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From: DeSaye, Cara G.
Sent: Monday, August 09, 2010 3:55 PM
Subject: Case No. PU-10-130 Findings of Fact, Conclusions of Law, and Order
Attachments: 038-010.pdf

Attached for your information is the Findings of Fact, Conclusions of Law, and Order in:

Case No. PU-10-130
Enbridge Pipelines (North Dakota) LLC
Berthold Station Upgrades
Siting Application

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Email forwarding Findings of Fact, Conclusions of
Law and Order

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Enbridge Pipelines (North Dakota) LLC
Berthold Station Upgrades
Siting Application**

Case No. PU-10-130

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

August 4, 2010

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.

On August 2, 2010, the Commission received a letter from the North Dakota Department of Transportation concerning traffic safety concerns that will result from an increase in truck traffic in and around the Berthold Station as a result of the proposed project. The North Dakota Department of Transportation letter addressed the implementation of traffic safety measures.

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, unless otherwise specified by this order. 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 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.

11. 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.

12. 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 Station.

13. 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.

14. 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.

15. 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.

16. 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.

17. Enbridge will construct the Berthold Station in compliance with standards established by the National Electric Safety Code.

18. 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 this Order.

Siting Criteria

19. 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.

20. Enbridge retained Merjent, Inc. of Minneapolis, Minnesota, to coordinate environmental studies and reports.

21. 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.

22. No exclusion areas were identified.

23. No avoidance areas were identified.

24. Approximately 13.5 acres of agricultural land will be converted to industrial land or temporarily disturbed by project construction.

Cultural Resources

25. Metcalf Archeological Consultants was retained 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.

26. 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."

Wetlands and Wildlife

27. 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.

28. 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.

29. 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.

30. 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.

Future Mitigative Measures

31. 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.

32. 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.

33. 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.

34. 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.

35. 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.

Other

36. There will be no significant long-term irreversible effects to the environment or to cultural resources by construction of the project.

37. 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.

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

39. 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.

40. 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.

41. 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 Pipelines (North Dakota) LLC's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility Number 114 is issued to Enbridge Pipelines (North Dakota) LLC, designating a corridor for its proposed pipeline project conditioned on compliance with local land use, zoning, and building rules, regulations and ordinances.

3. Route Permit Number 124 is issued to Enbridge Pipelines (North Dakota) LLC, granting authority to construct and operate the upgrades to its Berthold Station located in Ward County, North Dakota, conditioned on compliance with local land use, zoning, and building rules, regulations and ordinances.
4. The Certificate of Corridor compatibility Number 114 and Route Permit Number 124 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 North Dakota 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 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. 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 reseeding 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. All electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
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

 _____ Tony Clark Commissioner	 _____ Kevin Cramer Chairman	 _____ Brian P. Kalk Commissioner
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**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Certificate of Corridor Compatibility

Certificate Number 114

This is to certify that the Commission has designated a transmission facility corridor for Enbridge Pipelines (North Dakota) LLC, station expansion and upgrades at its existing Berthold pump station in Ward County, North Dakota.

This certificate is issued in accordance with the Order of this Commission dated August 4, 2010 in Case No. PU-10-130 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, August 4, 2010.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

STATE OF NORTH DAKOTA

Route Permit

Certificate Number 124

This is to certify that the Commission has designated a transmission facility route for Enbridge Pipelines (North Dakota) LLC, station expansion and upgrades at its existing Berthold pump station in Ward County, North Dakota.

This certificate is issued in accordance with the Order of this Commission dated August 4, 2010 in Case No. PU-10-130 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, August 4, 2010.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

CROWLEY FLECK, LLP

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July 19, 2010

RECEIVED

JUL 20 2010

PUBLIC SERVICE COMMISSION

Mr. Darrell Nitschke
Executive Director
North Dakota Public
Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

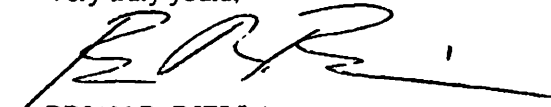
Dear Mr. Nitschke:

In re: Enbridge Pipelines (North Dakota) LLC
Berthold Station Upgrades - Ward County
Siting Application
Case No. PU-10-130
Our File No. 31-411-002

Enclosed for filing are the original and ten copies of Enbridge Pipelines (North Dakota) LLC's Certification Relating to Order Provisions-Pipeline Siting.

Please call should you have any questions.

Very truly yours,



BRIAN R. BJELLA

bw
Enc.

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Certification relating to Order provisions

BILLINGS BISMARCK BOZEMAN HELENA KATISPELL

Enbridge Pipelines (North Dakota) LLC
Brian Bjella, Crowley Fleck

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Enbridge Pipelines (North Dakota) LLC
Berthold Station Upgrades
Siting Application**

Case No. PU-10-130

**CERTIFICATION RELATING TO ORDER PROVISIONS -
PIPELINE SITING**

I am Richard Adams, a representative of Enbridge Pipelines (North Dakota) LLC (Enbridge) with authority to bind Enbridge to requirements to be set forth by the Commission in its Order and I certify the following:

1. Enbridge agrees to hold a preconstruction conference prior to commencement of any construction, which must include a 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.
2. Enbridge agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed pipeline, will obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction of the pipeline.
3. Enbridge agrees to inform the Commission of its intent to start construction on the pipeline prior to the commencement of construction, and once construction has started, it will keep the Commission updated on construction activities on a weekly basis.
4. Enbridge agrees that 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 land, 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines.
5. Enbridge agrees to 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 safety requirements.
6. Enbridge agrees to 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 of which Enbridge becomes aware and which were not previously reported to the Commission.

