

NATIONAL ENERGY BOARD

**Enbridge Pipelines Inc.
Enbridge Line 10 Westover Segment Replacement**

File Number OF-Fac-Oil-E101-2015-09-02

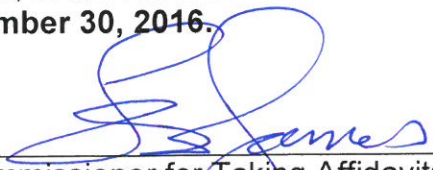
AFFIDAVIT OF ANNE CLELAND

I, **ANNE CLELAND**, MAKE OATH AND SAY:

1. I am a legal assistant with the law firm of Blake, Cassels & Graydon LLP ("Blakes"), the lawyers for the Intervenor, Six Nations of the Grand River ("Six Nations"), and, as such, have knowledge of the matters contained in this affidavit.
2. By way of a letter dated September 21, 2016, Blakes on behalf of Six Nations inquired with Enbridge Pipelines Inc. ("Enbridge") as to whether Enbridge would be agreeable to Six Nations serving Enbridge with Professor Charles Hostovsky's report of September 20, 2016 and filing that report with the National Energy Board (the "Board"). A copy of this letter and the email that I sent out is attached hereto as **Exhibit "A"**.
3. A copy of Professor Charles Hostovsky's report was provided to Enbridge on September 22, 2016. A copy of the letter and the email that I sent attaching the report is attached hereto as **Exhibit "B"**.

4. By way of a letter dated September 23, 2016, Enbridge advised that it was agreeable to the filing of Professor Charles Hostovsky's report with the Board on the basis that Enbridge be provided with an opportunity to file any evidence in reply to the report by October 14, 2016. A copy of this letter is attached hereto as **Exhibit "C"**.
5. Blakes prepared a letter on September 23, 2016 to the attention of the Secretary of the Board to provide information requested relating to the oral hearing starting in Hamilton, Ontario on October 18, 2016. A copy is attached hereto as **Exhibit "D"**. I also arranged with Lonny Bomberly and Caron Smith of Six Nations for it to be e-filed with the Board.
6. Blakes prepared a letter on September 26, 2016 to the attention of the Secretary of the Board for the delivery of a copy of Professor Charles Hostovsky's signed report and the letter dated September 23, 2016 from Enbridge. On September 26, 2016, I faxed that letter to the Board and emailed it to Enbridge. A copy of this letter and the email that I sent out is attached hereto as **Exhibit "E"**. I also arranged with Lonny Bomberly and Caron Smith of Six Nations for it to be e-filed with the Board.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario on **September 30, 2016.**



Commissioner for Taking Affidavits
(or as may be)



ANNE CLELAND

Louise Marie James, a
Commissioner, etc., Province of Ontario,
for Blake, Cassels & Graydon LLP,
Barristers and Solicitors.
Expires December 1, 2017.

THIS IS EXHIBIT "A" TO

THE AFFIDAVIT OF ANNE CLELAND

SWORN BEFORE ME THIS 30th DAY OF SEPTEMBER, 2016



A COMMISSIONER FOR TAKING AFFIDAVITS

Louise Marie James, a
Commissioner, etc., Province of Ontario,
for Blake, Cassels & Graydon LLP,
Barristers and Solicitors.
Expires December 1, 2017.

From: CLELAND, ANNE
Sent: Wednesday, September 21, 2016 3:00 PM
To: Robert Bourne (robert.bourne@enbridge.com)
Cc: JETTEN, BEN
Subject: Enbridge Pipelines Inc. Line 10 Westover Segment Replacement Project
Attachments: Letter re Enbridge Pipelines Line 10 dated September 21, 2016.pdf

Dear Mr. Bourne:

Please see the attached correspondence from Ben Jetten.

