

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, as amended (the “**Act**”); and in particular section 90(1) and section 97 thereof;

**AND IN THE MATTER OF** an application by Enbridge Gas Inc. (“**EGI**”) for an order granting leave to construct natural gas pipelines in the Municipality of Chatham Kent and Essex County.

**EB-2022-0157**

**INTERROGATORIES**

**OF**

**THREE FIRES GROUP INC.  
 (“THREE FIRES”)**

**September 1, 2022**

**Question: 1-Three Fires-1**

Reference: • Exhibit A, Tab 2, Schedule 2, p. 1

Preamble: EGI requests leave to construct (i) approximately 19 km of NPS 36 natural gas existing Enbridge Gas Dover Transmission Station in the Municipality of Chatham-Kent to a new valve site in the Municipality of Lakeshore, (ii) approximately 12 km of NPS 16 natural gas pipeline in the Municipality of Lakeshore, the Town of Kingsville, and the Municipality of Leamington, and (iii) ancillary measurement, pressure regulation, and station facilities within the Township of Dawn Euphemia, in the Municipality of Chatham-Kent, and valve-site station facilities within the Town of Kingsville and the Municipality of Leamington (the "**Project**").

EGI indicates that the Project is "designed to reliably serve increased demands for firm service in the Panhandle Market, including, in particular, incremental demands from the greenhouse, automotive, and power generation sectors" as identified in EGI's addendum to its Asset Management Plan.<sup>1</sup>

- a) Please provide a detailed outline of EGI's consultation with First Nations and Indigenous Communities on the alternatives to the Project that were studied and considered.
- b) Please indicate whether EGI has or will consider equity participation of First Nations, including Chippewas of Kettle and Stony Point First Nation ("**CKSPFN**") and Caldwell First Nation ("**CFN**") (together, the "**Three Fires First Nations**"), in relation to the Project. If yes, please discuss what equity participation means to EGI and how First Nations may participate. If no, please explain why not.

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<sup>1</sup> EB-2021-0148, EGI Asset Management Plan Addendum – 2022, Exhibit B, Tab 2, Schedule 3, p. 8.

**Question: 2-Three Fires-2**

Reference: 

- Exhibit C, Tab 1, Schedule 1, p. 5
- Exhibit F, Tab 1, Schedule 1, Attachment 1, "Environmental Report, Panhandle Regional Expansion Project" (the "**Environmental Report**")

Preamble: EGI has assessed the following facility alternatives:

- (i) Upsizing of the existing NPS 16 Panhandle Line or NPS 20 Panhandle Line west of Dover Transmission;
- (ii) Looping the existing NPS 20 Panhandle Line West of Dover Transmission and installing a Leamington lateral interconnect (ie. the Project); and
- (iii) A new liquified natural gas (LNG) Plant.

EGI identified and assessed the following Integrated Resource Planning Alternatives ("**IRPA**"):

- (i) Firm exchange between Dawn and Gateway;
- (ii) Firm exchange between Dawn and Ojibway, in combination with looping the NPS 20 Panhandle line west of Dover Transmission and installing a Leamington lateral interconnect;
- (iii) Trucked CNG deliveries to the Panhandle system; and
- (iv) Enhanced Targeted Energy Efficiency (ETEE).

- a) Please explain why only two facility alternatives, an upsize of existing pipelines and the construction of a new LNG plant, were considered and assessed, as opposed to other non-natural gas-based options?
- b) Please indicate whether EGI has considered hybrid solutions for the Project and the expansion of the Panhandle System. If yes, please provide details and indicate why these solutions were considered with respect to financial impacts on ratepayers, and why/how they were ruled out of inclusion for further consideration. If not, please explain.
- c) Has Enbridge sought any opportunities to work with IESO or any other electricity distributors to facilitate electricity-based energy solutions as part of the IRPA for the benefit of both electricity and gas ratepayers, and if not, why was this not done?
- d) Has Enbridge assessed the need for the project in relation to any rapid expansion of electricity infrastructure in the region, and overall impacts on both electricity and gas ratepayers?
- e) Would Enbridge expect any rapid expansion of electricity infrastructure in the region to impact the need for the proposed project?

- f) How does Enbridge determine whether the alternatives it has chosen to assess represent a complete picture of the viable alternatives to the Project? What criteria are used by EGI when selecting and assessing potential project alternatives and IRP's?
- g) Please explain how Enbridge assessed alternatives to the project with respect to short-term and generational financial impacts on ratepayers
- h) Please explain how Enbridge assessed alternatives to the project, specifically as they relate to impacts on each of the Three Fires First Nations.
- i) Please explain what project alternatives, including financial impacts on ratepayers, including First Nation ratepayers, were presented to each of the Three Fires First Nations.

