

Comments posted on Sandpipeline3.us

Name	email	organization	Address	Comment
Brian Allen	allen.forestry2@gmail.com	Allen Forestry	1925 Vermilion Road Duluth MN 55803	These type of large pipelines "restrict" access for forest management especially on smaller private forest tracts. The requirements (air bridges, etc. even during frozen ground conditions) that the pipeline companies place on loggers to cross these lines with equipment render many small private timber sales not viable economically. When these lines cross private forest lands, especially private lands with written forest management plans, the pipeline companies should be required to put in permanent "lifts" or crossing points that allow for the all season passage of logging equipment. These pipelines are restricting the right of private land owners to practice forest management.
Tim Anderson	tjess57@gmail.com		2195 Olson Rd Carlton MN 55718	<p>Jamie MacAlister, Environmental Review Manager Energy Environmental Review and Analysis Minnesota Department of Commerce 85 7th Place East, Suite 500 Saint Paul, MN 55101-2198 Dear Ms. MacAlister, I am writing in response to the Sandpiper Pipeline and Line 3 Replacement Projects proposed by North Dakota Pipeline Company LLC and Enbridge Energy (Docket Numbers PPL-13-473/CN-13-474, and PPL-15-137/CN-14-916 respectively). Both projects are currently before the Minnesota Public Utilities Commission, the designated Responsible Governmental Unit, for consideration of a Certificate of Need and Route Permit. Currently, the Department of Commerce Energy Environmental Review and Analysis (DOC-DEERA) staff is tasked with developing a scoping document designed to limit the analysis of an Environmental Impact Statement (EIS) before its final preparation. The scoping document is to be based on an Environmental Assessment Worksheet. I have several concerns regarding the scoping process and EIS development. They include the language stated in the purpose of the process, the reality of the need for the projects, the economics of energy production, pipeline safety, environmental concerns, and human impacts. The Draft Scoping Decision Document, dated April 8, 2016, describes the purpose of the scoping document is "to reduce the scope and bulk of an EIS before the preparation of the EIS, identifying only those potentially significant issues relevant to the proposed project, define the form, level of detail, content, alternatives, timetable for preparation and preparers of the EIS, and to determine the permits for which information will be developed concurrently with the EIS". The problem with this statement is it leaves what is "potentially significant" to the discretion of the DOC-DEERA, who have already demonstrated their disregard for significant issues during the original Sandpiper application process by not adequately consulting the Minnesota Department of Natural Resources (MDNR) and the Minnesota Pollution Control Agency (MPCA) regarding route alternatives; and ignoring the Minnesota Environmental Policy Act (MEPA), which clearly identifies the need for development of an EIS for projects such as these. The statement should be amended to read "the purpose of the scoping process is to identify all issues related to the proposed project, including alternatives, a timetable for preparation of the EIS, and to determine the permits for which information will be developed concurrently with the EIS, so a thorough and complete EIS can be prepared that meets the requirements of the MEPA." Regarding the Certificate of Need, there are many reasons to question whether it should be granted. Several relate to the economics of oil. According to the May 3, 2016, Wall Street Journal, U.S. oil storage is near capacity and according to the Minneapolis Star Tribune of April 15, 2016, Bakken shale oil fields have seen a 90% decline in active wells. Both indicate oil from the Bakken shale will likely be shipped to other countries because there is not a need for it here. One reason for this glut of oil is the increased use of renewable sources of energy. The U.S. Energy Information Administration projects an 11.3% increase in electricity provided by renewable energy sources in 2016. Another factor related to the economics of carbon based fuels like oil that are not often addressed, is their costs due to climate change and their impacts on public health. These are often referred to as externalities because they are viewed as a cost experienced by unrelated third parties. But that is exactly the type of thinking that has resulted in many of our environmental problems. By understanding that everything is interconnected, there is no such thing as an unrelated third party, and therefore these costs need to also be addressed. The U.S. Environmental Protection Agency estimates \$180 billion dollars in economic losses by the end of the century due to the effects of climate change caused by the burning of fossil fuels, and \$886.5 billion dollars annually due to impacts on health caused by fossil fuel pollution. Recently, the Climate Central website reported flaring of natural gas in the Bakken shale oil fields added 4.5 million metric tons of carbon dioxide, a greenhouse gas, and significant amounts of ethane, nitrogen dioxide, and black carbon, lung irritants, to the atmosphere. Do we really need these things? If the PUC chooses to ignore the evidence against granting the Certificate of Need, then careful consideration needs to be given to selection of the least environmentally damaging route as required by MEPA. The only way to adequately analyze impacts to the environment is to give them equal weight to any economic considerations. One way to do this is to account for the value of ecosystem services provided by natural environments. These services include atmospheric gas and climate regulation; water filtration, storage, and retention; storm protection and flood control; soil retention and erosion control; nutrient storage and cycling; pollination sources and food production; biological materials and products; genetic resources; and cultural and recreational uses. Robert Costanza et. al., in an article published in Nature, volume 387, May, 1997, estimated these services to be worth an average of 33 trillion dollars per year to the planet. The only way to adequately quantify these services is to conduct robust, independent GIS and economic analyses of all proposed system and route alternatives. Several of the alternatives, in accordance with MEPA, seek to avoid some of the most pristine watersheds in the state, including the Lake Superior basin, and deserve serious consideration. Again, these costs are not externalities – they are costs directly associated with the impacts on our health and quality of life. Another cost associated with pipelines is pipeline safety. Enbridge is responsible for pipeline spills ranging from 200 gallons in the Upper Peninsula of Michigan to 800,000 gallons in the Kalamazoo River in lower Michigan. Despite the range in quantity of oil spilled, what these spills have in common is Enbridge's disregard for pipeline safety. The 200 gallon spill occurred in 1980, but was just recently revealed in a May 9, 2016 article in the Detroit Free Press; and in the 800,000 gallon spill, it was determined by the Pipeline and Hazardous Materials Safety Administration that Enbridge knew about cracks in the pipe for over a year and took over 17 hours to respond to the alarms indicating there had been a rupture in the pipe. These two examples indicate the importance of requiring Enbridge to develop spill response scenarios for all potential types of spills, in all types of aquatic and terrestrial habitats, for all system and route alternatives. In addition, Enbridge should be required to install automatic shut-off valves in all ecologically sensitive areas, and make annual inspections of pipeline integrity using all means necessary including robotic "smart pigs" to identify pipe corrosion, weld failures, and other potential safety issues. And in the event of any oil spill, Enbridge should be required to provide financial assurance against any long-term treatment or disaster, like the Kalamazoo River spill of 2010, the largest inland oil spill in history, which still taints the water eight years later. Enbridge estimates the total costs from the disaster at \$1.2 billion, and state taxpayers should not be left holding the sponge if Enbridge goes belly-up like many of the fish in the river. Fish are just one example of food and medicinals indigenous people were granted rights to hunt and gather for their physical and spiritual health. Others include wild rice, maple syrup, game animals, berries, sweet flag, and ginseng that the MPUC needs to consider when analyzing the impacts of the proposed system and route alternatives. All means necessary should be taken to preserve these resources for native peoples. While on the surface, the Line 3</p>

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				Replacement project might seem like a good thing (for it replaces an old deteriorating pipeline), a deeper look into the ecological impacts of the tar sands it will transport makes it abundantly clear it is also a disastrous proposal. James Hansen, a leading NASA climatologist who has studied climate change since at least 1988, said in the January, 2013 issue of Scientific American, "Moving to tar sands, one of the dirtiest, most carbon-intensive fuels on the planet, is a step in exactly the opposite direction ..." when referring to avoiding tipping points that will result in run-away and irreversible climate change. In addition, the physical and chemical properties of tar sands makes spill clean-up extremely difficult as shown by the 2010 Kalamazoo spill which still has not been completely mitigated. There are many concerns regarding the proposed construction of the Sandpiper pipeline and replacement of Line 3. I have highlighted several reasons the Certificate of Need should be denied. If the MPUC chooses to ignore what is in the best interest of the state citizenry, then please insure the least environmentally damaging route is selected in accordance with the MEPA. Respectfully, Tim Anderson Biology Instructor/Environmental Educator 2195 Olson Rd. Carlton, MN 55718
Nate Arthur	Natearthur99@yahoo.com		2629 Fisk St Roseville MN 55113	I am opposed to these pipelines because they jeopardize surface water and ground water when they leak and because our Native American neighbors oppose them. We don't need more cheaper oil.
Lon Aune	lon.aune@co.marshall.mn.us	Marshall County	447 So. Main Warren MN 56762	A letter of support from the Marshall County Board of Commissioners. [160503_Marshall County bookmark]
Janet Beck	lhillesheim1@msn.com		2085 102nd Avenue NW Coon Rapids MN 55433	As a property owner on a lake within ½ a mile from the proposed pipeline route, I am against this proposed pipeline and the pipeline's route. None of the potential positive impacts of this pipeline outweigh the negative impacts of this pipeline for me, my neighbors, or the residents of the State of Minnesota. A few hundred temporary jobs and a handful of permanent jobs does not outweigh the immediate loss in property value to all lakeshore owners near this pipeline. Potential buyers are not going to purchase lakeshore property knowing that a pipeline carrying hundreds of thousands of barrels of oil daily lies right next to the lake. Enbridge has a history of pipeline spills. If a spill occurs, it is Minnesota's precious natural resources that will be permanently damaged, not North Dakota's or Canada's. This pipeline permit should be denied, or at least rerouted away from the heart of lake country.
Keith Blomstrom	ecoranger@gmail.com	Minnesota Conservation Federation	13060 Cypress Dr Baxter MN 56452	The present path is unacceptable. The water forests and wildlife are worth much more than any oil that would be transported. At this time the companies involved would be losing money. Their bankruptcy is a very real possibility. Many similar companies are now going broke. Who will pay for any future problems?
Amelia Brandt	amelia.brandt@gmail.com		220 Marshall ave saint paul MN 55102	I'm a resident of St. Paul and want to share some thoughts around tourism. I hope tourism is assessed as part of the EIS and I see plans to do so under the draft scoping decision document. > > a. The current economic health and importance of the northern Minnesota tourism industry can and should be quantified in an environmental review on an equal level with the alleged economic benefits of building a pipeline with which to transport oil. > > b. Specifically, the environmental review should analyze the significance of clean, swimmable and fishable water to the tourism industry in the affected counties and the potential impact of impairment of these waters due to a spill, or due to the release of chemicals during construction and operation of the Project. With swimming, fishing and boating in our 11,842 lakes serving as a huge draw of outdoor activities in this state, it is very important that the economic value of these waters is assessed. > > c. Just to give one example of state tourism that could be impacted by the project: Itasca State Park. Itasca State Park holds the headwaters of the Mississippi. There are more than half a million annual visits to Itasca State Park. And as we all know, the Mississippi is one of our nation's most important rivers. Itasca is also very near to the proposed pipeline route. Itasca State Park is common land, created for the public to enjoy and cherish. Our state and federal government has a public trust duty to protect these commons. The precautionary principle is the best decision making tool to protect the commons and I believe it supersedes the oil industry's right to maximize its profits. Thank you.
David Butcher	davidb@uslink.net		3998 67th St SW Pequot Lakes MN 56472	Clean water and the habitat created by our lakes, streams and wetlands are iconic to Minnesota and valued by its citizens for a variety of reasons. It allows us to live (necessary for life), provides employment in the form of tourism and recreation, food in the form of fish, fowl and wild rice and is part of the cultural/spiritual heritage of Native Americans. Perhaps most important, water and the environment created by our lakes, streams and wetlands allows for a 'resting space' or respite from the hectic and complex nature of industrial/modern life for all. Despite clean water being iconic to Minnesota and Minnesotans, we have not done a very good job of taking care of our water habitat. Most of the lakes and streams in the lower one third of the state are classified as unswimmable. Lakes in the lower two thirds of the state are under stress and likely not recoverable. And now the last of our pristine, pure water habitat in the upper third of the state is under assault by the proposed Sandpiper and Line 3 pipelines which would cut through the heart of lake country. It is not a matter of 'if' a pipeline leak would occur but 'when'. Neither Enbridge nor anyone else can tell us the extent of the damage would be to our water and water habitat because they don't know. It would be necessary to conduct a study on each and every river and lake the pipelines would pass through or near. There is no way of knowing the amount of oil which might be spilled or how long it would take to clean it up. My understanding is that the 'tar sands' oil leaked into the Kalamazoo river has not been completely cleaned up and likely never will be. Enbridge's past history of pipeline leaks and cleanup efforts is not encouraging. What makes this perplexing is that there are any number of alternate routes for the pipelines which would not threaten the last of the 'pure water' corridor of Minnesota. Minnesota Pollution Control Agency (which should know something about water) has proposed two-- SA-03 and SA-04. One would hope that these alternate routes are under consideration and PUC and the DOC aren't just 'going through the motions' to rubber stamp the previous inadequate efforts.
David Butcher	davidb@uslink.net		3998 67th St SW Pequot Lakes MN 56472	It should go without saying that any Environmental Impact Statement should be conducted by independent professionals well-schooled in their fields, an honest EIS that isn't reliant on Enbridge data and their partisan "experts." An advisory board should consist of independent scientists and academics with expertise in the following: the natural sciences, especially specialists in hydrology, ecology, limnology, botany, chemistry, soil science oil spill disaster specialists especially those with experience in tar sand spill studies (particularly the NAS Dilbit Study) global and regional oil markets, and tourism economics. Hopefully, when the Court of Appeals ruled in favor of MCEA and Friends of the Headwaters, decreeing that an Environmental Impact Statement was required UNDER MN LAW, 'leadership' realized that an honest, independent, and competent Environmental Impact Statement is better than being back in court, trying to defend a dishonest and inadequate EIS.

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Jeffrey Daveau	Jeff@ualocal11.com	Plumbers and Steamfitters Local 11	4402 Airpark Blvd Duluth MN 55811	I am in support of the Sandpiper Project and Line 3 Replacement Project, in order for the US to be a secure nation not dependent on foreign forces we need to be able to transport our fuels in a safe manner which produces the least environmental impact and pipe lines are the only viable means at this time. Trucking and rail are traveling through very populated areas and the possibility of catastrophic situations is only a matter of time. The derailment in Superior Wisconsin last week is a good example of the condition of the rail system and the one prior that happened over the Nemadji River that spilled benzene into the river is another reason to keep the products under the ground and traveling through pipelines. The loss of life far outweighs the possibility of a spill that can be cleaned up, the person and families can not be replaced or brought back. The people that are in opposition seem to have no problem driving miles and miles to state their issues against the same products that made it possible for them to get to the hearings. The nearsightedness needs to be overlooked and if the anti pipeline groups really believe in stopping oil transportation they should boycott the products produced from petroleum. Please approve the above projects the health and safety of America is priority number 1 and these projects are a step in the right direction.
Julia Donnelly	jdonnelly@local49.org	Operating Engineers Local 49	2829 Anthony Lane South Minneapolis MN 55104	Jamie MacAllister Minnesota Department of Commerce 85 7th Place East, #500 St Paul, MN 55101 May 25, 2016 Dear Ms. MacAllister: Please consider this our formal written statement to be included in the Scoping EIS comment for Sandpiper (13-473 & 13-474) and Line 3 Replacement (14-916 & 15-137) The International Union of Operators Local 49 represents 13,000 men and women working in the construction industry in Minnesota, North Dakota and South Dakota. Many of our members work on the construction and ongoing maintenance of pipeline projects throughout our state. We support pipeline projects that meet the strict standards of federal and state agencies and have proven benefit to communities across Minnesota. The Department of Commerce has done its job and produced a comprehensive scoping document. In fact, we believe this is most complete and comprehensive environmental review of any pipeline project in Minnesota's history. Our critique is actually that this review could be too broad, as it contains studies of "system alternatives" that do not meet the need and will never be built. Many of these system alternatives run through densely populated and more developed areas. The Department of Commerce recently held 12 meetings around the state. They heard from construction workers, local residents, mayors, school board members, and county commissioners that all support the Sandpiper and Line 3 projects. These real life, local voices should be heard and their desire for the economic benefits the pipelines will bring should not go ignored. Our members have been waiting for years to get started on these projects. Many are leaving the state for pipeline jobs in other areas of the country. Minnesota has the highest labor and environmental standards in the United States and our members would rather be working close to home, spending their money in the local community, and participating in the lives of their families. The more we delay these projects, the more hardship is put on the backs of working men and women. We encourage the Department of Commerce to consider these impacts while they contemplate the scope of their EIS and look forward to moving this process forward. Sincerely, Julia Donnelly Political Director Operating Engineers Local 49 [160525_Donnelly Julia bookmark]
Donovan and Anna Dyrdal	dyr-valley@hughes.net	Agricultural Producers	12744 180th St NW Thief River Falls MN 56701	Documents for comment only. [160526_Drydal Donovan bookmark]
Nicholas Eltgroth	eltgroth@paulbunyan.net	Mr.	36399 Burr Oak Blvd Cohasset MN 55721	I live on the Mississippi River in Cohasset, MN. Both of these pipelines are disasters waiting to happen, as they have happened often in the past pipeline leaks. I am absolutely against both pipelines because of the pollution they will leave in our rivers, lakes and lands. When they stop using line 3, they should remove and clean up the whole thing. They cannot leave the polluting rusting pipes in the ground. I vote NO to both new pipelines. I vote yes to remove and clean up the existing line 3. They cannot just shut down the old line 3 and leave it in the ground.
Norman Herron	larkspurherron@q.com		2617 E 5TH ST Duluth MN 558121536	I wish to stress the importance of considering the individuals and families of the Native Community and their responses to the planned route of the two lines. Too many times we as a Nation place convenience before the health and welfare of our people. Please check out all alternatives and consider the safety factors. Additionally, do not leave the old oil line in the ground.

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Loran Hillesheim	lhillesheim1@msn.com		2085 102nd Avenue NW Coon Rapids MN 55433	<p>I have been a property owner on the north end of Lake Roosevelt in Cass County for over 20 years. During those 20 years I have enjoyed skiing, tubing, fishing, and swimming with my parents, siblings, children, and friends. My main concern about this pipeline is the environmental impact the construction and ongoing operation of this pipeline may have. This pipeline not only crosses within a half a mile of Lake Roosevelt, but also crosses areas that are 20 to 40% wetlands according to the DNR and an area with the highest susceptibility for ground water contamination according to Minnesota Pollution Control Agency maps. A pipeline spill near a lake or wetland in this area could pollute the well water, kill fish and wildlife, and make lakes and recreation areas unusable for years. This pipeline could very well destroy a way of life for permanent and part time residents of this area. The environmental concerns are real considering Enbridge's history when it comes to pipeline spills. There are numerous examples of environmental disasters caused by Enbridge's pipeline spills both in Minnesota and other states. Based on Enbridge's own reports, over 800 spills have occurred on Enbridge pipelines in a 10 year period, with over 50 pipeline spills in Minnesota. These spills include 6,000 barrels in Cohasset MN during 2002, 50,000 gallons in Whitewater WI during 2007 contaminating the local water table, and 843,000 gallons into the Kalamazoo River near Marshall MI. The Cohasset spill had to be set on fire to stop it from reaching the Mississippi River. Enbridge was sued by the State of Wisconsin for over 500 environmental violations. The National Transportation Safety Board found that Enbridge knew of a defect in the Michigan pipeline 5 years before it ruptured. Why is the Minnesota Department of Commerce bending over backwards to allow this company to run its pipeline across the lakes of Minnesota? This company's record alone should be enough to deny a permit. The threat of an oil spill is permanent and not temporary. There is no question that someday, somewhere along this pipeline in the State of Minnesota, a leak or spill of some magnitude will occur. Wherever that spill occurs, there will be a tremendous loss of property value and jobs. If that spill reaches the ground water or a lake, property around the area will become worthless. With this pipeline crossing the Mississippi River along with numerous other rivers, lakes, streams and wetlands, this pipeline has the real potential of destroying many more jobs than it creates. Tourism is the biggest industry in this area. When the inevitable leak or spill occurs, resort owners, marinas, and anyone else that makes their living in that area off tourism will be devastated. Reasonable alternative routes for this pipeline have been proposed that avoid the most environmentally sensitive areas of the State. These alternatives have been rejected by Enbridge because they prefer the cheapest route through Minnesota. The MN Pollution Control Agency examination of the Enbridge route shows that significantly more open water bodies are crossed by the pipeline than alternative routes. The MN Department of Natural Resources stated in a regulatory filing that the Public Utilities Commission should strongly consider one of several alternative routes having fewer natural resource impacts than the route proposed by Enbridge. Why would we endanger the enjoyment of the clearest and cleanest lakes in Minnesota by our children and grandchildren because a private pipeline company based in Canada feels this route is the most economical to them? A pipeline transporting oil across Minnesota has no other direct energy benefit to the residents of Minnesota. The oil transported in this pipeline will not be used by any of the refineries located in Minnesota. Why is the State of Minnesota putting the environmental health and quality of its lakes and waterways in jeopardy for the financial benefit of a foreign pipeline company? Is it the responsibility of the State of Minnesota to put the needs and interests of Canada and North Dakota above the needs and interests of its own residents? The Public Utilities Commission should deny a permit to build this pipeline.</p>
Kathryn Hoffman	khoffman@mncenter.org	Minnesota Center for Environmental Advocacy	26 East Exchange Street, Suite 206 St. Paul MN 55101	Please see comments attached. [160626_FOH and MCEA bookmark]
Lindsey Ketchel	llawf@tds.net	Lech Lake Area Watershed Foundation	P.O. Box 455 Hackensack MN 56452	Please see SCOPING EIS comments – attached [160524_LLAWF bookmark]
Melodee Monicken	mmonicken@gmail.com		17456 Half Moon Road Park Rapids MN 56470	<p>Most of my concerns are discussed in other documents submitted by intervenors, but these are my particular concerns and questions regarding the scope of the Environmental Impact Statement on the Sandpiper and Line 3. 1. WHY HAS THE DOC MADE THESE PREMATURE CHOICES? The Environmental Assessment of the Bull Moose Transmission Line Project has had an approval process separate from the pipeline approval process, despite the fact that the transmission line serves Enbridge's proposed route for Sandpiper and Line 3. The PUC is legally obligated to include associated facilities in the EIS. To place these actions on separate tracks reinforces the public's suspicion of corporate bias. Why did the DOC hire Cardno? And where is the RFB tracking this decision? Lame excuses like "they were already around so we handed it to them" will not suffice. Cardno/Enbridge has a poor record and a direct conflict of interest. It's incomprehensible to me that the Department of Commerce has hired them since Cardno's history of concealing its conflict of interest is well known. Given the directives in NEPA law, Cardno should not have been selected, and the appropriate RFB process should have been employed in hiring the expertise and experience of a company with stellar credentials. 2. WHERE IS THE NAS STUDY ON DILBIT AND HOW WILL IT BE INCORPORATED INTO THE EIS? This EIS should be monitored and supervised by scientists and specialists with the credentials and experience warranted by a project this large. Someone from the NAS study on the impact of diluted bitumen on water should be involved on the draft EIS. The EIS process must incorporate an Expert Advisory Council. And, according to law, each state department and agency shall "utilize a systematic, interdisciplinary approach that will insure the integrated use of the natural and social sciences and the environmental arts in planning and in decision making which may have an impact on the environment; as an aid in accomplishing this purpose there shall be established advisory councils or other forums for consultation with persons in appropriate fields of specialization so as to ensure that the latest and most authoritative findings will be considered in administrative and regulatory decision making as quickly and as amply as possible." 3. WHERE IS THE CONSIDERATION OF HIGH-VOLTAGE TRANSMISSION LINE? These pipelines are co-located with overhead high voltage transmission lines east of Park Rapids. The EIS must include The INGAA Foundation, Inc. Criteria for Pipelines Co-Existing with Electric Power Lines cites data suggests accelerated pipeline corrosion, data that would put Enbridge's proposed route in the high risk category. 4. HOW ARE THE CURRENT OIL SPILL SITES AND SCENARIOS DEFICIENT? Since the current spill modeling is relying on dated and biased NDPC data, new spill sites and scenarios should be developed near the Mississippi Headwaters, in the Pine River watershed, and near Big Sandy Lake. The spill scenarios should include the likelihood of groundwater contamination in the Straight River aquifer. The NAS study on bitumen and the Battelle block valve study should be incorporated into the modeling. Along with ignition damages and slow leaks that go undetected, the impact of methane, hydrocarbons, and ethane on humans and the environment should be</p>

