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NEB/ONE

Mississaugas of the New Credit First Nation

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**Comments to the National Energy Board Regarding Enbridge Application for the Line 11
Westover Segment Replacement Project**

January 31, 2014

Enbridge Pipelines Inc. ("Enbridge") is seeking approval of the Enbridge Line 11 Replacement project (the "Line 11 Project"). This Project consists of a new pipeline on a new right-of-way, on undisturbed land, 6 metres from the existing Line 11 pipeline that will remain in the ground. The new pipeline is proposed to cross three wetlands, two of which are designated as Provincially Significant Wetlands. The new pipeline is proposed to be placed in an area with significant potential for the presence of archaeological cultural heritage resources.

In filing the Application for this proposed Project, Enbridge checked the Application box which states:

"All potentially affected Aboriginal groups have been consulted and there are no outstanding concerns."

MNCFN wishes to make it known to the National Energy Board (NEB), emphatically, that this statement is not correct. As will be explained in detail below, MNCFN has very significant concerns respecting the project itself as well as the process by which Enbridge has sought approval and review of this and related projects. In the circumstances, not only has Enbridge's engagement with MNCFN been inadequate, but those efforts and the current review could not provide a foundation sufficient to discharge the constitutional obligations owed to the MNCFN with respect to these projects.

This current project, along with Enbridge's recent applications respecting Line 9A, Line 9B, Line 7, other related applications and National Energy Board sanctioned "operations and maintenance" activities, including pipeline segment replacements and hundreds of "Integrity Digs" to repair damaged pipeline sections, represent a dramatic and substantial redevelopment and repurposing of its crude oil transportation infrastructure in southern Ontario. Significantly, with Line 11, Line 9A, Line 9B, Line 7, forthcoming applications for Line 10, as well as other pipelines, Enbridge seeks to redevelop and transect the entirety of the traditional territory of the Mississaugas of the New Credit First Nation ("MNCFN" or "New Credit"), and pen in New Credit communal lands on its Reserve near Hagersville.

The Line 11 Project, properly seen as part of a large-scale redevelopment project, poses significant new and ongoing risks and potential impacts to the New Credit's traditional territory, their rights and interests. The risks come not only from the specific new land uses and resulting environmental risks, watershed risks and risks to cultural heritage resources along a 3.2 km stretch of new Enbridge pipeline in MNCFN Territory. The risks come from an increase in volume of crude oil proposing to be transported, but also new types of oil which have very different risk profiles for operations as well as accidents, spills and malfunctions.

The Line 11 Project is one more piece of a complete transformation of Enbridge's pipeline network in New Credit's Traditional Territory, leading to follow-on potential for further oil storage and refining of volatile Bakken crude and heavy dilbit crude at various locations in this Traditional Territory. However, due to the approach Enbridge has taken in seeking approval of its overall pipeline transformation project in parts, and New Credit's inability to receive timely and complete information, it is has not been possible for New Credit to fully assess the potential impacts, and cumulative impacts, these projects will have on its Rights and interests. Further, New Credit submits that in these circumstances, the Board itself, does not have the evidentiary foundation to assess these risks and impacts.

MNCFN has significant outstanding concerns with the massive pipeline transformation occurring within its traditional territory, which have not been addressed through a proper and fulsome consultation process. This by definition will require more than simply the engagement activities carried out by Enbridge - which themselves have been deficient - but will require a properly scoped review of Enbridge's projects as well as active and full participation by both the Federal Crown, and the Crown in Right of Ontario.

As a result, MNCFN submits that the current application cannot be approved of at this time, and until such time as the Line 11 Project can be understood in the broader context of Enbridge's full pipeline redevelopment project in southern Ontario, and the full and cumulative risks and impacts to MNCFN rights and interests can be understood, mitigated, and where appropriate, accommodated.

The Mississaugas of the New Credit First Nation

MNCFN are the Aboriginal peoples of what is now known as southern Ontario. MNCFN and their ancestors have occupied, relied on and cared for the lands and waters of the area since time immemorial. Their traditional territories extend from the London area and the Thames River up to the dividing ridge of the Grand River near Shelburne to the Gananoque River watershed. These territories have been recognized in three contemporary land claim agreements in the GTA signed in 1997 and 2010. MNCFN also occupies a significant reserve located on 6,100 acres of land in southwestern Ontario in the regional Municipality of Haldimand-Norfolk, approximately 100km southwest of downtown Toronto.

