

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Enbridge Pipelines (North Dakota) LLC
Bakken Pipeline Project US – Ward & Burke Counties
Siting Application**

Case No. PU-10-612

FINDINGS OF FACT, CONCLUSIONS OF LAW and ORDER

May 5, 2011

Appearances

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

Brian Bjella and Wade Mann, Attorneys at Law, Crowley Fleck PLLP, 400 East Broadway, Suite 600, Bismarck, North Dakota 58501, on behalf of Enbridge Pipelines (North Dakota) LLC (“Enbridge”).

Mitchell Armstrong, Special Assistant Attorney General, Legal Counsel for Public Service Commission, 116 North Second Street, Bismarck, North Dakota 58502, 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.

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

Preliminary Statement

Under North Dakota Century Code § 49-22-07, a utility may not begin construction of a transmission facility in the state without first having obtained a certificate of site compatibility. The facility must be constructed, operated and maintained in conformity with the certificate or permit and any terms, conditions or modifications of the certificate or permit.

On November 5, 2010, Enbridge Pipelines (North Dakota) LLC (Enbridge) filed with the Public Service Commission (Commission) an application for a certificate of corridor compatibility and an application for a route permit to authorize construction of a crude oil pipeline and associated facilities (Project) located in Burke and Ward Counties, North Dakota.

Enbridge also filed an application to waive and reduce procedures and time schedules required under North Dakota Century Code chapter 49-22 which require separate filings of applications for a certificate of corridor compatibility and a route permit, require separate notices of such applications, require separate hearings on such applications and require certain time schedules and requested that the applications for a certificate of corridor compatibility and a route permit be consolidated into one application.

On December 8, 2010, the Commission deemed the applications of Enbridge complete and issued a Notice of Filings and Notice of Hearing scheduling a hearing for January 20, 2011, at 10:00 a.m. at the City Hall Auditorium, 5 Third Avenue NE, Kenmare, North Dakota 58746.

The Notice of Hearing identified the following issues to be considered:

1. Will the location, construction and operation of the proposed facilities produce minimal adverse affects 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 impacts while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On January 18, 2011, Enbridge filed with the Commission revised route maps and addendums to the wetland delineation report. On January 20, 2011, Enbridge filed with the Commission its Certification Relating to Order Provisions: Transmission Facility Siting dated January 17, 2011, binding Enbridge to requirements to be set forth by the Commission in its Order.

On January 20, 2011, the public 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 is a Delaware limited liability company with offices located in Minot, North Dakota.
2. Enbridge has been authorized to do business in the State of North Dakota since May 4, 2001, as evidenced by a Certificate of Good Standing issued by the North Dakota Secretary of State on that same date.

Size, Type and Preferred Location of Facility

3. The Project will consist of the replacement of approximately 11 miles of Enbridge's 12-inch diameter Line 26 from milepost 29 to milepost 40 located in Burke County, North Dakota. Additionally, Enbridge will construct two new pump stations at newly acquired sites. One station will be located near the town of Kenaston in Ward County, North Dakota; and the other will be located near the town of Lignite in Burke County, North Dakota. In addition, an originating terminal will be constructed at Enbridge's existing Berthold Station in Ward County, North Dakota.

4. Each of the new pumping stations will consist of two 5,000 HP pump assemblies, variable frequency drives, drag-reducing agent skid, and associated equipment. In addition, each pumping station will have a control building, electrical infrastructure, interconnecting pipe and station valves, as well as a sump system, which includes a sump tank, reinjection pump, and associated instrumentation, piping and valves.

Need for the Facility

5. Enbridge's North Dakota pipeline system operates at full capacity and is subject to apportionment. Enbridge states that production of oil from the Bakken Formation and other oil producing formations within the Williston Basin of North Dakota has greatly increased and is a significant factor in this capacity constraint. This increased production has created an urgent need for additional pipeline capacity to transport the oil to key refining markets outside of North Dakota, as crude oil production in the Williston Basin may be curtailed if there is a lack of adequate transportation facilities. The purpose of the Project is to create additional transportation capacity for crude oil produced primarily from the Bakken and Three Forks Formations in the Williston Basin of North Dakota, by creating additional pipeline capacity on Line 26 from Enbridge's Berthold Station to the Canadian border, where interconnecting pipelines provide access to Enbridge's mainline system in Canada that has adequate capacity to transport oil to key refining markets in the Midwest and beyond.

