

# SCOTT PETRIE LLP

---

LAW FIRM

**JOHN D. GOUDY**, B.A.(HONS.), LL.B., B.C.L.  
Tel.: (519) 433-5310, Ext 236  
e-mail: [jgoudy@scottpetrie.com](mailto:jgoudy@scottpetrie.com)

September 20, 2022

*VIA ELECTRONIC FILING*

**Attention: Nancy Marconi, Registrar of the OEB**

Ontario Energy Board  
27<sup>th</sup> Floor, 2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Registrar:

**RE: EB-2022-0086 – Enbridge Gas Inc. – Dawn to Corunna Replacement Project  
Joint Letter on Status of Settlement Negotiations – OEB Procedural Order No. 5**

---

We are the lawyers for CAEPLA-DCLC in the above noted proceeding. Pursuant to the OEB's Procedural Order No. 5 issued on September 19, 2022, we are writing to provide a joint update from CAEPLA-DCLC and Enbridge Gas Inc. ("Enbridge") regarding the current status of settlement negotiations. The OEB has directed CAEPLA-DCLC and Enbridge to "advise whether any outstanding issues have been settled and describe any agreement" and "to describe any outstanding issues that have not been settled, if applicable." Please find enclosed a table summarizing the current status (provisionally agreed or unresolved) of the issues between the parties within the scope of this proceeding as raised in CAEPLA-DCLC's filings with the OEB.

In the joint letter filed on September 15, 2022, Enbridge and CAPELA-DCLC did not provide a summary of what issues were settled and unresolved. This was done for purposes of settlement privilege and the concern that as negotiations were progressing, but incomplete, settled issues were subject to the remaining items to be negotiated and in the spirit of attempting to reach a full settlement, changes to those provisionally settled issues could occur. Furthermore, the disclosure of any concessions made by either party could be used to the prejudice of the conceding party by OEB staff and intervenors in submissions. Recognizing this fact, Enbridge and CAPELA-DCLC have been working to bring their discussions to a successful conclusion and hopefully contribute to an efficient OEB process.

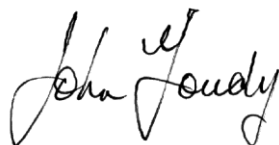
Nevertheless, both CAEPLA-DCLC and Enbridge acknowledge the OEB's concern that confirmation of settled and unsettled issues as between the two parties will be important to assist intervenors and OEB Staff in preparing submissions, which are now due on September 23, 2022 pursuant to Procedural Order No. 5. We trust that the information provided in the enclosed table will assist the intervenors and OEB Staff as intended. However, CAEPLA-DCLC and Enbridge ask that the OEB and all parties recognize that settlement negotiations are ongoing and that a comprehensive settlement of all outstanding issues, including both the issues before the OEB and other issues that are not before the OEB (being outside of

the scope of this proceeding), has not yet been reached. **The resolution of individual items by CAEPLA-DCLC and Enbridge as described in the enclosed table is, therefore, provisional and subject to change depending on the course of further negotiations between the parties.** CAEPLA-DCLC and Enbridge will provide any update to the information in the table to the OEB, the intervenors and OEB Staff as soon as possible.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

Yours truly,

**SCOTT PETRIE LLP**  
LAW FIRM



**John D. Goudy**

Encl.

c.c.: Parties to EB-2022-0086, *via email*  
Charles Keizer, Torys LLP *via email* to [ckeizer@torys.com](mailto:ckeizer@torys.com)  
Ritchie Murray, Case Manager, *via email* to: [ritchie.murray@oeb.ca](mailto:ritchie.murray@oeb.ca)  
Michael Millar, OEB Counsel, *via email* to: [michael.millar@oeb.ca](mailto:michael.millar@oeb.ca)

## **LANDOWNER ISSUES RESOLUTION STATUS – SEPTEMBER 20, 2022**

NOTE: Please refer to the form of Letter of Understanding (“LOU”) at Attachment 1 to the CAEPLA-DCLC Written Evidence Statement dated August 12, 2022.

<b>ISSUE</b>	<b>STATUS</b>
FORM OF EASEMENT AGREEMENT – Indemnity Clause	Unresolved
FORM OF TEMPORARY LAND USE AGREEMENT – Indemnity Clause	Unresolved
LOU – 1. Pre-Construction Meeting	Provisionally agreed
LOU – 2. Testing for Soybean Cyst Nematode	Unresolved
LOU – 3. Continued Supply of Services	Provisionally agreed
LOU – 4. Water Wells	Provisionally agreed
LOU – 5. Staking of Workspace	Provisionally agreed
LOU – 6. Topsoil Stripping	Unresolved
LOU – 7. Depth of Cover	Provisionally agreed
LOU – 8. Levelling of Pipe Trench	Provisionally agreed
LOU – 9. Topsoil Replacement, Compaction Removal and Stone Picking	Provisionally agreed
LOU – 10. Drainage Tiling	Provisionally agreed
LOU – 11. Water Accumulation during Construction	Provisionally agreed
LOU – 12. Access across the Trench	Provisionally agreed
LOU – 13. Restoration of Woodlots	Provisionally agreed
LOU – 14. Tree Replacement	Provisionally agreed
LOU – 15. Covenants	Provisionally agreed except: <ul style="list-style-type: none"> <li>• Suitable Passage and Access / Access for Spraying</li> <li>• Independent Soils and Crop Productivity Consultant</li> <li>• Integrity Dig Agreement</li> <li>• Restoration of Depth of Cover</li> </ul>
LOU – 16. Dispute Resolution	Provisionally agreed
LOU – 17. Land Rights – Easements	Unresolved
LOU – 18. Land Rights – Temporary Land Use Agreements and Top Soil Storage	Unresolved

ISSUE	STATUS
LOU – 19. Damage Payments	Unresolved
LOU – 20. Disturbance Damages	Unresolved
LOU – 21. Construction Damages – Crop Loss	Unresolved
LOU – 22. Woodlots and Windbreak/Hedgerow Trees	Provisionally agreed
LOU – 23. Gored Land	Provisionally agreed
LOU – 24. Insurance	Provisionally agreed
LOU – 25. Abandonment	Provisionally agreed
LOU – 26. Liability	Unresolved
LOU – 27. Assignment	Provisionally agreed
LOU – 28. Site Specific Issues	Provisionally agreed
LOU – 29. Compensation Levels	Unresolved
LOU – 30. Independent Construction Monitor	Provisionally agreed
LOU – 31. Landowner Relations and Terms of Reference of Joint Committee	Provisionally agreed
LOU – 32. Integrity Dig Agreement	Unresolved
LOU – Schedule 1: Settlement	Unresolved
LOU – Schedule 2: Site Specific Issues	Provisionally agreed
LOU – Schedule 3 Woodlot Evaluation	Unresolved
LOU – Schedule 4 Aesthetic Tree Evaluation	Provisionally agreed
LOU – Schedule 5 Schedule of Rates for Work Performed by Landowners	Provisionally agreed
LOU – Schedule 6 Wet Soils Shutdown	Provisionally agreed
LOU – Schedule 7 Topsoil Stripping Map	Unresolved
LOU – Schedule 8 Integrity Dig Agreement	Unresolved