, R.S.C., 1985, c.C-50, as amended. Her Majesty the Queen in Right of Canada:
 - (a) has executive and legislative authority in Canada, by and with the advice of the Parliament of Canada, with respect to Indians and the lands reserved for Indians, pursuant to s.91(24) of the *Constitution Act, 1867*;
 - (b) is the successor in Canada to, and is subject to, all of the obligations, duties and liabilities which His Majesty the King or her Majesty the Queen (the "Imperial Crown"), the Province of Upper Canada, and the Province of Canada, had or owed to the Plaintiffs, except for those obligations, duties and liabilities conferred or imposed upon the Defendant, Her Majesty the Queen in Right of Ontario, under the *Constitution Act, 1867*, or otherwise by law.
6. The Defendant, Her Majesty the Queen in Right of Ontario ("Ontario"):
 - (a) became, on July 1, 1867, the recipient of all lands, mines, minerals and royalties situate within the Province of Ontario "belonging" to the former Province of Canada and became the recipient of all sums due or payable for such lands, mines, minerals or royalties, subject to any trusts existing in respect thereof and to any interest other than that of the then Province of Canada, pursuant to s.109 of the *Constitution Act, 1867*; and
 - (b) is the successor in the Province of Ontario to, and is subject to, all of the obligations, duties and liabilities which the Imperial Crown, the Province of Upper Canada, and the Province of Canada had or owed to the Plaintiffs, except for those obligations, duties and liabilities conferred or imposed on

Her Majesty the Queen in Right of Canada under the *Constitution Act, 1867*, or otherwise by law.

7. The Defendants, described in paragraphs 5 and 6, are, either alone or together, successors to all of the obligations, duties and liabilities of the Imperial Crown, the Province of Canada and the Province of Upper Canada, and in particular to the obligations, duties and liabilities owed to the Plaintiffs. Reference in this document to "the Crown" includes both said Defendants to the extent of their respective obligations, duties and liabilities; and if required by the context, it may also include the Defendants' said predecessors.
8. ~~The defendant, The Town of Marathon, is a municipality as defined in the *Municipal Act, R.S.O. 1990, c. M-45.*~~

Aboriginal Title

9. The First Nation is a band, tribe, community or society which is presently recognized by Canada. Its existence has continuity since the time of, and prior to, the assertion of sovereignty by the Crown over the Aboriginal Title Area.
10. The First Nation is also part of a larger society or nation known as the Ojibway, Chippewa or *Anishnabek* (*Ojibway*). The territory traditionally inhabited by the Ojibway covers the region north of Lake Superior, including the Aboriginal Title Area, as well as other areas around the Great Lakes.
11. According to the customs, laws or practices of the Ojibway, title and control of territory was divided among the bands and resided with the bands as separate collectivities; alternatively, title and control resided with the bands as part of, or by virtue of, said bands being a part of the Ojibway Nation collectivity. In either case, title and control resided at the band level and this included the right to dispose of lands. At all material times, the Plaintiffs asserted their title and control of the Aboriginal Title Area according to said customs, laws and practices, except to the

extent it has been interfered with by the Defendants or third parties authorized by the Defendants.

12. The Plaintiffs currently use and occupy the Aboriginal Title Area for a variety of purposes, including traditional pursuits. This present use and occupancy has continuity since the time of, and prior to, the assertion of sovereignty by the Crown over the area. That is, the Plaintiffs maintain a substantial connection to the Aboriginal Title Area, except to the extent that it has been interfered with by the Defendants or third parties authorized by the Defendants.
13. At all material times, the Plaintiffs' occupancy of the Exclusive Aboriginal Title Area was exclusive and its occupancy of the Joint Exclusive Aboriginal Title Area was shared with neighbouring First Nations.
14. The *Royal Proclamation of 1763* and Crown policy regarding First Nations which underlies, and is reflected in, the *Royal Proclamation*, recognized Aboriginal title. The Aboriginal Title Area lies within the territory reserved to Indians under the *Royal Proclamation*, known as "Indian Territory". The Plaintiffs' Aboriginal title was specifically recognized by the Vidal - Anderson Commission, appointed by Order in Council of August 4, 1849.
15. As the Plaintiffs' Aboriginal title was recognized by the Vidal-Anderson Commission, a duly appointed agent of the Crown, the Crown is estopped from denying same.

Unjustifiable Infringement

16. The Defendants have unjustifiably interfered with the Plaintiffs' Aboriginal title over the Exclusive Aboriginal Title Area through the issuance of Crown patents, tenures, leases and other forms of alienation to third parties and by the appropriation and use of the said area by the Defendants and third parties ~~without accommodating the Plaintiffs' Aboriginal title; specifically, without obtaining the consent of, or providing compensation to the Plaintiffs.~~

17. The Plaintiffs claim that the interference by the Defendants and third parties is inconsistent with, in conflict with, and in derogation of their Aboriginal title over the Exclusive Aboriginal Title Area, including its inescapable economic component and the right of exclusive use and occupation flowing from it.

Breach of Fiduciary Duty

18. According to the *Royal Proclamation of 1763* and Crown policy regarding First Nations which underlies, and is reflected in, the *Royal Proclamation*, the Plaintiffs could not alienate their lands to anyone but the Crown. This gave the Crown a monopoly and placed the Plaintiffs in a vulnerable position in relation with the Crown. The law recognizes that this imposed a fiduciary obligation on the Crown to act in the best interests of the Plaintiffs.
19. It is submitted that the Crown breached its fiduciary obligations owed to the Plaintiffs, in respect of the Exclusive Aboriginal Title Area, by:
 - (a) ~~unjustifiably~~ interfering with, or failing to protect against ~~unjustifiable~~ interference with, the Aboriginal title of the Plaintiffs;
 - (b) failing to ensure strict compliance with the protective provisions of the *Royal Proclamation of 1763* and Crown policy, regarding Indian lands and their surrender, which underlies, and is reflected in, the *Royal Proclamation*; and
 - (c) permitting third parties to use, exploit, extract resources from, and profit from the Area without accounting to the Plaintiffs therefore;

Unjust Enrichment

20. The Defendants have been enriched by their appropriation, without legal authority, of benefits derived from the use and exploitation of the Exclusive Aboriginal Title

Area, while the Plaintiffs have been deprived of the said benefits. Consequently, the Defendants hold the Exclusive Aboriginal Title Area pursuant to a constructive trust in favour of the Plaintiffs.

21. The Plaintiffs plead and rely upon the following constitutional and legislative enactments:

The Royal Proclamation, 1763;

The Indian Act, R.S.C. 1985, and its predecessors;

The Constitution Act, 1867, sections 91(24) and 109;

The Constitution Act, 1982, section 35.

The Plaintiffs propose that this action be tried at Parry Sound.

Nahwegahbow, Nadjiwan, Corbiere
Barristers and Solicitors
915 Jocko Point Road
Nipissing Indian Reserve, RR 4
North Bay, Ontario
P1B 8G5

(705) 753-9802
Fax: (705) 753-9783

David C. Nahwegahbow
LSUC # 22473 L

Solicitors for the plaintiffs

CHIEF ROY MICHANO ,et al

and
PLAINTIFFS

THE ATTORNEY GENERAL OF CANADA et al.

DEFENDANTS

Court file no. 02/03

SUPERIOR COURT OF JUSTICE
Proceeding commenced at Parry
Sound **RECEIVED**
Ministry of the Attorney General

OCT 04 2004

COURTS ADMINISTRATION
PARRY SOUND

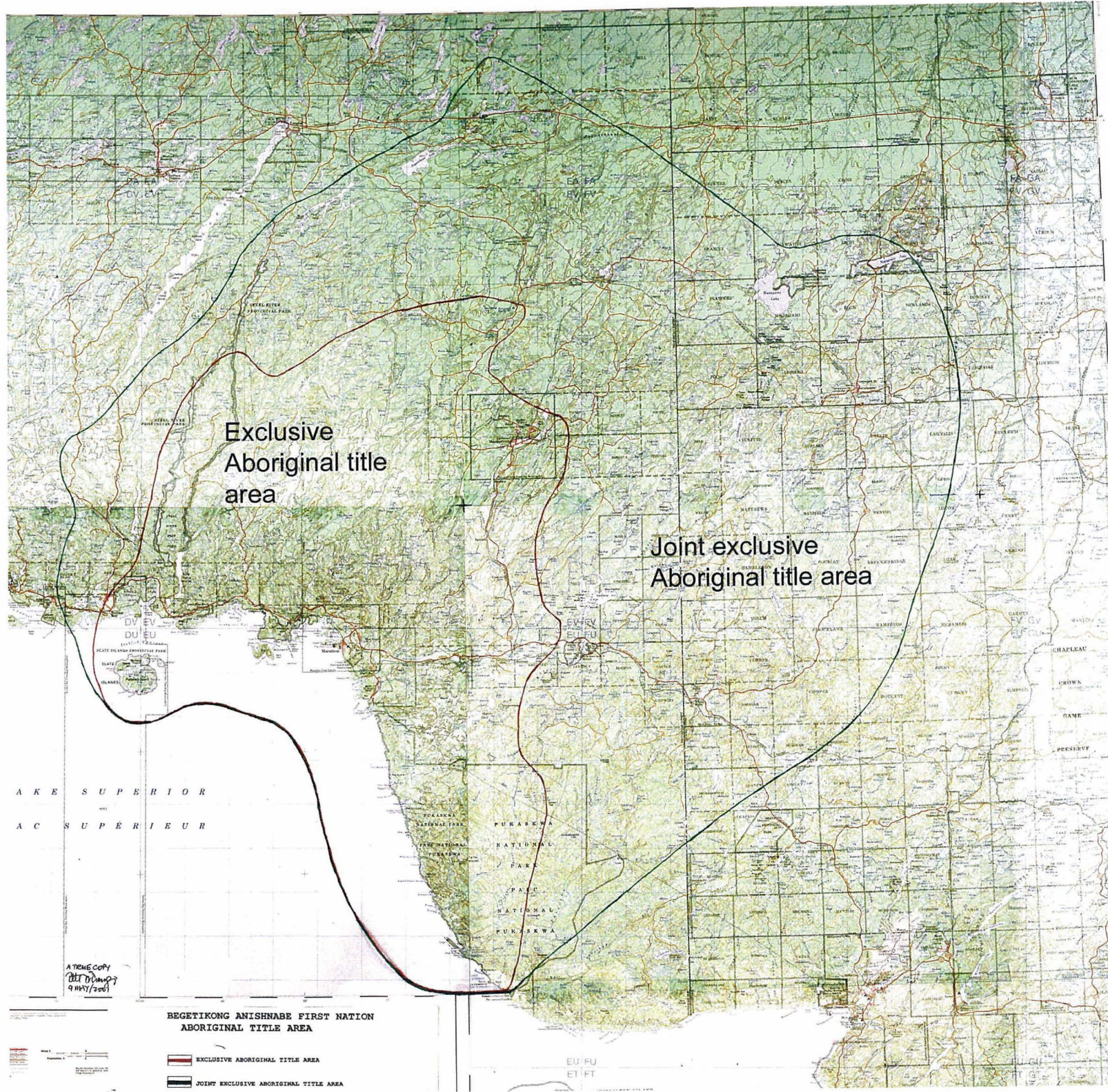
**AMENDED STATEMENT OF
CLAIM
(GENERAL)**

