



November 5, 2012

By Email: boardsec@ontarioenergyboard.ca

By Fax: 1-416-440-7656

By Courier (2 copies)

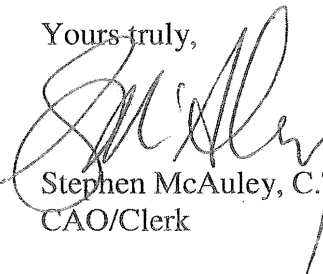
Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Tribute Resources Inc. – Huron Bayfield Storage Project Development
Board File Nos. EB-2011-0076, EB-2011-0077, EB-2011-0078, EB-2011-0285
Submissions of the Intervenor**

Further to Procedural Order No. 5 dated the 18th of September, 2012 kindly find attached the submission of the intervenor the Corporation of the Municipality of Bluewater in respect of the above noted matter.

Yours truly,



Stephen McAuley, C.Tech.
CAO/Clerk

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VIA MAIL

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

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*.

SUBMISSIONS OF THE INTERVENOR
THE CORPORATION OF THE MUNICIPALITY OF BLUEWATER (“BLUEWATER”)

November 5, 2012

FROM: The Corporation of the Municipality of Bluewater
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Introduction

1. Bluewater's concerns with applications EB-2011-0076, EB-2011-0077, EB-2001-0078 (collectively the "Tribute Applications") may be organized into three sets of issues:
 - (a) Issues with the safe co-existence of the Tribute Applications with wind power development in the Municipality of Bluewater;
 - (b) Issues with impacts on and interference with the Bayfield Sewage Treatment Facility (the "Bayfield STF") and associated lands (the "Bayfield STF Lands"); and
 - (c) Issues with the construction of a pipeline and related works within the Municipality of Bluewater.

Each of these issues is examined in more detail below.

Wind Turbine Projects

2. The Ontario Energy Board's Procedural Order No. 3 and Decision on Issues List dated June 13, 2012 (the "Issues List") frames the issue as follows:
 - 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.)?
3. In its evidence, Bluewater stated that it has "not received from Tribute Resources Inc. ("Tribute") any professional expert evidence or assurance that Tribute's Applications can safely and harmoniously co-exist with wind power development in Bluewater. Given the

existing proposed and possible future wind power development in the municipality, Bluewater considers that such expert evidence and assurances are required.”¹

4. Bluewater recognizes that Tribute seems to have made some investigations into this matter since this issue was raised during the course of these proceedings. However, Bluewater reiterates that it has not received and further that there is not in evidence any direct professional expert evidence or assurance that Tribute’s Applications can safely and harmoniously co-exist with wind power development in Bluewater. Bluewater submits that such expert evidence and assurances are required.

Impacts and Interference with the Bayfield Sewage Treatment Facility

5. The Issues List states these issues as follows:

- 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.

¹ Evidence of Bluewater, July 13, 2012, Affidavit of S. McAuley, paragraph 9.

6. By way of factual background, Bluewater owns the Bayfield STF Lands in the immediate vicinity of the proposed Bayfield Designated Storage Areas (the “Bayfield DSA”).² Bluewater owns and operates the Bayfield STF on the Bayfield STF Lands with a rated capacity of 1,072 m³/d.³ The Bayfield STF Lands include an access lane extending from Mill Road to the Bayfield STF.⁴ Bluewater has commenced the Environmental Assessment process for the expansion of the Bayfield STF.⁵ Bluewater and Tribute do not have an access agreement that is in force allowing Tribute access (for vehicles, equipment, pipeline, structures, or otherwise) or other property interests in, on or over the access lane located on the Bayfield STF Lands.⁶
7. Bluewater submits that it is not in the public interest to designate and permit the development of the Bayfield DSA if such development may impair the structure and function of the Bayfield STF, and thereby potentially or actually jeopardize the environment, health and safety of its citizens.⁷
8. If the Energy Board determines that designation of the Bayfield DSA is appropriate then it is submitted that any such approval should be conditional on adequate steps being taken, to the satisfaction of Bluewater, to protect the Bayfield STF. Specifically,

² Evidence of Bluewater, July 13, 2012, Affidavit of S. McAuley paragraph 3, and the Parcel Register as Exhibit “A” and the Plan as Exhibit “B” to this affidavit.

