



BY E-MAIL

September 10, 2020

Ms. Sherry Pineo  
Manager, Petroleum Operations Section  
Ministry of Natural Resources and Forestry  
659 Exeter Road, London, ON M6E 1L3  
[sherry.pineo@ontario.ca](mailto:sherry.pineo@ontario.ca)

Dear Ms. Pineo:

**Re: Report to the Minister of Natural Resources and Forestry  
Enbridge Gas Inc., Application to Drill Natural Gas Storage Wells in the  
Kimball-Colinville and Payne Pools  
Ontario Energy Board File Number: EB-2020-0105**

Pursuant to Section 40 of the *Ontario Energy Board Act, 1998*, the Ministry of Natural Resources and Forestry referred to the Ontario Energy Board (OEB) an application by Enbridge Gas Inc. (Enbridge Gas) for a licence to drill one horizontal natural gas storage well in the Kimball-Colinville Storage Pool and one vertical natural gas storage well in the Payne Storage Pool. Please find attached the OEB's report to the Minister of Natural Resources and Forestry that recommends the issuance of a well drilling licence to Enbridge Gas for these two wells, subject to certain conditions of approval.

Please direct any questions relating to this application to Ritchie Murray, Project Advisor at 416-544-5182 or [Ritchie.Murray@oeb.ca](mailto:Ritchie.Murray@oeb.ca).

Yours truly,

*Original Signed By*

Christine E. Long  
Registrar and Board Secretary

Attachment

Cc: Joel Denomy, [EGlregulatoryProceedings@enbridge.com](mailto:EGlregulatoryProceedings@enbridge.com)  
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## **REPORT OF THE ONTARIO ENERGY BOARD TO THE MINISTER OF NATURAL RESOURCES AND FORESTRY**

**Licence to drill natural gas storage wells in the Kimball-Colinville Storage Pool  
and the Payne Storage Pool in St. Clair Township in the County of Lambton**

**Before:      Robert Dodds, Vice Chair and Presiding Member  
                 Michael Janigan, Member**

**Date:         September 10, 2020**

## 1. INTRODUCTION AND SUMMARY

On April 9, 2020, pursuant to section 40(1) of the *Ontario Energy Board Act, 1998* (OEB Act), Enbridge Gas Inc. (Enbridge Gas) requested from the Ontario Energy Board (OEB) a favourable report (Report) to the Ministry of Natural Resources and Forestry (MNRF) in respect of Enbridge Gas's application to the MNRF for a licence to drill one new gas storage well in each of the Kimball-Colinville Storage Pool and the Payne Storage Pool (Pools). The Pools are located in St. Clair Township in the County of Lambton. The new wells (Wells) would need to be connected to Enbridge Gas's existing gathering pipeline system by way of two new pipeline segments. The well and pipeline work is collectively referred to as the Project. Enbridge Gas has the authority to store natural gas in the Pools.

The OEB finds that the Project is necessary in order to replace deliverability that was lost in the Pools due to the abandonment and relining of a number of pre-existing wells. The OEB recommends approval of the application for the well drilling licence, subject to the conditions of approval set out in Appendix A to this report.

## 2. PROCESS

A Notice of Hearing was issued on May 7, 2020. The MNRF, Mr. Bryan Arnold, and Mr. Douglas Henderson applied for intervenor status. No objection was received from Enbridge Gas. The MNRF, Mr. Arnold and Mr. Henderson were approved as intervenors. Mr. Arnold and Mr. Henderson were approved for cost award eligibility.

Procedural Order No. 1 was issued on June 8, 2020, and set out a process for written interrogatories and submissions.

Procedural Order No. 2 was issued on July 10, 2020. In this Procedural Order, the OEB extended the due date for submissions by two weeks in response to a request by Mr. Henderson for an extension.