MNCFN still uses the lands, waters and watershed ecosystems within its traditional territory for a variety of livelihood, harvesting, ecosystem protection and enhancement, ceremonial and spiritual purposes. However, MNCFN rights and interests in our traditional territory extend beyond this. We have an obligation to protect our lands and waters, and the right to be sustained by them now and for generations to come, as we always have been.

All Enbridge oil pipelines in Ontario cross through MNCFN traditional territory and therefore pose direct and substantial potential impacts to MNCFN's territory, rights, interests, and way of life. For this reason, no approvals for Enbridge's redevelopment plans, or any component of those plans, should be given without a full understanding of the potential impacts on MNCFN's rights and interests, a full understanding of the risks and how they can be avoided or mitigated, and until such time as appropriate and satisfactory consultation has occurred, including the identification of any necessary accommodation measures.

MNCFN is deeply concerned about the National Energy Board's and Enbridge's understanding of the requirements of consultation with respect to Enbridge's various pipeline projects, including the current application. For example, MNCFN was not consulted about the Line 7 Capacity Expansion project. In the Aboriginal Matters section of that filing, Enbridge said:

"Current land use at the Project sites is incompatible with any traditional use and the lands are not currently being used for the purposes of exercising traditional rights."

This statement fundamentally misconceives and misunderstands the nature of Aboriginal and Treaty rights, including the goal of the constitutional and common law with respect to these rights. The end goal of reconciliation, or the discharge of the Crown's fiduciary duty cannot be achieved with such a myopic and impoverished view of MNCFN's rights.

Enbridge Projects

Enbridge's current Line 11 Project, Line 7, Line 8, the upcoming Line 10 Replacement Project, and the recent Line 9A and Line 9B Projects are only pieces of a much larger project. It is becoming very clear that the overall plan is to fundamentally rebuild and repurpose Enbridge's aging oil pipeline infrastructure in Canada, crossing the Niagara River into the United States, and across MNCFN Territory east and west and north and south.

MNCFN understands the following as components of the Enbridge pipeline infrastructure in MNCFN Traditional Territory:

Line 7 (1957)

- Location: Sarnia, ON to Westover, ON
- Approved for: light synthetics, sweet, light & high sour, medium, heavy
- Capacity: 180,000bpd
- Recent Activity: Recently approved to increase capacity from 147,000 to 180,000bpd

Line 8 (Constructed between 1967 and 1973)

- Location: Sarnia, ON to Millgrove Junction, ON
- Approved for: refined products
- Capacity: 90,000 bpd
- Recent Activity: Integrity Digs

Line 9 (1976)

- Location: 9A (Sarnia to North Westover), 9B (North Westover to Montreal)
- Approved for: condensates, sweet, medium, light & high sour
- Capacity: Current 240,000bpd (Operating at avg 64,000bpd)
- Recent Activity: Line 9B Capacity expansion, flow reversal, and tariff change; Integrity Digs

Line 10

- Location: Westover, ON to Kiantone,
- Approved for: light synthetics, sweet, light & high sour, medium, heavy
- Capacity: 74,200 bpd
- Recent Activity: Enbridge is planning to replace close to 40km of pipe near Westover/Hamilton/Ancaster; Integrity Digs

Line 11 (1971)

- Location: Westover, ON to Nanticoke, ON
- Approved for: condensates, light synthetics, sweet, light & high sour, medium, heavy
- Capacity: 117,000 bpd
- Recent Activity: Enbridge has applied to replace 3.2km near Westover Station; Integrity Digs

Please see Map at end of document for map of Enbridge pipelines in MNCFN territory.

With respect to Line 7, MNCFN believes that increased capacity of Line 7 and ability to ship dilbit puts the aging line under greater stress and threatens the land and people living along it. MNCFN was not able to provide comment to the NEB on the Line 7 project because MNCFN never notified that it was happening. Both Enbridge and the NEB would have known that MNCFN had an interest in participating to express concerns because at the time of the Line 7 application by Enbridge, MNCFN was actively involved in the Line 9B proceedings and had filed information about MCFN Traditional Territory, rights and interests. Enbridge was provided with a description of MNCFN traditional territory and therefore knew that Line 7 crossed right through it. Additionally, Line 7 is an enabler project which allows more heavy crude to pass even closer to the present day MNCFN reserve through Lines 10 and 11.