Nahwegahbow, Nadjiwan, Corbiere
Barristers and Solicitors
915 Jocko Point Road
Nipissing Indian Reserve, RR 4
North Bay, Ontario
P1B 8G5

Attention: David C. Nahwegahbow
LSUC # 22473L

(705) 753-9802
Fax: (705) 753-9783

Solicitors for the plaintiffs



Exclusive
Aboriginal title
area

Joint exclusive
Aboriginal title area

LAKE SUPERIOR
LAC SUPÉRIEUR

ATTN: COPY
BTL D/M/2007
9/11/17/2007

BEGETIKONG ANISHNABE FIRST NATION
ABORIGINAL TITLE AREA

EXCLUSIVE ABORIGINAL TITLE AREA
JOINT EXCLUSIVE ABORIGINAL TITLE AREA

EU/FU
ET/FT

Filed: 2018-05-07

EB-2017-0364

Exhibit B to Chief Michano Affidavit
for Intervenor BLP First Nations

Exhibit 'B'

to Chief Michano Affidavit

for Intervenor BLP First Nations

This is Exhibit 'B' referred to in the affidavit of Chief Duncan Michano sworn before me
this 14th day of May, 2018 .


CHUCK VERBO, a Commissioner, etc.,
District of Thunder Bay, for the Corporation of the
Town of Marathon



March 8, 2018

Attn:

CEO Parks Canada

Daniel Watson

Mr. Watson.

It has come to my attention that Parks Canada has approved a Caribou Study (and other wildlife) within the Northern portion of Pukaskwa National Park along the existing hydro line.

This study is being carried out and funded by a multinational corporation.

I would like to bring to your attention that this is within portions of our traditional territory. At present there is also an Aboriginal Title Land Claim over that entire area. I would also like to remind you that the duty to consult is much greater where an Aboriginal title land Claim is in place. This has been determined in court.

I would like to know why Parks Canada did not consult with us before approving the study with a multinational corporation. Please explain.

Please refer to page 2 of the report which states that: "The survey will take place between February 1 and March 15, 2018 in order to ensure deep snow conditions (>30cm) and, to the extent possible, on consecutive days at least two days after a recent snowfall."

If the plan was to conduct the survey between Feb 1st and Mar 15 then why were we not contacted about this in January? I received the copy of the report / proposal on Tuesday March 6th. 1 week before the planned completion of the study. It is these kinds of underhanded methods that completely undermines the credibility and any trust the First nations may have with Parks Canada and the Government in particular. Government Agencies and Departments need to be open and up front in their dealings with First Nations. The Field Unit Superintendent of the Northern Ontario Field Unit came to talk to me last week. He made no mention of this study. Nor did any representatives of Pukaskwa National Park. Why ?

Increasingly Parks Canada is ignoring our rights to be consulted and included in all aspects of the management and planning within Pukaskwa National Park. This is unacceptable.

In 2015, Biigtigong Nishnaabeg put forth, to Parks Canada, a proposal to conduct an Environmental Study along the existing Hydro Line within Pukaskwa National Park. This was refused.

Now, Parks Canada has approved a Caribou and other wildlife study proposed by a multinational corporation without consulting with affected First Nations. Please explain this.

I would also like to point out that the approval of this Caribou study without the approval of the affected First Nations could have a broad negative economic impact on our First Nations and other First Nations as well. This must be taken into consideration.

In addition, employment opportunities and contract opportunities have decreased. This also is unacceptable.

We would like a response and explanation within the next 2 weeks.

In the mean time the plans for this study need to be put on hold until Parks Canada consults with the Biigtigong FN. If it has already been completed, then we need to have a conversation about that.

To not do so, will severely erode what little trust remains in the relationship with Parks Canada.

Regards,

Duncan M Michano, Chief, Biigtigong Nishnaabeg.

cc. Hon Catherine McKenna, Minister of Environment and Climate Change.

Bill Brake, Acting Field Unit Superintendent, Northern Ontario Field Unit, Parks Canada.

Sharon Hayes, Parks Canada.

Jeanette Cowen, Site Manager, Pukaskwa National Park.

Kate Kempton, OKT Law.

Oliver McLaren, OKT Law.

David Nawegahbow, Nawegahbow and Corbiere.

Diane Corbiere, Nawegahbow and Corbiere.

JoAnne Michano, CEO, Biigtigong Nishnaabeg.

Debi Bouchie, Operations Manager, Biigtigong Nishnaabeg.



May 1, 2018.

Attn:

CEO Parks Canada

Daniel Watson

Mr. Watson.

Thanks for your response to my letter to you dated March 8-2018.

We have met with the Parks Canada Northern Ontario Field Unit Team on April 25. We discussed Operational issues including Employment, Training, Contracts, Sole Sourcing, Set Asides, Entry into the Park by Biigtigong Family Members etc. It remains to be seen if there will be follow up.

However, there still is the unresolved issue of why Parks Canada feels that they do not have to consult with Biigtigong Nishnaabeg regarding projects that are occurring on land that is subject to an Aboriginal Title Claim. In your response you state that: *"Parks Canada issued a research and collection permit to Hydro One on March 3, 2018. The research and collection permit is a standard document issued to third parties and is completed before any activities are conducted. This permit helps ensure the proposed activity will not have adverse effects on cultural or natural resources within the Park. **As it was an aerial survey, the Agency considered that the activity would not impact Aboriginal or Treaty Rights**".*

Due to the increased duty to consult when an Aboriginal Title Land Claim is in place, Parks Canada needs to consult with Biigtigong Nishnaabeg on all 3rd party construction projects, maintenance projects, new infrastructure projects and natural resources / wildlife studies and operational issues. **Biigtigong Nishnaabeg will then determine, for themselves, if there has or will be an impact on Aboriginal rights. That cannot be determined by someone else.** No one other than an affected First Nation can determine whether there are impacts or not. It should not be assumed that there are or will be no impacts. Parks Canada needs to consult with the First Nations to determine that. Therefore, Parks Canada has breached its duty to consult.

In future Parks Canada needs to consult with Biigtigong Nishnaabeg and other FN's with similar claims before projects begin.

Furthermore, I had specifically asked a question about why Parks Canada refused to allow us to conduct an EA (Environmental Assessment) in 2015 yet allows others to do so. Specifically, SNC Lavelin and Hydro One. Once again, please explain.

Will await your response,



Duncan M Michano

Chief, Biigtigong Nishnaabeg.

cc.

Hon Catherine McKenna, Minister of Environment and Climate Change.

Sharon Hayes, Field Unit Superintendent, Northern Ontario Field Unit.

Jeanette Cowen, Site Manager, Pukaskwa National Park.

Kate Kempton, OKT Law.

Oliver McLaren, OKT Law.

David Nawegahbow, Nawegahbow and Corbiere.

Diane Corbiere, Nawegahbow and Corbiere.

JoAnne Michano, CEO, Biigtigong Nishnaabeg.

Debi Bouchie, Operations Manager, Biigtigong Nishnaabeg.

ONTARIO ENERGY BOARD
EB-2017-0364

BAMKUSHWADA LIMITED PARTNERSHIP ("BLP")
and
BIIGTIGONG NISHNAABEG
PAYS PLAT FIRST NATION
FORT WILLIAM FIRST NATION
PIC MOBERT FIRST NATION
RED ROCK INDIAN BAND
("Five First Nations")
(BLP and the Five First Nations being "BLP First Nations")

AFFIDAVIT EVIDENCE FROM
PETER COLLINS, PRESIDENT OF BLP AND CHIEF OF FORT WILLIAM FIRST NATION

To:

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attn: Ms. Kirsten Walli
Board Secretary

**AFFIDAVIT OF CHIEF PETER COLLINS
PRESIDENT OF BLP AND CHIEF OF FORT WILLIAM FIRST NATION**

I, Chief Peter Collins, from Fort William First Nation in the Province of Ontario, make oath and say as follows:

1. I have been the President of Bamkushwada General Partner Inc., the general partner of Bamkushwada Limited Partnership ("BLP") since November 5, 2015 and the Chief of Fort William First Nation since April 15, 2015 and as such have knowledge of the matters attested to herein.
2. I am familiar with the history of the negotiations surrounding the East West Tie Project ("EWT") and I have been involved in the negotiations of the BLP agreement with NextBridge Infrastructure LP ("NextBridge," the general partner of which is Upper Canada Transmission, Inc., the designated transmitted for EWT) since becoming Chief of Fort William First Nation.
3. I am familiar with the Lake Superior Link Project ("LSL") proposed by Hydro One Networks Inc. (HONI") and understand that the LSL project is in direct competition with the EWT in which BLP and its constituent First Nation partners are participating.
4. Pursuant to the Procedural Order No.1 dated April 27, 2018 issued by the Ontario Energy Board ("OEB"), the BLP First Nations were recognized as an Intervenor in the Motion filed by NextBridge asking for the dismissal of the LSL project.
5. The following evidence is from my direct knowledge in my role as Chief of Fort William First Nation and President of BLP, unless otherwise stated to be based on specific sources of information in which case I believe such information to be true.

A. In-Service Date

6. As identified by the Minister of Energy ("MOE") on multiple occasions in the past years, an in-service date of 2020 was targeted as being a priority for the transmission line. HONI is proposing an in-service date of 2021 for its LSL project.
7. Businesses and members of the Five First Nations have invested time, human capital and financial resources to prepare for contracts and employment for project construction based on a 2020 in-service date. I have spoken with representatives of Supercom Industries LP, an affiliate of BLP, also wholly owned by the Five First Nations and Michipicoten First Nation, which has been coordinating training and contracting opportunities for our communities regarding the EWT:

- Approximately 300 local people, over 90% of whom are indigenous people from local First Nations and nearby communities (including people of Metis descent), with many from the Five First Nations, are currently participating in training programs or have recently completed training programs, all in anticipation of work that will become available based on the 2020 in-service date. Attached as Exhibit A is a letter from Common Voice Northwest that supports this information¹;
 - Significant time and resources have been spent by the Five First Nations and Supercom in negotiating joint ventures specifically based on the 2020 in-service date.
 - Approximately \$5 million in government funding has been provided to Supercom via grants from Canada and the Province of Ontario to cover the costs of these training programs.
8. A one year delay, should the OEB approve the HONI LSL project, would impose significant costs and losses on the Five First Nations and their members and businesses, and the efforts made by Supercom and its funders and training agencies will not be realized.
9. BLP and Supercom have known, established relationship terms and conditions with NextBridge and its project general contractor. It is on this basis that all of the above development work has been undertaken. There is nothing known about any potential future relationship with HONI should it be granted leave to construct the LSL, and for reasons explained below, nothing can be known or developed with HONI prior to any leave to construct to it being granted. This uncertainty itself imposes a cost.
10. The time and resources, and business good will, expended by First Nation businesses on developing joint ventures and other arrangements with other companies so as to be able to contract for goods and services for the EWT project, may be wasted or lost if all such business arrangements are not fully utilized in the competing LSL project. There is good reason to believe that there will be such waste and lost, and that it will be significant. Businesses that will be ready for a 2020 in-service date might need to close or move elsewhere to other business opportunities that will be more immediate for them. Businesses have to make money to survive.

