



EB-2011-0076  
EB-2011-0077  
EB-2011-0078  
EB-2011-0285

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B; and in particular sections 36.1(1), 38(1), 40(1), 90(1), thereof;

**AND IN THE MATTER OF** an application by Tribute Resources Inc. for an Order designating the areas known as the Stanley 4-7-XI Pool and the Bayfield Pool, in the County of Huron, as gas storage areas;

**AND IN THE MATTER OF** an application by Tribute Resources Inc. for authority to inject gas into, store gas in and remove gas from the areas designated as the Stanley 4-7-XI Pool and the Bayfield Pool and to enter into and upon the lands in the said areas and use the land for such purposes;

**AND IN THE MATTER OF** an application by Tribute Resources Inc. to the Ministry of Natural Resources for a license to drill wells in the said areas;

**AND IN THE MATTER OF** an application by Tribute Resources Inc. for an Order granting leave to construct natural gas pipelines in the County of Huron and in the County of Middlesex;

**AND IN THE MATTER OF** an application by Tribute Resources Inc. for a determination in respect of the compensation payable under Section 38 of the *Ontario Energy Board Act, 1998*.

**PROCEDURAL ORDER NO.1****April 30, 2012**

Tribute Resources Inc. and Bayfield Resources Inc., on behalf of Huron Bayfield Limited Partnership and Bayfield Pipeline Corp. (the “Applicants” or “Tribute”) have filed applications with the Ontario Energy Board (the “Board”), dated April 20, 2011 (the “Applications”). The Applications were filed under sections 36.1(1), 40(1) and 90(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (the “Act”). The Applications, if granted, would 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 Project includes the designation and development of two proposed gas storage pools in Huron County, the Stanley 4-7-XI (“Stanley”) Pool and the Bayfield Pool and the construction and operation of a transmission pipeline to connect these proposed storage pools with Union Gas Limited’s pipeline system.

On August 4, 2011 the Board received Tribute’s amended Stanley 4-7-XI Pool application which expanded the scope of the relief sought in the originally filed applications, dated April 20, 2011. Tribute’s specific additional request filed on August 4, 2011 is for an order determining compensation payable to landowners under section 38(3) of the Act.

The Applications are organized into four Board Files as follows:

- a. Development of Stanley Pool (Board File No. EB-2011-0076)
- b. Development of the Bayfield Pool (Board File No. EB-2011-0077)
- c. Leave to Construct a Natural Gas Pipeline (Board File No. EB-2011-0078)
- d. Request for Determination of Compensation (Board File No. EB-2011-0258)

For the reasons set out below the Board has determined that these Applications, with the exception of the request for Determination of Compensation (Board file No. EB-2011-0258) should be consolidated and heard together as one proceeding pursuant to section 21(5) of the Act.

An Amended Notice of Application was issued on September 2, 2011. The Applicant served and published the Amended Notice of Application as directed by the Board. A complete list of participants is attached as Appendix “A” to this Procedural Order.

The Board has decided to proceed with a written process at this time and may decide to schedule an oral hearing later in the proceeding.

## **Background**

On November 8, 2011 the Board stayed, until further notice, the proceeding, to allow for two applications before the Ontario Superior Court of Justice directly related to Tribute’s development of the Stanley 4-7-XI Pool to be heard. The two court proceedings are as follows:

- i. Ontario Court File No. 5041/2011 (the “McKinley Court Application”) wherein the applicant is seeking declaratory relief from the Court with respect to the Tribute Oil and Gas Lease and the Gas Storage Lease between the applicant and Tribute; and
- ii. Ontario Court File No. 5186/2011 (the “Tribute Court Application”) wherein Tribute asked the Court to dismiss the above noted McKinley Application and to make an order declaring that the Court does not have jurisdiction to grant the relief requested in the McKinley Application.

On January 6, 2012 the Court rendered its decision on the Tribute Court Application dismissing the request made by Tribute and confirming its jurisdiction to interpret and consider the terms of leases. The McKinley Application remains outstanding.

On March 22, 2012 the Board asked that Tribute provide information concerning how it intends to proceed with the Applications filed with the Board in light of the Superior Court proceedings. On March 27, 2012, Tribute indicated in writing that it was prepared to proceed. On April 10, 2012, Mr. Chinneck, legal counsel for the intervenors McKinley Farms Ltd. and 2195002 Ontario Inc., suggested in writing that the Board continue the stay of the Applications until the decision on the McKinley Court Application is rendered.

The Board has considered the position put forward by both Tribute and Mr. Chinneck, on behalf of McKinley Farms Ltd. and 2195002 Ontario Inc., and has decided to continue

with the proceeding. The Board finds that the outcome of the decision of the Superior Court on the McKinley Application does not preclude the Board from proceeding with the Applications, with the exception of the compensation matter (EB-2011-0285).