**Question:**        **2-Three Fires-3**

**Reference:**        • Environmental Report, Integrated Resource Planning (IRP), PDF p. 310

**Preamble:**        IRP is a framework through which Enbridge Gas reviews alternative approaches to meeting energy needs, before building new infrastructure such as:

- (i) Delivering more energy without adding new pipelines using liquefied or compressed natural gas;
- (ii) Lowering energy use through effective energy efficiency programs; and
- (iii) Displacing conventional natural gas with carbon-neutral renewable natural gas and hydrogen.

- a) Has EGI considered whether the existing system could deliver more energy without adding new pipelines? If so, please explain and include reasons for why this alternative is not feasible.
- b) Has EGI considered whether energy efficiency programs could meet regional energy needs and possibly provide better financial cases for ratepayers? Please explain.
- c) Will alternative fuels like renewable natural gas and hydrogen blends be transported in the existing loop and new pipeline? If so, how has EGI considered the impacts on ratepayers for those alternative fuels?
- d) If alternative fuels will be transported, please comment on the measures taken to ensure pipeline integrity, and related integrity management costs to ratepayers. Please include short- and long-term measures.

**Question:**        **3-Three Fires-4**

Reference:        • Exhibit C, Tab 1, Schedule 1, pp. 12, 24-25

Preamble:        EGI notes that the Project provides many benefits and is the best alternative for meeting the identified needs as it, among other reasons, contains the lowest environmental and socio-economic impacts relative to all viable alternatives assessed.

- a)        Please discuss whether EGI evaluated the proposed project as well as project alternatives using the social cost of carbon. For reference, the social cost of carbon is the cost of the damages created by one extra ton of carbon dioxide emissions. In principle, it includes the value of all climate change impacts, including (but not limited to) changes in net agricultural productivity, human health effects, property damage from increased flood risk, natural disasters, disruption of energy systems, risk of conflict, environmental migration, and the value of ecosystem services.<sup>2</sup>
- b)        Has EGI modeled the socio-economic costs by the proposed project, and compared these costs with proposed alternatives? If not, please explain.
- c)        Has EGI considered how the proposed project will impact Indigenous economies and micro-economies including guided fishing tours and hunting in the project area? If yes, please provide documents associated with this economic analysis. If no, will EGI undertake to perform and provide this analysis?
- d)        Has EGI considered the economic impacts of crossing waterbeds and the potential of contamination to disrupt local economies (specifically Indigenous economies)?

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<sup>2</sup> Resources for the Future, "Social Cost of Carbon 101", online at:  
<https://www.rff.org/publications/explainers/social-cost-carbon-101/>

**Question: 4-Three Fires-5**

Reference:

- Environmental Report
- Ontario Energy Board: *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (the “**Environmental Guidelines**”), Section 4.3.13 Social Impacts

Preamble: The Environmental Guidelines provides that Social Impact Assessment (“**SIA**”) is an integral component of environmental analysis and ensures that the extent and distribution of the Project’s social impacts are considered in an explicit and systematic way.

The Environmental Guidelines further note that pipeline construction is associated with both real and perceived health and safety risks which may affect people’s lives and how they feel about their homes and communities.

- a) Please discuss whether EGI has considered the social impacts of the proposed project on the Three Fires First Nations. If yes, please provide details and all related reports, presentations, or other documents specific to the Three Fires First Nations. If no, please explain why not.
- b) Please discuss whether EGI has considered the cultural heritage impacts of the proposed project on the Three Fires First Nations. If yes, please provide details and all related reports, presentations or other documents specific to each of the Three Fires First Nations. If no, please explain why not.
- c) Please discuss whether the required SIA considered the Project’s impacts on systemic social inequalities, including gender, gender diverse people, race, ethnicity, religion, age, mental or physical disability. If not, please explain why these identified types of social impacts were not considered as part of the SIA.
- d) Please discuss whether EGI has considered the safety risks of the expected construction workforce on the surrounding communities and vulnerable individuals, including the Three Fires First Nations, including as it relates to safety risks such as potential substance abuse, disproportionate impacts on women in communities, and impacts on the sex trade. If yes, please explain how EGI intends to mitigate the identified safety risks. If no, please explain why not and discuss how EGI intends to mitigate these types of safety risks of the Project in the surrounding communities.

**Question: 4-Three Fires-6**

- Reference:
- Environmental Report
  - Environmental Guidelines, section 4.3.14 Cumulative Effects
  - CKSPFN Declaration to the Waterways and Lakebeds within its Traditional Territory (see **Appendix A**)

Preamble: The Environmental Guidelines state that “[i]n many situations, individual projects produce impacts that are insignificant. However, when these are combined with the impacts of other existing or approved projects, they become important.”

