

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NORTH DAKOTA

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**PUBLIC SERVICE COMMISSION**

ENBRIDGE PIPELINES (NORTH  
DAKOTA) LLC  
BERTHOLD STATION UPGRADES -  
WARD COUNTY  
SITING APPLICATION

CASE NO. PU-10-130

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**ORDER GRANTING  
CORRIDOR CERTIFICATE AND ROUTE PERMIT  
AUGUST \_\_, 2010**

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Appearances: Commissioners Kevin Cramer, Tony Clark and Brian P. Kalk.

Brian R. Bjella, Attorney-at-Law, 400 East Broadway, Suite 600, Bismarck, North Dakota 58501, on behalf of Enbridge Pipelines (North Dakota), LLC.

Annette Bendish, Legal Counsel, Public Service Commission, State Capitol, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Patrick Fahn, Director-Compliance and Competitive Markets Division, Public Service Commission, State Capitol, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Allen C. Hoberg, Office of Administrative Hearings, 1701 North Ninth Street, Bismarck, North Dakota 58501-1882, as Administrative Law Judge.

**PRELIMINARY STATEMENT**

On April 23, 2010, Enbridge Pipelines (North Dakota) LLC (“Enbridge”) filed with the Public Service Commission (“Commission”) a Letter of Intent regarding proposed station upgrades at its existing Berthold pump station near Berthold in Ward County, North Dakota.

On April 28, 2010, the Commission acknowledged the Letter of Intent and shortened the one-year waiting period between the filing of the Letter of Intent and the Application to seven days, and assessed a filing fee of \$44,500.00.

On May 7, 2010, Enbridge filed its Application for a Certificate of Corridor Compatibility and Route Permit for the proposed upgrades at Berthold Station.

On May 18, 2010, the Commission deemed the Application complete and issued a Notice of Filing and Notice of Hearing scheduling a hearing for July 16, 2010, at 10:00 a.m. CDT, at the Berthold School, 401 Fourth Avenue NE, Berthold, North Dakota, 58718. Issues to be considered are:

1. Will the location, construction and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

The hearing was held as scheduled. 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 operates what was originally known as Portal Pipe Line (“Portal”) constructed in the 1960s. The original pipeline ran from oilfields north of Minot to Grand Forks and on into Clearbrook, Minnesota. Substantial pipelines, additions, and upgrades were made both by Portal and by Enbridge after it acquired Portal in 1996. This resulted in capacity increases to the system, which in 2005 was 80,000 barrels per day and now is at 161,500 barrels per day.
2. The purpose of the Berthold Station Upgrade Project is to accommodate shipper demand for mainline receiving and storage capabilities at Berthold Station due to increasing volumes of oil produced in the Williston Basin of North Dakota and Montana. The proposed upgrades will enable Enbridge to timely receive oil deliveries at the Berthold Station and increase injection capacity to deliver an incremental 15,000 barrels per day of crude petroleum into its main line system. The Berthold Station Upgrade Project is the

first step in Enbridge's multi-step response to demand by oil shippers to increase capacity to handle the production of oil from the Bakken Formation.

3. The upgrades will involve construction of approximately 700 feet of 4-inch station piping, approximately 600 feet of 6-inch station piping, and approximately 2000 feet of new 10-inch station piping. Also included is the installation of two refurbished pumping units, metering facilities and related appurtenances. Enbridge will also reactivate an existing 80,000 barrel tank for receipt of new supply volumes.
4. Enbridge will acquire approximately 80 acres of land located directly east of the existing station site to accommodate a new truck unloading facility. This will enable Enbridge to receive new supply volumes of oil from a shipper owned and operated truck unloading facility that will be located on land leased from Enbridge.
5. The 4-inch pipe to be installed will be steel, with a 0.337-inch wall thickness; the 6-inch pipe will be steel with a 0.28 inch wall thickness; and the 10-inch station pipe will be steel, with a 0.365 inch wall thickness. The maximum design flow rate for the 4-inch and 10-inch station piping is 3600 barrels per hour. Enbridge has designed the facilities to align with the maximum flow rate of the 8 proposed shipper pumping units at the truck unloading facility. Each pumping unit has a maximum design rate of 450 barrels per hour.
6. Other equipment to be installed includes: two refurbished injection pumping units, each with 125 HP motors; installation of a new booster pump with 50 HP motor; installation of two 200 HP variable frequency drives (VFDs); installation of a new injection pump header; installation of a new metering facility, including all necessary valves and

appurtenances; installation of other necessary interconnecting station piping; Supervisory Control and Data Acquisition (SCADA) upgrades; civil work, including foundations, secondary containment, as necessary, and site grading; electrical upgrades, including one new 12.47 KV/480 V transformer.