Procedural Order No. 3 was issued on July 24, 2020. In this Procedural Order, the OEB found that the matters of compensation under the existing gas storage lease agreements (GSL) and alleged inadequate past restoration of intervenors' properties and awards for damages are matters that are outside the scope of this proceeding. The OEB also found that the inclusion of the regulated portion of the proposed assets in rate base, and the matter of cost allocation between regulated and unregulated gas storage operations, will be considered as part of Enbridge Gas's 2024 rates application, and are also beyond the scope of this proceeding. The OEB extended the due date for

submissions by an additional week to allow time for intervenors and OEB staff to revise their submissions accordingly.

Enbridge Gas filed its reply submission on August 12, 2020.

### **3. FACTORS TO CONSIDER**

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

- Project need and timing
- Proposed facilities
- Project costs and impact on rate-payers
- Environmental impacts of the project
- Landowner matters associated with the project
- Indigenous consultation associated with the project
- Proposed licence conditions

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

#### **3.1 PROJECT NEED AND TIMING**

The OEB finds that the Project is needed and that the proposed schedule is acceptable.

##### **Need for the Project**

The purpose of the Project is to replace deliverability that was lost due to the abandonment and relining of a number of pre-existing wells. Enbridge Gas says the Wells would effectively be "like for like" replacements and would not increase the deliverability and capacity of the pools. Enbridge Gas says the Wells would assist with the continued safe and reliable distribution of natural gas to existing and future Enbridge Gas customers.

Enbridge Gas states that the new vertical gas storage well in the Payne Storage Pool (UP 24) would replace deliverability that was lost due to the abandonment of one gas storage well and the relining of six other gas storage wells in that pool. OEB staff and intervenors did not question the need for this well.

Enbridge Gas states that the new horizontal gas storage well in the Kimball-Colinville Storage Pool (TKC 67H) would replace deliverability that was lost due to the abandonment of three gas storage wells in that pool. OEB staff and intervenors did not question the need for this well. OEB staff and Mr. Henderson questioned whether this well was in fact a like-for-like replacement or whether it increased deliverability. This issue is discussed below in section 3.2 (Proposed Facilities), where the OEB finds that TKC 67H) will not materially increase the capacity of the Kimball-Colinville Storage Pool.

The OEB finds that the project is needed.

### **Timing of the Project**

In its application, Enbridge Gas said that drilling of the Wells was proposed to occur in June and July of 2020 when storage pressures are low and constant and therefore suitable and safe for drilling operations. Enbridge stated that the pools must be put back into operation by mid-July, 2020, to ensure that there is no disruption to services for storage injections. Enbridge Gas stated that if it were not able to finish drilling before mid-July, 2020, the Project would be deferred to the following year. Enbridge Gas requested that a favorable report be provided by the OEB to the MNRF by the end of May 2020.

During the interrogatory stage of this proceeding, OEB staff asked Enbridge Gas to comment on its ability to complete the work in 2020 in the event that the OEB were to issue its report in July or August of 2020. Enbridge Gas replied that it had already begun injection operations in the Pools to ensure they are ready for winter withdrawal. Due to the increased pressure in the Pools, Enbridge Gas stated that it would not completely drill into either storage pool in 2020. Enbridge Gas now proposes to complete the Project in two stages – drilling a portion of each well, above the storage reef, in the fourth quarter of 2020 and drilling and completing the balance of each well in the first and second quarters of 2021.

In response to an MNRF interrogatory, Enbridge Gas confirmed that any changes to the proposed drilling program would be sent to the MNRF for review and approval. In its reply submission, Enbridge Gas stated that it provided the revised drilling program to the MNRF on August 11, 2020. This was after the MNRF filed its submission in this proceeding on August 4, 2020. To date, the OEB has not received communication from the MNRF expressing concerns with the revised drilling program.

In its reply submission, Enbridge Gas indicated that it intends to commence the first

stage of its drilling program in September 2020.

The OEB has no issues with the revised schedule for the Project.

