



Ontario
Energy
Board

Commission
de l'énergie
de l'Ontario

DECISION AND ORDER

EB-2021-0248

ENBRIDGE GAS INC.

Coveny and Kimball-Colinville Well Drilling Project

BEFORE: Robert Dodds
Presiding Commissioner

David Sword
Commissioner

April 28, 2022



TABLE OF CONTENTS

1	INTRODUCTION AND SUMMARY.....	1
1.1	MAP OF PROJECT	2
2	THE PROCESS AND STRUCTURE OF THE DECISION	3
2.1	THE PROCESS	3
2.2	STRUCTURE OF THE DECISION.....	3
3	DECISION.....	5
3.1	PART A: FINDINGS ON ISSUES COMMON TO ALL COMPONENTS OF THE PROJECT	5
3.2	PART B: DECISION ON THE LEAVE TO CONSTRUCT APPLICATION	16
4	ORDER	18

SCHEDULE 1: REPORT TO THE MINISTER OF NORTHERN DEVELOPMENT, MINES, NATURAL RESOURCES AND FORESTRY ON WELL LICENCE APPLICATIONS

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 December 15, 2021 seeking approval for the Coveny and Kimball-Colinville Well Drilling Project (Project).

Enbridge Gas applied to the Minister of Natural Resources¹ (Minister) for licences to drill an A-1 observation well (TCV 7) in the Coveny storage pool and an injection/withdrawal well (TKC 68) in the Kimball-Colinville storage pool. The Minister referred the applications to the OEB pursuant to section 40(1) of the OEB Act. The OEB is required to report to the Minister before the Minister can issue a licence to drill a well. Enbridge Gas has requested a favourable report from the OEB to the Minister regarding its licence applications.

Enbridge Gas has also applied under section 91 of the OEB Act for the OEB's leave to construct a gathering pipeline to connect well TKC 68 to the existing Kimball-Colinville gathering pipeline.

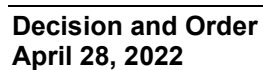
The location and elements of the Project are shown on the Map of Project below.

The OEB is satisfied that the Project proposed by Enbridge Gas is in the public interest and approves Enbridge Gas's application subject to certain conditions.

The OEB is issuing a favourable report to the Minister supporting the well licence applications. The Report is attached as Schedule 1 to this Decision and Order.

¹ Minister of Northern Development, Mines, Natural Resources and Forestry

The general location of the Project is presented on the map below.



2 THE PROCESS AND STRUCTURE OF THE DECISION

2.1 The Process

The OEB issued a Notice of Application on January 18, 2022. The Chippewas of Kettle and Stony Point First Nation with Southwind Development Corporation (CKSPFN) and the Ministry of Northern Development, Mines, Natural Resources and Forestry (Ministry of Natural Resources) applied for intervenor status. CKSPFN also applied for cost eligibility. No objection was received from Enbridge Gas in relation to these requests.

On February 18, 2022, the OEB issued Procedural Order No. 1 approving CKSPFN and the Ministry of Natural Resources as intervenors and setting out dates for the filing of interrogatories and submissions.

OEB staff and the Ministry of Natural Resources filed written interrogatories on March 1, 2022 and CKSPFN filed its interrogatories on March 2, 2022. Enbridge Gas filed interrogatory responses on March 9, 2022. CKSPFN, the Ministry of Natural Resources and OEB staff filed submissions on March 18, 2022 and Enbridge Gas filed its reply submission on March 24, 2022.

On April 19, 2022, Enbridge Gas updated its evidence by filing the Letter of Opinion² from the Ministry of Energy confirming that the procedural aspects of Indigenous consultation undertaken by Enbridge Gas to date for the purposes of the OEB's Leave to Construct for the Project is satisfactory.

2.2 Structure of the Decision

The Decision is organized as follows:

Part A of the Decision addresses issues that are 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

² More discussion related to the Letter of Opinion may be found in section 3.1.5 - Indigenous Consultation.

Part B addresses issues specific to the leave to construct application.

Schedule 1 contains the OEB's Report to the Minister concerning matters that pertain to the well license applications.

3 DECISION

3.1 PART A: FINDINGS ON ISSUES COMMON TO ALL COMPONENTS OF THE PROJECT

Part A of the Decision outlines the evidence and submissions by the parties and the OEB's findings on issues common to all components of the Project.

3.1.1 Need

Enbridge Gas stated that the Project is needed: a) to replace deliverability lost through the recent abandonment of six gas storage wells by drilling a new injection/withdrawal well (TKC 68) in the Kimball-Colinville Storage Pool; and b) to address safety and compliance requirements by drilling an A-1 observation well (TCV 7) in the Coveny Storage Pool, in compliance with Section 5.5 of Canadian Standards Association (CSA) Standard Z341.1-18 *Storage of Hydrocarbons in Underground Formations* (CSA Z341.1-18).

The wells were abandoned due to integrity concerns. Abandonment of these wells resulted in a total deliverability loss of approximately 4,400 times $10^3 \text{ m}^3/\text{day}$. Enbridge Gas estimates that well TKC 68 will provide deliverability of between 700 - 2,800 times $10^3 \text{ m}^3/\text{day}$.