Further, the Environmental Guidelines state: “[p]articular attention should be paid to environments of known sensitivity and high eco-value (as defined by provincial policies and public input), to situations where opportunities exist to remedy past negative impacts, and to situations in which a combination of actions may result in identifiable environmental impacts that are different from the impacts of the actions by themselves”.

The Environmental Guidelines also indicate that, “[c]umulative impacts may result from pipeline projects which loop existing systems and should be addressed. This may include an examination of areas of known soil erosion, soil compaction or soil productivity problems. It may mean the examination of impacts associated with continued loss of hedgerows and woodlots in the same area. As well, it could mean the increased loss of enjoyment of property because of disruptions caused by the construction of successive pipelines on a landowner's property. There may also be heightened sensitivities as a result of improper or ineffective practices and mitigation measures in the past.”

- a) Please outline what steps EGI has taken to address outstanding concerns from the Three Fires First Nations about the cumulative effects of gas infrastructure and expansion across each of their respective territory as it relates to the Project.
- b) Please provide and discuss EGI's instructions to its environmental consultants for assessing cumulative effects for this Project.
- c) Please discuss whether EGI has considered all past, present, and future conditions in the cumulative effects assessment, including existing projects, the current project, and any future projects.
- d) Does EGI agree that non-provincially significant wetlands should be included in the Environmental Report methodology alongside “Provincially Significant Wetlands” and unevaluated wetlands? If not, please explain why not considering CKSPFN's water assertion and the cultural significance of wetlands other than those deemed “Provincially Significant Wetlands”.



**Question:**        **4-Three Fires-7**

Reference:        • Exhibit F, Tab 1, Schedule 1, pp.3-4

Preamble:        EGI notes that it will comply with all mitigation measures recommended in the Environmental Report, including the development of an Environmental Protection Plan (“**EPP**”) prior to construction” and that the EPP will incorporate recommended mitigation measures contained within the Environmental Report and those recommended by permitting agencies

- a) Will EGI’s EPP consider mitigation measures recommended by Indigenous communities including the Three Fires First Nations? If yes, please provide details of how these mitigation measures will be communicated to EGI and how they will be incorporated into the EPP.

**Question:**        **4-Three Fires-8**

Reference:        • Exhibit B, Tab 1, Schedule 1, p. 10

Preamble:        EGI notes that it “is aware of, has reviewed, and is working in conjunction with the municipalities within the Panhandle Market to determine whether the expansion of the Panhandle System impacts their ability to achieve the greenhouse gas emissions (GHG) reduction goals.”

- a) Please indicate whether EGI has considered whether the Project and the expansion of the Panhandle System will impact the ability for Indigenous communities to achieve a reduction in GHG emissions across the treaty territory. If yes, please provide details and indicate why this was not included in the Application. If not, please explain the difference in treatment between Municipalities and Indigenous Communities.
- b) To what extent does the proposed project align with the energy plans brought forward by municipalities and counties? Please identify which municipal energy plans were considered and indicate whether this Project aligns with municipality and county energy plans. If not, please explain.
- c) How does EGI plan to incorporate best practices to support the 35% efficiency gain in emissions sought by all municipalities in the Windsor-Essex region?

**Question: 4-Three Fires-9**

Reference: • Enbridge Inc. “Net Zero by 2050: Pathways to reducing our emissions”<sup>3</sup>  
(The “**Net Zero Plan**”), pp. 2 and 9-11

Preamble: EGI notes that it “is aware of, has reviewed, and is working in conjunction with the municipalities within the Panhandle Market to determine whether the expansion of the Panhandle System impacts their ability to achieve the greenhouse gas emissions (GHG) reduction goals.”

In March 2022, EGI published the Net Zero Plan which includes targets of reducing the intensity of GHG emissions from their operations by 35% by 2030 and achieving net zero greenhouse gas (“**GHG**”) emissions from their business by 2050 (the “**Commitments**”).

- a) Please indicate and provide details of how Enbridge Inc. and EGI intend to reach the Commitments as it relates to the Project. Please comment on, and file any and all analysis EGI has performed in connection with, how the shipping and burning of methane gas across the traditional territories of the Three Fires First Nations will, or is anticipated to, affect the Commitments.
- b) Has EGI modelled the fugitive methane emissions that will be released by the proposed Project? If yes, please describe the modelling that was undertaken and provide all related results. If not, please explain.
- c) Please provide information on EGI’s leak detection, repair and reporting protocol for related infrastructure, including accounting for fugitive emissions.
- d) Canada has committed to developing a plan to reducing oil and gas methane emissions by at least 75 percent below 2012 levels by 2030, pursuant to the Global Methane Pledge (see **Appendix B**).<sup>4</sup> Please explain EGI’s understanding of and describe how the Project contributes to or detracts from Canada’s commitments under the Global Methane Pledge.
- e) Please file any and all analysis EGI has performed to assess GHG emissions over the lifespan of the Project. If EGI has not undertaken any such analysis, please explain why no such analysis has been undertaken, in light of the Commitments.

