

## **LAND MATTERS**

### **8.1. Proposed Line 10 Westover Segment Replacement Corridor**

The proposed Project runs approximately 35 km in length from the existing Westover Terminal to the existing Nanticoke Junction Facility. Approximately 24 km or 69% of the pipeline will be constructed alongside and contiguous to an existing Enbridge pipeline ROW and other linear disturbances, with 11 km or 31% requiring new non-contiguous ROW.

Designing the Project to run alongside and contiguous to the existing ROW allows Enbridge to minimize incremental environmental and stakeholder impacts and facilitates safe and efficient operations and maintenance.

The Project corridor traverses the Municipality of Hamilton including the City of Hamilton. Land use zoning along the Project corridor is a combination of fee simple agricultural land, residential, commercial, industrial, transportation corridors (highways), utility corridors (transmission lines) as well as open space/vacant lands.

### **8.2. Land Rights Required**

A combination of new and existing ROW will be used for the Project. Where the new line is contiguous with Enbridge's existing ROW and there is enough room to allow an additional pipeline Enbridge will use its existing easement rights. The existing easement rights granted (18.28 m or 60 feet in width) allows for the additional placement of pipes within those lands as described in the existing executed ROW and Easement Agreements.

The project will use a portion of the existing 18.28 m (60 ft) ROW to minimize the total new permanent ROW footprint required. Where new ROW is required alongside the existing ROW on the contiguous route, new Easement Agreements will be executed to acquire additional permanent ROW approximately 10 metre (m) in width. Variations in the width will occur due to placement of existing lines within the existing ROW and as required by engineering standards for separation between pipelines.

Where the Project is non-contiguous with the existing line, (Greenfield) Option Agreements which include Grant of new Easement and Temporary Workspace Agreements, will be used to acquire an option for permanent ROW approximately 10 m in width. The total estimated area for the permanent ROW for both contiguous and non-contiguous is approximately 36 hectares (ha).

Additional temporary working rights for construction will be acquired under a Temporary Workspace Agreement and will be approximately 23 m in width (depending upon the location). The TWS will be adjacent to the new and existing ROW and the total estimated area is approximately 82 ha. The total combined width of the permanent ROW and TWS required for construction will be up to 74 ha where contiguous and approximately 44 ha where non-contiguous.

Additional temporary workspace at bends, corners, road crossings, bores, HDD's as well as for construction activities such as stockpile sites, equipment loading/unloading locations, parking and access to the right of way will be determined and acquired under a temporary workspace agreements. The width in these locations varies at each location with a total area of approximately 17 ha being required.

Although not currently anticipated as necessary, additional land rights may also be identified and required on a temporary basis during construction for contractor staging areas, stockpile sites, and temporary access. The specific requirements for such land rights, if required, will be identified as construction planning and detailed engineering and design progress. Should additional land be required under these circumstances, Enbridge will endeavor to acquire those rights through negotiation with the affected landowners.

At the Westover Terminal, Enbridge owns adequate land area required for the project. However, Enbridge is proposing to extend the existing fenced yard site by approximately 20 m and 33 m for a total of approximately 0.1 ha. This extension would involve extending the fence line on the western side of the property, as shown on the attached plot plan in **Appendix 7.5**. No new land rights will need to be acquired; however permitting under "Ontario Regulation 161/06 Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulations" under the Ontario Conservation Authorities Act for this location will be acquired.

TWS is also required at the existing Nanticoke Junction Facility. A total of approximately 0.30 ha of temporary land rights required at Nanticoke Junction will be acquired under a temporary workspace agreement from the fee simple landowner.

There are four mainline valves proposed for the Project located along the ROW; the first located at the Westover Terminal, the second located on the Northside of Concession Road 4 West in agricultural lands, the third located on the Northside of Jerseyville Road and the fourth valve to be located at Nanticoke Junction Facility. For the valves located at the terminals both will be within Enbridge's existing facilities and no new land will be required.

