

500 Consumers Road  
North York, Ontario  
M2J 1P8  
PO Box 650  
Scarborough ON  
M1K 5E3

**Shari Lynn Spratt**  
**Supervisor Regulatory Proceedings**  
Telephone: (416) 495-5499  
Fax: (416) 495-6072  
Email: EGDRegulatoryProceedings@enbridge.com



January 10, 2012

**VIA COURIER**

To: EB-2011-0391 Interested Parties

**Re: Enbridge Gas Distribution Inc. ("Enbridge")**  
**EB-2011-0323 Alliston Reinforcement Pipeline Project**  
**Notice of Application**

---

On November 11, 2011, Enbridge filed an application with the Ontario Energy Board (the "Board") for a declaration and order(s) to expropriate land for the purposes of a natural gas distribution main in the City of Welland, in the Region of Niagara.

On January 4, 2012, the Board issued a Notice of Application and Letter of Direction for this proceeding in which the Board has directed Enbridge to serve a paper copy of the Notice of Application and Enbridge's Application on all interested parties that are directly and indirectly affected by the project. In order for all private information to be kept confidential each owner's name has been replaced with an anonymous designation. Only the designated party will know which designation has been applied to them.

Enclosed please find the Notice of Application and a redacted copy of Enbridge's application for the EB-2011-0391 proceeding.

The redacted application and evidence for this proceeding can be found on the Enbridge website at [www.enbridgegas.com/ratecase](http://www.enbridgegas.com/ratecase).

Please contact the undersigned if you have any questions.

Yours truly,

[original signed]

Shari Lynn Spratt  
Supervisor Regulatory Proceedings

Encl.



500 Consumers Road  
North York, Ontario  
M2J 1P8  
PO Box 650  
Scarborough ON M1K 5E3

**Edith Chin**  
**Manager Upstream Regulatory Strategy  
& Major Projects**  
Telephone: (416) 495-5499  
Fax: (416) 495-6072  
Email: EGDRegulatoryProceedings@enbridge.com

November 29, 2011

**VIA RESS, Email and COURIER**

Ms. Kirsten Walli  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 26th Floor  
Toronto, ON M4P 1E4

**Re: Enbridge Gas Distribution Inc. ("Enbridge")  
City of Welland ("Welland") Expropriation Application and Evidence  
Ontario Energy Board ("Board") File No.: EB-2011-0391**

---

Enbridge is applying to the Board for a declaration and order(s) to recognize existing rights and to expropriate land for the purposes of a natural gas distribution main in the City of Welland.

Enclosed please find two copies of the application and evidence for the above noted proceeding.

The application and evidence can be found on the Enbridge website under the "Other Regulatory Proceedings" tab as of November 30, 2011 at [www.enbridgegas.com/ratecase](http://www.enbridgegas.com/ratecase).

Yours truly,

A handwritten signature in black ink, appearing to be 'Edith Chin', with a long horizontal line extending to the right.

Edith Chin  
Manager Upstream Regulatory Strategy & Major Projects

Encl.

TABLE OF CONTENTS

<u>Exhibit</u>	<u>Tab</u>	<u>Schedule</u>	<u>Description</u>
<u>A</u>	1	1	Table of Contents
	2	1	List of Interested Parties
<u>B</u>	1	1	Application
		2	Pipeline Route Map
	2	1	Summary of Pre-Filed Evidence
		2	Negotiations to Date
<u>C</u>	1	1	Reference Plan 59R-12758
		2	Reference Plan 59R-12761
		3	Draft Reference Plans Reference Plan Numbers: - 11-12-209-00-B Party B; - 11-12-209-00-C Party B; - 11-12-209-00-D Party C; - 11-12-209-00-E Party A.
	2	1	Franchise Agreement – City of Welland
		2	Franchise Agreement – City of Port Colborne
		3	Franchise Agreement – Town of Fort Erie
	3	1	Form of Easement Agreement Offered by Enbridge to current Property Owners
	4	1	License Agreement L-8174 April 16, 1975
		2	License Agreement L-8174 (66-1507)
		3	License Agreement L-8174 (66-979)

<u>Exhibit</u>	<u>Tab</u>	<u>Schedule</u>	<u>Description</u>
<u>C</u>	4	4	License Agreement L-11019 (66-1279)
		5	License Agreement L-5901 (15-74-1)
		6	License Agreement L-7909 (66-1061)
	5	1	Transfer of Lands to Party B
		2	Transfer of Lands to Party A
		3	Transfer of Lands to Party C
		4	Transfer of Lands to Party C
	6	1	Order In Council - Ministry of Transportation Registration against Party B Property – October 9, 1974
		2	Order in Council – Ministry of Transportation Registration against Party B Property - October 2, 1996
	7	1	Court - Notice of Application
		2	Court – Motion Record
		3	Court – Affidavit of Party A

LIST OF INTERESTED PARTIES

Current Owners and Order-In-Council

**Party A - joint**

Party D - Counsel to Party A

[REDACTED]

**Party B**

Home:

[REDACTED]

Business:

[REDACTED]

Party E - Agent for Party B

[REDACTED]

**Party C**

[REDACTED]

**Ministry of Transportation of Ontario**

Attn: Kevin Kelly  
1201 Wilson Avenue  
Building D; 7<sup>th</sup> Floor  
Downsview, Ontario  
M3N 1J8

Other Interested Parties:

**St. Lawrence Seaway Management Corporation**

Niagara Region  
508 Glendale Avenue  
St. Catharines, Ontario L2R 6V8

**Canada Lands Corporation CLC Limited**

1 University Avenue, Suite 1200  
Toronto ON M5J 2P1

**City of Welland**

60 East Main Street  
Welland, Ontario, Canada L3B 3X4

Attention: Christine Mintoff, City Clerk

**Niagara Region**

2201 St. David's Road  
P.O. Box 1042  
Thorold ON L2V 4T7

Attention:

Regional Clerk Office  
Chief Administrative Officer, M. Trojan

**Hydro One Networks Inc.**

185 Clegg Road  
Markham ON L6G 1B7

Attention: Les Hart

**Bell Canada**

(Right-of-Way)  
100 Borough Drive  
Scarborough ON M1P 4W2

**ONTARIO ENERGY BOARD**

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

**AND IN THE MATTER OF** the *Public Utilities Act*, R.S.O. 1990, c.P-52.

**AND IN THE MATTER OF** the *Expropriations Act*, R.S.O. 1990, c. E-26;

**AND IN THE MATTER OF** an application by Enbridge Gas Distribution Inc. for a declaration and order(s) to expropriate land for the purposes of a natural gas distribution main in the City of Welland in the Region of Niagara;

**ENBRIDGE GAS DISTRIBUTION INC.**

**APPLICATION FOR EXPROPRIATION OF  
FORMER SEAWAY LAND**

1. The Applicant, Enbridge Gas Distribution Inc. ("EGD" or "Enbridge"), is an Ontario corporation with its head office in the City of Toronto. It carries on the business of selling, distributing, transmitting and storing natural gas within Ontario.
2. The Applicant is a gas distributor within the meaning of section 3 the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15 (Schedule B) (the "OEB Act") and has franchise agreements with the City of Welland, the City of Thorold, the City of Port Colborne and the Town of Fort Erie. Copies of the franchise agreements may be found at Exhibit C, Tab 2, Schedules 1, 2, and 3.

3. This Application involves a Nominal Pipe Size ("NPS") 12 Extra High Pressure ("XHP") steel gas main that crosses under the Welland Canal near Townline Tunnel Road and a NPS 8 XHP steel gas main on the west side of the Welland Canal both of which are in the City of Welland. Each pipeline will be referred to individually as the NPS 12 Pipeline, the NPS 8 Pipeline, respectively, and together as the Pipelines. The Application also includes the inlet piping from the NPS 12 Pipeline to a station located within the current road allowance. The general layout of the Pipelines is shown on Exhibit B, Tab 1, Schedule 2.
4. The length of NPS 12 Pipeline within this Application is approximately 2,800 metres and the length of NPS 8 Pipeline within this Application is approximately 365 metres.
5. Enbridge constructed the NPS 8 Pipeline in 1972 to provide natural gas to the City of Port Colborne. The NPS 8 Pipeline is integral to the supply of natural gas to the residents in the City of Port Colborne.
6. Enbridge constructed the NPS 12 Pipeline in 1975 to provide natural gas to the Town of Fort Erie. Currently, there are approximately 7,000 customers, including firm uninterruptible contract customers that rely upon the NPS 12 Pipeline for the supply of natural gas to their homes and businesses.
7. The Consumers' Gas Company, the Enbridge predecessor (referred to herein as Enbridge), entered into a series of license agreements with the St. Lawrence Seaway Authority pertaining to the Pipelines at the time the Pipelines were installed. The license agreements provided Enbridge with certain rights to install, operate, maintain and replace the Pipelines. Over the intervening years, a number of amendments to the

licenses occurred. The NPS 12 Pipeline was the subject of Licenses L-8174, L-8174 (66-1507), L-8174 (66-979) and L-11019 (66-1279). The NPS 8 Pipeline was the subject of Licenses L-5901 (15-74-1), L-7909 (66-1061). Copies of these license agreements may be found at Exhibit C, Tab 4, Schedules 1 to 6.

8. The lands described in license L-8174 (66-1507) (Exhibit C, Tab 4, Schedule 2) were transferred from the St. Lawrence Seaway Management Corporation, the successor to the St. Lawrence Seaway Authority, to the Canada Lands Corporation CLC Limited ("CLC"). CLC subsequently transferred the L-8174 (66-1507) lands to individuals Party B and Party F. These lands were transferred again ending up with the current property owners identified in Table 1.
9. The transfer of the lands from the St. Lawrence Seaway Management Corporation to CLC and each subsequent sale occurred without the knowledge of Enbridge. The various license agreements in effect at the time of the transfer by St. Lawrence Seaway Authority to CLC have not been terminated.

Table 1. Current Property Owners

Party	Description of Lands
Party A	<b>PIN#64129-0121(LT)</b>  Part of Lot 16, Concession 5, (formerly geographic Township of Humberstone) now in the City of Welland, Regional Municipality of Niagara, designated as Part 3 on Reference Plan 59R-12761.  (Also see Exhibit B, Tab 1, Schedule 2, Area #5)

Party	Description of Lands
Party B	<p><b>PIN # 64127-0528 (LT)</b></p> <p>Part of Lots 20 and 21, Concession 5, Part of Road Allowance between Lots 20 and 21, Concession 5 (closed by By-law 4337), Inst. No. 90236B)(formerly geographic Township of Humberstone) now in the City of Welland, Regional Municipality of Niagara, designated as Part 4 on Reference Plan 59R-12758.</p> <p>(Also see Exhibit B, Tab 1, Schedule 2, Area #2)</p> <p><b>PIN #64454-0074 (LT)</b></p> <p>Part of Lots 21, 22 and 23, Concession 5 and Part of the Allowance for Road between Lots 22 and 23 (closed by By-law 414) (formerly in the geographic Township of Humberstone) now in the City of Welland, Regional Municipality of Niagara, designated as Part 3 on Reference Plan 59R-12758.</p> <p>(Also see Exhibit B, Tab 1, Schedule 2, Area #1)</p>
Party C	<p><b>PIN: 64127-0529(LT)</b></p> <p>Part Lots 17, 18 and 19, Concession 5, and part of the Road Allowance between Lots 18 and 19 (closed by By-law 4350 Inst. R0185603), Concession 5 formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara designated as Part 1 on Reference Plan 59R-12761.</p> <p>(Also see Exhibit B, Tab 1, Schedule 2, Area #3)</p> <p><b>PIN: 64129-0119(LT)</b></p> <p>Part of Lots 16 and 17, Concession 5, and part of the Road Allowance between Lots 16 and 17 (closed by By-law 4350 Inst. R0185603),</p>

Party	Description of Lands
	<p>Concession 5 formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara designated as Part 2 on Reference Plan 59R-12761.</p> <p>(Also see Exhibit B, Tab 1, Schedule 2, Area #4)</p>

10. Reference plan 59R-12758, a copy of which is provided at Exhibit C, Tab 1, Schedule 1, was deposited and received, by the Land Titles Office, on May 17, 2005 pursuant to the Land Titles Act. It depicts the lands sold by the St. Lawrence Seaway Management Corporation that are the subject of this Application located on the west side of the Welland Canal. The Pipelines are located on the property currently owned by Party B.
11. Reference plan 59R-12761, a copy of which is provided at Exhibit C, Tab 1, Schedule 2, was deposited and received, by the Land Titles Office, on May 17, 2005 pursuant to the Lands Titles Act. It depicts the lands sold by the St. Lawrence Seaway Management Corporation that are the subject of this Application located on the east side of the Welland Canal. This Reference Plan shows the NPS 12 Pipeline and indicates gas line markers are present on the property currently owned by the Party A and Party C.
12. Enbridge first learned of the transfers, described above, when it was approached by Party A in November 2009 to discuss their plans to develop their property and the presence of the NPS 12 Pipeline.

13. Upon learning of the sale to the Party A, Enbridge investigated to determine if other lands on which it had pipelines had been sold by the St. Lawrence Seaway Management Corporation. That investigation led to the discovery of the sale of the properties now owned by Party B and Party C.
14. After discovering the information, Enbridge contacted each of the current owners and attempted to negotiate an easement with each of the current property owners. At the time of making this Application, Enbridge has not been able to conclude easement agreements with any of the property owners. A copy of the proposed easement agreement may be found at Exhibit C, Tab 3, Schedule 1.
15. A Notice of Application was filed in court by the Party A in court on April 27, 2011 seeking, *inter alia*, a declaration that Enbridge has no interest in the property and that Enbridge was trespassing. Enbridge filed a motion with the court to stay the proceeding on the basis that this issue should be determined by the Ontario Energy Board ("Board"). The court proceeding has been adjourned *sine die*.
16. As such, Enbridge is requesting the Board recognize its existing legal rights and interest in certain lands as set out in the *Public Utilities Act*, R.S.O. 1990, c.P-52 (the "PUA").
17. In order to ensure that these rights are recorded on title, Enbridge is seeking to have the Board formally recognize the existing rights and to issue an order expropriating easements for certain lands for the length of the Pipelines. The expropriation process provides a procedure to ensure for fair compensation to the current property owners.

18. Enbridge requests the Board issue an Order(s):

- (a) For a declaration that Enbridge has certain rights and interests in the lands upon which the Pipelines are located;
- (b) For a declaration that Enbridge is not trespassing on the properties;
- (c) Expropriating an easement, as described in paragraph 19 below, the following:
  - (i) Part of Lots 21, 22 and 23 Concession 5, and part of the allowance for road between Lots 22 and 23 (closed by By-law 414) now in the City of Welland (formerly the geographic Township of Humberstone) in the Regional Municipality of Niagara being Parts 1, 2, 3 and 4 of Reference No. 11-12-209-00-B Party B;
  - (ii) Part of Lots 20 and 21, Concession 5, and Part of the allowance for road between Lots 20 and 21 (closed by By-law 4337, Inst. 90236B) now in the City of Welland (formerly the geographic Township of Humberstone) in the Regional Municipality of Niagara being Parts 1, 2, and 3 of Reference No. 11-12-209-00-C Party B;
  - (iii) Part of Lots 16, 17, 18 and 19, Concession 5, and part of the Road Allowance between Lots 16 and 17 and Part of the Road Allowance between lots 18 and 19 (closed by By-law 4350 Inst. R0185603), Concession 5, formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara designated as Parts 1 and 2 on Reference No. 11-12-209-00-D Party C.;

- (iv) Part of Lot 16, Concession 5, (formerly the geographic Township of Humberstone) now in the City of Welland in the Regional Municipality of Niagara being Part 1 of Reference No. 11-12-209-00-E Party A; and
  - (d) As are necessary for the service, publication and conduct of this proceeding. Given the unique nature of this proceeding, Enbridge would request the Board include in its procedural order a condition convening a settlement conference at the earliest opportunity.
- 19. The rights to be expropriated in respect of each of the properties identified are the following:
  - (i) An easement in favour of Enbridge Gas Distribution Inc. and any successors, assigns, servants or agents thereof, in perpetuity to survey, remove trees, clear, lay, construct, install, operate, use, inspect, remove, renew, replace, alter, enlarge, reconstruct, repair, expand, maintain pipelines and all works, appurtenances, attachments, apparatus, appliances, markers, fixtures and equipment.
- 20. Enbridge has submitted draft reference plans, Exhibit C, Tab 1, Schedule 3 showing the proposed easements. Enbridge will update the evidence when the draft reference plans are deposited and received by the Lands Title Office.
- 21. A list of interested parties is provided at Exhibit A, Tab 2, Schedule 1. The list includes the current property owners, utilities that cross the Pipelines, the Ministry of Transportation of Ontario, the St. Lawrence Seaway Management Corporation, the CLC and the municipalities in which the Pipelines are located.

22. Enbridge requests that copies of all documents filed with the Board in connection with this proceeding be served on it and on its counsel, as follows:

- (a) The Applicant: Regulatory Affairs  
Enbridge Gas Distribution Inc.
- Address for personal service: 500 Consumers Road  
Toronto, ON M2J 1P8
- Mailing Address: P. O. Box 650  
Scarborough, ON M1K 5E3
- Telephone: (416) 495-5499  
Fax: (416) 495-6072  
E-Mail: EGDRRegulatoryProceedings@enbridge.com
- (b) The Applicant's counsel: Scott Stoll  
Aird & Berlis LLP
- Address for personal service and mailing address: Suite 1800, Box 754  
Brookfield Place, 181 Bay Street  
Toronto, Ontario  
M5J 2T9
- Telephone: (416) 865-4703  
Fax: (416) 863-1515  
E-Mail: sstoll@airdberlis.com

DATED November 29, 2011 at Toronto, Ontario.

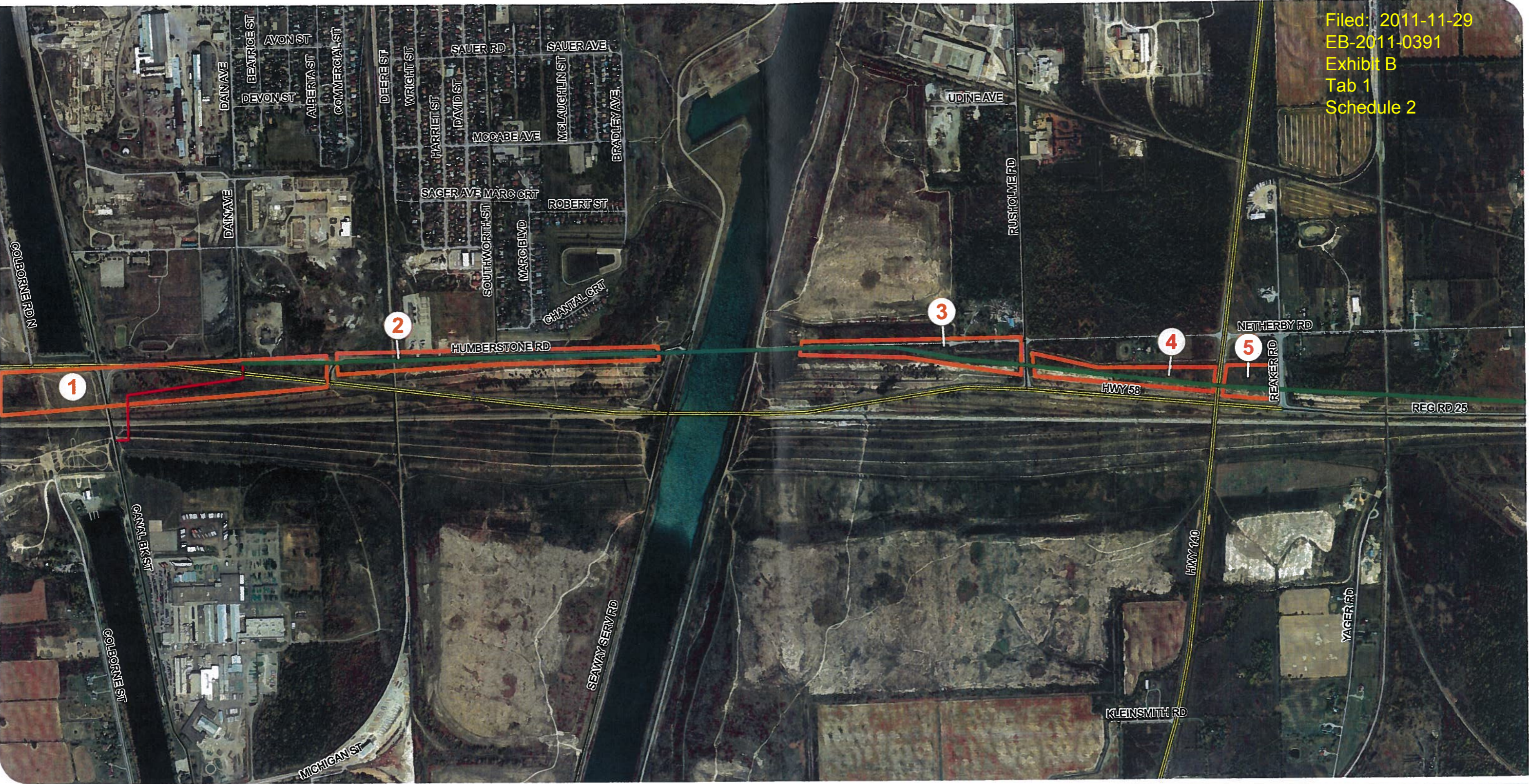
**ENBRIDGE GAS DISTRIBUTION INC.**  
By its counsel

**AIRD & BERLIS LLP**

[original signed]

---

Scott Stoll



**SCHEMATIC OF THE PIPELINES  
AND AFFECTED LANDS**

- NPS 12 ST XHP
- NPS 8 ST XHP
- Property Boundary
- Expressway / Highway
- Major Road

- 1 2 Party B
- 3 4 Party C
- 5 Party A



Image Not to Scale  
Pipeline Location is Approximate

## PREFILED EVIDENCE

### Overview

1. This Application is for an Order(s) granting Enbridge Gas Distribution Inc. ("Enbridge") the right to expropriate certain lands required to provide the necessary rights to continue to operate and maintain an existing NPS 8 and NPS 12 Extra High Pressure ("XHP") steel natural gas distribution pipeline (the "NPS 8 Pipeline", the "NPS 12 Pipeline" and together the "Pipelines") in the City of Welland in the Region of Niagara. The Pipelines provide natural gas to Enbridge's customers in the City of Port Colborne, the City of Welland and the Town of Fort Erie. A map showing the approximate location of the Pipeline may be found at Exhibit B, Tab 1, Schedule 2.
2. The NPS 12 Pipeline is approximately 4,355 metres in length and crosses beneath the Welland Canal. Approximately 2,800 metres of the NPS 12 Pipeline travels in an east west direction between Townline Tunnel Road and Humberstone Road/Nertherby Road and is located on lands included in this Application. The NPS 12 Pipeline has a connection to a station on the adjacent road allowance. The inlet piping to the station is included in this Application.
3. The NPS 8 Pipeline included in this Application is approximately 365 metres in length located along the west side of the Welland Canal from the former Dain Avenue<sup>1</sup> to Canal Bank Street. The Pipelines were installed in the 1970's and operated pursuant to a series of license agreements with the St. Lawrence Seaway Authority. The St. Lawrence Seaway Authority became the St. Lawrence Seaway Management Corporation. Certain lands (the "Former Seaway Lands"), including lands described in the license agreements, were transferred to the Canada Lands Company CLC Limited ("CLC") who in turn sold such lands in 2006 to Party B and a third party. Party B has retained part of the Former Seaway Lands on the west side of the Welland Canal and has sold the part of the Former Seaway Lands on the east side of the Welland Canal to the current owners – Party C and Party A.

---

<sup>1</sup> Dain Avenue was closed by the Municipality.

4. Enbridge was not aware of the sale of the Former Seaway lands until 2009 when one of the current property owners, the Party A, approached Enbridge regarding locates. After initially agreeing to provide an easement, the Party A reneged on granting an easement and have since commenced a court action in trespass. Copies of the materials filed in court may be found at Exhibit C, Tab 7, Schedules 1 to 3.
5. The Party A are seeking \$1,000,000 for an easement on approximately 4% of the area of a property which was purchased for \$50,000 in 2009. Enbridge filed a motion with the Court seeking a stay on the Application on the basis that the matter of this Application is within the exclusive jurisdiction of the Ontario Energy Board ("Board"). The Court proceeding has been adjourned *sine die* at the request of counsel to the Party A.
6. As a result of this situation, Enbridge investigated to determine which other properties may be similarly impacted. Enbridge identified two additional property owners, Party B and Party C. Since learning of the situation, Enbridge has tried to negotiate easement agreements with each of the property owners
7. To date, Enbridge has not been able to negotiate an easement with the current landowners (Exhibit B, Tab 2, Schedule 2). Therefore, Enbridge is seeking to expropriate certain lands along the Pipelines thereby providing it an easement to operate and maintain the Pipelines. The expropriation is premised upon the exclusive authority of the Board, the broader public interest and the statutory authority and process from the *Public Utilities Act*, R.S.O. 1990, cP-52 (the "PUA"), the *Expropriations Act*, R.S.O. 1990, c. E-26 (the "EA") and the *Ontario Energy Board Act*, 1998, S.O. 1998, c.15, Schedule B (the "OEB Act").

#### The Pipelines

##### a) NPS 12 Pipeline

8. The Pipeline is a nominal pipe size 12 ("NPS 12") steel extra high pressure gas main with a maximum operating pressure of 400psig (2,758kPa). It is the primary feed for natural gas

to the residents of the Town of Fort Erie. The map at Exhibit B, Tab 1, Schedule 2 shows the approximate location of the NPS 12 Pipeline. The Pipeline and gas line markers were shown on registered plan 59R-12761 (Exhibit C, Tab 1, Schedule 2) which was received and deposited to the Land Titles Office on May 10, 2005 prior to the date of the transfer of the lands to CLC.

9. Enbridge has reviewed its distribution system and determined that this Pipeline is necessary to continue to serve its existing customers. Removal of the NPS 12 Pipeline would result in 46 distribution stations being below the minimum inlet pressures and approximately 5,600 residential and certain large volume contract customers being without natural gas and a further 1,400 customers with compromised delivery. Even during the summer months, the NPS 12 Pipeline is required to maintain distribution service to the Town of Fort Erie.

b) NPS 8 Pipeline

10. The NPS 8 Pipeline is located on the west side of the Welland Canal and is part of the distribution system supplying the City of Port Colborne. The map at Exhibit B, Tab 1, Schedule 2 shows the approximate location of the NPS 8 Pipeline. The NPS 8 Pipeline provides an important link in the movement of natural gas in the area and is an important source of natural gas to the City of Port Colborne. Eliminating the NPS 8 Pipeline would be detrimental to the distribution system and place many customers at risk of loss of service in certain circumstances.

The Lands

11. Table 1, on the following page, provides a description of the properties impacted by this Application and the current owners of the properties. Enbridge is seeking to expropriate an easement as shown in the draft reference plans at Exhibit C, Tab 1, Schedule 3, along the length of the Pipelines.

12. Enbridge has offered to each landowner a form of easement as found in Exhibit C, Tab 3, Schedule 1. This easement agreement is typical of such agreements offered to landowners by Enbridge.
13. Enbridge had a verbal agreement with the Party A to grant an easement. The Party A reneged on the verbal agreement and commenced the court application.
14. In order to negotiate an easement with Party B, Enbridge has paid to Party B an amount equal to the license fee that was payable St. Lawrence Seaway Management Corporation for the duration of Party B's ownership.

Table 1. Current Property Owners

<b>Party</b>	<b>Description of Lands</b>
Party A	<b>PIN#64129-0121(LT)</b>  Part of Lot 16, Concession 5, (formerly geographic Township of Humberstone) now in the City of Welland, Regional Municipality of Niagara, designated as Part 3 on Reference Plan 59R-12761.  (Also see Exhibit B, Tab 1, Schedule 2, Area #5)

Party	Description of Lands
Party B	<p data-bbox="805 369 1105 401"><b>PIN # 64127-0528 (LT)</b></p> <p data-bbox="805 438 1419 669">Part of Lots 20 and 21, Concession 5, Part of Road Allowance between Lots 20 and 21, Concession 5 (closed by By-law 4337), Inst. No. 90236B)(formerly geographic Township of Humberstone) now in the City of Welland, Regional Municipality of Niagara, designated as Part 4 on Reference Plan 59R-12758</p> <p data-bbox="805 709 1312 772">(Also see Exhibit B, Tab 1, Schedule 2, Area #2)</p> <p data-bbox="805 812 1097 844"><b>PIN #64454-0074 (LT)</b></p> <p data-bbox="805 882 1419 1113">Part of Lots 21, 22 and 23, Concession 5 and Part of the Allowance for Road between Lots 22 and 23 (closed by By-law 414) (formerly in the geographic Township of Crowland) now in the City of Welland, Regional Municipality of Niagara, designated as Part 3 on Reference Plan 59R-12758.</p> <p data-bbox="805 1152 1312 1215">(Also see Exhibit B, Tab 1, Schedule 2, Area #1)</p>

Party	Description of Lands
Party C	<p><b>PIN: 64127-0529(LT)</b></p> <p>Part Lots 17, 18 and 19, Concession 5, and part of the Road Allowance between Lots 18 and 19 (closed by By-law 4350 Inst. R0185603), Concession 5 formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara designated as Part 1 on Reference Plan 59R-12761.</p> <p>(Also see Exhibit B, Tab 1, Schedule 2, Area #3)</p>
	<p><b>PIN: 64129-0119(LT)</b></p> <p>Part of Lots 16 and 17, Concession 5, and part of the Road Allowance between Lots 16 and 17 (closed by By-law 4350 Inst. R0185603), Concession 5 formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara designated as Part 2 on Reference Plan 59R-12761.</p> <p>(Also see Exhibit B, Tab 1, Schedule 2, Area #4)</p>

#### History of the Enbridge Land Rights

15. The Pipelines have been the subject of a series of License Agreements over the last five decades. Copies of the license agreements may be found at Exhibit C, Tab 4, Schedules 1 to 6. Unlike an easement agreement, a license agreement is not registered against title and does not travel with the land. The use of a license agreement, rather than an easement, is common when dealing with the St. Lawrence Seaway Authority and other federal government organizations.
16. On or about November 23, 2005, Enbridge received a letter dated November 21, 2005 from Peter McLean, the Real Property Management Officer of The St. Lawrence Seaway

Management Corp., as The St. Lawrence Seaway Authority is now known, which letter explained that it was necessary to separate the license agreement covering the majority of the NPS 12 Pipeline into two license agreements. The NPS 12 Pipeline is also subject to a third license agreement. Copies of the license agreements for the NPS 12 Pipeline may be found at Exhibit C, Tab 4, Schedules 1 to 4.

17. The NPS 8 Pipeline was the subject of a separate series of license agreements. Copies of the license agreements for the NPS 8 Pipeline may be found at Exhibit C, Tab 4, Schedules 5 and 6.
18. It is not certain whether CLC made potential purchasers aware of the existing license agreements.
19. It was not until 2011 that Enbridge received notice regarding the termination of one license agreement.

The Sequence of Third Party Land Rights for the Former Seaway Lands

20. Enbridge's predecessor acquired certain rights and entered into licensing agreements with the St. Lawrence Seaway Authority at the time the Pipelines were installed in the 1970's. The license agreements have been renewed and revised on multiple occasions over the intervening years.
21. After completing a title search of the lands to respond to the Party A court application, it was learned that the following registrations and transactions had taken place:
  1. **October 9, 1974** – First Order in Council ("OIC") for MTO is approved (Exhibit C, Tab 6, Schedule 1). This OIC designates certain of the Party B property as part of the right-of-way of Townline Tunnel Road. As such, Enbridge understands that any change in use or development within the area of the OIC will be subject to MTO consent.
  2. **October 2, 1996** – Second OIC for MTO is approved (Exhibit C, Tab 6, Schedule 2). This OIC relates to the designation of certain other lands for Highway 406 such

designation including part of the Party B property. Enbridge understands that any change in use or development within the area of the OIC will be subject to MTO consent.

3. **May 17, 2005** - Reference Plan 59R-12758 (Exhibit C, Tab 1, Schedule 1) was received and deposited to the Land Titles Office. This reference plan depicts the lands on west side of the Welland Canal.
4. **May 17, 2005** – Reference Plan 59R-12761 (Exhibit C, Tab 1, Schedule 2) was received and deposited to the Land Titles Office. This Reference Plan shows the lands on the east side of the Welland Canal and includes the NPS 12 Pipeline including 6 gas line markers traversing Parts 1, 2 and 3 of the lands.
5. **February 6, 2006** – Crown Patent was registered conveying the lands, the Former Seaway Lands, that are the subject of this proceeding from Her Majesty the Queen in Right of Canada as represented by The Minister of Transport to CLC.
6. **May 26, 2006** - Canada Lands Company CLC Limited transferred a quantity of lands, the Former Seaway Lands, to Party B and Party F for a total of \$20,000 (Exhibit C, Tab 5, Schedule 1).
7. **August 21, 2007** – Party B and Party F transferred a quantity of lands, being Parts 1 and 2 on Reference Plan 59R-12761 (Exhibit C, Tab 1, Schedule 2) to Party G for \$10 000.
8. **June 23, 2008** – Party B and Party F transferred part of the Former Seaway Lands, what would become the Party A property, to Party B for \$2,350. The lands are shown on Reference Plan 59R-12761 (Exhibit C, Tab 1, Schedule 2) as Part 3.
9. **April 22, 2009** – Party B transferred the land shown on Part 3 of Reference Plan 59R-12781 to the Party A for \$50,000 (Exhibit C, Tab 5, Schedule 2).
10. **November 2009** – Party A contacted Enbridge regarding the NPS 12 Pipeline.
11. **October 29, 2010** – Party G sold a quantity of lands being Parts 1 and 2 of Reference Plan 59R-12761 (Exhibit C, Tab 1, Schedule 2) to the Party C for

\$98,000 and \$120,000, respectively (Exhibit C, Tab 5, Schedules 3 and 4).

12. The remaining Former Seaway Lands that were not conveyed to the Party A or to Party C continued to be held by Party B.

#### The Party A Court Proceeding

22. The Court Application involves only one of the three current property owners, the Party A property.
23. On April 27, 2011 counsel for the Party A's Notice of Application, Exhibit C, Tab 7, Schedule 1, was issued by the court in Welland with a return date of May 18, 2011. Enbridge prepared a Notice of Appearance dated May 3, 2011. On May 30, 2011 Enbridge filed a Notice of Motion, Exhibit C, Tab 7, Schedule 2, seeking a stay of the court application pending an application by Enbridge, this Application, to the Board. The Motion was to be held June 29, 2011 but was subsequently adjourned and finally, adjourned once more *sine die* at the request of the Party A counsel.
24. On October 17, 2011 the Party A's delivered an affidavit of Party A, sworn September 1, 2011, for the purpose of responding to the Enbridge motion to stay the court application. A date for the motion in court has not been scheduled. Prior to hearing the motion, cross-examination of the affiants may have to occur.
25. To date no further communication to schedule the motion has been made by the Party A.

#### Requirements to Continue Operate the Pipeline

26. As the Pipeline has been installed, there are no additional permits required to continue to operate the Pipeline in the current location. If Enbridge were to be required to abandon and replace the Pipeline such a project would require leave from the Board to dispose of the Pipelines and additional approvals such as municipal approvals, environmental permits and a leave to construct application with the Board to replace the Pipelines.

27. Sub-section 43(1) and (6) of the OEB Act, see below; statutorily obligate a distributor to seek leave of the Board prior to disposing on a "*part of a system....necessary in serving the public*". As the pipeline is required to distribute natural gas to the customers in Fort Erie and Port Colborne, Enbridge must continue to maintain and operate the Pipeline unless an order of the Board is obtained requiring Enbridge to discontinue service. Enbridge is not seeking such an order and does not believe such an order would be within the public interest.

43. (1) No gas transmitter, gas distributor or storage company, without first obtaining from the Board an order granting leave, shall,
- (a) sell, lease or otherwise dispose of its gas transmission, gas distribution or gas storage system as an entirety or substantially as an entirety;
  - (b) sell, lease or otherwise dispose of that part of a system described in paragraph (a) that is necessary in serving the public; or
  - (c) amalgamate with any other corporation.

- (6) An application for leave under this section shall be made to the Board, which shall grant or refuse leave.

#### Jurisdiction of the Board

28. Enbridge has applied to the Board for an order that acknowledges Enbridge's existing legal rights, a declaration that there has been no trespass, and granting the expropriation of certain land rights based upon the provisions of the *Public Utilities Act*, the *Expropriations Act* and the *Ontario Energy Board Act, 1998*.

29. The OEB has the exclusive authority in all matters where it has jurisdiction as set out in section 19(6) of the OEB Act. As such, the OEB is the proper authority to review and make the decision to resolve this dispute.

- 19(6) The Board has exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this or any other Act.

30. Enbridge is a natural gas distributor within the meaning of the OEB Act and distributes natural gas to the City of Port Colborne, the City of Welland and the Town of Fort Erie pursuant to franchise agreements. A copy of the relevant by-laws approving the franchise agreements may be found at Exhibit C, Tab 2, Schedules 1, 2, and 3.

31. The Town of Fort Erie, the City of Port Colborne and the City of Welland possess the right to expropriate certain lands pursuant to the *Municipal Act, 2001*, S.O. 2001, c.25.

6. (1) The power of a municipality to acquire land under this or any other Act includes the power to expropriate land in accordance with the Expropriations Act.

32. Where a municipality has a franchise agreement with a natural gas distributor, the natural gas distributor obtains the ability to expropriate lands without the need for a leave to construct proceeding pursuant to the *Public Utilities Act*, section 58, see below. As such, Enbridge possesses the authority to seek an order of expropriation.

57. This Part applies to every company, other than a municipality or a local board of a municipality, incorporated for the purpose of supplying a public utility.

58. (1) The company shall not exercise any of its powers within a municipality unless a by-law of the council of the municipality has been passed with the assent of the municipal electors where such assent is required by the Municipal Franchises Act authorizing the company to exercise the power and the company when so authorized may exercise any of the powers of expropriation conferred on a municipal corporation with respect to the public utility the company is supplying, if the power to expropriate is conferred on it by its instrument of incorporation or by any amendments to the instrument of incorporation.

(2) Subject to subsection (1), a company may conduct any of its pipes or carry any of its works through the land of any person lying within ten miles of the municipality for supplying which the company was incorporated.

(3) The Expropriations Act applies to an expropriation under this section.

(4) Subsection (1) applies to a gas distributor as defined in the Ontario Energy Board Act, 1998 but does not apply to other companies supplying natural gas.

33. The *Expropriations Act* provides the Board with authority to grant expropriation.

5(5) Where an expropriation is made under the *Ontario Energy Board Act, 1998*, the approving authority is the Ontario Energy Board.

34. As the Board has exclusive jurisdiction it is the proper authority to issue the declaration and order granting the expropriation requested by Enbridge.

NEGOTIATIONS TO DATE

1. Upon learning of the situation involving the Party A property, Enbridge Gas Distribution Inc. ("Enbridge") reviewed the lands in the vicinity to ascertain if other properties upon which the Pipelines were situated had been sold by the St. Lawrence Seaway Management Corporation. Enbridge approached the other owners, Party B and Party C, to discuss the potential of negotiating an easement for the Pipeline. A summary of the current status of the negotiations is provided in Table 1. The easement offered by Enbridge is in the form attached as Exhibit C, Tab 3, Schedule 1.
2. To date, Enbridge has been unable to conclude a negotiated easement agreement but is still in discussions with each landowner.

Table 1 – Summary of Negotiations with Current Property Owners

<u>Name of Property Owner</u>	<u>Status</u>
Party A	<p>Litigation adjourned <i>sine die</i>.</p> <p>Enbridge approached in November 2009 by Party A.</p> <p>Party A filed Application in Court in April 2011.</p> <p>Following two adjournments where Party A had not filed responding materials to the Enbridge Motion, the Court Application was adjourned <i>sine die</i> at the request of the Party A counsel. No date has been set.</p> <p>Enbridge was served with a responding affidavit dated September 1, 2011 on October 18, 2011.</p> <p>It is understood the City of Welland is not processing the Party A site plan application until the dispute with Enbridge is resolved.</p>
Party B	<p>Discussions Ongoing.</p> <p>Enbridge has, pursuant to a verbal arrangement with Party B, made payments to Party B consistent with the terms of the license agreements from the time of Party B's purchase.</p>
Party C	<p>Discussions Ongoing.</p> <p>Party C is in the process of developing a groundmount solar generating facility and is assessing the impact of the Pipeline on the project.</p>

Exhibit C, Tab 1, Schedule 1

Reference Plan 59R-12758 is an oversized paper copy document.

Exhibit C, Tab 1, Schedule 2

Reference Plan 59R-12761 is an oversized paper copy document.

Exhibit C, Tab 1, Schedule 3

Reference Plan 11-12-209-00-B Party B;  
Reference Plan 11-12-209-00-C Party B;  
Reference Plan 11-12-209-00-D Party C; and  
Reference Plan 11-12-209-00-E Party A.

are oversized paper copy documents

DUPLICATE ORIGINAL

**THE CORPORATION OF THE CITY OF WELLAND**

BY-LAW NUMBER 10913

**A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT  
BETWEEN THE CORPORATION AND CONSUMERS' GAS COMPANY LTD.**

WHEREAS the Council of the Corporation deems it expedient to enter into the attached franchise agreement with The Consumers' Gas Company Ltd.;

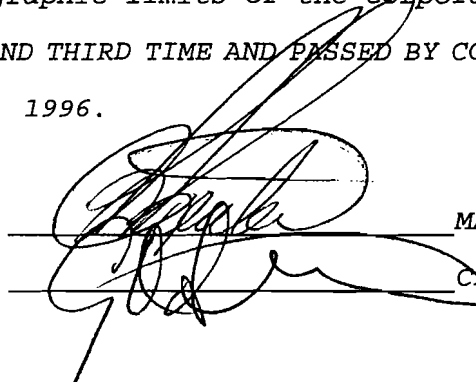
AND WHEREAS the Ontario Energy Board by its Order issued pursuant to **The Municipal Franchises Act** on the 27th day of November, 1996 has approved the terms and conditions upon which and the period for which the franchise provided for in the attached agreement is proposed to be granted and has declared and directed that the assent of the municipal electors in respect of this By-law is not necessary;

AND WHEREAS The Consumers' Gas Company Ltd. has provided the Corporation with a consent to the repeal of the By-law hereinafter referred to in Schedule "A" attached hereto and made part of this by-law.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF WELLAND ENACTS AS FOLLOWS:

1. That the attached franchise agreement between the Corporation and The Consumers' Gas Company Ltd. is hereby authorized and the franchise provided for therein is hereby granted.
2. That the Mayor and Clerk be and they are hereby authorized and instructed on behalf of the Corporation to enter into and execute under its corporate seal and deliver the aforesaid agreement, which agreement is hereby incorporated into and shall form part of this By-law.
3. That the By-law referred to in Schedule "A" annexed hereto and forming part of this By-law is hereby repealed insofar as it applies to any area within the present geographic limits of the Corporation.

READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL THIS  
17th DAY OF December, 1996.

  
MAYOR

  
CLERK

*SCHEDULE "A"*

*By-law No. 6374 passed by the Council of the Corporation of the City of Welland on the 19th day of October, 1976.*

**THE CONSUMERS' GAS COMPANY LTD.**

**FRANCHISE AGREEMENT**

THIS AGREEMENT made this 17<sup>th</sup> day of December, 19 96  
BETWEEN:

**THE CORPORATION OF THE  
OF THE CITY OF WELLAND**

hereinafter called the "Corporation"

- and -

**THE CONSUMERS' GAS COMPANY LTD.**

hereinafter called the "Gas Company"

**WHEREAS** the Gas Company desires to distribute and sell gas in the Municipality upon the terms and conditions of this Agreement;

**AND WHEREAS** by by-law passed by the Council of the Corporation (the "By-law"), the Mayor and the Clerk have been authorized and directed to execute this Agreement on behalf of the Corporation;

**THEREFORE** the Corporation and the Gas Company agree as follows:

**I Definitions**

**1. In this Agreement:**

- (a) "gas" means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;
- (b) "gas system" means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the supply, transmission and distribution of gas in or through the Municipality;
- (c) "highway" means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (d) "Municipality" means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (e) "Engineer/Road Superintendent" means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation.

## **II Rights Granted**

1. To provide gas service.

The consent of the Corporation is hereby given and granted to the Gas Company to supply gas in the Municipality to the Corporation and to the inhabitants of the Municipality.

2. To use road allowances.

The consent of the Corporation is hereby given and granted to the Gas Company to enter upon all highways now or at any time hereafter under the jurisdiction of the Corporation and to lay, construct, maintain, replace, remove, operate and repair a gas system for the supply, distribution and transmission of gas in and through the Municipality.

3. Duration of Agreement and Renewal Procedures.

The rights hereby given and granted shall be for a term of fifteen (15)\* years from the date of final passing of the By-law.

At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. Nothing herein stated shall preclude either party from applying to the Ontario Energy Board for a renewal of the Agreement pursuant to section 10 of the **Municipal Franchises Act**.

## **III Conditions**

1. Approval of Construction.

Before beginning construction of or any extension or change to the gas system (except service laterals which do not interfere with municipal works in the highway), the Gas Company shall file with the Engineer/Road Superintendent a plan, satisfactory to the Engineer/Road Superintendent, drawn to scale and of sufficient detail considering the complexity of the specific location, showing the highways in which it proposes to lay its gas system and the particular parts thereof it proposes to occupy. Geodetic information will not be required except in complex urban intersections in order to facilitate known projects, being projects which are reasonably anticipated by the Engineer/Road Superintendent. The Engineer/Road Superintendent may require sections of the gas system to be laid at a greater depth than required by CAN/CSA- Z184-M92 to facilitate known projects. The location of the work as shown on the said plan must be approved by the Engineer/Road Superintendent before the commencement of the work and the timing, terms and conditions relating to the installation of such works shall be to his satisfaction.

Notwithstanding the provisions of the above noted paragraph, in the event it is proposed to affix a part of the gas system to a bridge, viaduct or structure, the Engineer/Road Superintendent may, if the Engineer/Road Superintendent approves of such location, require special conditions or a separate agreement.

No excavation, opening or work which shall disturb or interfere with the surface of the travelled portion of any highway shall be made or done unless a permit therefor has first been obtained from the Engineer/Road Superintendent and all works shall be done to his satisfaction.

\*The rights given and granted for a first agreement shall be for a term of 20 years. The rights given and granted for any subsequent agreement shall be for a term of not more than 15 years, unless both parties agree to extend the term to a term of 20 years maximum.

The Engineer/Road Superintendent's approval, where required throughout this section, shall not be withheld unreasonably.

2. As Built Drawings.

The Gas Company shall not deviate from the approved location for any part of the gas system unless the prior approval of the Engineer/Road Superintendent to do so is received. After completion of the construction, where plans were initially filed, an "as built" plan of equal quality to the pre-construction plan or certification that the pre-construction plan is "as built" will be filed with the Engineer/Road Superintendent.

3. Emergencies.

In the event of an emergency involving the gas system, the Gas Company will proceed with the work and in any instance where prior approval of the Engineer/Road Superintendent is normally required, shall use its best efforts to immediately notify the Engineer/Road Superintendent of the location and nature of the emergency and the work being done and, if it deems appropriate, notify the police force having jurisdiction.

4. Restoration.

The Gas Company shall well and sufficiently restore, to the reasonable satisfaction of the Engineer/Road Superintendent, all highways, municipal works or improvements which it may excavate or interfere with in the course of laying, constructing, repairing or removing its gas system, and shall make good any settling or subsidence thereafter caused by such excavation or interference. If the Gas Company fails at any time to do any work required by this paragraph within a reasonable period of time, the Corporation may do or cause such work to be done and the Gas Company shall, on demand, pay any reasonable account therefor as certified by the Engineer/Road Superintendent.

5. Indemnification.

The Gas Company shall, at all times, indemnify and save harmless the Corporation from and against all claims, including costs related thereto, for all damages or injuries including death to any person or persons and for damage to any property, arising out of the Gas Company operating, constructing, and maintaining its gas system in the Municipality, or utilizing its gas system for the carriage of gas owned by others. Provided that the Gas Company shall not be required to indemnify or save harmless the Corporation from and against claims, including costs related thereto, which it may incur by reason of damages or injuries including death to any person or persons and for damage to any property, resulting from the negligence or wrongful act of the Corporation, its servants, agents or employees.

6. Alternative Easement.

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and to provide, if it is feasible, the Gas Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing location. In the event that such easements cannot be provided, the Corporation will share, as provided in clause III, 7 of this Agreement, in the cost of relocating or altering the gas system to facilitate continuity of gas service.

7. Pipeline Relocation.

If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.