¹ This letter also appears as Appendix 4 of NextBridge Additional Material.

11. Further, a number of those First Nation businesses were retooled to do the work of the EWT project, and all of these costs and resources may be wasted and lost for the same reason.
12. Delaying by one year would undermine the extensive work and training done to date, to prepare hundreds of indigenous persons for employment in the EWT project. People cannot be expected to wait an extra year for work; trained First Nation members may move to other available opportunities and leave our communities to do so, which would defeat the efforts of so many of us over the past five years to create these opportunities near home.
13. In addition, these costs and losses, as outlined above, have not been factored into the LSL cost as submitted by HONI in its leave to construct application.

B. Indigenous Consultation

Consultation

14. Neither HONI nor the Crown has initiated or undertaken any consultation as of yet in respect of the LSL and its many impacts on the known and asserted rights of the Five First Nations. There was a meeting in Thunder Bay on April 6, 2018 between the BLP First Nations and HONI to discuss HONI's need to consult and accommodate, but such consultations have not begun. Such consultations likely cannot commence until after this motion is concluded, given the finite resources of the BLP First Nations. We cannot be stretched too thin. We are still engaging in all of the preparation and development work for the EWT project as outlined above, engaged in this motion, and involved in hundreds of other pursuits not related to this transmission issue.
15. The BLP First Nations were consulted by NextBridge in the development of the EWT for an extended period of time. In fact, consultation and negotiation of accommodation measures with the BLP First Nations and Michipicoten First Nation took place over an almost five year period.
16. Each of the Five First Nations exercises rights and has asserted rights in respect of its own traditional territory, and all are different. Each has to be meaningfully consulted and accommodated, on its own. We are not carbon copies of one another.
17. In addition to the Five First Nations (plus Michipicoten First Nation which is also a partner in BLP), there are 12 other "aboriginal entities" that were identified by the MOE as being communities to be consulted by HONI. HONI's time and resources would need to be allocated to consult with not just the BLP First Nations, but with all of these 18 entities. Attached as Exhibit B is this consultation list.

18. The LSL project is different than the EWT project. The route is different and some of the Five First Nations, in particular Pic Mobert and Biigtigong Nishnaabeg, have serious concerns about the LSL route through the Pukaskwa National Park. The LSL project is slated to begin a year later, which raises issues identified above. We are also concerned that HONI's labour force and/or general contractor may be unionized and this raises issues with access to jobs by First Nation members (priority employment opportunities is often a form of accommodation measure).
19. Given that it took years to undertake consultations with and accommodation of the Five First Nations (plus Michipicoten First Nation) in respect of the EWT project with NextBridge, and given that the EWT project is different in material respects from the LSL project, and given that it will not be possible for HONI to consult with the Five First Nations about certain accommodation measures (only after HONI is granted leave to construct would this be possible) (see below), I see no way that the duty to consult and accommodate the Five First Nations could be met prior to the OEB making its decision on leave to construct.
20. The Five First Nations all take the position that the duty to consult and accommodate must be fully met prior to and as a condition of any approval for the project. We take the position, therefore, that this duty must be fully met before leave to construct is issued.
21. Further, HONI's LSL project (its projected costs and timelines) relies on its use of the NextBridge Environmental Assessment ("EA") work. The Five First Nations were consulted during and about NextBridge's EA work. The Five First Nations provided NextBridge and the EA with Traditional Ecological Knowledge ("TEK") and Traditional Land Use Study ("TLUS") information.
22. This TEK and TLUS information was provided under confidentiality to NextBridge. TEK and TLUS information is sensitive and the Five First Nations have serious concerns about its use and its possible appropriation. The Five First Nations do not consent to this information being shared with HONI for the LSL.
23. The Five First Nations gave input into the EA for the EWT project. The LSL project is different and will have different impacts.
24. For the reasons above, the Five First Nations do not consent to any aspect of the NextBridge EWT EA being shared with or given to HONI to rely on. This effectively lowers the standard and content of consultation with First Nations, to the extent that the EA contains information from such consultations (including TEK and TLUS information). In support of our position on this aspect, we wish to rely on the recent correspondence

between the Ministry of the Environment and Climate Change ("MOECC"), the MOE, HONI and NextBridge pertaining to this issue² (Exhibit C). The MOECC in its letter to HONI

dated April 10, 2018 made it very clear that they were considering the LSL project as a new undertaking for the purpose of the *Environmental Assessment Act*³.

25. The Five First Nations deserve full and complete consultation and accommodation on the LSL project, and not some cut and pasted or patched together engagement.

Accommodation

26. The MOE in a letter dated March 29, 2011 to the OEB, stipulated that Indigenous participation was required in this transmission project, and all applicants who sought designated transmitter status set out in those applications how they intended to do this. That letter is attached as Exhibit D.
27. At this stage, the BLP First Nations were partnered with HONI, and Great Lake Power Transmission ("GLPT") toward applying for designated transmitter.
28. At the time of the designation process, the BLP First Nations had an agreement with HONI and GLPT that contained an exclusivity obligation (not to discuss or engage in deals with competitors for this project).
29. Now, as a result of the agreement between BLP First Nations and NextBridge in development and expected construction of the EWT project, BLP First Nations have an exclusivity obligation with NextBridge. In a letter dated March 5, 2018, BLP First Nations informed HONI about this exclusivity obligation, and informed HONI that HONI would have known or expected that this exclusivity obligation with NextBridge would exist because the same thing existed with HONI at the earlier designation stage. That letter is attached as Exhibit E.
30. The implications of this exclusivity obligation are that the BLP First Nations cannot discuss or negotiate any economic participation terms or deals with a competing bid (ie: HONI's). The BLP First Nations therefore cannot enter into any such discussions with HONI, unless and until, and after, HONI is granted leave to construct.
31. Economic participation, whether it had been directed by the MOE in the 2011 letter (Exhibit D), or not, would have been required by the BLP First Nations, among other things, to properly accommodate for the concerns and impacts of the project. It is the position of

² See Appendices 2, 5, 6, 7, 8, 9 and 10 of Nextbridge Additional Material. (Exhibit C of this Affidavit).

³ See NextBridge Additional Material, Appendix 10. (Exhibit C of this Affidavit).


the BLP First Nations that consultation must always be with the intent to substantially address the First Nation's concerns, and that such concerns are addressed through accommodation measures, which include: prevention of impacts; minimization of non-preventable impacts; and compensation/offset benefits for residual impacts. Economic participation is a vehicle to deliver compensation/offset benefits.


32. The BLP First Nations cannot engage with HONI in consultation about these latter accommodation measures while we are in an agreement with NextBridge. This agreement would not expire until and unless HONI were granted leave to construct. HONI therefore cannot fulfill its duty to consult with and accommodate the BLP First Nations. It is the position of the BLP First Nations that HONI put itself in this position knowingly.
33. Further, even if the BLP First Nations could engage in discussions about economic participation/accommodation prior to the leave to construct decision, or even if it would be sufficient to leave such consultation and accommodation until after leave to construct (should HONI be granted it), HONI has not left nearly enough time to do so.
34. The partnership that was created between the BLP First Nations and NextBridge took a lot of time, human capital, and financial resources. In fact, it took almost five years to conclude the economic participation agreement.

C. First Nation Rights and Jurisdiction

35. The Five First Nations are all Indigenous nations with their own governments. Both the EWT and the LSL projects would cross the traditional territories of the Five First Nations (and Michipicoten First Nation, which is also a partner in BLP) and would affect their rights.
36. To my knowledge, no other Indigenous entity is similarly or as greatly affected as the BLP First Nations and Michipicoten First Nation.

SWORN (OR AFFIRMED) BEFORE ME at the (Community) of Fort William First Nation, in the (District) of _____ Thunder Bay, Ontario _____ on (May 04, 2018)


COMMISSIONER for taking Affidavits


Signature of Deponent

**Ian James Bannon, a Commissioner,
etc., Province of Ontario, for
Fort William First Nation.
Expires December 4, 2020.**

Exhibit 'A'
to Chief Collins Affidavit
for Intervenor BLP First Nations

This is Exhibit 'A' referred to in the affidavit of Chief Peter Collins sworn before me this 4th day of May, 2018 .

A handwritten signature in black ink, appearing to read "Ian James Bannon", is written over a horizontal line.

Ian James Bannon, a Commissioner,
etc., Province of Ontario, for
Fort William First Nation.
Expires December 4, 2020.

Common Voice Northwest

672 Churchill Place, Thunder Bay, ON P7C 5Y8

Ph: 1-(807) 474-0926 Fax: (807) 474-0881

Email: ianangus@tbaytel.net

Chair: Wendy Landry Executive Director: Iain Angus

ENERGY TASK FORCE

Andrew Spence
Vice President, Transmission and Stations
Hydro One Networks Inc.
483 Bay St 12th Floor North Tower
Toronto ON M5G 2P5

March 5, 2018

Dear Mr. Spence

This will acknowledge receipt of your letter of Feb 21, 2018 in which you outline Hydro One Networks application to the Ontario Energy Board for leave to construct a bulk transmission line connecting the Lakehead TS to Wawa.

The Common Voice Northwest Energy Task Force is the leading voice regarding energy issues across the Northwest, particularly in the area of electrical transmission, distribution and generation. We have been engaged in the East-West Tie issue since before the process formally commenced.

We are pleased that Hydro One Networks is interested in aiding the Northwest in advancing its economy through the development of electrical transmission facilities in this region. However, in our opinion, Hydro One Networks should be focusing on upgrading its own transmission and distribution lines throughout the Northwest rather than trying to undo a decision already made by the regulatory authorities – that is to award the East-West Tie to NextBridge.

NextBridge has already made significant progress in the pre-construction phase of the project.