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				part of the EIS. The economic and environmental damages for oils spills must be compared to the coverage/limits in Enbridge/NDPC insurance policies. 5. WHERE IS THE SERIOUS CONSIDERATION OF A "NO BUILD" OPTION AND ALTERNATIVE ROUTES? The NO BUILD alternative must be part of the EIS on both the Sandpiper and Line 3 as there is substantial evidence that production will continue to decline in both the Bakken and Alberta. The draft EIS must contain a thorough environmental analysis of SA-04 and SA-03 (no spur) with extensive input and field work from the state's environmental agencies and other specialists/scientists with the experience to analyze the collected data. The EIS must compare system route alternatives based on comparable water bodies/drinking water sources crossed, emergency access, construction impacts, and the issues around short and long-term remediation. 6. HOW CAN THE DOC/PUC IMPROVE ITS PROCESS AND ASSURE PUBLIC OF ITS INTEGRITY? The PUC has allowed Enbridge to construe their application for a route from Clearbrook to Superior as to narrow the PURPOSE of these projects, limiting the consideration of reasonable alternatives. Private needs and corporate profit are Enbridge purposes, NOT public purposes. The Clearbrook to Superior route is just one means of transporting oil and tar sands to markets in Illinois. Minnesota has no obligation to facilitate expansion of Enbridge infrastructure in Superior. And doing so violates state and federal law. 7. WHAT ARE THE DOWNSTREAM IMPACTS TO BE EXAMINED IN THIS EIS? The pipeline EIS should also examine the impact of more pipeline infrastructure near the Great Lakes and the increased risks to downstream drinking water, Minnesota wetlands, animal habitat, public and private lands. Melodee Monicken Park Rapids, MN [FOH_Line 3 6-11 and 140514_MPCA bookmarks]
Sharon Natzel	sorgwweh@aol.com		13623 County 20 Park Rapids MN 56470	I am writing to ask that the MN Department of Commerce / Public Utilities Commission to consider extending the comment period for the Scoping Environmental Assessment Worksheet and the Draft Scope for Sandpiper Pipeline and Line 3 Replacement Projects for at least 30 additional days for two reasons; the sheer number of documents to review across the 2 separate projects plus the timing of the public meetings being held in the next two weeks when many seasonal residents are not present and are unable to participate. These two separate proposed projects by two separate companies have the potential to be in place here in Minnesota for 50 years or more. There are 34 document IDs in Docket 13-474 and 38 document IDs in Docket 14-916 each related to the EAW and Draft Scope. These documents were just placed on the dockets 4/11 and 4/12/16. In order to comment appropriately as a member of the public these documents require careful reading, understanding and analysis. See full letter attached. Thank you! [160424_Natzel Sharon bookmark]
Mitchell Nohrenberg	mnohrenberg@local563.org	Construction General laborer's	21274 207th street Biglake MN 55309	I feel pipeline is a better way to move oil. Then to move oil on the train cars through small towns I feel it is more of a hazard. In addition it would create more job opportunities for people and smaller communities .
Lori Paris	lori@bemidji.org	Bemidji Area Chamber of Commerce	300 Bemidji Ave N Bemidji MN 56601	A fair, timely and final evaluation of these two projects has been delayed for far too long. Any entity attempting to conduct business in the State of Minnesota relies on a predictable, consistent and timely regulatory process. Job creators need predictability and timeliness to do business in Minnesota. Sandpiper and Line 3 will ensure the safe delivery of abundant, dependable energy that is vital to Minnesotans' homes, fueling cars and airplanes, and generating electricity for residential and industrial use. Economic benefits; * Together, they will create more than 3,000 construction jobs, while providing a \$5 billion boost to region's economy directly, with even more economic activity associated with the "spin off" economics of the projects primarily in the hospitality and retail industries, among others. * In addition, Sandpiper alone will generate \$25 million annually in property taxes that will benefit local communities throughout the state.
Keri Pickett	keripickett@gmail.com	Pickett Pictures LLC	413 East Hennepin Avenue Minneapolis MN 55414	I oppose the Sandpiper pipeline because the line is not needed and if approved it puts our water resources at risk of oil and gas contamination. Line 3 needs a new EIS study and the old pipeline needs to be removed so that any contamination due to problems in the line can be discovered and cleaned up. The company needs to pay for their own clean up and provide outside insurance to help with eco-system restoration from any issues from the Enbridge pipelines.
Mark Plemel	plem08@gmail.com		5810 Juniata St Duluth MN 55804	Let Enbridge build Sandpiper. Transporting oil by pipeline is much safer than it going by rail like it is now. Enbridge also places a greater emphasis on safety and is more willing to put money toward safety than the railroads are.
Mark Plemel	plem08@gmail.com		5810 Juniata St Duluth MN 55804	Let Enbridge replace an old pipeline with a new one. the new one will meet current codes and be much less likely to leak than the old one. They are making money using the old one and will continue to as long as they can. If we don't let them replace it they may use it until it causes a major leak. New pipelines are way better than old pipelines.
Ron Richardson	captron@brainerd.net	None	11187 CO RD 1 SW Pillager MN 56473	Are you people from Enbridge kidding me ? Why would any normal citizen ever even consider your proposal to hasten the destruction of the pristine water quality we all enjoy in Northern MN , and for what ? A pipeline with twice the diameter Why risk the upper Mississippi and all the rivers ,streams and lakes that drain into that river system . I would suspect your response would NOT include the fact that the river valley is a direct flowage all the way to the Gulf of Mexico. Your safety record already includes a half million gallon crude spill in MN which is still monitored in an ongoing attempt to confirm half that spill still floats above the water table and will certainly never be cleaned up. (250,000 gallons of crude) You cannot change your name (Koch Bros.) and continue with the public service message propaganda . Your safety record is horrible. What benefit could possibly ever out weigh our water quality over your greed . The state of WI (Scott Walker) already gave the Koch Bros the ability to run the proposed pipeline virtually anywhere thru the State of WI , REALLY any where ! Why would we risk our quality of life for oil destined to be exported as fuel from the Gulf.. I certainly hope Mark Dayton , the rational scientists and environmental professionals keep you dirty oil out of our pristine waterways. The most pipeline recent pipeline spill in SD was originally estimated as a couple hundred gallons of crude , guess how many gallons was the last estimate ? After searching for a week . Why should we as TAX Paying citizens pick up the tab for the clean up of your mess in OUR water system . Or maybe you don't think crossing the Mississippi River that many times is relevant . Are you that greedy ? After watching you so quietly buy up all the residential Real Estate down wind from your Rosemount refining facility ,it seems Koch/Enbridge will go to just about any extreme to make a buck ,

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Name	email	organization	Address	Comment
Joe Rochford	mrochfo@q.com		309 5th Ave. Charles City IA 50616	There is no need to risk the water resources of any area with an oil pipeline that will leak sometime in the future especially in an area dependent on clean water for health and commerce as the Sandpiper route is proposed. No governing body can risk approving a project that WILL destroy this area for the future.
Deb Rogers	beerog804@aol.com		21852 Duck Lake Rd. Park Rapids MN 56470	I live on a beautiful pristine lake in Hubbard County. I have deep concerns about the Sandpiper and Line 3 pipelines that Enbridge proposes to put very close to my lake and near other lakes and rivers in Minnesota lake country. I am not against pipelines, however, I do object to those routes because of the potential serious damage a spill or leak could cause to our environment and natural resources. It is imperative that a complete EIS be done on all routes suggested by the MPCA, DNR and private parties. The route with the least potential for impact on our environment needs to be the one selected. Also, the process should be done by personnel having experience with EIS. The DNR and MPCA have greater expertise than the DOC in analyzing the potential impacts of the oil pipelines on the environment and should be an integral part of the EIS process. Please stand up for our environment and the valuable assets of Minnesota and make sure this process is done correctly. Thank you for considering my comments. Deb Rogers Park Rapids
Margaret Seibel	margedanny10@yahoo.com		433 Oak Creek Circle Vadnais Heights MN 55127	Comments on Draft Scoping Decision Document for Sandpiper Pipeline Project PUC Docket NO. PL-6668/CN-13-473 PUC Docket NO. PL-6668/PPL-13-474 1)On page 6, the list of environmental factors does not include accessibility to the pipeline as criteria. Ultimately, a spreadsheet needs to be made describing each natural feature along the possible route alternatives, the accessibility to a spill in different seasons measured in hours, and the distance the spill will travel from the point of origin in that time period as well as the clean up proposal. Which route alternatives have higher accessibility and, therefore, lower spill travel time? The NTSB report on the Enbridge spill in Marshall, Michigan says " the control center staff failed to recognize that the pipeline had ruptured until notified by an outside caller more than 17 hours later. " So, also on this spreadsheet, there should be information describing the likelihood that an external person will notice a leak. The more remote a pipeline is, the longer it could potentially leak without anyone knowing. 2)On page 11, it says there will be 21 valves, I assume these are in Minnesota since the list begins with the phrase "Sandpiper would also entail construction and operation of the following associated facilities and infrastructure in Minnesota". The EIS should include evaluating increasing the number of valves to isolate spills for environmentally sensitive areas for all pipeline alternatives especially if accessibility, remoteness, and potential large dispersions are factors. There should also be the same analysis for line 3 with its even higher oil flow rate. 3)On page 28, I am confused whether 7 sites per route will be evaluated or 7 sites total. It says that 5 sites will be evaluated with a 2D model and 2 sites with a 3D model. Should the decision of a 2D or 3D model be decided so early in the process? 4)Will money be put up front for spill cost recovery?
Frederick Smith	smith009@umn.edu		762 county Road 49 NW Pine River MN 56474	Please see the attached letter. [160526_Smith Frederick bookmark]
Sandy Sterle	ssterle777@gmail.com		2676 County Road 104 Barnum MN 55707	see attached [160507_Sterle Craig Sandy, 160505_Sterle Sandy, 150121_Sterle Sandy, 140331_Sterle Sandy, and 131205_Sterle Craig Sandy bookmarks]
Thomas Stevens	tdstevens@live.com	MN350	41863 Little Pine Rd Emily MN 56447	All Pipelines leak eventually. These will too... Get with renewable, green energy and abandon fossil fuels.
Hillary Stoltz	Hillbob@arvig.net	Citizen of Hubbard County Minnesota	22334 Glacial Ridge Trail Nevis MN 56467	1. Dept of Commerce should not be controlling this process any longer. These parties have proven to be biased and unqualified through their performance thus far. 2. The voices and expertise of our DNR, MPCA, professional hydrologists and engineers should be studied very seriously and should be the prevailing decision makers for the project routes, needs and alignments. 3. All criteria for routes should be presented for consideration. Alternate routes that have been proposed yet never offered seriously to Enbridge for study or to the Public for their detailed input MUST now be on the table and part of the Environmental Impact Reports. No alignment should be in remote areas without immediate access in all seasons. Plain and simple. Cutting through sensitive wetlands and woods is NOT viable. 4. The history of Enbridge's catastrophic spills, impossible clean ups, and the lack of detection of spills, leaks, ruptures of their lines as well as other pipeline operators, must become public for all to know. 5. There is no rush. Do things right. Forget about the money and politics. Enbridge's bottom line conflicts with the public's bottom line so be careful to include consideration for Minnesota's future generations as the priority.
Vicki Stute	vstute@dcrchamber.com	Dakota County Regional Chamber of Commerce	3352 Sherman Court Eagan MN 55121	Dear Jamie MacAlister and the Minnesota Department of Commerce, As you know, the development of the Sandpiper Pipeline and Line 3 are major economic development projects for the State of Minnesota – not just regionally but for the entire state. Perhaps more importantly is the potential for bad precedent as the project (and also Line 3 replacement) continues down the path of constant regulatory delay. As President of the Dakota County Regional Chamber of Commerce, I can testify that the benefits of these projects will be felt statewide – not simply along the route. Whether in direct jobs for people in our community or reduced competition for scarce rail capacity – the benefits are clear, obvious and should be no longer be delayed. We also believe that petroleum products should travel in the safest possible vessel – in this case, pipelines instead of the current, over-reliance on rail delivery. It's safer, cleaner and yields additional capacity for other products that cannot travel by pipeline. A fair, timely, and final evaluation of this project has been delayed for far too long. Any entity attempting to do business in Minnesota relies on a predictable and timely regulatory process. I ask that the Department of Commerce adhere to the 280-day time limit to prepare the EIS to keep the project on track. The scope of the EIS is vital. It needs to serve the public and private purpose of the Sandpiper project. It should not be so narrow that it would be inadequate, but it should also not be too broad. This balance must be met. The economic benefit, safety of shipping oil through pipelines, and public support for this project should emphasize the importance of seeing this process through, in a timely and effective manner. Thank you for the work you do for the state of Minnesota and thank you for your dedication in moving this project forward.

Comments posted on Sandpipeline3.us

Name	email	organization	Address	Comment
Kari Tomperi	ktomperi@wcta.net		39310 Lodge Dr Menahga MN 56464	I am not against pipelines per se and I realize that we are fossil fuel dependent at this time but I am very concerned that Enbridge has chosen a route, that if you look at a map, could not place the Sandpiper/Line 3 replacement in any more of an at risk location for the health and safety of citizens living in a pristine area of the state. Not only have they chosen to place their 30" pipes in a most vulnerable Pineland Sand Plain Surficial Aquifer with over 600 ft of sand in some locations but is also an aquifer that interchanges from ground water to surface water in many of the rivers. Many citizens of the state depend on that water for their drinking water source. Enbridge has also chosen to cross through one of the last most pristine lake country locations in the state which is very dependent on tourism for its livelihood. Enbridge's route also compromises one of the United States most iconic resources, the headwaters of the great Mississippi itself. Last but not least is the MN Wetland Conservation Act, established to maintain and protect Minnesota's wetlands and the benefits they provide. In 1991, reacting to public concern about Minnesota's disappearing wetlands, the Minnesota Legislature approved and Governor Arne Carlson signed the Wetland Conservation Act, one of the most sweeping wetlands protection laws in the country. To retain the benefits of wetlands and reach the legislation's goal of no-net-loss of wetlands, the Wetland Conservation Act requires anyone proposing to drain, fill, or excavate a wetland first to try to avoid disturbing the wetland; second, to try to minimize any impact on the wetland; and, finally, to replace any lost wetland acres, functions, and values with the same type of wetland. Certain wetland activities are exempt from the act, allowing projects with minimal impact or projects located on land where certain pre-established land uses are present to proceed without regulation. Enbridge has no pre-established land use to grandfather in a "new" pipeline and the proposed route crosses through thousands of acres of wetlands. Benefits: The Wetland Conservation Act recognizes a number of wetland benefits deemed important, including: § Water quality, including filtering pollutants out of surface water and groundwater, using nutrients that would otherwise pollute public waters, trapping sediments, protecting shoreline, and recharging groundwater supplies; § Floodwater and storm water retention, including reducing the potential for flooding in the watershed; § Public recreation and education, including hunting and fishing areas, wildlife viewing areas, and nature areas; § Commercial benefits, including wild rice and cranberry growing areas and aquaculture areas; § Fish and wildlife benefits; and § Low-flow augmentation during times of drought. The Pineland Sandplain Surficial Aquifer is rainfall dependent for recharge and should the wetlands be damaged or contaminated the risk is very high of affecting the health and safety of its MN citizens living and working in the area. [FOH brochure bookmark]
Tom Watson	twatson@iphouse.com	Whitefish Area Property Owners Assn (WAPOA)	39195 Swanburg Court Pine River MN 56474	Letter re: EIS Scoping [Watson Tom bookmark]
Irene Weis	ilweis@arvig.net	Friends of the Headwaters	18937 County Rd 40 Park Rapids MN 56470	I am submitting this comment to the Minnesota Department of Commerce (hereinafter DOC) requesting that it is committed to the State of Minnesota and more specifically to the area in Hubbard County which is impacted by the route preferred by Enbridge for the Sandpiper and Line 3 pipelines. In order to protect very sensitive water resources, wetlands, rice beds and pristine lakes, the DOC must require field work with serious consideration of SA-04 and SA-03(no spur) as an alternative the to Enbridge "preferred" route. Minnesota's water resources are under attack from all directions. I question the underlying purpose and need of the project (The route doesn't have to end in Superior nor start in Clearbrook if it's real purpose is getting oil to markets in Illinois). It is my belief, based upon information available and admitted by Enbridge that their "preferred" route is based upon cost analyzes. I do not believe Minnesota should trade its precious water resources for "profit". I am also requesting that the EIS defers to MEPA law, and incorporates credentialed experts to monitor the draft EIS as it evolves. The DOC needs to ensure that the EIS assesses cumulative effects. I am not against pipelines, however, I am against the purposeful degradation of our environment when safer, more appropriate alternatives exist and I expect our Minnesota State agencies to take their responsibilities seriously and that the DOC is committed to ensure that the Environmental Impact Statement is honest, independent, and competent.
Thomas Weis	ilweis@arvig.net	FOH	18937 County Rd 40 Park Rapids MN 56470	I am submitting this comment to the Minnesota Department of Commerce (hereinafter DOC) requesting that it is committed to the State of Minnesota and more specifically to the area in Hubbard County which is impacted by the route preferred by Enbridge for the Sandpiper and Line 3 pipelines. In order to protect very sensitive water resources, wetlands, rice beds and pristine lakes, the DOC must require field work with serious consideration of SA-04 and SA-03(no spur) as an alternative the to Enbridge "preferred" route. Minnesota's water resources are under attack from all directions. I question the underlying purpose and need of the project (The route doesn't have to end in Superior nor start in Clearbrook if it's real purpose is getting oil to markets in Illinois). It is my belief, based upon information available and admitted by Enbridge that their "preferred" route is based upon cost analyzes. I do not believe Minnesota should trade its precious water resources for "profit". I am also requesting that the EIS defers to MEPA law, and incorporates credentialed experts to monitor the draft EIS as it evolves. The DOC needs to ensure that the EIS assesses cumulative effects. I am not against pipelines, however, I am against the purposeful degradation of our environment when safer, more appropriate alternatives exist and I expect our Minnesota State agencies to take their responsibilities seriously and that the DOC is committed to ensure that the Environmental Impact Statement is honest, independent, and competent.

Attachments

Jamie MacAlister, Environmental Review Manager
Energy Environmental Review and Analysis
Minnesota Department of Commerce
85 7th Place East, Suite 500
Saint Paul, MN 55101-2198

Dear Ms. MacAlister,

I am writing in response to the Sandpiper Pipeline and Line 3 Replacement Projects proposed by North Dakota Pipeline Company LLC and Enbridge Energy (Docket Numbers PPL-13-473/CN-13-474, and PPL-15-137/CN-14-916 respectively). Both projects are currently before the Minnesota Public Utilities Commission, the designated Responsible Governmental Unit, for consideration of a Certificate of Need and Route Permit.

Currently, the Department of Commerce Energy Environmental Review and Analysis (DOC-DEERA) staff is tasked with developing a scoping document designed to limit the analysis of an Environmental Impact Statement (EIS) before its final preparation. The scoping document is to be based on an Environmental Assessment Worksheet.

I have several concerns regarding the scoping process and EIS development. They include the language stated in the purpose of the process, the reality of the need for the projects, the economics of energy production, pipeline safety, environmental concerns, and human impacts.

The Draft Scoping Decision Document, dated April 8, 2016, describes the purpose of the scoping document is “to reduce the scope and bulk of an EIS before the preparation of the EIS, identifying only those potentially significant issues relevant to the proposed project, define the form, level of detail, content, alternatives, timetable for preparation and preparers of the EIS, and to determine the permits for which information will be developed concurrently with the EIS”. The problem with this statement is it leaves what is “potentially significant” to the discretion of the DOC-DEERA, who have already demonstrated their disregard for significant issues during the original Sandpiper application process by not adequately consulting the Minnesota Department of Natural Resources (MDNR) and the Minnesota Pollution Control Agency (MPCA) regarding route alternatives; and ignoring the Minnesota Environmental Policy Act (MEPA), which clearly identifies the need for development of an EIS for projects such as these. The statement should be amended to read “the purpose of the scoping process is to identify all issues related to the proposed project, including alternatives, a timetable for preparation of the EIS, and to determine the permits for which information will be developed concurrently with the EIS, so a thorough and complete EIS can be prepared.”

Regarding the Certificate of Need, there are many reasons to question whether it should be granted. Several relate to the economics of oil. According to the May 3, 2016, *Wall Street Journal*, U.S. oil storage is near capacity and according to the *Minneapolis Star Tribune* of April 15, 2016, Bakken shale oil fields have seen a 90% decline in active wells. Both indicate oil from the Bakken shale will likely be shipped to other countries because there is not a need for it here. One reason for this glut of oil is the increased use

of renewable sources of energy. The U.S. Energy Information Administration projects an 11.3% increase in electricity provided by renewable energy sources in 2016.

Another factor related to the economics of carbon based fuels like oil that are not often addressed, is their costs due to climate change and their impacts on public health. These are often referred to as externalities because they are viewed as a cost experienced by unrelated third parties. But that is exactly the type of thinking that has resulted in many of our environmental problems. By understanding that everything is interconnected, there is no such thing as an unrelated third party, and therefore these costs need to also be addressed. The U.S. Environmental Protection Agency estimates \$180 billion dollars in economic losses by the end of the century due to the effects of climate change caused by the burning of fossil fuels, and \$886.5 billion dollars annually due to impacts on health caused by fossil fuel pollution. Recently, the Climate Central website reported flaring of natural gas in the Bakken shale oil fields added 4.5 million metric tons of carbon dioxide, a greenhouse gas, and significant amounts of nitrogen dioxide and black carbon, lung irritants, to the atmosphere. Are these things we really need?

If the PUC chooses to ignore the evidence against granting the Certificate of Need, then careful consideration needs to be given to selection of the least environmentally damaging route as required by MEPA. The only way to adequately analyze impacts to the environment is to give them equal weight to any economic considerations. One way to do this is to account for the value of ecosystem services provided by natural environments. These services include atmospheric gas and climate regulation; water filtration, storage, and retention; storm protection and flood control; soil retention and erosion control; nutrient storage and cycling; pollination sources and food production; biological materials and products; genetic resources; and cultural and recreational uses. Robert Costanza et. al., in an article published in *Nature*, volume 387, May, 1997, estimated these services to be worth an average of 33 trillion dollars per year to the planet. The only way to adequately quantify these services is to conduct robust, independent GIS and economic analyses of all proposed system and route alternatives. Several of the alternatives, in accordance with MEPA, seek to avoid some of the most pristine watersheds in the state, including the Lake Superior basin, and deserve serious consideration. Again, these costs are not externalities – they are costs directly associated with the impacts on our health and quality of life.

Another cost associated with pipelines is pipeline safety. Enbridge is responsible for pipeline spills ranging from 200 gallons in the Upper Peninsula of Michigan to 800,000 gallons in the Kalamazoo River in lower Michigan. Despite the range in quantity of oil spilled, what these spills have in common is Enbridge's disregard for pipeline safety. The 200 gallon spill occurred in 1980, but was just recently revealed in a May 9, 2016 article in the Detroit Free Press; and in the 800,000 gallon spill, it was determined by the Pipeline and Hazardous Materials Safety Administration that Enbridge knew about cracks in the pipe for over a year and took over 17 hours to respond to the alarms indicating there had been a rupture in the pipe. These two examples indicate the importance of requiring Enbridge to develop spill response scenarios for all potential types of spills, in all types of aquatic and terrestrial habitats, for all system and route alternatives. In addition, Enbridge should be required to install automatic shut-off valves in all ecologically sensitive areas, and make annual inspections of pipeline integrity using all means necessary including robotic "smart pigs" to identify pipe corrosion, weld

failures, and other potential safety issues. And in the event of any oil spill, Enbridge should be required to provide financial assurance against any long-term treatment or disaster, like the Kalamazoo River spill of 2010, the largest inland oil spill in history, which still taints the water eight years later. Enbridge estimates the total costs from the disaster at \$1.2 billion, and state taxpayers should not be left holding the sponge if Enbridge goes belly-up like the fish in the river.

Fish are just one example of food and medicinals indigenous people were granted rights to hunt and gather for their physical and spiritual health. Others include wild rice, maple syrup, game animals, berries, sweet flag, and ginseng that the MPUC needs to consider when analyzing the impacts of the proposed system and route alternatives. All means necessary should be taken to preserve these resources for native peoples.

While on the surface, the Line 3 Replacement project might seem like a good thing (for it replaces an old deteriorating pipeline), a deeper look into the ecological impacts of the tar sands it will transport, makes it abundantly clear it is also a disastrous proposal. James Hansen, a leading NASA climatologist who has studied climate change since at least 1988, said in the January, 2013 issue of *Scientific American*, "Moving to tar sands, one of the dirtiest, most carbon-intensive fuels on the planet, is a step in exactly the opposite direction ..." when referring to avoiding tipping points that will result in run-away and irreversible climate change. In addition, the physical and chemical properties of tar sands makes spill clean-up extremely difficult as shown by the 2010 Kalamazoo spill which still has not been completely mitigated.

There are many concerns regarding the proposed construction of the Sandpiper pipeline and replacement of Line 3. I have highlighted several reasons the Certificate of Need should be denied. If the MPUC chooses to ignore what is in the best interest of the state citizenry, then please insure the least environmentally damaging route is selected even if it means NDPC and Enbridge will make less of a profit at the environment's expense.

Respectfully,

Tim Anderson
Biology Instructor/Environmental Educator
2195 Olson Rd.
Carlton, MN 55718

International Union of Operating Engineers

LOCAL NO. 49, 49A, 49B, 49D, AND 49E
MINNESOTA • NORTH DAKOTA • SOUTH DAKOTA

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Jamie MacAllister
Minnesota Department of Commerce
85 7th Place East, #500
St Paul, MN 55101

May 25, 2016

Dear Ms. MacAllister:

Please consider this our formal written statement to be included in the Scoping EIS comment for Sandpiper (13-473 & 13-474) and Line 3 Replacement (14-916 & 15-137)

The International Union of Operators Local 49 represents 13,000 men and women working in the construction industry in Minnesota, North Dakota and South Dakota. Many of our members work on the construction and ongoing maintenance of pipeline projects throughout our state. We support pipeline projects that meet the strict standards of federal and state agencies and have proven benefit to communities across Minnesota.

The Department of Commerce has done its job and produced a comprehensive scoping document. In fact, we believe this is most complete and comprehensive environmental review of any pipeline project in Minnesota's history. Our critique is actually that this review could be too broad, as it contains studies of "system alternatives" that do not meet the need and will never be built. Many of these system alternatives run through densely populated and more developed areas.

