



Ontario  
Energy  
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# **DECISION AND ORDER**

**EB-2020-0256**

**ENBRIDGE GAS INC.**

**2021/22 Storage Enhancement Project**

**BEFORE: Lynne Anderson**  
Presiding and Chief Commissioner

**Anthony Zlahtic**  
Commissioner

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**April 22, 2021**



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# 1 INTRODUCTION AND SUMMARY

This is the Decision and Order (Decision) of the Ontario Energy Board (OEB) regarding an application filed by Enbridge Gas Inc. (Enbridge Gas) on November 13, 2020 seeking approval for its 2021/2022 Storage Enhancement Project (Project).

The Project is the second phase of a larger project to increase deliverability and storage capacity of Enbridge Gas's storage facilities to meet growing market demand for incremental storage space. Enbridge Gas plans to sell this additional storage space at market-based prices to meet the requirements of its unregulated storage service customers. As the revenues for selling this incremental storage space would be to the benefit of Enbridge Gas's shareholders, the costs of the Project would also be borne by Enbridge Gas's shareholders.

Enbridge Gas has applied to the OEB for the following relief:

- (1) Leave to vary and/or increase the maximum operating pressure (MOP) of the Ladysmith, Corunna and Seckerton storage pools (Pools). The Pools are located in the Township of St. Clair in Lambton County. A map reflecting the general location of the Pools and Proposed Facilities is attached as Schedule 1 to this Decision. This requires an order of the OEB under section 38(1) of the *Ontario Energy Board Act, 1998* (OEB Act)
- (2) A favourable report from the OEB to the Minister of Natural Resource and Forestry supporting the well drilling licence application made by Enbridge Gas to the MNRF to drill an injection/withdrawal well TL 9H (Proposed Well) in the Ladysmith storage pool, pursuant to section 40(1) of the OEB Act
- (3) Leave to construct several gathering pipelines and associated facilities (Proposed Facilities), pursuant to section 90(1) of the OEB Act
- (4) Approval of the forms of agreement to be offered to landowners affected by the Project, pursuant to section 97 of the OEB Act

The OEB is satisfied that the Project proposed by Enbridge Gas is in the public interest. The OEB approves Enbridge Gas's application subject to certain conditions and has prepared a favourable report to the Minister of Natural Resources and Forestry regarding the well licence application.

## 2 THE PROCESS AND STRUCTURE OF THE DECISION

The OEB issued a Notice of Hearing on December 9, 2020. The Ministry of Natural Resources and Forestry (MNRF) applied for intervenor status. On January 20, 2021, the OEB issued Procedural Order No. 1 granting the MNRF intervenor status and provided for interrogatories and submissions on the application. The MNRF and OEB staff filed written interrogatories on February 3, 2021. Enbridge Gas filed interrogatory responses on February 17, 2021. The MNRF and OEB staff filed written submissions on March 3, 2021, and Enbridge Gas filed its reply submission on March 15, 2021.

The Decision will first address the issues common to all components of the Project:

- Need for the Project
- Costs and potential impact on Enbridge Gas's customers
- Land matters
- Environmental matters
- Indigenous consultation

The Decision will then separately address:

- a) The request to increase the operating pressure of the Pools
- b) The well drilling licence application to the MNRF
- c) The leave to construct request

In the attachments to this Decision, the OEB is issuing the following:

- An Order permitting an increase in the operating pressure of the Pools, with conditions (Schedule 2)
- A Report to the Minister of Natural Resources and Forestry recommending that the Minister grant Enbridge Gas a licence to drill the Proposed Well in the Ladysmith natural gas storage pool, with recommended licence conditions (Schedule 3)
- An Order granting leave to construct the Proposed Facilities with conditions and approving the forms of agreement to be offered to landowners affected by the Project (Schedule 4)

## 3 DECISION ON THE ISSUES

### 3.1 Need

Enbridge Gas stated that the Project is needed to increase the deliverability and storage capacity of the Pools in order to meet growing market demand for incremental storage space.<sup>1</sup> The additional storage capacity created by the Project will be sold to third parties as part of the Enbridge Gas's unregulated storage portfolio.

In response to OEB staff interrogatories, Enbridge Gas stated that in the current storage year, it is fully contracted and has historically been fully contracted with respect to storage space and deliverability for ex-franchise customers. Enbridge Gas also stated in the most recent storage open season conducted, demand exceeded contracts awarded by a factor of nine.<sup>2</sup>

OEB staff submitted that there is demand for unregulated storage and therefore the Project is needed.

### Findings

The OEB finds that Enbridge Gas has established the need for the Project based on its existing regulated and unregulated storage being fully needed/contracted and expectation that there will be demand for the unregulated storage when offered in its open season.

### 3.2 Costs and potential impact on Enbridge Gas's customers

Enbridge Gas stated that the entire Project will form part of Enbridge Gas's unregulated storage operations and that all costs associated with the Project will be captured in the unregulated accounts. As a result, no costs of the Project will be charged to the regulated utility accounts.

OEB staff noted that since the Natural Gas Electricity Interface Review (NGEIR) Decision<sup>3</sup>, Enbridge Gas has not been required to file cost or economic information for

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<sup>1</sup> Completion of the Project is expected to create an additional working capacity of 99,000 10<sup>3</sup>m<sup>3</sup> and an additional 8,100 10<sup>3</sup>m<sup>3</sup> per day of deliverability

<sup>2</sup> Response to OEB staff interrogatory No. 1

<sup>3</sup> EB-2005-0551 Decision with Reasons

unregulated storage projects. OEB staff submitted that it is appropriate that the Project costs be funded by Enbridge Gas's shareholders as the benefits will also accrue to the account of the shareholders. OEB staff inquired about the potential effect on lost and unaccounted for gas (LUF) resulting from an increase in MOP. OEB staff submitted that the OEB should require Enbridge Gas to monitor and report back on the impact that increases in MOP and increased deliverability capability may have on LUF on all existing and new storage enhancement projects at the time of the next rebasing application and address the allocation of any incremental LUF costs to the regulated storage operations.

In its reply submission, Enbridge Gas stated that it will address the impact of increased MOP on LUF as part of its next rebasing application.

## Findings

The OEB accepts Enbridge Gas's position that the costs for the Project will have no direct impact on its customers as the cost will be borne by its shareholders.

The OEB is concerned with the sufficiency of evidence on potential indirect costs that may have an impact on Enbridge Gas's rate regulated customers. The Project is the second phase of a series of projects, and was preceded by the OEB-approved expansion of the Black Creek, Coveny and Wilkesport pools.<sup>4</sup> Enbridge Gas indicated that a third phase is forthcoming to increase the MOP of the Payne and Dow Moore storage pools.<sup>5</sup>

One of those indirect costs may be incremental LUF costs resulting from increasing the MOP of Enbridge Gas's storage pools, an issue raised by OEB staff. The allocation of LUF is but one cost to be allocated between Enbridge Gas's rate regulated and unregulated storage business. The OEB directs Enbridge Gas as part of its next rebasing application to address the allocation of all costs between its rate regulated and unregulated storage business. This should include, without limitation, consideration of LUF and capital overhead costs.

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<sup>4</sup> EB-2020-0074 Decision and Order

<sup>5</sup> Response to OEB Staff Interrogatory 3(b).

