



January 8, 2010

BY Courier & RESS

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
Suite 2700, 2300 Yonge Street  
Toronto, Ontario  
M4P 1E4

Dear Ms. Walli:

**Re: Dawn Gateway Pipeline Limited Partnership  
Application for Leave to Construct and Regulatory Framework  
Board File # EB-2009-0422**

Please find enclosed our evidence as it relates to our Application which was filed with the Board on December 23, 2009. We are enclosing two complete binders as well as two full copies of the Environmental Report. Please note that the Environmental Report reflects Section 7 – Schedule 1 of our evidence.

I confirm that the same was filed through the RESS on Friday, January 8, 2010.

In the event you have any questions on the above or would like to discuss in more detail, please do not hesitate to contact me at (519) 436-4601.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Murray'.

Dawn Gateway Pipeline Limited Partnership, by

Mark Murray  
Manager Regulatory Regulatory Projects  
:mjp  
Encl.

cc: Neil McKay, Manager Facilities Applications  
Zora Crnojacki, Project Advisor

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## SECTION 1

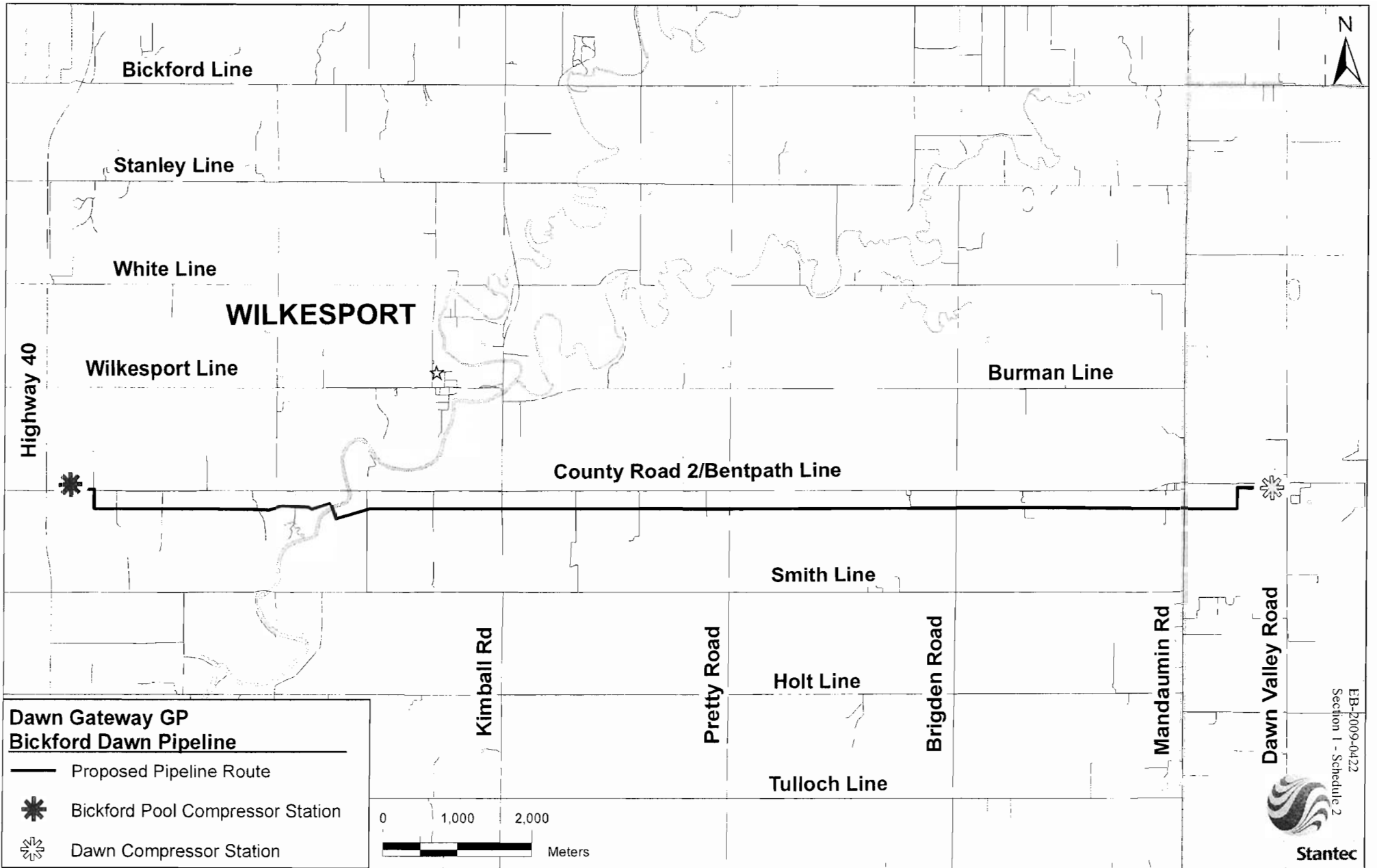
### PROJECT SUMMARY

1. Westcoast Energy Inc. (“Spectra”) and DTE Pipeline Company (“DTE”) have formed a joint venture (“Dawn Gateway”) through their respective affiliates which is proposing to offer a point-to-point natural gas transmission service, which will commence at the Belle River Mills Compressor Station in Michigan that is owned by Michigan Consolidated Gas Company (“MichCon”); and which will terminate at the Dawn Compressor Station in Ontario owned by Union Gas Limited (“Union”). The proposed pipeline to support this service (the “Dawn Gateway Pipeline”) is depicted in Section 1 – Schedule 1. The present applications relate to the Ontario segment of the Dawn Gateway Pipeline beginning at the middle of the St. Clair River and terminating at Union’s Dawn Compressor Station (“Dawn”).
2. This Application arises out of Union’s Application EB-2008-0411 to the Ontario Energy Board (“Board”) for leave to sell the St. Clair Line. The Board concluded in EB-2008-0411 that it has jurisdiction over that portion of the proposed Dawn Gateway Pipeline from the St. Clair Valve to Dawn, and the Board stated in paragraph 4 of its Order in EB-2008-0411 that submissions could be filed regarding the appropriate regulatory framework for the proposed Dawn Gateway Pipeline.
3. As a result of the Board’s Decision and Order in EB-2008-0411, Dawn Gateway Pipeline Limited Partnership (“Dawn Gateway LP”) has withdrawn its application to the National Energy Board (“NEB”) for approvals and is bringing this Application to the Board for approval of a new regulatory framework and also for leave to construct.
4. Dawn Gateway LP seeks approval from the Board of the regulatory framework (Section 4) for the Ontario portion of the proposed Dawn Gateway Pipeline, including charging tolls at negotiated rates in accordance with the proposed Tariff which Dawn Gateway LP is filing for Board Approval. This approach is based on and consistent with Group 2 regulation as practiced by the NEB.

5. Dawn Gateway LP is also seeking an order from the Board granting leave to construct approximately 17 kms of NPS 24 pipeline from the Bickford Compressor Station to the Dawn Station (the “Bickford Dawn Pipeline”) and ancillary facilities to meet the transportation service demands identified in Dawn Gateway’s binding open season. A map showing the location of the proposed pipeline can be found at Section 1 – Schedule 2.
6. Dawn Gateway LP plans to construct the pipeline during the 2010 construction season for service to customers effective November 1, 2010.
7. An Environmental Report (“ER”) and update was prepared for the Bickford Dawn Pipeline. The concerns of various provincial and municipal agencies and affected landowners have been solicited and considered in the development of the ER. Dawn Gateway LP will contract with Union to oversee the construction of the pipeline. Union’s standard construction procedures combined with the supplemental mitigation measures recommended in the ER will be employed to address environmental and landowner concerns. The ER concluded that construction and operation of the pipeline will have no long-term significant environmental effects. The ER has been provided to the Ontario Pipeline Coordination Committee (“OPCC”) and other provincial and municipal agencies.
8. In order to commit to the materials required to meet the targeted in-service date of November 1, 2010, approvals to construct the facilities and a satisfactory alternative regulatory framework, are required by February 26, 2010.







Bickford Line

Stanley Line

White Line

**WILKESPORT**

Wilkesport Line

Burman Line

Highway 40

County Road 2/Bentpath Line

Smith Line

Kimball Rd

Pretty Road

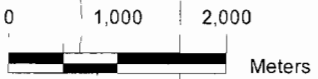
Holt Line

Brigden Road

Mandaumin Rd

Dawn Valley Road

Tulloch Line



## SECTION 2

### PROJECT OVERVIEW & IDENTIFICATION OF PARTIES

#### Introduction

9. Spectra and DTE through their respective affiliates have established Dawn Gateway to develop a new gas transmission pipeline. The proposed Dawn Gateway Pipeline is a dedicated 34 km gas transmission pipeline that would create 360,000 Dthd (379,876 GJ/d, 10,198 10<sup>3</sup>m<sup>3</sup>/day) of capacity. The Dawn Gateway Pipeline would commence at Belle River Mills Compressor Station, in Michigan, which is owned by MichCon; and would terminate at the Dawn Compressor Station in Ontario, which is owned by Union.
10. Dawn Gateway is comprised of two new regulated entities: Dawn Gateway LP, a limited partnership formed pursuant to the laws of the Province of Ontario; and, Dawn Gateway Pipeline, LLC (“Dawn Gateway LLC”), a U.S. limited liability company. Spectra and DTE through their respective affiliates will jointly own, on a 50/50 basis, both Dawn Gateway LP and Dawn Gateway, LLC. The organizational structure of Dawn Gateway is shown on Section 2 – Schedule 1.

#### Project Components

11. When fully constructed and operational, the proposed 34 km NPS 24 Dawn Gateway Pipeline will consist of the following segments (3 existing, 1 new). A map of the Dawn Gateway Pipeline system is shown on Section 1 - Schedule 1.

#### *U.S. Segment:*

- a) Belle River Mills Pipeline, being an existing 4.74 km pipeline owned by MichCon, commencing at MichCon’s Belle River Mills Compressor Station in St. Clair County, Michigan and terminating at the Dawn Gateway St. Clair River. Dawn Gateway LLC intends to enter into a long term lease with MichCon for the Belle River Mills Pipeline.

***Ontario Segments:***

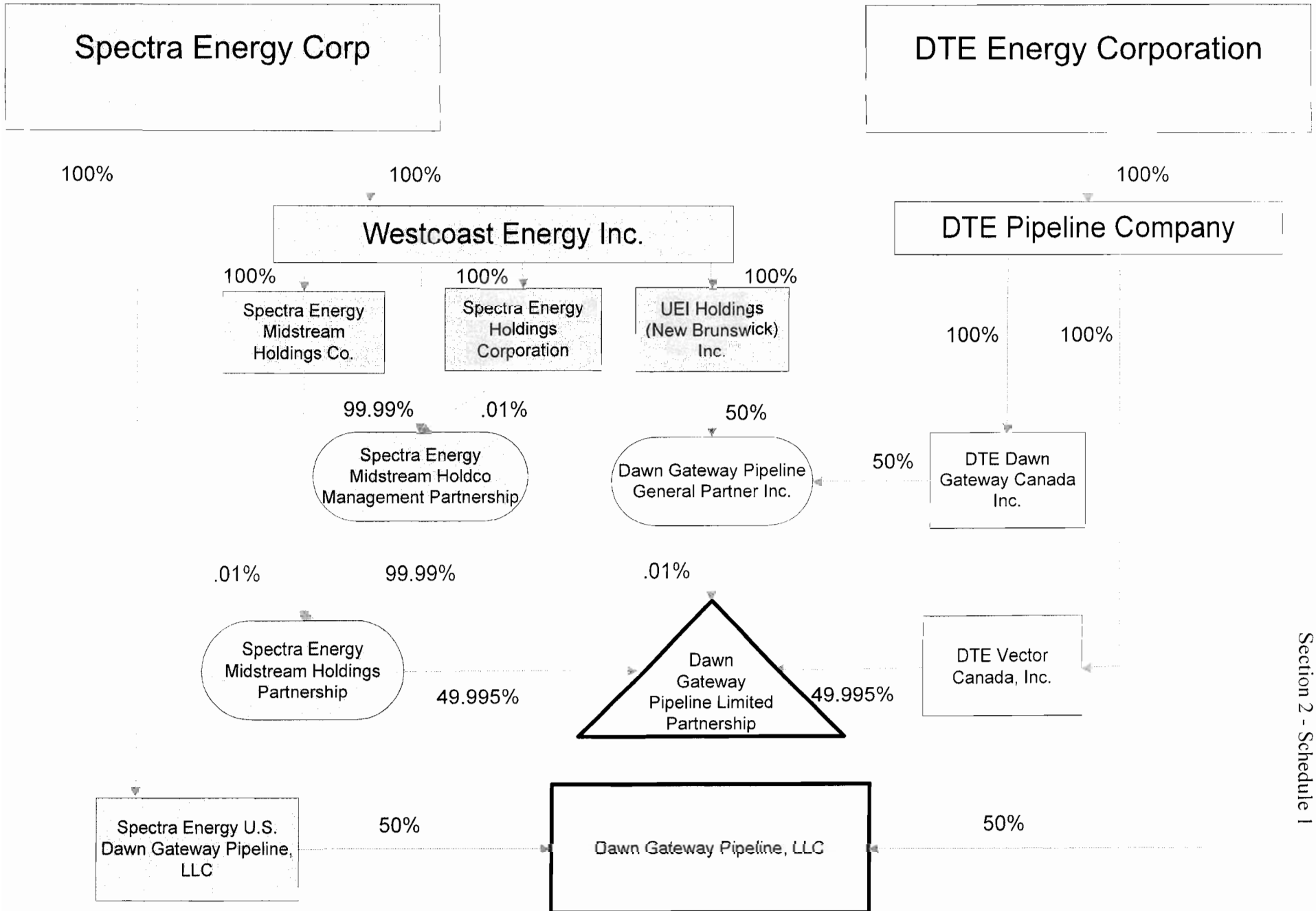
- a) The St. Clair River Crossing is an existing 0.87 km pipeline owned by St. Clair Pipelines LP which commences at the Dawn Gateway St. Clair River and terminates at the west boundary fence at the St. Clair Valve Site in Lambton County. Rather than purchasing the St. Clair River Crossing, Dawn Gateway LP intends to enter into a long term transportation contract with St. Clair Pipelines LP for all the capacity on this pipeline. The St. Clair River Crossing will continue to be regulated by the NEB.
- b) The St. Clair Pipeline is an existing 11.7 km pipeline currently owned by Union which commences at the west boundary fence of the St. Clair Valve Site and terminates at the west boundary fence of Union's Bickford Compressor Station. Union received leave from the OEB to sell this line to Dawn Gateway LP in EB-2008-0411.
- c) The Bickford Dawn Pipeline will be a newly constructed pipeline consisting of approximately 17 km of pipeline to be owned by Dawn Gateway LP. This new segment would interconnect with the St. Clair Pipeline adjacent to the Bickford Compressor Station and terminate at the Dawn Compressor Station. The Bickford Dawn Pipeline will be owned by Dawn Gateway LP.

**Dawn Gateway Pipeline LP Structure**

12. Dawn Gateway LP is a limited partnership whose general partner is Dawn Gateway Pipeline General Partner Inc. ("Dawn Gateway GP"), and whose limited partners are Spectra Energy Midstream Holdings Partnership, an affiliate of Spectra, and DTE Vector Canada Inc., an affiliate of DTE.
13. Dawn Gateway GP is incorporated under the *Canada Business Corporations Act*. As the general partner of Dawn Gateway LP, Dawn Gateway GP holds a 0.01% partnership interest in Dawn Gateway LP, and it manages the business of Dawn Gateway LP.
14. The shareholders of Dawn Gateway GP are UEI Holdings (New Brunswick) Inc., a wholly-owned subsidiary of Spectra, and DTE Dawn Gateway Canada Inc., a wholly-

owned subsidiary of DTE. Each shareholder holds 50% of the outstanding shares of Dawn Gateway GP.

# OWNERSHIP STRUCTURE OF DAWN GATEWAY PIPELINE (CANADA and US)



## SECTION 3

### NEED FOR THE PROJECT

#### Introduction

15. The proposed Dawn Gateway Pipeline would provide shippers with a greatly enhanced connection between Michigan storage and Ontario's Dawn market hub. The proposed Dawn Gateway Pipeline would initially have the capacity to transport 360,000 Dthd (379,876 GJ/d, 10,198  $10^3\text{m}^3/\text{d}$ ) between MichCon's Belle River Mills Compressor Station and Union's Dawn Hub on a firm basis, and its capacity would be expandable in the future. The Dawn Gateway Pipeline would also allow shippers enhanced access to existing and new storage developments in the Great Lakes region, and the ability to connect and access new sources of supply upstream of the Belle River Mills Compressor Station. The Dawn Gateway Pipeline would provide a new transportation service that would allow downstream customers in Ontario and Quebec to access gas supplies from emerging supply regions like the U.S. Rockies, various U.S. Southeast shale basins and Gulf Coast LNG. Access to these new sources of supply will improve the depth and liquidity of the Dawn market hub. The Dawn Gateway Pipeline is completely consistent with the Board's decision in the Natural Gas Electricity Interface review, as it supports both the importance and development of Dawn as a market hub and greater access to new storage developments.

#### Binding Open Season Process

16. DTE and Spectra held a non-binding open season in September/October of 2008 to determine the level of interest in the services to be provided by the Dawn Gateway Pipeline. Based on the bids received, DTE and Spectra determined that there is sufficient interest in the proposed service to justify proceeding with the Dawn Gateway Pipeline. Subsequently, five shippers entered into binding Precedent Agreements to subscribe for a total of 280,000 Dthd (295,459 GJ/d, 7,932  $10^3\text{m}^3/\text{d}$ ) of firm transportation service on the Dawn Gateway Pipeline (subject to regulatory approval), thereby demonstrating that there is market support for the new transportation service that Dawn Gateway is proposing. Any non-contracted capacity will be made available to shippers through future open seasons or through direct negotiation.

17. The obligation of Dawn Gateway under the Precedent Agreements to provide the proposed services is conditional on timely approval of all applications necessary to complete the entire pipeline path. The Precedent Agreements provide for the execution of multi-year transportation contracts pursuant to which Dawn Gateway will provide shippers with gas transportation services between the Belle River Mills Compressor Station and the Dawn Compressor Station at a fixed price for the entire term of their respective transportation contracts.
18. The Precedent Agreements are based on Dawn Gateway assuming all project risks, including construction, exchange rate, operating costs, inflation, credit, un-contracted capacity, and capacity renewal risks which allows Dawn Gateway to provide shippers with toll certainty for the term of their agreements. The addition of new shippers or the loss of existing shippers would have no effect on the existing negotiated tolls or terms. All the shippers who signed Precedent Agreements have agreed to support the present Application. The Precedent Agreements with the existing shippers were previously filed with the Board on a confidential basis as part of EB-2008-0411. There have subsequently been minor amendments to the Precedent Agreements to reflect the change from NEB to OEB regulation.

### **Findings in EB-2008-0411**

19. In EB-2008-0411, the Board found that there are clear benefits from the proposed Dawn Gateway Pipeline:

[58] The Board accepts that there will be benefits from the transaction. There will be two types of benefits: direct and indirect. The direct benefit is the rate reduction resulting from removing the asset, which is currently under-utilized, from ratebase and rates. This benefit is small; the estimated rate impact is less than \$1 per year for residential customers in the Southern Operations Area.

[59] The indirect benefits are more significant and flow from the broader project, including the expansion of capacity from Bickford to Dawn. These benefits include enhanced transportation capacity between Michigan storage and Dawn and enhanced access to supply. These benefits have the potential to lead to greater liquidity and reduced price volatility at the Dawn Hub. The proposed Dawn Gateway pipeline would have a capacity of 385,000 GJ/d on a firm basis, and that capacity could be expanded. Although these indirect benefits rely on projections, there are already five Precedent Agreements in



place, thereby demonstrating that the enhanced access is desired by the marketplace.

## SECTION 4

### NEW REGULATORY FRAMEWORK

20. In the Board's EB-2008-0411 Decision and Order, the Board stated:

In this proceeding the Board is also prepared to hear submissions regarding the form of rate setting the Board should apply to the new proposed service. The new service involves a limited number of sophisticated commercial customers who arguably do not require the cost of service protection that the Board has traditionally provided to end-use consumers. The Board is also always mindful of the need to introduce efficiency to the rate setting process that will accommodate the needs of both the customers and the utilities. The Board also recognizes the importance of this new investment and its ability to increase the efficiency of the St. Clair Line and also increase the liquidity of the Dawn Hub, an important objective the Board recognized in the NGEIR decision. (at para. 124)

21. In paragraph 4 of its Order, the Board also stated:

Union at its discretion may file submissions regarding its view of the appropriate regulatory framework for the service proposed for the new line.

22. Because Dawn Gateway LP is the party that will be providing the transportation services on the Ontario portion of the Dawn Gateway Pipeline, Dawn Gateway LP rather than Union, is making the submission on the appropriate regulatory framework for the proposed transportation services. Specifically, Dawn Gateway LP is seeking approval from the Board for a regulatory framework for the proposed Dawn Gateway Pipeline that is equivalent to the way the NEB regulates other Group 2 companies.

### **NEB Group 2 Regulation**

23. Pipeline companies regulated by the NEB are divided into two groups for financial regulation purposes. Group 1 companies are generally those with extensive systems and many shippers, whereas those with lesser operations with fewer customers are usually designated as Group 2 companies. The financial regulation of Group 2 companies is normally carried out on a complaints basis, with a consequent reduction in financial reporting requirements. The NEB has allowed Group 2 companies to be regulated on a complaints basis since at least November 1990 when the NEB issued a Memorandum of

Guidance on the regulation of Group 2 Companies (1990 MOG). The 1990 MOG was updated and replaced with the NEB's 1995 Memorandum of Guidance (1995 MOG) which is attached at Section 4 – Schedule 1. For example, the Vector Pipeline (“Vector”), a joint venture between Enbridge Inc. and DTE Energy Company, connecting the Dawn Hub and certain customers in Ontario has been regulated as a Group 2 pipeline since 1999.

24. On 17 November 2009, the NEB issued new guidelines in a letter entitled “Financial Regulation of Pipelines under the Board’s Jurisdiction” (“Group 2 Guidelines”), a copy of which is attached at Section 4 - Schedule 2. The 17 November 2009 Group 2 Guidelines rescinded the 1995 MOG.
25. The form of regulation for Group 1 pipelines is more traditional in that tolls and tariffs are reviewed and approved, from time to time, through cost of service proceedings. TransCanada Pipelines is an example of a Group 1 NEB regulated pipeline.
26. The NEB has concluded that smaller pipelines and pipelines which do not transport commodities for many third parties need not be regulated under the traditional cost of service methodology and that they should be subject to a lighter degree of toll and tariff regulation. The tolls and tariffs of Group 2 pipelines are regulated on a complaints basis. They also are subject to a lower level of regulatory reporting and monitoring. Complaints can only be lodged by existing or prospective shippers on the pipeline.
27. Group 2 pipeline companies can only charge tolls as specified in a tariff that has been approved by an order of the NEB. Group 2 companies are required to include an explanatory note in the tariff stating that the tolls are regulated on a complaints basis and that in the absence of a complaint the NEB does not normally undertake a detailed review of the pipelines’ tolls. There is no requirement for Group 2 companies to maintain their financial records in accordance with the NEB system of accounts, and the NEB does not require Group 2 companies to provide periodic financial information, such as quarterly surveillance reports, for the purpose of monitoring the financial performance of Group 2 companies. Group 2 companies are only required to maintain their financial records in accordance with generally accepted accounting principles (“GAAP”) and file annually with the NEB their audited financial statements (see Group 2 Guidelines, p. 2-3).

**Form of Regulation Sought by Dawn Gateway LP**

28. As indicated above, Dawn Gateway LP is seeking OEB approval of a regulatory framework that is equivalent to the NEB's Group 2 regulation. Specifically, Dawn Gateway LP is requesting that the Board regulate its tariff and tolls on a complaints basis and allow Dawn Gateway LP to charge negotiated rates. Dawn Gateway LP also requests a level of regulatory monitoring and reporting consistent with complaints based regulation.
29. In support of Dawn Gateway LP's request for a regulatory framework equivalent to Group 2 under NEB Dawn Gateway LP is attaching for approval in Section 4 - Schedule 3 its proposed i) standard contracts for firm and interruptible service, ii) general terms and conditions, and iii) firm and interruptible toll schedules. Transportation services will be offered to shippers using the attached contracts, general terms and conditions and toll schedules.
30. As is the case under NEB Group 2 regulation, Dawn Gateway LP will work directly with shippers to resolve any future disputes that may arise with shippers. In the event that Dawn Gateway LP is unable to resolve a dispute to the satisfaction of an existing or prospective shipper ("Interested Person"), that shipper will have the right to file a written complaint directly with the Board. Upon receiving the written complaint the Board, at its discretion, may take whatever action it deems necessary to address the complaint. As is the case with the NEB, the right of shippers to formally complain to the Board is explicitly stated in the tariff at Article 21 of the General Terms and Conditions as identified below:

These General Terms and Conditions, Toll Schedules, Statement of Tolls and service agreements which comprise the Tariff are subject to the provisions of the Ontario Energy Board Act, 1998. The tolls of the Transporter are regulated by the OEB on a complaint basis. The Transporter is required to make copies of tariffs and supporting financial information available to Interested Persons. Persons who cannot resolve traffic, toll or Tariff issues with Transporter may file a complaint with the OEB. In the absence of a complaint, the OEB does not typically undertake a detailed examination of the Transporter's tolls.

31. With respect to reporting requirements, Dawn Gateway LP proposes to file confidentially, its audited annual financial statements prepared in accordance with GAAP with the Board within 120 days of the end of Dawn Gateway LP's fiscal year.

32. Further, under the proposed alternative regulatory framework, the Storage and Transportation Access Rule will not apply. This level of monitoring and reporting is consistent with that required of NEB Group 2 companies.

### **Rationale for an Alternative Regulatory Framework**

33. It is Dawn Gateway LP's view that this alternative form of regulation is appropriate given the commercial arrangements between Dawn Gateway LP and its shippers, and the limited size and service offerings of Dawn Gateway LP's pipeline and the fact that Dawn Gateway LP is fully at risk for the recovery of costs without recourse to other customers in the event of shortfalls or non-renewals.
34. As indicated above, DTE and Spectra held a non-binding open season in September/October of 2008, and has entered into Precedent Agreements with five shippers for multi-year transportation contracts. Based on the bids received, DTE and Spectra determined that there was sufficient interest in the proposed service to justify proceeding with the Dawn Gateway Pipeline. Under the open season methodology, all shippers were afforded an equal opportunity to bid on available capacity at prices they believed to be fair. This approach allowed shippers to fix the price of their transportation service over the term of their respective contracts, meeting their need for price certainty. It was critical for those shippers to have price certainty for the full term of their contracts unlike certain other cost of service pipelines which have experienced significant toll increases as a result of contract non-renewals. These shippers are sophisticated market participants with the required knowledge to freely enter into commercial arrangements that meet their business needs. Accordingly, in these circumstances they do not require the usual protection afforded by traditional cost of service regulation. Any attempt to change the commercial basis of the Shipper contracts at this late stage by interjecting cost of service regulation would almost certainly result in the loss of Shipper support and the failure of the project.
35. Dawn Gateway is willing to assume risks not typically undertaken in a traditional cost-of-service model of regulation. Because Shippers required toll certainty over the term of the transportation contracts, Dawn Gateway is assuming all project risks, including construction, exchange rate, operating costs, inflation, credit, un-contracted capacity, and capacity renewal risks. All economic risks associated with operating and managing the

pipeline or changes in the number of shippers would have no effect on the tolls shippers pay for the term of their respective contracts.

36. Under traditional cost of service regulation, a pipeline company is generally not able to enter into long-term fixed price contracts with shippers. For Dawn Gateway, shippers required guaranteed fixed prices in order to support entering into a long term contract, and without long-term contractual commitments from shippers, Dawn Gateway is not able to make a long-term commitment to invest the capital needed to develop the Dawn Gateway Pipeline. The Dawn Gateway Pipeline cannot proceed without the support provided by the five executed Precedent Agreements with Shippers, and those agreements are based on fixed pricing for several years. Accordingly, the Dawn Gateway Pipeline could not proceed under traditional cost of service regulation and the pipeline would not remain viable in the future under traditional cost of service regulation. In these circumstances, Dawn Gateway LP believes that the complaints based method of regulation proposed is appropriate in that it meets the need of certain shippers, as evidenced by their willingness to enter into the Precedent Agreements, with no risk or costs to any other party except Dawn Gateway as the project proponent.
  
37. Dawn Gateway Pipeline is of similar size and operating characteristics to many NEB pipelines that are currently regulated as Group 2 companies. The Ontario section of the Dawn Gateway Pipeline is less than 30 km in total length and NPS 24. This size is comparable to or smaller than other NEB Group 2 companies such as the Canadian portion of Vector. The Canadian portion of Vector is a NPS 42 pipeline with roughly the same length and greater throughput compared to the Ontario portion of the Dawn Gateway Pipeline. Dawn Gateway LP submits that it should be afforded regulatory treatment consistent with how similar pipelines are regulated by the NEB, particularly those such as Vector that also serves the Dawn Hub.



National Energy Board

Office national de l'énergie

File 132-A000-27  
6 December 1995

**To: ALL COMPANIES UNDER THE BOARD'S  
JURISDICTION AND INTERESTED PARTIES**

**Re: Regulation of Group 2 Companies  
Update of the Memorandum of Guidance dated 22 November 1990**

Attached is an updated version of the Memorandum of Guidance on the regulation of Group 2 companies that the Board issued on 22 November 1990.

Since the issuance of the Memorandum of Guidance in 1990, there have been further developments in the Board's regulations and policy instruments, most notably the issuance of the *Guidelines for Filing Requirements* on 22 February 1995. These changes have required a further update of the Memorandum of Guidance.

J. S. Richardson  
Secretary

Attach.

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National Energy Board

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Office national de l'énergie

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File 132-A000-27  
6 December 1995

## MEMORANDUM OF GUIDANCE

### Regulation of Group 2 Companies

This Memorandum of Guidance updates and replaces the one issued on 22 November 1990. Most changes stem from the amendments in the Board's enabling statutes and regulations.

The pipeline companies regulated by the Board are divided into two groups. Group 1 companies are generally identified as those with extensive systems under the Board's jurisdiction, whereas those with lesser operations are designated as Group 2 companies.

This Memorandum of Guidance streamlines and simplifies, for Group 2 companies, the regulatory requirements of the *National Energy Board Act* ("NEB Act"), the *Guidelines for Filing Requirements* ("Guidelines") issued 22 February 1995, the *Onshore Pipeline Regulations* ("OPR"), the *Oil Pipeline Uniform Accounting Regulations*, the *Gas Pipeline Uniform Accounting Regulations*, and the *Pipeline Crossing Regulations* ("PCR"). Group 1 companies are not affected by this Memorandum of Guidance and continue to be subjected to the full existing regulatory requirements.

Group 1 companies consist of the ten pipeline companies listed below.

Alberta Natural Gas Company Ltd  
Cochin Pipe Lines Ltd.  
Foothills Pipe Lines Ltd.  
Interprovincial Pipe Line Inc.  
Interprovincial Pipe Line (NW) Ltd.  
TransCanada PipeLines Limited  
Trans Québec & Maritimes Pipeline Inc.  
Trans Mountain Pipe Line Company Ltd.  
Trans-Northern Pipelines Inc.  
Westcoast Energy Inc.

Any company which is not a Group 1 company is considered to be a Group 2 company. For a listing of Group 2 companies, please consult the Board's most recent Annual Report.

Schedules A and B deal with the Board's two basic types of regulation, namely facilities and financial. The extent of those two types of regulation for Group 2 companies is as follows:

.../2



- 2 -

**Facilities:** Schedule A sets out the minimum information requirements for the design, construction, and operation of pipelines.

**Financial:** Schedule B sets out the guidelines for the regulation of tolls and tariffs. Financial regulation of Group 2 companies is normally carried out on a complaint basis, with a consequent reduction in financial reporting requirements. Detailed information in support of a tariff filing will be required only after a complaint has been received or upon request by the Board.

The Board believes that the Memorandum of Guidance will provide continued guidance and information to Group 2 companies and to potential applicants. Even though it can be used on a stand-alone basis, the Memorandum of Guidance is a general guideline only. Explanatory details of the requirements in Schedules A and B can be found in the NEB Act, the Guidelines and the above-mentioned regulations. These documents must be consulted to ensure that all regulatory requirements are satisfied.



J.S. Richardson  
Secretary

## **GUIDELINES FOR THE REGULATION OF THE TRAFFIC, TOLLS AND TARIFFS OF GROUP 2 COMPANIES**

### Tolls and Tariffs

The Board regulates the traffic, tolls and tariffs of Group 2 companies on a complaint basis. Companies may only charge tolls specified in a tariff that has been filed with the Board and is in effect or that have been approved by an order of the Board. Group 2 companies are required to include in their tariffs an explanatory note which states:

"The tolls of the Company are regulated by the National Energy Board on a complaint basis. The Company is required to make copies of tariffs and supporting financial information readily available to interested persons. Persons who cannot resolve traffic, toll and tariff issues with the Company may file a complaint with the Board. In the absence of a complaint, the Board does not normally undertake a detailed examination of the Company's tolls."

Group 2 companies are not normally required to provide the detailed information to support a tariff filing specified in Part X of the Board's Guidelines. It is the responsibility of a Group 2 company to provide its shippers and interested parties with sufficient information to enable them to determine whether a complaint is warranted. Upon receipt of a written complaint, an application under Part IV of the NEB Act or on its own initiative, the Board may decide to examine a toll and to make the toll interim, pending completion of this examination. In this circumstance, the Board may request additional information including some or all of the information specified in Part X of the Guidelines.

### Accounting Requirements and Financial Reporting

The Board has exempted all Group 2 companies from the requirement to keep their books of account pursuant to the code of accounts prescribed in the uniform accounting regulations. The Board only requires that Group 2 companies maintain separate books of account in Canada in accordance with generally-accepted accounting principles and file audited financial statements within 120 days after the end of each fiscal year. Such statements should provide details of revenue and costs associated with the regulated pipeline. Where a Group 2 company operates a joint venture pipeline, it is required to disclose in its audited financial statements its beneficial share of revenue and costs associated with the regulated pipeline and to file a gross operating statement for the joint venture pipeline indicating whether, and if so by whom, this statement has been audited.

In some instances, the Board has granted relief from the requirement to file financial statements. These instances have primarily concerned small shipper-owned pipelines with no direct dealings with third parties. A Group 2 company may apply for similar relief explaining the particular circumstances which would justify an exemption from this requirement.

The Board has exempted Group 2 companies from the *Toll Information Regulations*. The Board does not require Group 2 companies to provide periodic financial information, such as quarterly surveillance reports, for the purpose of monitoring the financial performance of these companies. As circumstances dictate, the Board may perform an audit of a company's records.

National Energy  
Board



Office national  
de l'énergie

File OF-Tolls-TollsGen-4000-G046-10 01  
17 November 2009

To: All Pipeline Companies under the Jurisdiction of the National Energy Board and  
Interested Parties

### **Financial Regulation of Pipeline Companies under the Board's Jurisdiction**

This letter serves to rescind the *6 December 1995 Memorandum of Guidance* (1995 MOG) regarding the Regulation of Group 2 Companies and clarify the financial regulatory requirements of companies. The financial regulatory requirements are outlined in this letter and in Guide P of the Board's *Filing Manual*. The *Filing Manual* is available on the Board's website ([www.neb-one.gc.ca](http://www.neb-one.gc.ca)) under "Acts and Regulations"; "Rules, Regulations, Guidance Notes and Memorandum of Guidance pursuant to the National Energy Board Act". Hard copies may be requested by calling the NEB Toll-Free at 1-800-899-1265. Companies are advised to refer to the applicable legislation, Board decisions, policies and guidelines for more detailed guidance, and to gain an understanding of their full legal obligations.

Pipeline companies regulated by the Board are divided into two groups for financial regulation purposes. Group 1 companies are generally identified as those with extensive systems under the Board's jurisdiction, whereas those with lesser operations are designated as Group 2 companies. Companies may be designated as Group 1 either in the Board's *Gas Pipeline Uniform Accounting Regulations* or *Oil Pipeline Uniform Accounting Regulations* (collectively, the G/OPUAR), or by direction of the Board. The following companies are designated as Group 1 companies:

#### **Natural Gas**

Alliance Pipeline Ltd.  
Foothills Pipe Lines Ltd.  
Gazoduc Trans Québec & Maritimes Inc.  
Maritimes & Northeast Pipeline Management Ltd.  
NOVA Gas Transmission Ltd.  
TransCanada PipeLines Limited  
Westcoast Energy Inc.

#### **Oil and Products**

Enbridge Pipelines Inc.  
Enbridge Pipelines (NW) Inc.  
Kinder Morgan Cochin ULC  
Trans Mountain Pipeline Inc.  
Trans-Northern Pipelines Inc.

Any pipeline company regulated by the Board which is not a Group 1 company is considered to be a Group 2 company. The financial regulation of Group 2 companies is normally carried out on a complaint basis, with a consequent reduction in financial reporting requirements.

.../2

### Tolls and Tariffs

Pursuant to section 60(1) of the *National Energy Board Act* (the Act), all companies may only charge tolls specified in a tariff that has been filed with the Board and is in effect or that have been approved by an order of the Board.

The detailed information to support a tariff filing required of Group 1 companies is specified in sections P.1 through P.5 in Guide P of the Board's *Filing Manual*.

Group 2 companies are not normally required to provide the detailed information to support a tariff filing required of Group 1 companies. The Board regulates the traffic, tolls and tariffs of Group 2 companies on a complaint basis. Group 2 companies are required to include in their tariffs the following explanatory note:

The tolls of the Company are regulated by the National Energy Board on a complaint basis. The Company is required to make copies of tariffs and supporting financial information readily available to interested persons. Persons who cannot resolve traffic, toll and tariff issues with the Company may file a complaint with the Board. In the absence of a complaint, the Board does not normally undertake a detailed examination of the Company's tolls.

It is the responsibility of a Group 2 company to provide its shippers and interested parties with sufficient information to enable them to determine whether a complaint is warranted. Upon receipt of a written complaint, an application under Part IV of the Act or on its own initiative, the Board may decide to examine a toll and to make the toll interim, pending completion of this examination. In this circumstance, the Board may request additional information including some or all of the information required of Group 1 companies as specified in sections P.1 through P.5 in Guide P of the Board's *Filing Manual*.

The tolls and tariffs filing requirements for Group 2 companies are set out in section P.6 in Guide P of the Board's *Filing Manual*.

### Accounting Requirements and Financial Reporting

Group 1 companies are required to comply with the requirements of the G/OPUAR and the *Toll Information Regulations*.

The Board has exempted all Group 2 companies from the requirement to keep their books of account pursuant to the code of accounts prescribed in the G/OPUAR. The Board only requires that Group 2 companies maintain separate books of account in Canada in a manner consistent with generally accepted accounting principles and file audited financial statements within 120 days after the end of each fiscal year. Such statements should provide details of revenue and costs associated with the regulated pipeline. Where a Group 2 company operates a joint venture

pipeline, it is required to disclose in its audited financial statements its beneficial share of revenue and costs associated with the regulated pipeline and to file a gross operating statement for the joint venture pipeline indicating whether, and if so by whom, this statement has been audited.

In some instances, the Board has granted a Group 2 company relief from the requirement to file financial statements. These instances have primarily concerned small shipper-owned pipelines with no direct dealings with third parties. A Group 2 company may apply for similar relief explaining the particular circumstances which would justify an exemption from this requirement.

The Board has exempted Group 2 companies from the *Toll Information Regulations*. The Board does not require Group 2 companies to provide periodic financial information, such as quarterly surveillance reports, for the purpose of monitoring the financial performance of these companies.

#### Financial Audits

As circumstances dictate, the Board may perform a financial audit of the company's records. The Board's decision to perform an audit is informed by a risk-based assessment that takes into account, among other things, the relationship between the company and its shippers, and the availability to the Board of current financial information. The final audit report is placed on the public record and served on interested parties. Companies are advised to consult the Financial Regulatory Audit Policy available on the Board's website ([www.neb-one.gc.ca](http://www.neb-one.gc.ca)) under "Acts and Regulations"; "Rules, Regulations, Guidance Notes and Memorandum of Guidance pursuant to the National Energy Board Act"; "Accounting (Oil and Gas)".

#### Other

##### *Requirements of subsection 74 (1) for the NEB Act*

First, the Board wishes to take this opportunity to remind companies of section 74 of the Act.

- 74. (1)** A company shall not, without leave of the Board,
- (a) sell, transfer or lease to any person its pipeline, in whole or in part;
  - (b) purchase or lease any pipeline from any person;
  - (c) enter into an agreement for amalgamation with any other company; or
  - (d) abandon the operation of the pipeline.