The Department of Commerce recently held 12 meetings around the state. They heard from construction workers, local residents, mayors, school board members, and county commissioners that all support the Sandpiper and Line 3 projects. These real life, local voices should be heard and their desire for the economic benefits the pipelines will bring should not go ignored.

Our members have been waiting for years to get started on these projects. Many are leaving the state for pipeline jobs in other areas of the country. Minnesota has the highest labor and environmental standards in the United States and our members would rather be working close to home, spending their money in the local community, and participating in the lives of their

families. The more we delay these projects, the more hardship is put on the backs of working men and women.

We encourage the Department of Commerce to consider these impacts while they contemplate the scope of their EIS and look forward to moving this process forward.

Sincerely,

Julia Donnelly
Political Director
Operating Engineers Local 49

May 25, 2016

Donovan and Anna Dyrdal
Farmers/Landowners
12744 180th St NW
Thief River Falls, MN 56701

Jamie MacAlister
Environmental Review Manager
Minnesota Department of Commerce
Division of Energy Resources-Energy Facilities Permitting
85 7th Place East, Suite 500
St. Paul, MN 55101-2198
E-mail: jamie.macalister@state.mn.us

Re: Public Comment: Line 3 Pipeline Replacement Project PUC Docket Numbers PL-9/CN-14-916 and PUC Routing Docket PL-9/PPL-15-137

The comments contained herein address two points regarding the Line 3 Pipeline Replacement Project.

1. First, comment will address the abandonment of the old Line 3 Pipeline.
2. Secondly the installation of the new Line 3R Pipeline.

The old easements (1950) grant a R.O.W. and easement for the purpose of laying, maintaining, operating, patrolling, altering, repairing, renewing and removing in whole or in part a pipe line for the transportation of crude, petroleum , its products and derivatives, whether liquid or gaseous, and/or mixtures thereof, together with the necessary fixtures, equipment and appurtenances, over, through, upon, under and across the described land situated in *insert property description,(intentionally left out by writer)*, together with the right to clear the right of way and remove or trim trees and brush, and remove other obstructions, for a sufficient distance along both sides of said pipe line so as to prevent damage or interference with its effective operation and patrol; and together with the right of ingress and egress to and from said right of way through and over said above described land for any and all purposes necessary to the exercise by Grantee of the rights herein granted.

The easement does not say that the Pipeline has a right to decommission and leave the abandoned pipeline in the ground indefinitely to deteriorate and contaminate the ground and its aquifers.

This project labeled as the Line 3 replacement project, is not a replacement project. The new Line 3R will be located in a new area with both an increase in the actual pipe size and increased bpd capacity. Replacement would call for the removal of the old existing Line 3 pipeline, which is not part of the plan. This will be an installation of an entirely new pipeline. Enbridge should remove the old abandoned Line 3 pipeline. If not in its entirety, at least in areas where the pipe is so shallow that it interferes with the right that is reserved in the original easement for the landowner to have the full use and enjoyment of said premises.

Line 3 is one of the three lines, running through our field drainage ditch, which are completely exposed. It acts as a dam, completely blocking or inhibiting the flow of water. Line 3 is one of the three shallow buried lines that we cannot properly farm over due to the lack of coverage. Enbridge will not allow their heavy equipment to traverse the oldest part of the right of way for fear of damaging them during maintenance digs. Yet the Dyrdals' livelihood is encumbered by this shallow pipe line by the fear of causing damage or worse personal injury by using their heavy agricultural equipment on this and the other shallowly buried pipe lines that run through their property.

One of the arguments that have been heard was that removing the pipeline would leave a huge void. This should not be the case; the pipeline company has an obligation to restore the area to its pre-construction condition.

Commission Rule: 7852.3600 PERMIT CONDITIONS FOR RIGHT-OF-WAY PREPARATION, CONSTRUCTION, CLEANUP, AND RESTORATION. § N. The permittee shall, to the extent possible, restore the area affected by the pipeline to the natural conditions that existed immediately before construction of the pipeline. Restoration must be compatible with the safe operation, maintenance, and inspection of the pipeline

Enbridge should remove the old Line 3 pipeline. Line 3 is one of the three completely exposed lines that run through our field drainage ditch. It acts as a dam, completely blocking or significantly inhibiting proper drainage of our fields. Line 3 is one of the three shallow buried lines that we cannot properly farm over due to the lack of coverage. Enbridge will not allow their heavy equipment to traverse the oldest part of the right of way for fear of damaging them. Yet Enbridge will hold the Dyrdals responsible for damage that occurs to these very shallow lines as they try to use the land for its intended agricultural purposes and thus their livelihood.

Possibly another solution would be to cap Line 3 before the beginning of the Dyrdals property and then immediately after their property. Then remove at least the segment of pipeline that runs through the Dyrdals' property. This does not address further deterioration and environmental concerns of land not owned or farmed by Dyrdals', but it is more preferable to the Dyrdals' than leaving the old deteriorating Line 3 in the ground.

Going back to the pre-pipeline era, to make the land productive for agricultural reasons, it was necessary to improve on what little natural drainage existed. Thus, in 1911 Judicial Ditch No. 25 (JD 25) was established and constructed in the Norden Township area. Lateral 5 to JD 25 passes through Section 20 flowing in a southerly direction along the N-S ¼ line for the entire mile and then turns westerly along the south line of Section 20 for 1320 feet at which point it turns south again through the section line township road and into Section 29 where it continues southerly along the 1/16 line on its way to the JD 25 outlet.

In the late 1970's, a determination of benefits was conducted on the JD 25 system in which a determination of benefits was conducted on the JD 25 system in which Lateral 5 was renamed Branch 3 of JD 25. The JD 25 ditch records show that all of Sections 20 and 29 were determined to benefit from JD 25, and particularly Branch 3 (formerly Lateral 5). Therefore, Sections 20 and 29 have been (since 1911) and are currently assessed to the JD 25 system.

Agricultural drainage practices generally consist of surface water removal with private open channel drainage ditches which outlet into legally established public open channel drainage ditches, to which they are assessed. Drainage benefits are considered an encumbrance to the property and go with the property when it is sold to another party. The new landowner thus acquires the vested drainage rights and responsibilities that go with the land. In this case, Dyrdal acquired the vested rights of drainage access to Branch 3, JD 25, and the responsibility to pay assessments to the ditch fund, when the property in Sections 20 and 29 were acquired.

Landowners assessed to legal drainage systems are responsible for constructing their own private ditches or tile drainage systems to effectuate their benefits and get their surface water drainage into the legal ditch system (i.e., Branch 3, JD 25 in this case). Because these landowners pay assessments for the construction, repair, and maintenance of the legal ditch system, they have a vested right to access the legal ditch with their private systems without hindrance or obstruction.

Since acquiring these properties in Sections 20 and 29, Dyrdal has developed a plan for their surface water drainage to access its rightful outlet into Branch 3, JD 25. Currently Enbridge's shallow pipelines are depriving the Dyrdals of the proper utilization of the ditch system that they are being assessed for. Removal of one of the shallow lines is a step in the right direction to correcting the inequitableness of this matter.

I hope that Enbridge and the MNPUC will consider all possibilities when addressing the old line; it can only be a benefit for the environment to remove the pipe all together.

INSTALLATION OF THE NEW LINE 3R

Points of compliance desired by the landowner that be taken into consideration for the installation of the new Line 3R Pipeline are:

1. A survey of pre and post-construction grade elevations, at intervals of 12 locations per every 100 feet in a grid like manner, on and off the proposed right of way.
2. Construction soil sampling and analysis of pre and post-construction soil types at least 24" deep, at intervals of 12 locations per every 100 feet in a grid like manner, on and off the proposed right of way.
3. Both pre and post-construction compaction tests both on and off the proposed right of way, at intervals of 12 locations per every 100 feet in a grid like manner, on and off the proposed right of way. Decompact all travel lanes and turn around areas specifically to meet or exceed areas adjacent to the ROW.
4. Enbridge shall bring in quality topsoil to meet or exceed preconstruction/maintenance digs to alleviate subsidence and lost top soil and soil mixing.
5. A comprehensive preventive plan agreed on in advance of the start of all construction, to deal with any/all noxious weed issues that may occur due to the length of the construction process and restoration. Enbridge states in its project Summary, that the restoration process can take longer than 1 year due to weather conditions and other environmental impacts, that would allow a seed bed of noxious weeds to take a strong foot hold in that time frame, on prime agricultural land.
6. All litter from Enbridge employees and/or its subcontractors is removed on a daily basis.
7. Remove all waste and scrap from construction daily and completely by the end of the construction period.

Professional independent contractors agreed upon by both Enbridge and the Dyrdals should conduct all measurements, testing, and inspections. We do not want to go through another six plus years, as we did with the LSr and Alberta Clipper Projects, of trying to get our land adequately restored to preconstruction status. Enbridge needs to restore land to the pre-construction status as a result from the construction of the new Line 3R if it is to be laid.

One other point I would like to bring to attention regarding the installation of the new Line 3R pipeline and removal of deteriorating old lines, is my concerns for the aquifers. This pipeline R.O.W. corridor cuts thru the sands and gravel of the beach ridges to the East and West of our owned land and has already affected the natural water veins in our area, these areas are also at very high-risk classifications for polluting aquifers in the event of a pipeline release.

Sincerely,



Donovan Dyrdal

**Minnesota Center for Environmental Advocacy
and
Friends of the Headwaters**

**Comments on the EAW and Draft Scoping Document
for the Sandpiper Pipeline Project
and the Line 3 Replacement Project**

**Submitted to the Minnesota Department of Commerce and the
Public Utilities Commission**

May 26, 2016

The EISs now being scoped are, in part, the result of years of work by FOH. FOH members have contributed thousands of volunteer hours in order to protect the Headwaters of the Mississippi from the dual threats of the proposed Sandpiper and Line 3 pipelines. The Headwaters of the Mississippi is a unique place, and its rivers, lakes, streams, wild rice waters and wetlands are uniquely threatened by both the immediate impacts of pipeline construction and the catastrophic impacts of a potential oil spill, a risk that will persist throughout the lifespan of these pipelines, which could easily be 50 years or more. FOH has never opposed all pipelines, but has sought from the beginning to show that there is a better place to put these pipelines. It brought forth alternative locations, including SA-04 and SA-05, to demonstrate its point.

The EIS is a critical step for these pipelines because it provides by far the best vehicle for considering alternatives to the applicant's proposal. While the Commission was persuaded that alternative locations for the proposed Sandpiper pipeline should be investigated in the Certificate of Need hearings, the Certificate of Need process never provided the platform that it should have to thoroughly investigate these alternatives. The limitation under the Certificate of Need proceedings is that, under the rules, the party presenting the alternative bears the burden of proof to show that there is a "more reasonable and prudent alternative" to the applicant's proposal.¹ This burden of proof, if interpreted literally under the rule,² raises real questions about whether *any* party could ever propose a "more reasonable and prudent alternative" unless they happen to be a pipeline company willing to build that alternative.

But an EIS can succeed where the Certificate of Need process failed, because "alternatives" under MEPA are different than "alternatives" under the Certificate of Need rule. Under MEPA, the statutory mandate is to consider "appropriate alternatives to the proposed action."³ The MEPA rules clarify that the EIS must "compare the potentially significant impacts of the proposal with those of other reasonable alternatives to the project."⁴ The EIS "must address one or more alternatives" of a range of types, including:

- alternative sites,
- alternative technologies,
- modified designs or layouts,
- modified scale or magnitude, and
- alternatives incorporating reasonable mitigation measures.⁵

If the EIS does not analyze alternatives of each type, it must explain why it failed to do so.⁶

Thus, under MEPA, there is no longer a problem with the burden of proof. The Commission and its delegate, the Department of Commerce, must make their own determination about alternatives to be considered in the EIS, and must engage in the work itself, without relying solely on the public (or the applicant) to provide all information about potential alternatives

¹ Minn. R. 7853.0130(B).

² As FOH noted in its exceptions to Judge Lipman's recommendations on the Certificate of Need, the authorizing law for this rule, Minn. Stat. § 216B.243, does not assign a burden of proof for alternatives, and thus FOH and MCEA continue to maintain that the Commission can turn to the statute, and not the rule, when evaluating alternatives in Certificate of Need proceedings.

³ Minn. Stat. § 116D.04.

⁴ Minn. R. 4410.2300(G).

⁵ *Id.*

⁶ *Id.*

Once completed, the EIS itself will dictate which alternatives may enter the Certificate of Need process. After the Commission has selected the range of alternatives to be considered through the scoping decision, the Commission must ultimately select its own preferred alternative as part of the final determination on the adequacy of the EIS. MEPA specifically prohibits the Commission from selecting a proposal that:

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.⁷

Importantly, MEPA requires that the Commission look beyond the Applicant's private financial and business preferences when considering "feasible and prudent alternatives." The same provision of MEPA concludes, with crystal clarity: "Economic considerations alone shall not justify such conduct."⁸ If the applicant's preferred route is not the environmentally preferred route, that will be decided before this project returns to the Certificate of Need hearings. A properly scoped EIS therefore provides a much more thorough assessment of reasonable alternatives than is typically seen in Certificate of Need proceedings, limited as they are by prohibitively restrictive burdens of proof.

But environmental review only works if the Commission's scoping decision reflects the public interest, and not the company's private interest. If the Commission decides that this EIS should be limited to analyzing NDPC's proposed corridor, than the State of Minnesota and its legacy of clean water will be at the mercy not only of this Applicant, but every other pipeline company for the foreseeable future who wishes to utilize eminent domain to cut a swath across the state for a new pipeline. These are the first state-only EISs on crude oil pipelines in Minnesota history, and the Commission stands at a historic crossroads. If the Commission scopes this EIS narrowly and does not allow a wide-ranging consideration of alternatives, the precedent will be set, and future pipeline EISs will look the same, absent legal challenge. Put simply, the Commission need not reject all pipelines, but if there are areas of the state that should be protected from pipelines, and FOH firmly believes that there are, now is the time to make that determination. Such an opportunity may never come again.

SECTION 1: STATEMENT OF PURPOSE AND NEED

1.1 Inappropriately Narrow Statement of Purpose and Need

The Statements of Purpose and Need are Phrased so Narrowly as to Severely Restrict Analysis of Reasonable Alternatives in the EIS. The information developed in the EIS must inform two critical decisions: Do we need these pipelines to transport oil? And if so, where should they go? In order to supply information relevant to these two broad questions, the definitions of purpose and need that inform the scope of the EIS must also be broad.

⁷ Minn. Stat. § 116D.04, subd. 6.

⁸ *Id.*

The various problems with the statements of Purpose and Need, identified below, collectively demonstrate that when preparing this EIS, the Department will rely on NDPC, Marathon, and Enbridge expertise at its peril. While MEPA allows an agency to utilize the applicant's work, when appropriate, it also obligates the agency to be responsible for any such work if it appears in the EIS.⁹ In other words, the agency must either do the work itself, or thoroughly and independently evaluate any work prepared by the applicant.

While this duty is incumbent upon the Responsible Governmental Unit (RGU) throughout the MEPA process, the RGU's duties are even more pronounced in relation to the purpose and need section of an EIS, where public and not private interests must predominate.

1.1.1 The Purpose Statements in the EAW and DSDD for the Sandpiper Project Have Been Stated Too Narrowly

The scope of an EIS is largely determined by the statement of purpose and need for the project. State regulations provide that any alternative that does not meet the purpose and need of the proposed project may be eliminated from consideration in the EIS.¹⁰ Each of the four statements of purpose and need – for the Sandpiper EAW, the Sandpiper DSDD, the L3R EAW, and the L3R DSDD – are phrased so narrowly that they effectively limit the choice of reasonable alternatives, contrary to state and federal laws on environmental review. The statements of purpose included in these scoping documents represent statements of private, corporate need, and state and federal law clearly prohibit environmental review based on such a constricted premise.

Because the alternatives analysis is the heart of the environmental impact statement, state and federal law is clear that agencies should not “slip past the strictures” of environmental review by “contriv[ing] a purpose so slender as to define competing ‘reasonable alternatives’ out of consideration.”¹¹ To avoid this, agencies cannot simply rely on statements of what is “desirable from the standpoint of the applicant”; they must also consider alternatives that are practical or feasible from the standpoint of common sense.¹²

None of the statements of purpose in the scoping documents for Sandpiper/L3R consider any purpose other than what the applicant prefers, and none bear a significant relationship to the types of public purposes that traditionally justify PUC decisions. The Sandpiper EAW, for instance, appears to have been drafted by the applicant, and states that production volumes in the Williston Basin have resulted in a need for “more oil pipeline capacity to reduce the use of trains and tracks for oil transport.”¹³ The only stated reason that such capacity would need to go through Clearbrook or Superior, however, is to “use existing NDPC and Enbridge pipeline facilities.”¹⁴ Clearly, if the stated purpose is to increase pipeline capacity by connecting to Enbridge's existing facilities, then many reasonable means of bringing Bakken crude to market would be eliminated from consideration, ultimately undermining the very purpose of environmental review. Similarly, the Sandpiper DSDD frames the project's purpose as transporting growing volumes of Bakken crude production to

⁹ Minn. R. 4410.0400, subp. 2.

¹⁰ Minn. R. 4410.2300.

¹¹ *Simmons v. U.S. Army Corps of Eng'rs*, 120 F.3d 664, 666 (7th Cir. 1997).

¹² 46 Fed. Reg. 18,026 (1981).

¹³ Environmental Assessment Worksheet for the Sandpiper Pipeline Project (hereinafter “SPP EAW”), Minnesota Public Utilities Commission, April 11, 2016, at 7.

¹⁴ *Id.*

“refinery markets in the US Midwest and beyond” via the terminal at Superior.¹⁵ If Superior is a crucial component of the project’s purpose, then there is only one way to meet that need: to go through Superior. This is not what environmental review is for. It is not intended to provide a *post hoc* validation of the applicant’s private, corporate preference. It is not the state’s obligation to facilitate the expansion of the applicant’s infrastructure network, but by adopting the applicant’s statement of purpose and need, the Department has done just that. The Department has transferred a private, corporate preference into a public preference, in violation of state law.

1.1.2 The Purpose Statements in the EAW and DSDD for the L3R Project Have Been Stated Too Narrowly

The DSDD for the L3R Project states that the underlying purpose is to “address safety and integrity concerns of the existing Line 3 pipeline.”¹⁶ With this very narrow purpose, the DSDD proposes to restrict analysis of several reasonable alternatives, including rail and trucking. The DSDD reasons that rail and trucking will not address pipeline safety and integrity concerns, but it concludes that rail and trucking “will be looked at as an alternative to continuing to operate the Line 3 pipeline.” MCEA and FOH are uncertain as to the meaning of these apparently contradictory statements, and recommend that the statement of purpose be broadened to reflect what the document appears to implicitly acknowledge: that the underlying purpose is to deliver diluted bitumen to oil refinery markets in the U.S., by safe and environmentally responsible means. The fact that the L3R proposal would virtually double the capacity of the existing line is a clear indication that the purpose of the project is not merely to address safety and integrity concerns. The increased capacity of the new pipeline as proposed is also not solely the result of enhanced pressure capabilities. The new pipeline will be two inches larger in diameter than the existing pipeline, and there is no identified safety concern that indicates a need for a larger diameter. The purpose of the project, rather, is to deliver large quantities of petroleum products to the refineries that can utilize it. This more accurate framing of the underlying purpose clarifies that alternatives such as rail and trucking are properly examined as alternatives in the EIS.

1.2 Sandpiper EAW and DSDD Purpose and Need

The internal inconsistency of the stated purpose for the Sandpiper project demonstrates the need to take a broader look at the underlying purposes behind the proposal. The EAW states that the purpose is to increase delivery capacity to “refineries located throughout the Midwest, Midcontinent, and East Coast via the existing Minnesota Pipe Line System at Clearbrook, Minnesota, via an existing terminal in Superior, Wisconsin.”¹⁷ But going through Enbridge’s existing system is only one way to increase delivery capacity to refineries across the Midwest and East Coast. The statements in the scoping documents mistake *means* with *purpose*. The means to an end are not the purpose of that end. Perhaps the clearest indicator of this confusion is the statement of purpose in the DSDD for the Sandpiper Project, which states that the purpose “is to transport growing crude oil production from the Bakken Formation in North Dakota to the Superior, Wisconsin, terminal and then

¹⁵ Draft Scoping Decision Document for Sandpiper Pipeline Project (hereinafter “SPP DSDD”), Docket Nos. PL-6668/CN-13-473; PL-6668/PPL-13-474, Minnesota Department of Commerce-Energy Environmental Review and Analysis, April 8, 2016 at 6.

¹⁶ Draft Scoping Decision Document for Line 3 Replacement Project (hereinafter “L3R DSDD”), Docket Nos. PL-15-137/CN-14-916, Minnesota Department of Commerce-Energy Environmental Review and Analysis, April 8, 2016 at 5.

¹⁷ SPP EAW at 30.

connect to various other pipelines expanding access to refinery markets in the US Midwest and beyond.”¹⁸ Pipelines terminating at Enbridge’s terminal at Superior are one means of “transport[ing] growing crude oil production . . . to refinery markets in the US Midwest and beyond,” but many other alternatives will achieve that same end without going through Superior.

The statement of purpose and need in the scoping documents must therefore be modified to encapsulate the true purpose, which is to deliver Bakken crude to the oil refinery market that can utilize it, thereby “expanding access to refinery markets in the US Midwest and beyond.”¹⁹ The EIS must analyze the means of achieving that end, including the applicant’s preference for utilizing its existing infrastructure but also including any other means of achieving that same end.

1.3 Outdated Oil Market Conditions in Sandpiper Purpose and Need

The Report of Dr. Gunton, attached as Exhibit 1, provides more detail on the changes in the oil markets since the Sandpiper Project was initially proposed.²⁰ The oil market changes bear serious implications both for the overall need for the project and for the analysis of alternatives to the project in the EIS, and yet none of the scoping documents even acknowledge the drastic changes occurring in the Bakken. The Sandpiper EAW, for instance, states that “crude oil production in the Williston Basin . . . has risen rapidly in recent years”²¹ and exceeded existing pipeline capacity, necessitating additional pipeline capacity from North Dakota. When the applicant conducted its open season in January of 2014, production volumes in the Bakken were indeed increasing rapidly. In that month, production had increased 30% from the previous January.²² However, production peaked in December of that year, and since the peak production has actually declined 14%.²³ Production at individual wells has declined even further. Daily production per well has precipitously declined to a volume not seen since 2008.²⁴ Production volumes per well peaked in mid-2012, and have been declining ever since.²⁵

Clearly it is no longer true that “crude oil production in the Williston Basin” is “growing.” The statement of purpose and need in the Sandpiper DSDD, which states that the purpose of the projects is to “transport growing crude oil production from the Bakken formation,” is demonstrably inaccurate and should be revised to reflect the fact that production volumes have in fact peaked and are in a state of accelerating decline.

1.4 Dr. Gunton’s Report as a Separate Comment

The report, attached as Exhibit 1, details changes in the oil markets since the Sandpiper Project was initially proposed and analyzes the impact of those changes on the scoping process for the SPP EIS, particularly with regard to the DSDD’s assessment of the project’s purpose and need. Although it is submitted as an

¹⁸ SPP DSDD at 6.

¹⁹ SPP DSDD at 6.

²⁰ Ex. 1 (Dr. Thomas Gunton & James Hoffele, *Evaluation of Minnesota Draft Scoping Decision Document for Sandpiper Pipeline Project*, May 21, 2016).

²¹ SPP EAW at 6.

²² See Ex. 2 (North Dakota Industrial Commission, Dep’t of Mineral Resources, Oil & Gas Division, “Historical Monthly Bakken Oil Production Statistics,”

<https://www.dmr.nd.gov/oilgas/stats/statisticsvw.asp>, last retrieved May 2, 2016).

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

attachment to the comments of FOH and MCEA, the report is an independent comment on the SPP DSDD, and should be responded to by the agency.

SECTION 2: ALTERNATIVES PROPOSED FOR INCLUSION IN THE EIS

2.1 Alternatives Must Include SA-03, SA-04 and SA-05

Alternatives to the Applicant's preferred route for Sandpiper must include alternatives that do not terminate in Superior, Wisconsin, including, at a minimum, SA-03, SA-04, SA-05 and alternatives terminating in Patoka, Illinois. As noted above, the more appropriate statement of purpose and need for the Sandpiper Project is:

The purpose of this project is to transport crude oil from Bakken oilfields to the refineries that demand it, in a manner that is safe and environmentally responsible.

This statement accords with state and federal environmental review principles that caution against uncritically accepting the applicant's account of the project's need. Properly framed, it is therefore clear that the EIS must include an analysis of alternatives that do not necessarily terminate at Enbridge's terminal in Superior, Wisconsin. Any alternative that offers a reasonable means of transporting Bakken light sweet crude to oil refineries that demand it, particularly in the American Midwest and Midcontinent regions, should be analyzed and compared to the applicant's preferred route. This would include system alternatives such as SA-04 (terminating in Joliet, IL), SA-05 (Joliet, IL), and other as yet-undefined alternatives that could terminate in Patoka, Illinois, where anchor shipper Marathon maintains its system pipeline hub and the destination point for the great majority of crude oil proposed for shipment by the project. One such alternative could be the route of the Energy Transfer Partners' Dakota Access Pipeline, which is now fully permitted and will begin construction in the spring of 2016 with operations commencing in late 2016. The Dakota Access Pipeline begins at the Williston Basin near Stanley, North Dakota and terminates near Marathon's pipeline hub in Patoka, Illinois.²⁶ The pipeline is projected to transport up to half of all crude production originating in the Bakken oilfields.²⁷

In addition to the alternatives discussed above, Dr. Gunton's report (Ex. 1) also details several transportation corridors and methods that would serve as alternate means of transporting Bakken crude to the refinery market.²⁸ FOH and MCEA hereby incorporate those comments by reference.

