



Ontario
Energy
Board

Commission
de l'énergie
de l'Ontario

DECISION AND ORDER

EB-2021-0205

ENBRIDGE GAS INC.

**Application for Leave to Construct Natural Gas Pipeline and
Associated Facilities in the Municipality of Greenstone**

BEFORE: Robert Dodds
Presiding Commissioner

David Sword
Commissioner

March 17, 2022

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1 OVERVIEW

On September 10, 2021, Enbridge Gas Inc. (Enbridge Gas) applied to the Ontario Energy Board (OEB) under section 90 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (OEB Act), for an order granting leave to construct a natural gas pipeline and associated facilities in the Municipality of Greenstone (Project). The Project is needed to provide service to the Greenstone Gold Mine near the community of Geraldton, which is located within the Municipality of Greenstone, approximately 270 km northeast of Thunder Bay. The Greenstone Gold Mine is an open pit mine that will be owned and operated by Greenstone Gold Mine LP.

The Project involves:

- 13 km of 6-inch diameter extra high-pressure steel pipeline
- a new metering station
- a rebuild of the existing TransCanada PipeLines Limited/Enbridge Gas custody transfer station

The Project would start at the Enbridge Gas Custody Station located adjacent to the TransCanada pipeline, 3.5 km north of the community of Geraldton and terminate south of TransCanada Highway 11 at the Greenstone Gold Mine site. The general location of the Project is shown on a diagram in Schedule A to this decision and order.

The OEB grants leave to construct a natural gas pipeline and associated facilities as described in the Application, subject to the Conditions of Approval (see Schedule B), based on the following findings:

- there is a need for natural gas service to meet the energy demand of the Greenstone Gold Mine.
- the proposed route for a dedicated pipeline and station facilities to the Project is the preferred route.
- the Project meets the economic test.
- the environmental impacts of the Project are being adequately addressed.
- the OEB approves the forms of landowner agreements related to the construction of the Project.

- Enbridge Gas has satisfied the requirement of the Indigenous Consultation in accordance with OEB's Environmental Guidelines.
- the OEB accepts the Standard Conditions of Approval with modification of condition 2(a)(i) to reduce the construction start notice requirement to 5 days from the current 10 days.

2 PROCESS

The OEB held a written hearing to consider this application. A Notice of Hearing was issued on October 4, 2021. Each of Environmental Defence Research Foundation (Environmental Defence), Minodahmun Development LP (Minodahmun) and Pollution Probe applied for and were granted intervenor status and cost eligibility. On November 26, 2021 the OEB issued a decision partially granting Enbridge Gas' request that certain materials be made confidential.

Minodahmun is a 100% First Nation owned partnership of Animbiigoo Zaagi'igan Anishinaabek, Aroland First Nation and Ginoogaming First Nation.

The process consisted of discovery on Enbridge Gas' evidence through written interrogatories, written submissions by OEB staff and intervenors, and a written reply submission by Enbridge Gas, filed on January 21, 2022.

On March 4, 2022 Enbridge Gas updated the evidence by filing a Letter of Opinion¹ issued to Enbridge Gas by the Ministry of Energy.

On March 7, 2022 Minodahmun filed a letter indicating that it reached a legally binding accommodation agreement with Enbridge Gas and that it is no longer asking the OEB to add previously proposed conditions to its decision and order with respect to the Project.

¹ In the Letter of Opinion dated March 3, 2022 the Ministry of Energy confirmed that procedural aspects of Indigenous consultation undertaken by Enbridge Gas are satisfactory. More discussion related to the Letter of Opinion may be found in section 3.6 - Indigenous Consultation.

3 DECISION AND FINDINGS

In accordance with the OEB's Standard Issues List for natural gas leave to construct applications, the decision and findings are structured to address the following issues:

- Need for the Project
- Project Alternatives
- Project Cost and Economics
- Environmental Impacts
- Landowner Agreements
- Indigenous Consultation
- Conditions of Approval

3.1 Need for the Project

The Project consists of a dedicated pipeline and station facilities required exclusively to meet the demand of the Greenstone Gold Mine. The Project will be used for gas-fired power generation to operate the Greenstone Gold Mine facilities and to provide process and building heat. Enbridge Gas determined that the capacity or designed pressure specification of the existing distribution system in the Municipality of Greenstone could not support the demand of the Greenstone Gold Mine.²

The need for the Project is underpinned by a 10-year service contract between Enbridge Gas and Greenstone Gold Mine LP (Contract). The Contract was executed on February 22, 2021. The in-service date is March 1, 2023. The Contract includes Rate 100 Large Volume High Load Factor Firm Service and Rate 25 Large Volume Interruptible Service. Enbridge Gas noted that the Project is included in its asset management plan, filed in the 2021 Rates proceeding³.

