

Hartman, Larry (COMM)

From: Susan Janey <mikeandsusanjaney@gmail.com>
Sent: Sunday, May 18, 2014 6:57 PM
To: Hartman, Larry (COMM)
Subject: Docket Number 13-474 Enbridge Pipeline Route Permit

Larry,

I understand that the proposed Enbridge pipeline route cuts within 600 feet of beautiful Duck Lake where my husband and I, and our family, like so many other lakes area residents, have enjoyed fishing, water sports, nature walks, and cabin life in the summers, and warm fires in the winter months. I speak for more than Duck Lake residents, of course, as the pipeline also cuts along Itasca State Park, the Shell River, and the Crow Wing Chain of Lakes to mention just a few of the assets that we are blessed with in Hubbard County. The scenario of a pipeline cutting far too close to fragile rivers, lakes, and woodlands already besieged by other environmental threats is no doubt repeated all along the proposed pipeline route. This "Enbridge-preferred" route alternative to an existing Enbridge pipeline route further north that terminates at the same point, is redundant, and certainly not preferred by residents immediately affected by the path of this despoiler of the environment.

Neither are we comforted by Enbridge assurances of their commitment to quality and safety of their operation, given their unimpressive track record. Michigan residents along the Kalamazoo might go further and say that Enbridge has an alarming disregard for the environment in light of the disaster perpetrated by that company when oil from an Enbridge pipeline gushed into their river. The lingering environmental effects of that disaster cannot be resolved by Enbridge lip-service and PR spin. This incident alone should serve as a red flag for government agencies when considering an expansion of Enbridge pipeline routes, and in particular routes through areas heavily populated with rivers, lakes, and woodlands.

Sincerely,

Susan and Mike Janey
mikeandsusanjaney@gmail.com
(320) 420-8998
506 Riverside Drive NE
St. Cloud, MN 56304



Public Comment Sheet

North Dakota Pipeline Company LLC Sandpiper Pipeline Project

PUC Docket No. PL-6668/PPL-07-13-474

PLEASE PRINT CLEARLY

Name: SUZANNE JARVIS

Representing: _____

Email: szamers@gmail

Address: 807 W. 25th St

Tel: 612-414-3882

Minneapolis MN
55405

COMMENTS

Please do not put a pipe line
in Minnesota. Leave a future for
the children!

thanks

Please submit comments at meeting to EERA staff or send to:

Larry B. Hartman
Energy Environmental Review and Analysis
Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Email: larry.hartman@state.mn.us
Toll Free: 800-657-3794
Voice: 651-538-1839
Fax: 651-539-0109

Electronic Submittal: <http://mn.gov/commerce/energyfacilities/publicComments.html?projectId=33599>

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Comments Continued:

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DULUTH MN 558

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Larry B. Hartman
Energy Environmental Review and Analysis
MN Dept of Commerce
85 7th Place E, Ste 500
St. Paul MN 55101-2198

(Second-Fold here) 5510136013



Rice, Robin (PUC)

From: Cynthia Johnson <cjohnson55802@yahoo.com>
Sent: Wednesday, April 02, 2014 2:24 PM
To: #PUC_Public Comments
Subject: Docket number 13-474
Attachments: Pipeline letter.docx

Please accept and post the attached comments.
Thank you.
Cynthia Johnson
Mahtowa, Carlton County, MN

Cynthia Johnson
3228 Boundary Road
Mahtowa MN 55707
March 14, 2014

Dr. Burl Haar, Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147
Re: Docket number 13-474

Honorable Commissioners:

I am opposed to Enbridge/North Dakota Company/Sandpiper Pipeline which will be going through my land in Carlton County. I am opposed for the following reasons:

I own a small acreage of wild and natural forest bordering the Moose Horn/Kettle River watershed. I have recently hired a forester to help me with a management plan to keep my acreage as wild and natural as possible.

In addition to preserving my little corner of the natural world, I am concerned about the wetlands and Moose Horn River that grace my land. The Moose Horn flows into the Kettle River, which flows into the St. Croix and on to the Mississippi rivers. That watershed needs to be protected for future of our land, our children and grandchildren. The damage to our natural resources caused by the disruption of the land during the laying of the pipeline is economically and sustainably unacceptable, not even considering the damage that would occur if (or when) there is a rupture and/or spill.

If there is indeed a need for yet another pipeline traversing Carlton County, I am imploring Enbridge to co-locate their pipelines – especially the Sandpiper line - with the lines they already have as it is most consistent with the principle of non-proliferation and minimizes damage to farms, forests, wetlands, wildlife habitat and landowner rights.

Thank you for the opportunity to express my concerns.

Sincerely,
s/s Cynthia Johnson
Cynthia Johnson
Concerned Landowner in Carlton County

Hartman, Larry (COMM)

From: dj53@hutchtel.net
Sent: Monday, May 26, 2014 11:39 AM
To: Hartman, Larry (COMM)
Subject: Docket numbers 13-473 and 13-474 - Sandpiper Pipeline Project

Dear Mr. Hartman,

As property owners on Roosevelt Lake in Cass/Crow Wing counties, we have numerous concerns about the feasibility of the Sandpiper Pipeline going through an area with some of the most pristine and clean lakes in Minnesota.

To the best of our knowledge, Enbridge does not have a stellar reputation for prevention of spills or prevention of environmental impact. We feel that there could be potentially serious harm to Spire Valley and Lake Roosevelt, and it's watershed. We feel that there have been a lack of environmental studies pertaining to this proposed pipeline, and feel that it calls for an Environmental Impact Study.

Please help us to protect our environment and support an EIS for this proposed project/route. We ask that the most updated and safe technology be required of Enbridge. We feel that alternate routes should be considered that do not go through the middle of 'Lake Country'. A spill here would be disastrous and the environmental impact would be immense.

Sincerely,

David and Carol Johnson
44733 Old Hwy 6
Outing, MN 56628

Hartman, Larry (COMM)

From: David Johnson <longlostlake@gvtel.com>
Sent: Thursday, April 24, 2014 9:57 AM
To: Hartman, Larry (COMM)
Subject: Comments on PUC Docket Number 13-474

These are my comments on PUC Docket Number 13-474, Enbridge Sandpiper pipeline.

I am 100% in favor of this project. If you were to do a study of oil sent by train and truck vs oil sent by pipeline you might have some information about just how safe sending the oil via pipeline is vs sending it by train and truck.

Projects like this are studied to death but the studies are mostly looking at the wrong things. The oil is going to move one way or another so why isn't the safest way chosen?

David Johnson
Bagley, MN

David L Johnson
5950 Herranen Rd
Cromwell, MN
December 20, 2013

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

Re: Enbridge Pipeline Route, Docket Number 13-474

Honorable Commissioners:

I am opposed to Enbridge Pipelines (North Dakota) LLC's proposed southern route for the Sandpiper Pipeline.

Last January I bought a 35 acre Finnish homestead along the southern pipeline route. It is an isolated and peaceful place surrounded by miles of unspoiled wild wetland. Had I known that a pipeline was proposed to go through it I never would have bought it. Others will have the same reaction, thus lowering the property value of my place.

My objections to the pipeline are fivefold.

1. Violation of pristine wetlands and the continuing diminution of wild land in general. Natural resources once used up are gone. A permanent cleared corridor through wild line for hundreds of miles, destroys habitat for wild flora and fauna. We are already losing habitat at an alarming rate. This unnecessary corridor only adds to that.
2. Property value loss. Speaks for itself. All things being equal land with a pipeline is going to be worth less than land without. Past payments by Enbridge of corridors are a one time thing and not generally enough to cover the loss of value and the bother of having trucks, inspectors, right of way clearing crews, etc for as long as the pipeline is there.
3. Initial and ongoing trespass and activity in a place where only nature has resided in the past.
4. The fear of pipeline failure and leaks (Enbridge has a history of numerous pipeline leaks, including the worst leak in North America on the Kalamazoo River in Michigan).
5. By making a whole new route for pipelines, observation and maintenance repair of pipeline safety will be doubled. Will Enbridge (a bottom line for profit business) be willing to spend the extra money to keep it safe? Their track record doesn't show a great willingness to

spend money to keep the lines safe or even to be aware of leaks when they happen.

Making a whole new corridor doesn't make sense. For safety sake keeping the new pipeline in the existing pipeline makes it easier to monitor potential leaks and repair faults.

For these reasons, if the Sandpiper Pipeline is deemed necessary, the Enbridge should be required to route the line through their existing northern corridor.

Sincerely,

David L Johnson

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MAY 22 2014

MAILROOM

2089 Lake Hattie Dr. SW
Backus, MN 56435
18 May 2014

Larry Hartman, Environmental Review Manager
Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101

RE: Docket Number #13-474

Dear Mr. Hartman

My wife and I have owned property for 30 years about 1 1/2 miles north of the proposed route of the Sandpiper Pipe Line where it will cross the Pine River. We put our property into a conservation easement in 2005 to preserve about 900 feet of the Pine River and other riparian shoreline on Lake Hattie and Little Sand Lake. Our neighbors, the Heegaard's on the East side of the Pine have also put their property into a conservation easement and are protecting nearly a mile of the Pine River.

This river and the environment that the proposed pipeline will go through are some of the most pristine and valuable in the state. Citizens of this state covet ownership in this area, spend a considerable amount of money in the area, and promote the employment of thousands of local people. Native people depend on the wild rice production of the Upper Rice Lake watershed and other portions of their treaty rights area under the ceded rights treaties for their livelihood and have a sacred lifestyle with this environment at its center. This could all be jeopardized by a spill from the pipeline if it is allowed to be placed in this water rich area of the state. While I think the pipeline will be built in best current practices and be operated in a safe way under current practices, I also believe that the best available technology is not being employed for safe operation. It is inevitable that a break in the line will occur at some point. History teaches us that this will happen! If the break occurs in or near a waterway, the results will be catastrophic.

I am a board member of the Pine River Watershed Alliance and as a part of my role with them, I also serve on the Conservation Committee of the Leech Lake Area Watershed Foundation. We spend a considerable amount of time and money trying to preserve and protect the watershed and to convince people that it is wise to preserve their property through conservation easements. Our most recent project is the development of an Aquatic Management Area on Roosevelt Lake, where the pipeline would pass within 1/2 mile of the top of the lake and a spill would impact the area, as well as a trout hatchery. The pipeline will impact our ability to preserve the watershed and a spill would greatly diminish our ability to continue to expand the

Hartman, Larry (COMM)

From: jeanie.newlife@gmail.com on behalf of j stewart magill <radicalvantage@gmail.com>
Sent: Monday, May 05, 2014 10:19 AM
To: Hartman, Larry (COMM)
Subject: Re: Public Comments on Enbridge Sandpiper pipeline

PUC Docket Numbers (13-474)

Mr. Hartman,

I do not support the proposed Sandpiper pipeline. This environmentally devastating pipeline violates Ojibwe treaty rights. Further, an environmental assessment must be completed before any construction or operation would begin.

I do not support the Sandpiper pipeline because the piping of toxic, volatile diluted bitumen is highly corrosive and the likelihood of spills is great. As we are now seeing in the U.S. and in Canada, the rail explosions and pipeline spills are contaminating our waters and our soils. No one wants this destruction of our precious resources. Nor do we want this horrific legacy left to our children and their children.

I do support First Nations work on behalf of a healthy earth. I believe we do that by honoring the treaties made between the native peoples of this land and our European ancestors.

I do support a combined effort to stop the Sandpiper pipeline and other pipelines from damaging Minnesota's natural beauty.

Thank you.
Jeanie Johnson
2635 Girard Av S
Minneapolis, MN 55408

--

#13-474

Harry Hartman
MN Dept. of Commerce
85 7th Place East Suite 500
St. Paul, MN 55101

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MAY 21 2014

MAILROOM

Mr. Hartman:

I am appalled as I discover more and more pipeline routes added. It makes me angry that the majority of people I speak with have no idea about the add-on lines. What that says to me is - not enough open and informative community meetings throughout Minnesota. Public consent means availability to information. I am strongly opposed to all the pipelines, to the chemicals, the toxins, the waste, the looming CO₂ from tar sands "oil" and the raping of the earth.

Jessie Johnson 2635 Girard Ave S
Minneapolis, MN 55408

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JUN - 2 2014

MAILROOM

Mary S Johnson
2089 Lake Hattie Dr SW
Backus, MN 56435

May 29, 2014

Larry Hartman, Environmental Review Manager
Minnesota Department of Commerce
87 - 7th Place East, Suite 500
St. Paul, MN 55101

Re: Docket #13-474

Dear Mr. Hartman,

We have owned property a mile and a half north of the proposed pipeline route since 1975. We have always had protection of this beautiful environment uppermost in our minds as we enjoyed the woods, wetlands, lakes and rivers in the area. We have also worked with others in Lake Associations and other groups to insure that our actions and those of others would not degrade the natural beauty and integrity of this ecosystem for ourselves and others coming after us in the future. It is truly a treasure to be preserved.

That is why I have personal knowledge that the proposed route of the Enbridge Pipeline is a poor choice. The route goes through the heart of Minnesota Lakes country, passing under the Mississippi River twice, the Pine River and many other smaller streams. It will also pass through miles of wetlands where cleanup would be extremely difficult. There are alternate routes that can be more safely monitored that would not jeopardize a natural environment that is still in excellent condition with high water quality for fish and wildlife of all kinds.

Every weekend tens of thousand of people who live in the Twin Cities area head north to the cabin, most of which would be in the area that the pipeline would go through. Many others from out-of-state also come to resorts to enjoy the clear waters of this area. The economic impact of tourism to the area far outweighs any local economic benefit from the pipeline. Why choose this area when other routes are being proposed with far less potential for environmental problems?

Past experience with pipelines has shown that leaks will occur in any given stretch of pipeline. Most of these leaks are found by people living near the pipeline and not by the pipeline operators. Since it takes about eight hours to shut down a pipeline when a break occurs, most spills are multiple thousands of gallons. Our topography is bedrock covered by 20 - 80 feet of sand and sand/clay mix. According to the US Geological Survey the area is very susceptible to pollution and would be difficult to clean-up. Much of the area is also remote enough that leaks would not be detected before the oil would do irreparable damage.

My plea is to choose a better route. Do not place this pipeline where it can ruin our clean waters, wetlands, and human and animal lives that are in harmony with and depend on this natural environment.

Sincerely,

Mary Johnson



Public Comment Sheet

North Dakota Pipeline Company LLC Sandpiper Pipeline Project

PUC Docket No. PL-6668/PPL-07-13-474

PLEASE PRINT CLEARLY

Name: Priscilla Johnson

Representing: Honor Earth

Email: sillynbro@yahoo.com

Address: 18929 Misquito Creek Rd.
Bagley, MN 56021

Tel: 218-657-3257

COMMENTS

I am a member of the White Earth Reservation. I am also also a ricer and gatherer for my family. We get our ~~map~~ manoomin from Upper Rice Lake which is located five miles from my home. This a tradition we have did for many years which I learned from ~~from~~ my parents and grandparents.

I am asking to please use an alternate route as this pipeline will deeply impact our tradition and source of income if a spill would occur. It would affect our ~~lands~~ ancestral lands for today and our future generations to come. I want my children and grandchildren to have our lands for their use to teach our traditions alive.

I demand the state to do a (EIS) Environmental Impact Statement for the Sandpiper Line. I also demand the EPA to do a (CEA) Cumulative Effects Analysis

Please submit comments at meeting to EERA staff or send to:

Larry B. Hartman
Energy Environmental Review and Analysis
Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Email: larry.hartman@state.mn.us
Toll Free: 800-657-3794
Voice: 651-538-1839
Fax: 651-539-0109

Electronic Submittal: <http://mn.gov/commerce/energyfacilities/publicComments.html?projectId=33599>

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Comments Continued:

on pipeline and mining activity in MN, WI, and MI.

I also demand the EPA uphold tribal members' land
rights to hunt and fish.

Please keep our lands preserved for our future generations.

Migwich, Thank You! Priscilla Johnson

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Larry B. Hartman
Energy Environmental Review and Analysis
MN Dept of Commerce
85 7th Place E, Ste 500
St. Paul MN 55101-2198

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April 2, 2014

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

RE: Docket Number: Routing Permit #13-474
Certificate of Need: #13-473

Dear Dr. Haar,

The Midwest Organic and Sustainable Education Service (MOSES) requests that the Min. Public Utilities Commission support the amended route for the Sandpiper pipeline, following the existing pipeline through eastern Carlton County.

The revision of the pipeline route to follow the existing pipeline is critical to lessening the environmental impact of the line and preserving invaluable farmland and forested areas in northern Minnesota.

MOSES is honored to have a long and engaged relationship with farmers Janaki, Jane and John Fisher-Merritt of Food Farm, a certified organic farm in Wrenshall, Minn. The farm is on the original pipeline route filed with the PUC. This multi-generation farm is a showcase of commitment and caring for environmental conservation and sustainable, organic farming practices. Care for the landscape, the soil, natural vegetation and the animals and insects that inhabit the area are key to the farm's mission and success.

The Fisher-Merritts do such a good job that they have been formally recognized numerous times for their commitment to these values. MOSES honored them with its prestigious "Organic Farmer of the Year" award in 2010. We have held popular field days on the farm so that others can learn from their careful, successful practices. The family has shown further commitment by participating for several years as mentors to new farmers in our organic Farmer-to-Farmer Mentoring program.

It would be criminal for this cherished model farm to be severely impacted by the construction of a pipeline across its fields. Especially so, since the very viable option of an alternate, lower impact route is available. The farm's organic certification would be jeopardized by the construction process. The destruction of the soil, after years of careful attention to fertility and organic matter, would be a huge loss. The ecosystem surrounding Lake Superior would be negatively impacted by reduction of habitat and the loss of this important organic farmland.

MOSES feels your action on the acceptance of the alternate route for the Sandpiper pipeline is critical to maintaining rare and valuable farmland that is of great importance to the state of Minnesota and the region. Farmland in the hands of such skilled caretakers must be preserved.

MOSES is a non-profit educational institution that has been educating farmers about successful organic practices for over 15 years. Working out of an office in Spring Valley, Wisconsin, we are best known for our annual Organic Farming Conference, which drew over 3,400 farmers and supporters in Feb. 2014 to La Crosse, Wis.

We can't stress enough how important we feel the change in pipeline route is to the state of Minnesota and the region. We have worked hard to expand the use of organic and sustainable farming practices in the region, with the ultimate goal of environmental conservation. The construction of a pipeline across one of the showcase farms of our industry would be a devastating loss. We ask you to please support the revised route that follows the existing pipeline.

Thank you for your attention,



Faye Jones
Executive Director
715-778-5775
faye@mosesorganic.org



Public Comment Sheet

North Dakota Pipeline Company LLC Sandpiper Pipeline Project

PUC Docket No. PL-6668/PPL-07-13-474

PLEASE PRINT CLEARLY

Name: Wanda Jones

Representing: _____

Email: _____

Address: P.O. Box 127
Naytahwauish
Minnesota 56546

Tel: 218 935-2852

COMMENTS

I am strongly against this pipe line!
also when it comes to the water, every one
should be worried. soon we will not have any
wild rice, not to mention the whole environment.
thanks to this program. feel free to
call if there is in any way, I can add to this

Wanda Jones
Naytahwauish
218 935-2852

Please submit comments at meeting to EERA staff or send to:

Larry B. Hartman
Energy Environmental Review and Analysis
Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Email: larry.hartman@state.mn.us
Toll Free: 800-657-3794
Voice: 651-538-1839
Fax: 651-539-0109

Electronic Submittal: <http://mn.gov/commerce/energyfacilities/publicComments.html?projectId=33599>

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Comments Continued:

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**Larry B. Hartman
Energy Environmental Review and Analysis
MN Dept of Commerce
85 7th Place E, Ste 500
St. Paul MN 55101-2198**

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Andrea Joplin and Scott Schroeder
5040 15th Ave SE
St Cloud MN , 56304

acjoplin@msn.com

March 30, 2014

Larry Hartman, Environmental Review Manager
Energy Environment Review and Analysis
Minnesota Department of Commerce
85 7th Place East, Suite 500
St Paul, MN 55101

Re Enbridge Pipeline Route, Docket Number 13-474

Dear Mr Hartman

We write in opposition to the Enbridge Corporation's proposed southern route through Hubbard County for the North Dakota (Sandpiper) pipeline. This proposal violates the criteria that the MN PUC has set for routing such pipelines.

The proposed route brings new environmental threats to an area which includes agricultural, residential, and recreational uses. A leak or rupture of the pipeline would have devastating effects to these areas. A pipeline failure in this area could affect the Mississippi, Crow Wing and Leech Lake watershed areas.

A full Environmental Impact Study should be done by MN PUC for this route. If a new pipeline must be built, the route that is shorter and more direct would be the best route to use. It would make most sense for Enbridge to use the Clearbrook to Superior, WI route that it currently uses for similar pipelines.

Sincerely yours,



Andrea Joplin and Scott Schroeder

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APR 04 2014

MAILROOM

Hartman, Larry (COMM)

From: apache@web.lmic.state.mn.us
Sent: Monday, May 19, 2014 3:34 AM
To: Hartman, Larry (COMM)
Subject: Karl Mon May 19 03:34:05 2014 PL6668/PPL-13-474

This public comment has been sent via the form at: mn.gov/commerce/energyfacilities/publicComments.html

You are receiving it because you are listed as the contact for this project.

