

May 14, 2021

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

RE: Motion of Mr. Evan Carlson for Clarification of the Commission's January 23, 2019, Order Approving Compliance Filings as Modified and Denying Motion
Docket No. PL-9/CN-14-916

In the Matter of the Application for Enbridge Energy, Limited Partnership, for a Certificate of Need for the Proposed Line 3 Replacement Project in Minnesota from the North Dakota Border to the Wisconsin Border

Dear Mr. Seuffert,

Department of Commerce, Energy Environmental Review and Analysis (EERA) staff provides these comments regarding the motion of Mr. Evan Carlson for clarification of the certificate of need for the Line 3 replacement pipeline project.¹ Mr. Carlson's concerns regard the landowner choice program established by the Commission for the Line 3 project.

The Commission designated EERA staff as the independent liaison for the Line 3 landowner choice program – to coordinate with affected landowners; the permittee, Enbridge Energy, Limited Partnership (Enbridge); the independent engineer; and the Commission regarding the program. EERA staff provides these comments to detail EERA staff's work with Mr. Carlson and Enbridge regarding Mr. Carlson's concerns. In its January 23, 2019, order, and regarding the landowner choice program, the Commission noted that it would not resolve property rights issues associated with the program but would address matters relating to the general operation of the landowner choice program.² EERA staff believes Mr. Carlson's concerns fall into this latter category.

¹ Motion for Clarification of Prior Order Dated January 23, 2019, Order Approving Compliance Filings as Modified and Denying Motion, April 30, 2021, eDockets Numbers [20214-173710-01](#), [20214-173710-02](#), [20214-173710-03](#).

² Order Approving Compliance Filings as Modified and Denying Motion, January 23, 2019, eDockets Number [20191-149512-01](#) ("For any disputes arising between landowners and Enbridge regarding the operation of the program that cannot be resolved through the use of the independent liaison and third-party engineer, Enbridge

On October 19, 2020, Mr. Carlson contacted EERA staff with concerns about implementation of the landowner choice program (Attachment 1). Among Mr. Carlson's concerns was that his clients were being denied access to a third-party engineer because they did not know such an engineer existed. EERA staff clarified that access to a third-party engineer could be obtained by contacting EERA staff, the independent liaison for the landowner choice program. This clarification addressed Mr. Carlson's concern regarding the third-party engineer. EERA staff forwarded the remainder of Mr. Carlson's questions and concerns to Enbridge.

On November 25, 2020, Enbridge responded to Mr. Carlson's concerns regarding the landowner choice program (Attachment 2). Enbridge included with its response the document package that was provided to landowners along the existing Line 3 route.

Following Enbridge's response, EERA staff had additional discussions with Mr. Carlson. In these discussions, Mr. Carlson indicated that his concerns regarding the landowner choice program were not satisfactorily addressed. In addition, he provided EERA staff with a copy of an Enbridge landowner letter ("fairness letter") that raised additional concerns for him (Attachment 3). EERA staff requested that Mr. Carlson identify those parts of the landowner choice program that he believed still required clarification along with any proposed remedies. Mr. Carlson provided this information on March 18, 2021 (Attachment 4). The parts of the program identified by Mr. Carlson include:

- The role of the third-party engineer in providing guidance to landowners regarding the choice of deactivation-in-place or removal of the existing Line 3 pipeline.
- Landowner access to information regarding deactivation-in-place or removal of the existing Line 3 pipeline.
- The extent of negotiations between landowners and Enbridge regarding deactivation-in-place or removal of the existing Line 3 pipeline.
- The role of the "fairness letter" in negotiations between landowners and Enbridge.

EERA staff has worked with Mr. Carlson and Enbridge to resolve Mr. Carlson's concerns. EERA staff finds Mr. Carlson's concerns to be primarily of a programmatic nature – his concerns touch on the basic operation of the landowner choice program and on the interpretation of program language.

Accordingly, EERA staff, in its role as independent liaison for the landowner choice program, believes it is unable to resolve Mr. Carlson's concerns absent additional guidance from the Commission. Staff considered the mediation clause in the program condition, but did not believe that mediation was a logical next step, because it would be neither appropriate nor timely to ask a mediator to interpret the Commission's intent. Thus, EERA staff believes Mr.

shall offer an independent mediation at Enbridge's expense. If mediation is unsuccessful, only matters relating to the operation of the program established as a modification to the certificate of need may be brought to the Commission. The Commission will not resolve any property rights issues.").

Carlson's concerns are best addressed by the Commission, as suggested by the Commission's January 23, 2019, order.

Sincerely,



Andrew Levi

Energy Environmental Review and Analysis

Enclosures:

Attachment 1 – October 19, 2020, Letter from Mr. Carlson to EERA Staff

Attachment 2 – November 25, 2020, Enbridge Response to EERA Staff

Attachment 3 – Example Enbridge Landowner Letter, Supplied by Mr. Carlson to EERA Staff

Attachment 4 – March 18, 2021, Letter from Mr. Carlson to EERA Staff

From: [Evan Carlson](#)
To: [Levi, Andrew \(COMM\)](#)
Subject: Enbridge Non-Compliance Letter
Date: Monday, October 19, 2020 10:00:02 AM
Attachments: [Enbridge LOC 101520 Noncompliance letter.pdf](#)

This message may be from an external email source.

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

Mr. Levi,

Please find the attached letter outlining certain compliance issues with the Landowner Choice Program and additional information requests. Do you have a few minutes to hop on a call this week after you read the letter?

- Evan

Evan Carlson - Attorney at Law, LLC
225 South 6th St. Suite 3900
Minneapolis, MN 55402
(952) 356-0303

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed.

Evan Carlson - Attorney at Law, LLC
225 South 6th Street, Suite 3900
Minneapolis, MN 55402
Email: evan.carlson@attorneycarlson.com
Phone: (952) 356-0303



Mr. Levi,

Thank you for calling and providing an update regarding the status of the reporting that is being produced by the third-party engineer. I'm looking forward to seeing the results.

