

EB-2008-0075

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B;

AND IN THE MATTER OF an application by Union Gas Limited and by Tipperary Gas Corp. for an Order pursuant to Section 38(1) of the *Ontario Energy Board Act, 1998*, to vary Conditions 1.1.2.1 and 1.1.2.2 of the Order EB-2006-0159 and granting an interim order allowing Union Gas Limited and Tipperary Gas Corp. to commence operation of the Tipperary North and South Storage Pools located in the Township of Goderich, pending the Ontario Energy Board's final decision on the request to vary the Conditions.

PROCEDURAL AND INTERIM ORDER No. 1

The Background

On December 24, 2007 Union Gas Limited ("Union") was granted Board approval to acquire 75% voting securities of Tipperary Gas Corp. ("Tipperary GP") pursuant to section 43(2)(a) of the *Ontario Energy Board Act* (the "Act") (EB-2007-0837). Tipperary GP is the general partner of Huron Tipperary Limited Partnership I ("Tipperary LP"), which owns the storage rights to land and facilities in the Tipperary North and South Storage Pools located in the Township of Goderich (the "Storage Pools"). Tipperary GP is a storage company as defined in the Act.

Under the approved transaction, once the storage pools are developed, Union leases the space and operates the Storage Pools pursuant to a contract between Union and Tipperary GP. Tipperary GP remained the sole general partner after

the transaction. Tipperary GP is also authorized by Board Orders (EB-2006-0018/EB-2006-0159/EB-2006-0279) to operate the Storage Pools and holds Well Licences issued by the Ministry of Natural Resource to operate the Storage Pools.

The Application

By letter dated March 27, 2008, Union requested that the Board vary two of the Conditions of Approval set out in the Decision with Reasons (EB-2006-0018/EB-2006-0159/EB-2006-0279) which was issued to Tipperary GP on February 6, 2007.

Union also requested an interim order permitting Union to operate the Storage Pools in the same manner and pursuant to the same procedures and emergency response practices governing Union's operation of the other 19 storage pools in Ontario it controls, until such time as the Board can make a final determination on the request to vary the conditions.

The two conditions subject to the request to vary are part of the Board Order to Inject Store and Withdraw gas from the Storage Pools (EB-2007-0159) ("Conditions"). The Conditions read as follows:

1.1.2 Prior to commencement of any injection, storage or withdrawal operations, Tipperary shall complete and file with the Board, the Ministry of Natural Resources, and all Parties to these proceedings, the following plans and procedures as required by CSA 341.1-02:

1.1.2.1 Operations and Maintenance Procedures (s 10.1.1)

1.1.2.2 Emergency Response Plan (s. 10.1.2)

and thereafter comply with any and all on-going obligations as required in respect of such procedures and plans pursuant to CSA Z341.1-02 or any successor version thereto.

On April 8, 2008, Tipperary GP and Union (the "Applicants") confirmed by a joint letter to the Board that Tipperary GP adopted the application filed by Union on

March 27, 2008 and requested that the Board treat it as a joint application. In the April 8, 2008 letter the Applicants noted that the Board's Decision with Reasons EB-2007-0837 required that all of the conditions attached to the Board's Decision with Reasons in EB-2006-0018/EB-2006-0159/EB-2006-0279 are to be implemented by Tipperary GP. Tipperary GP also confirmed that it remains responsible for ensuring compliance with the Board's Conditions of Approval even though it has contracted out the day to day operation of the Storage Pools to Union.

A copy of the Application is attached as Appendix A to this Procedural Order.

Parties in this proceeding are the registered intervenors in the proceeding EB-2006-0018/EB-2006-0159/EB-2006-0279 and in the proceeding EB-2007-0837. A complete list of the parties with the contact information is attached as Appendix B to this Procedural Order.

Request to Vary Conditions

The Applicants requested an order exempting Tipperary GP, as long as Union is the operator of the Storage Pools by contractual agreement with Tipperary GP, from:

- The requirement in Condition 1.1.2.1 to file an Operations and Procedures Manual; and
- From the requirement in Condition 1.1.2.2 to file an Emergency Response Plan.

