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Enbridge Gas Inc.
50 Keil Drive North,
Chatham, ON N7M 5M1
Canada

VIA EMAIL and RESS

February 24, 2022

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto, Ontario, M4P 1E4

Dear Nancy Marconi:

**Re: Enbridge Gas Inc. (“Enbridge Gas”)
Ontario Energy Board (“OEB”) File No. EB-2022-0003
NPS 20 Waterfront Relocation Project Application and Evidence - Redacted**

Enclosed please find the redacted application and evidence for the NPS 20 Waterfront Relocation Project (“Project”).

In accordance with the OEB’s *Practice Direction on Confidential Filings*, Enbridge Gas has redacted confidential information from the following exhibits. Details of the specific confidential information for which confidential treatment is sought are set out below:

Exhibit	Description of Document	Confidential Information Location	Brief Description	Basis for Confidentiality
Exhibit F-1-1 Attachment 1	Environmental Report	Page 99 Page 107	Personal information	The redactions relate to the names and contact information of property owners. This information should not be disclosed in accordance with the <i>Freedom of Information and Protection of Privacy Act</i> . Pursuant to section 10 of the OEB’s <i>Practice Direction on Confidential Filings</i> , such information should not be provided to parties to a proceeding.
Exhibit F-1-1 Attachment 2	OPCC and Stakeholder Consultation Log	Page 3 Page 38	Personal information	The redactions relate to the names and contact information of property owners. This information should not be disclosed in

Exhibit	Description of Document	Confidential Information Location	Brief Description	Basis for Confidentiality
				accordance with the <i>Freedom of Information and Protection of Privacy Act</i> . Pursuant to section 10 of the OEB's <i>Practice Direction on Confidential Filings</i> , such information should not be provided to parties to a proceeding.

The confidential Exhibits will be sent separately via email to the OEB.

If you have any questions, please contact the undersigned.

Sincerely,

(Original Digitally Signed)

Dave Janisse
Technical Manager, Leave to Construct Applications

EXHIBIT LIST

A – Administration

<u>Exhibit</u>	<u>Tab</u>	<u>Schedule</u>	<u>Contents of Schedule</u>
A	1	1	Exhibit List
	1	2	Glossary
	2	1	Application
			Attachment 1 - Project Map

B – Project Need

B	1	1	Project Need
			Attachment 1 - Notice of Termination
			Attachment 2 - Court Order
			Attachment 3 – July 29, 2021 Letter from City of Toronto
			Attachment 4 – Nov 10, 2020 Letter to City of Toronto

C – Alternatives & Project Description

C	1	1	Alternatives & Project Description
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D – Project Costs

D	1	1	Project Costs
			Attachment 1 – July 13, 2021 Letter from Waterfront Toronto

E – Engineering & Construction

E 1 1 Engineering & Construction

F – Environmental Matters

F 1 1 Environmental Matters

Attachment 1 - Environmental Report
(Redacted)

Attachment 2 – OPCC and
Stakeholder Consultation Log
(Redacted)

G – Land Matters

G 1 1 Land Matters

Attachment 1 - Working Area
Agreement

Attachment 2 - Easement Agreement

Attachment 3 - Affidavit: Search of
Title

H – Indigenous Consultation Report

H 1 1 Indigenous Consultation

Attachment 1 - Project Notification to
MOE

Attachment 2 – MOE correspondence

Attachment 3 – Indigenous Peoples
Policy

<u>Glossary of Acronyms and Defined Terms</u>	
AA	Archaeological Assessment
Act	The Ontario Energy Board Act, 1998
Applicant	Enbridge Gas Inc.
Enbridge Gas or The Company	Enbridge Gas Inc
EPP	Environmental Protection Plan
ER	Environmental Report
Guidelines	The OEB's Environmental Guidelines for the Location, Construction, and Operation of Hydrocarbon Pipelines and Facilities in Ontario (7 th Edition, 2016)
Heritage Checklist	MHSTCI Criteria for Evaluating Potential for Built Heritage Resource and Cultural Heritage Landscapes checklist
HP	High Pressure
IRP Framework	Integrated Resource Planning Framework
KOL	Kipling Oshawa Loop
MCFN	Mississaugas of the Credit First Nation
MHSTCI	Ministry of Heritage, Sport, Tourism and Culture Industries
MOE	Ministry of Energy
NPS	Nominal Pipe Size
OEB	The Ontario Energy Board
OPCC	Ontario Pipeline Coordinating Committee
Permanent Relocation	Approximately 160 m of NPS 20-inch HP ST natural gas main located within a newly designed utility corridor along the northern side of the Keating Railway Bridge
PLFPEI	Port Lands Flood Protection and Enabling Infrastructure Project
Policy	Enbridge Inc. Indigenous Peoples Policy
PR	Preferred Route
Project	The NPS 20 Waterfront Relocation Project
PSWHA	Public Service Works and Highway Act
Specifications	Specifications outlined in Enbridge Gas's Construction and Maintenance Manual
ST	Steel
Stantec	Stantec Consulting Ltd.
Temporary Bypass	Approximately 190 m of Nominal Pipe Size ("NPS") 20-inch high-pressure ("HP") steel ("ST") natural gas main located both below grade and above grade along the southern side of the proposed Lake Shore Bridge
TRCA	Toronto and Region Conservation Authority
TSSA	Technical Standards and Safety Authority
XHP	Extra-high Pressure

ONTARIO ENERGY BOARD

IN THE MATTER OF The *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B; and in particular section 90(1) and section 97 thereof;

AND IN THE MATTER OF an application by Enbridge Gas Inc. for an order granting leave to construct natural gas pipelines in the City of Toronto.

APPLICATION

1. Enbridge Gas Inc. (“Enbridge Gas” or the “Company”) hereby applies to the Ontario Energy Board (“OEB”) pursuant to section 90(1) of the Ontario Energy Board Act, 1998, S.O. 1998, c. 15, Schedule B (the “Act”), for an order granting leave to construct natural gas pipelines, as described herein, in the City of Toronto, Ontario. The pipelines consist of:
 - 1) The “Temporary Bypass”, consisting of approximately 190 m of Nominal Pipe Size (“NPS”) 20-inch high-pressure (“HP”) steel (“ST”) natural gas main located both below grade and above grade along the southern side of the proposed Lake Shore Bridge; and
 - 2) The “Permanent Relocation”, consisting of approximately 160 m of NPS 20-inch HP ST natural gas main located within a newly designed utility corridor along the northern side of the Keating Railway Bridge.
2. The NPS 20 Waterfront Relocation Project (“Project”) is required to address a conflict with Waterfront Toronto’s Port Lands Flood Protection and Enabling Infrastructure Project (“PLFPEI”) which resulted in the termination of a license agreement between Enbridge Gas and the City of Toronto to locate an existing

NPS 20-inch HP ST natural gas pipeline on the Keating Railway Bridge, which spans the Don River.

3. The existing pipeline is a critical source of natural gas supply to the downtown Toronto area. A detailed description of the Project need can be found in Exhibit B, Tab 1, Schedule 1.
4. The need for the Project was first identified in Enbridge Gas's EB-2020-0198 application, which was withdrawn on February 19, 2021. A summary of the history of the project can be found within Exhibit B, Tab 1, Schedule 1. In the EB-2020-0198 Decision and Order on Application Withdrawal Request, the OEB determined that:

If Enbridge Gas were to file a new application, the OEB would have the following expectations:

- *Enbridge Gas would assess all feasible alternatives with a focus on protecting the interests of ratepayers with respect to prices and the reliability and quality of gas service*
- *Ratepayers would not be asked to pay any amount that exceeds the benefits being delivered to them*
- *Issues between Enbridge Gas and Waterfront Toronto and/or the City of Toronto regarding schedule, legal rights and cost responsibility would be resolved before the new application is filed*
- *Enbridge Gas would allow sufficient time for the OEB to conduct a proper review of the new application¹*

¹ EB-2020-0198 Decision and Order on Application Withdrawal Request, February 19, 2021, p. 12-13

5. Enbridge Gas has updated its new application to include the detail requested in the OEB's Decision and Order. The alternatives assessment is in Exhibit C, Tab 1, Schedule 1. The Project is the best alternative to meet the project need and is in the best interests of ratepayers with respect to Project cost and reliability and quality of gas service to the City of Toronto.
6. Information about Project cost and benefits are included in Exhibit D, Tab 1, Schedule 1. Since the withdrawal of Enbridge Gas's EB-2020-0198 application, the Company has held several discussions with Waterfront Toronto and the City of Toronto and have come to an agreement on the Project schedule, cost, and associated legal rights.
7. Finally, the proposed construction schedule can be found at Exhibit E, Tab 1, Schedule 1, Table 2. With leave of the OEB, construction of the Project is planned to commence in January 2023 and be fully placed into service by August 2024. To meet construction timelines, Enbridge Gas anticipates the approval of this application will be required by September 30, 2022, which is consistent with the OEB's performance standards for applications of this type.²
8. For ease of reference and to assist the OEB with preparation of the notice of application for the Project, a map of the proposed facilities is included as Attachment 1 to this Exhibit.
9. Enbridge Gas requests that the OEB issue the following order(s):
 - (a) pursuant to section 90(1) of the Act, an Order granting leave to construct the Project; and

² The OEB's current Leave to Construct Performance Standards for Complex Electricity and Natural Gas Proceedings, updated April 1, 2021, provide for a total cycle time of 210 calendar days from the date of the OEB's Completeness Letter.

(b) pursuant to section 97 of the Act, an Order approving the form of working area agreement and easement agreement found at Exhibit G, Tab 1, Schedule 1, Attachments 1 and 2, respectively.

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

- (a) The Applicant
- Dave Janisse
Technical Manager, Leave to Construct Applications
- Address: P. O. Box 2001
50 Keil Drive N
Chatham, ON N7M 5M1
- Telephone: (519) 436-5442
- Email: dave.janisse@enbridge.com
EGRegulatoryProceedings@enbridge.com
- (b) The Applicant's counsel (1)
- Guri Pannu
Senior Legal Counsel
Enbridge Gas Inc.
- Address for personal service 500 Consumers Road
Toronto, ON M2J 1P8
- Mailing Address: P. O. Box 650, Scarborough, ON M1K 5E3
- Telephone: 416-758-4761
- Fax: 416-495-5994
- Email: guri.pannu@enbridge.com

The Applicant's counsel (2)

Scott Stoll
Aird & Berlis LLP

Mailing Address:

Brookfield Place, 181 Bay Street, Suite 1800
P. O. Box 754, Toronto, ON M5J 2T9

Telephone:

416-865-4703

Email:

sstoll@airdberlis.com

DATED at the City of Chatham, Ontario this 24th day of February 2022.

ENBRIDGE GAS INC.

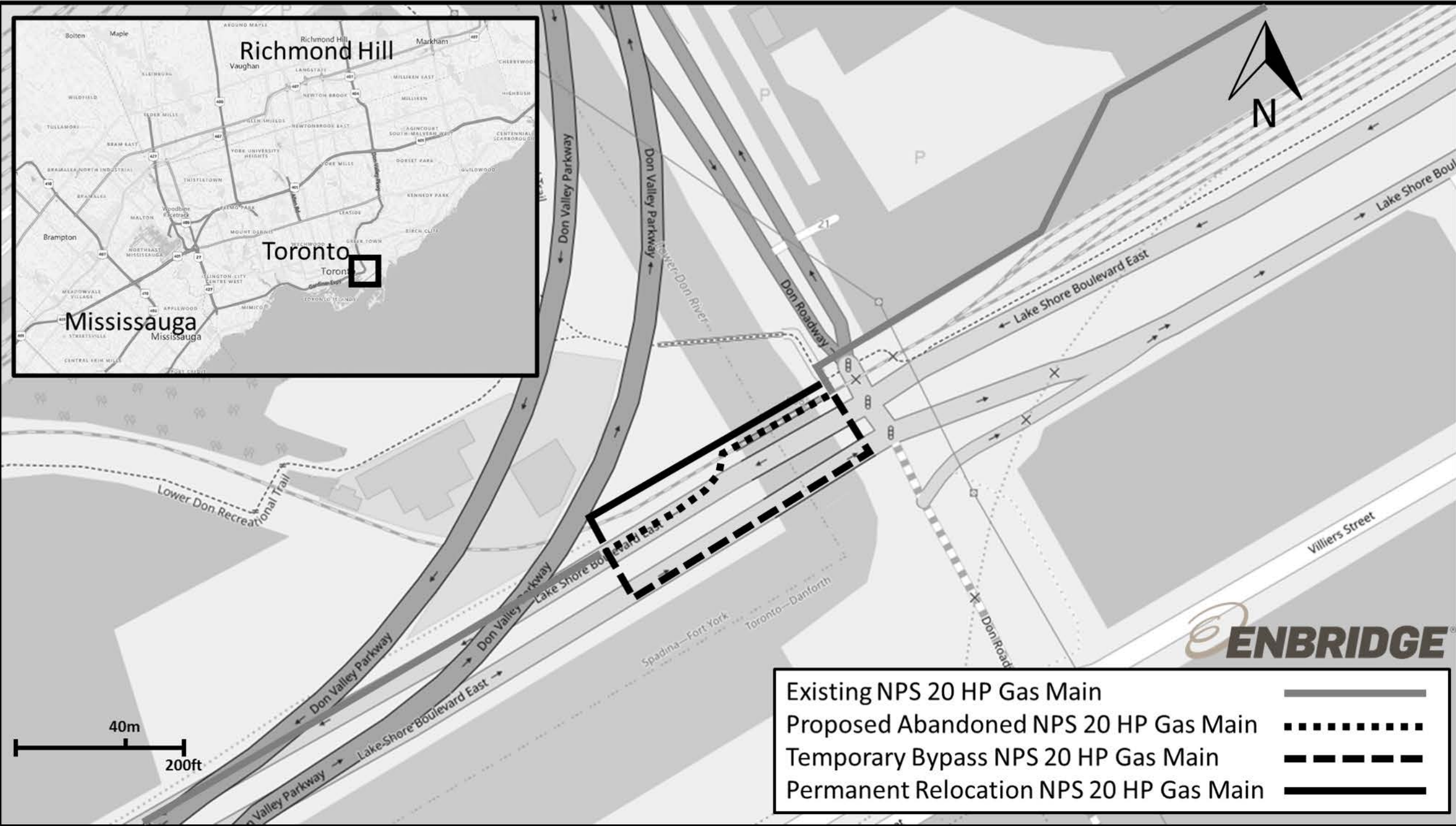
Dave Janisse

Digitally signed by Dave
Janisse
Date: 2022.02.24 14:25:50
-05'00'

Dave Janisse

Technical Manager, Leave to Construct Applications

NPS20 Waterfront Relocation Project



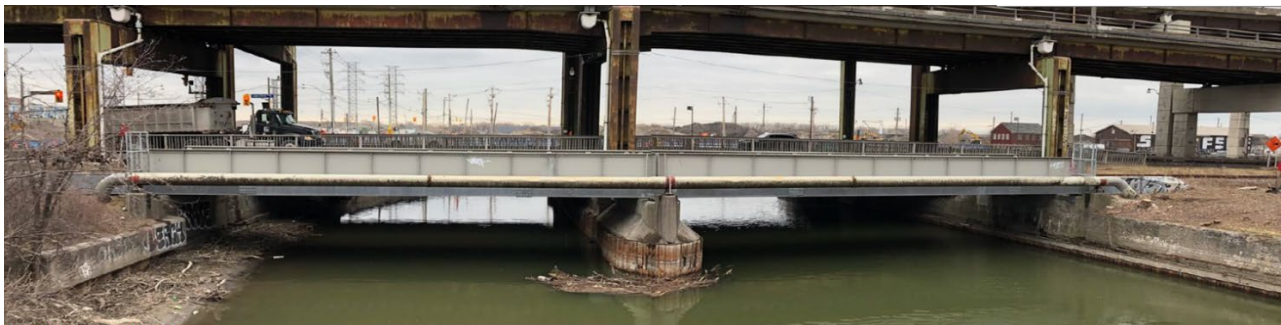
Existing NPS 20 HP Gas Main	
Proposed Abandoned NPS 20 HP Gas Main	
Temporary Bypass NPS 20 HP Gas Main	
Permanent Relocation NPS 20 HP Gas Main	

PROJECT NEED

Introduction

1. Enbridge Gas has identified the need to relocate and abandon approximately 154 m of NPS 20-inch HP ST natural gas main. The main must be relocated due to: (i) a conflict with Waterfront Toronto's PLFPEI project and (ii) termination of the license granted by the City of Toronto allowing Enbridge Gas to utilize the Keating Railway Bridge to support the existing NPS 20-inch natural gas main.
2. Figure 1 shows the existing NPS 20-inch natural gas main on the Keating Railway Bridge.

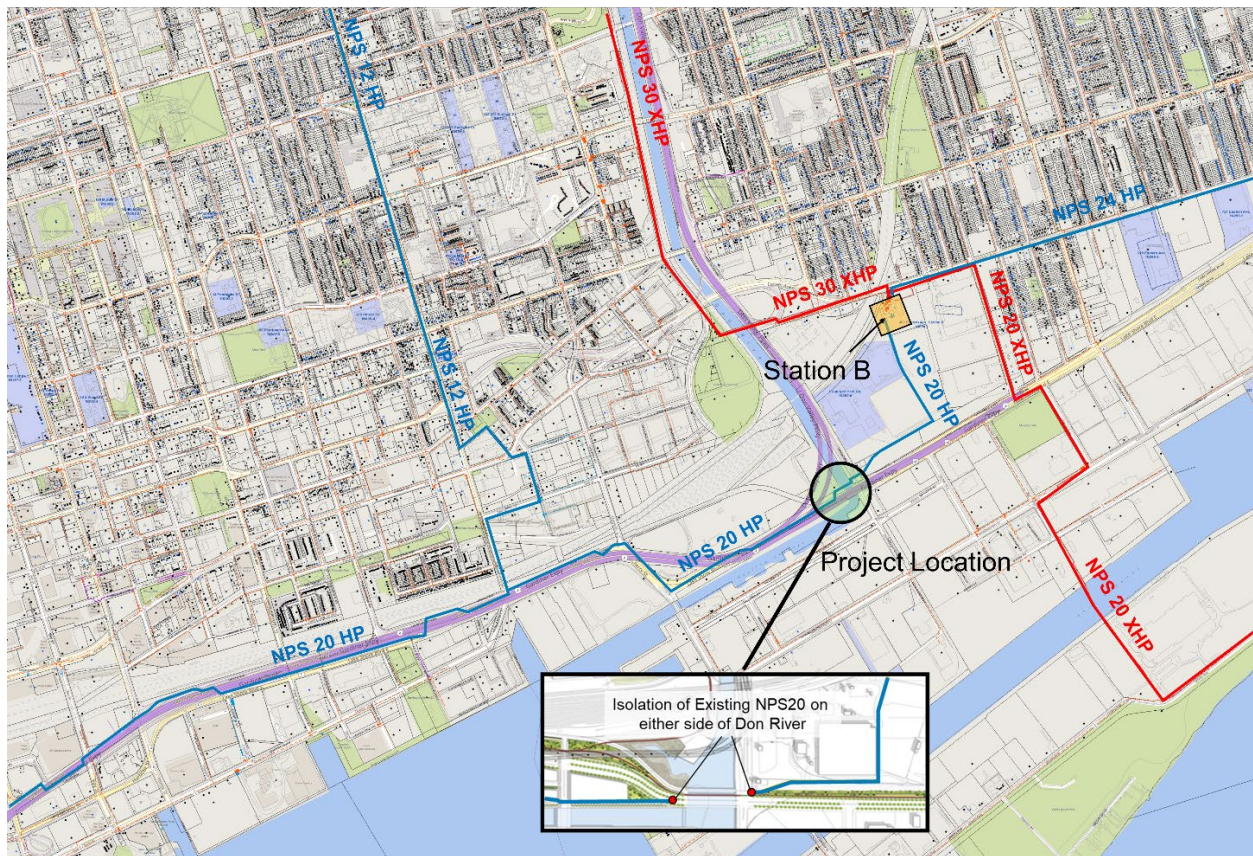
Figure 1: Existing Keating Railway Bridge and NPS 20-inch Enbridge Gas Pipeline



3. The existing NPS 20-inch natural gas main forms a critical section of Enbridge Gas's Kipling Oshawa Loop ("KOL"). It is supplied from the Station B feeder station in the east and it supplies a large area of downtown Toronto with natural gas. The area supplied by this pipeline includes many residential, commercial, institutional (including hospitals and government buildings) and industrial customers. There are also several large volume customers served by Enbridge Gas from this pipeline, including Redpath Sugar and Enwave Energy Corporation. Figure 2 provides a map

which shows the location of the Project in relation to Station B, the KOL and its major sources of gas supply.

Figure 2: System Overview Map



4. There are approximately 15,000 customers within the areas primarily supplied by the NPS 20-inch natural gas main at Design Degree Day (41 Degree Day). Figure 3 below is a map depicting the areas (pipelines coloured blue) that are primarily supplied by this NPS 20-inch natural gas main at 41 Degree Day. Table 1 below is a list of the firm contract customers with demands within the area of benefit served by the NPS 20-inch natural gas main.

Figure 3: Areas Primarily Supplied by the NPS 20-inch Natural Gas Main at 41 Degree Day

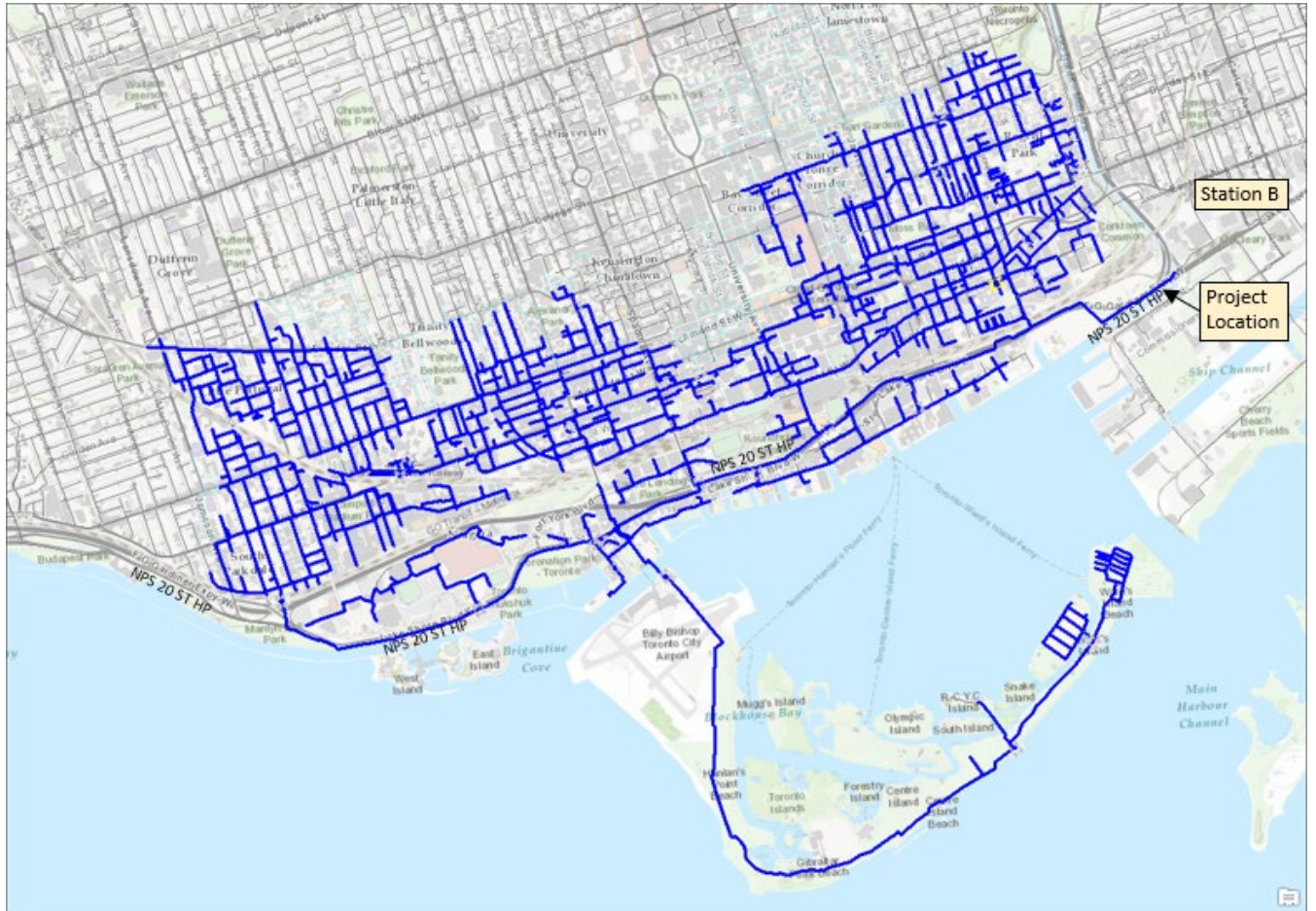


Table 1: Firm Contract Customers

Customer Name	Rate Class	Customer Type
ENWAVE ENERGY CORPORATION	110/145	Industrial
ENWAVE ENERGY CORPORATION	110/170	Industrial
REDPATH SUGAR LTDTD	170	Industrial
TORONTO COMMUNITY HOUSING	110	Commercial
THE BOARD OF GOVENORS OF EXHIBITION PLACE	110	Commercial
CENTRE FOR ADDICTION & MENTAL HEALTH	110	Commercial
MONDELEZ CANADA INC	110	Industrial
MTCC OPERATIONS LIMITED PARTNERSHIP	110	Commercial
TIMBERCREEK ASSET MANAGEMENT INC.	110	Commercial
MARQUEE 11	110	Apartment

PLFPEI Conflict

5. Waterfront Toronto was established by the federal government, the province of Ontario and the City of Toronto with the purpose of overseeing and leading the renewal of Toronto’s waterfront. The primary purpose of the PLFPEI is to widen the mouth of the Don River and provide flood protection for approximately 240 hectares of the City of Toronto’s waterfront. In June 2017, the government contributed \$1.25 billion in funding for the PLFPEI.¹

6. The PLFPEI will help to improve the City of Toronto’s resiliency to extreme weather by constructing the following:

1

[https://www.waterfrontontario.ca/nbe/portal/waterfront/Home/waterfronthome/newsroom/newsarchive/news/2017/june/waterfront%20toronto%20receives%20\\$1.25%20billion%20in%20government%20funding%20to%20undertake%20pioneering%20project%20to%20flood%20protect%20port%20lands](https://www.waterfrontontario.ca/nbe/portal/waterfront/Home/waterfronthome/newsroom/newsarchive/news/2017/june/waterfront%20toronto%20receives%20$1.25%20billion%20in%20government%20funding%20to%20undertake%20pioneering%20project%20to%20flood%20protect%20port%20lands)

- A new river channel for the Don River that has the capacity to handle large volumes of flood water.
- A Don greenway that provides excess capacity to convey flood water.
- Improvements to the Keating Channel as a means to convey floodwater including wetlands, meadows, and forested valley slopes that, as an additional benefit, will provide habitat for fish, birds, reptiles and other wildlife, and passive use park land and trails.

7. The primary objective of the PLFPEI is captured on Waterfront Toronto's informational website to the general public:

The Port Lands Flood Protection Project is about taking action to protect Toronto's southeastern downtown area. Right now, in an extreme weather event, floodwaters from the Don River would overwhelm portions of the Port Lands, South Riverdale and Leslieville. Our plan is to reconnect the Don River to Lake Ontario by creating a naturalized river mouth. To do this we are embarking on one of the biggest infrastructure projects in Toronto's history.²

8. The Keating Railway Bridge is currently utilized by Enbridge Gas for crossing the Don River with the existing NPS 20-inch natural gas main. The Keating Railway Bridge is located at the mouth of the Don River, directly in the area where the river will be widened. The bridge will require modification as part of the PLFPEI, which directly impacts the existing NPS 20-inch natural gas main.