Enbridge has proposed, through a long series of discrete Project applications, NEB sanctioned "operations and maintenance" work and hundreds of "Integrity Digs", to rebuild this entire network. Further, in its applications, it has sought approval for significant increases in the volume of oil permitted to be transported and the kinds of oil products it is permitted to transport – including unconventional crude oil products: volatile Bakken crude and heavy dilbit crude from Alberta. All of this is being done in a piecemeal fashion, depriving MNCFN, and this Board, the opportunity to properly consider Enbridge's work as one integrated project, and understand the implications and risks of that project.

Nature of Risks and Impacts to MNCFN Rights & Interests

The rebuilding and repurposing will: (1) dramatically increase the volume of crude oil, and unconventional crude that can potentially be transported through MNCFN Territory, (2) change the nature and risk profile of oil products that will be transported, (3) extend the operational life span of the oil transportation infrastructure, (4) enable significant project for the processing and storage of crude oil within and adjacent to MNCFN Territory, and (5) create direct impacts through construction activities (e.g. require hundreds of "integrity digs").

1) Increases in the Volume of Crude, Including Unconventional Crude & Risks

Increases in the volume of crude oil transportation have been made possible by NEB approvals for the Line 7 capacity expansion and Line 9A flow reversal and capacity expansion, are being sought in Enbridge's application for Line 9B flow reversal and capacity expansion and are now being sought for Line 11, and we anticipate for Line 10. This follows and is enabling a broader trend more oil, and unconventional oil, flowing west to east, and is part of the same trend that is animating TransCanada's "Energy East" projects in the more northern parts of Ontario.

Enbridge pipelines Line 6B and Line 5 bring over one million barrels per day into Sarnia, Ontario. This is more significant than the contentious Keystone XL project and equivalent to TransCanada's Energy East project. The increased volume of oil transportation through MNCFN Territory brings substantial risks which MNCFN does not yet have the resources to fully understand.

2) Change in the Nature and Risk Profile of Oil Products Transported

MNCFN does not yet have the resources to fully understand the risks associated with variants of unconventional crude – including transportation, storage, refining, risk profiles and cleanup requirements.

MNCFN is seeing significant replacement projects and integrity digs on Lines 10 and 11. Line 10 crosses the Niagara River into the United States at a small town called Chippewa – a historic Mississauga village site and the site of several conflicts during the War of 1812. Line 10 passes underneath the Niagara River, through lands under the River that are not part of any treaties with the Crown. Line 10 passes about 2 kilometres upstream from a most sacred Aboriginal site, Niagara Falls which flow into MNCFN harvesting territory in Lake Ontario. Line 10 passes just metres upstream from the water intakes for Ontario Power Generation's hydroelectric facilities. Line 11 passes immediately adjacent to the Mississaugas of New Credit Reserve on its way to the Imperial Oil Nanticoke refinery.

Given that Lines 10 and 11 are already both approved for unconventional crude, MNCFN is concerned about the amount of this unconventional oil flowing through its Territory and the effects, and cumulative effects, on both its Reserve community and Territory. The concerns include construction impacts, accidents, spills, explosions, fires and other malfunctions from not only the transportation of these products, but also the storage, refining and movement of end products and related human health and environmental impacts. MNCFN is especially concerned with the fire and explosive risks associated with Bakken crude, and with the risks associated with spills from heavy crude and with the associated environmental and human health risks from the production, storage and transportation of petroleum coke.

Despite requests, Enbridge has not provided MNCFN with any information about potential soil contamination where pipeline infrastructure has been compromised. Enbridge says they do not have to conduct soil tests unless the company suspects there has been a spill or leak. However, given the massive set of "Integrity Digs" it is very likely that there is petroleum hydrocarbon soil contamination presenting risks to aquatic and terrestrial ecology across MNCFN territory – including wildlife, plants and aquatic species that MNCFN members harvest and use for medicinal purposes, and wetlands and watersheds used for those purposes as well as recreational, educational and spiritual purposes.