Study of Preferred Location(s)

6. In its application, Enbridge defined a one-mile wide study area centered on the preferred pipeline route, as well as a one-mile buffer around the Lignite and Kenaston Pump Stations, and the Berthold Pump Station and Terminal. Within the study area, Enbridge identified an approximate 250-foot wide survey corridor centered on the preferred pipeline route to conduct cultural resource field surveys, biological and wetland/waterbody field surveys and environmental assessments. The Project right-of-way (ROW) will generally be 250 feet wide.

7. As Line 26 has been in place since 1964, Enbridge did not consider an alternate location so as to minimize additional environmental and human impacts while maximizing increased capacity potential of existing facilities. However, Enbridge did

consider the alternative of transporting the oil by truck. Enbridge estimated that the 145,800 barrels per day of incremental pipeline capacity to be created by the Project is equal to an average of 729 trucks per day, each carrying 200 barrels of oil. Enbridge's calculations illustrate that the transportation by pipeline is a safe and efficient mode of transporting the increased production while reducing truck traffic volumes on North Dakota's roadways.

8. Enbridge conducted a Class I literature search on the one-mile wide study area, and a Class III cultural resource inventory was completed on the 250-foot wide survey corridor. Additionally, environmental data collected included information on soils, land use, wetlands and water body crossings, and protected species.

9. Enbridge consulted with various governmental agencies, including the State Historical Society of North Dakota; the State Historic Preservation Office; the North Dakota Parks and Recreation Department; the North Dakota Game and Fish Department; the North Dakota Department of Health; and the U.S. Fish and Wildlife Service.

10. The State Historic Preservation Officer has concurred with the determination that no historic properties will be affected by the Project.

11. The North Dakota Department of Health indicated that it believes the environmental impacts from the Project will be minor.

12. The U.S. Fish and Wildlife Service comments focused on threatened and endangered species, migratory birds, bald and golden eagles, wetlands, and high value habitat avoidance. Enbridge will comply with the US FWS recommendations as found in Exhibit F-1 or implement practicable measures to avoid impacts to wildlife. No known or potential piping plover habitat was identified during field surveys.

13. The Commission has established criteria pursuant to North Dakota Century Code § 49-22-05.1, to be used in identifying exclusion and avoidance areas and to guide the site, corridor, and route suitability evaluation and designation process. In addition, inhabited rural residences must be designated avoidance areas. The Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria are set forth in North Dakota Administrative Code § 69-06-08-01.

14. With the exception of prime and unique farmland, a transmission facility must not be sited within an Exclusion Area. The exception for prime and unique farmland under North Dakota Administrative Code § 69-06-08-01(d) is that if the Commission finds that the prime and unique farmland that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural production, then the exclusion shall not apply. No Exclusion Areas were identified along the proposed Project route.

15. A transmission facility must not be sited within an Avoidance Area, unless the applicant shows that under the circumstances there is no reasonable alternative. The one-mile corridor for the Project contained two Avoidance Areas, the first being a parcel of North Dakota State School Trust Land. The proposed pipeline route avoids crossing this parcel. The second Avoidance Area is that the proposed pipeline will pass within 500 feet of a business. A waiver has been obtained from the owner of that business.

16. A wetlands assessment was completed for the Project. A total of 60 wetlands were identified along the route with 58 being isolated depression pothole wetlands. The pipeline route will directly cross 30 of these wetlands. Approximately 14 acres of wetlands will be temporarily impacted during construction. No wetlands will be impacted as a result of construction of the Lignite pump station. An isolated 0.154 acre wetland, that is non-jurisdictional for purposes of United States Army Corps of Engineers (USACE) permitting requirements, will be impacted at the Kenaston pump station. Enbridge will seek a USACE Nationwide Permit authorizing these temporary and non-jurisdictional wetland impacts. With respect to the Berthold Station, approximately 1.5 acres of wetland will be impacted. This impact will be mitigated on site by creating a wetland to offset the impacted acreage. Enbridge will seek authorization for the wetland impact at the Berthold Station through an USACE Individual Permit.

