

EB-2006-0224

**APPLICATION BY ENBRIDGE GAS DISTRIBUTION INC. FOR
AUTHORITY TO EXPROPRIATE CERTAIN LANDS**

NOTICE OF APPLICATION

Enbridge Gas Distribution Inc. ("Enbridge" or the "Applicant") has filed an application, dated September 18, 2006, with the Ontario Energy Board under section 99 of the *Ontario Energy Board Act* for approval to expropriate lands. On July 10, 2005 Enbridge was granted an order of the Board (file number EB-2005-0539) for leave to construct a natural gas pipeline along with associated facilities. The pipeline consists of the construction of 6.5 kilometres of 24 inch diameter steel natural gas pipeline within the City of Brampton (the "City"). Construction of the proposed facilities will allow Enbridge to supply gas to an electricity generator located within the City.

The proposed pipeline route follows within the right-of-ways of Sandalwood Parkway East, Airport Road, Humberwest Parkway and Goreway Drive and several privately owned properties. Enbridge indicated that it would need to acquire 1.5 acres of property for the Gate Station. Enbridge will also require a 3 metre easement on land owned by the City of Brampton and private landowners for the pipeline. Enbridge will also require several temporary easements along the proposed route for construction operations. Enbridge was unable to secure all of the easement agreements for the pipeline route and is now seeking the approval of the Board to expropriate permanent and temporary working easement rights on the land of Ms. Felicia DiGirolamo in the City of Brampton. A description of the lands and a reference plan of survey which identifies the lands are attached to Enbridge's application and attached as Appendix "A".

This is an application for an authority to expropriate land for the purpose of a natural gas pipeline, not an application dealing with compensation. The Board may, if it is of the opinion that it is in the public interest, grant the authority to expropriate the land. However, the Board does not have the authority to determine the amount of

compensation payable. If the authority to expropriate is granted and the parties do not agree upon compensation, the amount shall be determined under the *Expropriations Act*.

How to Participate

If you have an interest in any of the lands which are the subject matter of this application you may become intervenor in this proceeding. If you wish to participate in this proceeding you must send a letter of intervention to the Board Secretary within 10 calendar days of the receipt of this Notice. Information on how to participate may be obtained by calling the Board's Customer Service Centre toll free at 1-877-632-2727, by email to Boardsec@oeb.gov.on.ca or from the frequently asked questions (FAQ) section of the Board's web site at www.oeb.gov.on.ca . A copy of your submission must also be sent to the applicant.

The Board may proceed in this matter by way of written hearing or oral hearing. However, the Board will not hold a written hearing if a party satisfies the Board that there is a good reason to hold an oral hearing. If you wish to make a submission regarding whether the hearing should be oral or written, you must make this submission to the Board Secretary within 10 calendar days of the receipt of this notice or as part of your letter of intervention.

Procedural orders as to how the matter will proceed may be issued by the Board from time to time, and copies of any procedural orders will be sent to Enbridge and all the intervenors and observers in the proceeding.

ADDRESSES

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
27th Floor
Toronto ON M4P 1E4

Attention: Kirsten Walli
Board Secretary

Tel: 1-888-632-6273
Fax: 416-440-7656
Email: BoardSec@oeb.gov.on.ca

Counsel for the Applicant
Aird & Berlis
Suite 1800, Box 754
BCE Place
181 Bay Street
Toronto, Ontario M5J 2T9

Attention: Fred Cass

Tel: 416-865-7742
Fax: 416-863-1515
Email: fcass@airdberlis.com

Enbridge Gas Distribution Inc.
500 Consumers Road
P.O. Box 650
Toronto, ON M1K 5E3

Attention: Patrick Hoey
Director, Regulatory Affairs

Tel: 416-495-5555
Fax: 416-495-6072
Email: patrick.hoey@enbridge.com

DATED at Toronto, September 25, 2006

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Appendix “A”

EB-2006-0224

Application



500 Consumers Road
North York ON M2J 1P8
P.O. Box 650
Scarborough, ON
M1K 5E3

Patrick Hoey
Director, Regulatory Affairs
Tel 416-495-5555
Fax 416-495-6072
Email patrick.hoey@enbridge.com

September 18, 2006

VIA COURIER

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

Dear Ms Walli:

**Re: Enbridge Gas Distribution Inc. Expropriation Application – Sithe
Goreway pipeline project : Ontario Energy Board File No.
EB-2006-0224**

Enclosed are ten paper copies of an Application and supporting evidence by Enbridge Gas Distribution Inc. (the “Company”) for an order for authority to expropriate land needed for easements for the construction of the natural gas pipeline that will serve Sithe Global Power Goreway ULC’s (“Sithe Global”) electricity generating station (the “pipeline”).

The Application seeks authority to expropriate certain land owned by a single landowner, Felicia DiGirolamo, who owns land along the route that was approved for the pipeline in the Company’s leave to construct application (EB-2005-0539). As detailed in this Application, the Company seeks an easement for the pipeline as well as working easements to allow the pipeline to be installed. The Company has been unsuccessful in its negotiations to acquire these easements from Felicia DiGirolamo and is therefore proceeding with this Application.

As was made clear in the leave to construct application, Sithe Global intends to be operable in an interim phase in the summer of 2007. In order to accomplish this, Sithe Global will require gas for commissioning by April 2007. While the Company has planned its construction activities so that initial work can proceed on the pipeline before access to the lands owned by Felicia DiGirolamo is granted, the Company requires access to those lands by no later than December 1, 2007 in order to meet the April 2007 date. In these circumstances, the Company respectfully requests that the Board consider this matter and issue a decision as soon as is possible.