The Board has developed a template for those applicants who wish to apply for leave of the Board to transfer Board-regulated assets. The template can be found on the Board's web site ([www.neb-one.gc.ca](http://www.neb-one.gc.ca)) under "Regulatory Applications"; "s. 74 Transfer of Ownership".

*Abandonment Costs*

Second, the Board wishes to remind all companies of its RH-2-2008 decision. In this decision, the Board addressed the financial issues of pipeline abandonment and determined that companies will be required to set aside funds to cover future abandonment costs. The Board notes that the RH-2-2008 decision requires all NEB-regulated companies to prepare and file with the Board the following information by the dates set out in the table below.

Information To Be Filed	Filing Date	
	Group 1	Group 2
an estimate of abandonment costs and the amount of funds required to be set aside for abandonment	31 May 2011	30 Nov 2011
a proposal for the collection of abandonment funds	30 Nov 2012	30 Nov 2012
a proposed process and mechanism to set aside abandonment funds	30 Nov 2012	31 May 2013

Companies are encouraged to consult the RH-2-2008 decision to gain a more comprehensive understanding of their obligations.

*Documentation*

Third, the Board encourages all companies to document their key toll and tariff processes and procedures, including clearly defined roles and responsibilities for each function and a training program for new employees. The goal of this documentation is to ensure that regulatory requirements are fully understood and complied with on an ongoing basis.

For additional information, please contact Elizabeth Johnston, Compliance Program Manager - Financial/Economic Matters, at 403-299-3130 in Calgary or by calling the Board toll-free at 1-800-899-1265.

The Board directs all NEB-regulated companies to serve a copy of this letter on all shippers and interested persons.

Yours truly,



For Anne-Marie Erickson  
Acting Secretary of the Board

DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP  
GENERAL TERMS AND CONDITIONS

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## GENERAL TERMS AND CONDITIONS

### 1 DEFINITIONS

Except where the context expressly requires or states another meaning, the following terms, when used in these General Terms and Conditions and in any contract or Toll Schedule into which these General Terms and Conditions are incorporated, shall be construed to have the following meanings:

1. "Authorized Overrun" means a quantity of Gas, that is in excess of a Shipper's applicable Maximum Daily Quantity, that Transporter agrees to schedule on a day. Authorized Overrun quantities are subject to an Authorized Overrun Charge as provided for in the Statement of Tolls;
2. "Authorized Overrun Charge" shall have the meaning given to it in Article 17;
3. "Board" or "OEB" means the Ontario Energy Board, or any successors or replacements thereof;
4. "Business Day" means Monday through Friday, excluding federal banking holidays for transactions occurring in Canada and similar holidays for transactions occurring in the United States;
5. "Commencement Date" means the date the Transportation services begin pursuant to the Transportation Agreement;
6. "Cubic Foot" or "cf" shall mean the volume of Gas which occupies one cubic foot when such Gas is at a temperature of 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch. The term "Mcf" means one thousand (1,000) Cubic Feet. The term "MMcf" means one million (1,000,000) Cubic Feet;
7. "Cubic Metre" or "m<sup>3</sup>" shall mean the volume of Gas which occupies one cubic metre when such Gas is at a temperature of 15 degrees Celsius, and at a pressure of 101.325 kilopascals absolute. The term "10<sup>3</sup>m<sup>3</sup>" shall mean 1,000 Cubic Metres of Gas;
8. "Day" shall mean a period of twenty-four (24) consecutive hours beginning at 10:00 a.m. Eastern Clock Time. The reference date for any Day shall be the calendar date upon which the twenty-four (24) hour period shall commence;
9. "Dekatherm" or "Dth" means the quantity of heat energy which is 1,000,000 British thermal units ("MMBtu");
10. "Delivery" shall mean, in respect of Gas, the delivery by Transporter into Shipper's possession, or to the possession of Shipper's agent, pursuant to a Transportation Agreement;
11. "Delivery Point" means the point(s) where Transporter delivers Gas to Shipper, or for Shipper's account, that has been transported by Transporter as described in the applicable Transportation Agreement, delivery point(s) are indicated in the attached System Map
12. "Demand Charge" shall mean the monthly amount payable by Shipper to Transporter for the service provided. Demand Charge is calculated as Reservation Rate times MDQ;
13. "Eastern Clock Time" means Eastern Daylight Time when daylight savings time is in effect and Eastern Standard Time otherwise;
14. "Electronic Bulletin Board" or "EBB" shall mean Transporter's electronic communications system, which is available to all nominating agents;
15. "Firm" shall mean any Gas Transportation service not subject to curtailment or interruption except under Articles 6, 7 and 15 of these General Terms and Conditions;

16. "Fuel and Lost and Unaccounted for Gas" means Gas (a) used or lost in the construction, operation and maintenance of Transporter's system: and (b) variances in the measurement of quantities of Gas received and delivered on Transporter's system;
17. "Fuel Requirement" shall mean the amount of Gas required for Fuel and Lost and Unaccounted for Gas associated with rendering Transportation services to the Shipper, calculated in accordance with Article 8 of these General Terms and Conditions;
18. "Gas" shall mean methane and such other hydrocarbon constituents, or a mixture of two or more of them which, in any case, meets the quality specifications of the Tariff;
19. "*Gas Inspection Act*" means the *Electricity and Gas Inspection Act (Canada)* and the *Electricity and Gas Inspection Regulations* and any documents issued under the authority of the *Electricity and Gas Inspection Act (Canada)* and the *Electricity and Gas Inspection Regulations* and any amendments thereto;
20. "General Terms and Conditions" means these General Terms and Conditions of the Tariff, as may be amended from time to time;
21. "Gross Heating Value" shall mean the total heat expressed in British Thermal Units (Btu) per Cubic Foot (Btu/cf) produced by the complete combustion at constant pressure of one (1) Cubic Foot of Gas with air, with the Gas free of water vapour and the temperature of the Gas, air and products of combustion at standard temperature and all water formed by the combustion reaction condensed to the liquid state;
22. "Interested Person" shall mean any existing Shipper or prospective Shipper;
23. "Interruptible" shall mean any Gas Transportation service subject to curtailment or interruption;
24. "Interconnecting Pipeline" shall mean a pipeline that directly connects to Transporter's pipeline system;
25. "Joule" (J) shall mean the work done when the point of application of a force of one (1) newton is displaced a distance of one (1) metre in the direction of the force. The term "Megajoule" (MJ) shall mean 1,000,000 Joules. The term "Gigajoule" (GJ) shall mean 1,000,000,000 Joules;
26. "Material Event" shall have the meaning given to it in Article 24;
27. "Maximum Daily Quantity" or "MDQ" is the maximum daily quantity of Gas Transporter will receive or deliver at each Receipt Point or Delivery Point, as applicable, in accordance with the terms of an effective Transportation Agreement;
28. "Month" shall mean the period beginning at 10:00 a.m. Eastern Clock Time on the first day of a calendar month and ending at 10:00 a.m. Eastern Clock Time on the first day of the following calendar month;
29. "NAESB" shall mean the North American Energy Standards Board;
30. "NAESB Standards" means any and all such standards issued by NAESB and adopted by the Federal Energy Regulatory Commission;
31. "Nomination" shall have the meaning given to it in Article 5 of these General Terms and Conditions;
32. "pascal" (Pa) shall mean the pressure produced when a force of one (1) newton is applied to an area of one (1) square metre. The term "kilopascal" (kPa) shall mean 1,000 pascals;
33. "Payment Due Date" means, in respect of an invoice sent pursuant to Article 14 of these General Terms and Conditions, ten (10) calendar days after the Monthly Billing Date as defined in Article 13. If the Payment Due Date is not a Business Day, then payment must be received by Transporter or by the financial institution so designated by Transporter for payment, on or before the first Business Day immediately following the Payment Due Date;
34. "Person" means a natural person, sole proprietorship, firm, trust, trustee, executor, administrator or other legal personal representative, partnership, limited partnership, joint venture, syndicate, company or corporation with or

without share capital, unincorporated association, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted;

35. "Prime Rate" means, at any time, the per annum rate of interest then designated by the main branch of the Canadian Imperial Bank of Commerce in Toronto, Ontario as its reference rate of interest of Canadian dollar commercial loans in Canada and which is announced by such bank as its "Prime Rate". A rate of interest payable pursuant hereto shall change automatically without notice to any party on each occasion upon which the Prime Rate is varied;
36. "Receipt" shall mean, in respect of Gas, the delivery into Transporter's possession, or the possession of Transporter's agent;
37. "Receipt Point" means the point(s) on Transporter's system where quantities of Gas may be received by Transporter as described in the applicable Transportation Agreement, receipt point(s) are indicated in the attached System Map,;
38. "Reservation Rate" means the amount payable by Shipper per Dth of MDQ per month;
39. "Scheduled Quantity" is the quantity of Gas a Shipper nominates for Receipt by Transporter at a Receipt Point and for delivery by Transporter to Shipper or to Shipper's account at a Delivery Point, and that Transporter schedules for Transportation;
40. "Shipper" means a Person who uses the services of Transporter pursuant to the Tariff;
41. "Statement of Tolls" means the Transporter's statement of tolls as it relates to the Transportation services, which statement forms part of the Tariff;
42. "System Capacity" is the quantitative ability of Transporter's existing pipeline system to provide maximum Gas Transportation service. The ability of Transporter's pipeline system to maintain Gas Transportation service may be limited by (a) changes in prevailing operating pressures, temperatures, Gas flow rates and Gas flow directions within any portion(s) of Transporter's pipeline system, including any Receipt Point(s) or Delivery Point(s); (b) physical capacity limitations of regulators, valves, pipelines or pipeline segments, measuring facilities or appurtenances to Transporter's pipeline system; and (c) necessary testing, maintenance, repair, overhaul, alteration, modification, replacement, enlargement, or construction of pipelines, metering, regulating, and other transmission facilities and equipment appurtenant to Transporter's pipeline system;
43. "Tariff" means the Transporter's OEB gas tariff, including, but not limited to Toll Schedules, Statement of Tolls, General Terms and Conditions and forms of Transportation Agreements, which have been filed with the OEB, as amended and filed from time to time with the OEB;
44. "Toll Schedule" means the Transporter's toll schedule as it relates to the Transportation services, which toll schedule forms part of the Tariff;
45. "Transportation" means the Receipt of Gas for Shipper's account at a Receipt Point on Transporter's pipeline system that is available to Shipper pursuant to Shipper's Transportation Agreement and the Delivery to Shipper, or for Shipper's account, of Gas by Transporter at the Delivery Point set forth in Shipper's Transportation Agreement, including service as available via displacement of Gas received downstream of the Delivery Point;
46. "Transportation Agreement" means an agreement pursuant to the Tariff under which Transporter provides Transportation or other contract services to a Shipper;
47. "Transporter" means Dawn Gateway Pipeline Limited Partnership;
48. "U.S. Pipeline" means Dawn Gateway Pipeline, LLC;
49. "Unauthorized Overrun" means quantities of Gas transported by Transporter on behalf of a Shipper in excess of Shipper's Maximum Daily Quantity without Transporter's advance approval. Unauthorized Overrun quantities will be subject to the Unauthorized Overrun Charge contained in Article 17;
50. "Unauthorized Overrun Charge" shall have the meaning given to it in Article 17;

51. "Usage Rate" means the amount payable by Shipper per Dth for the Scheduled Quantity;
52. "Volume" shall mean the number of Cubic Feet adjusted for heat content in Dth;
53. "Website" means Transporter's interactive Internet website through which Transporter will post all information and conduct business electronically. Third party connections using Website shall be accomplished under the terms of an EBB. Website address is [www.dawngatewaypipeline.com](http://www.dawngatewaypipeline.com);
54. "Year" means a period of 365 consecutive days, except that any year which contains the date February 29 shall consist of 366 consecutive days.

## 2 GAS QUALITY

1. Natural Gas: The minimum Gross Heating Value of the Gas delivered to/by Transporter hereunder, shall be nine hundred sixty-six (966) British thermal units per Cubic Foot. (36 Megajoules per Cubic Metre). The maximum Gross Heating Value of the Gas delivered to/by Transporter hereunder shall be one thousand one hundred and twenty-eight (1128) British thermal units per Cubic Foot (40.2 Megajoules per Cubic Metre). The Gas to be delivered hereunder to Transporter may be a commingled supply from Shipper's natural Gas sources of supply. The Gas to be delivered by Transporter may be a commingled supply from Transporter's sources of Gas supply; provided, however, that helium, natural gasoline, butane, propane and other hydrocarbons except methane may be removed prior to Delivery to Shipper or Shipper's agent. Further, Transporter may subject, or permit the subjection of, the Gas to compression, dehydration, cooling, cleaning and other processes.
2. Freedom from objectionable matter: The Gas to be delivered to/by Transporter hereunder:
  - a. shall be commercially free from sand, dust, gums, crude oils, lubricating oils, liquids, chemicals or compounds used in the production, treatment, compression or dehydration of the Gas or any other objectionable substance in sufficient quantity so as to render the Gas toxic, unmerchantable or cause injury to or interference with the proper operation of the lines, regulators, meters or other appliances through which it flows,
  - b. shall not contain more than zero point two six (0.26) grain of hydrogen sulphide per 100 Cubic Feet of Gas (6 milligrams per Cubic Metre) nor more than five (5) grains of total sulphur per 100 Cubic Feet of Gas (115 milligrams per Cubic Meter) as determined by standard methods of testing,
  - c. shall not contain more than zero point two two (0.22) grain of mercaptan sulphur per 100 Cubic Feet of Gas (5 milligrams of per Cubic Metre),
  - d. shall not contain more than two point zero (2.0) molar percent by volume of carbon dioxide in the Gas,
  - e. shall not contain more than four point zero (4.0) molar percent by volume of carbon dioxide plus nitrogen in the Gas,
  - f. shall not contain more than zero point five (0.5) molar percent by volume of carbon monoxide in the Gas,
  - g. shall not contain more than zero point four (0.4) molar percent by volume of oxygen in the Gas,
  - h. shall not contain more than four (4) molar percent by volume of hydrogen in the Gas,
  - i. shall not contain more than four (4) pounds of water vapour per mmcf of Gas (64 milligrams per Cubic Metre),
  - j. shall not have a hydrocarbon dewpoint exceeding fourteen (14) degrees Fahrenheit at eight hundred (800) psig (minus 10°C at 5500 kPa),
  - k. shall not contain less than one point zero (1.0) molar percent by volume of ethane in the Gas,

- I. the temperature of the Gas shall not exceed one hundred ten (110) degrees Fahrenheit (43°C).
3. The Person measuring Gas quality shall use approved standard methods in general use in the natural gas industry, and shall cause adequate tests to be made to determine the quality of the Gas delivered. Such tests shall be made at intervals frequent enough to determine that the Gas conforms to these specifications.
4. If the Gas being received by Transporter from Shipper or on behalf of Shipper fails at any time to conform to any of the specifications set forth in this Article 2, Transporter may refuse to receive the Gas, in which case Transporter shall notify the Person delivering such Gas of such deficiency in quality to allow such Person to remedy any deficiency. Upon such Person's failure to promptly remedy any deficiency in quality as specified in this Article 2, Transporter may terminate all Receipts under the Transportation Agreement, or may take Receipt of such Gas, and may make changes necessary to bring such Gas into conformity with such specifications, and the Shipper shall reimburse Transporter for any reasonable expense incurred in effecting such changes or for any injury or damages resulting from Transporter's receipt of non-conforming Gas.

### 3 MEASUREMENTS

1. The volume and the total heating value of Gas received and delivered by Transporter shall be determined as follows:
  - (a) the unit of Gas received and delivered by Transporter shall be a Dth; and
  - (b) the unit of volume, for the purpose of measurement and reporting, shall be one Cubic Foot of Gas. The readings and registrations of the measuring equipment provided for herein and determinations of Gross Heating Value shall be computed in terms of such volumes.
2. The factors required to determine the quantity of Gas received, such as pressure, temperature, specific gravity and deviations from Boyle's Law shall be calculated in accordance with the *Gas Inspection Act*, and applied in a practical manner.
3. The volume of the Gas received from Shipper shall be determined in accordance with the *Gas Inspection Act*.
4. The absolute atmospheric pressure used for volume calculations shall be assumed to be a specific pressure determined by calculations based on the actual elevation above sea level at the site of the meter, regardless of variations in actual barometric pressure. The formula used to calculate the atmospheric pressure shall be in accordance with the methodology prescribed pursuant to the *Gas Inspection Act*.
5. The determination of Gross Heating Value of Gas received or delivered shall be performed in a manner approved under the *Gas Inspection Act* or, if a manner for such determination is not set out in the *Gas Inspection Act*, in accordance with industry accepted standards, and, in any event, in a manner to ensure that the Gross Heating Value so determined is representative of the Gas received or delivered at the Receipt Point or Delivery Point.

### 4 MEASURING EQUIPMENT

1. Metering by Transporter: Transporter, or a party designated by Transporter, will install, own, maintain and operate meters and related equipment as required and in accordance with the *Gas Inspection Act*.
2. Metering by Others: In the event that all or any Gas delivered to/by Transporter hereunder is measured by a meter that is owned and operated in connection with an Interconnecting Pipeline, then Transporter and Shipper agree to accept that metering for the purpose of determining the volume and energy of Gas delivered to/by Transporter by/to Shipper or on behalf of Shipper.
3. Rights of Parties: The measuring equipment installed by either Transporter or Shipper, together with any building erected by it for such equipment, shall be and remain its property. However, Transporter and Shipper shall have the right to have representatives present at the time of any installing, reading, cleaning, changing, repairing, inspecting, testing, calibrating, or adjusting done in connection with the other party's measuring equipment used in measuring or

checking the measurement of deliveries of Gas to/by Transporter under the Transportation Agreement. Either party will give the other party reasonable notice of its intention to carry out the acts herein specified. The records from such measuring equipment shall remain the property of their owner, but upon request by the other party, such party will submit to the other its records and charts, together with calculations therefrom, for inspection and verification, subject to return within ten days after receipt thereof.

4. Calibration and Test of Measuring Equipment: The accuracy of measuring equipment shall be verified by Transporter, or a party designated by Transporter, at reasonable intervals and, if requested, in the presence of representatives of the Shipper, but Transporter shall not be required to verify the accuracy of such equipment more frequently than once in any thirty (30) day period. In the event either party notifies the other that it desires a special test of any measuring equipment, the parties shall co-operate to secure a prompt verification of the accuracy of such equipment. The expense of any such special test, if called for by Shipper, shall be borne by Shipper if the measuring equipment tested is found not to be in error, or to be in error by not more than the limits set out as follows:

- a. 2% for measuring equipment utilized to determine volume;
- b. 1% for any measuring equipment utilized to determine relative density; and
- c. 0.5% for any measuring equipment utilized to determine Gross Heating Value.

If upon test, any measuring equipment is found to be in error by not more than the limits specified above, the previous readings of such equipment shall be considered accurate in computing deliveries or receipts of Gas, but such equipment shall be adjusted at once to register accurately.

If, for the period since the last test, it is determined for a recording corresponding to the average hourly rate of flow for such period that:

- a. Any measuring equipment used to determine volumes shall be found to be inaccurate by an amount exceeding 2%;
- b. Any measuring equipment utilized to determine the relative density shall be found to be inaccurate by an amount exceeding 1%; or
- c. Any measuring equipment utilized to determine the Gross Heating Value shall be found to be inaccurate by an amount exceeding 0.5%;

then the previous readings of the measurement equipment shall be corrected to zero error for any period which can be agreed upon, but if the period is not agreed such correction shall be for a period extending over the last half of the time elapsed since the date of the last test, not exceeding a correction period of sixteen (16) days.

Notwithstanding the foregoing, when Transporter and Shipper mutually agree that a measurement instrument inaccuracy occurred at a definite point in time, an appropriate correction shall be made even though said inaccuracy is less than the limits specified in a, b or c above.

5. Preservation of Metering Records: Transporter and Shipper shall each preserve for a period of at least two (2) years all metering records, including test data and other relevant records.
6. Prior Period Measurement Adjustments: The cutoff for the closing of measurement is five (5) Business Days after the end of the Month. Prior period measurement adjustments will be effective for the production month. A meter adjustment becomes a prior period adjustment after the fifth (5<sup>th</sup>) Business Day following the end of the Month. Prior period measurement adjustments will be reported with the restated line item with new total quantity for the Day and the Month. Estimated, missing or late measurement data will be treated as a prior period adjustment, with the measuring party to provide the estimate. Measurement data corrections will be processed within six (6) Months of the production month with a three (3) Month rebuttal period. This standard shall not apply in the case of deliberate omission or misrepresentation or mutual mistake of fact. Parties' other statutory or contractual rights shall not otherwise be diminished by this standard.

7. Check Measuring Equipment: Shipper may install, maintain and operate, at the delivery point, at its own expense, such check measuring equipment as desired, provided that such equipment shall be so installed as not to interfere with the operation of Transporter's measuring equipment at or near the Delivery Point, and shall be installed, maintained and operated in conformity with the same standards and specifications applicable to Transporter's metering facilities.

5 **NOMINATIONS**

1. Subject to Section 8 below, for Transportation service required on any Day under each of Shipper's Transportation Agreements, Shipper shall provide Transporter with a nomination providing the Shipper's requested Receipt Point, contract numbers, the applicable service, the quantity of Gas to be transported, the requested Delivery Point, and such additional information as Transporter determines to be necessary (a "**Nomination**").
2. Shipper may designate a third party as agent for purposes of providing a Nomination, and for giving and receiving notices related to Nominations. Shipper shall provide Transporter with written notice of such designation, such notice to be acceptable to Transporter. Any such designation, if acceptable to Transporter, shall be effective starting the Month following the receipt of the written notice and will remain in effect until revoked in writing by Shipper.
3. The Transporter will accept all nominations on the Timely Nomination Cycle. All nominations during the Evening Nomination Cycle, Intra-day 1 Nomination Cycle, and Intra-day 2 Nomination Cycle will be accepted on a commercially reasonable efforts basis.
4. All Nominations shall be submitted through Transporter's EBB. Specific information to be included in the Nomination is posted on the EBB. Transporter, in its sole discretion, may amend or modify the nominating procedures or Nomination system at any time. Nominations shall be submitted so as to be received by Transporter in accordance with timelines established by Transporter, which reflect the NAESB Standard nomination cycles. The Transporter will accept all nominations on the Timely Nomination Cycle. Nominations made after the applicable deadline shall not be accepted except at the sole discretion of Transporter. All nominations during the Evening Nomination Cycle, Intra-day 1 Nomination Cycle, and Intra-day 2 Nomination Cycle will be accepted on a commercially reasonable efforts basis. All times are Eastern Clock Time. For greater certainty, NAESB nomination cycle timelines are as follows:
  - a. The Timely Nomination Cycle: 12:30 pm for Nominations leaving control of the nominating party; 12:45 pm for receipt of Nominations by Transporter; 1:00 pm to send quick response; 4:30 pm for receipt of completed confirmations by Transporter from upstream and downstream connected parties; 5:30 pm for receipt of Scheduled Quantities by Shipper, (Eastern Clock Time on the Day prior to flow).
  - b. The Evening Nomination Cycle: 7:00 pm for Nominations leaving control of the nominating party; 7:15pm for receipt of Nominations by Transporter; 7:30 pm to send quick response; 10:00 pm for receipt of completed confirmations by Transporter from upstream and downstream connected parties; 11:00 pm for Transporter to provide Scheduled Quantities to affected Shippers and to provide Scheduled Quantities to curtailed parties (notice to curtailed parties), (Eastern Clock Time on the Day prior to flow).

Scheduled Quantities resulting from an Evening Nomination that does not cause another Shipper on Transporter's system to receive notice that it is being curtailed should be effective at 10:00 am on Day; and when an Evening Nomination causes another Shipper on Transporter's system to receive notice that it is being curtailed, the Scheduled Quantities should be effective at 10:00 am on Day.
  - c. The Intra-day 1 Nomination Cycle: 11:00 am for Nominations leaving control of the nominating party; 11:15 am for receipt of Nominations by Transporter; 11:30 am to send quick response; 2:00 pm for receipt of completed confirmations by Transporter from upstream and downstream connected parties; 3:00 pm for Transporter to provide Scheduled Quantities to affected Shippers and to provide Scheduled Quantities to curtailed parties (notice to curtailed parties), (Eastern Clock Time on Day). Scheduled Quantities resulting from Intra-day 1 Nominations should be effective at 6:00 pm on Day.
  - d. The Intra-day 2 Nomination Cycle: 6:00 pm for Nominations leaving control of the nominating party; 6:15 pm for receipt of Nominations by Transporter; 6:30 pm to send quick response; 9:00 pm for receipt of completed confirmations by Transporter from upstream and downstream connected parties; 10:00 pm for Transporter to provide Scheduled Quantities to affected Shippers (Eastern Clock Time on Day). Scheduled Quantities resulting

from Intra-day 2 Nominations should be effective at 10:00 pm on Day. Curtailment is not allowed during the Intra-day 2 Nomination Cycle.

Transporter shall make available to Shippers information containing Scheduled Quantities, including scheduled intra-day nominations and any other scheduling changes by 5:30pm at the end of each day. All Nominations shall include Shipper defined begin dates and end dates.

All Nominations, excluding intra-day nominations, shall have rollover options. Specifically, Shippers shall have the ability to nominate for several days, months or years, provided the Nomination begin dates and end dates are within the term of the Transportation Agreement. Nominations received after the nomination deadline shall, if accepted by Transporter, be scheduled after Nominations received before the nomination deadline. The receiver of the Nomination initiates confirmation with the caveat that the receiver of the confirmation may relieve the obligation of the sender to send. The sending party shall adhere to nomination, confirmation and scheduling deadlines. The party receiving the request has the right to waive the deadline.

5. All Services are required to be nominated in whole Dekatherms.
6. Any change in a daily Scheduled Quantity implemented during the Day shall only be recognized pro rata to the fraction of the Day remaining at the time the change is implemented. Changed daily Scheduled Quantity shall not exceed an amount equal to Shipper's Maximum Daily Quantity multiplied by the fraction of the Day remaining at the time the changes are implemented. Transporter shall be under no obligation to accept such revisions for Shipper Nominations made under an Interruptible Transportation Agreement.
7. To the extent Transporter is unable to complete a Nomination confirmation due to inaccurate, untimely or incomplete data involving an Interconnecting Pipeline entity, Transporter shall undertake reasonable efforts to confirm the transaction on a non-discriminatory basis until such time that the transaction is adequately verified by the parties, or Transporter determines that the Nomination is invalid at which time the Transporter rejects the Nomination.
8. Where the U.S. Pipeline provides Shipper with upstream connecting transportation service, Transporter may delegate the responsibility of providing the Nomination to the U.S. Pipeline, such that Shipper provides a single nomination to the U.S. Pipeline that includes the Shipper's Nomination for the Transporter's system and the Shipper's nomination for service required on the U.S. Pipeline.

## 6 SCHEDULING

Transporter shall schedule all quantities of Gas nominated for Transportation by Shipper in accordance with the following priorities:

- (a) Quantities of Gas nominated pursuant to a Firm Transportation Agreement within Shipper's Maximum Daily Quantity pursuant to the Firm Transportation Service Toll Schedule; and
- (b) Quantities of Gas nominated pursuant to an Interruptible Transportation Agreement or Nominated as Authorized Overrun. For greater certainty, all quantities of Gas scheduled pursuant to this Article 6(b) shall be scheduled by toll price from highest to lowest, except scheduling will be pro rata based on confirmed quantities among Shippers paying the same toll.

## 7 PRIORITY OF SERVICE AND CURTAILMENT

1. Transporter shall have the right to curtail or discontinue Transportation services, in whole or in part, on all or a portion of its pipeline system at any time for reasons of Force Majeure or when, in Transporter's sole discretion, capacity or operating conditions so require or it is desirable or necessary to make modifications, repairs or operating changes to its pipeline system. Transporter shall provide Shipper notice of such curtailment as required pursuant to Article 15 or as is reasonable under the circumstances. Routine repair and maintenance is not deemed an emergency situation or an unexpected loss of capacity.



2. Subject to Section 3 below, if due to any cause whatsoever, including but not limited to a reduction in System Capacity, Transporter is unable on any Day to deliver the quantities of Gas that Shippers would have received if such inability did not exist, then Transporter shall order curtailment by all Shippers affected in the following manner:
  - (a) first, Shippers whose service was scheduled pursuant to Article 6(b) above. Transporter will curtail service by toll price from lowest to highest, except curtailment will be pro rata on Scheduled Quantities among Shippers paying the same toll, and recognizing that Shippers paying the highest toll will be curtailed last. This applies to service which was nominated for the Timely Nomination Cycle or any subsequent nomination cycle such that Firm Transportation shall always have priority over Interruptible Transportation or Authorized Overrun;
  - (b) second, Shippers whose service was scheduled pursuant to Article 6(a) above. Transporter shall curtail service on a pro rata basis on Scheduled Quantities among all Shippers receiving this service.
3. If the need for curtailment is caused by an event affecting only a specific Receipt Point or Delivery Point, curtailment will be:
  - (a) limited to Shippers scheduled at such Receipt Point or Delivery Point; and
  - (b) applied to those Shippers in such Receipt Point or Delivery Point in accordance with the priorities set forth in Article 7, Section 2 above.

## 8 FUEL REQUIREMENT

1. Subject to Section 5 below, Shipper shall furnish the quantity of Gas required by Transporter to satisfy the Fuel Requirement at a metered Receipt Point acceptable to Transporter. The quantity of Gas retained by Transporter to meet the Fuel Requirement shall be a percentage of the total quantity of Gas received from or for the account of Shipper (the "Fuel Ratio").
2. The Fuel Requirement will be rounded to the nearest Dekatherm.
3. Transporter may elect to change its Fuel Ratio at its discretion but not more frequently than monthly. The Fuel Ratio shall be an estimate of the actual Gas required to satisfy the Fuel Requirement on a prospective basis, taking into consideration the cumulative over-recovery or under-recovery of Fuel and Lost and Unaccounted for Gas to date.
4. The Fuel Ratios will be posted on Website, at least seven (7) days prior to the Month to which it applies.
5. Where the U.S. Pipeline provides Shipper with upstream connecting transportation service, Transporter may delegate the responsibility of collecting all or a portion of Shipper's Fuel Requirement to the U.S. Pipeline and require that Shipper provide at the U.S. Pipeline Receipt Point the Fuel Requirement for Transporter's system.

## 9 POSSESSION OF GAS

Unless otherwise provided in a Transportation Agreement or other service agreement or applicable Toll Schedule, as between Transporter and Shipper, Shipper shall be deemed to be in exclusive control and possession of the Gas (i) prior to Receipt by Transporter at the Receipt Point and (ii) after Delivery by Transporter at the Delivery Point; otherwise, Transporter shall be in exclusive control and possession of the Gas. The party that is in exclusive control and possession of the Gas shall be responsible for all injury or damage caused by such Gas to any third party and shall indemnify the other party from any damage, loss or costs incurred by the other party as a result of such injury or damage. But, notwithstanding the foregoing sentence, Shipper shall be responsible for all injury or damage caused by Gas provided by Shipper that fails to conform with the specifications set forth in Article 2 of these General Terms and Conditions and shall indemnify Transporter from any damage, loss or costs that Transporter incurs as a result of such injury or damage. In the absence of negligence, bad faith or wilful misconduct on the part of Transporter, Shipper waives any and all claims and demands against Transporter, its directors, officers, employees or agents, arising out of or in any way connected with (i) the quality, use or condition of the Gas after Delivery from Transporter to or for the account of such Shipper, and (ii) any losses or shrinkage of Gas during or resulting from Transportation hereunder.

10 WARRANTY OF TITLE

Shipper warrants that it owns or controls, has the right to deliver or have delivered for its account, the Gas that is delivered to Transporter under the applicable Transportation Agreement or service agreement and that the Gas is free and clear of any lien, mortgage, security interest or other encumbrance whatsoever. Shipper shall indemnify and hold harmless Transporter against all claims, actions or damages arising from any adverse claims by third parties claiming an ownership interest in the Gas delivered for transport to Transporter under the applicable Transportation Agreement or service agreement.

11 DELIVERY PRESSURE

1. All Gas delivered by or on behalf of Shipper to Transporter shall be delivered at the Receipt Point(s) at Transporter's prevailing pressure at that Receipt Point(s), or at such pressure as Transporter and the owner or operator of an Interconnecting Pipeline may agree to.
2. All Gas delivered by Transporter to Shipper or to Shipper's agent to the facilities of an Interconnecting Pipeline shall be delivered at Transporter's line pressure at the Delivery Point(s) designated in the Transportation Agreement or as agreed to by Transporter and the owner or operator of the Interconnecting Pipeline.

12 UNIFORM HOURLY FLOWS

Receipts and Deliveries shall be made at uniform rates over a twenty-four (24) hour period to the extent practicable, provided that Transporter shall have no obligation to receive or deliver Gas at a rate in excess of one twenty-fourth (1/24) of Shipper's MDQ. Transporter shall have the right to limit services when on any Day the cumulative hourly imbalance between Receipts and Deliveries exceeds one twenty-fourth (1/24) of the quantity handled for that Day, for each applicable Transportation Agreement or services agreement.

13 BILLING

1. Monthly Billing Date: Transporter shall render invoices on or before the 10th day of each Month for all services furnished during the preceding Month (the "**Monthly Billing Date**"). Such charges may be based on estimated quantities, if actual quantities are unavailable in time to prepare the billing. Transporter shall provide, in the following Month's billing, an adjustment based on any difference between actual quantities and estimated quantities, without any interest charge. If presentation of an invoice to Shipper is delayed after the 10th day of the Month, then the Payment Due Date shall be extended by an equal number of Business Days, unless Shipper is responsible for such delay.
2. Right of Examination: Both Transporter and Shipper shall have the right to examine at any reasonable time the books, records and charts of the other to the extent necessary to verify the accuracy of any statement, chart or computation made under or pursuant to the provisions of the Transportation Agreement or the applicable Toll Schedule.

14 PAYMENTS

1. Monthly payments: Shipper shall pay Transporter amounts as indicated on all invoices by the Payment Due Date. Unless otherwise directed by Transporter, Shipper shall pay directly into Transporter's bank account, all amounts as indicated on Transporter's invoice to Shipper, by electronic funds transfer in US Dollars, so that Transporter shall receive payment from Shipper by the Payment Due Date.
2. Remedies for non-payment: In the event that Shipper fails to pay all of the amount of any invoice as herein provided when such amount is due,
  - a. Shipper shall pay to Transporter interest on the unpaid portion of the invoice, such interest accruing at a rate per annum at the Prime Rate plus 2% until the date of payment.

- b. If such failure to pay continues for thirty (30) days after payment is due, Transporter, in addition to any other remedy it may have under the Transportation Agreement, may, subject to Section 3 below, terminate the Transportation Agreement and/or suspend further delivery of Gas without further notice. In the event of suspension of delivery of Gas, all Demand Charges shall continue to accrue hereunder as if such suspension were not in effect.
3. If Shipper in good faith disputes the amount of any such invoice or part thereof, Shipper shall pay to Transporter such amounts as it concedes to be correct and provide Transporter with a written notice including a full description of the reasons for the dispute, together with copies of supporting documents. At any time thereafter, within twenty (20) days of a demand made by Transporter, Shipper shall furnish financial assurances satisfactory to Transporter, guaranteeing payment to Transporter of the amount ultimately found due upon such invoice after a final determination is made. Such a final determination may be reached either by agreement, arbitration decision or judgement of the courts, as may be the case. Transporter shall not be entitled to suspend service(s) because of non-payment related to the amount in dispute unless and until default occurs in the conditions of such financial assurances or default occurs in payment of any other amount due to Transporter hereunder.
4. Invoice Adjustments: If it shall be found that at any time or times Shipper has been overcharged or undercharged in any form whatsoever under the provisions of the Transportation Agreement or these General Terms and Conditions and Shipper shall have actually paid the invoices containing such overcharge or undercharge, Transporter shall refund the amount of any such overcharge and interest shall accrue from and including the first day of such overcharge as paid to the date of refund and shall be calculated but not compounded at a rate per annum determined each day during the calculation period to be equal to the Prime Rate, and the Shipper shall pay the amount of any such undercharge, but without interest. In the event an error is discovered in the amount invoiced in any statement rendered by Transporter, such error shall be adjusted by Transporter. Such overcharge, undercharge or error shall be adjusted by Transporter on the invoice next following its determination (where the term "Invoice" next following shall mean an invoice rendered at least twenty-five (25) days after the day of its determination), provided that claim therefore shall have been made within one (1) year from the date of the incorrect invoicing. In the event any refund is issued with Shipper's invoice, the aforesaid date of refund shall be deemed to be the date of the issue of invoice.
5. Set Off: Transporter, without prejudice to any other rights or remedies it may have, shall have the right to withhold and set off payment of any amounts of monies due or owing by Transporter to Shipper, against any and all amounts or monies due or owing by Shipper to Transporter for services provided.
6. Any payments received under this Article 14 shall first be applied to accrued interest, then to the previously outstanding principal, and lastly, to the most current principal due.

15 **FORCE MAJEURE**

1. The term "force majeure" as used herein shall mean acts of God, strikes, lockouts or any other industrial disturbance, acts of the public enemy, sabotage, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of governments and people, civil disturbances, acts of terrorism, explosions, breakage or accident to machinery or lines of pipe, freezing of wells or lines of pipe, inability to obtain materials, supplies, permits or labour, any laws, orders, rules, regulations, acts or restraints of any governmental body or authority (civil or military), any act or omission by Transporter not controlled by Transporter and any other similar cases not within the control of Transporter which results in failure of Transporter to perform its obligations and which by the exercise of due diligence Transporter is unable to prevent or overcome. A force majeure called on an upstream pipeline will not be considered a force majeure event of Transporter's system. Notwithstanding the foregoing, a force majeure event on the U.S. Pipeline shall constitute a force majeure event on Transporter.
2. Transporter shall not be entitled to the benefit of the provisions of force majeure hereunder if any or all of the following circumstances prevail: the failure resulting in a condition of force majeure was caused by the negligence or misconduct of Transporter; the failure was caused by Transporter and Transporter failed to make all reasonable efforts to remedy the condition (short of litigation, if such remedy would require litigation); Transporter failed to resume the performance of such obligations with reasonable dispatch; the failure was caused by lack of funds; Transporter did not, as soon as possible after determining, or within a period within which it should acting reasonably have determined, that the occurrence was in the nature of force majeure and would affect its ability to observe or perform any of its conditions

or obligations under the Transportation Agreement or the applicable Toll Schedule give Shipper the notice required hereunder.

3. Transporter shall give notice to Shipper as soon as possible after the force majeure condition is remedied, to the extent that the same has been remedied, and Transporter has resumed or is then in a position to resume the performance of the obligations and conditions of the Transportation Agreement.
4. If on any Day Transporter fails to accept Gas from Shipper by reason of an event of force majeure called by Transporter and fails to deliver the quantity of Gas nominated hereunder by Shipper up to the Maximum Daily Quantity, then for that Day the Demand Charge shall be reduced by an amount equal to the applicable Daily Demand Rate, as defined in this paragraph, multiplied by the difference between the quantity of Gas actually delivered by Transporter during such Day and the quantity of Gas which Shipper in good faith nominated and Transporter scheduled on such Day. For each Day subsequent to the Day on which a force majeure is called by Transporter until such force majeure is rectified, the Demand Charge shall be reduced up to an amount equal to Shipper's Maximum Daily Quantity. The term "**Daily Demand Rate**" shall mean the Demand Charge (as stipulated in the Shipper's Firm Transportation Agreement) multiplied by the number of months in Shipper's Firm Transportation Agreement and divided by the number of days in Shipper's Transportation Agreement. Shipper may instead request, with the acceptance of Transporter, to provide a make-up Transportation service for the volumes not shipped as a result of a force majeure.

16 **LIABILITY AND INDEMNITY**

1. Notwithstanding any provisions of the Tariff, including Shipper's Transportation Agreement, but subject to Section 2 below, the liability of the Transporter and/or Shipper is limited to direct damages only and all other remedies or damages are waived. In no event shall Transporter or Shipper be held liable to the other for consequential, incidental, special, punitive, exemplary or indirect damages, including, without limitation, lost profits, loss of revenues, business interruption losses, cost of capital or loss of business opportunity arising out of service provided under the Tariff and Shipper's Transportation Agreement.
2. A Shipper shall indemnify and save harmless the Transporter from any damage, loss or costs incurred by the Transporter or any other party as a result of, or arising from such Shipper's negligence or misconduct, such Shipper's breach or failure to comply with any provision of the Tariff, or as a result of such Shipper's breach or failure to comply with any provision of its Transportation Agreement. This provision shall survive the termination of, or expiration of, a Transportation Agreement or the Tariff.

