



HARRISON PENSA

December 30, 2020

Sent via Email (registrar@oeb.ca)

Ontario Energy Board
2300 Yonge Street - 27th Floor
Toronto, ON M4P 1E4

Attention: Ontario Energy Board Registrar, Zulma DeBonis

Re: EB-2019-0166 – Request for New Evidence Submission under OEB Rule 11

I have been asked to review the above referenced matter on behalf of Jim McIntosh who is the Chairman of the Board of Directors for the Ontario Petroleum Institute Inc. ("OPI").

On December 2, 2020, Jim McIntosh attended the videoconference hearing of Lagasco Inc.'s application in matter EB-2019-166. OPI was not represented by counsel in preparation of the hearing or at the hearing. Mr. McIntosh heard submissions from MPAC at the hearing that conflicted with his personal experience.

In particular, Mr. McIntosh's experience is that when MPAC becomes aware of pipelines, MPAC will assess the pipelines for taxation despite the fact that the owner has never provided any information about the pipelines to MPAC, or submitted a designation that they are "pipe lines" under section 25 of the Ontario *Assessment Act*. Following the hearing, Mr. McIntosh investigated this matter and identified evidence that indeed this was the case when MPAC was taxing the pipelines.

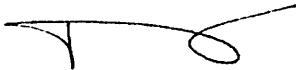
In this regard, please find enclosed the affidavit of Mr. McIntosh, sworn today, which is respectfully submitted to the Ontario Energy Board (the "**Board**") for consideration under Rule 11.02 of the Board's *Rules of Practice and Procedure*. Rule 11.02 requires a party to serve and file new information "that constitutes a material change to the evidence already before the Board", if they become aware of such information prior to the decision or order being rendered by the Board. It is our respectful position that Mr. McIntosh's evidence meets a material change to the evidence provided to the Board. Under the circumstances, the OPI submits that it is more appropriate and efficient that the Board consider this evidence prior to making its decision, as opposed to requesting that the Board consider this evidence on a Reconsideration Application.

HARRISON PENSA LLP
Lawyers

We look forward to hearing from you at your earliest convenience.

Yours very truly,

HARRISON PENSA LLP



Tim McCullough
Direct Line: 519-661-6718
Email: tmccullough@harrisonpensa.com

TTM/jst
Encl.

cc: Will Bortolin
Ritchie Murray
Michael Millar
Philip Tunley
Jennifer Lewis
Jane Lowrie
Karen Lunau
Jennifer Barlow
Richard Swan

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ONTARIO ENERGY BOARD

IN THE MATTER OF THE *Ontario Energy Board Act*, S.O. 1998, C.15, Schedule B

AND IN THE MATTER OF the *Assessment Act*, R.S.O. 1990, c. A31, and in particular Section 25(3) thereof;

AND IN THE MATTER OF an Application by Lagasco Inc. for an Order determining whether or not the natural gas pipelines owned and operated by Lagasco Inc. in Haldimand County are gas transmission pipelines

**EVIDENCE OF JIM MCINTOSH ON BEHALF OF THE INTERVENOR,
ONTARIO PETROLEUM INSTITUTE**

(Sworn December 30, 2020)

1. I, Jim McIntosh, am currently Chairman of the Ontario Petroleum Institute (the **OPI**) and Chairman of the Producers Committee of the OPI. On behalf of the OPI, I attended the videoconference hearing in this proceeding on December 2, 2020.

Introduction

2. I swear this affidavit to provide important new information to the Board, which conflicts with submissions made by counsel for the Municipal Property Assessment Corporation (**MPAC**) during the hearing, with respect to how MPAC becomes aware of information about pipelines in Ontario, including their location, diameter, length, material of composition and year of construction. The submission at the hearing, as I understood it, was that MPAC only ever becomes aware of pipelines because the owner provides information about the pipelines directly

to MPAC, in conjunction with designating the pipelines as "pipe lines" under the *Assessment Act*. Based on my experience, I firmly believe this is incorrect.

3. It was only while listening to the submissions of MPAC in response to a question from Board Member Dodds that I realized MPAC did and does not rely upon the owner designation mechanism under the *Assessment Act*. MPAC instead has been formulating and registering these designations in some situations without the knowledge or consent of the pipeline owner. I think the Board should be made aware of MPAC not employing the statutory "designation" mechanism by the owner to make these pipeline designations.