Should you require anything further from the Company at this time, please advise.

Yours Truly

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

Patrick Hoey
Director, Regulatory Affairs

cc. Mr. Fred D. Cass, Aird & Berlis LLP
Sithe Global Power Goreway ULC
Ms Felicia DiGirolamo
City of Brampton

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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 an application by Enbridge Gas Distribution Inc. for authority to expropriate land for the purposes of a natural gas pipeline in respect of which the Ontario Energy Board granted leave to construct in EB-2005-0539.

APPLICATION

1. The applicant, Enbridge Gas Distribution Inc. ("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 gas within Ontario.
2. Enbridge is proceeding with construction of an NPS 24 inch natural gas pipeline and related facilities (the "pipeline") in the City of Brampton to connect with a proposed 900 megawatt electricity generating station, known as the Goreway station. The pipeline will be approximately 6.5 kilometres in length and will be located within existing and proposed road allowances.
3. Enbridge applied to the Ontario Energy Board (the "Board") under subsection 90(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15 (Schedule B) (the "Act") for leave to construct the pipeline. The application for leave to construct the pipeline was heard by the Board under docket number EB-2005-0539 and, on July 10, 2006, the Board issued a Decision and Order in EB-2005-0539 granting Enbridge leave to construct the pipeline.

4. The route of the pipeline follows existing and proposed road allowance for Humberwest Parkway, but the City of Brampton has not yet completed the acquisition of the entire road allowance. The pipeline route contemplates use of land that has been identified as the future location of a section of Humberwest Parkway, but that land is currently owned by Felicia DiGirolamo. In order to construct the pipeline, Enbridge requires a pipeline easement on this land and it requires temporary working easements for its construction activities. Enbridge has attempted to acquire such easements for the pipeline from the Felicia DiGirolamo, but it has been unable to come to any agreement with the landowner and it has been unable to acquire easements from her.
5. Enbridge therefore applies to the Board pursuant to subsection 99(1) of the Act for authority to expropriate land owned by Felicia DiGirolamo for the purposes of the pipeline.
6. Attached as Schedule A to this application is a plan (reference plan 43R-31010) showing the land required for the construction of the pipeline. The pipeline easement on the land of Felicia DiGirolamo required for the pipeline is shown as Parts 4, 7 and 10 on this plan. The temporary working easement on the land of Felicia DiGirolamo required for the pipeline is shown as Parts 5, 6, 8, 9, 11 and 12 on this plan.
7. The description of the pipeline easement which Enbridge seeks authority to expropriate from Felicia DiGirolamo is as follows:

Part of the west half of Lot 11, Concession 7 Northern Division (Geographic Township of Toronto Gore), in the City of Brampton, in the Regional Municipality of Peel, being Parts 4, 7 and 10 on reference plan 43R-31010.

8. The description of the temporary working easement which Enbridge seeks authority to expropriate from Felicia DiGirolamo is as follows:

Part of the west half of Lot 11, Concession 7 Northern Division (Geographic Township of Toronto Gore), in the City of Brampton, in the Regional Municipality of Peel, being Parts 5, 6, 8, 9, 11 and 12 on reference plan 43R-31010.

9. The only person having an apparent interest in the lands which Enbridge seeks authority to expropriate is Felicia DiGirolamo. Others with an interest in this application include the proponent of the Goreway station project, Sithe Global Power Goreway Station ULC ("Sithe Global"), and the City of Brampton. Attached as Schedule B to this application is a list of the names and addresses of those who, to the best of Enbridge's knowledge, are affected by the application for authority to expropriate.
10. 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: Patrick Hoey
Director, Regulatory Affairs
Enbridge Gas Distribution Inc.

Address for personal service: 500 Consumers Road
Toronto, Ontario
M2J 1P8

Mailing address: P.O. Box 650
Scarborough, Ontario
M1K 5E3

Telephone: (416) 495-5555
Fax: (416) 495-6072
E-mail: patrick.hoey@enbridge.com

(b) the applicant's counsel: Fred D. Cass
Aird & Berlis LLP

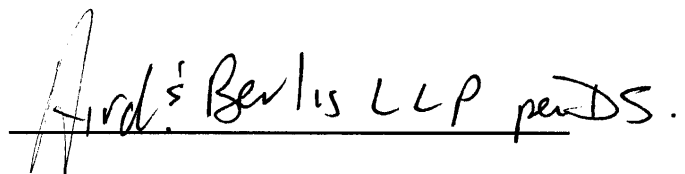
Address for personal service
and mailing address: Suite 1800, Box 754
BCE Place
181 Bay Street
Toronto, Ontario
M5J 2T9

Telephone: (416) 865-7742
Fax: (416) 863-1515
E-mail: fcass@airdberlis.com

11. Enbridge requests that the Board grant authority to expropriate the easements described above at the earliest possible opportunity so that Enbridge will be able to meet the needs of Sithe Global for gas distribution services to the Goreway station.

DATED September 18, 2006 at Toronto, Ontario.

ENBRIDGE GAS DISTRIBUTION INC.
By its counsel
AIRD & BERLIS LLP

Aird & Berlis LLP per DS.

