

November 3, 2014

**RESS, EMAIL & COURIER**

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

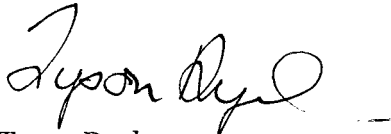
Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

**Re: East Durham Wind, LP – Request for Board to Initiate a Motion to Review  
and Vary the Revised Decision and Order in EB-2013-0233**

We are counsel to East Durham Wind, LP (formerly East Durham Wind, Inc.) in the above noted proceeding. Please find attached a request for the Board to initiate a motion to review and vary its Revised Decision and Order in EB-2013-0233.

Yours truly,



Tyson Dyck

Tel 416.865.8136  
Fax 416.865.7380  
tdyck@torys.com

cc: All Intervenors  
N. Geneau, NextEra  
A. Pinnock, NextEra

**ONTARIO ENERGY BOARD**

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

**AND IN THE MATTER OF** an application by East Durham Wind, Inc. for an Order or Orders pursuant to Section 41(9) of the *Electricity Act, 1998* (as amended) approving the location of the applicant's distribution facilities within certain road allowances owned by the Municipality of West Grey.

**REQUEST FOR BOARD TO INITIATE A MOTION TO REVIEW AND VARY THE  
REVISED DECISION AND ORDER IN EB-2013-0233**

1. East Durham Wind, LP ("**East Durham**", formerly East Durham Wind, Inc.) is the entity that is developing and that will own and operate the generation and distribution assets associated with the East Durham Wind Energy Centre (the "**Project**") in the Municipality of West Grey (the "**Municipality**") in Grey County, Ontario.
2. On June 14, 2013, East Durham applied to the Board for an Order determining the location of East Durham's distribution facilities (the "**Distribution System**") within certain road allowances owned by the Municipality (collectively, the "**Road Allowances**"). On November 7, 2013, the Board issued its Decision and Order in EB-2013-0233, determining the location of the Distribution System within the Road Allowances. On December 23, 2013, the Board issued a revised Decision and Order (the "**Revised Decision and Order**"), which clarified and replaced the November 7, 2013 Decision and Order. A copy of the Revised Decision and Order is attached hereto as **Appendix "A"**.
3. The Revised Decision and Order determines the location of East Durham's Distribution System within the Road Allowances as follows:
  1. The location of East Durham's Distribution System on Road Allowances owned by the Municipality is approved as follows:

a. The Distribution System shall be located in the Road Allowances listed on Exhibit B, Tab 6, Schedule 1, Appendix A, as shown in the drawings included in Exhibit B, Tab 6, Schedule 1, Appendix B (and updated in section 2.0 of East Durham's argument-in-chief and in response to the Board's letter dated October 2, 2013).

b. The Distribution System lines **shall be located 1-4 metres from the abutting property line unless otherwise agreed between East Durham and the Municipality.**

c. The Distribution System location aspects of the diagrams shown at Exhibit B, Tab 6, Schedule 1, Appendices C and D shall be followed in constructing the Distribution System within the Road Allowances.

(emphasis added)

4. As stated on pages 7-8 of East Durham's September 19, 2013 Reply Submission in the above noted proceeding, the 1-4 meter corridor highlighted above was proposed in part because the Board was determining the location of the Distribution System prior to the start of construction; thus, the approved location must allow for some reasonable flexibility to ensure that East Durham could appropriately address any engineering, environmental, health and safety or other practical challenges that may arise during the actual construction of the Distribution System. East Durham also acknowledged that certain constraints on the Distribution System location may not be identified until construction preparations have commenced. That is why, in Exhibit B, Tab 6, Schedule 1 of the Application and Pre-Filed Evidence, East Durham proposed to use the 1-4 meter corridor "where practicable, and where it meets all applicable engineering, environmental and health and safety standards".
5. Subsequent to the Revised Decision and Order, East Durham completed final design and engineering work for the Distribution System. Based on the accumulation of more detailed field survey data and further constructability analyses (which are typically gathered and conducted closer to the time of construction of the facilities), East Durham determined that, for the construction of the Distribution System to be technically feasible, it must, in certain places, slightly deviate from the location of the Distribution System approved in the Revised Decision and Order.

6. On October 17, 2014, East Durham sent the Municipality's Director of Infrastructure and Public Works (the "**Director**") a detailed letter and a map book identifying where East Durham was proposing to deviate from the approved location and explaining the rationale for each deviation. A copy of this letter is attached hereto at **Appendix "B"**. On October 20, 2014, East Durham sent the Municipality a slightly revised map book containing one minor revision. A copy of the revised map book is attached hereto at **Appendix "C"**.
7. As discussed in East Durham's October 17, 2014 letter, the need for the deviations from the approved locations (the "**Location Modifications**") arose because new facts were identified during the completion of the additional field survey data and constructability analyses described above. East Durham was careful in designing the Location Modifications to minimize the potential impact of the Distribution System on the Road Allowances and related features. In addition, East Durham ensured that, even after taking into account the Location Modifications, the Distribution System would remain on the same side of the Road Allowances as had been approved by the Board in the Revised Decision and Order.
8. In its October 17, 2014 letter, East Durham requested that the Municipality review the proposed Location Modifications and provide its response on the acceptability of the modifications by October 31, 2014. East Durham offered to discuss the locational aspects of such modifications at the Municipality's request.
9. On October 30, 2014, East Durham sent an email to the Director following up regarding the proposed Location Modifications, and reiterating East Durham's earlier request for the Municipality's response by October 31, 2014. A copy of that email is attached hereto at **Appendix "D"**.
10. As of the date hereof, the Municipality has not responded to East Durham's proposed Location Modifications.
11. East Durham therefore requests that the Board, pursuant to section 41.01 of the Board's *Rules of Practice and Procedure*, initiate a motion to review and vary the Revised Decision and Order. In particular, East Durham requests the Board vary the Revised

Decision Order so as to approve the location of the Distribution System within the Road Allowances in accordance with the Revised Decision and Order, subject to the Location Modifications described in the letter attached at **Appendix “B”** and revised map book attached at **Appendix “C”**.

12. East Durham also requests that the Board expedite its hearing of such a motion in accordance with sections 2.01 and 7.01 of the Board’s *Rules of Practice and Procedure*.

East Durham requests this expedited process for several reasons:

- (a) the motion, if initiated by the Board, would be for certain minor variances to a Distribution System location that the Board has previously approved;
- (b) the Location Modifications were designed to minimize the potential impact of the Distribution System on the Municipality’s Road Allowances, neighboring land uses and the natural environment;
- (c) after taking into account the Location Modifications, the Distribution System will remain on the same side of the Road Allowances as the Board has already approved in the Revised Decision and Order;
- (d) the Municipality would be the only person affected by the motion given that it is the sole owner of the Road Allowances;
- (e) East Durham has already provided the Municipality with a reasonable opportunity for input into the proposed location, to which the Municipality has failed to respond;
- (f) in EB-2013-0233, East Durham already served notice of its intention to construct the Distribution System to the persons owning property adjacent the portions of the Road Allowances where the Location Modifications are being proposed. None of these landowners requested intervenor status in EB-2013-0233; and
- (g) it is important for East Durham to obtain certainty with respect to the location of the Distribution System as soon as possible in order to maintain its construction schedule.

For these reasons, East Durham submits that it would be appropriate for the Board to proceed to an expedited process for considering the motion. For reference, East Durham refers the Board to EB-2014-0017 in which the Board, on its own motion, decided on January 23, 2014 to review and vary its Decision and Order in EB-2012-0438 following a request by Enbridge Gas Distribution Inc. dated January 10, 2014.

13. Furthermore, because this application is solely for a minor variance to a Board-approved location, the Applicant requests that the Board hear the motion in writing, pursuant to Section 32.01 of the Board's *Rules of Practice and Procedure*.
14. East Durham also requests that the Board, in hearing this application, be guided by its mandate, under section 1(1)(5) of the *Ontario Energy Board Act, 1998*, to "promote the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario, including the timely expansion or reinforcement of transmission systems and distribution systems to accommodate the connection of renewable energy generation facilities".
15. The Applicant requests that copies of all documents filed with or issued by the Board in connection with this Application be served on the Applicant and the Applicant's counsel as follows:

(a) The Applicant:

East Durham Wind, LP  
390 Bay Street, Suite 1720  
Toronto, ON M5H 2Y2

Attention: Ms. Nicole Geneau  
Tel: 647-789-5650  
Fax: 416-364-2533  
Email: [nicole.geneau@nee.com](mailto:nicole.geneau@nee.com)

(b) The Applicant's Counsel:

Torys LLP  
Suite 3000  
79 Wellington St. W.  
Box 270, TD Centre  
Toronto, ON M5K 1N2

Attention: Mr. Tyson Dyck  
Tel: 416-865-8136  
Fax: 416-865-7380  
Email: [tdyck@torys.com](mailto:tdyck@torys.com)


16. Additional written evidence, as required, may be filed in support of this Application and may be amended from time to time prior to the Board's final decision.

Dated at Toronto, Ontario, this 3rd day of November, 2014.

**EAST DURHAM WIND, LP**

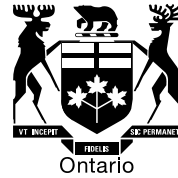
By its counsel

Torys LLP

  
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Tyson Dyck

## Appendix A: Revised Decision and Order in EB-2013-0233





**EB-2013-0233**

**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 East Durham  
Wind, Inc. for an Order or Orders pursuant to subsection  
41(9) of the *Electricity Act 1998*, S.O. 1998, c. 15, Schedule  
A, as amended, establishing the location of East Durham  
Wind Inc.'s distribution facilities within certain road  
allowances owned by the Municipality of West Grey.

**BEFORE:** Emad Elsayed  
Presiding Member

Ellen Fry  
Member

**DECISION AND ORDER**

**Originally issued November 7, 2013**

**Revised December 23, 2013**

## DECISION

The location of East Durham's distribution system on road allowances owned by the Municipality of West Grey ("the Municipality") is approved as described in this Decision and Order.

## BACKGROUND

East Durham Wind, Inc., ("East Durham") filed an application dated June 14, 2013 with the Ontario Energy Board (the "Board"), under subsection 41(9) of the *Electricity Act, 1998, S.O. 1998, c. 15, Schedule A*, (the "Act") for an order or orders of the Board establishing the location of approximately 9.1 kilometres of East Durham's proposed distribution system within certain public streets, highways and right-of-ways owned by the Municipality in Grey County, Ontario.

The Board issued a Notice of Application and Written Hearing on July 9, 2013. The Municipality and Karen and Syd Parkin (the "Parkins") requested and were granted intervenor status. The Board also received letters of comment from a number of local residents.

The Parkins submitted evidence. The Parkins and Board staff submitted interrogatories on East Durham's evidence. No party filed interrogatories on the evidence submitted by the Parkins. East Durham provided responses to all interrogatories.

East Durham filed its argument-in-chief on September 4, 2013. The Board received submissions from the Municipality and the Parkins. East Durham filed its reply submission on September 19, 2013.

On October 2, 2013, the Board issued a letter requiring East Durham to provide a more complete response to Board staff interrogatory no. 2(ii) by providing the analysis and supporting documentation that underpins its determination that it is appropriate to locate its facilities 1-4 metres from abutting property lines. The letter also asked East Durham to confirm the accuracy of a map provided as part of East Durham's argument-in-chief.

East Durham submitted its response on both matters on October 4, 2013. The Parkins submitted their comments on Oct 7, 2013.

## THE APPLICATION

East Durham has entered into a Feed-in-Tariff contract with the Ontario Power Authority and is in the process of developing a wind generation facility, called the East Durham Wind Energy Centre (the “Project”) in the Municipality. The Project will have a total generation capacity of up to 23 MW and includes generation and distribution assets.

As part of the Project, East Durham is proposing to construct an underground distribution system to transmit power generated by the wind turbines to the distribution system of Hydro One Networks Inc. (“Hydro One”) for delivery ultimately to the IESO-controlled grid. Specifically, East Durham is proposing to construct 28.3 kilometres of underground 34.5 kV distribution lines on private and public lands, which will convey power from each of the turbines to a transformer substation. From that point, an overhead 44 kV line will convey the electricity to Hydro One’s distribution system. The components of East Durham’s proposed distribution system are collectively referred to in this Decision and Order as the “Distribution System”.

