

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Enbridge Pipelines (North Dakota) LLC
Crude Oil Pumping Stations – Mountrail,
McHenry, Ramsey, Grand Forks Counties
Siting Application**

Case No. PU-06-349

AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

October 12, 2006

Appearances

Commissioners Tony Clark, Susan E. Wefald, and Kevin Cramer.

Brian R. Bjella, Attorney-at-Law, Fleck, Mather & Strutz, Ltd., 400 East Broadway, Suite 600, Bismarck North Dakota 58502, on behalf of Enbridge Pipelines (North Dakota) LLC.

William W. Binek, Chief Counsel, Public Service Commission, 600 East Boulevard, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Patrick Fahn, Utility Analyst, Public Service Commission, 600 East Boulevard, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Allen Wahl, Administrative Law Judge, Office of Administrative Hearings, 1701 North 9th Street, Bismarck, ND 58501-1882, as Procedural Hearing Officer.

Preliminary Statement

Enbridge Pipelines (North Dakota) LLC (Enbridge) owns and operates an existing crude petroleum pipeline extending from near Alexander, North Dakota, to Clearbrook, Minnesota.

On August 4, 2006 Enbridge Pipelines (North Dakota) LLC (Enbridge) filed a consolidated letter of intent and application for waiver or reduction of procedures and time schedules and for a corridor certificate and route permit. Enbridge proposes to construct four new pump stations near Blaisdell, Denbigh, Penn and Larimore on its existing crude petroleum pipeline.

On August 9, 2006 the Commission acknowledged Enbridge's letter of intent, assessed a filing fee of \$84,978, waived the one-year waiting period between filing a letter of intent and an application, and issued a Notice of Filing and Notice of Hearing

scheduling a public hearing for September 13, 2006 beginning at 1:30 p.m. CDT at the Devils Lake City Offices, Commission Chambers, 423 6th Street NE, Devils Lake, ND. The public hearing was held as scheduled.

Enbridge requests that the Commission (1) waive provisions of law and rule that require filing of separate applications, separate hearings and certain time schedules; (2) find that the proposed facilities are of such length, design, location and purpose that it will produce minimal adverse effects; and (3) designate the corridor and route as requested.

Issues to be considered in this matter include:

1. Will the location, construction, and operation of the proposed pipeline facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed pipeline facilities compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed pipeline facilities locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?
4. Are the proposed pipeline facilities of such length, design, location, or purpose that they will produce minimal adverse effects so that procedures and time schedules may be waived?
5. Does a demonstrable emergency exist, which requires immediate construction so that adherence to procedures and time schedules would jeopardize the utility's system?
6. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

Having allowed all interested persons an opportunity to be heard and having heard, reviewed and considered all testimony and evidence presented, the Commission makes the following:

On September 20, 2006, the Commission issued its Findings of Fact, Conclusions of Law and Order in this case.

On October 6, 2006, Enbridge filed a Request for Variance from Permit Conditions requesting that the Commission modify Paragraph 5 of the Order to allow Enbridge to commence construction on any pumping station for which it has obtained all necessary licenses and permits.

On October 12, 2006, the Commission issued an Order granting Enbridge's Request for Variance from Permit Conditions.

Findings of Fact

1. Enbridge is a limited liability company with its operations center located at 2625 Railway Avenue, Minot, North Dakota 58703.
2. Enbridge owns and operates an existing underground crude petroleum pipeline system that extends from the Williston Basin in North Dakota and Montana primarily to Enbridge's terminal in Clearbrook, Minnesota, but also to the Tesoro Refinery in Mandan, North Dakota. The portion of the system where Enbridge proposes to construct four new pump stations was constructed by Portal Pipeline Company in 1962, prior to the Energy Conversion and Transmission Facility Siting Act codified at North Dakota Century Code Chapter 49-22. In 1998, Portal changed its name to Enbridge.
3. The existing pipeline infrastructure in North Dakota and neighboring states is at capacity. In April 2006, the pipeline infrastructure was short about 15,000 barrels per day. This lack of space on existing pipelines has resulted in a significant drop in the price for petroleum produced in North Dakota and neighboring states. This has prompted some producers to postpone production and has also resulted in an increase in trucking of crude oil. Enbridge has received requests from oil producers in the Williston Basin of North Dakota and Montana for immediate additional pipeline capacity to transport increased production of crude petroleum.
4. In response to requests from oil producers, Enbridge upgraded the Alexander and Trenton pump stations, and constructed a new East Fork pump station on the Beaver Lodge/Alexander Segment in accordance with the Commission's July 28, 2005 order in Case No. PU-05-274; First Amended Certificate of Site Compatibility No. 40; and First Amended Route Permit No. 49. Enbridge is making further upgrades to the Alexander, Trenton, Beaver Lodge and Stanley stations in accordance with the Commission's August 23, 2006 order in Case No. PU-06-317; Certificate of Site Compatibility No. 93; and Route Permit No. 103. Enbridge has also proposed a 52-mile, 10-inch Trenton to Beaver Lodge Line Loop.
5. In this proceeding, Enbridge proposes to construct new pump stations near Blaisdell, Denbigh, Penn and Larimore on its existing crude petroleum pipeline. The estimated cost of the pump stations and associated facilities is \$16,995,000. Enbridge plans to begin construction in October 2006 and anticipates all pumps will be in-service by October 2007.