Termination of License to Occupy the Keating Railway Bridge

9. Since 1955, Enbridge Gas has been granted license by the Toronto Harbour Commissioner, and later the City of Toronto, to utilize the Keating Railway Bridge to

² <https://portlandsto.ca/about/>

support the NPS 20-inch natural gas main. On October 30, 2020, the City of Toronto submitted a Notice of Termination to Enbridge Gas indicating that the license to occupy the Keating Railway Bridge was terminated. The Notice of Termination required Enbridge Gas to remove the NPS 20-inch natural gas main from the bridge by May 2, 2022. The Notice of Termination is included as Attachment 1 to this Exhibit.

10. The City of Toronto then commenced an application under Rule 14.05(3)(d) of the *Rules of Civil Procedure*, RRO 1990, Reg 194 against Enbridge Gas for an order requiring it to remove the NPS 20-inch natural gas main from the Keating Railway Bridge by August 31, 2022, at the expense of Enbridge Gas. The Court held that Enbridge Gas will be a trespasser if it has not removed the pipeline from the bridge by August 31, 2022. The Court Order is included as Attachment 2 to this Exhibit.

11. Since the Court Order, Enbridge Gas has had ongoing discussions with Waterfront Toronto and the City of Toronto to develop a Project scope and schedule that was acceptable to all parties. The City of Toronto has agreed to extend the deadline for Enbridge Gas to remove the natural gas main from the Keating Railway Bridge, provided that Enbridge Gas will pursue this Project and remove the existing natural gas main by April 30, 2023. The letter from the City of Toronto confirming this agreement is included as Attachment 3 to this Exhibit. The letter also acknowledges the City of Toronto's intent to agree to a license permitting Enbridge Gas to relocate its pipeline to a permanent location on the Keating Railway Bridge utility corridor once the required bridge modifications have been completed. At the time of filing, Enbridge Gas is working to finalize this license agreement with the City of Toronto.

Related Enbridge Gas Projects

12. The proposed Project was identified in Enbridge Gas's Asset Management Plan Addendum, which was filed within the Company's 2022 Rates Proceeding.³ The Project does not contain any planned future phases and is not dependent upon any previously filed leave to construct application by Enbridge Gas. This project does not have a growth component associated with it. The history of the proposed Project, including a description of the prior leave to construct application and the reasons for its withdrawal, are summarized below.

Project History

13. Waterfront Toronto contacted Enbridge Gas in August 2018 and identified a conflict between the existing NPS 20-inch HP ST natural gas main on the Keating Railway Bridge and the PLFPEI project. Waterfront Toronto indicated that the conflict occurs on the bridge, and west of the bridge where the Don River is planned to be widened as part of the PLFPEI project.

14. As a result of this conflict, Enbridge Gas was asked to relocate and abandon the segment of NPS 20-inch HP ST natural gas main located on and to the east and west of the Keating Railway Bridge.

15. Enbridge Gas agreed to consult with Waterfront Toronto and the City of Toronto to develop and propose alternatives for the relocation of the existing NPS 20-inch HP ST natural gas main that could alleviate the conflict with the PLFPEI within the PLFPEI's project schedule while continuing to meet the natural gas demand of customers within the area served by the existing main.

³ EB-2021-0148, Exhibit B, Tab 2, Schedule 3, EGI Asset Management Plan Addendum – 2022, pp. 9, 12.

16. During these consultation sessions with Waterfront Toronto, the City of Toronto and various other stakeholders, alternatives were suggested and contemplated by the parties. At the time, Enbridge Gas evaluated these alternatives and determined a preferred option to resolve the conflict with the PLFPEI. Limited options were available to Enbridge Gas in order to alleviate the conflict within the PLFPEI schedule, and as a result, the preferred option involved installing approximately 1600 m of new NPS 20-inch extra high-pressure (“XHP”) ST gas main within the road allowance on the west side of the Don River to a proposed feeder station on Trinity Street. From this point, approximately 300 m of proposed NPS 20-inch HP ST and approximately 8 m of NPS 24-inch HP ST gas main would be installed exiting the station where it would then be tied into the existing NPS 20-inch HP ST pipeline on Parliament Street. This relocation work would then facilitate the abandonment of approximately 154 m of NPS 20-inch across the Keating Railway Bridge. This alternative was the only one discussed that resulted in the abandonment of the gas main on the Keating Railway Bridge in the timeframe required by the PLFPEI project schedule.

17. Enbridge Gas filed a leave to construct application on October 13, 2020 for this preferred option⁴. At the time of filing, Waterfront Toronto did not have any objections to the proposed route as it related to engineering, safety, land matters or socio-economic and environmental factors. Waterfront Toronto’s opposition to the project was solely based on the project costs and project funding. Specifically, Waterfront Toronto did not agree that it would be responsible for 100% of the project costs. Waterfront Toronto’s position was that since the organization is an agent of

⁴ EB-2020-0198, NPS 20 Natural Gas Pipeline Waterfront Relocation Project - Application and Evidence, October 13, 2020.

the City of Toronto, the expense of the project should be cost shared between Waterfront Toronto/the City of Toronto and Enbridge Gas pursuant the Public Service Works and Highway Act (“PSWHA”).⁵

18. The PSWHA states the following under section 2:

2(1) Where in the course of constructing, reconstructing, changing, altering or improving a highway it becomes necessary to take up, remove or change the location of utility infrastructure placed over, on or under the highway by the utility company, the road authority may by notice in writing served personally or by registered mail require the utility company, without prejudice to their respective rights under section 3, so to do on or before the date specified in the notice.

(2) The road authority and the utility company may agree upon the apportionment of the cost of labour employed in such taking up, removal or change, but, subject to section 3, in default of agreement such cost shall be apportioned equally between the road authority and the utility company, and all other costs of the work shall be borne by the utility company.

Section (1) of the PSWHA defines “road authority” as the Ministry of Transportation, a municipal corporation, board, commission, or other body having control of the construction, improvement, alteration, maintenance, and repair of a highway and responsible therefor.

19. On October 30, 2020, the City of Toronto submitted a Notice of Termination, which removed Enbridge Gas’s right to occupy the Keating Railway Bridge with the existing NPS 20-inch natural gas main. The Notice of Termination stated that the complete removal of the pipeline from all bridge infrastructure was required no later than May 2, 2022⁶.

20. On November 10, 2020, Enbridge Gas responded to the City of Toronto’s October 30, 2020 letter and disputed the conclusions drawn by the city relating to the cost

⁵ Public Service Works on Highways Act, R.S.O 1990, c. p. 49.

⁶ Exhibit B, Tab 1, Schedule 1, Attachment 1, p. 2.

responsibility of the project. The letter also stated that the Company stands by its position that Enbridge Gas should be reimbursed by Waterfront Toronto for 100% of project costs. The November 10, 2020 letter is included as Attachment 4 to this Exhibit.

21. On January 12, 2021, Enbridge Gas filed a letter⁷ requesting the OEB schedule a mediation session to address the cost responsibility aspect of the leave to construct application.
22. On January 22, 2021, the OEB issued a Decision on Jurisdiction and found that the OEB “has full jurisdiction to determine cost responsibility for the Project to the extent that it is pertinent to the OEB’s rate-setting mandate and its consideration of the public interest in a leave to construct proceeding as articulated in the OEB Act. However, the OEB does not have jurisdiction to order Waterfront Toronto to pay all or part of the Project cost.”⁸
23. On January 25, 2021, the OEB facilitated a Settlement Conference between Enbridge Gas, Waterfront Toronto and intervenors on two specific issues:
 - a. Is the Proposed Pipeline the most cost-effective solution and have all viable alternatives been properly considered, including the Utility Corridor proposed by Waterfront Toronto?
 - b. What should be the cost responsibility for the pipeline relocation between Enbridge Gas and Waterfront Toronto and/or the City of Toronto?

⁷ EB-2020-0198, Leave to Construct Application – Request for Mediation, January 12, 2021.

⁸ EB-2020-0198, Decision on Jurisdiction, January 22, 2021, P. 2.

24. After failing to reach an agreement in the Settlement Conference, Enbridge Gas filed a Notice of Withdrawal of Application on January 25, 2021. Enbridge Gas withdrew the application in order to assess alternatives that were made possible by an adjustment to Waterfront Toronto's PLFPEI construction schedule.
25. As a result of the change in the timing of the PLFPEI project schedule, Enbridge Gas reassessed several project alternatives that were originally deemed infeasible. This reassessment assisted Enbridge Gas in the development of the proposed Project. The proposed Project is discussed in detail in Exhibit C, Tab 1, Schedule 1.
26. Enbridge Gas has discussed the proposed Project route with Waterfront Toronto and the City of Toronto and neither party has expressed any concerns. In addition, an agreement has been reached regarding the sharing of Project costs with Waterfront Toronto. The details of this agreement are discussed in Exhibit D, Tab 1, Schedule 1.
27. In order to meet the required construction schedule of the PLFPEI, Enbridge Gas is proposing to begin construction in January 2023 to remove the existing NPS 20-inch HP natural gas main from the Keating Railway Bridge by April 30, 2023, and fully complete a permanent relocation by August 31, 2024. A detailed project construction schedule can be found in Exhibit E, Tab 1, Schedule 1, Table 2. The City of Toronto and Waterfront Toronto have both agreed to this schedule. The City of Toronto has confirmed they will not seek trespassing charges against Enbridge Gas after the August 31, 2022 deadline passes so long as this option is completed.



Tracey Cook
Deputy City Manager

Chris Murray, City Manager

**Infrastructure & Development
Services
City Hall**
100 Queen Street West
East Tower, 4th Floor
Toronto, Ontario M5H 2N2

Tel: 416-338-7200
tracey.cook@toronto.ca

October 30, 2020

Enbridge Gas Inc.
500 Consumers Road
North York, Ontario
M2J 1P8

Sent via email: cynthia.hansen@enbridge.com

Attention: Cynthia Hansen
Executive Vice President and President, Gas Distribution and Storage

Dear Ms. Hansen:

Re: Notice of Termination of Enbridge Licence to Utilize Keating Rail Bridge (the "Bridge") to Support a 20" Natural Gas Pipeline ("Pipeline")

Enbridge Gas's NPS 20 Relocation Project application, EB-2020-0198

Further to my letter dated July 31, 2020 and our discussions with Enbridge on August 19, 2020 and subsequently, I am writing to confirm that the licence granted to Enbridge's predecessor, Consumer's Gas Company of Toronto ("Consumer's Gas"), in 1955 to utilize the Keating Rail Bridge to support its natural gas pipeline is terminated.

1955 Cost Indemnity Provided by Consumers' Gas

Given the necessity for Enbridge to remove the Pipeline from the Bridge because its 1955 permission has been terminated, the portion of Enbridge's leave to construct application suggesting that the sole reason for relocation is due to the Port Lands Flood Protection Project and that Waterfront Toronto is responsible for the cost to relocate the Pipeline along the route that Enbridge selected requires correction.

Enbridge's leave to construct application does not address the fact that the February 22, 1955 letter from the Toronto Harbour Commissioner's to Consumers' Gas granting permission to use the Bridge and setting out the terms on which that permission was granted was explicit that all installation and future costs of this work were to be borne by Consumer's Gas (which obligations are now Enbridge's). For your ease of reference, we re-attach a copy of the February 22, 1955 letter previously shared.

As we have advised, in view of the 1955 terms, the cost to remove and relocate the Pipeline must be borne by Enbridge and the *Public Service Works on Highways Act* has no application.

Requirement for Removal of the Pipeline by May, 2022

The complete removal of the Pipeline from all Bridge infrastructure is required as soon as possible, and, in any event, not later than May 02, 2022. For your information, work on the Lakeshore Bridge will commence as of July, 2021, with the anticipated progression of work in this area necessitating the complete removal of Enbridge's infrastructure by the May 02, 2022 deadline indicated.

Since removal of the Pipeline by this deadline requires prompt steps be taken, the City and Waterfront Toronto anticipate that Enbridge will work with the Ontario Energy Board to expedite the proceedings for permission to relocate the Pipeline. This will assist the City and Waterfront Toronto in coordinating with Enbridge to facilitate the cost effective removal of the Pipeline and mitigate the risk of impacts on work planned for the Port Lands.

Next Steps

We would like to confirm with Enbridge that there is no dispute with respect to the legal effect of the City's termination of the 1955 licence permitting Enbridge to utilize the Bridge, and discuss how this issue can best be addressed so that the Ontario Energy Board proceeding is appropriately focused. In this regard, we request a response by November 6, 2020.

Thank you in advance for your anticipated cooperation.

Yours Truly,



Tracey Cook
Deputy City Manager
Infrastructure and Development Services
City of Toronto

Attached:

Letters dated January 28, 1955 and February 22, 1955 between the Toronto Harbour Commissioners and Consumers' Gas Company of Toronto

Copies:

M. Kitchen, Director, Regulatory Affairs, Enbridge, by email
G. Pannu, Senior Legal Counsel, Enbridge, by email
M. Aldred, General Counsel and Chief Operating Officer, Ontario Energy Board, by email to MaryAnne.Aldred@oeb.ca
R. Murray, Case Manager, Ontario Energy Board, by email to Ritchie.Murray@oeb.ca
City of Toronto, City Solicitor's Office and Waterfront Secretariat
Chief Executive Officer, Waterfront Toronto

CITATION:		
ONTARIO SUPERIOR COURT OF JUSTICE (TORONTO REGION)		
CIVIL ENDORSEMENT FORM		
<i>(Rule 59.02(2)(c)(i))</i>		
BEFORE	Judge/Case Management Master Myers J	Court File Number: CV-21-00654243-0000
Title of Proceeding:		
CITY OF TORONTO		Plaintiff(s)
-v-		
ENBRIDGE GAS INC.		Defendants(s)

Case Management:	<input type="checkbox"/> Yes	If so, by whom:	X No
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Participants and Non-Participants: *(Rule 59.02(2)(vii))*

Party	Counsel	E-mail Address	Phone #	Participant (Y/N)
1) Plaintiff	Michele A. Wright, Michele Brady, and Jennifer Boyczuk	michele.a.wright@toronto.ca ; michele.brady@toronto.ca jennifer.boyczuk@toronto.ca;		Y
2) Defendant	Scott Stoll and David S. Reiter	sstoll@airdberlis.com ; dreiter@airdberlis.com		Y
3)				

Date Heard: <i>(Rule 59.02(2)(c)(iii))</i>	May 17, 2021
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Nature of Hearing (mark with an "X"): <i>(Rule 59.02(2)(c)(iv))</i>									
<input type="checkbox"/>	Motion	<input type="checkbox"/>	Appeal	<input type="checkbox"/>	Case Conference	<input type="checkbox"/>	Pre-Trial Conference	X	Application

Format of Hearing (mark with an "X"): <i>(Rule 59.02(2)(c)(iv))</i>							
<input type="checkbox"/>	In Writing	<input type="checkbox"/>	Telephone	X	Videoconference	<input type="checkbox"/>	In Person
If in person, indicate courthouse address:							

Relief Requested: *(Rule. 59.02(2)(c)(v))*

a. an Order declaring that Enbridge's right to support its 20 inch high pressure pipeline on the centre pier of the Keating Railway Bridge pursuant to a letter agreement between Toronto Harbour Commissioners and Consumers Gas Inc. dated February 22, 1955 is terminated as of August 31 2022;

b. an Order declaring that under the letter agreement, all costs of the removal of the pipeline from the bridge and elsewhere as a result, shall be paid by Enbridge; and

c. an Order requiring Enbridge take all reasonable measures to ensure the removal of the Pipeline from the bridge by August 31, 2022; and

d. costs.

Disposition made at hearing or conference (operative terms ordered): *(Rule 59.02(2)(c)(vi))*

The court declares that the letter agreement dated February 22, 1955 does not govern the current rights of the City and Enbridge.

The court declares that commencing on September 1, 2022 Enbridge will have no right to use the bridge for its pipeline and it will accordingly be liable to the City for trespass if its pipeline remains on the bridge thereafter.

Enbridge may deliver cost submissions no later than May 25, 2021. Toronto may deliver cost submissions no later than June 1, 2021. In addition, the parties may deliver copies of any offers to settle on which they rely. Submissions shall be no longer than three pages. Both parties shall deliver Costs Outlines if they deliver submissions.

All costs material is to be filed through the Civil Submissions Online portal and uploaded to Caselines although counsel will not have received confirmation of the acceptance of their filings from the registrar.

No case law or statutory material is to be submitted. References to case law and statutory material, if any, shall be embedded in the parties' submissions as hyperlinks to CanLII.

Costs: On a As above		indemnity basis, fixed at \$	are payable
by	to	[when]	

Brief Reasons, if any: (Rule 59.02(2)(b))

1. Enbridge is the corporate successor to Consumers Gas. By letter agreement dated February 22, 1955, Toronto Harbour Commissioners granted permission to Consumers to run a pipeline across the Don River along the north side of a railway bridge that crossed the river just north of Lakeshore Blvd.
2. Specifically, the license granted Consumers the right to support its pipeline on the centre pier of the bridge.
3. Toronto now owns the bridge.
4. The letter agreement does not refer to successors and assigns. Enbridge is not able to point to any specific right that it has to utilize the bridge to support its pipeline. It has been granted authority by the City to maintain and move the existing pipeline to its current position on the bridge. If the letter agreement does not govern the ultimate right for Enbridge to use the bridge, there is at minimum a tacit license for Enbridge to use the bridge at least up to August 31, 2022. Neither side claims, and there is no evidence to suggest, that Enbridge's use of the bridge has been adverse to the City.
5. Both parties rely on *Fraser River Pile & Dredge v. Can-Dive Services Ltd.*, [1999] 3 SCR 108. I am not sure that the issue of successorship is necessarily the same as whether the agreement binds or can be relied upon by third parties. However, both parties rely on this case as the governing authority. It requires an assessment of the likely intention of the parties to the agreement and then the court is to consider whether the agreement is being invoked in a way contemplated by its terms. The overall assessment is whether the extension of the contract to third parties will frustrate the parties' expectations.

The Implied Intention of the Parties

6. The agreement is a short letter without any number of standard clauses that one would expect to see in any commercial agreement even from 1955. It just provides that

Consumers can use the bridge if it obeys all applicable laws and bears all financial consequences of doing so to itself and to the Harbour Commissioners. I suspect that as two bodies fulfilling public roles in downtown Toronto, the Harbour Commissioners and Consumers knew each other well. Neither sought to profit from the other.

7. Had Consumers been asked in 1955 whether the agreement would bind the next owner of the bridge, I have no doubt it would have agreed. The piece of pipeline in issue is a 42 meter section of its main pipeline running from Bathurst Street to Cherry Street servicing large parts of downtown Toronto. Consumers needs the bridge and the agreement imposes minimal obligations on it.
8. Not only has Enbridge continued to use the bridge since the City took ownership, it has also moved the pipeline at its own cost both for its own maintenance purposes and also to accommodate Toronto's desire to widen the bridge. By asking Enbridge to move the pipe to its current location on the bridge, Toronto must similarly be taken to have approved the current location.

The Use of the Agreement in a Manner Contemplated by the Parties

9. Toronto wants to terminate Enbridge's right to use the bridge. Enbridge accepts that Toronto has the right to terminate its license at common law on reasonable notice. Toronto purported to give notice of termination by letter dated October 30, 2020. The notice period provided was 18 months expiring May 2, 2022. Toronto has now agreed to extend the notice period to 22 months expiring August 31, 2022.
10. If these were the only facts, the matter would be simple. But real life rarely is. The issues here actually relate to the question of whether the 1955 letter agreement requires Enbridge to bear the full costs of relocating its pipeline to accommodate the City's plan to redevelop 700 acres of flood plain land nearby.
11. Toronto, through Waterfront Toronto, has embarked on a massive capital improvement project to redevelop the local area. It will be taking down the ramps to and from the Gardiner Expressway that parallel Lakeshore Blvd. over the Don River. It will be expanding the Don River itself to provide flood control to protect the newly redeveloped neighbourhoods. This will necessitate lengthening the bridge.
12. The reason Toronto is telling Enbridge to move its pipeline is because the pipeline is in the way of Waterfront Toronto's proposed work. Moreover, aspects of the proposed project pose safety hazards to the pipeline. The demolition of the Gardiner ramps overhead and proposed work on Lakeshore Blvd. require the pipeline to be moved.

13. Enbridge says that it is entitled to be paid in full if it moves its infrastructure to accommodate the Waterfront Toronto. It points to *Consumers' Gas Company of Toronto v. The Corporation of the City of Toronto*, 1940 CanLII 108 (CA) as an example. But that case turned on an injurious affection claim under a specific section of the *Municipal Act* then in force and a specific inclusion of pipelines within the definition of “land” in the statute at that time. See: *City of Toronto v Consumers Gas*, [1916] AC 611 (PC).
14. Subsection 2 of the *Public Service Works on Highways Act*, R.S.O. 1990, c. P-49 does not apply. It applies to changes to a highway that necessitate moving utility infrastructure placed over or under the highway. The railway bridge is not a highway because the public has no access to use it. See the same 1940 *Consumers' Gas Company* case. I do not see anything changing that outcome in s. 13 of the *Act as to Gas Companies Breaking up Streets of the City of Toronto, and as to the Purchase of Gas Companies' Works by the City of Toronto*, 40 Vict, Cap 39, amended by 40 Vict, Cap 88. These statutes deal with digging up a street to lay pipe under it or beside it. No law extends them to moving remote pipe laid beside a railway bridge that might be affected by construction overhead nearby on a different highway on which no pipes have been laid.
15. Neither party pointed to any other current basis to understand the rights between them. I do not know who would be required to pay if Enbridge was required to move its pipes due to the City's construction project without any reference to the 1955 agreement.
16. Enbridge cannot just take its 42 meter section of pipeline off the bridge and deal with its need to cross the river on its own account. Due to the widening of the river, Enbridge will be required to move underground pipe that is currently the western terminus of the section of pipe that runs over the bridge. Moreover, Enbridge is not free to just find a different way to traverse the river to connect to its existing pipeline. The options provided by the City to Enbridge require considerable changes to the land-based portions of the pipeline to accommodate the proposed redevelopment project.
17. In addition, as one would expect with a project of the magnitude proposed by the City, the coordination issues are considerable. Dredging is required. Hydro and water mains need to be moved. The bridge will need two new piers to be sunk on its western extension. This just scratches the surface of the complexity of the interrelated issues that make up the City's project and the work that Enbridge must do to meet its needs among the needs of the City.

18. The Harbour Commission's permission to use the railway bridge and the protections of the costs of doing so granted by Consumers Gas had nothing to do with a massive project undertaken 65 years later by the City necessitating the movement of the pipe on the bridge and portions of it on land to accommodate changes to the Gardiner Expressway, the expansion of the Don River, redevelopment of the flood plain, changes to Lakeshore Blvd. etc.

19. It is fortuitous that the City now owns the railway bridge and can claim to be entitled to rely on the costs indemnity provided by Consumers Gas to the Harbour Commissioners. In my view, it is a gross overreach for the City to argue that the terms of the Harbour Commissioner's simple grant of permission to Enbridge to use its bridge pier requires that Enbridge be stuck with the full costs of participating in a huge project driven by the needs of Waterfront Toronto and its redevelopment project. The facts at play have nothing to do with the needs or wants of the City *qua* railway bridge owner independent of Waterfront Toronto's redevelopment project.

20. I find that the use being made of the agreement exceeds any reasonable contemplation of the parties and would be well beyond the reasonable expectations of the parties to the 1955 letter agreement.

21. Without the agreement, the City and Enbridge are left to their regular rights at law. The City can tell Enbridge to move its pipes on reasonable notice. As noted above, I do not know how payment obligations are determined between them. Enbridge says it is entitled to indemnity for all costs incurred by it when moving at the City's request. But it did not choose to bring a cross-application to advance any such right in this proceeding.

Reasonable Notice

22. The parties would appreciate some certainty as to the requirements of reasonable notice under the law of trespass or in case the 1955 letter agreement is later found to apply.

23. Enbridge is claiming that it can only be required to leave the bridge once it knows specifically where and when it will have to move the pipeline; obtained or have ample time to obtain the approval of the Ontario Energy Board to the new site; and built out that new site. It says it has no idea today when all of that is likely to happen as there is too much uncertainty on the City's side to allow Enbridge to formulate a definitive plan as yet.

24. On consent of the parties, the OEB intervened as *amicus* and provided a very helpful factum. It made no submissions concerning the timing of its approval as raised by Enbridge. The OEB has made it clear already that it expects the parties to deal with their private law issues before Enbridge comes to it to seek approval for the project to move the pipeline. Moreover, the OEB has held that it does not have jurisdiction to order Waterfront Toronto to pay the costs associated with the movement of the pipeline. The OEB deals only with costs as between Enbridge and its ratepayers.
25. The court very much appreciates the OEB's involvement. Someone has to go first and the Board has asked the court to do so in effect. The OEB has not taken up the arguments advanced by Enbridge asserting minimum time requirements for Board proceedings. It is entitled to expect that the court will take into account its statutory process just as the court understands that the Board will do what it can to accommodate the court's process. But I should note that the parties argued that the OEB will take the court's rulings into account as factors in its decisions. I assume that the parties realize that all are bound by rulings of the court and the Board within their respective spheres.
26. The City is frustrated by the tactics adopted by Enbridge to decline to specify a date to be off the bridge that meets the needs of the greater project. I accept that the withdrawal of Enbridge's prior request for approval at the OEB (just days after the Board held that it could not order Waterfront Toronto to pay Enbridge's costs) and its current refusal to take a position on timing can be seen as playing games so as to increase pressure on the City to agree to pay its costs as the time for the commencement of construction of the redevelopment project nears. I accept as well that there is no way to give the type of certainty that Enbridge currently demands. In real life, even if fixed plans were set in stone, in a project of this magnitude, any number of reasons could arise later to change them.
27. On the other hand, the Harbour Commissioners must be taken to have known that the pipeline running through its land on either side of the bridge would be affected if it withdrew its permission for Consumers to use its bridge pier. The City too (whether under the letter agreement or a common law license) knows that a gas utility cannot just cut out a section of an active pipeline. An alternative needs to be built before the old pipeline can be decommissioned. These are bodies with public functions. They understand the public service needs of each other.

28. The City argues that what Enbridge does with its pipeline is Enbridge's business. But that is not really the case. The City has approved the current location of the pipeline when Enbridge moved it at the City's request at least. Now, Waterfront Toronto is threatening to rain down construction debris on the pipeline (among other things) and its construction schedule is affecting the locations and timing of alternatives to which Enbridge can move its pipeline. The City is not just saying "get off my bridge and be quick about it". Rather, the City is properly invoking its rights in aid of its affiliate's implementation of an important, massive, complex project for the City itself. Through Waterfront Toronto, the City has controlled to a significant degree the timing and location of alternatives.

29. Enbridge has been studying movement of the pipeline since 2018. Its withdrawal of its OEB application does not provide it much room to complain about timing however. In providing alternatives to Enbridge the City may be seen as trying to be cooperative. But it knows that Enbridge needs OEB approval as well. Enbridge has to study and satisfy itself of which alternative is best substantively and economically. Economics will matter at the OEB.

30. In its factum, the City provides the following factors to guide the issue of reasonable time which I accept:

53. Although there is no rule as to what constitutes reasonable notice and circumstances will be different in all cases, Courts have considered the following factors to determine whether the notice given to terminate a licence was reasonable:

a. the nature of the right at issue;

b. the time needed for the licensee to physically remove its chattels from the land,

c. the availability of opportunities and time needed for the licensee to, without extraordinary effort, replace or find a substitute for the right that the license previously gave the license,

d. the length and nature of the relationship between the licensor and licensee, and

e. the importance of the licence to the licensee's business.

54. In addition to considering the interests of the licensee, the Court will also consider the circumstances of the licensor in determining what constitutes a reasonable notice period.

[Notes omitted]

31. In light of the discussion above, recognizing that this is a public project on all sides, discussions could go on forever. However, I also recognize that although this is a public sector issue, both sides are motivated to avoid incurring costs to protect their ratepayer bases. Costs are the driver of this application. I am reluctant therefore to leave the parties uncertain or to link dates to future events – such as a definitive agreement on the alternative route for the pipeline. Doing that risks creating incentives to delay that would destabilize the negotiation that will have to take place now that the parties cannot rely on the 1955 letter agreement or the *Public Service Works on Highways Act*.