7. The existing 80,000 barrel tank will be repaired and painted, along with soil work, including foundation grading, increasing spill containment capacity, and repairing the tank dike area clay liner.
8. The reactivated 80,000 barrel tank and all new facilities will be field pressure tested as required by federal pipeline safety regulations and industry codes.
9. The facilities will be constructed pursuant to U.S. Department of Transportation's pipeline standards as published in Parts 194 and 195 of Title 49 of the Federal Code of Regulations. These regulations are intended to ensure adequate protection of the public and prevent accidents and failures. Part 195 addresses petroleum pipeline safety issues specifying material selection and qualification, minimal design requirements, and protection from internal, external and atmospheric corrosion. Part 194 prescribes emergency planning to prepare for prompt shut down, containment and site clean up to minimize the effects of a pipeline release should one occur.
10. Enbridge has a pipeline control center located in Estavan, Saskatchewan. The control center is manned by pipeline operators 24 hours a day. A computerized pipeline control system allows these operators to remotely monitor and control the pipeline and related facilities. The control center also serves as an emergency center to receive calls from employees, the public, or public officials reporting unusual conditions or pipeline

failures. The computer system allows for emergency shut down and isolation of the pipeline, and notification procedures in the event of a possible emergency.

11. Enbridge has established a program to educate excavators and the public about the presence of the pipeline and preventing damage to the pipeline from excavating equipment. Enbridge is a member of the North Dakota one-call system.
12. The pipeline is protected from corrosion by several methods. The pipe is covered with protective coating and in addition all buried or submerged metallic structures are under a cathodic protection system as required by federal pipeline safety regulations.
13. Enbridge conducts routine inspections of the pipeline and its facilities to ensure that the system is operating properly in compliance with 49 CFR Part 195. Each calendar year (not to exceed a 15-month interval), the cathodic protection system is monitored for effectiveness. The pipeline route, including pump stations and related facilities is patrolled by air at least 26 times per year to inspect the surface conditions of the land adjacent to the pipeline rights-of-way. Enbridge periodically inspects the transmission segments of its pipeline system in accordance with the integrity management standards under 49 CFR Part 195. These inspections are conducted with the use of an electronic inspection tool called an instrument pig. In addition, pipeline inspectors from the U.S. Department of Transportation's Pipeline and Hazardous Material Safety Administration inspect Enbridge's compliance with applicable government regulations.
14. Enbridge has prepared an emergency response program in compliance with the U.S. Department of Transportation's rules under 49 CFR Part 194. Enbridge's emergency

response plan has been submitted to and approved by the U.S. Department of Transportation.

15. Enbridge has been in contact with representatives from the City of Berthold, Berthold Township, and Ward County to discuss with them any concerns they may have regarding the proposed expansion at Berthold station.
16. Representatives from the City of Berthold, Berthold Township, and Ward County testified at the hearing. The primary concern expressed by these representatives was highway safety with respect to trucks hauling oil to and departing from the Berthold Station by accessing the station off of U.S. Highway 2.
17. Prior to the hearing and subsequent thereto, Enbridge consulted with the North Dakota Department of Transportation (“ND-DOT”) regarding the safety issues expressed by the representatives of the City of Berthold, Berthold Township and Ward County. As a result of these conversations, Enbridge will cooperate in implementation of certain traffic safety measures at and around its Berthold’s Station, as reasonably recommended by ND-DOT, such traffic safety measures may include some or all of the following:
  - a. Reduce the speed in the vicinity of the intersection of U.S. Highway 2 and 296<sup>th</sup> Street from 70 mph to 55 mph; and/or
  - b. Install additional highway signage in the vicinity of the intersection of U.S. Highway 2 and 296<sup>th</sup> Street to alert the driving public of trucks entering and exiting Berthold Station; and/or
  - c. Construct a right-hand turn lane for eastbound traffic on U.S. Highway 2 at the intersection of U.S. Highway 2 and 296<sup>th</sup> Street; and/or

- d. Construct a merge lane for trucks turning westbound onto U.S. Highway 2 from the intersection of U.S. Highway 2 and 296<sup>th</sup> Street.

