



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

DECISION AND ORDER

EB-2017-0162

UNION GAS LIMITED

2017 Terminus Storage Pool Well Replacement Project

BEFORE: Lynne Anderson
Presiding Member

August 31, 2017

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INTRODUCTION

Union Gas Limited (Union Gas) filed an application dated March 29, 2017 with the Ministry of Natural Resources and Forestry (MNRF) for a well drilling and operation licence for the Union Terminus (UT.15) Injection/Withdrawal (I/W) well in the Terminus Pool designated storage pool (Terminus Pool). The application was referred to the Ontario Energy Board (OEB) by the MNRF on April 12, 2017 pursuant to section 40 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (schedule B) (OEB Act). Union Gas asked that the OEB issue a favourable report to the Minister of Natural Resources and Forestry pursuant to subsection 40(1) of the OEB Act (Report to the MNRF) recommending that the MNRF grant a licence to Union Gas to drill and operate the UT.15 well.

Union Gas also filed an application under section 90 of the OEB Act for leave to construct approximately 330 metres of 12 inch diameter pipeline in the Terminus Pool to connect the UT.15 well and the Union Terminus 13 (UT.13) well to the Union Gas pipeline system (the pipelines are referred to here as the Gathering Pipelines). The Terminus Pool is located in the Township of St. Clair in Lambton County.

In addition to completion of the UT.15 well and the Gathering Pipelines, Union Gas plans to complete the following infrastructure construction activities that do not require approvals of the OEB or MNRF: the conversion of the UT.13 well from an observation well to an I/W well; construction of roadways and a drilling pad to facilitate access to the well location; the abandonment of approximately 340 metres of 10 inch diameter pipeline; and the removal of existing access roads to the abandoned well locations.

The UT.15 well, conversion of UT.13 and construction of the Gathering Pipelines are collectively referred to as the Terminus Project. The Terminus Project is planned to be in service by November 2017. A map with a general location of the Terminus Project is provided in Attachment A to this Decision and Order.

The OEB has reviewed the evidence and grants leave to construct the Gathering Pipelines subject to conditions. The OEB has also issued a Report to the MNRF recommending that Union Gas be granted a licence by the MNRF for UT.15. The Report to the MNRF is appended to this Decision and Order as Attachment C for ease of reference.

The OEB finds that Union Gas has adequately addressed the need for the Gathering Pipelines; that the impact of construction cost on Union Gas' rate-payers is not expected to be significant; that there are no outstanding landowner, environmental or Indigenous consultation issues; and that legal and regulatory requirements are appropriately addressed by Union Gas.

The licence application to the MNRF relates only to the UT.15 well. However, the purpose of the Gathering Pipelines is to transport natural gas to and from both the UT.15 and UT.13 wells. If the licence is not issued for the UT.15 well this would represent a material change to the plans for the Gathering Pipelines. For this reason, the leave to construct is conditional on the licence being issued for the UT.15 well. The complete list of conditions of approval for the leave to construct is attached as Attachment B to this Decision and Order.

OEB staff proposed a number of other conditions for both the UT.15 well drilling and operation and the Gathering Pipelines, and Union Gas had no objection. The OEB is adopting these as proposed conditions for the UT.15 well licence and conditions of approval for the Gathering Pipelines respectively, with certain modifications that are discussed later in this Decision and Order.

In its submission, the MNRF proposed two additional conditions related to the conversion of observation wells to I/W wells. The OEB agrees with Union Gas that these conditions could be either licence conditions or undertakings. Union Gas accepted either approach. The OEB has included these with the other proposed licence conditions. However, if the MNRF determines that it will issue a well licence, the OEB considers it appropriate for the MNRF to decide whether to adopt these two additional licence conditions or to treat them as undertakings. The complete list of proposed conditions for the UT.15 well licence is attached as Appendix A to the Report to the MNRF, which is provided in Attachment C to this Decision and Order.

THE PROCESS

The OEB issued a Notice of Hearing (Notice) on May 9, 2017. Union Gas published and served the Notice as directed by the OEB. The Notice was served to all affected property owners and encumbrancers, all Indigenous communities with lands or interest in lands directly affected by the Terminus Project, the Métis Nations of Ontario, all affected utilities and railway companies and members of Ontario Pipeline Coordinating Committee (OPCC). Union Gas published the Notice in “Sarnia This Week” on May 18, 2017 and posted the Notice on its website.

The Notice for this application set a May 29, 2017 deadline for requests for intervenor status and submissions on the form of hearing (oral or written). Enbridge Gas Distribution and the MNRF were granted intervenor status. The OEB received one letter of comment that stated “no more fracking”. As this project is related to an existing designated storage pool and is not related to fracking for natural gas production, the comment is not within the scope of this proceeding.

The OEB issued Procedural Order No. 1 on June 8, 2017 setting the schedule for written discovery and submissions.

The Ministry of Energy determined, based on currently available information, that no duty to consult has been triggered by the Terminus Project¹.

The MNRF and OEB staff filed interrogatories on June 23, 2017 and Union Gas responded to those interrogatories on July 7, 2017. Both the MNRF and OEB staff filed submissions on July 21, 2017 and Union Gas replied on July 27, 2017.

¹ Letter from the Ministry of Energy to Union Gas Limited, dated June 22, 2017 and filed with the OEB by Union Gas Limited as part of its response to interrogatory no. 4.

STRUCTURE OF THE DECISION

When determining whether a project is in the public interest, the OEB typically examines the need for the project, the project's economics and rate impacts, the environmental impacts, technical and safety requirements, consultation with Indigenous communities, and landowner matters.