2.2 L3R Alternatives that May Not Include Continued Operation of the Existing Line 3.

Because the true underlying purpose of the existing Line 3 is to deliver heavy diluted bitumen from Canada to the American refineries that demand it and can utilize it, the purpose of the L3R project is to do so in a manner that is safe and environmentally responsible. The applicant's preferred alternative clearly fits this statement of purpose and need, as complete replacement of an aging pipeline is one way to deliver this petroleum product to American refineries. Other alternatives, however, would be to utilize different forms of crude transportation, such as rail and trucking, but the L3R scoping documents appear to exclude such alternatives, noting that they would not address safety and integrity issues in the existing Line 3.²⁹ Despite concluding that rail and trucking will not meet the stated purpose of the project, the DSDD nevertheless

²⁶ Ex. 3 (Richard Nemecek, *Construction Starts on Dakota Access Pipeline*, Natural Gas Intelligence, May 2, 2016).

²⁷ *Id.*

²⁸ See Ex. 1 at 3-5.

²⁹ L3R DSDD at 7.

concludes that rail and trucking “will be looked at as an alternative to continuing to operate the Line 3 pipeline.”³⁰ As described above, MCEA and FOH are uncertain as to the meaning of these apparently contradictory statements, but a properly broadened statement of purpose would clarify that alternatives such as rail and trucking are properly examined as alternatives in the EIS.

2.3 Alternatives Based on Actual Demand

Alternatives utilizing alternate modes of transportation (rail, trucking) for either the Sandpiper Project or the L3R Project must be based on actual demonstrated demand for crude oil shipped via rail and truck, not on the volumes and destinations assumed by the Project As Proposed. Both the Sandpiper Project and the L3R Project will increase the transportation capacities of existing petroleum pipeline corridors.³¹ The L3R Project would “restore the line to its historic intended operating capacity of 760,000 barrels per day (bpd) from its current capacity of 390,000 bpd.”³² Sandpiper “is being designed to expand by 265,000 bpd to an ultimate annual capacity of 640,000 bpd” from Clearbrook to Superior, and up to 365,000 bpd from Beaver Lodge to Clearbrook.³³ Absent future upgrades, the Sandpiper Project as currently proposed would transport 225,000 bpd from Beaver Lodge to Superior.³⁴

Transportation choices do not take place in a vacuum. It is not reasonable to assume that if the Sandpiper project was not built (the No Action Alternative), producers would instead ship via rail or truck the same volumes that Sandpiper would otherwise carry. It is similarly unreasonable to assume that, if a rail or trucking alternative were chosen instead of Sandpiper, producers would utilize that transportation to the same extent that they would utilize a pipeline. Shipping decisions would instead be based on case-by-case consideration of fixed costs, which would be different in a rail or trucking alternative.

The DSDD should clarify that the alternatives of rail and trucking must not be evaluated as if they would transport Sandpiper’s volumes, unless the alternative proposed actually increases capacity to ship oil via that method. The Draft EIS should conduct a separate analysis of alternatives in which rail or trucking were modestly scaled up to meet transportation needs from the Bakken, but projections of use of those alternatives should be based on actual economic analysis, not just an assumption that the same volumes would be shipped as Sandpiper and the Line 3 Replacement propose to ship.

2.4 Pipe Thicknesses as Modified Scale or Magnitude Alternatives to the Sandpiper Project

Both the Sandpiper and the L3R DSDDs state that “the EIS will not be evaluating alternatives of different pipe dimensions or different pipe metal thickness. Due to engineering requirements and requirements under PHMSA, this EIS will not address variations in different pipe dimensions or different pipe metal thickness as an alternative; pipe thickness will be discussed as a mitigation option.”³⁵ These statements are overly conclusory, and provide no verifiable justification for excluding an alternative other than simply providing a

³⁰ *Id.*

³¹ Although the Applicant’s preferred route for the Sandpiper Project deviates from its existing system, the preferred route nevertheless connects two endpoints that are connected today, and thus the preferred route maintains the same fundamental connectivity, albeit with increased capacity.

³² Environmental Assessment Worksheet for the Line 3 Replacement Project (hereinafter “L3R EAW”), Minnesota Public Utilities Commission, April 11, 2016, at 6-7.

³³ SPP EAW at 6.

³⁴ SPP DSDD at 8.

³⁵ L3R DSDD at 12-13; SPP DSDD at 13-14.

generic reference to engineering and regulatory requirements. Presumably these requirements do not preclude consideration of higher engineering standards as a project option that might affect capacity, integrity and corresponding risks of releases. At a minimum, specific engineering or regulatory requirements that affect the viability of pipe thickness as an alternative must be identified and discussed, and an explanation must be given detailing why those requirements render the alternative unsuitable. Because environmental review is fundamentally an information-gathering exercise, cursory or generic statements that a particular alternative is unsuitable are not sufficient.³⁶

2.5 Alternatives that Would Transport Lower Volumes

As described in more detail in Dr. Gunton's report, attached as Exhibit 1, production volumes in the Williston Basin have been declining since 2014.³⁷ The Sandpiper Project was originally proposed at a time when production volumes were continuing to increase, and the proposal reflects those assumptions. Those volumetric trends have since reversed, and it is now reasonable to consider alternatives that may increase pipeline capacities more modestly than the project as proposed. Such alternatives could include upgrading pump stations on the existing Line 81 corridor to increase capacity of the existing system. Modestly increased transportation capacities may now satisfy the needs posed by the current production volumes in the Williston Basin, while also avoiding many environmental impacts caused by the proposed project. Under the criteria of 4410.2300(G) requiring consideration of alternatives of modified scale or magnitude, then, such lower transportation volume alternatives should be analyzed in the EIS.

2.6 Contrasting Landscapes With Respect to Potential Impacts of Oil Releases

Many alternatives have been proposed for study in the EIS, including several by FOH. The Applicant's proposed routes cross landscapes often characterized by morainal hills, high value wetlands, rivers, and other natural resources, and that have fewer roads than alternative proposed locations to the west and southwest. Alternatives such as SA-04 cross much flatter landscapes with substantially higher road densities. FOH and MCEA contend that oil releases on the flatter terrain are easier to contain and much less likely to quickly move away from the pipeline. Oil releases on flat terrain with lots of roads are much less likely to cause long-term impacts and are more likely to permit rapid response to a pipeline ruptures. The EIS should therefore ensure that these two landscape types are thoroughly contrasted in the alternatives analysis.

³⁶ Minn. R. 4410.2300(G).

³⁷ Ex. 1 at 6 (Expert Report of Dr. Gunton).

2.7 No-Action Alternative for the Sandpiper Component of the EIS

2.7.1 The Analysis of the No-Action Alternative Must Incorporate the Increased Pipeline Capacity Provided by the Dakota Access Pipeline Currently Under Construction, As Well As Other Current and Future Proposals for Pipeline Capacity

As required by Minn. R. 4410.2300(G), a no-action alternative must be included in the EIS. The DSDD for the Sandpiper Project states that the “No Action Alternative assumes transport of Bakken oil will continue by other means, including rail, interstate highways and other pipeline systems.”³⁸ Currently, Energy Transfer Partners’ proposed Dakota Access Pipeline has received all necessary regulatory approvals, and construction for the pipeline has begun.³⁹ The project will provide new pipeline capacity of between 450,000 and 570,000 bpd, representing well over half of all production in the Bakken.⁴⁰ The new pipeline will terminate in Patoka, Illinois, providing access to oil markets in the Midwest, East Coast, and Gulf Coast.⁴¹ Because Dakota Access Pipeline has moved from the proposal stage to the construction stage, the capacity that it will provide should be analyzed in the No Action Alternative as part of the assumptions concerning available transportation capacity.

But the Dakota Access Pipeline is not the only project that will provide crude oil transportation from the Bakken. As detailed in Dr. Gunton’s report, current forecasts estimate *surplus* pipeline capacity from the Bakken of up to 866,000 bpd in 2020. Including rail, total surplus capacity is forecasted at up to 2.5 million bpd.⁴² The analysis of the No Action Alternative in the EIS must include an assessment of total surplus transportation capacity that would exist should the Sandpiper Project not be built.

2.7.2 The Analysis of the No-Action Alternative Must Incorporate an Economic Analysis of the Effect of Continued Low Oil Prices on Production Volumes in the Williston Basin

As described in more detail in Dr. Gunton’s report (Ex. 1), there is substantial evidence that, in an environment of continued low oil prices, total production volumes in the Bakken will decline. The EIS should therefore include the economic analysis exploring the relationship between oil prices, transportation capacity, transportation cost and production volumes, so that the environmental impacts associated with those production volumes can be compared.

2.7.3 The Analysis of the No-Action Alternative Must Clarify that It Will Avoid the Environmental Impacts of Increased Production Volumes in the Williston Basin, Including But Not Limited to Ground Water Contamination, Climate Change Impacts, Methane and Ethane Leakage, and Air Quality Impacts

Because denial of applicant’s proposal will likely result in continued decreasing production volumes in the Williston Basin (as described in Dr. Gunton’s report, Ex. 1), the environmental impacts associated with extraction of crude oil in the Williston Basin, including ground water contamination, methane and ethane

³⁸ SPP DSDD at 14.

³⁹ Ex. 3 (Natural Gas Intelligence Article on Dakota Access Pipeline Construction).

⁴⁰ Ex. 4 (Dakota Access Pipeline Factsheet); Ex. 2 (Bakken Oil Production Statistics).

⁴¹ *Id.*

⁴² Ex. 1 at 4 (Expert Report of Dr. Gunton).

leakage, climate change and air quality impacts, will be lessened in the No Action Alternative. The analysis of the No Action Alternative should clarify that denial of the applicant's proposal will avoid those environmental impacts.

2.7.4 The Environmental Impacts of Subsection 2.6.3 Must be Quantified as an Economic Value of Damages Utilizing Regulatory Impact Analysis Tools Such as the Social Cost of Carbon or Its Equivalent

To the extent practicable, all environmental impacts avoided by the No Action Alternative should be quantified and expressed as economic damages avoided. The environmental impacts avoided by the No Action Alternative – avoided climate change impacts, methane and ethane leakage, ground water contamination and air quality impacts – are all readily quantifiable by widely available regulatory impact analysis tools, such as the Federal Social Cost of Carbon. The Social Cost of Carbon can be used to estimate the avoided damages from avoided CO₂ emissions as a result of low oil prices constraining extraction activities in the Williston Basin (thus avoiding combustion of the petroleum products that would have been produced by those extraction activities), and it can also be used to estimate avoided damages from methane and ethane leakage in extraction, once those gases are converted to tons of CO₂ equivalent.

2.7.5 The No Action Alternative Must Indicate that Denial of the Applicant's Proposal Will Not Result in Higher Rail Traffic Volumes in Minnesota

As described in sections 2.7.2 and Dr. Gunton's report, Bakken production volumes in the No Action Alternative are likely to continue their currently decreasing trend. The applicant's original CON application, however, asserts that the No Action Alternative would involve greater rail transportation through Minnesota, arguing that "as Bakken production increases, so would train traffic carrying crude oil through Minnesota."⁴³ These assumptions are no longer true, and it now appears that Bakken production will *not* continue to increase in the absence of the Sandpiper Project's capacity. As described above, as oil markets stay in a low-price environment and the only transportation options are comparatively more expensive, producers respond by restricting production. This is empirically demonstrated by indicators of Bakken production from the last two years.⁴⁴ Rail shipments from the Bakken have also correspondingly declined.⁴⁵ Rail traffic from the Bakken peaked in 2014 and has been declining since that time.⁴⁶ This trend will continue in the No Action Alternative. The analysis of the No Action Alternative must therefore clarify that denial of the Sandpiper Project will not increase rail traffic through Minnesota.

2.7.6 The No Action Alternative Must Indicate that Denial of the Sandpiper Project Will Not Result in Higher Consumer Prices for Petroleum Products

Because petroleum transportation is diverse and interconnected in the U.S., there is no empirical evidence that consumer prices for petroleum products like gasoline are significantly affected by the construction of

⁴³ Docket Nos. PL-6668/PPL-13-473; PL-6668/CN-13-473, *Enbridge Pipelines (North Dakota) LLC Sandpiper Pipeline Project Environmental Information Report*, filed Nov. 8, 2013, at 2-2.

⁴⁴ Ex. 1 at 5-6 (Expert Report of Dr. Gunton).

⁴⁵ Ex. 5 (EIA Crude Oil Rail Transportation Statistics).

⁴⁶ *Id.*

new pipelines. In fact, “varying pipeline availability has little impact on the prices that that U.S. consumers pay for refined products such as gasoline.”⁴⁷

2.8 No-Action Alternative for the L3R Component of the EIS

2.8.1 The “No Action” Alternative for L3R Must Be Identified in the Draft EIS

Enbridge must clarify what would happen if the L3R project did not go through. Presumably, the choices are that Enbridge would either continue to run the line at increased cost, or it would decommission it because it would no longer be economical to operate. Either way, the “no action” alternative is a key part of the EIS because it gives decision-makers a baseline against which to compare impacts of the project.

If Enbridge would continue to operate the existing Line 3, the EIS should consider an additional alternative to decommission Line 3 entirely, utilizing alternative means of transportation for all volumes transported by the existing line.

2.8.2 The Analysis of the No-Action Alternative Must Incorporate an Economic Analysis of the Effect of Continued Pipeline Restrictions on the Production Volumes of the Alberta Oil Sands Deposits

As described in more detail in Dr. Gunton’s report (Ex. 1) there is substantial evidence indicating that, in an environment of continued low oil prices and high transportation costs from restricted pipeline capacity, total production volumes in the Alberta oil sands region will decline.⁴⁸ The Final Supplemental Environmental Impact Statement for the Keystone XL Project noted that:

Oil sands production is expected to be most sensitive to increased transport costs in a range of prices around \$65 to \$75 per barrel. Assuming prices fell in this range, higher transportation costs could have a substantial impact on oil sands production levels— possibly in excess of the capacity of the proposed Project—because many in situ projects are estimated to break even around these levels. Prices below this range would challenge the supply costs of many projects, regardless of pipeline constraints, but higher transport costs could further curtail production.⁴⁹

The EIS should therefore include an economic analysis exploring the relationship between pipeline capacity and production volumes, so that the environmental impacts associated with those production volumes can be compared. The Draft EIS should address the fact that increased pipeline capacity will increase extraction and production of bitumen from the Alberta oil sands region in a low oil price market, identify the impacts of that increase, and clarify that the No Action Alternative will avoid the impacts of that increased extraction and production.

⁴⁷ Ex. 6 at ES-12 (Keystone XL SEIS Executive Summary).

⁴⁸ Ex. 1 at 8 (Expert Report of Dr. Gunton); *see also* Ex. 6 at ES-12 (Keystone XL SEIS Executive Summary).

⁴⁹ Ex. 6 at ES-12.

2.8.3 The Analysis of the No-Action Alternative Must Clarify that It Will Avoid the Environmental Impacts of Increased Production Volumes of Alberta Oil Sands, Including But Not Limited to Water Withdrawals, Water Contamination, Energy Consumption, Air Quality Impacts and Climate Change Impacts

Because denial of applicant's proposal will likely result in decreased production volumes in the Alberta oil sands region,⁵⁰ the environmental impacts associated with extraction of oil sands and the production of bitumen products, including water withdrawals, water contamination, energy consumption, air quality impacts and climate change impacts, will be lessened in the No Action Alternative. The analysis of the No Action Alternative should clarify that denial of the applicant's proposal will avoid those environmental impacts.

2.8.4 The Environmental Impacts of Subsection 2.7.2 Must be Quantified as an Economic Value of Damages Utilizing Regulatory Impact Analysis Tools Such as the Social Cost of Carbon or its Equivalent

The environmental impacts avoided by the No Action Alternative – water withdrawals, water contamination, energy consumption, air quality impacts and climate change impacts – are all readily quantifiable by widely available regulatory impact analysis tools, such as the Federal Social Cost of Carbon. The Social Cost of Carbon can be used to estimate the avoided damages from avoided CO2 emissions as a result of low oil prices and low pipeline capacity constraining extraction activities in the Alberta oil sands region (thus avoiding combustion of the petroleum products that would have been produced by those extraction activities), and it can also be used to estimate avoided damages from other greenhouse gases, once those gases are converted to tons of CO2 equivalent. To the extent practicable, all environmental impacts avoided by the No Action Alternative should be quantified and expressed as economic damages avoided.

SECTION 3: ANALYSIS OF THE PROPOSED PROJECT'S ENVIRONMENTAL, ECONOMIC, EMPLOYMENT AND SOCIOLOGICAL IMPACTS

3.1 Method for Assessing Impacts of Crude Oil Releases

Of all potential impacts of a pipeline, impacts to water from an oil spill may well be the most catastrophic. While FOH and MCEA expect the EIS to identify mitigation measures, we also expect the EIS to provide an independent assessment of potential oil spill scenarios and the devastating consequences on nearby lakes, rivers, streams and wetlands.

3.1.1 The EIS's Treatment of the Environmental Impacts of Oil Spills Must Include Narrative Descriptions in Addition to Any Numerical Risk Assessment

An EIS that analyzes the environmental impacts of oil spills by relying primarily on numerical risk assessments and engineering forecasts of oil release amounts (based on shutdown systems and other safety measures) is inadequate. The purpose of an EIS is full disclosure of potential impacts in a manner understandable to citizens and agencies.⁵¹ Both the Sandpiper and L3R Projects are complex and

⁵⁰ Ex. 1 at 8; Ex. 6 at ES-12.

⁵¹ See, e.g., Minn. R. 4410.2300 (“An EIS shall be written in plain and objective language.”); Minn. R. 4410.0300 (The purpose of the an EIS is to “provide usable information to the project propose,

controversial proposals that have the attention of many citizens and decision-makers that lack the technical expertise to appreciate impact analysis that is primarily technical and numerical. The oil spill risk assessment in the EISs for the proposed pipelines should be narrative-based, similar to the Oak Ridge National Laboratory's 2012 study submitted with the Direct Testimony of Paul Stolen in previous Sandpiper proceedings.⁵² That study looked at a range of shut-down times and described the consequences that might ensue. The sites selected for modeling should include this type of narrative impact analysis in addition to any technical, numerical risk assessments.

3.1.2 The EIS Should Economically Quantify the Environmental Impacts of Oil Spills Modeled by OILMAPLAND and SIMAP

The DSDD for the Sandpiper Project and the L3R Project state that large volume spill modeling will be conducted by RPS ASA using OILMAPLAND and SIMAP modeling software.⁵³ For any such spill modeling in the combined EIS, the environmental impacts of the modeled spills must be economically quantified as a projected estimate of socioeconomic damages. The accounting of damages is a routine practice, and there is no reason why an EIS would not include a quantification of modeled oil spill impacts. If a spill were to occur of the type modeled in the EIS, federal law requires that the environmental impacts be quantified in a Natural Resource Damage Assessment.⁵⁴ Federal regulations require that the degree and extent of oil spill damages are quantified relative to a baseline, and that quantification forms the basis for a demand for payment issued to the responsible party.⁵⁵ Because this process would be a requirement if a spill were to occur, the modeling of oil spill impacts in the EIS must include the economic quantification process as part of the EIS itself. One possible methodology for this quantification analysis is contained in the Oak Ridge National Laboratory's 2012 study referenced above.⁵⁶

3.1.3 The Economic Damages for Oil Spills Modeled in the EIS Must Be Compared Against the Coverage and Limits Included in the Applicant's Liability Insurance Policy

In the event that an oil spill should occur, any response or restoration costs that are not covered by the applicant's liability insurance policy would be borne by the responsible party. If such uninsured costs exceeded the responsible party's liquid assets, the responsible party's bankruptcy could result in the costs being borne by public funds. In 2014, for instance, Enbridge estimated that its total cost estimate for the Line 6B crude oil release near Marshall, Michigan was \$1.21 billion.⁵⁷ Larger oil spills modeled in the EIS would of course incur larger estimated restoration costs, and to the extent that any potential cost estimates exceeded the limits of NDPC's liability insurance coverage, those costs could cause a liquidity crisis and potential bankruptcy proceeding that would imperil public funds. In order to provide some indication of the likelihood of a spill-induced corporate bankruptcy, the EIS should include a comparison of potential spill liabilities with

governmental decision makers and the public concerning the primary environmental effects of a proposed project.”).

⁵² Ex. 16, at Apx. 1 (Direct Testimony of Paul Stolen, eDocket No. 201411-104748-02, Docket No. PL-6668/CN-13-473, Nov. 19, 2014).

⁵³ SPP DSDD at 27, L3R DSDD at 26.

⁵⁴ 15 C.F.R. Part 990, promulgated pursuant to the Oil Pollution Act of 1990.

⁵⁵ 15 C.F.R. § 990.52, 15 C.F.R. § 990.62.

⁵⁶ Ex. 16 at Apx. 1, Ex. 4.

⁵⁷ Ex. 7 at 19.

the applicant's insurance coverage and limits. Such an analysis requires transparency by NDPC and Enbridge on existing or projected insurance coverage.⁵⁸

3.1.4 Oil Spill Modeling Should Not Be Based on Data Provided by NDPC

Both DSDDs indicate that “the Applicant will provide data on maximum spill volumes, spill frequency and the types of crude oil being transported” for the purposes of modeling large volume oil spills.⁵⁹ The project applicant's vested economic interest in limiting oil spill modeling requires that the RGU conduct an independent analysis of the risk of large volume oil spill releases. Spill volumes and frequencies are consistently underestimated by entities proposing pipeline projects, and federal agencies have noted that many estimates of Enbridge's 2010 Line 6B oil spill have been “substantially greater” than Enbridge's estimate.⁶⁰ There have also been discrepancies in the pipeline operator's estimate of shut down times in the event of a spill, as compared to actual shut down times. Data provided by the applicant is similarly unlikely to provide an adequate basis for evaluating the environmental impacts of a potential spill, and the oil spill modeling for the Sandpiper/L3R EIS must accordingly be based on an independent assessment of projected spill volumes and frequencies.

3.1.5 The Estimate of Spill Frequency Must be Based on Realistic Assumptions that Include the Incidence of Human Error

Because risk analysis is so greatly influenced by the probability of an event, the oil spill modeling included in the EIS is crucially dependent on accurate assumptions regarding spill frequency. Reliance on NDPC data for spill frequency assumptions is clearly inadequate, as NDPC's economic interest in minimizing the risk of oil spills ensures that any supplied data would be affected by a conflict of interest. Moreover, while NDPC and Enbridge will certainly propose mitigation measures designed to decrease the risk of a spill, human error poses a risk that cannot be mitigated. The probability of oil spills must therefore be independently evaluated in the EIS. Other studies indicate that human error is a significant cause of oil releases from facilities associated with pipelines, such as storage tanks.⁶¹ The spill volumes resulting from incorrect operations of tank facilities, furthermore, tend to be larger than mainline spill volumes.⁶² The EIS for the Sandpiper and L3R Projects must therefore include a consideration of the frequency of human error in equipment operations, the resulting likelihood that such human error would cause oil releases, and the environmental impacts of those potential releases.

3.1.6 Oil Spill Modeling for the L3R Project Must Include Diluted Bitumen

The L3R DSDD states that the oil spill models “will be run for a set of scenarios that include the following crude oil types: light sweet Bakken crude oil, Cold Lake Blend and Cold Lake Winter Blend.”⁶³ Although the proposed pipeline is physically designed to transport a variety of crude products, including light, medium and heavy crudes, the primary purpose of the L3R Project is to transport diluted bitumen from Hardisty, Alberta. Diluted bitumen is a fundamentally different product than Bakken light sweet crude, and oil spills of diluted

⁵⁸ Minn. R. 4410.2400 (“No material may be incorporated [into an EIS] by reference unless it is reasonably available for inspection by interested persons within the time allowed for comment.”).

⁵⁹ See, e.g., L3R DSDD at 25.

⁶⁰ See Ex. 8 at i (Final Damage Assessment and Restoration Plan for Line 6B Spill).

⁶¹ See Ex. 9 at 3 (Keystone XL SEIS Attachment K).

⁶² *Id.*

⁶³ L3R DSDD at 26.

bitumen differ significantly in their environmental impact.⁶⁴ Any EIS that conducted oil spill modeling for the L3R Project without modeling the effects of a diluted bitumen spill would clearly be inadequate. The EIS should also include the results of the National Academy of Sciences recent study concerning the environmental impacts of diluted bitumen spills.⁶⁵ That study “brought together diverse expertise on the chemistry and environmental impacts of crude oils and broad experience in spill response,” and its findings were independently reviewed by an extensive committee of experts.⁶⁶ Among its key findings was the conclusion that “spills of diluted bitumen pose particular challenges when they reach water bodies. In some cases, the residues can submerge or sink to the bottom of the water body.”⁶⁷

3.1.7 The Environmental Impacts of a Diluted Bitumen Spill Must Incorporate the Findings of the National Academy of Sciences

The EIS should address the implications of the NAS study of bitumen to the sensitive locations, including wetlands crossed by the proposed routes. The study suggests that it may be impossible to clean up diluted bitumen from certain locations, and/or that the attempts to clean up oil releases from such areas will in effect destroy these areas. The implication of this finding is that should Line 3 be permitted in the location desired by the Applicant the state of Minnesota would need to make this decision based on an assumption that no significant oil releases would ever occur for the life of the project.

