

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

600 NORTH ROBERT STREET

ST. PAUL, MINNESOTA 55101

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Minnesota Pipe Line Company, LLC for a Certificate of Need for the Minnesota Pipe Line Reliability Project to Increase Pumping Capacity on the Line 4 Crude Oil Pipeline in Hubbard, Wadena, Morrison, Meeker, McLeod and Scott Counties

**ENERGY ENVIRONMENTAL REVIEW AND ANALYSIS
COMMENTS**

Minnesota Department of Commerce Energy Environmental Review and Analysis (EERA) submits the following comments in the above matter. These observations address comments received during the public hearing record that appear to be directed at the EERA's *Comparative Environmental Review of the Proposed Minnesota Pipe Line Reliability Project and Alternatives Identified in the Certificate of Need Application*¹ (CER) rather than the topics for public comment listed in the hearing notice. Since the comments reference the CER, EERA considers it is important to make the following clarifications.

I. PURPOSE OF THE CER

The Certificate of Need (CN) rules at Minn. Rule 7853.0130 require, when determining whether a CN should be granted for a pipeline, that consideration be paid to the “natural and socioeconomic environments compared to the effects of reasonable alternatives,” and “the effect of the proposed facility, or a suitable modification of it, upon the natural and socioeconomic environments compared to the effect of not building the facility.”

¹ Ex. 200 (CER), EERA, February 6, 2015, eDocket no. [20152-107101-01](#)

An Environmental Report (ER) at the CN stage is required for large power plants and transmission lines under Minn. Rule 7849.1200, and completeness of the ER is considered in the Public Utilities Commission (Commission) final decision (Minn. Rule 7849.1800). The pipeline rules, however, do not require an ER. The applicant is required to provide environmental data for the proposed facility and for each alternative under Minn. Rule 7853.0600.

For this Project, the Commission made an additional, special request of EERA to "conduct an environmental review to analyze the potential effects of the proposed project, and alternatives identified in the application, on the natural and socioeconomic environment."² EERA completed that review and reported its analysis in the CER it submitted into the record prior to the contested case hearings.

The CER is not an Environmental Report, nor should it be considered an environmental assessment under MEPA. EERA prepared the CER, as per the Commission's request, to provide supplemental information for the Administrative Law Judge (ALJ), parties and the Commission to use in their review of this matter. The CER was not intended to be exhaustive; the CER is the result of the Commission's specific request for data rather than the result of a scoping process; and it is not subject to a completeness review.

II. RESPONSES TO COMMENTS ON THE CER

The Minnesota Department of Natural Resources³ (DNR) and the Minnesota Pollution Control Agency⁴ (MPCA) each filed comments on the CER. EERA believes that these comments are more appropriately considered comments on the project and CN decision, and offers the following clarifications to insure the agencies' concerns are addressed and can further inform the record in this matter.

² *Id.* at 1

³ DNR (Kate Franz) letter to Judge Cochran, March 20, 2015, eDocket no. [20153-108435-01](#)

⁴ MPCA (William Sierks) letter to Judge Cochran, March 20, 2015, eDocket no. [20153-108432-01](#)

A. Department of Natural Resources

DNR raised a number of issues in its comments on the CER, including:

1. Environmental impact of increasing the volume and additional pressure on the existing line;
2. Current condition of the pipeline, including the age of the pipeline;
3. Spill prevention and response plans, shutoff response and safeguards to protect public waters; and
4. Potential impact to wildlife by noise from the pump stations.

DNR also raised siting questions about pump stations #4 (Fish Trap) and #8 (St. Patrick).

EERA Response

EERA responds as follows, respectively:

1. The line was originally designed, reviewed and permitted (PUC Docket nos. PL5/PPL-05-2003 and PL-5/CN-06-2), and constructed and tested for the full capacity of 350,000 barrels per day (bpd); so the volume was addressed in those previous dockets. Current throughput has been limited by the number of pump stations. According to the *Application for a Certificate of Need*,⁵ "[t]he expected maximum operating pressure of MPL Line 4 will not change from its current 1,470 psig as a result of the Project. Rather the pump stations will allow the pipeline to maintain a more consistent pressure across the entire 305 mile pipeline expanse."⁶
2. The CER discussed the age of the pipeline, observing that MPL Line 4, f/k/a the MinnCan Project, was completed in September of 2008.⁷

⁵ Ex. 2 (Application), Minnesota Pipe Line Company, LLC, July 25, 2014, eDocket no. [20147-101765-10](#)

⁶ *Id.* at 7

⁷ Ex. 200 at 20

Further comment on the integrity of the existing pipeline can be found in the Direct Testimony of Laura Otis of the Department of Commerce's Division of Energy Resources (DER) where she stated, "[a] new line may have a slightly lower probability of oil spills, particularly if the Pipeline Safety Act of 2011 improved safety standards, but any improvement is expected to be immaterial given that Line 4 is relatively new."⁸

3. Minnesota Pipe Line Company, LLC (Applicant) presented an overview of its spill prevention and spill response plans in Section 7853.0630, Subpart 3 of its CN Application.⁹ DER also requested that the Applicant provide additional information on "how MPL intends to both minimize the probability of such events and respond as quickly as possible to future spills."¹⁰ The Applicant responded to that inquiry in Rebuttal Testimony.¹¹ The response described system operator Koch Pipe Line's (KPL) safety and integrity programs, incident response plans and responder training programs.¹² The response also noted the company's practice of shutting down the entire pipeline when a release is discovered or abnormal event is detected by KPL's monitoring system.¹³

4. The CER lists noise limitations for the three MPCA noise area classifications (NAC).¹⁴ MPCA notes A-weighted restrictions (a specific weighting of the sound pressure level for the purpose of determining the human response to sound) for different land use areas, with NAC 1 being the most restrictive. EERA anticipates the Project will satisfy those restrictions.

