

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____		)	
ALGONQUIN GAS TRANSMISSION, LLC,		)	
		)	
Plaintiff,		)	
		)	
v.		)	No. _____
		)	
0.247 ACRES OF LAND, MORE OR LESS,		)	
IN LINCOLN, MASSACHUSETTS, and		)	
THE CITY OF CAMBRIDGE,		)	
		)	
Defendants.		)	
_____		)	

**CONDEMNATION COMPLAINT**

Algonquin Gas Transmission, LLC (“Algonquin”) alleges as follows.

**NATURE OF THE CASE**

1. Algonquin is an interstate natural gas pipeline company that has been authorized by the Federal Energy Regulatory Commission (“FERC”) to operate an interstate natural gas pipeline and related facilities located in and adjacent to Route 2/Cambridge Turnpike, Old Colony Road and Trapelo Road in Lincoln and Waltham, MA. This pipeline interconnects with the Tennessee Gas Pipeline System (“TGP”) in Lincoln to ensure reliable supplies of natural gas to the Greater Boston Area, including Cambridge. Algonquin needs to undertake a maintenance project at its existing interconnect with TGP to rebuild its existing meter and regulator site (the “M&R Site”) located adjacent to Route 2 westbound.

2. The M&R Site is located on land over which Algonquin holds permanent easement rights. The M&R Site, installed in the early 2000s, is in need of replacement in order to ensure its continued safe operation and to provide an uninterrupted supply of natural gas to the area. In order to

perform this work (the “Project”), a temporary workspace easement (“TWS Easement”) is required over adjacent land owned by the City of Cambridge. Algonquin requires the TWS Easement in order to safely transport its equipment onto and construct the new facility on the M&R Site, including the removal of trees to allow access for Algonquin’s equipment. Algonquin has been unable to purchase the TWS Easement from the City of Cambridge. Therefore, Algonquin, pursuant to the power of eminent domain vested in it by the Natural Gas Act (“NGA”), 15 U.S.C. § 717f(h), brings this action to condemn the TWS Easement and to have this Court ascertain the just compensation that must be paid for the easement.

### **JURISDICTION AND VENUE**

3. Jurisdiction and venue are proper in this Court under 15 U.S.C. § 717f(h) because the property that is the subject of this action is located within the eastern district of the District of Massachusetts and the value of the easement to be taken on the property exceeds \$3,000.

### **PARTIES**

4. Algonquin is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in Houston, Texas and is a natural gas company as defined by § 2(6) of the NGA, 15 U.S.C. § 717a(6).

5. The City of Cambridge is a municipality in the Commonwealth of Massachusetts with its offices located at 795 Massachusetts Avenue, Cambridge, Massachusetts (the “City”). The City owns property located in Lincoln, Massachusetts and which is more fully described in a deed recorded in the Middlesex South District Registry of Deeds in Book 59813, Page 111 (the “City Property”).

**FACTS**

6. Before a natural gas company can operate a natural gas transmission pipeline and related facilities, the company must obtain a Certificate of Public Convenience and Necessity (“Certificate”) from FERC (or, prior to October 1, 1977, the Federal Power Commission). On May 22, 1961, the Federal Power Commission issued a Certificate to Algonquin authorizing, among other things, the acquisition, operation and maintenance of approximately 18,752 feet of an existing 16-inch pipeline and related facilities in Waltham and Lincoln for purposes of transporting natural gas in interstate commerce. *See* 25 F.P.C. 1005 (1961). On September 30, 1987, FERC issued a blanket certificate authorizing Algonquin to perform routine work on its system (the “Blanket Certificate”). *See* 40 FERC ¶ 62,398. The Blanket Certificate authorizes Algonquin to “make miscellaneous rearrangements of any facility, or acquire, construct, replace, or operate any eligible facility” pursuant to 18 CFR § 157.208.

7. The Project constitutes routine operation, maintenance and/or replacement work as authorized by FERC.

8. In order to undertake the Project, Algonquin must acquire a TWS Easement over the City Property.

9. Pursuant to 15 U.S.C. § 717f(h), the Certificate confers upon Algonquin the power of eminent domain to condemn land for the purposes of, among other things, operating and maintaining the M&R Site.

**COUNT ONE**  
**Condemnation**

10. Algonquin repeats and realleges the statements in each of the foregoing paragraphs, and incorporates them as if fully set forth herein.

11. Algonquin needs to acquire a TWS Easement over 10,766 square feet, or 0.247 acres of the City Property for the purpose of completing the Project. The boundaries of the TWS Easement are depicted on the drawing attached hereto as Exhibit A.

12. Algonquin has made good faith efforts to purchase the necessary TWS Easement rights for the Project, but has been unable to do so.

13. Pursuant to § 7(h) of the NGA, 15 U.S.C. § 717f(h), Algonquin seeks to take the TWS Easement over the City Property by the power of eminent domain.

WHEREFORE, Algonquin requests that the Court:

1. issue a preliminary injunction and/or order allowing Algonquin to enter the City Property immediately to begin work on the Project;
2. enter an Order of Taking allowing Algonquin to take a TWS Easement over the City Property;
3. ascertain the amount of just compensation to be paid to the City for the TWS Easement taken by Algonquin over the City Property; and
4. award Algonquin such other relief as may be necessary or appropriate.

Respectfully submitted,

ALGONQUIN GAS TRANSMISSION, LLC

By its attorneys,

/s/ Frank N. Gaeta

Frank N. Gaeta (BBO #561388)

David Glod (BBO# 676859)

Rich May, P.C.

176 Federal Street, 6<sup>th</sup> Floor

Boston, Massachusetts 02110

(617) 556-3800

[fgaeta@richmaylaw.com](mailto:fgaeta@richmaylaw.com)

[dglod@richmaylaw.com](mailto:dglod@richmaylaw.com)

May 7, 2024

**RIGHT-OF-WAY**  
TRACT NUMBERS:  
OWNERSHIP/AGENCY:

**SURVEY DATA**  
SURVEY COMPANY: VHB INC.  
FIELD BOOK:  
PAGES:

**ALIGNMENT LEGEND**

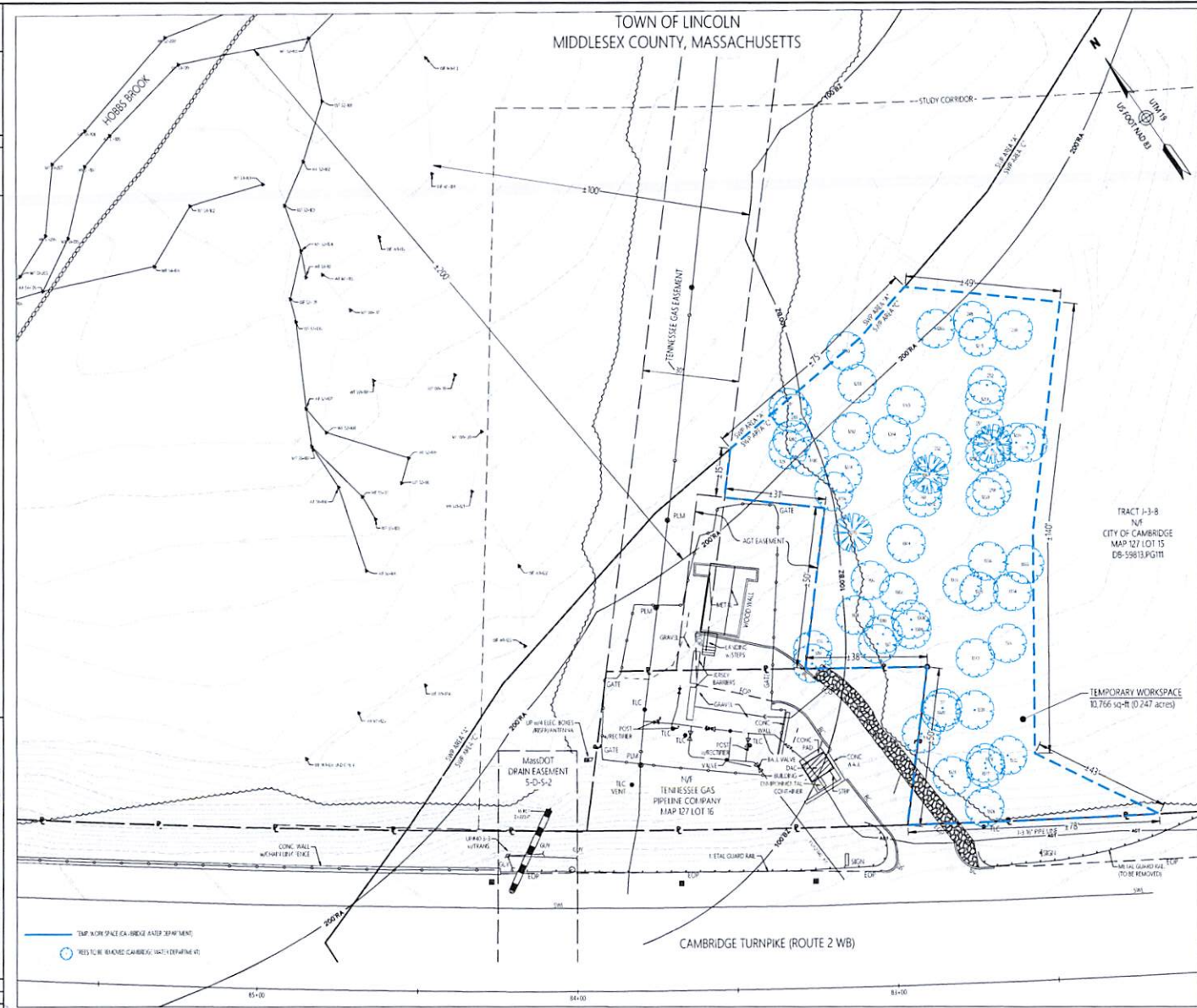
EXISTING PIPELINE  
PIPELINE MILEPOST  
MAINTAINED ROW  
CONTOURS  
PROPERTY LINE  
PARCEL TRACT NUMBER: 153

**General Notes**

- THE PROPERTY LINES SHOWN ON THIS PLAN ARE BASED UPON AN ACTUAL FIELD SURVEY CONDUCTED BY VANCE WARDER BROOKS, INC. IN JULY 2020 AND FROM DEEDS AND PLANS OF RECORD.
- THE EXISTING CONTOURS SHOWN ON THIS PLAN ARE BASED UPON AN ACTUAL ON-THE-GROUND INSTRUMENT SURVEY PERFORMED BY VANCE WARDER BROOKS, INC. IN JULY 2020.
- THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES SHOWN ON THIS PLAN ARE BASED ON FIELD OBSERVATIONS AND INFORMATION OF RECORD. THEY ARE NOT WARRANTED TO BE EXACTLY LOCATED NOR IS IT WARRANTED THAT ALL UNDERGROUND UTILITIES OR OTHER STRUCTURES ARE SHOWN ON THIS PLAN.
- HORIZONTAL DATUM IS BASED ON NAD 83. GRID SYSTEM UTM 18. HAD BE REFERENCE SHOWN ON THIS PLAN REFER TO PAGE 01 OF THIS PLAN.
- WETLAND RESOURCE AREAS WERE DELINEATED BY SWCA ENVIRONMENTAL ON SEPTEMBER, 2021.

**Construction Notes**

- TREES AND OTHER WOODY VEGETATION ALONG ACCESS DRIVEWAY WILL BE TRIMMED TO ALLOW FOR SAFE ACCESS OF CONSTRUCTION VEHICLES.
- PROPOSED CONSTRUCTION AND TYPICALS WERE DESIGNED BY OTHERS AND ARE SHOWN FOR GRAPHICAL PURPOSES ONLY.
- CONTRACTOR TO COMPLY WITH ALL APPLICABLE PROVISIONS OF ACT ENVIRONMENTAL CONSTRUCTION DESIGN/PERFORMANCE CONTROL PLAN.
- THE FINAL IMPLEMENTATION AND LOCATION OF EROSION AND SEDIMENT CONTROLS WILL BE DETERMINED BY AN ACT INSPECTOR.



Cambridge Water Department			
ID #	Species	DB#	Comments
503	Red maple (river substrate)	5.5	
570	Red oak (stream bank)	25.1	
1127	Hamamelis (stream bank)	10.1	
1128	Black oak (stream bank)	14.4	
1225	Black oak (stream bank)	10	
1226	Red oak (stream bank)	10	
1227	Black oak (stream bank)	9	
1249	Black oak (stream bank)	23	
1300	Black oak (stream bank)	3.7	
1302	Black oak (stream bank)	4	
1303	Red oak (stream bank)	10	
1374	Black oak (stream bank)	8	
1385	Black oak (stream bank)	1	
1386	Red oak (stream bank)	10	
1387	White oak (stream bank)	12	
1388	Black oak (stream bank)	9	
1389	Red oak (stream bank)	17	Leaf litter layer: 100% cover over of fine leaf litter
1390	Red oak (stream bank)	14	125% Long-hairleaf: 100% potential nesting habitat
1391	White Birch (stream bank)	4	Need riparian zone of planting bank and avoid further trees. Moderate potential nesting habitat due to small size
1392	Black oak (stream bank)	4	
1393	Red Pine (stream bank)	18	
1394	Red maple (stream bank)	4	
1395	Black oak (stream bank)	1	
1396	Red maple (stream bank)	3	
1397	Red Pine (stream bank)	20	
1398	Black oak (stream bank)	14	
1399	Red maple (stream bank)	3	
1400	Red oak (stream bank)	28	
1401	Red oak (stream bank)	13	
1402	Black oak (stream bank)	9	1" large cavity. Moderate potential nesting habitat
1403	Red maple (stream bank)	4	
1404	Red maple (stream bank)	3	
1405	Red maple (stream bank)	3	
1406	Red oak (stream bank)	10	Need riparian zone. If planting bank high potential nesting habitat
1407	Red maple (stream bank)	3	
1408	Red maple (stream bank)	3	
1409	Red maple (stream bank)	3	
1410	Red oak (stream bank)	2	
1411	Red oak (stream bank)	21	Lightning struck? Long linear scar? Minor high potential nesting habitat
1412	Red oak (stream bank)	21	
1413	Red oak (stream bank)	8.1	
1414	Red maple (stream bank)	4	
1415	Black oak (stream bank)	3	
1416	Black oak (stream bank)	13	
1417	Red oak (stream bank)	17	
1418	Red oak (stream bank)	22	
1419	Black oak (stream bank)	18	
1420	Black oak (stream bank)	4	White "Class A" Area
1421	Black oak (stream bank)	4	White "Class A" Area
1422	Black oak (stream bank)	4	White "Class A" Area
1423	Black oak (stream bank)	4	White "Class A" Area
1424	Black oak (stream bank)	4	White "Class A" Area
1425	Red maple (stream bank)	10	White "Class A" Area
1426	Black oak (stream bank)	13	White "Class A" Area. Many large trees and habitat from wetlands. High potential nesting habitat.

DWG. NO.		DESCRIPTION	REV	DSN	CK	DESCRIPTION	ITEM NO.	DESCRIPTION	MATERIALS	LN.	FT.	ENGINEERING APPROVALS				J-3 SYSTEM ROUTE 2 MR 00205 LINCOLN SITE UPGRADES		Algonquin Gas Transmission, LLC		
		REFERENCE DRAWINGS			REVISIONS								DRAWN BY: VHB		BID		CONSTRUCTION		LOC.: LINCOLN, MASSACHUSETTS	
		04/17/2024			REVISED PER COMMENTS - 04/14/24								TITLE		SIGNATURE		DATE		YEAR: 2024	
					REVISED TREE TABLES - 04/01/24								SIGNATURE		DATE		SCALE: 1"=15'		DWG.: J-3-SYS-P-1000	
					ISSUED AS APPROVED - 02/02/24								SIGNATURE		DATE		SCALE: 1"=15'		REV.: 2	