

**NATIONAL ENERGY BOARD
OFFICE NATIONAL DE L'ÉNERGIE**



**Hearing Order OH-001-2016
Ordonnance d'audience OH-001-2016**

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

**Pipelines Enbridge Inc.
Projet de remplacement du tronçon Westover de la canalisation 10**

Community Meeting/Assemblée communautaire

VOLUME 1

**Community Meeting held at
Assemblée communautaire tenue à**

**Sheraton Hamilton Hotel
116 King Street West
Hamilton, Ontario**

**June 28, 2016
Le 28 juin 2016**

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Imprimé au Canada

HEARING ORDER/ORDONNANCE D'AUDIENCE
OH-001-2016

IN THE MATTER OF Enbridge Pipelines Inc.
Line 10 Westover Segment Replacement Project
Application pursuant to section 58 of the *National Energy Board Act*
and section 45(1) of the Onshore Pipeline Regulations

MEETING LOCATION/LIEU DE L'ASSEMBLÉE

Community Meeting held in Hamilton, Ontario, Tuesday, June 28, 2016
Assemblée communautaire tenue à Hamilton (Ontario), mardi, le 28 juin 2016

BOARD PANEL/COMITÉ D'AUDIENCE DE L'OFFICE

J. Ballem	Chairman/Président
M. Lytle	Member/Membre
S. Kelly	Member/Membre

ORAL PRESENTATION/REPRÉSENTATION ORALE

Six Nations of the Grand River

Mr. Lonny Bomberry

Mr. Paul General

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**Opening remarks
Chairman**

--- Upon commencing at 1:34 p.m./L'audience débute à 13h34

1. **THE CHAIRMAN:** Good afternoon everyone, and welcome to the community meeting phase of National Energy Board's OH-001-2016 hearing regarding Enbridge's Line 10 Westover Segment Replacement Project.

2. I want to thank you for welcoming us to Hamilton today. And the Board is pleased and grateful to be here on Six Nations of the Grand River's traditional lands.

3. My name is Jamie Ballem and I'm the Chair of the Panel. My fellow Panel Members are Dr. Murray Lytle and Mr. Steven Kelly.

4. In addition to the Panel, we have a number of Board staff here with us today and I'd like to introduce them to you, and if the staff could sort of identify themselves.

5. Sharon Wong is our Regulatory Officer. Our Board counsel is Michelle Haug. Kyle Duran is the Hearing Manager. There he is back there. Our Process Advisor is Matt Groza. And the court reporter is sitting beside Sharon Wong.

6. The NEB staff are wearing nametags for easy identification. If you have any questions, general questions, please feel free to contact them at any time. If it's a process related question, please talk to Mr. Groza.

7. Safety of all attendees is an important priority for the Board. In the event of an emergency or an alarm, could you please exit through the door that you came in, take a right, then another right, down the stairs and you're on King Street.

8. And could I please ask, in the event of that unlikely emergency, could you please make sure that all of your party are accounted for when you get outside.

9. For security reasons, please do not leave any bags or personal belongings unattended in the hearing room. If you have any concerns regarding safety or security, please speak to our security advisor -- he's standing at the back -- Adam Hutchings, or any other NEB staff member.

**Opening remarks
Chairman**

10. And for your convenience, the washroom facilities are located just outside the double doors to the conference centre across from the elevators.
11. A live audio stream of the oral traditional evidence session is being broadcast via the Board's website, and we welcome those who are listening in today.
12. Electronic transcripts of the proceedings will also be made available on our website daily.
13. Today we intend to sit from now until Six Nations of the Grand River completes their presentation and any questions that they may have.
14. As most of you are aware, if you're participants in this and received the hearing orders, the community meeting phase of the NEB process is new. I think this is the second hearing where we've done this. It's an opportunity, we hope, for participants to tell their story without the same level of formality of the oral cross-examination part of the hearing, which in this case will be happening in the fall.
15. Any questions that will be made to the participants, in this case Six Nations of the Grand River, will be for clarity. It's not a cross-examination. The Applicant will not be seating a witness panel. So what we're trying to do is make it as informal as we possibly can while still getting evidence on the record and allowing participants to tell their story on their terms.
16. Before we start, the first, I guess, is to invite the Enbridge representatives to identify themselves and their role here today.
17. **MR. PURVIS:** Good afternoon, Mr. Chairman and other members. I'm Duncan Purvis; regulatory counsel with Enbridge.
18. **MR. BOURNE:** And I'm Robert Bourne, also with Enbridge, regulatory counsel.
19. **THE CHAIRMAN:** Thank you, gentlemen.
20. Are there any other participants to the application that are in the room that want to be identified? If you do could you please let us know so we have it

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for the record of any other participants are here?

--- (No response/Aucune réponse)

21. **THE CHAIRMAN:** Nobody wants to, okay.

22. I guess now if there are no other preliminary matters we'll turn it over to you, gentlemen, for your presentation.

--- ORAL PRESENTATION BY/ REPRÉSENTATION ORALE PAR MR. LONNY BOMBERRY, SIX NATIONS OF THE GRAND RIVER:

23. **MR. BOMBERRY:** Thank you, sir.

24. We could start with a little bit of background about who we are and how we -- circumstances that I suppose bring us here to the room today.

25. We are the Six Nations of the Grand River. That's the community that's just a little ways south of here actually, about 20 miles south of Hamilton. We are actually, I suppose you could say, recent in terms of historical history, recent newcomers to this area in the sense that we originally -- our original homeland was in the United States.

26. And you have probably heard or might have some knowledge of the fact that the Six Nations always had been -- particularly Mohawks, one of the nations of the Six Nations -- faithful allies to the British Crown. And that was never more evident than during the American Revolution of 1776 when most of the Six Nations allied with the Crown, with Great Britain, in their battle against American colonists.

27. And a result of that of course is the British lost the war. But so that was originally where we come from. But also, previous to that at one time -- we call ourselves the Six Nations now. Before that we were known as the Five Nations. The Tuscaroras had not joined the Confederacy prior to 1720.

28. Tuscaroras really come from the Carolinas, and but as a result of pressure that they were experiencing there from the Americans, they moved north and sought refuge with the Confederacy. And so they became -- then we became the Six Nations.

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29. And if you know a little bit of history about North America, Canada, this area that we presently are here now, particular Hamilton I suppose, was actually the first contact with the Europeans, which would have been the French, was occupied by people known as the neutral Indians and also the Erie and Tobacco Nations.
30. And just a little bit further north from here was the Huron bands, the Huron Nations. They were the original occupants of this territory that we know as Southern Ontario.
31. And as a result, you know, these Nations were all Iroquoian Nations. When I say "Iroquoian" I mean that they had similar languages to our ancestors in New York State, Pennsylvania, the Six Nations. And they had similar religious and cultural beliefs.
32. But be that as it may, we still warred, carried on wars among each other, particularly as a result of, I suppose, the introductions of the Europeans who seemed to foster that conflict.
33. And in the 1600s, as I said, this land was occupied by the Hurons, neutrals, so forth -- it was still the Five Nations -- and engaged in the war with the Hurons here for the beaver hunting grounds. This was a rich area. You know, nowadays we look at it and it's all cleared farmland. But back then it was all forests. And there were many animals, you know, caribou, moose, deer, even buffalo, that roamed this part of the country. And also the beaver, the beaver that was -- the skins were prized by the Europeans.
34. And so they put pressure on the -- well, they didn't put pressure, but they wanted those pelts and they wanted the First Nations people to supply them. And they wanted the Five Nations then, to also engage in that type of commerce.
35. So we looked at this territory, Southern Ontario, as a rich source of that. And of course, the Hurons and the neutrals -- and I say they're neutral Indians. Originally they were neutral. They call them neutral Indians. They were neutral between the Five Nations and the Hurons. And so when that war broke out between the Hurons and the Five Nations, the neutrals stayed neutral. But the war did result in the Five Nations conquering this territory. About the mid-1600s it became the land of the Five Nations.
36. The Hurons were for the most part scattered after that. They went

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- either to Quebec or down to the United States, or they were absorbed into the Five Nations because, as I said, they were Iroquoian peoples with similar language and similar beliefs.
37. Later on, the Five Nations also -- although the neutrals were neutral, they also engaged in a war with them. And where they are today nobody seems to know, although a lot of the neutrals were absorbed into the Five Nations just like the Hurons were.
38. So this was our territory, what we're referring to here as the 1701 Albany or Nanfan Treaty. Nanfan was the governor of New York State in 1701 and that's who the treaty was made with. As you can see, the Five Nations surrendered the land that they had conquered to the British in return for certain privileges, commercial privileges, reserving the right to continue to hunt and live here and to enjoy the fruits of the land.
39. So when we talk about where Enbridge's pipelines are here today, we're talking about territory that is within our traditional territory. You might say our traditional territory was really United States but also our traditional territory became here in Southern Ontario as a result of the conquest.
40. We didn't really at that time, in 1601 -- I mean in the mid-1600s and onwards to 1701, have the ability to occupy this land, in the sense that we didn't move our people here, because we were so involved in the events that were happening in the United States because there were still many wars going on there. That occupied a lot of our time.
41. Plus, what had decimated our population back then was the introduction of European diseases. So we just didn't have the populations that we once had and were unable to fully populate this Nanfan treaty area.
42. So you know, that's why you see today, besides us here in Southern Ontario, there are also other Ojibway, Chippewa Nations. Mississauga is here. They came into this territory afterwards because there was very little people populating the area. And we were still mainly situated in the United States.
43. But that shows, the map there shows, the 1701 treaty shows -- I know it's hard to understand; you can still -- maybe if you study it for a long time you can see the outline of the Great Lakes. You can see where the territory that was conquered from the Hurons is. And also, the territory also stretches into the

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United States, you know, borders the Ohio Valley.