Anne Cleland
Legal Assistant to Ben Jetten and Sharon Wong
anne.cleland@blakes.com
Dir: 416-863-3841



Blake, Cassels & Graydon LLP
Barristers & Solicitors
Patent & Trade-mark Agents
199 Bay Street
Suite 4000, Commerce Court West
Toronto ON M5L 1A9 Canada
Tel: 416-863-2400 Fax: 416-863-2653

Ben A. Jetten
Partner

Dir: 416-863-2938
ben.jetten@blakes.com

September 21, 2016

VIA E-MAIL

Reference: 34539/282

Robert Bourne
Senior Regulatory Counsel
Regulatory Law and Affairs
Enbridge Pipelines Inc.
200, 425 – 1st Street SW
Calgary, Alberta T2P 3L8

Dear Mr. Bourne:

**Re: Enbridge Pipelines Inc. ("Enbridge")
Line 10 Westover Segment Replacement Project**

I have been retained by Six Nations of the Grand River ("Six Nations") to represent it at the hearing of this matter. I understand that the National Energy Board ("Board") recently advised that the hearing for this matter is scheduled to commence on October 18, 2016 in Hamilton, Ontario.

Accordingly, Six Nations will shortly be registering its intention to participate in the hearing, where I will be representing it as legal counsel.

It is our intention to provide the Board in advance of the hearing with a report I have just received from Professor Charles Hostovsky. Professor Hostovsky's C.V. was referred to and attached to the affidavit of Paul General of June 20, 2016. We will, of course, be asking Professor Hostovsky to attend for the hearing so he will be available for cross-examination.

Professor Hostovsky's report is his peer review of three reports delivered by Enbridge:

- (a) Environmental Socio-Economic Assessment

[paper copy received by the Six Nations Lands and Resources Office on July 6, 2016]

- (b) Supplemental Environmental Socio-Economic Assessment dated August 15, 2016

[no paper copy received from Enbridge by the Six Nations Lands and Resources Office, but an electronic copy was accessed on the Board's public website]

(c) Environmental Protection Plan dated July 15, 2016

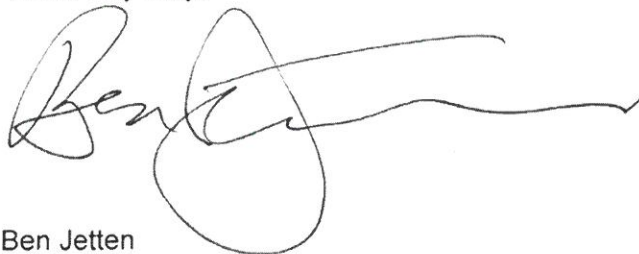
[paper copy received by the Six Nations Lands and Resources Office on July 21, 2016]

Please advise whether you are agreeable to service upon you of the report and the filing of a copy with the Board. If you object, we nonetheless intend to seek permission from the Board for the right to file the report and rely upon it as part of Professor Hostovsky's evidence for the hearing.

In addition, please also advise whether it is your position that a formal notice of motion and supporting affidavit is required to provide the report for the Board's consideration (in that case, we will need some time to prepare those materials).

I look forward to hearing from you at your earliest convenience.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ben Jetten', with a long horizontal flourish extending to the right.

Ben Jetten

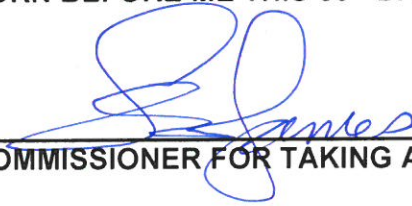
BAJ/clel

cc. Lonny Bomberly
Director of Lands and Resources, Six Nations

THIS IS EXHIBIT "B" TO

THE AFFIDAVIT OF ANNE CLELAND

SWORN BEFORE ME THIS 30th DAY OF SEPTEMBER, 2016



A COMMISSIONER FOR TAKING AFFIDAVITS

Louise Marie James, a
Commissioner, etc., Province of Ontario,
for Blake, Cassels & Graydon LLP,
Barristers and Solicitors.
~~Expires~~ December 1, 2017.

