



RP-2000-0005

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*,  
S.O. 1998, c.15, Schedule B;

**AND IN THE MATTER OF** an Application by the landown-  
ers in the Amended Application for just and equitable  
compensation in respect of gas or oil rights or the right to store  
gas under section 38(3) of the *Ontario Energy Board Act*;

**AND IN THE MATTER OF** an Application by the landown-  
ers in pools being the subject of proceedings in Board file RP-  
1999-0047 (Century Pools Phase II) pursuant to the Board's  
order of February 2, 2000, for just and equitable compensation  
for the Century Pools Phase II development under section  
38(2) of the *Ontario Energy Board Act*;

**BEFORE:**

A. Catherina Spoel  
Presiding Member

Bob Betts  
Member

**DECISION AND ORDER**

An application was filed on January 28, 2000, by the Lambton County Storage Association with the Ontario Energy Board under section 38(3) of the Ontario Energy Board Act, S.O. 1998, c.15 Sched.B ("the Act") seeking just and equitable compensation for the right to store gas in geological reservoirs beneath the properties of landowners listed in the Bentpath, Bentpath East, Bickford, Black Creek, Booth Creek, Dawn 47-49, Dawn 59-85, Dawn 156, Dawn 167, Edy's Mills, Enniskillen 28, Oil Springs East, Payne, Sombra, Terminus, Waubuno, Bluewater, Mandaumin and Oil City Pools, all being designated gas storage areas operated by Union Gas Limited ("Union") in Lambton County.

The Board assigned the application Board File No. RP-2000-0005. The application was amended on October 15, 2002 (the "Amended Application").

By a Decision dated September 10, 2003, the Board determined those applicants who have standing and who are eligible for a Board Order.

The Board has been informed that the applicants with standing who are eligible for a Board Order represented by Cohen Highley LLP (the "Represented Applicants") have reached a settlement with Union covering all claims for compensation asserted in, or which could have been asserted in, the Amended Application, the evidence and any answers to interrogatories. The Board has further been informed that the term of the settlement is for the years 1999 to 2008, inclusive, and that the settlement is conditional on the Board determining that the compensation to be paid to the Represented Applicants is just and equitable.

Union and the Represented Applicants agree and jointly submit that the following constitutes just and equitable compensation:

1. For the Year 2004:

- (a) for each Represented Applicant eligible for an order in respect of storage rights, a payment of \$92.50 per acre for each inside acre, defined as an acre within the boundary of a designated storage area, owned by the Represented Applicant in the designated storage areas which are the subject of the Amended Application, such amount being for the lease of storage, and for petroleum and natural gas rights;
- (b) for each Represented Applicant eligible for an order in respect of storage rights, a payment of \$27.79 per acre for each outside acre, defined as an acre of land on a property severed by a boundary of a designated storage area leased by Union and owned by the Represented Applicant in the designated storage areas which are the subject of the Amended Application, such amount being for the lease of storage, and for petroleum and natural gas rights;
- (c) for each Represented Applicant eligible for an order in respect of roadways, a payment of \$825.00 per acre of roadway on land owned by the Represented Applicant, who holds a roadway agreement which is the subject of the Amended Application, such amount being for the lease of land for facilities and in respect of all damages, including disturbance, loss of opportunity, and crop loss ; and
- (d) for each Represented Applicant eligible for an order in respect of facilities, a payment of \$1,050.00 for each wellhead on land owned by the Represented Applicant in the designated storage areas which are the subject of the Amended Application, such amount being for the lease of land for facilities and in respect of all damages, including disturbance, loss of opportunity, and crop loss.

2. For each of the years 2005 to 2008, the amounts referred to in paragraph 1(a) to (d) above adjusted annually by the lesser of the consumer price index or 5%; and,

3. In respect of the years 1999 to 2004, the amounts set out in Schedule 1 to this Order such amounts (i) representing an increase over amounts previously paid by Union to the Represented Applicants and (ii) being net of the Represented Applicants' contribution to the costs of the application as set out in paragraph 2 of this Order below.

