

# CHINNECK LAW

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January 15, 2010

**Matter #: 08-938**

**By Email - [boardsec@oeb.gov.on.ca](mailto:boardsec@oeb.gov.on.ca)**

**By Fax – 1-416-440-7656**

**By Regular Mail (2 copies)**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319, 26th Floor  
2300 Yonge Street  
Toronto, Ontario  
M4P 1E4

Dear Ms. Walli:

**Re: Letter of Intervention**  
**EB-2009-0338 (Pipeline)**  
**EB-2009-0339 (Bayfield)**  
**EB-2009-0340 (Stanley)**

We act for McKinley Farms Ltd. ("**McKinley**") and 2195002 Ontario Inc. ("**Ontario**") (collectively the "**Intervenors**").

Further to the notice of proceedings dated January 13<sup>th</sup>, 2010 in these matters, please accept this letter as an application for:

- (a) Intervenor status in the referenced matters by the Intervenors in accordance with OEB Rule of Practice and Procedure 23, and
- (b) Eligibility for an award of costs in accordance with the OEB Practice Direction on Costs.

Please be advised as follows:

**Please reply to the selected office**

☒ 37 Ridout Street S., London ON Canada N6C 3W7

☐ 24 Hincks Street, St. Thomas, ON Canada N5R 3N6

**Fax: 519-432-4811**

**Fax: 519-633-5211**

**Tel: 519-679-6777**

**Tel: 519-633-6214**

**(a) Intervenor's Interest in Proceeding and Grounds**

McKinley is the registered owner of lands (the "**Lands**") which overlie 76.441% of the Stanley Reef, and Ontario holds a valid petroleum and natural gas lease and a valid gas storage lease over the Lands, and as such both Intervenor's are "persons with an interest in lands affected by the process" and both Intervenor's wish to ensure that their respective rights are respected, and that they are treated fairly by the Applicants.

**(b) Nature and Scope of Participation**

The Intervenor's intend to participate fully in the referenced Applications including submitting evidence, interrogatories and arguments and by cross-examining witnesses to:

- (i) ensure their rights are respected; and
- (ii) ensure the Pipeline has capacity sufficient to service the Stanley Reef in every eventuality and to ensure that it will be safe and safely operated; and
- (iii) to consent to the designation of the Stanley Pool, if it is in the public interest to do so and to review the filed evidence and make enquiries of the Applicants to ensure that it is in the public interest to designate the same; and
- (iv)
  - (a) to challenge the Applicants' right to apply for authority to inject, store and withdraw gas from the Stanley Reef given that in 2009 the Ontario Court of Justice declared the Applicants' oil and gas lease and gas storage lease over the Lands to be terminated and vacated (appeal to the Court of Appeal pending) and given that Ontario, an independent company holds the only valid oil and gas lease and gas storage lease on the Lands (which by the Unit Agreement overlie 76.441% of the Stanley Reef) leaving the Applicants, at best, with leases over less than 24% of the Stanley Reef, and to oppose such applications; and
  - (b) if unsuccessful to seek fair and proper compensation for their respective rights; and
  - (c) to ensure proper compensation for residual gas; and
  - (d) to ensure that operations are conducted safely; and
  - (e) to ensure that the water supply is and will be properly protected; and
  - (f) to ensure that provisions are in place to protect the Lands environmentally; and
  - (g) to ensure that adequate insurance is in place, including environmental; and
  - (h) to ensure that fair and proper rules are in place to govern the access and use of the Lands by the Applicants, including but not limited to fencing, gates, access times, road and wellhead locations and dimensions, weed control, noise, proximity to residences and agricultural structures.

- (v) to challenge the Applicants' right to request that the Board's hear the Applicants' request that the Board determine just and equitable compensation to Ontario, an independent corporation that holds valid mineral and storage leases over 76.441% of the Stanley Reef; and
- (vi) to oppose the Board granting a favourable report under Subsection 40(1) of the Act to the Minister of Natural Resources to whom the Applicants have applied for licenses to drill four (4) injection/withdrawal wells within the proposed Stanley Pool because, inter alia, the Applicants' Application For A Well Licence contains a clear misrepresentation wherein the Applicants certify that they have the right to drill or operate wells on the Lands when the Ontario Superior Court of Justice declared Tribute's leases on the Lands to be terminated and vacated (appeal to Court of Appeal pending). It is difficult for the Applicants to have a right to drill or operate wells on the Lands when their leases were terminated by court order, and Ontario holds valid leases on those Lands.

**(c) Request for Written Evidence**

The Intervenors request copies of written evidence.

**(d) Cost Award**

The Intervenors intend to seek an award of costs. The Intervenors submit that they are eligible for an award of costs because they are each "a person with an interest in land that is affected by the process" in accordance with Section 3.03 of the OEB Practice Direction on Cost Awards and because the Intervenors intend their intervention to be of assistance to the Board in making fair and equitable determination that are in the best interests of the public and the parties.

**(e) French Language**

Not applicable.

**(f) Contact Information for Intervenors**

- (i) Dale Ratcliffe  
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- (ii) Jed M. Chinneck – Counsel  
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All of which is respectfully submitted.

Yours very truly,  
**Chinneck Law**  
Professional Corporation



Per: Jed M. Chinneck  
JMC:mak  
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[www.chinneck.ca](http://www.chinneck.ca)

cc: Tribute Resources Inc.  
Christopher Lewis  
McKinley Farms Ltd.