### **3.2 PROPOSED FACILITIES**

The OEB finds that Enbridge Gas's efforts to date have been compliant with the Canadian Standards Association *Z341 Storage of Hydrocarbons in Underground Formations* (CSA Z341) to the satisfaction of the MNRF. The OEB finds that the proposed facilities are appropriate to achieve the intent of the Project. The OEB finds that Enbridge Gas does not require leave to construct from the OEB for the proposed pipelines.

#### **Brief Description of Proposed Facilities**

As previously noted, UP 24 would replace deliverability that was lost due to the abandonment of one gas storage well and the relining of six other gas storage wells in the Payne Storage Pool and TKC 67H would replace deliverability that was lost due to the abandonment of three gas storage wells in the Kimball-Colinville Storage Pool. In addition to drilling the Wells, Enbridge Gas would need to construct new wellheads and install emergency shutdown valves. Approximately 85 metres (m) of NPS 10 steel pipeline would be installed from TKC 67H to the Kimball-Colinville gathering pipeline. Approximately 120 m of NPS 10 steel pipeline would be installed from UP 24 to the Payne gathering pipeline. The Project would require the construction of gravel pads and access lanes.

#### **Compliance with CSA Z341**

The OEB expects an applicant to comply with the relevant requirements of CSA Z341 to the satisfaction of the MNRF. The facilities addressed by CSA Z341 include wells, well heads, subsurface equipment and safety equipment (including monitoring, control, and emergency shutdown systems).

The MNRF was an intervenor in this proceeding and as such posed interrogatories and made submissions. In its submission, the MNRF stated that it had reviewed Enbridge Gas's application and that it is satisfied that Enbridge Gas provided complete responses to MNRF's interrogatories. The MNRF stated that it has no objection to approval of the application as proposed.

In its submission, the MNRF reminded Enbridge that, as the operator, Enbridge Gas

bears the responsibility for ensuring that all safety and environmental issues are addressed and to ensure compliance with the *Oil, Gas and Salt Resources Act* (OGSRA), O.Reg. 245/97 and the CSA Z341 standard. Enbridge Gas stated in its reply submission that it fully accepts its responsibility as operator of the wells to ensure that all safety and environmental issues are addressed and that it would comply with the OGSRA, O. Reg. 245/97 and CSA Z341.

The OEB finds that, to date, Enbridge Gas has been compliant with the requirements of CSA Z341 to the satisfaction of the MNRF. The OEB recommends that as a condition of licences issued in respect of the Project, Enbridge Gas must remain compliant with the requirements of the CSA Z341 to the satisfaction of the MNRF.

### **Appropriateness of the Proposed Facilities**

Neither OEB staff nor any intervenor questioned whether UP 24 was appropriate to meet the needs of the Project.

Both OEB staff and Mr. Henderson questioned whether TKC 67H was in fact a like-for-like replacement or whether it increased the deliverability of the Kimball-Colinville Storage Pool. In his letter of comment, Mr. Henderson asserted that the deliverability of a horizontal well can be up to ten times that of a single vertical well. In an interrogatory, OEB staff noted that in a previous well drilling application, Enbridge Gas stated that, based on its experience, one horizontal well will replace the deliverability of approximately 3.5 vertical wells. Enbridge Gas responded that, based on its experience, on average one horizontal well can replace 3.5 vertical wells, but that it has not seen any data to support a 10 fold increase. Enbridge Gas stated that TKC 67H would not increase the storage capacity or deliverability of the Kimball-Colinville Storage Pool. Enbridge Gas stated that the well is being drilled to replace deliverability lost through the abandonment of three wells, and that the path of the horizontal well is adjacent to the abandoned wells and would intersect the same part of the reef as the abandoned vertical wells.

OEB staff submitted that the proposed well, wellhead and pipeline facilities seem appropriate to replace deliverability that was lost due to the abandonment and relining of a number of pre-existing wells.