East Durham proposes to locate approximately 9.1 kilometres of the underground portion of the Distribution System on road allowances that are owned by the Municipality. The road allowances at issue are referred to in this Decision and Order as the “Road Allowances”.

Subsections 41(1) and 41(9) of the Act provide as follows:

41. (1) A transmitter or distributor may, over, under or on any public street or highway, construct or install such structures, equipment and other facilities as it considers necessary for the purpose of its transmission or distribution system, including poles and lines.

41. (9) The location of any structures, equipment or facilities constructed or installed under subsection (1) shall be agreed on by the transmitter or distributor and the owner of the street or highway, and in case of disagreement shall be determined by the Board.

East Durham submits that it is a “distributor” within the meaning of subsection 2(1) of the Act. Accordingly, East Durham submits that it has the right to install facilities for the purpose of the Distribution System under “any public street or highway” pursuant to subsection 41(1) of the Act.

East Durham submits that it has been unsuccessful in its attempts to agree with the Municipality on the location of the portion of the Distribution System that would be on the Road Allowances. The Municipality does not dispute this. East Durham also submits that neither the Municipality nor any other party in this proceeding has proposed an alternate location. This is not disputed. Accordingly, East Durham is applying to the Board under subsection 41(9) for a determination of the location of the portion of the Distribution System that would be installed under the Road Allowances as described below.

- The Distribution System shall generally be located in the Road Allowances listed on Exhibit B, Tab 6, Schedule 1, Appendix A, as shown in the drawings included in Exhibit B, Tab 6, Schedule 1, Appendix B (and updated in section 2.0 of East Durham's argument-in-chief and in response to the Board's letter dated October 2, 2013).
- Where practicable, and where it meets all applicable engineering, environmental and health and safety standards, the Distribution System lines shall be located 1-4 metres from the abutting property line.
- Where practicable, and where they meet all applicable engineering, environmental and health and safety standards, the diagrams shown at Exhibit B, Tab 6, Schedule 1, Appendices C and D shall be followed in constructing the Distribution System within the Road Allowances.<sup>1</sup>

The submissions of the Municipality and the Parkins regarding the various issues are described under Board Findings. Board staff declined to file a submission.

## **SCOPE OF THE BOARD'S JURISDICTION**

As indicated above, the Board's authority in this proceeding is derived from section 41 of the Act.

Subsection 41(9) limits the scope of this proceeding to a determination of the location of the applicable portion of the Distribution System within the Road Allowances.

As indicated above, the Board received a number of letters of comment from local residents. These letters dealt with the location of the Project's wind turbines and their

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<sup>1</sup> Pre-filed evidence of East Durham, Ex B/Tab 6/Schedule 1

impact on property values, health, and aesthetics. They also dealt with the Ontario Government's renewable energy policy in general and broad environmental issues.

Given the scope of subsection 41(9), it is not the Board's role in this proceeding to decide whether the Project should be approved, consider issues relating to wind turbines or renewable energy policy generally, or consider alternatives to the Project such as routes for the Distribution System that are outside of the Road Allowances. Accordingly, the concerns in the letters of comment described above are not within the scope of this proceeding.

## BOARD FINDINGS

### *Is The Applicant a Distributor?*

The Municipality submitted that the application should be denied because East Durham is not a "distributor" within the meaning of section 41. It submitted that this is the case because East Durham does not own or operate a distribution system and that, until it receives its Renewable Energy Approval ("REA") from the Ministry of the Environment ("MOE"), it will not have the authority to do so. Distinguishing this case from the Board's Decision in the Plateau case<sup>2</sup>, the Municipality submitted that Plateau, at the time of its application, had received MOE approval to construct and operate its "renewable energy generation facilities" which also authorized Plateau to construct, own and operate a distribution system.

In response, East Durham submitted that the Act does not require all necessary approvals to be in place prior to being able to access the rights afforded to a distributor under section 41.

Concerning the Plateau case, East Durham submitted that whether or not Plateau had certain approvals in place at the time of its section 41 application was not cited as a basis for the Decision. East Durham also referred to the Board's more recent Wainfleet Decision<sup>3</sup>. In that case, according to East Durham, the Board granted the section 41 application prior to Wainfleet having received the REA for its project. East Durham further submitted that the Board's Decision and Order in that case was not made conditional on receipt of the REA.

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<sup>2</sup> EB-2010-0253

<sup>3</sup> EB-2013-0031

The Board agrees with East Durham that the Act does not require that all necessary approvals, such as the REA, be obtained prior to granting an application under subsection 41(9). Accordingly, the Board does not consider that there is any relevant basis to distinguish this application from the applications in the Plateau and Wainfleet cases, in which the applicants were considered to be “distributors”. The Board notes, however, that in order to proceed with construction of the Distribution System, East Durham will need to obtain all legally required permits and other approvals.

### ***Proposed Location of the Distribution System***

East Durham has provided maps that identify the starting and ending points of the various segments of the Distribution System within Road Allowances. Further, the table at section 2.0 of East Durham's argument-in-chief provides the length and location (i.e. western side of the Road Allowance) of each segment. Concerning the proposed setback of the Distribution System as indicated above, East Durham has proposed that, where practicable, and where it meets all applicable engineering, environmental and health and safety standards, the Distribution System lines shall be located 1-4metres from the abutting property line.

The Municipality submitted that East Durham's application should be denied because East Durham had not provided the “location” of the proposed lines within the Road Allowances. The Municipality submitted that what East Durham provided was not actual locations but merely “guidelines” for determining locations. Although the Municipality acknowledged that East Durham had refined its general description of the proposed locations in its argument-in-chief, it maintained that these locations were not sufficiently precise. The Municipality submitted that it is not its duty to propose locations, and that it should be East Durham who must propose locations.

East Durham submitted that it has proposed a “narrow corridor” which provides the best balance of environmental, social, technical and economic considerations. East Durham also submitted that, given that the Board will be determining the location of the Distribution System in this proceeding prior to the start of construction, the approved location must allow for some reasonable flexibility to ensure that East Durham can address any engineering, environmental, health and safety or other practical challenges that may arise during construction.

East Durham also submitted that in its view section 41 does not require the identification of a “precise” or “exact” location. Section 41, according to East Durham, only states that the “location” shall be agreed upon by the transmitter or distributor and the owner. East Durham argued that this wording makes it a mutual obligation on the distributor and the owner of the Road Allowance. East Durham also submitted that the Municipality, by its own admission, had refused to provide feedback to help refine the proposed locations. East Durham submitted that if the Municipality had provided comments regarding the location and any existing infrastructure in the area, it would have enabled East Durham to further refine the proposed locations.

The Board issued a letter to East Durham, dated October 2, 2013, requesting additional information to support East Durham’s proposed 1-4 metre location parameter. East Durham responded, by letter dated October 4, 2013. East Durham provided examples of municipalities and counties in the vicinity of the Municipality that have adopted policies regarding the location of underground infrastructure that are consistent with the considerations described by East Durham. This included a policy issued by the County of Grey, in which the Municipality is located, titled, Policy for Utility Place on Grey County Rights of Ways.

East Durham also submitted that, as part of its REA application, it undertook various studies in the project area, such as the Natural Heritage Assessment, the Water Assessment, and Archeological Assessment and consulted all stakeholders in keeping with the requirements in Ontario Regulation 359/09. Following these studies and others, East Durham states that its initial proposal was refined and revisions were incorporated where appropriate, to ensure that the proposed location represents the best balance of environmental, social, technical and economic considerations.

The Parkins submitted that the additional information filed by East Durham did not support the request for a 1-4 metre corridor. The Parkins submitted that the requirement for a 1.5 metre setback in the Municipality of Lambton Shores was for overhead utility lines and not underground lines. The Parkins, submitted that although in their view the Municipality would likely not agree, a 1 metre setback from street line would be acceptable to them. The Parkins recommendation was based on the Municipality of Lambton Shores’ Infrastructure Design Guidelines and Construction Standards, dated January 2002.

While section 41 requires that the Board determine a “location” under the road allowance, the Board agrees with East Durham that this wording does not require a precise location. The Board considers that the mapping and location information provided by East Durham is sufficient to determine the location for the purpose of this application.

The Board accepts the evidence of East Durham that it is appropriate to locate the Distribution System lines 1-4 metres from the abutting property line. The Board considers, however, that this location could probably have been refined further if there had been more communication between East Durham and the Municipality. The Board encourages East Durham and the Municipality to consult during construction to address any issues or concerns about the precise location that may arise. As indicated below, the Board has made provision in its decision for any agreement reached as a result of such consultation.

### ***Stray Voltage***

The Municipality and the Parkins have raised concerns about the possibility that the Distribution System will cause stray voltage problems. The Parkins filed a copy of a Private Member’s Bill concerning stray voltage and the Ontario *Green Energy Act*. East Durham argued that wind turbines do not cause stray voltage. East Durham further argued that Hydro One oversees stray voltage issues and has developed a protocol to proactively test for stray voltage and mitigate any concerns at no cost to the landowner. East Durham stated that it will assist any concerned landowner in the Project area in this process with Hydro One.

East Durham also argued there is no nexus between the evidence filed by the Parkins concerning stray voltage generally and the issue before the Board in this proceeding (i.e. where portions of the Distribution System should be located within the Road Allowances). East Durham submitted that the Parkins have not filed any evidence suggesting that East Durham’s Distribution System in particular will cause stray voltage or that, if so, the proposed location of a portion of the Distribution System in the Road Allowances is such that stray voltage would cause an adverse impact.

The Board agrees with East Durham that the evidence does not indicate that the portion of the Distribution System proposed to be located in the Road Allowances would necessarily cause stray voltage, or if so, that the proposed location in the Road Allowances would cause an adverse impact due to stray voltage. The Board also notes



that section 4.7 and Appendix H of the Board's *Distribution System Code* sets out the investigation procedures related to stray voltage.

**THE BOARD ORDERS THAT:**

1. The location of East Durham's Distribution System on Road Allowances owned by the Municipality is approved as follows:
  - a. The Distribution System shall be located in the Road Allowances listed on Exhibit B, Tab 6, Schedule 1, Appendix A, as shown in the drawings included in Exhibit B, Tab 6, Schedule 1, Appendix B (and updated in section 2.0 of East Durham's argument-in-chief and in response to the Board's letter dated October 2, 2013).
  - b. The Distribution System lines shall be located 1-4 metres from the abutting property line unless otherwise agreed between East Durham and the Municipality.
  - c. The Distribution System location aspects of the diagrams shown at Exhibit B, Tab 6, Schedule 1, Appendices C and D shall be followed in constructing the Distribution System within the Road Allowances.

**ADDRESS**

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto ON M4P 1E4  
Attention: Board Secretary  
E-mail: [Boardsec@ontarioenergyboard.ca](mailto:Boardsec@ontarioenergyboard.ca)  
Tel: 1-888-632-6273 (toll free)  
Fax: 416-440-7656

**DATED** at Toronto, December 23, 2013

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

Appendix B: October 17, 2014 Letter from East Durham to West Grey

October 17, 2014

Ken Gould  
Director of Infrastructure and Public Works  
The Corporation of the Municipality of West Grey  
402813 Grey Road 4, RR2  
Durham, ON N0G 1R0

Dear Mr. Gould:

As per the Ontario Energy Board ("OEB") Decision and Order "EB-2013-0233" (the "Decision and Order") originally issued on November 7, 2013 and revised on December 23, 2013, the OEB determined the location of East Durham Wind, LP's (formerly "East Durham Wind, Inc." and referred to herein as "East Durham") distribution system on road allowances owned by the Municipality of West Grey (the "Municipality"). The OEB ordered that:

*1. The location of East Durham's Distribution System on Road Allowances owned by the Municipality is approved as follows:*

- a. The Distribution System shall be located in the Road Allowances listed on Exhibit B, Tab 6, Schedule 1, Appendix A, as shown in the drawings included in Exhibit B, Tab 6, Schedule 1, Appendix B (and updated in section 2.0 of East Durham's argument-in-chief and in response to the Board's letter dated October 2, 2013).*
- b. The Distribution System lines shall be located 1-4 metres from the abutting property line unless otherwise agreed between East Durham and the Municipality.*
- c. The Distribution System location aspects of the diagrams shown at Exhibit B, Tab 6, Schedule 1, Appendices C and D shall be followed in constructing the Distribution System within the Road Allowances.*

Based on the accumulation of more detailed survey data and further constructability analyses as the project gets closer to construction, East Durham must slightly adjust the location of a portion of its distribution system on road allowances owned by the Municipality relative to the Decision and Order. As such, East Durham is proposing additions to or revisions of the 1-4 metre corridor from abutting property lines (the "Distribution System Corridor") in certain areas as detailed within the attached mapbook. Each of these proposed changes is designed to minimize the potential impact of the distribution system on the road allowances and related features.

