February 9, 2023

Ontario Energy Board

2300 Yonge Street, 27th floor

P.O. Box 2319

Toronto, ON M4P 1E4

Re: EB-2024-0079; EB-2022-0011

To whom it may concern:

We object to both the proposed key change and process for commenting on proposed changes.

**Process**

To determine what changes are being proposed, I’m forced to read separate documents and do close line-by-line comparisons. That information - with new and deleted passages highlighted - should be included in a single document.

To determine cost eligibility, I was forced to Google and read a separate document. That information should have been included with the package.

To submit this letter, your organization wants me to look up and conform to “Regulatory Electronic Submission System (RESS) Document Guidelines”.

But I’m not bothering with that because this letter and other materials must also be submitted in a searchable PDF format. While I could scan this letter into a non-searchable PDF, we do not have software to create searchable PDFs.

That OEB is inviting comment and input, but not consultation, on proposed revisions to Indigenous consultation is reflective of this arbitrary and inaccessible process.

OEB’s creation of both real and perceived barriers will undoubtedly minimize First Nation comments. Please send me the percentage of listed First Nations who responded via your prescribed process when that information becomes available.

**Key Change**

As to the key change itself, ME and OEB should ensure the present consultation system is adequately functioning prior to entertaining any streamlining measures.

The existing situation, where First Nations are not formally inspecting and approving Indigenous Consultation Reports, allows proponents to be selective about which meetings and content they report. As a result, it is impossible for ME and OEB to adequately determine whether consultation is complete. Yet they claim to be doing so, much to the detriment of First Nations.

Yes, First Nations may engage in the OEB hearing process to correct the record after the fact, but there are barriers to participation, particularly if the First Nation isn’t expecting more tangible gains from the hearing.

Your new language says “The OEB is committed to ensuring that it has sufficient evidence to allow it to make an informed decision regarding whether the Duty to Consult, if triggered, has been adequately discharged for the Hydrocarbon Project.” The proposed revisions should include language concretizing that commitment to First Nations.

**Other**

While our office has participated in OEB hearings, it hasn’t done so recently. We prefer to engage with the Crown in non-tribunal settings.

It’s unfortunate that a worrisome proposal to fast-track some projects through the OEB, and potential additional changes to the environmental guidelines, have been snuck into a section titled “Areas where no change is proposed.” While comments are not being solicited here, this sounds an awful lot like MECP’s ‘modernization’ changes, whereby environmental regulations are decreased, while the duty to consult is allegedly being maintained, but is in fact diluted. First Nations have repeatedly stated their opposition to such schemes.

Lastly, the “indigenous groups” lingo is grating for a variety of reasons. First Nations… is preferred. Failing that, a phrase like Indigenous governments is less innocuous and more accurate.

Sincerely,

Peter Graham

Consultation Supervisor

Six Nations of the Grand River Elected Council

P.S. Please provide me a contact I can send an invoice to.