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November 5, 2012

Ontario Energy Board
P.O. Box 2319, 27th Floor
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Attention: Ms. Kirsten Walli, Board Secretary, via email BoardSec@ontarioenergyboard.ca.

Dear Ms. Walli:

Re: Tribute Resources Inc. – Bayfield Storage Project Development
EB-2011-0076
EB-2011-0077
EB-2011-0078

Following a thorough review of the Tribute/Stantec evidence and the interrogatories related to this application, the Huron County Federation of Agriculture (HCFA) concludes the following:

1 – Need for Storage in Ontario

The need for more storage capacity at this time is questionable. By Tribute's own admission, they are dropping gas storage leases in other parts of Ontario and Tribute is asking for an extended construction phase of up to 5 years. HCFA also understands that the Zone Pool and the Jacob Pool have been designated for gas storage by the OEB but have never been developed. (Please review HCFA's July 18/12 submission – Page 1 and the attached Schedule 'A', pages 1-3)

2 – Economical and Financial

In HCFA June 19/12 interrogatories, question 2.1 – 3a - HCFA asked Tribute to provide an overall cost of the Bayfield and Stanley pools including the pipeline.
3b asked Tribute to provide evidence on how they will finance the project.

Tribute's answer of July 3/12, page 13, did not provide the requested information, stating that the information was confidential!

Although Tribute appears to have formed some kind of partnership with Market Hub Partners (MHP) to shoulder 50% of the cost of this project, HCFA requests the OEB review HCFA's July 18/12 submission, page 2 & the attached Schedule 'B' to assist in determining if Tribute is capable of financing their 50% of the costs of these projects.

3 – Other Issues

The evidence indicates that Tribute has conversed with municipalities involved, but has no signed user agreements with –

- 1 – Middlesex County
- 2 – Huron County
- 3 – Municipality of Middlesex Centre
- 4 – Municipality of North Middlesex
- 5 – Municipality of South Huron
- 6 – Municipality of Bluewater (there appears to be a number of outstanding issues with this municipality)
- 7 – Contrary to the Stantec evidence, Tribute has not yet secured a suitable property to erect the compressor facility.

4 – Amending Agreements

It does appear that through a series of dinner meetings, signing bonuses, a promise to pay full compensation rates upon OEB designation instead of at the time of first injection, along with other large unidentified additional payments, that Tribute has been successful in convincing the majority of landowners involved to sign their amending agreements. This approach is quite different from what HCFA witnessed during the Tribute/Tipperary application where landowners' compensation and most other issues had to be negotiated with the assistance of an OEB arbitrator at a landowners' requested settlement conference. HCFA is somewhat suspect that the motivation behind this generosity was to garner majority landowner support for EB-0285, Section 38 compensation application that is still outstanding in regards to the McKinley lease situation.

If the OEB is satisfied that Tribute can fulfill all of the obligations associated with the issues list and is prepared to give approval to the EB-0076/0077/0078 applications, HFCA respectfully requests that the following recommendations be adapted into the Conditions of Approvals list for these applications:

1 – Condition of Approval for Water Well Quality Testing

Please review HCFA's July 18/12 submission, page 4 along with the attached Schedule C, pages 3 & 4 in particular. These pages outline the shortcomings in the five year after first injection (clause iv) water well testing agreement negotiated between Tipperary Storage Landowners' Association (TSLA) and Tribute. The shortcoming is due to additional construction, after first injection, none of which was presented in the original evidence in the Tribute/Tipperary applications.

It is apparent by the evidence that Tribute has not yet made a water well testing agreement with the Bayfield & Stanley landowners. Tribute states in Binder 1, Sec F3, Page 3, para. 2, "Tribute will welcome Board Condition of Approval in respect of the insurance issue and the protection of water quality issues".

HCFA recommends that a Condition of Approval on water well testing would contain language where as the 5 year post first injection water well sampling would begin only after both the pool owners and operators have notified the landowners and the OEB that the pools are operating as expected and construction is complete. The 5 year annual water well testing to establish the safety and integrity of the water wells within the DSA lands would begin following that notice.

2 – Condition of Approval for Liability Insurance

As quoted previously, Tribute will welcome OEB Condition of Approval in respect to insurance.

Please review Tribute's Follow up Answer of Sept 17/12, page 3, Q 2.5.
(5a) "Please indicate what types of insurance Tribute is willing to carry"

Tribute's Follow up Answer – last line –

"It can be expected that the report will also include requirements for general liability and pollution coverage"

Although Tribute expects they will be required to carry general liability and pollution coverage, they have NOT committed to do so. It is imperative that any Condition of Approval on insurance specify that both general liability and pollution insurance will be mandatory.

Please review HCFA's July 18/12 submission, page 5. This information outlines the fact that no landowner in the Tipperary project had any input into the March insurance study for the Tipperary project and that the resulting insurance policy that could be in force for 30-40 years has no anniversary date for a mandatory review.

