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EB-2019-0012

**REPORT OF THE ONTARIO ENERGY BOARD
TO THE MINISTER OF NATURAL RESOURCES AND FORESTRY**

Application to Drill a Well in the Ladysmith Storage Pool

**Before: Susan Frank, Presiding Member
Jenni Byrne, Member**

Date: July 25, 2019

1. INTRODUCTION AND SUMMARY

Enbridge Gas Inc. (Enbridge Gas) filed an application with the Ministry of Natural Resources and Forestry (MNRF) for a licence to drill a stratigraphic test well, referred to as TL9, within the Ladysmith Storage Pool (LSSP). The application was referred to the Ontario Energy Board (OEB) by the MNRF on February 27, 2019, pursuant to section 40 of the *Ontario Energy Board Act, 1998* (OEB Act). Enbridge Gas requests that the OEB issue a favourable report to the MNRF pursuant to subsection 40(1) of the OEB Act (Report to the MNRF) recommending that the MNRF grant a licence to Enbridge Gas to drill TL9.

The OEB finds that the TL9 well is necessary to determine if additional capacity can safely be developed in the LSSP. The TL9 project will not adversely impact Enbridge Gas' ratepayers. The OEB recommends approval of the application for the well drilling licence for well TL9, subject to the conditions in Appendix A. These conditions are consistent with prior OEB approvals for well construction¹.

2. PROCESS

The OEB issued a Notice of Hearing on May 30, 2019. No one sought intervenor status and no one requested a hearing.

One letter of comment was filed with the OEB from an adjacent landowner. The landowner asserted that past work at the LSSP had resulted in drainage issues on his property, and expressed concern that additional work on the site could exacerbate the issues. Enbridge Gas filed a response letter to the OEB indicating that it had met with the landowner and has retained a drainage contractor to survey the area and determine potential solutions to mitigate the drainage issue.

At the direction of the Panel, OEB staff contacted Enbridge Gas and asked it to review and comment on a set of draft conditions for the requested licence². Since the work is part of Enbridge Gas' unregulated storage operations, Enbridge Gas requested that condition #6 on the draft conditions of approval provided by OEB staff, which would require the reporting of actual costs, be omitted.

¹ E.g., EB-2017-0162, Union Gas Limited, 2017 Terminus Storage Pool Well Replacement Project, and EB-2017-0354, Enbridge Gas Distribution Inc., Dow Moore Storage Pool Well Drilling Project

² A copy of the draft conditions provided to Enbridge Gas is attached to OEB staff's July 23, 2019 letter.

On July 23, 2019, OEB staff filed a letter with the OEB stating that OEB staff had reviewed the application and has no issues that require interrogatories. OEB staff stated that it does not object to the removal of condition #6 as proposed by Enbridge Gas, and that subject to the conditions of approval, it has no concerns with the OEB issuing a favourable Report to the MNRF.

The OEB is disposing of this proceeding without additional process on the basis that no person requested a hearing within a reasonable time set by the OEB after the OEB gave notice of the right to request a hearing³. The OEB also finds that Enbridge Gas has taken appropriate steps to address concerns raised by the adjacent landowner.

3. FACTORS TO CONSIDER

When reviewing and reporting to the MNRF on natural gas storage well drilling licence applications, the OEB considers the following:

- the need for the well(s)
- costs of drilling and construction and impact on rate-payers
- the environmental impacts of the proposal
- landowner matters
- Indigenous consultation
- proposed licence conditions

The evidence and the OEB's findings related to each of these factors are described below.

3.1 NEED

Enbridge Gas states that TL9 is required to gather geological and engineering data to assess the feasibility of increasing the maximum operating pressure used in the LSSP. TL9 will not be drilled all the way into the storage pool; as a result, it cannot be used for natural gas injection or withdrawal. The operating pressures, working capacity and deliverability of the LSSP will therefore not change as a result of TL9. Drilling and monitoring of TL9 will not cause any disruption to the service from the LSSP.

Enbridge Gas has stated that if the test results are favourable, it will submit a separate

³ OEB Act, s.21(4)(i)

application requesting permission to extend TL9 into the storage pool and make it an injection and withdrawal well to be referred to as TL9H.

The current deliverability of the LSSP is sufficient to meet Enbridge Gas' regulated storage needs, and any increase in deliverability as a result of the project would create incremental storage capacity to be sold as part of Enbridge Gas' unregulated storage operations.

For safety reasons, drilling of TL9 would be performed in August and September of 2019 when pressures in the LSSP are low. TL9 would be monitored throughout 2019 and 2020. If approved in a subsequent application, the drilling of TL9H could occur in 2021.

In its letter, OEB staff stated that it accepts that the drilling and monitoring of TL9 is needed to assist Enbridge Gas in determining whether additional capacity can safely and economically be developed in the LSSP in order to create incremental storage capacity to be sold as part of Enbridge Gas' unregulated storage operations.

