Aamjiwnaang First Nation

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Written Submission of Aamjiwnaang First Nation to the Expert Panel on National Energy Board Modernization

Dated: March 31, 2017

Introduction

Aamjiwnaang First Nation welcomes the opportunity to make submissions with respect to the modernization of the National Energy Board ("NEB"). Canada has a duty to protect and preserve our natural environment for present and future generations as the use and enjoyment of these traditional territories is inherently protected by our Aboriginal and Treaty rights.

Prime Minister Justin Trudeau has promised a renewed relationship with Indigenous Peoples. In carrying out this promise Prime Minister Trudeau provided the Minister of Natural Resources with a mandate letter instructing the Minister to:

- Modernize the National Energy Board to ensure that its composition reflects regional views and has sufficient expertise in fields such as environmental science, community development, and Indigenous traditional knowledge [emphasis added].

The Expert Panel (the "Panel") tasked with overseeing the modernization process was provided Terms of Reference[1] which further expand on this mandate with respect to Indigenous engagement:

> **1) Governance:** the mandate letter to the Minister of Natural Resources asks to ensure the Board's composition is diverse and has sufficient expertise in relevant fields such as environmental science, community development, and Indigenous traditional knowledge. Therefore, potential outcomes could include findings and recommendations in the following areas:
>
> - Composition and expertise of Board members;
> - Governance and division of the NEB's operational and adjudicative functions, including the roles of the Board's Chief Executive Officer and Chair;
> - Role of the NEB in implementing Government policies and priorities, including mechanisms for policy direction; and
> - Delegation of authorities to Board members and senior NEB staff.
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> **2) Mandate:** Canada's energy sector has undergone significant changes in recent years due to technological innovations and shifting global dynamics. Therefore, potential outcomes could include findings and recommendations in the following areas:
>
> - Defining and measuring public interest (e.g., consideration of national, regional, Indigenous, and local interests as well as environmental, economic and social factors);

[1] http://www.neb-modernization.ca/terms-of-reference

[...]

5) Indigenous Engagement: Many Indigenous peoples have expressed dissatisfaction and raised concerns regarding the nature and process of their participation in different aspects of a federally regulated pipeline's lifecycle. Therefore, potential outcomes could include findings and recommendations in the following areas:

- Enabling early conversations and relationship building between the Government of Canada and Indigenous peoples whose rights and interests could be affected by a specific project under the NEB's mandate;
- Facilitating ongoing dialogue between the Government of Canada and Indigenous peoples on key matters of interest on projects to inform effective decision-making;
- Further integrating Indigenous traditional knowledge and information into NEB application and hearing processes; and
- Developing methods to better assess how the interests and rights of Indigenous peoples are respected and balanced against many and varied societal interests in decision-making;
- Promoting and recognizing Indigenous legal values and principles; and
- Enhancing the role of Indigenous peoples in monitoring pipeline construction and operations and in developing emergency response plans.

[...]

Complementary Mandates

The Panel shall, in reviewing the NEB structure, role, and mandate, consider the relationship between NEB processes and the Aboriginal and treaty rights of Indigenous peoples, as well as the relationship between NEB processes and the principles outlined in the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP).

Aamjiwnaang First Nation submits that the NEB as currently constituted:

- Allows the Crown to evade its constitutional obligations with respect to consultation and accommodation of Indigenous Peoples, and thereby fails to uphold the constitutionally protected Aboriginal and Treaty of Indigenous Peoples;
- Fails to meaningfully engage Indigenous stakeholders at all stages;
- Fails to incorporate meaningful representation of Indigenous Peoples and perspectives on the Board;
- Fails to meet Canada's international obligations under the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP);
- Improperly weights public interests against Aboriginal rights and interests;
- Treats Aboriginal participants with recognized and affirmed Aboriginal and Treaty rights as general stakeholders;
- Acts as an agent of harm in the further colonization of Indigenous peoples by separating them from their land and minimizing their rights and interests.

Table of Contents

Overview of Aamjiwnaang First Nation

Aamjiwnaang First Nation is located in Southwestern Ontario, near the city of Sarnia. It is situated at the south end of Lake Huron on the east side of the St. Clair River in Lambton County and is home to 850 community members – about one quarter of who are children. The name Aamjiwnaang means "at the spawning stream" in our Ojibwa language.

