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Technical Manager  
Leave to Construct Applications  
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**Enbridge Gas Inc.**  
500 Consumers Rd.  
North York, ON M1K 5E3  
Canada

## **VIA EMAIL and RESS**

June 16, 2023

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

Dear Ms. Marconi:

**Re: Enbridge Gas Inc. (“Enbridge Gas”)  
Ontario Energy Board (“OEB”) File No. EB-2022-0285  
Panhandle Regional Expansion Project (“Project”) – Early Access  
Application and Evidence**

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Enbridge Gas is hereby applying to the OEB pursuant to section 98(2) of the *Ontario Energy Board Act, 1998*, for an order authorizing entry onto certain properties to complete surveys and examinations that are necessary for fixing the site of the hydrocarbon line that it has proposed to construct in its application for leave to construct the Project, which is currently before the OEB (EB-2022-0157).

Concurrently with this application, Enbridge Gas has filed an update to its leave to construct application for the Project. In the updated application, Enbridge Gas proposes to construct approximately 19 km of Nominal Pipe Size 36 natural gas pipeline with a Maximum Operating Pressure of 6040 kPag from its existing Dover Transmission Station in the Municipality of Chatham-Kent to a new valve site in the Municipality of Lakeshore (the “Panhandle Loop”), along with ancillary measurement, pressure regulation, and station facilities.

Enbridge Gas has obtained early access land rights to enable it to carry out necessary surveys and examinations for all but three of the affected properties located along the proposed route for the Panhandle Loop. Enbridge Gas has made reasonable efforts to secure such rights for the remaining three properties but to date those efforts have been unsuccessful. Enbridge Gas therefore requires authorization from the OEB to enter onto the remaining three properties for the purposes of conducting environmental and engineering examinations and surveys, which are necessary for fixing the site of the Project and completing relevant approval processes.

In accordance with the OEB’s *Practice Direction on Confidential Filings*, Enbridge Gas is requesting confidential treatment of the following exhibits to protect against the disclosure of personal information. Details of the specific information and reasons for confidential treatment are set out below:

<b>Exhibit</b>	<b>Description of Document</b>	<b>Confidential Information Location</b>	<b>Brief Description</b>	<b>Basis for Confidentiality</b>
Exhibit B-1-1 Attachment 2	Landowner List	Page 1	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.

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

The above noted submission has been filed electronically through the OEB's RESS and will be made available on Enbridge Gas's website. Please see the link below (then navigate to the "Regulatory Information" tab: <https://www.enbridgegas.com/about-enbridge-gas/projects/panhandle-regional-expansion>)

If you have any questions, please contact the undersigned.

Sincerely,

(Original Signed)

Haris Ginis  
Technical Manager, Leave to Construct Applications

## ONTARIO ENERGY BOARD

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B, and in particular, s. 98 thereof;

**AND IN THE MATTER OF** an application by Enbridge Gas Inc. for an order authorizing entry onto land at the intended location of a proposed hydrocarbon line in the Town of Tilbury, in the Municipality of Lakeshore, in connection with Enbridge Gas Inc.'s application for leave to construct the proposed Panhandle Regional Expansion Project in EB-2022-0157.

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### APPLICATION

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1. Enbridge Gas Inc. ("Enbridge Gas" or the "Applicant") hereby applies to the Ontario Energy Board (the "OEB"), pursuant to Subsection 98 (2) of the *Ontario Energy Board Act, 1998* (the "Act"), for an order authorizing Enbridge Gas and its officers, employees and agents to enter onto certain lands at the intended location of certain parts of the hydrocarbon line it has proposed in EB-2022-0157, as more particularly described herein, and to make such surveys and examinations as are necessary for fixing the site of the hydrocarbon line (the "Application").
2. The Application is made in connection with the Applicant's June 10, 2022 application to the OEB (EB-2022-0157), pursuant to Section 90 (1) of the Act, for an Order granting leave to construct approximately 19 kilometres of NPS 36 pipeline from the existing Enbridge Gas Dover Transmission Station in the Municipality of Chatham-Kent to a new valve site in the Municipality of Lakeshore and approximately 12 km of NPS 16 pipeline in the Municipality of

Lakeshore, the Town of Kingsville and the Municipality of Leamington (the “Leave to Construct Application”).

3. At the Applicant’s request, the Leave to Construct Application was held in abeyance effective from December 5, 2022, pending the filing of amendments. On June 16, 2023, Enbridge Gas filed amendments to the Leave to Construct Application. As such, upon the OEB’s issuance of a new procedural order in that proceeding, the Leave to Construct Application will no longer be in abeyance. As a result of the amendments, Enbridge Gas has eliminated the 12 km of NPS 16 pipeline from the Leave to Construct Application. However, of particular significance for the current Application, the proposed 19 km of NPS 36 pipeline extending from the existing Enbridge Gas Dover Transmission Station in the Municipality of Chatham-Kent to a new valve site in the Municipality of Lakeshore remains as originally proposed in the Leave to Construct Application. The amendments also adjusted the in-service date for the proposed works from November 1, 2023 to November 1, 2024. The works proposed in the Leave to Construct Application, as amended, are hereinafter referred to as the “Project”.
4. Enbridge Gas requires the requested early access rights so that it can enter onto parts of three specific properties for the purposes of conducting environmental and engineering surveys and examinations that are necessary to provide Enbridge Gas with information that it requires for fixing the site of the Project, including the approvals processes associated with fixing the site of the Project.
5. With the exception of the three specific properties for which early access rights are being requested, Enbridge Gas has been able to secure all necessary early

access rights for the Project from the affected landowners on a negotiated basis. For Enbridge Gas to be able to finalize the proposed locations for the works and meet its planned in-service date for the Project of November 1, 2024, it is necessary for Enbridge Gas to secure early access rights to the remaining three properties through the requested Order of the OEB by no later than October 1, 2023. As explained in the Leave to Construct Application, the Project is critical to reliably serve the increased demand for firm service in the Panhandle Market.