Enbridge Gas has proposed to drill well TCV 7 to comply with Section 5.5 of CSA Z341.1-18, which requires the installation of observation wells to monitor low-permeability zones or formations adjacent to and in communication with the storage zone. Enbridge Gas identified the need for this well in its Asset Management Plan, filed as part of Enbridge Gas's 2021 Rates proceeding.³

Upon completion of drilling well TKC 68, Enbridge Gas will need to construct approximately 120 metres of NPS 10-inch steel pipeline to connect the well to the existing Kimball-Colinville gathering pipeline.

Enbridge Gas stated that in its assessment of the need, it considered the following alternatives for well TKC 68:

- 1) Increasing the size of the pipelines within the Kimball-Colinville Storage Pool - Enbridge Gas stated this would take significantly longer to execute, have greater environmental impact and cost approximately \$2 million more than drilling a new well;

³ EB-2020-0181, Exhibit C, Tab 2, Schedule 1, p. 206

2) Purchasing natural gas for delivery to Enbridge Gas's system during peak periods - Enbridge Gas determined this was not optimal as the cost is expected to exceed the cost of drilling a new well after three years and is less reliable, as Enbridge Gas would need to rely on a third party to deliver supply according to a commercial agreement as opposed to being able to operate its own physical storage asset.

Enbridge Gas stated that the A-1 observation well is required by CSA Z341.1-18 and it is not aware of any comparable alternative facility or non-facility solution that would enable it to monitor the actual movement of natural gas between the Guelph Formation and the A-1 Formation.

Enbridge Gas has requested a decision from the OEB by the end of April 2022.⁴ Enbridge Gas stated if the OEB decision is issued later than the end of April 2022, it may need to defer the Project to 2023.

OEB staff submitted that it has no concerns with Enbridge Gas's rationale that the Project is needed to replace deliverability lost and to comply with Section 5.5 of CSA Z341.1-18 as the Project is cost-effective, reliable, and minimizes the impact on landowners and the environment as compared to other alternatives considered by Enbridge Gas.

CKSPFN noted that as no non-gas alternatives were assessed, Enbridge Gas will continue to emit fugitive emissions from the proposed Project, contributing to cumulative impacts from fugitive emissions, and further costs to ratepayers. Enbridge Gas stated that it did not consider any non-gas options as there are no non-gas alternatives that meet the stated Project need. Further, non-gas alternatives such as electricity-based alternatives have been specifically excluded from alternatives for which Enbridge Gas may be able to receive funding to pursue per the OEB's Integrated Resource Planning Framework.⁵

⁴ Exhibit I.STAFF.1, p. 2

⁵ Exhibit I.CKSPFN.18, p. 2

Findings

The OEB finds that there is a need for the Project as there is an increase in storage capacity to compensate for the six Enbridge Gas storage wells that have been abandoned and are no longer available for use. The OEB finds that the approach proposed by Enbridge Gas to increase pressure in an existing storage pool (along with a companion observation well) represents the most efficient and cost-effective means of replacing the lost storage space.

The OEB accepts Enbridge Gas's position that there are no non-gas alternatives that meet the stated project need.

3.1.2 Costs and potential impact on Enbridge Gas's customers

The estimated cost of the Project is \$5.08 million. Enbridge Gas stated that a discounted cash flow analysis was not completed as the Project is underpinned by integrity and compliance requirements.

Enbridge Gas stated that it is not seeking cost recovery of the Project as part of this application. Upon rebasing, Enbridge Gas expects the capital costs associated with the Project will be included in rate base, as the Project solely benefits Enbridge Gas's regulated storage business.

Enbridge Gas stated that the estimated impact of the Project on a typical residential customer's bill in the Enbridge Gas Distribution rate zone is less than \$0.20 per year.⁶

Enbridge Gas provided comparable well drilling costs for its previously approved Dow-Moore Storage Pool Project⁷, which encompassed the drilling of two injection/withdrawal wells and two observation wells. OEB staff submitted that the cost estimates for the Project appear reasonable as the costs of the TCV 7 well of \$1.5 million and TKC 68 well of \$3 million are similar to the costs of the wells approved in the Dow-Moore Storage Pool Project.

OEB staff also submitted that the filing by Enbridge Gas of post-construction financial reports as proposed in the conditions for the well licence and leave to construct will ensure that the OEB has the information required to review the potential impact of actual capital costs on Enbridge Gas's ratepayers.

⁶ Exhibit I, Staff 3, p. 2

⁷ EB-2017-0354; Exhibit I, Staff 3, p. 2

Findings

The OEB finds the cost of the project to be reasonable and in keeping with the cost experience of similar and recent Enbridge Gas storage pool expansions.

The OEB notes that the interests of the ratepayer will be safeguarded by Enbridge Gas's filing of its post-construction financials, and that the cost recovery of the capital invested shall then be considered during its next re-basing application.

3.1.3 Land Matters

The Project requires the construction of gravel pads, temporary workspace, and permanent access lanes.

