



ONTARIO ENERGY BOARD

STAFF SUBMISSION

Tribute Resources Inc.

Applications for Huron Bayfield Storage Project Development

EB-2011-0076

EB-2011-0077

EB-2011-0078

October 22, 2012

Introduction

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 (the “Pools”) 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)

Tribute, in its argument in chief is asking the Board to consider issuing separate decisions in this case. These submissions address all the applications with the exception of the Request for Determination of Compensation (Board File No. EB-2011-0258) which has been stayed by way of Procedural Order No. 1 dated April 30, 2012, pending a decision from the Ontario Superior Court which relates to the relief sought by Tribute.

The Board made it clear in Procedural Order No. 1 that it would not decide the issue of

compensation at this time and would establish a separate phase of the proceeding to deal with landowner compensation if and when necessary.

Board staff notes that on October 17, 2012 the Superior Court rendered its decision with respect to the issue put before it, namely the validity of the Oil and Gas Lease under which Tribute argued it had storage rights. These submissions will not address the decision of the Superior Court nor the issue of compensation as that matter is currently stayed pending further direction from the Board.

In summary, Board staff supports the designation applications for both the Stanley and Bayfield proposed Designated Storage Areas (“DSA”). When dealing with a designation application Board staff submits that the Board should consider whether the underlying geological formation is appropriate for storage operations, and whether the tract of land to be designated is appropriately sized. Board staff submits that the geological evidence presented by Tribute and the tract of land proposed is appropriate. Board staff does not however support Tribute’s applications for the proposed incremental storage development and the proposed pipeline at this time for the reasons set out below. For completeness Board staff also sets out its submission in support of the designation applications.

Designation of Natural Gas Storage Pools

The Board defined the following issues to be considered when reviewing the applications for designation of the storage pools:

- 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 safe operation of the storage pool?

In Board staff submissions both of the above issues have been addressed appropriately by Tribute.

Board staff submits that the geological evidence provided by Tribute is complete and supports the designation of both proposed DSAs for the Bayfield and Stanley Storage Pools (the "Pools"). Assessing the geological suitability of the Pools for storage and determining the appropriate boundaries of the Pools are technical determinations which are reviewed by the Ministry of Natural Resources ("MNR"). MNR, which is an intervenor in this proceeding, is the provincial authority which interprets the geological evidence and the DSA boundary information filed by applicants, in this case Tribute.

The MNR has reviewed all the evidence with respect to the geological integrity of the Pools and required boundaries and has noted in its submission that it has no concerns regarding the designation of the proposed Pools. As set out in the "Record of Technical Data Reviewed for a Proposed Designated Gas Storage Area" (Pre-filed Evidence Binder 2, E7 p 6 of 7 for Stanley Pool and Binder 3, B1-19 p 30 of 32 for Bayfield Pool), MNR staff is in agreement with the proposed boundaries for both Pools.

Board staff submits that the evidence on the record demonstrates the structural integrity of the geologic formations for both Pools. Established DSA's will protect the storage reservoirs from future third party drilling and other subsurface activities. The designation of the Pools represents a reasonable balance between the protection of the storage reservoir from other subsurface activities and the retention of lands as possible for future oil and gas exploration and drilling.

Board staff also supports Tribute's position that the operating pressure does not exceed the proposed maximum operating pressure.

Lack of Demonstrated Need for Incremental Storage

While Board staff supports the approval of the designation applications, Board staff does not support the approvals sought for construction and operation of the proposed

storage project at this time. Board staff does not endorse Tribute's argument that there is a need for incremental storage at this time and notes that Tribute has failed to put forward any compelling evidence that there is such a need. In fact, as Tribute itself acknowledges in its argument-in-chief: "...although the need for incremental storage capacity may not be financially or economically supported today by current market conditions, this could change, and is expected to change, in a few short years as the market readjusts.¹" Tribute further argues that its request for approval of the applications in advance of the construction period is reasonable, and in the public interest, given the variability of the market conditions.