3) Extend the Operational Life Span of the Oil Transportation Infrastructure

The original Enbridge pipeline network was built in MNCFN traditional territory without any consultation and consideration of MNCFN rights, interests, and way of life. Now Enbridge is proposing a dramatic redevelopment and repurposing of its oil transportation network, again without full consideration of the risks to MNCFN Territory or an accommodation of its rights and interests. This cannot be permitted to occur.

Changes to the Enbridge network in Ontario will result in increased flow of unconventional oil and may, through construction, operations and maintenance activities, or through spills, accidents and malfunctions, destroy or harm Culturally Sensitive Sites and environmentally sensitive areas in MNCFN's Traditional Territory. Such activities will likely have a significant negative impact on MNCFN Aboriginal and Treaty Rights – now and for future generations.

Of further concern is that Enbridge could increase the capacity of their pipeline systems without replacing the pipe by injecting a "Drag Reducing Agent" (DRA). Essentially, this DRA increases the speed the oil flows in order to transport more in a day. MNCFN is concerned that full information on chemical contents of this substance have not been made available to MNCFN, despite requests to Enbridge.

The Enbridge pipeline network in Ontario is roughly 40-60 years old. The pipes in the ground do not appear to meet present day engineering standards for unconventional oil transportation: wall thickness; coatings with an outdated polyethylene tape which is known to tent and disbond, allowing external corrosion to occur. In line inspection tools do not pick up all cracks, corrosion and dents. Additionally, the oil industry still does not have a proven method for cleaning diluted bitumen spills in water – the three year heavy oil spill cleanup in Kalamazoo Michigan and the on-going river dredging provides this evidence.

Enbridge is taking what appears to be a band-aid approach to building adequate pipeline infrastructure through its "Integrity Digs". Enbridge attempts to determine where there are pipeline cracks, corrosion, dents and other issues and proceeds to repair and replace pipeline in hundreds of sites across MNCFN territory in order to attempt to ring the outdated pipeline infrastructure to meet present day standards. All of this work represents potential impacts on archaeological and cultural heritage resources and presents environmental and ecological risks that MNCFN is unable to understand due to the sheer magnitude of work being undertaken and the lack of information coming from Enbridge.

Overall, the Line 11 Project and other Enbridge projects represent a major, multi-decade expansion of the operational life span of oil transportation, storage and refining infrastructure in MNCFN's Traditional Territory, impacting the community's way of life for many generations to come.

4) Enable Significant Project for the Processing and Storage of Crude Oil Within and Adjacent to MNCFN Territory

MNCFN has real concern that the Imperial Oil's Nanticoke refinery could already be refining – or planning to expand to refine – heavy crude. Imperial Oil is actively expanding their Kearl Oil Sands Project and have made it clear that the preference would be to refine the product at the company's integrated Ontario refineries in Sarnia and Nanticoke. If Imperial began refining large volumes of heavy crude, there would be significant health and environmental impacts for the surrounding communities, which include MNCFN's Reserve and local off-reserve populations. According to Imperial Oil Chief Executive Bruce March:

"We will look first to run Kearl at our own refining assets. We can't get Kearl to Dartmouth so it's limited primarily to Strathcona and the two Ontario refineries. We only—Kearl is a heavy low API gravity crude and I think you'll see us concentrate most of that upgrading at our two Ontario sites rather than our Strathcona site which is less leveraged towards conversion capability."

Enbridge also has two pipelines – Line 12 and Line 22 – which break off of Line 9B and travel to Petro Canada's Oakville/Mississauga storage tanks. Currently the pipelines and storage tanks appear to be inactive, but remain connected assets which could be repurposed in the future to store heavy dilbit crude or volatile Bakken crude, representing additional future risks to MNCFN's Traditional Territory and the people in these communities.