Enbridge Gas leases the land on which Project activities for well TKC 68 will occur and owns and operates the land on which Project activities for well TCV 7 will take place. Enbridge Gas stated that its land agents have notified the parties directly impacted by the Project. The party impacted by well TCV 7 is a tenant farmer. For well TKC 68 and the pipeline, the impacted party is a third-party farmer.

As part of the interrogatory responses, Enbridge Gas provided a letter of support for the Project from the third-party landowner and a copy of the Gas Storage Lease Agreement with the same landowner. Enbridge Gas confirmed that this Agreement provides it with the rights to drill the proposed well and confirmed that all required land rights have been acquired for the Project.⁸

OEB staff submitted that there are no outstanding land-related concerns arising from the Project.

Findings

The OEB is satisfied that the land matters have been adequately addressed by Enbridge Gas and also notes a letter it received and filed from the third-party landowner in support of the Project.

⁸ Exhibit I, Staff 7, p. 2

3.1.4 Environmental Impacts

Enbridge Gas retained Stantec Consulting Ltd. to complete an environmental assessment of the Project and prepare an Environmental Report (ER), in accordance with the OEB's Environmental Guidelines.⁹

The ER states that with the implementation of the recommendations, ongoing communication and consultation, environmental and supplementary studies and adherence to permit, regulatory and legislative requirements, potential adverse residual environmental and socio-economic impacts of the Project are not anticipated to be significant.

The ER was provided to the Ontario Pipeline Coordinating Committee and other agencies. Enbridge Gas responded to comments received and provided an update on the status of the permits and approvals it requires for the Project.

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 licence and leave to construct will ensure that impacts of well drilling and pipeline construction are mitigated and monitored.

CKSPFN made several submissions regarding the environmental impacts of the Project.

CKSPFN expressed concerns regarding the fugitive emissions and the associated cost to ratepayers resulting from the Project and Enbridge Gas's existing natural gas infrastructure within CKSPFN's treaty territory. CKSPFN requested that the OEB make its approval of the Project conditional upon Enbridge Gas undertaking an assessment of all fugitive emissions across its current and proposed natural gas infrastructure in CKSPFN treaty lands and development of an action plan to reduce these fugitive emissions.

CKSPFN submitted that it is concerned about the lack of an assessment of the cumulative impacts of Enbridge gas infrastructure across CKSPFN treaty lands. CKSPFN requested that the OEB make its approval of the Project conditional upon Enbridge Gas undertaking a comprehensive cumulative effects assessment on all historic, current and proposed natural gas infrastructure in CKSPFN treaty lands inclusive of effects on natural heritage at the local and landscape levels, Indigenous

⁹ *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines in Ontario* (7th edition), 2016

cultural landscapes, the climate impacts of greenhouse gas and fugitive emissions, and impacts on Indigenous rights and interests.¹⁰

CKSPFN also expressed concerns about Enbridge Gas's approach to managing potential impacts of the Project to amphibian habitat. CKSPFN requested that the OEB's approval of the Project be conditional upon Enbridge Gas being required to collaborate with CKSPFN on field investigations and mitigation/monitoring plans regarding impacts to amphibians, reptiles, and their habitat.

Enbridge Gas responded to CKSPFN's submissions as set out below.

Enbridge Gas stated that it has provided an estimate of the fugitive emissions arising from the two new wells to be drilled as part of the Project, noting that there will be no fugitive emissions associated with the six abandoned wells that this Project partially replaces. Enbridge Gas submitted that the estimated net impact on fugitive emissions is therefore negative at this time. Enbridge Gas further argued that CKSPFN has not provided any evidence to support the assertion that its request to make the OEB's approval of the Project conditional upon a broad assessment of fugitive emissions is in the best interests of ratepayers and stated that the evidence on the record in this proceeding suggests that it is not.

Enbridge Gas submitted that pursuant to the Environmental Guidelines, it has completed a cumulative effects assessment, the results of which are detailed in section 5.0 of the ER. Enbridge Gas further submitted that the cumulative effects assessment and the associated study area was delineated in accordance with Section 4.3.14 of the Environmental Guidelines and the methodologies used for the cumulative effects assessment are the same as those used in other Enbridge Gas projects approved by the OEB.

Enbridge Gas stated that it is committed to further engagement with CKSPFN regarding cumulative effects to better understand how CKSPFN's Aboriginal or treaty rights may be impacted by Enbridge Gas's ongoing development and operations in the Project area, how the Project may further contribute to this impact, and what may be done to avoid, offset, or minimize the impact.

Regarding CKSPFN's submissions on Enbridge Gas's approach to managing potential impacts of the Project to amphibian habitat, Enbridge Gas reiterated its interrogatory response¹¹ that amphibian breeding habitat was identified as *potentially* occurring in the wooded area near the TCV 7 Study Area but as the Project activities avoid direct

¹⁰ CKSPFN submission, p. 9

¹¹ Exhibit I.CKSPFN.9

interaction with this area, no field investigations will be undertaken. Enbridge Gas stated that potential indirect impacts of sensory disturbance and spills will be mitigated through the measures outlined in the ER. Enbridge Gas submitted that further field investigations are unnecessary and would not be a prudent use of resources, the cost of which will ultimately be borne by ratepayers.

