

**SBU DELIBERATIVE DO NOT DISCLOSE**

OES/EQT: Notes on Enbridge Line #3 Replacement (L3R) Maintenance Project

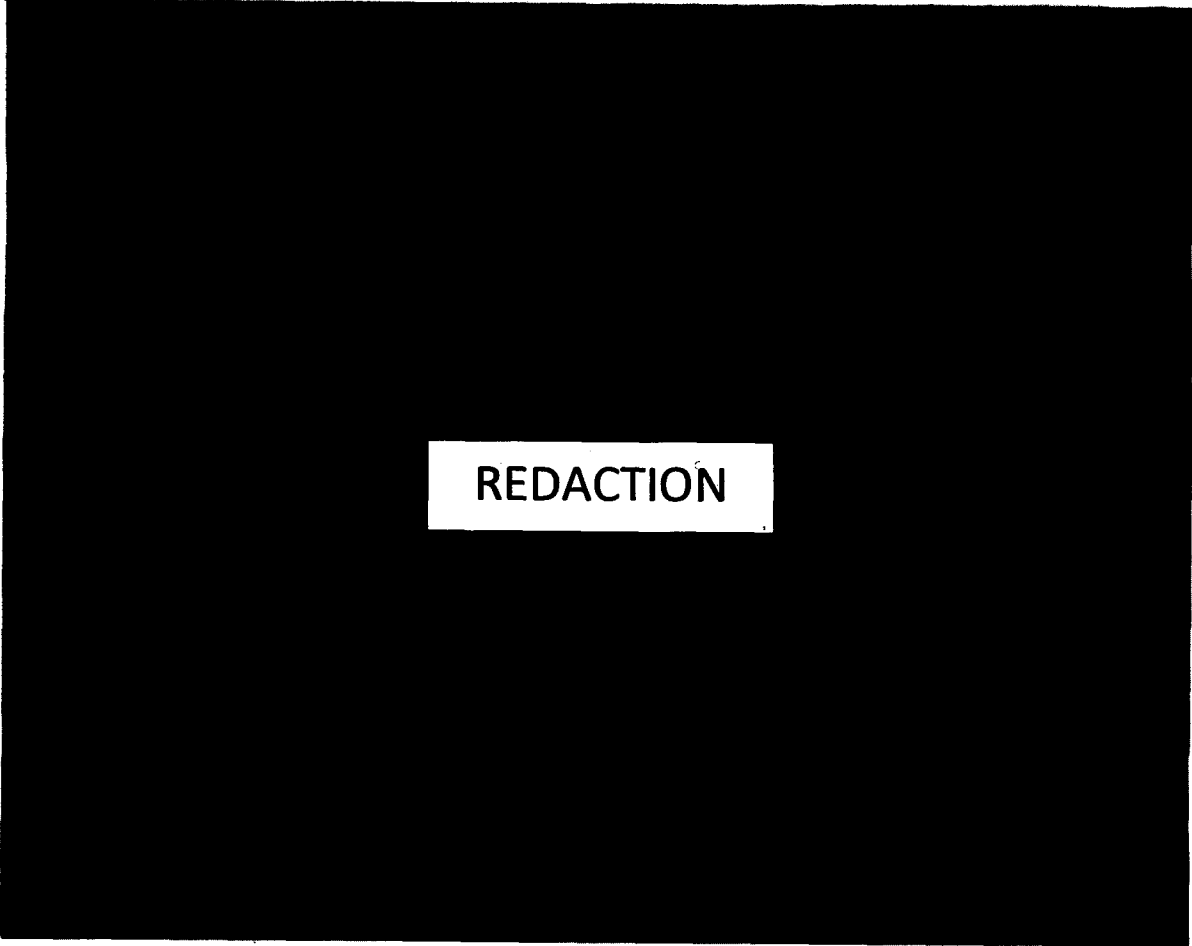
Date: 6 March 2014

Background:

1. Enbridge Energy holds a Presidential Permit issued on 12 Dec. 12, 1991 to Lakehead Pipeline Company (now known as Enbridge) by the Under Secretary of State, Robert B. Zoellick, to operate, maintain, and connect to Canadian facilities four crude oil pipelines that cross the U.S. border in Pembina County, North Dakota "for the transport of liquid hydrocarbons." The 1991 Permit was an update to an original Permit granted in 1968 for the four pipelines. The line that Enbridge refers to as Line 3 is referred to in the 1991 Permit only as "an existing 34-inch pipeline for the transport of crude oil and other hydrocarbons."
2. The Permit requires Enbridge to maintain the line and ensure its safety. It states at Article 4: "the Permittee shall comply with all applicable Federal and State laws and regulations regarding the construction, operation and maintenance of the U.S. facilities." *Note: The original permit was issued without any known environmental assessment or environmental review documentation.*
3. Enbridge Energy requested a meeting with the Department (ENR, EQT, L) on January 30, 2014 to discuss its planned large maintenance program for this pipeline, called Line #3 Replacement (L3R). Enbridge stated that it did not have funding at that time to replace the entire line, and so it was planning to start with two segments that were in particular need of replacement, and hoped to be able to replace the rest of Line 3 eventually. Under this program, Enbridge Energy would clean, seal and "abandon in-place" the existing pipeline segments targeted for replacement. A new segment would be built adjacent to the existing segment in the existing right-of-way. *One of the segments targeted for immediate replacement was the approximately 16-mile section that extends from the U.S.-Canada border to the first mainline valve in the U.S.*
4. EQT NEPA Coordinator requested a letter from Enbridge that would spell out clearly the specifics of the L3R project and highlight the environmental review and coordination that Enbridge would accomplish with other Federal and State regulators and stakeholders. Enbridge responded with a letter on Feb. 5, 2014 that specifies the proposed deactivation activities for the existing line and describes the notification that Enbridge would give to the Pipeline and Hazardous Materials and Safety Administration (PHMSA), the U.S. Army Corps of Engineers, as well as the International Boundary Commission.
5. Initial review and evaluation of the project by L/OES and L/EB suggests that the proposed activity qualifies as a maintenance project and would not require a new Presidential Permit as long as there are no changes to the operation of the pipeline as described in the 1991 Permit. Abandoning pipelines in place is a common industry practice as there is often more potential for damage and contamination done by removing the existing old pipelines.

6. On February 26, Enbridge contacted the Department to inform us that it had found funding to replace the entire Line 3 and intended now to do so, if its Board of Directors approved the plan on March 3. On March 3, Enbridge informed the Department that the Board had indeed approved the plan. Enbridge also put out a press statement and spoke to reporters. According to news reports, Enbridge indicated that it believed no new Permit would be required because the work would constitute maintenance consistent with the existing Permit.
7. Press inquiries to State Department (March 4-5, 2014) are asking for a definitive answer to the question if this project would require a new Presidential Permit.
8. EQT NEPA Coordinator contacted PHMSA Director of Pipeline Safety, and was informed that this project would be handled by Central Region and would likely require an environmental review under NEPA. PHMSA also expressed that they are pleased that the old line will be replaced as it is aging and a new line would be much safer. PHMSA also expressed interest in being lead agency for all pipeline projects in general and would like to have a policy meeting with appropriate Department officials to discuss means to standardize and better manage growing number of pipeline projects.

Possible Next Steps:



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**From:** Coburn, David <DCoburn@steptoe.com>  
**Sent:** Monday, March 17, 2014 2:49 PM  
**To:** Brennan, Michael F  
**Cc:** Hahs, Ona M; Dunn, Patrick M; Hassell, Mary D.; Huitema, David P; Runyan, Joshua  
**Subject:** Enbridge Line 3 -- Response to Questions  
**Attachments:** March 17, 2014 Letter to DOS.PDF; L3 Proposed Route.pdf

Mike – Please find attached a letter that responds to the questions posed to Enbridge last week concerning Line 3, as well as a map depicting a proposed route for the replacement pipeline. The map also depicts the border segment that we have discussed.

Please let me know if you have any further questions. Regards. David

David H. Coburn  
Partner  
[DCoburn@steptoe.com](mailto:DCoburn@steptoe.com)

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David H. Coburn

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*Contains Confidential Business Information*

March 17, 2014

**VIA E-MAIL**

Michael Brennan  
Office of Energy Diplomacy, Energy  
Resources Bureau (ENR/EDP/EWA)  
U.S. Department of State  
2201 C St. NW Ste 4843  
Washington, DC 20520

**Re: Additional Information Regarding Enbridge's Maintenance of Line 3**

Dear Mr. Brennan:

This letter is written on behalf of Enbridge Energy, Limited Partnership ("Enbridge") in response to the March 10, 2014 request made by you and your colleagues for additional information regarding the replacement of Enbridge's Line 3 crude oil pipeline for maintenance reasons.

As indicated in my February 5, 2014 letter to the Department, Enbridge intends to undertake a maintenance-driven replacement of a segment of Line 3 on both sides of the U.S.-Canada border that includes the only portion of the line operated and maintained pursuant to the 1991 Presidential Permit issued for Line 3. Specifically, this includes the approximately 16-mile section of the pipeline that extends from the U.S.-Canada border to the first mainline valve in the United States, all in Pembina County, North Dakota (referred to herein as "the border segment").<sup>1</sup> As indicated in our February 5 letter, and as discussed at our January 30 meeting with you and your colleagues, this border segment will be replaced with a new 34-inch diameter pipe consistent with the pipe diameter specified in the 1991 Presidential Permit. The replacement of the border segment is designed to ensure the safe operation of the line as required

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<sup>1</sup> As we have advised, this is the same first U.S.-mainline valve location that existed in 1991, when the current Presidential Permit was issued. It is also the same location of the first mainline valve in the U.S. that existed at the time the pipeline was constructed in 1968.

Mr. Michael Brennan  
March 17, 2014  
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by the Presidential Permit and is consistent with Enbridge's obligation under Article 9 of the Permit to maintain the line.

Enbridge intends to undertake and complete the border segment replacement, and place it into service, in the coming months and therefore landowners in the area have already been advised of the forthcoming work. Further, with respect to the replacement of the contiguous 1.5 mile near-border segment in Canada, Enbridge has commenced consultation with potentially affected parties in accordance with Canadian regulatory requirements. Notification to the Canadian regulatory authority is scheduled to occur shortly. The border segment replacement on both sides of the US-Canada border, and two other discrete Line 3 segment replacements, including one near Superior, Wisconsin, have been planned separate and apart from Enbridge's recently-announced plans to replace all other segments of Line 3 in the U.S. and Canada.

As we stated at our January 30 meeting and in my February 5 follow-up letter, there was at those times a possibility that Enbridge would receive shipper support for replacing the remainder of Line 3 between Hardisty, Alberta and Superior, Wisconsin. As you were advised by Enbridge on February 26, 2014, Enbridge in fact received at that time the necessary shipper approval to proceed with such a replacement program. On March 3, 2014, the Enbridge Board of Directors approved the program to replace the remainder of Line 3, as you were advised on that day. This will confirm that all segments of Line 3 that are outside of the jurisdiction of the Department (i.e., all sections other than the above-described border segment) will be replaced with new 36-inch diameter pipe, consistent with current industry standard sizing. That larger replacement project, which is intended to improve system reliability, has an in-service date of 2017, subject to obtaining certain permits and approvals required in the U.S. and Canada. The decision to replace the remaining sections of Line 3 (in addition to the border section and the two other sections being replaced for safety reasons) does not in any way change the plan to replace the border segment and that replacement will proceed pursuant to the terms of the Permit requiring that the Pipeline be maintained in good repair for safe operation, as we have previously articulated.

You and your colleagues have requested that we provide you with a summary regarding the types of crude oil that have been transported on Line 3, as well as the historical operating capacity of the line. The types of crude oil that have been transported on Line 3 have varied significantly over its many years of operation based on shipper demands. When the line was originally placed into service in 1968, the line transported only light crudes. In the early 1980s, the line began to transport medium crudes, in addition to light crudes. By the mid-1980s and through 2002, the line was used to transport predominantly heavy crudes. During the period from 2002 to 2005, Line 3 once again transported primarily light crudes, and from 2005 to 2011, the line was used for mixed service (light, medium and heavy crudes). Since 2011, the line has been used for light crude service only. The line is physically equipped to transport all grades of crude oil, and the type of crude oil transported in the future (as in the past) will be based on shipper demand.

The average annual operating capacity of Line 3 has likewise varied greatly over its years of operation. Since it began operating in the late 1960s, the average annual capacity of the line

*Contains Confidential Business Information*

Mr. Michael Brennan  
March 17, 2014  
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has varied from a low of 390,000 barrels per day (“bpd”), which is the current operating capacity of the line, to a much higher bpd capacity, based on the nature of the crude oil transported through the line at the time and the presence or absence of safety-related constraints on line use.<sup>2</sup> The average annual capacity of Line 3, once all segments are replaced, will be about 760,000 bpd, which is based on an assumption that the line will transport a mixture of heavy and light crude oils. That is the same capacity that would be expected on the existing line for mixed heavy and light service if all the safety-related restrictions were lifted. At various times in the past, including when the Presidential Permit was issued in 1991, the line transported volumes of crude oil in the same range of 760,000 bpd, while at other times somewhat less and at times somewhat more depending on the mixture of oil transported and safety-related capacity restrictions.

Over the years the line has been capacity constrained by safety-related restrictions, as is currently the case. For example, following the identification of certain features on the line through in-line inspections, capacity restrictions were imposed in 2008 and such safety-related reductions remain in place. The capacity reduction to today’s level of 390,000 bpd annual average operating capacity was implemented in 2012. These capacity reductions were in all cases driven by engineering analyses and a determination of the conditions prudent for safe operation.

Turning to your query about line location in the United States, the replacement Line 3 is proposed to be constructed in the existing Line 3 pipeline corridor from the international border to Enbridge’s Clearbrook, Minnesota terminal facilities, a distance of about 120 miles. Thus, the entire 16-mile border segment replacement within the Department’s jurisdiction would be located within the same corridor in which Line 3 is currently located. The border crossing point likewise will be in that same corridor.

At Clearbrook, the replacement Line 3 pipeline is proposed to deviate from the existing corridor and follow the proposed route of a planned new Enbridge domestic pipeline known as the Sandpiper Pipeline to Superior, Wisconsin. For a portion of this proposed route, the replacement Line 3 would be located in the corridor of the existing MinnCan Pipeline and for other portions it would traverse existing utility corridors. At a point west of Carlton, Minnesota, the replacement Line 3 (together with the Sandpiper Pipeline) would again be located in the same corridor as the existing Line 3. Under the proposal described here, the total length of the section that deviates from the existing corridor would be approximately 238 miles. However, Enbridge has also not ruled out the option to construct the entire replacement line along the existing Line 3 right-of-way. A map of the existing Line 3 route and the currently proposed replacement Line 3 route from the international border to Superior is enclosed for your information.

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<sup>2</sup> A pipeline is capable of transporting greater volumes of light crude as opposed to medium or heavy crude. At various times in the past when Line 3 was used exclusively for light crude transport, and before any safety-related constraints were imposed on the line, over 960,000 bpd of light crude was transported through the line.

Mr. Michael Brennan  
March 17, 2014  
Page 4 of 4



Advantages of the proposed deviation routing are that the route avoids population centers where development has potential to encroach upon the existing Line 3 corridor and also avoids the Chippewa National Forest, while utilizing other existing utility corridors. Enbridge will be working with those agencies that have jurisdiction over the portions of Line 3 outside of the border area to obtain required permits for construction in both the existing Line 3 corridor and the proposed new corridor, including the Minnesota Public Utilities Commission. In this regard, the permitting process for the replacement of the remaining portions of Line 3 (those other than the border segment and two other segments) has not yet commenced and the final routing for the line will be determined only after that process has been completed.

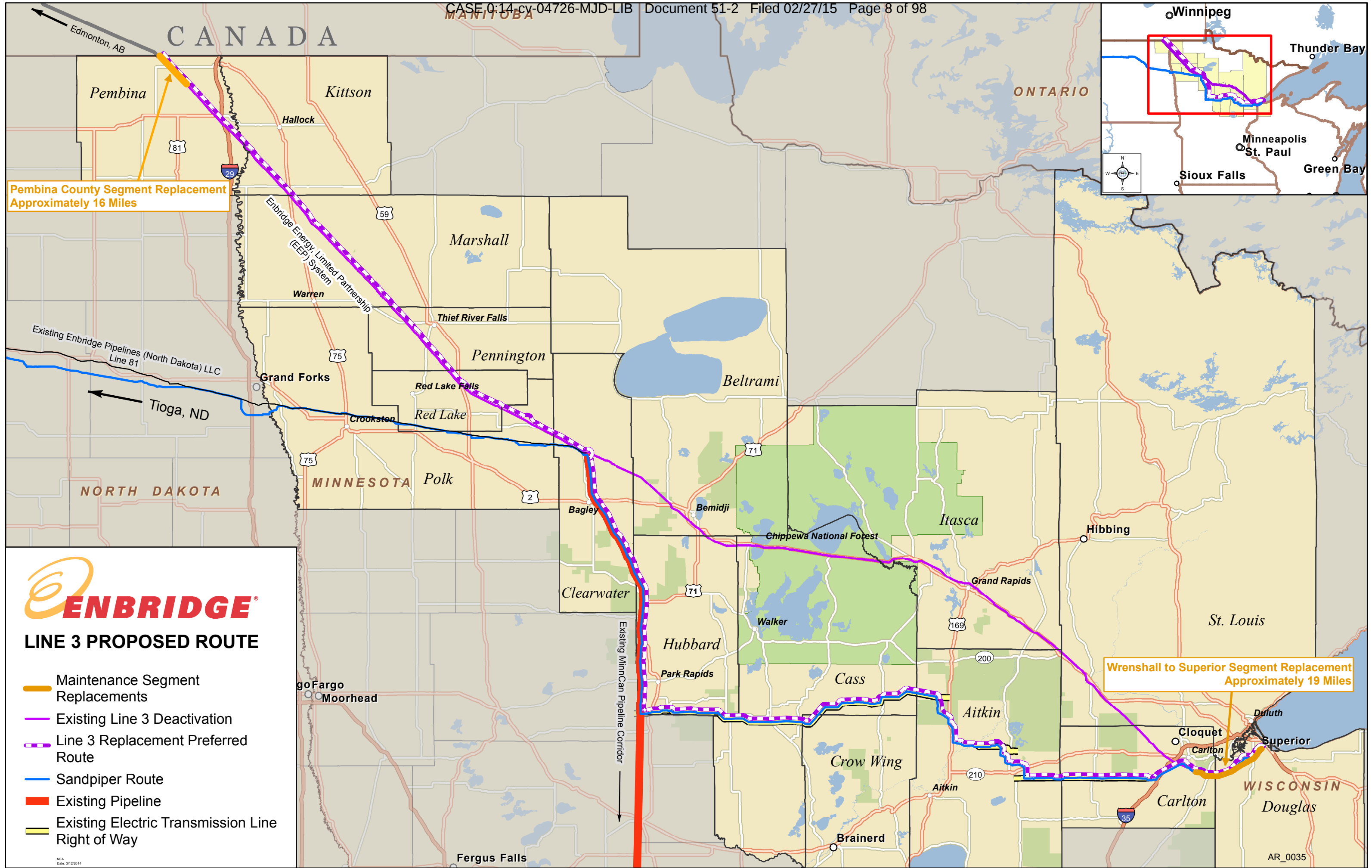
Please let us know if you require any additional information. We will advise you once work commences on the replacement of the border segment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David H. Coburn", with a long, sweeping horizontal line extending to the right.

David H. Coburn  
Attorney for Enbridge Energy, Limited Partnership







cc: Patrick Dunn  
Ona Hahs, Esq.  
Mary Hassell  
David Huitema, Esq.



**Pembina County Segment Replacement  
Approximately 16 Miles**

**Wrenshall to Superior Segment Replacement  
Approximately 19 Miles**

**ENBRIDGE**  
**LINE 3 PROPOSED ROUTE**

-  Maintenance Segment Replacements
-  Existing Line 3 Deactivation
-  Line 3 Replacement Preferred Route
-  Sandpiper Route
-  Existing Pipeline
-  Existing Electric Transmission Line Right of Way



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**From:** Hahs, Ona M  
**Sent:** Tuesday, March 18, 2014 4:35 PM  
**To:** Brennan, Michael F (Mexico City); Dunn, Patrick M; Hassell, Mary D.; Huitema, David P  
**Cc:** Grout, Travis A  
**Subject:** RE: Enbridge Line 3 -- Response to Questions

All, I got a call from David Coburn. I confirmed that we had received the letter. He told me that he just got word today that all of the land acquisitions for the border segment had been made and they expect to break ground in a month.

So we have to wrap this up.

Best,  
Ona

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**From:** Coburn, David [<mailto:DCoburn@steptoe.com>]  
**Sent:** Monday, March 17, 2014 2:49 PM  
**To:** Brennan, Michael F  
**Cc:** Hahs, Ona M; Dunn, Patrick M; Hassell, Mary D.; Huitema, David P; Runyan, Joshua  
**Subject:** Enbridge Line 3 -- Response to Questions

Mike – Please find attached a letter that responds to the questions posed to Enbridge last week concerning Line 3, as well as a map depicting a proposed route for the replacement pipeline. The map also depicts the border segment that we have discussed.

Please let me know if you have any further questions. Regards. David

David H. Coburn  
Partner  
[DCoburn@steptoe.com](mailto:DCoburn@steptoe.com)

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**From:** Hahs, Ona M  
**Sent:** Thursday, March 27, 2014 5:26 PM  
**To:** Dunn, Patrick M; Huitema, David P; Hassell, Mary D.; Brennan, Michael F; Grout, Travis A; Klepp, Deborah E (OES); Pearsall, Patrick W; Rich, Christopher E; Reynolds, Robert H  
**Subject:** Coburn call: Enbridge Lines 67 and 3

SBU -- PREDECISIONAL AND DELIBERATIVE

Hi all,

David Coburn (Enbridge's attorney) just called me.