44. So that's the area that we talk about when we -- lands that we're interested in today, where the pipelines are.
45. As I indicated in 1701, there was also a treaty that was made in 1713 that was a European treaty made between Great Britain, Spain, France, Portugal, Savoy, the Dutch, which the Five Nations were specifically -- it was understood as a term of that treaty that Five Nations specifically would not be molested between the areas of Ontario, Erie, and Huron, and that the Natives would be free to promote trade with the British and the French without hindrance. So this Treaty Utrecht just more or less reaffirmed what the Nanfan Treaty stated in 1701. And it was, like, recognition in the European forum of those rights that the British had made with the Five Nations.
46. As I said, because I always like to tell this story that -- I don't know whether -- it was a few years back it ran on the public broadcasting station in the U.S. called -- it was a five-part series called "We Shall Remain". I watched that whole series. In fact, I ordered the DVDs of the series.
47. But if you remember or might have heard, in New England where Thanksgiving arose, occurred, first in the early 1600s when the British came to what was then around the Boston area there, that they were real friendly with the Native people there. It was mostly Algonquin people. They needed those people to survive, to help them survive, to feed them and so forth.
48. But over the years, as the English wanted more land, the conflict arose. And subsequent to that by the 1670s they were at war. And the main First Nations people that were fighting with the British were the Wampanoags. And they were a real threat to the English existence. And that's what's historically known as King Philip's War because the leader of the Wampanoags was a chief called King Philip. The British didn't know how to call them. They didn't call them chiefs at that time. Since he was the leader of that Nation, they called him the king.
49. They were in danger of losing that war. So who did they call upon? Their faithful allies to come and help them, who were the Mohawks from the Mohawk Valley. And the Mohawks sent 500 warriors to New England and put down the Wampanoag uprising. And that was the end of that war.

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50. So the British always depended on the Five Nations, particularly the Mohawks, to fight their wars here in North America. And this is just a reflection of that dependency that they had upon them that when they made treaties in Europe, they also had provisions in there that would protect their faithful allies.
51. We have been -- as I indicated, the British lost the American War of Independence. That war ended in 1783 with the Treaty of Paris.
52. Now before the war started, the British had promised -- the leader of the Mohawks and the Mohawk Valley at that time was a renowned -- he wasn't an actual chief. He was more a war chief. But he had the advantage of having been educated in English schools so he knew how to speak English as well as Mohawk and most of the other of the Five Nations' languages; Joseph Brant.
53. And of course Joseph Brant is, as we know, the founder of Brantford. Brant Colony is named after him. And he actually is the founder of Burlington too. But he was the principal spokesman of the Mohawks at that time, and he was -- he started actually becoming involved in those wars, the Indian Wars in the 1750s, 1760s. He also was famous as a warrior.
54. And before the war started, you know, he had been over to England. He had met the King. And he got a promise from the King that if the Six Nations joined the war -- the Mohawks and other Six Nations joined the war against the American colonists, that they would be no worse off for having done so.
55. Well, it actually turned out they were worse off because now they were in danger of losing -- we were in danger of losing the homeland. And at the mercy of the colonists. And it wouldn't be a situation where we could remain there, our ancestors could remain there.
56. So he kept the promise that was made to him by the King and insisted that the lands be made available in British North America, north of the Niagara River so that we would have a homeland.
57. And that was what was done in 1784 with the Haldimand proclamation. Haldimand was the Governor of Canada at the time. And it was the proclamation set aside the Haldimand Tract; six miles on each side of the Grand River from its source to its mouth. So the mouth is at Port Maitland and the source is way up in Dundalk.

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58. So all that land was to be set aside for the Six Nations. And it was almost all set aside although the northern portion was never surveyed out and formally transferred to the Six Nations, which is about one quarter of the whole tract. But we had been in negotiations in -- in the 1970s we started researching our claims, you know, because when I grew up my grandpa used to tell me, "You know, we once owned all this land."
59. And then we'd read about it; I'd read about it in the history books too but there could never be an explanation of how it was lost. And I often wondered that. Well, surely something really bad must have happened for us to lose all that land.
60. And it always bothered me and I'm sure it -- and I know it bothered a lot of others. So when there was a Supreme Court of Canada decision that came out in a case called *Calder* in 1973, Supreme Court basically said there is such a thing as Aboriginal title.
61. Although Canada had been denying that there was such a thing, the Court said yes. And that involved the First Nation in B.C. called the Nishgas. And when the Supreme Court decided that there was such a concept and it was valid, even though the Court didn't technically rule in favour of the Nishgas because they said, "You didn't do something procedurally in a court case that you should have. There's such a thing that's called a fiat that you have to institute when you sue the Crown; you didn't do that." Therefore, they threw the case out on a technicality.
62. But they said there is such a thing as a valid Aboriginal title. And as a result of that, the federal governments started -- said, "Okay, so we've got to deal with this now." The Court says that and there is -- you know, Canada could potentially be -- almost 95 percent of Canada could potentially be under Native claim.
63. And so they set up bodies to deal with Aboriginal claims, which are claims parts of Canada where there had been no treaty of surrenders, and specific claims where there had been treaties of surrenders but something was done wrong in the process to obtain those surrenders, or that the terms of the surrenders weren't fulfilled.
64. So money became available through the federal government for First Nations to do research on their claims. So we started that research on our claims

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to the Haldimand Tract in 1975 approximately.

65. One of our part of our team -- he isn't here today -- but he was the original person that they hired, Philip Montour, to begin the research. He's still with us. He has a lot of knowledge on the research of our claims. He had to be in the Chiefs of Ontario up in Thunder Bay these last couple of days. That's the reason why he couldn't be here.
66. But Paul and I can explain things just as well as he can. At least I hope we can.
67. So that became a process where we begin our claims process. But also, you know, we also researched the Nanfan Treaty as part of that and as part of the Haldimand Treaty lands as well.
68. And as I said, they had the process for -- federal government's process was for resolving claims was through specific claims process. It turned out to be a totally inadequate and one-sided process. You couldn't get justice under that process. It was essentially you did all the research, presented your claim, the government evaluated it, and made you an offer which was an offer that was totally inadequate.
69. And so we tried to do that in just a couple of areas. It didn't work out. Totally dissatisfied with the system. So the only alternative -- I know the government used to say to us, "Well, if you don't like what we're offering, you can go to court."
70. So in 1995 we decided to go to court. And we started our action against the Crowns, both Canada and Ontario, for basically -- we couldn't make it a land claim in a sense that what you might think of a land claim because too many years had evolved since all the so-called surrenders had taken place; like, they all occurred way before 1846.
71. And but not only, as I said, the Supreme Court ruled in that *Calder* case, it also ruled in other cases that the Crown with respect to Indian lands is a fiduciary, like a trust. And a notable case of that is called the *Guen'n* case that was decided in 1992, which held that the Crown is a fiduciary of Indian lands.
72. That case involved the Musqueams in Vancouver in which they had lands which they developed into a golf course. And the Department of Indian

