

**John A.D. Vellone**  
T 416.367.-6730  
F 416.367.6749  
jvellone@blg.com

**Colm Boyle**  
T 416.367.7273  
cboyle@blg.com

Borden Ladner Gervais LLP  
Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto, ON, Canada M5H 4E3  
T 416.367.6000  
F 416.367.6749  
blg.com



April 25, 2022

**Delivered by Email & RESS**

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

Dear Ms. Marconi:

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

We are counsel to the Applicant in the above-noted proceeding (the "Proceeding").

Pursuant to the OEB's Procedural Order No. 2, enclosed please find interrogatory responses from the Applicants in the above noted proceeding.

Confidentiality Request - Personal Information

Appendix Staff-7-1 and Staff-9-1 contain personal information of landowners, privileged information or business sensitive information and have therefore been redacted pursuant to Rule 9A.01 of the Ontario Energy Board's ("OEB") Rules of Practice and Procedure<sup>1</sup> and in accordance with Section 10 of the OEB's Practice Direction on Confidential Filings ("**Practice Direction**").<sup>2</sup>

In keeping with the requirements of the Practice Direction, a combined confidential un-redacted version of both Appendix Staff-7-1 and Staff-9-1 is filed with the Registrar only. The confidential version of both Appendix Staff-7-1 and Staff-9-1 is marked "Confidential Filing" with highlighting to identify the personal information. In accordance with Section 10.1.1(b) of the Practice Direction, SCPL is providing Table 1 below which sets out for each piece of redacted information: (i) the specific page(s) that contain the information; and (ii) the basis for the personal information claim with specific reference to how the redacted information fits within the definition of personal information set out in section 2 of *Freedom of Information and Protection of Privacy Act, 1990* ("**FIPPA**").

---

<sup>1</sup> Ontario Energy Board - Rules of Practice and Procedure, Revised December 17, 2021, Rule 9A.01, page 7.

<sup>2</sup> Ontario Energy Board - Practice Direction on Confidential Filings, Revised December 17, 2021, Section 10, page 14

**Table 1 – Redacted Personal Information**

	<b>Doc</b>	<b>Page</b>	<b>Basis for personal information claim</b>
1	Staff-7-1 Staff-9-1	All A-84, A-85, E-3	Redacted information contains name of landowner. Pursuant to section 2(1)(d) of FIPPA, “personal information” means recorded information about an identifiable individual, including, the address, telephone number, fingerprints or blood type of the individual.
2	Staff-9-1	C-10	Appendix B of Practice Direction: “Unit pricing of a third party”.
3	Staff-9-1	A-1, A-12, A-18, A-22, A-28, A-88, A-99, B-1, B-6, B-8, B-11, B-13, C-8, C-10, C-14, C-19, D-1, D-5, D-10, D-12, D-15, D-17, E-6, E-8, E-11	Solicitor-client privilege.
4	Staff-9-1	A-1, A-2, A-12, A-13, A-14, A-18, A-23, A-24, A-26, A-28, A-29, A-30, A-32, A-33, A-34, A-35, A-36, A-40, A-41, A-42, A-43, A-45, A-46, A-47, A-48, A-49, A-57, A-58, A-59, A-60, A-62, A-63, A-64, A-65, A-66, A-74 to A-79, A-88 to A-93, B-11	Personal information, including personal email accounts and phone numbers.
5	Staff-9-1	B-6	Not relevant or material.

Sun-Canadian requests that the redacted information be kept confidential.

Please do not hesitate to contact the undersigned if you have any questions.

Yours very truly,

**BORDEN LADNER GERVAIS LLP**

A handwritten signature in black ink, appearing to read "Colm Boyle". The signature is fluid and cursive, with the first name "Colm" and last name "Boyle" clearly distinguishable.

Per: Colm Boyle

cc: Peter Martens, Sun-Canadian Pipe Line Limited  
Aaron Detlor, Haudenosaunee Development Institute  
Tim Gilbert, Haudenosaunee Development Institute  
Judith Fernandes, Ontario Energy Board  
Michael Millar, Ontario Energy Board

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998, S.O. 1998, c. 15* (Sched. B), as amended (the “OEB Act”).

**AND IN THE MATTER OF** an application by Sun-Canadian Pipe Line Limited under section 90(1) of the OEB Act for an order granting leave to replace an approximately 480 metre portion of existing privately owned NPS12 pipeline that has been exposed at East Sixteen Mile Creek in the Town of Milton.

**AND IN THE MATTER OF** an application by Sun-Canadian Pipe Line Limited under section 97 of OEB Act for approval of the proposed form of easement agreements included herein.

**RESPONSES TO INTERROGATORIES**

**Filed: April 25, 2022**

## TABLE OF CONTENTS

RESPONSE TO INTERROGATORIES FROM OEB STAFF .....	1
Staff-1 .....	1
Staff-2 .....	4
Staff-3 .....	6
Staff-4 .....	8
Staff-5 .....	13
Staff-6 .....	14
Staff-7 .....	15
Staff-8 .....	19
Staff-9 .....	21
Staff-10 .....	26
RESPONSE TO INTERROGATORIES FROM HDI .....	27
2-HDI-1 .....	27
4-HDI-1 .....	28
4-HDI-2 .....	29
4-HDI-3 .....	30
5-HDI-1 .....	31
6-HDI-1 .....	33
6-HDI-2 .....	35

**RESPONSE TO INTERROGATORIES FROM**  
**OEB STAFF**

**Issue 1.0: Need for the Project**

**Staff-1**

**Ref.: Exh B/Tab 1/Sch.1/ p.1**

**Preamble:**

Sun-Canadian's 2019 annual water survey identified three locations along the pipeline with low or no cover.

In the spring of 2019, Sun-Canadian undertook emergency mitigation measures including in-water pipe supports and protective armouring to temporarily stabilize and protect the infrastructure.

Sun-Canadian states that to support continued safe and reliable transportation of product and operation of the pipeline, it plans to replace approximately 480 metres of the existing pipeline in the vicinity of the East Sixteen Mile Creek with a new section of pipe, which will be installed at a depth that will eliminate the identified areas of shallow depth of cover.

**Questions:**

1. Please describe in more detail the need for the project and the rationale for the project timing.
2. In addition to ensuring continued safe and reliable pipeline operation of the pipeline, please describe any other project benefits such as additional capacity or quality of service in support of the need to replace the pipeline at this time.
3. Please describe the risks and impacts on operational safety and security of supply of a delay of the planned in-service date for the proposed project.

**Response:**

1. The existing pipeline and proposed pipeline replacement both cross the Lower Middle branch of East Sixteen Mile Creek ("E16M"). E16M is a stream with an average channel width of 10 m at the crossing location and meanders through a wooded valley with an average width of 200 m.<sup>3</sup> Thus, the orientation and depth of the E16M channel can vary from year to year due to natural processes and flow of water collected from the surrounding watershed.

---

<sup>3</sup> EB-2022-0012, Appendix 1, at section 4.3.1.