1. The President of Enbridge is going to "Investor Day" in New York on Tuesday. At the very least he wants to be able to tell investors that the State Department has made a provisional selection of a third party contractor, if not identify the contractor. How do we feel about that being made public before the actual contract has been signed? If we're ok with that, do we need to tell the reporter who's been asking first? It would obviously be cleaner if we could finish the contract process by Tuesday, which isn't out of the realm of possibility, depending on who needs to approve the actual document. Other than the L/OES line attorney on the project, who has needed to approve them in the past?
2. Enbridge needs to do the horizontal directional drilling under the 2 rivers in the border segment for Line 3 while the ground is still frozen, so they are planning to do that in mid-April, i.e., 2 weeks from now. So we're running out of time on that one.

Thanks,  
Ona

*Ona M. Hahs  
Attorney-Adviser  
Office of the Legal Adviser  
For Oceans and International Environmental and Scientific Affairs  
202-647-9456*

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**Subject:** Enbridge Line 3 update

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**From:** Hahs, Ona M  
**Sent:** Thursday, April 17, 2014 1:34 PM  
**To:** Brennan, Michael F (Mexico City); Dunn, Patrick M; Klepp, Deborah E (OES); Huitema, David P; Ehr, Margaret A  
**Cc:** Hassell, Mary D.; Grout, Travis A  
**Subject:** Enbridge Line 3 update

SBU -- PREDECISIONAL AND DELIBERATIVE

Hi all,

Mary and I spoke with David Coburn this morning on the Line 67 SEIS, and at the end of the call Coburn mentioned that Enbridge did NOT break ground this week on Line 3 because it was too wet, but they expect to break ground soon. So while happily our letter is not yet OBE, we should keep up the pressure to get that done as soon as possible.

Best,  
Ona



April 24, 2014

UNCLASSIFIED**ACTION MEMO TO S/CIEA Ambassador Carlos Pascual**

FROM: ENR: Robert F. Cekuta

SUBJECT: Enbridge Energy, L.P. Line 3 Border Segment Replacement Response

**Recommendation**

That you approve ENR/EDP sending the letter attached at Tab 1 to Enbridge Energy, L.P. indicating Department concurrence with Enbridge's plan to replace the border segment of its Line 3 pipeline consistent with the existing Presidential Permit for the line.

Approve CP Disapprove \_\_\_\_\_**Background**

Enbridge Energy Partners, L.P. ("Enbridge") has informed the Department it plans to replace the pipe in its Line 3, a 34-inch diameter petroleum pipeline dating from the 1960's that crosses the U.S./Canada border in Pembina County, North Dakota. Enbridge has stated that Line 3 can no longer sustain the operations (e.g., volume and pressure) for which it was originally designed, and indeed has reached a condition where industry practice suggests that replacement of the pipeline is the better option to maintain its safety and commercial value, rather than continued attempts at repairs. Enbridge states that it will break ground on the replacement of the border segment in mid-April.

Enbridge views this work to be maintenance of the line consistent with the existing Presidential Permit for Line 3, which was issued in 1991 as an ownership change update to the original 1968 Permit, and thus no new Permit is required before work can begin. The Department has previously found that pipeline segment replacement for reasons of pipeline deterioration may be considered maintenance. The attached letter indicates that the replacement of the border segment of Line 3 is consistent with the authorization in the existing Presidential Permit.

UNCLASSIFIED

Enbridge plans to replace the border crossing with 34-inch diameter pipe, which is the diameter of the pipe in the existing line, but it would replace other segments of Line 3 with a larger diameter pipe. The 1991 Presidential Permit for Line 3 has no language addressing the geographic scope of the covered facilities. The attached letter indicates that, in the circumstances presented, the Department of State would focus only on the pipe used from the Canadian border to the first mainline valve in the United States when evaluating whether the pipeline facilities are consistent with the terms of the existing Permit.

Since no new Permit authorization is required for these activities, no environmental review would be conducted. We do not believe that an environmental review was conducted as part of the issuance of the 1968 or current 1991 Permits either.

Attachments:

- Tab 1 – Proposed Response Letter to Enbridge
- Tab 2 – February 5 and March 17 letters from Enbridge
- Tab 3 – 1991 and 1968 Presidential Permits for Line 3

Approved: Robert F. Cekuta - ok

Drafter: Mike Brennan –ENR/EDP/EWA, X7-7553, Ona Hahs, L/OES

Clearances:

ENR/EDP:	Patrick Dunn	ok
OES/EQT:	Deborah Klepp	ok
OES/EQT:	Mary Hassell	ok
L/OES:	Ona Hahs	ok
L/EB:	David Huitema	ok
WHA/CAN:	Meg Ehr	ok
E:	Jonathan Habjan	ok

---

**From:** Brennan, Michael F  
**Sent:** Friday, April 25, 2014 3:04 PM  
**To:** Coburn, David (DCoburn@steptoe.com)  
**Cc:** Hahs, Ona M; Huitema, David P; Dunn, Patrick M  
**Subject:** State Dept. Reply Letter April 25  
**Attachments:** State Dept Reply Letter to David Coburn April 25.pdf

Dear Mr. Coburn:

The attached letter is our response to the two questions raised on behalf of your clients related to the planned replacement of the border segment of Enbridge's line 3 Crude pipeline.

Please confirm your receipt of the response and let us know if you have any further concerns and/or questions.

Best regards,

Mike

Mike Brennan  
Office of Energy Diplomacy- Europe, Western Hemisphere, Africa  
Energy Resources Bureau  
HST 4843  
Tel: 202-647-7553  
BB: 202-294-3845

VIA EMAIL

David H. Coburn  
Steptoe & Johnson, LLP  
1330 Connecticut Avenue, NW  
Washington DC 20036

April 24, 2014

Dear Mr. Coburn,

We are writing to address two questions you have raised on behalf of your clients at Enbridge Energy, LP (“Enbridge”) related to the pending replacement of the border segment of Enbridge’s Line 3 crude oil pipeline, as well as Enbridge’s further plans to replace the rest of Line 3. We thank for your letters of February 5 and March 17 and also appreciate the helpful and informative presentation you and your clients made at the meeting on January 30, and in your teleconference updates on February 26 and March 10. It is important that we understand Enbridge’s plans in order to answer the questions you have raised, and so we have carefully considered the information you provided.

We understand that Enbridge is seeking confirmation from the Department of State with regard to two points: first that the replacement of the segment of the Line 3 pipeline from the border to the mainline valve at approximately mile 16 would be considered by the Department to be consistent with the authorizations in the existing 1991 Presidential Permit for the line; and, second, that the 34-inch pipe diameter descriptor in the Permit only applies to that same 16-mile segment. In these particular circumstances, as described further below, we can offer both assurances.

First, we find the replacement of the border segment of Line 3 to be consistent with the authorization in the existing Presidential Permit in part because Line 3 is an old pipeline, and you have stated that it can no longer sustain the operations (e.g., volume and pressure) that it was originally designed and authorized to handle. You have stated further that it has reached a condition where industry practice suggests that replacement of the pipe is the better option to maintain its safety and commercial value, rather than continued attempts at repairs. (And indeed, as your February 5 letter states, Article 9 of the Line 3 Presidential Permit mandates Enbridge to maintain the pipeline “in a condition of good repair for [its] safe operation”.) You have also indicated that your deactivation



and maintenance of the old pipe will be conducted in accordance with U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration (PHMSA) regulations.

Further, you have stated that the new border segment will be built within the existing right-of-way that the Line 3 border segment currently inhabits, and that the new segment will be fully consistent with all the terms of the existing Presidential Permit, including that it will be built with 34-inch diameter pipe, and that it will carry crude oil and other liquid hydro-carbons. Your March 17 letter confirmed that even after a full replacement of Line 3, the line's barrels-per-day volume will be in the same range (roughly 760,000 bpd) as the volume that Line 3 transported in 1991 when the existing Presidential Permit was issued. You also stated that Line 3 currently is equipped to carry the full range of products allowed by the Permit, including heavy crude oil. Based upon these representations, the Department accepts that the replacement of the border segment of Line 3 is authorized by the existing 1991 Presidential Permit.

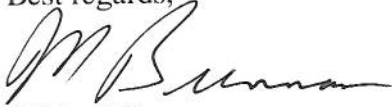
Second, when evaluating whether the pipeline facilities are consistent with the terms of the existing Permit, the Department of State would focus only on the pipe used from the Canadian border to the first mainline valve in the United States, which is located in Pembina County, North Dakota, approximately 16 miles from the border. The Permit provides authorization "to operate and maintain a pipeline on the borders of the United States in Pembina County, North Dakota" and to "connect this pipeline with like facilities in Canada." The only geographic reference in the definition of the U.S. facilities also is to Pembina County. Therefore, for these purposes, we are comfortable interpreting the Permit description of the covered U.S. facilities as applying to the segment of the pipe extending from the border to the valve at mile 16.

The Department also notes that Article 4 of the existing Permit for Line 3 states that "Permittee shall comply with all applicable Federal and State laws and regulations regarding the construction, operation, and maintenance of the United States facilities." Therefore we were pleased to note, as indicated in your February 5 letter, that Enbridge intends to work with the U.S. Army Corps of Engineers, PHMSA, the International Boundary Commission, and other appropriate state and federal agencies to address environmental and cultural resource issues that may arise during the Line 3 replacement. We encourage you to continue close cooperation with all such relevant agencies.

The interpretations provided above apply only to the particular circumstances of Line 3 discussed here, and reflect our current understanding based on the information provided by Enbridge. Should any of the provided information prove to be materially incorrect or incomplete, we would need to revisit our conclusions. Further, the analysis in this letter

should not be extrapolated to other circumstances (on Line 3 or another line) without confirmation that the Department concurs.

Best regards,

A handwritten signature in black ink, appearing to read "Michael Brennan". The signature is fluid and cursive, with the first name "Michael" being more prominent than the last name "Brennan".

Michael Brennan



**Enbridge Energy, Limited Partnership  
U.S. Department of State Application  
For Presidential Permit**

**May 2007**

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# **ALBERTA CLIPPER PROJECT**

## **APPLICATION FOR PRESIDENTIAL PERMIT**



**Application of Enbridge Energy, Limited Partnership  
Page 1 of 2**

**DEFINITIONS**

**APPLICANT**

Enbridge Energy, Limited Partnership

**DELIVERY**

A volume at a location where the hydrocarbon commodity enters the Enbridge pipeline system.

**ENBRIDGE**

Enbridge is the term used to collectively describe the various Enbridge companies, affiliates and legal entities, some of which are defined below.

**ENBRIDGE ENERGY, LIMITED PARTNERSHIP**

Enbridge Energy, Limited Partnership owns and operates the liquid pipeline system known as the Enbridge Lakehead System. Together with Enbridge Pipelines Inc. in Canada, these operationally integrated pipeline systems form the longest liquid petroleum pipeline in the world.

**ENBRIDGE MAINLINE SYSTEM**

A term used to describe the U.S. and Canadian portion of a major liquid pipeline systems owned by Enbridge Energy, Limited Partnership and Enbridge Pipelines Inc. respectively.

**ENBRIDGE PIPELINES INC.**

A Canadian company which primarily owns and operates a liquid hydrocarbon pipeline system in Canada which interconnects with the Lakehead System. Enbridge Pipelines Inc. is a Canadian affiliate of Lakehead.

**HEAVY CRUDE**

A commodity having a density over 904 kilograms per cubic meter (kg/m<sup>3</sup>) and a viscosity from 100 to 250 mm<sup>2</sup>/s. As defined in the Enbridge Energy, Limited Partnership local tariff applying to crude petroleum and natural gas liquids.

**LAKEHEAD SYSTEM**

Enbridge's designation for the portion of its liquid petroleum pipeline transportation system owned by Enbridge Energy, Limited Partnership, previously named Lakehead Pipeline, Limited Partnership.



**Application of Enbridge Energy, Limited Partnership  
Page 2 of 2**

**DEFINITIONS**

**LIGHT CRUDE**

A commodity having a density from 600 kg/m<sup>3</sup> up to but not including 876kg/m<sup>3</sup> and a viscosity from 0.4 mm<sup>2</sup>/s up to but not including 20 mm<sup>2</sup>/s. As defined in the Enbridge Energy, Limited Partnership local tariff applying to crude petroleum and natural gas liquids.

**MEDIUM CRUDE**

A commodity having a density from 876kg/m<sup>3</sup> up to but not including 904kg/m<sup>3</sup> and a viscosity from 20 mm<sup>2</sup>/s up to but not including 100mm<sup>2</sup>/s. As defined in the Enbridge Energy, Limited Partnership local tariff applying to crude petroleum and natural gas liquids.

**NATURAL GAS LIQUIDS (NGL)**

A commodity having a maximum absolute vapor pressure of 1,100 kilopascals at 37.8°C and a density of up to but not including 600 kg/m<sup>3</sup> and a viscosity of up to but not including .4 square millimeters per second (mm<sup>2</sup>/s). As defined in the Lakehead Pipe Line Company, Limited Partnership local tariff applying on crude petroleum and natural gas liquid.

**PADD**

Petroleum Administration for Defense District □ Geographic aggregations of the 50 States and the District of Columbia into five districts by the Petroleum Administration for Defense in 1950. These districts were originally instituted for economic and geographic reasons as Petroleum Administration for War (PAW) Districts, which were established in 1942 (See Map M for geographical representation of Petroleum Administration of Defense Districts).

**RECEIPT**

A volume at a location where the hydrocarbon commodity enters the Lakehead pipeline system.

**SHIPPER**

A customer, who transports volumes on the common carrier pipeline system, including crude oil producers, refiners and/or marketers.



**U.S. DEPARTMENT OF STATE**

**APPLICATION OF  
ENBRIDGE ENERGY LIMITED PARTNERSHIP  
FOR A  
PRESIDENTIAL PERMIT**

**ALBERTA CLIPPER PROJECT**

**UNITED STATES OF AMERICA  
DEPARTMENT OF STATE**

**Enbridge Energy, Limited Partnership )**

**No. □□□□□□□□□□**

**APPLICATION OF ENBRIDGE ENERGY, LIMITED PARTNERSHIP  
FOR A PRESIDENTIAL PERMIT TO AUTHORIZE THE CONSTRUCTION,  
OPERATION AND MAINTENANCE OF CERTAIN PIPELINE FACILITIES  
AT THE INTERNATIONAL BOUNDARY BETWEEN  
CANADA AND THE UNITED STATES**

Pursuant to Executive Order 11423, 33 Fed. Reg. 11741 (Aug. 16, 1968), as amended, and Executive Order 13337, 69 Fed. Reg. 25229 (Apr. 30, 2004), Enbridge Energy, Limited Partnership<sup>1</sup> (□Applicant□) hereby submits its Application to the United States Department of State (□Department of State□) for a Presidential Permit authorizing the construction, operation, and maintenance of a 36-inch diameter pipeline, referred to hereinafter as the □Border Crossing Facilities,□ for the transportation of crude oil and other liquid hydrocarbons between the United States and Canada, to be located at the international border between the United States and Canada, at Neche, North Dakota, as set forth herein. Authorization to construct and operate the Border Crossing Facilities is being requested in connection with Enbridge's proposed international pipeline project (the □Alberta Clipper Project□), which is designed to transport crude oil from the Western Canadian Sedimentary Basin (□WCSB□) to downstream refinery markets in the Midwest region of the United States and eastern Canada, as more fully described below.

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<sup>1</sup> Enbridge Energy, Limited Partnership is a wholly owned subsidiary of Enbridge Energy Partners, L.P. and an affiliate of Enbridge Inc. Enbridge Inc.'s subsidiary, Enbridge Pipelines Inc., owns and operates the Canadian portion of an existing pipeline system that interconnects and delivers into the United States into the Enbridge Energy, Limited Partnership system known as the □Lakehead System□. These operationally integrated pipeline systems together form the longest liquid petroleum pipeline in the world. Together, these two systems are referred to as the □Enbridge Mainline System.□ Collectively these affiliated entities are referred to as □Enbridge.□

**Application of Enbridge Energy, Limited Partnership  
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Applicant submits that the Border Crossing Facilities will serve the national interest. By enhancing the ability to deliver a secure and growing supply of Canadian crude oil, thereby supplementing the diminishing supplies of domestically produced crude oil historically produced within Petroleum Administration Defense District (PADD) III and southern PADD II, the Alberta Clipper Project will provide pipeline capacity required to meet the growing demand of U.S. refineries for Canadian crude oil. The Project will provide these substantial benefits with minimal impact to the environment since it will be constructed generally within or immediately adjacent to the existing Enbridge Mainline System right-of-way now containing five liquid hydrocarbon pipelines. Accordingly, the Alberta Clipper Project will meet the U.S. demand for stable supplies of crude oil while minimizing any impact to landowners and the environment.

Timely authorization of this Application is needed in order to meet the capacity requirements of Applicant's shippers, and avoid apportionment on the Enbridge Mainline System due to the forecasted growth in the Alberta oil sands production, as explained in more detail below. Accordingly, Enbridge respectfully requests the issuance of a Presidential Permit by no later than November 1, 2008, to allow for winter construction to begin by December 15, 2008. This Application and attachments contain all of the information required by the Department of State Fact Sheet on Presidential Permit Applications, dated February 7, 2002.<sup>2</sup>

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<sup>2</sup> <http://www.state.gov/p/wha/rls/fs/7895.htm>



**I.  
COMMUNICATIONS**

Any communications with respect to this Application should be directed to:

Joel Kanvik	John Harrington
Enbridge Energy Company, Inc.	Fulbright & Jaworski LLP
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(713) 821-2000	202-662-4530
<a href="mailto:joel.kanvik@enbridge.com">joel.kanvik@enbridge.com</a>	<a href="mailto:jharrington@fulbright.com">jharrington@fulbright.com</a>

**II.  
BACKGROUND**

**A. The Applicant**

The Applicant is Enbridge Energy, Limited Partnership ("EELP"), a limited partnership duly organized under the laws of the State of Delaware. EELP is a wholly owned subsidiary of Enbridge Energy Partners, L.P. ("Enbridge Partners") which is a Delaware master limited partnership headquartered at 1100 Louisiana, Suite 3300, Houston, Texas 77002 (ph. 713-821-2000; www.enbridgepartners.com). Enbridge Partners is a publicly held limited partnership: The Class A Common Units of Enbridge Partners trade on the New York Stock Exchange under the symbol "EEP" as regularly traded instruments and are available to the investing public through regular retail brokerage services. The majority ownership of Enbridge Partners is held by approximately 78,000 Class A unit holders. Enbridge Energy Management, L.L.C., a publicly traded limited liability company under the symbol "EEQ," owns approximately eighteen percent (18%) of Enbridge Partners and is the delegated manager of Enbridge Partners. Enbridge Inc., through its ownership of Enbridge Partners' General Partner, Enbridge Energy Company, Inc., holds an eleven percent (11%) interest. Enbridge Partners' total assets were \$5.2 billion and operating income was approximately \$387 million for the year ending December 31, 2006.

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Enbridge Partners provides pipeline transportation of petroleum and natural gas in the Mid-Continent and Gulf Coast regions of the United States, in addition to gathering, processing, and other related operations. Its two primary business segments are Liquids Transportation and Natural Gas. The Liquids Transportation segment involves the transportation by pipeline of crude petroleum and natural gas liquids via three main interstate pipeline systems (Lakehead, North Dakota and Ozark). The Natural Gas business segment involves the interstate and intrastate transportation by pipeline of natural gas as well as related gathering, midstream, and marketing operations. Enbridge Partners operates over 5,000 miles of liquids pipeline facilities in sixteen different states.

As stated above, EELP owns and operates the Lakehead System, the U.S. portion of an operationally integrated pipeline system spanning 3,300 miles across North America to connect producers and shippers of crude petroleum and natural gas liquids in western Canada with markets in the United States and eastern Canada.<sup>3</sup> The Enbridge Mainline System operates in seven Great Lakes states, transporting approximately seventy percent (70%) of the crude petroleum and natural gas liquids produced in western Canada to refinery centers in the midwestern United States and eastern Canada. The Enbridge Mainline System meets approximately seventy-one percent (71%) of the refinery demand in Minnesota; sixty-two percent (62%) in the greater Chicago area; one hundred percent (100%) in Wisconsin; and eighty-two percent (82%) in Ontario. As demand for transportation services has steadily increased, average daily deliveries on the Lakehead System of crude petroleum have risen, from 1.34 million

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<sup>3</sup> Enbridge Energy, Limited Partnership was formerly known as Lakehead Pipe Line, Limited Partnership; hence, the Lakehead System.

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barrels per day (bpd) in 2005 to 1.52 million bpd in 2006, and it is expected that the Lakehead System will transport approximately 1.64 million bpd in 2007.

The Lakehead System spans approximately 1,900 miles from the international border near Neche, North Dakota to the international border near Marysville, Michigan, with an extension from facilities in Canada across the Niagara River into the Buffalo, New York area. The Lakehead System's facilities include nearly 3,300 miles of underground pipe ranging from twelve (12) to forty-eight (48) inches in outer diameter and approximately 10.8 million barrels of storage capacity for crude oil at four terminals located at Clearbrook, Minnesota; Superior, Wisconsin; Griffith, Indiana; and Hartsdale, Indiana. From Marysville, affiliated pipelines continue into the Canadian Provinces of Ontario and Quebec. See General Systems Map appended hereto as Attachment A.

Information about EELP is available on the Company's website at [www.enbridgepartners.com](http://www.enbridgepartners.com). EELP and its affiliate, Enbridge Pipelines Inc., have a proven track record which demonstrates the successful design and execution of expansion projects in Canada and the United States such as the one proposed herein, and have efficiently and reliably operated crude oil and liquid petroleum pipeline facilities that cross the U.S.-Canadian border since 1950.

**B. Existing Pipeline Operations**

The Border Crossing Facilities, as described below, represent a further expansion of the Enbridge Mainline System's capacity from Neche, North Dakota to Superior, Wisconsin. The Presidential Permit sought for this current expansion is in addition to three currently effective Presidential Permits for existing facilities at this same border crossing, namely the:

- 1991 Border Crossing Permit for the 18-, 26- and 34-inch diameter liquid hydrocarbon pipelines;

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- 1994 Border Crossing Permit for the 20-inch diameter liquid hydrocarbon pipeline; and a
- 1998 Border Crossing Permit for the 36-inch diameter liquid hydrocarbon pipeline.

