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BY EMAIL

March 10, 2023

Tim Gilbert
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Dear Mr. Gilbert:

Re: EB-2022-0140, Haudenosaunee Development Institute (HDI) cost claim and time docket
OEB File Number: EB-2022-0140

In its February 14, 2023 letter (Letter), the OEB indicated that it would place unredacted versions of the time docket previously filed by HDI on the public record unless HDI provided an appropriate explanation of the potential harm that could result from their disclosure. The OEB further requested that HDI indicate the basis upon which the redacted information constituted confidential information as defined in the OEB's *Practice Direction on Cost Awards* (Practice Direction).

HDI responded to the Letter on February 17, 2023 in which it indicated that its time docket had been redacted on the basis of solicitor-client privilege as described at Appendix B, Part 6 of the Practice Direction. HDI also explained that it considered the redactions to constitute confidential information as it revealed, among other things, the content of conversations with its client and resulting strategy. Accordingly, HDI stated that the potential harm that could result from publicly posting unredacted versions of its time docket was a waiver of solicitor-client privilege.

In this instance, the OEB accepts HDI's request for confidential treatment of the redacted time docket of their counsel. However, the OEB notes that it is not customary for an intervenor to seek, or for the OEB to approve, such confidentiality requests. The OEB expects HDI to attempt to file fully unredacted time docket appropriate for public posting as part of any future cost claims process, and to prepare the docket in a

manner that does not include information that is covered by solicitor-client privilege but provides sufficient information for the OEB to properly assess the value to the process for the time claimed. The OEB recommends that HDI review the time docket submitted by other intervenors to the EB-2022-0140 proceeding to understand the OEB's expectations in this regard.

Yours truly,

Nancy Marconi
Registrar

c: Jack McDonald, Gilbert's Law (jack@gilbertslaw.ca)