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- Affairs, which is the federal body responsible for First Nations, said, “We’ll negotiate; we’ll do your leases because under the *Indian Act* you don’t have the power to do that.”
73. So they did. And they negotiated a long-term lease that was totally not in the First Nation’s favour. And they basically got robbed under that Agreement. And after so many years, the Musqueams decided to take the government to court and said, “Hey look, you guys as trustees breached your duty.” And it worked its way through the B.C. Supreme Court, British Columbia Court of Appeal and all the way to the Supreme Court of Canada.
74. The Supreme Court of Canada said, “Yes, you did breach your duty. And in fact, you are fiduciaries of Indian land.” Because the federal government argued that, “Look, I know we have this duty to look after Indian lands, but it’s by legislation, by the *Indian Act*. And that doesn’t make us trustees.”
75. And the Court says, “No, no. Despite what the *Indian Act* says, you guys are trustees because you act like trustees. So you are.”
76. So when we started our court action in 1995, that’s basically what we alleged. And all our lands were lost prior to 1850 as a result -- when the Crown was obviously trustees of our lands. Not only our lands, but all of our money. And it was all gone. By the 1860s it was all gone. They’d spent it all and all our lands were gone.
77. And so that’s what the court action was about, mostly respect of the Haldimand Treaty lands but also respect -- we reference in there too the Fort Albany Treaty, our traditional lands, the Nanfan Treaty area, which we also say we have an interest in. And we do in fact have an interest in that because that interest was decided in another case in about 1993 called the *Ireland* case involving -- a hunting case. I think it was a hunting of raccoons of Jesse Ireland, a person from the Oneida First Nation near London. And the Ontario Court said, “Yes, the Nanfan Treaty is a valid treaty and it applies to Ontario.”
78. And so when we’re talking with respect to what we bring here before the Board today at Line 10, we’re talking about lands that are -- this line that is very close, just outside the boundaries of the Haldimand Treaty, but still within our Nanfan Treaty area, our treaty lands.
79. Okay. Now what also has developed, it started in the 2000s, mid-

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- 2000s -- you know, we had all these claims across Canada that hadn't been resolved, all the negotiations, whether it's Aboriginal claims or specific claims. We also -- the First Nations said, "Well, here we are. We aren't getting any results or resolving these things and development is going on on our lands, on our treaty lands, our Aboriginal lands. And shouldn't there be some mechanism that we should be involved in what's happening and we should benefit in some way what's happening?"
80. And so many of the First Nations began to take these courses to court. And we all know that when Pierre Elliott Trudeau was the prime minister, one of his big aims was to repatriate Canada's Constitution which, you know, up until 1982 Canada's Constitution had always been part of the British Parliament. Our Constitution was part of the *British North America Act* of 1867 and also the *Statute of Westminster* in 1931. That was our Constitution. But it all emanated from London. And so Prime Minister Trudeau wanted to bring the Constitution back to Canada and that it would be our own Constitution.
81. Now, when he started to do that, commence the process to do that, he didn't want no mention in the Constitution of any First Nations rights. He said, "Your rights are going to be contained in the *Indian Act* which is part of the *British North America Act* of 1867. Your rights will be contained in there. It won't be actually in the Constitution."
82. And the First Nations didn't like that. And so they instituted an action that was primarily from those First Nations in Alberta who started the action. But they started an action in the British House of Lords and got a ruling from there, from that judicial body, which is the highest court in England.
83. Lord Denning, who was one of the most famous jurists of his time, gave the decision and said that although Canada isn't legally obligated to include the First Nations in the Constitution, there is a strong moral justification to do so. And as a result, section 35(1) became part of the Constitution.
84. And the government thought, "Okay, well, you know, although -- we have to put it in there. We're going to -- we think we can limit its effect." And so that's why they put in there "*The existing Aboriginal and treaty rights...*", which at that point in time there wasn't much existing Aboriginal and treaty rights in existence.
85. It all had been latent and dormant for years because it all had been

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- taken away more or less. And they thought it would be a harmless provision. But it didn't turn out that way. And as a result of a multitude of court cases, the Courts began to expand on what Aboriginal treaty rights meant.
86. So you get a huge body of court cases. You know, I mentioned some of them already -- *Ireland, Guen'n, Delgamuukw*. Oh, there's just so many of them I can't think of them. But they all set new rights under section 35.
87. And of course, one of the rights that come from that is that there is a duty to consult and accommodate where appropriate for First Nations when anything is done in their Aboriginal lands or in their treaty lands. And so here we have a situation where a pipeline which is being refurbished is in our treaty lands, the Nanfan Treaty area.
88. Okay. The other thing that's recently developed -- I mean, we heard about it at the beginning of May. United Nations, who's always centered in New York -- of course we all know that, New York City -- has always been a strong advocate of Indigenous people's rights. And I'm just not talking about North America.
89. We're talking about other areas of the world that have been colonized by Europeans -- Australia, New Zealand, United States of America, Canada, all those countries in South America, they always come to mind, Mexico, Central America where there are still a lot of Indigenous people that have been more or less, like what happened in Canada and United States, dispossessed. And so they're trying to right that wrong worldwide.
90. And they had developed -- oh, gee, I can't say for sure how old it is but it's at least over 10 years old -- the United Nations Declaration on the Rights of Indigenous People. And when they first made that Declaration, of course the countries that refused to join and acknowledge it and saying they supported it was Canada, United States, Australia, and New Zealand.
91. And they didn't want to have anything to do with the Declaration because they knew it was going to -- if they did. it would harm them some way economically, I think is a fair way of saying it. And so they were opposed to it.
92. And the Conservative Government when they became power, Harper Government in 2006, they refused to adopt it. They did eventually adopt it in a limited way, and I think it was 2010, but they said they weren't -- it didn't really

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bind them in the sense that they had to follow it.

93. And so, you know, this is a relevant section there that really pertains to us, section 32.

94. But when the Minister of Indigenous Affairs Carolyn Bennett went before the U.N., United Nations, in May of this year, she said Canada was now fully prepared to follow and adopt the United Nations Declaration on the Rights of Indigenous People. So Canada now fully stands behind the Declaration and will implement it to its full extent.

95. So, you know, what we always say, part of that is the phrase “Prior, free, and informed consent” when any development occurs on First Nations treaty lands or Aboriginal lands. The consent of the First Nations must be obtained.

96. So this is a whole new ball game. We at Six Nations are definitely going to be standing by that. In fact, in 2009 we developed a policy called Six Nations Consultation and Accommodation Policy. The United Nations Declaration was a central part of our policy. That prior, free and informed consent is part of our policy, which guides our team at Six Nations and consultation team in its negotiations with various proponents, including proponents such as Enbridge.

97. So, you know, it has to be paid attention. It has to be recognized now. It has to be dealt with. So we’re very -- and, you know, when the federal government -- when she, when Minister Bennett went before the United Nations, she said that not only will it bind the federal government but it also binds the provinces as well. So it’s not just something that is going to be honoured by one party or the federal government. It binds the whole country.

98. So that’s new and exciting, and how it’s going to play out has yet to be seen in the future. But as I said, we’re going to rely on it as much as we can because it is part of our policy.

99. I mentioned this case *Delgamuukw* earlier, and that was decided about 1998, I think, 1997. And it’s just another way of saying that Aboriginal rights -- and we’re talking *Delgamuukw* as a case of Aboriginal rights, not treaty rights -- is a right that is a land right in some fashion. It’s not just a concept, a flowery concept that is nice to hear. It actually has an effect on lands.

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100. And it actually came to light in -- actually it was further enhanced and actually is a form of land ownership that came out in a Supreme Court of Canada decision in 2014 in the *Tsilhqot'in* case, which is a claim for Aboriginal title but Aboriginal title is more than just a nice flowery concept. It means that that First Nation who can prove that they have Aboriginal title to the land -- nothing can occur in terms of development of those lands without their consent, and because it is a kind of land ownership.
101. So very important. And it all started from this initial case, the *Delgamuukw* case back in 1997. And as I said, the courts have been our greatest ally in enunciating these sections of the Constitution and enhancing just exactly what they mean.
102. Okay. As I said, I mentioned the Six Nations Consultation Accommodation Policy in that it applies to us, and we tell everybody that we meet with that it also applies to them. And it applies both to what I also referred to as the Haldimand Tract, and also the Nanfan Treaty area. And that is contained in our policy. There's the email or web address of where you can obtain a copy of the policy.
103. And this sets out the steps that we use in our consultation process. It goes all the way from step 1 to step -- what's the last one, 13? Thirteen (13), yeah. And we follow that. We try to follow it as close as we -- as much as we can. Of course, a lot of things are different.
104. But we have a process. What is important about our process is whenever we do reach an agreement with a proponent, a developer, we have a process that we have to take it to the community for consultation. And we do that in almost every case, in which we present it to the community and say, "Here's what the agreement is and here's how we're going to benefit. And if you agree, then agree to it. If you don't, then tell us why you don't agree with it."
105. And so we've been using that policy, that consultation, the community engagement process since 2009. And for the most part it's worked pretty good.
106. So I think that brings me to the end of my presentation to you.
107. Can you go to the next one? And I think the next area will be covered by Paul.