Where any part of the gas system relocated in accordance with this section is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate, at its sole expense, such part of the gas system.

Where any part of the gas system relocated in accordance with this section is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on the basis of the total relocation costs, excluding the value of any upgrading of the gas system, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes, the total relocation costs shall be the aggregate of the following:

- (a) the amount paid to Gas Company employees up to and including field supervisors for the hours worked on the project plus the current cost of fringe benefits for these employees,
- (b) the amount paid for rental equipment while in use on the project and an amount, charged at the unit rate, for Gas Company equipment while in use on the project,
- (c) the amount paid by the Gas Company to contractors for work related to the project,
- (d) the cost to the Gas Company for materials used in connection with the project, and
- (e) a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (a), (b), (c) and (d) above.

The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company.

8. Notice to Drainage Superintendent.

In a case where the gas system may affect a municipal drain, the Gas Company shall file with the Drainage Superintendent, for purposes of the **Drainage Act**, or other person responsible for the drain, a copy of the plan required to be filed with the Engineer/Road Superintendent.

**IV Procedural And Other Matters**

1. Municipal By-laws of General Application.

This Agreement and the respective rights and obligations hereunto of the parties hereto are hereby declared to be subject to the provisions of all regulating statutes and all municipal by-laws of general application and to all orders and regulations made thereunder from time to time remaining in effect save and except by-laws which impose permit fees and by-laws which have the effect of amending this Agreement.

2. Giving Notice.

Notices may be given by delivery or by mail, and if mailed, by prepaid registered post, to the Gas Company at its head office or to the Clerk of the Corporation at its municipal offices, as the case may be.

3. Disposition of Gas System.

During the term of this Agreement, if the Gas Company abandons a part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove that part of its gas system affixed to the bridge, viaduct or structure.

If at any time the Gas Company abandons any other part of its gas system, it shall deactivate that part of its gas system in the Municipality. Thereafter, the Gas Company shall have the right, but nothing herein contained shall require it, to remove its gas system. If the Gas Company fails to remove its gas system and the Corporation requires the removal of all or any of the gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation may remove and dispose of so much of the deactivated gas system as the Corporation may require for such purposes and neither party shall have recourse against the other for any loss, cost, expense or damage occasioned thereby.

4. Agreement Binding Parties.

This Agreement shall extend to, benefit and bind the parties thereto, their successors and assigns, respectively.

**IN WITNESS WHEREOF** the parties hereto have duly executed these presents with effect from the date first above written.

**THE CORPORATION OF THE CITY OF WELLAND**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

**THE CONSUMERS GAS COMPANY LTD.**

\_\_\_\_\_  
L.W. YUELL  
SENIOR VICE-PRESIDENT  
OF OPERATIONS

\_\_\_\_\_  
R.G. RIEDL  
SENIOR VICE PRESIDENT  
STRATEGIC PLANNING & GAS SUPPLY

**DATED**

December 17,

19 96

**THE CORPORATION OF THE  
CITY OF WELLAND**

- and -

**THE CONSUMERS' GAS COMPANY LTD.**

**FRANCHISE AGREEMENT**

**THE CONSUMERS' GAS COMPANY LTD.**  
Atria III, Suite 1100  
2225 Sheppard Avenue East  
North York, Ontario  
M2J 5C2

Attention: Legal Department

6

THE CORPORATION OF THE CITY OF PORT COLBORNE

BY-LAW NO. 3665/91/98

A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT  
BETWEEN THE CORPORATION AND THE  
CONSUMERS' GAS COMPANY

**WHEREAS** the Council of the Corporation of the City of Port Colborne deems it expedient to enter into the attached franchise agreement with The Consumers' Gas Company Ltd.;


**AND WHEREAS** the Ontario Energy Board by its Order issued pursuant to The Municipal Franchises Act on the 13<sup>th</sup> day of July, 1998 has approved the terms and conditions upon which and the period for which the franchise provided for in the attached agreement is proposed to be granted, and has declared and directed that the assent of the municipal electors in respect of this By-law is not necessary;

**AND WHEREAS** The Consumers' Gas Company Ltd. has provided the Corporation with a consent to the repeal of the By-law hereinafter referred to:

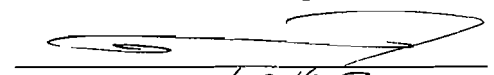
**NOW THEREFORE BE IT ENACTED:**

1. That the attached franchise agreement between the Corporation and The Consumers' Gas Company Ltd. is hereby authorized and the franchise provided for therein is hereby granted.
2. That the Mayor and the Clerk are hereby authorized and instructed on behalf of the Corporation to enter into and execute under its corporate seal and deliver the aforesaid agreement, which agreement is hereby incorporated into and shall form part of this By-law.
3. That the By-law referred to in Schedule "A" annexed hereto and forming part of this By-law is hereby repealed insofar as it applies to any area within the present geographic limits of the Corporation.

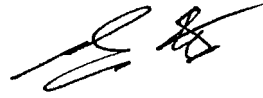
**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS  
17<sup>th</sup> DAY OF AUGUST, 1998.**

  
MAYOR

CITY OF PORT COLBORNE  
CERTIFIED TRUE AND CORRECT COPY  
  
City Clerk

  
CLERK

SCHEDULE "A"



By-law No. 733/50/78 passed by the Council of the Corporation of the City of Port  
Colborne on the 26<sup>th</sup> day of June, 1978.

By-law No. 255 passed by the Council of the Corporation of the Town of Port Colborne  
on the 14<sup>th</sup> day of July, 1958.

THE CONSUMERS' GAS COMPANY LTD.

FRANCHISE AGREEMENT

THIS AGREEMENT made this 18<sup>th</sup> day of August, 1998.  
BETWEEN:

THE CORPORATION OF THE  
CITY OF PORT COLBORNE

hereinafter called the "Corporation"

- and -

THE CONSUMERS' GAS COMPANY LTD.

hereinafter called the "Gas Company"

WHEREAS the Gas Company desires to distribute and sell gas in the Municipality upon the terms and conditions of this Agreement;

AND WHEREAS by by-law passed by the Council of the Corporation (the "By-law"), the Mayor and the Clerk have been authorized and directed to execute this Agreement on behalf of the Corporation;

THEREFORE the Corporation and the Gas Company agree as follows:

I Definitions

1. In this Agreement:

- (a) "gas" means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;
- (b) "gas system" means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the supply, transmission and distribution of gas in or through the Municipality;
- (c) "highway" means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (d) "Municipality" means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (e) "Engineer/Road Superintendent" means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation.

## II Rights Granted

### 1. To provide gas service.

The consent of the Corporation is hereby given and granted to the Gas Company to supply gas in the Municipality to the Corporation and to the inhabitants of the Municipality.

### 2. To use road allowances.

The consent of the Corporation is hereby given and granted to the Gas Company to enter upon all highways now or at any time hereafter under the jurisdiction of the Corporation and to lay, construct, maintain, replace, remove, operate and repair a gas system for the supply, distribution and transmission of gas in and through the Municipality.

### 3. Duration of Agreement and Renewal Procedures.

The rights hereby given and granted shall be for a term of twenty (20)\* years from the date of final passing of the By-law.

At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. Nothing herein stated shall preclude either party from applying to the Ontario Energy Board for a renewal of the Agreement pursuant to section 10 of the Municipal Franchises Act.

## III Conditions

### 1. Approval of Construction.

Before beginning construction of or any extension or change to the gas system (except service laterals which do not interfere with municipal works in the highway), the Gas Company shall file with the Engineer/Road Superintendent a plan, satisfactory to the Engineer/Road Superintendent, drawn to scale and of sufficient detail considering the complexity of the specific location, showing the highways in which it proposes to lay its gas system and the particular parts thereof it proposes to occupy. Geodetic information will not be required except in complex urban intersections in order to facilitate known projects, being projects which are reasonably anticipated by the Engineer/Road Superintendent. The Engineer/Road Superintendent may require sections of the gas system to be laid at a greater depth than required by CAN/CSA-Z184-M92 to facilitate known projects. The location of the work as shown on the said plan must be approved by the Engineer/Road Superintendent before the commencement of the work and the timing, terms and conditions relating to the installation of such works shall be to his satisfaction.

Notwithstanding the provisions of the above noted paragraph, in the event it is proposed to affix a part of the gas system to a bridge, viaduct or structure, the Engineer/Road Superintendent may, if the Engineer/Road Superintendent approves of such location, require special conditions or a separate agreement.

No excavation, opening or work which shall disturb or interfere with the surface of the travelled portion of any highway shall be made or done unless a permit therefor has first been obtained from the Engineer/Road Superintendent and all works shall be done to his satisfaction.

\*The rights given and granted for a first agreement shall be for a term of 20 years. The rights given and granted for any subsequent agreement shall be for a term of not more than 15 years, unless both parties agree to extend the term to a term of 20 years maximum.

The Engineer/Road Superintendent's approval, where required throughout this section, shall not be withheld unreasonably.

2. **As Built Drawings.**

The Gas Company shall not deviate from the approved location for any part of the gas system unless the prior approval of the Engineer/Road Superintendent to do so is received. After completion of the construction, where plans were initially filed, an "as built" plan of equal quality to the pre-construction plan or certification that the pre-construction plan is "as built" will be filed with the Engineer/Road Superintendent.

3. **Emergencies.**

In the event of an emergency involving the gas system, the Gas Company will proceed with the work and in any instance where prior approval of the Engineer/Road Superintendent is normally required, shall use its best efforts to immediately notify the Engineer/Road Superintendent of the location and nature of the emergency and the work being done and, if it deems appropriate, notify the police force having jurisdiction.

4. **Restoration.**

The Gas Company shall well and sufficiently restore, to the reasonable satisfaction of the Engineer/Road Superintendent, all highways, municipal works or improvements which it may excavate or interfere with in the course of laying, constructing, repairing or removing its gas system, and shall make good any settling or subsidence thereafter caused by such excavation or interference. If the Gas Company fails at any time to do any work required by this paragraph within a reasonable period of time, the Corporation may do or cause such work to be done and the Gas Company shall, on demand, pay any reasonable account therefor as certified by the Engineer/Road Superintendent.

5. **Indemnification.**

The Gas Company shall, at all times, indemnify and save harmless the Corporation from and against all claims, including costs related thereto, for all damages or injuries including death to any person or persons and for damage to any property, arising out of the Gas Company operating, constructing, and maintaining its gas system in the Municipality, or utilizing its gas system for the carriage of gas owned by others. Provided that the Gas Company shall not be required to indemnify or save harmless the Corporation from and against claims, including costs related thereto, which it may incur by reason of damages or injuries including death to any person or persons and for damage to any property, resulting from the negligence or wrongful act of the Corporation, its servants, agents or employees.

6. **Alternative Easement.**

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and to provide, if it is feasible, the Gas Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing location. In the event that such easements cannot be provided, the Corporation will share, as provided in clause III, 7 of this Agreement, in the cost of relocating or altering the gas system to facilitate continuity of gas service.

7. Pipeline Relocation.

If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.

Where any part of the gas system relocated in accordance with this section is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate, at its sole expense, such part of the gas system.

Where any part of the gas system relocated in accordance with this section is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on the basis of the total relocation costs, excluding the value of any upgrading of the gas system, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes, the total relocation costs shall be the aggregate of the following:

- (a) the amount paid to Gas Company employees up to and including field supervisors for the hours worked on the project plus the current cost of fringe benefits for these employees,
- (b) the amount paid for rental equipment while in use on the project and an amount, charged at the unit rate, for Gas Company equipment while in use on the project,
- (c) the amount paid by the Gas Company to contractors for work related to the project,
- (d) the cost to the Gas Company for materials used in connection with the project, and
- (e) a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (a), (b), (c) and (d) above.

The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company.

8. Notice to Drainage Superintendent.

In a case where the gas system may affect a municipal drain, the Gas Company shall file with the Drainage Superintendent, for purposes of the Drainage Act, or other person responsible for the drain, a copy of the plan required to be filed with the Engineer/Road Superintendent.

IV Procedural And Other Matters

1. Municipal By-laws of General Application.

This Agreement and the respective rights and obligations hereunto of the parties hereto are hereby declared to be subject to the provisions of all regulating statutes and all municipal by-laws of general application and to all orders and regulations made thereunder from time to time remaining in effect save and except by-laws which impose permit fees and by-laws which have the effect of amending this Agreement.

2. Giving Notice.

Notices may be given by delivery or by mail, and if mailed, by prepaid registered post, to the Gas Company at its head office or to the Clerk of the Corporation at its municipal offices, as the case may be.

3. Disposition of Gas System.

During the term of this Agreement, if the Gas Company abandons a part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove that part of its gas system affixed to the bridge, viaduct or structure.

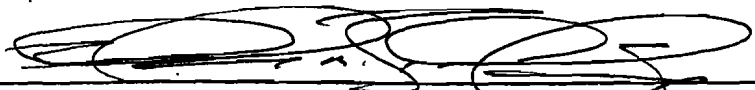
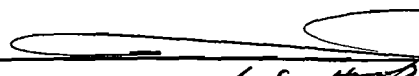
If at any time the Gas Company abandons any other part of its gas system, it shall deactivate that part of its gas system in the Municipality. Thereafter, the Gas Company shall have the right, but nothing herein contained shall require it, to remove its gas system. If the Gas Company fails to remove its gas system and the Corporation requires the removal of all or any of the gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation may remove and dispose of so much of the deactivated gas system as the Corporation may require for such purposes and neither party shall have recourse against the other for any loss, cost, expense or damage occasioned thereby.

4. Agreement Binding Parties.

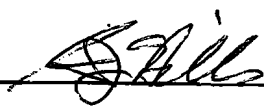
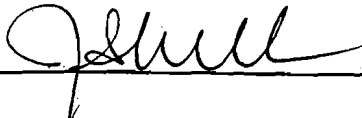
This Agreement shall extend to, benefit and bind the parties thereto, their successors and assigns, respectively.

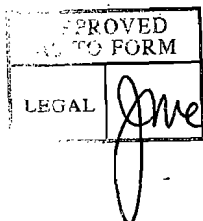
IN WITNESS WHEREOF the parties hereto have duly executed these presents with effect from the date first above written.

THE CORPORATION OF THE CITY OF PORT COLBORNE

  
\_\_\_\_\_  
Mayor  
  
\_\_\_\_\_  
Clerk

THE CONSUMERS' GAS COMPANY LTD.

  
\_\_\_\_\_  
G. J. Hills  
Senior Vice-President  
Administration  
and Corporate Secretary  
  
\_\_\_\_\_  
J.S. Williamson  
Senior Legal Counsel and  
Assistant Corporate Secretary



DATED

AUGUST 18

1998

THE CORPORATION OF THE  
CITY OF PORT COLBORNE

- and -

THE CONSUMERS' GAS COMPANY LTD.

FRANCHISE AGREEMENT

THE CONSUMERS' GAS COMPANY LTD.  
Atira III, Suite 1100  
2225 Sheppard Avenue East  
North York, Ontario  
M2J 5C2

Attention: Legal Department



**The Municipal Corporation of the  
Town of Fort Erie  
BY-LAW NO. 164-2002**

---

**BEING A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT  
BETWEEN THE TOWN OF FORT ERIE AND  
ENBRIDGE GAS DISTRIBUTION INC.**

---

**WHEREAS** the Municipal Council of the Town of Fort Erie deems it expedient to enter into a renewed Franchise Agreement with Enbridge Gas Distribution Inc. in the form of Schedule "A" annexed hereto, and

**WHEREAS** the Ontario Energy Board by its Order issued pursuant to the *Municipal Franchises Act* on the 28<sup>th</sup> day of August, 2002 has approved the terms and conditions upon which and the period for which the franchise provided for in the agreement annexed hereto as Schedule "A" is proposed to be granted, and has declared and directed that the assent of the municipal electors in respect of this by-law is not necessary;

**NOW THEREFORE** the Municipal Council of The Corporation of the Town of Fort Erie hereby enacts as follows:

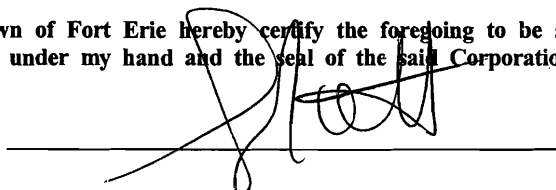
1. **THAT** the entry into the Franchise Agreement between the Town of Fort Erie and Enbridge Gas Distribution Inc. annexed hereto as Schedule "A" be and it is hereby authorized and approved and the franchise provided for therein is hereby granted.
2. **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute the Franchise Agreement annexed hereto to this by-law as Schedule "A" and affix the corporate seal thereto.
3. **THAT** By-law No. 452-75 be and it is hereby repealed insofar as it applies to any area within the present geographic limits of the Town of Fort Erie.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 9<sup>th</sup> DAY OF SEPTEMBER, 2002.**

  
\_\_\_\_\_  
MAYOR

  
\_\_\_\_\_  
CLERK

I, the Clerk, Carolyn J. Kett, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 164-2002 of the said Town. Given under my hand and the seal of the said Corporation this day of 17<sup>th</sup> day of September, 2002

  
\_\_\_\_\_

## Model Franchise Agreement

THIS AGREEMENT effective this 26<sup>th</sup> day of September, 2002 .

BETWEEN: The Corporation of the Town of Fort Erie hereinafter called the  
"Corporation"

- and -

Enbridge Gas Distribution Inc. hereinafter called the "Gas Company"

**WHEREAS** the Gas Company desires to distribute, store and transmit gas in the Municipality upon the terms and conditions of this Agreement;

**AND WHEREAS** by by-law passed by the Council of the Corporation (the "By-law"), the duly authorized officers have been authorized and directed to execute this Agreement on behalf of the Corporation;

**THEREFORE** the Corporation and the Gas Company agree as follows:

### Part I - Definitions

1. In this Agreement:

- a. "decommissioned" and "decommissions" when used in connection with parts of the gas system, mean any parts of the gas system taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term 'abandoned' pipeline for the purposes of the Assessment Act;
- b. "Engineer/Road Superintendent" means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;
- c. "gas" means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;
- d. "gas system" means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment

as the Gas Company may require or deem desirable for the distribution, storage and transmission of gas in or through the Municipality;

- e. "highway" means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- f. "Model Franchise Agreement" means the form of agreement which the Ontario Energy Board uses as a standard when considering applications under the Municipal Franchises Act. The Model Franchise Agreement may be changed from time to time by the Ontario Energy Board;
- g. "Municipality" means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- h. "Plan" means the plan described in Paragraph 5 of this Agreement required to be filed by the Gas Company with the Engineer/Road Superintendent prior to commencement of work on the gas system; and
- i. whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires.

## **Part II - Rights Granted**

### **2. To provide gas service: \***

The consent of the Corporation is hereby given and granted to the Gas Company to distribute, store and transmit gas in and through the Municipality to the Corporation and to the inhabitants of the Municipality.

### **3. To Use Highways.**

Subject to the terms and conditions of this Agreement the consent of the corporation is hereby given and granted to the Gas Company to enter upon all highways now or at any time hereafter under the jurisdiction of the

Corporation and to lay, construct, maintain, replace, remove, operate and repair a gas system for the distribution, storage and transmission of gas in and through the Municipality.

4. Duration of Agreement and Renewal Procedures.

- a. If the Corporation has not previously received gas distribution services, the rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law.

or

- b. If the Corporation has previously received gas distribution services, the rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law provided that, if during the 20-year term this agreement, the Model Franchise Agreement is changed, then on the 7th anniversary and on the 14th anniversary of the date of the passing of the By-law, this Agreement shall be deemed to be amended to incorporate any changes in the Model Franchise Agreement in effect on such anniversary dates. Such deemed amendments shall not apply to alter the 20-year term.
- c. At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. This shall not preclude either party from applying to the Ontario Energy Board for a renewal of the Agreement pursuant to section 10 of the Municipal Franchises Act.

**Part III - Conditions**

5. Approval of Construction

- a. The Gas Company shall not undertake any excavation, opening or work which will disturb or interfere with the surface of the travelled portion of any highway unless a permit therefor has first been obtained from the Engineer/Road Superintendent and all work done by the Gas Company shall be to his satisfaction.

- b. Prior to the commencement of work on the gas system, or any extensions or changes to it (except service laterals which do not interfere with municipal works in the highway), the Gas Company shall file with the Engineer/Road Superintendent a Plan, satisfactory to the Engineer/Road Superintendent, drawn to scale and of sufficient detail considering the complexity of the specific locations involved, showing the highways in which it proposes to lay its gas system and the particular parts thereof it proposes to occupy.
- c. The Plan filed by the Gas Company shall include geodetic information for a particular location:
  - i. where circumstances are complex, in order to facilitate known projects, including projects which are reasonably anticipated by the Engineer/Road Superintendent, or
  - ii. when requested, where the Corporation has geodetic information for its own services and all others at the same location.
- d. The Engineer/Road Superintendent may require sections of the gas system to be laid at greater depth than required by the latest CSA standard for gas pipeline systems to facilitate known projects or to correct known highway deficiencies.
- e. Prior to the commencement of work on the gas system, the Engineer/Road Superintendent must approve the location of the work as shown on the Plan filed by the Gas Company, the timing of the work and any terms and conditions relating to the installation of the work.
- f. In addition to the requirements of this Agreement, if the Gas Company proposes to affix any part of the gas system to a bridge, viaduct or other structure, if the Engineer/Road Superintendent approves this proposal, he may require the Gas Company to comply with special conditions or to enter into a separate agreement as a condition of the approval of this part of the construction of the gas system.
- g. Where the gas system may affect a municipal drain, the Gas Company shall also file a copy of the Plan with the Corporation's Drainage Superintendent for purposes of the Drainage Act, or such other person designated by the Corporation as responsible for the drain.
- h. The Gas Company shall not deviate from the approved location for any part of the gas system unless the prior approval of the Engineer/Road Superintendent to do so is received.

i. The Engineer/Road Superintendent's approval, where required throughout this Paragraph, shall not be unreasonably withheld.

j. The approval of the Engineer/Road Superintendent is not a representation or warranty as to the state of repair of the highway or the suitability of the highway for the gas system.

#### 6. As Built Drawings

The Gas Company shall, within six months of completing the installation of any part of the gas system, provide two copies of "as built" drawings to the Engineer/Road Superintendent. These drawings must be sufficient to accurately establish the location, depth (measurement between the top of the gas system and the ground surface at the time of installation) and distance of the gas system. The "as built" drawings shall be of the same quality as the Plan and, if the approved pre-construction plan included elevations that were geodetically referenced, the "as built" drawings shall similarly include elevations that are geodetically referenced. Upon the request of the Engineer/Road Superintendent, the Gas Company shall provide one copy of the drawings in an electronic format and one copy as a hard copy drawing.

#### 7. Emergencies

In the event of an emergency involving the gas system, the Gas Company shall proceed with the work required to deal with the emergency, and in any instance where prior approval of the Engineer/Road Superintendent is normally required for the work, the Gas Company shall use its best efforts to immediately notify the Engineer/Road Superintendent of the location and nature of the emergency and the work being done and, if it deems appropriate, notify the police force, fire or other emergency services having jurisdiction. The Gas Company shall provide the Engineer/Road Superintendent with at least one 24 hour emergency contact for the Gas Company and shall ensure the contacts are current.

#### 8. Restoration

The Gas Company shall well and sufficiently restore, to the reasonable satisfaction of the Engineer/Road Superintendent, all highways, municipal works or improvements which it may excavate or interfere with in the course of laying, constructing, repairing or removing its gas system, and shall make good any settling or subsidence thereafter caused by such excavation or interference. If the Gas Company fails at any time to do any work required by this Paragraph within a reasonable period of time, the Corporation may do or cause such work to be done and the Gas Company shall, on demand,

pay the Corporation's reasonably incurred costs, as certified by the Engineer/Road Superintendent.

9. Indemnification

The Gas Company shall, at all times, indemnify and save harmless the Corporation from and against all claims, including costs related thereto, for all damages or injuries including death to any person or persons and for damage to any property, arising out of the Gas Company operating, constructing, and maintaining its gas system in the Municipality, or utilizing its gas system for the carriage of gas owned by others. Provided that the Gas Company shall not be required to indemnify or save harmless the Corporation from and against claims, including costs related thereto, which it may incur by reason of damages or injuries including death to any person or persons and for damage to any property, resulting from the negligence or wrongful act of the Corporation, its servants, agents or employees.

10. Insurance

- a. The Gas Company shall maintain Comprehensive General Liability Insurance in sufficient amount and description as shall protect the Gas Company and the Corporation from claims for which the Gas Company is obliged to indemnify the Corporation under Paragraph 9. The insurance policy shall identify the Corporation as an additional named insured, but only with respect to the operation of the named insured (the Gas Company). The insurance policy shall not lapse or be cancelled without sixty (60) days' prior written notice to the Corporation by the Gas Company.
- b. The issuance of an insurance policy as provided in this Paragraph shall not be construed as relieving the Gas Company of liability not covered by such insurance or in excess of the policy limits of such insurance.
- c. Upon request by the Corporation, the Gas Company shall confirm that premiums for such insurance have been paid and that such insurance is in full force and effect.

11. Alternative Easement

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and, if is feasible, to provide the Gas Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing

location. In the event that such easements cannot be provided, the Corporation and the Gas Company shall share the cost of relocating or altering the gas system to facilitate continuity of gas service, as provided for in Paragraph 12 of this Agreement.

## 12. Pipeline Relocation

- a. If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.
- b. Where any part of the gas system relocated in accordance with this Paragraph is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate that part of the gas system at its sole expense.
- c. Where any part of the gas system relocated in accordance with this Paragraph is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on the basis of the total relocation costs, excluding the value of any upgrading of the gas system, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes, the total relocation costs shall be the aggregate of the following:
  - i. the amount paid to Gas Company employees up to and including field supervisors for the hours worked on the project plus the current cost of fringe benefits for these employees,
  - ii. the amount paid for rental equipment while in use on the project and an amount, charged at the unit rate, for Gas Company equipment while in use on the project,
  - iii. the amount paid by the Gas Company to contractors for work related to the project,
  - iv. the cost to the Gas Company for materials used in connection with the project, and
  - v. a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (i), (ii), (iii) and (iv) above.

- d. The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company, except where the part of the gas system required to be moved is located in an unassumed road or in an unopened road allowance and the Corporation has not approved its location, in which case the Gas Company shall pay 100% of the relocation costs.

#### **Part IV - Procedural And Other Matters**

##### **13. Municipal By-laws of General Application**

The Agreement is subject to the provisions of all regulating statutes and all municipal by-laws of general application, except by-laws which have the effect of amending this Agreement.

##### **14. Giving Notice**

Notices may be delivered to, sent by facsimile or mailed by prepaid registered post to the Gas Company at its head office or to the authorized officers of the Corporation at its municipal offices, as the case may be.

##### **15. Disposition of Gas System**

- a. If the Gas Company decommissions part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove the part of its gas system affixed to the bridge, viaduct or structure.
- b. If the Gas Company decommissions any other part of its gas system, it shall have the right, but is not required, to remove that part of its gas system. It may exercise its right to remove the decommissioned parts of its gas system by giving notice of its intention to do so by filing a Plan as required by Paragraph 5 of this Agreement for approval by the Engineer/Road Superintendent. If the Gas Company does not remove the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation may remove and dispose of so much of the decommissioned gas system as the Corporation may require for such purposes and neither party shall have recourse against the other for any loss, cost, expense or damage occasioned thereby. If the Gas Company has not removed the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or

improving a highway or in order to facilitate the construction of utility or other works in a highway, the Gas Company may elect to relocate the decommissioned gas system and in that event Paragraph 12 applies to the cost of relocation.

16. Use of Decommissioned Gas System

- a. The Gas Company shall provide promptly to the Corporation, to the extent such information is known:
  - i. the names and addresses of all third parties who use decommissioned parts of the gas system for purposes other than the transmission or distribution of gas; and
  - ii. the location of all proposed and existing decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas.
- b. The Gas Company may allow a third party to use a decommissioned part of the gas system for purposes other than the transmission or distribution of gas and may charge a fee for that third party use, provided
  - i. the third party has entered into a municipal access agreement with the Corporation; and
  - ii. the Gas Company does not charge a fee for the third party's right of access to the highways.
- c. Decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas are not subject to the provisions of this Agreement. For decommissioned parts of the gas system used for purposes other than the transmission and distribution of gas, issues such as relocation costs will be governed by the relevant municipal access agreement.

17. Franchise Handbook

The Parties acknowledge that operating decisions sometimes require a greater level of detail than that which is appropriately included in this Agreement. The Parties agree to look for guidance on such matters to the Franchise Handbook prepared by the Association of Municipalities of Ontario and the gas utility companies, as may be amended from time to time.

18. Agreement Binding Parties


This Agreement shall extend to, benefit and bind the parties thereto, their successors and assigns, respectively.


IN WITNESS WHEREOF the parties have executed this Agreement effective from the date written above.

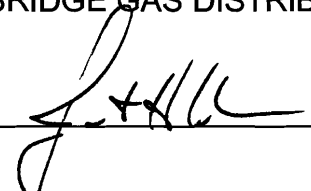
THE CORPORATION OF THE TOWN OF FORT ERIE

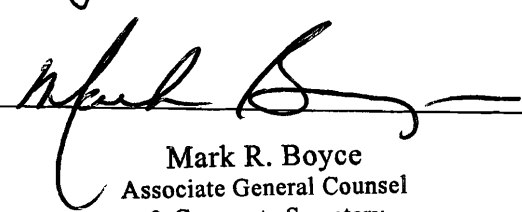
By:   
Mayor

By:   
Clerk  
Duly Authorized Officer

 THE ENBRIDGE GAS DISTRIBUTION INC.

APPROVED AS TO FORM	
LEGAL	

By:  JANET HOLDER  
VICE PRESIDENT  
OPERATIONS

By:   
Mark R. Boyce  
Associate General Counsel  
& Corporate Secretary

**INTEREST/ESTATE TRANSFERRED**

(1) The Transferors hereby transfer, sell, grant and convey in perpetuity to the Transferee its successors and assigns, a free and unencumbered easement in, over, upon, under and/or through the lands described herein, hereafter referred to as the Easement Lands, to survey, lay, construct, install, operate, use, inspect, remove, renew, replace, alter, enlarge, reconstruct, repair, expand and maintain pipelines and all works, appurtenances, attachments, apparatus, appliances, markers, fixtures and equipment (hereinafter collectively referred to as "Works") which the Transferee may deem necessary or convenient thereto. This transfer of easement shall include the right of the Transferee, its successors, assigns, servants and agents to use the surface of the Easement Lands for ingress and egress on foot and/or with vehicles, supplies, machinery and equipment at any time and from time to time.

(2) The Transferee shall have the right at any time and from time to time to remove any boulder or rock and to sever, fell, remove or control the growth of any roots, trees, stumps, brush or other vegetation on or under the Easement Lands.

(3) The rights of the Transferee herein shall be of the same force and effect as a covenant running with the Easement Lands and shall be appurtenant to the lands and premises described in this Schedule as the Transferee's Lands.

(4) The Transferee shall have the right to assign or transfer its rights hereunder in whole or in part.

(5) This Transfer shall extend to, be binding upon and enure to the benefit of the estate trustees, successors and assigns of the parties hereto. If the Transferors are not the sole owners of the said lands, this Transfer shall bind the Transferors to the full extent of their interest therein and shall also extend to any after-acquired interest but all monies payable or paid to the Transferors hereunder shall be paid to the Transferors only in the proportion that their interest in the said lands bears to the entire interest therein. The Transferors hereby agree that all provisions herein are reasonable and valid and if any provision herein is determined to be unenforceable, in whole or in part, it shall be severable from all other provisions and shall not affect or impair the validity of all other provisions.

(6) The Transferors shall have the right to use and enjoy the surface of the Easement Lands except that such use and enjoyment shall not interfere with the rights of the Transferee hereunder. Without limiting the generality of the foregoing, the Transferors shall not, without the prior written consent of the Transferee, place or erect on the Easement Lands any building, structure or fence and shall not excavate, alter the grading, drill, install thereon any pit, well, foundation and/or pavement which will obstruct or prevent the exercise and enjoyment by the Transferee of its rights hereunder.

(7) Notwithstanding any rule of law or equity, any Works constructed by the Transferee shall be deemed to be the property of the Transferee even though the same may have become annexed or affixed to the Easement Lands.

(8) The Transferee shall at its own expense as soon as reasonably possible after the construction of any Works or other exercise of its rights hereunder, remove all surplus sub-soil and debris from the Easement Lands and restore them to their former state so far as is reasonably practicable.

(9) The Transferors covenant that

- (i) they have the right to convey the rights hereby transferred to the Transferee;
- (ii) the Transferee shall have quiet enjoyment of the rights hereby transferred;
- (iii) the Transferors or their successors and assigns will execute such further assurances and do such other acts (at the Transferee's expense) as may be reasonably required to vest in the Transferee the rights hereby transferred; and
- (iv) the Transferors have not done, omitted or permitted anything whereby the Easement Lands is or may be encumbered (except as the records of the land registry office disclose).

(10) The Transferor represents and warrants that the Easement Lands have not been used for the storage of and do not contain any toxic, hazardous, dangerous, noxious or waste substances or contaminants (collectively the "Hazardous Substances"). If the Transferee encounters any Hazardous Substances in undertaking any work on the Easement Lands, it shall give notice to the Transferor. At the expense of the Transferor, the Transferee (or, at the Transferee's option, the Transferor) shall effect the removal of such Hazardous Substances in accordance with the laws, rules and regulations of all applicable public authorities. The Transferee shall not bring any Hazardous Substances on the Easement Lands. In acquiring its interests in the Easement Lands pursuant to this Easement, the Transferee shall be deemed not to acquire the care or control of the Easement Lands or any component thereof.

(11) Whenever the singular or neuter is used it shall, where necessary, be construed as if the plural or feminine or masculine has been used and vice versa, as the case may be.

**DOMINANT TENEMENTS - TRANSFEE'S LANDS**

**PIN 64057-0029 (LT)**

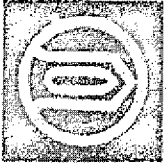
PT TWP LT 92, THLD, AS IN AA 90798 S/T & T/W AA90798; WELLAND

**PIN 04161-0019 (LT)**

PT LT 6 CON 6RF GLOUCESTER PART 1, 4R-10265 & PART 2, 5R-5963;  
GLOUCESTER

**PIN 03187-0004 (LT)**

PT W1/2 LT 30 CON 2 MARKHAM AS IN MA49406; RICHMOND HILL



THE ST. LAWRENCE SEAWAY AUTHORITY  
ADMINISTRATION DE LA VOIE MARITIME DU SAINT-LAURENT

DUPLICATE

Filed: 2011-11-29  
EB-2011-0391  
Exhibit C  
Tab 4  
Schedule 1  
Page 1 of 4

LICENCE  
PERMIS

TO  
À

THE CONSUMERS' GAS COMPANY

DATE OF AUTHORIZING ORDER IN COUNCIL: January 31, 1966, P.C. 1966-195, as  
DATE DE L'ARRÊTÉ MINISTÉRIEL: amended by P.C. 1972-983, May 9, 1972

DATE OF LICENCE:  
DATE DU PERMIS: April 16, 1975

LOCATION:  
LIEU: Welland Canal

LANDS OR RIGHTS DEMISED:  
TERRAINS OU DROITS CÉDÉS: Lay, maintain, operate and/or renew a gas main, on,  
over, under and/or across Welland Canal reserve land  
& under & across the prism of the Welland Canal  
northerly of the Townline Road/Rail Tunnel in Lots  
14 to 22, inclusive, part of the road allowances  
between Lots 14 & 15, 16 & 17, 18 & 19, 20 & 21,  
Con. 5 & part of Lot 21 in the Gore of Con. 7, & part  
of the road allowance between the former Townships of  
Humberstone & Crowland, now all in the City of Welland,  
Regional Municipality of Niagara, Province of Ontario.

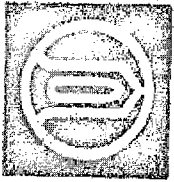
BEGINNING OF TERM:  
COMMENCEMENT DU TERME: January 1, 1975

END OF TERM:  
FIN DU TERME: During Pleasure

RENTAL:  
LOYER: \$235.00 per annum

FILE  
DOSSIER: 37-66-979

NOTES



THE ST. LAWRENCE SEAWAY AUTHORITY  
ADMINISTRATION DE LA VOIE MARITIME DU SAINT-LAURENT

Filed: 2011-11-29  
EB-2011-0391  
Exhibit C  
Tab 4  
Schedule 1  
Page 2 of 4

THIS LICENSE made the sixteenth day of April,  
one thousand nine hundred and seventy-five.

BETWEEN

THE ST. LAWRENCE SEAWAY AUTHORITY, a body corporate established pursuant to the St. Lawrence Seaway Authority Act, R.S.C. 1952, Chapter 242 and amendments thereto and herein acting and exercising its powers as an agent of Her Majesty in right of Canada, hereinafter called the "LICENSOR",

and  
THE CONSUMERS' GAS COMPANY, of the City of Toronto, in the  
Province of Ontario,

hereinafter called the "LICENSEE",

Purpose

WITNESSETH THAT PERMISSION IS HEREBY GIVEN by the Licensor to the Licensee to lay, maintain, operate and/or renew a combined 12 inch and 16 inch diameter high pressure gas main, 14,287 feet in length, more or less, on, over, under and/or across Welland Canal reserve land and under and across the prism of the Welland Canal northerly of the Townline Road/Rail Tunnel in Lots 14 to 22, inclusive, part of the road allowances between Lots 14 and 15, 16 and 17, 18 and 19, 20 and 21, Concession 5, for the former Township of Humberstone, in the County of Welland, part of Lot 21 in the Gore of Concession 7 for the former Township of Crowland, County of Welland and part of the road allowance between the said former Townships, now all in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario, the location of the said pipe being indicated margined in red on Plan No. W.C. 75-12 hereto annexed.

Term from the **first** day of **January**, 1975, during the pleasure of the Licensor.

UPON THE FOLLOWING TERMS AND CONDITIONS which the Licensee hereby accepts and agrees to abide by:--

- Rental** 1. For the permission hereby given, the Licensee shall pay the Licensor annually, in advance, the sum of **TWO HUNDRED AND THIRTY-FIVE (\$235.00) DOLLARS**
- Taxes** 2. The Licensee shall pay or cause to be paid all rates, taxes and assessments, of whatsoever description, that may be at any time during the existence of these Presents be lawfully imposed, or become due and payable, upon, or in respect of the rights and privileges herein granted.
- Compliance with law** 3. The Licensee shall in all respects abide by and comply with all lawful rules, regulations and by-laws of the Provincial Government, municipalities and other governing bodies, in any manner affecting the activity hereby permitted, and the Licensee shall not hold the Licensor responsible should the purpose of this License for any reason whatsoever not be fulfilled.
- Assignment** 4. No transfer and/or assignment of this License or of any rights hereunder shall be made by the Licensee without the written consent thereto of the Licensor.
- Control of Licensor** 5. All work connected with the activity hereby permitted shall be carried on pursuant to and in accordance with the express directions of the Licensor's Regional Director, and it shall be done in all respects to his entire satisfaction and at the sole cost and expense of the Licensee.
- Additional Improvement** 6. The Licensee shall not construct or erect any additional structures or improvements other than those already permitted herein without the approval of the Licensor's Regional Director. All such additional structures or improvements if approved, shall be constructed and thereafter maintained by and at the cost and expense of the Licensee to the entire satisfaction of the Licensor's Regional Director.
- Risk of Licensee** 7. (a) All buildings, structures, materials, supplies, effects and things, hereinafter referred as "property of the Licensee", at anytime constructed, erected, brought, placed or made upon the lands and premises of the Licensor for the purpose of the permission hereby given shall be entirely at the risk of the Licensee in respect of loss, damage, destruction or accident from whatsoever cause arising.
- (b) Any damage which may, during the existence of this License be occasioned to the property of the Licensor or any part thereof, or works connected therewith, by reason or on account of the permission hereby given, shall immediately upon notice thereof from the Licensor or its duly authorized agent, given either verbally or in writing, be repaired, rebuilt, replaced or restored by the Licensee to the entire satisfaction of the Licensor; or the Licensor may, at its option, repair such damage, in which case the Licensee shall, upon demand, forthwith repay and reimburse the Licensor for all costs and expenses connected therewith or incidental thereto.
- Indemnity** 8. The Licensee shall indemnify and save harmless the Licensor from and against all claims, demands, loss, costs and expenses, in any manner based upon, arising out of or connected with the existence of this License or anything done or maintained hereunder.
- Restriction** 9. The permission hereby given shall be exercised and work connected therewith shall be performed so as not to cause interference with the rights or privileges of any Lessee or Licensee under a Lease or another License from the Licensor.
- Cancellation** 10. (a) This License may be cancelled forthwith at any time by the Licensor by notice in writing signed by the Licensor's Regional Director and mailed addressed to the Licensee at his address mentioned in this License or to his last known place of business or residence.
- (b) This License may also be cancelled at any time by the Licensee by notice in writing mailed in a prepaid registered envelope addressed to the Licensor's Regional Director at **St. Catharines, Ontario.**

Restoration  
of Site

11. Upon cancellation of this License, the Licensee shall forthwith, under the direction of the Licensor's Regional Director, remove his property at his own cost and expense from the land and premises of the Licensor, leaving and restoring said land and premises in a neat and clean condition to the entire satisfaction of the Regional Director. In case of default of the Licensee to remove his property, said property shall be removed and the site restored by the Licensor at the expense of the Licensee or, at the option of the Licensor, said property shall become the property of and shall vest in the Licensor without any right of compensation to the Licensee therefor in either case.

Lien for  
Breach

12. The Licensor shall have a lien upon the property of the Licensee for any loss or damage arising by reason of the breach of any of the conditions or provisions hereof, or of any of the conditions or provisions of any Appendix hereto.

Previous  
License

DATED at **St. Catharines**, the day and year first above written.

SIGNED, SEALED AND  
DELIVERED by the  
LICENSEE in the presence of

THE CONSUMERS' GAS COMPANY

APPROVED  
 LAND DEPT.  
 VICE-REG. AGENT  
 William  
 AGENT

Witness

SIGNED, SEALED AND  
DELIVERED by the  
LICENSOR in the presence of

THE ST. LAWRENCE SEAWAY AUTHORITY

Director, Western Region

Witness



The St. Lawrence  
Seaway Management  
Corporation

Corporation de Gestion  
de la Voie Maritime  
du Saint-Laurent

Filed: 2011-11-29  
EB-2011-0391  
Exhibit C  
Tab 4  
Schedule 2  
Page 1 of 4

N° 66-1507

LICENSE

TO

ENBRIDGE GAS DISTRIBUTION INC.

P. O. Box 650  
Land Department L-8174  
Scarborough, Ontario  
M1K 5E3

L-8174

---

Date of License:	November 16, 2005
Location:	Welland Canal
Lands or Rights Demised:	Lay, maintain, operate and/or renew a combined 12 inch and 16 inch diameter high pressure gas main, 9,025.78 feet in length, more or less, between Lots 14 and 15, 16 and 17, 19 and 19, 20 and 21, Concession 5, in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario.
Beginning of Term:	Date of signature
End of Term:	During pleasure
Fee:	\$1,505.00 per annum, plus applicable tax
File :	37-66-1507/001

---

\* CONTAINS ALL OR MOST OF LANDS SOLD TO  
CANADA LANDS WHO IN TURN SOLD TO PRIVATE  
PARTIES. \*



The St. Lawrence  
Seaway Management  
Corporation

Corporation de Gestion  
de la Voie Maritime  
du Saint-Laurent

LICENSE 66-1507 made this 11 day of JANUARY two thousand and <sup>SEVEN</sup>~~five~~<sub>06</sub>

**BETWEEN** **HER MAJESTY THE QUEEN IN RIGHT OF CANADA** represented by the Minister of Transport, (hereinafter called "**LICENSOR**"),

**AND** **ENBRIDGE GAS DISTRIBUTION INC.**  
P. O. Box 650  
Land Department L-8174  
Scarborough, Ontario M1K 5E3

(hereinafter called "**LICENSEE**"),

**PURPOSE**

**WITNESSETH** that permission is hereby given by the Licensor to the Licensee the right to lay, maintain, operate and/or renew a combined 12 inch and 16 inch diameter high pressure gas main, 9,025.78 feet in length, more or less, on, over, under Welland Canal reserve land northerly of the Townline Road/Rail Tunnel in Lots 14 to 22, inclusive, part of the road allowances between Lots 14 and 15, 16 and 17, 19 and 19, 20 and 21, Concession 5, for the former Township of Humberstone, in the County of Welland and part of the road allowance between the said former Townships, now all in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario. The location of the said land being indicated by a coloured in red on Plan no. 66-1507 dated October 12, 2005.

**WHEREAS** The St. Lawrence Seaway Authority (hereinafter called "Authority") transferred its rights, title and interest in the premises to the Licensor on October 1, 1998 pursuant to a directive of the Minister of Transport in accordance with subsection 80(1) of the Canada Marine Act.

**WHEREAS** the Licensor in a Managed Asset Agreement entered into on September 30, 1998 between the Licensor, the Authority and The St. Lawrence Seaway Management Corporation (hereinafter called "Corporation") agreed that the Corporation may enter into agreements pertaining to the Premises in accordance with authorizations and directives provided by the Licensor to the Corporation.

**WHEREAS** the Licensor authorized and directed the Corporation to name an officer to be accountable for establishing real property procedures and practices and to sign, seal and deliver agreements pertaining to the Premises.

**WHEREAS** the Corporation has authorized and directed its Chief, Administrative Services to be accountable for establishing real property procedures and practices and to sign, seal and deliver leases and licenses and ancillary documents pertaining to the Premises.

**WHEREAS** the Licensor, due to internal administrative changes, wishes to create the said License.

**IT IS THEREFORE** agreed, between the Licensor and the Licensee that the Licensor is putting forth the said License which will restore the modified clauses in the License 66-979:

**TERM**

From the date of signature, during pleasure of the Licensor.

**UPON THE FOLLOWING TERMS AND CONDITIONS** which the Licensee hereby accepts and agrees to abide by:

**RENTAL**

1.1 For the permission hereby given, the Licensee shall pay the Licensor annually, in advance, the sum

one thousand five hundred and five dollars (\$1,505.00), plus applicable tax

## **TAXES**

2.1 The Licensee shall pay or cause to be paid all rates, taxes and assessments, of whatsoever description, that may at any time during the existence of these Presents be lawfully imposed, or become due and payable, upon, or in respect of the rights and privileges herein granted.

## **COMPLIANCE WITH LAW**

3.1 The Licensee shall in all respects abide by and comply with all lawful rules, regulations and by-laws of the Provincial Government, municipalities and other governing bodies, in any manner affecting the activity hereby permitted, and the Licensee shall not hold the Licensor responsible should the purpose of this License for any reason whatsoever not be fulfilled.

## **ASSIGNMENT**

4.1 No transfer and/or assignment of this License or of any rights hereunder shall be made by the Licensee without the written consent thereto of the Licensor.

## **CONTROL OF LICENSOR**

5.1 All work connected with the activity hereby permitted shall be carried on pursuant to and in accordance with the express directions of the Licensor's Regional Director, and it shall be done in all respects to his entire satisfaction and at the sole cost and expense of the Licensee.

## **ADDITIONAL IMPROVEMENT**

6.1 The Licensee shall not construct or erect any additional structures or improvements other than those already permitted herein without the approval of the Licensor's Regional Director. All such additional structures or improvements if approved shall be constructed and thereafter maintained by and at the cost and expenses of the Licensee to the entire satisfaction of the Licensor's Regional Director.

## **RISK OF LICENSEE**

7.1 (a) All buildings, structures, materials, supplies, effects and things, hereinafter referred as "property of the Licensee", at anytime constructed, erected, brought, placed or made upon the lands and premises of the Licensor for the purpose of the permission hereby given shall be entirely at the risk of the Licensee in respect of loss, damage, destruction or accident from whatsoever cause arising.

7.1 (b) Any damage which may, during the existence of this License be occasioned to the property of the Licensor or any part thereof, or works connected therewith, by reason or on account of the permission hereby given, shall immediately upon notice thereof from the Licensor or its duly authorized agent, given either verbally or in writing, be repaired, rebuilt, replaced or restored by the Licensee to the entire satisfaction of the Licensor; or the Licensor may, at its option, repair such damage, in which case the Licensee shall, upon demand, forthwith repay and reimburse the Licensor for all costs and expenses connected therewith or incidental thereto.

## **INDEMNITY**

8.1 The Licensee shall indemnify and save harmless the Licensor from and against all claims, demands, loss, costs and expenses, in any manner based upon, rising out of or connected with the existence of this License or anything done or maintained hereunder.

## **RESTRICTION**

9.1 The permission hereby given shall be exercised and work connected therewith shall be performed so as not to cause interference with the rights or privileges of any Lessee or Licensee under a Lease or another License from the Licensor.