A complete set of conditions (EB-2007-0159) is attached as Appendix C to this Procedural Order.

The Applicants submitted the following grounds for approving the request to vary the Conditions 1.1.2.1 and 1.1.2.2:

- The Conditions were imposed on Tipperary GP as it did not have any proven experience in operating a storage pool.
- Union noted that it has extensive experience and a good record in the development and operation of storage pools.

- Union has an existing emergency response plan and operating manuals for its 19 storage pools. None of the 19 storage pools operated by Union are subject to the Conditions imposed on Tipperary GP.
- Union has committed to make available for review to the affected landowners its Emergency Response Plan. Union also noted that, as a rule, emergency response plans are not made public as this may compromise the purpose of emergency response plans.
- Union's operations and procedural manuals are commercially sensitive materials and it is not appropriate to make them publicly available.

Request for Interim Order

Tipperary GP and Union requested an interim order permitting them to begin operating the Storage Pools in the manner Union operates its 19 other pools without the need to comply with the Conditions 1.1.2.1 and 1.1.2.2 of the Order EB-2006-0159 until the Board makes a final decision on the request to vary these conditions.

The Applicants argued that an Interim Order allowing the expedited commencement of the injection date would:

- Facilitate rational development of gas storage in Ontario;
- Facilitate the maintenance of a financially viable industry for the distribution and storage of gas; and
- Will not negatively affect the safe operation of the Storage Pools.

The Board has considered the Application and has decided to grant an Interim Order that would allow Union to commence the injection of gas into the Storage Pools while the Board will proceed with its review of the request to vary the Conditions.

With this Procedural Order the Board invites written submissions on the request to vary the Conditions 1.1.2.1 and 1.1.2.2 of the order EB-2006-0159 from all the parties listed in Appendix “B”. These submissions should be directed exclusively to the issue as to whether the Board should approve the application which forms Appendix “A” to this order. The Applicants will be afforded an opportunity to respond to any submissions filed. Following consideration of any submissions received, the Board will decide the issue.

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. An Interim Order is granted to Union Gas Limited and Tipperary Gas Corp. to permit the commencement of the operation of Tipperary North and South Storage Pools located in the Township of Goderich, Municipality of Central Huron, by Union Gas Limited, in the manner Union Gas Limited operates 19 other storage pools in Ontario, until such time as the Board makes a final determination on the application which forms Appendix “A” to this Order.
2. Any party wishing to comment on, support or oppose the Application shall file a written submission with the Board, the Applicants, and all other parties. The Board may order costs in this proceeding. You must indicate in your written submissions whether you expect to seek costs from the Applicants and the grounds for your eligibility for costs. All submissions must be received no later than **10 days** after the issuance of this Procedural Order.
3. If the Applicants wish to respond to the written submissions such response must be received by the Board and by each party that filed a submission no later than **15 days** after the issuance of this Procedural Order. If Applicants object to a claim for cost eligibility, that objection shall be filed at the same time as Applicant’s reply submission.
4. Union Gas Limited and Tipperary Gas Corp. shall immediately send a joint letter to all the parties in the EB-2006-0159 proceeding, Ministry of Natural

Resources and the landowners within the Storage Pools indicating that Union Gas Limited would be the operator of the Storage Pools and that it would apply Union Gas Limited's Emergency Response Plan and Operations and Procedures Manual in operating the Storage Pool.

In responding to this Procedural Order please reference Board file number EB-2008-0075. It is also important that you provide your name, postal address, telephone number and, if available, an e-mail addresses and fax number. 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.**

For your convenience, the Board accepts submissions by either post or e-mail. Our e-mail address is Boardsec@oeb.gov.on.ca. Please include the application file reference number in the subject line of your e-mail.

If you already have a user ID, please submit your intervention request through the Board's web portal at www.errr.oeb.gov.on.ca. Additionally, two paper copies are required. If you do not have a user ID, please visit the Board's website under e-filings and fill out a user ID password request. For instructions on how to submit and naming conventions please refer to the RESS Document Guidelines found at www.oeb.gov.on.ca, e-Filing Services. The Board also accepts submissions by e-mail, at BoardSec@oeb.gov.on.ca, and again, two additional paper copies are required.