- The route has been finalized, much to the satisfaction of a number of people and areas that intervened during the route selection process
- The Environmental Assessment is close to conclusion
- Valard and Nextbridge have an agreement for the construction of the East West Tie.
- Supercom, an economic development company, owned by 6 Northern Superior First Nations has a negotiated equity stake in the project.

- Training, under Supercom, is underway with 15 modules now and 10+ more later. The training is led by Confederation College & AETS targeting 244 already identified Indigenous trainees, from north shore communities (to be ultimately trained.).
- Twelve to 14 companies are partnered with Supercom for service and supply (from heavy lift helicopters to temporary bridges/swamp mat for access construction).
- Valard has set up shop at the former Thunder Bay Mill site starting with trailers and some equipment.

The proposed NextBridge corridor and the existing HONI corridor are somewhat separate from each other and the Energy Task Force is pleased with that. The farther apart the lines are the less likely that both will be taken down by the same forest fire or ice storm, ensuring some level of supply to the region. In fact, it was input from the Energy Task Force regarding the volatility of the weather at the Wawa end that convinced NextBridge to modify their proposal accordingly.

This project is well advanced and all that is required to commence the actual construction is approval from the Ontario Energy Board on NextBridge's Leave to Construct Application that will enable the project to be in-service in 2019 as scheduled.

It is essential that this project receive the immediate approval from the OEB. The application by Hydro One Networks will only delay the commencement of the required work not to mention the in-service date and this will further delay the economic benefits that the region desperately requires. In fact, a review of HONI's application indicates a number of variables that if not achieved will delay the in-service date well beyond the date of December 2021 proposed by HONI.

It is the position of the Common Voice Northwest Energy Task Force that it should be NextBridge's Leave to Construct application that is approved not that of Hydro One Networks.

Reference was made earlier in this letter of the need for Hydro One Networks to invest in their own system elsewhere in the Northwest. It is essential that HONI upgrade the three major radial lines serving our Northern communities. Two of those lines do not meet ORTAC Standards and have not for some prolonged time. The third does not provide sufficient capacity to allow the communities economy to grow.

The two lines not meeting the ORTAC Standard serve the communities of Ear Falls & Red Lake and Greenstone. As well, the Greenstone Circuit does not have sufficient capacity to allow for a proposed gold mine or for any future growth in the Greenstone area, including the anticipated Ring of Fire development.

;

The third line serves Sioux Lookout. The following will provide you with the background to the Red Lake and Greenstone service:

RED LAKE

Major gold exploration projects in Red Lake are advancing to production. Pure Gold Mining (Madsen Mine) by 2020, Goldcorp (Cochénour) by 2018, Goldcorp (H.G. Young) by 2019, Premier Gold (Hasaga) by 2020 and potentially Rubicon (Phoenix) will require power as will the flagship mine of the district, Goldcorp-Red Lake Mine. Red Lake only has 9 MW of surplus power.

Projected loads for the area serviced by the E2R that connects Red Lake to the provincial grid indicate the need for an additional 15 to 20 MW in the near term, in part to service the Goldcorp-Cochénour Mine, a new gold producer at Red Lake coming into production in 2018. The Northern First Nations will require an additional 6-9 MW once they are connected to the grid later this year. As well, Pure Gold Mining Inc.'s planned new mine development will require an additional 10 MW.

There have been continued calls to upgrade to the Transmission Lines between Ear Falls and Red Lake (E2R) and between Ear Falls and Dryden (E4D) since the 2011 LTEP and again in the 2013 North of Dryden IRRSP.

The employment levels and economy of the communities of Ear Falls and Red Lake along with the improvement in the living conditions of the First Nations north of Red Lake are contingent on the appropriate power upgrades to this area. The existing line requires replacement or upgrade in 2018 and the improvement of voltage compensation at Ear Falls and Red Lake.

Greenstone

Greenstone Gold Mines, located in the community of Geraldton in Greenstone, completed a feasibility study for the Hardrock Gold Deposit, in late 2016. The open pit mine and processing mill will create: 400+ direct jobs and 1200+ indirect and induced jobs; \$301M annual GDP contribution from mine of this size; and \$106M annual taxes and royalties to government (\$63M to Ontario per year).

Greenstone Gold Mines requires 45 MW of power for the Hardrock mine. There is insufficient existing transmission capacity to meet this need. The Mine is planning on building gas fired generating capacity of 65 MW (to ensure for redundancy) as the current line is neither sufficient in terms of capacity or reliability. In addition; there is only 3-4 MW of surplus power in the Greenstone area at present

For over ten years, Common Voice Northwest, NOMA, the Municipality of Greenstone and other communities in the region have consistently informed the government and their agencies that the transmission line to the Municipality of Greenstone and neighbouring First Nations, built circa 1937, is insufficient to serve the needs of the area both from a security of supply and the quantity of power available. This position has been confirmed through the Sub-Regional Planning process conducted by the IESO this past year.

The members of the IESO Local Advisory Committee for the Greenstone/Marathon had reviewed the process and their recommendation is to move to a new 230 KV circuit now, to accommodate the projected load growth and improve the security of supply.

The lack of adequate power will result in Greenstone Gold Mines not proceeding with the Geraldton mine or investing in a natural gas fired generation to only serve their needs, flying in the face of the stated policy of the Government of Ontario to reduce carbon based fuel use. It may also run afoul of the Federal Government's goal of reducing natural gas as a source of electricity production. The emergence of a group of eight First Nations with an interest in developing a new transmission line to Greenstone is a positive sign of self-determination.

These communities have aligned and have a common interest in leading this transmission development. In June 2016 the First Nations signed an MOU and have established a working group to pursue this project.

In 2017, Common Voice Northwest joined with NOMA, the Mayors of Greenstone, Red Lake and Thunder Bay, the President of the Northwestern Ontario Associated Chambers of Commerce, the Thunder Bay Chambers of Commerce, and the Chiefs of Aroland First Nation, Animbiigoo Zaagi'igan Anishinaabek, Biinjitiwaabik Zaaging Anishinaabek, Bingwi Neyaashi Anishinaabek, Ginoogaming First Nation, Long Lake #58 First Nation, Red Rock Indian Band and Whitesand First Nation in requesting that the Government of Ontario declare that the upgrading of the transmission line connecting Nipigon to Greenstone be declared a priority project and that the proposed upgrades to the transmission facilities connecting Dryden to Red Lake be upgraded or replaced in 2018 as a priority of the Government.

It should be noted that the economic impact of all of the above transmission projects will not only be significantly felt in the immediate areas but the treasuries of Ontario and Canada will receive an ongoing and substantive return on the required investment as a result of the capital investment, ongoing operation of the mines and the employment created.

Mr. Spence, it is clear that HONI believes that it has the financing available to enable it to construct the East-West Tie. Common Voice Northwest encourages HONI to use those financial resources and indeed the transmission construction capabilities that your company has developed over many decades of serving Northwestern Ontario to

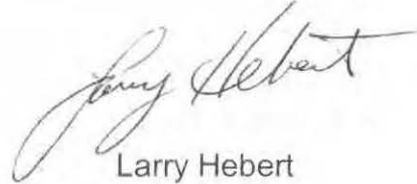
improve the existing infrastructure servicing those three clusters of communities. The end result will improve the bottom line of HONI, the tax revenue of Ontario and most importantly the economy of Northwestern Ontario.

We will be sharing this view with the Ontario Energy Board.

Yours truly



Iain Angus
Co-Chair
Energy Task Force
CVNW

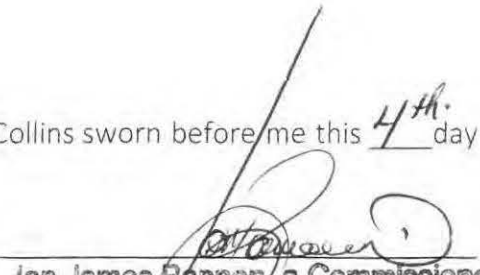


Larry Hebert
Co-Chair
Energy Task Force
CVNW

Copy to: Northwestern Ontario Municipal Association
Northwestern Ontario Associated Chambers of Commerce
Hon. Michael Gravelle, Minister of Northern Development and Mines
Hon. Bill Mauro, Minister of Municipal Affairs
Mayor and Council of the Municipality of Greenstone
Mayor and Council of the Municipality of Sioux Lookout
Mayor and Council of the Municipality of Red Lake
Mayor and Council of the City of Thunder Bay
SuperCom Development Corporation
Chief and Council of Aroland First Nation,
Chief and Council of Animbiigoo Zaagi'igan Anishinaabek
Chief and Council of Biinjitiwaabik Zaaging Anishinaabek
Chief and Council of Bingwi Neyaashi Anishinaabek
Chief and Council of Ginoogaming First Nation
Chief and Council of Long Lake #58 First Nation
Chief and Council of Red Rock Indian Band
Chief and Council of Whitesand First Nation
Bob Chow, Director, Transmission Integration, IESO Bob.Chow@ieso.ca
Carolyn Calwell, ADM, Strategic, Network and Agency Policy Division,
Ministry of Energy Carolyn.Calwell@ontario.ca
Nancy Marconi, Manager, Supply & Infrastructure, Applications, Ontario
Energy Board Nancy.Marconi@oeb.ca
Jennifer Tidmarsh, President, NextEra Energy Transmission - Canada
NextEra Energy Canada, LP

Exhibit 'B'
to Chief Collins Affidavit
for Intervenor BLP First Nations

This is Exhibit 'B' referred to in the affidavit of Chief Peter Collins sworn before me this 4th day
of May, 2018.



Ian James Bannon, a Commissioner,
etc., Province of Ontario, for
Fort William First Nation.
Expires December 4, 2020.

Ministry of Energy

880 Bay Street
3rd Floor
Toronto ON M7A 2C1

Tel: (416) 326-1759
Fax: (416) 325-7023

Ministère de l'Énergie

880, rue Bay
3^e étage
Toronto ON M7A 2C1

Tél: (416) 326-1759
Télééc.: (416) 325-7023



Transmission and Distribution Policy Branch

May 31, 2011

Michael Lyle
General Counsel and Vice President
Legal, Aboriginal and Regulatory Affairs
Ontario Power Authority
120 Adelaide Street West, Suite 1600
Toronto, ON M5H 1T1

Dear Mr. Lyle:

Re: East-West Tie

Further to our discussions on the above-referenced project, this letter is to confirm the Crown and Ontario Power Authority (OPA) roles in any duty to consult on the proposed East-West tie project during the period prior to any Ontario Energy Board (Board) transmitter designation.