⁸ Ex. 100 (Otis Direct), January 9, 2015, eDocket no. [20151-106079-02](#)

⁹ Ex. 2 at 63-64

¹⁰ Ex. 100 at 36

¹¹ Ex. 29 (O'Hair Rebuttal), February 6, 2015, eDocket no. [20152-107097-03](#)

¹² *Id.* at 6-9

¹³ *Id.* at 7

¹⁴ Ex. 200 at 8-9

MPCA has not established guidelines for non-human response to sound. In addition, the forested systems DNR references would fall into NAC 4 for undeveloped and unused land area or noncommercial forest development (Minn. Rule 7030.0050 subp. 2). MPCA has not published restrictions for this least restrictive classification. If there were a specific noise impact to wildlife near the proposed Laporte Station,¹⁵ there is extensive similar habitat adjacent (including nearby state forests), so any potential displacement should be minimal. The immediate area of interest is already a fragmented habitat due to the existing pipeline ROW;¹⁶ the pump station will not be built in an untouched environment.

With regard to pump station locations, the Commission specifically requested that EERA “conduct an environmental review to analyze the ... alternatives identified in the application.” Thus, EERA did not review alternatives to the individual pump station locations as none were identified in the Application. EERA restricts its comments here to specific clarifications concerning DNR's comments; MPL or others can address to the ALJ and Commission whether it is reasonable to relocate various pump stations.

The Fish Trap Station site is, as DNR notes, generally surrounded by "sensitive natural resource features," but it is also separated from those areas by existing roads. The Site of Moderate Biodiversity Significance mentioned is near the proposed site, but does not encompass it, as the site is separated from the complex by U.S. Highway 10.¹⁷ DNR is also concerned that the St. Patrick Station is "bounded by" Cedar Lake and an unnamed stream. To be more precise, the boundary of the Project area is within 500 feet of Cedar Lake, however, the pump station will be built adjacent to the pipeline, which is approximately 2,000 feet from the lake. The pipeline's location relative to the unnamed stream is also reviewable in the CER.¹⁸

¹⁵ *Id.* at Appendix 1, Map 2

¹⁶ *Id.* at 8

¹⁷ *Id.* at Appendix 1, Map 4

¹⁸ *Id.* at Appendix 1, Map 8

B. Minnesota Pollution Control Agency

The MPCA commented:

The CER should have more information on mitigating impacts of the pumping facilities on surrounding waters; and does not assess environmental impacts of the various alternatives related to stormwater.

EERA Response

The issues raised by the MPCA are addressed in the CN Application and CER.

According to the Application, pump stations will be built to avoid impacts to wetlands.¹⁹ Some wetlands, however, are in close proximity.²⁰ The Application details the handling of point discharges in Section 7853.0620 Subpart 1 and area runoff in Section 7853.0620 Subpart 2 for construction and operation.²¹ Section 7853.0630 Subpart 2 describes the Applicant's plans for station design, perimeter containment, development of a Stormwater Pollution Prevention Plan (SWPPP) for each site and the use of construction best management practices (BMP).²²

The CER discusses stormwater and other water discharge issues at loading and unloading facilities in the trucking and train transportation alternatives. These alternatives combine the usual runoff issues with the potential release of oil-contaminated water. This would require an Environmental Protection Plan and a Spill Prevention, Control and Countermeasure Plan (SPCC) for these facilities.²³ The CER also anticipates stormwater management plans to mitigate impacts to water resources and to manage runoff volumes.²⁴

¹⁹ Ex. 2 at 55

²⁰ *Id.* at 56 (Table 7853.0610-G)

²¹ *Id.* at 60

²² *Id.* at 62

²³ Ex. 200 at 11

²⁴ *Id.* at 17

C. Public Comment

One public commenter was concerned the CER had errantly substituted demographic data from Helen Township in McLeod County for data from Helena Township in Scott County.

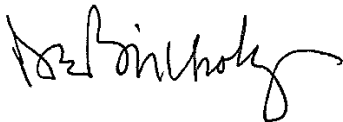
EERA Response

Pump stations are planned for these two similarly named townships (the Plato Station in Helen Township in McLeod County and the St. Patrick Station in Helena Township in Scott County). Table 2 in the CER contains the correct information attributed to the respective areas.²⁵ EERA relieved this person's concerns through an email exchange in February.

EERA staff appreciates the opportunity to submit these comments.

Dated: April 9, 2015

Respectfully submitted,



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²⁵ *Id.* at 6

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments to ALJ**

Docket No. PL5/CN-14-320

Dated this 9th day of April 2015

/s/Sharon Ferguson

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