6. The Applicant requests that the OEB determine this Application by way of a written hearing, in accordance with Section 32 of the OEB's *Rules of Practice and Procedure*.
7. The Applicant requests that all documents filed with the OEB in relation to the Application be served on Enbridge Gas and its counsel, as follows:

Attention: Haris Ginis  
Technical Manager, Regulatory Applications  
Enbridge Gas Inc.  
500 Consumers Road  
North York, Ontario, M2J1P8

Telephone: (416) 319-8684  
Fax: (519) 436-4641  
Email: [haris.ginis@enbridge.com](mailto:haris.ginis@enbridge.com)  
[egiregulatoryproceedings@enbridge.com](mailto:egiregulatoryproceedings@enbridge.com)

-and-

Attention: Jonathan Myers  
Torys, LLP

Telephone: (426) 865-7532  
Fax: (416) 865-7380  
Email: [jmyers@torys.com](mailto:jmyers@torys.com)

All of which is respectfully submitted this 16<sup>th</sup> day of June 2023.

*[Original Signed By]*

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**ENBRIDGE GAS INC.**  
Haris Ginis, Technical Manager,  
Regulatory Applications

## **EARLY ACCESS PRE-FILED EVIDENCE**

### **A. The Leave to Construct Application**

1. On June 10, 2022, in EB-2022-0157, Enbridge Gas Inc. (“Enbridge Gas”) applied to the Ontario Energy Board (the “OEB”) for leave to construct approximately 19 kilometres of Nominal Pipe Size (“NPS”) 36 natural gas pipeline with a Maximum Operating Pressure (“MOP”) of 6040 kPa extending from the existing Enbridge Gas Dover Transmission Station in the Municipality of Chatham-Kent to a new valve site in the Municipality of Lakeshore and approximately 12 km of NPS 16 natural gas pipeline with a MOP of 6040 kPa in the Municipality of Lakeshore, the Town of Kingsville and the Municipality of Leamington (the “Leave to Construct Application”).
2. At the Applicant’s request, the Leave to Construct Application was held in abeyance effective from December 5, 2022, pending the filing of amendments. On June 16, 2023, Enbridge Gas filed amendments to the Leave to Construct Application. As such, upon the OEB’s issuance of a new procedural order in that proceeding, the Leave to Construct Application will no longer be in abeyance. The amendments to the Leave to Construct Application included:
  - i. New project cost information
  - ii. An updated demand forecast
  - iii. Updated Panhandle System capacity
3. As a result of the amendments, Enbridge Gas has eliminated the 12 km of NPS 16 pipeline from the Leave to Construct Application. However, of particular significance for the current Application, the proposed 19 km of NPS 36 pipeline extending from the existing Enbridge Gas Dover Transmission Station in the

Municipality of Chatham-Kent to a new valve site in the Municipality of Lakeshore remains as originally proposed in the Leave to Construct Application. The amendments also adjusted the in-service date for the proposed works from November 1, 2023 to November 1, 2024.

4. The facilities proposed in the Leave to Construct Application, as amended, are hereinafter referred to as “the “Project”. The Project will expand Enbridge Gas’s Panhandle Transmission System, which transports natural gas between Enbridge Gas’s Dawn Compressor Station and the Ojibway Valve Site and is required to reliably serve the increased demand for firm service in the Panhandle Market.

#### **B. The Early Access Application**

5. Enbridge Gas is applying to the OEB, pursuant to Subsection 98 (2) of the Ontario Energy Board Act, 1998 (the “Act”), for an order authorizing Enbridge Gas and its officers, employees and agents to enter onto certain lands at the intended location of certain parts of the hydrocarbon line it has proposed in EB-2022-0157, as more particularly described herein, and to make such surveys and examinations as are necessary for fixing the site of the hydrocarbon line (the “Application”).
6. The three properties in respect of which Enbridge Gas is requesting early access rights are identified in Attachment 2. Enbridge Gas has obtained early access land rights for all other properties located along the Project route. Enbridge Gas requires the requested early access rights for the purposes of conducting environmental and engineering surveys and examinations, which are necessary for fixing the site of the Project and completing relevant approval processes.

7. A key component in securing necessary environmental permits is the need to complete a range of environmental examinations, including species at risk, woodlots, watercourses, nesting areas, archaeology, soil conditions and other environmental features that may be identified along the proposed pipeline route. These assessments will enable Enbridge Gas to fix the locations for the proposed facilities on the properties, including determining whether there are any significant environmental features that warrant the development and implementation of any special mitigation measures. Completion of this work will also allow Enbridge Gas to determine and address permitting requirements from: the Lower Thames Valley Conservation Authority (“LTVCA”); Fisheries and Oceans Canada (“DFO”); the Ministry of Environment, Conservation and Parks (“MECP”); and the Ministry of Citizenship and Multiculturalism (“MCM”), as applicable.
8. In order for Enbridge Gas to complete environmental studies necessary to fix the locations for the proposed facilities on the properties and to obtain required permits in advance of the scheduled commencement of construction in Q1 2024, the Company requires access to the subject properties by no later than October 1, 2023.
9. Without such access, Enbridge Gas will not be in a position to finalize the locations for the proposed facilities on the properties. Moreover, Enbridge Gas expects that the necessary environmental approvals would be delayed, thereby causing Project construction delays that would prevent Enbridge Gas from meeting the planned in-service date for the Project.

## C. Relevant Sections of the Act

10. Section 98 (1) of the Act states as follows:

### **Right to enter land**

(1) The following persons may enter on land at the intended location of any part of a proposed work and may make such surveys and examinations as are necessary for fixing the site of the work:

- i. Any person who has leave under this Part or a predecessor of this Part to construct the work.
- ii. Any person who is exempted under section 95 from the requirement to obtain leave to construct the work.
- iii. Where the proposed work is the expansion or reinforcement of a transmission or distribution system, any person who is required by the Board, pursuant to a condition of the person's licence, to expand or reinforce the transmission or distribution system.
- iv. The officers, employees and agents of a person described in paragraph 1, 2 or 3. 2006, c. 33, Sched. X, s. 2 (1)

11. Section 98 (2) of the Act states as follows:

### **Order, hydrocarbon line**

(2) The Board may, on application, issue an order authorizing a person and the officers, employees and agents of that person to enter on land at the intended location of any part of a proposed hydrocarbon line and to make such surveys and examinations as are necessary for fixing the site of the hydrocarbon line and as are specified in the order if,

- a) the person has applied for leave under section 90 and has complied with section 94; or
- b) the person has applied to the Board for an exemption from the requirements of section 90 under section 95. 2020, c. 36, Sched. 34, s. 6 (1).