The Crown has decided to delegate certain procedural aspects of consultation to the OPA since the OPA is establishing the rationale, scope and timing of the East-West tie project and will be submitting a report on the project to the Board by the end of June. We understand that the OPA is already conducting a consultation process on the Integrated Power System Plan (IPSP) which will include all of the Aboriginal communities that may be affected by the East-West tie project. If timing requirements associated with the preparation of the report permit the coordination of discussions on the East-West tie project with IPSP consultations, this approach may facilitate rational use of Crown and Aboriginal community resources.

Crown Role

A list of communities (List) to consult on the East-West tie project has been provided to the OPA previously and is attached. Should the OPA determine that discussions on the East-West tie project can be coordinated with its consultations on the IPSP, the Crown will send letters to the relevant communities indicating that the OPA process for carrying out any duty to consult on the IPSP will include the process through which the Crown consults on the East-West tie project prior to any Board transmitter designation decision.

.../cont'd

Ministry officials, as appropriate and required, will accompany OPA staff in meetings on the East-West Tie project.

OPA Role


In meetings with communities on the List, we understand that the OPA will ensure the agenda provides for discussion of the Project and any Board transmitter designation process.

Community representatives should be offered the opportunity to provide input on the Project and the Board's possible designation of a transmitter. Community representatives should also be advised on how to obtain more information from the Board on the transmitter designation process and how they can participate in it.

The OPA will include a record of these discussions in its report on the preliminary assessment of need for the Project, which the Board has requested be submitted no later than June 30th, 2011.

I trust that this reflects our discussions regarding the respective roles of the Ministry and the OPA in addressing any duty to consult on the East-West tie project.

Sincerely



Jon Norman
Director

- c. MaryAnn Aldred, General Counsel, Ontario Energy Board
Peter Landmann, Counsel, Ministry of Energy
Kaili Sermat-Harding, Director, Strategic Policy Branch, Ministry of Energy

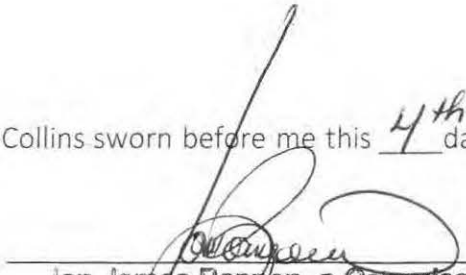
Attachment: FIRST NATION AND MÉTIS COMMUNITY CONSULTATION LIST
East-West Tie Transmission Project, 2011

First Nation	Address
1. Animbiigoo Zaagi'igan Anishinaabek First Nation (Lake Nipigon Ojibway)	PO Box 120 Beardmore, ON P0T 1G0
2. Biinjitiwaabik Zaaging Anishinaabek First Nation (Rocky Bay)	501 Spirit Bay Road MacDiarmid, ON P0T 2B0
3. Bingwi Neyaashi Anishinaabek (Sand Point First Nation)	146 Court Street South Thunder Bay, ON P7B 2X6
4. Fort William First Nation	90 Anemki Drive, Suite 200 Thunder Bay, ON P7J 1L3
5. Ginoogaming First Nation	PO Box 89 Longlac, ON P0T 2A0
6. Long Lake No. 58 First Nation	PO Box 609 Longlac, ON P0T 2A0
7. Michipicoten First Nation	RR 1, PO Box 1, Site 8 Wawa, ON P0S 1K0
8. Missanabie Cree First Nation	174B Highway 17 East, Bell's Point Garden River, ON P6A 6Z1
9. Ojibways of Batchewana	236 Frontenac Street Sault Ste Marie, ON P6A 5K9
10. Ojibways of Garden River	RR4, 7 Shingwauk Street Garden River, ON P6A 6Z8
11. Ojibways of Pic River (Heron Bay First Nation)	PO Box 193 Heron Bay, ON P0T 1R0
12. Pays Plat First Nation	10 Central Place Pays Plat, ON P0T 3C0
13. Pic Mober First Nation	PO Box 717 Mober, ON P0M 2J0
14. Red Rock Indian Band	PO Box 1030 Nipigon, ON P0T 2J0

Métis Organization	Address
1. Greenstone Métis Council	PO Box 825, 205 Clarke Avenue Geraldton, ON P0T 1M0
2. Red Sky Independent Métis Nation	406 East Victoria Avenue Thunder Bay, ON P7C 1A5
3. Superior North Shore Métis Council	26 Princess Street Terrace Bay, ON P0T 2W0
4. Thunder Bay Métis Council	226 May Street South Thunder Bay, ON P7E 1B4

Exhibit 'C'
to Chief Collins Affidavit
for Intervenor BLP First Nations

This is Exhibit 'C' referred to in the affidavit of Chief Peter Collins sworn before me this 4th day of May, 2018 .



Ian James Bannon, a Commissioner,
etc., Province of Ontario, for
Fort William First Nation.
Expires December 4, 2020.

Ministry of the Environment
and Climate Change

Ministère de l'Environnement et de
l'Action en matière de changement
climatique



Environmental Approvals
Branch

Direction des autorisations
environnementales

135 St. Clair Avenue West
1st Floor
Toronto ON M4V 1P5
Tel.: 416 314-8001
Fax: 416 314-8452

135, avenue St. Clair Ouest
Rez-de-chaussée
Toronto ON M4V 1P5
Tél : 416 314-8001
Télec. : 416 314-8452

November 14, 2017

Elise Croll, Director, Environmental Services
Hydro One Networks Inc.
483 Bay Street, South Tower, 12th Floor
Toronto ON M4V 1P5

Dear Ms. Croll:

We are in receipt of your October 31, 2017 letter regarding the East-West Tie Transmission Project (the Project) for which NextBridge Infrastructure LP (NextBridge) is currently undertaking an individual environmental assessment (EA). As you know, NextBridge submitted a final EA for the Project for review in July 2017. As a result of the comments received during the review, NextBridge has since expressed its intent to amend its EA.

Your letter outlines Hydro One's intent to apply to the Ontario Energy Board (OEB) to build, own and operate the Project, and detailed changes to NextBridge's proposed project routing that Hydro One would make if successful in its OEB application. I am pleased to respond to your request for input from the Ministry of the Environment and Climate Change (the ministry) as to the degree to which Hydro One may adopt the EA currently being prepared by NextBridge through an amendment to the EA.

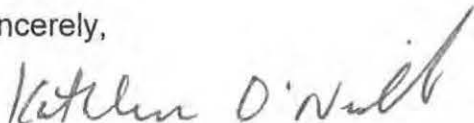
As outlined in the *Code of Practice for Preparing and Reviewing Environmental Assessments in Ontario*, unless changes are accounted for in the EA or through a condition of approval, proposed changes to an undertaking made after its approval to proceed has been issued are considered a new undertaking for the purposes of the *Environmental Assessment Act*. As the NextBridge EA is currently being amended by NextBridge and therefore has not been approved by the Minister, the ministry cannot comment on the possible amending procedure that may be in the amended EA or required as a condition of approval, if approved.

Based on the information provided to date, it is unlikely that an amendment provision in the proposed Nextbridge EA would be capable of accommodating Hydro One's proposed changes to the current Project. As such, Hydro One's project would not likely be able to take advantage of the proposed Nextbridge EA and Hydro One's project would likely be considered a new undertaking for the purpose of the *Environmental Assessment Act*.

- 2 -

The ministry encourages Hydro One to work with NextBridge to seek alternative approaches to addressing routing alternatives during the current EA process for the Project.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kathleen O'Neill", with a stylized flourish at the end.

Kathleen O'Neill
Director
Environmental Approvals Branch



483 Bay St 12th Floor North Tower
Toronto ON M5G 2P5
www.HydroOne.com

Andrew Spencer
Vice President, Transmission & Stations

March 14, 2018

Messrs. Iain Angus and Larry Hebert
Co-Chairs
Energy Task Force
Common Voice Northwest
672 Churchill Place
Thunder Bay ON P7C 5Y8

Dear Messrs. Angus and Hebert,

Thank you for the letter sent on March 5th regarding Hydro One's application to the Ontario Energy Board to construct a bulk transmission line between Lakehead TS and Wawa TS.

As you both know, when concerns were raised in August 2017 by Ontario's Minister of Energy about the increased costs of Nextbridge's East West Tie proposal, Hydro One saw an opportunity to provide a brighter future with a more cost-effective, reliable, environmentally-friendly transmission solution that will truly benefit the people and businesses of Northern Ontario. We believe in advocating for communities and customers first. That is why we introduced our Lake Superior Link project: it is our belief that competition will benefit everyone involved, especially in Northern Ontario. At a difference of over \$100 million in construction costs along with ongoing annual savings of over \$3 million, introducing competition to this market will provide real benefits on electricity costs, as compared to the alternate filed application. We could not ignore this opportunity to provide a better solution.

We are confident in our prospect for success. Together with our Canadian construction partner SNC-Lavalin, we bring more than 200 years of construction, maintenance and operations experience to Northern Ontario. Our proposal was created with our unmatched experience and knowledge of the unique challenges of operating in Ontario's North. Through our Company's history of electrifying the North, living among and working with local communities, elected officials and Indigenous communities in the area, Hydro One is best positioned to deliver the right project at the right price. In addition to this advantage, we offer a Canadian-made solution that will provide an economic benefit to local communities through the project's construction and operation.

While there have been a number of commitments made by the other proponent, the Lake Superior Link will require similar resources and follow the same general path; there is no reason that Hydro One and SNC-Lavalin would not be able to honour those commitments. As mentioned above, Hydro One's Lake Superior Link project offers a cost-effective transmission solution that saves rate payers over \$100 million in construction costs and over \$3 million in annual operating and maintenance costs. These savings translate directly into lower rates for all of Ontario's electricity customers, keeping more money – approximately \$13 million annually – in their pockets to reinvest in their communities. It is our belief that our local advantage, along with the long-term cost

savings of our proposal, more than offset the additional months delay in construction startup. The difference between Hydro One's 2021 in-service date and Nextbridge's 2020 date only result in a few months difference in actual construction startup; a gap that we can bridge to ensure no significant interruptions to economic development plans.

In addition, Hydro One's proposed route is approximately 50 km shorter and requires approximately 50% less corridor area in the overall route than the NextBridge solution, resulting in a far smaller environmental footprint. Our plan eliminates the need to cut a new corridor through relatively undisturbed lands around the Park. As the owner of the existing East-West Tie line which crosses through Pukaskwa National Park, Hydro One has the unique ability to meet the requirements of the *Canada National Parks Act* and Parks Canada policies. No new development is permitted within national parks, but Hydro One has received Parks Canada's conditional support to modify its existing east-west tie line through Pukaskwa National Park by ensuring a project that respects the Park's unique beauty and results in less required maintenance in the coming decades. This contributes significantly to Hydro One's ability to minimize impacts on the environment and deliver the project at a lower cost. Hydro One is currently working with the Ministries of Energy and Environment and Climate Change to finalize a regulatory measure allowing the use of relevant portions of the completed Environmental Assessment work, while addressing required approvals for the revised route through the Park.