³ Evidence of Bluewater, July 13, 2012, Affidavit of S. McAuley, paragraph 4, and the Certificate of Approval as Exhibit “C” to this affidavit.

⁴ Evidence of Bluewater, July 13, 2012, Affidavit of S. McAuley, paragraph 5.

⁵ Evidence of Bluewater, July 13, 2012, Affidavit of S. McAuley, paragraph 6.

⁶ Evidence of Bluewater, July 13, 2012, Affidavit of S. McAuley, paragraph 7.

⁷ Bluewater’s Answers to Interrogatories, Answer to Interrogatory #4, pages 15 and 16.

Bluewater submits the following additions and amendments to the Draft Standard Conditions of Approval.

In respect of the Appendix A—Board Staff Submissions, Authorization to Inject, Store and Remove Gas, Draft Standard Conditions of Approval, EB-2011-0077 (the Bayfield Pool), Bluewater submits that it is appropriate and in the public interest to add the following conditions:

- 1.9 Tribute’s construction, operation and maintenance of the proposed project shall not impact and not interfere in any way with the existing or future operations of the Bayfield Sewage Treatment Facility (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.

- 1.10 Tribute’s use of the Municipality of Bluewater’s lands in the vicinity of the Bayfield STF shall 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.

- 1.11 Tribute’s construction of the proposed project on and in the vicinity of the Bayfield STF Lands shall be in locations and in a manner determined by Tribute in consultation with Bluewater, and be subject to Bluewater’s approval.

- 1.12 Tribute’s construction, operation and maintenance of the proposed project shall not in any way impair Bluewater’s Certificate of Approval, or the renewal of or obtaining a further Certificate of Approval, in respect of the Bayfield STF.

- 1.13 Tribute shall be required to obtain from Bluewater an access agreement, to Bluewater’s satisfaction, respecting the lands owned by the Municipality of Bluewater in the vicinity of the Bayfield STF.

Further, in this circumstance, Bluewater submits that it would be appropriate to amend condition 3.1, with the amendment shown as underlined:

- 3.1 Tribute shall offer to pay landowners and/or tenants just and equitable compensation for any damages, including present and future crop damage and any damage to, impact on, and/or interference with the existing or future operations of the Bayfield STF, the efficient function of the existing or future Bayfield STF, access to the existing or future Bayfield STF, and the safe inflow and outflow of sewage to and from the existing or future Bayfield STF: drilling of injection/withdrawal wells; installation of gathering pipelines; access road construction.

In respect of the Appendix C—Board Staff Submissions, Licenses to Drill Wells in Designated Gas Storage Pools, Draft Standard Conditions of Approval, EB-2011-0077 (the Bayfield Pool), Bluewater submits that it is appropriate and in the public interest to add the following conditions:

- 2.5 Tribute shall construct the facilities and restore the land in a manner that shall not impact and not interfere in any way with the existing or 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.
- 2.6 Tribute shall ensure that the movement of equipment, installation and construction shall be co-ordinated with Bluewater so as to ensure that there will be no impact and no interference with the existing or 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.
- 2.7 Tribute shall be required to obtain from Bluewater an access agreement, to Bluewater's satisfaction, respecting the lands owned by Bluewater in the vicinity of the Bayfield STF.

9. The reasons supporting this submission follow:

(a) It is not in the public interest to designate and permit the development of the Bayfield DSA if such development may impair the structure and function of the Bayfield STF, and thereby potentially or actually jeopardize the environment, health and safety of its citizens,⁸ or impair the sewage treatment service to its residents in the vicinity of Bayfield.⁹ It is submitted that the public interest in ensuring safe treatment of sewage effluent for the residents of Bluewater, and correspondingly the environmental health and safety of Lake Huron and the Bayfield River, outweighs Tribute's interest in developing the Bayfield DSA.

(b) It is submitted that Tribute recognizes this imperative by setting out in the evidence for the Board a project design that may not interfere with the Bayfield STF.

(1) As stated in the evidence given by Tribute in answer to Bluewater's interrogatories:

(a) "Tribute and its affiliates and consultants will take all the necessary care and due diligence to ensure the safe and continued access and ongoing operation of the Bayfield STF. Tribute understands the critical nature of continued operation of such an important public facility and will work with Bluewater to ensure continued smooth operation of the facility";¹⁰

⁸ Bluewater's Answers to Interrogatories, Answer to Interrogatory #4, pages 15 and 16.

