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## **DECISION AND ORDER**

**EB-2019-0287**

### **TRIBUTE ENERGY STORAGE INC.**

**Application for an order to revoke the designation of the natural gas storage areas known as the Bayfield Pool and the Stanley 4-7-XI Pool, in the County of Huron**

**BEFORE: Susan Frank  
Presiding Member**

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**April 9, 2020**

# 1 INTRODUCTION AND SUMMARY

This is the Decision and Order of the Ontario Energy Board (OEB) regarding an application filed by Tribute Energy Storage Inc. (TESI) under section 36.1(1)(b) of the *Ontario Energy Board Act, 1998* (the Act) for an order revoking the designation of the natural gas storage areas known as the Bayfield Pool (Bayfield) and the Stanley 4-7-XI Pool (Stanley), located in the County of Huron.

In 2012, the OEB designated the Bayfield and Stanley pools (the Pools) as natural gas storage areas pursuant to section 36.1(1)(a) of the Act.<sup>1</sup> In its application to revoke the designation, TESI stated that the Pools have not been developed as natural gas storage facilities as originally planned and are unlikely to be developed for this use. Instead, TESI plans to develop the Pools as compressed air energy storage (CAES) facilities.

Maps providing the general location of the Pools are attached as Schedule A to this Decision and Order.

The OEB has reviewed the evidence presented by TESI and is satisfied that revoking the designation of the Stanley and Bayfield pools as natural gas designated storage areas (DSAs) is in the public interest. TESI's request to revoke the designation of the Pools as natural gas DSAs is therefore granted.

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<sup>1</sup> EB-2011-0076/EB-2011-0077/EB-2011-0078 Decision and Order, December 21, 2012

## 2 THE PROCESS

TESI filed its application on November 28, 2019. The OEB issued a Notice of Hearing on January 9, 2020. On February 11, 2020, Huron County Federation of Agriculture (HCFA) applied for intervenor status and cost eligibility. No objection was received from TESI. HCFA was approved as an intervenor and found eligible to apply for an award of costs.

On February 13, 2020, the OEB issued Procedural Order No. 1, making provision for interrogatories, interrogatory responses and submissions. OEB staff filed interrogatories on February 27, 2020 and responses were filed by TESI on March 6, 2020. On March 13, 2020, OEB staff filed submissions on the application and reply submissions were filed by TESI on March 23, 2020. HCFA did not file interrogatories or submissions.

### 3 BACKGROUND

In 2012, the OEB granted several requests by Tribute Resources Inc. and Bayfield Resource Inc. (Tribute Resources) (2012 Decision) for:

- 1) Designation of the Pools as gas storage areas under section 36.1(1)(a) of the Act
- 2) Authorization to inject gas into, store gas in and remove gas from the Pools under section 38(1) of the Act
- 3) Favourable Report from the OEB to the Ministry of Natural Resources and Forestry (MNR) for well drilling licences for proposed wells in the Pools under section 40(1) of the Act
- 4) Leave to construct (LTC) a natural gas transmission pipeline to connect the Pools to Union Gas Limited's pipeline system under section 90(1) of the Act

In assessing the application by Tribute Resources for the designation of the Pools, the OEB determined that it would consider the following issues:

1. Is the underlying geological formation appropriate for storage operations?
2. Is the tract of land to be designated appropriately bounded and sized to provide safe operation of the storage pool?
3. Is there a need for this incremental storage capacity in Ontario?

The OEB found that the geological evidence on the underlying geology and Pool boundaries was uncontested and that the tracts of land to be designated were appropriately bounded and sized to provide safe operation of the Pools.

With respect to the issue of need, Tribute Resources submitted that although the need for incremental storage capacity may not be financially or economically supported by the existing market conditions, this could change, and was expected to change, in a few years as the market readjusted. Tribute Resources argued that the OEB approvals would allow Tribute Resources to move ahead quickly when market conditions improved.

The OEB determined that if Tribute Resources was required to wait until market conditions were favourable to obtain the orders from the OEB, the company would not be able to act on the market opportunity on a timely basis. The OEB also found that there was no adverse impact on the public interest due to the long timeframe, because the economic and financial risks associated with the project were to be borne by Tribute

Resources and no ratepayers were at risk. The OEB noted that circumstances could change from the time of its decision until 2016 (the proposed in-service date of the project) and addressed this matter by attaching several conditions of approval to its orders for operation of the Pools, well licences, and LTC.

The OEB ordered that should Tribute Resources fail to commence injection before July 1, 2016, it was required to apply to the OEB for an extension of the authority granted and was required to submit evidence to demonstrate why such an extension should be granted. In its order for well licences, the OEB stated that its authorization for the issuance of the drilling licences was limited to 12 months from the date of the OEB's Report to the MNRF. The OEB's order with respect to the LTC authorization stated that the LTC authorization shall terminate December 31, 2015 unless construction has commenced prior to that date. No conditions of approval were attached to the order for designation of the Pools.

## 4 THE APPLICATION

TESI requested an OEB order revoking the designation of the Pools as natural gas DSAs.