The OEB acknowledges Enbridge Gas' desire to create incremental storage capacity to be sold as part of Enbridge Gas' unregulated storage operations and accepts that TL9 is needed to determine if additional capacity can safely be developed in the LSSP.

3.2 COSTS AND IMPACT ON RATE-PAYERS

The construction of TL9 is being done as part of Enbridge Gas' unregulated storage operations. The \$3.7 million capital and \$2,500 per year operating costs associated with TL9 will be paid for by Enbridge Gas shareholders.

OEB staff stated that, because TL9 is part of Enbridge Gas' unregulated storage operations, there will be no rate impact to Enbridge Gas' rate-payers.

The OEB is satisfied that there will be no rate impact on Enbridge's rate-payers associated with the construction of TL9.

3.3 ENVIRONMENTAL IMPACTS

Enbridge engaged Stantec Consulting Ltd. (Stantec) to complete the necessary Environmental Screening Report (ESR) and prepare an Environmental Protection Plan (EPP) in accordance with the OEB's *Environmental Guidelines for the Location*,

Construction and Operation of Hydrocarbon Pipelines in Ontario, 2016. This process included the consultation and notification of the affected landowners and Indigenous communities as part of identifying potential environmental and socio-economic impacts associated with the construction of TL9. Stantec did not find any significant environmental or socio-economic features other than the potential impact on Butler Garter Snakes. Appropriate mitigation has been identified in the ESR to address this potential issue. Stantec concluded that with the implementation of the mitigation measures recommended in the ESR and adherence to permit, regulatory and/or legislative requirements, the potential environmental impacts of TL9 are not anticipated to be significant.

A Stage 1 and Stage 2 Archaeological Assessment (AA) was completed in 2018 for TL9 and submitted to the Ministry of Tourism, Culture and Sport (MTCS). Based on the results of the Stage 1 and Stage 2 AA, no archaeological resources were identified, and no further archaeological work was recommended for this area. The Stage 1 and Stage 2 AA has been accepted by the MTCS⁴.

Environmental screening by a third party consultant identified no significant potential environmental or socioeconomic impact given Enbridge Gas' commitment to implementing the recommended mitigation measures. The OEB accepts the findings of the consultant and does not anticipate any significant potential environmental impacts from TL9, given Enbridge Gas' commitment to implement the mitigation measures recommended in the ESR.

3.4 LANDOWNER MATTERS

To drill TL9, Enbridge Gas will need to construct a temporary drilling pad approximately 75 m x 90 m. After TL9H is drilled, the size of the pad will be reduced to 11 m x 5.5 m and a permanent laneway to the smaller pad will be constructed.

Enbridge Gas has executed a Purchase and Sale Agreement with Kimcor Farms Ltd. (Kimcor) to purchase the land required for TL9. The lands acquired will also contain the existing Enbridge Gas facilities in the Ladysmith Designated Storage Area. The lands will be licensed back to Kimcor for use in its farming activities. The closing date for acquisition of the required lands was July 11, 2019.

On June 13, 2019, an adjacent landowner filed a letter of comment asserting that past work at the LSSP had resulted in drainage issues on their property, and expressed

⁴ Exhibit C-1-2, Attachment 1

concern that additional work associated with TL9 could exacerbate the issues. The adjacent landowner requested that, before OEB approval is given to Enbridge Gas, assurances be given and plans detailed of how Enbridge Gas will address and mitigate the water drainage problem.

On July 17, 2019, Enbridge Gas filed a letter with the OEB stating that it had met with the landowner to discuss the matter and had retained a drainage contractor to survey the area and determine potential solutions to mitigate the drainage issue.

OEB staff submitted that Enbridge Gas has taken reasonable steps to address the adjacent landowner's concerns, and OEB staff noted that should any further issues arise moving forward, the OEB has a process for receiving complaints from the public regarding regulated entities.

The OEB finds no ongoing land issues as TL9 is on land acquired by Enbridge Gas. The OEB is satisfied that Enbridge Gas is taking reasonable steps to address the adjacent landowner's drainage concerns.

3.5 INDIGENOUS CONSULTATION

In October 2018, the Ministry of Energy, Northern Development and Mines (MENDM) delegated to Enbridge Gas the procedural aspects of the Crown's duty to consult and identified five Indigenous communities to be consulted. Enbridge Gas filed its Indigenous Consultation Report to the MENDM on May 3, 2019. MENDM's Indigenous consultation sufficiency letter, dated June 12, 2019, stated that the MENDM is of the opinion that the procedural aspects of consultation undertaken by Enbridge Gas for the TL9 project were satisfactory⁵.

Enbridge Gas provided a summary of its Indigenous consultation activities for the project as well as the details for the date, comments and response for each meeting. Enbridge Gas indicated that it will continue to engage all identified Indigenous groups in ongoing dialogue concerning the project and to respond to inquiries in a timely manner.

