



**EB-2009-0338**  
**EB-2009-0339**  
**EB-2009-0340**

**IN THE MATTER OF** the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B; and in particular sections 36.1 (1), 38(1), 38(3),40(1), 90(1);

**BEFORE:** Gordon Kaiser  
Vice Chair and Presiding Member

Paul Sommerville  
Member

### **DECISION AND ORDER ON COST AWARDS**

Tribute Resources Inc. and Bayfield Resources Inc., on behalf of Huron Bayfield Limited Partnership and Bayfield Pipeline Corp. (the "Applicants") have filed applications with the Ontario Energy Board, (the "Board") dated September 22, 2009. These applications were subsequently amended on December 15, 2009. The applications were filed under sections 36.1(1), 38(1), 38(3), 40(1) and 90(1) of the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B (the "Act") and would, if granted, allow the Applicants to develop natural gas storage pools located in the geographic area of the County of Huron and in the County of Middlesex Ontario. The Board assigned the application file number EB-2009-0338/0339/0340.

On February 9, 2010, the Board issued Procedural Order No. 1 granting McKinley Farms Ltd. ("McKinley"); 2195002 Ontario Inc. ("Ontario"); Zurich Landowners Associations ("Zurich Landowners"); Union Gas Limited ("Union"); Municipality of Bluewater ("Bluewater"); the Huron County Federation of Agriculture ("HCFA"); and Stanley Bayfield Landowners Group ("SBLG") intervenor status. The Board determined that the following intervenors are eligible to apply for an award of costs under the Board's *Practice Direction on Cost Awards*: McKinley; Ontario; Zurich Landowners, Bluewater; HCFA; and SBLG.

On March 30, 2010, the Board issued Procedural Order No. 3, in which it set out the process for intervenors to file their cost claims and to respond to any objections raised by the Applicants.

The Board received cost claims from McKinley and Ontario (combined) and Bluewater.

On April 29, 2010, the Applicants raised concerns with the cost claims of McKinley and Ontario. The Applicants objected that:

1. The time docketed in Appendix A, Form 1, do not agree with the time claimed by the Intervenors;
2. The hourly rate being claimed by Mr. Chinneck and Mr. Mitches, representing both McKinley and Ontario, exceeds the cost award tariff;
3. G.S.T. should not be included in the costs claim as the Intervenor is a registrant; and
4. No time prior to February 9, 2010 should be compensable.

On May 17, 2010, McKinley and Ontario replied to the Applicants' letter and noted that:

1. The time claimed by the Intervenors was in all cases less than the time spent on the matter as disclosed by the dockets. More specifically, the time claimed by the Intervenors for Mr. Mitches' time was intentionally reduced in an effort to be more reasonable;
2. The Intervenors seek the time claimed at the maximum allowable rate under the tariff;
3. The Intervenors are G.S.T. registrants and will no longer be claiming the G.S.T.; and
4. All time claimed (based on the tariff rates) should be recoverable in accordance with the OEB Practice Direction on Costs and the OEB jurisdiction to award costs.

On May 6, 2010, the Applicants raised concerns with the cost claims of Bluewater and noted that Bluewater did not provide supporting time dockets and invoices from the law firm Strong, MacDougall, Oudekerk Professional Corp. On May 26, 2010, Bluewater replied to the Applicants' letter and submitted the missing time dockets and invoices from law firm Strong, MacDougall, Oudekerk Professional Corp.

## Board Findings

The Board has reviewed the combined McKinley and Ontario cost claims and that of Bluewater.

The Board finds that McKinley and Ontario combined cost claim should be limited to the costs incurred after they were recognized as intervenors on February 9, 2010. The Board will therefore reduce the claim respecting Mr. Jed M.Chinneck and Mr. William D. Mitches to 2.15 hours and 7.25 hours respectively. The Board has also adjusted the cost claim of McKinley and Ontario to appropriately reflect the correct tariff for their counsel. This reduces McKinley's and Ontario's combined total claim to \$1,942.00.

Bluewater's claim is approved as filed.

The Board finds that each party's claims, adjusted as described above, are reasonable and Huron Bayfield Limited Partnership and Bayfield Pipeline Corp. shall reimburse these parties accordingly.

## THE BOARD ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Huron Bayfield Limited Partnership and Bayfield Pipeline Corp shall immediately pay:
  - McKinley Farms Ltd. and 2195002 Ontario Inc. \$1,942.00; and
  - Municipality of Bluewater \$2,608.20.
2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Huron Bayfield Limited Partnership and Bayfield Pipeline Corp shall pay the Board's costs of and incidental to, this proceeding immediately upon receipt of the Board's invoice.

**DATED** at Toronto, July 9, 2010

## ONTARIO ENERGY BOARD

*Original Signed by*

Kirsten Walli  
Board Secretary