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<sup>3</sup> Enbridge Inc. “Net Zero by 2050: Pathways to reducing our emission” (March 2022), available online at: [https://www.enbridge.com/~media/Enb/Documents/About%20Us/Net\\_Zero\\_by\\_2050.pdf?la=en](https://www.enbridge.com/~media/Enb/Documents/About%20Us/Net_Zero_by_2050.pdf?la=en).

<sup>4</sup> Government of Canada, News Release, “Canada confirms its support for the Global Methane Pledge and announces ambitious domestic actions to slash methane emissions” (October 11, 2021), available online at: <https://www.canada.ca/en/environment-climate-change/news/2021/10/canada-confirms-its-support-for-the-global-methane-pledge-and-announces-ambitious-domestic-actions-to-slash-methaneemissions.html>

**Question: 4-Three Fires-10**

Reference: • Environmental Report, Section 3.6.1, p. 19

Preamble: The Environmental Report notes that four additional comments were received from the public via the interactive mapping tool noting concerns over a species sighting (Western Chorus Frog [*Pseudacris triseriata*]) near the Leamington Interconnect.

- a) Is EGI aware that the habitat of the Western Chorus Frog is protected in Ontario by the Provincial Policy Statement (PPS) under the Planning Act?
- b) Please comment on the habitat surveys (conducted to date) on the Western Chorus Frog?
- c) Will future surveys (conducted by Enbridge and/or third-party contractor(s)) attempt to identify Western Chorus Frog and its associated habitat?
- d) Please comment on the measures taken (throughout the project's lifecycle) to ensure the protection of the Western Chorus Frog and its associated habitat

**Question:**        **4-Three Fires-11**

**Reference:**        • Environmental Report, Section 4.2.3, p. 23

**Preamble:**        The Environmental Report notes that a segment north of Jeannettes Creek, approximately 5km in length, and the north end of the Panhandle Route lies within a Significant Groundwater Recharge Area and a Highly Vulnerable Aquifer.

- a) Please indicate and provide details of how EGI intends to protect the segment north of Jeannettes Creek (i.e., Significant Groundwater Recharge Area and Highly Vulnerable Aquifer), and the associated costs for this protection. Please comment on, and file any and all analysis EGI has performed in connection with, how the construction and operation of the pipeline will, or is anticipated to, affect the above-mentioned segment.
- b) Please explain how the integrity of the Significant Groundwater Recharge Area and Highly Vulnerable Aquifer will be protected and provide an assessment of associated costs.
- c) Please include relevant mitigation measures that will be taken (throughout the project's lifecycle) to ensure the longevity of the aquifer and its recharge zones and provide an assessment of associated costs.
- d) Please provide Three Fires with the permits EGI has obtained to construct nearby a Significant Groundwater Recharge Area and a Highly Vulnerable Aquifer. If these permits have not yet been obtained, please outline EGI's application timeline.

**Question: 4-Three Fires-12**

Reference: • Environmental Report, Section 4.3.1.1, p. 25

Preamble: The Environmental Report notes that there are twenty-nine watercourses that are crossed by the Panhandle Loop based on a desktop review of relevant aerial imagery and watercourse mapping. They include 11 named drains, 15 unnamed drains, Jeannettes Creek, Baptiste Creek, and the Thames River. Ultimately, these watercourses drain to the Thames River or Lake St. Clair.

- a) Please outline in table format, crossing methods for each of the twenty-nine watercourses impacted by the proposed project, and provide the associated costs for accommodating the crossing methods.
- b) Please outline in table format, how direct impacts to each of the twenty-nine watercourses will be mitigated, and the associated costs of this mitigation.
- c) Please explain whether EGI will seek consent of CKSPFN to cross each of the twenty-nine watercourses, in light of the CKSPFN Declaration to the Waterways and Lakebeds within its Traditional Territory (**Appendix A**).