### 3.3 Land Matters

Enbridge Gas provided a detailed description of the negotiation process that it is engaged in to obtain the land rights it requires for the Project, as summarized below:

- For the crossover installation to connect the Payne storage pool pipeline and the Ladysmith storage pool pipeline, Enbridge Gas requires approximately 0.38 acres of permanent easement and a temporary land use (TLU) agreement. Negotiations are ongoing with the landowners for the required easement and TLU agreement and Enbridge Gas stated that the landowners will be compensated for use of the lands and any crop loss associated with the pipeline operations.
- For the proposed work on the Proposed Well, station upgrade, bi-direction valve and station piping, Enbridge Gas confirmed that the tenant farmer has been notified of the Project and has not expressed any concerns. Enbridge Gas has stated that the tenant farmer will be compensated for any crop loss associated with the pipeline operations.
- There are five landowners impacted by the 2.2 km NPS 24 pipeline connecting the Payne storage pool to the Corunna Compressor Station. These landowners are represented by the Canadian Association of Energy and Pipeline Landowner Associations (CAEPLA). Enbridge Gas stated that once the CAEPLA negotiations are complete, it will offer the landowners the compensation package and easement/TLU agreements as negotiated with CAEPLA.
- The Project will require construction equipment to cross under Hydro One Networks Inc. (Hydro One) transmission lines to access the site and the route will cross through a Hydro One easement. Enbridge Gas confirmed that it met with Hydro One on November 23, 2020 to discuss how the Project would impact Hydro One's infrastructure. Enbridge Gas submitted that while no issues or concerns were identified by Hydro One at that meeting, it will continue to work with Hydro One to secure necessary approvals or agreements prior to construction.

Enbridge Gas stated that it expects to obtain all land rights prior to construction.

Enbridge Gas applied under section 97 of the OEB Act for approval of the forms of agreement to be offered to landowners affected by the Project. Enbridge Gas confirmed

that the forms of agreement proposed in the application have been previously approved by the OEB.<sup>6</sup>

OEB staff submitted that Enbridge Gas is appropriately managing land related matters and has no issues or concerns with land matters related to the Project. OEB staff submitted that the forms of agreement proposed by Enbridge Gas should be approved as they are consistent with the forms of agreement previously approved by the OEB.

MNRF submitted that required land use agreements, land purchase and easements are outstanding requirements while noting that Enbridge Gas is in the process of negotiations with affected landowners. MNRF supported the application conditional upon the outstanding agreements/authorizations being obtained and filed with the OEB and MNRF prior to construction.

## Findings

The OEB is satisfied that Enbridge Gas has made sufficient progress on the agreements required for construction and siting of the Project, and that outstanding land-related concerns are being addressed. The OEB notes that Enbridge Gas has not completed the negotiations for the acquisition of 0.38 acres of permanent easement, and for a TLU agreement for the Payne and Ladysmith storage pool pipelines. Nor have negotiations concluded with the five landowners affected by the 2.2 km NPS 24 pipeline connecting the Payne storage pool to the Corunna Compressor Station. Lastly, discussions are still underway with Hydro One in respect of crossing its transmission lines. The OEB concludes that these matters are sufficiently advanced that it is appropriate that Enbridge Gas may commence construction for any aspects of the Project for which there are no outstanding agreements/authorizations. Prior to the commencement of any part of the Project, Enbridge Gas would be required to obtain and file each necessary authorization and agreement relevant to that part of the Project with both the OEB and MNRF in respect of the well licence and with the OEB in respect of the leave to construct facilities.

Section 97 of the OEB Act provides that leave to construct under section 90 cannot be granted until the OEB is satisfied that an applicant has offered or will offer to each owner of land affected by the approved pipeline route an agreement in a form approved by the OEB. Similarly, section 38 of the OEB Act stipulates that authority to inject, store and remove gas from a designated gas storage area cannot be granted until the

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<sup>6</sup> EB-2019-0188 Decision and Order

OEB is satisfied that just and equitable compensation is offered in respect of landowner rights for the storage of gas and any damage resulting. The OEB approves the forms of agreement as they are consistent with the forms of agreement previously approved by the OEB.

### 3.4 Environmental Matters

Enbridge Gas retained AECOM Canada Limited (AECOM) to complete an environmental assessment of the Project and prepare an Environmental Report (ER), in accordance with the OEB's Environmental Guidelines.<sup>7</sup>

AECOM stated that with the mitigation measures recommended in the ER, as well as adherence to permit, regulatory and/or legislative requirements, the potential environmental and/or socio-economic impacts of the Project are not anticipated to be significant.

The ER was provided to the Ontario Pipeline Coordinating Committee (OPCC) and other agencies on October 5, 2020. Enbridge Gas received and responded to comments from the Ministry of the Environment, Conservation and Parks (MECP), Infrastructure Ontario (IO), and Hydro One. As part of its interrogatory responses, Enbridge Gas provided an update on comments received as part of the OPCC review since the application was filed.

MECP responded to AECOM noting several Species at Risk (SAR) occurrences within the vicinity of the Project and recommended that species-specific surveys be completed. Enbridge Gas stated it will adhere to any additional mitigation and avoidance measures recommended by AECOM resulting from future site investigations and also stated that if necessary, a permit or other authorization from the MECP will be obtained to ensure compliance with the *Endangered Species Act, 2007*.

Enbridge Gas stated that a Stage 1 Archaeological Assessment (AA) was submitted for review to the Ministry of Heritage, Sport, Tourism and Cultural Industries (MHSTCI) on September 29, 2020. The AA determined that the potential for the recovery of both First Nation and Euro-Canadian archaeological resources within the current study area is high and based on these findings recommended a Stage 2 AA for all areas of potentially undisturbed land within the study area limits. Enbridge Gas undertook an initial Stage 2

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<sup>7</sup> Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines in Ontario (7<sup>th</sup> edition), 2016

AA and advised that it requested review of it by the MHSTCI on February 3, 2021. Enbridge Gas stated that a second Stage 2 AA is required and is expected to commence in the spring of 2021.<sup>8</sup>

MNRF submitted that the MECP has not confirmed whether authorization is required under the *Endangered Species Act, 2007*. MNRF also submitted that not all Stage 2 AA work has been completed to date and neither the Stage 1 nor the Stage 2 AA has received a clearance letter from MHSTCI. MNRF recommended the inclusion of conditions in each approval that require the outstanding authorizations and agreements being obtained and filed with the OEB and the MNRF prior to any construction.

OEB staff submitted that it has no concerns with the environmental aspects of the Project, given that Enbridge Gas is committed to implementing the proposed mitigation measures. OEB staff further submitted that Enbridge Gas's compliance with the conditions proposed for the well drilling licence and the leave to construct will ensure that impacts of well drilling and pipeline construction are mitigated and monitored.

## Findings

The OEB finds that Enbridge Gas has followed the requirements of the OEB's Environmental Guidelines. Enbridge Gas should implement the mitigation measures recommended by AECOM. The OEB is also recommending conditions for the well licence and imposing conditions on the leave to construct, consistent with the rationale in Section 3.3 and below. The OEB is satisfied that with implementation of these mitigation measures and conditions for aspects of the Project, environmental-related matters will be addressed.

The OEB notes the concerns raised in the MNRF's submission regarding necessary outstanding authorizations from MECP and MHSTCI that have not been confirmed or obtained. Enbridge Gas's proposed construction schedule requires it to commence construction of facilities at the Ladysmith pool on May 1, 2021 to return the pool into service by September 1, 2021 in order to enable the pool to be filled by November 1, 2021. Given this schedule, and consistent with the findings in Section 3.3, the OEB concludes that it is appropriate that Enbridge Gas may commence construction for any part of the Project for which there are no outstanding agreements, authorizations and approvals. The well that is the subject of the licence application, is considered to be one

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<sup>8</sup> Response to OEB Staff Interrogatory No. 7

part of the Project. Prior to the commencement of any part of the Project, Enbridge Gas will obtain and file each necessary authorization and agreement relevant to that part of the Project with both the OEB and MNR in respect of the well licence and with the OEB in respect of the facilities that are subject to leave to construct. The OEB notes that the approach to the conditions in this Decision departs from the standard approach, which would require Enbridge Gas to obtain all necessary approvals, permits, licences, certificates, agreements and rights required prior to commencing the construction of the Project. The OEB's findings are unique to the circumstances of this application and should not be interpreted as the OEB changing its standard practice.