Intervenors and OEB staff asked questions to probe the evidence on some aspects of the Contract and on alternatives to the Project to meet the need, but generally did not dispute the underlying need for the Project to supply gas to the Greenstone Gold Mine.

² In the Exhibit I.STAFF.1 a) and b) Enbridge Gas stated that its analysis of the forecasted growth of the Geraldton's distribution system demand through 2042 showed that the forecasted growth can be served by the existing distribution system.

³ EB-2020-0181, Exhibit C, Tab 2, Schedule 1, page 381

Findings

The OEB finds that there is a need for natural gas service to meet the energy demand of the Greenstone Gold Mine based on Enbridge Gas' evidence that there is not sufficient capacity within the existing natural gas distribution network in the Municipality of Greenstone to meet the needs of the Greenstone Gold Mine.

The OEB notes that Enbridge Gas has also secured a ten-year service Contract with Greenstone Gold Mine LP to provide natural gas services to the mine, and that all three intervenors in the application, as well as OEB staff, do not dispute the underlying need for the Project.

3.2 Project Alternatives

Enbridge Gas considered a number of alternative routes for the Project and stated that the proposed Project was the most viable option to provide service to the Greenstone Gold Mine.

Enbridge Gas submitted that it complied with the guidance provided in the OEB's *Integrated Resource Planning Framework for Enbridge Gas* (IRP Framework)⁴ when considering Integrated Resource Planning alternatives.

Enbridge Gas explained that it rejected Integrated Resource Planning alternatives on the basis that this project falls under the category of "customer-specific builds" as defined in the OEB's Integrated Resource Planning (IRP) Framework:

Customer-Specific Builds – *If an identified system need has been underpinned by a specific customer's (or group of customers') clear request for a facility project and either the choice to pay a Contribution in Aid of Construction or to contract for long-term firm services delivered by such facilities, then an IRP evaluation is not required.*⁵

OEB staff submitted that Enbridge Gas's proposal is the best alternative to meet Greenstone Gold Mine's energy needs.

Environmental Defence, Minodahmun and Pollution Probe supported a more thorough assessment of Integrated Resource Planning alternatives for the Project. These

⁴ Approved by the OEB in EB-2020-0091, Decision and Order, July 22, 2021

⁵ EB-2020-0091, Decision and Order, July 22, 2021, Appendix A

intervenors argued that a full and comprehensive assessment of Integrated Resource Planning alternatives should be included in future pipeline projects.

Environmental Defence recognized that although “it is too late” to consider IRP alternatives for this Project “...additional IRP consideration should occur in future cases...”.

Minodahmun emphasized Demand Side Management programs to potentially reduce greenhouse gas emissions. Minodahmun proposed that the OEB include, as a condition approval, that Enbridge Gas file with the OEB within 15 months of the in-service date a report specifying Demand Side Management programs offered to Greenstone Gold Mine LP based on Enbridge Gas’ 2023-2027 Demand Side Management Plan, which is currently before the OEB in another proceeding.⁶

Pollution Probe submitted that Enbridge Gas should more rigorously assess Integrated Resource Planning alternatives at the preliminary stages of project development in future cases⁷. Pollution Probe observed that Demand Side Management programs by a single customer, such as Greenstone Gold Mine LP, can result in reduction of the pipeline size needed to address customer’s demand.

Enbridge Gas replied that the Project design was finalized in 2020 and that Enbridge Gas did not propose any Demand Side Management programs to Greenstone Gold Mine LP at that time. Enbridge Gas also noted that the Integrated Resource Planning Framework was issued on July 22, 2021, about five months after the Contract with the Greenstone Gold Mine LP was executed.⁸

Commenting on the option to reduce the pipeline size as a result of Demand Side Management program implementation by Greenstone Gold Mine LP, Enbridge Gas stated that it was not aware of opportunities that would “...reliably and economically reduce the size of the pipeline in the short or long-term.”⁹

Enbridge Gas noted that it has filed a fully integrated Demand Side Management Plan for the 2023-2027 period, which is currently under review by the OEB.¹⁰ Enbridge Gas submitted that it had informed Greenstone Gold Mine LP about its existing Demand

⁶ EB-2021-0002

⁷ Pollution Probe Written Submission, January 14, 2022, page 7

⁸ Enbridge Gas Reply Submission, January 21, 2022, page 6, paragraphs 13 and 14

⁹ Exhibit I.Staff.3 a)

¹⁰ EB-2021-0002

Side Management programs and that such program offerings would be available to all its customers, including the Greenstone Gold Mine LP, in the future.

Regarding the routing alternatives, Enbridge Gas considered three alternatives through or around the community of Geraldton. Enbridge Gas selected the proposed route based on the least impacts and disruption to local businesses and residents along the municipal right of ways as compared with the other route alternatives.