East Durham requests that the Municipality review East Durham's proposed Distribution System Corridor modifications and provide your response on the acceptability of the modifications by October 31, 2014. Further detail regarding the location of and need for the Distribution System Corridor modifications requested is provided below. East Durham is prepared to discuss the locational aspects of such modifications at the Municipality's request.

### **Page 1 of East Durham Collection Mapping**

The surveyed property line abutting the Municipal road allowance along Baptist Church Road is set back further from the road than adjacent property lines to the north and south; the sharp jogs in property lines (and Municipal road allowance) in this location make installation of the distribution system cable impractical

within the original Distribution System Corridor. Where possible, it is best practice to install underground cable in a linear fashion. Further to this, as this location is near an identified wetland, best engineering practices dictate that the cable be installed by directional bore. Performing the bore in a straight linear fashion is not only the proper and feasible engineering practice, but will limit the potential environmental impact to the identified wetland. In order to install the distribution system cable in a linear fashion in this area, East Durham is requesting an additional 2 metres of Distribution System Corridor to the west of the current corridor. This addition would make the Distribution System Corridor 1-6m from property line in this location.

#### **Page 2 of East Durham Collection Mapping**

The surveyed property lines around the intersection of Grey Road 4 and Baptist Church Road, as is the case with many intersections in the area, vary to accommodate the intersection approaches. The location of the property line coupled with the slope of the terrain at the northeast corner of this intersection does not allow safe maneuvering of equipment to install distribution system cable within the approved Distribution System Corridor. As such, East Durham is requesting to utilize an additional 2 metres of Distribution System Corridor at this intersection. This addition would make the Distribution System Corridor 1-6m from property line in this location. In addition, following further electrical review of the distribution system, it was determined that a junction box is required to be installed within Municipal road allowance at this location to accommodate the connection of the proposed Turbine 10 off of The Glen Road. The junction box will require an approximately 4m x 4m area which will fall within the revised Distribution System Corridor in this area.

#### **Page 3 of East Durham Collection Mapping**

East Durham is proposing a slight westerly shift of the distribution system relative to the abutting property line to avoid construction and installation of its distribution cable in extremely close proximity to the burial grounds within an existing cemetery. The new proposed location is directly west of the tree line abutting the cemetery property. East Durham requests a 4m Distribution System Corridor to accommodate this installation, 2m on either side of the surveyed, proposed distribution cable. The cable will be installed within the original Distribution System Corridor north of the cemetery property.

#### **Page 4 of East Durham Collection Mapping**

The surveyed property line abutting the Municipal road allowance along Boot Jack Ranch Road near the Grey Road 4 intersection is further away from the travelled portion of the road than locations south along Boot Jack Ranch Road (where East Durham's distribution system runs). Standing water has been observed on private property and flowing into the official Municipal road allowance in the southwest corner of this intersection. As such, East Durham must install collection in this area using directional bore to avoid impact to the wetland as well as impact to East Durham's distribution system. In order to accommodate this installation, East Durham is requesting an additional 2 metres of Distribution System Corridor to the east of the current corridor. This addition would make the Distribution System Corridor 1-6m from property line in this location.

#### **Page 5 of East Durham Collection Mapping**

The surveyed property line abutting the Municipal road allowance along Glenelg Road 23 is set back further from the road than adjacent property lines to the north and south; the sharp jogs in property lines (and Municipal road allowance) in this location make installation of the distribution system cable impractical within the original Distribution System Corridor. Where possible, it is best practice to install underground cable in a linear fashion. Based on the terrain and the presence of trees in this area, best engineering practices dictate



that the cable be installed by directional bore. Performing the bore in a straight linear fashion is not only the proper and feasible engineering practice, but will limit the potential environmental impact to trees within the Municipal road allowance. In order to accommodate the installation the distribution system cable in as much of a linear fashion as possible in this area (likely with some minor deflection near the property line shifts), East Durham is requesting an additional 3 metres of Distribution System Corridor to the west of the current corridor. This addition would make the Distribution System Corridor 1-7m from the property line in this location.

#### **Pages 6 – 21 of East Durham Collection Mapping**

The terrain within Municipal road allowance along Concession 4 varies significantly, with large changes in slope and the presence of various trees and wetlands. The surveyed property lines abutting the Municipal road allowance also vary significantly relative to the travelled portion of the road, with the travelled portion of the road in some instances falling within 1m of the abutting property line. Apparent gaps in the surveyed Municipal road allowance also exist. In addition, the use of land by adjacent landowners currently encroaches into the surveyed Municipal road allowance in multiple areas along Concession 4. This fact was unknown at the time that the original Distribution System Corridor was established and was discovered through “ground-truthing” efforts (on-site surveys and studies) which have been undertaken as the project gets closer to construction. Given the inconsistencies of the property lines, challenging terrain, fluctuation of road location relative to the road allowance limits and use of land by adjacent landowners, East Durham is proposing a shift in the distribution system location along Concession 4 to minimize environmental impacts of tree clearing, maintain slope stability near the traveled portion of the road, and to limit property impacts to adjacent landowners related to distribution system installation.

In particular, as depicted in the mapping, East Durham proposes a 4m revised Distribution System Corridor, 2m on either side from the surveyed, proposed distribution cable, to install its distribution system while maintaining proper clearances from existing infrastructure in the road right-of-way. The distribution cable will be installed by plowing method (as opposed to boring or trenching) to minimize impacts to Municipal roads and the local environment. East Durham will attempt in all cases to install the distribution cable near the edge of the gravel road, but may need to install collection within certain segments of the road in order to avoid existing utility infrastructure as identified through the Ontario One-call system. Prior to construction, East Durham will conduct pre-construction road use surveys including complete video documentation of the existing state of all Municipal roads and/or road allowances to be utilized during construction (the “Video Log”). Immediately following the completion of construction, East Durham will repair or restore roads to the same or better condition as was evidenced by such Video Log, consistent with requirements under Section 41(7)(b) of the *Electricity Act, 1998*.

In this proposal, the distribution system will stay on the same side of Concession 4 as was originally proposed and approved within the Decision and Order. Where the distribution system is to be installed immediately adjacent to or slightly within the traveled portion of the road, East Durham will utilize best construction and traffic control practices as per the Ontario Traffic Manual Book 7. East Durham will also confer with the Municipality before, during, and after construction regarding the installation as the Municipality desires.

Thank you in advance for your consideration of these necessary project modifications.

Sincerely,



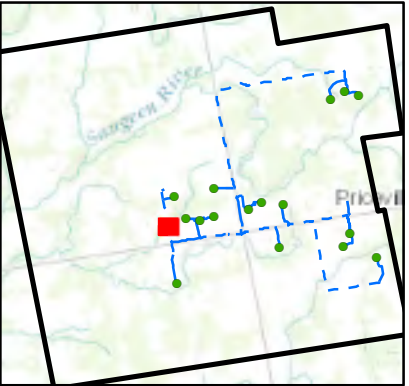
Adam Rickel  
Project Director

Cc: Mark Turner, Municipality of West Grey  
Ashley Pinnock, NextEra Energy  
Tyson Dyck, Torys LLP

Attachment enclosed

## Appendix C: Map Book for Location Modifications





## East Durham Collection Mapping

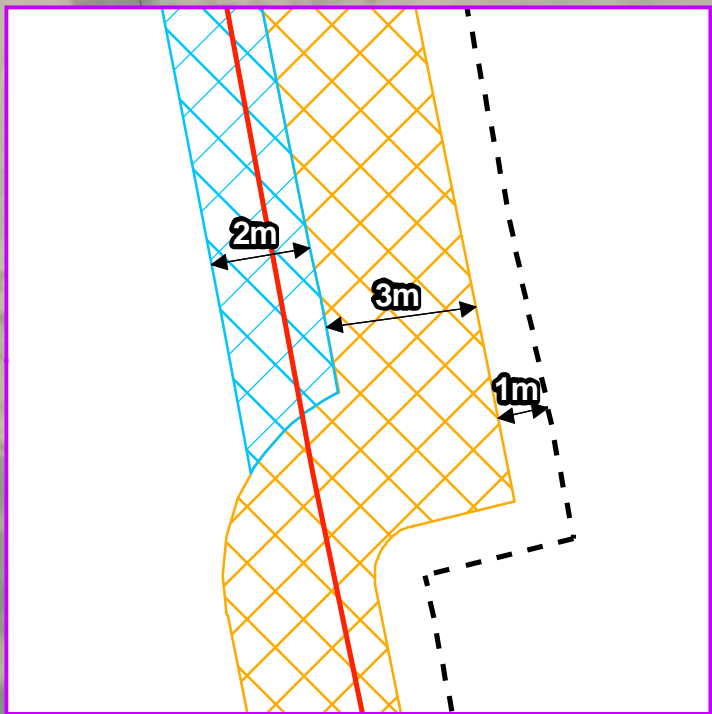
Ontario, Canada

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- ▲ Junction Box
- Bore
- Trench
- Bridge Attachment
- Watercourse
- Surveyed ROW Limit
- Surveyed Edge of Shoulder
- Surveyed Edge of Pavement
- Surveyed Edge of Unpaved Road
- Tree Line
- Parcel Boundary
- ▨ OEB Corridor - Bridge Attachment Area
- ▨ OEB Corridor (1-4m from Property Line)
- ▨ Additional Collection Corridor
- ▨ Revised Collection Corridor



0 10 20 40  
Meters



372290191

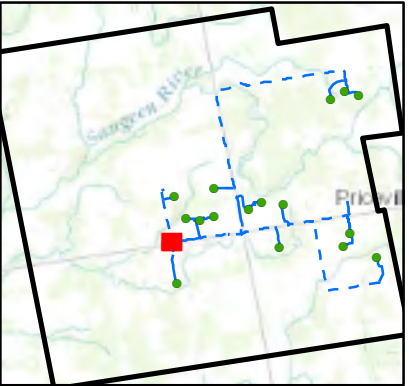
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Baptist Church Road




















## East Durham Collection Mapping

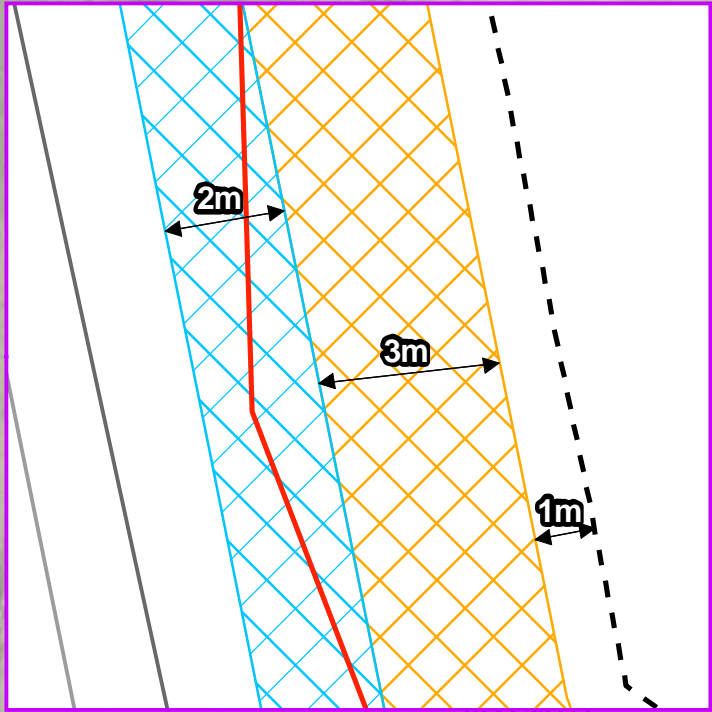
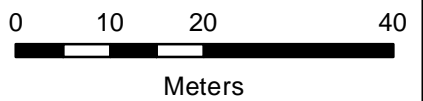
Ontario, Canada

