



EB-2009-0338
EB-2009-0339
EB-2009-0340

IN THE MATTER OF the Ontario Energy Board Act,
1998, S.O. 1998, c.15, Schedule B; and in particular
sections 36(1), 38(1), 40(1), 90(1).

PROCEDURAL ORDER No. 1

Tribute Resources Inc. and Bayfield Resources Inc., on behalf of Huron Bayfield Limited Partnership and Bayfield Pipeline Corp. (the “Applicants”) have filed applications with the Ontario Energy Board, (the “Board”) dated September 22, 2009. These applications were subsequently amended on December 15, 2009. The applications were filed under sections 36.1(1), 38(1), 38(3), 40(1) and 90(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (the “Act”) and would, if granted, allow the Applicants to develop natural gas storage pools located in the geographic area of the County of Huron and in the County of Middlesex Ontario (the “Project”).

The Board issued a Notice of Application and Hearing dated January 13, 2010
The Board received requests for intervenor and observer status from a number of parties and has determined that it will grant intervenor status to the following: McKinley Farms Ltd. (“McKinley”); 2195002 Ontario Inc. (“Ontario”); Zurich Landowners Association (“Zurich Landowners”); Union Gas Limited (“Union”); Municipality of Bluewater (“Bluewater”); the Huron County Federation of Agriculture (“HCFA”); and Stanley Bayfield Landowners Group (“SBLG”).

A number of the parties that requested intervenor status also requested eligibility to claim an award of costs.

On January 27, 2010 the Applicants responded to the Letter of Intervention by McKinley Farms and Ontario. The Applicants did not have any objection to the intervenor status being granted but objected to the cost award eligibility of Ontario. The Applicants submitted that Ontario should not be eligible pursuant to Article 3.05 of the Boards Practice Direction on Cost Award.

On February 5, 2010, Mr. Jed Chinneck, Legal Counsel for McKinley Farms and Ontario replied.

The Board reviewed the submissions by the Applicants and Mr. Chinneck and has determined that it will grant cost eligibility status to Ontario.

The Board will grant cost eligibility to the following: McKinley, Ontario, Zurich Landowners, Bluewater, HCFA and the SBLG.

It should be noted that granting cost eligibility status does not predict in any manner or degree the extent to which the Board may grant costs claims. At the appropriate time the Board will review all cost claims filed by the eligible intervenors and will determine the appropriate quantum, if any, of cost awards, based on the contribution the respective intervenors make in the case and the extent that their intervention proves to be of assistance to the Board. Eligible intervenors with similar interests should coordinate their activities to the fullest extent possible so as to limit costs incurred.

The Board will grant observer status to: the City of Kitchener the County of Huron.

A list of intervenors in the proceeding is attached as Appendix A to this order.

In a letter of Intervention dated January 15, 2010, Mr. Jed Chinneck, Legal Counsel for McKinley and Ontario raised a number of issues relating to his clients ownership interest of the majority of storage rights for the Stanley Reef. He stated that his clients are not opposed to the designation of the Stanley Pool and that they have an interest in ensuring that the pipeline capacity is sufficient to service Stanley Pool. Mr. Chinneck also challenged Tribute's right to apply for authority to operate the Stanley Pool; for compensation to be determined by the Board; and for a favourable report to the MNR on granting drilling licences in Stanley Pool.

In a letter dated January 27, 2010 the Applicants disagreed with Mr. Chinneck's statements concerning the percentage of storage rights owned by Ontario.

The Board notes that the issue of the percentage interest that each party has in the Stanley Pool can be addressed by the Board in the course of the proceeding once the discovery process commences.

That being said, the Board notes that the Ontario Court of Appeal ("CA"), on January 26, 2010, heard an appeal of a judgment of the Ontario Divisional Court involving the Applicants and one of the intervenors, McKinley/Ontario, with respect to the validity of the Gas Storage Lease held by Tribute over the Stanley 4-7-XI reef on the lands of McKinley Farms. In a decision dated June 29, 2009 Divisional Court found that both the Oil and Gas Lease as amended by the Unit Operation Agreement and Gas Storage Lease Agreement on the McKinley land over the Stanley reef had been void and vacated. The CA reserved its decision.

The Board is considering whether the proceeding should be stayed until the CA decision on Tribute's appeal is rendered. To assist with this consideration the Board will

give an opportunity to all intervenors, the Applicants and Board Staff to file written submissions on the question of whether or not to stay this proceeding. More specifically:

- *Should the Board stay the EB-2009-0338/0339/0340 proceeding until the CA decision on the storage rights ownership in Stanley 4-7-XI is rendered?*

The timeline for submissions is set by this procedural order.

At this time the Board considers it necessary to make provision for the following procedural matters. Please be aware that this procedural order may be amended, and further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. Written submissions related directly to the following question should be filed in accordance with the timeline as set out in paragraphs (a) – (d) below:

Should the Board stay the EB-2009-0338/0339/0340 proceeding until the CA decision on the storage rights ownership in Stanley 4-7-XI is rendered?

- a. The Applicants shall file written submissions on the question of stay with the Board and deliver it to the intervenors by **February 12, 2010**;
- b. Board staff shall file written submissions on the question of stay with the Board and deliver it to the Applicants and other intervenors by **February 19, 2010**;
- c. Intervenors wishing to make written submissions on the question of stay shall file the submissions with the Board and deliver it to the Applicants and other intervenors by **February 23, 2010**;

- d. The Applicants shall file with the Board reply submissions on the question of stay and deliver them to the intervenors no later than **February 26, 2010**.

All filings to the Board must quote file numbers EB-2009-0338/0339/0340 be made through the Board's web portal at www.errr.oeb.gov.on.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available you may email your document to the BoardSec@oeb.gov.on.ca. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file seven paper copies. If you have submitted through the Board's web portal an e-mail is not required."

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

DATED at Toronto, February 9, 2010

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

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Procedural Order No. 1

Appendix A

List of Participants

Tribute Resources Inc.
EB-2009-0338 / EB-2009-0339 / EB-2009-0340
APPLICANT & LIST OF INTERVENORS

February 9, 2010

APPLICANT

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INTERVENORS

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Tribute Resources Inc.
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APPLICANT & LIST OF INTERVENORS

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February 9, 2010

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