The purpose of this letter is to request certain information and to bring to your attention Enbridge's failure to meet important requirements of the Certificate of Need relating to the operation of the Landowner Choice Program. I intend to bring these issues to the attention of the Commission if Enbridge does not rectify the situation. The Certificate of Need (CN) provides that "matters relating to the operation of the program established as a modification to the certificate of need may be brought to the Commission."

Enbridge failed to make disclosures to landowners as required by the CN and Attachment 2A. Enbridge denied landowners access to the third-party engineer by hiding the fact that one exists. Attachment 2A states "landowners will have access to a representative from at least one independent, third-party engineering firm knowledgeable in matters relevant to the landowners' choice of deactivation-in-place or removal." It also states, "Enbridge is committed to ensuring that landowners are able to make an informed decision regarding the decision to choose to have existing Line 3 removed or deactivated in place. . . . Contact information for the appropriate personnel at such firms will be made available to landowners."

The draft introductory letter to landowners that was provided to the Commission in Attachment 2A informs landowners that an "independent, third-party engineering firm has been retained to be an additional resource available through the Landowner Choice Program." However, the letter Enbridge actually sent makes no reference to the third-party engineer at all. The only reference that I can find to the third-party engineer anywhere in Enbridge's communications with landowners is in one of a set of two flyers describing removal and decommissioning in place respectively. Only the removal flyer references the third-party engineer, but the decommissioning in place flyer does not. This falsely characterized the third-party engineer as only being available as part of the removal process, not the decision-making process relating to the landowner's choice to remove or deactivate in place. Documented correspondence between Enbridge's land agents and my clients also suggests an intent to hide the existence of the third-party engineer. My clients asked Enbridge's land agents pointed questions that should have resulted in the third-party engineer being disclosed, but nowhere in their correspondence do any of your agents disclose the engineer's existence. Also, it has come to my attention that many landowners agreed to deactivate in place before the independent third-party engineer and liaison were even appointed.

Landowners cannot access a representative from the independent third-party engineer as required by the CN if they are not aware of its existence. Nor can they if they are not aware that the engineer is available to assist with their decision. This deception denied landowners the ability to make an informed decision about choosing to have Line 3 removed or deactivated in place.

This knowledge is critically important to landowners because the third-party engineer will determine the value of signing the waiver, which is the amount that Enbridge will save by virtue

of the landowner signing. Removal cost could exceed \$1,000 per linear foot. Enbridge is offering landowners \$10 per linear foot for decommissioning in place. That is an enormous windfall for Enbridge, and an informed landowner would certainly demand more. Also, it is fundamentally irresponsible to reward Enbridge this billion-dollar windfall for avoiding their environmental responsibilities.

Enbridge also failed to inform landowners that they are required to negotiate the terms of deactivating in place, thereby depriving them of their ability to make an informed decision under the Landowner Choice Program. Attachment 2A states “Where landowners choose deactivation-in-place, they will be compensated (subject to the negotiation of a mutually acceptable compensation arrangement between Enbridge and the landowner).”

Landowners cannot make an informed decision if they don’t know that they can negotiate. Nothing in any of the materials sent to landowners informs them of their right to negotiate the terms of deactivating in place. Furthermore, correspondence with my clients makes it clear that the land representatives will not negotiate price. It is my understanding that this has been Enbridge’s position with all landowners.

Rather than negotiate with landowners, Enbridge sent a “Fairness Letter” that misrepresents their “take it or leave it” offer as being part of the Landowner Choice Program. That letter states: “we are writing to advise you that Enbridge Energy is proceeding with the Landowner Choice Program (“LOC”) of the proposed Line 3 Replacement Project. . . . be assured that landowners who choose deactivation in place early on will not be at a disadvantage. If a higher rate per lineal foot of compensation is subsequently negotiated in your area, landowners who signed up early will be contacted with an offer to receive the fair higher level of compensation. The end result will be that for those landowners who choose deactivation in place, they will be compensated on the same basis per lineal foot as similarly situated landowners.”

This unenforceable promise deceptively mischaracterizes the “take it or leave it” offer as an enforceable part of the Landowner Choice Program. The CN and Attachment A2 make no reference to this type of collective price adjusting. Rather, the CN makes it clear that Enbridge is required to negotiate with landowners. This mischaracterization deprives landowners of the knowledge necessary to make an informed decision. Also, like all of Enbridge’s correspondence with landowners that I have seen, it makes no accurate disclosure of the third-party engineer either.

Failing to disclose the existence of third-party engineer, mischaracterizing the Landowner Choice Program, failing to disclose to landowners their ability to negotiate, and failing to actually negotiate, all directly involve the Certificate of Need as it relates to the operation of the Landowner Choice Program. We believe that Enbridge should be required by the Liaison and Commission to prove that they made the necessary disclosures to all landowners who have signed waivers, and waivers obtained by Enbridge without the necessary disclosures should be invalidated and Enbridge should be required to re-negotiate with these landowners after the required disclosures have been made.