4. For residual gas, the following amounts to be paid to the Represented Applicants listed below, which amounts have been calculated at a royalty rate of 12.5% on all residual gas down to 50 psia,

#### **Blue Water Pool**

1	Ron Hardy	\$179,987.68
2	Duncan MacRae	\$6,422.79
3	Eli Androschuk and Catherine McNulty-Androschuk	\$2,061.95

#### **Oil City Pool**

1	William Cascaden	\$31,884.43
2	Broadbent - Estate of	\$30,090.61
3	Fred Stirling	\$16,319.38
4	George Hoven	\$1,980.46
5	Heinz Hoffmueller	\$37,637.88

On reading the Amended Application, the evidence and supplementary evidence of the Represented Applicants and Union, the answers to interrogatories and supplementary interrogatories of the Represented Applicants and Union and on hearing the submissions of counsel for the Represented Applicants and Union, the Board finds that the amounts referred to in paragraphs 1, 2, 3 and 4 above represent just and equitable compensation within the meaning of section 38(2) of the Act in respect of all claims for compensation asserted by, or which could have been asserted by, the Represented Applicants in the Amended Application, the evidence and any answers to interrogatories.

For years after 2008, the Represented Applicants shall be entitled to just and equitable compensation as agreed upon by the Represented Applicants with Union or, failing which, as determined by the Board pursuant to the Act.

The Board has further been informed that Union and the Represented Applicants have reached an agreement with respect to the costs of the application.

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**THE BOARD THEREFORE ORDERS THAT:**

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1. Union shall pay the Represented Applicants the amounts listed in paragraphs 2, 3 and 4 above.
2. Union shall pay to Cohen Highley LLP \$845,000 (which amount includes the Represented Applicants' contribution referred to in paragraph 3(ii) of the preamble to this Order in the amount of \$595,000) on account of all costs of the application.
3. Union shall pay to the Represented Applicants and Cohen Highley LLP the amounts referred to in paragraphs 3 and 4 above, as well as the amount of \$845,000 for costs, within 60 days of the date of this Order.

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**DATED** at Toronto, March 23, 2004

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ONTARIO ENERGY BOARD

Peter H. O'Dell  
Assistant Secretary

**APPENDIX "A" TO  
BOARD DECISION AND ORDER  
NO. RP-2000-0005  
DATED March 23, 2004  
Payment Listing for Represented Applicants**

	<b>Storage Pool/Landowner</b>	<b>Total Payments</b>
<b>BENTPATH</b>		
S1	Twp. of Dawn	\$257.16
A1	Thomas & Linda Jenkins	\$239.68
A2	Achiel Kimpe	\$1,118.08
A3	Douglas & Lois McFadden	\$2,879.87
A4	William & Evelyn Thomas	\$479.36
A5	Keith Turner	\$1,118.08
A6	Gerald & Nancy Van Daele	\$737.69
A7	Reginald Higgs c/o Mrs. Sarah Higgs	\$737.69
A8	Donorma Farms Ltd.	\$855.38
A9	Melva Smit	\$1,954.73
<b>BENTPATH EAST</b>		
S1	Twp. of Dawn	\$122.80
<b>BICKFORD</b>		
B1	Dorothy Hinnegan	\$1,475.37
B2	Donald & Glenda McGee	\$1,829.46
B4	Huibert VanDenDool, Jr.	\$615.53
B6	Dona Lajoie	\$368.84
B7	Sombra Welding, Bernard Lajoie	\$368.84

	<b>Storage Pool/Landowner</b>	<b>Total Payments</b>
B8	Bernard, Barry, Brian, Allan Lajoie	\$2,654.89
B9	Michael & Robert Shepley	\$1,416.36
B10	Raymond & Tracey Sterling	\$368.84
B11	Gerald Young	\$737.69
B12	Helen Boehm	\$368.84
B13	Mildred Carpenter	\$737.69
B14	Allan Hargrove	\$737.69
B15	Lorna Shepley	\$368.84
B16	Robert & Rosaire Myers, Dennis Myers	\$3,704.06
B17	Kenneth & Nancy McLellan, Louise Reid	\$368.84
B18	Stanley Yaki	\$1,475.37
B19	Gerald Young	\$737.69
B21	Nellie & Pamela Shepley	\$14.16
B22	Annie & Shirley Shepley	\$14.31
S3	Twp. of St. Clair	\$66.54
S3	Twp. of St. Clair	\$358.22

#### **BLACK CREEK**

S3	Twp. of St. Clair	\$128.85
C1	Ross Bradshaw	\$2,655.11
C2	Kenneth & Philip Richards	\$1,475.37

