



October 26, 2024

VIA EMAIL

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor Toronto
ON M4P 1E4
Attention: Registrar

Dear Ms. Marconi,

**Re: Enbridge Gas Inc.
Boblo Island Community Expansion Project – Notification Letter
Ontario Energy Board File Number: EB-2024-0249**

Deshkan Ziibiing, or Chippewas of the Thames First Nation (COTTFN), received the “Notice of a Hearing” dated Sept. 11, 2024 from the Ontario Energy Board regarding the Boblo Island Community Expansion Project. COTTFN has remaining concerns that the duty to consult has not been adequately discharged in respect of the project.

The proposed project is in COTTFN’s Treaty and Traditional Territory, as recognized in the Big Bear Creek Settlement Agreement (2013). The project is located on lands covered by Treaties to which COTTFN is a signatory, namely the McKee Treaty and Treaty No. 116. Deshkan Ziibiing continues to hold inherent rights and responsibilities over that territory.

COTTFN has the following outstanding concerns. The concerns noted below should not be interpreted as a final list and may change as we receive additional information.

1. On Oct. 11, 2024, COTTFN requested a copy of Enbridge’s Environmental Protection Plan (EPP) for the project prior to implementation. Enbridge Gas Inc. (EGI) responded on Oct. 24, 2024, that EGI would “provide COTTFN with specific sections from the EPP of concern to COTTFN”. EGI has not provided a written justification as to why COTTFN cannot view the full EPP. If there is any confidential or proprietary information in the EPP, EGI could redact those sentences. If COTTFN only receives excerpts, it will not be clear what information is being withheld. For meaningful consultation, there must be fulsome disclosure of information, especially regarding potential environmental impacts and proposed mitigation measures within COTTFN’s Treaty and Traditional Territory. EGI must provide rigorous justification for not providing the full EPP; otherwise COTTFN should have access to the document.





2. To date, EGI has not offered equity opportunities in rate-regulated assets to Rights Holding First Nations in southwestern Ontario. EGI owns and operates assets, including pipelines and gas storage infrastructure, throughout COTTFN's Traditional and Treaty territory. COTTFN does not financially benefit from and did not consent to these assets. The Ontario government is not adequately capturing the cumulative impacts of such infrastructure on COTTFN's inherent and constitutionally protected rights.

Through recent case law, such as *Yahey v. British Columbia*, 2021 BCSC 1287, Canadian courts have acknowledged that regulatory regimes without effective and binding measures to ensure the protection of constitutionally protected rights do not meet the test of diligence required of the Crown. As noted in the Spirit of the Land toolkit,¹ projects impact inherent cultural rights in tangible and intangible ways that are not adequately captured in provincial project-specific assessments and regulatory proceedings. The Boblo Island Expansion Project is, on its own, relatively small, but it is part of a much larger inventory of existing and new Enbridge projects in the Nation's territory.

The Truth and Reconciliation Commission's Call to Action 92 addresses the corporate sector, which must ensure that "Aboriginal communities gain long-term sustainable benefits from economic development projects".² Enbridge acknowledges the importance of economic inclusion and partnership in its Indigenous Reconciliation Action Plan (IRAP). The Crown also has a responsibility to ensure that the corporate sector fulfills this Call to Action. The Ontario Energy Board must ensure that Rights Holding First Nations are offered equity ownership in hydrocarbon projects, or, if not feasible, equivalent economic compensation.

3. There is a lack of transparency regarding the selection of Phase 2 Natural Gas Expansion Program projects. The Ontario Energy Board released a report on Oct. 30, 2020, outlining the potential projects and the factors in assessing whether those projects could be feasibility implemented.³ The Ontario government subsequently assessed and selected the successful projects. To the best of our knowledge, there is no public ranking or assessment of the projects. This lack of transparency makes it difficult for COTTFN to understand the cost-benefit analysis of the project in relation to potential adverse impacts and in relation to alternatives. The lack of transparency in decision-making also makes the process vulnerable to potential political interference. While COTTFN requested information from EGI on alternatives in a letter dated Aug. 31, 2023, EGI responded that EGI is not required by the OEB to consider alternatives as part of this program.

¹ [FNMPC_SOTL_Toolkit.pdf](#)

² [Calls to Action_English2.pdf](#)

³ [OEB Report - Report to the Minister of Energy, Northern Development and Mines and to the Associate Minister of Energy: Potential Projects to Expand Access to Natural Gas Distribution](#)





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For future phases of the program, the Ministry of Energy and the Ontario Energy Board must ensure that there is a transparent selection process and that there is a comprehensive analysis, including any feasible alternatives.

We appreciate the opportunity to raise these concerns directly to the Ontario Energy Board. We support a written hearing in this matter. We are not seeking intervenor status. However, we may request to file an additional letter of comment if we have new information during the hearing.

Sincerely,

Jennifer Mills
Energy Sector Consultation Coordinator
On behalf of Chippewas of the Thames First Nation
consultation@cottfn.com