Findings

The OEB is satisfied that the environmental impacts of the Project are being adequately addressed. This is supported by Enbridge Gas's commitment that potential indirect impacts of sensory disturbance and spills will be mitigated through the measures outlined in the Environmental Report.

CKSPFN raised issues with respect to environmental elements of the Project, specifically fugitive emissions and potential impacts on amphibians. The OEB finds as follows on these two issues:

1. The OEB accepts Enbridge Gas's explanation that any fugitive emissions associated with the Project will be offset by the full curtailment of any fugitive emissions associated with the six abandoned wells that this Project partially replaces.
2. Further field investigations for potential impact on amphibians beyond the Environmental Review completed by Stantec on behalf of Enbridge Gas are not necessary since the Project avoids any direct interaction with an area that was identified as having potential for an amphibian breeding habitat. The OEB notes Enbridge Gas's willingness to continue engagement with CKSPFN on this issue.

CKSPFN expressed concern about potential impacts of Enbridge Gas infrastructure across CKSPFN treaty lands and requested that the OEB make its approval of the Project conditional upon Enbridge Gas undertaking a comprehensive cumulative effects assessment on all historic, current and proposed natural gas infrastructure in CKSPFN treaty lands. The OEB denies the request for the following reasons:

1. CKSPFN did not provide evidence on how the Project and its activities specific to the Project location impact CKSPFN's treaty rights.
2. Consideration of impacts on land outside the Project location and zone of influence is outside the scope of this proceeding.

The OEB notes Enbridge Gas's commitment to further engagement with CKSPFN regarding cumulative effects to better understand how CKSPFN's Aboriginal or treaty rights may be impacted by Enbridge Gas's ongoing development and operations in the

Project area. The OEB also notes that there are various initiatives in policy making arenas that welcome public input and discussion that are well underway within the Government of Canada and the Government of Ontario that address emissions within the context of climate change and greenhouse gas emissions, with some examples footnoted.¹²

3.1.5 Indigenous Consultation

In accordance with the OEB's Environmental Guidelines, Enbridge Gas contacted the Ministry of Energy on May 5, 2021 in respect of the Crown's duty to consult related to the Project. By a letter dated June 1, 2021 (Delegation Letter), the Ministry of Energy delegated the procedural aspects of the Crown's Duty to Consult for the Project to Enbridge Gas. In the Delegation Letter, the Ministry of Energy 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 were served the Notice of Hearing for the Project, in accordance with the OEB's Letter of Direction.

Enbridge Gas provided the Ministry of Energy with its Indigenous Consultation Report for the Project. The Environmental Guidelines contemplate that the Ministry of Energy will provide a letter to an applicant expressing its view on the adequacy of the Indigenous consultation based on materials provided to the Ministry of Energy (Letter of Opinion).

At the time that submissions and reply submissions were filed in this proceeding, the Letter of Opinion had not been issued by the Ministry of Energy. OEB staff's submission suggested that the OEB should place this proceeding in abeyance until the Letter of Opinion is provided. In its reply submission, Enbridge Gas stated that it would accept the OEB imposing a requirement to file the Letter of Opinion as a condition of approval. Enbridge Gas submitted that placing the proceeding in abeyance is not necessary in

¹² [Discussion Paper: Reducing Methane Emissions from Canada's Oil and Gas Sector](https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/consultation-reducing-methane-emissions-oil-gas-sector.html) - <https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/consultation-reducing-methane-emissions-oil-gas-sector.html> and [Emissions Performance Standards program](https://www.ontario.ca/page/emissions-performance-standards-program) - <https://www.ontario.ca/page/emissions-performance-standards-program>

this case as it is recognized that the timing of the OEB's decision will be impacted by the filing date of the Letter of Opinion.

CKSPFN made several submissions regarding Indigenous consultation that Enbridge Gas responded to in its reply submissions.

CKSPFN submitted that Enbridge Gas has not complied with the Environmental Guidelines related to Indigenous consultation as it did not update the Indigenous consultation log for the Project beyond February 11, 2022 even though numerous email exchanges occurred between February 11 and March 9, including CKSPFN sharing meeting minutes with action items and emails to Enbridge with requests for information that are still outstanding.

In its reply submission, Enbridge Gas stated that, contrary to CKSPFN's submission, it did update the Indigenous consultation log to March 3, 2022 (including the period between February 11, 2022 and March 3, 2022) in response to an OEB staff interrogatory.¹³ Enbridge Gas submitted that the information requests by CKSPFN were not specific to this Project. Enbridge Gas stated that it responded to the information requests on March 10, 2022, and that the only information shared with CKSPFN that is specific to this Project was the budget for the Project, which is already on the record in this proceeding. Enbridge Gas submitted that as all of the other content of this communication relates to matters that are not relevant to this Project, and in some cases pertain to commercially sensitive, unregulated business matters, Enbridge Gas does not intend to file this communication within this proceeding.