SCHEDULE B
LIST OF INTERESTED PARTIES

Felicia DiGirolamo
12 Bell Harbour Place
Woodbridge, Ontario.
L4L 6W2

Sithe Global Power Goreway LLC
c/o Stikeman Elliott
5300 Commerce Court West
199 Bay Street
Toronto, Ontario
M5L 1B9

The Corporation of the City of Brampton
2 Wellington Street West
Brampton, Ontario
L6Y 4R2

OVERVIEW

1. Enbridge Gas Distribution Inc. ("Enbridge" or the "Company") is proceeding with construction of an NPS 24 inch natural gas pipeline and related facilities (the "pipeline") in the City of Brampton to connect with a proposed 900 megawatt electricity generating station, known as the Goreway station. The pipeline will be approximately 6.5 kilometres in length and will be located within existing and proposed road allowances.
2. Enbridge applied to the Ontario Energy Board (the "Board") under subsection 90(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15 (Schedule B) (the "Act") for leave to construct the pipeline. The application for leave to construct the pipeline was heard by the Board under docket number EB-2005-0539 and, on July 10, 2006, the Board issued a Decision and Order in EB-2005-0539 granting Enbridge leave to construct the pipeline. Attached as Appendix A hereto is a copy of the Board's Decision and Order.
3. The route of the pipeline follows existing and proposed road allowance for Humberwest Parkway in the City of Brampton (the "City"). This route was selected by Stantec Consulting Limited, in consultation with Enbridge, and was considered by the Board in EB-2005-0539. In its Decision and Order in that case, the Board found that Enbridge had conducted the routing and environmental assessment for the pipeline in accordance with the Board's *Environmental Guidelines* and that no outstanding issues remained. The Board went on to approve the form of easement filed by Enbridge and offered to all directly affected landowners along the approved route. Attached as Appendix B hereto is a sketch showing the Board-approved route for the pipeline.

4. Unfortunately, the City has not yet completed the acquisition of the entire road allowance for Humberwest Parkway. The Board-approved pipeline route contemplates that the pipeline will occupy land that has been identified as the future location of a section of Humberwest Parkway, but that land is currently owned by Felicia DiGirolamo.
5. In order to complete the construction of the pipeline, Enbridge requires both a pipeline easement and temporary working easements on the land owned by Felicia DiGirolamo. The pipeline easement required by Enbridge is shown as Parts 4, 7 and 10 on the reference plan that is attached as Schedule A to the Application in this matter and the temporary working easements are shown as Parts 5, 6, 8, 9, 11 and 12 on the reference plan.
6. Enbridge has attempted to acquire these easements from the landowner, but it has been unable to come to any agreement with her and it has been unable to acquire the easements. The lawyer for Felicia DiGirolamo, Mr. Renzo Belluz, has told Enbridge that his client wishes to sell her parcel of land as an entirety and that she will not grant an easement to Enbridge.
7. Because the Board-approved route for the pipeline follows the existing and proposed road allowance for Humberwest Parkway, and because part of the proposed road allowance for Humberwest Parkway lies on land currently owned by Felicia DiGirolamo, there are no realistic options for Enbridge to construct the pipeline without crossing the lands of Felicia DiGirolamo.
8. The proponent of the Goreway station project, Sithe Global Power Company Station ULC ("Sithe Global") has informed Enbridge that it requires gas

distribution service to the Goreway station by April of 2007. Enbridge has endeavoured to plan its construction activities so that work can proceed on other parts of the pipeline before entry on the lands of Felicia DiGirolamo is required. Nevertheless, in order to meet Sithe Global's expectation of service by April of 2007, Enbridge needs access to the portion of the route crossing Felicia DiGirolamo's property, and the associated working easements, by no later than December 1, 2006.

9. Enbridge therefore requests that the Board grant authority to expropriate the pipeline easements and temporary working easements at the earliest possible opportunity. Attached hereto as Appendix C is the definition of the limited estate, right and interest that Enbridge requires by way of pipeline easement and temporary working easements.

Ontario Energy
Board

Commission de l'Énergie
de l'Ontario



EB-2005-0539

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

AND IN THE MATTER OF an application by Enbridge Gas
Distribution Inc. pursuant to subsection 90(1) of the *Ontario
Energy Board Act, 1998* for an Order granting leave to construct
6.5 kilometres of natural gas pipeline in the City of Brampton to
supply natural gas to an electricity generating station.

BEFORE: Cynthia Chaplin
Presiding Member

Ken Quesnelle
Member

Paul Vlahos
Member

DECISION AND ORDER

Enbridge Gas Distribution Inc. ("Enbridge") applied to the Ontario Energy Board (the "Board") on January 30, 2006, for an Order granting leave to construct 6.5 kilometres ("km") of 24 inch natural gas pipeline and related facilities (the "pipeline") pursuant to section 90(1) of the *Ontario Energy Board Act, 1998* (the "Act"). The proposed pipeline will connect a proposed 900 megawatt ("MW") electricity generating station ("Goreway Station") to the gas transmission system of Trans Canada Pipeline Ltd. ("TCPL"). The proposed route of the pipeline is located almost entirely within proposed and existing road allowances of Sandalwood Parkway, Humberwest Parkway and Goreway Drive, all within the City of Brampton.

The Board assigned this application file number EB-2005-0539.

On February 14, 2006 the Board issued a Notice of Application and Hearing (the "Notice") for this application. On March 24, 2006 Enbridge provided the Board with an affidavit proving that it had served and published the Notice as directed by the Board. Pursuant to the Notice, requests for intervenor status were received from the Industrial Gas Users Association ("IGUA"), Sithe Global Power Goreway ULC. ("Sithe Global"), TransCanada Energy Ltd. ("TCE") and Union Gas Ltd. ("Union"). The Board accepted all requests for intervenor status. The Board also received a letter of comment dated March 16, 2006 from GLB Urban Planners Ltd. on behalf of Sky Homes Corporation. By Procedural Order dated May 6, 2006 the Board decided to proceed with the application by written hearing.