In addition to my initial Letter of Representation requesting certain materials, please provide the documents and information requested below:

- 1) My initial Letter of Representation that Enbridge forward to me any information or materials already delivered to my clients regarding the Landowner Choice Program. I have not received a response from Enbridge. Please have Enbridge provide these communications to me and the name of at least one Enbridge employee or representative who is authorized to negotiate waiver payment price on behalf of Enbridge.
- 2) Please provide the direct contact information for the third-party engineer. Please also provide the contract for work arising out of the request for proposals process that Enbridge has with the third-party engineer so that I can determine if we need to hire a different third-party engineer. The Certificate of Need states: "Enbridge is only obligated to reimburse a landowner-selected third-party engineer up to the same terms and rates as those established in the contract that selected the third-party engineer arising out of the request for proposals process."
- 3) Attachment 2A also contains some permitting related disclosure requirements. Please have the Enbridge and the third-party engineer determine what permits are required for removal of the pipeline for each of my clients. Please also have them determine if any permits been applied for, and if so, please provide a copy of any permit application and all communications with the permitting agency. Attachment 2A states: "In those cases where permits are required for Enbridge to remove pipe as requested by a landowner under the Landowner Choice Program, Enbridge will keep any landowners apprised of material facts and communications regarding any permits required to be obtained for removal of pipe. Specifically, but without limitation, Enbridge will provide a copy of any permit application and written communications to the landowner when they are submitted to the agency. In addition, Enbridge will coordinate with landowners to give them the opportunity to participate in any substantive communications with the permitting agency, whether those communications are telephonic or in-person. Enbridge will also timely provide landowners with notice of final agency decisions on such permit applications."
- 4) The attachment also states that "Enbridge anticipates that payments will be roughly equivalent to those made as part of the deactivation process for the Canadian portion of the Line 3 Replacement Project pipeline." Please provide documentation of what those payments were, including every property owner, the corresponding payment, and the justification for the payment if one was provided.
- 5) The Certificate of Need states "All landowners shall be provided on request a preliminary written removal plan prior to their decision that identifies the extent of removal work, needed staging areas, anticipated reimbursable damages, anticipated permits and approvals needed, and the process for contacting the independent liaison, the independent third-party engineer, and the company during the decision process." Please have Enbridge provide this information for each of my clients as well.

We would like to begin mediation soon after receiving the earlier requested materials. I expect that mediation will continue as we gather more information from the independent third-party engineer and possibly additional engineers. If we can't reach an agreement, the above-mentioned issues will be brought before the Commission.

Thanks,

- Evan



Enbridge
11 E Superior Street
Suite 125
Duluth, MN 55802

enbridge.com

November 25, 2020

Mr. Levi,

Enbridge Energy, Limited Partnership (Enbridge) provides this response to the October 28, 2020 complaint received related to Enbridge's implementation of the Landowner Choice Program. Enbridge respectfully disagrees with the assertions made by Mr. Carlson in his letter to you dated October 27, 2020. Specifically, Enbridge has and continues to work with landowners to ensure they have the information and resources necessary to make an informed decision regarding the Landowner Choice Program. In furtherance of that goal, Enbridge responds to each of Mr. Carlson's five requests (as modified by your October 28, 2020 email):

1. My initial Letter of Representation that Enbridge forward to me any information or materials already delivered to my clients regarding the Landowner Choice Program. I have not received a response from Enbridge. Please have Enbridge provide these communications to me and the name of at least one Enbridge employee or representative who is authorized to negotiate waiver payment price on behalf of Enbridge.

Please see the attached document package that was sent to every landowner along the existing Line 3 pipeline for the Landowner Choice Program. This packet includes: the introductory letter, FAQ, Removal handout & Deactivation-in-Place handout, and was mailed out on or around July 13, 2020. Additionally, James Watts (Managing Legal Counsel) is authorized to negotiate on behalf of Enbridge. His contact information is as follows:

James Watts
Phone: (218) 464-5706
Email: james.watts@enbridge.com

2. Please provide the direct contact information for the third-party engineer. [Modified: I understand the need to direct public access to the engineer through [the Independent Liaison.]] Please also provide the contract for work arising out of the request for proposals process that Enbridge has with the third-party engineer so that I can determine if we need to hire a different third-party engineer. The Certificate of Need states: "Enbridge is only obligated to reimburse a landowner-selected third-party engineer up to the same terms and rates as those established in the contract that selected the third-party engineer arising out of the request for proposals process."

As stated in Attachment 2A, an independent liaison has been established, and the MN Department of Commerce—Energy Environmental Review and Analysis ("DOC-EERA") is acting in that role. As described in the Landowner Letter and supporting documents, DOC-EERA has been identified as the liaison for any additional support needed, will coordinate with the appropriate resources knowledgeable in matters potentially relevant to the landowners' decision-making process, and will help address technical questions related to landowners' election to remove or deactivate-in-place.

DOC-EERA will also coordinate with the Independent Engineer and direct landowners' requests to the Independent Engineer. Enbridge does not direct the work of the Independent Engineer.

Andrew Levi's contact information is as follows:

Andrew Levi
Environmental Review Manager
Phone: (651) 539-1840
Email: andrew.levi@state.mn.us

Requests related to the contract terms should also be directed to Mr. Levi.

3. Attachment 2A also contains some permitting related disclosure requirements. Please have the Enbridge and the third-party engineer determine what permits are required for removal of the pipeline for each of my clients. Please also have them determine if any permits been applied for, and if so, please provide a copy of any permit application and all communications with the permitting agency. Attachment 2A states: "In those cases where permits are required for Enbridge to remove pipe as requested by a landowner under the Landowner Choice Program, Enbridge will keep any landowners apprised of material facts and communications regarding any permits required to be obtained for removal of pipe. Specifically, but without limitation, Enbridge will provide a copy of any permit application and written communications to the landowner when they are submitted to the agency. In addition, Enbridge will coordinate with landowners to give them the opportunity to participate in any substantive communications with the permitting agency, whether those communications are telephonic or in-person. Enbridge will also timely provide landowners with notice of final agency decisions on such permit applications." [Modified: I also understand that my permitting disclosure requests are a moving target that will become more relevant in the future. Please let me know when Enbridge begins filing environmental permits.]

At this time, Enbridge has not yet applied for any permits for any potential removal segments of existing Line 3. Enbridge has identified potential permits for the parcels that a preliminary written removal plan has been requested for and has included them in the plan. See response to question 5, below, on status of preliminary removal plans. Enbridge will coordinate with landowners regarding permit applications at the appropriate time.