3.1.8 The FSDDs Must Identify the Representative Sites Proposed for Oil Spill Modeling

Both DSDDs describe a modeling process consisting of 2-D modeling at five representative sites and 3-D modeling at two sites.⁶⁸ None of these proposed modeling sites are identified. It is accordingly impossible to assess whether the selected sites are indeed representative, or whether they represent best-case scenario oil spill locations. The selection of representative sites cannot be delegated to the applicant or to RPS ASA, the environmental modeling consultant for the EIS. The location of those sites is a critical detail in ensuring that the oil spill modeling assesses realistic scenarios based on a variety of sites along the proposed route. The selected sites should, at a minimum, sample critical terrains, ecosystems, water bodies, habitats, High Consequence Areas and Natural Disaster Hazard Areas crossed by the proposed route. Although the DSDDs indicate an awareness that releases at High Consequence Areas and Natural Disaster Hazard Areas represent particularly significant impacts, the documents do not provide any indication of the analysis of those impacts that will occur in the EIS. At a minimum, the oil spill modeling must incorporate High Consequence Areas and Natural Disaster Hazard Areas as representative sites. At least one site must be located beneath the bed of a large volume flowing river such as the Mississippi or St. Croix. These representative sites must be chosen by the RGU in the FSDD.

3.1.9 Oil Spill Modeling in the EIS Must Include Representative Sites on Enbridge’s Pipeline System Outside the Tioga-Superior Segment, Including Sites at a Variety of Terrains, Ecosystems, Water Bodies and Habitats Crossed by Enbridge’s System South and East of North Dakota

The direct effect of the Sandpiper Project and the L3R Project will be to increase the volumes of crude oil products being transported by Enbridge’s pipeline system. This includes not only the proposed project within

⁶⁴ See Ex. 10 (NAS Study of Spills of Diluted Bitumen).

⁶⁵ *Id.*

⁶⁶ *Id.* at viii, xiii.

⁶⁷ *Id.* at 3.

⁶⁸ L3R DSDD at 26, SPP DSDD at 28.

the borders of Minnesota, but the entirety of Enbridge's system south and east of North Dakota. The higher volumes enabled by the two projects will continue on to refineries in the Midwest, Midcontinent, and Gulf Coast regions.⁶⁹ These higher volumes being transported throughout the U.S. will necessarily increase either the volumes or frequency of spills occurring on Enbridge's system outside Minnesota. As an illustration, the 2010 oil spill near Marshall, Michigan occurred on Enbridge's Line 6B, which connects to Enbridge's hub outside Chicago.⁷⁰ The Chicago hub is supplied in part by connections from Superior, Wisconsin.⁷¹ Both projects would therefore cause higher volumes of crude oil products to be transported through pipelines such as Line 6B, which accordingly increases the environmental impact of any oil spill that occurs, whether the location of that spill is within Minnesota or outside its borders. Any oil spill modeling in the EIS must therefore model potential spill sites at a variety of terrains, ecosystems, water bodies, habitats, High Consequence Areas and Natural Disaster Hazard Areas crossed by Enbridge's entire system south and east of North Dakota, not just those located in Minnesota.

3.1.10 Representative Sites Outside the Tioga-Superior Corridor Must Include Potential Worst Case Scenarios Such as a Line 5 Spill in the Straits of Mackinac

As described above, the increased capacities of the Sandpiper and L3R Projects will increase the volumes of crude oil products being transported by all of Enbridge's pipeline system, not just the segments proposed for Minnesota. From Superior, these increased oil volumes will be shipped southward and eastward on existing pipelines. One such pipeline that will connect with both Sandpiper and L3R is Enbridge's Line 5, which passes under the Straits of Mackinac, the waterway joining Lakes Michigan and Huron. The increased transportation volumes of both proposed projects will cause a corresponding increase in the risk of a spill outside Minnesota, including in Line 5. The potential impacts of a spill in the Straits of Mackinac has been studied and modeled by the University of Michigan's Water Center, and the results of that study should be incorporated in the both EISs as a means of analyzing the increased risks of such a catastrophic spill resulting from the higher pipeline volumes enabled by the two proposed pipelines.⁷²

3.1.11 The EIS Must Evaluate the Potential Impact of a Large or Small Volume Oil Release on the Trout Streams Crossed by the SPP Project

The Sandpiper Project EAW identifies six trout streams crossed by the applicant's preferred route.⁷³ The DSDD for the project, however, does not specify that the oil spill modeling will incorporate an analysis of the effects of an oil spill on these designated trout streams. The FSDD must indicate that the analysis of potential oil spill impacts will include the impacts of a large or small volume oil release on the designated trout streams and the habitat therein crossed by the project as proposed.

3.1.12 The EIS Must Evaluate the Environmental Impact of the Spacing and Locations of the Automatic Shutoff Valves Designed to Limit Oil Releases in the Event of a Rupture

The oil spill modeling incorporated into the EIS should evaluate the effect of the project's proposed locations of mainline valves capable of limiting releases in the event of a rupture. The modeling should also incorporate

⁶⁹ SPP DSDD at 6, Ex. 20; Direct Testimony of C. Michael Palmer, Docket No. PL-6668/CN-13-473, Aug. 8, 2014, at 7.

⁷⁰ Ex. 20 (Enbridge Pipeline Map).

⁷¹ *Id.*

⁷² Ex. 12 (University of Michigan Straits of Mackinac Oil Spill Study).

⁷³ SPP EAW at 107.

an analysis of alternate locations as an aid in assessing potential mitigation options, as alternate locations of mainline valves could be strategically placed to mitigate impacts to particularly sensitive environments.⁷⁴

3.1.13 The EIS Must Evaluate the Environmental Impact of Oil Spills with Ignition

As described in the Direct Testimony of Paul Stolen, oil spill modeling must incorporate the potential effects of an oil spill with ignition. Neither DSDD in this matter specifies that the oil spill modeling will incorporate the increased environmental impacts of an oil spill featuring ignition of a pool fire, flash fire, or vapor cloud explosion.⁷⁵ Bakken crude is known to be particularly volatile, and poses a significant risk of ignition upon release.⁷⁶ The effects of such spills have been evaluated and quantified by studies conducted by federal agencies, and given the DSDD's statements that the oil spill modeling will be conducted in accordance with federal PHMSA regulations,⁷⁷ the effects of oil spills with ignition must be included in the EIS.

3.1.14 The EIS Must Evaluate a Catastrophic Oil Spill Scenario in Which a Large Oil Spill with Ignition Damages Co-Located Pipelines

Environmental review principles require the evaluation of low probability, high-risk environmental impacts. Such impacts for the Sandpiper Project and the L3R Project would include a catastrophic oil spill with ignition, in a sensitive area, in which co-located pipelines are also damaged, increasing the volume of the release. Neither DSDD requires the modeling of such a scenario, and is therefore inadequate in assessing the likelihood and the impacts of such an event. The FSDD must require modeling for catastrophic scenarios, even those that are low probability, because the consequences would be so severe. Such consequences are unaccounted for in the EIS as currently scoped.

3.1.15 The EIS Must Evaluate the Potential for Groundwater Contamination by a Large or Small Volume Oil Release

The DSDDs for the two projects state that the EIS will analyze the potential for groundwater contamination within 1,000 feet of the pipeline corridor.⁷⁸ This boundary is based on “work done previously in Exponent’s risk assessment of the Keystone XL Pipeline.”⁷⁹ Although reliance on previously completed work is allowed by state environmental review regulations,⁸⁰ that work must be relevant to the current project. To the extent that the groundwater contamination modeling incorporated into the EIS for SPP and L3R is based on particular mixes of petroleum products that are unique to the Keystone XL proposal, or the terrain on which that pipeline was proposed, that modeling may not accurately represent the risks to groundwater posed by the SPP and L3R projects. Different crude oil products may pose different risks upon release into surface waters or onto permeable soils. The particular risks to groundwater posed by the transport of Bakken light sweet crude and diluted bitumen on SPP and L3R, respectively, must be independently evaluated in the EIS. That analysis should also include specific information about the aquifers crossed by the proposed projects,

⁷⁴ See Ex. 16 at 27 (Stolen Direct).

⁷⁵ See *Id.* at Ex. A, 86-87.

⁷⁶ PHMSA Safety Alert, January 2, 2014, *Preliminary Guidance from Operation Classification*, available at http://phmsa.dot.gov/pv_obj_cache/pv_obj_id_111F295A99DD05D9B698AE8968F7C1742DC70000/file_name/1_2_14%20Rail_Safety_Alert.pdf, last retrieved May 24, 2016.

⁷⁷ L3R DSDD at 26, SPP DSDD at 27.

⁷⁸ SPP DSDD at 28.

⁷⁹ *Id.*

⁸⁰ See, e.g., Minn. R. 4410.2200; 4410.2400.

particularly shallow groundwater aquifers that may be especially vulnerable to contamination by large or small volume releases.

3.1.16 The EIS Must Analyze the Probability and Impacts of Small Leaks with an Unusually Long Detection Period

The DSDDs for the two pipelines indicate that the impacts of pinhole leaks will be assessed based on the assumption that a small volume leak would be detected within a matter of “several months.”⁸¹ The proposed projects, however, cross a significant acreage of remote and inaccessible areas, and it is therefore possible that a small leak would remain undetected for a longer period of time than assumed in the EIS as currently scoped. A small leak underneath a river bed could pose an especially damaging risk of evading detection for longer than “several months.” The probability and impacts of such an event must be analyzed in the EIS.

3.1.17 The Oil Spill Analysis Must Evaluate the Potential Impacts of an Oil Spill Occurring During Winter Conditions, Including Under Ice

Minnesota’s climate present unique obstacles in oil spill response and recovery. Access to a spill site can be severely restricted or prohibited in winter conditions, particularly if the location of the rupture is beneath ice cover. Montana’s experience with the spill into the Yellowstone River in January 2015 was only one example of this problem. In that case, over 40,000 gallons of crude spilled into the river, and groundwater was contaminated while cleanup was hindered due to ice on the river. Any oil spill analysis included in the EIS must assess the probability and risks of an oil spill occurring during the winter months, including the possibility that the volumes of released oil would be affected by diminished access to the site during the response time.

3.2 ‘Upstream’ Environmental Impacts of Increased Crude Extraction at Production Sites

3.2.1 The Environmental Impacts of Increased Crude Extraction in the Williston Basin, Including But Not Limited To Methane Leakage, Ethane Leakage, Air Quality Impairments and Ground, Surface and Drinking Water Contamination Must be Analyzed as Impacts of the Sandpiper Pipeline Proposal

A new crude oil pipeline can make a difference to suppliers of crude oil, as well as refiners and other users. Indeed, a large crude oil pipeline can change the face of the crude oil market across the nation. It can increase both supply and demand for crude oil. That, of course, is why NDPC wishes to build it. But changing the face of the crude oil market has consequences, and many of those are environmental.

An EIS must include “a thorough but succinct discussion of potentially significant adverse or beneficial effects generated, be they direct, indirect, or cumulative.”⁸² If the Sandpiper and Line 3 pipelines cause increased production of Bakken oil and/or tar sands oil in Canada, the two products they will carry, then that is surely an indirect adverse impact of the pipeline under MEPA.

As described in Dr. Gunton’s report, the increased pipeline capacity provided by the Sandpiper Proposal will increase the pace of extraction in the Williston Basin, reversing recent declines caused by low oil prices and limited pipeline transportation availability. With the new, cheaper pipeline capacity of Sandpiper coming

⁸¹ SPP DSDD at 28; L3R DSDD at 26.

⁸² Minn. R. 4410.2300(H).

online, individual wells' break-even points will be lowered, and Bakken production volumes will begin to increase once again, even in a continued low oil price market. Well producers' investment decisions are based on current oil prices and the costs of production, of which transportation costs are a significant portion. Lowering these transportation costs will of course change those investment decisions, leading to more wells and more extraction by hydraulic fracturing. The federal courts have made clear that NEPA requires an EIS to consider the increased production (and ultimately consumption) that is the direct result of lowered transportation costs for fossil fuels.⁸³ This increased extraction activity carries a significant environmental footprint, all of which is currently ignored in the Sandpiper DSDD.

Bakken crude is a tight oil resource recovered by hydraulic fracturing techniques. These techniques have a variety of well-known and well-documented environmental impacts, including methane and ethane leakage, air quality impairments, and ground, surface and drinking water contamination.⁸⁴ These impacts significantly affect global climate change, human health, water quality and wildlife, but none are included for analysis in the EIS.

3.2.2 The Environmental Impacts of Increased Oils Sands Extraction in the Alberta Oil Sands Region, Including But Not Limited To: Emissions of Polycyclic Aromatic Hydrocarbons to the Air, Water and Soil; Air Quality Impairments; Adverse Effects on Wildlife and Habitats; and Ground, Surface and Drinking Water Contamination Must be Analyzed as Impacts of the L3R Proposal

As described above, the increased pipeline capacity provided by the L3R Proposal will increase the pace of extraction in the Alberta Oil Sands Region. The Line 3 replacement doubles the capacity of the line, resulting in over 300 bpd additional crude oil shipped out of the tar sands region. Moreover, the EIS must compare the effects of the project to the “no action” alternative. In this case, presuming that the existing Line 3 is no longer financially viable, then the “no action” alternative would be to retire the existing Line 3, but not replace it. In that case, the impact of the proposed Line 3 is the entire volume of tar sands at 750 bpd. The EIS must compare 750 bpd shipped out of the tar sands region on Line 3 to zero bpd.

⁸³ *Mid States Coalition for Progress v. Surface Transportation Board*, 345 F.3d 520, 549 (8th Cir. 2003) (“But the proposition that the demand for coal will be unaffected by an increase in availability and a decrease in price, which is the stated goal of the project, is illogical at best. The increased availability of inexpensive coal will at the very least make coal a more attractive option to future entrants into the utilities market when compared with other potential fuel sources, such as nuclear power, solar power, or natural gas”).

⁸⁴ See EA Kort, ML Smith, LT Murray, A Gvakharia, AR Brandt, J Peischl, TB Ryerson, C Sweeney, and K Travis, *Fugitive Emissions from the Bakken Shale Illustrate Role of Shale Production In Global Ethane Shift*, *Geophys. Res. Lett.*, 43, doi: 10.1002/2016GL068703; J Peischl, A Karion, C Sweeney, EA Kort, ML Smith, AR Brandt, T Yeskoo, KC Aikin, SA Conley, A Gvakharia, M Trainer, S Wolter, and TB Ryerson, *Quantifying Atmospheric Methane Emissions from Oil and Natural Gas Production in the Bakken Shale Region of North Dakota*, *J. Geophys. Res.*, May 11, 2016, available at <http://onlinelibrary.wiley.com/doi/10.1002/2015JD024631/abstract>, last retrieved May 12, 2016; Joshua P. Schwarz, John S. Holloway, Joseph M. Katich, Stuart McKeen, Eric A. Kort, Mackenzie L. Smith, Thomas B. Ryerson, Colm Sweeney, and Jeff Peischl, *Black Carbon Emissions from the Bakken Oil and Gas Development Region*, *Environmental Science & Technology Letters*, 2015; NE Lauer, JS Harkness, and A Vengosh, *Brine Spills Associated with Unconventional Oil Development in North Dakota*, *Environmental Science & Technology*, April 27, 2016, available at <http://pubs.acs.org/doi/abs/10.1021/acs.est.5b06349>, last retrieved May 12, 2016;

With the doubled pipeline capacity of a new Line 3 coming online, individual production projects' break-even points will be lowered, and production volumes will accelerate, even in a continued low oil price market.⁸⁵ Production projects in the oil sands region are based on current oil prices and the costs of production, of which transportation costs are a significant portion. Lowering these transportation costs will of course change those investment decisions, leading to more extraction and ultimately more consumption. The federal courts have made clear that NEPA requires an EIS to consider the increased production (and ultimately consumption) that is the direct result of lowered transportation costs for fossil fuels.⁸⁶ This increased extraction activity carries a significant environmental footprint, all of which is currently ignored in the L3R DSDD.

The environmental impacts of oil sands extraction and processing have been documented for decades. Primarily, those impacts are: (1) impacts on water quality from waste water releases; (2) water quality impacts from water withdrawal and use; (3) greenhouse gas emissions, (4) air pollutants (including SO_x, NO_x, volatile organic chemicals such as polycyclic aromatic hydrocarbons, and particulate emissions), (5) tailings disposal, and (6) land disturbances, including habitat fragmentation or destruction.⁸⁷

3.3 “Downstream” Impacts of Increased Petroleum Production, Transport and Use.

3.3.1 The EIS Should Examine the Impacts of Increased Bakken and Tar Sands Petroleum Use.

Federal courts have held that increased production from a new transportation corridor is an indirect impact that must be analyzed under MEPA.⁸⁸ In one case, a rail company sought to build a new rail line from the coal mines of Wyoming's Powder River Basin to service power plants in Minnesota.⁸⁹ At the Eighth Circuit, the Sierra Club argued that the rail line would increase the emissions of various noxious pollutants by increasing access to the low-sulfur coal. The Surface Transportation Board, which prepared the EIS, argued that its new rail line would not affect the demand for coal, but the court found this unlikely, as the stated purpose of the project was to increase availability and decrease the price of Powder River Basin coal. The rail company also argued that any such impact was too speculative to be determined, but the court also dismissed this argument. It held that increased use and access to low-sulfur coal fall under “indirect effects” that must

⁸⁵ Ex. 6 at ES-12 (Keystone XL SEIS Executive Summary) (noting that increased pipeline capacity will increase oil sands production in a low oil price market).

⁸⁶ *Mid States Coalition for Progress*, 345 F.3d at 549 (“But the proposition that the demand for coal will be unaffected by an increase in availability and a decrease in price, which is the stated goal of the project, is illogical at best. The increased availability of inexpensive coal will at the very least make coal a more attractive option to future entrants into the utilities market when compared with other potential fuel sources, such as nuclear power, solar power, or natural gas”).

⁸⁷ Council of Canadian Academies, *Technological Prospects for Reducing the Environmental Footprint of Canadian Oil Sands: Executive Summary*, 2015, available at <http://www.scienceadvice.ca/uploads/ENG/AssessmentsPublicationsNewsReleases/OilSands/OilSandsExecSummEn.pdf>, last retrieved May 12, 2016; A Parajulee and F Wania, *Evaluating officially reported polycyclic aromatic hydrocarbon emissions in the Athabasca oil sands region with a multimedia fate model*, March 4, 2014, PNAS 111: 3344-3349.

⁸⁸ MEPA is modeled on the National Environmental Policy Act, and Minnesota state courts often turn to federal courts for guidance on interpreting MEPA. See, e.g., *Minnesota Center for Environmental Advocacy v. Minnesota Pollution Control Agency*, 644 N.W.2d 457, 468 n.10 (Minn. 2002) (noting that NEPA is similar to MEPA in their primary procedural requirements, and that “therefore looking to federal case law is appropriate and helpful in this case.”).

⁸⁹ *Mid States Coalition for Progress*, 345 F.3d at 520.

be analyzed under NEPA. Even if the *extent* of the impact is uncertain, the *nature* of the impact is not, and therefore it must be analyzed with as much detail as possible.⁹⁰

Similarly, in this case, the EIS must include the indirect impacts of increased usage of crude oil from both the Bakken associated with Sandpiper, and the tar sands, associated with Line 3. While it may be difficult if not impossible to predict the precise uses of the crude oil shipped via the proposed Sandpiper and Line 3 pipelines, it is possible to make rough estimates. MEPA requires such calculations even where there is some uncertainty.⁹¹ For instance, the EPA has determined that carbon dioxide emissions per barrel of crude oil may be analyzed using a formula of “heat content times the carbon coefficient times the fraction oxidized times the ratio of the molecular weight of carbon dioxide to that of carbon (44/12).”⁹² Using this formula, the EPA calculated that the average carbon emissions per barrel of crude oil in the U.S. is 0.43 metric tons CO₂. The EIS could likely provide a more refined analysis specific to Bakken and tar sands crude oils. Similar calculations could also be performed for other pollutants from refining crude oil.

3.3.2 The EIS Should Examine the “Downstream” Impact of Increased Impacts of Increased Crude Oil Transport.

Increasing the volume of oil shipped into Superior, Wisconsin will increase the volume of oil shipped out of Superior, Wisconsin to other refineries, especially in the Chicago area and lower Midwest. In the now-defunct Certificate of Need proceedings for the Sandpiper Pipeline, Marathon Petroleum made no secret of the fact that Superior, Wisconsin was not the final destination for the Bakken crude to be shipped on the Sandpiper. The same is certainly true for the oil on Line 3, as the refining capacity in Superior, Wisconsin is already greatly exceeded by the volume of oil coming in. All of that oil will need to be shipped elsewhere, either by pipeline, train or truck.

As a result of increased volume of oil arriving in Superior, the following indirect impacts may occur:

- New pipelines may need to be built;
- Existing pipelines may need to be expanded;
- Additional oil may be shipped on aging pipelines, resulting in increased pressure;
- Additional oil may be shipped on aging pipelines, resulting in prolonged life for those pipelines and increased risk of spill;
- Increased rail or truck traffic carrying crude oil out of Superior, Wisconsin.

There may be other indirect impacts that we have not identified here. All of these impacts are “indirect” impacts under MEPA, and must be analyzed.

When analyzing these impacts, NDPC’s preferred route must be compared with similar indirect impacts of the system alternatives. SA-04 and SA-05 were proposed by FOH in part because those proposed alternatives terminate closer to the refineries that are the final destination for the oil, at least in the case of Sandpiper.

In addition, when analyzing Line 3, the EIS should compare the indirect impacts to the “no-action alternative” of not replacing Line 3. If the oil currently shipped on Line 3 is no longer shipped to Superior,

⁹⁰ *Id.* at 549-550.

⁹¹ Minn. R. 4410.2500.

⁹² U.S. EPA, *GHG Equivalencies Calculator – Calculations and References*, <https://www.epa.gov/energy/ghg-equivalencies-calculator-calculations-and-references>, last accessed May 24, 2016.

Wisconsin, then the indirect impacts may include retirement of existing pipelines out of Superior, WI; less utilization of existing pipelines out of Superior, WI; less rail or truck traffic out of Superior; etc. The impact of replacing Line 3 is to avoid those potentially advantageous outcomes.

3.4 Environmental Impacts of Pipeline Construction

3.4.1 The EIS must analyze the construction and permanent "footprints" of the two projects on the differing landscapes crossed by the proposed pipelines and not rely on Enbridge's estimates and descriptions

Construction of pipelines has both temporary and permanent impacts. Permanent impacts are caused by removal of, for example, forest vegetation over the permanent right of way for the project life. This in turn causes other impacts, including impacts to wildlife or of increased runoff. Another important potential permanent or long-term impact is from topsoil mixing over the trench or on side-hill cuts needed to construct the 50-60 foot wide flat work area needed for pipe installation. This results in, for example, increased erosion on hillsides, sediment reaching streams, and invasion of exotic species of plants. Other long term impacts include forest removal on hilly terrain outside of the permanent right-of-way that is needed for spoil storage and ROW needs during construction.

In addition, even temporary impacts must be accurately characterized in the EIS to assess impacts. The temporary area needed for pipeline construction in hilly terrain is much wider than that needed in flat terrain. Normally, the affected area in flat terrain can be limited to a 100-120 foot width for one pipeline. On hilly terrain, the temporary ROW can be as much as 350-400 feet in width, requiring extensive forest clearing in forested areas.

The EIS should independently analyze:

- The temporary and permanent size of the construction zone needs--the "footprint"--on flat terrain vs. hilly terrain.
- The geographic extent of topsoil mixing and over the trench and on side-hill cuts and on temporary and permanent access roads for these scenarios: 1) the Applicant's proposal to only separate topsoil in agricultural areas and leave the rest up to landowner desires; 2) the geographic extent of topsoil mixing if the Applicant's permit--if eventually given--requires topsoil separation on all locations over the trench and where there are side-hill cuts deeper than the topsoil (where topsoil is potentially lost by burial in parent material).
- The impacts of topsoil loss to burial in substrate based on the estimates of geographic extent cited above.
- The increases in ROW width due to topsoil separation in hilly terrain vs. flat terrain.
- The pros and cons of constructing the two pipelines at the same time, should they eventually be permitted.
- The pros and cons of winter construction on wetlands and uplands, including the difficulties in topsoil separation and replacement on frozen ground.
- The specific extent of land clearing and pipeline separation from existing pipelines and other linear facilities, and the extent to which the two new pipelines will or will not be able to maintain the 25 foot separation proposed by the Applicant. This will provide a more objective and accurate indication of the width of the expanded pipeline corridor. Such information is crucial to the analysis

of other impacts such as to wildlife and the cumulative impacts of adding pipelines. It is also crucially needed to determine whether the Applicant's portrayal of following existing corridors is accurate or reasonable. Due to many obstacles as additional pipelines have been added to the existing pipeline corridors, locating the new pipeline 25 feet from an existing pipeline is often not possible. Sometimes the new pipelines must cross over to the other side of the existing pipelines, or they must deviate from the existing pipeline corridor. The result is a much different actual on-the-ground impact than that indicated by the Applicant's limited environmental assessment.

