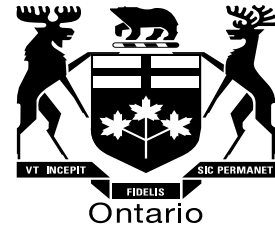


**Ontario Energy
Board**

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



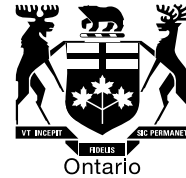
EB-2008-0405

**IN THE MATTER OF AN APPLICATION BY
UNION GAS LIMITED**

**Natural Gas Storage - Heritage Pool
Development**

DECISION WITH REASONS

May 29, 2009



EB-2008-0405

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), 40(1) thereof;

AND IN THE MATTER OF an application by Union Gas Limited for an Order designating the area known as the Heritage Gas Storage Pool, in the Geographic Township of St. Clair in the County of Lambton, as a gas storage area;

AND IN THE MATTER OF an application by Union Gas Limited for authority to inject gas into, store gas in and remove gas from the areas designated as the Heritage Gas Storage Pool, and to enter into and upon the lands in the said areas and use the said lands for such purposes;

AND IN THE MATTER OF an application by Union Gas Limited to the Ministry of Natural Resources for a license to drill wells in the said areas.

BEFORE: Ken Quesnelle
Presiding Member

Paul Vlahos
Member

Cathy Spoel
Member

DECISION WITH REASONS

May 29, 2009

EXECUTIVE SUMMARY

This Decision with Reasons (EB-2008-0405), issued on May 29, 2009, contains the Ontario Energy Board's approvals required for the designation and operation of the Heritage Gas Storage Pool in the Township of St. Clair, County of Lambton, Ontario. The application by Union Gas Limited to develop the Heritage Gas Storage pool was filed with the Ontario Energy Board on December 19, 2008. The Applicant requested and is hereby granted the following approvals with certain conditions attached:

- An Order designating a gas storage area pursuant to section 36.1(1) of the *Ontario Energy Board Act; 1998*. S.O. 1998, c.15, Schedule B ("OEB Act");
- Authority to inject gas into, store gas in, and remove gas from the Heritage Pool, pursuant to subsection 38(1) of the OEB Act;
- A favourable report of the Board under subsection 40(1) of the OEB Act to the Minister of Natural Resources to whom the Applicant has applied for licences to drill two (2) injection/withdrawal (I/W) wells within the proposed Heritage Pool.

The Heritage Pool project is intended to develop and operate approximately 0.95 Bcf of natural gas working storage. The planned in-service date is July 1, 2009. The Heritage Pool will be added to Union's storage portfolio. This incremental storage capacity will not be part of Union's regulated business and the cost of project development and operation will not be passed on to Union's ratepayers.

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1. Introduction

1.1 Application and Proceeding

Union Gas Limited (“Union” or the “Applicant”) has filed applications with the Ontario Energy Board, (the “Board”) dated December 19, 2008, under sections 36.1(1), 38(1) and 40(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B that would, if granted, allow Union to develop Heritage Gas Storage Pool in the Township of St. Clair, County of Lambton, Ontario (“Heritage Pool”). The Board has assigned File No. EB-2008-0405 to this Application.

The Applicant has applied to the Board for the following:

- An Order designating the area containing a gas reservoir known as the Heritage Pool located on part of Lots 6,7 and 8, Concession 14 and part of Lots 6,7 and 8, Concession 15, in the Township of St. Clair (Geographic Township of Sombra), in the County of Lambton, as a storage area pursuant to section 36.1(1) of the Act;
- Authority to inject gas into, store gas in, and remove gas from the Heritage Pool, pursuant to subsection 38(1) of the Act; and
- A favourable report of the Board under subsection 40(1) of the Act, to the Minister of Natural Resources to whom Union has applied for licences to drill two (2) injection/withdrawal wells within the proposed Heritage Pool.

By letter dated January 19, 2009, the Ministry of Natural Resources, Petroleum Resources Centre (“MNR”) referred to the Board an application by Union for licences to drill 2 injection/withdrawal wells in the proposed Heritage Pool, namely:

- Union Heritage 1 (Horiz.#1) Sombra 7-7-XV;
- Union Heritage 2 Sombra 5-7-XV.

The Notice of Application was issued on January 27, 2009. The Applicant served and published the Notice of Application as directed by the Board. The registered intervenors in the proceeding are the MNR and Enbridge Gas Distribution Inc. (“EGDI”).

On March 12, 2009 the Board issued Procedural Order No. 1 setting the schedule for a written proceeding with a transcribed Technical Conference. On March 23, 2009, the Board issued Procedural Order No. 2 releasing the approved Issues List.

The Technical Conference was held on March 31, 2009, which was attended by Board Staff, representatives of MNR, EGDI and Union. The transcript of the Technical Conference is filed on the record of this proceeding and includes the following list of exhibits and undertakings.

- “Heritage Pool” Application Overview PowerPoint Presentation by Union (Ex. KT1.1).
- Union responses to Board Staff's Technical Conference Questions (Ex. KT1.2)
- Update of Union’s Pre-filed Evidence Ontario Pipeline Coordinating Committee (“OPCC”) Summary of Comments (Ex. KT1.3).
- Letter, dated March 24, 2009, to Ministry of Transportation from ELS and Union (Ex. KT1.4).
- Union’s undertaking to serve Notice of Application on the Ministry of Transportation (KU.1).
- Union’s undertaking to notify the MNR that operating procedures specific to the Heritage Pool are in place prior to operation start (KU.2)
- Union’s undertaking to provide a summary of Emergency Response Plan to the MNR and landowners (KU.3)

On April 6, 2009, Union filed its argument-in-chief which included certain matters arising from the Technical Conference undertakings.

On April 7, 2009, the MNR filed a letter in support of Union’s application.

On April 9, 2009 Board Staff filed submissions proposing draft conditions of approval should the Board approve the Application. On April 16, 2009 Union filed a reply argument in response to the Board Staff submissions. No other party filed submissions in response to Board Staff's proposed conditions and the record of the proceeding was therefore completed.

The Board approves, with certain conditions, Union's applications and provides a favourable report to the MNR on the basis of Union's pre-filed evidence and submissions that the Board highlights in the balance of this Decision.

1.2 Proposed Project

The Heritage Pool project is intended to develop and operate approximately 26,900 10^3m^3 (0.95 Bcf) of natural gas working storage space in the Heritage Pool Designated Storage Area ("DSA"). Union would be the owner, developer and operator of all of the proposed storage facilities.

The proposed project includes:

- Two new injection/withdrawal ("I/W") wells in the Heritage Pool;
- Conversion of an existing production well to a Guelph Observation well;
- 1.9 kilometres of NPS 8 transmission pipeline between the Heritage Pool pipeline commingling point and the St. Clair Line Station;
- 540 metres of NPS 8 storage gathering pipelines within the Heritage Pool; and
- Upgraded station facilities including filtration/separation, measurement and compression at the existing St. Clair Line Station.