Those who do not have internet access are required to submit their submissions on a CD or diskette in PDF format, along with two paper copies.

Submissions must be sent to the Board by regular mail to the Board's address. Please remember that you must send a copy of your submissions to the Applicants.

DATED at Toronto April 16, 2008

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX "A"

to Procedural Order No. 1

EB-2008-0075

April 16, 2008

Application



uniongas

A Spectra Energy Company

Mark A. Murray
Manager, Regulatory Projects
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(800) 571-8446 Ext. 4601
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March 27, 2008

By email & courier

Ontario Energy Board,
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Toronto, Ontario
M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**RE: Tipperary Pool Storage Development Project (“Project”)
EB-2006-0159
Vary Order to Amend Conditions of Approval**

We are writing to request that the Ontario Energy Board amend the following Condition of Approval (“Condition”) from the Order to Inject Store and Withdraw for the Project for as long as Union Gas Limited (“Union”) is the operator of the Project.

1.1.2 Prior to commencement of any injection, storage or withdrawal operations, Tipperary shall complete and file with the Board, the Ministry of Natural Resources, and all Parties to these proceedings the following plans and procedures as required by CSA 341.1-02:

1.1.2.1 Operations and Maintenance Procedures (s.10.1.1)

1.1.2.2 Emergency response Plan (s. 10.1.2)

And thereafter with any and all on-going obligations as required in respect of such procedures and plans pursuant to CSA Z3341.1-02 or any successor version thereto.

Union requests that the Condition be amended to state that it is not applicable to the Project so long as Union is the operator. Union also requests that it be permitted to operate the Project in the manner Union operates its 19 other storage pools in Ontario until such time as the Board can rule on the request to vary the Condition.

Previous Board Approval for Union to acquire Tipperary

The Board in EB-2007-0837 approved Union’s purchase of 75% of the voting securities of Tipperary Gas Corp. (“Tipperary GP”). Tipperary GP is a storage company which was to be the operator of the Project, prior to the sale to Union.

Submissions regarding the Application of the Conditions to Union

In regard to the requested amendment to condition 1.1.2 Union submits:

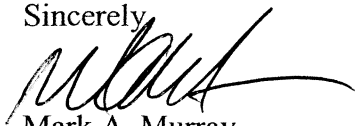
- Union understands that this condition was imposed on Tipperary GP as they did not have any experience operating a storage pool. Union has extensive experience in the development and operation of storage pools. Union currently operates 19 such pools in Ontario and two have an unblemished safety record;
- Union has an existing emergency response plan and operating manuals for its storage pools;
- Union will make available for review by affected landowners its emergency response plan and will continue to make itself available to answer an questions regarding the plan;
- Union's operations and procedural manuals are commercially sensitive material. It is not appropriate for these documents to become public so that others may benefit inappropriately from Union's long and successful operating history;
- These documents are proprietary and confidential in nature because funds and effort that have gone into developing these documents;
- However, emergency response plans, as a rule, are not made public as they may compromise the purpose and intent of the plans if the very people who might want to disrupt Union's facilities knew the steps that Union would take in the event of an emergency situation.

None of the 19 storage pools which Union currently owns and operates are subject to a condition similar to the condition imposed on Tipperary GP.

For the above reasons, Union requests that the Condition be amended to state that it is not applicable to the Project conditional upon Union operating the Project. In addition, Union requests that it be permitted to operate the Project in the manner Union operates its 19 other storage pools until such time as the Board rules on this request.

If the Board has any questions or requires additional information please contact me.

Sincerely,



Mark A. Murray
Manager, Regulatory Projects

Encl.