**Question: 4-Three Fires-13**

Reference: • Environmental Report, Section 4.3.1.3, pp. 26-30

Preamble: The Environmental Report notes that Jack's Creek Drain is categorized as a municipal Class D drain meaning it is permanent, has a fall or fall and spring restriction window, and contains sensitive fish. The drain was categorized in 2019 as containing Lake Chubsucker (*Erimyzon sucetta* – Endangered (END) under SARA, Threatened (THR) under Endangered Species Act (ESA)) and the recently downlisted Special Concern Mapleleaf mussel (*Quadrula quadrula* – Special Concern (SC) under SARA and ESA). The drain flows North-West for 2.5 km from the crossing before it meets another drain, merges, and then flows into Lake St. Clair. The following fish community is known as Jacks Creek from the LIO dataset (MNDMNR, 2022). Jacks Creek provides habitat to an assemblage of 28 warmwater and coolwater fish species (Table 4-2) several species of mussels and is characterized overall as having a warmwater thermal regime.

- a) Please file any and all analysis EGI has performed to assess SAR fish and mussel species within Jack's Creek Drain over the lifespan of the Project. If EGI has not undertaken any such analysis, please explain why no such analysis has been undertaken.
- b) Please provide information on EGI's protection plan for related sensitive and SAR fish and mussel species within Jack's Creek Drain, and the associated costs of this plan. If EGI has not developed a protection plan, please explain why no such plan has been developed, in light of the sensitive ecosystem.
- c) Please provide TFG with all records, protection plans, and associated costs for sensitive or SAR fish and mussel species within the following:
  - i. Jack's Creek Drain (PSC28);
  - ii. Unnamed Agricultural Drains (PSC25, PSC24, PSC23) and Myers Pump Works Drain (PSC21);
  - iii. Thames River (PSC19);
  - iv. Jeanette's Creek (PSC14);
  - v. Unnamed Agricultural Drain and Olds Drain (PSC13, PSC12);
  - vi. Baptiste Creek (PSC11); and
  - vii. Leamington Interconnect – Aquatic SAR.

**Question: 4-Three Fires-14**

Reference: • Environmental Report, Section 4.3.2.1, pp. 30-31

Preamble: The PPS, implemented under the Planning Act (1990), protects Provincially Significant Wetlands (PSWs) from development and site alteration while regulations under the Conservation Authorities Act (1990) prohibit certain activities within wetlands (MNRF, 2010). The PPS further specifies that a wetland is considered provincially significant if evaluated as such through the OWES (MNRF, 2014). Until categorized by NDMNRF, wetlands are classified as “unevaluated”.

- a) Does Enbridge acknowledge that “unevaluated” wetlands are often the result of research gaps, and do not always indicate a lack of ecological importance or value?
- b) Will Enbridge commit to surveying and mitigating effects on both PSWs (classified through the OWES), as well as “unevaluated” wetlands?



**Question:**        **4-Three Fires-15**

**Reference:**        • Environmental Report, Section 4.3.2.2.2, pp. 32

**Preamble:**        The Environmental Report notes that one woodlot on County Road 8 will be crossed by the pipeline, which may result in some tree clearing.

- a) Please provide information on EGI's additive effects for woodlot cover losses due to tree clearing for pipeline construction, operation, and maintenance.
- b) Please explain why the additive effects of woodlot cover losses due to tree clearing for pipeline construction, operation, and maintenance were not included in the Environmental Report, as per OEB Environmental Guidelines?
- c) Please discuss whether there are any plans to identify species of interest and transplant vegetation accordingly? If no, please explain why not.
- d) Will EGI commit to replacing the loss of trees through its Tree Replacement Program? Please explain what age and species of trees will be removed and what age and species of trees will be replanted.

**Question:**        **4-Three Fires-16**

Reference:        • Environmental Report, Section 4.4.7, pp. 45-46

Preamble:        The Panhandle Loop and Leamington Interconnect are proposed to be constructed looping existing pipeline infrastructure (Panhandle Loop) or adjacent to or within existing road allowances on public or private property (Leamington Interconnect).

- a)        Has EGI evaluated the impacts of controlled vehicle access routes on surrounding communities, many of which contain Three Fires First Nation band members who live off reserve? If no, please explain why not.

**Question:**        **4-Three Fires-17**

**Reference:**        • Environmental Report, Table 5-4, p. 57

**Preamble:**        The Environmental Report notes that if the pipeline route or an adjacent farm field is identified as having SCN all equipment and boots should be properly cleaned before moving to an area that has not shown to be impacted by SCN. This may involve thorough washing before moving equipment from an impacted field to non-impacted field.

- a) Please explain how Enbridge is testing for SCN along the pipeline route and adjacent farm field(s)?
- b) Does Enbridge have a SCN-specific best practice protocol? Are Enbridge contractors/consultants trained specifically in mitigating SCN spread?
- c) Where does “thorough washing” occur, to prevent field contamination?
- d) Please explain how potential downstream impacts are mitigated from washing contaminated equipment (including boots) with SCN?