CKSPFN submitted that Enbridge Gas has not explained how the Project may adversely affect Aboriginal or treaty rights. Enbridge Gas explained in its response to an OEB staff interrogatory¹⁴ that no Project-specific concerns or impacts on Aboriginal or treaty rights were identified during its consultation activities, aside from an ongoing land claim matter detailed in the second part of its response. Enbridge Gas noted that the Project is being constructed on land owned or leased by Enbridge Gas and farmed by third parties and CKSPFN has not provided any evidence that it uses this land to exercise its Aboriginal or treaty rights.

CKSPFN made submissions about the adequacy of Enbridge Gas's engagement activities with CKSPFN:

¹³ Exhibit I.STAFF.8, Attachment 1

¹⁴ Exhibit I.STAFF.8 part 5

- Despite CKSPFN's requests made as part of its interrogatories, Enbridge Gas did not provide maps of the Project during a February 11, 2022 meeting with CKSPFN.
- Stage 1 and 2 Archaeological Assessment was not shared by Enbridge Gas in time for CKSPFN to include any interrogatories on archaeological matters.
- Enbridge Gas offered capacity funding on March 10, 2022, which was too late to support any archaeological work on the Project.
- CKSPFN has yet to see the full Project application, including maps of Project infrastructure as they relate to CKSPFN treaty territory.

In its reply, Enbridge Gas stated that there have been unique circumstances related to CKSPFN's engagement on this Project and other Enbridge Gas projects¹⁵ that have resulted in the current representatives of CKSPFN only beginning to engage with Enbridge Gas in early 2022. Enbridge Gas argued that while CKSPFN's current representatives were not present throughout all the engagement activities conducted for the Project, which date back to the summer of 2021, this does not mean that engagement has not occurred. Contrary to CKSPFN's submissions, Enbridge Gas submitted that it has (a) provided maps of the Project on several occasions dating back to the summer of 2021; (b) shared details of the ER, including archaeological assessment activities, on October 18, 2021, and (c) has offered capacity funding to CKSPFN on September 20, 2021, October 25, 2021, January 25, 2022, February 7, 2022, and February 11, 2022, all of which is indicated within the Indigenous consultation log.¹⁶ Enbridge Gas also submitted that the full Project application has been available to CKSPFN since it was filed with the OEB in December 2021.

On April 19, 2022, Enbridge Gas filed the Letter of Opinion it received from the Ministry of Energy stating that "based on this review of materials and our outreach to Indigenous communities, [the Ministry of Energy] is of the opinion that the procedural aspects of consultation undertaken by Enbridge to date for the purposes of the OEB's Leave to Construct for the Coveny and Kimball-Colinville Project is satisfactory."

¹⁵ As documented in CKSPFN's Intervention request in EB-2021-0078, Enbridge Gas 2022 Storage Enhancement Project

¹⁶ Exhibit H, Tab 1, Schedule 1, Attachment 6 and Exhibit I.STAFF.8 Attachment 1

Findings

The OEB finds that Enbridge Gas has adequately consulted with the Indigenous communities identified by the Ministry of Energy and has satisfied the delegated procedural aspects of the Crown's duty to consult for the Project.

This finding is based on the following reasons:

1. Enbridge Gas filed an Indigenous Consultation report in accordance with the OEB's Environmental Guidelines.
2. Enbridge Gas carried out consultations with the five Indigenous groups identified by the Ministry of Energy and only CKSPFN identified issues or concerns which have been addressed in this proceeding.
3. Enbridge Gas has received a Letter of Opinion from the Ministry of Energy confirming that the procedural aspects of the consultation undertaken by Enbridge Gas are satisfactory.

3.2 PART B: DECISION ON THE LEAVE TO CONSTRUCT APPLICATION

Enbridge Gas has applied for leave to construct approximately 120 metres of NPS 10 steel pipeline to connect well TKC 68 to the existing Kimball-Colinville gathering line.

Enbridge Gas stated that all design, installation and testing of the proposed pipeline 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*. This Regulation governs the installation of pipelines in Ontario. As well, 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, subject to proposed conditions of approval that are based on the OEB's standard conditions of approval for leave to construct applications.¹⁷ Enbridge Gas stated that while it has no concerns with the conditions of approval proposed by OEB staff at this time, should a Project delay occur, Enbridge Gas would require a change to Condition 2(a) to provide for termination of the leave to construct authorization 18 months after the decision is issued instead of 12 months to accommodate a deferred Project schedule.¹⁸

The Ministry of Natural Resources submitted that it does not oppose the approval of the application, subject to the inclusion of conditions proposed by OEB staff. The Ministry of Natural Resources noted that Enbridge Gas has committed to developing a Project-specific Spill Response Plan prior to the start of well drilling operations and that following the installation of the Project facilities, the location of the facilities will be added to Enbridge Gas's Emergency Response Plan. Ministry of Natural Resources submitted that it would be appropriate to include these future actions in the conditions of approval.¹⁹ Enbridge Gas responded that should the OEB determine that confirmation that these commitments have been honored is necessary to approve the Project, Enbridge Gas has no concerns with these additional conditions of approval suggested by the Ministry of Natural Resources.²⁰