:mjp

cc. Neil McKay, Manager Facilities Applications
Zora Crnojacki, Project Advisor



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Barristers & Solicitors
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April 8, 2008

Sharon Wong
Dir: 416-863-4178
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Reference: 9483/3637

VIA E-MAIL & COURIER

Ontario Energy Board
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Toronto, Ontario
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Attention: Ms. Kirsten Walli, Board Secretary

**Re: Application for Variance of Tipperary Gas Corp. Conditions of Approval
EB-2008-0075**

Dear Ms. Walli:

We are writing as the lawyers for both Tipperary Gas Corp. and Union Gas Limited ("Union") jointly.

On February 6, 2007 the Board issued its Decision with Reasons in EB-2006-0018/EB-2006-0159/EB-2006-0279 which among other things extended the time in which Tipperary Gas Corp is authorized to inject and withdraw natural gas from the Tipperary North and South Storage Pools located in the Township of Goderich (the "Storage Pools"). The extension of the Board's authorization was conditional on Tipperary Gas Corp. injecting sufficient gas to achieve a reservoir pressure of 320 psig before June 30, 2008 and also conditional upon Tipperary Gas Corp. complying with certain other Conditions of Approval.

On March 27, 2008, Union wrote to the Board to request a variance to two of the Conditions of Approval set out in Appendix C to the Decision with Reasons in EB-2006-0018/EB-2006-0159/EB-2006-0279. Board Staff has asked for clarification of certain aspects of that application for variance. We are writing as counsel for both Tipperary Gas Corp. and Union to provide the requested clarification, and to confirm that all the earlier commitments and conditions set out in the Board's Decision with Reasons EB-2006-0018/EB-2006-0159/EB-2006-0279 remain the responsibility of Tipperary Gas Corp.

Tipperary Gas Corp. confirms and adopts the application for variance that Union filed with the Board on March 27, 2008, and requests that the Board treat Union's application as if it were made jointly by both Tipperary Gas Corp. and Union.

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Relationship Between Tipperary Gas Corp. and Union

On October 26, 2007, Union applied to the Board for an order granting Union leave to purchase 75% of the shares of Tipperary Gas Corp., and the Board granted that order on December 24, 2007 (EB-2007-0837) after considering written submissions from the Industrial Gas Users Association, the Consumers Council of Canada, the Tipperary Storage Landowners Association and two individual landowners.

Tipperary Gas Corp. is the sole general partner of Huron Tipperary Limited Partnership I ("Tipperary LP") which owns the storage rights in respect of the Storage Pools.

In its application in EB-2007-0837, Union informed the Board that Union proposed to operate the Storage Pools by contractual agreement with Tipperary LP once the Storage Pools are developed. However, Union also stated in its Reply submissions, dated December 10, 2007, that the Storage Pools will still be owned by Tipperary LP, and its general partner, Tipperary Gas Corp., will continue to be responsible for ensuring compliance with the Conditions of Approval.

The Board's Decision with Reasons in EB-2007-0837 subsequently required that all the conditions attached to the Board's Decision with Reasons in EB-2006-0018/EB-2006-0159/EB-2006-0279 are to be implemented by Tipperary Gas Corp. In accordance with that requirement, Tipperary Gas Corp. hereby confirms that it remains responsible for ensuring compliance with the Board's Conditions of Approval even though it has contracted out the day to day operation of the Storage Pools to Union.

The Requested Variance to the Conditions of Approval

Tipperary Gas Corp. and Union are jointly requesting the variances to the Conditions of Approval in Appendix C of the Board's Decision with Reasons EB-2006-0018/EB-2006-0159/EB-2006-0279 as set out in Union's letter of March 27, 2008. Specifically, our clients request an order exempting Tipperary Gas Corp. for so long as Union is the operator of the Storage Pools by contractual agreement with Tipperary LP from i) the requirement in Condition 1.1.2.1 to file an Operations and Procedures Manual and ii) from the requirement in Condition 1.1.2.2 to file an Emergency Response Plan. The grounds for this request is as set out in Union's letter of March 27, 2008.