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**--- ORAL PRESENTATION BY/ REPRÉSENTATION ORALE PAR MR. PAUL
GENERAL, SIX NATIONS OF THE GRAND RIVER:**

108. **MR. GENERAL:** All right, thanks.
109. So as you can hear from Lonny's presentation there, we've had a lot of stuff happen over many years, centuries in fact. So we have always been concerned with what happens to settlement of our lands and occupation of our lands.
110. And, you know, we do have treaty territories that we recognize. We do have treaty lands that we recognize. I was doing a presentation yesterday. So you know, we have treaty territories and stuff. But I guarantee you I can't go hunting deer in downtown Toronto, right?
111. One, there's no deer there and two, about six officers will jump on me in about five minutes if I'm standing there with a rifle. So you know, our treaty rights, even though we have them, are limited, severely limited in Southern Ontario.
112. Not only that, but, you know, we have cumulative impacts that we have had concern about for many, many years about all of the settlement activities in this area. Not just what's on the list here, but, you know, there's others. We could, you know, spend a whole day talking about potential cumulative impacts of all sorts of activities.
113. You know, we're sitting right in the middle of Hamilton right now and if you ever look at an archaeological map of Hamilton, where all the sites are, you wouldn't -- you would be amazed at the number of sites that were right here, where we are right now, that have been disturbed and moved or just covered over.
114. So you know, we occupied this land; we used this land, as Lonny said, for centuries. And you know, for the last couple hundred years our abilities to carry on our activities culturally have been severely diminished over the years.
115. You know, this is just a small list of all the stuff that, you know, we talk about. Elimination of indigenous species -- you know, we're talking about, you know, species-at-risk and as such. And there's provincial legislation and federal legislation on species-at-risk and every day there are species that are becoming at risk. And you know, all of these species have a place in our

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- community.
116. What we didn't put up here -- it takes a long time to explain, but whenever we start an event like this we have what we call a "Gano:nyok" -- in rough translation it means "words that come before all else" or other people call it a "Thanksgiving address" -- where we list all the things that we are thankful for, that we are provided for, and that help us carry on our activities every day -- you know, birds, trees, grass, air, sun, all the things. It's a long list.
117. And to do it properly, you know, we would do it in the language, et cetera, so we chose not to put it up here for you today. But we do actually recognize that and we have always done that and we still do that. And if I hold an event even today and I don't do a Gano:nyok before, then people in the crowd will get upset that we didn't do it. So it's still very important just like the treaties are very important for us today.
118. So elimination of indigenous species, you know, that's one thing. You know, whether it's a reptile or a bird or a flower -- you know, the problem with flowers is -- and some of the plants -- is one of these times in the future there, you know, somebody is going to plough under the last plant that might cure cancer. We don't know that, right? That's one of the things that you can't look into the future and tell what things are happening.
119. There are people doing all sorts of research down in South American, you know, at this time looking for all these plants that Indigenous people down there have been using for medicines for, you know, centuries. And they're trying to see, you know, what works and what doesn't work on them.
120. So you know, we're facing the same thing here. We have medicine plants today and our people have -- we have medicine people that go out and harvest plants. And you know, one of the things they will tell you -- we were just talking this over lunch, the fact that, you know, we're in the area now that we're so highly impacted by all of the development and all of these activities, they have to go farther and farther afield to find these things. You know, they're not available locally anymore as they once were.
121. So you know, it's something that, you know, we have a concern about for sure. And we really don't want to, you know, lose them.
122. Another one, alteration to watercourses. We live on the Grand River;

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- that's where our community is. It's probably one of the most highly impacted rivers in Southern Ontario. There's some 145 manmade structures or dams on that river. Five of them are necessary; they're flood control. All the rest of them have been put there over the years to power mills and that sort of thing, which are no longer necessary; we have hydropower now.
123. So the dams are no longer needed. The problem with the dams is, you know, they allow the water to accumulate, pool up; it gets hot. On a day like today the water gets very hot. It changes temperature, spills over the spillways, enters the creek that are accepting the spillways, and it changes the whole fishery community because it changes the water temperature.
124. So you know, that's an issue. And people don't realize when you tell them there's well over 100 dams on our river. They've familiar with a few well-known ones. Like, there's one a Caledonia; there's one down at Dunnville; there's one in Brantford; a couple of big ones further up north in the Fergus area. But they don't realize there's all these small ones that have been placed there, you know, like a century and a half ago. They're still there.
125. And so again, an area -- the fishery itself has been highly impacted by these dams but also the water quality has been highly impacted by all these dams as well. And allowing it warm up again breeds different sorts of fish. But it also breeds different sorts of algae and that sort of thing.
126. So it's a concern. And one of the things they've been, you know, working on for many, many years is to try to encourage people to remove those dams. I know we can't get them all out of there at the same time, but you know, one at the time. They're not big dams; they're small dams. It would be a benefit to the environment overall.
127. Lots of habitat goes along with that. You know, we have the fishery habitat but also, as Lonny mentioned, the treaties and the Nanfan and the beaver hunting ground -- all that has been severely altered, you know, 150 years ago. I like to tell people that at one time you could walk from Lake Erie to Lake Huron and never leave the bush. It's all farmland now.
128. And so again, that affects our hunting rights. You know, we're users of the resources. We harvested beaver and deer and then all sorts of other animals that were here. You cannot now, one, because their habitat has been severely curtailed. And another issue that our hunters get in trouble with in the field of

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- hunting is trespass, private property issues. So you know, they try to exercise their cultural rights as they're supposed to under the Supreme Court, but people don't appreciate sometimes somebody on their property. So again they run into a conflict in the field.
129. So I don't know what the answer to that one is, but it's one more area where, you know, our territory and our rights have been impacted, you know, for many, many years there. And it's something that our hunters are aware of. And again, we have to go further and further afoot.
130. When there was a lot of forested area here, we didn't have to, you know, go very far to find animals; they were right around, just right in our back door, quite literally. Now you have to travel, you know, quite a distance. So again, the Nanfan Treaty allows us to travel much of Southern Ontario and a lot of our hunters will take that opportunity to travel all that way not because they want to, because they have to.
131. So it's something that again had been altered for a long time and it still comes up regularly. I'm the guy that deals with the complaints from our hunters when they go out in a field and then they get confronted by somebody about trespassing. It's been an ongoing thing for all the years I've been involved and still is. So it's certainly a point of concern for sure.
132. Now, that's for hunting purposes, you know? Let alone the fact the forest is gone. Six Nations itself -- if you look on an aerial photograph, Six Nations is very evident; you can see it's a very distinctive green patch on the landscape. We still have 50 percent forest cover, the surrounding area, Brant County, Haldimand, 11 or 12 percent max. Down towards Windsor we're now talking about 3 percent forest cover.
133. So you know, again we've retained our little patch of land as best we could. We'd like to grow it. But it just gives you an example of, you know, you need that habitat; otherwise, you lose a caring capacity and the animals move away. Or you get an accumulation of animals that are doing a lot of destruction to the areas.
134. You know, some of these provincial parks have well overpopulated deer populations there and they're doing all sorts of damage to the flora and fauna there. So you know, again, that's -- the balance of nature has been severely affected there.

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135. So it's something that we're concerned about. And you know, loss of habitat is one.
136. And cumulative effects on all this -- so you know, you have elimination of exotic species or indigenous species. You build a road; you know, you plough under the plants. You build a subdivision; you plough under the plants. You know, you build a pipeline; you plough under the plants. You know, all sorts of things have a cumulative effect on the entire environment.
137. It's the same with watercourses. I mentioned, you know, one dam, yeah, is probably not going to hurt the environment all that much. But an accumulation of 145 of them definitely will.
138. So there are cumulative effects on all of these things that we've always been concerned about. You know, I've seen council minutes over the years where, you know, council has shown concern over these things and sent away letters and things. But quite often nothing happens.
139. Urban sprawl -- you know, there's even provincial legislation to try to curb the urban sprawl that's happening today. But again, the problem with that is it keeps moving outwards and moving outwards. And again, it's eating up the agricultural industry. I'd like to say it eats up the agricultural opportunities there, the fields that were once agricultural lands. We're saying it's eating up the environmental opportunities for hunting, fishing, plants, harvest, that sort of thing. So it's just something that must be looked at.
140. And as things grow, I mean, you know, that's just unfortunately, you know, everything gets covered over in concrete and storm sewers and such. So what happens is, you know, you have these big floods like were just happening down south there, you know. West Virginia just the other day that had a major flood down there, right. Places that don't normally flood in a year. And that's probably a lot to do with, you know, urbanization and, you know, lack of design probably too but it's something that's a concern.
141. When I was a kid, it was a big drive to go from where I lived to Toronto. It was a long trek. And much of that was through countryside, right. But then it's all now urban, right, so the greater Golden Horseshoe -- or what's Toronto known as? The GTA, Greater Toronto area, right. So it's all kind of melding together.

