

Fond du Lac Band of Lake Superior Chippewa Reservation Business Committee

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May 25, 2016

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

Pipeline.Comments@state.mn.us

RE: Scoping Comments Regarding the Sandpiper Pipeline and Line 3 Replacement Projects, PUC Docket Numbers for Sandpiper: PL-6668/CN-13-473 and PPL-13-474; Line 3: PL-9/CN-14-916 and PPL-15-137

Dear Ms. MacAlister:

The Fond du Lac Band of Lake Superior Chippewa is a federally-recognized Indian tribe located in Northeastern Minnesota with a reservation consisting of roughly 100,000 acres. In addition to the reservation, the Band also retains usufructuary rights in an additional 9.5 million acres surrounding the reservation. These lands were ceded to the U.S. Government in the Treaties of 1837 and 1854. The Band retains all rights in the Ceded Territories that were not specifically reserved by treaty, including hunting, fishing, and gathering.

The proposed routes for both Sandpiper and Line 3 cut through the Band's Ceded Territories. The Fond du Lac Band of Lake Superior Chippewa submits the following comments regarding Enbridge's Sandpiper Pipeline and Line 3 Replacement projects.

Climate Change

Any new oil transportation infrastructure serves to encourage the country's reliance on an energy resource that is inherently damaging to the world's climate, locking us into an uncertain future for our children, grandchildren, and all future generations. The pipeline would lead to increasing greenhouse-gas emissions, killing our chances of meeting pollution-reduction targets. Continued reliance on energy from oil is altering many resources on Earth, contributing to devastating climate change.

The effects of a changing climate impact the resources on our reservation and Ceded Territories. Several species of interest to the Band are already being adversely impacted by climate change. Wild rice, for instance, is very dependent on steady water levels during the floating leaf stage. Floods on the Reservation in 2012 destroyed the wild rice crop that year. The steep decline of the moose population in northern Minnesota that has been noted over the past twelve years is believed to have been

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Secretary/Treasurer
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Dist. II Representative
Bruce M. Savage

Dist. III Representative
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Tribal Programs
Chuck Walt

Executive Director,
Tribal Enterprises
Michael Himango

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exacerbated by hotter summers and the increased occurrence of pests. The emerald ash borer has destroyed stands of ash around the state. The health of many Native people, many of whom suffer from asthma, is worsened by mold outbreaks caused by wetter weather and higher ozone levels caused by a hotter climate. A study completed by the National Wildlife Federation (“Facing the Storm: Indian Tribes, Climate-Induced Weather Extremes, and the Future for Indian Country”, 2011) details the many ways in which tribes are disproportionately impacted by climate change and the many challenges tribes face in responding to climate-related disasters.

In evaluating the no-action alternative, the DOC must consider the fact that because of the relatively easy availability of things like the tar sands oil, companies like Enbridge continue to exploit damaging energy sources rather than exploring more sustainable alternatives. Projects like this contribute to a significant loss of carbon sequestration related to the forests and wetlands that will be converted or degraded. This continues to bring us down an unsustainable path of reliance on dirty fossil fuels and more carbon emissions, while simultaneously diminishing the natural landscape’s inherent resilience and the natural resource services it provides.

Instead of investing in the Sandpiper Pipeline and re-routing Line 3, the no-action alternative allows more investment in alternative energy infrastructure and promotion. Alternative energy resources like solar, wind, and water have the potential to ultimately replace our reliance on dirty oil.

1837 and 1854 treaty rights

The proposed Sandpiper route would pump 375,000 barrels per day of fracked oil across the Band’s Ceded Territories. The Treaties of 1837 and 1854 promised the Band a continuation of sustenance from Reservation and Ceded Territories’ water and land. Leaks and ruptures would endanger the Mississippi headwaters, Lake Superior watershed, and the wetlands that the Band relies on for our way of life.

Enbridge has a demonstrated history of negligence in pipeline safety. For instance, in 2010 in Michigan, an Enbridge pipe spilled dilbit into the Kalamazoo River, contaminating nearly forty miles of the river. It’s not clear if the river will ever go back to pre-spill quality, as it is now six years after the spill and there remain lingering chemicals and crude oil in the river. In 2012, an Enbridge pipe spilled more than 50,000 gallons of light crude oil in rural Wisconsin.

