

Ministry of Northern Development,  
Mines, Natural Resources and  
Forestry

Ministère du Développement  
du Nord,  
des Mines, des Richesses  
naturelles et des  
Forêts



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VIA e-mail to Board Registrar (registrar@oeb.ca) and RESS

March 24, 2025

Our File No.

Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street, Suite 2700  
Toronto, Ontario, M4P 1E4  
E-mail: [boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca)

**Re: Enbridge Gas Inc.  
Waubuno Well Drilling Project Application  
OEB File Number: EB-2024-0304**

Dear Registrar,

In accordance with the Procedural Order for this matter, please find attached the Ministry of Natural Resources' Written Submission with respect to the above-referenced application.

Yours truly,

A handwritten signature in dark ink, appearing to read "DK", with a long, sweeping horizontal stroke extending to the right.

Demetrius Kappos  
Counsel  
Legal Services Branch  
Ministry of Natural Resources

c. The Applicant representatives listed below (by e-mail)  
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**ENBRIDGE GAS INC.**  
**WAUBUNO WELL DRILLING PROJECT APPLICATION**  
**EB-2024-0304**

**Written Submission of the  
Ministry of Natural Resources**

**Introduction:**

Enbridge Gas Inc. (“Enbridge”) has applied to the Ministry of Natural Resources (“MNR”) pursuant to the *Oil, Gas and Salt Resources Act* (“OGSRA”) to drill one new injection/withdrawal natural gas storage well, Union Waubuno #4, Moore 4-10-II (UW4) in the Waubuno Storage Pool located in the Township of St. Clair, in the County of Lambton, Ontario (“the project”).

The Waubuno Storage Pool is part of Enbridge’s storage operations and is considered a designated storage area pursuant to section 36.1(1) of the *Ontario Energy Board Act, 1998* (“OEB Act”).

Pursuant to section 40 of the OEB Act, Enbridge is seeking a favourable report from the OEB to the MNR to support the Enbridge’s application to drill.

On October 21, 2024, MNR referred the application to the Ontario Energy Board (“OEB”) pursuant to s. 40 of the OEB Act for a Report to the Minister.

The OEB initiated this proceeding subsequent to the MNR referral.

On February 10, 2025, the OEB sent correspondence indicating that no hearing would be conducted on this referral, rather a streamlined process would unfold in accordance with s. 40(2) of the OEB Act.

As part of the streamlined process, OEB Staff interrogatories to the applicant were provided on February 18, 2025 and March 6, 2025, with Enbridge responding to these on February 28, 2025 and March 10, 2025.

As is set out in OEB correspondence dated Feb. 10, 2025, MNR was afforded the opportunity to respond to the OEB staff interrogatories, their responses by Enbridge, and the evidence:

*The Ministry of Natural Resources and Forestry (sic) may file with the OEB and copy Enbridge Gas any comments, by written letter, on the evidence and any additional information provided by Enbridge Gas in response to OEB staff questions, by no later than 14 days after receipt of Enbridge Gas's responses to OEB staff questions.*

MNR offers this Written Submission at this time.

### **Analysis:**

MNR Petroleum Operations Section has reviewed Enbridge's Application, Board Staff's Interrogatories (including the proposed conditions of approval) and Enbridge's Response to all Interrogatories. We are satisfied that Enbridge has offered a response to all Interrogatories. We are not satisfied that the application is complete for the reasons described below.

### ***Duty to Consult:***

In its Delegation Letter dated Aug. 12, 2024, the Ministry of Energy and Electrification ("MOEE") indicated that on behalf of the Government of Ontario (the Crown) it reviewed the application and assessed it against the Crown's current understanding of its rights protected under s. 35 of Canada's *Constitution Act 1982* in the area. MOEE determined that the project may have the potential to affect these five Indigenous communities: Aamjiwnaang First Nation, Bkejwanong (Walpole Island First Nation), Chippewas of Kettle and Stony Point First Nation, Chippewas of the Thames First Nation, and Oneida Nation of the Thames.

MOEE delegated the procedural aspects of consultation in respect of the project to Enbridge through the August 12, 2024 letter.

Through its Interrogatory responses it is apparent that Enbridge has undertaken consultation with the above-noted Indigenous communities. It's also clear there are ongoing concerns that have been expressed to Enbridge by some of the Indigenous communities based on the filings (as of the writing of this Written Submission). In MNR's submission, consultation is not clearly completed.

In its March 10, 2025 response to Interrogatories, Enbridge confirmed that it provided its Indigenous Consultation Report ("ICR") (complete to Dec. 5, 2024) to MOEE on February 25, 2025 and an updated ICR (complete to Feb. 24, 2025) on March 7, 2025. Further and understandably (given the recency of these filings, as well as the recent election period), MOEE has yet to issue its Letter of Opinion concerning the completeness of Indigenous consultation. In fact, Enbridge in its response to Interrogatories filed March 10, 2025 confirmed that MOEE has yet to provide an anticipated timeline for issuing its Letter of Opinion.

***OEB Staff Proposed Conditions of Approval:***

We understand that Enbridge, as per its response to an Interrogatory from OEB Staff (Reference: Interrogatory Response: Exhibit I.STAFF.2 Page 2 of 2), "accepts the responsibility for compliance with CSA Z341.1-22, the OGSRA and related regulations". MNR has no objection to this being imposed as a condition of approval as per OEB Staff Draft Condition #11.

**Conclusion and Relief Requested:**

Given where things stand for this matter in terms of compliance with s. 35 Constitutional duty to consult obligations, MNR submits that it would be premature for the OEB to issue a Report at this time, conditional or otherwise. MNR submits that the most prudent course is to have the matter held in abeyance pending the receipt of a Letter of Opinion from MOEE.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

DATED AT Toronto, this the 24<sup>th</sup> day of March, 2025.



Demetrius Kappos  
Counsel  
Legal Services Branch  
Ministry of Natural Resources