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-  Trench
-  Bridge Attachment
-  Watercourse
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-  Surveyed Edge of Shoulder
-  Surveyed Edge of Pavement
-  Surveyed Edge of Unpaved Road
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-  OEB Corridor - Bridge Attachment Area
-  OEB Corridor (1-4m from Property Line)
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-  Revised Collection Corridor



372290190

Baptist Church Road

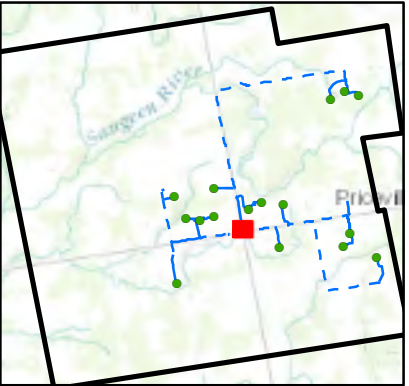
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## East Durham Collection Mapping

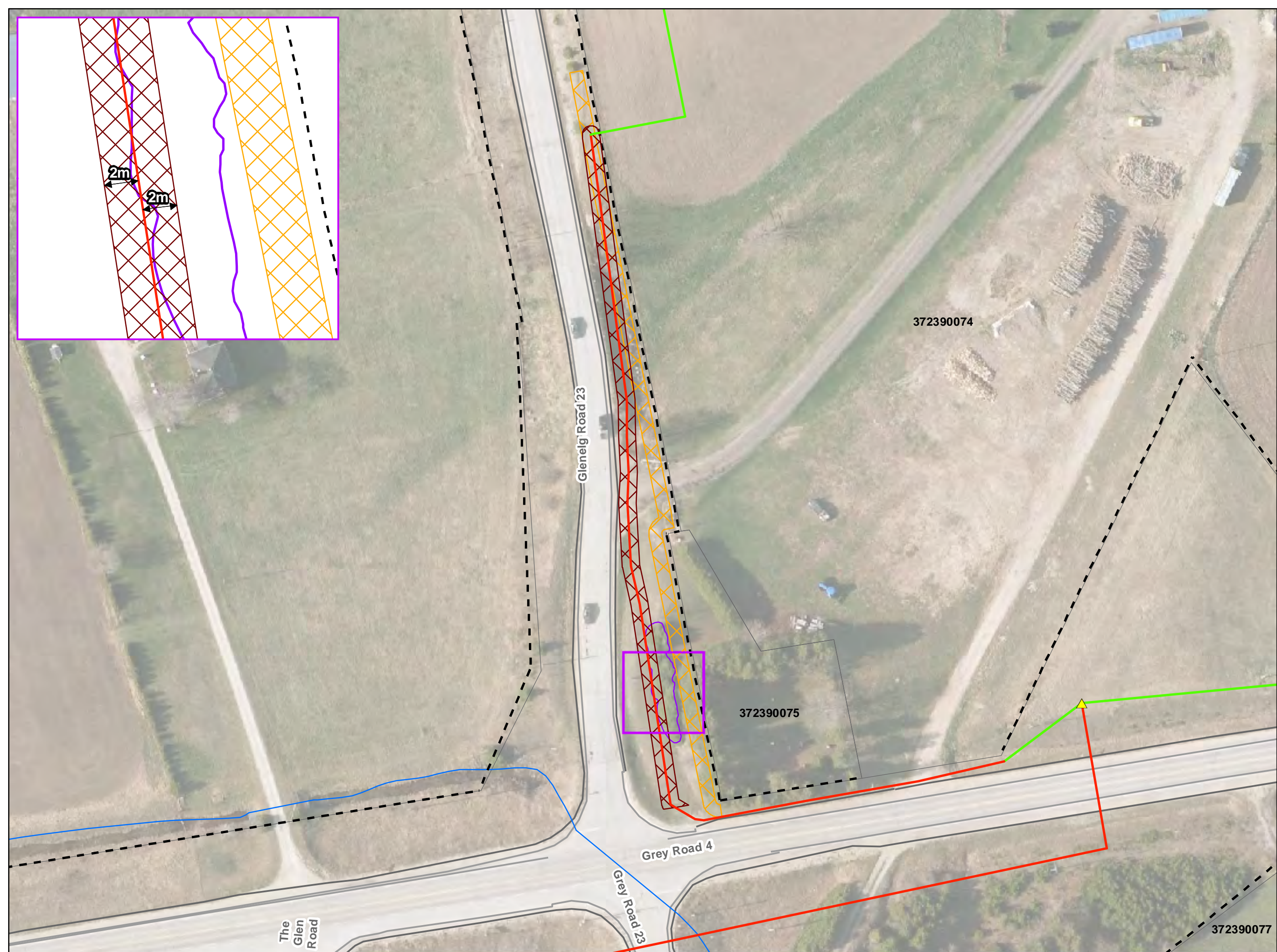
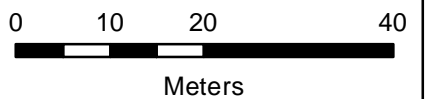
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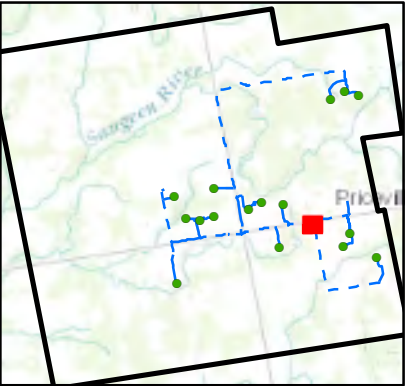
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-  Trench
-  Bridge Attachment
-  Watercourse
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-  Surveyed Edge of Shoulder
-  Surveyed Edge of Pavement
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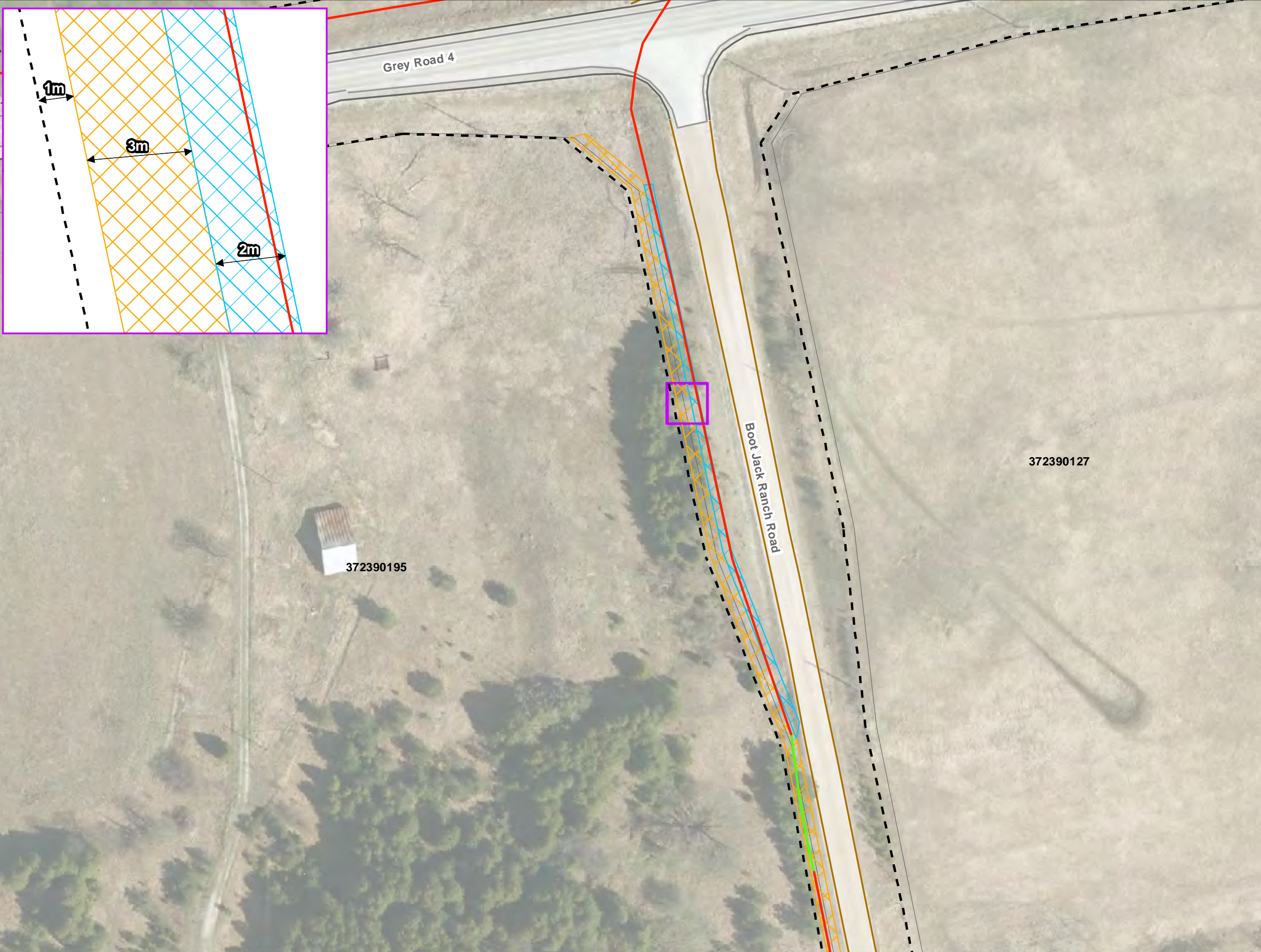
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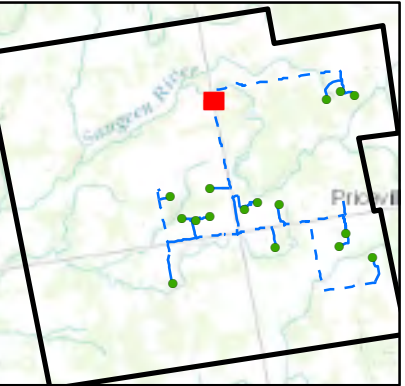
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- ▨ Revised Collection Corridor



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Meters





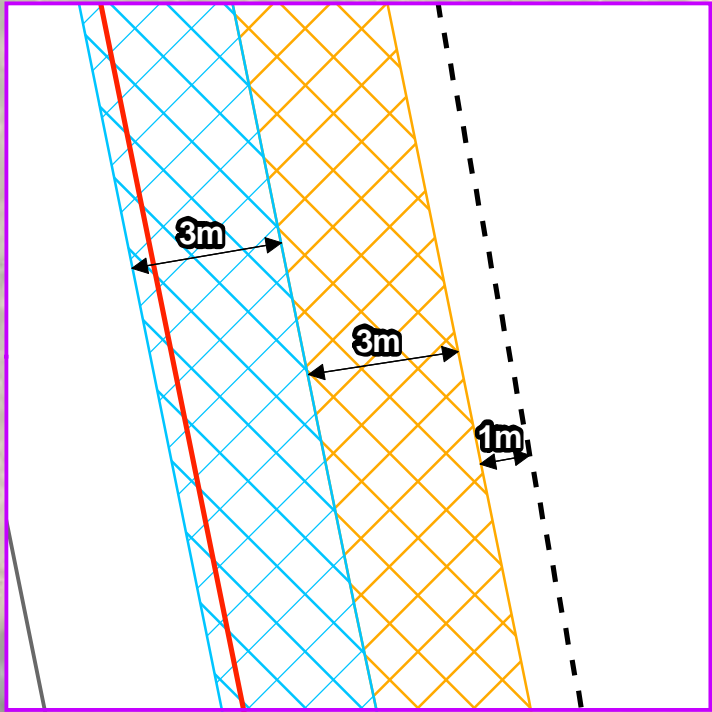
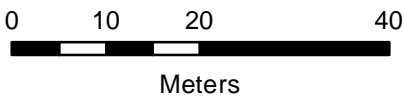