## CANCELLATION

10.1 (a) This License may be cancelled forthwith at any time by the Licensor by notice in writing signed by the Licensor's regional Director and mailed addressed to the Licensee at his address mentioned in this License or to his last know place of business or residence.

10.1 (b) This License may also be cancelled at any time by the Licensee by notice in writing mailed in a prepaid registered envelope addressed to the Licensor's Regional Director at St. Catharines, Ontario.

## RESTORATION OF SITE

11.1 Upon cancellation of this License, the Licensee shall forthwith, under the direction of the Licensor's Regional Director, remove his property at his own cost and expense from the land and premises of the Licensor, leaving and restoring said land and premises in a neat and clean condition to the entire satisfaction of the Regional Director. In case of default of the Licensee to remove his property, said property shall be removed and the site restored by the Licensor at the expense of the Licensee or, at the option of the Licensor, said property shall become the property of and shall vest in the Licensor without any right of compensation to the Licensee therefore in either case.

## LIEN FOR BREACH

12.1 The Licensor shall have a lien upon the property of the Licensee for any loss or damage arising by reason of the breach of any of the conditions or provisions hereof, or of any of the conditions or provisions of any Appendix hereto.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals.

SIGNED, SEALED AND

Enbridge Gas Distribution Inc.

DELIVERED by the  
LICENSEE in the presence of:

~~Witness~~

Signature

ROBERT MILNE  
Manager, Distribution Planning

Title

~~Witness~~

Signature

APPROVED  
LAND DEPT.

Title

WILLIAM J. BOLDUCQ  
Manager, Land Services

WE HAVE AUTHORITY TO BIND THE CORPORATION

SIGNED AND DELIVERED  
by the LICENSOR  
in the presence of:

Her Majesty the Queen in Right of Canada  
represented by the Minister of Transport

Witness

Pierre Cécile  
The Corporation's Chief, Administrative Services  
Pierre Cécile, Manager, Revenue & Forecast



Corporation de Gestion  
de la Voie Maritime  
du Saint-Laurent

The St. Lawrence  
Seaway Management  
Corporation

Filed: 2011-11-29  
EB-2011-0391  
Exhibit C  
Tab 4  
Schedule 3  
Page 1 of 3

N° 66-979

L-8174

**SUPPLEMENTAL AGREEMENT**

TO

**ENBRIDGE GAS DISTRIBUTION INC.**

P. O. Box 650  
Land Department L-8174  
Scarborough, Ontario  
M1K 5E3

---

<b>Date of License:</b>	November 16, 2005
<b>Location:</b>	Welland Canal
<b>Lands or Rights Demised:</b>	Lay, maintain, operate and/or renew an 12 inch and 16 inch diameter high pressure gas main, 5,110.13 feet in length, more or less, in Lots 19 and 20, inclusive, part of the road allowances between Lots 19 and 20, Concession 5, in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario.
<b>File :</b>	37-66-0979/001

---

\* CONTAINS REMAINDER OF LANDS NOT SOLD



Corporation de Gestion  
de la Voie Maritime  
du Saint-Laurent

The St. Lawrence  
Seaway Management  
Corporation

THIS SUPPLEMENTAL AGREEMENT to 66-979 made this 11 day of JANUARY  
two thousand and ~~five~~ <sup>SEVEN</sup> <sub>02</sub>

**BETWEEN** HER MAJESTY THE QUEEN IN RIGHT OF CANADA represented by  
the Minister of Transport, (hereinafter called "LICENSOR"),

**AND** ENBRIDGE GAS DISTRIBUTION INC.  
P. O. Box 650  
Land Department L-8174  
Scarborough, Ontario M1K 5E3

(hereinafter called "LICENSEE"),

WHEREAS by License No. 66-979, dated April 16, 1975 the St. Lawrence Seaway Authority (hereinafter called "Authority") granted to the Consumers Gas Company, the right to lay, maintain, operate and/or renew a combined 12 inch and 16 inch diameter high pressure gas main, 14,287 feet in length, more or less, on, over, under and/or across Welland Canal reserve land and under and across the prism of the Welland Canal northerly of the Townline Road/Rail Tunnel in Lots 14 to 22, inclusive, part of the road allowances between Lots 14 and 15, 16 and 17, 18 and 19, 20 and 21, Concession 5, for the former Township of Humberstone, in the Township of Crowland, County of Welland and part of the road allowance between the said former Townships, now all in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario; said license being granted on a "during pleasure" basis, commencing on the first day of January 1975, at an annual rental of \$235.00 and subject to cancellation forthwith at any time by either party by notice in writing, as more fully described in the said License;

WHEREAS by Supplemental Agreement dated October 21, 1981, the name of the Licensee was changed to The Consumers' Gas Company Ltd. and the annual rental was revised to \$425.00 effective January 1, 1982;

WHEREAS the Licensee has requested that the rental herein be made effective as of November 1, 1983;

WHEREAS by Supplemental Agreement dated February 6, 1984, the annual rental was changed to \$354.16 effective as of November 1, 1983 and \$425.00 effective as of November 1, 1984;

WHEREAS by Supplemental Agreement dated August 31, 1988, the annual rental was increased to \$510.00 effective as of November 1, 1988

WHEREAS by Supplemental Agreement dated December 2, 1991, the annual rental was increased to \$2,065.00 effective as of November 1, 1991 due to a reappraisal of the land involved;

WHEREAS by Supplemental Agreement dated December 11, 1997, the indexing clause was added, effective November 1, 1998;

WHEREAS by Supplemental Agreement dated September 20, 2001, the Indemnity clause was amended, effective October 11, 2001;

WHEREAS by letter, the Consumers' Gas Company Ltd. changed its legal name to Enbridge Gas Distribution Inc. effective July 25<sup>th</sup>, 2002 without affecting the ownership, operation or control of the company;

WHEREAS the Authority transferred its rights, title and interest in the premises to the Licensor on October 1, 1998 pursuant to a directive of the Minister of Transport in accordance with subsection 80(1) of the Canada Marine Act.

WHEREAS the Licensor in a Managed Asset Agreement entered into on September 30, 1998 between the Licensor, the Authority and the St. Lawrence Seaway Management Corporation (hereinafter called "Corporation") agreed that the Corporation may

enter into agreements pertaining to the premises in accordance with authorizations and directives provided by the Lessor to the Corporation.

WHEREAS the Licensors authorized and directed the Corporation to name an officer to be accountable for establishing real property procedures and practices and to sign, seal and deliver agreements pertaining to the premises.

WHEREAS the Corporation has authorized and directed its Chief, Administrative Services to be accountable for establishing real property procedures and practices and to sign, seal and deliver leases and licenses and ancillary documents pertaining to the premises.

WHEREAS the Licensors, due to internal administrative changes, wishes to modify the said License.

IT IS THEREFORE agreed, between the Licensors and the Licensee, that the said License No. 66-979 is changed as follows and that the Licensors is putting forth a new License no. 66-1507 which will restore the modified clauses:

### DESCRIPTION AND PURPOSE

Witnesseth that permission is hereby given by the Licensors to the Licensee the right to lay, maintain, operate and/or renew a combined 12 inch and 16 inch diameter high pressure gas main, 5,110.13 feet in length, more or less, on, over, under and/or across Welland Canal reserve land and under and across the prism of the Welland Canal northerly of the Townline Road/Rail Tunnel in Lots 19 and 20, inclusive, part of the road allowances between Lots 19 and 20, Concession 5, for the former Township of Humberstone, in the Township of Crowland, County of Welland and part of the road allowance between the said former Townships, now all in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario. The location of the said land being indicated by a coloured in red on Plan no. 66-979 dated October 12, 2005.


### RENTAL

For the permission hereby given, the Licensee shall pay the Licensors annually, in advance, the sum of eight hundred and fifty five dollars (\$855.00), plus applicable tax.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals.

**SIGNED, SEALED AND  
 DELIVERED** by the  
 Licensors in the presence of:

Enbridge Gas Distribution Inc.

  
 ROBERT MILNE  
 Manager, Distribution Planning  
 Witness

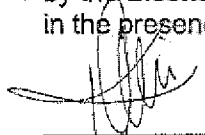
Signature and Title

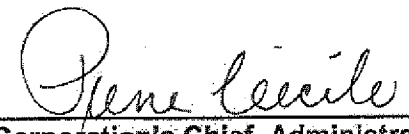
Signature & Title

WE HAVE AUTHORITY TO BIND THE CORPORATION

**SIGNED AND DELIVERED**  
 by the Licensee  
 in the presence of:

Her Majesty the Queen in Right of Canada  
 represented by the Minister of Transport

  
 Witness

  
 the Corporation's Chief, Administrative  
 Services / Pierre Cécile, Manager, Revenue Forecast



THE ST. LAWRENCE SEAWAY AUTHORITY  
L'ADMINISTRATION DE LA VOIE MARITIME DU SAINT-LAURENT

LICENSE  
PERMIS

L-11019

TO  
À

THE CONSUMERS' GAS COMPANY LTD.

DATE OF LICENSE: August 27, 1986  
DATE DU PERMIS: .....  
LOCATION: Welland Canal  
LIEU: .....  
LANDS OR RIGHTS DEMISED:  
TERRAINS OU DROITS CÉDÉS: A 12' dia. gas main, 1360 feet in length, on Lot No. 22,  
Conc. No. 5, former Twp. of Humberstone, and the Gore of  
Lots 26 and 27, former Twp. of Crowland, City of Welland.  
BEGINNING OF TERM:  
COMMENCEMENT DU TERME: November 1, 1986  
END OF TERM:  
FIN DU TERME: During pleasure  
FEE:  
FRAIS: \$205.00 per annum effective November 1, 1986  
FILE:  
DOSSIER: 37-66-1279

NOTES

This License CANCELS AND SUPERSEDES License No. 37-66-1042 dated August 16, 1977.



THE ST. LAWRENCE SEAWAY AUTHORITY

L'ADMINISTRATION DE LA VOIE MARITIME DU SAINT-LAURENT

THIS LICENSE made the 1st day of November

one thousand nine hundred and eighty six

BETWEEN

THE ST. LAWRENCE SEAWAY AUTHORITY, a body corporate established pursuant to the St. Lawrence Seaway Authority Act and herein acting and exercising its powers as an agent of Her Majesty in right of Canada, hereinafter called "LICENSOR",

and

THE CONSUMERS' GAS COMPANY LTD., of the City of Toronto,  
Province of Ontario.

hereinafter called "LICENSEE",

**Purpose**

WITNESSETH that permission is hereby given by the Licensor to the Licensee to the right to lay, maintain, operate, and/or renew a twelve (12) inch diameter gas main, 1360 feet in length more or less, on, over and/or across Welland Canal reserve land in Lot No. 22, Concession No. 5 for the former Township of Humberstone and the Gore of Lots 26 and 27 for the former Township of Crowland, in the County of Welland, now in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario; the location of the said gas main being indicated by a dotted red line on Plan No. W.C. 77-13 hereto annexed as revised on July 14, 1986.

Term from the 1st day of November 1986, during pleasure.

UPON THE FOLLOWING TERMS AND CONDITIONS which the Licensee hereby accepts and agrees to abide by:—

Fee 1. For the permission hereby given, the Licensee shall pay the Licensor annually, in advance, the sum of TWO HUNDRED AND FIVE (\$205.00) DOLLARS-----

Taxes 2. The Licensee shall pay or cause to be paid all rates, taxes and assessments, of whatsoever description, that may at any time during the existence of these Presents be lawfully imposed, or become due and payable, upon, or in respect of the rights and privileges herein granted.

Compliance with Law 3. The Licensee shall in all respects abide by and comply with all lawful rules, regulations and by-laws of the Provincial Government, municipalities and other governing bodies, in any manner affecting the activity hereby permitted, and the Licensee shall not hold the Licensor responsible should the purpose of this License for any reason whatsoever not be fulfilled.

Assignment 4. No transfer and/or assignment of this License or of any rights hereunder shall be made by the Licensee without the written consent thereto of the Licensor.

Control of Licensor 5. All work connected with the activity hereby permitted shall be carried on pursuant to and in accordance with the express directions of the Licensor and it shall be done in all respects to his entire satisfaction and at the sole cost and expense of the Licensee.

Additional Improvement 6. The Licensee shall not construct or erect any additional structure or improvement other than those already permitted herein without the approval of the Licensor. All such additional structure or improvement if approved, shall be constructed and thereafter maintained by and at the cost and expense of the Licensee to the entire satisfaction of the Licensor.

Risk of Licensee 7.1 All buildings, structures, materials, supplies, effects and things, hereinafter referred as "property of the Licensee", at anytime constructed, erected, brought, placed or made upon the lands and premises of the Licensor for the purpose of the permission hereby given shall be entirely at the risk of the Licensee in respect of loss, damage, destruction or accident from whatsoever cause arising.

7.2 Any damage which may, during the existence of this License be occasioned to the property of the Licensor or any part thereof, or works connected therewith, by reason or on account of the permission hereby given, shall immediately upon notice thereof from the Licensor or its duly authorized agent, given either verbally or in writing, be repaired, rebuilt, replaced or restored by the Licensee to the entire satisfaction of the Licensor; or the Licensor may, at its option, repair such damage, in which case the Licensee shall, upon demand, forthwith repay and reimburse the Licensor for all costs and expenses connected therewith or incidental thereto.

Indemnity 8. The Licensee shall indemnify and save harmless the Licensor from and against all claims, demands, loss, costs and expenses, in any manner based upon, arising out of or connected with the existence of this License or anything done or maintained hereunder.

Restriction 9. The permission hereby given shall be exercised and work connected therewith shall be performed so as not to cause interference with the rights or privileges of any Lessee or Licensee under a Lease or another License from the Licensor.

Cancellation \* 10.1 This License may be cancelled forthwith at any time by the Licensor by notice in writing to the Licensee.

\* 10.2 This License may also be cancelled at any time by the Licensee by notice in writing to the Licensor.

**Restoration  
of Site**

11. Upon cancellation of this License, the Licensee shall forthwith, under the direction of the Licensor remove his property at his own cost and expense from the land and premises of the Licensor, leaving and restoring said land and premises in a neat and clean condition to the entire satisfaction of the Licensor. In case of default of the Licensee to remove his property, said property shall be removed and the site restored by the Licensor at the expense of the Licensee or, at the option of the Licensor, said property shall become the property of and shall vest in the Licensor without any right of compensation to the Licensee therefor in either case.

**Lien for  
Breach**

12. The Licensor shall have a lien upon the property of the Licensee for any loss or damage arising by reason of the breach of any of the conditions or provisions hereof, or of any of the conditions or provisions of any Appendix hereto.

**Liability  
Insurance**

13. The Licensee shall, at his own expense, maintain a public liability insurance contract having a minimum limit of one hundred thousand dollars (\$100,000) in respect of the land and premises of the Licensor that are connected with the permission hereby given with insurance companies approved by the Licensor. All insurance contracts maintained by the Licensee pursuant to this License shall name both the Licensee and the Licensor as Insured and shall provide that the proceeds thereof are payable to the Licensor. All such insurance contracts shall stipulate that the insurance afforded is to apply separately to each Insured against whom a claim is made or a suit is brought, in the same manner and to the same extent as though individual policies had been issued to each, except with respect to the limit of liability. The Licensee shall obtain and deliver to the Licensor the originals or certified true copies of all insurance contracts maintained by the Licensee pursuant to this License, and the Licensee shall, when required by the Licensor, submit proof satisfactory to the Licensor that the insurance contracts are in force.

**Notices**

14. All notices permitted or required hereunder shall be sufficiently given:

14.1 To the Licensor, if signed by or on behalf of the Licensee by the authorized officers and delivered to or mailed by prepaid registered or certified post and addressed to the Licensor at

The St. Lawrence Seaway Authority  
P. O. Box 370  
St. Catharines, Ontario  
L2R 6V8

14.2 To the Licensee, if signed by or on behalf of the Licensor by the authorized officers and delivered to or mailed by prepaid registered or certified post and addressed to the Licensee at

The Consumers' Gas Company Ltd.  
P. O. Box 650  
Scarborough, Ontario  
M1K 5E3


and all such notices shall be deemed to have been received on the date of delivery, or if mailed then on the date following the date of mailing.

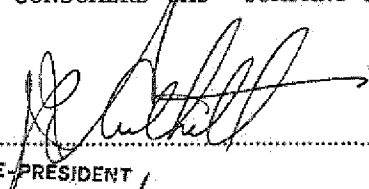
15. This License CANCELS AND SUPERSEDES Licens No. 37-66-1042 dated August 16, 1977.

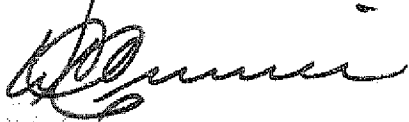
IN WITNESS WHEREOF the Parties hereto have executed these Presents the day and year first above written.

SIGNED, SEALED AND  
DELIVERED by the  
LICENSEE in the presence of:

THE CONSUMERS GAS' COMPANY LTD.

APPROVED  
  
LAND DEPT.  
CONSUMERS' GAS


  
VICE-PRESIDENT

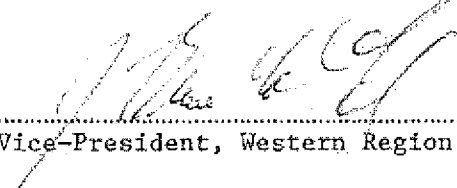
  
SECRETARY

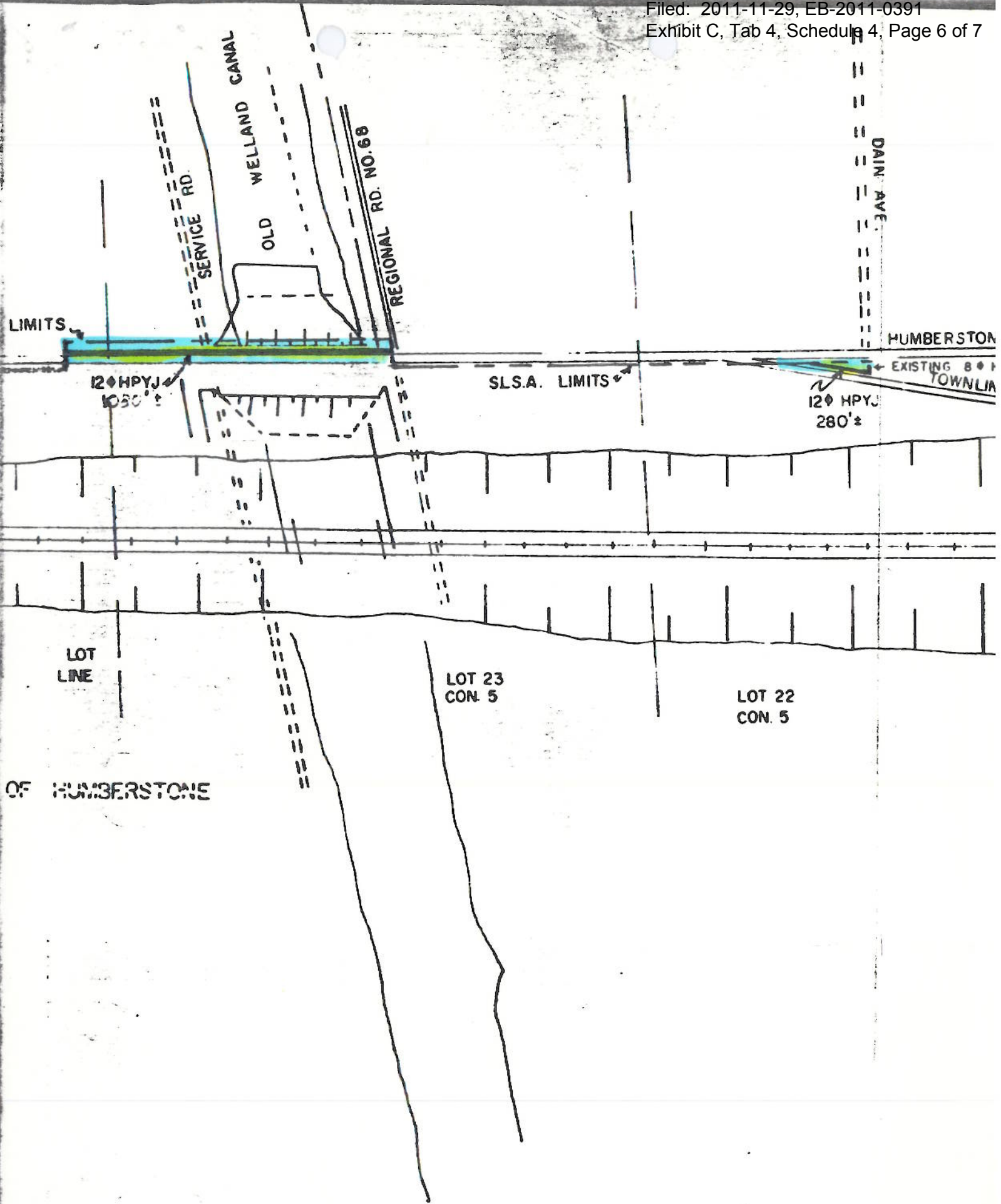
Witness

SIGNED, SEALED AND  
DELIVERED by the  
LICENSOR in the presence of:

THE ST. LAWRENCE SEAWAY AUTHORITY

  
Witness

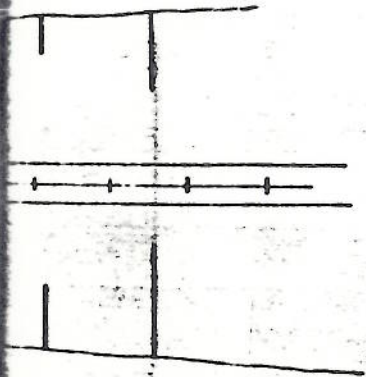
  
Vice-President, Western Region.





HUMBERSTONE RD

EXISTING 8" HPYJ  
TOWNLINE RD



REVISED 86/07/19 - NEW DISTANCE

L-11019



THE ST. LAWRENCE SEAWAY AUTHORITY  
ADMINISTRATION  
DE LA VOIE MARITIME DU SAINT-LAURENT

WESTERN REGION

PLAN SHOWING LOCATION (INDICATED BY RED  
LINE) OF GAS PIPELINE IN THE CITY OF  
WELLAND TO BE LICENSED TO THE CONSUMERS'  
GAS COMPANY AND ANSCHUTZ (CANADA) EXPLORATION  
LIMITED

DRAWN BY  
D.A.

CHECKED BY

RECOMMENDED  
RECOMMENDED

APPROVED  
APPROVED

SCALE 1"=400'

DATE MAY 10/77

WC. 77-13

L-5901

No.  
No. ....15-74.....

# THE ST. LAWRENCE SEAWAY AUTHORITY

## ADMINISTRATION DE LA VOIE MARITIME DU SAINT-LAURENT

### SUPPLEMENTAL AGREEMENT TO AGREEMENT 15-74

THE CONSUMERS' GAS COMPANY

---

DATE OF AGREEMENT:	February 28, 1969
DATE OF SUPPLEMENTAL AGREEMENT:	September 27, 1978
DESCRIPTION:	Provision for the Permanent Relocation of Gas Pipelines and Facilities in the Regional Municipality of Niagara and Province of Ontario.

---

File No. 15-74-1  
Dossier No.

---

THIS SUPPLEMENTAL AGREEMENT made the 27th day of September 1978.

B E T W E E N:

THE ST. LAWRENCE SEAWAY AUTHORITY, a body corporate established pursuant to the St. Lawrence Seaway Authority Act, R.S.C. 1952, Chapter 242 and amendments thereto and herein acting and exercising its powers as an agent of Her Majesty in right of Canada,  
(hereinafter called the "Authority"),  
OF THE FIRST PART,

AND

THE CONSUMERS' GAS COMPANY, a body corporate established under the laws of the Province of Ontario, having its head office in the City of Toronto,  
(hereinafter called the "Company"),  
OF THE SECOND PART.

WHEREAS the Authority as part of the deep waterway between Montreal and Lake Erie operates and maintains the Welland Canal;

AND WHEREAS the Authority has relocated its channel between Port Robinson and Port Colborne and has expropriated lands on which the Company's gas pipelines and gas supply facilities are operated and maintained;

AND WHEREAS it was deemed necessary to provide for the permanent relocation of certain of the said gas pipelines and gas supply facilities;

AND WHEREAS the Authority and the Company entered into Agreement G74-1 dated the 28th day of February 1969, whereby the Company shall permanently replace and restore those gas pipelines and gas supply facilities as requested by the Authority from time to time, and the cost of such replacement and relocation shall be paid for by the Authority in the manner as thereafter set out;

AND WHEREAS by virtue of Agreement G74-1 clause 3.1 in lieu of all rights and privileges hitherto enjoyed by the Company within the expropriated area the Authority did agree to grant free of rental to the Company the right and privilege to maintain and operate its gas pipelines and facilities as replaced and relocated across the Authority's relocated channel as more particularly set out in an Agreement supplemental thereto;

AND WHEREAS the parties are desirous that this Supplemental Agreement shall be the one referred to in the said clause 3.1 of Agreement G74-1;

NOW THEREFORE THIS AGREEMENT, SUPPLEMENTAL TO AGREEMENT G74-1, WITNESSETH THAT the parties hereto covenant and agree each with the other as follows:

\* 1. The Authority hereby grants to the Company free of rental and in perpetuity, the right and privilege to maintain, use and renew four gas pipeline crossings under the Welland Canal by-pass channel and on, over, under and/or across adjoining reserve land, together with three crossings on, over, under and/or across Welland Canal reserve land, the locations of which are more particularly described in Schedule "A" and at the locations shown by a red line on Plan W.C. 75-34 hereto annexed.

2. The Authority hereby represents and warrants that it has the right to grant to the Company the rights and privileges herein set out.

\* 3. The Authority covenants and agrees that, prior to selling, transferring or disposing of the lands on which the Company's rights and privileges are located it shall

(a) give notice to the Company of such sale, transfer or disposition, and

(b) give notice of the Company's rights and privileges to the person to whom the sale, transfer or disposition is proposed to be made.

4. ALL other terms and conditions of Agreement G74-1 are to remain the same.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED )  
by the COMPANY in the )  
presence of: )

THE CONSUMERS' GAS COMPANY

APPROVED

VICE-PRESIDENT

Witness

LAND OF N.

CONSUMERS' GAS

SIGNED, SEALED AND DELIVERED )  
by the AUTHORITY in the )  
presence of: )

THE ST. LAWRENCE SEAWAY AUTHORITY

Witness

President

Secretary

SCHEDULE "A"

The right and privilege to instal, lay, maintain, operate and/or renew under and across the prism of the Welland Canal, and on, over, under and/or across adjoining Welland Canal reserve lands in the Regional Municipality of Niagara, in the Province of Ontario, the following gas pipelines:

(a) One 8" diameter H.P. security gas main and one 8" diameter H.P. service gas main trenched under and across the prism of the Welland Canal at Stations 895+72.6 and 899+22.6 respectively connecting to one 8" diameter H.P. gas main on, over, under and/or across adjoining Welland Canal reserve land;


(b) One 8" diameter H.P. service gas main and one 8" H.P. security gas main trenched under and across the prism of the Welland Canal at Stations 1181+57.6 and 1182+57.6 respectively, connecting to one 8" diameter H.P. gas main on, over, under and/or across adjoining Welland Canal reserve land;

O.L. \*  
(c) One 8" diameter H.P. gas main under and across the west approach to the Townline Road and Rail Tunnel and on, over, under and/or across adjoining Welland Canal reserve land westerly of the Welland Canal between Points "A" and "B";

(d) One 8" diameter H.P. gas main on, over, under and/or across Welland Canal reserve land, westerly of the Welland Canal between points "C" and "D" and

(e) One 4" diameter I.P. gas main on, over, under and/or across Welland Canal reserve land westerly of the Welland Canal between points "E" and "F".

The location of the said gas pipelines being indicated coloured in red on Plan W.C. 75-34 hereto annexed.



PLAN SHOWING LOCATIONS COLOURED IN  
RED OF THE CONSUMERS GAS CO. FACILITIES  
WITHIN SLSA PROPERTY LIMITS.

DA

SEPT 9/75

WC 75-34





The St. Lawrence  
Seaway Management  
Corporation

Corporation de Gestion  
de la Voie Maritime  
du Saint-Laurent

Filed: 2011-11-29, EB-2011-0391  
Exhibit C, Tab 4, Schedule 6, Page 1 of 11

151 de l'Écluse Street  
Saint-Lambert (Québec)  
J4R 2V6  
Telephone: (450) 672-4115 extension 2376  
Fax: (450) 672-2404

File No.: 37-66-1061/001

November 24, 2008

**ENBRIDGE GAS DISTRIBUTION INC.**  
**C/O Land Department (L7909)**  
P.O. Box 650  
Scarborough, Ontario  
M1K 5E3

**Re: Supplemental agreement to License 66-1061 dated June 28, 1978**

WHEREAS by License bearing No. 66-1061, dated June 28, 1978, the Licensor granted permission to the Licensee to lay, maintain, operate and/or renew an 8" diameter gas main, 55 feet in length, more or less, and a 6" diameter gas main, 50 feet in length, more or less, under and/or across Welland Canal reserve land in Lot 22, Concession 5 for the former Township of Humberstone, in the County of Welland now in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario; said license being granted on a "during pleasure" basis, effective as of July 1, 1978, at a rental of \$50.00 per annum and subject to cancellation forthwith at any time on six months' notice in writing by either party;

WHEREAS by letter dated April 24, 1980, the Licensee's changed its legal name to Hiram Walker-Consumers Home Ltd., effective April 8, 1980;

WHEREAS by letter dated June 4, 1981, the Licensee's changed its legal name to Consumers' Gas Company Ltd., effective June 1, 1981;

WHEREAS by Supplemental Agreement dated June 27, 1985, the annual rental was increased to \$100.00, effective as of November 1, 1985;

WHEREAS The St. Lawrence Seaway Authority (hereinafter called "Authority") transferred its rights, title and interest in the premises to the Licensor on October 1, 1998 pursuant to a directive of the Minister of Transport in accordance with subsection 80(1) of the Canada Marine Act;

WHEREAS the Licensor in a Managed Asset Agreement entered into on September 30, 1998 between the Licensor, the Authority and The St. Lawrence Seaway Management Corporation (hereinafter called "Corporation") agreed that the Corporation may enter into agreements pertaining to the Premises in accordance with authorizations and directives provided by the Licensor to the Corporation;

WHEREAS the Licensor authorized and directed the Corporation to name an officer to be accountable for establishing real property procedures and practices and to sign, seal and deliver agreements pertaining to the Premises;

WHEREAS the Corporation has authorized and directed its Manager, Revenue and Forecast to be accountable for establishing real property procedures and practices and to sign, seal and deliver leases and licenses and ancillary documents pertaining to the Premises;

WHEREAS by letter, the Consumers' Gas Company Ltd changed its legal name to Enbridge Gas Distribution Inc. effective July 25, 2002 without affecting the ownership, operation or control of the company;

AND WHEREAS the Licensor wishes to modified the said License;

The following clauses have been added to the License:

**« INDEXING**

1.2 On the yearly anniversary date of this License, the fee shall be adjusted by multiplying the fee for the previous year by the percentage increase in the Consumer Price Index or equivalent index for the most recent twelve month period published by Statistics Canada or any successor body.

1.3 If at any revision period stipulated in this License, the fee charged at the end of the previous year does not equate with the existing market value, the Licensee shall pay the Licensor, beginning with the next anniversary date of the License and every year thereafter subject to the other provisions of this License, a fee equal to the amount determined by revised market value calculation.»

**« 13. LIABILITY INSURANCE**

The Licensee shall, at the Licensee's expense, maintain during the existence of this License a Comprehensive General Liability insurance policy in respect of the land and works licensed hereunder with insurance companies approved by the Licensor. The said policy shall have a minimum limit of \$5,000,000 per incident including environmental impairments, with defence costs over and above the said minimum limit. All insurance contracts

maintained by the Licensee pursuant to this License shall name the Licensee as "Named Insured", and the Licensor and the Corporation as additional insured and the insurance afforded is to apply separately to each insured against whom a claim is made or a suit is brought, in the same manner and to the same extent as though individual policies had been issued to each except with respect to the limit of liability. The insurance afforded shall stipulate that the insurer cannot cancel or amend the terms of the insurance policy without giving the Licensor 60 days prior written notice. The Licensee acknowledges its obligation to maintain the required insurance throughout the term of the contract and that The St. Lawrence Seaway Management Corporation has the option but not the obligation to request evidence of such insurance. The Licensee shall provide evidence of such insurance to the Licensor upon request.»

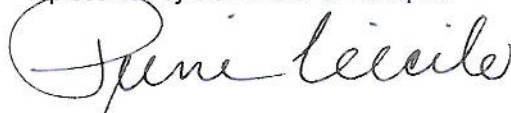
All other terms of the document which are presently in force, will continue to remain the same.

Please signify your acceptance of the terms expressed in this letter by signing, dating and returning the duplicate copy of this letter to the undersigned.

If you have any questions, please do not hesitate to contact Mr. Frédéric Dufault, urban planner, M.Urb, RPP, MCIP, Senior Real Property Management Officer or Karine Mageren, Real Property Management Officer, at (905) 641-1932 extension 2359 or 2382, respectively, at your convenience.

Yours truly,


Her Majesty the Queen in Right of Canada  
represented by the Minister of Transport




Pierre Cécile  
Manager, Revenue and Forecast

Accepted at North York, this 17 day of December, 2008.

**ENBRIDGE GAS DISTRIBUTION INC.**

  
Witness  
Signature **JODY SARNOVSKY**  
Manager, Distribution Planning

Title

  
Signature  
Title **WM. J. COLDICOTT**  
Manager, Land Services

APPROVED  
  
LAND DEPT.

**ENBRIDGE GAS DISTRIBUTION INC.**

**WE HAVE AUTHORITY TO BIND THE CORPORATION**



**THE ST. LAWRENCE SEAWAY AUTHORITY**  
**L'ADMINISTRATION DE LA VOIE MARITIME DU SAINT-LAURENT**

No. 66-1061  
No \_\_\_\_\_

SUPPLEMENTAL AGREEMENT TO  
LICENSE 66-1061

THE CONSUMERS' GAS COMPANY LTD.

---

DATE OF LICENSE:	June 28, 1978
DATE OF SUPPLEMENTAL AGREEMENT:	June 27, 1985.
AMENDMENT:	Revised annual rental of \$100.00 effective November 1, 1985.

---

File No.	37-66-1061
Dossier No	

---

B E T W E E N:

the 27th day of 1985  
Filed: 2011-11-29, EB-2011-0391  
Exhibit C, Tab 4, Schedule 6, Page 4 of 11  
THE ST. LAWRENCE SEAWAY AUTHORITY, a body corporate established pursuant to the St. Lawrence Seaway Authority Act and herein acting and exercising its powers as an agent of Her Majesty in right of Canada (hereinafter called the "LICENSOR"),

OF THE FIRST PART,

AND

~~LTD.~~  
THE CONSUMERS' GAS COMPANY ~~LIMITED~~, of the City of Toronto, Province of Ontario, (hereinafter called the "LICENSEE"),

OF THE SECOND PART.

WHEREAS by License bearing No. 66-1061 dated June 28, 1978, the Licensor granted permission to the Licensee to lay, maintain, operate and renew an 8" diameter gas main, 55 feet in length, more or less, and a 6" diameter gas main, 50 feet in length, more or less, under and across Well Canal reserve land in Lot 22, Concession 5 for the former Township of Humstone, in the County of Welland, now in the City of Welland, in the Region of Municipality of Niagara, Province of Ontario; said license being granted a "during pleasure" basis commencing July 1, 1978 at an annual rental of \$50.00 and subject to cancellation at any time on six months' notice in writing by either party;

AND WHEREAS by Supplemental Agreement dated February 6, 1984, the Licensee has had a change in name to The Consumers' Gas Company Ltd and the anniversary date changed to November 1st;

AND WHEREAS a reappraisal of the land involved indicates a revised annual rental of \$100.00 effective as of November 1, 1985 which the Licensee has agreed to;

NOW THEREFORE THIS AGREEMENT WITNESSETH that License No. 66-1061 is hereby altered by changing the name of the Licensee to Consumers' Gas Company Ltd. changing the anniversary date to November 1st. and changing the Rental Clause to read as follows:

"For the permission hereby given, the Licensee shall pay the Licensor, annually in advance, the sum of..... ONE HUNDRED (\$100.00) DOLLARS .....effective as November 1, 1985."

ALL other terms and conditions of License No. 66-1061 are to remain the same

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seal

SIGNED, SEALED AND DELIVERED )  
by the LICENSEE in the presence of: APPROVED

RG  
LAND DEPT.

Witness

SIGNED, SEALED AND DELIVERED )  
by the LICENSOR in the presence of: )

Witness

THE CONSUMERS' GAS COMPANY LTD.

VICE-PRESIDENT

SECRETARY

VICE-PRESIDENT

THE ST. LAWRENCE SEAWAY AUTHORITY

Vice-President, Western Region.



**THE ST. LAWRENCE SEAWAY AUTHORITY**  
**L'ADMINISTRATION DE LA VOIE MARITIME DU SAINT-LAURENT**

No. 66-1061  
No \_\_\_\_\_

SUPPLEMENTAL AGREEMENT TO  
LICENSE 66-1061

THE CONSUMERS' GAS COMPANY LTD.

---

DATE OF LICENSE:	June 28, 1978
DATE OF SUPPLEMENTAL AGREEMENT:	February 6, 1984
AMENDMENT:	Adjusting rental to \$16.67 effective November 1, 1983 and \$50.00 effective November 1, 1984 and changing billing date to November 1, 1983 and change of name to The Consumers' Gas Company Ltd.

---

File No.	37-66-1061
Dossier No	

---

B E T W E E N:

THE ST. LAWRENCE SEAWAY AUTHORITY, a body corporate established pursuant to the St. Lawrence Seaway Authority Act and herein acting and exercising its powers as an agent of Her Majesty in right of Canada, (hereinafter called the "LICENSOR"),

OF THE FIRST PART,

AND

THE CONSUMERS' GAS COMPANY LTD., of the City of Toronto, Province of Ontario, (hereinafter called the "LICENSEE"),

OF THE SECOND PART.

WHEREAS by License bearing No. 66-1061 dated June 28, 1978, the Licensor granted permission to The Consumers' Gas Company to lay, maintain, operate and/or renew an 8" diameter gas main, 55 feet in length, more or less, and a 6" diameter gas main, 50 feet in length, more or less, under and across Welland Canal reserve land in Lot 22, Concession 5 for the former Township of Humberstone, in the County of Welland, now in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario; said license being granted on a "during pleasure" basis commencing July 1, 1978 at an annual rental of \$50.00 and subject to cancellation at any time on six months' notice in writing by either party;

AND WHEREAS the Licensee has had a change in name to "The Consumers' Gas Company Ltd.;

AND WHEREAS the Licensee has requested that the rental herein be made effective as of November 1, 1983;

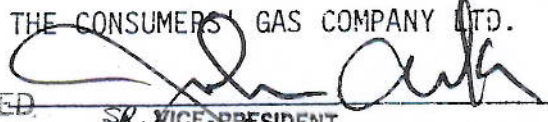
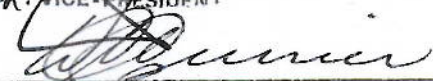
NOW THEREFORE THIS AGREEMENT WITNESSETH that License 66-1061 is hereby altered by changing the name of the Licensee to The Consumers' Gas Company Ltd. and changing the Rental Clause to read as follows:

"For the permission hereby given, the Licensee shall pay the Licensor, annually in advance, the sum of -----SIXTEEN DOLLARS AND SIXTY SEVEN CENTS (\$16.67)----- effective November 1, 1983 and,----- FIFTY DOLLARS (\$50.00)----- effective November 1, 1984."

ALL other terms and conditions of License 66-1061 are to remain the same.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals.


SIGNED, SEALED AND DELIVERED  
by the LICENSEE in the  
presence of:-


THE CONSUMERS' GAS COMPANY LTD.  
  
APPROVED   
SR. VICE-PRESIDENT  
SECRETARY

Witness

LAND DEPT.  
CONSUMERS' GAS

SIGNED, SEALED AND DELIVERED  
by the LICENSOR in the  
presence of:-

  
Witness

THE ST. LAWRENCE SEAWAY AUTHORITY  
  
Vice-President, Western Region.



THE ST. LAWRENCE SEAWAY AUTHORITY  
ADMINISTRATION DE LA VOIE MARITIME DU SAINT-LAURENT

DUPPLICATA  
Filed: 2011-11-29, EB-2011-0391  
Exhibit C, Tab 4, Schedule 6, Page 7 of 11

LICENCE  
PERMIS

TO  
À

THE CONSUMERS' GAS COMPANY

DATE OF AUTHORIZING ORDER IN COUNCIL: January 31, 1966, P.C. 1966-195, as amended  
DATE DE L'ARRÊTÉ MINISTÉRIEL: by P.C. 1972-983, May 9, 1972

DATE OF LICENCE:  
DATE DU PERMIS: June 28, 1978

LOCATION:  
LIEU: Welland Canal

LANDS OR RIGHTS DEMISED:  
TERRAINS OU DROITS CÉDÉS: To lay, maintain, operate and/or renew an 8" dia. gas main, 55' in length and a 6" dia. gas main, 50' in length, under and across Welland Canal reserve land in Lot 22, Concession 5 for the former Twp. of Humberstone, in the County of Welland, now in the City of Welland, Regional Municipality of Niagara and Province of Ontario.

BEGINNING OF TERM:  
COMMENCEMENT DU TERME: July 1, 1978

END OF TERM:  
FIN DU TERME: During Pleasure

RENTAL:  
LOYER: \$50.00 per annum

FILE  
DOSSIER: 37-66-1061

NOTES



THE ST. LAWRENCE SEAWAY AUTHORITY

ADMINISTRATION DE LA VOIE MARITIME DU SAINT-LAURENT

File 2011-11-29, EB-2011-0391  
Exhibit C, Tab 4, Schedule 6, Page 8 of 11

THIS LICENSE made the 28th day of June

one thousand nine hundred and seventy-eight

BETWEEN

THE ST. LAWRENCE SEAWAY AUTHORITY, a body corporate established pursuant to the St. Lawrence Seaway Authority Act, R.S.C. 1952, Chapter 242 and amendments thereto and herein acting and exercising its powers as an agent of Her Majesty in right of Canada, hereinafter called the "LICENSOR",

and

THE CONSUMERS' GAS COMPANY, of the City of Toronto, in the Province of Ontario,

hereinafter called the "LICENSEE",

**Purpose**

WITNESSETH THAT PERMISSION IS HEREBY GIVEN by the Licensor to the Licensee to lay, maintain, operate and/or renew an 8" dia. gas main, 55' in length, more or less, and a 6" dia. gas main, 50' in length, more or less, (hereinafter referred to as "the said gas mains"), under and across Welland Canal reserve land in Lot 22, Concession 5 for the former Township of Humberstone, in the County of Welland, now in the City of Welland, in the Regional Municipality of Niagara, all in the Province of Ontario, the location of the said gas mains being indicated by dotted red lines on Plan No. W.C. 78-17 hereto annexed.

Term from the **1st** day of **July** 19 **78**, during the pleasure of the Licensor.

UPON THE FOLLOWING TERMS AND CONDITIONS which the Licensee hereby accepts and agrees to abide by:--

- Rental** 1. For the permission hereby given, the Licensee shall pay the Licensor annually, in advance, the sum of **----FIFTY (\$50.00) DOLLARS-----**
- Taxes** 2. The Licensee shall pay or cause to be paid all rates, taxes and assessments, of whatsoever description, that may be at any time during the existence of these Presents be lawfully imposed, or become due and payable, upon, or in respect of the rights and privileges herein granted.
- Compliance with law** 3. The Licensee shall in all respects abide by and comply with all lawful rules, regulations and by-laws of the Provincial Government, municipalities and other governing bodies, in any manner affecting the activity hereby permitted, and the Licensee shall not hold the Licensor responsible should the purpose of this License for any reason whatsoever not be fulfilled.
- Assignment** 4. No transfer and/or assignment of this License or of any rights hereunder shall be made by the Licensee without the written consent thereto of the Licensor.
- Control of Licensor** 5. All work connected with the activity hereby permitted shall be carried on pursuant to and in accordance with the express directions of the Licensor's Regional Director, and it shall be done in all respects to his entire satisfaction and at the sole cost and expense of the Licensee.
- Additional Improvement** 6. The Licensee shall not construct or erect any additional structures or improvements other than those already permitted herein without the approval of the Licensor's Regional Director. All such additional structures or improvements if approved, shall be constructed and thereafter maintained by and at the cost and expense of the Licensee to the entire satisfaction of the Licensor's Regional Director.
- Risk of Licensee** 7. (a) All buildings, structures, materials, supplies, effects and things, hereinafter referred as "property of the Licensee", at anytime constructed, erected, brought, placed or made upon the lands and premises of the Licensor for the purpose of the permission hereby given shall be entirely at the risk of the Licensee in respect of loss, damage, destruction or accident from whatsoever cause arising.
- (b) Any damage which may, during the existence of this License be occasioned to the property of the Licensor or any part thereof, or works connected therewith, by reason or on account of the permission hereby given, shall immediately upon notice thereof from the Licensor or its duly authorized agent, given either verbally or in writing, be repaired, rebuilt, replaced or restored by the Licensee to the entire satisfaction of the Licensor; or the Licensor may, at its option, repair such damage, in which case the Licensee shall, upon demand, forthwith repay and reimburse the Licensor for all costs and expenses connected therewith or incidental thereto.
- Indemnity** 8. The Licensee shall indemnify and save harmless the Licensor from and against all claims, demands, loss, costs and expenses, in any manner based upon, arising out of or connected with the existence of this License or anything done or maintained hereunder.
- Restriction** 9. The permission hereby given shall be exercised and work connected therewith shall be performed so as not to cause interference with the rights or privileges of any Lessee or Licensee under a Lease or another License from the Licensor.
- Cancellation** 10. (a) This License may be cancelled ~~XXXXXXXXXXXX~~ by the Licensor by <sup>six months'</sup> notice in writing signed by the Licensor's Regional Director and mailed addressed to the Licensee at his address mentioned in this License or to his last known place of business or residence.
- (b) This License may also be cancelled ~~XXXXXXXXXXXX~~ by the Licensee by <sup>six months'</sup> notice in writing mailed in a prepaid registered envelope addressed to the Licensor's Regional Director at **St. Catharines, Ontario.**

Restoration  
of Site

11. Upon cancellation of this License, the Licensee shall forthwith, under the direction of the Licensor's Regional Director, remove his property at his own cost and expense from the land and premises of the Licensor, leaving and restoring said land and premises in a neat and clean condition to the entire satisfaction of the Regional Director. In case of default of the Licensee to remove his property, said property shall be removed and the site restored by the Licensor at the expense of the Licensee or, at the option of the Licensor, said property shall become the property of and shall vest in the Licensor without any right of compensation to the Licensee therefor in either case.

Lien for  
Breach

12. The Licensor shall have a lien upon the property of the Licensee for any loss or damage arising by reason of the breach of any of the conditions or provisions hereof, or of any of the conditions or provisions of any Appendix hereto.

Previous  
License

DATED at St. Catharines

, the day and year first above written.

