

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David C. Boyd  
J. Dennis O'Brien  
Thomas Pugh  
Phyllis A. Reha  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Application of Enbridge Energy Limited Partnership and Enbridge Pipeline (Southern Lights) L.L.C. for a Routing Permit for the Alberta Clipper Pipeline Project and the Southern Lights Diluent Project

ISSUE DATE: December 29, 2008

DOCKET NO. PL-9/PPL-07-361

ORDER GRANTING PIPELINE ROUTING PERMIT

**PROCEDURAL HISTORY**

On June 22, 2007, Enbridge Energy, Limited Partnership and Enbridge Pipelines (Southern Lights) LLC (collectively, Enbridge)<sup>1</sup> applied for a Pipeline Routing Permit pursuant to Minnesota Rules Chapter 7852 for two projects:

- The Alberta Clipper Pipeline project would transport petroleum from the Western Canadian Sedimentary Basin in Hardisty, Alberta, to Superior, Wisconsin. Starting on Minnesota's western border at Kittson County, the pipeline would continue through the counties of Marshall, Pennington, Red Lake, Polk, Clearwater, Beltrami, Hubbard, Cass, Itasca, Aitkin, St. Louis and Carlton, to the Wisconsin border.
- The Southern Lights Diluent project would transport light liquid hydrocarbons (diluent) from refineries near Chicago, Illinois, to Clearbrook, Minnesota, where they would flow into an existing pipeline to Edmonton, Alberta. Starting on Minnesota's eastern border at Carlton County, the pipeline would continue through the counties of St. Louis, Aitkin, Itasca, Cass, Hubbard, Beltrami and Clearwater.

On July 27, 2007, the Minnesota Department of Commerce (the Department) issued a notice explaining Enbridge's proposed pipeline projects, the proposed routes, how the public could participate in the routing process, and the schedule of public informational meetings. On July 30 the Minnesota *Environmental Quality Board Monitor* published the notice. In addition, between August 1 and August 10, 34 newspapers of general circulation along the proposed route published notices and maps of the proposed route.

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<sup>1</sup> Enbridge Energy Partners, L.P. – a Delaware Master Limited Partnership with headquarters in Houston, Texas – organized Enbridge Energy, Limited Partnership, as a subsidiary. Enbridge, Inc., organized subsidiary Enbridge Energy Company, Inc., which in turn organized subsidiary Enbridge Pipelines (Southern Lights) L.L.C. All of these entities are organized under the laws of Delaware except for Enbridge, Inc., which is a Canadian corporation.

Starting July 30, 2007, Enbridge issued notice of its proposals by certified mail, and included the Department's notice and the U.S. Department of State's Notice of Intent to Prepare Environmental Assessments.<sup>2</sup> Enbridge sent these notices to all landowners, tribal governments, towns, statutory cities, home rule charter cities and counties it deemed reasonably likely to be affected. Enbridge also sent copies of all these documents, along with Enbridge's applications for a Certificate of Need and Route Permit, to 23 public libraries along the route, and 126 local public officials.

On August 1, 2007, the Commission issued its ORDER ACCEPTING APPLICATION, INITIATING FULL REVIEW, REFERRING TO OFFICE OF ADMINISTRATIVE HEARINGS AND ORDER AND NOTICE OF HEARING. The Office of Administrative Hearings assigned Administrative Law Judge (ALJ) Eric L. Lipman to preside over this matter.

Between August 13 and 23, the Department convened 12 public informational meetings in Kittson, Marshall, Pennington, Red Lake, Polk, Clearwater, Beltrami, Cass, Itasca, St. Louis and Carlton counties. Before each meeting, Enbridge held an open house to answer questions and provide maps of the preferred route, copies of its proposed Environmental Mitigation Plan and other project information.

On October 8, 2007, the Minnesota Department of Natural Resources (DNR) filed comments.

On October 10, 2007, Enbridge revised its preferred route for the proposed pipelines for all points northwest of Clearbrook, Minnesota, to accommodate concerns raised at the public informational meetings.

On November 1, 2007, the Commission accepted Enbridge's revision to its preferred pipeline route for all points northwest of Clearbrook, Minnesota, and granted Enbridge's request to extend timelines to address other issues raised in the informational meetings.<sup>3</sup> In particular, the Commission agreed to extend the schedule for Enbridge's proposed route extending southwest of Clearbrook, Minnesota, where the terrain is more populated, and has a greater concentration of wetlands and forests.

On November 2, 2007, the Department gave notice of the schedule of public hearings in this matter, and of how the public could participate. Newspapers of general circulation in Kittson, Marshall, Pennington, Red Lake, Polk and Clearwater Counties, as well as the Minneapolis *Star Tribune* and the *Environmental Quality Board Monitor*, published the notice.

On November 8, 2007, the Department authorized the release of Enbridge's Comparative Environmental Analysis (CEA) for the Route Alternatives Northwest of Clearbrook, Minnesota

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<sup>2</sup> Construction of the proposed projects will require a Presidential Permit for Border Crossing Facilities (Canada), which requires an environmental assessment. Executive Order 11423, August 16, 1968 (33 Fed. Reg. 11741), as amended.

<sup>3</sup> See *In the Matter of the Application of Enbridge Energy for a Route Permit - Southern Lights Pipeline*, Docket Nos. PL-9/PPL-07-360 *et al.*, ORDER ACCEPTING ITEMS FOR CONSIDERATION IN THE CONTESTED CASE HEARING AND EXTENDING DEADLINES (November 30, 2007).

(Northwest CEA), comparing the environmental consequences of Enbridge's original and modified route proposals northwest of Clearbrook. Enbridge filed this document the following day.

On November 9, 2007, Enbridge filed direct testimony supporting its application for a route permit for pipelines northwest of Clearbrook, Minnesota. On the same date, Enbridge sent the Department's notice by certified mail to the landowners Enbridge had identified along this proposed route, and explained that proceedings regarding the route southeast of Clearbrook would be delayed.

On November 11, 2007, Enbridge filed direct testimony.

On November 12, 2007, Enbridge mailed to public libraries along the preferred route a copy of its revised preferred route and route alternatives for the areas northwest of Clearbrook, Minnesota, along with the Northwest CEA, Enbridge's direct testimony, the Department's official notice, and excerpts of relevant statutes and rules. Enbridge also mailed notice of the public hearings to elected officials and local governmental entities, including the Minnesota Historical Society and each regional development commission, soil and water conservation district, watershed management district, and county government or township government with jurisdiction over land within the proposed pipeline route.