TAQA North Facilities in Ontario

4. I have been a consultant for TAQA North Ltd. (TAQA) since the company purchased producing oil and natural gas fields in Ontario on Jan 1, 2009. TAQA is an oil and natural gas exploration and production company whose headquarters are in Calgary, Alberta. TAQA owned two producing properties in southwestern Ontario: the Innerkip gas field near Bright, Ontario and the Rodney oil field near Rodney, Ontario. My company, Jim McIntosh Petroleum Engineering Ltd. (JMPEL), has provided management and engineering consulting services to TAQA for their Ontario operating fields since the company purchased the fields in 2009. I am familiar with interactions between MPAC and the owners of the Innerkip and Rodney facilities. Over the years, the owners of these fields have been TAQA, and prior to that Shiningbank Energy Limited, Cambright Gas Corporation, and Denbridge Gas Corporation. I was an employee of Denbridge Gas Corporation and Cambright Gas Corporation from 1992 through 2000 when the majority of the Innerkip facilities were constructed, and I was the engineering consultant for

Shiningbank Energy Limited and TAQA North Ltd. supervising their Ontario field operations since then. I have been involved in the management and operations of these two fields for over 28 years.

5. The Innerkip gas field at one point consisted of 51 producing natural gas wells connected to a central dehydration, compression, and refrigeration station located in Tract 1, Lot 24, Concession IX, in Blenheim Township. As a result of well abandonments, the Innerkip gas field now has only 40 producing gas wells. The gas wells are located in three townships in Oxford County: Blandford, Blenheim (now amalgamated as Blandford/Blenheim), and East Zorra/Tavistock.

Interaction with MPAC

6. MPAC is aware of the wells and connecting gathering pipelines, and has assigned taxation roll numbers for each associated Township, despite the fact neither TAQA nor any of the predecessor companies have ever supplied a schedule to MPAC listing pipeline sizes, distances, material of construction, or year of construction. I have either been an employee of the company or consulted for the company that has owned and operated the Innerkip gas field since 1992. The majority of the Innerkip gas gathering pipelines and facilities were constructed while I was associated with the Innerkip gas field.

7. The only occasion on which MPAC ever requested a listing of "Pipelines" from TAQA was by way of a letter dated February, 2019, a copy of which is attached as **Exhibit "A"**. TAQA had requested a reassessment of MPAC's "Pipeline" assessments together with a request as to how

the value for “Pipelines” are determined prior to receiving this letter from MPAC. Under role #32-45-010-040-09400 (Gathering Line [Pipeline] in the Township of Blandford/Blenheim, Oxford County), MPAC had assessed a “Pipeline” value of \$3,381,057, while under role #020-020-60200-0000 (Pipelines in the Township of East Zorra/Tavistock, Oxford County) MPAC had assessed a “Pipeline” value of \$911,383. Following receipt of the assessments from MPAC, TAQA then sent a subsequent letter dated March 12, 2019, a copy of which is attached as **Exhibit "B"**. In TAQA’s responding letter, TAQA indicated that the only “Pipeline” operated by the company was the 2609 ft. (795 m) section of 6” yellow-jacketed, steel pipeline from the compressor site to the interconnection to the Enbridge Gas transmission system in Tract 8, Lot 1, Concession X, Blandford Township. TAQA received no response to their responding letter and no pipeline assessment adjustments were made to either of TAQA’s tax roles with respect to the three townships.

8. As stated above, neither TAQA nor any of the predecessor companies that owned the Innerkip gas system have ever supplied pipeline construction, size, distance, or year information to MPAC. I was either an employee of the operating company or was consulting for the operating company since before the majority of the pipelines in the Innerkip gathering system were constructed, so I would have been aware if MPAC had requested this detailed pipeline information. When TAQA requested a schedule from MPAC indicating how the assessments in each township were calculated, MPAC was unable to provide any schedules, but instead asked for a “Pipeline” listing from TAQA (see February 2019 letter from MPAC attached as Exhibit A).

