



MILLE LACS BAND OF OJIBWE

Executive Branch of Tribal Government

Susan Klapel-Commissioner of Natural Resources
Mille Lacs Band of Ojibwe
43408 Oodena Drive
Onamia, MN 56342

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

Re: Docket number 13-473 and 13-474

March 29, 2014

Honorable Commissioners,

As Commissioner of Natural Resources for the Mille Lacs Band of Ojibwe, I am responsible for protecting natural resources for the Band and its members. The proposed route for the Enbridge Sandpiper pipeline project borders our Minisinaakwaang (East Lake) Community and threatens the Big Sandy Lake and Rice Lake watersheds, in which the Band's members and their ancestors have gathered wild rice and harvested other natural resources for generations. Accordingly, it is with deep respect that I ask you to not grant Enbridge the corridor permit for the proposed southern route. The Band supports the existing Northern Main corridor where a thorough Federal, Tribal and State review process has occurred. This route avoids the Big Sandy Lake and Rice Lake watersheds that support culturally significant wild rice ecosystems.

Reasons for opposition of the proposed Sandpiper southern route include:

- Concern over historical spills and consequent risk to surface and ground water.
- Concern over vital Band self-sufficiency and cultural practices, such as harvesting wild rice within the Big Sandy Lake and Rice Lake watersheds, including the Rice Lake National Wildlife Refuge.
- Lack of Tribal consultation, specifically with the Mille Lacs Band's Tribal Historic Preservation Office (THPO) to identify lands of historical, archeological and cultural significance.
- Procedural Considerations, Minnesota Public Utilities Commission role versus Federal Agency Lead.

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Concern over historical spills and consequent risk to surface and ground water

Enbridge was responsible for more than 800 spills in the U.S. and Canada between 1999 and 2010, totaling almost 7 million gallons of oil. In 2010, the News Tribune (see attached article) reported that over the previous 30 years nearly 1.5 million gallons of oil had spilled out of Enbridge pipelines in northern Minnesota, much of it into wetlands and some of it close to the Mississippi River. In one case, tens of thousands of spilled gallons were set on fire to avoid causing more serious environmental damage. The biggest spill was near Michigan's Kalamazoo River in July 2010, when a pipeline that connects to the Alberta Clipper burst, sending more than 1 million gallons of oil into the river. Enbridge is still working on the cleanup, and earlier this month it asked the U.S. Environmental Protection Agency for an extension to complete dredging of the Kalamazoo River, saying it would be unable to meet the Dec. 31 deadline to finish the cleanup.

Concern over vital Band self-sufficiency and cultural practices, such as harvesting wild rice, within the Big Sandy Lake and Rice Lake watersheds, including the Rice Lake National Wildlife Refuge

Harvesting wild rice has been central to the Band's culture, subsistence and economy for generations. Many Band members harvest wild rice in the Big Sandy Lake and Rice Lake watersheds, including in the Rice Lake National Wildlife Refuge.

Section 7852.2700 **B** of Enbridge's Pipeline Routing Permit Application states:

Water Resources – Surface-Ground water "Ground disturbance associated with pipeline construction is primarily limited to the upper 10-feet, which is above the water table in most of the regional aquifers."

Enbridge's generalized claim depicting the water table as 10-feet deep or deeper is not accurate in the Big Sandy Lake and Rice Lake watersheds. Based on Natural Resource Conservation Service (NRCS) soil data, the depth of the water table in these watersheds is measured in inches not feet. Characterizing seasonal water tables may more accurately reflect hydrological connectivity and vulnerability of these watersheds.

Lack of Tribal consultation, specifically with Tribal Historic Preservation Office (THPO) to identify lands of historical, archeological and cultural significance

Enbridge states: "EPND prefers to avoid recorded or unrecorded sites and may resort to: minor route deviations around identified sites: installing the pipeline beneath the site using conventional bore or HDD technology; and/or fencing sites or portions of sites to ensure that they are not disturbed during construction."

It is not possible to identify, let alone to avoid, sites of historical, archeological and cultural significance without consulting early in the process with the relevant Tribal Historic Preservation Offices (THPO). Although the Enbridge EIR discusses State Historic Preservation Office input, the Mille Lacs Band's THPO has not been contacted yet (personal communication). To choose a route other than the existing (Clipper) corridor that borders our Minisinaakwaang community without THPO input raises serious concerns regarding Enbridge's ability to identify and avoid sites of historical, archeological, and cultural significance and the thoroughness of the selection process.

Procedural Considerations, Minnesota Public Utilities Commission role versus Federal Agency Lead

The Minnesota Environmental Policy Act, MINN. STAT. 116D.04(6) (2008), provides:

“No State action significantly affecting the quality of the environment shall be allowed, nor shall any permits for natural resources management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources located within the state, so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare and the State’s paramount concern for the protection of the air, water, land and other natural resources from pollution, impairment, or destruction. Economic considerations alone shall not justify such conduct.”

Procedurally, it appears that Enbridge has determined the preferred route from the alternative routes that have been identified. The Minnesota Public Utilities Commission is being asked to approve Enbridge’s preferred route *before* the respective Federal Agencies will be asked to permit and determine appropriate mitigation measures for that route (including, within the corridor chosen, avoiding significant features if possible). This process commits the State to Enbridge’s preferred route and limits the choices reasonably available to the Federal Agencies *before* there has been a full consideration of the alternatives, and is inconsistent with both State and Federal law that requires such alternatives to be considered before a commitment is made to Enbridge’s preferred route. This process creates a cloud of confusion in regards to the sequence of environment assessment (EA) and a determination about the need to conduct an environmental impact statement (EIS).

In conclusion, the Mille Lacs Band supports the existing Northern Main corridor where a thorough Federal, Tribal and State review process has occurred. This route avoids the Big Sandy Lake and Rice Lake watersheds that support culturally significant wild rice ecosystems. This route also promotes co-location consistent with the strategy proposed west of Clearbrook, MN. (MNEIR November 2013, page 2-8).

Respectfully,



Susan Klapel
Commissioner of Natural Resources
Mille Lacs Band of Ojibwe

CC: Chief Executive Melanie Benjamin
Secretary/Treasurer Curt Kalk
District I Representative Sandra Blake
District II Representative Marvin Bruneau
District III Representative Diane Gibbs