**Question:**        **4-Three Fires-18**

**Reference:**        • Environmental Report, Table 5-5, pp. 59-60

**Preamble:**        The Environmental Report notes EGI should restrict construction equipment to designated controlled vehicle access routes to minimize the potential contamination and that it should control quantity and quality of stormwater discharge using best management practices.

- a) Please explain why dewatering mitigation measures were excluded from this Table?
- b) What mitigation measures will be taken (throughout the project's lifecycle), to maintain the biophysical features of the surface water whilst dewatering occurs?
- c) If surface water quality and/or quantity is altered post-dewatering, please explain how fish and invertebrate habitat will be restored.
- d) Please provide all vehicle routes for construction sites along bodies of water (rivers, streams, wetlands, etc.).
- e) Please provide a clear, visual map for all construction sites.
- f) Please provide information on EGI's stormwater discharge best management practices, in part, as it relates to changes in surface water quality and quantity.

**Question:**        **4-Three Fires-19**

Reference:        • Environmental Report, Section 5.3.2.2, p. 61

Preamble:        The Environmental Report notes that a field investigation of each watercourse crossing will be conducted to determine if fish and/or fish habitat is present.

- a) Please provide information on EGI's field investigation protocol for determining fish and fish habitat, including accounting for various watercourses.

**Question:**       **5-Three Fires-20**

Reference:       • Environmental Report, Table 5-13, p. 76

Preamble:       The Environmental Report provides obtaining any municipal approvals required for land restrictions and haul routes as a proposed mitigation measure.

- a) Please share land restriction locations. If EGI has not determined the location of restricted lands, please explain when these lands will be identified.

**Question:**       **5-Three Fires-21**

Reference:       • Exhibit A, Tab 2, Schedule 1, Attachment 1, p. 1

Preamble:       Section 94 of the Act requires applicants for an order granting leave under the relevant part to file a map showing the general location of the proposed work and the municipalities, highways, railways, utility lines and navigable waters through, under, over, upon or across which the proposed work is to pass.

- b) Please indicate whether there are any navigable waters impacted by the Project. If yes, please provide details and all analysis undertaken by EGI with respect to the impacts on navigable waters by the Project.

**Question: 6-Three Fires-22**

- Reference:
- Enbridge Inc. Indigenous Peoples Policy (the **IPP**), provided at Exhibit H, Tab 1, Schedule 2, Attachment 5
  - National Inquiring into Missing and Murdered Indigenous Women and Girls (“**MMWIG**”) “Calls for Justice”<sup>5</sup>
  - Truth and Reconciliation Commission of Canada (“**TRCC**”) “Calls to Action”, see **Appendix C**<sup>6</sup>
  - United Nations Declaration on the Rights of Indigenous Peoples (“**UNDRIP**”), see **Appendix D**<sup>7</sup>

Preamble: The IPP provides that Enbridge Inc. recognizes “the importance of [UNDRIP] within the context of existing Canadian and U.S. law and the commitments that governments in both countries have made to protecting the rights of Indigenous Peoples.”

The IPP notes that “[p]ositive relationships with Indigenous Peoples, based on mutual respect and focused on achieving common goals, will create constructive outcomes for Indigenous communities and for Enbridge”

Enbridge Inc. has committed to pursuing sustainable relationships with Indigenous Nations and groups and that it engages in forthright and sincere consultation with Indigenous Peoples about projects and operations through processes that seek to achieve early and meaningful engagement so the input of Indigenous Nations can help define projects that may occur on lands traditionally used by Indigenous Peoples.

Section 4(a) of the *United Nations Declaration on the Rights of Indigenous Peoples Act*,<sup>6</sup> affirms UNDRIP as a universal international human rights instrument with application in Canadian law.

UNDRIP requires that Indigenous Peoples are consulted in good faith in order to obtain their free, prior and informed consent (“**FPIC**”) (i) before measures are adopted that affect them (article 19) or (ii) when undertaking a project that affect their rights to land, territory and resources (article 32).

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<sup>5</sup> MMIWG “Calls for Justice” (June 2019), available online at: [https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Calls\\_for\\_Justice.pdf](https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Calls_for_Justice.pdf).

<sup>6</sup> TRCC “Calls to Action” (29 March 2016), available online at: <https://crc-canada.org/wp-content/uploads/2016/03/trc-calls-to-action-english.pdf>.

<sup>7</sup> UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly (2 October 2007), A/RES/61/295, available online at: [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf).



The TRCC's Call to Action #92 calls upon the corporate sector in Canada to adopt UNDRIP as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources.