Board approval is not required for the conversion of the production well into the observation well, construction of the transmission and gathering pipelines or for upgrades of the station associated with the development of the Heritage Pool.

The Applicant plans to have the facilities in service on July 1, 2009. Pipeline construction is proposed to start in early June and to be completed by the end of June 2009.

1.3 Regulatory Framework

In this proceeding the Board exercises its authority under sections 36.1(1), 38(1) and 40(1) of the Act to designate a gas storage area, to issue authorization to operate the DSA and to issue a report to the Minister of Natural Resources on an application for

storage well drilling licences.

The Board's authority and the MNR's authority are closely related with respect to approvals of the gas storage designation and operations in Ontario. The MNR's role in the approval and oversight of development and operations of the gas storage pools in Ontario is defined by the *Oil, Salt and Gas Resources Act*, R.S.O. 1990, Chapter P.12 ("OSGRA"). The MNR is responsible for the technical and safety aspects of storage pool development and operation in accordance with the requirements of *CSA Z341.1 "Storage of Hydrocarbons in Underground Formations"* ("CSA Z341.1") and the *Gas and Salt Resources of Ontario, Provincial Operating Standards, Version 2.0* (the "Provincial Standards"). CSA Z341.1 and the Provincial Standards provide a comprehensive framework for monitoring storage operations in Ontario.

Typically, in the Board's review of technical and safety aspects of gas storage development and operation applications the Board relies on the MNR's processes for compliance with its requirements. The Board's standard conditions of approval under section 38(1) and under section 40(1) clearly state that the Applicant shall conform with CSA Z341.1, the OSGRA, and the Provincial Operating Standard to the satisfaction of the MNR.

The *Act* provides the Board with the following mandate with respect to the designation of a gas storage area:

- 36.1 (1) The Board may by order,*
(a) designate an area as a gas storage area for the purposes of this Act;
or
(b) amend or revoke a designation made under clause (a).

Pursuant to section 38(1) of the *Act*, the Board may issue an order for authorization to inject gas into, store gas in and remove gas from a DSA. Section 38(1) of the *Act* reads:

- 38. (1) The Board by order may authorize a person to inject gas into, store gas in and remove gas from a designated gas storage area, and to enter into and upon the land in the area and use the land for that purpose.*

An order under section 38(1) of the *Act* authorizes a prospective storage operator to operate the designated storage pool. This order is an authorization that will allow the Applicant to operate the storage pool once the pool is designated.

Subsections 38(2) and 38(3) of the *Act* deal with the compensation rights and

determination of the amount of compensation payable to the owners of land and storage and related rights:

Right to compensation

(2) Subject to any agreement with respect thereto, the person authorized by an order under subsection (1),

(a) shall make to the owners of any gas or oil rights or of any right to store gas in the area just and equitable compensation in respect of the gas or oil rights or the right to store gas; and

(b) shall make to the owner of any land in the area just and equitable compensation for any damage necessarily resulting from the exercise of the authority given by the order. 1998, c.15, Sched. B, s. 38 (2).

Determination of amount of compensation

(3) No action or other proceeding lies in respect of compensation payable under this section and, failing agreement, the amount shall be determined by the Board. 1998, c. 15, Sched. B, s. 38 (3).

This proceeding does not include any application under subsection 38(3). However, subsection 38(2) obliges the Applicant to make just and equitable compensation for storage rights and for damages resulting from the operation of a gas storage pool.

Under section 40 of the Act, upon referral by the Minister of Natural Resources of an application to drill a well in a designated storage area, the Board shall issue a report to the Minister regarding approval of the application. The report of the Board is binding on the Minister and, if it is a favorable report recommending that the application be granted, then the licence will be issued. Section 40 of the Act states:

40. (1) *The Minister of Natural Resources shall refer to the Board every application for the granting of a licence relating to a well in a designated gas storage area, and the Board shall report to the Minister of Natural Resources on it.*

(2) The Board may hold a hearing before reporting to the Minister if the applicant does not have authority to store gas in the area or, in the Board's opinion, the special circumstances of the case require a hearing.

(3) The Board shall send to each of the parties a copy of its report to the

Minister made under subsection (1) within 10 days after submitting it to the Minister and such report shall be deemed to be an order of the Board within the meaning of section 34.

(4) The Minister of Natural Resources shall grant or refuse to grant the licence in accordance with the report.

The MNR's authority regarding well licences is set in the OSGRA section 10 as follows:

10. (1) *No person shall drill, operate, deepen, alter or enter a well, or engage in any other activity on or in a well, except in accordance with a licence.*

The OSGRA definition of "well" includes production wells, storage wells and other wells.

Under Ontario Regulation 245/97 "Exploration, Drilling and Production" of the OSGRA, the requirements for the well licences are specified in more detail.

The MNR is responsible for ensuring that the Provincial Standards, including those related to the operation of wells, well plugging, and the reporting and monitoring of various stages of storage operations, are implemented by storage operators.

2. Designation of Gas Storage Area

The Board's review of the evidence on the storage pool designation application address the following questions from the approved Issues List:

- Is the underlying geological formation appropriate for storage operations?
- Is the tract of land to be designated appropriately bound and sized to provide for safe operation of the storage pool?
- Does the applicant have the necessary leases and agreements with the directly affected landowners?
- Have all Aboriginal Peoples whose existing or asserted Aboriginal or treaty rights may be affected by the proposed Heritage Pool been identified, have appropriate consultations been conducted with these groups, and if necessary, have appropriate accommodations been made with these groups?
- Is there a need for this incremental storage capacity in Ontario?

2.1. Is the underlying geological formation appropriate for storage operations?

The Heritage Pool is a depleted natural gas reservoir in a dolomitized incipient reef located approximately 18 kilometres northwest of Union's Dawn Operations Centre in Lambton County. The Heritage Pool was discovered in 1992 and was in production between March 1994 and September 2007. (Pre-filed Evidence, Section 3, page 6, paragraph 1)

The Heritage Pool is located within the Middle Silurian Pinnacle Reef Belt on the southeastern rim of the intracratonic Michigan Basin. The geometry and internal characteristics of the Heritage Pool and adjacent formations were interpreted from the data from the existing wells and from the Union Heritage 1 (UH.1) well which was drilled

in 2008 to determine the reservoir characteristics and from the 3D and 2D seismic interpretation. (Pre-filed Evidence, Section 3, page 7, and Schedules 2 and 5)

The AI Unit overlying and surrounding the reef forms an effective caprock seal and prevents gas from migrating vertically and laterally. (Pre-filed Evidence, Section 3, page 9, paragraph 22)

Reservoir integrity has been established and tested. The test results demonstrate that the geologic structure is a sealed container and that pressure containment exceeds the proposed maximum operating pressure. (Pre-filed Evidence, Section 3, page 10, paragraph 26)

2.2. Is the tract of land to be designated appropriately bound and sized to provide for safe operation of the storage pool?