The Terminus Project includes:

- 1) drilling of the new UT.15 I/W well in the Terminus Pool
- 2) conversion of UT.13 from an observation well to an I/W well
- 3) construction of 330 metres of NPS 12 pipeline within the Terminus Storage Pool (the Gathering Pipelines)
- 4) construction of roadways and a drilling pad to facilitate access to the well location
- 5) the abandonment of approximately 340 metres of NPS 10 pipeline
- 6) the removal of existing access roads to the abandoned well locations.

Drilling of the new well (item 1, above) requires a licence from the MNRF. The MNRF has referred the matter to the OEB for a recommendation pursuant to s. 40 of the OEB Act. Conversion of UT.13 from an observation well to an I/W well (item 2) does not require approval by either the MNRF or the OEB, but is relevant to the plans for the Gathering Pipelines. Pipeline construction (item 3) is subject to the OEB's approval pursuant to s. 90 of the OEB Act. Construction of roadways and the drilling pad, abandonment of the NPS 10 pipelines and the removal of access roads to the abandoned well locations (items 4, 5 and 6) are elements the OEB considers when assessing the public interest in applications for approvals of this kind.

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

- Need for the project
- Costs and potential impact on Union Gas' rate-payers
- Land-related matters
- Environmental matters
- Indigenous consultation

The Decision will then address the referral by the MNR for a recommendation from the OEB on whether the UT.15 well should be licensed. Finally, the OEB will address matters related to the application by Union Gas for leave to construct the Gathering Pipelines.

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

- An Order granting Leave to Construct the Gathering Pipelines including conditions of approval set out in Attachment B
- The OEB Report to the Minister of Natural Resources and Forestry recommending that the Minister grant Union Gas licence to drill the UT.15 well in the Terminus Pool, with recommended licence conditions (Attachment C)

NEED FOR THE PROJECT AND ALTERNATIVES

In 2016, Union Gas abandoned the R.3 and R.4 wells in the Terminus Pool as part of its Integrity Management Program and the R.2 well was converted to an observation well. R.3 was an observation well. R.2 and R.4 were I/W wells. As a result, deliverability to the Terminus Pool was reduced by $490 \times 10^3 \text{m}^3/\text{day}$. This is 12% of the deliverability for the Terminus Pool. Union Gas advises that the purpose of the new I/W well UT.15 and the conversion of UT.13 from an observation well to an I/W well is to replace the lost deliverability. Union Gas does not anticipate that there will be any significant incremental deliverability from the new I/W wells.

Findings:

The OEB accepts the need to maintain the Terminus Pool deliverability at the level prior to the abandonment of the R.3 and R.4 wells and the conversion of the R.2 well to an observation well.

PROJECT ECONOMICS AND RATE IMPACTS

The estimated cost of the Terminus Project is \$1.797 million. Union Gas indicated that it did not conduct a discounted cash flow analysis for the Terminus Project because it is a maintenance project. The Terminus Pool is used for both regulated and unregulated purposes. The current cost split for the Terminus Pool is 62.3% regulated and 37.7% unregulated. On this basis, the regulated portion of the project costs is \$1.119 million.

Union Gas is not seeking approval of the cost consequences of the Terminus Project in this proceeding. Union Gas has stated it plans to include the regulated portion of the capital cost in Union Gas' rebasing application for 2019 rates.

Findings:

The OEB expects to review these costs in a future rate application. The OEB will require a report from Union Gas on the actual costs of the Terminus Project in its next rebasing proceeding, as shown in the attached Conditions of Approval. The OEB will then consider, in that proceeding, the prudence of those costs for inclusion in Union Gas' rate base. However, in considering the cost of the regulated portion of this project in comparison to Union Gas' overall rate base, the OEB does not expect this project to have a material impact on rates.

ENVIRONMENTAL ASSESSMENT

Union Gas prepared an Environmental Protection Plan (EPP) in accordance with the OEB's *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines in Ontario, 2016* (OEB Environmental Guidelines). Union Gas filed the EPP with the OEB and provided it for review to the members of the OPCC. The OPCC membership includes the Ministry of Agriculture, Food and Rural Affairs, Ministry of Tourism, Culture & Sports, Ministry of Transportation, Technical Standards and Safety Authority (TSSA), Ministry of Natural Resources and Forestry, Ministry of Municipal Affairs and Housing, Ministry of Energy, Ministry of Environment and Climate Change, Infrastructure Ontario, and Ministry of Economic Development, Employment and Infrastructure. The OPCC members did not raise any concerns. The Ministry of Tourism, Culture & Sports provided guidance to Union Gas related to its mandate to preserve Ontario's cultural heritage and noted certain expectations.

The County of Lambton was provided the EPP and in response queried whether Union Gas had implemented best management practices to minimize the spread of invasive species. Union Gas replied that it is committed to preventing the spread of invasive species.

The EPP stated that the identified mitigation and restoration measures will be implemented in adherence to the OEB Environmental Guidelines. The implementation of the mitigation and restoration measures will be monitored through Union Gas' environmental inspection program.

Approximately 340 metres of existing NPS 10 pipeline will be abandoned. Union Gas confirmed it will follow the CSA Z662-15 standard and TSSA Abandonment Guidelines (Pipeline Abandonment Checklist) for all pipe abandoned for this project.

Findings:

The OEB finds that Union Gas has adequately addressed the environmental issues through its proposed mitigation measures, and its commitment to implement recommendations in the EPP, subject to the comments that follow. The OEB is also imposing Conditions of Approval relating to environmental mitigation and construction monitoring and reporting as set out in Attachment B.