Findings

The OEB finds that the proposed route for a dedicated pipeline is the preferred route, being the least disruptive of the routes considered for the Greenstone Gold Mine project.

The OEB accepts Enbridge Gas's position that, as a customer-specific build, an Integrated Resource Planning evaluation was not required for the Greenstone Gold Mine project. The OEB notes that future expansions and leave-to-construct applications may well include a more thorough assessment of Integrated Resource Planning alternatives, where appropriate.

Several comments were made regarding Demand Side Management programs as a means to reduce natural gas consumption, and possibly allow for a smaller diameter pipeline to the Project.

The OEB finds that filing of a report identifying the specific Demand Side Management program offerings available to Greenstone Gold Mine LP is not required, since Enbridge Gas confirms that it has had discussions with Greenstone Gold Mine LP in this regard. As noted above, Enbridge Gas' Demand Side Management Plan for 2023-2027 is currently before the OEB for consideration.

Additionally, the OEB agrees with Enbridge Gas's statement that customers such as Greenstone Gold Mine LP are sophisticated energy consumers given that natural gas and electricity represent some of their more significant cost inputs. Such customers are generally active in historic and current OEB-approved Demand Side Management programs, implementing energy conservation to optimize their operations.

3.3 Project Cost and Economics

Enbridge Gas provided estimated costs for the pipeline, ancillary facilities, and total costs.¹¹ Total estimated costs for the Project are \$25.8 M, consisting of \$23.0 M for pipeline costs and \$2.7 M for ancillary facilities costs.

The overall Contribution in Aid of Construction by Greenstone Gold Mine LP was set at \$20.3 M.

Enbridge Gas indicated that the Contract provides for a true up of the Contribution in Aid of Construction after the actual final Project costs are incurred. Enbridge Gas estimated the net costs remaining after the full Contribution in Aid of Construction (which includes a portion of the ancillary facilities cost) is paid by Greenstone Gold Mine LP, at \$5.5 M. Enbridge Gas completed a Discounted Cash Flow analysis for the Project in accordance with the with the OEB's *E.B.O. 188 Report of the Board on Natural Gas System Expansion* (E.B.O. 188).

The Discounted Cash Flow analysis, when taking the Contribution in Aid of Construction into account, indicated that the Project is economically feasible with a Profitability Index (PI) of 1.0 and Net Present Value (NPV) of zero.

Environmental Defence and Pollution Probe raised concerns with potential risk to ratepayers if Greenstone Gold Mine LP fails to meet its financial obligations.

Environmental Defence commented that Enbridge Gas should "...secure firm financial guarantees with the parent companies to protect ratepayers if the mine closes before the 10-year period over which the pipeline costs are to be recouped through rates."¹² Environmental Defence noted that Enbridge Gas did not have financial guarantees from the parent companies so that it could cover distribution charges estimated at approximately \$789,000 each year between 2023 and 2033. Environmental Defence observed that the mine is planned to be in operation for 15 years and that operational costs in this five-year difference are not guaranteed to be covered by the Contract.

Pollution Probe argued that Enbridge Gas's ratepayers would bear the risk of the net costs not being recovered from the Contribution in Aid of Construction. Pollution Probe suggested that the OEB add a condition of approval that Enbridge Gas notify

¹¹ Enbridge Gas Evidence: Exhibit D, Tab 1, Schedule 1, page 1, Table 1: Estimated Project Costs

¹² Environmental Defence Written Submission, January 14, 2022, page 1

the OEB if the Contribution in Aid of Construction agreement changes or if Greenstone Gold Mine LP cannot pay the Contribution in Aid of Construction due to a material change.¹³

Pollution Probe raised the issue of financial risk to the ratepayers if the Project becomes a stranded asset. Pollution Probe's view was that the Contract did not ensure a financial commitment to recovery of the costs for a dedicated capital asset by the Greenstone Gold Mine LP beyond the 10-year time horizon.¹⁴ Pollution Probe also was concerned with the risk to ratepayers if Greenstone Gold Mine LP and its partners were to go bankrupt.

In response to concerns raised by Environmental Defence and Pollution Probe, Enbridge Gas submitted that the terms the Contract allow Enbridge Gas to require that Greenstone Gold Mine LP "...provide financial assurances acceptable to the Company at any point after June 1, 2022."¹⁵ Enbridge Gas stated that it "...does not believe it is necessary for the OEB to condition any approval upon obtaining such financial assurances."¹⁶

Enbridge Gas explained that if Greenstone Gold Mine LP fails to make payments and discontinues its operations or files for bankruptcy before the 10-year term of the Contract had expired, it had financial assurances in place and could sue Greenstone Gold Mine LP for breach of contract, and act on any financial assurances it has in place to recover charges for the firm minimum annual volume of services that Greenstone Gold Mine LP would have been required to pay for the remaining term of the Contract.