### 3.5 Indigenous Consultation

In accordance with the OEB's Environmental Guidelines, Enbridge Gas contacted the Ministry of Energy, Northern Development and Mines (MENDM) in respect of the Crown's duty to consult related to the Project on April 17, 2020. By a letter dated June 17, 2020 (Delegation Letter), the MENDM delegated the procedural aspects of the Crown's Duty to Consult for the Project to Enbridge Gas. In the Delegation Letter, the MENDM identified five Indigenous communities with which Enbridge Gas should consult in relation to the Project:

- Aamjiwnaang First Nation
- Bkejwanong (Walpole Island First Nation)
- Chippewas of the Thames First Nation
- Chippewas of Kettle and Stony Point
- Oneida Nation of the Thames

Each of these five Indigenous communities and the Metis Nation of Ontario (MNO) were served the Notice of Hearing for the Project, in accordance with the OEB's Letter of Direction. No Indigenous community applied for intervenor status in the proceeding.

Enbridge Gas provided the MENDM with its Indigenous Consultation Report on November 13, 2020. Enbridge Gas received the MENDM letter of opinion on the adequacy of that consultation on April 8, 2021. The letter stated that the MENDM is of the opinion that the procedural aspects of consultation undertaken by Enbridge Gas to date for the leave to construct within the Project is satisfactory. Furthermore, the MENDM stated its expectation that Enbridge Gas will continue its consultation activities with the communities throughout the life of the project and notify the MENDM should any additional rights-based concerns/issues arise.

Submissions from the MNRF and OEB staff focused on conditions that should be imposed for the Project if the OEB planned to grant approval prior to receiving the letter of opinion from the MENDM.

In its reply submission, Enbridge Gas referenced an earlier well drilling licence application filed with the MNRF to drill a stratigraphic test well (TL 9) within the Ladysmith storage pool that was referred to the OEB by the MNRF on February 27, 2019, pursuant to section 40 of the OEB Act.<sup>9</sup> Enbridge Gas stated that as part of the well drilling application for TL 9, Indigenous consultations were undertaken for the drilling of wells TL9 and TL 9H (the well that is part of this Project). Enbridge Gas stated that MENDM had already provided a letter confirming that it was satisfied with the adequacy of the aspects of Indigenous consultation for the drilling of TL 9H.

## Findings

The OEB concludes that Enbridge Gas has satisfied the delegated procedural aspects of the Crown's duty to consult for the Proposed Facilities. The OEB notes that Enbridge Gas's evidence demonstrates considerable effort has been made to consult with the five Indigenous communities delegated by the MENDM to satisfy these requirements.

A letter of opinion from the MENDM was filed with the OEB on April 13, 2021 after the close of the record in this proceeding. In the letter, the MENDM provided its satisfaction with the procedural aspects of consultation undertaken by Enbridge Gas for the "Leave to Construct for the 2021/2022 Storage Enhancement Project". This letter did not specifically reference the well drilling aspect of the Project. However, the OEB concludes that Enbridge Gas met the Indigenous consultation obligations for the well licence in a previous OEB proceeding. The OEB reached this conclusion based on the following evidence:

- The letter of opinion received from the MENDM dated June 12, 2019 in the previous OEB proceeding relating to the TL 9 well licence application<sup>10</sup> acknowledged Enbridge Gas's intent to convert the stratigraphic TL 9 well to horizontal well TL 9H.

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<sup>9</sup> EB-2019-0012 Enbridge Gas Well Drilling Licence Application

<sup>10</sup> EB-2019-0012 Enbridge Gas Well Drilling Licence Application, Exhibit G, Attachment 3

- No evidence was presented in this proceeding to indicate that the scope of the conversion of stratigraphic well TL 9 to horizontal well TL 9H contemplated in the previous proceeding is different from the current well licence application.
- The five Indigenous communities the MENDM identified to be consulted with for this application and the previous proceeding are the same. The OEB therefore concludes that there is no gap in the Indigenous communities to be consulted.

### 3.6 Request to increase the operating pressure of the Pools

Enbridge Gas has applied for OEB approval to increase the MOP of the Ladysmith storage pool to a maximum pressure gradient of 16.5 kPa/m (0.73 psi/ft) from the limit of 15.9 kPa/m (0.7 psi/ ft) set by a previous OEB decision.<sup>11</sup> Enbridge Gas also seeks approval to increase the MOP of the Corunna and the Seckerton storage pools to a maximum pressure gradient of 17.2 kPa/m (0.76 psi/ft). Activities of this kind are subject to section 38(1) of the OEB Act.

Enbridge Gas stated that these increases are within the limits prescribed by the CSA Z341 standard. Enbridge Gas stated that it has provided the MNRF with the following reports: (i) "What If" Analysis and Operability Issues report (ii) A Neighbouring Assessment for each Pool (iii) Engineering studies (the Storage Pool Reports) confirming that the proposed operating pressure increase does not exceed the maximum safe operating pressure for the Pools.

MNRF submitted that it has reviewed the reports and stated that with respect to the technical requirements under the Oil, Gas and Salt Resources Provincial Operating Standards (Provincial Operating Standards) and CSA Z341, the application as filed is complete.

In its application, Enbridge Gas stated that it would accept a condition of approval similar to what the OEB set out in its approval of the increase to MOP of the Black Creek, Coveny and Wilkesport storage pools.<sup>12</sup>

OEB staff submitted that the OEB should consider including the following condition as part of its approval:

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<sup>11</sup> E.B.L.O. 269, E.B.O. 212, 213, and E.B.R.M. 112, Appendix B.

<sup>12</sup> EB-2020-0074 Decision and Order

Enbridge Gas Inc. shall not operate:

- (a) the Ladysmith natural gas storage pool above an operating pressure representing a pressure gradient of 16.5 kPa/m (0.73 psi/ft) of depth, and
- (b) the Corunna and Seckerton natural gas storage pools above an operating pressure representing a pressure gradient of 17.2 kPa/m (0.76 psi/ft) of depth without leave of the OEB.

MNRF stated that it supported the wording proposed by OEB staff. In its reply submission, Enbridge Gas confirmed its acceptance of this condition.

OEB staff noted that the OEB typically requires, as a condition of approval, that the applicant comply with the relevant requirements of CSA Z341 to the satisfaction of the MNRF. OEB staff submitted that it remains appropriate that, as a condition of approval, the OEB should require Enbridge Gas to comply with the relevant requirements of CSA Z341 to the satisfaction of the MNRF. The MNRF stated that it has no objection to the proposed condition as described by OEB staff.

In its response to interrogatories, Enbridge Gas confirmed that it does not have any objection to the OEB imposing a condition of approval that requires it to conform to the relevant requirements of CSA Z341 to the satisfaction of the MNRF. Enbridge Gas also stated that it will ensure that all safety and environmental issues are addressed, concerning the above-noted facilities and that it will comply with the Ontario *Oil, Gas and Salt Resources Act*, O. Reg. 245/97 and CSA Z341.<sup>13</sup>

## Findings

The OEB approves Enbridge Gas's application to increase the MOP of the Ladysmith storage pool to maximum pressure gradient of 16.5 kPa/m (0.73 psi/ft) and the Corunna and Seckerton storage pools to a maximum pressure gradient of 17.2 kPa/m (0.76 psi/ft). The revised pressures are within the limits prescribed by the CSA Z341 standard.

The OEB expects that Enbridge Gas will comply with applicable requirements of the *Oil, Gas and Salt Resources Act*, O.Reg. 245/97, the Provincial Standards, and CSA Z341.1-14 to the operation of the Pools to the satisfaction of the MNRF.

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<sup>13</sup> Response to OEB staff interrogatory No. 4

The approval is granted by a way of the Order attached as Schedule 2 to this Decision.

### 3.7 Well Drilling Licence Application

Enbridge Gas applied to the Minister of Natural Resources and Forestry for a licence to drill a horizontal gas storage well (TL 9H) in the Ladysmith storage pool. Enbridge Gas seeks a favourable report from the OEB to the MNRF to support its well drilling licence application.

Enbridge Gas stated that the TL 9H well would be drilled within the same wellbore as the TL 9 stratigraphic test well for which a well licence was previously issued by the MNRF. The drilling work is expected to take place from May to July 2021 when there will be no injection or withdrawal operations in the Ladysmith storage pool so as to avoid disruption to service from the pool, and when the reservoir pressure is less than 3,500 kPa to allow the well to be safely drilled.