The Lake Superior Link proposal is also positioned to be the most reliable solution for the North. While Nextbridge brings much to the table with their experience in Alberta and Florida, Hydro One powers the North and has since the beginning. Our extensive knowledge of the unique equipment and operating needs of Northern Ontario leave us second to none in our ability to provide the most reliable solution. The Lake Superior Link has been designed using a mix of equipment and tower designs to ensure the complex weather and topographical challenges of Northern Ontario are matched to the best possible specifications. You do raise an important question on whether the distance between the existing and proposed lines represent a reliability risk; the answer is no. In fact, in the over 40 years of the current East West Tie's lifespan, there has only been one "tower down" situation which took place during the 2009 ice storm – a weather phenomenon that would have most likely had the same effect on any equipment in the region.

Both Hydro One and SNC-Lavalin have a successful history of partnering with Indigenous communities on other projects and will continue to act as conscientious partners with Indigenous peoples in this endeavour. Hydro One's work with Indigenous communities resulted in the historic partnership on the Bruce to Milton transmission line and reflects well on the Company's commitment to Indigenous partnership, let alone the fact that 129 Ontario First Nations have an ownership stake in Hydro One Limited.

For the Lake Superior Link Project our partnership will actively procure goods and services from Indigenous suppliers and companies with strong relationships with local Indigenous communities and businesses, to participate throughout the life of the project. Similarly, we will seek to maximize employment opportunities for members from local Indigenous communities, including those who have received or are currently enrolled in the Anishinabek Employment and Training Services (AETS) skills training.

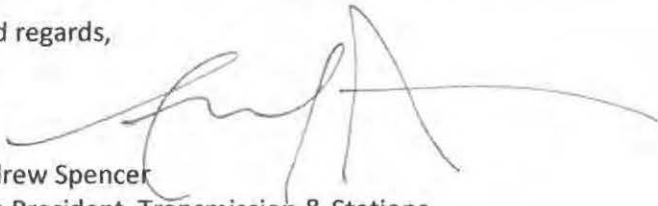
Both Hydro One and SNC-Lavalin believe that qualified local Indigenous companies have strategic advantages over other businesses to complete a number of construction activities, including: site clearing, access road construction, camp construction and operation, establishment and management of material storage and assembly facilities along the right-of-way and various other support services throughout the construction period. However, to date we have respected requests from Supercom Industries LP representatives to refrain from contacting and communicating with local Indigenous companies.

Finally, we would like to acknowledge the issues you presented with respect to the level of supply and our operating assets in the Ear Falls, Red Lake, and Greenstone areas. The Independent Electricity System Operator (IESO) is responsible for ensuring that the electricity grid meets provincial standards and is adequately supplied with energy both now and into the future. As you are aware, plans are under way for a new 230 kV transmission line from south of Dryden to Pickle Lake. This project, which has been awarded to Wataynikaneyap Power and expected to be in-service by the end of 2020, will increase the available capacity for both the Pickle Lake and Red Lake areas and improve the reliability for customers connected through the E1C transmission line. With regard to Greenstone, a working group has been setup to assess the options for increased capacity and improve reliability for the Greenstone area. Hydro One presented a number of creative options as a part of that work and continues to advocate for the line's implementation. Meanwhile, Hydro One's improvements in distance-to-fault detection technology for the A4L circuit that feeds Greenstone are expected to considerably reduce the duration of interruptions in the area. Hydro One's near-term investments include refurbishment of long sections of circuits E1C and A4L, in order to maintain and improve their performance.

Although the IESO holds the pen on regional planning, Hydro One plays an active role in advocating in this process and influencing positive outcomes for communities. We respect your position as a key contributor in this valuable exercise, and we see an ongoing opportunity to partner with Common Voice Northwest to develop an integrated and connected plan that goes beyond Hydro One's construction of Lake Superior Link to contemplate the needs and economic opportunities that a renewed focus on electricity infrastructure can bring to the North. We look forward to working together to ensure that our vision is aligned in a way that benefits all communities we commonly serve.

We look forward to further engaging with you both and the Common Voice Northwest membership and would like to arrange a meeting at your convenience to discuss these and other matters in more depth.

Kind regards,



Andrew Spencer
Vice President, Transmission & Stations
Hydro One Networks Inc.

cc: Northwestern Ontario Municipal Association
Northwestern Ontario Associated Chambers of Commerce
Hon. Michael Gravelle, Minister of Northern Development and Mines
Hon. Bill Mauro, Minister of Municipal Affairs
Mayor and Council of the Municipality of Greenstone
Mayor and Council of the Municipality of Sioux Lookout
Mayor and Council of the Municipality of Red Lake
Mayor and Council of the City of Thunder Bay
SuperCom Development Corporation
Chief and Council of Aroland First Nation,
Chief and Council of Animbiigoo Zaagi'igan Anishinaabek
Chief and Council of Biinjitiwaabik Zaaging Anishinaabek
Chief and Council of Bingwi Neyaashi Anishinaabek
Chief and Council of Ginoogaming First Nation
Chief and Council of Long Lake #58 First Nation

Chief and Council of Red Rock Indian Band

Chief and Council of Whitesand First Nation

Bob Chow, Director, Transmission Integration, IESO Bob.Chow@ieso.ca

Carolyn Calwell, ADM, Strategic, Network and Agency Policy Division, Ministry of Energy

Carolyn.Calwell@ontario.ca

Nancy Marconi, Manager, Supply & Infrastructure, Applications, Ontario Energy Board Nancy.Marconi@oeb.ca

Jennifer Tidmarsh, President, NextEra Energy Transmission - Canada

NextEra Energy Canada, LP



Ministry of the Environment
and Climate Change

Ministère de l'Environnement et
de l'Action en matière de
changement climatique

Environmental Assessment and
Permissions Division

Direction des évaluations et des
permissions environnementales

135 St. Clair Avenue West
1st Floor

135, avenue St. Clair Ouest
Rez-de-chaussée

Toronto ON M4V 1P5

Toronto ON M4V 1P5

Tel.: 416 314-8001

Tél.: 416 314-8001

Fax: 416 314-8452

Télééc.: 416 314-8452

March 16, 2018

Andrew Spencer
Vice President, Transmission & Stations
Hydro One Networks Inc.
483 Bay St 12th Floor North Tower
Toronto ON M5G 2P5

Dear Mr. Spencer:

The Ministry of Environment and Climate Change (ministry), Environmental Assessment and Permissions Division is writing to respond to your March 14, 2018 letter to Messrs. Angus and Hebert from the Energy Task Force, Common Voice Northwest.

On page two, paragraph one of this letter you state that, *"Hydro One is currently working with the Ministries of Energy and Environment and Climate Change to finalize a regulatory measure allowing the use of relevant portions of the completed Environmental Assessment work, while addressing required approvals for the revised route through the Park."*

The ministry is not currently working to finalize a regulatory measure to allow the use of the current unapproved NextBridge environmental assessment. The initial position of the ministry was discussed with you as well as outlined in our letter of November 14, 2017. Please see attached.

As the ministry is not currently working on a regulatory measure to allow the use of the East West Tie Transmission project environmental assessment, the ministry respectfully requests that a letter of clarification be sent to Messrs. Angus and Hebert as well those copied on the letter.

If you would like to speak further regarding this matter please let me know.

Sincerely,

Dolly Goyette
Assistant Deputy Minister (Acting)
Environmental Assessment and Permissions Division

Attachment



MAR 21 2018

MC-2018-325

Ms Jennifer Tidmarsh
Project Director
Nextbridge Infrastructure
1720-390 Bay Street
Toronto ON M5H 2Y2

Dear Ms Tidmarsh:

Thank you for your letter of March 19, 2018, regarding the East-West Tie (EWT) Transmission Project.

With respect to the statement you highlighted in correspondence between Hydro One and Common Voice Northwest dated March 14, 2018, I can confirm that the ministries of Energy and Environment and Climate Change are not working to finalize a regulatory measure related to environmental assessment work.

The Ministry of the Environment and Climate Change has responded in a letter to Hydro One on March 16, 2018 (attached) and has requested that Hydro One issue a letter of clarification to Common Voice Northwest.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn Thibeault".

Glenn Thibeault
Minister

Enclosure

c: Hon. Chris Ballard, Minister of the Environment and Climate Change



483 Bay St 12th Floor North Tower
Toronto ON M5G 2P5
www.HydroOne.com

Andrew Spencer
Vice President, Transmission & Stations

April 19, 2018

Messrs. Iain Angus and Larry Hebert
Co-Chairs
Energy Task Force
Common Voice Northwest
672 Churchill Place
Thunder Bay, ON P7C 5Y8

Re: March 14, 2018, Correspondence to Energy Task Force, Common Voice Northwest

Dear Messrs. Angus and Hebert:

Hydro One wishes to clarify the following statement included in our March 14, 2018, correspondence: "Hydro One is currently working with the Ministries of Energy and Environment and Climate Change to finalize a regulatory measure allowing the use of relevant portions of the completed Environmental Assessment work, while addressing required approvals for the revised route through the Park".

We understand there has been some misunderstanding regarding this statement. Hydro One would like to clarify that the intent of our statement was with reference to the meetings and discussions that have taken place between Hydro One and Ministry of Environment and Climate Change (MOECC) staff regarding options available to meet Environmental Assessment (EA) obligations for the Lake Superior Link (LSL) project, including discussions with MOECC staff which took place on November 23, 2017, and at a formal meeting on February 2, 2018. These discussions included a discussion of regulatory measures that Hydro One could pursue for certain aspects of the project. We did not intend to suggest that such a measure was approved or in place, and we fully understand that any submission for such a regulatory measure would still be subject to review and decision by the MOECC and Cabinet.

We have been very clear in any public messaging and discussions that we are working to establish an appropriate regulatory option or approach, but we have never claimed that an EA approval or exemption is currently in place. We apologize for any confusion the statement in our correspondence may have caused.

Should you have any questions or comments, please don't hesitate to contact me directly.