On November 26 and 27, 2007, the ALJ convened public hearings in Kittson, Marshall, Pennington and Red Lake counties. Meetings scheduled for November 29 in Clearwater and Polk counties were re-scheduled and convened on January 17, 2008. The Department issued a new notice, which was sent to local elected officials, governmental entities, local newspapers of general circulation and landowners along the proposed route in Clearwater and Polk counties.

By January 7, 2008, Enbridge had filed revised preferred routes along with thirteen route alternatives, including a route between Mileposts 1056.1 and 1073.0 around the reservation of the Fond du Lac Band of Lake Superior Chippewa (the Band). On January 14, Enbridge gave notice to 70 newly-identified landowners along the new preferred route. The notice included a cover letter, overview map of the proposed route, the Department's notice of application acceptance, the State Department's Notice of Intent to Prepare Environmental Assessments, and a property-specific map.

On February 5, 2008, Enbridge revised the Agriculture Mitigation Plan portion of its route permit application.

On February 11, 2008, the ALJ granted in part the request of the Minnesota Center for Environmental Advocacy (MCEA) to intervene. MCEA is a Minnesota-based, nonprofit environmental organization with a stated mission to protect "Minnesota's wildlife, natural resources and the health of its people."

On February 15, 2008, the Commission gave notice that it intended to select the list of possible pipeline routes southeast of Clearbrook, Minnesota, to be analyzed in this docket. On February 20, the Department recommended that the Commission accept Enbridge's preferred route and route alternatives for areas southeast of Clearbrook.

Also on February 15, 2008, Enbridge filed two additional route alternatives. On February 29, Enbridge gave notice to 16 newly-identified landowners along the two new route alternatives. The notice included a cover letter, overview map of the proposed route, the Department's notice of application acceptance, the State Department's Notice of Intent to Prepare Environmental Assessments, and a property-specific map.

On March 5, 2008, the Department's Office of Energy Security (OES) issued a notice of public hearings for Clearwater, Beltrami, Cass, Itasca, St. Louis and Carlton counties. Enbridge mailed copies of the Department's notice to all landowners in these counties that Enbridge deemed likely to be affected by the proposed projects, and to elected officials. Finally, 21 newspapers of general circulation in these counties, as well as the Minneapolis *Star Tribune*, published notices of the hearings.

On March 7, 2008, OES authorized release of Enbridge's Comparative Environmental Analysis of the Route Alternatives Southeast of Clearbrook, Minnesota (Southeast CEA). Enbridge filed the Southeast CEA on March 11.

By March 10, 2008, Enbridge sent the Department's March 5 notice, along with maps showing the revised preferred route and route alternatives southeast of Clearbrook, Minnesota, the Southeast CEA, and the testimony of all witnesses to 23 public libraries along the proposed route. By March 12, Enbridge had sent a copy of the notice along with maps of the preferred route and route alternatives southeast of Clearbrook, and the Southeast CEA, to applicable local governmental entities along the route.

On March 11, 2008, Enbridge filed additional testimony.

On March 25 - 26, 2008, the ALJ convened public hearings in Clearwater, Beltrami and Cass counties. On April 8 - 9, the ALJ convened public hearings in St. Louis and Carlton counties.

On April 21, 2008, Enbridge revised its preferred route alternative.

On May 5, 2008, the ALJ granted the Band's petition to intervene. The ALJ denied the intervention petition of Jon Erik Kingstad, an attorney in private practice, but authorized him to file initial and reply briefs in this matter.

On May 13, 2008, the ALJ convened evidentiary hearings. Between May 22 and June 5 the Commission received briefs, reply briefs or both from the Band, Enbridge, and Mr. Kingstad; Enbridge also filed draft findings and conclusions.

On July 17, 2008, the ALJ issued his SUMMARY OF PUBLIC TESTIMONY AT THE PUBLIC HEARINGS, FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS (ALJ's Report). The ALJ recommended, among other things, granting the Pipeline Routing Permit for a route that avoided the Fond du Lac reservation land.

By August 13, 2008, the Band, Enbridge, and MCEA had filed exceptions to the ALJ's Report.

On November 14, 2008, the Commission gave notice of its intention to take up this matter at its November 25 meeting.

On November 19, 2008, OES filed various documents, including a description of Enbridge's construction practices, right-of-way configuration, list of required permits and plans, and a draft routing permit (including an Agricultural Mitigation Plan, an Environmental Mitigation Plan, and route maps). On November 21, OES filed comments and recommendations.

On November 21 and 24, 2008, MCEA filed supplemental exhibits. On November 24, Enbridge objected to these late-filed exhibits.

This matter, in conjunction with Enbridge's petition for a Certificate of Need,<sup>4</sup> came before the Commission on November 25, 2008. The Commission heard argument from Enbridge, the Band, DNR, MCEA, and OES. In addition, the Minnesota Office of Pipeline Safety discussed the importance of ensuring that pipelines are buried at an appropriate depth. Parties revised and clarified their recommendations, MCEA filed another supplemental exhibit, and the record closed on that date.<sup>5</sup>

## **FINDINGS AND CONCLUSIONS**

### **I. Summary of Order**

In this Order the Commission selects a pipeline route that minimizes adverse consequences for people and the environment. Specifically, the Commission will issue a Pipeline Routing Permit for the Alberta Clipper project and the Southern Lights Diluent project authorizing construction of the pipelines within a specific route. The approved route is shown on the pipeline route maps filed on November 19, 2008, with the proviso that the Commission will refrain from issuing a routing permit for the areas between Mileposts 1056.1 and 1073.0 pending further negotiations between Enbridge and the Band. The final alignment – that is, the permanent rights-of-way where the pipeline will be buried – will be located within the approved route.

To assure that the designated route meets the legal requirement that it minimize adverse human and environmental impact, the Commission accepts and applies to the permit certain conditions recommended by the ALJ and OES with modifications. A copy of the Pipeline Routing Permit stating those conditions is attached. The Pipeline Routing Permit's provisions become part of every easement agreement between Enbridge and landowners, whether the easement arose before or after the date of this Order.