From: CLELAND, ANNE
Sent: Thursday, September 22, 2016 3:54 PM
To: Robert Bourne (robert.bourne@enbridge.com)
Cc: JETTEN, BEN
Subject: Enbridge Pipelines Inc. Line 10 Westover Segment Replacement Project
Attachments: Letter to Enbridge Pipelines re Line 10 dated September 22, 2016.pdf; C. Hostovsky Report to the National Energy Board dated September 20, 201....pdf

Mr. Bourne,

Please see the attached correspondence from Ben Jetten.

Thanks,

Anne Cleland
Legal Assistant to Ben Jetten and Sharon Wong
anne.cleland@blakes.com
Dir: 416-863-3841



Blake, Cassels & Graydon LLP
Barristers & Solicitors
Patent & Trade-mark Agents
199 Bay Street
Suite 4000, Commerce Court West
Toronto ON M5L 1A9 Canada
Tel: 416-863-2400 Fax: 416-863-2653

Ben A. Jetten
Partner

Dir: 416-863-2938

ben.jetten@blakes.com

September 22, 2016

VIA E-MAIL

Reference: 34539/282

Robert Bourne
Senior Regulatory Counsel
Regulatory Law and Affairs
Enbridge Pipelines Inc.
200, 425 – 1st Street SW
Calgary, Alberta T2P 3L8

Dear Mr. Bourne:

**Re: Enbridge Pipelines Inc. ("Enbridge")
Line 10 Westover Segment Replacement Project**

Further to your letter of September 22, 2016, attached is a copy of Professor Hostovsky's report that we intend to file with the Board.

We have no objection to Enbridge filing reply expert evidence in response, if so advised, in advance of the hearing.

Please advise by the end of this week with your position.

Yours very truly,

Ben Jetten

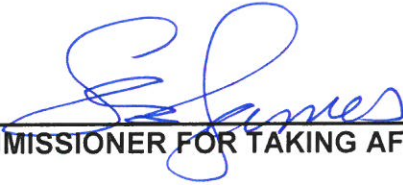
BAJ/clel

cc. Lonny Bomberry
Director of Lands and Resources, Six Nations

THIS IS EXHIBIT "C" TO

THE AFFIDAVIT OF ANNE CLELAND

SWORN BEFORE ME THIS 30th DAY OF SEPTEMBER, 2016



A COMMISSIONER FOR TAKING AFFIDAVITS

Louise Marie James, a
Commissioner, etc., Province of Ontario,
for Blake, Cassels & Graydon LLP,
Barristers and Solicitors.
Expires December 1, 2017.



Robert D. Bourne
Senior Regulatory Counsel
LP Regulatory Law & Affairs

tel 403-231-7381
fax 403-767-3863
robert.bourne@enbridge.com

Enbridge
200, 425 – 1st Street SW
Calgary, Alberta T2P 3L8
Canada

September 23, 2016

VIA E-MAIL

Mr. Ben Jetten
Partner
Blake, Cassels & Graydon LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, ON M5L 1A9

**Re: Enbridge Pipelines Inc. ("Enbridge")
Line 10 Westover Segment Replacement Project ("Project")
Hearing Order OH-001-2016**

Dear Mr. Jetten,

Further to our recent correspondence, I am writing to advise that Enbridge is agreeable to your proposed filing of Professor Hostovsky's report on the basis that Enbridge be provided an opportunity to file any evidence it may prepare in reply to the report by no later than Friday, October 14, 2016. If this is acceptable to your client, then when you file the report with the NEB requesting that it be included on the record as part of your clients' evidence, you may indicate that Enbridge has no concerns with the proposed filing on the basis described above.