17 **AUTHORIZED AND UNAUTHORIZED OVERRUN**

Authorized Overrun Charge

If Shipper requests Transporter to deliver an Authorized Overrun which Transporter agrees to schedule, Shipper shall be subject to an overrun charge as provided in the Statement of Tolls (the "**Authorized Overrun Charge**").

Unauthorized Overrun Charge

If Shipper exceeds its Maximum Daily Quantity without the approval of Transporter, Shipper shall be subject to an overrun charge in addition to the applicable toll charges, equal to 200% of the Dawn, Ontario price as published in Gas Daily, or a successor publication acceptable to Transporter, for the applicable Day for each Dth of Gas taken in excess of Shipper's Maximum Daily Quantity (the "**Unauthorized Overrun Charge**").

18 **NOTICES**

Unless otherwise provided in the Tariff, all communications and notices shall be as per Shipper's Transportation Agreement.

19 **MODIFICATION**

No modification of the terms and provisions of a Transportation Agreement shall be made except in writing executed by Transporter and Shipper.

20 NON-WAIVER AND FUTURE DEFAULT

No waiver by either Transporter or Shipper of any one or more defaults by the other in the performance of any provisions of the Transportation Agreement shall operate or be construed as a waiver of any future default or defaults, whether of a like or of a different character.

21 LAWS, REGULATIONS AND ORDERS

The Tariff and the respective obligations of the parties under a Transportation Agreement, are subject to valid laws, orders, rules, and regulations of duly constituted authorities having jurisdiction and are subject to change from time to time by addition, amendment, or substitution as provided by law. Shipper shall account for all importations of Gas and shall pay all duties and taxes thereon within the time and manner required by the *Customs Act* (Canada), the *Customs Tariff* (Canada), and the *Excise Tax Act* (Canada) and all other such applicable laws.

Subject to the paragraph immediately above, the Tariff and Shipper's Transportation Agreement shall be governed and construed in accordance with the laws of the Province of Ontario and the applicable laws of Canada and Transporter and Shipper irrevocably submit to the jurisdiction of the courts of the Province of Ontario for the interpretation and enforcement of the Tariff and Shipper's Transportation Agreement.

These General Terms and Conditions, Toll Schedules, Statement of Tolls and service agreements which comprise the Tariff are subject to the provisions of the Ontario Energy Board Act, 1998. The tolls of the Transporter are regulated by the OEB on a complaint basis. The Transporter is required to make copies of tariffs and supporting financial information available to Interested Persons. Interested Persons who cannot resolve traffic, toll or Tariff issues with Transporter may file a complaint with the OEB. In the absence of a complaint, the OEB does not typically undertake a detailed examination of the Transporter's tolls.

22 FACILITIES ON SHIPPER'S PROPERTY

1. Construction and Maintenance: Transporter, at its own expense may construct, maintain and operate on Shipper's property at the Delivery Point a measuring station properly equipped with a meter or meters and any other necessary measuring equipment for properly measuring the Gas delivered under the Transportation Agreement. Shipper will grant to Transporter a lease and/or rights-of-way over property of Shipper as required by Transporter to install, operate and maintain such facilities and to connect same to Transporter's pipeline.
2. Entry: Transporter, its employees, agents and each of them may at any reasonable time on notice (except in cases of emergency) to Shipper or its duly authorized representative, enter Shipper's property for the purpose of constructing, maintaining, removing, operating and/or repairing station equipment.
3. Property: The said station and equipment will be and remain the property of Transporter notwithstanding it is constructed on and attached to the realty of Shipper, and Transporter may at its own expense remove it upon termination of the Transportation Agreement and will do so if so requested by Shipper.

23 CREDITWORTHINESS

1. If at any time and from time to time any one of the following events occurs (each, a "**Material Event**");
  - (a) Shipper defaults on any of its obligations under its Transportation Agreement or the Tariff, or is in default of any other material contract with Transporter or another party;

- (b) Shipper's or its Guarantor's corporate or debt rating falls below investment grade according to at least one nationally recognized rating agency;
- (c) Shipper or its Guarantor ceases to be rated by a nationally recognized agency; or
- (d) Shipper has exceeded credit available as determined by Transporter,

then Shipper shall provide, unless otherwise agreed by both parties in writing, at its cost, within ten (10) days of Transporter's written request, either

(i) a standby irrevocable letter of credit (in form and substance and in an amount reasonably acceptable to Transporter) from a Qualified Institution (the "Letter of Credit"); or

(ii) a written guarantee (in form and substance and for an amount reasonably acceptable to Transporter) from the parent company or an affiliate of Shipper ("Guarantor") with a corporate or debt rating that is investment grade according to at least one nationally recognized rating agency ("Guarantee"); or

(iii) some other form of credit acceptable to both parties.

The credit requirement shall not exceed the monthly Demand Charges multiplied by twelve (12). "Qualified Institution" shall mean a major U.S. commercial bank, or the U.S. branch offices of a foreign bank which has assets of at least US\$10 Billion Dollars and a credit rating of at least "A-" by S&P, or "A3" by Moody's. Transporter may require Shipper at its cost to provide a substitute Letter of Credit ("Substitute Letter of Credit") if the Letter of Credit provided is, at any time, from a financial institution which is no longer a Qualified Institution. In the event that Shipper does not provide such Letter of Credit, Guarantee or Substitute Letter of Credit within ten (10) days of Transporter's written request, Shipper shall be deemed to be in default of the Transportation Agreement.

Shipper shall promptly notify Transporter of any Material Event throughout the term of the Transportation Agreement.

- 2. This Article 24 shall be in addition to, and not in lieu of, any requirements under the Transportation Agreement or the applicable Toll Schedule and shall remain in effect for the term requirements set forth in the Transportation Agreement.
- 3. Prior to the Commencement Date set out in Shipper's Transportation Agreement, the conditions under this Article 24 shall be satisfied by Shipper.

#### 24 INCORPORATION IN TOLL SCHEDULES AND TRANSPORTATION AGREEMENTS

These General Terms and Conditions are incorporated in and are a part of Transporter's Toll Schedules and Transportation Agreements. Unless the context expressly requires, to the extent there is any inconsistency between these General Terms and Conditions and the Transporter's Toll Schedule or Transportation Agreements, these General Terms and Conditions shall govern.

#### 25 DEFAULT AND TERMINATION

- 1. Except where different procedures for termination of a Transportation Agreement are expressly provided in the Transportation Agreement, including in other provisions of these General Terms and Conditions, if Transporter or Shipper shall fail to perform any of the covenants or obligations imposed upon it under any Transportation Agreement or the Tariff, or shall breach any term or condition thereof or make any misrepresentation thereunder, then in such event the other party may, at its option, terminate the Transportation Agreement by proceeding as follows: (a) the party not in default shall cause a written notice to be served on the party in default stating specifically the default and declaring it to be the intention of the party giving the notice to terminate Shipper's Transportation Agreement; (b) thereupon the party in default shall have 10 days after the service of the aforesaid notice in which to remedy or remove the default stated in the default notice; and (c) if within said 10 day period the party in default does so remove and remedy said default and fully indemnifies the party not in default for any and all consequences of such default, such default notice shall be withdrawn and the Transportation Agreement shall continue in full force and effect.

2. In the event the party in default does not so remedy and remove the default, or does not indemnify the party giving the default notice for any and all consequences of such default within the said period of 10 days, then, at the option of the party providing such default notice, the Transportation Agreement shall terminate.
3. Any termination of a Transportation Agreement pursuant to the provisions of this Article 26 shall be without prejudice to the right of Transporter to collect any amounts then due to it for Gas delivered or service provided prior to the date of termination, and shall be without prejudice to the right of Shipper to receive any Gas which it has not received but the transportation of which has been paid prior to the date of termination, and without waiver of any other remedy to which the party not in default may be entitled for breaches of the Transportation Agreement or the Tariff.

26 LINE PACK AND TEST GAS

Notwithstanding any other provision contained in these General Terms and Conditions or the Tariff, Transporter shall be exempt from all contracting requirements and shall not be subject to any toll or charge otherwise applicable for the transmission of Gas that is owned by the Transporter.

Agreement No. FT - ●

**FIRM TRANSPORTATION AGREEMENT  
FOR FIRM TRANSPORTATION OF NATURAL GAS**

**BETWEEN**

**DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP**

**AND**

\_\_\_\_\_  
**(SHIPPER)**

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_



**THIS FIRM TRANSPORTATION AGREEMENT** dated as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (the "Agreement")

BETWEEN:

**DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP**, a limited partnership existing under the laws of the Province of Ontario, (hereinafter referred to as "Transporter")

- and -

\_\_\_\_\_, a company incorporated under the laws of the (Province, State, Country) of \_\_\_\_\_, (hereinafter referred to as "Shipper")

**(FOR EXISTING CAPACITY AND FOR EXPANSION CAPACITY)**

**WHEREAS**, Transporter is part of a joint venture which operates a natural gas transmission pipeline that runs from the Belle River point near the Belle River Mills natural gas storage facility located in China Township, Michigan to the St Clair River point (the "**U.S. Pipeline**") and from the St Clair River point to the Dawn point located near the Dawn compressor site in the township of Dawn-Euphemia, Ontario, where the pipeline terminates (the "**Canadian Pipeline**");

**WHEREAS**, Transporter operates the Canadian Pipeline, through which Transporter offers "Transportation Services", as defined in Article II herein;

**(FOR EXPANSION CAPACITY)**

**WHEREAS**, Transporter has proposed construction to expand the Canadian Pipeline through which Transporter offers "Transportation Services", as defined in Article II herein;

**WHEREAS**, Shipper and Transporter have entered into an agreement dated \_\_\_\_\_, 20\_\_\_\_ (the "**Precedent Agreement**"), which terms and conditions provided that, subject to the fulfilment or waiver of the conditions precedent set forth in the Precedent Agreement, the parties enter into an agreement substantially in the form of the terms and conditions described in this Agreement;

**WHEREAS**, the conditions precedent of the Precedent Agreement have been satisfied or waived;

**AND WHEREAS**, Shipper wishes to contract with Transporter to provide such Transportation Services, as set out herein, and Transporter has agreed, subject to the terms and conditions of this Agreement, to provide the Transportation Services requested;

**NOW THEREFORE**, this Agreement witnesses that, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

**ARTICLE I - TRANSPORTATION SERVICE COMMENCEMENT AND TERM**

(FOR EXISTING CAPACITY)

1.01 The Commencement Date shall be the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. This Agreement shall remain in full force and effect, pursuant to the terms of this Agreement and the Tariff until the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(FOR EXPANSION CAPACITY)

1.01 Transporter shall use reasonable efforts to construct or acquire the additional pipeline and/or facilities as may be required to effect the Transportation of Gas requested by Shipper pursuant to this Agreement (the "**Required Capacity**") by the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ ("**Target Date**"), or as soon as possible thereafter. The ability of Transporter to effect the Transportation of Gas by the Target Date will be affected by the timing of receipt of authorizations, approvals and easements as provided in Section 3 of the Precedent Agreement and the time required for the acquisition and construction of the pipeline and facilities required to provide the Required Capacity.

1.02 Transporter shall make reasonable efforts to provide Shipper with ten (10) days advance notice for the anticipated availability of the Required Capacity (the "**Notice**"), and Transportation Services, pursuant to this Agreement, shall not commence prior to the actual date of availability of the Required Capacity.

1.03 This Agreement shall be effective as of the date of execution hereof and shall continue in full force and effect, pursuant to the terms of this Agreement and the Tariff until the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. However, the Commencement Date of the Transportation Services obligations, terms and conditions hereunder shall be the earlier of:

(a) the date for which Shipper first Nominates and Transporter schedules the Transportation Services hereunder; or

(b) the tenth (10<sup>th</sup>) day following the day on which Shipper received the Notice,

provided, however, that Shipper shall not be obligated to a Commencement Date which is earlier than the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, unless mutually agreed upon by the parties.

ARTICLE II – TRANSPORTATION SERVICES

2.01 Transporter shall perform, and Shipper shall receive, service hereunder in accordance with the provisions of Transporter's effective Toll Schedule Firm Transportation Service and the applicable General Terms and Conditions of the Tariff on file with the OEB as the same may be amended or superseded in accordance with the rules, regulations and legislation of the OEB.

2.02 Transporter shall, on a Firm basis and subject to the terms and conditions herein, transport Shipper's Gas on Canadian Pipeline (the "**Transportation Services**"). Shipper agrees to the following upon Nomination for the provision of the Transportation Services:

(a) Maximum Daily Quantity:

Transporter shall transport, on a Firm basis, a quantity of Gas on any day, of up to \_\_\_\_\_ Dth (\_\_\_\_\_ GJ) (the "**MDQ**").

(b) Receipt Point and Delivery Point;

i) "Receipt Point" shall mean the point where Transporter shall receive Gas from Shipper as listed below:

• \_\_\_\_\_

ii) "Delivery Point" shall mean the point where Transporter shall deliver Gas to Shipper as listed below:

• \_\_\_\_\_

(c) Gas Transported by Transporter:

(i) Transporter agrees, on any Day, and subject to Section 2.02 (c) (ii) hereunder, to receive on Shipper's behalf at the Receipt Point, any quantity of Gas which Shipper Nominates and which Transporter has authorized for Transportation Service and to deliver that quantity of Gas to Shipper at the Delivery Point; and

(ii) Under no circumstances shall Transporter be required to transport a quantity of Gas in excess of the MDQ.

(d) Fuel:

Shipper shall provide the Fuel Requirements as posted on the Website and in accordance with the General Terms and Conditions.

2.03 Accounting for Transportation Services: All quantities of Gas received by or delivered to Transporter shall be accounted for on a daily basis.

#### ARTICLE III: CHARGES AND RATES

3.01 Except as otherwise stated herein, the charges and rates to be billed by Transporter and paid by Shipper for the Transportation Services provided under this Agreement will be in accordance with Transporter's effective Toll Schedule Firm Transportation Service.

Reservation Rate:	\$ _____ USD/Dth
Usage Rate:	\$ _____ USD/Dth
Authorized Overrun Charge	\$ _____ USD/Dth

The Reservation Rate shall be invoiced as a monthly Demand Charge of \$ \_\_\_\_\_ USD per month

3.02 Where the U.S. Pipeline provides Shipper with upstream connecting transportation service, Transporter may, at its discretion, reallocate the rates between Transporter and the U.S. Pipeline as long as the total rate to Shipper does not increase.

3.03 In addition to the charges and rates, Shipper is responsible for any applicable Goods and Services Tax or other taxes, royalties, duties or levies, including charges under any form of cap and trade, carbon tax, or similar system imposed currently or subsequent to the execution of this Agreement that are payable in connection with the Transportation Services.

#### ARTICLE IV: NOTICES

4.01 All communications provided for or permitted hereunder shall be in writing, personally delivered to an officer or other responsible employee of the addressee or sent by registered mail, charges prepaid, or by facsimile or other means of recorded telecommunication, charges prepaid, to the applicable address set forth below or to such other address as either party hereto may from time to time designate to the other in such manner, provided that no communication shall be sent by mail pending any threatened, or during any actual, postal strike or other disruption of the postal service. Any communication personally delivered shall be deemed to have been validly and effectively received on the date of such delivery. Any communication so sent by facsimile or other means of telecommunication shall be deemed to have been validly and effectively received on the Business Day following the day on which it is sent. Any communication so sent by mail shall be deemed to have been validly and effectively received on the seventh (7<sup>th</sup>) Business Day following the day on which it is postmarked.

Communications to the parties hereto shall be directed as follows:

IF TO SHIPPER:

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Nominations: Attention:

\_\_\_\_\_

Telephone: \_\_\_\_-\_\_\_\_-\_\_\_\_

Facsimile: \_\_\_\_-\_\_\_\_-\_\_\_\_

Secondary Contact: Attention:

\_\_\_\_\_

Telephone: \_\_\_\_-\_\_\_\_-\_\_\_\_

Facsimile: \_\_\_\_-\_\_\_\_-\_\_\_\_

IF TO TRANSPORTER:

Dawn Gateway Pipeline Limited Partnership,  
c/o DTE Pipeline Company  
One Energy Plaza, 2084WCB  
Detroit, MI  
48226

Attention: Director, Marketing & Optimization  
Facsimile: (313) 235-6450

Nominations: Attention: ●

Title ●

Telephone: ●

Facsimile: ●

Secondary Contact: Attention: ●

Title ●

Telephone: ●

Facsimile: ●

ARTICLE V: MISCELLANEOUS

5.01 Maintenance: Transporter reserves the right to take such actions as may be required to preserve the integrity of the Canadian Pipeline or to enhance the Canadian Pipeline.

5.02 Severability: If any provision hereof is invalid or unenforceable in any jurisdiction, to the fullest extent permitted by law, (a) the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be construed in order to carry out the intention of the parties as nearly as possible and (b) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of any provision in any other jurisdiction.

5.03 Nothing in this Agreement shall be deemed to create any rights or obligations between the parties hereto, including renewal rights, after the expiration of the term set forth herein, except that termination of this Agreement shall not relieve either party of the obligation to correct any quantity imbalances or Shipper of the obligation to pay any amounts due hereunder to Transporter.

5.04 Capitalized terms not defined herein shall have the meaning given them in the General Terms and Conditions of the Tariff.

THIS AGREEMENT SHALL BE BINDING UPON and shall enure to the benefit of the parties hereto and their respective successors and permitted and lawful assigns.

IN WITNESS WHEREOF this Agreement has been properly executed by the parties hereto by their duly authorized officers as of the date first above written.

**DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP, by its general partner, DAWN GATEWAY PIPELINE GENERAL PARTNER INC.**

By: \_\_\_\_\_  
Peter Cianci  
Co-President

By: \_\_\_\_\_  
Stephen W. Baker  
Co-President

**SHIPPER**

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Title:

Agreement No. FT - ●

**DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP**

**TOLL SCHEDULE**

**FIRM TRANSPORTATION SERVICE**

(the "Toll Schedule")

ARTICLE I: AVAILABILITY

1.1 Any Shipper shall be eligible to receive service hereunder provided that:

(a) Transporter determines it has sufficient System Capacity to render the Firm Transportation service and is able to provide said Firm Transportation service.

(b) Any construction, acquisition, or expansion of facilities necessary to commence and provide the Firm Transportation service has been completed.

(c) Shipper has executed the Firm Transportation Agreement for Firm Transportation of Natural Gas (the "**Firm Transportation Agreement**") in the form contained in the Tariff.

(d) Shipper has made arrangements acceptable to Transporter for service on upstream and downstream transporters if applicable.

(e) Shipper has satisfied the creditworthiness criteria in Article 23 of the General Terms and Conditions of the Tariff.

ARTICLE II: AVAILABILITY AND CHARACTER OF SERVICE

2.1 Firm Transportation service under this Toll Schedule is subject to:

(a) the availability of capacity on Transporter's pipeline system;

(b) the provisions of an effective Firm Transportation Agreement; and

(c) the General Terms and Conditions of the Tariff.

2.2 On each Day during the term of Shipper's Firm Transportation Agreement, the Shipper shall be entitled to request service hereunder subject to this Toll Schedule and the General Terms and Conditions of the Tariff. Nominations for Transportation service shall be made pursuant to Article 5 of the General Terms and Conditions of the Tariff. Transportation service hereunder shall not be subject to curtailment or interruption except as provided for herein and in Articles 6, 7 and 15 of the General Terms and Conditions of the Tariff.

2.3 Transporter may refuse to render Transportation service hereunder if and for so long as Shipper is in default under any Transportation Agreement or the General Terms and Conditions of the Tariff.

2.4 Transporter will receive for Shipper's account for Transportation service hereunder, daily quantities of Gas up to Shipper's Maximum Daily Quantity, plus an amount reflecting a Fuel Requirement, as determined in Article 8 of the General Terms and Conditions of the Tariff, at the Receipt Point on Transporter's pipeline system available to Shipper pursuant to Shipper's Firm Transportation Agreement and the General Terms and Conditions of the Tariff. Such Maximum Daily Quantity shall be specified in Shipper's Firm Transportation Agreement. Transporter will deliver for Shipper's account at the Delivery Point Nominated by Shipper from the Delivery Point(s) listed in Shipper's Firm Transportation Agreement, less the Fuel Requirement.

2.5 Transporter shall not be obligated to add any facilities or expand the capacity of its pipeline system in any manner in order to provide Transportation service to Shipper pursuant to this Toll Schedule.

ARTICLE III: TOLLS AND CHARGES

3.1 The applicable tolls for Firm Transportation service hereunder are set forth in the Statement of Tolls as found in the Tariff and are incorporated herein.

3.2 The applicable Transportation Agreement will specify a Demand Charge for Firm Transportation service provided hereunder. The Demand Charge applicable to Shipper for Firm Transportation service hereunder shall be no more than the maximum toll set forth in the Statement of Tolls as found in the Tariff and incorporated herein.

3.3 Effective as of the Commencement Date, as provided for in the Firm Transportation Agreement, Transporter shall charge and Shipper shall pay for Firm Transportation service under this Toll Schedule each Month, or part thereof, if applicable, the sum of the following:

- (a) the applicable Reservation Rate multiplied by Shipper's Maximum Daily Quantity;
- (b) the applicable Usage Rate multiplied by the Shipper's Scheduled Quantity;
- (c) the applicable Authorized Overrun Charge multiplied by all Authorized Overrun Schedule Quantities; and
- (d) the applicable Fuel Requirement as set out in the General Terms and Conditions of the Tariff.

3.4 Nothing in this Article III shall be construed as in any way relieving Shipper from its obligation to pay any adjustments or other charges calculated in accordance with the General Terms and Conditions of the Tariff.

#### ARTICLE IV: RECEIPT POINTS AND DELIVERY POINTS

4.1 The Receipt Point(s) at which Transporter shall receive Gas for Shipper's account under this Toll Schedule shall be the Receipt Point(s) listed in Shipper's Firm Transportation Agreement.

4.2 The Delivery Point(s) at which Transporter shall deliver Gas for Shipper's account under this Toll Schedule shall be the Delivery Point(s) listed in Shipper's Firm Transportation Agreement.

#### ARTICLE V: ASSIGNMENT

5.1 Permanent Assignment: Shipper may assign to a third party ("Assignee"), the Maximum Daily Quantity contracted by Shipper and for which Shipper has agreed to pay a Demand Charge in accordance with the terms and conditions of the Firm Transportation Agreement (the "Capacity Assigned"). Such assignment shall require the prior written consent of Transporter. Such consent shall not be unreasonably withheld and shall be conditional upon the Assignee providing, amongst other things, financial assurances as per Article 24 of the General Terms and Conditions of the Tariff and an agreement to be responsible for the full rights, obligations and remaining term of the applicable Firm Transportation Agreement as it relates to the Capacity Assigned.

5.2 Temporary Assignment: Shipper may, upon notice to Transporter, assign all or a part of its daily quantity of Gas contracted by Shipper and for which Shipper has agreed to pay a Demand Charge in accordance with the terms and conditions of the Firm Transportation Agreement (the "Assigned Quantity") and the corresponding rights and obligations to an Assignee on a temporary basis for not less than one Month and not greater than twelve Months.

5.3 Notwithstanding any assignment, Shipper shall remain obligated to Transporter to perform and observe the covenants and obligations contained herein in regard to the Capacity Assigned or the Assigned Quantity to the extent that Assignee fails to do so.

#### ARTICLE VI: GENERAL TERMS AND CONDITIONS

6.1 All of the General Terms and Conditions of the Tariff, of which this Toll Schedule is a part, are applicable to this Toll Schedule.



## STATEMENT OF TOLLS

### Firm Transportation Service Tolls

- Reservation Rate for Firm Transportation service:  

All rates will be negotiated in \$USD per Dth per month,  
up to a maximum of \$30.00 USD per Dth per month.
- Usage Rate for Firm Transportation service:  

Maximum Rate \$1.00 USD per Dth per day.
- Authorized Overrun Charge for Firm Transportation service:  

All rates will be negotiated in \$USD per Dth per day,  
up to a maximum of \$1.00 USD per Dth per day.

Agreement No. IT - ●

**INTERRUPTIBLE TRANSPORTATION AGREEMENT  
FOR INTERRUPTIBLE TRANSPORTATION OF NATURAL GAS**

**BETWEEN**

**DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP**

**AND**

\_\_\_\_\_  
**(SHIPPER)**

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**THIS INTERRUPTIBLE TRANSPORTATION AGREEMENT** dated as of the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, (the "Agreement")

BETWEEN:

DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP, a limited partnership existing under the laws of the Province of Ontario, (hereinafter referred to as "Transporter")

- and -

\_\_\_\_\_, a company incorporated under the laws of the (Province, State, Country) of \_\_\_\_\_, (hereinafter referred to as "Shipper")

**WHEREAS**, Transporter is part of a joint venture which operates a natural gas transmission pipeline that runs from the Belle River point near the Belle River Mills natural gas storage facility located in China Township, Michigan to the St Clair River point (the "U.S. Pipeline") and from the St Clair River point to the Dawn point located near the Dawn compressor site in the township of Dawn-Euphemia, Ontario, where the pipeline terminates (the "Canadian Pipeline");

**WHEREAS**, Transporter operates the Canadian Pipeline, through which Transporter offers "Transportation Services", as defined in Article II herein;

**AND WHEREAS**, Shipper wishes to contract with Transporter to provide such Transportation Services, as set out herein, and Transporter has agreed, subject to the terms and conditions of this Agreement, to provide the Transportation Services requested;

**NOW THEREFORE**, this Agreement witnesses that, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

#### ARTICLE I – TRANSPORTATION SERVICE COMMENCEMENT AND TERM

1.01 The Commencement Date shall be the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_. This Agreement shall remain in full force and effect, pursuant to the terms of this Agreement and the Tariff until the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

#### ARTICLE II - TRANSPORTATION SERVICES

2.01 Transporter shall perform, and Shipper shall receive, service hereunder in accordance with the provisions of Transporter's effective Toll Schedule Interruptible Transportation Service and the applicable General Terms and Conditions of the Tariff on file with the OEB as the same may be amended or superseded in accordance with the rules, regulations and legislation of the OEB.

2.02 Transporter shall, on an Interruptible basis and subject to the terms and conditions herein, transport Shipper's Gas on Canadian Pipeline (the "Transportation Services"). Shipper agrees to the following upon Nomination for the provision of the Transportation Services:

(a) Maximum Daily Quantity

Transporter shall transport, on an Interruptible basis, a quantity of Gas on any day, of up to \_\_\_\_\_ Dth (\_\_\_\_\_ GJ) (the "MDQ").

(b) Receipt Point and Delivery Point:

i) "Receipt Point" shall mean the point where Transporter shall receive Gas from Shipper as listed below:

- \_\_\_\_\_

ii) "Delivery Point" shall mean the point where Transporter shall deliver Gas to Shipper as follows:

- \_\_\_\_\_

(c) Fuel:

Shipper shall provide the Fuel Requirement as posted on the Website and in accordance with the General Terms and Conditions.

2.03 Accounting for Transportation Services: All quantities of Gas received by or delivered to Transporter shall be accounted for on a daily basis.

#### ARTICLE III - CHARGES AND RATES

3.01 Except as otherwise stated herein, the charges and rates to be billed by Transporter and paid by Shipper for the Transportation Services provided under this Agreement will be in accordance with Transporter's effective Toll Schedule IT Interruptible Transportation Service.

Usage Rate: \$ \_\_\_\_\_ USD/Dth  
Authorized Overrun Charge: \$ \_\_\_\_\_ USD/Dth

3.02 Where the U.S. Pipeline provides Shipper with upstream connecting transportation service, Transporter may, at its discretion, reallocate the rates between Transporter and the U.S. Pipeline as long as the total rate to Shipper does not increase.

3.03 In addition to the charges and rates, Shipper is responsible for any applicable Goods and Services Tax or other taxes, royalties, duties or levies, including charges under any form of cap and trade, carbon tax, or similar system imposed currently or subsequent to the execution of this Agreement that are payable in connection with the Transportation Services.

#### ARTICLE IV - NOTICES

4.01 All communications provided for or permitted hereunder shall be in writing, personally delivered to an officer or other responsible employee of the addressee or sent by registered mail, charges prepaid, or by facsimile or other means of recorded telecommunication, charges prepaid, to the applicable address set forth below or to such other address as either party hereto may from time to time designate to the other in such manner, provided that no communication shall be sent by mail pending any threatened, or during any actual, postal strike or other disruption of the postal service. Any communication personally delivered shall be deemed to have been validly and effectively received on the date of such delivery. Any communication so sent by facsimile or other means of telecommunication shall be deemed to have been validly and effectively received on the Business Day following the day on which it is sent. Any communication so sent by mail shall be deemed to have been validly and effectively received on the seventh (7<sup>th</sup>) Business Day following the day on which it is postmarked.

Communications to the parties hereto shall be directed as follows:

IF TO SHIPPER:

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Nominations: Attention:

\_\_\_\_\_

Telephone: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

Facsimile: \_\_\_\_-\_\_\_\_-\_\_\_\_

Secondary Contact: Attention:

\_\_\_\_\_  
Telephone: \_\_\_\_-\_\_\_\_-\_\_\_\_

Facsimile: \_\_\_\_-\_\_\_\_-\_\_\_\_

IF TO TRANSPORTER:

Dawn Gateway Pipeline Limited Partnership,  
c/o DTE Pipeline Company  
One Energy Plaza, 2084WCB  
Detroit, MI  
48226

Attention: Director, Marketing & Optimization  
Facsimile: (313) 235-6450

Nominations: Attention: ●

Title: ●

Telephone: ●

Facsimile: ●

Secondary Contact: Attention: ●

Title: ●

Telephone: ●

Facsimile: ●

ARTICLE V - MISCELLANEOUS

5.01 Maintenance: Transporter reserves the right to take such actions as may be required to preserve the integrity of the Canadian Pipeline, including maintenance of service, or to enhance the Canadian Pipeline.

5.02 Severability: If any provision hereof is invalid or unenforceable in any jurisdiction, to the fullest extent permitted by law; (a) the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be construed in order to carry out the intention of the parties as nearly as possible; and (b) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of any provision in any other jurisdiction.

5.03 Assignment: This Agreement may not be assigned by Shipper, but may be assigned by Transporter to an affiliate of Transporter.

5.04 Nothing in this Agreement shall be deemed to create any rights or obligations between the parties hereto, including renewal rights, after the expiration of the term set forth herein, except that termination of this Agreement shall not relieve either party of the obligation to correct any quantity imbalances or Shipper of the obligation to pay any amounts due hereunder to Transporter.

5.05 Capitalized terms not defined herein shall have the meaning given them in the General Terms and Conditions of the Tariff.

THIS AGREEMENT SHALL BE BINDING UPON and shall enure to the benefit of the parties hereto and their respective successors and permitted and lawful assigns.

IN WITNESS WHEREOF this Agreement has been properly executed by the parties hereto by their duly authorized officers as of the date first above written.

DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP, by its general partner, DAWN GATEWAY PIPELINE GENERAL PARTNER INC.

By: \_\_\_\_\_  
Peter Cianci  
Co-President

By: \_\_\_\_\_  
Stephen W. Baker  
Co-President

**SHIPPER**

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Title:

Agreement No. IT - ●

**DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP**

**TOLL SCHEDULE**

**INTERRUPTIBLE TRANSPORTATION SERVICE**

(the "Toll Schedule")

ARTICLE I: AVAILABILITY

1.1 Any Shipper shall be eligible to receive service hereunder provided that:

- (a) Transporter determines it has sufficient System Capacity to render the Interruptible Transportation service and is able to provide said Interruptible Transportation.
- (b) Any construction, acquisition, or expansion of facilities necessary to commence and provide the Interruptible Transportation service has been completed.
- (c) Shipper has executed the Interruptible Transportation Agreement for Interruptible Transportation of Natural Gas (the "**Interruptible Transportation Agreement**") in the form contained in the Tariff.
- (d) Shipper has made arrangements acceptable to Transporter for service on upstream and downstream transporters if applicable.
- (e) Shipper has satisfied the creditworthiness criteria in Article 23 of the General Terms and Conditions of the Tariff.

ARTICLE II: AVAILABILITY AND CHARACTER OF SERVICE

2.1 Interruptible Transportation service under this Toll Schedule is subject to:

- (a) the availability of capacity on Transporter's pipeline system;
- (b) the provisions of an effective Interruptible Transportation Agreement; and
- (c) the General Terms and Conditions of the Tariff.

2.2 On each Day during the term of Shipper's Interruptible Transportation Agreement, the Shipper shall be entitled to request Interruptible Transportation service hereunder subject to this Toll Schedule and the General Terms and Conditions of the Tariff. Nominations for Interruptible Transportation service shall be made pursuant to Article 5 of the General Terms and Conditions of the Tariff.

2.3 Transporter may refuse to render Transportation service hereunder if and for so long as Shipper is in default under any Transportation Agreement or the General Terms and Conditions of the Tariff.

2.4 Transporter will receive for Shipper's account for Transportation service hereunder, daily quantities of Gas up to Shipper's Maximum Daily Quantity, plus an amount reflecting a Fuel Requirement, as determined in Article 8 of the General Terms and Conditions of the Tariff, at the Receipt Point on Transporter's pipeline system available to Shipper pursuant to Shipper's Interruptible Transportation Agreement and the General Terms and Conditions of the Tariff. Such Maximum Daily Quantity shall be specified in Shipper's Interruptible Transportation Agreement. Transporter will deliver for Shipper's account, at the Delivery Point(s) Nominated by Shipper from the Delivery Point(s) listed in Shipper's Interruptible Transportation Agreement, less the Fuel Requirement.

2.5 Transporter shall not be obligated to add any facilities or expand the capacity of its pipeline system in any manner in order to provide Transportation service to Shipper pursuant to this Toll Schedule.

ARTICLE III: TOLLS AND CHARGES

3.1 The applicable tolls for Interruptible Transportation service hereunder are set forth in the Statement of Tolls as found in the Tariff and are incorporated herein.



3.2 Effective as of the Commencement Date, as provided for in the Interruptible Transportation Agreement, Transporter shall charge and Shipper shall pay for Interruptible Transportation under this Toll Schedule each Month, or part thereof, if applicable, the sum of the following:

- (a) the applicable Usage Rate multiplied by the Scheduled Quantity;
- (b) the applicable Authorized Overrun Charge multiplied by all Authorized Overrun Schedule Quantities; and
- (c) the applicable Fuel Requirement as set out in the General Terms and Conditions of the Tariff.

3.3 Nothing in this Article III shall be construed as in any way relieving Shipper from its obligation to pay any adjustments or other charges calculated in accordance with the General Terms and Conditions of the Tariff.

#### ARTICLE IV: RECEIPT POINT AND DELIVERY POINT

4.1 The Receipt Point(s) at which Transporter shall receive Gas for Interruptible Transportation hereunder shall be the Receipt Point(s) listed in Shipper's Interruptible Transportation Agreement.

4.2 The Delivery Point(s) at which Transporter shall deliver Gas for Shipper's account for Interruptible Transportation hereunder shall be the Delivery Point(s) listed in Shipper's Interruptible Transportation Agreement.

#### ARTICLE V: GENERAL TERMS AND CONDITIONS

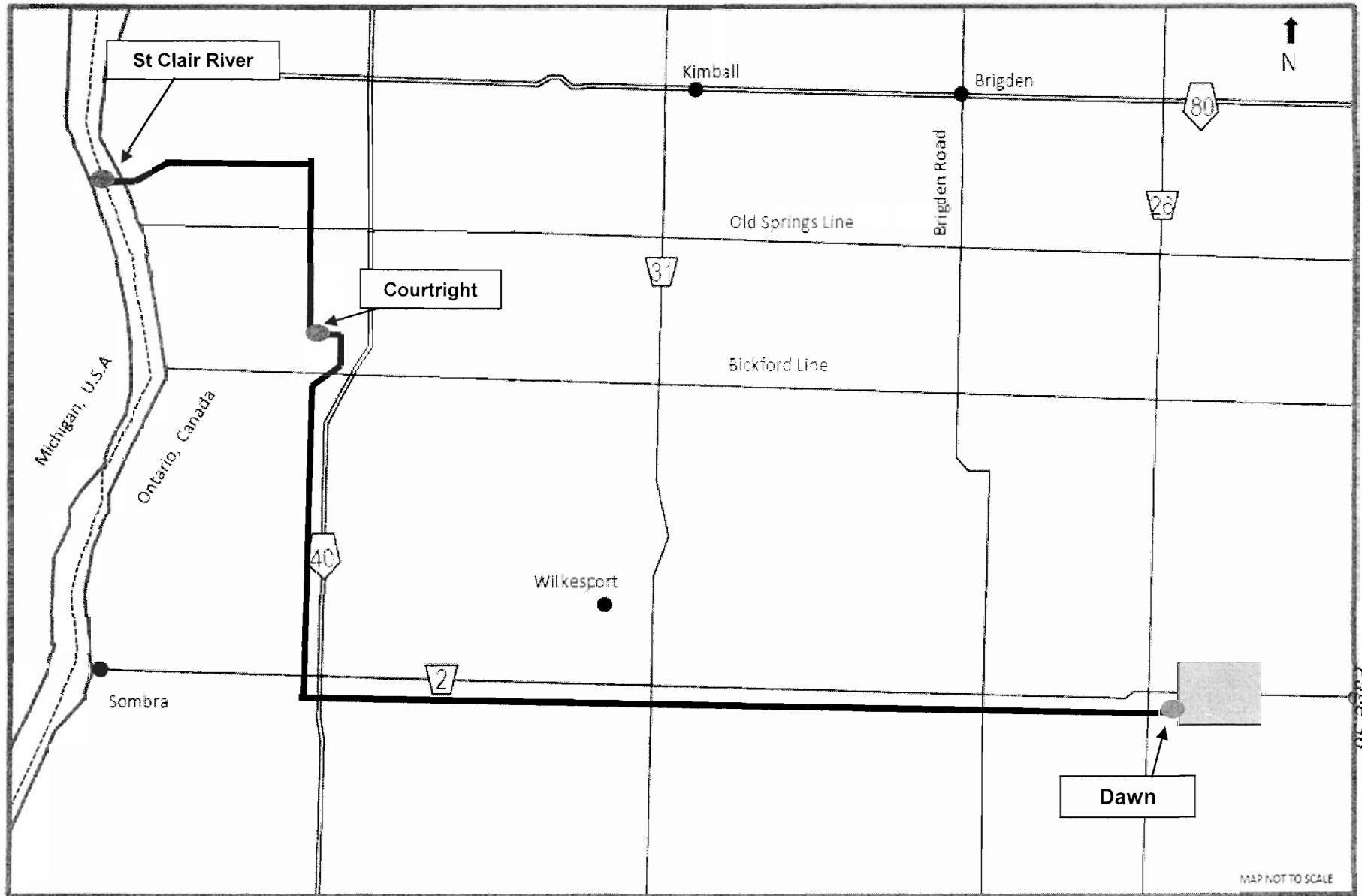
5.1 All of the General Terms and Conditions of the Tariff, of which this Toll Schedule is a part, are applicable to this Toll Schedule.

## STATEMENT OF TOLLS

### Interruptible Transportation Service Tolls

- Usage Rate for Interruptible Transportation service:  
Maximum Rate \$2.00 USD per Dth per day.
- Authorized Overrun Charge for Interruptible Transportation service:  
All rates will be negotiated in \$USD per Dth per day,  
up to a maximum of \$2.00USD per Dth per day.

# Dawn Gateway Pipeline System Map



**Canadian Receipt / Delivery Points**

- 1) St Clair River
- 2) Courtright
- 3) Dawn

## SECTION 5

### PROPOSED NEW FACILITIES

38. The Dawn Gateway Pipeline consists of a 34 km NPS 24 pipeline commencing at the Belle River Mills Compressor Station in St. Clair County, State of Michigan and terminating at Dawn in Lambton County, Ontario. Schematics of the Dawn Gateway Pipeline system are shown on Section 5, Schedule 1. The subject of the Leave to Construct portion of this Application is the construction of the Bickford Dawn Pipeline consisting of a 17 km NPS 24 pipeline commencing at Union's Bickford Compressor Station and terminating at the Dawn Compressor Station.

#### System Design and Capacity

39. The Dawn Gateway Pipeline project as described in Section 2 will have a total capacity of approximately 360,000 Dthd (379,876 GJ/d, 10,198 10<sup>3</sup>m<sup>3</sup>/d) from the Belle River Mills Compressor Station to Dawn based on a volumetric to energy value conversion supplied by DTE. The initial pipeline's capacity is based on 5,690 kPag (825 psig) pressure supplied by the Belle River Mills Compressor Station and arriving at the Dawn Compressor Station at 4,930 kPag (715 psig). The system capacity for the Dawn Gateway Pipeline will initially be limited by the pressure available from the Belle River Mills Compression Station, and the capacity would be expandable by adding compression and completing some station modifications. The proposed Dawn Gateway Pipeline would also have some bi-directional ability to flow gas from Dawn to the Belle River Mills Compressor Station.
40. The proposed Bickford Dawn Pipeline will have a Maximum Operating Pressure ("MOP") of 9,420 kPag (1,365 psig) which matches the MOP of the existing Belle River Mills Pipeline, St Clair River Crossing and St Clair Pipeline. It is expected that the Dawn Gateway Pipeline will initially operate at pressures ranging from a maximum of 5,690 kPag (825 psig) at Belle River Mills to a minimum of 4,930 kPag (715 psig) at Dawn. In the future, if compression were added, it is possible that the pipeline would operate at higher pressures.
41. There will be three receipt/delivery points in Ontario on the Dawn Gateway Pipeline. The first will be at the St. Clair River where the US and Canadian segments join. The

other two points will both interconnect with the Union Gas System with one located at the St. Clair Line Station (Courtright) and the other at the Dawn Compressor Station (Dawn) as identified in the Dawn Gateway system map forming part of the tariff which is shown at Section 4 – Schedule 3.