OEB staff and Minodahmun indicated no concerns with the cost recovery for the Project. However, Minodahmun asked Enbridge Gas to provide an estimate of the Project costs of consulting First Nations for the Project. Minodahmun (MDLP) referred to a recent electricity rates OEB decision¹⁷ (Elexicon proceeding), saying that this information was provided to the OEB and suggesting that Enbridge Gas provide information on the above costs in its future applications before the OEB.

¹³ Pollution Probe Written Submission, January 14, 2022, page 4

¹⁴ Response to I.PP.6

¹⁵ Enbridge Gas Reply Submission, January 21, 2022, pages 8 paragraph 19

¹⁶ Enbridge Gas Response to I.ED.3

¹⁷ EB-2021-0015: Elexicon Energy Inc. Application for electricity rates beginning January 1, 2022 – OEB Procedural Order No. 2, October 19, 2021 (Revised November 17, 2021)

Enbridge Gas declined to provide this information saying it was beyond the scope of this proceeding and that "...while the OEB accepted these issues in the Elexicon proceeding, it does not appear that such costs were actually produced or examined in that proceeding." Enbridge Gas also observed that such cost information is commercially sensitive "...and not appropriate for public disclosure..." because of ongoing active negotiations for an accommodation with MDLP.¹⁸

Findings

The OEB finds that the Project meets the relevant economic tests and does not result in additional costs to be borne by existing ratepayers.

The OEB is satisfied that the contractual arrangements for Greenstone Gold Mine LP to provide Enbridge Gas with financial assurances, coupled with other legal avenues, are sufficient to safeguard the interests of ratepayers for the duration of the term of the natural gas supply Contract and beyond.

It is not necessary for the OEB to consider whether information related to the costs of consulting First Nation communities should be filed since agreement with Minodahmun has been reached.

3.4 Environmental Impacts

Enbridge Gas retained Stantec Consulting Ltd (Stantec) to conduct an environmental and socio-economic study and public consultation, and to complete an Environmental Report. The environmental review and the consultation process were conducted in accordance with the OEB's *Environmental Guidelines for Location, Construction and Operation of Hydrocarbon Pipelines in Ontario* (OEB's Environmental Guidelines).

The Environmental Report and associated studies assessed the existing bio-physical and socio-economic environment in the study area; considered alternative routes and recommended the proposed route as the preferred route; documented the public consultation; and included impacts assessment and proposed mitigation measures to minimize the impacts.

Enbridge Gas filed the Environmental Report was filed as part of its evidence.

¹⁸ Enbridge Gas Reply Submission, January 21, 2022, pages 8-9 paragraph 20

The consultation included the Ontario Pipeline Coordinating Committee (the OPCC, a committee comprised of various Ontario government ministries and agencies that have a role in reviewing natural gas projects) members, municipal officials, and Indigenous groups. The records of the consultation are part of the Environmental Report.

Enbridge Gas filed an updated OPCC consultation log as of December 17, 2021¹⁹ that included, among other things, a record of communications with the Ministry of Environment (Ministry) regarding the Ministry's concerns with the assessment of the environmental impact of a closed municipal landfill within 500 meters of the Project. In its reply submission, Enbridge Gas submitted that it had received confirmation from the Ministry that it was satisfied with the Enbridge Gas's response regarding the closed landfill.²⁰

Enbridge Gas stated that "...As of the time of this Reply Submission, all issues and questions identified by Ontario Pipeline Coordinating Committee members have been resolved."²¹

Pollution Probe commented on the OPCC review process and suggested that the process could be improved "...due in part to the lack of positive confirmation of approval from every individual [OPCC] member".²² Enbridge Gas replied that the OEB Guidelines did not require a positive confirmation that there are no concerns from each member.²³ On March 4, 2022, Pollution Probe and Enbridge Gas filed additional correspondence on this matter.²⁴

OEB staff submitted that Enbridge Gas has completed the Environmental Report in accordance with the OEB's Environmental Guidelines.

Enbridge Gas has committed to complying with all mitigation measures recommended in the Environmental Report and confirmed it would prepare the recommended Environmental Protection Plan for the Project in advance of mobilization and

¹⁹ Response to I.STAFF.5, a) Attachment 1

²⁰ Enbridge Gas Reply Submission, January 21, 2022, page 10, paragraph 24

²¹ Enbridge Gas Inc. Reply Submission, January 21, 2022, page 10, paragraph 24

²² Pollution Probe Written Submission, January 14, 2022, pages 8 and 9

²³ Enbridge Gas Inc. Reply Submission, page 11, paragraph 26

²⁴ On March 4, 2022 Pollution Probe restated its comment on the OPCC consultation process and confirmed that its submission dated January 11, 2022 remained unchanged. On February 4, 2022 Enbridge Gas filed a letter responding to the Pollution Probe's comment that its position on the OPCC process expressed in the written reply submission dated January 21, 2022 remained unchanged.

construction start. Enbridge Gas explained that the Environmental Protection Plan would incorporate the mitigation measures identified in the Environmental Report and comments received in the consultation with the OPCC and regulatory agencies.