In its EPP, Union Gas states:

Drilling will proceed on a 12 or 24 hour basis throughout the drilling process, and is expected to take two to three months to complete, per well. (EPP, page 5)

...

Noise

Noise will occur during well drilling. Well drilling will take place during daylight hours for the initial portion of the Project and will take place 24 hours a day for the remaining drilling period.

To minimize inconveniences brought on by excessive noise, all engines associated with the Project should be equipped with mufflers. Landowners will also be notified of the drilling schedule. (EPP, page 11)

The OEB is proposing a condition of approval for the well drilling that:

Union 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.

The OEB Environmental Guidelines provide, in part, that:

Noise, resulting from construction and the operation of equipment and motorized vehicles, including stations and storage pool sites, should be controlled in accordance with the current provincial and municipal criteria and regulations.²

It is not clear from evidence how close any residential dwellings may be to the construction site or why it may be necessary to drill 24 hours a day. In the EPP, Union Gas has committed to a Landowner Relations Program for both the directly affected landowner and adjacent landowners. This program would provide landowners with quick access to Union Gas personnel for concerns and complaints. The evidence does not indicate how Union Gas would resolve any complaints related to noise during construction, despite the mufflers on all engines.

The OEB notes that it does not have oversight of drilling standards. In Ontario, the geological, engineering, operational, technical and safety aspects of underground storage operations, including the drilling, operation and modification of storage wells, are within the authority of the MNRF in accordance with the requirements of CSA Z341.1-14 – “*Storage of Hydrocarbons in Underground Formations*” (CSA Z341 standards) and the *Gas and Salt Resources of Ontario, Provincial Operating Standards* (the Provincial Standards). By recommending that the MNRF approve the licence to

² OEB Environmental Guidelines, s.5.8.3, at p.57

drill UT.15, the OEB is not explicitly approving Union Gas' drilling plan, nor is it requiring Union Gas to drill in the manner described in the EPP. Union Gas is expected to take all reasonable steps to address any complaints received about excessive noise, including consideration, subject to any technical restrictions, of a shorter daily drilling schedule. The OEB notes that Union Gas is responsible for meeting the requirements of other bodies with jurisdiction over the abatement of noise during the drilling of the UT.15 well.

CONSULTATION WITH INDIGENOUS COMMUNITIES

The 2016 edition of the OEB Environmental Guidelines sets out streamlined procedures and protocols for Indigenous consultation and the duty to consult on natural gas pipeline projects that are subject to the OEB's approval. Union Gas is required to adhere to these procedures and protocols and to file the required documentation with the OEB as part of its evidence in support of its application. In accordance with the OEB Guidelines, Union Gas contacted the Ministry of Energy informing it about the Terminus Project. Union Gas received an initial response from the Ministry of Energy on February 23, 2017, indicating that while the matter was under review, Union Gas should follow its past practices for well applications.

As part of its response to interrogatories, Union Gas filed with the OEB a letter from the Ministry of Energy to Union Gas, dated June 22, 2017, which confirmed that the Ministry determined, based on currently available information, that no duty to consult has been triggered and that therefore it would not be necessary for the Ministry to provide a letter of its opinion on sufficiency of consultation.

The OEB notes that although the Ministry of Energy determined that the duty to consult for the Terminus Project was not triggered, Union Gas' pre-filed evidence indicates that it did consult with the potentially affected First Nations.³ The consultation is described in the Indigenous Consultation Report which was filed with the application. Union Gas has committed to the following during the Terminus Project construction: Union Gas inspectors will be made available to any First Nations if any issues are raised; Union Gas will consult with and provide the result of the archeological surveys to any First Nations upon their request; and Union Gas will extend an opportunity to First Nations to participate with monitors in the archeological and environmental surveys.

Finding:

The OEB is satisfied that Union has followed the 2016 OEB's Environmental Guidelines regarding consultation with Indigenous communities.

³ Union Gas served the Notice of Application and the Application on the Métis Nation of Ontario, Toronto Office per OEB's Letter of Direction. The engagement and consultation involved First Nations communities as Union Gas reported in the Indigenous Consultation Report filed as Schedule 20 of the evidence.

LAND MATTERS

There is one directly affected landowner. Union Gas has an existing Storage Lease Agreement with this landowner. Union Gas has stated that it has the authority to install the Gathering Pipelines under this agreement, however, it intends to secure easements to clearly define the pipeline location and register them on title.

According to section 97 of the OEB Act, “In an application under section 90, 91 or 92, leave to construct shall not be granted until the applicant satisfies the Board that it has offered or will offer to each owner of land affected by the approved route or location an agreement in a form approved by the Board.” Union Gas has sought the OEB’s approval for the form of easement agreement that it has offered or will offer to the affected landowner.⁴

Union Gas has stated that it has discussed the location of the Gathering Pipelines, roads and wells with the directly affected landowner. Union Gas also filed in evidence a Letter of Acknowledgement in which the directly affect landowner stated that it had no objection to the drilling of the described well and construction of a permanent all-weather access road. The OEB notes that there appears to be a typographical error in the landowner’s letter of acknowledgement found at Schedule 17 to the application. Specifically, the letter states in part that “We have no objectives to the drilling of the well as referenced above and the construction of a Permanent All Weather Access Road.” [OEB’s emphasis]

Findings:

The OEB approves the form of agreement that was offered by Union Gas to the landowner. It has been approved by the OEB in previous proceedings.