Our community is bordered on three sides by industrial facilities, the closest of which are literally across the street from important community meeting centres such as the band office, church, cemetery, community resource centre and residences.

All facets of our community's environment are polluted, including the air, land and water. Experts refer to our traditional lands as "overburdened" or "saturated" – meaning that the area has reached a state that cannot accommodate any further pollution. It is likely that our traditional lands reached this state many years ago.

The Environmental Commissioner of Ontario's Annual Report for 2013/2014 issued the following findings with respect to Aamjiwnaang First Nation:[2]

> Over the past century, and particularly since the 1940's, the area surrounding Aamjiwnaang has developed into one of the most heavily industrialized enclaves in Canada. Widely known as "Chemical Valley," the area is home to several dozen large facilities, representing 40% of Canada's chemical industry.
>
> As a result of this concentration of industrial facilities, Sarnia suffers some of the worst air pollution in Canada according to the World Health Organization's 2011 Urban Outdoor Air Pollution Database. Over 110 million kilograms of pollution were released into the air in 2009 about 60% of this volume was released within five kilometres of Aamjiwnaang First Nation community.

Both the Ontario Government and the World Health Organization have identified the environmental situation at Aamjiwnaang First Nation as a "health crisis". Indeed, community members who grew up living close to the land – swimming in the waters and harvesting wild foods and traditional medicines – now report negative health effects from engaging in these traditional activities; activities that are constitutionally protected Aboriginal and Treaty rights under section 35 of the *Constitution Act*, 1982. In order to stem the tide of environmental degradation and support our ability to pass along cultural and ecological knowledge to our future generations, we require action on the part of the federal government that honours our constitutionally protected rights of consultation and accommodation thereby furthering the Canadian government's stated goal of reconciliation with Indigenous Peoples. The NEB as currently constituted offers no prospect of achieving these goals – and serves as an obstacle to reconciliation with Indigenous Peoples.

[2] http://docs.assets.eco.on.ca/reports/environmental-protection/2013-2014/2013-14-AR.pdf at p. 114

RECOMMENDATIONS

Recommendation: Establish an Independent Special Tribunal to Engage with Aboriginal/Treaty Rights

The NEB as currently constituted does not adequately respect or uphold the constitutionally protected Aboriginal and Treaty rights of Indigenous communities who are impacted by energy projects. As such, Aamjiwnaang First Nation recommends the establishment of a Special Tribunal, independent of the Board, to specifically engage and ensure compliance with the Aboriginal and Treaty rights of each community who may potentially be impacted.

As opposed to the Board whose expertise is derived from the energy sector, the specialized Tribunal would have knowledge of and experience with Indigenous communities, customs and traditions in order to ensure adequate respect and consideration is afforded to the constitutionally protected Aboriginal and Treaty rights of Indigenous Peoples and communities. Aamjiwnaang First Nation recommends the establishment of such a Tribunal as means of meaningfully engaging with Indigenous communities from the outset of each project.

Moreover, the *Act* should be amended to explicitly require the Board to consider constitutionally protected Aboriginal and Treaty rights in making recommendations as to whether or not a certificate should be issued. The *Act* currently provides:[3]

> 52 (2) In making its recommendation, the Board ***shall*** have regard to all considerations that appear to it to be directly related to the pipeline and to be relevant, and ***may*** have regard to the following:
>
> (a) the availability of oil, gas or any other commodity to the pipeline;
>
> (b) the existence of markets, actual or potential;
>
> (c) the economic feasibility of the pipeline;
>
> (d) the financial responsibility and financial structure of the applicant, the methods of financing the pipeline and the extent to which Canadians will have an opportunity to participate in the financing, engineering and construction of the pipeline; and
>
> (e) any public interest that in the Board's opinion may be affected by the issuance of the certificate or the dismissal of the application [emphasis added].

There is no explicit requirement for the Board to consider the constitutionally protected Aboriginal and Treaty rights of Indigenous Peoples in making recommendations as to whether or not a certificate should be issued, and only permissive direction that the Board consider the public interest generally (i.e. "the Board may have regard to"). The Honour of the Crown requires that Aboriginal and Treaty rights be afforded special consideration – beyond mere consideration as part of the general public interest – by virtue of their constitutional status under section 35 of the *Constitution Act*, 1982. In *Rio Tinto Alcan Inc v Carrier Sekani Tribal Council*, the Supreme Court of Canada held "[t]he constitutional dimension of the duty to consult gives rise to a special public interest"[4] [emphasis added].