Background

In 2002, Sithe Canadian Pipelines Ltd. ("SCP") filed an application for leave to construct a pipeline to connect the Goreway Station to the gas system operated by TCPL. At about the same time Enbridge filed a competing application to supply the Goreway Station. Both applications were adjourned in early 2003 and subsequently withdrawn on January 30, 2006 and January 26, 2006, respectively. The current application by Enbridge to build the proposed pipeline results from negotiations between Enbridge and Sithe Global.

This application for leave to construct the pipeline is borne out of the requirement for natural gas fuel at the Goreway Station. The Goreway Station is to be owned and operated by Sithe Global. Enbridge's application is supported by a gas delivery agreement ("GDA"), dated January 26, 2006 which it signed with Sithe Global. Enbridge's evidence indicates that gas is required at the Goreway Station for commissioning as early as February 15, 2007.

By contract entered into between Sithe Global and the Ontario Power Authority (the "OPA"), the Goreway Station is scheduled to operate as a simple cycle gas fired electricity generation station beginning as early as May of 2007 through September 30, 2007 at which time it will be temporarily decommissioned to allow completion of the plant to operate in combined cycle mode. The commissioning of the combined cycle plant is expected to begin in March of 2008 with commercial operation scheduled for July of 2008.

The approximately 6.5 km of 24 inch diameter extra high pressure steel pipeline will connect to TCPL's transmission system which operates at a maximum pressure of 6447 Kilopascals ("KPa") and deliver natural gas to the Goreway Station at a minimum pressure of 3860 KPa. The pipeline's maximum flow to the Goreway Station could be 225,000 m³ per hour or 5,400,000 m³ per day. Sithe Global's forecasted peak consumption is 4,344,000 m³ per day. Enbridge will also require the construction of a Gate station for operational control of the pipeline. The total cost of Enbridge's proposed pipeline is estimated to be \$22.4 million.

In the Board's view, the issues in this application are as follows:

- Is there a need for the proposed project?
- Is the proposed routing of the pipeline appropriate and are there any environmental, safety or landowner concerns?
- Is the project economically feasible?

The Board deals with these matters below.

Project Need

Sithe Global has entered into a 20 year agreement with the OPA. Sithe Global's contract with the OPA requires that the Goreway Station operate as early as mid-May of 2007. Enbridge indicated that gas will be required at the Goreway Station as early as February 15, 2007. The need for the pipeline is based on Sithe Global's requirement for natural gas as an input fuel for generating electricity. Sithe Global has executed a GDA with Enbridge for gas transportation services. Given the volume of natural gas required at the Goreway Station, a large diameter high pressure pipeline is required.

The Board notes that none of the parties to the proceeding argued that the proposed facilities were not required. The Board finds that Enbridge has demonstrated the need for the proposed project.

Routing, Environmental, Safety and Landowner Considerations

In 2000, Stantec Consulting Inc. ("Stantec"), then ESG International Inc. ("ESG") was retained by SCP to prepare an Environmental and Socio Economic Impact Assessment (the "EA Report") for the development of a natural gas pipeline to the Goreway Station. ESG prepared the EA Report which was filed along with an application by SCP in 2002

to the Board for leave to construct its own pipeline. In February of 2003 the SCP application was adjourned. In 2004, Stantec was hired by SCP to prepare an updated EA report. Subsequent to the 2004 update of the EA Report, SCP began negotiations with Enbridge to supply natural gas to the Goreway Station. Enbridge became the proponent of the pipeline and submitted an EA Report by Stantec which is an update of the earlier versions and includes analysis on new information and routing changes.

The EA Report was submitted pursuant to the Board's *Environmental Guidelines for Locating, Constructing and Operating Hydrocarbon Pipelines in Ontario (May 2003)* (the "Environmental Guidelines"). To meet the objectives of the Environmental Guidelines, the EA Report:

- identified existing environmental and socio-economic features that could be affected by the project;
- identified an environmentally acceptable route for the proposed pipeline;
- identified stakeholder interests and appropriate mitigation measures to ensure concerns raised by interested parties are addressed; and
- established the mitigation and protective measures required to avoid or minimize potential environmental effects associated with construction and operation of the proposed pipeline.

The EA Report determined the route now proposed by Enbridge. The preferred route alignment within the proposed right of ways was determined to have the least potential impact upon existing and proposed utilities and socio-economic factors. The EA report concluded that no significant adverse environmental or socio-economic effects would remain upon implementation of recommended mitigation and monitoring measures.

Copies of the EA Report were submitted to the Ontario Pipeline Coordination Committee ("OPCC") on December 23, 2005. Several letters were received during the OPCC process but none raised concerns with the proposed pipeline.

To solicit input from agencies and landowners along the preferred route, the proponent of the pipeline held three open houses regarding the project. Letters were sent out to landowners on September 14, 2004 and to agencies on September 13, 2004. The letters were provided to the appropriate agencies and to landowners along the preferred route to inform them of the proposed project and to solicit comments regarding the pipeline. To inform the general public and to solicit input from them, a newspaper notice

was placed in the Brampton Guardian on September 15 and 17, 2004. The EA Report indicated that all of the issues identified during the public consultation have been resolved through clarification by the proponent or through the selection of a preferred route that minimizes potential impacts upon environmental and socio-economic features.

Stantec specified a set of mitigation measures within the EA Report (i.e. Section 5) that it recommended Enbridge follow. Enbridge maintained that by following its standard construction practices, as specified in the *Environmental Management Manual for Environmental Protection during Pipeline Construction* and adhering to the mitigation measures of the EA Report, construction of this project will have negligible long term impacts on the environment.