Project Name: Sandpiper Pipeline Project / North Dakota Pipeline Company LLC (NDPC)

Docket number: PL6668/PPL-13-474

User Name: Mike Karl

County: Hubbard County

City: Park Rapids

Email: cleavers1@charter.net

Phone: 320-251-0252

Impact: •Impacts of construction on lands (eminent domain, etc), rivers, wetlands, etc•Impacts of a spill on rivers, lakes, wetlands, groundwater aquifers (drinking water), aquatic and terrestrial wildlife•Economic impact of spill and threat of spill on property values, tourist revenue, agriculture (irrigation)•Emergency personnel disaster preparedness

Mitigation: •Comparing the impact of predictable spills for all alternate routes on persons, property and natural resources•Comparing the results and impact of predictable spills to groundwater aquifers•Consider and compare the results of worst-case spill scenarios•Use of Geographic Information Systems (GIS) route optimization methodology that weight factors such as environmental, demographic and social issues•The need for a more comprehensive Environmental Impact Study (EIS) that would include items shown above, as opposed to the streamlined Comparative Environmental Analysis (CEA) I support the Friends of the Headwaters Alternate A routing or also would consider the 3 other alternate routes they have submitted.

Submission date: Mon May 19 03:34:05 2014

This information has also been entered into a centralized database for future analysis.

For questions about the database or the functioning of this tool, contact:

Andrew Koebrick
andrew.koebrick@state.mn.us



Public Comment Sheet

North Dakota Pipeline Company LLC Sandpiper Pipeline Project

PUC Docket No. PL-6668/PPL-07-13-474

PLEASE PRINT CLEARLY

Name: Delvin Keerer

Representing: Myself

Email: _____

Address: P.O. Box 164
Jayhawk, MN 56566

Tel: 218 849-2647

COMMENTS

I am opposed to this pipeline because of
the proximity to our waterways and rice lakes.

D. Keerer

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MAY 10 2011
MUNICIPALITY OF

Please submit comments at meeting to EERA staff or send to:

Larry B. Hartman
Energy Environmental Review and Analysis
Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Email: larry.hartman@state.mn.us
Toll Free: 800-657-3794
Voice: 651-538-1839
Fax: 651-539-0109

Electronic Submittal: <http://mn.gov/commerce/energyfacilities/publicComments.html?projectId=33599>

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Comments Continued:

Five horizontal lines for handwritten comments.

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St. Paul MN 55101-2198

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Public Comment Sheet

North Dakota Pipeline Company LLC Sandpiper Pipeline Project

PUC Docket No. PL-6668/PPL-07-13-474

PLEASE PRINT CLEARLY

Name: Boyce King Hanks

Representing: _____

Email: _____

Address: _____

Tel: (218) 355-8665

COMMENTS

I am a member of the white earth reservation and I believe that this pipeline will do more harm than good. Not only is it threatening our wild rice and way of life. It's putting a great risk towards our fresh water, wild life and our animals natural habits. Put yourself in there position. Would you want strange men coming into your home and destroying everything that you grew close too and learned to love? I know I wouldn't! Stop thinking about just the benefits and start leaning towards the repercussions...

As a white Earth tribal member I do not!
Condon these actions towards our land and way of life!

Please submit comments at meeting to EERA staff or send to:

Larry B. Hartman
Energy Environmental Review and Analysis
Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Email: larry.hartman@state.mn.us
Toll Free: 800-657-3794
Voice: 651-538-1839
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Energy Environmental Review and Analysis
MN Dept of Commerce
85 7th Place E, Ste 500
St. Paul MN 55101-2198

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55101#6013 CO12



Hartman, Larry (COMM)

From: Phil Kirkegaard <philip.kirkegaard@gmail.com>
Sent: Wednesday, May 28, 2014 10:09 PM
To: Hartman, Larry (COMM)
Subject: Sandpiper public comment
Attachments: PUC letter scan.pdf

Dear Mr. Hartman,

Attached please find a letter commenting on the proposed Sandpiper pipeline. I trust this letter will be posted to the public comment page and forwarded to the PUC.

Thank you,

Phil Kirkegaard

Phil Kirkegaard
Certified Energy Manager (CEM), LEED AP O+M
Daytime Cell: 952-334-3086
philip.kirkegaard@gmail.com

"Kindly leave this planet as you would like to find it."

May 28, 2014

Larry Hartman
Environmental Review Manager
Environmental Review and Analysis (EERA)
Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101

Re: Public Utilities Commission (PUC)
Docket Number PL-6668/PPL-13-474

Dear Mr. Hartman:

We would urge the PUC to review and adopt the alternative route A for the Sandpiper pipeline as described by the Friends of the Headwaters and Hubbard County COLA. Enbridge's proposed route takes the Sandpiper pipeline through some of the most pristine wetlands and water the state of Minnesota possesses. This route also crosses some of the most at risk and permeable soils in the state. Leaks and ruptures from pipelines have a much more damaging impact on the environment and water resources in these permeable soils than in heavier soils. The Sandpiper route as proposed by Enbridge disregards the potential environmental impacts to these vulnerable areas, while trying to minimize construction costs and maximize profits.

For each year that goes by, more and more evidence is presented as to how we are stressing and damaging our precious statewide water resources. We would urge the PUC to look at and protect the long term environmental health of our state waters and require the Sandpiper pipeline to be routed through less sensitive environmental and water resource areas.

Regards,



Phil & Luann Kirkegaard
11410 County Road 13
Menahga, MN 56464

Spidey Kolts Wants you to know:
signature 5/20/14

- Please ensure **Oil Company and Pipeline owners** are held responsible for this pipeline creation, operation, oil spills, and cleanup, now and into the future. **Any other option for this responsibility does not exist.**
- Please ensure there is a FULL environmental study, **NOT ANALYSIS**, complete before any more moving forward on this potentially damage-to-the-environment project. The history of leaking pipelines into lakes, rivers, wetlands without any responsibility being assumed by the pipeline owners is written in pipeline development. Oil leaks KILL our environment. Nothing can fix the damage.
- Please share the pipeline owner's responsibility with the public when leaks in the pipeline occur.
- Please provide alternative options for pipeline routes that will be less damaging to the Minnesota lakes, streams, rivers, and wetlands.
- The lands and environment being considered for the oil pipeline are **steeped in Minnesota history** first from our Native Americans and then those whom followed. Let us not continue to mess up our beautiful and sacred Minnesota lands by making the wrong decisions on this pipeline development.
- I understand we have an **option of rejecting this pipeline proposal** overall. Why was this not considered BEFORE this pipeline discussion began?????

P.S. - Refineries have not requested this pipeline - What is enbridge's real plan for it? Keystone perhaps. Bad for all the people in our area

From: John Koltes
Name: John Koltes
Address: 21227 Firefly Trail
City, State, Zip: Akeley, MN 56433
Date: May 20, 2014

RECEIVED
MAY 23 2014
MAILROOM

To:

Larry Hartman, Environmental Review Manager
Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101

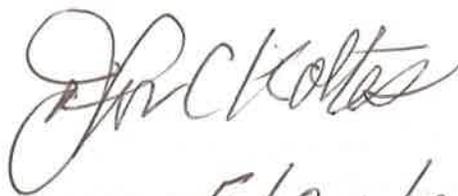
Subject: PUC Docket Number (13-474)

The following are my comments related to the Sandpiper Pipeline Route and

- what human and environmental impacts should be studied in the comparative environmental analysis (CEA)
- specific methods to address these impacts that should be studied in the CEA
- any alternative routes or route segments that should be considered

- Please ensure **Oil Company and Pipeline owners** are held responsible for this pipeline creation, operation, oil spills, and cleanup, now and into the future. **Any other option for this responsibility does not exist.**
- **Please ensure** there is a FULL environmental study, **NOT ANALYSIS**, complete before any more moving forward on this potentially damage-to-the-environment project. The history of leaking pipelines into lakes, rivers, wetlands without any responsibility being assumed by the pipeline owners is written in pipeline development. Oil leaks KILL our environment. Nothing can fix the damage.
- **Please share** the pipeline owner's responsibility with the public when leaks in the pipeline occur.
- **Please provide alternative options** for pipeline routes that will be less damaging to the Minnesota lakes, streams, rivers, and wetlands.
- The lands and environment being considered for the oil pipeline are **steeped in Minnesota history** first from our Native Americans and then those whom followed. Let us not continue to mess up our beautiful and sacred Minnesota lands by making the wrong decisions on this pipeline development.
- I understand we have an **option of rejecting this pipeline proposal** overall. Why was this not considered BEFORE this pipeline discussion began?????

Signature:



5/20/2014

Larry Hartman, Environmental Review Manager
Energy Environmental Review and analysis

NOTE: PUC Docket # 13-474

Dear Mr. Hartman,

I am writing to state my opposition to the proposed route of the Sandpiper pipeline. First, I am opposed to the proposed route because it passes through the Lakes region of Minnesota. I own a summer home on one of the lakes in the Park Rapids area and have been in the area for over 30 years. We pay extremely high property taxes because of the frontage on the lake, but have enjoyed the lake and the serenity and the fact that we are comfortable in the purity of the lake and that it will always be there. The pipeline will introduce an uncertainty and uncomfortable feeling that will always be present and will lead to selling to "beat" the eventual degradation of the lakes and the area.

Once there is a spill in the area it is fallacious to think that it will be "cleaned up". Reading about oil spills in other areas and States it is evident that the environment will never never be put back to the original state or as it is now. The properties will not be able to be sold and it is a hardship to all the residents and the county as well as the State. This is valuable lakeshore and recreational property for the entire State and it is ill-considered to put the pipeline in this area.

Second, if the present pipelines are old and in need of retirement--not continued use--why not dig them up and replace them with new pipes in the same location. Replace not add on!

Since, I suspect, the Enbridge company is not interested in replacement, but rather increased capacity, then an alternate route such as the proposed route from Grand Forks to Fargo and then following interstate 94 to the Twin Cities would seem reasonable given the transportation available as well as the new Cap electricity capabilities now being installed along I 94.

Thank you for your attention to this letter.

Jane Korte

1577 52nd St. SE

St. Cloud, MN. 56304 320.252.6086

22959 County Rd 7 Park Rapids, MN 56470



RECEIVED

MAY 14 2014

MAILROOM

November 2013

Judy Kreag
5127 Wyoming St.
Duluth, MN 55804

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

Re: Enbridge Pipeline Route, Docket Number 13-474

Honorable Commissioners:

As a concerned citizen I would like to express my opinion on the proposed Enbridge pipeline that is slated to go through private land and especially organic farms where many people (including myself) buy their produce. The proposed southern route would negatively affect their organic certification, would disrupt carefully tended soils in construction/maintenance and possible spills, and cut through the forests of these farms disrupting the biodiversity needed for their successful operation.

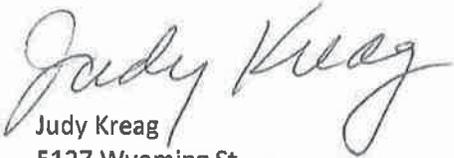
I would like to see the many spills that have taken place over the past few years (Line 3 in Minnesota, Kalamazoo River in Michigan, Wisconsin, farm in North Dakota, etc. etc. etc.) being addressed before more pipes are laid down in our state. How much time and effort has gone into being sure that what already exists is properly maintained before they can just keep laying more pipelines? These large companies do not have a very good safety and success rate. Also, it does not make sense to me to abandon a pipeline and then move a corridor to a new place. If Enbridge has an old pipeline like Line 3, which they plan on replacing, then they should replace it in the same place, rather than disrupting even more of beautiful Minnesota. The many patches and fixes that have taken place are said to be normal maintenance, but why does a pipeline that is put in correctly in the first place need so much "normal maintenance"? Why does a pipeline need to be abandoned? It only leaves behind disturbed and ruined ecology and disrupts even more land.

I am wondering why this company cannot stay in the existing corridor? An excuse of expense does not make sense to a billion dollar company. The new proposed pipeline goes through hundreds of people's property with no assurance that their wildlife and beauty will be maintained. Why is this disruption necessary when an existing pipeline could be used? We need to consider our earth and how we treat it. People who live in the country chose to be there for the beauty and serenity that it brings. It is unfair to take that away from them by sacrificing their land for the profits of a billion dollar company. This pipeline would move oil from North Dakota through our beautiful state, but we are using less and less oil. Thus, the benefit of moving this oil through our state is not for us so much as to enhance the profits of Enbridge. Instead of a for-profit company dictating Minnesota land use, we need to develop a strategic plan for Minnesota which would include the input of citizens, counties, the DNR, and other regulating agencies to plan together how we want hazardous materials to be piped through our state. That way we can choose and plan for our state's land use proactively.

There are too many unanswered questions to move forward on this huge and possibly unnecessary and dangerous project. Please listen to people's concerns. A few jobs and some money coming into our community for a few months, plus some additional revenue from taxes do not outweigh the damage and long term problems that we may be left with, especially considering this company's track record.

If for some reason you think this project is necessary, please reduce the risk and further damage to our beautiful trees, land and wildlife by requiring Enbridge to use the existing Northern route.

Thank you for your time and consideration.

A handwritten signature in cursive script that reads "Judy Kreag". The signature is written in black ink and is positioned to the left of the typed name and address.

Judy Kreag
5127 Wyoming St.
Duluth, MN 55804
218-525-0630

From: [Sandi Krueger](#)
To: [Hartman, Larry \(COMM\)](#)
Subject: REROUTE EMBRIDGE/NORTH DAKOTA PIPELINE OUT OF N MINNESOTA CLEAREST LAKES AREA
Date: Friday, May 30, 2014 6:12:20 PM

My dad fought on the front lines of Korea and China border in 1951 at beginning of that conflict . A book described how he knew to hide like a hunter in the North Minnesota woods and that kept him alive leading his troop to safety, as the endless Chinese marched by. The border at that spot was changed when he returned with his report.

And now the oil pipeline Enbridge reportedly 40 % owned by China is going to INVADE NORTHERN MINNESOTA ?

This seems to be a possible weapon to destroy our most precious commodity and state theme, fresh water in the Land of Ten Thousand Lakes.

The pipeline should be moved to a less delicate area, than by the State Park Itasca that is the SOURCE of Fresh Water for the Mighty Mississippi River...if they have a spill there it could flow 2000 miles to the Gulf. Also the wetlands and lake chains connected by rivers are threatened horribly by this pipeline and the other pipelines. They have not cleaned up from the 6 " pipelines, and anything that gets an oil spill never recovers. Now they are pushing ahead proposing 30 " and 36" pipelines ! That is too Big and Scary for the people and environment !!! This private company should Not be allowed to give area residents sudden eminent domain notices, Ever. And especially not before the final approval, which they have been busy doing as if the People Have No Rights. They are stealing the lives and land for the profit of strangers from other places that do NOT care about the Minnesota people.

What is the Legacy of Politics in 2014 ?

Please may the legacy be to protect why we are living here.

~Sandi Krueger

From: [Sandi Krueger](#)
To: [Hartman, Larry \(COMM\)](#)
Subject: WILL ENBRIDGE OIL LEAKS POLLUTE LAKEFRONT TOURISM, THE MISSISSIPPI RIVER, AND THE GREAT LAKES ?
Date: Friday, May 30, 2014 6:15:18 PM

From Alberta, Canada, to Superior, Wisconsin, the Tar Sands Pipeline and Enbridge, should not be allowed to destroy whatever they want. Who can enforce them to focus on safety instead of pushing more oil projects. They must clean up the messes they have made before expanding into more messes ! If they say they need to build a bigger pipeline to repair the old ones, or to keep the insane amounts of oil with explosion problems running by rail to be less, then Stop the pressure and madness and Slow Down.

After wreaking havoc among lives and nature through Canada and North Dakota and Minnesota on their way to the Great Lakes, does anybody have the power to stop the pace of this insanity ? Or are we losing our lives, homes, and land, to someone who is destroying us for their greed with polluting, killer diseases, and not enough protection for the people ?

Enbridge has a name that translates into " End Bridge." They hurriedly prepare to put a 30" pipeline in a delicate nature area, that has not had clean up from the neighboring 6" wide pipelines. It is time to stop them awhile, assess the damages, seek alternative routes, and find sanity at a safer pace. Who will enforce rights for residents air, land, water, and lives ?

Until they can clean up oil spills they should not be allowed to go in areas that do not want them. Is there fast enough power to the US regulators, who have a corrective action order out on the entire Great Lakes pipeline system ? If Enbridge's management program is inadequate, does anyone have power over the horrible accidents that need fixing ? How can the people be pacified and find trust, after 40 people were vaporized last July in Canada, and the Casleton train explosion last Christmas.

Certainly, to quickly destroy lives and lands future for someone's profit who is not from here and does not care, is illegal.

Are they above all laws ? Who protects the people ? Who is misled, lied to, or bribed ? Who are the decision makers behind the proposals and contracts ?

If a lot of people contact the Dept. of State and let them know Enbridge should not be allowed to increase pressure on the Alberta pipeline, is there ever enough people to make a difference ? If very many people contact their US Senator to say Enbridge needs to be held accountable for past mistakes, before being allowed to expand their pipelines through the Northern Minnesota Tourism Lake Country, and to not be allowed next to a State Park that is the water source of the Mississippi River, will Senators have the power to over-ride Enbridge ? Do the people and government have power over Enbridge ? Will Enbridge make parts of Northern Minnesota uninhabitable as they have done to other places ? Do you realize that clean water and air is much more important than oil, gold, copper, gravel, or sand ?

Fresh air and clean water is more important than this pipeline fraught with stress of explosions, oil leaks, property and life disasters, and no ability to recover after they touch it.

With oil pipelines, aggression, stress and fear rules, not love, compassion, and relaxing. This is the Land of Ten Thousand Lakes, people come to northern Minnesota for relaxing in pristine nature by the lake, that is why we are not in the city.

Until a fair balance to co-exist is found, do not allow the pipeline to invade and destroy us ! This strong oil industry is only focused on making lots of money with the power of winning the oil race. They should not be above democracy of what America is, or was, all about. Contracts need to consider the people they hurt, and be held accountable. Who Rules Us ?

How can we save our lives and environment from the destruction of Enbridge ? Slow down and find a better path. How fast will we be destroyed from the greed of oil ? Responsible people who care need to rule.

RECEIVED

MAY 13 2014

MAILROOM

May 10, 2014

Minnesota Public Utilities Commissioners,

In regards to PUC Docket 13-474

I request that the Minnesota Public Utilities Commission deny the certificate of need for the Enbridge Sandpiper Pipeline proposed southern route.

As a property owner on Long Lake in Hubbard County I am strongly opposed to this pipeline route because of the risks of oil leaks, explosion, fire and water contamination. This route is through Minnesota's most pristine lakes and porous soils.

I plea that the PUC will follow a precautionary approach to granting permits, that pose significant risks to Minnesota's precious natural resources. I plea that we slow down and make more observations on the fall out of the Bakken Oil boom to the state of North Dakota. I plea that the PUC deny Enbridge's Certificate based on the company's safety record of pipeline spills and clean up. I plea that the State of Minnesota will use our resources to improve safety of the existing pipelines and rail transport of oil.

Thank you.

JULIE KHETTIN

17159 DRENNICATCHEL TRAIL, PARK RIDGE, MN.

RECEIVED

APR 04 2014

MAILROOM

Judith Kuusisto
11801 Amber Lane
Merrifield, MN
56465

Larry Hartman, Environmental Review Manager
Energy Environmental Review and Analysis (EERA)
Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101

Re: Enbridge Pipeline Route, Docket Number PL-6668/PPL/PPL-13-474

Honorable Commissioners:

I am opposed to Enbridge Pipeline's (North Dakota Pipeline Company) LLC's proposed southern route for the Sandpiper Pipeline.

I am concerned that the "preferred southern route" is at odds with your PUC selection criteria. This land provides food, water, recreation and wildlife habitat. A pipeline through this area would damage existing and planned future land use for the natural environment – including the air, water, plants, animals, and recreation opportunities for citizens and for our vital tourist industry. Economies within the route are already sustainable economies, with jobs in agriculture, forest and wetland management, and recreation filled by people who live and raise families in the area. Jobs for installation will be filled by workers who come from afar and move on to the next location. We should be minimizing the disturbances to our precious forests, wetlands and water as natural resources and features. Clear cutting 120 foot wide right-of-ways and excavating trenches sixty feet wide and six feet deep to lay pipe goes against sustainable practice. Management plans should be for sustainable land management, nurturing soil, forests and wetlands as living organisms with life-producing power, instead of maintaining pipelines and waiting for toxic spills. Sustainable environmental activity means preserving long term growth, minimizing disturbance. A pipeline along an environmental route would mean disrupting natural areas, clear cutting in perpetuity.

Instead of opening a new right of way through private land, why not use sustainable right-of-way, including existing rights-of-way, or including replacing existing obsolete line, adding line on an existing right-of-way, or using a former transportation right of way? Surely these would show a more reasonable and prudent alternative.

For these reasons, if the Sandpiper Pipeline is deemed necessary, Enbridge should be required to route the pipeline through an area that will not jeopardize a vulnerable aquifer, the Mississippi Headwaters and the lakes, streams, and rivers of Hubbard County and Northern Minnesota.

Sincerely,



Judith Kuusisto

RECEIVED

APR 04 2014

MAILROOM

Kaari Kuusisto
1183 Sherren St W
Roseville, MN
55113

Larry Hartman, Environmental Review Manager
Energy Environmental Review and Analysis (EERA)
Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101

Re: Enbridge Pipeline Route, Docket Number PL-6668/PPL/PPL-13-474

Honorable Commissioners:

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Instead of opening a new right of way through private land, why not use sustainable right-of-way, including existing rights-of-way, or including replacing existing obsolete line, adding line on an existing right-of-way, or using a former transportation right of way? Surely these would show a more reasonable and prudent alternative.

For these reasons, if the Sandpiper Pipeline is deemed necessary, Enbridge should be required to route the pipeline through an area that will not jeopardize a vulnerable aquifer, the Mississippi Headwaters and the lakes, streams, and rivers of Hubbard County and Northern Minnesota.