### **II. Legal Standard**

Before building a pipeline with a diameter equal to or exceeding six inches for transporting hazardous liquids, a person must obtain from the Commission a Pipeline Routing Permit identifying the authorized route.<sup>6</sup> The process and criteria for obtaining a Pipeline Routing Permit are set forth at Minnesota Statutes Chapter 216G and Minnesota Rules Chapters 1405 and 7852. In brief, the Commission selects the route that minimizes human and environmental effects considering the factors listed in Minnesota Rules, part 7852.1900:

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<sup>4</sup> See Docket No. PL-9/CN-07-465, *In the Matter of the Application of Enbridge Energy, Limited Partnership, and Enbridge Pipelines (Southern Lights) LLC for a Certificate of Need for the Alberta Clipper Pipeline Project and the Southern Lights Diluent Project*

<sup>5</sup> Minn. Stat. § 14.61, subd. 2.

<sup>6</sup> Minn. Stat. § 216G.02. However, no route permit is required to build a pipeline that transports hazardous liquid by gravity. *Id.*

- A. human settlement, existence and density of populated areas, existing and planned future land use, and management plans;
- B. the natural environment, public and designated lands, including but not limited to natural areas, wildlife habitat, water, and recreational lands;
- C. lands of historical, archaeological, and cultural significance;
- D. economies within the route, including agricultural, commercial or industrial, forestry, recreational, and mining operations;
- E. pipeline cost and accessibility;
- F. use of existing rights-of-way and right-of-way sharing or paralleling;
- G. natural resources and features;
- H. the extent to which human or environmental effects are subject to mitigation by regulatory control and by application of the permit conditions contained in part 7852.3400 for pipeline right-of-way preparation, construction, cleanup, and restoration practices;
- I. cumulative potential effects of related or anticipated future pipeline construction; and
- J. the relevant applicable policies, rules, and regulations of other state and federal agencies, and local government land use laws....

Where material facts are in dispute, the Commission refers cases to the Office of Administrative Hearings for a contested case proceeding.<sup>7</sup>

### **III. Enbridge, the Proposed Project and the Proposed Route**

Enbridge proposes to bring Western Canadian crude oil to upper Midwest refineries by adding new pipelines to its existing pipeline system in Canada, North Dakota, Minnesota, Wisconsin and Illinois. As part of this effort, Enbridge proposes to build three petroleum pipelines in Minnesota. One of these pipelines, the Southern Lights Crude pipeline, has been approved in other dockets.<sup>8</sup>

The current docket addresses the two remaining projects. The Alberta Clipper project – a 36-inch outside diameter, high-pressure (1,313 pounds per square inch gauge) buried pipeline and associated facilities – would provide the capacity to transport an average of 450,000 barrels of crude oil per day from Hardisty, Alberta, to Enbridge's tank farm and terminal in Superior, Wisconsin. Approximately 290 miles of the Alberta Clipper Pipeline would cross Minnesota, buried primarily within and adjacent to Enbridge's existing rights-of-way in the counties of Kittson, Marshall, Pennington, Red Lake, Polk, Clearwater, Beltrami, Hubbard, Cass, Itasca, Aitkin, St. Louis and Carlton.

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<sup>7</sup> Minn. Rules, part 7829.1000.

<sup>8</sup> Docket No. PL-9/PPL-07-360, *In the Matter of the Application of Enbridge Energy for a Route Permit - Southern Lights Pipeline*; Docket No. PL-9/CN-07-464, *In the Matter of the Application of Enbridge Pipeline (Southern Lights) L.L.C. for a Certificate of Need for a Crude Oil Pipeline for the Southern Lights Crude Line Project*.

The Southern Lights Diluent project – a 20-inch outside diameter, high pressure (1,334 psig) buried pipeline and associated facilities – would provide the capacity to transmit 180,000 barrels per day of diluent from refineries near Chicago, Illinois, to Enbridge's facilities at Clearbrook, Minnesota, where they would flow into an existing pipeline to Alberta. Diluents are used to thin heavy crude oil, making the oil flow more easily. Approximately 182 miles of the Southern Lights Diluent pipeline would cross Minnesota, buried primarily within and adjacent to Enbridge's existing rights-of-way in the Minnesota counties of Carlton, St. Louis, Aitkin, Itasca, Cass, Hubbard, Beltrami and Clearwater.

According to Enbridge, these projects are needed to serve the increasing demand for crude oil throughout the Midwest and beyond.

Enbridge has proposed 23 alternatives to the route it initially requested, mostly after reaching some understanding with residents and landowners along the proposed route. In addition, Enbridge has proposed a Fond du Lac alternative route between Mileposts 1056.1 and 1073.0 after Enbridge and the Band failed to arrive at mutually agreeable terms. Enbridge now prefers to route its pipelines around the perimeter of Fond du Lac lands.

#### **IV. The ALJ's Report**

Having evaluated the record, the ALJ found that Enbridge had conducted an appropriate environmental assessment, met the requirements for alternative environmental review and taken into consideration the relevant criteria, outlined above. Among other things, the ALJ found as follows:

**Conclusion 20:** The route of the existing pipeline system provides the best route for the proposed new pipelines.

**Conclusion 25:** Enbridge has adequate plans for mitigating and remediating environmental harms arising from this proposal.

**Conclusion 46:** Enbridge's environmental review was appropriate and satisfied the requirements of Minnesota Rules parts 7852.2100 - .3100<sup>9</sup> and the requirements for alternative environmental review in Minnesota Rules, part 4410.3600.

**Conclusion 47:** The requested Pipeline Routing Permit should be granted.

**Conclusions 50-55:** The Revised Preferred Route and Alignment, including the preferred route alternatives, is appropriate to minimize environmental and landowner impacts, allow safe and efficient construction, and respond to site-specific environmental concerns, landowner requests, and construction issues. Among other things, the ALJ recommends that the Commission grant a permit to build the new pipelines along the Fond du Lac Alternative route.

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<sup>9</sup> While the ALJ's Report cites Minnesota Rules chapter 4415, these provisions have been re-codified at Minnesota Rules chapter 7852.

## **V. Response to the Administrative Law Judge's Report**

### **A. Supplemental findings and modifications in general**

The Band, Enbridge and OES recommend that the Commission adopt the ALJ's Report with supplements and modifications. In particular, OES offers a list of supplemental findings of fact based on record evidence.

### **B. The Fond du Lac Route Alternatives**

The Band, Enbridge and OES have conflicting perspectives regarding the optimal way to route the pipelines between Mileposts 1056.1 and 1073.0 – specifically, whether to route the pipeline through lands controlled by the Band or around the perimeter of that land.

Ultimately the Band and Enbridge agreed to continue negotiations regarding this issue. To this end, the parties ask the Commission to defer adopting findings or conclusions that might prejudice their arguments if they fail to reach an agreement on this matter.