## East Durham Collection Mapping

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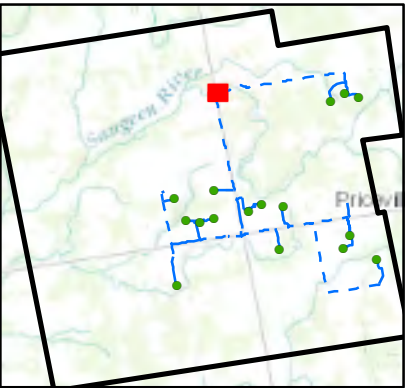
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Glenelg Road 23



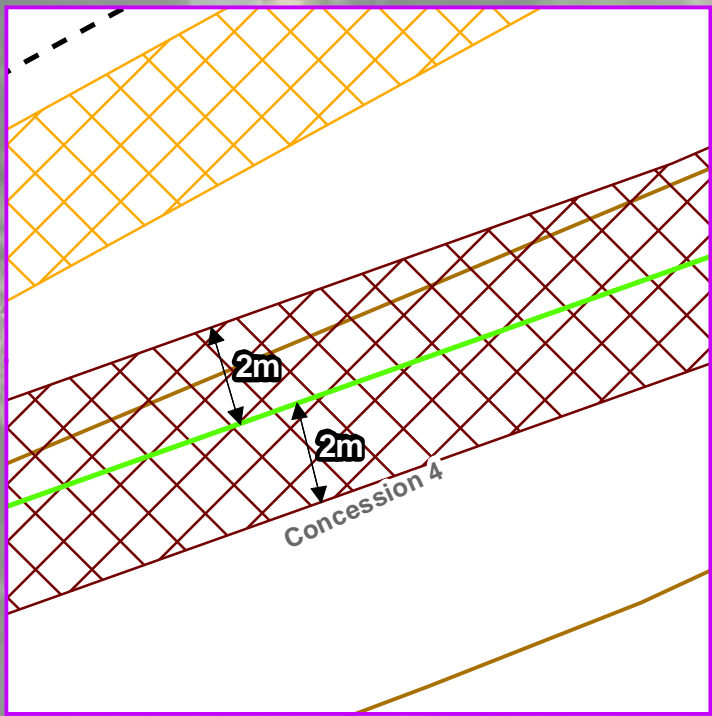
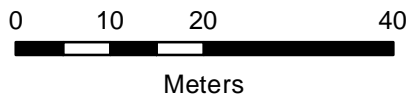


## East Durham Collection Mapping

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- Surveyed Edge of Shoulder
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- ▨ Additional Collection Corridor
- ▨ Revised Collection Corridor



Glenn Road 23

Concession 4

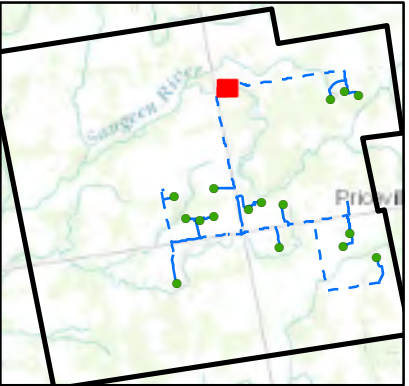
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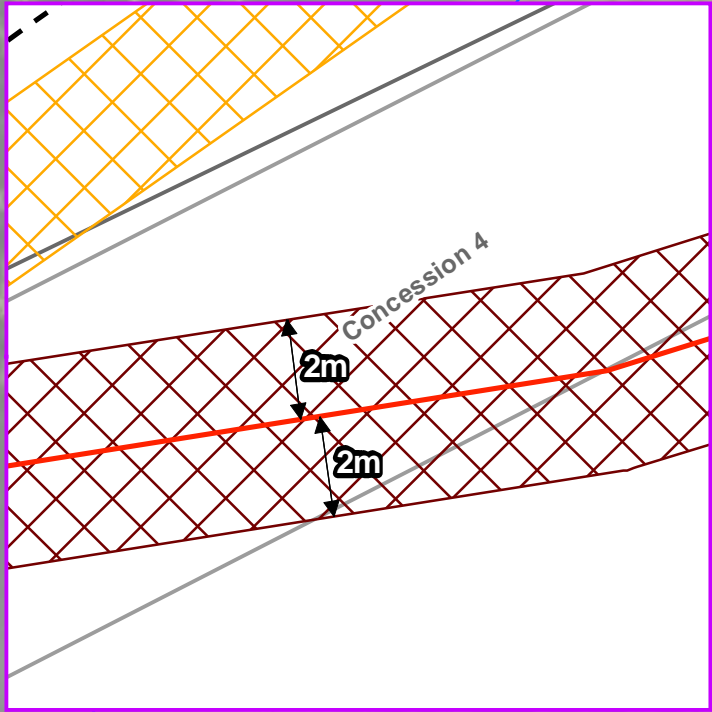
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Meters



Concession 4

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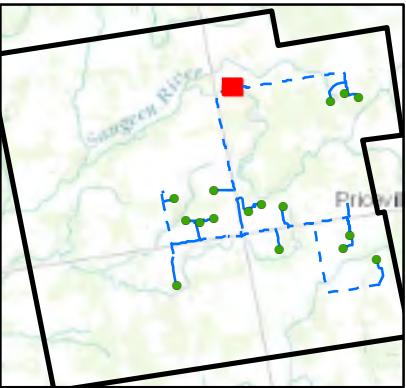
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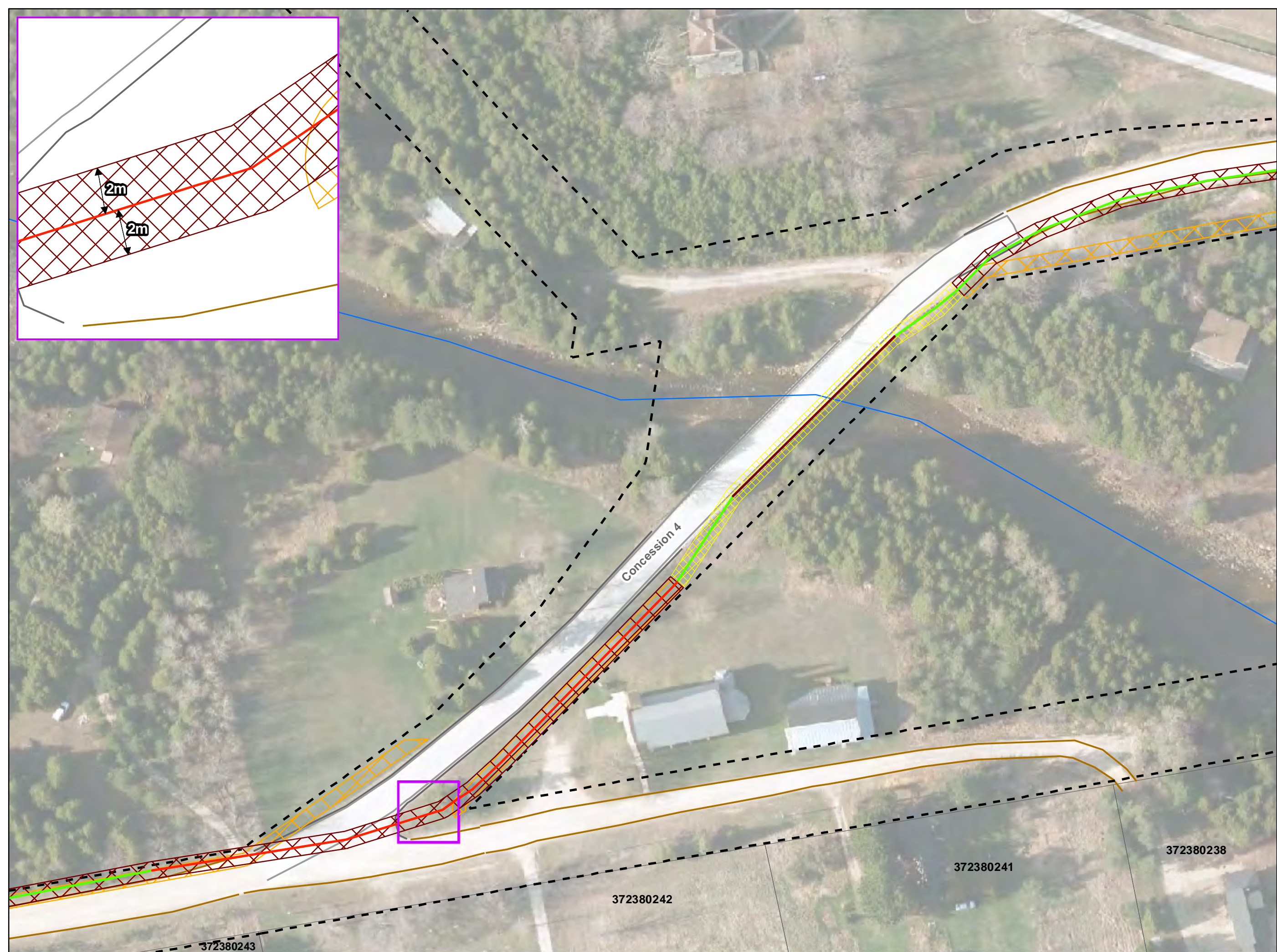
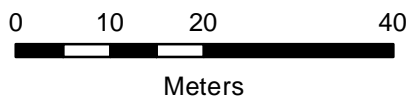


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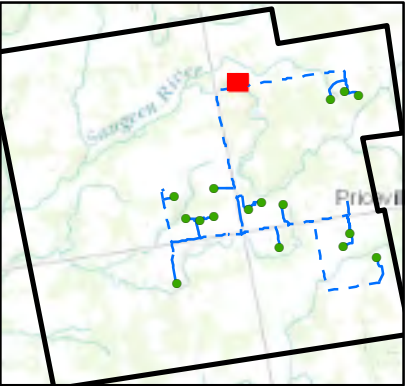
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- ▨ Additional Collection Corridor
- ▨ Revised Collection Corridor