9. As previously indicated, the majority of the Innerkip gas gathering system was constructed between 1992 and 2000. As required under the Ontario *Oil, Gas, and Salt Resources Act*, TAQA or the predecessor companies provided individual gas well monthly production information and an updated pipeline map to the Petroleum Operations Section of the **Ministry of Natural Resources and Forestry**—not MPAC—on an annual basis, with all yearly information filed with the MNRF by February 15th following the year of production. As either the engineer employed by the operating company or the engineering consultant hired by the operating company, submitting these production forms and pipeline maps was part of my responsibilities. The updated pipeline maps sent to the MNRF annually are to-scale maps, with pipeline sizes and materials of construction noted on the maps. TAQA and predecessor companies have assumed that MPAC used these maps to estimate what they term as "pipe lines" under the *Assessment Act*, without requesting that information from the owner, TAQA North, Shiningbank Energy, Cambright Gas, or Denbridge Gas. As noted earlier, a listing of the pipeline size, installed length in each township, material of construction, or year built was never forwarded directly to MPAC by the operating company, nor were any designations made under Section 25 of the *Assessment Act* prior to 2019.


10. TAQA has requested a reassessment of the pipeline roles associated with the Innerkip gas gathering system, as have a number of other natural gas production companies active in the Province of Ontario. TAQA has held off going forward with its application to the Ontario Energy Board pending the outcome of Lagasco Inc.'s application in respect of its pipeline assessments.

11. Therefore, in my experience, MPAC did **not** require a “pipe line” designation by the owner of production oil and natural gas properties in the Province of Ontario before assessing them for taxation.

12. The unreasonable pipeline assessments issued by MPAC are severely impacting the viability of natural gas production companies in the Province of Ontario, and will result in companies going bankrupt or having to prematurely plug and abandon producing wells and infrastructure due to excessive municipal tax burdens.

13. I make this Affidavit in support of the Application by Lagasco Inc. under Board File No. EB-2019-0166 and for no other improper purpose.

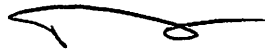
Sworn before me by video conference)
this 30th day of December, 2020)
In accordance with O. Reg. 431/20,)
Administering Oath or Declaration Remotely)


TIMOTHY TERENCE MCEWEN

A commissioner)
in and for the Province of Ontario)


JIM MCINTOSH

THIS IS EXHIBIT "A" TO
THE AFFIDAVIT OF JIM MCINTOSH
SWORN DECEMBER 30, 2020
IN ACCORDANCE WITH O. Reg. 431/20,
Administering Oath or Declaration Remotely



TIMOTHY TERRENCE MCCULLOUGH

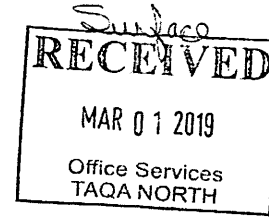
Commissioner for Taking Affidavits



MUNICIPAL
PROPERTY
ASSESSMENT
CORPORATION

February, 2019

TAQA NORTH LTD
PO BOX 2350 STN M
CALGARY AB T2P 2M6



Dear Property Owner:

On behalf of the Municipal Property Assessment Corporation (MPAC), I am writing to request specific information regarding your company's pipeline(s).

MPAC's role is to assess and classify all properties in Ontario in compliance with the *Assessment Act* and regulations set by the Government of Ontario. While property assessments are updated on a four-year cycle, MPAC collects property information annually to ensure data accuracy, data currency and to review and maintain records on property and market changes to inform the next Assessment Update.

Under the *Assessment Act*, pipeline companies are required to submit to MPAC a report on or before March 1 detailing all of the company's pipelines. MPAC also requests additional information to ensure an accurate assessment of your pipeline holdings. Please provide the following information via email to rick.brisebois@mpac.ca by March 1, 2019:

- The age, length and diameter of each pipe within each municipality or non-municipal territory, as of January 1 of this year
- Character of construction for each pipe (i.e. steel, plastic)
- Number of customer connections, if applicable

The deadline to provide this information is March 1, 2019. Please note you may receive a reminder letter if this information is not received by April 1, 2019.

MPAC's Obligation to Protect Your Information

The information requested by MPAC is authorized under the *Assessment Act* and used for property assessment purposes. Section 13 of the Act provides penalties for non-compliance and for providing false information. Please note, if the information requested is not provided and you choose to appeal your assessed value to the Assessment Review Board, the Act provides that the burden of proof will shift from MPAC to you.