#### **BLUEWATER**

D1	Eli & Katherine Androschuk	\$239.68
D2	Bruce & Mary Harris	\$571.22
D4	Duncan MacRae	\$737.69

	<b>Storage Pool/Landowner</b>	<b>Total Payments</b>
D5	Edith MacRae	\$29.51
D6	Lewis MacRae	\$706.85
D7	A. Noorloos Limited Attn: Anton Noorloos	\$1,687.56
D8	Just Beginnings Inc. Attn: Anton Noorloos	\$952.36
D9	736105 Ontario Ltd, Douglas Park in Trust	\$597.11
D9	736105 Ontario Ltd, Douglas Park in Trust	\$332.51
D9	736105 Ontario Ltd, Douglas Park in Trust	\$704.80
D10	Frederick Tinkham	\$368.84
D11	Ronald Hardy	\$2,402.76

#### **BOOTH CREEK**

S1	Twp. of Dawn	\$112.13
E1	Reginald Higgs, c/o Mrs. Sarah B. Higgs	\$737.69
E3	Leonard & Debora McMurphy	\$1,198.39
E6	William & Evelyn Thomas	\$184.42

#### **DAWN 47-49**

S3	Twp. of St. Clair	\$94.42
F1	Roger & Jean Harris	\$14.75
F2	Ernest & Mildred Childs	\$2,633.02
F3	Ruth Harris	\$722.93
F4	Bonnie Harvey	\$737.69
F5	John & Bonnie Moulton	\$722.93
F6	Olive Vansickle	\$1,056.65
F7	Pete & Wilf Allaer (A. Harris)	\$1,434.06

#### **DAWN 156**

	<b>Storage Pool/Landowner</b>	<b>Total Payments</b>
S1	Twp. of Dawn	\$634.41
S2	Twp of Enniskillen	\$162.29
G1	B & A Langstaff Farms Ltd	\$737.69
G3	Bruce & Betty Bradley	\$1,475.37
G4	Peter, Josephine, and James Clubb, Anna Young	\$1,694.58
G6	Eldon McGregor	\$3,708.12
G7	Ken McGregor	\$1,794.34
G8	Charles & Ruby Rumbold	\$737.69
G9	Small, Eva (now Bruce & Cathy Stephens)	\$1,138.85
G9	Small, Donald & Eva	\$737.69
G10	Bruce & Cathy Stephens	\$1,475.37
G11	James & Shelley Thomson	\$737.69
G12 & G14	Stanley Wilson & Carolyn & Margaret Mackie	\$2,751.23
G13	James & Norma Wilson	\$1,794.34
G15	Angela Fanelli	\$737.69
G16	James Thomson	\$737.69
G18	Gordon & Margaret Stevens	\$737.69

**DAWN 167**

S1	Twp. of Dawn	\$225.29
S2	Twp. of Enniskillen	\$145.62
H1	785387 Ontario Inc., John & Susan Simpson	\$1,783.32
H2	Lloyd & Patricia Belan	\$350.19
H3	Brian & Linda Butler	\$947.66
H4	Donorma Farms	\$2,850.99



	<b>Storage Pool/Landowner</b>	<b>Total Payments</b>
H5	Charles McCallum	\$2,432.88
H6	John & Ellen Mills	\$2,143.19
H7	Donald & Norma Moore	\$7,116.10
H8	Garnet & Donna Moore	\$2,187.64
H9	Kenneth Simpson	\$2,290.22
H10	Norma Moore	\$737.69

#### **DAWN 59-85**

S1	Twp. of Dawn	\$88.52
R1	Neil Coke	\$368.84
R2	Ivan Evans	\$2,801.11
R3	Olive McLachlin	\$2,113.30

#### **EDYS MILLS**

S1	Twp. of Dawn	\$113.90
I3	Snopko, Marie Katherine	\$2,232.75

#### **ENNISKILLEN**

S2	Twp. of Enniskillen	\$53.56
S3	Twp. of St. Clair	\$67.87
J1	Carol Ann Andrew	\$29.94
J2	Robert Bruce Bruton	\$4,228.82
J3	William & Karen Bruton	\$50.94
J4	Maurice & Carol Ducharme	\$1,480.25
J5	Ross & Dorothy Font	\$2,810.08
J6	Franz Turkey Farms Ltd.	\$704.81
J7	Michael McCabe	\$144.59