12. Also relevant are Subsection 98 (6) and Section 100:

### **Damages**

(6) Any damages resulting from an entry onto land carried out under subsection (1) or under an order made under subsection (2) or (3) shall be determined by agreement or, failing agreement, in the manner set out in section 100. 2020, c. 36, Sched. 34, s. 6 (1)

### **Determination of compensation**

**100** If compensation for damages is provided for in this Part and is not agreed on, the compensation shall be determined by the Ontario Land Tribunal under

the Expropriations Act and, for the purpose, sections 26 and 29 of that Act apply with necessary modifications. 2021, c. 4, Sched. 6, s. 73 (2).

- a) the person has applied to the Board for an exemption from the requirements of section 90 under section 95. 2020, c. 36, Sched. 34, s. 6 (1).

13. Having filed the Leave to Construct Application, which included a proposed Project location map in accordance with section 94 of the Act,<sup>1</sup> Enbridge Gas has met the requirements of Subsection 98 (2). The OEB is therefore authorized to issue the requested order for early access rights.

#### **D. Landowner Consultations and Access Rights Acquired to Date**

14. The Project requires approximately 104 acres of permanent easement and approximately 177 acres of temporary easement for construction and topsoil-storage purposes. To date, Enbridge Gas has acquired the necessary land rights in respect of 53 parcels of land along the pipeline route, or approximately 95% of the total land rights required for the Project. The 3 properties in respect of which Enbridge Gas is requesting early access rights represent the remaining 5% of the total land rights required for the Project.

15. In November 2021, Enbridge Gas invited directly affected landowners, tenants and the general public to a Virtual Open House information session to discuss the Project. A second Virtual Open House information session was held in February 2022. The purpose of the information session was to provide those in attendance an opportunity to: (i) view specifics of the Project; and (ii) ask questions and comment on the Project as well as Enbridge Gas's proposed routing and surveying activities, as part of the Environmental Report. In January 2022,

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<sup>1</sup> EB-2022-0157, Exhibit A, Tab 2, Schedule 1, Attachment 1.

Enbridge Gas's land agents began meeting individually with all landowners along the route of the Proposed Pipeline to discuss the Project, construction, the acquisition of necessary land rights and compensation. In these meetings Enbridge Gas's land agents requested permission from relevant landowners to access their properties to complete necessary environmental studies as well as engineering examinations and surveys including legal and civil surveys. Enbridge Gas secured early access, through the execution of Permission, Consent and Access Agreements ("Early Access Agreement"), with all relevant landowners other than the landowners of the three properties that are the subject of this Application. A copy of the Applicant's form of Early Access Agreement used for the Project is provided in Attachment 1 to this Exhibit.

#### **E. Consultations with Landowners of the Subject Properties**

16. In January 2022, Enbridge Gas began outreach to landowners and affected stakeholders to introduce the concept of the Panhandle Regional Expansion Project, provide details of the likely location of the proposed Project, discuss general timing of the Project and the sequence of events that Enbridge Gas anticipated following an order to construct the Project. One of the first agreements Enbridge Gas sought from affected landowners was its Early Access Agreement, which is utilized to facilitate access to private land for the purposes of conducting various intrusive and non-intrusive surveys required to advance designs for the Project.
  
17. Based on land title searches and early consultation activities, Enbridge Gas determined that the owners of the three subject properties are related in that one is owned by an individual, and that individual is President of two companies that

each own one of the other two properties. Consequently, Enbridge Gas's efforts to secure the early access rights in respect of all three of the subject properties have been with that individual (hereinafter referred to as the "Landowner").

18. Correspondence between Enbridge Gas and the Landowner occurred over several months, including two meetings between Enbridge Gas and the Landowner held on April 12 and July 29, 2022. Those meetings did not progress to a point where survey consent was granted by the Landowner due to a landowner concern with the need for the Project on these lands. Enbridge Gas presented an offer of financial compensation to the Landowner on November 18, 2022 for the proposed survey activity, as well as for the acquisition of land rights for the purposes of the Project. There has been no response from the Landowner to those offers to date.
19. Based on the foregoing, Enbridge Gas requires an order from the OEB authorizing entry onto the three properties to complete the necessary studies and surveys. Attachment 2 to this Exhibit identifies the relevant landowners, the locations of the subject properties and the specific studies and surveys required on each property. To protect the landowners their personal information has been redacted. An unredacted confidential copy of this evidence has been provided to the OEB under separate cover.
20. An aerial photo showing the areas within the properties where Enbridge Gas proposes to complete the studies and surveys is provided in Attachment 3 to this Exhibit.

## **F. Proposed Early Access Surveys and Examinations to be Completed**

21. Enbridge Gas requires early access to the subject properties, in order to carry out environmental studies as well as engineering examinations and surveys including legal and civil surveys required to fix the precise location of the Project and to obtain necessary permits and approvals for the Project, including Archaeological and Natural Heritage Studies, Terrestrial Studies, Aquatic Studies, Hydrogeological Investigations, Geotechnical Investigations and Legal and Civil Surveys.

- Archaeological and Natural Heritage Studies

Required by the MCM to determine if there are any cultural resources that may be impacted by the Project. Enbridge Gas must obtain a clearance letter from the MCM before Project construction can commence.

- Terrestrial Studies

Completed to determine the natural features that may be present along the route of the Project, including natural areas and identification of species at risk. Enbridge Gas provides the results of these studies to the MECP, DFO and the LTVCA.

- Aquatic Studies

Completed at all watercourse crossings along the route of the Project to determine: (i) species present in the affected watercourse (including species at risk); and (ii) the optimal crossing method to employ. These studies are necessary to obtain permits from DFO, the MECP and the LTVCA.

- Soybean Cyst Nematode (“SCN”) Sampling

A sampling plan on agricultural land will be required to determine if SCN is present. Enbridge Gas will use this information to develop appropriate mitigation if necessary.

