

**STAFF MEMORANDUM**

March 13, 2007

The Commission's October 12, 2006 order (Case No. PU-06-330, document #43) granted to Enbridge ND a Route Permit for construction of a 52-mile, 10-inch pipeline from Trenton Station to Beaver Lodge Station, all in Williams County.

Order paragraph 3 states:

“Enbridge shall conduct further testing to determine if the construction or operation of the pipeline, following the proposed route, will be affected by the abandoned mine. Enbridge shall submit to the Commission a report of its findings. While construction will be allowed elsewhere, Enbridge shall not construct the pipeline within a 2,750 foot radius of abandoned mine entrances until a route in that 2,750 foot radius has been approved by the Commission.”

Enbridge ND has provided a report documenting that the pipeline will not be affected by the abandoned mine in Section 4 of Pherrin Township and is requesting approval by the Commission as required by Order paragraph 3. Staff recommends approval of the route.

Order paragraph 17 states:

“All cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office (SHPO) and approved by the SHPO prior to the start of any fieldwork or construction activity. If any cultural resource, paleontological resource, archeological resource, historical resource, or gravesite is discovered during construction of the facility, earth disturbing activities in the immediate vicinity of the discovery must be halted. The resource must be marked, preserved and protected from any further disturbance until a professional examination can be made in consultation with the SHPO. A report of such examination must be filed with the SHPO and the Commission. Clearance to proceed must be given by the SHPO and the Commission.”

Enbridge ND has provided a copy of a letter from the ND SHPO concurring with a “No Historic Properties Affected” determination concerning 2 sites near the

abandoned mine. Staff recommends the Commission acknowledge the ND SHPO's concurrence.

Order paragraph 22 states:

"Trees or other woody vegetation must be replaced with saplings that are two or more years old at a rate of two for every one removed. Landowners shall be given the option of having replacement trees/shrubs planted off the right-of-way on the landowner's property or waiving that requirement in writing and allowing Enbridge to plant the replacement trees/shrubs elsewhere. All effected trees and shrubs must be quantified before construction activity. Enbridge shall record, and file with the Commission, the number and variety of replacement tree and shrub plantings, the specific planting area(s) and the dates of the plantings. Enbridge shall inspect tree replacements once a year for three years, on the anniversary of the plantings, and send a report on or shortly before October 1 of each year to the Commission documenting work completion and condition of woodlands planting. The Commission may order additional plantings if survival rates are less than 75%."

Enbridge ND is proposing procedures for defining how trees and shrubs will be identified and inventoried in the field. For example: "In areas where trees are cleared, Enbridge will record the location, number, and species of trees that are 3 inches in diameter at breast height ... and will replace cut trees on a 2 to 1 basis with 2-year-old saplings of the same or a similar species after construction. Trees that are less than 3-inches dbh will not be replaced." "Trees and shrubs that are considered invasive species or noxious weeds will not be inventoried or replaced." For other proposed provisions, see Attachment 3 to Enbridge ND's January 9, 2007 letter (Case No PU-06-330, document #59). Staff will add this item to the March 21 administrative agenda to hear Commissioners' concerns and need for an Informal Hearing or supplemental order.