3.5 Wetland Impacts

When analyzing the potential impacts of the project, the Commission should consider the purpose of the Wetland Conservation Act, which is to:

- A. achieve no net loss in the quantity, quality, and biological diversity of Minnesota's existing wetlands;
- B. increase the quantity, quality, and biological diversity of Minnesota's wetlands by restoring or enhancing diminished or drained wetlands;
- C. avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality, and biological diversity of wetlands; and
- D. replace wetland values where avoidance of activity is not feasible and prudent.⁹³

Under Minnesota law, the project must be designed to prevent or avoid impacts on wetlands.

3.5.1 Impacts to Wetlands Due to Construction

Impacts to wetlands from construction are described as temporary, but the EIS should analyze whether that is the case. It is not enough to simply assume that because the soil is replaced, the wetland will be restored. It seems unlikely that sensitive wetlands can maintain their integrity when they are excavated, a pipeline put underneath, and then the materials put back. Previous pipeline projects through wetlands make this clear – once the construction is completed, the wetland has been permanently altered. Potential impacts to wetlands from construction include, but are not limited to:

- Some types of wetlands take decades or even centuries to form and cannot tolerate this type of treatment.
- Disturbance or destruction of wetlands is likely to present the opportunity for introduction of invasive plants, or loss of native plants.
- Disturbance is likely to change drainage patterns, which could cause wetlands to become drier or wetter. This could also have an indirect impact on nearby wetlands.
- Permanent impacts from spills of oil, gas, drilling fluid or other materials used during construction.

⁹³ Minn. R. 8420.0100, subp. 1.

3.5.2 The EIS Should Clarify Actual Impacts to Wetlands

Constructing the pipeline clearly would result in permanent impacts to wetlands, yet the EAW misleadingly claims that “only 1.0 acres would be permanently filled wetlands.” Sandpiper EAW, p. 90. Table 7-1 on p. 31 of the Sandpiper EAW similarly suggests that all wetland cover except for one acre will be maintained after construction. While only one acre may be permanently filled, there is no doubt that the other 958.2 acres will be altered, in many cases to be unrecognizable; a different type of wetland or even no longer wetlands at all. The EAW currently reads to suggest as if none of these wetlands will be permanently affected, let alone lost. The analysis should be refined to determine which acres will be permanently affected, and how.

3.5.3 The EIS Must Analyze the Effects of Oil Releases in Wetlands Including the Effects of Bitumen

The EIS must analyze the effects of an oil release on wetlands, including especially sensitive, high-value wetlands, and assess whether bitumen can ever be cleaned up from such wetlands. It must also analyze the destructive effects of the bitumen clean-up processes themselves. It should assess the long term consequences and costs of both the spill and clean-up efforts and the time frame for when such wetlands will return to their current condition, whether it be 10 years or 500 or more years. Examples of such wetlands are those in the LaSalle Creek/LaSalle Lake area, along the Mississippi River, and the Upper Rice Lake area.

3.6 Impacts on Aquatic Life, Including Habitat Loss

In addition to permanent changes to wetlands, pipeline construction may also cause permanent changes to habitat for aquatic plants and animals. Although potential impacts on fish and other aquatic life beyond the pipeline boundaries are addressed briefly in the EAWs under cumulative impacts, these are also direct impacts of the proposed pipelines.

3.7 Environmental Impacts of Surface Uses

3.7.1 The Proposed Consideration of the Impacts of Access Roads Necessary for Construction and Maintenance is Unreasonably Narrow

Although the DSDDs for both projects include access roads in their descriptions of the project, neither document gives any indication that the EIS will specifically include the environmental impacts of those roads. The new roads attract a variety of third party uses, including ATVs, motorbikes and snowmobiles, regardless of whether those uses are permitted by Enbridge or the state. The environmental impact of those uses are currently unaccounted for in the proposed scope of the EIS, which would therefore exclude consideration of impacts such as habitat fragmentation, soil erosion and compaction, poor air quality, aesthetic impairments, invasive species, turbidity impacts on designated trout streams and excessive noise. These impacts may be heightened by the intensity of the surface uses, which should therefore be analyzed in the EIS.

3.7.2 The Proposed Consideration of the Impacts of the Cleared Right of Way is Unreasonably Narrow

A cleared right of way produced by a pipeline project attracts a variety of third party uses, including ATV use and snowmobile use. These uses cause direct environmental impacts through soil compaction and erosion, and also pose a risk of interference with the pipeline itself, including the risk of rupture. This is particularly

acute where surface uses have the potential to erode soil cover above the pipeline, compromising the structural integrity of the pipeline itself. The EIS should consider the probability and intensity of such surface uses and evaluate the environmental impact of the increased surface activity resulting from the pipeline construction. These impacts include habitat fragmentation, soil erosion and compaction, poor air quality, aesthetic impairments, excessive noise, turbidity impacts on designated trout streams and the risk of compromised pipeline integrity or rupture.

3.7.3 The EIS Must Consider Impacts Resulting from Surface Clearance for the Impressed Current Cathodic Protection System

The proposed Sandpiper Project requires the construction of an impressed current cathodic protection system, which involves a 20-30 foot wide construction workspace 600 feet perpendicular to the pipeline.⁹⁴ The surface of this workspace must be routinely cleared of all woody plants. As noted in the sections above, these cleared areas attract a variety of third party uses, and the environmental impact of those uses must be evaluated in the EIS.

3.8 Potential for Failure of Mitigation Measures

3.8.1 Impacts Resulting from the Failure of Mainline Shutoff Valves

The Sandpiper Project and the L3R Project both propose to install mainline shutoff valves (21 for Sandpiper and 22 for L3R) that can be remotely controlled from the NDPC Control Center.⁹⁵ Although the DSDDs for the two projects both propose to include oil spill modeling in the EIS, neither document identifies any analysis of the potential impacts of failures in the mainline intelligent valve control system, despite the fact that federal data indicate equipment failures cause 32% of pipeline spills.⁹⁶ These impacts could be the result of faulty valve operation or failures in the communication system between the valve and NDPC's Control Center (such as by interference from solar magnetic storms),⁹⁷ either of which would potentially increase potential oil releases by an order of magnitude in the event of a rupture. The EIS must also indicate the significant limitations of mainline valve shutoff systems in an oil spill event, particularly that a rupture would typically allow the release of the entire volume of petroleum in the affected segment. Valve shutoffs have the potential to prevent further releases from the pipeline, but the EIS must clarify the minimum and maximum quantities that would be released in a rupture event, even assuming optimal mainline valve operation as well as mainline valve failure.

3.8.2 Impacts Caused by Corrosion Resulting from Failure or Inadequacy of the Cathodic Protection System

Cathodic protection is designed to protect the pipeline from the corrosive effects electrical currents induced in the pipeline by the earth's magnetic field or by stray AC or DC voltage interference. By directing the current to an anode, the cathodic protection system is intended to direct the corrosive effects to structures external to the pipeline itself, therefore protecting the pipeline integrity. The effectiveness of these cathodic

⁹⁴ SPP EAW at 27.

⁹⁵ SPP EAW at 12; L3R EAW at 25.

⁹⁶ Ex. 9 at 11 (Keystone XL SEIS Attachment K)

⁹⁷ See U.S. Dep't of Homeland Security, Industrial Control Systems Cyber Emergency Response Team, *Solar Magnetic Storm Impact on Control Systems*, March 26, 2011, available at <https://ics-cert.us-cert.gov/advisories/ICSA-11-084-01>, last accessed May 23, 2016.

protection systems must be evaluated in the EIS, including the probability and impacts of pipeline corrosion resulting from cathodic protection system failure. In 2012, for instance, a portion of TransCanada's newly built Keystone pipeline was discovered to be severely corroded, despite the presence of the same impressed current ground bed cathodic protection system proposed for the Sandpiper and L3R Projects.⁹⁸ The report investigating that incident found that "highly accelerated rates of corrosion on buried pipelines" can be caused by microbial activity, stray direct current interference, and stray alternating current interference.⁹⁹ The report notes that one source of AC current interference is induced current caused by electromagnetic interference in collocated right of ways.¹⁰⁰ Possible sources of this interference include existing pipelines collocated in the right of way (particularly "foreign" cathodic protection systems) and high voltage transmission lines in close proximity to the pipeline.¹⁰¹ High voltage transmission lines in particular have been studied as a likely source of pipeline corrosion, with one recent study concluding that "on pipelines suffering from A.C. interference traditional pipe-to-soil potential measurements do not guarantee efficient cathodic protection against corrosion."¹⁰² The incidences of pipeline corrosion investigated by the report "rais[ed] the possibility that the Cathodic Protection in some areas was inadequate and/or interference conditions were rendering the CP system ineffective and likely accelerating corrosion."¹⁰³ The DSDDs for the Sandpiper and L3R Projects give no indication that the environmental impacts of such corrosive activity will be analyzed, and is accordingly inadequate.

3.9 Phased and Connected Actions

3.9.1 The Line 3 and Sandpiper Pipeline EIS Should Also Cover Transmission Lines and Similar Related Actions.

The EIS should cover all related actions, including transmission lines. Confusingly, the notice for the Environmental Assessment of the Bull Moose Transmission Line Project and Clearbrook West Transmission Line Project have been noticed separately from the pipeline EISs, despite the fact that the transmission lines serve the applicant's proposed route for Sandpiper and Line 3.¹⁰⁴

The Commission is legally obligated to include all "phased and connected actions" in the EIS.¹⁰⁵ These phased and connected actions include new transmission lines necessary for the operation of the pipelines, all "associated facilities" mentioned in the EAWs, and any other related projects not yet defined that are in the same geographic area and are necessary to the operation of the pipelines.

Also, all phased and connected actions must be identified at the time of the Draft EIS. Analysis of these actions may not be put off until a later date. The EAW states that there may be additional transmission lines required that are not yet specified. Any additional transmission lines must be identified and the impacts analyzed as part of the Draft EIS.

⁹⁸ See Ex. 13 at 4 (TransCanada Keystone Corrosion Root Cause Report)

⁹⁹ *Id.* at 9.

¹⁰⁰ *Id.* at 11.

¹⁰¹ *Id.* at 32; Ex. 14 at 6 (AC Transmission Line and Corrosion Study).

¹⁰² Ex. 14 at 6 (AC Transmission Line and Corrosion Study)

¹⁰³ Ex. 13 at 31 (TransCanada Keystone Corrosion Root Cause Report).

¹⁰⁴ Ex. 15 (screen shot taken 5/9/2016).

¹⁰⁵ Minn. R. 4410.2000, subp. 4.

Even if the Commission were not legally obligated to include associated facilities and transmission lines, the Commission has the discretion to include these actions under the EIS as "related actions."¹⁰⁶ Putting these connected actions such as the transmission lines on separate tracks creates the appearance of bias because it looks as if the agency is proceeding with the applicant's preferred route by approving facilities that are only required to support the applicant's preferred route. This was the problem that arose when the Bull Moose and Clearbrook West Transmission lines were noticed simultaneously - but separately - from the Sandpiper and Line 3 EISs. There is no reason to approve the Bull Moose or Clearbrook West Transmission lines if NDPC's proposed pipelines do not proceed in NDPC's preferred location. Thus there is no reason to keep them on a separate track for environmental review. It creates the perception that the Commission intends to approve NDPC's proposed route, illegally presupposing the outcome of the EIS.

3.10 Cumulative Impacts

Minn. R. 4410.2300(H) states that an EIS shall include a discussion of potentially significant cumulative effects, which are defined by rule as

the impact on the environment that results from incremental effects of the project in addition to other past, present, and reasonably foreseeable future projects regardless of what person undertakes the other projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.¹⁰⁷

The Draft Scoping Decision Documents for the Sandpiper and L3R Projects identify a few cumulative impacts that will be discussed in the EIS, including cumulative impacts of collocating two pipelines in one right of way and the impacts of high-voltage transmission lines and substations needed to serve pipeline pump stations.¹⁰⁸ Aside from those two impacts, the DSDDs articulate a 'cumulative impact methodology' intended to identify existing or proposed projects that may interact with the Sandpiper or L3R Projects. One such project that is not identified in the scoping documents is Minnesota Pipe Line Company, LLC's Reliability Project for Line 4,¹⁰⁹ which proposes to install pump stations and other upgrades to an existing pipeline that receives crude oil from Enbridge's facilities in Clearbrook, MN.

A particularly notable omission from the draft scoping documents is any mention of the cumulative impacts of climate change. The pipelines proposed by the applicant have a projected lifespan measured in many decades, and within that time climate change will cause numerous, wholesale change upon the landscapes of Minnesota. Warmer temperatures and changes in precipitation patterns will reduce the extent of wetlands in our state, further exacerbating any wetlands impact caused by the proposed pipelines. Climate change may also affect river flows or soil cover through increased evapotranspiration or extreme precipitation events, respectively, which could in turn affect the appropriate burial depth for the pipeline in order to mitigate potential oil spills. Minnesota is especially vulnerable to increases in extreme weather events that have the potential to quickly scour soil cover protecting the pipeline from interference by surface uses.¹¹⁰ The FSDD

¹⁰⁶ Minn. R. 4410.2000, subp. 5.

¹⁰⁷ Minn. R. 4410.0200, subp. 11.

¹⁰⁸ SPP DSDD at 29.

¹⁰⁹ Docket No. PL-5/CN-14-320, *ORDER GRANTING CERTIFICATE OF NEED*, August 31, 2015.

¹¹⁰ Pryor, S. C., D. Scavia, C. Downer, M. Gaden, L. Iverson, R. Nordstrom, J. Patz, and G. P. Robertson, 2014: Ch. 18: Midwest. *Climate Change Impacts in the United States: The Third National Climate Assessment*, J. M. Melillo, Terese (T.C.) Richmond, and G. W. Yohe, Eds., U.S. Global Change Research Program, 418-440; Saunders, S., Findlay, D., Easley, T., Spencer, T. (2012). *Doubled Trouble: More*

should clarify that the EIS will discuss these cumulative impacts in addition to those identified by the DSDD and the implementation of the DSDD's cumulative impact methodology.

3.11 Climate Change Impacts

Climate change impacts must be incorporated into the EISs for the proposed projects. Guidance from the Council on Environmental Quality states that “[c]limate change is a fundamental environmental issue, and the relation of Federal actions to it falls squarely within NEPA’s focus.”¹¹¹ Because the procedural requirements of MEPA hew so closely to those of its federal counterpart, any state-only EIS must also incorporate a full analysis of climate change impacts in an EIS.¹¹² The CEQ guidance further states that when addressing climate change, agencies should consider both “(1) the potential effects of a proposed action on climate change as indicated by its GHG emissions; and (2) the implications of climate change for the environmental effects of a proposed action.”¹¹³ As such, the EIS should quantify the greenhouse gas emissions that would result both directly and indirectly from the Sandpiper and L3R proposals and investigate how these emissions would affect the climate system.

Pursuant to the guidance, the acting agency should use “projected GHG emissions and when appropriate, potential changes in carbon sequestration and storage as the proxy” for potential climate change impacts.¹¹⁴ The EIS must quantify the greenhouse gas emissions that would be produced during construction of the pipeline facilities. These include direct emissions such as construction vehicle and machine usage, and open burn land clearing as well as indirect emissions from electricity use. Additionally, CEQ’s definition for emissions includes the “release of stored GHGs as a result of destruction of natural GHG sinks...as well as future sequestration capability.”¹¹⁵ Thus the EIS must quantify the loss of current and future carbon sequestration and storage from the clearing and destruction of forested areas and wetlands that would occur during construction of the Sandpiper and L3R projects.

As noted by the CEQ Guidance, per 40 CFR §§ 1508.7, 1508.8, agencies must consider cumulative (incremental), direct, and indirect effects when analyzing proposed actions.¹¹⁶ The guidance clarifies that acting agencies should account for “emissions from activities that have a reasonably close causal relationship to the Federal action” including emissions predicate to the agency action (upstream emissions) and emissions that occur as consequence of the agency action (downstream emissions).¹¹⁷ Emissions from the operation of facilities built for the two proposals should also be quantified. Additionally, as previously mentioned, Dr. Gunton’s report found that the Sandpiper and L3R pipelines will increase the pace of extraction in the Williston Basin by decreasing transportation costs for producers.¹¹⁸ This increase in extraction and production will produce further causally related downstream emissions that the EIS must quantify.

Midwestern Extreme Storms. The Rocky Mountain Climate Organization and the Natural Resources Defense Council.

¹¹¹ Ex. 21 (Council on Environmental Quality, *NEPA Revised Draft GFG Guidance*, 2 (Dec. 2014)).

¹¹² *See supra* note 80.

¹¹³ *Id.* at 3.

¹¹⁴ *Id.* at 8.

¹¹⁵ *Id.* at 1, 8.

¹¹⁶ *Id.* at 10; 40 CFR §§ 1508.7, 40 CFR §§ 1508.8.

¹¹⁷ *Id.* at 11; *see also* 40 CFR § 1508.8.

¹¹⁸ Ex. 1 at 8 (Expert Report of Dr. Gunton).

The guidance also acknowledges that climate change “can increase the vulnerability of a resource, ecosystem, human community, or structure, which would then be more susceptible to climate change and other effects and result in a proposed action’s effects being more environmentally damaging.”¹¹⁹ This makes the consideration of both climate change adaptation¹²⁰ and resilience¹²¹ especially critical when coupled with the considerations of environments already vulnerable to the specific effects of climate change.¹²² In addition to the previously mentioned impacts on wetlands the EIS must analyze, the EIS should analyze how climate change may directly affect wetlands and other vulnerable ecosystems or exacerbate other impacts resulting from the Sandpiper and L3R proposals. Such effects should be incorporated into the oil spill modeling results, so that the interaction between climate change and spill impacts may be more fully understood. Similarly, the EIS should incorporate the effects of climate change into its analysis of the Proposal’s impact on aquatic life.

SECTION 4: EIS FORMAT AND APPROACH

4.1 Cooperation With the Army Corps of Engineers

State law requires agencies to cooperate for the purposes of environmental review as much as possible. Under MEPA, the Commission “shall, to the extent practicable, avoid duplication and ensure coordination between state and federal environmental review and between environmental review and environmental permitting.”¹²³ State agencies “shall...seek to strengthen relationships between state, regional, local and federal-state environmental planning, development and management programs.”¹²⁴

In this case, it appears that the Army Corps of Engineers will conduct environmental review as well, but NDPC has asked Army Corps to refrain from notifying the public at this time. The applicant should not be permitted to limit cooperation between state and federal agencies merely by requesting a delay in the federal agency’s processes. For all their concern about efficiency and timing, NDPC appears to be actively preventing cooperation between state and federal agencies that would “avoid duplication and ensure coordination.” Moreover, assuming that the Department and the Commission will be conducting additional pipeline EISs that also fall under Army Corps jurisdiction in the future, this would also appear to be a prime opportunity to “strengthen relationships” between state and federal agencies with overlapping jurisdiction. The Draft EIS should be performed in conjunction with the Army Corps of Engineers’ review under NEPA, or it should explain why such cooperation is not practicable.

4.2 Combining Sandpiper and L3R into a Single EIS

There should be a single EIS completed for the Sandpiper pipeline, Line 3, and all related actions, including associated facilities and transmission lines. It is not clear why the Department chose to scope Line 3 and Sandpiper separately, especially since the documents are duplicative, but there should not be a separate EIS for each project.

¹¹⁹ Ex. 21 at 22 (CEQ *NEPA Revised Draft GFG Guidance*).

¹²⁰ *Id.* at 23 n.52.

¹²¹ *Id.* at 23 n.53.

¹²² *Id.* at 24.

¹²³ Minn. Stat. § 116D.04, subp. 2a(d).

¹²⁴ Minn. Stat. § 116D.03.

First, the Commission ordered an EIS that covers both Line 3 and Sandpiper, not two separate EISs. In its order in the Line 3 docket, the Commission authorized the Department to “prepare a combined EIS to address issues related to both dockets in accordance with Minn. Stat. ch. 116D and Minn. R. ch 4410.” The Commission further clarified that it was authorizing a “combined environmental review of the need and routing dockets that considers the cumulative impact of the Sandpiper Pipeline Project and the Line 3 Project.”¹²⁵ Thus, the most natural reading of the Commission’s order is that the Department complete a single EIS for both projects, not two EISs.

Second, MEPA requires that the EIS for each project address the other project as a “phased and connected action.”¹²⁶ “Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when determining the need for an EIS and in preparing the EIS.”¹²⁷ A “phased action” is defined as “two or more projects to be undertaken by the same proposer that a RGU determines...will have the same environmental effects on the same geographic area; and are substantially certain to be undertaken sequentially over a limited period of time.”¹²⁸ Two projects are “connected actions” if “one project would directly induce the other; one project is a prerequisite for the other and the prerequisite project is not justified by itself; or neither project is justified by itself.”¹²⁹ The proposed Sandpiper Pipeline and Line 3 are certainly phased actions. The record is not sufficiently developed to determine whether they are connected actions. In any event, in preparing the EIS, they should be treated as a single project under MEPA.

Third, a single EIS will avoid confusion and unnecessary burden on the public. When the public is asked to comment on two draft EISs for two pipelines proposed for a single corridor, it should be permitted to submit a single comment for both pipelines. The public should not be asked to comment separately on two pipelines as part of two different EISs.

Fourth, a single EIS will reduce the burden on the Department. If Sandpiper and Line 3 EISs are prepared separately, each EIS will need to address the other pipeline entirely.¹³⁰ MEPA requires that any project be analyzed in conjunction with other reasonably foreseeable actions.¹³¹ If each pipeline is analyzed separately, the EISs will still significantly overlap due to this requirement. It would be much more efficient simply to analyze them in a single document. Moreover, the Department will find itself responsible for sorting out which public comments should be applied to Sandpiper and which ones apply to Line 3. This process would

¹²⁵ Order Joining Need and Routing Dockets, *In the matter of the Application of Enbridge Energy, Limited Partnership for a Certificate of Need for the Line 3 Replacement Project in Minnesota from the North Dakota Border to the Wisconsin Border*, Docket No. PL-9/CN-14-916; *In the matter of the Application of Enbridge Energy, Limited Partnership for a Routing Permit for the Line 3 Replacement Project in Minnesota from the North Dakota Border to the Wisconsin Border*, Docket No. PL-9/PPL-15-137, at 3.

¹²⁶ Minn. R. 4410.2000, subp. 4.

¹²⁷ *Id.*

¹²⁸ Minn. R. 4410.0200, subp. 60.

¹²⁹ Minn. R. 4410.0200, subp. 9c.

¹³⁰ Minn. R. 4410.2300(H) (“there shall be a thorough but succinct discussion of potentially significant adverse or beneficial effects generated, be they direct, indirect, or cumulative.”); Minn. R. 4410.2000, subp. 4 (connected actions and phased actions); Minn. R. 4410.0200, subp. 9c (defining “connected actions”); Minn. R. 4410.0200, subp. 60 (defining “phased action”); Minn. R. 4410.0200, subp. 11 (defining “cumulative impact”).

¹³¹ *Id.*

be both burdensome and fraught, as any comments incorrectly assigned (and therefore not addressed as the commenter intended) could form the basis for legal challenge.

Fifth, even if the Commission disagrees that it is required by law to order a single EIS, it has the discretion to do so, and it should exercise its discretion. An RGU may order a “related action EIS” – a “single EIS for independent projects with potential cumulative environmental impacts on the same geographic area if the RGU determines that review can be accomplished in a more effective or efficient manner through a related actions EIS.”¹³² Such an approach is certainly warranted here for the above-stated reasons.

4.3 Conducting a Tiered EIS

Where an agency must make consecutive decisions on a project, MEPA regulations permit an agency to conduct a tiered EIS:

An RGU may use a series of tiered EISs to fulfill environmental review requirements for an action where decisions on which alternative to select must be made in stages, progressing from the general to the specific. Prior to each decision which would eliminate from further consideration any alternatives under consideration, a tiered EIS must be completed which addresses the issues and alternatives relevant to the decisions to be made in that tier, at a level of detail appropriate to that tier. The level of detail in earlier tiers need not be as great as that in later tiers, provided that it is sufficient to reasonably inform decision makers of the significant environmental, economic, employment, and sociological impacts of the choices made in that tier.¹³³

A tiered EIS allows an agency to conduct an EIS on a limited number of alternatives relevant to a particular decision, then conduct a second process, more narrow, to a subsequent decision. The second stage may be “tiered” to the first stage, such that any analysis of environmental impacts conducted in the first stage need not be duplicated.¹³⁴

In this case, the first tier could address system alternatives - I.e., the location of the pipeline - and the second stage could address routing concerns. At the conclusion of the first tier, the Commission would make a determination on the preferred system alternative based on the criteria in MEPA. At the conclusion of the second tier, the commission would make a determination on the best route alternative(s) based on the criteria within MEPA.

This structure would avoid a host of potential issues. First, it would avoid the problem where the EIS analyzes 54 potential route alternatives for the applicant's preferred system alternative, but no route alternatives for other system alternatives. Not only would this be a lot of wasted work if the applicant's preferred route is not selected, it creates the appearance of bias because the agency has worked to refine the applicant's preferred alternative but not the other system alternatives.