17. The Project may result in short term wildlife habitat removal, due to clearing and construction. Following construction, Enbridge will restore the right-of-way as near to pre-construction conditions as is practicable to mitigate any such impacts. The Project will have no significant impact on fish and wildlife resources and no impacts are anticipated to endangered or threatened sensitive plant or animal species.

18. In accordance with the Commission's Selection Criteria, a transmission facility shall be approved only if it is demonstrated that no significant adverse impact will result from the location, construction and operation of the facility. Enbridge has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria. No significant adverse impact will result from the location, construction and operation of the Project.

19. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility. Enbridge has analyzed the relevant Policy Criteria and is expressly committed to conducting its business in compliance with all applicable environmental laws and regulations; committing to energy conservation through the facility's location, process, and design; committing to training and utilizing available labor in the state, constructing the Project to take advantage of economies of scale, achieving transmission capacity in the most minimally intrusive and most efficient way possible, and coordinating with state and local officials. Enbridge submitted evidence to demonstrate commitment to maximize the benefits of the proposed transmission facility so as to meet the Policy Criteria.

20. It is appropriate to authorize a corridor only for the area on which Enbridge performed the more thorough cultural resource study.

Measures to Minimize Impact

21. Enbridge has agreed to a number of steps to mitigate the impact of the Project as indicated by the January 20, 2011, Certification Relating to Order Provisions-Transmission Facility Siting with accompanying Tree and Shrub Mitigation Specifications, which is attached to this Order.

22. The 250 foot-wide Project ROW will provide room for topsoil separation, work equipment and pipe stringing. This ROW will consist of both a permanent easement and temporary work space that will be utilized only during construction and includes material staging areas and temporary access roads.

23. Enbridge has developed an Environmental Mitigation Plan for the Project, which describes the environmental guidelines and mitigation measures that Enbridge will implement during Project construction and restoration. In addition, Enbridge has developed a Spill Prevention, Containment and Control Plan that describes the planning, prevention and control measures to minimize impacts of any project related spills.

24. The design, construction and operation of the transmission facility will be in accordance with the United States Department of Transportation (USDOT) regulations governing the transportation of crude oil, as prescribed under Parts 194 and 195 of Title 49 of the Code of Federal Regulations.

25. Enbridge has implemented an emergency response program in compliance with standards set by the USDOT Pipeline and Hazardous Materials Safety Administration. Enbridge's emergency response plan has been submitted to and accepted by the USDOT. Under 49 CFR 195.402, Enbridge must prepare and follow a manual of written procedures for establishing and maintaining liaison with fire, police, and other appropriate public officials to learn the responsibility and resources of each government organization that may respond to a hazardous liquid pipeline emergency and acquaint the officials with the operator's ability in responding to a hazardous liquid pipeline emergency and means of communication. Under 49 CFR 195.440, Enbridge must develop and implement a written continuing public education program that must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on the use of a one-call notifications system, possible hazards associated with unintended releases from the pipeline, physical indicators of an unintended release from the hazardous liquids pipeline, steps that should be taken for public safety in the event of a release from the pipeline, and procedures to report a suspected pipeline release. As required under 49 CFR 195.440, Enbridge's public awareness program must also include provisions for advising affected municipalities, school districts, businesses, and residents of pipeline facility locations. Enbridge will implement a public awareness program that complies

with 49 CFR 195.402 and 195.440 to establish and maintain liaison with local emergency response officials.

26. North Dakota Century Code Chapter 49-23, the One-Call Excavation Notice System, sets forth requirements for excavators as well as operators of underground facilities for the avoidance of damage to underground facilities including requirements that excavators contact the one-call notification center and provide an excavation or location notice at least 48 hours before beginning any excavation, and that the excavator notify the operator as soon as reasonably possible if any damage occurs to an underground facility or its protective covering. The Commission believes that Enbridge should notify the Commission, as soon as reasonably possible, of such damage to an underground facility during construction conducted under the certificate or permit issued in this proceeding. A certificate or permit granted under North Dakota Century Code Chapter ND 49-22 is subject to suspension revocation, after hearing, for failure to comply with the requirements of North Dakota Century Code Chapter 49-23.