4. The attachment also states that "Enbridge anticipates that payments will be roughly equivalent to those made as part of the deactivation process for the Canadian portion of the Line 3 Replacement Project pipeline." Please provide documentation of what those payments were, including every property owner, the corresponding payment, and the justification for the payment if one was provided.

Enbridge provided Mr. Carlson this requested information in a separate correspondence dated October 22, 2020. For convenience, the information is attached again to this response.

5. The Certificate of Need states "All landowners shall be provided on request a preliminary written removal plan prior to their decision that identifies the extent of removal work, needed staging areas, anticipated reimbursable damages, anticipated permits and approvals needed, and the process for contacting the independent liaison, the independent third-party engineer, and the company during the decision process." Please have Enbridge provide this information for each of my clients as well.

Through an Information Request process with the Independent Liaison, Enbridge has received the request for ten preliminary removal plans. The following table provides the landowner information as well as the date requested, and date responded. Additionally, each preliminary removal plan has been attached.

Landowner	Date Requested	Date Returned
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Sincerely,

Matthew Bordson

Matthew Bordson
Senior Engineer
Line 3 Replacement Project US

Enclosures: Introductory Letter, Q&A, Removal factsheet, Deactivate-in-place factsheet, CAEPLA Settlement Agreement, Preliminary Removal Plans



Rich Kern
Supervisor
Lands & ROW
Liquids Projects US

Enbridge
11 E Superior Street
Suite 125
Duluth, MN 55802

Toll-free phone: 866-331-4393

enbridge.com

Line 3 Replacement Project – Landowner Choice Program Introductory Letter

May 28, 2020

Recipient First Name Last Name

Title

Address 1

Address 2

Dear Recipient,

The purpose of this letter is to provide information about the Landowner Choice Program and answer initial questions you may have about the process. Enbridge is committed to working with the landowners whose land is crossed by existing Line 3. Enbridge voluntarily proposed the Landowner Choice Program and it was incorporated in to the project's Certificate of Need, giving individual landowners the ability to determine whether existing Line 3 is deactivated in place or removed across their property subject to permitting limitations.

Deactivation in place is the most widely used method for pipeline deactivation and is the safest option. Deactivation in place reduces the risk of soil stability issues, avoids additional major construction activities and it reduces the potential risk to existing pipelines from heavy equipment. However, should a landowner choose to have the existing Line 3 removed from their property, Enbridge will do so with the same commitment to safety as it does will all pipeline work activity.

As part of the Minnesota Public Utility Commission's permitting process, Enbridge clarified aspects of the program noting that landowners would receive information about environmental permitting and a timeframe that would allow for a fully informed decision. Enbridge's Land Rights representative will work to provide you with any resources you need to help make your decision. In addition, the Minnesota Department of Commerce, Energy Environmental Review and Analysis unit will serve as an independent liaison to provide additional support through the Landowner Choice Program.

We value our long-term relationship with you and all landowners and we are pleased to be able to offer the Landowner Choice Program to you. Please expect a follow-up call from an Enbridge Land Rights representative soon. We look forward to answering your questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rich Kern', is written over a blue horizontal line.

Rich Kern
Supervisor
Lands & ROW Liquids Projects US
866-331-4393

Enclosure: Q/A



QUESTIONS AND ANSWERS ABOUT THE LANDOWNER CHOICE PROGRAM

What is the status of the Line 3 Replacement Project?

The Minnesota Public Utilities Commission has issued written orders approving Enbridge's applications for Line 3RP. The Certificate of Need and Route Permit were both re-approved on February 3, 2020, the Order finding Environmental Impact Statement adequate, granting certificate of need as modified, and granting routing permit as modified were issued on May 1, 2020. Enbridge is in the process of securing the remaining permits required for construction. Dependent upon the receipt of permits, we anticipate construction could potentially begin in 2020. Enbridge has assigned eight Land Rights representatives to the Landowner Choice Program to serve as a resource for you, and we invite you to reach out with any questions.

What is the Landowner Choice Program?

The Landowner Choice Program's key function is to offer you a choice with respect to existing Line 3.

1. You may choose to have Enbridge deactivate the pipeline in place (the default option); or
2. You may choose to have Enbridge remove all or parts of existing Line 3 from your property, after the Project (replacement pipeline) is completed and in-service. This choice is available until July 1, 2025.

When will I hear more about the Landowner Choice Program from Enbridge?

As a follow up to the initial letter, an Enbridge Land Rights representative will contact you by telephone to provide information about the Landowner Choice Program and be prepared to answer questions. If the representative is not able to reach you, they will leave at least one voicemail message so that you can contact the representative at your convenience. If a Land Rights representative is not able to reach you and does not hear back from you within a reasonable period of time, and you are a local resident, a Land Rights representative may make an in-person visit to your residence. If the representative is unable to confer with you in person, the representative will leave a door-hanger with additional information. Following these recorded efforts, it will be assumed information is received.

What are the next steps?

Enbridge is committed to providing you with resources and information to help you decide what's right for you and your property. If you choose to have existing Line 3 removed from your property, it will be necessary for Enbridge to obtain the necessary government permits and/or authorizations to complete the work. These necessary permits and/or authorizations will be paid by Enbridge, but we may need your help in completing permit applications, accessing the property, and other related matters. If, despite Enbridge's efforts to obtain the necessary permits and/or authorizations, the government unit or agency declines to issue a permit, Enbridge will work to provide as satisfactory an outcome as is possible under the circumstances.

What other resources are available to me to help me make a decision?

Enbridge's Land Rights representative will work to provide you with resources to assist you in your decision-making process. In addition, an independent liaison can provide additional resource available through the Landowner Choice Program. That liaison, the Energy Environmental Review & Analysis Unit of the Minnesota Department of Commerce, will coordinate with the appropriate resources knowledgeable in matters potentially relevant to your decision-making process and help address technical questions related to your election to remove or deactivate-in-place. Enbridge's Land Rights representative will provide you contact information for the liaison.