- Hydrogeological Investigations

Completed along the pipeline route at temporary well locations installed as part of the Geotechnical Investigation. Enbridge Gas will use this information to identify areas that may require dewatering during construction and to estimate the associated volumes. These investigations are required to obtain permits from the MECP and the LTVCA before construction can commence.

- Geotechnical Investigations

To determine the soil properties and underground tile drainage systems present along the Project route. Enbridge Gas will use this information to support necessary tiling plans, the design of the footings for the equipment for the station and to determine the depth of cover for the pipeline.

- Legal Survey

Required to identify the land rights necessary to construct the Project.

- Civil Survey

Required to assess the topography of the area in order to determine the depth of cover for the Project.

22. It is expected that the majority of the environmental (i.e. terrestrial and aquatic) examinations to be conducted can be completed by subject matter experts walking the relevant properties and making observations. Terrestrial studies may

require Enbridge Gas to complete a pedestrian survey of the identified drains on the properties ten times (once per day) to confirm the presence of Species at Risk. Archeological surveys will require sites to be ploughed and disced. In some situations, hand dug test pits may be required. Additional excavation will be required if stage three or four archeological studies are necessary. Stage three archaeological surveys generally consist of digging and assessing 1 meter by 1 meter test pits. Stage four surveys can involve digging and assessment of additional 1 meter by 1 meter test pits and/or mechanical topsoil stripping from areas of interest identified in Stage three surveys. In areas where geotechnical investigations (bore holes) are required, a mobile drilling platform will be utilized. For geotechnical investigations, Enbridge Gas will drill holes to a maximum depth of 10 meters and collect soil samples from these holes for lab testing. Ground water monitoring stations are also required as part of geotechnical investigations. As part of the Civil Survey, subject matter experts will walk the properties and read the elevations of the lands, ditches and any other landmarks identified.

#### **G. Proposed Conditions of Approval**

23. Enbridge Gas's predecessor, Union Gas Limited, filed an application for early access (EB-2018-0167) with the OEB in connection with its Kingsville Transmission Reinforcement Project leave to construct application (EB-2018-0013). Consistent with Union Gas's request in EB-2018-0167, Enbridge Gas is requesting that the OEB approve the proposed conditions of approval set out as Attachment 4, which have been adjusted from EB-2018-0167 with minor updates.

## PERMISSION, CONSENT AND ACCESS AGREEMENT

(hereinafter called "the Agreement")

Between \_\_\_\_\_  
(hereinafter called the "Owner")

and

**ENBRIDGE GAS INC.**  
(hereinafter called the "Company")

In consideration of the payment of **ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) PER PROPERTY PER YEAR FOR A PERIOD OF TWO YEARS**, payable by the Company within Thirty (30) days of signing this Agreement. I/WE the Owner(s) of PIN: \_\_\_\_\_; LEGAL: \_\_\_\_\_ hereby grant(s) permission to Company, its agents, servants and contractors to enter his/her lands, (herein the "Lands"), for the purpose of conducting any or all of the following activities; archaeological, environmental and land surveys, tiling, borehole investigation, measurements and/or staking upon such lands in connection with the proposed construction of a natural gas pipeline and associated facility (herein the "Permitted Activities"). The Company shall exercise its rights pursuant to this Agreement in accordance with the conditions attached as Schedule "A" hereto.

The Company will compensate the Owner(s), or the person(s) entitled thereto, for any damages which are caused as a result of the entry onto the Lands and/or Permitted Activities, which payments will include a payment to the Owner for any disturbance from the Archaeological assessment work.

The Company shall assume all liability and obligations for any and all loss, damage or injury, (including death) to person(s) or property that would not have happened but for this Agreement or anything done or maintained by the Company hereunder or intended so to be and the Company shall at all times indemnify and save harmless the Owner from and against all such loss, damage or injury and all actions, suits, proceedings, costs, charges, damages, expenses, claims or demands arising therefrom or connected therewith provided that the Company shall not be liable to the extent to which such loss, damage or injury is caused or contributed to by the negligence or wilful misconduct of the Owner.

The tenant of the Lands hereby consents to the said investigation as per signature below (if applicable).

Notes: \_\_\_\_\_

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Owner's Name: \_\_\_\_\_

\_\_\_\_\_  
Owner's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Property Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

HST Registration No. \_\_\_\_\_

Tenant's Name: \_\_\_\_\_

Address: \_\_\_\_\_

**ENBRIDGE GAS INC.**

\_\_\_\_\_  
[insert name and title of signing authority]  
I have authority to bind the Corporation