The OEB finds that the proposed facilities are appropriate to achieve the intent of the Project, and that TKC 67H would not materially increase the deliverability of the Kimball-Colinville Storage Pool.

## Leave to Construct the Pipelines

In its pre-filed evidence, Enbridge Gas stated that the two NPS 10 pipelines (which total 205 m in length) do not meet any of the criteria for requiring leave to construct as set out in the OEB Act<sup>1</sup>. In its submission, OEB staff asked Enbridge Gas to confirm the total estimated capital cost of the pipeline facilities is less than \$2,000,000 in order to rule out the need for leave to construct those facilities. In its reply submission, Enbridge Gas stated the cost of pipeline for TKC 67H would be approximately \$601,000 and the cost of the pipeline for UP24 would be approximately \$498,000 for a total of approximately \$1.01 million.

The OEB finds that leave to construct the proposed pipelines is not required.

### 3.3 PROJECT COSTS AND IMPACT ON RATE-PAYERS

The OEB finds that the estimated capital costs appear reasonable, and that the regulated portion of the proposed facilities, if and to the extent approved, would not be included in Enbridge Gas's rate base until the conclusion of Enbridge Gas's 2024 rates application.

#### Estimated Capital Costs

The estimated capital cost for the Project is \$4.94 million. Well TKC 67H would be part of Enbridge Gas's regulated storage operations. Well UP 24 would serve both Enbridge Gas's regulated and unregulated operations. Enbridge Gas provided Table 1 (below), which sets out the forecasted capital cost by well.

Table 1: Project Costs

New Well and Type	Cost Allocation	Forecasted Capital Cost (\$000's)
TKC 67H – Horizontal Well	100% Regulated	2,554.0
UP 24 – Vertical Well	44.1% Regulated	1,051.0
	55.9% Unregulated	1,334.0
Total Cost to Regulated Storage Operations		3,605.0
Total Cost		4,939.0

<sup>1</sup> Section 90 (1) of the OEB Act requires that a person apply to the OEB for leave to construct a hydrocarbon pipeline if the pipeline will be greater than 20 kilometres in length, cost more than \$2,000,000, or is 12 inches or greater in diameter and has an operating pressure of 2,000 kilopascals or more.



OEB staff submitted that the costs provided in Table 1 are higher than other recent well drilling projects by Enbridge Gas. OEB staff asked Enbridge Gas to confirm in its reply submission that this was because other recent projects did not include pipelines. Enbridge Gas did not comment on this in its reply submission. However, in its reply submission, Enbridge Gas provided the capital costs of the two pipelines, which total approximately \$1.01 million.

Based on comparator project information provided by OEB staff in its submission, the OEB observes that the average cost of three recent vertical wells was about \$1.5 million, and that the average cost of two recent horizontal wells was about \$1.8 million. Adding the estimated costs of the pipelines provided by Enbridge Gas in its reply submission to these average well costs, the total cost of the Project would be expected to be approximately \$4.5 million, or approximately 9% less than the approximate \$4.9 million cost estimate provided by Enbridge Gas in its pre-filed evidence.

In its reply submission, Enbridge Gas stated that, as a result of the drilling program being revised to defer completion and require two drilling stages instead of one, it would incur additional Project costs of approximately \$140,000 primarily related to moving the drilling rig off and back on location.

The OEB finds that the estimated capital costs of the project appear to be reasonable, assuming that the comparator projects did not include much if any pipeline work. The OEB previously found that the inclusion of the regulated portion of these costs, and the matter of cost allocation between regulated and unregulated gas storage operations, will be considered as part of Enbridge Gas's 2024 rates application.