Sun-Canadian has been operating the pipeline for 48 years and the orientation and depth of the E16M channel has changed since the pipeline was first installed.<sup>4</sup> The pipeline from Waterdown to Toronto has operated safely since it was constructed in 1973 and Sun-Canadian attributes this to its rigorous safety and integrity program.<sup>5</sup> One component of Sun-Canadian's integrity program is to perform an annual water survey on the E16M crossing. In 2019, Sun-Canadian identified three locations with low or no cover.<sup>6</sup> One of these 3 locations is currently fully exposed due to natural erosion caused by the meandering of E16M.

The project is needed to maintain compliance with section 8 of O. Reg. 223/01. Under this regulation, Sun-Canadian is required to comply with CSA Z662-19 (Oil and Gas Pipeline Systems) which governs safety and integrity of the pipeline throughout its lifecycle.<sup>7</sup> Section 4.11 of CSA Z662-19 sets out the depth of cover requirements that are intended to protect the pipeline against external loads, scour and third party damage. CSA Z662-19 recognizes that water crossings can be subject to erosion and Table 4.9 requires water crossings be buried to a depth of 1.2 metres.

For the project timing set out in Tables D.1.6-1 and D.1.6-2 of Exhibit D, Sun-Canadian assessed the risk of a loss of pipeline containment resulting from low or no depth of cover near E16M using two risk rating factors: (1) probability of occurrence; and (2) severity of consequence. Sun-Canadian concluded that the project is urgently needed due to the consequences if hydrocarbons are released into E16M watershed and the increased probability of loss of containment due to having exposed pipe in E16M.

Project timing is also constrained by the permitted construction window of July 1 to September 15 for the horizontal direction drill. 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.<sup>8</sup> If this project cannot be completed within this construction window, the work will be delayed until July 2023.

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.<sup>9</sup> 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

---

<sup>4</sup> EB-2022-0012, Exhibit A, Tab 1, Schedule 3, page 1.

<sup>5</sup> EB-2022-0012, Exhibit B, Tab 1, Schedule 1, page 1.

<sup>6</sup> EB-2022-0012, Exhibit B, Tab 1, Schedule 1, page 1

<sup>7</sup> See also Technical Standards and Safety Authority, Oil and Gas Pipeline Code Adoption Document, online: <[www.tssa.org/en/fuels/compliance-standards---pipeline-operators-.aspx](http://www.tssa.org/en/fuels/compliance-standards---pipeline-operators-.aspx)>

<sup>8</sup> EB-2022-0012, Appendix 1, at pages 31 and 63.

<sup>9</sup> These measures were only intended to be temporary: EB-2022-0012, Exhibit B, Tab 1, Schedule 1, page 1.

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.

The project 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. This project is driven entirely to ensure the safe and environmentally responsible operation of the pipeline. This scope of work does not increase capacity or improve operational efficiencies.
3. Please see the answer to Staff-1-1 above for risks and impacts on operational safety of a delay of the planned in-service date for the proposed project.

Sun-Canadian transports low vapour pressure (LVP) refined petroleum products, namely gasoline, diesel and jet fuel from refineries in the Sarnia area to marketing plants in London, Hamilton and Toronto areas.

With respect to security of supply, the Sun-Canadian pipeline transports a significant amount of LVP fuels to London, Hamilton and Toronto areas including Pearson Airport. Disruption of that supply, such as an extended outage resulting from a loss of containment from an exposed pipeline, could result in negative economic impacts to consumers in these regions.



## Issue 2.0: Project Alternatives

Staff-2

Ref: Exh E/Tab1/Sch 1/p.2

### Preamble:

The application states that alternatives to replacing the pipeline in its current configuration were not considered preferred due to technical feasibility, socio-economic, and environmental impacts.

### Questions:

1. Please provide a description of the alternatives considered by Sun-Canadian.
2. For each alternative that Sun-Canadian considered, please provide a comparison using the following metrics - cost and cost savings, technical feasibility, timing, reliability, safety, land use requirements, permitting requirements, impacts on municipalities, landowners, Indigenous communities and environmental impacts.
3. Please explain why the identified need is best addressed by the proposed project.

### Response:

1. Sun-Canadian considered the following alternatives:
  - a. *Do nothing*: Sun-Canadian would not take any action in response to the three locations with low or no cover.
  - b. *Maintain temporary mitigation measures*: Sun-Canadian would operate the pipeline only using the mitigation measures that were installed in 2019 to temporarily stabilize and protect the pipeline infrastructure. These mitigation measures would be maintained on regular intervals.
  - c. *Line lowering*: Sun-Canadian would dam and re-route E16M creek so that it could uncover the existing pipe using an open cut crossing method. The existing pipe would be mechanically lowered to an acceptable depth and then reburied.
  - d. *In-water remediation*: Sun-Canadian would dam and re-route E16M creek so that it could installed engineered facilities to protect the pipe and/or improve channel stability. This would include a combination of articulated concrete blocks, channel realignment, and bank armouring.
  - e. *Line replacement by directional drilling*: Please refer to the options discussed at section 2.3 of Appendix 1.
2. Comparison of alternatives

Metric	Do Nothing	Maintain temp. mitigations	Line lowering	In-water remediation	Line replacement by HDD
Installation cost	Very low	Low	Medium	High	Very high
Technical feasibility	Very low	Medium	Very low	High	High
Timing	None	July 1 <sup>st</sup> to Sept. 15 <sup>th</sup>	July 1 <sup>st</sup> to Sept. 15 <sup>th</sup>	July 1 <sup>st</sup> to Sept. 15 <sup>th</sup>	July 1 <sup>st</sup> to Sept. 15 <sup>th</sup>
Reliability	Very poor	Poor	Good	Good	Very good
Safety	Very poor	Poor	Good	Good	Very good
Land use	No change	No change	No change	No change	Additional easement
Permitting	None required	Not permitted	Multiple permits	Multiple permits	Multiple permits
Municipal impact	None	None	None	None	Low
Landowner impact	None	Low	Very high	Very high	Medium
Environmental impact	Very high	Medium	Very high	Very high	Low

3. Line replacement via directional drilling is the highest-cost option but provides the most effective long-term protection of the water crossing and requires the least amount of construction impact on the local environment, E16M, and impacted landowners.

## **Issue 4.0: Environmental Impacts**

**Staff-3**

**Ref: Exh G/Tab1/Sch 2, 3, 5**

### **Preamble:**

Sun-Canadian retained Stantec Consulting Ltd. to complete an environmental assessment for the proposed pipeline, in accordance with the OEB's *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines in Ontario (7th edition, 2016)* (Environmental Guidelines). Stantec prepared an Environmental Report (ER) for the Project identifying the environmental and socio-economic features along the route of the proposed pipeline.

During the development of the ER, Sun-Canadian states that it consulted with directly and indirectly affected landowners, the Ontario Pipeline Coordinating Committee (OPCC), municipalities, federal and provincial government agencies and Indigenous communities.