Pollution Probe submitted that the Environmental Protection Plan should be completed and filed with the evidence in future applications. Minodahmun submitted that Enbridge Gas should incorporate Indigenous Traditional Knowledge in preparation of the Environmental Protection Plan. Enbridge Gas has agreed as part of its evidence to consider Indigenous Traditional Knowledge in preparation of Environmental Protection Plans.

Pollution Probe commented that permits and approvals should be obtained prior to construction start and recommended that the OEB include a condition that all approvals and permits be obtained prior to construction start.

Enbridge Gas identified approvals, permits and easements required for crossings, location, and construction of the Project. Enbridge Gas agreed with all of the standard conditions of approval including a condition²⁵ which states that Enbridge Gas will obtain all the permits and approvals required to construct, operate and maintain for the Project.

Enbridge Gas did not anticipate any delays in obtaining the permits and approvals.²⁶

OEB staff had no concerns with the environmental aspects of the Project, given that Enbridge Gas is committed to implementing the mitigation measures set out in the Environmental Report and to completing the Environmental Protection Plan prior to the start of construction.

OEB staff noted that the OEB's Standard Conditions of Approval for leave to construct require Enbridge Gas to obtain all necessary approvals, permits, licences, and certificates needed to construct, operate and maintain the proposed Project. In addition, OEB staff noted that these conditions also ensure that the environmental impacts of the Project are addressed, mitigated and monitored.

²⁵ See condition no. 3 in Schedule B of this Decision and Order

²⁶ Enbridge Gas Response to interrogatory I.STAFF.10c)

Findings

The OEB is satisfied that the environmental impacts of the Project are being adequately addressed. This is supported by Enbridge Gas's commitment to implement the mitigation measures set out in the Environmental Report and to complete the Environmental Protection Plan prior to the start of construction. The OEB notes that the Ontario Pipeline Coordinating Committee was consulted regarding the Project and did not file any concerns.

The OEB further notes that one of the conditions to this approval requires Enbridge Gas to obtain all approvals and permits necessary for the Project prior to the start of construction.

Minodahmun submitted that Enbridge Gas should incorporate Indigenous Traditional Knowledge in preparation of the Environmental Protection Plan (EPP). The OEB notes that this request was accepted by Enbridge.²⁷

Pollution Probe had expressed concern over elements of the review undertaken by the OPCC and offered suggestions on how it might be improved going forward. The OEB finds the process related to the review by the OPCC to be sufficient for the purposes of this application. However, Pollution Probe may wish to take this issue up directly with the OPCC and also with OEB staff outside this proceeding.

3.5 Landowner Agreements

Enbridge Gas stated that most of the proposed pipeline will be located within existing road allowances. Enbridge Gas provided a list of easements required for the location and construction of the Project, indicating the ownership, type of easement, location, and dimensions²⁸. Regarding permanent easement rights, Enbridge Gas's application indicated that it needs only one permanent easement from Greenstone Gold Mines GP Inc. and potentially another from Canadian North Railway Company. In its reply submission, Enbridge Gas stated that the permanent easement from Canadian North Railway Company would not be required.²⁹

All other land easements required for the Project are for temporary land use rights during construction and restoration after construction. Enbridge Gas stated that it

²⁷ Enbridge Gas Inc. Reply Submission, January 21, 2022 page 16

²⁸ Evidence, Exhibit G, Tab 1, Schedule 1, Attachment 5

²⁹ Enbridge Gas Reply Submission, January 21, 2022, page 12, paragraph 29

would determine specific locations during construction in collaboration with the contractor. Enbridge Gas stated that based on discussions with landowners, it anticipated no issues in acquiring permanent or temporary easement rights for the Project³⁰.

Enbridge Gas filed proposed forms of permanent easement (Pipeline Easement) and temporary easement for OEB approval.³¹ Enbridge Gas indicated that both forms are modified versions of previously approved forms approved by the OEB in Enbridge Gas' 2021-2022 Storage Enhancement Project.³² For comparison, Enbridge Gas filed the marked modified forms to show the changes. Enbridge Gas submitted that the modifications to the forms are "...minor and of housekeeping nature."³³

OEB staff submitted that the OEB should approve the proposed forms of Permanent Easement and Temporary Land Use Agreement as both contain only minor modifications to the forms previously approved by the OEB. No other party commented on the forms of landowner agreement.