¹⁷ March 29, 2021 OEB letter Regarding Updates to Performance Standards and Other Process Improvements

¹⁸ Exhibit I, Staff 10, p.3

¹⁹ Ministry of Natural Resources submission, p.4,5

²⁰ EGI reply submission, para. 29, p. 16

As noted in Section 3.1.4 on Environmental Impacts, CKSPFN proposed that the OEB impose the following additional conditions of approval:²¹

- 1) Enbridge Gas undertake a comprehensive cumulative effects assessment on all historic, current, and proposed natural gas infrastructure in CKSPFN treaty lands.
- 2) Enbridge Gas collaborate with CKSPFN on field investigations and mitigation/monitoring plans regarding impacts to amphibians, reptiles, and their habitat.
- 3) Enbridge Gas collaborate with CKSPFN in undertaking an assessment of all fugitive emissions across its current and proposed natural gas infrastructure in CKSPFN treaty lands and develop an action plan to reduce fugitive emissions.
- 4) Enbridge Gas provide CKSPFN with a map and access to GIS shapefiles for all Enbridge Gas infrastructure west of London, Ontario.

Enbridge Gas submitted that it is opposed to each of CKSPFN's proposed conditions of approval, stating that the first three proposed conditions are not appropriate for the OEB's approval of the Project as set out in its arguments in the Environmental Impacts and Indigenous Consultation sections above.

Regarding CKSPFN's fourth proposed condition of approval, Enbridge Gas stated that maps of the proposed Project infrastructure have been provided throughout the evidence in this proceeding. Enbridge Gas indicated, however, that it is willing to engage in further discussions to assist with CKSPFN's understanding of the Enbridge Gas infrastructure in and around CKSPFN's treaty territory. Enbridge Gas argued that the information requested by CKSPFN extends far beyond the scope of the Project for which Enbridge Gas is seeking approval and therefore the conveyance of this information should not be included as a condition of approval.

Findings

The OEB finds that the proposed pipeline is in the public interest and grants Enbridge Gas leave to construct the pipeline as proposed in its application, subject to the conditions contained in this Decision and Order.

²¹ CKSPFN submission, p. 9

4 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Enbridge Gas is granted leave to construct the pipeline as proposed in Enbridge Gas's application, pursuant to subsection 91 of the Act, subject to the Conditions of Approval set forth in Appendix A to this Order.
2. The Chippewas of Kettle and Stony Point First Nation with Southwind Development Corporation (CKSPFN) shall file with the OEB and forward to Enbridge Gas its cost claim in accordance with the OEB's *Practice Direction on Cost Awards* on or before **May 5, 2022**.
3. Enbridge Gas shall file with the OEB and forward to intervenors any objection to the claimed costs of CKSPFN on or before **May 12, 2022**.
4. If Enbridge Gas objects to CKSPFN's cost claim, CKSPFN shall file with the OEB and forward to Enbridge Gas its response, if any, to the objection to its cost claim on or before **May 19, 2022**.
5. Enbridge Gas shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

How to File Materials

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-2021-0248** 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 [File documents online 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.
- Cost claims are now filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

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, Judith Fernandes at judith.fernandes@oeb.ca and OEB Counsel, James Sidlofsky at james.sidlofsky@oeb.ca

Email: registrar@oeb.ca
Tel: 1-877-632-2727 (Toll free)

DATED at Toronto April 28, 2022

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar

Appendix A
to the EB-2021-0248
Order
Leave to Construct

Conditions of Approval

April 28, 2022

Application under Section 91 of the OEB Act

Enbridge Gas Inc. EB-2021-0248

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-2021-0248 and these Conditions of Approval.
2. (a) Authorization for leave to construct shall terminate 12 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. Enbridge Gas shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project.
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 develop a Project-specific Spill Response Plan prior to the start of well drilling operations and following the installation of the Project facilities, the location of the facilities will be added to Enbridge Gas's Emergency Response Plan.
6. 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.
7. Concurrent with the final monitoring report referred to in Condition 7(b), Enbridge Gas shall file a Post Construction Financial Report, which shall provide a variance

analysis of project cost, schedule and scope compared to the estimates filed in this proceeding, including the extent to which the project contingency was utilized. Enbridge Gas shall also file a copy of the Post Construction Financial Report in the proceeding where the actual capital costs of the project are proposed to be included in rate base or any proceeding where Enbridge Gas proposes to start collecting revenues associated with the Project, whichever is earlier.

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, 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

9. Enbridge Gas shall designate one of its 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.

SCHEDULE 1

**REPORT TO THE MINISTER OF NORTHERN DEVELOPMENT, MINES,
NATURAL RESOURCES AND FORESTRY ON WELL LICENCE APPLICATION**

ENBRIDGE GAS INC.