The OEB finds that Union Gas has adequately addressed land issues associated with the Terminus Project.

For the purposes of this Decision, the OEB has interpreted the word “objectives” to be “objections” in the landowner’s letter of acknowledgement found at Schedule 17 to the application. Union Gas is expected to file a corrected version of the letter with the OEB.

⁴ The form of easement is located at Schedule 16 to the application.

WELL DRILLING

Union Gas applied to the MNRF for a licence to drill a new I/W well (UT.15) in the Terminus Pool. The MNRF referred the matter to the OEB for a recommendation. Union Gas is also planning to convert the UT.13 well from an observation well to an I/W well. The MNRF, in its submission, agreed with Union Gas that no separate approval by the MNRF is required for this well conversion. Therefore no recommendation is required from the OEB on the UT.13 well.

In its interrogatories, OEB staff proposed a number of licence conditions. Union Gas responded that it could accept these conditions. OEB staff followed up in its submission with an additional proposed condition that would require Union Gas to file a post construction financial report. In its reply submission Union Gas agreed to this condition. The MNRF proposed a condition of approval requiring Union Gas to provide the MNRF with 30-day advance notification when converting a well. The MNRF proposed a second condition of approval for Union Gas to report to the MNRF if the conversion from an observation well to an I/W well changes the parameters of the Terminus Pool with respect to capacity. Union Gas accepted these items as either undertakings or conditions of approval.

The MNRF concluded that it has no objection to the approval of Union Gas' application subject to the conditions of approval proposed by OEB staff and the further conditions of approval proposed by the MNRF.

Findings:

The OEB finds that the application should be approved and the licence granted for the UT.15 well. The OEB is issuing a Report to the MNRF recommending that the application for a licence for the proposed UT.15 well be approved. The Report to the MNRF is attached as Attachment C to this Decision.

The OEB notes that Union Gas has confirmed that it will comply with the *Oil, Gas and Salt Resources Act*, O.Reg. 245/97, the Provincial Standards, CSA Z341: *Storage of Hydrocarbons in Underground Formations*, and will adhere to any and all reporting requirements. Union Gas has also undertaken to provide the MNRF with 30 days advance notification of any conversion works and will provide the MNRF with a report if the conversion from an observation well to an I/W well changes the parameters of the Terminus Pool with respect to capacity.

For the new conditions proposed by the MNRF, the OEB agrees with Union Gas that these conditions could be either licence conditions or undertakings. Union Gas accepted either approach. The OEB has included these with the other proposed licence

conditions. However, if the MNRF determines that it will issue a well licence, the OEB considers it appropriate for the MNRF to decide whether to adopt these two additional licence conditions (conditions nos. 10 and 11) or to treat them as undertakings.

The proposed conditions are as follows:

10. Union Gas shall provide a report to the MNRF if the conversion from an Observation well to Injection/Withdrawal well changes the parameters of the Terminus Pool with respect to capacity.^[1]
11. Union Gas shall provide 30 days advance notification to the MNRF of any conversion works for wells within the Terminus Pool.^[2]

The complete list of proposed conditions for the UT.15 well licence is attached as Appendix A to the Report to the MNRF, which is provided in Attachment C to this Decision and Order.

In addition to the licence conditions proposed by the MNRF, the OEB is adding the following condition:

Union Gas shall implement all the recommendations of the Environmental Protection Plan filed in the proceeding.

This condition had been proposed by OEB staff for the construction of the Gathering Pipelines. The Environmental Protection Plan applies to the whole Terminus Project, so the condition has been added as a new condition 4 to the proposed conditions for the well drilling and operation.

The OEB's recommendation that the licence application for the proposed UT.15 well be approved will expire twelve months after the date of the Report to the MNRF.

^[1] The MNRF may alternatively remove this condition and establish an Undertaking for Union Gas

^[2] *ibid*

LEAVE TO CONSTRUCT

The purpose of the Terminus Project is to replace the deliverability to the existing Terminus Pool that was lost with the abandonment of two wells and the conversion of a third to an observation well. The deliverability will result from a planned new UT.15 I/W well and the conversion of the existing UT.13 observation well to a new I/W well. Gathering Pipelines are required to transport natural gas to and from the new I/W wells.

The OEB notes that the TSSA, an agency overseeing the implementation of the CSA Z662-15 Standard in Ontario, was notified about the Terminus Project and participated in the OPCC review of the Project. The TSSA did not express any concerns regarding the design specifications of the Gathering Pipeline.

Finding:

The OEB finds that Union Gas has provided adequate evidence to confirm that the proposed facilities have been designed in accordance with current technical and safety requirements.

The purpose of the Gathering Pipelines is to transport natural gas to and from both the UT.15 and UT.13 wells. If the licence is not issued for the UT.15 well, this would represent a material change to the plans for the Gathering Pipelines. For this reason, the leave to construct for the Gathering Pipelines is conditional on Union Gas being issued a licence by the MNRF for the UT.15 well. Union Gas may decide to proceed with conversion of the UT.13 well even if the UT.15 well is not licensed, but if Union Gas makes that decision, the OEB would expect Union Gas to file with the OEB a new plan for any necessary Gathering Pipelines.

The leave to construct order shall terminate if the pipeline construction does not commence within 18 months of this Decision. This provides an additional six months beyond the date on which the recommendation to the MNRF expires.

The complete list of conditions for the leave to construct is attached as Attachment B to this Decision and Order.