Grounds for the Interim Order Requested

Tipperary Gas Corp. and Union also request an interim order permitting them to begin operating the Storage Pools in the manner Union operates its 19 other storage pools in Ontario without the need to comply with Conditions of Approval 1.1.2.1 and 1.1.2.2 until such time as the Board can make a final determination on the request to vary these Conditions. Our clients are requesting this interim order because expediting the commencement date for injection into the Storage Pool will:

- i) facilitate the rational development of gas storage;
- ii) facilitate the maintenance of a financially viable gas industry for the distribution and storage of gas; and
- iii) not have any negative effects on the safe operation of the Storage Pools.

i) Facilitate the rational development of gas storage

Condition 1.7 of the Conditions of Approval, in Appendix C of the Board's Decision with Reasons EB-2006-0018/EB-2006-0159/EB-2006-0279, requires that a sufficient amount of gas is to be injected into the Storage Pools to achieve a reservoir pressure of 320 psig before June 30, 2008, failing which Tipperary Gas Corp. shall be required to apply to the Board for an extension of the authority to inject and withdraw gas.

Construction and development of the Storage Pools has advanced to the point where the Applicants are physically capable of beginning injection into the Storage Pools. The only Conditions of Approval that have not been fulfilled are Conditions 1.1.2.1 and 1.1.2.2 for which exemption is being requested.

If the start of injection is delayed for a few weeks or months while the Board is considering the request for exemption there is a significant risk that the Applicants will not be able to achieve the required reservoir pressure by the June 30, 2008 deadline, and in that eventuality would be required to apply to the Board for another extension of time thereby further delaying the start-up date for the Storage Pools and increasing the use of the Board's regulatory resources.

The Storage Pools are new facilities that have not been previously used for storage injections and while the modeling shows that the Storage Pools should accept injections at a certain rate Union is aware from past experience the maximum injection rate in practice may be less than anticipated. In addition, this will be the first operating year of the associated pipeline and compressor station, and Union expects there will be commissioning and operational start-up issues which have the potential to further delay injections.

At page 5 of the Board's Decision with Reasons in EB-2007-0837, the Board found that it is in consumers' interest that storage projects be developed and that the proposal for Union to acquire an interest in the Tipperary Storage Pools facilitates the development of storage. The Applicants submit that granting the interim order requested would similarly facilitate the development of storage, and benefit consumers' interests, as it would allow the Storage Pools to go into operation without any further delay.

ii) Facilitate the maintenance of a financially viable gas industry for the distribution and storage of gas

Gas is typically injected into storage during an injection season that runs from about April to October of each year. During the injection season gas is injected to completely fill the storage capacity so that the gas will be available for withdrawal during the following winter season. The rate at which gas can be injected into storage is governed by the physical limitations of the storage facility and also the physical limitations of the distribution system that delivers the gas to the storage facility.

Union proposes to enter into a Storage Contract with Tipperary LP (which is the subject of a separate application to the Board for approval, EB-2008-0049) pursuant to which Union will acquire storage services from Tipperary LP for the capacity of the Storage Pools. Assuming that the Board approves the Storage Contract, Union will be using the storage capacity of the Storage Pools to supply gas to Union's distribution system.

Because the Storage Pools are new, they are essentially empty of gas at this time, and Union believes that it will need to inject gas throughout the entire gas injection season, i.e. from April to October, in order to ensure that the Storage Pools are filled prior to the start of the 2008/2009 winter season, not only with working gas but also with the cushion gas needed to support continuous operation of the Storage Pools, and thereby ensure that this gas is available to supply Union's distribution system during the 2008/2009 winter season. It is important for Union to be able to maximize the amount of gas available to its distribution system out of storage injected prior to the start of the winter season.

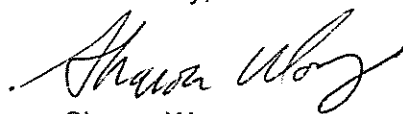
iii) *The Interim Order will not negatively affect the safe operation of the Storage Pools*

If the Interim Order is granted, Union will be operating the Storage Pools in the same manner as it is currently operating 19 other storage pools in the province. None of the 19 storage pools which Union currently owns and operates are subject to conditions similar to Conditions 1.1.2.1 and 1.1.2.2 imposed on Tipperary Gas Corp.