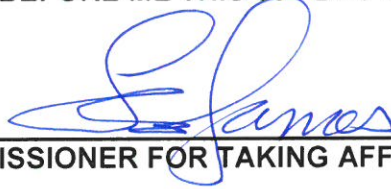
Sincerely,

Robert Bourne
Senior Legal Counsel

THIS IS EXHIBIT "D" TO

THE AFFIDAVIT OF ANNE CLELAND

SWORN BEFORE ME THIS 30th DAY OF SEPTEMBER, 2016



A COMMISSIONER FOR TAKING AFFIDAVITS

Louise Marie James, a
Commissioner, etc., Province of Ontario,
for Blake, Cassels & Graydon LLP,
Barristers and Solicitors.
~~Expires~~ December 1, 2017:



Blake, Cassels & Graydon LLP
Barristers & Solicitors
Patent & Trade-mark Agents
199 Bay Street
Suite 4000, Commerce Court West
Toronto ON M5L 1A9 Canada
Tel: 416-863-2400 Fax: 416-863-2653

Ben A. Jetten
Partner
Dir: 416-863-2938
ben.jetten@blakes.com

September 23, 2016

VIA FAX AND E-FILE

Reference: 34539/282

National Energy Board
517 - 10th Ave SW
Calgary, AB T2R 0A8

Attention: Sheri Young, Secretary of the Board

Dear Ms. Young:

**Re: Enbridge Pipelines Inc. ("Enbridge")
Line 10 Westover Segment Replacement Project
File OF-Fac-Oil-E101-2015-09 02
Hearing Order OH-001-2016
Six Nations of the Grand River Response to National Energy Board Procedural Update No. 3**

The purpose of this letter is to provide information requested by Procedural Update No. 3, relating to the oral hearing starting in Hamilton, Ontario on October 18, 2016.

1. Six Nations of the Grand River ("Six Nations") will be participating at the oral hearing. I will be representing Six Nations as legal counsel for the hearing.
2. Witness Panel Information on behalf of Six Nations (per Appendix 2, Part A):
 - (a) The following witness panel will be presented on behalf of Six Nations:
 - (i) Paul General (affidavit evidence of June 20, 2016, and exhibits thereto)
 - (A) Mr. General is the Wildlife Officer and Manager of the Six Nations Eco-Centre and Wildlife Management Office.
 - (ii) Professor Charles Hostovsky (expert report dated September 20, 2016, served on Enbridge on September 22, 2016)
 - (A) Professor Hostovsky is a faculty member at the Catholic University of America in Washington, D.C.

The subject areas being addressed by these witnesses are Enbridge's consultation with Six Nations and the adequacy or completeness of the following Enbridge reports:

- (a) Environmental Socio-Economic Assessment
[paper copy received by the Six Nations Lands and Resources Office on July 6, 2016]
- (b) Supplemental Environmental Socio-Economic Assessment dated August 15, 2016
[no paper copy received from Enbridge by the Six Nations Lands and Resources Office; an electronic copy accessed on the Board's public website]
- (c) Environmental Protection Plan dated July 15, 2016
[paper copy received by the Six Nations Lands and Resources Office on July 21, 2016]

3. Intention for Oral Cross-Examination and Final Argument on behalf of Six Nations (per Appendix 2, Part B):

Oral Cross-examination:

- (a) We intend to orally cross-examine the witnesses to be called by Enbridge relating to purported consultation with Six Nations (estimated duration: from half a day to a day).
- (b) We intend to orally cross-examine the witnesses or witness panels to be called by Enbridge, being put forward as the persons who prepared the Enbridge expert reports referred to in paragraph 2 above of this letter (estimated duration: up to a day).

Final Argument:

- (c) Six Nations intends to make oral argument.

4. A report dated September 20, 2016 has been received from Professor Charles Hostovsky providing a peer review of the three Enbridge reports referred to in paragraph 2(a) above (which were received by Six Nations as indicated). A letter was sent to Enbridge legal counsel on September 21, 2016 advising of the intention to file and rely upon this report, and requesting Enbridge's position as to whether it would insist on preparation of formal motion and supporting affidavit materials. A copy of Professor Hostovsky's report was provided to Enbridge legal counsel on September 22, 2016. (We are awaiting a response from Enbridge legal counsel, requested for no later than today, before proceeding with filing of the report with the Board.)