42. The NPS 24 St Clair Pipeline will be disconnected from Union's Bickford Compressor station and connected to the proposed NPS 24 Bickford Dawn Pipeline.
43. The NPS 24 Bickford Dawn Pipeline will terminate at a proposed new valve site (including pig launcher/receiver facilities) at Union's Dawn Compressor Station.

#### **Capacity and Market Demand**

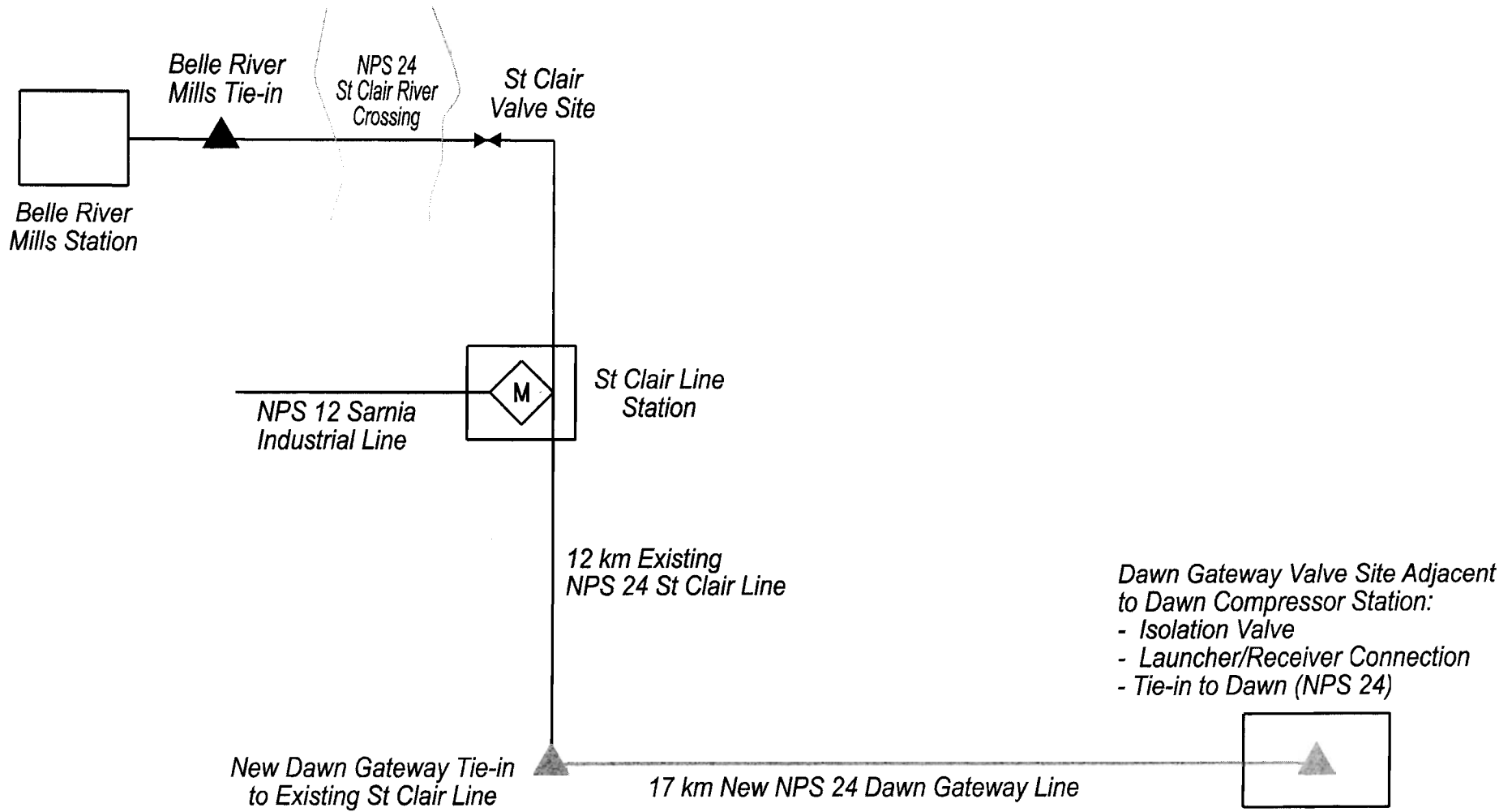
44. As outlined in Section 3, the total projected demand for the Dawn Gateway Pipeline for winter 2010/2011 is 360,000 Dthd (379,876 GJ/d, 10,198 10<sup>3</sup>m<sup>3</sup>/d). This is composed of current customer contracted firm long term demand of 280,000 Dthd (295,459 GJ/d, 7,932 10<sup>3</sup>m<sup>3</sup>/d) and the potential for additional firm long term or short term contracts of 80,000 Dthd (84,417 GJ/d, 2,266 10<sup>3</sup>m<sup>3</sup>/d).

#### **Alternatives Considered**

45. The proposed Bickford Dawn Pipeline, along with existing facilities, will form the proposed Dawn Gateway Pipeline system. The existing portions of the proposed Dawn Gateway Pipeline are NPS 24 and comprise 50% of the length of the entire project. Installing the proposed Bickford to Dawn section of the project as NPS 24 completes the entire path and is right sized for the current requirements and operation, and its future capacity can be increased with the addition of compression.
46. Installing a smaller diameter pipeline for the Bickford to Dawn section does not provide sufficient capacity to meet the demand of the contracts that resulted from the open season. The capacity of the Dawn Gateway Pipeline with the Bickford to Dawn section installed as NPS 20 is 275,000 Dthd (approximately 290,000 GJ/d). This smaller diameter also limits the future capability of the Dawn Gateway Pipeline.
47. Installing a larger diameter NPS 30 pipeline for the Bickford to Dawn section increases the total system capacity to 445,000 Dthd (approximately 470,000 GJ/d), but would be

more expensive than the NPS 24 proposed and is not required to meet the total projected demands.

# DAWN GATEWAY PROJECT - SCHEMATIC



EB-2009-0422  
Section 5 - Schedule 1

## SECTION 6

### FACILITIES CONSTRUCTION

48. This section describes the construction techniques and mitigation procedures that will be used for the Bickford Dawn Pipeline. Dawn Gateway LP will contract with Union to oversee construction of the Bickford Dawn Pipeline and maintenance thereafter of the Ontario portion of Dawn Gateway Pipeline. As a result, the proposed construction methods will be the same as the construction methods typically used by Union.
49. Section 6 - Schedule 1 describes the general techniques and methods of construction that will be employed for the construction of the proposed facilities. It details such activities as clearing, grading, stringing of pipe, welding, trenching, backfill, tile repair and clean-up.
50. Section 6 - Schedule 2, page 1 of 2, provides the overall project schedule. Section 6 - Schedule 2, page 2 of 2, indicates the proposed schedule for 2010 pipeline construction. It is anticipated that construction of the proposed pipeline facilities will begin in the summer (not including clearing) and be completed by October. The proposed construction schedule takes advantage of the drier summer months thereby minimizing the impact of construction on agricultural lands and other features such as watercourses.
51. Dawn Gateway LP needs to receive Board approval by February 26, 2010 for an order granting leave to construct the Bickford Dawn Pipeline in order to provide adequate time to meet the proposed construction schedule in the summer of 2010.
52. Dawn Gateway LP foresees no issues obtaining material for the project and foresees no problem in obtaining a contractor to complete the proposed construction so long as it receives all necessary approvals by February 26, 2010. If approvals are obtained after that date, Dawn Gateway LP will be unable to commit to the required pipe in time to meet the 2010 construction schedule.
53. Union will oversee the construction of the proposed pipeline in compliance with Union's current construction procedures, the environmental mitigation identified in the ER,



permit conditions and commitments to regulators and landowners. Union's construction procedures have been continually updated and refined to minimize potential impacts to lands. An example of this is Union's Wet Soil Shutdown practice that has been implemented for over 20 years to protect agricultural lands.

54. Dawn Gateway LP and Union will continue to work with each individual municipality and comply with the intent of the various by-laws and permits to the extent possible.
55. Prior to construction, Union's Landowner Relations Agent, on behalf of Dawn Gateway LP, will attempt to meet with each landowner along the route to obtain site specific requirements such as livestock fencing and access points. This information is included in the construction contract so that the contractor is contractually obligated to fulfill all such commitments. The visit also provides an informal opportunity to discuss construction plans and answer questions.
56. Pre-construction tiling will be completed if timing and soil conditions permit. Pre-construction tiling is employed to minimize disruption to field drainage systems and farm operations that may result from pipeline construction. Pre-construction tiling can only be undertaken when the existing tile system design, available outlet drains, topography, and soils allow for the installation of header tile adjacent to the pipeline construction area. A qualified drainage consultant will be retained to determine whether a property that contains a field drainage system could benefit from pre-construction tiling. A drainage consultant will be contacting the landowners to discuss their tile needs. Pre-construction tiling is generally outside the easement, and therefore requires landowner approval.
57. Dawn Gateway LP will offer a reforestation program and will replant twice the woodlot area cleared for construction. Coniferous and deciduous seedlings native to Ontario will be planted on the landowner's property if requested, and will be maintained up to a period of five years or until the trees reach a free-to-grow status defined by a height of one meter and free of adjacent brush competition. Replanting must be done in accordance with policies regarding tree planting on easements so that the pipeline is left open for access and aerial patrol.

**Design Specifications**

58. The Bickford Dawn Pipeline runs from the existing Bickford Compressor Station at the west end to the existing Dawn Compressor Station at the east end. A section of pipeline will be constructed near the Bickford Compressor Station to tie the proposed pipeline into the existing St. Clair Pipeline. At the east end, the pipeline will have to be tied into a new valve site that will interconnect with Union’s facilities. Yard piping at Dawn will be designed to allow flow in either direction depending on operation of the system.
59. The design will meet or exceed the requirements of CSA Z662-07. Class 1 requires a 1.0 location factor, Class 2 requires a 0.9 location factor and Class 3 requires a 0.625 location factor. For Class 1 and 2 general locations a location factor of 0.9 is used. The proposed pipeline design falls under two categories as listed below:

**Design Specifications**

	<b>Class 1 &amp; 2</b>	<b>Class 3</b>
Location Factor	0.9	0.625
Design Factor	0.8	0.8
Maximum Operating Pressure	9420 kPa	9420 kPa
Test Medium	Water	Water
Test Duration	24 hours	24 hours
Minimum Test Pressure	11775 kPa	13190 kPa
Valve and Flange Ratings	PN100	PN 100
Minimum Depth of Cover	1.0 m	1.0 m

60. To determine class location, the CSA code uses a classification system that takes into account land use and population density. The classifications are as follows:
- Class 1 areas consist of 10 or fewer dwellings
  - Class 2 areas consist of 11 to 45 dwellings, or a building occupied by 20 or more persons during normal use such as playgrounds, recreational areas, or other places of public assembly as well as industrial installations
  - Class 3 areas consist of 46 or more dwellings
61. The Class location boundaries are determined by a sliding scale 1.6 km long by 400 m wide centred over the pipeline. This method covers existing development. This is also

supplemented with information for future development through discussions with landowners, and municipalities. The pipeline may be designed to accommodate a higher class location to be compatible with future development.

62. In all locations a design factor of 0.8 as required by CSA was used for the design of the pipeline system. A location factor of 0.9 was used for Class 1 and 2 locations with the following exceptions where a location factor of 0.625 was used:

- when crossing any public right of ways including roads, highways, public streets, railways and major rivers,
- for any fabrications such as stations or valve sites, and
- for pipeline under-crossings

63. The Bickford Dawn Pipeline will be within Class 1 and Class 2 locations. The design will be as per the above table.

**Pipe Specifications**

64. Minimum pipe specifications are covered in the table below. The proposed pipeline will use NPS 24 pipe which has an outside diameter of 610 mm. There are two different pipe designs. Pipe with a location factor of 0.9 uses 8.3 mm wall thickness and a specified minimum yield strength (SMYS) of 483 MPa. The pipe with a location factor of 0.625 uses 11.9 mm wall pipe and a SMYS of 483 MPa.

**Minimum Pipe Specifications**

Size	610 mm OD
Grade	483 MPa
Wall thickness	8.3mm / 11.9mm
Category	II M5C
Coating	FBE Fusion Bond Epoxy

65. The NPS 24 pipe will be manufactured using the Electric Resistance Welded (ERW) process. The pipe will be manufactured to American Petroleum Institute 5L Line Pipe. The pipe is designed to provide the required MOP using the various location factors.

66. The MOP for the NPS 24 pipeline is 9420 kPa. The pipeline will be tested hydrostatically with water for a period of 24 hours. Testing will follow the requirements of CSA Z662-07 Oil and Gas Pipeline Systems Section 8. Any fabrication tests that will be fully exposed or above ground will require a minimum of a 1 hour pressure test. The location for the hydrostatic testing water source is expected to be the Sydenham River. All necessary permits to use this location will be obtained from the appropriate authorities.
67. The rating of all valves, flanges and fittings will be PN 100 rated for 9,930 kPa.
68. Based on the pipe specifications provided above, the stress levels of the piping will be as listed below:

Design Factor	Location Factor	Wall Thickness (mm)	Pipe Grade (MPa)	% SMYS
0.8	0.9	8.3	483	72
0.8	0.625	11.9	483	50

69. Minimum depth of cover required will be 1.0 m from top of pipe to final grade. Where required, additional cover will be used to accommodate planned or existing underground facilities and roads, railway and watercourse crossings. In agricultural areas the minimum depth of cover will be 1.2 m.

## GENERAL TECHNIQUES AND METHODS OF CONSTRUCTION

1. Pipeline construction is divided into several crews that create a mobile assembly line. Each crew performs a different function, with a finished product left behind when the last crew has completed its work.
2. Union Gas on behalf of Dawn Gateway LP will provide its own inspection staff to ensure the contractor meets its contractual obligations.
3. Where possible, trees are cleared in the winter before construction to avoid avian nesting concerns. If the land cannot be accessed in the winter due to incomplete easement negotiations or other reason, an ornithologist will inspect the site and direct any avian mitigation needed. Logs are stacked at the side of the easement for landowner use, if requested.
4. The contractor's clearing crew braces and cuts all fences crossing the easement and installs any required temporary gates. This crew clears small brush and crops on the easement and temporary working areas.
5. The grading crew constructs approaches through road, highway, and railway ditches to allow equipment onto the working side of the easement. This crew also builds roads through wet areas to allow heavy equipment operation. The grading crew strips a certain width of topsoil with bulldozers and graders so that it will not be mixed with the subsoil later removed from the trench. In hilly terrain, the grade is levelled to provide a stable working surface.
6. The contractor erects safety barricades around excavations adjacent to roads. Flagmen and signs are used for traffic control. The easement is fenced nightly at all access points.
7. The stringing crew then lays pipe on wooden skids on the working side of the easement adjacent to the proposed trench area. Wherever possible, the stringing trucks hauling the pipe travel down the centre of the proposed trench to minimize compaction effects.
8. The contractor, by use of a trenching machine or hoe excavator, will excavate a trench approximately 1.2 metres in width for the pipeline, depending on ground conditions at the time. Accesses across the easement including laneways are left unexcavated where requested by the

landowner. All tile cut during trench excavation is flagged at the trench and easement limits to signify to the tile repair crew that a repair is required. All tile is measured and recorded as to size, location, depth, type and quality. This information is kept on file with the Company. If a repair is necessary in the future, Dawn Gateway LP has an accurate method of locating the tile. All utilities that will be crossed or paralleled closely by the pipeline will be located prior to trenching.

9. Bedrock will be removed by mechanical means such as a “hoe ram” where practical. Where rock is encountered that is too hard to mechanically excavate, blasting will be conducted in accordance with Union’s (on behalf of Dawn Gateway LP) construction procedures and the *Canadian Explosives Act*. The contractor will obtain all necessary permits and comply with all legal requirements in connection with the use, storage and transportation of explosives. All blasts will be matted and vibrations will be monitored to ensure there is no damage to adjacent pipelines, utilities and dwellings. No rock is expected to be encountered on this project.
10. Concurrent to trenching, the contractor may have a boring or horizontal directional drill (HDD) crew install the pipe at watercourse, road and railway crossings. This operation may involve a large excavation on both sides of the proposed crossing to allow room for the equipment to be operated and the pipe to be installed at the proper elevation, beneath the proposed crossing thereby not disrupting the surface features at the crossing site. When the bore pipe or drill exits on the far side of the crossing, the carrier pipe or casing pipe is attached and the pipe is pulled back, drawing the carrier pipe or casing pipe into place.
11. Next, the pipe between roads, accesses, laneways, and streams is welded into one continuous length. All welds are ultrasonically and/or radiographically inspected and then coated and lowered into the trench. After sections of pipe are lowered into the trench, subsoil is backfilled by a drag line, bulldozer or backhoe. If the excavated material contains too much rock for direct backfilling, it may be sifted to separate the fine parts from the rock. If such separation is not possible due to the consistency of the material or if a large quantity of rock remains, the unsuitable materials will be hauled away and sand brought in for backfilling.
12. The tie-in crew is responsible for the installation of pipe across accesses and laneways to minimize the length of time that these accesses are out of service to the landowner. The tie-in crew is also responsible for the pipeline installation at most river and stream crossings.

13. The pipe is filled with water and hydrostatically tested to prove its integrity. After the test water is removed and the line dried, an electronic gauging tool is run through the pipeline to check for ovality and dents. Cathodic protection is applied to the completed pipeline.
14. After the trench is backfilled, any cut cross-easement tile is repaired. Unless otherwise specified by the landowner or municipality, tile repairs are made by excavating back into the bank along the tile run a minimum distance of 1.2 metres and placing clear stone as a foundation for a high density or perforated steel drainage pipe. The new drainage pipe is cut to the appropriate length and installed between the two exposed tile ends. Prior to actual setting of the support pipe, the existing tile run is checked to ensure that it is clear and undamaged within the limits of the easement. If it is not, further tile is excavated and the damaged tile is replaced to the edge of the easement. The area is then backfilled to the degree necessary to hold the tile and secure the support pipe. The landowner or municipal representative is asked to inspect each tile repair prior to backfill completion. Dawn Gateway LP undertakes that it is responsible for the tile repair resulting from construction and will stand good for the tile repairs at any further date after construction of the pipeline. Union on behalf of Dawn Gateway LP retains the services of a tile consultant to determine if it is better to repair individual tiles crossing the easement or install a header system. Where a header system is used, additional tiles running parallel to the pipeline on the easement are installed during final clean-up activities.
15. The clean-up crew is the last crew on the property. On farmland, it prepares the subsoil on the stripped portion of the easement by subsoiling or deep chisel ploughing to break up compaction and picking all stones down to 100 millimetres in diameter. The trench line is crowned with enough subsoil to allow for trench settlement. Excess subsoil is removed to an acceptable location on the landowner's property or hauled to a disposal site. Topsoil is then replaced using a drag line or backhoe and small bulldozers to minimize compaction. The working side of the easement is then chisel ploughed and stone picked. The entire easement may be cultivated and stone picked again if requested by the landowner. The clean-up crew will also repair fences, pick up debris, replace sod in landscaped areas and reseed sensitive areas such as woodlots, ditch banks and stream crossings.

16. When the clean-up is completed, the landowner is asked by a Company representative to sign a clean-up acknowledgement form if satisfied with the clean-up. This form, when signed, allows release of payment for the clean-up to the contractor. This form in no way releases the Company from its obligation for tile repairs, compensation for damages and/or further clean-up as required due to erosion or subsidence directly related to pipeline construction.
-





## DAWN GATEWAY PIPELINE CONSTRUCTION SCHEDULE 2010 Construction

ACTIVITY	MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER					
	6	13	20	27	3	10	17	24	1	8	15	22	29	5	12	19	26	2	9	16	23	30	7	14	21	28
SURVEY																										
GRADING																										
STRINGING																										
WELDING																										
DRILLING (HDD)																										
DITCHING																										
BACKFILL																										
TIE-INS																										
TESTING																										
CLEANUP																										
	MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER					
	4	11	18	25	1	8	15	22	29	6	13	20	27	3	10	17	24	30	7	14	21	28	5	12	19	26

## SECTION 7

### ENVIRONMENTAL

70. An Environmental and Socio-Economic Assessment Report (“ER”) has been prepared for the proposed Bickford to Dawn Pipeline and can be found at Section 7 – Schedule 1. Dawn Gateway LP retained Stantec Consulting Ltd. (“Stantec”) to complete the ER. The ER was prepared to fulfill the requirements of the NEB Filing Manual (February 2008) and the *Canadian Environmental Assessment Act* (CEAA).
71. Since completion of the ER in March 2009, it was determined that this application to construct the proposed Bickford Dawn Pipeline would be submitted to the OEB instead of to the NEB. As the ER was prepared to comply with NEB and CEAA guidelines and requirements, aspects of the report’s structure and content are not common to an OEB Environmental Report. However, the ER meets the intent and requirements of the OEB Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario (May 2003).
72. Stantec has prepared an update to the ER, and it can be found at Section 7 – Schedule 2.
73. The ER has been forwarded for review to numerous agencies including the Ontario Pipeline Coordination Committee (“OPCC”). Copies of the ER have also been forwarded to all affected municipalities and the St. Clair Region Conservation and local First Nations. A table summarizing the comments received by Dawn Gateway LP concerning the ER and how the comments have been addressed is included at Section 7 - Schedule 3.
74. The majority of the proposed route for the Bickford Dawn Pipeline will be north of and overlapping an existing Union easement which runs between the Bickford Compressor Station and Dawn.
75. During the EBLO 244/EBRM 104 proceeding held in 1993, the routing of the proposed Bickford Dawn Pipeline was reviewed in great detail. The Board’s findings regarding the transmission pipeline are stated at paragraph 4.2.9 of the EBLO 244/EBRM 104

Decision with Reasons: *“the Board thus approves Union’s route for the Bickford Dawn Line.”* The Decision also states at paragraph 5.1.3.: *“parties should note that if Union applies to re-open this hearing by December 31, 1993 with an application that incorporates unchanged land and environmental proposals, the Board will regard the public record as it deals with the land and environmental issues dealt within this hearing as complete.”* While the December 31, 1993 date has passed, Dawn Gateway LP believes that the originally approved route for the Bickford Dawn Pipeline is still appropriate today. Stantec has reviewed the alignment of the specific route for the Bickford Dawn Pipeline and is of the opinion that it is environmentally acceptable.

76. To inform the public and solicit input from landowners, tenants and the general public with respect to the proposed project, public open houses were held in December 2008, February 2009 and September 2009. Notification of the open houses was provided through newspaper notices and/or letters.
77. The ER concludes that the Bickford Dawn Pipeline is unlikely to result in significant adverse effects. By following standard construction practices and adhering to the recommendations and mitigation identified in the ER construction will have negligible impacts on the environment. The cumulative effects assessment within the ER concludes that no significant cumulative effects are anticipated from the development of the proposed pipeline.
78. Dawn Gateway LP will comply with all mitigation measures recommended in the ER.
79. Dawn Gateway LP will implement a program dealing with environmental inspection. This program will ensure that the recommendations in the ER, including commitments made by Dawn Gateway LP are followed. The environmental inspector will monitor construction activities and ensure that all activities comply with all conditions of approval.
80. Dawn Gateway LP will obtain all necessary permits prior to construction including but not limited to:

- Work Permit and *Endangered Species Act* permit (if required) from the Ministry of Natural Resources
- Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Permit from St. Clair Region Conservation Authority
- Permit to Take Water from the Ministry of the Environment

### **Environmental Features**

81. Some environmental features that will be encountered and mitigation measures which will be implemented during construction are listed below.

#### Species at Risk

82. The possible presence of two species at risk, namely the eastern fox snake and the Kentucky coffee tree, were noted in the ER. During the course of field studies along the pipeline right-of-way (“ROW”) in the fall of 2009, fox snake habitat was identified on and/or near the pipeline ROW. Dawn Gateway LP is continuing to work with the Ministry of Natural Resources to assess the potential impacts to fox snake, its habitat and any associated permitting requirements. Kentucky coffee trees have not been identified along the pipeline ROW.

#### Archaeology

83. An archaeological assessment along the Bickford Dawn Pipeline route was originally completed in the early 1990’s. The original assessment noted the need for further investigation at a number of locations along the proposed pipeline route. These investigations were initiated by Dawn Gateway in the fall of 2009 and will be completed in the spring of 2010. Dawn Gateway LP’s archaeological consultant continues to work with the Ministry of Culture concerning the Dawn Gateway project and will provide all necessary archaeological reports to the Ministry when they are completed.

### Ground Water

84. A qualified hydrogeologist will be retained to review the existing groundwater conditions along the pipeline route and identify the existing residential water wells. The hydrogeologist will then develop and implement a program for monitoring all wells that could be affected by construction. Recommendations outlined in the ER, and any landowner agreements will be implemented in conjunction with the monitoring program.

### Soy Bean Cyst Nematode (“SCN”)

85. The ROW along the pipeline route and any soils imported to the ROW will be sampled for the presence of SCN. Sampling along the pipeline easement started in the fall of 2009. Additional sampling will be undertaken in 2010 prior to construction. Dawn Gateway LP will employ the most current best practice to address SCN at the time of construction.

### Agricultural Lands

86. Measures to be implemented to minimize impacts to soil and agricultural land along the pipeline route will include:
- Wet soil shut down practice
  - Topsoil stripping
  - Maintaining proper separation between subsoil and topsoil
  - Flagging and repairing broken tiles
  - Retaining a qualified soils expert/inspector
  - Offering a post construction cover crop program

**Watercourse Crossings**

87. The table below outlines the watercourses to be crossed and crossing method for the pipeline.

<b>Watercourse Crossing</b>	<b>Crossing Method</b>
Bowles Drain	Dam and Pump
Unnamed Drain	Dam and Pump
Unnamed Drain	Dam and Pump
Indian Creek	HDD
Sydenham River	HDD
Unnamed Drain	Dam and Pump
Government Drain	HDD
Highland Drain	Dam and Pump
Dawson Drain	Dam and Pump
Annette Drain	Dam and Pump
Unnamed Drain	HDD
Unnamed Drain	Dam and Pump
Boyington Drain	Dam and Pump
Langstaff Drain	HDD
Walker Drain	Dam and Pump

88. A horizontal directional drill (HDD) will be used to construct the pipeline under Indian Creek, the Sydenham River and various drains adjacent to the roadways as outlined in the Table above. This construction method will avoid disturbance to these watercourses and the adjacent riparian areas. In the event that a watercourse is dry at the time of construction an open cut method would be used.

December 22, 2009  
File: 160960438

Dawn Gateway Pipeline LP  
50 Keil Drive North  
Chatham ON N7M 5M1

**Attention: Glen Priestley**

Dear Glen Priestley:

**Reference: Environmental Assessment Update – Bickford to Dawn Pipeline**

## **INTRODUCTION**

Stantec Consulting Ltd. was retained by Dawn Gateway Pipeline LP to prepare an Environmental and Socio-Economic Assessment (ESA) Report for the proposed Bickford to Dawn pipeline as per the National Energy Board (NEB) *Filing Manual (February 2008)* and *Canadian Environmental Assessment Act (CEAA)*.

Since completion of the ESA Report in March 2009 it has been determined that an application to construct the proposed pipeline will be submitted to the Ontario Energy Board (OEB). As the ESA Report was prepared to comply with NEB and CEAA guidelines and requirements, aspects of the Report's structure and content are not common to an OEB Environmental Report. However, the ESA Report meets the intent of the OEB *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario (May 2003)*.

The following memo updates relevant sections of the ESA Report since its completion: consultation, route selection, and environmental and socio-economic effects assessment.

## **CONSULTATION**

Following completion of the ESA Report, consultation has been on-going with agencies and affected parties. Consultation activities are listed below:

### **Notice of Application**

A Notice of Application described the project, noted that Dawn Gateway has submitted an application to the NEB, provided an on-line link to the ESA Reports, provided a map of the specific route, and overviewed the NEB process. The Notice was mailed to the stakeholders and First Nations contact list, as well as affected landowners.

### **Public Information Session**

A third Public Information Session was held on September 2, 2009 from 6:30 p.m. to 9:00 p.m. at the Wilkesport Community Centre (as noted in the ESA Report, previous Public Information Sessions were held on December 11, 2008 and February 10, 2009). A Notice of Public Information Session described the project, the specific route, provided a map, introduced the purpose of the Public Information Session, and listed proponent contact information. The Notice appeared August 26, 2009 in the Sarnia Observer, Sarnia and Lambton County This Week, and the Wallaceburg Courier Press. Related notice letters were circulated to the stakeholders and First Nations contact list, as well as affected landowners.



The Public Information Session, designed for informal drop-in, presented the components of the project, the selection of the specific route, natural environment surveys, construction methods, safety, and the landowner relations program and related topics. A newsletter handout was available to all attendees summarizing the information provided on the display boards. Representatives from Stantec Consulting Ltd. and Dawn Gateway Pipeline LP were present to provide project information and answer inquires. All attendees who registered their attendance had their contact information added to the project contact list to ensure they received future project notices. An exit questionnaire was provided for attendees to submit questions and comments; no written comments were received either at the Public Information Session or afterwards via mail, fax or email.

### **Agency Consultation**

Consultation has occurred with agencies through National Energy Board CEAA Federal Coordination requests. Related to the natural environment, correspondence was received from the Ontario Ministry of Natural Resources (MNR), Ontario Ministry of the Environment and Environment Canada. Response letters were provided by Dawn Gateway Pipeline LP.

A letter was received from the Ontario Ministry of Culture on September 1, 2009, accepting the Stage 1 archaeological assessment for the Bickford to Dawn pipeline.

Copies of the above noted letters are attached.

Meetings have occurred with agencies to discuss species of conservation concern and related field investigations and permitting requirements. Meetings to-date have been held September 2, 2009 with Fisheries and Oceans Canada (DFO), October 22, 2009 with MNR, and December 7, 2009 with DFO and MNR.

### **First Nations**

First Nations were consulted during the preparation of the ESA Report, including receiving all project notices, direct meetings with Walpole Island First Nation (acting as the lead First Nation), and conducting a traditional ecological knowledge study at the request of Walpole Island First Nation. Please see Section 3 of the ESA Report for complete details. Since completion of the ESA Report, consultation has been on-going with Dr. Dean Jacobs of Walpole Island First Nation who will continue to be engaged during the regulatory, construction and operational phases of the project.

### **ROUTE SELECTION**

Following completion of the ESA Report, a specific route was selected for the Bickford to Dawn pipeline by Dawn Gateway Pipeline LP. The route is north of an existing natural gas pipeline which is owned and operated by Union Gas Limited, and is located within an existing unoccupied easement currently owned by Union Gas Limited.

The specific route for the Bickford to Dawn pipeline was determined based on a variety of environmental and non-environmental factors. The specific route:

- Minimizes impacts on environmental and socio-economic features (reduced total footprint)
  - Less woodlot clearing
  - Archaeological and heritage features previously assessed
  - Overlaps with existing Union pipeline easement
- Reflects accepted land use

- The route was previously approved by the Ontario Energy Board as a suitable location for a high pressure, large diameter natural gas pipeline, at paragraph 4.7.9 in the EBLO 244 decision.
- Allows for good engineering practices
  - Moves construction away from a barn on Bowsher Property
  - Allows for a 90 degree crossing of the Sydenham River
  - Minimizes conflicts with Union and Enbridge Storage Pools
- Minimizes costs and construction issues
  - Topographical surveys previously completed
  - Land surveys identifying the boundaries of the permanent easements have been previously completed
- Fits within the project's timelines

Stantec Consulting Ltd. has reviewed the alignment of the specific route for the Bickford to Dawn pipeline and is of the opinion that it is environmentally acceptable.

## **ENVIRONMENTAL AND SOCIO-ECONOMIC EFFECTS ASSESSMENT**

Natural environment field investigations have occurred along the specific route for the Bickford to Dawn pipeline. Results of the investigations as they relate to potential effects of the project are described below:

**Soil and Soil Productivity:** Initial soybean cyst nematode (SCN) sampling was undertaken on November 9, 2009; SCN was detected in several fields. A comprehensive inventory for SCN will be completed prior to construction, once remaining properties can be accessed. Mitigation and protective measures outlined in the ESA Report will be implemented.

**Vegetation:** Less than four percent of the specific route consists of vegetated communities. The majority of the vegetation communities are found adjacent to the Sydenham River and Indian Creek; these areas will be traversed with the horizontal directional drill technology.

**Fish and Fish Habitat:** The specific route for the Bickford to Dawn pipeline crosses fifteen watercourses. Field investigations undertaken on September 24, and October 25, 26 and 27, 2009, found three of the watercourses to contain intermittent or permanent flow. Discussions are on-going with the DFO and MNR regarding species of conservation concern and permitting requirements.

**Wetlands:** There are no provincially designated wetlands crossed by the proposed specific route of the Bickford to Dawn pipeline. A small section of forb mineral meadow marsh is located to the east of Indian Creek; the horizontal directional drilling of the Creek will avoid impacts to this marsh.

**Wildlife and Wildlife Habitat:** As noted under 'Vegetation', the majority of vegetation communities and related wildlife habitat will be avoided. Field investigations undertaken on October 26, 28, 30 and November 13, 2009 did not observe non-avian incidental wildlife within or near the easement limits. Amphibian call count surveys identified two areas within the easement limits that contain potential amphibian habitat; both areas will be avoided through the use of horizontal directional drilling.

Reference: EA Update – Bickford to Dawn Pipeline

**Species at Risk or Species of Special Status:** The MNR has identified two such species of conservation concern as potentially occurring within the easement limits: Kentucky Coffee-tree (*Gymnocladus dioicus*) and the Eastern Foxsnake (*Elaphe gloydi*). Field investigations have not identified Kentucky coffee-trees along the specific route. Potential foxsnake habitat has been identified within the easement limits, including the observation of one individual. Discussions are on-going with the MNR regarding necessary field investigations and permitting requirements.

#### NEXT STEPS

As noted above, consultation is on-going with the DFO and MNR, and additional natural environment field investigations will be undertaken in the spring and/or summer field season once remaining properties can be accessed. It is recommended that notification be provided to the project contact list (which includes agencies, municipalities, landowners, interest groups, First Nations, and members of the OPCC) regarding the change in regulatory status.

Sincerely,

**STANTEC CONSULTING LTD.**



**Mark Knight, MA**  
Environmental Planner  
Tel: (519) 836-6050  
Fax: (519) 836-2493  
mark.knight@stantec.com

Attachment: Agency Letters

Ministry of  
Natural Resources  
615 John Street North  
Aylmer ON N5H 2S8  
Tél: 519-773-4750  
Fax: 519-773-9014

Ministère des  
Richesses naturelles  
615, rue John Nord  
Aylmer ON N5H 2S8  
Tél: 519-773-4750  
Télééc: 519-773-9014



2009 AUG 26 P 3:00  
NEB/ONE

August 26, 2009

Anne-Marie Erickson, A/ Secretary of the Board  
National Energy Board  
444 Seventh Avenue SW  
Calgary, AB T2P 0X8

**Re: Dawn Gateway Pipeline General Partner Inc (Dawn Gateway GP)/ Dawn Gateway Project  
Updated Evidence dated 17 July 2009, submitted pursuant to section 58 of the  
National Energy Board Act  
Ontario Ministry of Natural Resources Review**

Dear Ms. Erickson,

Thank you for the opportunity to review the updated proposal and route for the Dawn Gateway Project. This project is located in St. Clair and Dawn-Euphemia Townships, Lambton County, Ontario.

We understand that the project consists of: **1)** purchase of three existing natural gas transmission pipelines and **2)** the construction of a new 24-inch diameter natural gas transmission pipeline. We have reviewed the information to determine whether the MNR mandate (e.g. natural heritage and natural resources) has been addressed and our comments are provided below. Please note that the report was not available electronically at the time of our review.

**1) Purchase of three existing natural gas transmission pipelines**

Based on our understanding of the project, we have limited this part of our review to the administrative purchase of the three existing natural gas transmission pipelines.

Please confirm the ownership of these three existing natural gas transmission pipelines and whether the Ministry of Natural Resources will be require to change, and/or issue a new, disposition for Crown land. If the response is in the affirmative, the requirements of the MNR Class Environmental Assessment for Resource Stewardship and Facility Development (MNR Class EA for RSFD) will need to be met.

If the project is beyond the administrate purchase and extends to physical activities, then the Ministry of Natural Resources will again need to be contacted as there are a significant number of natural heritage features along these three existing pipelines, including endangered and threatened species and provincially significant wetlands.

**2) Construction of a new natural gas transmission pipeline**

The new natural gas transmission pipeline is proposed to originate from east of Highway 40 on Bentpath Line and proceeds south of the Benpath Line easterly to the Dawn Compressor Station.

We have reviewed the alignment of the new natural gas transmission pipeline and we would like to offer the following natural heritage and natural resource comments:

Natural Heritage:

The *Endangered Species Act, 2007* came into force on June 30, 2008. Species at risk are known to occur in the area. In the immediate vicinity of the pipeline, MNR has known and recent occurrences of Eastern Foxsnake. Eastern Foxsnake is currently listed as a Threatened species on the Species at Risk in Ontario List (Ontario Regulation 230/08). On, or before, September 11, 2009, Eastern Foxsnake will be uplisted from Threatened to Endangered, and will receive immediate habitat protection in addition to its current species protection.

There are multiple features consistent with habitat for Eastern Foxsnake along the proposed pipeline route. These include hedgerows, drains, Sydenham River corridor, old fields, woodlands and woodland edges. In order to prevent harm or harassment to individual Foxsnakes that may be present during construction and operation of the project, specific avoidance recommendations should be followed. These include but may not be limited to avoidance of important habitat features or areas identified through future surveys as well as avoidance of vegetation removal during periods when the species is most susceptible to disturbance (April 15 to June 1, and September 15 to November 1). A Foxsnake sightings response and reporting protocol should be developed for the project in consultation with MNR to ensure the protection of any Foxsnakes encountered.

It is possible based on the proposed location that habitat for the species will be impacted by the pipeline project, which would require a permit under section 17(2) c) of the *Endangered Species Act, 2007*. Further consultation with MNR is recommended to determine the extent of Eastern Foxsnake habitat along the proposed route and to affirm if related vegetation removal would result in damage or destruction to this habitat under the Act.

Kentucky Coffee-tree is another Threatened species protected under the *Endangered Species Act, 2007*. Considering the proximity of known occurrences of this species along the Sydenham River near the proposed pipeline route and presence of similar habitat at the proposed river crossing location, it would be appropriate to conduct additional surveys for this species in woodland and riverbank areas near the proposed crossing.

The issuance of an *Endangered Species Act* permit is considered to be a disposition of a Crown Resource; as such, the requirements of the MNR Class EA for RSFD must be met. The MNR Class EA for RSFD allows for coordination amongst provincial and federal environmental assessment processes.

The North Sydenham Creek, and other waterbodies, will need to be crossed as a result of the implementation of the project. We request confirmation that the transmission pipeline will use demonstrated environmental sensitive techniques to avoid and minimize impacts to the waterbodies and associated natural heritage features and their functions; particularly the pipeline crossings near North Sydenham Creek.

The bed of many creeks and drains belong to the Crown, and are managed by the Ministry of Natural Resources. Where the Crown is the owner of the bed of the creeks/ drains, an easement for the stream / drain crossing will be required under the *Public Lands Act*. Please contact Ken Stemmler, A/ Lands Technician, at 519-354-8213 to apply for any authorizations required under the *Public Lands Act*.

It appears that the proposed transmission pipeline avoids several or all wooded areas. Confirmation on whether any of the wooded areas will be removed as part of the project is requested.

**Natural Resources:**

There are many petroleum wells identified on, or adjacent to, the proposed route. Please confirm that the petroleum resources, including wells and associated infrastructure, are appropriately addressed and will not be impacted. Those that will be impacted must meet the requirements of the *Oil, Salt and Gas Resources Act*.

Thanks for the opportunity to provide comments.

