

June 30, 2015

BY RESS & Courier

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
Suite 2700, 2300 Yonge Street  
Toronto, Ontario  
M4P 1E4

Dear Ms. Walli:

**Re: Union Gas Limited (“Union”)  
Sudbury Expansion Project  
Board File # EB-2015-0120**

In response to the submissions received in the above noted matter, please find attached two copies of Union’s reply submissions.

Sincerely,

*[original signed by]*

Shelley Bechard  
Administrative Analyst, Regulatory Projects

Encl.

cc: Pascale Duguay, Ontario Energy Board  
Colin Schuch, Ontario Energy Board  
Zora Crnojacki, OPCC  
Shelley Grice, Econalysis Consulting Services  
Roger Higgin, Sustainable Planning Associates Inc.  
David MacIntosh, Energy Probe Research Foundation  
Ian Mondrow, Gowling Lafleur Henderson LLP  
Shahrzad Rahbar, Industrial Gas Users Association

# **Union Gas Limited**

**UNION REPLY SUBMISSION**

**June 30, 2015**

**Union Gas Limited  
Sudbury Expansion Project  
EB-2015-0120**

## Introduction

Union Gas Limited (“Union”) received submissions from Ontario Energy Board Staff, the Industrial Gas Users Association (“IGUA”), and Energy Probe regarding its proposed Sudbury Expansion Project. The submissions support the Proposed Project, but did request that Union respond to a number of issues that were identified in the Pre- filed evidence and interrogatory responses. These issues can be grouped in the following areas: the Contract with Victoria Mine, Future expansion in the Sudbury area, Environmental concerns (including permits), First Nations Consultation, and Conditions of Approval.

## Contract with Victoria Mine

A contract has not yet been signed between Union and FNX Victoria Mine. Negotiations are ongoing and Union expects a contract will be signed in the near future. Union will accept a Condition of Approval that it will not built the Victoria Mine portion of the Proposed Project until FNX Victoria Mine has signed a contract with Union. Union will file with the Board a signed copy of the contract (with appropriate redactions) as soon as it has been executed.

## Future Expansion in the Sudbury Area

IGUA in their submission identify that a number of their members are interested in additional natural gas service. Union’s evidence states that there will be a small amount additional capacity available as a result of the Proposed Project, however, Union does not believe that this capacity will meet the full requirements for future industrial growth in the Sudbury Area. As stated in Union’s response to Board Staff Interrogatory #2, Union is prepared to expand the Sudbury system if industrial customers require firm incremental capacity. Union has met with IGUA’s Sudbury working group and is in the process of gathering the customer’s requirements to determine the scope of any future projects. These future expansions would follow the guidelines established in the EBO 188 proceeding.

## Environmental Concerns

Attached please find a copy of the letter to the Ministry of Natural Resources and Forestry (“MNRF”) prepared by Azimuth Environmental Consulting Inc., dated May 21, 2105. This letter addresses the concerns identified by the MNRF.

The following is a summary of how Union will address the different issues identified by MNRF.

## Whip-poor-will

- No clearing of trees will be completed during the Whip-poor-will nesting period, and no habitat will be impacted as part of this Proposed Project.

#### Blanding Turtle

- A field review has been completed by MNRF. To date no Blanding Turtles have been sited. MNRF agreed that if construction will take place adjacent to the paved roadway there will be no issues associated with the Blanding Turtle during construction of the Proposed Project.

#### Falconbridge Highway

- The scope of the Sudbury Expansion Project changed from Union's first discussions with MNRF. When the scope of the project was finalized, construction near the Falconbridge Highway was no longer included as part of the Proposed Project.

#### Permits

- Union applied to the Nickel District Conservation Authority for the permits required to complete the Proposed Project. On June 11, 2015 Union received the necessary permits from the Conservation Authority. As a Condition of this permit Union is require to construct silt fences along portions of Crean Hill Road.

#### Environmental Report

- Based on discussions and meetings with MNRF constructing the proposed facilities in the identified locations should not have any impacts on Species at Risk. Additional monitoring will take place immediately prior to construction to confirm that no Species at Risk can be found along the Proposed Pipeline. Union will be constructing silt fences along portions of the construction route identified by qualified Biologists to ensure no Species at Risk can enter the construction site.

#### First Nations Consultation

The archaeological assessment for the Proposed Project has now been completed. This assessment did not identify any archaeological features along the route of the proposed pipeline. Union has continued to update the First Nations and Métis organizations identified in the pre field evidence and they have not identified any new issues or concerns with the Proposed Project.

#### Conditions of Approval

Union can accept the Conditions of Approval proposed by Ontario Energy Board Staff.



Environmental Assessments & Approvals  
May 21, 2015



AEC 15-052

Ministry of Natural Resources and Forestry  
Sudbury District  
3767 Highway 69, Suite 5  
Sudbury, ON  
P3G 1E7

Attention: Eric Cobb, District Planner

**Re: Letter Response to Species at Risk concerns by the MNRF  
Environmental Report for the Sudbury Expansion Project, City of Greater  
Sudbury**

Dear Mr. Cobb:

Azimuth Environmental Consulting Inc. (Azimuth) completed an Environmental Report for the Sudbury Expansion Project in March of 2015 for Union Gas. The project involves the installation of the Victoria Mine pipeline and installation of two pipeline sections in the City of Sudbury.