For the two valves not located within existing Enbridge facility property, both permanent and temporary rights will be required. Enbridge intends to enter into easement agreements with the affected landowners and occupants, as required. A summary of the area required for each valve is shown in **Table 8.1**.

**Table 8.1**  
Remote Sectionalizing Valve Sites and Land Requirements

Valve Description	Legal Description	Estimated Total Land Needed for Valve Sites (hectares) (approximately)
MLV-RSV-0	Westover Terminal	0.069 ha
MLV-RSV-1	Northside of Concession Road 4 West	0.093 ha
MLV-RSV-2	Northside of Jerseyville Road	0.121 ha
MLV-RSV-3	Nanticoke Junction Facility	0.069 ha
	<b>Total</b>	<b>0.35 ha</b>

The total estimated land area required for the Project is shown in **Table 8.2** below:

**Table 8.2**  
Total Estimated Land Area Required

Facility	Area (hectares) (approximately)
Permanent ROW	36 ha
TWS and Additional Workspace	up to 99 ha
Sectionalizing valve sites	0.35 ha
Westover Terminal	0.1 ha
<b>Total Area</b>	<b>approximately 136 ha</b>

In total, the proposed ROW traverses 119 tracts of land, representing 80 landowners on privately-owned lands. In order to construct, operate and maintain the pipeline and facilities, land must be acquired from private landowners and Municipalities. For the proposed pipeline, new Easement Agreements and Option agreements will be acquired for permanent ROW, as well as agreements for temporary workspace. For the required sectionalizing valve sites, Enbridge intends to enter into easement agreements with the affected landowners. All

necessary land rights to construct operate and maintain the pipeline will be obtained by negotiating directly with the registered owners of the land.

As outlined in **Table 8.3** below, 67% of all tracts to be crossed by the proposed pipeline ROW are privately-held by Fee Simple landowners. The remaining tracts (33%) ("Fee Simple Other") are owned by a mixture of Industry, Municipalities, Conservation Authorities and Provincial Ministries.

**Table 8.3**  
Land Ownership for the Project

Land Type	Number of Tracts	Approximate % of Land Crossed	Numbers of Landowners
Fee Simple	80	67%	80
Fee Simple Other	39	33%	6
<b>Total</b>	<b>119</b>	<b>100%</b>	<b>86</b>

Easement Agreements or Option Agreements along with agreements for temporary working rights have been acquired from landowners representing approximately 33% of the Fee Simple tracts of land along the proposed new ROW. Lands that fall into the "Fee Simple Other" category as previously described are lands owned by a mixture of Industry, Municipalities, Conservation Authorities and Provincial Ministries. These lands may be acquired through a variety of different agreements based on the requirements/requests from the owners of those lands. This could include a permit, easement, third party crossing agreement or license agreement. All agreements will be applied for in early 2016 once geotechnical analysis and detailed engineering has been completed for these specific locations. Enbridge anticipates receipt of these agreements within 12 to 16 months of application, prior to construction start.

The proposed pipeline will cross linear facilities including watercourses, roads, highways, power lines, railways, oil and gas pipelines, and other utilities. Enbridge will design its pipeline and obtain consents from each third party owner of the linear facilities in accordance with requirements of applicable legislation.

### **8.3. Lands Acquisition Process**

Land acquisition for the Project has and will continue to comply with the NEB requirements, including section 87 of the NEB Act. Enbridge has been working with landowners to apprise them of the potential impacts of construction and will negotiate fair and reasonable compensation in the form of direct reclamation or monetary equivalent. In special or commercial situations, Enbridge may consult with a qualified professional to assess potential impacts and to provide advice to resolve reclamation procedures and determine fair and reasonable compensation.

Disagreements with landowners as to land rights or the amount of compensation to be paid for the acquisition of lands, if not settled through direct negotiations, will be addressed in

accordance with the negotiation or arbitration procedures set out in the NEB Act. The land acquisition agreements used by Enbridge for the Project adhere to subsection 86(2) of the NEB Act, including the following:

- Compensation for the acquisition of lands to be made, at the option of the landowner, by one lump sum payment or by annual or periodic payments of equal or different amounts over a period of time;
- Review every five years of the amount of any compensation payable in respect of which annual or other periodic payments have been selected; and
- Indemnification from all liabilities, damages, claims, suits and actions arising out of the Enbridge operations other than liabilities, damages, claims, suits and actions resulting from the gross negligence or willful misconduct of the landowner.