5) Create Direct Impacts Through Construction Activities

Direct construction impacts may include:

- impacts on sensitive watersheds and wetlands,
- impacts on terrestrial and aquatic species habitat
- impacts from contaminated soil on sensitive environments
- impacts on cultural heritage and archaeological resources
- socio-economic impacts

Overall Concerns

It is MNCFN's belief that Enbridge is fundamentally rebuilding and repurposing the aging oil pipeline infrastructure through our traditional territory. They are achieving this by replacing sections of pipe and conducting hundreds of integrity digs. Through these actions, Enbridge is conducting enabling projects, like the Line 11 Project, which greatly extend the lifetime of their pipeline system. This plan will allow for intensifying industrialization of MNCFN traditional territory and without meaningful participation.

Additionally, Enbridge has begun transporting two very different products through their pipelines. Heavy crude (diluted bitumen) is extremely difficult if not impossible to fully clean in the event of a spill. This was well documented in Marshall, Michigan and Mayflower, Arkansas. MNCFN continue to be stewards of the land and are very concerned how a diluted bitumen spill could affect water bodies in our traditional territory. Crude oil from the Bakken region is also of great concern due to its highly volatile nature as we tragically witnessed in Lac Mégantic in summer 2013.

"Enbridge's project to redevelop and repurpose its oil transportation network within MNCFN traditional territory and surrounding areas stands to impact MNCFN Rights and interests in new and significant ways. Currently, it is not possible for MNCFN to understand the full nature of potential risks of the projects, their potential impacts on MNCFN Rights and interests, or the mitigation and accommodation measure that might be required.

History of MNCFN Engagement with Enbridge

MNCFN as stewards of the land have a profound responsibility to protect their Traditional Territory, as well as its ability to sustain the MNCFN community now and for all future generations. For this reason, MNCFN sought to develop a cooperative relationship with Enbridge in order to fully understand the nature and scope of Enbridge's work and its potential impacts.

Through its consultants, MNCFN made numerous requests for full information to allow it to meaningfully assess the projects. Unfortunately, in many cases MNCFN was not able to obtain receive full and timely information which significantly hindered its ability to consider Enbridge's projects. MNCFN has been left unprepared to understand and fully respond to Enbridge's projects and applications. Line 7 is one example of MNCFN receiving no information and where the First Nation was not even notified of a significant project in its Territory.

Most recently, the Line 11 Replacement Project application made it apparent that the relationship was not proceeding as expected. During a Line 11 overview meeting on January 16th, 2014, Enbridge told MNCFN that they would be filing for the Line 11 project in the next 2 weeks. Enbridge filed the next day (January 17, 2014) and then waited until the following Monday (January 20, 2014) to notify MNCFN of the filing. MNCFN had 14 days to review the extensive project documentation and prepare comments for the current application, but lost 3 of those days through Enbridge's failure to inform MNCFN of the filing on January 17th, 2014.

In keeping with a cooperative approach and spirit that MNCFN thought it had developed with Enbridge to establish a long-term relationship agreement, MNCFN had wished to work with Enbridge to address concerns and possible risks prior to application, by having reasonable time and resources to properly review the extensive documentation with assistance from staff and consultants and with the ability to meet with Enbridge staff to discuss and resolve issues that would arise through this review. Due to Enbridge's actions, MNCFN has been denied the opportunity to fully and carefully consider Enbridge's projects and their potential impact on MNCFN rights and interests.

During the January 16th, 2014 meeting, MNCFN was told that they would only receive the extensive application documents upon filing with the NEB when they became publicly available. MNCFN would like to emphasize that as a First Nation, MNCFN is not the public and that the Crown has the duty to consult and accommodate on any and all project decisions in MNCFN Traditional Territory.

Enbridge treats all projects as separate, even though they are all connected in a network of connecting pipelines and facilities. This has been fundamentally frustrating and a burden for MNCFN to monitor rapidly developing work. MNCFN continues to expect Enbridge to work in a reasonable manner with MNCFN to establish a long-term relationship agreement, but not on these terms and with this inadequate and entirely inappropriate approach to consultation.

The larger issue, however, is that Enbridge has sought approval for its project through as a series of smaller, disconnected applications – including the current application for the Line 11 Project. This has had the very significant effect of precluding a comprehensive assessment of Enbridge's redevelopment work throughout the MNCFN Territory and more broadly throughout southern Ontario, Canada and North America. By limiting the review and consideration of the projects in this way, it is not possible for MNCFN, or this Board or Governments, to fully understand the potential implications of Enbridge's larger project, and the potential risks and impacts on MNCFN's Rights and interests.

