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DELIVERED BY EMAIL AND RESS
Registrar@oeb.ca

Ms. Nancy Marconi, Registrar
Ontario Energy Board
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: Sun-Canadian Pipe Line Limited's ("SCPL") Sections 90 and 97 Application for Leave to Construct ("Application")
Ontario Energy Board ("OEB") File No.: EB-2022-0012**

We write on behalf of the applicant, SCPL, in the above-noted proceeding to provide the OEB with additional context to the letter filed by Haudenosaunee Development Institute ("HDI") on April 8, 2022. In this letter, HDI proposes to submit its evidence within one month of receipt of the last response to written interrogatories.

SCPL is concerned that the proposed timing of HDI's evidence will result in construction being postponed to July 2023 and, therefore, delaying urgently needed repairs to address three existing areas of shallow depth of cover near East Sixteen Mile Creek.¹ The new pipe segment that SCPL proposes to install in the Application will ensure safe and reliable long-term operation of the pipeline system as well as compliance with Technical Standards and Safety Authority regulations and the Canadian Standards Association Z662 standard. Timely repair will eliminate the potential environmental risk with having an exposed pipe in the East Sixteen Mile Creek watershed.²

The Project Construction Schedule, set out at Table D.1.6-2 of the Application, is driven by the permitted construction window of July 1 to September 15 for the horizontal directional drill ("HDD"). This construction window was established to protect sensitive life stages for Silver Shiner, and fish in general, based on communications with Ministry of Environment, Conservation and Parks for a project in the Conservation Halton jurisdiction.³ SCPL created the Project Construction Schedule based on a

¹ EB-2022-0012, Exhibit A, Tab 1, Schedule 3, at page 1.

² EB-2022-0012, Appendix 1, at Appendix B1.

³ EB-2022-0012, Appendix 1, at pages 31 and 63.

hard deadline of September 15 for HDD construction and the OEB's published service standard.⁴ SCPL requires a timely decision from the OEB to meet the Project Construction Schedule, which SCPL believes is appropriate when the OEB considers the urgent circumstances and potential environmental risks.

Postponement of construction to July 2023 will require SCPL to repair and/or upgrade the existing mitigation measures that were installed in 2019 to temporarily stabilize and protect the pipeline infrastructure.⁵ These activities will require SCPL to obtain emergency permits from both Federal and Provincial agencies to allow for heavy equipment access, to dam and dewater the work area, and to repair the bank armouring and pipe support structures. This work poses additional risks to worker safety and the environment. The work to repair the temporary mitigation measures will be done in or around open, fast-moving water and steep slopes within an environmentally sensitive area. Further, the repair work would require in-water activities, potentially resulting in impacts to aquatic and terrestrial environments in the creek valley.

There are significant financial risks with postponing construction to July 2023. SCPL will soon begin purchasing materials and retaining contractors for the work. If SCPL cannot complete construction within the permitted construction window, SCPL anticipates this will result in losses in excess of \$500,000 for the cancellation of contractor and procurement contracts.

Regardless of when HDI files evidence, there may be additional procedural steps that will cause construction-timing concerns for SCPL, specifically:

1. The OEB will need to establish a process for discovery on HDI's evidence, which could include multiple rounds of IRs.
2. The bulk of the expected evidence listed in HDI's letter is general in nature and may not be directly or necessarily related to the Application.
3. HDI's request for oral interrogatories and an oral hearing.

Notwithstanding the foregoing, SCPL remains committed to working with HDI to address their concerns. If you have any questions or concerns, please do not hesitate to contact me.

Yours truly,

BORDEN LADNER GERVAIS LLP



Colm Boyle

⁴ While SCPL recognizes this date is not binding on the OEB, the OEB's performance standard in this case would be June 15, 2022 (135 days from when the completeness letter was issued). OEB, online: <<https://www.oeb.ca/sites/default/files/performance-standard-LTC-Shortform-20210401.pdf>>

⁵ These measures were only intended to be temporary: EB-2022-0012, Exhibit B, Tab 1, Schedule 1, page 1.