OEB DECISION

The OEB finds that the Terminus Project serves the public interest. The UT.13 and UT.15 wells will replace the deliverability from previous wells that have either been abandoned or converted to an observation well as part of Union Gas' Integrity Management Program. The OEB therefore is issuing a Report to the MNRF recommending that the UT.15 I/W well be licenced, subject to certain conditions.

The Gathering Pipelines are necessary to make use of the capacity from the UT.15 and UT.13 wells. The OEB grants Union Gas leave to construct the Gathering Pipelines pursuant to section 96 of the Act and the conditions of approval in Attachment B. The OEB approves the form of agreements offered to landowners by Union Gas pursuant to section 97 of the Act.

The OEB notes that Union Gas is responsible for obtaining all necessary approvals, such as permits, licences, certificates, land agreements including agreements pertaining to access roads construction and removal, connection agreements and easement rights required to construct, operate and maintain the wells and pipelines, at such time(s) as they may be necessary.

ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Union Gas Limited is granted leave, pursuant to subsection 90(1) of the OEB Act, to construct approximately 330 metres of nominal size 12 inch diameter steel pipeline as described in its application. Leave to construct is subject to the Conditions of Approval set forth in Attachment B.
2. Union Gas Limited shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

DATED at Toronto August 31, 2017

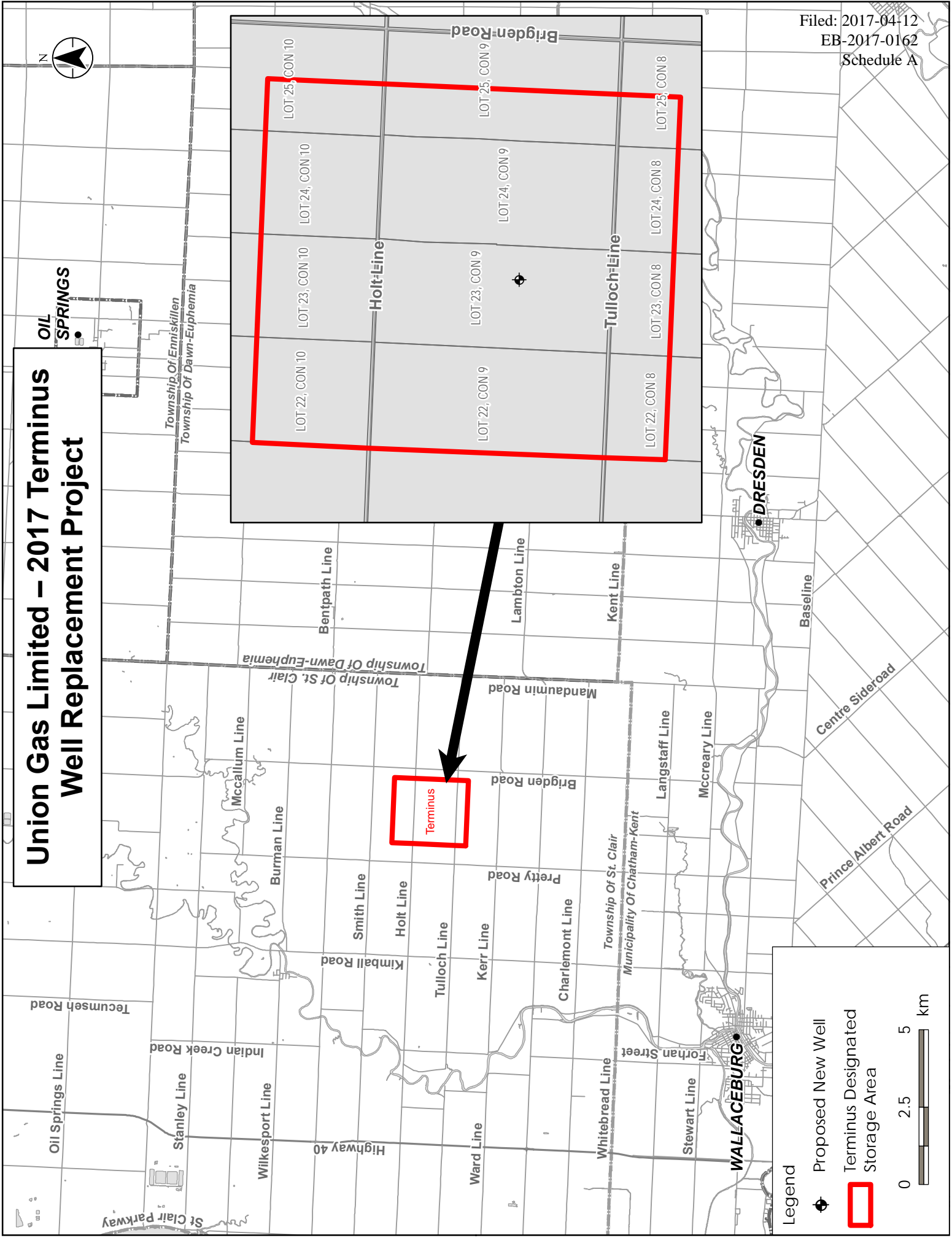
ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

ATTACHMENT A
MAP OF FACILITIES
DECISION AND ORDER
UNION GAS LIMITED
EB-2017-0162
AUGUST 31, 2017

Union Gas Limited – 2017 Terminus Well Replacement Project



Legend

- Proposed New Well
- Terminus Designated Storage Area

0 2.5 5 km

ATTACHMENT B
CONDITIONS OF APPROVAL
LEAVE TO CONSTRUCT
DECISION AND ORDER
UNION GAS LIMITED
EB-2017-0162
AUGUST 31, 2017

Attachment B

Leave to Construct Conditions of Approval

1. Union Gas Limited (Union Gas) shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2017-0162 and these Conditions of Approval.
2. Authorization for leave to construct is conditional on the MNRF issuing a licence for the UT.15 well.
3. (a) Authorization for leave to construct shall terminate 18 months after the decision is issued, unless construction has commenced prior to that date.