Current Process Cannot Understand or Address MNCFN Concerns

MNCFN has an obligation and right to protect its land and waters, including lands under the water not subject to treaty, from the damage that may be caused by the proposed pipeline project through site investigation work, archaeological work, environmental assessment, site preparation work, construction and refurbishment, pipeline operations, spills, accidents and malfunctions and pipeline decommissioning. It must do so in a comprehensive way. This cannot occur if MNCFN is unable to know and understand all of the impacts and their implications to its Territory, rights, interests, culture and way of life.

An understanding of the above is impossible without the necessary expertise (technical, environmental, scientific, engineering and legal), and without the necessary gathering of information from elders and other land users about the location, nature and extent of uses of, values in and connections to the land – all of which must be gathered and analysed in a methodologically sound manner.

Typical of the frustration MNCFN is facing in attempting to review Enbridge's proposals, MNCFN proposed a work plan and conservative budget of \$29,960.80 to Enbridge to conduct a review of the Line 11 Replacement Project, including budget for staff time, consultants and archaeological review. This itself was a very conservative budget based on an unrealistically small scope of review. Even here, Enbridge was unwilling to provide capacity to support MNCFN's satisfactory participation in this process. Enbridge responded to MNCFN's Line 11 Project work plan and budget on January 28, 2014 with an offer of a budget of \$15,000 – about half of what MNCFN consultants and Chief and Counsel had determined was necessary. MNCFN, unable to reasonably conduct a detailed review of the Line 11 project information in the time available, decided to proceed with this comment submission.

Without proper capacity for MNCFN to participate in the assessment and regulatory review of Enbridge's projects, neither MNCFN, nor Enbridge Pipelines, nor the National Energy Board -- will be able to make decisions in an informed way. In these circumstances, neither the Board nor the Crown can discharge its consultation and accommodation duties.

MNCFN is not in a position to provide comment on the technical aspects and potential commercial, environmental and socio-economic impacts of the proposed Enbridge project works, because MNCFN does not have the resources required to retain consultants to provide

expert comment. MNCFN is not in a position to provide comment on the nature and location of culturally sensitive sites across the vast range of the proposed pipeline project works because MNCFN does not have the resources to undertake methodologically supportable traditional land use studies and mapping, archaeological studies or environmental site assessments of existing Enbridge pipeline infrastructure to begin to verify site characteristics and locations and begin to assess potential impacts.

The National Energy Board should not issue approvals for work that could destroy or damage such sites.

Sites of interest to MNCFN may include, but are not limited to:

- places of worship or other sacred purpose;
- burial grounds;
- traditional teaching or meeting places;
- ceremonial lands;
- pictographs and petroglyphs;
- trap lines and areas;
- hunting or fishing grounds;
- wildlife migration routes;
- travel or trade routes; and
- waterways.

MNCFN has fundamental expectations of how it will be involved in the planning and assessment of major infrastructure works within its Territory. At its most basic, this includes a deep and full involvement in the review of project to ensure processes and decisions that In best protect our lands, water and animals in order that the Territory can continue to support our livelihood and culture as it always has. This requires MNCFN to be involved, not only in high level and strategic level decisions, but also in more detailed activities such as planning and approving any pipeline site investigations, site preparation, refurbishment, additions, construction, re-construction, operation and decommissioning.

MNCFN must also be involved in environmental site assessments across its Traditional Territory so that the community can understand existing environmental, human health and cultural heritage impacts on these lands and MNCFN's rights and interests. MNCFN must also be put in a position where it can better predict future cumulative impacts and prepare for risk and accident avoidance and mitigation, including spills, accidents and malfunctions across its traditional territory and in areas adjacent to its Reserve lands.

Full and proper consultation has not yet occurred with the MNCFN with respect to Enbridge's pipeline redevelopment projects. Further, the current approach by Enbridge to the development and review of the projects, will not permit MNCFN to fully understand the

potential impacts on our Territory, Rights and interests. In our submission, the Board should not acquiesce to the approach taken by Enbridge. Rather, it should require Enbridge to provide full information on the entirety of its projects and provide sufficient time and resources to permit MNCFN to fully and properly consider its projects. Unless this happens, it will not be possible for either the Federal or Provincial Crown's to discharge the duties owed to the MNCFN.