Sincerely,



Kaari Kuusisto

Rice, Robin (PUC)

From: Kaari K <kaarikuusi@hotmail.com>
Sent: Wednesday, April 02, 2014 11:23 PM
To: #PUC_Public Comments
Subject: Letter Regarding Docket Number 13-473/13-474

Docket number is 13-473 for the Certificate of Need and 13-474 for the Route Permit

Kaari Kuusisto
1183 Sherren St W
Roseville, MN 55113
April 2, 2014

Larry Hartman, Environmental Review Manager
Energy Environmental Review and Analysis (EERA)
Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101

Re: Enbridge Pipeline Route, Docket Number PL-6668/PPL/PPL-13-474

Honorable Commissioners:

I am opposed to Enbridge Pipeline's (North Dakota Pipeline Company) LLC's proposed southern route for the Sandpiper Pipeline.

I am writing to express my deep concern that the "preferred southern route" is at very much odds with your PUC selection criteria. The land being considered provides food, water, recreation and wildlife habitat. A pipeline through this area would irreparably damage existing and planned future land use for the natural environment – including the air, water, plants, animals, and recreation opportunities for citizens. Economies within the route are currently sustainable economies, with jobs in agriculture, forest and wetland management, and recreation, and are filled by people who live and raise families there. Jobs for the proposed pipeline installation be filled by workers who come from afar and move on to the next location. We should be minimizing any and all disturbances to our precious forests, wetlands and water as natural resources and features. Clear cutting 120 foot wide right-of-ways and excavating trenches sixty feet wide and six feet deep to lay pipe goes against sustainable practice. Management plans should be for sustainable land management, nurturing soil, forests and wetlands as living organisms with life-producing power, instead of maintaining pipelines and waiting for toxic spills. Sustainable environmental activity means preserving long term growth, and minimizing disturbance. A pipeline along an environmental route will cause irreparable harm to aquifers and natural areas, and clear cutting in perpetuity.

Instead of opening a new right of way through private land, why not use sustainable right-of-way, including existing rights-of-way, or including replacing existing obsolete line, adding line on an existing right-of-way, or using a former transportation right-of-way, including rail lines? Surely these show a more reasonable and prudent alternative. Further, I request a full Environmental Impact Statement.

For these reasons, if the Sandpiper Pipeline is deemed necessary, Enbridge should be required to route the pipeline through an area that will not jeopardize a vulnerable aquifer, the Mississippi Headwaters and the lakes, streams, and rivers of Hubbard County and all the Lake Country of Northern Minnesota.

Sincerely,

Kaari Kuusisto

RECEIVED

APR 03 2014

MAILROOM

29 March, 2014
Larry Hartman
85 7th Place East, Suite 500
St. Paul, MN 13-474

Dear Mr Hartman:

I recently read that Enbridge has reported over 720 pipeline spills totaling at least 132,715 barrels of oil, more than half the Exxon Valdez spill. (Watershed Sentinel, March-April 2012)

Enbridge could reengineer the existing route to increase its capacity and improve on issues which have resulted in the previously reported leaks, and minimize the long term footprint through Minnesota.

There is no reason to take local land and waters from local businesses. Your heart decision is with you forever.

Best Wishes, Sincerely,

Jerome E. Kwako M.D.
3830 East Superior St.
Duluth, MN 55804

Jerome E. Kwako M.D.



Public Comment Sheet

North Dakota Pipeline Company LLC Sandpiper Pipeline Project

PUC Docket No. PL-6668/PPL-07-13-474

PLEASE PRINT CLEARLY

Name: Richard R. LADD

Representing: self

Email: rladd@ymail.com

Address: 30420 480 ST
PALISADE, MN 56469

Tel: (218) 845-2097

COMMENTS

MARCH 17, 2014

I HAVE LAND IN LOGAN TOWNSHIP AND LIVE IN PALISADE, MN. AND MANY OF MY FAMILY MEMBERS HAVE PROPERTY IN THESE TOWNSHIPS AND I WAS WONDERING IF THE OWNERS OF LAND IN LOGAN TOWNSHIP, WORKMAN TOWNSHIP, WAUKENABO TOWNSHIP, JEVNE TOWNSHIP AND MCGREGOR TOWNSHIP (AREAS MOST AFFECTING US) REGARDING THE PROPOSED PIPELINE RIGHT OF WAY – HAVE RECEIVED ANY TYPE OF COMPENSATION – MONETARY OR OTHERWISE – AS OF THE ABOVE DATE – I ATTENDED YOUR RECENT INFORMATIONAL MEETING IN MCGREGOR ON MARCH 13, 2014 AND NOTHING TO THIS AFFECT WAS MENTIONED.

THANK YOU FOR YOUR ANTICIPATED PROMPT REPLY –

SINCERELY,

R. LADD
30420 480 ST
PALISADE, MN. 56469

Please submit comments at meeting to EERA staff or send to:

Larry B. Hartman
Energy Environmental Review and Analysis
Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Email: larry.hartman@state.mn.us
Toll Free: 800-657-3794
Voice: 651-538-1839
Fax: 651-539-0109

Electronic Submittal: <http://mn.gov/commerce/energyfacilities/publicComments.html?projectId=33599>

»»»If mailing, fold along dotted line in sequence noted and tape closed «««

Comments Continued:

Five horizontal lines for handwritten comments.

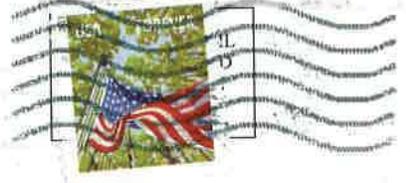
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MINNEAPOLIS MN 554

18 MAR 2014 PM 9 T



RECEIVED

MAR 20 2014

MAILROOM

Larry B. Hartman
Energy Environmental Review and Analysis
MN Dept of Commerce
85 7th Place E, Ste 500
St. Paul MN 55101-2198

55101+6013



(Second-Fold here)



From: [Winona LaDuke](#)
To: [Hartman, Larry \(COMM\)](#)
Subject: Winona LaDuke Comments regarding PUC Docket Number 13-473 and 13-474
Date: Thursday, May 29, 2014 1:30:43 PM
Attachments: [14-4-4 Motion for Alt Route 29-94 FB.pdf](#)
[cycles ojbwe plant names.ppt](#)
[LaDuke May 28 Comments regarding the Sandpiper Pipeline.docx](#)

Larry Hartman,

Please see the attached formal comments regarding PUC Docket Number 13-473 and 13-474: the Sandpiper Pipeline proposal. Attached are the appendices mentioned in the text of the letter. I will be forwarding along Appendix 4: Documentation from the Leech Lake Cultural Heritage Study on the Enbridge Line shortly.

Miigwech (thank you) for your careful attention to this critical matter.

Winona LaDuke
Anishinaabe (Ojibwe), White Earth Reservation



Winona LaDuke

5144 East Round Lake Road, Ponsford, MN, 56575
winonaladuke1@gmail.com

May 26, 2014
RECEIVED

MAY 30 2014

MAILROOM

Larry Hartman, Environmental Review Manager
Energy Environmental Review and Analysis (EERA)
Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul MN 55101
Email: larry.hartman@state.mn.us

Re: PUC Docket Number 13-473 and 13-474

Dear Mr. Hartman,

I am enclosing my written comments with regards to the proposed Sandpiper pipeline which cross my reservation, impact my organically certified wild rice, impact the medicinal harvests of my family, and cause hardship for myself and my Anishinaabe community. The pipeline needs to be re-routed out of the region into a corridor known as 29-94.

Written Comments of Winona LaDuke with regards to the Sandpiper Pipeline

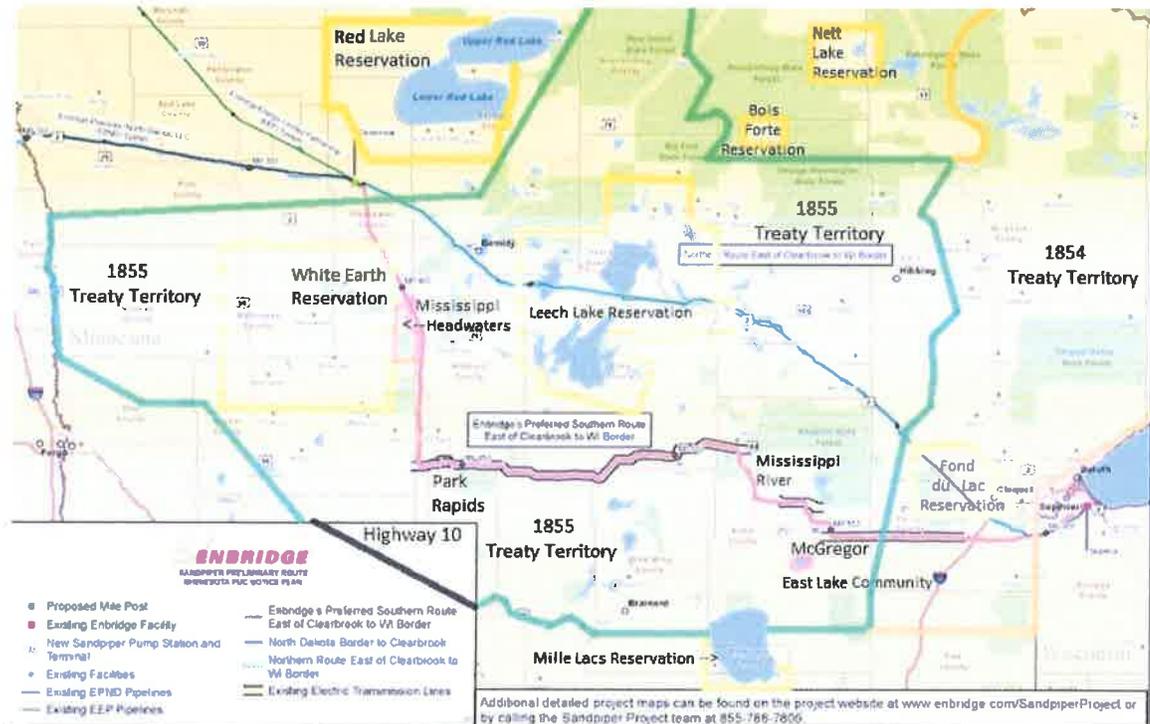
Indaaw Anishinaabikwe. Makwa indodaem. Gaawaaabaabaanikaag ishkoninging indoonjibaa. I harvest wild medicines, teas, wild rice, berries, meats and fish from throughout the 1855 treaty area, and have done so for my entire adult life. This is the tradition that is essential to my family's food, cultural identity, and way of life, minobimaatisiwin.

I am writing with regards to the proposed Sandpiper line, with particular emphasis on the impact this line will have on our ecosystem and our collective ability as Anishinaabe people to continue the way of life which makes us Anishinaabeg, a way which is tied to this land. This way of life, minobimaatisiwin, is a covenant between our people and the Creator, and the continuity of this way of life is essential to our survival as Anishinaabe people.

I am writing to make comments on both the process of the Enbridge Public Utilities Commission deliberations, and as well to propose alternative routing, in accordance with the comments. These comments highlight:

- Enbridge Route Proposal and the lack of any observation or note as to Indigenous territories, harvesting, cultural, ecological and food sources essential to the Anishinaabeg people.
- Background of the Anishinaabe in this region, and our harvesting way of life.

- Treaty and International Protocols involving the protection of these resources and our way of life.
- Diminishment of the quality of the natural wealth of Anishinaabe Akiing by the proposed Sandpiper route, absent of a spill.
- Organic Certification of Wild rice from the White Earth reservation and the need for the Public Utilities Commission, based on precedent of the Garden of Eagan Minnesota Pipeline Case to move the pipeline route away from the organic certified wild rice lakes of the Anishinaabeg on the White Earth reservation.
- Diminishment of the natural wealth of Anishinaabe Akiing and threats to our people and relatives, with the potential of a spill.
- Appendices
 - Maccabee
 - Organic Certification Certificate
 - White Earth Tribal Intervention
 - Documentation from the Leech Lake Cultural Heritage Study on the Enbridge Line.
 - Declaration on the Rights of Indigenous Peoples
 - Ojibwe Plant Names and Uses



Leech Lake Heritage and Cultural Assessment of Enbridge Pipeline proposal

I. The Enbridge corporation or the North Dakota Pipeline Corporation has submitted a route without any consideration for the Anishinaabeg people in the region, and without any consultation whatsoever with either elected governments of the White Earth Anishinaabe (see

Appendix 4), who have intervened in the Sandpiper PUC Dockets 13-473 and 13-474, or tribal members whose livelihood, and very existence is threatened by this pipeline. In fact, most maps supplied by the Enbridge corporation, lack any tribal lands, as well as even the Mississippi River or major bodies of water. There is no pretense, in this that there has been any diligence or attempt to review the environmental and social impacts of this project on the region. In terms of the Native community, individual tribal members, numbering 30,000 retain harvesting rights within the 1855 and 1867 treaty areas, and rely on the food and natural wealth of these areas for significant sustenance, it is clear that the Enbridge proposed route has no reference to the significance of the impact of the pipeline route, even without a spill on our community. We note this in particular, as we refer to Enbridge documents:

From Enbridge's Minnesota Environmental Information Report on Sandpiper submitted to the PUC as part of the company's, the absence of any information on this is clear. The following paragraphs are excerpted in part from that report:

"EPND assessed the route from Tioga, North Dakota to Superior, Wisconsin, with the intent of maximizing existing right-of-way to the extent practicable while identifying specific areas where co-location may not be practicable. The first step in the environmental review of the route and the selection process consisted of collecting publicly available environmental data to identify routing constraints. The sources of data consisted primarily of: Geographic Information Systems ("GIS") digital information layers, including U.S. Geological Survey ("USGS") topographic maps, USGS land use database, U.S. Department of Agriculture ("USDA") Farm Services Agency aerial photography and GIS data, National Wetlands Inventory ("NWI") maps, Minnesota Department of Natural Resources ("MNDNR") Natural Heritage Information System ("NHIS") data, Minnesota Department of Transportation ("MDOT") highway maps, USDA state soil geographic (State Soil Geographic ["STATSGO2"] and Soil Survey Geographic ["SSURGO"]) databases, and other natural feature databases obtained from the MNDNR website and other state and federal sources. Existing major utility rights-of-way also were identified for potential use in co-location...."

I specifically note, that there is no evidence of any consideration of the significance of the wild rice lakes, culturally important areas, areas of ecological significance, and our traditional way of life in the delicate and very well preserved ecosystems of the north, by the Enbridge Corporation. Enbridge reports that 75 percent of this greenfield route will travel along existing utility or power-line corridors and is allegedly designed to avoid areas of high concern, such as towns or wetlands. However, the Sandpiper will cross 76 public waterways as it travels through Minnesota. The Enbridge report continues:

"2.3.3 Comparison of Route Alternatives

EPND conducted a detailed quantitative analysis of environmental impacts along each route alternative identified during the routing process. The analysis used the same sources of publicly available environmental data described in Section 2.3.1 to compare a variety of factors, including proximity to existing rights-of-way, wetlands, highly wind erodible soils, bedrock outcrops, prime farmland soils, perennial waterbodies, national forest land, tribal land, state forest land, state Wildlife Management Area ("WMA") land, state Aquatic Management Area ("AMA") land, railroads crossed, roads crossed, and other site-specific matters. No field survey data was used in the alternatives analysis as field surveys were not completed along the alternate routes. EPND identified and analyzed four route alternatives, which are presented in the following subsections and shown in Figure 2.3.2-1. None of the route alternatives were adopted as the Project's preferred route".

Without any consultation with Native people, and without any knowledge of the foods, medicines, and cultural harvests which are essential to our community's health and wellbeing, it is clear that the Enbridge Corporation has proposed a route which is entirely inappropriate, and must be reconsidered. What we do know, is that there is an immense amount of biodiversity, and high quality lakes, waterways and ecosystems in the region, which the Anishinaabeg have protected and nurtured for thousands of years. This shows a clear lacking of process, and illustrates the need for the Public Utilities Commission to recognize fully the essential needs to have First nations in the discussion.

II. Background on Anishinaabe in this region

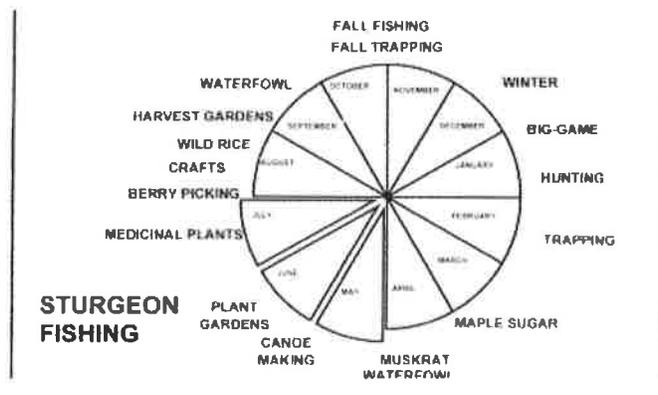
Who We Are



Part of the dilemma of this PUC process, is that the PUC has no idea as to who we are, the traditional economy, spiritual practice, and unique culture and ten thousand years of life of Anishinaabeg. Also, the PUC has no experience with the treaties, federal and state laws, nor the international laws (see Appendix 6) which apply to Indigenous peoples. That is why, in part, this process is challenging for all those involved. However, all of this would be important, as the decisions which are under consideration by the Public Utilities Commission. That, is very much why Honor the Earth and the White Earth Tribe have deep concerns about the capacity of the PUC to make

decisions in Anishinaabe Akiing.

We are a people of islands, lakes, rivers, forests, and immense biodiversity. Our traditional knowledge is specifically attuned to an ecosystem which has sustained a million of our people since time immemorial, or perhaps in the time of the chimokoomanag, 8000 years, for that is how long back our ancestors bones are found here. This has included a plentiful harvest of medicinal plants, and foods, ranging from wild rice on our lakes and rivers, to mashkiikii in our traditional muskeg, known perhaps by those who have no knowledge of our ecosystem, as swamps and bogs. Some of our most significant medicines are found in those places. This area, the Gaawaabaabaanikaag, and the region which surrounds it, are considered the medicine chest of the Anishinaabeg people. These medicines are often the foundation of bio-pharmaceuticals, and subsequently western medicine, but their origins are here in the forests and prairies of our region, a region which is teeming with life.



The harvesting of traditional foods from our Anishinaabe Akiing sustains not only a cultural and spiritual practice, but also provides essential nutrition to our communities.

In studies undertaken over the past three decades, we find that at least one third of our population on the reservation and in adjoining reservations, secure a significant amount of their food from wild harvests. This food is essential to the health of our community, as our community has had severe impacts from the forced introduction of non-traditional foods to our people, through various federal and state processes. Although I realize that the entire food system and history of denial of access to traditional foods, and transition to a non-Anishinaabeg food system, is not within the purview of the Public Utilities Commission, the absolute clarity that the foods and medicines which grow and are harvested within the territory to be impacted by the proposed Sandpiper Line, are within the essential need to be considered by the Public Utilities Commission. The need to change, significantly, the designation of the route, from one of extremely high impact to one of low impact is essential. This food source is essential, and is recognized as a core principle of human rights, the right to food, in both our treaties, which specifically discussed our harvesting and gathering rights, and as well, under international accords and protocols. In short, the pipeline route will impact significantly the harvesting of foods and medicines in our region.

This point is well noted in correspondence to the Public Utilities Commission by Mille Lacs DNR Commissioner Susan Klapel, as the Mille Lacs Band of Ojibwe requested that the “ preferred route” not be considered, due to the afore mentioned problems. In specific, the March 29 letter to the Public Utilities Commission notes,

“... Enbridge states ‘EPND [refers to avoid recorded and unrecorded sites and make revisions to minor routes deviating 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’. As Commissioner Klapel notes, “It is not possible to identify, let alone to avoid sites of historic, archeological and cultural significance without consulting early in the process with the relevant Tribal Historic Preservation Office. .. To choose (this route) raises serious concerns as to Enbridge’s ability to identify and avoid sites of historical, archeological and cultural significance and the thoroughness of the selection process....”

III. Treaty Negotiations, Rights and International Protocols with regards to continued harvest and the way of life of Anishinaabeg people in the north.

In all of our treaty negotiations, it was clear that we retained the rights to a continued harvest in these areas, and those rights would not be diminished. The two particular treaties which are implicated in the proposed Sandpiper Pipeline case are the 1867 and the 1855 treaty. In the discussion of the 1855 treaty at the US Supreme Court, the Court stated:

“... The entire 1855 treaty, in fact is devoid of any language expressly mentioning and much less abrogating usufructuary rights. Similarly, the Treaty contains no language providing money for the abrogation of previously held rights... The 1855 treaty was designed primarily to transfer Chippewa land to the United States, not to terminate Chippewa usufructuary rights. ...”

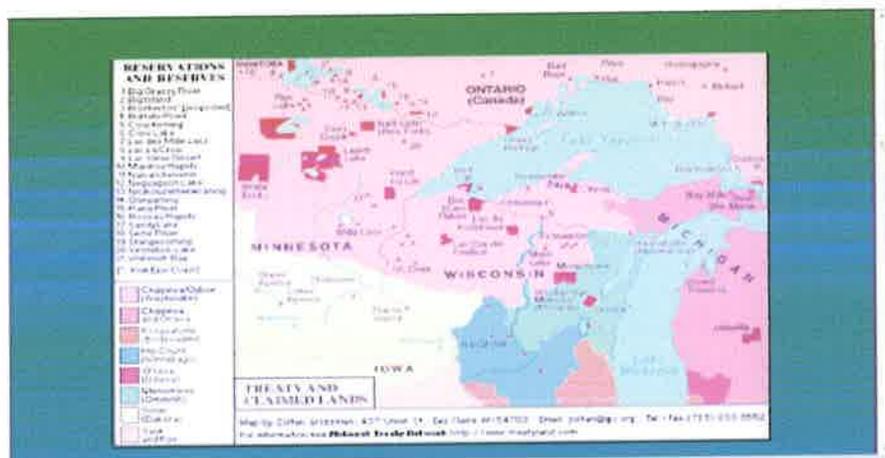
In fact, in discussions held by our Fond Du Lac Band representatives in 1864 it is very clear that all of these rights were retained, and that we did not relinquish any of these rights to the United States.