Therefore, proceeding on the application under section 38 of the Act (EB-2011-0285) will be stayed until the Court Decision on the McKinley Court Application is rendered or until a date to be determined by the Board.

The scope of the proceeding on the remaining applications and the public interest considerations to be taken into account by the Board will be established through an Issues List, a draft of which is attached as Appendix B to this Procedural Order. In this Procedural Order the Board makes provision for written submissions on the Draft Issues List. Upon considering any comments on the Draft Issues List the Board will release a Board approved Issues List.

This Procedural Order also sets the timeline for filing: interrogatories on the Applicants' prefiled evidence, responses to these interrogatories, intervenor evidence, interrogatories and responses to interrogatories on this evidence. The Board will determine next steps in the proceeding at the later date.

The Board considers it necessary to make provision for the following procedural matters. The Board may issue further procedural orders from time to time.

**THE BOARD ORDERS THAT:**

1. Intervenors and Board staff shall file comments, if any, on the Draft Issues List attached as Appendix B to this Procedural Order, no later than **May 7, 2012**.
2. Intervenor and Board staff written interrogatories on Tribute's pre-filed evidence shall be filed with the Board and copies delivered to Tribute and all intervenors on or before **May 28, 2012**. All interrogatories must reference the specific evidence on which the interrogatory is based and indicate the issue number according to the Board approved Issues List.
3. Responses to the interrogatories shall be filed with the Board and delivered to Board staff and intervenors on or before **June 11, 2012**.

4. Intervenors or Board Staff who wish to file evidence shall file it with the Board and deliver copies to Tribute and all other parties on or before **June 25, 2012**.
5. Written interrogatories on intervenor evidence, shall be filed with the Board and copies delivered to the Applicant and all other parties on or before **July 9, 2012**. All interrogatories must reference the specific evidence on which the interrogatory is based and indicate the issue number according to the Board approved Issues List.
6. Responses to the interrogatories shall be filed with the Board and delivered to Board staff and intervenors on or before **July 23, 2012**.

All filings to the Board must quote file numbers **EB-2011-0076/0077/0078** be made through the Board's web portal at [www.errr.oeb.gov.on.ca](http://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.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available you may email your document to the [BoardSec@ontarioenergyboard.ca](mailto:BoardSec@ontarioenergyboard.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 April 30, 2012

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

## **APPENDIX A**

### **List of Intervenorors**

EB-2011-0076  
EB-2011-0077  
EB-2011-0078  
EB-2011-0285

April 30, 2012

**Tribute Resources Inc.  
EB-2011-0076**

**APPLICANT & LIST OF INTERVENORS**

**April 30, 2012**

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**April 30, 2012**

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**EB-2011-0285**

**APPLICANT & LIST OF INTERVENORS**

**April 30, 2012**

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## **APPENDIX B**

### **Draft Issues List**

EB-2011-0076

EB-2011-0077

EB-2011-0078

April 30, 2012

**EB-2011-0076, EB-2011-0077, EB-2011-0078**  
**Draft Issues List**

**1. Designation of the Gas Storage Pool**

- 1.1. Is the underlying geological formation appropriate for storage operations?
- 1.2. Is the tract of land to be designated appropriately bound and sized to provide for safe operation of the storage pool?
- 1.3. Is there a need for this incremental storage capacity in Ontario?

**2. Authorization to Inject, Store and Withdraw**

- 2.1. Is the applicant a capable prospective storage operator in terms of technical and financial capabilities to develop and operate the proposed storage facilities?
- 2.2. Will the appropriate safety requirements for proposed injection/withdrawal activities be ensured in accordance with all relevant codes and standards?
- 2.3. Is the proposed maximum operating pressure safe?
- 2.4. What are the potential impacts of injection/withdrawal activities on the integrity of the gas storage pool?
- 2.5. Is the applicant appropriately accountable and for losses or damages caused by its activities? In particular, will the appropriate insurance coverage be in effect prior to construction/operation commencement?

**3. Well Drilling Licence**

- 3.1 Does the geological evidence support the proposed well locations and drilling programs?
- 3.2 Are the proposed storage wells appropriately designed? Are construction and maintenance plans in order?
- 3.3 Does the applicant have the technical capability to conduct the drilling in accordance with applicable standards and codes?
- 3.4 Does the applicant propose an appropriate program to mitigate the environmental impacts and impacts on directly affected properties?

#### **4. Leave to Construct**

- 4.1 Is there a need for the proposed pipelines?
- 4.2 What are the environmental impacts associated with construction of the proposed pipelines and are they acceptable?
- 4.3 Are there any outstanding landowner matters for the proposed pipelines routing and construction?
- 4.4 Are the pipelines designed in accordance with the current technical and safety requirements?