The MNRF is the provincial authority that ensures all of the relevant requirements of CSA Z341.1-14 for drilling, modification, and operation of a well is satisfied. The MNRF reviewed the Storage Pool Reports provided by Enbridge Gas, and stated that, with respect to the technical requirements under the Provincial Operating Standards and CSA Z341, the application as filed is complete.

As part of its interrogatories, OEB staff proposed licence conditions with respect to the well licence. In its response, Enbridge Gas accepted all of the proposed conditions.<sup>14</sup>

In its submissions, OEB staff submitted that because Enbridge Gas is still in the process of obtaining several approvals, permits and agreements for the construction of the Project, the following condition should be added to the proposed conditions for the well licence:

Enbridge Gas shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project.

This same condition was proposed for the leave to construct.

OEB staff submitted that a favourable OEB Report, under subsection 40(1) of the Act, should be provided to the MNRF, along with the recommended licence conditions.

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<sup>14</sup> Response to OEB Staff Interrogatory No. 18

MNRF submitted that it has no objection to a favourable report being provided to the Minister of Natural Resources and Forestry under s. 40 of the OEB Act. The MNRF also supported the licence conditions proposed by OEB staff, including a condition that prohibits construction until such time as all required authorizations and agreements have been obtained.

## Findings

The OEB finds that the well licence application should be approved and the licence granted. The OEB is issuing a Report to the Minister of Natural Resources and Forestry (Report) recommending that the application for a licence for the Proposed Well be approved, subject to certain conditions. The Report is attached as Schedule 3 to this Decision. The recommended licence conditions are attached as Attachment A to Schedule 3. The OEB recommends that the condition proposed by OEB staff be amended to clarify that construction of the well should not be permitted until such time as all required authorizations and agreements relevant to the well have been obtained. The revised condition is as follows:

Prior to commencement of construction of the Proposed Well, Enbridge Gas shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Proposed Well.

This recommendation will expire eighteen months after the date of the Report.

## 3.8 Leave to Construct

Enbridge Gas has applied for leave to construct the following Proposed Facilities which it says is required to accommodate the proposed increased pressure gradient of the Pools and the incremental storage space and deliverability:

- a) construct 2.2 kilometres of NPS 24 steel pipeline to connect the Payne Compressor Station to the Corunna Compressor Station
- b) construct approximately 70 metres of new NPS 10 steel pipeline to connect the proposed TL 9H well to the Ladysmith gathering lines
- c) upgrade approximately 200 metres of the existing Ladysmith NPS 16 gathering pipelines to NPS 20
- d) re-route approximately 150 metres of the NPS 20 Ladysmith transmission pipeline to connect the Payne pipeline and the Ladysmith pipeline within the

- existing Kimball-Payne Station
- e) modify the existing Payne-Kimball Station to route and control gas from the Ladysmith Storage Pool to the Dawn Compressor Station via the Payne Storage Pool pipeline
  - f) undertake a crossover installation to route gas between the Dawn Compressor Station, the Corunna Compressor Station, the Payne Storage Pool and the Ladysmith Storage Pool which involves the installation of piping and valving between the two pipelines
  - g) install a 16-inch bi-directional control valve, isolation valves and associated pipe and fittings within the Ladysmith Station as well as a NPS 20 filter/separator and a new NPS 16 receiver, along with associated pipe and fittings

Enbridge Gas stated that all design, installation and testing of the Proposed Facilities will be in accordance with the requirements of Ontario Regulation 210/01 Oil and Gas Pipeline Systems (Regulation) under the *Technical Standards and Safety Act, 2000*. Additionally, the design will meet the requirements of CSA Z662 Standard for Oil and Gas Pipeline Systems in accordance with the Code Adoption Document under the Regulation.

OEB staff supported Enbridge Gas's application for leave to construct the Proposed Facilities, subject to the proposed conditions of approval.

MNRF submitted that it does not oppose the application, subject to the inclusion of conditions in each approval that require the outstanding authorizations and agreements being obtained and filed with the OEB and the MNRF prior to any construction.

In its reply submission, Enbridge Gas requested that the OEB extend the sunset date for the leave to construct approval from the standard period of 12 months to 18 months from the date of the OEB's Decision as some of the Project activities are not planned to commence until 2022.

## Findings

The OEB finds that it is in the public interest to grant leave to construct subject to Enbridge Gas satisfying the conditions of approval in this Decision. In making its determination, the OEB considered the market need for the storage enhancement, absence of any capital cost impact on Enbridge Gas regulated customers, land related matters, environmental matters, pipeline design specifications and Indigenous consultation.

With respect to extending the deadline for the commencement of construction and the expiration of the approvals herein, the OEB accepts Enbridge Gas's rationale for requesting 18 months, as it does not plan to commence some of the activities until 2022.

Leave to construct is granted by way of Order attached as Schedule 4 to this Decision and is subject to the conditions of approval attached as Appendix A to the Order.

### **3.9 OEB's Costs of the Proceeding**

Enbridge Gas shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

**DATED** at Toronto April 22, 2021

**ONTARIO ENERGY BOARD**

*Original Signed By*

Christine E. Long  
Registrar

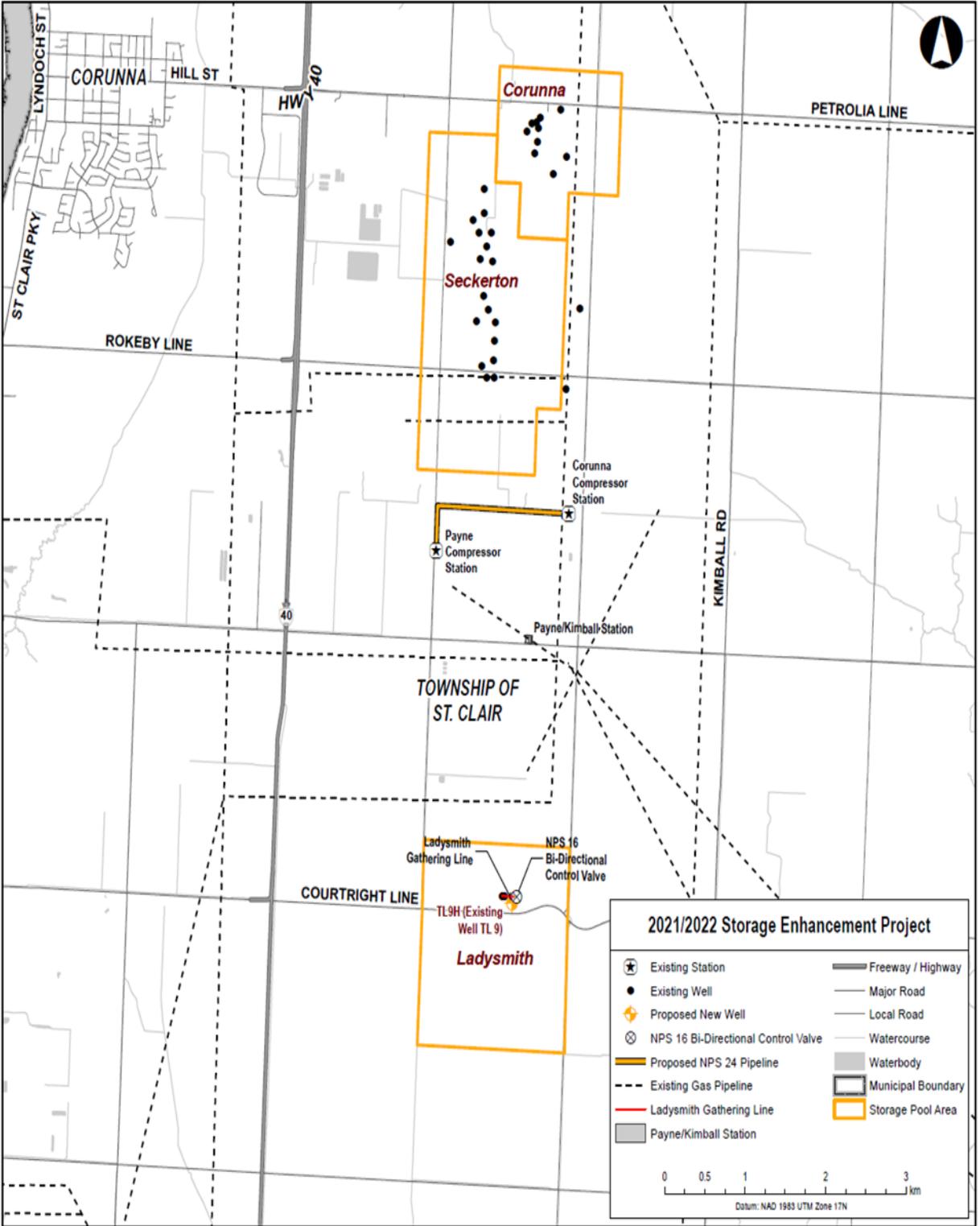
**SCHEDULE 1**

**MAP OF THE 2021/22 STORAGE ENHANCEMENT PROJECT**

**ENBRIDGE GAS INC.**

**EB-2020-0256**

**APRIL 22, 2021**



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**SCHEDULE 2**

**ORDER TO INCREASE OPERATING PRESSURE IN THE POOLS**

**ENBRIDGE GAS INC.**

**EB-2020-0256**

**APRIL 22, 2021**



Ontario | Commission  
Energy | de l'énergie  
Board | de l'Ontario

**EB-2020-0256**

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

**AND IN THE MATTER OF** an application by Enbridge Gas Inc. for an order pursuant to section 38(1) of the *Ontario Energy Board Act, 1998* granting leave to increase the operating pressure of the Ladysmith, Corunna, and Seckerton natural gas storage pools in the Township of St. Clair in Lambton County.

**BEFORE:** Lynne Anderson  
Presiding and Chief Commissioner  
  
Anthony Zlahtic  
Commissioner

## **ORDER**

**April 22, 2021**

Enbridge Gas Inc. (Enbridge Gas) applied under section 38(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (the OEB Act) for leave to increase the maximum operating pressure (MOP) of the Ladysmith, Corunna, and Seckerton natural gas storage pools (Pools). Enbridge Gas has applied to vary the MOP of the Ladysmith storage pool to a maximum pressure gradient of 16.5 kPa/m (0.73 psi/ft) from the limit of 15.9 kPa/m (0.7 psi/ ft) set by a previous OEB decision.<sup>15</sup> Enbridge Gas also seeks

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<sup>15</sup> E.B.L.O. 269, E.B.O. 212, 213, and E.B.R.M. 112, Appendix B.

approval to increase the MOP of the Corunna and the Seckerton storage pools to a maximum pressure gradient of 17.2 kPa/m (0.76 psi/ft).

Enbridge Gas states that the proposed MOP for each pool is permitted under the Canadian Standards Association Standard Z341.1-18.

The application to increase the MOP of the Pools is made as part of Enbridge Gas's application for approval of its 2021/2022 Storage Enhancement Project (Project). As part of the Project, Enbridge Gas has requested a favourable report from the OEB to support a well drilling licence application filed with the Ministry of Natural Resources and Forestry (MNRF) to drill an injection/withdrawal well in the Ladysmith storage pool. Enbridge Gas has also applied for leave to construct certain gathering pipelines and associated facilities and has also applied for approval of the form of agreements to be offered to landowners affected by the Project. The approval of these requests will collectively enable Enbridge Gas to increase its storage deliverability and capacity.

The OEB issued a Notice of Hearing for the Project on December 9, 2020. On January 20, 2021, the OEB issued Procedural Order No. 1 granting MNRF intervenor status and provided for interrogatories and submissions on the application. The OEB proceeded by way of a written hearing. In accordance with Procedural Order No. 1 issued on January 20, 2021, the interrogatory phase was completed on February 17, 2021. The MNRF and OEB staff filed written submissions on March 3, 2021. The record for the proceeding was closed on March 15, 2021 with the filing of Enbridge Gas's written reply submission.

On April 22, 2021, the OEB issued a Decision approving the leave to construct application and issued a favourable report to the Minister of Natural Resources and Forestry regarding the well licence application under OEB File No. EB-2020-0256. In the EB-2020-0256 Decision the OEB also approved the requested increase in the MOP of the Pools, subject to the conditions set out in this Order.

This Order is issued in accordance with the OEB's Decision in EB-2020-0256.

**THE ONTARIO ENERGY BOARD ORDERS THAT:**

1. Enbridge Gas Inc. may increase the maximum operating pressure of the of the Ladysmith storage pool to a maximum pressure gradient of 16.5 kPa/m (0.73 psi/ft).

2. Enbridge Gas may increase the maximum operating pressure of the Corunna and the Seckerton storage pools to a maximum pressure gradient of 17.2 kPa/m (0.76 psi/ft).
3. Enbridge Gas Inc. shall not operate:
  - a) the Ladysmith storage pool above an operating pressure representing a pressure gradient of 16.5 kPa/m (0.73 psi/ft) and
  - b) the Corunna and Seckerton storage pools above an operating pressure representing a pressure gradient of 17.2 kPa/m (0.76 psi/ft) without leave of the OEB.
4. Enbridge Gas shall continue to adhere to the applicable requirements of CSA Z341 to the satisfaction of the MNRF.

**ISSUED** at Toronto, April 22, 2021

**ONTARIO ENERGY BOARD**

*Original Signed By*

Christine E. Long  
Registrar

**SCHEDULE 3**

**REPORT OF THE ONTARIO ENERGY BOARD  
TO THE MINISTER OF NATURAL RESOURCES AND FORESTRY  
APPLICATION BY ENBRIDGE GAS INC. TO DRILL A WELL  
IN THE LADYSMITH STORAGE POOL  
ENBRIDGE GAS INC.**

**EB-2020-0256**

**APRIL 22, 2021**



Ontario  
Energy  
Board | Commission  
de l'énergie  
de l'Ontario

**EB-2020-0256**

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**REPORT OF THE ONTARIO ENERGY BOARD  
TO THE MINISTER OF NATURAL RESOURCES AND FORESTRY  
APPLICATION BY ENBRIDGE GAS INC. TO DRILL A WELL  
IN THE LADYSMITH NATURAL GAS STORAGE POOL**

**Before: Lynne Anderson, Presiding and Chief Commissioner  
Anthony Zlahtic, Commissioner**

**Date: April 22, 2021**

## **1. INTRODUCTION AND SUMMARY**

Pursuant to section 40(1) of the *Ontario Energy Board Act 1998 (Act)*, the OEB issues this Report recommending that the Minister of Natural Resources and Forestry grant to Enbridge Gas Inc. (Enbridge Gas) a licence to drill a horizontal gas storage well TL 9H in the Ladysmith Storage Pool in St. Clair Township in the County of Lambton.

In Ontario, geological, engineering, operational, technical and safety aspects of underground storage operations of drilling, operation and modification works of storage wells are within the authority of the Ministry of Natural Resources and Forestry (MNRF) in accordance with requirements of *Canadian Standards Authority (CSA) Z341.1-14 “Storage of Hydrocarbons in Underground Formations”* (CSA Z341) and the *Gas and Salt Resources of Ontario, Provincial Operating Standards* (the Provincial Standards).

The OEB’s recommendation includes conditions of licence attached as Attachment A to this Report.

## **2. PROCESS**

Enbridge Gas applied to the MNRF under the *Oil, Gas, and Salt Resources Act* (OGSRA) for a licence to drill an injection/withdrawal well (Proposed Well) in the Ladysmith Storage Pool.

On December 1, 2020, the MNRF referred the application to the OEB pursuant to section 40(1) of the Act.

The Proposed Well is part of Enbridge Gas’s 2021/22 Storage Enhancement Project (Project) for which Enbridge Gas is requesting the OEB’s approval. The Project includes applications requesting approval to increase the maximum operating pressure (MOP) of the Ladysmith, Corunna, and Seckerton natural gas storage pools, to construct certain gathering pipelines and associated facilities (Proposed Facilities) and for the form of agreements to be offered to landowners affected by the Project.

The OEB issued a Notice of Hearing relating to the Project on December 9, 2020. The MNRF is a registered intervenor in the proceeding. The OEB proceeded by way of a written hearing. In accordance with Procedural Order No. 1 the interrogatory phase was completed on February 17, 2021. The MNRF and OEB staff filed written submissions on March 3, 2021. The record for the proceeding closed on March 15, 2021 with the filing of Enbridge Gas’s reply submission.

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

When reviewing and reporting to the MNRF on a natural gas storage well drilling licence application, the OEB considers the following in the context of the Project:

- Need
- Costs and potential impact on Enbridge Gas's customers
- Legal and regulatory requirements
- Environmental matters
- 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 stated that the drilling and operation of the Proposed Well will increase deliverability of the Ladysmith storage pool by 33,000 GJ/day and that the incremental deliverability created by the Proposed Well will support the marketing of the incremental storage capacity created by the Project.

Enbridge Gas stated that the Project is needed to increase the deliverability and storage capacity of the Pools in order to meet growing market demand for incremental storage space. The additional storage capacity created by the Project will be sold to third parties as part of Enbridge Gas's unregulated storage portfolio.

OEB staff submitted that Enbridge Gas adequately addressed the issue of need. The MNRF's submission did not question the need for the Proposed Well.

The OEB finds that Enbridge Gas has established the need for the Project based on its existing regulated and unregulated storage being fully needed/contracted and expectation that there will be demand for the unregulated storage when offered in its open season.

### **3.2 Costs and potential impact on Enbridge Gas's customers**

Enbridge Gas stated that the incremental capacity and deliverability services resulting from the Project will be sold at market-based prices and therefore the Project costs will not be recovered from Enbridge Gas's customers.

OEB staff noted that since the Natural Gas Electricity Interface Review (NGEIR) Decision,<sup>16</sup> Enbridge Gas has not been required to file cost or economic information for unregulated storage projects. OEB staff submitted that it is appropriate that the Project costs be funded by Enbridge Gas's shareholders as the benefits will also accrue to the account of the shareholders.

In its Decision on the Project, the OEB accepted Enbridge Gas's position that the costs for the Project will have no direct impact on its customers as the cost will be borne by its shareholders.

The OEB stated that it is concerned with the sufficiency of evidence on potential indirect costs that may have an impact on Enbridge Gas's rate regulated customers. The Project is the second phase of a series of projects, and was preceded by the OEB-approved expansion of the Black Creek, Coveny and Wilkesport pools.<sup>17</sup> Enbridge Gas indicated that a third phase is forthcoming to increase the MOP of the Payne and Dow Moore storage pools.<sup>18</sup>

One of those indirect costs may be incremental lost and unaccounted for gas (LUF) costs resulting from increasing the MOP of Enbridge Gas's storage pools, an issue raised by OEB staff. The allocation of LUF is but one cost to be allocated between Enbridge Gas's rate regulated and unregulated storage business. In its decision, the OEB has directed Enbridge Gas as part of its next rebasing application to address the allocation of all costs between its rate regulated and unregulated storage business and indicated that this should include, without limitation, consideration of LUF and capital overhead costs.

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<sup>16</sup> EB-2005-0551 Decision

<sup>17</sup> EB-2020-0074 Decision and Order

<sup>18</sup> Response to OEB Staff Interrogatory 3(b).

### 3.3 Legal and Regulatory Requirements

The MNRF is the provincial authority that oversees the implementation of CSA Z341 for the drilling, modifications, and operation of well. The MNRF was an active participant in the proceeding.

Enbridge Gas stated that the following technical information was provided to MNRF on November 10, 2020 for the proposed drilling operation and for the proposed elevation of the maximum operating pressure of the Pools:

- a. Engineering studies completed by Geofirma confirming the maximum safe operating pressure of 16.5 kPa/m (0.73 psi/ft) for the Ladysmith Storage Pool and 17.2 kPa/m (0.76 psi/ft) for the Corunna and Seckerton Storage Pools.
- b. An Assessment of Neighbouring Activities for the Corunna Storage Pool, the Ladysmith Storage Pool and the Seckerton Storage Pool
- c. “What If” Analysis of hazards and operability for each of the Pools

The MNRF submitted that it has reviewed the reports and stated that with respect to the technical requirements under the Oil, Gas and Salt Resources Provincial Operating Standards (the Provincial Operating Standards) and CSA Z341, the application as filed is complete.

OEB staff submitted that a favourable OEB Report should be provided to the Minister of Natural Resources and Forestry and that proposed conditions of licence should accompany the OEB’s recommendation. MNRF submitted that it has no objection to a favourable report being provided to the Minister of Natural Resources and Forestry with respect to the well licence application. MNRF supported the licence conditions proposed by OEB staff, including a condition that prohibits construction until such time as all required authorizations and agreements have been obtained.

Enbridge Gas confirmed that it will ensure that all safety and environmental issues are addressed, concerning the above-noted facilities and Enbridge Gas will comply with the *Ontario Oil, Gas and Salt Resources Act*, O. Reg. 245/97 and CSA Z341.

The OEB recommends that the licence be granted to Enbridge Gas to drill the Proposed Well in the Ladysmith storage pool, including a condition that prohibits construction of the well until such time as all required authorizations and agreements relevant to the well have been obtained.

### 3.4 Environmental Matters

In accordance with the requirements of the OEB's "*Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines in Ontario*" (2016) (OEB Environmental Guidelines) Enbridge Gas provided an Environmental Report.

MECP has noted several Species at Risk (SAR) occurrences within the vicinity of the Project and recommended that species-specific surveys be completed. Enbridge Gas stated it will adhere to any additional mitigation and avoidance measures recommended by AECOM resulting from future site investigations and also stated that if necessary, a permit or other authorization from the MECP will be obtained to ensure compliance with the *Endangered Species Act, 2007*.

Enbridge Gas stated that a Stage 1 Archaeological Assessment (AA) was submitted for review to the Ministry of Heritage, Sport, Tourism and Cultural Industries (MHSTCI) on September 29, 2020. The AA determined that the potential for the recovery of both First Nation and Euro-Canadian archaeological resources within the current study area is high and based on these findings recommended a Stage 2 AA for all areas of potentially undisturbed land within the study area limits.

Enbridge Gas undertook an initial Stage 2 AA and advised that it requested review of it by the MHSTCI on February 3, 2021. Enbridge Gas stated that a second Stage 2 AA is required and is expected to commence in the spring of 2021.<sup>19</sup> MNRF submitted that the MECP has not confirmed whether authorization is required under the *Endangered Species Act, 2007*. MNRF also submitted that not all Stage 2 AA work has been completed to date and neither the Stage 1 nor the Stage 2 AA has received a clearance letter from MHSTCI. MNRF recommended the inclusion of conditions in each approval that require the outstanding authorizations and agreements being obtained and filed with the OEB and the MNRF prior to any construction.

OEB staff submitted that it has no concerns with the environmental aspects of the Project, given that Enbridge Gas is committed to implementing the proposed mitigation measures. OEB staff further submitted that Enbridge Gas's compliance with the proposed conditions will ensure that impacts of well drilling and pipeline construction are mitigated and monitored.

The OEB finds that Enbridge Gas followed the requirements of the OEB's Environmental Guidelines. Enbridge Gas shall implement the mitigation measures

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<sup>19</sup> Response to OEB Staff Interrogatory No. 7

recommended by AECOM. The OEB is also recommending conditions for the well licence and imposing conditions on the leave to construct. The OEB is satisfied that with implementation of these mitigation measures and conditions for aspects of the Project, environmental-related matters will be addressed.