“Aaniish go sa maa ninga-bagidinamawaa onow isa gegwejimijin zhingwaakan (Well, I will offer it to him this which he asks of me white pine). Gedako-minoga’igeyan, mii apii begidinamoonaan (As far as you will cut well it’s that where what I offer you). Gaawiin wiin owidi ojibikaawid gibagidinamoosinoon (Not over here ha...ving roots I don’t offer it to you). Miiwaa maandan dekonamaan ininaatig, miinawaa maandan mitigomizh miinawaa maandan bezhig mashkosiw dekonamaan, manoomin nindizhi-wiindaan maandan, gaawiin isa mamin gibagidinamoosinoon (And again this which I hold maple, and this oak, and this one grass which I hold, manoomin I so call it this, not these I don’t offer it to you)” (p.44). From the Statement made by the Indians: A bilingual petition of the Chippewas of Lake Superior, 1864 regarding the Treaty made at Fond du Lac. We were selling white pine trees, but were very specific about them not taking our maple, oak, and wild rice.

The above discussion occurred in 1864, nine years after the 1855 treaty, and reaffirms that we have always had significant economic and cultural interests in the preservation of our assets.

The Sandpiper crosses through the 1855 treaty area, the 1837squarely, and as well, crosses through the 1867 treaty created White Earth reservation, within a short distance from Rice Lake our largest harvesting lake for wild rice. The pipeline proposal by the Enbridge Company, AKA North Dakota Pipeline Company has no regard for these territories, and the natural wealth upon which our people reside, because it has no experience with this way of life. A route which does not cross in the middle of our territory would be much preferred for our people, and I am proposing that route in these comments. (See Appendix 1).

It would be apparent that these rights were to be enjoyed and continued in perpetuity, and that there should be no diminishment of these rights based on the folly of poor decision making by the other party in these treaties, the United States.



I also believe, that the US Environmental Protection Agency must carry out an Environmental Impact Statement on the proposed pipeline project, due to the significance of treaty resources within the territory. . . . “... Treaties are the law, equal in statutes to federal laws under the US constitution, and ...

the US has the responsibility to honor the rights and resources protected by the treaties”. Bob Perciasepe, Deputy Administrator of the EPA, wrote to all regional administrators in 2013, continuing, “ .. While treaties do not expand the authorities granted by the EPAs underlying statutes, our programs should be implemented to protect treaty covered resources where we have the discretion to do so.”

United Nations Declaration on the Rights of Indigenous Peoples

In September of 2007, the United Nations General Assembly passed the UN Declaration on the Rights of Indigenous Peoples. This document provides guidelines for negotiations and protocol in relationship to Indigenous nations and peoples. In this case, this UN protocol would call upon signatories (including the US) to carry out policies and practices in accordance with the Protocol. Included in this document, are the following sections (Appendix 6):

“Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

- 1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.*
- 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.*
- 3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.*

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples’ laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

- 1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.*

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented....”

It is clear that the pipeline project, as it is proposed will violate the intent of the United Nations and in particular the UN Declaration on the Rights of Indigenous Peoples.

IV Significance and Value of our Traditional Harvests which would be impacted by the proposed Enbridge pipeline route.

There is not a price tag for the actual value of the traditional harvest of Anishinaabeg people. In economic terms this is unquantifiable, and will remain as such, although there are some elements of this wealth which have been quantified historically. The traditional wealth of our community is contained both in harvests which are consumed in the communities and the continuation of a modest living. In the historic era, the harvests have been substantial, one village in 1865 sold 453,252 pounds of maple sugar. Another case, documented,

"Their principal food was wild game, fish and hulled corn. They caught large quantities of sturgeon and trout, and they made immense quantities of maple sugar. At the proper season in the spring, the entire settlement would remove to their sugar-camps, often remain two months, each family making eight or ten hundred pounds of the finest sugar I ever saw".

Our traditional harvesting of ginseng, wild rice, bear root, mushrooms, has continued for thousands of years, and is also a market economy. Adapted economics of this practice, include the present day harvesting of leeches for bait and medicinal use which are a source of income for many Anishinaabe traditional harvesters in our region.

We know that the value of our food harvest, if it was replaced with store bought foods would be hundreds of millions of dollars of food now, in a replacement cost. We also know, that there is no adequate replacement for our food due to the absolute need of Anishinaabe people to eat our traditional foods and medicines. This



Winona LaDuke, fiddle fern harvest within the 1855 treaty area, 2014

is extremely clear due to the fact that a forced transition to non-traditional foods, has resulted in a diabetes level which is much higher than the general population, with approximately one third of our people suffering from this disease. This is a cripple to our community, and the loss of access to more traditional foods through a diminishment of the quality of our ecosystems would be devastating, and in no way is considered in the Enbridge project map.

As well, a significant amount of traditional medicines are used by our Anishinaabeg people and are contained along the pipeline route, as seen in the GIS map. These culturally significant medicines provide essential relief and a maintenance of good health for our Anishinaabeg people. Some examples of these medicines include labrador tea, wild ginseng, osha root, wiike, fiddlehead ferns, mushrooms, chaga, sweet ferns, high bush cranberries, cattails, and numerous other medicines. These medicines are contained within aquatic, marshland, and lake shore ecosystems and are very sensitive to disturbance. In an interview with Terri LaDuke, herbal doctor from the White Earth reservation, who has lived on the Leech Lake reservation most of her life, and harvests throughout the 1855 treaty area, she talked about the impact of the last Enbridge Pipeline (Alberta Clipper) on traditional harvesting in Cass Lake Village by elders,

“There used to be all morels there, so many morels. Then they came through with that pipeline. There are no morels there now. Those old ladies, I used to take them out, and get those mushrooms. It was easy. There are mushrooms in other places, but there were so many there, and it was easy for those old ladies. Now they have nothing”, (interview May 25, 2014).

What is important about this testimony, is that there was not a spill in this area, just the disturbance of the pipeline itself. This is throughout the pipeline impact area in Cass Lake, that traditional medicines and foods no longer grow in that area, and hence, there is significant cause for concern. This cause for concern was documented in the Leech Lake Cultural Heritage Study, when the Enbridge Company sought to move the pipeline to another location on the reservation. From the interview with Ms. LaDuke:

“...Yeab, um, it was in the mid-90s, I think it was 1996. It was the year of the Indigenous games that were in British Columbia, whatever year that was. ‘Cuz I used my money that I earned, to send my kid out there. And we walked their proposed route, across the reservation, the Leech Lake reservation, and what we did was graphed, we gridded, we did this graph on their route of all the plant life that was there, and what was our food, and what was our medicine and that basically saying you’re going to wreck our cultural heritage if you put that pipeline through there. And our aim was actually not to stop them, we just wanted to record. There was a few people out there who wanted us to be out there to stop them, so that was in the back of our mind too. It was me and Jim Bedeau and Pete White and a couple teenagers, can’t remember their names, young cats. Had this beat up old van that we got from the Heritage Sites office to go ride around in. Yeab, we was out there every dusty day in June and July. It was hot out and we were out there in the brush. We found all kinds of rare plants that, y’know, we know what their uses are for but the general public does not, but that doesn’t mean they’re not important, right? So, anyway, this route was to be directly, like, south of the existing old pipeline that has been here for 50-60 years and our work essentially shut them down, they couldn’t expand. They had to build their extension that they put through here in the same place as the old one, they couldn’t take any more of the reservation.”

Ininitaagoog: Maple Syrup

Abundant in our region, and a major source of nutrition and wealth, is the maple syrup industry of the Anishinaabeg.

The maple stands in the region proposed for the Enbridge route would suffer from increase in traffic to the region, cutting into the integrity of the stands, and related impacts of climate change, which are not discussed in any way with regards to the Enbridge Pipeline Proposal, but remain a grave concern to our Anishinaabeg people. The recent release of studies by the Obama administration documents that there has been a temperature increase, and the feedback on this temperature increase is just beginning. Maple trees and our harvest are extremely weather dependent.

Manoominikewag: They are Making Wild Rice

Wild rice is an essential food for Anishinaabeg people and contains twice the protein and half the calories of domestic rice. This rice is essential to our nutrition. The Enbridge pipeline proposal traverses less than two miles from our largest wild rice lake in Minnesota, Big Rice Lake, which is the source of over two hundred thousand pounds of wild rice for the White Earth Anishinaabeg. This rice provides essential income valued at perhaps over two million dollars to our tribal economy, as well as food for our people. Of particular concern in the Enbridge proposal, is the impact of the proposed pipeline on Rice Lake, which is within the 1867 treaty boundaries of the White Earth reservation. Only Anishinaabeg are allowed to harvest on this lake.

There are over 100,000 acres of naturally occurring wild rice beds in Minnesota, as compared to 20,000 acres of paddy rice. This wild rice represents an immense nutritional value, spiritual value to tribal communities and an immense source of economic prosperity for families. Historically, our wild rice has been impacted by dam projects and in the historic mining zones, with the increase in contaminants and sulfuric acid in the waters. The wild rice does not grow in polluted areas. This remains a regulatory challenge, which cannot be met by any changes in water quality due to problems with a proposed Enbridge pipeline.



As Commissioner Klapel of the Mille Lacs Band of Ojibwe notes, in her letter to the Public Utilities Commission, the present proposal and analysis provided by Enbridge is entirely inaccurate in the hydrological assessment provided by the company to the Public Utilities Commission, falsely representing the risk. Enbridge states, *"Ground disturbance associated with pipeline construction is primarily limited to the upper ten feet which is above the water table in most of the region's aquifers..."* Enbridge's generalized claim depicting the water table as ten feet deep is not accurate in the Big Sandy or Rice Lake watersheds. Based on NRCS soil data, the depth of the water table in these water sheds is measured in inches, not feet..."

There are several very clear points at this time. The first, is that the Enbridge Corporation has not done any ecological, cultural, historic impact analysis which is accurate to the region in which they propose a pipeline. The second note, is that forwarding this proposal will cause irreparable harm to our delicate ecosystem. The proposed Sandpiper pipeline will diminish our foods, and that is without a spill.

Like the concerns of Mille Lacs Band, which has specifically requested that the PUC, "not grant Enbridge the corridor permit for the southern route", the aquifer and delicate ecology of the wild rice beds of the northern portion of the pipeline will also be impacted significantly, and Enbridge has not used accurate data and methodology for its proposal. Rice Lake is the centerpiece of the wild rice economy and way of life of western Minnesota. This wild rice lake is essential to the continued harvesting ability of the Anishinaabeg for food and nutrition. The proposed pipeline route goes within two miles of Rice Lake, which, again, is a source of organically certified wild rice for both use by our people and for sale by premium markets such as the White Earth Tribal government and the Native Harvest, a Native American wild rice purveyor, with over \$100,000 in wild rice sales annually. Also, it should be noted, that the wild rice from White Earth and our related communities is considered a Presidia by Slow Food International, a truly heritage food.

V. Organic Certification of Wild Rice on the White Earth Reservation would prohibit the use of this route by the Enbridge Company, and the route must not pass by the Wild rice beds and watershed of the White Earth reservation.

The White Earth reservation produces and markets organically certified wild rice, which is available to retail and wholesale customers throughout the world. As discussed previously, we have won the International Slow Food Award for our wild rice, and our wild rice is certified organic. In particular reference to Big Rice Lake, the lake which is in close proximity to the Enbridge Proposed Pipeline, it is clear that the organic certification of our wild rice was not considered in Enbridge's routing proposal, based on the previous actions by the Minnesota Public Utilities Commission in the case of the Minnesota Pipeline Company and the Garden of Eagen organic farm (See Appendix 2).

The pipeline is within the watershed of Big Rice Lake, and the tributaries to the wild rice lake. The wild rice which originates from this lake is organic certified under the authority of the USDA, (see Appendix 3). The proposed pipeline would severely threaten the organic certification of Wild rice for the Anishinaabeg people.

In the case of the Application of the Minnesota Pipeline Company for a routing permit for a crude oil pipeline (PL, Minnesota PUC, No PL 3/PPL-0502003 (2006), from the legal proceedings and articles regarding the Public Utilities Commission consideration of a pipeline route which would go through an organic farm, it was noted that,

"The potential for loss of certification is a significant factor supporting the need for additional protection of organic farms from the adverse impacts of energy infrastructure. National Organic Program standards preclude prohibited substances for a period of three years immediately preceding harvest of an organic crop. Contamination with prohibited plant nutrients, heavy metals, or residues of prohibited substances is specifically proscribed."

The Outcome: "MPL entered into negotiations to resolve issues raised by the Gardens of Eagan. MPL agreed to an alternative route that would not cross the Gardens of Eagan farm at any point.⁶⁷ Although MPL would not agree to the policy of avoiding all organic farms unless there was no feasible alternative, it agreed to a number of protections of organic farms that may serve as an incentive for avoidance of organic lands. The Minnesota Department of Agriculture participated in these negotiations and gave its support to including protections for organic agriculture in an appendix to the AIMP applicable to the MinnCan pipeline project.⁶⁸ MPL agreed to implement what they believe was the first organic agriculture mitigation plan in the country applicable to pipeline infrastructure. This agreement was made part of the record of the MinnCan pipeline routing proceeding on

September 5, 2006.69 The following requirements of the Organic Appendix to the AIMP were incorporated in the routing permit and made legally enforceable along the entire permitted route..” (DRAKE J. AGRIC. L. 19, Copyright (c) 2009 Drake Journal of Agricultural Law, Spring, 2009, 14 Drake J. Agric. L. 19 File: Maccabee Macro FINAL.doc Created on: 5/10/2009 3:44:00 PM Last Printed: 6/30/2009 3:02:00 PM 2009] Agricultural Impact Mitigation for **Organic Farms**)

In the case of our organically certified wild rice crop from the White Earth reservation, in particular from the Rice Lake, we are deeply concerned about the impact of the proposed route on our wild rice, and respectfully request that the route be, once again removed from the areas of wild rice harvesting.

VI. Need to consider the inevitable impact of a spill from an Enbridge pipeline into the ecosystem of the Anishinaabe people.

I believe, as do many others, such as the Friends of the Headwaters, that the Department of Commerce Environmental Review staff may believe that the Comparative Environmental Analysis for alternative routes and comments from any state or federal agencies or from the general public are necessarily constrained to impacts of pipeline construction only. I wish to point out that under PUC Rules 7852.1900 CRITERIA FOR PIPELINE ROUTE SELECTION states in Subpart. 3 Criteria and in section J:

“Criteria. In selecting a route for designation and issuance of a pipeline routing permit, the commission shall consider the impact on the pipeline of the following:

*J. the relevant applicable policies, rules, and regulations of other state and federal agencies, and local government land use laws including ordinances adopted under Minnesota Statutes, section 299J.05, relating to the location, design, construction, or **operation** of the proposed pipeline and associated facilities.” (note: bold underlining added by FOH)*

Therefore, I request that the Comparative Environmental Review for the preferred route and all alternative routes include all *operational* impacts of the proposed Sandpiper pipeline. As well, since this pipeline crosses the lands of the Anishinaabeg people, as protected under treaty agreements, I am sure that a full Environmental Impact Statement must be secured. Operational aspects of crude oil pipelines over their entire projected life history include the high potential for pipeline failure, rupture, leaks and other releases of product into the environment. Probabilities of these types of releases have been found in other recent pipeline project environmental reviews to be high enough to be considered reasonably predictable impacts of operating crude oil pipelines over their projected lifetimes. These were the findings of a recently published 2014 Federal Environmental Impact Statement (EIS) prepared by the U.S. Environmental Protection Agency (EPA) for the proposed Pebble Mine in Bristol Bay Alaska. The full EIS is available on line at:
<http://cfpub.epa.gov/ncea/bristolbay/recordisplay.cfm?deid=253500#Download>

In Chapter 11 of the aforementioned EIS the EPA supports this conclusion by statistical analysis of United States, Canadian pipeline operating history as well as data from other countries: The EPA’s rather sobering and significant conclusions are shown in two excerpts from the EIS below:

“This overall estimate of annual failure probability, coupled with the 113-km length of each pipeline as it runs along the transportation corridor within the Kvichak River watershed, results in an 11% probability of a failure in each of

the four pipelines each year. Thus, the probability of a pipeline failure occurring over the duration of the Pebble 2.0 scenario (i.e., approximately 25 years) would be 95% for each pipeline”.

“The chance of a large rupture in each of the three pipelines over the life of the mine would exceed 25%, 30%, and 67% in the Pebble 0.25, 2.0, and 6.5 scenarios, respectively. In each of the three scenarios, there would be a greater than 99.9% chance that at least one of the three pipelines carrying liquid would fail during the project lifetime”.

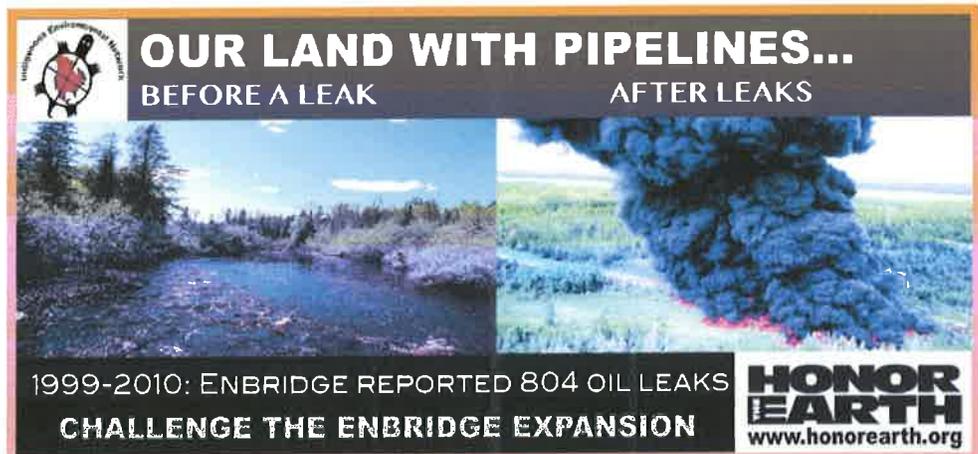
The Bristol Bay EIS goes on to discount the likelihood that improved engineering standards for pipeline materials would reduce pipeline failure rates because engineering has little effect on the rate of human errors leading to leaks and ruptures. See this discussion in the following paragraph:

“It may be argued that engineering can reduce pipeline failures rates below historical levels, but improved engineering has little effect on the rate of human errors. Many pipeline failures, such as the cyanide water spill at the Fort Knox mine (Fairbanks, Alaska) that resulted from a bulldozer ripper blade hitting the pipeline (ADEC 2012), are due to human errors. Perhaps more important, human error can negate safety systems. For example, on July 25 and 26, 2010, crude oil spilled into the Kalamazoo River, Michigan, from a pipeline operated by Enbridge Energy. A series of in-line inspections had showed multiple corrosion and crack-like anomalies at the river crossing, but no field inspection was performed (Barrett 2012). When the pipeline failed, more than 3 million L (20,000 barrels) of oil spilled over 2 days as operators repeatedly overrode the shut-down system and restarted the line (Barrett 2012). The spill was finally reported by a local gas company employee who happened to witness the leak. The spill may have been prevented if repairs had been made when defects were detected, and the release could have been minimized if operators had promptly shut down the line”.

A Decade of Enbridge Oil Pipeline Spills

The picture to the right is from the Cohasset Enbridge spill which was burned off to reduce the hydrological impact of the oil spill on the ecosystem. This spill occurred in 2007, and is from the Line 3, which remains of great concern to our people. We are fully aware that there are many spills

which we do not know about, and remain incredibly concerned that the largest oil pipeline spill in US history (on land), occurred, largely because the Enbridge Corporation neglected to respond to the spill for 17 hours, and indeed the first responders were local citizens. Since this pipeline proposal is in a very remote and important area for our people, and we have no capacity to address pipeline spillage, we are deeply concerned about the credibility of this corporation in our traditional territories, and in the areas where we harvest our medicines and wild rice.



A brief history of Enbridge spills would lead us to have this concern legitimately, combined with the recent EPA assessment on the Bristol Bay case, we believe that the risk posed by this pipeline far exceeds any potential benefits to Minnesotans, let alone the Anishinaabeg. Again, to point out the obvious, the pipeline does not benefit Minnesota people, as the oil is intended to end up in Wisconsin, and from there will be moving to pipelines and refineries in the east. This, is additionally, of concern to Anishinaabeg people, while it is not within the present review process of the Public Utilities Commission, and is outside of the scope, our people have passed resolutions opposing the pipeline in our region, including the Minnesota Chippewa Tribe, Midwest Association of Sovereign Tribes and the CORA, the Odawa resource authority in Michigan, which is essentially down pipe from this dangerous proposal. We are, therefore submitting Enbridge's recent history of spills, to the best of our knowledge:

2000: 7,513 barrels. Enbridge reported 48 pipeline spills and leaks, including a spill of 1,500 barrels at Innes, Sask.

2001: 25,980 barrels. Enbridge pipelines reported 34 spills and leaks, totalling 25,980 barrels of oil, including a January spill from Enbridge's Energy Transportation North Pipeline that leaked 23,900 barrels of crude oil into a slough near Hardisty, Alberta, and a September spill of 598 barrels in Binbrook, Ontario.

2002: 14,683 barrels. Enbridge reported 48 oil spills and leaks, totalling 14,683 barrels, including a leak of 6,133 barrels in Kerrobert, Sask., in January; a seam failure in May that spilled 598 barrels in Glenboro, Man.; and a pipeline rupture into a marsh west of Cohasset, Minn. To prevent 6,000 barrels of crude oil from reaching the Mississippi River, Enbridge set the oil on fire.

2003: 6,410 barrels. Enbridge pipelines had 62 spills and leaks, totalling 6,410 barrels, including a January spill of 4,500 barrels of oil at the company's oil terminal near Superior, Wisc., and a June spill of 452 barrels of oil into Wisconsin's Nemadji River. In April, an Enbridge gas pipeline exploded, levelling a strip mall in Etobicoke, Ont. and killing seven people.