Under section 36.1(1) of the Act, the OEB may by order,  
*(a) designate an area as a gas storage area for the purposes of this Act; or*  
*(b) amend or revoke a designation made under clause (a).*

According to TESI's application, the envisaged development of the Pools did not occur because it was not economical to do so given persistent depressed gas market prices. TESI expects these gas market price conditions will continue which makes the development of new natural gas storage highly unlikely.

In 2017, Tribute Resources sold its rights to the Pools to TESI. The Pools represent 3.3 billion cubic feet (BCF) of Ontario's total storage capacity of 248 BCF, which TESI submitted is not sufficiently material to make a difference in how Ontario is likely to store gas a few decades into the future.

TESI submitted that it is in the public interest to develop these reservoirs for a more useful purpose as CAES facilities. The CAES facilities would be used to store power that could be released for use at higher priced, peak demand hours. As part of its application, TESI provided a letter from affected landowners to the MNR, supporting the development of the Pools as CAES facilities.

TESI indicated that the proposed use of the Pools requires a new government regulation to permit the use of the Pools for CAES. TESI stated that it had made a formal request to the MNR to obtain a CAES regulation pursuant to the OGSRA.

TESI requested that the OEB's approval of the de-designation be made conditional upon the issuance of a new OGSRA regulation, so that the designation delineation for either gas or CAES is preserved for whichever use remains when this process is completed.

OEB staff noted that no storage operations have occurred since the designation of the Pools in 2012 and no prospects for doing so have been identified. There is no evidence of the Pools being useful in the foreseeable future. Additionally, OEB staff submitted that there are no expressions of interest from third parties to suggest that capacity should be maintained.

OEB staff noted that Tribute Resources did not apply for an extension of the sunset provisions for the operation of the DSAs and consequently, the deadlines expired. As these dates have lapsed, TESI is constrained from undertaking any activity with respect to the reservoirs even though the Pools are still natural gas DSAs.

OEB staff submitted that the capacity of the Pools is not material especially given that the geographic market for competitive storage, based on the NGEIR decision, includes Michigan, and parts of Illinois, Indiana, New York and Pennsylvania.<sup>2</sup>

OEB staff took no position on TESI's plans to develop the Pools as CAES facilities, but agreed that the evidence provided by TESI supported its position that the designation of the Pools as natural gas DSAs is not required.

OEB staff submitted that as there appears to be no need for these reservoirs to remain as natural gas DSAs, the OEB should simply revoke the designation without conditioning the de-designation on the making of a CAES regulation.

OEB staff also submitted that if the OEB was inclined to accept TESI's proposal, the OEB could place a sunset date on the approval. OEB staff suggested that two years may be a reasonable time period that balances the uncertainty of the timing of any new regulation, and the need for certainty with respect to the status of the Pools going forward. OEB staff stated that if no regulation is passed within 24 months of the OEB's decision on this application, the de-designation approval would no longer apply.

In its reply submissions, TESI supported the alternative suggested by OEB staff establishing a sunset date on the de-designation approval. TESI submitted that this alternative allows for a sufficient amount of time for TESI to obtain an OGSRA regulation from the MNR. TESI also submitted that this alternative secures the designation most appropriate for the economic prospects of the company, as well as the usefulness of these provincial assets, as it pertains to utilizing a provincial resource over a long term, which is in the broader public interest.

## Findings

The OEB accepts the assessment of TESI that the Pools are uneconomic to develop. Since the OEB's designation of these gas pools, gas prices have decreased. Based on information from the Canadian Gas Price Reporter and the Natural Gas Intelligence

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<sup>2</sup> EB-2005-0306, Natural Gas Electricity Interface Review Decision with Reasons, November 7, 2006, p.3

data website, TESI concluded that gas prices are forecast to remain low for decades. In addition to the low gas price spreads being an ongoing barrier to development of these pools, TESI noted the considerable distance from and cost to connect to the Dawn-Trafalgar transmission system. The OEB accepts that it is very unlikely that the Pools will be developed in the foreseeable future.

TESI's examination of the gas storage available in Ontario indicated that the storage capacity of the Pools of 3.3 BCF is immaterial to Ontario's total current storage capacity of 248 BCF. The OEB agrees that the TESI gas pools are not necessary for gas storage security in Ontario.

A further demonstration of the lack of potential economic development of the Pools is the fact that the associated approvals for operation of the DSAs, well drilling licences and construction of the pipeline were all allowed to expire. If the storage pools were to be developed these approvals would need to be requested in a new application. The OEB finds that this is very unlikely.

The OEB agrees with TESI's statement that "there is therefore no practical or demonstrable need in the foreseeable future for the Bayfield and Stanley pools to remain as lightly regulated, single purpose natural gas DSAs, as they will likely never become 'used and useful assets'".

TESI indicated that the proposed use of the Pools will require a new government regulation to be passed permitting the use of the Pools for CAES. TESI stated that it has made a formal request to the MNRF to obtain a CAES regulation pursuant to OGSRA.