Ontario and the Ontario Energy Board

Recently, the Ontario government and the Ontario Energy Board has issued policy and decisions which reflect a recognition of the seriousness of these issues and a more developed approach to satisfying the concerns and interest of affected Aboriginal communities and governments. We include these here to highlight the difference in approaches being taken with respect to various pipeline projects in Canada currently, and to highlight the short comings of the process with respect to Enbridge's projects.

Ontario's Minister of Energy, Bob Chiarelli in a letter to the Ontario Energy Board, dated November 12, 2013 stated that, with respect to assessing proposed pipeline projects, the Government of Ontario has adopted the following six principles:

- Pipelines must meet the highest available technical standards for public safety and environmental protection;
- Pipelines must have world leading contingency planning and emergency response programs;
- Proponents and governments must fulfil their duty to consult obligations with Aboriginal communities;
- Local communities must be consulted;
- Projects should provide demonstrable economic benefits and opportunities to the people of Ontario, over both the short and long term; and
- Economic and environmental risks and responsibilities, including remediation, should be borne exclusively by the pipeline companies, who must also provide financial assurance demonstrating their capability to respond to leaks and spills.

This is an explicit articulation of a comprehensive pipeline review and development policy of the Ontario government, and a recognition of the specific duty owed by the Ontario government and proponents to affected Aboriginal communities and governments. MNCFN submits that this duty has not been discharged here, by either the Ontario Crown, nor the Federal Crown or its agencies. As has been explained in the letter, Enbridge has not undertaken sufficient engagement activities that could satisfy even a basic understanding of the duty in this case.

More recently, on January 30, 2013, the Ontario Energy Board, issues a decision and order with respect to an Enbridge GTA Gas project that requires Enbridge to, during the construction phase of the pipeline project:

- For each work site, provide MNCFN with the following information: (i) exact location and size of site; (ii) plans to protect the environment and sensitive watershed; and (iii) the contamination characteristics, dewatering details, and water treatment and discharge plans for the site.
- Permit Monitors selected by the MNCFN to actively participate in Enbridge's environmental and archaeological assessment and monitoring work at any Work Site that has high archaeological potential or has significant environmental concerns, as determined jointly by the MNCFN and Enbridge, both parties acting reasonably.
- Provide reasonable financial resources to the MNCFN to hire and administer the Monitors and to hire consultants to review the construction permits and approvals required by Enbridge, to the extent necessary to protect the MNCFN's rights, title and interests.
- Ensure that it has adequate insurance and/or funds available for any cleanup, compensation and restoration in the event of accidents and malfunctions on the MNCFN's traditional territory resulting from the project.

Although this decision deals with very specific details on a smaller scale project, it demonstrates the need for MNCFN to be provided with capacity at various stages of project development.

CONCLUSIONS

In closing, MNCFN believes that the NEB should not approve the Line 11 Replacement project at this time for three reasons:

1. The decision would be premature. Line 11 is connected to the Line 9 project, where the 9B reversal, capacity expansion, and approval to ship heavy crude is still outstanding.
2. MNCFN is of the opinion that small projects should be reviewed in a more holistic “big picture” sense to truly understand impacts.
3. Consultation has been fundamentally deficient and could not have been adequate considering piecemeal approval and lack of information.

The original Enbridge pipeline network was built in MNCFN traditional territory without any consultation and consideration of MNCFN rights, interests, and way of life. Now Enbridge is proposing a dramatic redevelopment and repurposing of its oil transportation network, again without full consideration of the risks to MNCFN Territory or an accommodation of its rights and interests. This cannot be permitted to occur.