The OEB notes the concerns raised in MNR's submission regarding necessary outstanding authorizations from MECP and MHSTCI. that have not been confirmed or obtained. The OEB also notes Enbridge Gas's proposed construction schedule and the rationale for commencing construction of facilities at the Ladysmith pool on May 1, 2021 to return the pool into service by September 1, 2021 in order to enable the pool to be filled by November 1, 2021. In its Decision, the OEB concluded that Enbridge Gas can commence construction for any part of the Project for which there are no outstanding agreements, authorizations and approvals. The well is considered to be one part of the Project. Prior to the commencement of construction of the well, Enbridge Gas will obtain and file each necessary authorization and agreement relevant to the well with the OEB and MNR. The OEB notes that the approach to the conditions in this Decision departs from the standard approach, which would require Enbridge Gas to obtain all necessary approvals, permits, licences, certificates, agreements and rights required prior to commencing the construction of the Project. The OEB's findings are unique to the circumstances of this application and should not be interpreted as the OEB changing its standard practice.

### **3.5 Landowner Matters**

Enbridge Gas provided a detailed description of the land use requirements for the Project and the negotiation process that it is engaged in to obtain the necessary land rights to enable it to undertake the Project. Enbridge Gas stated that it expects to obtain all land rights prior to construction.

Enbridge Gas applied under section 97 of the OEB Act for approval of the forms of agreement to be offered to landowners affected by the Project. Enbridge Gas confirmed that the forms of agreement proposed in the application have been previously approved by the OEB.<sup>20</sup>

OEB staff submitted that Enbridge Gas is appropriately managing land related matters and has no issues or concerns with land matters related to the Project. OEB staff

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<sup>20</sup> EB-2019-0188 Decision and Order

submitted that the forms of agreement proposed by Enbridge Gas should be approved as they are consistent with the forms of agreement previously approved by the OEB.

MNRF submitted that required land use agreements, land purchase and easements are outstanding requirements while noting that Enbridge Gas is in the process of negotiations with affected landowners. MNRF supported the application conditional upon the outstanding agreements/authorizations being obtained and filed with the OEB and MNRF prior to construction.

The OEB is satisfied that Enbridge Gas has made sufficient progress on the agreements required for construction and siting of the Project, and that outstanding land-related concerns have been addressed. The OEB notes that Enbridge Gas has not completed the negotiations for the acquisition of 0.38 acres of permanent easement, and for a TLU agreement for the Payne and Ladysmith storage pool pipelines. Nor have negotiations concluded with the five landowners affected by the 2.2 km NPS 24 pipeline connecting the Payne storage pool to the Corunna Compressor Station.

Lastly, discussions are still underway with Hydro One in respect of crossing its transmission lines. In its Decision, the OEB concluded that these matters are sufficiently advanced that Enbridge Gas can commence construction for any aspects of the Project for which there are no outstanding agreements/authorizations. Prior to the commencement of any part of the Project, Enbridge Gas would be required to obtain and file each necessary authorization and agreement relevant to that part of the Project with both the OEB and MNRF in respect of the well licence and with the OEB in respect of the leave to construct facilities.

Section 97 of the OEB Act stipulates that leave to construct approval under section 90 cannot be granted until the OEB is satisfied that an applicant has offered or will offer to each owner of land affected by the approved pipeline route an agreement in a form approved by the OEB. Similarly, section 38 of the OEB Act stipulates that authority to inject, store and remove gas from a designated gas storage area cannot be granted until the OEB is satisfied that just and equitable compensation is offered in respect of landowner rights for the storage of gas and any damage resulting. In its Decision, the OEB approved the forms of agreement as they are consistent with the forms of agreement previously approved by the OEB.

### **3.6 Indigenous Consultation**

In accordance with the OEB's Environmental Guidelines, Enbridge Gas contacted the Ministry of Energy, Northern Development and Mines (MENDM) in respect of the Crown's duty to consult related to the Project on April 17, 2020. By a letter dated June 17, 2020 (Delegation Letter), the MENDM delegated the procedural aspects of the Crown's Duty to Consult for the Project to Enbridge Gas. In the Delegation Letter, the MENDM identified five Indigenous communities with which Enbridge Gas should consult in relation to the Project:

- Aamjiwnaang First Nation
- Bkejwanong (Walpole Island First Nation)
- Chippewas of the Thames First Nation
- Chippewas of Kettle and Stony Point
- Oneida Nation of the Thames

Each of these five Indigenous communities and the Metis Nation of Ontario (MNO) were served the Notice of Hearing for the Project, in accordance with the OEB's Letter of Direction. No Indigenous community applied for intervenor status in the proceeding.

Enbridge Gas provided the MENDM with its Indigenous Consultation Report on November 13, 2020. Enbridge Gas received the MENDM letter of opinion on the adequacy of that consultation on April 8, 2021. The letter stated that the MENDM is of the opinion that the procedural aspects of consultation undertaken by Enbridge Gas to date for the leave to construct within the Project is satisfactory. Furthermore, the MENDM stated its expectation that Enbridge Gas will continue its consultation activities with the communities throughout the life of the project and notify the MENDM should any additional rights-based concerns/issues arise.

Submissions from the MNR and OEB staff focused on conditions that should be imposed for the Project if the OEB planned to grant approval prior to receiving the letter of opinion from the MENDM.

In its reply submission, Enbridge Gas referenced an earlier well drilling licence application filed with the MNR to drill a stratigraphic test well TL 9 within the Ladysmith storage pool that was referred to the OEB by the MNR on February 27, 2019, pursuant to section 40 of the OEB Act. Enbridge Gas stated that as part of the well drilling application for TL 9, Indigenous consultations were undertaken for the drilling of wells

TL9 and TL 9H (the well that is part of this Project). Enbridge Gas stated that MENDM had already provided a letter confirming that it was satisfied with the adequacy of the aspects of Indigenous consultation for the drilling of TL 9H.

A letter of opinion from the MENDM was filed by Enbridge Gas with the OEB on April 13, 2021 after the close of the record in this proceeding. In the letter, the MENDM provided its satisfaction with the procedural aspects of consultation undertaken by Enbridge Gas for the “Leave to Construct for the 2021/2022 Storage Enhancement Project”. This letter did not specifically reference the well drilling aspect of the Project. However, in its Decision, the OEB concluded that Enbridge Gas met the Indigenous consultation obligations for the well licence in a previous OEB proceeding.<sup>21</sup> The OEB reached this conclusion based on the following evidence:

- The letter of opinion received from the MENDM dated June 12, 2019 in the previous OEB proceeding relating to the TL 9 well licence application<sup>22</sup> acknowledged Enbridge Gas’s intent to convert the stratigraphic TL 9 well to horizontal well TL 9H.
- No evidence was presented in this proceeding to indicate that the scope of the conversion of stratigraphic well TL 9 to horizontal well TL 9H contemplated in the previous proceeding is different from the current well licence application.
- The five Indigenous communities the MENDM identified to be consulted with for this application and the previous proceeding are the same. The OEB therefore concludes that there is no gap in the Indigenous communities to be consulted.

#### **4. RECOMMENDATION**

The OEB recommends that the Minister of Natural Resources and Forestry grant to Enbridge Gas a licence to drill horizontal gas storage well TL 9H in the Ladysmith Storage Pool in St. Clair Township in the County of Lambton, subject to the conditions attached as Attachment A to this Report.

This recommendation shall expire eighteen months from the date of this Report.