MPAC is committed to protecting your information. We are prohibited from the unauthorized disclosure of your information under the *Assessment Act* and the *Municipal Freedom of Information and Protection of Privacy Act*. MPAC will collect and use information that is necessary to deliver legally authorized programs and services. On occasion, MPAC may use your information to obtain feedback, conduct surveys and enhance program delivery.

If you have any questions, or to request this letter in an alternate format, please contact Rick Brisebois, Property Valuation Specialist, at 613 209-3592. You may also contact Mr. Brisebois to request a French copy of this letter/Vous pouvez également prendre contact avec notre centre d'appels pour demander un exemplaire en français de cette lettre.

Sincerely,

Ryan Ford
Manager, Linear Properties, Valuation and Assessment Standards

THIS IS EXHIBIT "B" TO
THE AFFIDAVIT OF JIM MCINTOSH
SWORN DECEMBER 30, 2020
IN ACCORDANCE WITH O. Reg. 431/20,
Administering Oath or Declaration Remotely



TIMOTHY TERRENCE MCCULLOCH

Commissioner for Taking Affidavits



TAQA NORTH

TAQA NORTH
21609 Kintyre Line
Rodney, ON, N0L 2C0
Cell: (519) 878-1006
Fax: (519) 472-7897
E-mail: jim.mcintosh@taqa.ca

March 12, 2019

Municipal Property Assessment Corporation
P. O. Box 9808
Toronto
ON
M1S 5T9

Attention: Rick Brisebois
Property Valuation Specialist
Rick.brisebois@mpac.ca

Re: Pipelines Operated by TAQA North in Ontario

Dear sir,

TAQA North is an oil and gas exploration and production company with producing properties in the province of Ontario. TAQA North received the attached letter on Mar 1, 2019 requesting a detailed listing of all Pipelines operated by the company in the province of Ontario.

Under the Assessment Act, "Gas" means *natural gas, manufactured gas or propane or any mixture of any of them; ("gaz")* and "Pipeline" means *a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil.*

The gaseous material being transported through TAQA North's gathering pipelines upstream of the company's gas compression and treating facility in Blenheim Township, Oxford County is not Gas under this definition since the gas contains water vapour and heavier hydrocarbons, meaning that the material is not sales-quality Natural Gas as required by Union Gas or Enbridge in their gas quality specification requirements (copy of the Gas Quality terms from the Union Gas Rate M13 Schedule A: General Terms and Conditions attached).

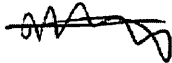
Since the gaseous material being transported through the gathering pipes between the individual wells and the TAQA North gas compression and treating facility is not Gas as defined in the Assessment Act, the pipelines through which this gaseous material is transported are not Pipelines as defined under the Assessment Act. TAQA North or any of the predecessor companies, as operators of these facilities, have not designated these pipelines as "Pipelines" under the Assessment Act.

The only Pipeline that TAQA North operates in Ontario is, therefore, the sales gas pipeline from the TAQA North compression and treating facility to the interconnect with Union Gas. Details of the age, length, diameter, and materials of construction are listed below:

Year built:	1993
Length in Blandford Township:	1000ft (304m)
Length in Blenheim Township:	1609ft (409m)
Diameter:	6.625" (168mm)
Material of construction:	Steel
There are no customers connected to this pipeline	

Please adjust your pipeline distance records to reflect this up-to-date information.

Yours truly,



Jim McIntosh
Ontario Engineering Consultant

Attachments: Letter from MPAC address to TAQA North, Calgary requesting pipeline details
Union Gas Rate M13 Schedule A: General Terms and Conditions, Gas Quality

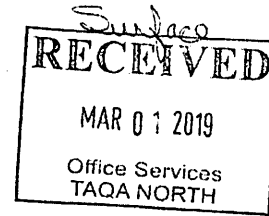
Cc: Rob Matiko, Property Tax Analyst, TAQA North
Matthew Loft, Foreman, South Operations, TAQA North



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February, 2019

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PO BOX 2350 STN M
CALGARY AB T2P 2M6