How long do I have to make my choice?

You can make your choice at any time from when the Enbridge Land Rights representative reaches you and up until July 1, 2025.

What if I choose for Enbridge to deactivate existing Line 3 in place?

Enbridge's Land Rights representatives will be prepared to discuss the terms of deactivation of Line 3 in place across your property, including compensation and agreements regarding your choice that will be placed in the county recorder's office. This will be true for landowners who choose deactivation-in-place and for removals that cannot be permitted or otherwise are not feasible. In either situation, Enbridge will work with you to help you understand what work will be performed to minimize impacts on the property as well as Enbridge's ongoing responsibility to monitor and maintain the pipeline right-of-way. Notably, after the scope of these activities is better known, there may be locations where Enbridge determines to remove segments of existing Line 3 from your property, even if you have not requested to have it removed. Your Land Rights representative will be available to discuss these issues as well.

How long will it take Enbridge to remove the pipeline if I make that choice?

Enbridge cannot predict exactly when work will be done under the Landowner Choice Program because it is dependent on placing the new pipeline in-service, completing the required deactivation work, and achievement of Landowner Choice Program permitting. However, a general and preliminary understanding of the removal work can be estimated in the following date ranges:

- Day 1 – Replacement pipeline is placed in-service;
- Day 2 through Day 91 – Deactivation of Line 3 going out of service begins by purging oil from the pipeline;
- Day 92 through Day 457 – Enbridge completes the cleaning program. Then, deactivation work required by federal regulations to disconnect existing Line 3 from service is completed;
- Day 458 through Day 548 – Enbridge, in collaboration with landowners and government agencies, prepares applications for permits and/or other authorizations necessary to complete removal under the Landowner Choice Program; and
- Day 549 through Completion – Enbridge will execute removal of the segments of existing Line 3 designated for removal, assuming permits and/or authorizations are issued by the relevant government units and/or agencies, under the Landowner Choice Program.

Enbridge Land Rights representative will be able to provide updated information, as it becomes available.

Will Enbridge restore the right-of-way after removal activities are complete?

Yes. Enbridge is responsible for restoring the right-of-way after removal activities are completed.

If I choose to have Enbridge deactivate Line 3 in place, does Enbridge still have any regulations or obligations to follow with respect to the line after deactivation-in-place?

Yes. Landowner's selection of the Deactivation-in-Place Option, entry into this agreement, and receipt of payment by Enbridge do not alter Enbridge's obligation to remove exposed portions of the Existing Line 3 pipeline as Enbridge committed to do in connection with the Line 3 Replacement pipeline Certificate of Need nor does it alter Enbridge's responsibility to address any environmental or safety law violations under any applicable federal, state, or local law regarding the Existing Line 3 pipeline.

Is Enbridge guaranteeing that it will get the required permits and remove existing Line 3?

No. This will depend on the facts existing on each parcel. There may be times where permits cannot be obtained or where conditions simply do not allow for removal (e.g., certain pipeline locations have been bored and are not readily accessible, certain pipeline locations may not be safe or environmentally compatible to remove).

Your cooperation and participation is an important part of this permitting process. Removal is contingent upon Enbridge receiving all required permits from applicable permitting agencies and authorized landowner request by or before July 1, 2025.



Line 3 Landowner Choice Removal Option

Under the Landowner Choice Program proposed by Enbridge, and required under the Certificate of Need, Line 3 landowners can decide whether the existing Line 3 is deactivated in place or removed from their property, subject to permitting limitations.

This choice is available until July 1, 2025.

Deactivation in place is the most widely used method for pipeline deactivation and is the safest option. Deactivation in place reduces the risk of soil stability issues, avoids major construction activities and reduces the potential risk to existing pipelines from heavy equipment. However, should a landowner choose to have the line removed from their property, Enbridge will do so with the same commitment to safety as it does with all pipeline work activity.

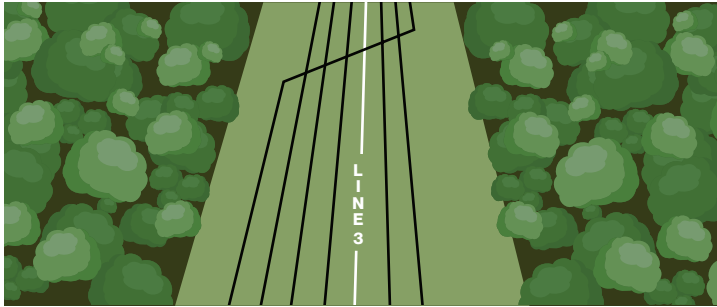
As part of the Minnesota Public Utility Commission (PUC)'s permitting process, Enbridge

clarified aspects of the program noting that landowners would receive information about environmental permitting and a timeframe that would allow for a fully informed decision.

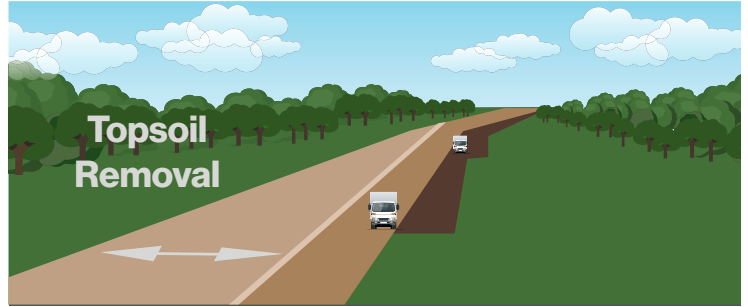
Third-party engineering expertise will be available to landowners.

Enbridge is responsible for its pipelines, whether they are active or not. Enbridge will continue to monitor and maintain the right-of-way.