2004: 3,252 barrels. Enbridge pipelines had 69 reported spills, totalling 3,252 barrels of oil, including a February valve failure in Fort McMurray, Alta. that leaked 735 barrels of oil.

2005: 9,825 barrels. Enbridge had 70 reported spills, totalling 9,825 barrels of oil.

2006: 5,363 barrels. Enbridge had 61 reported spills, totalling 5,363 barrels of oil, including a March 613 barrel spill at its Willmar terminal in Saskatchewan and a December spill of 2,000 barrels at a pumping station in Montana.

2007: 13,777 barrels. Enbridge had 65 spills and leaks, totalling 13,777 barrels of oil, including a January pipeline break near Stanley, North Dakota, which spilled 215 barrels of oil; two pipeline incidents in January/February in Clark and Rusk Counties in Wisconsin which spilled 4,200 barrels of oil; and an April spill of approximately 6,227 barrels of oil into a field down-stream of an Enbridge pumping station at Glenavon, Sask. In November, an Enbridge pipeline carrying bitumen to U.S. Midwest markets exploded near Clearbrook, Minn., killing two workers.

2008: 2,682 barrels. Enbridge had 80 reported spills and leaks, totalling 2,682 barrels of oil, including a January incident at an Enbridge pumping station at the Cromer Terminal in Manitoba that leaked 629 barrels of crude; a February incident in Weyburn, Sask., which leaked 157 barrels; and a March spill of 252 barrels of oil in Fort McMurray, Alberta.

2009: 8,441 barrels. Enbridge had 103 reported oil spills and leaks, totalling 8,441 barrels, including a pipeline incident at the Enbridge Cheecham Terminal tank farm that spilled 5,749 barrels of oil near Anzac, Alberta; a spill of 704 barrels in Kisbey, Sask.; and a spill of 1,100 barrels at Odessa, Sask.

2010: 34,122 barrels. Enbridge had 80 reported pipeline spills, totalling 34,122 barrels, including a January Enbridge pipeline leak near Neche, North Dakota of 3,000 barrels of oil; an April incident near Virden, Man. that leaked 12 barrels of oil into Bosshill Creek; a July pipeline spill in Marshall, Michigan that dumped 20,000 barrels of tar sands crude into the Kalamazoo River, causing the biggest oil spill in U.S. Midwest history; and a September pipeline spill of 6,100 barrels in Romeoville, Ill.

Total: 132,715 barrels of oil, more than half the Exxon Valdez spill of 257,000 barrels

Sources: Prince George Citizen (March 12, 2010); The Polaris Institute (May 2010); The Tye (31 July 2010); Reuters (Sept. 10, 2010); Enbridge.com 2010; Vancouver Sun (May 10, 2011); The Globe & Mail (June 17, 2011); Dogwood Initiative. See more at:
<http://www.watershedsentinel.ca/content/enbridge-spills#sthash.c8U7c4zM.dpuf>

Along with my fellow residents of this region, represented individually and by organizations like the Friends of the Headwaters, I submit that it is essential that Minnesota Statute and Rule applicable to pipeline route permit review and comparative environmental analysis both permit and justify inclusion and assessments of impact from predictable events during the life history of the pipeline including the high probability for major leaks and/or ruptures releasing large quantities of crude oil into the environment, be applied. These predictable releases of oil are very likely to have significant adverse impacts on persons, property and natural resources along and downstream of each of the several route alternatives evaluated. Comparing these predictable impacts for all alternative routes should be a major factor in final route selection of the Sandpiper pipeline.

Pipeline Leak/Rupture Event Impact Scenario Analysis

The Bristol Bay EIS continues in Section 11.2 with identification of 64 streams and rivers as potential product spill receiving waters because they were proposed to be crossed by the pipeline. But there were many more watersheds crossed at points near enough to downstream receiving waters to also be within the impact zone of a predicted pipeline leak or rupture.

In sections 11.3 of the EIS pipeline rupture/leak scenarios are described in detail including extensive treatment of probable duration and volumes of spills and flow times to and extending predictable distances down receiving waters. Impacts are then described for two receiving streams typical of the landscape traversed by the pipeline.

The leak/rupture scenarios are developed fully in terms of:

- Exposure – the physical mechanisms by which aquatic organisms would become exposed to the spilled product;
- Transport and fate – the distance downstream the toxic components would travel before dissipating, degrading or diluting below applicable water quality standards for each or most important chemical constituent of the product spilled;
- Exposure-Response – A full analysis of the product for all toxic components, state and federal water quality standards for these chemicals and laboratory methods used to simulate water column concentrations of each chemical of concern;
- A review of analogous spills into likely receiving water types including isolated lakes, lake chains, high or low quality streams, wetlands of different types;
- Risk Characterization – comparing exposure levels to toxicological benchmark levels, duration of risks, actual spill histories including potential for remediation and recovery of spilled product, site specific factors and overall weight of evidence; and
- The Range of Uncertainties in each of these pieces of evidence.

Scenarios for important Bakken Sweet Crude flowing to receiving rivers, streams, lakes, wetlands or wild rice beds along preferred Sandpiper route (and all accepted alternative routes) could then be developed similar to that developed for diesel fuel spill scenario in the Bristol Bay EIS with similar assumptions and calculations in Table 11-7 from that EIS below:

Parameter	Spill into Chinkelyes Creek		Spill into Knutson Creek
	Chinkelyes Creek	Iliamna River	Knutson Creek
Water Flow			
Discharge (m ³ /s)	1.8	22	3.4
Velocity (m/s)	2.2	2.0	2.2
Channel Length (km)	14	7.6	2.6
Pipeline Drainage and Dilution			
Flow rate while draining (m ³ /s)	0.035	-	0.023
Flow rate while pumping (m ³ /s)	0.005	-	0.005
Release time—draining (minutes)	13	-	7.9
Release time—pumping (minutes)	5	-	5
Volume—total (m ³)	30	-	12
Volume % diesel to water in stream at spill	2.2%	-	0.83%
Mass of diesel in stream at input (mg/L)	17,000	1,500	6,500
Maximum concentration dissolved diesel (mg/L)	1.9-7.8	1.7-7.2	1.9-7.8
Distance traveled during release (km)	1.7	-	1.1
Travel time to confluence (minutes)*	110	64	19
Pipeline and Diesel Specifications			
Length from top of nearest hill to valve (m)	2100	-	810
Elevation drop (m)	150	-	25
Viscosity of diesel at 15°C (cP)	2		
Density of diesel at 15°C (metric tons/m ³)	0.85		
Notes:			
Dashes (-) indicate that spill is not directly into Iliamna River, which receives flow from Chinkelyes Creek.			
* Confluence with Iliamna River for Chinkelyes Creek; confluence with Iliamna Lake for the Iliamna River and Knutson Creek.			

Based on these spill parameters similar predictions could be developed for important aquatic plant and/or animal life in the selected receiving waters along each alternative route in the CEA as shown in

the following chart from the Bristol Bay EIS that compares the scenarios developed for Alaskan streams to other case histories of similar spills around the country as a means of “ground truthing” or testing validity of their predictive scenarios.

Table 11-9. Cases of diesel spills into streams. For comparison, the diesel pipeline failure scenarios evaluated here would release 30 and 8 m³ of diesel into receiving streamflows of 1.8 and 3.4 m³/s for spills into Chinkelyes Creek and Knutson Creek, respectively.

Case	Diesel Released (m ³)	Receiving Streamflow (m ³ /s)	Observed Effects
Happy Valley Creek, AK	3.7	14	Significant declines in the abundance and species richness of invertebrates
Camas Creek, MT	Unknown	0.42	Low invertebrate abundance and richness
Hayfork Creek, CA	15	4.1	Large kill of vertebrates and invertebrates
Mine Run Creek, VA	240	1.2	Reduced invertebrate abundance and diversity
Reedy River, SC	3,600	6.4	Near-complete fish kill
Cayuga Inlet, NY	26	1.8	Fish kill and reduced abundance, reduced invertebrate abundance and species composition
Westlea Brook, UK	9.8	1.34	Fish kill, invertebrates severely affected
Hemlock Creek, NY	0.5	0.76	No significant effects on invertebrates

Notes:
 * Mean flow from NHDPlus v2; others as reported by the authors.

Need For Additional Leak/Rupture Scenarios Unique to Sandpiper Routes

Sandpiper Leak/Rupture Ground Water Aquifer Contamination Scenario: In the Bristol Bay/Pebble Mine EIS there was no identified need to assess potential for groundwater contamination that might result from a typical leak or spill from the pipelines serving the mines. However, in the case of the preferred route for the Sandpiper crude oil pipeline there are several highly vulnerable aquifers including the Wild Rice, Sandy Lake, Rice Lake, Straight River and other watersheds which have been extensively studied, and require diligence in pipeline siting.

To fully appreciate the nature and scope of the contamination risk to this important aquifer a set of leak/spill scenarios similar to the surface water impact scenarios used in the Bristol Bay EIS should be developed in the Comparative Environmental Analysis for Sandpiper and any of the alternative routes accepted for consideration in the analysis.

Preparation of groundwater aquifer impact scenarios in susceptible glacial outwash formations that exist along the proposed Sandpiper route are likely to be made significantly more accurate by virtue of extensive study of an historic Enbridge (then dba Lakehead Pipeline Company in Minnesota) pipeline rupture in 1979 west of Bemidji near the small community of Pinewood. The Pinewood study would provide case study calibration data and the equivalent “ground truthing” of predictive groundwater contamination scenarios developed for Sandpiper route alternatives as was recommended in the surface water scenarios above.

A summary of the history and some of the research results applicable and useful in preparation of the Comparative Environmental Analysis for the Sandpiper project is found in a US Geological Survey factsheet found at the website shown below and an excerpt from this factsheet follows:
<http://mn.water.usgs.gov/projects/bemidji/results/fact-sheet.pdf>

(Excerpt from factsheet)

Description and History of Site

On August 20, 1979 approximately 16 kilometers northwest of Bemidji, Minnesota, the land surface and shallow subsurface were contaminated when a crude-oil pipeline burst, spilling about 1,700,000 L (liters) (about 10,700 barrels) of crude oil onto a glacial outwash deposit (fig. 1). Crude oil also sprayed to the southwest covering an approximately 7,500 m² (square meter) area of land (spray zone). After cleanup efforts were completed about 400,000 L (about 2,500 barrels) of crude oil remained. Some crude oil percolated through the unsaturated zone to the water table near the rupture site (North oil pool, fig. 1). Some of this sprayed oil flowed over the surface toward a small wetland forming a second area of significant oil infiltration (South oil pool).

The land surface is a glacial outwash plain underlain by stratified glacial outwash deposits. The water table ranges from near land surface to about 11 m below the land surface. About 370 wells and test holes had been installed as of 1998.

Research Results

The fate, transport, and multiphase flow of hydrocarbons depends on geochemical processes and on the processes of volatilization, dissolution, biodegradation, transport, and sorption (fig. 2). An interdisciplinary investigation of these processes is critical to successfully evaluate the migration of hydrocarbons in the subsurface. The investigation at the Bemidji site involved the collection and analysis of crude oil, water, soil, vapor, and sediment samples. The oil phase that occurs as floating product on the water table and as residuum on sediment grains provided a continued source of hydrocarbon to the ground-water and vapor plumes. Knowledge of the geochemistry of a contaminated aquifer is important to understanding the chemical and biological processes controlling the migration of hydrocarbon contaminants in the subsurface. Studies were also conducted to document the concentrations of gases in the unsaturated zone.

Predictable Sandpiper pipeline leak/rupture ground water impact scenarios for susceptible glacial outwash aquifers along the preferred and all alternative routes evaluated could be modeled graphically (as in the figure below from that study) with methods developed in the Pinewood Spill study. Graphics thus developed could be made available in the CEN for the public and regulatory agencies to weigh in making various permit decisions and choices between alternative routes.

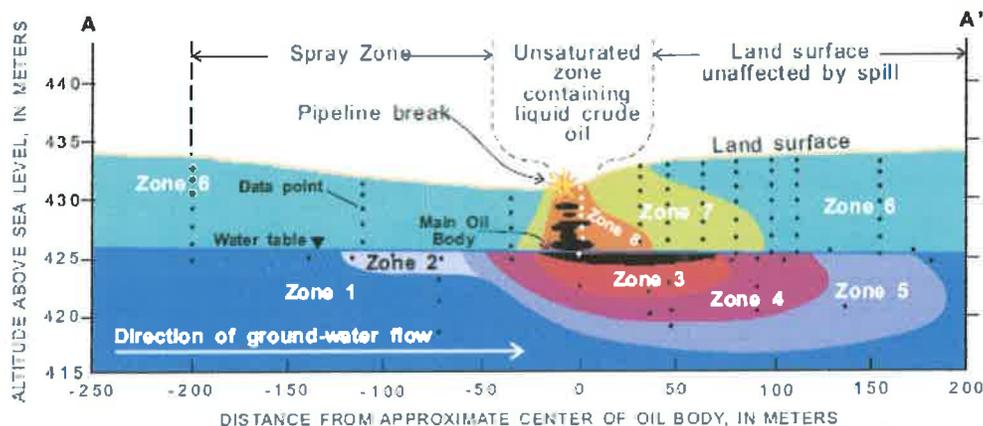


Figure 4. Geochemical zones in the unsaturated and saturated zones at the North oil pool, 1997

Predictive models for groundwater contaminant plumes in leak/rupture scenarios can be used for comparing alternative routes and for setting GIS Spatial Analysis friction parameters discussed elsewhere in these comments.

A brief bibliography of studies of the Bemidji/Pinewood spill site assembled by the U.S. Geological Survey Minnesota Water Science Center that can be used to develop and support groundwater contamination scenarios for selected susceptible glacial outwash aquifers along the proposed Sandpiper route and its alternatives is shown below:

Fact sheet describing results from the Bemidji Toxics project:
<http://mn.water.usgs.gov/projects/bemidji/results/fact-sheet.pdf>

Toxics Papers:

- "Ground water contamination by crude oil" (146 KB) by Geoffrey Delin and William Herkelrath.
<<http://mn.water.usgs.gov/projects/bemidji/results/uz-final2.pdf>>
- "Long-term monitoring of unsaturated-zone properties to estimate recharge at the Bemidji crude-oil spill site" (498 KB) by Geoffrey Delin and William Herkelrath.
<<http://mn.water.usgs.gov/projects/bemidji/results/uz-final2.pdf>>
- "Aromatic and Polyaromatic Hydrocarbon Degradation under Fe (III)-Reducing Conditions" (135 KB) by Robert T. Anderson, et al.
<<http://mn.water.usgs.gov/projects/bemidji/results/anderson.pdf>>
- "Coupled Biogeochemical Modeling of Ground Water Contamination at the Bemidji Minnesota Crude Oil Spill Site" (60 KB) by Gary Curtis, et al.
<http://mn.water.usgs.gov/projects/bemidji/results/Curtis_Toxics_6_14.pdf>
- "Investigating the Potential for Colloid- and Organic Matter-Facilitated Transport of Polycyclic Aromatic Hydrocarbons in Crude Oil-Contaminated Ground Water" (136 KB) by Joseph Ryan, et al. <<http://mn.water.usgs.gov/projects/bemidji/results/Joeryan.pdf>>
- "Determining BTEX Biodegradation Rates Using In Situ Microcosms at the Bemidji site, Minnesota: Trials and Tribulations" (69KB) by E. Michael Godsy, et al.
<<http://mn.water.usgs.gov/projects/bemidji/results/MikeGodsy.pdf>>
- "Inhibition of Acetoclastic Methanogenesis by Crude Oil from Bemidji, Minnesota" (143 KB) by Ean Warren, Barbara Bekins, and E. Michael Godsy.
<<http://mn.water.usgs.gov/projects/bemidji/results/EanWarren.pdf>>

Bakken Sweet Crude Oil Volatility/Flammability Consideration in Leak/Rupture Scenario Development

Transportation Safety Board of Canada's Operation Service Branch Laboratory Report - # LP148/2013 entitled "Analysis of Crude Oil Samples - Montreal, Maine & Atlantic Railway, Train MMA-002 - Date of Occurrence: 06-Jul-2013" - which was just released on February 6th 2014. The relevance of this report to the Sandpiper routing process Comparative Environmental Analysis is that the train derailment investigated involved a major spill of the same product proposed to be shipped by the Sandpiper, namely Bakken sweet crude oil. The full report is available at:

<http://www.tsb.gc.ca/eng/enquetes-investigations/rail/2013/R13D0054/lab/20140306/LP1482013.asp>

Excerpts from the report follow:

“On 06 July 2013, a unit train carrying petroleum crude oil operated by Montreal, Maine & Atlantic Railway derailed in Lac-Mégantic, Quebec. Numerous tank cars ruptured and a fire ensued.

“Conventional oil, which can range from light to medium in grade, is found in reservoir rocks with sufficient permeability to allow the oil to flow through the rock to a well. The petroleum crude oil on the occurrence train originated from suppliers with producing wells in the Bakken Shale formation region of North Dakota. The Bakken Shale formation is a light oil reservoir. Tight oil is a type of conventional oil that is found within reservoirs with very low permeability. Most oil produced from low-permeability reservoirs is of the light to medium variety, with a lower viscosity”.

Elsewhere in this Canadian TSB report Bakken Sweet Crude is compared to the volatility of unleaded gasoline:

“The Environmental Technology Centre (ETC) Oil Properties Database reports the following properties for unleaded gasoline: 45

- Flash point -30°C*
- Density at 15°C 750 to 850 kg/m³*
- Kinematic viscosity <1 cSt at 38°C*

“Comparing these values to the occurrence crude oil results summarized in Table 2, it is apparent that the occurrence crude oil’s flash point is similar to that of unleaded gasoline. The density results obtained for the occurrence crude oil samples (see Table 10) are also within the range reported for unleaded gasoline. However, unleaded gasoline has lower viscosity than the occurrence crude oil samples”.

The Canadian TSB report includes the following pertinent conclusions that would be important in the development of leak/rupture incident response scenarios in the Sandpiper comparative environmental analysis:

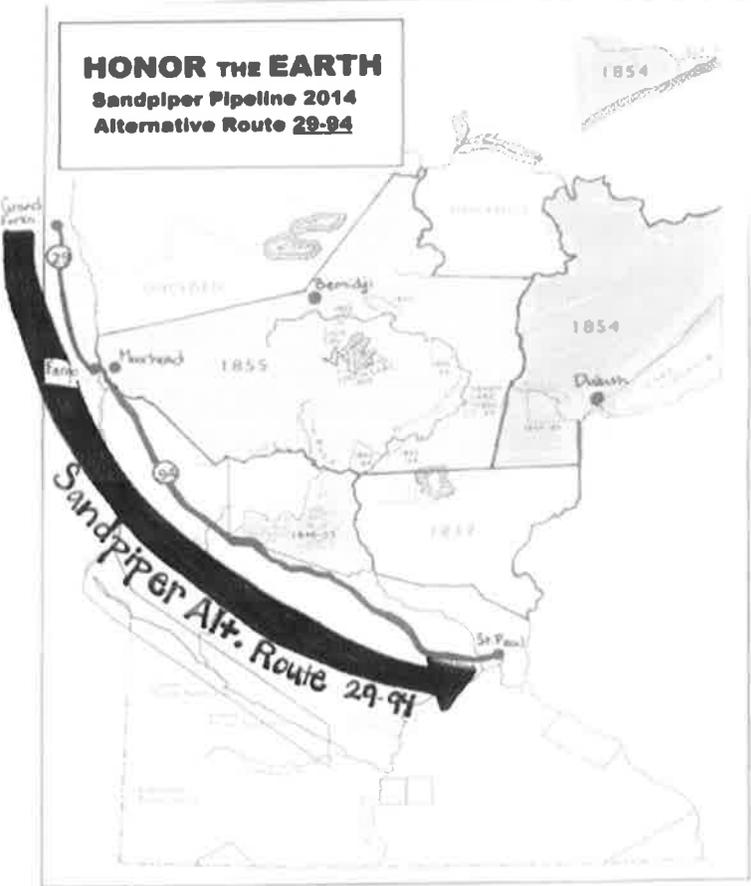
“4.3 The occurrence crude oil’s properties were consistent with those of a light sweet crude oil with volatility comparable to that of a condensate or gasoline product.

4.6 The large quantities of spilled crude oil, the rapid rate of release, and the oil’s high volatility and low viscosity were likely the major contributors to the large post-derailment fireball and pool fire.

4.7 The occurrence crude oil contained concentrations of BTEX that were comparable to typical values reported for crude oils. This explains why concentrations of benzene and other VOCs well above exposure limits were detected at the derailment site”.

VII Proposal of Alternate Route

See attached document titled 14-4-4 Motion for Alt Route.



Appendices

Appendix 1: Paula Maccabee Case- Garden of Eden law review article

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Spring, 2009

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LENGTH: 10347 words

ARTICLE: PIPELINES, POWER LINES, AND ORGANIC FARMS

NAME: Paula Goodman Maccabee*

BIO:

* Principal and attorney of Just Change Consulting/Public Interest Law, a private firm specializing in public interest advocacy, land use, environmental, sustainable energy and organic agricultural practice.

SUMMARY:

... Valuation of the costs entailed in route selection is not only based on assumptions regarding the restoration of productivity, but on valuation of crops. ... Parties and Proceedings The routing and siting of MPL's MinnCan crude oil pipeline project provides a case study to assist in protecting organic farms from energy infrastructure. ... Affidavits and a highly detailed organic management plan established that the Gardens of Eagan had had fifteen years of careful soil building to develop fertility and explicit plans for the use of non-crop producing areas of the farm for water drainage and beneficial habitat for birds, insects and mammals. ... Expert evidence also explained the effect that pipeline construction and maintenance practices could have on organic certification: Pipeline construction and maintenance practices that may not be significant for conventional commodity agriculture may contaminate organic soils and threaten organic certification. . . .Equipment brought on site for construction and maintenance of the crude oil pipeline, refueling or servicing of vehicles and other activities of workers as well as leaks and spills may bring fertilizers, pesticides, herbicides, tobacco, heavy metal, toxic petrochemicals and other contaminants onto an organic farm. ... Mitigation of Natural Resource Impacts MPL will not use Organic Agricultural Land for the purpose of required compensatory mitigation of impacts to natural resources such as wetlands or woodlands unless approved by the Landowner.

