



Enbridge Energy, Limited Partnership  
1100 Louisiana, Suite 3300  
Houston TX 77002-2716  
713-821-2000

July 31, 2009

Mr. Darrell Nitschke  
Executive Secretary  
North Dakota Public Service Commission  
600 E. Boulevard, Dept. 408  
Bismarck, ND 58505-0408

RE: ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
Compliance Filing to Ordering Paragraph 5

Dear Mr. Nitschke,

In compliance with the North Dakota Public Service Commission's December 31, 2007 Ordering Paragraph 5 in Docket No. PU07-108, Enbridge Energy, Limited Partnership hereby submits for filing an original and 10 copies of all applicable federal, state and local permits required for the construction and operation of its 36-inch Alberta Clipper pipeline in Pembina County, North Dakota. Such hard copies are enclosed herewith as Attachment A. Enbridge is also enclosing a CD which contains the same information that is being filed herein.

Any inquiries regarding this submittal can be address to the undersigned at 713-821-2045 or Mr. Paul Meneghini at 715-398-4573.

Respectfully submitted,

A handwritten signature in dark ink that reads 'Claudia Schroll'.

Claudia Schroll  
Manager, Regulatory Pipeline Development

Cc: Mr. Patrick Fahn, Chief Engineer, ND-PSC  
Ms. Denise Hamsher, Enbridge  
Ms. Cindy VanCleave, Enbridge  
Mr. Paul Meneghini, Enbridge

**Enbridge Energy, Limited Partnership  
ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
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## **ATTACHMENT A**



**Enbridge Energy, Limited Partnership**  
**Docket No. PU07-108**  
**Compliance Filing to Commission's Dec. 31, 2007 Ordering Paragraph 5**  
**List of Federal, State and Local Permits**

<b>TAB</b>	<b>NAME OF PERMITTING AGENCY</b>	<b>PERMIT NO.</b>	<b>DATE APPROVED</b>
<b>Federal Permit</b>			
<b>A</b>	Department of the Army Corps of Engineers, Omaha District, North Dakota Regulatory Office	NOW-2009-00584-BIS	June 23, 2009
<b>State Permits</b>			
<b>B</b>	North Dakota Department of Health – General Permit for Storm Water Discharges from Construction Activity	NDR102744	June 23, 2009
<b>C</b>	State of North Dakota - Temporary Water Permit SWC Project No. 1400A – Pembina River	ND2009-3915	June 12, 2009
<b>D</b>	State of North Dakota – Temporary Water Permit SWC Project No. 1400A – Tongue River	ND2009-3916	June 12, 2009
<b>E</b>	State of North Dakota – Temporary Water Permit SWC Project No. 1400A – Red River	ND2009-3917	June 12, 2009



**Enbridge Energy, Limited Partnership**  
**Docket No. PU07-108**  
**Compliance Filing to Commission's Dec. 31, 2007 Ordering Paragraph 5**  
**List of Federal, State and Local Permits**

<b>F</b>	Public Service Commission State of North Dakota Route Permit	110	December 31, 2007
<b>G</b>	Public Service Commission State of North Dakota Certificate of Corridor Compatibility	100	December 31, 2007
<b>H</b>	North Dakota Department of Health – Division of Water Quality	NDG070209	June 19, 2009
<b>I</b>	North Dakota Department Office of State Engineer Sovereign Land Permit for Pembina River Horizontal Directional Drilling	S-1474	June 29, 2009
<b>J</b>	North Dakota Department Office of State Engineer Sovereign Land Permit for Red River Horizontal Directional Drilling	S-1475	June 29, 2009
<b>Local Permits</b>			
<b>K</b>	Pembina County Water Resource District	N/A	March 3, 2008
<b>L</b>	Pembina County North Dakota Auditor/Treasurer	N/A	April 15, 2008

**Enbridge Energy, Limited Partnership  
ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
Compliance Filing to Ordering Paragraph 5**

**TAB A**



**DEPARTMENT OF THE ARMY**  
**CORPS OF ENGINEERS, OMAHA DISTRICT**  
**NORTH DAKOTA REGULATORY OFFICE**  
**1513 SOUTH 12<sup>TH</sup> STREET**  
**BISMARCK ND 58504-6640**  
 June 23, 2009

North Dakota Regulatory Office

[NWO-2009-00584-BIS]

Enbridge Energy Company, Inc.  
 ATTN: Mr. Paul Meneghini, P.E.  
 Senior Environmental Analyst  
 1409 Hammond Avenue, 2<sup>nd</sup> Floor  
 Superior, WI 54880

Dear Mr. Meneghini:

**Project Authorization.** We have reviewed your January 28, 2009 request for Department of the Army (DA) authorization for construction of approximately 28 miles of pipeline, for the North Dakota portion of the Enbridge (Alberta Clipper) Pipeline. Your permit application describes construction of a 36-inch crude pipeline in Pembina, County, North Dakota, as part of a larger pipeline project that will deliver crude oil from Canada to the United States. The application indicates that 24 water bodies and wetlands will be crossed in North Dakota as part of the project; six crossings have been identified\* as requiring preconstruction notification under Nationwide Permit 12. Based on the information you supplied, the project will result in no permanent impacts on the North Dakota portion.

1. Based on the information you provided, this office has determined that your work is authorized by Department of the Army Nationwide Permit No. 12, found in the March 12, 2007 Federal Register (72 FR 11092), Reissuance of Nationwide Permits. In particular, those areas for which the Nationwide Permit applies are identified on the attached sheet as jurisdictional under Section 10/404. Also, enclosed is a fact sheet that fully describes this Nationwide Permit and lists the General Conditions that must be followed for this authorization to remain valid. **Please note any deviations from the current proposed plans and specifications of your project could require additional authorization from this office.**

A jurisdictional determination (JD) has not been completed for the project site(s). You may request this office complete an approved JD prior to commencement of any work in the waterway(s). Completion of a JD may require coordination with Corps Headquarters and the U.S. Environmental Protection Agency. If you do not want the Corps to complete a JD, you may proceed with the proposed pipeline project(s) in accordance with the terms and conditions of Department of the Army Nationwide Permit No. 12. This verification is valid until June 23, 2011.

2. **Project Location.** The project will follow a corridor route identified in Pembina County, North Dakota as described in the Final Environmental Assessment.

3. **Project Compliance Certification.** *In compliance with General Condition 26, you are required to submit the following project compliance certification within thirty (30) days of project completion. [Please check all applicable statements]*

- I certify that I have completed the project as permitted.
- I certify that I have completed a modified version of the project.
- I certify that I have completed all required mitigation.

**Permittee's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

4. **Other Authorizations.** This determination is applicable only to the permit program administered by the US Army Corps of Engineers. It does not eliminate the need to obtain other Federal, Tribal, State, and local approvals before beginning work.

5. **Responsibility.** Enbridge Pipeline Company, Inc. (Enbridge) is responsible for all work accomplished in accordance with the terms and conditions of this Nationwide Permit. If a contractor or other authorized representative will be accomplishing the work authorized by the Nationwide Permit on your behalf, it is strongly



recommended that they be provided a copy of this letter and the attached conditions so that they are aware of the limitations of the Nationwide Permit. Any activity that fails to comply with all the terms and conditions of the Nationwide Permit will be considered unauthorized and subject to appropriate enforcement action.

**6. Other Special Conditions.**

**Endangered Species**

That the permittee shall report any threatened or endangered species at the project site. Notification shall be made to the North Dakota Regulatory Office by telephone or fax within 24 hours. Written confirmation shall be provided within 48 hours if deemed necessary by the North Dakota Regulatory Office.

**Cultural Resources**

That the permittee and/or the permittee's contractor, or any of the employees, subcontractors or other persons working in the performance of a contract or contract(s) to complete the work authorized herein, shall cease work immediately and report the discovery of any previously unknown historic or archeological remains to the North Dakota Regulatory Office. Notification shall be by telephone or fax within 24 hours of the discovery and, in writing, within 48 hours. The North Dakota Regulatory Office will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. Work shall not resume until notified by the North Dakota Regulatory Office.

**Spawning Season**

That no regulated activity within waters of the United States listed as Class III or higher on the 1978 Stream Evaluation Map for the State of North Dakota or on the North Dakota Game and Fish Department's website as a North Dakota Public Fishing Water shall occur between 15 April and 1 June.


**7. Additional Information.**

**Suitable Material and 1978 Stream Evaluation Map:** Permittees are reminded that General Condition No. 6 prohibits the use of unsuitable material. In addition, organic debris, some building waste, and materials excessive in fines are not suitable material. Specific verbiage on prohibited materials and the 1978 Stream Evaluation Map for the State of North Dakota can be accessed on the North Dakota Regulatory Office's website at: <https://www.nwo.usace.army.mil/html/od-rnd/ndhome.htm>

**8. Customer Survey.** The Omaha District, North Dakota Regulatory Office is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete our Customer Service Survey found on our website at <http://per2.nwp.usace.army.mil/survey.html>. If you do not have Internet access, you may call and request a paper copy of the survey that you can complete and return to us by mail or fax.

**9. Points-of-Contact.** If you have any questions concerning this determination, please contact this office by letter or telephone at 701-255-0015, or Karen Lawrence at 402-995-2463 and reference Authorization Number **NWO-2009-00584-BIS**.

Sincerely



Daniel E. Cimarosti  
Regulatory Program Manager  
North Dakota

Enclosure

\*The six crossings that required pre-construction notification are as follows:

# 790a: Section 31, Township 162N, Range 51 W

# 791d: Section 31, Township 162N, Range 51W

# 791c: Section 31, Township 162N, Range 51W

# 791b: Section 31, Township 162N, Range 51W

# 792b: Section 05, Township 161N, Range 51W

# 793a: Section 04, Township 161N, Range 51W

Identification numbers correspond with Enbridge's labeling system.

**FACT SHEET  
NATIONWIDE PERMIT 12  
(2007)**

**UTILITY LINE ACTIVITIES.** Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2 acre of waters of the United States.

**Utility lines:** This NWP authorizes the construction, maintenance, or repair of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for the utility lines, in all waters of the United States, provided there is no change in pre-construction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. The term "utility line" does not include activities that drain a water of the United States, such as drainage tile or french drains, but it does apply to pipes conveying drainage from another area.

Material resulting from trench excavation may be temporarily sidecast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

**Utility line substations:** This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a power line or utility line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2 acre of waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

**Foundations for overhead utility line towers, poles, and anchors:** This NWP authorizes the construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

**Access roads:** This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the United States, provided the total discharge from a single and complete project does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

This NWP may authorize utility lines in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (See 33 CFR Part 322). Overhead utility lines constructed over section 10 waters and utility lines that are routed in or

under section 10 waters without a discharge of dredged or fill material require a section 10 permit.

This NWP also authorizes temporary structures, fills, and work necessary to conduct the utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

**Notification:** The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if any of the following criteria are met: (1) the activity involves mechanized land clearing in a forested wetland for the utility line right-of-way; (2) a section 10 permit is required; (3) the utility line in waters of the United States, excluding overhead lines, exceeds 500 feet; (4) the utility line is placed within a jurisdictional area (i.e., water of the United States), and it runs parallel to a stream bed that is within that jurisdictional area; (5) discharges that result in the loss of greater than 1/10-acre of waters of the United States; (6) permanent access roads are constructed above grade in waters of the United States for a distance of more than 500 feet; or (7) permanent access roads are constructed in waters of the United States with impervious materials. (Sections 10 and 404)

**Note 1:** Where the proposed utility line is constructed or installed in navigable waters of the United States (i.e., section 10 waters), copies of the pre-construction notification and NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the utility line to protect navigation.

**Note 2:** Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work, accordance with the requirements for temporary fills.

**Note 3:** Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to Section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material into waters of the United States associated with such pipelines will require a section 404 permit (see NWP 15).

**General Conditions:** To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer.

**1. Navigation.** (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

**2. Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

**3. Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

**4. Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

**5. Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48.

**6. Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

**7. Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

**8. Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

**9. Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

**10. Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

**11. Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

**12. Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

**13. Removal of Temporary Fills.** Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

**14. Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

**15. Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

**16. Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

**17. Endangered Species.** (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical

habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

**18. Historic Properties.** (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

**19. Designated Critical Resource Waters.** Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

**20. Mitigation.** The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require pre-construction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address

documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

**21. Water Quality.** Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality. *Specifically in North Dakota, the North Dakota Department of Health has denied certification for projects under this Nationwide Permit proposed to cross Class I or Class 1A rivers, or classified lakes; individual certification for project in these waterways must be obtained by the project proponent prior to authorization under this Nationwide Permit. For utility line crossings of all other waters, the Department of Health has issued water quality certification provided the attached Construction and Environmental Disturbance Requirements are followed.*

**22. Coastal Zone Management.** *Not Applicable.*

**23. Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

**24. Use of Multiple Nationwide Permits.** The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

**25. Transfer of Nationwide Permit Verifications.** If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:  
"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

---

(Transferee)

---

(Date)

**26. Compliance Certification.** Each permittee who received a NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;
- (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

**27. Pre-Construction Notification.** *See attached pages.*

**28. Single and Complete Project.** The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

#### **Further Information**

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

## **General Condition 27. Pre-Construction Notification.**

(a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) Forty five calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);

(4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP's and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring pre-construction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.

(5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) District Engineer's Decision: In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

**2007 NATIONWIDE PERMITS  
REGIONAL CONDITIONS  
STATE OF NORTH DAKOTA  
OMAHA DISTRICT – CORPS OF ENGINEERS**

The U.S. Army Corps of Engineers has adopted the following regional conditions for activities authorized by nationwide permits within the State of North Dakota. However, the pre-construction notification requirements defined below are not applicable to Nationwide Permit 47.

**1. Wetlands Classified as Fens**

All Nationwide Permits, with the exception of 3, 5, 20, 32, 38, 45, and 47, are revoked for use in fens in North Dakota. For nationwide permits 3, 5, 20, 32, 38, and 45 permittees must notify the Corps in accordance with General Condition 27 (Notification) prior to initiating any regulated activity impacting fens in North Dakota.

Fens are wetlands that develop where a relatively constant supply of ground water to the plant rooting zone maintains saturated conditions most of the time. The water chemistry of fens reflects the mineralogy of the surrounding and underlying soils and geological materials. The substrate is carbon-accumulating, ranging from muck to peat to carbonates. These wetlands may be acidic to alkaline, have pH ranging from 3.5 to 8.4 and support a range of vegetation types. Fens may occur on slopes, in depressions, or on flats (i.e., in different hydrogeomorphic classes; after: Brinson 1993).

**2. Waters Adjacent to Natural Springs**

For all Nationwide Permits permittees must notify the Corps in accordance with General Condition No. 27 (Notification) for regulated activities located within 100 feet of the water source in natural spring areas in North Dakota. For purposes of this condition, a spring source is defined as any location where there is artesian flow emanating from a distinct point at any time during the growing season. Springs do not include seeps and other groundwater discharge areas where there is no distinct point source.

**3. Missouri River, including Lake Sakakawea and Lake Oahe within the State of North Dakota**

For all Nationwide Permits permittees must notify the Corps in accordance with General Condition No. 27 (Notification) prior to initiating any regulated activity in the Missouri River, including Lake Sakakawea and Lake Oahe, within the State of North Dakota.

**4. Historic Properties**

That the permittee and/or the permittee's contractor, or any of the employees, subcontractors or other persons working in the performance of a contract(s) to complete the work authorized herein, shall cease work and report the discovery of any previously unknown historic or archeological remains to the North Dakota Regulatory Office. Notification shall be by telephone or fax within 24 hours of the discovery and in writing within 48 hours. Work shall not resume until the permittee is notified by the North Dakota Regulatory Office.

**5. Spawning Condition**

That no regulated activity within waters of the United States listed as Class III or higher on the 1978 Stream Evaluation Map for the State of North Dakota or on the North Dakota Game and Fish Department's website as a North Dakota Public Fishing Water shall occur between 15 April and 1 June. No regulated activity within the Red River of the North shall occur between 15 April and 1 July.

### **Additional Information**

Permittees are reminded that General Condition No. 6 prohibits the use of unsuitable material. In addition, organic debris, some building waste, and materials excessive in fines are not suitable material.

Specific verbiage on prohibited materials and the 1978 Stream Evaluation Map for the State of North Dakota can be accessed on the North Dakota Regulatory Office's website at:  
<https://www.nwo.usace.army.mil/html/od-rnd/ndhome.htm>



## Construction and Environmental Disturbance Requirements

These represent the minimum requirements of the North Dakota Department of Health. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect the waters of the State of North Dakota. All projects will be designed and implemented to restrict the losses or disturbances of soil, vegetative cover, and pollutants (chemical or biological) from a site.

### Soils

Prevent the erosion of exposed soil surfaces and trapping sediments being transported. Examples include, but are not restricted to, sediment dams or berms, diversion dikes, hay bales as erosion checks, riprap, mesh or burlap blankets to hold soil during construction, and immediately establishing vegetative cover on disturbed areas after construction is completed. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, or land resources will be protected against compaction, vegetation loss, and unnecessary damage.

### Surface Waters

All construction which directly or indirectly impacts aquatic systems will be managed to minimize impacts. All attempts will be made to prevent the contamination of water at construction sites from fuel spillage, lubricants, and chemicals, by following safe storage and handling procedures. Stream bank and stream bed disturbances will be controlled to minimize and/or prevent silt movement, nutrient upsurges, plant dislocation, and any physical, chemical, or biological disruption. The use of pesticides or herbicides in or near these systems is forbidden without approval from this Department.

### Fill Material

Any fill material placed below the high water mark must be free of top soils, decomposable materials, and persistent synthetic organic compounds (in toxic concentrations). This includes, but is not limited to, asphalt, tires, treated lumber, and construction debris. The Department may require testing of fill materials. All temporary fills must be removed. Debris and solid wastes will be removed from the site and the impacted areas restored as nearly as possible to the original condition.

**Enbridge Energy, Limited Partnership  
ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
Compliance Filing to Ordering Paragraph 5**

**TAB B**



June 23, 2009

North Dakota Pollutant Discharge Elimination System (NDPDES)  
General Permit for Stormwater Discharges from Construction Activity  
NOTICE OF COVERAGE

Permittee(s)

Owner Contact: Dave Hodek  
Enbridge Energy LP and Enbridge Pipelines  
(Southern Lights) LLC  
1320 Grand Ave.  
Superior, WI 54880

Operator Contact: Dave Melum  
Michels Pipeline, Construction  
817 W. Main St.  
Brownsville, WI 53006

Permit coverage is identified as follows:

Permit ID: **NDR102744**      Site Name: **Alberta Clipper and Souther Lights Diluent Pipelines**

Please remember to update the Storm Water Pollution Prevention (SWPP) plan as appropriate for site conditions. The best management practices (BMPs) and temporary structures must be inspected, maintained and adjusted until the site is stabilized following construction activities. Once the site is stabilized as outlined in the general permit, you may end permit coverage by filing a termination notice. Cities or counties may impose additional requirements and/or specific BMPs for construction affecting their storm drainage system. Please check with the local officials to be sure all local storm water management considerations are addressed.

Additional Information

The permit conditions, forms and related information may be found on our web site at:

<http://www.ndhealth.gov/wq/Storm/Construction/ConstructionHome.htm>

Should you have any questions on the permit, please contact the stormwater staff person listed below.

Dallas Grossman  
Division of Water Quality  
Phone: 701-328-5242  
Email: [dgrossma@nd.gov](mailto:dgrossma@nd.gov)



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## **PART I - PERMIT COVERAGE AND LIMITATIONS**

### **A. Discharges Covered**

1. This permit applies to all areas within the jurisdiction of the state of North Dakota.
2. This permit applies to storm water discharges associated with large construction activity and with small construction activity as defined in 40 C.F.R. part 122.26(b)(14)(x) and (b)(15), respectively.
  - a. Large construction activity includes clearing, grading and excavation, that disturbs land of equal to or greater than five (5) acres and includes the disturbance of less than five (5) acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five (5) acres or more.
  - b. Small construction activity includes clearing, grading and excavation, that disturbs land of equal to or greater than one (1) acre, and includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five (5) acres.
3. Storm water discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) may be covered by this permit as part of a related construction site.
4. Certain non-storm water discharges from facilities covered by this permit and meeting the requirements specified in Part II.A.

### **B. Discharges Not Covered**

1. Storm water discharges associated with industrial activity from any source other than construction activities described in Part I.A.
2. Post-construction discharges from industrial activity that originate from the site after construction activities have been completed and final stabilization at the site is achieved. Industrial and post-construction storm water discharges may need to be covered by a separate storm water permit.
3. The placement of fill into waters of the state requiring local, state, or federal authorizations (such as U.S. Army Corps of Engineers Section 404 permits).
4. This permit does not substitute for obligations under the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), or National Historic Preservation Act (NHPA), it is your responsibility to ensure the project and resulting discharges comply with the respective requirements.
5. Discharges to waters for which there is a total maximum daily load (TMDL) allocation for sediment and/or parameters associated with sediment transport are not covered unless you develop a SWPP plan that is consistent with the assumptions, allocations and requirements in the approved TMDL. If a specific numeric wasteload allocation has been established that would apply to the project's discharges, the permittee(s) must incorporate that allocation into its SWPP plan and implement necessary steps to meet that allocation.
6. Storm water discharges that the Department determines will cause, or have the reasonable potential to cause or contribute to, violations of water quality standards.

### C. Obtaining Coverage and Authorization Effective Date

1. To obtain authorization under this general permit for storm water discharges you must submit a complete application and develop a Storm Water Pollution Prevention (SWPP) plan in accordance with Part II.C of this permit. A plan must be in place as a condition of this permit and a copy of the plan must be retained by the operator of the facility. A copy of the plan must be submitted with the application for certain facilities as described in Part I.D.
2. Permit coverage will become effective 7 days after you submit a complete application unless otherwise notified by the Department (based on the earlier of postmarked date or department date-stamp).
3. Upon the effective date of permit coverage you, as the permit applicant, are authorized to discharge storm water from eligible activities under the terms and conditions of this permit.

### D. Application Contents

1. You may use a Notice of Intent (NOI) form for Construction Activity (or photo copy thereof) to complete your application. The NOI form (or a replacement application form) will be available on the state's website at <http://www.health.state.nd.us/wq/Storm>.
2. Large Construction Activity Coverage

Large construction activity involves land disturbance of equal to or greater than 5 acres. Large construction activity also includes the disturbance of less than 5 acres of total land area that is part of a larger common plan of development or sale, if the larger common plan will ultimately disturb equal to or greater than 5 acres.