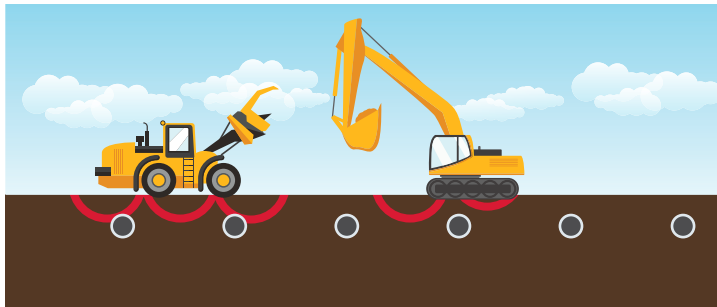
Deactivation and removal process



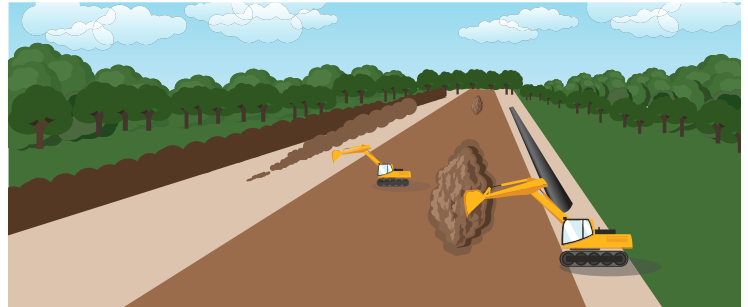
1. Following a cleaning program, Line 3, which is generally in the middle of the multiple pipeline corridor, would be located and marked. Access road locations identified.



2. To protect other operating pipelines, a temporary working space would be placed and topsoil removed.



3. Timber mats are placed to protect the operating lines from the weight and stress of heavy machinery.



4. Next a trench is dug to uncover the pipeline.



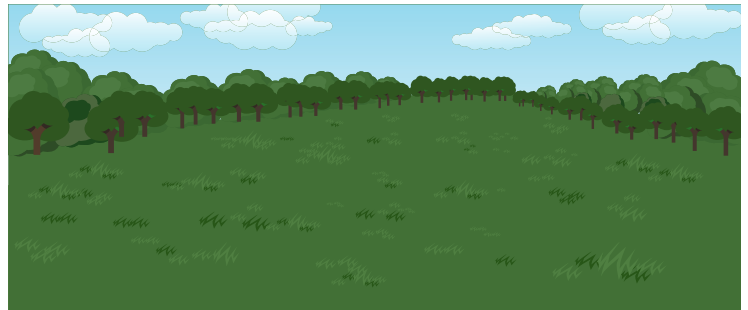
5. The pipeline would then be lifted and removed from the trench.



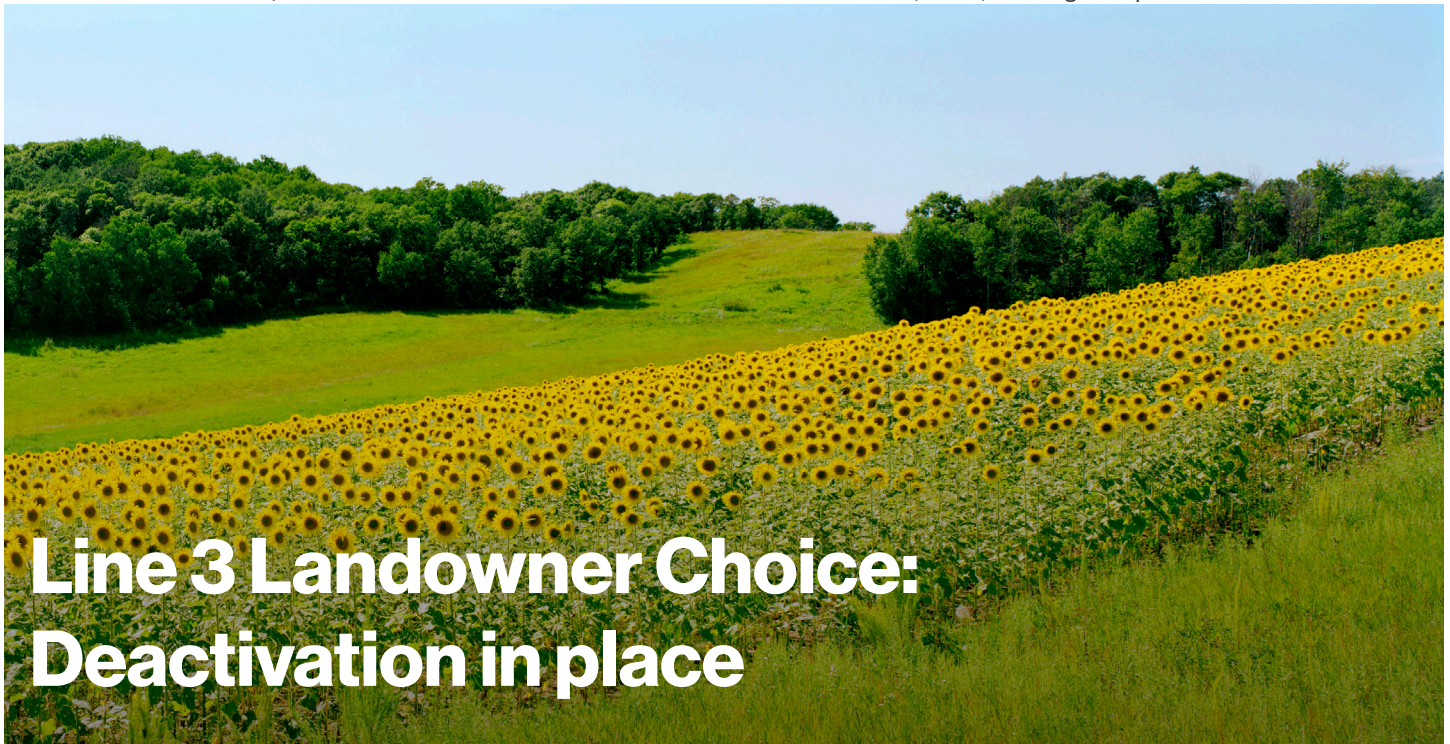
6. The pipeline is then cut into sections and hauled away by truck.