Board staff submits that the Board should not approve the construction of facilities for a storage project when an applicant has failed to demonstrate the need for incremental storage. In this Application, Tribute has failed to put forward any evidence to support a demand for storage that underpins the need for incremental storage over the next 4 years. Board staff notes that the objectives related to natural gas storage as defined in the Act would not be met by granting approval to Tribute's applications.

In carrying out its responsibilities in relation to gas, the Board is guided by the objectives found in section 2 of the Act including facilitating the rational development and safe operation of gas storage and facilitating the maintenance of a financially viable gas industry for the transmission, distribution and storage of gas. In Board staff's view, approval of the proposed project would be inconsistent with the Board objective to facilitate rational and financially viable storage.

In addition, Board staff submits that it has not been the Board's practice to approve construction and development activities in the absence of clear evidence that such facilities are needed within a reasonable time-frame. While Tribute has indicated a 2016 in-service date, Board staff submits that significant changes in land-use,

¹ Argument-in-Chief, Tribute Resources Inc, EB 2011-0076/0077/0078 at page 5 of 22.

ownership and potential environmental impacts could occur in the intervening four years.

Conditional Approvals

Although Board staff does not support approval of the applications, with the exception of DSA designations for both Stanley and Bayfield Pools, should the Board disagree and approve all of the applications, Board staff submits that there should be certain standard conditions of approval attached to any Board Order. The standard conditions as proposed in draft form by Board staff are attached in the appendices to these submissions.

- Appendix A: Proposed Conditions to Board Order granting Authorization to Inject, Store and Remove Gas pursuant to subsection 38(1) of the Act, EB-2011-0076 (Stanley Pool) and EB-2011-0077 (Bayfield Pool);
- Appendix B: Proposed Conditions for Leave to Construct Pipeline Order pursuant to section 90 of the Act, EB-2011-0078;
- Appendix C: Proposed Conditions for Licence to Drill Wells within Designated Storage Area, pursuant do subsection 40(1) of the Act EB-2011-0076 (Stanley Pool) and EB-2011-0077 (Bayfield Pool).

Further, Board staff notes that the expiry dates for construction start and DSAs operation should follow the Board's standard approach which is that the approvals would lapse within 12 months of the date of approval or by the end of the next calendar year unless construction is commenced. Tribute has stated that the construction of the entire series of projects (well drilling, compressors station and pipeline construction) would not commence prior to 2015 (Response to Board Staff IR # 2b). In Board staff's view, issuing approvals for construction to start 3 years ahead of the date of Board Orders is problematic for many reasons including the fact that the pre-filed evidence may need to be updated due to changes in natural gas market conditions, biophysical environment, land use and other considerations that the Board takes into account when

approving pipeline leave to construct, well drilling licenses referrals, and authorization to operate natural gas storage pools. Board staff submits that this is another reason why it is opposed to the request made by Tribute.

- All of which is respectfully submitted -

Appendix A – Board Staff Submissions

Authorization to Inject, Store and Remove Gas

Draft Standard Conditions of Approval

EB-2011-0076

EB-2011-0077

Stanley Bayfield Storage Project
EB-2011-0076
EB-2011-0077

Authorization to Inject, Store and Remove Gas

Standard Conditions of Approval

1. Operation of Storage Pools
 - 1.1 Tribute Resources Inc. ("Tribute") shall rely on the evidence filed with the Board in the EB-2011-0076 and EB-2011-0077 proceeding. Tribute shall comply with applicable laws, regulations and codes to the satisfaction of the responsible agency pertaining to the construction, operation and maintenance of the proposed project and should evaluations conducted in accordance with those applicable laws, regulations and codes identify any risk and/or specify any remedial work, Tribute shall implement, complete and maintain such works prior to commencement of any injection.
 - 1.2 Tribute 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 Tribute shall protect the integrity of the reservoir and ensure the safe operation of the Designated Storage Pool by complying with the requirements of the Provincial Operating Standard, CSA Standard Z341 and any other applicable laws, regulations and codes.
 - 1.4 Tribute 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 Tribute shall not operate the Designated Storage Pool above a maximum allowed operating pressure representing a pressure gradient of 15.8 kPa/m of depth to the top of the reservoir until leave of the Board is obtained.
 - 1.6 Tribute shall ensure that the construction, operation and maintenance of the Designated Storage Pool does not affect the quality or supply of potable water. Tribute shall implement a water well monitoring program to include preconstruction monitoring and to commit to further monitoring should a complaint arise during or following construction. In the event that the quality of the potable water is impacted by the construction, operation and maintenance for

the Designated Storage Pool, Tribute shall provide adequate fresh water supplies to all affected landowners until the problem is rectified.