Sincerely,

**Original signed by:**

Daraleigh Irving  
District Planner

- c. Dawn Gateway Pipeline Limited Partnership: Glen Priestley  
MNR: Dave Richards, Rick Visser, Ron Gould, Jim Boothby, Dan Radoja



September 30, 2009

Ministry of Natural Resources  
615 John Street North  
Aylmer, ON N5H 2S8

**Attention: Ms. Daraleigh Irving, District Planner**

**Re: Dawn Gateway General Partner Inc (Dawn Gateway GP)/Dawn Gateway Pipeline Project**

Dear Ms. Irving,

Thank you for your letter dated August 26, 2009 to the National Energy Board (NEB) commenting on the Ministry of Natural Resource's ("MNR") mandate in relation to the above-referenced project. Below please find responses to your comments.

Please note that the NEB website contains all documents related to this project, including the Environmental Assessment report. The project documents can be found at: <https://www.neb-one.gc.ca/ll-eng/livlink.exe?func=ll&objId=555608&objAction=browse&sort=name>. Please advise if you require hard copies of any documents on the NEB website related to the project .

The Dawn Gateway Pipeline requires an approval under Section 58 of the *National Energy Board Act (NEB Act)* for construction and operation of the proposed Bickford to Dawn Line, and the operation of the balance of the Canadian portion of the Dawn Gateway Pipeline once acquired, i.e. for the existing St. Clair River Crossing and St. Clair Line. Approval under Section 58 of the *NEB Act* is a *Canadian Environmental Assessment Act (1992) (CEAA)* trigger. The application for the Dawn Gateway Pipeline to the NEB (NEB Application) includes an environmental and socio-economic assessment (EA Report) which has been prepared to meet the requirements of Section 16(1) of *CEAA*, including applicable regulations and guidelines.

**1. Purchase of three existing natural gas transmission pipelines.**

Regarding ownership of the three existing natural gas transmission pipelines, the Belle River Mills Pipeline is currently owned by Michigan Consolidated Gas Company, and is located in St. Clair County, Michigan and terminates at the international border between the United States and Canada in the middle of the St. Clair River. As the Belle River Mills Pipeline is located entirely within the United States, the MNR will not be required to change, and/or issue new disposition for Crown land in relation to that pipeline.

The St. Clair River Crossing Pipeline is currently owned by St. Clair Pipelines LP, and the St. Clair Pipeline is currently owned by Union Gas Ltd. Dawn Gateway Pipeline LP will be in contact with the Ministry of Natural Resources to discuss the need for any change and/or a new disposition for Crown land along the existing pipelines (St. Clair River Crossing Pipeline; St Clair Pipeline) or the proposed pipeline (Bickford to Dawn Pipeline).

The EA Report filed with the NEB includes the type of environmental and socio-economic information typically required by the MNR for provincially-regulated projects, and includes an environmental and socio-economic assessment for the transfer of ownership of the St. Clair River Crossing Pipeline and St. Clair Pipeline to Dawn Gateway. As noted above, the EA Report is available on the NEB website.

Dawn Gateway notes that the MNR's publication entitled *A Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects* specifically recognizes (at page 10) that the requirement for a MNR Class Environmental Assessment for Resource Stewardship and Facility Development (Class EA for RSFD) does not apply to federally-regulated pipelines:

*Exception:* There are three situations where the MNR may proceed with a disposition without a screening and categorization:

...

2) A hydrocarbon pipeline project which has already been approved by the National Energy Board or the Ontario Energy Board;

The St. Clair River Crossing Pipeline and the St. Clair Pipeline have already been approved, by the NEB and OEB respectively, in relation to their original construction. Dawn Gateway has submitted the NEB Application for approval from the NEB for the purchase of these pipelines. NEB approval for the purchase of these pipelines is required before proceeding with the Dawn Gateway Pipeline Project and Dawn Gateway's purchase of the St. Clair River Crossing Pipeline and the St. Clair Pipeline.

The purchase of the existing natural gas transmission pipelines will not involve any physical activities other than some minor modifications to facilities within the confines of existing stations.

## **2. Construction of a new natural gas transmission pipeline.**

### Natural Heritage

As outlined in Filing A1J7F7 – Appendix O – EA Report – Bickford to Dawn – pages 4.6, 4.11, 4.14 and 4.15, both the Eastern Foxsnake and Kentucky Coffee-tree are listed as species potentially present in the vicinity of the Study Area, and as species at risk or species of special status potentially present in the Study Area. Dawn Gateway Pipeline LP is aware that the Eastern Foxsnake is now listed as an Endangered Species in the *Species at Risk in Ontario List*, Ont. Reg. 230/08, Schedule 2, item 68.

Dawn Gateway Pipeline LP has committed in the above-referenced EA Report (page 9.2) to undertake vegetation and wildlife surveys along the route for the proposed Bickford to Dawn Pipeline. The surveys are planned for Fall 2009 and/or Spring/Summer 2010. The results of the vegetation and wildlife surveys, including an assessment of potential Eastern Foxsnake habitat and Kentucky Coffee-trees along the pipeline route, will be compiled. Dawn Gateway will provide these results to the Ministry of Natural Resources for information purposes.

To prevent harm or harassment to the Eastern Foxsnake or its habitat during construction of the proposed pipeline, the specific measures recommended in your letter will be implemented, including the avoidance of Eastern Foxsnake habitat where possible, vegetation removal timing restrictions (April 15 to June 1 and September 15 to November 1) and the development of an Eastern Foxsnake Response and Reporting Protocol .

If Kentucky Coffee-trees are located along the pipeline route, appropriate mitigation measures will be developed .

Dawn Gateway Pipeline LP is currently in consultation with Fisheries and Oceans Canada regarding permit requirements for all necessary watercourse and drain crossings. The present plan for crossing the North Sydenham River and Indian Creek is to utilize horizontal direction drill, which will avoid impacting the watercourses and their associated natural features and functions. For crossings other than Indian Creek and the North Sydenham river, Dawn Gateway Pipeline LP will utilize its standard watercourse crossing techniques and contingency measures which have



been approved by government agencies such as Fisheries and Oceans Canada and the Ministry of Natural Resources for previous pipeline construction projects. The procedures for conducting the crossings will follow the existing agreement between Fisheries and Oceans Canada – Ontario Great Lakes Area and Union Gas (DFO-OGLA/UGL Agreement 2008), which includes erosion and sediment control plans and DFO Operational Policy guidelines.

Dawn Gateway Pipeline LP will also prepare a project Environmental Protection Plan (EPP) that will detail various aspects of its environmental management program during construction. The EPP will be provided prior to construction to the National Energy Board and Fisheries and Oceans Canada. Dawn Gateway will also provide a copy to the Ministry of Natural Resources for information purposes and to any other government agency that requests a copy of the document.

Dawn Gateway Pipeline LP is familiar with authorizations required under the *Public Lands Act*, and will comply with applicable requirements.

The potential impact of the pipeline route on existing vegetation, including wooded areas will, in part, be determined through vegetation surveys as noted above.

#### Natural Resources

Petroleum resources are not anticipated to be impacted during construction of the proposed Bickford to Dawn Pipeline. Dawn Gateway Pipeline LP is familiar with the *Oil, Salt and Gas Resources Act*, and will comply with applicable requirements.

Thank you for your time in reviewing and commenting on the proposed Dawn Gateway Pipeline Project. Should you or other Ministry of Natural Resources staff have any further questions about this project, please do not hesitate to contact me. In addition, we would like to offer a meeting between Dawn Gateway Pipeline LP and the Ministry of Natural Resources at your earliest convenience to further discuss the proposed project and associated items such as the Eastern Foxsnake and Kentucky Coffee-tree. A representative from Dawn Gateway Pipeline LP will follow-up with you shortly to discuss arranging the meeting.

Sincerely,  
*Original signed by Glenn Priestley*

Glenn Priestley  
Dawn Gateway Pipeline Limited Partnership  
1-800-265-5230  
[gpriestley@spectraenergy.com](mailto:gpriestley@spectraenergy.com)

cc: A/Secretary of the Board (NEB)

Ministry of the Environment

Ministère de l'Environnement

733 Exeter Road  
London ON N6E 1L3  
Tel: 519 873-5000  
Fax: 519 873-5020

733, rue Exeter  
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Tél.: 519 873-5000  
Télééc.: 519 873-5020



**BY FAX ONLY**

August 6, 2009

Claudine Dutil-Berry  
Secretary  
National Energy Board  
444 Seventh Avenue SW  
Calgary, AB  
T2P 0X8

Dear Ms Dutil-Berry:

RE: Dawn Gateway Pipeline Partner Inc.  
File: OF-Fac-Gas-D159-2009091 01

NEB/01E  
2009 AUG -6 A 9:48  
MAIL ROOM  
SALLE DE TRAVAIL

This acknowledges your July 31, 2009 notification of the Dawn Gateway pipeline project in Lambton County (Ontario) and your request to be advised of my ministry's level of interest in the project.

Given the location and environmental circumstances of the preferred route, in particular no crossing of Indian Creek, we have no specific concerns from our environmental protection and management perspectives.

We note that a Permit-to-take-water may be required under Section 34 of the Ontario Water Recourses Act for de-watering of the construction trenches.

If questions arise or if clarification is needed please contact the undersigned at (519) 873-5013 or via email at [bill.armstrong@ontario.ca](mailto:bill.armstrong@ontario.ca).

Yours truly,

W. Armstrong, M.E.S, RPP  
Regional Environmental Planner  
Southwestern Region

cc. P. Planting, Dawn Gateway GP  
T. Robak, MOE  
M. Parker, MOE

MINISTRY OF THE ENVIRONMENT  
SOUTHWESTERN REGION

733 Exeter Road  
London, Ontario, N6E 1L3  
519-873-5013/FAX 873-5020

FAX COVER SHEET

DATE: August 6, 2009

NO. of PAGES: 2

FROM: Bill Armstrong

TO: Claudine Dutil-Benoit  
FAX NO: (403) 292-5503

TO: Patricia Plenting  
FAX NO: (519) 436-4643

TO: \_\_\_\_\_

TO: \_\_\_\_\_

FAX NO: \_\_\_\_\_

FAX NO: \_\_\_\_\_

TO: \_\_\_\_\_

TO: \_\_\_\_\_

FAX NO: \_\_\_\_\_

FAX TO: \_\_\_\_\_

\*\*\*\*\*  
MESSAGE:

Re. Dawn Gateway Pipeline Project, Lambton County  
OF-Fac-Gas-D159-2009-01 01

\*\*\*\*\*  
IF YOU DO NOT RECEIVE THE SPECIFIED NUMBER OF PAGES, OR THE COPY  
IS ILLEGIBLE, PLEASE CONTACT THE RECEPTIONIST AT: 873-5000



October 5, 2009

Ministry of the Environment  
733 Exeter Road  
London, Ontario  
N6E 1L3

**Attn: W. Armstrong, Regional Environmental Planner, Southwestern Region**

**Re: Proposed Dawn Gateway Pipeline Project**

Dear Mr. Armstrong,

We are in receipt of your letter of August 6, 2009 to the National Energy Board regarding our proposed Dawn Gateway Pipeline project.

In your letter, you make a reference to Indian Creek , more specifically, " ...in particular, no crossing of Indian Creek...". Please note that one component of the Dawn Gateway Pipeline project, namely the construction of the proposed Bickford to Dawn pipeline, will cross Indian Creek. At this time, our plan is to construct across Indian Creek using the horizontal directional drill method.

In your letter, you also note the need for a possible permit to take water. We are aware of this requirement and will apply for these permits where applicable.

Please note that our entire application to the NEB for the Dawn Gateway Pipeline project , including the accompanying Environmental Assessment reports, can be found on the NEB's website. If you have any questions concerning the proposed Dawn Gateway Pipeline project, please feel free to call me.

Sincerely,

Original signed by Glenn Priestley

Glenn Priestley  
Dawn Gateway Pipeline Limited Partnership  
1-800-265-5230  
[gpriestley@spectraenergy.com](mailto:gpriestley@spectraenergy.com)

cc: /Secretary, National Energy Board

Dawn Gateway Pipeline Limited Partnership c/o Union Gas Limited

50 Keil Drive North Chatham, ON N7M5M1



Environment Canada / Environnement Canada

Environmental Assessment Unit  
Environmental Protection Operations Directorate - Ontario  
Environment Canada  
P.O. Box 5050, 867 Lakeshore Rd.  
Burlington, Ontario L7R 4A6

SALE

2009 OCT 14 A 10:00

Our File No.: 2008-133

NEB FILE

October 13, 2009

Zoe Pfeiffer  
Environmental Specialist  
National Energy Board  
444 Seventh Avenue SW  
Calgary, AB  
T2P 0X8

Dear Ms. Pfeiffer,

**Re: EC Scoping Advice for CEEA Screening of the proposed Dawn Gateway Pipeline in St. Clair and Dawn-Euphemia Townships, Lambton County, Ontario**

Thank you for your July 31, 2009 letter requesting specialist advice from Environment Canada (EC) pursuant to section 5 of the *Federal Coordination Regulations (FCR)* under the *Canadian Environmental Assessment Act (CEAA)* for the Dawn Gateway Pipeline project.

Environment Canada does not have any obligations as a Responsible Authority under CEEA for this proposed project. We have reviewed the information provided and have determined that we are able to provide specialist information and knowledge to the National Energy Board (NEB) in context of our role as an expert federal authority pursuant to section 12(3) of CEEA. Our comments specifically pertain to our departmental interests in the potential effects of this project on air quality, water quality, wetlands, migratory birds, and species at risk, and associated recommendations for the CEEA Screening Report.

Please note that Environment Canada has a regulatory interest in migratory birds, species at risk and water quality as administrator of the *Migratory Birds Convention Act, 1994*, *Species at Risk Act*, *Canadian Environmental Protection Act, 1999* and subsection 36(3) of the *Fisheries Act*, respectively. Please refer to the attached Appendix, which provides further details of legislation and policies that should be consulted in context of our comments and recommendations.

**Project and Site Information**

It is our understanding that the project consists of the purchase of three existing natural gas transmission pipelines (the Belle River Mills Line, St. Clair River Crossing Line and Union St. Clair Line) and the construction of a new 17km natural gas transmission pipeline (the Bickford to Dawn Line), and that linked together this pipeline system will be known as the Dawn Gateway Pipeline. It is our understanding that federal land is not present in the project area.

According to the information received the preferred route of the new pipeline section contains multiple natural heritage features of interest, including watercourses, woodlands and old fields,

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including potential habitat for species at risk. Watercourse crossings and vegetation removal (trees and other herbaceous vegetation) will be required, however the extent of vegetation removal/disturbance is not clear (for instance, will any wooded areas or wetlands be impacted?). The CEEA Screening should clearly describe the habitats to be impacted during all project phases and assess the impacts in terms of ecological functions (i.e. habitat for particular species, wildlife movement corridors, etc.).

#### **CEEA Scope of Project**

We suggest that your scope of project to be assessed includes construction, operation, maintenance and decommissioning, including any required deconstruction, demolition and waste material disposal. We further suggest your project scope includes site access and preparation (including clearing, excavation, grading, stockpiling, etc.) and site servicing. In order to meet the requirements of CEEA, we further recommend the assessment include the impacts of mitigative measures, cumulative effects, significance of effects, and the need for a follow-up program.

#### **Migratory Birds**

Adverse environmental effects on migratory birds could occur through disturbance or through habitat loss or impairment, but they may also occur through direct mortality (destruction of individuals or their nests). These impacts could all potentially occur during site access, site preparation (including vegetation clearing) and equipment staging, materials stockpiling, or construction. The Screening should include a consideration of potential impacts on migratory birds during all project phases, including any impacts on interior forest habitat. It should also include the detailed methodologies, results and analysis of the plant and wildlife surveys that we understand were planned for September 2009 and the spring of 2010. EC would appreciate the opportunity to review the methodologies and results of these surveys.

Measures to prevent significant impacts will depend on the wildlife species utilizing the area, but may include timing of works to avoid sensitive breeding periods and avoiding disturbance of important migratory bird habitat (such as avoiding fragmentation of any forest interior habitats or impairment of wildlife movement corridors).

As indicated in Appendix A of this letter, migratory birds, including their nests, are protected under the *Migratory Birds Convention Act* against disturbance or harm, and EC therefore will be recommending that mitigation measures be implemented to avoid significant adverse environmental effects on migratory bird species potentially breeding in the project area<sup>1</sup>. As mentioned earlier, mitigation will depend on the species using the area, but may include the following timing recommendation:

- Project works or activities with the potential to destroy or disturb migratory birds, such as site grubbing, vegetation clearing, and site access/staging/stockpiling should not take place in migratory bird habitat during the breeding season that, in this location, is defined to be from May

<sup>1</sup> Please note that these measures and recommendations are solely intended to avoid significant adverse environmental effects on migratory birds. This advice does not provide an authorization for incidental take or for the disturbance, destruction or taking of nests under the Migratory Bird Regulations (MBRs), nor does it provide a guarantee that the project will not result in contravention of the MBRs. It remains the proponent's responsibility to meet the requirements of the MBRs. Should this project or activities associated with it result in the contravention of the MBRs, prosecution under the *Migratory Birds Convention Act, 1994* may be initiated.

**1 – July 31.**

- If the proponent must conduct works that could destroy migratory birds or their nests within breeding bird habitat during the identified breeding season for migratory birds, a nest survey should be conducted by a qualified avian biologist prior to commencement of the works to identify and locate active nests of species covered by the *Migratory Birds Convention Act, 1994*. A mitigation plan (which may include establishing appropriate buffers around active nests) should then be developed to address any potential impacts on migratory birds or their active nests, and should be reviewed by Environment Canada prior to implementation.

**Water Quality**

Environment Canada's mandate to advocate for the protection of water quality stems from the pollution prevention provisions of the *Fisheries Act*, which are administered by EC. Subsection 36(3) of the *Fisheries Act* specifies that, unless authorized by federal regulation, no person shall deposit or permit the deposit of deleterious substances of any type in water frequented by fish. Please be advised that the Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act* states that compliance with the federal *Fisheries Act* is mandatory.

Substances (such as sediment and gravel) that smother nesting areas or spawning grounds, or interfere with reproduction, feeding or respiration of fish, may be considered deleterious. In addition to the potential for sediment (from exposed soils) to enter receiving waters during site preparation and construction, runoff from roads and parking lots typically contains sediment as well as oil, grease, and heavy metals that, in elevated levels, may be harmful to aquatic biota. However, any substance with a potentially harmful chemical, physical or biological effect on fish or fish habitat may be considered deleterious.

The CEEA Screening should include a consideration of any potential impacts on water quality resulting from this project, particularly on any wetlands or other surface waters near the site as site preparation, construction, operation or maintenance works and accidental spills could impact water quality.

The Screening should clearly identify any areas that contain surface waters or wetlands (or drain to surface waters or wetlands) and assess the adverse effects of the project on these features (for instance, where the project crosses these features).

Measures should be identified in the Screening and implemented to prevent the release of deleterious substances (including sediment) during construction, operation and maintenance into any receiving waters/wetlands. A sediment and erosion control plan should be developed if necessary to mitigate potential effects on water quality, and appropriate measures should be adopted to minimize any impacts of accidental spills during construction, operation and maintenance.

**Air Quality**

The CEEA Screening should consider construction related local air quality impacts, such as dust and vehicle exhaust emissions. Mitigation measures should be adopted to reduce dust/particle emissions/formation from construction activities and construction vehicle movements to minimize air emissions during the construction phase. To mitigate impacts on ambient air quality from

vehicular emissions and from concentrations of chemical pollutants, exposed soils, dust and other particulate matter, EC recommends the proponent:

- Use new or well-maintained heavy equipment and machinery, preferably fitted with muffler/exhaust system baffles and engine covers.
- Comply with operating specifications for heavy equipment and machinery.
- Minimize operation and idling of gas-powered equipment and vehicles, in particular, during smog advisories.
- Minimize vehicle traffic on exposed soils and stabilize high traffic areas with clean gravel surface layer or other suitable cover material.
- Avoid excavation, and other construction activities with potential to release airborne particulates, during windy and prolonged dry periods.
- Stabilize stockpiled excavated soils in areas that are upwind of sensitive receptors.
- Cover or otherwise contain loose construction materials that have potential to release airborne particulates during their transport, installation or removal.
- Spray water, as appropriate, to minimize the release of dust from gravel, paved areas and exposed soils. Use chemical dust suppressants only where necessary on problem areas.
- Restore disturbed areas as soon as possible to minimize the duration of soil exposure.

Further specific guidance may be sought in the "*Best Practices for the Reduction of Air Emissions from Construction and Demolition Activities*" prepared for Environment Canada by Cheminfo Services (March 2005). Please do not hesitate to contact me if you require a copy of the aforementioned guidance document.

### **Species at Risk**

The CEEA Screening must consider whether adverse effects could occur on Species at Risk (SAR). Section 79(2) of the federal *Species at Risk Act* (SARA) requires that when a federal EA is carried out on a project that may affect a listed species or its critical habitat, adverse environmental effects must be identified, mitigation measures must be taken to avoid or lessen adverse effects, and environmental effects monitoring must be conducted. Please see the Appendix of this letter for additional information on the relevant legislated requirements of SARA, including the notification provisions (which come into effect once it is known that a species at risk may be impacted by a project).

One of the purposes of SARA is to manage species of special concern to prevent them from becoming endangered or threatened. In this context, we also recommend that all federal EAs consider potential impacts on SARA Schedules 2 and 3 species (which are in the process of being re-evaluated), species listed by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), and any species of local, regional or provincial concern. All of these species are collectively referred to as "species of conservation concern".

In order to ensure species at risk have been adequately addressed in the CEEA Screening, we generally recommend that existing background information should be collected from all relevant sources to support a determination of whether species of conservation concern within the zone of



influence of the project may be known or expected to use the site or adjacent lands. We always recommend at a minimum that proponents consult the Natural Heritage Information Centre database maintained by the Ontario Ministry of Natural Resources in Peterborough for known occurrences of species at risk. The Environment Canada - Canadian Wildlife Service Species at Risk Web Mapping Application should also be consulted to determine if occurrences or ranges of any SARA Schedule 1 listed species overlap with the site: ([http://www.sis.ec.gc.ca/ec\\_species/ec\\_species\\_e.phtml](http://www.sis.ec.gc.ca/ec_species/ec_species_e.phtml)).<sup>2</sup>

If ranges of SARA listed species overlap with the study area, information on the habitat requirement/preferences of the species should be consulted and compared to habitat descriptions for the study area. Should the habitat preferences of the identified species be present, and in all cases when occurrences have been identified, a qualified biologist should conduct a thorough biological inventory of all areas of natural habitat that may be affected by the project and have the potential to support species at risk. A strategy should then be developed to protect any identified species at risk, with a primary focus on avoidance.

Based on our review of the August 26, 2009 comments provided by the Aylmer District Ministry of Natural Resources, it is our understanding that MNR has advised of the known occurrences of two provincially listed species at risk near the project site that are also SARA listed, Eastern Foxsnake and Kentucky Coffee-tree, both of which are listed on Schedule 1 as Threatened. The proponent should complete the desktop exercise discussed in our comments above to determine whether any other federally listed species or species of conservation concern may occur at or near the project site. Should it be determined that further site investigations are required to confirm the presence of SAR or their preferred habitats, Environment Canada would be interested in reviewing and commenting on the methods used to be used to conduct the biological inventory as well as any measures that are devised to identify and protect species at risk.

In addition to the resources above that can be consulted regarding the possible locations of SAR, Environment Canada has also produced a guide that can be used as a general reference for dealing with SAR in EA. The "Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada" (February 2004) is available via the Internet on the Environment Canada website at <http://www.cws-scf.ec.gc.ca/publications/AbstractTemplate.cfm?lang=e&id=1059>. The aforementioned guide is primarily targeted to project proponents and those individuals who are preparing EAs. It outlines the general responsibilities of proponents and EA practitioners for considering wildlife at risk in an EA and promotes more thorough, efficient and consistent gathering and assessment of information regarding wildlife at risk.

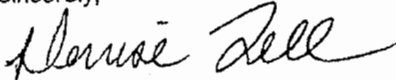
Environment Canada's foregoing comments are intended to provide expert support to project proponents and decision-makers, in accordance with its program related responsibilities and associated guidelines and policies. These comments are in no way to be interpreted as any type of acknowledgement, compliance, permission, approval, authorization, or release of liability related to any requirements to comply with federal or provincial statutes and regulations. Responsibility for achieving regulatory compliance and cost effective risk and liability reduction lies solely with the project proponent.

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<sup>2</sup> Please note that distribution data contained in these databases do not represent an exhaustive and comprehensive inventory of a species' current distribution. Only field inventories can determine with certainty which species are present in an area. Please note also that a few species on SARA Schedule 1 (and all species on Schedules 2 and 3, and any assessed species since SARA was proclaimed) do not have a distribution map on the Species at Risk Web Mapping Application at this time, and thus these species are not included in a search of this database.

I trust these comments will assist you in drafting your CEEA Screening. EC would appreciate the opportunity to review survey methodologies and results as indicated in our comments. Should there be any questions regarding these comments, please do not hesitate to contact me at (905) 336-4951 or by email at [denise.fell@ec.gc.ca](mailto:denise.fell@ec.gc.ca)

Sincerely,



Denise Fell  
Environmental Assessment Officer  
Environmental Assessment Unit

c.c. Rob Dobos – Environment Canada  
Glen Priestley – Dawn Gateway Pipeline  
Daraleigh Irving – Aylmer District MNR

## APPENDIX

### Regulatory and Policy Context for Environment Canada's Comments and Advice

Environment Canada's mandate to protect the environment and to actively promote sustainable development extends beyond the Department's legislated responsibilities for undertakings that trigger the *Canadian Environmental Assessment Act*. Our review and comments are related, but not limited, to our areas of interest and expertise arising from the following legislation. More information is available on-line, as indicated.

#### ***Department of Environment Act***

<http://laws.justice.gc.ca/en/E-10/text.html>

The *Department of Environment Act* provides Environment Canada (EC) with general responsibility for environmental management and protection. Its obligations extend to and include all matters over which Parliament has jurisdiction, and have not by law been assigned to any other department, board, or agency of the Government of Canada as related to: preservation and enhancement of the quality of the natural environment (e.g. water, air, soil), renewable resources including migratory birds and other non-domestic flora and fauna, water, meteorology, and coordination of policy and programs respecting preservation and enhancement of the quality of the natural environment.

The *Department of Environment Act* states that EC has a mandated responsibility to advise heads of federal departments, boards and agencies on matters pertaining to the preservation and enhancement of the quality of the natural environment. This responsibility is reinforced as per subsection 12(3) of CEAA, which states that federal departments must provide specialist and expert information or knowledge to other federal departments or review panels.

#### ***Canadian Environmental Protection Act, 1999***

[http://www.ec.gc.ca/CEPARRegistry/subs\\_list/](http://www.ec.gc.ca/CEPARRegistry/subs_list/)

<http://www.ec.gc.ca/CEPARRegistry/policies/>

The Canadian Environmental Protection Act, 1999 (CEPA) contributes to sustainable development through pollution prevention and protects the environment, human life and health from the risks associated with toxic substances. Key parts of CEPA include:

- public participation;
- information gathering, objectives, guidelines and codes of practice;
- pollution prevention;
- controlling toxic substances;
- animate products of biotechnology;
- controlling pollution and managing wastes including nutrients, protection of the marine environment, disposal at sea, fuels, vehicle engine and equipment emissions, international air pollution and international water pollution, and hazardous and non-hazardous waste;
- environmental matters related to emergencies including requirements for environmental emergency plans;
- government operations - federal and aboriginal lands including regulations to close any regulatory gap between federal and provincial requirements; and,
- enforcement.

The *Canadian Environmental Protection Act, 1999* enables the government to manage a toxic substance throughout its life cycle. Provisions under CEPA require Environment Canada, under certain conditions, to develop a "regulation or preventive or control instrument" for a substance that is found to be "toxic" under the Act. CEPA further requires the virtual elimination of anthropogenic releases to the environment of substances that are declared toxic and that are bioaccumulative and persistent. CEPA also establishes the requirements for the assessment of chemicals, polymers and products of biotechnology, prior to import or manufacture of substances not on the Domestic Substances List.

### ***Fisheries Act***

[http://www.ec.gc.ca/ele-ale/policies/c\\_and\\_e\\_fisheries\\_act/main\\_e.asp](http://www.ec.gc.ca/ele-ale/policies/c_and_e_fisheries_act/main_e.asp).

Environment Canada's mandate to advocate for the protection of water quality stems from the pollution prevention provisions of the *Fisheries Act*, which are administered by EC. Please be advised that the Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act* states that compliance with the federal *Fisheries Act* is mandatory. Subsection 36(3) of the *Fisheries Act* specifies that, unless authorized by federal regulation, no person shall deposit or permit the deposit of deleterious substances of any type in water frequented by fish, or in any place under any conditions where the deleterious substance, or any other deleterious substance that results from the deposit of the deleterious substance, may enter any such water. Proponents should note that only a federal regulation under the *Fisheries Act* or another Act of Parliament can authorize a discharge of a deleterious substance; no federal permit, provincial, territorial or municipal regulatory permit or approval allows for exemption from the *Fisheries Act*.

In the application of the *Fisheries Act*, court cases have accepted that a discharge or effluent that is acutely lethal to fish is deleterious. In other words, results of tests designed to determine whether fish will die in an effluent or discharge within a specified time period will determine one aspect of deleteriousness. However, any substance with a potentially harmful chemical, physical or biological effect on fish or fish habitat is also deleterious. For example, substances (such as sediment) that smother nesting areas or spawning grounds, or interfere with reproduction, feeding or respiration of fish at any point in their life cycle are also considered deleterious. In general, any substance with a potentially harmful chemical, physical or biological effect on fish or fish habitat may be considered deleterious.

The act of depositing a deleterious substance should be considered a violation of the *Fisheries Act*, regardless of whether the water itself is made deleterious by the deposit. Subsection 36(3) of the *Fisheries Act* makes no allowance for a mixing or dilution zone. Any measurements or tests to determine whether something is deleterious should be done where the substance is at its highest concentration, typically at the point of discharge to the receiving water.

### ***Migratory Birds Convention Act, 1994***

[http://www.cws-scf.ec.gc.ca/legislations/laws1\\_e.cfm](http://www.cws-scf.ec.gc.ca/legislations/laws1_e.cfm)

The disturbance, destruction or taking of a nest, egg, nest shelter, eider duck shelter or duck box of a migratory bird are prohibited under section 6 of the *Migratory Bird Regulations* (MBRs), under the authority of the *Migratory Birds Convention Act, 1994* (MBCA)\*. "Incidental take" is the killing or harming of migratory birds due to actions, such as economic development, which are not primarily focused on taking migratory birds. No permit can be issued for the incidental take of migratory birds or their nests as a result of economic activities.

Under section 5.1 of the MBCA, no person shall deposit or permit to be deposited oil, oil wastes or any other substance harmful to migratory birds in any waters or any area frequented by migratory birds.

- \* Please note that amendments to the MBCA in Bill C-15 came into force on June 28, 2005. This pollution prohibition was previously contained in s.35(1) of the *Migratory Bird Regulations*, which has now been repealed and is included as s.5.1 of the amended MBCA, 1994.

### ***Species at Risk Act***

[http://www.speciesatrisk.gc.ca/default\\_e.cfm](http://www.speciesatrisk.gc.ca/default_e.cfm)

The *Species at Risk Act* (SARA) has resulted in a consequential amendment to CEEA that amends the definition of "environmental effect" to clarify that all federal EAs must always consider adverse effects on listed wildlife species, and the critical habitat or residences of individuals of that species. In addition, section 79(2) of SARA requires that when a federal EA is carried out on a project that may affect a listed species or its critical habitat, adverse environmental effects must be identified, mitigation measures must be taken to avoid or lessen adverse effects, and environmental effects monitoring must be conducted.

SARA was proclaimed on June 5, 2003 and is intended to provide protection for individuals of wildlife species at risk listed under Schedule 1 of the Act, their residences (dwelling places, such as a den or nest or other similar area that is occupied or habitually occupied by one or more individual during part or all of its life cycle) and critical habitat (that part of areas used or formerly used by the species to carry out their life processes that is deemed essential for survival or recovery). Critical habitat will be identified for each listed species in Recovery Strategies or Action Plans. The prohibitions under SARA came into force on June 1, 2004 and apply to listed (Schedule 1) endangered and threatened species for all federally protected aquatic species and migratory birds (including their residences) found anywhere, as well as to all endangered and threatened species, when found on federal lands.

Pursuant to Section 79(1) of SARA, if any listed wildlife species, its critical habitat or the residences of individuals of that species may be adversely impacted by the project, the Responsible Authorities for the CEEA assessment must notify the competent Minister responsible for the listed species in writing. Fisheries and Ocean Canada is responsible for aquatic species at risk and can provide advice regarding potential impacts on these species covered under the *Fisheries Act*. Notifications in relation to listed terrestrial species are to be sent to EC, and for this project may be sent to my attention.

### ***Other legislation, agreements and federal policies respecting environmental matters***

The above list is not exhaustive; EC may have other interests in this project not identified at this time based on our review of additional information provided at a later date. For further information on EC's mandated interests, please refer to <http://www.ec.gc.ca/EnviroRegs>.



November 26, 2009

Denise Fell  
Environmental Assessment Officer  
Environmental Assessment Unit  
Environment Canada  
P.O. Box 5050, 867 Lakeshore Rd  
Burlington, Ontario  
L7R 4A6

Dear Ms. Fell,

Re: Proposed Dawn Gateway Pipeline Project

The following is in response to your letter of October 13, 2009 to the National Energy Board regarding the proposed Dawn Gateway Pipeline project.

In your letter under the section entitled "Project and Site Information", reference is made to watercourse crossings, wetlands and vegetation removal. With regards to watercourse crossings, please note that for the proposed construction of the Bickford to Dawn pipeline (approximately 17 km in length), there is one natural watercourse (the Sydenham River), 12 municipal drains, and 2 unclassified drainage features to be crossed. The Sydenham River and two municipal drains (Indian Creek and Langstaff Creek) are the only watercourses which contain direct fish habitat. All three of these watercourses are planned to be crossed using directional drilling which will avoid impacts to the watercourses and adjacent riparian areas. Please note that a report outlining the aquatic fieldwork completed to date will be forwarded to Environment Canada.

There are no provincially designated wetlands crossed by the proposed Bickford to Dawn pipeline. A small section of forb mineral meadow marsh is located to the east of Indian Creek; the directional drilling of the Creek will avoid impacts to this marsh.

With regards to vegetation removal, please note that the majority of the land along the proposed pipeline is in agricultural use and that less than four percent of the length of the proposed Bickford to Dawn pipeline is in a natural vegetated state. The majority of the land in a natural vegetated state is found adjacent to the Sydenham River and Indian Creek. As noted earlier, these areas will be crossed using directional drilling resulting in no disturbance to the natural vegetation. A report outlining terrestrial fieldwork completed to date will be forwarded to Environment Canada.

Dawn Gateway Pipeline Limited Partnership c/o Union Gas Limited

50 Keil Drive North Chatham, ON N7M5M1

Within the section entitled "Migratory Birds", reference is made to potential impacts to migratory birds as well as plant and wildlife surveys. As noted above, minimal vegetation removal is required for the construction of the proposed pipeline because the majority of the vegetated areas will be avoided by the use of directional drilling. Any required vegetation removal however will avoid the sensitive bird nesting period (May 1 to July 31). Regarding plant and wildlife surveys, we have recently completed these studies and will forward the corresponding reports to Environment Canada.

Under "Water Quality", reference is made to the protection of water quality. As noted previously, we plan to directional drill the Sydenham River, Indian Creek and Langstaff Creek. Other drains/watercourses will be crossed using the "dam and pump" method. This method will isolate the water from the construction work area thus avoiding the introduction of soil sediment into the water. Erosion and sediment control measures will also be used to avoid sediment entering the watercourse from adjacent areas.

In the section "Air Quality", a number of measures are noted to minimize effects to air quality. These and other measures will be noted in a project Environmental Protection Plan which will be prepared prior to construction. We will forward a copy of the EPP to Environment Canada when it is completed.

Regarding species at risk, please note that we have met with both Fisheries and Oceans Canada (DFO) and the provincial Ministry of Natural Resources (MNR) to discuss possible species at risk in the area of the proposed Bickford to Dawn pipeline. The recently completed fieldwork focused on the Kentucky Coffee-tree (*Gymnocladus dioica*) and the Eastern Foxsnake (*Elaphe gloydi*); two species at risk noted by the MNR as occurring in the area of the pipeline project. We will follow up with both the DFO and the MNR concerning species at risk subsequent to the preparation of our field study reports. As noted above, these reports will be forwarded to Environment Canada.

Thank you for your time in reviewing and commenting on our proposed project. Please contact me if you have any questions concerning the project.

Glenn Priestley  
Dawn Gateway Pipeline Limited Partnership  
1-800-265-5230  
[gpriestley@spectraenergy.com](mailto:gpriestley@spectraenergy.com)

cc: A/Secretary of the Board (NEB)

**MINISTRY OF CULTURE**  
**Ministère de la Culture**  
**FACSIMILE COVER PAGE**  
**Formule d'envoi par télécopie**

Date <del>August</del> Sept 2, 2004		Time Heure
To/Destinataire D.R. Poulton & Associates		Fax No. (519) 434-0517 Tel No.
cc. Stantec Consulting Ltd. Mr. Mark Knight Fax(519) 836-2443		
From/Expéditeur		
Name Nom	Shari Prowse, Archaeology Review Officer Southwest Region	Tel No. N° de tél. (519) 675-6898
Office Bureau	Culture Programs Unit Programs and Services Branch	Fax No. N° de télécopieur (519) 675-7777
Location Endroit	900 Highbury Avenue London Ontario N5Y 1A4	No. of pages Plus this page N° de pages - incluant cette page
Re:  Dawn Gateway Project Stage 2		
Any questions/problems with this transmission, please contact the sender. Si vous avez des questions ou des difficultés en ce qui concerne les documents transmis, veuillez communiquer avec l'expéditeur.		



Ministry of Culture  
Culture Programs Unit  
Programs & Services Br.  
900 Highbury Avenue  
London, ON N5Y 1A4  
Tel: 519-875-6898  
Fax: 519-675-7777  
e-mail: [shari.prowse@ontario.ca](mailto:shari.prowse@ontario.ca)

Ministère de la Culture  
Unité des programmes culturels  
Direction des programmes et des  
services  
900, av. Highbury  
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Tél: 519-875-6898  
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e-mail: [shari.prowse@ontario.ca](mailto:shari.prowse@ontario.ca)



September 1, 2009

Ms. Christine Dodd  
D.R. Poulton & Associates  
69 Langarth Street West  
London, Ontario  
N6J 1P5

**RE: Review and Acceptance into the Provincial Register of Reports: Archaeological Assessment Report Entitled, "The 2008-2009 Stage 1 Archaeological Assessment of the Proposed NPS 24 Bickford to Dawn Line, Dawn Gateway Pipeline Project, Townships of St. Clair & Dawn-Euphemia, Lambton County, Ontario", February 2009, Received March 26, 2009, Licence/PIF # P053-175-2008, Corporate Project No. 08-103, MCL File PI00206**

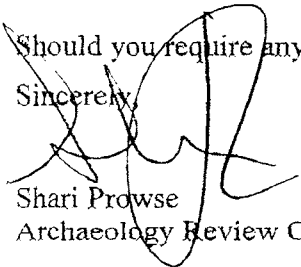
Dear Ms. Dodd:

This office has reviewed the above-mentioned report which has been submitted to this Ministry as a condition of licensing in accordance with Part VI of the Ontario Heritage Act, R.S.O. 1990, c 0.18. This review is to ensure that the licensed professional consultant archaeologist has met the terms and conditions of their archaeological licence, that archaeological sites have been identified and documented according to the 1993 technical guidelines set by the Ministry and that the archaeological fieldwork and report recommendations ensure the conservation, protection and preservation of the cultural heritage of Ontario.

As the result of our review, this Ministry accepts the above titled report into the Provincial register of archaeological reports. The report indicates that portions of the subject property have archaeological potential and should be subject to a Stage 2 assessment once the preferred route has been selected. This Ministry concurs with this recommendation.

Should you require any further information regarding this matter, please feel free to contact me.

Sincerely,

  
Shari Prowse  
Archaeology Review Officer

cc. Archaeological Licensing Office  
Stantec Consulting Ltd.