(b) Union Gas shall give the OEB notice in writing:
 - i. of the commencement of construction, at least ten days prior to the date construction commences;
 - ii. of the planned in-service date, at least ten 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; and
 - iv. of the in-service date, no later than 10 days after the facilities go into service.
4. Union Gas shall implement all the recommendations of the Environmental Protection Plan filed in the proceeding, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review.
5. Union Gas shall advise the OEB of any proposed change to OEB-approved construction or restoration procedures. Except in an emergency, Union 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. Union Gas shall file, in the proceeding where the actual capital costs of the project are proposed to be included in rate base, a Post Construction Financial Report, which shall indicate the actual capital costs of the project and shall provide an explanation for any significant variances from the cost estimates filed in this proceeding.
7. Both during and after construction, Union Gas shall monitor the impacts of construction, and shall file with the OEB one paper copy and 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 Union Gas' 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 Union 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 Union Gas' adherence to Condition 3;
 - ii. describe the condition of any rehabilitated land;
 - iii. describe the effectiveness of any actions taken to prevent or mitigate any identified impacts 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 Union 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.

ATTACHMENT C
REPORT TO THE MINISTER OF NATURAL RESOURCES
AND FORESTRY
DECISION AND ORDER
UNION GAS LIMITED
EB-2017-0162
AUGUST 31, 2017

**Ontario Energy
Board**

**Commission de l'énergie
de l'Ontario**



EB-2017-0162

**REPORT OF THE ONTARIO ENERGY BOARD
TO THE MINISTER OF NATURAL RESOURCES AND FORESTRY**

2017 Terminus Storage Pool Well Replacement Project

Before: Lynne Anderson, Presiding Member

Date: August 31, 2017

1. INTRODUCTION AND SUMMARY

Union Gas Limited (Union Gas) filed an application dated March 29, 2017 with the Ministry of Natural Resources and Forestry (MNRF) for a well drilling and operation license for an Injection/Withdrawal (I/W) well (Union Terminus well 15, referred to here as UT.15) in the Terminus designated storage area (Terminus Pool). The Terminus Pool is located in the Township of St. Clair in Lambton County. The application was referred to the Ontario Energy Board (OEB) by the MNRF on April 12, 2017, pursuant to section 40 of the *Ontario Energy Board Act*, 1998, S.O. 1998, c.15 (schedule B) (OEB Act). Union Gas asked that the OEB issue a favourable report to the Minister of Natural Resources and Forestry pursuant to subsection 40(1) of the OEB Act (Report to the MNRF) recommending that the MNRF grant a licence to Union Gas to drill and operate the UT.15 well.

Union Gas has also applied under section 90 of the OEB Act for leave to construct approximately 330 metres of 12 inch diameter pipeline in the Terminus Pool to connect the UT.15 well and Union Terminus13 (UT.13) well to the Union Gas pipeline system (Gathering Pipelines).

In addition to completion of the UT.15 well and the Gathering Pipelines, Union Gas plans to complete the following infrastructure construction activities that do not require approvals of the OEB or MNRF: the conversion of the UT.13 well from an observation well to an I/W well; construction of roadways and a drilling pad to facilitate access to the well location; the abandonment of approximately 340 metres of 10 inch diameter pipeline; and the removal of existing access roads to the abandoned well locations.

The UT.15 well, the conversion of the UT.13 well, and construction of the Gathering Pipelines are collectively referred to as the Terminus Project. The Terminus Project is planned to be in service by November 2017.

The OEB has reviewed the evidence and recommends to the MNRF the issuance of the licence for drilling and operation of UT.15. The OEB finds that Union Gas has adequately addressed the need for the well; that the impact of construction cost on Union Gas' rate-payers is not expected to be significant; that there are no outstanding landowner, environmental or Indigenous consultation issues; and that legal and regulatory requirements are appropriately addressed by Union Gas. The OEB has also issued a Decision and Order granting leave to construct the Gathering Pipelines.

The OEB's recommendation includes proposed licence conditions attached as Appendix A to this Report.

2. PROCESS

On April 12, 2017 the MNRF referred the application to the OEB pursuant to section 40(1) of the Act. The OEB received the application from Union Gas and the supporting evidence on March 29, 2017.

The OEB issued a Notice of Hearing on May 9, 2017 (Notice). Union Gas served and published the Notice as the OEB directed.

Enbridge Gas Distribution (Enbridge) and the MNRF were registered intervenors in the proceeding. The OEB proceeded by way of a written hearing. In accordance with Procedural Order No. 1 issued on June 8, 2017 the interrogatory phase was completed on July 7, 2017. OEB staff and the MNRF filed written submissions on July 21, 2017. Enbridge did not file any interrogatories or submissions. The MNRF submitted that it does not object to the application subject to the conditions of approval proposed by OEB staff and the addition of two further conditions of approval. The record for the proceeding was closed on July 27, 2017 with Union Gas' reply submission.