- a. The owner or the owner jointly with the operator (usually the general contractor) shall submit a completed application for this permit. The owner is responsible for compliance with all terms and conditions of this permit. The operator has day to day supervision of construction activities and is jointly responsible with the owner for compliance with the permit conditions as they pertain to the construction activities delegated to the operator.
- b. The application for large construction activity shall contain, at a minimum, the following information:
  - (1) Owner name, mailing address and phone number;
  - (2) Project contact name and phone number;
  - (3) Project/site name;
  - (4) Project/site location (street address; section, township, range; or latitude and longitude), county;
  - (5) A brief description of the construction activity;
  - (6) The anticipated starting date and the anticipated completion date for the project;
  - (7) The estimated total area of disturbance in acres;
  - (8) Name of receiving water(s) or the name of the municipal storm sewer system and receiving water(s);
  - (9) List of contractors/subcontractors working at the site (if known);
  - (10) The signature of the applicant(s), owner (and operator if co-applicants) signed in accordance with Part IV.E of this permit.

- c. A storm water pollution prevention plan (Part II.C) for the project must be prepared and available for review by the Department at the time of application. A partially complete plan is acceptable when it clearly identifies the item(s) to be completed, the person(s) responsible for completing the item(s) and the deadline for completing the item(s). The SWPP plan must be completed prior to the start of construction.
- d. You must include a copy of the Storm Water Pollution Prevention (SWPP) plan if the project involves 50 or more acres; or the project will have a discharge point located within 2000 ft of, and flow to, a water body listed as impaired under section 303(d) of the Federal CWA due to sediment or parameters associated with sediment transport (see 303(d) List on Department's web site).

### 3. Small Construction Activity Coverage

Small construction activity involves land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale, if the larger common plan will ultimately disturb equal to or greater than one and less than five acres.

- a. An operator must submit one single NOI form to the Department to obtain coverage for storm water discharges from all of their small construction sites. An operator is the individual who has day to day supervision and control of activities occurring at the construction sites and is responsible for compliance with all terms and conditions of this permit. This can be the owner, developer, the general contractor or, in some circumstances, the agent of one of these parties.
- b. The application for small construction activity shall contain, at a minimum, the following information:
  - (1) Name and mailing address of the owner or operator;
  - (2) Contact name and phone number;
  - (3) A brief description of the construction activity type;
  - (4) The signature of the applicant(s), signed in accordance with Part IV.E of this permit.
- c. The application for small construction activity shall be submitted to the Department prior to the start of construction. The operator is responsible for implementing a storm water pollution prevention plan (Part II.C) for all their small construction sites. The operator shall provide a copy of the SWPP plan to the Department upon request.
- d. Operators of small construction activity shall maintain an up-to-date record of site locations they operate. Operators are required to submit an Annual Location Record (see Part III.D) to the Department by January 31.

- 4. Completed applications, and any reports required by this permit shall be submitted, by mail or hand delivery, to:

North Dakota Department of Health  
Division of Water Quality  
1200 Missouri Avenue  
PO Box 5520  
Bismarck, ND 58506-5520

- 5. Local Authority. This permit does not preempt or supersede the authority of local agencies to prohibit, restrict, or control discharges of storm water to storm sewer systems or other water courses within their jurisdiction.

**E. Notice of Termination (NOT)**

1. Permittees wishing to terminate coverage under this permit must submit a Notice of Termination (NOT) or other written request identifying the facility, reason why the permit is no longer needed and signed in accordance with Part IV-E of this permit. Compliance with the conditions of this permit is required until a NOT is submitted.
2. Permittees may only submit a NOT after one of the following conditions have been met.
  - a. Final stabilization (see Part II.E and definitions) has been achieved on all portions of the site for which the permittee is responsible.
  - b. Another operator/permittee has assumed control, in accordance with the Transfer provisions (Part IV.M), over all areas of the site that have not been finally stabilized.
  - c. For residential construction only, temporary erosion protection and down gradient perimeter control for individual lots has been completed and the residence has been transferred to the homeowner. Additionally, the Permittee must distribute a "homeowner factsheet" to the homeowner to inform the homeowner of the need for, and benefits of, final stabilization.
3. Operators of small construction activity are not required to submit NOTs for their individual small construction sites, however, final stabilization is required on all sites. If an operator ceases all of its small construction activity and wishes to terminate coverage under the permit, an NOT must be submitted along with the Annual Location Record (see Part III.B) that certifies final stabilization has been completed on its small construction sites.

**F. Transfer of Ownership or Control**

1. When the owner or operator of a construction project changes, the new owner or operator must submit a written request for permit transfer/modification within 7 days of assuming control of the site or commencing work on-site, or of the legal transfer, sale or closing on the property. Late submittals will not be rejected; however, the department reserves the right to take enforcement for any unpermitted discharges or permit noncompliance. For storm water discharges from construction activities where the owner or operator changes, the new owner or operator can implement the original SWPP plan created for the project or develop and implement their own SWPP plan. Permittee(s) shall ensure either directly or through coordination with other operators that their SWPPP meets all terms and conditions of this permit and that their activities do not interfere with another party's erosion and sediment control practices.
2. For the transfer of properties in a development (e.g., an original developer sells portions of the property to various homebuilders) the new owner(s) must obtain permit coverage for the property by one of the following methods.
  - a. If the new owner or operator has existing permit coverage for small construction, the new operator can begin activities on individual lots or tracts of less than 5 acres under the provisions for small construction. The new operator must comply with the permit conditions and enter the site on the location record within 7 days of the transfer.
  - b. If the new owner does not have applicable permit coverage or the tract consists of 5 or more acres, a new application must be filed by the new owner or operator within 7 days of the transfer.

## **PART II – STORM WATER DISCHARGE REQUIREMENTS**

### **A. Prohibition of Non-Storm Water Discharges**

The discharge of wastewater from processing operations or sanitary facilities is not authorized by this permit. The following non-storm water discharges may be authorized if the non-storm water sources are identified in the SWPP plan with a description of the pollution prevention measures to be implemented: fire-fighting, fire hydrant flushing, potable water line flushing, infrequent building and equipment wash down without detergents, uncontaminated foundation drains, springs, lawn watering and air conditioning condensate.

### **B. Releases in Excess of Reportable Quantities**

This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302. Any release of a hazardous substance, including a release in a storm water discharge, must be reported to the agencies identified in Part IV.F. The discharge of hazardous substances in storm water discharges shall be minimized in accordance with the applicable SWPP Plan for the facility. Should a reportable quantity release occur, the SWPP Plan shall be revised to prevent the recurrence of such a release.

### **C. Storm Water Pollution Prevention Plans**

All facilities covered by this permit shall prepare and implement Storm Water Pollution Prevention (SWPP) Plans prior to beginning any construction requiring this permit. The SWPP plan and revisions are subject to review by the Department. The objectives of the plan are to identify potential sources of sediment or other pollution from construction activity and to ensure practices are used to reduce the contribution of pollutants from construction site runoff. Storm water management measures developed under other regulatory programs can be included in the SWPP plan or incorporated by reference.

The SWPP plan must incorporate the guidelines provided in Appendix 1, to the extent practicable, and shall include the following information.

1. **Site Description.** Each plan shall provide a description of the construction site and potential pollutant sources as indicated below:
  - a. A description of the overall project and the type of construction activity;
  - b. Estimates of the total area of the site and the total area that is expected to be disturbed by excavation, grading, grubbing, or other activities during the life of the project;
  - c. A proposed timetable of activities that disturb soils for major portions of the site;
  - d. A description of the soil within the disturbed area(s);
  - e. The name of the surface water(s) or municipal storm sewer systems at or near the disturbed area that may receive discharges from the project site; and

- f. A site map indicating:
  - (1) Drainage patterns including flow direction, dividing lines, and the existing and final grades
  - (2) Construction site boundaries and areas of soil disturbance;
  - (3) Location of major structural and nonstructural controls identified in the plan;
  - (4) Location of areas where stabilization practices are expected to occur;
  - (5) Surface waters, including an aerial extent of wetland acreage;
  - (6) Locations where storm water is discharged to surface water;
  - (7) Where included as part of the project, the site maps for offsite concrete/asphalt batch plants, equipment staging areas, borrow sites or excavated fill material disposal.
2. **Operational Controls.** The plan shall describe the Best Management Practices (BMPs) used in day to day operations on the project site that reduce the contribution of pollutants in storm water runoff.
  - a. Good housekeeping practices to maintain a clean and orderly facility. Litter, debris, chemicals and parts must be handled properly to minimize the exposure to storm water. This includes measures to reduce and clean up vehicle tracking of sediment off-site and generation of dust.
  - b. Preventive maintenance practices must be followed. Routine inspections and maintenance are necessary to ensure the proper operation of storm water management devices (oil water separators, catch basins, and silt fences) as well as equipment used at a site.
  - c. Spill prevention and response procedures must be developed where potential spills can occur. Where appropriate, specific handling procedures, storage requirements, spill containment and cleanup procedures shall be identified.
  - d. Employee training informs personnel of their responsibility in implementing the practices and controls included in the plan such as spill response, good housekeeping, and sediment control practices.
3. **Erosion and Sediment Controls.** An erosion and sediment control plan shall be developed to identify the appropriate control measures and when they will be implemented during the project for each major phase of site activity. The erosion and sediment control plan must conform to the guidelines provided in Appendix 1. The basic elements for erosion and sediment controls are indicated below.
  - a. Sediment basins, or an appropriate combination of equivalent sediment controls such as smaller sediment basins, and/or sediment traps, silt fences, fiber logs, vegetative buffer strips, berms, etc., are required for all down slope boundaries of the disturbance area and for those side slope boundaries as may be appropriate for site conditions.
  - b. Temporary erosion protection (such as cover crop planting or mulching) or permanent cover must be provided for the exposed soil areas where activities have been completed or temporarily ceased. These areas include graded slopes, pond embankments, ditches, berms and soil stockpiles.
  - c. All control measures must be properly selected, installed, and maintained in accordance with the manufacturer's specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the permittee must replace or modify the control for site situations.

- d. If sediment escapes from the site, off-site accumulations of sediment must be removed in a manner and at a frequency sufficient to minimize off-site impacts. The plan must be modified to prevent further sediment deposition off-site.
4. **Storm Water Management.** The plan shall include a description of practices that will be installed during the construction process to control pollutants in storm water discharges occurring after construction operations have been completed. Such practices may include:
    - a. Storm water ponds; flow reduction by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems which combine several practices. The plan shall include an explanation of the technical basis used to select the practices to control pollution where flows exceed predevelopment levels.
    - b. Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel to minimize erosion and protect the receiving water. Under this permit, permittees are responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site and until the submittal of a NOT. However, post-construction storm water BMPs that discharge pollutants from point sources once construction is completed, may in themselves, need authorization under a separate permit.
  5. **Maintenance.** All erosion and sediment control measures and other protective measures identified in the plan must be maintained in effective operating condition. The plan must indicate, as appropriate, the maintenance or clean out interval for sediment controls. If site inspections, required in this permit, identify BMPs that are not operating effectively, maintenance shall be arranged and accomplished as soon as practicable.
  6. **Inspections.** The plan must provide for site inspections to monitor the condition of storm water discharge outlets and effectiveness of BMPs. The permittee shall ensure that personnel conducting site inspections are familiar with permit conditions and the proper installation and operation of control measures. Site inspections shall be conducted according to the schedule outlined in Part III.
  7. **Plan Review and Revisions.**
    - a. The plan shall be signed in accordance with the signatory requirements, Part IV-E, and retained on-site for the duration of activity at the permitted location.
    - b. The permittee shall make plans available upon request to the Department, EPA, or, in the case of discharges to a municipal separate storm sewer system, to the operator of the municipal system.
    - c. The permittee shall amend the SWPP plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the state. The plan shall also be amended if the plan is found to be ineffective in controlling pollutants present in storm water.

#### **D. Additional Terms and Conditions**

1. If any measurable quantity of sediment leaves the site because of structural failure or lack of design capacity of the BMPs, the sediment shall be placed back on the site or properly disposed of, as soon as conditions allow. Under no conditions shall the sediment be washed into the storm sewers or drainage ways.
2. Concrete wash water shall not be discharged to waters of the state, storm sewer systems or allowed to drain onto adjacent properties.
3. Bulk storage structures for petroleum products and other chemicals shall have adequate leak and spill protection to prevent any spilled materials from entering waters of the state.
4. The storm water controls are expected to withstand and function properly during precipitation events of up to the 2 year, 24 hour storm event. Visible or measurable erosion which leaves the construction site from such storm events should be minimal. The 2 year, 24 hour rainfall event in North Dakota ranges from about 1.9 inches in the west to 2.3 inches in the east.
5. Dewatering or basin draining (e.g., pumped discharges, trench/ditch cuts for drainage) related to the permitted activity must be managed with the appropriate BMPs, such that the discharge does not adversely affect the receiving water or downstream landowners. The Permittee(s) must operate the discharge to minimize the release of sediment and provide energy dissipation measures to adequately protect the outlet from erosion. The dewatering is limited to storm water and small amounts of ground water that may collect on a site and those sources identified in Part II.A. A separate permit must be obtained for the release of water from other sources.
6. All storm water discharges must comply with the requirements, policies, or guidelines, of municipalities and other local agencies. Any discharges of storm water to storm drainage systems or other water courses under their jurisdiction, including applicable requirements in municipal storm water management programs developed to comply with NDPDES permits, must comply with their local requirements.

#### **E. Final Stabilization**

The Permittee(s) must ensure final stabilization of the site. The Permittee(s) should submit a NOT within 30 days after final stabilization is complete, or another owner/operator (Permittee) has assumed control according to Part I.D over all areas of the site that have not undergone final stabilization. Final stabilization can be achieved in one of the following ways.

1. All soil disturbing activities at the site have been completed and all soils must be stabilized by a uniform perennial vegetative cover with a density of 70 percent over the entire pervious surface area, or other equivalent means necessary to prevent soil failure under erosive conditions and;
  - a. All drainage ditches, constructed to drain water from the site after construction is complete, must be stabilized to preclude erosion;
  - b. All temporary synthetic, and structural erosion prevention and sediment control BMPs (such as silt fence) must be removed as part of the site final stabilization; and
  - c. The Permittee(s) must clean out all sediment from conveyances and from temporary sedimentation basins that are to be used as permanent water quality management basins. Sediment must be stabilized to prevent it from being washed back into the basin, conveyances or drainageways discharging off-site or to surface waters. The cleanout of permanent basins must be sufficient to return the basin to design capacity.

2. For residential construction only, final stabilization has been achieved when temporary erosion protection and down gradient perimeter control for individual lots has been completed and the residence has been transferred to the homeowner. Additionally, the Permittee must distribute a "homeowner factsheet" to the homeowner to inform the homeowner of the need for, and benefits of, final stabilization.

### **PART III SELF MONITORING AND REPORTING**

#### **A. Inspection Requirements**

1. Inspections shall be performed by or under the direction of the permittee at least once every 14 calendar days and within 24 hours after any storm event of greater than 0.50 inches of rain per 24-hour period during active construction. The permittee shall have the option of maintaining a rain gauge at their site or utilizing the nearest National Weather Service precipitation gauge station. Any gauge station used shall be located within 10 miles of the storm water discharge.
2. All inspections and maintenance conducted during construction must be recorded in writing and these records must be retained in accordance with Part IV.D. Records of each inspection and maintenance activity shall include:
  - a. Date and time of inspections;
  - b. Name of person(s) conducting inspections;
  - c. Findings of inspections, including recommendations for corrective actions;
  - d. Corrective actions taken (including dates, times, and party completing maintenance activities);
  - e. Date and amount of all rainfall events greater than 1/2 inch (0.5 inches) in 24 hours; and
  - f. Documentation that the SWPP plan has been amended when substantial changes are made to the erosion and sediment controls or other BMPs in response to inspections.
3. Where parts of the construction site have undergone final stabilization, but work remains on other parts of the site, inspections of the stabilized areas may be reduced to once per month. Completed areas that have been stabilized but do not meet the 70% perennial vegetative cover criteria for final stabilization are also eligible for once per month inspections. Inspections may be suspended where work has been suspended due to frozen ground conditions. The required inspections and maintenance must resume as soon as runoff occurs at the site or prior to resuming construction, whichever comes first.
4. There may be times when a site inspection may not be practical at the specified time. Adverse climatic conditions, such as flooding, high winds, tornadoes, electrical storms, etc., may prohibit inspections. Should this occur, the permittee must make a record of the description of why the inspection(s) could not be performed at the designated time. Any available documentation of the events which did not allow for the inspection should also be available.
5. A permittee may submit an alternative inspection plan for long, narrow, linear construction projects such as pipeline or utility line installation, and similar projects in remote areas where vehicle traffic is restricted or could compromise native vegetation or stabilization measures. A copy of the SWPP plan and proposed inspections plan shall be submitted to the Department 30 days prior to implementing an alternative inspection plan. Any alternative plan must provide for the timely recognition and repair of erosion and sediment damage.

## B. Annual Location Record - (Small Construction Activity only)

Operators of Small Construction Activity shall maintain a Location Record that shows the locations they operated small construction activity.

### 1. Contents of the Location Record

The Location Record shall contain the following:

- a. Permit number;
- b. Name and mailing address of the owner or operator;
- c. Name of each small construction site;
- d. Location of each site (street address, latitude and longitude, or legal land description of township, range, section, and 1/4 section);
- e. Start date of each site;
- f. The estimated area of total disturbance, in acres, of each site;
- g. Status of each site (in progress, grading complete, final stabilization date).

### 2. Submittal

A copy of the Annual Location Record shall be submitted to the Department by January 31 of each year, covering the small construction sites operated during the preceding calendar year (January 1 through December 31). The report shall be submitted to the Department at the following address:

North Dakota Department of Health  
Division of Water Quality  
1200 Missouri Avenue  
PO Box 5520  
Bismarck, ND 58506-5520

## **PART IV – STANDARD CONDITIONS**

- A. **Duty to Comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the Department advance notice of any planned changes at the permitted facility or of any activity which may result in permit noncompliance.
- B. **Operation and Maintenance.** The permittee shall at all times maintain in good working order, and operate as efficiently as possible, all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit and with the requirement of the SWPP Plans. If necessary to achieve compliance with the conditions of this permit, this shall include the operation and maintenance of backup or auxiliary systems.
- C. **Duty to Provide Information.** The permittee shall furnish to the Department, upon request, copies of records required to be kept by this permit. When a permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or any report, it shall promptly submit such facts or information.
- D. **Records Retention.** All records and information (including calibration and maintenance) required by this permit shall be kept for at least three years or longer if requested by the Department or EPA.

E. **Signatory Requirements.** All applications, reports or information submitted to the Department shall be signed and certified.

1. All permit applications shall be signed by a responsible corporate officer, a general partner, or a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - (a) The authorization is made in writing by a person described above and submitted to the Department; and
  - (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

If an authorization under item 2 above is no longer accurate for any reason, a new authorization satisfying the above requirements must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted herein. Based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

- F. **Immediate Notification.** The permittee shall report any noncompliance of discharge which may seriously endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstance. The report shall be made to the EPA, Region VIII, National Emergency Response Center, at 1-800-424-8802 and the State of North Dakota, Division of Emergency Management, 1-800-472-2121. In addition, a written submission to both the Department and EPA shall be provided within five days of the time that the permittee became aware of the circumstances. The submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; the estimated time noncompliance is expected to continue if it has not been corrected; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- G. **Bypassing.** Any bypass is prohibited except where unavoidable to prevent loss of life, personal injury, or severe property damage, and there were no feasible alternatives to the bypass. The permittee shall provide notification of unanticipated bypasses as may be required by Part IV.F, Immediate Notification. If, for other reasons, a bypass is considered necessary, a request to bypass shall be submitted, at least 15 days in advance if possible, to the Department. No bypass of this type shall occur until permission has been obtained from the Department.
- H. **Upset Conditions.** An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of the following paragraph are not met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final

administrative action subject to judicial review.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

1. An upset occurred and the permittee can identify its cause(s);
2. The permitted facility was, at the time, being properly operated;
3. The permittee submitted notice of the upset as may be required under Part IV.F, Immediate Notification; and
4. The permittee complied with any remedial measures required under Part IV.I, Duty to Mitigate.

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

- I. **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. The permittee, at the Department's request, shall provide accelerated or additional monitoring as necessary to determine the nature and impact of any discharge.
- J. **Removed Materials.** Collected screening, grit, solids, sludge, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner to prevent any pollutant from entering waters of the state or creating a health hazard.
- K. **Right of Entry.** The permittee shall allow Department and EPA representatives, at reasonable times and, if requested, upon the presentation of credentials, to inspect any facilities or equipment (including monitoring and control equipment), to sample discharges, and to have access to and copy any records required to be kept by this permit. For facilities which discharge to a municipal or other separated storm sewer, this shall also pertain to authorized representatives of the municipal operator or the separate storm sewer receiving the discharge.
- L. **Availability of Reports.** Except for data determined to be confidential under 40 CFR, Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.
- M. **Transfers.** This permit is not transferable except upon the filing of a Statement of Acceptance by the new party and subsequent Department approval. The Department may require the new operator to file a new application as stated in Part I.D, or apply for a transfer or modification as stated in Part I.F. The current permit holder should inform the new controller, operator, or owner of the existence of this permit and also notify the Department of the possible change.
- N. **New Limitations or Prohibitions.** The permittee shall comply with any effluent standards or prohibitions established under Section 306(a), Section 307 (a), of Section 405 of the Act for any pollutant (toxic or conventional) present in the discharge or removed substances within the time identified in the regulations, even if the permit has not yet been modified to incorporate the requirements.