Union has a long history of safely operating gas storage in Ontario. Union has an existing emergency response plan and operating manuals for its storage pools, and the Applicants confirm that they will operate the Tipperary Storage Pools in accordance with Union's existing emergency response plan and operating manuals during the term of the requested Interim Order. As a result, the Applicants' submit that the Interim Order will not negatively affect the safe operation of the Storage Pools.

We trust that we have addressed all of the Board's areas of concern, however please let us know if you require any additional information.

Yours truly,



Sharon Wong

sw/maem

c: Mark Isherwood
Jane Lowery
Mark Murray

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APPENDIX "B"

to Procedural Order No. 1

EB-2008-0075

April 16, 2008

List of Parties

EB-2008-0075

LIST OF PARTIES

Applicants

Union Gas Limited

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Tipperary Gas Corp.

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Solicitor for the Applicants

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Party

Mr. Goff Brand

Mr. Geoff V. Brand,
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Ministry of Natural Resources

Petroleum Resources Centre
Ministry of Natural Resources
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Manager

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AND

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**Ms. Marilyn R. Broadfoot
and
Mr. Lenus Yeo, Landowners**

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APPENDIX "C"

to Procedural Order No. 1

EB-2008-0075

April 16, 2008

Conditions of Approval

Tipperary Pool Development Project

Order to Inject, Store and Withdraw Gas

EB-2006-0159

Tipperary Pool Development Project
Order to Inject, Store and Withdraw Gas

EB-2006-0159

Conditions of Approval

1. Operation of the Tipperary Pool

- 1.1 Tipperary Gas Corp. (“Tipperary”) shall perform in accordance with the evidence filed with the Board and the undertakings given to the Board, and shall comply with all applicable laws, regulations and codes to the satisfaction of the responsible agency pertaining to the construction, operation and maintenance of the proposed project and, without limiting the generality of the foregoing, Tipperary shall comply with the following specific requirements:
- 1.1.1 Prior to commencement of any injection, storage or withdrawal operations, Tipperary shall conduct and file with the Board, the Ministry of Natural Resources and all Parties to these proceedings, a thorough evaluation of all subsurface activities and their potential impact on the integrity of the storage facility as required by Section 7.1 of CSA Z341.1-02, including assessment of:
- a) existing or abandoned wells within 1km of the subsurface perimeter of the storage zone, including activities within those wells, such as fracture treatments;
 - b) existing operations within 5km radius of the proposed storage scheme, including operation, and minimum and maximum operating pressures; and
 - c) for any existing wellbore penetrating the storage zone, the integrity of the well, including casing inspections, cement inspections, and hydraulic isolation of the storage zone from any overlying porous zones;. provided that, should such evaluation identify any risk and / or specify necessary remedial work, Tipperary agrees to implement, complete, and maintain such works prior to commencement of any injection, storage, or withdrawal;
 - d) Tipperary shall file the Subsurface Assessment with the Board and the Ministry of Natural Resources at least 90 days prior to the commencement of operation of the pool.

1.1.2 Prior to commencement of any injection, storage or withdrawal operations, Tipperary shall complete and file with the Board, the Ministry of Natural Resources, and all Parties to these proceedings, the following plans and procedures as required by CSA 341.1-02:

1.1.2.1 Operations and Maintenance Procedures (s 10.1.1)

1.1.2.2 Emergency Response Plan (s. 10.1.2)

and thereafter comply with any and all on-going obligations as required in respect of such procedures and plans pursuant to CSA Z341.1-02 or any successor version thereto.

1.1.3 Tipperary shall implement and comply with the schedule for pressuring of the designated storage area facility (delta pressuring) as set out in the pre-filed evidence.

1.1.4 Tipperary shall comply with the revised Proposed Reservoir Monitoring Program as set in the pre-filed evidence.

1.2. Tipperary shall design, construct, operate, maintain and abandon the wells and facilities in accordance with the CSA Z341 Storage of Hydrocarbons in Underground Formations and in accordance with the Oil, Gas and Salt Resources Act and its regulations and operating standards.

