



**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. 3 AND DECISION ON ISSUES LIST**  
**June 13, 2012**

Tribute Resources Inc. and Bayfield Resources Inc., on behalf of Huron Bayfield Limited Partnership and Bayfield Pipeline Corp. (“Tribute”) have filed applications with the Ontario Energy Board (the “Board”), dated April 20, 2011, and amended August 4, 2011. The applications were filed under sections 36.1(1), 38(3), 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 Tribute 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 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.

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)

On April 30, 2012 the Board issued Procedural Order No.1 (“PO 1”). In PO 1 the Board provided a Draft Issues List and made provision for written submissions on the Draft Issues List. The Board stated that it would, upon considering any comments on the Draft Issues List, release a Board approved Issues List.

On May 8, 2012, by way of PO 2 the Board extended the timeline set in the PO 1. The extension was granted upon request of Mr. Chinneck, counsel for McKinley Farms Ltd. and Huron County Federation of Agriculture (“HCFA”) who indicated that they had not been served the amended application materials on time and therefore needed more time to review the application materials and make submissions on the Draft Issues List.

PO 2 set the timeline for filing the following: submissions on the Draft Issues List, interrogatories, responses to interrogatories, intervenor evidence, and interrogatories and responses on intervenor evidence.

By June 6, 2012 the Board received comments on the Draft Issues List from the following parties:

- Ministry of Natural Resources (“MNR”)
- Middlesex County
- Municipality of Bluewater
- HCFA
- 21955002 Ontario Inc.
- Tribute

The MNR stated it was satisfied with the Draft Issues List as proposed. Middlesex County submitted that the Draft Issues List was acceptable and had no other comments.

The Municipality of Bluewater submitted a list of three main issues with sub-issues to be added to the Draft Issues List. The suggested additional issues address the potential impacts of the proposed storage project on a sewage treatment plant in the immediate vicinity of the Bayfield Pool, impacts on existing and future land uses, and conflicts of pipeline with utility lines, tree removal compensation, roadway issues, and various municipal approvals and permits required for construction of the pipeline. Tribute, in its letter responding to the proposed Draft Issues List, agreed with the issues set out and submitted it would be willing to address any of the issues proposed by the Municipality of Bluewater, should the Board decide to include these in an approved Issues List for the proceeding.

The Board finds it appropriate to expand the Draft Issues List by adding all of the issues suggested by the Municipality of Bluewater.

HCFA proposed adding two issues to the Draft Issues List. The first proposed issue deals with potential impacts of industrial wind turbine projects on Tribute’s storage project. Second, HCFA requested that “compressor station” be added to the pipeline related issues in the Draft Issues List. In the Board’s view, adding the issue on impacts of proposed wind turbines on Tribute’s project is appropriate and may be further examined in the proceeding. This issue will be added to the Draft Issues List as issue number 4.5. Regarding the second additional issue proposed by HCFA, the Board notes that although the construction of a compressor station does not require Board’s

approval, it is helpful to include it in a review of a leave to construct pipeline application as an “ancillary facility” to gain more complete information on the necessary infrastructure expansion. This modification will be made by adding words “and ancillary facilities” to the word “pipelines” in issues number 4.1; 4.2; 4.3 and 4.4.

Mr. Chinneck, on behalf of his client 2195002 Ontario Inc., asked that the following issues be added to the Draft Issues List:

*“1. Does the Applicant have all the required rights, and specifically:*

- (a) Can an applicant be authorized to inject, store and withdraw gas if the applicant does not have all or most of the contractual rights to store? and,*
  
- (b) Does the Applicant have the contractual rights to store gas in the Stanley 4-7-XI Pool when its Gas Storage Lease was declared void by Ontario Court of Appeal? and,*
  
- (c) Does 2195002 Ontario Inc. have the contractual right to store gas in Stanley 4-7-XI Pool given that it has only valid Gas Storage Lease over lands that overly 76.441% of the Stanley 4-7-XI Pool? and,*
  
- (d) Does the OEB have the right to authorize Tribute to inject, store and withdraw when the courts are in the process of deciding as between the Applicant and 2195002 Ontario Inc. who has the contractual right to inject, store and withdraw?”*

The Board considered submissions by Mr. Chinneck and has decided not to add the proposed issues to the Issues List for the reasons described below.