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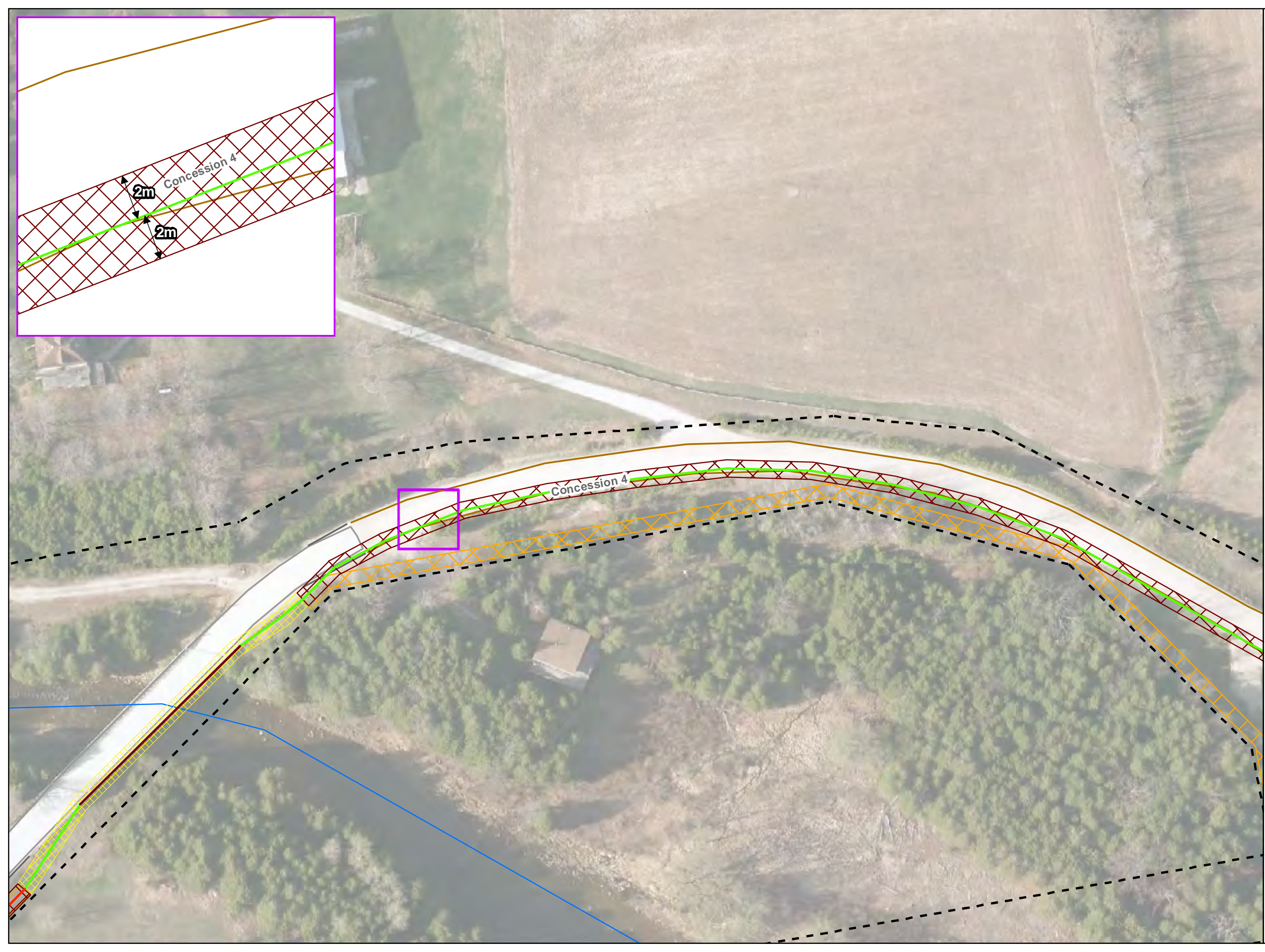
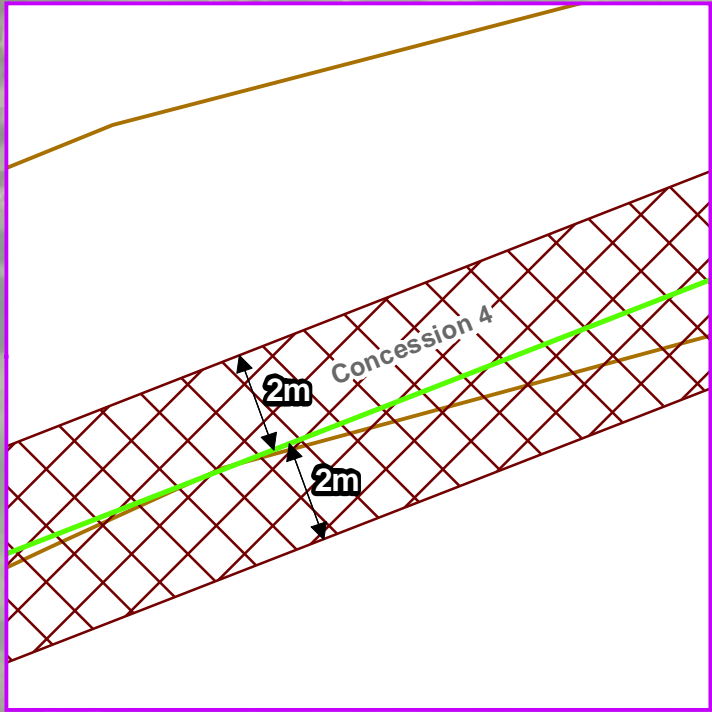
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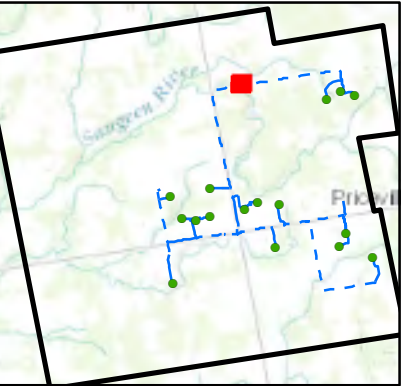
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- ▨ Revised Collection Corridor



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Meters





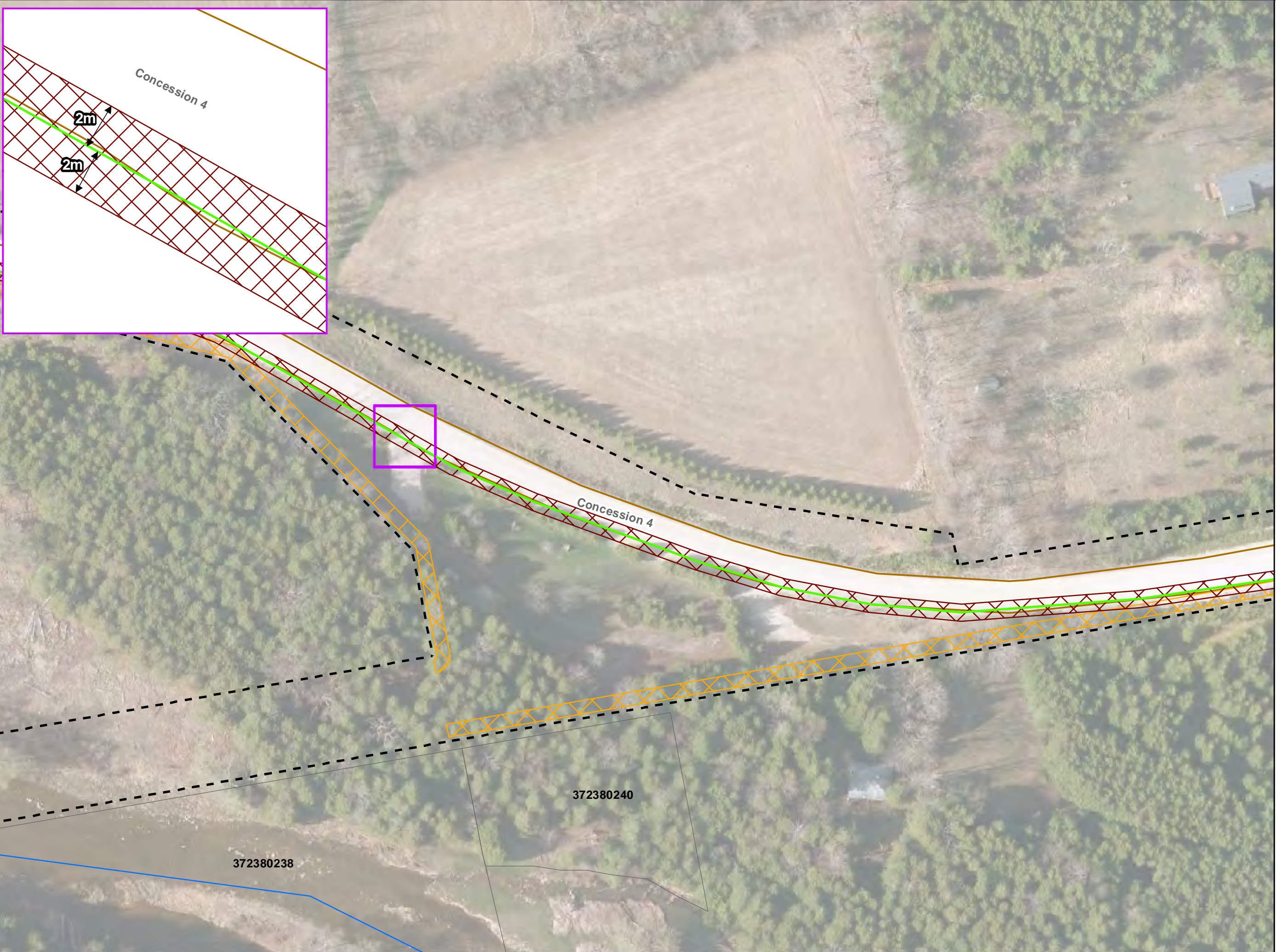
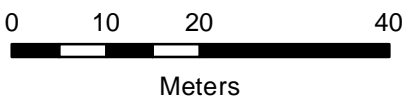


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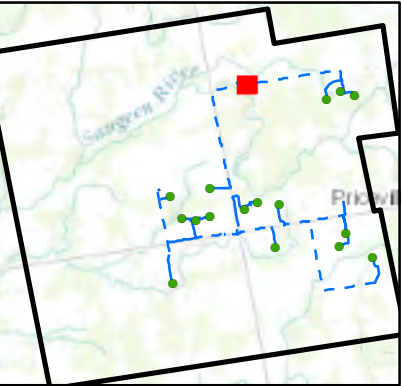
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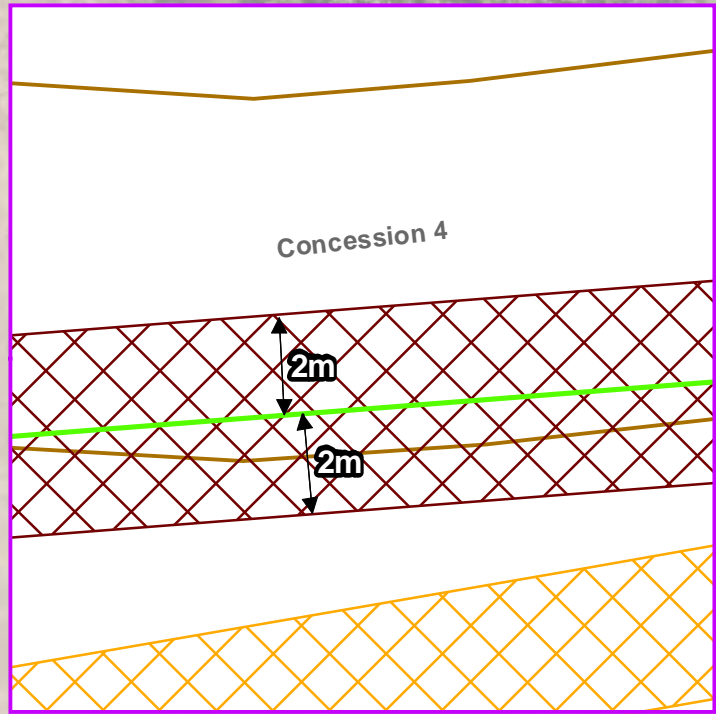
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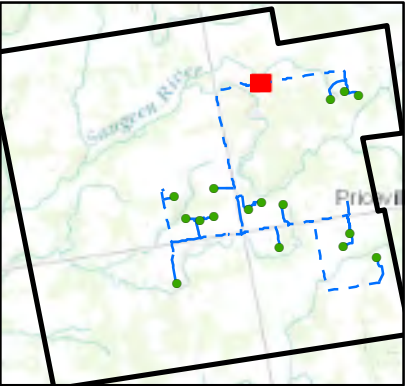
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Meters



Concession 4

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## East Durham Collection Mapping

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- Bore
- Trench
- Bridge Attachment
- Watercourse
- Surveyed ROW Limit
- Surveyed Edge of Shoulder
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- Tree Line
- Parcel Boundary
- ▨ OEB Corridor - Bridge Attachment Area
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- ▨ Additional Collection Corridor
- ▨ Revised Collection Corridor



0 10 20 40  
Meters

Concession 4

2m

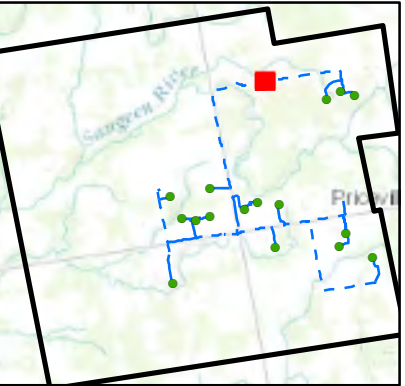
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Concession 4