32. The City and Enbridge have been discussing options since 2018 at least. Enbridge had taken one option to the OEB until it withdrew that application effective February 19, 2021. The City has since then provided further alternatives to Enbridge. Counsel for Enbridge advised that Enbridge was about to respond with another option of its own.

33. In my view, the parties need to get to it. The City set a deadline of August 31, 2022 so it can start its own work shortly thereafter. The OEB service standard is apparently seven months. Construction has been estimated as being likely to take between four months and 13 months depending on the option chosen. There are still more than 15 months available time to meet the August 31, 2022 deadline. I find that 22 months is reasonable notice in the circumstances under either the letter agreement or at common law.

34. Enbridge will be a trespasser if it has not removed its pipeline from the bridge by August 31, 2022. As such, it will be liable in tort for any damages that it causes to anyone with sufficient proximity and foreseeability to amount to a cause of action. (No, I am not going to decide if that includes Waterfront Toronto in this application.)

35. I am specifically not granting an injunction requiring Enbridge to be off the bridge by a fixed date. This case is about money. If Enbridge has no right to remain on the bridge and the City is delayed and incurs costs as a result, Enbridge should be liable as a trespasser. I am not usurping the role of the OEB nor telling anyone which plan to adopt. I am not ordering anyone to physically do anything at the pipeline site.

36. I am also not assessing liability for the costs to be incurred by Enbridge moving its pipeline as required by the City and Waterfront Toronto. That was not a question submitted to me.

37. Enbridge has chosen its approach up to now for its own purposes. It has time to settle on a plan, bring its application and build. It may have to do some work in parallel – like preparing for a hearing while it is finalizing its options or preparing for construction while the OEB proceeding is ongoing. There are many other waiting. There is no reason to take the slowest route doing one thing at a time waiting for absolute certainty that will never arrive.

38. Success is divided, but Enbridge avoided being held liable under the letter agreement and now can advance another outcome (except for the *Public Service Works on Highways Act*). Accordingly, I call on Enbridge to deliver its costs submissions first.

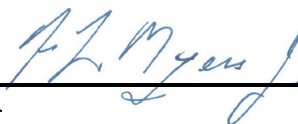
Yes No

2021.05.18

May 18, 20 21

Date of Endorsement (Rule 59.02(2)(c)(ii))

Signature



16:16:41

Endorsement Master (Rule 59.02(2)(c)(i))

-04'00'



Waterfront Secretariat
David Stonehouse, Director

100 Queen Street West
19E City Hall
Toronto, ON M5H 2N2

Tel: (416) 392-8113

July 29, 2021

Mr. Byron Madrid, P. Eng
Manager Capital Development & Delivery System Improvement
Enbridge Gas Inc.
500 Consumers Road
Toronto, ON M2J 1P8

Re: Waterfront Toronto - Enbridge 20-inch NPS Gas Main Relocation Cost Sharing Proposal

Dear Mr. Madrid,

Further to Waterfront Toronto's proposal of July 13th to you, this is to confirm that, subject to execution of the necessary agreements between or among the City, Waterfront Toronto and Enbridge for relocation of the Pipeline in the manner specified in the proposal, including the specified cost allocation and timeframe, the City of Toronto is prepared to allow Enbridge to remain on the existing rail bridge utility crossing structure until April 30, 2023, 8 months past the August 31, 2022 deadline established by the Ontario Superior Court.

This will also confirm that the City is prepared to permit Enbridge to relocate its pipeline to a permanent location on the Keating rail bridge "utility corridor" on terms and conditions that would be contained in a mutually acceptable long-term license. Among other matters, the license should address a proportionate contribution by Enbridge to the capital maintenance and repair of the utility corridor.

I can also confirm that the City would be pleased to provide whatever pre-filed evidence, oral testimony or other assistance in association with any Leave to Construct application and hearing that Enbridge or the Ontario Energy Board considers necessary.

Yours truly,

A handwritten signature in black ink that reads "David Stonehouse".

David Stonehouse
Director, Waterfront Secretariat
Part of the City Planning Division
City of Toronto
M: 416-906-8247



Enbridge Gas Inc.
PO Box 650
Scarborough, ON M1K 5E3

November 10, 2020

City of Toronto
100 Queen Street West, 4th Floor, East Tower
Toronto, ON M5H 2N2

Attention: Tracey Cook

Dear Ms. Cook:

Re: Enbridge Gas NPS 20 Relocation Project
OEB File No: EB-2020-0198

Enbridge Gas Inc. (“Enbridge Gas”) acknowledges receipt of your letter dated October 30, 2020 regarding termination of Enbridge Gas’ license to occupy the Keating Railway Bridge.

As you are aware, Enbridge Gas is seeking leave to construct (“LTC”) from the Ontario Energy Board (“OEB”) regarding the relocation of the NPS 20 pipeline from the Keating Railway Bridge. The NPS 20 pipeline provides a critical supply of natural gas to the City of Toronto (the “City”) and Enbridge Gas must have OEB approval prior to undertaking this work. As part of our LTC application, Enbridge Gas has requested approval from the OEB by April 1, 2021. Assuming approval is granted by the OEB within the foregoing timeline, then relocation should occur by May 2022. This letter, along with your letter, will be filed with the OEB as part of the record in the LTC proceeding.

Your letter terminating the license will be used as evidence in the LTC proceeding in support of Enbridge Gas’ need to replace the NPS 20 pipeline. However, the primary purpose for the relocation of Enbridge Gas’s pipeline continues to be the flood protection work being undertaken by Waterfront Toronto. In the absence of flood protection work, the pipeline would not be required to be relocated. Further, the City’s purported termination of Enbridge Gas’ license to occupy the Keating Railway Bridge is inconsistent with our prior discussions and the positions taken by the City throughout the course of discussions among Enbridge Gas, Waterfront Toronto and the City, in which the City and Waterfront Toronto advocated for cost sharing the project and the application of the *Public Service Works and Highways Act*. As such, Enbridge Gas does not agree with your conclusions regarding cost responsibility. Enbridge Gas stands by its position, which is detailed in its LTC application and evidence, that Enbridge Gas should be reimbursed for 100% of the project costs.

The issue of cost responsibility for the completion of Enbridge Gas' relocation project is an issue for review and determination by the OEB as part of the LTC approval process. We expect the OEB to begin the process for seeking participation in and the conduct of the application shortly. We understand that the City and Waterfront Toronto may seek to participate in the LTC proceeding, which we believe is the appropriate forum for any further discussion or review of these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Byron Madrid", enclosed within a hand-drawn oval.

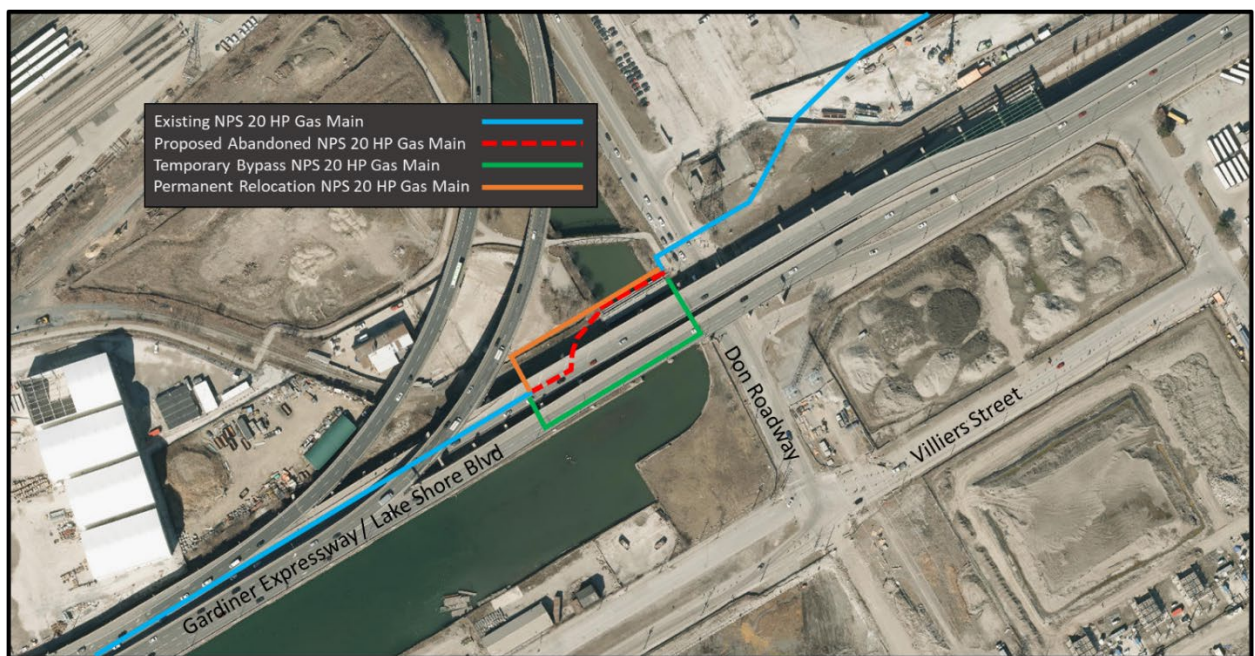
Byron Madrid, P. Eng.
Manager, Capital Development & Delivery
System Improvement
Enbridge Gas Inc.
500 Consumers Road
Toronto, ON M2J 1P8

PROJECT DESCRIPTION & ALTERNATIVES

Project Description

1. The only outlet for the Don River to Lake Ontario is through the Keating Channel, which is crossed by both the Keating Railway Bridge and the adjacent Lake Shore Bridge. As a result of the PLFPEI objective to widen the mouth of the Don River, both the Keating Railway Bridge and the Lake Shore Bridge require modifications. The Lake Shore Bridge and Keating Railway Bridge will be extended at their west ends by two spans. As a result, the existing NPS 20-inch natural gas main needs to be moved and is proposed to be relocated in two stages, described below. Figure 1 shows the location of the segment of pipeline to be abandoned and each of the stages of the Project.

Figure 1: Location of the Project and Preferred Route



2. First, once the south half of the Lake Shore Bridge is constructed and widened, the existing NPS 20-inch natural gas main will be relocated temporarily from the Keating Railway Bridge to the south side of Lake Shore Blvd and will run above grade along the newly constructed decking on the south side of the Lake Shore Bridge. This first stage of relocation is referred to as the (“Temporary Bypass”). The Temporary Bypass will allow Waterfront Toronto to continue their construction on the north side of the Lake Shore Bridge and rebuild the Keating Railway Bridge. See Figure 2 for the Temporary Bypass conceptual plan view and Figure 3 for the Temporary Bypass conceptual cross section.

Figure 2: Temporary Bypass Conceptual Plan View

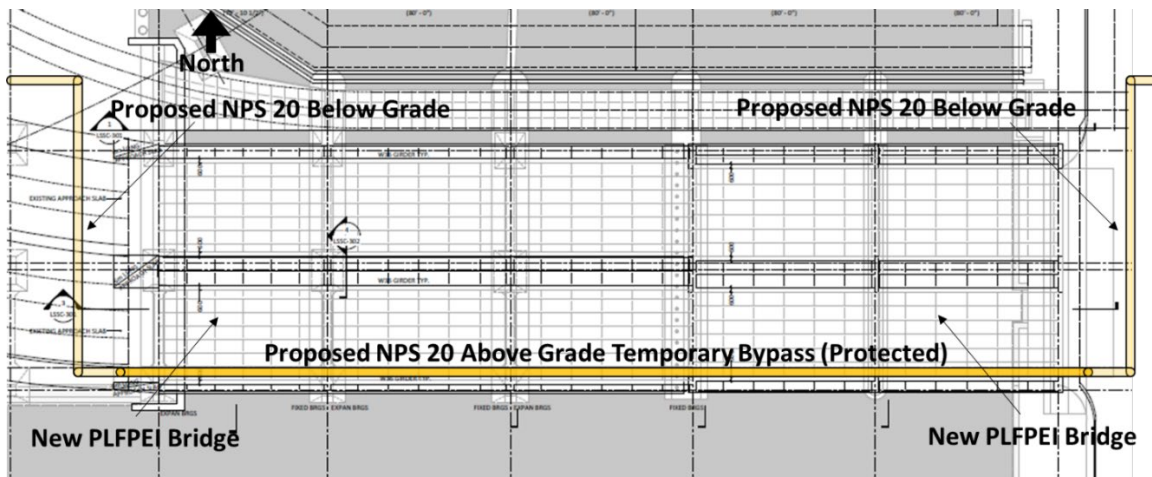
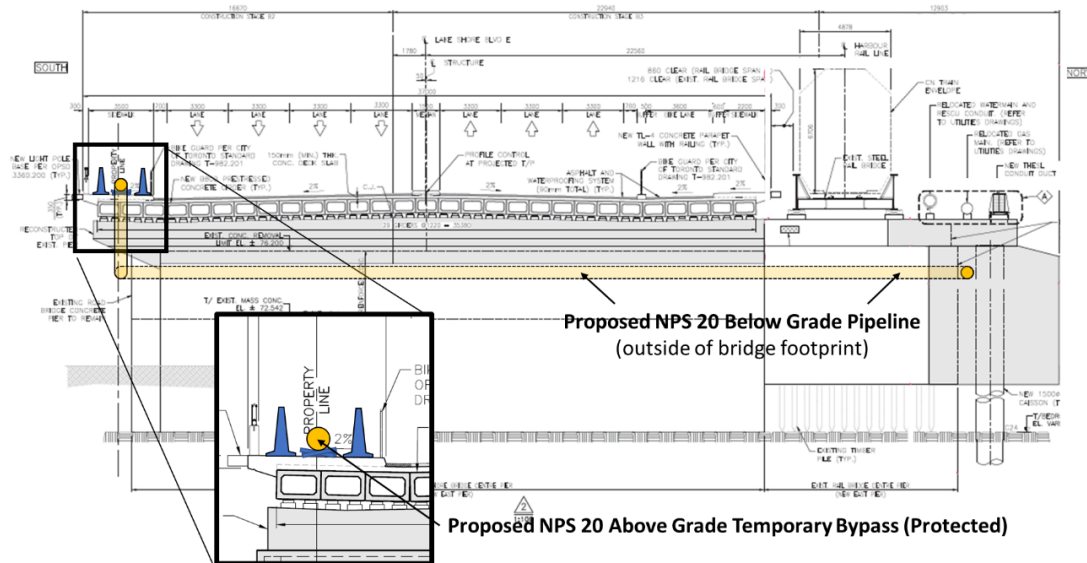


Figure 3: Temporary Bypass Conceptual Cross Section



3. Once all PLFPEI construction in the immediate vicinity is completed and the Keating Railway Bridge is reconstructed, the NPS 20-inch HP ST natural gas main will be permanently relocated to a specifically designed utility corridor on the north side of the newly constructed Keating Railway Bridge. This stage of the relocation is referred to as the (“Permanent Relocation”). Enbridge Gas will be entering into an updated license agreement with the City of Toronto and its operator, CreateTO (as required), to utilize the newly constructed Keating Railway Bridge utility corridor for the Permanent Relocation. See Figure 4 for the Permanent Relocation conceptual plan view and Figure 5 for the Permanent Relocation conceptual cross section.

Figure 4: Permanent Relocation Conceptual Plan View

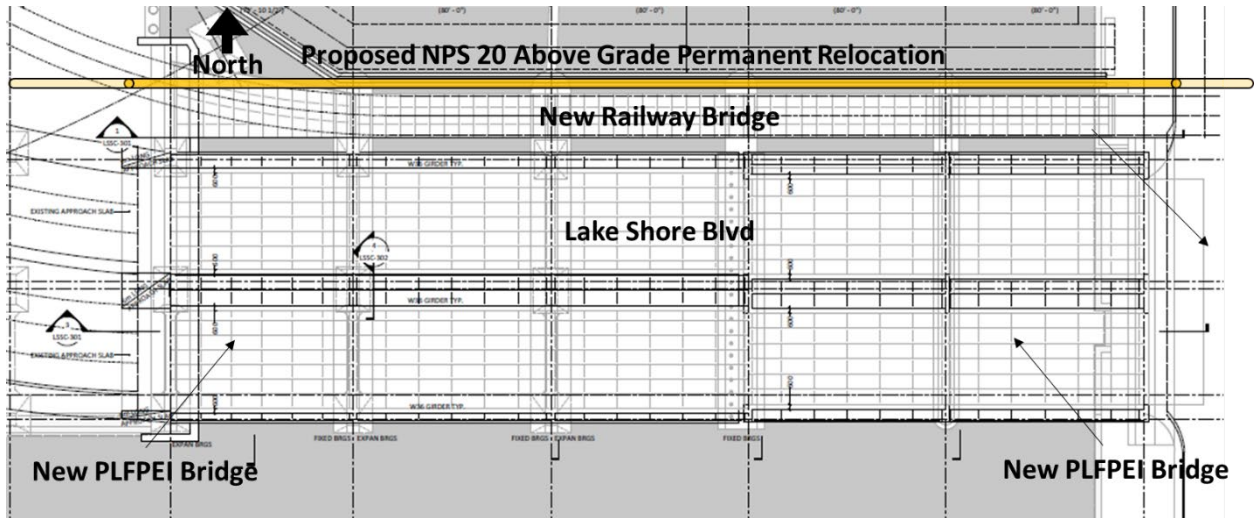
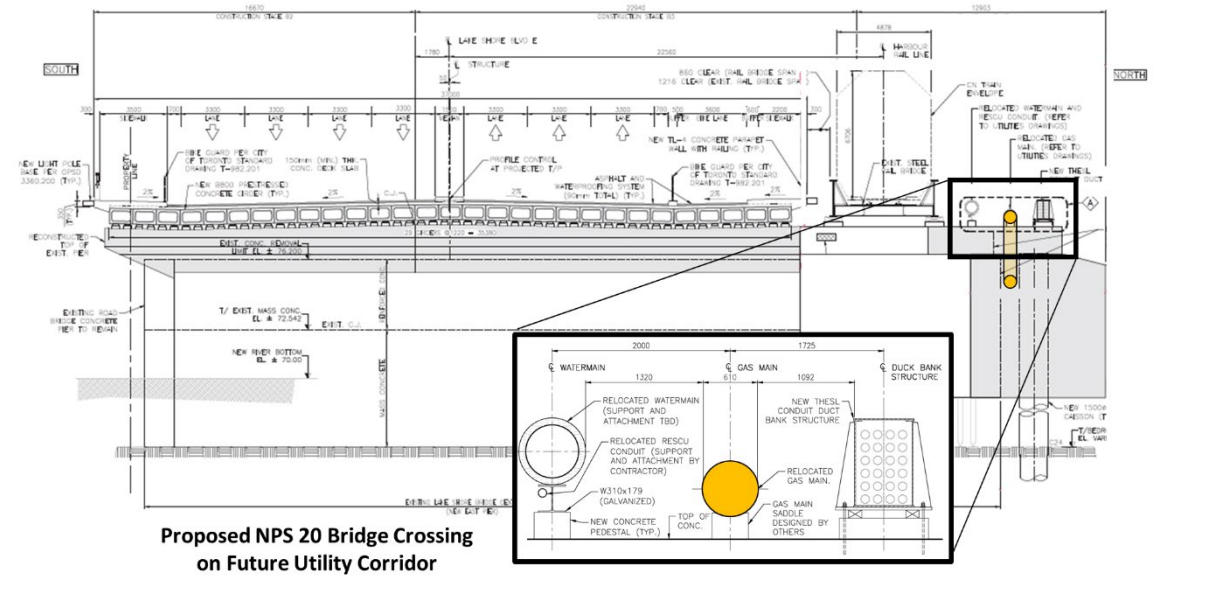


Figure 5: Permanent Relocation Conceptual Cross Section



4. The Temporary Bypass will require approximately 190 m of NPS 20-inch HP ST natural gas main, and the Permanent Relocation will require approximately 160 m of NPS 20-inch HP ST natural gas main. Both stages of the Project will be constructed

within road allowances in the City of Toronto apart from the Keating Railway Bridge, which is owned by the City of Toronto and operated by CreateTO.

5. In total, 154 m of the existing NPS 20-inch HP ST natural gas main will no longer be required and will be abandoned, consisting of the 42 m segment spanning the existing Keating Railway Bridge, a 103 m segment to the west of the Bridge and a 9 m segment to the east of the Bridge.

Project Timing

6. Pending OEB approval, Enbridge Gas expects to commence construction of the Project in January 2023 to meet the PLFPEI construction schedule. The Company expects to have the Temporary Bypass in service by April 30, 2023, and the Permanent Relocation in service by August 31, 2024, pending completion of related PLFPEI construction activities. A proposed construction schedule can be found in Exhibit E, Tab 1, Schedule 1, Table 2.

Project Alternatives

Integrated Resource Planning

7. The Decision and Order for Enbridge Gas's Integrated Resource Planning Framework Proposal (EB-2020-0091) was issued on July 22, 2021. This decision was accompanied by an Integrated Resource Planning Framework for Enbridge Gas ("IRP Framework")¹. The IRP Framework provides guidance from the OEB about the nature, timing, and content of IRP considerations for future identified needs. The IRP Framework provides Binary Screening Criteria in order to focus on situations where there is reasonable expectation that an IRPA could efficiently and economically meet a system need. Enbridge Gas has applied the Binary Screening

¹ EB-2020-0091, Decision and Order, July 22, 2021, Appendix A.

Criteria and determined that the need underpinning the Project does not warrant further IRP consideration, as the Project is driven by a need that must be met within 3 years:

Timing - If an identified system constraint/need must be met in under three years, an IRP Plan could not likely be implemented and its ability to resolve the identified system constraint could not be verified in time. Therefore, an IRP evaluation is not required. Exceptions to this criterion could include consideration of supply-side IRPAs and bridging or market-based alternatives where such IRPAs can address a more imminent need.²

8. As discussed in Exhibit B, Tab 1, Schedule 1, Waterfront Toronto requires Enbridge Gas relocate the existing gas main from the Keating Railway Bridge to the south side of the Lake Shore Bridge by April 30, 2023 in order to mitigate the conflict with the PLFPEI construction schedule. This timeframe does not provide adequate time for Enbridge Gas to implement a demand side IRP Plan to remove the existing gas main and continue to reliably serve the natural gas demands of customers in the surrounding area. Furthermore, since the existing gas main is embedded deep within Enbridge Gas's distribution pipeline network, there is no ability for a third-party natural gas market participant to deliver gas directly to the region served by the existing natural gas main. Therefore, market-based supply side alternatives do not exist to meet the Project need.
9. Consequently, project alternatives considered consist of several pipeline routing options which are summarized below.

² EB-2020-0091, OEB Decision and Order, July 22, 2021, Appendix A, P. 10.

Project Routing Alternatives

10. On April 23, 2019, during the early development phase of the Project, Enbridge Gas hosted a workshop with Waterfront Toronto, EllisDon, Planmac, Entuitive and the City of Toronto to discuss potential alternatives to meet the project need. In addition to options discussed at the workshop, several other options were also considered by Enbridge Gas. In total, six alternatives were identified and evaluated, resulting in the project proposed in Enbridge Gas’s EB-2020-0198 Application.³ Table 1 below summarizes the alternatives contemplated and estimated cost of each alternative at the time of EB-2020-0198 filing.

Table 1: Project Alternatives from EB-2020-0198

<u>Option</u>	<u>Cost (\$millions)</u>
Micro-Tunnel Option	\$47.5
Station A Relocation Option (previously proposed project)	\$70.5
Bayview Feeder Enhancement Option	\$80.6
Villiers Island Option	\$43.7
Temporary Relocation – Pedestrian Bridge	\$45.4 + Cost of Temporary Bridge
Cantilever Beam Option	No Cost Estimate – Option was not deemed Viable

11. As discussed in Exhibit B, Tab 1, Schedule 1, Enbridge Gas withdrew its EB-2020-0198 application as a result of a change to the PLFPEI project schedule, which

³ A complete analysis of the original project alternatives assessed can be found in EB-2020-0198, Exhibit B, Tab 1, Schedule 1, pp. 12 – 41.

presented the opportunity to reassess several project alternatives that were originally deemed infeasible due to PLFPEI timing requirements. The alternatives included:

- a. Micro-Tunnel Option
- b. Temporary Relocation
- c. Keating Bridge Utility Corridor (referred to as Cantilever Beam Option in EB-2020-0198)

12. An updated assessment of the Station A Relocation Option, Bayview Feeder Enhancement Option and Villiers Island Option was not required, as these options occurred outside the immediate vicinity of the PLFPEI project area, and therefore, updated design and staging information from the PLFPEI project did not impact the earlier assessments completed on those alternatives. Due to the significantly higher cost of those options relative to the alternatives discussed below, Enbridge Gas has not re-assessed them in the evidence to this application.

13. In addition to alternatives reassessed, Enbridge Gas also proposed an alternative temporary relocation option (the “Temporary Bypass” as described above). Table 2 below summarizes the current Project alternatives considered.

Table 2: Project Alternatives

<u>Option</u>	<u>Cost (\$millions)</u>
Keating Bridge Utility Corridor (no temporary relocation)	No Cost Estimate – Option was not deemed Viable
Temporary Relocation to Temporary Bridge + Permanent Relocation to Keating Bridge Utility Corridor	\$45.4 – Similar to Temporary Pedestrian Bridge described in EB-2020-0198 filing

Temporary Bypass + Permanent Relocation to Keating Bridge Utility Corridor (the Project)	\$23.5 – see Exhibit D, Tab 1, Schedule 1, Table 1
Don River Micro-Tunnel	\$47.5 – see Micro-Tunnel Option described in EB-2020-0198 filing

14. Enbridge Gas assessed the Temporary Bypass and Permanent Relocation as the optimal alternative to meet the project need. This alternative provided the lowest cost option that would physically removes Enbridge Gas’s active infrastructure from the immediate vicinity of the PLFPEI project during all high-risk construction activities. The Project is described in detail above, and each alternative is described in detail in the sections below.

Keating Bridge Utility Corridor (no temporary relocation)

15. This alternative involves the construction of new caissons, piers and cantilever beams that would be installed on the existing Keating Railway Bridge and extended to the west of the Bridge for a new NPS 20-inch HP ST natural gas main to be installed on. Once the utility corridor is constructed and the new NPS 20-inch HP ST natural gas main is installed, the existing gas main will then be abandoned. Because this pipeline is critical to the City of Toronto’s natural gas network, it would not be able to be taken out of service for the length of time required to construct the utility corridor. While this alternative was deemed feasible from an engineering standpoint, Enbridge Gas Engineering and Operations determined the risk of severe pipeline damage and resulting safety risk and operational risk (interruption of service to Downtown Toronto) is too great to proceed. The primary risks identified were the installation of the new caissons required for the utility corridor, as well as the other PLFPEI construction activities ongoing in the immediate vicinity of the natural gas main such as dredging and associated infrastructure installation. Unacceptable

safety concerns include the PLFPEI project work occurring for 1.5-2 years within the area of the exposed NPS 20-inch natural gas main, and the likely requirement of Enbridge Gas work being conducted from a barge. In the event of an incident, there would be no easy access to the pipeline to make necessary repairs without the use of a barge, especially during the times when the decking is removed from the Lake Shore Bridge. See Exhibit B, Tab 1, Schedule 1 for information related to customer reliance on the NPS 20-inch natural gas main.

16. This alternative was identified as a plausible permanent solution and was selected as the Permanent Relocation phase of the Project. However, it was determined by Enbridge Gas's Engineering, Operations, and the Project Team that a temporary relocation of the natural gas main would be needed to mitigate the risk of damaging the NPS 20-inch HP ST natural gas main while concurrent projects and construction activities are being executed directly above and in close proximity to the active pipeline. As a result, Enbridge Gas assessed multiple options for temporary relocation as described below.