7. Trucks also haul in soil for backfill material to fill the trench.



8. The temporary work surface is removed and the land is restored.



Line 3 Landowner Choice: Deactivation in place

Under the Landowner Choice Program proposed by Enbridge, and required under the Certificate of Need, Line 3 landowners can decide whether the existing Line 3 is deactivated in place or removed from their property, subject to permitting limitations.

Deactivation in place is the most widely used—and Enbridge’s preferred—method for pipeline deactivation, following all regulatory requirements. Leaving the permanently deactivated pipeline in place is the safest option as it reduces the risk of soil stability issues, avoids major construction activities and reduces the potential risk to existing pipelines from heavy equipment.

The process by which Line 3 will be permanently taken out of service adheres to all applicable statutes, rules and regulations to protect the public, the environment, land use and cultural resources.

Enbridge will continue to maintain and monitor the pipeline right-of-way. Monitoring will include continued patrolling of surface conditions, mowing brush, maintaining signage, continued inclusion in the “Call Before You Dig” programs, and retaining the pipeline within Enbridge’s emergency response protocols.

Enbridge is responsible for its pipelines, whether they are active or not. Enbridge will continue to monitor and maintain the right-of-way.

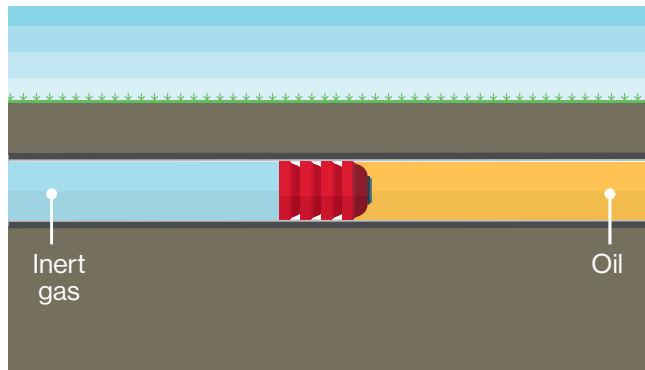
Deactivation facts

- A pipeline deactivated in place will have a very long remaining life as a load-bearing structure. Historical knowledge along with independent engineering research suggests the rate of corrosion would occur slowly over centuries.
- The Line 3 deactivation process will protect water resources to ensure that the deactivated pipeline will not drain or flood any fields, lakes, rivers, streams or wetland areas.
- Enbridge has a vested interest to ensure that any deactivated pipeline does not compromise land use or the integrity of other pipelines that share the right-of-way, or public safety.

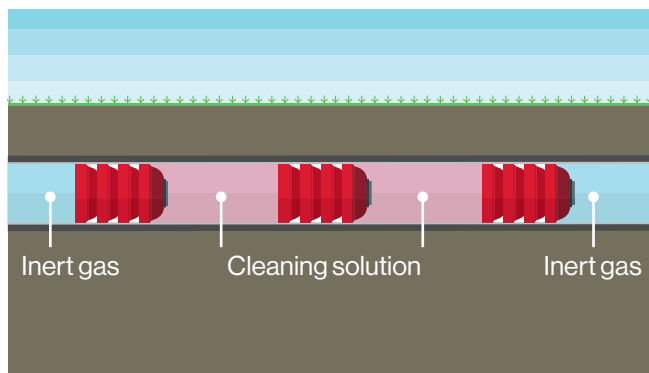
Deactivation in place process



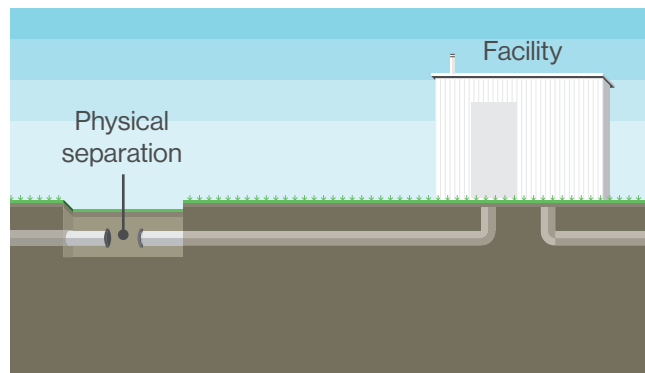
1. Regulatory notice and filing of change in operational status: An explanation of the change of status and how Enbridge will meet regulatory requirements is completed.



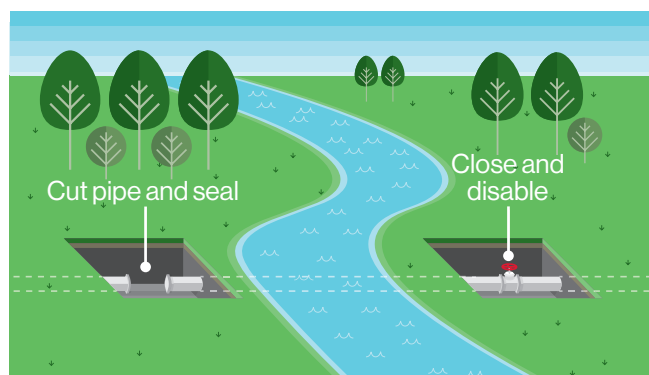
2. Remove the oil from the pipeline: The pipeline is purged of product using an inert gas.



3. Clean the pipeline: A combination of cleaning tools and cleaning solutions are used to wipe and clean the pipeline.



4. Disconnect the pipeline: The pipeline is physically disconnected and sealed off from the active operational facilities.



5. Segmenting the pipeline: Further isolation may be employed where necessary with the use of the permanent closure of pipeline valves or other means, including cutting and sealing.