- 1.7 Should Tribute fail to commence injection before December 31, 2013 Tribute 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 After the date on which the Board grants an order pursuant to Section 38(1) of the Ontario Energy Board Act, 1998 and before commencement of drilling operations or pipeline construction to use the Designated Storage Area ("DSA") for storage, and thereafter while the DSA or any part thereof is being used for storage operations, Tribute shall obtain and maintain in full force and effect insurance coverage for its operations at the Designated Gas Pool including, but not limited to, liability and pollution coverage. Tribute shall notify the Board once insurance coverage has been obtained for the Designated Storage Pool in accordance with this condition.

2. **General**

- 2.1 For the purposes of these conditions conformity of the Applicant with CSA Z341, 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 Tribute 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, Natural Gas Applications.

3 **Just and Equitable Compensation**

- 31 Tribute shall offer to pay landowners and/or tenants just and equitable compensation for any damages, including present and future crop damage arising from: drilling of injection/withdrawal wells; installation of gathering pipelines; access road construction.

Appendix B - Board Staff Submissions

**LEAVE TO CONSTRUCT APPLICATION
Draft Standard Conditions of Approval
EB-2011-0078**

Tribute Resources Inc.
Leave to Construct Pipeline Application
EB-2011-0078
Draft Standard Conditions of Approval

1 General Requirements

- 1.1 Tribute Resources Inc. ("Tribute") shall construct the facilities and restore the land in accordance with its application and the evidence filed in EB-2011-0078 proceeding except as modified by this Order and these Conditions of Approval.
- 1.2 Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate on December 31, 2013, unless construction has commenced prior to that date.
- 1.3 Tribute shall implement all the recommendations of the Environmental Report filed in the pre-filed evidence, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee ("OPCC") review.
- 1.4 Tribute shall advise the Board's designated representative of any proposed material change in construction or restoration procedures and, except in an emergency, Tribute shall not make such change without prior approval of the Board or its designated representative. In the event of an emergency, the Board shall be informed immediately after the fact.

2 Project and Communications Requirements

- 2.1 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Natural Gas Applications.
- 2.2 Tribute shall designate a person as project engineer and shall provide the name of the individual to the Board's designated representative. The project engineer will be responsible for the fulfillment of the Conditions of Approval on the construction site. Tribute shall provide a copy of the Order and Conditions of Approval to the project engineer, within seven days of the Board's Order being issued.
- 2.3 Tribute shall give the Board's designated representative and the Chair of the OPCC ten (10) days written notice in advance of the commencement of the construction.
- 2.4 Tribute shall furnish the Board's designated representative with all reasonable assistance for ascertaining whether the work is being or has been performed in accordance with the Board's Order.

- 2.5 Tribute shall file with the Board's designated representative notice of the date on which the installed pipelines were tested, within one month after the final test date.
- 2.6 Tribute shall furnish the Board's designated representative with five copies of written confirmation of the completion of construction. A copy of the confirmation shall be provided to the Chair of the OPCC.

3 Monitoring and Reporting Requirements

- 3.1 Both during and after construction, Tribute shall monitor the impacts of construction, and shall file four copies of both an interim and a final monitoring report with the Board. The interim monitoring report shall be filed within six months of the in-service date, and the final monitoring report shall be filed within fifteen months of the in-service date. Tribute shall attach a log of all complaints that have been received to the interim and final monitoring reports. The log shall record the times of all complaints received, the substance of each complaint, the actions taken in response, and the reasons underlying such actions.
- 3.2 The interim monitoring report shall confirm Tribute's adherence to Condition 1.1 and shall include a description of the impacts noted during construction and the actions taken or to be taken to prevent or mitigate the long-term effects of the impacts of construction. This report shall describe any outstanding concerns identified during construction.
- 3.3 The final monitoring report shall describe the condition of any rehabilitated land and the effectiveness of any mitigation measures undertaken. The results of the monitoring programs and analysis shall be included and recommendations made as appropriate. Any deficiency in compliance with any of the Conditions of Approval shall be explained.