- O. **Permit Actions.** This permit may be modified, revoked and reissued, or terminated for cause. Also, if there is evidence indicating potential or realized impacts on water quality due to any storm water discharge associated with industrial activity covered by this permit, the owner or operator of such discharge may be required to obtain an individual permit or coverage under an alternative general permit in accordance with this Part. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. The following pertains to individual or alternative general permits:
1. The Department may, at any time and by written notification only, require any person authorized by this permit to apply for and obtain either an individual NDPDES permit or to seek coverage under an alternative NDPDES general permit. Any person covered by this general permit may request to be excluded from such coverage by either applying for an individual NDPDES permit, or filing a Notice of Intent to be covered under an alternative NDPDES general permit.
  2. When an individual NDPDES permit is issued to a person otherwise subject to this permit or the person is approved for coverage under an alternative NDPDES general permit, the applicability of this permit to the individual permittee is automatically terminated upon the effective date of the individual permit or the date of approval for coverage under the alternative general permit. When an individual NDPDES permit is denied to a person otherwise subject to this permit, or the person is denied for coverage under an alternative NDPDES general permit, the applicability of this permit remains in effect, unless otherwise specified by the Department.
- P. **Need to Halt or Reduce.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- Q. **State Laws.** Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 510 of the Act.
- R. **Oil and Hazardous Substance Liability.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 311 of the Act.
- S. **Property Rights.** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges; nor does it authorize any injury to private property or any invasion of personal rights; nor any infringement of federal, state, or local laws or regulations.
- T. **Severability.** The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

## **PART V - DEFINITIONS**

"303d List" or Section 303d List" means a list of North Dakota's water quality-limited waters needing total maximum daily loads or TMDLs developed to comply with section 303d of the Clean Water Act. A copy of the list is available on the state's web site at:

[http://www.health.state.nd.us/wq/sw/Z7\\_Publications/A\\_Publications.htm](http://www.health.state.nd.us/wq/sw/Z7_Publications/A_Publications.htm)

"BMP" or "Best Management Practices" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Common Plan of Development or Sale" means a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

"Construction Activity" means construction activity as defined in 40 C.F.R. part 122.26(b)(14)(x) and small construction activity as defined in 40 C.F.R. part 122.26(b)(15). This includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated storm water runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling and excavating. Construction activity includes the disturbance of less than one acre of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more

"Department" means the North Dakota Department of Health, Division of Water Quality.

"Energy Dissipation" means methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to: concrete aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

"Final Stabilization" means that:

1. All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of 70 percent of the native cover for unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
2. For areas with an average annual rainfall of less than 20 inches only, all soil disturbing activities at the site have been completed and temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years and achieve 70 percent vegetative coverage within three years without active maintenance.
3. For soil disturbing activities on land used for agricultural purposes, final stabilization may be accomplished by returning the disturbed land to its pre-disturbance agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to "waters of the state," and areas which are not being returned to their pre-disturbance agricultural use must meet the final stabilization criteria in (1) or (2) above.

"Large Construction Activity" means land disturbance of equal to or greater than 5 acres. Large construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale, if the larger common plan will ultimately disturb equal to or greater than five acres.

"Normal Wetted Perimeter" means the area of a conveyance, such as a ditch, channel, or pipe that is in contact with water during flow events that are expected to occur once every year.

"Non-Storm Water Discharges" means discharges other than storm water. The term includes both process and non-process sources. Process waste water sources that require a separate NDPDES permit include, but are not limited to industrial processes, domestic facilities and cooling water. Non-storm water sources that may be addressed in this permit include, but are not limited to: fire hydrant flushing and testing, potable water line flushing, infrequent building and pavement washdowns without detergents, uncontaminated foundation drains, springs, lawn watering and air conditioning condensate.

"Operator" means the person (usually the general contractor), designated by the owner, who has day to day operational control and/or the ability to modify project plans and specifications related to the SWPP plan. The person must be knowledgeable in those areas of the permit for which the operator is responsible and must perform those responsibilities in a workmanlike manner.

"Owner" means the person or party possessing the title of the land on which the construction activities will occur; or if the construction activity is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the construction activity.

"Permanent Cover" means final stabilization. Examples include grass, gravel, asphalt, and concrete.

"Severe Property Damage" means substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Significant Materials" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of CERCLA; any chemical the facility is required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharges.

"Significant Spills" includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or Section 102 of CERCLA (see 40 CFR 302.4).

"Small Construction Activity" means land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale, if the larger common plan will ultimately disturb equal to or greater than one and less than five acres.

"Stabilized" means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding alone is not stabilization.

"Storm Water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm Water Associated with Industrial Activity" means storm water runoff, snow melt runoff, or surface runoff and drainage from industrial activities as defined in 40 CFR § 122.26(b)(14).

"Storm Water Associated with Small Construction Activity" means the discharge of storm water from:

(i) Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

(ii) Any other construction activity designated by EPA or the Department, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the state.

"Temporary Erosion Protection" means methods employed to prevent erosion. Examples of temporary cover include: straw, wood fiber blanket, wood chips, and erosion netting.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"Waters of the state" means any and all surface waters that are contained in or flow in or through the state of North Dakota as defined in NDCC 61-28-02. This definition includes all water courses, even if they are usually dry.

## Appendix 1 - Erosion and sediment control guidelines for construction activity

The following are guidelines for designing, implementing and maintaining effective erosion and sediment controls.

- 1) Temporary (or permanent) sediment basins must be provided, where practical, when ten (10) or more acres of disturbed area drain to a common location prior to the runoff leaving the site or entering surface waters. The Permittee is encouraged, but not required, to install temporary sediment basins where appropriate in areas with steep slopes or highly erodible soils even if less than ten (10) acres drains to one area. The design and construction of the basins must include following:

The basins shall be sized to provide 3,600 cubic feet of storage below the outlet pipe per acre drained to the basin. Alternative designs may be used which provide storage below the outlet for a calculated volume of runoff from a 2 year, 24 hour storm and provides not less than 1800 cubic feet of storage below the outlet pipe from each acre drained to the basin.

Basin outlets must be designed to avoid short-circuiting and the discharge of floating debris. The basin must be designed with the ability to allow complete basin drawdown (e.g., perforated riser pipe wrapped with filter fabric and covered with crushed gravel, pumps or other means) for maintenance activities. The drawdown should be designed to release the storage volume in a 24 hour or longer period. The basin must have a stabilized emergency overflow to prevent failure of pond integrity. Energy dissipation must be provided for the basin outlet.

- 2) Where a temporary sediment basin is not practical due to site limitations or the nature of disturbance (such a developing a roadway, pipeline, or diversion) a combination of measures must be used to provide equivalent sediment control for all down slope boundaries of the construction area and for side slope boundaries as deemed appropriate by individual site conditions. Equivalent sediment controls include such things as smaller sediment basins, and/or sediment traps, silt fences, vegetative buffer strips. In determining whether installing a sediment basin is attainable, the permittee must consider public safety and may consider factors such as soils, slope, and available area on site.
- 3) Provide temporary erosion protection or permanent cover for the exposed soil areas where activities have been completed or temporarily ceased. For those areas with a continuous positive slope within 200 lineal feet of a surface water, temporary erosion protection or permanent cover must be applied within 21 days of completing or ceasing earth moving activities. These areas include pond embankments, ditches, berms and soil stockpiles. Temporary stockpiles without significant silt, clay or organic components (e.g., clean aggregate stockpiles, demolition concrete stockpiles, sand stockpiles) are exempt from this requirement.
- 4) Temporary soil stockpiles must have effective sediment controls, and cannot be placed in surface waters, including storm water conveyances such as curb and gutter systems, or conduits and ditches.
- 5) The normal wetted perimeter of any temporary or permanent drainage ditch that drains water from a construction site, or diverts water around a site, must be stabilized within 200 lineal feet from the property edge, or from the point of discharge to any surface water. Stabilization should be completed within 24 hours of connecting to a surface water.
- 6) Pipe outlets must be provided with temporary or permanent energy dissipation within 24 hours of connection to a surface water.

- 7) In order to maintain sheet flow and minimize rills and/or gullies, there should be no unbroken slope length of greater than 75 feet for slopes with a grade of 3:1 or steeper.
- 8) Temporary or permanent drainage ditches and sediment basins that are designed as part of a treatment system (e.g., ditches with rock check dams) require sediment control practices only as appropriate for site conditions.

The following are maintenance and operation considerations for effective sediment and erosion control:

- 1) All erosion prevention and sediment control BMPs must be inspected to ensure integrity and effectiveness. All nonfunctional BMPs must be repaired, replaced, or supplemented with functional BMPs. The Permittee(s) must investigate and comply with the following inspection and maintenance requirements:
  - All silt fences must be repaired, replaced, or supplemented when they become nonfunctional or the sediment reaches 1/3 of the height of the fence. These repairs must be made within 24 hours of discovery, or as soon as field conditions allow access.
  - Temporary and permanent sedimentation basins must be drained and the sediment removed when the depth of sediment collected in the basin reaches 1/2 the storage volume. Drainage and removal must be completed within 72 hours of discovery, or as soon as field conditions allow access.
- 2) Surface waters, including drainage ditches and conveyance systems, must be inspected for evidence of sediment being deposited by erosion. The Permittee(s) must remove all deltas and sediment deposited in surface waters, including drainage ways, catch basins, and other drainage systems, and restabilize the areas where sediment removal results in exposed soil. The removal and stabilization should take place within seven (7) days of discovery unless precluded by legal, regulatory, or physical access constraints. The Permittee shall use all reasonable efforts to obtain access. If precluded, removal and stabilization should take place within seven (7) calendar days of obtaining access. The Permittee is responsible for contacting all local, regional, state and federal authorities and receiving any applicable permits, prior to conducting any work.
- 3) Construction site vehicle exit locations must be inspected for evidence of off-site sediment tracking onto paved surfaces. Accumulations of tracked sediment must be removed from all off-site paved surfaces, within 48 hours, or if applicable, within a shorter time specified by local authorities.

## **Appendix 2 - Basic storm water pollution prevention measures for small construction sites**

These guidelines are intended to serve as a set of operating procedures for small construction activity. For residential or commercial building sites involving one (1) acre or less, the guidelines may serve as a generic SWPP plan by itself or as the majority of the plan with site specific considerations attached as appropriate.

### Housekeeping and Standard Operating Practices

#### 1) Minimize sediment and dirt deposits on streets.

If sediment escapes the construction site, off-site accumulations of sediment must be removed in a manner and at a frequency sufficient to minimize off-site impacts (e.g., fugitive sediment in streets could be washed into storm sewers by the next rain and/or pose a safety hazard to users of public streets).

Vehicle tracking of sediment from the construction site must be minimized by BMPs such as a designated vehicle entrance to the building site and providing aggregate surface on the entrance (driveway) as soon as practical. The building site operator is responsible for (or making the arrangements for) street sweeping and/or scraping if BMPs are not adequate to prevent sediment from being tracked onto the street from his/her building site(s).

#### 2) Properly handle construction debris and waste materials.

Provide appropriate container(s) on-site (or centrally located for several sites) for storing construction debris and other wastes until disposal. Litter and debris shall be picked-up regularly to reduce the chance for materials to be carried off the site by wind or water. Waste shall be disposed-of at a facility appropriate for the type of waste collected.

Liquid or soluble materials including oil, fuel, paint and any other hazardous substances must be properly stored, to prevent spills, leaks or other discharges. Restricted access to storage areas must be provided to prevent vandalism. Storage and disposal of hazardous waste must be in compliance with applicable regulations.

Concrete wash water shall not be discharged to any waters of the state, storm sewer systems or allowed to drain onto adjacent properties. Wash water disposal must be limited to a defined area of the site or to an area designated by the developer for cement washout. The area(s) must be sufficient to contain the wash water and residual cement.

#### 3) Storm water inlet protection.

All storm drain inlets in the immediate vicinity of the building site must be protected by appropriate BMPs during construction until all sources with potential for discharging to the inlet have been stabilized. Grate covers and other means of sediment capture at the inlet are a last line of control. Sediment and erosion control practices must also be used on the building site. Inlet covers or barriers must conform to local ordinances or regulations. In general inlet barriers need to provide for drainage adequate to prevent excessive roadway flooding.

Maintenance and cleaning of inlet protection devices including on-site sediment and erosion controls must be performed in a timely manner.

#### 4) Inspections shall be performed as outlined in the construction storm water permit.

Stage-Specific Controls (Minimum Considerations)

- 1) Excavation soil piles and other temporary soil stockpiles must have silt fence or other effective **sediment controls**, and cannot be placed in **surface waters**, including **storm water** conveyances such as **curb and gutter systems**. The silt fence or other barrier material must be placed between the curb (or other type of storm conveyance) and pile site and the ends must extend back away from the curb to form a generally semi-circular shape. Only a minimal amount of stockpile material should be placed directly against the fence and in no case shall it be more than 1/6 the height of the exposed fence height.

The barrier shall be installed prior to beginning stockpiling and shall be maintained until such time that the piles will be removed. The barriers may be removed to allow backfilling operations or to obtain material from other stockpiles. If all of the material is not removed in one operation or removal will be suspended for more than 7 days, the barrier must be reinstalled.

- 2) Rough graded building sites. Sediment and erosion controls shall be used as appropriate to reduce erosion and the amount of sediment deposited in the street (or other storm conveyance if present). Minimum considerations include:
  - a. Maintaining a 3 to 4 foot wide by 3 to 4 inch drop edge on the back side of the curb and sidewalk (if installed) when the slope of the lot is perpendicular to the curb. For sites where the slopes are appreciably parallel to the street, provide a barrier at the lot edge to curtail down cutting along the curb.
  - b. If boulevard areas have been seeded to temporary cover, maintain cover as much as possible during the building process.
  - c. Temporary Erosion Protection methods may be used as an alternative or replacement to the practices mentioned above to prevent erosion. Examples of temporary cover include: straw, wood fiber blanket, wood chips, and erosion netting.
  - d. Provide splash pads and/or downspout extensions for roof drains sufficient to prevent erosion from roof runoff.
- 3) Final stabilization. Provide final stabilization or landscaping as soon as practical in the building process. Due to varying preferences of buyers, the methods also vary at this stage. Generally one of the following should describe the final stabilization.
  - a. Sod is installed.
  - b. The site is finish graded and seed and/or mulch are applied immediately following the finish grading and topsoil placement.
  - c. If the home buyer (or other building occupant) prefers to complete landscaping, temporary erosion and sediment controls should be left in place and the home buyer shall be provided information ("homeowner factsheet") on the purpose of such controls.

The responsibility under the construction storm water permit does not end until final stabilization has been achieved. Final stabilization is considered achieved when perennial vegetation is established at 70% of preexisting levels over the entire area (excluding paved or roofed areas); or:

For residential construction only, temporary erosion protection and down gradient perimeter control for individual lots has been completed and the residence has been transferred to the homeowner. Additionally, the homeowner is provided with a "homeowner factsheet" informing the homeowner of the need for, and benefits of, final stabilization.

Site specific considerations

- 1) Site map. For residential building sites which are part of a locally approved development, a building lot sitemap is not required unless:
  - a. Requested by local authorities.
  - b. The site requires specific control measures to protect adjoining water bodies.
  - c. The building site involves more than one (1) acre.
  - d. The developer requests one to ensure practices are used as a matter of policy, or to protect structures that have been or are being built to manage storm water from the development as a whole.
  
- 2) Typically there are multiple operators involved with construction activity in residential developments that may need to place (or may have placed) sediment and erosion controls in or near your work areas. As an operator of a small construction site, you must coordinate with other operators to ensure that your activities (including the removal or modification of existing BMPs) do not interfere with another party's erosion and sediment control practices.

**Enbridge Energy, Limited Partnership  
ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
Compliance Filing to Ordering Paragraph 5**

**TAB C**

**Permit Number - ND2009-3915**

**State of North Dakota  
Temporary Water Permit  
SWC Project No. 1400A**

In response to an application for a temporary water permit dated May 18, 2009 as received in this office May 18, 2009, authority is hereby granted to:

Enbridge Pipelines (Southern Lights) LLC  
1320 Grand Avenue

Superior, WI 54880

Contact Person: Paul Meneghini

Telephone (715) 398-4573

**A Temporary Water Permit as follows:**

**Source:** Pembina River

**Point of Diversion:** Sec. 33 Twp. 164 Rng. 053

**Nature of Use:** Hydrostatic Testing Pipeline

**Total Quantity of Water:** 100,000.0 Gallons

**Maximum Withdrawal Rate:** 4,000.0 gpm

**Period of authorized useage:** Jun 11, 2009 through Jun 10, 2010

**Conditions**

This temporary water permit is granted subject to use from the source by senior appropriators. Permission for access to the source must be obtained from all affected landowners. Failure to comply with any order of the State Engineer may result in forfeiture of this permit. The granting of a temporary water permit does not create a water right.

Dated: Jun 12, 2009

cc: Pembina WRD

  
Dale L. Frink  
State Engineer  
ND State Water Commission  
900 East Boulevard  
Bismarck, ND 58505

STATE OF NORTH DAKOTA  
APPLICATION FOR A TEMPORARY WATER PERMIT  
SWC Project No. 1400A

NOTE; Use one application for each type of source (surface water or ground water). Use one application for each different surface water source. Complete all lines. If this application is not satisfactorily completed, it will be returned. If more space is necessary, attach additional sheets. Please type or print in ink. There is no filing fee and no map is required.

Mail completed application to:

State Engineer  
North Dakota State Water Commission  
State Office Building  
900 East Boulevard  
Bismarck, ND 58505 - 0850

Name of Applicant Enbridge Pipelines (Southern Lights) LLC  
Mailing Address 1320 Grand Avenue  
Superior, WI 54880

Telephone Number 715-398-4573

Contact Person (if applicant is not an individual) Paul Meneghini

Source of Water Supply: (check one)  
 Surface Water Source  
 Ground Water Source

103  
PEN

Name of Source (if surface water): Pembina River

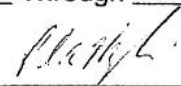
Location of Proposed Point of Diversion: County Pembina  
1/4 Section 33 Township 164N Range 53W

Purpose for Which Water Will be Used: Hydrostatic Testing of Pembina River HDD segment

Total Quantity of Water required: \_\_\_\_\_ acre-feet  
(complete one) 100,000 \_\_\_\_\_ gallons  
\_\_\_\_\_ barrels

Withdrawal rate at which water is proposed to be diverted at the location listed above: 1200-4000 gpm

Period of Usage: (up to one year) From June 1, 2009 Through December 31, 2010

Signature: 

Date: May 18, 2009

Upon receipt of this form, the State Engineer will forward a written response to the applicant within approximately ten days. If the application is approved, the granting of a temporary water permit does not create a water right. If you have any questions, call (701) 328-2754.

**Enbridge Energy, Limited Partnership  
ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
Compliance Filing to Ordering Paragraph 5**

**TAB D**

**Permit Number - ND2009-3916**

**State of North Dakota  
Temporary Water Permit  
SWC Project No. 1400A**

In response to an application for a temporary water permit dated May 18, 2009 as received in this office May 18, 2009, authority is hereby granted to:

Enbridge Pipelines (Southern Lights) LLC  
1320 Grand Avenue

Superior, WI 54880

Contact Person: Paul Meneghini

Telephone (715) 398-4573

**A Temporary Water Permit as follows:**

**Source:** Tongue River

**Point of Diversion:** Sec. 10 Twp. 162 Rng. 052

**Nature of Use:** Hydrostatic Testing Pipeline

**Total Quantity of Water:** 70,000.0 Gallons

**Maximum Withdrawal Rate:** 4,000.0 gpm

**Period of authorized useage:** Jun 11, 2009 through Jun 10, 2010

**Conditions**

This temporary water permit is granted subject to use from the source by senior appropriators. Permission for access to the source must be obtained from all affected landowners. Failure to comply with any order of the State Engineer may result in forfeiture of this permit. The granting of a temporary water permit does not create a water right.

Dated: Jun 12, 2009

  
\_\_\_\_\_  
Dale L. Frink  
State Engineer  
ND State Water Commission  
900 East Boulevard  
Bismarck, ND 58505

cc: Pembina WRD

STATE OF NORTH DAKOTA  
APPLICATION FOR A TEMPORARY WATER PERMIT  
SWC Project No. 1400A

NOTE: Use one application for each type of source (surface water or ground water). Use one application for each different surface water source. Complete all lines. If this application is not satisfactorily completed, it will be returned. If more space is necessary, attach additional sheets. Please type or print in ink. There is no filing fee and no map is required.

Mail completed application to:

State Engineer  
North Dakota State Water Commission  
State Office Building  
900 East Boulevard  
Bismarck, ND 58505 - 0850

Name of Applicant Enbridge Pipelines (Southern Lights) LLC  
Mailing Address 1320 Grand Avenue  
Superior, WI 54880

Telephone Number 715-398-4573

Contact Person (if applicant is not an individual) Paul Meneghini

Source of Water Supply: (check one)  
 Surface Water Source  
 Ground Water Source

*7116  
52*

Name of Source (if surface water): Tongue River

Location of Proposed Point of Diversion: County Pembina  
1/4 Section 10 Township 162N Range 52W

Purpose for Which Water Will be Used: Hydrostatic Testing of Tongue River HDD segment

Total Quantity of Water required: \_\_\_\_\_ acre-feet  
(complete one) 70,000 \_\_\_\_\_ gallons  
\_\_\_\_\_ barrels

Withdrawal rate at which water is proposed to be diverted at the location listed above: 1200-4000 gpm

Period of Usage: (up to one year) From June 1, 2009 Through December 31, 2010

Signature: *Paul Meneghini*

Date: May 18, 2009

Upon receipt of this form, the State Engineer will forward a written response to the applicant within approximately ten days. If the application is approved, the granting of a temporary water permit does not create a water right. If you have any questions, call (701) 328-2754.

**Enbridge Energy, Limited Partnership  
ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
Compliance Filing to Ordering Paragraph 5**

## **TAB E**

Permit Number - ND2009-3917

**State of North Dakota  
Temporary Water Permit  
SWC Project No. 1400A**

In response to an application for a temporary water permit dated May 18, 2009 as received in this office May 18, 2009, authority is hereby granted to:

Enbridge Pipelines (Southern Lights) LLC  
1320 Grand Avenue

Superior , WI 543880

Contact Person: Paul Meneghini

Telephone (715) 398-4573

**A Temporary Water Permit as follows:**

**Source:** Red River

**Point of Diversion:** Sec. 05 Twp. 160 Rng. 050

**Nature of Use:** Hydrostatic Testing Pipeline

**Total Quantity of Water:** 15,000,000.0 Gallons

**Maximum Withdrawal Rate:** 4,000.0 gpm


**Period of authorized useage:** Jun 11, 2009 through Jun 10, 2010

**Conditions**

This temporary water permit is granted subject to use from the source by senior appropriators. Permission for access to the source must be obtained from all affected landowners. Failure to comply with any order of the State Engineer may result in forfeiture of this permit. The granting of a temporary water permit does not create a water right.

Dated: Jun 12, 2009

cc: Pembina WRD

  
Dale L. Frink  
State Engineer  
ND State Water Commission  
900 East Boulevard  
Bismarck, ND 58505

STATE OF NORTH DAKOTA  
APPLICATION FOR A TEMPORARY WATER PERMIT  
SWC Project No. 1400A

NOTE: Use one application for each type of source (surface water or ground water). Use one application for each different surface water source. Complete all lines. If this application is not satisfactorily completed, it will be returned. If more space is necessary, attach additional sheets. Please type or print in ink. There is no filing fee and no map is required.