### **Impact on Ratepayers**

In its decision in the recent amalgamation application for Enbridge Gas Distribution Inc. and Union Gas Limited, the OEB approved a price cap incentive regulation regime for the setting of rates for fiscal years 2019-2023. Since Enbridge Gas is not requesting an Incremental Capital Module treatment for the Project, the costs would be funded through existing rates in accordance with the approved incentive rate setting mechanism and there would be no incremental bill impact to customers up to the end of the 2023 fiscal year. Enbridge Gas proposed to include the regulated portion of the Project costs in rate base at its next rebasing application, which is scheduled for 2024.

In Procedural Order No. 3, the OEB acknowledged that the regulated portion of the proposed facilities, if and to the extent approved, would be included in Enbridge Gas's rate base at its next rebasing. The OEB indicated that as such, the inclusion of the

regulated portion of Project in rate base, and the matter of cost allocation between regulated and unregulated gas storage operations, will be considered as part of Enbridge Gas's 2024 rates application, and are beyond the scope of this proceeding.

Enbridge Gas submitted that the Project is like-for-like, and would not result in an increase in storage capacity or deliverability. OEB staff submitted that for any new storage projects that only replace existing storage assets and do not increase storage capacity or deliverability, the cost of those projects would be allocated to regulated and unregulated storage operations on the same basis as the original assets. OEB staff submitted that whether the Project is like-for-like is not a matter typically in scope of a licence referral proceeding and should also be considered as part of Enbridge Gas's 2024 rates application.

The OEB agrees with OEB staff that whether the Project is like-for-like is not a matter typically in scope of a licence referral proceeding and should be considered as part of Enbridge Gas's 2024 rates application.

### **3.4 ENVIRONMENTAL IMPACTS**

The OEB finds that the Project will not have lasting negative environmental and socio-economic impacts. Certain of the OEB's recommended conditions of approval will help ensure that Enbridge Gas's activities will remain satisfactory in terms of their impact on the environment through to the completion of the Project.

Enbridge Gas retained Stantec Consulting Ltd. (Stantec) to undertake an environmental screening to identify potential environmental and socio-economic impacts associated with the Project and to prepare an Environmental Screening Report (ESR). The ESR includes recommended impact mitigation measures, including measures to avoid impacts to the Butler's Gartersnake – the only Species at Risk identified in the study area. The ESR is incorporated into the Environmental Report (ER) that was prepared by Enbridge Gas. The ER concludes that, with the implementation of the recommended mitigation measures, the Project is not anticipated to have any significant adverse effects.

The ER was provided to the Ontario Pipeline Coordinating Committee (OPCC) on February 20, 2020. Enbridge Gas received comments from the Technical Standards and Safety Authority, the Ontario Ministry of Transportation, the Ontario Ministry of Environment, Conservation and Parks, and the MNRF; no issues or concerns were raised by these OPCC members.

A Stage 1 and Stage 2 Archaeological Assessment (AA) was completed by Stantec and was submitted to the Ministry of Heritage, Sport, Tourism and Cultural Industries (MHSTCI) on February 18, 2020. No archaeological resources were identified and no further archaeological work is required. The clearance letter from the MHSTCI indicates that the AA was accepted into the Ontario Public Register of Archaeological Reports on March 19, 2020.

In its pre-filed evidence, Enbridge Gas stated that water wells may be impacted by well drilling and pipeline construction if it is not completed properly, and that Enbridge Gas had retained a consultant hydrogeologist to conduct a standard water well monitoring program. Both the MNRF and OEB staff asked Enbridge Gas about the possible impact of the Project on water wells. Enbridge Gas replied that water wells could be disturbed temporarily when drilling is occurring through the freshwater zone. Enbridge Gas stated that it is possible for drilling fluids to enter the water well, but that this is highly unlikely as the water zone is only open for a minimal amount of time before casing is run and cemented to the surface. Once the surface casing is placed, the freshwater zone is sealed off for the remainder of drilling activities. Enbridge Gas stated that the proposed drilling program provides for two additional casing strings to be run and cemented to surface, thereby providing three layers of protection between the freshwater and the natural gas.