⁹ Bluewater's Answers to Interrogatories, Answer to Interrogatory #3, page 13.

¹⁰ Tribute's Answers to Bluewater's Interrogatories, Answer to Question 5(a)(ii).

- (b) “The Bayfield pool facilities will be closer to Mill Road and well away from the existing Bayfield STF. The Metering Station facilities will be next to the access road close to Mill Road, with pipelines from there to the I/W wells. The Metering Station will be located off the access road to the Bayfield STF facilities and will not obstruct access. All I/W wells and Observation wells will be in the landowner’s filed and away from the access road. All utility lines will be located as part of the pipeline installation for the pool. During this locate process, all Bayfield STF sewage lines will be located and avoided during construction”;¹¹
- (c) “Nothing in the construction or operation of the storage pool will affect the Bayfield STF or the Bayfield River”;¹²
- (d) “As long as the Bayfield STF will not eventually expand down to Mill Road, the Bayfield gas storage facility and wells will not adversely affect any of the Bayfield STF facilities”;¹³
- (e) The proposed wells will have no adverse impact on the Bayfield STF and no adverse impact on access to the Bayfield STF;¹⁴
- (f) With reference to the access lane to the Bayfield STF, that a “Road Users Agreement will be entered into between Bayfield Pipeline Corp and the Municipality of Bluewater. This Road Users Agreement will detail the pipeline running line location relative to other utilities located in municipality

¹¹ Tribute’s Answers to Bluewater’s Interrogatories, Answer to Question 1(a)(i).

¹² Tribute’s Answers to Bluewater’s Interrogatories, Answer to Question 1(a)(ii).

¹³ Tribute’s Answers to Bluewater’s Interrogatories, Answer to Question 2.

¹⁴ Tribute’s Answers to Bluewater’s Interrogatories, Answers to Questions 3(a)(i) and (ii).

road allowances, depth of burial, profile drawings for critical areas along the right-of-way and for all road crossings, construction methods and traffic control and any compensation due”;¹⁵ and

(g) Tribute will ensure that there will be no impact of the Applications and the Construction of a Natural Gas Pipeline on the existing and future operations of the Bayfield STF (Answer 5(i)), and if there is an impact that Tribute and its affiliates will work to remedy the situation immediately.¹⁶

(2) In its written submissions, Tribute states that “Tribute’s proposed storage project does not appear to interfere in any way with either the current STF facilities...or the proposed STF expansion...”¹⁷ Further, in its submissions, we note that:¹⁸

- (a) “the Bayfield pool facilities will be closer to Mill Road and well away from this existing facility.”
- (b) “The Metering Station facilities will be next to the access road close to Mill Road, with pipelines from there to the Injection wells.”
- (c) “The metering Station will be located off the access road to the Bayfield STF facilities and will not obstruct access.”
- (d) “All Injection wells and Observation wells will be in the farmer’s field and away from the access road.”

¹⁵ Tribute’s Answers to Bluewater’s Interrogatories, Answer to Question 3(a)(iv).

¹⁶ Tribute’s Answers to Bluewater’s Interrogatories, Answer to Question 5(iii).

¹⁷ Tribute’s Argument In Chief, page 19.

¹⁸ Tribute’s Argument in Chief pages 19 and 20.

- (e) “All utility lines will be located as part of the pipeline installation for the pool. During this locate process, all Bayfield STF sewage lines will be located and avoided during construction.”
- (f) “With respect to the proposed expansion area, Tribute was able to confirm to Bluewater that there were no anticipated issues with respect to the development of the Bayfield pool as the STF expansion was to the North and not in the area of the pool. Tribute offered to provide Bluewater with a form of covenant or undertaking to give further assurances as to this fact.”
- (g) In relation to the inflow and outflow of sewage, Tribute “represented and confirmed that Tribute did not intend to, and would not, disturb these sensitive areas, where the disturbance of which would cause problems to the current and proposed facilities.”

(3) Except in respect of use of an access road, Tribute agreed to provide a covenant or undertaking that Tribute’s works would not interfere with the Bayfield STF.¹⁹

(c) Bluewater disagrees with Tribute’s characterization of Tribute’s rights in respect of the Bayfield STF Lands.

