

May 7, 2015

Minnesota Public Utilities Commission
121 – 7th Place East, Suite 350
St. Paul, MN 55101-2147

RE: PL-9/CN-14-916 (Certificate of Need)
PL-9/PPL-15-137 (Pipeline Route)

Dear Honorable Commissioners,

This letter is commenting on issues with respect to the representations made in the Certificate of Need and Routing application for Enbridge Energy, Limited Partnership (Enbridge) for the proposed Line 3 Pipeline Project in Minnesota.

In Section 2, page 2-4 of the Line 3 application, Enbridge describes where they propose to relocate Line 3, which is along side of a section of the proposed Sandpiper pipeline in a new corridor from Clearbrook, MN to Superior, WI. This CON application does not acknowledge the proposed Sandpiper project nor that it is a currently unresolved contested case. The Line 3 CON application in section 2 and section 10 avoids the fact that there are several other system alternative routes currently being reviewed in the contested case. The Line 3 CON application is incomplete by not addressing the contested case and these system alternative routes. *Please deem the Line 3 CON application incomplete until the Commission has made its decision regarding the CON of the proposed Sandpiper due to Enbridge's insistence that Line 3 be laid along side of the proposed Sandpiper in a new corridor.*

If the Commission decides that the proposed Sandpiper Preferred Route (where Line 3 is described to follow on page 2-4) in the contested case will not be used or will be located instead along another system alternative route, then both the Line 3 CON and route application should not only be considered incomplete, but the whole application as written - denied. *If the Commission decides the route as described in this Line 3 application will not be used for the proposed Sandpiper, then by default Line 3 should not be allowed to use the route either.* The DNR, MPCA and Parties should not have to duplicate their efforts on the proposed Sandpiper here for the Line 3 Application. The DNR, MPCA and Parties should not have to continue to contest a route that the applicant has not done a comparative environmental impact analysis. *Therefore, please deem this Line 3 route application as incomplete until the Commission has decided upon both the CON and the route for the proposed Sandpiper.*

Under MEPA, the proposed Sandpiper and Line 3 are connected actions, which require an EIS. Neither an EIS nor a compliant EAS has been completed and has not been submitted with this application; thus, *please deem both the Line 3 CON and Route applications as incomplete until this requirement of a compliant EAS has been fulfilled.*

On page 2-8 of the Line 3 CON application in Table 2.2-1, Enbridge states the U.S. Army Corps of Engineers application will be submitted in July 2015. This is of concern. Enbridge/NDPC stated in the proposed Sandpiper CON application that they applied in

February 2014, but the application had been returned incomplete and has not been resubmitted. This application initiates Federal and State Agencies working together on Environmental Review. By promising to apply in the future, Enbridge and NDPC are continuing to stall and avoid initiating the federal environmental review (EIS). *Please require the Applicant to follow through on submitting a compliant application to the USACE and required proof of the status of a completed application from the USACE before accepting completion of the Line 3 CON and route application.*

The CON application Section 9, J. State Designated Areas is incomplete. Enbridge writes that the Project will not cross any state critical areas...etc. but does not acknowledge the DNR and MPCA concerns over risks to critical state resources downstream from oil spills. This application is incomplete without recognizing DNR and MPCA expressed concerns in letters filed on the record of the proposed Sandpiper pipeline.

The CON application Section 9, K. Historic, Cultural, & Archaeological Resources is incomplete. Culture is not only historic, but also a living and existing part of people's lives now. What is missing in this application is direct contact with the Native American communities. In the evidentiary hearing for the proposed Sandpiper, it was clear that websites with datasets on Native Cultural Resources were available that Enbridge/NDPC did not even inquire about. This application shows the continued avoidance of the responsibility to directly contact the tribes within the ceded territories, who have wild rice and other significant cultural resources that will be impacted. *We are asking the Commission to please require Enbridge to follow through on this responsibility to make contact with, specifically identify, report potential impacts to, and plans to address these impacts on cultural resources like wild rice before you consider this application complete.*

Under CON Section 9, Subpart 5, pages 9-25 called "Estimate of the number of people that would have to relocate if the pipeline were constructed." What is incomplete is the actual data: number, description, location, etc. And, the wording needs to be changed to reflect what Enbridge has already done on their Preferred Route to the people in these homes where they have already been forced to relocate **long before** this project, and the proposed Sandpiper's CON and route have been resolved.