Mail completed application to:

State Engineer  
North Dakota State Water Commission  
State Office Building  
900 East Boulevard  
Bismarck, ND 58505 - 0850

Name of Applicant Enbridge Pipelines (Southern Lights) LLC  
Mailing Address 1320 Grand Avenue  
Superior, WI 54880

Telephone Number 715-398-4573

Contact Person (if applicant is not an individual) Paul Meneghini

Source of Water Supply: (check one)  
 Surface Water Source  
 Ground Water Source

RED  
117

Name of Source (if surface water): Red River

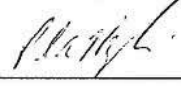
Location of Proposed Point of Diversion: County Pembina  
1/4 Section 5 Township 160N Range 50W

Purpose for Which Water Will be Used: Hydrostatic Testing of Red River HDD, and Mainline Test Spreads 1 and 2

Total Quantity of Water required: \_\_\_\_\_ acre-feet  
(complete one) 15,000,000 gallons  
\_\_\_\_\_ barrels

Withdrawal rate at which water is proposed to be diverted at the location listed above: 1200-4000 gpm

Period of Usage: (up to one year) From June 1, 2009 Through December 31, 2010

Signature: 

Date: May 18, 2009

Upon receipt of this form, the State Engineer will forward a written response to the applicant within approximately ten days. If the application is approved, the granting of a temporary water permit does not create a water right. If you have any questions, call (701) 328-2754.

**Enbridge Energy, Limited Partnership  
ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
Compliance Filing to Ordering Paragraph 5**

**TAB F**

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Enbridge Energy, Limited Partnership**  
**36-inch LP Pipeline/Pembina County**  
**Siting Application**

**Case No. PU-07-108**

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

**December 31, 2007**

**Appearances**

Commissioners Susan E. Wefald, Tony Clark, 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 Energy, Limited Partnership.

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.

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

**Preliminary Statement**

On March 16, 2007, Enbridge Energy, Limited Partnership (Enbridge LP) filed a Letter of Intent with the Public Service Commission (Commission). Enbridge LP proposes to construct 28 miles of 36-inch liquid petroleum pipeline adjacent and parallel to its existing pipelines in Pembina County, North Dakota (Alberta Clipper Pipeline).

On March 21, 2007, the Commission acknowledged Enbridge LP's Letter of Intent, shortened the waiting period for filing the siting application to one day, and assessed a filing fee of \$100,000.00 due upon filing of the application.

On July 16, 2007, Enbridge LP filed an application for a waiver of procedures and time schedules, and consolidated applications for a certificate of corridor compatibility and route permit authorizing the construction of the Alberta Clipper Pipeline.

On August 22, 2007, the Commission deemed the application of Enbridge LP complete and issued a Notice of Filing and Notice of Hearing scheduling a public hearing for October 2, 2007, at 1:30 p.m. at the Cavalier Law Enforcement Center, Lower Level Meeting Room, Courthouse Drive, Cavalier, North Dakota. The public hearing was held as scheduled in conjunction with Enbridge Energy (Southern Lights) LLC Case No. PU-07-75.

Enbridge LP requests the Commission waive the procedures set forth in North Dakota Century Code §§ 49-22-08 and 49-22-08.1 to allow for single consolidated applications for corridor certificate and route permit for this project. Enbridge LP further requests that the Commission reduce the minimum width of the corridor for this project, from 2.8 miles, required under North Dakota Administrative Code § 69-06-04-02, to one mile.

The issues to be considered in this matter are:

1. Will the location, construction, and operation of the proposed pipeline produce minimal adverse effects on the environment, natural resources, and upon the welfare of the citizens of North Dakota?
2. Is the proposed pipeline compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed pipeline corridor and route 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. Is it appropriate for the Commission to waive the procedures as requested in the application including the request for a single consolidated application for Corridor Certificate and Route Permit?

On December 4, 2007 Enbridge notified the Commission of an archeological site next to the Red River of the North.

On December 7, 2007 Enbridge filed a copy of Contractual Resolution of Dispute Between the North Valley Water District and Enbridge Pipelines (Southern Lights, LLC),

Enbridge Energy, Limited Partnership concerning nine locations where existing Enbridge Energy, Limited Partnership pipelines and the proposed Alberta Clipper Pipeline will cross North Valley Water District water lines.

On December 20, 2007 Enbridge filed an alternative for the proposed pipeline route at the Tongue River crossing with a map showing the route for this pipeline on the north and east side of the existing pipelines and expanding the width of the existing maintained clear cut right-of-way approximately 50 feet on each side of the river crossing.

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:

### **Findings of Fact**

1. Enbridge LP is a limited partnership with its operations center located at 1401 Hammond Avenue, Superior, Wisconsin.
2. Enbridge LP operates the Lakehead System beginning at the international border near Neche, North Dakota. There are currently five pipelines operating as a part of this system. When combined with the Canadian portion of the system, they form the longest liquid petroleum pipeline in the world. These two systems together are referred to as the Enbridge Mainline System. The first pipelines were constructed in the 1950s.
3. The purpose of the proposed Alberta Clipper Pipeline is to ship crude oil from Canada to markets in the United States. The proposed Alberta Clipper Pipeline will transport crude oil and other liquid hydrocarbons from Hardisty, Alberta, Canada, to Superior, Wisconsin, for delivery to U.S. markets.
4. Western Canadian supplies of crude oil are expected to increase, due primarily to production of oil sands in the Province of Alberta. Such production is expected to more than double for the forecast period between 2010 and 2015. Additionally, the American demand for petroleum products as an energy source and for other purposes is growing, and will continue to escalate throughout the Midwest area as population increases and economic activity expands, despite energy conservation, use of alternative energy and efficiency measures. With this rising demand for petroleum products as domestic supplies decline, refiners are looking to supplies from Canada as economical and secure alternatives to oil production countries outside North America. Thus, this pipeline provides capacity for transporting such increasing volumes of

western Canadian crude oil supplies to the Midwest and helps reduce the United States' dependence on crude oil from the Middle East.

5. The proposed Alberta Clipper Pipeline consists of approximately 990 miles of 36-inch diameter pipeline. The pipeline will originate at Hardisty, Alberta, Canada and terminate at Superior, Wisconsin. This pipeline will parallel the LSr Line which is also the subject of the joint hearing, Commission Case No. PU-07-75. The proposed Alberta Clipper Pipeline will enter Pembina County near Neche and extend southeasterly for approximately 28 miles and cross the Red River approximately two miles northeast of Bowsmont, North Dakota.

6. The proposed Alberta Clipper Pipeline will have an annual capacity of approximately 450,000 barrels per day. No new pumping stations will be constructed within the State of North Dakota.

7. During construction, Enbridge LP will require construction corridor of 140 feet. However, an extra temporary area of up to 75 feet may be required in locations such as where the pipeline approaches roads, railroads and water bodies. Anticipated construction start date for the proposed Alberta Clipper Pipeline is May 2009. The estimated construction completion date is on or before December 31, 2009, with the pipeline placed in service on that date.

8. Installing the proposed Alberta Clipper Pipeline in the existing pipeline corridor allows Enbridge LP to minimize land disturbances.

9. The design, construction, and operation of the pipeline will conform to the Department of Transportation regulations prescribed in 49 CFR Part 195-Transportation of Hazardous Liquids by Pipeline.

10. 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 shall 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 shall 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.

11. Enbridge LP evaluated a corridor width of one-mile for the exclusion, avoidance, selection and policy criteria of the Commission.

12. Direct impacts on the local economy will be minimal due to the size and duration of the project. Construction of the pipeline 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 route.

13. A total of six previous archeological surveys have been completed that directly relate to the proposed pipeline route. A review of SHPO's files identified one archeological site, being a historical ox-cart trail referred to as an Angle Road, which has been determined eligible for nomination to the National Register of Historic Places. Previous Enbridge LP pipelines have avoided impacts to the site by using conventional boring construction methods. Enbridge LP also proposes to bore beneath Angle Road for construction of this pipeline project. Thus, the historic site will be avoided. Enbridge LP completed a Class III cultural resource inventory for the proposed route through consultation with the North Dakota State Historic Preservation Office (SHPO).

14. The U.S. Fish and Wildlife Service owns land included within the Juhl National Wildlife Management Area, which is crossed by existing Enbridge LP pipelines. Enbridge LP has reviewed its proposed route and determined it is possible to avoid the Juhl National Wildlife Management Area by making a slight route deviation within the corridor. Therefore, the proposed pipeline will avoid this area.

15. The Pembina River also will be crossed by the pipeline. The Pembina River has been designated on the National Rivers Inventory ("NRI"). Thus, state and federal agencies need to avoid or mitigate actions that would adversely affect designated NRI river segments. Enbridge LP witness Mark S. Sitek provided Exhibit 3 showing an amendment to the original route proposal at the Pembina River crossing and testified that Enbridge would utilize a horizontal directional drilling method to cross underneath the Pembina River. Sitek testified that, on the North side of the Pembina River, the directional drill would start far enough from the river to drill under all the trees.

16. The pipeline will also cross the Tongue River and the Red River of the North. Enbridge's original proposed route deviates approximately 200 feet south and west of the existing maintained right-of-way. Enbridge SL's December 20, 2007 filing proposes an alternative pipeline route that would cross the Tongue River immediately adjacent to and on the north and east side of the existing maintained right-of-way using an open cut method. For this pipeline, a swath of trees approximately 50 feet wide would be cleared for construction. Enbridge SL has not completed an archeological survey for the alternative pipeline route at the Tongue River crossing. The results of the archeological survey will be presented to the SHPO and the Commission. In the event SHPO determines there are archeological findings that preclude use of the alternative pipeline route, Enbridge SL will cross the Tongue River using the original proposed route and will utilize a horizontal directional drilling method to cross underneath the Tongue River. The directional drill will start far enough from the river to drill under all trees.

17. Sitek provided Exhibit 5 showing an amendment to the original route proposal in order to go around a very deep pond.

18. Sitek provided Exhibit 6 showing an amendment to the original proposed route crossing the Red River of the North. The amended route proposes a crossing closer to existing pipelines owned by Enbridge Energy, Limited Partnership. Sitek testified that due to use of the horizontal directional drilling method at the crossing, all trees will be avoided.

19. The proposed pipeline route is located within 500 feet of three inhabited rural residences. Enbridge LP has obtained waivers from the owners of each of the residences to allow construction within 500 feet.

20. A cathodic protection system will be installed to prevent against corrosion. In addition, Enbridge LP will monitor flow of crude oil by a SCADA (Supervisory Control and Data Acquisition) system.

21. The vast majority of the land in the proposed corridor is agricultural land. Enbridge LP's application provides mitigation measures to minimize the impacts of construction on agricultural land.

22. Enbridge LP will work with landowners to make sure the appropriate amount of topsoil is being removed according to landowners' requirements and according to the requirements of the Commission.

23. An estimated 27 wetlands will be crossed by the route. No surface facilities will be installed within the wetlands as requested by the North Dakota Game and Fish

Department. Enbridge LP anticipates issuance of a wetlands crossing permit by the U.S. Army Corps of Engineers. No wetlands will be permanently drained or filled as a result of construction, and effects on wetlands are expected to be short term and minor. Enbridge LP's application describes mitigation measures to be implemented to minimize the impact of construction on wetlands.

24. The proposed pipeline will cross approximately 0.1 mile of wooded areas, primarily associated with the crossings of the Pembina and Tongue Rivers. Enbridge LP has agreed to reduce the width of the construction in wooded areas to 50 feet, to selectively cut and remove shrubs and trees within the work area leaving mature shrubs and trees in place where practical.

25. Enbridge LP consulted with the following state and federal agencies: the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, North Dakota Game and Fish Department, North Dakota State Health Department, North Dakota Department of Transportation, and the North Dakota State Water Commission. The North Dakota Game and Fish Department has reviewed the project and foresees no identifiable conflict with wildlife or wildlife habitat based on the information provided to it by Enbridge LP. The Department recommended measures to mitigate impacts to wetlands. The Department requested that every effort be made to prevent destruction of trees and shrubs, and that any of those removed be replaced at a two-to-one ratio. The North Dakota Game and Fish Department and the U.S. Fish and Wildlife Service have recommended that construction of major water body crossings be scheduled to avoid fish spawning periods. In addition, the U.S. Fish and Wildlife Service also recommended that construction of wetlands be scheduled to avoid disruption of waterfowl and other wildlife during the nesting season. Enbridge LP has incorporated all these requests into its construction plans.

26. Enbridge LP will utilize an environmental inspector on the project during active construction that will be responsible for overseeing contractor's compliance with the environmental requirements and permits during construction. The environmental inspector will have stop work authority.

27. After construction, Enbridge LP will conduct post construction monitoring of the project area until the right-of-way has been successfully restored and crossings stabilized. Post-construction monitoring will be conducted on all areas disturbed during construction to determine successful revegetation of all project areas.

28. Enbridge LP's Cultural Resource Report will be submitted to the SHPO. Enbridge LP anticipates SHPO concurrence with the report's recommendations.

29. Enbridge LP submitted Exhibit Nos. 3-6 at the hearing which identifies several minor re-routes. These re-routes are clear from any cultural resources.
30. Enbridge LP agreed to comply with the Tree and Shrub Mitigation Specifications submitted as Exhibit B at the hearing.
31. Enbridge LP intended to bury the proposed pipeline to a depth of 36 inches to top of pipe. However, at the hearing Enbridge LP agreed to bury the pipe 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.
32. Enbridge LP agreed to, prior to any construction, file with the Commission a list identifying private and new access roads that will be used or required during construction and a description of methods used by Enbridge LP to reclaim those access roads.
33. At the hearing, a representative on behalf of North Valley Water District testified with respect to its rural water lines which will cross under the proposed pipeline at approximately nine locations. Enbridge LP committed that it will work with the water district to minimize disruption to its rural water lines. Enbridge LP and the North Valley Water District have reached an agreement regarding mitigation measures needed at the nine crossings and have filed a copy of that agreement with the Commission.
34. On December 4, 2007 Enbridge notified the Commission of an archeological site next to the Red River of the North. Enbridge proposes to avoid impacting the site by boring under it. It is anticipated that the North Dakota SHPO will concur with this recommendation.
35. The proposed pipeline was evaluated for the exclusion, avoidance, and selection of policy criteria. Based on this analysis, the Commission believes the proposed route is the best location for the pipeline.
36. North Dakota Century Code § 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 effects.

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

### **Conclusions of Law**

1. The Commission has jurisdiction over the applicant Enbridge Energy, Limited Partnership and over the subject matter of this application under North Dakota Century Code Chapter 49-22.
2. Enbridge LP is a utility as defined in North Dakota Century Code Section 49-22-03(13).
3. The pipeline proposed by Enbridge LP is a transmission facility as defined in North Dakota Century Code Section 49-22-03(12).
4. Enbridge LP is required to obtain written waiver under North Dakota Century Code Section 49-22-05.1 to locate the pipeline within 500 feet of an inhabited rural residence.
5. The location, construction, and operation of the proposed pipeline will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
6. The proposed pipeline corridor and route are compatible with the environmental preservation and the efficient use of resources.
7. 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.
8. 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 Energy, Limited Partnership's application for waiver of procedures and time schedules is granted.
2. Enbridge LP is issued Certificate of Corridor Compatibility No. 100 and Route Permit No. 110 to construct the 28-mile 36-inch pipeline. The route that is approved for

this purpose is the route identified on Exhibit D to the Application, as supplemented by Exhibit Nos. 3-6 as submitted at the hearing and as amended by Enbridge's December 20, 2007 filing of the alternate route at the Tongue River crossing.

3. Enbridge LP shall obtain approval from the Commission or Commission staff prior to any changes or deviations to the pipeline route.
4. Certificate of Corridor Compatibility No. 100 and Route Permit No. 110 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 LP shall comply with all the rules and regulations of all other agencies having jurisdiction over any phase of the proposed project, and shall obtain all other necessary licenses and permits, and shall provide copies to the Commission prior to any construction.
6. Enbridge LP shall obtain written waivers from affected landowners for location of the pipeline within 500 feet of a residence, school, or place of business prior to any construction in those areas.
7. Enbridge LP shall conduct a preconstruction conference to be held prior to the commencement of any construction. The conference must include an Enbridge LP representative, Enbridge LP's construction supervisor, and Commission staff, to ensure that Enbridge LP fully understands the conditions set forth in this order.
8. Enbridge LP shall inform the Commission of the date construction will start 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.
9. Enbridge LP 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.
10. 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.
11. All crossings of graded roads must be bored unless the responsible governing agency specifically permits Enbridge LP to open cut the road.

12. The alternative pipeline route proposed by Enbridge SL at the Tongue River is approved subject to completion of an archeological survey for the alternative pipeline route at Tongue River crossing and approval of the alternative pipeline route by SHPO. The alternative route will be adjacent to, parallel to, and northeast of existing pipelines. The crossing of the Tongue River will be open cut. The pipeline construction at the Tongue River shall avoid trees to the extent practicable. In the event SHPO determines there are archeological findings that preclude use of the alternative pipeline route, Enbridge SL will cross the Tongue River using the original proposed route and will utilize a horizontal directional drilling method to cross underneath the Tongue River. The directional drill will start far enough from the river to drill under all trees.

13. The width of the clear cuts through any wooded areas and shelterbelts must be kept at a maximum of 50 feet unless otherwise approved by the Commission.

14. Enbridge LP 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 LP becomes aware of and that were not previously reported to the Commission.

15. 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.

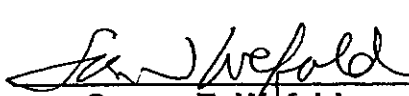
16. All cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office (SHPO) and approved by the SHPO prior to the start of any fieldwork or construction activity. If any cultural resource, paleontological resource, archeological resource, historical resource, 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.

17. During construction, at least 12 inches of topsoil, where available (or topsoil to the depth of cultivation, whichever is greater), over and along trench areas where cuts will be made, must be stripped and segregated from subsoil. Any area on which excavated subsoil will be placed must also be stripped of topsoil. After backfilling is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must then be replaced over areas from which it was stripped only after the subsoil is replaced.

18. Reclamation and clean-up along the right-of-way must be continuous and coordinated with ongoing construction.
19. 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.
20. Enbridge LP shall, prior to any construction, file with the Commission a list identifying private and new access roads that will be used or required during construction and file a description of methods used by Enbridge LP to reclaim those access roads.
21. Reclamation, fertilization and reseeding must be done by Enbridge LP according to the Natural Resource Conservation Service unless otherwise specified by the landowner and approved by the Commission.
22. Enbridge LP shall comply with the Commission's Tree and Shrub Mitigation Specifications submitted as Exhibit B at the hearing. The Commission may order additional plantings if, after three years from the anniversary of the plantings, survival rates of plantings are less than 75% after three years.
23. Enbridge LP shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the proposed transmission facility.
24. Enbridge LP shall provide the Commission with a hard copy and electronic copy of the pipeline alignment drawings with alignment data showing the pipeline as built, and an electronic version of the as-built pipeline alignment that can be imported into ESRI GIS mapping software, and shall provide this information within 3 months of the completion of the construction.
25. Enbridge LP's obligation for reclamation and maintenance of the right-of-way shall continue throughout the life of the pipeline.

**PUBLIC SERVICE COMMISSION**

  
Tony Clark  
Commissioner

  
Susan E. Wefald  
President

  
Kevin Cramer  
Commissioner

# STATE OF NORTH DAKOTA

## Route Permit

### Number 110

*This is to certify that the Commission has designated a transmission facility route for Enbridge Energy, Limited Partnership to construct and operate approximately 28 miles of 36-inch oil pipeline with associated facilities and pipeline interconnections in Pembina County, North Dakota.*

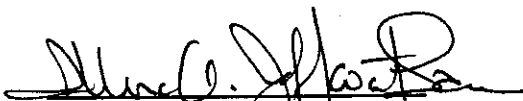
*The transmission facility route is designated by the Commission's December 31, 2007 Order in Case No. PU-07-108.*

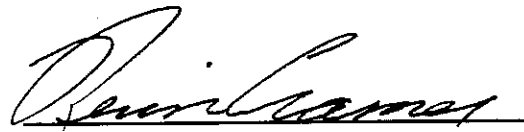
*This permit is subject to the conditions and limitations noted in that Order.*

*Bismarck, North Dakota, December 31, 2007.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Director**

  
**Commissioner**

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Enbridge Pipelines Limited Partnership  
36-inch LP Pipeline/Pembina County  
Siting Application

Case No. PU-07-108

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

Claire Tipton deposes and says that:

she is over the age of 18 years and not a party to this action and, on the 8<sup>th</sup> day of January, 2008, she deposited in the United States Mail, at Bismarck, North Dakota, one envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and containing original of:

ROUTE PERMIT 110  
CERTIFICATE OF CORRIDOR COMPATIBILITY 100

and a photocopy of:

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

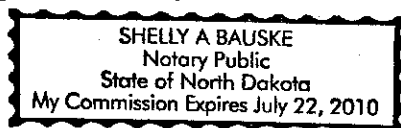
The envelope was addressed as follows:

λ Brian R. Bjella, Attorney  
Fleck, Mather & Strutz, LTD.  
400 East Broadway, Suite 600  
PO Box 2798  
Bismarck, ND 58502-2798

Certified No. 7007 2560 0001 6050 6940

Subscribed and sworn to before me  
this 8<sup>th</sup> day of January, 2008

SEAL



*Claire R. Tipton*

*Shelly A. Bauske*  
Notary Public

**Enbridge Energy, Limited Partnership  
ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
Compliance Filing to Ordering Paragraph 5**

**TAB G**

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Certificate of Corridor Compatibility**

**Number 100**

*This is to certify that the Commission has designated a transmission facility corridor for Enbridge Energy, Limited Partnership to construct and operate a 28-mile, 36-inch oil pipeline with associated facilities and pipeline interconnections in Pembina County, North Dakota.*

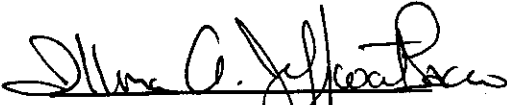
*The transmission facility corridor is designated by the Commission's December 31, 2007 Order in Case No PU-07-108.*

*This certificate is subject to the conditions and limitations in that order.*

*Bismarck, North Dakota, December 31, 2007.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Director**

  
**Commissioner**

**Enbridge Energy, Limited Partnership  
ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
Compliance Filing to Ordering Paragraph 5**

**TAB H**



**NORTH DAKOTA**  
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION  
Gold Seal Center, 918 E. Divide Ave.  
Bismarck, ND 58501-1947  
701.328.5200 (fax)  
www.ndhealth.gov



June 19, 2009

Paul Meneghini  
Enbridge Pipelines (Southern Lights) LLC  
1320 Grand Avenue  
Superior WI 54880

Re: NDPDES Permit No. NDG070209

Dear Mr. Meneghini:

We have received your "Application for Permit to Discharge - NDPDES Industrial-Short Form C" and have granted authority to discharge under the General Permit for Temporary Dewatering/Hydrostatic Testing Permit No. NDG070000. Your facility has been assigned permit no. **NDG070209**. This permit has been issued by the North Dakota Department of Health (NDDH) with the understanding that all other applicable permits and permissions have been obtained for the start of the following project. The application indicates that the discharge(s) will consist of surface or municipal water from the hydrostatic test of a new 36 inch crude pipeline:

<u>Discharge Point</u>	<u>Volume (Gallons)</u>	<u>Location</u>	
001H	100,000	Milepost 775.5	Long -97° 30' 28"; Lat 48° 58' 46" Pembina County
002H	70,000	Milepost 786.1	Long -97° 20' 58"; Lat 48° 52' 3" Pembina County
003H	60,000	Milepost 795.2	Long -97° 13' 12"; Lat 48° 46' 23" Pembina County
004H	140,000	Milepost 801.7	Long -97° 7' 5"; Lat 48° 42' 19" Pembina County
005H	7,250,000	Milepost 801.7	Long -97° 7' 5"; Lat 48° 42' 19" Pembina County
006H	7,550,000	Milepost 801.7	Long -97° 7' 5"; Lat 48° 42' 19" Pembina County

**All discharge points shall be inspected daily.** On a daily basis record the total volume of discharge and make a visual inspection for Oil and Grease. Analytical parameters for pH and Total Suspended Solids (TSS) shall be implemented for this discharge. The parameter of Oil and/or Grease is waived unless sheen is observed in the discharge; if observed then collect a sample for Total Petroleum Hydrocarbon (TPH). NDDH shall be contacted on all findings of Oil and Grease. Chlorine shall be tested only if a chlorinated source is used. All discharges made directly to a surface water body or wetland shall be inspected closely so as to minimize any turbidity issues. Best Management Practices (BMPs) must be used to minimize the impact of the discharge.