The evidence filed by Union was that the proposed Heritage Pool DSA comprises of 226.4 hectares (559.0 acres) in Sombra Township, Lambton County, which is larger than the existing Production Unit. The proposed boundary follows the Drilling tracts boundaries without severing the tracts as recommended by the MNR. The proposed DSA was confirmed with MNR staff. As set out in the "Record of Technical Data Reviewed for a Proposed Designated Gas Storage Area" (Pre-filed Evidence, Section 3, Schedule 15), MNR staff is in agreement with the proposed boundary.

2.3. Does the applicant have the necessary leases and agreements with the directly affected landowners?

The pre-filed evidence indicates that Union holds all Petroleum and Natural Gas (P&NG) rights and storage rights leases for all 12 directly affected private properties in the Heritage Pool DSA. (Pre-filed Evidence, Section 6, Schedule 2)

According to the evidence, directly affected landowners have not identified any significant issues during negotiations with Union (Exhibit KT1.1, page 21).

Union acknowledges that it does not hold the necessary P&NG and storage rights for two Crown properties within the DSA which are within the jurisdiction of: (1) the Real Estate Section of the Ministry of Transportation for the Province of Ontario; and (2) the Public Lands Section of Natural Resources Canada for the Government of Canada (Revised Pre-filed Evidence, Section 6, page 20 and 21 paragraphs 11 and 12). Union

stated, in response to a Board Staff question in the Technical Conference (Exhibit KT1.2), that the two agencies were aware of the proposed Heritage Storage Pool project. Discussions have been held with both agencies regarding leases for properties in which they have interests and neither agency has identified any significant issues regarding the project. Union expects to have the final agreements in place late in 2009.

2.4. Have all Aboriginal Peoples whose existing or asserted Aboriginal or treaty rights may be affected by the proposed Heritage Pool been identified, have appropriate consultations been conducted with these groups, and if necessary, have appropriate accommodations been made with these groups?

Union identified several First Nations groups within the study area: Walpole Island First Nation (WIFN), Aamjiwnaang First Nation (Chippewas of Sarnia) and Chippewas of Kettle and Stoney Point First Nation (Exhibit KT1.1, page 20).

Union indicated in the evidence that on January 29th, 2009, Union served Aamjiwnaang First Nation by courier delivery and on January 30th, 2009 served Chippewas of Kettle and Stoney Point First Nation by registered mail, with a copy of the Board's Notice of Application, location map and a copy of Union's Application. Union met with WIFN on several occasions in spring 2008 and winter 2009, sent letters on December 18, 2008 to WIFN, Aamjiwnaang First Nation (Chippewas of Sarnia) and Chippewas of Kettle and Stoney Point First Nation.

Union provided details of its consultation with the First Nations groups in response to a Board Staff question in the Technical Conference. Union stated that no specific concerns or issues with the Heritage Pool were raised in the consultation process by the three Aboriginal Groups. (Exhibit KT1.2, page 3)

In approving this application, the Board had concluded that Union's consultation with the First Nations groups were adequate.

2.5. Is there a need for this incremental storage capacity in Ontario?

Union submitted that the need for the proposed project is based on current demand for storage in the Eastern Canada and U.S. Northeast markets, that the demand for storage both near-term and long-term exceeds the supply of storage services and that incremental storage services are needed. Union indicated that additional storage

services associated with the Heritage Pool will be sold ex-franchise at market prices. Union also stated that the ex-franchise storage will not be part of Union's regulated business and that there will be no impact on Union's rate payers.

Union emphasized that the Board's Natural Gas Electricity Interface Review ("NGEIR") decision (EB-2005-0551) supported development of additional gas storage in Ontario especially to support and enhance security of supply and an overall enhanced competitive market at Dawn. (Pre-filed Evidence, Section 2, pages 3-5 and Exhibit KT1.1, page 16)

The Board accepts Union's submissions and evidence and finds that additional supply to be provided by the development and operation of the Heritage Pool is needed to meet existing and future demands.

3. Authorization to Inject, Store and Withdraw Gas

The Board's review of Union's section 38 application considered the evidence in support of the following questions:

- Is the applicant a capable prospective storage operator in terms of technical and financial capabilities to develop and operate the proposed storage facilities?
- Will the appropriate safety requirements for proposed injection/withdrawal activities be ensured in accordance with all relevant codes and standards?
- Is the proposed maximum operating pressure safe?
- What are the potential impacts of injection/withdrawal activities on the integrity of the gas storage pool?
- Is the applicant appropriately accountable for losses or damages caused by its activities? In particular, will the appropriate insurance coverage be in effect prior to construction/operation commencement?

3.1. Is the applicant a capable prospective storage operator in terms of technical and financial capabilities to develop and operate the proposed storage facilities?

Union submitted that it had been safely operating storage in Ontario since 1942, and Union currently owns and operate 21 storage pools. The Heritage Pool will be Union's 22nd storage pool. (Technical Conference Transcript, page 33, lines 15-18)

Union also submitted that the wells will be drilled in accordance with the OSGRA, related regulations, CSA Z341.1 and Provincial Operating Standards. (Pre-filed Evidence, Section 4, page 14, paragraph 9)

In approving this application the Board had considered that Union is known to the Board as a storage operator and a financially capable entity, capable to develop and operate facilities of this nature.

3.2. Will the appropriate safety requirements for proposed injection/withdrawal activities be ensured in accordance with all relevant codes and standards?

Union submitted that it is committed to comply with all applicable laws and regulations regarding the safe operation of the Heritage Pool. In particular Union stated that it would follow the OGSRA and its regulations, the Provincial Operating Standards, CSA Z341.1 and the Emergency Response Plan and Operations and Maintenance Procedures. (Exhibit KT1.1 page 14 and Pre-filed Evidence, Section 4, page 16, paragraph 30)

3.3. What are the potential impacts of injection/withdrawal activities on the integrity of the gas storage pool?

Union has filed evidence indicating that, on November 28, 2008, Union met with MNR to discuss the technical aspects of the Heritage pool, including drilling licences and integrity matters. On December 19, 2008, Union submitted to the MNR the “Assessment of Neighbouring Activities Report”, in accordance with clause 7.2. On February 27, 2009, in accordance with clause 7.1, Union submitted a copy of the “What if – Analysis of Hazard and Operability Issues” to the MNR for review. Union has not received any negative comments from the MNR on this project regarding compliance with clauses 7.1 or 7.2 of the CSA Z 341. (Exhibit KT1.2 page 10)

3.4. Is the proposed maximum operating pressure safe?

Union’s filed evidence indicates that the discovery pressure of the pool was 7,269 kPaa and Union submitted that it intends to operate the pool above the discovery pressure at the maximum operating pressure of 10,623 kPaa.

