

Late Filed Exhibit #2

ENBRIDGE PIPELINES (NORTH DAKOTA) LLC
PERMIT LIST FOR
BERTHOLD STATION UPGRADES
PSC CASE NO. PU-10-130

Permit	Status of Permit
1. North Dakota Department of Health – Construction Storm Water Permit and Storm Water Pollution Prevention Plan	Permit to be submitted July 23, 2010, anticipated issuance date – August 2, 2010
2. State Water Commission – Hydrostatic Test Water Appropriation Permit	Permit to be submitted September 15, 2010, anticipated issuance date – October 15, 2010
3. State Water Commission – Drain Permit	Submitted June 8, 2010, anticipated issuance date – August 9, 2010
4. Department of Health - Hydrostatic Test Water Discharge Permit	To be submitted September 15, 2010, anticipated issuance date – October 15, 2010
5. Department of Health – Air Permit	Department of Health determined that no additional air permit needed for upgrades to Berthold Station
6. U.S. Army Corps of Engineers Nationwide Permit No. 3 (wetlands)	Submitted July 2, 2010, issued July 13, 2010
7. City of Berthold Zoning Approval for new 80 acre site	Conditionally submitted July 13, 2010, anticipated issuance date – August 2, 2010



DEPARTMENT OF THE ARMY
 CORPS OF ENGINEERS, OMAHA DISTRICT
 NORTH DAKOTA REGULATORY OFFICE
 1513 SOUTH 12TH STREET
 BISMARCK ND 58504-6640
 July 12, 2010

COPY

North Dakota Regulatory Office

[NWO-2009-2882-BIS]

Enbridge Pipelines (North Dakota) LLC
 ATTN: Mr. Paul Meneghini
 1320 Grand Avenue
 Superior, Wisconsin 54880

Dear Mr. Meneghini:

Project Authorization. We have reviewed your July 1, 2010, request, on behalf of Enbridge Pipelines, for Department of the Army (DA) authorization for the expansion and upgrading of its existing Berthold Station by constructing approximately 600 feet of 4-inch pipeline and approximately 1,800 feet of new 10-inch piping and other appurtenances. Enbridge also plans to improve 296th street to accommodate a new truck unloading facility. The project will impact 0.32 acres of wetlands located on the site. We have prepared a preliminary jurisdictional determination (JD) for the sites which is a written indication that the waterways within the project area may be a jurisdictional Waters of the United States. Such waters have been treated as jurisdictional Waters of the U.S. for purposes of computation of impacts and compensatory mitigation requirements. If you concur with the findings of the enclosed preliminary JD, please sign it and return it to the letterhead address.

If you believe the preliminary JD is inaccurate, you may request this office complete an approved JD prior to your commencement of any work in a Water of the U.S. An approved JD is an official determination regarding the presence or absence of Waters of the U.S. Completion of an approved JD may require coordination with the U.S. Environmental Protection Agency.

If you do not want the Corps to complete an approved JD, you may proceed with the proposed project in accordance with the terms and conditions of Department of the Army Nationwide Permit No. 14, found in the March 12, 2007 Federal Register (72 FR 11092), Reissuance of Nationwide Permits. Enclosed is a fact sheet that fully describes this Nationwide Permit and lists the General Conditions and the Section 401 Water Quality Certification Requirements, if applicable, that must be followed for this authorization to remain valid. **Please note, any deviations from the original plans and specifications of your project could require additional authorization from this office.**

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to march 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant NWP is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this NWP.

1. **Project Location.** The legal description at the project site is Section 20 and 21, Township 156 North Range 86 West, Ward County, North Dakota.

2. **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, state, tribal, and local approvals before beginning work.

5. **Responsibility.** The permittee 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.**

Final Mitigation Plan

7. The permittee shall create not less than 0.32 acres of wetlands on-site per the plan submitted by the applicant and conduct monitoring on the mitigation area. The mitigation plan submitted by the applicant is hereby approved and implementation of the plan is required prior to or concurrent with the authorized construction. Attached are the conditions for mitigation and subsequent monitoring.

8. ***Your responsibility to complete the required compensatory mitigation as set forth in Special Condition 6 will not be considered fulfilled until you have demonstrated compensatory mitigation project success and have received written verification of that success from the U.S. Army Corps of Engineers.***

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.

9. **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>

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

10. Points-of-Contact. If you have any questions concerning this determination, please contact **Patsy Crooke** of this office by letter or telephone at 701-255-0015 and reference Authorization Number **NWO-2009-2882-BIS**.

Sincerely

Daniel E. Cimarosti
Regulatory Program Manager
North Dakota

Enclosure

CC: Ms. Angela Ronayne
Merjent
615 1st Ave NE, Suite 425
Minneapolis, MN 55413

Special Condition 6 (con't)

Final Mitigation Plan
(As provided by the applicant)

The compensatory plan will be on-site and in-kind and is proposed to total not less than .32 acres of enhanced wetlands, as proposed by the applicant. The mitigation area will be expanded by excavating adjacent uplands to create new wetland area. This will result in similar functionality to those wetland areas that would be filled by the construction of the expanded pumping station facilities.

To determine seasonal high waters of the area, the proper grades for the wetland enhancement area and corresponding core and transitional wetland zones, a survey of adjacent wetland grades and soil profiles in the proposed wetland enhancement area will be conducted. Using this information, mitigation excavation depths and final grades in the proposed mitigation can be determined. Some field adjustments may occur as necessary.

To ensure mitigation success, all available topsoil, to a minimum depth of eight (8) to ten (10) inches, from the impacted wetland will be stripped and spread on the proposed mitigation area allowing the new wetland area to passively revegetate (it may not be necessary to seed the mitigation area). This will require sub-excavation to a depth below final proposed wetland grades to allow for replacement of topsoil to final grade, which will match that of the bottom elevation of Wetland #1. The outer slopes of the wetland created area and subsequent zones will be gentle with no more than a 4:1 grade (preferably 10:1 grade) that will allow for a transitional wetland fringe along the creation area.

The wetland mitigation area will be maintained and monitored for a period of five (5) years. If the compensatory mitigation has met its performance standards in less than five years, the monitoring period length can be reduced, if there are at least two consecutive monitoring reports that demonstrate that success. The site will be released from further monitoring when the Corps has determined that the criteria has been met and the mitigation area has the functionality of adjacent undisturbed wetland areas. The final wetland area would meet all the requirements and characteristics of jurisdictional waters and meet the vegetation requirements set within the Corps 1987 Manual and regional supplement. Monitoring reports shall be submitted to the ND Regulatory Office not later than November 30 following each growing season, for a period of 5 years or until the Corps of Engineers, NDRO determines that the mitigation project is acceptable.

Following mitigation construction, the creation area would be documented with as-built engineered drawings provided as part of the construction completion report (Permit Compliance Certification) to the Corps.

The monitoring reports shall, at a minimum, conform to the criteria outlined in the Corps of Engineers, Regulatory Guidance Letter No. 08-03, October 10, 2008, Minimum Monitoring Requirements for Compensatory Mitigation Projects Involving the Restoration, Establishment, and/or Enhancement of Aquatic Resources, beginning on page 2. (Copy attached).