### **C. DNR Comments**

DNR expressed appreciation for OES's work and stated that many of its concerns would be addressed if the Commission were to augment the ALJ's Report by adopting OES's proposed Supplemental Findings.

DNR supports many of Enbridge's requests to widen its propose route to provide more flexibility to align the pipelines through environmentally sensitive areas. DNR stated its understanding that Enbridge must work with state agencies and landowners in aligning its pipes through these areas.

Finally, DNR emphasized that certain environmental analysis remained to be done before Enbridge could receive the necessary permits to build its pipelines, and that additional conditions may need to be incorporated into Enbridge's routing permit on the basis of that information. DNR encourages the Commission to establish a process for amending the route permit to deal with these new conditions.

### **D. MCEA's Concerns**

In its exceptions and oral arguments, MCEA raises three general concerns. First, MCEA argues that Enbridge has failed to bear its burden to show that its proposed pipelines are needed.

Second, MCEA argues that no party has performed an environmental impact statement for the proposed pipelines, as required by the Minnesota Environmental Protection Act.<sup>10</sup> In particular, MCEA argues that the act requires the Commission to prepare an environmental impact statement.

Third, MCEA argues that Enbridge's application is not ripe for review because Enbridge has not fulfilled, or even adequately addressed, the requirements for various permits that Enbridge will need to build the proposed pipelines.

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<sup>10</sup> Minn. Stat. Chap. 116D.

## VI. Analysis of Proposed Findings and Conclusions

### A. Environmental Concerns

The Commission addresses the issue of the need for the proposed pipeline in the context of the companion docket.

The Commission finds that no environmental impact statement is required for purposes of the current docket. For nearly two decades pipeline companies have been able to demonstrate compliance with the Minnesota Environmental Policy Act by filing an Environmental Assessment Supplement (EAS) with their applications for a Pipeline Routing Permit. In 1989 the EQB approved the pipeline routing rules as a substitute form of environmental review for pipelines. The rules imposed a number of requirements on applicants including the requirement to submit a detailed EAS with any routing permit application. The Legislature subsequently transferred jurisdiction over these matters to the Commission and re-codified the rules at chapter 7852. And Minnesota Rules, part 7852.2700, provides for an applicant to submit the EAS.

Nevertheless, the Commission observes that an EAS provides much the same information as an environmental impact statement. It contains a thorough description of the proposed projects; a review of the proposed projects' economic, employment and social consequences; an analytical review of potential impacts to the environment; mitigation plans to reduce those impacts; a discussion of alternatives, including comparative environmental assessments; and a list of other governmental approvals that the projects will require. And upon filing, the OES reviews the EAS to ensure that it contains the necessary information.

Finally, many of DNR's and MCEA's concerns pertain to the fact that Enbridge has not yet fulfilled all the requirements for all the permits it will require to build its proposed pipelines, and that new information may warrant new provisions in the Routing Permit. These are legitimate concerns, but not by themselves a basis for withholding a permit. Enbridge's duties to comply with another agencies' standards are not altered by Enbridge's receipt of a routing permit. Moreover, the Commission's draft Routing Permit anticipates that a permittee will still be filing required plans and obtaining required permits after the Routing Permit has been issued:

At least 14 days before right-of-way preparation begins on any segment of the pipeline, the Permittee [Enbridge] shall provide the PUC [Commission] with a plan and profile of the right-of-way and the specifications and drawings for right-of-way preparation, construction, cleanup, and restoration for the segment for which construction is scheduled and *notification that all plans and permits for the segment have been filed or obtained and reflected in the plan and profile submitted for review.*

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The Permittee's plan and profile and specifications and drawings shall become a condition of the Permit and shall be complied with by the Permittee.<sup>11</sup>

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<sup>11</sup> Draft Pipeline Routing Permit § V (p. 15), emphasis added.

If Enbridge is compelled to alter its plans to take additional steps to obtain a necessary permit, Enbridge must report those new plans and steps to the Commission, and those plans and steps automatically become conditions of the Routing Permit.

None of the environmental concerns raised here persuade the Commission to refrain from selecting pipeline routes, or influence the Commission's choice of routes.

#### **B. ALJs' Report in General, and the Fond du Lac Route Alternatives**

In preparing his recommendations for the Commission regarding both Enbridge's Certificate of Need and Pipeline Routing Permit, ALJ Lipman presided over an evidentiary hearing and 14 public hearings. He reviewed the testimony of ten witnesses and dozens of exhibits. He observed the demeanor of the witnesses and evaluated the parties' initial and reply briefs. His Report is thoughtful, comprehensive, and thorough, including 310 findings of fact, 55 conclusions, and ultimately two recommendations. Having examined the record and carefully considered the ALJ's Report, the Commission concurs in nearly all his findings and conclusions.

However, the Commission also approves of the efforts of the Band and Enbridge to find mutually-agreeable terms regarding the routing of Enbridge's pipelines in the area of the Fond du Lac Route Alternatives. Consequently the Commission will direct these two parties to continue the negotiations – whether they occur exclusively between these parties or with the assistance of a neutral mediator – and report on their progress within 30 days of this Order. The Commission will determine the optimal route for the final segment of the pipeline projects as soon as possible thereafter.

In the meantime, the Commission will modify certain proposed findings and conclusions, and refrain from adopting others, in order to avoid prejudicing its future consideration of this issue. In so doing, the Commission does not dispute the ALJ's findings and recommendations; the Commission simply does not reach those issues at this time.

In addition, the Commission finds the supplementary findings and modifications proposed by the parties to be compelling. These proposals refine the work of the ALJ, clarify the record support for provisions in the draft Pipeline Routing Permit, and – except as concerns the Fond du Lac Route Alternatives – generally bolster the ALJ's recommendations. Those findings and modifications are set forth in the Ordering Paragraphs and attachments.

Consequently the Commission will approve, adopt and incorporate herein the ALJ's findings of fact and conclusions, but reflecting the refinements, supplements and omissions set forth below.

#### **VII. Minnesota Rules, Part 7852.1900**

As discussed above, ultimately the Commission must select a pipeline route that minimizes human and environmental effects considering the factors listed in Minnesota Rules, part 7852.1900. The Commission will address the relevant factors in turn, especially as applied to Enbridge's preferred route incorporating 23 route alternatives, but excluding consideration of any pipeline route between Mileposts 1056.1 and 1073.0 (the Fond du Lac Route Alternatives).