**APPROVED ADDITIVES:** No additives were approved.

Enclosed are Discharge Monitoring Report (DMR) forms for your use. If someone else is responsible for the submittal of the DMRs, please forward this letter and the enclosed forms to them. The reports cover three months; the dates and location have been filled out. If no discharge occurs during the reporting period, check "No" in section one. The reports must be post-marked by the last day of the month following the end of each reporting period. All original DMR forms should be sent to NDDH and a copy should be kept for your files. **EPA no longer requires a copy of the DMR form.**

If any other testing is conducted during this project, copies of the results of any such test should be forwarded to the Department. **Should you wish to no longer be covered under this permit, you must submit a written request to terminate and cite the reasons for termination.** Coverage shall be maintained until a written notification to release has been issued to the permittee by NDDH. Should you have any questions about your permit or how to complete the DMRs, please contact me at (701) 328-5234.

Sincerely,

Marty Haroldson  
Environmental Scientist  
Division of Water Quality

Enc.  
Cc: EPA

Environmental Health Section Chief's Office 701.328.5150	Division of Air Quality 701.328.5188	Division of Municipal Facilities 701.328.5211	Division of Waste Management 701.328.5166	Division of Water Quality 701.328.5210
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# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

002H  
For Official Use

Reporting Period: 07/01/2009-09/30/2009

Due By: 10/31/2009

Section 1: (Milepost 786.1)

Section 2: Length of Discharge

Did any discharges occur from this discharge point from 07/01/2009-09/30/2009?

Yes If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 10/31/2009.  
 No If 'No' then complete section 4 and mail to the address below by 10/31/2009.

	Cell/Site	Start Date	End Date	# of Days	
#1					Total Days
#2					
#3					

## Section 3: Parameter Data

Parameter	Quantity or Loading	Quality or Concentration						No. of	Frequency of	Sample	
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400	Result Value	XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM	9 MAXIMUM		S.U.		Weekly	Grab
Total Residual Chlorine 50060	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066	Result Value	XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050	Result Value			Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily	Calculated
Drain in Million Gallons 82220	Result Value	XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

## Section 4 Certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Name: (Print)	Signature:	Date:	Telephone:
Title	Make a copy for your records	For Office Use: Rec'd: _____ Initials: _____	Entered on: _____ Initials: _____

Mail to: North Dakota Dept of Health, Division of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 Telephone 701.328.5210

# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

002H  
For Official Use

Reporting Period: 10/01/2009-12/31/2009

Due By: 01/31/2010

Section 1: (Milepost 786.1)

Section 2: Length of Discharge

Did any discharges occur from this discharge point from 10/01/2009-12/31/2009?

Yes If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 01/31/2010.  
 No If 'No' then complete section 4 and mail to the address below by 01/31/2010.

	Cell/Site	Start Date	End Date	# of Days	
#1					Total Days
#2					
#3					

## Section 3: Parameter Data

Parameter	Result Value	Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400	XXXXX	XXXXX	XXXXX		XXXXX			S.U.			
Effluent	Permit Value				6 MINIMUM	9 MAXIMUM		S.U.		Weekly	Grab
Total Residual Chlorine 50060	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066	XXXXX			Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050				Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily	Calculated
Drain in Million Gallons 82220	XXXXX			Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

## Section 4 Certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Name: (Print)	Signature:	Date:	Telephone:
Title	<b>Make a copy for your records</b>	For Office Use: Rec'd: _____	Initials: _____ Entered on: _____ Initials: _____

Mail to: North Dakota Dept of Health, Division of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 Telephone 701.328.5210

# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

002H  
For Official Use

Reporting Period: 01/01/2010-03/31/2010

Due By: 04/30/2010

**Section 1: (Milepost 786.1)**

**Did any discharges occur from this discharge point from 01/01/2010-03/31/2010?**

**Yes** If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 04/30/2010.  
 **No** If 'No' then complete section 4 and mail to the address below by 04/30/2010.

**Section 2: Length of Discharge**

	Cell/Site	Start Date	End Date	# of Days	
#1					Total Days
#2					
#3					

**Section 3: Parameter Data**

Parameter	Result Value	Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400		XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM		9 MAXIMUM	S.U.		Weekly	Grab
Total Residual Chlorine 50060		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066		XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050				Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily	Calculated
Drain in Million Gallons 82220		XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

**Section 4 Certification:**

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Name: (Print)	Signature:	Date:	Telephone:
Title	Make a copy for your records	For Office Use: Rec'd: _____ Initials: _____	Entered on: _____ Initials: _____

Mail to: North Dakota Dept of Health, Division of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 Telephone 701.328.5210

# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

<b>005H</b>
For Official Use

Reporting Period: 07/01/2009-09/30/2009  
Due By: 10/31/2009

## Section 1:

(Milepost 801.7)

## Section 2: Length of Discharge

Did any discharges occur from this discharge point from 07/01/2009-09/30/2009?

Yes If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 10/31/2009.  
 No If 'No' then complete section 4 and mail to the address below by 10/31/2009.

	Cell/Site	Start Date	End Date	# of Days	Total Days
#1					
#2					
#3					

## Section 3: Parameter Data

Parameter		Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400	Result Value	XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM		9 MAXIMUM	S.U.		Weekly	Grab
Total Residual Chlorine 50060	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066	Result Value	XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050	Result Value			Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily	Calculated
Drain in Million Gallons 82220	Result Value	XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

## Section 4 Certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Name: (Print)	Signature:	Date:	Telephone:
Title	Make a copy for your records	For Office Use: Rec'd: _____ Initials: _____	Entered on: _____ Initials: _____

Mail to: North Dakota Dept of Health, Division of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 Telephone 701.328.5210

# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

<b>005H</b>
For Official Use

Reporting Period: 10/01/2009-12/31/2009

Due By: 01/31/2010

Section 1: (Milepost 801.7) Section 2: Length of Discharge

Did any discharges occur from this discharge point from 10/01/2009-12/31/2009?

Yes If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 01/31/2010.  
 No If 'No' then complete section 4 and mail to the address below by 01/31/2010.

	Cell/Site	Start Date	End Date	# of Days	Total Days
#1					
#2					
#3					

## Section 3: Parameter Data

Parameter		Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400	Result Value	XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM		9 MAXIMUM	S.U.		Weekly	Grab
Total Residual Chlorine 50060	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066	Result Value	XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050	Result Value			Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily	Calculated
Drain in Million Gallons 82220	Result Value	XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

## Section 4 Certification:

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Mail to: North Dakota Dept of Health, Division of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 Telephone 701.328.5210

# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

005H  
For Official Use

Reporting Period: 01/01/2010-03/31/2010

Due By: 04/30/2010

**Section 1: (Milepost 801.7)**

**Did any discharges occur from this discharge point from 01/01/2010-03/31/2010?**

**Yes** If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 04/30/2010.  
 **No** If 'No' then complete section 4 and mail to the address below by 04/30/2010.

**Section 2: Length of Discharge**

	Cell/Site	Start Date	End Date	# of Days	
#1					<b>Total Days</b>
#2					
#3					

**Section 3: Parameter Data**

Parameter	Result Value	Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400		XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM		9 MAXIMUM	S.U.		Weekly	Grab
Total Residual Chlorine 50060		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066		XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050				Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily	Calculated
Drain in Million Gallons 82220		XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

**Section 4 Certification:**

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# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

006H  
For Official Use

Reporting Period: 07/01/2009-09/30/2009  
Due By: 10/31/2009

**Section 1:** (Milepost 801.7) **Section 2: Length of Discharge**

**Did any discharges occur from this discharge point from 07/01/2009-09/30/2009?**

**Yes** If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 10/31/2009.  
 **No** If 'No' then complete section 4 and mail to the address below by 10/31/2009.

	Cell/Site	Start Date	End Date	# of Days	
#1					<b>Total Days</b>
#2					
#3					

**Section 3: Parameter Data**

Parameter	Result Value	Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400		XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM	9 MAXIMUM		S.U.		Weekly	Grab
Total Residual Chlorine 50060		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066		XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050				Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily	Calculated
Drain in Million Gallons 82220		XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

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# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

006H  
For Official Use

Reporting Period: 10/01/2009-12/31/2009

Due By: 01/31/2010

**Section 1: (Milepost 801.7)**

**Did any discharges occur from this discharge point from 10/01/2009-12/31/2009?**

**Yes** If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 01/31/2010.  
 **No** If 'No' then complete section 4 and mail to the address below by 01/31/2010.

**Section 2: Length of Discharge**

	Cell/Site	Start Date	End Date	# of Days	
#1					<b>Total Days</b>
#2					
#3					

**Section 3: Parameter Data**

Parameter	Result Value	Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400		XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM		9 MAXIMUM	S.U.		Weekly	Grab
Total Residual Chlorine 50060		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066		XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050				Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily	Calculated
Drain in Million Gallons 82220		XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

**Section 4 Certification:**

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# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

006H  
For Official Use

Reporting Period: 01/01/2010-03/31/2010

Due By: 04/30/2010

**Section 1:**

(Milepost 801.7)

**Section 2: Length of Discharge**

Did any discharges occur from this discharge point from 01/01/2010-03/31/2010?

**Yes** If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 04/30/2010.  
 **No** If 'No' then complete section 4 and mail to the address below by 04/30/2010.

	Cell/Site	Start Date	End Date	# of Days	
#1					Total Days
#2					
#3					

**Section 3: Parameter Data**

Parameter	Result Value	Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400		XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM		9 MAXIMUM	S.U.		Weekly	Grab
Total Residual Chlorine 50060		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066		XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050				Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily	Calculated
Drain in Million Gallons 82220		XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

**Section 4 Certification:**

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Title	<b>Make a copy for your records</b>	For Office Use: Rec'd: _____	Initials: _____ Entered on: _____ Initials: _____

Mail to: North Dakota Dept of Health, Division of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 Telephone 701.328.5210

# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

001H  
For Official Use

Reporting Period: 07/01/2009-09/30/2009  
Due By: 10/31/2009

**Section 1: (Milepost 775.5) Section 2: Length of Discharge**

**Did any discharges occur from this discharge point from 07/01/2009-09/30/2009?**

**Yes** If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 10/31/2009.  
 **No** If 'No' then complete section 4 and mail to the address below by 10/31/2009.

	Cell/Site	Start Date	End Date	# of Days	
#1					Total Days
#2					
#3					

**Section 3: Parameter Data**

Parameter	Result Value	Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400		XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM		9 MAXIMUM	S.U.		Weekly	Grab
Total Residual Chlorine 50060		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066		XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050				Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily	Calculated
Drain in Million Gallons 82220		XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

**Section 4 Certification:**

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# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

<b>001H</b>
For Official Use

Reporting Period: 10/01/2009-12/31/2009  
Due By: 01/31/2010

**Section 1: (Milepost 775.5) Section 2: Length of Discharge**

**Did any discharges occur from this discharge point from 10/01/2009-12/31/2009?**

**Yes** If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 01/31/2010.  
 **No** If 'No' then complete section 4 and mail to the address below by 01/31/2010.

	Cell/Site	Start Date	End Date	# of Days	Total Days
#1					
#2					
#3					

**Section 3: Parameter Data**

Parameter		Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400	Result Value	XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM		9 MAXIMUM	S.U.		Weekly	Grab
Total Residual Chlorine 50060	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066	Result Value	XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050	Result Value			Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily	Calculated
Drain in Million Gallons 82220	Result Value	XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

**Section 4 Certification:**

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Title	Make a copy for your records	For Office Use: Rec'd:___ Initials:	Entered on: Initials:

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# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

001H  
For Official Use

Reporting Period: 01/01/2010-03/31/2010  
Due By: 04/30/2010

**Section 1: (Milepost 775.5) Section 2: Length of Discharge**

**Did any discharges occur from this discharge point from 01/01/2010-03/31/2010?**

**Yes** If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 04/30/2010.  
 **No** If 'No' then complete section 4 and mail to the address below by 04/30/2010.

	Cell/Site	Start Date	End Date	# of Days
#1				
#2				
#3				
				<b>Total Days</b>

**Section 3: Parameter Data**

Parameter	Quantity or Loading	Quality or Concentration						No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis
Total Suspended Solids 00530	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L		
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly Grab
pH 00400	Result Value	XXXXX	XXXXX	XXXXX		XXXXX		S.U.		
Effluent	Permit Value				6 MINIMUM		9 MAXIMUM	S.U.		Weekly Grab
Total Residual Chlorine 50060	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L		
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional Instantaneous
Oil and Grease Visual 84066	Result Value	XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX		
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily Visual
Total Petroleum Hydrocarbon	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L		
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional Grab
Discharge Flow in Million Gals 50050	Result Value			Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX		
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily Calculated
Drain in Million Gallons 82220	Result Value	XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX		
Effluent	Permit Value		TOTAL	Mgal						Quarterly Calculated

**Section 4 Certification:**

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Title	<b>Make a copy for your records</b>	For Office Use: Rec'd: _____	Initials: _____ Entered on: _____ Initials: _____

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# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

004H  
For Official Use

Reporting Period: 07/01/2009-09/30/2009  
Due By: 10/31/2009

## Section 1: (Milepost 801.7)

Did any discharges occur from this discharge point from 07/01/2009-09/30/2009?

**Yes** If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 10/31/2009.  
 **No** If 'No' then complete section 4 and mail to the address below by 10/31/2009.

## Section 2: Length of Discharge

	Cell/Site	Start Date	End Date	# of Days
#1				
#2				
#3				

**Total Days**

## Section 3: Parameter Data

Parameter	Quantity or Loading	Quality or Concentration			No. of	Frequency of	Sample				
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value							100 DAILY MX		Weekly	Grab
pH 00400	Result Value	XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM		9 MAXIMUM	S.U.		Weekly	Grab
Total Residual Chlorine 50060	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value							.1 DAILY MX		Conditional	Instantaneous
Oil and Grease Visual 84066	Result Value	XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value							1 DAILY MX		Conditional	Grab
Discharge Flow in Million Gals 50050	Result Value			Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily	Calculated
Drain in Million Gallons 82220	Result Value	XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

## Section 4 Certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Name: (Print)	Signature:	Date:	Telephone:
Title	<b>Make a copy for your records</b>	For Office Use: Rec'd: _____ Initials: _____	Entered on: _____ Initials: _____

Mail to: North Dakota Dept of Health, Division of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 Telephone 701.328.5210

# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

004H  
For Official Use

Reporting Period: 10/01/2009-12/31/2009

Due By: 01/31/2010

**Section 1: (Milepost 801.7)**

**Did any discharges occur from this discharge point from 10/01/2009-12/31/2009?**

**Yes** If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 01/31/2010.  
 **No** If 'No' then complete section 4 and mail to the address below by 01/31/2010.

**Section 2: Length of Discharge**

	Cell/Site	Start Date	End Date	# of Days	
#1					Total Days
#2					
#3					

**Section 3: Parameter Data**

Parameter	Result Value	Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400		XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM		9 MAXIMUM	S.U.		Weekly	Grab
Total Residual Chlorine 50060		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066		XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050				Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value	30DA AVG	DAILY MX	Mgal/d						Daily	Calculated
Drain in Million Gallons 82220		XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

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# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

004H  
For Official Use

Reporting Period: 01/01/2010-03/31/2010

Due By: 04/30/2010

**Section 1: (Milepost 801.7)**

**Did any discharges occur from this discharge point from 01/01/2010-03/31/2010?**

**Yes** If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 04/30/2010.  
 **No** If 'No' then complete section 4 and mail to the address below by 04/30/2010.

**Section 2: Length of Discharge**

	Cell/Site	Start Date	End Date	# of Days	
#1					<b>Total Days</b>
#2					
#3					

**Section 3: Parameter Data**

Parameter	Result Value	Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400		XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM		9 MAXIMUM	S.U.		Weekly	Grab
Total Residual Chlorine 50060		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066		XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050				Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
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Drain in Million Gallons 82220		XXXXX		Mgal	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

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Mail to: North Dakota Dept of Health, Division of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 Telephone 701.328.5210

# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

003H  
For Official Use

Reporting Period: 07/01/2009-09/30/2009  
Due By: 10/31/2009

## Section 1:

(Milepost 795.2)

## Section 2: Length of Discharge

Did any discharges occur from this discharge point from 07/01/2009-09/30/2009?

Yes If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 10/31/2009.  
 No If 'No' then complete section 4 and mail to the address below by 10/31/2009.

	Cell/Site	Start Date	End Date	# of Days
#1				
#2				
#3				

Total Days

## Section 3: Parameter Data

Parameter	Result Value	Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
Total Suspended Solids 00530		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400		XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
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Total Residual Chlorine 50060		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066		XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon		XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
Effluent	Permit Value						1 DAILY MX	mg/L		Conditional	Grab
Discharge Flow in Million Gals 50050				Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
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# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

003H  
For Official Use

Reporting Period: 10/01/2009-12/31/2009

Due By: 01/31/2010

**Section 1: (Milepost 795.2) Section 2: Length of Discharge**

**Did any discharges occur from this discharge point from 10/01/2009-12/31/2009?**

**Yes** If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 01/31/2010.  
 **No** If 'No' then complete section 4 and mail to the address below by 01/31/2010.

	Cell/Site	Start Date	End Date	# of Days	
#1					Total Days
#2					
#3					

**Section 3: Parameter Data**

Parameter	Quantity or Loading	Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
		Average	Maximum	Units	Minimum	Average	Maximum	Units	Exceedances	Analysis	Type
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Effluent	Permit Value						100 DAILY MX	mg/L		Weekly	Grab
pH 00400	Result Value	XXXXX	XXXXX	XXXXX		XXXXX		S.U.			
Effluent	Permit Value				6 MINIMUM		9 MAXIMUM	S.U.		Weekly	Grab
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Oil and Grease Visual 84066	Result Value	XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
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Effluent	Permit Value		TOTAL	Mgal						Quarterly	Calculated

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# North Dakota Department of Health--Division of Water Quality--NDPDES--Discharge Monitoring Report

NDG070209 Enbridge Pipelines  
119 N 25th St E Superior WI 54880-5247

<b>003H</b>
For Official Use

Reporting Period: 01/01/2010-03/31/2010  
Due By: 04/30/2010

**Section 1: (Milepost 795.2) Section 2: Length of Discharge**

**Did any discharges occur from this discharge point from 01/01/2010-03/31/2010?**

**Yes** If 'Yes' then complete all blank non-gray items in sections 2,3 and 4. Mail to the address below by 04/30/2010.  
 **No** If 'No' then complete section 4 and mail to the address below by 04/30/2010.

	Cell/Site	Start Date	End Date	# of Days	Total Days
#1					
#2					
#3					

**Section 3: Parameter Data**

Parameter		Quantity or Loading			Quality or Concentration				No. of	Frequency of	Sample
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Effluent	Permit Value						.1 DAILY MX	mg/L		Conditional	Instantaneous
Oil and Grease Visual 84066	Result Value	XXXXX		Yes 1/No 0	XXXXX	XXXXX	XXXXX	XXXXX			
Effluent	Permit Value		TOTAL	Yes 1/No 0						Daily	Visual
Total Petroleum Hydrocarbon	Result Value	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX		mg/L			
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Discharge Flow in Million Gals 50050	Result Value			Mgal/d	XXXXX	XXXXX	XXXXX	XXXXX			
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Title	<b>Make a copy for your records</b>	For Office Use: Rec'd: _____ Initials: _____	Entered on: _____ Initials: _____

Mail to: North Dakota Dept of Health, Division of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 Telephone 701.328.5210

Permit No.: NDG-070000

Effective Date: April 1, 2005

Expiration Date: March 31, 2010

AUTHORIZATION TO DISCHARGE UNDER THE  
NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33-16-01 of the North Dakota Department of Health rules as promulgated under Chapter 61-28 (North Dakota Water Pollution Control Act) of the North Dakota Century Code,

operations engaged in temporary dewatering activities

are authorized to discharge from locations throughout the state of North Dakota

to waters of the State

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in permit.

This permit and the authorization to discharge shall expire at midnight,

March 31, 2010.

\_\_\_\_\_  
Dennis R. Fewless, Director  
Division of Water Quality

\_\_\_\_\_  
Date

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## **PART I – PERMIT COVERAGE AND LIMITATIONS**

### **A. COVERAGE UNDER THIS PERMIT**

1. **Applicability of General Permit.** Under this general permit, authorization to discharge relatively uncontaminated waters from temporary dewatering activities into the waters of the state of North Dakota may be granted. The water discharged from any of these activities must not contribute non-conventional or toxic pollutant loadings to the receiving stream.
2. **Request for Authorization.** To be eligible for authorization to discharge under this general permit, the owner, operator, and/or authorized agent of any facility conducting temporary dewatering activities must submit a Short Form C, North Dakota Pollutant Discharge Elimination System permit application to the North Dakota Department of Health at its address in Part II.E of this permit at least 30 days prior to the anticipated start of any discharge. The Department will then have 30 days to grant discharge authority, deny discharge authority, or request additional information. If the Department fails to act on any request within the 30-day period, the facility is automatically covered under the permit. The Department may waive, at its discretion, the 30-day period in special cases.