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142. And what you're doing again is you're using up opportunities for hunting and fishing. And again, still falling within the 1701.
143. So I mentioned already restrictions of hunting and fishing. We talked about that already but it is something. And that's where we see the effects of all this. That's where we see the accumulative effects of all of the activities that have happened over the last many years. And, you know, they're continuing to happen so, you know, you see the lack of deer, you see the lack of animals, you see the lack of plants to harvest.
144. You talk to people that are out there doing it and they tell you that, you know, "I've got to drive a long way to get to where I normally would have, you know, had my plants. And I can't find them anymore because, you know, they don't grow there anymore."
145. So it's something that you hear about fairly regularly. And a lot of people don't realize that we still carry on those activities. We still have people that collect plants for medicines.
146. Industrial development is something that people have known about for forever and it just kind of goes with the growth of the country; it's an increase in industry. But, you know, what happens is lands get put under ownership for a major industry, you know, 4, 5, 600 acres for a big plant like, you know, a gas plant or a railway station or something like that.
147. And the first thing that happens is they go into no trespassing because obviously it's for liability purposes because they don't want people on their land. But again, they've taken away an opportunity for us at Six Nations to use those lands as we would have for many years.
148. So again the accumulation of that is obvious. We're losing hunting opportunities and gathering opportunities on a daily basis almost. Land sales -- as Lonny mentioned, a lot of the land which was transferred or was lost early on, you know, a lot of that was taken inappropriately. So, you know, how do you get that back? How do you reinstate somebody's hunting rights when you can't hunt there any longer?
149. You know, again you go back to this private property thing. How do you replace that? You know, how do you compensate for that to somebody who

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- can't hunt there any longer?
150. And as somebody who has been dealing with the hunting community for well over 20 years, you know, I've again heard that time and time again that, you know, "Well, I used to go here to hunt and I can't hunt there any longer because, you know, one, the land has changed hands and now it's no trespassing. We used to be good friends with the guy that owned that land and he used to let us hunt there all the time. Now we can't go there any longer." So it's, you know, literally I hear this every season.
151. So the land sales is something else that, you know -- as I was just saying, as lands change hands people's attitudes change hands towards, you know, trespassing and then the access to land and that sort of stuff. And so it's something that needs to be looked at as well. And again, the accumulative effect is, you know, all of this land has been sold. You know, how do you get back the land rights to that when it's been sold?
152. Landfills, you don't have to say too much about landfills. Nobody wants one around their backyard there. But unfortunately, until we all stop making garbage there, we're going to have to deal with landfills someplace. But again, the problem is we create garbage to begin with. What we like to promote here from a cumulative effect is looking for better systems to handle the garbage as opposed to just burying it.
153. Agricultural practices, you know, I kind of get on this every once in a while. It sounds like I'm down on farmers and I'm not. Six Nations was a farming community before there was any settlement here. We've been farmers for 1,500 years. So it's not that I'm down on farmers or anything but some of the agricultural practices could be called into question.
154. And I was just talking to a professor from Trent University just this last week who was doing a study on some chemicals that are used in agricultural practice in farming. He was looking to see if he could find any trace amounts in the Grand River and he's finding them. So you know, they're there and that's because they've been put on the fields to help crops grow. You know, we all know about, you know, products like atrazine and things like that.
155. So there's been practices going on for many years. You know, the issue is in the southern portion of Lake Erie right now is these large, large algae blooms that they have. And part of the major cause for those are fertilizer put in

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- the fields, you know, down in the States and up in Canada and Ontario as well. They still use obviously fertilizer when they're farming. And that, again, all leeches into the water. It changes the water quality.
156. Actually, you know, there was a real concern for some of the plants, the water treatment plants in the southern part of Lake Erie there that they couldn't use the water that was coming in there because of the algae blooms that were there.
157. I know even Hamilton has some issues every once in a while when it gets really hot and the water gets really warmed up. It encourages algae growth and, again, you can actually taste it in the water. I live up in Caledonia and we get our water from Hamilton there, and on a really warm day you can actually taste the difference in the quality of the water because of the algae that's in it.
158. So again, you know, not to be down on agriculture. I know we all have to eat and everything else there. But again, we would encourage better practices there. But again, the accumulative effect of all this stuff over the many years is what's causing our problems today.
159. We also have disturbances to archaeological sites. I mentioned that before. And, you know, pipelines, transportation corridors, all of these things, you know, hydro corridors they all have easements. They all have areas where they have to maintain for access for repairs and that sort of thing. All these, you know, pipelines -- and not to pick on pipelines in particular -- they do digs to make sure their pipes aren't leaking and that sort of thing. You know, all of that stuff, that all has an accumulative effect.
160. And not only that but, you know, how many pipelines are underground right now, right? And, you know, all you've got to do is look at the hydro corridors going across the country to see. And again, all those have been manicured so that they can be maintained.
161. There was just an incident not two, three years ago just outside Caledonia where Hydro wanted to groom its hydro corridor. The trees were getting too big. And the fear was the trees would touch the lines and then the power would jump from the line into the tree down into the ground, and somebody who was walking close by might potentially become electrocuted. So they keep those cut down fairly low to the ground.

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162. And then some of our guys from Six Nations who hunted in that area were really upset that they were cutting all those trees down. So again, you know, we don't have a good way to handle some of these issues. And what happens a lot of times is you get a protest at the site as well.
163. So it's -- we have concerns. And our guys still have concerns; our community still has concerns about all this stuff going on. And it's not just one thing. It's not just a pipe. It's not just, you know, a corridor. It's not just a highway. It's the accumulation of the impacts of all of this stuff on the environment that we're seeing more and more and more of now.
164. And everybody sees it. I mean, that's where the species at risk stuff I started off with comes from. You know, people see that now. You see these species going extinct every day. And that's part of the problem is the overall impact of all of these activities.
165. And you know, gravel taking is another one. You have aggregate companies taking, you know, tons and tons and tons of gravel out of the system. They're doing it under permits and that sort of thing but, you know, my comment has always been who issues the permits and who says the numbers that they say are good? Are they right and appropriate numbers in the first place, you know?
166. So I think, you know, we need to do a little bit more serious talking about a lot of this stuff because we're not helping our environment in the least here by doing all this stuff. You know, there was -- Ontario wanted to go green, right, so now they've put up all these wind towers all over Southern Ontario. You know, a few wind towers probably was a good idea, you know, but now there's hundreds of them up along the north shore of Lake Erie.
167. Well, the north shore of Lake Erie, if anybody who's a birder knows that that's a major migratory route for raptors and eagles and all sorts of other songbirds, though, you know? What's the impact that those towers are going to have on those birds? We try to track some of that stuff and I know there's been some birds of prey that have been knocked down and killed by some of these towers over the years.
168. So again, green power is a good thing; yeah, we would support that. But you know, let's look at what we're doing to the overall environment before we -- you know, all of a sudden everybody's in there and there was a lot of money in the province to develop all that stuff and a lot of people made a lot of money at

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- it. But what did we throw down the toilet in the process of building up all the wind power to go green?
169. So it's a lot of stuff to consider for sure. And you know, again not picking on pipelines or anything, but you know, you look a little further and I don't think anybody can tell you what a deer actually hears, right? You know, you've got the pipeline that's there; it's got material running through it; it's buried under the ground so you can't see it. And maybe the environment has started to reach in a little bit. But you know, can the deer hear that pulsing of the oil going through the pipeline? Does that chase them away? You know, I don't know. I don't think anybody knows, right?
170. So those are things that -- you know, those are going to affect our rights. And that was one of the concerns of some of our folks when all these wind towers went up, was that the constant swish, swish, swish of those towers was potentially going to drive the deer away because the deer, you know, hear a lot better than us, obviously. So they were concerned.
171. And I don't think anybody has yet to study it to see whether there was an impact on all those towers over animals, wildlife in general. I know they've done studies on mortality as part of their project follow-ups; they have to do studies on mortality. That is the number of whatever they're looking at that are killed every year.
172. But you know, our question when we're talking to some of these guys is, you know, "So what? If you find out that one of your towers is doing a particularly bad job of killing a lot of animals here, what are you going to do?" And you know, there was really no answer other than, "Well, we'll alter our operations to try to adjust to this."
173. You know, I was kind of hoping they would say, "Well, we'll pull that tower down." I knew they weren't going to say that.
174. So there's lots of things to consider. And you know, from a Six Nations standpoint, from a traditional standpoint, that's one of the things we look at, we look at seriously. You know, as I started off to say, you know, we do give thanks for the plants; we do give thanks for the medicines; and we do have people that still use them.
175. You know, a lot of communities -- you know, what's the first thing