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[3] *National Energy Board Act*, RSC, 1985, c N-7 at s. 52(2) (online: http://laws-lois.justice.gc.ca/PDF/N-7.pdf).

[4] *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43, [2010] 2 SCR 650 at para 70.

The doctrine of constitutional supremacy, codified by virtue of section 52(1) of the *Constitution Act*, 1982, requires that compliance with constitutionally protected rights, including Aboriginal and Treaty rights, must be the paramount consideration for all energy projects that impact Indigenous communities. The *Act* should be amended to explicitly provide that the Board ***shall*** consider these constitutional obligations in making determinations with respect to project certificates.

Recommendation: Amend Existing Consultation Processes to Include Greater Oversight/Involvement between Indigenous Communities and Crown Departments

a) Free, Prior and Informed Consent:

The NEB should also amend its existing consultation processes to include greater involvement and oversight between Indigenous communities and all relevant Crown Departments. Such engagement would be in keeping with the government's international obligations, including Article 18 of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) which states:

> Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Moreover, Article 32(2) of the UNDRIP provides:

> States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories [...].

The Board should engage in meaningful consultations with Indigenous communities at every stage of a project's life, and should obtain the free, prior and informed consent of any Indigenous communities concerned prior to the approval of any project affecting their lands or territories.

b) Increased Participant Funding:

A critical barrier to meaningful, ongoing consultation with Indigenous communities is a lack of adequate funding. For example, under section 16.3 of the *Act* "the Board may establish a participant funding program to facilitate the participation of the public in hearings that are held under section 24." This stream of funding is insufficient to secure adequate ongoing consultation with Indigenous communities for several reasons. First, funding is limited to participation in public hearings held under section 24 of the *Act* – and does not extend to other NEB processes. Second, obtaining funding is contingent on successfully gaining Intervenor status at these hearings – which further limits the pool as only those "directly affected [...] by the granting or refusing of the application" or those who, in the Board's opinion, have "relevant information or expertise" may be granted Intervenor status.[5] Finally, and importantly, there is no designated funding program specifically for Indigenous participation under the *Act*. Aamjiwnaang First Nation submits, therefore, that in order to remove barriers to meaningful, ongoing consultation

[5] *National Energy Board Act*, RSC, 1985, c N-7 at s. 55.2 (online: http://laws-lois.justice.gc.ca/PDF/N-7.pdf).

with Indigenous communities, it is vital that communities have access to reliable sources of participant funding.

Increasing participant funding is critical for Aamjiwnaang First Nation due to the sheer volume of projects, proposals and regulatory requirements which our community is forced to address on a daily basis. There is no capacity to deal with the ever increasing development and the community must rely on the funding that regulatory bodies such as the NEB provide in order to meaningfully participate. The NEB should increase the amount of funding provided to those Indigenous communities that are experiencing unusually high levels of development and regulatory reviews.

c) Indigenous Traditional Knowledge:

As mentioned at the outset, the Minister's mandate letter from Prime Minister Justin Trudeau provides that the Minister must "ensure that [the Board] [...] has sufficient expertise in fields such as environmental science, community development, and Indigenous traditional knowledge." In order to achieve this mandate, the Board should undertake to consult with Indigenous Traditional Knowledge Holders of the various local communities impacted by development projects. These Knowledge Holders should play an advisory role to the Board throughout every stage of a project's life.

d) Greater Recognition of Consultation as a Constitutional Obligation

Pending the release of the Supreme Court of Canada's decisions in a number of appeals currently before it,[6] there is much uncertainty as to the Board's role in either assessing the adequacy of Crown consultation with Indigenous Peoples or its duty, if any, to engage in consultations itself.

Consultations with Indigenous Peoples must be given greater recognition as a constitutional obligation on the Crown. The NEB's website states "[t]he NEB understands that Crown consultation is an issue of interest to Aboriginal groups. In recent hearings, the Government of Canada has said it will rely on the NEB's hearing processes, to the extent possible, to meet its duty to consult with Aboriginal peoples on NEB-regulated projects."[7] The duty to consult Indigenous Peoples is more than just "an issue of interest" to Indigenous Peoples. It is a constitutional obligation on the Crown and, in accordance with the Honour of the Crown, must be carried out in good faith.