In an interrogatory response, Enbridge Gas stated that the closest water well to TKC 67H is located 830 m south at 3071 Tecumseh Road and the closet water well to UP 24 is located 900 m south at 3427 Ladysmith Road. Enbridge Gas further stated that, if it is determined that Enbridge Gas has impacted a water well, it will ensure that the affected landowner's water supply will be maintained until the problem is corrected.

In an interrogatory response, Enbridge Gas stated that letters offering private well monitoring were hand delivered by Stantec on March 27, 2020 to residents within at least one kilometer of TKC 67H and UP 24. Enbridge Gas stated that a Landowner Relations Program would be administered by two Enbridge Gas Land Agents and would provide landowners with a dedicated contact in the event they have any concerns or questions during the Project.

OEB staff submitted that Enbridge Gas's efforts to date appear to be in accordance with the applicable requirements of the OEB's *Environmental Guidelines for Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario*, 7<sup>th</sup> Edition, 2016 (Guidelines).

## **Payne-Waubuno Fault**

The OEB finds that Enbridge Gas is acting responsibly in respect of the location and orientation of TKC 67H.

In an interrogatory, Mr. Henderson expressed concern that drilling TKC 67H could impact the structural integrity of the Kimball-Colinville Storage Pool, in particular in respect of a fault line he believed runs under the Kimball-Colinville Storage Pool. In its response, Enbridge Gas indicated that it has reviewed numerous studies and has completed seismological studies over the Pools and has confirmed the presence of a West-Northwest by East-Southeast trending fault that separates the Kimball-Colinville and Ladysmith pools. The fault is called the Payne-Waubuno Fault (Fault). Enbridge Gas says the Fault extends from the St. Clair River to Lot 11, Concession 2 in Moore Township and was formed approximately 400 million years ago.

In its reply submission, Enbridge Gas stated that the proposed location of TKC 67H is approximately 789 m north of the Fault, and that the horizontal leg would be drilled in a northerly direction, away from the Fault and therefore the horizontal leg would not intersect the Fault. Enbridge Gas also noted that it is not seeking to increase the operating pressures of the Pools, and so that is not an issue relevant to this proceeding.

Neither OEB staff nor any other intervenor raised concerns in respect of the Fault.

### **3.5 LANDOWNER MATTERS**

The OEB finds that Enbridge Gas's land use requirements are reasonable, and that it is appropriately managing its relationship with landowners.

#### **Land Use Requirements**

The Project would require the construction of gravel pads and access lanes at the Kimball-Colinville and Payne pools.

To install and maintain well TKC 67H in the Kimball-Colinville Storage Pool, Enbridge Gas would need to construct:

- A temporary 76 m x 76 m gravel pad that, after drilling is complete, would be reduced to a permanent pad of approximately 11 m x 5.5 m

- A temporary work space of approximately 64 m x 18 m for the purposes of constructing the pipeline that would connect the well to the Kimball-Colinville gathering line
- A permanent 6 m wide x 29 m gravel lane off the existing gravel lane in order to maintain access to the new well site

To install and maintain well UP 24 in the Payne Storage Pool, Enbridge Gas would need to construct:

- A temporary 76 m x 76 m gravel pad that, after drilling is complete, would be reduced to a permanent pad of approximately 12 m x 12 m
- A temporary work space of approximately 94 m x 18 m for the purposes of constructing the pipeline that would connect the well to the Payne gathering line
- A permanent 6 m wide x 130 m gravel lane off Ladysmith Road in order to maintain access to the new well site

OEB staff submitted that the proposed land use requirements are reasonable. No intervenor expressed issues or concerns with the proposed land use requirements.

The OEB finds that the proposed land use requirements are reasonable.

### **Landowner Relations**

There are two parties who would be directly impacted by the Project. One is a tenant farmer on the property at which at TKC 67H would be drilled. The other is a local farmer from whom Enbridge Gas leases the property on which UP 24 would be drilled.