The proposed pipeline was chosen from four alternative routings. It will originate from the TCPL pipeline on the south side of Sandalwood Parkway just west of Mountainash Road and proceed east along the south side of Sandalwood Parkway for approximately 1,000 metres to Airport Road. At Airport Road, the pipeline will proceed southeast along the south side of constructed and unconstructed sections of Humberwest Parkway for approximately 1,087 metres and cross Castlemore Road. The pipeline will proceed along the southwest side of the proposed Humberwest Parkway for approximately 1,718 metres and cross Williams Parkway. At Williams Parkway, the pipeline will proceed along Humberwest Parkway for approximately 1,542 metres and cross Queen Street East. The pipeline will then proceed along the west side of Goreway Drive and along the Goreway Station property boundary for approximately 1,170 metres to a point of interconnection with the Goreway Station.

The route follows within the right-of-ways of Sandalwood Parkway East, Airport Road, Humberwest Parkway and Goreway Drive and several privately owned properties. Enbridge's evidence indicates that the final alignment within these rights-of-ways will be determined by consultation and negotiation with Brampton Works and Transportation Department, Peel Public Works Department and the affected private landowners.

Enbridge indicated that it would need to acquire 1.5 acres of property for the Gate Station. Enbridge will also require a 3 metre easement on land owned by the City of Brampton and private landowners for the pipeline. Enbridge will also require several temporary easements along the proposed route for construction operations.

Enbridge indicated the negotiations with affected landowners were ongoing at the time that it filed the application and responses to interrogatories. Enbridge filed a copy of the form of easement which will be offered to affected landowners.

No concerns were raised by landowners regarding the proposed pipeline. A Letter of Comment was received by the Board dated March 16, 2006 from GLB Urban Planners Ltd. ("GLB") on behalf of Sky Homes Corporation, an affected landowner. GLB indicated that it had no issue with the proposed pipeline because it did not impede its clients' plans to develop a subdivision near the route.

The Technical Standards and Safety Authority ("TSSA"), which administers the CSA Z662-03 in Ontario, reviewed Enbridge's evidence on design and safety of the facilities as part of the OPCC review. There are no outstanding concerns raised by the TSSA or other parties with regard to CSA Z662-03 compliance.

The Board notes that no parties challenged Enbridge's evidence concerning the environmental and socio-economic impacts of the pipeline and the proposed routing. Board Staff submitted that landowner concerns have been addressed and that all environmental impacts can be adequately mitigated. The Board agrees with Board Staff. The Board finds that Enbridge conducted the routing and environmental assessment in accordance with the Board's *Environmental Guidelines* and that no outstanding issues remain. The Board notes that Enbridge is committed to implementing all the mitigation and land restoration measures identified in the evidence and in the EA report. The Board also finds that the land restoration and construction impact mitigation measures proposed by Enbridge are acceptable and accepts the proposed routing and finds that there are no outstanding environmental matters.

The Board notes that the required permanent or temporary easements have either been acquired or are pending. The Board approves the form of easement filed by Enbridge and offered to all directly affected landowners along the approved route.

Economic Feasibility

The total capital cost for the project is estimated to be \$22,445,345 which covers all capital costs including material, labour, external costs, interest during construction, overheads and contingencies. On the basis of the evidence, the Board finds the estimated cost of the project to be acceptable.

Enbridge performed an economic feasibility analysis in accordance with the Board's E.B.O. 188 *Report on Natural Gas System Expansions* in order to assess the economics of the project. The economic feasibility of the project was calculated by discounting incremental cash flows over the 20 year customer revenue horizon. The revenues were based on an agreement between Enbridge and Sithe Global to set a contract demand ("CD") for billing purposes (the "billing contract demand" or "billing CD") under Rate 125 at a level that fully recovers all of Enbridge's incremental costs of construction and operation. The final billing CD will be set six months after construction of the project has been completed to ensure that the revenues from the pipeline recover all the costs associated with the project. For the purpose of the feasibility analysis, Enbridge has set a billing contract demand at 2,980,431 m³ per day. The results of this analysis indicate that the project has a profitability index ("PI") of 1.0 or a net present value ("NPV") of \$0 over the 20 year period.

Enbridge expects to earn additional revenues from the proposed pipeline with the sale of overrun transportation (i.e. volumes transported above the billing CD) service to Sithe Global in excess of the billing contract demand. The additional revenues were not included in the feasibility analysis. Reflecting these potential revenues, the proposed project's PI was estimated to be as high as 1.4.

Board Staff, Sithe Global, IGUA and Enbridge made submissions with respect to the interpretation of Rate 125 on which Enbridge's economic feasibility was performed. Board Staff submitted that Enbridge's interpretation of Rate 125, that it could set a billing contract demand to a level which generated a profitability index of 1.0, was not supported by the current Rate 125 rate schedule. IGUA submitted that all gas fired generators should be required to make a fair contribution to Enbridge's distribution system costs. Sithe Global and Enbridge submitted that the application makes appropriate and effective use of Rate 125.

In the Board's view, the difference in interpretation regarding Rate 125 is a rates matter and will be settled in another forum. From our perspective, in this application we are to determine whether the proposed project is in the public interest. We conclude that it would be in the public interest if Enbridge has a contract with Sithe Global under a Board-approved rate and the project achieves a PI of at least 1.0.

What is uncertain is whether Enbridge's interpretation is correct. The proposal produces a PI of 1.0. If a more traditional approach was taken, as raised by Board Staff, the PI would be higher. Either way the project is economic. Sithe Global stated that if Enbridge's interpretation is not upheld it will have to reconsider its options. For leave to construct dedicated facilities of the type proposed, the Board requires that the parties enter into a contract under a Board-approved rate and that there not be adverse rate impacts for other customers - that is, the PI should be at least 1.0. The issue of Rate 125 and its interpretation will be dealt with elsewhere. We note that this matter is before the Board in the current Natural Gas Electricity Interface Review proceeding.

