

**CHINNECK LAW**  
*professional corporation*

[info@chinneck.ca](mailto:info@chinneck.ca)  
[www.chinneck.ca](http://www.chinneck.ca)  
Trade Mark Agent  
Commissioner  
Notary Public  
Lawyer

February 1, 2013

**File #11-616**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319, 26th Floor  
2300 Yonge Street  
Toronto ON M4P 1E4


**By Email – [boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca)**  
**By Fax – 1-416-440-7656**  
**By Regular Mail**

Dear Ms. Walli:

**Re: Tribute Resources Inc.**  
**Application for Huron Bayfield and Stanley Gas Storage Project Development**  
**Board File Nos. EB-2011-0076, EB-2011-0077, EB-2011-0078**

Enclosed please find the Reply by Intervenor, McKinley Farms Ltd. and 2195002 Ontario Inc., to Objections to Intervenor's Costs Submissions by Tribute Resources Inc.

Yours very truly,  
**Chinneck Law**  
Professional Corporation



Jed M. Chinneck  
LLB and B.Sc. (Honours Geology)  
JMC:mak  
Encl.  
[jed@chinneck.ca](mailto:jed@chinneck.ca)  
[www.chinneck.ca](http://www.chinneck.ca)

cc: Tribute Resources Inc. – by email ([jlewis@tributeresources.com](mailto:jlewis@tributeresources.com))

Christopher A. Lewis – by email ([lewis@giffens.com](mailto:lewis@giffens.com))

## **ONTARIO ENERGY BOARD**

**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.

## **REPLY BY INTERVENORS**

**(McKinley Farms Ltd. and 2195002 Ontario Inc.)**

## **TO OBJECTIONS TO INTERVENORS' COSTS SUBMISSIONS BY TRIBUTE**

**(Tribute Resources Inc. on behalf of Huron Bayfield  
Limited Partnership and Bayfield Pipeline Corp.)**

## **Introduction**

All time claimed by Intervenor's counsel relates solely to the OEB Applications by Tribute, and has nothing to do with the Superior Court Application brought by Intervenor's in September, 2011, which Court Application was conducted and billed under a separate file.

All time claimed by Intervenor's counsel in this matter relates solely and squarely to the issues before the Board, namely, should there be designation and who should be authorized to inject, store and withdraw?

Let us not lose sight of the fact that in September, 2010, the Ontario Court of Appeal found that Tribute's Gas Storage Lease on the McKinley Lands which overly 76.441% of the Stanley Reef was void, and that as a result of that decision, Tribute withdrew its first applications to the OEB, and redrafted and submitted the subject Applications to reflect the fact their Gas Storage Lease on the McKinley Lands was void.

The first Applications and the current Applications are part of the same issues before the Board that Tribute initiated. Tribute has asked the Board to find that it has the authority to store gas under its Petroleum and Natural Gas Lease (See Applicant's Binder 2, Tab E1, page 8, line 13). Accordingly, all attendances relating to that issue before the Board ought to be recoverable by the Intervenor's.

It is unreasonable for Tribute to now argue that the Intervenor's ought not to be paid for attendances that pertain directly to the issues raised by Tribute itself before the OEB.

Attendances of the Intervenor's counsel in this matter that relate to the **rights to store** are directly relevant to the issue of who should be authorized to inject, store and withdraw gas. It is true that the right to store is also relevant to the issue of compensation, but that does not render attendances regarding the right to store not relevant to the issue of who should be authorized to store, particularly when Tribute has asked the Board to make a determination that it has the right under its Oil and Gas Lease.

## **Intervenor's Involvement in the Hearing Process**

The Intervenor's involvement in the OEB process is considerably more extensive than Tribute would have you believe, as reflect in the attendances in the original Cost Submission.

As indicated above, these Applications are part of an ongoing struggle to settle rights relating to gas storage initiated by Tribute.

Tribute abandoned its original Applications to the OEB for similar relief after the Ontario Court of Appeal found its Gas Storage Lease on the McKinley Lands to be void, and then brought the subject Applications re-worded to reflect that it did not have a lease over the

McKinley Lands. There were many useful attendances prior to the issuance of the notice of the subject Applications on May 10<sup>th</sup>, 2011, including numerous attendances relating to efforts to settle the issues to avoid the Applications being contested. It is submitted that all such attendances are worthwhile and consistent with the objective that issues be settled by agreement if possible.

### **Conclusion**

It is submitted that all attendances claimed by Intervenor are fair and reasonable and relate directly to issues raised by Tribute itself, and to efforts to settle the matter short of a contested hearing. It is manifestly unfair for Tribute to oppose payment to Intervenor for attendances triggered by Tribute's own request for a determination by this Board that Tribute has rights to store gas under its Petroleum and Natural Gas Lease (which specific request arose after the Ontario Court of Appeal found Tribute's Gas Storage Lease to be void).

The Intervenor respectfully request that it be award costs in the amount of \$25,680.95, without abatement or reduction.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

February 1<sup>st</sup>, 2013



---

Chinneck Law Professional Corporation  
Barristers & Solicitors  
37 Ridout Street South  
London, Ontario  
N6C 3W7  
Tel: 519-679-6777  
Fax: 519-432-4811

Jed M. Chinneck (LSUC#21375C)  
Email: [jed@chinneck.ca](mailto:jed@chinneck.ca)

William D. Mitches (LSUC#54632Q)  
Email: [bill@chinneck.ca](mailto:bill@chinneck.ca)

Lawyers for McKinley Farms Ltd. and  
2195002 Ontario Inc.