HIGHLIGHT:

Summary

Pipelines and power lines have impinged upon agricultural land for decades. In fact, state laws often recognize the risk of this encroachment in statutes and rules providing that mitigation of impacts on agricultural land should be considered in certifying and routing of energy infrastructure. However, organic farms present a new and unique conflict with pipeline and power line land use. Not only can construction and soil compaction activities seriously impair production in farming systems dependent on soil characteristics for fertility, but the use of fuels, herbicides and other chemicals in the process of construction or right-of-way maintenance can result in decertification of organic farms. n1 A recent Minnesota case concerning the proposed routing of a crude oil pipeline across a premier organic vegetable farm 14 Drake J. Agric. L. 19, * has set a new standard of practice for the protection of organic farm land. n2 In a case involving the Minnesota Pipeline Company (MPL) and the Gardens of Eagan organic farm, not only was the individual farm avoided, but state regulators included requirements for agricultural impact mitigation specific to organic farms along the full length of the pipeline. n3 Other states are beginning to recognize the need for additional agricultural impact mitigation for organic farms. This note describes a legal and scientific basis for the protection of organic farms and it details specific agricultural impact mitigation provisions for organic farms that should be incorporated into siting and routing decisions. This developing standard of mitigation to reduce impacts on organic farms should assist farmers and legal counsel in reducing potential harm from pipelines and power lines.

TEXT:

[*20] I. Introduction - Land Use Conflict with Energy Infrastructure

Many of the threats to organic farms and organic clients are not new issues for agricultural land use. Power lines, pipelines and other elements of energy infrastructure have encroached upon agricultural land for decades. As energy resources ranging from crude oil shale and natural gas, to wind turbines and mine mouth coal continue to develop at locations remote to the communities requiring use of the energy, it becomes more rather than less likely that there will be land use conflicts between agriculture and energy infrastructure.

State law often recognizes the risk of this encroachment in statutes and rules providing that mitigation of impacts on agricultural land should be considered in certifying and routing of energy infrastructure. For example, Minnesota statutes pertaining to certification of large energy facilities, including power lines as well as generators, state that the applicant for a Certificate of Need (CON) must notify the commissioner of agriculture if the proposed project will impact cultivated agricultural land. n4 The commissioner and department may play a role in determining need and in developing a plan for mitigation:

The commissioner may participate in any proceeding on the application and advise the commission as to whether to grant the certificate of need, and the best options for mitigating adverse impacts to agricultural lands if the certificate is granted. The

Department of Agriculture shall be the lead agency on the development of any agricultural mitigation plan required for the project. n5

Minnesota statutes pertaining to pipelines require burial at a specific depth and authorize county boards to establish by ordinance "reasonable standards and conditions for pipeline construction which are necessary to protect and restore cultivated agricultural land crossed by a pipeline and to mitigate the adverse impact of pipeline construction on the productive use of that land." n6

Minnesota rules provide that power generation plants may not be sited on more than 0.5 acres of prime farmland, unless there is "no feasible and prudent alternative," although there are exclusions for water storage reservoirs and cooling ponds and for farms located in or near statutory cities. n7 The impacts on agricultural lands must be considered in permitting a power plant or power line, n8 and the impact on agricultural economies is also among the criteria for pipeline route selection. n9

Farmers and practitioners in the area of energy and agricultural law recognize that these statutes and rules have not prevented the routing and siting of energy infrastructure on prime agricultural land, although it is arguable that agricultural impact mitigation plans (AIMPs) have to some degree reduced the level of damage to farms caused by this infrastructure. In fact, often pipeline and power line projects have been located predominantly on agricultural lands. n10 [*22]

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Two salient features of the underlying laws support this outcome. First, the consideration given to agricultural land is exclusively economic. Relevant sections of Minnesota rules refer to agricultural impacts as effects on land-based economies:

Permits for Energy Facilities: In determining whether to issue a permit for a large electric power generating plant or a high voltage transmission line, the commission shall consider the following . . .

C. effects on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining; n11

Pipeline Route Selection: In selecting a route for designation and issuance of a pipeline routing permit, the commission shall consider the impact on the pipeline of the following:

D. economies within the route, including agricultural, commercial or industrial, forestry, recreational, and mining operations[.] n12

The implication of these laws is that when economic consequences from locating infrastructure on farmland are less costly than routing onto other property, agricultural interests will suffer.

In practice there is also an implicit assumption that mitigation measures are sufficient to protect agricultural production. In Minnesota, rules specify that precautions shall be taken to protect topsoil, minimize compaction, clean up litter, protect trees and shelterbelts, and repair and replace damaged drainage tiles, fences, gates and roads. n13 AIMPs for conventional agriculture under these rules have included commitments to prevent "excessive erosion," restore land contours, and use deep tillage to alleviate compaction among other measures. n14 These mitigation practices, which certainly represent an advance over historical construction practices, may well be insufficient to protect organic farms.

II. Organic Agriculture-Different Production and Impacts

Recognizing that energy infrastructure conflicts are not unique to organic agriculture, it is important to identify what is unique about organic farms. Appli [*23] cable law and expert evidence suggests that there are four key variables which may potentially distinguish organic agriculture:

- . An organic farm may constitute a "natural environment" under applicable law;
- . An organic farm may suffer irreparable harm due to the characteristics of organic production;
- . *An organic farm may lose organic certification;*
- . Economic valuation of products may be higher due to the value-added nature of organic crops.

The environmental characteristics of organic crop production may provide grounds to argue that minimization of impacts of energy infrastructure should result in particular care, if not complete avoidance, of organic farms. Laws pertaining to siting and routing of energy infrastructure may contain provisions requiring minimization of the effects of energy infrastructure on the "natural environment." n15 As in Minnesota, state statutes modeled on the National Environmental Policy Act, n16 may prevent state regulatory approval of a project that impairs the quality of the environment where "there is a feasible and prudent alternative." n17 [*24]

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The nature of organic production supports an argument implicating statutes and rules requiring that harm to the "natural environment" be minimized. National Organic Program (NOP) standards exclude production methods that are "not possible under natural conditions" and "organic production" is defined as a production system managed by "integrating cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance and conserve biodiversity." n18

Expert evidence in an individual case can support the assertion that an organic farm operates as an integrated natural system. Testimony filed in the Gardens of Eagan's case contesting routing of the MPL's MinnCan pipeline n19 across their farm, excerpted in the next section, explained the ecology of an organic vegetable farm. Unused land in an organic system provides a habitat for beneficial insects, birds and rodents while healthy soils have their own ecology. n20 This type of evidence supports the argument that an organic farm functions as a natural environment, as well as a food production land use.

The operation of an organic farm as an integrated natural system may also support the claim that a partial taking of land for infrastructure would result in more substantial damage than for conventional agriculture. Construction of infrastructure across the portion of organic lands that are used for beneficial habitat or for drainage to prevent chemicals on neighboring lands from entering fields may, for example, impact production or maintenance of organic quality throughout the entire farm, rather than just across the acreage where the facility is proposed to be located.

In addition to explaining the way in which an organic farm operates as a natural system, expert evidence supports the argument that construction and operation of energy infrastructure would result in irreparable harm to organic production. n21 In the case of organic vegetables, crop production depends on healthy soil structure, rather than application of chemicals, to control pests or provide nutrients. n22 Disruption of topsoil horizons, or compaction, caused by construction or maintenance of pipelines and power lines may result in irreparable harm to production of organic crops. n23

The potential for loss of certification is a significant factor supporting the need for additional protection of organic farms from the adverse impacts of energy infrastructure. National Organic Program standards preclude prohibited substances for a period of three years immediately preceding harvest of an organic crop. n24 Contamination with prohibited plant nutrients, heavy metals, or residues of prohibited substances is specifically proscribed. n25

Equipment brought on site for construction and maintenance, refueling and servicing of vehicles, leaks and spills, fertilizers, pesticides, and herbicides may all pose risks to certification. n26 The analogy to industrial use in the middle of an organic farm is fitting. n27 In addition, the potential for future loss of certification provides grounds for conditions related to maintenance on easements in proximity to organic lands.

Legal precedent from pesticide contamination cases supports the claim that the risk of loss of certification for an organic farm impacted by a pipeline or power line jeopardizes an entire crop. n28 In the leading Washington state case of Langan v. Valicopters, Inc., the court held that damages for total crop loss of organic crops could be claimed whether or not the yield or physical condition of the crops had been affected by contamination. n29 In Langan, organic food growers had been certified by the Northwest Organic Food Producers Association (NOFPA), which set specific limits on maximum pesticide tolerances. n30 After their crops were contaminated with pesticides, the growers had laboratory tests performed identifying residues in excess of NOFPA tolerances. n31 They pulled the crops and claimed a total loss.

n32 The court upheld jury findings of a total crop loss, despite appellants' claims that the growers should have challenged decertification. n33 The economic consequences of decertification and total crop loss may distinguish organic farms from other agricultural production.

Finally, economic information based on the value-added nature of organic agriculture can be significant in asserting that organic farms should be avoided in the siting of energy infrastructure or that additional mitigation should be required. Valuation of the costs entailed in route selection is not only based on assumptions regarding the restoration of productivity, but on valuation of crops. Farm production budgets for agriculture tend to assume conventional prices

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[*26] ing and expenditures for chemical fertilizers and pesticides. An important distinction between organic agriculture and conventional agriculture may be the value added of premium pricing. n34 Soil preparation for organic agriculture may also result in higher yields. The cycle of crop rotation in organic agriculture may explain variation in gross and net returns for various years, as certain crops with a higher economic return may only be planted after nutrients in soil have recovered. n35

III. Case Study: MinnCan Pipeline Proposed Across Gardens of Eagan Organic Farm

A. Parties and Proceedings

The routing and siting of MPL's MinnCan crude oil pipeline project provides a case study to assist in protecting organic farms from energy infrastructure. n36

As part of a 300-mile project to bring crude oil from Canada to be refined at Twin Cities refineries, MPL proposed construction of a pipeline operating at an initial capacity of 165,000 barrels of petroleum crude oil per day, with an ultimate capacity of 350,000 barrels per day. n37 The proposed pipeline would require a 100-foot to 125-foot construction easement and a fifty foot permanent easement. n38 MPL acknowledged in its Routing Permit Application that crude oil and its chemical constituents are highly toxic chemicals n39 and disclosed in its CON application that its operator, Koch Pipeline, had 176 reportable spills since 2000, reflecting 425,628 gallons of petroleum releases. n40 [*27]

The route proposed for the MinnCan crude oil pipeline made a diagonal line through the center of the Gardens of Eagan organic farm in Farmington, Minnesota. n41 The Gardens of Eagan is a federally registered, certified organic farm in Dakota County. n42 This 100-acre organic farm first received organic certification in 1974, and supplies brand name vegetables and fruit to groceries and cooperatives in the Minneapolis-Saint Paul area. n43 The crude oil pipeline proposed by MPL would have crossed several small vegetable fields and the area of a small stream used for habitat and other aspects of farm ecology impacting pest and disease control on the entire farm. n44

The Gardens of Eagan formally intervened in the routing proceeding for MPL's MinnCan pipeline and obtained party status under Minnesota rules. n45 Party status would permit the Gardens of Eagan to make

discovery requests, file expert evidence and conduct cross-examination in a contested administrative hearing on route selection. n46 A decision was made early in the investigation that neither evidence nor resources were sufficient to challenge certification of the MinnCan pipeline. The objectives of the Gardens of Eagan were as follows:

- . Change the MinnCan crude oil pipeline route to avoid crossing of Gardens of Eagan organic farm;
- . Require the MinnCan pipeline to avoid other organic farms, if such avoidance was feasible;
- . Provide specific agricultural impact plan protections for other organic farms to minimize production loss and loss of organic certification. n47

In addition to formal intervention in routing proceedings to offer expert evidence and propose an alternative route, the Gardens of Eagan also worked with a network of consumers and other stakeholders to provide support for achievement of its objectives. The Wedge Community Co-op and other organic grocery stores provided information and circulated drafts of letters which consumers could send to the Administrative Law Judge (ALJ) hearing the routing [*28] case. The Organic Consumers Association and the website and blog developed by the Gardens of Eagan organic farmers, Atina and Martin Diffley, also played a key role in grassroots information and communication. As a result of outreach and organizing, over 3,000 public comments were received supporting protection of the Gardens of Eagan organic farm and protection of organic farms from the impacts of the proposed crude oil pipeline. n48

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The Land Stewardship Project provided a supporting affidavit and the Organic Advisory Task Force for the state of Minnesota provided recommendations favoring additional protection for organic agriculture. n49 Although the Minnesota Department of Agriculture did not take a position recommending avoidance of organic farms, the Department played an important role in supporting additional mitigation practices designed to address the unique characteristics of organic farms.

Prehearing evidence filed in the routing proceedings established both the unique vulnerability of the Gardens of Eagan vegetable farm to the harms resulting from a crude oil pipeline and the nature of organic production. n50

Affidavits and a highly detailed organic management plan established that the Gardens of Eagan had had fifteen years of careful soil building to develop fertility and explicit plans for the use of non-crop producing areas of the farm for water drainage and beneficial habitat for birds, insects and mammals. n51

Records documented premium pricing as well as the shipping of approximately 650,000 pounds per year of organic produce to grocers including Whole Foods, Lunds and Byerly's and a network of cooperative grocers, such as the Wedge Community Co-op and Mississippi Market Natural Foods Co-op. n52

In addition to the affidavit of organic farmer Atina Diffley, which was filed with memoranda seeking the requested relief, the Gardens of Eagan sponsored expert testimony from Deborah L. Allan, a Professor in the Department of [*29] Soil, Water and Climate at the University of Minnesota in St. Paul, Minnesota and James A. Riddle, Coordinator for Organic Outreach at the University of Minnesota Southwest Research and Outreach Center in Lamberton, Minnesota and Founding Chair and Lead Trainer for the Independent Organic Inspectors Association. n53 This expert evidence was critical both to distinguish the Gardens of Eagan organic farm and to provide a basis to change construction and maintenance practices to mitigate harms to other organic farms.

B. Selected Evidence

These experts provided specific explanations of the unique characteristics of organic farms, highlighting the vulnerability of organic vegetables to impairment of soil qualities and the holistic nature of organic production were highlighted in pre-filed testimony. n54

According to Deborah Allen:

The most important feature to remember about organic crop production is that an organic farmer relies almost entirely upon the soil's properties for crop production. The quality of the soil determines whether crops will be healthy and free from disease and building soil quality is the primary strategy that the organic crop farmer uses to protect crops from pests and disease.

Organic field crops are more vulnerable to degradation of soil quality than are conventional field crops, since they do not use synthetic fertilizers, insecticides, fungicides and herbicides to stimulate plant growth and prevent vulnerability to pests and weeds. Conventional row crops are less sensitive to stress because chemical inputs can compensate for poorer soil conditions. Thus these crops will show less loss of health, quality and yield when soil quality is poor.

Among organic crops, organic vegetable growth is the most sensitive to soil quality. For example, organic sweet corn is even more vulnerable to soil quality variation than organic field corn. Conventional vegetable seeds are often coated with fungicides and pesticides when they are planted. Organic vegetable seeds, which can use none of these chemical defenses, need optimal soil conditions to germinate and grow. n55

According to James A. Riddle: [*30]

On a conventional farm, destruction of vegetation on parts of the farm that do not produce crops is unlikely to cause significant harm. On a certified organic farm, chemical fungicides and pesticides are prohibited. To prevent pests and disease, organic farmers use waterways, hedgerows and other areas reserved for habitat to create a delicate balance of beneficial insects, birds and mammals as well as soil biological life. Destruction of vegetation on non-crop producing habitat reserve areas would affect farm ecology, impacting pest and disease control on the entire farm, placing all crops at risk. An organic farm is a system that is greater than the sum of its parts. n56

Expert evidence also explained the effect that pipeline construction and maintenance practices could have on organic certification:

Pipeline construction and maintenance practices that may not be significant for conventional commodity agriculture may contaminate organic soils and threaten organic certification. . . .Equipment brought on site for construction and maintenance of the crude oil pipeline, refueling or servicing of vehicles and other activities of workers as well as leaks and spills may bring fertilizers, pesticides, herbicides, tobacco, heavy metal, toxic petrochemicals and other contaminants onto an organic farm. The pipeline itself is treated with chemicals that may not be permitted on a certified farm. . . . For the organic farmer, either a spill or a slow leak of crude oil would almost certainly result in revocation of organic certification. It is not clear that such organic certification could ever be restored, if the oil permeated the soil from below. n57

Addressing the issue of economic impacts pertinent to routing matters, expert testimony also focused on the differential impacts of a pipeline on an organic vegetable farm as compared to construction across a conventional commodity farm. n58

Organic crop systems and, particularly organic vegetable crops are highly vulnerable to the impacts of pipeline construction and maintenance. Constructing a crude oil pipeline on an organic vegetable farm like the Gardens of Eagan would be far more detrimental and costly than routing the pipeline on other agricultural land. . . . Based on my research on developing sustainable agriculture and my work with farmers throughout the Midwest, I believe that the losses to an organic vegetable farm from diminished soil quality are of a different character and order of magnitude than on a conventional crop farm. To start with, the value on a per acre basis of conventional field crops is only in the range of two to three hundred dollars per acre. The average value on a per acre basis of organic vegetables is about \$ 10,000. . . . The market for premium organic products is unforgiving. Sub-standard organic vegeta

[*31] ble products cannot be marketed without damaging the relationships and reputations needed with suppliers. n59

Expert witnesses also focused on specific potential adverse impacts to Gardens of Eagan to recommend avoidance of this organic vegetable farm.

Gardens of Eagan reserves 35 percent of the 120 total farm acres for ecological set aside. The crude oil pipeline route proposed by MPL would disrupt an intermittent waterway that was improved, graded and planted with grasses to prevent run-off from neighboring conventional farms from spilling onto fields in the event of a large rain. Trenching in this location could allow run-off containing prohibited substances from neighboring farms to contaminate large segments of the Gardens of Eagan's organic fields. The MPL proposal would also disrupt habitat for beneficial insects and birds that keep insect pests in check and the habitat for mice that eat weed seeds left on surface soils. n60

The MPL proposal would also disrupt habitat for beneficial insects and birds that keep insect pests in check and the habitat for mice that eat weed seeds left on surface soils. As the Organic Management Plan documents, Gardens of

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Eagan practices to control weeds including leaving seeds on surface for consumption by rodents and birds and practices to combat pests include maintaining habitat to support biodiversity of soil, insects, birds, and wildlife.

Gardens of Eagan has had 15 years of soil building in its current location. This is the key to their productivity, quality and resistance to weeds and pests in a fully organic system. If MPL were permitted to build a crude oil pipeline across the Gardens of Eagan, it is unknown how long it would take to restore the soil to current productive levels or even whether such restoration would be possible[.] n61

In my opinion, it is likely that Gardens of Eagan would have total crop loss from several organic vegetable fields for a period that could be many years in duration. If the crude oil pipeline were to be constructed where the Minnesota Pipe Line Company proposed, the viability of the Gardens of Eagan farm itself would be placed in jeopardy. n62

Professor Deborah Allan and Organic Outreach Coordinator James Riddle made specific recommendations to avoid pipeline routing across the Gardens of Eagan organic farm. n63 Their expertise also contributed substantially to development of protections for organic farms proposed as modifications to MPL's [*32] proposed AIMP. Expert recommendations to the Administrative Law Judge included the following:

If a pipeline is approved, the Public Utilities Commission should designate a route that avoids the Gardens of Eagan organic farm. n64

Route alignments selected by the Commission for the MinnCan crude oil pipeline as a whole should be selected to minimize impacts on organic farms and organic certification. Where there are feasible alternatives, organic farms should be avoided to reduce risks of soil destruction, contamination and decertification.