- a) Please explain EGI's position on whether current industrial development – including this Project – continues to have destructive impacts on the social and economic wellbeing of Indigenous peoples.
- b) How does EGI identify common goals? Please explain how EGI navigates times when EGI's goals are not the same as a First Nation's goals.
- c) How does EGI determine constructive outcomes? Please explain whether EGI works with Indigenous nations to identify constructive outcomes and explain how EGI navigates times when EGI's preferred outcome is not the preferred outcome of the Indigenous nation.
- d) How does EGI's gas expansion across southwestern Ontario respect previous Indigenous generations and benefit future Indigenous generations?
- e) What has EGI learned specifically as it relates to relationship building with Indigenous communities and the proposed Panhandle Expansion?
- f) What is EGI's definition of sustainability?
- g) Please explain how EGI plans to adopt and implement the TRCC Calls to Action and MMIWG Calls to Justice.
- h) Will EGI commit to the MMIWG Calls to Justice for Extraction and Development Industries in relation to the safety and security of Indigenous women, girls, and 2SLGBTQQIA people during all stages of the Project?
- i) Will EGI commit to the MMIWG Calls to Justice for Extraction and Development Industries in relation to providing increased social infrastructure to meet the needs of CKSPFN and CFN?
- j) Will EGI commit to full implementation of TRCC #92 "Business and Reconciliation", including adopting the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. If yes, please explain how EGI has met each of i. through iii. under TRCC #92, specifically as it relates to the Project. If no, please explain why EGI is not willing to fully implement TRCC #92 in relation to the Project.
- k) How has EGI included provisions in this project to address its impacts on vulnerable groups, including Indigenous women and girls?

- l) Please explain the contents of EGI's Indigenous awareness programs and who facilitated these programs.
- m) What agreements, authorizations, and or approvals with and/or from First Nation governments, including the Three Fires First Nations, does EGI envision needing or entering into to support the Project?
- n) Please discuss and provide any updates, as it pertains to each of the Three Fires First Nations, to the "Indigenous Consultation Report; Log and Project Correspondence" in tabular format.
- o) Did EGI provide a description to potentially impacted First Nations of other provincial or federal approvals that may be required for the Project to proceed?
- p) Please provide details of any analysis undertaken by EGI to assess and determine the impacts on Treaty lands, generally, and on the Treaty lands of each of the Three Fires First Nations as part of the (i) Application, generally, and (ii) the Environmental Report. Did EGI perform any analysis prior to contacting potentially impacted First Nations and Indigenous customers? If no analysis was performed, please explain why not.
- q) Please discuss whether section 3 of the Standard Conditions of Approval, includes the requirement to obtain the FPIC of affected Indigenous communities. If no, please explain whether EGI's determination that FPIC is not a "necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the project" is consistent with the IPP and the TRCC's Call to Action #92.

**Question: 6-Three Fires-23**

Reference: • Environmental Guidelines - Section 3.3 Indigenous Consultation

Preamble: The Environmental Guidelines provide that the procedural aspects of the duty to consult generally include, among others, “responding to questions and concerns raised by Indigenous communities and keeping the Crown apprised of rights assertions by communities”

- a) Has EGI responded to the questions and concerns submitted directly to EGI by CKSPFN on July 5, 2022?
- b) Has EGI kept the Crown apprised of CKSPFN's Declaration to the Waterways and Lakebeds within its Traditional Territory (**Appendix A**)? If not, why not.
- c) Please explain EGI's understanding of the CKSPFN's Declaration to the Waterways and Lakebeds within its Traditional Territory, specifically as it relates to any approvals EGI may need to obtain from CKSPFN in order to cross water within the treaty territory.

**Question: 6-Three Fires-24**

Reference: • Exhibit A, Tab 2, Schedule 1, p. 3

Preamble: EGI notes that parties affected by the Application include the (i) owners of lands, government agencies and municipalities over which the pipeline will be constructed and (ii) customers resident or located in the municipalities, police villages, **Indigenous communities and Métis organizations** served by EGI, together with those to whom EGI sells gas, or on whose behalf EGI distributes, transmits, or stores gas. [emphasis added]

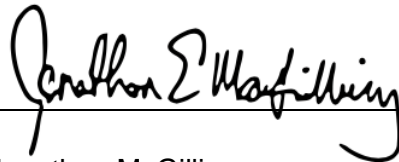
- a) Please file any and all analysis EGI has performed, that is not already provided in the Application, in connection with how the Application will, or is anticipated to, affect residents and members, including off-reserve members, of each of the Three Fires First Nations:
- (i) that EGI serves;
  - (ii) to which EGI sells gas; and
  - (iii) on whose behalf EGI distributes, transmits, or stores gas.
- b) Please indicate whether EGI recognizes that the following groups are also affected by this application:
- (i) Indigenous nations whose Aboriginal and Treaty Rights are impacted by the continued expansion of gas infrastructure across Treaty territory and directly impacted by the increased ground level ozone caused by fugitive emissions; and
  - (ii) current and future generations who will face the challenges of accelerated anthropogenic climate change.

