



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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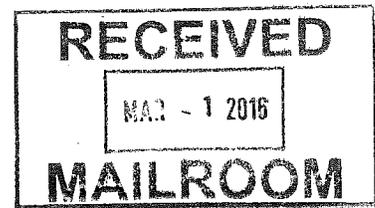
FEB 25 2016

REPLY TO THE ATTENTION OF:

Stacey Jensen
Acting Chief, Regulatory Branch
St. Paul District
U.S. Army Corps of Engineers
180 Fifth Street East, Suite 700
St. Paul, Minnesota 55101

John Wachtler
Energy Environmental Review and Analysis Unit
Minnesota Department of Commerce
85 Seventh Place East, Suite 500
St. Paul, Minnesota 55101

Jim Pardee
Wisconsin Environmental Policy Act Coordinator
Bureau of Environmental Analysis and Sustainability
Wisconsin Department of Natural Resources
101 South Webster Street
P.O. Box 7921
Madison, Wisconsin 53707



RE: Environmental impact reviews of proposed Enbridge Line 3 Replacement Pipeline and proposed Sandpiper Pipeline

Dear Ms. Jensen, Mr. Wachtler, and Mr. Pardee:

As you know, the Enbridge Company has proposed installing a new crude oil pipeline to replace its existing Line 3 Pipeline, following the existing Line 3 route from Hardisty Alberta, Canada to Clearbrook, Minnesota and co-located with a portion of the proposed Sandpiper Pipeline from Clearbrook to Superior. The proposed Sandpiper Pipeline would carry Williston Basin crude oil from Tioga, North Dakota, to the Enbridge Terminal in Superior via Clearbrook. Routing for the Sandpiper Pipeline in North Dakota has already been approved by the North Dakota Public Service Commission.

Several tribal governments and environmental organizations have called on the U.S. Army Corps of Engineers (Corps) and the affected states to undertake a joint Federal-State Environmental

Impact Statement (EIS) on the Sandpiper project. EPA has discussed the review process with your agencies in light of these requests, and the purpose of this letter is to state our understanding and expectations based on these discussions.

We understand that decisions on certificate of need and routing in Minnesota rest with the Minnesota Public Utility Commission, to be informed by a State EIS being undertaken by Minnesota Department of Commerce (MDOC). The Minnesota State EIS will consider: 1) multiple route alternatives; 2) impacts to a wide range of resources in the natural and human environment, including resources of interest to tribes; and 3) spill modeling at multiple proposed stream crossing locations. We understand that MDOC will consult with affected tribes during the development of the State EIS.

The Wisconsin Department of Natural Resources (WDNR) is preparing a State EIS to inform permit decisions that will determine the route. We understand that this EIS will also cover a broad range of potential impacts to resources in the natural and human environment, and that WDNR will engage with affected tribes in Wisconsin.

We also understand that the Corps intends to prepare an environmental assessment (EA) that will focus on impacts to jurisdictional Waters of the United States (WOUS) and will inform its permit decision under Section 404 of the Clean Water Act. The Corps will prepare this EA once Minnesota and Wisconsin have made routing decisions; will consider the analyses from the State EISs as part of its review; and is already coordinating with MDOC and WDNR. We understand that the Corps has initiated contact with several Chippewa bands near the Sandpiper project, and is also reaching out to additional tribes with historic ties to the area in compliance with the National Historic Preservation Act. We expect that the Corps will continue to engage with tribes on a government-to-government basis, consulting with them as the NEPA process moves forward, to ensure that tribal interests including treaty rights in ceded territory are fully considered. The Corps is also coordinating with the U.S. Fish and Wildlife Service to assure compliance with the Endangered Species Act. The Corps has indicated that, if the information and analysis in its EA leads to a determination that Enbridge's proposed activities in WOUS warrant preparation of a Federal EIS, it will prepare an EIS before its permit decision.

EPA has reviewed the scopes of the state EISs under development respectively by MDOC and WDNR and believes they will address the relevant issues. We expect these state EISs and the Corps EA will consider impacts to resources of interest to tribes and that the affected tribes will continue to be consulted as these documents are prepared. We also expect that the Corps EA will evaluate and address environmental justice consistent with Executive Order 12,898; we encourage state consideration of environmental justice in their reviews.

EPA will review and comment on the MDOC and WDNR state EISs when they are issued for public comment. We will also review and comment on the Corps EA. Please provide these documents to Ken Westlake of my staff when they are available. At this time we are not advising the Corps, MDOC, and WDNR to prepare a joint Federal/state EIS. We will continue to monitor the situation and coordinate, as appropriate, with the Corps, the states, and tribes on permits related to this project within EPA's legal responsibilities.

If you have questions or comments, please contact me or Ken Westlake of my staff at 312-886-2910 and westlake.kenneth@epa.gov.

Sincerely,



Alan Walts, Director
Office of Enforcement and Compliance Assurance

Cc:

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