6. At each station Enbridge proposes to install a main line sectionalizing valve, a pump/motor, a power variable frequency drive, and a control building. At each station the facilities will be tied into Enbridge's existing Supervisory Control and Data Acquisition System. In addition, at each station a 4,160 volt power service feed will be brought to the station sites, access roads will be constructed and each station will be fenced.

7. Additional pipeline capacity will be provided by the new pipeline facilities. As a result of its pipeline projects, Enbridge hopes to achieve 30,000 additional barrels per day incremental capacity, with a potential of 45,000 additional barrels per day capacity.

8. North Dakota Administrative Code Chapter 69-06-08, sets forth certain criteria to guide the Commission in evaluating the suitability of granting an application for a certificate of corridor compatibility and route permit. The criteria as set forth in North Dakota Administrative Code Section 69-06-08-02, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria. A transmission facility route must not be sited within an Exclusion Area. A transmission facility route must not be sited within an Avoidance Area unless the applicant shows under the circumstances there are no reasonable alternatives. In determining whether an Avoidance Area should be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes. In accordance with the Commission's Section Criteria, a transmission route must be approved if it is demonstrated that no significant adverse impacts will result from the location, construction, and maintenance of the transmission facility. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility.

9. The Blaisdell Station will be constructed within a 3-acre parcel. The Denbigh Station will be constructed within a 2-acre parcel. The Penn Station will be constructed within a 4-acre parcel. The Larimore Station will be constructed within a 4 to 5-acre parcel. Enbridge's existing pipeline traverses the parcels. Station site plot plans of the four stations were filed as Exhibit 3 to show relative size or footprint of the facilities on the parcels, but Enbridge testified that the precise location of the facilities to be constructed within the parcels has not been finalized.

10. An environmental review was completed for the application. Enbridge completed a Class III Cultural Resource Inventory as defined through consultation with the North Dakota State Historic Preservation Officer (SHPO). The areas covered by the studies included the full extent of the parcels.

11. Enbridge states that minimal environmental impacts are anticipated as a result of the construction of the new sites. Enbridge states that direct impacts on the local economy will be minimal due to the size and duration of the project. Construction of the proposed sites may affect, but is not likely to jeopardize the continued existence of any

listed endangered species and is not likely to destroy or adversely modify critical habitat. The project will have no significant impact on fish and wildlife resources, and no endangered or threatened plant or animal species are known to occupy the proposed station sites. With respect to the Larimore Station, the North Dakota Parks and Recreation Department recommended that any impacted areas be revegetated with species native to the project area.

12. Enbridge states that there will be minimal adverse effects to cultural resources by the proposed construction. The cultural resource inventory recorded new cultural sites at the proposed Blaisdell, Denbigh, and Penn station locations. For those new cultural resource sites, Enbridge is recommending a SHPO finding of *No Historic Properties Affected* by the proposed undertaking. Consultation with the SHPO is on-going. A grain elevator located near the Penn project area is unevaluated and is potentially eligible for inclusion in the National Register of Historic Places. Enbridge has committed to avoid the elevator site as it is not contained within the project area.

13. Enbridge states that the proposed stations will not affect an avoidance or exclusion area; will have no long-term impacts on topography, water supplies, drainage patterns, agricultural production, or upon any other selection criteria; and the new stations meet the policy criteria under North Dakota Century Code Chapter 49-22.

Enbridge contacted the following state and federal agencies: North Dakota State Historic Preservation Office; United States Department of Agriculture, Natural Resources Conservation Office; United States Fish and Wildlife Service; North Dakota Department of Health; North Dakota State Water Commission; North Dakota Parks and Recreation Department; and North Dakota Game and Fish Department. None of these agencies had any objection to the pumping stations. The North Dakota Game and Fish Department requests that every effort be made to prevent impacts to wooded vegetation, and that any loss of trees and shrubs be replaced on a two-to-one basis.

14. Enbridge will comply with mitigative measures provided by the North Dakota Department of Health and the U.S. Fish and Wildlife Service.

15. The proposed route was evaluated for the exclusion, avoidance, selection and policy criteria. Based on this analysis, the Commission believes the proposed route is the best location for the proposed pump stations.

16. The Commission finds the location, construction, and operation of the pump stations will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

17. The Commission finds the proposed project compatible with the environmental preservation and the efficient use of resources.

18. The Commission finds the proposed project minimizes adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

19. The Commission finds the proposed project is of such length, design, location, or purpose that it will produce minimal adverse effects so that procedures and time schedules may be waived.

20. North Dakota Century Code Section 49-22-07.2 authorizes the Commission to waive procedures, time schedules, and public hearings otherwise required by the Siting Act, when the Commission finds that a proposed facility is of such length, design, location or purpose that it will produce minimal adverse affects.