Proposed Bickford to Dawn Pipeline Project - Agency Comments

Agency	Correspondence	Summary of Agency Comments	Dawn Gateway Reply to Agency Comments
MNR	MNR letter to NEB dated August 26, 2009	reference to Endangered Species Act, 2007 and local occurrences of eastern foxsnake and Kentucky coffee tree; possible need for a permit; reference to North Sydenham River and need for environmental sensitive crossing techniques; possible need for an easement under the Public Lands Act where Crown is the owner of the bed of rivers/creeks.	Dawn Gateway reply letter to MNR dated September 30, 2009; reference to field surveys in the fall of 2009 to assess potential foxsnake habitat and presence of Kentucky coffee tree; reference to drilling underneath the Sydenham River and Indian Creek; Dawn Gateway to comply with applicable requirements of the Public Lands Act ; request for meeting with MNR to further discuss agency comments.
MOE	MOE letter to NEB dated August 6, 2009	reference to crossing of Indian Creek; possible need for a permit to take water	Dawn Gateway reply letter to MOE dated October 5, 2009 acknowledging crossing of Indian Creek using directional drilling; acknowledgement of the possible need for a permit to take water.
Environment Canada	EC letter to NEB dated October 13, 2009	reference to EC interest in migratory birds, species at risk, air quality and water quality;	Dawn Gateway reply letter to EC dated November 26, 2009 referencing various measures to protect migratory birds, water quality, air quality and species at risk.
Ministry of Culture	MOC letter to D R Poulton & Associates (DG archaeological consultants) dated September 1, 2009.	reference to 2008-2009 Stage 1 archaeological assessment of the Bickford to Dawn pipeline project.	Dawn Gateway commissions D R Poulton to undertake additional archaeological surveys along the Bickford to Dawn pipeline route in the fall , 2009.

## SECTION 8

### LAND MATTERS

#### **Introduction**

89. A detailed drawing showing the proposed Bickford Dawn Pipeline location is provided in Section 8 - Schedule 1. The names and addresses of the landowners along the route are shown on the drawing.
90. The required permanent easements for the Bickford Dawn Pipeline total approximately 34 hectares (85 acres). Dawn Gateway LP will also require approximately seven hectares (18 acres) of temporary easements. Section 8 - Schedule 2 lists the names and addresses of all property owners along the route of the Bickford Dawn Pipeline, and the dimensions of permanent easements and approximate dimensions of the temporary easements required.

#### **Pipeline related Easement Requirements**

91. Union has assignable agreements for unused permanent easements for the entire proposed route for the Bickford Dawn Pipeline. Dawn Gateway LP has an agreement in principle to take assignments of these easements from Union, although the assignment has not yet occurred. Board approval for the assignment of the easements is not required as the easements are not required for the operation of any of Union's distribution, transmission or storage systems.
92. Union obtained the easements in 1993 in anticipation of the eventual construction of an NPS 36/30 pipeline as described in EBLO 244 proceeding. Although that project did not proceed, as part of the Board's decision in that proceeding, the Board confirmed the route for the proposed pipeline. Section 8 - Schedule 2 lists the registration particulars for these easements. Union's grant of easement form, which was approved by the Board in the EBLO 244 proceeding is attached as Section 8 - Schedule 3.

93. At the time of the execution of the easement agreements by the landowners in 1993, Union paid full compensation for the grant of easements as well as compensation for crop loss and disturbance damages. In addition a Letter of Understanding (“LOU”), governing the construction of the pipeline, was executed by Union and by each individual landowner, or their predecessors. Dawn Gateway LP has agreed to abide by the terms and conditions of the LOU, entered into between Union and the landowners with respect to the construction of the Bickford Dawn Pipeline. However as construction practices have changed since the execution of the LOU, Dawn Gateway LP is willing to enter into a revised letter of understanding which will be updated to reflect the present construction practices. A copy of the 1993 LOU and the proposed revised letter of understanding (2010) are attached as Section 8 - Schedule 4.
94. The proposed agreement for temporary easements is in the form previously approved by the Board for use by Union, and is attached as Section 8 - Schedule 5. These agreements are usually for a period of two years beginning in the year of construction. This allows an opportunity to return in the year following construction to perform further clean-up work as required. Dawn Gateway LP intends to negotiate any required temporary easements prior to January 31, 2010.

### **Consultations**

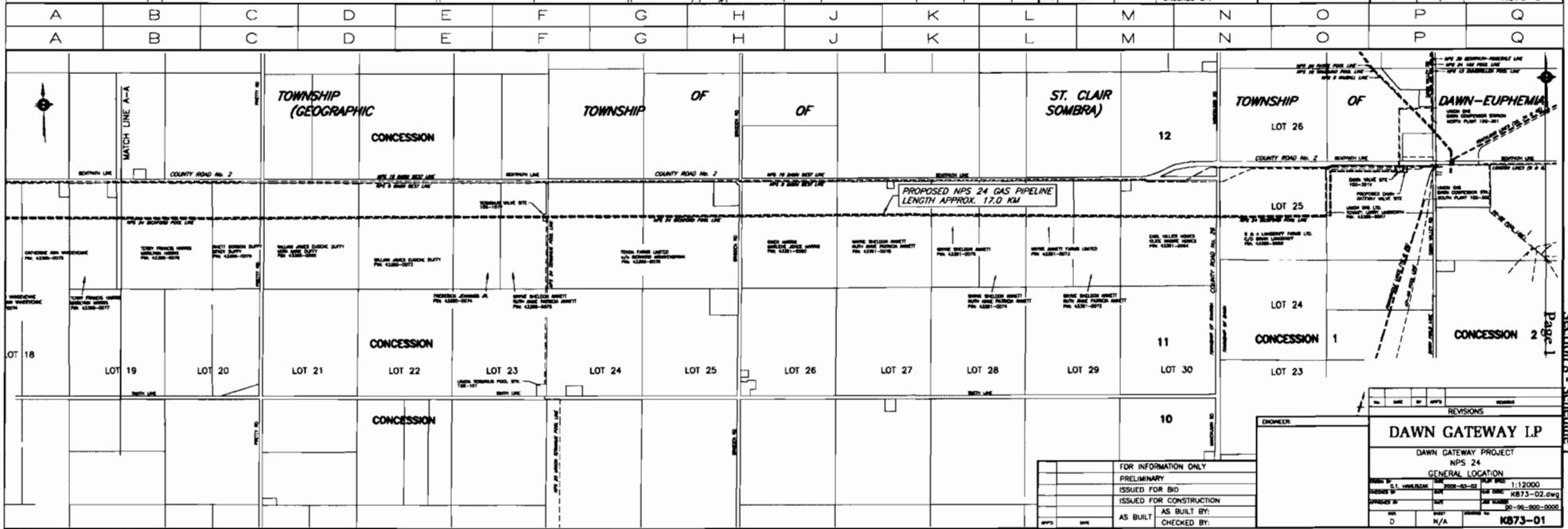
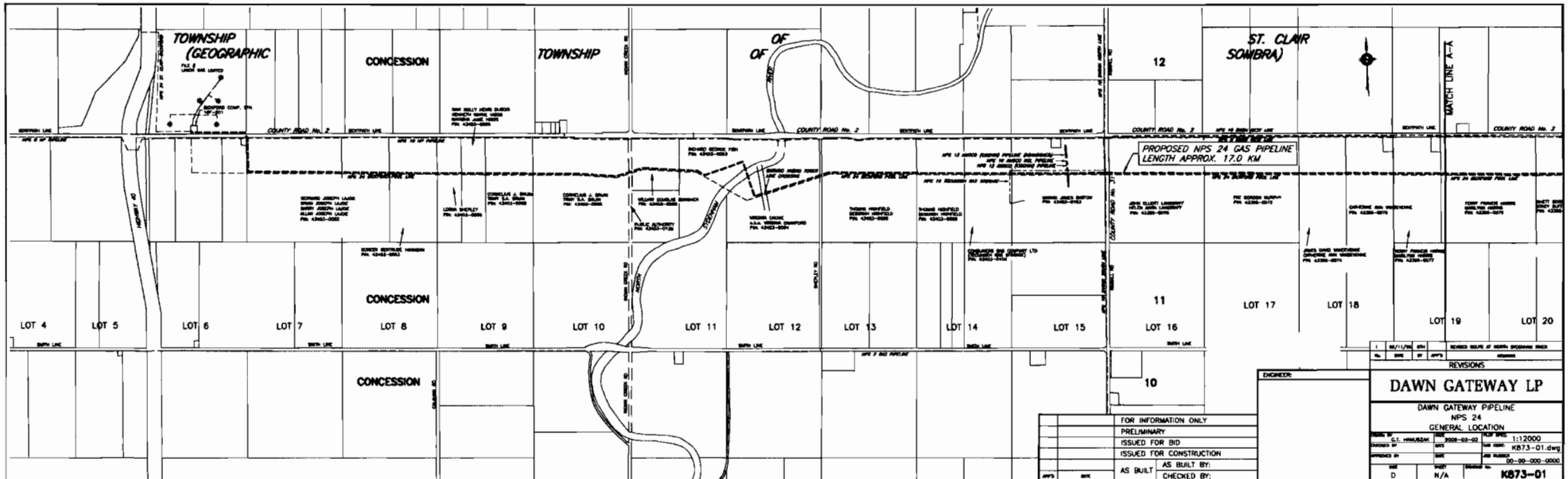
95. Dawn Gateway LP has, prior to the filing of this evidence, advised all affected landowners, through their appointed landowner negotiating committee, of the timing for the proposed pipeline.
96. Dawn Gateway LP will attempt to negotiate a comprehensive settlement with the landowners along the project route and hopes to arrive at a settlement with the landowners no later than January 31, 2010.

### **Construction Monitoring and Commitment Follow-up**

97. Dawn Gateway LP will enter into a contract with Union and will be relying on Union’s comprehensive Landowner relations program which has proven successful on many Union projects. The key elements of this program are a Complaint Tracking system, and

the assignment on a full-time basis of a Landowner Relations Agent to projects to ensure that commitments made to landowners are fulfilled, to address questions and concerns of the landowners, and to act as a liaison between landowners and the contractor and company construction personnel. A Complaint Resolution System will be used for this project to record, monitor, and ensure follow-up on any complaint or issue received by Dawn Gateway LP related to the construction. This process will assist in resolving complaints and tracking the fulfillment of commitments. A process chart and explanatory notes that describe the Complaint Resolution System are found in Section 8 - Schedule 6. In addition to the Landowner Relations Agent's duties during construction, the Agent will conduct pre-construction and post-construction interviews to capture any concerns and comments.

98. When the clean-up is completed, the landowner will be asked by a Dawn Gateway LP representative to sign a clean-up acknowledgement form if satisfied with the clean-up. This form, when signed, releases the construction contractor allowing payment for the clean-up on the property. This form in no way releases Dawn Gateway LP from its obligation for tile repairs, compensation for damages and/or further clean-up as required due to erosion or subsidence directly related to pipeline construction.
99. After construction, negotiations will continue where necessary to settle any damages, which were not foreseen or compensated for prior to construction.



## LAND RIGHTS

NAME & ADDRESS	PROPERTY DESCRIPTION	PERMANENT EASEMENT Dimensions (Metres) Area Length Width (Hectares)	TEMPORARY LAND USE & TOP SOIL STORAGE Dimensions (Metres) Area Length Width (Hectares)
UNION GAS LIMITED Att'n: Lands Department 50 Keil Drive North CHATHAM, Ontario N7M 5M1  Ten.: Larry Unsworth R. R. #2 Tupperville, Ontario N0P 2M0	PT. E 1/2 LOT 25, CON. 1 TWP. OF DAWN COUNTY OF LAMBTON		
B. & A. LANGSTAFF FARMS LTD. c/o Brian Langstaff R. R. # 2 TUPPERVILLE, Ontario N0P 2M0	PT. W 1/2 LOT 25, CON. 1 TWP. OF DAWN COUNTY OF LAMBTON  3007 Bentpath Line	683.3 x 22 1.503  Easement #735492 25R-6431	40 x 10 .040 40 x 10 .040 40 x 10 .040 40 x 10 .040  703.3 x 3 .211 703.3 x 3 .211
The Corporation of the County of Lambton P. O. Box 3000 789 Broadway St. Wyoming, Ontario N0N 1T0	Rdal Btwn Twp of Sombra and Twp of Dawn abutting Lots 16 to 25 Con 1; Pt Lot 30, Con 8, Pt 1, 2 on 25R-7276 Pt Lot 30, Con 9, Pt 1, 25R-2702 Pt Lot 30, Con 10, as in L378161 aka Mandaumin Rd., aka County Rd #1 Twp of Dawn-Euphemia County of Lambton  Mandaumin Road		

## LAND RIGHTS

NAME & ADDRESS	PROPERTY DESCRIPTION	PERMANENT EASEMENT		TEMPORARY LAND USE & TOP SOIL STORAGE	
		Dimensions (Metres) Length Width (Hectares)	Area	Dimensions (Metres) Length Width (Hectares)	Area
HOWES, Olive Maxine HOWES, Earl Hillier 1387 Mandaumin Road R. R. # 2 TUPPERVILLE, Ontario N0P 2M0	PT. N 1/2 LOT 30, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  1387 Mandaumin Rd	603.9 x 22 Easement #735494 25R-6430	1.329	40 x 10 40 x 10 613.9 x 3 613.9 x 3	.040 .040 .185 .185
ANNETT, Wayne Sheldon ANNETT, Ruth Anne 2447 Burman Line, R. R. #1 Wilkesport, Ontario N0P 2R0	PT. NE 1/4 LOT 29, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  Bentpath Line	302.0 x 22 Easement #735496 25R-6429	.664	75 x 15 75 x 15 332.0 x 3 332.0 x 3	.112 .112 .100 .100
Wayne Annett Farms Limited 2447 Burman Line, R. R. #1 Wilkesport, Ontario N0P 2R0	PT. NW 1/4 LOT 29, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  Bentpath Line	302.7 x 22 Easement #735498 25R-6428	.666	302.7 X 3 302.7 X 3	.191 .191
ANNETT, Wayne Sheldon ANNETT, Ruth Anne 2447 Burman Line, R. R. #1 Wilkesport, Ontario N0P 2R0	PT. NE 1/4 LOT 28, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  2773 Bentpath Line	303.5 x 22 Easement #735504 25R-6427	.668	303.5 x 3 303.5 x 3	.091 .091



## LAND RIGHTS

NAME & ADDRESS	PROPERTY DESCRIPTION	PERMANENT EASEMENT Dimensions (Metres) Area Length Width (Hectares)	TEMPORARY LAND USE & TOP SOIL STORAGE Dimensions (Metres) Area Length Width (Hectares)
Annett, Wayne Sheldon 2447 Burman Line, R. R. #1 Wilkesport, Ontario N0P 2R0	PT. NW 1/4 LOT 28, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  2773 Bentpath Line	303.4 x 22 .667  Easement #735505 25R-6426	303.4 x 3 .091 303.4 x 3 .091
ANNETT, Wayne Sheldon ANNETT, Ruth Anne 2447 Burman Line, R. R. #1 Wilkesport, Ontario N0P 2R0	PT. N 1/2 LOT 27, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  2637 Bentpath Line	604.2 x 22 1.329  Easement #735506	604.2 x 3 .182 604.2 x 3 .182
Public Authority Having Jurisdiction c/o Township of St. Clair 1155 Emily St Mooretown, Ontario N0N 1M0	Rdal btwn Lot 25 & 26 Con 10 Rdal btwn Lot 25 & 26 Con 11 Rdal btwn Lot 25 & 26 Con 12 aka Brigden Rd. Twp of St. Clair County of Lambton  Brigden Road		

## LAND RIGHTS

NAME & ADDRESS	PROPERTY DESCRIPTION	PERMANENT EASEMENT Dimensions (Metres) Area Length Width (Hectares)	TEMPORARY LAND USE & TOP SOIL STORAGE Dimensions (Metres) Area Length Width (Hectares)
HARRIS, Owen HARRIS, Marlene Joyce PO Box 429 Port Lambton, Ontario N0P 2B0	PT. N 1/2 LOT 26, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  Bentpath Line	605.5 x 22 1.332  Easement #736682 25R-6424	40 x 10 .040 40 x 10 .040  615.5 x 3 .185 615.5 x 3 .185
Tekoa Farms Ltd c/o Bernard Kraayenbrink 26 Ward Line Port Lambton, Ontario N0P 2B0	PT. N 1/2 LOTS 24 & 25, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  2377 Bentpath Line (Lot 24) No 911 Address Available (Lot 25)	1209.7 x 22 2.661  Easement #736684 25R-6423	40 x 20 .080 40 x 20 .080 75 x 15 .112 75 x 15 .112 40 x 10 .040  40 x 10 .040  1269.7 x 3 .381 1269.7 x 3 .381
Annett, Wayne Sheldon Annett, Ruth Ann Patricia 2447 Burman Line, R. R. #1 Wilkesport, Ontario N0P 2R0	PT. NE 1/4 LOT 23, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  Bentpath Line	272.6 x 22 .600  Easement #735507 25R-6422	40 x 20 .080 40 x 20 .080  312.9 x 3 .094 324.8 x 3 .098

## LAND RIGHTS

NAME & ADDRESS	PROPERTY DESCRIPTION	PERMANENT EASEMENT Dimensions (Metres) Area Length Width (Hectares)	TEMPORARY LAND USE & TOP SOIL STORAGE Dimensions (Metres) Area Length Width (Hectares)
JENNINGS, Frederick Junior R. R. # 1 WILKESPORT, Ontario N0P 2R0	NW 1/4 LOT 23, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  Bentpath Line	302.5 x 22 .666	302.5 x 3 .091 302.5 x 3 .091
Duffy, William James Eugene 1336 Pretty Rd., R. R. #3 Sombra, Ontario N0P 2H0	N 1/2 LOT 22, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  Bentpath Line	604.5 x 22 1.330  Easement #735510 25R-6420	604.5 x 3 .182 604.5 x 3 .182
DUFFY, William James Eugene DUFFY, Vera Anne 1336 Pretty Rd., R. R. #3 SOMBRA, ONTARIO N0P 2H0	N 1/2 LOT 21, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  Bentpath Line	605.6 x 22 1.332  Easement #736168 25R-6419	40 x 10 .040 40 x 10 .040 75 x 15 .112 75 x 15 .112  645.6 x 3 .194 645.6 x 3 .194

LAND RIGHTS

NAME & ADDRESS	PROPERTY DESCRIPTION	PERMANENT EASEMENT Dimensions (Metres) Area Length Width (Hectares)	TEMPORARY LAND USE & TOP SOIL STORAGE Dimensions (Metres) Area Length Width (Hectares)
The Corporation of the Township of St. Clair 1155 Emily St. Mooretown, Ontario N0N 1M0	Rd Allow btwn Lot 20 & 21, Con 10 Rd Allow btwn Lot 20 & 21, Con 11 Rd Allow btwn Lot 20 & 21, Con 12 Township of Sombra County of Lambton  Pretty Road		
Harris, Tery Francis Harris, Marilyn 1835 Bentpath Line, R. R. #3 Sombra, Ontario N0P 2H0	NW 1/4 LOT 20 & NE 1/4 LOT 19 CON. 11, TWP. OF SOMBRA COUNTY OF LAMBTON  Bentpath Line	615.8 x 22 1.355  Easement #736689 25R-6417	615.8 x 3 .185 615.8 x 3 .185
Duffy, Rhett Gordon Duffy, Stacy R. R. # 3 SOMBRA, ONTARIO N0P 2H0	NE 1/4 LOT 20, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  1953 Bentpath Line	293.7 X 22 0.646  Easement #736689	40 X 10 .040 40 X 10 .040  303.7 x3 .091 303.7 x3 .091

## LAND RIGHTS

NAME & ADDRESS	PROPERTY DESCRIPTION	PERMANENT EASEMENT Dimensions (Metres) Area Length Width (Hectares)	TEMPORARY LAND USE & TOP SOIL STORAGE Dimensions (Metres) Area Length Width (Hectares)
HARRIS, Terry Francis HARRIS, Marilyn 1835 Bentpath Line, RR #3 SOMBRA, ONTARIO N0P 2H0	PT. NW 1/4 LOT 19, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  1835 Bentpath Line	303.7 x 22 .668  Easement #735512 25R-6416	303.7 x 3 .092 303.7 x 3 .092
Vandevenne, Catherine Ann 1715 Bentpath Line, R. R. #3 Sombra, Ontario N0P 2H0  Tenant: James Vandevenne RR #3 Sombra, Ontario N0P 2H0	PT. E 1/2 N 1/2 LOT 18, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  1715 Bentpath Line	297.4 x 22 .654  Easement #736690 25R-6415	40 x 10 .040 40 x 10 .040  307.4 x 3 .093 307.4 x 3 .093
VANDEVENNE, James David VANDEVENNE, Catherine Ann 1715 Bentpath Line, R. R. #3 SOMBRA, Ontario N0P 2H0	W 1/2 N 1/2 LOT 18, CON. 11 TWP OF SOMBRA COUNTY OF LAMBTON  1715 Bentpath Line	305.5 x 22 .672  Easement #736693 25R-6414	40 x 10 .040 40 x 10 .040  315.5 x 3 .095 315.5 x 3 .095

LAND RIGHTS

NAME & ADDRESS	PROPERTY DESCRIPTION	PERMANENT EASEMENT Dimensions (Metres) Area Length Width (Hectares)	TEMPORARY LAND USE & TOP SOIL STORAGE Dimensions (Metres) Area Length Width (Hectares)
MURPHY, Pat Gordon 1621 Bentpath Line SOMBRA, Ontario N0P 2H0	N 1/2 LOT 17, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  1621 Bentpath Line	606.1 x 22 1.333  Easement #735513 25R-6413	606.1 x 3 .182 606.1 x 3 .182
LANGSTAFF, John Elliott LANGSTAFF, Helen Anita R. R. # 2 TUPPERVILLE, Ontario N0P 2M0	N 1/2 LOT 16, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  1503 Bentpath Line	605.9 x 22 1.333  Easement #736171 25R-6412	40 x 10 .040 40 x 10 .040  615.9 x 3 .185 615.9 x 3 .185
The Corporation of the County of Lambton P. O. Box 3000 789 Broadway St. Wyoming, Ontario N0N 1T0	Rd Allow btwn Lot 15 & 16 Con 10 Rd Allow btwn Lot 15 & 16 Con 11 Rd Allow btwn Lot 15 & 16 Con 12 Pt Lot 15 & 16, Con 10, Pt Lot 15, Con 11 Pt Lot 15, Con 12 as in PP851, PP757 aka Kimball Rd, aka County Rd #7 aka County Rd 31 btwn Queen St Plan 4 and Holt Line Township of St. Clair County of Lambton  Kimball Road		

LAND RIGHTS

NAME & ADDRESS	PROPERTY DESCRIPTION	PERMANENT EASEMENT Dimensions (Metres) Area Length Width (Hectares)	TEMPORARY LAND USE & TOP SOIL STORAGE Dimensions (Metres) Area Length Width (Hectares)
BASTOW, Marvin James 1461 Bentpath Line Sombra, Ontario N0P 2H0  Ten.: Patrick Murphy RR #3 Sombra, Ontario N0P 2H0	PT N 1/2 LOT 15, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  1461 Bentpath Line	599.9 x 22 1.320  Easement #736696 25R-6411	40 x 10 .040 40 x 10 .040 40 x 5 .020 40 x 5 .020  619.9 x 3 .186 619.9 x 3 .186
The Consumers' Gas Company Ltd c/o Enbridge Gas Distribution Inc. 3595 Tecumseh Rd. Mooretown, Ontario N0N 1M0	PT. NE 1/4 LOT 14, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  Bentpath Line	301.2 x 22 .663  Easement #736170 25R-6410	40 x 5 .020 40 x 5 .020  306.2 x 3 .092 306.2 x 3 .092
Highfield, Thomas Highfield, Deborah 1388 Shepley Rd Sombra, Ontario N0P 2H0	PT. NW 1/4 LOT 14, N 1/2 LOT 13 CON. 11, TWP. OF SOMBRA COUNTY OF LAMBTON  1388 Shepley Rd	901.4 x 22 1.983  Easement #735514 25R-6409	40 x 10 .040 40 x 10 .040  911.4 x 3 .274 911.4 x 3 .274

## LAND RIGHTS

NAME & ADDRESS	PROPERTY DESCRIPTION	PERMANENT EASEMENT Dimensions (Metres) Area Length Width (Hectares)	TEMPORARY LAND USE & TOP SOIL STORAGE Dimensions (Metres) Area Length Width (Hectares)
Public Authority Having Jurisdiction c/o Township of St. Clair 1155 Emily St Mooretown, Ontario N0N 1M0	Shepley Rd.		
CROWE, Virginia a.k.a Virginia Crawford R. R. # 6 WALLACEBURG, Ontario N8A 4L3	N 1/2 LOT 12, CON. 11 East of River TWP. OF SOMBRA COUNTY OF LAMBTON  Bentpath Line	586 x 22 1.289   Easement #735516 25R-6408	120 x 11 .132 40 x 10 .040 40 x 10 .040 80 x 30 .240 100 x 30 .300 67 x 10 .067 58.5 x 13.5 .079 576.6 x 3 .173 896.6 x 3 .269
FISH, Richard George 1073 Bentpath Line, R. R. # 3 SOMBRA, Ontario N0P 2H0	PT. N 1/2 LOTS 11 & 12, NW of River CON. 11, TWP. OF SOMBRA COUNTY OF LAMBTON  1073 Bentpath Line	473.8 x 22 1.042   Easement #735518 25R-6407	North Irregular 2.303 530.2 x 3 .159 457.3 x 3 .138
Bowsher, William Douglas 171 Bentpath Line, R. R. #3 Sombra, Ontario N0P 2H0	PT. NW 1.4 N 1/2 LOT 11, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  1071 Bentpath Line	306.3 x 22 .674   Easement #736698 25R-6406	Triangular .204  306.3 x 3 .092 350.5 x 3 .106



LAND RIGHTS

NAME & ADDRESS	PROPERTY DESCRIPTION	PERMANENT EASEMENT Dimensions (Metres) Area Length Width (Hectares)	TEMPORARY LAND USE & TOP SOIL STORAGE Dimensions (Metres) Area Length Width (Hectares)
Public Authority Having Jurisdiction c/o Township of St. Clair 1155 Emily St Mooretown, Ontario N0N 1M0	Rd Allow btwn Lot 10 & 11, Con 11 btwn N limit of North Branch Sydenham River & Bentpath Line Township of St. Clair County of Lambton  No Physical Road		
BRUIN, Cornelius J. BRUIN, Triny S.A. 947 Bentpath Line, R. R. # 3 SOMBRA, Ontario N0P 2H0  Tenant: Bernard Kraayenbrink RR 1 Port Lambton, Ontario N0P 2B0	PT. N 1/2 LOT 10 & NE 1/4 LOT 9 CON. 11, TWP. OF SOMBRA COUNTY OF LAMBTON  947 Bentpath Line	918.1 x 22 2.020  Easement #735520 25R-6404	336.2 x 11 .370 60.0 x 10 .060 120 x 10 .120 958 x 3 .288 1558.1 x 3 .468 208.8 x 7.8 .163
Dubois, Ivan Rolly Henri Higgs, Kenneth Wayne Higgs, Natasha June 835 Bentpath Line Sombra, Ontario N0P 2H0	PT. E 1/2 NW 1/4 LOT 9, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON 835 Bentpath Line	152.3 x 22 .335  Easement #735522 25R-6405	152.3 x 3 .046 152.3 x 3 .046

## LAND RIGHTS

NAME & ADDRESS	PROPERTY DESCRIPTION	PERMANENT EASEMENT Dimensions (Metres) Area Length Width (Hectares)	TEMPORARY LAND USE & TOP SOIL STORAGE Dimensions (Metres) Area Length Width (Hectares)
Shepley, Lorna 817 Bentpath Line, R. R. #3 Sombra, Ontario N0P 2H0	PT. W 1/2 NW 1/4 LOT 9, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  817 Bentpath Line	151.8 x 22 .334  Easement #735523 25R-6403	151.8 x 3 .046 151.8 x 3 .046
HINNEGAN, Doreen Gertrude 736 Smith Line, R. R. # 3 SOMBRA, Ontario N0P 2H0  Farm Tenant: Jim Hay R. R. #3 Sombra, Ontario N0P 2Ho	PT. NE 1/4 LOT 8, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  Bentpath Line	313 x 22 .689  Easement #735524 25R-6402	40 x 10 .040 40 x 10 .040  323 x 3 .097 323 x 3 .097
LAJOIE, Bernard Joseph, LAJOIE, Barry Joseph LAJOIE, Brian Joseph, LAJOIE, Allan Joseph c/o Bernard Lajoie 639 Bentpath Line, R. R. # 3 SOMBRA, Ontario N0P 2H0  Ten.: Ron Van Damme R. R. # 4 WALLACEBURG, Ontario N8A 4L1	NW 1/4 LOT 8 & N 1/2 LOT 7, CON. 11 TWP. OF SOMBRA COUNTY OF LAMBTON  639 Bentpath Line	904.8 x 22 1.991  211.7 x 22 0.466  Easement #735526 25R-6401 #750074 25R-6670	40 x 10 .040 40 x 10 .040  40 x 20 .080 20 x 20 .040  914.8 x 3 .275 866.8 x 3 .260 251.7 x 6 .151

# Transfer/Deed of Land

**A**

Form 1 - Land Registration Reform Act, 1984

FOR OFFICE USE ONLY	NUMBER [REDACTED] CERTIFICATE OF REGISTRATION JUN 22 1993 11:23AM LAMINGTON No. 2 SARNIA LAND REGISTRAR New Property Identifiers Additional See Schedule <input type="checkbox"/>	(1) Registry <input checked="" type="checkbox"/> Land Titles <input type="checkbox"/>	(2) Page 1 of 7 pages
	(3) Property Identifier(s) Block Property Additional See Schedule <input type="checkbox"/>		
	(4) Consideration [REDACTED] Dollars \$ [REDACTED]		
	(5) Description This is a: Property Division <input type="checkbox"/> Property Consolidation <input type="checkbox"/> [REDACTED]		
	Executions Additional See Schedule <input type="checkbox"/>		

(6) This Document Contains (a) Redescription New Easement Plan/Sketch <input checked="" type="checkbox"/>	(b) Schedule for Description <input type="checkbox"/> Additional Parties <input type="checkbox"/> Other <input checked="" type="checkbox"/>	(7) Interest/Estate Transferred EASEMENT
--	---	---

(8) Transferor(s) The transferor hereby transfers the land to the transferee and certifies that the transferor is at least eighteen years old and that

Name(s)	Signature	Date of Signature Y M D
[REDACTED]	[REDACTED]	1993 05 15
[REDACTED]	[REDACTED]	1993 05 15
[REDACTED]	[REDACTED]	1993 05 15
[REDACTED]	[REDACTED]	1993 05 15

(9) Spouse(s) of Transferor(s) I hereby consent to this transaction

Name(s)	Signature(s)	Date of Signature Y M D

(10) Transferor(s) Address for Service: c/o Bernard Lajoie, R. R. # 3, SOMBRA, Ontario N0P 2B0

(11) Transferee(s) UNION GAS LIMITED

Approved for Execution [Signatures]	Per: D.J. MOORE Vice-President R.S. VALDIS Assistant Secretary	Date of Birth Y M D 1993 05 20 1993 05 18
--	---	--

(12) Transferee(s) Address for Service: 50 Keil Drive North, Chatham, Ontario N7M 5M1

(13) Transferor(s) The transferor verifies that to the best of the transferor's knowledge and belief, this transfer does not contravene section 50 of the Planning Act. "We have authority to bind the Bank"

Signature: [Signature] Date of Signature: 93 06 07 Solicitor for Transferor(s) I have explained the effect of section 50 of the Planning Act to the transferor and I have made inquiries of the transferor to determine that this transfer does not contravene that section and based on the information supplied by the transferor, to the best of my knowledge and belief, this transfer does not contravene that section. I am an Ontario solicitor in good standing.	Signature: [Signature] Date of Signature: 93 06 07	Name and Address of Solicitor Signature: _____ Date of Signature: Y M D
---	--	--

(14) Solicitor for Transferee(s) I have investigated the title to this land and to abutting land where relevant and I am satisfied that the title records reveal no contravention as set out in subclause 50 (22) (c) (ii) of the Planning Act and that to the best of my knowledge and belief this transfer does not contravene section 50 of the Planning Act. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing.

Name and Address of Solicitor Signature: _____	Date of Signature Y M D
---	----------------------------

(15) Assessment Roll Number of Property: not assigned

(16) Municipal Address of Property: not assigned	(17) Document Prepared by: Union Gas Limited 50 Keil Drive North Chatham, Ontario N7M 5M1 File: B.D. # 31	Fees and Tax Registration Fee Land Transfer Tax Total
--	--	--

Planning Act - OPTIONAL  
 (MPL Statement by Solicitor for Transferee(s) where necessary)

FOR OFFICE USE ONLY

Additional Property Identifier(s) and/or Other Information

WHEREAS the Transferor is the owner in fee simple of those lands and premises more particularly described on page 5 of this Schedule (hereinafter called the "Transferor's lands").

WHEREAS the Transferee is the owner in fee simple of those lands and premises (hereinafter called the "Transferee's lands") situate, lying and being in the Township of Dawn, in the County of Lambton and Province of Ontario and being composed of the west half (W $\frac{1}{2}$ ) of Lot Number 25 in the 2nd Concession of the said Township.

The Transferor (and the Mortgagee) do hereby GRANT, CONVEY, TRANSFER AND CONFIRM unto the Transferee, its successors and assigns, to be used and enjoyed as appurtenant to all or any part of the lands of the Transferee's lands the right, liberty, privilege and easement on, over, in, under and/or through a strip of the Transferor's lands more particularly described in box 5 of page one of this Schedule (hereinafter referred to as "the said lands") to survey, lay, construct, maintain, inspect, patrol, alter, remove, replace, reconstruct, repair, move, keep, use and/or operate one pipe line for the transmission of gas (hereinafter referred to as "the said pipe line") including therewith all such buried attachments, equipment and appliances for cathodic protection which the Transferee may deem necessary or convenient thereto, together with the right of ingress and egress at any and all times over and upon the said lands for its servants, agents, employees, those engaged in its business, contractors and subcontractors on foot and/or with vehicles, supplies, machinery and equipment for all purposes necessary or incidental to the exercise and enjoyment of the rights, privileges and easement hereby granted. The Parties hereto mutually covenant and agree each with the other as follows:

1. In consideration of the sum of ONE DOLLAR (\$1.00) of lawful money of Canada now paid by the Transferee to the Transferor, the receipt of which is hereby acknowledged, and the additional sum of Nine Thousand, Eight Hundred & Forty Dollars (\$9,840.00) of lawful money of Canada (hereinafter called "the consideration", which sum is payment in full for the rights and interest hereby granted and for the rights and interest, if any, acquired by the Transferee by expropriation, including in either or both cases payment in full for all such matters as severance, injurious affection to remaining lands and the effect, if any, of registration on title of this document and where applicable, of the expropriation documents) subject to Clause 11 hereof to be paid by the Transferee to the Transferor within 90 days from the date of these presents or prior to the exercise by the Transferee of any of its rights hereunder other than the right to survey (whichever may be the earlier date), the rights, privileges and easement hereby granted shall continue in perpetuity or until the Transferee shall execute and deliver a surrender thereof.
2. The Transferee shall make to the Transferor (or the person or persons entitled thereto) due compensation for any physical damages resulting from the exercise of any of the rights herein granted, and if the compensation is not agreed upon by the Transferee and the Transferor, it shall be determined by arbitration in the manner prescribed by the Expropriations Act, R.S.O. 1990, Chapter E-26 or any Act passed in amendment thereof or substitution therefor. Any gates, fences and tile drains interfered with by the Transferee shall be restored by the Transferee at its expense as closely as reasonably practicable to the condition in which they existed immediately prior to such interference by the transferee and in the case of tile drains, such restoration shall be performed in accordance with good drainage practice.
3. The said pipe line (including attachments, equipment and appliances for cathodic protection but excluding valves, take-offs and fencing installed under Clause 8 hereof) shall be laid to such a depth that upon completion of installation it will not obstruct the natural surface run-off from the said lands nor ordinary cultivation of the said lands nor any tile drainage system existing in the said lands at the time of installation of the said pipe line nor any planned tile drainage system to be laid in the said lands in accordance with standard drainage practice, if the Transferee is given notice of such planned system prior to the installation of the said pipe line; provided that the Transferee may leave the said pipe line exposed in crossing a ditch, stream, gorge or similar object where approval has been obtained from the Ontario Energy Board or other Provincial Board or authority having jurisdiction in the premises.
4. As soon as reasonably practicable after the construction of the said pipe line, the Transferee shall level the said lands and unless otherwise agreed to by the Transferor, shall remove all debris therefrom and in all respects restore the said lands to their former state so far as is practical, save and except for items in respect of which compensation is due under Clause 2 hereof.
5. In the event that the Transferee fails to comply with any of the requirements set out in Clause 2, 3, or 4 hereof within a reasonable time of the receipt of notice in writing from the Transferor setting forth the failure complained of, the Transferee shall compensate the Transferor (or the person or persons entitled thereto) for any damage, if any, necessarily resulting from such failure.
6. Except in case of emergency, the Transferee shall not enter upon any lands of the Transferor, other than the said lands, without the consent of the Transferor. In case of emergency the right of entry upon the Transferor's lands for ingress and egress to and from the said lands is hereby granted.

revised: 1993-02-08  
(doc):easetran.she  
Form #98

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7. The Transferor shall have the right to fully use and enjoy the said lands except for planting trees over a six (6) metre strip centred over the said pipe line, and except as may be necessary for any of the purposes hereby granted to the Transferee, provided that without the prior written consent of the Transferee, the Transferor shall not excavate, drill, install, erect or permit to be excavated, drilled, installed or erected in, on, over or through the said lands any pit, well, foundation, pavement, building, mobile homes or other structure or installation. Notwithstanding the foregoing the Transferee upon request shall consent to the Transferor erecting or repairing farm fences, constructing or repairing his tile drains and domestic sewer pipes, water pipes, and utility pipes and constructing or repairing his lanes, roads, driveways, pathways, and walks across, on and in the said lands or any portion or portions thereof, provided that before commencing any of the work referred to in this sentence the Transferor shall (a) give the Transferee at least five (5) clear days notice in writing pointing out the work desired so as to enable the Transferee to have a representative inspect the site and/or be present at any time or times during the performance of the work, (b) shall follow the instructions of such representative as to the performance of such work without damage to the said pipe line, (c) shall exercise a high degree of care in carrying out any such work and, (d) shall perform any such work in such a manner as not to endanger or damage the said pipe line.

8. The rights, privileges and easement herein granted shall include the right to install, keep, use, operate, service, maintain, repair, remove and/or replace in, on and above the said lands any valves and/or take-offs subject to additional agreements and to fence in such valves and/or take-offs and to keep same fenced in, but for this right the Transferee shall pay to the Transferor (or the person or persons entitled thereto) such additional compensation as may be agreed upon and in default of agreement as may be settled by arbitration under the provisions of The Ontario Energy Board Act, R.S.O. 1990, Chapter O-13, or any Act passed in amendment thereof or substitution therefor. The Transferee shall keep down weeds on any lands removed from cultivation by reason of locating any valves and/or take-offs in the said lands.

9. Notwithstanding any rule of law or equity and even though the said pipe line and its appurtenances may become annexed or affixed to the realty, title thereto shall nevertheless remain in the Transferee.

10. Neither this Agreement nor anything herein contained nor anything done hereunder shall affect or prejudice the Transferee's rights to acquire the said lands or any other portion or portions of the Transferor's lands under the provisions of The Ontario Energy Board Act, R.S.O. 1990, Chapter O-13, or any other laws, which rights the Transferee may exercise at its discretion in the event of the Transferor being unable or unwilling for any reason to perform this Agreement or give to the Transferee a clear and unencumbered title to the easement herein granted.

11. The Transferor covenants that he has the right to convey this easement notwithstanding any act on his part, that he will execute such further assurances of this easement as may be requisite and which the Transferee may at its expense prepare and that the Transferee, performing and observing the covenants and conditions on its part to be performed, shall have quiet possession and enjoyment of the rights, privileges and easement hereby granted. If it shall appear that at the date hereof the Transferor is not the sole owner of the said lands, this Indenture shall nevertheless bind the Transferor to the full extent of his interest therein and shall also extend to any after-acquired interest, but all monies payable hereunder shall be paid to the Transferor only in the proportion that his interest in the said lands bears to the entire interest therein.

12. In the event that the Transferee fails to pay the consideration as hereinbefore provided, the Transferor shall have the right to declare this easement cancelled after the expiration of 15 days from personal service upon the Secretary, Assistant Secretary or Manager, Lands Department of the Transferee at its Executive Head Office in Chatham, Ontario, (or at such other point in Ontario as the Transferee may from time to time specify by notice in writing to the Transferor) of notice in writing of such default, unless during such 15 day period the Transferee shall pay the said purchase price; upon failing to pay as aforesaid, the Transferee shall forthwith after the expiration of 15 days from the service of such notice execute and deliver to the Transferor at the expense of the Transferee, a valid and registerable release and discharge of this easement.

