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February 13, 2009

Via email: [BoardSec@oeb.gov.on.ca](mailto:BoardSec@oeb.gov.on.ca)

Attention: Kirsten Walli, Board Secretary  
Ontario Energy Board  
PO Box 2319  
2300 Yonge St.  
Toronto, ON M4P 1E4

Dear Madam Secretary:

**RE: GAPLO-Union (Dawn Gateway) / CAPLA  
Intervention Request Letter  
Union Gas Application for Leave to Sell Natural Gas Pipeline  
EB-2008-0411**

We are counsel to GAPLO-Union (Dawn Gateway) and the Canadian Alliance of Pipeline Landowners' Associations ("CAPLA"), which are organizations representing landowners directly affected by the proposed sale of a natural gas pipeline by Union Gas Limited. Please find enclosed for filing with the Board a Notice of Intervention delivered on behalf of GAPLO-Union (Dawn Gateway), CAPLA and the landowners listed in Schedule "A" to the Notice of Intervention.

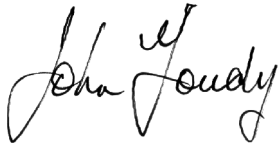
GAPLO-Union (Dawn Gateway) and CAPLA request that the Board proceed by oral hearing in this matter. In addition, upon the grounds provided in the enclosed Notice of Intervention and pursuant to Section 4.01 of the Board's Practice Direction on Cost Awards, GAPLO-Union (Dawn Gateway) and CAPLA request determination by the Board of their eligibility for a cost award in this matter.

We trust this is satisfactory. If you require any additional information, please do not hesitate to let us know.

Yours very truly,



**COHEN HIGHLEY** LLP

A handwritten signature in black ink, reading "John D. Goudy". The signature is written in a cursive style with a large, stylized "J" and "G".

John D. Goudy  
email: [goudy@cohenhighley.com](mailto:goudy@cohenhighley.com)

Encl.

c.c : Union Gas Limited, Applicant



## ONTARIO ENERGY BOARD

IN THE MATTER OF The Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B, and in particular, s.43(1) thereof;

AND IN THE MATTER OF an Application by Union Gas Limited (“Union”) for an Order granting leave to sell 11.7 kilometres of 24 inch diameter steel natural gas pipeline running between the St. Clair Valve Site and Bickford Compressor Site in the Township of St. Clair.

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### NOTICE OF INTERVENTION

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1. GAPLO-Union (Dawn Gateway), the Canadian Alliance of Pipeline Landowners’ Associations (“CAPLA”) and the directly affected individuals listed in **Schedule “A”** attached hereto hereby apply for full-time intervenor status in the above-referenced proceeding.

### NATURE OF INTEREST

2. GAPLO-Union (Dawn Gateway) is a voluntary association including the above-named landowners who are directly affected by Union’s application for leave to sell its pipeline running between the St. Clair Valve Site and Bickford Compressor Site.



3. GAPLO-Union (Dawn Gateway) is a member association of CAPLA, which is a national umbrella organization representing pipeline landowner associations across Canada. CAPLA's member associations include both landowner members with provincially-regulated pipelines as well as landowner members with federally-regulated pipelines.

4. All of the individual members of GAPLO-Union (Dawn Gateway) listed in Schedule "A" hereto personally or through related corporations own land which is affected by the pipeline for which Union seeks leave to sell and accordingly are parties affected by Union's application. New landowner members continue to join GAPLO-Union (Dawn Gateway) and GAPLO-Union (Dawn Gateway) will provide updates to **Schedule "A"** as necessary.

## **INTENTION TO PARTICIPATE**

5. GAPLO-Union (Dawn Gateway) and CAPLA intend to participate actively in the proceeding by submitting interrogatories, evidence and argument, and by cross-examining witnesses at the oral hearing.

## **ISSUES**

6. Union's Application indicates its expectation that the proposed sale of the pipeline will result in a transfer of the pipeline to the federal regulatory jurisdiction of the National Energy Board. GAPLO-Union (Dawn Gateway) landowners are concerned about the negative implications of this proposed transfer for their ownership and use of the lands affected by the pipeline, including but not limited to changes in land use restrictions, in their rights under existing agreements, in abandonment-related costs and liabilities, in the availability of compensation and in the availability of costs awards related to regulatory proceedings.



7. CAPLA and its member associations are actively involved in addressing landowner issues and concerns related to jurisdictional transfers of energy pipelines in Canada. GAPLO-Union (Dawn Gateway) and CAPLA propose to address during this proceeding all of the issues cited in the preceding paragraph, as well as further issues of concern to landowners that arise from review of Union's application and pre-filed evidence.

8. In response to the Board's Notice of Application and pursuant to Rule 34.01 of the *OEB Rules of Practice and Procedure*, GAPLO-Union (Dawn Gateway) and CAPLA request that this application proceed by way of an oral hearing. GAPLO-Union (Dawn Gateway) and CAPLA propose to develop and pre-file expert evidence for the Board's assistance in considering the concerns of landowners regarding the proposed regulatory transfer.

9. Pending receipt and completion of its review of Union's application and pre-filed evidence, GAPLO-Union (Dawn Gateway) and CAPLA reserve their rights pursuant to Rule 23.04 of the *OEB Rules of Practice and Procedure* to deliver a supplementary Notice of Intervention.