Temporary Relocation to Temporary Bridge

17. This alternative includes a temporary relocation of the NPS 20-inch HP ST natural gas main to a newly constructed temporary bridge that crosses the Don River either north or south of the existing Keating Railway Bridge. A preliminary risk profile indicated the preferred location of the temporary bridge was approximately 15 m north of the current crossing. This alternative would then facilitate the abandonment of approximately 154 m of NPS 20-inch natural gas main across the existing Don River bridge crossing. Once all PLFPEI construction activities in the immediate vicinity were complete and the Keating Railway Bridge (permanent location) was rebuilt, Enbridge Gas would then relocate the gas main onto the north side of the new bridge within the utility corridor. This alternative was deemed to be feasible

from an engineering standpoint. However, Enbridge Gas Engineering and Operations teams expressed concerns with this alternative during internal reviews. The primary concern was that the entirety of the PLFPEI scope of work would need to take place around and below the temporary bridge. Extensive excavation is required to widen the mouth of the Don River which would involve removing soil around the pillars that support the temporary bridge. This excavation and dredging work could cause stability concerns to the bridge supports as well as significant risks of the pipeline being damaged by the equipment being used during those activities (barges, cranes, etc.). In addition to the risk of the pipeline being damaged during the PLFPEI project work around the temporary bridge, unacceptable worker safety concerns include the likely requirement of Enbridge Gas work being conducted from a barge. In the event of an incident, there would be no easy access to the pipeline to make necessary repairs without the use of a barge. See Exhibit B, Tab 1, Schedule 1 for information related to customer reliance on the NPS 20-inch natural gas main. As a result of these risks, Enbridge Gas determined that this alternative was not acceptable.

Temporary Relocation to Lake Shore Bridge

18. This alternative is the Temporary Bypass, as described in the Project description above. This alternative physically removes Enbridge Gas's active infrastructure from the immediate vicinity of the PLFPEI project during all high-risk construction activities.

Don River Micro-tunnel

19. This alternative involves micro tunneling under the Don River near the location of the existing Keating Railway Bridge. Microtunneling is a general term used for a trenchless pipe installation method that uses a guided remote controlled boring machine to install pipe through a pipe jacking process with new segments of pipe

added in the launch shaft. Two large shafts will need to be constructed: the launch shaft and the receiving shaft. One will be on the east side of the Don River, and one will be on the west side of the Don River. The launch and receiving shafts will require a diameter of approximately 10 m and a depth of approximately 20 m. Once the two shafts are complete, a tunnel boring machine is then used to create a 48" tunnel between the two shafts. The boring machine is launched through the designated entry shaft and casing pipes are inserted behind the machine while a hydraulic jack is used to push the casing pipes and machine forward. As the machine advances, more casing pipe is inserted and pushed from the starting shaft (a process referred to as pipe jacking). This is then repeated until the micro tunneling machine reaches the receiving shaft. Once the tunnel is completed, the natural gas pipeline is inserted from normal grade, down each of the shafts and through the tunnel. This method of construction was deemed a feasible option from an engineering standpoint, but there were concerns with constructability within a very active work area. Coordination would be extensive amongst all the groups performing construction in this area, and there are several space constraints to contend with relating to staging the two large shafts. As a result of the congestion described above and the high cost of this alternative relative to others, Enbridge Gas determined this alternative was not preferable.

PROJECT COST & ECONOMICS

Project Cost

1. The total cost for the Project is estimated to be \$23.5 million, less a contribution from Waterfront Toronto of \$5.0 million, for a net Project cost of \$18.5 million as set out in Table 1 below.

Table 1: Estimated Project Costs

<u>Item No.</u>	<u>Description</u>	<u>Cost</u>
1.0	Material Costs	\$2,531,319
2.0	Labour Costs	\$10,176,815
3.0	External Permitting, Land	\$20,241
4.0	Outside Services	\$2,230,858
5.0	Direct Overheads	\$272,759
6.0	Contingency Costs	<u>\$4,570,785</u>
7.0	Direct Capital Costs	\$19,802,777
8.0	Indirect Overheads	\$3,251,073
9.0	Interest During Construction	<u>\$407,708</u>
10.0	Total Project Cost	\$23,461,558
11.0	Less: CIAC	<u>\$(5,000,000)</u>
12.0	Net Project Costs	<u>\$18,461,558</u>

2. The cost estimates set out above includes 30.0% contingency applied to all direct capital and abandonment costs to reflect the preliminary design stage of this Project. This contingency amount has been calculated based on the risk profile of the Project

and is consistent with contingency amounts calculated for similar Enbridge Gas projects.¹

3. Enbridge Gas negotiated with and obtained a contribution from Waterfront Toronto. The cost estimate includes a direct capital contribution of \$5,000,000 from Waterfront Toronto.

Cost Responsibility

4. On October 13, 2020, Enbridge Gas filed the NPS 20 Natural Gas Pipeline Waterfront Relocation Project Application (EB-2020-0198), which included a proposal that the \$70.5 million in project costs would be 100% reimbursable to Waterfront Toronto. As discussed in Exhibit B to this application, Enbridge Gas was previously unable to reach an agreement with Waterfront Toronto regarding the cost responsibility for the preferred option and the OEB determined it did not have the jurisdiction to impose the relocation costs on Waterfront Toronto. Enbridge Gas subsequently sought to withdraw the Application in order to allow the Company to assess new alternatives as a result of an adjustment to Waterfront Toronto's PLFPEI construction schedule. The OEB approved Enbridge Gas's request to withdraw the application on February 19, 2021.
5. As discussed in Exhibit A, Tab 2, Schedule 1, in its EB-2020-0198 Decision and Order on Application Withdrawal Request issued on February 19, 2021, the OEB provided several expectations for a new application to relocate the NPS 20-inch natural gas main on the Keating Railway Bridge, which included an expectation that issues between Enbridge Gas and Waterfront Toronto and/or the City of Toronto regarding legal rights and cost responsibility would be resolved before the new

¹ Recent Enbridge Gas projects with similar contingency include the NPS 20 Replacement Cherry to Bathurst (EB-2020-0136) and the St. Laurent Ottawa North Replacement Project (EB-2020-0293).

application is filed and that ratepayers would not be asked to pay any amount that exceeds the benefits being delivered to them.

6. Since the withdrawal of the EB-2020-0198 Application, Enbridge Gas has determined a new mutually agreed upon preferred alternative route and construction schedule (described in Exhibits C and E, respectively). The new alternative results in over \$45 million in project cost savings when compared to the alternative previously proposed. An agreement has been reached and is in the process of being executed between Enbridge Gas and Waterfront Toronto regarding the sharing of Project costs. As a result, Waterfront Toronto will contribute \$5 million to the Project. A letter dated July 13, 2021, which confirms the details of the forthcoming legal agreement and Waterfront Toronto's contribution to the Project, is included as Attachment 1 to this Exhibit.

Protecting Ratepayer Interests – Reliability

7. As outlined in Exhibit B, Tab 1, Schedule 1, Enbridge Gas has a legal requirement to remove its existing pipeline from the Keating Railway Bridge. The NPS 20-inch natural gas main proposed to be relocated as part of the Project forms a critical section of Enbridge Gas's KOL and supplies a large area of downtown Toronto with natural gas. In order to fulfill Enbridge Gas's obligation to meet firm contractual demands in this area, discussed in Exhibit B, Tab 1, Schedule 1, and to comply with the legal requirement to vacate the Keating Railway Bridge, Enbridge Gas must move forward with the proposed Project. The Project consists of like-for-like replacement of existing capacity and does not include any incremental or growth capacity. As outlined in Exhibit C, Tab 1, Schedule 1, Enbridge Gas has specifically considered safety and reliability of gas supply to the Toronto area when evaluating project alternatives and has selected an alternative that appropriately reduces risk of supply interruptions and is the most cost effective option.

Protecting Ratepayer Interests – Price

8. Enbridge Gas has prudently managed the potential ratepayer impacts of the Project by determining a new, lower cost preferred alternative and negotiating a fair contribution to the Project from Waterfront Toronto. Enbridge Gas submits that there is no lower cost alternative to meet the Project need while ensuring reliability of gas service to customers in the Toronto region.

Ratepayer Benefits Received

9. Ratepayers are benefiting from the Project by continuing to receive safe and reliable natural gas amidst Enbridge Gas being required to relocate this critical pipeline.

Project Economics

10. A Discounted Cash Flow report has not been completed as the Project is underpinned by compliance requirements. The Project has been designed to replace pipeline capacity lost by removing an existing pipeline from the Keating Railway Bridge and is not expected to create any incremental capacity or new revenues from customers.



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Confidential

July 13, 2021

Mr. Byron Madrid, P. Eng
Manager Capital Development & Delivery System Improvement
Enbridge Gas Inc.
500 Consumers Road
Toronto, ON M2J 1P8

Dear Byron

Re Enbridge 20-inch NPS Gas Main Relocation Cost Sharing Proposal

Further to our recent discussions, and subject to our execution of a formal agreement, this letter is to confirm the financial contribution Waterfront Toronto is prepared to make, including payments to Enbridge Gas Inc., in connection with the relocation of the pipeline as required to achieve flood protection in accordance with the Port Lands Flood Protection project. The essential elements of the PLFP work include the extension and widening of the Lake Shore Boulevard vehicular bridge; extension of the Keating Rail bridge; and the widening and dredging of the lower Don River.

Based on our communications, it is our understanding that Enbridge will remove the gas main from the Keating Rail bridge by rerouting the gas line on a temporary basis under the Don Roadway to the south side of Lake Shore Boulevard, above ground across the sidewalk of the new eastbound Lake Shore Boulevard bridge and reconnecting to the existing pipeline on the west side of the Lake Shore Boulevard bridge extension. The temporary relocation will commence in January 2023 and will be completed no later than April 30, 2023. The gas main will then be removed from the temporary alignment to its permanent location on the Keating Rail bridge "utility corridor" no later than March 31, 2024.

As we have discussed, Waterfront Toronto and its government stakeholders have invested significant sums in the overall PLFP project, of which this matter is an essential component. Although we are under financial constraints, we have been authorized to make the payments described below, out of current budgeted amounts as well as out of contingency, in order to facilitate resolution of this matter on an agreed basis.

Pursuant to our discussions:

1. Waterfront Toronto will pay Enbridge \$5 million to defray a portion of the Enbridge Gas expenses related to the temporary and subsequent permanent relocation of the gas line as described above. The timing and details of this payment will be determined following acceptance of this cost share proposal in principle by all parties and agreement on the terms of the utility corridor occupancy agreement between Enbridge Gas Inc. and the City of Toronto, and shall be set out in an agreement to be executed by the parties.
2. Waterfront Toronto will be responsible for the costs incurred by Waterfront Toronto (expected to be approximately \$ 3 million) for consulting and construction services to design and construct a new utility corridor on the Keating Rail bridge, including any changes to the design and sequencing of the work required to satisfy Enbridge health and safety concerns relating to the project.
3. Waterfront Toronto will be responsible for all of the costs it has incurred in connection with the design proposals completed by its engineers to date, as well as the engineering and other professional fees incurred by Waterfront Toronto in respect of the earlier OEB application process.
4. Waterfront Toronto will be responsible for the consulting and other costs incurred by Waterfront Toronto related to the three month delay in the completion of the Lakeshore Boulevard westbound bridge from March 2024 to June 2024 required to allow Enbridge to relocate the gas line to the newly constructed eastbound Lake Shore bridge between January and March 2023.
5. Enbridge will move ahead expeditiously as needed to meet the timelines which have been established.

If you agree that this proposal reflects our prior discussions, we can proceed to fully document our agreement. Waterfront Toronto is prepared to execute an agreement in a form acceptable to the parties, which may be filed by Enbridge in connection with the Enbridge application to the Ontario Energy Board for any necessary Leave to Construct order for the new gas line in question.

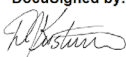
Waterfront Toronto understands that, subject to execution of an agreement between Waterfront Toronto and Enbridge for relocation of the Pipeline in a manner and within the timeframe specified herein, the City of Toronto will allow Enbridge to remain on the existing rail bridge utility crossing structure until April 30, 2023, 8 months past the August 31, 2022 deadline established by the Ontario Superior Court. The City has advised Waterfront Toronto that it will write separately to Enbridge to confirm its position in this regard. This waiver would provide substantial benefit to Enbridge Gas Inc. and its clients and ratepayers - relative both to cost as well as the potential risk to the security of supply - given the significant costs and damages which would result from extended delays to the Port Lands Flood Protection work.

I want to emphasize that Waterfront Toronto would be pleased to provide, and we understand the City would be pleased to provide, whatever pre-filed evidence, oral testimony or other

assistance in any Leave to Construct application and hearing that Enbridge or the Ontario Energy Board considers necessary.

Please do not hesitate to contact me if you have any comments or questions pursuant to the foregoing. I look forward to working with you and your team to conclude this matter on a mutually agreed basis.

Yours truly,

DocuSigned by:

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David Kusturin
Chief Project Officer
Waterfront Toronto

cc. David Stonehouse, City of Toronto
Aron Murdoch, Enbridge Gas Inc.

ENGINEERING & CONSTRUCTION

Project Construction

1. Enbridge Gas will ensure that all piping components for the Project will be designed, installed and tested in accordance with specifications outlined in Enbridge Gas's Construction and Maintenance Manual ("Specifications"). This manual meets or exceeds the requirements of the applicable codes currently adopted by the Technical Standards and Safety Authority ("TSSA"), namely the *CSA Z662 - Oil and Gas Pipeline Systems* standard and *Ontario Regulation 210/01, Oil and Gas Pipeline Systems*.
2. Enbridge Gas will construct the Project using qualified construction contractors and Enbridge Gas employees. Each of these groups will follow approved construction specifications which will be updated to reflect site specific conditions for the Project as per the findings in the Environmental Report and the Environmental Protection Plan discussed at Exhibit F, Tab 1, Schedule 1. All construction, installation and testing of the Project will be witnessed and certified by a valid Gas Pipeline Inspection Certificate Holder.
3. The method of construction will be open trench except for the above ground temporary bypass and the installation of pipeline that spans the new Keating Railway Bridge in the proposed Utility Corridor. Restoration monitoring will be conducted through 2024 to ensure successful environmental mitigation for the Project.

Design Specifications & Testing Procedures

4. The proposed facilities for the Project are set out at Exhibit C, Tab 1, Schedule 1.

5. Design specifications and testing procedures for the Project are set out in Table 1 below. These design specifications apply to both the pipeline used in the Temporary Bypass and Permanent Relocation phases of the Project.

Table 1: NPS 20-inch HP ST Natural Gas Pipeline Design Specifications

<u>Description</u>	<u>Design Specification</u>	<u>Units</u>
Pipe (NPS 20)		
External Diameter	508.0	mm
Wall Thickness	to be determined during detail design	
Grade	to be determined during detail design	
Pipeline Design Specification	CSA Z662	
Line Pipe Specification	CSA Z245.1	
Material Toughness	CSA Z245.1, CAT I	
Pipe Coating Specifications	CSA Z245.20	
Cathodic Protection	CGA OCC-1	
Coating	to be determined during detail design	
Components		
Fittings	CSA Z245.11	
Flanges	CSA Z245.12	
Valves	CSA Z245.15	
Design Data		
Class Location	4	
Design Pressure (HP)	1,207 (175 psig)	kPag

Hoop Stress at Design Pressure (HP)	to be determined during detail design	
Maximum Operating Pressure (MOP) – HP	1,207 (175 psig)	kPag
Hoop Stress at MOP (HP)	to be determined during detail design	
Minimum Cover for below ground portions	1.2	m
Strength Test Data		
Strength Test: Test Medium	to be determined during detail design	
Strength Test Pressure	to be determined during detail design	
Hoop Stress at Strength Test Pressure	to be determined during detail design	
Leak Test Data		
Leak Test: Test Medium	to be determined during detail design	
Leak Test Pressure	to be determined during detail design	
Hoop Stress at Leak Test Pressure	to be determined during detail design	

6. The pressure test requirements and procedures will be finalized during the detail design. If the pressure test medium was resulted to be water, Municipal water is available nearby and water for all testing is proposed to be obtained from the City of Toronto and discharged per the City’s permit approval conditions. The appropriate permits will be obtained from the City.

7. Tie-in pipeline components for the NPS 20-inch pipelines including joints, valves and fittings will be non-destructive examination, leak tested, visually examined, coated appropriately and then backfilled where required after purging.

Construction Timing

11. The proposed construction schedule for the Project is set out in Table 2.

Table 2: Proposed Construction Schedule

Environmental Assessment Completion	December, 2021
LTC Application	February, 2022
Receipt of Permits and Approvals	September, 2022
Expected LTC Approval	September, 2022
Commence Construction	January, 2023
Expected In-Service (Temporary Bypass)	April, 2023
Abandonment of existing pipeline on Keating Railway Bridge	April, 2023
Expected In-Service (Permanent Relocation)	August, 2024
Close-out of Construction Activities	November, 2024

ENVIRONMENTAL MATTERS

Environmental Report

1. Enbridge Gas retained Stantec Consulting Ltd. (“Stantec”) to undertake a route evaluation and environmental and socio-economic impact study, which included a cumulative effects assessment, to select the Preferred Route (“PR”) for the Project. As part of development of the study, a consultation program was implemented to receive input from interested and potentially affected parties including Indigenous communities. Input gathered from the consultation program was evaluated and integrated into the study. Mitigation measures designed to minimize environmental and community impacts resulting from construction of the Project were also developed as part of the study.
2. The results of the study are documented in the Environmental Report (“ER”) entitled Proposed NPS 20 Don River Relocation Project¹ included at Attachment 1 to this Exhibit. The ER conforms to the OEB’s *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario, 7th Edition, 2016* (“Guidelines”).
3. The ER is an updated study from the previous version filed in Enbridge Gas’s EB-2020-0198 leave to construct application and evaluates the previously identified alternate routes and the newly identified route options which prompted the withdrawal of the original application. The study area has not changed between the ER filed in EB-2020-0198 and the ER included in this evidence.

¹ The Don River Relocation Project was a previous name for the Project. The ER has been updated to reflect the changes to Project scope, however the report has retained the same title.

4. Enbridge Gas supports Stantec's findings.
5. The principal objective of the ER is to confirm a PR from an environmental and socio-economic perspective. Another objective of the ER is to outline various environmental mitigation and protection measures for the construction and operation of the Project, while meeting the intent of the Guidelines. To meet these objectives, the ER was prepared to:
 - a) Undertake a route evaluation process;
 - b) Confirm a PR that reduces potential environmental impacts;
 - c) Complete a detailed review of environmental and socio-economic features along the PR and assess the potential environmental impacts of the Project on these features;
 - d) Establish mitigation and protective measures that may be used to reduce or eliminate potential environmental and socio-economic impacts of the Project;
 - e) Develop a consultation program to receive input from interested and potentially affected parties; and
 - f) Identify potential supplemental studies, monitoring, and contingency plans.
6. Details of the study process can be found in section 1.0 and details of the route evaluation and selection process can be found in section 2.0 of the ER. Details of the consultation program can be found in section 3.0 of the ER.
7. During the consultation process for development of the ER, comments were received from the public, agencies, interest groups, affected third party utilities, municipal and elected officials, and the Mississaugas of the Credit First Nation ("MCFN"). Concerns raised during the consultation process were related to the need

for the project, the impact of the Project on Canada's climate change commitments, safety, proximity of alternate routes to schools and homes, coordination of construction activities, parking, traffic, congestion, impacts to existing infrastructure, impacts to city parks and to future projects and developments. Many of the questions required follow-up by Enbridge Gas. Outcomes from the consultation process are summarized in Appendix B5 of the ER.

8. Enbridge Gas sent an email with a link to access the ER to the Ontario Pipeline Coordinating Committee ("OPCC"), the Toronto and Region Conservation Authority ("TRCA"), the City of Toronto and the MCFN² on December 17, 2021.
9. The environmental consultation log for the Project (Appendix B5 of the ER), includes Enbridge Gas's consultation with the OPCC, TRCA, the City and Waterfront Toronto from 2017 to December 17, 2021. An updated consultation log covering the period between December 17, 2021 and February 22, 2022 is included as Attachment 2 to this Exhibit.
10. The Ministry of Heritage, Sport, Tourism and Culture Industries ("MHSTCI") responded on January 21, 2022, noting that an archaeological assessment ("AA") for the route alternatives was submitted to the MHSTCI in 2020. The ER outlines that an additional Stage 1 AA would be completed for the new PR and submitted to the MHSTCI for review and acceptance in 2022. In their letter, the MHSTCI advise that the ER is not complete until the Stage 1 AA for the PR has been completed and submitted to the Ministry, and its recommendations incorporated into the ER. The MHSTCI also requested clarification on the assessment of built heritage resources

² As described in Exhibit H, the Project does not trigger a Duty to Consult. However, as advised by the Ministry of Energy, Enbridge Gas has provided Project updates to the MCFN.

and cultural heritage landscapes, and the assessment of the PR. A response was provided to the MHSTCI on February 22, 2022 notifying them that the Stage 1 AA for the PR would be submitted to the MHSTCI for review the week of February 21, 2022. The letter also clarified that the PR was assessed for built heritage resources and cultural heritage landscapes in the ER, as required. Details of this correspondence can be found in the consultation log at Attachment 2 to this Exhibit.

11. The Notice of Project Commencement was provided to the TRCA on October 26, 2021 and a link to access the ER was provided on December 17, 2021. The TRCA stated that their support of the Project is contingent on: i) the clarification of impacts to the Don Roadway Flood Protection Landform; ii) confirmation of sediment and debris management due to shipping or dredging activities in the area; and iii) coordination between Enbridge Gas and Waterfront Toronto and other affected agencies prior to detailed design and permit submission to ensure coordination of multiple on-going construction activities in the area. Enbridge Gas responded to the TRCA on February 18, 2022 addressing the above items and confirming that Enbridge Gas will continue to provide additional details to the TRCA as part of the permitting process prior to construction. Details of this correspondence can be found in the consultation log at Attachment 2 to this Exhibit.

Routing

12. The Preliminary PR involves two phases: a temporary above ground bypass phase, and final relocation phase. Detailed discussion of these routes can be found in the ER at Figure A-2. Stantec evaluated several route alternatives which can be found within section 2.4 of the ER. The location of the PR can be found in the ER at Figure A-3.

Environmental Protection Plan

13. Construction of the Project will be conducted in accordance with Enbridge Gas's Construction and Maintenance Manual and the recommendations in the ER. An Environmental Protection Plan ("EPP") will be developed for the Project. The EPP will incorporate recommended mitigation measures contained in the ER and those mitigation measures obtained from agency consultation for the environmental issues associated with the proposed works. These mitigation measures will be communicated to the construction contractor prior to the commencement of construction of the Project. A qualified environmental inspector or suitable representative will be available to assist the Project manager in ensuring that mitigation measures identified in the EPP as well as permitting requirements and any associated conditions of approval in the OEB Decision are adhered to and that commitments made to the public, landowners and agencies are honoured. The environmental inspector and Project manager will also ensure that any unforeseen environmental circumstances that arise before, during and after construction are appropriately addressed.

14. Recommended mitigation measures for potential effects have been developed in the ER to address environmental and socio-economic features found along the PR.

These include but are not limited to:

- Groundwater
- Designated Natural Areas and Vegetation
- Wildlife and Wildlife Habitat
- Species at Risk
- Heritage Resources & Cultural Landscapes
- Socio-economic environment

- Infrastructure
- Potentially Contaminated Lands

15. A summary of potential effects and recommended mitigation measures and protective measures can be found in section 5.0, Table 5-1 of the ER.

16. With the implementation of the mitigation and protective measures outlined in the ER, EPP and additional mitigation measures provided by stakeholders through the permitting and approval process, it is expected that environmental impacts resulting from construction of the Project are not anticipated to be significant. Enbridge Gas will complete the EPP prior to mobilization and construction of the Project.

Cultural Heritage Assessment

17. A MHSTCI Criteria for Evaluating Potential for Built Heritage Resource and Cultural Heritage Landscapes checklist (“Heritage Checklist”) was completed for the PR through agency consultation, desktop data review of background material, and a review of historical mapping. The Heritage Checklist can be found in Appendix E of the ER. The Heritage Checklist determined that a Cultural Heritage Report: Existing Conditions and Preliminary Impact Assessment was not required. A 50 m study area buffer of the PR was used for the completion of the checklist.

Archaeological Assessment

18. A Stage 1 AA (Project Information Form [PIF] # P400-0125-2018) was conducted by Stantec in 2018 for all three alternative routes, as well as an additional buffer. This Stage 1 AA can be found in Appendix E of the ER. As discussed above, this Stage 1 AA was submitted to the MHSTCI on July 29, 2020 for review and acceptance into

the Ontario Public Register of Archaeological Reports, and is currently under review. The Stage 1 AA indicated that the study area of the alternate routes retains low to no archaeological potential, and all areas have been extensively disturbed by modern construction activities. No further assessment is recommended. An expedited review request was sent to the MHSTCI on January 10, 2022. On January 25, 2022, the MHSTCI provided comments to the report, requesting additional information on portions of the study area. Enbridge Gas responded to the MHSTCI on February 23, 2022, addressing their concerns. Details of this correspondence can be found in the consultation log at Attachment 2 to this exhibit. Enbridge Gas will provide the clearance letter to the OEB once it is received from MHSTCI.

19. The current PR was not identified at the time of the 2018 Stage 1 AA (PIF # P400-0125-2018). A Stage 1 AA (P415-0334-2022) which included the current PR was submitted to the MHSTCI for review and acceptance into the Ontario Public Register of Archaeological Reports on February 22, 2022, and an expedited review request was sent February 23, 2022. The Stage 1 AA (P415-0334-2022) determined that the study area retains low to no archaeological potential due to various modern disturbances, and the study area retains low to no potential for the identification or recovery of archaeological resources. No further assessment is recommended. Details of this correspondence can be found in the consultation log at Attachment 2 to this exhibit. Enbridge Gas will provide the clearance letter to the OEB once it is received from MHSTCI.

ENVIRONMENTAL REPORT

1. The Environmental Report for the Project can be found electronically by accessing the link below.

[https://www.enbridgegas.com/Don-River-Relocation-Project_Environmental Report](https://www.enbridgegas.com/Don-River-Relocation-Project_Environmental_Report)



**NPS 20 DON RIVER RELOCATION
PROJECT
STAKEHOLDER CONSULTATION LOGS -
FEBRUARY 2022 UPDATE**

February 23, 2022

Prepared for:
Enbridge Gas Inc.

Prepared by:
Stantec Consulting Ltd.

Project Number:
160951293

**NPS 20 DON RIVER RELOCATION PROJECT
STAKEHOLDER CONSULTATION LOGS - FEBRUARY 2022 UPDATE**

Introduction
February 23, 2022

Introduction

The Environmental Report (December 2021) for the Enbridge Gas Inc. NPS 20 Don River Relocation Project (the Project) was circulated to the Mississaugas of the Credit First Nation, the Ontario Pipeline Coordinating Committee, the Toronto and Region Conservation Authority and the City of Toronto on December 17, 2021. This February 2022 Update to the Stakeholder Consultation Logs for the Project provides records of consultation since the circulation of the Environmental Report (December 2021) on December 17, 2021, up to February 23, 2022.

This update should be read in conjunction with Appendix B of the Environmental Report (December 2021), which contains the consultation logs for correspondence up to December 17, 2021.