Findings

The OEB approves the forms of landowner agreements provided by Enbridge Gas. The OEB notes that the majority of the route is along existing rights-of-way and finds that the land acquisition approach undertaken by Enbridge Gas has been prudent and in keeping with standard forms of landowner agreements for such land uses.

3.6 Indigenous Consultation

In accordance with the process set in the OEB's Environmental Guidelines, Enbridge Gas has been consulting with Indigenous communities potentially affected by the Project. On January 30, 2019, the Ministry of Energy (Ministry)³⁴ formally delegated the procedural aspects of the Crown's duty to consult for the Project to Enbridge Gas

³⁰ Response to I.STAFF.8

³¹ Evidence Exhibit G, Tab 1, Schedule 1, Attachment 1, Attachment 2, Attachment 3, Attachment 4

³² EB-2020-0256

³³ Response to I.STAFF.9 b)

³⁴ Since Enbridge Gas started the Indigenous consultation process on October 30, 2019, the Ministry of Energy has been renamed. It was formerly named Ministry of Energy, Northern Development and Mines and subsequently restructured to Ministry of Energy and Ministry of Northern Development, Mines, Natural Resources and Forestry.

(Delegation Letter). In the Delegation Letter the Ministry of Energy identified the following Indigenous communities that Enbridge Gas should consult:

- Ginoogaming First Nation
- Aroland First Nation
- Long Lake No. 58 First Nation
- Animbiigoo Zaagi'igan Anishinaabek
- Biinjitiwaabik Zaagi'igan Anishinaabek
- Greenstone Metis Council
- Red Sky Metis Independent Nation

The Ginoogaming First Nation, Aroland First Nation and the Animbiigoo Zaagi'igan Anishinaabek are members of Minodahmun Development LP partnership (Minodahmun), which is a registered intervenor in this proceeding.

According to Minodahmun's intervention request, its members are affected by the Project with respect to treaty rights, land use, cultural heritage and economic interest. In addition to consultation with Enbridge Gas about the Project, the Minodahmun has signed a Long-Term Relationship Agreement with Greenstone Gold Mine LP (LTRA).³⁵

Pursuant to the Environmental Guidelines, Enbridge Gas was required to file an Indigenous Consultation Report with its application describing (among other things) the consultation activities it had undertaken and a description of what, if any accommodation is proposed with respect to the Project.

Enbridge Gas provided a description of the outcomes of the Indigenous consultation, including commitments it made to Indigenous communities.

These commitments relate to environmental matters, cultural heritage, Indigenous communities' involvement in the Environmental Protection Plans and construction.³⁶ Enbridge Gas also confirmed that it had provided capacity funding to the Indigenous communities and that the details of the funding are confidential.³⁷

³⁵ The Long-Term-Relationship-Agreement formally sets Greenstone Gold Mine's commitments towards accommodating the Minodahmun's concerns related to the environment, social and cultural practices and addresses employment, training, business and contracting opportunities.

³⁶ Response to I.MDLP 3 b)

³⁷ Response to I.MDLP.3

Enbridge Gas provided the Indigenous Consultation Report to the Ministry of Energy.³⁸ On March 4, 2022, Enbridge Gas filed a Letter of Opinion it had received from the Ministry on March 3, 2022. The Letter of Opinion states that “based on the information provided and through contacting the potentially impacted Indigenous communities directly, [the Ministry] is of the opinion that the procedural aspects of consultation undertaken by Enbridge Gas Inc. to date for the purposes of the Ontario Energy Board’s Leave to Construct for the Greenstone Pipeline Project is satisfactory.”

OEB staff’s submission suggested that the OEB approve the application conditional on receiving the Ministry of Energy’s Letter of Opinion. However, the Letter of Opinion has now been filed, and such a condition is therefore unnecessary. OEB staff identified no other concerns.

In its initial written submission filed on January 14, 2022, Minodahmun presented a number of concerns regarding the consultation with Enbridge Gas. Minodahmun’s position was that “...commitments require a legally binding instrument (agreement) in order to be effectively dispositioned.”³⁹ This submission requested that the OEB impose a number of additional conditions on any approval to ensure that a binding agreement was reached. However, on March 7, 2022 Minodahmun filed a letter confirming that it had reached an accommodation agreement with Enbridge Gas, and that it was no longer seeking any additional conditions to an OEB approval.

Findings

The OEB is satisfied that Enbridge Gas followed the OEB’s Environmental Guidelines with respect to Indigenous Consultation and finds the Ministry of Energy’s Letter of Opinion March 3, 2022 to be adequate evidence that Enbridge Gas’ efforts to date are satisfactory to discharge the Crown’s Duty to Consult with respect to the Project.