	<b>Storage Pool/Landowner</b>	<b>Total Payments</b>
J8	Murray Angus Shaw	\$180.95
J9	Nino & Rita Silvestri	\$147.54
J10	Larry & Donna Smale	\$872.49
J11	Marjorie Fleck & Jane Straatman	\$829.55
J12	James Thompson & Joseph Thompson	\$634.64
J13	Guido & Joan VanBoven	\$568.48
J14	Douglas RalphWhite	\$180.95
J15	Robert & Maureen Yaskovic	\$1,466.67
J16	Joseph & Mary Thompson	\$143.41

#### **MANDAUMIN**

S2	Twp. of Enniskillen	\$25.38
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#### **OIL CITY**

S2	Twp. of Enniskillen	\$240.49
L2	William & Barbara Cascaden	\$1,273.25
L3	George & Mary Hoven	\$958.71
L7	Robert & Elizabeth Bailey	\$14.75
L8	Gregor Mac Brown	\$13.87
L9	Leslie & Sandra Charlton	\$3.26
L11	Thomas & Ruth Mackesy	\$14.75
L12	Brian & Bonnie Parker	\$9.59
L13	Rodney & Catherine Phillips	\$62.55
L14	Amos & Doris Smith	\$87.31
L15	Arthur Sterling	\$29.51
L16	Kevin & Marie Webster	\$14.75

	Storage Pool/Landowner	Total Payments
<b>OIL SPRINGS EAST</b>		
M1	Catherine Bailey	\$1,475.37
M2	James & Sonja Mitchell	\$5,427.61
M3	Earl & Johanna Thompson	\$1,475.37
<b>PAYNE</b>		
S3	Twp. of St. Clair	\$262.03
N2	Anderson, Melvin (Mooreglen Farms)	\$4,346.05
N2	Mooreglen Farms	\$1,056.65
N2	Mooreglen Farms	\$734.44
N2	Mooreglen Farms	\$768.63
N3	Carol & Alfred Baker	\$952.61
N4	Dora Rankin	\$1,475.37
N5	Garry & Mary Robbins	\$184.42
N6	William & Betty Watson	\$1,841.02
N7	Antonio & Carla Fracalanza	\$368.84
N8	Ethel Boothe	\$766.97
N9	Jeffrey & Diane Robbins	\$1,756.01
N10	Robert & Stephanie Sockett	\$184.42
<b>ROSEDALE</b>		
S2	Twp. of Enniskillen	\$98.41
<b>SOMBRA</b>		
S3	Twp. of St. Clair	\$123.78
<b>TERMINUS</b>		
S3	Twp. of St. Clair	\$309.83

	<b>Storage Pool/Landowner</b>	<b>Total Payments</b>
P1	806430 Ontario Inc.	\$958.71
P2	Bradley Farms Ltd.	\$958.71
P3	Branton, Sharon	\$722.49
P4	Branton, Ronald & Sharon	\$15.20
P5	Frye, George H. III	\$958.71
P6	Handsor , Harvey & Stuart	\$2,432.27
P7	Kerr, Audrey	\$700.38
P8	Kerr, Elwood & Ruth	\$1,407.69
P9 & P13	Kerr, Joseph Basswood Farms; Ronald Kerr, 598406 Ontario Inc.; K & K Farms	\$2,434.09
P10	Mills, Melvin	\$737.69
P11	Primeau, Michael, Ronald & Irene	\$2,113.30
P12	Tulloch, Robert & Rose Marie	\$737.69

#### **WAUBUNO**

S3	Twp. of St. Clair	\$188.41
Q1	Campbell, Douglas & Karen	\$737.69
Q2	Gray, Howard & Margaret	\$2,875.08
Q3	McKinnon, James & Patricia	\$644.15
Q4	Kabbes, Donald & Karen	\$1,035.11
Q5	Bedggood, Ronald & Susan	\$479.36
Q6	Van Troost, Peter & Madeline	\$516.38
Q7	Williams, James & Janet	\$3,799.06
Q8	Walsh, Joseph & Marion & Charles, & Kathleen Roegiest	\$479.36
<b>Total</b>		<b>\$171,132.90</b>

Note: The above incremental payments for the period 1999 through 2004 have been calculated based on the following :

- \$14.75 per acre inside the DSA
- \$4.42 per outside acre
- \$318.96 per wellhead
- \$122.86 per acre of roadway