3. FACTORS TO CONSIDER

When reviewing and reporting to the MNRF on natural gas storage well drilling licence applications, the OEB considers the following:

- the need for the well
- costs of drilling and construction and impact on rate-payers
- the legal and regulatory requirements applicable to the well
- the environmental impacts of the proposal
- 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

Union Gas indicated that the Terminus Project (including the UT.15 well and Gathering Pipelines) is needed to replace deliverability lost in 2016 due to:

- Abandonment of the observation well R.3 and I/W well R.4 well as part of Union Gas' Integrity Management Program
- Conversion of I/W R.2 well into an observation well

These changes to the existing storage wells resulted in a loss of $490 \times 10^3 \text{m}^3/\text{day}$ or 12% of the total deliverability of the Terminus Pool. The purpose of the new I/W well UT.15 and the conversion of UT.13 from an observation well to an I/W well is to replace the lost deliverability. Union Gas does not anticipate that there will be any significant incremental deliverability from the new I/W wells.

The OEB finds that the evidence supports the need for the proposed new UT.15 well.

3.2 COSTS AND IMPACT ON RATE-PAYERS

Union Gas estimated the total capital costs for the Terminus Project, including UT.15 well drilling and Gathering Pipelines, at \$1.797 M. Union Gas stated that the cost estimates for well drilling and the construction of the Gathering Pipelines are based on costs of the recently approved 2017 Storage Enhancement Project (EB-2016-0322).

The Terminus Pool is used for both regulated and unregulated purposes. The current cost split for the Terminus Pool is 62.3% regulated and 37.7% unregulated. On this basis, the regulated portion of the project costs is \$1.119 million.

The proposed licence condition # 6 in Appendix A requires that Union Gas file with the OEB a Post Construction Financial Report, which shall indicate the actual capital costs and explain any significant variances from the cost estimates.

The OEB expects to review these costs in a future rate application. In considering the cost of the regulated portion of this project in comparison to Union Gas' overall rate base, the OEB does not expect this project to have a material impact on rates.

3.3 LEGAL AND REGULATORY REQUIREMENTS

In Ontario, the geological, engineering, operational, technical and safety aspects of underground storage operations, including the drilling, operation and modification of storage wells, are within the authority of the MNRF in accordance with the requirements of CSA Z341.1-14 – “Storage of Hydrocarbons in Underground Formations” (CSA Z341 standards) and the *Gas and Salt Resources of Ontario, Provincial Operating Standards* (the Provincial Standards). The MNRF was an intervenor in the proceeding. The MNRF is the provincial authority that ensures all of the relevant requirements of CSA Z341.1-14 for drilling and operation of the well are satisfied. Union Gas filed all necessary studies with the MNRF for review. Union Gas met with the MNRF on February 16, 2017 to discuss and present the Terminus Project. A copy of the presentation delivered to the MNRF by Union Gas was filed in the evidence as Schedule 4.

In accordance with the requirements of CSA Z341.1-14, Union Gas completed and filed with the MNRF the following reports:

- Risk Assessment
- Assessment of Neighbouring Activities

The MNRF is a registered intervenor in this proceeding and active participant in the hearing. In its July 21, 2017 written submission, the MNRF stated that it has no objection to the approval of the application for the UT.15 well licence, supported by certain licence conditions.

The MNRF agreed that the conversion of the UT.13 well does not require any further approval by the OEB or a licence by the MNRF. However, the MNRF proposed the following in its written submission (at page 2):

- (a) MNRF submits it would be appropriate in this case to require as a Condition of Approval that Union provide 30-day advance notification to MNRF of any such conversion works;
- (b) MNRF reminds Union that, as per CSA Z341: Storage of Hydrocarbons in Underground Formations, the operator shall meet all requirements for conversion from Observation well to Injection/Withdrawal well;
- (c) Union is expected to adhere to applicable reporting requirements under the Provincial Standards for such a conversion, in particular under s. 13.9 (Form 7: Drilling and Completion Report) and s. 13.16 (Form 3: Annual Well Status Report).

For the new conditions proposed by the MNRF, the OEB agrees with Union Gas that these conditions could be either licence conditions or undertakings. Union Gas accepted either approach. The OEB has included these with other licence conditions proposed by OEB staff and accepted by Union Gas. However, if the MNRF determines that it will issue a well licence, the OEB considers it appropriate for the MNRF to decide whether to adopt these two additional licence conditions (conditions nos. 10 and 11) or to treat them as undertakings. The approach adopted by the MNRF in this matter does not affect the OEB's recommendation that the licence be granted.

The proposed conditions are as follows:

10. Union Gas shall provide a report to the MNRF if the conversion from an Observation well to Injection/Withdrawal well changes the parameters of the Terminus Pool with respect to capacity.^[1]
11. Union Gas shall provide 30 days advance notification to the MNRF of any conversion works for wells within the Terminus Pool.^[2]

^[1] The MNRF may alternatively remove this condition and establish an Undertaking for Union Gas

^[2] *ibid*

The complete list of proposed conditions for the UT.15 well licence is attached as Appendix A to this Report.

3.4 ENVIRONMENTAL IMPACTS

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) Union Gas completed the Environmental Protection Plan (EPP) for all the facilities in the Terminus Project including the UT.15 well.

Union Gas has committed to conducting an environmental inspection program to ensure the implementation of all the recommendations in the EPP, any commitments made during the regulatory proceeding, and conditions of approval for the well drilling.