**A. Human settlement, existence and density of populated areas, existing and planned future land use, and management plans**

The Commission has considered the effect of the selected route on human settlement, the existence and density of populated areas, the existing and planned future land use, and management plans. Enbridge's Pipeline Routing Permit application included an Environmental Assessment Supplement that identifies areas of human settlement along its proposed route, and the population density of those areas. It lists all municipalities within a mile of the proposed route.

The Pipeline Routing Permit application identifies and classifies the economic uses of the lands through which Enbridge proposes to build the pipeline. It has cataloged and makes provisions regarding the 198 structures, 314 road and rail crossings, and 27 domestic wells appearing along the proposed route. The fact that only 2% of the land within the preferred route would involve "developed land" indicates how well Enbridge's planning process minimized the consequences of its pipeline to humans.

Based on the best available evidence, including Supplemental Findings 2 - 38, the Commission finds that Enbridge's revised preferred route – excluding consideration of the Fond du Lac Route Alternatives – minimizes the consequences for human settlement, existing and future land use, and management plans.

**B. The natural environment, public and designated lands, including but not limited to natural areas, wildlife habitat, water, and recreational lands**

As an initial matter, a buried pipeline – once installed – will have less effect on the environment than an above-ground pipeline. Enbridge pledges to restore vegetation damaged in the installation process, and to fairly compensate landowners who lose ornamental trees in the process.

Enbridge has also cataloged the terrain through which it proposes to build the pipeline in terms of topology, soils, habitats, ecological systems and water resources. For example, Enbridge acknowledges that its preferred route would cross a bike trail and three state-designated canoeing and boating routes, and come within a half-mile of three state wildlife management areas. The application contains an Environmental Mitigation Plan to address any potential adverse consequences.

Enbridge has developed a Spill Prevention, Contaminant and Control Plan to guard against groundwater contamination and disruption to water resources, and the record shows that Enbridge does not intend to bury the pipeline so deeply as to come in contact with the water table.

Based on the best available evidence, including Supplemental Findings 39 - 63, the Commission finds that Enbridge's revised preferred route – excluding consideration of the Fond du Lac Route Alternatives – minimizes the consequences to the natural environment, public and designated lands.

**C. Lands of historical, archaeological, and cultural significance**

It is not uncommon that a construction project of the magnitude proposed by Enbridge will encounter a site of some historical, archaeological, and cultural significance somewhere along the route. Enbridge pledges to consult with the appropriate federal and state offices on measures to avoid, minimize or mitigate adverse impacts to these sites. Through working with the Minnesota

Historical Society's State Historic Preservation Office (SHPO), Enbridge has identified eight reports on archeological studies of the project area. Nine archeological sites were determined to be located within the construction area, and three of these sites have been determined to be eligible for nomination to the National Register of Historic Places.

OES's draft Pipeline Routing Permit directs Enbridge to do the following:

- Consult with SHPO before starting construction to determine if an archaeological survey would be necessary for any part of the approved route.
- Contract with a qualified archaeologist to complete any necessary surveys, and submit the results to SHPO and the Commission.
- Mark and preserve any archaeological sites found during construction, and notify the SHPO and the Commission.
- Refrain from excavating at such locations until so authorized by the Minnesota Historical Society.
- Submit disputes regarding these matters to the Commission.

These procedures provide appropriate protection of our state's heritage. Based on the best available evidence, including Supplemental Findings 66 - 73, the Commission finds that Enbridge's revised preferred route – excluding consideration of the Fond du Lac Route Alternatives – minimizes the risk to lands of historical, archaeological, and cultural significance.

**D. Economies within the route, including agricultural, commercial or industrial, forestry, recreational, and mining operations**

Approximately 1,993 acres of agricultural land, 1,343 acres of timber and 97.1 acres of developed land (including both residential and commercial properties) will be disturbed during construction and installation of the proposed pipelines. Enbridge agrees to compensate landowners for damage caused by construction, installation-related crop losses, damage to drainage systems, clearing of otherwise merchantable timber or impacts to gravel deposits.

The ALJ concludes that the pipeline construction would likely have a minimal effect upon roads and transportation resources. Where construction requires digging up a roadway, the record indicates that traffic typically can resume the following day. And Enbridge agrees that, with the exception of brief periods during the process of laying the new pipeline, Enbridge will maintain at least one traffic lane or establish a detour on the roads where construction activities occur.

Finally, Enbridge agrees, to the extent feasible, to route heavy construction-related vehicles on state trunk highways rather than local roads, and to give highway officials in affected counties 30 days' notice before Enbridge starts construction.

Based on the best available evidence, including Supplemental Findings 66 - 73, the Commission finds that Enbridge's revised preferred route – excluding consideration of the Fond du Lac Route Alternatives – minimizes the consequences to the economies within the route.

**E. Pipeline cost and accessibility**

Enbridge estimated the cost of the Minnesota portion of the initial proposed project to be \$1,297 million (in 2006 dollars). Enbridge anticipates that the changes it has made to its preferred routes would not substantially alter this estimate.

Public roadways or approved access roads would provide access to the pipeline's rights-of-way. Neither the Environmental Assessment Supplement nor any other evidence in the record indicate that the proposed pipeline presents accessibility problems.

Based on the best available evidence, including Supplemental Findings 74 and 75, the Commission finds that Enbridge's revised preferred route – excluding consideration of the Fond du Lac Route Alternatives – is approximately as expensive and provides generally the same degree of accessibility as any feasible alternative.

**F. Use of existing rights-of-way and right-of-way sharing or paralleling**

As noted above, Enbridge's proposed route generally parallels its existing pipelines and tracks its existing rights-of-way. And, while Enbridge asks the Commission to designate a route that is typically 500 feet in width, much of this width would cover Enbridge's existing rights-of-way. No alternative route could have better exploited Enbridge's existing rights-of-way.

Based on the best available evidence, including Supplemental Finding 76, the Commission finds that Enbridge's revised preferred route – excluding consideration of the Fond du Lac Route Alternatives – generally runs parallel to and optimizes the use of Enbridge's existing rights-of-way.

**G. Natural resources and features**

Given that the proposed route generally involves burying a pipeline parallel to existing pipelines, parties have identified few natural resources or features along Enbridge's proposed route that have not been addressed previously. Based on the best available evidence, including Supplemental Findings 77 - 78, the Commission finds that Enbridge's revised preferred route – excluding consideration of the Fond du Lac Route Alternatives – has no greater effect on natural resources and features than would any alternative under consideration.