Submitted by:

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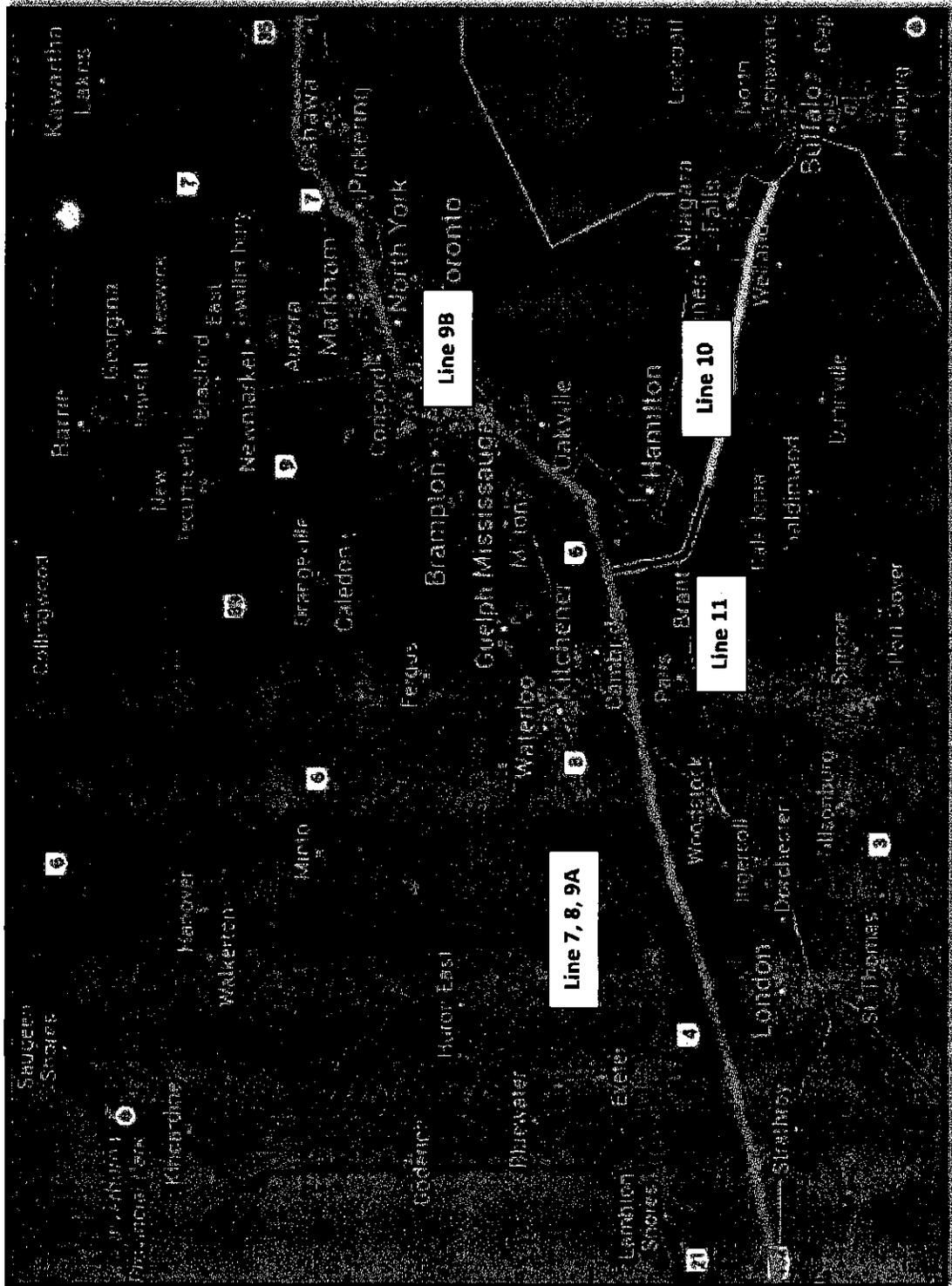
On behalf of:

Chief Bryan Laforme

Mississaugas of the New Credit First Nation

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Map of Enbridge Pipelines in MNCFN Traditional Territory



FAX

From: FaxDelivery_DoNotReply@faxmessage.net

To: Sherri Young - Secretary of the Board

Fax Subject: Enbridge_Line_11_Replacement_Project_

Attn: Sherri Young, Secretary of the Board, National Energy Board

CC: Matthew Jackson, Aboriginal Affairs, Enbridge Pipelines Inc.

Shared Value Solutions is submitting the attached document to the NEB on behalf of our client the Mississaugas of New Credit First Nation.