The HCFA's recommendation is that the landowners of the Bayfield/Stanley pools should have input into the insurance study. There should be a mandatory provision requiring the insurance policies be reviewed on a timely basis because land values and improvements continue to escalate.

3 – Compensation Issues

In earlier submissions, HCFA has expressed concern that Tribute is setting a new precedent in landowner compensation by making large unidentified payments to landowners in the Bayfield and Stanley DSA. Please review Tribute's reply to HCFA interrogatories July 3/12, page 33 – Q 4.3 – 3a & 3b and HCFA July 18/12 submission, page 9 & Tribute's Follow up Answers of Sept 17/12, page 7 & 8.

HCFA has asked Tribute on several occasions to identify what these payments represent but still have NOT received an acceptable answer! HCFA does not accept that the context of these payments falls under the OEB rules of confidentiality as Tribute has openly published the names of the recipients, the amounts of the payments and the fact that Tribute will calculate the payments and deliver and explain them to the appropriate people. Please see Binder #1, Section F3, Page 4, par. 3.

Large payments to DSA landowners usually indicate payments for residual gas left in the storage reservoirs; however many times in the evidence, Tribute states reservoir pressures are below 50 psi and no residual gas payments will be made to landowners. Without a proper answer, HCFA can only surmise that Tribute is making payments for residual gas down to '0 psi'. Any residual gas payments below 50 psi were vehemently opposed by both Tribute and Union Gas at the Tipperary settlement conference. If Tribute is paying residual gas payments below 50 psi, this would set a new precedent in Ontario and one that should be enjoyed by all landowners involved in any future gas storage project. One of the reasons HCFA gets involved in applications such as this is to see that all landowners across Ontario get treated equally when projects such as Tribute's are brought to their communities.

HCFA requests a Condition of Approval (or any other means that would be acceptable) requiring Tribute to identify the unidentified additional payments being made to the Bayfield and Stanley landowners.

4 – Condition of Approval Regarding Issues List #4.5

"Will there be any issues with the proposed Industrial Wind Turbine (IWT) projects and the associated infrastructure in the area on Tribute's gas storage project (i.e.) storage lands and facilities, including equipment, pipelines, well heads, compressor stations etc"

HCFA originally requested #4.5 be put on the issues list for many reasons, public health and safety being #1. Please review HCFA's July 18/12 submission, pages 10-12 for additional information on this issue.

The original Tribute evidence did not even recognize that there would be wind generating facilities in the same area as Tribute's gas storage projects. The Stantec Environment report that was compiled in 2008 was never updated to reflect what was happening in 2012. It briefly mentioned that there could be IWT in the municipality of Bluewater. HCFA has also reviewed the Nextera Draft construction plan for the Bluewater Wind Project and Tribute's gas storage projects were not mentioned in the Nextera plans either. The Municipality of Bluewater has also raised similar concerns about the interactions of these two projects.

HCFA commissioned nuclear safety engineer, Wm. Palmer, P. Eng., to provide a professional opinion on the issues of adequate separation distances between wind generators and natural gas storage facilities. HCFA is appalled that Tribute is requesting the OEB to exclude the Palmer evidence from the decision process.

In Tribute's Follow Up Answers of Sept 17/12, page 10, Tribute acknowledges there will be 2 IWTS on the boundary of the Stanley Pool. Tribute later quotes documents that indicate a 75 meter separation distance is all that is required from wells and facilities.

HCFA spoke to Jennifer Dunlap, MNR Senior Policy Advisor in Peterborough concerning the regulations quoted by Tribute. Ms Dunlap's comment was that those regulations were made before the Green Energy Act (GEA) was passed and probably should be updated with respect to the issues associated with GEA.

HCFA identified a number of safety issues associated with IWTS on page 10 & 11 of our July 18/12 submissions and requested more specific information from Tribute, but received nothing. Tribute's answer to HCFA's June 2/12 interrogatories, again in Follow Up Answers of Sept 17/12 and Tribute's comments contained in their Argument in Chief can all be summed up as 'JUST TRUST US' to work it out with Nextera!

As quoted from Wm. Palmer's, P. Eng., submission, page 4, item 2, the HCFA reiterates: "Without any limitations being specified, it would appear that the approval by the Ontario Energy Board would simply be based on a "trust me" commitment, without basis. Professional opinion related to a public safety issue is that "trust me" is not a sufficient basis for an interaction with a 4.7 Bcf pressurized natural gas storage project and its supporting infrastructure and a system that can present a number of risk factors to the natural gas storage system without having firmly established limits for the interaction specified."

Given the fact that Tribute, Stantec or Nextera Wind have not provided any evidence, mapping or information on specific safe separation distances between the wind project and the gas projects, the only practical way to solve the issue is through an independent third party risk assessment.