Conclusion

Given the Board's findings on each of the specific areas above, the Board concludes that the proposed expansion is in the public interest and will grant the requested Leave to Construct, subject to the set of conditions in Appendix "A" to this Decision which include obtaining all permits required to construct, operate and maintain the proposed pipeline. The leave to construct is valid if Enbridge has a contract with Sithe Global.

IT IS THEREFORE ORDERED THAT:

Enbridge Gas Distribution Inc. is granted leave pursuant to subsection 90 (1) of the *Ontario Energy Board Act, 1998* to construct approximately 6.5 kilometres of 24 inch natural gas pipeline and related facilities in the City of Brampton as applied for, subject to the Conditions of Approval set forth in Appendix "A" and that there is a contract between Enbridge Gas Distribution Inc. and Sithe Global Power Goreway ULC.

Dated at Toronto, July 10, 2006

ONTARIO ENERGY BOARD



Peter H. O' Dell
Assistant Board Secretary

Appendix "A"

CONDITIONS OF APPROVAL EB-2005-0539

Enbridge Gas Distribution Inc. – Goreway Power Station Pipeline Project

1 General Requirements

- 1.1 Enbridge Gas Distribution Inc. shall construct the facilities and restore the land in accordance with its application and evidence, except as modified by this Order and these Conditions of Approval.
- 1.2 Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate December 31, 2006, unless construction has commenced prior to then.
- 1.3 Except as modified by this Order, Enbridge Gas Distribution Inc. shall implement all the recommendations of the Environmental Study Report filed in the pre filed evidence, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee ("OPCC") review.
- 1.4 Enbridge Gas Distribution Inc. shall advise the Board's designated representative of any proposed material change in construction or restoration procedures and, except in an emergency, Enbridge Gas Distribution Inc. shall not make such change without prior approval of the Board or its designated representative. In the event of an emergency, the Board shall be informed immediately after the fact.

2 Project and Communications Requirements

- 2.1 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Facilities.
- 2.2 Enbridge Gas Distribution Inc. shall designate a person as project engineer and shall provide the name of the individual to the Board's designated representative. The project engineer will be responsible for the fulfilment of the Conditions of Approval on the construction site. Enbridge Gas Distribution Inc. shall provide a copy of the Order and Conditions of Approval to the project engineer, within seven days of the Board's Order being issued.
- 2.3 Enbridge Gas Distribution Inc. shall give the Board's designated representative and the Chair of the OPCC ten days written notice, in advance of the commencement of the construction.

- 2.4 Enbridge Gas Distribution Inc. shall furnish the Board's designated representative with all reasonable assistance for ascertaining whether the work is being or has been performed in accordance with the Board's Order.
- 2.5 Enbridge Gas Distribution Inc. shall file with the Board's designated representative notice of the date on which the installed pipelines were tested, within one month after the final test date.
- 2.6 Enbridge Gas Distribution Inc. shall furnish the Board's designated representative with five copies of written confirmation of the completion of construction. A copy of the confirmation shall be provided to the Chair of the OPCC.

3 Monitoring and Reporting Requirements

- 3.1 Both during and after construction, Enbridge Gas Distribution Inc. shall monitor the impacts of construction, and shall file four copies of both an interim and a final monitoring report with the Board. The interim monitoring report shall be filed within six months of the in-service date, and the final monitoring report shall be filed within eighteen months of the in-service date. Enbridge Gas Distribution Inc. shall attach a log of all complaints that have been received to the interim and final monitoring reports. The log shall record the times of all complaints received, the substance of each complaint, the actions taken in response, and the reasons underlying such actions.
- 3.2 The interim monitoring report shall confirm Enbridge Gas Distribution Inc.'s adherence to Condition 1.1 and shall include a description of the impacts noted during construction and the actions taken or to be taken to prevent or mitigate the long-term effects of the impacts of construction. This report shall describe any outstanding concerns identified during construction.
- 3.3 The final monitoring report shall describe the condition of any rehabilitated land and the effectiveness of any mitigation measures undertaken. The results of the monitoring programs and analysis shall be included and recommendations made as appropriate. Any deficiency in compliance with any of the Conditions of Approval shall be explained.
- 3.4 Within fifteen months of the in-service date, Enbridge Gas Distribution Inc. shall file with the Board a written Post Construction Financial Report. The Report shall indicate the actual capital costs of the project and shall explain all significant variances from the estimates filed with the Board.

4 Easement Agreements

- 4.1 Enbridge Gas Distribution Inc. shall offer the form of agreement approved by the Board to each landowner, as may be required, along the route of the proposed work.