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## East Durham Collection Mapping

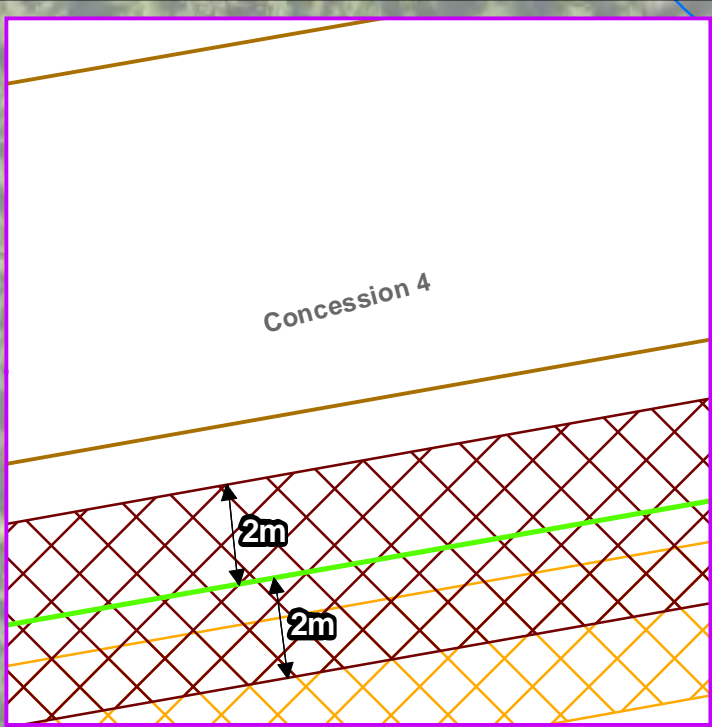
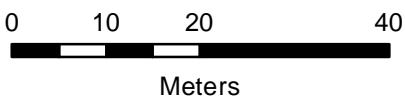
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- Bridge Attachment
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- ▨ OEB Corridor (1-4m from Property Line)
- ▨ Additional Collection Corridor
- ▨ Revised Collection Corridor



Concession 4

2m

2m

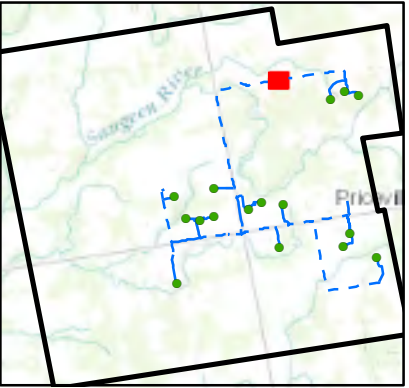
Concession 4

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## East Durham Collection Mapping

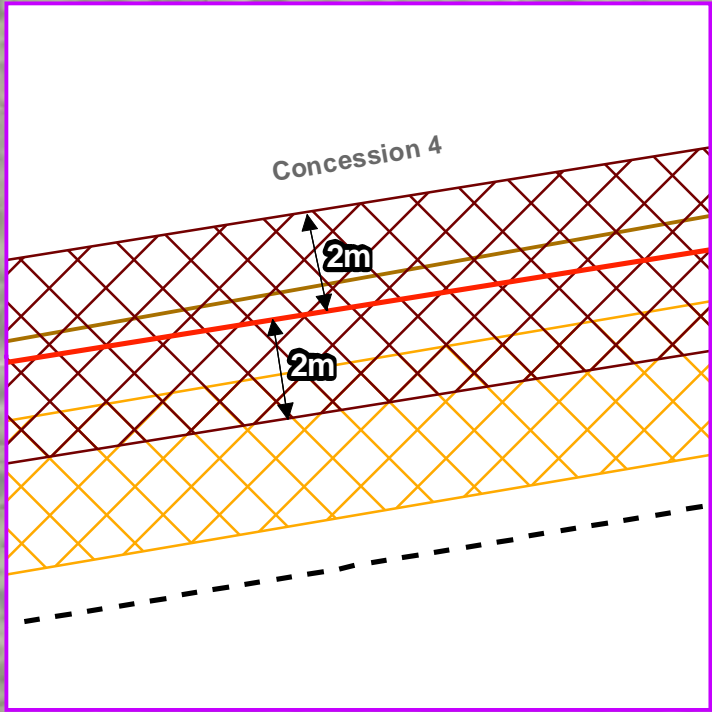
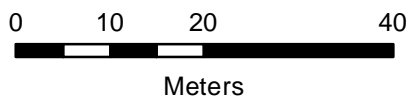
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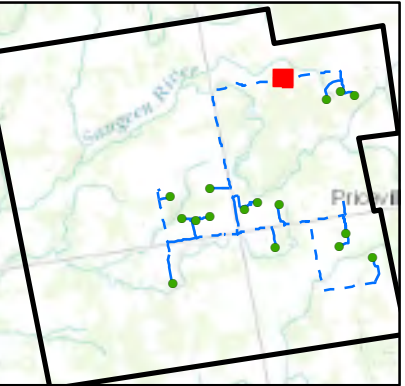
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-  Junction Box
-  Bore
-  Trench
-  Bridge Attachment
-  Watercourse
-  Surveyed ROW Limit
-  Surveyed Edge of Shoulder
-  Surveyed Edge of Pavement
-  Surveyed Edge of Unpaved Road
-  Tree Line
-  Parcel Boundary
-  OEB Corridor - Bridge Attachment Area
-  OEB Corridor (1-4m from Property Line)
-  Additional Collection Corridor
-  Revised Collection Corridor



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## East Durham Collection Mapping

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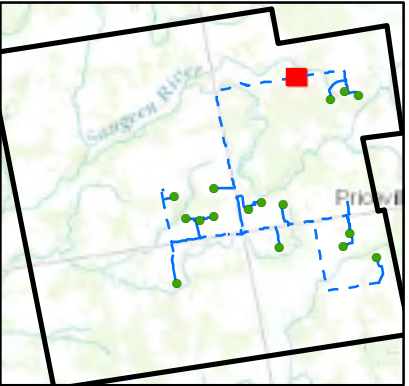
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- ▨ Revised Collection Corridor



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Meters







## East Durham Collection Mapping

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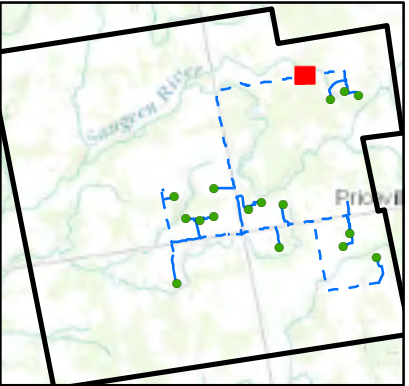
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Meters







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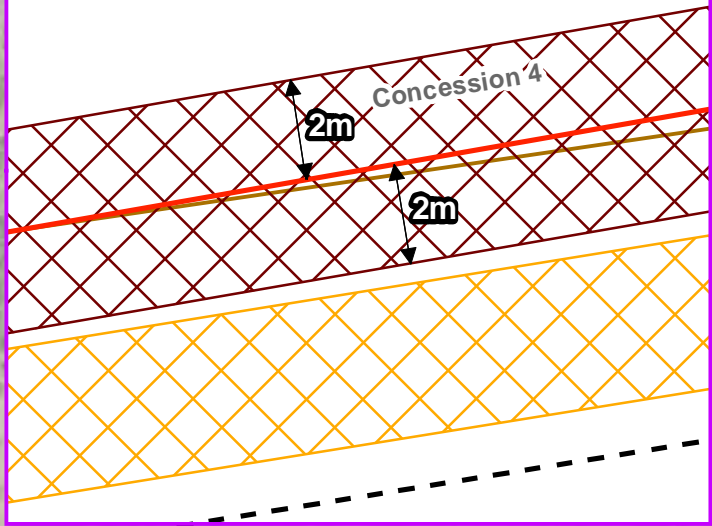
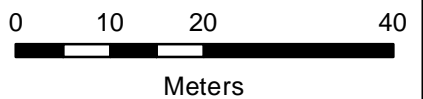
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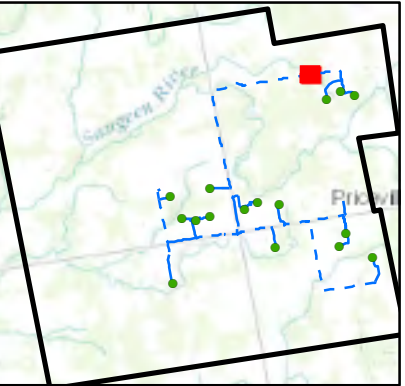
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- ▨ Revised Collection Corridor



Concession 4

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## East Durham Collection Mapping

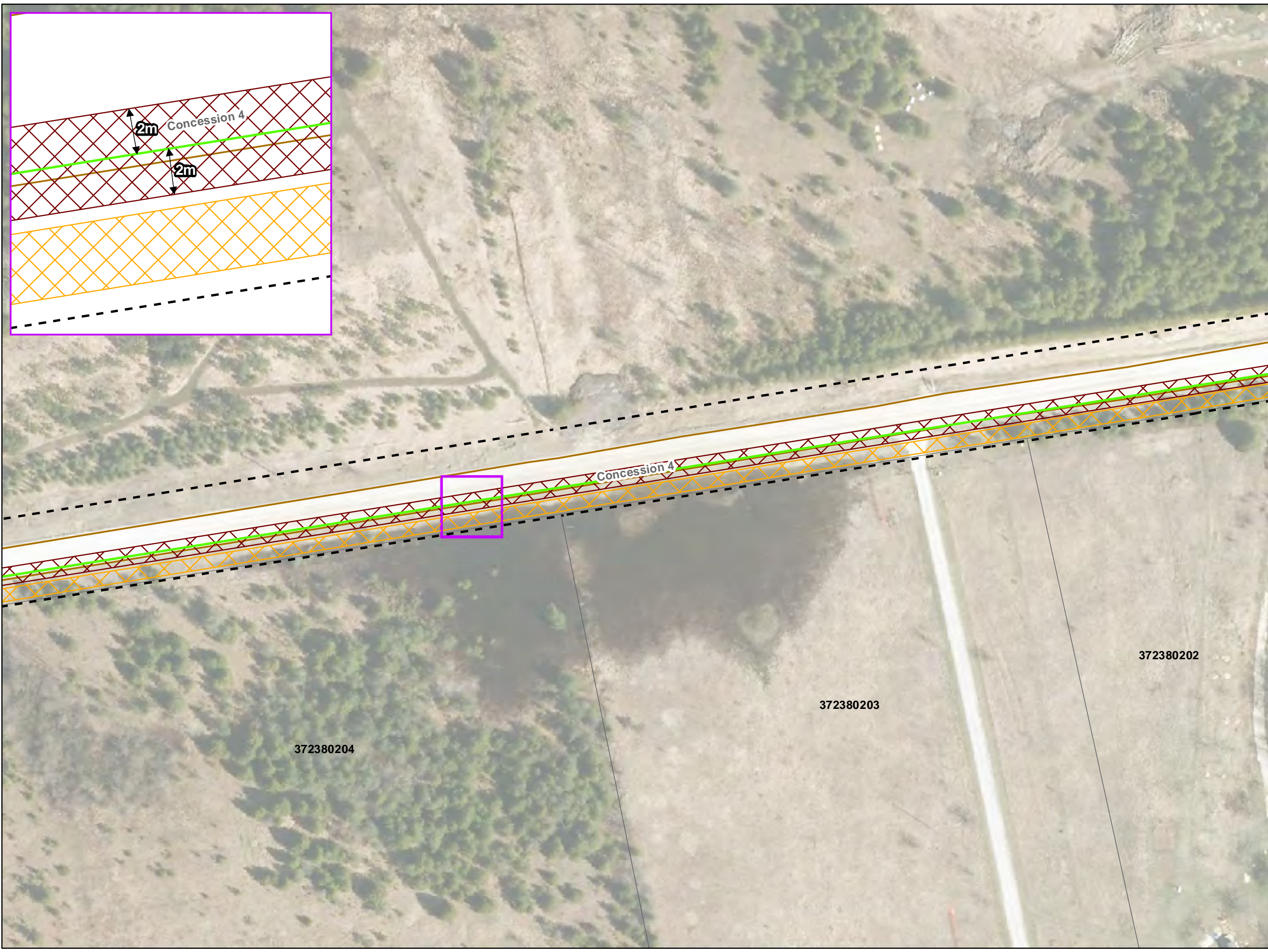
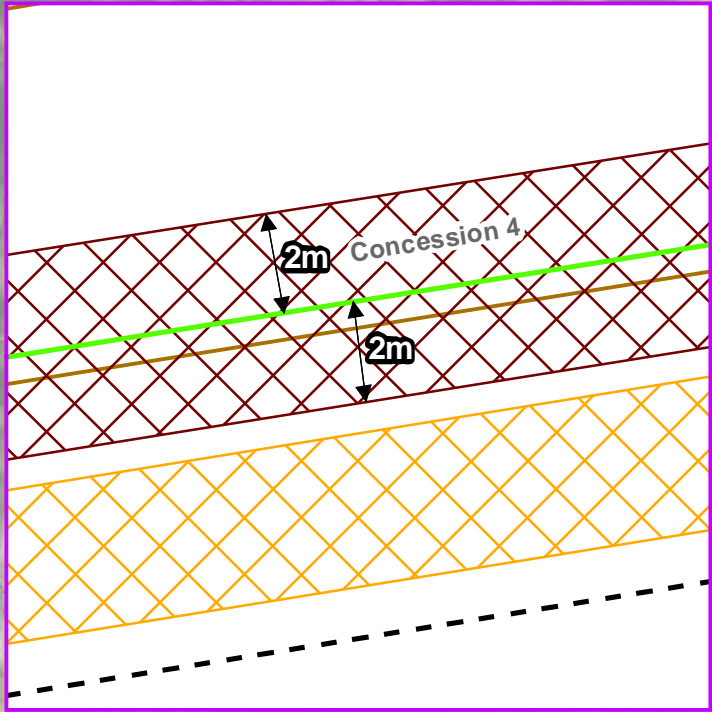
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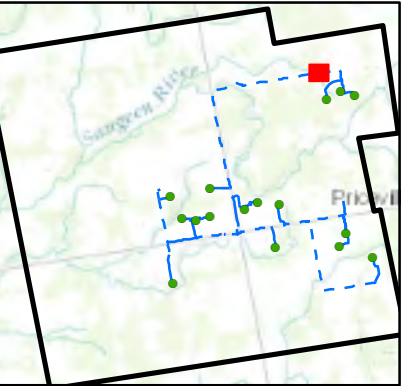
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Meters







