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VIA E-MAIL & COURIER

Ontario Energy Board
P.O. Box 2319, 26th Floor
2300 Yonge Street
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:

Pursuant to Procedural Order 1, these are the submissions of the Applicants, Tipperary Gas Corp. and Union Gas Limited, in Reply to the written submissions delivered by the Ministry of Natural Resources (MNR), the Tipperary Storage Landowners' Association (TSLA) and Huron County Federation of Agriculture (HFCA), all dated April 25, 2008, and letters from Marilyn Broadfoot dated April 26, 2008 and Lenus Yeo dated April 29, 2008.

Reply to MNR

MNR has requested an order requiring Union to file a summary containing certain information as set out in MNR's submissions (the "Summary of MNR Issues"). The Applicants are willing to prepare and file the Summary of MNR Issues, but the Applicants submit that there is no need for another order requiring Union to complete the Operating and Maintenance procedures and an emergency response plan (jointly the "Procedures") because CSA Z341 already requires that the Procedures be completed, and Union confirms this work has been completed.

Union confirms that the Tipperary Storage Pools have been and will continue to be operated in compliance with CSA Z341 and all other required codes and regulations, including the Conditions of Approval in the Board order.

The application was for an exemption from publicly *filing* the Procedures because the Procedures contain confidential, safety sensitive, and commercially sensitive information. The Applicants did not

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request an exemption from *completing* the Procedures. Completion of the Procedures is required by Conditions of Approval 1.1 and 1.2 which provide that the Storage Pools be operated in accordance with CSA Z341.

The Applicants request that the Board grant them a minimum of 30 days to prepare and file the Summary of MNR Issues requested by MNR.

Reply to Landowners

The main concern of the Landowners is that the Tipperary Storage Pools be operated safely and in conformity with CSA Z341. The Applicants share this goal, and confirm they are operating the Pools in conformity with all safety codes, including CSA Z341.

CSA Z341 does *not* require that the procedures be filed with MNR or any other party, as is evident from the excerpt of CSA Z341 which is attached as Appendix A to MNR's submissions. There is no regulation or Code that requires the public filing of the Procedures. The MNR has the authority to inspect the Procedures whenever it chooses to do so (*Oil, Gas and Salt Resources Act*, s. 3).

The Summary of MNR Issues that MNR has requested, and that the Applicants have agreed to publicly file, will provide TSLA, HFCA and the other landowners with the necessary information to allow them to satisfy themselves that appropriate Procedures are in place. Requiring Union to publicly file all of the Procedures applicable to the operation of the Storage Pools would do nothing to enhance the safe operation of the Storage Pools. In fact, the public filing of a detailed Emergency Response Plan might reduce safety as it could result in interference with the execution of the plan. The Applicants submit that the MNR's proposal for the filing of a summary of the Emergency Response Plan, including all relevant contact information, would better serve the public interest.

Union has not been previously required to publicly file this kind of information. The Applicants, especially Union, believe that the Procedures should remain confidential because they have been created through the application of Union's commercial efforts and expertise over many years, and Union would be financially prejudiced if Union's competitors are able to obtain the information and use it for their own benefit.

Some of the submissions suggest that Union did not object to Condition 1.1.2 when it was first introduced at the hearing. Union's participation at the hearing was limited as it did not have a direct interest in the Tipperary Storage Pools, and Union did not take any position with respect to the Conditions of Approval. Now that Union has taken on the contractual responsibility to operate the pools on a day to day basis, Union will be directly prejudiced if it is required to publicly file its confidential and commercially sensitive information.

TSLA referred to the Board's decision relating to the St. Clair Storage Pools, EB-2006-0164. In that case, the Board did *not* order MHP to publicly file the O&M Procedures and the Emergency Response Plan. Rather, the Conditions of Approval in that case limited the filing to just the Board and MNR. In

the present case, MNR has advised that it would be satisfied with the filing of the Summary of MNR Issues, and Mr. Yeo's letter is supportive of the MNR's position.

TSLA also raised some factual issues in its letter to which the Applicants would like to respond, even though they are not directly relevant to the filing exemption that is being requested.

TSLA refers to injection being started prior to "first responders" being given any information about how to deal with situations that may arise. The first responders in the area are familiar with dealing with natural gas facilities, and they have previously received information from Union as to how to deal with emergencies. Moreover, Union met with the local first responders on April 28, 2008 to refresh their information, and to specifically discuss the Tipperary Storage Pools.

TSLA refers to an agreement with a Landowner stating that certain things would be done before injection began. Work is still being done on that Landowner's premises, and the remediation required by the agreement cannot be completed until that work is finished. The Applicants have discussed the situation with that Landowner, and he has not expressed any objections to the remediation work being done at a later date. Strict compliance with the terms of the agreement was not a Condition of Approval, and it was open to the Applicants and the Landowner to make alternative arrangements.

TSLA refers to injection being started while there is a drilling rig working on the north observation well. The injection has started on the *South* Storage Pool and the injection into that Pool will not be affected by the work on the observation well in the North Storage Pool. Union advises that there are no safety concerns raised by this work.

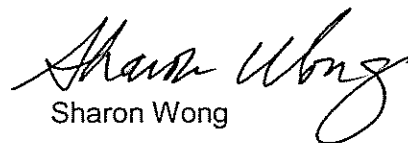
With respect to the issue of insurance, which was raised in Mr. Yeo's letter, the Applicants confirm that the insurance required by the Conditions of Approval is in place.

The Applicants do not oppose the Intervenors' requests for costs of this Application.

Summary of the Applicants' Position

The Applicants request that the Board vary Condition of Approval 1.1.2 so as to require Union to prepare and file the Summary of MNR Issues within 30 days of the Board's order.

Yours truly,



Sharon Wong

sw/maem

c: Mark Isherwood
Jane Lowery