

Government Services Building  
[REDACTED]

Curve Lake, Ontario K0L1R0



www.curvelakefn.ca

Thursday, August 11, 2016

The Honourable James Carr  
Natural Resources Canada

**RE: Terms of Reference for Expert Panel Reviewing National Energy Board**

Dear Minister Carr,

Curve Lake First Nation is a member of the Michi Saagiig Anishinabek from the Great Lakes area of what is currently referred to as Ontario. This has been our territory since time immemorial. First Nation people are caretakers of Mother Earth and realize and respect Her gifts of water, air, land and food. Everything that is taken is used with the understanding that we take only what we need and we protect Her gifts as to ensure future generations, both native and non-native, will not be put in peril. As First Nations, our responsibility to protect and preserve the land has been bestowed upon us by the Creator and captured in each Nations laws.

This letter is in response to the call for comments on the Terms of Reference for the Expert Panel reviewing the National Energy Board in Canada. Please read below for comments as to the Terms of Reference.

Indigenous Engagement Plan and Timeline

The Terms of Reference of the National Energy Board Review Expert Panel includes two mandates pertaining specifically to Indigenous engagement. Although the Federal Government has a general obligation to consult the public on such legislative changes as these, the federal government has a legal obligation of duty to consult and accommodate with Aboriginal peoples under section 35 of the Constitution Act (1982). First Nations are sovereign Nations with a right to self-determination, meaning that we have jurisdiction (the right, power and authority) to administer and operate our own political, legal, economic, social and cultural systems. It is for this reason that Canada must work with First Nations through a government-to-government relationship. With the recent official acceptance of the United Nations Declarations on the Rights of Indigenous Peoples (UNDRIP) by Canada, consultation processes in the legislation that are under review, need to be guided by principles of UNDRIP including free, prior and informed consent (FPIC). The process of free, prior and informed consent requires adequate time and resources. Although we are grateful for participant funding for First Nations, the

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usefulness of this funding is limited due to the tight timeline of the review. This is not enough time for communities to utilize the funding to adequately

educate themselves on the impacts the legislation has for their communities. This is not in line with Trudeau's promise of a renewed relationship or the commitment to UNDRIP. First Nations are the most vulnerable to the impacts of climate change in Canada. We are also the most impacted by resource projects, such as pipelines, which the legislation under review is responsible for. It is for these reasons that we are requesting the timeline of consultation be extended by four months in order to adequately engage Indigenous communities in the consultation process.

#### Panel Composition

It is duly noted, and appreciated, that members of the panel will have background in more than energy regulation but also "sufficient expertise in fields such as environmental science, community development, and Indigenous traditional knowledge". In order for this mandate to be adequately fulfilled a panel member should be First Nations. More so, this First Nations person needs to have experience working specifically with community development and Indigenous traditional knowledge. In order to find an appropriate panel member with such credentials they may not have significant background in energy regulation. We do not see that as a reason to overlook such a candidate.

#### Multi-Interest Advisory Committee

Review of the environmental assessment process is establishing a multi-interest advisory committee which will be made up of Indigenous organizations, industry associations and environmental groups. This committee will be tasked with a select number of issues that the expert panel feels would benefit from discussion within the committee. This type of inter-organization engagement is a refreshing and appreciated way to gain input from various interest groups. Based on the amount of similarity between the environmental assessment review process and National Energy Board (NEB) review process it seems very odd this committee is not also a part of the NEB review.

#### Confidentiality

Please note that in the absence of provisions to protect intellectual property and avoid exploitation of traditional knowledge, there will be reluctance amongst First Nations to share information that would fall purview of the Access to Information Act.

Sincerely,



Chief Phyllis Williams  
Curve Lake First Nation