The Commission should require that the Minnesota Pipe Line Company amend its Agricultural Impact Mitigation Plan to protect organic farming and certification. n65

Because of the differences between organic and conventional farming, the Agricultural Impact Mitigation Plan for this project should distinguish between organic and non-organic agricultural lands and require specific practices to minimize the harm to organic soils, restore soil horizons and qualities, scientifically verify soil restoration and provide appropriate compensation when soils and productivity are impaired. n66

C. Outcome - Protection of Gardens of Eagan and other Organic Farms

After the above-described expert testimony was filed, MPL entered into negotiations to resolve issues raised by the Gardens of Eagan. MPL agreed to an alternative route that would not cross the Gardens of Eagan farm at any point. n67 Although MPL would not agree to the policy of avoiding all organic farms unless there was no feasible alternative, it agreed to a number of protections of organic farms that may serve as an incentive for avoidance of organic lands. The Minnesota Department of Agriculture participated in these negotiations and gave its support to including protections for organic agriculture in an appendix to the AIMP applicable to the MinnCan pipeline project. n68

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MPL agreed to implement what they believe was the first organic agriculture mitigation plan in the country applicable to pipeline infrastructure. This agreement was made part of the record of the MinnCan pipeline routing proceeding [*33] on September 5, 2006. n69 The following requirements of the Organic Appendix to the AIMP were incorporated in the routing permit and made legally enforceable along the entire permitted route:

- . MPL will treat organic farms with the same level of care as other sensitive environmental features. n70

- . Work with the farmer's certifying agent or an organic consultant to identify ways to minimize impacts to organic farms. n71

. Take specific actions to minimize the potential for decertification, such as equipment cleaning, using drop cloths, planting a deep-rooted cover crop instead of mechanical decompaction, applying composted manure or rock phosphate, preventing tobacco use, replacing beneficial bird or insect habitat, maintaining organic buffer zones and using organic seeds for cover crops. n72

. No prohibited substances will be applied on organic land or adjacent to organic land so as to enter organic land. Do not use prohibited herbicides, pesticides, fertilizers or seeds. No refueling, fuel or lubricant storage or maintenance will be done on organic land and equipment will be checked to prevent leaks. n73

. Remove and store organic topsoil and subsoil separately and replace them in proper sequence. Organic soils will not be removed from organic land and non-organic soils will not be brought onto organic land. n74

. Use erosion control methods consistent with the Organic System Plan. Do not use prohibited materials, like treated lumber or non-organic hay bales, for erosion control on organic land. Prevent sediment from adjacent land from being deposited on organic farms. n75

[*34]

. Do not allow trench water from adjacent land to flow or be pumped onto organic land. n76

. Implement weed control methods consistent with the Organic System Plan. Do not use prohibited substances in weed control on or adjacent to organic land in such a way as to allow drift onto organic land. n77

. Compensation will be based on crop yield and/or crop quality determinations and the need for additional restoration activities. MPL will pay for a professional agronomist and any needed soil sampling, testing and additional restoration. n78

. Damages will include losses from decertification of any portion of organic agricultural land so long as a good faith effort is made to regain certification. n79

The Organic Appendix to the AIMP suggested that MPL hire an agricultural monitor or organic certifier to monitor construction and restoration on organic farms for compliance with organic mitigation measures. n80 The Minnesota Public Utilities Commission (PUC) clarified this requirement so that MPL must retain a "qualified organic consultant" at its expense to assist any landowner with a farm that is organic or is in active transition to become organic in identifying site-specific construction practices to minimize damage during construction or loss or delay of organic

certification. n81

IV. Standard of Practice to Mitigate Harm to Organic Farms

Since the implementation of the Organic Appendix to the AIMP in the MPL case, other jurisdictions have begun to require that agricultural impact mitigation plans provide additional protection to organic agriculture. The Federal Energy Regulatory Commission (FERC) required mitigation specific to organic [*35] farms in Wisconsin proceedings certifying the Guardian natural gas pipeline. n82 In this case, which involved approximately 119.2 miles of 12-30 inch diameter natural gas pipeline extending from Ixonia to Green Bay, Wisconsin, the Wisconsin Department of Agriculture, Trade and Consumer Protection developed best practices to address impacts on farmland, including "construction procedures across and in the vicinity of Certified Organic Farms." n83 These practices and recommendations in the Final Environmental Impact Statement (Final EIS), to reduce the environmental impact resulting from construction and operation of the pipeline, were required in the FERC certification order. n84

The Final EIS for the Guardian Project noted that two organic farms were located in the vicinity of the project and cited potential impacts on organic farms due to soil contamination with prohibited substances and loss of fertility due to impacts to healthy organic soil structure. n85 Best management practices for organic farms were summarized as follows:

Guardian recognizes that organic agricultural land is a unique feature of the landscape and will treat this land with the same level of care as other sensitive environmental features. n86

To minimize impacts on certified organic farms, Guardian would implement site-specific construction techniques based on a Best Management Practice (BMP) for organic agricultural land which have been incorporated in Guardian's AMP Agricultural Management Plan (AMP). n87

Guardian's BMP for organic agricultural land would identify mitigation measures that apply specifically to farms that are Certified Organic or farms that are in active transition to become Certified Organic, and will address the unique management and certification requirements of these operations. . . . As part of this BMP, Guardian would request a copy of the Organic System Plan for the farm and will work with each producer, landowner or tenant to develop a site-specific plan to cross the farm in a manner that would minimize the risk of losing certification. n88

In addition to mitigating impacts on organic farms, decision-makers may also include the presence of organic farms as a factor in determining route selection. In state proceedings regarding routing of the Guardian Pipeline, two route alternatives were rejected by the Wisconsin Public Service Commission for a portion of the pipeline, based in part on the concern that "the initial evaluation of these alternatives identified significant unknown issues with construction through an organic farm, which questioned their

viability as options." n89 The Wisconsin Commission specifically noted that, "the organic farm crossing could raise issues that make these alternatives not practicable." n90

V. Conclusion

There is an evolving standard of practice in siting and routing of energy infrastructure that provides additional protection for organic farms. From the perspective of legal practice, counsel should be aware of timing issues to protect the interests of organic farms located on or adjacent to a proposed route for a pipeline, power line or other element of energy infrastructure. The time to propose alternative routes to avoid a specific organic farm is specified in rules and, often in pre-hearing orders for a particular contested case. Missing this deadline creates additional obstacles to avoidance of an organic farm. Important advice for organic farmers is not to agree to easement terms proposed by a utility or company until they have discussed the potential of route avoidance, consulted with their certifier and addressed any issues that might impair production or certification on their specific organic farm.

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Expert testimony was critical in developing the standard of best management practices reflected in the Gardens of Eagan case study. Additional expert evidence pertaining to organic farms and adverse impacts of infrastructure may be needed to address issues beyond the scope of this case study. For example, as new high voltage power lines are proposed, impacts of electromagnetic fields on livestock and field workers in organic farming may become more salient.

It is strongly suggested, based on precedent and factual differences between organic and conventional farms, that farmers and their counsel proactively seek protection of production and certification interests through avoidance of the organic farm or through specific practices designed to mitigate adverse impacts to organic agriculture. Government officials, at a local, state and federal level, should also recognize the distinctive nature of organic agriculture and the continued appropriateness of requiring specific best management practices to protect production and certification of organic farms. [*37] [*38]

Appendix A

Appendix to Agricultural Impact Mitigation Plan for Organic Agricultural Land n91

Introduction

This appendix identifies mitigation measures that apply specifically to farms that are Organic Certified or farms that are in active transition to become Organic Certified, and is intended to address the unique management and certification requirements of these operations. All protections provided in the Agricultural Impact Mitigation Plan must also be provided to Organic Agricultural Land in addition to the provisions of this appendix. The provisions of this appendix will apply to Organic Agricultural Land for which the Landowner or Tenant has provided to MPL a true, correct and current version of the Organic System Plan within 60 days after the signing of the easement for such land or 60 days after the issuance of a

Routing Permit to MPL by the PUC, whichever is sooner, or, in the event the easement is signed later than 60 days after the issuance of the Routing Permit, the provisions of this appendix are applicable when the Organic System Plan is provided to MPL at the time of the signing of the easement. MPL recognizes that Organic Agricultural Land is a unique feature of the landscape and will treat this land with the same level of care as other sensitive environmental features. n92

Definitions

Unless otherwise provided to the contrary in this Appendix, capitalized terms used in this Appendix shall have the meanings provided below and in the AIMP. In the event of a conflict between this Appendix and the AIMP with respect to definitions, the definition provided in this Appendix will prevail, but only to the extent such conflicting terms are used in this Appendix. The definition provided for the defined words used herein shall apply to all forms of the words. [*39]

Apply:

To intentionally or inadvertently spread or distribute any substance onto the exposed surface of the soil.

Certifying Agent:

As defined by the National Organic Program Standards, Federal Regulations 7 CFR Part 205.2.

Decertified or Decertification:

Loss of Organic Certification.

Organic Agricultural Land:

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Farms or portions thereof described in 7 CFR Parts 205.100, 205.202, and 205.101.

Organic Buffer Zone:

As defined by the National Organic Program Standards, Federal Regulations 7 CFR Part 205.2.

Organic Certification or Organic Certified:

As defined by the National Organic Program Standards, Federal Regulations 7 CFR Part 205.100 and 7CFR Part 205.101.

Organic System Plan:

As defined by the National Organic Program Standards, Federal Regulations 7 CFR Part 205.2.

Prohibited Substance:

As defined by the National Organic Program Standards, Federal Regulations 7 CFR Part 205. 600 through 7 CFR Part 205.605 using the Regulations 7 CFR Part 205. 600 through 7 CFR Part 205.605 using the criteria provided in 7 *USC 6517* and 7 *USC 6518*. [*40]

Organic System Plan

MPL recognizes the importance of the individualized Organic System Plan (OSP) to the Organic Certification process. MPL will work with the Landowner or Tenant, the Landowner or Tenant's Certifying Agent, and/or a mutually acceptable third-party Organic consultant to identify site specific construction practices that will minimize the potential for Decertification as a result of construction activities. Possible practices may include, but are not limited to: equipment cleaning, use of drop cloths during welding and coating activities; removal and storage of topsoil; planting a deep-rooted cover crop in lieu of mechanical decompaction; applications of composted manure or rock phosphate; preventing the introduction of disease vectors from tobacco use; restoration and replacement of beneficial bird and insect habitat; maintenance of organic buffer zones; use of organic seeds for any cover crop; or similar measures. MPL recognizes that Organic System Plans are proprietary in nature and will respect the need for confidentiality.

Prohibited Substances

MPL will avoid the Application of Prohibited Substances onto Organic Agricultural Land. No herbicides, pesticides, fertilizers or seed will be applied unless requested and approved by the Landowner. Likewise, no refueling, fuel or lubricant storage or routine equipment maintenance will be allowed on Organic Agricultural Land. Equipment will be checked prior to entry to make sure that fuel, hydraulic and lubrication systems are in good working order before working on Organic Agricultural Land. If Prohibited Substances are used on land adjacent to Organic Agricultural Land, these substances will be used in such a way as to prevent them from entering Organic Agricultural Land.

Soil Handling

Topsoil and subsoil layers that are removed during construction on Organic Agricultural Land will be stored separately and replaced in the proper sequence after the pipeline is installed. Unless otherwise specified in the site-specific plan described above, MPL will not use this soil for other purposes, including creating access ramps at road crossings. No topsoil or subsoil (other than incidental amounts) may be removed from Organic Agricultural Land. Likewise, Organic Agricultural Land will not be used for storage of soil from non-Organic Agricultural Land. [*41]

Erosion Control

On Organic Agricultural Land, MPL will, to the extent feasible, implement erosion control methods consistent

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with the Landowner or Tenant's Organic System Plan. On land adjacent to Organic Agricultural Land, MPL's erosion control procedures will be designed so that sediment from adjacent non-Organic Agricultural Land will not flow along the right-of-way and be deposited on Organic Agricultural Land. Treated lumber, non-organic hay bales, non-approved metal fence posts, etc. will not be used in erosion control on Organic Agricultural Land.

Water in Trenches

During construction, MPL will leave an earthen plug in the trench at the boundary of Organic Agricultural Land to prevent trench water from adjacent land from flowing into the trench on Organic Agricultural Land. Likewise, MPL will not allow trench water from adjacent land to be pumped onto Organic Agricultural Land.

Weed Control

On Organic Agricultural Land, MPL will, to the extent feasible, implement weed control methods consistent with the Landowner or Tenant's Organic System Plan. Prohibited Substances will not be used in weed control on Organic Agricultural Land. In addition, MPL will not use Prohibited Substances in weed control on land adjacent to Organic Agricultural Land in such a way as to allow these materials to drift onto Organic Agricultural Land.

Mitigation of Natural Resource Impacts

MPL will not use Organic Agricultural Land for the purpose of required compensatory mitigation of impacts to natural resources such as wetlands or woodlands unless approved by the Landowner.

Monitoring

In addition to the responsibilities of the Agricultural Monitor described in the AIMP, the following will apply:

. The Agricultural Monitor or a USDA-approved Organic Certifier retained by MPL will monitor construction and restoration activities on Organic

[*42]

Agricultural Land for compliance with the provisions of this appendix and will document activities that could result in Decertification.

. Instances of non-compliance will be documented according to Independent Organic Inspectors Association protocol consistent with the Landowner's OSP, and will be made available to the MDA, the Landowner, the Tenant, the Landowner's or Tenant's Certifying Agent, and to MPL.

If the Agricultural Monitor is responsible for monitoring activities on Organic Agricultural Land, he/she will be trained, at MPL's expense, in organic inspection, by the Independent Organic Inspectors Association, unless the Agricultural Monitor received such training during the previous three years.

Compensation for Construction Damages

The settlement of damages will be based on crop yield and/or crop quality determination and the need for additional restoration measures. Unless the Landowner or Tenant of Organic Agricultural Land and Company agree otherwise, at the Company's expense, a mutually agreed upon professional agronomist will make crop yield determinations, and the Minnesota Department of Agriculture Fruit and Vegetable Inspection Unit will make crop quality determinations. If the crop Agriculture Fruit and Vegetable Inspection Unit will make crop quality determinations. If the crop yield and/or crop quality determinations indicate the need for soil testing, the testing will be

Compensation for Damages Due to Decertification

Should any portion of Organic Agricultural Land be Decertified as a result of construction activities, the settlement of damages will be based on the difference between revenue generated from the land affected before Decertification and after Decertification so long as a good faith effort is made by the Landowner or Tenant to regain Certification.

Legal Topics:

For related research and practice materials, see the following legal topics:

Energy & Utilities Law
Transportation & Pipelines
Easements & Rights of Way
Energy & Utilities Law
Transportation & Pipelines
Electricity Transmission
Governments
Agriculture & Food
Pest & Disease Control

FOOTNOTES:

n1 Affidavit of Atina Diffley at PP 8, 9, In re Application of Minn. Pipe Line Co. for a Routing Permit for a Crude Oil Pipeline, Minn. Pub. Utils. Co. No. PL-5/PPL-05-2003 (2006), available at <http://www.frontiernet.net/atinagoe/Affidavit%20A%20DiffleyFinal.pdf>.

n2 In re Application of Minn. Pipe Line Co. for a Certificate of Need for a Crude Oil Pipeline, No. PL-5/CN-06-2 (Minn. Ct. App. June 10, 2008) [hereinafter Certificate of Need].

n3 Exhibit 56, Stipulation between Minnesota Pipe Line Company and Gardans of Eagan, In re Application of Minn. Pipe Line Co. for a Routing Permit for a Crude Oil Pipeline, Minn. Pub. Utils. Comm'n, No. PL-5/PPL-05-2003 (2006).

n4 *MINN. STAT. § 216B.243(7)(b)* (2008). n5 Id. n6 Id. at § 216G.07(5).

n7 *MINN. R. 7849.5940(3), (4)* (2008). The relevant rule reads:

Prime farmland exclusion. No large electric power generating plant site may be permitted where the developed portion of the plant site, excluding water storage reservoirs and cooling ponds, includes more than 0.5 acres of prime farmland per megawatt of net generating capacity, or where makeup water storage reservoir or cooling pond facilities include more than 0.5 acres of prime farmland per megawatt of net generating capacity, unless there is no feasible and prudent alternative. Economic considerations alone do not justify the use of more prime farmland. 'Prime farmland' means those soils that meet the specifications of Code of Federal Regulations 1980, title 7, section 657.5, paragraph (a). These provisions do not apply to areas located within home rule charter or statutory cities; areas located within two miles of home rule charter or statutory cities of the first, second, and third class; or areas designated for orderly annexation under *Minnesota Statutes, section 414.0325*.

n8 Id. at 7849.5910(C). n9 Id. at 7852.1900 (3)(D).

n10 Pipeline Routing Permit Application § 4415.0140, p. 2, Minn. Pub. Utils. Comm'n No. PL5/PPL-05-2003 (2006), available at <http://energyfacilities.puc.state.mn.us/documents/18339/PUC%20Application%20Text%2001-26-06.pdf>. n11 MINN. R. 7849.5910(C) (2008) (emphasis added). n12 MINN. R. 7852.1900(3)(D) (2008) (emphasis added). n13 Id. at 7852.3600(D),(E),(H)-(M).

n14 See Environmental Assessment Supplement to the Pipeline Routing Permit Application at 9, 10, Minn. Pub. Utils. Comm'n, No. PL-5/PPL-05-2003 (2006), available at <http://energyfacilities.puc.state.mn.us/documents/18339/Environmental%20Assessment%20Supplementrevised.pdf>.

n15 See, e.g., MINN. R. 7849.5910(E) (2008)("effects on the natural environment, including effects on air and water quality resources and flora and fauna"); Id. at § 7849.5910(M) (2008) ("adverse human and natural environmental effects which cannot be avoided..."); Id. at § 7852.1900(3)(B) (2008)("the natural environment, public and designated lands, including but not limited to natural areas, wildlife habitat, water, and recreational lands"), Id. at § 7852.1900(3)(H) (2008)("the extent to which human or environmental effects are subject to mitigation by regulatory control and by application of permit conditions in part 7852.3400 for pipeline right-of-way preparation, construction, cleanup, and restoration practices").

n16 National Environmental Policy Act of 1969, 42 U.S.C. § § 4321-47 (2000).

n17 The Minnesota Environmental Policy Act, MINN. STAT. § 116D.04(6) (2008). The relevant section reads:

No state action significantly affecting the quality of the environment shall be allowed, nor shall any permit 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 its air, water, land and other natural resources from pollution, impairment, or destruction. Economic considerations alone shall not justify such conduct.

n18 National Organic Program, 7 C.F.R. § 205.2 (2008).

n19 See Direct Testimony of James A. Riddle, In re Application of Minn. Pipe Line Co. for a Routing Permit for a Crude Oil Pipeline, Minn. Pub. Utils. Comm'n, No. PL-5/PPL-05-2003 (2006), available at <http://www.frontiernet.net/atinagoe/FinalTestJamesRIDDLE.html>.

n20 See id.

n21 See id.

n22 See *id.*

n23 *Id.*

n24 National Organic Program, 7 *C.F.R.* § § 205.105, 205.202(b) (2008).

n25 *Id.* at § 205.203(c). n26 Affidavit of Atina Diffley at P 8, *supra* note 2.

n27 *Id.* at PP 8, 9. n28 See *Langan v. Valicopters, Inc.*, 567 P.2d 218, 218

(*Wash.* 1977).

n29 See *id.* at 222-23. In general, case law on pesticide contamination of organic farms is outside the scope of this note.

n30 *Id.* at 219. n31 *Id.*

at 219-20. n32 *Id.* at

220. n33 See *id.* at 224.

n34 See Rick L. Hirschi, Organic Row Crops in a Diversified Farm Portfolio 5 (June 29-July 1, 2000) (unpublished manuscript), available at <http://ageconsearch.umn.edu/bitstream/36478/1/sp00hi01.pdf>.

n35 See ENV'T & NATURAL RES. SERV., FOOD & AGRIC. ORG. OF THE U.N., EVALUATING THE POTENTIAL CONTRIBUTION OF ORGANIC AGRICULTURE TO SUSTAINABILITY GOALS 15 (1998), <ftp://ftb.fao.org/docrep/fao/003/ac116e/ac116e00.pdf>.

n36 See Certificate of Need, *supra* note 3; In re Application of Minn. Pipe Line Co. for a Routing Permit for a Crude Oil Pipeline, No. PL-5/PPL-05-2003 (Minn. Ct. App. June 10, 2008) (Proceedings pertaining to the MPL's MinnCan crude oil pipeline project were contained in two dockets, both initiated by MPL in January 2006.).

n37 Pipeline Routing Permit Application, *supra* note 11, at § § 4415.0120, p. 3,

4415.0130, p. 1. n38 *Id.* at § 4415.0145, p.2. n39 *Id.* at § 4415.0120(6), p. 9-10.

n40 Gardens of Eagan Proposal for Alternative Route Alignment to Avoid Organic Farm, In re Application of Minn. Pipe Line Co. for a Routing Permit for a Crude Oil Pipeline, Minn. Pub. Utils. Comm'n., No. PL-5/PPL-05-2003 (2006), available at <http://www.frontiernet.net/atinagoe/RoutingMemoFinal.pdf>.

n41 Affidavit of Atina Diffley at P 1, supra

note 2. n42 Id. n43 Id. n44 Id.

n45 Second Prehearing Order at 2, In re Application of Minn. Pipe Line Co. for a Certificate of Need for a Crude Oil Pipeline & In re Application of Minn. Pipe Line Co. for a Routing Permit for a Crude Oil Pipeline, Office of Admin. Hearings No. 15-2500-17136-2 (June 9, 2006).

n46 MINN. R. 1400.6200, 1400.7100 (2008). n47 Gardens of Eagan

Proposal for Alternative Route Alignment, supra note 41.

n48 Findings of Fact, Conclusions and Recommendations at 50, In re Application of Minn. Pipe Line Co. for a Certificate of Need for a Crude Oil Pipeline & In re Application of Minn. Pipe Line Co. for a Routing Permit for a Crude Oil Pipeline, Office of Admin. Hearings No. 15-2500-17136-2 (2006), available at <http://energyfacilities.puc.state.mn.us/documents/18339/ALJBJHRptMinnCan.pdf>.

n49 See Affidavit of Dana Jackson, In re Application of Minn. Pipe Line Co. for a Routing Permit for a Crude Oil Pipeline, Minn. Pub. Utils. Comm'n No. PL-5/PPL-05-2003 (2006), available at <http://www.frontiernet.net/atinagoe/LSP%20Dana%20Jackson%20affidavit.pdf>.

n50 See Gardens of Eagan Proposed Findings of Fact and Conclusions, In re Application of Minn. Pipe Line Co. for a Routing Permit for a Crude Oil Pipeline, Minn. Pub. Utils. Comm'n No. PL-5/PPL-05-2003 (2006), available at <http://www.frontiernet.net/atinagoe/GOEProposedFindings10.13.06>.

n51 See

id. n52 Id.

n53 Direct Testimony of James A. Riddle, supra note 20; Direct Testimony of Deborah L. Allan, In re Application of Minn. Pipe Line Co. for a Routing Permit for a Crude Oil Pipeline, Minn.

Pub. Utils. Comm'n, No. PL-5/PPL-05-2003 (2006), available at <http://www.frontiernet.net/atinagoe/FinalTestDeborahALLAN.html>; Affidavit of Atina Diffley, *supra* note 2.

n54 Direct Testimony of Deborah L. Allan, *supra* note 54; Direct Testimony of James A. Riddle, *supra* note 20.

n55 Direct Testimony of Deborah L. Allan, *supra* note 54. n56 Direct Testimony of James A. Riddle, *supra* note 20. n57 *Id.* (internal citations omitted). n58 *Id.* n59 Direct Testimony of Deborah L. Allan, *supra* note 54. n60 Direct Testimony of James A. Riddle, *supra* note 20.

n61 *Id.* n62 Direct Testimony of Deborah L. Allan, *supra* note 54. n63 Direct Testimony of James A. Riddle, *supra* note 20. n64 Direct Testimony of Deborah L. Allan, *supra* note 54. n65 Direct Testimony of James A. Riddle, *supra* note 20. n66 Direct Testimony of Deborah L. Allan, *supra* note 54. n67 See Exhibit 56, *supra* note 4.

n68 See *id.*; Exhibit 59, Letters to Minn. Dep't of Commerce, In re Application of Minn. Pipe Line Co. for a Routing Permit for a Crude Oil Pipeline, Minn. Pub. Utils. Comm'n No. PL-5/PPL-05-2003 (2006).

n69 *Gardens of Eagan Proposed Findings of Fact and Conclusions*, *supra* note 51 at P 18. n70 See *infra* Appendix A, Introduction. n71 See *infra* Appendix A, Organic System Plan. n72 See *infra* Appendix A, Organic System Plan. n73 See *infra* Appendix A, Prohibited Substances. n74 See *infra* Appendix A, Soil Handling. n75 See *infra* Appendix A, Erosion Control. n76 See *infra* Appendix A, Water in Trenches. n77 See *infra* Appendix A, Weed Control. n78 See *infra* Appendix A, Compensation for Construction Damages. n79 See *infra* Appendix A, Compensation for Construction Damages. n80 See *infra* Appendix A, Monitoring.

n81 Pipeline Routing Permit for a Crude Oil Pipeline at 9, In re Application of Minn. Pipe Line Co. for a Routing Permit for a Crude Oil Pipeline, Minn. Pub. Utils. Comm'n No. PL-5/PPL-05-2003 (2007).

n82 Guardian Pipeline, L.L.C., 121 Fed. Energy Reg. Comm'n Rep. (CCH) PP 61,259, 62,295 (Dec. 14, 2007).

n83 *Id.* n84 *Id.*
at P 62,297.

n85 FED. ENERGY REG. COMM'N, FINAL ENVIRONMENTAL IMPACT STATEMENT ON GUARDIAN EXPANSION AND EXTENSION PROJECT 2-24 (2007), available at <http://www.ferc.gov/industries/gas/enviro/eis/2007/10-26-07.asp>.

n86

Id.

n87

Id.

n88

Id.

n89 Final Decision at 13, Application of Wisc. Gas LLC, as a Gas Public Utility, for Authority to Construct Natural Gas Lines in Dodge and Washington Counties, Wisc. for the Purpose of Connecting its Existing Natural Gas Distrib. Sys. in the Hartford and West Bend Areas to a Proposed Expansion of the Guardian Pipeline, Wisc. Pub. Serv. Comm'n No. 6650-CG-220 (2007).

n90 Id.

n91 Exhibit 56, Stipulation Between Minn. Pipe Line Co. & Gardens of Eagan, Appendix to Agric. Impact Mitigation Plan For Organic Agric. Land, In re Application of Minn. Pipe Line Co. for a Routing Permit for a Crude Oil Pipeline, Minn. Pub. Utils. Comm'n No. PL-5/PPL-05-2003 (2006), available at <http://frontiernet.net/atinagoe/organic%20appendix.html>.

n92

Appendix 2: USDA organic certification of wild rice

ORGANIC WILD GATHERER CERTIFICATE

This is to certify that
White Earth Nation
PO Box 418
White Earth, MN 56591

has met the Organic Standards established under the
USDA National Organic Program
Effective Date: September 27, 2012
Certification Number: MCIA 092712-06

Certification valid until surrendered, suspended or revoked.

100% Organic:
Product: Wild Rice

This organic operation has been inspected by an agent of MCIA who has verified that, to the best of our knowledge, the operation is in compliance with National Organic Program Standards.

Cynthia K. Wappler
MCIA Representative



September 27, 2012

Issuing Date

Appendix 3:

See Below White Earth Tribal intervention

In order to be approved, the Certificate of Need and Routing Permit must satisfy a number of statutory and administrative requirements.¹ The Public Utilities Commission has made a determination that the Application of the North Dakota Pipeline Company, LLC is complete.² Now the substantive issue of whether the Application meets the statutory and administratively defined criteria is before the Administrative Law Judge at the Office of Administrative Hearings, as provided in order of the Public Utilities Commission dated February 11, 2014.³ No consideration was made to date in the proceedings of the impact of the proposed pipeline on the retained usufructuary interests of the White Earth Band of Ojibwe in the 1855 Treaty ceded territory.

Additionally, in order to move forward with the Sandpiper Project, the Applicant must seek approval from the Secretary of the Interior and request that the Secretary grant rights-of-way through public lands in the 1855 Treaty ceded territory.⁴ The involvement of the Secretary of the Interior in these proceedings requires that an Environmental Impact Statement (EIS) be completed; the Applicant and the State of Minnesota must request that an EIS be completed in order to make a meaningful determination of the substantial impacts that the Applicant's proposed pipeline presents.

Given this background, the White Earth Band of Ojibwe raises the following issues:

1. The North Dakota Pipeline Company, LLC failed to recognize off-reservation gathering, hunting, fishing, ricing, and other usufructuary rights as a compensable property interest in its Application for Certificate of Need and Pipeline Routing Permit.

¹ See Minn. R. §§ 7853.0130 (2003) & 7852.1900, subpart 3 (2007).

² Order of the Public Utilities Commission dated February 11, 2014 at 1.

³ *Id.* The Commission stated in its order "The ultimate issue in this case is whether [the North Dakota Pipeline Company]'s proposed pipeline meets the routing criteria set forth in Minnesota Statutes Chapter 216G and Minnesota Rules Chapter 7852. This issue turns on numerous factors that are best developed in formal evidentiary proceedings. The parties to this proceeding should address whether the proposed project meets these criteria and addresses these factors. The parties may also raise and address other issues relevant to the application."

⁴ 25 U.S.C. § 321 (2014).

Ojibwe Naming of Wild Plants

Dwight A. Gourneau
Adapted from Michael Price's
TRIBES Presentation

Wild Plant Name Suffixes in Ojibwe Language

- "-jiibik" – root
- "-imin" – berry, fruit, seed
- "-bag" – leaf
- "-pin" – potato-like, tuber
- "-aatig" – trunk, stem
- "-waak" – tree
- "-ashk" – long grassy stem
- "-mizh" – small tree, shrub
- "-aandag" – bough
- "Mashkii-" – bog

Latin-Ojibwemowin Classification

Round Leaf Sundew

Waawiiye-niigeganzh

(*Drosera rotundifolia*)



date?
envelope?

Mario LaPlante
23965 290th Ave Sw
Crookston MN 56716
Polk County Lowell Twp section 9

Appendix C Draft Agricultural Protection Plan October 2013

PUC Docket # PL-6668/PPL-13-474

- 1) Is this the latest version? Why was it not sent out to all affected Landowners prior to these meetings as a reference document. It would have allowed for more informed discussion.
- 2) Who will be doing the easement negotiations? What will be the limits of their authority, as far as negotiating with Landowners.
- 3) If landowners are not satisfied with the final offer is this project covered by eminent domain? If so then who decides what is fair and equitable? What is the landowners recourse at that point?

Questions specific to draft plan Appendix C

- 4) Page ii definition Agricultural Monitor, retained and funded by EPND, who writes his check? Who does he answer to? who is his supervisor? Will he be an advocate for the landowner? He audits EPND compliance with the plan, does he have the authority to stop work if noncompliant activities are taking place?

General Provisions

Page 1

- 1a) What if mitigation measures requested by landowners are not acceptable to EPND? Who intervenes?
- 2a) Are there additional requirements that can be written into the route permit to protect all landowners?

Page 2

Ag Monitors job description

- 3a) I am concerned that it is all after the fact, the time involved going through the channels means the damage is done and may not be repairable.

Page 4

Depth of Cover 2.A.1)

Will landowners be advised that 54" is state law and 30" optional only if waived by owners?

Page 5 & 6

Topsoil Stripping 5.A.)

Modified Ditch versus Full Right of way. Will landowner be able to specify which method?

Reference question 1a) above

Page 7

Backfilling 5.J." Compaction by operating construction equipment along trench is acceptable."

No it is not, it is ineffective when the trench is that narrow and that deep. A couple of passes with a dozer with LGP tracks will result in years of settling. At a minimum it should be backfilled with a backhoe and tamped with the bucket in 12-18" lifts.

5.L When backfilling and replacing topsoil through established field drainage ditches what provisions will be made to prevent blockage and erosion?

Page 9

Agricultural drainage ditches 7. Vague wording "sufficient to allow for ongoing maintenance of the ditch"

The same agricultural practices will be ongoing in the ditch as well as the level ground. Therefore the same depth of cover needs to be maintained in the ditch bottom 54"

Page 10

10.C. Deep subsoil ripping, need based upon Ag inspectors determination? Ag monitor should be involved as well. Reference #4 above also 3a above

10.E What is the window of opportunity to file a written claim? Should be done before topsoil is replaced.

It does not state that additional deep tillage will be done after soil survey is completed if called for.

If soil restoration takes longer than planned will additional years of crop loss be paid to compensate?

Mario LaPlante
23965 290th Ave Sw
Crookston MN 56716
Polk County Lowell Twp section 9

Appendix C Draft Agricultural Protection Plan October 2013

PUC Docket # PL-6668/PPL-13-474

Page 10

H."EPND will determine the appropriate actions" what if the landowner is not satisfied? Appeal process?
Fertilization and Liming 11. Vague wording. Needs to be based upon soil sampling paid for by EPND.
Should include organic matter replacement as well as nutrients.

Page 11

Land Leveling 12. For how many years after completion? Reference page 7 backfilling 5.J.

Page 13

Procedures for Determining Damages. 21.

A. EPND will negotiate in good faith in accordance with the terms of the easement. We have not been informed of the easement terms prior to these meetings. There maybe concerns that should be addressed in the route permit.

B. Negotiations based upon Easement, once again in the dark as to what that entails, It will have to be made clear before an easement is signed.

Good Faith, Fair and Reasonable, are subject to interpretation, settling that question is what keeps an army of lawyers employed. Which brings me back to the beginning. Reference 2) # 3)



Public Comment Sheet

North Dakota Pipeline Company LLC Sandpiper Pipeline Project

PUC Docket No. PL-6668/PPL-07-13-474

PLEASE PRINT CLEARLY

Name: Margaret J. LaRogue

Representing: _____

Email: _____

Address: 225 1st Ave. N.W.
Cass Lake, MN 56453

Tel: _____

COMMENTS

Multiple horizontal lines for writing comments, with a large hand-drawn arrow pointing to the right on the right side.

Please submit comments at meeting to EERA staff or send to:

Larry B. Hartman
Energy Environmental Review and Analysis
Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Email: larry.hartman@state.mn.us
Toll Free: 800-657-3794
Voice: 651-538-1839
Fax: 651-539-0109

Electronic Submittal: <http://mn.gov/commerce/energyfacilities/publicComments.html?projectId=33599>

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Comments Continued:

Havent ~~of~~ the done enough to the Native people!
the land the people our most treasured thing the
Creaty gave us. Please don't run that pipeline.
Sandpiper W.E. enrolled

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Tape here

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Larry B. Hartman
Energy Environmental Review and Analysis
MN Dept of Commerce
85 7th Place E, Ste 500
St. Paul MN 55101-2198

55101\$6013 C012



(Second-Fold here)

Hartman, Larry (COMM)

From: Dan Larson <dklarson65@gmail.com>
Sent: Friday, May 09, 2014 2:23 PM
To: Hartman, Larry (COMM)
Subject: Sandpiper Pipeline Proposal

There is an existing Enbridge Pipeline to Clearbrook connecting to a main line at Clearbrook. Why would the company want to endanger a lakes region near Park Rapids? I am advocating running the new line, if it is indeed necessary and approved, adjacent to the existing main line Enbridge has already constructed. I object to any kind of pipeline running through one of Minnesota's prime lake region.

thank you,

Dan Larso
25102 Cardinal Lane
Nevis, MN 56467

Dear Mr. Hartman

Please leave on earth while

~~Regina Hill~~

#13 - 474

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MAY 21 2014

MAILROOM



Public Comment Sheet

North Dakota Pipeline Company LLC Sandpiper Pipeline Project

PUC Docket No. PL-6668/PPL-07-13-474

PLEASE PRINT CLEARLY

Name: Rebecca Lekan

Representing: White Earth Reservation

Email: rebecca.lekan@whiteearth.com

Address: P.O. Box 591

Tel: 218.902.0831

Mahnomen, Mn.
56557

COMMENTS

I am a member of the White Earth Reservation
and hold rights with in 1855 Treaty Territory.
I don't want our natural resources spoiled
by any oil spills. Don't ruin our wild rice
harvests.

Rebecca C. Lekan

Please submit comments at meeting to EERA staff or send to:

Larry B. Hartman
Energy Environmental Review and Analysis
Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Email: larry.hartman@state.mn.us
Toll Free: 800-657-3794
Voice: 651-538-1839
Fax: 651-539-0109

Electronic Submittal: <http://mn.gov/commerce/energyfacilities/publicComments.html?projectId=33599>

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Public Comment Sheet

North Dakota Pipeline Company LLC Sandpiper Pipeline Project

PUC Docket No. PL-6668/PPL-07-13-474

PLEASE PRINT CLEARLY

Name: Christie Lett

Representing: _____

Email: _____

Address: 107 North Railway St
Apt 201
Minnetonka, MN 55357

Tel: 818 521 0708

COMMENTS

This pipeline cannot pass through the White Earth reservation as the natural resources are important to the people of the White Earth nation. The wild rice and other natural resources are not only important for consumption and livelihood but also to the survival of the culture of the tribe which has already lost so much. The safety is also threatened of the people. The White Earth Nation people and Culture must be preserved.

Christie Lett

Please submit comments at meeting to EERA staff or send to:

Larry B. Hartman
Energy Environmental Review and Analysis
Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Email: larry.hartman@state.mn.us
Toll Free: 800-657-3794
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Public Comment Sheet

North Dakota Pipeline Company LLC Sandpiper Pipeline Project

PUC Docket No. PL-6668/PPL-07-13-474

PLEASE PRINT CLEARLY

Name: Jerome Lhotka
29793 374th St.
Ogema Mn. 56569

Representing: _____

Email: jerome.lhotka@gmail.com

Address: _____

Tel: 218-935-3285

COMMENTS

As a traditional hand harvester of wild rice
I strongly oppose the current pipeline path through
the headwaters region. I would support the
alternative - I-29-I94 route

Please submit comments at meeting to EERA staff or send to:

Larry B. Hartman
Energy Environmental Review and Analysis
Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Email: larry.hartman@state.mn.us
Toll Free: 800-657-3794
Voice: 651-538-1839
Fax: 651-539-0109

Electronic Submittal: <http://mn.gov/commerce/energyfacilities/publicComments.html?projectId=33599>

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St. Paul MN 55101-2198

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13 - 474

DEAR MR. HARTMAN,

I AM COMPLETELY AGAINST
THE PIPELINE RUNNING THROUGH
NORTHERN MINNESOTA, OUR
ENVIRONMENT IS PRECIOUS
AND WE CAN'T AFFORD TO DAMAGE
IT ANY MORE THAN WE ALREADY
HAVE.

PLEASE DENY THE SANDPIPER
PROPOSED PIPELINE.

Sincerely
Sander A. Lien

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MAY 21 2014

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277 Riverside Drive
Florence, MA 01062
March 29, 2014

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APR 10 2014
MAILROOM

Dear staff of the Minnesota Department of Commerce
and Larry Hartman of the Public Utilities Commission,

I am writing as a former resident of Minnesota who greatly values the north country. Honor the Earth is advocating with other concerned groups to request that the Minnesota Public Utilities Commission and Department of Commerce **extend the public comment period for alternative route proposals for the Sandpiper Pipeline from April 4th, until October 31, 2014.** With the public meetings around the pipeline only just closing, Minnesota communities need time to organize and respond. The communities most impacted by this proposal are also politically marginalized, with many of the constituents on the White Earth Ojibwe reservation living below the poverty line. They have challenges to their ability to travel and organize, and the current comment closing date of April 4th distinctly limits this community's ability to comment on an issue which could have devastating impacts on the health and wellbeing of their community and land.

As a former resident and interested party, **I also request that your governmental entity should take action to deny the permit of Enbridge's proposed Sandpiper Pipeline in Northern Minnesota.** This proposed line needs to be challenged as it threatens the people, lifeways, watersheds, and wildlife of greater Minnesota. One-fifth of the world's fresh surface water supply lies here. The wild rice beds, lakes, and rivers are precious and the regional fisheries generate \$7.2 billion annually, and support 49,000 jobs. The wild rice crop would be threatened; this is the lifeblood of the Anishinaabeg people (whose treaty area this pipeline crosses) and the lifeblood of the region. These pipelines threaten all Minnesotans.

The Sandpiper line of fracked oil will facilitate the creation of a national sacrifice area in western North Dakota as well, threatening their water. The Sandpiper, hopes to bring up to 375,000 barrels of fracked Bakken oil through a separate route in northern Minnesota. Fracked oil from the Bakken poses a serious risk to the North Country – particularly in light of the recent 800,000 gallon oil spill in a remote area of North Dakota.

I oppose this pipeline, and request your leadership to extend the comment period, and support the call to deny Enbridge the permit for pipelines across the north. Without your approval, the pipeline expansion will not be allowed. I encourage you to deny the request, support a just and fair commenting process, and protect Minnesota families, communities, and environment from the harm these pipelines would cause. The livelihoods and health of Minnesotans depends on it.

Thank you for your serious consideration.

Sincerely,


Christine E. Linderman

Larry Hartman
Environmental Review Manager
MN Dept. of Commerce
85 7th Place East, suite 500
St. Paul, MN 55101
PUC Docket # 13-474

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MAY - 5 2014

MAILROOM

Dear Mr. Hartman;

I am a "Senior Citizen". My husband and I now live in Hubbard County on one of the hundreds of 'Minnesota's Gems' – "little" Lake Emma. However- sometime in May and through September we "move" down to our little OLD summer log Cabin on Big Sand Lake. My Grandparents (we were all from Illinois) bought that Cabin in the late '20's. Needless to say – I have lived to see UNTOLD numbers of changes since my childhood years: HOWEVER - Big Sand Lake is still an irreplaceable GEM – the water is comparatively clear and the beaches unpolluted.

My question is: How can you – or any other Minnesota Official – even think about, let alone seriously consider, running an oil pipeline directly through Minnesota's (comparatively) unspoiled Lake Country?! Our family has spent all these past years trying – in our small way – to protect and save (for our future generations) these precious Lake Country properties...AND the Boundary Waters – and Duluth's Lake Superior/North Shore Wonderland (we also lived there for many years.)

You, as an appointed Official of our MN Government, have been given the honor of doing everything within your power to preserve those Minnesota Gems.

So – PLEASE DO SO.

Sincerely,

Edith M. Long

20260 Hunter Road





Public Comment Sheet

North Dakota Pipeline Company LLC Sandpiper Pipeline Project

PUC Docket No. PL-6668/PPL-07-13-474

PLEASE PRINT CLEARLY

Name: MR. Lopez

Representing: _____

Email: _____

Address: _____

Tel: _____

COMMENTS

You should not put a pipeline by or near our picking grounds cause you can poison everything around the lake.
Thanks

Please submit comments at meeting to EERA staff or send to:

Larry B. Hartman
Energy Environmental Review and Analysis
Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Email: larry.hartman@state.mn.us
Toll Free: 800-657-3794
Voice: 651-538-1839
Fax: 651-539-0109

Electronic Submittal: <http://mn.gov/commerce/energyfacilities/publicComments.html?projectId=33599>

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Public Comment Sheet

North Dakota Pipeline Company LLC Sandpiper Pipeline Project

PUC Docket No. PL-6668/PPL-07-13-474

PLEASE PRINT CLEARLY

Name: Christine Lunde

Representing: White Earth Reservation

White Earth

Email: christinel@whiteearth.com

Address: P.O. Box 401
White Earth, MN 56591

Tel: 218-983-3286

COMMENTS

Don't put thru Lakes, Natural Resource areas, pure water areas, risking contamination to our drinking water. Many lakes.

Better to put in other areas not near Community Water Supplies + cities/towns.

Please submit comments at meeting to EERA staff or send to:

Larry B. Hartman
Energy Environmental Review and Analysis
Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Email: larry.hartman@state.mn.us
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#13-474

5-7-14

Dear Larry Hartman,

My name is Renee Luemans and
I am writing to you today to ask
that you stop the pipeline that is
planned to run through northern Minnesota
I feel that this pipeline will jeopardize
our eco system and damage our natural
resources.

Sincerely,
Renee Luemans

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MAY 21 2014

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Public Comment Sheet

North Dakota Pipeline Company LLC Sandpiper Pipeline Project

PUC Docket No. PL-6668/PPL-07-13-474

PLEASE PRINT CLEARLY

Name: Suzie Lusive

Representing: _____

Email: Suzelusive@gmail.com

Address: 31442 E Round Lake Rd.
Plymouth, MN

Tel: _____

COMMENTS

I am an enrolled member of Hopi and Comanche tribes - these are Anishinabe lands that the pipeline will be crossing, but it affects me because I am a human being and like all others, I need water and the land to survive. This pipeline threatens both the water and the land... I have an alternative to the proposed route: shove it right back up your ass Enbridge.

Please submit comments at meeting to EERA staff or send to:

Larry B. Hartman
Energy Environmental Review and Analysis
Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Email: larry.hartman@state.mn.us
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J I M&RICE