**III.  
DESCRIPTION OF FACILITY**

This Application seeks a Presidential Permit for that portion of the Alberta Clipper Project that crosses the international border between Canada and the United States. The limited Border Crossing Facilities shall consist of approximately forty (40) feet on each side of the International Boundary and shall be buried to a minimum depth of three (3) feet below ground level; such segment shall connect at the international boundary line with like facilities in the Province of Manitoba, Canada. Attached herewith as Exhibit A is an engineering drawing depicting the Border Crossing Facilities. Also attached as Exhibit B are photographs of the construction site. The Border Crossing Facilities proposed herein will be located within the Enbridge multi-line rights liquid hydrocarbon pipeline easements and will run parallel to the existing Enbridge Mainline System border crossing facilities near Neche, North Dakota. The technical specifications for the Border Crossing Facilities are set forth in Exhibit C hereto.

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Applicant proposes to construct and operate the Border Crossing Facilities as an integral part of its Alberta Clipper Project for the purpose of transporting crude oil and other liquid hydrocarbons from the WCSB to the Midwest region and beyond. The Alberta Clipper Project will consist of approximately 992 miles of 36-inch outer-diameter pipeline extending from Hardisty, Alberta, Canada to Superior, Wisconsin, and will be operationally integrated with the Enbridge Mainline System.

The Canadian portion of the Alberta Clipper Project, consisting of approximately 666 miles of 36-inch outer-diameter pipeline, will be owned and operated by Enbridge Pipelines Inc. This portion of the Alberta Clipper Project will originate at the Enbridge Hardisty terminal facility and extend to the southeast to the international boundary line in the Province of Manitoba, Canada where it will connect with like facilities of Applicant. (See overview map of the Alberta Clipper Project attached as Exhibit H.)

The U.S. portion of the Alberta Clipper Project will originate at the U.S.-Canadian boundary near Neche, North Dakota in Pembina County, and extend approximately 326 miles to end at the Enbridge Superior tank farm and terminal facilities in Douglas County, Wisconsin. The Alberta Clipper Project will be generally located immediately within or immediately adjacent to and contiguous with the existing Enbridge Mainline System right-of-way. While minor route deviations away from Enbridge's existing route may be necessary as detailed in the accompanying Environmental Assessment Report (E.A.R.) attached in Tab D, the combination of following existing Enbridge pipeline rights-of-way or other utility corridors results in a system that will be located along previously disturbed pipeline or utility rights-of-way for approximately 99% of its entire route, thus minimizing landowner issues, environmental and socio-economic impacts, and risk of construction delays.

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Also, attached as Exhibit D are U.S.G.S. quad and aerial maps of the proposed pipeline route from the U.S.-Canadian boundary to Superior, Wisconsin. A more detailed discussion of its design, the environmental standards to be applied and details of the proposed construction methods are addressed in the EA.

**IV.  
NATIONAL INTEREST**

Applicant submits that the construction of the Alberta Clipper Project including the Border Crossing Facilities will serve the national interest by providing U.S. refiners access to secure, reliable and economic sources of growing crude oil supplies, primarily sourced from western Canada, to meet the current and increasing demand of U.S. consumers for petroleum products. Furthermore, the national interest is served as the Alberta Clipper Project will expand the Enbridge Mainline System to eliminate capacity bottlenecks that impact the U.S. production sources.

**A. Planned Use and Purpose**

The Alberta Clipper Project has been developed in consultation with western Canadian producers seeking increased capacity out of the WCSB and into the traditional and extended PADD II, and eastern Canadian markets. Additionally, through interconnects with other pipeline systems, this production may be transported to the vast refining centers of the Gulf Coast Region. Enbridge investigated a number of alternatives before determining that the Alberta Clipper Project provided the most economical, integrated transportation solutions available to the industry while ensuring flexible and scaleable incremental capacity out of the WCSB.

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As demonstrated over the last few years, the demand for crude oil transportation on the Lakehead System has increased, rising from 1.34 million bpd in 2005 to 1.63 million bpd during the fourth quarter 2006. In direct response to this demand for increased capacity out of the WCSB, Enbridge has undertaken a number of expansions and extensions to both the Canadian and U.S. portions of the Enbridge Mainline System. (See discussion on "Other Expansions on the Enbridge Mainline System" below.) Additionally, Enbridge has consulted with its shippers to address the expected capacity constraints as a result of the increasing supplies from western Canada and to develop options that will allow Canadian crude oil to access new markets.

The Alberta Clipper Project will transport liquid hydrocarbons from Hardisty, Alberta and deliver such supplies into the tank farm and terminal facilities at Superior, Wisconsin. At the Superior terminal, the liquid hydrocarbons will be further transported into the traditional and extended PADD II markets and eastern Canadian markets via the Lakehead System, which is currently being expanded by the Southern Access Project, as more fully described below.

Once integrated with the Enbridge Mainline System, the Alberta Clipper Project provides the additional capacity needed to satisfy its shippers' requirements, while also providing increased flexibility to meet supply forecasts and accommodate changing crude oil slates over time. The Alberta Clipper Project will have an initial capacity to deliver 450,000 bpd of crude oil. While no specific further expansions are currently planned, the design of the Alberta Clipper Project allows for future expandability of up to 800,000 bpd through additional horsepower (not requiring new pipelines or pipeline looping) should future growth of WCSB crude production require capacity expansions.

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**B. Petroleum Supply and Demand in Midwest**

Demand for petroleum products as an energy source and for other purposes is growing and will continue to escalate throughout the Midwest area as population grows and economic activity expands, despite energy conservation, use of alternative fuels and efficiency measures. Satisfying this demand requires transportation of crude oil and other petroleum products from the WCSB to various refineries within the Midwest and beyond.

**C. Applicant's proposed pipeline increases pipeline capacity as Canadian crude production increases**

Production and supply forecasts for the WCSB consistently show strong growth for the foreseeable future. Supply forecasts from the National Energy Board (NEB)<sup>4</sup>, the Canadian Association of Petroleum Producers (CAPP)<sup>5</sup>, and Enbridge Pipelines Inc.<sup>6</sup> all predict significant growth in the WCSB production over the next 15 years. By 2010, the forecasts show that there could be between 600,000 to 800,000 bpd of incremental crude oil production (see Figure C.1 below). Existing pipeline capacity will not be able to accommodate this growth.

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<sup>4</sup> See Exhibit F

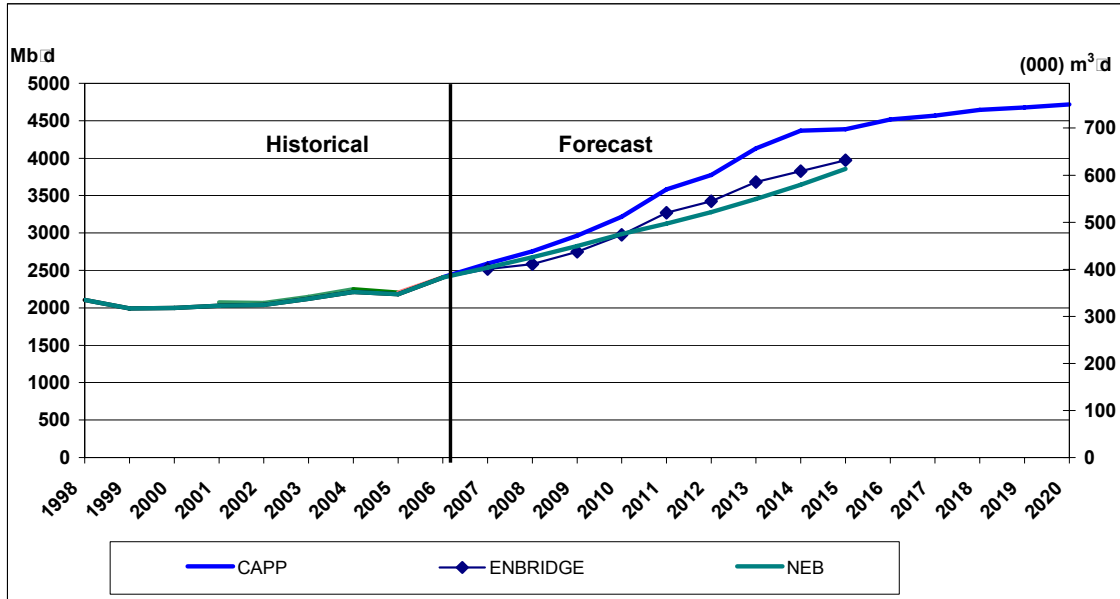
<sup>5</sup> See Exhibit E

<sup>6</sup> See Exhibit G



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Figure C.1: Comparisons of WCSB Production Forecasts (2006)



This expected supply increase from Canada comes at a time of growing demand from the U.S. Mid-Continent region and Ontario. As shown on the enclosed Attachment A, the Enbridge Mainline System is uniquely situated to serve as the conduit for this growing international trade. As previously stated, in 2006 Enbridge exported seventy percent, (70%) of the crude oil and natural gas liquids produced in western Canada, thus meeting approximately seventy-one percent (71%) of the refinery demand in Minnesota, one hundred percent (100%) in Wisconsin and sixty-two percent (62%) in the greater Chicago area. With respect to demand growth at and east of Sarnia, Ontario, Enbridge is the sole transportation outlet for WCSB crude to reach those markets, transporting approximately eighty-two percent (82%) of the crude oil demanded in by that area.

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Recent forecast updates distributed by CAPP<sup>7</sup> in its annual report for Canadian crude production covering the period 2006 □ 2020, show that, absent pipeline expansions, there will be a deficit in pipeline capacity of 1.65 million bpd in 2015 and 2.0 million bpd in 2020. The Alberta Clipper Project is needed and in the national interest as it will provide the timely addition of incremental capacity necessary to connect the increasing oil sands production to refining centers in the U.S. Midwest.

**D. Other Expansions on the Enbridge System**

Since constructing the first pipeline from Alberta to Superior, Wisconsin in 1949 and beginning operations in 1950, Enbridge has expanded the Enbridge Mainline System a number of times to increase transport capability from western Canada and North Dakota to U.S. Midwest and eastern Canadian markets.

In addition to the Border Crossing Facilities detailed in this Application, Enbridge filed with the Department of State on April 9, 2007 an application seeking a Presidential Permit for a new 20-inch diameter Border Crossing Facility referred to as the □LSr Project.□ The LSr Project will add incremental transportation capacity to the Enbridge Mainline System from Cromer, Manitoba to Clearbrook, Minnesota in order to transport the light and medium sour crude oil volumes that are received into the Enbridge Mainline System at Cromer, Manitoba. The transportation of these volumes on the LSr Project will free up capacity on the Enbridge Mainline System west of Cromer, thereby partially relieving the forecast capacity constraint for all grades of crude oil moved on the Enbridge Mainline System.

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<sup>7</sup> See Exhibit E.

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Additionally, Enbridge is currently expanding and extending its Lakehead System entirely within the United States via a project referred to as the "Southern Access Project." The first stage of this Project is a new 42-inch diameter pipeline, adding 146,000 bpd of capacity from Superior, Wisconsin to the Chicago area and is currently under construction for start-up in early 2008. The second stage of the Southern Access Project continues the construction of the new 42-inch diameter pipeline to Flanagan, Illinois (just southwest of Chicago) for completion in early 2009. When complete, these two stages together will add 400,000 bpd of capacity to the Enbridge Mainline System. In a third stage of the Southern Access Project subject to FERC approval of rates and tariffs, Enbridge will extend its pipeline system from Flanagan, Illinois to reach the Patoka, Illinois hub.

Also, Enbridge has proposed a new 20-inch diameter light hydrocarbon ("diluent") pipeline from the Chicago area to Clearbrook, Minnesota to be built in parallel phases and immediately adjacent with other pipeline projects described herein. This program also includes the reversal of an existing 18-inch diameter pipeline from Clearbrook, Minnesota to Alberta, Canada, which will be the subject of a separate application to the Department of State.

**G. Summary**

The Alberta Clipper Project provides a competitive and timely alternative to address the critical need for increased transportation capacity out of the WCSB, as a result of increased oil production over the next fifteen years. The planned December 31, 2009 in-service date of the Alberta Clipper Project meets industry's needs and avoids potential capacity apportionment that effectively removes otherwise available supplies from the market. Also, the Alberta Clipper Project provides expanded system flexibility

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which can be implemented in stages, meeting future shipper demands for additional pipeline capacity.

Moreover, the Alberta Clipper Project affords shippers access to the widest variety of refinery hubs of any other major crude oil pipeline system in North America, providing optionality in infrastructure that allows shippers to adapt to market conditions. As a direct result, shippers have the added flexibility to immediately respond to market conditions, such as oversupply in one area caused by a refinery outage or supply restraints in another area due to infrastructure damage such as that caused by the 2005 hurricane season in the Gulf Coast region.

As previously stated, the Alberta Clipper Project will be generally located immediately within or immediately adjacent to and contiguous with the existing Enbridge Mainline System right-of-way. Although minor route deviations away from Enbridge's existing route may be necessary, the combination of following existing Enbridge pipeline rights-of-way or other utility corridors results in a proposed system that minimizes landowner issues, environmental and socio-economic impacts, and risk of construction delays.

**V.  
SIMILAR FACILITIES**

As previously stated, Enbridge has five (5) existing international crude oil pipelines that cross the international boundary near Neche, North Dakota, and a sixth proposed pipeline (LSr Project) that will cross the international boundary near Neche, North Dakota as filed with the Department of State on April 9, 2007. All six pipelines will be located within the same corridor. The five pipelines that comprise the Enbridge Mainline System will be the nearest similar facilities to the Border Crossing Facilities

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since Enbridge proposes to install such facilities within or immediately adjacent to the right-of-way of its Enbridge Mainline System. The Enbridge facilities are authorized under various previously issued Presidential Permits, as noted above.

**VI.  
CONSTRUCTION PLANS**

The procedures that Applicant will implement during construction of the Alberta Clipper Project are thoroughly discussed in the enclosed EA (see Section III). The EA discusses the affected environment, environmental consequences and mitigation measures that will be employed during the course of such construction activities. It also addresses specific problems anticipated in the development and construction of the Alberta Clipper Project and further explains how such issues will be resolved. Other permitting, approvals and financing matters are discussed elsewhere in the instant Application.

**VII.  
FINANCING AND RATES**

The financing for the Alberta Clipper Project will be obtained by Enbridge Partners through a combination of long term debt for approximately 50% of the project costs, and equity funding issued as needed. Portions of the Alberta Clipper Project may be temporarily financed under Enbridge Partners' Revolving Credit Facility or Commercial Paper program pending the issuance of permanent financing for the project. With its diversified earnings base and strong history of financial performance, Enbridge Partners enjoys access to funding in both the public and private capital markets.

As an interstate common carrier of crude petroleum and natural gas liquids, the rates, tariffs, and accounting practices for the Alberta Clipper Project will be subject to the

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regulatory jurisdiction of the Federal Energy Regulatory Commission (FERC). The rates for the Alberta Clipper Project will be included as a surcharge in the existing posted tariff rates for the Lakehead System. Applicant will file a settlement agreement under the applicable FERC rules and regulations, once commercial terms are finalized with the Lakehead System customers.

The anticipated economic life of these facilities will be at least 25 years.

**VIII.  
CANADIAN APPROVALS**

The list below includes, but is not limited to, the major permits that Enbridge Pipelines Inc. (EPI) will be securing from Canadian agencies for the portion of the proposed Alberta Clipper Project in Canada. EPI plans to file its Application with the NEB to construct, own and operate approximately 666 miles of 36-inch diameter pipeline from Hardisty, Alberta to the U.S.-Canadian boundary near Gretna, Manitoba, and upon completion will connect to the Border Crossing Facilities of the Applicant's Alberta Clipper Project.

The Canadian portion of the Alberta Clipper Project is expected to be in service by December 31, 2009, concurrent with the in-service date of the U.S. portion. At this time, EPI foresees no reason that would delay the timely issuance of the requested Canadian permits listed below.

<b>Name of Permitting Agency</b>	<b>Type of Permit</b>
National Energy Board	Federal
Minister of Fisheries and Oceans Canada	Federal
Minister of Transport Canada	Federal
Environment Canada	Federal

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<b>Name of Permitting Agency</b>	<b>Type of Permit</b>
Indian and Northern Affairs Canada	Federal
Natural Resources Canada	Federal
Canada Transportation Agency	Provincial
Prairie Farm Rehabilitation Administration	Provincial
Alberta Environment	Provincial
Alberta Health	Provincial
Alberta Sustainable Resource Development	Provincial
Saskatchewan Agriculture and Food	Provincial
Saskatchewan Culture and Heritage Branch	Provincial
Saskatchewan Environment	Provincial
Saskatchewan Watershed Authority	Provincial
Manitoba Conservation	Provincial
Manitoba Culture, Heritage <input type="checkbox"/> Citizenship	Provincial
Manitoba Agriculture, Food, and Rural Initiatives	Provincial
Manitoba Water Licensing Branch of the Water Stewardship Division	Provincial
Rural Municipalities	Local

## **IX. OTHER U.S. APPROVALS**

Table 1.4-1 of the attached EA lists all U.S. federal and state permits, licenses, approvals and consultation requirements Enbridge will be seeking as a direct result of the Alberta Clipper Project. Also, as part of the pre-application planning, Applicant has consulted with numerous federal and state agencies and is currently working closely with these agencies through further consultations and application submittals to secure in a timely manner, the appropriate federal and state permits and authorizations needed for the proposed project. In the case of the North Dakota Public Service Commission, and the Minnesota Public Utilities Commission, the Application will prompt additional public input through a formal public comment and public scoping process. During this process,

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Applicant representatives will be available to join agency representatives to address questions from the public. Similarly, the Wisconsin Public Service Commission and Department of Natural Resources have a public comment and informational process.

**X.  
HISTORIC PRESERVATION**

Cultural resources are governed by federal laws enacted to protect these resources from damage or loss due to federally funded or permitted activities. These laws include the Antiquities Act of 1906; Historic Sites Act of 1935; Executive Order 13007; the NHPA of 1966; as amended, the Archaeological and Historic Preservation Act of 1974; the Native American Graves Protection and Repatriation Act of 1990; and the Archaeological Resources Protection Act of 1979. Executive Order 11593 also provides necessary guidance on protection and enhancement of cultural resources.

Applicant reviewed existing site data maintained by the State Historical Society of North Dakota, Minnesota Historical Society, and the Wisconsin Historical Society to determine if any portion of the proposed pipeline route was previously surveyed for cultural resources. A total of twelve previous archaeological studies have been identified that directly relate to the proposed pipeline route. The entire Neche, North Dakota to Clearbrook, Minnesota portion of the corridor was first surveyed as part of Enbridge's 1994 Capacity Expansion project (North Dakota Case No. PU-179-93-767 and Minnesota SHPO No. 94-2227). In 1998, portions of the previous survey corridor were included in another Enbridge expansion project named Terrace I or Terrace Expansion (Minnesota SHPO No. 98-2466). The Terrace I project did not extend beyond the survey corridor for the 1994 Capacity Expansion and, therefore, no additional archaeological investigations were required for Terrace I. In 2002, portions of the



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Clearbrook, Minnesota to Superior, Wisconsin survey corridor were included in a project named Terrace III, which added 120 miles of 36-inch diameter pipeline segments (or loops) to the existing Lakehead System. A description of the review being conducted for each state is set forth in Section 3.9 of the EA.

**XI.  
ENVIRONMENTAL JUSTICE**

In accordance with the Department of State's mandates under Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629), which requires that impacts on minority or low-income populations be taken into account when preparing environmental and socioeconomic analyses of projects or programs that are proposed, funded, or licensed by federal agencies, Applicant hereby submits that its environmental justice considerations, including information on minority and low-income populations likely to be affected by the construction of the proposed pipeline are addressed in Section 3.11.4 of the EA.

**XII.  
COMPATIBILITY WITH NEC RECOMMENDATIONS**

With respect to the recommendations contained in the August 8, 1994 National Economic Council White Paper, "Staff Recommendations on the Task Force on Border Infrastructure and Facilitation for Improved U.S. Border Operations," Applicant states as follows:

- i. No specific or new support infrastructure or access roads are necessary or required by state or regional plans with respect to the Border Crossing Facilities.

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- ii. No Canadian development plans or priorities have been identified as specifically applicable to the Border Crossing Facilities. Applicant's Canadian affiliate will comply with all permitting and other requirements applicable to the Canadian segment of the Alberta Clipper Project.
- iii. As an interstate liquid hydrocarbon pipeline, the construction, operation, and maintenance including aerial, foot and in-line mechanical inspections are exclusively regulated by the United States Department of Transportation (DOT), Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to various federal laws and regulations. Upon the Alberta Clipper Project being commissioned and placed into service, Applicant will own and operate the proposed 36-inch outer-diameter pipeline as an integral part of its existing Lakehead System. The Border Crossing Facilities will comply with and be inspected by Enbridge personnel in accordance with DOT-PHMSA's regulatory requirements as set forth at 49 C.F.R. Parts 194 and 195. Pipeline inspections and testing will be completed by Enbridge in accordance with Enbridge Energy, Limited Partnership's Operating and Maintenance Procedures and federal regulations.

**XIII.  
ENVIRONMENTAL REVIEW**

The U.S. Department of State requires certain information be submitted by an applicant in support of a Presidential Permit Application in connection with the environmental review of the proposed facilities. In addition to the Alberta Clipper Project, the environmental review enclosed herein also includes the Southern Lights Diluent Project (not subject to a Presidential Permit), consisting of a new 20-inch

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diameter, 189-mile pipeline between Superior, Wisconsin and Clearbrook, Minnesota which will be co-constructed with the Alberta Clipper Project, and is located within the Alberta Clipper Project footprint. The Southern Lights Diluent Project will connect to the Southern Lights Reversal Project at Clearbrook, Minnesota, which is subject to a separate Presidential Permit reversing the flow on an existing 18-inch diameter liquid hydrocarbon pipeline. Applicant's EA contains all of the necessary environmental information required under the National Environmental Policy Act as found in 40 CFR Parts 1500-1508 including:

- i. A description of the site of the proposed facility showing the types of environment that will be affected by construction of the facility and related facilities.
- ii. The probable impact of construction and operation of the proposed facilities on these environments, including the positive and negative aspects of primary (construction and operation) and secondary (related to long-term growth stimulated by the facility) impacts.
- iii. Ways in which adverse impacts might be mitigated through construction techniques, site planning, safety features, etc.
- iv. Any probable adverse impacts that cannot be avoided.
- v. A brief discussion of any tradeoffs between short-term environmental losses and long-term environmental gains, or vice versa.
- vi. The relationship of the proposed facility to other land use plans, policies, and controls in the affected area.