(1) Bluewater owns the Bayfield STF Lands in the immediate vicinity of the proposed Bayfield DSA.²⁰ Bluewater owns and operates the Bayfield STF on the

¹⁹ Letter from Christopher Lewis dated 8 August 2011.

²⁰ Evidence of Bluewater, Affidavit of S. McAuley paragraph 3, and the Parcel Register as Exhibit “A” and the Plan as Exhibit “B” to this affidavit.

Bayfield STF Lands.²¹ The Bayfield STF Lands include an access lane extending from Mill road to the Bayfield STF.²² Bluewater and Tribute do not have an access agreement that is in force allowing Tribute access (for vehicles, equipment, pipeline, structures, or otherwise) or other property interests in, on or over the access lane located on the Bayfield STF Lands and that such an agreement is required.²³

(2) Tribute states that the GSL Agreement, the PNG Lease, and the UOA, “in Tribute’s legal counsel’s opinion, grant unto Tribute exclusive surface and subsurface rights to the STF Lands by the very nature and original intent of these documents.” Tribute’s counsel’s legal opinion in respect of Tribute’s rights is not in evidence before the Board, and even if it were, it would not be subject to any weight. In any event, it is submitted that it is not correct. The evidence before the Board on this issue is set out clearly and in detail in Bluewater’s answers to interrogatories #1 to #6 inclusive.²⁴ In sum, Bluewater acquired the lands now forming the Bayfield STF Lands on the basis that once the “existing easements,” including those for gas well pipelines and laneway access to the gas well expire, that anyone wishing to enter the Property for matters relating to the Rights requires the written permission of Bluewater. The “existing easements” have expired. No such written permission has been given and is in force.²⁵ Further renewals and assignments (including those to Tribute) of the GSL Agreement, the

²¹ Evidence of Bluewater, Affidavit of S. McAuley, paragraph 4, and the Certificate of Approval as Exhibit “C” to this affidavit.

²² Evidence of Bluewater, Affidavit of S. McAuley, paragraph 5.

²³ Evidence of Bluewater, Affidavit of S. McAuley, paragraph 7.

²⁴ Bluewater’s Answers to Interrogatories, Interrogatories #1-6, pages 3-19.

²⁵ Bluewater’s Answers to Interrogatories, Interrogatory #1.

PNG Lease, and the UOA were all *subject to* Bluewater's acquisition of the Bayfield STF Lands and Bluewater's interests set out in the Bayfield STF Deed and the Bayfield STF Easement.²⁶

- (3) Tribute submits, in respect of the Bayfield STF, that "Bluewater failed to consult prior to its construction with Tribute, which it was obliged to do".²⁷ This statement is without foundation. First, there is no evidence before the Energy Board that the necessary environmental assessment and public consultation process respecting the Bayfield STF, including the opportunity for public comment, was not duly made. Second, examination of the parcel register for parcel 41452-0160 (LT)²⁸ identifies that it appears that Tribute's first interest in the Bayfield DSA lands as part of lot 7 arose in 1999 as part of an assignment of leases and registered as R332433. In terms of the Bayfield STF lands, the assignment related only to Part 1 as shown on Plan 22R-1760²⁹, and not to the remainder of the lands upon which the Bayfield STF is located. The Bayfield STF was built on adjacent lands in 2000-2001.³⁰ Tribute did not acquire its interest in the GSL, PNG Lease, or UOA until 2007, all of which were subject to Bluewater's interest in the Bayfield STF Deed.³¹

²⁶ Bluewater's Answers to Interrogatories, Answer to Interrogatories #1, #2.

²⁷ Tribute's Argument In Chief page 19.

²⁸ Evidence of Bluewater, July 13, 2012, paragraph 3, Exhibit "A", Bluewater's Answers to interrogatories, page 35;

²⁹ Bluewater's Answers to Interrogatories, page 56.

³⁰ Bluewater's Answers to Interrogatories, Answer to Interrogatory #5, page 17.

³¹ Bluewater's Answers to Interrogatories, Answer to Interrogatory #2, page 11.

(4) In its submissions, Tribute states that “Bluewater does not comment on or dispute the fact that Tribute has clear, prior rights to the STF Lands as determined and laid out in the above three Agreements.” We submit that this misconstrues the evidence, and direct the Board to Bluewater’s answers to interrogatories, answers #1-#6.