7. Enbridge understands that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office for approval prior to the start of any fieldwork or construction activity.
8. Enbridge understands and agrees that 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 and a report of such examination is filed with the Commission and the State Historical Society and clearance to proceed is given by the Commission.
9. Enbridge understands and agrees that all crossings of graded roads must be bored unless the responsible governing agency specifically permits Enbridge to open cut the road.
10. Enbridge understands and agrees that 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 or working areas during construction must be restored to their original condition.
11. Enbridge understands and agrees that 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.
12. Enbridge understands and agrees that all topsoil, up to 12 inches, 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 subsoil. Except along segments of the line using the double ditching method, 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.
13. Enbridge understands and agrees that reclamation and clean up along the right- way must be continuous and coordinated with construction.
14. Enbridge understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
15. Enbridge understands and agrees that its obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the pipeline.

16. Attached is a document entitled Tree and Shrub Mitigation Specifications. Enbridge agrees to comply with the Tree and Shrub Mitigation Specifications from this attachment that the Commission requires in its Order.
17. Enbridge agrees to work with landowners and residents to mitigate any increase in television and residential radio interference that results from the route of the pipeline.
18. Enbridge understands and agrees that it must obtain approval from the Commission prior to any changes in the facility route or structure locations.
19. Enbridge agrees to provide the Commission, within 3 months of the Commission's order approving a corridor, a map of the corridor as approved (in both paper and electronic form) and an electronic version of the corridor as approved that can be imported into ESRI GIS mapping software.
20. Enbridge agrees to provide the Commission, within 3 months of the completion of the construction, a copy of the facility alignment drawings with alignment data showing the facility as built (in both paper and electronic form) and an electronic version of the as-built facility that can be imported into ESRI GIS mapping software.
21. Enbridge understands and agrees that 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.

Dated this 13 day of July, 2010.

Enbridge Pipelines (North Dakota) LLC

By 

Its VP OPERATIONS

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Enbridge Pipelines (North Dakota) LLC
Berthold Station Upgrades
Siting Application**

Case No. PU-10-130

Tree and Shrub Mitigation Specifications

Inventory

1. Trees and shrubs anticipated to be cleared, including those that are considered invasive species or noxious weeds (*e.g.*, *Caragana arborescens*, *Elaeagnus angustifolia*, *Rhamnus cathartica*, *Tamarix chinensis*, *T. parviflora*, *T. ramosissima*, *Ulmus pumila*), must be inventoried before cutting. The inventory shall record the location, number, and species of trees and shrubs.
2. In windbreaks, shelterbelts and other planted areas, trees or shrubs anticipated to be cleared, regardless of size, must be inventoried for replacement.
3. In native growth areas, trees anticipated to be cleared that are 1 inch diameter at breast height ("dbh") or greater shall be inventoried for replacement.
4. In native growth areas, shrubs anticipated to be cleared in the permanent right-of-way must be inventoried for replacement.
5. In native growth areas outside the permanent right-of-way, shrubs must be cut flush with the surface of the ground, taking care to leave the naturally occurring seed bank and root stock intact. If soil disturbance is necessary, the native topsoil must be preserved and replaced after construction. Shrubs must be allowed to regenerate naturally where native topsoil is preserved and replaced. Where native topsoil is not preserved and replaced, shrubs anticipated to be cleared must be inventoried for replacement.

6. In native growth areas, trees and shrubs may be inventoried by actual count or by a sampling method that will properly represent the woody vegetation population. A sampling plan developed by the company, filed with the North Dakota Public Service Commission (Commission) and approved prior to the start of construction must define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots must be extrapolated to the total acreage of the wooded area to be cleared to determine the species and quantity of trees and shrubs to be replaced.

Clearing for Construction

7. Trees and shrubs must be selectively cleared, leaving mature trees and shrubs intact where practical.
8. The maximum width of clear cuts through windbreaks, shelterbelts and all other wooded areas is 50 feet, unless otherwise approved by the Commission.
9. If the area of trees or shrubs actually cleared differs from the area inventoried, the difference in number of trees and shrubs to be replaced must be noted on the inventory.

Replacement

10. Prior to tree and shrub replacement, documentation identifying the number and variety of trees and shrubs removed, as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings, must be filed with the Commission for approval.
11. Two 2-year-old saplings must be planted for every one tree removed. Two shrubs must be planted with stem cuttings for every one shrub removed.
12. Except in the case of invasive or noxious species, trees and shrubs must be replaced by the same species or similar species, suitable for North

Dakota growing conditions as recommended by the North Dakota Forest Service. Invasive or noxious species must be replaced by similar non-invasive or non-noxious species suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.

13. Tree and shrub replacement must not be conducted within a 20 to 30 foot wide path over the pipeline to facilitate visual inspections of the right-of-way in accordance with U.S. Department of Transportation safety regulations.
14. Landowners must be given the option of having replacement trees and shrubs planted on the landowner's property, either on or off the right-of-way. The landowner must also be given the opportunity to waive those options in writing in order to have replacement trees and shrubs planted off the landowner's property.
15. At the conclusion of the project, documentation identifying the actual number, variety, type, location and date of the replacement plantings must be filed with the Commission.
16. Tree and shrub replacements must be inspected annually, in September, for three years. The first annual inspection must be at least one year from the anniversary date of the original plantings. An annual report must be submitted to the Commission by October 1 of each year, documenting the condition of replacement plantings and any woodlands work completed as of September of each year. If after the third annual report the survival rate is less than 75%, the Commission may order additional planting(s).

Dated this 13 day of July, 2010

Enbridge Pipelines (North Dakota) LLC

By 

Its VP OPERATIONS