**SCHEDULE "A"**

1. **PERMITTED ACTIVITIES** are:
  - a. Legal surveys involving property staking and measuring by survey crews along the perimeter of the Lands;
  - b. Engineering surveys involving property staking and measuring by survey crews;
  - c. Biological surveys by personnel on foot involving the collection of plant and wildlife information, habitat assessments and delineation of wetland and Area of Natural and Scientific Interest ("ANSI") boundaries, including species at risk;
  - d. Archaeological surveys conducted by licensed personnel on foot in accordance with Provincial Guidelines. Work includes surface checks for items of interest in fields recently ploughed by the Owner or digging of small test pits to a maximum depth of one meter in cases where the field has not recently been ploughed by the Owner;
  - e. Other environmental investigations by personnel on foot including hydrologic/water quality testing, landscape and visual assessment, cultural and built heritage assessment, landowner and business owner surveys, agricultural investigations and well water testing; and,
  - f. Soil testing on selected properties involving borehole drilling using a tracked vehicle.
  - g. Tiling will include drainage investigations, design and pre-construction activities.
2. **Authorization for entry** to the Lands shall terminate **on this should be a free form field**.
3. **The Company shall** obtain all other approvals required to conduct the Permitted Activities.
4. **The Company shall** use all reasonable efforts to provide oral and written notice to the Owner a minimum of 48 hours prior to entry. Unless otherwise agreed upon with the Owner, entry is to be limited for a subsequent five-day window in which Permitted Activities could then occur. All Permitted Activities shall only take place during weekdays and not statutory holidays and between the hours of 8 am and 5 pm, with the exception of Environmental Studies which are required to be completed in the early morning or at night (Example: The Company will provide notice by Friday for a five-day entry window beginning the next Monday and until and including the following Friday; all Permitted Activities will occur during this period between the hours of 8 am and 5 pm).
5. **The notification described** in condition 4 above shall include a list of the Permitted Activities the Company intends to perform during the entry time window.
6. **Where the Company** has not been able to contact the Owner prior to entry, the Company shall keep a record of the Permitted Activities conducted and make it available to the Owner upon request.
7. **In the event** that activities are planned to be conducted on the Lands with tracked or motorized equipment, the Company shall give the Owner at least five days' advance notice and shall use all reasonable efforts to consult with the Owner in advance of entry and provide a sketch depicting the access route and the location of the activities. This period of time is intended to provide Owners with the opportunity to indicate the locations of any special fixtures or features (such as wells, tile drainage or septic areas, etc.) that are to be avoided while activities are carried out.
8. **Reasonable accommodation is** to be made in the Company's schedule for Owner requests/concerns to ensure the Permitted Activities do not interfere with Owner or tenant operations. These accommodations will be determined on a site-specific basis but where appropriate may include the following:
  - a. The use of temporary fencing to surround any areas if tracked equipment remains onsite overnight; and
  - b. The use and installation of temporary drainage (i.e. culverts) instruments on access routes to maintain drainage flows.
9. **The Company will consult** with the Owner in advance of entry as to the manner in which gates/fences/entryways are to be managed while entering the Lands. In the event the Owner cannot be contacted, the Company shall ensure that gates/fences/entryways used by Company personnel or its agents are left as found. Work sites are to be left in a safe condition overnight.
10. **The Company shall consult** with the Owner and/or the Owner's agent(s) with respect to the existing farm biosecurity protocols and requirements in effect on the Lands (including those protocols and requirements designed to prevent the transmission of pests and diseases and those designed to preserve the integrity of organic or specialty agricultural production). Whenever present on the Lands, the Company will conduct activities in a manner that respects required existing farm biosecurity protocols and requirements in effect.
11. **Owners or their agents** can be present to observe the Permitted Activities subject to the Company's safety policies and procedures and the Occupational Health and Safety Act. The Company will use all reasonable efforts to accommodate such observation.
12. **The Company shall** keep records of the personnel attending and entering on lands, the time in which entry occurred and the locations entered.
13. **The Company shall** provide the Owner with the results of the information collected as a result of conducting the Permitted Activities on the Owner's property (such as legal surveys) and biological or archeological information. In the event the Company identifies information that cannot be disclosed to an Owner, Enbridge will disclose that fact and provide to the Owner the rationale for such non-disclosure.
14. **All areas affected** by the exercise of the Company's rights under the Agreement will be restored to their original condition to the extent possible and practicable, failing which damages shall be paid in accordance with the Agreement.
15. **The Company's existing** complaint tracking process will be used to log and track Owner complaints.
16. **The Company's project manager** will be responsible for the fulfilment of these conditions on the Lands.

**SCHEDULE "B"**

**SKETCH |**

FILE #	PIN	LANDOWNER NAME	CONTACT & ADDRESS FOR SERVICE	MUNICIPAL (Parcel) ADDRESS	PROPERTY DESCRIPTION	SURVEY REQUIRED
PAN0135	PIN: 750780071	MIDDLE ROAD FARMS LIMITED	[REDACTED], PRESIDENT 19325 COUNTY RD 46, LAKESHORE PO BOX 178, TILBURY, ON N0P 2L0	20325 COUNTY RD 46, TILBURY, ON N0P 2L0	PT LT 19 CON SMR TILBURY AS IN R371750 (SECONDLY, THIRDLY) & PT 3 PL 12R24636; EXCEPT PT 1 PL 12R4062, R471337, PTS 1 & 2 PL 12R10166 & PTS 4 & 5 PL 12R24636 ; TOGETHER WITH AN EASEMENT AS IN R1095792 FOR THE BENEFIT OF PT LT 19 CON SMR TILBURY AS IN R371750 (SECONDLY, THIRDLY) EXCEPT PT 1 PL 12R4062, R471337, PTS 1 & 2 PL 12R10166 & PTS 4 & 5 PL 12R24636; SUBJECT TO AN EASEMENT AS IN R476319; TOGETHER WITH AN EASEMENT OVER PTS 2, 4 & 5 PL 12R24636 AS IN CE498430 TOWN OF LAKESHORE	Archaeological Studies Terrestrial Studies Aquatic Studies Soil Sampling (including topsoil depth measurements and Soybean Cyst Nematode sampling) Hydrogeological Investigations Geotechnical Investigations Civil/Topographical Surveys Legal Surveys
PAN0130	PIN: 750780050	COUREY CORPORATION	[REDACTED], PRESIDENT 19325 COUNTY RD 46, LAKESHORE PO BOX 178, TILBURY, ON N0P 2L0	19800 7TH CON RD, TILBURY	PT LT 19 CON SMR TILBURY; PT S1/2 LT 20 CON SMR TILBURY AS IN R684355; LAKESHORE	Archaeological Studies Terrestrial Studies Aquatic Studies Soil Sampling (including topsoil depth measurements and Soybean Cyst Nematode sampling) Hydrogeological Investigations Geotechnical Investigations Civil/Topographical Surveys Legal Surveys
PAN0126	PIN: 750770100	COUREY CORPORATION	[REDACTED], PRESIDENT 19325 COUNTY RD 46, LAKESHORE PO BOX 178, TILBURY, ON N0P 2L0	COUNTY RD 46, LAKESHORE, ON	PT LT 18 CON SMR TILBURY PTS 1 TO 3, 12R14064; S/T R476322; LAKESHORE	Archaeological Studies Terrestrial Studies Aquatic Studies Soil Sampling (including topsoil depth measurements and Soybean Cyst Nematode sampling) Hydrogeological Investigations Geotechnical Investigations Civil/Topographical Surveys Legal Surveys