Comment Number	Stakeholder Group	Stakeholder Representative Name	Method of Communication	Date of Communication	Summary of Communication	Date of Response	Summary of Response
Government and Agencies							
1	Ministry of Heritage, Sport, Tourism and Culture Industries	Laura Hatcher	Email	1/21/2022	MHSTCI provided a letter requesting that the Stage 1 Archaeological Assessment is be completed before the ER can be considered complete. MHSTCI also requested clarification on the scope of the Criteria for Evaluating Potential for Built Heritage Resources and Cultural Heritage Landscapes checklist.	2/23/2022	Enbridge clarified that a Stage 1 Archaeological Assessment is in progress and will be submitted to MHSTCI before February 25, 2022. Enbridge also clarified that the potential for heritage impacts are related to the alternative routes only, and no heritage impacts are anticipated in relation to the preferred route.
2	Ministry of Heritage, Sport, Tourism and Culture Industries	Melissa Wallace	Email	1/25/2022	MHSTCI provided review technical comments on the Stage 1 Archaeological Assessment that was completed in 2020 for the alternative routes (P400-0125-2018).	2/23/2022	Stantec responded to the technical comments.
3	City of Toronto	Caroline Kaars Sijpesteijn	Email	2/1/2022	The City of Toronto informed Enbridge of the Inner Harbour West Tunnel Project, approximately 50 m east of the Keating Railway Bridge. The City noted that construction for this project is expected to start in 2029, and does not anticipate a conflict. The City requested that they be kept informed.	2/10/2022	Thanked them for their response.
4	Toronto Region Conservation Authority	Nathan Jenkins	Email	2/1/2022	TRCA requested further details regarding potential impacts to Don Roadway Flood Protection Landform, Sediment and Debris Management Areas, impacts to shipping and dredging activities and consultation with Waterfront Toronto. TRCA also provided information regarding their permitting process.	2/18/2022	Enbridge confirmed there are no anticipated impacts to the Don Roadway Flood Protection Landform, Sediment and Debris Management Areas, or shipping and dredging activities.
Indigenous Communities							
1	Mississaugas of the Credit First Nation	Adam Laforme	Email	2/15/2022	Mississaugas of the Credit First Nation (MCFN) indicated that the MHSTCI notified them of a new project information file (PIF) for this project. MCFN outlined the rights of Indigenous peoples, and requested a summary of the Project, and the archaeological work associated with the Project.	2/17/2022	Stantec responded indicating that a Stage 1 Archaeological Assessment was previously completed and was sent to MCFN for review. It was clarified that a new PIF was created to address the newly identified preferred route, which wasn't previously included. The preliminary results indicate that the area is previously disturbed, and no further work is needed. If fieldwork is needed, MCFN would be invited to participate.
Landowner and Public							
1	Landowner	[REDACTED]	Email	2/6/2022	The person lives on Old Brewery Lane and wanted to confirm whether a decision was made about the pipeline route.	2/18/2022	Confirmed that the preliminary preferred route was selected as the preferred route. The preferred route will be located on the Keating Railway Bridge and Lake Shore Bridge and will not be located on Old Brewery Lane.

From: [NPS 20 Don River Relocation](#)
To: [Hatcher, Laura \(MHSTCI\)](#)
Cc: [Tanya Turk](#); zora.crnojacki@oeb.ca; [NPS 20 Don River Relocation](#)
Subject: RE: File 0006957: Enbridge Gas Inc. - Don River Relocation Project OPCC Review
Date: Tuesday, February 22, 2022 4:52:00 PM
Attachments: [let_160951293_MHSTCI_ER-comments_20220222.pdf](#)
[2022-01-21_EnbridgeNPS20DonRiver.pdf](#)

Good Afternoon Laura,

Thank you for your comments. Please see attached for Enbridge's response.

Let me know if you have any additional questions,

Laura

Laura Hill M.Env.Sc.
Environmental Scientist, Project Manager

Mobile: 613-862-9895
laura.hill@stantec.com



From: Hatcher, Laura (MHSTCI) <Laura.E.Hatcher@ontario.ca>
Sent: Friday, January 21, 2022 3:53 PM
To: NPS 20 Don River Relocation <EA-Replacement20@stantec.com>
Cc: zora.crnojacki@oeb.ca
Subject: File 0006957: Enbridge Gas Inc. - Don River Relocation Project OPCC Review

Good afternoon Tanya,

Please find attached a letter with comments from MHSTCI on the above mentioned project.

Sincerely,

Laura

Laura Hatcher, MCIP, RPP

Heritage Planner

Heritage Planning Unit | Programs and Services Branch | Heritage, Tourism and Culture Division

Ministry of Heritage, Sport, Tourism and Culture Industries

Tel. 437-239-3404 [New](#) | email: laura.e.hatcher@ontario.ca

From: Tanya Turk <Tanya.Turk@enbridge.com>
Sent: December-17-21 3:55 PM
To: Ostrowka, Cory (IO) <Cory.Ostrowka@infrastructureontario.ca>; Geerts, Helma (OMAFRA) <Helma.Geerts@ontario.ca>; McCullough, Jason (ENERGY) <Jason.McCullough@ontario.ca>; Source Protection Screening (MECP) <SourceProtectionScreening@ontario.ca>; Minkin, Dan (MHSTCI)

<Dan.Minkin@ontario.ca>; Harris, Maya (MMAH) <Maya.Harris@ontario.ca>; Central Toronto <Environment.Toronto@ontario.ca>; Di Fabio, Tony (MTO) <Tony.DiFabio@ontario.ca>; Zora.Crnojacki@oeb.ca; kmanouchehri@tssa.org; Johnston, Keith (NDMNRF) <Keith.Johnston@ontario.ca>; Hamilton, James (MHSTCI) <James.Hamilton@ontario.ca>; Barboza, Karla (MHSTCI) <Karla.Barboza@ontario.ca>; rafoom-boateng@trca.on.ca; rchan@trca.on.ca; bhester@trca.on.ca; sharon.lingertat@trca.ca; lnelson@trca.on.ca; dpina@trca.on.ca; meg.stjohn@trca.on.ca; bwilliston@trca.on.ca; nathan.jenkins@trca.ca; bryan.bowen@toronto.ca; Carly.Bowman@toronto.ca; michael.dandrea@toronto.ca; luis.dejesus@toronto.ca; Easton.Gordon@toronto.ca; Barbara.Gray@toronto.ca; Suzanne.Hajdu@toronto.ca; Anthony.Kittel@toronto.ca; Marc.Kramer@toronto.ca; Gregg.Lintern@toronto.ca; patrick.matozzo@toronto.ca; rmayber@toronto.ca; Sylvia.Mullaste@toronto.ca; Fquaris@toronto.ca; parks@toronto.ca; leila.valenzuela@toronto.ca; irina.vasile@toronto.ca; Derek.Waltho@toronto.ca; dsharma@toronto.ca

Cc: NPS 20 Don River Relocation <EA-Replacement20@stantec.com>; Chuck Reaney <Chuck.Reaney@enbridge.com>; Stephanie Muller <Stephanie.Muller@enbridge.com>; Patrick Osland <patrick.osland@enbridge.com>

Subject: Enbridge Gas Inc. - Don River Relocation Project OPCC Review

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Hello,

Enbridge Gas Inc. ("Enbridge") is proposing to construct the Don River Relocation Project ("the Project"). As part of Waterfront Toronto's Port Lands Flood Protection Enabling Infrastructure Project, the Keating Railway Bridge must be widened, in addition to the construction of the new Lake Shore Bridge. As such, Enbridge Gas has identified that a segment of a 20-inch vital natural gas main needs to be relocated in order to facilitate the Waterfront's construction project while maintaining the safe and reliable delivery of natural gas to customers in the City of Toronto. The Ontario Energy Board's Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario 7th Edition 2016 (Guidelines) recommend that a project proponent provide a copy of the Environmental Report (ER) for a project to the Ontario Pipeline Coordinating Committee for review and comment.

The ER can be downloaded at the link below (click on 'Regulatory Information' under the 'Project Information' tab).

<https://www.enbridgegas.com/donriver>

Please provide any comments on the ER for the Project by February 1st, 2022.

Comments should be directed to:

Tanya Turk
Advisor, Environment
Enbridge Gas Inc.

101 Honda Boulevard
Markham, Ontario
L6C 0M6
Cell: 416-371-8790
Email: EA-Replacement20@stantec.com

Have a safe and Happy Holiday,

Tanya Turk, M.Sc., P.Ag. (she/her)
Advisor Environment
Lands, Permitting & Environment

ENBRIDGE
TEL: 416-495-3103 | CELL: 416-371-8790
101 Honda Blvd. Markham, ON L6C 0M6

enbridge.com

Safety. Integrity. Respect. Inclusion.

In the spirit of reconciliation, I mindfully acknowledge that I live and work on the Indigenous traditional territory and ancestral lands of the Anishinabek Nation, the Haudenosaunee Confederacy, the Mississaugas of Scugog, Hiawatha, and Alderville First Nations, Wendat and the Métis Nation. The treaties that were signed for this particular parcel of land are collectively referred to as the Williams Treaties of 1923.

Ministry of Heritage, Sport,
Tourism and Culture Industries

Ministère des Industries du Patrimoine,
du Sport, du Tourisme et de la Culture

Programs and Services Branch
400 University Ave, 5th Flr
Toronto, ON M7A 2R9
Tel: 437-239-3404

Direction des programmes et des services
400, av. University, 5e étage
Toronto, ON M7A 2R9
Tél: 437-239-3404



January 21, 2022

EMAIL ONLY

Tanya Turk
Advisor, Environment
Enbridge Gas Inc.
EA-Replacement20@stantec.com

MHSTCI File : 0006957
Proponent : Enbridge
Subject : NPS 20 Don River Relocation Project
Location : Toronto, Ontario

Dear Tanya Turk:

Thank you for providing the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) with a copy of the Environmental Report for the above-referenced project, which requires Ontario Energy Board (OEB)'s leave to construct under the Ontario Energy Board Act.

The OEB issued the [Environmental Guidelines for the Location, Construction, and Operation of Hydrocarbon Pipelines and Facilities in Ontario, 7th Edition](#) to assist applicants how to identify, manage and document environmental impacts. The Guidelines encourage applicants to consult with the Ontario Pipeline Coordinating Committee (which MHSTCI is a member) and other agencies. MHSTCI's interest in this process relates to its mandate of conserving Ontario's cultural heritage, which includes, archaeological resources, built heritage resources and cultural heritage landscapes.

I have reviewed the report and provide our Ministry's comments below.

Archaeological Resources

Our previous comments from November 24, 2021 advised that the Environmental Report must include specific information from the archaeological assessment (AA) report(s). The Executive Summary of each AA report provides a brief summary of the work completed and the recommendations for next steps, whether for further archaeological assessment, in which case the report will include a map that identifies those areas, or for no further assessment. The Environmental Report must also include clear commitments to undertake any further AA stages recommended, and a timeline for their completion.

While an AA was initiated for the previous alternatives under consideration and is currently under review by MHSTCI, section 4.3.7 of the Environmental Report states that an additional Stage 1 AA report will be initiated in 2022 for the new preferred route. We advise that the ER should not be considered complete until the Stage 1 has been completed and submitted to the Ministry, and its recommendations, including any recommendations for future work, are incorporated into the ER.

Please provide the Project Information Form # (PIF) for the new stage 1 AA so that we may link it to this file.

Built Heritage Resources and Cultural Heritage Landscapes

Section 4.3.8 states that a MHSTCI Criteria for Evaluating Potential for Built Heritage Resources and Cultural Heritage Landscapes checklist has been completed for the preferred route and provided in Appendix E. It says that the outcome of the checklist was that further technical reporting is not required. However, on review of this documentation, the checklist identifies numerous heritage properties and indicates further study is necessary. It appears this checklist assessed the broader study area and not the new preferred route. Please advise and update the report accordingly.

Thank you for consulting MHSTCI on this project and please continue to do so. If you have any questions or require clarification, do not hesitate to contact me.

Sincerely,

Laura Hatcher
Heritage Planner
laura.e.hatcher@ontario.ca
Heritage Planning Unit

Copied to: Zora Crnojacki, Project Advisor, OEB zora.crnjacki@oeb.ca

It is the sole responsibility of proponents to ensure that any information and documentation submitted as part of their EA report or file is accurate. MHSTCI makes no representation or warranty as to the completeness, accuracy or quality of the any checklists, reports or supporting documentation submitted as part of the EA process, and in no way shall MHSTCI be liable for any harm, damages, costs, expenses, losses, claims or actions that may result if any checklists, reports or supporting documents are discovered to be inaccurate, incomplete, misleading or fraudulent.

Please notify MHSTCI if archaeological resources are impacted by EA project work. All activities impacting archaeological resources must cease immediately, and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the *Ontario Heritage Act* and the *Standards and Guidelines for Consultant Archaeologists*.

If human remains are encountered, all activities must cease immediately and the local police as well as the [Registrar, Burials of the Ministry of Government and Consumer Services](#) must be contacted. In situations where human remains are associated with archaeological resources, MHSTCI should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the *Ontario Heritage Act*.



Stantec Consulting Ltd.
300 - 1331 Clyde Avenue, Ottawa ON K2C 3G4

February 22, 2022

Project: 160951293

Laura Hatcher

Ministry of Heritage, Sport, Tourism and Culture Industries
Programs and Services Branch
400 University Avenue, 5th Floor
Toronto, Ontario M7A 2R9

Dear Laura Hatcher,

Reference: MHSTCI File 0006957, Enbridge NPS 20 Don River Relocation Project

Enbridge Gas Inc. (Enbridge) circulated a link to access the Environmental Report for the NPS 20 Don River Relocation Project (the Project) to various agencies, including the Ontario Pipeline Coordinating Committee (OPCC) on December 17, 2021. The Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) responded on January 21, 2022, indicating that the MHSTCI have reviewed the report and provided their comments (Attachment 1). Enbridge's responses to these comments are provided below.

ARCHAEOLOGICAL RESOURCES

A Stage 1 Archaeological Assessment for the preferred route study area is currently in progress (P415-0334-2022) and expected to be submitted to the MHSTCI this week. The Stage 1 Archaeological Assessment for the preferred route study area indicates that a Stage 2 Archaeological Assessment is not required.

BUILT HERITAGE RESOURCES AND CULTURAL HERITAGE LANDSCAPES

The MHSTCI Criteria for Evaluating Potential for Built Heritage Resource and Cultural Heritage Landscapes checklist was prepared for the Don River Relocation Project. The checklist included a 50-metre study area buffer around each proposed pipeline route alternatives (including the preferred route).

The checklist determined that a Cultural Heritage Report: Existing Conditions and Preliminary Impact Assessment (CHECPA) was not required for the preferred route. No recognized or potential cultural heritage value was identified within 50-metres of the preferred route. The checklist for the alternative routes did identify recognized heritage properties and potential cultural heritage values. Should the preferred route change to one of the alternative routes, the completion of a CHECPA will be required, however, a CHECPA is not required at this time.

February 22, 2022
Laura Hatcher
Page 2 of 2

Reference: MHSTCI File 0006957, Enbridge NPS 20 Don River Relocation Project

If you have any questions or require anything further, please do not hesitate to contact the undersigned.

Regards,

Laura Hill M.Env.Sc.
Project Manager
Mobile: (613) 862-9895
laura.hill@stantec.com

Attachment: MHSTCI Comments dated January 21, 2022

c: Tanya Turk, Enbridge
Zora Crnojacki, Chair, Ontario Pipeline Coordinating Committee

From: Ritchie, Paul
Sent: Wednesday, February 23, 2022 2:24 PM
To: melissa.wallace@ontario.ca
Cc: Archaeology (MTCS) <archaeology@ontario.ca>; Dickau, Ruth <Ruth.Dickau@stantec.com>; thanos.webb@gmail.com
Subject: P400-0124-2018 Revision Letter Response

Good morning, Melissa.

This email is regarding the revision letter issued for the archaeological assessment report entitled: "Stage 1 Archaeological Assessment: NPS 20 Don River Replacement Supply Project EA, City of Toronto, Ontario. Part of Lots 1, 2 and 16, Concession 1 from the Bay, Geographic Township of York, former York County, now City of Toronto, Ontario.", Dated Jul 29, 2020, Filed with MHSTCI Toronto Office on Aug 10, 2020, MHSTCI Project Information Form Number P400-0125-2018, MHSTCI File Number 0008499 (attached).

Below are Stantec's responses and proposed revisions to our report to address the MHSTCI's comments in the issued letter. May you please review the below and confirm if these will resolve the MHSTCI's concerns?

1. The J.G. Worts Residence site (AjGu-35) appears to be located in or within close proximity to the study area with further CHVI. Please include details regarding the location of the site (Section 7.5.8 Standards 1, 4, 5 and 7), and if relevant, please provide additional information in the recommendations and mapping of the report (Section 7.8.4 Standard 1). ASI completed a Stage 2-3 assessment of the site in 1996, under licence 1996-019.

Response: As per Section 7.5.8 Standard 1, J.G. Worts Residence (AjGu-35)'s location within 1 km of the study area is noted in Table 2 of our report. Based on the location of the J.G. Worts Residence (AjGu-35) registered on the OASD this site is outside the project footprint for this archaeological assessment, beyond the Trinity Street and Mill Street ROWs, and therefore does not influence our recommendations in this area (as per Section 7.5.8 Standards 5 and 7). On searching licence number 1996-019 on Past Portal, only two reports are returned related to this licence number, one located in Ajax, Ontario and one in Fort Erie, Ontario. On searching the report title listed on the OASD corresponding to this site, Past Portal returns the result of "no records found". Therefore, this report is not available for review (as per Section 7.5.8 Standard 4). As per Section 7.6.1 Standard 1 we cannot provide detailed location information for an archaeological site with recommendations for further CHVI within the report. Please confirm if the MHSTCI requires any revisions to Stantec's report with respect to this archaeological site.

2. There are portions of the study area that are recommended as having no further archaeological potential that have been recommended previously to have deeply buried potential (while more recent, P123-0332-2016 and P438-0236-2020 have summaries of the multiple assessments completed in this portion of Toronto), particularly in the area of Parliament Street, along Mill Street and along Rolling Mills

Road and Tannery Road. The Waterfront Toronto Archaeological Conservation and Management Plan Central Waterfront Archaeological Master Plan reference the locations of possible deeply buried archaeological resources. Please document any differences in the current work from the previously recommended work (Section 7.5.8 Standard 5b) and rationale for the differences from the previously recommended work (Section 7.5.8 Standard 5c).

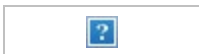
Response: On reviewing reports P123-0332-2016 and P438-0236-2020, with the exception of the deeply buried potential recommended by P123-0332-2016 at Parliament Street and the Union Rail Corridor, the recommendation of deeply buried potential within the Mill Street, Rolling Mill Road, and Tannery Road ROWs originates with report P438-0197-2019. According to the dates on Past Portal, this report was only filed in the Ontario Public Register on July 23, 2020 (four business days before our report was submitted to the MHSTCI) and the revised report files for P438-0197-2019 were only unlocked on Past Portal on June 4, 2021. Therefore, this report was not available for review at the time Stantec conducted our assessment. The Waterfront Toronto Archaeological Conservation and Management Strategy (ACMS) does not identify the Mill Street, Rolling Mill Road, and Tannery Road ROWs as locations possessing deeply buried archaeological resources; rather it recommends that the historical features (WD-9) formerly located within the Rolling Mill Road and Tannery Road ROWs have no further archaeological requirements. Stantec demonstrates in our review of recent aerial imagery that the area of Mill Street east of Cherry Street, and Rolling Mill Road and Tannery Road have recently been deeply and extensive disturbed by construction in this part of the city. Stantec also received confirmation from City of Toronto Heritage Planning that they do not consider these ROWs to retain archaeological potential; this is cited in our report. Regarding the deeply buried potential recommended by P123-0332-2016 on Parliament Street (corresponding to historical feature WD-20 identified in the ACMS), AECOM's report qualifies this recommendation as only required for construction impacts below 78 m ASL (or approximately 2 m below grade). The proposed impacts related to Stantec's assessment are less than 2 m below grade; these details will be added to the Development Context and Analysis section in our report, however this will not require an adjustment to Stantec recommendations with respect to the proposed impacts of this project.

If you have any questions or concerns with the above please do not hesitate to let me know.

Sincerely,

Paul David Ritchie
Project Archaeologist
Stantec
Phone: (647) 632-1435
paul.ritchie@stantec.com

Stantec



The content of this email is the confidential property of Stantec and should not be copied, modified, retransmitted, or used for any purpose except with Stantec's written authorization. If you are not the intended recipient, please delete all copies and notify us immediately.

**Ministry of Heritage, Sport, Tourism, and
Culture Industries**

Archaeology Program Unit
Programs and Services Branch
Heritage, Tourism and Culture Division
5th Floor, 400 University Ave.
Toronto ON M7A 2R9
Tel.: (437) 339-8882
Email: Melissa.Wallace@ontario.ca

**Ministère des Industries du patrimoine, du sport, du
tourisme et de la culture**

Unité des programme d'archéologie
Direction des programmes et des services
Division du patrimoine, du tourisme et de la culture
5e étage, 400 ave. University
Toronto ON M7A 2R9
Tél. : (437) 339-8882
Email: Melissa.Wallace@ontario.ca



Jan 25, 2022

Thanos Webb (P400)
Stantec Consulting
1057 Shaw Toronto ON M6G 3N4

RE: Review of the Archaeological Assessment Report Entitled, "Stage 1 Archaeological Assessment: NPS 20 Don River Replacement Supply Project EA, City of Toronto, Ontario. Part of Lots 1, 2 and 16, Concession 1 from the Bay, Geographic Township of York, former York County, now City of Toronto, Ontario.", Dated Jul 29, 2020, Filed with MHSTCI Toronto Office on Aug 10, 2020, MHSTCI Project Information Form Number P400-0125-2018, MHSTCI File Number 0008499

Dear Mr. Webb:

This office has reviewed the above-mentioned report, which has been submitted to this ministry as a condition of licensing in accordance with Part VI of the *Ontario Heritage Act*, R.S.O. 1990, c 0.18. This review has been carried out in order to determine whether the licensed professional consultant archaeologist has met the terms and conditions of their licence, that the licensee assessed the property and documented archaeological resources using a process that accords with the 2011 *Standards and Guidelines for Consultant Archaeologists* set by the ministry, and that the archaeological fieldwork and report recommendations are consistent with the conservation, protection and preservation of the cultural heritage of Ontario.

In reviewing this report, this ministry notes that specific standards have not been adequately addressed or addressed to the ministry's satisfaction.¹ Please file a revised report that resolves the following fieldwork and/or reporting issues:

1. The J.G. Worts Residence site (AjGu-35) appears to be located in or within close proximity to the study area with further CHVI. Please include details regarding the location of the site (Section 7.5.8 Standards 1, 4, 5 and 7), and if relevant, please provide additional information in the recommendations and mapping of the report (Section 7.8.4 Standard 1). ASI completed a Stage 2-3 assessment of the site in 1996, under licence 1996-019.

2. There are portions of the study area that are recommended as having no further archaeological potential that have been recommended previously to have deeply buried potential (while more recent, P123-0332-2016 and P438-0236-2020 have summaries of the multiple assessments completed in this portion of Toronto), particularly in the area of Parliament Street, along Mill Street and along Rolling Mills Road and Tannery Road. The Waterfront Toronto Archaeological Conservation and Management Plan Central Waterfront Archaeological Master Plan reference the locations of possible deeply buried archaeological

resources. Please document any differences in the current work from the previously recommended work (Section 7.5.8 Standard 5b) and rationale for the differences from the previously recommended work (Section 7.5.8 Standard 5c).

A revised report must be filed by the ministry on or before Apr 25, 2022. Once a revised report is received, it will be reviewed and a response provided. Please note that licensees who fail to file reports by the specified report filing deadline will be in violation of the terms and conditions of their licence.

If the concerns identified are not fully addressed by the date noted above the report may be deemed incomplete or non-compliant. Incomplete or non-compliant reports may impact a licensee's record of compliance.

Please note that a licensee's record of compliance will be taken into account by the ministry at the time of any licensing decisions.

Should you require any further information regarding this matter, please feel free to contact me.

For further information and guidance, please see the *Project Information Forms and the Report Review Process Bulletin*, the *Standards and Guidelines*, and the *Terms and Conditions for Archaeological Licences* by visiting the ministry's website www.ontario.ca/archaeology.

Sincerely,

Melissa Wallace
Archaeology Review Officer

cc. Archaeology Licensing Officer

¹In no way will the ministry be liable for any harm, damages, costs, expenses, losses, claims or actions that may result: (a) from the incompleteness, non-compliance or inaccuracies of this Report; (b) from reliance on this Report; or (c) from the issuance of this letter. Further measures are required as this Report is found to be incomplete at this time.

From: [Hill, Laura](#)
To: [Caroline Kaars Sijpesteijn](#); [NPS 20 Don River Relocation](#)
Cc: [Robert Mayberry](#); [Jackie Kennedy](#)
Subject: RE: Enbridge Gas Inc. - Don River Relocation Project OPCC Review (Inner Harbour West Tunnel Project)
Date: Thursday, February 10, 2022 2:49:00 PM
Attachments: [image002.png](#)

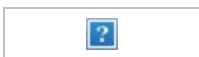
Hi Caroline,

Thank you for reviewing the project details, and for providing this information.

Laura

Laura Hill M.Env.Sc.
Environmental Scientist, Project Manager

Mobile: 613-862-9895
laura.hill@stantec.com



From: Caroline Kaars Sijpesteijn <Caroline.KaarsSijpesteijn@toronto.ca>
Sent: Tuesday, February 1, 2022 2:10 PM
To: NPS 20 Don River Relocation <EA-Replacement20@stantec.com>
Cc: Robert Mayberry <Robert.Mayberry@toronto.ca>; Jackie Kennedy <Jackie.Kennedy@toronto.ca>
Subject: RE: Enbridge Gas Inc. - Don River Relocation Project OPCC Review (Inner Harbour West Tunnel Project)

Good afternoon,

This email is in response to the notification received for the Enbridge Don River Relocation Project.

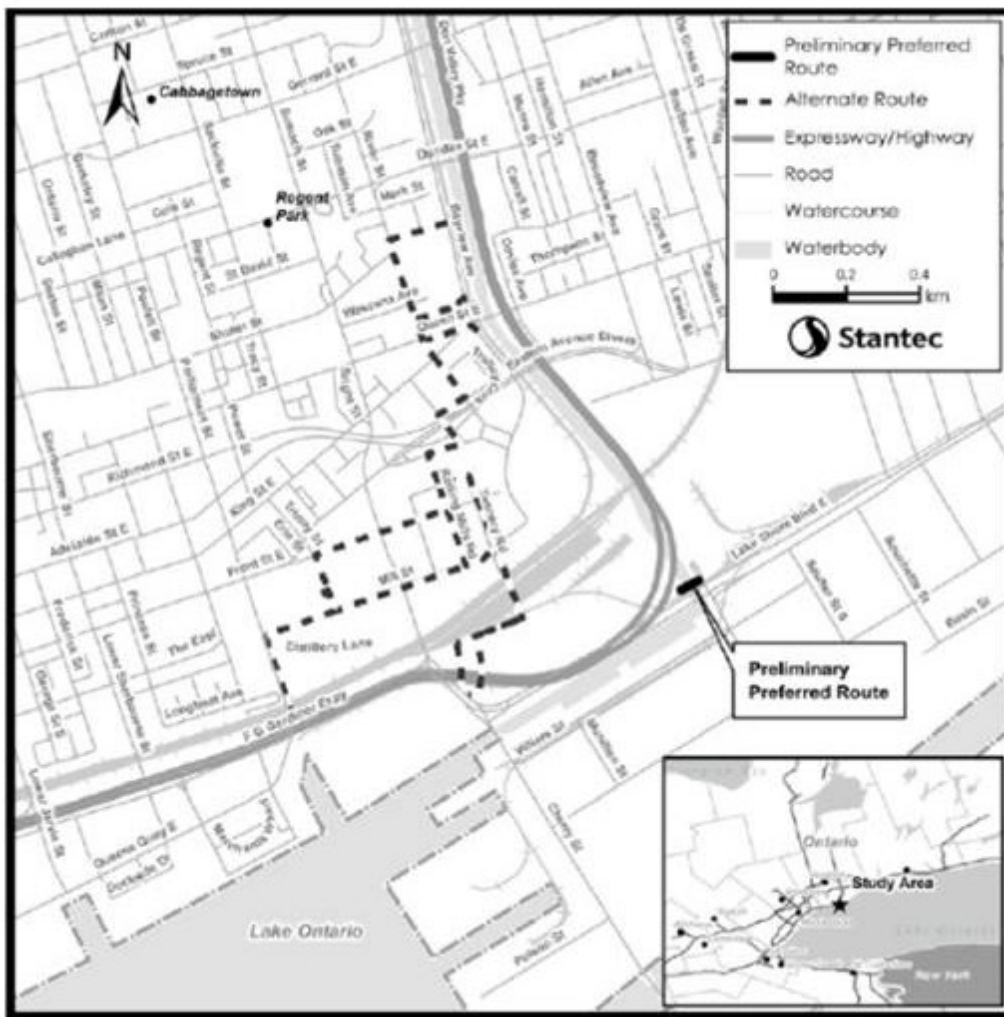
The City is currently undertaking the design of the Inner Harbour West Tunnel project, which is a future stage of the Don River & Central Waterfront Project. The Inner Harbour West Tunnel project will include additional major infrastructure to be constructed at the Keating Railyard (northeast corner of Lake Shore Blvd E and Don Roadway). This infrastructure will be constructed to the west of the ongoing Coxwell Bypass Tunnel project (which was referenced in the 'Proposed NPS 20 Don River Relocation Project – Environmental Report'), and will include a second large diameter storage shaft and additional deep tunnel which will tie into the Coxwell Bypass Tunnel to the east and cross the Don River to the west.