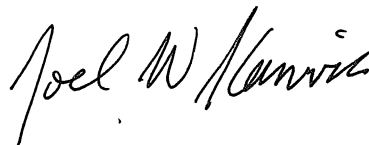
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- vii. A description of the extent to which the construction of the proposed facility irreversibly curtails the range of potential uses of the environment.
- viii. What alternatives to the proposed facility were considered and what are the relative environmental benefits and costs of the alternatives considered.

**XIV.  
CONCLUSION**

For all the reasons stated above, Applicant believes that the proposed Border Crossing Facilities associated with the construction, operation and maintenance of the Alberta Clipper Project are in the national interest of the United States. Therefore, Applicant respectfully requests that the Department of State issue a Presidential Permit authorizing the construction, operation and maintenance of the Border Crossing Facilities for the transportation of crude oil and other liquid hydrocarbons, to be located at the international border of the United States and Canada, at Neche, Pembina County, North Dakota, as more fully described by this Application. To permit a timely response to the capacity requirements of its shippers, Applicant respectfully requests issuance of such Presidential Permit no later than November 1, 2008.

Respectfully submitted,



Joel Kanvik  
Senior Counsel & Assistant Secretary  
Enbridge Energy Company, Inc.  
1100 Louisiana, Suite 3300  
Houston, Texas 77002



**United States Department of State**

*Washington, D.C. 20520*

**PERMIT**

**AUTHORIZING ENBRIDGE ENERGY, LIMITED PARTNERSHIP  
("ENBRIDGE") TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN  
PIPELINE FACILITIES AT THE INTERNATIONAL BOUNDARY  
BETWEEN THE UNITED STATES AND CANADA**

By virtue of the authority vested in me as Deputy Secretary of State under Executive Order 13337, 69 Fed. Reg. 25299 (2004), as amended, and Department of State Delegation of Authority Number 245-1 of February 13, 2009; having considered the environmental effects of the proposed action consistent with the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321 – 4370f), Section 7 of the Endangered Species Act (16 U.S.C. 1536), and other statutes related to environmental concerns; having considered the proposed action consistent with Section 106 of the National Historic Preservation Act (16 U.S.C. §§ 470f); and having requested and received views of members of the public, various federal and state agencies and various Indian tribes; I hereby grant permission, subject to the conditions herein set forth, to Enbridge Energy, Limited Partnership (hereinafter referred to as the "permittee" or "Enbridge"), a wholly owned subsidiary of Enbridge Energy Partners, LP which is a Delaware master limited partnership, to construct, connect, operate, and maintain pipeline facilities at the border of the United States and Canada at Neches, North Dakota, for the transport of crude oil and other hydrocarbons between the United States and Canada.

The term "facilities" as used in this permit means the relevant portion of the pipeline and any land, structures, installations or equipment appurtenant thereto.

The term "United States facilities" as used in this permit means those parts of the facilities located in the United States.

As stated in permittee's application of May 15, 2007, as amended, the United States facilities will consist of the following major component:

A 36-inch-diameter pipeline extending from the United States – Canada border near Neches, North Dakota, up to and including the first mainline shut-off valve or pumping station in the United States.

The permittee shall maintain such metering facilities as are required by the Commissioner of Customs, provided with an adequate proving system, to be installed and operated in accordance with American Petroleum Institute Code No. 1101, and a suitable sampling device; the installation and operation of said meter, proving system, and sampling device shall be subject to approval of the Commissioner of Customs. The conditions and times of meter reading, meter proving, and sampling shall be as directed by the Commissioner of Customs.

This permit is subject to the following conditions:

Article 1. The United States facilities and operations herein described shall be subject to all the conditions, provisions, and requirements of this permit and of the Record of Decision and National Interest Determination dated August 3, 2009, and any amendment thereof; further, that this permit may be terminated at the will of the Secretary of State of the United States or the Secretary's delegate or may be amended by the Secretary of State of the United States or the Secretary's delegate at will or upon proper application therefore; further, that the permittee shall make no substantial change in the location of the United States facilities in the immediate vicinity of the international boundary line or in the operations authorized by this permit until such changes have been approved by the Secretary of State of the United States or the Secretary's delegate.

Article 2. The construction, operation, and maintenance of the facilities shall be in all material respects as described in permittee's application for a Presidential permit under Executive Order 13337, filed on May 15, 2007 (the "Application"), as amended, and in accordance with the construction, mitigation, and reclamation measures agreed to by Enbridge in the Environmental Mitigation Plan (EMP) and other mitigation and control plans found in the Final Environmental Impact Statement (FEIS), all of which are appended to and made part of this permit.

Article 3. The standards for, and the manner of, construction, connection, operation, and maintenance of the United States facilities shall be subject to inspection and approval by the representatives of any Federal or State agency concerned. The permittee shall allow duly authorized officers and employees of such agencies free and unrestricted access to said facilities in the performance of their official duties.

Article 4. The permittee shall comply with all applicable Federal and State laws and regulations regarding the construction, connection, operation, and maintenance of the United States facilities and with all applicable industrial codes. The permittee shall obtain requisite permits from Canadian authorities, as

well as the relevant state and local governmental entities, and relevant federal agencies.

Article 5. Upon the termination, revocation, or surrender of this permit, and unless otherwise agreed by the Secretary of State or the Secretary's delegate, the United States facilities in the immediate vicinity of the international boundary line shall be removed by, and at the expense of, the permittee within such time as the Secretary of State of the United States or the Secretary's delegate may specify, and upon failure of the permittee to remove, or to take such other appropriate action with respect to, this portion of the United States facilities as ordered, the Secretary of State or the Secretary's delegate may direct that possession of such facilities be taken and that they be removed or other appropriate action taken, at the expense of the permittee; and the permittee shall have no claim for damages by reason of such possession, removal, or other action.

Article 6. If, in the future, it should appear to the Secretaries of Defense or Homeland Security (or either Secretary's delegate) or the United States Coast Guard that any facilities or operations permitted hereunder cause unreasonable obstructions to the free navigation of any of the navigable waters of the United States, the permittee may be required, upon notice from the Secretary of Defense or the Secretary of Homeland Security (or either Secretary's delegate) or the United States Coast Guard, to remove or alter such of the facilities as are owned by it so as to render navigation through such waters free and unobstructed.

Article 7. This permit is subject to the limitations, terms, and conditions contained in any orders or regulations issued by any competent agency of the United States Government with respect to the United States facilities. This permit shall continue in force and effect only so long as the permittee shall continue the operations hereby authorized in accordance with such limitations, terms, and conditions.

Article 8. When, in the opinion of the President of the United States, the national security of the United States demands it, due notice being given to the permittee by the Secretary of State of the United States or the Secretary's delegate, the United States shall have the right to enter upon and take possession of any of the United States facilities or parts thereof; to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes; and thereafter to restore possession and control to the permittee. In the event that the United States shall exercise such right, it shall pay to the permittee just and fair compensation for the use of such United States facilities upon the basis of a reasonable profit in normal conditions,

and the cost of restoring said facilities to as good conditions as existed at the time of entering and taking over the same, less the reasonable value of any improvements that may have been made by the United States.

Article 9. In the event of transfer of ownership or control of the United States facilities or any part thereof, this permit shall continue in effect temporarily for a reasonable time pending submission of a proper application by the transferee for a new and permanent permit, provided that notice of such transfer is given promptly in writing to the Department of State accompanied by a statement by the transferee under oath that the United States facilities and the operations and maintenance thereof authorized by this permit will remain substantially the same as before the transfer pending issuance to the transferee of a new and permanent permit.

Article 10. (1) The permittee shall maintain the United States facilities and every part thereof in a condition of good repair for their safe operation, and in compliance with prevailing environmental standards and regulations.

(2) The permittee shall save harmless and indemnify the United States from any and all claims or adjudged liability arising out of the construction, connection, operation, or maintenance of the facilities, including but not limited to environmental contamination from the release or threatened release or discharge of hazardous substances and hazardous waste.

Article 11. The permittee shall acquire such right-of-way grants, easements, permits, and other authorizations as may become necessary and appropriate.

Article 12. The permittee shall file with the appropriate agencies of the Government of the United States such statements or reports under oath with respect to the United States facilities, and/or permittee's activities and operations in connection therewith, as are now or as may hereafter be required under any laws or regulations of the Government of the United States or its agencies.

Article 13. The permittee shall take all appropriate measures to prevent or mitigate adverse environmental impacts or disruption of historic properties in connection with the construction, operation, and maintenance of the United States facilities. Such measures will include the construction, mitigation, and reclamation measures agreed to by Enbridge in the Environmental Mitigation Plan (EMP) and other mitigation and control plans found in the Final Environmental Impact Statement (FEIS) dated June 5, 2009, and in the Programmatic Agreement dated August 3, 2009, both of which are appended to and made part of this permit.



Article 14. The permittee shall comply with all agreed actions and obligations undertaken to be performed in its Application for a Presidential permit dated May 15, 2007, as amended, in the Programmatic Agreement dated August 3, 2009, and in the Final Environmental Impact Statement dated June 5, 2009, all of which are appended to and made a part of this permit.

Article 15. Enbridge shall provide written notice to the Department at such time as the construction authorized by this permit is begun, and again at such time as construction is completed, interrupted or discontinued.

Article 16. This permit shall issue fifteen days after the date of the determination by the Deputy Secretary of State that issuance of this permit would serve the national interest, provided that the Department of State does not otherwise notify Enbridge that the permit shall not be issued.

IN WITNESS WHEREOF, I, James B. Steinberg, Deputy Secretary of State, have hereunto set my hand this 3<sup>rd</sup> day of August 2009, in Washington, District of Columbia.

A handwritten signature in black ink, appearing to be 'JBS', is written over a horizontal line. The signature is stylized and cursive.

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RELEASED IN FULL

**DRAFT DEPARTMENT OF STATE  
RECORD OF DECISION AND NATIONAL INTEREST  
DETERMINATION**

**Enbridge Energy, Limited Partnership – Alberta Clipper Pipeline  
Application for Presidential Permit**

**Contents**

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**Appendix A - Responses to Comments on Final EIS**

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## 1.0 Summary

On May 15, 2007, Enbridge Energy, Limited Partnership (Enbridge) submitted an application to the U.S. Department of State (DOS) for construction, connection, operation, and maintenance of an oil pipeline and associated facilities at the U.S./Canada border to enable Enbridge to import heavy crude oil from Canada (the Alberta Clipper Project). Enbridge is a limited partnership duly organized under the laws of the State of Delaware. Enbridge is a wholly owned subsidiary of Enbridge Energy Partners, L.P. ("Enbridge Partners") which is a Delaware master limited partnership headquartered at 1100 Louisiana, Suite 3300, Houston, Texas 77002. Enbridge Partners provides pipeline transportation of petroleum and natural gas in the Mid-Continent and Gulf Coast regions of the United States, in addition to gathering, processing, and other related operations. Enbridge Partners' two primary business segments are liquids transportation and natural gas. The liquids transportation segment involves the transportation by pipeline of crude petroleum and natural gas liquids via three main interstate pipeline systems (Lakehead, North Dakota and Ozark). The natural gas business segment involves the interstate and intrastate transportation by pipeline of natural gas as well as related gathering, midstream, and marketing operations. Enbridge Partners operates over 5,000 miles of liquids pipeline facilities in sixteen different states.

Executive Order 13337, as amended, delegates to the Secretary of State the President's authority to receive applications for permits for the construction, connection, operation, or maintenance of facilities for the exportation or importation of petroleum, petroleum products, coal, or other fuels at the border of the United States and to issue or deny such Presidential permits upon a national interest determination. On February 13, 2009, Secretary Clinton delegated to the Deputy Secretary of State and to the Deputy Secretary of State for Management and Resources, to the extent authorized by law, all authorities and functions vested in the Secretary of State or the head of agency by any act, order, determination, delegation of authority, regulation, or executive order, now or hereafter issued. Department of State Delegation of Authority No. 245-1.

The United States portion of the Alberta Clipper pipeline would consist of approximately 326.9 miles of new 36-inch-diameter pipeline and associated facilities that would be installed primarily within or adjacent to the existing Enbridge pipeline corridor from the U.S./Canada border to the existing Enbridge terminal in Superior, Wisconsin. The Project also would require new construction at existing pump stations and construction of delivery facilities and mainline valves. To meet anticipated demand, the proposed Alberta Clipper Project would provide approximately 450,000 bpd of heavy crude oil capacity. The capacity provided by the Project would provide independent utility to Enbridge and its customers for the transport of crude oil to the existing Enbridge terminal in Superior, Wisconsin. From there, crude oil can be delivered to refineries throughout U.S. Petroleum Administration for Defense District II (PADD II) and eastern Canada, as well as to other regions in the United States through interconnected existing pipeline systems. Enbridge proposes to begin construction activities for the Project in summer 2009, with a planned in-service date of early 2010, subject to receipt of all necessary permits, approvals, and authorizations pursuant to DOS regulations (40 CFR 1500-1508 and 22 CFR 161) and other relevant laws and regulations. The Canadian portion of the pipeline system has been approved by the Canadian National Energy Board (CNEB) and other reviewing entities in Canada and is under construction.

DOS has determined, through review of the Alberta Clipper Project application, that the Alberta Clipper Project would serve the national interest, in a time of considerable political tension in other major oil producing regions and countries, by providing additional access to a proximate, stable, secure supply of crude oil with minimum transportation requirements from a reliable ally

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and trading partner of the United States with which we have free trade agreements that further augments the security of this energy supply. Additionally, through bilateral diplomacy and a Clean Energy Dialogue process that is underway, the United States and Canada are working cooperatively across our respective energy sectors to cooperate on best practices and technology, including in carbon sequestration and storage, so as to lower the overall environmental footprint of our energy sectors.

Concerns have been raised about higher-than-average levels of greenhouse gas (GHG) emissions associated with oil sands crude. The Administration has considered these concerns and considers that on balance they do not outweigh the benefits to the national interests identified above. The United States will continue to reduce reliance on oil through conservation and energy efficiency measures, such as recently increased Corporate Average Fuel Economy (CAFÉ) standards, as well as through the pursuit of comprehensive climate legislation and a global agreement on climate change. In addition, the United States will cooperate with the Canadian government through the Clean Energy Dialogue and other processes to promote the deployment of technologies that reduce our respective GHG emissions.

Consistent with the National Environmental Policy Act of 1969 (NEPA), DOS conducted an environmental analysis of the project and prepared and submitted a Final Environmental Impact Statement (FEIS) to the EPA on June 5, 2009. The Deputy Secretary of State, acting under delegated authority, has reviewed Enbridge's amended application, the FEIS, and the suitability of Enbridge to hold a Presidential permit for the Alberta Clipper Project. Based upon that review, the Deputy Secretary of State finds that construction, maintenance and operation of the Project in accordance with the DOS preferred alternative would have limited adverse impact to the environment.

Consistent with Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended, DOS, as the lead federal agency of a federal undertaking (issuance of a Presidential Permit), conducted consultation with consulting parties, including Indian tribes, to consider potential impacts to historic properties that would result from construction of the Alberta Clipper Project. DOS has determined that, after review of the information provided by Enbridge, consultation with the consulting parties, and the conclusion of a Programmatic Agreement (PA) to address the continuing roles and obligations of the consulting parties during the construction of the Alberta Clipper Project, the requirements of Section 106 are satisfied. Among other things, DOS intends to address the pending request from the Fond du Lac band that the 1854 Ceded Territory be recognized as a traditional cultural property pursuant to the terms of the PA.

Consistent with Section 7 of the Endangered Species Act (ESA), DOS consulted with and obtained the concurrence of the U.S. Fish and Wildlife Service (USFWS) with a final Biological Assessment (BA) on the Alberta Clipper Project. The BA concludes that the construction of the Alberta Clipper Project may affect, but is not likely to adversely affect, species protected under the ESA.

In light of these findings, the Deputy Secretary of State has decided to issue a Presidential Permit to Enbridge Energy, Limited Partnership, to construct, connect, operate, and maintain at the border of the United States pipeline facilities for the transport of crude oil between the United States and Canada as described in the Presidential Permit application received from Enbridge by DOS on May 15, 2007, as amended by the subsequent filings of Enbridge with the DOS, and in accordance with the measures described in the Environmental Mitigation Plan (EMP) and other mitigation and control plans contained in the FEIS.

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## 2.0 Introduction

### 2.1 Action

On May 15, 2007 Enbridge Energy, Limited Partnership (Enbridge) applied to DOS for a Presidential Permit for construction, connection, operation, and maintenance of facilities at the border of the United States for the importation of petroleum from a foreign country. Executive Order 13337, as amended, delegates to the Secretary of State the President's authority to receive applications for permits for the construction, connection, operation, or maintenance of facilities for the exportation or importation of petroleum, petroleum products, coal, or other fuels at the border of the United States and to issue or deny such Presidential permits upon a national interest determination. As noted above, the functions assigned to the Secretary have been further delegated within the Department of State to the Deputy Secretary of State, the Under Secretary of State for Political Affairs and the Under Secretary of State for Economic, Energy and Agricultural Affairs. Further, on February 13, 2009, Secretary Clinton delegated to the Deputy Secretary of State and to the Deputy Secretary of State for Management and Resources, to the extent authorized by law, all authorities and functions vested in the Secretary of State or the head of agency by any act, order, determination, delegation of authority, regulation, or executive order, now or hereafter issued. Department of State Delegation of Authority No. 245-1.

The DOS engaged in an environmental review of the project consistent with NEPA and prepared and issued a Final Environmental Impact Statement (FEIS) on June 5, 2009. This FEIS addresses the portion of the Alberta Clipper pipeline within the United States to inform the Department's decision on issuance of a Presidential Permit in response to Enbridge's application and to support the decisions of other federal agencies whose actions are necessary to allow the project to proceed.

Issuance of a Presidential Permit to Enbridge would allow it to construct, connect, operate and maintain pipeline facilities at the border between the United States and Canada within a right-of-way adjacent to the point at which Enbridge's existing pipeline facilities cross the border.

### 2.2 Alberta Clipper Pipeline

The proposed Alberta Clipper pipeline would be a new pipeline that would transport crude oil from Enbridge's existing facilities in Hardisty, Alberta, Canada to its existing terminal in Superior, Wisconsin. From there, the liquid hydrocarbons would be transported to Midwestern markets, the eastern United States and Canada, and the Midcontinent and U.S. Gulf markets. Crude oil would be transported to markets in the Midwest and beyond via Enbridge's Lakehead System, non-Enbridge pipelines, and potentially through pipelines that may be constructed in the future. The proposed pipeline would be designed to transport an average crude oil volume of approximately 450,000 bpd.

Overall, the Alberta Clipper pipeline would consist of a new pipeline and associated facilities in both Canada and the United States. This Record of Decision and National Interest Determination, only address the United States portion of the Alberta Clipper pipeline in accordance with CEQ guidance on NEPA, implementing regulations, and EO 12114 and 13337. The primary components of the U.S. portion of the pipeline would be the new pipeline, new mainline valves, and additional pumping capacity at three existing pump stations. The U.S. portion of the pipeline would extend approximately 326.9 miles from the U.S./Canada border near Neche, North Dakota through Minnesota and Wisconsin to the existing Enbridge terminal in Superior, Wisconsin. A

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total of 32 mainline valves would be installed at key locations along the alignment. The Canadian portion of the pipeline system has been approved by the Canadian National Energy Board (CNEB) and other reviewing entities in Canada and is under construction.

The U.S. portion of the pipeline system was evaluated in the DOS FEIS issued on June 5, 2009. It traverses either all or portions of the States of North Dakota, Minnesota, and Wisconsin. The project will be located primarily in rural areas, but will be routed through or near populated areas occurring around Bemidji, Minnesota, the Leech Lake Reservation in Minnesota, the Fond du Lac Reservation in Minnesota, and Superior, Wisconsin. The U.S. counties that will be affected by the pipeline are:

- Pembina County in North Dakota
- Kittson, Marshall, Pennington, Red Lake, Polk, Clearwater, Beltrami, Hubbard, Cass, Itasca, Aitkin, St. Louis, and Carlton Counties in Minnesota and
- Douglas County in Wisconsin

The Alberta Clipper pipeline would be installed within or adjacent to the existing Enbridge right-of-way along the majority of its route. Enbridge has identified 42 locations where the construction right-of-way would be 85 feet or more from the existing right-of-way due to the need to avoid conflicts with existing land uses. The total distance of those 42 sections of the route would be approximately 40 miles, or about 12 percent of the total route.

Along most of the route, construction activities would require a 140-foot-wide construction right-of-way. In wetland areas, the total width of the construction right-of-way would be reduced to 125 feet, except where construction through wetlands is conducted during winter. In those areas, the construction right-of-way would be 140 feet.

From Neche to Clearbrook, the pipe would be generally installed approximately 25 feet from the Southern Lights LSr Project pipeline. Along that portion of the proposed route, the spoil side (the area used to store topsoil and excavated material) typically would be approximately 35 to 50 feet wide and within Enbridge's existing maintained right-of-way. The working side (equipment work area and travel lane) typically would be 90 feet wide and generally outside of Enbridge's existing maintained right-of-way.

Between Clearbrook and Superior, the Alberta Clipper would be constructed within the same corridor at approximately the same time. The spoil side of the construction right-of-way typically would be approximately 50 feet wide and within Enbridge's existing maintained right-of-way. The working side of the construction right-of-way typically would be 90 feet wide and outside of Enbridge's existing maintained right-of-way.