5 Other Approvals

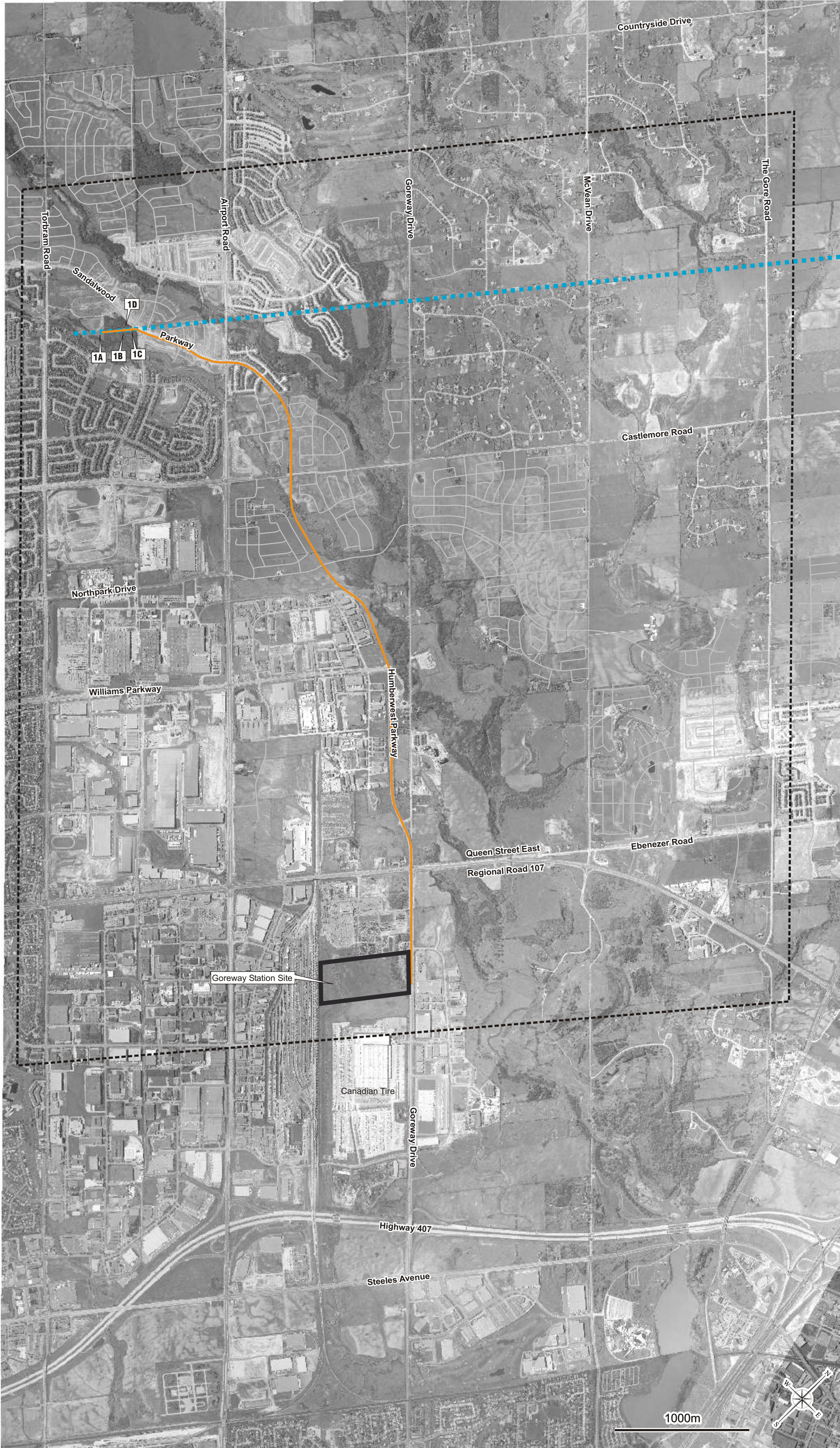
- 5.1 Enbridge Gas Distribution Inc. shall obtain all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project, shall provide a list thereof, and shall provide copies of all such written approvals, permits, licences, and certificates upon the Board's request.



Stantec

Sithe Canadian Pipelines Ltd.

Preferred Route



----- Study Area - - - - - Existing TransCanada Pipeline — SCPL's Preferred Pipeline Route

Definition of Limited Estate, Right and Interest Taken

I Permanent Easement

(1) An unencumbered easement in favour of Enbridge Gas Distribution Inc. (the "Company"), its successors and assigns, in, over, upon, under and/or through the lands described in the order to which this appendix is attached described as the permanent easement lands (the "Easement Lands"), to survey, lay, construct, install, operate, use, inspect, remove, renew, replace, alter, enlarge, reconstruct, repair, expand and maintain a pipeline and all works, appurtenances, attachments, apparatus, appliances, markers, fixtures and equipment (collectively, the "Works") which shall remain the property of the Company notwithstanding the extent to which they are affixed to the Easement Lands together with the right and easement 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 Company 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.