In reviewing the 'Preliminary Preferred Route', it is understood that the scope of work is limited to the following:

As part of Waterfront Toronto's Port Lands Flood Protection Enabling Infrastructure Project, the Keating Railway Bridge must be widened, in addition to the construction of the new Lake Shore Bridge. As such, Enbridge Gas has identified that a segment of a 20-inch vital natural gas main needs to be relocated in order to facilitate the Waterfront's construction project while maintaining the safe and reliable delivery of natural gas to customers in the City of Toronto. Relocation of the pipeline is proposed to be completed in two phases:

- *Phase I: construction of a temporary above-ground bypass of the pipeline (approx. 209 metres) on the sidewalk south of the newly built and widened Lake Shore Bridge.*

- Phase II: relocate the pipeline from its temporary location to its permanent location within a dedicated utility corridor on the north side of the Keating Railway Bridge (approx. 166 metres).



It is also understood that construction of the 'Preliminary Preferred Route' is expected to occur between January 2023 – August 2024.

The future Inner Harbour West Tunnel shaft will be built more than 50m to the east of the Keating Railway Bridge, and construction is expected to start in 2029, therefore no conflict is expected. However, we request to be kept informed during Enbridge's detailed design process, especially if the work area is extended towards the east, should the scope of work change, or if Alternate Routes are reconsidered.

If you have any questions regarding the City's Inner Harbour West Tunnel project, please let me know.

Thank you,

Caroline

Caroline Kaars Sijpesteijn, P.Eng.
Senior Engineer, Don & Central Waterfront Project
Design & Construction - Major Infrastructure
Engineering & Construction Services
City of Toronto
Metro Hall, 7th Floor

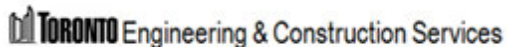
55 John Street
Toronto, Ontario M5V 3C6

P: 416.338.7052

C: 437.237.5827

F: 416.392.3300

E: Caroline.KaarsSijpesteijn@toronto.ca



From: Tanya Turk [<mailto:Tanya.Turk@enbridge.com>]

Sent: December 17, 2021 3:55 PM

To: cory.ostrowka@infrastructureontario.ca; helma.geerts@ontario.ca; jason.mccullough@ontario.ca; sourceprotectionscreening@ontario.ca; dan.minkin@ontario.ca; maya.harris@ontario.ca; environment.toronto@ontario.ca; tony.difabio@ontario.ca; Zora.Crnojacki@oeb.ca; kmanouchehri@tssa.org; keith.johnston@ontario.ca; James.hamilton@ontario.ca; karla.barboza@ontario.ca; rafoom-boateng@trca.on.ca; rchan@trca.on.ca; bhester@trca.on.ca; sharon.lingertat@trca.ca; lnelson@trca.on.ca; dpina@trca.on.ca; meg.stjohn@trca.on.ca; bwilliston@trca.on.ca; nathan.jenkins@trca.ca; Bryan Bowen <Bryan.Bowen@toronto.ca>; Carly Bowman <Carly.Bowman@toronto.ca>; Michael D'Andrea <Michael.DAndrea@toronto.ca>; Luis De Jesus <Luis.DeJesus@toronto.ca>; Easton Gordon <Easton.Gordon@toronto.ca>; Barbara Gray <Barbara.Gray@toronto.ca>; Suzanne Hajdu <Suzanne.Hajdu@toronto.ca>; Anthony Kittel <Anthony.Kittel@toronto.ca>; Marc Kramer <Marc.Kramer@toronto.ca>; Gregg Lintern <Gregg.Lintern@toronto.ca>; Patrick Matozzo <Patrick.Matozzo@toronto.ca>; Robert Mayberry <Robert.Mayberry@toronto.ca>; Sylvia Mullaste <Sylvia.Mullaste@toronto.ca>; Frank Quarisa <Frank.Quarisa@toronto.ca>; Parks <parks@toronto.ca>; Leila Valenzuela <Leila.Valenzuela@toronto.ca>; Irina Vasile <Irina.Vasile@toronto.ca>; Derek Waltho <Derek.Waltho@toronto.ca>; Doodnauth Sharma <Doodnauth.Sharma@toronto.ca>
Cc: NPS 20 Don River Relocation <EA-Replacement20@stantec.com>; Chuck Reaney <Chuck.Reaney@enbridge.com>; Stephanie Muller <Stephanie.Muller@enbridge.com>; Patrick Osland <patrick.osland@enbridge.com>
Subject: Enbridge Gas Inc. - Don River Relocation Project OPCC Review

Hello,

Enbridge Gas Inc. ("Enbridge") is proposing to construct the Don River Relocation Project ("the Project"). As part of Waterfront Toronto's Port Lands Flood Protection Enabling Infrastructure Project, the Keating Railway Bridge must be widened, in addition to the construction of the new Lake Shore Bridge. As such, Enbridge Gas has identified that a segment of a 20-inch vital natural gas main needs to be relocated in order to facilitate the Waterfront's construction project while maintaining the safe and reliable delivery of natural gas to customers in the City of Toronto. The Ontario Energy Board's Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario 7th Edition 2016 (Guidelines) recommend that a project proponent provide a copy of the Environmental Report (ER) for a project to the Ontario Pipeline Coordinating Committee for review and comment.

The ER can be downloaded at the link below (click on 'Regulatory Information' under the 'Project Information' tab).

<https://www.enbridgegas.com/donriver>

Please provide any comments on the ER for the Project by February 1st, 2022.

Comments should be directed to:

Tanya Turk
Advisor, Environment
Enbridge Gas Inc.
101 Honda Boulevard
Markham, Ontario
L6C 0M6
Cell: 416-371-8790
Email: EA-Replacement20@stantec.com

Have a safe and Happy Holiday,

Tanya Turk, M.Sc., P.Ag. (she/her)
Advisor Environment
Lands, Permitting & Environment

ENBRIDGE
TEL: 416-495-3103 | CELL: 416-371-8790
101 Honda Blvd. Markham, ON L6C 0M6
enbridge.com
Safety. Integrity. Respect. Inclusion.

In the spirit of reconciliation, I mindfully acknowledge that I live and work on the Indigenous traditional territory and ancestral lands of the Anishinabek Nation, the Haudenosaunee Confederacy, the Mississaugas of Scugog, Hiawatha, and Alderville First Nations, Wendat and the Métis Nation. The treaties that were signed for this particular parcel of land are collectively referred to as the Williams Treaties of 1923.

From: [Hill, Laura](#)
To: [Nathan Jenkins](#)
Cc: [NPS 20 Don River Relocation](#); [Chuck Reaney](#); [Michael Noble](#); [Bill Snodgrass](#); [Ken Dion](#); [Beth Williston](#); [Sharon Lingertat](#); [Maryam Iler](#); [Tanya Turk](#); [Stephanie Allman](#); [Zora.Crnojacki@oeb.ca](#)
Subject: RE: TRCA CFN 59825 - Enbridge Gas Inc. - Don River Relocation Project ER Response Letter
Date: Friday, February 18, 2022 2:24:00 PM
Attachments: [let_160951293_TRCA-CFN59825-20220218_response_fnl.pdf](#)
[image001.png](#)
[TRCA CFN 59825_20in Lower Don Pipeline EA NoC Nov18-21.pdf](#)
[160951293_TRCA-CFN59825-VOHcomments-20220105_response_sign.pdf](#)
[TRCA CFN 59825_20in Lower Don Relocation Environmental Report Response Feb 1-22.pdf](#)

Good afternoon Nathan,

Thank you for the comments; please see attached for Enbridge's response.

I have also attached the previous correspondence for the benefit of everyone cc'd:

1. TRCA's original comment letter dated November 18, 2021
2. Enbridge's comment response letter (from Stantec) dated January 5, 2022
3. The follow-up comments from TRCA provided on February 1, 2022.

I hope you have a nice Family Day and long-weekend.

Laura

Laura Hill M.Env.Sc.
Environmental Scientist, Project Manager

Mobile: 613-862-9895
laura.hill@stantec.com



From: Nathan Jenkins <Nathan.Jenkins@trca.ca>
Sent: Tuesday, February 1, 2022 4:28 PM
To: Tanya Turk <Tanya.Turk@enbridge.com>
Cc: NPS 20 Don River Relocation <EA-Replacement20@stantec.com>; Chuck Reaney <Chuck.Reaney@enbridge.com>; Hill, Laura <Laura.Hill@stantec.com>; Michael Noble <Michael.Noble@toronto.ca>; Bill Snodgrass <bill.snodgrass@toronto.ca>; Ken Dion <kdion@waterfrontoronto.ca>; Beth Williston <Beth.Williston@trca.ca>; Sharon Lingertat <Sharon.Lingertat@trca.ca>; Maryam Iler <Maryam.Iler@trca.ca>
Subject: RE: TRCA CFN 59825 - Enbridge Gas Inc. - Don River Relocation Project ER Response Letter

Good afternoon Tanya,

Please see the attached Toronto and Region Conservation Authority (TRCA) Response Letter related to the Enbridge Gas Inc. – NPS 20 Inch Don River Relocation Project Environmental Report.

Thank you,

Nathan Jenkins, H.B.Sc. (Env), M.PI., RPP (he/him/his)

From: [Nathan Jenkins](#)
To: [Tanya Turk](#)
Cc: [NPS 20 Don River Relocation](#); [Chuck Reaney](#); [Hill, Laura](#); [Michael Noble](#); [Bill Snodgrass](#); [Ken Dion](#); [Beth Williston](#); [Sharon Lingertat](#); [Maryam Iler](#)
Subject: RE: TRCA CFN 59825 - Enbridge Gas Inc. - Don River Relocation Project ER Response Letter
Date: Tuesday, February 1, 2022 4:32:51 PM
Attachments: [image001.png](#)
[TRCA CFN 59825_20in Lower Don Relocation Environmental Report Response Feb 1-22.pdf](#)

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Thank you,

Nathan Jenkins, H.B.Sc. (Env), M.PI., RPP (he/him/his)
Planner
Infrastructure Planning and Permits | Development and Engineering Services

T: [\(416\) 661-6600](tel:(416)661-6600) ext. 5508

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A: [101 Exchange Avenue, Vaughan, ON, L4K 5R6](#) | trca.ca



From: Tanya Turk <Tanya.Turk@enbridge.com>

Sent: Friday, December 17, 2021 3:55 PM

To: cory.ostrowka@infrastructureontario.ca; helma.geerts@ontario.ca; jason.mccullough@ontario.ca; sourceprotectionscreening@ontario.ca; dan.minkin@ontario.ca; maya.harris@ontario.ca; environment.toronto@ontario.ca; tony.difabio@ontario.ca; Zora.Crnojacki@oeb.ca; kmanouchehri@tssa.org; keith.johnston@ontario.ca; James.hamilton@ontario.ca; karla.barboza@ontario.ca; Renee Afoom-Boateng <Renee.Afoom-Boateng@trca.ca>; Robert Chan <Robert.Chan@trca.ca>; Brandon Hester <Brandon.Hester@trca.ca>; Sharon Lingertat <Sharon.Lingertat@trca.ca>; Laurie Nelson <Laurie.Nelson@trca.ca>; dpina@trca.on.ca; meg.stjohn@trca.on.ca; Beth Williston <Beth.Williston@trca.ca>; Nathan Jenkins <Nathan.Jenkins@trca.ca>; bryan.bowen@toronto.ca; Carly.Bowman@toronto.ca; michael.dandrea@toronto.ca; luis.dejesus@toronto.ca; easton.gordon@toronto.ca; Barbara.Gray@toronto.ca; Suzanne.Hajdu@toronto.ca; Anthony.Kittel@toronto.ca; Marc.Kramer@toronto.ca; gregg.lintern <gregg.lintern@toronto.ca>; patrick.matozzo@toronto.ca; rmayber@toronto.ca; Sylvia.Mullaste@toronto.ca; Fquaris@toronto.ca; parks@toronto.ca; leila.valenzuela@toronto.ca; irina.vasile@toronto.ca; Derek.Waltho@toronto.ca; dsharma@toronto.ca

Cc: NPS 20 Don River Relocation <EA-Replacement20@stantec.com>; Chuck Reaney

<Chuck.Reaney@enbridge.com>; Stephanie Muller <Stephanie.Muller@enbridge.com>; Patrick Osland <patrick.osland@enbridge.com>

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Enbridge Gas Inc. ("Enbridge") is proposing to construct the Don River Relocation Project ("the Project"). As part of Waterfront Toronto's Port Lands Flood Protection Enabling Infrastructure Project, the Keating Railway Bridge must be widened, in addition to the construction of the new Lake Shore Bridge. As such, Enbridge Gas has identified that a segment of a 20-inch vital natural gas main needs to be relocated in order to facilitate the Waterfront's construction project while maintaining the safe and reliable delivery of natural gas to customers in the City of Toronto. The Ontario Energy Board's Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario 7th Edition 2016 (Guidelines) recommend that a project proponent provide a copy of the Environmental Report (ER) for a project to the Ontario Pipeline Coordinating Committee for review and comment.

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<https://www.enbridgegas.com/donriver>

Please provide any comments on the ER for the Project by February 1st, 2022.

Comments should be directed to:

Tanya Turk
Advisor, Environment
Enbridge Gas Inc.
101 Honda Boulevard
Markham, Ontario
L6C 0M6
Cell: 416-371-8790
Email: EA-Replacement20@stantec.com

Have a safe and Happy Holiday,

Tanya Turk, M.Sc., P.Ag. (she/her)
Advisor Environment
Lands, Permitting & Environment

ENBRIDGE
TEL: 416-495-3103 | CELL: 416-371-8790
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Safety. Integrity. Respect. Inclusion.

In the spirit of reconciliation, I mindfully acknowledge that I live and work on the Indigenous traditional territory and ancestral lands of the Anishinabek Nation, the Haudenosaunee Confederacy, the Mississaugas of Scugog, Hiawatha, and Alderville First Nations, Wendat and the Métis Nation. The treaties that were signed for this particular parcel of land are collectively referred to as the Williams Treaties of 1923.



Stantec Consulting Ltd.
100-300 Hagey Boulevard, Waterloo ON N2L 0A4

February 18, 2022

File: 160951293

Nathan Jenkins, H.B.Sc. (Env), M.Pl., RPP

Toronto Region Conservation Authority
101 Exchange Ave
Concord, Ontario L4K 5R6

Dear Nathan Jenkins,

Reference: CFN 59825: TRCA Comments on Environmental Report prepared for NPS 20 Don River Pipeline Relocation Project

Enbridge Gas Inc. (Enbridge) circulated a Notice of Study Commencement and Virtual Open House for the NPS 20 Don River Relocation Project (the Project) to various agencies, including the Toronto and Region Conservation Authority (TRCA), on October 26, 2021. TRCA responded to that notice on November 18, 2021, indicating that the TRCA have reviewed the notice and the publicly available reference materials as presented at the project's Virtual Open House. Enbridge responded to these comments on January 5, 2022.

TRCA provided subsequent comments on February 2, 2022. Enbridge's responses to these comments are provided below in **Table 1**.

Enbridge would like to thank the TRCA for their comments and note their commitment to working with TRCA through the permitting phase of the Project. Enbridge would also like to reiterate that the Project is being conducted in coordination with and as a direct result of Waterfront Toronto's activities. As the OPCC review period has ended, and to ensure timely execution of the work, Enbridge will file its LTC application and continue to work with the TRCA to address any concerns with the Project prior to obtaining a permit.

If you have any questions or require anything further, please do not hesitate to contact the undersigned.

Regards,

Laura Hill M.Env.Sc.
Project Manager
Mobile: (613) 862-9895
laura.hill@stantec.com

c: Tanya Turk, Chuck Reany, Stephanie Muller (Enbridge)
Zora Crnojacki, Chair, Ontario Pipeline Coordinating Committee

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February 18, 2022
 Nathan Jenkins, H.B.Sc. (Env), M.Pl., RPP
 Page 2 of 5

Reference: CFN 59825: TRCA Comments on Environmental Report prepared for NPS 20 Don River Pipeline Relocation Project

Table 1: Comment Response

ITEM	TRCA COMMENTS (November 18, 2021)	Enbridge/Stantec RESPONSE (January 6, 2022)	TRCA COMMENTS (February 1, 2022)	Enbridge/Stantec Response (February 18, 2022)
General				
1.	<p>As the preferred route for the relocated Enbridge line appears to be close to the Don Roadway Flood Protection Landform (FPL). It's important that the installation and removal of the pipeline does not effect the Don Roadway FPL. The ER should consider how the alignment of the temporary pipeline will avoid negatively impacting the FPL from installation, operation, to decommissioning.</p> <p>This will also need to be carried into detailed design and construction.</p>	<p>Enbridge notes that the Corktown Commons FPL is located approximately 350 m north of the preferred route and is not expected to be intersected or impacted by the preferred route or any temporary workspace.</p>	<p>Unaddressed - The West Don FPL (Corktown Commons FPL) is wholly separate in geography and purpose from the Don Roadway FPL. The Don Roadway FPL is located along the Don Roadway just south of Lakeshore Blvd E, which is close to the proposed pipeline route. The latest design of the Don Roadway FPL can be obtained from Waterfront Toronto.</p> <p>It remains unclear how the preferred route for the relocated Enbridge line will consider and avoid/mitigate impacts to the Don Roadway Flood Protection Landform (FPL) as this was not a consideration in the final ER.</p> <p>It is critical that the installation and removal of the Enbridge Phase 1 and 2, temporary and permanent pipeline, does not impact the Don Roadway FPL. Enbridge must ensure this is addressed in the next phase of work as this will need to be carried into detailed design which considers how the alignment of the temporary pipeline will avoid negatively impacting the FPL from installation, operation, to decommissioning. This will also need to be carried into detailed design and construction in order to receive necessary permit authorization from TRCA under O.Reg 166/06.</p>	<p>The temporary and final locations for the pipeline are proposed to be located within road structures.</p> <p>Enbridge is continuing to coordinate project activities with Waterfront Toronto for the temporary bypass location, on the south side of Lake Shore Boulevard. The location will be above ground, in line with and on-top of the south sidewalk of Lake Shore Bridge north of the Don Roadway FPL.</p> <p>The final pipeline placement will be further north, on the Keating Railway Bridge, within a designated, protected, utility corridor.</p> <p>The Don Roadway FPL is located at least 15 m south of the Lake Shore Bridge and is currently proposed to be separated from Lake Shore Bridge by a sheet pile wall.</p> <p>Since neither the temporary bypass location or permanent location are in close proximity to the Don Roadway FPL, no effects to the FPL are anticipated.</p>
2.	<p>It is critical that any pipeline placement on the Lakeshore bridge be adequately protected from any shipping or dredging activities in the area in both Phase 1 and 2 of the Preferred Alternative. Please provide clarification on any setbacks for working in the vicinity of the pipeline that could interfere with Sediment and Debris Management Area operations.</p>	<p>Enbridge will work with Ellis Don (and any other sub-contractors assigned to the Waterfront Toronto PLFPEI project) so that the existing pipeline currently on the Keating Railway Bridge has the necessary protection from all shipping and dredging activities. As part of the protection methods in place for this pipeline, Enbridge Gas Damage Prevention will coordinate with the constructor to ensure there is Vital Main Standby in place which consists of an Enbridge Inspector who will remain on site while work is taking place around this gas main.</p>	<p>Unaddressed</p> <p>Future shipping and dredging activities in and around the preferred route should be addressed in the report. Heavy equipment and marine shipping will be operating adjacent and underneath the new Lake Shore Bridge.</p> <p>The design of the pipeline crossing must take these activities into account and Enbridge infrastructure must be properly protected to allow long-term dredging activities to proceed unfettered.</p> <p>The Environmental Report should be revised to consider future dredging activities under the socio-economic section of the report.</p>	<p>Enbridge will continue to work with Waterfront Toronto on the locations for the gas pipeline for both Phase 1 and 2 of the relocation project to address the concerns of the TRCA. Specifically, with regards to the permanent pipeline location (Phase 2) in the Utility Corridor, Enbridge will work with Waterfront Toronto and seek confirmation from them that their Utility Corridor design incorporates the required safety considerations to ensure the protection of utilities (including the gas pipeline), in the Utility Corridor, against any maintenance and dredging activities required in the SDMA.</p>

February 18, 2022
 Nathan Jenkins, H.B.Sc. (Env), M.Pl., RPP
 Page 3 of 5

Reference: CFN 59825: TRCA Comments on Environmental Report prepared for NPS 20 Don River Pipeline Relocation Project

Table 1: Comment Response

ITEM	TRCA COMMENTS (November 18, 2021)	Enbridge/Stantec RESPONSE (January 6, 2022)	TRCA COMMENTS (February 1, 2022)	Enbridge/Stantec Response (February 18, 2022)
3.	.. This assessment of a preferred route should consider holistic assessment and study of all the various proposed alternative routes. As previously advised in the 2020 review of alternative routes for the proposed NPS 20 Relocation TRCA staff have significant concern with any relocation within 10 metres of the limits of the existing TRCA West Don Flood Protection Landform (FPL), including at the intersection of Queen Street, King Street and River Street. TRCA staff requires that the final Environmental Report (ER) consideration of 'Access and Land Requirements' include an evaluation of the relocations impacts to the FPL and associated socio-economic impacts prior to any Leave to Construct. Should an alternative other than what is shown as the preliminary preferred route be chosen then site-specific field investigations and technical reports by a qualified specialist will be required to demonstrate that there will be no impact to the integrity, form and function of the FPL.	Enbridge notes that the Corktown Commons FPL is located approximately 350 m north of the preferred route and is not expected to be intersected or impacted by the preferred route or any temporary workspace.	Unaddressed All evaluated alternative routes have the potential to impact the West Don Flood Protection Landform (WDFPL), an existing critical flood protection infrastructure for the Don River. While the preferred alternative route does not conflict with the WDFPL this should be considered in the holistic assessment for the pipeline's relocation. Section 4.3.11 – Infrastructure, and section 6.0 Cumulative effects assessment, should be revised to include the existing and future planned flood protection landforms as constraints that were evaluated when generating route options for the pipeline. If Enbridge does not plan to further update the ER please ensure these comments are carried forward to the design and permitting stage.	The presence of the WDFPL is discussed in Section 4.1.6 of the ER. There is no anticipated interaction identified between the preferred route and the WDFPL. As there is no anticipated interaction between the project and the WDFPL, there are no anticipated residual effects, and therefore, a cumulative effects assessment is not required. Enbridge will consider TRCA's comments during detailed design and during the TRCA permitting process.
4.	. On confirmation from Enbridge that the proposed installation is not located within the FPL, TRCA staff will also require a site-specific enhanced construction plan for any work in close proximity of the existing West Don FPL, as needed. This enhanced monitoring plan must be designed by Enbridge to the satisfaction of TRCA for any of the Alternative and Tie-In Routes referenced above prior to any Leave to Construct for these routes.	The Project is not in close proximity to the FPL.	Please confirm this response also applies to the Don Roadway FPL.	Confirmed. Please refer to the response to Item 1.
5.	TRCA also requests clarification on the requirement for Feeder Stations under the Preferred Alternative #1 as it remains unclear if Station A required with the preferred route and the proposed station is located within the floodplain of the Don River within the associated Special Policy Area.4. Additionally, during this ER assessment it must be demonstrated to TRCA that there will be no impacts on the Regional Flood Plain for the lower Don River. The assessment must consider access and ongoing maintenance requirements for under the Preferred Alternative Route as a part of the Sediment and Debris Management Area (SDMA) which requires regular dredging and mitigation for ice passage on the Don River.	No feeder station is required for the preferred route. See response to item 2 for considerations with respect to SDMAs.	Noted	-
6.	Please also be advised of the Coxwell Bypass stormwater management tunnel and shaft connections, currently under construction, in the area of your works which may have the potential to affect the preferred alignment. Please coordinate with the City of Toronto regarding these works; in addition to potential tertiary impacts to parks, trails, and municipal real estate which may be impacted by this work.	Noted.	Noted	-

February 18, 2022
 Nathan Jenkins, H.B.Sc. (Env), M.Pl., RPP
 Page 4 of 5

Reference: CFN 59825: TRCA Comments on Environmental Report prepared for NPS 20 Don River Pipeline Relocation Project

Table 1: Comment Response

ITEM	TRCA COMMENTS (November 18, 2021)	Enbridge/Stantec RESPONSE (January 6, 2022)	TRCA COMMENTS (February 1, 2022)	Enbridge/Stantec Response (February 18, 2022)
7.	-	-	Please be advised that the preferred route appears to fall within the Intake Protection Zone (IPZ), Highly Vulnerable Aquifers (HVA), vulnerable areas under the Credit Valley - Toronto and Region - Central Lake Ontario Source Protection Plan (CTC SPP). TRCA supports the legislated protection of municipal drinking water sources through the Clean Water Act and acts as a technical advisor to municipalities in their role for implementing some aspects of the CTC SPP. For more information please visit http://www.ctcswp.ca/ .	Noted.
8.	-	-	Please include the Greenbelt Plan in policy review as the Don River has been added as an Urban River Valley Area in 2017. Please address how the proposed works and abandonment will attempt to meet Section 6 and Section 3.2.4 of the Plan. https://files.ontario.ca/greenbelt-plan-2017-en.pdf	Natural gas pipelines are included in the definition of "infrastructure" in the Greenbelt Plan (2017) and are permitted in Urban River Valley Areas (Section 6.2.3). The Project is a relocation of an existing pipeline that currently services the City of Toronto's needs. As noted in Section 6.2.4 of the Greenbelt Plan, Protected Countryside Policy 3.2.4 does not apply.
TRCA Permitting Requirements for Detail Design Application				
9.	-	-	As noted in the ER, permits in accordance with Ontario Regulation 166/06 are required from TRCA prior to project construction. Please submit the detailed design drawings, together with the appropriate reports and documents. The TRCA Complete Submission Checklist for Infrastructure Projects is available on our website (https://trca.ca/app/uploads/2016/01/TRCA- PRE-CONSULTATION-CHECKLIST.pdf), and should be used as a guide to your permit submission. The permit application form, together with additional submission checklist and guidelines are also available on our website should be used as appropriate to inform the development of your application. These can be found under the Planning and Permitting, Environmental Assessment section of the TRCA website at: http://www.trca.on.ca/planning-services-permits/environmental-assessment.dot#check . Please include a digital copy of all submitted material. Materials must be submitted in PDF format, with drawings pre-scaled to print on 11"x17" pages. Materials may be submitted via e-mail (if less than 25 MB), or through file transfer protocol (FTP) sites (if posted for a minimum of two weeks).	Noted.