In *Carrier Sekani*, the Supreme Court of Canada confirmed that, in determining whether a tribunal has the power to determine the adequacy of Crown consultation, the mandate confirmed by the legislation is essential. However, it is not necessary to find an explicit provision granting that authority. Rather, "[t]he power to decide questions of law implies a power to decide constitutional issues that are properly before it, absent a clear demonstration that the legislature intended to exclude such jurisdiction from the tribunal's power."[8]

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[6] *See: Chippewas of the Thames First Nation v. Enbridge Pipelines Inc., et al.* 2015 FCA 222 (SCC No. 36776) and *Hamlet of Clyde River, et al. v. Petroleum Geo-Services Inc. (PGS), et al. 2015 FCA 179 (SCC No. 36692).*

[7] https://www.neb-one.gc.ca/prtcptn/nfrmtn/brgnlpplfs-eng.html?=undefined&wbdisable=true

[8] *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43, [2010] 2 SCR 650 at para 69.

Section 12(2) of the *Act* expressly grants the Board jurisdiction to decide questions of law. Moreover, there is nothing in the *Act* that indicates a clear intention on the part of Parliament to exclude from the Board's jurisdiction the duty to consider whether the Crown has adequately discharged its constitutional duty to consult. Therefore, given its current statutory powers, the Board should be empowered, as a matter of law, to assess the adequacy of Crown consultations.

However, given the uncertainty in the jurisprudence, the *Act* should be amended to expressly confirm that – beyond its power to consider questions of law generally, including constitutional questions – the Board specifically and expressly has jurisdiction to determine whether the Crown's constitutional duty to consult has been fulfilled. Barring the inclusion of express or implied power under the *Act* delegating authority to the Board to *carry out* consultations itself – the Board's role should be limited to assessing the adequacy of Crown consultation. Moreover, as a quasi-judicial entity, it would be inappropriate for the Board to engage in consultations itself and its role, therefore, should properly be limited to assessing the adequacy of Crown consultations.

Recommendation: Increased Indigenous Representation on the Board

Under section 3 of the *Act*, the Board consists of nine (9) permanent members who serve for a period of seven (7) years and are appointed by the Governor in Council. Under section 4 of the *Act*, the Governor in Council may also appoint temporary members – of which there is no express limit under the *Act*.

Aamjiwnaang First Nation recommends the appointment of more Indigenous persons either to permanent or temporary membership on the Board. The presence of Indigenous decision makers on the Board, particularly with respect to applications that engage Indigenous territory, would enhance the credibility of the Board from the perspective of Indigenous communities, and provide communities with added comfort that their perspectives are being taken into account.

This would also be in keeping with the government's international obligations under Article 18 of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) which states:

> Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

The NEB should therefore, in consultation with Indigenous Peoples, initiate a program to recruit Indigenous persons to permanent or temporary membership positions on the Board.

Recommendation: Amend the *National Energy Board Act* to Restore the Powers of the Board

The *National Energy Board Act* (the "*Act*") was amended in 2012, along with many other pieces of federal environmental legislation, through the *Jobs, Growth and Long-Term Prosperity Act.*[9] Prior to the 2012 amendments, the Board exercised decision making authority with respect to Certificates of Public Convenience and Necessity on major pipeline projects under section 52 of

[9] SC 2012, c 19 (online at: http://laws-lois.justice.gc.ca/eng/acts/J-0.8/index.html).

the *Act*. The Board essentially served a gatekeeping function: while projects would ultimately require federal Cabinet approval before proceeding, they would only make it to Cabinet once they met with Board approval.

The 2012 amendments under the *Jobs, Growth and Long-Term Prosperity Act* significantly altered the role of the Board in evaluating projects. With the amendments in place, the Board now essentially provides recommendations to the Minister who, regardless of the recommendations that the Board provides, may direct whether or not a certificate will be issued with respect to a given project.