SIGNED, SEALED AND  
DELIVERED by the  
LICENSEE in the presence of

THE CONSUMERS' GAS COMPANY

APPROVED

VICE-PRESIDENT

Witness

LAND DEPT.  
CONSUMERS' GAS

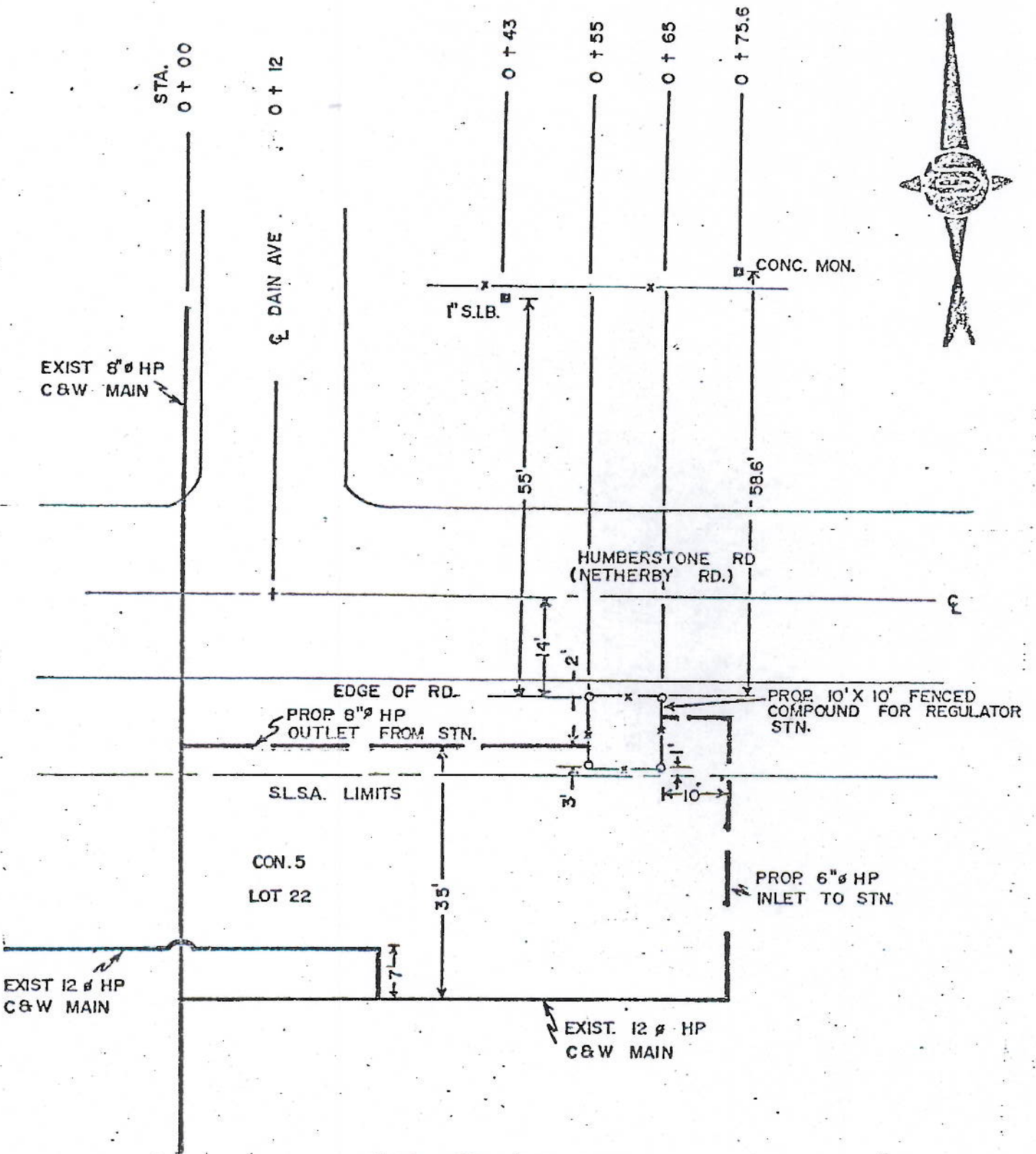
SECRETARY

SIGNED, SEALED AND  
DELIVERED by the  
LICENSOR in the presence of

THE ST. LAWRENCE SEAWAY AUTHORITY

Director, Western Region

Witness



CITY OF WELLAND  
REGIONAL MUNICIPALITY OF NIAGARA  
FORMER  
TOWNSHIP OF HUMBERSTONE  
COUNTY OF WELLAND



THE ST. LAWRENCE SEAWAY AUTHORITY  
ADMINISTRATION DE LA VOIE MARITIME DU SAINT-LAURENT

WESTERN REGION

PLAN SHOWING PROPOSED GAS PIPELINE (IN RED)  
TO BE LICENSED TO THE CONSUMERS' GAS CO.

DRAWN BY D.A.	CHECKED BY <i>R.B.</i>	RECOMMENDED RECOMMENDED <i>[Signature]</i>	APPROVED APPROVED <i>[Signature]</i>	SCALE 1" = 20' DATE JUN 14, 1978	WC. 78-17
------------------	---------------------------	--	--	---	-----------

File # 236691-20  
NW-025-B, NW-026-B, NW-030-B

# Transfer/Deed of Land

Form 1 - Land Registration Reform Act

<div>FOR OFFICE USE ONLY</div> <div>RO 82090</div> <div>CERTIFICATE OF REGISTRATION CERTIFICAT D'ENREGISTREMENT NIAGARA (30) ST. CATHARINES 2006 05 20</div> <div>14:34</div> <div>LAND REGISTRATION</div>		(1) Registry <input checked="" type="checkbox"/> Land Titles <input checked="" type="checkbox"/>	(2) Page 1 of 3 pages
		(3) Property Identifier(s) Block 64127 64129 Property 0529(LT) (Firstly) 0119(LT) (Secondly)	Additional: See Schedule <input checked="" type="checkbox"/>
		(4) Consideration TWENTY THOUSAND Dollars \$ 20,000.00	
		(5) Description This is a: Property Division <input type="checkbox"/> Property Consolidation <input type="checkbox"/> FIRSTLY: Part of Lots 17, 18 and 19, Concession 5 and part of the Road Allowance between Lots 18 and 19 (closed by By-law 4350 Inst. RO185603), Concession 5, formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara, designated as Part 1 on Reference Plan 59R-12761 SECONDLY: Part of Lots 16 and 17, Concession 5 and part of the Road Allowance between Lots 16 and 17, Concession 5, formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara designated as Part 2 on Reference Plan 59R-12761 (cont'd on Schedule)	
(6) This Document Contains (a) Redescription New Easement Plan/Sketch <input type="checkbox"/> (b) Schedule for: Description <input checked="" type="checkbox"/> Additional Parties <input type="checkbox"/> Other <input type="checkbox"/>	(7) Interest/Estate Transferred Fee Simple		
(8) Transferor(s) The transferor hereby transfers the land to the transferee Name(s) CANADA LANDS COMPANY CLC LIMITED Signature(s) [Signature] Per: [Signature] Name: Rodger Martin Title: Director, Environment and Project Management Date of Signature Y 2006 M 05 D 18 I have authority to bind the corporation.			
(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 1 University Avenue, Suite 1200, Toronto, Ontario, M5J 2P1			
(11) Transferee(s) Party B Party F as tenants in common, each as to an undivided 50% interest Date of Birth Y M D			
(12) Transferee(s) Address for Service _____			
(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. Signature _____ Date of Signature Y M D 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. 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 adjoining 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 City: Mun. Map: Sub: Par: n/a			
(16) Municipal Address of Property not assigned		(17) Document Prepared by: FRASER MILNER CASGRAIN LLP (RJP/tr) Barristers & Solicitors P.O. Box 100 1 First Canadian Place Toronto, Ontario M5X 1B2 3312187_1 DOC	
<div>FOR OFFICE USE ONLY</div>		Fees and Tax	
		Registration Fee 60 <sup>00</sup>	
		Land Transfer Tax tax paid in \$N 121993	
Total			



## Schedule

Form 5 - Land Registration Reform Act

Page 2

S

Additional Property Identifier(s) and/or Other Information

### SCHEDULE TO TRANSFER/DEED OF LAND LAND REGISTRATION REFORM ACT, 1984

The annexed Transfer/Deed of Land, this Schedule and any other Schedule (s) thereto are one instrument collectively called "this Transfer".

This Transfer is dated the 18<sup>th</sup> day of May, 2006.

The following is included in this Transfer:

All covenants deemed included in this Transfer by section 5(1) of the Land Registration Reform Act, 1984, are expressly excluded herefrom.

Box (3) Property Identifier (cont'd)      64129-0121(LT) (Thirdly)  
64127-0528(LT) (Fourthly)

Box (5) Description (cont'd):

#### THIRDLY:

Part of Lot 16, Concession 5, formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara designated as Part 3 on Reference Plan 59R-12761

#### FOURTHLY:

Part of Lots 20 and 21, Concession 5; part of Road Allowance between Lots 20 and 21, Concession 5 (closed by By-law 4337, Inst. No. 90236B) (formerly Geographic Township of Humberstone), now in the City of Welland, Regional Municipality of Niagara, designated as Part 4 on Reference Plan 59R-12758

#### FIFTHLY - REGISTRY LANDS

Part of Lots 21, 22, 23 & 24, Concession 5; part of Dain Avenue (closed by By-law 1257), part of the Road Allowance between Lots 22 and 23 (closed by By-law 4337, Inst. No. 90236B and By-law 414 confirmed by By-law 855, Inst. 8243), Concession 5; all of Lots 1 to 89, both inclusive, 95, 104, 109 & 118, part of Lots 90, 94, 96 to 103, both incl., 105, 108, 110 to 117, both inclusive, & 119 First Avenue and part of King Street and part of Queen Street, Registered Plan 28 NKA Plan 787, (formerly Geographic Township of Humberstone), now in the City of Welland, Regional Municipality of Niagara designated as Parts 1, 2 and 3 on Reference Plan 59R-11480; Part 2 subject to an Easement as in Instrument No. RO282699.

Also 59R-12758

By their acceptance and registration of this Transfer/Deed of Land, the Transferees hereby covenant, acknowledge and agree for themselves and their successors and assigns that they are aware that parts of the property described herein being part of Parts 1, 2 and 3, Plan 59R-11480 and part of Part 4, Plan 59R-12758 are subject to Controlled Access Highway designation pursuant to Order in Council 1825-96 registered as Instrument No. 714112 and a Highway Designation pursuant to Order in Council - Designation Plan of a Highway registered as Instrument No. RO222695 and that part of the lands herein described being part of Part 3, Plan 59R-11480 may form part of a municipal travelled road.

FOR OFFICE  
USE ONLY

Ministry of Finance  
Motor Fuels and  
Tobacco Tax Branch  
PO Box 525  
33 King St West  
Oshawa ON L1H 8M9

Property Identifier(s) No. \_\_\_\_\_

Land Transfer Tax Affidavit  
Land Transfer Tax Act

Refer to instructions on reverse side.

In the Matter of the Conveyance of (insert brief description of land) \_\_\_\_\_

Parts 1, 2 and 3 on 30R-11480, Pt. 4 on 59R-12758, Pts 1, 2 &amp; 3 on 59R-12761.

City of Welland, Regional Municipality of Niagara

BY (print names of all transferors in full) Canada Lands Company CLC Limited

TO (print names of all transferees in full) Party B &amp; Party F

We, Party B and Party F

have personal knowledge of the facts herein deposed to and Make Oath and Say that:

1. I am (place a clear mark within the square opposite the following paragraph(s) that describe(s) the capacity of the deponents).

- ☒ (a) the transferee named in the above-described conveyance;
- ☐ (b) the authorized agent or solicitor acting in this transaction for the transferee(s);
- ☐ (c) the President, Vice-President, Secretary, Treasurer, Director or Manager authorized to act for \_\_\_\_\_ (the transferee(s)).
- ☐ (d) a transferee and am making this affidavit on my own behalf and on behalf of (insert name of spouse or same-sex partner) \_\_\_\_\_ who is my spouse or same-sex partner.
- ☐ (e) the transferor or an officer authorized to act on behalf of the transferor company and ☐ I am tendering this document for registration and ☐ no tax is payable on registration of this document

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

- (a) Money paid or to be paid in cash \$ 20,000.00
- (b) Mortgages (i) Assumed (principal and interest) \$ Nil
- (ii) Given back to vendor \$ Nil
- (c) Property transferred in exchange (detail below in para. 3) \$ Nil
- (d) Other consideration subject to tax (detail below) \$ Nil
- (e) Fair market value of the lands (see instruction 2) \$ Nil
- (f) Value of land, building, fixtures and goodwill subject to Land Transfer Tax (Total of (e) to (d)) \$ 20,000.00
- (g) Value of all chattels - items of tangible personal property which are taxable under the provisions of the Retail Sales Tax Act \$ Nil
- (h) Other consideration for transaction not included in (f) or (g) above \$ Nil
- (i) Total Consideration \$ 20,000.00

All blanks  
must be filled  
in. Insert  
"Nil" where  
applicable.

## 3. To be completed where the value of the consideration for the conveyance exceeds \$400,000.00.

- I have read and considered the definition of "single family residence" set out in subsection 1(1) of the Act. The land conveyed in the above-described conveyance:
- ☒ does not contain a single family residence or contains more than two single family residences;
- ☐ contains at least one and not more than two single family residences; or
- ☐ contains at least one and not more than two single family residences and the lands are used for other than just residential purposes. The transferee has accordingly apportioned the value of consideration on the basis that the consideration for the single family residence is \$ \_\_\_\_\_ and the remainder of the lands are used for \_\_\_\_\_ purposes.

**Note:** Subsection 2(1)(b) imposes an additional tax at the rate of one-half of one per cent upon the value of the consideration in excess of \$400,000.00 where the conveyance contains at least one and not more than two single family residences and 2(2) allows an apportionment of the consideration where the lands are used for other than just residential purposes.

4. If consideration is nominal, is the land subject to any encumbrance? ☐ Yes ☐ No

5. Other remarks and explanations, if necessary.

n/a

Sworn/affirmed before me in the City of Mississauga  
Regional Municipality of Peel

this 6 day of April, 2006

Party B

Signature(s)

Party F

A Commissioner for taking Affidavits, etc.

## Property Information Record

- A. Describe nature of instrument: Transfer/Deed of Land
- B. (i) Address of property being conveyed (if available) Vacant Land
- (ii) Assessment Roll No. (if available)
- C. Mailing address(es) for future Notices of Assessment under the Assessment Act for property being conveyed
- 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 ☐ No ☐ Not known
- E. Name(s) and address(es) of each transferee's solicitor:

For Land Registry Office Use Only	
Registration No.	
Registration Date (Year/Month/Day)	
Land Registry Office No.	

## School 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 be Roman Catholic Separate School Supporters? ☐ Yes ☐ No
- (c) Do all individual transferees have 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 land being transferred will receive French Public School Board Election unless otherwise directed in (a) and (b).

LRO # 59 Transfer

Registered as SN242138 on 2009 04 22 at 11:35  
yyyy mm dd Page 1 of 3

The applicant(s) hereby applies to the Land Registrar.

### Properties

PIN 64129 - 0121 LT Interest/Estate Fee Simple  
Description PT LT 16 CON 5 HUMBERSTONE, PT 3, 59R12761, WELLAND  
Address WELLAND

### Consideration

Consideration \$50,000.00

### Transferor(s)

The transferor(s) hereby transfers the land to the transferee(s).

Name Party B  
Address for Service \_\_\_\_\_

I am at least 18 years of age.

\_\_\_\_\_ is my spouse and has consented to this transaction.

This document is not authorized under Power of Attorney by this party.

### Transferee(s)

Capacity

Share

Name Party A  
Date of Birth \_\_\_\_\_  
Address for Service \_\_\_\_\_  
Capacity Joint Tenants

Name Party A  
Date of Birth \_\_\_\_\_  
Address for Service \_\_\_\_\_  
Capacity Joint Tenants

### Statements

I am the solicitor for the transferor(s) and I am not one and the same as the solicitor for the transferee(s).

I am the solicitor for the transferee(s) and I am not one and the same as the solicitor for the transferor(s).

### Signed By

\_\_\_\_\_ acting for Transferor(s) Signed 2009 04 22

Tel \_\_\_\_\_  
Fax \_\_\_\_\_

Party D

\_\_\_\_\_ acting for Transferee(s) Signed 2009 04 22

Tel \_\_\_\_\_  
Fax \_\_\_\_\_

### Submitted By

Party D

2009 04 22

Tel \_\_\_\_\_  
Fax \_\_\_\_\_

### Fees/Taxes/Payment

Statutory Registration Fee \$60.00  
Provincial Land Transfer Tax \$250.00

LRO # 59 Transfer

Registered as SN242138 on 2009 04 22 at 11:35

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 3

**Fees/Taxes/Payment**

Total Paid \$310.00

**File Number**

Transferor Client File Number :

\_\_\_\_\_

Transferee Client File Number :

\_\_\_\_\_

**LAND TRANSFER TAX STATEMENTS**

In the matter of the conveyance of: 64129 - 0121 PT LT 16 CON 5 HUMBERSTONE, PT 3, 59R12761: WELLAND

BY: Party B

TO: Party A

Joint Tenants

Joint Tenants

1. Party A

I am

- ☐ (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 \_\_\_\_\_ described in paragraph(s) ( ) above.
- ☐ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for \_\_\_\_\_ described in paragraph(s) ( ) above.
- ☐ (f) A transferee described in paragraph ( ) and am making these statements on my own behalf and on behalf of \_\_\_\_\_ who is my spouse described in paragraph ( ) and as such, I have personal knowledge of the facts herein deposed to.

**3. The total consideration for this transaction is allocated as follows:**

(a) Monies paid or to be paid in cash	50,000.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price)	0.00
(ii) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	50,000.00
(h) VALUE OF ALL CHATTELS - Items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	50,000.00

**PROPERTY Information Record**

A. Nature of Instrument: Transfer

LRO 59 Registration No. SN242138 Date: 2009/04/22

B. Property(s): PIN 64129 - 0121 Address WELLAND

Assessment -  
Roll No

C. Address for Service: \_\_\_\_\_

D. (i) Last Conveyance(s): PIN 64129 - 0121 Registration No. SN212066

(ii) Legal Description for Property Conveyed: Same as in last conveyance? Yes ☒ No ☐ Not known ☐

E. Tax Statements Prepared By: Party D

LRO # 59 Transfer

Registered as SN297031 on 2010 10 29 at 11:29

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 3

**Properties**

PIN 64127 - 0529 LT Interest/Estate Fee Simple  
Description PT LTS 17, 18 & 19 CON 5 & PT RDAL BTN LTS 18 & 19 CON 5 HUMBERSTONE  
(CLOSED BY BYLAW RO185603), PT 1, 59R12761; WELLAND  
Address 77 NETHERBY ROAD  
WELLAND

**Consideration**

Consideration \$98,500.00

**Transferor(s)**

The transferor(s) hereby transfers the land to the transferee(s).

Name Party G  
Address for Service \_\_\_\_\_  
\_\_\_\_\_

I am at least 18 years of age.

The property is not ordinarily occupied by me and my spouse, who is not separated from me, as our family residence.

This document is not authorized under Power of Attorney by this party.

**Transferee(s)**

Capacity

Share

Name Party C  
Address for Service \_\_\_\_\_  
\_\_\_\_\_

STATEMENT OF THE TRANSFEROR (S): The transferor(s) verifies that to the best of the transferor's knowledge and belief, this transfer does not contravene the Planning Act.

STATEMENT OF THE SOLICITOR FOR THE TRANSFEROR (S): I have explained the effect of the Planning Act to the transferor(s) and I have made inquiries of the transferor(s) to determine that this transfer does not contravene that Act and based on the information supplied by the transferor(s), to the best of my knowledge and belief, this transfer does not contravene that Act. I am an Ontario solicitor in good standing.

STATEMENT OF THE SOLICITOR FOR THE TRANSFEE (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 the Planning Act, and to the best of my knowledge and belief this transfer does not contravene the Planning Act. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing.

**Signed By**

\_\_\_\_\_ acting for Signed 2010 10 29  
Transferor(s)

Tel \_\_\_\_\_  
Fax \_\_\_\_\_

I am the solicitor for the transferor(s) and I am not one and the same as the solicitor for the transferee(s).

I have the authority to sign and register the document on behalf of the Transferor(s).

\_\_\_\_\_ acting for Signed 2010 10 29  
Transferee(s)

Tel \_\_\_\_\_  
Fax \_\_\_\_\_

I am the solicitor for the transferee(s) and I am not one and the same as the solicitor for the transferor(s).

I have the authority to sign and register the document on behalf of the Transferee(s).

**Submitted By**

\_\_\_\_\_ 2010 10 29

Tel 4167301640

LRO # 59 Transfer

Registered as SN297031 on 2010 10 29 at 11:29

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 3

**Submitted By**

Fax

**Fees/Taxes/Payment**

Statutory Registration Fee	\$60.00
Provincial Land Transfer Tax	\$710.00
Total Paid	\$770.00

**LAND TRANSFER TAX STATEMENTS**

In the matter of the conveyance of: 64127 - 0529 PT LTS 17, 18 & 19 CON 5 & PT RDAL BTN LTS 18 & 19 CON 5  
HUMBERSTONE (CLOSED BY BYLAW RO185603), PT 1, 59R12781;  
WELLAND

BY: Party G

TO: Party C

1.

I am

- ☐ (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 \_\_\_\_\_ described in paragraph(s) ( ) above.  
☒ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for **Party C**  
\_\_\_\_\_ described in paragraph(s) (c) above.  
☐ (f) A transferee described in paragraph ( ) and am making these statements on my own behalf and on behalf of  
\_\_\_\_\_ who is my spouse described in paragraph ( ) and as such, I have personal knowledge of the facts herein  
deposed to.

**3. The total consideration for this transaction is allocated as follows:**

(a) Monies paid or to be paid in cash	98,500.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price)	0.00
(i) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	98,500.00
(h) VALUE OF ALL CHATTELS - items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	98,500.00

**PROPERTY Information Record**

A. Nature of Instrument: Transfer

LRO 59 Registration No. SN297031 Date: 2010/10/29

B. Property(s): PIN 64127 - 0529 Address 77 NETHERBY ROAD Assessment -  
WELLAND Roll No

C. Address for Service: \_\_\_\_\_  
\_\_\_\_\_

D. (i) Last Conveyance(s): PIN 64127 - 0529 Registration No. SN177604

(ii) Legal Description for Property Conveyed: Same as in last conveyance? Yes ☒ No ☐ Not known ☐

E. Tax Statements Prepared By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LRO # 59 Transfer

Registered as SN297032 on 2010 10 29 at 11:31

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 3

**Properties**

PIN 64129 - 0119 LT Interest/Estate Fee Simple  
Description PT LTS 16 & 17 CON 5 & PT RDAL BTN LTS 16 & 17 CON 5 HUMBERSTONE, PT 2,  
59R12761, WELLAND  
Address 129 NETHERBY ROAD  
WELLAND

**Consideration**

Consideration \$120,000.00

**Transferor(s)**

The transferor(s) hereby transfers the land to the transferee(s).

Name Party G

Address for Service \_\_\_\_\_  
\_\_\_\_\_

I am at least 18 years of age.

The property is not ordinarily occupied by me and my spouse, who is not separated from me, as our family residence.

This document is not authorized under Power of Attorney by this party.

**Transferee(s)**

Capacity

Share

Name Party C

Address for Service \_\_\_\_\_  
\_\_\_\_\_

STATEMENT OF THE TRANSFEROR (S): The transferor(s) verifies that to the best of the transferor's knowledge and belief, this transfer does not contravene the Planning Act.

STATEMENT OF THE SOLICITOR FOR THE TRANSFEROR (S): I have explained the effect of the Planning Act to the transferor(s) and I have made inquiries of the transferor(s) to determine that this transfer does not contravene that Act and based on the information supplied by the transferor(s), to the best of my knowledge and belief, this transfer does not contravene that Act. I am an Ontario solicitor in good standing.

STATEMENT OF THE SOLICITOR FOR THE TRANSFEE (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 the Planning Act, and to the best of my knowledge and belief this transfer does not contravene the Planning Act. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing.

**Signed By**

\_\_\_\_\_ acting for Signed 2010 10 29  
Transferor(s)

Tel \_\_\_\_\_

Fax \_\_\_\_\_

I am the solicitor for the transferor(s) and I am not one and the same as the solicitor for the transferee(s).

I have the authority to sign and register the document on behalf of the Transferor(s).

\_\_\_\_\_ acting for Signed 2010 10 29  
Transferee(s)

Tel \_\_\_\_\_

Fax \_\_\_\_\_

I am the solicitor for the transferee(s) and I am not one and the same as the solicitor for the transferor(s).

I have the authority to sign and register the document on behalf of the Transferee(s).

**Submitted By**

2010 10 29

Tel \_\_\_\_\_

LRO # 59 Transfer

Registered as SN297032 on 2010 10 29 at 11:31

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 3

**Submitted By**

Fax

**Fees/Taxes/Payment**

Statutory Registration Fee	\$60.00
Provincial Land Transfer Tax	\$925.00
Total Paid	\$985.00

**LAND TRANSFER TAX STATEMENTS**

In the matter of the conveyance of: 64129 - 0119 PT LTS 16 & 17 CON 5 & PT RDAL BTN LTS 16 & 17 CON 5  
HUMBERSTONE, PT 2, 59R12761; WELLAND

BY: Party G  
TO: Party C

1.

I am:

- ☐ (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 \_\_\_\_\_ described in paragraph(s) ( ) above.  
☒ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for **Party C**  
\_\_\_\_\_ described in paragraph(s) (c) above.  
☐ (f) A transferee described in paragraph ( ) and am making these statements on my own behalf and on behalf of  
\_\_\_\_\_ who is my spouse described in paragraph ( ) and as such, I have personal knowledge of the facts herein  
deposed to.

**3. The total consideration for this transaction is allocated as follows:**

(a) Monies paid or to be paid in cash	120,000.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price)	0.00
(ii) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	120,000.00
(h) VALUE OF ALL CHATTELS - items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	120,000.00

**PROPERTY Information Record**

A. Nature of Instrument: Transfer  
LRO 59 Registration No. SN297032 Date: 2010/10/29

B. Property(s): PIN 64129 - 0119 Address 129 NETHERBY ROAD Assessment -  
WELLAND Roll No

C. Address for Service: \_\_\_\_\_  
\_\_\_\_\_

D. (i) Last Conveyance(s): PIN 64129 - 0119 Registration No. SN177604  
(ii) Legal Description for Property Conveyed: Same as in last conveyance? Yes ☒ No ☐ Not known ☐

E. Tax Statements Prepared By: \_\_\_\_\_  
\_\_\_\_\_

222695

222695

Inventory of Personal Effects of the Deceased  
1. Inventory of the Personal Effects of the Deceased  
as of 1-1-1974

OCT 18 1974

Inventory of Personal Effects of the Deceased  
as of 1-1-1974  
14. 1974  
1-1-1974

PLAN TYPE " O "



MINISTRY OF TRANSPORTATION AND COMMUNICATIONS

REGISTRATION NO.

MINISTRY NO. P-5099-2

Dated at Toronto, Ontario this 9th day of October 19 74

Subject: HIGHWAY PLAN

Location of Property:

City of Welland  
Regional Municipality of Niagara

Owners:

Memorandum: Townline Road



Executive Council

O.C. 2112/74

2

Copy of an Order-in-Council approved by  
Her Honour the Lieutenant Governor, dated the 21st  
day of August, A.D. 1974.

Upon the recommendation of the Honourable  
the Minister of Transportation and Communications,  
the Committee of Council advise that the portions  
of highway, in the City of Welland, in the Regional  
Municipality of Niagara, shown as PARTS 1 to 25, both  
inclusive, on Ministry plan P-5099-2, filed with the  
Record Services Office of the Ministry of Transportation  
and Communications at Toronto on the 31st day of July,  
1974, be designated as the King's Highway, pursuant to  
section 5 of The Public Transportation and Highway  
Improvement Act, R.S.O. 1970, c.201 and amendments  
thereto.

Certified,

*J. J. Young*  
Clerk, Executive Council.



Executive Council

O.C. 2112/74

Copy of an Order-in-Council approved by  
Her Honour the Lieutenant Governor, dated the 21st  
day of August, A.D. 1974.

Upon the recommendation of the Honourable  
the Minister of Transportation and Communications,  
the Committee of Council advise that the portions  
of highway, in the City of Welland, in the Regional  
Municipality of Niagara, shown as PARTS 1 to 25, both  
inclusive, on Ministry plan P-5099-2, filed with the  
Record Services Office of the Ministry of Transportation  
and Communications at Toronto on the 31st day of July,  
1974, be designated as the King's Highway, pursuant to  
section 5 of The Public Transportation and Highway  
Improvement Act. R.S.O. 1970, c.201 and amendments  
thereto.

Certified,

*J. J. Young*  
Clerk, Executive Council.

<p><b>714112</b></p> <p>CERTIFICATE OF REGISTRATION CERTIFICATE OF INSTRUMENT WELLAND SOUTH/W.N. (59) WELLAND</p> <p>'96 10 15 II 26</p> <p><i>[Signature]</i> <b>ACTING LAND REGISTRAR</b></p>		<p>(1) Registry <input checked="" type="checkbox"/> Land Titles <input type="checkbox"/></p>		<p>(2) Page 1 of 2 pages <i>plus JP</i></p>	
		<p>(3) Property Identifier(s) Block Property</p>		<p>Additional: See Schedule <input type="checkbox"/></p>	
		<p>(4) Nature of Document Order in Council Designation of a Portion of Highway Public Transportation and Highway Improvement Act</p>			
		<p>(5) Consideration Dollars \$</p>			
<p>New Property Identifiers</p> <p>Executions</p> <p>Additional: See Schedule <input type="checkbox"/></p>		<p>(6) Description The portion of Highway in the City of Welland, in the Regional Municipality of Niagara, shown as PART 1, on Ministry Plan P-5064-25 be designated as a Controlled-Access-Highway. See Schedule on Page 2 for descriptions.</p>			
		<p>(7) This Document Contains:</p>		<p>(a) Redescription New Easement Plan/Sketch <input type="checkbox"/></p> <p>(b) Schedule for: Description <input checked="" type="checkbox"/> Additional Parties <input type="checkbox"/> Other <input checked="" type="checkbox"/></p>	
<p>(8) This Document provides as follows:  That Order in Council 1825/96 be registered under authority of Section 36 of the Public Transportation and Highway Improvement Act, and Subsection 63 (3) of Regulation 997 of the Registry Act.</p> <p>{Highway 406}</p> <p style="text-align: right;">Continued on Schedule <input checked="" type="checkbox"/></p>					
<p>(9) This Document relates to instrument number(s)</p>					
<p>(10) Party(ies) (Set out Status or Interest) Name(s) HER MAJESTY THE QUEEN, IN RIGHT OF THE PROVINCE OF ONTARIO, REPRESENTED BY THE MINISTER OF TRANSPORTATION FOR THE PROVINCE OF ONTARIO.</p> <p style="text-align: right;">Signature(s) <i>[Signature]</i> C. TSAI-LIANG, O.L.S. SENIOR SURVEYOR</p> <p style="text-align: right;">Date of Signature Y M D 96 10 11</p>					
<p>(11) Address MR. C. TSAI-LIANG, O.L.S., Senior Surveyor, Surveys and Plans Section, Central Region, Atrium Tower, 3rd Floor, 1201 Wilson Avenue, Downsview, Ontario. M3M 1J8</p>					
<p>(12) Party(ies) (Set out Status or Interest) Name(s)</p> <p style="text-align: right;">Signature(s)</p> <p style="text-align: right;">Date of Signature Y M D</p>					
<p>(13) Address for Service</p>					
<p>(14) Municipal Address of Property  Not Assigned</p>		<p>(15) Document Prepared by: Diana Stocklin Registration Clerk Surveys and Plans Section Central Region Atrium Tower, 3rd Floor Downsview, Ontario M3M 1J8</p>			
		<p style="text-align: right;">Fees and Tax</p> <p>Registration Fee ACCT.</p> <p>Total</p>			



Ontario  
Executive Council  
Conseil des ministres

Order in Council  
Décret

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that:

Sur la recommandation du soussigné, le lieutenant-gouverneur, sur l'avis et avec le consentement du Conseil des ministres, décrète ce qui suit :

the portion of highway in the City of Welland, in the Regional Municipality of Niagara, shown as PART 1 on Ministry of Transportation Plan P-5064-25, filed with the Record Services Unit, Central Region, of the Ministry at Toronto on the 21st day of August, 1996 be designated as a controlled-access highway, pursuant to section 36 of the Public Transportation and Highway Improvement Act, R.S.O. 1990, chapter P.50 as amended.

Recommended

*Ed Peeler*

Minister of Transportation

Concurred

*R.W. Timmins*

Chair of Cabinet

Approved and Ordered

UCI - 2 1996

Date

*[Signature]*  
Lieutenant Governor

Certified to be a true copy.

*[Signature]*  
Deputy Clerk, Executive Council

Court File No.: 2747/11

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

Party A

and

Applicant

and

ENBRIDGE GAS DISTRIBUTION INC.

Respondent

APPLICATION RECORD

Party D

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

Tel: \_\_\_\_\_

Fax: \_\_\_\_\_

The Solicitor for the Applicant

Court File No.:

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

Party A

and

Applicants

and

ENBRIDGE GAS DISTRIBUTION INC.

Respondent

INDEX

<u>Document</u>	<u>Date</u>	<u>Tab</u>
Notice of Application	March 23, 2011	1
Affidavit of Party A	November 4, 2010	2

Court File No.:

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

Party A

and

Applicant

(Court seal)

and

ENBRIDGE GAS DISTRIBUTION INC.

Respondent

NOTICE OF APPLICATION

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing on **Wednesday May 18, 2011, at 10:00 a.m.** at 102 East Main Street, Welland, ON.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date 27 April 2011

Issued by .....  
*Original signed by*  
**"Barbara Leorn"**  
Local registrar

Address of  
court office 102 East Main Street  
Welland, ON L3B 3W6

TO ENBRIDGE GAS DISTRIBUTION INC.  
500 Consumer Road  
North York, ON M2J 1P8

## APPLICATION

### 1. THE APPLICANTS MAKES APPLICATION FOR:

1. A Declaration that the Respondent has no legal interest in the property.
2. An Order that the Respondents are trespass on the lands belonging to the applicants herein.
3. An Order directing the Respondent to remove the high pressure gas distribution main at their cost from the subject lands legally described as PIN#64129-0121(LT), PT LT 16 CON 5 HUMBERSTONE, PT 3, 59R12761; WELLAND and municipally known as vacant land on Netherby Road, Welland, ON, as being trespass to the Applicant's property.
4. For an Order directing the Respondent to repair any and all damage to the subject lands resulting from the removal of the high pressure gas distribution main at their cost.
5. Costs on a Substantial Indemnity basis.
6. Such further and other relief as the Applicant may request and this honourable court grant.

### 2. THE GROUNDS FOR THE APPLICATION ARE:

1. The Plaintiffs entered into an Agreement of Purchase and Sale on March 2, 2009 for the property legally described as: PIN#64129-0121(LT), PT LT 16 CON 5 HUMBERSTONE, PT 3, 59R12761; WELLAND and municipally known as vacant land on Netherby Road, Welland, ON (*the "subject property"*).
2. The completion date for the purchase was scheduled for April 22, 2009.
3. A search of title was conducted prior to closing and the results revealed an Oil, Gas Mineral and Storage Agreement and Lease dated April 26, 1962 in favour of the Consumers Gas Company registered on June 1, 1962 as instrument #73407A and an Assignment of Lease dated April 8, 1969 to The St. Lawrence Seaway Authority registered April 24, 1969 as instrument #100218.

4. Prior to closing we received from the vendor's Lawyer a letter from Enbridge stating that the description in Lease #73407A abstracted against the subject lands is the description for PIN 64129-0083 and it appeared that the lease is abstracted incorrectly and therefore there is nothing for Enbridge to surrender.
  5. The search of title did not reveal any other registered easements in favour of Enbridge Gas Distribution Inc. or any other party.
  6. The Plaintiffs entered into the Agreement of Purchase and Sale with the intention to build a garage for the purpose of repairing and maintenance of automobiles and trucks. They wanted to build the garage as close as possible to the southern limit of the subject land so the building would be highly visible to people accessing Highway 140 and Townline Road.
  7. The transaction was completed on April 22, 2009.
  8. Subsequent to the Applicant's obtaining ownership of the subject lands, they started an Application for a Site Plan Control Agreement with the City of Welland to allow them to build the garage.
  9. As a result of the application, utility locates were completed to locate any underground services, as required by the City of Welland. The Applicant's did not expect any underground services as this is an unserviced rural property.
  10. Enbridge attended at the property and advised the Applicants that there was a high pressure gas line running through their property. At this time an Enbridge employee, placed flags on the property indicating the path of the pipeline.
  11. The pipeline apparently runs the length of the property, approximately 600 feet.
  12. This is the first time the Applicants have become aware of any underground gas line or service running through the property.
-

13. The Respondents are trespassing on the Applicant's property and they would like them to remove the said pipeline and repair the property.
14. At the time of the Applicant's acquisition of the subject lands, there were no markers indicating the location or the existence of a pipeline under their property.
15. The Respondent's are trespassing and we require an order that the underground pipe be removed from the subject property.

**3. THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:**

1. Affidavit of Party A
2. Such further and other material as counsel may advise and this Honourable Court will allow.

Dated this 27<sup>th</sup> day of April, 2011

Party D

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

TO: ENBRIDGE GAS DISTRIBUTION INC.  
500 Consumers Road  
North York, ON M2J 1P8

ENBRIDGE GAS DISTRIBUTION INC.

and

Party A

and

Plaintiff

Defendants

Court File No.

ONTARIO  
SUPERIOR COURT OF JUSTICE  
Proceeding Commenced at Welland, Ontario

APPLICATION

Party D

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

tel: \_\_\_\_\_

fax: \_\_\_\_\_

Solicitor for the Plaintiff

Court File No.:

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

Party A

and

Applicants

and

ENBRIDGE GAS DISTRIBUTION INC.

Respondents

**AFFIDAVIT**

I, Party A of the City of Welland, in the Regional Municipality of Niagara,  
MAKE OATH AND SAY:


1. I am one of the applicants herein and as such have knowledge of the matters hereinafter deposed to.
2. Party A entered into an Agreement of Purchase and Sale dated March 2, 2009 for the purchase of lands legally described as: PIN#64129-0121(LT), PT LT 16 CON 5 HUMBERSTONE, PT 3, 59R12761; WELLAND and municipally known as vacant land on Netherby Road, Welland, ON (*the "subject property"*). Attached hereto and marked as Exhibit "A" is a copy of the agreement of purchase and sale.
3. The completion date for the purchase was scheduled for April 22, 2009.
4. A 40 year search of title was conducted prior to closing. Attached hereto and marked as Exhibit "B" is a copy of the parcel register (PIN) 64247-0121(LT).
5. The title search revealed an Oil, Gas Mineral and Storage Agreement and Lease dated April 26, 1962 in favour of the Consumers Gas Company registered on June 1, 1962 as instrument #73407A and an

Assignment of Lease dated April 8, 1969 to The St. Lawrence Seaway Authority registered April 24, 1969 as instrument #100218. Attached hereto and marked as Exhibit "C" is a copy of the said lease.

6. Prior to closing we were advised by our Lawyer that he received a letter from the Vendor's Lawyer with a letter enclosed from Enbridge stating that the description in Lease #73407A abstracted against the subject lands is the description for PIN 64129-0083 and it appeared that the lease is abstracted incorrectly and therefore there is nothing for Enbridge to surrender. Attached hereto and marked as Exhibit "D" is a copy of the letter from Enbridge that was provided by the vendor's lawyer.
7. The letter also went on to state that it is Enbridge's understanding that our property is located is outside of their storage pool and in these cases they will surrender their leases if requested by the landowner.
8. The search of title did not reveal any other registered easements in favour of Enbridge Gas Distribution Inc. or any other party.
9. We entered into the Agreement of Purchase and Sale with the intention to build a garage for the purpose of repairing and maintenance of automobiles and trucks. We wanted to build the garage as close as possible to the southern limit of the subject land so the building would be highly visible to people accessing Highway 140 and Townline Road. We feel this is an ideal location for the building.
10. This property is unique in its location and is ideal for our intended purpose
11. The transaction was completed on April 22, 2009.
12. Subsequent to us obtaining ownership of the subject lands, we started an Application for a Site Plan Control Agreement with the City of Welland to allow us to build the garage.
13. As a result of our application, utility locates were completed to locate any underground services, as required by the City of Welland. We did not expect any underground services as this is an unserviced rural property.


14. Enbridge attended at the property and advised us that there was a high pressure gas line running through our property. At this time Enbridge employee, placed flags on the property indicating the path of the pipeline.
15. The pipeline apparently runs the length of our property, approximately 600 feet.
16. This is the first time we have become aware of any underground gas line or service running through the property.
17. The respondents are trespassing on our property and we would like them to remove the said pipeline and repair the property.
18. At the time of our acquisition of the subject lands, there were no markers indicating the location or the existence of a pipeline under our property.
19. The defendant's are trespassing and we require an order that the underground pipe be removed from our property.
20. We make this affidavit in support of an application and for no improper purpose.

SWORN/AFFIRMED BEFORE me at the  
Town of Pelham, in the Regional Municipality,  
at Niagara, this 4 November, 2010

  
\_\_\_\_\_  
A commissioner etc.

)  
)  
)  
)  
)  
)  
\_\_\_\_\_  
Party A

THIS IS EXHIBIT "A"  
TO THE AFFIDAVIT OF  
SWORN BEFORE ME THIS  
4<sup>TH</sup> DAY OF NOVEMBER, 2010

---

A Commissioner, etc  
Party D

**CREAL****Agreement of Purchase and Sale  
Commercial**This Agreement of Purchase and Sale dated March 4, 2009

BETWEEN Party A

AND Party B

agrees to purchase from

the following

**1. REAL PROPERTY**Is from Lot 16 Heatherly Road, Welland, Ontario bordering on the West side of Townline Trunk Roadin the City of Welland in the Regional Municipality of Niagara, Ontarioand having a frontage of 251.81 Feet more or less by a depth of 100.75 Feet more or less and herebyis covenanted as CONVEYANCE OF REALTY (and being irregularly shaped)**2. PURCHASE PRICE**

The purchase price is

Dollars (CDN) 5,000.00**3. POSSESSION** Buyer obtains Upon Acceptance

Five thousand

Dollars (CDN) 5,000.00by depositing a cheque payable to Royal LePage Kingsbury Realty "Deposit Holder" to be held in trust pending completion or other termination of this Agreement and to be applied toward the Purchase Price on completion. For the purposes of this Agreement, "Upon Acceptance" shall mean that the Buyer is required to deliver the deposit to the Deposit Holder within 24 hours of the acceptance of this Agreement. The parties to this Agreement hereby acknowledge that unless otherwise provided for in this Agreement, the Deposit Holder shall place the deposit in trust in the Deposit Holder's non-interest bearing trust funds (trust account) and no interest shall be earned, received or paid on the deposit.

Buyer agrees to pay the balance as more particularly set out in Schedule A attached.

**SCHEDULE A**

Buyer's Cheque

deposited hereon (insert part of this Agreement) March 21/09

The Offer is

irrevocable by Buyer until 2:00 P.M. onthe 25th day of March, 2009

after which time, if not accepted, this

offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.

2. **COMPLETION DATE:** This Agreement shall be completed by no later than 2:00 P.M. on the 25th dayof April, 2009. Upon completion, vacant possession of the property shall be given to the

Buyer unless otherwise provided for in this Agreement.

3. **NOTICES:** Seller hereby appoints the Listing Brokerage as Agent for the purpose of giving and receiving notices pursuant to this Agreement. Only if the Co-operating Brokerage represents the Brokerage of the Buyer in this

transaction, the Buyer hereby appoints the Co-operating Brokerage as Agent for the purpose of giving and receiving

notices pursuant to this Agreement. Any notice relating hereto or provided for herein shall be in writing. This offer, any

counter offer, notice of acceptance thereof, or any notice shall be deemed given and received, when hand delivered to the

offices for parties provided in the Acknowledgement below, or where a telephone number is provided herein, when

transmitted electronically to that facsimile number.

Fax No. (905) 568-0588 For delivery of notice to Seller Fax No. (905) 568-0588 For delivery of notice to Buyer

INITIALS OF SELLER

INITIALS OF BUYER

1. I, the undersigned, being the Seller, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Brokerage, and that I understand the same and agree to the same.

2. I, the undersigned, being the Buyer, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Brokerage, and that I understand the same and agree to the same.

3. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

4. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

5. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

6. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

7. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

8. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

9. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

10. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

11. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

12. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

13. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

14. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

15. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

16. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

17. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

18. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

19. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

20. I, the undersigned, being the Brokerage, hereby certify that the above is a true and correct copy of the original Agreement of Purchase and Sale, and that the same has been read and explained to me by the Seller and Buyer, and that I understand the same and agree to the same.

4. **EXISTING CHARTERS INCLUDED:** N/A
5. **FIXTURES EXCLUDED:** N/A
6. **RENTAL FEES:** The following equipment is rented and not included in the Purchase Price. The Buyer agrees to assume the rental responsibility, if applicable. N/A
7. **GST:** If this transaction is subject to Goods and Services Tax (GST), then each party shall be in addition to the Purchase Price. The Seller will not collect GST if the Buyer provides to the Seller a warranty that the Buyer is registered under the Goods Tax Act (RTA), together with a copy of the Buyer's RTA registration, a warranty that the Buyer will not collect GST, and remit the GST payable and that the prescribed form and shall indemnify the Seller in respect of any GST payable. The foregoing warranties shall not merge but shall survive the completion of the transaction. If this transaction is not subject to GST, Seller agrees to certify on or before closing, that this transaction is not subject to GST.
8. **TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. on the 5th day of April 2009 (Completion Date) to examine the title to the property of his own expense and until the expiry of: (a) five days from the date of the Completion Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (b) five days prior to completion, to certify himself that there are no outstanding work orders or deficiency notices affecting the property, that the present use (Residential) is lawful and that the Seller has no knowledge of any other matters that may be legally enforceable and that the principal building may be insured against risk of fire. Seller hereby warrants to the municipality or other governmental agencies relating to the title of the property and that the Seller has no knowledge of any other matters that may be legally enforceable and that the principal building may be insured against risk of fire. Seller hereby warrants to the municipality or other governmental agencies relating to the title of the property and that the Seller has no knowledge of any other matters that may be legally enforceable and that the principal building may be insured against risk of fire.
9. **FUTURE USE:** Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.
10. **TITLE:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that they are complied with; (b) any registered municipal corporations and registered agreements with public utilities providing such have been complied with; or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or registered utility; (c) any other encumbrance for the supply of domestic water or telephone services to the property or adjacent property; and (d) any encumbrance for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the use of the property. If within the specified time related to in paragraph 8 any valid objection to the use of the property or any outstanding work order or deficiency notice, or to the fact the said property may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or correct insurance and except against risk of fire in favour of the Buyer and any mortgagees, with all related costs of the expenses of the Seller, and which Buyer will not waive, this Agreement not constituting any intermediate date or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Brokers and Co-operating Brokers shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the property.
11. **CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where the transaction will be completed by electronic registration pursuant to Part 4 of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1997, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-refundable documents and other items (the "Required Deliveries") and the release thereof to the Seller and Buyer will be not occur at the same time as the registration of the transfer deed and any other documents intended to be registered in connection with the completion of this transaction; and (b) be subject to conditions whereby the lawyers receiving any of the Required Deliveries will be required to hold some in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer (hereby) transfer the said money to be bound by the document registration agreement which is recommended from time to time by the Law Society of Upper Canada. Unless otherwise stated to by the lawyers, such exchange of the Required Deliveries will occur in the applicable Land Titles Office or such other location acceptable to both lawyers.
12. **DOCUMENTS AND DISCHARGES:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Seller. If requested by Buyer, Seller will deliver any such title or survey of the property within Seller's control to Buyer as soon as possible and prior to the Completion Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the laws of the Province of Ontario is required, the Seller shall be responsible for obtaining the same.



March 22/09  
March 23/09  
March 23/09

03/19/2009 13:53 FAX 9055014017

ROYAL LEPAGE KINGSBURY  
ROYAL LEPAGE KINGSBURY

Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Co-operative or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registered form on completion, Buyer agrees to accept Seller's transfer of personal undertaking to obtain, out of the closing funds, a discharge in registered form and to register same, or cause same to be registered, on the within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction issued by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.

13. **DISCLOSURE** Buyer acknowledges having had the opportunity to inspect the property and understands that upon acceptance of this Offer there shall be a binding agreement of purchase and sale between Buyer and Seller.
14. **INSURANCE** All buildings on the property and all other things being purchased shall be and remain until completion in the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.
15. **PLANNING ACT** This Agreement shall be effective to create an interest in the property only if Seller complies with the subdivision control provisions of the Planning Act by registration and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.
16. **DOCUMENT PREPARATION** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registered form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 60(2) of the Planning Act, R.S.O. 1990.
17. **ADJUSTMENTS** Buyer shall be credited towards the purchase price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-resident provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada.
18. **ADJUSTMENTS** Any rent, mortgage interest, equity taxes including local improvement rates and unretained public or private utility charges and unmatured cost of fuel, as applicable, shall be apportioned and allowed to the day of completion. The day of completion itself to be apportioned to Buyer.
19. **TIME LIMITS** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically referred to in the request.
20. **PROPERTY ASSESSMENT** The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Brokerage or Salesperson, for any changes in property tax on a result of a reassessment of the property.
21. **DISCLOSURE** Any transfer of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money may be transferred by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Co-operative.
22. **FAMILY LAW ACT** Seller warrants that consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O. 1990 unless Seller's spouse has executed the consent hereinafter provided.
23. **WARRANTY** Seller warrants and warrants to Buyer that during the time Seller has owned the property, Seller has not caused the building on the property to be insulated with insulation containing ureaformaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains ureaformaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.
24. **LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICES** The parties acknowledge that any information provided by the Brokerage is not legal, tax or environmental advice, and that it has been recommended that the parties obtain independent professional advice prior to signing this document.
25. **CONSUMER REPORTS** The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.
26. **AGREEMENT IN WHOLE** If there is conflict or discrepancy between any provision printed in this Agreement (including any schedule attached hereto) and any provision in the standard printed form hereof, the printed provision shall prevail. The standard printed provision is the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purpose of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.
27. **TIME AND DATE** Any reference to a time and date in this Agreement shall mean the time and date where the property is located.