According to clause 7.5.2 of the CSA Z341.1, the maximum delta pressure limit is determined by utilizing tests as follows:

“The operator shall:

- a) obtain all available pressure and production history data, as well as test information, from existing wells located in the proposed storage zone and in the surrounding formations that may be in communication with storage; and*
- b) use the discovery pressure as the maximum operating pressure for the storage zone unless it can be demonstrated that the integrity of reservoir is not compromised as a higher pressure by:
 - i. caprock testing; or*
 - ii. operating experience.**

The maximum operating pressure shall not exceed 80% of the fracture pressure of the storage and caprock formations. In the absence of fracture pressure data, the maximum operating pressure shall be limited to 18.1 kPa/m of depth to the top of the reservoir.”

According to CSA Z341.1 clause 7.5.2. b), either the results of caprock testing or operating experience may be used to determine the maximum operating pressure of a storage pool. Union’s evidence indicates that it used caprock test results to demonstrate that the maximum operating pressure is safe and in compliance with the CSA Z341.1.

Union’s evidence indicated that it completed the on site caprock testing and has obtained a caprock core sample for testing.

The caprock core sample was obtained from the UH1.1 well in accordance with CSA Z341.1 clause 5.2.3. and sent to Hycal Laboratories in Calgary for testing. Union stated that the results would be submitted to the MNR prior to the first injection. (Pre-filed Evidence, Section 3, pages 9-10, paragraph 24) More specifically, in response to Board Staff Technical Conference question, Union stated: that based on recent discussions with the Testing Laboratory Union is not able to provide a definitive date when the test results will be available. However, it is expected that the results will be available in “the next ten to twelve weeks”. Union committed to submit the results to the MNR prior to first injection. (Exhibit KT1.1, response to question 3)

The evidence indicates that the microfracture tests on site at well UH.1 were conducted in October 2008 and the results indicate that the caprock fracture closure pressure was 15,794 kPa. Union noted that clause 7.5.2 of CSA Z341.1 required that the maximum operating pressure not exceed 80% of the fracture pressure of the caprock.

3.5. Is the applicant appropriately accountable for losses or damages caused by its activities? In particular, will the appropriate insurance coverage be in effect prior to construction/operation commencement?

Union submitted that the insurance coverage for the Heritage Pool project will be incorporated into Union's existing insurance policies, and Union does not intend to have a separate policy that would cover only the Heritage Pool. Union stated that its insurance group continuously reviews the coverage required for Union's operations and adjusts the coverage as required. (Union's Reply Submission, April 16, 2009, page 2)

Union's evidence was that its insurance program will include, with limits appropriate to the project: commercial general and excess liability insurance for liabilities arising to third parties for bodily injury and property damage resulting from its operations; completed operations liability; sudden and accidental pollution liability; and control of well insurance. (Exhibit KT1.2, Union's response to the Board Staff Technical Conference question No. 5)

While the Board concluded that the insurance coverage described in Union's evidence was appropriate, it also concluded that it must be in effect prior to Heritage Pool construction/operation commencement. The Board therefore imposes a condition of approval to its order under s. 38(1), requiring Union to obtain and maintain the appropriate insurance coverage and to notify the Board once insurance coverage has been obtained for the Heritage Pool.

3.6. General Conditions of Approval

In its April 9, 2009 submissions, Board Staff proposed conditions to the Board order under section 38 (1) of the OEB Act. On April 16, 2009, Union filed a reply Argument and agreed with all of the proposed conditions with the exception of conditions on storage rights and insurance. Union requested that condition on storage rights be omitted and that the condition insurance be amended.

Condition 1.2. - Storage Rights

Union acquired all the storage rights for private properties within the Heritage Pool. No P&NG and storage rights have been obtained from the Ministry of Transportation and Natural Resources Canada (Revised Pre-filed Evidence, Section 6, page 20 and 21,

paragraphs 11 and 12).

Board Staff proposed the following condition (condition 1.2):

- 1.2. *Prior to commencement of any injection, storage or withdrawal operations, Union shall obtain all the necessary storage rights within the Heritage Designated Storage Area.*

Union argued that condition 1.2 is not needed on the reason that, in the E.B.L.O. 268 Decision (Century Pools Phase I), the Board had allowed the Booth Creek Pool to be operated without all storage rights being obtained and no condition similar to 1.2 was imposed. (Union's Reply Argument, April 16, 2009, page 2)

Union also submitted that, even in the case of an agreement not being signed, a landowner "would be fully protected because such landowner would have a statutory right to compensation under ss 38(2) and (3) of the Act". (Union's Reply Argument, April 16, 2009, page 2)

Union's pre-filed evidence (Section 6, pages 19-20 paragraphs 5 and 6) explained Union's compensation package to be offered to all the Heritage Pool landowners, and stated that it is consistent with Union's existing Gas Storage Landowner Compensation Program and standard Lambton County storage rates.

Union stated that payment for P&NG and Gas Storage Agreement rentals, well and roadway payments will be made at the standard Lambton County storage rates. The combined P&NG and Gas Storage Lease rentals will be \$114.53 per acre. The offer for wells is \$1,300.37 per well, for roads is \$1,021.72 per acre and outside acreage is \$34.39 per acre.

Union stated that the payments are currently adjusted annually by the Consumer Price Index for the preceding July 1 to June 30 period. Union will make offers for residual gas in accordance with the terms of the Gas Storage Agreements.

Union's evidence demonstrated that Union's intention is to offer and pay the same compensation package to all the landowners within the Heritage Pool regardless of the status of agreement. As submitted by Union, this compensation package is comparable to Union's standard payments to its other landowners in Lambton County where most of

the storage pools are located.

The Board finds it appropriate to attach the following condition to the section 38(1) order:

1.2.

- a) *Union shall make the owners an offer of fair, just and equitable compensation in respect of the gas storage rights and petroleum natural gas leases, prior to the injection of natural gas into the Pool.*
- b) *Union shall make to the landowners and/or tenants an offer of fair, just and equitable compensation for any damage resulting from the authority hereby being granted by the Board.*

Condition 1.8. - Insurance

Board Staff proposed the following wording as a condition (condition 1.8):

- 1.8. *Union shall, after the date on which the OEB grants an order pursuant to Section 38(1) of the OEB Act and before commencement of drilling operations or pipeline construction to use the DSA for storage, and thereafter while the DSA or any part thereof is being used for storage operations, obtain and maintain in full force and effect insurance coverage, including but not limited to, liability and pollution coverage, in the amount that is determined to be adequate by an independent party with expertise in adequacy of insurance coverage for environmental and other risks and potential impacts of gas storage operations in Southwestern Ontario. Union shall file with the Board documentation proving that the insurance coverage has been obtained as required by this condition.*

Union submitted that it had no objection to obtaining and maintaining the insurance. However, Union stated that, as a long standing experienced storage operator, it was in a better position to determine the levels of coverage required compared to an independent party. (Union's Reply Argument, April 16, 2008, pages 2 and 3)

Union proposed that the condition be amended as follows:

- . *After the date on which the OEB grants an order pursuant to Section 38(1) of the*

OEB Act and before commencement of drilling operations or pipeline construction to use the DSA for storage, and thereafter while the DSA or any part thereof is being used for storage operations, Union shall obtain and maintain in full force and effect insurance coverage for its operations at the Heritage Pool including, but not limited to, liability and pollution coverage. Union shall notify the Board once insurance coverage has been obtained for the Heritage Pool in accordance with this condition.