**H. The extent to which human or environmental effects are subject to mitigation by regulatory control and by application of the permit conditions contained in part 7852.3[6]00<sup>12</sup> for pipeline right-of-way preparation, construction, cleanup, and restoration practices**

Enbridge has already modified its preferred route at 23 points to minimize human and environmental effects arising from its initial route.

In addition, Enbridge's pipeline projects will be subject to various regulatory controls, including restrictions regulating road crossings, water crossings, water discharge, protection of endangered species and protection of sites of historical significance. Enbridge has also developed substantial environmental and impact mitigation plans as part of its Environmental Assessment Supplement. And Minnesota Rules, part 7852.3600, sets forth fourteen conditions for receiving a Pipeline Routing Permit; these conditions will govern Enbridge's conduct throughout this project.

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<sup>12</sup> Minnesota Rules, part 7852.1900, subp. 3.H., refers to the “the permit conditions contained in part 7852.3400 for pipeline right-of-way preparation, construction, cleanup, and restoration practices...,” but those conditions actually appear at part 7852.3600.

Based on the best available evidence, including Supplemental Findings 79 - 82, the Commission finds that Enbridge's revised preferred route with the conditions discussed herein – but excluding consideration of the Fond du Lac Route Alternatives – would mitigate adverse human and environmental effects to a greater extent than any alternative under consideration.

**I. Cumulative potential effects of related or anticipated future pipeline construction**

In the context of Enbridge's earlier Southern Lights pipeline case<sup>13</sup> the Commission authorized Enbridge to build within a 500-foot-wide route northwest of Clearbrook, Minnesota, with the understanding that Enbridge intended to seek to build its Alberta Clipper and Southern Lights Diluent pipelines in the route as well.

On October 10, 2007, Enbridge stated its intention to build its Alberta Clipper pipelines within this route. On December 20, 2007, Enbridge requested a route southeast of Clearbrook that was generally 500 feet in width, but varying at points to provide greater flexibility to minimize the impact of the pipeline projects on the human and natural environments. And Enbridge states that it has no further plans for pipeline construction in Minnesota.

Based on the best available evidence, including Supplemental Findings 83 - 86, the Commission finds that Enbridge's revised preferred route – excluding consideration of the Fond du Lac Route Alternatives – will have no greater cumulative potential effect on future pipeline construction than any feasible alternative.

**J. The relevant applicable policies, rules, and regulations of other state and federal agencies, and local government land use laws including ordinances adopted under Minnesota Statutes, section 299J.05, relating to the location, design, construction, or operation of the proposed pipeline and associated facilities**

Both DNR and MCEA express concern about Enbridge's failure to address the requirements it will need to fulfill to secure required permits from other governmental entities.

The pipeline project will come under the jurisdiction of federal, state and local authorities. Federal law governs pipeline design, construction and maintenance,<sup>14</sup> for example, and state and local law govern the minimum distance between pipelines and other structures.<sup>15</sup> Enbridge has identified three watershed districts, ten counties and one township with comprehensive land use plans that will need to be accommodated. And on November 17, 2008, Enbridge listed eight pages of permits, licenses or plans that must be obtained, approved and filed prior to undertaking project-related construction.

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<sup>13</sup> Docket No. PL-9/PPL-07-360, *In the Matter of the Application of Enbridge Energy for a Route Permit - Southern Lights Pipeline*; Docket No. PL-9/CN-07-464.

<sup>14</sup> 49 C.F.R. Parts 190 - 199.

<sup>15</sup> Minn. Stat. § 299J.05.

Enbridge's duties to comply with another agency's standards are not altered by the fact that Enbridge has or has not acknowledged those duties in its application. And whatever the merits of MCEA's allegations, those other agencies provide the appropriate forums for addressing matters within their own jurisdiction. Ultimately Enbridge pledges to fulfill all legal requirements for the construction of the pipeline along its preferred route, in fulfillment of its legal duties arising from Minnesota Rules, part 7853.3600, subpart 1, and the draft Pipeline Routing Permit.

Neither the concerns expressed by MCEA nor those expressed by DNR prompt the Commission to favor a different route than the one proposed by Enbridge. Based on the best available evidence, including Supplemental Findings 87, 88, and 94 - 106, the Commission finds that Enbridge's revised preferred route – excluding consideration of the Fond du Lac Route Alternatives – will implicate no jurisdiction's policies, rules or regulations more than any other feasible route would.

#### **K. Conclusion**

Based on the record of this proceeding, including the ALJ's Report as refined and supplemented, the Commission finds that Enbridge's revised preferred route with the conditions established herein and other conditions prescribed by law – but without consideration of the Fond du Lac Route Alternatives – will minimize the pipeline's effect on humans and the environment, considering the ten factors prescribed by law.

#### **VIII. Commission Action**

Having conducted its own review of the record and applied the law to the factual findings of the ALJ as modified above, the Commission concludes that Enbridge has fulfilled the statutory and regulatory requirements to receive permission to build in its preferred pipeline route. Consequently the Commission will adopt the recommendations from the ALJ's Report and grant Enbridge's petition with the conditions set forth herein.

On the basis of the record of this proceeding, the Commission adopts and approves the following documents as attached to this Order:

Appendix A: the supplemental findings of fact

Appendix B: the Pipeline Routing Permit, including  
Attachment 1: Complaint Handling Procedures  
Attachment 2: Compliance Filing Procedures  
Attachment 3: Permit Compliance Filings

Appendix C: the Agricultural Impact Mitigation Plan (November 9, 2008), including  
Appendix: Mitigative Actions for Organic Agricultural Land

Appendix D: the Environmental Mitigation Plan (October 20, 2008), including  
Figures 1A - 32

Appendix E: pipeline route maps

Given the volume of these attachments, the Commission will distribute them by compact disc (CD) in Portable Document Format (PDF). Computers able to read CDs will be able to display the attachments using the Adobe Reader program, available for free on the World Wide Web from Adobe Systems Incorporated at <http://get.adobe.com/reader/>. The Commission can also make these documents available in alternative formats.