Based on the detailed description of the consultation activities and the MENDM letter of sufficiency, the OEB finds that Enbridge Gas has satisfied the duty to consult for the TL9 project. The OEB commends Enbridge Gas on its ongoing consultation plans and expects that Enbridge Gas will keep the OEB informed if any unresolved issues develop.

⁵ Exhibit G, Tab 1, Schedule 1, Attachment 3

4. RECOMMENDED LICENCE CONDITIONS

OEB staff contacted Enbridge Gas and asked it to review and comment on a set of draft conditions of the requested licence. Since the work is part of Enbridge Gas' unregulated storage operations, Enbridge Gas requested that condition #6 on the draft conditions of approval provided by OEB staff, which would require the reporting of actual costs, be omitted.

OEB staff stated in its letter on July 23, 2019 that it does not object to the removal of condition #6 as proposed by Enbridge Gas.

The OEB will not require Enbridge Gas to report the actual costs of the project, as proposed in draft condition #6. The OEB recommends that the licence issued by MNRF for TL9 be subject to the conditions presented in Appendix A to this Report to the MNRF.

5. RECOMMENDATIONS

The OEB finds that the TL9 well is necessary to determine if additional capacity can safely be developed in the LSSP. The TL9 project will not adversely impact Enbridge Gas' ratepayers. The OEB recommends approval of the application for the well drilling licence for well TL9 in the LSSP, subject to the conditions in Appendix A. This recommendation shall expire twelve months from the date of this Report.

DATED at Toronto, July 25, 2019

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Appendix A

Proposed Conditions of Licence - Well Drilling and Operation

1. Enbridge Gas Inc. (Enbridge Gas) shall rely on the evidence filed with the OEB in the EB-2019-0012 proceeding and comply with applicable laws, regulations and codes pertaining to the construction of the proposed wells.
2. The authority granted under this licence to Enbridge Gas is not transferable to another party without leave of the OEB. For the purpose of this condition another party is any party except Enbridge Gas.
3. Enbridge Gas shall construct the facilities and restore the land in accordance with its Application and evidence given to the OEB, except as modified by this licence and these Conditions.
4. Enbridge Gas shall implement all the recommendations of the Environmental Screening Report filed in the proceeding.
5. Enbridge Gas shall ensure that the movement of equipment is carried out in compliance with all procedures filed with the OEB, and as follows:
 - i. Enbridge Gas shall make reasonable efforts to keep the affected landowner(s) as well as adjacent landowners and their respective tenant farmers, or their designated representatives, informed of its plans and construction activities; and
 - ii. The installation of facilities and construction shall be coordinated to minimize disruption of agricultural land and agricultural activities.
6. Enbridge Gas shall, subject to the recommendation by an independent tile contractor and subject to the landowner's approval, construct upstream and downstream drainage headers adjacent to the drilling area and access roads that cross existing systematic drainage tiles, prior to the delivery of heavy equipment, so that continual drainage will be maintained.
7. Both during and after construction, Enbridge Gas shall monitor the impacts of construction, and shall file with the OEB one paper copy and one electronic (searchable PDF) version of each of the following reports:
 - a) A Post Construction Report, within three months of the in-service date, which shall:
 - i. Provide a certification, by a senior executive of the company, of Enbridge Gas' adherence to Condition 1;
 - ii. Describe any impacts and outstanding concerns identified during construction;

- iii. Describe the actions taken or planned to be taken to prevent or mitigate any identified impacts of construction;
 - iv. Include a log of all complaints received by Enbridge Gas, including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions; and
 - v. Provide a certification, by a senior executive of the company, that the company has obtained all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project.
 - b) A Final Monitoring Report, no later than fifteen months after the in-service date, or, where the deadline falls between December 1 and May 31, the following June 1, which shall:
 - i. Provide a certification, by a senior executive of the company, of Enbridge' adherence to Condition 1;
 - ii. Describe the condition of any rehabilitated land;
 - iii. Describe the effectiveness of any actions taken to prevent or mitigate any identified impacts during construction;
 - iv. Include the results of analyses and monitoring programs and any recommendations arising therefrom; and
 - v. Include a log of all complaints received by Enbridge Gas, including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions.
8. For the purposes of these conditions, conformity of Enbridge Gas:
- a) With CSA Z341.1-18 "Storage of Hydrocarbons in Underground Formations" shall be to the satisfaction of the Ministry of Natural Resources and Forestry (MNRF); and
 - b) With the requirements for wells as specified in the *Oil, Gas and Salt Resources Act*, its Regulation 245/97, and the Provincial Operating Standards v.2 shall be to the satisfaction of the MNRF.
9. Enbridge Gas shall designate one of its employees as project manager who will be responsible for the fulfillment of these conditions, shall provide the employee's name and contact information to the OEB and to all the appropriate landowners, and shall clearly post the project manager's contact information in a prominent place at the construction site.

The OEB's designated representative for the purpose of these Conditions of Approval shall be the OEB's Manager of Supply and Infrastructure (or the Manager of any OEB successor department that oversees leave to construct applications).