6. Monitor the pipeline right-of-way: The pipeline will continue to be monitored with regular right-of-way patrols, signs indicating location, depth of cover surveys and inclusion in "Call Before You Dig" programs.

Enbridge Energy, Limited Partnership
11 E. Superior St., Suite 125
Duluth, MN 55802
www.enbridgeus.com

September 17, 2020

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Re: Line 3 Landowner Choice Program

We are writing to advise you that Enbridge Energy, Limited Partnership is proceeding with the Landowner Choice Program ("LOC") of the proposed Line 3 Replacement Project.

Our land agents have been meeting with landowners to discuss the exercise of options pursuant to the LOC. In providing fair compensation to the Landowner, we believe it is important for all landowners to know that compensation will be paid at the same rate per lineal foot to all landowners who are similarly situated.

Be assured that landowners who choose deactivation in place early on will not be at a disadvantage. If a higher rate per lineal foot of compensation is subsequently negotiated in your area, landowners who signed up early will be contacted with an offer to receive the fair higher level of compensation. The end result will be that for those landowners who choose deactivation in place, they will be compensated on the same basis per lineal foot as similarly situated landowners.

Enbridge Energy, Limited Partnership is committed to the fair and equitable treatment of all landowners, and we trust that this information will provide you with the assurance necessary for you to make your decision.

Sincerely,



Rich Kern
Supervisor, Lands and ROW, Liquids Projects U.S.

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MINNEAPOLIS, MN 55402
(952) 212-0824

Energy Environmental Review and Analysis
Department of Commerce
85 Seventh Place East, Suite 280
Saint Paul, MN 55101

Mr. Levi, Ms. Miltich, and Mr. Kirsch,

My complaint raised concerns about Enbridge not disclosing information necessary to landowners to make an informed decision about removal of the pipeline versus deactivating it in-place. It also addressed Enbridge's failure to negotiate compensation agreements. In response to my complaint, you asked me to suggest specific remedies.

First, I ask that the Commission clarify the information Enbridge is required to disclose to landowners.

Attachment A2 states "landowners will have access to a representative from at least one independent, third-party engineering firm knowledgeable in matters relevant to the landowners' choice of deactivation-in-place or removal." The question is what is meant by "access to a representative" and what is the scope of the knowledge the representative needs to advise a landowner relative to a "choice of deactivation-in-place or removal." Specifically, please clarify whether this requires Enbridge to disclose to landowners that the knowledgeable engineering representative is available to the landowner to help make their choice, at no cost to the landowner, and whether the representative must have certain knowledge including the relative costs of removal and deactivation-in-place.

Attachment A2 also states "landowners will have access to information necessary to ensure their decisions are informed." My question is what is meant by "access to information" and "decisions are informed." Specifically, please clarify what information the landowner must be given by Enbridge, and whether a decision can be informed if the landowner is not aware that an independent third-party engineering representative is available, or not aware of the costs of removal and deactivation -in-place.

Attachment A2 also states "Enbridge is committed to ensuring that landowners are able to make an informed decision regarding the decision to choose to have

existing Line 3 removed or deactivated in place. . . . Contact information for the appropriate personnel at such firms will be made available to landowners.” What is meant by “made available” in this context? Does this section of Attachment A2 require Enbridge to affirmatively disclose certain information? Would that include the availability of a third-party engineering representative to assist in making the decision to deactivate-in-place versus removal, the costs of removal and deactivation-in-place, as well as other information contemplated by Attachment A2?

Second, regarding Enbridge’s lack of negotiation, I ask that the Commission clarify what is meant by “negotiation of a mutually acceptable compensation agreement” in the context of Attachment A2, which states as follows: “Where landowners choose deactivation-in-place, they will be compensated (subject to the negotiation of a mutually acceptable compensation arrangement between Enbridge and the landowner)” It would also be helpful if the Commission would clarify whether Enbridge’s “fairness letter” reflects the intent of Attachment A2 when it offers landowners a take-it-or leave-it price to deactivate-in-place.

Upon considering the above issues, I ask the Commission to order the following: (1) Enbridge must disclose the fact that the third-party engineer and independent liaison are available at no cost to the landowner to assist in *making the decision* to decommission in place or remove the pipeline. (2) Enbridge must disclose that the Landowner Choice Program includes a free arbitration process in the event that they are unable to reach an agreement with Enbridge’s appointed land representatives. (3) Enbridge must renegotiate all waivers that were signed without making this required disclosure and disclose that the reason for the renegotiation is that they failed to make the above-mentioned disclosures as they are required to do under the Landowner Choice Program. (4) Enbridge must appoint land representatives who are authorized to negotiate waiver price directly with landowners based on the landowner’s unique circumstances and disclose to the landowners that they are authorized to negotiate price. (5) If the fairness letter is within the intent of the CN and Attachment A2, then Enbridge must demonstrate compliance with the letter by disclosing the offers that have been made to all landowners, which property owners have signed waivers, and what those landowners received as consideration.

There is a final issue with the operation of the program that needs further clarification from the Commission. Is it the Commission’s intent for the Landowner Choice Program to establish a precedent allowing Enbridge and other fossil fuel energy companies to avoid environmental and decommissioning responsibilities by paying landowners a fraction of the cost to decommission? Enbridge is offering landowners approximately 1% of the removal cost to allow deactivation-in-place instead of removal. If left unaddressed, the program could give fossil fuel companies an unfair competitive advantage over other energy sources. Solar and wind developments are not only required to post a security to decommission the project, but they are also required to actually remove the project. Furthermore, when repowering wind energy facilities, the commission has required a security to remove *the entire* wind facility, including old components. I ask that the

commission address this enormous windfall, and if necessary, incorporate the issue in a new docket for Enbridge's decommissioning security requirements.

Thank you for your hard work and careful consideration of these important issues.

- Evan

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