After coverage has been obtained, all permittees shall be required to provide the following information to the Department, in writing, at least five days prior to the start of any discharge. If all this information was included in/with the permit application, it need not be resubmitted.

- a. The name, address, and descriptive location of the facility.
- b. The name of principal in charge of operation of the facility.
- c. The name of receiving waters.
- d. The location of the discharge point(s).
- e. A brief description of the type of activity resulting in the discharge.
- f. A map or schematic diagram showing the general area and/or routing of the activity.
- g. The anticipated total volume to be discharged.
- h. The anticipated average and maximum rates of discharge.
- i. The anticipated dates of discharge.
- j. For hydrostatic testing only, the type (size and material) of pipe or vessel, whether the pipe or vessel has been used or is of virgin material and a description of the fluid normally transported through the pipeline or contained in the vessel.
- k. For hydrostatic testing only, the source of water to be used in the testing. If water is to be obtained from a well, (other than used for potable water supply) or from an impoundment, the concentration of total dissolved solids or the specific conductance of this water shall be reported.
- l. Describe briefly what measures will be taken to minimize, within practical means, the effects of the discharge on water quality in the receiving waters.

The Department may waive, at its discretion, some of the items listed above and/or the five-day period in special cases.

**3. Discharges Not Covered.**

- a. Dewatering discharges associated with process wastewater or any water containing sanitary waste.
- b. Any discharge not permitted correctly by local, state, or federal agencies (such as U.S. Army Corps of Engineers Section 404 permits).
- b. This general permit does not substitute for obligations under the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), or National Historic Preservation Act (NHPA), it is your responsibility to ensure the project and resulting discharges comply with the respective requirements.
- c. Discharges to waters for which there is a total maximum daily load (TMDL) allocation for sediment and/or parameters associated with sediment transport are not covered unless you develop a Pollution Prevention plan that is consistent with the assumptions, allocations and requirements in the approved TMDL. If a specific numeric wasteload allocation has been established that would apply to the project's discharges, the permittee(s) must incorporate that allocation into the Pollution Prevention plan and implement necessary steps to meet that allocation.

**B. EFFLUENT LIMITATIONS**

Effective immediately and lasting throughout the life of this general permit, the quality of effluent discharged from the facility shall, as a minimum, meet the limits as set forth below:

**1. Numeric limitations as follows:**

<u>PARAMETER</u>	<u>DAILY MAXIMUM</u>
Total Suspended Solids - mg/l	100.0
Total Residual Chlorine - mg/l	0.1 <u>a/</u>
Total Petroleum Hydrocarbons - mg/l	1.0 <u>b/</u>
pH - S.U.	shall be between 6.0 and 9.0

a/ Applies only if using chlorinated water.

b/ If a visible sheen of oil and/or grease is observed in the discharge, a grab sample shall be collected and the Department shall be contacted.

- 2. There shall be no discharge of process generated wastewater except wastewater resulting from temporary dewatering activities described in the Short Form C.
- 3. There shall be no direct discharge of any solids and/or sludges generated by the treatment of the discharge.
- 4. There shall be no discharge of sanitary wastewater from toilets or related facilities.
- 5. There shall be no discharge of floating solids or visible foam in other than trace amounts.
- 6. No chemical may be added to the discharge unless prior written permission for the use of the chemical is granted by the Department.
- 7. If the Department, through best professional judgment, determines a specific pollutant or type of pollutant is present it may require monitoring and/or limitation of that pollutant.

8. Dewatering or basin draining (e.g., pumped discharges, trench/ditch cuts for drainage) related to the permitted activity must be managed with the appropriate BMPs, such that the discharge does not adversely affect the receiving water or downstream landowners. The Permittee(s) must operate the discharge to minimize the release of sediment and provide energy dissipation measures to adequately protect the outlet from erosion.

**C. MONITORING REQUIREMENTS**

1. **Daily Logs.** The permittee shall maintain a log relating to the authorized discharge(s). The following information shall be included in the summaries with appropriate discharge monitoring reports:
  - a. flow information and dates discharged;
  - b. sample results;
  - c. records of visual observations;
  - d. notations of any problems relating to treatment of the discharge; and
  - e. name of receiving water.
2. Samples shall be taken as often as necessary to provide representative information as to the nature and volume of the discharge(s). At a minimum, samples of each discharge shall be taken as follows:

PARAMETER	SAMPLE FREQUENCY <i>a/</i>	SAMPLE TYPE
Flow Volume - GPD	Daily	Calculated or Instantaneous
Total Flow (Drain) - MGAL	*	Calculated
pH - S.U.	<u>d/</u> , <u>e/</u>	Grab
Oil and Grease	Daily	Visual <u>b/</u>
TPH - mg/L	Biweekly, <u>e/</u>	Grab
Total Residual Chlorine - mg/l	Daily <u>c/</u> , <u>e/</u>	Instantaneous
Total Suspended Solids - mg/l	<u>d/</u> , <u>e/</u>	Grab

- \* This parameter is not limited. However, the Department may impose limitations based on sample history and to protect the receiving waters.
- a/ If the duration of the discharge is shorter than the required sample frequency, a minimum of one (1) sample shall be taken for all parameters.
- b/ Oil and grease shall be visually monitored daily. A TPH sample shall be taken if a visual sheen is observed.
- c/ Sampling shall only be required if the Department determines that this contaminant may be present or the dewatering activity has associated effluent guidelines.
- d/ A sample shall be taken at the beginning of the discharge, and near the end of the discharge. In addition, at least one (1) sample shall be taken during each week of discharge.
- e/ In lieu of sampling for this parameter, the Department may allow the facility to implement a pollution prevention plan that includes best management practices to prevent total suspended solids and other pollutants from entering the waters of the state.

#### D. POLLUTION PREVENTION PLAN

1. **Deadlines for Plan Preparation and Compliance.** If the permittee develops a pollution prevention plan instead of sampling, the plan must be developed and implemented prior to the start of dewatering.
2. **Contents of Plan.** The plan shall include, at a minimum, the following items:
  - a. **Site Description.** Each plan shall provide a description of pollutant sources and other information as indicated below:
    - i. The type of dewatering activity;
    - ii. Estimates of the total volume of water to be discharged;
    - iii. The name of surface waters where discharging; and
    - iv. A site map indicating:
      - (1) drainage patterns;
      - (2) location of major structural and nonstructural controls identified in the plan;
      - (3) location of areas where stabilization practices are expected to occur;
      - (4) surface waters and aerial extent of wetland acreage; and
      - (5) locations where discharging to a surface water.
  - b. **Best Management Practices.** The plan shall describe for each dewatering activity identified in the site description, appropriate best management practices and when they will be implemented.
  - c. **Inspections.** The permittee shall insure that qualified personnel inspect the site at least once each day. The inspection shall include the dewatering site, areas where the best management practices are being implemented and the discharge location. These areas shall be inspected to ensure that the best management practices are operating correctly and for evidence of, or the potential for, pollutants entering the receiving waters. If any pollutants are suspected of being discharged, a sample must be taken for those parameters listed in Part I.B-1 of this permit, at a minimum.

The permittee shall maintain a notebook recording information obtained during the inspection. At a minimum, the notebook shall include the following:

- (1) Date and time of the inspection;
- (2) Name of the inspector(s);
- (3) Identification of operational problems and/or maintenance problems;
- (4) Recommendations, as appropriate, to remedy identified problems;
- (5) A brief description of any actions taken with regard to problems identified; and
- (6) Other information, as appropriate.

The permittee shall maintain the notebook for a minimum of three years, or as requested by the North Dakota Department of Health or the U.S. Environmental Protection Agency.

**3. Signature and Plan Review**

- a. The plan shall be signed in accordance with the signatory requirements and retained on-site at the site which generates the dewatering discharge.
  - b. The permittee shall make plans available upon request to the Department or in the case of a discharge through a municipal separate storm sewer system, to the operator of the municipal system.
  - c. The Department may notify the permittee at any time that the plan does not meet the minimum requirements of this part. Such notification shall identify those provisions of the permit which are not being met by the plan and identify which provisions require modifications in order to meet the minimum requirements. Within 7 days of notification, the permittee shall make the required changes to the plan and shall submit to the Department a written certification that the requested changes have been made.
- 4. Keeping Plans Current.** The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the state. The plan shall also be amended if the plan proves to be ineffective in eliminating or significantly minimizing pollutants present in the dewatering discharge.

**PART II – SELF MONITORING AND REPORTING**

- A. **Representative Sampling.** All samples and measurements taken shall be representative of the discharge.
- B. **Test Procedures.** The collection and transportation of all samples shall conform to EPA preservation techniques and holding times. All laboratory tests shall be performed by a certified laboratory in conformance with test procedures pursuant to 304(h) of the Clean Water Act. The method of determining the total amount of water discharged shall provide results within 10 percent of the actual amount.
- C. **Recording of Results.** For each sample taken, the name of the sampler, the exact place, and the date and time of the sampling shall be recorded. For each sample analyzed, the name of the laboratory, the name of the analyzer, the analytical techniques used, the test results, and the date and time of the analysis shall be recorded.
- D. **Additional Monitoring.** If the discharge is monitored more frequently than this permit requires, all additional results, if in compliance with Part II.B, Test Procedures, above, shall be included in the summary on the Discharge Monitoring Report.
- E. **Reporting.** Monitoring results shall be summarized and reported on Discharge Monitoring Report forms. If no discharge occurs during a reporting period, "no discharge" shall be reported. Each report shall cover a period of three months. The first period shall be January 1 through March 31; the second period shall be April 1 through June 30, etc.

All reports must be postmarked by the last day of the month following the end of each reporting period. Duplicate signed copies of these, and all other reports required herein, shall be submitted to the Department and EPA at the following addresses:

ND State Department of Health  
Division of Water Quality  
PO Box 5520  
Bismarck, ND 58506-5520

U.S. Environmental Protection Agency  
Attn: Enforcement Office (ENF-PT)  
One Denver Pl., Ste. 500  
999 - 18th St.  
Denver, CO 80202-2466

- F. **Local Authority.** This permit does not preempt or supersede the authority of local agencies to prohibit, restrict, or control discharges of storm water to storm sewer systems or other water courses within their jurisdiction.
- G. **Notice of Termination (NOT).** Permittees wishing to terminate coverage under this permit must submit a Notice of Termination (NOT) or other written request identifying the facility, reason why the permit is no longer needed and signed in accordance with Part III.F-2, Signatory Requirement of this permit. Compliance with the conditions of this permit is required until an official cancellation letter from the Department is received.

### **PART III - STANDARD CONDITIONS**

- A. **Duty to Comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the Department advance notice of any planned changes at the permitted facility or of any activity which may result in permit noncompliance.
- B. **Operation and Maintenance.** The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit and with the requirements of the Pollution Prevention plan. If necessary to achieve compliance with the conditions of this permit, this shall include the operation and maintenance of backup or auxiliary systems.
- C. **Planned Changes.** The Department shall be given advance notice of any planned changes at the permitted facility or of an activity which may result in permit noncompliance. Any anticipated facility expansions, production increase, or process modifications which might result in new, different, or increased discharges of pollutants shall be reported to the Department as soon as possible.
- D. **Duty to Provide Information.** The permittee shall furnish to the Department, upon request, copies of records required to be kept by this permit. When a permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or any report, it shall promptly submit such facts or information.
- E. **Records Retention.** All records and information (including calibration and maintenance) required by this permit shall be kept for at least three years or longer if requested by the Department or EPA.
- F. **Signatory Requirements.** All applications, reports or information submitted to the Department shall be signed and certified.
1. All permit applications shall be signed by a responsible corporate officer, a general partner, or a principal executive officer or ranking elected official.
  2. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
    - (a) The authorization is made in writing by a person described above and submitted to the Department; and
    - (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

If an authorization under item F above is no longer accurate for any reason, a new authorization satisfying the above requirements must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted herein. Based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

- G. **Immediate Notification.** The permittee shall report any noncompliance of discharge which may seriously endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstance. The report shall be made to the EPA, Region VIII, National Emergency Response Center at 1-800-424-8802 and the State of North Dakota, Division of Emergency Management, 1-800-472-2121. In addition, a written submission to both the Department and EPA shall be provided within five days of the time that the permittee became aware of the circumstances. The submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; the estimated time noncompliance is expected to continue if it has not been corrected; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- H. **Bypassing.** Any bypass is prohibited except where unavoidable to prevent loss of life, personal injury, or severe property damage and no feasible alternatives to the bypass. The permittee shall provide notification of unanticipated bypasses as may be required by Part III.G, Immediate Notification. If, for other reasons, a bypass is considered necessary, a request to bypass shall be submitted, at least 15 days in advance if possible, to the Department. No bypass of this type shall occur until permission has been obtained from the Department.
- I. **Upset Conditions.** An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of the following paragraph are not met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (a) An upset occurred and the permittee can identify its cause(s);
- (b) The permitted facility was, at the time, being properly operated;
- (c) The permittee submitted notice of the upset as required under Part III.G, Immediate Notification; and
- (d) The permittee complied with any remedial measures required under Part III.J, Duty to Mitigate.

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

- J. **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. The permittee, at the Department's request, shall provide accelerated or additional monitoring as necessary to determine the nature and impact of any discharge.
- K. **Removed Materials.** Collected screenings, grit, solids, sludge, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner to prevent any pollutant from entering any waters of the state or creating a health hazard.

- L. **Right of Entry.** The permittee shall allow Department and EPA representatives, at reasonable times and, if requested, upon the presentation of credentials, to inspect any facilities or equipment (including monitoring and control equipment), to sample discharges, and to have access to and copy any records required to be kept by this permit. For facilities which discharge to a municipal or other separated storm sewer, this shall also pertain to authorized representatives of the municipal operator or the separate storm sewer receiving the discharge.
- M. **Availability of Reports.** Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.
- N. **Transfers.** This permit is not transferable except upon the filing of a Statement of Acceptance by the new party and subsequent Department approval. The current permit holder should inform the new controller, operator, or owner of the existence of this permit and also notify the Department of the possible change.
- O. **New Limitations or Prohibitions.** The permittee shall comply with any effluent standards or prohibitions established under Section 306(a), Section 307(a), or Section 405 of the Act for any pollutant (toxic or conventional) present in the discharge or removed substances within the time identified in the regulations, even if the permit has not yet been modified to incorporate the requirements.
- P. **Permit Actions.** This permit may be modified, revoked and reissued, or terminated for cause. Also, if there is evidence indicating potential or realized impacts on water quality due to any dewatering discharge associated with industrial activity covered by this permit, the owner or operator of such discharge may be required to obtain an individual permit or coverage under an alternative general permit in accordance with this Part. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. The following pertains to individual or alternative general permits:
- (a) The Department may, at any time and by written notification only, require any person authorized by this permit to apply for and obtain either an individual NDPDES permit or to seek coverage under an alternative NDPDES general permit. Any person covered by this general permit may request to be excluded from such coverage by either applying for an individual NDPDES permit, or filing a Notice of Intent to be covered under an alternative NDPDES general permit.
  - (b) When an individual NDPDES permit is issued to a person otherwise subject to this permit or the person is approved for coverage under an alternative NDPDES general permit, the applicability of this permit to the individual permittee is automatically terminated upon the effective date of the individual permit or the date of approval for coverage under the alternative general permit. When an individual NDPDES permit is denied to a person otherwise subject to this permit, or the person is denied for coverage under an alternative NDPDES general permit, the applicability of this permit remains in effect, unless otherwise specified by the Department.
- Q. **Need to Halt or Reduce.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- R. **State Laws.** Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 510 of the Act.

- S. **Oil and Hazardous Substance Liability.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 311 of the Act.
- T. **Property Rights.** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- U. **Severability.** The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.
- V. **Duty to Reapply.** Any request to have this permit renewed should be made thirty days prior to its expiration date.

## **PART IV - DEFINITIONS**

"Best Management Practices" or "(BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control construction site runoff, spillage, or leaks, sludge, or waste disposal, or drainage from raw material storage.

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Composite" for monitoring requirements, means a sample composed of a minimum of four grab samples collected at equally spaced two hour intervals and proportioned according to flow.

"Daily maximum concentration" means the greatest discharge concentration during any calendar day. If more than one sample is taken on a calendar day, the average of all such samples shall be the daily concentration for that day.

"Department" means the North Dakota Department of Health, Division of Water Quality.

"Grab," for monitoring requirements, means a single "dip and take" sample collected at a representative point in the discharge stream.

"Instantaneous," for monitoring requirements, means a single reading, observation, or measurement. If more than one sample is taken during any calendar day, each result obtained shall be considered.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Thirty Consecutive Day Period" means the average discharge concentration during a 30-consecutive day period. It shall be determined by the summation of all daily concentrations for 30 days divided by the total number of days on which the values were obtained. If more than one sample is taken on a calendar day, the average of all such samples shall be the daily concentration for that day.

"Total Maximum Daily Load" or "TMDL" means the amount of a particular pollutant that a particular stream, lake, estuary or other water body can "handle" without violating state water quality standards. A document called the 303d list of impaired waters of the state can be found on the state's web site: [http://www.health.state.nd.us/wq/sw/Z2\\_TMDL/A\\_Main.htm](http://www.health.state.nd.us/wq/sw/Z2_TMDL/A_Main.htm)

"Toxic Pollutant" means any pollutant listed as toxic under § 307(a)(1) of the Clean Water Act.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventative maintenance, or careless or improper operation.

"Waters of the State" means any and all surface waters that are contained in or flow in or through the State of North Dakota as defined in NDCC 61-28-02. This definition includes all water courses, even if they are usually dry.

**Enbridge Energy, Limited Partnership  
ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
Compliance Filing to Ordering Paragraph 5**

**TAB I**



# State of North Dakota

## Office of the State Engineer

900 EAST BOULEVARD AVE. • BISMARCK, ND 58505-0850  
701-328-2750 • FAX 701-328-3696 • <http://swc.nd.gov>

July 8, 2009

Paul Meneghini  
Enbridge Energy, Limited Partnership  
1320 Grand Avenue  
Superior, WI 54880

RE: Applications S-1474 and S-1475

Dear Mr. Meneghini:

Enclosed are your authorizations to install a pipeline beneath the Pembina River and Red River of the North using horizontal directional drilling. The projects are located in the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 33, Township 164 North, Range 53 West (Pembina River) and SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 5, Township 160 North, Range 50 West (Red River of the North) in Pembina County.

Copies of all the comment letters we received regarding your project are enclosed as well as a copy of the North Dakota Department of Health's (NDDH) "Construction and Environmental Disturbance Requirements". If you have any questions concerning this project, please contact me at (701) 328-4868.

Sincerely,

Laura C. Ackerman  
Water Resource Engineer  
Regulatory Section

LCA:lca/1625

Enclosures

## Sovereign Land Permit No. S-1474

Permittee: **Enbridge Energy, Limited Partnership**  
**1320 Grand Avenue**  
**Superior, WI 54880**

Location: **SW ¼ SW ¼ Section 33, Township 164 North, Range 53 West, Pembina County**

Project Description:

**The permittee is hereby authorized to install a 36-inch-diameter liquid petroleum pipeline under the Pembina River using horizontal directional drilling.**

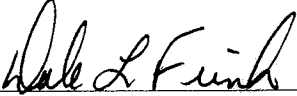
This authorization is subject to the conditions listed below and to the attached North Dakota Department of Health "Construction and Environmental Disturbance Requirements." Any other use of sovereign land is prohibited. Any proposed additional use must comply with the application and permitting process and all other requirements of state law.

### General Conditions

1. All construction, maintenance and reclamation activities shall be carried out in a manner reasonably designed to prevent degradation of the Pembina River.
2. All construction debris or excess material shall be disposed of in a non-timbered upland site or in an approved landfill.
3. Permittee shall recontour to pre-construction conditions any disruption or displacement of the riverbank and riverbed of the Pembina River. Permittee shall make every reasonable effort to prevent the destruction of woody vegetation and shall revegetate any disturbed areas.
4. Permittee shall have all responsibility for erosion control in the project area and shall take all necessary action to correct any problem related to erosion control in the project area.
5. Permittee shall not intentionally discharge gas, gas liquids, salt water, or any other liquids or toxic substances into the Pembina River. Permittee shall immediately report to the State Engineer and North Dakota Department of Health any losses of the above-mentioned materials and shall immediately restore the affected area to its original condition.
6. At the discretion of the State Engineer, in accordance with the exercise of any of the State Engineer's duties, the project is subject to modification at the expense of the Permittee.
7. If, prior to or during construction, items of substantial archeological value are discovered or a deposit of such items is disturbed, Permittee shall cease construction activities in the area so affected. The State Engineer shall be promptly notified of the discovery and construction will not resume until written permission is given by the State Engineer.
8. The State Engineer or the State Engineer's representative shall have access to inspect the authorized activity during the construction, and for the life of the project to ensure that it is being or has been accomplished and maintained in accordance with the terms and conditions of this Authorization.

9. That by granting this Authorization, no liability for damages of any kind, including but not limited to those caused by improper construction, operation and maintenance, design or failure in design, materials or workmanship is assumed by or transferred to the State of North Dakota, the State Engineer, the State Water Commission or their employees, agents, or assigns. Permittee will indemnify and hold harmless the State of North Dakota, its officials, employees, agents, boards, commission, and assigns for any and all liability for work performed and action taken under this Authorization.

Dated this 29th day of June 2009, at Bismarck, North Dakota.



---

Dale L. Frink  
State Engineer



1200 Missouri Avenue  
P.O. Box 5520  
Bismarck, North Dakota 58506-5520  
Fax #701-328-5200

## Construction and Environmental Disturbance Requirements

These represent the minimum requirements of the North Dakota Department of Health. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect the waters of the State of North Dakota. All projects will be designed and implemented to restrict the losses or disturbances of soil, vegetative cover, and pollutants (chemical or biological) from a site.

### **Soils**

Prevent the erosion of exposed soil surfaces and trapping sediments being transported. Examples include, but are not restricted to, sediment dams or berms, diversion dikes, hay bales as erosion checks, riprap, mesh or burlap blankets to hold soil during construction, and immediately establishing vegetative cover on disturbed areas after construction is completed. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, or land resources will be protected against compaction, vegetation loss, and unnecessary damage.