**Table 8.4** - outlines the timing for Land related activities for the project.

**Table 8.4**  
Land Acquisition Activities

Dates	Activities
June 25, 2015 to September 15, 2015	Title searches, preparation of line lists, obtaining survey consents, preparation of subsection 87(1) notices and land acquisition documents.
June 25, 2015 to December 1, 2015	Initial engagement with landowners and stakeholders to provide overview of the project and obtain survey consents.
September 15, 2015 to May, 2017	Land acquisition, includes serving of the subsection 87(1) notice, acquisition of Easement Agreements, Option Agreements, Temporary Workspace agreements, and preparation of construction line list. Obtaining all third party agreements.
Prior to Construction, Q2, 2017	Updating and completing the line list, demonstrating that all necessary land rights have been acquired.

Enbridge representatives have met with and acquired environmental survey consents from 85% of landowners of the lands traversed by the Project. Enbridge has also commenced the process to acquire the land rights necessary for the Project. To date, notices pursuant to subsection 87(1) of the NEB Act have been served on 86% of fee simple landowners on whose property the proposed pipeline traverses as summarized in **Table 8.5**. Of those 86% of landowners served Section 87 notices, 33% have executed Option Agreements or Easement Agreements with Enbridge as shown in **Table 8.6**. Enbridge continues to negotiate with the remaining fee simple landowners and is expecting to execute the necessary land rights through mutually

acceptable agreements. Enbridge anticipates having all fee simple lands acquired by Q2, 2017. If land rights are not acquired, upon approval of the project Enbridge will consider utilizing the NEB established process to bring resolution to those instances where acceptable resolutions with affected landowners have not been achieved.

**Table 8.5**  
Status of Section 87 Notices

Land Type	Number of Tracts to be Served 87 Notices	Number of tracts to completed	% Completed	Estimated Time of Completion
Fee Simple Lands	80	69	86%	Enbridge continues to work with private landowners to serve section 87 notices. Enbridge anticipates having all fee simple lands notices served by December 1, 2016.
Fee Simple Other	39	2	1%	Applications for consents along with the section 87 Notices will be applied for in early 2016 to individual owners once detailed design for the specific locations has been completed. The applications are anticipated to be approved within 12 to 14 months of submission. Enbridge anticipates receiving the consents by March 31, 2017.
<b>Total</b>	<b>119</b>	<b>71</b>	<b>0.60%</b>	

**Table 8.6**  
Land Acquisition Status as of November 30, 2015

Land Type	Number of tracts	Number of Tracts completed	% Complete	Estimated Timing of Completion
Fee Simple	80	27	33%	Enbridge continues to work with private landowners to address their concerns and acquire the necessary land rights. Enbridge anticipates having all fee simple lands acquired by Q2, 2017. If land rights are not acquired upon approval of the project Enbridge will consider utilizing the NEB established process to bring resolution to those instances where acceptable resolutions with affected landowners have not been achieved.

Land Type	Number of tracts	Number of Tracts completed	% Complete	Estimated Timing of Completion
Fee Simple-Other	39	0	0%	Applications for consents will be applied for in early 2016 to individual owners once detailed design for the specific locations has been completed. The applications are anticipated to be approved within 12 to 14 months of submission. Enbridge anticipates receiving the consents by March 31, 2017.
Total	119	27	23%	

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## 2 8.4. Land Acquisition Agreements

3 Sample copies of the forms of the following agreements are attached:

- 4 • Section 87(1) Notice: **Appendix 8.1**;
- 5 • Grant of Easement (Ontario): **Appendix 8.2**; and,
- 6 • Temporary Workspace Easement Option Agreement (Ontario): **Appendix 8.3**.