The Board finds Union's proposed wording of condition 1.8 acceptable.

3.7. Project Specific Conditions

Condition 3.1. - Notice to the Ministry of Transportation

Union revised its application on March 20, 2009 to include a section of Highway 40 in the northwest corner of the proposed Designated Storage Area. At the March 31, 2009 Technical Conference, Board Staff asked Union whether notice had been given to the Ministry of Transportation (MTO) as part of the Board's notice and direction. Union advised that the MTO had not been notified but undertook to give notice to the MTO (Technical Conference Undertaking KU.1 and Union's Argument-in-Chief, April 6, 2009). At the Technical Conference Union filed, as Exhibit KT1.4, a letter to the MNR dated March 27, 2009, that initiated the process to acquire the land rights from the MTO.

In its Argument-in-Chief Union stated that on April 1, 2009 it sent a copy of the application, the Board's Notice of Application and Procedural Orders Nos. 1 and 2 to the MTO. Union enclosed copies of the April 1, 2009 notice along with copies of all the documentation provided to the MTO with the notice.

Board Staff proposed the following condition (condition 3.1):

3.1 *Prior to commencement of any injection, storage or withdrawal operations Union shall file with the Board:*

- a) *an affidavit of service confirming that the Notice of Application, Procedural Orders and a copy of Union's revised Application have been served on the Ministry of Transportation;*

- b) a statement by the Ministry of Transportation that it had no issues or concerns regarding the Heritage Pool operation.*

In its Reply Argument, Union stated no objections to the proposed condition 3.1.

The Board imposes Staff's proposed condition as it treats the Ministry of Transportation the same way as other directly affected landowners in the Heritage Pool DSA.

Conditions 3.2. and 3.3. - Update of Operating and Emergency Manuals

In the Technical Conference, the MNR representatives asked that Union undertake to update its operating and emergency manuals and to create and make available to the public and affected landowners an information brochure on an emergency response plan including emergency contacts. Union undertook to comply with MNR's request and these undertakings were recorded at the Technical Conference as undertakings KU.2 and KU.3 respectively.

The timeline to complete these undertakings was not specified. Board Staff proposed the following conditions (conditions 3.2 and 3.3):

- 3.2 Before first injection, Union shall update its operating and emergency manuals to take into account Union's operations at the Heritage Pool and shall notify the MNR and the Board once the update has been completed.*
- 3.3 Union shall develop a short Emergency Response brochure to be made available to the public and file copies with the MNR and the Board prior to first injection.*

In its Reply Argument, Union stated no objections to the proposed wording.

The Board imposes Staff's proposed conditions 3.2 and 3.3 to ensure that operational and emergency procedures are updated and that the information is available prior to the start of the Heritage Pool operation.

4. Application for Well Drilling Licences

The Board's review of an application for a well license includes the geological evidence related to the well location and proposed drilling program, the technical capability of an applicant to conduct the drilling in accordance with applicable standards and codes, and environmental and landowner related matters.

The Board recommends that the Minister of Natural Resources issue the licences for the two wells as applied for by Union. The Report to the Minister of Natural Resources, attached as Appendix E to this Decision, describes in more detail the evidence and submissions and provides reasons for the favorable Decision.

On April 9, 2009, Board Staff proposed a set of standard conditions to the Board report to the MNR. These conditions are standard conditions that are typically part of the Board's favorable report to the MNR regarding the well drilling licence applications.

On April 16, 2009 Union filed a Reply Argument in which Union stated that Staff's proposed conditions are acceptable. The MNR did not file any comments regarding the conditions.

The Board will attach these conditions as Schedule 2 to Appendix E of this Decision and Order.

5. COSTS OF THE PROCEEDING

No intervenors requested to be eligible for cost awards and no costs shall be awarded in this proceeding. The Applicant shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

DATED at Toronto, May 29, 2009

ONTARIO ENERGY BOARD

Original Signed By

Ken Quesnelle
Presiding Member

Original Signed By

Paul Vlahos
Member

Original Signed By

Cathy Spoel
Member

APPENDIX A
TO
DECISION WITH REASONS
EB-2008-0405
COMPLETE LIST OF PARTIES
Dated May 29, 2009

Union Gas Limited

EB-2008-0405

APPLICANT & LIST OF INTERVENORS

APPLICANT

Rep. and Address for Service

Union Gas Limited

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INTERVENORS

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Fax: 416-495-6072
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Ministry of Natural Resources

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APPENDIX B

TO

DECISION WITH REASONS

EB-2008-0405

Union Gas Limited

MAP OF THE PROPOSED PROJECT

Dated May 29, 2009






TOWNSHIP OF ST. CLAIR
KEY MAP
(Not To Scale)

SCALE - 1 : 15000



LEGEND

-  **PROPOSED TRANSMISSION PIPELINE**
-  **PROPOSED GATHERING PIPELINE**
-  **PROPOSED DESIGNATED STORAGE AREA**

APPENDIX C

TO

DECISION WITH REASONS

EB-2008-0405

Union Gas Limited

ORDER DESIGNATING GAS STORAGE AREA

Dated May 29, 2009



EB-2008-0405

IN THE MATTER OF the *Ontario Energy Board Act, 1998*;

AND IN THE MATTER OF an application by Union Gas Limited for an Order designating the area known as the Heritage Gas Storage Pool, in the Geographic Township of St. Clair in the County of Lambton, as a gas storage area.

BEFORE: Ken Quesnelle
Presiding Member

Paul Vlahos
Member

Cathy Spoel
Member

ORDER DESIGNATING GAS STORAGE AREA

Union Gas Limited (the "Applicant") filed applications with the Ontario Energy Board, (the "Board") dated December 19, 2008, under sections 36.1(1), 38(1) and 40(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B that would, if granted, allow the Applicant to develop Heritage Gas Storage Pool in the geographic area of the Township of St. Clair, County of Lambton, Ontario ("Heritage Pool Project"). The Board has assigned File No. EB-2008-0405 to this Application.

The Applicant applied to the Board for orders designating a gas storage area, authorizing the injection of gas into, storage of gas within, and withdrawal of gas from a storage reservoir; and a favorable report of the Board to the Minister of Natural Resources with respect to the Application for licences to drill two (2) injection/withdrawal wells in the proposed Heritage Gas Storage Pool. Collectively, the orders and report

sought by the Applicant will support the conversion of the existing Heritage Pool from production to storage.

The Notice of Application was issued on January 27, 2009. The Applicant served and published the Notice of Application as directed by the Board. The Board proceeded by a written hearing.

On May 29, 2009 the Board issued a Decision with Reasons approving all the applications sought under Board File No. EB-2008-0405. This Order to Designate Gas Storage Area is issued in accordance with the Board's May 29, 2009 Decision with Reasons.

THE BOARD ORDERS THAT:

1. Pursuant to section 36.1(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B the area described by the Metes and Bounds description attached as Schedule 1 to this order is designated as a gas storage area.

