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March 23, 2009

*Via Electronic Filing*

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  
Submissions on Draft Issues List  
Union Gas Application for Leave to Sell Natural Gas Pipeline  
EB-2008-0411**

Further to the Board's Procedural Order No. 1 dated March 16, 2009, we are writing to provide the comments of GAPLO-Union (Dawn Gateway) and CAPLA (hereinafter referred to collectively as "GAPLO-Union") regarding the draft issues list. At draft Issue 3.1, the Board has cited three of the implications of the Union Gas application for landowners identified by GAPLO-Union in paragraph 6 of its Notice of Intervention. However, the identified implication related to the availability of costs awards in regulatory proceedings has not been included in draft Issue 3.1. GAPLO-Union asks that this possible implication be included in the draft issues list.

Cost-related differences that exist between the National Energy Board and Ontario Energy Board regimes may have an adverse impact on landowners and should be examined by the Board in the context of this proceeding. In particular, the Board should be concerned that Ontario landowners currently entitled to seek costs awards for their reasonable participation in regulatory proceedings would have no ability to seek recovery of their reasonably incurred costs in proceedings before the National Energy Board. This change would have a direct negative impact on the ability of landowners, not to mention other Ontario residents, to participate fully and meaningfully in industry applications that affect their interests.

We ask, therefore, that the Board revise draft Issue 3.1 as follows:

*How would a change in ownership and regulatory oversight impact the landowners' interests including any land use restrictions, rights under existing agreements, abandonment obligations, and availability of costs awards related to regulatory proceedings?*

Thank you for your consideration of this request.

Yours very truly,

**COHEN HIGHLEY** LLP

A handwritten signature in black ink, appearing to read 'P. Vogel', with a stylized, flowing script.

Paul G. Vogel

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