### ORDER

1. The Commission adopts the attached supplemental findings of fact.
2. The Commission approves, adopts and incorporates herein the July 17, 2008 *Summary of Public Testimony at the Public Hearings, Findings of Fact, Conclusions and Recommendations* with the following modifications:
  - A. Finding 6: The Minnesota Department of Commerce, Office of Energy Security (“OES”) is charged by statute to review Certificate of Need applications for compliance with requirements of Minnesota Statutes, Rules and Commission Orders. The OES includes a separate unit, the Energy Facility Permitting (“EFP”) Staff, which processes applications for route and site permits for energy facilities. Larry Hartman and Deborah Pile of the EFP Staff are the Project Manager and Public Advisor, respectively, for the route permit docket.
  - B. Finding 8: The Fond du Lac Band of Lake Superior Chippewa (“the Band”) has authority over the land upon which the Applicant’s “Fond Du Lac Option 1” would traverse and it claims usufructuary rights (including the rights to hunt, fish and gather) on the parcels through which the Applicant’s “Fond Du Lac Alternative” would run. Accordingly, the Administrative Law Judge granted the Band’s request to join the routing proceeding as a party.

The Band has federally-delegated regulatory authority for both on-reservation activities, and for off-reservation activities that can affect air and water inside the Reservation. This includes:

a. Treatment-as-a-State status under the Clean Water Act, giving the Band regulatory authority over water quality and Section 401 certification, Section 404 dredge and fill permit, and NPDES permits. See generally, 33 U.S.C. § 518e; see also 40 e-CFR §§ 123, 131, and 233; and

b. Treatment-as-a State status under the Clean Air Act, giving the Band regulatory authority over even temporary impacts on air quality, including through the course of construction. See 42 U.S.C § 7401 et seq.; see also Tribal Clean Air Act Authority, 40 C.F.R. § 49.

In addition to the surface waters, wetlands, and ground water fully inside the reservation (totaling over 3000 acres of lakes, 96 miles of streams, and 44,000 acres of wetlands), the Band has additional authority over those bodies of water that cross the Reservation boundaries or the flow into the Reservation. Additionally, the Band will be a participating agency in connection with Enbridge’s federal Presidential Border Crossing Permit process.

- C. Finding 20: On August 1, 2007 the Commission issued an Order Accepting Application, Initiating Full Review, Referring to the Office of Administrative Hearings and Notice of Hearing for the AC/SLD Routing Permit Application under Docket No. PL-9/PPL-07-361. Among other items, the Commission:
- found that no one had asserted that the AC/SLD PRP Application was incomplete;
  - authorized the Department's Energy Facility Permitting Staff to initiate the full review process under Minn. R. Chapter 4415;
  - referred the AC/SLD PRP Application to the Office of Administrative Hearings ("OAH");
  - established the date, time and location of the first Prehearing Conference;
  - ordered that the Prehearing Conference on the AC/SLD Routing Permit application was to be consolidated with the Prehearing Conference for the AC/SLD CON Application;
  - ordered that a contested case hearing under Minn. Stat. Ch. 14 and Minn. R. Ch. 1405 be held on the Pipeline Routing Permit Application;
  - varied Minn. R. 4415.0070, subpart 1, to eliminate the requirement to hold a public information meeting/hearing in Hubbard and Aitkin Counties; and,
  - noted the nine-month time frame for consideration of the Application set forth in Minn. R. 4415.0045.
- D. Finding 35: On October 30, 2007, the Commission accepted Enbridge's Revised Preferred Route and Alignment and Northwest Route Alternatives and varied the requirements of Minnesota Statutes § 216G.02, subdivision 3(b)(5), for the AC/SLD Certificate of Need and Pipeline Routing Permit Application docket dockets.
- E. Finding 89: On May 8, 2008, pursuant to the Sixth Prehearing Order, Enbridge filed a written summary of the April 8, 2008 oral stipulation of counsel as to the filing of posthearing briefs on the AC/SLD Certificate of Need Application and Pipeline Routing Permit Applications.
- F. Finding 90: The contested case hearing on the AC/SLD Certificate of Need Application was held at the Offices of the Commission on May 13, 2008. Additional evidence regarding the Routing Permit Application was also received at this hearing.
- G. Finding 101: EELP estimates that the cost of constructing the Alberta Clipper project within Minnesota to be \$991 million. This estimate of cost is not specific to the originally proposed route or the revised route including the Fond du Lac Alternative.
- H. Finding 102: If both projects are approved as requested by Enbridge, between Clearbrook, Minnesota and Superior, Wisconsin, the Alberta Clipper project will be constructed concurrently with the Southern Lights Diluent project, within the same construction footprint and parallel to the existing Enbridge right-of-way with the exception of the 21.4 miles comprising the Fond du Lac Route Alternative.

- I. Finding 110: EPSL estimates that the construction cost of the Minnesota portion of the proposed Southern Lights Diluent project to be \$306 million. This estimate of cost is not specific to the originally proposed route or the revised route including the Fond du Lac Alternative. If approved by the Commission, Enbridge anticipates beginning construction of this project in December of 2008, with a planned in-service date of July 1, 2010.
- J. Finding 178: Approximately 1,343 acres of timber will be affected by construction of the Alberta Clipper and Southern Lights Diluent projects. Although the Fond du Lac route alternative maps illustrate that a significant amount of timber could be affected if that route is chosen, the additional number of acres of timber affected by the Fond du Lac Alternative was not quantified for the record.
- K. Finding 181: Enbridge estimates that the cost of constructing the Minnesota portion of the Alberta Clipper and Southern Lights Diluent, in 2006 dollars, is \$1,297,000,000.00. This estimate of cost is not specific to the originally proposed route or the revised route including the Fond du Lac Alternative.
- L. Finding 214: Enbridge states that in the event that fences are destroyed or damaged during the construction process, it will install temporary gates or fencing so as to restrict access or contain livestock until construction is complete and permanent repairs can be made by Enbridge, or as otherwise agreed by Enbridge and the landowner.
- M. Finding 225: Daily operation of the completed AC/SLD projects will generate no perceptual noise in the approved right-of-way along the pipeline path. There is some noise that is generated by operating the pipeline pump stations. Enbridge pledges to keep this noise level below 40 decibels (when measure at a distance of 50 feet from the pumping station structure affected neighboring dwellings, industrial facilities or other affected, non-Enbridge structures) or to any other minimum set by state law.
- N. Finding 228: Enbridge is working with the Leech Lake Heritage Sites Program to survey for sites of cultural significance in the Leech Lake area. Enbridge is also working with the U.S. Department of State to address matters that have been raised in cultural resources consultation that the Department of State is conducting with the Fond du Lac Band under Section 106 of the National Historic Preservation Act.
- The consultation with the Band regarding possible lands of historical, archeological and cultural significance is being conducted by the U.S. Department of State in conjunction with the required federal environmental review. The Section 106 review under the National Historic Preservation Act is conducted by a consultant retained by the Department of State. Enbridge does not control this process. Both Enbridge and the Band are participating in this process.
- O. Finding 237: Enbridge filed its Revised Preferred Route and Alignment Maps on October 10 and December 20, 2007. Together, these two sets of maps establish a 500-foot-wide route that varies in width, centered on the proposed 20-inch LSR pipeline, Northwest of Clearbrook, Minnesota.