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

Conclusions of Law

1. The Commission has jurisdiction over Enbridge and over the subject matter of this application under North Dakota Century Code Chapter 49-22.
2. Enbridge is a utility pursuant to North Dakota Century Code § 49-22-03(13) solely for purposes of this Project.
3. The pipeline and associated facilities as proposed by Enbridge is a transmission facility as defined in North Dakota Century Code § 49-22-03(12)(b).
4. The location, construction, and operation of the proposed transmission facility will produce only minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The location, construction, and operation of the proposed transmission facility are compatible with environmental preservation and the efficient use of resources.
6. The proposed transmission facility 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 proposed transmission facility is of such design and location that it will produce minimal adverse effects, as defined under North Dakota Century Code § 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 § 49-22-07.2.

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

Order

The Commission orders:

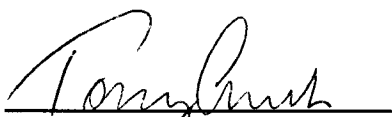
1. Enbridge's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility No. 118 is issued to Enbridge designating a corridor for the construction, operation and maintenance of the proposed transmission facilities. For purposes of the Certificate of Corridor Compatibility, the Corridor consists of a 250 foot-wide area centered on the pipeline route for the length of the route, and the land included within the Kenaston, Lignite and Berthold stations.
3. Route Permit No. 128 is issued to Enbridge granting authority to construct and operate the transmission facilities in Ward and Burke Counties as further described in this Application and at the public hearing of January 20, 2011.
4. The January 17, 2011, Certification Relating to Order Provisions-Transmission Facility Siting is incorporated by reference and attached to this Order.
5. Enbridge shall notify the Commission, as soon as reasonably possible, if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Enbridge shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined and clearance to proceed has been given by the Commission.

6. The corridor certificate and route permit are subject to suspension or revocation and may, after hearing, be suspended or revoked for failure to comply with the Commission's order, requirements of the One-Call Excavation Notice System under North Dakota Century Code Chapter 49-23, the conditions and criteria of the certificate or permit or subsequent modification, or failure to comply with applicable statutes, or rules, regulations, standards, and permits of other state or federal agencies.

PUBLIC SERVICE COMMISSION



**Kevin Cramer
Commissioner**



**Tony Clark
Chairman**



**Brian P. Kalk
Commissioner**



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Enbridge Pipelines (North Dakota) LLC
Bakken Pipeline Project US – Ward & Burke Counties
Siting Application

Case No. PU-10-612

**CERTIFICATION RELATING TO ORDER PROVISIONS - TRANSMISSION FACILITY
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 understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Enbridge shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Enbridge agrees to hold a preconstruction conference prior to commencement of any 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.
3. Enbridge agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.
4. Enbridge agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the transmission facility that requires said license or permit.
5. Enbridge agrees to inform the Commission of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Enbridge shall keep the Commission updated on construction activities on a weekly basis.
6. 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.

7. Enbridge understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
8. Enbridge agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
9. Enbridge agrees to construct and operate the transmission facility in the manner described in Enbridge's application, in any late filed exhibits and supplemental materials, and in accordance with all applicable safety requirements.
10. Enbridge agrees to report promptly to the Commission the presence in the permit area of any critical habitat or threatened species, endangered species, bald eagles, or golden eagles of which Enbridge becomes aware and which were not previously reported to the Commission.
11. Enbridge understands and agrees that 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 construction activity in the affected area.
12. 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.
13. Enbridge understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Enbridge to open cut the road.
14. Enbridge understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the transmission facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.

15. Enbridge understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures approved by the Commission are taken.
16. 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.
17. Enbridge understands and agrees that its obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission facility.
18. 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.
19. Enbridge understands and agrees that its obligation for reclamation and maintenance of the transmission facility, associated facilities, and roadways will continue throughout the life of the transmission facility.
20. Enbridge agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
21. 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 transmission facility.
22. Enbridge agrees that it shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.
23. Enbridge agrees that it shall repair or replace all broken or damaged drainage tile during all phases of construction and operation of the transmission facility.
24. Enbridge understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Enbridge unless otherwise negotiated with landowners.