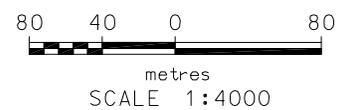
# Appendix A

## Enbridge Gas Inc.

Property Sketch  
 showing Approximate Location of  
 Existing Pipeline Easements and Any Existing Easements Within  
 Municipality: Lakeshore, Area: 122.5 ac  
 Land Registry Status: ACTIVE, Registration Type: LT, Perimeter: 3397.41m  
 Description:  
 PT LT 18 CON SMR TILBURY PTS 1 TO 3, 12R14064; S/T R476322; LAKESHORE



OWNER: COUREY CORPORATION



PART	APPROX. SIZE (metres)		APPROX. AREA		PART	APPROX. SIZE (metres)		APPROX. AREA	
	(width)	(length)	(hectares)	(acres)		(width)	(length)	(hectares)	(acres)
PART 1	100m	100m	1.00	2.47	PART 2	10m	120m	0.12	0.29
PART 3	20m	100m	0.20	0.49	PART 4	10m	120m	0.12	0.29
TOTAL EASEMENT APPROX. AREA (acres)				0.00	TIE-IN STATION APPROX. AREA (acres)				2.47
TOTAL TLU APPROX. AREA (acres)				1.07					

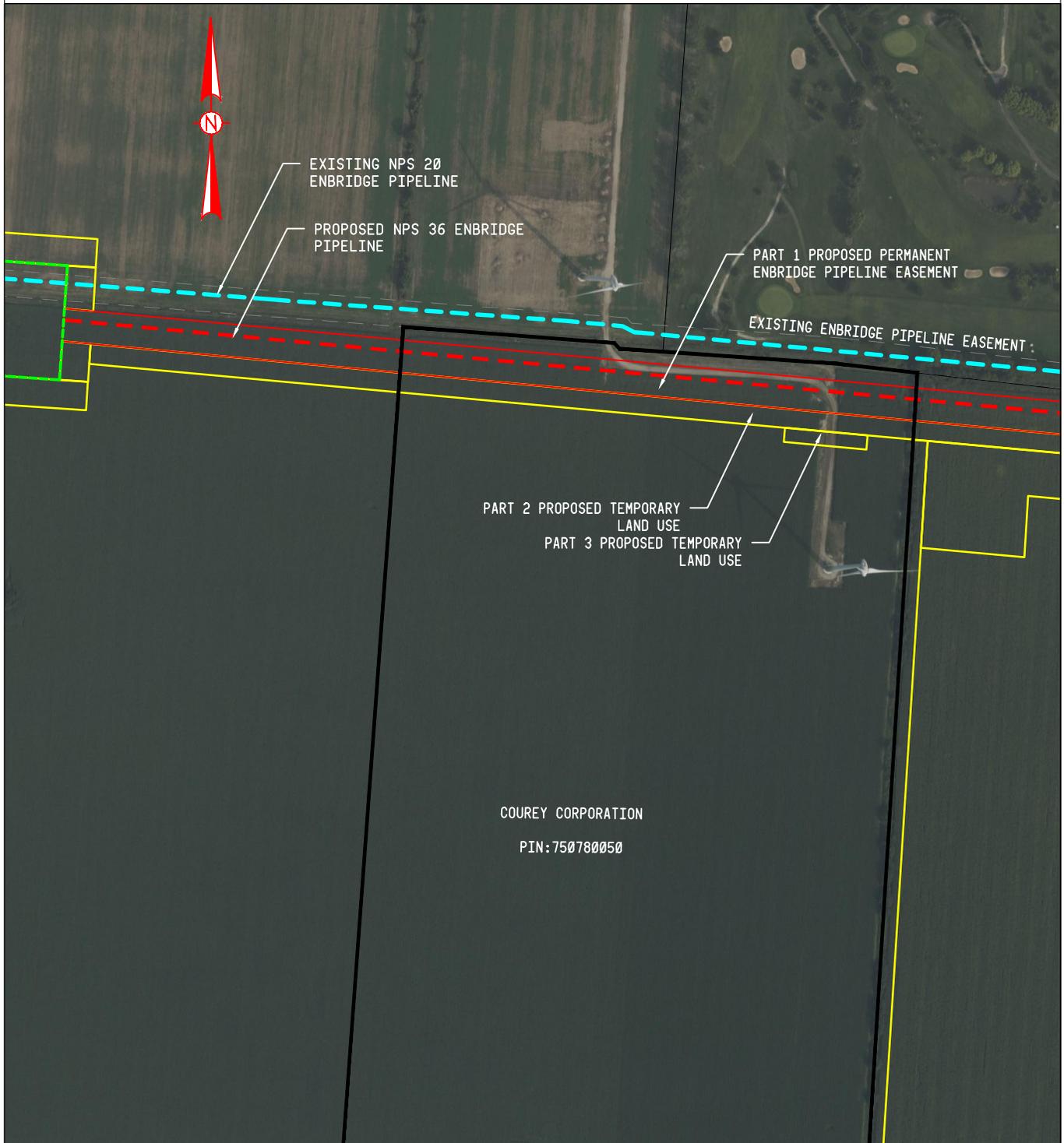
PIN: 750770100      SCALE: 1:4000      \*ALL DISTANCES ARE APPROXIMATE.      DATE: 2023/06/15

\$FILEL\$      \$DATE\$      \$TIME\$

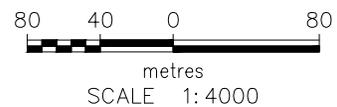
# Appendix A Enbridge Gas Inc.