Aboveground facilities would include mainline valves installed within the same construction right-of-way as that of the pipeline. The new pumps and associated facilities required at the three existing pump stations would require the following area: 3.2 acres at the Viking Pump Station, 2.1 acres at the Deer River Pump Station, and 1.8 acres at the Clearbrook Pump Station (which is located within the boundaries of the Clearbrook Terminal). At the Viking Pump Station, all facilities would be constructed on Enbridge's existing property but would be outside of and adjacent to the existing fenced area. At the Deer River Pump Station, all new facilities except the electrical switchgear building would be within the existing fence line; the area required outside of and adjacent to the existing station would cover about 0.06 acre and would be on existing Enbridge property. The fenced area would be expanded to include the new facilities at the Viking

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and Deer Park locations. All of the new facilities required for the Project at the Clearbrook Pump Station would be installed within the fenced area of the Clearbrook Terminal.

Construction of the U.S. portion of the pipeline route would involve a total of three perennial and 24 intermittent waterbody crossings in North Dakota; 76 perennial and 86 intermittent waterbody crossings in Minnesota (15 additional crossings have not yet been surveyed), and one perennial and 13 intermittent waterbody crossings in Wisconsin. Approximately 1,346.16 acres of wetlands would be impacted during construction of the proposed Project, 820.64 acres of which would be permanently maintained in an herbaceous state during operations. The predominant wetland types that would be crossed by the proposed Project are forested and scrub-shrub communities.

Extra construction workspace areas would be needed where the proposed route crosses features such as waterbodies, some wetland crossings, steep slopes, roads, railroads, and existing pipelines and utilities. These extra workspaces, which would be outside of the typical construction right-of-way, would be used to stage equipment and stockpile excavated material. It is expected that refinement of extra workspace areas would continue during the pre-construction phase of the proposed Project. Additional extra workspace areas may be needed as determined by site conditions at the time of construction. If additional extra workspace is needed beyond the areas identified in the FEIS, Enbridge would seek approval from the appropriate agencies for establishing each workspace prior to use of an area.



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### 3.0 Statutory Authority and Requirements

The Secretary of State has the authority under Executive Order 13337, as amended, to approve or deny applications for Presidential Permits and to issue such permits on such terms and conditions that the Secretary determines are appropriate, if the Secretary finds that issuance of the permit would serve the national interest. The President has delegated this authority to the Secretary based on his authority under the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code. The functions assigned to the Secretary have been further delegated within the Department of State to the Deputy Secretary of State, the Under Secretary of State for Political Affairs and the Under Secretary of State for Economic, Energy and Agricultural Affairs. Further, on February 13, 2009, Secretary Clinton delegated to the Deputy Secretary of State and to the Deputy Secretary of State for Management and Resources, to the extent authorized by law, all authorities and functions vested in the Secretary of State or the head of agency by any act, order, determination, delegation of authority, regulation, or executive order, now or hereafter issued. Department of State Delegation of Authority No. 245-1.

Executive Order 13337 specifically authorizes the issuance of Presidential Permits for the "construction, connection, operation, or maintenance at the borders of the United States of facilities for the exportation or importation of petroleum, petroleum products, coal or other fuels to or from a foreign country." Because the Alberta Clipper Project seeks to transport crude oil between Canada and the United States across the international border, the Alberta Clipper Project is within the scope of Executive Order 13337 and within the authority of the Secretary of State (or her delegate) under that Executive Order. Once the Secretary's decision has been made, selected agency officials may indicate their disagreement with the decision and request that the Secretary refer the application to the President under Executive Order 13337. In the event no such request is made within 15 days of notification of the Secretary's decision, the Secretary's decision is final and the Presidential Permit is issued.

As noted above, when reviewing an application for a Presidential Permit, the Secretary is required to determine if issuance of the permit is in the national interest. The Secretary also considers the environmental impacts of the proposed action consistent with NEPA and considers any other relevant statutory provisions. These have been determined to include:

- a) Section 404 of the Clean Water Act - The Alberta Clipper Project will affect jurisdictional wetlands and require crossing of navigable waters of the United States. These actions will require Enbridge to obtain permits from the U.S. Army Corps of Engineers (COE).
- b) Section 7 of the Endangered Species Act (ESA) - The Alberta Clipper Project will be constructed and operated in areas where federally listed species or their critical habitat are known to occur. DOS has prepared a Biological Assessment, in consultation with the U.S. Fish and Wildlife Service (USFWS) and state agencies, concerning effects of the Alberta Clipper Project on species listed for protection.
- c) Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended - The DOS, as the lead federal agency on a federal undertaking (issuance of a Presidential Permit), is required to consider the impacts to historic properties before that undertaking occurs and take appropriate actions.

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The purpose of preparing a project-specific EIS consistent with NEPA is to provide a public document that informs decision makers about the potential environmental impacts of a project if it is undertaken in accordance with existing laws and regulations. The purpose is not to speculate on potential changes to laws or policies that may occur at some undetermined time in the future. Therefore, the EIS for the proposed Alberta Clipper Project does not consider such speculative changes to laws or policies. DOS recognizes that the proposed Project, if approved, would need to adhere to all applicable laws that exist at the time of construction and operation.

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#### 4.0 Purpose and Need for the Alberta Clipper Project

The overall purpose of the Alberta Clipper Project is to enable the transport of additional crude oil into the United States from existing Enbridge facilities in western Canada to meet the demands of refineries and markets in those areas. Enbridge has proposed the Project to (1) meet the increased demand for heavy crude oil by refiners in the United States and offset the decreasing domestic crude oil supply from some regions of the United States that have traditionally served refineries in U.S. Petroleum Administration for Defense District II (PADD II – the U.S. Midwest); (2) reduce U.S. dependence on oil obtained from outside of North America by increasing access to more stable and secure Canadian crude oil supplies; and (3) meet demonstrated shipper interest in an overall Enbridge system expansion.

The U.S. Energy Information Agency (EIA) projects that the balance between domestic supply and demand will require the “unconventional” oil supply from Canada, which is predominately heavy crude from reserves in western Canada, to grow from approximately 1.5 million bpd in 2008 to over 4.3 million bpd by 2030. This increase in heavy crude imports is consistent with the observation that many U.S. refineries have been, or are in the process of being, retrofitted to accommodate heavy crude in order to remain cost-competitive with overseas suppliers of refined petroleum products.

Nearly all heavy and light crude oil imported from Canada in 2006 came from the Western Canadian Sedimentary Basin, and nearly all of it was transported through three major pipeline systems: Enbridge, Kinder Morgan Express, and Kinder Morgan TransMountain. These three pipelines have a maximum transport capacity of about 2.4 million bpd, with about 1.9 million bpd transported from the basin to several U.S. markets, including the Midwest. However, the majority of that volume continues to be sold into PADD II, where a large proportion of U.S. refining capacity is located. In recent years, the amount forwarded on to refiners in PADD III (the U.S. Gulf Coast) increased to meet refinery needs in that area as capacity grew and to slightly offset declines in offshore production or waterborne imports. These two districts are directly and indirectly served by the Enbridge system and Kinder Morgan Express, which together have a crude oil capacity—including both heavy and light crudes—of 2.0 million bpd.

With the Canadian National Energy Board's 2006 projections of an additional 1.5 million bpd of production from the basin by 2015 and assuming that Canada continues to export more than 70 percent of its production to the United States (the current export amount), an additional 1.1 million bpd of heavy crude oil will be flowing from the basin to the United States by 2015. This is approximately consistent with the Canadian Association of Petroleum Producer's projection of a pipeline capacity shortfall of 1.9 million bpd by 2015.

U.S. refiners have upgraded their refineries to process heavy crude oil, much of which is obtained from relatively unstable and insecure foreign sources. The crude oil that the Alberta Clipper Project would assist in delivering to U.S. refiners would replace or supplement a portion of that existing supply of heavy crude oil.

To meet the anticipated demand, the proposed Alberta Clipper Project would enable the cross-border transport of approximately 450,000 bpd of heavy crude oil. The transportation capacity provided by the Project would provide independent utility to Enbridge and its customers for the transport of crude oil to the existing Enbridge terminal in Superior, Wisconsin. From there, crude oil can be delivered to refineries throughout PADD II and eastern Canada, as well as to other

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regions in the United States through interconnected existing pipeline systems. Enbridge would not own the oil and would not determine its destination.

Some of the capacity shortfall will be met by the 450,000-bpd capacity of the Keystone Pipeline Project (upgradeable to 590,000 bpd), which is currently being constructed by TransCanada. However, the refinery market served by the Keystone Project is largely different from the markets that would be served by the Alberta Clipper pipeline. The Alberta Clipper pipeline would tie into existing pipeline infrastructure in Superior, Wisconsin and primarily provide crude oil to refineries in the Midwest United States (e.g., Wisconsin, Michigan, Indiana) and Canada. The Keystone Project would primarily provide crude oil to southern Illinois, Oklahoma, and potentially refineries along the Gulf Coast. An additional portion of the capacity shortfall could be met by the Alberta Clipper pipeline's proposed pipeline capacity of 450,000 bpd. The remaining shortfall of 60,000 to 860,000 bpd would necessitate additional pipeline construction and/or expansion, which could include the proposed Keystone XL pipeline from Alberta to the U.S. Gulf Coast. This proposed pipeline would have an initial capacity of 700,000 bpd and an ultimate capacity of 900,000 bpd.

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## **5.0 Description of Environmental Impacts, Alternatives Considered, and Environmental Commitments and Mitigation**

Consistent with NEPA, DOS staff prepared a FEIS to inform the DOS, and allow the DOS to consider, the potential environmental, social, and economic impacts of the U.S. portion of Enbridge's proposed pipeline when making the decision to approve or deny Enbridge's Application for a Presidential Permit. The EIS was prepared consistent with the Council for Environmental Quality (CEQ) implementing regulations on NEPA's Procedural requirements (40 CFR Parts 1500-1508, as amended), Executive Order 11514 on Protection and Enhancement of Environmental Quality (35 Fed. Reg. 4247, as amended (March 5, 1970)), and the Department of State's own regulations, 22 C.F.R. Part 161, as amended. The EIS for the U.S. portion of the pipeline was prepared by Entrix, Inc., on behalf of the Department of State. The EIS examined the impacts of the United States portion of the Alberta Clipper pipeline, including connected actions. The scope of the EIS was determined after consideration of input from the public, Indian tribes, and federal, state and local agencies. Short-term and long-term construction and operations impacts were analyzed as were the cumulative impacts of construction and operation of the U.S. portion of the Alberta Clipper pipeline as well as other past, present, and reasonably foreseeable future projects.

The EIS included an analysis of reasonable project alternatives to determine whether any would be preferable to Enbridge's proposed action. Alternatives considered included: system alternatives (use of other existing or proposed pipelines), major route alternatives, route variations, and alternative sites for aboveground facilities. The No Action alternative was also evaluated.

The EIS analysis found that none of the system alternatives could meet the project objectives presented by Enbridge. Enbridge's proposed pipeline route was found to be preferred to the other route alternatives considered, either because the other route alternatives did not meet project objectives or because the other route alternatives had greater impacts as a result of greater length or increased effects on sensitive resources.

A summary of the potential direct, indirect and cumulative impacts of construction and operation of the U.S. portion of the Alberta Clipper pipeline is provided below. A summary of the mitigation measures presently included in the EMP and those to be included as a result of consultation with federal and state agencies during the EIS process is also provided below.

### **5.1 Geology**

The U.S. portion of the proposed Alberta Clipper pipeline would not involve substantial topographical alteration and would not disturb any geological features protected by federal or state laws. Less than 1 percent of the proposed pipeline route may require blasting. The Enbridge Blasting Plan (Appendix L of the EIS) identifies requirements for developing a site-specific blasting plan for any area where blasting is deemed necessary. These site-specific plans would account for protection of aboveground and below ground structures (such as water mains), resources (such as threatened and endangered species), and water resources (surface water and groundwater). Pleistocene-age mammal fossils may be unearthed during excavation activities in the area of the proposed pipeline; however, it is unlikely that any scientifically significant fossils are present in the area of the proposed pipeline.

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Proposed construction techniques, along with erosion control and slope stabilization, and measures identified in the Enbridge EMP (Appendix C of the EIS) and other plans would reduce potential impacts related to geologic hazards.

Overall, geologic impacts associated with routine operations and maintenance of the proposed pipeline would be minimal. Routine pipeline operation and maintenance are not expected to affect physiography or bedrock geology, paleontological resources, mineral resources, or flooding.

**5.2 Soils**

Construction of the U.S. portion of the proposed Alberta Clipper pipeline would disturb soils, resulting in increased potential for erosion, compaction, and mixing of topsoil; damage to agricultural drainage tiles; and introduction of rock to the surface soil. Agricultural production on approximately 2,528.8 acres would be temporarily lost from production for the construction season. Enbridge has proposed construction procedures, including state-specific EMPs (Appendix C of the EIS) and an Agricultural Mitigation Plan (Appendix F of the EIS), designed to minimize the likelihood and severity of these impacts, and to mitigate where impacts are unavoidable.

In the event that previously contaminated soils were discovered during construction, Enbridge would stop work immediately, contact the appropriate state or tribal agency, and consult with the agency with respect to an acceptable plan of action in accordance with Enbridge's Petroleum-Contaminated Soil Management Plan (Appendix J of the EIS).

Should a spill occur that causes damage to soil productivity, Enbridge's easement agreements with landowners would require Enbridge to restore the productivity of the right-of-way and compensate landowners or tenants for demonstrated losses associated with decreased productivity resulting from pipeline construction and operation. Impacts would be mitigated in compliance with applicable federal, state, tribal, and local cleanup standards.

Enbridge has also developed an Anthrax Mitigation Plan (Appendix I of the EIS) to address the potential exposure of animals to anthrax spores resulting from construction activities.

Overall, construction and operation of the U.S. portion of the proposed pipeline are expected to cause minor impacts to soil resources with implementation of the existing Enbridge plans and compliance with applicable regulations and permits.

**5.3 Water Resources**

Only short-term fluctuations of groundwater levels are expected during construction, and recharge is expected to occur in a short period after construction. Implementation of Enbridge's procedures for minimizing the likelihood of a spill and controlling the impacts if a spill were to occur would reduce potential impacts during construction or operation, as described in the Spill Prevention, Containment, and Control Plan (SPCC) (Appendix E of the EIS) and Emergency Response Plan (Appendix Q of the EIS).

The U.S. portion of the proposed Alberta Clipper pipeline route would involve a total of three perennial and 24 intermittent waterbody crossings in North Dakota; 76 perennial and 86 intermittent crossings in Minnesota (15 additional crossings have not yet been surveyed), and one perennial and 13 intermittent waterbody crossings in Wisconsin.

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Construction of the pipeline could result in temporary or short-term impacts due to increased sedimentation, degradation of aquatic habitat from instream construction activities, increased runoff and erosion, changes in channel morphology and stability, temporary reductions in flow during hydrostatic testing activities, alteration of aquatic habitat, and temporary to short-term surface water quality degradation during or after construction from disposal of materials and equipment or from vehicle spills and leaks. Various mitigation measures are proposed to avoid and minimize these potential impacts, including locating extra workspace areas at least 50 feet from the edge of a waterbody, providing temporary erosion control for certain waterbody crossing methods, and restoring waterbodies as soon as practical after construction. Implementation of measures described in the state-specific EMPs (Appendix C) would reduce erosion of soil or sediment and control surface water runoff during construction activities near waterbodies.

Overall, it is not anticipated that groundwater or surface water quality would be significantly affected during pipeline construction or operation.

Subsequent to the issuance of FEIS, EPA raised concerns that construction of the proposed Project could exacerbate groundwater contamination problems in the vicinity of the St. Regis Superfund site that could pose a threat to worker safety. As stated in the FEIS, previous investigations found no evidence of soil contamination along the proposed Project route. EPA is currently working with Enbridge to develop work plans to investigate groundwater contamination in the vicinity of the St. Regis Superfund Site. DOS urges Enbridge to finalize a work plan to investigate potential groundwater contamination and coordinate with EPA on any appropriate measures to protect worker safety and minimize potential environmental impacts in the event that there is groundwater contamination along the proposed route.

#### *5.4 Wetlands*

Approximately 1,346.16 acres of wetlands would be impacted during construction and operation of the U.S. portion of the proposed pipeline, 820.64 acres of which would be permanently maintained in an herbaceous state during operations. The proposed pipeline would cross one known and five potential wetlands listed in the Minnesota Department of Natural Resources (MDNR) Protected Waters Inventory as public water wetlands. Two Wetlands Reserve Program (WRP) wetlands, the Pokegama Carnegie Wetlands, and the Superior Airport/Hill Avenue Wetlands/South Superior Triangle Wetlands, also would be crossed by the proposed Alberta Clipper pipeline. Enbridge is currently consulting with Wisconsin Department of Natural Resources (WDNR) and the Army Corps of Engineers (COE) to conduct an alternatives analysis in this area and has developed the Pokegama Plan (Appendix T of the EIS) that would minimize impacts to the resource. Enbridge minimized impacts to the Superior Airport/Hill Avenue Wetlands/South Superior Triangle Wetlands during initial routing and does not propose additional mitigation.

To minimize potential construction and operation impacts, Enbridge would implement procedures outlined in the state-specific EMPs (Appendix C of the EIS) for wetland crossings. Enbridge would minimize impacts and restore wetlands affected by construction activities, to the extent practical. In addition to standard construction efforts, winter construction has been proposed for up to approximately 25 miles of expansive wetlands. Enbridge has prepared a Winter Construction Plan (Appendix O of the EIS) that identifies several mitigation measures to reduce impacts to wetlands associated with winter construction activities.

To further minimize impacts to this habitat, and in accordance with current or expected COE, MDNR, and Minnesota Public Utilities Commission (MPUC) permitting requirements, DOS has

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recommended that Enbridge develop a construction management plan for approval by the COE at least 1 week prior to construction to include: an endangered resource plan; identification and inventory of existing plant communities; a preliminary wetland restoration plan; a replanting and reseedling plan; and a preliminary 5-year, site-specific post-construction monitoring plan for the wetland complex located between MP 853 and MP 854, or as otherwise directed by the COE for the U.S. portion of the Alberta Clipper pipeline; and that Enbridge take all necessary and reasonable measures to protect the wetland complex between MP 853 and MP 854, and submit proposed site plans to MDNR and MPUC 14 days prior to construction through the area, or as otherwise directed by MDNR and MPUC for the Alberta Clipper pipeline. Impacts to the sensitive vegetation at this location would further be minimized by construction of the pipeline on the north side of the right-of-way where the habitat is less sensitive.

Compensatory wetland mitigation is being developed in consultation with the COE and appropriate state resource agencies to offset unavoidable impacts to wetlands, which would result in no net loss of wetland function due to the proposed pipeline.

Overall, temporary and permanent impacts to wetlands, mitigated according to Enbridge plans and agency requirements would result in minor impacts to wetland resources.

### ***5.5 Terrestrial Vegetation***

Vegetation classes potentially affected by the U.S. portion of the proposed Alberta Clipper pipeline during construction include upland forested lands (1,254.5 acres), agricultural lands (2,528.8 acres), developed lands (617.2 acres), open lands (655.4 acres), and wetlands (1,346.2 acres). The primary impacts to vegetation from construction would be cutting, clearing, or removing the existing vegetation within the construction work area, along with the potential introduction of noxious weeds.

The same vegetation communities would be affected by the pipeline during operations since the permanent right-of-way would be maintained in an herbaceous condition. The permanent right-of-way would consist of previously forested uplands (622.2 acres), agricultural lands (569.4 acres), developed lands (36.7 acres), open lands (195.2 acres), and wetlands (820.7 acres). Permanent impacts would occur within the permanent right-of-way, where trees and shrubland would be removed and prevented from reestablishing through the periodic mowing and brush clearing required for pipeline operation and inspections.

Impacts to forested lands would be incurred in the areas within the permanent right-of-way that would not be allowed to revert to pre-construction cover. Even in construction areas that would be able to revert to forested land, complete recovery of these areas would require decades. Therefore, pipeline construction in forested areas would cause a long-term to permanent, localized impact on forested land.

Enbridge has identified measures to limit impacts to vegetation in its Agricultural Mitigation Plan (Appendix F of the EIS), state-specific EMPs (Appendix C of the EIS), Noxious Weed Plans (Appendix H of the EIS), and Revegetation and Restoration Monitoring Plans (Appendix K of the EIS). To further minimize potential impacts, DOS has identified mitigation measures to address potential impacts to vegetation communities of conservation concern and noxious weeds. In accordance with federal and/or state permitting requirements, DOS has recommended that Enbridge should:



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- Take care to avoid damage between April 1 and July 1 to any live, standing residual oak trees adjacent to the right-of-way in counties where oak wilt occurs, and when construction occurs through forested areas containing oak trees. If any such damage does occur, the damaged areas on the trees should be immediately covered with pruning or latex paint.
- Develop a Construction Mitigation Plan (CMP) for the wetland complex located between MP 853 and MP 854, for approval by the COE at least 1 week prior to construction, that provides, among other things, an endangered resource plan; identification and inventory of existing plant communities; a preliminary wetland restoration plan; a replanting and reseeding plan; and a preliminary 5-year, site-specific post-construction monitoring plan—or as otherwise directed by the COE for the U.S. portion of the Alberta Clipper pipeline.
- Take all necessary and reasonable measures to protect the wetland complex between MP 853 and MP 854, and submit proposed site plans to MDNR and MPUC 14 days prior to construction through the area, or as otherwise directed by MDNR and MPUC for the U.S. portion of the Alberta Clipper pipeline.

In addition, DOS has recommended that revegetation in non-agricultural areas be considered successful if upon visual survey the density and cover of non-nuisance vegetation are similar in density (i.e., greater than 70 percent) and cover to adjacent undisturbed lands. With implementation of Enbridge's proposed mitigation and the additional mitigation measures identified by DOS, impacts to terrestrial vegetation for the proposed Project would be minor.

### 5.6 Wildlife

Construction and operation of the U.S. portion of the proposed Alberta Clipper pipeline would result in both short-term disturbance and long-term modification to wildlife habitats, including increased habitat fragmentation and widening of the existing right-of-way. Total habitat loss and alteration due to pipeline construction would be small in the context of available habitat because of the linear nature of the pipeline and the extent of collocation proposed. Operation of the pipeline would be expected to have little, if any, additional effects on wildlife.