Enbridge Gas says its land agents have contacted the tenant farmer regarding the proposed project, and that the tenant farmer will be notified once Enbridge Gas receives approval to drill TKC 67H.

Enbridge Gas says its land agents have contacted the local farmer regarding the proposed project. The farmer has executed a Letter of Acknowledgement and a Pipeline Easement Agreement<sup>2</sup> in addition to the Gas Storage Lease.

In its pre-filed evidence, Enbridge Gas states that rotary rig drilling would proceed on a 24 hour / 7 day per week basis throughout the drilling process. If cable tool rig drilling is

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<sup>2</sup> The Letter of Acknowledgement and Pipeline Easement Agreement are customary in the former Union Gas Limited rate zone and serve to provide details of the specific project and related compensation.

necessary, it would proceed on a 12 hour basis. The drilling of the horizontal well, TKC 67H, is expected to take 21 to 28 days and the drilling of the vertical UP 24 well is expected to take 10 to 14 days. OEB staff asked Enbridge Gas whether the affected landowners have been informed about this level of activity. Enbridge Gas replied that it owns the property where TKC 67H would be drilled and therefore notification is not required. The landowners for UP 24 have not been informed to date about drilling operations and scheduling; Enbridge Gas says that, in order to provide the most accurate information concerning drilling operations and scheduling, it will send letters to the affected landowners after the project has been approved.

In its pre-filed evidence, Enbridge Gas states that it is committed to maintaining a log of any concerns presented by the landowners and to ensuring that any concerns are noted and resolved.

The OEB finds that Enbridge Gas's proposed land use requirements, the associated impact on affected landowners, and its communications with affected landowners to date are acceptable.

### **Compensation for Storage Rights and Past Damages**

Through their interrogatories, Mr. Arnold and Mr. Henderson expressed concerns about compensation under the terms of existing GSL agreements for the construction of gas storage related works and compensation for past damages.

In Procedural Order No. 3, the OEB found that the matters of compensation under the existing GSL agreements and alleged inadequate past restoration of intervenors' properties and awards for damage are matters that are outside the scope of this proceeding. The OEB found that changes to the terms of GSL agreements would be more appropriately dealt with in a generic proceeding given that the issue may affect other landowners in the province.

The OEB notes that any person may file an application with the OEB under section 38(3) of the OEB Act for an order determining "just and equitable compensation" for storage rights.

In Procedural Order No. 3, the OEB also found that the alleged issue of inadequate restoration and payment of damages with respect to past activities should be addressed by Enbridge Gas and the affected landowners through avenues other than this proceeding. The OEB indicated that it expects Enbridge Gas to inspect the premises and respond to those alleged inadequate restoration practices. In its reply submission,

Enbridge Gas stated that it has had detailed communications with Mr. Arnold regarding his concerns, and that Mr. Arnold has signed a release and been paid compensation. Enbridge Gas stated that, if Mr. Arnold wishes to discuss these matters further or clarify the responses that Enbridge Gas has provided, he is welcome to contact Enbridge Gas.

The OEB previously found that compensation under the existing GSL agreements and alleged inadequate past restoration of intervenors' properties and awards for damage are matters that are outside the scope of this proceeding. The OEB finds that Enbridge Gas has acted reasonably to date with respect to Mr. Arnold's concerns. The OEB notes that it has a process for receiving complaints from the public regarding regulated entities in cases where the issue cannot otherwise be resolved between the parties<sup>3</sup>.

### **3.6 INDIGENOUS CONSULTATION**

The OEB finds that, to date, Enbridge Gas has carried out its required duties with respect to Indigenous stakeholders and has adequately discharged the procedural aspects of the Crown's Duty to Consult.

Pursuant to the Guidelines, Enbridge Gas provided the Ontario Ministry of Energy, Northern Development and Mines (MENDM) with a project description for the Kimball-Colinville and Payne Well Drilling Project (Project) on November 25, 2019.

