EAGLE LAKE FIRST NATION

"Where the Eagle will continue to soar and develop with the Ojibways of Eagle Lake"

P.O. Box 1001 • Migisi Sahgaigan • Ontario • P0V 3H0 • Tel. 807-755-5526 • Fax 807-755-5696

September 6, 2016

National Energy Board
Attn: Sheri Young, Board Secretary
517 Tenth Avenue SW
Calgary, Alberta T2R 0A8

VIA PARTICIPATION PORTAL

Dear Ms. Young,

RE: Energy East Pipeline Ltd. and TransCanada Pipelines Ltd. – Energy East Project and Asset Transfer, and Eastern Mainline Project ("Energy East")
File No. OF-Fac-Oil-E266-2014-01 02
Hearing Order OH-002-2016
Support for Notices of Motion brought by Aroland First Nation and Algonquin to Adirondacks Collaborative

Eagle Lake First Nation is writing to support the Notices of Motion filed by Aroland First Nation on August 23, 2016 and the Notice of Motion filed by the Algonquin to Adirondacks Collaborative on August 15, 2016. The National Energy Board ["NEB"] has requested comments from Intervenors. Eagle Lake First Nation is an Intervenor for the Energy East Project and supports both Notices of Motion.

As stated in the abovementioned Notices of Motion, the NEB is currently relying on Energy East Pipelines Limited's ["EEPL"] determination of what is included (and what is not included) in the Factors and Scope of Factors applied for the Environmental Assessment. The Crown must determine the scope of the NEB's review of the Energy East Project and should not rely on EEPL for what is within the scope of review. Further, the Crown's decision about what falls within the scope of review should only be made after a meaningful Crown consultation process with affected First Nations. It is not clear how the Crown plans to undertake their duty to consult on this matter.

The Notices of Motion identify significant gaps in the project description that must be reviewed by the NEB and as part of the Environmental Assessment:

1. **New electricity services required to operate the new oil pumping stations:**

   New oil pumping stations will require significant electricity system capacity development, including new transmission lines and natural gas pipelines. Currently, details about these proposed facilities are not included in the scope of the project to be reviewed by the NEB, nor are they subject to the Factors and Scope of Factors for the EA. Details of these projects (including routing, design, construction, operation and decommissioning) are not included in the EEPL filing, even though they have the real potential to create local and regional power system impacts (including upon Aboriginal energy projects), and may create safety risks for the oil pipeline and existing natural gas pipeline. As such, these new electricity services must be included as part of the NEB and the Environmental Assessment review process.

2. **Construction work (and related impacts) required for the 3,000km "conversion" portion of the Energy East project:**

   The conversion line requires a significant amount of construction to bring the remaining-in-service gas lines up to the maximum operating pressure. The project filing does not currently include archeological and cultural heritage assessments for soil disturbance or environmental management plans for the construction work. Further, this construction work has potential to impact our First Nation's Aboriginal and Treaty rights. This construction work, along with its related impacts, must be included within the scope of the project to be reviewed by the NEB and the Environmental Assessment review process.

3. **Emergency Response Plans (ERPs):**

   The EEPL filing and TransCanada's filing does not include site and regionally specific ERPs. Although TransCanada has indicated that it will develop these in accordance with its ERP for the entire project before project commissioning, this does not relieve the Crown from its Aboriginal consultation responsibilities. Site and regionally specific ERPs must be included in the Crown review and assessment of the complete designated project, and be subjected to the same Factors and Scope of Factors applied to the designated project. Further, it is imperative that the Crown consults on specific ERPs because a spill may impact the environment and the exercise of Aboriginal and Treaty rights on a site-specific *and* regional basis.

4. **Specific Aboriginal Procurement:**

   Specific Aboriginal Procurement Plans are not included in the EEPL filing. These opportunities should be planned, assessed for adequacy, and be committed to. If there is no requirement to look at potential benefits that should accrue to affected First Nations peoples, this important factor risks being left out of the assessment and approval process. In our opinion, Specific Aboriginal Procurement Plans and Offset Benefit Opportunities

must be included within the review process, and be subjected to the same Factors and Scope of Factors applied to the designated project.

Accordingly, Eagle Lake First Nation supports the Notices of Motions brought by Aroland First Nation and the Algonquin to Adirondacks Collaborative in their calls to ensure critical elements of the Energy East Project are properly reviewed by the NEB and during the Environmental Assessment. The Crown is failing its duty to consult with affected First Nations by not reviewing these aspects of the Energy East Project.

Sincerely,
Eagle Lake First Nation

Chief Arnold Gardner

Councillor Robert Gardner

Councillor Patrick Kavanaugh

Councillor Trisha Kavanaugh