

KENT FEDERATION OF AGRICULTURE

farmers working for farmers

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To: Ontario Energy Board
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June 13, 2011

Attention: Ms. Kirsten Walli
Email boardsec@ontarioenergyboard.ca
Fax: 416-440-7656

EB-2011-0013
EB-2011-0014
EB-2011-0015

ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act, 1998, S.O. 1998, c.1S,
Schedule B; and in particular sections 90, 36.1 (1), 38(1) and 40(1) thereof.

AND IN THE MATTER OF an Application by Union Gas Limited for a regulation
designating the area known as the Jacob Pool, in the Municipality of Chatham-Kent, as a
gas storage area;

AND IN THE MATTER OF an Application by Union Gas Limited for authority to
inject gas into, store gas in and remove gas from the Jacob Pool, and to enter into and
upon the lands in the said area and use the said lands for such purposes;

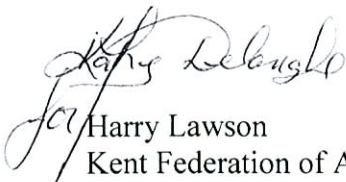
AND IN THE MATTER OF an Application by Union Gas Limited to the
Ministry of Natural Resources for licences to drill wells in the said area;

AND IN THE MATTER OF an Application by Union Gas Limited for leave to
construct a natural gas pipeline and ancillary facilities in the Municipality of Chatham-Kent

Kent Federation of Agriculture's intervenor submission.

Please find attached the Kent Federation of Agriculture's submission with regard to the above
applications. If you require any further information or clarification please feel free to contact Harry
Lawson on behalf of the Kent Federation of Agriculture.

Respectfully,



for Harry Lawson
Kent Federation of Agriculture-designate
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Attachment #1

Overview of operator/landowner relationship

The landowner, oil or gas producer or storage operator is a relationship of unbalanced power. The usual first contact a landowner (mineral rights holder) has is with a leasing agent, sometimes an in house company employee, but predominately professional contractors whose income depends on getting the lease. Lease agents are generally very pleasant people who attempt to gain the trust of the lessor and persuade them to sign the standard lease form. Very few lessors seek legal advice before signing because of the cost and the few dollars per acre paid under the terms of the lease. Many leases are signed on the tailgates of pickup trucks in farm fields during the busy seasons of spring and fall, a frequent time to have a visit from a lease agent. Holdouts may obtain a slightly higher signing bonus, delay rental payment or other minor concessions. Forced pooling is sometimes used to obtain all necessary P&NG rights to properties. To “force” a holdout lessor, the threat of, or, application to the Ontario Mining and Lands Commissioner can be made, to register a lease on title, by way of Commissioner’s Order. Any meaningful appeal by the landowner before the Commissioner requires legal counsel which is another cost the landowner must bear. The Commissioner usually sides with the Petroleum Company and imposes the company’s “standard lease”. Storage leases follow a similar pattern except it is at the OEB where the right to enter and occupy is granted by Board Order. Resistance is futile.

Future abandonments

At the Technical Conference it came to light that there are nine Trenton reservoirs that have been developed, however only three are active. If the Jacob Pool has the same lifespan as six of these developed pools, or is found to be unsuitable for storage, the KFA feels that it is appropriate to have an abandonment plan in place. It would be unacceptable for the Jacob Pool to fall into the same category as the Zone Pool. Any abandonment plan must consider the rights of the landowners, whenever, it should occur.

Past abandonments

As long as wells have been drilled some have been plugged to the standards of the day. Some of these abandoned wells have begun to experience plug failures. MNR policy considers that if a well has been plugged to the standards of the day, that operator is no longer liable. Ontario currently has in place an Abandoned Works Program, which could facilitate and pay for re-plugging of defective wells. If it were not for this program which is funded at the pleasure of the Government of the day (taxpayers), the full cost would fall upon the landowners. The current yearly budget for the Abandoned Works Program is three million dollars. Well plug failures are expected to increase in the future. A financial contribution from the oil industry is necessary to address the problem created by the oil industry. A twenty million dollar yearly contribution is needed to fund an effective program. This funding should come from the industry which created the problem. KFA would suggest that a good place to start would be a requirement that storage operators contribute to an orphan well plugging fund.

Landowner Compensation

Section 38 of the Ontario Energy Board Act provides the mechanism for a landowner or landowners to apply for a determination of what is fair and just compensation. For a storage company to participate in this type of proceeding the cost is insignificant given the billions in assets and

millions/billions in cash flow and income. For a landowner costs can quickly mount to more than the total value of his property and assets. It is clear that the risks to a landowner vastly outweigh the desired benefits. If a landowner did obtain a favourable OEB decision, there is always the option of appeal by storage operators and further costs incurred, until the appeal process was exhausted, an unacceptable situation for a landowner. An examination of the relevant evidence is necessary to determine what are "fair and just" compensation values. A "negotiated" agreement between two grossly unmatched participants is an agreement but not necessarily "fair or just". It is understandable that storage operators would vigorously defend the status quo. In unregulated storage operations the profits to shareholders are unrestricted and it is management's mandate to maximize shareholder returns. The OEB should not remain a passive overseer of compensation levels in storage operations. The OEB is the last chance at fair for landowners.

Summary

The Kent Federation of Agriculture supports the development of storage capacity in Ontario. Southern Ontario has a strategic asset that should be developed for the benefit of all participants including the landowner who owns the storage formations beneath his property surface. Deregulation of natural gas storage has brought major change to the industry. KFA submits that OEB needs to take an active role in examining the landowner /storage operator relationship and define what fair and just compensation represents in today's environment.

Respectfully submitted by the Kent Federation of Agriculture.