Enbridge has agreed to pay for the construction of the right hand turn lane at the intersection of U.S. Highway 2 and 296<sup>th</sup> Street, and Enbridge will contribute additional funds to implement additional safety measures as reasonably suggested by ND-DOT and as directly related to Enbridge's expansion of the Berthold Station as proposed in its application.

18. The economic benefits to be derived from the facility include: increased property tax revenue to Ward County; provide shippers a new facility for unloading and transporting Bakken oil produced in the Williston Basin of North Dakota in order that new wells can continue to be drilled resulting in tax revenues to the State of North Dakota from the various oil and gas production taxes.
19. The upgrades will enable Enbridge to timely receive oil volumes at the Berthold Station, and increase the injection capacity to deliver an incremental 15,000 barrels per day of crude petroleum into the main line system.
20. Enbridge was informed by Ward County officials that the City of Berthold has extraterritorial zoning authority over the 80 acres which Enbridge intends to purchase and add to the station. Enbridge has voluntarily submitted a zoning map amendment application to the City of Berthold.
21. Enbridge plans to commence construction by mid-August 2010. The estimated construction completion date is on or before October 31, 2010, with an estimated in-service date of November 1, 2010. The estimated cost for construction of the upgrades at

the Berthold Station is \$8.9 million.

22. Enbridge will construct the Berthold Station in compliance with standards established by the National Electric Safety Code.
23. Enbridge has made other representations and covenants as contained in the Certification Relating to Order Provisions – Pipeline Siting executed by Enbridge and filed with the Commission on July 20, 2010, and which is incorporated into these Findings of Fact.

#### **Siting Criteria**

24. 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 set forth in North Dakota Administrative Code § 69-06-08-02 is classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria. A transmission route must not be sited within an exclusion area. A transmission facility route must be not sited within an avoidance area unless the applicant shows under the circumstances there are no reasonable alternatives. In determining whether an avoidance area should be designed 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 Selection 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.

25. Enbridge retained Merjent, Inc. of Minneapolis, Minnesota, to coordinate environmental studies and reports. Merjent, Inc. retained Metcalf Archeological Consultants to conduct a Class I Literature Review for the existing 26 acre and 80 acre sites, as well as a Class III Archeological Survey for both sites. Barr Engineering Company was retained to complete a wetland delineation and rare plant survey of the existing 26 acre site. Merjent, Inc. completed a desktop review of the new 80 acre site, and a wetland delineation of the 80 acre site.
26. Enbridge contacted the following state and federal agencies: North Dakota State Historical Society, North Dakota Game and Fish Department, U.S. Fish and Wildlife Service, and the U.S. Army Corps of Engineers. None of these agencies have objected to this project.
27. The Corps of Engineers has issued a permit to Enbridge for construction within wetlands located in the 26 acre and 80 acre sites. Wetland mitigation will take place within the project sites.
28. No exclusion areas were identified.
29. No avoidance areas were identified.
30. A Class I literature search and the Class III archeological surveys were completed for the existing 26 acre site and the new 80 acre site and did not identify any previously recorded cultural resources or reveal any historical properties known to be affected by the proposed expansion project. The report was submitted to the State Historic Preservation Officer, who responded on April 12, 2010, with project concurrence stating that “no historic property is affected” and “no significant site is affected.”