Kind regards,



Andrew Spencer
Vice President, Transmission & Stations
Hydro One Networks Inc.

cc: Northwestern Ontario Municipal Association
Northwestern Ontario Associated Chambers of Commerce
Hon. Michael Gravelle, Minister of Northern Development and Mines
Hon. Bill Mauro, Minister of Municipal Affairs
Mayor and Council of the Municipality of Greenstone
Mayor and Council of the Municipality of Sioux Lookout
Mayor and Council of the Municipality of Red Lake
Mayor and Council of the City of Thunder Bay
SuperCom Development Corporation
Chief and Council of Aroland First Nation
Chief and Council of Animiigoo Zaagi'igan Anishinaabek
Chief and Council of Biinjitiwaabik Zaaging Anishinaabek
Chief and Council of Bingwi Neyaashi Anishinaabek
Chief and Council of Ginoogaming First Nation
Chief and Council of Long Lake #58 First Nation
Chief and Council of Red Rock Indian Band
Chief and Council of Whitesand First Nation
Bob Chow, Director, Transmission Integration, IESO Bob.Chow@ieso.ca
Carolyn Calwell, ADM, Strategic, Network and Agency Policy Division, Ministry of Energy
Carolyn.Calwell@ontario.ca
Nancy Marconi, Manager, Supply & Infrastructure, Applications, Ontario Energy Board, Nancy.Marconi@oeb.ca
Jennifer Tidmarsh, President, NextEra Energy Transmission - Canada
NextEra Energy Canada, LP
Dolly Goyette, Assistant Deputy Minister (Acting), Ministry of Environment and Climate Change
Kathleen O'Neill, Director Environmental Approvals Branch, Ministry of Environment and Climate Change

Ministry of the Environment
and Climate Change

Environmental Assessment and
Permissions Division

135 St. Clair Avenue West
1st Floor
Toronto ON M4V 1P5
Tel.: 416 314-8001
Fax: 416 314-8452

Ministère de l'Environnement et
de l'Action en matière de
changement climatique

Direction des évaluations et des
permissions environnementales

135, avenue St. Clair Ouest
Rez-de-chaussée
Toronto ON M4V 1P5
Tél : 416 314-8001
Téléc. : 416 314-8452



April 20, 2017

Andrew Spencer
Vice President, Transmission & Stations
Hydro One Networks Inc.
483 Bay St. 12th Floor North Tower
Toronto ON M5G 2P5

Dear Mr. Spencer:

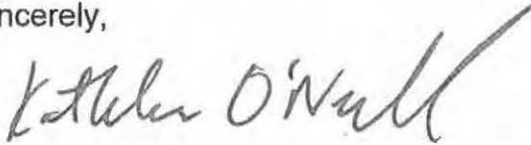
Thank you for circulating your April 19, 2018 letter to Messrs. Angus and Hebert clarifying statements made in your March 14, 2018 letter to them and those copied here within.

To confirm, the Ministry of the Environment and Climate Change (ministry) is not working with Hydro One to finalize a regulatory measure allowing the use of relevant portions of the Environmental Assessment work undertaken by NextBridge Infrastructure, while addressing required approvals for the revised route through the Park.

The ministry would like to emphasize, as outlined in our November 14, 2017 letter to Hydro One and reiterated in the March 16, 2018 correspondence, Hydro One's proposed Lake Superior Link project is considered a new undertaking for the purpose of the *Environmental Assessment Act*. As such, to initiate the Individual Environmental Assessment process, Hydro One is required to submit a Notice of Commencement for a Terms of Reference to the Director of the Environmental Assessment and Permissions Branch.

If you have any questions or would like to speak further regarding this matter please contact me at kathleen.oneill@ontario.ca or 416-314-0934.

Sincerely,

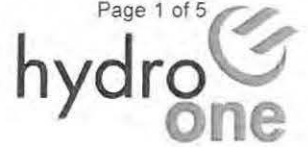


Kathleen O'Neill
Director
Environmental Assessment and Permissions Branch

Attachment: Nov. 14 2017 response letter; March 16, 2018 response letter

cc:

Annamaria Cross, Manager, Environmental Assessment Services
Messrs. Iain Angus and Larry Hebert;
Northwestern Ontario Municipal Association
Northwestern Ontario Associated Chambers of Commerce
Hon. Michael Gravelle, Minister of Northern Development and Mines Hon. Bill
Mauro, Minister of Municipal Affairs
Mayor and Council of the Municipality of Greenstone
Mayor and Council of the Municipality of Sioux Lookout
Mayor and Council of the Municipality of Red Lake
Mayor and Council of the City of Thunder Bay
SuperCom Development Corporation
Chief and Council of Aroland First Nation,
Chief and Council of Animbiigoo Zaagi'igan Anishinaabek
Chief and Council of Biinjitiwaabik Zaaging Anishinaabek
Chief and Council of Bingwi Neyaashi Anishinaabek
Chief and Council of Ginoogaming First Nation
Chief and Council of Long Lake #58 First Nation
Chief and Council of Red Rock Indian Band
Chief and Council of Whitesand First Nation
Bob Chow, Director, Transmission Integration, IESO Bob.Chow@ieso.ca
Carolyn Calwell, ADM, Strategic, Network and Agency Policy Division, Ministry of
Energy
Carolyn.Calwell@ontario.ca
Nancy Marconi, Manager, Supply & Infrastructure, Applications, Ontario Energy
Board Nancy.Marconi@oeb.ca
Jennifer Tidmarsh, President, NextEra Energy Transmission - Canada
NextEra Energy Canada, LP



Hydro One Networks Inc.
483 Bay St., 12th Floor, North Tower
Toronto, ON M5G 2P5
www.HydroOne.com

Andrew Spencer
Vice President, Transmission & Stations

April 25, 2018

Ms. Kathleen O'Neill
Director, Environmental Assessment and Permissions Branch
Ministry of Environment and Climate Change (MOECC)
135 St. Clair Avenue West, 1st Floor
Toronto, ON M4V 1P5

Re: MOECC April 20, 2018 correspondence regarding Common Voice Northwest clarification

Dear Ms. O'Neill:

We are in receipt of your correspondence of April 20, 2018 regarding Hydro One's clarification to the Common Voice Northwest letter. Although we acknowledge that Hydro One is not at the stage of finalizing a regulatory option for the Lake Superior Link (LSL) project under the Ontario *Environmental Assessment Act*, your response suggests that we have not been in discussions regarding regulatory options, including the declaration order, which is incorrect. Specifically, your letter omits the fact that Hydro One and the MOECC have been in discussions regarding the process for a declaration order and the MOECC has even assigned an officer to assist Hydro One with that process after the last meeting.

In addition to our discussions regarding the declaration process, your correspondence of April 10, 2018 (attached) also reiterated the declaration process as an option. That reference was a follow-up to the discussions that took place on March 26, 2018 regarding appropriate templates for submission of a declaration order request, and relevant examples of other declaration order submissions.

As you know, declaration orders are usually considered when a proposal is in the public interest; where potential environmental effects are likely to be minimal; and where environmental impacts are already being adequately addressed. Having regard to these guidelines, Hydro One believes that its proposed LSL project is a strong candidate for a declaration order for the following reasons which we would like to discuss further with the MOECC:

- The proposal is in the public interest. The proposed savings of \$100 million in capital costs and additional annual operating costs are of significant benefit to electricity customers and the Province. The avoidance of further costs associated with, in essence, duplicating Environmental Assessment (EA) work already completed is also in the public interest.

- The potential environmental effects of the LSL routing are expected to be minimal. In fact, the Hydro One LSL proposed park route reduces the linear distance of the line proposed by NextBridge by approximately 50 km and reduces the required corridor width by approximately 50%. No widening would be required within Pukaskwa National Park.
- The environmental impacts of the project will already be adequately addressed through the existing EA submitted by NextBridge, which assesses approximately 78% of the proposed Hydro One LSL route. Additional studies and consultation, which are currently being conducted by Hydro One, will address any further differences in the LSL proposal.

We expect that Hydro One's LSL project and associated \$100 million cost savings and smaller environmental footprint will be of interest to the Ontario Energy Board (OEB) during the continuing competitive process, specifically, with respect to the Leave to Construct process, under Section 92 of the *Ontario Energy Board Act, 1998*. It would be in the provincial interest to avoid duplication of effort and cost in the EA process when a publicly-available document, already paid for by Ontario electricity customers, is available. That approach was contemplated in the OEB's 2013 designation order when it was made clear that the development work, which included the EA work and work product, was to be carried out for the benefit of the project and for the ultimate builder designated through the OEB's Leave to Construct process.

We believe that we have been working with the MOECC to establish an appropriate regulatory option or approach that avoids the unnecessary cost and duplication associated with completion of an individual EA and that considers the interest of electricity customers and the Province. We want to be clear, accurate and transparent about the discussions that have taken place to date.

Should you have any questions or comments, please don't hesitate to contact me directly.

Kind regards,



Andrew Spencer
Vice President, Transmission & Stations
Hydro One Networks Inc.

Attachment: April 10, 2018 letter from MOECC to Hydro One

cc: Dolly Goyette, Assistant Deputy Minister (Acting), Environmental Assessment and Permissions Branch, MOECC

Annamaria Cross, Manager, Environmental Assessment Services, MOECC

Messrs. Iain Angus and Larry Hebert, Co-Chairs, Common Voice Northwest Energy Task Force

Northwestern Ontario Municipal Association

Northwestern Ontario Associated Chambers of Commerce

Hon. Michael Gravelle, Minister of Northern Development and Mines

Hon. Bill Mauro, Minister of Municipal Affairs

Mayor and Council of the Municipality of Greenstone

Mayor and Council of the Municipality of Sioux Lookout

Mayor and Council of the Municipality of Red Lake

Mayor and Council of the City of Thunder Bay

SuperCom Development Corporation

Chief and Council of Aroland First Nation

Chief and Council of Animbiigoo Zaagi'igan Anishinaabek

Chief and Council of Biinjitiwaabik Zaaging Anishinaabek

Chief and Council of Bingwi Neyaashi Anishinaabek

Chief and Council of Ginoogaming First Nation

Chief and Council of Long Lake #58 First Nation

Chief and Council of Red Rock Indian Band

Chief and Council of Whitesand First Nation

Bob Chow, Director, Transmission Integration, IESO Bob.Chow@ieso.ca

Carolyn Calwell, ADM, Strategic, Network and Agency Policy Division, Ministry of Energy

Carolyn.Calwell@ontario.ca

Nancy Marconi, Manager, Supply & Infrastructure Applications, Ontario Energy Board Nancy.Marconi@oeb.ca

Jennifer Tidmarsh, President, NextEra Energy Transmission - Canada

NextEra Energy Canada, LP

Ministry of the Environment
and Climate Change

Environmental Assessment and
Permissions Division

135 St. Clair Avenue West
1st Floor
Toronto ON M4V 1P5
Tel.: 416 314-8001
Fax: 416 314-8452

Ministère de l'Environnement et
de l'Action en matière de
changement climatique

Direction des évaluations et des
permissions environnementales

135, avenue St. Clair Ouest
Rez-de-chaussée
Toronto ON M4V 1P5
Tél.: 416 314-8001
Téléc.: 416 314-8452



April 10, 2018

Elise Croll, Director, Environmental Services
Hydro One Networks Inc.
483 Bay Street, South Tower, 1st Floor
Toronto ON M4V 1P5

Dear Ms. Croll:

Attached are the Ministry of the Environment and Climate Change's (the ministry) revisions to the meeting minutes provide by Hydro One based on the meeting between Hydro One, Ministry of Energy and this ministry on March 26, 2018.