ALL OF WHICH IS RESPECTFULLY  
SUBMITTED THIS  
1<sup>st</sup> day of September, 2022



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Lisa (Elisabeth) DeMarco  
Resilient LLP  
Counsel for Three Fires



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Jonathan McGillivray  
Resilient LLP  
Counsel for Three Fires

Appendix A: CKSPFN Declaration to the Waterways and Lakebeds within its Traditional Territory



*Chippewas of Kettle & Stony Point First Nation*

6247 Indian Lane  
Kettle & Stony Point FN. Ontario. Canada N0N 1J1

Wednesday, May 31, 2017

Minister Carolyn Bennett  
Indigenous Affairs and Northern  
Development Canada  
Terrasses de la Chaudiere  
10 Wellington, North Tower  
Gatineau, Quebec  
K1A 0H4



Dear Minister Bennett:

Re: Chippewas of Kettle and Stony Point First Nation Band Council Resolution # 2851

Enclosed please find the Chippewas of Kettle and Stony Point First Nation BCR #2851 regarding the affirmation of the First Nation's declaration of ownership to the lakebeds and waterways located within our traditional land base.

Please direct inquiries to Chief Thomas Bressette at your convenience.

Sincerely,

Toni George  
Council Assistant

Attach. (1)

c: Ministry of Indigenous Relations & Reconciliation  
Ministry of Natural Resources  
Ministry of Environment  
Municipality of Lambton Shores



## FIRST NATION COUNCIL RESOLUTION

REFERENCE NO. 2851	DATE OF DULY CONVENED MEETING: 2017 / 05 / 29 (YEAR/MONTH/DAY)	PROVINCE OF ONTARIO
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### THE CHIPPEWAS OF KETTLE AND STONY POINT FIRST NATION DO HEREBY RESOLVE:

**WHEREAS** the "Chippewas Nation of Indians and His Majesty King George IV as represented by the Superintendent of Indian Affairs" entered into the Provisional Agreement of 1825 and Treaty of 1827 regarding a certain tract of land in Southwestern Ontario and which surrendered certain parts of the tract and created the Reserves designated as Kettle Point #44 and Stony Point #43, and,

**WHEREAS** in neither agreement or Treaty was there a surrender of the waterways known as Lake Huron including the lakebed or any other waterways within the traditional territory; and

**WHEREAS** under Aboriginal and Treaty Rights, the Chippewas of Kettle and Stony Point First Nation assert ownership and jurisdiction over said waterways to the International Boundary and the land underlying the waterways (lakebed); and

**WHEREAS** the Chippewas of Kettle and Stony Point First Nation make DECLARATION to the waterways and lakebeds in its traditional territory including the waterway known as Lake Huron to the International Boundary, and including the lands under the waterway of Lake Huron known as the lakebed; and

**WHEREAS** the Lake Huron waterways are described as the point of intersection of the surrendered lands with Lake Huron as its most northerly point, extending directly out into Lake Huron to the International Boundary, then running along the International Boundary to the southerly limit of the herein described lands at the water's edge of the St. Clair River, and the land underlying this portion of Lake Huron (lakebed) and assert this waterway and lakebed has never been surrendered; and

**THEREFORE BE IT RESOLVED THAT** the Chippewas of Kettle and Stony Point First Nation hereby notify each government- Federal, Provincial and Municipal, company, individual, or groups of individuals, and any others who use or who plan to use any part or portion of this territory that they must disclose their use to the First Nation, and seek express permission from the government of the First Nation, namely the elected Chief and Council for the proposed usage; and

**FINALLY THEREFORE BE IT RESOLVED** the Chief and Council of the Chippewas of Kettle and Stony Point First Nation pass and affirm this "DECLARATION TO THE WATERWAYS AND LAKEBEDS WITHIN ITS TRADITIONAL TERRITORY FOR THE MANAGEMENT, USE AND ENJOYMENT OF THE FIRST NATION AND ITS PEOPLES" as confirmed within the First Nation's Aboriginal and Treaty Rights.

QUORUM 6

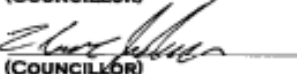
  
(COUNCILLOR)

  
(COUNCILLOR)

  
(COUNCILLOR)

  
(CHIEF)

  
(COUNCILLOR)

  
(COUNCILLOR)

  
(COUNCILLOR)

  
(COUNCILLOR)

  
(COUNCILLOR)

## **Appendix B: Global Methane Pledge**



**Appendix C: Truth and Reconciliation Commission of Canada “Calls to Action”**

## **Appendix D: United Nations Declaration on the Rights of Indigenous Peoples**