31. According to the response of the North Dakota Game and Fish Department dated February 2, 2010, the project will not result in significant adverse impacts on wildlife or wildlife habitat, including endangered species.
32. Approximately 13.5 acres of agricultural land will be converted to industrial land or temporarily disturbed by project construction.
33. There will be no significant long-term irreversible effects to the environment or to cultural resources by construction of the project.
34. The project will have no significant impact on fish and wildlife resources and no endangered or threatened animal species are known to occupy the proposed route.
35. The Commission finds the location, construction and operation of the project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
36. The Commission finds the proposed project compatible with environmental preservation and the efficient use of resources.
37. The Commission finds that the proposed project minimizes adverse human and environmental impact while ensuring continuing system reliability and integrity, and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.
38. The Commission finds the proposed project is of such length, design, location and purpose that it will produce minimal adverse effects, such that procedures and time schedules may be waived.
39. Highway safety within the State of North Dakota is regulated by the North Dakota Department of Transportation.

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

**Conclusions of Law**

1. The Commission has jurisdiction over the applicant, Enbridge Pipelines (North Dakota) LLC (“Enbridge”), and over the subject matter of this application under North Dakota Century Code Chapter 49-22.
2. Enbridge is a utility as defined in North Dakota Century Code Section 49-22-03(13).
3. The proposed pipeline is a transmission facility as defined in North Dakota Century Code Section 49-22-03(12).
4. The location, construction, and operation of the pipeline will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The location, construction and operation of the pipeline are compatible with environmental preservation and the efficient use of resources.
6. The pipeline will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.
7. The 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.
8. It is appropriate for the Commission to waive those certain procedures and time schedules as requested in the Application and provided under North Dakota Century Code Section 49-22-07.2.

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

## Order

The Commission orders:

1. Enbridge's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility Number \_\_\_ is issued to Enbridge, designating a corridor for its proposed pipeline project.
3. Route Permit Number \_\_\_ is issued to Enbridge, granting authority to construct and operate the upgrades to its Berthold Station located in Ward County, North Dakota.
4. The Certificate of Corridor compatibility Number \_\_\_ and Route Permit Number \_\_\_ 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 must obtain approval from the Commission or Commission staff prior to any material changes in the Berthold Station upgrades.
6. Enbridge shall comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed pipeline, shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission.
7. The safety measures recommended by the Department of Transportation shall be implemented.
8. Enbridge shall conduct a preconstruction conference prior to the commencement of construction, which must include an Enbridge representative, its construction supervisor, and a representative of Commission staff to ensure that Enbridge fully understands the conditions set forth in the Commission's order.

9. Enbridge shall inform the Commission of its intent to start construction on the pipeline prior to the commencement of construction, report to the Commission on the date construction has started, and once construction has started, it shall keep the Commission updated on construction activities on a weekly basis.
10. Enbridge shall construct and operate the pipeline in the manner described in its application, in any late filed exhibits and supplemental materials, and in accordance with all applicable federal pipeline safety requirements.
11. The pipeline shall 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.
12. All crossings of graded roads shall be bored unless the responsible governing agency specifically permits Enbridge to open cut the road.
13. The width of clear cuts through any wooded areas and shelterbelts shall be kept at a maximum of 50 feet where possible.
14. Enbridge shall promptly report to the Commission the presence in the permit area of any critical habitat of threatened species, endangered species, bald eagles, or golden eagles that Enbridge becomes aware of and which 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 and approved prior to the start of any fieldwork and any further construction activity.
17. If any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made by the State Historical Society, a report of such examination is filed with the Commission, and clearance to proceed is given by the SHPO and Commission.
18. Where available, 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 the topsoil. 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 be replaced over areas from which it was stripped only after the subsoil is replaced.
19. Reclamation and clean up along the right-of-way must be continuous and coordinated with construction.
20. All pre-existing roads and lanes used during any further construction must be restored to a condition that will accommodate their previous use, and areas used as temporary roads or working areas during construction must be restored to their original condition.

21. Reclamation, fertilization, and reseeded are to be done by Enbridge according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
22. Enbridge shall comply with the Tree and Mitigation Specifications attached to this order.
23. Enbridge shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the route of the pipeline.
24. Enbridge shall provide the Commission with a hard copy of the facility alignment drawings and alignment data showing the facility as built (hardcopy and electronic versions), and an electronic version of the as-built facility that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction.
25. Enbridge's obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the pipeline.
26. The authorizations granted by the corridor certificate and route permit are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

PUBLIC SERVICE COMMISSION

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Tony Clark, Commissioner

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Kevin Cramer, President

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Brian Kalk, Commissioner