Property Sketch  
showing Approximate Location of  
Existing Pipeline Easements and Any Existing Easements Within  
Municipality: Essex, Area: 60.057 ac  
Land Registry Status: ACTIVE, Registration Type: LT, Perimeter: 2045.07m  
Description:

PT LT 19 CON SMR TILBURY; PT S1/2 LT 20 CON SMR TILBURY AS IN R684355; LAKESHORE



OWNER: COUREY CORPORATION



PART	APPROX. SIZE (metres)		APPROX. AREA		PART	APPROX. SIZE (metres)		APPROX. AREA	
	(width)	(length)	(hectares)	(acres)		(width)	(length)	(hectares)	(acres)
PART 1	23m	363m	0.84	2.06	PART 2	14m	363m	0.51	1.26
PART 3	10m	58m	0.06	0.14					
TOTAL EASEMENT APPROX. AREA (acres)				2.06					
TOTAL TLU APPROX. AREA (acres)				1.40					
PIN: 750780050			SCALE: 1:4000		*ALL DISTANCES ARE APPROXIMATE.			DATE: 2023/05/02	

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\$TIME\$

# Appendix A

## Enbridge Gas Inc.

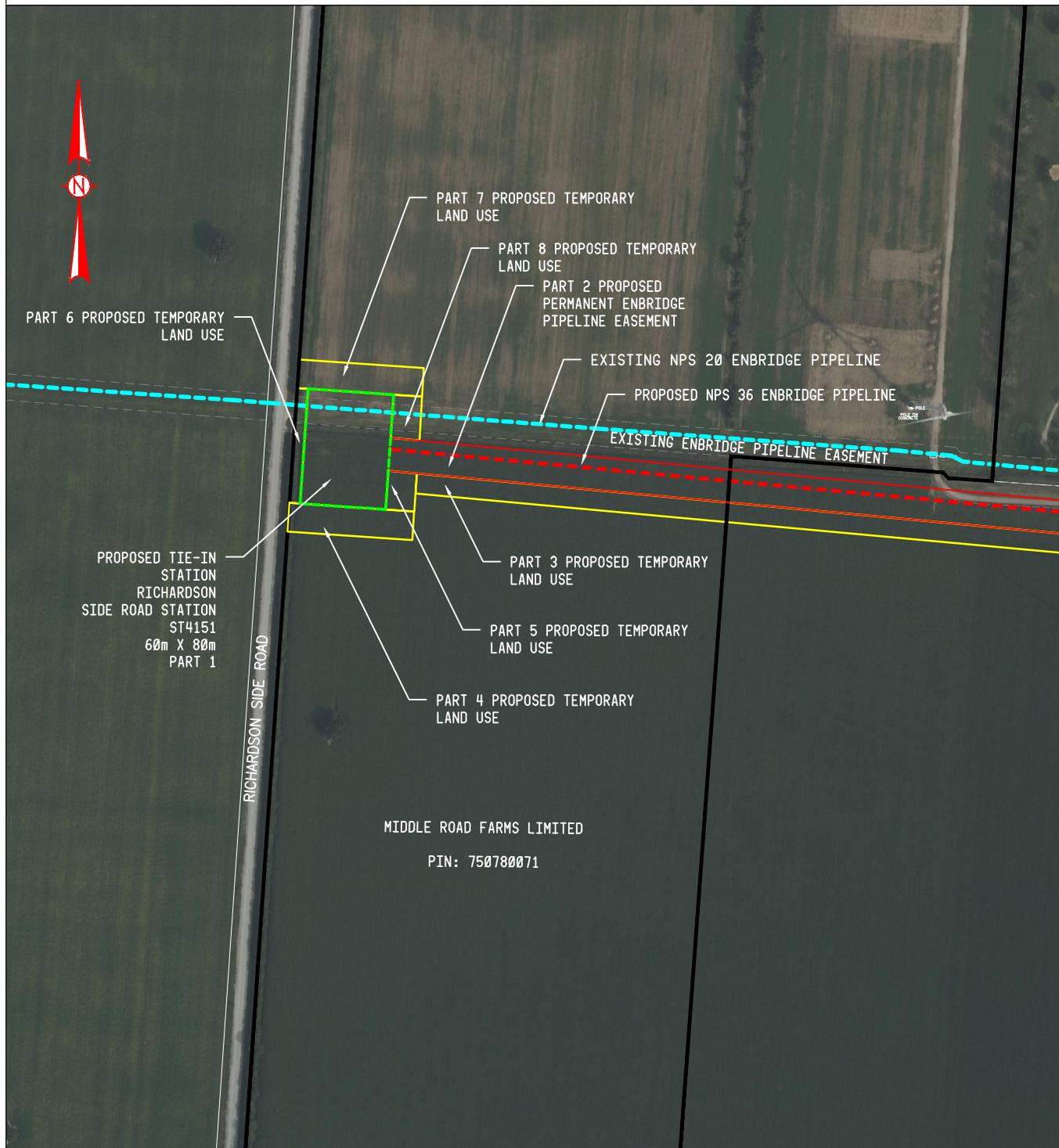
Property Sketch  
showing Approximate Location of  
Existing Pipeline Easements and Any Existing Easements Within

Municipality: Essex, Area: 129.544 ac

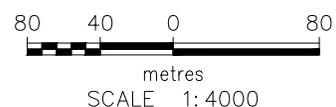
Land Registry Status: ACTIVE, Registration Type: LT, Perimeter: 3625.416m

Description:

PT LT 19 CON SMR TILBURY AS IN R371750 (SECONDLY, THIRDLY) & PT 3 PL 12R24636; EXCEPT PT 1 PL 12R4062, R471337, PTS 1 & 2 PL 12R10166 & PTS 4 & 5 PL 12R24636 ; TOGETHER WITH AN EASEMENT AS IN R1095792 FOR THE BENEFIT OF PT LT 19 CON SMR TILBURY AS IN R37



OWNER: MIDDLE ROAD FARMS LIMITED



PART	APPROX. SIZE (metres)		APPROX. AREA		PART	APPROX. SIZE (metres)		APPROX. AREA	
	(width)	(length)	(hectares)	(acres)		(width)	(length)	(hectares)	(acres)
PART 1	60m	80m	0.48	1.19	PART 2	23m	239m	0.55	1.36
PART 3	14m	239m	0.30	0.75	PART 4	20m	88m	0.17	0.43
PART 5	20m	27m	0.05	0.13	PART 6	7.5m	80m	0.06	0.15
PART 7	20m	88m	0.17	0.43	PART 8	20m	31m	0.06	0.15
TOTAL EASEMENT APPROX. AREA (acres)				1.36	TIE-IN STATION APPROX. AREA (acres)				1.19
TOTAL TLU APPROX. AREA (acres)				2.04					

PIN: 750780071

SCALE: 1:4000

\*ALL DISTANCES ARE APPROXIMATE.