1.3. Tipperary shall protect the integrity of the reservoir and ensure the safe operation of the Tipperary Pool by complying with the requirements of the Provincial Operating Standard, CSA Standard Z341 and any other applicable laws, regulations and codes.

1.4. Tipperary shall advise the Board's designated representative of any proposed material change or abnormal events in construction or restoration procedures that are reported to authorities. In the event of an emergency, the Board shall be informed immediately after the fact.

1.5. Tipperary shall not operate the Tipperary Pool above a maximum allowed operating pressure representing a pressure gradient of 15.8 kPa/m. Tipperary shall operate the Tipperary Pool at a pressure not greater than the discovery pressure 400 psig (2,750kPag), until the conditions of section 7.5.2. of CSA Z341 are satisfied and without the leave of the Board.

1.6 Tipperary shall ensure that the construction, operation and maintenance of the Tipperary Pool does not affect the quality or supply of potable water. Tipperary shall conduct a water well test prior to and after the first cycle of

gas storage and implement a Water Well Monitoring Program using the baseline water quality data provided in the evidence and in accordance with paragraph 1.6.1 below. In the event that the quality of the potable water is impacted by the construction, operation and maintenance of the Tipperary Pool, Tipperary shall provide adequate fresh water supplies to all affected landowners until the problem is rectified.

1.6.1 Tipperary shall, at Tipperary's sole expense, conduct water tests:

- (a) in accordance with the procedures and protocols mandated by Stantec; and
- (b) on water from each well in the DSA that was tested by Stantec in the spring of 2004; and
- (c) using tests conducted by individuals qualified to conduct such tests on samples of water collected by individuals qualified in the Province of Ontario to collect water samples; and
- (d) that provide analyses identical to the analyses conducted on the water samples taken by Stantec in the spring of 2004 within the DSA at the following times:
 - (i) before spudding each vertical well to be drilled by Tipperary in the DSA, and
 - (ii) during the drilling of the intermediate string of each vertical well, and
 - (iii) within sixty (60) days of the completion of each such vertical well by Tipperary in the DSA, and
 - (iv) annually in each of the five (5) years following the year in which Tipperary first injects gas into the geological reservoirs, or either of them, in the DSA (the "post first year injection tests")

provided that it is understood and agreed that:

- A. Tipperary shall forthwith and in any event within 45 days of receipt thereof by Tipperary, deliver to TSLA and to each of its members, full and complete copies of the water test results.

B. With reference to the post first year injection tests, Tipperary shall:

- notify TSLA in writing when the gas injection cycle for each such year is complete, and
- 1. retain the services of a qualified water sampler and instruct the sampler to schedule the collection of water samples during the month requested in writing by TSLA, and
- 2. instruct the qualified water sampler to notify each member of the TSLA not less than 48 hours of his intention to attend and take samples of water from that member's well.

1.7. Should Tipperary fail to inject sufficient gas to achieve a reservoir pressure of 320 psig (2,200 kPa) before June 30, 2008. Tipperary shall be required to apply to the Board for an extension of the authority granted under the Board's Order and will be required to submit evidence to show why such an extension shall be granted.

1.8 Tipperary shall, after the date on which the OEB grants an order pursuant to Section 38(1) of the OEB Act and before commencement of drilling operations or pipeline construction to use the DSA for storage and thereafter while the DSA or any part thereof is being used for storage operations, obtain and maintain in full force and effect insurance coverage, including but not limited to, liability and pollution coverage, in the amount that is determined by an independent party with expertise in adequacy of insurance coverage for environmental and other risks and potential impacts of gas storage operations in southwestern Ontario. Tipperary shall select and retain an independent expert from a list of experts that is prepared by the Board and placed on public file.

2. Other

2.1 For the purposes of these conditions conformity of the Applicant with CSA 341.1-02, the Oil, Gas and Salt Resources Act, and the Provincial Operating Standard shall be to the satisfaction of the Ministry of Natural Resources.

2.2. The authority granted under this Order to Tipperary is not transferable to another party, without leave of the Board.

2.3. The Board's designated representative for the purpose of these conditions shall be the Manager, Facilities.