



Enbridge Gas Inc.

**Application for leave to construct natural gas pipeline
and associated facilities in the Town of Geraldton in the
Municipality of Greenstone**

**PROCEDURAL ORDER NO. 1
November 12, 2021**

Enbridge Gas Inc. (Enbridge Gas) applied to the Ontario Energy Board (OEB) on September 10, 2021, under sections 90 and 97 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), for an order granting leave to construct approximately 13 kilometres of natural gas pipeline and associated facilities in the Municipality of Greenstone. Enbridge Gas has entered into a contract with Greenstone Gold Mine LP to provide natural gas service to the Greenstone Mine Project, an open pit gold mine located near the Town of Geraldton, in the Municipality of Greenstone. Enbridge Gas has also applied to the OEB for approval of the form of land-use agreements it offers to landowners for the routing and construction of the project.

A Notice of Hearing was issued on October 4, 2021. Each of Environmental Defence Research Foundation (Environmental Defence), Minodahmun Development LP (MDLP) and Pollution Probe applied for intervenor status and cost eligibility.

By letter dated November 3, 2021, Enbridge Gas stated that it does not object to the requests for intervenor status and cost eligibility.

Intervention Requests of Environmental Defence and Pollution Probe

In its letter of intervention Environmental Defence stated it wishes to address the following issues in this application.;

- “Whether the Application accords with relevant OEB guidelines and requirements;
- Whether Enbridge has put in place appropriate measures to indemnify ratepayers from having to bear these costs in the event that the industrial customer driving this project goes bankrupt; and
- Whether Enbridge took adequate steps to communicate with the industrial customer regarding alternatives that could be most cost-effective for that customer and/or reduce risks on ratepayers.

With respect to its interest in this proceeding, Pollution Probe stated that “The proposed pipeline crosses multiple watercourses and Provincial wetlands. Areas of focus will include:

- financial treatment (including proposed capital treatment and amortization period);
- project risk, options, environmental and socio-economic impacts related to the proposed pipeline; and
- potential interaction with the Geraldton distribution system.

The OEB is satisfied that Environmental Defence and Pollution Probe have a “substantial interest” in this proceeding within the meaning of Rule 22.02 of the OEB’s *Rules of Practice and Procedure*. Environmental Defence and Pollution Probe are approved as intervenors and are eligible to apply for an award of costs under the OEB’s [Practice Direction on Cost Awards](#).

The OEB notes that it appears that Pollution Probe and Environmental Defence may have a number of common areas of interest in relation this application. To avoid duplication of effort, the OEB requires that Pollution Probe and Environmental Defence coordinate their participation on such common issues.

In addition, Pollution Probe stated that it is concerned that the “pipeline crosses multiple watercourses and Provincial wetlands”. Under the OEB’s *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario*, the Environmental Report for this project has been reviewed by the Ontario Pipeline Coordinating Committee (OPCC). The OPCC’s membership comprises representatives from various government ministries and agencies, such as, “Technical Standards and Safety Authority, Ministry of Energy, Ministry of Environment and Climate Change, Ministry of Agriculture, Food and Rural Affairs, Ministry of Tourism, Culture and Sport, Ministry of Municipal Affairs and Housing, Ministry of Natural Resources and Forestry, Ministry of Transportation, Infrastructure Ontario, and Ministry of Economic Development, Employment and Infrastructure (the OPCC representatives).”¹ In reviewing any environmental matters, the OEB requires that Pollution Probe tailor its participation in keeping with the scope of the OEB’s review and avoid duplication by canvassing issues that may have been addressed through the other reviews.

¹ OEB’s *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario*, 7th Edition, 2016, pages 7-8.

In making its decision on cost awards, the OEB will consider whether intervenors made reasonable efforts to avoid duplication and to ensure that their participation in the hearing was focused on material issues.

Intervention Request of MDLP

In its letter of intervention MDLP stated that “MDLP is a 100% First Nation owned partnership created by Animbiigoo Zaagi’igan Anishinaabek (AZA), Aroland First Nation (AFN) and Ginoogaming First Nation (GFN) (collectively - MDLP First Nation members) to maximize First Nation participation in development projects, with a focus on the mining sector. Minodahmun’s goal is to ensure that benefits from development projects are shared equitably with MDLP First Nation members to grow the local economy and provide opportunities for its members.” MDLP further stated that “Greenstone Gold is a signatory to a Long-term Relationship Agreement (LTRA) with the MDLP First Nation members, with MDLP representing the First Nation members in implementing the LTRA. The LTRA formalizes Greenstone Gold’s commitment towards protecting the environment and supporting the MDLP First Nation members’ social and cultural practices, and provides for environmental monitoring, employment, training, business and contracting opportunities.” With respect to its interest in this proceeding MDLP stated that, it is “affected by this Application with respect to treaty rights, land use, cultural heritage, and economic interests” and provided a list of issues of interest to it.

The OEB is satisfied that MDLP has a “substantial interest” in this proceeding within the meaning of Rule 22.02 of the OEB’s *Rules of Practice and Procedure* and MDLP is approved as an intervenor.