21. The Commission finds it appropriate to waive procedures and time schedules as requested in the application.

From the foregoing Findings of Fact, the Commission now makes its:

Conclusions of Law

1. The Commission has jurisdiction over the applicant, Enbridge, and over the subject matter of this application under North Dakota Century Code Chapter 49-22.

2. Enbridge is a utility as defined in North Dakota Century Code Section 49-22-03(13).

3. The proposed pumping stations and associated facilities are part of a transmission facility as defined in North Dakota Century Code Section 49-22-03(12).

4. The location, construction, and operation of the proposed pipeline facilities will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota, while ensuring continuing system reliability and integrity.

5. The proposed pipeline corridor and route are compatible with the environmental preservation and the efficient use of resources.

6. The proposed pipeline corridor and route will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

7. The proposed project is of such design and location that it will produce minimal adverse effects, as defined under North Dakota Century Code Section 49-22-07.2.

From the foregoing Findings of Fact and Conclusions of Law, the Commission now makes its:

Order

The Commission orders:

1. Enbridge Pipelines (North Dakota) LLC's application for a waiver of procedures and time schedules is granted.
2. Enbridge Pipelines (North Dakota) LLC is issued Certificate of Compatibility for a Transmission Facility Corridor No. 95 and Route Permit for Construction of a Transmission Facility No. 105 to construct new pump stations near Blaisdell in Mountrail County, Denbigh in McHenry County, Penn in Ramsey County, and Larimore in Grand Forks County for the construction and operation of new pump stations and associated facilities and pipeline interconnections on the existing Enbridge Pipelines (North Dakota) LLC crude petroleum pipeline from the Alexander Station in North Dakota to Clearbrook MN.
3. Enbridge shall obtain approval from the Commission or Commission Staff prior to any changes in the pipeline route.
4. The Certificate of Compatibility for a Transmission Facility Corridor No. 95 and Route Permit for Construction of a Transmission Facility No. 105 are effective for the life of the pipeline but are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.
5. Enbridge shall comply with all the rules and regulations of all other agencies having jurisdiction over any phase of the proposed project, and prior to construction of any particular pumping station, shall obtain all other necessary licenses and permits for construction of that station, and shall provide copies to the Commission prior to any construction of each station.
6. Enbridge shall conduct a preconstruction conference to be held prior to the commencement of any construction. The conference must include an Enbridge representative, Enbridge's construction supervisor, and Commission staff, to ensure that Enbridge fully understands the conditions set forth in this order.
7. Enbridge shall inform the Commission of the start date of construction just prior to the commencement of construction; report to the Commission on the date construction is started; and, once construction has started, shall keep the Commission updated on construction activities on a weekly basis.

8. Enbridge shall construct and operate the pipeline in the manner described in the application and at the hearing and in late filed exhibits and supplemental materials, and in accordance with all applicable safety requirements.

9. The pipeline must be buried to a minimum depth from the ground surface to the top of the pipe of 48 inches in rangeland, 48 inches for cultivated land, 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines.

10. All crossings of graded roads must be bored unless the responsible governing agency specifically permits Enbridge to open cut the road.

11. The width of the clear cuts through any wooded areas and shelterbelts must be kept at a maximum of 50 feet where possible.

12. Enbridge shall promptly report to the Commission the presence in the permit area of any critical habitat of threatened or endangered species, or of bald or golden eagles that Enbridge becomes aware of and that were not previously reported to the Commission.

13. Construction must be suspended when weather conditions are such that construction activities will cause irreparable damage, unless adequate protection measures approved by the Commission are taken.

14. 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.

15. During construction, at least 12 inches of topsoil, where available (or topsoil to the depth of cultivation, whichever is greater), over and along areas where facilities will be placed must be stripped and segregated from subsoil. Any area on which excavated subsoil will be placed must first be stripped of topsoil. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must not be placed within the footprint of the pump station, and must be placed over areas containing topsoil.

16. Reclamation and clean-up along the right-of-way must be continuous and coordinated with ongoing construction.

17. All pre-existing roads and lanes used during construction must be restored to a condition that will accommodate their previous use, and areas used as temporary roads during construction must be restored to their original condition.

18. Reclamation, fertilization and reseeding must be done by Enbridge according to the Natural Resource Conservation Service recommendations unless otherwise specified by the landowner and approved by the Commission.


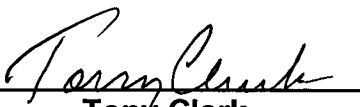

19. Trees or other woody vegetation must be replaced with saplings that are two or more years old at a rate of two for every one removed. Landowners must be given the option of having replacement trees/shrubs planted off the right-of-way on the landowner's property or waiving that requirement in writing 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%.

20. Enbridge shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the proposed transmission facility.

21. Enbridge shall provide the Commission with a copy of the design specifications for construction of the pump stations showing the location of the facilities and associated facilities as built, and shall provide this information within 3 months of the completion of the construction.

22. Enbridge's obligation for reclamation and maintenance of the pump station sites shall continue throughout the life of the pipeline.

PUBLIC SERVICE COMMISSION

| | | |
|---|---|--|
|  _____ Susan E. Wefald Commissioner |  _____ Tony Clark President |  _____ Kevin Cramer Commissioner |
|---|---|--|