EB-2021-0248

APRIL 28, 2022



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

EB-2021-0248

**REPORT OF THE ONTARIO ENERGY BOARD
TO THE MINISTER OF NORTHERN DEVELOPMENT, MINES, NATURAL
RESOURCES AND FORESTRY
APPLICATION BY ENBRIDGE GAS INC. FOR LICENCES TO DRILL WELLS
IN THE COVENY AND KIMBALL-COLINVILLE STORAGE POOLS**

Before: Robert Dodds, Presiding Commissioner

David Sword, Commissioner

Date: April 28, 2022

1. INTRODUCTION AND SUMMARY

Enbridge Gas Inc. (Enbridge Gas) applied to the Minister of Northern Development, Mines, Natural Resources and Forestry (Minister) for licences to drill A-1 observation well (TCV 7) in the Coveny storage pool and an injection/withdrawal well (TKC 68) in the Kimball-Colinville storage pool. The Minister referred the applications to the OEB pursuant to section 40(1) of the *Ontario Energy Board Act, 1998* (OEB Act). The OEB is required to report to the Minister before the Minister can issue a licence to drill a well. Enbridge Gas has requested a favourable report from the OEB to the Minister regarding its licence applications.

The proposed wells are part of Enbridge Gas's Coveny and Kimball-Colinville Well Drilling Project (Project). As part of the Project, Enbridge Gas requested and was granted the OEB's approval²² to construct a new pipeline to connect well TKC 68 to the existing Kimball-Colinville gathering pipeline, under section 91 of the OEB Act. This approval is set out in the OEB's Decision of today's date, to which this Report is Schedule 1.

The OEB reviewed the referred well licence applications and held a written hearing. The Chippewas of Kettle and Stony Point First Nation with Southwind Development Corporation (CKSPFN) and the Ministry of Northern Development, Mines, Natural Resources and Forestry (Ministry of Natural Resources) were registered intervenors and filed submissions in the proceeding.

Pursuant to section 40(1) of the OEB Act, the OEB issues this Report recommending that the Minister grant Enbridge Gas licences to drill well TCV 7 in the Coveny storage pool and well TKC 68 in the Kimball-Colinville storage pool.

The OEB's recommendation includes the conditions of licence in Attachment A to this Report.

2. ISSUES CONSIDERED

When reviewing and reporting to the Minister on a natural gas storage well drilling licence application, the OEB considers the following issues:

- a) Need

²² OEB Decision and Order, EB-2021-0248

- b) Costs and potential impact on Enbridge Gas's customers
- c) Landowner matters
- d) Environmental impacts
- e) Indigenous consultation
- f) Regulatory and legal requirements regarding storage wells
- g) Well licence conditions

The OEB notes that all the issues listed above, except for issues f) and g) which relate solely to the well licence application, were addressed in Part A of the Decision to which this Report is Schedule 1, as these issues are common to all components of the Project.

The OEB's conclusions, with respect to each of the issues a) to e) are set out below:

- a) The OEB finds that there is a need for the Project as there is an increase in storage capacity to compensate for the six Enbridge Gas storage wells that have been abandoned and are no longer available for use. The OEB finds that the approach proposed by Enbridge Gas to increase pressure in an existing storage pool (along with a companion observation well) represents the most efficient and cost-effective means of replacing the lost storage space.
- b) The OEB finds the cost of the project to be reasonable and in keeping with the cost experience of similar and recent Enbridge Gas storage pool expansions. The OEB notes that the interests of the ratepayer will be safeguarded by Enbridge Gas's filing of its post-construction financials, and that the cost recovery of the capital invested shall then be considered during its next re-basing application.
- c) The OEB is satisfied that the land matters have been adequately addressed by Enbridge Gas and also notes a letter it received and filed from the third-party landowner in support of the Project.
- d) The OEB is satisfied that the environmental impacts of the Project are being adequately addressed.
- e) The OEB finds that Enbridge Gas has adequately consulted with the Indigenous communities identified by the Ministry of Energy and has satisfied the delegated procedural aspects of the Crown's duty to consult for the Project. A letter of opinion from the Ministry of Energy was filed by Enbridge Gas with the OEB on April 19, 2022. This letter confirmed the Ministry of Energy's satisfaction with the procedural aspects of consultation undertaken by Enbridge Gas for the "Coveny and Kimball-Colinville Well Drilling Project".

In this Report, the OEB addresses in detail the issues that relate solely to the well licence application – those include adherence to legal and regulatory requirements relating to storage wells; and conditions of licence.

2.1 Regulatory and Legal Requirements for a Licence to Drill and Operate a Storage Well

In Ontario, the Ministry of Natural Resources is the provincial authority that oversees the geological, engineering, operational, technical and safety aspects of drilling, operation and modification works of storage wells in accordance with requirements of Canadian Standards Authority (CSA) Standard Z341 – Storage of Hydrocarbons in Underground Formations” (CSA Z341) and the Gas and Salt Resources of Ontario, Provincial Operating Standards (the Provincial Standards).

The Ministry of Natural Resources was an active participant in the proceeding, filing interrogatories and making submissions.

The drilling work is expected to take place from May to July 2022 when there will be no injection or withdrawal operations in the storage pools to avoid disruption to service from the pool, and when the reservoir pressure is less than 3,500 kPa to allow the wells to be safely drilled.

