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BY EMAIL

May 20, 2022

Ms. Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto, ON M4P 1E4  
[Registrar@oeb.ca](mailto:Registrar@oeb.ca)

Dear Ms. Marconi:

**Re: OEB Staff Interrogatories on Evidence Filed by Haudenosaunee  
Development Institute (HDI)  
Sun-Canadian Pipe Line Company Limited (SCPL)  
NPS 12 East Sixteen Mile Creek Pipeline Replacement Project  
OEB File Number: EB-2022-0012**

In accordance with Procedural Order No. 4, please find attached the Ontario Energy Board (OEB) Staff interrogatories on the evidence filed by HDI in the above proceeding. The applicant and intervenors have been copied on this filing.

Any questions relating to this letter should be directed to Judith Fernandes, Senior Advisor at [Judith.Fernandes@oeb.ca](mailto:Judith.Fernandes@oeb.ca) or at 416-440-7638. The Board's toll-free number is 1-888-632-6273.

Yours truly,

Judith Fernandes  
Natural Gas Applications

Encl.

**OEB Staff Interrogatories on Evidence of HDI  
Sun-Canadian Pipe Line Company Limited Application  
EB-2022-0012**

Please note, HDI is responsible for ensuring that all documents it files with the OEB, including responses to OEB Staff interrogatories and any other supporting documentation, do not include personal information (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's *Rules of Practice and Procedure*.

**Staff-1**

**Ref: Affidavit of Aaron Detlor, paras. 30, 31, 34-35; Application, Exhibit D, Tab 1, Schedule 6; Application, Exhibit E, Tab 1, Schedule 1**

**Preamble:**

The project for which SCPL is seeking approval from the OEB in this proceeding is the replacement of a 480 meter segment of an existing pipeline that will be located (if approved) generally adjacent to the existing pipeline segment and largely on privately owned land (Project). SCPL proposes to use horizontal drilling and it expects that on site construction will take between two to three months, and will be completed before the end of 2022.

Mr. Detlor's affidavit states that HDI has entered into an Environmental Monitoring Agreement with SCPL and also executed an Archaeological Monitoring Agreement with SCPL but stated that these agreements alone do not satisfy HDI's engagement process, only providing environmental and archaeological monitoring on the site of the Project. Mr. Detlor's affidavit states that HDI's comprehensive engagement process may also include, among other things, a cumulative impact assessment, environmental assessment, cultural resource assessment, quality of life assessment, and archaeological assessment.

Mr. Detlor's affidavit also states that HDI provided SCPL with a draft Engagement Agreement, and that SCPL indicated that in its view an Engagement Agreement was not necessary for the Project.

**Questions:**

1. Please provide a copy of the draft Engagement Agreement. If a copy cannot be provided (for example if the agreement is confidential in some respect), please explain.

2. Please indicate specifically what other assessments HDI expects will be required for the Project.
3. Please comment on HDI's view of the adequacy of the assessments provided in the Environmental Report (cumulative effects assessment, environmental assessment, archaeological assessment) filed with SCPL's application.
4. Has HDI had any discussions with SCPL regarding the assessments and the proposed mitigation measures outlined in the Environmental Report? If so, please comment on HDI's perspective regarding these discussions.
5. Is it HDI's position that it will oppose the Project unless an Engagement Agreement is concluded?

## **Staff-2**

**Ref: Affidavit of Aaron Detlor, para. 45**

### **Preamble:**

Mr. Detlor states: “[w]hat is clear, however, is that the activity contemplated by EB-2022-0012 will disturb the subject land and *will* impact Haudenosaunee rights and interests, including those as set out in such instruments as the Nanfan Treaty of 1701.” [Emphasis in original.]

### **Question:**

1. Please provide details on how the Project that is before the OEB in this proceeding will impact Haudenosaunee constitutionally protected rights and interests, including details regarding any potential impacts of the Project on Aboriginal or treaty rights.

## **Staff-3**

**Ref: Affidavit of Aaron Detlor, para. 46, 47; Stantec Environmental Report, p. 75.**

### **Preamble:**

Mr. Detlor states that “it is obvious that the construction contemplated in the proposed project will disturb the subject land, including the surrounding wildlife, and affect the ability to exercise treaty rights on the land.” In support of this conclusion, Mr. Detlor refers to the Stantec Environmental Report filed with the application which states that the Project “may affect traditional territories of Indigenous communities and during construction harvesting and hunting in the construction RoW could be impeded”, and that “there is the potential to disturb culturally significant resources and artifacts.”

**Question:**

1. The Environmental Report refers to the potential for impacts to harvesting and hunting, or to disturb culturally significant artifacts. It also notes that such impacts are not known to occur, only that there is a potential for them to occur. Is HDI aware of any specific potential impacts that the Project that is before the OEB in this proceeding will have on Haudenosaunee harvesting and/or hunting and/or fishing rights, or any other Aboriginal or treaty rights? Please provide any relevant details.

**Staff-4**

**Ref: Affidavit of Richard Wayne Hill, including at para. 28.**

**Preamble:**

Mr. Hill's affidavit provides a thorough description of the 1701 Nanfan Treaty and the rights it bestows upon the Haudenosaunee.

**Question:**

1. Is Mr. Hill aware of any specific impacts that the Project that is before the OEB in this proceeding may have on the Haudenosaunee's Aboriginal or treaty rights?

**Staff-5**

**Ref: Affidavit of Aiden Hollis, including at para. 15**

**Question:**

1. Is Mr. Hollis aware of any specific impacts that the Project that is before the OEB in this proceeding may have on the Haudenosaunee's Aboriginal or treaty rights?

**Staff-6**

**Ref: Affidavit of Aiden Hollis, paras. 17 and 29**

**Preamble:**

Mr. Hollis states: "[f]ulfilling the rights of the Haudenosaunee under the treaty requires the Crown to enjoin any activity that further degrades their right to hunting and any associated rights, as described above, unless the Haudenosaunee explicitly consent to the activity."

**Question:**

1. What provisions of the 1701 Nanfan Treaty support this statement? Is it the provisions cited at para. 17?