HCFA requests that the OEB attach a Condition of Approval to this application requiring Tribute to provide a risk assessment prepared by an independent third party, qualified person(s) that addresses any and all impacts the proposed Nextera Wind generating facilities in the Municipality of Bluewater will have on the proposed Tribute natural gas storage facilities in the Municipality of

Bluewater. The results of that risk assessment must specify in particular, but is not limited to, a safe and specific separation distance between industrial wind turbine generators and the natural gas well heads.

Please review the attached Schedule A from William K. G. Palmer, P. Eng.

HCFA's Additional Comments on the OEB Staff Submission of October 22/12

1 - OEB Staff's Recommended Condition of Approval 1.6 – Page 9

The contents of this Condition of Approval requires Tribute to implement a water well monitoring program to include preconstruction monitoring ONLY and ONLY to commit to further monitoring if complaints arise.

HCFA's June 19/12 interrogatory Q2.5 (3a) asks

“To date does Tribute have a well water testing agreement with the Bayfield & Stanley landowners?”

Tribute's answer of July 3/12 – page 21 –

QUOTE - “With the exception of one landowner in Stanley pool, Tribute has met with all the other landowners on several occasions, and has agreed as part of the company's development practices, to undertake a comprehensive well water testing program before, during and post-construction of the injection and withdrawal wells into the pools. The agreement also includes Tribute's commitments to a water mitigation plan and provision of adequate insurance coverage.”

In Binder 3, Sec E11 – page 4 of 12, para 4 – Tribute also states –

Well Water Monitoring and Protection

QUOTE - “In the Tipperary file, Tribute also agreed to a complete, ongoing protocol of water testing, established by Stantec Consulting Ltd. (“Stantec”), which was successfully carried out independently, prior to, during and following the construction and periodically thereafter during the operation of the Tipperary storage facility. Results were immediately available to the residents at their request, with privacy being respected amongst the Landowners in terms of their results.”

QUOTE - “Tribute fully lived up to its commitments in the Tipperary file and is offering to Landowners in the Bayfield and Stanley pools to undertake the identical commitments, along with any directives ordered by the Board. Tribute will live up to the intent and spirit of all of these commitments.”

Since Tribute has committed in these paragraphs to the ‘identical commitments’ as the ‘Tipperary file’ regarding water well testing, HCFA requests that OEB Staff Submission of October 22/12 - Condition of Approval 1.6 - be replaced with the Condition of Approval 1.6.1 - from the Tribute/Tipperary application, a copy of which was attached to HCFA's July 18/12 submission as Schedule C, pages 3-4.

HCFA has also requested on Page 2 & 3 of this submission for various reasons that the 5 year post first injection testing should not begin until construction is deemed complete.

2 – OEB Staff’s Recommended Condition of Approval 1.8 – Page 10 –

The OEB Staff’s recommended condition of approval requires Tribute to maintain both general liability and pollution insurance before construction begins and to notify the OEB when the insurance is obtained.

The Staff’s Condition of Approval 1.8 DOES NOT require Tribute to have the amount of insurance to be determined by a qualified independent third party as was required in both the Tribute/Tipperary Condition of Approval 1.8 and the MHP Canada Condition of Approval 1.9. The OEB Staff’s condition of approval as now written would allow Tribute to determine an amount on their own, which is unacceptable.

Condition of Approval 1.8 – Tribute Tipperary Pools

QUOTE – “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 operation, 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.”

Condition of Approval 1.9 – MHP Canada Pool – December 22, 2006 Decision of the Board

QUOTE - “MHP Canada 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 to be adequate 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. MHP Canada shall file with the Board documentation proving that the insurance coverage obtained as required by this condition.”

The precedent has been set by both the Tipperary Condition of Approval 1.8 and MHP Canada Condition of Approval 1.9 that insurance requirements must be obtained by an independent third party with expertise in adequacy of insurance coverage.

HCFA therefore requests that the OEB Staff recommended Condition of Approval 1.8 be changed to mirror the Tipperary & MHP Canada conditions that requires the insurance amounts to be determined by an independent third party with expertise in insurance coverage.

HCFA is disappointed that there is no mention in the Board Staff’s submission of October 22/12 in regards to Issues List #4.5, being the interactions between the Nextera wind generation facilities and the Tribute gas storage facilities.

It is HCFA’s opinion that it is in the public’s best interest to fully address this issue at this time.

Please review HCFA's recommendation in regards to this issue on previous pages 4 & 5 of this submission.

The HCFA would like to take this opportunity to thank the OEB for allowing HCFA to be an intervener in this application and to extend our appreciation to the board staff for the excellent guidance they have provided the HCFA. The HCFA also acknowledges Stantec for their invitation to provide our input to the environmental study for this application.

The Ontario Federation of Agriculture (OFA) is supported by over 34,000 members across Ontario, with 1,825 members within Huron County. The HCFA's goal when becoming involved with applications such as this is to see that ALL landowners and their lands are treated equally and with respect. Health and public safety is always paramount when industrial projects come to rural Ontario.

Yours truly,

Carol Leeming
HCFA President

Copy: see list at end of correspondence

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