13. All payments under these presents may be made either in cash or by cheque of the Transferee and may be made to the Transferor (or person or persons entitled thereto) either personally or by mail. All notices and mail sent pursuant to these presents shall be addressed to the Transferor at [redacted] Ontario N0P 2R0 and to the Transferee at Union Gas Limited, 50 Keil Drive North, Chatham, Ontario N7M 5M1, or to such other address in either case as the Transferor or the Transferee respectively may from time to time appoint in writing.

14. The rights, privileges and easement hereby granted are and shall be of the same force and effect as a covenant running with the land and this Indenture, including all the covenants and conditions herein contained, shall extend to, be binding upon and enure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties hereto respectively; and, wherever the singular or masculine is used it shall, where necessary, be construed as if the plural, or feminine or neuter had been used, as the case may be.


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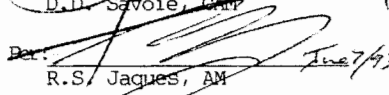
15. The Mortgagee in Charge/Mortgage of Land No. [REDACTED] in consideration of the sum of Two Dollars(\$2.00), the receipt whereof is hereby acknowledged, joins herein for the purpose of consenting hereto and agrees to the easement hereby granted and covenants that the Transferee shall have quiet possession of the rights, privileges and easements hereby granted.

BANK OF MONTREAL

"We have authority to bind  
the Bank"

Per:   
D.D. Savoie, CM

JUNE 7  
1993  
(date of signature)

Per:   
R.S. Jacques, AM

JUNE 7/93

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Description of the "Transferor's lands" referred to in this Schedule:

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the Geographic Township of [REDACTED]

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Additional Property Identifier(s) and/or Other Information

PROVINCE OF ONTARIO

COUNTY OF KENT

DECLARATION REQUIRED UNDER  
SECTION 50 OF THE PLANNING  
ACT, R.S.O. 1990

I, BYRON HALEY, of the City of Chatham, in the County of Kent

DO SOLEMNLY DECLARE THAT

1. I am a Supervisor in the Lands Department of Union Gas Limited, the Transferee in the attached Grant of Easement and as such have knowledge of the matters herein deposed to.
2. The use of or right in the land described in the said Grant of Easement is being acquired by Union Gas Limited for the construction of a transmission line as defined in The Ontario Energy Board Act, R.S.O. 1990, Chapter O-13.

AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act.

DECLARED before me at the City of  
Chatham, in the County of Kent  
this 15<sup>th</sup> day of May, 1993

)  
)  
)  
)  
)



*D. Bryan Burgess*  
A Commissioner, etc.

David Bryan Burgess, a Commissioner,  
etc., Province of Ontario, for Union Gas  
Limited. Expires November 27, 1993.

FOR  
OFFICE  
USE  
ONLY



Refer to all instructions on reverse side.

IN THE MATTER OF THE CONVEYANCE OF (insert brief description of land)

BY (print names of all transferors in full)

TO (see instruction 1 and print names of all transferees in full) Union Gas Limited

I, (see instruction 2 and print name(s) in full) Byron L. Haley, of the City of Chatham, County of Kent, Supervisor Lands Department

MAKE OATH AND SAY THAT:

1. I am (place a clear mark within the square opposite that one of the following paragraphs that describes the capacity of the deponent(s)): (see instruction 2)

- (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
- (b) A trustee named in the above-described conveyance to whom the land is being conveyed;
- (c) A transferee named in the above-described conveyance.
- (d) The authorized agent or solicitor acting in this transaction for (insert name(s) of principal(s)) Union Gas Limited  
described in paragraph(s) ~~(XXXXXX)~~ (c) above; (strike out references to inapplicable paragraphs)
- (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for (insert name(s) of corporation(s))  
described in paragraph(s) (a), (b), (c) above; (strike out references to inapplicable paragraphs)
- (f) A transferee described in paragraph (i) (insert only one of paragraph (a), (b) or (c) above, as applicable) and am making this affidavit on my own behalf and on behalf of (insert name of spouse) who is my spouse described in paragraph (i) (insert only one of paragraph (a), (b) or (c) above, as applicable) and as such, I have personal knowledge of the facts herein deposed to.

2. (To be completed where the value of the consideration for the conveyance exceeds \$400,000).

- I have read and considered the definition of "single family residence" set out in clause 1(1)(j) of the Act. The land conveyed in the above-described conveyance
- contains at least one and not more than two single family residences.
  - does not contain a single family residence.
  - contains more than two single family residences. (see instruction 3)
- Note: Clause 2(1)(d) imposes an additional tax at the rate of one-half of one per cent upon the value of consideration in excess of \$400,000 where the conveyance contains at least one and not more than two single family residences.**

3. I have read and considered the definitions of "non-resident corporation" and "non-resident person" set out respectively in clauses 1(1)(f) and (g) of the Act and each of the following persons to whom or in trust for whom the land is being conveyed in the above-described conveyance is a "non-resident corporation" or a "non-resident person" as set out in the Act. (see instructions 4 and 5) None

4. THE TOTAL CONSIDERATION FOR THIS TRANSACTION IS ALLOCATED AS FOLLOWS:

(a) Monies paid or to be paid in cash	\$	<u>nil</u>	
(b) Mortgages (i) Assumed (show principal and interest to be credited against purchase price)	\$	<u>nil</u>	
(ii) Given back to vendor	\$	<u>nil</u>	
(c) Property transferred in exchange (detail below)	\$	<u>nil</u>	
(d) Securities transferred to the value of (detail below)	\$	<u>nil</u>	
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	\$	<u>nil</u>	
(f) Other valuable consideration subject to land transfer tax (detail below)	\$	<u>nil</u>	
(g) VALUE OF LAND, BUILDING, FIXTURES AND GOODWILL SUBJECT TO LAND TRANSFER TAX (Total of (a) to (f))	\$	<u>          </u>	\$ <u>          </u>
(h) VALUE OF ALL CHATTELS - items of tangible personal property (Retail Sales Tax is payable on the value of all chattels unless exempt under the provisions of the "Retail Sales Tax Act", R.S.O. 1980, c. 454, as amended)			\$ <u>nil</u>
(i) Other consideration for transaction not included in (a) or (h) above			\$ <u>nil</u>
(j) TOTAL CONSIDERATION	\$	<u>          </u>	\$ <u>          </u>

All Blanks  
Must Be  
Filled In.  
Insert "Nil"  
Where  
Applicable.

If consideration is nominal, describe relationship between transferor and transferee and state purpose of conveyance. (see instruction 6)

- Pipeline for the transmission of natural gas.
6. If the consideration is nominal, is the land subject to any encumbrance?
7. Other remarks and explanations, if necessary: Exempt from land transfer tax pursuant to Ontario Revised Regulation 695/90 - easement for the purpose of a pipeline.

Sworn before me at the City of Chatham  
in the County of Kent  
this 15th day of March 19 93

David Bryan Burgess  
A Commissioner for Taking Affidavits, etc.

David Bryan Burgess, a Commissioner, etc., Province of Ontario, for Union Gas Limited. Expires November 27, 1993.

B. L. H.  
signature(s)

<b>Property Information Record</b> A. Describe nature of instrument <u>Easement for a pipeline</u> B. (i) Address of property being conveyed (if available) <u>not available</u> (ii) Assessment Roll No. (if available) C. Mailing address(es) for future Notices of Assessment under the Assessment Act for property being conveyed (see instruction 7) D. (i) Registration number for last conveyance of property being conveyed (if available) (ii) Legal description of property conveyed Same as in D.(i) above Yes <input type="checkbox"/> No <input type="checkbox"/> Not known <input type="checkbox"/> E. Name(s) and address(es) of each transferee's solicitor <u>Union Gas Limited</u> <u>50 Keil Drive North</u> <u>Chatham, Ontario N7K 5M1</u>	<b>For Land Registry Office Use Only</b> Registration No. Registration Date Land Registry Office No.	
---	---	--

**School Tax Support (Voluntary Election) See reverse for explanation**

(a) Are all individual transferees Roman Catholic? Yes  No

(b) If Yes, do all individual transferees wish to support the Roman Catholic Separate School Supporters? Yes  No

(c) Do all individual transferees wish to support the French Language Education Rights? Yes  No

(d) If Yes, do all individual transferees wish to support the French Language School Board (where established)? Yes  No

NOTE: As to (c) and (d), the transferees must all be of the same religion as set out in the Ontario Education Act, 1990, and must be of the same religion as set out in (a) and (b).

**Bickford Pool-Dawn Plant NPS 30/36 Line  
Letter of Understanding**

**Union Gas**

**LETTER OF UNDERSTANDING  
FOR LANDOWNERS ON THE PROPOSED  
BICKFORD POOL-DAWN PLANT NPS 30/36 LINE**

INTRODUCTION

It is the policy of Union Gas Limited ("the Company") that landowners affected by its pipeline projects be dealt with on a consistent basis that is fair to both parties. This Letter of Understanding represents the Company's commitment to that objective by providing a common framework within which negotiations for this project can take place. Union will therefore observe the following guidelines in its dealings with landowners on the NPS 30/36 Bickford Pool-Dawn Plant project ("the project").

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The following matters are addressed in this Letter of Understanding.

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**Bickford Pool-Dawn Plant NPS 30/36 Line  
Letter of Understanding**

2

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1. PIPELINE CONSTRUCTION PROCEDURES

(a) The Company will provide the landowner with the following options with respect to the type of topsoil preservation procedures to be used.

1) No stripping as detailed on Drawing B779, with the topsoil/subsoil mix being placed on the spoil side of the easement on top of the existing topsoil.

2) Stripping of the trench area only as detailed on Drawing B777 with the topsoil being piled on the working side of the easement and the subsoil on the " spoil " side of the easement on top of the existing topsoil.

3) Stripping of the " spoil " side of the easement including the trench as detailed on Drawing B781 . The stripped topsoil will be piled off easement in an area adjacent to the easement approximately seven ( 7 ) metres in width.

4) Stripping of the " spoil " side of the easement including the trench as detailed in Drawing B789, with the stripped topsoil being piled on the working side of the easement.

5) Stripping the entire easement as detailed in Drawing B783. The topsoil will be piled adjacent to, and on both sides of the easement.

In conjunction with topsoil stripping methods 2) to 5) the Company will plough the area of the easement with a mouldboard plough, prior to topsoil stripping.

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If the landowner requests Option 3 or 5, it is understood that the temporary right to use any necessary land outside the easement to store topsoil will be granted by the landowner.

For options 1 or 2 where the topsoil/subsoil mix or subsoil is placed directly upon the existing topsoil, the Company will:

- 1) Compensate the landowner for planting a cover crop, or
- 2) Place straw or other suitable material to identify the existing topsoil interface when replacing the trenched material so as to prevent the use of existing topsoil as backfill, as much as possible.

If Options 1 or 2 are chosen, the Company will only offer the lump sum payment option for crop damage, or the Green Belting Program.

For options 2,3,4, or 5, the topsoil and subsoil will be piled separately , and not mixed as reasonably practicable.

It is also understood, that in areas of deep excavations such as road and stream crossings, it may be necessary to strip 100 % of any temporary easement and permanent easement. If topsoil stripping is required, these areas will be ploughed in advance with a mouldboard plough.

Where recommended in the Company's Environmental Assessment report on the project, separation of distinct subsoil horizons ( such as sand/clay ) shall be considered , particularly at road and pipeline crossings.

(b) The Company agrees to locate easement boundary stakes at 30 metre (98.4 foot) intervals prior to construction. Where topsoil is to be stored off easement, the stakes will be removed during the stripping operation. The stakes will not be replaced but the topsoil pile(s) would set out the boundary of the working area.

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(c) The company will ensure all construction practices and appropriate environmental mitigation measures will be followed to ensure a proper clean up.

(d) Pipeline stringing trucks will drive on the trench line wherever possible.

(e) The Company will attempt not to open more than 6.0 km of trench at a time.

(f) In conjunction with trench backfilling the landowner will be offered the following options:

i) the landowner may choose to have only the topsoil crowned when subsoil and topsoil are replaced in the trench.

ii) the landowner may choose to have the topsoil replaced in the year following construction; prior to topsoil replacement the subsoil will be deep-tilled if required.

(g) After trench backfilling the Company will remove any excess material after provision is made for normal trench subsidence. The landowner shall have the right of first refusal on any such excess material. If trench subsidence occurs following construction, the following guidelines will be observed :

(i) 0 to 4 inches - no additional work or compensation.

(ii) Greater than 4 inches - the Company will strip topsoil, fill the depression with subsoil and replace topsoil. If it is cost effective the Company will repair the settlement by filling it with additional topsoil.

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If mounding over the trench persists the year following construction, the following guidelines will be observed :

- (i) 0 to 4 inches - no additional work or compensation.
- (ii) Greater than 4 inches - the Company will strip topsoil, remove excess subsoil and replace topsoil.

If the construction of the pipeline causes the restriction of the natural surface flow of the water, due to too much or not enough subsidence, irrespective of the 4 inch level stated above, the Company will remove the restriction by one of the methods described above.

(h) In all areas where the topsoil has been stripped, the Company will para plough the subsoil and pick stones prior to topsoil replacement. After topsoil replacement, the entire easement will be para ploughed to the depth of the topsoil and stones 50 mm (2") in diameter and larger will be picked by hand and/or with a mechanical rotary stone picker. If requested by the landowner, or deemed advisable by the Environmental or Chief Inspector, the Company will also subsoil the right-of-way.

(i) After para ploughing, stone picking, and topsoil replacement, if requested by the landowner, the Company will cultivate the topsoil or make compensating arrangements with the landowner to perform such work. This request by the landowner must be made during the preconstruction interview in order to be co-ordinated with the construction process. After cultivation, the Company will pick stones again. If requested by the landowner the Company will return in the year following construction and para plough or cultivate to the depth of the topsoil and pick stones 50mm (2") in diameter and larger with a mechanical rotary stone picker on all existing easements. Where necessary to accommodate planting schedules, the landowners should perform cultivating, para ploughing and/or stone picking themselves at the Company's expense provided the need for this work has been agreed upon prior to the start of the work ( 2 - 3 weeks ).

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(j) The Company will repair and restore all field drainage systems to their original performance. The Company shall notify the landowner or his/her designate when tile repairs are completed and all repairs are to be inspected and approved by the landowner or his/her designate prior to back filling, where practicable.

Where advised by a drainage consultant and approved by the landowner, the Company will install header tile along the pipeline(s). Header tile will be installed in areas of numerous tiles (every 20 metres or closer) and systematically drained fields. Upon receipt of future drainage plans (drainage consultant's drawings) prior to pipeline construction, header tile will also be installed if necessary. The Company will attempt to minimize the number of tile crossing the pipeline easement. At the landowner's request, the header tile drainage construction shall be completed before pipeline construction starts, provided such request is given prior to May 31, 1993. The Company shall install drainage tile between the existing and proposed pipelines and shall install lateral tiles after construction of the pipeline parallel to the new and existing pipelines, where either, or both, are recommended by the drainage consultant. The installation of header and lateral tile shall be performed by a licensed drainage contractor. The Company guarantees and will be responsible forever for the integrity and performance of the header tile installed in conjunction with pipeline construction as well as any tile installed or repaired at the time of construction provided the tile damage is caused by the Company's activities.

(k) The Company agrees to remove all stones/debris piles left from prior years' construction of the Company's pipeline. The Company must be notified of the location and extent of these piles prior to May 31, 1993.

(l) The Company agrees to regrade depressions or high spots resulting from prior construction of the Company's pipelines in accordance with Clause (g). The Company will fill such depressions with topsoil obtained and provided by the company and approved by the landowner, at the Company's expense, provided the landowner has not been previously compensated for such work.

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(m) The Company shall replace or repair any fences which are damaged by pipeline construction. In addition, the Company will reset any survey monuments which are removed or destroyed during pipeline construction.

(n) It is understood that the Company is required to adhere to all of the conditions set out in the Leave to Construct Order of the Ontario Energy Board and that the foregoing are additional undertakings that the Company has agreed upon with the landowners on the project. A copy of the conditions will be mailed to each landowner as soon as it is available.

(o) The landowner will not execute a final clean-up approval until he/she is satisfied with the clean-up described in paragraphs 1. (f) through (j). It is suggested that any tenant(s) who are affected by construction accompany the landowner to inspect the clean-up prior to execution of the clean-up approval.

(p) All spoil from road bores or other bores (e.g. at stream crossings) will be removed

(q) The Company will compensate the landowner for seeding the easement with a cover crop in the fall of 1992 or the spring of 1993, to be left to be driven on during construction, at the landowner's request.

(r) The Company will install the pipeline to a minimum depth of 1.2 metres in agricultural lands, and 1.0 metres on non-agricultural lands. Additional depth will be provided to accommodate existing or planned underground facilities such as drainage tile.

(s) Where private water or utility lines are interrupted the Company will supply temporary service to the affected landowners.



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(t) Where requested by the landowner, the Company will leave gaps for access across the trench to the remainder of the landowner's property during construction. Following construction, the Company shall ensure that the landowner shall have access across the former trench area and easement.

(u) The Company will not use any off-easement culverts incorporated into Municipal Drains to provide access to the easement.

(v) The Company agrees that construction activities should not occur over the off-easement areas without the permission of the landowner, and the Company agrees that it will pay for damages caused by construction activities in the event that such off easement damages occur.

(w) When above normal construction traffic is scheduled to be crossing a landowners property, wherever possible, a meeting will be held with the landowner, contractor and the Company to attempt to mutually accommodate the landowner and the contractor.

(x) The Company agrees to retain an independent consultant to carry out random tests along the Bickford-Dawn section to monitor soils and crops. As part of this testing a soil specialist will conduct comparative compaction testing of the subsoils on and off easement after construction, and the Company further agrees to implement a subsoil program where recommended by the soil specialist.

(y) The Company agrees to keep records and to include in the final monitoring report, the number of days:

- i) that wet soil shut-down occurs; and
- ii) that the Company waives the wet soil shut-down criteria.

(z) If the wet soil shut-down criteria are waived, the Company agrees to adopt the recommendations of a soil consultant, with respect to mitigation measures.

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(aa) The Company agrees to implement a post impact management committee under the terms of reference agreed to in, and attached hereto as Schedule 1 if requested by the landowners.

2. LIABILITY

The Company will be responsible for damages to property, equipment, and loss of time resulting from construction operations, and will pay for repairs or replacement costs. The Company will be responsible, and indemnify the landowner, for any violation the Company directly causes of any law, and any damage to person or property it directly causes now or in the future.

3. WATER WELLS

To ensure that the quality and quantity (i.e. static water levels) of well water is maintained, a pre, during, and post construction monitoring program will be implemented for all drilled and dug wells within 100 metres of the proposed pipeline, and for any other wells recommended by the Company's environmental consultant or a landowner's appropriate complaint. All samples will be taken by the Company's environmental personnel and analyzed by an independent laboratory. Their report will be made available to the landowner on or before the filing of the final post-construction monitoring report.

Should the well be damaged (quantity and/or quality) from pipeline installation, a potable water supply will be provided and the water well shall be restored or replaced as may be required.

4. TREE REPLANTING

The Company has established a policy to replant twice the area of trees to those which are cleared for pipeline projects. Landowners whose woodlots are to be cleared may apply in writing to the Company should they wish to participate in this programme. Tree seedlings will be planted on the easement or elsewhere within the landowner's property using species which are recommended by the

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Ministry of Natural Resources in consultation with the landowner. Replanting must be done in accordance with the Company's policies regarding tree planting on easements so that a six ( 6.0 ) metre strip centred on the pipeline is left open for access to the pipeline. The Company will be responsible for planting and maintaining the trees until they reach Free to Grow status (1 metre high and free of adjacent brush competition), and the landowner will provide care and maintainance for trees after they have reached Free to Grow status.

**5. LAND RIGHTS**

Land rights required for the pipeline construction include permanent interests such as pipeline easements (i.e. a limited interest in the affected lands) and may also include temporary land use agreements. In making payment for land rights directly to the registered owner of the affected lands, the owner is responsible to ensure his/her tenant complies with the terms of the easement or temporary land use agreement.

Consideration for land rights will be based on appraised market value of the affected lands. In determining the appraised market value, independent accredited real estate appraisers are retained by the Company who must observe the standards established by the Appraisal Institute of Canada. If agreement on the consideration for land rights cannot be reached, the Company will pay for a second report by a qualified appraiser who is chosen by the landowner provided the appraiser and the terms of reference for the appraisal report are mutually acceptable to the landowner and the Company. If consideration for land rights still cannot be agreed upon, the matter would be determined at a compensation hearing and the Company's offers would not prejudice either parties' presentation at the hearing.

**5.1 EASEMENTS**

Pipeline easements convey a limited right in an owner's land for the construction, operation, maintenance and repair of a pipeline. The owner retains title to the right-of-way lands with a restricted right to use the easement. The Company will pay a consideration for easements based upon 100% of the appraised market value of the lands required which includes a premium as an incentive for

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settlement.

Payments for easements will be made in one lump-sum or will be amortized over 10 years using the current Canada Savings Bond (CSB) rate, at the option of the landowner.

**5.2 TEMPORARY LAND USE AGREEMENTS**

Consideration is also paid for temporary use of landowners' property required in connection with the project. This lump sum payment is based upon 50% of the appraised market value for agricultural lands. For non-agricultural or development lands, an annual payment is offered based on the market value multiplied by the current CSB rate. Temporary work room will be required for at least a two year period, being the year of construction and the following year to allow for clean-up and restoration activities. Temporary use payments do not include those lands used for top soil storage adjacent to the right-of-way which is compensated for under "Disturbance Damages" (see below).

**6. DAMAGE PAYMENTS**

Compensation for damages can be grouped under two headings, namely, Disturbance Damages, which are paid at the time easements or deeds of land are executed, and Construction Damages, which are paid either before or after construction is completed. Disturbance and Construction damage payments will apply to easement and acquisitions and will be based upon the area of the proposed pipeline easement.

**6.1 DISTURBANCE DAMAGES**

Disturbance Damages are intended to recognize that pipeline construction will result in some unavoidable interference with active agricultural operations and certain other uses of affected lands. This shall include lost time due to negotiations and construction, inconvenience to the farming operations, restricted headlands, interrupted access, extra applications of fertilizer, temporary storage of top soil "off right-of-way". Other land uses may qualify for Disturbance Damages which are site-specific in nature and recognize the particular circumstances of the use being interfered with. Union will negotiate with the affected owner to address these site-specific issues.

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**6.2 CONSTRUCTION DAMAGES**

**(a) CROP DAMAGE**

The Company agrees that its retained crop consultant will monitor crops on lands randomly selected along the Bickford-Dawn section for one (1) year after construction and include the resulting data in the final monitoring report, and further agrees to conduct similar testing in Years 3 and 5 and to submit resulting data to the Board and to all landowners. There are three options available to landowners for compensation of crop damage; A Comparative Crop Program, a One Time Payment program with a Cover Crop Option, or a Greenbelting Program. These are described below.

**OPTION ONE: Comparative Crop Program**

In the "Comparative Crop Program" the Company will monitor crop yields on and off right-of-way to compensate for any reduction in yield which is attributable to the pipeline construction and will follow a damage claim settlement program as follows:

First Year (Construction Year) - Pay 100% of crop damage on all permanent and temporary easements and topsoil storage areas.

Second to Fifth Year - The crop loss compensated applies to both easements and temporary land use areas. It will be based on results obtained from a consulting agronomist retained by the Company; any other testing must be approved by the Company. The agronomist will determine any difference in crop yields on and off the easement/temporary land use areas (percent crop loss) and the Company will compensate for such crop losses at prevailing rates.

Sixth Year - If crop loss is less than or equal to 20%, the Company will make a final lump sum payment and receive a signed Full and Final Release from the landowner. The lump sum payment will be the sixth year percent crop loss plus net present value of future years' losses. Net present value of future years'

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losses will be based on the percent crop loss in the sixth year multiplied by the average price per acre on crops grown in the prior six (6) year period divided by the current CSB rate. For example:

$$\text{Present Value} = \frac{\text{Payment}}{\text{Interest}}$$
$$\text{Thus, Lump Sum} =$$
$$(\text{Sixth Year \% Crop Loss}) +$$
$$\frac{(\% \text{ Crop Loss} \times \text{Average Crop Price Per Acre} \times \text{Acreage})}{\text{CSB Rate}}$$

Example: 20% crop loss over 1 acre area; average crop price \$300/acre  
(.20 x \$300.00 x 1.0) +  $\frac{.20 \times \$300.00 \times 1.0}{.105} = \$631.43$  (Lump Sum Payment)

If crop loss is greater than 20%, Union will continue to pay the percentage of crop loss as in the second to fifth year until crop loss is reduced to 20%. At the time the crop damage is reduced to 20% or less, the landowner will receive a lump sum payment for crop loss and Union will receive a signed Full and Final Release as described above. On request of the landowner in the sixth year where the crop loss is greater than 20%, the option of a lump sum payment calculated on the present worth basis will be made available only on approval by the Company

It is understood and agreed that landowners will use good farming practices in the cultivation of their lands and uphold their legal responsibility to mitigate any ensuing damages to the best of their ability. The Company will provide crop restoration recommendations following the completion of construction to assist landowners in rehabilitating the affected lands and will compensate them for any expenses over and above normal farm management of the easement while carrying out those recommendations. Where a landowner has followed these recommendations to the best of their ability, and crop loss of 20% or more persists the Company will, at its expense, retain agricultural specialists to offer advice and assistance in restoration procedures.

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If the affected lands are being used for pasture, the landowner may wish to select the following option in lieu of the 5 year crop monitoring described above. Any unbroken pasture area involved will be reseeded by the Company or on mutual agreement, by the landowner who will be compensated for the reseeding. Pasture area will be paid at 100% loss for a two year term, being the construction year and the year following construction to allow the affected area to establish growth. At the end of the two year period, a Full and Final release will be requested from the landowner.

**OPTION TWO: One Time Payment With Cover Crop Option**

As an alternative to the foregoing damage programmes, the Company will offer landowners a one-time settlement on the area of the permanent easement only, for a Full and Final Release on all future crop loss, trees, stone picking, cover crops, inspection, consulting time and general damages of any nature whatsoever. Payment is normally made after construction but can be made at the time easement agreements are executed. Notwithstanding the fact that the landowner will have executed a Full and Final Release for crop damages either before or after construction, should productivity loss exceed the percentages paid through the "One Time" Program in any year following construction, the company will reimburse the landowner for the difference. It will be incumbent upon any landowner making this type of claim to advise the company in sufficient time to allow for investigation of the matter and completion of the required samplings (Example - Third year crop loss under "One Time" Program = 50%. Actual crop loss following investigation and sampling = 60%. Difference payable to landowner = 10%). For any land used outside the permanent easement, the Company will pay 100% damages for any crops destroyed during the construction year only.

This option does not apply to specialty crops.

In addition to the one time payment, the landowner may request a cover crop rehabilitation program for cultivated lands. Under this program the landowner will plant alfalfa/sweet clover or other restoration crops approved by the Company on the easement and his/her normal crop in the remainder of the field for up to three years. The landowner will be compensated for the difference in profit

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of the cover crop grown on the easement and the profit of the crop grown adjacent to the easement. The initial cost of tillage and planting will be paid by the Company as determined by "Economics Information", published by the Ministry of Agriculture and Food. The cost of seed planted over the easement will be compensated upon presentation of an invoice for same. When the landowner follows this program and crop loss after the third year is 20% or more, the Company will, at its expense, retain agricultural specialists to offer advice and assistance in restoration procedures.

This cover crop program does not apply for tobacco crops.

**OPTION THREE: Green Belting Program**

As a final alternative, the company will offer a Green Belting Program of para ploughing and planting deep rooted legumes or plants (e.g. alfalfa and timothy, or oil seed radish). The land would be deep tilled and planted to deep rooted legumes or plants. When the stand of legumes deteriorates to the point of requiring re-establishment, deep tillage may be recommended before the re-establishment of a new crop of legumes. This cycle of growing legumes will be continued for a period of ten years. One crop will be harvested or mulched each year. The area will be monitored after construction on an annual basis by a soil/agricultural specialist who is a professional agrologist (P. Ag.) retained by the Company who will provide recommendations for future courses of action, including the types of legumes or plants to be planted (e.g. alfalfa and timothy, or oil seed radish) and the time the crop should be removed.

The landowner will be responsible and bear the costs associated with preparation of the site for planting, purchase of seed, and fertilizer for the area treated, planting of the legume/crop, applying fertilizer and harvesting or mulching of one crop of per year.

The costs associated with deep tilling or para ploughing will be paid by Union Gas if completed by a contractor, or, if completed by the landowner, Union Gas will reimburse the landowner at rates which will be determined using the rates published by the Ontario Ministry of Agriculture and Food.

The landowner will be reimbursed for his involvement in this program based on yields and prices established by the Ontario Ministry of Agriculture and Food Statistics. The payments involved will be made on or before November 30th of each



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year that the landowner remains in the program, based on the attached Schedule 2.

Should the Greenbelting Program be ineffective or not achieving the desired results, in the opinion of the soil/agricultural specialist, then the Company will allow the landowner to choose one of the previous options, provided however that should the landowner choose Option 2 the annual payments under Option 3 which have already been paid shall be deducted from the settlement which would have been paid originally under Option 2.

**(b) WOODLOTS AND HEDGEROW TREES**

All woodlots and hedgerow trees to be cut will be appraised by a qualified forester retained by the Company. The forester will contact the landowner before entry on their property. Copies of appraisal reports will be made available to affected landowners and payment will be made in accordance with the reports. Evaluation of trees is to be based on the accepted practice of considering only those trees with a minimum diameter of 4 inches or greater measured at breast height. Union reserves the right to use trees for which it has paid compensation. At the landowner's request, any remaining logs will be lifted and piled off easement.

As an alternative to the forester's appraisal, the landowner may accept "Option Two: One Time Payment" (see page 11) in lieu of the woodlot evaluation.

Tree plantations (Christmas trees and nursery stock) will be appraised separately.

**(c) GENERAL MATTERS FOR DAMAGES**

As damage payments are made directly to the registered landowner, the landowner is responsible for making any compensation to his/her tenant for any matters included in the damage payment from the Company. The Company will be responsible for damages to landowners'/tenants' farm equipment including loss of time resulting from any negligence caused by its construction operation. The Company will compensate the landowner or the tenant as the case may be, for any reasonable repairs and associated costs upon notification and proper documentation supporting the repair costs.

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The Landowner(s) in consideration of this settlement, covenants and represents that this settlement and the relevant easement agreement or option for easement, as the case may be (attached hereto) will be binding upon any occupant, tenant or lessee of their lands and the Landowner(s) covenants to indemnify the Company from any damages, costs or claims whatsoever caused by the occupant, tenant or lessee not complying with the said easement agreement or option for easement.

Where damage settlements cannot be negotiated, the Company or the landowner may apply to the Board of Negotiation or Ontario Municipal Board to settle unresolved claims. It is further understood and agreed that the landowner's executing our easement, is without prejudice to his/her position in negotiation of damages following construction of the pipeline and the aforementioned settlement arrangements will be in full effect.

**7. POST-CONSTRUCTION AND PIPELINE OPERATIONS ISSUES**

**7.1 WEED AND BRUSH CONTROL IN NON-CULTIVATED AREAS**

The pipeline easement through woodlots will be brushed out on a regular basis either within a 6 metre strip centred over the pipeline or across the full width of easement which was initially cleared for construction. The width of clearing will be approved by the landowner prior to work commencing.

If appropriate, the easement can be planted with trees provided no planting takes place within a 6 metre strip centred over the pipeline. Nursery crops may be planted within the 6 metre strip provided no tree is permitted to grow higher than 2 metres in height and the species are of a shallow-rooting variety. Landowners are reminded that the company must be notified five days prior to any excavation taking place on the easement and that such excavation must be under the direction of a Company inspector, in accordance with the easement agreement. The use of hydraulic spades within the 6 metre strip is prohibited.

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**7.2 DAMAGES FROM PIPELINE OPERATIONS**

Prior to scheduled excavation for maintenance work, top soil shall be stripped and piled separately from subsoil.

Pipeline maintenance shall be scheduled to accommodate crop planting, growing and harvesting, however, where work of an urgent nature cannot be scheduled outside these periods, the company shall negotiate crop damage settlements.

The Company undertakes to implement proper decommissioning techniques whenever the pipeline is no longer required.

**8. COMPENSATION LEVELS**

The levels of compensation applicable to your property are set out in Appendix "A" and are based upon the criteria set out above. Kindly sign the second copy of this Letter of Understanding and initial all Appendices to indicate your acceptance of our arrangements.

Yours very truly,  
UNION GAS LIMITED

*Jimmy H. Studnicki*  
Manager, Lands Department

*Bob Brown*  
Manager, Pipeline Engineering

Dated at Township of Dawn, Ontario this 15 day of June, 1993

Witness:

*Arthur Suttie*

X [REDACTED]  
( Landowner )

X [REDACTED]  
( Landowner )

X [REDACTED]

X [REDACTED]

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APPENDIX "A": SETTLEMENT

Property No. [REDACTED], Landowner(s): \_\_\_\_\_

The parties to this Letter of Understanding dated the 15 day of May, 1993, in consideration of making this settlement have summarized below all the obligations, claims, damages and compensation arising from and for the required land rights and the pipeline construction across the Landowner(s)' property, namely \_\_\_\_\_.

(Check all applicable items of compensation)

Yes    No

LAND RIGHTS

- [ ] (a) Easement @ \$ [REDACTED] per acre.
- [ ] (b) Temporary Land Use @ \$ [REDACTED] per acre.

DAMAGES

- [ ] (a) Disturbance @ \$ [REDACTED] per acre of easement.
- [ ]  (b) Crops
- [ ]  Comparative Crop Program: (See section 5.2(a))
- Cover Crop Program: (See section 5.2(a))
- [ ] One Time Payment @ [REDACTED] per acre of easement.
- [ ]  Green Belting Program (See Section 6.2(a) and Schedule 2)
- [ ]  (c) Pasture Lands @\$ \_\_\_\_\_ per acre affected.
- [ ]  (d) Woodlots (See section 5.2(b))

OBLIGATIONS

- (a) This Letter of Understanding.
- [ ]  (b) Attach as Appendix "B" any other special requirements or compensation issues.

Initialed for identification by owner(s): [REDACTED]

Approval (Union Gas Limited): 5 . \_\_\_\_\_

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APPENDIX "B" SETTLEMENT

Property No.: \_\_\_\_\_, Landowner(s): \_\_\_\_\_

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**SCHEDULE 1**

**Terms of Reference-Post Impact Committee**

Its purpose is to;

- i) provide a brief overview of issues/concerns raised during and following construction;
- ii) consider which items should be included in a Post Construction Report.

The objective of the Committee is to provide:

- (i) a vehicle to deal with any unforeseen circumstances which may arise following construction;
- (ii) an opportunity for landowners to comment on how Union might improve future construction practices.

In reviewing the foregoing, the types of issues which may be addressed are as follows:

- i) unusual or unanticipated impacts of the construction process which show up only after the construction is completed.
- ii) methods of anticipating and avoiding these circumstances in the future.
- iii) review of ongoing construction practices and procedures which in the view of the landowners might be improved in future construction.

## LETTER OF UNDERSTANDING

Between:

**XXXXXXXXXX**

hereinafter referred to as the “**Landowner**”

and

**Dawn Gateway LP**

hereinafter referred to as the “**Company**”

### **INTRODUCTION**

The Company will be applying, or has applied, to the Ontario Energy Board for approval to construct a 24 inch diameter pipeline which will run approximately 17 kilometres starting at the existing Union Gas Bickford Compressor Station and terminating at the existing Union Gas Dawn Compressor Station (the “Project”). As a result it will be necessary for the Company to enter onto the Landowner’s property for the purpose of constructing and installing the pipeline.

The Company recognizes that the construction of the pipeline may result in damage to the Landowner’s property and a disruption to the Landowner’s daily activities for which the Company is obligated to compensate the Landowner and observe various construction techniques to minimize such damages.

It is the policy of the Company that Landowners affected by its pipeline projects be dealt with on a consistent basis that is fair to both parties. This Letter of Understanding represents the results of negotiations between the Company and the Landowner and outlines the obligations of each party with respect to:

- i) The construction of the pipeline;
- ii) Remediation of the Landowner’s property; and,
- iii) Compensation to the Landowner for various damages as a result of the construction of the pipeline.

#### **1. Pre-Construction Meeting**

Prior to construction, the Company’s representatives shall visit with the Landowner to conduct a preconstruction interview. During this interview the parties will review the timing

of construction and discuss site specific issues and implementation of mitigation and rehabilitation measures in accordance with the provisions of this Letter of Understanding. For greater certainty, and to help ensure Landowner requests are implemented, the Company will document the results of such meetings and provide a copy to the Landowner.

**2. Testing For Soybean Cyst Nematode**

In consultation with the Landowner, the Company agrees to sample all agricultural easements along the pipeline route of this Project, before construction, and any soils imported to the easement lands for the presence of soybean cyst nematode (SCN) and provide a report of test results to the Landowner. In the event the report indicates the presence of SCN, the Company will work with OMAFRA to develop the most current best practice at the time of construction. The Company will also test for SCN whenever it is conducting post-construction soil tests.

**3. Continued Supply of Services**

Where private water or utility lines are planned to be interrupted, the Company will supply temporary service to the affected Landowners prior to service interruption. In the case of unplanned interruption, temporary services will be provided by the Company at the earliest possible opportunity.

**4. Water Wells**

To ensure that the quality and quantity (i.e. static water levels) of well water and/or the well itself is maintained, a monitoring program will be implemented for all dug or drilled wells within 100 metres of the proposed pipeline and for any other wells recommended by the Company's hydrogeology Consultant. All samples will be taken by the Company's environmental personnel and analyzed by an independent laboratory. Results of testing will be summarized in a letter and will be provided to the Landowner.

Should well water (quantity and/or quality) or the well itself, be damaged from pipeline installation/operations, a potable water supply will be provided and the water well shall be restored or replaced as may be required.

**5. Staking of Work Space**

The Company agrees to stake the outside boundary of the workspace necessary for the construction of this Project which may include an easement and temporary land use area. The stakes will be located at 30 metre (98.4 foot) intervals prior to construction. The intervals or distance between stakes may decrease as deemed necessary in order to maintain sight-lines and easement boundaries in areas of sight obstructions, rolling terrain or stream and road crossings.



**6. Topsoil Stripping**

Prior to installing the pipeline in agricultural areas, the Company will strip topsoil from over the pipeline trench and adjacent subsoil storage area. All topsoil stripped will be piled adjacent to the easement and temporary land use areas in an area approximately 10 metres (33') in width. The topsoil and subsoil will be piled separately and the Company will exercise due diligence to ensure that topsoil and subsoil are not mixed. If requested by the Landowner, topsoil will be ploughed before being stripped to a depth as specified by the Landowner.

The Company will strip topsoil across the entire width of the easement (at the request of the Landowner), provided also that a temporary right to use any necessary land for topsoil storage outside the easement is granted by the Landowner.

If requested by the Landowner the Company will not strip topsoil. The topsoil/subsoil mix will be placed on the easement on top of the existing topsoil.

At the request of the Landowner topsoil will be over-wintered and replaced the following year. In these circumstances, the Company will replace the topsoil such that the easement lands are returned to surrounding grade, provided the Landowner provides the Company with direct access to the easement for over-wintering of topsoil and cleanup.

At the Landowners request, separation of distinct subsoil horizons such as blue and yellow clays shall be performed. Blue clays will be removed from the easement lands.

**7. Depth of Cover**

The Company will install the pipeline with a minimum of 1.2 metres of cover, except where bedrock is encountered at a depth less than 1.2 metres, in which case the pipe will be installed with the same cover as the bedrock, but not less than 1.0 metre below grade.

If the Company, acting reasonably, determines in consultation with the Landowner that it is necessary to increase the depth of the Pipeline to accommodate current processes such as deep tillage, heavy farm equipment or land use changes, the Company will provide for additional depth of cover.

#### **8. Levelling of Pipe Trench**

During trench backfilling the Company will remove any excess material after provision is made for normal trench subsidence. The Landowner shall have the right of first refusal on any such excess material. The Company's representative will consult with the Landowner prior to the removal of any excess material.

If topsoil is replaced in the year of construction and trench subsidence occurs the year following construction, the following guidelines will be observed:

- i) 0 to 4 inches - no additional work or compensation.
- ii) Greater than 4 inches - the Company will either:
  - (a) Strip topsoil, fill the depression with subsoil and replace topsoil, or
  - (b) Repair the settlement by filling it with additional topsoil.

If topsoil is replaced during the year of construction and mounding over the trench persists the year following construction, the following guidelines will be observed by the Company:

- i) 0 to 4 inches - no additional work or compensation;
- ii) Greater than 4 inches the Company will strip topsoil, remove the excess subsoil and replace the stripped topsoil;
- iii) Should adequate topsoil depth be available, the mound can be levelled with the approval of the Landowner.

If the topsoil is over wintered and subsidence occurs in the year following top soil replacement the following guidelines will be observed:

- i) 0 to 4 inches - no additional work or compensation.
- ii) Greater than 4 inches - the Company will repair the settlement by filling it with additional topsoil.