The effect of these amendments is to politicize what ought to be a politically neutral and independent regulatory process conducted by experts who are well informed of all the relevant considerations and are better positioned to make such determinations objectively on their merits. We recommend, therefore, that the decision making power of the Board prior to the 2012 amendments be restored to de-politicize decision making around the approval of pipeline projects.

Recommendation: Environmental assessments of pipeline applications should be conducted by the Canadian Environmental Assessment Agency ("CEAA")

The environmental assessment procedures employed for NEB projects have undergone significant changes in recent years. Prior to the 2012 amendments to the *Act*, the NEB and the CEAA jointly conducted environmental assessments of pipeline applications before the NEB. Since the 2012 amendments, however, the CEAA has no role in conducting environmental assessment with respect to NEB projects. Instead, the NEB has sole responsibility.

While the NEB may be capable of conducting such assessments, Aamjiwnaang First Nation recommends that, as a matter of best practice, environmental assessments of NEB projects should not be conducted through internal NEB processes, but should instead be conducted by independent third party agencies that are fully divorced from the outcome of project applications. This would remove the potential apprehension of influence and create greater public confidence in the impartiality of environmental assessment processes. The CEAA has the requisite expertise and experience and is uniquely equipped to conduct such assessments. Therefore, Aamjiwnaang First Nation recommends that environmental assessments of NEB applications be conducted by the CEAA alone, and that the NEB have no role in determining the outcome of assessments.

Recommendation: Address Procedural Aspects of the Current Process

a) Increasing time for response and involvement to allow for community consultations

The current time limits for advancing a project do not allow for meaningful and thorough consultations to be conducted with Indigenous communities. For example, under section 52(4) of the *Act*, the Board must deliver its report containing its recommendations with respect to certificates within 15 months after the day on which the applicant has, in the Board's opinion, provided a complete application. However, by the time the requisite due diligence is conducted and relevant considerations are uncovered – including, for example, understanding the potential impacts that a proposed project may have – much of the (already limited) prescribed time will typically have already elapsed. This leaves little time to carry out community consultations in an

informed and thorough manner. As constitutional rights holders, Indigenous Peoples are entitled to meaningful consultations with respect to projects that have the potential to impact their rights. Aamjiwnaang First Nation, therefore, recommends extending the time for response and involvement in order to allow for meaningful consultations with Indigenous communities to take place.

b) Implement a non-adversarial process for addressing Indigenous concerns

The adversarial nature of deliberative bodies like the NEB is often at odds with the values and traditions of many Indigenous communities who often employ more conciliatory approaches to decision making and conflict resolution. Indeed, many Indigenous communities hold respect for others, the preservation of relationships and community harmony as paramount considerations in decision making processes. This often manifests as a reluctance to criticize or interfere with others and the avoidance of confrontation or adversarial positions.

Adversarial processes, therefore, are generally not the best means to elicit meaningful participation from Indigenous communities. Aamjiwnaang First Nation recommends that the NEB adopt culturally appropriate, non-adversarial processes for addressing the concerns of Indigenous Peoples and communities.

c) Provide greater opportunities for Indigenous perspectives, oral history and community presentations in project review

The NEB's website states:

> "The NEB is committed to hearing from Aboriginal groups in a way that respects their values and traditions. We recognize that Aboriginal peoples have an oral tradition for sharing stories, lessons, and knowledge from generation to generation. This information cannot always be shared adequately in writing. We want to provide an opportunity for Aboriginal peoples to share their traditional knowledge in a way that is meaningful and useful. Therefore, where appropriate, we provide Elders and other community members with the opportunity to give their traditional evidence orally. Oral Traditional Evidence is only one of the ways the NEB will gather the information needed to decide whether or not to recommend that a project is in the Canadian public interest." [10]

However, as noted previously, the *Act* provides that

> "the Board shall consider the representations of any person who, in the Board's opinion, is directly affected by the granting or refusing of the application, and it may consider the representations of any person who, in its opinion, has relevant information or expertise"[11] [emphasis added].