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- you do in the springtime when the grass comes up, right? You fertilize and you put on weed killer, right? You don't want any of that plantain, those big, broad-leaved plants growing up in your grass, right? Well, plantain is a medicine. We use that.
176. And again, attitudes have got to change a little bit for sure. It's something that we're always trying to promote and we're always trying to talk to folks in our consultation process. That's part of what this is, is to get some initial ideas on what the project is and we look at the potential impacts. And if we have to send it out for a peer-review to a professional, we can do that as well. You know, that's part of what we like to do as well. That all takes time and sometimes we don't have the time to do it.
177. And the other is, you know, traditional impact studies and things like this. And that takes a lot of time to collect. You know, you've got to know when people are hunting. You've got to know where they're hunting and when they're hunting to do a proper study. You know, if I was going to do a proper deer study on impacts of those windmills, I would have to go to all the people that hunted deer in a particular area and ask them if they've noticed any differences, right, before the towers went up to after the towers went up. And then you record all that sort of stuff. But you know, that all takes time and sometimes these projects don't allow that time. It costs money as well. You know, it takes a while to do.
178. And then, you know, it gets back into the actual consultation process all over again. You know, how are we going to consult or, if necessary, how do you accommodate? And again, how do you accommodate for somebody's loss of rights? You know, how do you accommodate for somebody's loss of ability to enter a spot to hunt?
179. Another example. There used to be a strong run of sturgeon in the Grand River a century ago. So many sturgeon in the Grand River that when they put the first dam up in Dunnville the sturgeon piled up there. And the records state, and I'm not sure whether this is exaggerated or not, that you could walk across the back of the sturgeon from one side of the river to the other. They were piled up in the river so far, so deep, and so thick and they couldn't get past the dam. And people were coming down and gaffing them and hauling them away literally by the trailer-load and taking them away.
180. So that dam in Dunnville stopped the sturgeon run in the Grand River. And that was, you know, 100-and-some-odd years ago now. And then, you know,

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- the sturgeon were a species of concern. I think they're delisted now, but they were a species of concern for a lot of years. And one of the reasons was, you know, they lost their breeding area in the Grand. They used to go up as far as Cambridge.
181. And they would have been an important fishery to us as well. You know, we built our villages along the Grand River and along other major waterways for a couple of reasons. One was obviously a need for fresh water; the other was a need for transportation; and you know, the other was an access to fishery. So we had good reason to build. You know, we didn't build in land a long way. We built right along the shores of a lot of these streams here and that's the reason why.
182. And again, people started seeing differences fairly quickly after, you know, again, some of these structures went up.
183. And they were in there for -- the only purpose was to create mills and to create power for grist mills or, you know, other factories and that sort of stuff. And again, a lot of those dams are still in place. So you know, I'd like to at some point in time think that we're going to remove some of those and then hopefully, you know, re-establish sturgeon back in the river.
184. But it's another example of, you know, where over an accumulation of time and accumulation of impacts and things, you know, again, unfortunately we don't have sturgeon in the river any longer. You used to hear stories about them all the time, you know, from people that said they caught them and that sort of thing. But I don't know whether in fact they were sure they were there or not. But it's a neat fish. I could go on for a couple of hours on sturgeon so I'll leave it at that.
185. So I think that's all I wanted to tell you about, some of my concern about the accumulation of some of these impacts that we've seen over the years there. And again, you've got to look at the, you know, picture holistically. You look at all the roads; you've got to look at all the highways, all the agriculture. Everything that has been done in the name of progress here has impacted our ability to use the lands as we would have used them traditionally.
186. And you know, that goes right back to what the Supreme Court says that we should be able to do. And it's something that, you know, hopefully at some point in time we'll be able to rectify.

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187. I think that's all I want to tell you from my standpoint. Thank you.
188. **THE CHAIRMAN:** Thank you very much, gentlemen. We appreciate your presentation.
189. Now we have some time for questions for clarification.
190. Enbridge, do you have any questions for the ---
191. **MR. PURVIS:** Thank you, Mr. Chair.
192. And thank you, Mr. Bomberry and Mr. General, for your presentation.
193. We don't have any questions.
194. **THE CHAIRMAN:** Are there any other participants to this Application that want to ask some questions for clarification? If you do, we have a wireless mic that you can ask questions. Matt has it at the back. None?
195. Matt, this gentleman here.
196. **MR. HARRIS:** My name is Jim Harris. I'm the owner of Knollwood Golf Course. And I just wanted to ask the gentlemen here if they feel in their dealings with Enbridge in the past whether or not Enbridge has been straightforward with them?
197. **MR. BOMBERRY:** I'll just comment on that. We haven't -- we don't have a long history with involvement with Enbridge. I think our first contact with them was in about 2010. We had been talking to them about Line 9, Line 9 reversal, which we never came to any agreement on. And they were gracious enough to take us to look at an integrity dig.
198. But it's fair to say that, you know, what we're about is what's contained in our policy consultation and accommodation. We're heavy on the accommodation for obvious reasons, and that we haven't had any success yet with Enbridge but we're hopeful. So we're hopeful that there will be openness and laying of the cards on the table so that, you know, agreements can be reached.
199. So my comment to you, Jim, is we just don't have a history yet to

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- verify anything.
200. **MR. HARRIS:** May I ask another question?
201. When you first dealt with them in 2010, did they by any chance come in and make a request with respect to clear cutting, doing some clear cutting where their easement was through your property?
202. And second part of that question, did they bring in or did they use the National Energy Board in any way with respect to why they wanted to clear cut their easement?
203. **MR. BOMBERRY:** I can't recall if we ever discussed the issue of clear cutting. My own recollection -- I don't know, maybe Paul has something to comment on that -- but I don't think that it was ever an issue with us at that point.
204. I think it's fair to say it was just more a process of getting to know them, getting to know each other. Because we knew that we're going to have to deal with them in the future because their lines, practically all the lines that we're talking about -- Line 9, Line 10, Line 7, Line 8 -- they're all within our treaty areas. So we're going to have to talk and we're going to have to come to some agreement.
205. This is the only time that we've taken an issue to get involved with the National Energy Board process. With respect to Line 9 I suppose the opportunity was there, but our counsel was not prepared to take a step beyond that because they were more in line with the opposition to pipelines in general, just as all the other First Nations were and I think still are.
206. So you know, we Six Nations is part of a group, an organization called the Iroquois Caucus, which consists of not only us but also Oneida, Tyendinaga, Akwesasne, Kahnawà;ke, and Kahnésatá;ke. So all those Iroquois Nations generally speaking are opposed to pipelines and so they've never wanted in the past to become too involved with discussion on expansion or refurbishment of pipelines because generally they were opposed, and didn't see the need to participate in any National Energy Board proceedings.
207. I just wanted to just clarify something. I mentioned 2010 but when I -- Joanne has just corrected me on that, that we sent the letter to them in 2010 to come to the table because we wanted to talk about line -- I don't know --

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- specifically Line 9 I think it was at the time. And we didn't get a reply to that letter until two years later, 2011. So it took some time even for Enbridge to come and sit down and talk to us.
208. **MR. HARRIS:** May I ask another question?
209. **THE CHAIRMAN:** It all depends, Mr. Harris. This line of questioning is more suited for the oral portion of the hearing in the fall. This is more for clarification of their presentation today.
210. **MR. HARRIS:** Okay.
211. **THE CHAIRMAN:** Is there anyone else?
212. **MS. MILLS:** I have a clarifying question for Lonny and Paul.
213. **THE CHAIRMAN:** Are you a registered participant in the hearing?
214. **MS. MILLS:** I am not but I am a community member but I [off mic] had the understanding that accommodations might be made.
215. **THE CHAIRMAN:** So is it a question of clarification of the presentation?
216. **MS. MILLS:** It is. It's two questions of clarification.
217. **THE CHAIRMAN:** When you say "of the community", which community? This ---
218. **MS. MILLS:** Hamilton.
219. **THE CHAIRMAN:** Oh, okay.
220. **MS. MILLS:** Which is impacted by Line 10. And I've also worked with Six Nations in the past. So I would like to ask a question. It's reasonable.
221. **THE CHAIRMAN:** Mr. Purvis?
222. **MR. PURVIS:** My understanding was the procedural directive was related to questions of participants only.

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223. **THE CHAIRMAN:** I'm sorry, it's just questions are for participants only.
224. **MS. MILLS:** I mean, I don't need a microphone.
225. **THE CHAIRMAN:** Yeah, in order to have it on the transcript, it has to be in a microphone. And so the whole idea of the community meeting was for the participants that had registered to be participating in the Application would have an opportunity to speak. But since you're not a registered participant, we're not in a position, unless you want to talk to Mr. Groza about can you be a participant. But at this point I think it would be very difficult to do.
226. We're inclined to ---
227. **MS. MILLS:** Like, you're making a mountain. This will be a mole.
228. **THE CHAIRMAN:** We'll let you ask your question if it's relevant to the presentation, Mr. Purvis. And if it's not, we're going to ask if the participants would not answer the question.
229. And before you ask the question, could you identify yourself for the record, please?
230. **MS. MILLS:** That's fine; Patricia Mills. My name is Patricia Mills.
231. And my question today is for Lonny and Paul. And I just wanted to ask them since you folks were talking about traditional territories and previous Indigenous settlements sites across the area including, like, Westover and Hamilton, I wanted to ask if you were aware that in 2013. Mississauga New Credit asked both Enbridge and the NEB to stop work after an archaeological assessment conducted by them provided proof and evidence of 17th century Indigenous villages and burial sites including ossuaries and they refused to stop work?
232. **THE CHAIRMAN:** I'm sorry but that is not relevant to this Application and it's not relevant to the presentation that was made. And gentlemen, please, do not answer that question.
233. The Panel does have some questions for you. I'll start with you, Mr.