## **CHOICE OF LANGUAGE**

10. GAPLO-Union (Dawn Gateway) and CAPLA wish to be heard in the English language.

## **COMMUNICATIONS**

11. All communications in relation to this intervention should be directed to:

**Paul G. Vogel / John D. Goudy**  
Cohen Highley LLP  
One London Place  
11<sup>th</sup> Floor - 255 Queens Avenue



London, Ontario N6A 5R8

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[goudy@cohenhighley.com](mailto:goudy@cohenhighley.com)

## AWARD OF COSTS

12. GAPLO-Union (Dawn Gateway) and CAPLA intend to seek an award of costs for their participation in this proceeding. Pursuant to the provisions of Section 4.01 of the *OEB Practice Direction On Cost Awards*, GAPLO-Union (Dawn Gateway) and CAPLA request determination by the Board of their eligibility for a cost award upon the grounds that:

- (a) GAPLO-Union (Dawn Gateway) and CAPLA represent the interests of the landowner members of GAPLO-Union (Dawn Gateway) who are directly affected by the proposed sale of the pipeline and transfer of jurisdiction;
- (b) GAPLO-Union (Dawn Gateway) and CAPLA also represent the public interest in ensuring that Union's application is properly assessed and considered in light of its significant implications for landowners, agriculture and land use in Ontario, and in ensuring that the application is not approved unless the negative implications of the proposed jurisdiction transfer have been fully addressed by Union. The determination of issues arising on this application will also be relevant for similar future applications involving a proposed shift of jurisdiction for existing and future pipelines, which is a matter of importance throughout Ontario and Canada.




DATED at London, Ontario this 13<sup>th</sup> day of February, 2009.

A handwritten signature in black ink, appearing to read 'P. G. Vogel', written in a cursive style.

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**PAUL G. VOGEL**

A handwritten signature in black ink, appearing to read 'John D. Goudy', written in a cursive style.

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**JOHN D. GOUDY**



**SCHEDULE “A”**  
**GAPLO-Union (Dawn Gateway) Landowner Membership List**

<b>NAME</b>	<b>LEGAL DESCRIPTION</b>	<b>REGISTRATION NO.</b>
Melvin John Raymond Broad Sandra Lee Broad RR #1 Sombra, ON N0P 2H0	Part N ½ Lot 5, Concession 12 Township of St. Clair (formerly Township of Sombra) County of Lambton designated as Part 2 on 25R-5144 43402-0077 (LT)	Easement 64239
Cheryl Babcock Joan Ward 61 Dauw Ave. Wallaceburg, ON	Part Lot 5, Concession 13, Township of St. Clair (formerly Township of Sombra) County of Lambton designated as Part 1 on 25R-4967 43406-0077 (LT)	Easement 627659
Clarence Eldridge Moffat Catherine Frances Moffat Arthur Grant Moffat RR #1 Sombra, ON N0P 2H0	Part Lot 5, Concession 13 Township of St. Clair (formerly Township of Sombra) County of Lambton designated as Part 1 on 25R-5232 43406-0075 (LT)	Easement 651289
Robson Farms Ltd.	Part Lot 4 & 5 Concession 14 Sombra Parts 1 & 2 on 25R-3626 Township of St. Clair County of Lambton 43406-0060	
William George Robson RR #1 Sombra, ON N0P 2H0	Part Lot 5, Concession 14 Township of St. Clair (formerly Township of Sombra) designated as Part 1 on 25R-9510 Except Part 1 on 25R-8078 43406-0062 (R)	Easement L641828



NAME	LEGAL DESCRIPTION	REGISTRATION NO.
Evleen Joy Robson RR #1 Sombra, ON N0P 2H0	Part Lot 5, Concession 15, being Parts 1, 2, & 3 on 25R-8706 and Part 2 on 25R-5102 Part Road Allowance btwn Lot 5 &6 Concession 15, being Part 2 on 25R- 6362 Township of St. Clair (formerly Township of Sombra) County of Lambton 43406-0066 (LT)	Easement L641828
Evleen Joy Robson RR #1 Sombra, ON N0P 1H0	Part Lot 25 & 26, Plan 24 Part Road Allowance btwn Lot 25 Concession 1 & 2, as in L909057 Closed by M028032 Township of St. Clair (formerly Township of Moore) County of Lambton 43308-0114 (R)	Easement L641829
J. Rink Farms 116 West Line Port Lambton, ON N0P 2B0	Part Lot 26, Concession 2 Part Lot 26, Plan 24 Part Road Allowance btwn Lot 26 Concession 1 and Lot 26 Plan 24 Township of St. Clair (formerly Township of Moore) County of Lambton designated as Parts 1 to 10, on 25R- 1585 Closed by M028032 43308-0105 (LT)	Easement 872940



NAME	LEGAL DESCRIPTION	REGISTRATION NO.
James Edward MacPherson 400 Rokeby Line RR #1 Mooretown, ON N0N 1M0	Part Lot 26 & 27, Concession 2 Part Road Allowance btwn Lots 27 Concession 1 and Lot 27, Concession 2 as in L862732 Township of St. Clair (geographic Township of Moore) County of Lambton 43308-0101 (LT)	Easement L645973
James Edward MacPherson 391 Oil Springs Line Courtright, ON N0N 1H0	Part Lot 12, Concession Front as in L936310 Township of St. Clair (formerly Township of Moore) County of Lambton 43308-0065 (LT)	Easement L645974
James Edward MacPherson 391 Oil Springs Line Courtright, ON N0N 1H0	Part Lot 12, Concession Front as in L936309 Township of St. Clair (formerly Township of Moore) County of Lambton 43308-0064 (LT)	Easement L645974