INITIALS OF BUYER(S)

INITIALS OF SELLER(S)

© 2009 Royal LePage Inc. All rights reserved. This document is the property of Royal LePage Inc. and is not to be reproduced or distributed without the prior written consent of Royal LePage Inc.

Form 225 2009 Page 2 of 2

March 22, 2009  
March 23/09  
March 23/09

April 23/04

OREA III

**Schedule A**

**Agreement of Purchase and Sale - Commercial**

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

**BUYER, Party A**

**SELLER, Party B**

for the purchase and sale of Lot 16 Netherby Road, Welland, Ontario, in the City of Welland in the Regional Municipality of Welland  
Agreement of Purchase and Sale dated March 4, 2009

**1. PURCHASE PRICE**

Buyer agrees to pay the balance of the purchase price, subject to adjustments, in cash or by certified cheque, to the Seller on the completion of this transaction.

**2. SOLD "AS IS" and "WHERE IS"**

Buyer has inspected the property and subject to any express provisions of this Agreement to the contrary, accepts the property "as is" and "where is".

**3. VACANT LAND**

The Buyer acknowledges that the real property is vacant land of approximately 3.71 acres irregularly shaped. The property is presently zoned R - Industrial; and the Seller agrees to provide, upon acceptance, copies of all documents that the Seller has in its possession, including but limited to copies of the following documents:

survey of the land or site plan, realty taxes for the current year 2009) as well as, for the previous two (2) years, environmental reports, site plans, easements, zoning information and any other documents of any nature relevant to the subject property from any authority.

**4. TITLE**

Seller agrees to discharge any existing mortgages or liens or other encumbrances now registered against the property, as well as, on or before Closing, at the expense of the Seller.

**5. AGENCY**

The Seller and the Buyer hereby affirm their consent that Royal LePage Kingsbury Realty, Brokerage is acting as dual Agent for the Seller and for the Buyer, in this transaction; and the Broker is being compensated from the Seller on the completion of this transaction when all real estate commissions shall be due and payable plus G.S.T., as per THE LISTING AGREEMENT (REFER TO "MLS# J1492334")

Continued on next page...

Page 1

This page must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S)

INITIALS OF SELLER(S)

ROYAL LEPAGE KINGSBURY REALTY  
1000 SHEPPARD AVENUE EAST, SUITE 100, SCARBOROUGH, ONTARIO M1S 1T5  
Tel: (416) 491-1111 Fax: (416) 491-1112  
www.royallepage.com

Page 1 of 1

135716

March 22/09  
March 23/09  
March 4/09

**OREA****Schedule A  
Agreement of Purchase and Sale - Commercial****11**  
minutes

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: Party ASELLER: Party Bfor the purchase and sale of Lot 16 Northey Road, Welland, Ontario, in the City of Welland in the Regional M...  
Agreement of Purchase and Sale dated March 4, 2009.

Continued from previous page:

**6. LEGAL ADVICE**

The Parties to this Agreement of Purchase and Sale acknowledge that Royal LePage Kingsbury Realty, Brokerage has recommended that they obtain advice from their Legal Counsels prior to signing this document. The Parties further acknowledge that no information provided by Royal LePage Kingsbury Realty, Brokerage is to be construed as expert advice; no representation regarding the following: services to the property of any nature, access to the property (ingress and egress), easements, applicable building construction information (if any applies), legal, environmental, accounting or tax advice.

**7. BUYER'S CONDITIONS**

This Agreement is conditional until 11:59 p.m. on April 9th, 2009 ("THE CONDITIONAL PERIOD") following execution of this Agreement of Purchase and Sale, by both Parties; upon the following conditions which are for the sole benefit of the BUYER and which may be waived by the BUYER, at its sole option, on or before 11:59 p.m. on April 9th, 2009.

**a.) FINANCING**

The BUYER arranging satisfactory financing within "THE CONDITIONAL PERIOD" following date of execution of this Agreement of Purchase and Sale; otherwise, this Agreement shall become null and void; and the deposit shall be returned immediately to the BUYER without interest or without deduction upon receipt of written notification from the BUYER delivered to the SELLER.

**b.) ZONING**

The BUYER and its authorized Agents shall have the SELLER'S permission and authorization to conduct zoning and environmental inspections for the purpose of determining, at the BUYER'S expense and sole discretion the vacant land can be adapted for its future intended use and conforms to its present use and Zoning E - Industrial with respect to all relevant municipal by-laws and building codes required by the City of Welland and the Regional Municipality of Niagara, Ontario.

Continued on next page...

Page 2

This page must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER: \_\_\_\_\_

INITIALS OF SELLER: \_\_\_\_\_

**RE** 9/20/09 Ontario Real Estate Association (OREA) Agreement of Purchase and Sale developed by OREA Realty Inc. as a model form for use by its members. It is not intended to be used for any other purpose. It is not intended to be used for any other purpose. It is not intended to be used for any other purpose.

Royal LePage Kingsbury Realty

Page 2009  
March 23/09  
March 23/09  
March 23/09

Page 2009  
March 23/09  
March 23/09  
March 23/09

March 22/09  
March 23/09  
March 23/09

CREA

## Schedule A

### Agreement of Purchase and Sale - Commercial

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER, Party A

SELLER, Party B

for the purchase and sale of Lot 16, Highway Road, Welland, Ontario in the City of Welland in the Regional M.  
Agreement of Purchase and Sale dated March 4, 2009.

Continued from previous page

#### 8. ENVIRONMENTAL INSPECTION

The BUYER and its authorized Agents shall have the SELLER'S permission and authorization to have access to the property for the purpose of conducting environmental inspections (including a Phase I Audit and a Phase II Audit, at the BUYER'S sole option and sole expense) and the BUYER shall be satisfied in its sole discretion with such inspections and environmental audits. The BUYER covenants and warrants it shall be responsible to immediately remedy any damage caused to the vacant land while it and its authorized Agents are conducting the specified inspections, all remedies shall be at the BUYER'S sole expense to the satisfaction of the SELLER; this understanding is for the benefit of both the BUYER and the SELLER.

#### 9. CURRENT VALUE ASSESSMENT

The SELLER agrees to deliver to the BUYER within five (5) calendar days, after acceptance, all assessment and realty tax information in connection with the property that the SELLER has in its possession for the current year 2009, as well as, for the previous two (2) years including copies of all realty tax bills paid by the SELLER.

#### 10. VACANT POSSESSION

The SELLER covenants and warrants that the BUYER will have vacant possession on Closing, which the BUYER shall have the exclusive use of upon completion of this transaction, and all debris of any nature that the BUYER notifies the SELLER of in writing prior to Closing, shall have been removed from on, or about the property, at the SELLER'S expense before Closing.

#### 11. SELLER'S COVENANTS AND REPRESENTATIONS

All covenants and representations made by the SELLER with respect to the subject property are set out in this Agreement of Purchase and Sale; and there are no verbal or other agreements; and furthermore, there are no outstanding contracts of any nature obligating the BUYER to any other party or relevant authority, except any covenants that the BUYER accepts.

Continued on next page.

Page 3

This page must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER

INITIALS OF SELLER

ROYAL LEPAGE KINGSBURY REALTY  
A REALTOR OF THE REALTORS ASSOCIATION OF ONTARIO  
1000 Highway 100, Suite 100, Welland, Ontario N2L 2G1  
Tel: (905) 223-1111 Fax: (905) 223-1112  
www.royallepagekingsbury.com

Form 390A

2009

Realty Services Corp.

328046

March 22/09

March 23/09

March 23/09

ORCA

**Schedule A  
Agreement of Purchase and Sale - Commercial**

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between

BUYER, Party A

and  
SELLER, Party B

for the purchase and sale of Lot 16 Netherby Road, Welland, Ontario in the City of Welland in the Regional M...  
Agreement of Purchase and Sale dated March 4, 2009.

Continued from previous page:

**11. G.S.T.**

The Parties agree that no G.S.T. shall be collected by the SELLER on Closing provided that the BUYER delivers to the SELLER on or before Closing as required by Section 22(3) of the Excise Tax Act, proof that the BUYER is registered under Subdivision D of Division V, Part IX of the said Act.

**12. ASSIGNMENT OF AGREEMENT**

The BUYER may, prior to Closing, assign this Agreement of Purchase and Sale, to any other person or corporation. No such assignment shall, however, release the BUYER of the obligations imposed upon him and her by this Agreement of Purchase and Sale of the subject real property.

This page must be initialed by all parties to the Agreement of Purchase and Sale.

Page 4

INITIALS OF BUYER(S)

INITIALS OF SELLER(S)

ROYAL LEPAGE  
ROYAL LEPAGE KINGSTON

ROYAL LEPAGE  
ROYAL LEPAGE KINGSTON

ROYAL LEPAGE  
ROYAL LEPAGE KINGSTON

March 22nd 2009  
March 23/09  
March 27/09

**ORLA**

# Confirmation of Co-operation and Representation

**DATE**

**SUBJECT:** Party A

**SUBJECT:** Party B

For the transaction of the property located at **Lot 16 Nidmoby Road, Welland, Ontario**

For the purpose of this Confirmation of Co-operation and Representation, a "Party" includes a vendor, a landlord, or a prospective buyer, purchaser or tenant and a "Rule" includes a clause.

The following information is contained by the undersigned salesperson/representative of the Brokerage/Company. If a Co-operating Brokerage/Company is involved in the transaction, the undersigned agrees to co-operate, in accordance with the terms of the Co-operation and Representation Agreement.

**DECLARATION OF DISCLOSURE:** The undersigned salesperson/representative of the Brokerage/Company hereby declares that he/she is licensed as required by the Real Estate and Business Brokers Act (R.E.B.B.A.) and Regulations.

## IMPARTIAL REPRESENTATION

The Listing Brokerage has agreed into a Sales Representation Agreement with Party A and assumes the interests of the Seller and the Buyer with respect to the transaction. The Listing Brokerage shall be impartial and equally advise the Seller and the Buyer in the transaction. The Listing Brokerage has a duty of disclosure to both the Seller and the Buyer, including a duty to disclose all material information about the property known to the Listing Brokerage.

However, the Listing Brokerage does not disclose:

- That the Seller has not accepted the lowest price, unless all offers submitted in writing by the Buyer;
- That the Buyer may receive more than the offered price, unless it is known by the Listing Brokerage;
- The motivation of the parties to the transaction, unless it is known by the Listing Brokerage;
- Information about the property that is not disclosed by the Seller, unless it is known by the Listing Brokerage;
- The price the Seller should offer or the price the Buyer should accept, unless it is known by the Listing Brokerage.

However, it is understood that the Listing Brokerage shall disclose all material information about the property known to the Listing Brokerage concerning potential uses for the property that will be disclosed to both Seller and Buyer to enable them to make their own decisions.

Additional comments and/or disclosures by Listing Brokerage:

BOUND BY REALTOR'S OATH AND REGULATIONS OF THE REALTORS ASSOCIATION (WHERE APPLICABLE)

**Royal LePage Kingsbury Realty**

**30 Bismarck Ave. West, Suite 200, Mississauga, ON L5H**

**(905) 568-1171**

**(905) 568-2588**

**Richard D. Flanagan (Sales Representative)**

**Richard D. Flanagan (Sales Representative)**

**COOPERATION AND REPRESENTATION (To be completed only if a Brokerage represents more than one client for the transaction)**

The Seller / Buyer consents with their initials to the Brokerage/Company representing above named client in this transaction.

**Signature** \_\_\_\_\_ **Witnessed the above information.**

**Date** MARCH 17/09

**Signature** \_\_\_\_\_ **Date** MARCH 18/2009

**Signature** \_\_\_\_\_

© 2008 Ontario Real Estate Association (OREA). All rights reserved. This document is filed by OREA for the use and reproduction of its members and licensees only. Any other use or reproduction is prohibited except by prior written consent of OREA.

**Royal LePage Kingsbury Realty**

**Page 21**

**March 22/2009**

**March 23/09**

**April 23/09**

THIS IS EXHIBIT "B"  
TO THE AFFIDAVIT OF  
Party A  
SWORN BEFORE ME THIS  
4<sup>TH</sup> DAY OF NOVEMBER, 2010

A thick, dark, handwritten signature, possibly in ink, slanted upwards from left to right.

---

A Commissioner, etc  
Party D

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 1 OF 2  
PREPARED FOR SIMPLY  
ON 2009/11/27 AT 11:25:07

64129-0121 (LT)

\* CERTIFIED BY LAND REGISTRAR IN ACCORDANCE WITH LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

LAND  
REGISTRY  
OFFICE #59

Ontario ServiceOntario

PROPERTY DESCRIPTION: PT LT 16 CON 5 HUNTERSTONE, PT 3, 59R12761, MELLAND

PROPERTY REMARKS:

DATE/QUALIFIER:

CONVERSION QUALIFIED

PERSON'S NAMES

Party A

RECENTLY  
DIVISION FROM 64129-0111

CAPACITY SHARE  
JOHN  
JOHN

FIN CREATION DATE:  
2006/02/23

NO. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE: 2006/02/23 **						
SUBJECT:						
IN FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
SUBSECTION 4(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
AND ESCHARGE OR FORFEITURE TO THE CROWN.						
THE RIGHTS OF ANY PERSON WHO MIGHT, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
CONVENTION.						
ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
DATE OF CONVERSION TO LAND TITLES: 1998/12/31 **						
73407	1962/06/01	LEASE			THE CONSUMERS' GAS COMPANY	C
73912	1962/06/11	DILAW				C
150210	1969/04/24	ASSIGNMENT GENERAL				C
812761	2005/05/17	PLAN REFERENCE				C
1109272	2006/02/06	CROWN PATENT			CANADA LANDS COMPANY CLC LIMITED	
REMARKS: PYS I-1, 59R12761						
121993	2006/05/26	TRANSFER			Party B Party F	

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER



LAND  
REGISTRY  
OFFICE #59

64129-0121 (LT)

PAGE 2 OF 2  
PREPARED FOR SLNWSY01  
ON 2009/11/27 AT 11:25:07

\* CERTIFIED BY LAND REGISTRAR IN ACCORDANCE WITH LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

I. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHMD
12066	2008/06/23	TRANSFER		... COMPLETELY DELETED ... Party F Party B	Party B	
42138	2009/04/22	TRANSFER	\$50,000	Party B	Party A	

NOTE: ALLICHOING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

THIS IS EXHIBIT "C"  
TO THE AFFIDAVIT OF  
Party A  
SWORN BEFORE ME THIS  
4<sup>TH</sup> DAY OF NOVEMBER, 2010

A handwritten signature, appearing to be "D", is written in dark ink above a horizontal line.

Party D

7-P

73407A

-497-

11-1  
BEB-2

60°  
-50  
-50

The Division  
of the Registry  
of the State of  
Michigan  
Registry Division  
Michigan

Testify that the within test-book is truly  
indexed and Registered in the Registry Office  
for the Registry Division of the State  
of Michigan, in Book 11-1  
Township of Humberston  
and 60°-50' N. of the 11-1 day of  
1962

11-1-62  
INDEXED  
73407A  
since 11-1-62

389

(1)

# OIL, GAS, MINERAL AND STORAGE AGREEMENT AND LEASE

THIS AGREEMENT AND LEASE (hereinafter called "Lease") made this 16<sup>th</sup> day of April, 1962

BETWEEN:

*Walter Russell and his wife  
Norma Russell  
Part Lot 6 Con 5- Lumberstone Township*

Hereinafter called "LESSOR"  
OF THE FIRST PART

-and-

**THE Consumers' Gas COMPANY**

a body Corporate having its  
Head Office in the City of Toronto

Hereinafter called "LESSEE"  
OF THE SECOND PART

1.00 WITNESSES that Lessor in consideration of the payments hereinafter contained does grant, demise and lease unto Lessee, the lands described in Schedule "A" annexed hereto (hereinafter called "the lands"), for the following purposes:

- 1.01 The exclusive right to make geological surveys and otherwise to prospect, explore, drill and excavate for underground reservoirs, veins and minerals.
- 1.02 The exclusive right to produce minerals from under the lands, with the exception of fresh water required by Lessor for his own private purposes, and to recover, remove and market such minerals. It is specifically understood and agreed that Lessor hereby conveys to Lessee absolutely all minerals once recovered subject to the payments as hereinafter set forth.
- 1.03 The exclusive right to inject or store minerals or other substances under the lands.
- 1.04 The exclusive right to develop and utilize any underground or sub-surface space for commercial purposes.
- 1.05 The right to drill wells, or sink shafts, reopen, use, plug or abandon any existing wells or shafts, perform secondary recovery operations, build structures, tanks, pipelines, treating, pumping or compression equipment or other facilities incidental thereto and the right to change or remove same after erection or installation.

And for the fulfillment of such purposes:

- 1.06 The right of ingress, egress and regress in or upon the lands.
- 1.07 The right to carry on all operations necessary or convenient.
- 2.00 The term of this Lease (unless sooner terminated or extended by the provisions hereinafter set forth) shall be ten years from the date hereof and so long thereafter as minerals are produced from the lands or storage or other related operations on or under the lands are being carried out or the lands are being used for the production of storage or other related purposes.
- 3.00 Lessee yielding and paying therefor unto Lessor the following:
  - 3.01 Upon the execution of this Lease by Lessor the sum of Fifty Dollars Dollars and no cents (\$50.00) (receipt of which is hereby acknowledged) such amount to be by way of bonus and rental for a period of one year from the date of this Lease.
  - 3.02 On or before the anniversary date of this Lease in each year an amount calculated at the rate of Two Dollars Dollars and no cents (\$2.00) per acre for the number of acres as set out in Schedule "A" annexed hereto, as a yearly rental in advance. W.R. and
  - 3.03 Prior to commencement of drilling, excavation or construction operations and during the periods when only surface or near-surface prospecting is being carried out, compensation for actual damage done by Lessee to land, crops, timber or improvements.
  - 3.04 After the commencement of drilling, excavation and construction operations an amount calculated at the rate of One Hundred Dollars Dollars and no cents (\$100.00) per acre per year for all acreage occupied by Lessee for its operations, street roads, wells, pit heads, buildings, pipe lines and other installations. Lessee prior to commencement of any operations shall notify Lessor of its intentions, delivering to Lessor a plan of the premises it intends to occupy, accompanying same with a payment pro rata in accordance with the rates hereinbefore set out for that part of the year remaining before the next ensuing anniversary date of this Lease. Thereafter on or before the anniversary date of this Lease, Lessee shall pay Lessor the yearly rental in advance as stipulated herein. In addition Lessee agrees to compensate Lessor for actual damages done by Lessee to existing crops, timber and improvements on the lands so taken.
  - 3.05 One-eighth (1/8, 12.5%) of all the native minerals, including one-eighth (1/8, 12.5%) of all the native oil or gas, recovered and marketed from the lands, provided however that no such royalty shall be paid on that portion of the produced minerals used on the lands for the recovery of the minerals or other operations.

- 2 -

Lessee with such payment being made by Lessee not later than the twenty-fifth (25th) day of the month following the month for which payment is being made. Lessee shall keep books and records accurately showing the quantity of all minerals produced and marketed from the lands which books may be inspected by Lessor or his agent at all reasonable times.

3.06 If a reservoir, cavern or mine under the lands is used for the storage of minerals or other substances or for any other commercial purposes, or the lands are used for the protection of storage or other related purposes then an additional rental of Three Dollars Dollars and no cents

(3.00) per acre shall be calculated and paid in accordance with Subsection 3.04 above.

In the event that a commercial deposit of minerals is discovered under the lands and, before fully exploiting or recovering the entire deposit Lessee wishes to undertake a program of development to convert the reservoir in which the deposit is located to storage or other uses, then Lessor hereby grants to Lessee the irrevocable right to purchase the commercially recoverable minerals remaining in that portion of the lands to be used for such storage or other purposes at the rate of one-eighth (1/8, 12 1/2%) of the then current value (such current value to be calculated on present value of future money) of the minerals. Lessee in exercising its right hereunder shall by formal notice to Lessor submit its purchase price and its best estimate of the quantities of commercially recoverable minerals it desires to purchase.

If Lessor disputes the quantities or price in such notice he shall within sixty (60) days give notice to Lessee of such dispute, and thereafter the matter will be arbitrated in accordance with Section 17.00 of this Lease. In the event Lessor does not give notice of dispute within the sixty (60) day period hereinbefore mentioned, the purchase price shall be deemed to have become final and binding upon both parties.

Lessee shall pay to Lessor the purchase price in five (5) equal payments, the first to become due and payable within thirty (30) days of the purchase price becoming final and binding and the remaining four payments on the subsequent four anniversary dates of this Lease.

Lessor covenants that upon payment in full of the first payment of the purchase price, Lessor shall convey the purchased minerals to the Lessee by a good, sufficient and registrable bill of sale conveying clear title to the purchased minerals free from encumbrance, provided however that such conveyance shall be subject to a vendor's lien for the unpaid portion of the purchase price.

4.00 Lessor covenants that he is the owner of the lands and that if the description of the lands be incorrect or insufficient for the purposes of registration or if it does not include all lands owned by Lessor intended to be conveyed by this Lease, Lessor appoints Lessee his attorney to correct this Lease accordingly. Lessor further covenants to execute a new lease in the same form in every respect as this Lease but containing a proper description of all lands intended to be included in this Lease if so requested by Lessee.

5.00 Lessee agrees not to drill a well nor make any excavation nor erect any structures within two hundred feet (200') of any residence, building or improvement on the lands, without Lessor's consent.

6.00 Lessee agrees to indemnify Lessor for all damages or injuries sustained by Lessor caused by or attributable to the operations of the Lessee upon the lands unless such damages or injuries arise without fault or neglect of the Lessee, its servants or agents.

7.00 Lessor covenants that he has a good and marketable title to the lands and minerals and the right to work the same and that the Lessee observing its obligations hereunder may peacefully possess and enjoy the minerals or any of them and the right to work the same. Notwithstanding the term "Lease" Lessor acknowledges and agrees that subject to Lessor's royalty rights the ownership in all and any of the minerals as and when produced or purchased by Lessee shall be in Lessee. If Lessor owns an interest in the lands or in the minerals or both less than the entire fee simple estate, the royalties and rentals to be paid under this Lease shall be paid Lessor only in the proportion which his interest bears to the whole undivided fee. Lessor hereby covenants and agrees to pay all taxes, rates and assessments of whatever nature or kind made or imposed against or in respect of the lands, provided however, that Lessee shall pay any increase of the said taxes, rates and assessments made or imposed in respect of any improvements which the Lessee may make on or under the lands. In case there is or shall be any tax, mortgage, encumbrance, lien, balance of purchase money or other charge upon the said lands or upon the minerals, or both, which has priority to this Lease, Lessor hereby authorizes Lessee to pay, at its option, any of all compensation, rents and royalties which shall become payable hereunder in or towards discharge of such tax, mortgage, encumbrance, lien, balance of purchase money or other charge upon the lands or minerals or both, and thereupon Lessee shall, at its option, become subrogated to the rights of the holder thereof. If Lessor's title should come into dispute or litigation, Lessee may withhold payment of rentals and royalties until final adjudication or other settlement of such dispute or litigation.

8.00 It is hereby declared and agreed that the provisions of this Lease shall extend to, be binding upon and enure to the benefit of the parties hereto, their heirs, successors, administrators or assigns, respectively, the privilege of assigning in whole or in part being hereby expressly allowed, provided that no assignment by Lessor and no change or divisions in the ownership of the lands, rentals and royalties or both, however accomplished, shall operate to enlarge the obligations or diminish the rights of Lessee. It is understood that no assignment by Lessor shall be binding upon Lessee until Lessee has been provided with a sufficient assignment in a form satisfactory to Lessee.

9.00 Lessee may at any time and from time to time surrender to Lessor or assign to anyone all or part of its interest in the whole or part of the lands or minerals or both and shall be released from all obligations in respect of that part of the land or minerals or both or interest therein to surrendered or assigned, provided however that before so surrendering part or all of the lands as herein provided Lessee will restore the lands to as near its original condition as practicable.

10.00 It is agreed that should Lessee drill any well, excavate any cavern or mine or erect any structures or other facilities which subsequently shall be abandoned, the terms of payment hereunder for such abandoned works shall cease on the anniversary of this Lease next following, provided that Lessee shall have properly completed the abandonment of such works by restoring the land, as nearly as practicable, to its original condition. Lessee shall give Lessor sixty (60) days' notice in writing of its intention to so abandon some or all of its works and rentals shall continue until the next ensuing anniversary after the expiry of the sixty (60) day period.

11.00 Lessee upon surrendering all of its interest in the lands shall at its own expense register such surrender in the Registry or Land Titles Office for the Registry or Land Titles Division in which the lands are situate.

12.00 The breach by Lessee of any obligation arising hereunder shall not work a forfeiture of this Lease nor be grounds for cancellation hereof in whole or in part save that in case of actual breach of any obligation by Lessee, Lessor may give written notice to Lessee of such breach. If the breach be not remedied or compensation for such breach be not paid within thirty (30) days after giving of such notice, or if no compensation has been paid during any consecutive thirteen (13) month period, then this Lease shall be null and void.

13.00 The parties mutually agree that if a commercial discovery of minerals or underground space is made under or near the lands and it is desirable to effect a consolidation of the mineral rights of the various lessors and lessees of the area into a single operating unit for the efficient and economic operation of the discovery, then Lessor and Lessee covenant that they will enter into negotiations for such an agreement in a spirit of co-operation, each adopting a non-obstructive attitude for their mutual benefit.

14.00 If at the expiry of the primary term of this Lease, Lessee is not engaged in any operations resulting in payments to Lessor as provided in Subsections 3.05 or 3.06, then this Lease, with the consent of the Lessor, may be extended for a further period of ten (10) years upon the same terms and conditions as prescribed for the primary term by Lessee and/or Lessor.

- 3 -

13.00 Any notices that need be sent under the terms of this Lease may be delivered in person or sent via double registered mail to the parties hereto and the same shall be deemed to be received seven (7) days after the date of such mailing. All payments are to be made by cheque, money order or cash at the option of the payor and may be sent by ordinary mail (excepting cash) or delivered in person.

It is hereby agreed that address for service, unless subsequently amended by formal written notice, is as follows:

Lessor:

Walter Russell  
5 Dewar St. Welland, Ont

Lessee:

THE CONSUMERS' GAS COMPANY  
415 EASTERN AVENUE  
TORONTO 8, ONTARIO

16.00 It is expressly understood that a well or shaft need not be drilled or opened on the lands if the lands are being used for storage or other related purposes.

17.00 If any dispute or difference shall at any time arise or exist between the parties hereto touching or concerning any matter or thing under or arising out of this Lease, then and in any such case the dispute or difference shall be submitted to, and settled, by arbitration. Each of the parties shall select one arbitrator and the two so selected shall appoint a third and the decision of any two such arbitrators shall be final and binding upon both parties. In all other respects the provisions of The Arbitration Act, Ontario and any amendments thereto or substitutions therefor from time to time in force shall apply to such submission. If either party within thirty (30) days of receiving notice from the other requesting any dispute or difference be submitted to arbitration fails to select an arbitrator or if the two selected arbitrators cannot agree on a third, then such arbitrator shall be appointed by a Judge of the Supreme Court of the province in which the lands lie.

18.00 The obligations of either party hereunder shall be suspended and the party shall not be liable for damages or penalties during the time and to the extent that such party is prevented from complying with its obligations hereunder in part or in whole by strikes, lockouts, Acts of God or the Queen's enemies, war, laws, orders or regulations of governmental bodies or agencies, unavoidable accidents, delays in transportation, inability to obtain necessary materials on the open market or any cause, except financial, whether similar or dissimilar to those specifically enumerated beyond the reasonable control of the party affected.

19.00 Each of the parties hereto shall from time to time and at all times do such further acts and execute and deliver such further documents and deeds as shall be reasonably required in order to fully perform and carry out the terms of this Lease.

20.00 It is further understood and agreed that the term "minerals" throughout this Lease shall mean "all naturally occurring substances of the mineral kingdom except surface sands, gravels and quarrying rock", and without derogating from the generality of the foregoing, includes gas, natural gas, oil, petroleum and related hydrocarbons. And that the term "storage" throughout this Lease shall mean "the operation of injecting or placing substances in underground reservoirs or spaces for future withdrawal and recovery".

IN WITNESS WHEREOF The Parties hereto have executed and delivered these presents as of the day and year first above written.

SIGNED, SEALED AND DELIVERED  
In the Presence Of

Walter Russell

Walter Russell  
Theresa Russell

Consumers' Gas

Vice-President and

- 4 -  
AFFIDAVIT AS TO LEGAL AGE AND MARITAL STATUS

CANADA  
PROVINCE OF ONTARIO

To WIT:

I/We .....  
make oath and say:

At the time of the execution and delivery of the within Agreement and Lease  
(1) We were both of the full age of twenty-one years and legally married to each other.  
or (2) I was of the full age of twenty-one years and I was unmarried.  
or (3) I was of the full age of twenty-one years and I was legally married to .....  
the person joining therein as my wife to bar her dower.

SWORN before me at .....  
In the .....  
this ..... day of ..... 19.....  
A Commissioner, etc

AFFIDAVIT OF EXECUTION

CANADA  
PROVINCE OF ONTARIO

To WIT:

I, William J. Pearson ..... of  
Township of Carleton Place .....  
make oath and say:

1. That I was personally present and did see the within instrument and two copies duly signed, sealed and executed by:  
Walter Russell and Norma Russell
2. That the said instrument and two copies were executed by the said parties at Two of the parties thereto.  
Township of Humberstone
3. That I know the said parties.
4. That I am a subscribing witness to the said instrument and two copies.

SWORN before me at Township of Carleton Place  
In the County of Wellington  
this 27 day of April 1962  
W. J. Pearson  
A Commissioner, etc

AFFIDAVIT OF EXECUTION

CANADA  
PROVINCE OF ONTARIO

To WIT:

I, ..... of  
.....  
make oath and say:

1. That I was personally present and did see the within instrument and two copies duly signed, sealed and executed by:
2. That the said instrument and two copies were executed by the said parties at: ..... the parties thereto.
3. That I know the said parties.
4. That I am a subscribing witness to the said instrument and two copies.

SWORN before me at .....  
In the .....  
this ..... day of ..... 19.....  
A Commissioner, etc

- 3 -

### AFFIDAVIT OF EXECUTION BY ATTORNEYS

CANADA  
PROVINCE OF ONTARIO

TO WIT:

I, .....  
.....  
make oath and say:

1. That I was personally present and did see the within lease and two copies duly signed, sealed and executed by  
"Consumers Gas" by its Attorneys  
and
2. That the said lease and two copies were executed by the said attorneys at.
3. That I know the said attorneys.
4. That I am a subscribing witness to the said lease and two copies.

SWORN before me at .....  
in the .....  
this ..... day of ..... 19.....  
.....  
A Commissioner, etc.

### AFFIDAVIT OF MORTMAIN

CANADA  
PROVINCE OF ONTARIO  
To WIT:

I, .....  
.....  
the City of Welland, County of Welland  
make oath and say:

1. That I am ..... Solicitor ..... of "Consumers Gas", the Lessee named in the annexed instrument, and as such have knowledge of the matters herein deposited to.
2. That the lands described in the annexed instrument are not subject to "Consumers Gas" contrary to the provisions of Section 2 of the Mortmain and Charitable Uses Act of Ontario.

SWORN before me at the City of Welland  
in the County of Welland  
this 22nd day of May 1962  
.....  
A Commissioner, etc.

### AFFIDAVIT, LAND TRANSFER TAX ACT.

CANADA  
PROVINCE OF ONTARIO  
To WIT:

I, .....  
.....  
the City of Welland, County of Welland  
make oath and say:

- (1) I am ..... Solicitor ..... of "Consumers Gas", the Lessee named in the within instrument.
- (2) I have a personal knowledge of the facts stated in this affidavit.
- (3) The true amount of the moneys in cash and the value of any property or security included in the consideration is as follows:  
Moneys paid in cash: \$ .....
- (4) The terms of the within instrument are such that the exact consideration is difficult to establish and for this reason the Controller of Revenue has set an arbitrary taxable consideration of \$250.00.

SWORN before me at the City of Welland  
in the County of Welland  
this 22nd day of May 1962  
.....

THIS IS EXHIBIT "D"  
TO THE AFFIDAVIT OF  
Party A  
SWORN BEFORE ME THIS  
4<sup>TH</sup> DAY OF NOVEMBER, 2010

---

A Commissioner, etc  
Party D

Gas Storage Operations  
3595 Tecumseh Road  
MOORETOWN ON N6N 1M0  
Tel 519 862-6008  
Fax 519 862-1168  
Email terry.chupa@enbridge.com



**fax**

File Number:

To: Kamal	From: Terry Chupa
Organization:	No. of pages (including this cover): <del>7</del> 8
Department:	Date: April 20, 2009
Fax: 905-456-8999	If this transmission is not received in good order, please call: (519) 862-6008

Attached please find the following:

- Sales History and Subject Property Map Report for PIN 64129-0121 (Party B)
- Sales History and Subject Property Map Report for PIN 64129-0083 (Tronsco)
- Enbridge (Consumers Gas) lease on Tronsco property registered as Instrument Number 73407A

You will see on the abstract that you sent to me that the lease registered as Inst. No 73407A is abstracted against PIN 64129-0121, however if you read the description for the lease 73407A, it is the description for 64129-0083.

It appears to me that the lease is abstracted incorrectly and therefore there is nothing for us to surrender.

I contacted the registry office at 905-884-6351 and was told the request to make a correction would have to come from your office. Their fax no is 905-884-5874.

Confirming our phone conversation, our historical records indicate that at one time we did have a lease on a larger property that included 64129-0121, but now I do not have any file information for it. Perhaps it was surrendered in the past, or perhaps the wrong lease was abstracted against PIN 64129-0121.

Please note that my understanding of where 64129-0121 is located is outside of our storage pool and in these cases we will surrender our leases if requested by the landowner. Therefore, regardless of the possible abstracting error, if requested, we would surrender our interests upon confirmation the property is outside of our storage pool that has a western limit of Lot 14, Concession 5.

ENBRIDGE GAS DISTRIBUTION INC.

and

Party A

Plaintiff

Defendants

Court File No.

ONTARIO  
SUPERIOR COURT OF JUSTICE  
Proceeding Commenced at Welland, Ontario

APPLICATION

Party D

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

tel: \_\_\_\_\_

fax: \_\_\_\_\_

Solicitor for the Plaintiff



**. Canadian Process Serving \*WILL BE CLOSED FROM MAY 2 - MAY 5\***

04-1920 Ellesmere Road, UPS Store mailbox # 312

Scarborough ON M1H 3G1

h: 800-465-7378

ax: 866-837-0331

0.4 Km

**. Canadian Process Serving**

171 Yonge Street, Suite 353

Thornhill ON L3T 2C6

h: 800-465-7378

ax: 866-837-0331

0.4 Km

*8 171 Yonge St. Suite 353.  
Thornhill, ON L3T 2C6.*

**. Canadian Process Serving**

694 Hwy 7 East, suite 332

Markham ON L3P 1B4

h: 800-465-7378

ax: 866-837-0331

1.7 Km

**. Canadian Process Serving**

57 Adelaide Street West, Suite 509

Toronto ON M5H 4E7

h: 800-465-7378

ax: 866-837-0331

4.6 Km

**. Canadian Process Serving**

5B-10520 Yonge Street, Suite 344

Richmond Hill ON L4C 3C7

h: 800-465-7378

ax: 866-837-0331

4.7 Km

Court File No. 2747/11

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

Party A

Applicants

and

ENBRIDGE GAS DISTRIBUTION INC.

Respondent

**MOTION RECORD**

Date: May 30, 2011

AIRD & BERLIS LLP  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, Ontario  
M5J 2T9

K. John Harild - LSUC # 20953U 1B  
Tel (416) 863-1500  
Fax (416) 863-1515

Lawyers for the Respondent

TO: Party D

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

Tel \_\_\_\_\_  
Fax \_\_\_\_\_

Lawyers for the Applicants

# **INDEX**

Court File No. 2747/11

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

Party A

Applicants

and

ENBRIDGE GAS DISTRIBUTION INC.

Respondent

**INDEX**

<b><u>Tab</u></b>		<b><u>Pages</u></b>
1.	Notice of Motion dated May 30, 2011	1 – 5
2.	Affidavit of William Coldicott sworn on May 27, 2011	6 – 16
	Exhibit "A" – Copy of License Agreement dated April 16, 1975 between The St. Lawrence Seaway Authority and The Consumers' Gas Company	17 – 22
	Exhibit "B" – Copy of letter from Peter McLean to Bill Coldicott dated November 21, 2005	23
	Exhibit "C" – Copy of letter from Peter McLean to Enbridge Gas Distribution Inc. dated September 6, 2006	24
	Exhibit "D" – Copy of letter from Chuck Reaney to Peter McLean dated January 2, 2007 and signed License Agreement Numbers 66-979 and 66-1057	25 – 34

	Exhibit "E" – Copy of four Transfers and copy of Reference Plan 59R-12761 dated May 10, 2005 and deposited May 17, 2005	35 – 47
	Exhibit "F" – Copy of survey and draft Transfer document	48 – 52
	Exhibit "G" – Copy of email string between Party A and Walter Tkach between the period of November 16, 2009 and January 11, 2010	53 – 58
	Exhibit "H" – Copy of letter from Party D to Enbridge Legal Department dated February 24, 2010	59
	Exhibit "I" – Copy of letter from Party D to Randy Hooke of Aird & Berlis LLP dated August 3, 2010	60
	Exhibit "J" – Copy of letter from Randy Hooke to Party D dated August 5, 2010	61 – 62
	Exhibit "K" – Copy of fax letter from Randy Hooke to Party D —dated September 23, 2010	63
3.	Affidavit of Frank Smith sworn on May 26, 2011	64 – 68
	Exhibit "A" – Copy of email string between Party A and Walter Tkach between the period of November 11, 2009 and January 11, 2010	69 – 74
4.	Notice of Application	75 – 80
5.	Notice of Appearance	81 – 82

# Tab 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

Party A

Applicants

and

ENBRIDGE GAS DISTRIBUTION INC.

Respondent

**NOTICE OF MOTION**

THE Respondent, Enbridge Gas Distribution Inc. ("Enbridge"), will make a motion to a judge, on Wednesday, the 29th day of June, 2011, at 10:00 a.m., or as soon after that time as the motion can be heard, at the Court House, 102 East Main Street, Welland, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard

- ☐ in writing under subrule 37.12(1) because it is (*insert one of on consent, unopposed or made without notice*);
- ☐ in writing as an opposed motion under subrule 37.12.1(4);
- ☒ orally.

THE MOTION IS FOR:

- (a) An Order staying the Application;
- (b) An Order for costs of this motion;
- (c) Such further and other Order and relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. The Application should be stayed pending the commencement and disposition of a proceeding to the Ontario Energy Board ("OEB") for expropriation of easement lands, including

an easement on the Applicants' land, to accomodate the existing natural gas pipeline which crosses the Welland Canal and forms an integral part of the Enbridge network in the Niagara Region and servicing the Town of Fort Erie.

2. There is no trespass because Section 58(2) of the *Public Utilities Act*, R.S.O. 1990, c.52 (the "PUA") confers a right to Enbridge, as a public utility, to carry its pipe through the lands of any person.

3. Section 58(1) of the PUA provides Enbridge with a right of expropriation to formalize and define its right and to establish compensation to the landowner.

4. The OEB is the appropriate approving authority for an expropriation for reasons which include:

(a) Pursuant to Section 19(6) of the *Ontario Energy Board Act*, S.O. 1998, c.15, Sch. B (the "OEB Act"), the OEB has exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it.

(b) The objectives of the OEB in relation to gas are set out at Section 2 of the OEB Act and provide as follows:

"2. The Board, in carrying out its responsibilities under this or any other Act in relation to gas, shall be guided by the following objectives:

1. To facilitate competition in the sale of gas to users.
2. To protect the interests of consumers with respect to prices and the reliability and quality of gas service.
3. To facilitate rational expansion of transmission and distribution systems.
4. To facilitate rational expansion of transmission and safe operation of gas storage.
5. To promote energy conservation and energy efficiency in accordance with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.
- 5.1 To facilitate the maintenance of a financially viable gas industry for the transmission, distribution and storage of gas.

6. To promote communication within the gas industry and the education of consumers. 1998, c.15, Sched. B, s.2; 2002, c.23, s.4(2); 2003, c.3, s.3; 2004, c.23, Sched. B, s.2; 2009, c.12, Sched. D, s.2."

- (c) The OEB is in the best position to consider and balance the cost implications, and the competing interests of landowners, including the Applicants, the ratepayers and Enbridge.
  - (d) Enbridge requires leave of the OEB, pursuant to Section 43(1) of the OEB Act, to dispose of part of its gas distribution system that is necessary to serve the public, in this case approximately 11,000 customers in the Town of Fort Erie.
5. There is no prejudice to the Applicants if a Stay is granted.
6. The Respondent, Enbridge, relies on Sections 106 and 107 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, Sections 2, 19(6) and 43 of the *Ontario Energy Board Act*, S.O. 1998, c.C.15, Sch. B., Section 58 of the *Public Utilities Act*, R.S.O. 1990, c.P.52.
7. Such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The Affidavit of William Coldicott sworn on May 27, 2011 and the Exhibits attached thereto.
- (b) The Affidavit of Frank Smith sworn May 26, 2011 and the Exhibit attached thereto.
- (c) The proceedings herein and such further and other material as counsel may advise and this Honourable Court may permit.

- 4 -

Date: May 30, 2011

AIRD & BERLIS LLP  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, Ontario  
M5J 2T9

K. John Harild - LSUC # 20953U 1B  
Tel (416) 863-1500  
Fax (416) 863-1515

Lawyers for the Respondent

TO: Party D

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Tel [REDACTED]  
Fax [REDACTED]

Lawyers for the Applicants

Party A

Applicants

and

ENBRIDGE

Respondent

Court File No. 2747/11

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
Proceedings commenced at WELLAND**

**NOTICE OF MOTION**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, ON M5J 2T9

K. JOHN HARILD – LSUC # 20953U 1B

Tel: 416.863.1500

Fax: 416.863.1515

Solicitors for the Respondent

9261393.1

# Tab 2

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

Party A

Applicants

and

ENBRIDGE GAS DISTRIBUTION INC.

Respondent

**AFFIDAVIT OF WILLIAM COLDICOTT**

I, WILLIAM COLDICOTT, of the Town of Newmarket, in the Regional Municipality of York, MAKE OATH AND SAY:

1. I am the Manager-Land Services, for the Respondent, Enbridge Gas Distribution Inc. ("Enbridge"), and as such, have knowledge of the matters which I hereafter depose to.

**Background**

2. Enbridge is a natural gas distribution utility regulated by the Ontario Energy Board pursuant to the *Ontario Energy Board Act*, 1998. Enbridge's head office is located in Toronto, Ontario.

3. Enbridge supplies natural gas to its residential and commercial customers by means of a network of underground service pipes and gas mains.

4. As part of its network, Enbridge owns and maintains a 12 inch diameter high pressure gas main, approximately 14,287 feet long which crosses under the Welland Canal (the "Pipeline"), which Pipeline is a main natural gas feed to approximately 11,000 Enbridge customers in the Town of Fort Erie, Ontario.

5. The Pipeline was constructed in 1975 in lands then owned by The St. Lawrence Seaway Authority under a License Agreement dated April 16, 1975 between The St. Lawrence Seaway Authority and The Consumers' Gas Company (as Enbridge was then known). A copy of the License dated April 16, 1975 including a Plan depicting the Pipeline, is attached and marked as **Exhibit "A"** to my Affidavit.

6. On or about November 23, 2005 I received a letter dated November 21, 2005 from Peter McLean, the Real Property Management Officer of The St. Lawrence Seaway Management Corp., as The St. Lawrence Seaway Authority is now known, which letter explained that portions of the Licensed areas had been transferred to Canada Lands Corporation and therefore it was necessary to separate the License Agreement between the two bodies. Mr. McLean enclosed a new License Agreement to be signed by Enbridge to reflect that fact. A copy of Mr. McLean's November 21, 2005 letter is attached and marked as **Exhibit "B"** to my Affidavit.

7. On or about September 12, 2006 I received a reminder letter from Mr. McLean dated September 6, 2006 requesting Enbridge to provide signed copies of the License Agreements he provided in November of 2005. Attached and marked as **Exhibit "C"** to my Affidavit is a copy of the September 6, 2006 letter from Mr. McLean.

8. Enbridge provided Mr. McLean with the signed copies of the License Agreements under cover of Mr. Chuck Reaney's letter dated January 2, 2007 to Mr. McLean's attention. Attached and marked collectively as **Exhibit "D"** to my Affidavit is a copy of the January 2, 2007 cover letter from Mr. Reaney and of the two signed License Agreements, one numbered 66-979 for 5110.13 feet of the Pipeline and the other numbered 66-1507 for 9,025.78 feet of the Pipeline.

9. The section of the Pipeline that traverses the Applicants' land and which is the subject of this Application, is included in the lands under the new License Agreement 66-1507.

10. Enbridge has not received a cancellation or termination notice of License 66-1507. The License Agreements were not registered against title to the Pipeline lands.

11. Enbridge continues to operate and maintain the Pipeline which, as stated previously, is a main natural gas feed to the Town of Fort Erie.

#### **The Applicants' Property**

12. Unbeknownst to Enbridge, in 2006, Canada Lands Corporation sold much of the lands that were subject to License Agreement 66-1507 to private owners without notifying Enbridge and apparently without ensuring or notifying the new owners that the lands were subject to the License Agreement.

13. In the case of the Applicants' lands, a title search has disclosed that:

- (a) On May 17, 2005 Reference Plan 59R-12761 was registered. Part 3 on this Reference Plan comprises the lands purchased by the Applicants. This Reference Plan shows the Pipeline traversing Part 3 and a gas line marker on Part 3.

- (b) On February 6, 2006 a Crown Patent was registered conveying the lands from Her Majesty the Queen in Right of Canada as represented by The Minister of Transport to Canada Lands Company CLC Limited. The conveyed lands include Part 3 on Reference Plan 59R-12761.
- (c) On May 26, 2006 Canada Lands Company CLC Limited transferred a quantity of lands, including Part 3, to Party B and Party F for a total of \$20,000.
- (d) On June 23, 2008, Party B and Party F transferred Part 3 alone to Party B for \$2,350.
- (e) On April 22, 2009, Party B transferred Part 3 to the Applicants for \$50,000.

A copy of R-Plan 59R-12761, and each of the Transfers mentioned above, are attached and collectively marked as **Exhibit "E"** to my Affidavit.

#### **The Pipeline Discussions**

14. I am advised by an Enbridge employee, Frank Smith, who was formerly the Enbridge Niagara Region Operations Manager, and believe, that Enbridge first became aware of the Applicants' acquisition of the subject lands in or about October, 2009 when Frank Smith was contacted by the Applicants about how close they could build to the location of the Pipeline on their property.

15. I am advised by Frank Smith and believe:

- (a) That he, together with a now-retired Enbridge employee, Walter Tkach, met the Applicants at their property in mid-November, 2009 to discuss the location and proximity of their proposed garage building in relation to the Pipeline. The

Applicants informed him that they had been aware from their purchase, that the Pipeline ran through their property.

- (b) There were Enbridge Pipeline markers that were clearly visible on the property demarcating the location of the Pipeline.
- (c) It was explained to the Applicants that the Pipeline was installed under a License Agreement with The St. Lawrence Seaway Authority.
- (d) The Applicants were informed Enbridge was prepared to enter into an easement agreement with the Applicants for the Pipeline.
- (e) The Applicants asked about the possibility of installation of gas service to the building they intended to construct. Frank Smith indicated such a service could be installed and that Enbridge would, as a goodwill gesture, absorb the cost of the installation of a "farm tap" to provide gas service to the intended building.
- (f) Party A advised that he was leaving the matter of completing the easement arrangements with his spouse, Party A and that he was content with the easement location and width because it did not interfere with their building plans.
- (g) Walter Tkach summarized the November 15, 2009 meeting in an email, which was copied to Frank Smith, on November 16, 2009, to Party A which email also requested confirmation of the Applicants' agreement to an easement.
- (h) Party A replied by email on November 16, 2009 to Walter Tkach asking if the Applicants could get free gas as well.

- (i) Walter Tkach replied by email on November 16, 2009, copied to Frank Smith, that Enbridge could not give out free gas.