DATED at Toronto May 29, 2009

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

SCHEDULE 1

EB-2008-0405

Union Gas Limited

**METES AND BOUNDS DESCRIPTION
OF THE BOUNDARY OF THE
HERITAGE DESIGNATED STORAGE AREA**

METES AND BOUNDS DESCRIPTION
OF THE PROPOSED BOUNDARY OF THE
HERITAGE POOL DESIGNATED STORAGE AREA
IN THE GEOGRAPHIC TOWNSHIP OF ST. CLAIR COUNTY OF LAMBTON

All and Singular that certain parcel or tract of land and premises, situate, lying and being in the Township of St. Clair, (Geographic Township of Sombra), in the County of Lambton and being composed of:

Firstly:

The North $\frac{1}{4}$ of Lots 6, 7 and 8, Concession 14 more particularly described as follows:

Commencing at the northeasterly corner of Lot 8, Concession 14;

Thence westerly along the southerly limit of Stanley Line a distance of 1810.5 meters more or less to a point being the northwest corner of Lot 6, Concession 14;

Thence southerly along the easterly limit of Lot 8, Concession 14 a distance of 335.3 meters more or less to the line between the north $\frac{1}{4}$ and the south $\frac{3}{4}$ of Lot 6, Concession 14;

Thence easterly along the line between the north $\frac{1}{4}$ and the south $\frac{3}{4}$ of Lots 6, 7 and 8, Concession 14 a distance of 1810.5 meters more or less to the Lot line between Lots 8 and 9 Concession 14;

Thence northerly along the westerly limit of Lot 6, Concession 14 a distance of 335.3 meters more or less, to the place of commencement.

Secondly:

The South $\frac{3}{4}$ of Lots 7 & 8, Concession 15 & the South $\frac{1}{2}$ of Lot 6, Concession 15 more particularly described as follows:

Commencing at the southeasterly corner of Lot 8 Concession 15;

Thence westerly along the northerly limit of Stanley Line a distance of 1810.5 meters more or less to the southwest corner of Lot 6, Concession 15;

Thence northerly along the westerly limit of Lot 6, Concession 15 a distance of 670.5 meters more or less to the line between the north and south halves of Lot 6, Concession 15;

Thence easterly along said line between the north and south halves of Lot 6, Concession 15 a distance of 603.5 meters more or less to the westerly limit of Lot 7, Concession 15;

Thence northerly along the westerly limit of Lot 7, Concession 15 a distance of 335.3 meters more or less to the line between the north $\frac{1}{4}$ and the south $\frac{3}{4}$ of Lot 7, Concession 15;

Thence easterly along the limit between the north $\frac{1}{4}$ and the south $\frac{3}{4}$ of Lots 7 and 8 a distance of 1207.0 meters more or less to the easterly limit of Lot 8, Concession 15;

Thence southerly along the easterly limit of Lot 8, Concession 15 a distance of 1005.8 meters more or less to the point of beginning.

APPENDIX D

TO

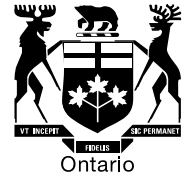
DECISION WITH REASONS

EB-2008-0405

Union Gas Limited

Authorization to Inject, Store and Remove Gas

Dated May 29, 2009



EB-2008-0405

IN THE MATTER OF the *Ontario Energy Board Act, 1998*;

AND IN THE MATTER OF an application by Union Gas Limited for an order authorizing the injection of gas into, storage of gas in, and removal of gas from a gas storage area.

BEFORE: Ken Quesnelle
Presiding Member

Paul Vlahos
Member

Cathy Spoel
Member

ORDER

AUTHORIZING THE INJECTION OF GAS INTO, STORAGE OF GAS IN, AND REMOVAL OF GAS FROM A GAS STORAGE POOL

Union Gas Limited (the "Applicant") filed applications with the Ontario Energy Board, (the "Board") dated December 19, 2008, under sections 36.1(1), 38(1) and 40(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B that would, if granted, allow the Applicant to develop Heritage Gas Storage Pool in the geographic area of the Township of St. Clair, County of Lambton, Ontario ("Heritage Pool Project"). The Board has assigned File No. EB-2008-0405 to this Application.

The Applicant applied to the Board for orders designating a gas storage area,

authorizing the injection of gas into, storage of gas within, and withdrawal of gas from a storage reservoir; and a favorable report of the Board to the Minister of Natural Resources with respect to the Application for licences to drill two (2) injection/withdrawal wells in the proposed Heritage Gas Storage Pool. Collectively, the orders and report sought by the Applicant will support the conversion of the existing Heritage Pool from production to storage.

The Notice of Application was issued on January 27, 2009. The Applicant served and published the Notice of Application as directed by the Board. The Board proceeded by a written hearing.

On May 29, 2009 the Board issued a Decision with Reasons approving all the applications sought under Board File No. EB-2008-0405. This Order authorizing the injection of gas, storage of gas in and removal of gas from the Heritage Pool is issued in accordance with the Board's May 29, 2009 Decision with Reasons.

THE BOARD ORDERS THAT:

Union Gas Limited pursuant to section 38(1) of the *Ontario Energy Board Act*, 1998, are authorized to inject gas into, store gas in and remove gas from the area known as Heritage Pool in the geographic Township of St. Clair, County of Lambton, Province of Ontario, which has been designated as a gas storage area, and to enter into and upon the land in the area for such purposes, subject to Conditions of Approval set forth in the Schedule 1 to this Order.

DATED at Toronto, May 29, 2009

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

SCHEDULE 1

EB-2008-0405

Union Gas Limited

Conditions of Approval

Authorization to Inject, Store and Remove Gas

EB-2008-0405
Union Gas Limited
Conditions of Approval

Authorization to Inject, Store and Remove Gas

1. Operation of the Heritage Storage Pool

- 1.1 Union Gas Limited ("Union) shall adhere to the evidence filed with the Board in the EB-2008-0405 proceeding. Union shall comply with applicable laws, regulations and codes to the satisfaction of the responsible agency pertaining to the construction, operation and maintenance of the proposed project and should evaluations conducted in accordance with those applicable laws, regulations and codes identify any risk and/or specify any remedial work, shall implement, complete and maintain such works prior to commencement of any injection.
- 1.2.
 - a) Union shall make the owners an offer of fair, just and equitable compensation in respect of the gas storage rights and petroleum natural gas leases, prior to the injection of natural gas into the Pool.
 - b) Union shall make to the landowners and/or tenants an offer of fair, just and equitable compensation for any damage resulting from the authority hereby being granted by the Board.
- 1.3. Union shall design, construct, operate, maintain and abandon the wells and facilities in accordance with the CSA Z341.1-06 Storage of Hydrocarbons in Underground Formations and in accordance with the *Oil, Salt and Gas Resources Act* and its regulations and operating standards.
- 1.4. Union shall protect the integrity of the reservoir and ensure the safe operation of the Heritage Storage Pool by complying with the requirements of the Provincial Operating Standard, CSA Standard Z341.1-06 and any other applicable laws, regulations and codes.
- 1.5. Union shall advise the Board's designated representative of any proposed material change or abnormal events in construction or restoration procedures that are reported to authorities. In the event of an emergency, the Board shall be informed immediately after the fact.
- 1.6. Union shall ensure that the construction, operation and maintenance of the Heritage Storage Pool do not affect the quality or supply of potable water. Union shall conduct a water well test prior to and after the first cycle of gas storage and implement a Water Well Monitoring Program. In the event that the quality of the potable water is impacted by the construction, operation and maintenance of the Heritage Storage Pool, Union shall provide adequate fresh water supplies to all affected landowners until the problem is rectified.
- 1.7. Should Union fail to commence injection before June 1, 2010 Union shall be

required to apply to the Board for an extension of the authority granted under the Board's Order and will be required to submit evidence to show why such an extension shall be granted.