The ministry would like to emphasize that as outlined in our November 14, 2017 letter to Hydro One and reiterated in the March 16, 2018 correspondence; based on information provided to date, Hydro One's proposed Lake Superior Link project is considered a new undertaking for the purpose of the *Environmental Assessment Act*. As such, to initiate the Individual Environmental Assessment process, Hydro One will need to submit a Notice of Commencement for a Terms of Reference to the Director of the Environmental Assessment and Permissions Branch. For further details regarding this process please visit the Preparing Environmental Assessments website (<https://www.ontario.ca/page/preparing-environmental-assessments>) specifically Section 3 where it outlines the Individual Environmental Assessment process.

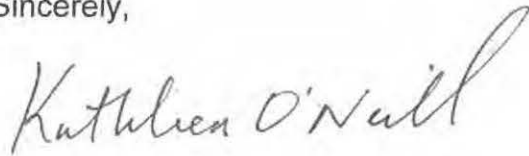
Once the ministry receives this Notice of Commencement for the proposed project, ministry staff would be happy to meet with Hydro One to discuss next steps in the development of its Terms of Reference.

If Hydro One chooses to pursue an alternative regulatory mechanism instead of completing the Individual Environmental Assessment process for the proposed project, Hydro One is encouraged to refer to the ministry's website for more information on these processes. Specifically, for information relating to Declaration Orders please visit the Environmental Assessment: Declaration Orders webpage (<https://www.ontario.ca/page/environmental-assessment-declaration-orders>).

- 2 -

Should you have any questions, please feel free to contact Annamaria Cross by email or phone (416-314-7967).

Sincerely,

A handwritten signature in cursive script that reads "Kathleen O'Neill". The signature is written in dark ink and is positioned below the word "Sincerely,".

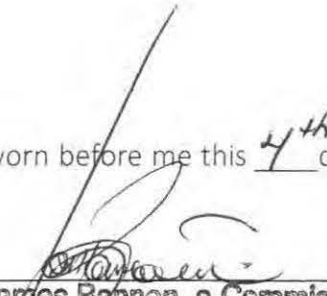
Kathleen O'Neill
Director, Environmental Assessment and Permissions Branch

cc: Dolly Goyette, Assistant Deputy Minister (Acting), Environmental Approvals and
Permissions Division
Annamaria Cross, Manager, Environmental Assessment Services

Attachment: Nov. 14 2017 response letter

Exhibit 'D'
to Chief Collins Affidavit
for Intervenor BLP First Nations

This is Exhibit 'D' referred to in the affidavit of Chief Peter Collins sworn before me this 4th day of May, 2018 .



Ian James Bannon, a Commissioner,
etc., Province of Ontario, for
Fort William First Nation.
Expires December 4, 2020.

Ministry of Energy

Office of the Minister

4th Floor, Hearst Block
900 Bay Street
Toronto ON M7A 2E1
Tel.: 416-327-6758
Fax: 416-327-6754

Ministère de l'Énergie

Bureau du ministre

4^e étage, édifice Hearst
900, rue Bay
Toronto ON M7A 2E1
Tél. : 416 327-6758
Téléc. : 416 327-6754

RECEIVED

MAR 31 2011

**CHAIR
ONTARIO ENERGY BOARD**



MAR 29 2011

MC-2011-1537

Ms Cynthia Chaplin
Chair
Ontario Energy Board
PO Box 2319
2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms Chaplin:

Ontario's Long-Term Energy Plan, published November 23, 2010, identified five priority transmission projects based on the advice of the Ontario Power Authority (OPA). Among the five priority projects is the East-West Tie, identified by the OPA primarily to meet the need of maintaining long-term system reliability in Northwest Ontario.

Consistent with the intents identified in the Long-Term Energy Plan, I am writing to express the Government's interest that the Ontario Energy Board ("the Board") undertakes a designation process to select the most qualified and cost-effective transmission company to develop the East-West Tie.

The Board's Policy Framework for Transmission Project Development Plans is well suited to apply to the East-West Tie project. Such an approach would allow transmitters to move ahead on development work in a timely manner, encourage new entrants to transmission in Ontario and bring additional resources for project development. It will also support competition in transmission in Ontario to drive economic efficiency for the benefit of ratepayers.

A designation process for the East-West Tie also promotes the Board's electricity objectives of protecting the interests of consumers with respect to prices and of promoting cost-effectiveness in the transmission of electricity. In respect of those particular ends, and given the location and value of the East-West Tie in ensuring reliability and maintaining efficiency and flexibility of the system, I would expect that the weighting of decision criteria in the Board's designation process takes into account the significance of aboriginal participation to the delivery of the transmission project, as well as a proponent's ability to carry out the procedural aspects of Crown consultation.

.../cont'd

As the Board has noted in its framework, the starting point for transmission project development planning should be an informed, effective plan from the province's transmission planner, the OPA. As such, it would be prudent for the Board to request further analysis for the East-West Tie from the OPA to support initiation of a designation process.

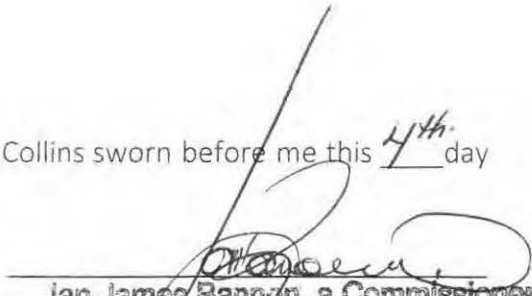
Sincerely,

A handwritten signature in black ink, appearing to read 'RDuguid', written in a cursive style.

Brad Duguid
Minister

Exhibit 'E'
to Chief Collins Affidavit
for Intervenor BLP First Nations

This is Exhibit 'E' referred to in the affidavit of Chief Peter Collins sworn before me this 4th day of May, 2018 .



Ian James Bannan, a Commissioner,
etc., Province of Ontario, for
Fort William First Nation.
Expires December 4, 2020.



BAMKUSHWADA LIMITED

March 5, 2018

Christine Goulais
Senior Manager, Indigenous Relations
Hydro One Networks Inc.
483 Bay Street,
South Tower, 6th Floor
Toronto, ON M5G 2P5

Dear Ms. Goulais:

Re: HONI Consultations with the Six First Nations that Comprise Bamkushwada Limited Partnership ("BLP"), Regarding the Proposed Lake Superior Link

HONI has been contacting the six First Nations that are partners in BLP, about consultations regarding HONI's proposed Lake Superior Link project. As you know, these six are: Biigtigong Nishnaabeg, Fort William First Nation, Michipicoten First Nation, Pays Plat First Nation, Pic Moberg First Nation, and Red Rock Indian Band. We are the only indigenous peoples whose territories the Lake Superior Link project would cross.

This letter is on instructions from and on behalf of all such six BLP First Nations.

HONI has placed BLP and our six First Nations in a very difficult situation, by directly challenging the East West Tie project in which we are directly involved in a number of crucial ways: as equity partners, as having developed several business contracting and employment opportunities, and as having undergone and undergoing consultation and accommodation.

Your Lake Superior Link is in direct competition to the East West Tie. Yet, your project has not been mutually developed with our First Nations – in fact, it has been unilaterally developed by HONI and is being pushed at us at the eleventh hour, threatening to tear apart what we have expended years of time and energy creating. This approach flies in the face of honour and respect that is required to effect reconciliation.

We are being forced to respond to what HONI is doing. The Canadian law on the duty to consult and accommodate, has at times stated that First Nations cannot refuse to participate in the

consultation process without risk of being held to have waived their rights in this regard. As such, we cannot refuse or ignore your requests to meet with us.

But we are also being forced to participate in consultations with HONI in a way that cannot result in the duty to consult *and accommodate* being met. We are thus putting you and the regulating parties on notice of this fact, at these early stages, to protect our rights and to further demonstrate the untenable situation HONI's actions have placed us in.

Canadian law on the duty to consult and accommodate requires that the Crown (or the delegate of the Crown, which in this case is HONI) must always consult with the intent of *substantially addressing* the affected indigenous parties' concerns. That means that there must be much more than mere talking and sharing of information. When First Nations raise concerns, all good faith reasonable attempts to address them must be made. Concerns are addressed through accommodation measures. The party with the duty to consult, must consult with the affected First Nations not only about potential impacts of the projects, but also about potential accommodation measures to address concerns about such impacts.

In this case, our six First Nations will not be able to consult with HONI on key types of accommodation measures. As HONI would know, given BLP's partnership with Nextbridge in the East West Tie, we cannot discuss or explore economic participation, business contracting and related program measures, that would be competitive with what we have contracted to do with Nextbridge.

As stated, HONI would know this or should be deemed to know about this significant restriction on our six First Nations. We remind you that BLP had a contractual relationship with HONI and another partner in the designated transmitter application that initiated the East West Tie process, and HONI would thus be familiar with such contractual obligations.

Given the restrictions on the six First Nations, there is no way we can see that HONI can meet the duty to consult and accommodate here. This situation is entirely the doing of HONI.

We will meet with HONI per your duty to consult our First Nations, on terms that help ensure we do not breach our existing contractual obligations to Nextbridge, and on terms that least defile respect for our status and rights. As such, we will meet with you through the vehicle of the BLP Board. Chiefs or their representatives from each of the six First Nations will be present, both as Chiefs of their governments and as BLP Board members. BLP's legal counsel from OKT Law will be present. All communication to and from HONI about any consultations must in future be directed to BLP and cc'ed to each Chief and Council of the six First Nations, and Kate Kempton and Oliver MacLaren from OKT Law. HONI will have to cover our costs of this meeting. We will not meet or engage with you unless it is under these conditions.

Please respond, following the requirements above, at your earliest convenience, with dates you are available for a meeting in Thunder Bay.

Miigwetch.

Respectfully,



**BLP Board Chair
Chief Peter Collins
Fort William First Nation**

cc. Hon Glenn Thibeault, MPP (Sudbury)
E: gthibeault.mpp.co@liberal.ola.org
E: glenn.thibeault@ontario.ca

Ontario Energy Board
Ms. Kirsten Walli, Board Secretary
E: Registrar@oeb.ca

Mayo Schmidt, President and CEO
Hydro One Limited
E: mayo.schmidt@hydroone.com

Derek Chum, VP Indigenous Relations
Hydro One Limited
E: derek.chum@hydroone.com

Kate Kempton
OKT Law
kkempton@oktlaw.com

Oliver MacLaren
OKT Law
omacclaren@oktlaw.com