- (j) Party A , replied on November 16, 2009, by email:

*"Walter,*

*It was a long shot, but I am fine with that. Party A and I approve the easement work and appreciate all that you and your company are doing. Please keep me updated, and if possible, I would like a copy of the amended survey and title.*

*Sincerely,*

Party A "

16. On receiving confirmation of the Party A agreement, Enbridge prepared a legal survey for the easement and a Transfer. The area to be occupied by the easement is designated as Part 1 and is about .0695 hectares which is approximately 4.63 % of the total area of about 1.501 hectares. A copy of the survey and draft Transfer document are attached and marked as **Exhibit "F"** to my Affidavit.

17. On November 23, 2009 Party A sent Walter Tkach an email essentially reneging on their agreement to provide an easement and indicated that Party A was not willing to sign anything until he obtained legal advice.

18. Walter Tkach replied to Party A by email dated November 24, 2009 asking that the Party A reconsider.

19. Walter Tkach followed up by email dated January 11, 2010 wondering if the Party A have had an opportunity to receive legal advice concerning the easement. Now shown to me and marked as **Exhibit "G"** to my Affidavit is the email string in respect of the emails mentioned above at paragraphs 15, 17, 18 and 19.

20. Subsequently, the Applicants' lawyer Party D became involved. On February 24, 2010 Party D sent a letter to the Enbridge Legal Department which, among other things, suggested that *"a resolution might be negotiable"*. Attached and marked as **Exhibit "H"** to my Affidavit is a copy of Party D's February 24, 2010 letter.

21. After some further communications between Party D and Enbridge's external counsel, Aird & Berlis LLP, Party D sent a letter dated August 3, 2010 to Randy Hooke of Aird & Berlis LLP which indicated his clients were seeking compensation of \$1,000,000.00 to register an easement. Attached and marked as **Exhibit "I"** to my Affidavit is a copy of Party D's August 3, 2010 letter.

22. Mr. Hooke responded by letter dated August 5, 2010 suggesting that the Applicants' position was unreasonable and requesting that they reconsider their position failing which Enbridge would be left with no choice but to consider other options for the acquisition of the easement. Attached and marked as **Exhibit "J"** to my Affidavit is a copy of Mr. Hooke's August 5, 2010 letter to Party D. Mr. Hooke did not hear back from Party D and sent him a follow up fax on September 23, 2010. Attached and marked as **Exhibit "K"** to my Affidavit is a copy of Mr. Hooke's follow up fax dated September 23, 2010 to Party D.

23. Neither Enbridge nor its lawyers heard anything more from Party D or the Applicants regarding the request for easement until April 29, 2011 when Party D faxed the Application materials to Mr. Hooke.

#### **No Prejudice to Applicants**

24. I believe the Applicants must have been aware of the Pipeline on their purchase of the property for reasons which include:

- (a) The Applicants acknowledged in the Agreement of Purchase and Sale that they had inspected the property.
- (b) There were markers for the Pipeline on and in the vicinity of the property.
- (c) The Applicants so informed Frank Smith.
- (d) Reference Plan 59R-12761 shows the Pipeline traversing Part 3 which is the parcel purchased by the Applicants.

25. I have been informed by Frank Smith and believe that the presence of the Pipeline does not restrict the Applicants' building options because the Pipeline is situated near the top of a bank which slopes south and downwards to Townline Road, rendering the lands to the south of the Pipeline unsuitable for building in any event.

26. Given the Applicants do not appear to have reconsidered their position, Enbridge will need to proceed with its other options for the acquisition of an easement for the Pipeline over the Applicants property, as suggested by Mr. Hooke in his August 5, 2010 letter to Party D.

#### **Enbridge Application to the Ontario Energy Board**

27. To that end, Enbridge is preparing an Application to the Ontario Energy Board ("OEB") to make a request for expropriation of easement lands, including an easement on the Applicants' land, to accommodate the Pipeline.

28. The OEB Application will necessarily extend to the other lands which the Pipeline and other Enbridge pipelines traverse that appear to have been similarly conveyed by Canada Lands Corporation.

29. It will be a significant logistical exercise to conduct all of the necessary searches, to arrange surveys, to prepare plans, to contact landowners, and to obtain all of the necessary engineering input, for the OEB Application. I expect it will take approximately three to four months for Enbridge to determine, contact and negotiate with affected landowners and then another two to three months to complete the preparation and the submission of its OEB Application to the Ontario Energy Board.

30. If the Ontario Energy Board grants an expropriation order for easement lands, and if compensation cannot be agreed upon with the Applicants, the compensation shall be determined through the expropriation process.

31. If an expropriation order is granted by the Ontario Energy Board, Enbridge will obtain an easement for its Pipeline on the Applicants property thereby rendering the subject matter of the Application academic.

**Prejudice to Enbridge if the Application is Not Stayed and the Requested Relief Granted**

32. As stated previously, the Pipeline is a main natural gas feed to Enbridge's approximately 11,000 customers in the Town of Fort Erie, Ontario. If Enbridge were required to decommission or remove that section of the Pipeline that traverses the Applicants' property, the operation of the Pipeline would be suspended. There would be significant adverse implications to the operation of the Enbridge network within the Niagara Region including the potential for significant service interruption and suspension of gas service to Fort Erie customers during the winter months.

**SWORN BEFORE ME at**  
the City of Toronto,  
in the Province of Ontario,  
this 27<sup>th</sup> day of May, 2011.

COMMISSIONER, ETC.  
LORI CORNWALL

) ) ) ) ) ) ) ) ) )

WILLIAM COLDICOTT

Party A

and

ENBRIDGE

Applicants

Respondent

(Short title of proceedings)

Court File No. 2747/11

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**PROCEEDINGS COMMENCED AT WELLAND**

**AFFIDAVIT OF WILLIAM COLDICOTT**  
**SWORN MAY \_\_, 2011**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, ON M5J 2T9  
Tel: (416) 863-1500  
Fax: (416) 863-1515

K. JOHN HARILD - LSUC # 20953U 1B

Lawyers for the Respondent

Filed: 2011-11-29  
EB-2011-0392  
Exhibit C, Tab 7  
Schedule 2  
Page 22 of 92



THE ST. LAWRENCE SEAWAY AUTHORITY  
ADMINISTRATION DE LA VOIE MARITIME DU SAINT-LAURENT

DUPLICATE

Filed: 2011-11-29  
EB-2011-0392  
Exhibit C, Tab 7  
Schedule 2  
Page 23 of 92

LICENCE  
PERMIS

TO  
À

THE CONSUMERS' GAS COMPANY

DATE OF AUTHORIZING ORDER IN COUNCIL: January 31, 1966, P.C. 1966-195, as  
DATE DE L'ARRÊTÉ MINISTÉRIEL: amended by P.C. 1972-983, May 9, 1972

DATE OF LICENCE: April 16, 1975  
DATE DU PERMIS:

LOCATION: Welland Canal  
LIEU:

LANDS OR RIGHTS DEMISED: Lay, maintain, operate and/or renew a gas main, on,  
TERRAINS OU DROITS CÉDÉS: over, under and/or across Welland Canal reserve land  
& under & across the prism of the Welland Canal  
northerly of the Townline Road/Rail Tunnel in Lots  
14 to 22, inclusive, part of the road allowances  
between Lots 14 & 15, 16 & 17, 18 & 19, 20 & 21,  
Con. 5 & part of Lot 21 in the Gore of Con. 7, & part  
of the road allowance between the former Townships of  
Humberstone & Crowland, now all in the City of Welland,  
Regional Municipality of Niagara, Province of Ontario.

BEGINNING OF TERM: January 1, 1975  
COMMENCEMENT DU TERME:

END OF TERM: During Pleasure  
FIN DU TERME:

RENTAL: \$235.00 per annum  
LOYER:

FILE 37-66-979  
DOSSIER:

This is Exhibit A referred to in the affidavit of

William Coldicott

NOTES

Sworn before me this 27<sup>th</sup> day of May 20 11

*[Signature]*  
Lori Cornwell A Commissioner, etc.



THE ST. LAWRENCE SEAWAY AUTHORITY  
ADMINISTRATION DE LA VOIE MARITIME DU SAINT-LAURENT

THIS LICENSE made the sixteenth day of April,  
one thousand nine hundred and seventy-five.

BETWEEN

THE ST. LAWRENCE SEAWAY AUTHORITY, a body corporate established pursuant to the St. Lawrence Seaway Authority Act, R.S.C. 1952, Chapter 242 and amendments thereto and herein acting and exercising its powers as an agent of Her Majesty in right of Canada, hereinafter called the "LICENSOR",

and  
THE CONSUMERS' GAS COMPANY, of the City of Toronto, in the Province of Ontario,

hereinafter called the "LICENSEE",

Purpose

WITNESSETH THAT PERMISSION IS HEREBY GIVEN by the Licensor to the Licensee to

lay, maintain, operate and/or renew a combined 12 inch and 16 inch diameter high pressure gas main, 14,287 feet in length, more or less, on, over, under and/or across Welland Canal reserve land and under and across the prism of the Welland Canal northerly of the Townline Road/Rail Tunnel in Lots 14 to 22, inclusive, part of the road allowances between Lots 14 and 15, 16 and 17, 18 and 19, 20 and 21, Concession 5, for the former Township of Humberstone, in the County of Welland, part of Lot 21 in the Gore of Concession 7 for the former Township of Crowland, County of Welland and part of the road allowance between the said former Townships, now all in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario, the location of the said pipe being indicated margined in red on Plan No. W.C. 75-12 hereto annexed.

Term from the first day of January, 1975, during the pleasure of the Licensor.

UPON THE FOLLOWING TERMS AND CONDITIONS which the Licensee hereby accepts and agrees to abide by:-

- Rental 1. For the permission hereby given, the Licensee shall pay the Licensor annually, in advance, the sum of TWO HUNDRED AND THIRTY-FIVE (\$235.00) DOLLARS
- Taxes 2. The Licensee shall pay or cause to be paid all rates, taxes and assessments, of whatsoever description, that may be at any time during the existence of these Presents be lawfully imposed, or become due and payable, upon, or in respect of the rights and privileges herein granted.
- Compliance with law 3. The Licensee shall in all respects abide by and comply with all lawful rules, regulations and by-laws of the Provincial Government, municipalities and other governing bodies, in any manner affecting the activity hereby permitted, and the Licensee shall not hold the Licensor responsible should the purpose of this License for any reason whatsoever not be fulfilled.
- Assignment 4. No transfer and/or assignment of this License or of any rights hereunder shall be made by the Licensee without the written consent thereto of the Licensor.
- Control of Licensor 5. All work connected with the activity hereby permitted shall be carried on pursuant to and in accordance with the express directions of the Licensor's Regional Director, and it shall be done in all respects to his entire satisfaction and at the sole cost and expense of the Licensee.
- Additional Improvement 6. The Licensee shall not construct or erect any additional structures or improvements other than those already permitted herein without the approval of the Licensor's Regional Director. All such additional structures or improvements if approved, shall be constructed and thereafter maintained by and at the cost and expense of the Licensee to the entire satisfaction of the Licensor's Regional Director.
- Risk of Licensee 7. (a) All buildings, structures, materials, supplies, effects and things, hereinafter referred as "property of the Licensee", at anytime constructed, erected, brought, placed or made upon the lands and premises of the Licensor for the purpose of the permission hereby given shall be entirely at the risk of the Licensee in respect of loss, damage, destruction or accident from whatsoever cause arising.
- (b) Any damage which may, during the existence of this License be occasioned to the property of the Licensor or any part thereof, or works connected therewith, by reason or on account of the permission hereby given, shall immediately upon notice thereof from the Licensor or its duly authorized agent, given either verbally or in writing, be repaired, rebuilt, replaced or restored by the Licensee to the entire satisfaction of the Licensor; or the Licensor may, at its option, repair such damage, in which case the Licensee shall, upon demand, forthwith repay and reimburse the Licensor for all costs and expenses connected therewith or incidental thereto.
- Indemnity 8. The Licensee shall indemnify and save harmless the Licensor from and against all claims, demands, loss, costs and expenses, in any manner based upon, arising out of or connected with the existence of this License or anything done or maintained hereunder.
- Restriction 9. The permission hereby given shall be exercised and work connected therewith shall be performed so as not to cause interference with the rights or privileges of any Lessee or Licensee under a Lease or another License from the Licensor.
- Cancellation 10. (a) This License may be cancelled forthwith at any time by the Licensor by notice in writing signed by the Licensor's Regional Director and mailed addressed to the Licensee at his address mentioned in this License or to his last known place of business or residence.
- (b) This License may also be cancelled at any time by the Licensee by notice in writing mailed in a prepaid registered envelope addressed to the Licensor's Regional Director at St. Catharines, Ontario.

Restoration  
 of Site

11. Upon cancellation of this License, the Licensee shall forthwith, under the direction of the Licensor's Regional Director, remove his property at his own cost and expense from the land and premises of the Licensor, leaving and restoring said land and premises in a neat and clean condition to the entire satisfaction of the Regional Director. In case of default of the Licensee to remove his property, said property shall be removed and the site restored by the Licensor at the expense of the Licensee or, at the option of the Licensor, said property shall become the property of and shall vest in the Licensor without any right of compensation to the Licensee therefor in either case.

Lien for  
 Breach

12. The Licensor shall have a lien upon the property of the Licensee for any loss or damage arising by reason of the breach of any of the conditions or provisions hereof, or of any of the conditions or provisions of any Appendix hereto.

Previous  
 License

DATED at St. Catharines

, the day and year first above written.

SIGNED, SEALED AND  
 DELIVERED by the  
 LICENSEE in the presence of

THE CONSOLIDATED GAS COMPANY

APPROVED  
 RL  
 LAND DEPT.  
 VICE-PROVINCIAL  
 WILKINSON

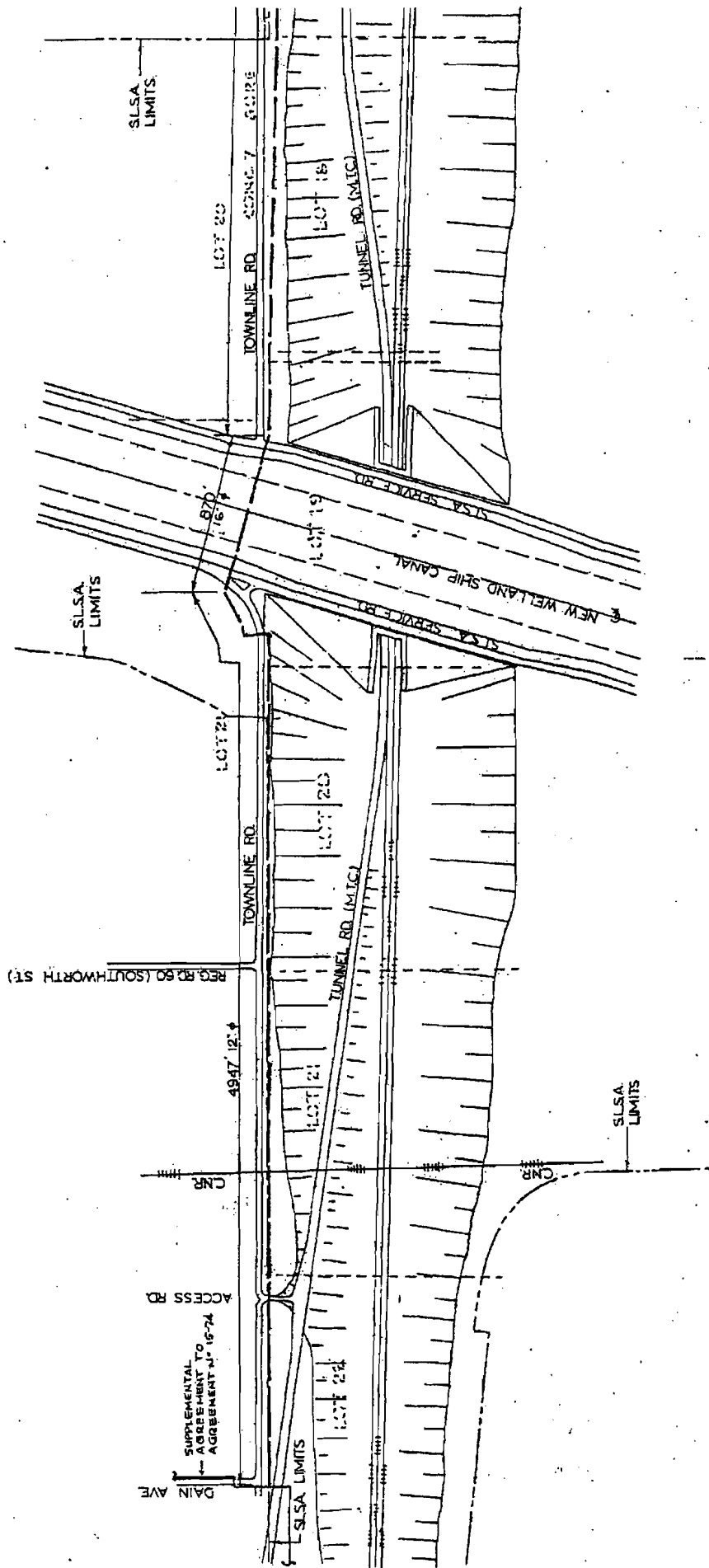
Witness

SIGNED, SEALED AND  
 DELIVERED by the  
 LICENSOR in the presence of

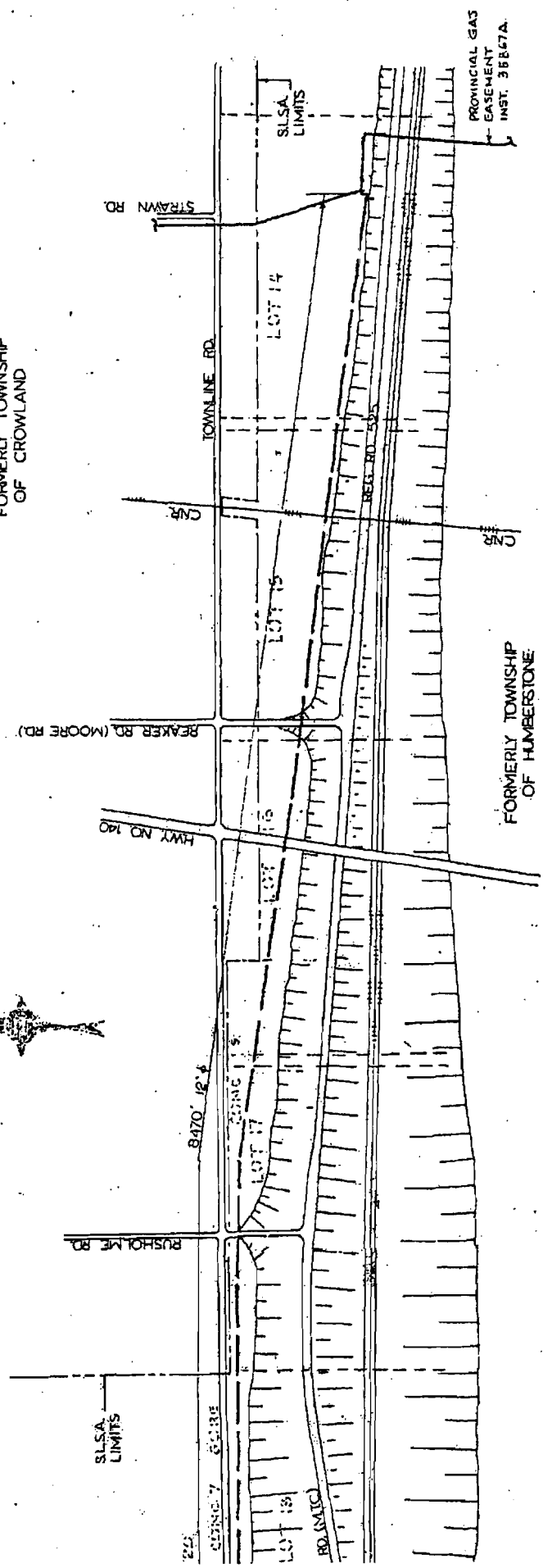
THE ST. LAWRENCE SEAWAY AUTHORITY

H. J. Craze  
 Witness

M. C. Campbell  
 Director, Western Region



REGIONAL MUNICIPALITY OF NIAGARA  
 CITY OF WELLAND  
 FORMERLY TOWNSHIP  
 OF CROWLAND



THE ST. LAWRENCE SEAWAY AUTHORITY			
WESTERN REGION			
PLAN SHOWING LOCATION (INDICATED BY DOTTED RED LINE) OF GAS PIPELINE IN THE CITY OF WELLAND TO BE LICENSED TO THE PROVINCIAL GAS COMPANY			
DRAWN	CHECKED	APPROVED	DATE
G/H	K/S	[Signature]	11/18/11

Exhibit C, Tab 7  
 Schedule 2  
 Page 28 of 92

23

November 21, 2005

RECEIVED

NOV 23 2005

LAND SERVICES

To: Bill Coldicott  
Real Estate Section

From: Peter McLean  
Real Property Officer

C-8174

Bill, could you please have the attached documents signed by necessary signing authority and return all copies to the St. Lawrence Seaway Management Corporation for signature. The Corporation has transferred portions of your licensed areas to Canada Lands Corporation and therefore has had to separate the agreements between the two bodies.

If you have any questions please do not hesitate to contact the writer @ 905 641-1932 ext. 5366 for further information.

I thank you in advance for your cooperation in this matter.

Respectfully

Peter H. McLean

This is Exhibit B referred to in the affidavit of  
William Coldicott  
Sworn before me this 27<sup>th</sup> day of May 2011  
[Signature]  
A Commissioner, etc.



The St. Lawrence  
Seaway Management  
Corporation

Corporation de Gestion  
de la Voie Maritime  
du Saint-Laurent

RECEIVED

SEP 12 2006

LAND SERVICES

508 Glendale Avenue  
P.O. Box 370  
St. Catharines, Ontario  
L2R 6V8  
Telephone: (905) 641-1932 Extension 5366  
Fax: (905) 641-5721

Files Nos.: 66-979 and 1507

September 6, 2006

ENBRIDGE GAS DISTRIBUTION INC.  
P.O. Box 650  
Land Department L-8174  
Scarborough (Ontario)  
M1K 5E3

Dear Sir:

Re: Supplemental agreement to License 66-979 and new License 66-1507

With respect to the divestiture program undertaken by Transport Canada on behalf of, Her Majesty the Queen in Right of Canada, the St-Lawrence Seaway Management Corporation has been instructed to prepare leases and licenses affecting properties to be disposed of. Seeing the land occupied by Enbridge Gas Distribution, under license 66-979, is comprised partly of surplus land and land required for the Seaway's operation. Therefore, the said license was amended in order to favour the transition of ownership.

In light of the aforesaid, in November 2005, the Corporation forwarded the above mentioned documents to you for execution by the authorised signing officers of your corporation. The proposed supplemental agreement to existing license and a new license, which we trust, will preserve your rights.

Would you please advise when we might receive the executed copies of the above mentioned agreements.

Your immediate attention to this matter would be appreciated.

Should you have any questions in this regard, please do not hesitate to contact me at your convenience.

Yours truly,

for: Peter McLean  
Real Property Management Officer

/km

Canada

This is Exhibit C referred to in the affidavit of

William Coldicott

Sworn before me this 27<sup>th</sup> day of May 2011

A Commissioner, etc.

Enbridge Gas Distribution Inc.  
P.O. Box 650  
Scarborough, Ontario, M1K 5E3  
Canada  
[www.enbridge.com/gas](http://www.enbridge.com/gas)

Chuck Reaney  
Permit Clerk  
Land Services  
Tel: 416-753-6929  
Fax: 416-753-6941  
[chuck.reaney@enbridge.com](mailto:chuck.reaney@enbridge.com)

January 2, 2007

File Number: L-8174

Attention: Peter McLean  
The St. Lawrence Seaway Management Corporation  
508 Glendale Avenue  
P.O. Box 370  
St. Catharines, Ontario  
L2R 6V8

Dear Mr. McLean:

RE: Supplemental agreement to License 66-979 and new License 66-1507.

Please find both copies of the above documents executed and enclosed.

Please forward a fully executed copy at your earliest convenience and I apologize for the delay.

Sincerely,

Chuck Reaney

This is Exhibit D referred to in the affidavit of

William Codicott

Sworn before me this 23<sup>rd</sup> day of May 2011

[Signature]  
A Commissioner, etc.



The St. Lawrence  
Seaway Management  
Corporation

Corporation de Gestion  
de la Voie Maritime  
du Saint-Laurent

N° 66-1507

L I C E N S E

L-8174

TO

ENBRIDGE GAS DISTRIBUTION INC.  
P. O. Box 650  
Land Department L-8174  
Scarborough, Ontario  
M1K 5E3

Date of License:	November 16, 2005
Location:	Welland Canal
Lands or Rights Demised:	Lay, maintain, operate and/or renew a combined 12 inch and 16 inch diameter high pressure gas main, 9,025.78 feet in length, more or less, between Lots 14 and 15, 18 and 17, 19 and 19, 20 and 21, Concession 5, in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario.
Beginning of Term:	Date of signature
End of Term:	During pleasure
Fee:	\$1,505.00 per annum, plus applicable tax
File :	37-66-1507/001

\* CONTAINS ALL OR MOST OF LANDS SOLD TO  
CANADA LANDS WHO IN TURN SOLD TO PRIVATE  
PARTIES. \*



The St. Lawrence  
Seaway Management  
Corporation

Corporation de Gestion  
de la Voie Maritime  
du Saint-Laurent

LICENSE 66-1507 made this 11 day of JANUARY <sup>SEVEN</sup> two thousand and ~~five~~ <sup>06</sup>

BETWEEN

HER MAJESTY THE QUEEN IN RIGHT OF CANADA represented by  
the Minister of Transport, (hereinafter called "LICENSOR").

AND

ENBRIDGE GAS DISTRIBUTION INC.  
P. O. Box 650  
Land Department L-8174  
Scarborough, Ontario M1K 5E3

(hereinafter called "LICENSEE"),

PURPOSE

WITNESSETH that permission is hereby given by the Licensor to the Licensee the right to lay, maintain, operate and/or renew a combined 12 inch and 16 inch diameter high pressure gas main, 9,025.78 feet in length, more or less, on, over, under Welland Canal reserve land northerly of the Townline Road/Rail Tunnel in Lots 14 to 22, inclusive, part of the road allowances between Lots 14 and 15, 16 and 17, 19 and 19, 20 and 21, Concession 5, for the former Township of Humberstone, in the County of Welland and part of the road allowance between the said former Townships, now all in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario. The location of the said land being indicated by a coloured in red on Plan no. 66-1507 dated October 12, 2005.

WHEREAS The St. Lawrence Seaway Authority (hereinafter called "Authority") transferred its rights, title and interest in the premises to the Licensor on October 1, 1998 pursuant to a directive of the Minister of Transport in accordance with subsection 80(1) of the Canada Marine Act.

WHEREAS the Licensor in a Managed Asset Agreement entered into on September 30, 1998 between the Licensor, the Authority and The St. Lawrence Seaway Management Corporation (hereinafter called "Corporation") agreed that the Corporation may enter into agreements pertaining to the Premises in accordance with authorizations and directives provided by the Licensor to the Corporation.

WHEREAS the Licensor authorized and directed the Corporation to name an officer to be accountable for establishing real property procedures and practices and to sign, seal and deliver agreements pertaining to the Premises.

WHEREAS the Corporation has authorized and directed its Chief, Administrative Services to be accountable for establishing real property procedures and practices and to sign, seal and deliver leases and licenses and ancillary documents pertaining to the Premises.

WHEREAS the Licensor, due to internal administrative changes, wishes to create the said License:

IT IS THEREFORE agreed, between the Licensor and the Licensee that the Licensor is putting forth the said License which will restore the modified clauses in the License 66-979:

TERM

From the date of signature, during pleasure of the Licensor.

UPON THE FOLLOWING TERMS AND CONDITIONS which the Licensee hereby accepts and agrees to abide by:

RENTAL

1.1 For the permission hereby given, the Licensee shall pay the Licensor annually, in advance, the sum

one thousand five hundred and five dollars (\$1,505.00), plus applicable tax

#### TAXES

2.1 The Licensee shall pay or cause to be paid all rates, taxes and assessments, of whatsoever description, that may at any time during the existence of these Presents be lawfully imposed, or become due and payable, upon, or in respect of the rights and privileges herein granted.

#### COMPLIANCE WITH LAW

3.1 The Licensee shall in all respects abide by and comply with all lawful rules, regulations and by-laws of the Provincial Government, municipalities and other governing bodies, in any manner affecting the activity hereby permitted, and the Licensee shall not hold the Licensor responsible should the purpose of this License for any reason whatsoever not be fulfilled.

#### ASSIGNMENT

4.1 No transfer and/or assignment of this License or of any rights hereunder shall be made by the Licensee without the written consent thereto of the Licensor.

#### CONTROL OF LICENSOR

5.1 All work connected with the activity hereby permitted shall be carried on pursuant to and in accordance with the express directions of the Licensor's Regional Director, and it shall be done in all respects to his entire satisfaction and at the sole cost and expense of the Licensee.

#### ADDITIONAL IMPROVEMENT

6.1 The Licensee shall not construct or erect any additional structures or improvements other than those already permitted herein without the approval of the Licensor's Regional Director. All such additional structures or improvements if approved shall be constructed and thereafter maintained by and at the cost and expenses of the Licensee to the entire satisfaction of the Licensor's Regional Director.

#### RISK OF LICENSEE

7.1 (a) All buildings, structures, materials, supplies, effects and things, hereinafter referred as "property of the Licensee", at anytime constructed, erected, brought, placed or made upon the lands and premises of the Licensor for the purpose of the permission hereby given, shall be entirely at the risk of the Licensee in respect of loss, damage, destruction or accident from whatsoever cause arising.

7.1 (b) Any damage which may, during the existence of this License be occasioned to the property of the Licensor or any part thereof, or works connected therewith, by reason or on account of the permission hereby given, shall immediately upon notice thereof from the Licensor or its duly authorized agent, given either verbally or in writing, be repaired, rebuilt, replaced or restored by the Licensee to the entire satisfaction of the Licensor; or the Licensor may, at its option, repair such damage, in which case the Licensee shall, upon demand, forthwith repay and reimburse the Licensor for all costs and expenses connected therewith or incidental thereto.

#### INDEMNITY

8.1 The Licensee shall indemnify and save harmless the Licensor from and against all claims, demands, loss, costs and expenses, in any manner based upon, arising out of or connected with the existence of this License or anything done or maintained hereunder.

#### RESTRICTION

9.1 The permission hereby given shall be exercised and work connected therewith shall be performed so as not to cause interference with the rights or privileges of any Lessee or Licensee under a Lease or another License from the Licensor.

29

#### CANCELLATION

10.1 (a) This License may be cancelled forthwith at any time by the Licensor by notice in writing signed by the Licensor's regional Director and mailed addressed to the Licensee at his address mentioned in this License or to his last know place of business or residence.

10.1 (b) This License may also be cancelled at any time by the Licensee by notice in writing mailed in a prepaid registered envelope addressed to the Licensor's Regional Director at St. Catharines, Ontario.

#### RESTORATION OF SITE

11.1 Upon cancellation of this License, the Licensee shall forthwith, under the direction of the Licensor's Regional Director, remove his property at his own cost and expense from the land and premises of the Licensor, leaving and restoring said land and premises in a neat and clean condition to the entire satisfaction of the Regional Director. In case of default of the Licensee to remove his property, said property shall be removed and the site restored by the Licensor at the expense of the Licensee or, at the option of the Licensor, said property shall become the property of and shall vest in the Licensor without any right of compensation to the Licensee therefore in either case.

#### LIEN FOR BREACH

12.1 The Licensor shall have a lien upon the property of the Licensee for any loss or damage arising by reason of the breach of any of the conditions or provisions hereof, or of any of the conditions or provisions of any Appendix hereto.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals.

SIGNED, SEALED AND

Enbridge Gas Distribution Inc.

DELIVERED by the  
LICENSEE in the presence of:

Witness

Signature

ROBERT MILNE  
Manager, Distribution Planning

Title

Witness

Signature

APPROVED  
LAND DEPT.

Title

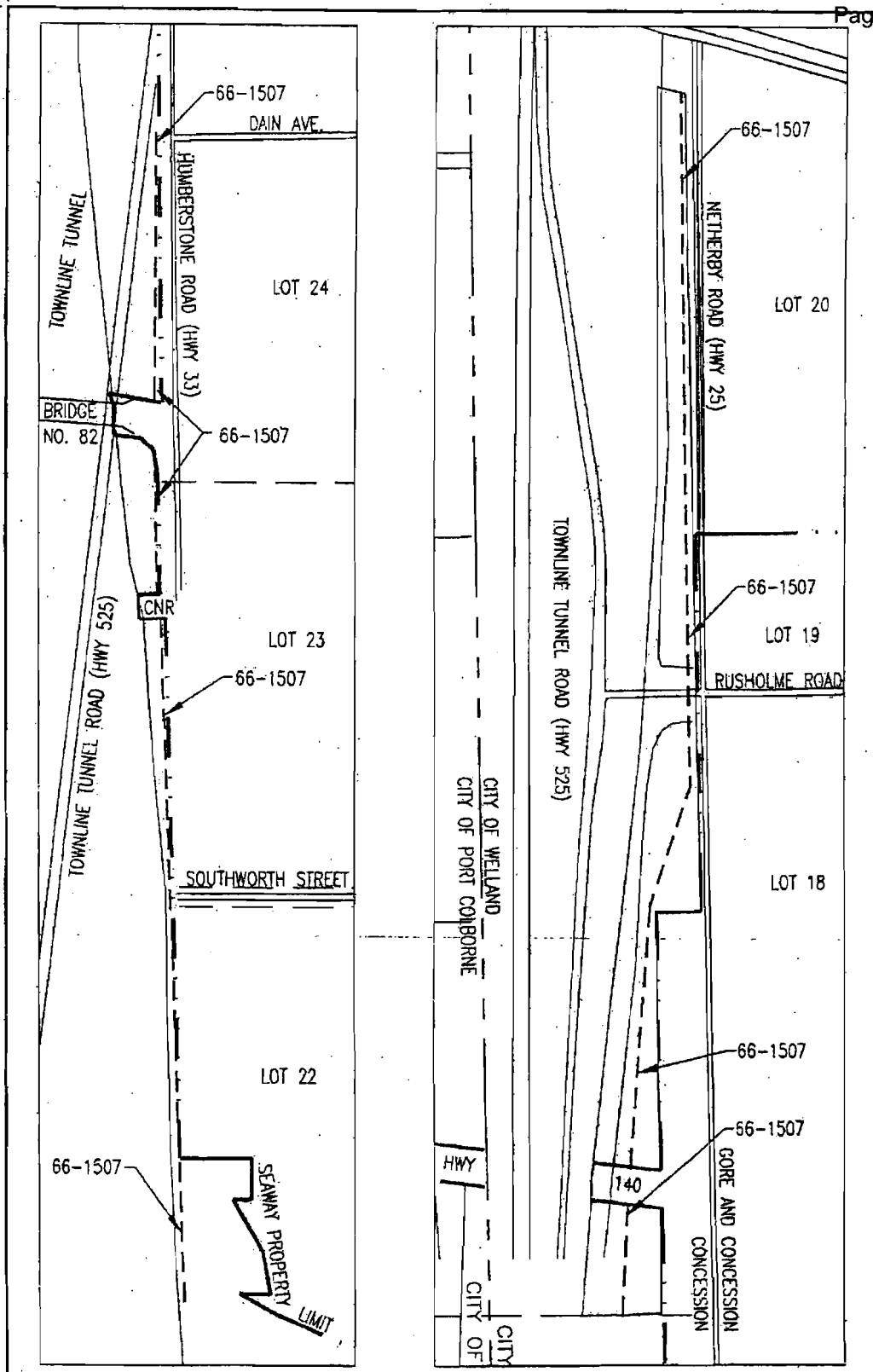
WE HAVE AUTHORITY TO BIND THE CORPORATION

SIGNED AND DELIVERED  
by the LICENSOR  
in the presence of:


Her Majesty the Queen in Right of Canada  
represented by the Minister of Transport

Witness

The Corporation's Chief Administrative  
Services Pierre Cécile, Manager, Revenue & Forecast



LENGTH OF PIPELINE: 2751.06 m (9025.78 ft.)

NIAGARA REGION CITY OF WELLAND FORMER TWSP OF HUMBERSTONE PLAN SHOWING LOCATION IN BLUE OF A GAS PIPELINE LICENSED TO CONSUMERS' GAS COMPANY LTD.		THE ST-LAWRENCE SEAWAY MANAGEMENT CORPORATION				CORPORATION DE GESTION DE LA VOIE MARITIME DU ST-LAURENT	
Drawn By	Checked By	Drawn Date	Checked Date	Drawn By	Checked By	Drawn Date	Checked Date
ML	ML			ML	ML	02-10-12	02-10-12
LS	LS			LS	LS	66-1507	66-1507



Corporation de Gestion  
de la Voie Maritime  
du Saint-Laurent

The St. Lawrence  
Seaway Management  
Corporation

N° 66-979

L-8174

**SUPPLEMENTAL AGREEMENT**

TO

**ENBRIDGE GAS DISTRIBUTION INC.**  
P. O. Box 650  
Land Department L-8174  
Scarborough, Ontario  
M1K 5E3

---

<b>Date of License:</b>	November 16, 2005
<b>Location:</b>	Welland Canal
<b>Lands or Rights Demised:</b>	Lay, maintain, operate and/or renew an 12 inch and 18 inch diameter high pressure gas main, 5,110.13 feet in length, more or less, in Lots 19 and 20, inclusive, part of the road allowances between Lots 19 and 20, Concession 5, in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario.
<b>File :</b>	37-66-0979/001

---

\* CONTAINS REMAINDER OF LANDS NOT SOLD



Corporation de Gestion  
de la Voie Maritime  
du Saint-Laurent

The St. Lawrence  
Seaway Management  
Corporation

THIS SUPPLEMENTAL AGREEMENT to 66-879 made this 11 day of JANUARY  
two thousand and five.

SEVEN  
96

BETWEEN HER MAJESTY THE QUEEN IN RIGHT OF CANADA represented by  
the Minister of Transport, (hereinafter called "LICENSOR"),

AND ENBRIDGE GAS DISTRIBUTION INC.  
P. O. Box 650  
Land Department L-8174  
Scarborough, Ontario M1K 5E3  
(hereinafter called "LICENSEE").

WHEREAS by License No. 66-979, dated April 16, 1975 the St. Lawrence Seaway Authority (hereinafter called "Authority") granted to the Consumers Gas Company, the right to lay, maintain, operate and/or renew a combined 12 inch and 16 inch diameter high pressure gas main, 14,287 feet in length, more or less, on, over, under and/or across Welland Canal reserve land and under and across the prism of the Welland Canal northerly of the Townline Road/Rail Tunnel in Lots 14 to 22, inclusive, part of the road allowances between Lots 14 and 15, 16 and 17, 18 and 19, 20 and 21, Concession 5, for the former Township of Humberstone, in the Township of Crowland, County of Welland and part of the road allowance between the said former Townships, now all in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario; said license being granted on a "during pleasure" basis, commencing on the first day of January 1975, at an annual rental of \$235.00 and subject to cancellation forthwith at any time by either party by notice in writing, as more fully described in the said License;

WHEREAS by Supplemental Agreement dated October 21, 1981, the name of the Licensee was changed to The Consumers' Gas Company Ltd. and the annual rental was revised to \$425.00 effective January 1, 1982;

WHEREAS the Licensee has requested that the rental herein be made effective as of November 1, 1983;

WHEREAS by Supplemental Agreement dated February 6, 1984, the annual rental was changed to \$354.16 effective as of November 1, 1983 and \$425.00 effective as of November 1, 1984;

WHEREAS by Supplemental Agreement dated August 31, 1988, the annual rental was increased to \$510.00 effective as of November 1, 1988

WHEREAS by Supplemental Agreement dated December 2, 1991, the annual rental was increased to \$2,065.00 effective as of November 1, 1991 due to a reappraisal of the land involved;

WHEREAS by Supplemental Agreement dated December 11, 1997, the indexing clause was added, effective November 1, 1998;

WHEREAS by Supplemental Agreement dated September 20, 2001, the indemnity clause was amended, effective October 11, 2001;

WHEREAS by letter, the Consumers' Gas Company Ltd. changed its legal name to Enbridge Gas Distribution Inc. effective July 25<sup>th</sup>, 2002 without affecting the ownership, operation or control of the company;

WHEREAS the Authority transferred its rights, title and interest in the premises to the Licensor on October 1, 1998 pursuant to a directive of the Minister of Transport in accordance with subsection 80(1) of the Canada Marine Act.

WHEREAS the Licensor in a Managed Asset Agreement entered into on September 30, 1998 between the Licensor, the Authority and the St. Lawrence Seaway Management Corporation (hereinafter called "Corporation") agreed that the Corporation may

enter into agreements pertaining to the premises in accordance with authorizations and directives provided by the Lessor to the Corporation.

WHEREAS the Lessor authorized and directed the Corporation to name an officer to be accountable for establishing real property procedures and practices and to sign, seal and deliver agreements pertaining to the premises.

WHEREAS the Corporation has authorized and directed its Chief, Administrative Services to be accountable for establishing real property procedures and practices and to sign, seal and deliver leases and licenses and ancillary documents pertaining to the premises.

WHEREAS the Lessor, due to internal administrative changes, wishes to modify the said License.

IT IS THEREFORE agreed, between the Lessor and the Licensee, that the said License No. 66-979 is changed as follows and that the Lessor is putting forth a new License no. 66-1507 which will restore the modified clauses:

#### DESCRIPTION AND PURPOSE

Witneseth that permission is hereby given by the Lessor to the Licensee the right to lay, maintain, operate and/or renew a combined 12 inch and 16 inch diameter high pressure gas main, 5,110.13 feet in length, more or less, on, over, under and/or across Welland Canal reserve land and under and across the prism of the Welland Canal northerly of the Townline Road/Rail Tunnel in Lots 19 and 20, inclusive, part of the road allowances between Lots 19 and 20, Concession 5, for the former Township of Humberstone, in the Township of Crowland, County of Welland and part of the road allowance between the said former Townships, now all in the City of Welland, in the Regional Municipality of Niagara, Province of Ontario. The location of the said land being indicated by a coloured in red on Plan no. 66-979 dated October 12, 2005.

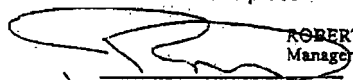
#### RENTAL

For the permission hereby given, the Licensee shall pay the Lessor annually, in advance, the sum of eight hundred and fifty five dollars (\$855.00), plus applicable tax.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals.


SIGNED, SEALED AND  
DELIVERED by the  
Lessor in the presence of:

Enbridge Gas Distribution Inc.

  
ROBERT MILNE  
Manager, Distribution Planning  
Witness  
Signature & Title

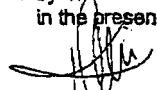
Signature and Title

WE HAVE AUTHORITY TO BIND THE CORPORATION

  
J. GAUDIN  
Land Dept.

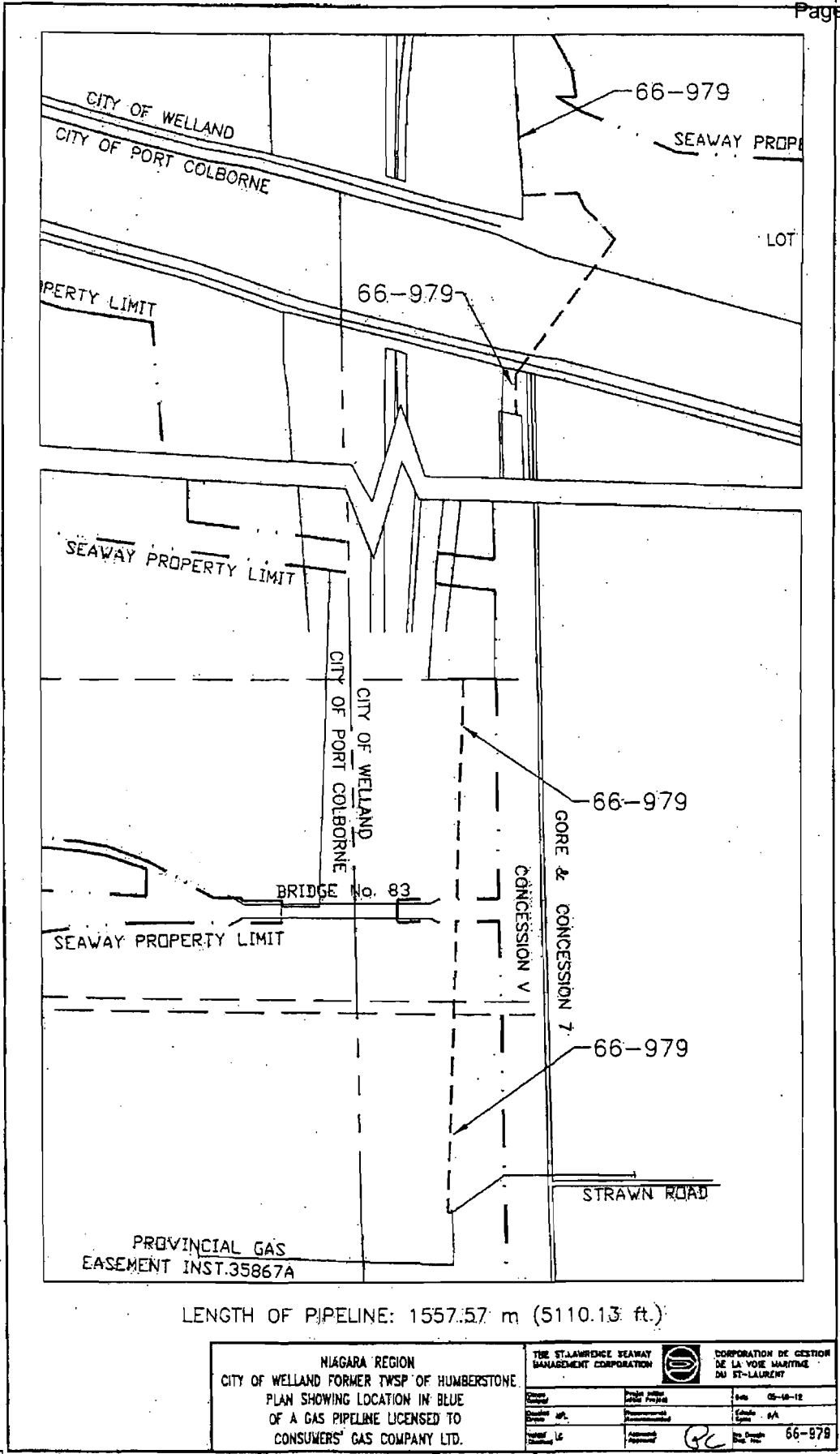
SIGNED AND DELIVERED  
by the Licensee  
in the presence of:

Her Majesty the Queen In Right of Canada  
represented by the Minister of Transport

  
Witness

  
the Corporation's Chief, Administrative  
Services / Pierre Beville, Manager, Revenue Forecast

34



\* PROPERTY LIMITS IN BOLD LINES  
 \* PIPELINE IN BROKEN LINES

LRO # 59 Transfer

Registered as SN242138 on 2009 04 22 at 11:35

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 3

**Properties**

PIN 64129 - 0121 LT Interest/Estate Fee Simple  
Description PT LT 16 CON 5 HUMBERSTONE, PT 3, 59R12761; WELLAND  
Address WELLAND

**Consideration**

Consideration \$50,000.00


**Transferor(s)**

The transferor(s) hereby transfers the land to the transferee(s).

Name Party B  
Address for Service \_\_\_\_\_

This is Exhibit E referred to in the affidavit of  
William Coldicott

Sworn before me this 27<sup>th</sup> day of May 2011

  
A Commissioner, etc.

I am at least 18 years of age.

\_\_\_\_\_ is my spouse and has consented to this transaction.

This document is not authorized under Power of Attorney by this party.

**Transferee(s)**

Name Party A Capacity Joint Tenants  
Date of Birth \_\_\_\_\_  
Address for Service \_\_\_\_\_

Name Party A Capacity Joint Tenants  
Date of Birth \_\_\_\_\_  
Address for Service \_\_\_\_\_

**Statements**

I am the solicitor for the transferor(s) and I am not one and the same as the solicitor for the transferee(s).

I am the solicitor for the transferee(s) and I am not one and the same as the solicitor for the transferor(s).