February 18, 2022
 Nathan Jenkins, H.B.Sc. (Env), M.Pl., RPP
 Page 5 of 5

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10.	-	-	TRCA staff encourage the Enbridge team to contact TRCA during detail design stages to ensure that the design has adequately considered impacts to, and caused by, the floodplain. Additionally, TRCA recommend locating all equipment staging, stockpiling and temporary facilities outside of the Regulatory floodplain. Staff can provide updated floodplain mapping if required by Enbridge.	Noted. Enbridge requests that floodplain mapping be provided to Stantec.
11.	-	-	Erosion and sediment control (ESC) measures should be implemented to mitigate erosion and sediment processes during construction. At the detailed design stage, please provide comprehensive ESC plans as part of associated applications. The ESC plan should be consistent with the Erosion and Sediment Control Guideline for Urban Construction (December 2019). The most up to date guideline can be found on the Sustainable Technologies Evaluation Program (STEP) website at www.sustainabletechnologies.ca	Noted.
12.	-	-	Enbridge should identify appropriate design measures to mitigate the risk of debris hitting the pipeline during a Regional Storm event in detailed design.	Noted.
13.	-	-	Under Section 7.2 'Contingency' a contingency plan should be created and submitted at the design stage to address the risk of flooding from the Don River during construction of the permanent and temporary pipeline replacement.	Noted.
14.	-	-	At the detailed design stage please include TRCA's Standard Notes to the drawings. The note can be found in the following links: http://www.trca.on.ca/dotAsset/93458.pdf	Noted.



Stantec Consulting Ltd.
100-300 Hagey Boulevard, Waterloo ON N2L 0A4

February 18, 2022

File: 160951293

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101 Exchange Ave
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Regards,

Laura Hill M.Env.Sc.
Project Manager
Mobile: (613) 862-9895
laura.hill@stantec.com

c: Tanya Turk, Chuck Reany, Stephanie Muller (Enbridge)
Zora Crnojacki, Chair, Ontario Pipeline Coordinating Committee

bk \\cd\1215-f01\work_group\01609\active\160951293\02_correspondence\correspondence_record\received\trca_20220201\let_160951293_trca-cfn59825-20220218_response_fnl.docx

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ITEM	TRCA COMMENTS (November 18, 2021)	Enbridge/Stantec RESPONSE (January 6, 2022)	TRCA COMMENTS (February 1, 2022)	Enbridge/Stantec Response (February 18, 2022)
General				
1.	<p>As the preferred route for the relocated Enbridge line appears to be close to the Don Roadway Flood Protection Landform (FPL). It's important that the installation and removal of the pipeline does not effect the Don Roadway FPL. The ER should consider how the alignment of the temporary pipeline will avoid negatively impacting the FPL from installation, operation, to decommissioning.</p> <p>This will also need to be carried into detailed design and construction.</p>	<p>Enbridge notes that the Corktown Commons FPL is located approximately 350 m north of the preferred route and is not expected to be intersected or impacted by the preferred route or any temporary workspace.</p>	<p>Unaddressed - The West Don FPL (Corktown Commons FPL) is wholly separate in geography and purpose from the Don Roadway FPL. The Don Roadway FPL is located along the Don Roadway just south of Lakeshore Blvd E, which is close to the proposed pipeline route. The latest design of the Don Roadway FPL can be obtained from Waterfront Toronto.</p> <p>It remains unclear how the preferred route for the relocated Enbridge line will consider and avoid/mitigate impacts to the Don Roadway Flood Protection Landform (FPL) as this was not a consideration in the final ER.</p> <p>It is critical that the installation and removal of the Enbridge Phase 1 and 2, temporary and permanent pipeline, does not impact the Don Roadway FPL. Enbridge must ensure this is addressed in the next phase of work as this will need to be carried into detailed design which considers how the alignment of the temporary pipeline will avoid negatively impacting the FPL from installation, operation, to decommissioning. This will also need to be carried into detailed design and construction in order to receive necessary permit authorization from TRCA under O.Reg 166/06.</p>	<p>The temporary and final locations for the pipeline are proposed to be located within road structures.</p> <p>Enbridge is continuing to coordinate project activities with Waterfront Toronto for the temporary bypass location, on the south side of Lake Shore Boulevard. The location will be above ground, in line with and on-top of the south sidewalk of Lake Shore Bridge north of the Don Roadway FPL.</p> <p>The final pipeline placement will be further north, on the Keating Railway Bridge, within a designated, protected, utility corridor.</p> <p>The Don Roadway FPL is located at least 15 m south of the Lake Shore Bridge and is currently proposed to be separated from Lake Shore Bridge by a sheet pile wall.</p> <p>Since neither the temporary bypass location or permanent location are in close proximity to the Don Roadway FPL, no effects to the FPL are anticipated.</p>
2.	<p>It is critical that any pipeline placement on the Lakeshore bridge be adequately protected from any shipping or dredging activities in the area in both Phase 1 and 2 of the Preferred Alternative. Please provide clarification on any setbacks for working in the vicinity of the pipeline that could interfere with Sediment and Debris Management Area operations.</p>	<p>Enbridge will work with Ellis Don (and any other sub-contractors assigned to the Waterfront Toronto PLFPEI project) so that the existing pipeline currently on the Keating Railway Bridge has the necessary protection from all shipping and dredging activities. As part of the protection methods in place for this pipeline, Enbridge Gas Damage Prevention will coordinate with the constructor to ensure there is Vital Main Standby in place which consists of an Enbridge Inspector who will remain on site while work is taking place around this gas main.</p>	<p>Unaddressed</p> <p>Future shipping and dredging activities in and around the preferred route should be addressed in the report. Heavy equipment and marine shipping will be operating adjacent and underneath the new Lake Shore Bridge.</p> <p>The design of the pipeline crossing must take these activities into account and Enbridge infrastructure must be properly protected to allow long-term dredging activities to proceed unfettered.</p> <p>The Environmental Report should be revised to consider future dredging activities under the socio-economic section of the report.</p>	<p>Enbridge will continue to work with Waterfront Toronto on the locations for the gas pipeline for both Phase 1 and 2 of the relocation project to address the concerns of the TRCA. Specifically, with regards to the permanent pipeline location (Phase 2) in the Utility Corridor, Enbridge will work with Waterfront Toronto and seek confirmation from them that their Utility Corridor design incorporates the required safety considerations to ensure the protection of utilities (including the gas pipeline), in the Utility Corridor, against any maintenance and dredging activities required in the SDMA.</p>

February 18, 2022
 Nathan Jenkins, H.B.Sc. (Env), M.Pl., RPP
 Page 3 of 5

Reference: CFN 59825: TRCA Comments on Environmental Report prepared for NPS 20 Don River Pipeline Relocation Project

Table 1: Comment Response

ITEM	TRCA COMMENTS (November 18, 2021)	Enbridge/Stantec RESPONSE (January 6, 2022)	TRCA COMMENTS (February 1, 2022)	Enbridge/Stantec Response (February 18, 2022)
3.	.. This assessment of a preferred route should consider holistic assessment and study of all the various proposed alternative routes. As previously advised in the 2020 review of alternative routes for the proposed NPS 20 Relocation TRCA staff have significant concern with any relocation within 10 metres of the limits of the existing TRCA West Don Flood Protection Landform (FPL), including at the intersection of Queen Street, King Street and River Street. TRCA staff requires that the final Environmental Report (ER) consideration of 'Access and Land Requirements' include an evaluation of the relocations impacts to the FPL and associated socio-economic impacts prior to any Leave to Construct. Should an alternative other than what is shown as the preliminary preferred route be chosen then site-specific field investigations and technical reports by a qualified specialist will be required to demonstrate that there will be no impact to the integrity, form and function of the FPL.	Enbridge notes that the Corktown Commons FPL is located approximately 350 m north of the preferred route and is not expected to be intersected or impacted by the preferred route or any temporary workspace.	Unaddressed All evaluated alternative routes have the potential to impact the West Don Flood Protection Landform (WDFPL), an existing critical flood protection infrastructure for the Don River. While the preferred alternative route does not conflict with the WDFPL this should be considered in the holistic assessment for the pipeline's relocation. Section 4.3.11 – Infrastructure, and section 6.0 Cumulative effects assessment, should be revised to include the existing and future planned flood protection landforms as constraints that were evaluated when generating route options for the pipeline. If Enbridge does not plan to further update the ER please ensure these comments are carried forward to the design and permitting stage.	The presence of the WDFPL is discussed in Section 4.1.6 of the ER. There is no anticipated interaction identified between the preferred route and the WDFPL. As there is no anticipated interaction between the project and the WDFPL, there are no anticipated residual effects, and therefore, a cumulative effects assessment is not required. Enbridge will consider TRCA's comments during detailed design and during the TRCA permitting process.
4.	. On confirmation from Enbridge that the proposed installation is not located within the FPL, TRCA staff will also require a site-specific enhanced construction plan for any work in close proximity of the existing West Don FPL, as needed. This enhanced monitoring plan must be designed by Enbridge to the satisfaction of TRCA for any of the Alternative and Tie-In Routes referenced above prior to any Leave to Construct for these routes.	The Project is not in close proximity to the FPL.	Please confirm this response also applies to the Don Roadway FPL.	Confirmed. Please refer to the response to Item 1.
5.	TRCA also requests clarification on the requirement for Feeder Stations under the Preferred Alternative #1 as it remains unclear if Station A required with the preferred route and the proposed station is located within the floodplain of the Don River within the associated Special Policy Area.4. Additionally, during this ER assessment it must be demonstrated to TRCA that there will be no impacts on the Regional Flood Plain for the lower Don River. The assessment must consider access and ongoing maintenance requirements for under the Preferred Alternative Route as a part of the Sediment and Debris Management Area (SDMA) which requires regular dredging and mitigation for ice passage on the Don River.	No feeder station is required for the preferred route. See response to item 2 for considerations with respect to SDMAs.	Noted	-
6.	Please also be advised of the Coxwell Bypass stormwater management tunnel and shaft connections, currently under construction, in the area of your works which may have the potential to affect the preferred alignment. Please coordinate with the City of Toronto regarding these works; in addition to potential tertiary impacts to parks, trails, and municipal real estate which may be impacted by this work.	Noted.	Noted	-

February 18, 2022
 Nathan Jenkins, H.B.Sc. (Env), M.Pl., RPP
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Reference: CFN 59825: TRCA Comments on Environmental Report prepared for NPS 20 Don River Pipeline Relocation Project

Table 1: Comment Response

ITEM	TRCA COMMENTS (November 18, 2021)	Enbridge/Stantec RESPONSE (January 6, 2022)	TRCA COMMENTS (February 1, 2022)	Enbridge/Stantec Response (February 18, 2022)
7.	-	-	Please be advised that the preferred route appears to fall within the Intake Protection Zone (IPZ), Highly Vulnerable Aquifers (HVA), vulnerable areas under the Credit Valley - Toronto and Region - Central Lake Ontario Source Protection Plan (CTC SPP). TRCA supports the legislated protection of municipal drinking water sources through the Clean Water Act and acts as a technical advisor to municipalities in their role for implementing some aspects of the CTC SPP. For more information please visit http://www.ctcswp.ca/ .	Noted.
8.	-	-	Please include the Greenbelt Plan in policy review as the Don River has been added as an Urban River Valley Area in 2017. Please address how the proposed works and abandonment will attempt to meet Section 6 and Section 3.2.4 of the Plan. https://files.ontario.ca/greenbelt-plan-2017-en.pdf	Natural gas pipelines are included in the definition of "infrastructure" in the Greenbelt Plan (2017) and are permitted in Urban River Valley Areas (Section 6.2.3). The Project is a relocation of an existing pipeline that currently services the City of Toronto's needs. As noted in Section 6.2.4 of the Greenbelt Plan, Protected Countryside Policy 3.2.4 does not apply.
TRCA Permitting Requirements for Detail Design Application				
9.	-	-	As noted in the ER, permits in accordance with Ontario Regulation 166/06 are required from TRCA prior to project construction. Please submit the detailed design drawings, together with the appropriate reports and documents. The TRCA Complete Submission Checklist for Infrastructure Projects is available on our website (https://trca.ca/app/uploads/2016/01/TRCA- PRE-CONSULTATION-CHECKLIST.pdf), and should be used as a guide to your permit submission. The permit application form, together with additional submission checklist and guidelines are also available on our website should be used as appropriate to inform the development of your application. These can be found under the Planning and Permitting, Environmental Assessment section of the TRCA website at: http://www.trca.on.ca/planning-services-permits/environmental-assessment.dot#check . Please include a digital copy of all submitted material. Materials must be submitted in PDF format, with drawings pre-scaled to print on 11"x17" pages. Materials may be submitted via e-mail (if less than 25 MB), or through file transfer protocol (FTP) sites (if posted for a minimum of two weeks).	Noted.

February 18, 2022
 Nathan Jenkins, H.B.Sc. (Env), M.Pl., RPP
 Page 5 of 5

Reference: CFN 59825: TRCA Comments on Environmental Report prepared for NPS 20 Don River Pipeline Relocation Project

Table 1: Comment Response

ITEM	TRCA COMMENTS (November 18, 2021)	Enbridge/Stantec RESPONSE (January 6, 2022)	TRCA COMMENTS (February 1, 2022)	Enbridge/Stantec Response (February 18, 2022)
10.	-	-	TRCA staff encourage the Enbridge team to contact TRCA during detail design stages to ensure that the design has adequately considered impacts to, and caused by, the floodplain. Additionally, TRCA recommend locating all equipment staging, stockpiling and temporary facilities outside of the Regulatory floodplain. Staff can provide updated floodplain mapping if required by Enbridge.	Noted. Enbridge requests that floodplain mapping be provided to Stantec.
11.	-	-	Erosion and sediment control (ESC) measures should be implemented to mitigate erosion and sediment processes during construction. At the detailed design stage, please provide comprehensive ESC plans as part of associated applications. The ESC plan should be consistent with the Erosion and Sediment Control Guideline for Urban Construction (December 2019). The most up to date guideline can be found on the Sustainable Technologies Evaluation Program (STEP) website at www.sustainabletechnologies.ca	Noted.
12.	-	-	Enbridge should identify appropriate design measures to mitigate the risk of debris hitting the pipeline during a Regional Storm event in detailed design.	Noted.
13.	-	-	Under Section 7.2 'Contingency' a contingency plan should be created and submitted at the design stage to address the risk of flooding from the Don River during construction of the permanent and temporary pipeline replacement.	Noted.
14.	-	-	At the detailed design stage please include TRCA's Standard Notes to the drawings. The note can be found in the following links: http://www.trca.on.ca/dotAsset/93458.pdf	Noted.

From: Hoskins, Patrick <Patrick.Hoskins@stantec.com>
Sent: Thursday, February 17, 2022 2:00 PM
To: Adam LaForme <Adam.LaForme@mncfn.ca>
Cc: Kevin Berube <kevin.berube@enbridge.com>
Subject: [External] RE: Pif Notification - 116524 - Proposed Don River Pipeline Replacement

CAUTION: EXTERNAL EMAIL

This email originated from outside Enbridge and could be a phish. Criminals can pretend to be anyone. Do not interact with the email unless you are 100% certain it is legitimate. Report any suspicious emails.

Good afternoon Adam,

Stantec has been retained to carry out a Stage 1 archaeological assessment for the proposed NPS 20 Don River Relocation Project. An Environmental Assessment report has been completed for the project and was sent to MCFN for their review. That report included a Stage 1 archaeological assessment for the project which contained multiple alternative routes.

It was identified that a portion of the preliminary Preferred Route was not included in the original Stage 1 archaeological assessment. The current PIF is to address the missing portion. A copy of the report can be provided to you once it is complete. Preliminary results indicate the area is previously disturbed and no further work is needed. However, if fieldwork is needed MCFN will be invited to participate.

Thanks,
Patrick

Patrick Hoskins MA
Project Archaeologist

Direct: 613 738-6060
Mobile: 613 716-4687
Fax: 613 722-2799
Patrick.Hoskins@stantec.com

Stantec
400 - 1331 Clyde Avenue
Ottawa ON K2C 3G4



From: Adam LaForme <Adam.LaForme@mncfn.ca>
Sent: Tuesday, February 15, 2022 3:57 PM
To: Hoskins, Patrick <Patrick.Hoskins@stantec.com>
Cc: archaeology@ontario.ca
Subject: Pif Notification - 116524 - Proposed Don River Pipeline Replacement

Aanii Patrick,

I am writing on behalf of the Department of Consultation and Accommodation requesting information on a project within the Mississaugas of the Credit First Nation's treaty territory. Please provide a summary of the history of this project and the current state of its associated environmental and archaeological fieldwork.

Miigwech,

Adam LaForme (he/him)
Archaeological Operations Supervisor



Mississaugas of the Credit First Nation (MCFN)
Department of Consultation and Accommodation (DOCA)
4065 Highway 6 North, Hagersville, ON N0A 1H0
Cell 289-527-2763



February 15th, 2022

To Whom It May Concern,

I am writing on behalf of the Department of Consultation and Accommodation [DOCA], requesting information on a project within the Mississaugas of the Credit First Nation's [MCFN] treaty territory.

MCFN are an Aboriginal people within the meaning of section 35 of the *Constitution Act, 1982*. We have signed numerous treaties with the Crown, reaffirming our rights as the original owners of the lands in our territory and establishing Treaty rights over the same. Furthermore, we have un-surrendered Aboriginal title to the waters, beds of water, and foreshore within our territory. Our constitutionally protected rights give rise to specific legal obligations and duties which supersede policies and guidelines.

We are an Indigenous community as understood by the United Nations and our rights include those referenced in the United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP"). Article 11 of UNDRIP states that Indigenous peoples have "the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts..." In May, 2016, the Federal Government committed to adopting and implementing UNDRIP; therefore, the rights of Indigenous peoples outlined in it deserve renewed consideration and respect.

These lands have been the territory and home of MCFN and our ancestors for many generations. As such, there is significant potential for archaeological and other cultural resources of our people to be located during the archaeological fieldwork required for projects or development. Such resources are of critical importance to MCFN given the increasing urbanization and development of our territory that effectively whitewashes our past. Without our active participation and monitoring during archaeological fieldwork, our history stands to be lost forever. As the original stewards of these lands – and continuing owners of the waters – we have ongoing obligations to ensure the protection of our cultural and natural resources for future generations. This is our responsibility and our right.



DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260



DOCA has been notified that in a project information file was submitted to the Ministry of Heritage, Sport, Tourism, and Culture Industries for the following project:

PIF ID	116524
Project Name	Proposed Don River Pipeline Replacement
Proponent Identified	Enbridge Gas Inc.
Stage of Assessment	Stage 1
Licensee Name and Number	Patrick Hoskins P415

Please provide a summary of the history of this project and the current state of its associated environmental and archaeological fieldwork. If it is complete, please provide a summary of the preliminary results, followed by the draft report when available. If it is not yet complete, please provide the anticipated start date of fieldwork.

Please be aware that the development may have impacts on MCFN's treaty and aboriginal rights and MCFN has not been properly consulted on this project. Until a reasonable understanding has been reached between MCFN and the proponent regarding the project and our participation in it to ensure that the fieldwork is conducted in a respectful manner that protects our rights, we are of the opinion that any duty to consult over the project has not been met and all subsequent approvals relating to the project are subject to challenge on this basis.

Finally, we would like to take this opportunity to remind you that MCFN has its own *Standards and Guidelines for Archaeology*, which we expect that will be followed in our Territory. Additionally, DOCA requires that our Field Liaison Representatives participate in all environmental and archaeological fieldwork within the MCFN treaty territory, including Stages 2 through 4. **It is our expectation that no fieldwork will take place without the participation of our FLRs.** MCFN has an Aboriginal and Treaty Right to protect the environmental and our archaeological heritage and our FLRs are our boots on the ground to ensure our interests are protected. MCFN considers it disrespectful to our rights as Indigenous peoples if our natural and cultural heritage is interfered with without our involvement.

It is my hope that in light of the above considerations and with a renewed focus on reconciliation, we can navigate through these issues towards a relationship of respect, partnership, and mutual benefit. **Please provide the requested information by 4pm on March 1st, 2022.**



Thank you.



Adam LaForme,
Archaeological Operations Supervisor

CC Mark LaForme, MCFN-DOCA (Mark.LaForme@mncfn.ca)
Ministry of Heritage, Sport, Tourism, and Culture Industries
(archaeology@ontario.ca)

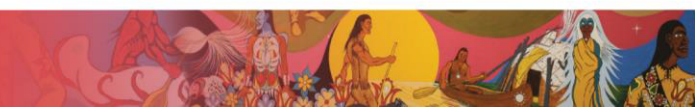


DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario NOA 1H0



Phone: (905) 768-4260



From: [NPS 20 Don River Relocation](#)
To: [REDACTED]
Cc: [NPS 20 Don River Relocation](#)
Subject: RE: Don River Relocation Project
Date: Friday, February 18, 2022 3:12:00 PM

Hi [REDACTED],

Enbridge is proceeding with the preferred route.

The preferred route includes two phases:

- (a) A temporary by-pass located on Lake Shore Bridge of approximately 209 m of NPS 20 steel ("ST") natural gas distribution pipeline; and
- (b) Permanent pipeline located on the Keating Railway Bridge of approximately 166 m of NPS 20 ST natural gas distribution pipeline.

There will be no impact to Old Brewery Lane.

Thanks, and I hope you have a good weekend!

Laura

Laura Hill M.Env.Sc.
Environmental Scientist, Project Manager

laura.hill@stantec.com



From: [REDACTED]@yahoo.com>
Sent: Sunday, February 6, 2022 4:58 PM
To: NPS 20 Don River Relocation <EA-Replacement20@stantec.com>
Subject: Don River Relocation Project

Laura,

I live on Old Brewery Lane, which is one of the backup routes selected for the Enbridge 20" line Don River Relocation Project.

Has anything been decided? Has any progress been made in the decision of a route?

[REDACTED]

[REDACTED]

Toronto, ON
M5A 3P2

LAND MATTERS & AGREEMENTS

Land Requirements

1. The PR for the Project is described in Exhibit C, Tab 1, Schedule 1, and described in greater detail in Section 2.0 of the ER, found at Exhibit F, Tab 1, Schedule 1, Attachment 1.
2. The PR follows public road allowance for the majority of the Project. However, bylaw or easement may be required where municipal road allowances are not dedicated. In addition, Enbridge Gas will be required to obtain road occupancy permits from the City of Toronto.
3. Temporary working areas may be required along the PR where the road allowance is too narrow or confined to facilitate construction. These areas will be identified with the assistance of the contractor that will perform the construction. Agreements for temporary working areas will be negotiated where required.

Permits & Agreements Required

4. Potential permits and agreements that may be required for the Project are listed in Table 1 below.

Table 1: Potential Permits & Agreements Required

<u>AUTHORITY</u>	<u>PURPOSE</u>
Toronto Harbor Commissioners	Potential temporary or permanent easement(s), as required.

<p>Toronto & Region Conservation Authority</p>	<p>Permit for Development, Interference with Wetlands and Alterations to Shorelines and Watercourses, as required.</p>
<p>City of Toronto</p>	<p>Noise Exemption Permit, as required.</p>
<p>City of Toronto Transportation Services – ROW Management</p>	<p>Street Occupation Permit. Cut Permit Application for Installation of Services within the City of Toronto Streets. Follow Toronto Public Utilities Coordinating Committee process and contact required utilities.</p>
<p>City of Toronto Toronto Water Environmental Monitoring & Protection</p>	<p>Sewer Discharge Permit(s)/Agreement(s) as per Chapter 681 of the City of Toronto Municipal Code if discharging private water into the City's sewer system, as required.</p>
<p>City of Toronto Urban Forestry</p>	<p>Permit to remove or injure trees as per Chapter 813, 658 and/or 608 of the City of Toronto Municipal Code, as required.</p>
<p>MHSTCI</p>	<p>An AA (i.e. a Stage 1 and 2 AA along the right-of-way (RoW)) to identify areas of archaeological potential is required prior to any ground disturbance and/or site alteration. The completed AA reports are forwarded to the MHSTCI for review.</p>

<p>Ontario Ministry of the Environment, Conservation and Parks (MECP) Environmental Approvals Branch</p>	<p>Environmental Activity and Sector Registry registration if dewatering of more than 50,000 litres (L) per day but less than 400,000 L per day is required. Permit to Take Water if water taking is greater than 400,000L per day.</p>
<p>MECP Species at Risk Branch</p>	<p>Consultation may be required with the MECP to identify the approval process under the ESA (e.g. permit, registration, letter of advice), if applicable. Approval would be required for any protected species and/or their habitat under the ESA.</p>
<p>Environment and Climate Change Canada</p>	<p>Nest sweeps to be conducted at a maximum of 7 days prior to vegetation removal during the bird nesting season, (e.g. April 1 to August 31), as per the <i>Migratory Birds Convention Act, 1994</i>.</p>
<p>Transport Canada Navigation Protection Program</p>	<p>Enbridge Gas will follow the appropriate notification and approvals process identified under the Canadian Navigable Waters Act, if required, and implement relevant mitigation measures to avoid or minimize temporary disruption to the navigability of the waterways.</p>
<p>Toronto Port Authority (Ports Toronto)</p>	<p>Authorization to undertake a work or construction in the jurisdiction of the Toronto Port Authority, as required.</p>

5. Other authorizations, notifications, permits and/or approvals may be required in addition to those identified above.

Landowner Agreements

6. Enbridge Gas will obtain all required permits, agreements to grant easements, easements, and temporary working area agreements, if and as required for the route

and location of the proposed facilities prior to the commencement of construction. If it is determined that temporary working area agreements are required, affected landowners will be provided with Enbridge Gas's standard form of Working Area Agreement.

7. Attachment 1 contains the standard form of Working Area Agreement that will be provided to landowners. Attachment 2 contains the standard form of Easement Agreement that will be provided to landowners if a permanent easement is required. These agreements are the same as those used in Enbridge Gas's St. Laurent Ottawa North Replacement Project, which is currently before the OEB.¹

Affidavit re: Search of Title

8. Attachment 3 to this Exhibit sets out the Affidavit of Title Search for those landowners that are directly affected (construction activities occurring on their lands) by the Project work. Enbridge Gas will provide notice of this application to all landowners listed in Attachment 3.

¹ As outlined in EB-2020-0293, Exhibit E, Tab 1, Schedule 1, p. 5, the form of Working Area Agreement has been previously approved by the OEB as part of the OEB's Decision and Order regarding Enbridge Gas's Innes Road Project (EB-2012-0438, OEB Decision and Order, April 11, 2013, pp. 5-6) and the form of Easement Agreement has been previously approved by the OEB as part of the OEB's Decision and Order regarding Enbridge Gas's London Lines Replacement Project (EB-2020-0192, OEB Decision and Order, January 28, 2021, p. 29).

WORKING AREA AGREEMENT

THIS AGREEMENT made the day of , 20

BETWEEN:

(hereinafter called the "Owner")

-and-

ENBRIDGE GAS INC.

(hereinafter called the "Company")

WHEREAS:

1. The Company intends to construct and install a pipeline for the distribution of natural and/or manufactured gas through Lot, Concession/Plan , in the Township of
2. To facilitate the construction of such pipeline, the Company requires a wide temporary working area adjacent to the pipeline;
3. The Owner is the owner of the lands adjacent to the pipeline and has agreed to allow the Company to use such working area to construct and install the pipeline.

NOW THEREFORE THIS AGREEMENT provides that in consideration of the sum of _____ DOLLARS (\$) paid by the Company to the Owner, receipt whereof is hereby acknowledged, the Owner hereby agrees to permit the Company, its employees and agents, with or without vehicles and/or machinery, to enter upon, use and otherwise occupy during the period of construction of the pipeline, an area adjacent to the pipeline and being a distance of m.

The Company agrees that at its own expense it will make all grading, repairs and replacements necessary to restore the lands to as near its original condition as is practicable upon the termination of such work. The Company shall pay for all damages to land, crops, timber or improvements caused by its operations.

IN WITNESS WHEREOF the parties have executed this Agreement.

SIGNED, SEALED AND DELIVERED
In the presence of

)
)
) _____
)
) _____
)
)
)
) **ENBRIDGE GAS INC.**
)
)
) _____
)
) _____

TRANSFER OF EASEMENT
(Blanket or Specified Lands)

Definitions

For the purposes of this easement the following capitalized words shall have the following meanings:

“Company” or **“Transferee”** means Enbridge Gas Inc.

“Dominant Tenement” means the lands described in Schedule 1 attached hereto.

“Easement Lands” or **“Servient Tenement”** means the lands described in the Properties heading of the document to which this schedule is attached.

“Equipment” means, collectively, all pipelines, piping, meters, attachments, appurtenances, apparatus, appliances, markers, fixtures, works and other equipment constructed or to be constructed by Company in, on and/or under the Servient Tenement.