The OEB notes that the Letter of Opinion was based, in part, on the information received by the Ministry of Energy through its direct contact with the potentially affected Indigenous communities.

³⁸ On June 4, 2021, Ministry of Energy found that the Project presented on May 10, 2021, is not materially different from the project it previously reviewed in 2019. Subsequently, Enbridge Gas filed, on September 10, 2021, the updated Indigenous Consultation Report to the Ministry of Energy. Enbridge Gas also filed with the OEB the updated Indigenous Consultation Log on November 26, 2021.

³⁹ MDLP Written Submission, January 14, 2022, page 2

The OEB expects that Enbridge Gas will continue its consultation activities with the affected Indigenous communities throughout the life of the Project.

Minodahmun proposed a number of conditions of approval during the course of the written hearing. However, in their letter of comment to the OEB dated March 7, 2022, Monodahmun advised that they have successfully executed a legally binding agreement with Enbridge Gas on behalf of Animbiigoo Zaagi'igan Anishinaabek, Aroland First Nation and Ginoogaming First Nation, and that they are no longer seeking additional conditions in the OEB's decision and order.

3.7 Conditions of Approval

Section 23 of the OEB Act permits the OEB, when making an order, to impose such conditions as it considers appropriate.

OEB staff sought comments from Enbridge Gas on the OEB's Standard Conditions of Approval for natural gas-related leave to construct applications⁴⁰. In response, Enbridge Gas agreed with the Standard Conditions of Approval with one exception.⁴¹ Enbridge Gas requested that the minimum notice period for commencement of construction, set out in 2(a)(i) of the Standard Conditions of Approval, be at least 5 days prior to the commencement of construction instead of 10 days.

OEB staff submitted that the OEB consider two amendments to the Standard Conditions of Approval: (i) modifying condition 2(a)(i) as proposed by Enbridge Gas; and (ii) adding a condition making leave to construct conditional on Enbridge Gas receiving and filing with the OEB a Letter of Opinion from the Ministry of Energy.

Regarding the modification to the condition 2(a)(i), Enbridge Gas explained that the initial stages of construction require blasting and tree removal and that Enbridge Gas wanted to complete these activities prior to avian nesting time. Enbridge Gas further explained that reducing the construction start notice requirement to 5 days would allow completion of these activities without potential to harm to avian nesting. This was premised on the start of construction in March 2022 and the OEB's leave to construct granted by March 23, 2022.⁴²

⁴⁰ The link to the OEB Standard Conditions for section 90 applications was also provided in the notice of application together with the Standard Issues List for section 90 applications.

⁴¹ Response to I.STAFF.12

⁴² Enbridge Gas Response to interrogatory I.STAFF.12 a)

OEB staff's proposed condition with respect to a Letter of Opinion from the Ministry of Energy is no longer relevant, as the Letter of Opinion has now been filed.

Findings

The OEB accepts the Standard Conditions of Approval with modification of condition 2(a)(i) to reduce the construction start notice requirement to 5 days from the current 10 days.

4 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Enbridge Gas Inc. is granted leave, pursuant to section 90(1) of the OEB Act, to construct the Project in the Municipality of Greenstone as described in its application.
2. Pursuant to section 97 of the OEB Act, the OEB approves the form of Easement Agreement and Form of Temporary Land Use Agreement that Enbridge Gas Inc. has offered or will offer to each owner of land affected by the Project.
3. Leave to construct is subject to Enbridge Gas Inc. complying with the Conditions of Approval set out in Schedule B.
4. The information which had previously been designated by the OEB as confidential on an interim basis shall be treated as confidential on a final basis.
5. Parties in receipt of confidential information shall either return the subject information to the Registrar and communicate to the Enbridge Gas Inc. that they have done so; or destroy and/or expunge the information and execute a Certificate of Destruction, following the end of this proceeding, in accordance with the OEB's *Practice Direction on Confidential Filings*. The Certificate must be filed with the Registrar and a copy sent to Enbridge Gas Inc.
6. Eligible intervenors shall file with the OEB and forward to Enbridge Gas Inc. their respective cost claims in accordance with the OEB's *Practice Direction on Cost Awards* on or before **March 31, 2022**.
7. Enbridge Gas Inc. shall file with the OEB and forward to intervenors any objections to the claimed costs of the intervenors on or before **April 7, 2022**.
8. If Enbridge Gas Inc. objects to any intervenor costs, those intervenors shall file with the OEB and forward to Enbridge Gas Inc. their responses, if any, to the objections to cost claims on or before **April 14, 2022**.
9. Enbridge Gas Inc. shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