The OEB has no authority over the establishment of regulations regarding CAES. The sunset clause alternative suggested by OEB staff implies that the gas storage might be needed in two years, which the OEB believes is very unlikely. As TESI has clearly demonstrated that the Pools are uneconomic and unnecessary, the OEB sees no reason to make its approval conditional upon a new OGSRA regulation.

Accordingly, the OEB approves the de-designation of the Pools, effective immediately.

## 5 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The designation of the Bayfield Pool and the Stanley 4-7-XI Pool as natural gas designated storage areas is revoked, effective immediately.
2. No costs shall be awarded to Huron County Federation of Agriculture as it has not actively participated in this proceeding.
3. Tribute Energy Storage Inc. shall pay the OEB's costs of and incidental to this proceeding upon receipt of the OEB's invoice.

**DATED** at Toronto April 9, 2020

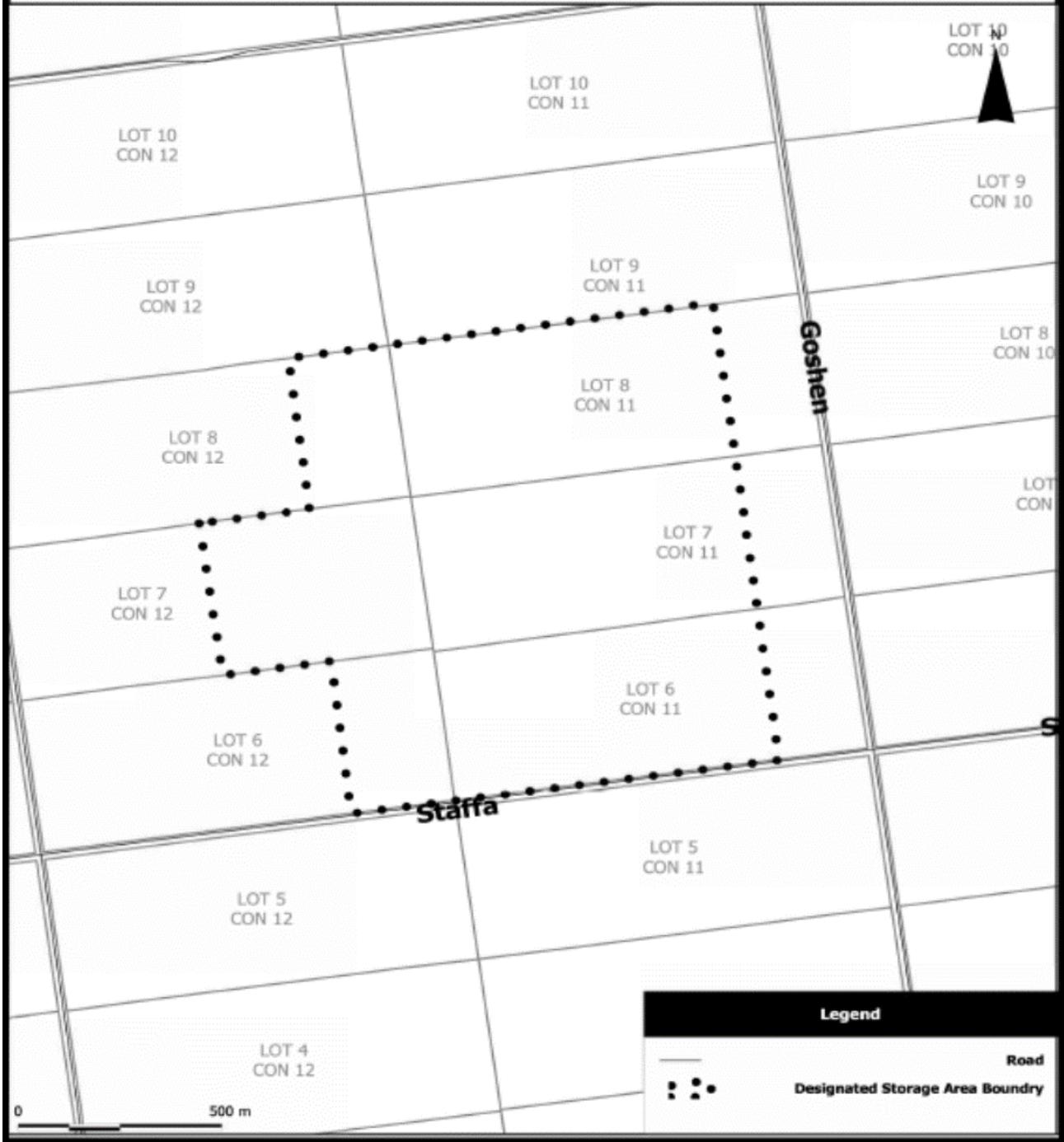
**ONTARIO ENERGY BOARD**

*Original Signed By*

Christine E. Long  
Registrar and Board Secretary

**SCHEDULE A**  
**DECISION AND ORDER**  
**TRIBUTE ENERGY STORAGE INC.**  
**EB-2019-0287**  
**APRIL 9, 2020**

# Stanley 4-7-XI Pool - Designated Storage Area



# Bayfield Pool - Designated Storage Area