To limit potential construction and operation impacts to wildlife, Enbridge has identified mitigation procedures in its state-specific EMPs (Appendix C of the EIS), Revegetation and Restoration Monitoring Plans (Appendix K of the EIS), and Noxious Weed Plans (Appendix H of the EIS), as well as in the Agricultural Mitigation Plan (Appendix F of the EIS) and Migratory Bird Plan (Appendix V of the EIS). Pipeline construction would also be conducted in accordance with required permits.

In addition, DOS has recommended that Enbridge, in accordance with USFWS requirements, should finalize plans to survey for migratory bird nests during the nesting season; finalize measures to avoid impacts to migratory bird nests, such as avoidance of land clearing during the primary nesting season (May 1 through July 15 within the Project area); and continue to consult with FWS to develop compensatory mitigation for the loss of quality upland nesting habitats for migratory birds.

Implementation of measures in the Enbridge plans, along with the mitigation measures recommended by the COE, USFWS, and DOS, would reduce impacts to wildlife. Consequently, overall impacts to wildlife resulting from the U.S. portion of the Alberta Clipper pipeline are expected to be minor.

**UNCLASSIFIED****5.7 Fisheries**

The U.S. portion of the proposed Alberta Clipper pipeline could affect fisheries resources by loss or alteration of habitat; reduced spawning success; direct and indirect mortality; adverse health effects; and loss of individuals and habitats due to hydrostatic testing and exposure to toxic materials. Enbridge would adhere to agency recommendations on timing windows for instream work. All stream crossing methods would require review and approval by the COE and other relevant agencies prior to construction. In addition, Enbridge would need to demonstrate to the COE that each waterbody crossing method is the Least Environmentally Damaging Preferred Alternative (LEDPA) in accordance with EPA's 401(b)(1) Guidelines and COE's regulations.

Enbridge proposes to modify crossing methods based on flow conditions at the time of construction. Consequently, the open-cut method would be used for waterbodies planned as a dry crossing, if the waterbody is dry or has no perceptible flow at the time of construction. Alternatively, a dry crossing method would be used for waterbodies planned as an open cut, but with perceptible flow at the time of construction.

Potential impacts would be avoided and minimized to the degree practical by implementing Best Management Plans (BMPs). The state-specific EMPs (Appendix C of the EIS) describe the BMPs that would be used for each type of waterbody crossing to reduce potential effects on fish and aquatic/streambank habitat. To minimize the impacts of construction activities on fish and their habitats, Enbridge generally would complete all open-cut instream activity for minor waterbody crossings (less than 10 feet wide) within 24 hours and all activity for intermediate (10 to 99 feet wide) and major (100 feet wide or greater) waterbodies would be crossed in less than 48 hours, not including those crossed using the horizontal directional drill (subsurface) construction method.

DOS has recommended that Enbridge develop a Construction Management Plan for the Lost River—for approval by the COE at least 1 week prior to construction—that includes confirmation of the crossing method, site-specific mitigation to minimize impacts, a list of all sediment and erosion control equipment that would be on-site, and an endangered resource plan, as directed by the COE.

Implementation of the Enbridge plans and DOS-recommended mitigation would result in overall minor impacts to aquatic habitat and organisms.

**5.8 Threatened, Endangered, and Sensitive Animals and Plants**

Federally-listed threatened, endangered, or candidate species identified by the USFWS as potentially being affected by the U.S. portion of the Alberta Clipper pipeline include Kirtland's warbler, piping plover, Canada lynx, gray wolf (delisted by USFWS in a final rule dated April 2, 2009; effective May 4, 2009), Dakota skipper, and western prairie fringed orchid. In addition to the federally-protected species identified, several state- and tribal-designated threatened, endangered, and sensitive species were identified as potentially being affected by the U.S. portion of the proposed pipeline.

Construction of the U.S. portion of the Alberta Clipper pipeline would result in a small reduction in available habitats for some sensitive bird species, mammals, aquatic animals, and plants. Enbridge has identified mitigation procedures in its state-specific EMPs (Appendix C of the EIS), Revegetation and Restoration Monitoring Plans (Appendix K of the EIS), and Noxious Weed Plans (Appendix H of the EIS), as well as in the Agricultural Mitigation Plan (Appendix F of the

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EIS) and Migratory Bird Plan (Appendix V of the EIS) that would reduce impacts on special-status species. Pipeline construction would be conducted in accordance with required permits. Impacts to sensitive mammals, plants, and aquatic animals would be minimized by implementation of measures described in these plans and measures recommended by the COE, USFWS, state resource agencies, and tribes.

Further, DOS has recommended that Enbridge, in accordance with USFWS requirements, finalize plans to survey for migratory bird nests during the nesting season; continue to develop measures to avoid impacts to migratory bird nests, such as avoidance of land clearing during the primary nesting season (May 1 through July 15 within the U.S. portion of the Alberta Clipper pipeline area); and continue to consult with USFWS to develop compensatory mitigation for migratory bird nesting habitat loss. Enbridge should relocate the creek heelsplitter mussels encountered in the Swan River (MP 1024.2) prior to instream construction and/or in accordance with COE requirements associated with these waterbody crossings.

With these measures, DOS concludes that the U.S. portion of the Alberta Clipper pipeline either would have no effect or may affect, but would not be likely to adversely affect, federally-listed or candidate species. Section 7 informal consultation with USFWS has been completed, and USFWS has concurred with the determinations presented in the EIS for federally-listed threatened, endangered and candidate species.

### ***5.9 Land Use***

Land uses that would be affected by the U.S. portion of the Alberta Clipper pipeline include agriculture, open land, wetlands, waterbodies, residential land, and recreational and other special interest areas. In general, lands required for construction would be temporarily impacted, while lands required for operation of the pipeline would be permanently impacted. Construction of the proposed pipeline would affect the following land use categories: forested lands (1,254.5 acres), agricultural lands (2,528.8 acres), developed lands (617.2 acres), open lands (655.4 acres), and wetland/open water (1,346.2 acres). Total land use acres that would be affected by construction of the proposed pipeline are 6,402.1 acres.

To address potential impacts to agricultural lands, Enbridge has proposed a number of mitigation measures that are detailed in the Agricultural Mitigation Plan (Appendix F of the EIS). Further, Enbridge would compensate all landowners for lost crops during construction and any documented damage caused by construction activities. After construction, Enbridge would repair or restore drain tiles, fences, and land productivity as these may be damaged during the construction process; agricultural land would be allowed to revert to its previous uses, except for land that would be set aside for permanent access roads; Enbridge would directly purchase such land from individual landowners. Construction impacts to general agricultural activities are expected to be minor and temporary; operations impacts would be minor but permanent.

On open lands, construction would require clearing of herbaceous plants and shrubs on the existing right-of-way and in construction work areas. Clearing of these shrubs and plants would result in some minor impacts. Enbridge would reseed and mulch upland open land areas after construction is completed.

Impacts to forested lands would be incurred in the areas within the permanent right-of-way that would not be allowed to revert to pre-construction cover. Even in construction areas that would be able to revert to forested land, complete recovery of these areas would require decades.

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Therefore, pipeline construction in forested areas would cause a long-term to permanent, localized impact on forested land.

Enbridge has developed site-specific construction and mitigation plans for construction activities near residential and commercial structures. Operation of the pipeline has the potential to impact residential properties and landowners. Structures would not be permitted on the permanent right-of-way, and trees would not be allowed to re-grow within the pipeline right-of-way. This permanent easement on residential properties would be considered a permanent impact in that it restricts the use of that portion of the property. This limited use would be accounted for in the easement negotiations between individual landowners and Enbridge.

The U.S. portion of the Alberta Clipper pipeline would cross various recreation and special interest areas, resulting in temporary construction impacts and potential permanent impacts. Enbridge has developed mitigation measures for these areas in the state-specific EMPs (Appendix C of the EIS). The area of the Chippewa National Forest (CNF) crossed by the proposed pipeline is completely within the Leech Lake Reservation. A detailed description of impacts and mitigation measures within these areas is provided in Appendix U of the EIS.

The proposed pipeline would cross approximately 12.9 miles of the Fond du Lac Reservation; the entire length of the pipeline through the reservation would be collocated with the existing Enbridge pipeline right-of-way. Enbridge is working closely with the Fond du Lac Band to develop site-specific mitigation and minimization measures for reservation lands.

Implementation of measures in the Enbridge state-specific EMPs (Appendix C of the EIS), Agricultural Mitigation Plan (Appendix F of the EIS), Noxious Weed Plans (Appendix H of the EIS), Revegetation and Restoration Monitoring Plans (Appendix K of the EIS), and Construction Environmental Control Plan (Appendix M of the EIS) would reduce potential land use impacts. Enbridge has committed to implementing a comprehensive inspection, monitoring, and compliance control plan to ensure that multiple contractors comply with the conditions of all permits. Enbridge has developed a Complaint Handling Procedures Plan (Appendix X of the EIS) to ensure that all landowner concerns are handled appropriately. This plan was designed to provide landowners with the necessary contact information in the event that the details of the individual easement negotiations or details of the mitigation plans referenced throughout this document are not being upheld. Implementation of the Enbridge proposed plans and mitigation would result in overall minor impacts to land use.

### **5.10 Socioeconomics**

Construction and operation of the U.S. portion of the Alberta Clipper pipeline could result in several types of socioeconomic impacts. Impacts could be temporary due to construction and more long-term or permanent due to operation of the pipeline. Possible temporary impacts include changes to local population levels and demographics, increased demands for housing and public services, changes in transportation needs, increased traffic, and increased employment opportunities or needs for local goods. Long-term impacts due to operation would include employment, income benefits, and increased tax revenue due to property taxes paid by Enbridge.

Overall, impacts related to socioeconomic resources are expected to be minor but mostly positive for the U.S. portion of the Alberta Clipper pipeline.

### **5.11 Cultural Resources**

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Field studies were conducted to identify archaeological and historic resources for the Alberta Clipper Project. The Fond du Lac Band of Lake Superior Chippewa, Leech Lake Band of Ojibwe, and Mille Lacs Band of Ojibwe have prepared Traditional Cultural Property studies within sections of the U.S. portion of the Alberta Clipper pipeline's Area of Potential Effect (APE). The DOS will take into account the Project's potential effects to archaeological and historic resources as well as TCPs through the Programmatic Agreement (PA), which will continue through construction of the Alberta Clipper Project.

Enbridge's main method of mitigation for potential impacts to cultural resources is avoidance. Types of avoidance identified by Enbridge include abandonment (or non-use of the location), narrowing of the construction corridor, limiting impacts (no change to the existing structure), and use of alternative crossing methods (such as horizontal directional drill). Based on the available information, Enbridge's proposed route, construction methods, and implementation of the PA, no impacts to cultural resources would be expected.

### *5.12 Air Quality and Noise*

Air quality impacts associated with construction of the U.S. portion of the Alberta Clipper pipeline include emissions from fugitive dust, fossil-fueled construction equipment, open burning, and temporary fuel transfer systems and associated storage tanks. Air emissions during construction would be localized, intermittent, and short term. Emissions from construction-related activities would be conducted in compliance with applicable regulations and would not significantly affect local or regional air quality. Pipeline operations would not produce significant air quality impacts, and only minor emissions from fugitive emissions would occur from valves and pumping equipment. Enbridge has proposed measures in the state-specific EMPs (Appendix C of the EIS) and SPCC Plan (Appendix E of the EIS) that would reduce impacts related to air quality.

Noise impacts for a pipeline project generally fall into two categories: temporary impacts resulting from construction equipment and long-term or permanent impacts resulting from operation of the facility. Construction of the proposed pipeline would be similar to other pipeline projects in terms of schedule, equipment used, and types of activities. Construction would increase noise levels in the vicinity of pipeline activities, and the noise levels would vary during the construction period. In general, residential, agricultural, and commercial areas within 500 feet of the proposed pipeline right-of-way could experience short-term inconvenience from construction equipment noise. For horizontal directional drill crossings, drilling rig, pumps, generators, and mobile equipment produce noise that may impact nearby noise-sensitive areas. If noise from operations cannot be mitigated to the required level, other measures—such as providing temporary lodging at a local motel for affected residents—would be used to avoid exposing residents to objectionable noise. The temporary noise impacts from construction are expected to be minor with implantation of mitigation measures. Long-term noise impacts from operation of the pipeline would originate from the pump stations. Enbridge has proposed several mitigation measures at pump stations to reduce noise associated with the operation of pump stations for the U.S. portion of the Alberta Clipper pipeline. Material traveling through the buried pipeline would not be expected to emit audible noise above the surface or produce a perceptible level of vibration.

Overall, the impacts to air quality and noise during construction of the proposed pipeline are expected to be short term and minor. Air and noise impacts during operations would be minor but long term.

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### **5.13 Reliability and Safety**

Crude oil released into the environment (spills) may affect natural resources, human uses and services, and aesthetics to varying degrees, depending on the cause, size, type, volume, rate, temperature of the oil, location, environmental conditions, and associated response actions. To minimize the potential for releases from the U.S. portion of the Alberta Clipper pipeline, Enbridge would design and construct the proposed pipeline in accordance with applicable design, engineering, and safety standards. To ensure the integrity of the pipeline and associated facilities during operation, Enbridge would incorporate the U.S. portion of the Alberta Clipper pipeline into its existing programs that (1) ensure that the integrity of its existing pipeline systems is maintained, including inspection of the pipelines and pipeline alignments; and (2) detect and respond to releases of oil that may occur. Enbridge would expand its existing emergency response plan to incorporate the Alberta Clipper Project. The existing plan has been approved by DOT's PHMSA; PHMSA approval of the revised plan would be required for pipeline operation. The emergency response plan identifies specific measures to prevent a release and to implement the appropriate emergency response if a release were to occur. A summary of the procedures included in the emergency response plan is presented in Appendix Q of the EIS.

With implementation of the Enbridge plans and procedures, the reliability and safety of the proposed Alberta Clipper Project is expected to meet or exceed industry standards.

### **5.14 Cumulative Impacts**

The cumulative impacts analysis was conducted on both a Project-wide (the entire U.S. portion of the Alberta Clipper pipeline) and watershed-specific level. In general, the primary impacts of concern for the U.S. portion of the Alberta Clipper pipeline and other pipelines in the region of influence include short-term construction impacts and long-term land conversion and air emissions. The Project-wide cumulative impacts assessment concluded that the Alberta Clipper Project would not result in significant cumulative construction or operation impacts when considered in conjunction with other large-scale projects in the area of the U.S. portion of the Alberta Clipper pipeline, such as other pipelines.

Due to the localized and temporary nature of pipeline construction, the primary emissions of concern during construction of the U.S. portion of the Alberta Clipper pipeline would be greenhouse gas (GHG) emissions, including direct impacts from construction equipment and indirect emissions from land disturbance. Emissions during operation of the pipeline would primarily be associated with electrical generation to operate the pump stations (estimated at 0.3 million metric tons of CO<sub>2</sub> annually).

The cumulative analysis for refineries focused on air emissions, including GHG emissions, for recently upgraded refineries and potential new refineries. Based on the cumulative emissions from recent refinery upgrades, it is estimated that the emissions associated with the 450,000 bpd transported via the Alberta Clipper Project could increase CO emissions by about 1,000 tons per year (tpy), increase VOC emissions by approximately 400 tpy, and decrease emissions of other pollutants relative to currently permitted refinery emissions.

The watershed-level assessment considered large-scale projects and smaller-scale projects on a watershed-by-watershed basis along the route of the U.S. portion of the Alberta Clipper pipeline. Smaller-scale projects included road construction, commercial and residential development, flood control projects, energy projects, timber harvesting, mining, and conservation programs. The watershed-by-watershed assessment concluded that the Alberta Clipper Project would not result

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in significant construction or operation impacts when considered in conjunction with other large-scale and small-scale projects in individual watersheds along the Alberta Clipper Project route.

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## 6.0 Public and Agency Review and Comment

During its consideration of Enbridge's application for a Presidential Permit and consistent with federal requirements for informing and involving the public, Indian tribes and other public agencies (both federal and state) with jurisdiction concerning aspects of this project, DOS conducted extensive public outreach and consultation programs. The purpose of these programs was to solicit public and agency input on issues and alternatives to be considered during preparation of the EIS and to receive comments on the completeness of the EIS. These programs also served to provide government-to-government consultation with Indian tribes relative to historic properties consistent with the NHPA and to consult with relevant natural resource management agencies consistent with the Clean Water Act (CWA) and the ESA. The actions and programs conducted during consideration of Enbridge's application included:

- a) Publication in the Federal Register of a Notice of Receipt of an Application for a Presidential permit;
- b) Publication in the Federal Register of a Notice of Intent to Prepare an Environmental Assessment;
- c) Publication in the Federal Register of a Notice of Intent to Prepare an EIS and to Conduct Supplemental Scoping;
- d) Conduct of a series of public meetings in North Dakota, Minnesota and Wisconsin to receive input on the U.S. portion of the Alberta Clipper pipeline from the public, federal and state agencies and Indian tribes;
- e) Public Review and Comment on a Draft and Final EIS;
- f) Consultation with Indian tribes; and
- g) Consultation with other Federal and State Agencies (USEPA, USFWS, COE, BIA, MDNR, WDNR, State Historic Preservation Officers, etc.)

The result of these outreach and consultation programs is summarized below.

DOS published in the Federal Register a Notification of Receipt of the Enbridge Application for a permit on May 25, 2007 (72 FR 29360). That notification solicited public comment on the application for a 30-day period. Thereafter, the Department published in the Federal Register a Notification of Intent to Prepare an Environmental Assessment on July 27, 2007 (72 FR 41381). On March 31, 2008, the DOS issued a second NOI to announce its intention to prepare an Environmental Impact Statement (EIS) in order to address reasonably foreseeable impacts from the proposed action and alternatives (73 FR 16920). The Department's Notice of Availability of the Draft EIS and request for public comment was published in the Federal Register on December 5, 2008 (73 FR 74221), seeking comments by January 30, 2009. The Department received over 900 public comments in response to its notice and has taken them into account in making its determination on the Enbridge application. The Department's Notice of Availability of the Final EIS and request for public comments was published in the Federal Register on June 8, 2009 (74 FR 108), seeking comments by July 3, 2009. The Department received four comments in response to this notice; none contained any new substantial or substantive arguments regarding the proposed project.

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As required by Executive Order 13337, the Enbridge pipeline application and a Draft Environmental Impact Statement were transmitted to federal agencies for their review and comment on December 5, 2008. The Department of State received no objections from federal agencies regarding the issuance of a permit. The Department published a notice of the availability of the Final Environmental Impact Statement in the Federal Register on June 8, 2009 (74 FR 27229).

Concurrently, the Department took steps to act consistently with Section 106 of the National Historic Preservation Act. On July \_\_\_\_\_, 2009, I signed a Programmatic Agreement with the Advisory Council on Historic Preservation (ACHP), the applicant, all three state historic preservation officials, and consulting federal and tribal agencies. Native American tribes were also invited to sign as concurring parties under the ACHP's guidelines. The purpose of the Programmatic Agreement is to take into account the effect of the proposed Alberta Clipper Project on historic properties and to satisfy all responsibilities under Section 106 of the National Historic Preservation Act. In this connection, the Department has a pending request from the Fond du Lac band that the 1854 Ceded Territory be recognized as a Traditional Cultural Property. The Department plans to evaluate the request pursuant to the terms of the PA.

Consistent with Section 7 of the Endangered Species Act (ESA), DOS consulted with and obtained the concurrence of the U.S. Fish and Wildlife Service (USFWS) with a final Biological Assessment (BA) on the Alberta Clipper Project. The BA concludes that the construction of the Alberta Clipper Project may affect, but is not likely to adversely affect, species protected under the ESA.

Consistent with its authority under Executive Order 13337, the Department reviewed all of the available information and documentation, including comments submitted by federal, tribal, and state agencies and the public. Executive Order 13337 requires that Secretaries or Heads of certain agencies be notified of the Department's proposed determination concerning issuance of the Presidential Permit. Any agency required to be consulted under Section 1(g) of the Order that disagrees with the proposed determination may notify the Secretary of State within 15 days of this notice that it disagrees with the determination and request that the Secretary refer the application to the President.

**UNCLASSIFIED****7.0 Decision and Basis for Decision**

The Deputy Secretary of State has determined that a Presidential Permit will be issued to Enbridge Energy, Limited Partnership to construct, connect, operate, and maintain facilities at the border for the transport of crude oil between the United States and Canada across the international boundary, as described in the Application for a Presidential Permit dated May 15, 2007 and as further amended by the subsequent filings of Enbridge with the DOS and by information incorporated into the Final EIS issued June 5, 2009. The Deputy Secretary also finds that:

Construction and Operation of the Alberta Clipper Project Serves the National Interest - The addition of crude oil pipeline capacity between the Western Canada Sedimentary Basin (WCSB) and the United States serves the strategic interests of the United States for the following reasons:

- It increases the diversity of available supplies among the United States' worldwide crude oil sources in a time of considerable political tension in other major oil producing countries and regions. Increased output from the WCSB can be utilized by a growing number of refineries in the United States that have access and means of transport for these increased supplies.
- It shortens the transportation pathway for a sizeable portion of United States crude oil imports. Crude oil supplies in Western Canada represent the largest and closest foreign supply source to domestic refineries that do not require, in contrast to other suppliers, many days or weeks of marine transportation.
- It increases crude oil supplies from a major non-Organization of Petroleum Exporting Countries producer which is a stable and reliable ally and trading partner of the United States, with which we have free trade agreements which augment the security of this energy supply.
- Moreover, the United States and Canada, through bilateral diplomacy and a Clean Energy Dialogue process that is now underway, are working across our respective energy sectors to cooperate on best practices and technology, including carbon sequestration and storage, so as to lower the overall environmental footprint of our energy sectors. The Government of Canada and the Province of Alberta have also set greenhouse gas reduction targets and implementation programs to help them achieve them.
- Approval of this permit will also send a positive economic signal, in a difficult economic period, about the future reliability and availability of a portion of United State's energy imports, and in the immediate term, will provide construction jobs.
- It provides additional supplies of crude oil to make up for the continued decline in imports from several other major U.S. suppliers.