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Kelly.

234. **MEMBER KELLY:** Thank you.

235. And thank you to the members of the Six Nations group that have shared their stories with us today. It's been very informative and I want to thank you for your submission.

236. I could ask many questions but I'll limit myself today. Mr. Bomberry, you spoke about some of the history, which is very helpful. I'm interested if you could say a little bit more, just to clarify, in terms of some of the historical migrations, which you explained originating in the U.S., in terms of some of your Aboriginal groups.

237. And if you could just talk a little bit more about the population trends that you know of -- and I appreciate this might be a difficult question -- Canada versus the U.S. and over the centuries in terms of how the population has changed from the U.S. to the Canadian side as we know it today.

238. **MR. BOMBERRY:** Yeah. That is a long, I guess, history, somewhat of a sad history, I guess, when you look at the populations for First Nations.

239. When we originally came over after 1784, I think -- well, I don't think; I know that approximately 3,500 Six Nations people came to the Grand River area. Now our population is approximately -- now, this is the population statistics that are kept by Indian Affairs and now they call Indigenous Affairs. It's approximately 30,000 people that they have recorded as belonging to the Six Nations.

240. There are still Six Nations who reside in the United States. We know that because probably the most thing that strikes out is, you know, the Seneca Casino in Niagara Falls. So the Senecas for the most part, at the beginning and at the end of the American Revolution, were the most populous tribe of the Six Nations. And although there are a lot of Senecas at Six Nations, there are still -- I think it's fair to say that most of them remained in New York State.

241. And there is still a Tuscarora reservation in New York State. I don't know approximately what their population is. And there's also a Mohawk portion up around Cornwall that is in the United States. And there's also another Oneida population near Green Bay, Wisconsin. I don't know what the populations are

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- there.
242. There are a few Six Nations tribes in Oklahoma, Seneca and Cayuga, which were forced to go down there in the 1830s when President Andrew Jackson was president of the United States. And I know when he came into power -- I've read about that -- he said, "I'm going to be the president that's going to deal fairly with the Indians." What he proceeded to do was to force them, all the Indians east of the Mississippi River, force them to relocate to Oklahoma. And you know, we all know about that through probably the most famous case, was the Cherokees of Georgia who were forced to relocate to Oklahoma in 1837 to 1838 at gunpoint. And a quarter of their population died on a march from Georgia to Oklahoma.
243. So they have -- the Cherokees, there's still a little portion of them that remained in the Carolinas. There is still a Cherokee reservation up in the hills. But for the most part they all located to Oklahoma.
244. And the Cherokees are another Iroquoian tribe. Their language is very similar to one of the Five Nations. I've heard them speak and I could swear that they're speaking Cayuga or Seneca. That's how closely their languages are to ours.
245. But they managed to increase their population substantially. And I understand down in Oklahoma now that they're about a quarter of a million people. They're second in total population to the Navahos who are almost about a million people.
246. I don't know exactly what we here -- the total Six Nations population is. I only know about what ours is at the Grand River. But I would just estimate, guess, that our total population of the Iroquoian peoples -- when I spoke about those other First Nations it would total at least 150,000 all together, at least that.
247. But our populations in Canada have not seemed to have grown as much as it has in the United States. I don't know. I think it had a lot to do with the government policy, the lack of the resources to look after the First Nations people. And you know, we all know what has come out in the Truth and Reconciliation Commission about how children were taken away from their families and put into residential schools and the effect that this had on those people that grew up under such a system.
248. You know, we have at Six Nations -- we had a residential school there

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in Brantford, the Mohawk Institute, what we call “the mush hole”, where a lot of our people went. And I say this -- well, why -- “Gee, well, you think Six Nations -- you guys got all this land from the British. If we assume that you sold it all and you had a lot of money, then why would your children have to go into residential school?” And the answer is simple: because, as I said, the government stole all our lands and used all our money so that by the 1860s when the Mohawk Institute was built, a lot of people couldn’t care for their children. And a lot of times the parents put their children in that school because they thought it would be better for them. And not only did it service -- the school was built for Six Nations, but it also included children from other parts of Canada who came there.

249. So the populations have always suffered and haven’t grown because just to the lack of care and dispossession of land and dispossession of resources, which has held back the growth. I can’t say anything more than that, I think, on that subject.
250. **MEMBER KELLY:** Thank you very much.
251. Mr. General, again, I could ask many questions but I’ll limit myself to just one.
252. You referred to some of the species that had been prized in terms of the area that we’re in now, and Mr. Bomberry also referred to some of the species. You mentioned, you know, particularly in terms of some of the plants, and I’m just curious about what -- if you could give us a couple of examples of the types of plants. I mean, you mentioned what we think of as a weed which happens to have some medicinal properties. But I’m curious about what other examples you might be able to share with us.
253. And thank you very much for your remarks, by the way.
254. **MR. GENERAL:** Thank you for the question. You’re welcome.
255. Yeah, plantain was the one I mentioned before but, you know, we’re known for using tobacco. That’s not only as spiritual medicine but as a medicine. Strawberries we consider a medicine. A lot of species that non-Native society would look upon as weeds. I would venture to guess a large portion of those were also -- we would have used those as medicines at one time or another. Something like a burdock or -- I mentioned strawberries.

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256. There's a plant that grows alongside poison ivy. It's called a jewelweed. That's a medicine as well. And some of this is known, you know, in folk medicine. You get a book on folk medicine and you see a lot of these plants that were used at one time for medicines. And of course the people that wrote those folk medicines, the settlers, learned those from us, right?
257. So again, many, many plants out there that we will use. And I'm not trying to skirt the question by saying "many, many." There is literally so many that, you know, I can sit and -- like, there's whole courses on medicine plants that you can take and, you know, lots and lots of them.
258. And some of them are not, you know -- a lot of people think, well, you know, strawberries, how is that? Well, we use it maybe in a mixture of something else. You would make a tea, right, and so you'd use several plants. So sometimes it's not just one. It's the method of blending three or four different plants together and making a tea out of it and that would turn into the medicine that you would take or offer to somebody.
259. So there's, yeah, lots and lots. Raspberry cane is another one that again would be used at some point in time.
260. **MEMBER KELLY:** Thank you. Very interesting.
261. **THE CHAIRMAN:** Dr. Lytle?
262. **MEMBER LYTLE:** Yeah, I do have a couple of questions.
263. And first, thank you very much both of you for a very erudite, I think, and very interesting discussion of particularly the history of your people. I consider myself a bit of an amateur historian so I'm sure that I could sit for hours listening to what you have to impart.
264. I do have a question because it's an area that I have studied a little bit about. It's the pre-revolutionary American settlement particularly west of the Alleghenies, and there was the so-called Indian-French wars. Do you know if your people fought alongside the British? And the reason I'm interested is because that, of course, was the formative period of development of George Washington.
265. And I haven't read too much about sort of Six Nations people fighting

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- there but it sounds like I may have not gotten at the full story.
266. **MR. BOMBERRY:** Yes, there actually -- you know, although the Six Nations, Five Nations, Six Nations were actually a confederation of nations they actually didn't really control in a lot of instances the actions of one nation. So when I mentioned the Five Nations I mentioned the Mohawks were the keepers of the eastern door, so they were in the Mohawk Valley and eastern part of New York State.
267. And the keepers of the western door were the Senecas. They were the most western of the tribes and New York State and Pennsylvania. So they, the Senecas -- and they were the most populous tribe at the outbreak of the American Revolution. They for the most part had a lot of activities with the tribes from the Ohio Valley.
268. And so when those wars occurred involving the French and the British in that part of the country, a lot of times Senecas fought with the French. So it was at the outbreak of the American Revolution it was a tough task for Joseph Brant to persuade the Senecas to join with the British in American Revolution.
269. But he was able to influence their chiefs to come on board, and principally Cornplanter and Red Jacket, and they were able to -- once he got those two chiefs on board, then the Senecas joined in the war against the Americans.
270. But yes, the Senecas had always been more involved with what was happening west of them and a lot of times they ended up fighting against the British.
271. **MEMBER LYTLE:** Mr. General, you talked about -- actually, I've forgotten which of you were talking about the community. I guess it was you, Mr. Bomberry, when you were talking about the 13 elements of getting an agreement or the consultation. Sorry?
272. **UNKNOWN SPEAKER:** [off mic]
273. **MEMBER LYTLE:** You talked about taking it obviously to the community. I have a fair amount of experience in South America doing similar kinds of things. I'm just -- did you have an established quorum for getting community agreements or it's whoever shows up votes and you accept the vote? Because it's been very problematic in some other jurisdictions; I'm wondering