Regarding issues 1(a) and 1 (d), these issues are more appropriately considered as matters for argument and are not appropriate as issues for the Issues List. As for the suggested issues 1(b) and 1(c), it is the Board’s view that these are matters that are currently before the Court and are not appropriate matters to be included on the Issues List. As pointed out by the Board in PO No. 1, the Superior Court application filed by Mr. Chinneck on behalf of the numbered company 2195002 Inc, involves the numbered company 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. The outcome

outcome of the decision of the Superior Court does not preclude the Board from proceeding with the applications, with the exception of the compensation matter (EB – 2011-0285) and the issue of contractual rights under the leases will be determined by the Courts.

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 will determine next steps in the proceeding at the later date.

**THE BOARD ORDERS THAT:**

1. The scope of the proceeding EB-2011-0076, EB-2011-0077 and EB-2011-0078 is defined by the Board approved Issues List attached as Appendix A.
2. All interrogatories filed in this proceeding must reference the specific evidence on which the interrogatory is based and indicate the issue number according to the Board approved Issues List attached as Appendix A.

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.ontarioenergyboard.ca](http://www.errr.ontarioenergyboard.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 June 13, 2012

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

## **APPENDIX A**

### **Approved Issues List**

EB-2011-0076

EB-2011-0077

EB-2011-0078

June 13, 2012

**EB-2011-0076, EB-2011-0077, EB-2011-0078  
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 and ancillary facilities?
- 4.2 What are the environmental impacts associated with construction of the proposed pipelines and ancillary facilities and are they acceptable?
- 4.3 Are there any outstanding landowner matters for the proposed pipelines and ancillary facilities routing and construction?
- 4.4 Are the pipelines and ancillary facilities designed in accordance with the current technical and safety requirements?
- 4.5 Will there be any issues with the proposed Industrial Wind Turbine Projects and the associated infrastructure in this area on Tribute's Gas Storage Project (i.e. storage lands and facilities, including equipment, pipelines, wellheads, compressor station etc.)?
- 4.6 The Municipality of Bluewater owns and operates a sewage treatment facility (the "Bayfield STF") in the immediate vicinity of the Bayfield Pool. Can, and if so, how can the Applicant ensure that there is no impact of these Applications (and in particular the Development of the Bayfield Pool (EB-2011-0077) and the Construction of a Natural Gas Pipeline (EB-2011-0078) on the existing and future operations of the Bayfield STF, including but not limited to:
  - a. The efficient functioning of the existing or future Bayfield STF,
  - b. Access to the existing or future Bayfield STF, and
  - c. The safe inflow and outflow of sewage to and from the existing or future Bayfield STF?
- 4.7 Can the Applicant, and if so, how will the Applicant ensure that any use of the Municipality of Bluewater's lands in the vicinity of the Bayfield STF is appropriate and that the Applications (and in particular the Development of the Bayfield Pool (EB-2011-0077) and the Construction of a Natural Gas Pipeline (EB-2011-0078) will have no impact on the Municipality of Bluewater's existing and possible future use of such lands, and in particular as they relate to the existing or future Bayfield STF.
- 4.8 How and when will the Applicant satisfactorily address the several issues raised in the Municipality of Bluewater's correspondence dated 9<sup>th</sup> of October 2009 (Binder 4, D4-4)? These issues include, but are not limited to the following:
  - a. Conflicts of the pipeline with power lines and other utilities;
  - b. Compensation and/or restoration for any tree removal;
  - c. Public and private roadway use issues;

- d. The location of the pipeline in relation to the cemetery located on Bronson Line north of Rogerville Road;
- e. Whether additional archaeology work is required;
- f. The depth of the pipeline may need to be adjusted at the crest of hills, areas of future municipal reconstruction, and at stream/drain crossings;
- g. Pipeline details to include but not be limited to plan and profile drawings of sufficient grades/elevations for all surface and subsurface features, minimum cover, road crossing and culvert crossing details, pipeline depths for the entire route, pipe materials, construction methods and boring methods, archaeology results;
- h. Construction methods;
- i. Receipt of consents and approvals;
- j. That the Applicant obtain approval from the Municipality of Bluewater for its works;
- k. That the Applicant enter into an agreement with the Municipality of Bluewater for the maintenance and upkeep for those sections of the pipeline located on the Municipality's property which shall address responsibility for all work related to the project, future relocation costs, liability, insurances, as-built drawings, restoration, duration and removal.