

January 30, 2025

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File no. G10017497

Dear Ms. Marconi:

**Re: Reply to OEB Notice of Hearing for the Glendale Community Expansion Project
("Project"), Ontario Energy Board (OEB") File Number: EB-2024-0325**

We are retained by the Mohawk Council of Akwesasne ("**MCA**") to advance its rights and interests in the above noted File Number and write in reply to the Notice of a Hearing, dated December 10, 2024 ("**Notice**").

To date, there has been no consultation with the Mohawks of Akwesasne with respect to the Project. As such, MCA intends to contest Enbridge Inc.'s ("**Enbridge**") application under s. 95(2) of the *Ontario Energy Board Act*, SO 1998, c. 15 Sched B ("**Act**").

The Project is located on land that was historically a Reserve belonging to the Mohawks of Akwesasne, known as the "Nutfield Tract", or the "Indian Reserve in Glengarry".¹ The Nutfield Tract is the subject of one existing Specific Claim under Canada's Specific Claims Policy, with two additional claims in active development. Indeed, the Mohawks of Akwesasne used and occupied the entire Northshore of the St. Lawrence before it was unlawfully taken by the Crown in 1784 and used to settle loyalists after the American Revolutionary War. Nevertheless, Akwesasne members continue to hunt, trap and fish on land along the Northshore and MCA continues to assert rights and interests therein.² Any development taking place along the Northshore of the St. Lawrence River, especially within the Nutfield Tract, requires the consultation and consent of the Mohawks of Akwesasne.

As noted above, neither Enbridge nor the Ontario Ministry of Energy and Electrification have meaningfully consulted with MCA, which is comprised of twelve (12) district Chiefs and one Grand Chief, on the Project. The record filed by Enbridge shows outreach in the form of eight (8) emails from November 27, 2023 to August 17, 2024 to the e-mail address "grand.chief@akwesasne.ca" and one phone call on October 22, 2024 to an unknown phone number. There is no record of any response from MCA as a result of this outreach.

¹ Schedule 1: Satellite images showing the location of Glendale overlaid on the historic Nutfield Tract Reserve.

² For example, see, *R v Adams*, [1996] 3 SCR 101.

Enbridge had an obligation to ensure that its correspondence was received by MCA, but instead continued its outreach to an email address that provided no response. We are not aware of any record in MCA's possession that demonstrates the emails from Enbridge were received. Indeed, prior to receiving the Notice, MCA was not aware of the Project at all.

In light of the above, the Crown's duty to consult has not been adequately discharged.

MCA requests that it be accepted as an Intervenor at the hearing to determine whether the Crown's duty to consult has been adequately discharged. Given the serious nature of this application and the interests and rights at stake for the Mohawks of Akwesasne, we further request that OEB conduct an oral hearing for this matter.

Sincerely,

Gowling WLG (Canada) LLP



Adam Chamberlain
Partner

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Gowling WLG (Canada) LLP



Joshua Shoemaker
Associate

Schedule 1: Satellite images showing the location of Glendale (Red) overlaid on the historic Nutfield Tract Reserve (Blue)