With respect to its request for cost award eligibility, MDLP stated that “MDLP believes that it meets the eligibility criteria set out in the Ontario Energy Board’s Rules of Practice and Procedure (Section 41) and its’ Practice Direction on Cost Awards (Section 3.03).” MDLP is eligible to apply for an award of costs under the OEB’s [Practice Direction on Costs Awards](#).

Participation

Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party unless a compelling reason is provided when cost claims are filed. Being eligible to apply for recovery of costs is not a guarantee of recovery of any costs claimed. Cost awards are made by way of OEB order at the end of a hearing.

Request for Confidentiality

Included in Enbridge Gas's application is a request for confidential treatment for certain information in the Gas Distribution Contract between Greenstone Gold Mine LP and Enbridge Gas, the landowner list and the Indigenous Consultation log. Specifically, Enbridge Gas is requesting that certain information in the following exhibits be treated as confidential:

- Gas Distribution Contract (Ex B/T1/S1/Attachment 1)
- Landowner List (Exhibit G/T1/S1/Attachment 5)
- Indigenous Consultation Log and Attachments (Exhibit H/T1/S1/Attachment 7)

In its application Enbridge Gas provided reasons for why the information should be treated as confidential and filed unredacted copies of the documents.

In its letter requesting intervenor status, Pollution Probe noted its objection to Enbridge Gas's request for confidential treatment of the Gas Distribution Contract. Specifically, Pollution Probe asked that the OEB reject Enbridge Gas's request because the redacted information about the contract termination clause and the Contribution in Aid of Construction payment schedule are directly related to the review of this application and should be on the public record.

By letter dated November 3, 2021, Enbridge Gas responded to the concerns raised by Pollution Probe. Enbridge Gas provided additional reasons for why it is asking for confidential treatment and why the redacted information should not be placed on the public record. Enbridge Gas also stated that its confidentiality request is consistent with the OEB's treatment of similar information in previous proceedings.

By letter dated November 8, 2021, Environmental Defence stated that Enbridge Gas's request for confidentiality was not made in accordance with the process set out in the OEB's [Practice Direction on Confidential Filings](#) (Practice Direction) and requested that the OEB make provision for submissions on Enbridge Gas's request. Environmental Defence also asked that the OEB direct Enbridge Gas to "explain why it believes the information meets the criteria in Appendix A of the Practice Direction at the outset, not in its reply submissions."

The OEB notes that Enbridge Gas's request for confidentiality has not been made in the manner set out in section 5 of the OEB's Practice Direction. Per the requirements in section 5, Enbridge Gas is required to file its request under a separate cover, file redacted and unredacted copies of the documents, explain why the information should be treated as confidential and how public disclosure of the information would be harmful to the parties involved. However, the OEB will not require Enbridge Gas to refile its request for confidentiality because per the requirements in the Practice Direction,

Enbridge Gas has filed unredacted copies of the documents and in its November 3, 2021 letter, provided additional information in relation to its request that was missing from its original request. Although Enbridge Gas is not being asked to refile its request for confidentiality, it is reminded that it must follow the process the set out in the OEB's Practice Direction.

In its November 3, 2021 letter, Enbridge Gas stated that Greenstone Gold Mine LP has requested that Enbridge Gas redact the information in the contract for which confidential treatment is requested. The OEB is granting intervenor status to Greenstone Gold Mine LP for the limited purpose of addressing the confidentiality of the Gas Distribution Contract. If Greenstone Gold Mine LP wishes to file additional information in respect of its request for redactions to its contract with Enbridge Gas, it should file this information by the date noted in this order.

At this time, the OEB is making provision for any additional submissions from Enbridge Gas in respect of its confidentiality requests and for Greenstone Gold Mine LP to file any additional information in relation to its request for confidentiality for information in the Gas Distribution Contract. Counsel and consultants for intervenors that wish to make submissions on the Enbridge Gas's request for confidentiality shall be granted access to the unredacted documents provided they execute the OEB's Declaration and Undertaking. If Enbridge Gas objects to a Declaration and Undertaking, the objection shall be filed with the OEB and copied to the relevant party within 5 days from the receipt of the Declaration and Undertaking. The relevant party shall file its reply, if any, with the OEB and deliver a copy to Enbridge Gas, within 5 days from the receipt of the objection.

Interrogatories

At this time, provision is being made for written interrogatories. Parties should consult sections 26 and 27 of the OEB's [Rules of Practice and Procedure](#) regarding required naming and numbering conventions and other matters related to interrogatories.

Oral vs Written Hearing

Enbridge Gas requested that the application be processed by a written hearing. No party requested an oral hearing. MDLP noted that the OEB's determination on a type of hearing could be more appropriately made after interrogatories responses are filed by Enbridge Gas. The OEB will make its determination on the type of hearing after its review of the interrogatory responses.

