

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NORTH DAKOTA

IN THE MATTER OF THE  
APPLICATION OF ENBRIDGE  
PIPELINES (NORTH DAKOTA) LLC  
FOR THE REROUTE OF  
APPROXIMATELY 2100 FEET OF  
EIGHT-INCH CRUDE OIL PIPELINE IN  
WILLIAMS COUNTY, NORTH  
DAKOTA.

CASE NO. PU-07-600

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**AFFIDAVIT OF BRENT HORTON**

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STATE OF NORTH DAKOTA     )  
  )§  
COUNTY OF WARD             )

The undersigned, being first duly sworn under oath declares and states as follows:

1. That my name is Brent Horton and my business address is Enbridge Pipelines (North Dakota) LLC (“Enbridge”), 2625 Railway Avenue, Minot, North Dakota 58703.
2. That I am the project manager for Enbridge’s construction of a 65 mile, eight-inch crude oil pipeline in Williams and McKenzie Counties, North Dakota.
3. Enbridge proposes to reroute the proposed eight-inch outside diameter pipeline from its present location as identified in the map attached as Exhibit A to the verified Consolidated Letter of Intent and Application (the “Application”) in this matter to go outside of the schoolyard of the Garden Valley Elementary School. Enbridge proposes to relocate a segment of the existing eight-inch pipeline which currently crosses through

the Garden Valley Elementary School ground 350 feet north of the school, outside of the school yard.

4. As set forth in the Application, the proposed reroute will not cross any exclusion areas and the only avoidance area that will be encountered is the schoolyard itself. The pipeline is proposed to be placed adjacent to the new ten-inch pipeline being constructed and the area has been thoroughly studied for cultural resources and has been approved by the North Dakota State Historic Preservation Office.
5. That if the Commission issues an order approving Enbridge's Application, Enbridge understands and agrees that:
  - (a) a preconstruction conference shall be held prior to commencement of any construction, and shall include an Enbridge representative and Commission staff, to ensure that Enbridge fully understands the conditions set forth in said Order;
  - (b) it shall obtain approval from the Commission or the Commission Staff prior to any changes in the pipeline route;
  - (c) it will comply with 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 construction of any of the proposed facilities;
  - (d) it will construct and operate the pipeline in the manner described in the applications filed with the Commission and in accordance with all applicable safety requirements;

- (e) the pipeline will 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 lands, 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines;
- (f) the width of any clear cuts through wooded areas and shelter belts shall be kept at a maximum of 50 feet where possible;
- (g) it shall promptly report to the Commission the presence in the permit area of any critical habitat of threatened or endangered species, or of bald or golden eagles that Enbridge becomes aware of and that were not previously reported to the Commission;
- (h) all cultural resources mitigation plans will 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 the construction of the facility, earth disturbing activities in the immediate vicinity of the discovery will be halted. The resource will 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 will be filed with the SHPO and the Commission. Clearance to proceed will be obtained by the SHPO and the Commission;
- (i) At least 12 inches of topsoil, where available, will be stripped and segregated from subsoil. Any area on which excavated subsoil will be placed must first be striped of

topsoil. After backfilling with subsoil, any excess subsoil will be placed over the excavation area, blending the grade into existing topography;

- (j) construction through any wetlands is not to occur until after July 15 as to not disturb waterfowl or other wildlife during the nesting season;
- (k) subsoil at any wetlands crossings shall be compacted sufficiently to prevent bottom seepage as recommended by the United States Fish and Wildlife Service;
- (l) all crossings of graded roads shall be bored with the exception of those road crossings exempt or waived by the appropriate road authority; all pre-existing roads and lanes used during construction shall be restored to a condition that will accommodate their previous use, and all areas used as temporary roads during construction shall be restored to their original condition;
- (m) construction shall be suspended during periods when weather conditions are such that construction activities would cause irreparable damage, unless adequate measures are approved by the Commission;
- (n) any reclamation required shall be continuous and coordinated with ongoing construction and performed by a reclamation crew;
- (o) Reclamation, fertilization and reseeding must be done by Enbridge according to the Natural Resource Conservation Service unless otherwise specified by the landowner and approved by the Commission;
- (p) its obligations for reclamation under said Order shall continue throughout the life of the proposed facilities;

- (q) it will provide the Commission with a copy of the design specifications for the reroute;
- (r) the authorizations granted by the Commission are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment;
- (s) Trees or other woody vegetation will be replaced with saplings that are two or more years old at a rate of two for every one removed. Landowners will be given the option of having replacement trees/shrubs planted off the right-of-way on the landowner's property or waiving that requirement in writing and allowing Enbridge to plant the replacement trees/shrubs elsewhere. All effected trees and shrubs will be quantified before construction activity. Enbridge will record, and file with the Commission, the number and variety of replacement tree and shrub plantings, the specific planting area(s) and the dates of the plantings. It will inspect tree replacements once a year for three years, on the anniversary of the plantings, and send a report on or shortly before October 1 of each year to the Commission documenting work completion and condition of woodlands planting. The Commission may order additional plantings if survival rates are less than 75%. Enbridge will comply with the May 22, 2007, Tree and Shrub Mitigation Specification approved by the Commission in its First Amended Order dated August 22, 2007 in Case No. PU-06-330;
- (t) Enbridge will repair or replace any fences or gates removed or damaged during all phases of construction and operation of the pipeline; and

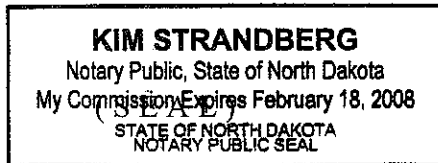
(u) Enbridge's obligation for reclamation and maintenance of the pipeline will continue throughout the life of the pipeline.


6. That the undersigned, on behalf of Enbridge, commits Enbridge to full compliance with the foregoing.

Dated this 17 day of September, 2007.

  
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BRENT HORTON

Subscribed and sworn to before me this 17 day of September, 2007.



  
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Notary Public  
Ward County, North Dakota  
My Commission Expires: February 18, 2008