- 1.8. After the date on which the OEB grants an order pursuant to Section 38(1) of the OEB Act and before commencement of drilling operations or pipeline construction to use the DSA for storage, and thereafter while the DSA or any part thereof is being used for storage operations, Union shall obtain and maintain in full force and effect insurance coverage for its operations at the Heritage Pool including, but not limited to, liability and pollution coverage. Union shall notify the Board once insurance coverage has been obtained for the Heritage Pool in accordance with this condition.

2. General

- 2.1 For the purposes of these conditions conformity of the Applicant with CSA Z341.01-06, the Oil, Gas and Salt Resources Act, and the Provincial Operating Standard shall be to the satisfaction of the Ministry of Natural Resources.
- 2.2 The authority granted under this Order to Union is not transferable to another party without leave of the Board.
- 2.3 The Board's designated representative for the purpose of these conditions shall be the Manager, Natural Gas Applications.

3. Project Specific Conditions

- 3.1. Prior to commencement of any injection, storage or withdrawal operations Union shall file with the Board:
 - a) an affidavit of service confirming that the Notice of Application, Procedural Orders and a copy of Union's revised Application have been served on the Ministry of Transportation;
 - b) a statement by the Ministry of Transportation that it had no issues or concerns regarding the Heritage Pool operation.
- 3.2 Before first injection, Union shall update its operating and emergency manuals to take into account Union's operations at the Heritage Pool and shall notify the MNR and the Board once the update has been completed.
- 3.3 Union shall develop a short Emergency Response brochure to be made available to the public and file copies with the MNR and the Board prior to first injection.

APPENDIX E

TO

DECISION WITH REASONS

Union Gas Limited

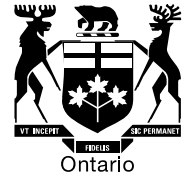
Report to the Minister of Natural Resources

Wells Licences Application

Dated May 29, 2009

Ontario Energy
Board

Commission de l'énergie
de l'Ontario



EB-2008-0405

IN THE MATTER OF the Ontario Energy Board Act, 1998,
Schedule B;

AND IN THE MATTER OF an application Union Gas Limited
to the Ministry of Natural Resources for a license to drill
wells in the area designated as the Heritage Pool in the City
of Sarnia in the Township of St. Clair, County of Lambton.

REPORT OF THE BOARD

May 29, 2009

Introduction

Union Gas Limited (“Union” or the “Applicant”) proposed to provide storage services upon development of approximately 0.95 Bcf of natural gas working storage space in the proposed Heritage Gas Storage Pool with the planned in-service date of July 1, 2009.

The development of the Heritage Storage pool requires that the Applicant be granted the following orders sought under the Board File No. EB-2008-0405:

- An order designating the area containing a gas reservoir known as the Heritage Pool as a storage area pursuant to section 36.1(1) of the Act;
- An order granting authority to inject gas into, store gas in, and remove gas from the Heritage Gas Storage Pool, pursuant to subsection 38(1) of the Act;
- A favourable report of the Board under subsection 40(1) of the Act, to the Minister of Natural Resources to whom MHP Canada has applied for licences to drill two injection/withdrawal wells within the proposed Heritage Gas Storage Pool.

On May 29, 2009, the Board issued a Decision with Reasons that approved the EB-2008-0405 application and granted all the orders required for pool development and operation. This Report is issued in accordance with the Board’s May 29, 2009 Decision with Reasons.

Referral of the Application to Drill Wells

By a letter, dated January 19, 2009, the Ministry of Natural Resources, Petroleum Resources Centre (“MNR”), has referred to the Board, pursuant to section 40 of the Act, an application by Union for licences to drill 2 injection/withdrawal wells in the proposed Heritage Pool, as follows:

- Union Heritage 1 (Horiz.#1) Sombra 7-7-XV; horizontal leg of UH.1 (UH.1.H1).
- Union Heritage 2 Sombra 5-7-XV; vertical well new (UH.2).

Union plans to start drilling the horizontal leg of UH.1.H1 in June 2009, while the drilling of the new vertical well UH.2 will start following the evaluation of the results of UH.1.H1 well performance.

Heritage Pool Proceeding

The Notice of Application was issued on January 27, 2009. The Applicant served and published the Notice of Application as directed by the Board. The registered intervenors in the proceeding were the MNR and Enbridge Gas Distribution Inc. ("EGDI"). On March 12, 2009 the board issued Procedural Order No. 1 setting the schedule for a written proceeding with a transcribed Technical Conference. On March 23, 2009, the Board issued Procedural Order No. 2 releasing the approved Issues List. The Technical Conference was held on March 31, 2009, which was attended by Board Staff, representatives of MNR, EGDI and Union. On April 6, 2009, Union filed its argument-in-chief. On April 7, 2009, the MNR filed a letter in support of Union's application. On April 9, 2009 Board Staff filed submissions, consisting mainly of proposed conditions of approval. On April 16, 2009 the Applicant filed a reply argument to the Board Staff submissions. No other party filed submissions in response to Board Staff proposed conditions. That completed the record of the proceeding.

A map showing locations of the proposed wells within a designated storage area is attached as Schedule 1 to this report.

Scope of the Review

In considering an application for a well drilling license the Board's review under section 40 of the Act typically includes the geological evidence related to the well location, the proposed drilling program, the technical capability of an applicant to conduct the drilling in accordance with applicable standards and codes, and environmental and landowner matters. The following issues have been determined by the Board as a scope of the review of section 40(1) application in the Heritage Pool proceeding.

- Does the geological evidence support the proposed well locations and drilling programs?
- Are the proposed storage wells appropriately designed? Are construction and maintenance plans in order?
- Does the applicant have the technical capability to conduct the drilling in accordance with applicable standards and codes?

- Does the applicant propose an appropriate program to mitigate the environmental impacts and impacts on directly affected properties?

Does the geological evidence support the proposed well locations and drilling programs?