Second, it avoids confusion to the public. Already this is expected to be a large EIS; encouraging public comment on particular alternatives at different stages will focus public comment and increase the quality of public participation. It allows the public to digest the proposal in smaller pieces.

¹³² Minn. R. 4410.2000, subp. 5.

¹³³ Minn. R. 4410.4000.

¹³⁴ *Id.* (“A tiered EIS may incorporate by reference material developed in an earlier tier.”).

Third, it fulfills the mandate of the Court of Appeals. The Court of Appeals was concerned, at least in part, about timing. MEPA specifically prohibits state agencies from granting permits or other approvals prior to completion of the EIS. Conducting the first tier of the EIS on system alternatives, then the certificate of need proceedings, complies with the timing requirements of the Court and is consistent with the provision permitted “tiered” EISs.¹³⁵

Finally, it is permissible under MEPA at the scoping stage. The RGU may change the form of an EIS “if circumstances indicate the need or appropriateness of an alternative form.”¹³⁶

Although this model seems ideally suited for the situation at hand, there are few, if any, examples of tiered EISs in Minnesota. FOH and MCEA suggest that if the Commission chooses this option, it should allow an additional comment period to allow the public and agencies assist in determining how to split up issues between the tiers.

4.4 Cardno/Entrix as Contractor

FOH and MCEA understand that the Department has hired Cardno/Entrix as its consultant for the EIS. Cardno Entrix has a direct conflict because it has worked for Enbridge Energy. Moreover, Cardno has a public record of preparing EISs for pipelines that underestimate environmental impacts.

While agencies are empowered to hire consultants to assist with preparation of an EAW or EIS under MEPA, any consultants hired should be independent and neutral. The primary purpose of MEPA is to provide usable information to the project proposer, governmental decision makers and the public concerning the primary environmental effects of a proposed project.¹³⁷ An EIS cannot serve that purpose if it is not prepared by an objective party.

Additionally, this Public Utilities Commission is responsible under MEPA for “verifying the accuracy of environmental documents.”¹³⁸ The Commission has made its own job much harder if it intends to rely on a contractor who has a conflict of interest.

Cardno Entrix has a history of working for government agencies while concealing a conflict of interest. Even worse, Cardno has a history of preparing documents that reveal its conflict of interest by failing to adequately evaluate the risks of the project. In 2010, Cardno Entrix was hired to prepare the EIS for the proposed Keystone XL pipeline. Notably, Cardno was hired at TransCanada’s recommendation.¹³⁹ The EIS was prepared and it appeared, as President Obama began his first term, that the pipeline was on the brink of approval:

Then the real bomb dropped: Cardno Entrix, the Houston (Tex.) company [the] State [Department] had contracted with to complete an environmental impact statement on Keystone—the substance of the evaluation Obama referred to—turned out to be a preexisting client of TransCanada and, as such, appeared to have a blatant conflict of interest. After several members of Congress requested a

¹³⁵ Minn. R. 4410.

¹³⁶ Minn. R. 4410.2100, subp. 7.

¹³⁷ Minn. R. 4410.0300, subp. 3.

¹³⁸ Minn. R. 4410.0400, subp. 1.

¹³⁹ “Pipeline Review Is Faced with Question of Conflict,” *New York Times*, Oct. 7, 2011, available at http://www.nytimes.com/2011/10/08/science/earth/08pipeline.html?_r=0, last accessed May 24, 2016.

review of the process, the inspector general was brought in to investigate and to establish new conflict of interest guidelines.¹⁴⁰

Although the inspector general ultimately concluded that Cardno was not unduly influenced by its association with TransCanada, the State Department hired a new contractor to conduct a supplemental EIS that was considered superior by many.

Ironically, one of the major failings of the Keystone XL Pipeline EIS prepared by Cardno was that it failed to address the potential impacts of a spill of diluted bitumen, the particular crude oil being shipped from Canada on the pipeline.¹⁴¹ But Cardno was one of the contractors hired to clean up the spill in Kalamazoo, so it should have had unique knowledge of the challenges.

And herein lies the problem for the Sandpiper and Line 3 EIS. Even a quick google search reveals that Cardno Entrix has recently or is currently working for Enbridge on the Kalamazoo River cleanup.¹⁴² FOH has requested documents from Department regarding Cardno Entrix and the search for conflicts that the Department may or may not have undertaken. We have not yet received the requested documents. But as one NEPA expert put it:

“Cardno Entrix should never have been selected to perform the environmental study on Keystone XL because of its relationship with TransCanada and the potential to garner more work involving the pipeline. The company provides a wide range of services, including assisting in oil spill response.”

Cardno Entrix had a “financial interest in the outcome of the project,” Mr. Houck said, adding, “Their primary loyalty is getting this project through, in the way the client wants.”¹⁴³

In any event, the Commission should be extremely wary of a contractor with a blatant conflict of interest who has already been exposed once for preparing an inadequate EIS in favor of the industry it serves.

5.0 SPECIAL STUDIES OR RESEARCH

5.1 Socioeconomic and Environmental Impacts on Homeowners From the Use of Eminent Domain and the Construction of Pipelines and Related Facilities on Private Property

When a pipeline is permitted by the Public Utilities Commission, the pipeline company has virtually limitless ability to install the pipeline and associated facilities on private property. Minnesota law states that transporting crude oil via pipeline is “declared to be in the public interest and necessary to the public welfare, and the taking of private property therefore is declared to be for a public use and purpose.”¹⁴⁴ The legislature

¹⁴⁰ “Secrets, Lies, and Missing Data: New Twists in the Keystone XL Pipeline,” *Bloomberg Businessweek*, July 12, 2013, available at <http://www.bloomberg.com/news/articles/2013-07-11/secrets-lies-and-missing-data-new-twists-in-the-keystone-xl-pipeline>, last accessed May 24, 2016.

¹⁴¹ “Pipeline Review is Faced with Question of Conflict,” *supra* note 112.

¹⁴² The project is discussed on Cardno’s website at <http://www.cardno.com/en-au/Projects/Pages/Projects-Kalamazoo-River-and-Talmadge-Creek-Restoration.aspx>, last accessed May 24, 2016.

¹⁴³ “Pipeline Review is Faced with Question of Conflict,” *supra* note 112.

¹⁴⁴ Minn. Stat. § 117.48.

has further declared that any pipeline company “shall have and enjoy the power of eminent domain to be exercised in accordance with this chapter.”¹⁴⁵

Some of the risks posed by pipelines on private property are different than on public property. The following is a non-exhaustive list of potential impacts on private property:

- Loss of value of land from pipeline easements
- Cumulative loss of value of land from multiple pipeline easements (i.e. multiple pipelines, or pipelines plus transmission lines)
- Impacts on crop production and quality of farm land
- Displacement of buildings, including homes

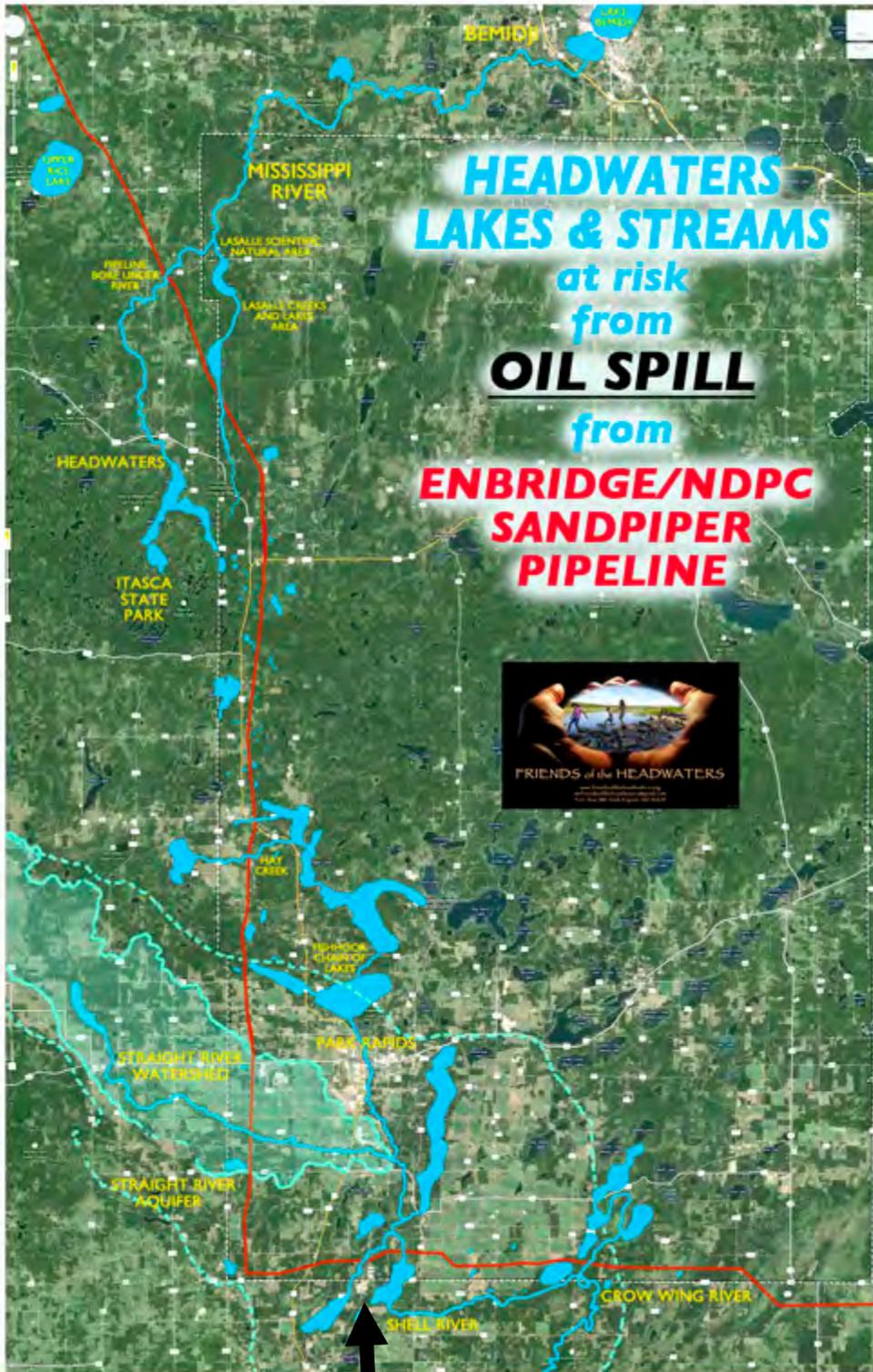
While NDPC may argue that they are compensating landowners for these impacts, the EIS should investigate whether landowners are adequately compensated. In addition, impacts on farmland production and value have a public as well as a private cost that must be analyzed.

If there are questions about landowner compensation raised by the EIS, the PUC may wish to consider restrictions on the use of eminent domain as well as alternate strategies for compensation of crop damage.

CONCLUSION

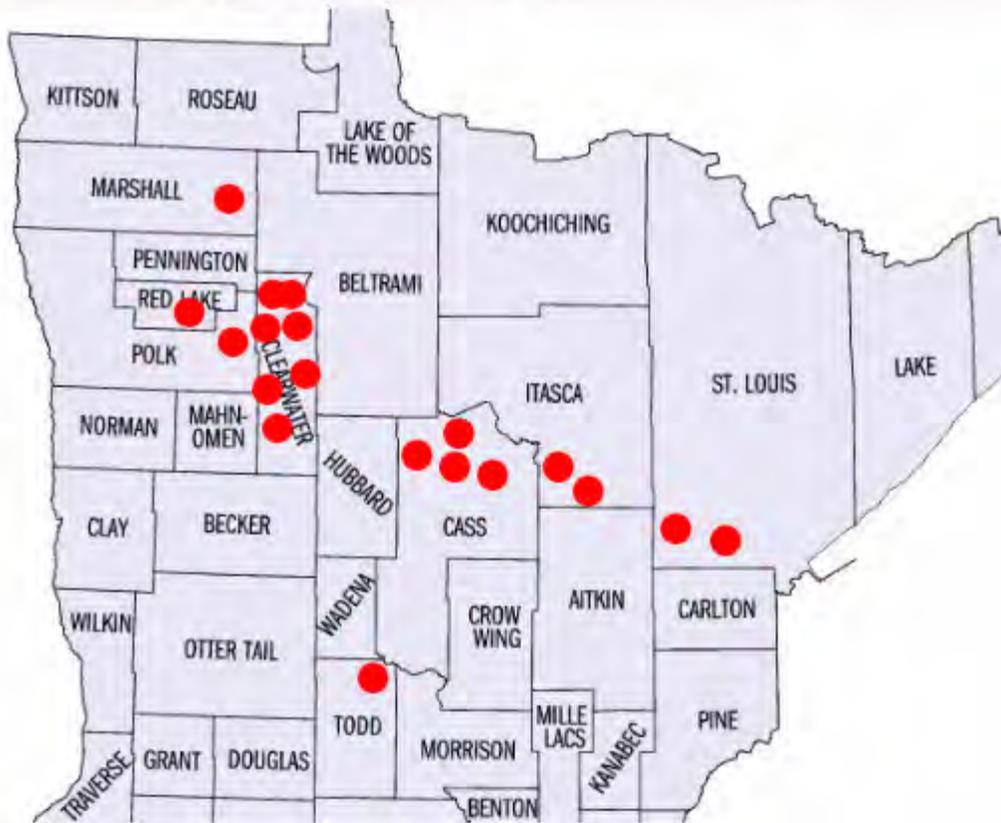
For the foregoing reasons and in accordance with state and federal law, FOH and MCEA respectfully request that the final scoping documents for the Sandpiper Pipeline and the Line 3 Replacement Project incorporate the suggestions contained herein.

¹⁴⁵ *Id.*; see also Minn. R. 7852.3200 (“After an applicant is issued a pipeline routing permit...the permittee may exercise the power of eminent domain as provided by Minnesota Statutes, section 117.48.”).



I live here

Enbridge Energy Pipeline Spills Since 2010



Ground Water Contamination Susceptibility in Minnesota

Minnesota Pollution Control Agency
1989

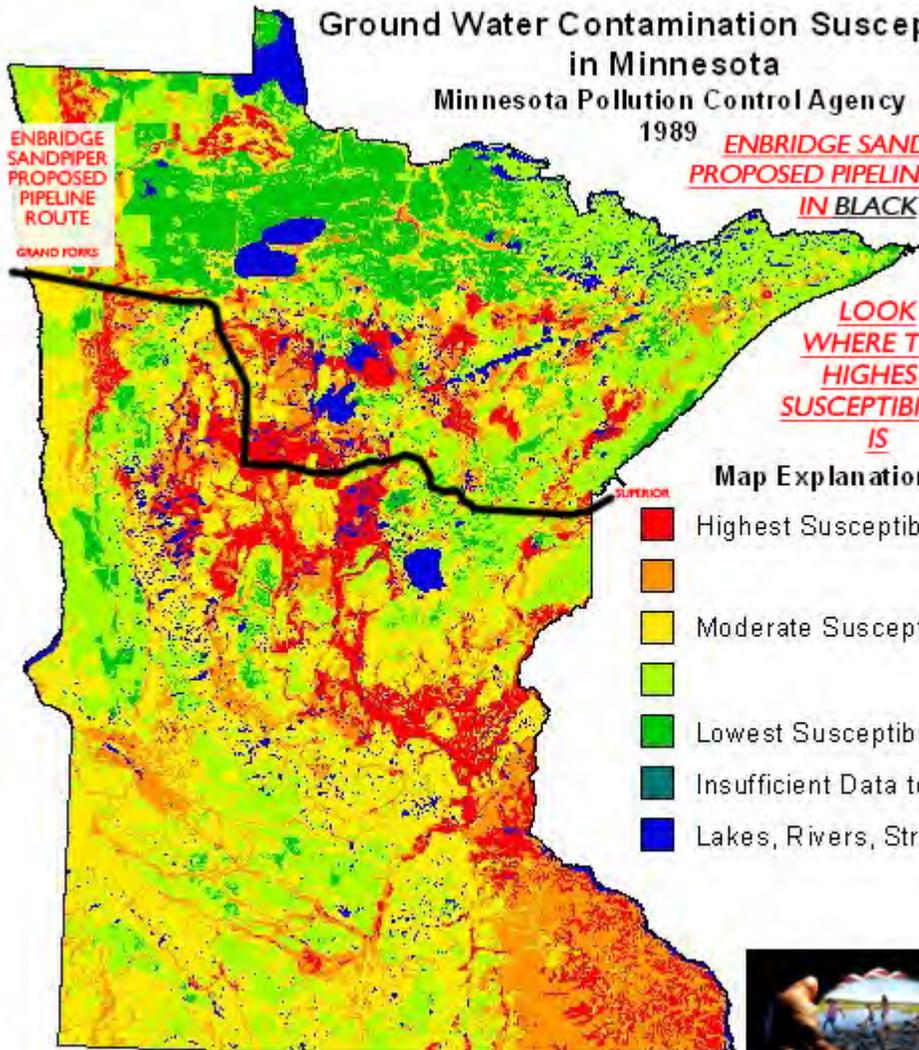
ENBRIDGE SANDPIPER PROPOSED PIPELINE ROUTE
GRAND FORKS

ENBRIDGE SANDPIPER PROPOSED PIPELINE ROUTE
IN BLACK

LOOK WHERE THE HIGHEST SUSCEPTIBILITY IS

Map Explanation

-  Highest Susceptibility
-  Moderate Susceptibility
-  Lowest Susceptibility
-  Insufficient Data to Rank
-  Lakes, Rivers, Streams



0 20 40 60 80 Miles



Prepared by Friends of the Headwaters
www.friendsoftheheadwaters.org
MN map from MPCA

Minnesota Lakes

A View from Space

**ENBRIDGE SANDPIPER
PROPOSED PIPELINE ROUTE
IN RED**

**ENBRIDGE
SANDPIPER
PROPOSED
PIPELINE
ROUTE**

GRAND FORKS

**LOOK
WHERE THE
CLEAREST LAKES
ARE**

Census of Water Clarity

Using satellite images taken from space, a statewide census of water clarity – a key indicator of lake water quality – has been created for the first time.

Employing state of the art image analysis technology, the Remote Sensing Laboratory and Water Resources Center at the University of Minnesota have used satellite remote sensing to determine clarity transparency for about 10,500 Minnesota lakes. This satellite-based method enables resource managers to analyze how lake water clarity varies statewide over time. Resource managers are using this information to better target monitoring and management efforts.

Lake Clarity Depth

Feet		Meters
Red	less than 1.5	less than 0.5
Yellow	1.5 - 3	0.5 - 1
Green	3 - 6	1 - 2
Blue	6 - 12	2 - 4
Dark Blue	greater than 12	greater than 4

~ Ecoregion Boundaries



FRIENDS of the HEADWATERS

Prepared by Friends of the Headwaters
P.O. Box 585
Park Rapids, MN 56470

mfriendsoftheheadwaters@gmail.com
<https://www.facebook.com/savemississippiheadwaters>



MN Lakes map from Water Resources Center, UoM



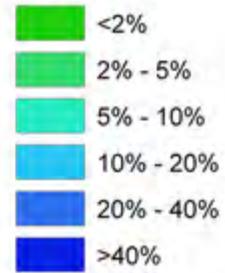
**ENBRIDGE/NORTH DAKOTA
PIPELINE COMPANY PROPOSED
"SANDPIPER" PIPELINE ROUTE
IN RED**

**NDPC
SANDPIPER
PROPOSED
PIPELINE
ROUTE**

GRAND FORKS

SUPERIOR

Wetland



Map MN DNR

FRIENDS of the HEADWATERS
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mnfriendsoftheheadwaters@gmail.com
<https://www.facebook.com/savemississippiheadwaters>
<https://www.friendsoftheheadwaters.org>

**ENBRIDGE/NORTH DAKOTA
PIPELINE COMPANY PROPOSED
"SANDPIPER" PIPELINE ROUTE
IN RED**

**NDPC
SANDPIPER
PROPOSED
PIPELINE
ROUTE**

GRAND FORKS

SUPERIOR

**LOOK
WHERE THE
WILD RICE LAKES
ARE**

★ Lakes with Wild Rice

Prepared by
FRIENDS of the HEADWATERS
friendsoftheheadwaters.org



6. THE MINNESOTA COURT OF APPEALS RULING:

The MN Court of Appeals has ruled, unanimously, in favor of Friends of the Headwaters' contention that MEPA law requires an honest and comprehensive Environmental Impact Statement. To discuss Line 3 without an EIS is a waste of taxpayer funds and the Commission's time.

The DOC/Enbridge claim that a CEA is the equivalent of an EIS is NOT true.

— The Environmental Impact Statement has been defined in RULES: there are MN Environmental Quality Board guidance documents and federal government guidance from NEPA. A CEA is whatever/however the Department of Commerce/Enbridge define it.

— An EIS has quality control aspects, but a CEA has none. There is massive federal and state law defining the adequate EIS. There is zero case law on the content OR adequacy of a CEA.

— An EIS provides opportunities for public commentary on scoping, on the initial draft EIS, and on the final EIS. Substantive comments must be answered by the Regulatory Government Unit. A CEA doesn't provide those opportunities.

— Under Minnesota's Environmental Quality Board rules for an EIS, the applicant may not supply analysis, just data. Qualitative analysis and risk assessment are matters for scientists and specialists, NOT the applicant. Minnesota can't rely on the applicant, especially an applicant with Enbridge's record, to analyze the data, weigh the risks, or assess the consequences.

WHY do we need an Environmental Impact Statement, a serious document, under the aegis of the EQB? We need an EIS that includes risk assessment and qualitative analysis, one that incorporates the objective data and analysis of scientists and environmental specialists. Note what was revealed in SD with a recently revealed study on stray electrical voltage and corrosion on Keystone I:

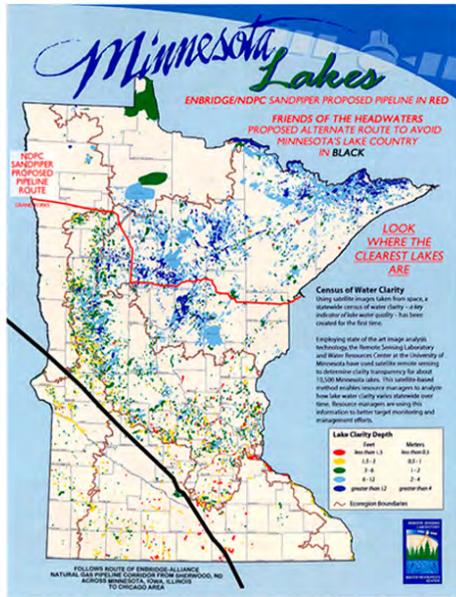
<http://www.desmogblog.com/2015/07/30/keystone-xl-hits-new-turbulence-south-dakota-permit-hearing-implodes-over-pipeline-corrosion-market>

It is evident why Enbridge wants to pretend that the CEA is equivalent to an EIS, but repeating a lie does not make it true. If the commissioners believe the CEA is equivalent, we can surmise that they would also buy a house solely on the information provided by a listing agent, along with some glossy photos.

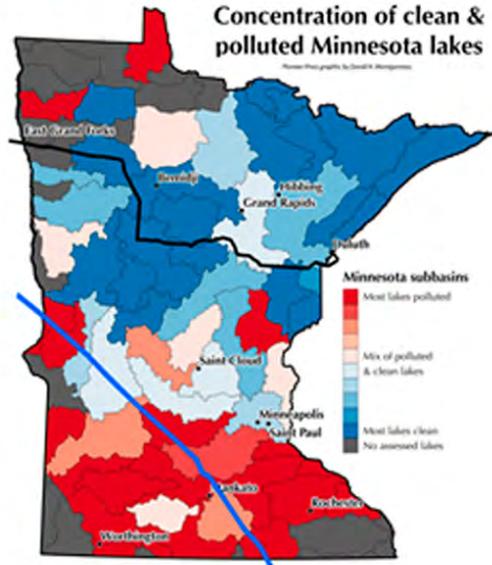
7. ALTERNATIVE ROUTES:

IF the commission can study the data and still decide that Enbridge's for-profit pipeline is needed (BIG IF), the PUC should not permit Enbridge to dictate the route to Minnesota. Since Enbridge is asking permission—i.e. "APPLYING for PERMISSION to install these pipelines—the PUC has the right and, more importantly, the obligation to study more suitable routes--routes with safer soils, less sensitive aquifers, few lakes and wetlands.

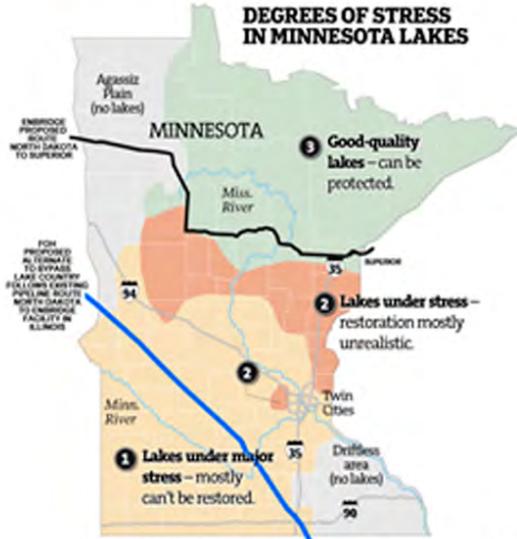
In the accompanying route comparisons, I've provided maps that demonstrate why a route from the oil fields should be moved away from Minnesota's most precious water resources.