**Signed By**

\_\_\_\_\_ acting for Transferor(s) Signed 2009 04 22

Tel \_\_\_\_\_  
Fax \_\_\_\_\_

Party D \_\_\_\_\_ acting for Transferee(s) Signed 2009 04 22

Tel \_\_\_\_\_  
Fax \_\_\_\_\_

**Submitted By**

Party D \_\_\_\_\_ 2009 04 22

Tel \_\_\_\_\_  
Fax \_\_\_\_\_

**Fees/Taxes/Payment**

Statutory Registration Fee \$60.00  
Provincial Land Transfer Tax \$250.00

LRO # 59 Transfer

Registered as SN242138 on 2009 04 22 at 11:35

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 3

**Fees/Taxes/Payment**

Total Paid

\$310.00

**File Number**

Transferor Client File Number :

09RE3103

Transferee Client File Number :

**LAND TRANSFER TAX STATEMENTS**

In the matter of the conveyance of: 64129 - 0121 PT LT 16 CON 5 HUMBERSTONE, PT 3, 59R12761; WELLAND

BY: Party B

TO: Party A

Joint Tenants

Joint Tenants

1. Party A

I am

- ☐ (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 \_\_\_\_\_ described in paragraph(s) ( ) above.
- ☐ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for \_\_\_\_\_ described in paragraph(s) ( ) above.
- ☐ (f) A transferee described in paragraph ( ) and am making these statements on my own behalf and on behalf of \_\_\_\_\_ who is my spouse described in paragraph ( ) and as such, I have personal knowledge of the facts herein deposed to.

**3. The total consideration for this transaction is allocated as follows:**

(a) Monies paid or to be paid in cash	50,000.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price)	0.00
(ii) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	50,000.00
(h) VALUE OF ALL CHATTELS - items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	50,000.00

**PROPERTY Information Record**

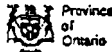
A. Nature of Instrument: Transfer  
LRO 59 Registration No. SN242138 Date: 2009/04/22

B. Property(s): PIN 64129 - 0121 Address WELLAND Assessment -  
Roll No

C. Address for Service: \_\_\_\_\_

D. (i) Last Conveyance(s): PIN 64129 - 0121 Registration No. SN212066  
(ii) Legal Description for Property Conveyed: Same as in last conveyance? Yes ☒ No ☐ Not known ☐

E. Tax Statements Prepared By: Party D  
\_\_\_\_\_  
\_\_\_\_\_



# Transfer/Deed of Land

Form 1 - Land Registration Reform Act

File # 236691-20  
NW-025-B, NW-026-B; NW-030-B

<p>FOR OFFICE USE ONLY</p>	<p><b>NEW PROPERTY IDENTIFICATION</b></p> <p>5.N.12.1.993</p> <p><b>CERTIFICATE OF RECEIPT</b></p> <p><b>CERTIFICAT DE RECÉPISSE</b></p> <p>2006 0 5 2 6</p> <p>14:34</p> <p>ST. CATHARINES LAND REGISTRATION</p>	<p>(1) Registry <input checked="" type="checkbox"/> Land Titles <input checked="" type="checkbox"/> (2) Page 1 of 3 pages</p> <p>(3) Property Identifier(s) Block Property  64127 0529(LT) (Firstly)  64129 0119(LT) (Secondly)</p> <p>Additional: <input checked="" type="checkbox"/> See Schedule</p> <p>(4) Consideration  <b>TWENTY THOUSAND</b>  Dollars \$ 20,000.00</p> <p>(5) Description This is a: Property Division <input type="checkbox"/> Property Consolidation <input type="checkbox"/>  <b>FIRSTLY:</b>  Part of Lots 17, 18 and 19, Concession 5 and part of the Road Allowance between Lots 18 and 19 (closed by By-law 4350 Inst. RO185603), Concession 5, formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara, designated as Part 1 on Reference Plan 59R-12761  <b>SECONDLY:</b>  Part of Lots 16 and 17, Concession 5 and part of the Road Allowance between Lots 16 and 17, Concession 5, formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara designated as Part 2 on Reference Plan 59R-12761 (cont'd on Schedule)</p>						
	<p>Executions</p> <p><i>Clear</i></p> <p>Additional: <input type="checkbox"/> See Schedule</p>	<p>(6) This Document Contains (a) Redescription New Easement Plan/Sketch <input type="checkbox"/> (b) Schedule for: Description <input checked="" type="checkbox"/> Additional Parties <input type="checkbox"/> Other <input checked="" type="checkbox"/></p> <p>(7) Interest/Estate Transferred Fee Simple</p>						
	<p>(8) Transferor(s) The transferor hereby transfers the land to the transferee as indicated on the attached plan(s) and/or sketch(es).</p> <p>Name(s) CANADA LANDS COMPANY CLC LIMITED Signature(s) <i>[Signature]</i> Date of Signature Y M D 2006 05 18</p> <p>Per: Name: Rodger Martin Title: Director, Environment and Project Management</p> <p>I have authority to bind the corporation.</p>							
	<p>(9) Spouse(s) of Transferor(s) I hereby consent to this transaction</p> <p>Name(s) Signature(s) Date of Signature Y M D</p>							
<p>(10) Transferor(s) Address for Service 1 University Avenue, Suite 1200, Toronto, Ontario, M5J 2P1</p>								
<p>(11) Transferee(s)</p> <p>Party B</p> <p>Party F</p> <p>as tenants in common, each as to an undivided 50% interest</p> <p>Date of Birth Y M D</p>								
<p>(12) Transferee(s) Address for Service</p>								
<p>Planning Act - OPTIONAL</p> <p>Attestation by Solicitor for Transferee(s) here if necessary</p>	<p>(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</p> <p>Signature _____ Date of Signature Y M D</p> <p>Signature _____ Date of Signature Y M D</p> <p>Name and Address of Solicitor _____</p>							
	<p>(14) Solicitor for Transferee(s) I have investigated the title to this land and to adjoining land where relevant and I am satisfied that the title records reveal no contravention as set out in subsection 50 (22) (c) 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.</p> <p>Signature _____ Date of Signature Y M D</p>							
	<p>(15) Assessment Roll Number of Property City: Mun.: Map: Sub: Par: n/a</p>							
<p>(16) Municipal Address of Property not assigned</p>								
<p>(17) Document Prepared by: FRASER MILNER CASGRAIN LLP (RJP/tr) Barristers &amp; Solicitors P.O. Box 100 1 First Canadian Place Toronto, Ontario M5X 1B2 3312187_1.DOC</p>								
<p>FOR OFFICE USE ONLY</p>		<p><b>Fees and Tax</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Registration Fee</td> <td style="text-align: right;">70 -</td> </tr> <tr> <td>Land Transfer Tax</td> <td style="text-align: right;">100.75</td> </tr> <tr> <td><b>Total</b></td> <td></td> </tr> </table>	Registration Fee	70 -	Land Transfer Tax	100.75	<b>Total</b>	
Registration Fee	70 -							
Land Transfer Tax	100.75							
<b>Total</b>								



## Schedule

Form 5 - Land Registration Reform Act

Page 2

Additional Property Identifier(s) and/or Other Information

### SCHEDULE TO TRANSFER/DEED OF LAND LAND REGISTRATION REFORM ACT, 1984

The annexed Transfer/Deed of Land, this Schedule and any other Schedule (s) thereto are one instrument collectively called "this Transfer".

This Transfer is dated the 18<sup>th</sup> day of May, 2006.

The following is included in this Transfer:

All covenants deemed included in this Transfer by section 5(1) of the Land Registration Reform Act, 1984, are expressly excluded herefrom.

Box (3) Property Identifier (cont'd)      64129-0121(LT) (Thirdly)  
64127-0528(LT) (Fourthly)

Box (5) Description (cont'd):

#### THIRDLY:

Part of Lot 16, Concession 5, formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara designated as Part 3 on Reference Plan 59R-12761

#### FOURTHLY:

Part of Lots 20 and 21, Concession 5; part of Road Allowance between Lots 20 and 21, Concession 5 (closed by By-law 4337, Inst. No. 90236B) (formerly Geographic Township of Humberstone), now in the City of Welland, Regional Municipality of Niagara, designated as Part 4 on Reference Plan 59R-12758

#### FIFTHLY - REGISTRY LANDS

Part of Lots 21, 22, 23 & 24, Concession 5; part of Dain Avenue (closed by By-law 1257), part of the Road Allowance between Lots 22 and 23 (closed by By-law 4337, Inst. No. 90236B and By-law 414 confirmed by By-law 855, Inst. 8243), Concession 5; all of Lots 1 to 89, both inclusive, 95, 104, 109 & 118, part of Lots 90, 94, 96 to 103, both incl., 105, 108, 110 to 117, both inclusive, & 119 First Avenue and part of King Street and part of Queen Street, Registered Plan 28 NKA Plan 787, (formerly Geographic Township of Humberstone), now in the City of Welland, Regional Municipality of Niagara designated as Parts 1, 2 and 3 on Reference Plan 59R-11480; Part 2 subject to an Easement as in Instrument No. RO282699.

By their acceptance and registration of this Transfer/Deed of Land, the Transferees hereby covenant, acknowledge and agree for themselves and their successors and assigns that they are aware that parts of the property described herein being part of Parts 1, 2 and 3, Plan 59R-11480 and part of Part 4, Plan 59R-12758 are subject to Controlled Access Highway designation pursuant to Order in Council 1825-96 registered as Instrument No. 714112 and a Highway Designation pursuant to Order in Council - Designation Plan of a Highway registered as Instrument No. RO222695 and that part of the lands herein described being part of Part 3, Plan 59R-11480 may form part of a municipal travelled road.

FOR OFFICE  
USE ONLY


 Ministry of Finance  
 Motor Fuel and  
 Tobacco Tax Branch  
 PO Box 825  
 33 King St. West  
 Ottawa ON K1H 6H6

Property Identifier(s) No. \_\_\_\_\_

 Land Transfer Tax Affidavit  
 Land Transfer Tax Act

Refer to instructions on reverse side.

In the Matter of the Conveyance of (insert brief description of land) \_\_\_\_\_

Parts 1, 2 and 3 on 30R-11480, Pt. 4 on 59R-12758, Pts 1, 2 &amp; 3 on 59R-12761,

City of Welland, Regional Municipality of Niagara

BY (print names of all transferors in full) Canada Lands Company CLC Limited

TO (print names of all transferees in full) Party B and Party F

I, we, Party B and Party F

have personal knowledge of the facts herein deposed to and Make Oath and Say that:

1. I am (place a clear mark within the square opposite the following paragraph(s) that describe(s) the capacity of the deponents):

- ☒ (a) the transferee named in the above-described conveyance;
- ☐ (b) the authorized agent or solicitor acting in this transaction for the transferee(s);
- ☐ (c) the President, Vice-President, Secretary, Treasurer, Director or Manager authorized to act for \_\_\_\_\_ (the transferee(s));
- ☐ (d) a transferee and am making this affidavit on my own behalf and on behalf of (insert name of spouse or same-sex partner) \_\_\_\_\_ who is my spouse or same-sex partner;
- ☐ (e) the transferor or an officer authorized to act on behalf of the transferor company and ☐ I am tendering this document for registration and ☐ no tax is payable on registration of this document.

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

(a) Monies paid or to be paid in cash	\$	20,000.00	
(b) Mortgages (i) Assumed (principal and interest)	\$	N/A	All blanks must be filled in. Insert "N/A" where applicable.
(ii) Given back to vendor	\$	N/A	
(c) Property transferred in exchange (detail below in para. 3)	\$	N/A	
(d) Other consideration subject to tax (detail below)	\$	N/A	
(e) Fair market value of the lands (see instruction 2)	\$	N/A	
(f) Value of land, building, fixtures and goodwill subject to Land Transfer Tax (Total of (d) to (e))	\$	20,000.00	\$ 20,000.00
(g) Value of all chattels - items of tangible personal property which are taxable under the provisions of the Retail Sales Tax Act	\$	N/A	
(h) Other consideration for transaction not included in (f) or (g) above	\$	N/A	
(i) Total Consideration	\$	20,000.00	

## 3. To be completed where the value of the consideration for the conveyance exceeds \$400,000.00.

I have read and considered the definition of "single family residence" set out in subsection 1(1) of the Act. The land conveyed in the above-described conveyance:

- ☒ does not contain a single family residence or contains more than two single family residences;
- ☐ contains at least one and not more than two single family residences; or
- ☐ contains at least one and not more than two single family residences and the lands are used for other than just residential purposes. The transferee has accordingly apportioned the value of consideration on the basis that the consideration for the single family residence is \$ \_\_\_\_\_ and the remainder of the lands are used for \_\_\_\_\_ purposes.

Note: Subsection 2(1)(b) imposes an additional tax at the rate of one-half of one per cent upon the value of the consideration in excess of \$400,000.00 where the conveyance contains at least one and not more than two single family residences and 2(2) allows an apportionment of the consideration where the lands are used for other than just residential purposes.

4. If consideration is nominal, is the land subject to any encumbrance? ☐ Yes ☐ No

5. Other remarks and explanations, if necessary, \_\_\_\_\_

n/a

Sworn/affirmed before me in the City of Mississauga

Regional Municipality of Peel

this 6 day of April, 2006

Party B

Signature(s)

Party F

A Commissioner for taking Affidavits, etc.

## Property Information Record

A. Describe nature of instrument: Transfer/Deed of Land

B. (i) Address of property being conveyed (if available) Vacant Land

(ii) Assessment Roll No. (if available) \_\_\_\_\_

C. Mailing address(es) for future Notices of Assessment under the Assessment Act for property being conveyed \_\_\_\_\_

D. (i) Registration number for test conveyance of property being conveyed (if available) \_\_\_\_\_

(ii) Legal description of property conveyed: Same as in D(i) above. ☐ Yes ☐ No ☐ Not known

E. Name(s) and address(es) of each transferee's solicitor: \_\_\_\_\_

For Land Registry Office Use Only	
Registration No.	
Registration Date (Year/Month/Day)	
Land Registry Office No.	

## School 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 be Roman Catholic Separate School Supporters? ☐ Yes ☐ No
- (c) Do all individual transferees have 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 land being transferred will receive French Public School Board Election unless otherwise directed in (a) and (b).

LRO # 59 Transfer

Registered as SN212066 on 2008 08 23 at 16:27  
yyyy mm dd Page 1 of 3

The applicant(s) hereby applies to the Land Registrar.

**Properties**

PIN 64129 - 0121 LT Interest/Estate Fee Simple  
Description PT LT 16 CON 5 HUMBERSTONE, PT 3, 59R12761; WELLAND  
Address WELLAND

**Consideration**

Consideration \$2,350.00

**Transferor(s)**

The transferor(s) hereby transfers the land to the transferee(s).

Name Party F  
Address for Service \_\_\_\_\_

I am at least 18 years of age.

The property is not ordinarily occupied by me and my spouse, who is not separated from me, as our family residence.

This document is not authorized under Power of Attorney by this party.

Name Party B  
Address for Service \_\_\_\_\_

I am at least 18 years of age.

The property is not ordinarily occupied by me and my spouse, who is not separated from me, as our family residence.

This document is not authorized under Power of Attorney by this party.

**Transferee(s)**

Capacity

Share

Name Party B  
Date of Birth \_\_\_\_\_  
Address for Service \_\_\_\_\_

**Statements**

I am the solicitor for the transferor(s) and I am not one and the same as the solicitor for the transferee(s).

I am the solicitor for the transferee(s) and I am not one and the same as the solicitor for the transferor(s).

**Signed By**

\_\_\_\_\_  
\_\_\_\_\_  
acting for Transferor(s) Signed 2008 06 23

Tel \_\_\_\_\_  
Fax \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
acting for Transferee(s) Signed 2008 06 23

Tel \_\_\_\_\_  
Fax \_\_\_\_\_

**Submitted By**

\_\_\_\_\_  
2008 06 23

Tel \_\_\_\_\_

LRO # 59 Transfer

Registered as SN212086 on 2008 06 23 at 16:27  
yyyy mm dd Page 2 of 8

The applicant(s) hereby applies to the Land Registrar.

**Submitted By**

Fax 9054568999

**Fees/Taxes/Payment**

Statutory Registration Fee	\$80.00
Provincial Land Transfer Tax	\$11.75
Total Paid	\$71.75

**LAND TRANSFER TAX STATEMENTS**

In the matter of the conveyance of: 64129 - 0121 PT LT 16 CON 5 HUMBERSTONE, PT 3, 59R12761; WELLAND

BY: Party F  
 Party B  
 TO: Party B  
 1. Party B  
 I am

- ☐ (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 \_\_\_\_\_ described in paragraph(s) ( ) above.  
☐ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for \_\_\_\_\_ described in paragraph(s) ( ) above.  
☐ (f) A transferee described in paragraph ( ) and am making these statements on my own behalf and on behalf of \_\_\_\_\_ who is my spouse described in paragraph ( ) and as such, I have personal knowledge of the facts herein deposed to.

**3. The total consideration for this transaction is allocated as follows:**

(a) Monies paid or to be paid in cash	2,350.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price)	0.00
(ii) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	2,350.00
(h) VALUE OF ALL CHATTELS -Items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	2,350.00

**PROPERTY Information Record**

A. Nature of Instrument: Transfer  
 LRO 59 Registration No. SN212066 Date: 2008/06/23  
 B. Property(s): PIN 64129 - 0121 Address WELLAND Assessment -  
 Roll No  
 C. Address for Service: \_\_\_\_\_  
 D. (i) Last Conveyance(s): PIN 64129 - 0121 Registration No. SN121993  
 (ii) Legal Description for Property Conveyed: Same as in last conveyance? Yes ☒ No ☐ Not known ☐  
 E. Tax Statements Prepared By: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

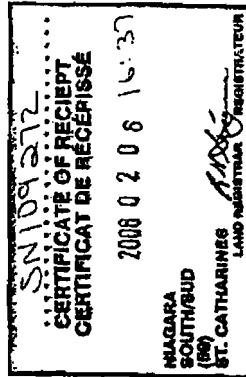
NW-025-B, NW-026-B

CANADA

## INSTRUMENT OF GRANT

THIS INSTRUMENT  
HAS  
THE SAME FORCE AND EFFECT  
AS IF IT WERE  
LETTERS PATENT

(Subsection 5(7), *Federal Real Property Act*)



ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories, QUEEN, Head of the Commonwealth, Defender of the Faith.

TO ALL TO WHOM these Presents shall come;

### GREETING:

WHEREAS The St. Lawrence Seaway Authority, the registered owner of the herein described lands, was dissolved by Order-in-Council P.C. 1998-2034 dated November 19, 1998, effective December 1, 1998, and that on dissolution of the St. Lawrence Seaway Authority, all of its assets and obligations devolved to Her Majesty the Queen in Right of Canada, as represented by the Minister of Transport.

AND WHEREAS the lands hereinafter described are vested in Us in right of Canada and are under the administration of Our Minister of Transport.

AND WHEREAS authority has been given for the grant of the herein described lands in fee simple to CANADA LANDS COMPANY CLC LIMITED, hereinafter called the "Grantee", at or for the price or sum of ONE DOLLAR (\$1.00).

NOW KNOW YE that We do by these Presents grant, convey and assure unto the Grantee, its successors and assigns, ALL AND SINGULAR:

Concession 5

NW-025-B Part of Lots 16 and 17 and part of the Road Allowance between Lots 16 and 17, Concession 5, formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara designated as Part 2 on Reference Plan 59R-12761 being part of PIN 64129-0084(LT) and Part of Lot 16, Concession 5, formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara designated as Part 3 on Reference Plan 59R-12761, being part of PIN 64129-0111(LT)

Concession 5

NW-026-B Part of Lots 17, 18 and 19 and part of the Road Allowance between Lots 18 and 19 (closed by By-law 4350 Inst. RO185603), Concession 5, formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara, designated as Part 1 on Reference Plan 59R-12761, being part of PIN 64127-0548(LT)

0527

TO HAVE AND TO HOLD the said lands unto the Grantee and its successors and assigns, forever.

IN WITNESS WHEREOF these Presents have been signed and countersigned under the *Federal Real Property Act* of Canada.

DATED this 3rd day of February, 2006.

\_\_\_\_\_  
Marcia H. Wiggan  
FOR THE MINISTER OF JUSTICE

\_\_\_\_\_  
Brian Hicks  
FOR THE MINISTER OF TRANSPORT

45

Land Transfer Tax Affidavit  
Schedule 2  
Page 51 of 92

Refer to all instructions on reverse side.

Property Identifier(s) No.

IN THE MATTER OF THE CONVEYANCE OF (insert brief description of land) Part of Lots 16 and 17 and part of the Road Allowance between Lots 16 and 17, Concession 5, formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara designated as Part 2 on Reference Plan 59R-12761 being part of PIN 64129-0084(LT) (continued on Schedule "A")

BY (print names of all transferors in full) Her Majesty the Queen in Right of Canada, as represented by the Minister of Transport  
TO (print names of all transferees in full) Canada Lands Company CLC Limited

I/We have personal knowledge of the facts herein deposed to and MAKE OATH AND SAY THAT:

1. I am/We are (place a clear mark within the square opposite the following paragraph(s) that describe(s) the capacity of the deponents):

- ☐ (a) the transferee(s) named in the above-described conveyance;  
☐ (b) the authorized agent or solicitor acting in this transaction for the transferee(s);  
☒ (c) the President, Vice-President, Secretary, Treasurer, Director or Manager authorized to act for Canada Lands Company CLC Limited (the transferee(s));  
☐ (d) a transferee and am making this affidavit on my own behalf and on behalf of (insert name of spouse or same-sex partner) who is my spouse or same-sex partner.  
☐ (e) the transferor and ☐ I am tendering this document for registration and ☐ no tax is payable on registration of this document.

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

(a) Monies paid or to be paid in cash	\$ 1.00	All blanks must be filled in. Insert "Nil" where applicable.
(b) Mortgages (i) Assumed (principal and interest)	\$ nil	
(ii) Given back to vendor	\$ nil	
(c) Property transferred in exchange (detail below in para. 4)	\$ nil	
(d) Other consideration subject to tax (detail below)	\$ nil	
(e) Fair market value of the lands (see instruction 3)	\$ nil	
(f) Value of land, building, fixtures and goodwill subject to Land Transfer Tax (Total of (d) to (e))	\$ 1.00	\$ 1.00
(g) Value of all chattels - items of tangible personal property which are taxable under the provisions of the Retail Sales Tax Act	\$ nil	
(h) Other consideration for transaction not included in (f) or (g) above	\$ nil	
(i) Total Consideration	\$ 1.00	\$ 1.00

3. To be completed where the value of the consideration for the conveyance exceeds \$400,000.00

I have read and considered the definition of "single family residence" set out in subsection 1(1) of the Act. The land conveyed in the above-described conveyance:

- ☐ does not contain a single family residence or contains more than two single family residences.  
☐ contains at least one and not more than two single family residences.  
☐ contains at least one and not more than two single family residences and the lands are used for other than just residential purposes. The transferee has accordingly apportioned the value of consideration on the basis that the consideration for the single family residence is \$ and the remainder of the lands are used for purposes.

Note: Subsection 2(1)(b) imposes an additional tax at the rate of one-half of one percent upon the value of the consideration in excess of \$400,000.00 where the conveyance contains at least one and not more than two single family residences and 2(2) allows an apportionment of the consideration where the lands are used for other than just residential purposes.

4. If consideration is nominal, is the land subject to any encumbrance? ☐ Yes ☐ No

5. Other remarks and explanations, if necessary. See Schedule "A" attached

Sworn before me at the City of Toronto  
in the Province of Ontario Florina Guido,  
this 6<sup>th</sup> day of February 6 Commissioner, City of Toronto,  
a Commissioner for taking Affidavits, etc. and his subsidiaries, associates and  
attorneys. Expires July 09, 2007 Norm Jarus Signature(s)

Property Information Record

A. Describe nature of instrument: Transfer/Deed of Land

B. (i) Address of property being conveyed (if available) N/A

(ii) Assessment Roll No. (if available) N/A

C. Mailing address(es) for future Notices of Assessment under the Assessment Act for property being conveyed  
1 University Avenue, Suite 1200, Toronto, Ontario, M5J 2P1

D. (i) Registration number for last conveyance of property being conveyed (if available)

(ii) Legal description of property conveyed: Same as in O.(i) above. ☐ Yes ☐ No ☐ Not Known

E. Name(s) and address(es) of each transferee's solicitor:  
Fraser Milner Casgrain LLP, 1 First Canadian Place, 100 King St. W., Toronto, Ontario, M5X 1B2 (RJP/tr)  
NW-025-B NW-026-B #3179839

School 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 be Roman Catholic Separate School Supporters? ☐ Yes ☐ No  
(c) Do all individual transferees have 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 land being transferred will receive French Public School Board Election unless otherwise directed in (a) and (b).

46

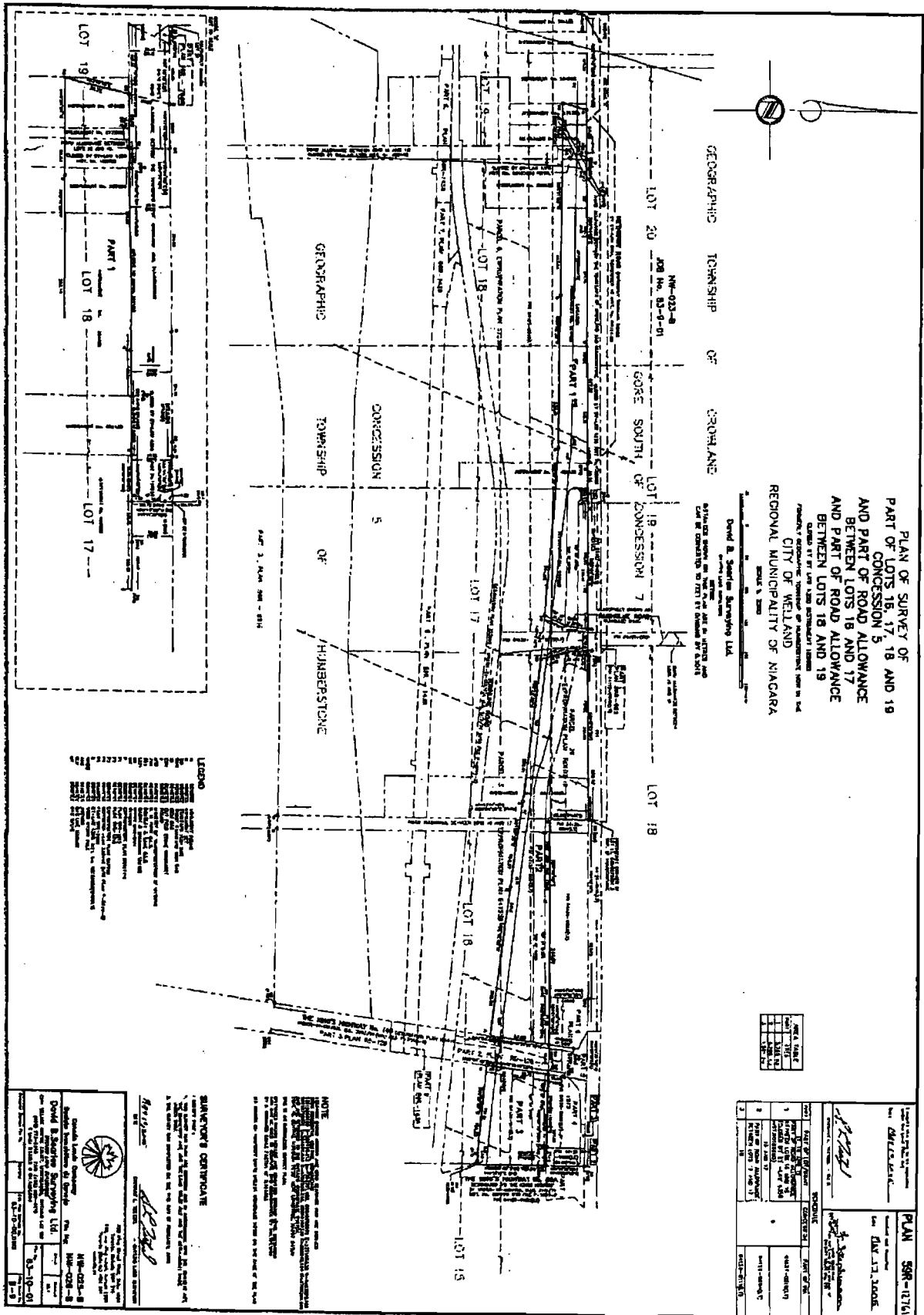
NW-025-B, NW-026-B

SCHEDULE A  
TO AN AFFIDAVIT OF RESIDENCE AND OF VALUE OF THE CONSIDERATION  
Form 1 - Land Transfer Tax Act  
By Her Majesty the Queen in Right of Canada, as represented by the Minister of Transport  
To Canada Lands Company CLC Limited

Description continued: and Part of Lot 16, Concession 5, formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara designated as Part 3 on Reference Plan 59R-12761, being part of PIN 64129-0111(LT)

Part of Lots 17, 18 and 19, Concession 5 and part of the Road Allowance between Lots 18 and 19 (closed by By-law 4350 Inst. RO185603), Concession 5, formerly Geographic Township of Humberstone now in the City of Welland, Regional Municipality of Niagara, designated as Part 1 on Reference Plan 59R-12761, being part of PIN 64127-0548(LT)  
0527

By a letter dated January 16, 1998 the Ministry of Finance, inter alia, stated that the Ministry's position is that: Canada Lands Company Limited is a Crown Corporation and is eligible for an exemption of Land Transfer Tax as long as they remain a Crown Corporation and Canada Lands Company CLC Limited, as a wholly owned subsidiary of Canada Lands Company Limited, would qualify for the land transfer tax exemption as long as they remain a wholly owned subsidiary of a Crown Corporation. I confirm Canada Lands Company CLC Limited is still a wholly owned subsidiary of Canada Lands Company Limited and Canada Lands Company Limited is still a Crown Corporation.



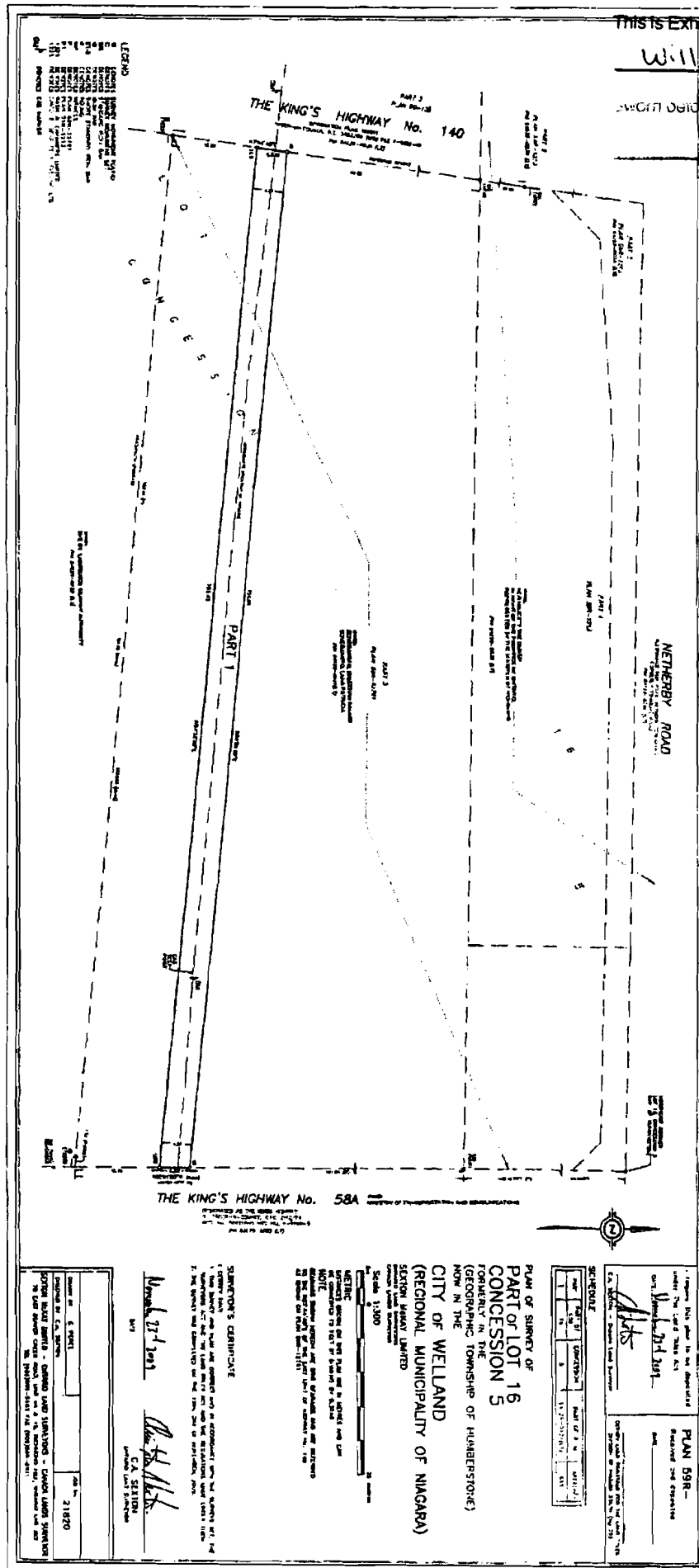
59R12761

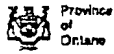
~~This is Exhibit~~

William Page 54 of 92

Signed before me this 27<sup>th</sup> day of May 2011

A Commissioner, etc.





# Transfer/Deed of Land

Form 1 - Land Registration Reform Act

FOR OFFICE USE ONLY	(1) Registry <input type="checkbox"/> Land Titles <input checked="" type="checkbox"/>		(2) Page 1 of 4 pages		
	(3) Property Identifier(s) Block Property		Additional: See Schedule <input type="checkbox"/>		
	(4) Consideration Two dollars Dollar \$ 2.00				
	(5) Description This is at: Property Division <input type="checkbox"/> Property Consolidation <input type="checkbox"/>				
	New Property Identifiers 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 <del>Fee Simple</del> 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(s) Per: Name: x Title:		Date of Signature Y M D	
We have authority to bind the corporation		Per: Name: x Title:		Date of Signature Y M D	
(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					
(11) Transferee(s)					
ENBRIDGE GAS DISTRIBUTION INC.		Name: Title:		Date of Birth Y M D	
We have the authority to bind the corporation		Name: Wm. J. Coldcott Title: Manager, Land Services		Date of Signature Y M D	
(12) Transferee(s) Address for Service					
(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.					
Signature		Date of Signature Y M D		Signature	
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.					
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) 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					
(16) Municipal Address of Property		(17) Document Prepared by: Enbridge Gas Distribution Inc. Attn: Land Services P.O. Box 650 Scarborough, Ontario M1K 5E3 6014TEMPLATE			
(18) Fees and Tax					
Registration Fee		Land Transfer Tax			
Total					

FOR OFFICE USE ONLY

FOR OFFICE USE ONLY



# Schedule

Form 5 - Land Registration Reform Act

Filed: 2011-11-29  
EB-2011-0392  
Exhibit C, Tab 7  
Schedule 2  
Page 56 of 92  
Page 2 of 3

S

Additional Property Identifier(s) and/or Other Information

## INTEREST/ESTATE TRANSFERRED

- (1) The Transferors hereby transfer, sell, grant and convey in perpetuity to the Transferee its successors and assigns, a free and unencumbered easement in, over, upon, under and/or through the lands described herein, hereafter referred to as the Easement Lands, to survey, lay, construct, install, operate, use, inspect, remove, renew, replace, alter, enlarge, reconstruct, repair, expand and maintain pipelines and all works, appurtenances, attachments, apparatus, appliances, markers, fixtures and equipment (hereinafter collectively referred to as "Works") which the Transferee may deem necessary or convenient therefor. This transfer of easement shall include the right of the Transferee, its successors, assigns, servants and agents to use the surface of the Easement Lands for ingress and egress on foot and/or with vehicles, supplies, machinery and equipment at any time and from time to time.
- (2) The Transferee shall have the right at any time and from time to time to remove any boulder or rock and to sever, fell, remove or control the growth of any roots, trees, stumps, brush or other vegetation on or under the Easement Lands.
- (3) The rights of the Transferee herein shall be of the same force and effect as a covenant running with the Easement Lands and shall be appurtenant to the lands and premises described in this Schedule as the Transferee's Lands.
- (4) The Transferee shall have the right to assign or transfer its rights hereunder in whole or in part.
- (5) This Transfer shall extend to, be binding upon and enure to the benefit of the estate trustees, successors and assigns of the parties hereto. If the Transferors are not the sole owners of the said lands, this Transfer shall bind the Transferors to the full extent of their interest therein and shall also extend to any after-acquired interest but all monies payable or paid to the Transferors hereunder shall be paid to the Transferors only in the proportion that their interest in the said lands bears to the entire interest therein. The Transferors hereby agree that all provisions herein are reasonable and valid and if any provision herein is determined to be unenforceable, in whole or in part, it shall be severable from all other provisions and shall not affect or impair the validity of all other provisions.
- (6) The Transferors shall have the right to use and enjoy the surface of the Easement Lands except that such use and enjoyment shall not interfere with the rights of the Transferee hereunder. Without limiting the generality of the foregoing, the Transferors shall not, without the prior written consent of the Transferee, place or erect on the Easement Lands any building, structure or fence and shall not excavate, alter the grading, drill, install thereon any pit, well, foundation and/or pavement which will obstruct or prevent the exercise and enjoyment by the Transferee of its rights hereunder.
- (7) Notwithstanding any rule of law or equity, any Works constructed by the Transferee shall be deemed to be the property of the Transferee even though the same may have become annexed or affixed to the Easement Lands.
- (8) The Transferee shall at its own expense as soon as reasonably possible after the construction of any Works or other exercise of its rights hereunder, remove all surplus sub-soil and debris from the Easement Lands and restore them to their former state so far as is reasonably practicable.
- (9) The Transferors covenant that
  - (i) they have the right to convey the rights hereby transferred to the Transferee;
  - (ii) the Transferee shall have quiet enjoyment of the rights hereby transferred;
  - (iii) the Transferors or their successors and assigns will execute such further assurances and do such other acts (at the Transferee's expense) as may be reasonably required to vest in the Transferee the rights hereby transferred; and
  - (iv) the Transferors have not done, omitted or permitted anything whereby the Easement Lands is or may be encumbered (except as the records of the land registry office disclose).

FOR OFFICE  
USE ONLY



# Schedule

Form 5 - Land Registration Reform Act

Filed: 2011-11-29  
EB-2011-0392  
Exhibit C, Tab 7  
Schedule 2  
Page 57 of 92  
Page 3 of 4

S

Additional Property Identifier(s) and/or Other Information

(10) The Transferor represents and warrants that the Easement Lands have not been used for the storage of and do not contain any toxic, hazardous, dangerous, noxious or waste substances or contaminants (collectively the "Hazardous Substances"). If the Transferee encounters any Hazardous Substances in undertaking any work on the Easement Lands, it shall give notice to the Transferor. At the expense of the Transferor, the Transferee (or, at the Transferee's option, the Transferor) shall effect the removal of such Hazardous Substances in accordance with the laws, rules and regulations of all applicable public authorities. The Transferee shall not bring any Hazardous Substances on the Easement Lands. In acquiring its interests in the Easement Lands pursuant to this Easement, the Transferee shall be deemed not to acquire the care or control of the Easement Lands or any component thereof.

(11) Whenever the singular or neuter is used it shall, where necessary, be construed as if the plural or feminine or masculine has been used and vice versa, as the case may be.

## DOMINANT TENEMENTS - TRANSFEE'S LANDS

PIN 64057-0029 (LT)

PT TWP LT 92, THLD, AS IN AA 90798 S/T & T/W AA90798; WELLAND

PIN 04161-0019 (LT)

PT LT 6 CON 6RF GLOUCESTER PART 1, 4R-10265 & PART 2, 5R-5963; GLOUCESTER

PIN 03187-0004 (LT)

PT W1/2 LT 30 CON 2 MARKHAM AS IN MA49406; RICHMOND HILL

FOR OFFICE  
USE ONLY

CALBRETH Inc.  
(416) 597-6600  
August 1999

**Affidavit of Residence and of Value of the Consideration**  
**Schedule 2**  
**Form 11-1-1/99 Transfer Tax Act**  
**Page 58 of 92**

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) Enbridge Gas Distribution Inc.

1. (see instruction 2 and print name(s) in full) Enbridge Gas Distribution Inc.

**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)) Enbridge Gas Distribution Inc.

☐ described in paragraph(s) (a), (b), (c) above; (strike out references to inapplicable paragraph(s))

☐ (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 paragraph(s))

☐ (f) A transferee described in paragraph ( ) 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 ( ) 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)(a) of the Act. The land conveyed in the above-described conveyance

- ☐ contains at least one and not more than two single family residences. 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.
- ☐ does not contain a single family residence.
- ☐ contains more than two single family residences. (see instruction 3)

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) Money paid or to be paid in cash	\$	<u>2.00</u>
(b) Mortgage: (i) Assumed (new 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) Loans, 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>2.00</u>
(h) VALUE OF ALL CHATTELS - items of tangible personal property (detail below: Tax is payable on the value of all chattels unless exempt under the provisions of the "Retail Sales Tax Act", R.S.O. 1990, c.484, as amended)	\$	<u>nil</u>
(i) Other consideration for transaction not included in (g) or (h) above	\$	<u>nil</u>
(j) TOTAL CONSIDERATION	\$	<u>2.00</u>

AP: Baines  
Must be  
Filed in  
Insert "Nil"  
Where  
Applicable.

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

N/A

6. If the consideration is nominal, is the land subject to any encumbrance? N/A

7. Other remarks and explanations, if necessary. Exempt from Land Transfer Tax under Section 695 of the Land Transfer Tax Act R.S.O., 1990

Sworn before me at the City of Toronto

in the

this day of 19 04

A Commissioner for taking Affidavits, etc.

Enbridge Gas Distribution Inc.

**Property Information Record**

A. Describe nature of instrument: Grant of Easement

B. (i) Address of property being conveyed (if available)

(ii) Assessment Roll No. (if available) Not Assigned

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) N/A

(ii) Legal description of property conveyed; Same as in D (i) above. Yes ☐ No ☐ Not Known ☒

E. Name(s) and address(es) of each transferee's solicitor

Aird and Berlis, Barristers & Solicitors  
Suite 1800, 181 Bay Street, P.O. Box 754  
Toronto, ON M5J 2T9

F. (i) Tax Support (Voluntary Election) See reverse for explanation

- (i) Are all individual transferees Roman Catholic? Yes ☐ No ☐
- (ii) If Yes, do all individual transferees wish to be Roman Catholic Separate School Supporters? Yes ☐ No ☐
- (iii) Do all individual transferees have French Language Education Rights? Yes ☐ No ☐
- (iv) If Yes, do all individual transferees wish to support the French Language School Board (where established)? Yes ☐ No ☐
- GTE. As to (i) and (ii) the land being transferred will be assigned to the French Public School Board or Sector unless otherwise directed in (a) and (b).

**For Land Registry Office Use Only**

Registration No.

Registration Date

Land Registry Office No.

 Walter Tkach /GAS/Enbridge

11/01/2010 01:47 PM

To Party A

cc Frank Smith/GAS/Enbridge@Enbridge

bcc Bill Coldicott/GAS/Enbridge@Enbridge

Subject Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Party A

Good afternoon — I hope all is well with you and your family. I was wondering if you and your husband have had an opportunity to receive legal advice concerning our easement proposal.

Regards,

Walter Tkach  
Property Agent, Land Services  
Enbridge Gas Distribution Inc.  
PH: (416) 753-6935  
FAX: (416) 753-6941  
walter.tkach@enbridge.com

This is Exhibit G referred to in the affidavit of

William Coldicott

Sworn before me this 27th day of May 2011

[Signature]  
A Commissioner, etc.

Party A

That is unfortunate. Your husband stated at our meeting that he was leaving the matter of completing the easement exclusively with you and he left us with the impression he was fine with the easement location and the easement width which would not interfere with your plans. In good faith we relied on your approval in the recent attached email. On that basis we undertook a legal survey already completed. I would also remind you that the very pipeline we are trying to regularize with an easement is the only means of supply to service your proposed industrial building. Kindly reconsider.

Regards,

Walter Tkach  
Property Agent, Land Services  
Enbridge Gas Distribution Inc.  
PH: (416) 753-6935  
FAX: (416) 753-6941  
walter.tkach@enbridge.com



Party A

23/11/2009 04:54 PM

To "Walter Tkach" <Walter.Tkach@enbridge.com>

cc

Subject Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Walter,

I have some bad news. Eventhough I said we approve of your plan, my husband does not. He is not willing to sign anything or approve anything without legal advice. It was my mistake assuming he agreed. I hope you have not done anything yet. We will be in touch.

Walter Tkach /GAS/Enbridge  
24/11/2009 07:48 AM

Party A

cc Frank Smith/GAS/Enbridge@Enbridge  
bcc Bill Coldicott/GAS/Enbridge@Enbridge  
Subject Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Party A

That is unfortunate. Your husband stated at our meeting that he was leaving the matter of completing the easement exclusively with you and he left us with the impression he was fine with the easement location and the easement width which would not interfere with your plans. In good faith we relied on your approval in the recent attached email. On that basis we undertook a legal survey already completed. I would also remind you that the very pipeline we are trying to regularize with an easement is the only means of supply to service your proposed Industrial building. Kindly reconsider.

Regards,

Walter Tkach  
Property Agent, Land Services  
Enbridge Gas Distribution Inc.  
PH: (416) 753-6935  
FAX: (416) 753-6941  
walter.tkach@enbridge.com

---



Party A

23/11/2009 04:54 PM

To "Walter Tkach" <Walter.Tkach@enbridge.com>  
cc  
Subject Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Walter,

I have some bad news. Eventhough I said we approve of your plan, my husband does not. He is not willing to sign anything or approve anything without legal advice. It was my mistake assuming he agreed. I hope you have not done anything yet. We will be in touch.

Sincerely,

Party A

----- Original Message -----

From: Walter Tkach

To: Party A

Sent: Monday, November 16, 2009 11:27 AM

Subject: Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Party A

I'm an employee I don't get free gas. It's just not done for so many, many reasons. I would like to thank you and your husband for your cooperation in this matter

I will be in touch with you once I have a draft reference plan prepared for your review.

Regards,

Walter Tkach  
Property Agent, Land Services  
Enbridge Gas Distribution Inc.  
PH: (416) 753-6935  
FAX: (416) 753-6941  
walter.tkach@enbridge.com

---

16/11/2009 11:11 AM

To "Walter Tkach" <Walter.Tkach@enbridge.com>  
cc  
Subject Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Walter,

It was a long shot, but I am fine with that. My husband and I approve the Easement work and appreciate all that you and your company are doing. Please keep me updated, and if possible, I would like a copy of the ammended survey and title.

Sincerely,

Party A

----- Original Message -----

**From:** Walter Tkach

**To:** Party A

**Cc:** Frank Smith

**Sent:** Monday, November 16, 2009 10:47 AM

**Subject:** Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Party A

Sorry, we don't give out free gas to anyone. I will have to get back to you on the depth of the pipeline.

Regards,

Walter Tkach  
Property Agent, Land Services  
Enbridge Gas Distribution Inc.  
PH: (416) 753-6935  
FAX: (416) 753-6941  
[walter.tkach@enbridge.com](mailto:walter.tkach@enbridge.com)

---

16/11/2009 10:24 AM

To "Walter Tkach" <[Walter.Tkach@enbridge.com](mailto:Walter.Tkach@enbridge.com)>

cc

Subject Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Dear Walter, .

What are the chances of receiving free gas from the farm tap as we are loosing some land area? Also, how deep is the actual gas line main?

Sincerely,

Party A

----- Original Message -----

**From:** Walter Tkach

**To:**                     

**Cc:** Frank Smith

**Sent:** Monday, November 16, 2009 7:20 AM

**Subject:** Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Good morning Party A

I wish to confirm our meeting on site yesterday as follows:

Enbridge Gas has an existing gas pipeline that was installed and maintained by virtue of a License agreement with the St. Lawrence Seaway Authority. It would appear the Authority sold the property you currently own without informing Enbridge Gas as required pursuant to the license agreement. Enbridge will be reviewing the scope of the problem which appears to include other property that was also disposed of by the Authority without due notice.

Enbridge is prepared to enter into an easement agreement with you and your husband as owners of title

to the property. In so doing definitive rights will be established for both parties without holding up or jeopardizing your site specific application to construct and operate the industrial building you are proposing to construct, while Enbridge reviews and undertakes potential litigation measures which may be very time consuming.

During our meeting I provided you with our standard easement terms and conditions. Enbridge proposes to complete a 15 foot ( 4.572 metre) wide easement, 7.5 feet on either side of the center of the pipeline. Our company will look after the cost to prepare the necessary survey to describe the easement and the cost to prepare and register the easement on title. As you have plans to erect perimeter fencing, the easement will be revised to permit such installation, on condition that we be allowed access to the easement from your main access point on your adjacent property for routine inspections. Also, prior to construction of the fence, Enbridge is given at least 48 hours notice to allow staff to be on site to coordinate the installation without damage to the pipeline. In the event of an emergency, a section of the fence may have to be removed to allow repairs. Enbridge will ensure the fence is replaced or repaired to your reasonable satisfaction.