### **Surface Waters**

All construction which directly or indirectly impacts aquatic systems will be managed to minimize impacts. All attempts will be made to prevent the contamination of water at construction sites from fuel spillage, lubricants, and chemicals, by following safe storage and handling procedures. Stream bank and stream bed disturbances will be controlled to minimize and/or prevent silt movement, nutrient upsurges, plant dislocation, and any physical, chemical, or biological disruption. The use of pesticides or herbicides in or near these systems is forbidden without approval from this Department.

### **Fill Material**

Any fill material placed below the high water mark must be free of top soils, decomposable materials, and persistent synthetic organic compounds (in toxic concentrations). This includes, but is not limited to, asphalt, tires, treated lumber, and construction debris. The Department may require testing of fill materials. All temporary fills must be removed. Debris and solid wastes will be removed from the site and the impacted areas restored as nearly as possible to the original condition.

Sovereign Lands Permit S-1474  
SW 1/4 SW 1/4 Sec. 33, T164N-R53W

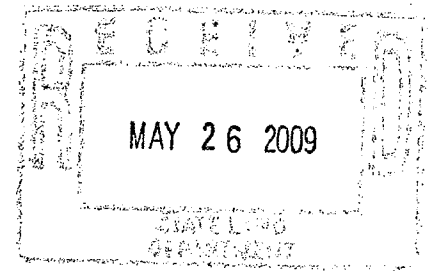




# State of North Dakota

## Office of the State Engineer

900 EAST BOULEVARD AVE. • BISMARCK, ND 58505-0850  
701-328-2750 • FAX 701-328-3696 • <http://swc.nd.gov>



**COPY**

### SOLICITATION OF VIEWS

May 22, 2009

**RE: Application to the State Engineer for Authorization to Construct a Project Within Islands and Beds of Navigable Streams or Waters of the State of North Dakota.**

**Enbridge Energy, Limited Partnership, Applicant**

**Application No. S-1474**

Enbridge Energy, Limited Partnership (Enbridge) has filed an application with the State Engineer for a sovereign lands permit to install a pipeline underneath the Pembina River. Construction will occur in the SW ¼ SW ¼ of Section 33, Township 164 North, Range 53 West, Pembina County. In order to increase petroleum transportation services from western Canada to refineries in the Midwestern U.S., Enbridge is proposing to construct a 36-inch-diameter pipeline, called the Alberta Clipper Project. The pipeline originates in Hardisty, Alberta, crosses the international border near Neche, ND, and ends in Superior, WI. The total length of the new pipeline is 993 miles, of which 28 miles are within North Dakota immediately adjacent to existing Enbridge right-of-way. Enbridge plans to cross the Pembina River using the horizontal directional drill method (HDD), which will minimize or avoid impacts on the streambed, banks, and riparian vegetation. The HDD method would be accomplished in three stages. During the first stage a small diameter pilot hole would be drilled along a pre-determined path. The second stage would consist of incrementally enlarging the pilot hole to accommodate the 20-inch pipeline. The final stage would involve pulling a segment of pipeline through the hole and then welding that segment to the adjoining sections of pipeline. Throughout the first two drilling stages, a bentonite clay slurry would be circulated through the drilling tools. After the pipeline has been installed, the clay slurry would be disposed of according to applicable regulations. The applicant has prepared a Drilling Mud Containment, Response, and Notification Plan, which outlines procedures to follow to address the accidental release of drilling mud. Restoration and revegetation will follow in accordance with Enbridge's Environmental Mitigation Plan and Revegetation Plan. In the event that the HDD method fails at this location, Enbridge plans to cross the Pembina River using an open trench-dry crossing alternative method. If this happens, the appropriate regulatory agencies would be notified.

Projects which lie either partially or wholly below the ordinary high watermark of navigable streams or waters may require an authorization from the State Engineer prior to construction or operation. At the discretion of the State Engineer, a public meeting may be held on the project for the purpose of gathering information. The State Engineer will consider riparian owner's rights, recreation, navigation, aesthetics, erosion, wildlife, water quality, maintenance of existing water flows, alternative uses, and the environment in determining whether to grant the authorization.

The ND State Land Department has  
no comment concerning this project.  
Thank You.



**STATE  
HISTORICAL  
SOCIETY**  
OF NORTH DAKOTA

**COPY**

John Hoeven  
*Governor of North Dakota*

May 26, 2009

North Dakota  
State Historical Board

Ms. Laura Ackerman  
Water Resources Engineer  
Regulatory Section  
900 East Boulevard Avenue  
Bismarck ND 58505-0850

Albert I. Berger  
*Grand Forks - President*

Chester E. Nelson, Jr.  
*Bismarck - Vice President*

Gereld Gerntholz  
*Valley City - Secretary*

A. Ruric Todd III  
*Jamestown*

ND SHPO Ref: 06-0088M OSE/PSC/DOS Enbridge Energy, Limited Partnership  
(Enbridge) Application NO. S-1474 pipeline under the Pembina River [T164N  
R53W Section 33 SW ¼ SW ¼] Pembina County, North Dakota

Diane K. Larson  
*Bismarck*

Dear Ms. Ackerman,

Marvin L. Kaiser  
*Williston*

We received ND SHPO Ref: 06-0088M OSE/PSC/DOS Enbridge Energy, Limited Partnership (Enbridge) Application NO. S-1474 pipeline under the Pembina River [T164N R53W Section 33 SW ¼ SW ¼] Pembina County North Dakota. We concur with a "No Historic Properties Affected" determination, provided the project is of the nature specified and takes place in the mapped area.

Richard Kloubec  
*Fargo*

Sara Otte Coleman  
*Director  
Tourism Division*

Kelly Schmidt  
*State Treasurer*

Thank you for the opportunity to review this project. Please include the ND SHPO reference number listed above in any further correspondence for this specific project. If you have any questions, please contact Susan Quinnell at 701-328-3576. E-mail: [squinnell@nd.gov](mailto:squinnell@nd.gov)

Alvin A. Jaeger  
*Secretary of State*

Douglass Prchal  
*Director  
Parks and Recreation  
Department*

Sincerely,

Francis Ziegler  
*Director  
Department of Transportation*

Merlan E. Paaverud, Jr.  
State Historic Preservation Officer (North Dakota)

Merlan E. Paaverud, Jr.  
*Director*



Accredited by the  
American Association  
of Museums

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John Hoeven, Governor  
Douglass A. Prchal, Director

1600 East Century Avenue, Suite 3  
Bismarck, ND 58503-0649  
Phone 701-328-5357  
Fax 701-328-5363  
E-mail [parkrec@nd.gov](mailto:parkrec@nd.gov)  
[www.parkrec.nd.gov](http://www.parkrec.nd.gov)

June 12, 2008

Laura C. Ackerman  
ND Office of the State Engineer  
900 East Boulevard Ave., Dept. 770  
Bismarck, ND 58505-0850

RE: Enbridge Energy, Limited Partnership Application to Install Pipeline Underneath the Pembina River

Dear Ms. Ackerman:

The North Dakota Parks and Recreation Department has reviewed the above referenced proposal from Enbridge Energy, Limited Partnership to install a pipeline underneath the Pembina River located in Section 33, T164N, R53W, Pembina County.

Our agency scope of authority and expertise covers recreation and biological resources (in particular rare plants and ecological communities). The project as defined does not affect state park lands that we manage. Land and Water Conservation Fund recreation projects and RTP projects that we coordinate will not be impacted at the crossing location. However, pipeline impacts outside of the crossing location cannot be determined from the information provided.

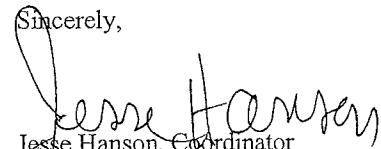
The North Dakota Natural Heritage biological conservation database has been reviewed to determine if any plant or animal species of concern or other significant ecological communities are known to occur within an approximate one-mile radius of the project area. Based on this review, there are no known occurrences within or adjacent to the project area.

Because this information is not based on a comprehensive inventory, there may be species of concern or otherwise significant ecological communities in the area that are not represented in the database. The lack of data for any project area cannot be construed to mean that no significant features are present. The absence of data may indicate that the project area has not been surveyed, rather than confirm that the area lacks natural heritage resources. We would appreciate receiving a hard copy or digital copy of the wildlife and botanical surveys and evaluations for the project area. For your information, a list of species known to occur in the Pembina River has been attached.

Regarding any reclamation efforts, we recommend that any impacted areas be revegetated with species native to the project area.

We appreciate your commitment to rare plant, animal and ecological community conservation, management and inter-agency cooperation to date. For additional information please contact Kathy Duttonhefner (701-328-5370 or [kgduttonhefner@nd.gov](mailto:kgduttonhefner@nd.gov)) of our staff. Thank you for the opportunity to comment on this proposed project.

Sincerely,

  
Jesse Hanson, Coordinator  
Planning and Natural Resources Division

R.USNDNHI\*2009-138



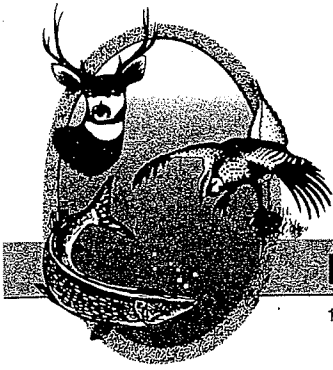
Play in our backyard!

North Dakota Natural Heritage Inventory  
Aquatic Animal Species of Concern in the Pembina River

<b>State Scientific Name</b>	<b>State Common Name</b>	<b>State Rank</b>	<b>Global Rank</b>	<b>Federal Status</b>
Fusconaia flava	Wabash Pigtoe	S4	G5	
Notropis blennius	River Shiner	S4	G5	
Quadrula quadrula	Mapleleaf	S3	G5	

Sohn 1

COPY



"VARIETY IN HUNTING AND FISHING"

**NORTH DAKOTA GAME AND FISH DEPARTMENT**

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

June 8, 2009

Dale L. Frink  
State Engineer  
900 East Boulevard  
Bismarck, North Dakota 58505-0850



Dear Mr. Frink:

Re: Enbridge Energy Pipeline Project – Red River and Pembina River Bores  
Application No.: S-1474 & 1475

The North Dakota Game and Fish Department has received notification of Enbridge Energy's (Enbridge) proposal to bore a 36-inch diameter pipeline under the Red River of the North and the Pembina River. The project proposes to install the pipeline using horizontal directional drilling (HDD). The applicant has prepared a Drilling Mud Containment, Response, and Notification Plan which outlines procedures to follow to address the accidental release of drilling mud. In the event that the HDD method fails at the Pembina River location, Enbridge plans to cross the river using an open trench-dry crossing alternative method. No alternative method has been proposed for the Red River crossing. The proposed projects are located in the SE1/4SE1/4 of Section 5, Township 160 North, Range 50 West and in the SW1/4SW1/4 of Section 33, Township 164 North, Range 53 West in Pembina County, North Dakota.

These rivers provide excellent sportfishing opportunities and aquatic habitat within the State of North Dakota for which measures need to be taken to protect these resources. The Department is concerned with the potential loss of drilling fluids into the water column from the horizontal directional drilling. The Department reiterates the importance of containing and collecting all HDD drilling fluids and disposing of said fluids properly, especially during the spawning season.

Due to the nature of the proposed project, the Department suggests implementing the following recommendations to minimize impacts to fish and wildlife resources:

1. Efforts should be made to prevent the destruction of woody vegetation, and any unavoidable losses of trees and shrubs should be replaced with similar species on a 2:1 basis.

2. Disturbed areas should be planted to a native grass mixture.
3. Erosion control measures should be implemented to minimize the opportunity for sediments to enter the waterways.
4. Although no work is planned in the waterway, if a situation arises we request work not take place within the river from April 15 to July 1 as most of the species of concern (i.e. walleye and channel catfish) will be in the process of spawning at that time. Please note this recommendation is one month longer than our normal spawning time frame restriction due to the life history characteristics and importance of channel catfish in the Red River.
5. Any disruption or displacement of streambeds or banks must be restored to pre-project conditions.
6. If the proposed project intersects any wetlands, the Corps of Engineers' North Dakota Regulatory Office or the Natural Resource Conservation Service should be contacted due to probable impacts to wetland acres.

Sincerely,



Michael G. McKenna  
Chief  
Conservation & Communication Division

blk

**Enbridge Energy, Limited Partnership  
ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
Compliance Filing to Ordering Paragraph 5**

**TAB J**



# State of North Dakota

## Office of the State Engineer

900 EAST BOULEVARD AVE. • BISMARCK, ND 58505-0850  
701-328-2750 • FAX 701-328-3696 • <http://swc.nd.gov>

July 8, 2009

Paul Meneghini  
Enbridge Energy, Limited Partnership  
1320 Grand Avenue  
Superior, WI 54880

RE: Applications S-1474 and S-1475

Dear Mr. Meneghini:

Enclosed are your authorizations to install a pipeline beneath the Pembina River and Red River of the North using horizontal directional drilling. The projects are located in the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 33, Township 164 North, Range 53 West (Pembina River) and SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 5, Township 160 North, Range 50 West (Red River of the North) in Pembina County.

Copies of all the comment letters we received regarding your project are enclosed as well as a copy of the North Dakota Department of Health's (NDDH) "Construction and Environmental Disturbance Requirements". If you have any questions concerning this project, please contact me at (701) 328-4868.

Sincerely,

Laura C. Ackerman  
Water Resource Engineer  
Regulatory Section

LCA:lca/1625

Enclosures

## Sovereign Land Permit No. S-1475

Permittee: **Enbridge Energy, Limited Partnership**  
**1320 Grand Avenue**  
**Superior, WI 54880**

Location: **SE ¼ SE ¼ Section 5, Township 160 North, Range 50 West, Pembina County**

Project Description:

**The permittee is hereby authorized to install a 36-inch-diameter liquid petroleum pipeline under the Red River of the North using horizontal directional drilling.**

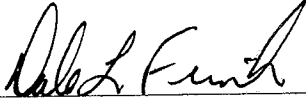
This authorization is subject to the conditions listed below and to the attached North Dakota Department of Health "Construction and Environmental Disturbance Requirements." Any other use of sovereign land is prohibited. Any proposed additional use must comply with the application and permitting process and all other requirements of state law.

### General Conditions

1. All construction, maintenance and reclamation activities shall be carried out in a manner reasonably designed to prevent degradation of the Red River of the North.
2. All construction debris or excess material shall be disposed of in a non-timbered upland site or in an approved landfill.
3. Permittee shall recontour to pre-construction conditions any disruption or displacement of the riverbank and riverbed of the Red River of the North. Permittee shall make every reasonable effort to prevent the destruction of woody vegetation and shall revegetate any disturbed areas.
4. Permittee shall have all responsibility for erosion control in the project area and shall take all necessary action to correct any problem related to erosion control in the project area.
5. Permittee shall not intentionally discharge gas, gas liquids, salt water, or any other liquids or toxic substances into the Red River of the North. Permittee shall immediately report to the State Engineer and North Dakota Department of Health any losses of the above-mentioned materials and shall immediately restore the affected area to its original condition.
6. At the discretion of the State Engineer, in accordance with the exercise of any of the State Engineer's duties, the project is subject to modification at the expense of the Permittee.
7. If, prior to or during construction, items of substantial archeological value are discovered or a deposit of such items is disturbed, Permittee shall cease construction activities in the area so affected. The State Engineer shall be promptly notified of the discovery and construction will not resume until written permission is given by the State Engineer.
8. The State Engineer or the State Engineer's representative shall have access to inspect the authorized activity during the construction, and for the life of the project to ensure that it is being or has been accomplished and maintained in accordance with the terms and conditions of this Authorization.

9. That by granting this Authorization, no liability for damages of any kind, including but not limited to those caused by improper construction, operation and maintenance, design or failure in design, materials or workmanship is assumed by or transferred to the State of North Dakota, the State Engineer, the State Water Commission or their employees, agents, or assigns. Permittee will indemnify and hold harmless the State of North Dakota, its officials, employees, agents, boards, commission, and assigns for any and all liability for work performed and action taken under this Authorization.

Dated this 29th day of June 2009, at Bismarck, North Dakota.



---

Dale L. Frink  
State Engineer



1200 Missouri Avenue  
P.O. Box 5520  
Bismarck, North Dakota 58506-5520  
Fax #701-328-5200

## Construction and Environmental Disturbance Requirements

These represent the minimum requirements of the North Dakota Department of Health. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect the waters of the State of North Dakota. All projects will be designed and implemented to restrict the losses or disturbances of soil, vegetative cover, and pollutants (chemical or biological) from a site.

### **Soils**

Prevent the erosion of exposed soil surfaces and trapping sediments being transported. Examples include, but are not restricted to, sediment dams or berms, diversion dikes, hay bales as erosion checks, riprap, mesh or burlap blankets to hold soil during construction, and immediately establishing vegetative cover on disturbed areas after construction is completed. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, or land resources will be protected against compaction, vegetation loss, and unnecessary damage.

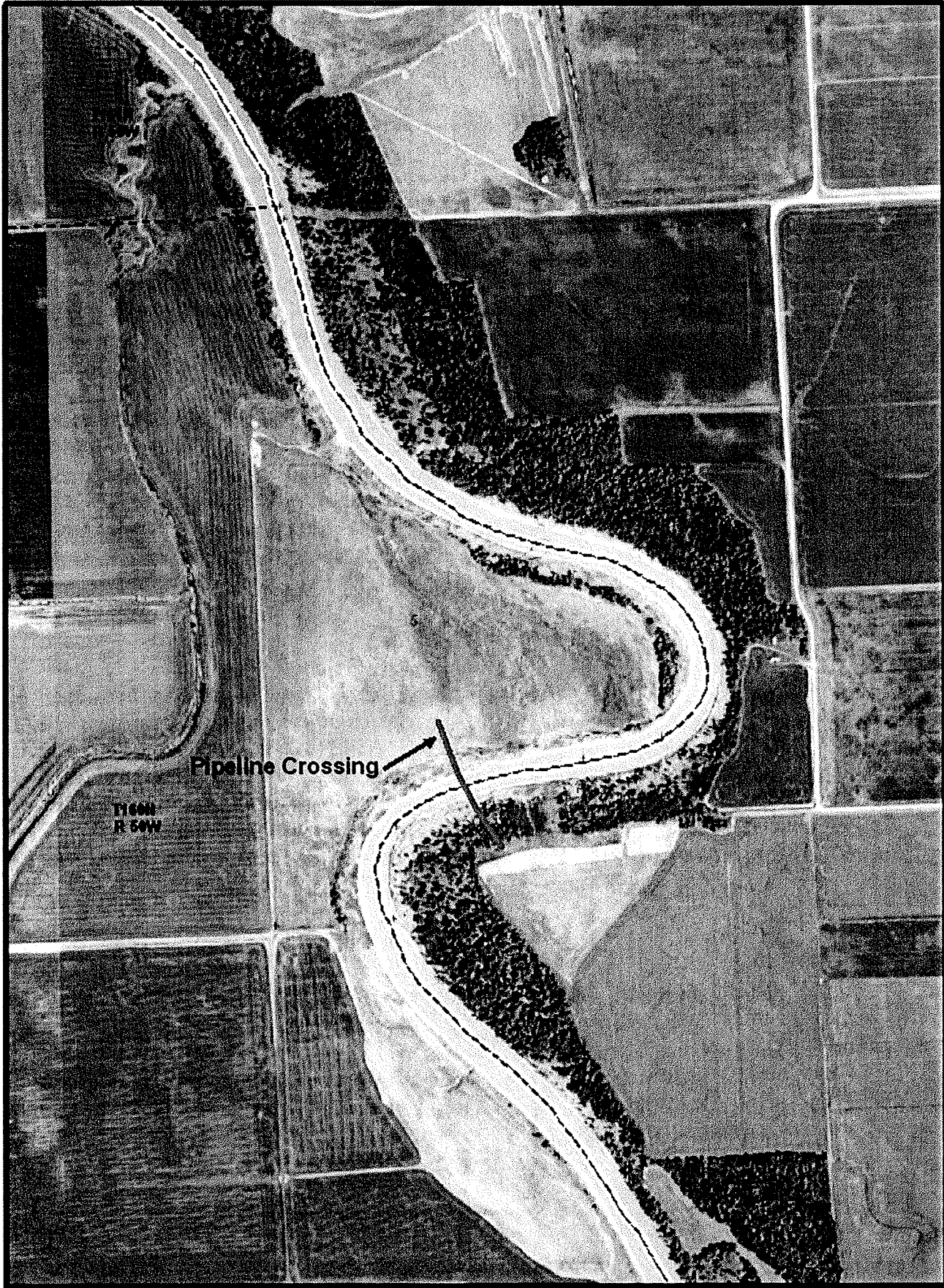
### **Surface Waters**

All construction which directly or indirectly impacts aquatic systems will be managed to minimize impacts. All attempts will be made to prevent the contamination of water at construction sites from fuel spillage, lubricants, and chemicals, by following safe storage and handling procedures. Stream bank and stream bed disturbances will be controlled to minimize and/or prevent silt movement, nutrient upsurges, plant dislocation, and any physical, chemical, or biological disruption. The use of pesticides or herbicides in or near these systems is forbidden without approval from this Department.

### **Fill Material**

Any fill material placed below the high water mark must be free of top soils, decomposable materials, and persistent synthetic organic compounds (in toxic concentrations). This includes, but is not limited to, asphalt, tires, treated lumber, and construction debris. The Department may require testing of fill materials. All temporary fills must be removed. Debris and solid wastes will be removed from the site and the impacted areas restored as nearly as possible to the original condition.