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- Construction and Operation of the Alberta Clipper Project Meets Environmental Protection Policies – The DOS concludes that the proposed Alberta Clipper Project, if designed, constructed, and operated in accordance with the Project Description in Section 2.0 of the FEIS, as amended by additional approaches and mitigation measures agreed to by Enbridge as a result of the DOS environmental analyses and as further amended by specific permit conditions contained in the permit and those to be assigned by the state and federal agencies with jurisdiction over aspects of the project along the pipeline corridor, would result in limited adverse environmental impacts.

Concerns have been raised about higher-than-average levels of greenhouse gas (GHG) emissions associated with oil sands crude. The Department has considered these concerns, and considers that they are best addressed in the context of the overall set of domestic policies that Canada and the United States will take to address their respective greenhouse gas emissions. The United States will continue to reduce reliance on oil through conservation and energy efficiency measures, such as recently increased Corporate Average Fuel Economy (CAFÉ) standards, as well as through the pursuit of comprehensive climate legislation and an ambitious global agreement on climate change that includes substantial emission reductions for both the United States and Canada. The Department, on behalf of the Administration, will urge ambitious action by Canada, and will cooperate with the Canadian government through the U.S.-Canada Clean Energy Dialogue and other processes to promote the deployment of technologies that reduce our respective GHG emissions.

The Scope of the Permit Issued to Enbridge shall extend only up to and including the first mainline shut-off valve or pumping station in the United States. Executive Order 11423, initially delegating the President's authority to the DOS, specifically notes that "the proper conduct of the foreign relations of the United States requires that Executive permission be obtained for the construction and maintenance at the borders of the United States of facilities connecting the United States with a foreign country." Similarly, Section 1 of Executive Order 13337, further delegating the President's authority, states that DOS has authority for issuance of Presidential permits for the "construction, connection, operation, and maintenance at the borders of the United States of facilities... to or from a foreign country." Hence, in reviewing an application for a Presidential permit, the DOS, takes into account the impact the proposed cross-border facility (i.e., pipeline, bridge, road, etc.) will have upon U.S. relations with the country in question, whether Canada or Mexico, and also on the impact it will have on U.S. foreign relations generally. While the DOS also takes into account the various environmental and other domestic issues mentioned above, DOS does not have, and has never had, authority over facilities, including pipeline, bridges, roads, etc., located entirely within the United States that do not cross the international border with either Canada or Mexico. For these reasons, the Department does not believe that the scope of the permit it issues in this case should extend any further than necessary to protect that foreign relations interest. The permits the DOS issues under Executive Orders 11423 and 13337 routinely include provisions permitting DOS to take possession of the facilities at the border for national security reasons or to direct the permittee to remove the facilities in the immediate vicinity of the international border if so directed by the DOS. Since that is the case, the DOS has concluded that a limitation of the scope of the permit in this case to those pipeline facilities within the United States up to and including the first mainline shut-off valve or pumping station would adequately protect the DOS' foreign relations interest in implementing Executive Orders 11423 and 13337.

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## 8.0 National Interest Determination

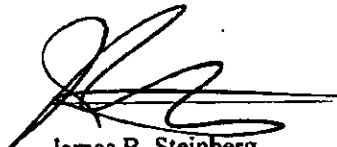
Pursuant to the authority vested in me under Executive Order 13337 of April 30, 2004, as amended, Department of State Delegation of Authority No. 118-2 of January 23, 2006, and Department of State Delegation No. 245-1 of February 13, 2009, and subject to satisfaction of the requirements of sections 1(g) and 1(i) of Executive Order 13337, I hereby determine that issuance of a permit to Enbridge Energy, Limited Partnership, a limited partnership organized under the laws of the State of Delaware, which is a wholly owned subsidiary of Enbridge Energy Partners, L.P. ("Enbridge Partners") which is a Delaware master limited partnership headquartered at 1100 Louisiana, Suite 3300, Houston, Texas 77002, to construct, connect, operate and maintain facilities at the border of the United States and Canada for the transport of crude oil between the United States and Canada across the international boundary at Cavalier County, North Dakota, would serve the national interest.

The Presidential Permit issued to Enbridge shall include authorization to construct, connect, operate, and maintain at the border of the United States facilities for the transport of crude oil between the United States and Canada across the international boundary as described in the Presidential Permit application received from Enbridge by DOS on May 15, 2007, as amended, and in accordance with the mitigation measures described in the Environmental Mitigation Plan (and other similar mitigation plans) contained in the FEIS, as amended. No construction or other actions shall be taken by Enbridge prior to Enbridge's acquisition of all other necessary federal, state, and local permits and approvals from agencies of competent jurisdiction. Enbridge shall provide written notice to the Department at such time as the construction authorized by this permit is begun, and again at such time as construction is completed, interrupted or discontinued.

This determination shall become final fifteen days after the Secretaries of Defense, Interior, Commerce, Energy, Homeland Security and Transportation, the Attorney General, and the Administrator of the Environmental Protection Agency have been notified of this determination, unless the matter must be referred to the President for consideration and final decision pursuant to section 1(i) of said Executive Order.

03- August 2007

Date



James B. Steinberg

Deputy Secretary of State

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July 24, 2009

ROD final 7-30.doc

Approved: EEB: David D. Nelson, Acting – ok

Drafted: EEB/ESC: J. Brian Duggan; 7x1291

Cleared: EEB/ESC: DAS Douglas C. Hengel – ok  
EEB/ESC/IEC: Matt McManus – ok  
E: Thomas Hastings – ok  
OES/ENV: Betsy Orlando – ok  
L/EEB: Wynne Teel – ok  
L/OES: Keith Benes – ok  
L/OES: John Kim – ok  
WHA/CAN: Eleanore Fox – ok  
D(S): Pamela Park – ok  
OES/EGC: Trigg Talley – ok  
S/SECC: Todd Stern – ok  
P: Laura Rosenberger – ok  
S/P: Francisco Gonzalez – ok

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**BEFORE THE  
UNITED STATES DEPARTMENT OF STATE**

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**APPLICATION OF ENBRIDGE ENERGY, LIMITED PARTNERSHIP FOR AN  
AMENDMENT TO THE AUGUST 3, 2009 PRESIDENTIAL PERMIT FOR LINE 67 TO  
INCREASE THE OPERATIONAL CAPACITY OF PIPELINE FACILITIES AT THE  
INTERNATIONAL BOUNDARY BETWEEN CANADA AND THE UNITED STATES**

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Pursuant to Executive Order 11423, 33 Fed. Reg. 11741 (Aug. 16, 1968), as amended by Executive Order 13337, 69 Fed. Reg. 25229 (Apr. 30, 2004), Enbridge Energy, Limited Partnership (“Applicant” or “Enbridge”) hereby submits this Application to the Department of State (“Department”) for an amendment to the August 3, 2009 Presidential Permit (“2009 Permit”) issued by the Department authorizing the construction, operation, and maintenance of the Line 67 Pipeline across the U.S.-Canada border.<sup>1</sup> The Amendment requested here seeks authorization for only an operational change to the Pipeline; no facilities or pipe will be constructed in the 3-mile near-border area subject to the Department’s jurisdiction. Specifically, Enbridge seeks an amendment to operate the Line 67 Pipeline up to its full design capacity.<sup>2</sup> The operational change requested by this Application, hereafter referred to as the “Line 67 Project” or “Project”, will allow Enbridge to maximize the delivery capabilities of Line 67 to meet the

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<sup>1</sup> Line 67 was commonly identified at the time as the “Alberta Clipper” pipeline.

<sup>2</sup> As stated at page 2-4 of the Final Environmental Impact Statement (“FEIS”) issued in connection with the 2009 Permit, the capacity of a liquids pipeline can be expressed in terms of design capacity and annual capacity. “Design capacity” is the theoretical flow rate of a pipeline for a specific type of liquid and is calculated assuming theoretically ideal operating conditions. In liquid petroleum pipelines, the design capacity is the maximum instantaneous throughput that a pipeline is capable of achieving under design conditions for a specific liquid. “Annual capacity” is the average sustainable throughput over a year and is calculated assuming average annual historical operating conditions, including scheduled and unscheduled maintenance, normal operating problems, and crude supply availability. The annual capacity of a pipeline is typically 90 percent of design capacity. The full design capacity, or the ultimate capacity, of a pipeline will vary based on the type of product transported. The full design capacity for Line 67 is 880,000 bpd of heavy crude oil, yielding an annual capacity of 800,000 bpd for heavy crude oil. See FEIS at 2-50.

rising demands for additional transportation capacity for crude oil from western Canada. Canadian government approvals will also be sought for a like increase in capacity for the portion of Line 67 from its northern terminus at Hardisty, Alberta to the U.S.-Canada border.

This Application and attachments contain all of the information required by the Department of State's guidelines for Presidential Permits set forth at "Applying for Presidential Permits for Border Crossing Facilities (Canada)," dated January 21, 2009, *available at* <http://www.state.gov/p/wha/rls/fs/2009/114990.htm>, with the exception of an environmental report ("ER"). That ER is currently being prepared by Enbridge's environmental consultant and will be submitted to the Department upon completion for use by the Department in fulfilling its obligations under the National Environmental Policy Act, 42 U.S.C. § 4321, *et seq.*, ("NEPA").

## INTRODUCTION

The 2009 Permit authorized the construction, operation and maintenance of the 36-inch diameter Line 67 pipeline extending between the U.S.-Canada border near Neche, ND and the first U.S. mainline shut off valve or pumping station in the United States. *See* 2009 Permit, at pg. 1 (defining the "United States facilities" to which the Permit applies as "A 36-inch-diameter pipeline extending from the United States-Canada border near Neches (sic), North Dakota, up to and including the first mainline shut-off valve or pumping station in the United States."). That near-border segment of the Pipeline authorized by the 2009 Permit is only 3-miles long. Enbridge constructed the remainder of the Line 67 Pipeline in the United States to its southern terminus at Superior, Wisconsin, pursuant to other local, state and federal permits.

Enbridge completed construction and began operations of Line 67 in 2010. The Pipeline is in full operation, transporting approximately 450,000 bpd of crude oil from the Western Canadian Sedimentary Basin to downstream refinery markets in the Midwest and eastern U.S. and Canada, as well in the mid-central U.S. and U.S. Gulf Coast areas. As explained in more detail below in Section III, the Line 67 Project is designed to expand the through-put capacity of Line 67 up to its Full design capacity. This additional capacity is needed for shippers to meet the rising demand of U.S. and Canada refineries, which require access to additional secure and reliable supplies of crude oil from western Canada.

Enbridge is submitting this Application pursuant to the Department's direction that the 2009 Permit must be amended to authorize Enbridge to operate Line 67 at an annual capacity

above the 450,000 bpd that the Department analyzed in the FEIS completed in accordance with NEPA prior to issuance of the 2009 Permit. While pump stations will be expanded to accomplish the capacity expansion (as discussed further below), no physical changes to the Line 67 Pipeline itself will occur as a result of the Project. Thus, the same 36-inch diameter pipeline authorized by the Permit will remain in use. Further, the Line 67 Project contemplates neither physical changes or additions to the 3-mile segment of the Pipeline between the U.S.-Canada border and the first mainline shut-off valve, nor the addition of any pipeline-related facilities in that near-border area. Accordingly, the “United States facilities” to which the 2009 Permit applies by its terms will not be affected by the Project. Rather, Enbridge only seeks authorization from the Department to operate the existing physical pipeline facilities at an increased annual capacity.

In the United States, the Line 67 Project will require an expansion of certain existing pump stations, all of which are located in Minnesota. The minimal construction required at or proximate to these pump stations is described in further detail in Section III.

In Section IV of this Application, Enbridge will demonstrate that the Line 67 Project meets the National Interest test for granting an amended Presidential Permit. Specifically, the expansion of the Pipeline’s capacity will serve the national interest for the same or similar reasons stated in the Department’s August 3, 2009 Record of Decision/National Interest Determination (“ROD/NID”) issued for the original Line 67 Project. The increased capacity will help to meet North America’s need for reliable and secure transportation of crude oil supplies from growing production regions in western Canada and help to address tightening capacity on the Enbridge pipeline system.

Timely authorization of this Application is needed in order for Enbridge to increase Line 67’s capacity level to 570,000 bpd by mid-2014 and to its full design capacity by md-2015. The approval timeline is on a critical path in order for Enbridge to meet the rising transportation requirements of its customers for additional pipeline capacity and access to refinery markets.



## I. COMMUNICATIONS

Any communications with respect to this Application should be directed to:

Name: David H. Coburn  
Address: Steptoe & Johnson LLP  
1330 Connecticut Ave., NW  
Washington, DC 20036  
Phone: (202) 429-8063  
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## II. BACKGROUND

### A. The Applicant

The Applicant is Enbridge Energy, Limited Partnership (“Enbridge”), a limited partnership duly organized under the laws of the State of Delaware.<sup>3</sup> Enbridge owns and operates the “Lakehead System,” the U.S. portion of an operationally integrated pipeline system which connects producers and shippers of crude petroleum and natural gas liquids in western Canada with markets in the United States and eastern Canada. The Lakehead System spans approximately 1,900 miles from the international border near Neche, North Dakota to the international border near Marysville, Michigan, with an extension from facilities in Canada across the Niagara River into the Buffalo, New York area. The Lakehead System’s facilities include underground pipe ranging from twelve (12) to forty-eight (48) inches in outer diameter. From Marysville, affiliated pipelines continue into the Canadian Provinces of Ontario and Quebec.

Enbridge is a wholly owned subsidiary of Enbridge Energy Partners, L.P. (“Enbridge Partners”), which is a Delaware master limited partnership headquartered at 1100 Louisiana, Suite 3300, Houston, Texas 77002 (ph. 713-821-2000; www.enbridgepartners.com). Enbridge Partners provides pipeline transportation of petroleum and natural gas in the Mid-Continent and Gulf Coast regions of the United States, in addition to gathering, processing, and other related operations. Its two primary business segments are Liquids Pipelines and Natural Gas

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<sup>3</sup> Enbridge Energy, Limited Partnership was formerly known as Lakehead Pipe Line, Limited Partnership.

Transportation. The Liquids Pipelines segment involves the transportation by pipeline of crude petroleum and natural gas liquids via three main interstate pipeline systems (Lakehead, North Dakota and Ozark Systems). The Natural Gas Transportation business segment involves the interstate and intrastate transportation by pipeline of natural gas as well as related gathering, midstream, and marketing operations.

Enbridge Partners is a publicly held limited partnership; the Class A Common Units of Enbridge Partners trade on the New York Stock Exchange under the symbol “EEP” as regularly traded instruments and are available to the investing public through regular retail brokerage services. The majority ownership of Enbridge Partners is held by approximately 68,000 Class A unit holders. Enbridge Energy Management, L.L.C., (“Enbridge Management”) is a limited liability company that trades on the NYSE using ticker symbol “EEQ,” and was formed to manage and control the business and affairs of Enbridge Partners. Enbridge Energy Company, Inc. (“Enbridge Energy Company”) is the general partner of Enbridge Partners and holds an approximate 22 percent (22%) interest in the Partnership. Enbridge Inc., a Canadian company, which has its head office in Calgary, Canada, and trades on the TSX and NYSE using ticker symbol “ENB,” owns Enbridge Energy Company.

Enbridge Pipelines Inc., a subsidiary of Enbridge Inc., owns and operates the Canadian portion of Enbridge’s pipeline system located in Canada that interconnects and delivers into the United States into the Lakehead System. Together, these two systems are referred to as the “Enbridge Mainline System.”

## **B. Line 67**

Line 67 is a 36-inch pipeline that transports crude oil from Enbridge’s facilities in Hardisty, Alberta to an Enbridge terminal in Superior, Wisconsin (“Superior Terminal”). In the United States, Line 67 extends 326.9 miles from the U.S.-Canada border near Neche, North Dakota through North Dakota, Minnesota and Wisconsin to the Superior Terminal. From there, the crude is transported primarily to Midwestern markets and mid-central and Gulf Coast markets, as well as points in the Eastern United States and Canada. The U.S. portion of Line 67 facilities consist of a total of 32 mainline valves with current pumping units located at stations in Clearbrook (also a terminal location), Viking, and Deer River, Minnesota.

The 2009 Presidential Permit that authorized the construction, operation and maintenance of Line 67 between the U.S.-Canada border to the first mainline shut-off valve in the United

States, was issued following the Department's issuance of a FEIS on June 5, 2009. Consistent with NEPA, that FEIS assessed the potential impacts to surrounding resources resulting from construction, operation and maintenance of Line 67 and associated facilities. The Department issued a ROD/NID on August 3, 2009, concluding that the "preferred alternative would have limited adverse impact to the environment" and that the project "would serve the national interest, in a time of considerable political tension in other major oil producing regions and countries, by providing additional access to a proximate stable, secure supply of crude oil with minimum transportation requirements from a reliable ally and trading partner of the United States." ROD/NID, at 2-3.

The U.S. portion of Line 67 is an interstate common carrier liquids pipeline subject to regulation by the Federal Energy Regulatory Commission ("FERC") under the Interstate Commerce Act ("ICA"). Common carrier pipelines in interstate commerce provide service to any qualified shipper who requests transportation services, provided that products tendered for transportation satisfy the conditions and specifications contained in the applicable tariff. As a common carrier, Enbridge does not own the oil transported on Line 67 and does not control the final shipping destination. The ICA requires Enbridge to maintain tariffs on file with the FERC that set forth the rates charged for providing transportation services on its interstate common-carrier pipelines, as well as Enbridge's rules and regulations governing these services.

### **III. DESCRIPTION OF RELEVANT FACILITIES**

As noted by the Department in the FEIS prepared prior to issuance of the 2009 Permit, the increase in capacity of Line 67 to its full design capacity will require the addition of new pumps and/or other upgrades at seven stations in Minnesota. Three of these (Viking, Clearbrook and Deer River) are currently Line 67 pump stations, while four other sites are currently pump stations for other Enbridge liquids pipelines proximate to Line 67. (See Figure No. 1). No additional pipeline or installation of new mainline valves outside these expanded station facilities, and no expansion of the existing Line 67 right-of-way, will be required. As stated in FEIS, at pg. 2-50, the "increase in capacity to 800,000 bpd [the annual capacity based on a full design capacity of 880,000 bpd for heavy crude] would not require any modifications to the [Line 67] pipeline itself."

Additionally, no facilities will be upgraded or added, nor will there be any construction of any kind, in the portion of Line 67 that falls under the Department’s jurisdiction as defined in the 2009 Permit, *i.e.*, that section of the pipeline between the U.S.-Canada border and the first U.S. mainline valve. Rather, the only impacts in that jurisdictional section of the pipeline will be *operational* impacts in the form of a greater flow of oil through the Pipeline. The Permit amendment that is the subject of this Application relates solely to this operational change at the U.S. Facilities defined in the Permit.

A description of activities required to be undertaken to increase the capacity of Line 67 is provided below.

**Figure No. 1: Project Overview Map**



The initial phase of expansion is intended to relieve the bottleneck of pipeline capacity that shippers are currently experiencing on the Enbridge Mainline System and meet the near term capacity that has been requested by shippers by mid-2014. Through this phase of expansion, Enbridge proposes to optimize its existing pipeline system by installing additional pumping horsepower at three existing Line 67 pump station sites. These upgrades will enable Enbridge to

transport an incremental 120,000 bpd of crude petroleum from Hardisty to the Superior Terminal for further shipment to refineries.

Subject to the completion of permitting, this initial phase of Line 67 expansion up to an average annual capacity of 570,000 bpd is anticipated to be operational by July 1, 2014. All station expansions will be constructed on lands already owned by Enbridge at Line 67's existing pump station sites. Specifically, Enbridge will expand its Viking, Clearbrook, and Deer River stations in Minnesota. Outside of station piping that will need to be installed at these pump stations, no new pipeline will be installed in the Line 67 right-of-way.<sup>4</sup>

Approval to expand these three pump stations is being sought from the Minnesota Public Utilities Commission ("MPUC"), which currently has pending before it an Enbridge application for a Certificate of Need to upgrade certain pump stations so as to expand the capacity of Line 67 to an annual average annual capacity of 570,000 bpd (Docket PL-9/CN-12-590). That capacity expansion is proposed for completion in mid-2014. Additional approvals or consultations will be sought from, or undertaken with, other regulatory agencies with authority over construction at such pumping facilities, as further described in Section IX below.

To attain the full design capacity of Line 67 will require the installation of new pump stations and associated station piping, including valves and appurtenances, at four existing Enbridge facilities located at Donaldson, Plummer, Cass Lake, and Floodwood, Minnesota. These facilities currently serve Enbridge Lakehead system pipelines that are located within the same corridor as Line 67, but the facilities do not currently serve Line 67. The enhanced pumping at these stations would have no impact on any other Enbridge pipeline; the alterations described here would apply to Line 67 only.<sup>5</sup>

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<sup>4</sup> At each of these stations, one (in the case of Viking) or two (in the case of the other two stations) additional pumps will be required, including new pumping unit piping and station valves. Associated civil, structural, electrical, instrumentation, controls, communications, and SCADA systems modifications also may be required at each site as a result of the new pumping unit addition. Modifications may also be required to occur to the existing pump building at each site to accommodate the new pump or pumps. Some additional site development, including berms, containment, fencing and grading may also be required, all within the existing respective footprints of each station.

<sup>5</sup> Specifically, the existing Donaldson, Plummer station, Cass Lake and Floodwood stations may each require the installation of new pumps and new motors dedicated to serve Line 67. Each station will also require the installation of a pressure control valve, the construction of an electrical substation, sonic flow meters for leak detection, and a station bypass check valve. New

In addition to the modifications that will be needed at these four stations to increase capacity beyond 570,000 bpd up to Line 67's full design capacity, further modifications may also be required at the Line 67 pump stations at Viking, Clearbrook, and Deer River. These modifications may require impeller replacements and volute inserts on pumps at each of the stations. As with the previously described modifications of these stations, no new land will be required for such modifications, and no construction will occur outside of the footprint at each station site.