(5) Even taken at their highest (which, for clarity, Bluewater disagrees), Tribute’s rights are not absolute and unassailable. There is a general legal principle that Tribute must exercise those rights reasonably in relation to the neighbouring rights—which in this case is Bluewater’s ownership and operation of the Bayfield STF Lands. It is submitted that it would not be reasonable for Tribute to exercise its rights if to do so would impair the Bayfield STF.

(d) Given the public importance of the Bayfield STF and for the purposes of clarity moving forward, if the Board determines that designation of the Bayfield DSA is appropriate then it is submitted that any such approval should be conditional as set out above. In all the circumstances and in light of the evidence before the Board, it is submitted that the proposed conditions are reasonable and necessary.

Construction of a pipeline and related works within the Municipality of Bluewater

10. The Issues List states this issue as follows:

Issue 4.8

How and when will the Applicant satisfactorily address the several issues raised in the Municipality of Bluewater's correspondence dated the 9th 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.

11. Bluewater does not take issue with the Submission by Board Staff that the leave to construct application is premature. Nonetheless, in respect of the Appendix B—Board Staff Submissions, Leave To Construct Application, EB-2011-0078, if the Board grants the application, then Bluewater submits that it is appropriate and in the public interest to add the following as condition 6:

In respect of Tribute's works within the Municipality of Bluewater, Tribute shall, to the satisfaction of the Municipality of Bluewater, ensure that the following issues are adequately addressed:

- 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, insurance, as-built drawings, restoration, duration and removal.

12. The rationale supporting this submission follow:

(a) Tribute has agreed that these issues need to be addressed.

(1) These issues in respect of the pipeline route were raised by Bluewater in reference to Tribute's predecessor applications³². In its written evidence, Tribute states that the "conditions set out in the letter all acceptable to Tribute and BPC."³³

³² Letter from Bluewater to Tribute, 9 October 2009, Tribute Evidence Binder 4, D4-4.

³³ Tribute Written Evidence, Binder 4, D1, paragraphs 13-14.

(2) In general terms, when asked about this issue in the interrogatories, Tribute stated that these issues:³⁴

will be dealt with in the Road Users Agreement and specific schedules to be negotiated in detail, then followed to Bluewater's satisfaction during the project development cycle. Tribute and its consultants are committed to a detailed review of precisely these types of items when Tribute meets with Bluewater during the coming weeks and months to complete the Road Users Agreement, and expect that any agreement(s) related to these topics will be updated and reviewed closer to the period of construction in 2015 or 2016.

(3) In its submissions, Tribute states that it "will ensure that Bluewater is completely satisfied with all of the above-noted issues to obtain final approval for the commencement of construction by Bluewater."

(b) Bluewater is the owner of the road allowance for a substantial portion of Tribute's proposed pipeline route. Bluewater and Tribute does not have a road user agreement that is in force respecting the use by Tribute to Bluewater's road allowance lands, and Bluewater considers that such an agreement is required.³⁵

(c) In the context of interrogatories, Tribute provided Bluewater with a draft road user agreement about which Bluewater raised a number of concerns on a

³⁴ Tribute's Answers to Interrogatories, Answer to Question 7.

³⁵ Evidence of Bluewater, July 13, 2012, Affidavit of S. McAuley, page 3, paragraph 8.

preliminary review, noting that a Road User Agreement cannot be negotiated in the context of interrogatories.³⁶ Nonetheless, Bluewater is prepared to negotiate in good faith a road user agreement with Tribute.³⁷

13. For clarity and transparency moving forward, if the Board determines that leave to construct should be granted, then it is submitted that any such approval should be conditional as set out above. In all the circumstances and in light of the evidence before the Board, it is submitted that the proposed conditions are reasonable and necessary.

Conclusion

14. Should the Energy Board grant the requested approvals then it is submitted that these approvals should be subject to the conditions as requested by Bluewater.

All of which is respectfully submitted,



Mr. Stephen McAuley
Chief Administrative Officer
The Corporation of the Municipality of Bluewater

³⁶ Bluewater's Answers to Interrogatories, Answer to Interrogatory #9, pages 22-31.

³⁷ Bluewater's Answers to Interrogatories, Answer to Interrogatory #9, page 22.