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<sup>21</sup> EB-2019-0012 Enbridge Gas Well Drilling Licence Application

<sup>22</sup> EB-2019-0012 Enbridge Gas Well Drilling Licence Application, Exhibit G, Attachment 3

**DATED** at Toronto, April 22, 2021

**ONTARIO ENERGY BOARD**

*Original Signed By*

Christine E. Long  
Registrar

**Attachment A**

**To the**

**EB-2020-0256**

**REPORT OF THE ONTARIO ENERGY BOARD  
TO THE MINISTER OF NATURAL RESOURCES AND FORESTRY  
APPLICATION BY ENBRIDGE GAS INC. TO DRILL A WELL  
IN THE LADYSMITH STORAGE POOL**

**Recommended Conditions of Licence**

**April 22, 2021**

**Application under Section 40 of the OEB Act**

**Enbridge Gas Inc. EB-2020-0256**

**RECOMMENDED CONDITIONS OF LICENCE**

1. Enbridge Gas Inc. (Enbridge Gas) shall rely on the evidence filed with the OEB in the EB-2020-0256 proceeding and comply with applicable laws, regulations and codes pertaining to the construction of the Proposed Well.
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 Report filed in the proceeding.
5. Prior to commencement of construction of the Proposed Well, Enbridge Gas shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Proposed Well.
6. Enbridge Gas shall ensure that the movement of equipment is carried out in compliance with all procedures filed with the OEB, and as follows:
  - a) 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.
  - b) The installation of facilities and construction shall be coordinated to minimize disruption of agricultural land and agricultural activities.
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:
    - 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
    - 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 Gas'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
    - 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

10. For the purposes of these conditions, Enbridge Gas shall conform:
  - a) With CSA Z341.1-18 “Storage of Hydrocarbons in Underground Formations” to the satisfaction of the Ministry of Natural Resources and Forestry (MNRF)
  - 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 to the satisfaction of the MNRF
11. 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 MNRF, the OEB and to all the affected landowners, and shall clearly post the project manager’s contact information in a prominent place at the construction site.

**SCHEDULE 4**

**LEAVE TO CONSTRUCT GATHERING PIPELINES AND ANCILLARY  
FACILITIES**

**ENBRIDGE GAS INC.**

**EB-2020-0256**

**APRIL 22, 2021**



Ontario | Commission  
Energy | de l'énergie  
Board | de l'Ontario

**EB-2020-0256**

**IN THE MATTER OF** the *Ontario Energy Board Act*, S.O. 1998, c. 15, Sched. B;

**AND IN THE MATTER OF** applications by Enbridge Gas Gas Limited for an order pursuant to sections 90(1) and 97 of the *Ontario Energy Board Act, 1998* granting leave to construct natural gas gathering pipelines and associated facilities in the Township of St. Clair in Lambton County and approving the forms of land agreement to be offered to affected landowners.

**BEFORE:** Lynne Anderson  
Presiding and Chief Commissioner

Anthony Zlahtic  
Commissioner

## **ORDER**

### **LEAVE TO CONSTRUCT NATURAL GAS GATHERING PIPELINES AND ASSOCIATED FACILITIES AND APPROVAL OF FORMS OF LANDOWNER AGREEMENTS**

Enbridge Gas Inc. (Enbridge Gas) has applied for leave to construct under section 90(1) of the *Ontario Energy Board Act, 1998* (OEB Act) in order to construct the following gathering pipelines and associated facilities (Proposed Facilities):

- a) construct 2.2 kilometres of NPS 24 steel pipeline to connect the Payne Compressor Station to the Corunna Compressor Station
- b) construct approximately 70 metres of new NPS 10 steel pipeline to

- connect the proposed TL 9H well to the Ladysmith gathering lines
- c) upgrade approximately 200 metres of the existing Ladysmith NPS 16 gathering pipelines to NPS 20
  - d) re-route approximately 150 metres of the NPS 20 Ladysmith transmission pipeline to connect the Payne pipeline and the Ladysmith pipeline within the existing Kimball-Payne Station
  - e) modify the existing Payne-Kimball Station to route and control gas from the Ladysmith Storage Pool to the Dawn Compressor Station via the Payne Storage Pool pipeline
  - f) undertake a crossover installation to route gas between the Dawn Compressor Station, the Corunna Compressor Station, the Payne Storage Pool and the Ladysmith Storage Pool which involves the installation of piping and valving between the two pipelines
  - g) install a 16-inch bi-directional control valve, isolation valves and associated pipe and fittings within the Ladysmith Station as well as a NPS 20 filter/separator and a new NPS 16 receiver, along with associated pipe and fittings

Enbridge Gas has also applied under section 97 of the OEB Act for approval of the forms of agreement to be offered to affected landowners.

The applications for leave to construct and approval of the forms of agreement are made as part of Enbridge Gas's application for approval of its 2021/2022 Storage Enhancement Project (Project). As part of the Project, Enbridge Gas has applied for leave to increase the maximum operating pressure (MOP) of the Ladysmith, Corunna, and Seckerton natural gas storage pools (Pools). Enbridge Gas has also requested a favourable report from the OEB to support a well drilling licence application filed with the Ministry of Natural Resources and Forestry (MNRF) to drill an injection/withdrawal well in the Ladysmith storage pool. The approval of these requests will collectively enable Enbridge Gas to increase its storage deliverability and capacity.

The OEB issued a Notice of Hearing for the Project on December 9, 2020. On January 20, 2021, the OEB issued Procedural Order No. 1 granting MNRF intervenor status and provided for interrogatories and submissions on the application. The OEB proceeded by way of a written hearing. In accordance with Procedural Order No. 1 issued on January 20, 2021, the interrogatory phase was completed on February 17, 2021. The MNRF and OEB staff filed written submissions on March 3, 2021. The record for the proceeding

was closed on March 15, 2021 with the filing of Enbridge Gas's written reply submission.

On April 22, 2021, the OEB issued a Decision approving the application to the OEB to increase the MOP of the Pools and issued a favourable report to the Minister of Natural Resources and Forestry regarding the well licence application under OEB File No. EB-2020-0256 recommending that the Minister of Natural Resources and Forestry issue the licence requested by Enbridge Gas. In the EB-2020-0256 Decision, the OEB also approved the leave to construct application, subject to the conditions set out in this Order.

This Order is issued in accordance with the OEB's Decision in EB-2020-0256.

**THE ONTARIO ENERGY BOARD ORDERS THAT:**

- 1) Enbridge Gas Inc. is granted leave to construct the gathering lines and associated facilities as proposed in Enbridge Gas's application, pursuant to subsection 90(1) of the Act, subject to the Conditions of Approval set forth in Appendix A to this Order.
- 2) Pursuant to section 97 of the OEB Act, the OEB approves the forms of agreement that Enbridge Gas Inc. has proposed to offer to each owner of land affected by the Project.

**DATED** at Toronto, April 22, 2021

**ONTARIO ENERGY BOARD**

*Original Signed By*

Christine E. Long  
Registrar

**Appendix A**

**to the**

**EB-2020-0256**

**Order**

**Leave to Construct**

**Conditions of Approval**

**April 22, 2021**

**Application under Section 90(1) of the OEB Act**

**Enbridge Gas Inc. EB-2020-0256**

**CONDITIONS OF APPROVAL**

1. Enbridge Gas Inc. (Enbridge Gas) shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2020-0256 and these Conditions of Approval.
2. (a) Authorization for leave to construct shall terminate 18 months after the decision is issued, unless construction has commenced prior to that date.  
  
(b) Enbridge Gas shall give the OEB notice in writing:
  - i. of the commencement of construction, at least 10 days prior to the date construction commences
  - ii. of the planned in-service date, at least 10 days prior to the date the facilities go into service
  - iii. of the date on which construction was completed, no later than 10 days following the completion of construction
  - iv. of the in-service date, no later than 10 days after the facilities go into service
3. Prior to the commencement of construction of any portion of the Proposed Facilities, Enbridge Gas shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain that portion of the Proposed Facilities.
4. Enbridge Gas shall implement all the recommendations of the Environmental Report filed in the proceeding, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review.
5. Enbridge Gas shall advise the OEB of any proposed change to OEB-approved construction or restoration procedures. Except in an emergency, Enbridge Gas shall not make any such change without prior notice to and written approval of the OEB. In the event of an emergency, the OEB shall be informed immediately after the fact.

6. 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:
    - 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
    - v. provide a certification, by a senior executive of the company, that the company has obtained all other approvals, permits, licenses, 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 Gas's adherence to Condition 4
    - ii. describe the condition of any rehabilitated land
    - iii. describe the effectiveness of any actions taken to prevent or mitigate any identified impacts of construction
    - iv. include the results of analyses and monitoring programs and any recommendations arising therefrom
    - 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; and the rationale for taking such actions
7. Enbridge Gas shall designate one of their employees as project manager who will be the point of contact for these conditions, and shall provide the employee's name and

contact information to the OEB and to all affected landowners, and shall clearly post the project manager's contact information in a prominent place at the construction site.