In its Decision, the OEB noted that it does not have oversight of drilling standards. By recommending that the MNR approve the licence to drill UT.15, the OEB is not explicitly approving Union Gas' plan to drill 24 hours per day, nor is it requiring Union Gas to drill in that manner. Union Gas is expected to take all reasonable steps to address any complaints received about excessive noise, including consideration, subject to any technical restrictions, of a shorter daily drilling schedule. The OEB notes that Union Gas is responsible for meeting the requirements of other bodies with jurisdiction over the abatement of noise during the drilling of the UT.15 well.

The OEB finds that Union Gas has adequately addressed the environmental issues through its proposed mitigation measures, and its commitment to implement recommendations in the EPP. The OEB has also proposed a number of Licence Conditions as set out in Appendix A.

3.5 LANDOWNER MATTERS

There is one directly affected landowner. Union Gas has an existing Storage Lease Agreement with this landowner.

Union Gas has stated that it has discussed the location of the Gathering Pipelines, roads and the well with the directly affected landowner. Union Gas also filed in evidence a Letter of Acknowledgement in which the directly affected landowner stated that it had no objection⁵ to the drilling of the described well and construction of a permanent all-weather access road.

OEB notes that Union Gas served the Notice of Hearing and the application with

⁵ The OEB notes that there appears to be a typographical error in the landowner's letter of acknowledgement found at Schedule 17 to the application. Specifically, the letter states in part that "We have no objectives to the drilling of the well as referenced above and the construction of a Permanent All Weather Access Road." [OEB's emphasis]

evidence on the directly affected landowner. This landowner did not intervene or send comments directly to the OEB regarding the Terminus Project. The OEB finds that Union Gas has adequately addressed land issues associated with the UT.15 well drilling or location.

3.6 INDIGENOUS CONSULTATION

The OEB notes that although the Ministry of Energy determined that the duty to consult for the Terminus Project was not triggered, Union Gas' pre-filed evidence indicates that it did consult with the potentially affected First Nations. The consultation is described in the Indigenous Consultation Report which was filed with the application. Union Gas has committed to the following during the Terminus Project construction: Union Gas inspectors will be made available to any First Nations if any issues are raised; Union Gas will consult with and provide the result of the archeological surveys to any First Nations upon their request; and Union Gas will extend an opportunity to First Nations to participate with monitors in the archeological and environmental surveys.

The OEB is satisfied that Union Gas has followed the 2016 OEB's Environmental Guidelines regarding consultation with Indigenous communities.

4. PROPOSED LICENCE CONDITIONS

The recommendation in this Report includes the recommendation that the licence to drill and operate the UT.15 well be subject to the conditions presented in Appendix A to this Report. The conditions relate to the authority to issue the licence, certain construction requirements, monitoring and reporting of any mitigation for construction impacts, and a requirement that Union Gas conform to the CSA Z341 standards to the satisfaction of the MNRF.

In addition to these proposed conditions of approval the OEB is adding the following condition:

Union Gas shall implement all the recommendations of the Environmental Protection Plan filed in the proceeding.

This condition had been proposed by OEB staff for the construction of the Gathering Pipelines. The Environmental Protection Plan applies to the whole Terminus Project, so the condition has been added as a new condition 4 to the proposed conditions for the well drilling and operation.

As discussed in section 3.3 (Legal and Regulatory Requirements) of this Report, the OEB has included the two conditions proposed by the MNRF as conditions no. 10 and no. 11 in the Proposed Conditions of Licence (see Appendix A). The OEB notes that if the MNRF determines that it will issue a well licence, the OEB considers it appropriate

for the MNRF to decide whether to adopt these two additional licence (conditions nos. 10 and 11) or treat them as undertakings. The approach adopted by the MNRF in this matter does not affect the OEB's recommendation that the licence be granted.

5. RECOMMENDATIONS

The OEB recommends approval of the application for the well drilling licence for I/W well UT.15 in the Terminus Pool, subject to certain proposed conditions in Appendix A.

These recommendations shall expire twelve months from the date of this Report.

DATED at Toronto, August 31, 2017

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Appendix A
Proposed Conditions of Licence - Well Drilling and Operation

1. Union Gas Limited (Union Gas) shall rely on the evidence filed with the OEB in EB-2017-0162 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 Union Gas is not transferable to another party without leave of the OEB. For the purpose of this condition another party is any party except Union Gas Limited.
3. Union 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. Union Gas shall implement all the recommendations of the Environmental Protection Plan filed in the proceeding.
5. Union Gas shall ensure that the movement of equipment is carried out in compliance with all procedures filed with the OEB, and as follows:
 - i) Union Gas shall make reasonable efforts to keep the affected landowner 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 so as to minimize disruption of agricultural land and agricultural activities.
6. Union Gas shall file, in the proceeding where the actual capital costs of the project are proposed to be included in rate base, a Post Construction Financial Report, which shall indicate the actual capital costs of the project and shall provide an explanation for any significant variances from the cost estimates filed in this proceeding.
7. Union 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, Union Gas shall monitor the impacts of construction, and shall file with the OEB one paper copy and 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 Union Gas' 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 Union 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 Union Gas' 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 Union 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.
9. For the purposes of these conditions, conformity of Union Gas with CSA Z341.1-14 "Storage of Hydrocarbons in Underground Formations" shall be to the satisfaction of the Ministry of Natural Resources and Forestry.

10. Union Gas shall provide a report to the MNRF if the conversion from an Observation well to Injection/Withdrawal well changes the parameters of the Terminus Pool with respect to capacity.^[1]
11. Union Gas shall provide 30 days advance notification to the MNRF of any conversion works for wells within the Terminus Pool.^[2]

^[1] The MNRF may alternatively remove this condition and establish an Undertaking for Union Gas

^[2] *ibid*