If the construction of the pipeline causes a restriction of the natural surface flow of water, due to too much or not enough subsidence, irrespective of the 4 inches level stated above, the Company will remove the restriction by one of the methods described above.

#### **9. Topsoil Replacement, Compaction Removal and Stone Picking**

The subsoil will be worked with a subsoiling implement, as agreed by the Company and Landowner.

Unless there is an agreement to the contrary, the Company will remediate any residual compaction in the subsoil prior to return of topsoil.

The Company will pick stones prior to topsoil replacement.

Stone picking will be completed, by hand or by mechanical stone picker to a size and quantity consistent with the adjacent field, but not less than stones 50 mm (2 inches) in diameter.

After topsoil replacement, the topsoil will be tilled with an implement(s) as agreed by the Company and Landowners.

After cultivation, the Company will pick stones again.

The Company will perform compaction testing on and off the easement before and after topsoil replacement and provide the results to the Landowner, upon request.

If agreed to by the parties, the Company will return in the year following construction and will cultivate the easement area. When necessary, to accommodate planting schedules, the Landowner should perform cultivation themselves, at the Company's expense (see Schedule of Rates attached as Schedule 3).

The Company shall, at a time satisfactory to the Landowner, return to pick stones 50 mm (2 inches) or larger in the following two years after construction, where there is a demonstrable need.

#### **10. Drainage Tiling**

The Company will repair and restore all field drainage systems and municipal drains impacted by construction to their original performance. The Company will be responsible for the remedy, in consultation with the Landowner, of any drainage problem created by the existence of the pipeline present and future. The Company will be responsible for any defects in the integrity and performance of tile installed or repaired in conjunction with construction, operation or repair, provided the defects are caused by the Company's activities, faulty materials or workmanship. The Company guarantees and will be responsible forever for the integrity and performance of such tile as well as any other drain tile or municipal drain compromised by the Company's activities, including future

maintenance operations and problems caused by the Company's contractors, agents or assigns. Where the Landowner, acting reasonably, believes that there may be a drainage problem arising from the Company's operations, the Company will perform an integrity check on any tile construction/repair crossing the pipeline, and repair any deficiencies to the Landowner's satisfaction.

The Company will retain the services of a qualified independent drainage Consultant. The Consultant will work with each Landowner prior to, during and after construction. The Consultant will be responsible to gather as much background information from each Landowner prior to construction as available, and with this information in conjunction with the Landowner they will determine whether there is pre-construction, post construction and/or temporary tile construction required on their land. The Consultant will provide where requested each Landowner with a tile plan for their review and approval prior to any installation of tile. The installation of tile will only be performed by a licensed drainage contractor to ensure that all drainage best practices are used. The Company will consult with the Landowner and mutually develop a list of five licensed tile drainage contractors from the area to bid on the work. All installations may be inspected by the Landowner or his/her designate prior to backfilling where practicable. The Company will provide the Landowner or his/her designate advance notice of the tile repair schedule. The Consultant will incorporate any professionally designed drainage plans obtained by the Landowner for future installation. If the Landowner intends to install or modify a drainage system but has not yet obtained professionally designed plans, the Consultant will work with the Landowner accordingly.

Once the Consultant has reviewed all the drainage background provided to them they will proceed in developing pre-construction tiling plans where required. The purpose of pre-construction work is to ensure that the pipeline work does not interfere or cut off any adjacent subsurface drainage. In conjunction with the Landowner the Consultant will design an appropriately sized header tile (interceptor drain) which will be installed 1m outside the easement limits by trench method in order to minimize the number of tiles crossing the pipeline easement. All intercepted tiles will be connected or end plugged accordingly. By installing the main outside the easement limits the Company can guarantee the integrity of the existing drainage system during the construction period. The Consultant/Landowner will be responsible for identifying to the pipeline contractor as reasonably possible any existing tiles 150mm or greater crossing the easement. The Company will ensure that any such crossings will be temporarily repaired across the trench line and maintained during the

complete construction period until post construction work can repair them permanently. The Company where possible will expose any such tile crossings prior to pipeline trenching operations to obtain an exact invert depth and ensure that the pipeline is not going to conflict with them.

During construction the Consultant will be following the trenching operations collecting / monitoring and ensuring that the drainage is maintained accordingly. Once the Consultant has collected and reviewed all the survey information they will develop a post-construction tile plan and profile for each affected owner. These post construction tile plans will show the Landowner exactly how many tiles are to be installed on easement and by what method the contractor is to use plow/trench.

During construction, the Consultant will be following the trenching operations to ensure that the drainage is maintained.

The Consultant will also provide the Landowner with the most recent specifications concerning tile support systems for repairing and installing new tile across the pipeline trench. Once the Consultant has reviewed the drawing with the Landowner for their approval and received signature on the plan, the Consultant will provide the Landowner with a copy along with a specification for installation so they can monitor the work to be completed.

Also the Company will review other areas of drainage recommended by the drainage Consultant/Landowner such as:

- i) In areas where water may accumulate on or off easement as a result of the construction, the drainage Consultant, in conjunction with the Landowner, will develop a temporary tile plan to mitigate these impacts where the water cannot be pumped into an open drain or ditch. The Company could then pump into the temporary tile, but not into any existing tiles unless otherwise discussed and agreed upon by the Landowner.
- ii) In areas where the pipeline construction program clears lands adjacent to existing pipelines and adjacent drained land and as a result creates a newly cleared area large enough to farm, the Company will, at the request of the Landowner, develop a tile plan to drain the cleared area. The Company will install the tile in the newly cleared area, and install a drainage outlet that will enable the implementation of the

tile plan, provided the cost of such work does not exceed the net present value of the crop revenue from the cleared area. The net present value shall be calculated using the same crop value and discount rate used in the one time crop loss compensation calculation. The net crop revenue shall be derived by reducing the crop value by a negotiated input cost. The Company will accept drainage design solutions that include the use of a motorized pump, if the Landowner releases the Company from all future operation and maintenance responsibilities for the pump. The Company will accept drainage design solutions that include outlet drains crossing adjacent properties, if the Landowner obtains necessary easements or releases fully authorizing such crossings.

The Company will do its best weather permitting to complete the post construction tiling work in the year of pipeline construction after the topsoil has been pulled, unless otherwise agreed upon with the Landowner. If it is not possible for the Company to complete the post construction tiling in the year of construction, the Company will undertake all measures possible to mitigate any off easement damages to the best of its ability.

In situations where topsoil is to be over wintered, the tiling plan will address the timing of tile installation.

Once the tiling is complete the Consultant will adjust all tile plans to reflect the as-constructed information and a copy will be provided to the Landowner for their records.

#### **11. Water Accumulation during Construction**

The Company will, unless otherwise agreed to with the Landowner, ensure any water which may accumulate on the easement during construction will be released into an open drain or ditch, but not in a tile drain. This may, however, be accomplished through the installation of temporary tile. The Company will provide the Landowner with a proposed temporary tiling plan for review and approval. If the Company pumps into an existing tile with the Landowner's permission, the water will be filtered.

#### **12. Access Across the Trench**

Where requested by the Landowner, the Company will leave plugs for access across the trench to the remainder of the Landowner's property during construction. Following installation of the pipe and backfill, if soft ground conditions persist that prevent the Landowner from crossing the trench line with farm equipment, the Company will improve crossing conditions either by further replacement and/or compaction of subsoil at the

previous plug locations. Should conditions still prevent Landowner crossing, the Company will create a gravel base on filter fabric across the trench line at the previous plug locations and remove same at the further request of the Landowner.

### **13. Restoration of Woodlots**

If requested by the Landowner prior to the start of construction, all stumps and brush will be removed from the easement. If the Landowner does not convert the land to agricultural use, The Company will maintain a minimum 6 metre strip over the pipeline which will be kept clear by cutting the brush or spraying. The remainder of the easement will be allowed to reforest naturally or can be reforested by the Landowner.

### **14. Tree Replacement**

The Company has established a policy to replant twice the area of trees that are cleared for the Project. Landowners whose woodlots are to be cleared may apply in writing to the Company should they wish to participate in this program. Tree seedlings will be replanted on the right-of-way or within the Landowner's property using species determined in consultation with the Landowner. Although replanting on easement is not encouraged by the Company, when planting on easement occurs, it must be done in accordance with the easement and the Company's policies.

For windbreaks/hedgerows the Company will implement the following practice:

- i) If a deciduous (hardwood) tree in excess of six (6) feet is removed, a six (6) foot replacement tree will be planted; if a tree less than six (6) feet in height is removed, a similar sized tree will be planted.
- ii) If a coniferous (evergreen) tree in excess of four (4) feet is removed, a four (4) foot replacement tree will be planted; if a tree less than four (4) feet in height is removed, a similar sized tree will be planted.

The Company will warrant such trees for a period of one year following planting, provided the Landowner waters the trees as appropriate after planting.

### **15. Covenants**

Company covenants as follows:

- i) On present and proposed agricultural lands, the Company will undertake appropriate survey techniques to establish pre-construction and post-construction

grades with the view to restoring soils to pre-construction grade as reasonably practicable.

- ii) All construction practices and appropriate environmental mitigation measures will be followed to ensure a proper clean up.
- iii) Whenever possible, all vehicles and equipment will travel on the trench line.
- iv) All subsoil from road bores will be removed.
  - v) To replace or repair any fences which are damaged by pipeline construction in a good and workmanlike manner.
  - vi) Any survey monuments which are removed or damaged during pipeline construction will be reset.
- vii) Its employees, agents, contractors and sub-contractors, will not use any off-easement culverts incorporated into municipal drains to provide access to the easement.
- viii) It will not use any laneway or culvert of the Landowner without the Landowner's prior written consent. In the event of such use, the Company will, at its own expense, repair any damage and compensate the Landowner accordingly.
- ix) To monitor and maintain private driveways that cross the easement for a period of 18 months after construction.
- x) That construction activities will not occur outside of agreed to areas without the written permission of the Landowner. In the event that such activities occur, the Company will pay for damages.
- xi) To implement its Landowner Complaint Tracking system which will be available to Landowners for the proposed construction.
- xii) To provide a copy of this Letter of Understanding and all environmental reports to the construction contractor.
- xiii) To ensure suitable passage and land access for agricultural equipment during construction.
- xiv) If there is greater than 50% crop loss after five years, at the request of the Landowner, the Company will retain an independent soils Consultant satisfactory to both parties to develop a prescription to rectify the problem.
- xv) To permit the planting of the 6 metre strip with permission for the re-establishment of windbreaks and that trees may be planted as a crop (nursery stock), provided that



no tree is permitted to grow higher than 2 metres in height, and the species are of a shallow rooting variety. The use of hydraulic spades within the 6 metre strip is prohibited.

- xvi) In consultation with the Landowner, the Company agrees to retain an independent Consultant to carry out tests along the pipeline to monitor soils and crop productivity. As part of this testing, a soil specialist will conduct comparative compaction testing of the subsoil and NPK (nitrogen, phosphorus, potassium) testing and testing of PH levels on and off easement after construction. Global Positioning System (GPS) equipment may be used to identify all test locations. The Company further agrees to implement all commercially reasonable measures, where recommended by the soil specialist to remediate the soil.
- xvii) To work with the Landowner to ensure that weeds are controlled along the pipeline. Weeds will be sprayed or cut after discussion with the Landowner. The Landowner will be provided with a contact name in the event that concerns are experienced with weeds.
- xviii) To implement the Company's Integrity Dig Agreement for all integrity and maintenance operations on the pipeline.
- xix) At the request of the Landowner, the Company shall undertake a depth of cover survey of the pipeline and shall provide its findings to the Landowner. In agricultural areas, where it is determined that cover over the pipeline is less than 0.9 metres the Company shall restore depth of cover to a minimum of 0.9 metres with the importation of topsoil or by lowering the pipe.
- xx) Any imported topsoil shall be natural, free of SCN and shall have attributes consistent with the topsoil of adjacent lands as determined by the Company's Consultant and be from a source approved by the Landowner.
- xxi) To implement the Company's wet soil shut down practice as described in Schedule 5.
- xxii) Will not open more than 6.0 kilometres of trench line at a time.
- xxiii) Agrees to implement one joint committee under the terms of reference agreed to in Schedule 1 hereof.

Landowner covenants as follows:

- i) To execute a Clean-up Acknowledgment when he/she is satisfied with the clean-up operations described in this Letter of Understanding. It is suggested that any tenant(s) who are affected by construction acCompany the Landowner to inspect the clean-up prior to execution of the Clean-up Acknowledgment.
- ii) To be responsible to ensure his/her tenant is aware of the terms of the easement or temporary land use agreement and this Letter of Understanding.
- iii) To be responsible for making any compensation to his/her tenant for any matters included in the damage payment from the Company, as damages payments are made directly to the registered Landowner.

#### **16. Dispute Resolution**

In the event the parties are unable to reach resolution with respect to the following matters, the Company shall pay the costs of independent Consultants satisfactory to both the Landowner and the Company to resolve site specific disputes involving affected lands on a binding basis concerning the following:

- i) The need for topsoil importation as in Article 8 hereof, respecting the existence of identifiable subsidence;
- ii) The resolution of a dispute of imported soil as in Article 15(xx);
- iii) The establishment of levels of compensation for specialty crops as in Article 21;
- iv) The resolution of future crop loss claims for Additional Productivity Loss under Article 21 hereof;
- v) Issues related to working in wet soil conditions as described in Schedule 5.

Where Construction Damages and Disturbance Damage settlements cannot be negotiated, the Company or the Landowner may apply to the appropriate authority as defined in the Easement Agreement to settle unresolved claims. It is further understood and agreed that the Landowner's executing the easement, is without prejudice to his/her position in negotiation of damages following construction of the pipeline.

#### **17. Land Rights - Easements**

Land rights required for the Project include permanent interests such as pipeline easements (i.e. a limited interest in the affected lands) and may also include temporary land use agreements. The Company agrees that it will not surrender or be released from any of its obligations under an easement for this Project without the consent of the Landowner.

Consideration for these rights will be paid at the rate of 100% of the appraised market value of the affected lands. If agreement on the consideration for land rights cannot be reached, the Company will pay for a second report by a qualified appraiser who is chosen by the Landowner provided the appraiser and the terms of reference for the appraisal report are mutually acceptable to the Landowner and the Company. If consideration for land rights still cannot be agreed upon, the matter would be determined at a Compensation Hearing and the Company's offers would not prejudice either party's presentation at the Hearing.

**18. Land Rights – Temporary Land Use Agreements and Top Soil Storage**

These rights will be required for at least a two year period, being the year of construction and the following year to allow for clean-up and restoration activities. Consideration for these rights will be paid at the rate of 50% of the appraised market value of the affected land. Should activities extend beyond the two year period, payment will be negotiated on an annual basis. Although every effort will be made by the Company to identify these rights in certain instances either before or during construction, additional temporary land use may be identified and compensation will be as outlined above.

**19. Damage Payments**

Compensation for damages can be grouped under two headings namely: Disturbance Damages, which are paid at the time easements and temporary land use agreements are executed, and Construction Damages, which are paid either before or after construction is completed. Top soil storage damages will be paid after construction is completed. Disturbance and Construction damage payments will apply to easement, temporary land use and top soil storage and will be based upon the areas of the proposed pipeline easement and temporary land use as set out in Appendix A.

**20. Disturbance Damages**

Disturbance Damages are intended to recognize that pipeline construction will result in some unavoidable interference with active agricultural operations and certain other uses of affected lands. This may include lost time due to negotiations and construction, inconvenience to the farming operations, restricted headlands, interrupted access and extra applications of fertilizer. Other land uses may qualify for Disturbance Damages which are site-specific in nature and recognize the particular circumstances of the use being interfered with. The Company will negotiate with the affected Landowner to address these site-specific issues.

**21. Construction Damages – Crop Loss**

The Company will offer the Landowner a one-time settlement for crop loss damages incurred on the easement and temporary land use areas resulting from the Project, which settlement will include the following:

- i) year of construction and future crop loss;
- ii) stone picking beyond the second year following construction;
- iii) crop losses associated with establishment of a cover crop.

Notwithstanding that the Landowner will have executed a Full and Final Release for crop damages either before or after construction, should productivity loss exceed the percentages paid through the "One Time" Program as in any year following construction and the Landowner has not been (or is not being) compensated for crop loss under the terms of an existing crop loss compensation program with the Company, the Company will reimburse the Landowner for the difference calculated by applying the percentage loss to the Landowner's actual gross return in the year and deducting the compensation received for that year under the "One Time" program ("Additional Productivity Loss"). It will be incumbent upon any Landowner making this type of claim to advise the Company in sufficient time to allow for investigation of the matter and completion of the required samplings.

Alternatively, at the option of the Landowner, upon provision of advance notice to the Company to permit opportunity for inspection, GPS data may be utilized to establish yield reductions for the purpose of any applicable Additional Productivity Loss provided that the Company is not responsible for installing GPS units or survey equipment if necessary ("GPS" option). In the event that the Landowner selects the GPS option, the Landowner must provide all necessary GPS documentation related to the entire farm field in question, including, but not limited to, maps, computer print-outs and formula to determine field averages. For greater clarity the following is an example of the calculation of Additional Productivity Loss:

- i) Third year crop loss under "One Time" Program = 50%.
- ii) Actual crop loss following investigation and sampling = 60%.
- iii) Difference payable to Landowner = 10%.

***Crop Loss for topsoil storage Areas***

Compensation for crop loss on topsoil storage areas will be as follows:

- In year of construction - 100% crop loss;
- In years after construction - measured crop loss;
- Payments will be based upon actual area used for topsoil storage;
- Compensation will not be prepaid;
- Compensation will be paid on an as incurred basis.

### ***Speciality Crops***

The one time payment does not apply to specialty crops. Specialty crops include tobacco, produce and registered seeds. Compensation will be negotiated on a site specific basis.

### ***Post construction cover crop program***

In addition to the one time payment, the Landowner may request a cover crop rehabilitation program for cultivated lands. Under this program the Landowner will plant alfalfa/sweet clover or other restoration crops approved by the Company on the easement and his/her normal crop in the remainder of the field for up to three years. The initial cost of tillage and planting will be paid by the Company as determined by "Economics Information", published by the Ministry of Agriculture and Food. The cost of seed planted over the easement will be compensated upon presentation of an invoice for same. This cover crop program does not apply for tobacco or other specialty crops.

## **22. Woodlots and Windbreak/Hedgerow Trees**

With respect to compensation for damage to woodlots, the Landowner will have the following two options:

### **Option 1:**

Woodlots and hedgerow trees will be cut and appraised by a qualified forester retained by the Company. Evaluation of trees in woodlots will be based on the practice as outlined on Schedule 1.

### **Option 2:**

The Landowner may accept the One Time Crop Loss and Disturbance Damage Payment in lieu of the woodlot evaluation.

With respect to compensation for damage to other wooded areas:

Tree plantations (Christmas trees and nursery stock) will be appraised separately. Compensation for trees evaluated in this manner shall be set out in Appendix "B" to this document.

Evaluation of aesthetic trees will be based on the practice outlined in Schedule 2.

The forester will contact the Landowner before entry on their property. Copies of appraisal reports will be made available to affected Landowners and payment will be made in accordance with the reports.

The Company reserves the right to use trees for which it has paid compensation. At the Landowner's request, any remaining logs will be cut into 10 foot ( 3.05 metre ) lengths, lifted and piled adjacent to the easement.

**23. Gored Land**

The Company agrees to pay the Landowner 100 % crop loss on the gored land. Gored land is defined as land rendered inaccessible or unusable for agricultural purposes during the Project.

**24. Insurance**

Upon request of the Landowner, the Company will provide insurance certificates evidencing at least five million dollars in liability insurance coverage.

**25. Abandonment**

Upon the abandonment of the pipeline in accordance with the terms and conditions of the easement, the affected lands shall be returned as close as possible to its prior use and condition with no ascertainable changes in appearance or productivity as determined by a comparison of the crop yields with adjacent land where no pipeline has been installed. Without prejudice to any continuing right of the Landowner to Additional Productivity Loss, there shall be no additional compensation for crop loss to the Landowner

**26. Liability**

The Company will be responsible for damages to property, and equipment, resulting from construction operations, and will pay for repairs or replacement costs. The Company will be responsible, and indemnify the Landowner from any and all liabilities, damages, costs, claims, suits and actions except those resulting from the gross negligence or wilful misconduct of the Landowner.

**27. Assignment**

All rights and obligations contained in this agreement shall extend to, be binding upon, and enure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto respectively; and wherever the singular or masculine is used it shall, where necessary, be construed as if the plural, or feminine or neuter had been used, as the case may be. The Company shall not assign this agreement without prior written notice to the Landowner and, despite such assignment; the Company shall remain liable to the Landowner for the performance of its responsibilities and obligations in this agreement.

**28. Site Specific Issues**

Appendix B is to be used to identify any site specific issues which require special mitigation and compensation.

**29. Compensation Levels**

The levels of compensation applicable to your property are set out in Appendix "A" and are based upon the criteria set out above. Kindly sign the second copy of this Letter of Understanding and initial all Appendices to indicate your acceptance of our arrangements.

Dated at \_\_\_\_\_, Ontario this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Dawn Gateway LP  
By its General Partner,  
Dawn Gateway Pipeline General Partner Inc.**

Per: \_\_\_\_\_

Dated at \_\_\_\_\_, Ontario this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Witness:

(  
( \_\_\_\_\_  
( Landowner  
(  
( \_\_\_\_\_  
( Landowner

APPENDIX "A": SETTLEMENT

Property No. \_\_\_\_\_, Landowner(s): \_\_\_\_\_

The parties to this Letter of Understanding dated the \_\_\_ day of \_\_\_\_\_, 2003, in consideration of making this settlement have summarized below all the obligations, claims, damages and compensation arising from and for the required land rights and the pipeline construction across the Landowner(s)' property, namely

\_\_\_\_\_.

(Check all applicable items of compensation)

Yes    No

LAND RIGHTS

- |                          |                          |     |                            |    |           |
|--------------------------|--------------------------|-----|----------------------------|----|-----------|
| <input type="checkbox"/> | <input type="checkbox"/> | (a) | Easement @                 | \$ | per acre. |
| <input type="checkbox"/> | <input type="checkbox"/> | (b) | Temporary Land Use @       | \$ | per acre. |
| <input type="checkbox"/> | <input type="checkbox"/> | (c) | Topsoil Storage Land Use @ | \$ | per acre  |

DAMAGES

- |                          |                          |     |               |    |                                   |
|--------------------------|--------------------------|-----|---------------|----|-----------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | (a) | Disturbance @ | \$ | per acre of easement.             |
| <input type="checkbox"/> | <input type="checkbox"/> | (b) | Disturbance @ | \$ | per acre of Temporary Land Use    |
| <input type="checkbox"/> | <input type="checkbox"/> | (c) | Disturbance   | \$ | per acre of Top Soil Storage area |

CROP LOSS

- |                          |                          |                    |    |                                   |
|--------------------------|--------------------------|--------------------|----|-----------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | One Time Payment @ | \$ | per acre of easement.             |
| <input type="checkbox"/> | <input type="checkbox"/> | One Time Payment @ | \$ | per acre of Temporary Land Use    |
| <input type="checkbox"/> | <input type="checkbox"/> | One Time Payment @ | \$ | per acre of Top Soil Storage area |

NON-AGRICULTURAL DAMAGE PAYMENTS

- |                          |                          |                          |    |          |
|--------------------------|--------------------------|--------------------------|----|----------|
| <input type="checkbox"/> | <input type="checkbox"/> | Non-agricultural Lands @ | \$ | per acre |
| <input type="checkbox"/> | <input type="checkbox"/> | Woodlots                 | \$ | per acre |

OBLIGATIONS

- |                          |                          |  |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | a)                       | This Letter of Understanding.  |
| <input type="checkbox"/> | <input type="checkbox"/> | b) Attached as Appendix "B" any other special requirements or compensation issues. |

Initialed for identification by owner(s): \_\_\_\_\_.

Approval (DCCP \_\_\_\_\_): \_\_\_\_\_.



APPENDIX "B" SETTLEMENT

Property No.: \_\_\_\_\_ , Landowner(s):

SCHEDULE 1  
Landowner Relations and Terms of Reference of Joint Committee

*In addition to Wet Soils Shutdown issues*, the Joint Committee's purpose is to:

- i) provide a mechanism to address issues/concerns that arise during and following construction including concerns related to wet soil shutdown decisions made by the Company;
- ii) provide a brief overview of issues/concerns raised during and following construction; and,
- iii) consider which items should be included in a Post Construction Report.

The objective of the Joint Committee is to provide:

- i) a vehicle to address issues/concerns which arise during and following construction;
- ii) deal with any unforeseen circumstances which may arise during or following construction; and,
- iii) an opportunity for landowners to comment on how The Company might improve future construction practices.

In reviewing the foregoing, the types of issues which may be addressed are as follows:

- i) landowner concerns that arise during and following construction;
- ii) unusual or unanticipated impacts of the construction process which show up only after construction is completed;
- iii) methods of anticipating and avoiding these circumstances in the future; and,
- iv) review of ongoing construction practices and procedures which in the view of the landowners might be improved in future construction.

Duration of the Joint Committee

- i) The Joint Committee shall be formed during the year of construction in advance and prior to the commencement of construction. The landowners shall be responsible for recruiting the landowner members and advising the Company thereof. The Committee shall continue for a period of two ( 2 ) years from the date of commencement of construction and so long thereafter as the Committee determines is necessary.

Committee Make-Up

- i) Members shall be affected landowners, and appropriate representatives of the Company. **The Joint Committee shall be composed of two landowners, and three representatives of the Company;**

Payment to Landowner members

- i) The Company will pay to each **landowner member of the Joint Committee at his or her direction a total payment of \$ 10,000 plus G.S.T.** as an honorarium for their participation on the committee.

## SCHEDULE 2

### WOODLOT EVALUATION

At the time of signing of the Letter of Understanding the Landowners with woodlots will be given 3 options.

1. take a one time full and final for the total easement.
2. take a one time full and final for that portion of the easement in agricultural land, and have the woodlot evaluated separately.
3. take the crop monitoring program and have the woodlot evaluated separately.

Woodlots will be assessed in the following manner:

A forestry Consultant will cruise the woodlot to determine the amount of volume which could be harvested on a periodic basis from the woodlot under sustained yield management.

This volume will then be determined on an annual basis.

Current sale prices will then be given to this volume to determine an annual amount which could be harvested from the woodlot.

This value will then be present valued using the same formula as the one time payment option.

### SCHEDULE 3

#### AESTHETIC TREE EVALUATION

The following procedure would be followed where a Landowner wishes to have trees on his property evaluated for aesthetic values.

During discussions for the Letter of Understanding, the Landowners would identify the trees he wishes to have evaluated for aesthetic purposes.

The Company would contract a qualified person to complete an evaluation of the trees.

The Landowners would be paid the evaluated price for the trees in addition to other payments.

If trees are less than 5 inches in diameter replacement of the trees may be considered in lieu of a payment.

If the Landowner disagrees with The Companys evaluation a second evaluation may be completed using the same criteria as the original evaluation.

#### EVALUATION CRITERIA

A four part evaluation criteria will be completed for aesthetic trees:

Tree Value = Basic Value X Species Rating X Condition Rating X Location Rating

Basic value is estimated without consideration of condition, species or location. It is calculated by multiplying the cross-sectional area of the tree trunk by an assigned value per square inch of trunk area.

Species rating is a percentage rating based on the relative qualities of the tree species.

Condition rating is a percentage rating based on the health of the tree.

Location rating is a percentage rating based on the location of the tree.

SCHEDULE 4

Schedule of Rates for Work  
Performed by Landowners

Typically all work will be done by the Company. If the parties agree that the Landowner will perform work on behalf of the Company, the Company will remunerate the Landowner in accordance with the following;

1. Stonepicking - \$10.00 per hour/per person picking by hand  
- \$45.00 per hour for use of tractor and wagon
2. Chisel Plowing - \$70.00 per hour
3. Cultivation - \$50.00 per hour
4. Tile Inspection - \$20.00 per hour \*

\* Payment for Tile Inspection is for those hours spent inspecting tile at the request of the contractor.

## SCHEDULE 5

### Wet Soils Shutdown

*The following sets out the Wet Soils Shutdown practice of the Company for pipeline construction, repair and maintenance on agricultural lands.*

**Wet Soils Shutdown issues shall be decided by the Joint Committee.**

While constructing the Company's pipeline the Company's senior inspectors inspect right-of-way conditions each day before construction activities commence for that day. If, in the judgment of these inspectors *or other Company representatives and other members of the Joint Committee*, the right-of-way conditions on agricultural lands are such that construction would have an adverse affect on the soils due to wet soils conditions, the contractor is prohibited from starting construction activities. The inspectors/*other Company representatives and other members of the Joint Committee* shall consider the extent of surface ponding, extent and depth of rutting, surface extent and location of potential rutting and compaction (i.e, can traffic be re-routed within the easement lands around wet area(s) ) and the type of equipment and nature of construction proposed for that day. The wet soil shutdown restriction would be in effect until, in the judgment of *the Company representatives and other members of the Joint Committee*, the soils would have sufficiently dried to the extent that commencing construction activities would have no adverse affects on the soils.

Wet soils shutdown is a routine part of The Company's normal management process for pipeline construction activities. In recognition of this, The Company budgets for and includes in contract documents, provisions for payment to the pipeline contractors for wet soils shutdown thereby removing any potential incentive for the contractor to work in wet conditions.

In addition, The Company's inspection staff *and the Joint Committee* are responsible for ensuring that construction activities do not occur during wet soils shutdown. This would include shutting down construction activities if soils became wet during the day.

It should, however, be recognized that there may be situations when construction activities cannot be carried out during the normal construction period due to delays in project timing and it may become necessary to work in wet conditions in the spring or fall of the year. **Where construction activities are undertaken by the Company in wet soil conditions,** additional mitigation measures *may be* put in place to minimize resulting damages. Mitigation measures may, where appropriate, be developed by The Company on a site specific basis and may include avoiding certain areas, full easement stripping, geotextile roads, the use of swamp mats, or the use of other specialized equipment where deemed appropriate by The Company. The Company will authorize work in wet soils conditions only when all other reasonable alternatives have been exhausted.

**Where construction activities are undertaken by the Company in wet soil conditions, the Company shall pay to the landowner 150 % of disturbance and crop loss damage compensation on the area affected by the activities. The 150 % payment applies only once to any one area; on areas where the 150 % payment is applied, the landowner forfeits the right to top-up of crop loss damages under the L.O.U.. The 150 % payment does not affect the landowner's right to topsoil replacement where crop loss exceeds 50 % in the fifth year following construction.**

Name of Project: DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP  
File:

TEMPORARY LAND USE AGREEMENT

In consideration of a down payment of \_\_\_\_\_ ---- XX/100 DOLLARS (\$ \_\_\_\_\_), the undersigned, Owner, Tenant, (as the case may be) of part of \_\_\_\_\_ to DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP (the "Company"), its servants, agents, employees, contractors and sub-contractors and those engaged in its and their business, the right on foot and/or with vehicles, supplies, machinery and equipment at any time and from time to time during the term of this Agreement to enter upon, use and occupy a parcel of land (the "said lands") more particularly described on the Sketch attached hereto and forming part of this Agreement, the said lands being immediately adjacent to and abutting the lands (the "said easement") for any purpose incidental to, or that the Company may require in conjunction with, the construction by or on behalf of the Company of a proposed NPS 8" diameter gas transmission pipeline, and appurtenances on the said easement including, without limiting the generality of the foregoing, the right to make temporary openings in any fence along or across the said lands and to remove any other object therein or thereon interfering with the free and full enjoyment of the right hereby granted and further including the right of surveying and placing, storing, levelling and removing earth, dirt, fill stone, debris of all kinds, pipe, supplies, equipment, vehicles and machinery and of movement of vehicles, machinery and equipment of all kinds. This Agreement is granted upon the following understandings:

- (a) The rights hereby granted terminate on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_;  
the actual use of the land shall be from the beginning of construction until December 31st of the year following construction.
  
- (b) The Company shall make to the person entitled thereto due compensation for any damages resulting from the exercise of the right hereby granted and if the compensation is not agreed upon it shall be determined in the manner prescribed by section 100 of The Ontario Energy Board Act, R.S.O. 1998 S. O. 1998, c.15 Schedule B, as amended or any Act passed in amendment thereof or substitution there for;

(c) As soon as reasonably possible after the construction of the aforesaid pipe line, the Company at its own expense will level the said lands, remove all debris there from and in all respects, restore the said lands to their former state so far as is reasonably possible, save and except for items in respect of which compensation is due under paragraph (b) and the Company will also restore any gates and fences interfered with around the said lands as closely as reasonably possible to the condition in which they existed immediately prior to such interference by the Company.

(d) It is further agreed that the Company shall assume all liability and obligations for any and all loss, damage or injury, ( including death ) to persons or property that would not have happened but for this indenture or anything done or maintained by the Company hereunder or intended so to be and the Company shall at all times indemnify and save harmless the Owner from and against all such loss, damage or injury and all actions, suits, proceedings, costs, charges, damages, expenses, claims or demands arising there from or connected therewith provided that the Company shall not be liable under the Paragraph to the extent to which such loss, damage or injury is caused or contributed to by the gross negligence or wilful misconduct of the Owner.

The Company and the Owner agree to perform the covenants on its part herein contained.

DATED this                      day of    20\_\_

DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP

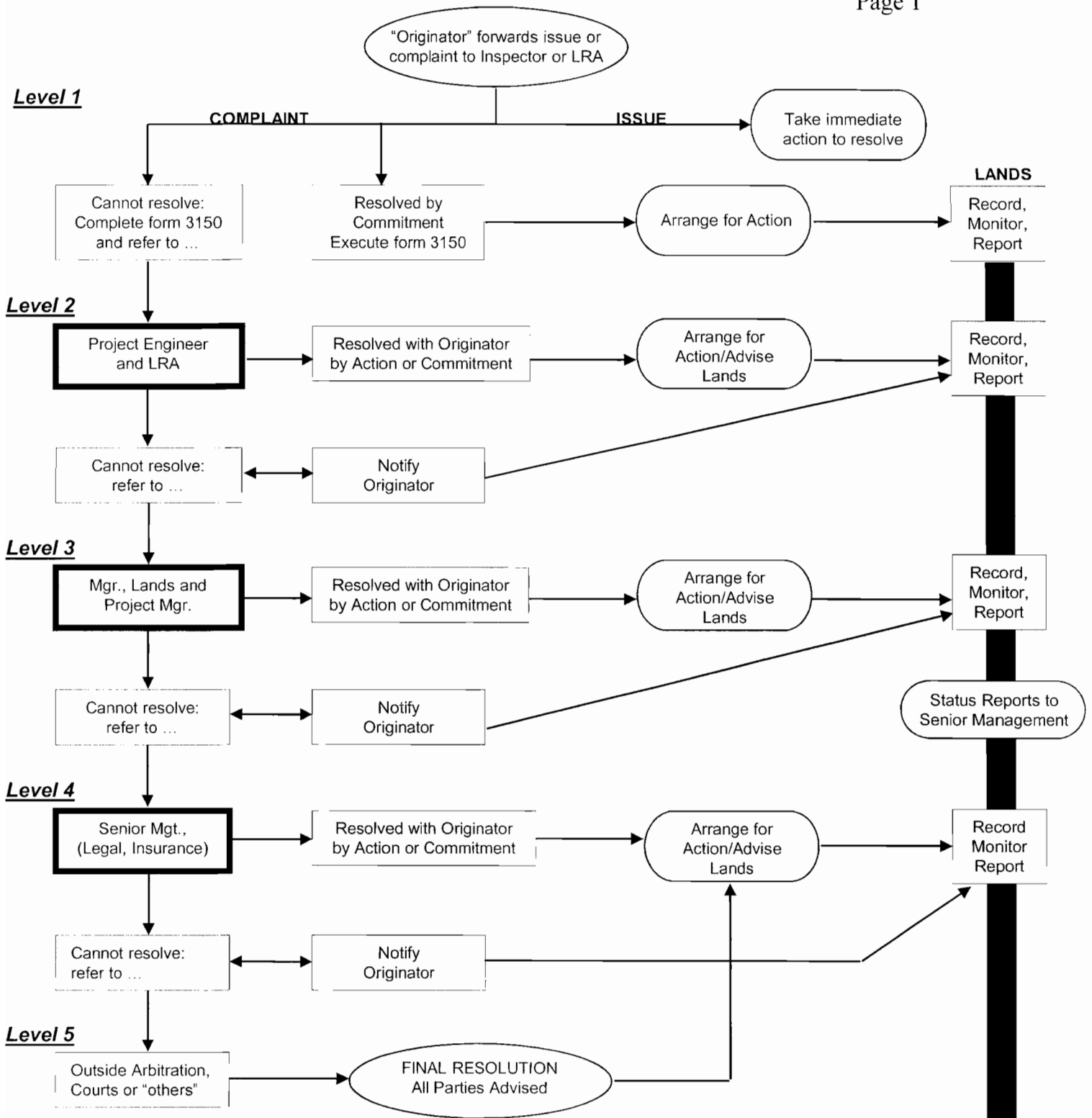
\_\_\_\_\_  
Senior Lands Agent

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_



**Process Chart: Landowner Complaint Resolution System**



**Notes:**

1. "Originator" of complaint or issue may be landowner or company representative.
2. Parties indicated in heavy outlined boxes shall assume responsibility for actions subsequently required in the resolution process. Parties identified in brackets may only be required for resolution or specific technical concerns.
3. "L.R.A." refers to Landowner Relations Agent.
4. "Outside Arbitration" includes the Board of Negotiation, O.M.B. and O.E.B. "Others" refers to other regulatory bodies and tribunals.

**FINAL REPORTS TO O.E.B.**

## **LANDOWNER COMPLAINT RESOLUTION SYSTEM EXPLANATION OF PROCESS CHART**

### **Key Definitions**

**Originator** – The originator of a complaint or issue is the landowner or Union Gas personnel who initiates a complaint or issue by making it known to the Landowner Relations Agent or a company inspector.

**Landowner Relations Agent (LRA)** – A person assigned on a full time or part time basis to record, monitor, and ensure follow-up on any complaint or issue received by Union related to construction, to address questions and concerns of the landowners, and to act as a liaison between landowners and the contractor and engineering personnel.

**Issue** – A concern of a landowner which can be resolved within three ( 3 ) working days. Immediate action is taken to resolve such matters.

**Complaint** – A concern of a landowner which cannot be resolved within three ( 3 ) working days.

**Commitment** – If an issue or complaint is resolved at any level of the Complaint Resolution system through the efforts and liaison activities of the Landowner Relations Agent or other personnel, the resolution is recorded to ensure proper future follow-up.

**Outside Arbitration** – includes the Board of Negotiation, O.M.B., and O.E.B.

**Others** – refers to other regulatory bodies and tribunals

### **Levels of the Complaint Resolution System**

**Level 1:** The LRA or company inspector receives issues or complaints, and the following can happen:

- a) Immediate action could be arranged by the LRA or inspector to resolve the issue or complaint; or
- b) A complaint can be resolved by a commitment in which case the LRA is responsible for arranging for the committed action and having the commitment recorded in the Complaint Resolution system; or
- c) If a complaint cannot be resolved through the efforts of the LRA or inspector, the applicable form ( Form 3150 ) is completed and then recorded, and the complaint is referred to **Level 2**.

**Level 2:** The LRA and the Construction Supervisor work together to develop a resolution for the complaint, and the following can happen:

- a) the complaint may be resolved with the originator by action or commitment and the action or commitment is recorded in the Complaint Resolution System; or
- b) if the complaint cannot be resolved, the originator is notified, the non-resolution is recorded, and the complaint is referred to **Level 3**.

**Level 3:** The Manager, Lands and the Project Manager work together to develop a resolution for the complaint, and the following can happen:

- a) complaint may be resolved with the originator by action or commitment and the action or commitment is recorded in the Complaint Resolution System; or
- b) if the complaint cannot be resolved, the originator is notified, the non-resolution is recorded, and the complaint is referred to **Level 4**;

When complaints reach this level, status reports are generated through the Complaint Resolution System and are forwarded to Senior Management.

**Level 4:** Senior Management (with possible input from the Legal and Risk and Claims Departments) attempts to develop a resolution to the complaint, and the following can happen:

- a) the complaint may be resolved with the originator by action or commitment and the action or commitment is recorded in the Complaint Resolution System; or
- b) if the complaint cannot be resolved, the originator is notified, the non-resolution is recorded, and the complaint is referred to **Level 5**;

**Level 5:** Involves the resolution of a complaint by outside arbitration or others, and the following will happen:

A final resolution will occur, all parties will be advised, and any action required will be arranged by the LRA or other Lands Department personnel.

**Note:** the Complaint Resolution System is used to generate final reports to the Ontario Energy Board