In the Line 3 CON application, Enbridge says they have no other projects planned. In a news article dated July 29, 2014 written by Dan Gunderson from MPR.org, <http://www.mprnews.org/story/2014/07/29/enbridge-pipelines-exposed> he writes an Enbridge spokesperson admitted they have plans for more than just Line 3. The spokesperson said they plan to "reroute two of the lines next year." Line 3 is one of these 2 lines. And the spokesperson continued, "A third line is slated for replacement in 2017." These are existing lines in the Northern Mainline Route, which Enbridge plans to replace. *This CON application is incomplete without including these plans, and considering the cumulative impacts.*

On page 10-25 in section 10-4 of the Line 3 CON application, Enbridge states it cannot expand the capacity of one or more of the existing pipelines on the existing Mainline System. When in fact, the project can be fulfilled by replacing Line 3 in place on the Northern Mainline Route by removing the current Line 3 pipe and putting the new pipe

back in the same place in the ground. This is considered non-proliferation and an important part of the law to avoid unnecessary degradation of Minnesota's forests, waters and environment by requiring efficient use of existing pipeline routes.

This application is incomplete without discussing the environmental vs. economic considerations for removal of Line 3 with replacement within the current Northern Mainline Route. There is some mention in 11.1.4 with a reference to section 6 in the route application of why Enbridge does not want to do this, but what is incomplete is a clarification of costs, which Enbridge may not want to pay to protect Minnesota's precious environmental resources by more efficiently using the corridor they already have. Abandoning a pipeline on the existing route and adding to a new corridor has increasing cumulative impacts when considering Enbridge's plans to replace and move at least 2 more pipelines in addition to Line 3. For the Commission to have clarity, the application needs to include: in part C of Section 4, how many more jobs (FTE's) for removal with replacement would add and compare this to the total economic benefit of the Project; the cost of removal with replacement; what savings Enbridge would receive with @50 miles less of clearing right-of-way, pipe and installation; what savings Enbridge would receive from not having to seal and monitor the old pipe indefinitely, and the benefit of less impact to the environment. One area to show benefit to the environment could be summarized by adding to Table 9-1.2.E-1 to compare in Land Cover Impacts by County for removal with replacement vs. the cumulative impact of adding another pipeline to a new corridor. The cost of removal and cleanup of previously leaked crude oil still in the ground surrounding the pipe are costs Enbridge should bear instead of future tribes, federal, state or individual landowners. Other petroleum companies, i.e. gas stations, are required to remove and clean up their sites at the end of operation. The Line 3 CON and route applications are not complete without this analysis.

The following are not detailed in Section 11.1.2-3 under the list of what they plan to do with the current Line 3 and need further detail before the application is complete:

(1) *How do they plan to safely dispose of the discharge from within Line 3 that is called "transported liquid and vapor with an inert material"?* In reality this contains crude oil with hazardous chemicals from the oil and whatever liquid, plus cleaning agents. Enbridge should not be allowed to simply dump these contents into a waterway or upon the ground somewhere along the route. It is not enough for Enbridge to say they will follow Federal or State regulations. Enbridge needs to clearly state the composition of these chemicals and how they plan to protect the environment and properly dispose of these contents.

(2) *How do they plan to support the existing Line 3 where it is exposed to the elements by design or erosion?* It is not enough to seal the ends. When the pipeline is exposed it can also be a hazard to emergency personnel, children and the public. It is not enough to say they will follow Federal or State regulations. Enbridge needs to clarify a long-term safety plan for exposed sections of Line 3. In the attached article by Dan Gunderson, he describes an example of where Enbridge pipelines are suspended across a river and along the channel. These portions of the pipe risk being damaged by the elements, flood and debris. The pipe inspector quoted in the

article said he is “aware of several locations across the state where exposed pipelines crosses rivers or ditches”. *The application needs to specifically identify each of the sites where line 3 is exposed and describe their long-term plan for keeping each portion sealed, supported and safe for the public.*

(3) Again, it is not enough to seal the ends. *How do they plan to seal the portions of Line 3 in which they already admit in section 1 page 1-7, that “Enbridge’s pipeline maintenance program has revealed corrosion growth and other pipe material flaws that have impacted the operating capabilities of the pipeline”?* These areas need to be identified in the application and clarified on how they plan to seal and maintain the seals long-term in these areas.

Enbridge continues to avoid identifying how much capacity is available for barge or shipping over the Great Lakes. Calumet Refinery in Superior, WI initiated upgrade to a site in the harbor for loading crude oil for shipment over the Great Lakes. This project is waiting on full environmental review, but is serious enough that the Great Lakes Commission is in a process of a year-long study. *Enbridge is proposing additional volume of crude to be transported over Line 3 and is the supplier of crude oil to Calumet Refinery. This application is incomplete without addressing this concern.*