Enbridge intends to file an additional application with the MPUC in early 2013 seeking a Certificate of Need for the facility changes described above required to attain the full design capacity of Line 67. It is anticipated that approval of that application could be granted in sufficient time so that the capacity increase can be accomplished by mid-2015.

### **C. Superior Terminal Expansion**

Although outside the scope of its existing Permit and outside the purview of this Application, Enbridge notes that it will be undertaking an expansion at its Superior Terminal. Specifically, Enbridge plans to add two above-ground tanks which will be used for breakout and batching management of oil received from the capacity-enhanced Line 67, as well as for oil received via other pipelines within Enbridge's Lakehead System.

Expansion of the Superior Terminal will require the construction of two (2) 504,000 barrel working volume external floating roof above-ground tanks. Two (2) 48-inch tank lines per tank to manifold 225 will also be required, as will five (5) 36-inch lateral lines between manifolds 223 and 225. An above-grade pipe rack will also be necessary, as will associated valves and piping at manifolds 223 and 225.

The Superior Terminal expansion is being undertaken in part for reasons unrelated to the Project. Thus, the Terminal expansion is being undertaken to also accommodate increased volumes and required break-out tank and batch management for crude oil transported via other

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buildings at each of the stations will be constructed to house the pumps, motors, and electrical substation. Associated civil, structural, electrical, instrumentation, controls, communications, and SCADA systems modifications will also be required as a result of the new units. Enbridge will acquire additional properties as may be needed to accommodate the changes to be made at the Donaldson, Plummer, Cass Lake and Floodwood stations.

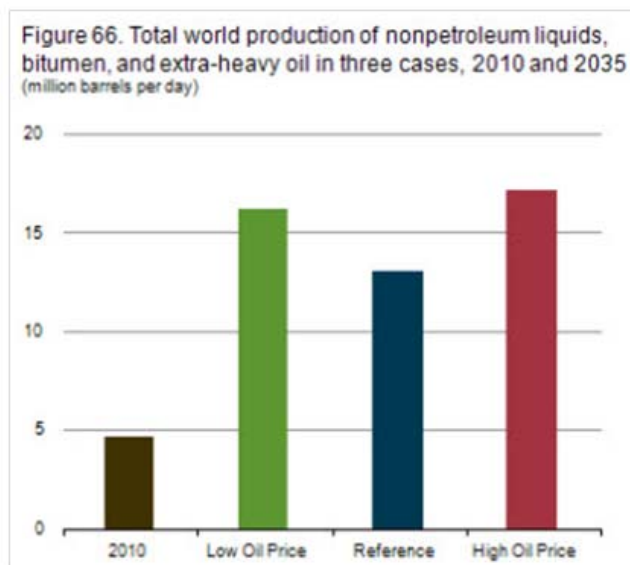
pipelines delivering into and extending out of the Superior Terminal. The August 2009 Permit does not address the Superior Terminal and Enbridge is not asking that the amended permit for which it is applying here address that Terminal.

#### **IV. THE AMENDED PERMIT WOULD SERVE THE NATIONAL INTEREST**

Enbridge submits that amendment of the 2009 Permit as sought here will serve the national interest for the reasons stated in the Department's August 2009 ROD/NID underlying the 2009 Permit. The Department determined in that document that the addition of crude oil pipeline capacity resulting from construction, operation and maintenance of Line 67 would serve "the strategic interest of the United States for the following reasons": (1) "it increases the diversity of available supplies among the United States' worldwide crude oil sources in a time of considerable political tension in other major oil producing countries and regions;" (2) "It shortens the transportation pathway for a sizeable portion of United States crude oil imports;" (3) "It increases crude oil supplies from a major non-Organization of Petroleum Exporting Country producer which is a stable and reliable ally and trading partner of the United States;" (4) "the United States and Canada, through bilateral diplomacy and a Clean Energy Dialogue process that is now underway, are working across our respective energy sectors to cooperate on best practices and technology ... so as to lower the overall environmental footprint of our energy sectors;" (5) "Approval ... will also send a positive economic signal, in a difficult economic period, about the future reliability and availability of a portion of United States' energy imports;" (6) "It provides additional supplies of crude oil to make up for the continued decline in imports from several other major U.S. suppliers;" and (7) the project "would result in limited adverse environmental impacts." ROD/NID, at 25-26.

The Line 67 Project will allow the Pipeline to continue to serve the national interest for the same or similar reasons. Authorizing the increased capacity requested here will help to meet the growing demands of Enbridge's shippers, many of which are U.S. refiners. While domestic supplies are growing, these refiners will still depend for the foreseeable future on reliable pipeline transportation of crude oil imported from western Canada.

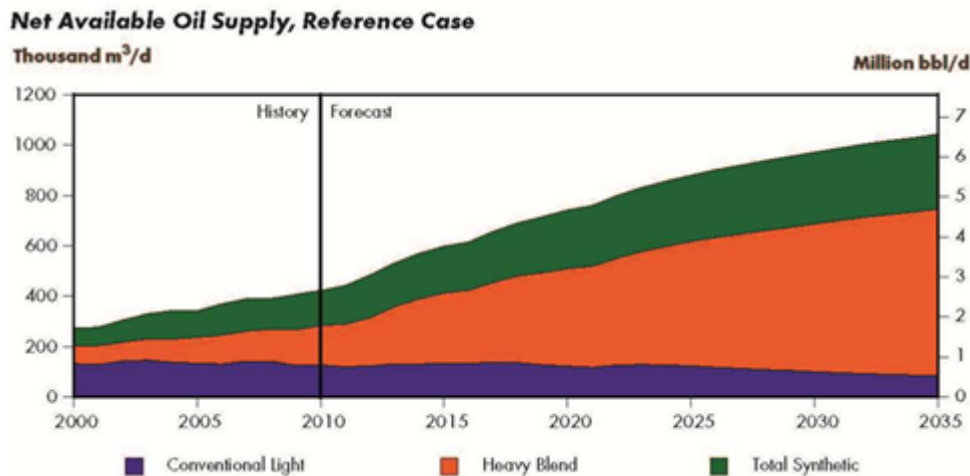
The Energy Information Administration's Annual Energy Outlook 2012 forecast for world production anticipates the continued growth of heavy crude oil, such as production from Canada's oil sands region.



The International Energy Agency's executive summary of its November 2012, World Energy Outlook ("WEO 2012") reinforces this forecast, concluding that the combination of U.S. production, with increases largely from unconventional shale, along with supply from Canada's oil sands region, will move North America to become a net oil exporter around 2030. (WEO2012 Executive Summary). The forecasted increase in North American supply will help ensure that there is an adequate supply of oil for U.S. refiners from nearby and stable sources, while reducing dependence on oil from less stable nations.

After accounting for changes in Canadian crude oil consumption, the net crude oil supply available for export into the United States has increased by approximately 960,000 bpd in the last ten years. The figure below provides both the historical supply data and the most recent long-term forecast released by the National Energy Board ("NEB") of Canada. The forecast is contained in the November 2011 report, *Canada's Energy Future: Energy Supply and Demand Projections to 2035*. As shown by the figure, it is forecasted that Western Canadian crude oil supply will increase by another 1.9 million bpd by 2020. The forecast volumes found in the NEB report are similar to those provided in forecasts performed by the Canadian Association of Petroleum Producers ("CAPP") and Enbridge itself.





Downstream refinery markets in the Midwest, Gulf Coast and other portions of the U.S. and eastern Canada not only continue to require additional access to secure and reliable North American produced crude oil supplies to meet their feedstock requirements, but are concurrently reducing reliance on imports from less-stable foreign nations outside North America. According to a recent report, “[i]n 2011, Canada exported over 2.2 million b/d to the U.S., which was 12 per cent more than in 2010 and was equivalent to almost 25 per cent of total U.S. imports. Of these volumes, 2.0 million b/d was sourced from western Canada. The next largest sources of imports to the U.S. were Saudi Arabia, Mexico and Venezuela. Western Canadian production could continue to capture an even larger share of U.S. imports as it replaces volumes currently supplied by these countries. A number of factors in the near term are expected to reduce supplies available to the U.S. from these sources. These include: declining production, increased domestic consumption and the diversion of supplies to Asia.” Canadian Association of Petroleum Producers, *Crude Oil Forecast, Markets & Pipelines*, at pg. 13 (June 2012), available at <http://www.capp.ca/forecast/Pages/default.aspx>. See also the November 29, 2011 EIA Report entitled, “Crude Oil and Total Petroleum Imports Top 15 Nations,” available at [http://www.eia.gov/pub/oil\\_gas/petroleum/data\\_publications/company\\_level\\_imports/current/import.html](http://www.eia.gov/pub/oil_gas/petroleum/data_publications/company_level_imports/current/import.html) (showing increasing U.S. imports from Canada and the decreasing volume of U.S. imports from many other oil exporting nations).

Shippers continue to request additional near- and long-term capacity on Line 67 to transport heavy crude from growing production regions in western Canada, which have become

one of the most prolific sources of crude oil in the Western Hemisphere. However, the pipelines which comprise the common carrier Enbridge Mainline System are at or near their capacity. To address this issue, Enbridge has been working diligently with its shipper customers and with industry consultants. It has determined that the increased supply of crude oil afforded by the Line 67 Project offers a very efficient means of adding to the transportation capacity needed to tap the portion of this growing supply from western Canada. A substantial increase in Line 67 capacity above the current 450,000 bpd can be provided in a prudent, cost-effective manner by adjustments made at existing facilities and within the current right-of-way, and thus without any significant adverse environmental impacts.

The Line 67 Project is thus an essential element in Enbridge's plans to meet shipper needs through capacity increases. The destination refinery markets for the incremental Line 67 supply of heavy crude oil are already equipped to process heavy crude. Accordingly, no refinery upgrades and/or expansions are being undertaken in connection with the expansion of capacity afforded by the Line 67 Project.

While the primary purpose and benefit of this Project is to meet increased transportation capacity demand by ensuring refinery access to secure and reliable crude oil to use as raw feedstock, there are also secondary benefits associated with the Line 67 Project. By helping to meet the needs of the U.S. consuming public for secure and reliable crude oil supplies, the Line 67 Project will have a positive economic impact in the United States, and contribute to tax revenues. It will also result in job creation and a ramp-up in the purchase of goods and services during construction periods. Using the Regional Input-Output Modeling System (<http://www.bea.gov/regional/rims/>), Enbridge estimates that approximately 600 person-years of jobs will be created during the period that upgrades are completed for the initial planned capacity increase to 570,000 bpd, while approximately 2,400 person-years of jobs will be created for the expansion up to the full design capacity. More than half of these workers will typically be from Minnesota and surrounding states, depending on the availability of local skilled workers.

The total economic benefit for the entire Project is estimated to be approximately \$450 million, which includes the multiplier impact of new job creation, additional taxes and other economic benefits. Unemployment in the area would be temporarily reduced and payroll taxes would temporarily rise during Project construction. Local businesses, specifically in the communities near the Enbridge stations where work is focused, would also benefit from the

temporary demand for goods and services generated by the workforce's need for food, lodging, and supplies. Enbridge expects to purchase some of the materials necessary for construction of the Project locally, including consumables, fuel, equipment, and miscellaneous construction-related materials. In addition, Enbridge plans to procure major engineered equipment, such as pumps, from U.S. manufacturers.

Further, based on the anticipated total cost of the Line 67 Project and current ad valorem tax schedules, Enbridge estimates it could pay as much as \$2.85 million in additional annual property taxes in Minnesota, subject to assessments by local government units. Additional discussion of positive job and tax benefits will be provided in Enbridge's forthcoming ER.

## **V. OPERATIONAL SAFETY**

As an interstate crude petroleum pipeline, Enbridge's design, maintenance, operation, and emergency preparedness functions for Line 67 are regulated by the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation ("PHMSA") under 49 C.F.R. Parts 194 and 195, and other applicable federal pipeline rules, as well as relevant state laws. Enbridge will here summarize some key elements relating to the safety of its Line 67 operations and maintenance. Additional detail regarding the operation and maintenance of the Project will be provided in Enbridge's forthcoming ER.

### **i. Control Operations**

Line 67 is currently controlled through the Enbridge Pipeline Control Center, located in Edmonton, Canada. This is a new control center that was opened in December 2011, which allows for greater interaction and support between operators for the continuously monitored system and meets the new control center operational rules issued in recent years by PHMSA.<sup>6</sup>

The Control Center is manned by pipeline operators 24 hours-a-day. A computerized pipeline control system allows the operators to remotely monitor and control the pipeline and related facilities. The Control Center also serves as an emergency center to receive calls from employees, the public and public officials reporting unusual conditions or suspected pipeline failures. The computerized pipeline control system has been designed and continually upgraded and enhanced to monitor and control the pipeline within pre-established minimum and maximum

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<sup>6</sup> While located in Canada, the control center is subject to PHMSA regulation.

operating pressures. Both the computer system and operating practices include procedures for abnormal operating conditions, including emergency shutdown and isolation of the pipeline and notification procedures in the event of suspected emergencies.

Recent enhancements have been made to Enbridge's Pipeline Control and Control Center Operations (CCO), as follows:

- During 2011 and 2012, Enbridge implemented a Control Room Management (CRM) plan based on the new regulations in 49 C.F.R. Part 195.
- Revised and enhanced all procedures pertaining to decision making, handling pipeline startups and shutdowns, leak detection system alarms, communication protocols, and suspected abnormal operations.
- Enhanced the organizational structures to better support our operators and to manage span of control and workloads.
- Augmented CCO staff, adding training, technical support, engineering and operator positions.

Enbridge also established a Pipeline Control Systems and Leak Detection department, doubling the number of employees and contractors over the last two years dedicated to leak detection and pipeline control, including:

- Enhanced procedures for leak detection analysis.
- Implemented a Leak Detection Instrumentation Improvement Program to add and upgrade instrumentation across its system.

## **ii. Inspection**

Enbridge conducts routine inspections of Line 67 and its facilities, including the facilities that will be upgraded as part of the Project, to ensure that the system is operating properly and in compliance with relevant safety regulations, including those at 49 C.F.R. Part 195. The Line 67 and station cathodic protection systems currently in place will be modified as required at station sites for the additional facilities described above. The pipeline system is also regularly inspected by aerial patrol.

Enbridge periodically inspects the station components of its pipeline system, in accordance with the standards of 49 C.F.R. Part 195, including the integrity management of pipelines and facilities in high consequence areas. All overpressure safety devices capable of

limiting, regulating, controlling, and/or relieving operating pressures are inspected annually and tested to ensure the device is in good mechanical condition and functioning properly.

**iii. Maintenance**

Many other maintenance activities are performed on Line 67 as discussed during the environmental review and permitting process when Line 67 was initially constructed. Such maintenance activities will be applied to the facilities that will be installed as described above. Enbridge's Operating and Maintenance Procedures meet and, in many cases exceed, federal safety standards set forth in 49 C.F.R. Part 195.

**iv. Emergency Preparedness**

Enbridge's emergency response program has been prepared in compliance with PHMSA rules under 49 C.F.R. Part 194 and will be updated as necessary to reflect the additional volumes of crude oil that will be transported following completion of this Project. The Emergency Response Plan has been reviewed and approved by PHMSA and includes pre-planning, equipment staging, emergency notifications, and emergency and leak containment procedures.

Enbridge has also developed a cross-business unit response team for large-scale events requiring more resources than a single region can provide and created a dedicated Emergency Response group in Operation Services for increased regional support. Enbridge is enhancing equipment, training, and overall response capabilities consistently as improved technologies become available to support worst case incidents within its pipeline systems. Enbridge has also expanded its emergency and public official awareness program and is in the process of launching an emergency first responder on-line training module, expected to be operational and available to all local and state responders by early 2013.

**v. Hydrostatic Testing**

All new pressurized piping and components required to be installed as part of the Project will be factory tested, rated and, as required, field pressure tested in accordance with federal pipeline safety regulations and nationally recognized technical codes and standards. The hydrostatic test water discharges will be for the new piping, valves and other components at the stations. Line 67 was constructed and hydrostatically tested for full design capacity and

additional hydrostatic tests of the existing line are not required to establish the regulatory compliance maximum allowable operating pressures needed to achieve the proposed capacity. The pressure testing process at Minnesota stations will be implemented in accordance with Enbridge’s Environmental Management Plan and permits issued by the appropriate regulatory agencies.

**VI. FINANCING**

Enbridge estimates that the cost of the expansion outside of the relevant 3-mile area will be approximately \$199.2 million. Enbridge estimates that the cost of the facility upgrades to increase operating capacity from 450,000 to 570,000 bpd will be approximately \$39.9 million. The cost for the station upgrades to increase operating capacity up to the full design capacity will be approximately \$159.3 million. Consistent with its existing financing program, Enbridge Partners intends to finance the Project with 50% equity and 50% debt. There will be no facilities or costs in the relevant 3-mile area.

**VII. ENVIRONMENTAL**

An ER which discusses the human and environmental impacts of the Project proposed here is being undertaken by Enbridge with the support of resources and expertise of its environmental consultant, the Natural Resource Group (“NRG”). An ER prepared in support of this Application will be provided to the Department in the coming weeks. Applicant is aware of the Department’s obligation to comply with NEPA.

**VIII. OTHER U.S. APPROVALS**

The table below identifies a preliminary list of U.S. permits, licenses, approvals and/or consultation requirements Applicant will be seeking for the Project.

<b>Federal/State Agency/Department</b>	<b>Approval Needed</b>
<b>U.S. Army Corps of Engineers</b>	Construction of facilities in or near wetlands may require approval from the Corps.
<b>U.S. Fish and Wildlife Service</b>	The agency will need to be consulted by the Department under Section 7 of the Endangered Species Act regarding potential habitat or species impacts posed by the construction of the

	facilities.
<b>U.S. Environmental Protection Agency</b>	The EPA will review storm water and hydrostatic test discharges at the Cass Lake Station, due to the station being within Leech Lake Band of Ojibwe reservation boundaries.
<b>State Historic Preservation Officers (SHPO)</b>	SHPOs in Minnesota will need to be consulted regarding any historical or cultural resources that may be impacted by the construction of any facilities.
<b>Minnesota Public Utilities Commission (MPUC)</b>	The MPUC will be required to issue a certificate of need for the expanded pump stations.
<b>Minnesota Department of Natural Resources</b>	The state agency will be required to issue water appropriation permit for trench dewatering, and must also be consulted regarding species that may be impacted by the Project.
<b>Minnesota Pollution Control Agency (MPCA)</b>	The MPCA will be required to grant approval for Enbridge to utilize the NPDES construction stormwater general permit. The MPCA will also be responsible for issuing a Section 401 water quality certification.

On October 8, 2012, Enbridge submitted an application to the MPUC to increase capacity of Line 67 up to 570,000 bpd. *See* MPUC Docket No. PL-9/CN-12-590. Final action on that application is expected by September 2013. As noted above, Enbridge intends to submit another application to the MPUC seeking authority to further increase the capacity of Line 67.

Additional details regarding each of the permits, approvals and consultations, as well as Enbridge's relevant permitting actions will be further described in the forthcoming ER.

## IX. CANADIAN APPROVALS

The Project will require that Enbridge obtain various Canadian approvals for the addition of horsepower sufficient to allow capacity expansion of Line 67 up to 570,000 bpd, and the further addition of horsepower to allow for expansion to the full design capacity. On October 12, 2012, Enbridge submitted an application for the initial expansion to the National Energy Board ("NEB") under the agency's Section 58 process for the facilities required in Canada requesting an authorization allowing Enbridge to construct and operate facilities necessary to increase the capacity of Line 67 to 570,000 bpd by mid-2014. That application remains pending. An environmental assessment will be completed as may be necessary by the Canadian Environmental Assessment Agency. The NEB also has an independent mandate to consider and

take into account potential socio-economic and environmental impacts of the Project under the provisions of the Canadian Environmental Assessment Act.

Other federal and provincial authorizations and permits will be required and it is also expected that development and building permits that may be required will be obtained from various municipalities in Canada. Any relevant additional detail regarding Canadian approvals will be provided in the forthcoming ER.

The Canadian portion of the Project will also be implemented in approximately the same time frames for capacity expansion as are described above. The Table below reflects the major permits that Enbridge will seek to secure from Canadian agencies for the portion of the Project in Canada. Additional permits, licenses and/or approvals may be necessary as pipeline design and planning progresses. Enbridge anticipates that the Canadian approvals required for the Line 67 Project will be granted.

**Preliminary List of Canadian Federal Regulatory Authorizations for the Line 67 Project**

<b>Name of Permit</b>	<b>Brief Description</b>
National Energy Board Section 58 Exemption Order	Permits the construction and operation of applied-for facilities (new pumps and associated infrastructure within Enbridge facilities)
Municipal Development Permits	Permit local development
Municipal Building Permits	Ensure adherence to building code standards
Aquatic Habitat Protection Permits	Permits the permanent impact to adjacent wetlands required for expansion (Saskatchewan Ministry of Environment)
Water Rights Act and/or Water Protection Act Authorization	Permits the permanent impact to adjacent wetlands required for expansion (Government of Manitoba)
Historical Resources Screening / Clearance	Historical resources clearance in the provinces of Manitoba and Saskatchewan
Private Land Checklist	Saskatchewan Ministry of Environment
Code of Practice for the Temporary Diversion of Water for Hydrostatic Testing of Pipelines	Facility hydro testing notification (Alberta Environment Sustainable Resource Development). Water Act.



## X. CONCLUSION

For all the reasons stated above, the Applicant submits that the expansion of Line 67 capacity is in the national interest of the United States. Therefore, Applicant respectfully requests that the Department issue an amendment to the August 2009 Presidential Permit to allow Enbridge to operate Line 67 up to its full design capacity in the 3-mile area of the pipeline subject to Department jurisdiction.

Respectfully submitted,



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November 20, 2012

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**From:** Coburn, David <DCoburn@steptoe.com>  
**Sent:** Tuesday, June 03, 2014 11:30 AM  
**To:** 'fredc@phe.com'  
**Cc:** Hahs, Ona M; Hassell, Mary D.; Grout, Travis A  
**Subject:** Enbridge -- Line 67  
**Attachments:** BD-PS-10859-DOU.PDF

Here is the map that we used this morning to illustrate the plans for connecting lines 3 and 67. Regards. David

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