The MENDM delegated to Enbridge Gas the procedural aspects of the Crown's Duty to Consult. The MENDM's delegation letter identified six Indigenous communities to be consulted:

1. Aamjiwnaang First Nation
2. Bkejwanong (a.k.a. Walpole Island First Nation)
3. Chippewas of the Thames First Nation
4. Caldwell First Nation
5. Chippewas of Kettle and Stoney Point
6. Oneida Nation of the Thames

Enbridge Gas's Indigenous Consultation Report was provided to the MENDM on April 9, 2020. On May 29, 2020, the MENDM issued a letter to Enbridge Gas stating that the MENDM is of the opinion that the procedural aspects of consultation undertaken by Enbridge Gas to date for the Project in relation to the Guidelines are satisfactory. The MENDM also stated that it is expected that Enbridge Gas will continue its consultation

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<sup>3</sup> <https://www.oeb.ca/consumer-protection/make-complaint>

activities with the communities throughout the life of the project, and that Enbridge Gas will notify the MENDM should any additional rights-based concerns/issues arise.

The OEB expects that Enbridge Gas will continue its consultation activities with the communities throughout the life of the Project, and that Enbridge Gas will notify both the OEB and MENDM should any additional rights-based concerns/issues arise.

#### 4. RECOMMENDED LICENCE CONDITIONS

In its submission, OEB staff asked Enbridge Gas to review and comment on a set of draft conditions for the requested licence. In its reply submission, Enbridge Gas stated that it accepts the proposed conditions without modification.

The OEB will recommend the conditions proposed by OEB staff, but with one revision to condition No. 8. The revised conditions of approval are presented in Appendix A to this report. The nature of the revision to condition No. 8 is explained below.

The OEB will not require paper copies of the post-construction reports contemplated in condition No. 8. As proposed by OEB staff, this condition stated, “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...” [emphasis added]. The OEB has removed the requirement to file paper copies of the reports. The condition now states, “Both during and after construction, Enbridge Gas shall monitor the impacts of construction, and shall file with the OEB one electronic (searchable PDF) version of each of the following reports...”.

The OEB notes that condition No. 9 will ensure that Enbridge Gas remains compliant with the requirements of the CSA Z341 to the satisfaction of the MNRF for the duration of the Project.

#### 5. CONCLUSION AND RECOMMENDATIONS

The OEB finds that the Project is needed to replace deliverability that was lost in the Pools due to the abandonment and relining of a number of pre-existing wells. The OEB finds that the proposed Project is acceptable in terms of schedule, facilities, environmental impacts, land use, landowner relations, and Indigenous consultations. The OEB finds that Enbridge Gas has been compliant with CSA Z341 to the satisfaction of the MNRF. The OEB previously found that the inclusion of the regulated portion of Project in rate base (if and to the extent approved), the matter of cost allocation



between regulated and unregulated gas storage operations, and whether the Project is like-for-like will be considered as part of Enbridge Gas's 2024 rates application. The OEB previously found that issues related to Gas Storage Leases are beyond the scope of this proceeding.

The OEB recommends approval of the application for the well drilling licence, subject to the conditions of approval in Appendix A of this report. This recommendation shall expire twelve months from the date of this report.

**DATED** at Toronto, September 10, 2020

**ONTARIO ENERGY BOARD**

*Original Signed By*

Christine E. Long  
Registrar and 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-2020-0105 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. Concurrent with the Final Monitoring report referred to in Condition 8(b), Enbridge Gas shall file a Post Construction Financial Report, which shall indicate the actual capital costs of the project and shall provide an explanation for any significant variances from the cost estimates filed in this proceeding.
7. 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.
8. Both during and after construction, Enbridge Gas shall monitor the impacts of construction, and shall file with the OEB 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:

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- i. Provide a certification, by a senior executive of the company, of Enbridge Gas's 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's 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.
9. 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.

10. 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.