4 Easement Agreements

- 4.1 Tribute shall offer the form of agreement approved by the Board to each landowner, as may be required, along the route of the proposed work.

5 Other Approvals

- 5.1 Tribute shall obtain all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project, shall provide a list thereof, and shall provide copies of all such written approvals, permits, licences, and certificates upon the Board's request.

APPENDIX C - Board Staff Submissions

LICENCES TO DRILL WELLS IN DESIGNATED GAS STORAGE POOLS

Draft Standard Conditions of Approval

EB-2011-0076

EB-2011-0077

**Tribute Resources Inc.
EB-2011-0076
EB-2011-0077**

**Draft Standard Conditions of Approval
Wells Drilling Licences Application**

1. General Requirements

- 1.1. Tribute Resources Inc. ("Tribute") shall rely on the evidence filed with the Board in EB-2011-0076 and EB-2011-0077 proceeding and comply with applicable laws, regulations and codes pertaining to the construction of the proposed wells.
- 1.2. Authorization for the issuance of the drilling licences is limited to 12 months from the date of the Board's Report to the Ministry of Natural Resources.
- 1.3. The authority granted under this Order to Tribute is not transferable to another party without leave of the Board. For the purpose of this condition another party is any party except Tribute Resources Inc.

2. Construction Requirements

- 2.1. Tribute shall construct the facilities and restore the land in accordance with its Application and evidence and the undertakings given to the Board, except as modified by this Order and these Conditions of Approval.
- 2.2. Tribute shall ensure that the movement of equipment is carried out in compliance with all procedures filed with the Board, and as follows:
 - i) Tribute shall make reasonable efforts to keep the affected landowners as well as adjacent landowners and their respective tenant farmers, or their designated representatives, informed of its plans and construction activities; and
 - ii) the installation of facilities and construction shall be coordinated so as to minimize disruption of agricultural land and agricultural activities.
- 2.3. Tribute shall, subject to the recommendation by an independent tile contractor and subject to the landowner's approval, construct upstream and downstream drainage headers adjacent to the drilling area and access roads that cross existing systematic drainage tiles, prior to the delivery of heavy equipment, so that continual drainage will be maintained.

- 2.4 Tribute, shall implement all the recommendations of the Environmental Management Plan in the pre-filed evidence.

3. Monitoring and Reporting Requirements

- 3.1 Both during and after construction, Tribute shall monitor the impacts of construction, and shall file four copies of both an interim and a final monitoring report with the Board. The interim monitoring report shall be filed within six months of the in-service date, and the final monitoring report shall be filed within fifteen months of the in-service date. Tribute shall attach a log of all complaints to the interim and final monitoring reports. The log shall record the times of all complaints received, the substance of each complaint, the actions taken in response, and the reasons underlying such actions.
- 3.2. The interim monitoring report shall confirm Tribute adherence to Condition 1.1 and shall include a description of the impacts noted during construction and the actions taken or to be taken to prevent or mitigate the long-term effects of the impacts of construction. This report shall describe any outstanding concerns identified during construction.
- 3.3 The final monitoring report shall describe the condition of the rehabilitated land and the effectiveness of the mitigation measures undertaken. The results of the monitoring programs and analysis shall be included and recommendations made as appropriate. Any deficiency in compliance with any of the Conditions of Approval shall be explained.

4. Project and Communication Requirements

- 4.1 For the purposes of these conditions, conformity of the Applicant with CSA Z341 shall be to the satisfaction of the Ministry of Natural Resources.
- 4.2 Tribute shall designate one of its employees as project manager who will be responsible for the fulfilment of these conditions, and shall provide the employee's name to the Ministry of Natural Resources, the Board and to all appropriate landowners.
- 4.3 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Natural Gas Applications.