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- how you handle it.
274. **MR. BOMBERRY:** Yeah, we have. We do community engagement. We do do information sessions which we set up in a community hall. You know, boards that people can tour and ask questions from the boards from the displays on the boards.
275. Sometimes we had the proponents there whose agreements we have, and they're there to help us in explaining what the development is all about.
276. But we also have a website called "Six Nations Futures" where people can go and learn about the project and indicate on there whether they're in favour or opposed to it. Plus we mail out the information to everybody through the post offices that service the Six Nations community. And cards where they get information on the projects, and they also can fill in those cards and send them back to us.
277. So we try as much as we can to reach everybody so that we can find out what their feeling is on any particular project. So we principally developed that protocol; you remember when the Ontario Government came out with the *Green Energy Act*? One of the things that they included in there was a consultation list of First Nations that must be consulted for whatever green energy project was happening in a particular area.
278. And Six Nations was on that list for a lot of projects in our area of Southern Ontario. So we were -- those proponents came and consulted with us, and we made deals with them. And those agreements we took to engagement.
279. Probably the most famous one was the Samsung agreements along Lake Ontario in South Cayuga, the 150 wind megawatt project and the 100 megawatt solar project in which we were 10 percent equity partners in both of those projects. So it boded well for us those two agreements.
280. In addition, we are involved in other wind and solar projects as well, some instances where we're equity partners, but for the most part where we receive royalties from the income that was produced from those projects.
281. But we pretty much have developed trying to be as inclusive as we can in engaging our community.

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282. **MEMBER LYTLE:** So is it based on a plurality of -- I'm not sure ---

283. **MR. BOMBERRY:** Yeah, it is. It isn't how many vote "yes" or how many vote "no". It's a lot of times -- you know, we have a hard time -- because of our history we have somewhat of a divided community.

284. You know, we have people who support the traditional government, which is the Haudenosaunee Confederacy Chiefs Council, which is 50 chiefs in which voting is discouraged. And those chiefs are appointed by a clan system. And we have the elected system, which became part of Six Nations in 1924. And all of us here are part of the Six Nations elected system.

285. So when we do community engagement, we don't ask people to vote "yes" or "no". We ask them more, "Your comments on it. What do you feel about it?" And from that we do a qualitative judgement call on just whether they are in favour or not in favour of it.

286. So we try to bridge that opposition to voting by asking questions in such a way that there isn't a "yes" or a "no", but something that we can objectively say what that person's feeling is on the project.

287. **MR. LYTLE:** I'll finish with this question. Mr. General, you talked about cumulative effects and it's certainly a theme we hear across Canada. I want to take you into some philosophy, if I may.

288. And that is, I try to understand the, sort of, philosophical predisposition, if I can use those words, of your group of people on balancing benefits versus the bad effects of cumulative effects because it's certainly -- I don't think it's a situation that's unique to the Six Nations as everybody is sort of debating that issue in their own minds; I'm sure.

289. And so, if you could give me just sort of a sense of, sort of, the philosophical way that you approach that, that would be very beneficial. Thank you.

290. **MR. GENERAL:** Good question.

291. I mentioned before that the Six Nations is the proud owner -- I'm using that word very cautiously -- of the last large extent of Carolinian forest left in Canada. And we're facing that kind of philosophical question every day. As

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- our population grows -- as Lonny said it's not growing like it should but it is growing a little bit -- people moving back home.
292. You know, out of all those populations, a lot of people want to come back to the homeland and build houses and such there. The question is again, what are we going to do with the people and how are we going to protect the Carolinian forest at the same time? If I had an answer for you I'd give it to you.
293. I think that's something that -- again, that's a question that comes back. Unfortunately, it's going to have to go unanswered. You know, we're always trying to weigh the benefit versus, you know, the detriment to anything. I mean, we live close by to the Greater Golden Horseshoe. You know, most of us are fairly well-educated. And you know, we have worked off-reserve and you know, a lot of us like to enjoy, you know, the more modern conveniences and such.
294. So yeah, we're always in that philosophical argument as to, you know, what are we do versus what are we doing to the environment and such. I mean, we had to hop in a car to drive here to answer these questions today so, you know, it's something we're always fighting with, for sure. At least I am in my own mind, for sure. So you know, where do you draw that line and, you know, how do you balance off, you know, what's good and what's bad?
295. We mentioned green energy earlier. You know, it's good to go green but, you know, what are you losing in the process of the green energy stuff? And yeah, we have seen some benefits there but, you know, overall I think it's -- obviously it's better than fossil fuels for sure, but I think that's the philosophical question that was answered there.
296. And we did have some opposition to the towers as well. As I mentioned before, some people were asking question about, you know, the effects on deer and things.
297. So yeah, those have all come up for sure. And it's always something that, you know, we have to consider when we're talking to whatever proponent. You know, what are the long-term effects, you know? And what are we willing to do to talk about in the way of accommodation and what does that look like?
298. And again, it can be as kind of a nebulous idea as, again, how do you compensate for a loss of all the private property and our loss of opportunity to

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- carry on our culture as we once did? You know, I don't mind saying it's a difficult question to consider for sure.
299. I don't know if that answered your question or not but like I say, if I had the answer I would be happy to tell it to you and all of Ontario.
300. **MEMBER LYTLE:** Well, I was hoping you did have the answer because it would make our job a lot easier too if we knew how to do it. Thank you very much.
301. **THE CHAIRMAN:** I did have a couple of questions but Mr. Kelly asked one of them; Mr. Lytle asked another one.
302. So Mr. General, I just have two questions and it follows up a little bit from Mr. Kelly's question on your species-at-risk on the next slide.
303. The top one, the elimination of indigenous species, both the federal and provincial governments have their lists. Are there things missing from the list that you think should be on it? I guess, is your list different from theirs?
304. **MR. GENERAL:** Yes, there are. The federal and provincial lists are pretty complete. I mean, they're based on studies and science and, you know, gathering of data and that sort of thing. You know, traditional is a little bit different.
305. As I mentioned before, there's lots of stuff there that what they class as weeds that we would class as medicine. So you know, some of those for sure. And then, you know, again, weed spraying is not promoted anymore but it's not banned either in a lot of areas.
306. I think yeah, for sure. First Nations in general are indigenous species so we'd like not to be on that list ourselves at any point in time.
307. So yeah, again, it's not much of an answer; I'm sorry. But yah, there's so many other things that you could put on that list I think, from our standpoint, that we would use as medicines, yeah. It could be even more complete for sure.
308. **THE CHAIRMAN:** And my last question came under the category of the alterations to watercourses. Whose responsibility is it to remove these dams? If they're not being -- the reason your microphone isn't on, I have the kill

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- switch, so I'm told. So if my microphone is on yours isn't.
309. Whose responsibility is it to remove those dams? I mean, you painted a very visual picture, I have to admit, because as you were talking I'm picturing this going on. So if these dams aren't used for their original intent, whose responsibility is it to remove them?
310. **MR. GENERAL:** It's a collection of people. The Department of Fisheries and Oceans has ability to comment. The Ministry of Natural Resources and Forestry has ability to comment. In the Grand River Watershed, the Grand River Conservation Authority has ability to comment. And in fact, most of the dams in the watershed, the Grand River Conservation Authority claims ownership to. So them -- and I've spent a whole career again promoting removal of dams, and trying to have Six Nations' voice heard there as well as removal of those dams.
311. As I think I mentioned, people get attached to them. You know, they turn into waterfalls and people like the running water and such. And they look the pool, the pond to puddle around in. And I can see all that but they don't see, again, the larger picture or the impact to the environment in general and the fishery in general.
312. **THE CHAIRMAN:** I do have another question, Mr. Bomberry. I think Mr. Kelly did ask it in part, and I thought you answered it the way I was going to ask it.
313. On your steps of consultation -- and you talked about using it for renewable energy projects, wind, and solar -- have you used that process with the proponent in this project?
314. **MR. BOMBERRY:** No, we have not yet because we have not reached any agreement yet with them.
315. We've used it not -- on other areas of residential development and so forth. There might be some others but residential development, I'm thinking. But specifically with respect to pipelines, no.
316. **THE CHAIRMAN:** That's all the questions I have.
317. The Panel really appreciates you gentlemen coming in today, the Six

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Nations of the Grand River, and making your presentation. I think you could gauge, or I hope you could gauge by the different variety of questions I think it's part of our backgrounds that -- our historian he's going to want to find out all the history that he can.

318. But thank you very much for your presentation. As you're aware, later on this year, probably in the fall, we will be back for the oral part of the hearing part of this application where there will be a more formal approach and cross-examination of the proponent.

319. Just before we conclude, I do want to thank our Board staff and counsel. Life would be much more challenging if we didn't have our staff assisting us the way they do.

320. And with that, that concludes our community meeting. We will be giving updates on the procedure and the timing of the next steps in the very near future.

321. If you're traveling, please have a safe journey home. Thank you.

--- Upon adjourning at 3:36 p.m./L'audience est ajournée à 15h36