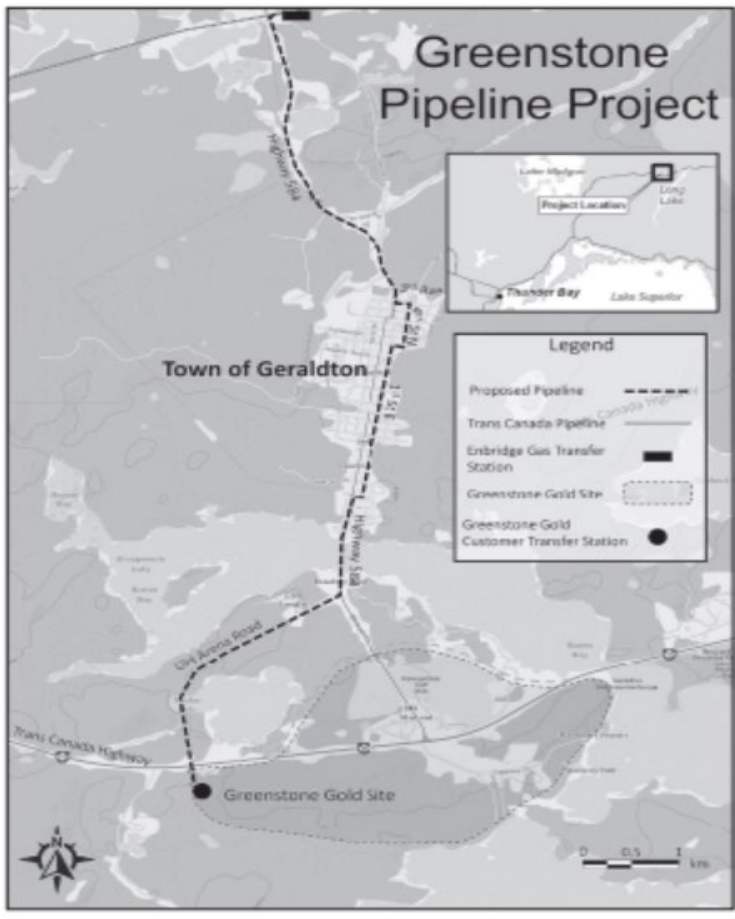
DATED at Toronto March 17, 2022

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar

SCHEDULE A
DECISION AND ORDER
ENBRIDGE GAS INC.
EB-2021-0205
MARCH 17, 2022

Greenstone Pipeline Project



SCHEDULE B
DECISION AND ORDER
ENBRIDGE GAS INC.
EB-2021-0205
MARCH 17, 2022

**Leave to Construct Application under
Section 90 of the OEB Act**

**Enbridge Gas Inc.
EB-2021-0205
Conditions of Approval**

1. Enbridge Gas Inc. shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2021-0205 and these Conditions of Approval.
2. (a) Authorization for leave to construct shall terminate 12 months after the decision is issued unless construction has commenced prior to that date.
(b) Enbridge Gas Inc. shall give the OEB notice in writing:
 - i. of the commencement of construction, at least 5 days prior to the date construction commences
 - ii. of the planned in-service date, at least 10 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
 - iv. of the in-service date, no later than 10 days after the facilities go into service
3. Enbridge Gas Inc. shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project.
4. Enbridge Gas Inc. shall implement all the recommendations of the Environmental Report filed in the proceeding, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review.
5. Enbridge Gas Inc. shall advise the OEB of any proposed change to OEB-approved construction or restoration procedures. Except in an emergency, Enbridge Gas Inc. 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. Concurrent with the final monitoring report referred to in Condition 8(b), Enbridge Gas Inc. shall file a Post Construction Financial Report, which shall provide a variance analysis of project cost, schedule and scope compared to the estimates filed in this proceeding, including the extent to which the project contingency was utilized. Enbridge Gas Inc. shall also file a copy of the Post Construction Financial Report in the proceeding where the actual capital costs of the project are proposed to be included in rate base or any proceeding where Enbridge Gas Inc. proposes to start collecting revenues associated with the Project, whichever is earlier.

7. Both during and after construction, Enbridge Gas Inc. shall monitor the impacts of construction, and shall file with the OEB 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 Enbridge Gas Inc. 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 Enbridge Gas Inc., 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
 - v. provide a certification, by a senior executive of the company, that the company has obtained all other approvals, permits, licenses, 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 Enbridge Gas Inc. 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 of construction
 - iv. include the results of analyses and monitoring programs and any recommendations arising therefrom
 - v. include a log of all complaints received by Enbridge Gas Inc., including the date/time the complaint was received; a description of the complaint; any actions taken to address the complaint; and the rationale for taking such action.
8. Enbridge Gas Inc. shall designate one of their employees as project manager who will be the point of contact for these conditions and shall provide the employee's name and contact information to the OEB and to all affected landowners and shall clearly post the project manager's contact information in a prominent place at the construction site.