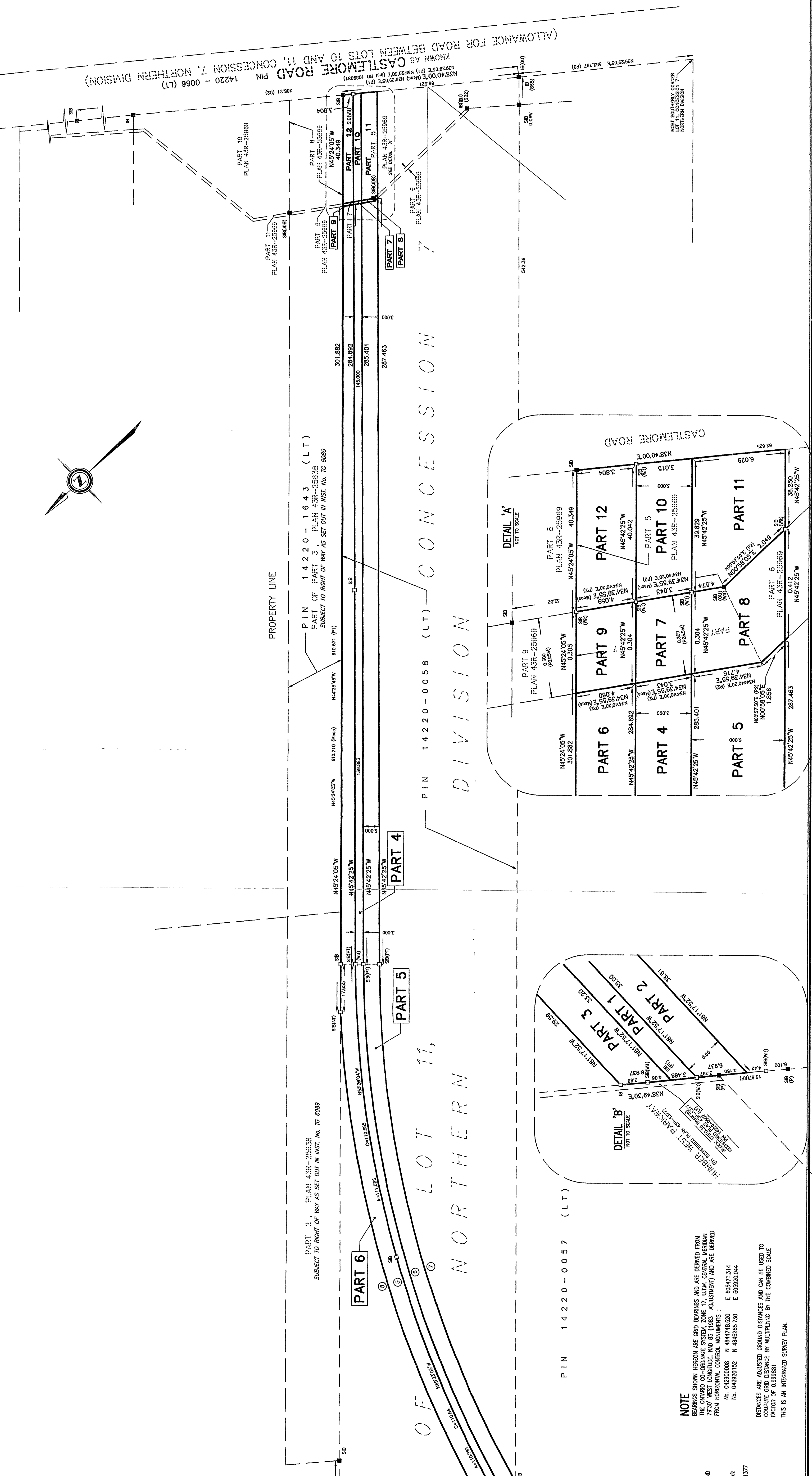
(3) The Owner shall have the right to use and enjoy the surface of the Easement Lands except that such use and enjoyment shall not interfere with the rights of the Company and, without limitation, the Owner shall not, without the prior written consent of the Company, place or erect on the Easement Lands 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 of the Company's rights.

II Temporary Easement

An unencumbered easement in favour of the Company, its successors and assigns, in, over, upon, under and/or through the lands described in the order to which this appendix is attached described as the temporary easement lands for ingress and egress on foot and/or with vehicles, supplies, machinery and equipment during the period of time that the Works are being constructed and installed in the Easement Lands.

METRIC
NOTES SHOWN ON THIS PLAN ARE IN METERS AND CM
BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

CURVE DATA				
CURVE NO.	RADIUS	ARC	CHORD	CHORD BEARING
1	403.000	45.283	45.259	N82°09'55"W
2	403.000	49.882	48.850	N87°09'55"W
3	394.000	59.395	59.339	N78°23'16"W
4	409.000	36.355	36.643	N81°09'52"W
5	403.000	222.027	219.235	N81°29'27"W
6	400.000	215.504	212.907	N81°08'30"W
7	400.000	215.504	212.907	N81°08'30"W
8	409.000	212.140	214.601	N82°23'32"W



PLAN 43R-31010
Received and deposited
DATE September 5, 2006
C.A. Sexton
Ontario Land Surveyor

SCHEDULE		
PART	LOT	AREA
1	PART OF WEST HALF OF LOT 11 NORTHERN DIVISION	245 m ²
2		548 m ²
3		433 m ²
4		1,511.7 m ²
5		2,968.1 m ²
6		2,720.1 m ²
7		0.91 m ²
8		1.98 m ²
9		1.22 m ²
10		1.93 m ²
11		2.59 m ²
12		156.4 m ²

PLAN OF SURVEY OF
PART OF WEST HALF OF LOT 11,
CONCESSION 7
NORTHERN DIVISION
(GEOGRAPHIC TOWNSHIP OF TORONTO GORE)
CITY OF BRAMPTON
REGIONAL MUNICIPALITY OF PEEL

SCALE 1: 750
25 20 15 10 5 0 50 Metres

SEXTON MCKAY LIMITED
ONTARIO LAND SURVEYORS
CAN. DA. LANDS SURVEYOR

SURVEYOR'S CERTIFICATE
I CERTIFY THAT
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY ACT,
THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE
THEREIN.
2. THE SURVEY WAS COMPLETED ON THE 13th DAY OF JUNE, 2006.

DATE August 24, 2006
Christy A. Sexton
C.A. SEXTON
ONTARIO LAND SURVEYOR

DRAWN BY: JD
CHECKED BY: C.A. SEXTON, OLS
JOB No. 19269-1
SEXTON MCKAY LIMITED - ONTARIO LAND SURVEYORS - CANADA LANDS SURVEYOR
70 EAST BEAVER CREEK ROAD, UNIT 44 & 45, CLARK HILL, ONTARIO L4B 3E2
(416) 909-9890-9103 Fax: (416) 909-9891