Lastly, our Mr. Frank Simpson who also attended the meeting confirmed that gas service to your building can only be made possible by virtue of the pipeline we wish to document by easement. This can be done by what is referred to as a farm tap at our entire cost as an act of good faith.

Please indicate your acceptance to the aforementioned by email at your earliest convenience. I will then arrange for the survey of the easement area. Once I have the survey I will discuss with you what needs to take place regarding the completion and registration of the easement.

Regards,

Walter Tkach,  
Property Agent, Land Services  
Enbridge Gas Distribution Inc.  
PH: (416) 753-6935  
FAX: (416) 753-6941  
walter.tkach@enbridge.com

11/11/2009 11:49 AM

To "WALTER TKACH" <walter.tkach@enbridge.com>

cc

Subject Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Hi Walter.

This e-mail is to confirm our meeting, at the above mentioned property, regarding location of Enbridge Gas Line Main.

Hope to hear from you soon. Sincerely,

Party A

Party D

B.S.C.(H) LLB

Barrister, Solicitor & Notary Public

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Tel: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

Fax only: 416-753-6941

February 24, 2010

Enbridge Gas Distribution Inc.  
Legal Department

This is Exhibit H referred to in the affidavit of

William Coldicott

Sworn before me this 27<sup>th</sup> day of May 2011

[Signature]  
A Commissioner, etc.

Dear Sir/Madam

RE: Party A

PIN 64129-0121(LT), PT LT 16 Con 5 Humberstone, PT 3 on 59R12761; Welland, ON

Please be advised that I represent Party A the owners of 769 Townline Tunnel Road, having the above mentioned legal description.

We have been advised that there is a high pressure gas distribution main running through my client's property. There is no easement registered in regard to this gas line.

Please be advised that I have been instructed to bring this matter to court for an order removing the said line as being trespass to my client's property...

I have emailed Walter Tkach, Property Agent, Land Services with our position and suggested that a resolution might be negotiable, however, I have not received a response. As such, I have no choice but to commence the legal action.

Please be advised that if I do not receive a meaningful response within ten(10) days, I will be commencing a claim and seeking costs along with an order to remove the offending gas line.

Should you have any questions, do not hesitate to contact the undersigned.

Yours very truly,

[Signature]

Party D

Encls. /

[Signature]

Party D

SC(H) LLB

Barrister, Solicitor & Notary Public

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

Tel: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_


August 3, 2010

Aird & Berlis LLP  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, ON M5J 2T9

This is Exhibit I referred to in the affidavit of

William Coldicott

Sworn before me this 27<sup>th</sup> day of May 20 11



A Commissioner, etc.

Attention: Tandy T. Hooke

Dear Sir

RE: Party A

PIN 64129-0121(LT), PT LT 16 Con 5 Humberstone, PT 3 on 59R12761; Welland, ON

In response to your letter of March 22, 2010 and after our investigation and careful consideration of all the issues involved in this matter, my clients are seeking a compensation amount of one million dollars (\$1,000,000.00) to register an easement across their property in favour of Enbridge.

My clients are agreeable to signing a confidentiality agreement as well as a waiver for any further compensation and damages upon full payment of the compensation amount.

Kindly contact your client and advise me of their response.

Yours very truly,

Party D

NTT

# AIRD & BERLIS LLP

Barristers and Solicitors

Randy T. Hooke  
Direct: 416.865.7784  
E-mail: rhooker@airdberlis.com

Filed: 2011-11-29 /  
EB-2011-0392  
Exhibit C, Tab 7  
Schedule 2  
Page 67 of 92

August 5, 2010

BY FACSIMILE

Party D  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This is Exhibit J referred to in the affidavit of

William Coldicott

Sworn before me this 27<sup>th</sup> day of May, 20 11

[Signature]  
A Commissioner, etc.

Dear Party D :

Re: Party A \_\_\_\_\_

**Part Lot 16, Concession 5 Humberstone, being Part 3, Plan 59R-12761,  
Welland, Ontario (PIN no. 64129-0121(LT))**

We acknowledge receipt of your letter dated August 3, 2010.

We find your clients' claim of \$1,000,000.00 for compensation to be unreasonable and outside the scope of commercial reality. A search of title to your clients' property has revealed that your clients acquired the entire property in April, 2009, for the sum of \$50,000.00. This amount represents approximately \$13,480.72 per acre. The easement area in question has an area that is substantially less than  $\frac{3}{4}$  of an acre. We are therefore unable to reconcile the amount of compensation being claimed and the current market value of your clients' property. In addition, we understand that the existence of the pipeline will have minimal negative impact on your clients' development due to the existing municipal set back requirements and green space restrictions. We have also been advised that your clients would have been fully aware of the existence of the pipeline at the time they acquired the property as there were several pipeline markers that were clearly visible on the property indicating the location of the pipeline.

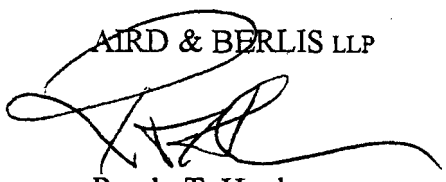
We therefore suggest that your client reconsider its position in light of the foregoing. Our client continues to be prepared to negotiate a reasonable settlement of the matter, based on the current fair market value of an easement over the lands in question, but only to the extent that your client is prepared to negotiate on a fair and commercially reasonable basis. Failing such approach by your client, our client will be left with no choice to consider other options for the acquisition of the easement necessary for its pipeline.

August 5, 2010

Page 2

Yours truly,

AIRD & BERLIS LLP



Randy T. Hooke

sm

7021977.1

# AIRD & BERLIS LLP

Barristers and Solicitors  
Brookfield Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, ON, Canada  
M5J 2T9

TELEPHONE: 416.863.1500  
FACSIMILE: 416.863.1515  
WEBSITE: www.airdberlis.com

This is Exhibit

Filed: 2011-11-29  
EB-2011-0392  
referred to in the affidavit of  
Exhibit C, Tab 7  
Schedule 12  
Page 69 of 92  
Sworn before me this 27th day of May 2011  
A Commissioner, etc.

From: Randy T. Hooke

Ext: 7784

File No.: 06218

## FAX COVER SHEET

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME	FIRM	PHONE	FAX
Party D	Barrister & Solicitor		

Date: September 23, 2010

No. of Pages: 3  
(Inc. Cover Sheet)

## MESSAGE

Re: Party A  
Part Lot 16, Concession 5 Humberstone, designated as Part 3, Plan 59R-  
12761; Welland, Ontario

May we kindly have a response to our letter dated August 15, 2010, a copy of which is attached, as our client would like to come to a satisfactory resolution of this matter.

Thank you,

Randy T. Hooke

6451287.1

The information contained in this transmission is confidential and may be privileged. It is intended only for the use of the individual or entity to whom it is addressed. If you have received this transmission in error, please notify us immediately and return the original transmission to us. Thank you for your co-operation.

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE.

Fax Operator: Copy Centre

Ext. No.: 4999

# Tab 3

Court File No. 2747/11

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

Party A and

Applicants

and

ENBRIDGE GAS DISTRIBUTION INC.

Respondent

**AFFIDAVIT OF FRANK SMITH**

I, FRANK SMITH, of the Town of Pelham, in the Regional Municipality of Niagara, MAKE  
OATH AND SAY:

1. I am the Manager, Extended Alliance, for the Respondent, Enbridge Gas Distribution Inc. ("Enbridge"), and as such, have knowledge of the matters which I hereafter depose to.
2. Until April, 2011, I was the Niagara Region Operations Manager for Enbridge.
3. As part of its network of underground service pipes and mains, Enbridge owns and maintains a 12 inch diameter high pressure gas main, approximately 14,287 feet long, which crosses under the Welland Canal (the "Pipeline"), which Pipeline is a main natural gas feed to approximately 11,000 Enbridge customers in the Town of Fort Erie, Ontario. This Pipeline is critical to the operation of the Enbridge network in the Niagara Region.
4. In about October, 2009 I was contacted by the Applicants who were inquiring about how close they could build their proposed garage building, to the location of the Enbridge Pipeline on their property.

5. I, together with a now-retired Enbridge employee from the Enbridge Land Department, Walter Tkach, met the Applicants at their property in mid-November, 2009 to discuss the location and proximity of the proposed garage building in relation to the Pipeline. At the meeting:

- (a) The Applicants informed me that they had been aware from the time of their purchase, that the Pipeline ran through their property.
- (b) There were Enbridge Pipeline markers that were clearly visible on or within the vicinity of the property demarcating the location of the Pipeline.
- (c) It was explained to the Applicants that the Pipeline was installed under a License Agreement with The St. Lawrence Seaway Authority.
- (d) The Applicants were informed Enbridge was prepared to enter into an easement agreement with the Applicants for the Pipeline.
- (e) The Applicants asked about the possibility of installation of gas service to the building they intended to construct. I indicated such a service could be installed and that Enbridge would, as a goodwill gesture, absorb the cost of the installation of a "farm tap" to provide gas service to the intended building.
- (f) Party A advised that he was leaving the matter of completing the easement arrangements with Party A and that he was content with the easement location and width because it did not interfere with their building plans.

- 3 -

(g) Walter Tkach summarized the mid-November, 2009 meeting in an email, which was copied to me, on November 16, 2009, to Party A which email also requested confirmation of the Applicants' agreement to an easement.

(h) Party A replied by email on November 16, 2009 to Walter Tkach asking if the Applicants could get free gas as well.

(i) Walter Tkach replied by email on November 16, 2009, copied to me, that Enbridge could not give out free gas.

(j) Party A replied on November 16, 2009, by email:

*"Walter,*

*It was a long shot, but I am fine with that. My husband and I approve the easement work and appreciate all that you and your company are doing. Please keep me updated, and if possible, I would like a copy of the amended survey and title.*

*Sincerely,*

Party A

6. My understanding of subsequent events are as outlined in the Affidavit of William Coldicott. Now shown to me and marked as **Exhibit "A"** to my Affidavit is the email string in respect of the emails mentioned at paragraph 5 of my Affidavit.

7. I believe the presence of the Pipeline does not restrict the Applicants' building options because the Pipeline is situated near the top of a bank which slopes south and downwards to Townline Road, rendering the lands south of the Pipeline unsuitable for building, in any event.

9. I make this Affidavit in support of the Enbridge motion for a stay.

*Michelle Cook*  
COMMISSIONER, ETC.  
*Michelle Cook*

FRANK SMITH

Party A  
Applicants

and  
ENBRIDGE  
Respondent

(Short title of proceedings)

Court File No. 2747/11

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
PROCEEDINGS COMMENCED AT WELLAND**

**AFFIDAVIT OF FRANK SMITH  
SWORN MAY 26, 2011**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, ON M5J 2T9  
Tel: (416) 863-1500  
Fax: (416) 863-1515

**K. JOHN HARILD - LSUC # 20953U 1B**

**Lawyers for the Respondent**

Filed: 2011-11-29  
EB-2011-0392  
Exhibit C, Tab 7  
Schedule 2  
Page 75 of 92

(-8)

Walter Tkach/GAS/Enbridge

11/01/2010 01:47 PM

To Party A

cc Frank Smith/GAS/Enbridge@Enbridge

bcc Bill Coldicott/GAS/Enbridge@Enbridge

Subject Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Party A

Good afternoon — I hope all is well with you and your family. I was wondering if you and your husband have had an opportunity to receive legal advice concerning our easement proposal.

Regards,

Walter Tkach  
Property Agent, Land Services  
Enbridge Gas Distribution Inc.  
PH: (416) 753-6935  
FAX: (416) 753-6941  
walter.tkach@enbridge.com

This is Exhibit A referred to in the affidavit of

Frank Smith

Sworn before me this 26th day of May 2011

Michelle Cook  
A Commissioner, etc.

Party A

That is unfortunate. Your husband stated at our meeting that he was leaving the matter of completing the easement exclusively with you and he left us with the impression he was fine with the easement location and the easement width which would not interfere with your plans. In good faith we relied on your approval in the recent attached email. On that basis we undertook a legal survey already completed. I would also remind you that the very pipeline we are trying to regularize with an easement is the only means of supply to service your proposed industrial building. Kindly reconsider.

Regards,

Walter Tkach  
Property Agent, Land Services  
Enbridge Gas Distribution Inc.  
PH: (416) 753-6935  
FAX: (416) 753-6941  
walter.tkach@enbridge.com



Party A

23/11/2009 04:54 PM

To "Walter Tkach" <Walter.Tkach@enbridge.com>

cc

Subject: Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Walter,

I have some bad news. Eventhough I said we approve of your plan, my husband does not. He is not willing to sign anything or approve anything without legal advice. It was my mistake assuming he agreed. I hope you have not done anything yet. We will be in touch.

Walter Tkach /GAS/Enbridge  
24/11/2009 07:48 AM

To Party A  
cc: Frank Smith/GAS/Enbridge@Enbridge  
bcc: Bill Coldicott/GAS/Enbridge@Enbridge  
Subject: Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Party A

That is unfortunate. Your husband stated at our meeting that he was leaving the matter of completing the easement exclusively with you and he left us with the impression he was fine with the easement location and the easement width which would not interfere with your plans. In good faith we relied on your approval in the recent attached email. On that basis we undertook a legal survey already completed. I would also remind you that the very pipeline we are trying to regularize with an easement is the only means of supply to service your proposed industrial building. Kindly reconsider.

Regards,

Walter Tkach  
Property Agent, Land Services  
Enbridge Gas Distribution Inc.  
PH: (416) 753-6935  
FAX: (416) 753-6941  
walter.tkach@enbridge.com



Party A

23/11/2009 04:54 PM

To: "Walter Tkach" <Walter.Tkach@enbridge.com>  
cc:  
Subject: Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Walter,

I have some bad news. Eventhough I said we approve of your plan, my husband does not. He is not willing to sign anything or approve anything without legal advice. It was my mistake assuming he agreed. I hope you have not done anything yet. We will be in touch.

Sincerely,

Party A

----- Original Message -----

**From:** Walter Tkach

**To:** Party A

**Sent:** Monday, November 16, 2009 11:27 AM

**Subject:** Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Party A

I'm an employee I don't get free gas. It's just not done for so many, many reasons. I would like to thank you and your husband for your cooperation in this matter

I will be in touch with you once I have a draft reference plan prepared for your review.

Regards,

Walter Tkach  
Property Agent, Land Services  
Enbridge Gas Distribution Inc.  
PH: (416) 753-6935  
FAX: (416) 753-6941  
walter.tkach@enbridge.com

---

16/11/2009 11:11 AM

To "Walter Tkach" <Walter.Tkach@enbridge.com>  
cc  
Subject Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Walter,

It was a long shot, but I am fine with that. My husband and I approve the Easement work and appreciate all that you and your company are doing. Please keep me updated, and if possible, I would like a copy of the ammended survey and title.

Sincerely,

Party A

----- Original Message -----

From: Walter Tkach

To: Party A

Cc: Frank Smith

Sent: Monday, November 16, 2009 10:47 AM

Subject: Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Party A

Sorry, we don't give out free gas to anyone. I will have to get back to you on the depth of the pipeline.

Regards,

Walter Tkach  
Property Agent, Land Services  
Enbridge Gas Distribution Inc.  
PH: (416) 753-6935  
FAX: (416) 753-6941  
[walter.tkach@enbridge.com](mailto:walter.tkach@enbridge.com)

---

16/11/2009 10:24 AM

To: "Walter Tkach" <[Walter.Tkach@enbridge.com](mailto:Walter.Tkach@enbridge.com)>  
cc  
Subject Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Dear Walter,

What are the chances of receiving free gas from the farm tap as we are losing some land area? Also, how deep is the actual gas line main?

Sincerely,

Party A

---

----- Original Message -----

**From:** Walter Tkach

**To:** Party A

**Cc:** Frank Smith

**Sent:** Monday, November 16, 2009 7:20 AM

**Subject:** Re: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Good morning Party A

I wish to confirm our meeting on site yesterday as follows:

Enbridge Gas has an existing gas pipeline that was installed and maintained by virtue of a License agreement with the St. Lawrence Seaway Authority. It would appear the Authority sold the property you currently own without informing Enbridge Gas as required pursuant to the license agreement. Enbridge will be reviewing the scope of the problem which appears to include other property that was also disposed of by the Authority without due notice.

Enbridge is prepared to enter into an easement agreement with you and your husband as owners of title

to the property. In so doing definitive rights will be established for both parties without holding up or jeopardizing your site specific application to construct and operate the industrial building you are proposing to construct, while Enbridge reviews and undertakes potential litigation measures which may be very time consuming.

During our meeting I provided you with our standard easement terms and conditions. Enbridge proposes to complete a 15 foot ( 4.572 metre) wide easement, 7.5 feet on either side of the center of the pipeline. Our company will look after the cost to prepare the necessary survey to describe the easement and the cost to prepare and register the easement on title. As you have plans to erect perimeter fencing, the easement will be revised to permit such installation, on condition that we be allowed access to the easement from your main access point on your adjacent property for routine inspections. Also, prior to construction of the fence, Enbridge is given at least 48 hours notice to allow staff to be on site to coordinate the installation without damage to the pipeline. In the event of an emergency, a section of the fence may have to be removed to allow repairs. Enbridge will ensure the fence is replaced or repaired to your reasonable satisfaction.

Lastly, our Mr. Frank Simpson who also attended the meeting confirmed that gas service to your building can only be made possible by virtue of the pipeline we wish to document by easement. This can be done by what is referred to as a farm tap at our entire cost as an act of good faith.

Please indicate your acceptance to the aforementioned by email at your earliest convenience. I will then arrange for the survey of the easement area. Once I have the survey I will discuss with you what needs to take place regarding the completion and registration of the easement.

Regards,

Walter Tkach  
Property Agent, Land Services  
Enbridge Gas Distribution Inc.  
PH: (416) 753-6935  
FAX: (416) 753-6941  
walter.tkach@enbridge.com

---

11/11/2009 11:49 AM

To "WALTER TKACH" <walter.tkach@enbridge.com>  
cc  
Subject: Part of Lot 16, Concession 5, Part 3, Plan 59R-12761

Hi Walter.

This e-mail is to confirm our meeting, at the above mentioned property, regarding location of Enbridge Gas Line Main.

Hope to hear from you soon. Sincerely,

Party A

---

# Tab 4

75

Court File No.:

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

Party A

and

Applicant

(Court seal)

and

ENBRIDGE GAS DISTRIBUTION INC.

Respondent

NOTICE OF APPLICATION

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing on **Wednesday May 18, 2011, at 10:00 a.m.** at 102 East Main Street, Welland, ON.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date 27 April 2011

Issued by Original signed by  
"Barbara Leorn"  
Local registrar

Address of  
court office 102 East Main Street  
Welland, ON L3B 3W6

TO ENBRIDGE GAS DISTRIBUTION INC.  
500 Consumer Road  
North York, ON M2J 1P8

## APPLICATION

### 1. THE APPLICANTS MAKES APPLICATION FOR:

1. A Declaration that the Respondent has no legal interest in the property.
2. An Order that the Respondents are trespass on the lands belonging to the applicants herein.
3. An Order directing the Respondent to remove the high pressure gas distribution main at their cost from the subject lands legally described as PIN#64129-0121(LT), PT LT 16 CON 5 HUMBERSTONE, PT 3, 59R12761; WELLAND and municipally known as vacant land on Netherby Road, Welland, ON, as being trespass to the Applicant's property.
4. For an Order directing the Respondent to repair any and all damage to the subject lands resulting from the removal of the high pressure gas distribution main at their cost.
5. Costs on a Substantial Indemnity basis.
6. Such further and other relief as the Applicant may request and this honourable court grant.

### 2. THE GROUNDS FOR THE APPLICATION ARE:

1. The Plaintiffs entered into an Agreement of Purchase and Sale on March 2, 2009 for the property legally described as: PIN#64129-0121(LT), PT LT 16 CON 5 HUMBERSTONE, PT 3, 59R12761; WELLAND and municipally known as vacant land on Netherby Road, Welland, ON (*the "subject property"*).
2. The completion date for the purchase was scheduled for April 22, 2009.
3. A search of title was conducted prior to closing and the results revealed an Oil, Gas Mineral and Storage Agreement and Lease dated April 26, 1962 in favour of the Consumers Gas Company registered on June 1, 1962 as instrument #73407A and an Assignment of Lease dated April 8, 1969 to The St. Lawrence Seaway Authority registered April 24, 1969 as instrument #100218.

4. Prior to closing we received from the vendor's Lawyer a letter from Enbridge stating that the description in Lease #73407A abstracted against the subject lands is the description for PIN 64129-0083 and it appeared that the lease is abstracted incorrectly and therefore there is nothing for Enbridge to surrender.
5. The search of title did not reveal any other registered easements in favour of Enbridge Gas Distribution Inc. or any other party.
6. The Plaintiffs entered into the Agreement of Purchase and Sale with the intention to build a garage for the purpose of repairing and maintenance of automobiles and trucks. They wanted to build the garage as close as possible to the southern limit of the subject land so the building would be highly visible to people accessing Highway 140 and Townline Road.
7. The transaction was completed on April 22, 2009.
8. Subsequent to the Applicant's obtaining ownership of the subject lands, they started an Application for a Site Plan Control Agreement with the City of Welland to allow them to build the garage.
9. As a result of the application, utility locates were completed to locate any underground services, as required by the City of Welland. The Applicant's did not expect any underground services as this is an unserviced rural property.
10. Enbridge attended at the property and advised the Applicants that there was a high pressure gas line running through their property. At this time an Enbridge employee, placed flags on the property indicating the path of the pipeline.
11. The pipeline apparently runs the length of the property, approximately 600 feet.
12. This is the first time the Applicants have become aware of any underground gas line or service running through the property.

79

13. The Respondents are trespassing on the Applicant's property and they would like them to remove the said pipeline and repair the property.
14. At the time of the Applicant's acquisition of the subject lands, there were no markers indicating the location or the existence of a pipeline under their property.
15. The Respondent's are trespassing and we require an order that the underground pipe be removed from the subject property.

**3. THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:**

1. Affidavit of Party A
2. Such further and other material as counsel may advise and this Honourable Court will allow.

Dated this 27<sup>th</sup> day of April, 2011

•Party D

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

TO: ENBRIDGE GAS DISTRIBUTION INC.  
500 Consumers Road  
North York, ON M2J 1P8

80

ENBRIDGE GAS DISTRIBUTION INC.

and

Party A

Plaintiff

Defendants

Court File No.

ONTARIO  
SUPERIOR COURT OF JUSTICE  
Proceeding Commenced at Welland, Ontario

APPLICATION

Party D

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

tel:

fax:

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

Solicitor for the Plaintiff

# Tab 5

Court File No. 2747/11

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

Party A                      and

Applicants

and

ENBRIDGE GAS DISTRIBUTION INC.

Respondent

**NOTICE OF APPEARANCE**

The Respondent intends to respond to this application.

Date: May 3, 2011

AIRD & BERLIS LLP  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, Ontario  
M5J 2T9

K. John Harild - LSUC # 20953U 1B

Tel (416) 863-1500  
Fax (416) 863-1515

Lawyers for the Respondent

TO: Party D

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

Tel \_\_\_\_\_  
Fax \_\_\_\_\_

Lawyers for the Applicant

Party A

and

ENBRIDGE

Applicant

Respondence

(Short title of proceeding)

Court File No. 2747/11

ONTARIO  
SUPERIOR COURT OF JUSTICE  
PROCEEDING COMMENCED AT WELLAND

NOTICE OF APPEARANCE

AIRD & BERLIS LLP  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, ON M5J 2T9  
Tel: (416) 863-1500  
Fax: (416) 863-1515

K. John Harild - LSUC # 20953U 1B

Lawyers for the Respondent

Party A

Applicants

and

ENBRIDGE

Respondent

Court File No. 2747/11

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
Proceedings commenced at WELLAND

**MOTION RECORD**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, ON M5J 2T9

K. JOHN HARILD – LSUC # 20953U 1B

Tel: 416.863.1500

Fax: 416.863.1515

Solicitors for the Respondent

Party D

A.S.C.(H) LLB

Barrister, Solicitor & Notary Public

Tel: 905-892-4200

Fax: 905-892-4211

Email:

By Facsimile (416) 863-1500 and  
Regular mail

October 18, 2011

Aird & Berlis LLP  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, ON M5J 2T9

Attention: John Harild

Dear Sir

RE: Party A v Enbridge Gas Distribution Inc.  
Welland Court File No.: 2747/11

Please find enclosed a copy of the Supplementary Motion Record of the Applicant's which is hereby served upon you pursuant to the *Rules of Civil Procedure*.

I confirm your assistant ——— consent to fax a copy of the above noted Record to your attention.

Yours very truly,

Party D

Encls.

NT

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

Party A

Applicants

-and-

ENBRIDGE GAS DISTRIBUTION INC.

Respondent

**SUPPLEMENTARY MOTION RECORD OF THE  
APPLICANTS**

**PREPARED BY**

Party D

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

Solicitor for the Applicants

**TO: AIRD & BERLIS  
Barristers & Solicitors  
Brookfield Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, Ontario M5J 2T9**

**K. John Harild – LSUC #20953U 1B  
Tel: (416) 863-1500  
Fax: (416) 863-1515**

**Solicitor for the Respondent**

Court File No. 53052 / 11

**ONTARIO  
SUPERIOR COURT OF JUSTICE****BETWEEN:**

Party A

Applicants

-and-

ENBRIDGE GAS DISTRIBUTION INC.

Respondent

**INDEX**

<u>Document</u>	<u>Tab</u>
Affidavit of Party A                      sworn September 1, 2011	1.
Exhibit "A" – Copy of the letter from The City of Welland regarding complaint from a neighbor dated May 27, 2009.	A.
Exhibit "B" – Copy of the Letter of Intent to Derek Siciliano, By-Law Enforcement Officer for The City of Welland, dated August 7, 2009	B.
Exhibit "C" – Copy of Proposed Plan submitted to the City of Welland	C

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

Party A

and

Applicants

and

ENBRIDGE GAS DISTRIBUTION INC.

Respondents

**AFFIDAVIT**

I Party A, of the City of Welland, in the Regional Municipality of Niagara,  
MAKE OATH AND SAY:

1. I am one of the applicants herein and as such have knowledge of the matters hereinafter deposed to.
2. I make this affidavit in response to the responding affidavit of William Coldicott dated May 27, 2011.
3. On April 22, 2009 my husband and I purchased the property which is the subject matter of this litigation.

- Party A.
4. ~~I~~ purchased this property for the sole purpose of building a mechanics garage on the property from which my husband could run his business. The property was selected because of its location, being just off of Highway 140 with an easy access to the property from the highway. In addition the land was elevated and constructing a business on the hill would offer high visibility on several roads and an excellent opportunity for my husband's business.

5. On or about May 27, 2009 we received a letter from the City of Welland regarding a complaint from a neighbour about us running an automotive repair facility from our residential property. Attached hereto and marked as exhibit "A" is a copy of this letter.
6. We spoke to the By-law Department and were advised that if we submit a Letter of Intent with plans to move the business he could postpone the enforcement process. As such I submitted a letter of intent. Attached hereto and marked as exhibit "B" is a copy of the letter of intent.
7. On or about June 12, 2009 we were ready to start clearing the land of brush. The person we hired to clear the brush said he would not do any work until we did locates. We called Ontario One Call to get locates before we can do any work on the site. Ontario One Call hired PVS Contractors. They raised a flag to the existence of the gas line running through this property. Until that time we had no knowledge indication or information that there was a gas line running through the property.
8. PVS was not sure how deep the line was and stated that it may be close to the surface. This alarmed us and we stayed away from this area while we continued to clear the land.
9. At some point the respondent then trespassed on our property again as red flags were placed along the path of the gas line. In addition the respondent sent in a surveyor on our property without our knowledge or consent again trespassing on our property.
10. This was the first indication that there was a gas line running through the property. There were no flags, markers and no easements registered on title.
11. On or about October 14, 2009 after several more complaints from the same person, the complainant decided they were not getting the results which they wanted, and went above the By-Law Supervisors head and contacted his boss. I was contacted by the By-Law supervisor and told that he had no choice but to fine us unless we immediately closed up my husband's business.
12. As a result we closed our business.
13. I continued negotiating with the City of Welland and a proposal was reached whereby if we enter into a Site Plan Evaluation they would grant us the right to continue working at the residence for a time period while we construct the new shop.

14. On or about October 23, 2009 we were moving forward with our Site Plan Evaluation and we needed information on the gas line. At this time we were having a gas line run to our neighbourhood and home. That is where we met Guy Blair, Sales Development Field Representative. We talked about our concerns and he stated that he would look into it for us.
15. Later in the day Mr Blair called and stated that he found that the property has some kind of land agreement between the St. Lawrence Seaway and Enbridge. He stated that the land division department would contact me.
16. We had several phone calls from people from Enbridge and we set up a meeting for November 11, 2009 with Frank Smith and Walter Tkach.
17. We continued to deal with the City of Welland to stay any enforcement and fines for operation my husband's business.
18. Following all of the feedback from the City, the easement that Enbridge would need and the Niagara Peninsula Conservation authority requirements we stand to suffer a serious loss as a result of the gas line.
19. To begin with we can not build on the hill as we planned as that is where the gas line is located. Secondly we would have to build in the valley which would make the building completely hidden from Townline Tunnel Road, a major road connecting Welland to Stevensville, Fort Erie and Niagara Falls. The building would be completely hidden from view by about a 80 foot drop.
20. Secondly the respondent states that they only require an easement over a small section of the property however what in fact happens is that we are not allowed to build 4.5 meters from the pipeline. In addition the pipeline is located approximately 18.5 metres from the side of our property along the south edge of our property. As such this makes almost 23 metres by 154.13 metres of our property unusable for our purposes as a result of the gas line. This equates to 3,544.99 square metres unusable.
21. Not only is it the area it is also the fact that we are no not able to build on the highest elevation of the land.

22. In addition large sections of the land are not usable due to the requirements of the Niagara Peninsula Conservation Authority. If the pipeline is allowed to remain, we will be left with approximately one third of our lot as usable area.
23. The long term cost of this easement on the value of our land, our business and livelihood could be substantial.
24. We have continued to hold off the City of Welland in regard to allowing us time to resolve this matter however I do not know how much longer we can hold them off before they will proceed with charges against my husband and I.
25. Attached hereto and marked as Exhibit "C" is a copy of proposed plan that we had submitted to the City for the building of the garage.
26. We want to build in accordance with the proposed plans attached hereto. We have put in our driveway however have not commenced construction of the garage pending the determination of this matter.
27. The respondents have brought a motion for a stay of my application to allow them to bring an application to the Ontario Energy Board for expropriation. Several months have gone by and to date I have not received any information or notices that the respondent has brought any application with the Ontario Energy Board or otherwise.
28. The longer this matter gets dragged out the more likely the City will close down my husband's business, fine us and charge us under the zoning by-law. All of which would significantly increase our damages.
29. We would like to complete construction as soon as possible so that my husband can expand his business and help to support our family.
30. Until we move the business my husband's business can not expand and he is unable to take on all of the jobs that come his way due to limited space and concern to not aggravate the situation with the City.

31. I make this affidavit in support of an application and for no improper purpose.

SWORN/AFFIRMED BEFORE me at the  
Town of Pelham, in the Regional Municipality,  
at Niagara, this /<sup>9</sup>-September 1, 2011

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

A commissioner etc.

)  
)  
)  
)  
)  
)  
)

\_\_\_\_\_

\_\_\_\_\_

Party A

THIS IS EXHIBIT "A"  
TO THE AFFIDAVIT OF  
Party A  
SWORN BEFORE ME THIS  
1<sup>ST</sup> DAY OF SEPTEMBER, 2011

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
A Commissioner, etc

Party D



**CITY OF WELLAND**  
**PLANNING AND DEVELOPMENT SERVICES**  
Building and Inspections Division  
Civic Square  
60 East Main Street  
Welland, ON L3B 3X4  
Phone: 905-735-1700 Fax: 905-735-8772  
www.welland.ca

May 27, 2009

Party A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Party A

**RE: WELLAND ZONING BY-LAW 2667, ZONING  
769 Townline Tunnel Road, Welland**

According to our records you are the registered Owner of the property at 769 Townline Tunnel Road which is Zoned A according to Zoning By-law 2667, as amended.

We are in receipt of a complaint concerning the above-noted property with respect to an alleged operation of an automotive repair shop at the above mentioned address.

Please be advised that City of Welland By-law 2667, as amended, states:

**SECTION 18 - AGRICULTURAL ZONE- A (BY-LAWS 8631  
AND 9349)**

***The following provisions shall apply in all  
AGRICULTURAL ZONES, A:***

***No PERSON shall HEREAFTER USE any BUILDING,  
STRUCTURE or land nor ERECT any BUILDING or  
STRUCTURE except in accordance with the following  
provisions:***

**18.1.1**

***Agricultural:***

***FARMING,***

***Agricultural research stations,***

***USES ACCESSORY to the FARM operation***

**18.1.2**

***Other:***

This By-law is enforced under the Ontario Planning Act and the Provincial Offences Act against those persons who violate the By-law. Please give this matter your immediate attention and take whatever steps are necessary to comply with the By-law. It is hoped that this notice will result in compliance and avoid commencement of an investigation and legal enforcement process, if found in violation. We are asking that you comply by June 05, 2009 to avoid legal action.

Oct. 18. 2011 11:35AM

No. 4672 P. 12/20

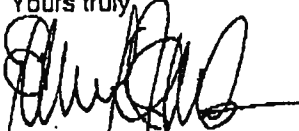
Filed: 2011-11-29, EB-2011-0391  
Exhibit C, Tab 7, Schedule 3, Page 11 of 19

**RE: WELLAND ZONING BY-LAW 2867, ZONING  
769 Townline Tunnel Road, Welland**

**Page 2  
May 27, 2009**

Please feel free to contact the By-law Enforcement Officer at 905-735-1700 for further information or explanation.

Yours truly,

A handwritten signature in black ink, appearing to read 'Derek Sibillano', written over the words 'Yours truly,'.

Derek Sibillano,

BY-LAW ENFORCEMENT OFFICER.

THIS IS EXHIBIT "B"  
TO THE AFFIDAVIT OF  
Party A  
SWORN BEFORE ME THIS  
1<sup>ST</sup> DAY OF SEPTEMBER, 2011

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
A Commissioner, etc

Party D



The builder, engineer, and I will then hold a meeting, with all parties of the building department concerned, to discuss items such as; water, drainage, septic, etc..

In the mean time, our current activity in question is the only source of income to cover our living expenses, including property taxes for both lots which we own and funding of the construction.

I am moving as fast as I possibly can to complete this construction so the activity in question can resume in the new location.

I am asking for temporary leniency while I continue to meet completion of construction.

If you have any questions or concerns, please feel free to contact me at any time.

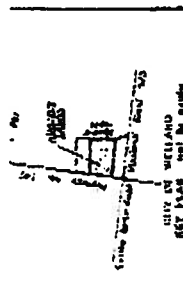
Sincerely,

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Party A  
Owner & Project Manager

THIS IS EXHIBIT "C"  
TO THE AFFIDAVIT OF  
Party A  
SWORN BEFORE ME THIS  
1<sup>ST</sup> DAY OF SEPTEMBER, 2011

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
A Commissioner, etc

Party D

	
PART OF LOT 16, CONCESSION 4 UNITED PART 3 (H PLAN 300-12711) PHASE 2 1/4, 1/2, 1/4, 1/8, 1/16, 1/32, 1/64, 1/128, 1/256, 1/512, 1/1024, 1/2048, 1/4096, 1/8192, 1/16384, 1/32768, 1/65536, 1/131072, 1/262144, 1/524288, 1/1048576, 1/2097152, 1/4194304, 1/8388608, 1/16777216, 1/33554432, 1/67108864, 1/134217728, 1/268435456, 1/536870912, 1/1073741824, 1/2147483648, 1/4294967296, 1/8589934592, 1/17179869184, 1/34359738368, 1/68719476736, 1/137438953472, 1/274877906944, 1/549755813888, 1/1099511627776, 1/2199023255552, 1/4398046511104, 1/8796093022208, 1/17592186044416, 1/35184372088832, 1/70368744177664, 1/140737488355328, 1/281474976710656, 1/562949953421312, 1/1125899906842624, 1/2251799813685248, 1/4503599627370496, 1/9007199254740992, 1/18014398509481984, 1/36028797018963968, 1/72057594037927936, 1/144115188075855872, 1/288230376151711744, 1/576460752303423488, 1/1152921504606846976, 1/2305843009213693952, 1/4611686018427387904, 1/9223372036854775808, 1/18446744073709551616, 1/36893488147419103232, 1/73786976294838206464, 1/147573952589676412928, 1/295147905179352825856, 1/590295810358705651712, 1/1180591620717411303424, 1/2361183241434822606848, 1/4722366482869645213696, 1/9444732965739290427392, 1/18889465931478580854784, 1/37778931862957161709568, 1/75557863725914323419136, 1/151115727451828646838272, 1/302231454903657293676544, 1/604462909807314587353088, 1/1208925819614629174706176, 1/2417851639229258349412352, 1/4835703278458516698824704, 1/9671406556917033397649408, 1/19342813113834066795298816, 1/38685626227668133590597632, 1/77371252455336267181195264, 1/154742504910672534362390528, 1/309485009821345068724781056, 1/618970019642690137449562112, 1/1237940039285380274899124224, 1/2475880078570760549798248448, 1/4951760157141521099596496896, 1/9903520314283042199192993792, 1/19807040628566084398385987584, 1/39614081257132168796771975168, 1/79228162514264337593543950336, 1/158456325028528675187087900672, 1/316912650057057350374175801344, 1/633825300114114700748351602688, 1/1267650600228229401496703205376, 1/2535301200456458802993406410752, 1/5070602400912917605986812821504, 1/10141204801825835211973625643008, 1/20282409603651670423947251286016, 1/40564819207303340847894502572032, 1/81129638414606681695789005144064, 1/162259276832133363391578010288128, 1/324518553664266726783156020576256, 1/649037107328533453566312041152512, 1/1298074214657066907132624082305024, 1/2596148429314133814265248164610048, 1/5192296858628267628530496329220096, 1/10384593717256535257060992658440192, 1/20769187434513070514121985316880384, 1/41538374869026141028243970633760768, 1/83076749738052282056487941267521536, 1/166153499476104564112975882535043072, 1/332306998952209128225951765070086144, 1/664613997904418256451903530140172288, 1/1329227995808836512903807060280345728, 1/2658455991617673025807614120560691456, 1/5316911983235346051615228241121382912, 1/10633823966470692103230456482242765824, 1/21267647932941384206460912964485531648, 1/42535295865882768412921825928971063296, 1/85070591731765536825843651857942125792, 1/170141183463531073651687303715884251584, 1/340282366927062147303374607431768503168, 1/680564733854124294606749214863537006336, 1/1361129467708248589213498429727074012672, 1/2722258935416497178426996859454148025344, 1/5444517870832994356853993718908296050688, 1/10889035741665988713707987437816592101376, 1/21778071483331977427415974875633184202752, 1/43556142966663954854831949751266368405504, 1/87112285933327909709663899502532736811008, 1/174224571866655819419327799005065473622016, 1/348449143733311638838655598010130947244032, 1/69689828746662327767731119602026189488864, 1/139379657493324655535462239204052378977728, 1/278759314986649311070924478408104757955456, 1/557518629973298622141848956816209515910912, 1/1115037259946597244283697913632419031821824, 1/2230074519893194488567395827264838063643648, 1/4460149039786388977134791654529676127287296, 1/8920298079572777954269583309059352254574592, 1/17840596159145555908539166618118704509149184, 1/35681192318291111817078333236237409018298368, 1/71362384636582223634156666472474818036596736, 1/142724769273164447268313332944949636073193472, 1/285449538546328894536626665889899272146386944, 1/570899077092657789073253331779798544292773888, 1/1141798154185315578146506663559597088585547776, 1/2283596308370631156293013327119194177171095552, 1/4567192616741262312586026654238388354342191104, 1/9134385233482524625172053308476776708684382208, 1/18268770466965049250344106616953553417368764416, 1/36537540933930098500688213233907106834737528832, 1/73075081867860197001376426467814213669475057664, 1/146150163735720394002752852935628427338950115328, 1/292300327471440788005505705871256854679900230656, 1/584600654942881576011011411742513711359800461312, 1/1169201309885763152022022823485027422719600922624, 1/2338402619771526304044045646970054845439201845248, 1/4676805239543052608088091293940109690878403690496, 1/9353610479086105216176182587880219381756807380992, 1/18707220958172210432352365175760438763513614761984, 1/37414441916344420864704730351520877527027229523968, 1/74828883832688841729409460703041755054054459047936, 1/149657767665377683458818921406083510108108918095872, 1/299315535330755366917637842812167020216217836191744, 1/598631070661510733835275685624334040432435672383488, 1/1197262141323021467670551371248668080864871344766976, 1/2394524282646042935341102742497336161729742689533952, 1/4789048565292085870682205484994672323459485379067904, 1/9578097130584171741364410969989344646918970758135808, 1/19156194261168343482728821939978693293837941516271616, 1/38312388522336686965457643879957386587675883032543232, 1/76624777044673373930915287759914773175351766065086464, 1/1532495540893467478618305755198295463507035321301728, 1/3064991081786934957236611510396590927014070642603456, 1/6129982163573869914473223020793181854028141285206912, 1/12259964327147739828946446041586363708056282570413824, 1/24519928654295479657892892083172727416112565140827648, 1/49039857308590959315785784166345454832225130281655296, 1/98079714617181918631571568332690909664450260563310592, 1/196159429234363837263143136665381819328900521126621184, 1/392318858468727674526286273330763638657801042253242368, 1/784637716937455349052572546661527277315602084506484736, 1/1569275433874910698105145093323054554631204169012969472, 1/3138550867749821396210290186646109109262408338025938944, 1/6277101735499642792420580373292218218524816676051877888, 1/12554203470999285584841160746584436437049633352103755776, 1/25108406941998571169682321493168872874099266704207511552, 1/50216813883997142339364642986337745748198534008415023104, 1/10043362776799428467872928597267549149639706801683004608, 1/20086725553598856935745857194535098299279413603366009216, 1/40173451107197713871491714389070196598558827206732018432, 1/80346902214395427742983428778140393197117654413464036864, 1/160693804428790855485966857556280786394235308826928073728, 1/321387608857581710971933715112561572788470617653856147456, 1/642775217715163421943867430225123145576941235307712294912, 1/1285550435430326843887734860450246291153882470615424589824, 1/2571100870860653687775469720900492582307764941230849179648, 1/5142201741721307375550939441800985164615529882461698359296, 1/10284403483442614751101878883601970329231059764923396718592, 1/20568806966885229502203757767203940658462119529846793437184, 1/41137613933770459004407515534407881316924239059693586874368, 1/82275227867540918008815031068815762633848478119387173748736, 1/164550455735081836017630062137631525267696956238774347497472, 1/329100911470163672035260124275263050535393912477548694994944, 1/658201822940327344070520248550526101070787824955097389989888, 1/1316403645880654688141040497101052202141575649910194779979776, 1/2632807291761309376282080994202104404283151299820389559959552, 1/5265614583522618752564161988404208808566302599640779119919104, 1/10531229167045237505128323976808417617132605199281558239838208, 1/21062458334090475010256647953616835234265210398563116479676416, 1/42124916668180950020513295907233670468530420797126232959352832, 1/84249833336361900041026591814467340937060841594252465918705664, 1/168499666732723800082053183628934681874121683188504931837411328, 1/336999333465447600164106367257869363748243366377009863674822656, 1/673998666930895200328212734515738727496486732754019727349645312, 1/1347997333861790400656425469031477454992973465508039454699290624, 1/2695994667723580801312850938062954909985946931016078909398581248, 1/5391989335447161602625701876125909819971893862032157818797162496, 1/10783978670894323205251403752251819639943787724064315637594324992, 1/21567957341788646410502807504503639279887575448128631275188649984, 1/43135914683577292821005615009007278559775150896257262550377299968, 1/86271829367154585642011230018014557119550301792514525100754599936, 1/172543658734309171284022460036029114239100603585029050201509199872, 1/345087317468618342568044920072058228478201207170058100403018399744, 1/690174634937236685136089840144116456956402414340116200806036799488, 1/1380349269874473370272179680288232913912804828680232401612073598976, 1/2760698539748946740544359360576465827825609657360464803224147197952, 1/5521397079497893481088718721152931655651219314720929606448294395904, 1/11042794158995786962177437422305863311302438629441859212896588791808, 1/22085588317991573924354874844611726622604877258883718425793177583616, 1/44171176635983147848709749689223453245209754517767436851586355167232, 1/88342353271966295697419499378446906490419509035534873703172710334464, 1/176684706543932591394838998756893812980839018071069747406345420668928, 1/353369413087865182789677997513787625961678036142139494812690841337856, 1/706738826175730365579355995027575251923356072284278989625381682675712, 1/1413477652351460731158711990055150503846712144568557979250763365351424, 1/2826955304702921462317423980110301007693424289137115958501526730702848, 1/5653910609405842924634847960220602015386848578274231917003053461405696, 1/11307821218811685849269695920441204030773697156548463834006106922811392, 1/22615642437623371698539391840882408061547394313096927668012213845622784, 1/45231284875246743397078783681764816123094788626193855336024427691245568, 1/90462569750493486794157567363529632246189577252387710672048855382491136, 1/180925139500986973588315134727059264492379154504775421344097710764982272, 1/361850279001973947176630269454118528984758309009550842688195421529964544, 1/723700558003947894353260538908237057969516618019101685376390843059929088, 1/1447401116007895788706521077816474115939033236038203370752781686119858176, 1/2894802232015791577413042155632948231878066472076406741505563372239716352, 1/5789604464031583154826084311265896463756132944152813483011126744479432704, 1/11579208928063166309652168622531792927512265888305626966022253488958865408, 1/23158417856126332619304337245063585855024531776611253932044506977917730816, 1/46316835712252665238608674490127171710049063553222507864089013955835461632, 1/92633671424505330477217348980254343420098127106445015728178027911670923264, 1/185267342849010660954434697960508686840196254212890031456356055823341846528, 1/370534685698021321908869395921017373680392508425780062912712111646683693056, 1/741069371396042643817738791842034747360785016851560125825424223293367386112, 1/1482138742792085287635477583684069494721570033703120251650848446586754772224, 1/2964277485584170575270955167368138989443140067406240503301696893173509544448, 1/5928554971168341150541910334736277978886280134812481006603393786347019088896, 1/11857109942336682301083820669472555957772560269624962013206787572694038177792, 1/23714219884673364602167641338945111915545120539249924026413575145388076355584, 1/47428439769346729204335282677890223831090241078499848052827150290776152711168, 1/94856879538693458408670565355780447662180482156999696105654300581552305422336, 1/189713759077386916817341130711560895324360964313999392211308601163104610844672, 1/379427518154773833634682261423121790648721928627998784422617202326209221689344, 1/758855036309547667269364522846243581297443857255997568845234404652418443378688, 1/151771007261909533453872904569248716	

59R 1213

140.48

PLAN

PART 4

N89°24'40"E

TOP OF CURB

E OF EXISTING SWALE

E OF EXISTING SWALE

N.D.C.A. REQUIRED BUFFER AREA

AREA - J. BUI HA.  
(2,700 AC.)

PART 3, PLAN 59R 127N1

CONCESSION  
LOT

16

150

125

PROPOSED  
GARAGE BUILDING  
(DECKING & FENCED  
BOARD WALK)

APPROXIMATE LOCATION OF 0.350 CM AS PER EXHIBIT C

PROPOSED  
RAVINE

PROPOSED  
STORAGE  
CONTAINER

PROPOSED  
PRIMARY  
BUILDING

PROPOSED  
16 BAY

PROPOSED  
STORAGE  
CONTAINER

PROPOSED CONC  
WALKWAY

PROPOSED CONC  
WALKWAY

PROPOSED CONC  
WALKWAY

PROPOSED CONC  
WALKWAY

PROPOSED CONC  
WALKWAY

PROPOSED CONC  
WALKWAY

PROPOSED CONC  
WALKWAY

PROPOSED CONC  
WALKWAY

PROPOSED CONC  
WALKWAY

PROPOSED CONC  
WALKWAY

PROPOSED CONC  
WALKWAY

and ENBRIDGE GAS DISTRIBUTION INC.

and

Party A

Applicant

Respondent

Court File No. 2747/11

ONTARIO  
SUPERIOR COURT OF JUSTICE  
Proceeding Commenced at Welland, Ontario

AFFIDAVIT OF Party A

Party D

tel:  
fax:

Solicitor for the Applicant

Party A and ENBRIDGE GAS DISTRIBUTION INC.

**Plaintiff**

**Defendants**

**Court File No. 2747/11**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
Proceeding Commenced at Welland, Ontario**

**SUPPLEMENTARY MOTION RECORD  
OF THE APPLICANTS**

Party D

tel:

fax:

**Solicitor for the Plaintiff**