Any spill from the proposed pipelines would likely render cooking, cleaning, and drinking water unusable for hundreds of years. In addition, many of the wetlands on the reservation are peat; any oil spilled into peat will continue to contaminate our resources for eons.

System Alternative

Any route alternative proposed will impact the Great Lakes, as well as the treaty-protected resources of the Band. If Enbridge is allowed to proceed with the Sandpiper and Line 3 projects, they should be required to move the system entirely away from our forest resources, wetlands, and essential water systems. The route alternative options bring pipelines through the Duluth area and create unnecessary harms to the Band’s treaty resources, and to Lake Superior.

Pipeline rights-of-way (ROW) do not allow forest cover, causing fragmentation of the forest, including forested wetlands. In turn, that fragmentation disrupts the free movement of wildlife. In addition, fragmentation provides a corridor for invasive plant species to move through the area, since

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most invasive plant species in this area are dependent upon full to partial sunlight provided by pipeline ROWs.

Existing pipelines on the Reservation, both active and inactive, have already negatively impacted our wetlands and forests through fragmentation and wetland degradation. The Band needs very clear assurances that our future generations are not left with an Enbridge graveyard to remember us by.

If the Band is to support a pipeline project at all, any system alternative must completely avoid the Great Lakes, not only in Minnesota but in our Ceded Territories in Wisconsin and Michigan as well. The projects should be moved to more agricultural areas of the state, where the cleanup of the anticipated spills will be easier to access and contain.

Cathodic protection and access road and locations

At numerous locations throughout any pipeline route, Enbridge will need to install cathodic protection as well as access roads. When Enbridge completed their installation of Line 67 (Alberta Clipper) and Line 13 (Southern Lights) through the Fond du Lac Reservation, they did not include any cathodic protection or access road locations in their original wetland permit application. The Band later received a separate wetland permit application for Enbridge to install cathodic protection and access roads in wetlands adjacent to MN Highway 210, essentially “piecemealing” the pipeline project. Enbridge needs to identify all locations to be impacted in their project description so that those facilities can also be properly evaluated.

Eco-system valuation

In 2015 Earth Economics published an eco-system valuation of the St. Louis River watershed, finding that

[t]he St. Louis River watershed provides an estimated \$5 billion to \$14 billion in ecosystem service benefits per year which provides each of the approximately 177 thousand people living in the watershed an annual benefit of \$28,248 to \$79,096.

<https://www.glifwc.org/Events/Earth%20Economics%20St%20Louis%20River%20Project%20Report.pdf>

This innovative study recognizes that quantifying the value of our eco-systems gives us better tools to understand the impact that environmental decisions have on the economy as a whole.

A similar study of the eco-systems that could be impacted by the Sandpiper and Line 3 projects should be done by an independent third party, such as the Great Lakes Indian Fish & Wildlife Commission.

Financial assurances

Enbridge must be held responsible for any oil spill that might happen from its pipelines. Before the company is allowed to take on these projects, it should be required to provide evidence of financial assurance, such as insurance or alternative financial security, which covers the full cost of recovery from any disaster which could happen as a result of the presence of its pipelines. The cost should be evaluated using an eco-system valuation study as discussed in the previous section. Enbridge must show that it has

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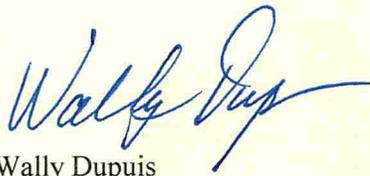
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the resources to cover the full costs of pollution damage as well as both remediation and restoration costs incurred by public and tribal agencies in preventing and cleaning up any spill that could happen.

Enbridge's purpose and need for this project is based on the assumption that the global economy will need more oil. This assumption is not well-founded, given recent international commitments to reduce carbon emissions as well as recent plunges in global oil markets. The DOC should fully analyze the no-build, no-replacement alternative, including a full quantification carbon impacts.

The Band looks forward to continued consultation on these issues.

Sincerely,

A handwritten signature in blue ink that reads "Wally Dupuis". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Wally Dupuis
Chairman