

# CHINNECK LAW

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EB-2009-0338/0339/0340  
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November 4, 2009  
Matter #: 08-938  
By Fax - 1-416-440-7656

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319, 26th Floor  
2300 Yonge Street  
Toronto, Ontario  
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Other
Panel
File No:
Subfile:
OEB BOARD SECRETARY

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EB-2009-0339  
EB-2009-0340

OEB BOARD SECRETARY	
File No:	SubFile: 19
Panel	PS, GK
Licensing	Zoe C.
Other	Neil McKay
	M. Helt
00/04	

Dear Ms. Walli:

Re: Huron Bayfield Gas Storage Project - Stanley 4-7-XI Pool

We have a copy of Tribute's letter to you dated October 26<sup>th</sup>, 2009 (received October 28<sup>th</sup>, 2009) and wish to comment about point #4 as follows:

McKinley Farms' ("Farms") position is not a tactic or an attempt "to somehow garner strength in its ongoing negotiation position". There is no negotiation ongoing with Tribute and accordingly there cannot be an effort to garner strength in ongoing negotiations. Further, there is no attempt to "place the OEB as arbitrator".

While Farms supports the designation of the Stanley Reef (the "Reef") as a gas storage area if it is in the public interest to do so, Farms objects to Tribute's Application for authority to inject, store and remove gas in and from the Reef as premature and without merit because, inter alia, Tribute lacks control of all or substantially all of the PNG and gas storage rights for the Reef. In June, 2009, Mr. Justice Little declared Tribute's PNG and gas storage leases on Farms' lands (which by the Unit Operation Agreement overlies 76.441% of the Reef) to be terminated and ended. As a result, 2195002 Ontario Inc., which holds PNG and gas storage leases over Farms' lands now controls 76.441% of the Reef. Tribute will not control all or substantially all of the reef unless Tribute is successful in overturning the Judgment of Mr. Justice Little on appeal which is to be heard on January 26<sup>th</sup>, 2010. It follows that Tribute's Application for authority to inject, store and withdraw is premature and ought not be allowed to proceed until it can prove it controls the oil and gas and storage rights to all or substantially all of the reef, which is currently cannot do.

Please reply to the selected office

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In Tribute's unsuccessful application to the Court to have the leases declared valid, Tribute's president swore an affidavit stating "if the Gas Storage Lease and/or the Oil and Gas Lease are found to be invalid, then Tribute will have to abandon the Application insofar as it relates to the DSA". She was referring to the application to the OEB for the Stanley Reef. It appears that Tribute itself told the Court that its Application to the OEB on Stanley would have to be abandoned if it's leases on McKinley's lands are not valid, and currently, they are not.

Please feel free to contact me if you have any questions.

Yours very truly,  
**Chinneck Law**  
Professional Corporation

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