Sovereign Lands Permit S-1475  
SE 1/4 SE 1/4 Sec. 5, T160N-R50W





# State of North Dakota

## Office of the State Engineer

900 EAST BOULEVARD AVE. • BISMARCK, ND 58505-0850  
701-328-2750 • FAX 701-328-3696 • <http://swc.nd.gov>

MAY 26 2009

### SOLICITATION OF VIEWS

# COPY

May 22, 2009

**RE: Application to the State Engineer for Authorization to Construct a Project Within Islands and Beds of Navigable Streams or Waters of the State of North Dakota.**

**Enbridge Energy, Limited Partnership, Applicant**

**Application No. S-1475**

Enbridge Energy, Limited Partnership (Enbridge) has filed an application with the State Engineer for a sovereign lands permit to install a pipeline underneath the Red River of the North (Red River). Construction will occur in the SE ¼ SE ¼ of Section 5, Township 160 North, Range 50 West, Pembina County. In order to increase petroleum transportation services from western Canada to refineries in the Midwestern U.S., Enbridge is proposing to construct a 36-inch-diameter pipeline, called the Alberta Clipper Project. The pipeline originates in Hardisty, Alberta, crosses the international border near Neche, ND, and ends in Superior, WI. The total length of the new pipeline is 993 miles, of which 28 miles are within North Dakota immediately adjacent to existing Enbridge right-of-way. Enbridge plans to cross the Red River using the horizontal directional drill method (HDD), which will minimize or avoid impacts on the streambed, banks, and riparian vegetation. The HDD method would be accomplished in three stages. During the first stage a small diameter pilot hole would be drilled along a pre-determined path. The second stage would consist of incrementally enlarging the pilot hole to accommodate the 20-inch pipeline. The final stage would involve pulling a segment of pipeline through the hole and then welding that segment to the adjoining sections of pipeline. Throughout the first two drilling stages, a bentonite clay slurry would be circulated through the drilling tools. After the pipeline has been installed, the clay slurry would be disposed of according to applicable regulations. The applicant has prepared a Drilling Mud Containment, Response, and Notification Plan, which outlines procedures to follow to address the accidental release of drilling mud. Restoration and revegetation will follow in accordance with Enbridge's Environmental Mitigation Plan and Revegetation Plan. Enbridge has not proposed any alternative to the HDD method for crossing the Red River.

Projects which lie either partially or wholly below the ordinary high watermark of navigable streams or waters may require an authorization from the State Engineer prior to construction or operation. At the discretion of the State Engineer, a public meeting may be held on the project for the purpose of gathering information. The State Engineer will consider riparian owner's rights, recreation, navigation, aesthetics, erosion, wildlife, water quality, maintenance of existing water flows, alternative uses, and the environment in determining whether to grant the authorization.

The ND State Land Department has  
no comment concerning this project.  
Thank You.



**STATE  
HISTORICAL  
SOCIETY  
OF NORTH DAKOTA**

**COPY**

John Hoeven  
*Governor of North Dakota*

May 26, 2009

North Dakota  
State Historical Board

Ms. Laurie Ackerman  
Water Resource Engineer  
Office of the State Engineer  
900 East Boulevard Ave  
Bismarck ND 58505-0850

Albert I. Berger  
*Grand Forks - President*

Chester E. Nelson, Jr.  
*Bismarck - Vice President*

Gereld Gerntholz  
*Valley City - Secretary*

A. Ruric Todd III  
*Jamestown*

Diane K. Larson  
*Bismarck*

Marvin L. Kaiser  
*Williston*

Richard Kloubec  
*Fargo*

Sara Otte Coleman  
*Director  
Tourism Division*

Kelly Schmidt  
*State Treasurer*

Alvin A. Jaeger  
*Secretary of State*

Douglass Prchal  
*Director  
Parks and Recreation  
Department*

Francis Ziegler  
*Director  
Department of Transportation*

ND SHPO Ref.: 06-1063N DOS/PAC/OSE App No. S-1475 Enbridge Energy  
Alberta Clipper Project in a portion of [T160N R50W Section 5, SE ¼ SE ¼]  
Pembina County, North Dakota

Dear Ms. Ackerman,

We reviewed ND SHPO Ref.: 06-1063N DOS/PAC/OSE App No. S-1475 Enbridge Energy Alberta Clipper Project in a portion of [T160N R50W Section 5, SE ¼ SE ¼] Pembina County, North Dakota. We concur with a "No Historic Properties Affected" determination, provided the project is of the nature specified and takes place in the legal description outlined and mapped in the correspondence. ALSO National Register of Historic Places eligible Site 32PB161 must be avoided. (There are two sites on the attached map, one archaeological and one historic on top of the eligible site, that is why the red lines are a little confusing, but all the area outlined in red must be avoided).

Thank you for the opportunity to review this project. Please include the ND SHPO Reference number listed above in any further correspondence for this specific project. If you have any questions please contact Susan Quinnell, Review and Compliance Coordinator at (701) 328-3576, e-mail [squinnell@nd.gov](mailto:squinnell@nd.gov)

Sincerely,

Merlan E. Paaverud, Jr.  
State Historic Preservation Officer  
(North Dakota)

Merlan E. Paaverud, Jr.  
*Director*

Accredited by the  
American Association  
of Museums



### Legend



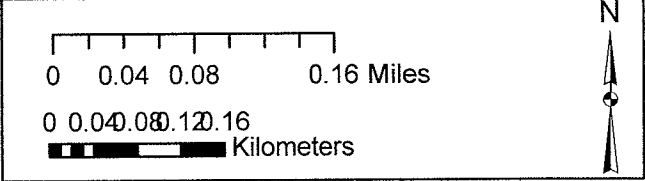
NDCRS\_Sites\_and\_Leads\_05012009\_DO\_NOT\_EDIT



AHP\_Manuscripts\_05012009\_DO\_NOT\_EDIT



ND SHPO Ref: 06-1063  
OSE Enbridge Energy Alberta Clipper App S-1475  
Crossing the Red River  
T160N R50W Section 5 SE 1/4 SE 1/4,  
Plotted NAD 1983, in Mattson  
USGS Quad.  
SHSND - 5/26/2009



COPY



John Hoeven, Governor  
Douglass A. Prchal, Director

1600 East Century Avenue, Suite 3  
Bismarck, ND 58503-0649  
Phone 701-328-5357  
Fax 701-328-5363  
E-mail [parkrec@nd.gov](mailto:parkrec@nd.gov)  
[www.parkrec.nd.gov](http://www.parkrec.nd.gov)

June 11, 2008

Laura C. Ackerman  
ND Office of the State Engineer  
900 East Boulevard Ave., Dept. 770  
Bismarck, ND 58505-0850

RE: Enbridge Energy, Limited Partnership Application to Install Pipeline Underneath the Red River

Dear Ms. Ackerman:

The North Dakota Parks and Recreation Department has reviewed the above referenced proposal from Enbridge Energy, Limited Partnership to install a pipeline underneath the Red River located in Section 5, T160N, R50W, Pembina County.

Our agency scope of authority and expertise covers recreation and biological resources (in particular rare plants and ecological communities). The project as defined does not affect state park lands that we manage. Land and Water Conservation Fund recreation projects and RTP projects that we coordinate will not be impacted at the crossing location. However, pipeline impacts outside of the crossing location cannot be determined from the information provided.

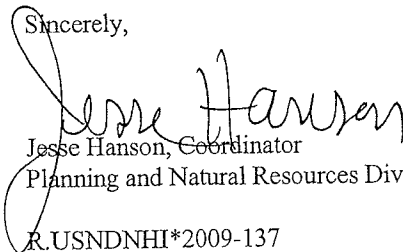
The North Dakota Natural Heritage biological conservation database has been reviewed to determine if any plant or animal species of concern or other significant ecological communities are known to occur within an approximate one-mile radius of the project area. Based on this review, we do have records for the occurrence of *Potamilus alatus* (pink heelsplitter) in a section adjacent to the project area indicating that the habitat in the project area may be suited for this specie or other rare, threatened, sensitive or endangered species. Please see attached spreadsheet and map for more information on this occurrence. We defer further comments regarding animal species to the North Dakota Game and Fish Department and the United States Fish and Wildlife Service. For your information, a list of species known to occur in the Red River (in addition to those listed above) has been attached.

Because this information is not based on a comprehensive inventory, there may be species of concern or otherwise significant ecological communities in the area that are not represented in the database. The lack of data for any project area cannot be construed to mean that no significant features are present. The absence of data may indicate that the project area has not been surveyed, rather than confirm that the area lacks natural heritage resources.

Regarding any reclamation efforts, we recommend that any impacted areas be revegetated with species native to the project area.

We appreciate your commitment to rare plant, animal and ecological community conservation, management and inter-agency cooperation to date. For additional information please contact Kathy Duttonhefner (701-328-5370 or [kgduttonhefner@nd.gov](mailto:kgduttonhefner@nd.gov)) of our staff. Thank you for the opportunity to comment on this proposed project.

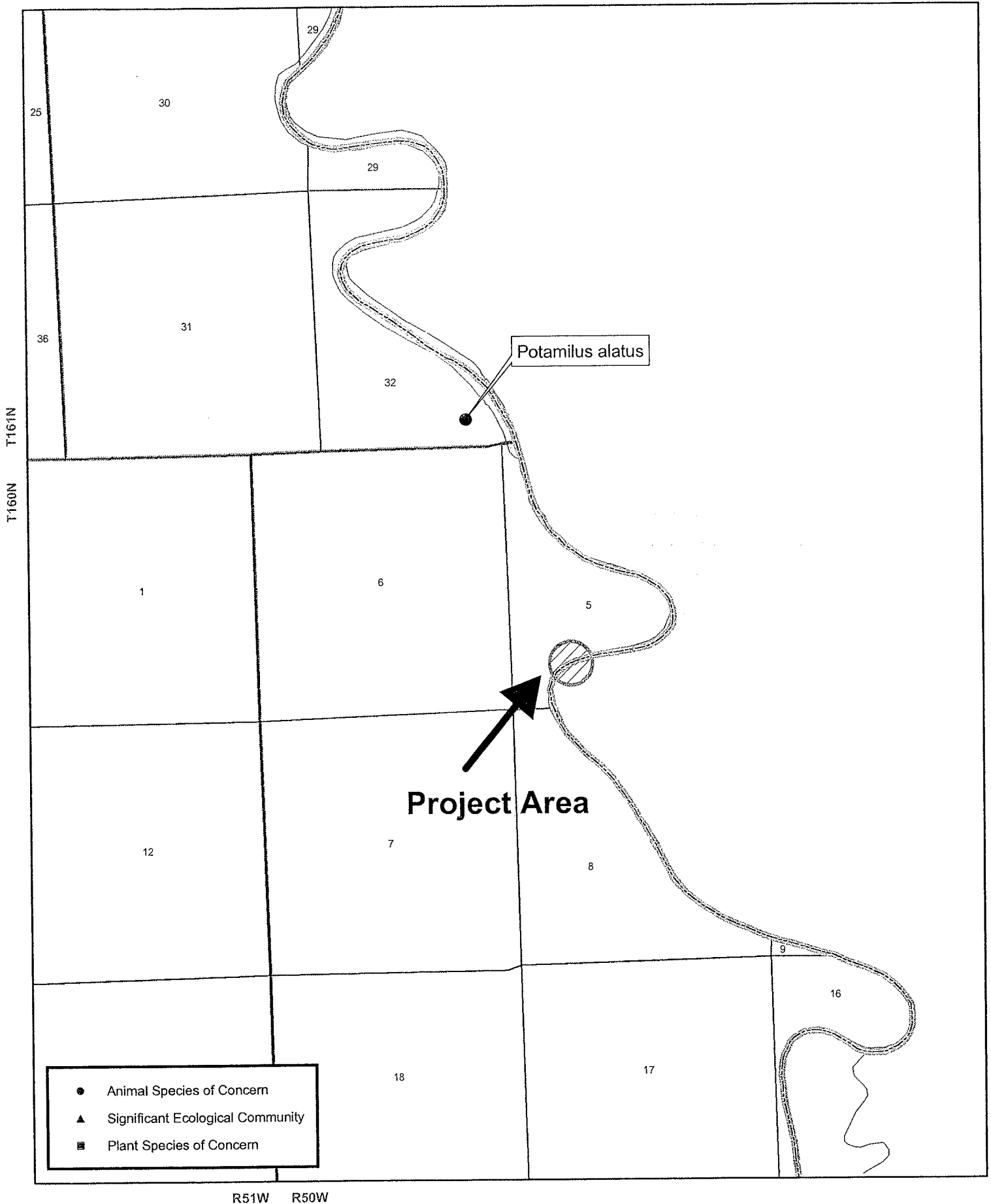
Sincerely,

  
Jesse Hanson, Coordinator  
Planning and Natural Resources Division  
R.USNDNHI\*2009-137



Play in our backyard!

# North Dakota Natural Heritage Inventory Species of Concern and Significant Ecological Communities



North Dakota Natural Heritage Inventory  
 Rare Animal and Plant Species Significant Ecological Communities

State Scientific Name	State Common Name	Township Range Section	State Rank	Global Rank	Federal Status	Last Observation	Estimated Representation Accuracy	Precision
Potamilus alatus	Pink Heelsplitter	161N050W - 32	S4	G5		1965		S

## North Dakota Natural Heritage Inventory Biological and Conservation Data Disclaimer

The quantity and quality of data collected by the North Dakota Natural Heritage Inventory are dependent on the research and observations of many individuals and organizations. In most cases, this information is not the result of comprehensive or site-specific field surveys; many natural areas in North Dakota have never been thoroughly surveyed, and new species are still being discovered. For these reasons, the Natural Heritage Inventory cannot provide a definite statement on the presence, absence, or condition of biological elements in any part of North Dakota. Natural Heritage data summarize the existing information known at the time of the request. Our data are continually upgraded and information is continually being added to the database. This data should never be regarded as final statements on the elements or areas that are being considered, nor should they be substituted for on-site surveys.

### Estimated Representation Accuracy

Value that indicates the approximate percentage of the Element Occurrence Representation (EO Rep) that was observed to be occupied by the species or community (versus buffer area added for locational uncertainty). Use of estimated representation accuracy provides a common index for the consistent comparison of EO reps, thus helping to ensure that aggregated data are correctly analyzed and interpreted.

Very high (>95%)

High (>80%, <= 95%)

Medium (>20%, <= 80%)

Low (>0%, <= 20%)

Unknown

(null) - Not assessed

### Precision

A single-letter code for the precision used to map the Element Occurrence (EO) on a U.S. Geological Survey (USGS) 7.5' (or 15') topographic quadrangle map, based on the previous Heritage methodology in which EOs were located on paper maps using dots.

S - Seconds: accuracy of locality mappable within a three-second radius; 100 meters from the centerpoint

M - Minute: accuracy of locality mappable within a one-minute radius; 2 km from the centerpoint

G - General: accuracy of locality mappable to map or place name precision only; 8 km from centerpoint

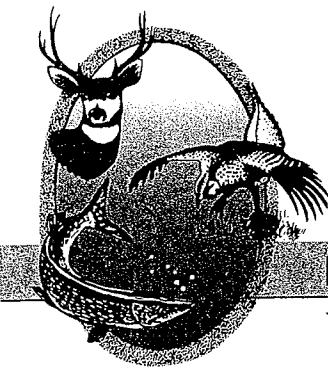
U - Unmappable

North Dakota Natural Heritage Inventory  
Aquatic Animal Species of Concern in the Red River

State Scientific Name	State Common Name	State Rank	Global Rank	Federal Status
<i>Fusconaia flava</i>	Wabash Pigtoe	S4	G5	
<i>Ligumia recta</i>	Black Sandshell	S4	G5	
<i>Moxostoma valenciennesi</i>	Greater Redhorse	S2	G4	
<i>Notropis blennioides</i>	River Shiner	S4	G5	
<i>Notropis percobromus</i>	Rosyface Shiner	S3	G5	
<i>Percina caprodes</i>	Logperch	S3	G5	
<i>Potamilus alatus</i>	Pink Heelsplitter	S4	G5	
<i>Quadrula quadrula</i>	Mapleleaf	S3	G5	

John

COPY



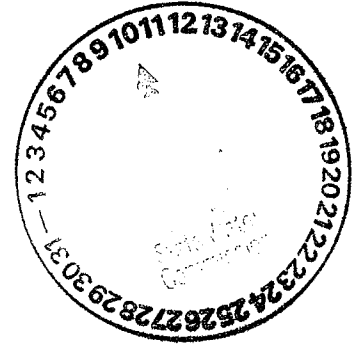
"VARIETY IN HUNTING AND FISHING"

**NORTH DAKOTA GAME AND FISH DEPARTMENT**

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

June 8, 2009

Dale L. Frink  
State Engineer  
900 East Boulevard  
Bismarck, North Dakota 58505-0850



Dear Mr. Frink:

Re: Enbridge Energy Pipeline Project – Red River and Pembina River Bores  
Application No.: S-1474 & 1475

The North Dakota Game and Fish Department has received notification of Enbridge Energy's (Enbridge) proposal to bore a 36-inch diameter pipeline under the Red River of the North and the Pembina River. The project proposes to install the pipeline using horizontal directional drilling (HDD). The applicant has prepared a Drilling Mud Containment, Response, and Notification Plan which outlines procedures to follow to address the accidental release of drilling mud. In the event that the HDD method fails at the Pembina River location, Enbridge plans to cross the river using an open trench-dry crossing alternative method. No alternative method has been proposed for the Red River crossing. The proposed projects are located in the SE1/4SE1/4 of Section 5, Township 160 North, Range 50 West and in the SW1/4SW1/4 of Section 33, Township 164 North, Range 53 West in Pembina County, North Dakota.

These rivers provide excellent sportfishing opportunities and aquatic habitat within the State of North Dakota for which measures need to be taken to protect these resources. The Department is concerned with the potential loss of drilling fluids into the water column from the horizontal directional drilling. The Department reiterates the importance of containing and collecting all HDD drilling fluids and disposing of said fluids properly, especially during the spawning season.

Due to the nature of the proposed project, the Department suggests implementing the following recommendations to minimize impacts to fish and wildlife resources:

1. Efforts should be made to prevent the destruction of woody vegetation, and any unavoidable losses of trees and shrubs should be replaced with similar species on a 2:1 basis.

2. Disturbed areas should be planted to a native grass mixture.
3. Erosion control measures should be implemented to minimize the opportunity for sediments to enter the waterways.
4. Although no work is planned in the waterway, if a situation arises we request work not take place within the river from April 15 to July 1 as most of the species of concern (i.e. walleye and channel catfish) will be in the process of spawning at that time. Please note this recommendation is one month longer than our normal spawning time frame restriction due to the life history characteristics and importance of channel catfish in the Red River.
5. Any disruption or displacement of streambeds or banks must be restored to pre-project conditions.
6. If the proposed project intersects any wetlands, the Corps of Engineers' North Dakota Regulatory Office or the Natural Resource Conservation Service should be contacted due to probable impacts to wetland acres.

Sincerely,



Michael G. McKenna  
Chief  
Conservation & Communication Division

blk

**Enbridge Energy, Limited Partnership  
ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
Compliance Filing to Ordering Paragraph 5**

**TAB K**

PEMBINA COUNTY  
**WATER RESOURCE DISTRICT**

---

308 Courthouse Drive #5  
Cavalier, North Dakota 58220

Phone: 701-265-4511  
Fax: 701-265-4165

March 3, 2008

John Seaberg  
Enbridge Pipeline  
80 South Eighth Street  
Minneapolis, MN 55402

Dear Mr. Seaberg,

The Pembina County Water Resource Board would like to request that the pipeline be placed a minimum of two feet below the bottom of any of our legal drains. This ensures that the pipeline will not be disturbed during the regular maintenance and clean-out that is required within the drain.

If you have any questions, please don't hesitate to call our office.

Sincerely,



Clarence Boettger, Chairman

llk

*Board Members*

*Ronald Faltk, Randall Wagner, Edward Stremick, Clarence Boettger & Gerald Juhl*

**Enbridge Energy, Limited Partnership  
ND-PSC Docket No. PU-07-108  
Commission's December 31, 2007 Order  
Compliance Filing to Ordering Paragraph 5**

**TAB L**

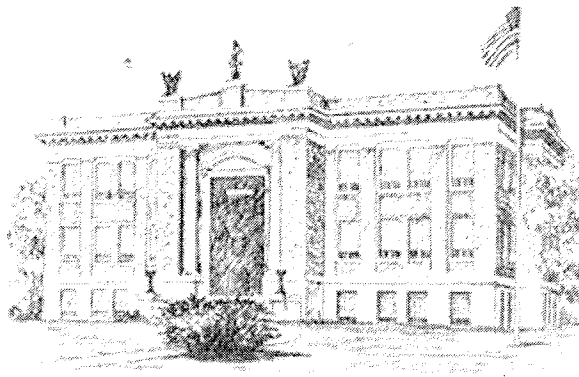
# PEMBINA COUNTY North Dakota

OFFICES OF AUDITOR/TREASURER  
SUPT OF SCHOOLS DESIGNEE

**Dorothy L Robinson**

Dawn Useldinger-Menzies  
Deputy Auditor/Treasurer

Linda Schlittenhard  
Deputy Auditor/Treasurer



*Pembina County Courthouse  
Cavalier, North Dakota*

Telephone 701-265-4231 Fax 701-265-4876  
301 Dakota Street West #1, Cavalier, ND 58220  
Email: [drobinso@nd.gov](mailto:drobinso@nd.gov)  
[www.pembinacountynd.gov](http://www.pembinacountynd.gov)

April 18, 2008

Natural Resource Group  
John Seaberg  
1000 IDS Center  
80 South Eighth Street  
Minneapolis MN 55402

Mr. Seaberg:

I have enclosed the approved zoning application for a conditional permit granted to Enbridge Energy for the two pipelines in Pembina County.

There is a \$10.00 fee for the permit.

If you have any questions, please contact me at 701-265-4231 or [drobinso@nd.gov](mailto:drobinso@nd.gov).

Sincerely,

Dorothy L Robinson  
Pembina County Auditor/Treasurer

Enc.

BUILDING PERMIT FORM			
File No. _____		Permit No. _____	
		Date: _____	
APPLICANT			
Name Paul Meneghini, P.E.		Address Enbridge Energy 1409 Hammond Avenue Superior, WI 54880	
Phone Office: 715.398.4573 Mobile: 715.348.8139			
OWNER			
Name Same as Applicant		Address	
Phone			
LOCATION OF PROPERTY			
Legal Description See Attached Maps.			
PROPOSED LAND USE			
(check one)			
Residential _____	Number of Household Units _____		
Commercial _____	Type of Business _____		
Industrial _____	Type of Industry _____		
Agricultural _____			
Other (Specify) Construction and burial of two liquid petroleum pipelines (20-inches and 36-inches in diameter).			
STRUCTURE PROPOSED			
Type of Structure(s): (If accessory, please indicate) Two underground pipelines--description in cover letter, and location on maps			
Accessory Structure to Also be Build? _____		Yes _____ X _____ No	
Specify Type of Accessory Structure _____			
Size of Lot: Length _____ Width _____		Structure Proposed:	
Setback _____ feet		Height _____	No. Stories _____
		Length _____	Width _____
If Accessory structure is proposed: Length _____ Width _____ Height _____			
(A sketch showing all proposed structures and their location on the lot must be attached.)			
Type of Action: New Construction <input checked="" type="checkbox"/> Extend _____ Move _____			
I certify that the information herein and attached hereto is true and correct to my best belief and knowledge: Signature of Applicant _____			
Date: March 20, 2008			

Effective Date: 4-15-2008

*Paul M. Meneghini*  
*Dorothy L. Kalinowski*  
 Pembina Co Zoning Board