Overall, we ask that both the Line 3 CON and route applications be considered incomplete. The application lacks a compliant EAS and lacks a detailed environmental vs. economic analysis for Line 3 removal with replacement option on the existing Northern Mainline route. We ask that Enbridge be held accountable to complete a compliant application to USACE **before** accepting completion of the Line 3 CON and route application. Please also hold Enbridge accountable to its responsibility to the Native American tribes before the application is considered complete. *And, because Enbridge insists on placing this Line 3 upgrade along side of the proposed Sandpiper, it is critical the decisions made by the Commission for the contested case on the CON and route permit of the proposed Sandpiper are **determined before** this Line 3 application is allowed to go forward as being considered complete. **And, a denial of the proposed Sandpiper route needs to be a denial of the Line 3 route; and changes to the proposed Sandpiper’s route needs to be changes to the route in this Line 3 application before it is considered complete.***

Transparency, collaboration and cooperation are key skills lacking in this company. We wish that Enbridge could be directed before the decisions are made on their proposed Sandpiper and Line 3 applications, to work as a partner in a group, including: other energy providers, the tribal communities, federal/state/county agencies, landowners and the public to create a long-term and sustainable plan for Minnesota’s energy needs with the least impact to our environment.

Sincerely,

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Erosion exposes Enbridge oil pipelines near river in NW Minn.

Environment

Dan Gunderson · Moorhead, Minn. · Jul 29, 2014

An Enbridge crude oil pipeline is exposed by erosion where it crosses the Tamarac River in northwestern Minnesota. *Dan Gunderson/MPR News*

. **LISTEN** Story audio 4min 18sec

Like many streams in the Red River Valley, the Tamarac River twists and winds its way across the northwest Minnesota landscape.

Constantly changing shape as floodwater erodes the soil, the Tamarac flows into the Red River about two hours north of Moorhead.

But in a grassy swath carved out of trees that flank the river, the channel's normally placid brown water is broken by pipelines spanning the Tamarac.

Flooding has uncovered three of seven Enbridge Corporation pipelines that cross the river, pipes that largely carry crude oil from Canada across Minnesota.

Although the pipelines generally are buried three to four feet below ground, in some places erosion has exposed them to the elements.

Pipelines are visible in this image from Google Maps:

Chad Jerome, a local farmer, said he has seen an exposed pipe in the spot for the 14 years that he has planted and harvested fields along the river. But until recently he didn't realize how many pipelines were uncovered.

"I guess I have faith that Enbridge knows what they're doing and that safety measures are in place and it's not an issue," Jerome said.

The three exposed lines include a 24-inch pipe, constructed in the early 1960s, a 34-inch line built about 1968, and a 20-inch pipe laid in 2010, Enbridge spokesperson Becky Haase said the lines flow across Minnesota to Superior, Wis.

Some pipes are suspended across the river channel, which is about 30 feet wide. In one case, a pipe is exposed along the river channel for about 100 feet. Enbridge has installed steel legs to stabilize that pipe.

The exposed pipes run the risk of pipelines being damaged, but no law requires Enbridge to rebury them, said Jon Wolfgram, chief engineer for the Minnesota Office of Pipeline Safety. The agency enforces federal rules for pipelines in the state, which require companies to check exposed pipes for corrosion every three years.

"There are certainly risks," he said. "If you had log jams, and things like that could put a pipeline at risk, yes."

Wolfgram said the risks increase the longer a line is exposed. But determining the level of risk is up to Enbridge, not the Office of Pipeline Safety, he said.

It's unclear how long the pipes have been exposed, but Wolfgram said they were during the only time a state inspector visited the site, in 2007.

Although federal regulations specify how deep pipelines must be buried, Wolfgram said the rules only apply during initial construction.

"If it does become exposed, it more or less becomes a requirement for the operator to monitor that and inspect it," he said. "But there isn't necessarily any requirement making them bury the pipeline again."

An Enbridge crude oil pipeline is exposed by erosion where it crosses the Tamarac River in rural Marshall County. *Dan Gunderson/MPR News*
Wolfgram said he is aware of several locations across the state where exposed pipelines cross rivers or ditches. Enbridge has detected exposed pipes at a handful of Minnesota river crossings.

Enbridge, which began inspecting exposed pipes at the northwest Minnesota site in 2009, has determined the lines are safe and do not pose any risk said Haase, the company spokesperson. Initially, she said the company conducts risk assessments at the site and did not plan to rebury the pipes.

"We have Enbridge crews out there every couple of weeks just monitoring that river crossing and making sure that those pipelines that are exposed are operating safely," she said.

Haase later said Enbridge is finalizing plans to stabilize one of the pipes this fall and reroute two of the lines next year. A third line is slated for replacement in 2017, she said.

The company has not yet filed any plans with the Minnesota Department of Natural Resources, which issues permits to build utilities across a river.

Such exposed lines have caught the attention of members of Congress. Some questioned if federal river crossing regulations were adequate after a pipeline crossing the Yellowstone River in Montana ruptured in 2011.

A study last year by the Pipeline and Hazardous Materials Safety Administration found "depletion of cover" was a factor in 16 significant pipeline spills at river crossings since 1991.

But the agency later told Congress no additional rules were needed.