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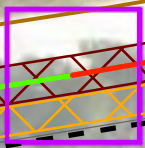
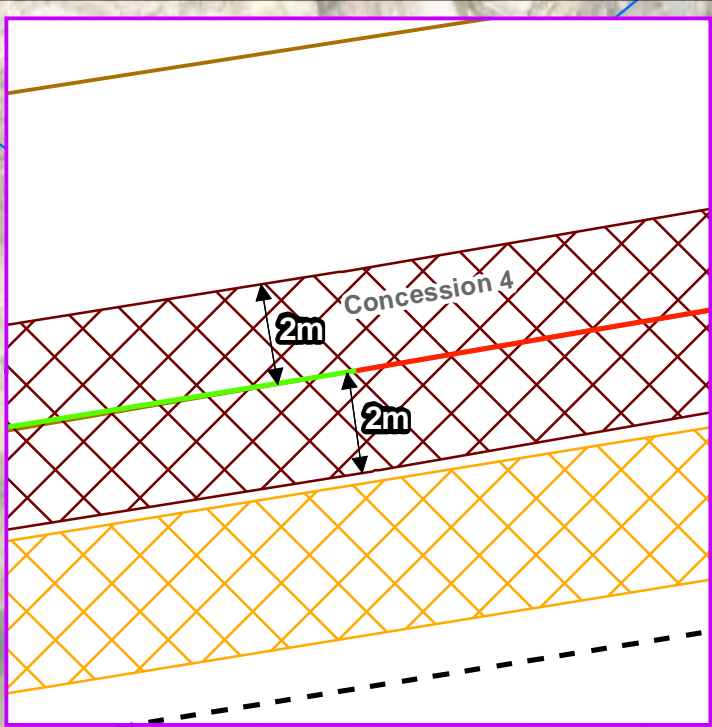
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- Surveyed ROW Limit
- Surveyed Edge of Shoulder
- Surveyed Edge of Pavement
- Surveyed Edge of Unpaved Road
- Tree Line
- Parcel Boundary
- ▨ OEB Corridor - Bridge Attachment Area
- ▨ OEB Corridor (1-4m from Property Line)
- ▨ Additional Collection Corridor
- ▨ Revised Collection Corridor



0 10 20 40  
Meters

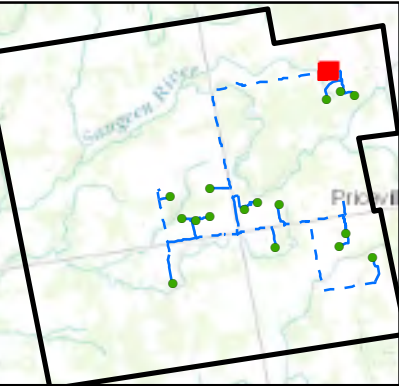


Concession 4

372380201

372380202



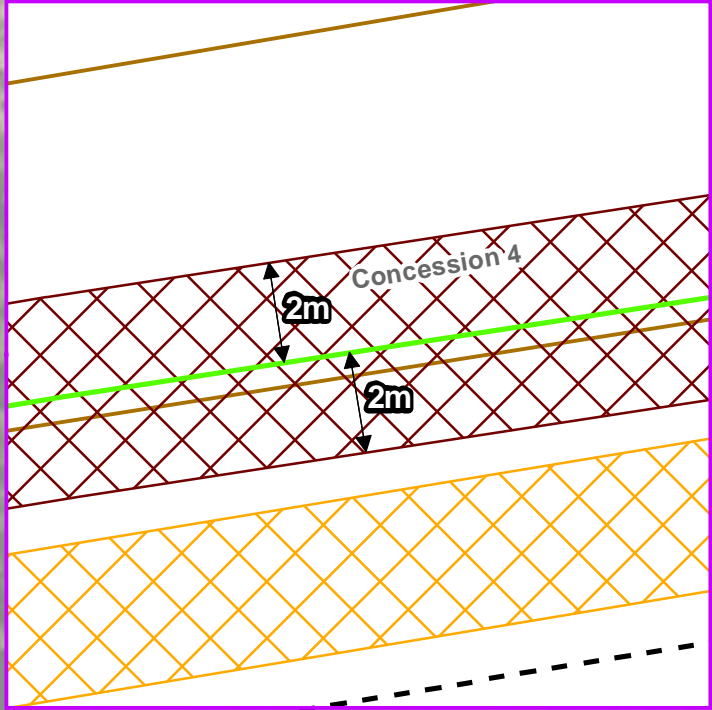
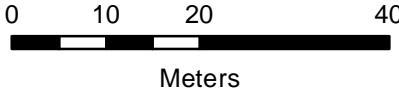


# East Durham Collection Mapping

Ontario, Canada

Date: October 20, 2014  
Rev. 1  
Page: 20

- ▲ Junction Box
- Bore
- Trench
- Bridge Attachment
- Watercourse
- Surveyed ROW Limit
- Surveyed Edge of Shoulder
- Surveyed Edge of Pavement
- Surveyed Edge of Unpaved Road
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- Parcel Boundary
- ▨ OEB Corridor - Bridge Attachment Area
- ▨ OEB Corridor (1-4m from Property Line)
- ▨ Additional Collection Corridor
- ▨ Revised Collection Corridor

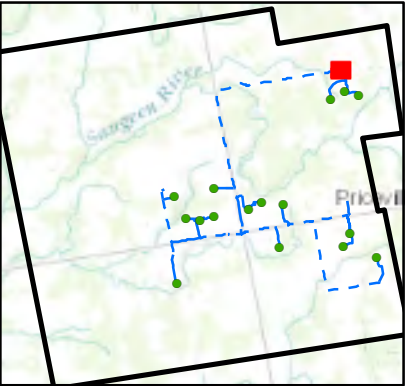


372380147

Concession 4

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## East Durham Collection Mapping

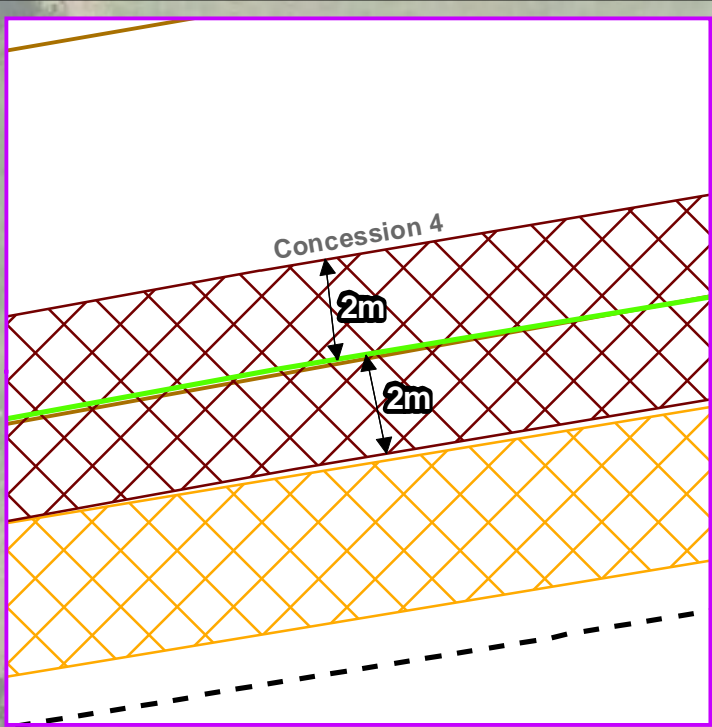
Ontario, Canada

Date: October 20, 2014  
Rev. 1  
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- ▲ Junction Box
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- ▨ Revised Collection Corridor



0 10 20 40  
Meters



Concession 4

372380200

372380201

Appendix D: October 30, 2014 Email from East Durham to West Grey

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**From:** Rickel, Adam <ADAM.RICKEL@nexteraenergy.com>  
**Sent:** October-30-14 11:55 AM  
**To:** kgould@westgrey.com  
**Cc:** mturner@westgrey.com; Pinnock, Ashley; Dyck, Tyson  
**Subject:** FW: East Durham Wind, LP Letter to West Grey re: Distribution System Location  
**Attachments:** East Durham Wind, LP Letter to West Grey re Distribution System\_Oct 17, 2014.pdf; East Durham Wind, LP\_Collection Mapping rev. 1\_Oct 20, 2014.pdf

**Importance:** High

Ken – We have not heard back from West Grey regarding our proposed collection/distribution location modifications. Please advise by tomorrow if you have comments or questions. As mentioned, we can discuss further if West Grey desires. Thank you.

Sincerely,

Adam Rickel  
Project Director  
NextEra Energy Canada, LP  
W: 561-304-6141  
C: 561-236-6890

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**From:** Rickel, Adam  
**Sent:** Friday, October 17, 2014 3:52 PM  
**To:** [kgould@westgrey.com](mailto:kgould@westgrey.com)  
**Cc:** [mturner@westgrey.com](mailto:mturner@westgrey.com); Pinnock, Ashley; Dyck, Tyson  
**Subject:** East Durham Wind, LP Letter to West Grey re: Distribution System Location  
**Importance:** High

Please see letter from East Durham Wind, LP and supplemental mapbook attached.

Sincerely,

Adam Rickel  
Project Director  
NextEra Energy Canada, LP  
W: 561-304-6141  
C: 561-236-6890