The list of parties in this proceeding is attached as Schedule A to this Procedural Order.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

1. Counsel and consultants for intervenors that wish to make submissions on the request for confidentiality shall be granted access to the un-redacted documents provided they have executed the OEB's [Declaration and Undertaking](#). The signed Declaration and Undertaking shall be filed with the OEB and a copy shall be delivered to Enbridge Gas. If Enbridge Gas objects to a [Declaration and Undertaking](#), the objection shall be filed with the OEB and copied to the relevant party within 5 days from the receipt of the Declaration and Undertaking. The relevant party shall file its reply, if any, with the OEB and deliver a copy to Enbridge Gas, within 5 days from the receipt of the objection.
2. If Enbridge Gas wishes to file additional information in relation to its confidentiality requests it must file this information with the OEB and serve it on all intervenors by **November 16, 2021**.
3. If Greenstone Gold Mines LP wishes to participate in this proceeding and wishes to file additional information in respect of its request for redactions to the Gas Distribution Contract, it must file this information with the OEB and serve it on all parties by **November 16, 2021**.
4. OEB staff and intervenors wishing to make submissions on Enbridge Gas's confidentiality requests and Greenstone Gold Mines LP's submissions, if any, shall file their written submissions with the OEB and serve them on Enbridge Gas and all intervenors, by **November 19, 2021**.
5. If Enbridge Gas wishes to respond to the submissions of OEB staff and intervenors, it shall file its written reply submission with the OEB and serve it on all intervenors by **November 23, 2021**.
6. OEB staff and intervenors shall request any relevant information and documentation from Enbridge Gas that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by, **December 3, 2021**.
7. Enbridge Gas shall file with the OEB complete written responses to all interrogatories and serve them on intervenors by, **December 17, 2021**.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2021-0205** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [Filing Systems page](#) on the OEB's website
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact registrar@oeb.ca for assistance

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Zora Crnojacki at Zora.Crnojacki@oeb.ca and OEB Counsel, Michael Millar at Michael.Millar@oeb.ca

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **November 12, 2021**

ONTARIO ENERGY BOARD

By delegation, before: Christine E. Long

Original signed by

Christine E. Long
Registrar

SCHEDULE A

LIST OF APPLICANT AND INTERVENORS

ENBRIDGE GAS INC.

**APPLICATION FOR LEAVE TO CONSTRUCT NATURAL GAS PIPELINE
AND ASSOCIATED FACILITIES IN THE TOWN OF GERALDTON IN
THE MUNICIPALITY OF GREENSTONE**

EB-2021-0205

DATED: NOVEMBER 12, 2021

**Enbridge Gas Inc.
EB-2021-0205**

APPLICANT & LIST OF INTERVENORS

November 12, 2021

APPLICANT

Rep. and Address for Service

Enbridge Gas Inc.

Stephanie Allman

Regulatory Coordinator
Enbridge Gas Inc.
500 Consumers Rd.
Toronto, ON M2J 1P8
Tel: 416-753-7805
Fax: 416-495-6072
egiregulatoryproceedings@enbridge.com

APPLICANT COUNSEL

Tania Persad

Senior Legal Counsel
Enbridge Gas Inc.
500 Consumers Road
North York ON M2J 1P8
Tel: 416-495-5891
Fax: 416-495-5994
tania.persad@enbridge.com

INTERVENORS

Rep. and Address for Service

**Environmental Defence
Canada Inc.**

Kent Elson

Counsel
Elson Advocacy
1062 College Street
Lower Suite
Toronto ON M6H 1A9
Tel: 416-906-7305
Fax: 416-763-5435
kent@elsonadvocacy.ca

**Enbridge Gas Inc.
EB-2021-0205**

APPLICANT & LIST OF INTERVENORS

November 12, 2021

**Environmental Defence
Canada Inc.**

Amanda Montgomery
Associate
Elson Advocacy
1062 College Street
Lower Suite
Toronto ON M6H 1A9
Tel: 416-906-7305
amanda@elsonadvocacy.ca

Jack Gibbons
Ontario Clean Air Alliance
160 John Street, Suite 300
Toronto ON M5V 2E5
Tel: 416-260-2080 Ext: 2
jack@cleanairalliance.org

**Greenstone Goldmines GP
Inc.**

Christine Petch
Deputy Project Manager
Greenstone Goldmines GP Inc.
1800 Main Street
Box 70
Geraldton ON P0T 1M0
Tel: 416-294-7699
christine.petch@ggmines.com

**Minodahmun Development
LP**

Donald Richardson
Consultant
IBA Braiding Ltd.
4606 Concession 11
Puslinch ON N0B 2J0
Tel: 226-820-5086
don@ibabraiding.com

**Enbridge Gas Inc.
EB-2021-0205**

APPLICANT & LIST OF INTERVENORS

November 12, 2021

**Minodahmun Development
LP**

John Glover
Minodahmun Development LP
101 Poplar Crescent
PO Box 89
c/o Ginoogaming First Nation
Longlac ON P0T 2A0
Tel: 519-272-3498
john.glover@minodahmun.ca

Pollution Probe

Michael Brophy
Michael Brophy Consulting Inc.
28 Macnaughton Road
Toronto ON M4G 3H4
Tel: 647-330-1217
michael.brophy@rogers.com