“Owner” or **“Transferor”** means the owner of the Property.

IN CONSIDERATION OF THE COVENANTS HEREIN, the parties hereto agree as follows:

- (1) Owner hereby transfers, sells, grants and conveys in perpetuity to Company, its successors and assigns, a free and unencumbered easement in, over, upon, under and/or through the Easement Lands, to survey, lay, construct, install, operate, use, inspect, remove, renew, replace, alter, enlarge, reconstruct, repair, expand and maintain the Equipment which Company may deem necessary or convenient thereto. This transfer of easement shall include the right of Company, its successors, assigns, servants and agents to use the surface of the Easement Lands for ingress and egress on foot and/or with vehicles, supplies, machinery and equipment at any time and from time to time.
- (2) 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 rights of Company herein shall be of the same force and effect as a covenant running with the Easement Lands and shall be appurtenant to the lands and premises described in this Schedule as Company's Lands.
- (4) Company shall have the right to assign or transfer its rights hereunder in whole or in part.

- (5) This Transfer shall extend to, be binding upon and enure to the benefit of the estate trustees, successors and assigns of the parties hereto. If Owner is not the sole owner of the said lands, this Transfer shall bind Owner to the full extent of its interest therein and shall also extend to any after-acquired interest but all monies payable or paid to Owner hereunder shall be paid to Owner only in the proportion that its interest in the said lands bears to the entire interest therein. Owner hereby agree that all provisions herein are reasonable and valid and if any provision herein is determined to be unenforceable, in whole or in part, it shall be severable from all other provisions and shall not affect or impair the validity of all other provisions.
- (6) 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 Company hereunder. Without limiting the generality of the foregoing, Owner shall not, without the prior written consent of 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 by Company of its rights hereunder.
- (7) Notwithstanding any rule of law or equity, any Equipment constructed by Company shall be deemed to be the property of Company even though the same may have become annexed or affixed to the Easement Lands.
- (8) Company shall at its own expense as soon as reasonably possible after the construction of any Equipment or other exercise of its rights hereunder, remove all surplus sub-soil and debris from the Easement Lands and restore them to their former state so far as is reasonably practicable.
- (9) Owner covenants that:
 - a. they have the right to convey the rights hereby transferred to Company;
 - b. Company shall have quiet enjoyment of the rights hereby transferred;
 - c. Owner or its successors and assigns will execute such further assurances and do such other acts (at Company's expense) as may be reasonably required to vest in Company the rights hereby transferred; and
 - d. Owner has not done, omitted or permitted anything whereby the Easement Lands is or may be encumbered (except as the records of the Land Registry Office disclose).
- (10) Owner represents and warrants that the Easement Lands have not been used for the storage of and do not contain any toxic, hazardous, dangerous, noxious or waste substances or contaminants (collectively the "**Hazardous Substances**"). If Company encounters any Hazardous Substances in undertaking any work on the Easement Lands, it shall give notice to Owner. At the expense of Owner, Company (or, at Company's option, Owner) shall effect the removal of such Hazardous Substances in

accordance with the laws, rules and regulations of all applicable public authorities. In acquiring its interests in the Easement Lands pursuant to this Easement, Company shall be deemed not to acquire the care or control of the Easement Lands or any component thereof.

- (11) Company covenants and agrees that it shall comply with applicable federal and provincial environmental legislation in connection with the use of this Easement Lands and the rights granted herein.
- (12) Whenever the singular or neuter is used it shall, where necessary, be construed as if the plural or feminine or masculine has been used and vice versa, as the case may be.
- (13) Company hereby declares that this easement is being acquired by Company for the purpose of a hydrocarbon line within the meaning of Part VI of the *Ontario Energy Board Act, 1998* and/or a utility line within the meaning of the *Ontario Energy Board Act, 1998*.

SCHEDULE 1

DOMINANT TENEMENTS - TRANSFEREE'S LANDS

PIN 64057-0029 (LT)
PT TWP LT 92, THLD, AS IN AA 90798 S/T & T/W AA90798; WELLAND

PIN 04161-0019 (LT)
PT LT 6 CON 6RF GLOUCESTER PART 1, 4R-10265 & PART 2, 5R-5963; GLOUCESTER

PIN 03187-0004 (LT)
PT W1/2 LT 30 CON 2 MARKHAM AS IN MA49406; RICHMOND HILL

AFFIDAVIT OF CYNTHIA LAM
REGARDING SEARCH OF TITLE

I, Cynthia Lam, of the City of Toronto, MAKE OATH AND SAY AS FOLLOWS:

1. I am a Land Advisor, in Land Contracts & Services at Enbridge Gas Inc., and as such I have knowledge of the matters hereinafter deposed to.
2. I was informed by the Project Manager of Enbridge Gas Inc. of the properties through/upon which the proposed pipeline and facilities would be located. Accordingly, I conducted a search of title to these properties in January 2022.
3. As a result of my searches of title, I determined the owners and encumbrances with land, or registered interest in land, which would be affected by the construction of the proposed pipeline and facilities. Attached and marked as Schedule A is a list of all such owners and encumbrancers.

SWORN REMOTELY by Cynthia)
Lam at the City of Markham in the)
Regional Municipality of York,)
before me at the City of Toronto in)
the Province of Ontario, on February)
23, 2022 in accordance with)
O. Reg 431/20, Administering Oath)
or Declaration Remotely.)

Cynthia
Lam

Digitally signed by
Cynthia Lam
Date: 2022.02.23
14:06:20 -05'00'

Alex
Heuton

Digitally signed by
Alex Heuton
Date: 2022.02.23
14:23:20 -05'00'

CYNTHIA LAM

A Commissioner, etc.

SCHEDULE "A"

Contact	Address
City of Toronto	Legal Services Metro Hall Station 1260 55 John Street, 26 th Floor Toronto, ON M5V 3C6 Attention: City Solicitor Email: wwalberg@toronto.ca
Toronto Harbor Commissioners	207 Queens Quay West Suite 500 Toronto, Ontario Canada, M5J 1A7 Attn: Allan Seymour E-mail: aseymour@portstoronto.com

INDIGENOUS¹ CONSULTATION

1. Enbridge Gas is committed to creating processes that support meaningful engagement with potentially affected Indigenous groups (First Nations and Métis). Enbridge Gas works to build an understanding of project related interests, ensure regulatory requirements are met, mitigate or avoid project-related impacts on Indigenous interests including rights, and provide mutually beneficial opportunities where possible.
2. Pursuant to the OEB's Guidelines, Enbridge Gas provided the Ministry of Energy ("MOE") with a description of the Project to determine if there are any duty to consult requirements and, if so, if the MOE would delegate the procedural aspects of the duty to consult to Enbridge Gas. This correspondence, dated October 4, 2021, detailed the history of the Project and the previous determinations made by the MOE. It is included as Attachment 1 to this Exhibit.
3. On October 6, 2021, the MOE responded to Enbridge Gas's letter and reaffirmed its previous guidance related to the Project; that the Project does not trigger a constitutional duty to consult but that Enbridge Gas is encouraged to continue to provide Project updates to the Mississaugas of the Credit First Nation. This correspondence is included as Attachment 2 to this Exhibit.

Indigenous Engagement Activities

4. Enbridge Inc's company-wide Indigenous Peoples Policy ("Policy"), as set out in Attachment 3 to this Exhibit, guides Enbridge Gas's approach to pursuing sustainable relationships with Indigenous communities and groups in proximity to

¹ Enbridge Gas has used the terms "Aboriginal" and "Indigenous" interchangeably in its application. "Indigenous" has the meaning assigned by the definition "aboriginal peoples of Canada" in subsection 35(2) of the *Constitution Act, 1982*.

where Enbridge Gas conducts business. To achieve sustainable relationships with Indigenous communities and groups, Enbridge Gas governs itself by five principles that include:

- Recognizing legal and constitutional rights possessed by Indigenous peoples;
- Recognizing the importance of the United Nations Declaration on the Rights of Indigenous peoples within the context of existing Canadian law;
- Engaging in forthright and sincere consultation with Indigenous peoples about Enbridge Gas's projects and operations through processes that seek to achieve early and meaningful engagement;
- Committing to working with Indigenous peoples to achieve benefits for them resulting from Enbridge Gas's projects and operations; and
- Fostering an understanding of the history and culture of Indigenous peoples among Enbridge Gas's employees and contractors.

5. Regardless of whether the duty to consult is triggered, the Company routinely engages with Indigenous groups potentially affected by Enbridge Gas projects and operations. As a result of the MOE's determination that no duty to consult exists for the Project, Enbridge Gas has not completed an Indigenous Consultation Report for the Project as required by the Guidelines in cases where a duty to consult exists. Should an Indigenous community identify itself as being potentially affected by the Project, Enbridge Gas will engage with that Indigenous community and notify the MOE. As discussed above, Enbridge Gas has and will continue to provide project updates to the Mississaugas of the Credit First Nation.



Adam Stiers
Manager, Regulatory Applications
Leave to Construct
Regulatory Affairs

Tel: (519) 436-4558
Email: adam.stiers@enbridge.com

Enbridge Gas Inc.
P.O. Box 2001
50 Keil Drive N.
Chatham, Ontario, N7M 5M1
Canada

October 4, 2021

VIA EMAIL – amy.gibson@ontario.ca

Ministry of Energy
Amy Gibson
Manager, Indigenous Energy Policy
Unit 77 Grenville St.
6th Floor
Toronto, ON
M7A 1B3

Dear Ms. Gibson:

Re: NPS 20 Don River Relocation Project

The *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario, 7th Edition, 2016* (the “Guidelines”) issued by the Ontario Energy Board (“OEB”) indicate that a project applicant shall provide the Ministry of Energy (“MOE”) with a description of projects in the planning process, such that the MOE can determine if there are any Duty to Consult requirements.

On October 10, 2017, Enbridge Gas Distribution Inc.¹ (“EGD”) notified the MOE of its proposed Don River Replacement Project and requested guidance on Duty to Consult requirements. Subsequently, on November 14, 2017 EGD informed the MOE that the project would be split into two separate projects: (i) NPS 20 Don River Replacement Project (previously segment B); and (ii) NPS 30 Don River Replacement Project (previously segment A). On November 28, 2017, the MOE responded to EGD advising that it was delegating the procedural aspects of consultation for both projects to EGD and identifying the Mississaugas of the New Credit First Nation as the affected Aboriginal community that should be consulted on the basis that they have or may have constitutionally protected Aboriginal or treaty rights that may be adversely affected.

On March 26, 2018, EGD notified the MOE that it had determined that the pipeline routing for the NPS 20 Don River Replacement Project had changed from the description included in the October 10, 2017 project description and requesting a that the MOE advise as to whether its previous (November 28, 2017) determination regarding consultation remained valid. On April 26, 2018, the MOE advised that while the NPS 20 Don River Replacement Project did not trigger the duty to consult the NPS 30 Don River Replacement Project did trigger the duty to consult. The MOE went on to recommend that, given the proximity of the two projects, EGD provide updates to the Mississaugas of the New Credit First Nation on the NPS 20 Don River Replacement Project.

Enbridge Gas Inc. (“Enbridge Gas” or the “Company”) subsequently filed an application with the OEB (EB-2020-0218) seeking an order of the OEB approving leave to construct approximately 1.9 km of NPS 20 and 8 m of NPS 24 natural gas pipeline and ancillary facilities in the City of

¹ Enbridge Gas Distribution Inc. (“EGD”) and Union Gas Limited (“Union”) were Ontario corporations incorporated under the laws of the Province of Ontario carrying on the business of selling, distributing, transmitting, and storing natural gas within the meaning of the *Ontario Energy Board Act, 1998*. EGD and Union amalgamated effective January 1, 2019 to become Enbridge Gas Inc. (“Enbridge Gas”).



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Canada

Toronto to relocate (and abandon) existing pipeline located on and adjacent to the Keating Railway Bridge. Due to concerns regarding the allocation of project costs, Enbridge Gas subsequently withdrew its application in order to assess additional alternatives to the proposed project.

The purpose of this letter is to inform the MOE that Enbridge Gas has determined that the pipeline routing for the NPS 20 Don River Replacement Project (now the NPS 20 Don River Relocation Project or the "Project") has changed from that outlined in the previous project descriptions summarized above (specifically, from the description provided in our letter of March 26, 2018).

The Project now involves the relocation of the NPS 20 main currently located on the north side of the Keating Railway bridge. The relocation is required to facilitate the widening of the Keating Railway bridge, as well as the adjacent Lake Shore bridge, as part of Waterfront Toronto's Port Lands Flood Protection and Enabling Infrastructure Project ("PLFPEI"). The work will be completed in two phases. First, an above ground temporary bypass will be constructed on the south sidewalk of the Keating Railway bridge to remove the existing pipeline from within Waterfront Toronto's immediate construction working area. Next, the pipeline will be permanently relocated to the north side of the Keating Railway bridge once Waterfront Toronto completes their work in the vicinity of the new utility corridor.

Attachment 1 contains an updated description of the Project's characteristics and its location for the MOE's review and to assist it with its determination as to whether its previous determination set out in its April 26, 2018 letter remains valid. Enbridge Gas would be pleased to discuss the revised Project with you should you have any questions.

Regards,

Adam Stiers
Manager, Regulatory Applications - Leave to Construct

Attachment 1: Project Description

1.0 Project Summary

Enbridge Gas Inc. (“Enbridge Gas” or the “Company”) is proposing to relocate a segment of existing nominal pipe size (“NPS”) 20 high pressure (“HP”) natural gas main temporarily from the north side of the existing Keating Railway Bridge to the south sidewalk of the new Lake Shore bridge and then to relocate the same segment back onto a newly constructed utility corridor within the extended Keating Railway Bridge (the “Project”) all within the City of Toronto. The Project consists of:²

- (a) A temporary relocation of approximately 209 m of NPS 20 steel (“ST”) natural gas distribution pipeline; and
- (b) A permanent relocation of approximately 166 m of NPS 20 ST natural gas distribution pipeline.

The temporary relocation is proposed to be placed into service in Q2 2023. The permanent relocation is proposed to be placed into service in Q2 2024.

Figure 1 below shows the Study Area:

- (a) The Company proposes that the temporary relocation will involve an above ground bypass constructed on the south sidewalk of the new Lake Shore bridge, with two below ground road crossings to tie-into the existing distribution system on the north side of Lake Shore Blvd E on either side of the Don River.
- (b) The Company proposes the permanent relocation will be located within a utility corridor on the north side of the extended Keating Railway bridge that will be constructed by Waterfront Toronto for the purposes of utility relocations as part of the PLFPEI Project.

No reinforcement or station work is required as there are no additional demands on the system as a result of the Project.

Where possible, the Project will be located within existing road allowances. Permanent easement and temporary working space may be required. Enbridge Gas will work with the City of Toronto to secure a licence to permit Enbridge Gas’s infrastructure to exist within the new utility corridor. Enbridge Gas will work with regulators and landowners to identify and secure appropriate working space and easements as required.

Work to prepare an Environmental Report (“ER”) for the Project has been initiated. The ER will examine the project scope from an environmental and socio-economic perspective. Engineering design is expected to be finalized during the permitting stage of the Project.

2.0 Environmental Report, Authorizations and Approvals Required

An ER for the Project will be prepared in accordance with the Ontario Energy Board’s (“OEB”) *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines in Ontario, 7th Edition, 2016* (the “Guidelines”), with support provided by consultant

²

Proposed Locations	Approximate Latitude	Approximate Longitude
Start Point	43.651271	-79.347289
End Point	43.650594	-79.348452

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archaeologists, cultural heritage specialists, and environmental professionals.³ The ER will identify the potential authorizations required. The ER for this Project is anticipated to be completed in Q4 2021. Enbridge Gas's preliminary work on the Project has identified the following potential required authorizations:

Federal:

- Fisheries and Oceans Canada.

Provincial:

- Ontario Energy Board;
- Infrastructure Ontario;
- Ministry of Northern Development, Mining, Natural Resources and Forestry;
- Ministry of Heritage, Sports, Tourism and Culture Industries; and
- Toronto Portlands Company.

Municipal:

- Toronto and Region Conservation Authority; and
- City of Toronto.

Other:

- Hydro One Networks Inc.; and
- Canadian National Rail/Canadian Pacific Rail/Metrolinx.

Other authorizations, notifications, permits and/or approvals may be required in addition to those identified above.

3.0 Project Activities

Pursuant to the Guidelines, an ER will be prepared and archaeological studies will be completed. The design process involves the selection of a specific running line location, appropriate materials, the selection of valves/fittings, and location(s) for trenching activities. Information obtained from the geotechnical analysis, subsurface utility engineering and soil sampling is typically used to inform pipeline design.

Engineered drawings will be produced with the final design and issued to local municipalities and other regulators for approval. Once all approvals are obtained, final engineered drawings will be prepared for construction.

All facilities will be installed using Enbridge Gas's standard construction practices which may include grading the site, directional drilling the pipe, testing the pipeline, and restoring the area to its original condition. Normal depth of ground cover over the pipeline will be 0.9 to 1.2 metres. However, the pipeline may be installed at a greater depth to provide additional protection in

³ The ER will: (i) describe proposed Project works; (ii) verify the environmentally preferred route; (iii) describe construction procedures; (iv) identify potential environmental impacts and recommend mitigation measures; and (v) describe consultation opportunities. An archaeological assessment will be conducted by a licensed archaeologist in accordance with MHSTCI guidelines to identify archaeological resources in the Project area and to develop appropriate mitigation plans, as required. A heritage specialist will review the running line for potential cultural heritage landscapes and built heritage resources and will develop appropriate mitigation plans, as required. A qualified biologist will review the running line for potential species at risk that will be impacted by construction activities and will develop appropriate mitigation plans, as required.

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areas where it crosses underneath existing infrastructure and other sensitive environmental and/or socio-economic features.

4.0 Potential Environmental Effects and Mitigation Measures

The areas in which the Project is to be constructed are within the City of Toronto. Where possible, the Project will be constructed in previously disturbed corridors. It is expected that the majority of adverse environmental and/or socio-economic effects will be construction related. These effects are expected to be temporary and transitory. The Project will be above ground within a dedicated utility corridor on the extended Keating Railway Bridge and otherwise will be below ground once construction is complete, further limiting the potential for any long-term effects.

Mitigation measures recommended in the ER will be followed in conjunction with Enbridge Gas's Construction and Maintenance standards. In addition, Enbridge Gas will use professional judgement, past experience, industry best practices and any additional feedback received through the consultation process when constructing the Project.

5.0 Project Benefits

The Project is needed to address current risks and will ensure the continued safe and reliable delivery of natural gas to Enbridge Gas's customers in the Greater Toronto Area.

6.0 Contact Information

Regulatory Applications:

Adam Stiers

adam.stiers@enbridge.com

Office: (519) 436-4558

Cell: (519) 350-5196

Community & Indigenous Engagement:

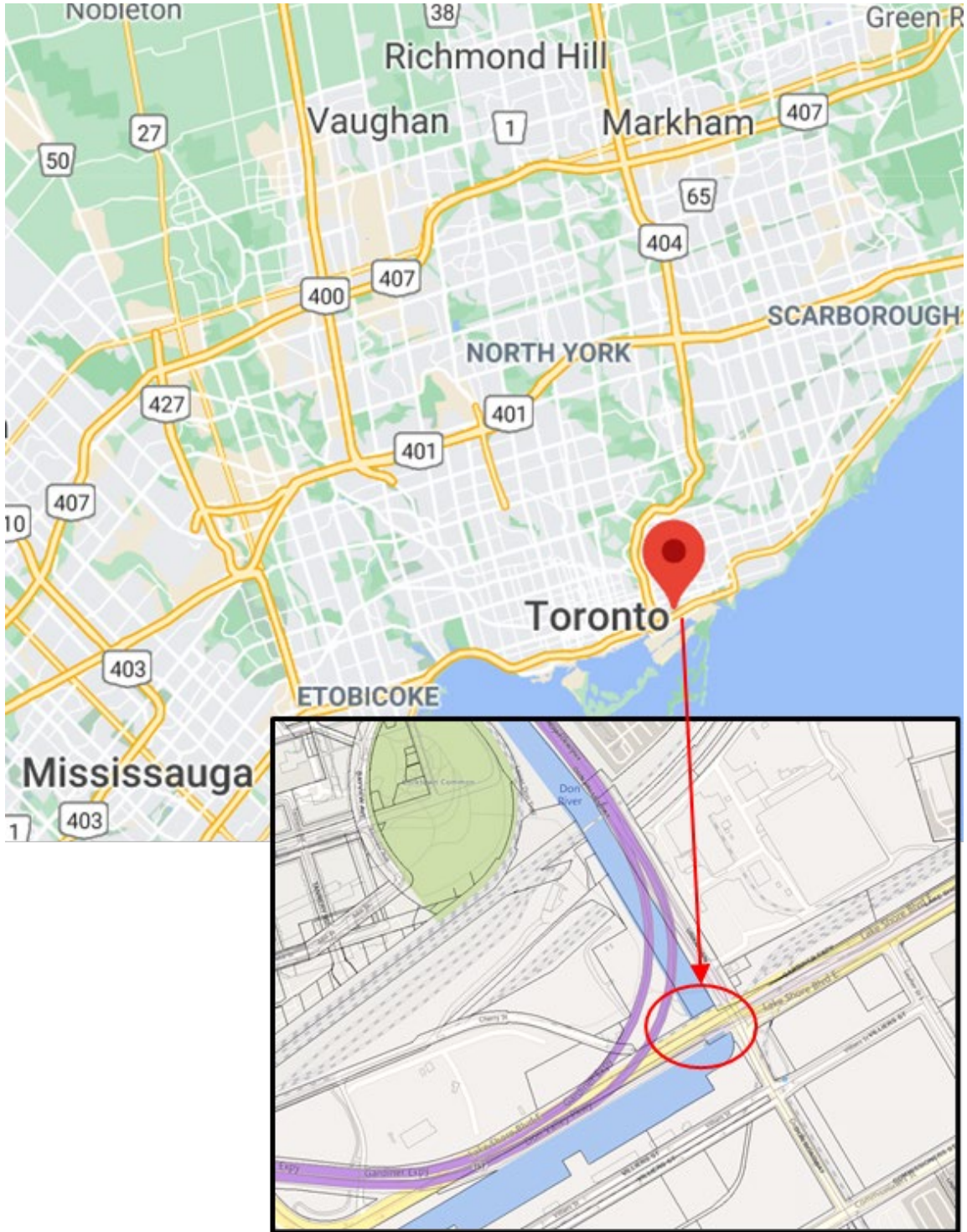
Kevin Berube

kevin.berube@enbridge.com

Office: (416) 495-6184

October 4, 2021
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Figure 1: Project Area



Keating Railway bridge

From: [Adam Stiers](#)
To: [Dave Janisse](#)
Subject: FW: NPS 20 Don River Relocation Project Update Description and Request for Determination of Duty to Consult Requirements
Date: Thursday, January 27, 2022 4:44:41 PM

From: Gibson, Amy (ENERGY) <Amy.Gibson@ontario.ca>
Sent: Wednesday, October 6, 2021 3:05 PM
To: Adam Stiers <AStiers@enbridge.com>
Cc: Kevin Berube <kevin.berube@enbridge.com>; Melanie Book <Melanie.Book@enbridge.com>; McCullough, Jason (ENERGY) <Jason.McCullough@ontario.ca>
Subject: [External] RE: NPS 20 Don River Relocation Project Update Description and Request for Determination of Duty to Consult Requirements

EXTERNAL: PLEASE PROCEED WITH CAUTION.

This e-mail has originated from outside of the organization. Do not respond, click on links or open attachments unless you recognize the sender or know the content is safe.

Hi Adam,

Thank you for submitting the recent project updates for the NPS 20 Don River Relocation project. Based on the documentation submitted and discussions with your team, the Ministry of Energy understands that the proposed change will include pipe relocation and construction work across the Don River. Consequently, the Ministry maintains its guidance that the Mississaugas of the Credit First Nation should continue to be consulted on this project and, specific to this email, be informed of the below noted scope change.

Please contact Jason McCullough, Senior Advisor, jason.mccullough@ontario.ca, should you have any questions.

Regards, Amy

Amy Gibson (she/her) | Manager, Indigenous Energy Policy | Strategic, Network and Agency Policy Division | **Ministry of Energy** | 416-315-8641 | amy.gibson@ontario.ca

From: Adam Stiers <AStiers@enbridge.com>
Sent: October 4, 2021 1:40 PM
To: Gibson, Amy (ENERGY) <Amy.Gibson@ontario.ca>
Cc: Kevin Berube <kevin.berube@enbridge.com>; Melanie Book <Melanie.Book@enbridge.com>
Subject: NPS 20 Don River Relocation Project Update Description and Request for Determination of

Duty to Consult Requirements

Importance: High

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Good afternoon Amy,

I am writing you today to inform you of a change that has been made to the scope of Enbridge Gas's NPS 20 Don River Relocation Project (Project). Attached is an updated Project description summarizing our past correspondence and subsequent determinations made regarding Duty to Consult.

Pursuant to the Ontario Energy Board's *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario, 7th Edition (2016)*, Enbridge Gas is providing a description of the updated Project such that the Ministry of Energy (MOE) can determine if its previous determination dated April 26, 2018 remains valid.

Given the MOE's familiarity with the Project, we are optimistic that you will be able to make a determination regarding the impact of the scope changes described herein swiftly. To assist your work I've also attached an updated Project map in .SHP format. If there is anything further that we can do to support your determination please don't hesitate to contact me.

If you have any questions please contact me Kevin Berube, or Melanie Book at your convenience.

Adam Stiers, MBA (he/him)

Manager, Regulatory Applications – Leave to Construct

—

Enbridge Gas Inc.

TEL: 519-436-4558 ext 5004558 | CELL: 519-350-5196 | FAX: 519-436-4641 | adam.stiers@enbridge.com

50 Keil Drive North, Chatham, ON N7M 5M1

Integrity. Safety. Respect. Inclusion.

Enbridge Inc. Indigenous Peoples Policy

Enbridge Indigenous Peoples Policy

Enbridge recognizes the diversity of Indigenous Peoples who live where we work and operate. We understand that the history of Indigenous Peoples in both Canada and the United States has had destructive impacts on the social and economic wellbeing of Indigenous Peoples. Enbridge recognizes the importance of reconciliation between Indigenous communities and broader society. Positive relationships with Indigenous Peoples, based on mutual respect and focused on achieving common goals, will create constructive outcomes for Indigenous communities and for Enbridge.

Enbridge commits to pursuing sustainable relationships with Indigenous Nations and groups in proximity to where Enbridge conducts business. To achieve this, Enbridge will govern itself by the following principles:

- We recognize the legal and constitutional rights possessed by Indigenous Peoples in Canada and in the U.S., and the importance of the relationship between Indigenous Peoples and their traditional lands and resources. We commit to working with Indigenous communities in a manner that recognizes and respects those legal and constitutional rights and the traditional lands and resources to which they apply, and we commit to ensuring that our projects and operations are carried out in an environmentally responsible manner.
- We recognize the importance of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) within the context of existing Canadian and U.S. law and the commitments that governments in both countries have made to protecting the rights of Indigenous Peoples.

- We engage in forthright and sincere consultation with Indigenous Peoples about Enbridge's projects and operations through processes that seek to achieve early and meaningful engagement so their input can help define our projects that may occur on lands traditionally used by Indigenous Peoples.
- We commit to working with Indigenous Peoples to achieve benefits for them resulting from Enbridge's projects and operations, including opportunities in training and education, employment, procurement, business development, and community development.
- We foster understanding of the history and culture of Indigenous Peoples among Enbridge's employees and contractors, in order to create better relationships between Enbridge and Indigenous communities.

This commitment is a shared responsibility involving Enbridge and its affiliates, employees and contractors, and we will conduct business in a manner that reflects the above principles. Enbridge will provide ongoing leadership and resources to ensure the effective implementation of the above principles, including the development of implementation strategies and specific action plans.

Enbridge commits to periodically reviewing this policy to ensure it remains relevant and meets changing expectations.