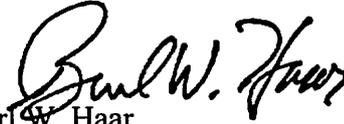
- P. Finding 284: Enbridge and the Band have not reached an accord of the amount of compensation to be paid to the Band in return for a 20-year of lease of tribal lands crossed by the pipelines. ~~The Band and Enbridge could not reach an accord because of a dispute over the amount that the Band should be paid for the right-of-way for the Projects, and over the Band's position that compensation must also be paid "for past damages associated with the four existing pipelines across the Reservation; environmental mitigation and tribal regulatory compliance."~~ Both Enbridge and the Band have expressed, on the record, their willingness to negotiate for a pipeline route that parallels the existing pipeline route through the Fond du Lac Reservation.
- Q. Finding 287: There are no archeological sites or architectural resource sites listed in the Natural Heritage Inventory along this route alternative. The Band has indicated that two historic trails may be located in the area of this alternative – matters that Enbridge argues should be addressed “through the Section 106 consultations as part of the federal environmental review process.” The Band also provided information concerning the Band's usufructory rights (hunting, fishing, and gathering wild rice) on ceded land, over which the Fond du Lac Alternative would traverse.
- The consultation with the Band regarding possible lands of historical, archeological and cultural significance is being conducted by the U.S. Department of State in conjunction with the required federal environmental review. The Section 106 review under the National Historic Preservation Act is conducted by a consultant retained by the Department of State. Enbridge does not control this process. Both Enbridge and the Band are participating in this process.
- R. Finding 291: The Revised Preferred Route and Alignment filed by Enbridge on October 10, 2007 describes a ~~500-foot~~ variable route width that will accommodate both the LSr and Alberta Clipper pipelines northwest of Clearbrook, Minnesota.
- S. Finding 295: The Alberta Clipper pipeline will be generally constructed and installed adjacent to the existing Lakehead system right-of-way. The Alberta Clipper pipeline northwest of Clearbrook, Minnesota will typically be installed 25 feet from the earlier-approved LSr pipeline. Up to 75 feet of permanent easement will be required for both projects (LSr and Alberta Clipper).
- T. Finding 302: Kezar Property, Mile Post 859.5. Particular issues were raised by Mr. Joel Kezar regarding his property located at Mile Post 859.5 on the proposed Alberta Clipper project route. Mr. Kezar's comments were also documented in a letter submitted for the record as Exhibit A. Subsequent to the November, 2007 public hearings, Enbridge and the Kezar's were able to agree on a change to the Revised Preferred Route and Alignment Northwest of Clearbrook, Minnesota. This change reduces the impact on human settlement, any Pipeline Routing Permit issued for the Alberta Clipper and Southern Lights Diluent projects should ~~make this agreement a required condition~~ construction according to this agreement, unless requirements of other state or federal agencies make construction on this alignment impossible.

- U. Finding 304: Carlson Property, Mile Post 896. The proximity of the proposed pipelines was presented as a concern by a Polk County landowner, Mr. Cory Carlson of Trail, Minnesota. The particular parcel in question is Tract No. 748. Enbridge indicated a willingness to narrow the distance between proposed pipelines and to reduce workspace immediately adjacent to this home and business location. A drawing of the proposed narrowing of workspace for the Carlson property was introduced as Exhibit 13. A permit condition should direct Enbridge to follow this construction proposal, subject to or according to any other agreement made with from the landowners that keeps the proposed pipelines within the REVISED Preferred Route and Alignment.
  - V. Conclusions 34-40: [omit]
  - W. Conclusion 54: The Pipeline Routing Permit issued to Enbridge should require construction according to the agreement reached between Enbridge and Joel and Marsha Kezar, or as required by other federal or state agencies.
  - X. Recommendation 2: With the exception of the portion of the route through or around the Fond du Lac Reservation (between Mileposts 1056.1 and 1073.0) and subject Subject to the conditions set forth in the Conclusions, Enbridge's Application for a Routing Permit for a crude oil pipeline known as the Alberta Clipper Project, and a pipeline known as the Southern Lights Diluent Project, including the most recent Revised Preferred Route and Alignment and Route Alternatives, should be GRANTED.
3. The Commission hereby issues to Enbridge Energy, Limited Partnership and Enbridge Pipelines (Southern Lights) L.L.C., the attached Pipeline Routing Permit for the following projects:
- A. The Alberta Clipper project, a 36-inch outside diameter, high-pressure (1,313 pounds per square inch gauge) buried pipeline and associated facilities, with capacity to transport an average of 450,000 barrels of crude oil per day from Hardisty, Alberta, to Enbridge's tank farm and terminal in Superior, Wisconsin. The Alberta Clipper pipeline will be buried primarily within and adjacent to Enbridge's existing rights-of-way in the Minnesota counties of Kittson, Marshall, Pennington, Red Lake, Polk, Clearwater, Beltrami, Hubbard, Cass, Itasca, Aitkin, St. Louis and Carlton.
  - B. The Southern Lights Diluent project, a 20-inch outside diameter, high pressure (1,334 psig) buried pipeline and associated facilities, with capacity to transmit 180,000 barrels per day of diluent from refineries near Chicago, Illinois, to Enbridge's facilities at Clearbrook, Minnesota, where they would flow into an existing pipeline to Alberta. The Southern Lights Diluent pipeline will be buried primarily within and adjacent to Enbridge's existing rights-of-way in the Minnesota counties of Carlton, St. Louis, Aitkin, Itasca, Cass, Hubbard, Beltrami and Clearwater.

But the Commission refrains from issuing a permit with respect to the route between Mileposts 1056.1 and 1073.0 on Enbridge's initial preferred route, pending further negotiations by the parties.

4. Enbridge and the Band shall resume negotiations regarding the route of the proposed pipelines between Mileposts 1056.1 and 1073.0, and shall report on their progress toward reaching an agreement within thirty days of the date of the Commission's Order.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar  
Executive Secretary

(SEAL)

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