### **Questions:**

1. Please confirm whether the completed ER has been distributed for review to all members of the OPCC and affected parties such as municipalities, conservation authorities, provincial/federal agencies, landowners and Indigenous communities as required by the Environmental Guidelines.
2. Please file an update of the comments provided in Exhibit G (summarized in tabular format) that Sun-Canadian has received as part of its consultation since the application was filed. Please include the dates of communication, the issues and concerns identified by the parties, as well as Sun-Canadian's responses and actions to address these issues and concerns.
3. Please provide any comments provided by the TSSA in response to the application submitted for review of the Project by the TSSA.
4. Please confirm whether the Cultural Heritage Report recommended by Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) has been completed and reviewed by MHSTCI.
5. Please provide any comments provided by the Ministry of Municipal Affairs and Housing.
6. It is stated that the Ministry of Northern Development, Natural Resources and Forestry (Ministry of Natural Resources) recommended contacting the Ministry of the Environmental, Conservation and Parks (MECP) to help inform when in water activities would be appropriate, if any in-water works are required. Has Sun-Canadian contacted

MECP? If so, please provide any comments provided by MECP. If MECP has not been contacted, please explain why.

**Response:**

1. Confirmed. Please refer to Exhibits D and E of the Affidavit of Service and Publication showing the letter that contained a link to the Project website where the completed ER was available for review by all members of the OPCC and affected parties such as municipalities, conservation authorities, provincial/federal agencies (as applicable), landowners and Indigenous communities.
2. Except as provided in these interrogatory responses, Sun Canadian has not received any material comments since the application was filed. No updates are required to Exhibit G. Please refer to Staff-9 for any updates to consultation records.
3. Please Appendix Staff-3-3.
4. The Cultural Heritage Report: Existing Conditions and Preliminary Impact Assessment (formerly Cultural Heritage Assessment Report) was submitted to MHSTCI March 23, 2022. No comments have been received from MHSTCI as of the time of filing this response. Please see the response in Staff-4-2, row 8 for the date MHSTCI is expected to provide comments.
5. The Ministry of Municipal Affairs and Housing did not provide any comments on the ER as of the time of filing this response.
6. Sun Canadian has contacted MECP. No comments have been received from MECP as of the time of filing this response. It should be noted that no in-water works are required for the Project.

**Staff-4**

**Ref: Appendix 1 - Environmental Report, Table 1-1**

The application lists several environmental permits/approvals that Sun-Canadian may require for the Project.

**Questions:**

1. For each of the permits/approvals listed in Table 1-1, please confirm if it is required.
2. For each permit/approval listed in Table 1-1 that Sun-Canadian requires and has yet to obtain, please provide an update on the status of the permit/approval including when Sun-Canadian expects to receive the required permit/approval.

**Response:**

1. Table Staff-4-2 below provides an update of Table 1-1 in the Environmental Report for the potential permits/approvals required for the Project. The description and status column in Table Staff-4-2 below indicates if each permit/approval is required.
2. The status column in Table Staff-4-2 below provides an update on the status of required permits/approvals.

**Table Staff-4-2: Summary of Potential Environmental Permits/Regulatory Requirements**

Row Number	Permit/Approval Name	Administering Agency	Description	Status
	<b>FEDERAL PERMITS AND APPROVALS</b>			
1	Clearing of Vegetation under the <i>Migratory Bird Convention Act</i> (MBCA) (1994)	Environment and Climate Change Canada (ECCC)	No permit is necessary; however, precautions need to be taken so that no breeding birds or their nests are harmed or destroyed during the bird nesting season (April 1 to August 31).	Precautions will be taken if vegetation removal is required between April 1 and August 31 to mitigate potential harm to birds and their nests during breeding season.
2	Review and authorization under the <i>Fisheries Act</i> (1985)	Fisheries and Oceans Canada (DFO)	<p>DFO review and possible <i>Fisheries Act</i> authorization is required at watercourse crossings containing species protected under the <i>Species at Risk Act</i> (SARA) (2002). The DFO may authorize activities that have the potential to affect fish or mussel species protected under the SARA (2002).</p> <p>As per Section 35 (1) of the <i>Fisheries Act</i> (1985), “No person shall carry on any work, undertaking or activity that results in harmful alteration, disruption or destruction (HADD) of fish or fish habitat. As per Section 35 (2)(b) of the <i>Fisheries Act</i> (1985), there are some exceptions under which a person may carry on a work, undertaking or activity without contravening subsection (1), including an authorization from DFO, which typically includes a number of conditions.</p>	<p>DFO review determined that <i>Fisheries Act</i> authorization is not required based on current Project design.</p> <p>A copy of this correspondence is provided at 4-HDI-1.</p>

3	Permitting under the <i>Species at Risk Act</i> (SARA) (2002)	DFO	<p>As indicated in Section 32 (1) of the SARA (2002), “No person shall kill, harm, harass, capture or take an individual of a wildlife species that is listed as an extirpated species, an endangered species or a threatened species.”</p> <p>As indicated in Section 73 (1) of the SARA (2002), “The competent minister may enter into an agreement with a person, or issue a permit to a person, authorizing the person to engage in an activity affecting a listed wildlife species, any part of its critical habitat or the residences of its individuals.”</p>	Stantec concluded no permit is required based on current Project design.
<b>PROVINCIAL PERMITS AND APPROVALS</b>				
4	Development Permits under <i>Ontario Regulations 162/06</i> (Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses), as per the <i>Conservation Authorities Act</i> (1990)	Conservation Halton (CH)	Required for works within CH Regulated Areas, including shorelines, watercourses, wetlands and hazardous lands (flooding and erosion hazards, and unstable soils and bedrock).	<p>A permit application has been submitted based on current Project design and is currently under review by CH.</p> <p>Permit approval will be acquired prior to start of construction.</p>
5	Permit to Take Water (PTTW) or Environmental Activity and Sector Registry (EASR) (surface and groundwater) under the <i>Ontario Water Resources Act</i> (1990)	Ministry of the Environment, Conservation and Parks (MECP)	Under Ontario Regulation (O. Reg.) 64/16 and O. Reg. 63/16, the MECP requires a PTTW for dewatering in excess of 400,000 L/day, and an EASR for dewatering between 50,000 and 400,000 L/day. This can include construction dewatering and taking water for hydrostatic testing from a pond, lake, etc. There are some exceptions for surface water takings where active or passive surface water diversions occur such that all water taken is returned to within another portion of the same surface water feature.	<p>An EASR for dewatering is required based on current Project design. MECP does not provide approval for an EASR. The report is registered on the MECP website through Service Ontario.</p> <p>The EASR will be registered prior to start of construction.</p>

6	Permitting or registration under the <i>Endangered Species Act</i> (ESA) (2007)	MECP	<p>An ESA permit or Registration is required for activities that could impact species protected under the ESA. Consultation will occur with the MECP to determine ESA permitting requirements.</p> <p>As indicated in Section 9 (1) a of the ESA (2007), “No person shall kill, harm, harass, capture or take a living member of a species that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species.”</p> <p>As indicated in Section 17 (1), “the Minister may issue a permit to a person that, with respect to a species specified in the permit that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species, authorizes the person to engage in an activity specified in the permit that would otherwise be prohibited by section 9 or 10.”</p>	Stantec concluded that an ESA permit or Registration is not required based on current Project design.
7	Archaeological clearance under the <i>Ontario Heritage Act</i> (OHA) (1990)	Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI)	A Stage 1-2 archaeological assessment (AA) is required along the Right-of-Way (RoW) and temporary land use areas to identify areas of archaeological potential prior to any ground disturbances and/or site alterations. Depending on the results of the Stage 1-2 AA, Stage 3 and 4 AA's may be required. The completed AA reports are forwarded to the MHSTCI for review and comment.	<p>Stage 1 and Stage 2 archaeological assessments were completed, and it was determined that Stage 3 or Stage 4 archaeological assessments are not required.</p> <p>Please refer to Staff-5.</p>
8	Review of Built Heritage and Cultural Landscape under the OHA (1990)	MHSTCI	Screening for impacts to built heritage and cultural heritage landscapes. Based on the results of the screening a Cultural Heritage Assessment Report (CHAR) maybe be completed to determine the presence of built heritage and cultural landscapes. If identified, a Heritage Impact Assessment is required to determine	A screening for impacts to built heritage and cultural heritage landscapes determined that a Cultural Heritage Report: Existing Conditions and Preliminary Impact Assessment (formerly Cultural Heritage Assessment Report) is required based on current Project design. The Cultural Heritage Report: Existing Conditions and



			the effects of the project on heritage resources and recommend mitigation measures, if necessary.	<p>Preliminary Impact Assessment has been submitted and is currently under review by MHSTCI.</p> <p>MHSTCI indicated they are aiming to provide comments by April 25, 2022.</p>
	<b>MUNICIPAL PERMITS AND APPROVALS</b>			
9	Noise Control By-Law 133-2012	Town of Milton	Project activities should adhere to the local noise by-law.	Noise control by-law will be adhered to during construction.
10	By-Law 32-17 to prohibit, restrict, and regulate access to the regional road system	Regional Municipality of Halton	Project activities that may require approval to use the regional road system.	The road occupancy will be included as part of the Municipal Consent permit. Please see Appendix Staff-4-2 and the email dated November 23, 2020 confirming the same.
11	Tree By-Law 121-05	Regional Municipality of Halton	Project activities that may require tree removal should meet the intent of the tree cutting by-law.	No tree removal is required based on current Project design.
12	Municipal Consent Permit	Regional Municipality of Halton	Project activities that may require authorization to occupy and install new infrastructure within a road Right-of Way.	A permit is required based on current Project design and will be acquired prior to start of construction.

**Staff-5**

**Ref: Exh C/ Tab 1/Sch 4, p.1**

**Preamble:**

The application states that Stage 1 AA Report was submitted to MHSTCI on January 7, 2021 and entered into the Ontario Public Register on January 20, 2021 and the Stage 2 AA Report was submitted to MHSTCI on July 16, 2021 and entered into the Ontario Public Register on July 16, 2021. Both Stage 1 AA and Stage 2 AA reports are filed in the evidence.

**Questions:**

1. Please update the status of the MHSTCI's review of the Stage 1 AA and Stage 2 AA reports for the Project and the date when Sun-Canadian expects to receive clearance letters from the MHSTCI with respect to the Stage 1 AA and Stage 2 AA.
2. Please confirm that Sun-Canadian will file with the OEB clearance letters for Stage 1 AA and Stage 2 AA as soon as received from the MHSTCI.
3. Please indicate the timeline by which Sun-Canadian must receive archaeological assessment approval from the MHSTCI to start the Project construction according to the schedule.

**Response:**

1. The Stage 1 AA Report (P324-0571-2020) was entered into the Ontario Public Register on January 20, 2021. The Stage 2 AA Report (P324-0576-2020) was entered into the Ontario Public Register on July 16, 2021. Both reports were reviewed by the MHSTCI and determined to be compliant with the terms of the licensed professional archaeologist (Matthew Beaudoin, P324) and in accordance with the 2011 *Standards and Guidelines for Consultant Archaeologists*. Both the reports and MHSTCI acceptance letters are found at Appendix Staff-5-1.
2. Please see Appendix Staff-5-1 for copies of the MHSTCI acceptance letters.
3. Please see Appendix Staff-5-1 for copies of the MHSTCI acceptance letters.

**Staff-6**

**Ref: Exh B/Tab1/Sch1 p.2**

**Preamble:**

The application states that after the replacement pipeline segment is installed, the existing segment of NPS12 pipeline that is no longer required will be decommissioned. This will consist of the pipe being purged of product, capped, filled with concrete, deactivated and left in-place, following all relevant safety and technical standards.

**Question:**

1. What are the regulatory requirements that Sun-Canadian will have to follow for decommissioning and abandonment of the existing segment of pipeline? Please confirm that the abandonment of the existing pipeline will be in accordance with the current regulatory requirements in terms of procedure and safety.

**Response:**

1. Confirmed. As discussed in Staff-1-1, Sun-Canadian is required to comply with CSA Z662-19 (Oil and Gas Pipeline Systems). Decommissioning and abandonment of the existing segment of pipeline shall adhere to the requirements set out in section 10.16 of CSA Z662-19 Section 10.16. Sun-Canadian Pipe Line shall adhere to the regulatory requirements in terms of procedure and safety, which may include TSSA's Pipeline Abandonment Checklist. TSSA shall be informed at the completion of the abandonment activities.

## **Issue 5.0: Route Map and Form of Landowner Agreements**

**Staff-7**

**Ref: Exh E/Tab 1/Sch1, 2, 4**

### **Preamble:**

Sun Canadian states that it has been in ongoing direct discussion and negotiation with all landowners directly impacted by the Project.

Two new permanent easements will be required for the replacement pipeline segment. The new easements affect two privately owned properties. Three access and temporary workspace easements will be required for construction of the Project.

Sun-Canadian has provided a Pipeline Easement Form for Agreement for the OEB's approval.

### **Questions:**

1. Please confirm whether any of the landowners that have been notified have indicated their support of the Project. If possible, please provide any letters of support from the landowners.
2. Please confirm that the Pipeline Easement Form for Agreement filed on the record will or has been offered to the affected landowners.
3. Has this form of agreement been previously approved by the OEB? If not, is the form of agreement similar to any form of easement agreement that has been approved by the OEB?
4. Does the form of easement agreement encompass the elements outlined in Appendix C of the OEB's Natural Gas Facilities Handbook?
5. It appears that the Pipeline Easement Form for Agreement is for the permanent easements that Sun-Canadian requires. Does Sun-Canadian require approval of a separate Form of Agreement for the temporary easements it requires? If so, please provide this Form of Agreement. If not, please explain why Sun-Canadian does not require approval.

### **Response:**

1. Both landowners have indicated their support for the Project. This correspondence is attached at Appendix Staff-7-1.
2. Sun-Canadian has updated the form of agreement in the Application at Exhibit E, Tab 1, Schedule 4 and attached it as Appendix Staff-7-2. Sun-Canadian confirms that Appendix Staff-7-2 will be offered to affected landowners.

3. The form of permanent easement agreement proposed by Sun-Canadian (the “**SCPL Form**”) is substantially similar to the sample forms of agreement identified in footnote 46 of the OEB’s Natural Gas Facilities Handbook (the “**Handbook Example**).” Some key differences between the two forms of agreement are set out in the table below:

Issue	Handbook Example	SCPL Form
General Form of Agreement	Agreement to grant coupled with a somewhat duplicative grant of easement	Combined agreement and grant of easement
Scope of Pipeline Rights	Detailed, including enlargement and expansion, plus equipment deemed “necessary or convenient”	Slightly more detailed than Handbook Example, includes expansion and aerial patrol, plus equipment deemed “useful, necessary or convenient” and express mention of oil and petroleum products. Installation of valves and take-offs triggers additional consideration.
Includes Access Rights?	Yes, but only over the “Easement Lands”, not the wider Transferor’s Lands	Yes, over Transferor’s Lands, which are wider than the Easement Lands, and the Transferor can direct the “ways and location” of such access – this agreement burdens the Transferor’s Lands less than does the Handbook Example form of agreement.
Limits on Transferor Uses	No structure, fence or obstructive paving without consent	Similar restrictions as in Handbook Example but includes protocols and standards for approving Transferor’s uses
Easement alignment	Selected by Transferee subject to “shall not unreasonably interfere” standard	Identified with R-Plan attached to agreement and thus subject to Transferor’s agreement

Indemnities	Transferor indemnifies Transferee for costs of removing pre-existing “Hazardous Substances” from the Easement Lands, Transferee covenants to refrain from bringing Hazardous Substances on the Easement Lands	Transferor does not indemnify Transferee, Transferee indemnifies Transferor for all costs and losses “directly attributable to the exercise of the rights hereby granted” and Transferee covenants to refrain from bringing hazardous materials to the Easement Lands except in accordance with applicable law.
-------------	---	---

Sun-Canadian views the SCPL Form of easement agreement as (a) more protective of Transferees than is the Handbook Example, and (b) more transparent and likely more intelligible to a non-lawyer than is the Handbook Example.

4. Sun-Canadian notes that it filed its application on January 17, 2022 and the OEB’s Natural Gas Facilities Handbook was not released until March 31, 2022. Sun-Canadian has updated the form of agreement in the Application at Exhibit E, Tab 1, Schedule 4 and attached it as Appendix Staff-7-4. The updated Grant of Easement encompasses the elements outlined in Appendix C of the Handbook:

1. Legal Description of Properties – The “Transferor’s Lands”, “Transferee’s Lands” and “Easement Lands” will be described in Schedules B, C and D. The description of the Transferor’s Lands and Easement Lands will include legal descriptions but the description of the Transferee’s Lands will be more general as is permitted by the Ontario Land Registry office (see Bulletin EM2005-03: Easements In Gross - Dominant Tenement, November 8, 2005)
2. Description of the Area in Use – The “Easement Lands” will be described and delineated visually on a new R-Plan which can be attached to the agreement.
3. Covenant not to disturb applicant’s use of right of access – This covenant is set out in paragraph 3 of the agreement.
4. Determination of maintenance obligations – Maintenance and restoration obligations are set out in the consideration paragraph and in paragraphs 1, 9 and 16 of the agreement. The Transferee covenants to restore the Transferor’s Lands following pipeline work including ingress and egress to access the Easement Lands and following decommissioning.

5. Decommissioning – Decommissioning obligations are set out in paragraph 16 of the agreement.
  6. Independent Legal Advice (ILA) – This provision is set out in paragraph 14 of the agreement.
  7. Liability: Indemnity and exculpation – The Transferee indemnifies the Transferor in paragraph 2 of the agreement.
  8. Insurance – This provision is set out in paragraph 15 of the agreement.
  9. Default provisions and termination – The easement is granted in perpetuity and does not expressly contemplate default or termination. The parties could nonetheless seek remedies, including termination of the agreement for cause, pursuant to the common law of contract and property. The easement precedents referred to at footnote 46 of the OEB's Natural Gas Facilities Handbook do not include default or termination provisions.
  10. Dispute resolution – Paragraph 4 of the agreement includes an arbitration clause that applies in the event the parties cannot agree on the rent to be paid by SCPL for the installation of valves. The parties will otherwise have recourse to Ontario courts to resolve any dispute that arises from the agreement and the parties attorn to that jurisdiction in paragraph 17 of the agreement.
5. The proposed permanent easement agreement includes provisions that are sufficient to govern temporary access by SCPL to the Easement Lands and thus obviates the need for a separate temporary access agreement (as anticipated in section 4.4.5 of the Handbook). More particularly, the proposed agreement distinguishes between the Easement Lands and the wider Transferor's Lands. In the consideration paragraph of the agreement the Transferor grants a right of way for the Transferee to access the Easement Lands via the Transferor's Lands as may be necessary or incidental to the Transferee's exercise of its easement rights. The parties also agree that the Transferor, acting reasonably, can direct the Transferee's "ways and location" of accessing the Easement Lands. The Transferee agrees to restore the Transferor's Lands following such access. The parties can implement these provisions in an informal way in the field, as circumstances warrant. For these reasons no separate temporary access agreement is warranted.

**Staff-8**

**Ref: Exh E/Tab 1/Sch 3**

**Preamble:**

Table E.1.3-1 lists a number of land-related permits and agreements required for the Project.

**Question:**

1. For each permit/approval listed in Table E.1.3-1 that Sun-Canadian requires and has yet to obtain, please provide an update on the status of the permit/approval including when Sun-Canadian expects to receive the required permit/approval.

**Response:**

1. The status column in Table Staff-8-1 below provides an update on the status of each permit/approval listed in Table E.1.3-1.

**Table Staff-8-1: Summary of Potential Environmental Permits/Regulatory Requirements**

Administering Agency	Permit / Approval Name	Status
<b>Town of Milton</b> Engineering Services 150 Mary Street, Milton, ON L9T 6Z5 Diana Jiona, <i>Manager,</i> <i>Infrastructure and Right of</i> <i>Way</i> Telephone: 905 878-7252 ext. 2513 Email: diana.jiona@milton.ca	Road Crossing Agreement Road Occupancy Permit Entrance Permit Utility crossing approval	Permits have not yet been obtained. From Sun- Canadian's prior experience, it is not expected there will be any issues obtaining these permits prior to construction.
<b>Halton Region</b> Infrastructure Planning & Policy Public Works Telephone: 905 825-6000 ext. 6032 Email: PWPermits@halton.ca	Municipal Consent Permit	Please see Appendix Staff-4- 2.
<b>Enbridge Gas Inc.</b> 500 Consumers Road, North York, ON, M2J 1P8 Jim Arnott, <i>Senior Advisor</i> <i>Capital Planning</i> Asset Management Telephone: 416 758-7901	Permanent crossing approval Temporary equipment crossing approval	Approvals have not yet been obtained. From Sun- Canadian's prior experience, it is not expected there will be any issues obtaining these approvals prior to construction.



Tara Kuuskman, Manager, Planning and Design Toronto Distribution Planning & Records Telephone: 416 758-4314 Email: markups@enbridge.com		
<b>Milton Hydro</b> 200 Chisholm Drive, Milton, ON, L9T 3G9 Linda Lundstrom-Collins, <i>Project Manager</i> Telephone: 905 876-4611 ext. 226 Email: lundstrom- collinsl@miltonhydro.com	Permanent crossing approval Temporary equipment crossing approval	Approvals have not yet been obtained. From Sun- Canadian's prior experience, it is not expected there will be any issues obtaining these approvals prior to construction.
<b>Bell Canada (*potential)</b> 140 Bayfield Street, 2nd Floor, Barrie, L4M 3B1 Charleyne Hall, <i>External Liaison – Right of Way</i> Telephone: 705 722-2264 Email: charleyne.hall@bell.ca	Permanent crossing approval Temporary equipment crossing approval	Bell and Sun-Canadian have executed a Permanent Agreement for the crossing.
<b>Telus Corporation (*potential)</b> Engineering Operations & Implementations East 22nd Floor, 25 York Street, Toronto, M5J 2V5 Frederic Sua, <i>Design Specialist II – Access Engineering</i> Telephone: 647 837-9112 Email: frederic.sua@telus.com	Permanent crossing approval Temporary equipment crossing approval	Approvals have not yet been obtained. From Sun- Canadian's prior experience, it is not expected there will be any issues obtaining these approvals prior to construction.

## **Issue 6.0: Indigenous Consultation**

### **Staff-9**

**Ref: Exh F/Tab 1/Sch 1 & 2**

#### **Preamble:**

Sun-Canadian filed an Indigenous Consultation Log with records of consultation activities with Huron-Wendat Nation, Mississaugas of the Credit First Nation (MCFN), and Six Nations of the Grand River (Six Nations), including Six Nations Elected Council, Haudenosaunee Confederacy Chiefs Council (HCCC) and Haudenosaunee Development Institute (HDI). These Indigenous communities were identified by the Ministry of Energy in its delegation letter to Sun-Canadian dated July 28, 2020.

#### **Questions:**

1. Please provide an update on the log of Indigenous consultation activities contained in Table F.1.2-1: Summary of Indigenous Correspondence.
2. Please summarize all the issues and concerns raised by the Indigenous communities in the process of Indigenous consultation to date and describe Sun-Canadian's plans, actions, and commitments to address these concerns and resolve the outstanding issues.
3. Please update the evidence with any correspondence between the Ministry of Energy and Sun-Canadian since the application was filed, regarding the Ministry of Energy's review of Sun-Canadian's consultation activities.
4. Please indicate when Sun-Canadian expects to receive a letter of opinion from the Ministry of Energy.
5. Please comment on any issues arising from the Project that could adversely impact constitutionally protected Aboriginal or treaty rights. Have any Indigenous communities identified any Aboriginal or treaty rights that could be adversely impacted by the project? If any potential adverse impacts have been identified, please comment on what Sun-Canadian is doing to address these issues.

#### **Response:**

1. Please see Appendix Staff-9-1. Certain information has been redacted on the basis that it is commercially sensitive, personal, irrelevant or privileged.

Please also refer to the Application, Appendix A, Appendix B4: Project Correspondence.

2. Table Staff-9-2 below summarizes all the issues and concerns raised by the Indigenous communities in the process of consultation for Aboriginal or treaty rights that may be directly impacted by the project for which Sun-Canadian is seeking approval.

**Table Staff-9-2: Summary of Potential Environmental Permits/Regulatory Requirements**

<b>Issues &amp; Concerns communicated to SCPL</b>	<b>Action Plan</b>
<b>HW, HDI/HCCC, SNGR, and MCFN</b>	
Indigenous groups asserted that the archaeology study did not include assessment on lands in between entry and exit points of the horizontal direction drill.	While the MHSTCI did not require an archeological assessment between entry and exit points of the horizontal direction drill, Sun-Canadian included the lands in between the entry and exit sites in the archeological assessment to meet Indigenous input.
<b>HDI / HCCC</b>	
Requested information about the project	Sun-Canadian has responded to all of HDI / HCCC's information requests.
Requested participation as construction and archeological monitors	As shown in Appendix Staff-9-1, Sun-Canadian entered into an Environmental Monitoring Agreement effective January 24, 2022 and an Archeological Agreement effective March 7, 2022 with HDI.
<b>MCFN</b>	
Requests participation in all environmental studies and monitoring	SCPL and Stantec have invited MCFN to environmental studies and monitoring activities.
Requested participation on archaeology	MCFN were invited to participate in all stages of archaeology and provide input on draft archaeology reports.
<b>SNGR</b>	
Raised concern about First Nations objecting to refineries in Sarnia	Not related to project specific concerns and outside the scope of Sun-Canadian's operations – no action taken by SCPL
How will SCPL protect the silver shiner	See Appendix Staff-9-1 and the Virtual Meeting Minutes from September 22, 2020.
Provide information on how the drilling fluids will be managed and disposed of	See Appendix Staff-9-1 and the Virtual Meeting Minutes from September 22, 2020.
Where are the detailed mitigation plans?	See Appendix Staff-9-1 and the Virtual Meeting Minutes from September 22, 2020.
Tree Removal	See Appendix Staff-9-1 and the Virtual Meeting Minutes from September 22, 2020.
How will SCPL identify a leak in the pipe if it is 20 metres underground	See Appendix Staff-9-1 and the Virtual Meeting Minutes from September 22, 2020.

<p>SNGR would like to participate in this project via archeology and construction monitoring during the construction phase of this project.</p>	<p>SCPL invited SNGR to participate in all stages of archeology including draft report review. SCPL will invite SNGR prior for construction monitoring when the construction phase begins.</p>
<p>This also means that any development, construction, or associated activity related to the proposed project should not be conducted during mating, nesting or hibernating seasons of any species that lives within the project development area.</p>	<p>The project surface work is not located in areas of mating, nesting or hibernating habitats. However, prior to construction activities sweeps will be completed to confirm the absence of mating, nesting and hibernating activities within the project footprint.</p>
<p>In terms of adverse impacts to the environment, Six Nations of the Grand River feels that a replacement/mitigation ratio of 10:1 is well within the parameters of conscious environmental stewardship. For instance, for every one fish that may not survive the construction process, ten fish should be the replacement ratio. For every one tree that needs to be removed, regardless of the current state of health of that tree, ten healthy trees should be planted to mitigate that loss and if a specific habitat whether it is bird, reptilian, fish, or wildlife is destroyed, the potential for more habitats of the same kind should replace it.</p>	<p>There is no predicted loss of trees, fish or habitat. The project has been designed to use mitigation measures to minimize impacts to the natural environment. Any regulatory or permit conditions will be adhered to.</p>
<p>There are also traditional Haudenosaunee guidelines as to what types of animals should not be killed,</p>	<p>There is no predicted loss of trees, fish or habitat. The project has been designed to use mitigation measures to minimize impacts to the natural environment. Any regulatory or permit conditions will be adhered to.</p>

including but not limited to: those that are pregnant, babies and pack elders.	
<p>Communicated via Ministry of Energy:</p> <ul style="list-style-type: none"> <li>• concerns relating to the environmental impacts of the project and opportunities for environmental monitors; and</li> <li>• lack of any subsequent opportunity to meet or detailed follow-up, after the initial meeting between SCPL and the community held on September 22, 2020.</li> </ul>	<p>Sun-Canadian met with the SNGR on April 8, 2022 in response to this input from the Ministry of Energy. As a result of this meeting, Sun-Canadian has implemented the following plan (see meeting minutes in Appendix Staff-9-1):</p> <ul style="list-style-type: none"> <li>• Six Nations is concerned with the existing information provided on the impacts to trees – specifically, provide a tree plan which includes a detailed list of all trees impacted; species, age (eg. mature or sapling). Provide a replacement ratio of 10:1; replacement should be non-invasive species. <ul style="list-style-type: none"> <li>○ There are no naturally growing trees in the area of the drill entrance or drill exit sites and therefore we do not anticipate trees will be taken down and therefore no replacements are anticipated.</li> </ul> </li> <li>• SNGR would like more contact between Sun-Canadian and the Consultation Coordinator. <ul style="list-style-type: none"> <li>○ Sun-Canadian will reach out via email to the SNGR Consultation Coordinator at regular intervals to provide general update as the project planning progresses or respond to any specific SNGR inquiries or concerns received related to the project.</li> </ul> </li> <li>• The SNGR Consultation Coordinator will circulate to appropriate SNGR team members. <ul style="list-style-type: none"> <li>○ SNGR agrees to reply or reach out to Sun-Canadian with any concerns, questions or requests via the Consultation Coordinator.</li> </ul> </li> <li>• Provide a detailed mitigation plan for lubricant spillage during directional drilling. <ul style="list-style-type: none"> <li>○ A discussion on drill fluid management is found in Appendix 1: Environmental Report at Section 4.3.1. The drilling contractor (not yet selected) will be responsible to provide a drill fluid management plan. This plan must be reviewed and approved by Sun-Canadian and an independent drilling expert prior to the start of the work. Sun-Canadian can provide the drill fluid management plan to SNGR when it is available.</li> </ul> </li> </ul>
<b>HWFN</b>	
HWFN expect the project design to preserve cultural resources as necessary.	See Appendix Staff-9-1 where Sun-Canadian invited input from HWFN with regards to protection of cultural resources. Sun-Canadian will invite HWFN for construction monitoring for that purpose.

HWFN wishes to send a monitor on site for construction monitoring. We wish to be present during the excavation, the drilling as well as the installation and the removal of the wooden matts.	Sun-Canadian will invite HWFN for construction monitoring prior to work commencement.
HWFN only need to receive reports for archeology work.	Sun-Canadian has sent all reports related to archaeology to the HWFN for their review and comment.

3. Please see Appendix Staff-9-1.
4. Sun-Canadian requested this information from the Ministry of Energy, however a specific date could not be provided.
5. If constitutionally protected Aboriginal or treaty rights will be adversely affected by the project, it is expected that these impacts will be temporary and transitory during the construction phase. Sun-Canadian will continue to engage and seek input from Indigenous groups. While Sun-Canadian defers to Indigenous peoples for comments on impacts to their rights, it is Sun-Canadian's position that any rights which may be impacted are relatively minor and are mitigated by the relative benefits the project will have for the environment. Sun-Canadian has reached out to First Nations prior to filing its application, conducted an archaeology assessment on more lands than required, provided support for construction monitoring and had established relationships prior to this project with First Nations.

**Issue 7.0: Conditions of Approval**

**Staff-10**

**Ref.: Exh A/Tab 2/Sch 1**

**Preamble:**

Sun-Canadian has applied for leave to construct a pipeline under section 90(1) of the OEB Act. The OEB's standard conditions of approval for section 90 applications are provided below.

**Questions:**

1. OEB staff suggests that the OEB's standard conditions of approval should apply to the Project with the exception of Condition 6 which requires the applicant to file a post-construction financial report, given that the Project is being financed by Sun-Canadian. Please confirm if Sun-Canadian agrees with OEB staff's suggestion.
2. Additionally, if Sun-Canadian does not agree with any of the conditions of approval set out below, please identify the specific conditions that Sun-Canadian disagrees with. Explain the rationale for disagreement and for any proposed changes or amendments.

**Response:**

1. Confirmed.
2. Sun-Canadian requests that section 2(b)(i) be amended from "10 days" to "3 days". Given the urgent circumstances and potential environmental risks, Sun-Canadian intends to begin construction shortly after leave-to-construct is granted. Please see the reasons provided in Staff-1-1.

**RESPONSE TO INTERROGATORIES FROM**  
**HDI**

**Project Alternatives**

**2-HDI-1**

**Ref.: Exhibit C, Schedule 1, page 24**

**Preamble:**

None.

**Questions:**

1. Has Sun-Canadian considered re-routing its pipeline so it is not situated on or within land subject to Haudenosaunee interests?
  - a. If so, please explain why re-routing the pipeline as described above has not been pursued.
  - b. Please provide any materials relating to the consideration described above.

**Response:**

1. Yes, Sun-Canadian has previously considered re-routing its pipeline in response to a similar request from other nations in respect of a different project. The environmental, economic and safety implications of re-routing an existing pipeline made the option infeasible. The same is true for this project as well.

Route selection for the 500m section of pipeline was undertaken in accordance with the OEB Environmental Guidelines which identify the environmental and socio-economic features, and the routing principles, to be considered. Please see Appendix 1, Section 2.0 of the Environmental Report and Exhibit C, Tab 1, Schedule 1 for a discussion on pipeline routing. The study area is shown on Appendix 1, Appendix A, Figure 1.



**Environmental Impacts**

**4-HDI-1**

**Ref.: Appendix 1 (Environmental Report), Table 1-1, page 90**

**Preamble:**

None.

**Questions:**

1. What approvals, if any, has Sun-Canadian received from Fisheries and Oceans Canada (“DFO”) in respect of the NPS 12 East Sixteen Mile Creek Pipeline Replacement Project (“Replacement Project”)?
  - a. Please provide any materials relating to DFO approvals in respect of the Replacement Project.

**Response:**

1. Please see attached as Appendix 4-HDI-1 for a copy of the correspondence from the DFO on January 17, 2022 regarding a request to review the project, which was provided to HDI on April 18, 2022.

**4-HDI-2**

**Ref.: Appendix 1 (Environmental Report), Table 4-9, pages 143-160**

**Preamble:**

None.

**Questions:**

1. Did Stantec engage with the Haudenosaunee in preparing the Environmental Report?
2. How will Sun-Canadian engage with the Haudenosaunee in respect of the mitigation and protective measures outlined by Stantec?

**Response:**

1. As shown in Appendix Staff-9-1, Sun Canadian contacted HDI/HCCC on the following dates to obtain input on the Environmental Report prepared by Stantec:
  - a. August 12, 2020 – Letter and email correspondence inviting HDI/HCCC to provide comments and schedule a virtual meeting with Stantec for any day in September with the exception of September 28-30, 2020.
  - b. September 16, 2020 – Follow up phone call and email correspondence from Sun Canadian requesting a meeting with HDI/HCCC on the following dates: September 21-25, 2020, October 21, 23, 24, 25, 2020.
  - c. September 22, 2020 – Follow up email correspondence requesting a meeting with HDI/HCCC.
  - d. October 9, 2020 – Follow up email correspondence proposing a meeting with HDI/HCCC on October 16, 2020.
  - e. December 1, 2020 – Email correspondence requesting HDI/HCCC participation in the ecology surveys for the project.
  - f. February 5, 2021 – Email correspondence requesting comments on a draft of the environmental report.
  - g. October 22, 2021 – Email correspondence with HDI/HCCC enclosing the email from February 5, 2021 requesting input.
2. Sun-Canadian will consider HDI's mitigations and protection measures once Haudenosaunee provides the same.

**4-HDI-3**

**Ref.: Exhibit C, Schedule 3, page 27**

**Preamble:**

None.

**Questions:**

1. Please provide a working draft of the Environmental Protection Plan (“EPP”)?
2. How are Indigenous peoples involved with the EPP?

**Response:**

1. A draft of the EPP is not yet available. Sun-Canadian will provide a copy to all affected Indigenous communities once it becomes available.
2. The Indigenous communities identified in the Ministry of Energy, Northern Development and Mines, as it existed then, letter dated July 28, 2020 (see Appendix B, PDF page 8) will be consulted in the creation of the EPP.

## **Landowner Agreements**

### **5-HDI-1**

**Ref.: Exhibit E, Schedule 2, page 47**

#### **Preamble:**

#### **“E.1.2 NEGOTIATIONS TO DATE**

Impacted landowners/tenants will be compensated for access and disturbance as per Sun-Canadian’s standard compensation procedure. Compensation is provided at pre-determined rates for temporary workspace required on or off of the pipeline easement. Applicable rates are determined using a percentage of current property values and crop values. Consideration is given for disturbance and property restoration.

Sun Canadian has been in ongoing direct discussion and negotiation with all landowners directly impacted by new easements. Both landowners have agreed in principle to the new easements and Sun Canadian is continuing negotiations on the final financial terms of those agreements.

Landowners, tenants and neighbours have been advised of the proposed Project and will be kept informed of progress as the work progresses.”

#### **Questions:**

1. What is Sun-Canadian’s “standard compensation procedure”?
2. How was the compensation calculated for landowners? Please provide the formula(e).
3. What are the “pre-determined rates” for temporary workspace?
4. What “consideration” is given for disturbance and property restoration? Please elaborate.
5. What compensation was provided to landowners impacted by the proposed project?
6. Describe the “direct discussion and negotiation” process with landowners directly impacted by new easements?
7. What are the final financial terms of agreements between Sun-Canadian and landowners directly impacted by the new easements?

#### **Response:**

1. The questions under 5-HDI-1 are neither relevant nor material to the proceeding. The Notice<sup>10</sup> issued by the OEB provides a list of the types of issues that the OEB may consider

---

<sup>10</sup> EB-2022-0012, Ontario Energy Board Notice

in this proceeding. Since Sun Canadian is not a rate-regulated entity, the OEB's review in this case does not include consideration of the project costs and economics as the costs of the project will not be passed on to ratepayers through OEB-approved rates.<sup>11</sup>

---

<sup>11</sup> OEB Decision EB-2019-0007, March 12, 2020, at page 5.

## **Indigenous Consultation**

### **6-HDI-1**

**Ref.: Exhibit G, Schedule 5, pages 248-256**

#### **Preamble:**

“I am writing to advise you that on behalf of the Crown, ENDM is delegating the procedural aspects of consultation in respect of the Project to Sun-Canadian Pipe Line (Proponent) through this letter. ENDM expects that the Proponent will undertake the procedural aspects of consultation with respect to any regulated requirements for the proposed Project. The Crown will fulfill the substantive aspects of consultation and retain oversight over all aspects of the process for fulfilling the Crown’s duty.”

#### **Questions:**

1. Has the Minister of Energy, Northern Development and Mines (“ENDM”) provided Sun-Canadian with any information or guidance relating to the procedural aspects of the duty to engage or consult?
  - a. Describe such information or guidance and provide any documents relating to same.
2. Please provide all documents relating to the Minister of Energy’s July 28, 2020 delegation of procedural aspects of consultation to Sun-Canadian.
3. What is Sun-Canadian’s understanding of “procedural aspects of consultation”?
4. Describe Sun-Canadian’s efforts to date to discharge its delegated duty to engage and/or consult, to the extent such efforts are not disclosed in the subject application materials.
5. Please provide any documents, including correspondence and agreements, relating to Sun-Canadian’s discharge of its delegated duty to engage and/or consult.
6. Has Sun-Canadian consulted the Haudenosaunee as part of its delegated duty to engage and/or consult?
7. Has Sun-Canadian discharged its delegated duty to engage and/or consult the Haudenosaunee?
  - a. If no, will Sun-Canadian engage with the Haudenosaunee throughout the project as part of its delegated duty to engage and/or consult?
8. Has Sun-Canadian engaged with or consulted other Indigenous peoples as part of its delegated duty to engage and/or consult?

- a. If yes, has Sun-Canadian provided any compensation or mitigation to such Indigenous peoples?
9. Has any other entity, such as the Regional Municipality of Halton or the DFO, delegated any aspect of its duty to engage to Sun-Canadian?

**Response:**

1. Correspondence with the Ministry of Energy is found at Appendix Staff-9-1. Sun-Canadian has complied with the relevant provisions of the Natural Gas Facilities Handbook, including sections 1.5 and 4.4.6.
2. Sun-Canadian is not aware of any further disclosure.
3. Please see question 1 above.
4. See answers to Staff-9.
5. See answers to Staff-9.
6. See answers to Staff-9.
7. Yes. Sun-Canadian expects to continue consulting with the Haudenosaunee given the ongoing nature of the duty to consult and as part of SCPL's ongoing relationship development with First Nations.
8. Yes. Similar to HDI, Sun-Canadian has offered or provided funding for archeological studies, bat studies, meetings with Sun-Canadian and construction monitoring.
9. Sun-Canadian is not aware whether any other entity, such as the Regional Municipality of Halton or the DFO, delegated any aspect of its duty to engage to Sun-Canadian.

**6-HDI-2**

**Ref.: Exhibit E, Schedule 3, page 48**

**Preamble:**

None.

**Questions:**

1. What, if any, approvals has Sun-Canadian obtained from the Regional Municipality of Halton in respect of the Replacement Project?
2. Please provide materials relating to the Municipal Consent Permit in respect of the Replacement Project.
3. Did the Municipality engage with the Haudenosaunee, HCCC, or HDI in respect of the Municipal Consent Permit?

**Response:**

1. No approvals have been requested or received from the Regional Municipality of Halton.
2. Please see Appendix Staff-4-2 for initial communication with the Regional Municipality of Halton, including the identified need for a Municipal Consent Permit. Sun-Canadian or its contractors shall acquire that permit prior to start of project construction.
3. Sun-Canadian is not aware whether the Municipality of Halton engaged with the Haudenosaunee, HCCC or HDI.