If there are any questions arising from this letter, please contact me.

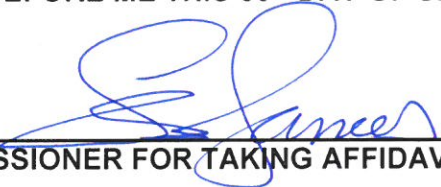
Yours very truly,

Ben Jetten

BAJ/ciel

cc. Lonny Bomberly, Director of Lands and Resources, Six Nations
Caron Smith, Six Nations

THIS IS EXHIBIT "E" TO
THE AFFIDAVIT OF ANNE CLELAND
SWORN BEFORE ME THIS 30th DAY OF SEPTEMBER, 2016


A COMMISSIONER FOR TAKING AFFIDAVITS

Louise Marie James, a
Commissioner, etc., Province of Ontario,
for Blake, Cassels & Graydon LLP,
Barristers and Solicitors.
Expires December 1, 2017.

From: CLELAND, ANNE
Sent: Monday, September 26, 2016 12:52 PM
To: Robert Bourne (robert.bourne@enbridge.com)
Cc: JETTEN, BEN
Subject: Enbridge Pipelines Inc. Line 10 Westover Segment Replacement Project
Attachments: Letter to National Energy Board dated September 26, 2016.pdf; C. Hostovsky Report to the National Energy Board dated September 20, 201....pdf

Mr. Bourne,

Please see the attached correspondence from Ben Jetten.

Thank you,

Anne Cleland
Legal Assistant to Ben Jetten, Sharon Wong and Daniel Szirmak
anne.cleland@blakes.com
Dir: 416-863-3841



Blake, Cassels & Graydon LLP
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Ben A. Jetten
Partner

Dir: 416-863-2938
ben.jetten@blakes.com

September 26, 2016

VIA E-FILE

Reference: 34539/282

National Energy Board
517 - 10th Ave SW
Calgary, AB T2R 0A8

Attention: Sheri Young, Secretary of the Board

Dear Ms. Young:

**Re: Enbridge Pipelines Inc. ("Enbridge")
Line 10 Westover Segment Replacement Project
File OF-Fac-Oil-E101-2015-09 02
Hearing Order OH-001-2016
Six Nations of the Grand River Response to National Energy Board Procedural Update No. 3**

I represent the Six Nations of the Grand River ("Six Nations") for the hearing of this matter.

I have received a report from Professor Charles Hostovsky dated September 20, 2016. The report is his review of three Enbridge reports delivered in this proceeding:

- (a) Environmental and Socio-Economic Assessment
- (b) Supplemental Environmental and Socio-Economic Assessment dated August 15, 2016
- (c) Environmental Protection Plan dated July 15, 2016

Please find enclosed a copy of Professor Hostovsky's report. We request that this report be included on the record, as part of Six Nations' evidence.

I provided a copy of the report to Senior Legal Counsel for Enbridge on September 22, 2016, and requested Enbridge's position as to whether a formal motion would be required in order to file the report.

I have been advised that Enbridge is agreeable to the filing of Professor Hostovsky's report on the basis that Enbridge would have an opportunity to file evidence it may prepare in reply to the report by no later than Friday, October 14, 2016.

This opportunity to reply is fine. (Attached is a copy of the letter of consent dated September 23, 2016 from Mr. Robert Bourne, Senior Legal Counsel, Enbridge).

If you require anything further in connection with the report, please advise.

Please confirm that the report is accepted as part of the evidence before the Board.

Yours very truly,

A handwritten signature in black ink, appearing to read "Ben Jetten", with a large, stylized loop at the end.

Ben Jetten

BAJ/clel

cc. Lonny Bomberry, Director of Lands and Resources, Six Nations
Caron Smith, Six Nations
Robert Bourne, Enbridge Pipelines Inc. (by email)