The proposed surface locations and well paths are described in the MNR Applications for a well license (Pre-filed Evidence, Section 4, Schedule 2). The well locations were determined on the basis of data from existing wells within the proposed DSA and the seismic interpretation. Union's evidence stated that the drilling paths were properly engineered and technically feasible. (Pre-filed Evidence, Section 4, page 14, paragraph 7)

A map showing the locations of the proposed I/W wells within the DSA boundary is attached as Schedule 1 to this report.

Are the proposed storage wells appropriately designed? Are construction and maintenance plans in order?

Union's evidence is that all wells and facilities will be designed, constructed, operated, maintained and abandoned in accordance with the OGSRA, its regulations and the Provincial Operating Standards. (Pre-filed Evidence, Section 4, page 14, paragraph 9)

Does the applicant have the technical capability to conduct the drilling in accordance with applicable standards and codes?

The wells will be drilled and constructed to comply with CSA Z341, the OGSRA and its regulations, the Provincial Operating Standards and the *Occupational Health and Safety Act*. For the proposed wells, a drilling program filed with the application contains detailed drilling procedures (Pre-filed Evidence, Section 4, Schedule 3) and casing specifications (Pre-filed Evidence, Section 4, Schedule 4). The drilling programs include the geological prognosis, reporting, the safety procedures required by the *Occupational Health and Safety Act* and the OGSRA, its regulations and the Provincial Operating Standards.

Does the applicant propose an appropriate program to mitigate the environmental impacts and impacts on directly affected properties?

Environmental Protection Plan (“EPP”) was completed by Union in November 2008 and is filed as Section 5 Schedule 1 of the pre-filed evidence. The background information and the baseline conditions for the environmental impact assessment and mitigation were provided in Natural Heritage and Physical Environment Inventory Report (EIR) prepared for Union by Jacques Whitford Limited.

The EPP describes the facilities, construction procedures, identifies potential environmental impact, recommends mitigation and describes public consultation. The EPP was forwarded for review to the ministries members of the Ontario Pipeline Coordinating Committee, First Nations, St. Clair Region Conservation Authority and municipalities. No significant concerns were raised.

Union is committed to implement the mitigation recommended in the EPP and prescribed in the permit approvals and licences. In addition, site-specific mitigation measures will be developed in consultation with individual property owners. Union’s Construction Specifications, which include standard environmental mitigation measures, will be followed. (Pre-filed Evidence, Section 4, pages 17-18, paragraphs 8-12)

Union holds all Gas Storage Leases and P&NG Leases for the private properties in the production unit area, which provide the surface rights needed to drill the proposed wells and construct facilities on the property. (Technical Conference Transcript, page 32, lines 9-10)

Recommendation

The Board’s review of the application for well licences found that the proposed drilling is in the public interest with respect to the integrity of the gas storage reservoir, the safety of drilling operations, the environmental impacts of drilling and construction, and impacts on directly affected landowners. The Board found the Applicant to be technically competent to undertake the planned drilling program and the proposed well completion activities.

In accordance with the Decision with Reasons of May 29, 2009 the Board recommends approval of the Applications for drilling licences for the wells:

- Union Heritage 1 (Horiz.#1) Sombra 7-7-XV;
- Union Heritage 2 Sombra 5-7-XV.

The recommendation is subject to the conditions of approval attached in Schedule 2 to this Report. During the proceeding the Applicant and intervenors had the opportunity to

comment on draft conditions of drilling licences approval proposed by Board Staff. No comments were received from the intervenors. The Applicant stated, in its reply Argument, dated April 16, 2009, that the conditions are acceptable. The Board-approved Conditions deal with potential adverse impacts and effects of the drilling of the wells. According to the Conditions, the Applicant should adhere to the evidence and all the undertakings given at the hearing and to comply with all applicable laws, regulations and codes during construction of the wells.

Furthermore, the Conditions call for land restoration and for minimizing adverse impacts on agricultural land and farming operations. The Conditions require monitoring and reporting to the Board of impacts and their mitigation during and after construction, and the recording of landowner's concerns and reporting on the resolution of these concerns.

The Conditions also set a twelve month term from the date of the Report for the MNR to issue the well licences.

SCHEDULE 1

Union Gas Limited

Application for Wells Licences

EB-2008-0405

Map Showing Location of the Proposed Wells

SCHEDULE 2

Union Gas Limited

Application for Wells Licences

EB-2008-0405

Conditions of Approval

**Application for Wells Licences
EB-2008-0405**

Conditions of Approval

1. General Requirements

- 1.1. Union Gas Limited ("Union) shall adhere to the evidence as filed with the Board in EB-2008-0405 and comply with applicable laws, regulations and codes pertaining to the construction of the proposed wells.
- 1.2. Authorization for the issuance of the drilling licences is limited to twelve months from the date of the Board's Report to the Ministry of Natural Resources.
- 1.3. The authority granted under this Order to Union is not transferable to another party without leave of the Board.

2. Just and Equitable Compensation

- 2.1 Union shall offer to pay landowners and/or tenants just and equitable compensation for any damages, including present and future crop damage arising from: drilling of injection/withdrawal wells; installation of gathering pipelines; access road construction.

3. Construction Requirements

- 3.1 Union shall construct the facilities and restore the land in accordance with its Application and evidence and the undertakings given to the Board, except as modified by this Order and these Conditions of Approval.
- 3.2 Union shall ensure that the movement of equipment is carried out in compliance with all procedures filed with the Board, and as follows:
 - i) Union 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.
- 3.3 Union shall, subject to the recommendation by an independent tile contractor and subject to the landowners' 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.
- 3.4 Union shall implement all the recommendations of the Environmental Protection Plan filed as Section 5 Schedule1 of the pre-filed evidence.

4. Monitoring and Reporting Requirements

- 4.1 Both during and after construction, Union shall monitor the impacts of construction, and shall file four copies of both an interim and a final monitoring report with the Board. The interim monitoring report shall be filed within six months of the in-service date, and the final monitoring report shall be filed within fifteen months of the in-service date. Union shall attach a log of all complaints to the interim and final monitoring reports. The log shall record the times of all complaints received, the substance of each complaint, the actions taken in response, and the reasons underlying such actions.
- 4.2. The interim monitoring report shall confirm Union adherence to Condition 1.1 and shall include a description of the impacts noted during construction and the actions taken or to be taken to prevent or mitigate the long-term effects of the impacts of construction. This report shall describe any outstanding concerns identified during construction.
- 4.3 The final monitoring report shall describe the condition of the rehabilitated land and the effectiveness of the mitigation measures undertaken. The results of the monitoring programs and analysis shall be included and recommendations made as appropriate. Any deficiency in compliance with any of the Conditions of Approval shall be explained.

5. Project and Communication Requirements

- 5.1 For the purposes of these conditions, conformity of the Applicant with CSA Z341.1-06, shall be to the satisfaction of the Ministry of Natural Resources.
- 5.2 Union shall designate one of its employees as project manager who will be responsible for the fulfilment of these conditions, and shall provide the employee's name to the Ministry of Natural Resources, the Board and to all appropriate landowners.
- 5.3 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Natural Gas Applications.