25. Enbridge agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.
26. Enbridge agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.
27. Enbridge agrees that it shall advise the Commission of any extraordinary events which take place at the site of the transmission facility, including injuries to any person, or the death of any threatened or endangered species on the site within five business days of such event.
28. Enbridge understands and agrees that it shall implement a procedure for how complaints concerning the transmission facility will be handled by Enbridge.
29. Upon request, Enbridge agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
30. Enbridge understands and agrees that it shall inform the Commission in writing of any modifications to the transmission facility or of any plans to modify the site plan for the transmission facility. Enbridge understands and agrees to obtain written approval from the Commission prior to any additions or modifications to the site plan for the transmission facility. Approval may be granted after notice and opportunity for hearing.
31. Enbridge agrees to provide the Commission with both an electronic and a paper copy of the design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within three months of the completion of the construction. Enbridge also agrees to provide an electronic version of the as-built facility design specifications that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This 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.
32. Enbridge understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for the transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.

33. Enbridge agrees that in the event Enbridge desires to construct, within any corridor granted by a Certificate of Corridor Compatibility in this proceeding, a new transmission facility that was not included in Enbridge's application in this proceeding, Enbridge shall apply to the Commission for a Route Permit.

Dated this 17 day of JANUARY, 2011.

COMPANY NAME
ENBRIDGE PIPELINES (NORTH DAKOTA) LLC

By 

Richard Adams

Its V.P., U.S. Operations, LP

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Enbridge Pipelines (North Dakota) LLC
Bakken Pipeline Project US – Ward & Burke Counties
Siting Application**

Case No. PU-10-612

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*), shall 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, shall 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 shall be inventoried for replacement.
5. In native growth areas outside the permanent right-of-way, shrubs shall 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 shall be preserved and replaced after construction. Shrubs shall be allowed to regenerated naturally where native topsoil is preserved and replaced. Where native topsoil is not preserved and replaced, shrubs anticipated to be cleared shall be inventoried for replacement.
6. In native growth areas, trees and shrubs may be inventoried by actual count or by 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 shall define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots shall 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 shall be selectively cleared, leaving mature trees and shrubs intact where practical.
8. The width of clear cuts through windbreaks, shelterbelts and all other wooded areas shall be limited to 50 feet or less 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 shall be noted on the inventory.

Replacement

10. Prior to replacement, documentation identifying the number and variety of trees removed as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings shall be filed with the Commission for approval.
11. Tree replacement shall be on a 2 to 1 basis with 2-year-old saplings. Shrub replacement shall be on a 2 to 1 basis with stem cuttings.
12. Trees and shrubs shall be replaced by the same species or similar species, except in the case of invasive species or noxious weeds, suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.
13. Landowners shall be given the option of having replacement trees or shrubs planted off the right-of-way on the landowner's property or waiving that requirement in writing and allowing those replacement trees or shrubs to be planted at alternative locations.
14. At the conclusion of the project, documentation identifying the actual number, variety, type, location, and date of the replacement plantings shall be filed with the Commission.
15. Tree and shrub replacements shall be inspected once a year for three years, on or about the anniversary of the plantings, and, on or shortly before October 1 of each year, a report shall be submitted to the Commission documenting the condition of replacement planting and any woodlands work completed. If after three years from the anniversary of the plantings the survival rate is less than 75%, the Commission may order additional planting(s).

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Certificate of Corridor Compatibility

Certificate Number 118

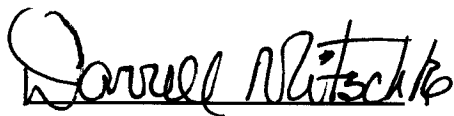
This is to certify that the Commission has designated a transmission facility corridor for Enbridge Pipelines (North Dakota) LLC for the construction of a 12-inch pipeline and associated facilities in Ward and Burke Counties, North Dakota for the transmission of crude oil.

This certificate is issued in accordance with the Order of this Commission dated May 5, 2011 in Case No. PU-10-612 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, May 5, 2011.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

STATE OF NORTH DAKOTA

Route Permit

Permit Number 128

This is to certify that the Commission has designated a transmission facility route for Enbridge Pipelines (North Dakota) LLC for the construction of a 12-inch pipeline and associated facilities in Ward and Burke Counties, North Dakota for the transmission of crude oil.

This permit is issued in accordance with the Order of this Commission dated May 5, 2011 in Case No. PU-10-612 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, May 5, 2011.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner