

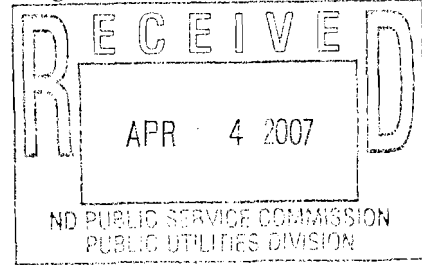


NORTH DAKOTA FOREST SERVICE

"To care for, protect and improve forest and natural resources to enhance the quality of life for present and future generations."

March 29, 2007

Patrick Fahn -Utility Analyst
Public Service Commission
600 E. Boulevard Ave. Dept. 408
Bismarck, ND 58505-0480



Dear Patrick,

Thank you for the opportunity to review the proposal by Enbridge ND regarding tree mitigation resulting from the Enbridge Pipeline. Their process for determining the number of trees within a disturbed site is very similar to the one used by the ND Department of Transportation within the Tree Mitigation Program. I am including a copy of the tree count activity criteria and requirements as outlined in NDDOT Design Memorandum No. 05-2005 with this letter. This memorandum is on the Internet if you are interested in acquiring an official copy.

While evaluating the tree and shrub planting guidelines provided by Enbridge ND, we determined that there are a few shortcomings associated with their process. The most significant is that it seems to focus on the value of trees as a timber source. In this scenario, only larger trees would have significance for wood products. This type of focus is inappropriate in North Dakota where the value of trees lies more in their contribution to environmental conservation. For instance, the value of windbreaks, water quality improvement practices, planting to control snow distribution and other practices that are critical in our state, do not fit into a traditional interpretation of forestry. These practices are significantly influenced by smaller diameter trees and shrubs and have a greater impact with a large number of trees and/or shrubs per acre. By limiting tree count to plants that are at least three (3) inches in diameter at breast height, this resource will not be considered. A one (1) inch minimum may be more inclusive.

Lastly, we have some concerns with complete elimination of Russian olive, Caragana and Siberian elm from the mitigation assessment. We understand that the ND Department of Agriculture has listed these species as invasive and do not refute that natural regeneration of these trees should not be considered. Our concern lies with conservation practices such as windbreaks within which these species were recommended for planting by resource professionals. These plantings involve an investment of money, time and effort by a landowner. We believe that these resources should be evaluated for mitigation.

Sincerely,

Larry A. Kotchman
State Forester

Enclosure -

NDDOT Design Memorandum No. 05-2005

SUBJECT: Wetland and Tree Review Guidance

Tree Count Activity Criteria and Requirements

I. Tree Count

The Tree Count (tree count) activity is to ensure that all projects are reviewed for potential tree impacts. When a project will result in the removal and destruction of trees, those trees which meet certain criteria will be counted and mitigated by the NDDOT.

II. Tasks

1. Environmental Document Statement

The environmental document author is responsible for obtaining a preliminary determination as to whether or not the project will result in the loss of trees. If so, a Design Memorandum 05-2005 statement should be included in the environmental document stating such and that the trees will be mitigated at the following applicable ratio:

- A. Trees that are mitigated in a rural location will be mitigated at a 2:1 ratio.
- B. Trees which are mitigated in an urban landscaping setting will be mitigated at 1:1 ratio.
- C. Trees that are mitigated at an established tree bank will be mitigated at a 1:1 ratio.

2. Tree Count Criteria

Trees will be counted, and the loss of those trees will be mitigated, when they meet the following criteria:

- A. Deciduous trees; if the diameter of the tree is 3 inches or more when measured 24 inches above the ground, and the tree is 15 feet or more in height.
- B. Evergreen trees; if the tree is 5 feet or more in height.

If it is impractical or impossible to count each individual tree, the following methodology may be used:

- A. Choose a representative area(s).
- B. Measure the area(s) in whatever unit is most practical (square footage, acreage, etc.).
- C. Count the number of trees in the area.
- D. Use this as a representative number of trees for all other areas which are similar in characteristics to the area(s). Use the appropriate ratio of number of trees to the size of the area.

3. Tree Count Transmittal

The project designer will be responsible for forwarding the actual tree count data to the EES in those projects where there is a potential for tree impacts. As early as possible in the design process the designer should coordinate with the district office to have a tree count done of those trees which will be lost due to construction based on the final design of the project. Once the information is obtained by the designer it should immediately be forwarded to the EES for documentation and mitigation of losses.

RIGHT OF WAY ACQUISITION PROCEDURES FOR LOCAL PUBLIC AGENCY FEDERAL AID PROJECTS

Prepared by

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION BISMARCK, NORTH DAKOTA

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SPECIAL APPRAISAL CONSIDERATIONS

Appraisals prepared for eminent domain purposes occasionally encounter problems or special considerations relating to trees, fences, severance damages, and/or uneconomic remnants. The following policies have been established to address these considerations:

Trees

Tree valuation is influenced by many factors including project location, supply and demand, the condition and variety of tree impacted, and other factors that may be pertinent. Trees in one particular location may have little or no contributory value, yet the same tree variety may offer significant contributory value in another location. The appraiser should research various market sources to obtain evidence that supports contributory value estimates of trees, shrubs, or other on-site improvements. Sources may include discussions with area buyers and sellers, contacts with the North Dakota Forest Service, local extension agencies, owners of local greenhouses, etc. Reference materials such as the Guide for Plant Appraisal (published by the International Society of Arboriculture) or other similar publications may be considered. Value estimates for trees, shrubs, plants, etc. should be consistent with market conditions found in the project area and need to be clearly and fully explained. (Page 18)

NDDOT Design Manual

WETLAND DELINEATION PROCEDURES AND MITIGATION, TREE REPLACEMENT, ENDANGER SPECIES, AND PERMIT INFORMATION

Trees

The Design Division is responsible for determining if trees will be impacted by the project. If they are, they need to be replaced through the NEPA process. Trees are replaced on a 2:1 basis. We currently have two tree banks for mitigation - one in Richland County (Hamilton Wills WMA) and one at Noonan.

The Design Division works with the State Game and Fish and private landowners to develop contracts and easements for planting trees.

Design works with the Soil Conservation Districts to get the trees planted.

If the trees are on private land, Design will contract with the Soil Conservation District to maintain the plantings.

If the plantings are on property owned by the State Game and Fish, they will maintain the plantings.

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