Concerns were raised by the Ministry of Natural Resources and Forestry (MNRF) in a letter response on March 11, 2015 and a May 7<sup>th</sup>, 2015 email (concerns and responses summarized below). The concerns were related to specific Species at Risk (SAR) and SAR habitat in proximity to the work locations. It is our understanding that Union Gas has addressed the concerns related to the Hwy 35 location (Concern #1). To address the remaining SAR issue at the Victoria Pipeline location (Concern #2), Azimuth teleconferenced with MNRF staff (Mike Hall – Management Biologist; Nikki Boucher – Fish & Wildlife Technical Specialist) and determined that if the work is confined to within 1 m of the western edge of the existing pavement, there should not be any impacts to SAR. Site conditions and lack of potential SAR impacts were also confirmed during a site visit on May 7, 2015 between Mike Hall and Norm Dumouchelle (Union Gas – Environmental Planner).



## **Response to MNRF Concerns – March 11, 2015 (email from Eric Cobb)**

### **Concern #1:**

Municipal Road 35 Right-of-Way: Azilda Lateral (Figure 1):

- known Whip-poor-will habitat in area

**Response:** Consulted with MNRF Sudbury District to confirm that work activities would not impact Whip-poor-will habitat.

### **Concern #2:**

Victoria Mine Pipeline Installation (Figure 2)

- Blanding's turtle habitat identified in and around surrounding wetlands. Also, area is known to contain Eastern Whip-poor-will habitat.

**Response:** Azimuth (Roger Holmes – Aquatic Ecologist) spoke with MNRF Management Biologist Mike Hall on May 7, 2015 and determined that if the work is confined to within 1 m of the western edge of the existing pavement, there should not be an impact to SAR. Site conditions were confirmed during a site visit on May 7, 2015 between Mike Hall and Norm Dumouchelle.

### **Concern #3:**

Falconbridge Rd. (Hwy 86) location

- high potential for presence of Blanding's turtle in area , including movement/corridor habitat.

**Response:** Falconbridge Road removed from project by Union Gas.

## **Response to MNRF Concerns – May 7, 2015 (email from Eric Cobb)**

### **Concern #4**

#### **Environmental Protection Plan**

Page 3, last paragraph in Section 2.0 – work permits from MNRF for watercourse crossings may also be required. However, I noted that this has been correctly acknowledged in Section 6.0 (page 5).



**Response:** Union Gas has confirmed they will obtain all required permits from the Nickel District Conservation Authority prior to construction.

### **Concern #5**

#### Environmental Report

Sections 3.5 (page 5), 4.5 (page 8), 5.5 (page 12) – The last paragraph in each of these sections states that MNRFC was contacted for Species At Risk (SAR) screening assessment but no response was received. An e-mail was sent to Azimuth Environmental Consulting Inc. on March 11, 2014 identifying potential SAR concerns (see attached).

Based on the content provided in the e-mail from March 11, it is recommended that the environmental report is amended to reflect the SAR information, and that the environmental protection plan amended (if required) to describe how potential impacts to SAR and contraventions under the *Endangered Species Act (ESA)* can be avoided, or in situations where impacts cannot be avoided, identify the requirement to obtain the appropriate ESA authorizations.

**Response:** Union Gas staff have met on-site with MNRFC biologist Mark Hall to address the SAR issues identified in the March 11, 2015 email.

This letter will be submitted to the Ontario Energy Board as an amendment to Sections 3.5 (page 5), 4.5 (page 8), 5.5 (page 12) of the Azimuth report which confirms that MNRFC completed their screening of Azimuth's request to identify any relevant species and risk (SAR) and fisheries information and have provided the following information:

#### Elm Street location (Figure 1)

- no SAR observations on record; also no fisheries information available on identified lake (surrounded by patented land)

#### Municipal Road 35 location (Figure 1)

- known Whip-poor-will habitat in area

#### Frood Rd. location (Figures 1 and 2)

- no known SAR observations



### Victoria Mine Pipeline Installation (Figure 2)

- Blanding's turtle habitat identified in and around surrounding wetlands. Also, area is known to contain Eastern Whip-poor-will habitat

Based on this information, you should make an assessment on whether the proposed activities will result in section 9 (harm/harass/kill) or section 10 (habitat damage/destruction) contraventions of the *Endangered Species Act* (ESA). If it is determined that the work will have an impact on any threatened or endangered species, then the proponent may be eligible for an authorization under the ESA.

Some general information you may want to consider when developing avoidance or mitigation measures:

- Whip-poor-will - Active/Nesting season is May 1<sup>st</sup> to July 30<sup>th</sup>
- Blanding's Turtle - Active period (includes basking, nesting and incubation activities) = May 1<sup>st</sup> to September 30<sup>th</sup> [based on local knowledge] -  
Overwintering period = September 1<sup>st</sup> to May 15<sup>th</sup> [based on local knowledge]

We confirm that where Blandings Turtle potential habitat conditions exist for Victoria Mine a qualified biologist will assess the work area for potential habitat and where required silt fence will be installed to ensure protection of the habitat during construction. Where potential Whip-poor-will habitat conditions exist on Municipal Road 35 and Victoria Mine pipeline alignments the potential for impacting the habitat will be assessed by a qualified biologist prior to construction if the construction period occurs between May 1<sup>st</sup> and July 30<sup>th</sup>. If a SAR is encountered, all works within the vicinity of the species will cease until the animal has left the area of work. The MNR District Office will be contacted if the species must be relocated immediately for works to proceed.

Vegetation removal will occur outside of the May 1<sup>st</sup> – July 30<sup>th</sup> sensitive breeding bird window, to prevent interruption of any avian life cycle that may occur on the property.

Falconbridge Road has been removed from the project by Union Gas.



Therefore, it is our understanding that all the MNRF concerns related to SAR and their habitat have been addressed for the Sudbury Expansion Project.

Yours truly,  
AZIMUTH ENVIRONMENTAL CONSULTING, INC.

A handwritten signature in black ink that reads "Roger Holmes".

Roger Holmes, MSc.  
Aquatic Ecologist

Cc: Norm Dumouchelle, Union Gas