DATE: 2023/05/02

\$FILEL\$

\$DATE\$

\$TIME\$

**EB-2022-0285**

**Panhandle Regional Expansion Project**

**Section 98 Order Granting Early Access to Land**

**CONDITIONS OF APPROVAL**

**DRAFT**

These conditions of approval are an integral part of the Decision and Order EB-2022-0285 issued by the Ontario Energy Board (the “Board”). They define, for Enbridge Gas Inc. (“Enbridge Gas”) and affected landowners, the conditions that Enbridge Gas shall adhere to when entering on land pursuant to the Board’s order under section 98 of the *Ontario Energy Board Act*.

**1. DEFINITIONS**

- 1.1 **Proposed Early Access Area** – The Board’s order authorizes Enbridge Gas to enter only on lands identified on Attachment 3 of Enbridge Gas’s pre-filed evidence.
- 1.2 **Permitted Activities** – Permitted Activities are:
  - a) Engineering surveys and examinations involving property staking and measuring by survey crews including: gathering the topography survey, the station location and geotechnical investigation as well as legal surveys and civil surveys. Legal surveys involving property staking and measuring by survey crews along the perimeter of the Proposed Early Access Areas and along the perimeter of the affected properties. Civil surveys involve subject matter experts walking the Proposed Early Access Areas to read the elevations of the lands, ditches and any other landmarks identified.
  - b) Environmental surveys and examinations by personnel on foot involving terrestrial studies, aquatic studies and soil sampling for soybean cyst nematode as well as archaeological surveys conducted by licensed personnel on foot in accordance with Provincial Guidelines. Archeological survey work includes surface checks for items of interest in recently ploughed fields or digging of small test pits to a maximum depth of one meter should ploughing not be possible. In some cases, the use of mechanical equipment may be required where a Stage 4 Archaeological Assessment is necessary.

## **2. GENERAL REQUIREMENTS**

- 2.1 Enbridge Gas shall conduct the Permitted Activities in accordance with its application and evidence filed in EB-2022-0285, except as modified by the Board's Decision and Order and these conditions of approval.
- 2.2 Unless otherwise directed by the Board, authorization for entry to land shall terminate one year from the date of this order.
- 2.3 A copy of these conditions of approval shall be attached to each written notice to landowners described in condition 3 below.
- 2.4 Enbridge Gas shall obtain all other approvals required to conduct the Permitted Activities.

## **3. ADVANCE NOTIFICATION OF LANDOWNERS**

- 3.1 Enbridge Gas shall use all reasonable efforts to provide oral and written notice to landowners a minimum of 48 hours prior to entry. Unless otherwise agreed upon with landowners, entry is to be limited for a subsequent five-day window in which Permitted Activities could then occur. All Permitted Activities shall only take place during weekdays and not statutory holidays and between the hours of 8 am and 8 pm with the exception of Environmental Surveys which are required to be completed in the early morning or night. Example: Enbridge Gas will provide notice by Friday for a five-day entry window beginning the next Monday and until and including the following Friday; all Permitted Activities will occur during this period between the hours of 8 am and 8 pm, except for any Environmental Surveys which are required to be completed in the early morning or night).

- 3.2 The notification described in condition 3.1 above shall include a list of the Permitted Activities Enbridge Gas intends to perform during the entry time-window.
- 3.3 Where Enbridge Gas has not been able to contact a landowner prior to entry, Enbridge Gas shall keep a record of the Permitted Activities conducted and make it available to the landowner upon request.
- 3.4 In the event that activities are planned to be conducted on lands with tracked or motorized equipment, Enbridge Gas shall give the landowner at least five days' advance notice and shall use all reasonable efforts to consult with the landowner in advance of entry and provide a sketch depicting the access route and the location of the activities. This period of time is intended to provide landowners with the opportunity to indicate the locations of any special fixtures (such as wells, tile drainage or septic areas) that are to be avoided while activities are carried out.

#### **4. CONDUCT OF PERMITTED ACTIVITIES**

- 4.1 Reasonable accommodation is to be made in Enbridge Gas's schedule for reasonable landowner requests/concerns to ensure the Permitted Activities do not interfere with landowner operations. These accommodations will be determined on a site specific basis but where appropriate may include the following:
  - a. The use of temporary fencing to surround any areas if tracked equipment remains onsite overnight; and
  - b. The use and installation of temporary drainage (i.e. culverts) instruments on access routes to maintain drainage flows.
- 4.2 Enbridge Gas or its agents will consult with landowners in advance of entry as to the manner in which gates/fences/entryways are to be managed while entering property. In the event landowners cannot be contacted, Enbridge Gas shall ensure that gates/fences/entryways used by Enbridge Gas personnel or its agents are left as found. Work sites are to be left in a safe condition overnight.
- 4.3 Landowners can be present to observe the Permitted Activities subject to Enbridge Gas's safety policies and procedures and the *Occupational Health and Safety Act*.
- 4.4 Enbridge Gas shall keep records of the personnel attending and entering on lands, the time in which entry occurred and the locations entered.

- 4.5 Upon request, Enbridge Gas shall provide a landowner with the results of the information collected as a result of conducting the Permitted Activities on the landowner's property (such as legal surveys) and environmental or archeological information subject to applicable disclosure guidelines of the Ministry of Environment, Conservation and Parks or other agencies (e.g., with respect to species- at-risk protection). In the event this information cannot be disclosed to a landowner, Enbridge Gas will disclose that fact and provide to the landowner the rationale for such non-disclosure.
- 4.6 Affected areas are to be restored to their original condition to the extent possible and practicable, failing which damages shall be paid as per section 98 (6) of the *Ontario Energy Board Act*.

## **5. COMMUNICATIONS WITH THE BOARD**

- 5.1 The Board's designated representative for the purpose of these conditions of approval shall be the Manager, Facilities.
- 5.2 Enbridge Gas shall designate a person as project manager and shall provide the name of the individual to the Board's designated representative. The project manager will be responsible for the fulfilment of the conditions of approval on the site. Enbridge Gas shall provide a copy of the Board's Decision and Order and these conditions of approval to the project manager, within seven days of the Board's order being issued.
- 5.3 Enbridge Gas shall furnish the Board's designated representative with all reasonable assistance for ascertaining whether Enbridge Gas has complied with the Board's order.