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Sincerely,

Ryan Ford
Manager, Linear Properties, Valuation and Assessment Standards

**RATE M13
GENERAL TERMS & CONDITIONS**

II. GAS QUALITY

1. Natural Gas: The minimum gross heating value of the gas delivered to/by Union hereunder, shall be thirty-six (36) megajoules per cubic metre. The maximum gross heating value of the gas delivered to/by Union hereunder shall be forty point two (40.2) megajoules per cubic metre. The gas to be delivered hereunder to Union may be a commingled supply from Shipper's gas sources of supply. The gas to be delivered by Union may be a commingled supply from Union's sources of gas supply; provided, however, that helium, natural gasoline, butane, propane and other hydrocarbons, except methane, may be removed prior to delivery to Shipper. Further, Union may subject, or permit the subjection of, the gas to compression, dehydration, cooling, cleaning and other processes.
2. Freedom from objectionable matter: The gas to be delivered to Union at the Receipt Point(s) hereunder,
 - a. shall be commercially free from bacteria, sand, dust, gums, crude oils, lubricating oils, liquids, chemicals or compounds used in the production, treatment, compression or dehydration of the gas or any other objectionable substance in sufficient quantity so as to render the gas toxic, unmerchantable or cause injury to, or interference with, the proper operation of the lines, regulators, meters or other appliances through which it flows,
 - b. shall not contain more than seven (7) milligrams of hydrogen sulphide per cubic metre of gas, nor more than one hundred (100) milligrams of total sulphur per cubic metre of gas,
 - c. shall not contain more than five (5) milligrams of mercaptan sulphur per cubic metre of gas,
 - d. shall not contain more than two point zero (2.0) molar percent by volume of carbon dioxide in the gas,
 - e. shall not contain more than zero point four (0.4) molar percent by volume of oxygen in the gas,
 - f. shall not contain more than zero point five (0.5) molar percent by volume of carbon monoxide in the gas,
 - g. shall not contain more than four point zero (4.0) molar percent by volume of hydrogen in the gas,
 - h. shall not contain more than sixty-five (65) milligrams of water vapour per cubic metre of gas,
 - i. shall not have a cricondenthem hydrocarbon dewpoint exceeding minus eight (-8) degrees Celsius,
 - j. shall have Wobbe Number from forty seven point fifty (47.50) megajoules per cubic metre of gas to fifty one point

forty six (51.46) megajoules per cubic metre of gas, maximum of one point five (1.5) mole percent by volume of butane plus (C4+) in the gas, and maximum of four point zero (4.0) mole percent by volume of total inerts in the gas in order to be interchangeable with other Interconnecting Pipeline gas,

- k. shall not exceed forty-three degrees Celsius (43°C), and,
 - l. shall not be odourized by Shipper.
3. Non-conforming Gas:
- a. In the event that the quality of the gas does not conform or if Union, acting reasonably, suspects the quality of the gas may not conform to the specifications herein, then Shipper shall, if so directed by Union acting reasonably, forthwith carry out, at Shipper's cost, whatever field testing of the gas quality as may be required to ensure that the quality requirements set out herein are met, and to provide Union with a certified copy of such tests. If Shipper does not carry out such tests forthwith, Union may conduct such test and Shipper shall reimburse Union for all costs incurred by Union for such testing.
 - b. If Shipper's gas fails at any time to conform to the requirements of this Article II, Union, in addition to its other remedies, may refuse to accept delivery of gas at the Receipt Points hereunder until such deficiency has been remedied by Shipper. Each Party agrees to notify the other verbally, followed by written notification, of any such deficiency of quality.
4. Quality of Gas Received: The quality of the gas to be received by Union at the Receipt Point(s) hereunder is to be of a merchantable quality and in accordance with the quality standards as set out by Union in this Article II, but, Union will use reasonable efforts to accept gas of a quality that may deviate from the quality standards set out therein.
5. Quality of Gas at Dawn: The quality of the gas to be delivered to Union at Dawn (Facilities) or the gas to be delivered by Union to Shipper at Dawn (Facilities) hereunder is to be of a merchantable quality and in accordance with the quality standards and measurement standards as set out by Union in this Article II, except that total sulphur limit shall be not more than four hundred and sixty (460) milligrams per cubic metre of gas. In addition to any other right or remedy of a party, each party shall be entitled to refuse to accept delivery of any gas which does not conform to any of the specifications set out in this Article II.