Enbridge Gas stated that it has provided the Ministry of Natural Resources with the following reports on the Pools for its review: (i) An Assessment of Neighbouring Activities for the Coveny storage pool, and the Kimball-Colinville storage pool as prescribed by Clause 5.2 of CSA Z341.1-18, assessing: a) wells within 1 kilometre; b) operations within 5 kilometre; and c) the integrity of all wells penetrating the storage zone; and (ii) “What If” Analysis of hazards and operability for each of the pools.

The Ministry of Natural Resources submitted that it is satisfied that the application is complete and that Enbridge Gas has offered a complete response to all interrogatories.²³

2.2 Conditions of Licence

OEB staff proposed licence conditions with respect to the well licence that are similar to those approved by the OEB in past well drilling licence applications.²⁴

²³ Natural Resources submission, p.4

²⁴ EB-2020-0256 Decision and Order, Schedule 3

Enbridge Gas confirmed its intention to satisfy the conditions as described by OEB staff in its submission and stated that it will comply with the conditions of licence recommended by the OEB.²⁵

The Ministry of Natural Resources noted that Enbridge Gas has committed to developing a Project-specific Spill Response Plan prior to the start of well drilling operations and that following the installation of the Project facilities, the location of the facilities will be added to Enbridge Gas's Emergency Response Plan. The Ministry of Natural Resources submitted that it would be appropriate to include these future actions as additional conditions.²⁶ Enbridge Gas responded that should the OEB determine that confirmation that these commitments have been honored is necessary to approve the Project, Enbridge Gas has no concerns with these additional conditions as suggested by Ministry of Natural Resources.²⁷

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

3. RECOMMENDATION

The OEB recommends that the Minister grant to Enbridge Gas licences to drill well TCV 7 in the Coveny storage pool and well TKC 68 in the Kimball-Colinville storage pool, subject to the conditions attached as Attachment A to this Report.

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

DATED at Toronto, April 28, 2022

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar

²⁵ Reply submission, p. 16

²⁶ Ministry of Natural Resources submission, p.4,5

²⁷ EGI reply submission, para. 29, p. 16

Attachment A

To the EB-2021-0248

**REPORT OF THE OEB TO THE MINISTER
APPLICATION BY ENBRIDGE GAS INC. TO DRILL WELLS
IN THE COVENY AND KIMBALL-COLINVILLE STORAGE POOLS**

Recommended Conditions of Licence

April 28, 2022

Application under Section 40 of the OEB Act

Enbridge Gas Inc.

EB-2021-0248

RECOMMENDED CONDITIONS OF LICENCE

1. Enbridge Gas Inc. (Enbridge Gas) shall rely on the evidence filed with the OEB in the EB-2021-0248 proceeding and comply with applicable laws, regulations and codes pertaining to the construction of the proposed wells.
2. The authority granted under this licence to Enbridge Gas is not transferable to another party without leave of the OEB. For the purpose of this condition, another party is any party except Enbridge Gas.
3. Enbridge Gas shall construct the facilities and restore the land in accordance with its application and evidence given to the OEB, except as modified by this licence and these Conditions.
4. Enbridge Gas shall implement all the recommendations of the Environmental Report filed in the proceeding.
5. Enbridge Gas shall develop a Project-specific Spill Response Plan prior to the start of well drilling operations and following the installation of the Project facilities, the location of the facilities will be added to Enbridge Gas's Emergency Response Plan.
6. Prior to commencement of construction of the proposed wells, Enbridge Gas shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the proposed wells.
7. Enbridge Gas shall ensure that the movement of equipment is carried out in compliance with all procedures filed with the OEB, and as follows:
 - i. Enbridge Gas shall make reasonable efforts to keep the affected landowner(s) as well as adjacent landowners and their respective tenant farmers, or their designated representatives, informed of its plans and construction activities; and
 - ii. The installation of facilities and construction shall be coordinated to minimize disruption of agricultural land and agricultural activities.
8. 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.

9. Concurrent with the final monitoring report referred to in Condition 9(b), Enbridge Gas shall file a Post Construction Financial Report, which shall provide a variance analysis of project cost, schedule and scope compared to the estimates filed in this proceeding, including the extent to which the project contingency was utilized. Enbridge Gas shall also file a copy of the Post Construction Financial Report in the proceeding where the actual capital costs of the project are proposed to be included in rate base or any proceeding where Enbridge Gas proposes to start collecting revenues associated with the Project, whichever is earlier.
10. 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; and
 - v. Provide a certification, by a senior executive of the company, that the company has obtained all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project.
 - b) A Final Monitoring Report, no later than fifteen months after the in-service date, or, where the deadline falls between December 1 and May 31, the following June 1, which shall:
 - i. Provide a certification, by a senior executive of the company, of Enbridge 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; and
- v. Include a log of all complaints received by Enbridge Gas, including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions.

11. For the purposes of these conditions, Enbridge Gas shall conform with:

- a) CSA Z341.1-18 "Storage of Hydrocarbons in Underground Formations" to the satisfaction of the Ministry of Northern Development, Mines, Natural Resources and Forestry (Natural Resources); and
- b) 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 Natural Resources.

12. Enbridge Gas shall designate one of its 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 Natural Resources, 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.