Moreover, there are only two (2) ways that individuals or groups may be able to participate in a hearing: by writing a Letter of Comment, or by applying for and obtaining Intervenor status. These restrictive procedures create barriers for Indigenous communities who may wish to contribute their unique perspectives but are not able to meet these imposed conditions. For example, submitting a Letter of Comment is not a viable means of participation for an Indigenous Person or community that wishes to submit oral evidence. However, applying for and obtaining Intervenor status (should they be successful in their application) creates additional

[10] https://www.neb-one.gc.ca/prtcptn/nfrmtn/brgnlpplfs-eng.html
[11] http://laws-lois.justice.gc.ca/PDF/N-7.pdf

barriers for potential Indigenous participants, for example, through added time and expense. As constitutional rights holders, Indigenous Peoples who are potentially impacted by a project must be able to participate fully in all NEB processes. Aamjiwnaang First Nation, therefore, recommends that the NEB ease restrictions on participation in all processes for Indigenous Peoples and communities and provide greater opportunities for Indigenous perspectives, oral history and community presentations in project review.

Recommendation: Non-Restrictive Design Process for Evaluating Projects

Aamjiwnaang First Nation recommends the Board engage in upfront consultations with Indigenous communities regarding how individual projects should be assessed. For example, NEB protocols with respect to consultations may not be appropriate for many Indigenous communities – many of whom have their own protocols with respect to consultation. As constitutional rights holders, Indigenous Peoples are entitled to meaningful consultations with respect to projects that have the potential to impact their rights. The NEB, therefore, should consult with Indigenous communities to determine appropriate procedures for evaluating projects for individual communities, as opposed to imposing a "one size fits all" approach on all communities.

CONCLUSION:

Federal regulation and oversight of the environment has an important role to play in the reconciliation of Aamjiwnaang's Aboriginal and Treaty rights. It is important to recognize the relationship between environmental protection and Aamjiwnaang's Treaty rights and the role that relationship plays in promoting reconciliation. The National Energy Board as currently constituted reduces these protections, circumvents the Crown's constitutional duty to consult, and fails to incorporate both modern safeguards and valuable traditional knowledge.

Unilaterally circumventing the Crown's duty to consult leaves litigation as the only means for Aamjiwnaang First Nation to protect its traditional territories from environmental degradation. This will further marginalize our members and should be seen as an attempt to further colonize our people. Litigation, which is both adversarial and expensive, is not in keeping with our traditional teachings of conflict resolution and is not the preferred means for resolving these important issues. It may also create a disincentive for project proponents to work with Aamjiwnaang in the future – which will ultimately lead to more conflicts and litigation. Such a result cannot be in keeping with the Honour of the Crown and the duty to uphold section 35 of the *Constitution Act*, 1982.

Prime Minister Justin Trudeau has promised a renewed relationship with Indigenous Peoples. Moreover, while campaigning in the 2015 federal election, Mr. Trudeau and the Liberal Party committed to reviewing legislation that negatively impacts the Aboriginal and Treaty rights of Indigenous Peoples in the spirit of reconciliation, and, where necessary, to rescind measures that are in conflict with these rights. For example, the "Renewed Relationship" section of the Liberal Party of Canada's website, published during the election campaign, reads:

> Reconciliation starts with recognizing and respecting Aboriginal title and rights, including treaty rights. A Liberal government will do just that. Not only in accordance with Constitutional obligations, but also with those enshrined in the UN Declaration on the Rights of Indigenous Peoples – something the current government has steadfastly refused to do.

> To this end, we will conduct a full review of the legislation unilaterally imposed on Indigenous Peoples by the Harper government, through the lens of section 35 of the Constitution. Where measures are found to be in conflict with Aboriginal rights, where they are inconsistent with the principles of good governance, or where they simply make no public policy sense, we will rescind them.

Therefore, we call on the federal government to honour the commitments it has made to Indigenous Peoples and to modernize the NEB in light of the recommendations provided above in order to better protect the Aboriginal and Treaty rights of Indigenous communities, including Aamjiwnaang First Nation.

Colonialism continues today in the form of government policies and legislation that ignores Indigenous Peoples' inherent rights and subjects our people to discretionary decisions which are not in their best interest. Reconciliation requires sincere acts of mutual respect, tolerance and goodwill that serve to heal rifts and create the foundations for a harmonious relationship. This includes the work of this government and its legal obligations to protect our community's lands and environment. The National Energy Board as currently constituted is an obstacle to reconciliation and maintains barriers to protecting our community and upholding our inherent rights.

Sincerely,

J Rates (student-at-law)

FOR:

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Joanne Rogers,
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