Friends of the Headwaters
Enbridge Sandpiper & Line 3 portion proposed pipelines
FOH Alternate Route (SA-04)

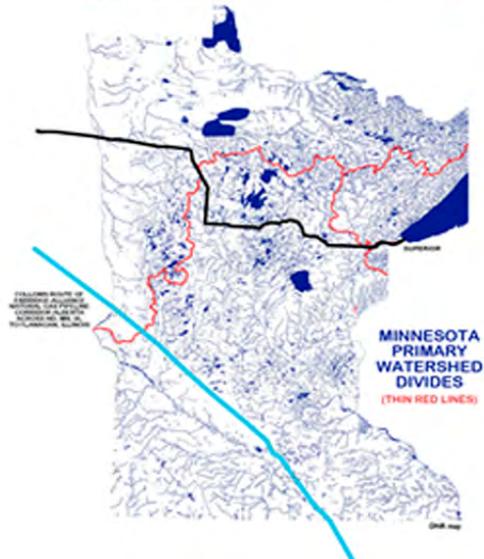


Friends of the Headwaters
NDPC Sandpiper pipeline
FOH Alternate Route (SA-04)



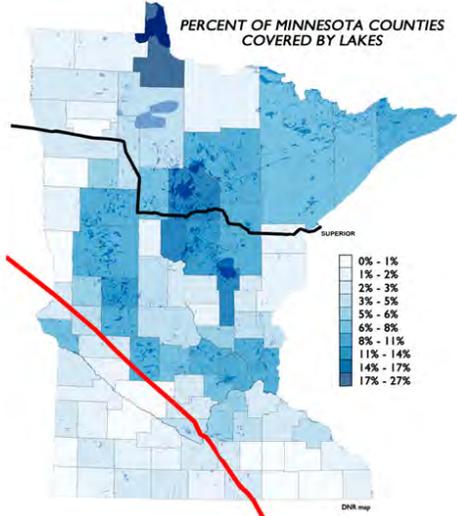
Source: Provided by Iron Way using information from the Minnesota Department of Natural Resources and the U.S. Environmental Protection Agency

Friends of the Headwaters
Sandpiper pipeline and portion Line 3 route
FOH Alternate Route (SA-04)

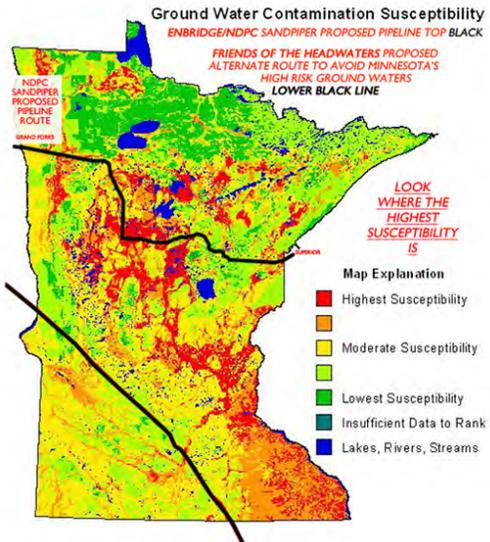
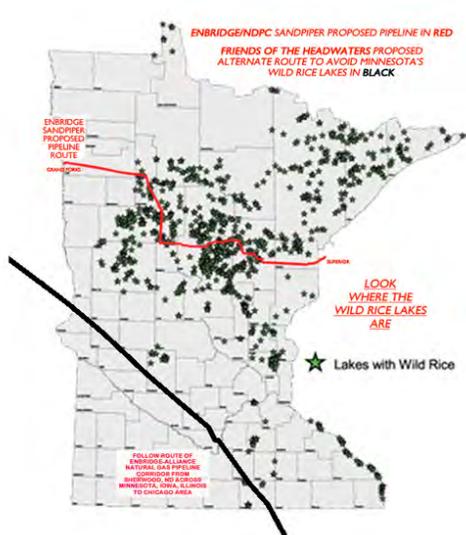
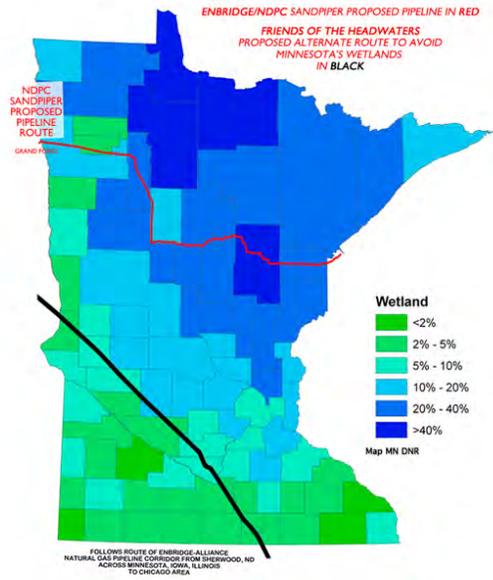


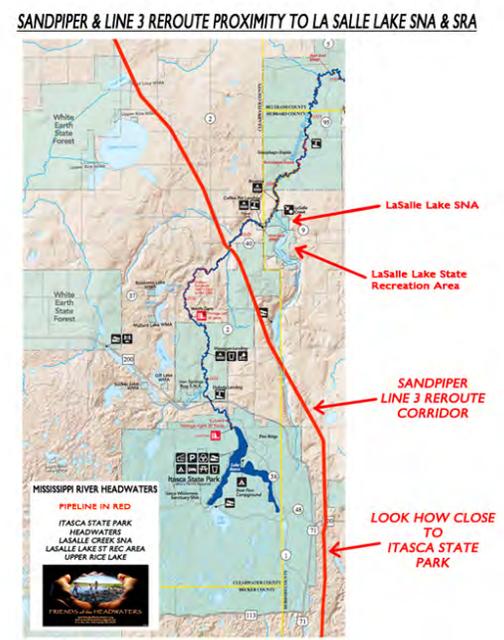
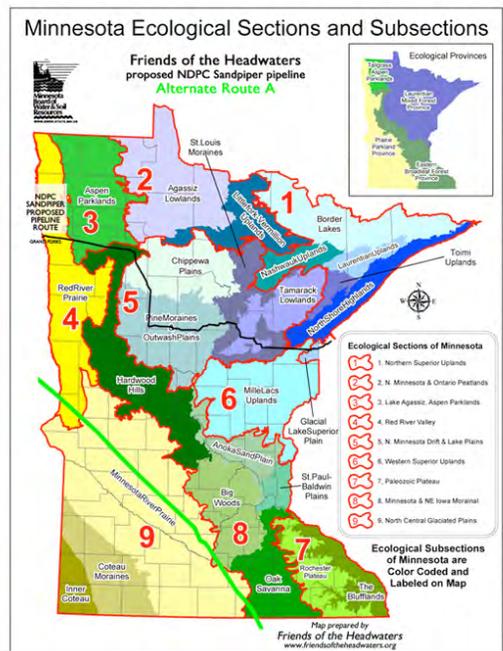
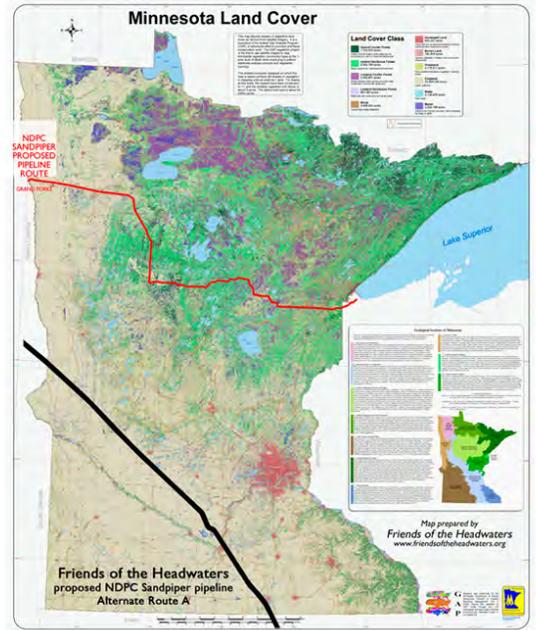
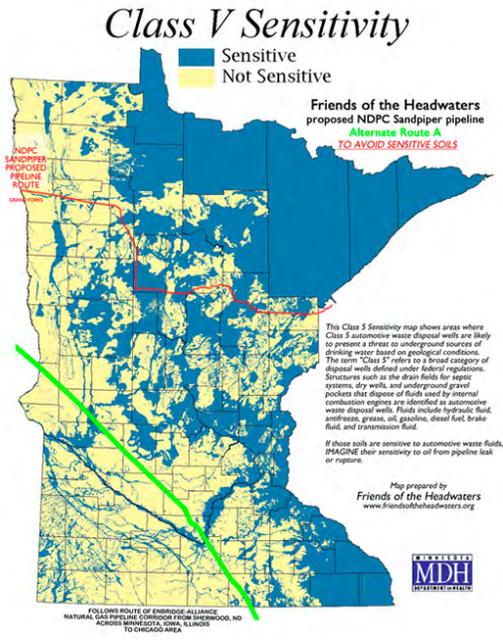
Friends of the Headwaters

Enbridge Sandpiper pipeline route
FOH Alternate Route (SA-04)



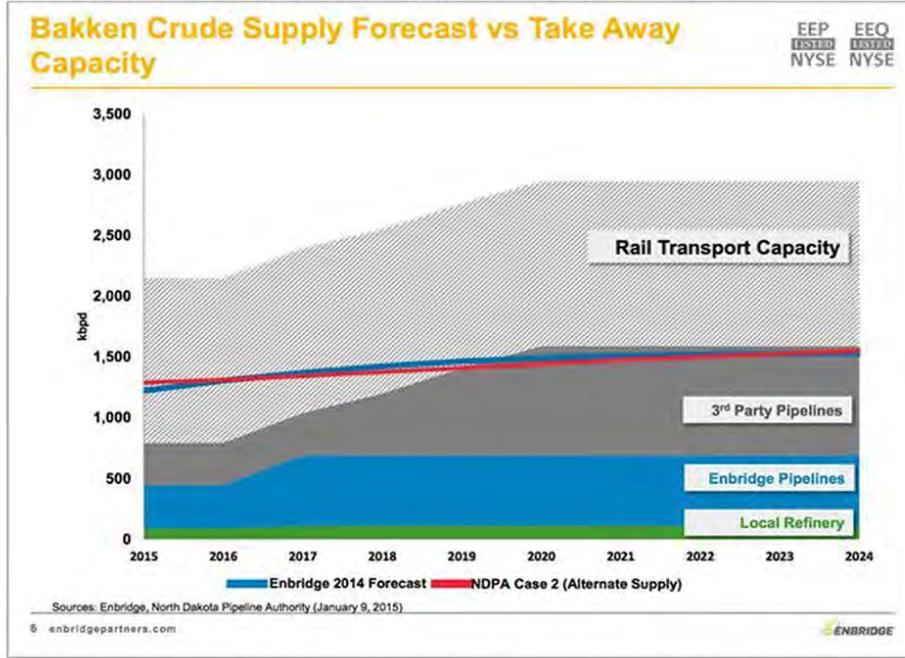
Friends of the Headwaters proposed NDPC Sandpiper pipeline Alternate Route A





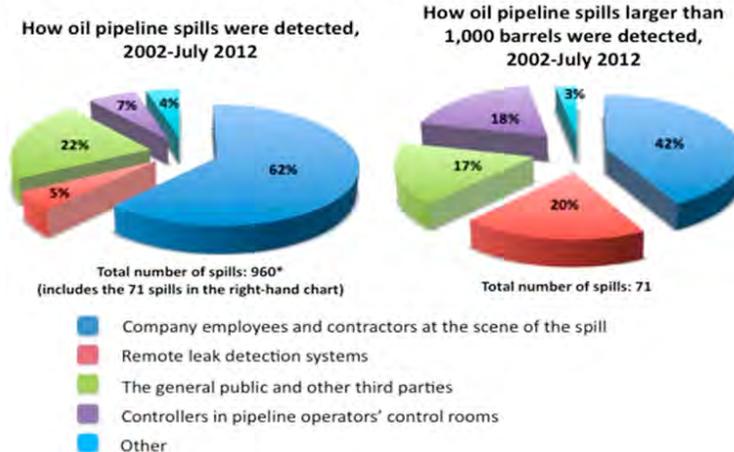
8. THE FAKERY IN ANY TRAINS VS PIPELINE FRAMING:

Even though this graphic appears on their website, Enbridge spokespeople continue to suggest that their proposed pipelines will have major impact on the need for rail transportation of oil. Another false claim. There will always be markets that require rail. Enbridge knows it, but relies on its powerful allies and media stenographers to help them maintain the pretense.



9. THE FALSE CLAIMS ABOUT RELIABLE NEW TECHNOLOGY:

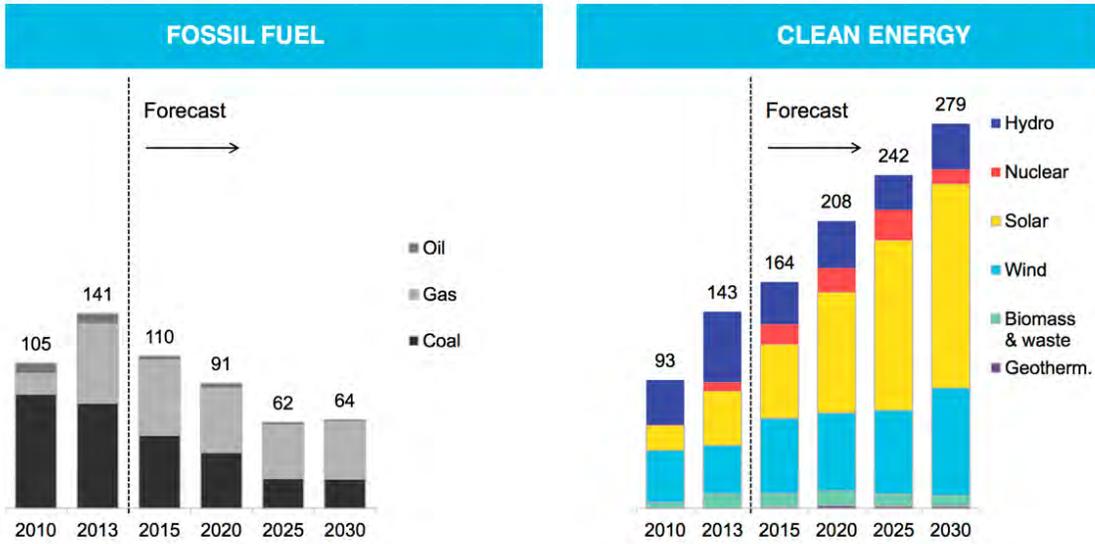
New technology and new pipelines are not the panacea Enbridge says they are. A recent spill in Alberta was in a NEW, double-hulled pipeline. The spill in CA wasn't discovered in a timely way because the remote sensor technology (the same kind of technology touted by Enbridge as practically infallible) didn't alert the company to the oil that was leaking into the ocean near Santa Barbara. Enbridge claims that their remote technology will detect any "integrity anomalies" immediately, but here's the data on detection:



*There were 1763 crude oil spills between 2002-July 2012, but 803 spill reports did not identify how the spill was detected, in part because PHMSA has less stringent reporting requirements for some of the smaller spills.

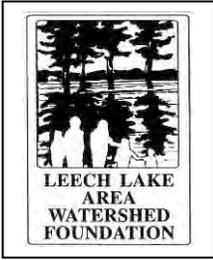
10. THE SHIFT TO CLEANER ENERGY:

Finally, regarding the assumption that fossil fuels are our only hope for the next 15 years:



Sincerely,

Melodee Monicken
Park Rapids, MN 56470



Leech Lake Area Watershed Foundation

PO Box 455
Hackensack, MN 56452
218-675-5773
www.leechlakewatershed.org

Tax ID # 41-1887906

May 24, 2016

Jamie MacAlister
Minnesota Department of Commerce
85 7th Place,
Suite 500 Saint Paul, MN 55101

Dear Ms. MacAlister:

The Leech Lake Area Watershed Foundation (LLAWF) is dedicated to preserving and sustaining the natural resources in the Leech Lake Watershed and neighboring region of North Central Minnesota, including Hubbard, Cass, Crow Wing and Aitkin counties, for the use and enjoyment of current and future generations. Since 1997, we have permanently protected over 23 miles of critical shoreland and 3,000 acres of critical habitat lands.

As we stated in earlier correspondence, we are writing to express our concerns about the proposed Enbridge Sandpiper and Line 3 replacement pipelines. While we appreciate the importance of adequate energy resources for the country, the proposed Enbridge Sandpiper route would include a segment through the sensitive natural resources of north central Minnesota's premier lake county where a potential pipeline leak could do serious harm to the ecosystem and regional economy.

A cornerstone of any EIS related scoping project is asking the general public for comments and should be conducted in a professional manner with written materials available in a timely manner for citizen review. In Cass County these materials were not available and our request for an extended deadline on scoping comments was ignored. There seems to be a real interest in ensuring residents are not given the resources nor time to thoughtfully provide feed-back on the Sandpiper EIS Scoping. This lack of resources and willingness to engage the residents has set a very bad tone towards this process. I also was disturbed that incorrect and or contradictory material was presented by the Department of Commerce (MDOC). To lead the EIS, the Department of Commerce needs to improve their credibility as an advocate for Minnesota rather than for the applicant.

The purpose and need statement in the scoping documents has caused significant confusion on what to actual provide as feed-back. In an EIS the purpose statement outlines the major framework and comments are then focused on scoping under that framework. From the written materials provided, it clearly states where the pipeline begins and were it needs to end thus reducing the ability to consider system alternatives like SA-04 and or SA-03 (without spur). I have been professionally involved with EIS's conducted in other states which embraced their role in the EIS process by providing a wide view of the project and taking a critical and objective view of the Alternatives. The narrow wording of the purpose provided by MDOC does not allow for that broader thinking and, in this case, does not allow individuals or organizations to suggest looking at alternative routes that do not begin and end as stated in purpose statement. I feel this confusion in the

purpose statement warrants redoing the scoping comments and making sure all residents have access to materials so they can have a voice in this process.

I think the average Minnesota resident will be very surprised about how little data is available to truly evaluate the alternative routes. As we discover new locations of protected species that had not been documented, it is imperative that detailed field studies be conducted in the proposed route to adequately evaluate the risk of spills on the entire route and all alternatives selected for inclusion in the EIS.

Our organization has invested significant time and energy to protect the natural resources in North Central Minnesota and we are deeply concerned by the slow degradation of our waters, lakes wetlands, fishing and watersheds threatening their ecological functions. It is imperative that the cumulative impacts on a wide range of developments including pine forest conversion to agriculture, anticipated proposed pipelines outside on Line 3 and Sandpiper, increased human populations due to migration, and climate changes be considered in this process.

Given the oil industry's sharp economic downturn, a comprehensive economic analysis of need and viability of both the Sandpiper and Line 3 replacement is appropriate. This needs to be conducted by an independent third party.

Climate models need to include super storm and extreme weather impacts on the construction, maintenance, and responses to spill areas and clean ups. With climate impacts occurring sooner than forecasted, it is critical that climate models used for the EIS include spill impacts and worst case scenario's along the route and beyond the construction area.

While it's not clear if this is the appropriate time to comment, the interest in relocation of Line 3 is a frightening proposition. The old Line 3 should be removed and all spills mitigated and Line 3 replaced in its current location. The fact that Enbridge did not calculate how to replace these lines in an already disturbed corridor is due to their short sightedness. The fact that they do not feel any obligation to mitigate the current route and their concern that disturbing these areas would create environmental impacts is shocking. We should make companies accountable for cleaning up these spills.

Impacts on both natural and human resources needs to include consideration of Native Bands and their rights under 1837, 1854 and 1855 Treaty areas. To date, the native perspective has been marginalized and the lack of consultation, trust building, and active engagement has resulted in significant mistrust and lack of minority voices in this process to date.

The scope of the EIS should include the entirety of the project route from the beginning to end (i.e., including Tar Sands of Alberta or the Bakken and Williston Basin fields in North Dakota to the Gulf Coast).

The Scope should not assume that the criteria for the route evaluation include any intermediate through-points (Clearbrook or Superior). In the public input sessions conducted by the Department of Commerce, it is unclear as to how system alternatives and route alternatives would be evaluated within the EIS. To be fair to the applicant and citizens of Minnesota, both system alternatives and route alternatives should be included within the EIS. SF-04 and SF-03 (without spur) should be included in the EIS.

Under section 4.4.3., it states land cover datasets will be used to divide areas into 4 major economic land uses in the region. It's critical that data on important waters like lakes, streams and rivers that support the tourism and fishing which are essential to this region's economic viability be included in the datasets. This section makes reference to land areas many times and that statement needs to be expanded to water areas.

Under section 4.4.1.1, the climate modeling must include future land uses like agriculture and population migration to the region.

Under section 4.4.1.3, a property valuation impact needs to be expanded beyond the major route and include the spill zone and how a major spill will impact values to those impacted property owners, those counties and the state of Minnesota.

Under section 4.4.4.2, cultural resource evaluation has to include Wild Rice and all cultural sensitive areas along the route. This region has a very long history and is significantly important that these areas are protected. My biggest concern is there is so much mistrust that these areas will not be identified due to MDOC and PUC staff not understanding cultural sensitivities and how to work in and with native communities.

Under section 4.4.5.1, data sources identified are limited and should include Minnesota Department of Natural Resources (DNR) Aquatic Management Areas and Lakes of Biological Significance - Tullibee Refuge Lakes. It was interesting to see prairie conservation easements identified as a data source but not conservation easements for water protection. There was such a lack of thought that went into this section it is clear that no one from DNR who works to protect water was included in the drafting of this Scoping document.

Undersection 4.4.6, biological resources with special protections should include climate impacted species (e.g., Tullibee) and clean water. Healthy lakes and clean waters are becoming a unique natural resource in Minnesota.

Overall, the scoping document demonstrated little understanding of the region's unique natural and water resources. The maps provided at the meetings did not visually demonstrate the scale and size of critical water (wetlands) areas this pipeline will go through. It's shocking that this proud state known for its lakes would have staff who are comfortable hiding this critical bit of information from residents providing comments on the Scope of the EIS.

As I stated earlier, I am officially seeking an extension on the comment period due to lack of information available to residents, confusing and conflicting information provided at meetings, and a lack of clarity on the project definition (Sandpiper and Line 3).

Thanks for your consideration.



Lindsey Ketchel

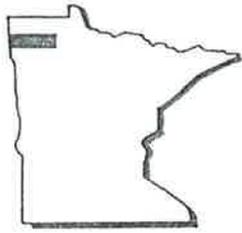
DISTRICT 1
COMMISSIONER
LEROY VONASEK
WARREN, MINN.

DISTRICT 2
COMMISSIONER
ROLLAND MILLER
WARREN, MINN.

DISTRICT 3
COMMISSIONER
KENNETH BOROWICZ
STEPHEN, MINN.

DISTRICT 4
COMMISSIONER
SHARON BRING
STRANDQUIST, MINN.

DISTRICT 5
COMMISSIONER
GARY KIESOW
GOODRIDGE, MINN.



Marshall County

Office of
Scott Peters
Auditor/Treasurer
208 E Colvin Ave Suite 11
Warren, MN 56762
Phone 218-745-4851



May 3, 2016

To Whom it May Concern:

We are County Commissioners from Marshall County which is along the Enbridge Mainline, the Sandpiper Pipeline and Line 3 Replacement Project routes in northern Minnesota. This letter is to inform you that the Marshall County Board of Commissioners supports the above referenced projects within Marshall County. Enbridge is and has been an important asset to Marshall County and the Minnesotans who have lived and worked alongside Enbridge's existing pipelines for 65 plus years.

First, we would like to thank you for your continued support. We appreciate that you understand how important these projects are to our economy and the safety of all Minnesotans located along the oil train routes that cross our state. Every day of further delay is another day that more oil is unnecessarily crossing our state on trains instead of in pipelines where it belongs.

Millions of dollars in local property tax revenue and thousands of jobs are at stake. Our area businesses benefit greatly when projects like these are constructed. Sometimes these projects are the difference between businesses closing or staying open for the area. Delays by agencies can kill projects like these. Local support for these projects is strong in our county and we want to make sure you are aware of that.

We ask you and your agencies to work as expediently as possible in supporting the PUC so they can review and permit these projects in a timely manner. The jobs, tax, and economic benefits from Sandpiper are past due and Line 3 has already lost months in the process.

If you have any questions or need additional information do not hesitate to contact our office.

Sincerely,

Gary Kiesow
Marshall County Board Chair

LeRoy Vonask
Marshall County Commissioner

Ken Borowicz
Marshall County Commissioner

Sharon Bring
Marshall County Commissioner

Rolland Miller
Marshall County Commissioner



Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | 651-282-5332 TTY | www.pca.state.mn.us | Equal Opportunity Employer

May 30, 2014

Mr. Larry B. Hartman
Environmental Manager
Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

RE: Enbridge Sandpiper Pipeline Project - North Dakota Pipeline Company LLC
Pipeline Routing Permit Application, MPUC Docket No. PL-6668/PPL-13-474

Dear Mr. Hartman:

On April 14, 2014, the Minnesota Public Utilities Commission (PUC) extended the comment period in the matter of the Application of North Dakota Pipeline Company LLC for a Pipeline Routing Permit for the Sandpiper Pipeline Project (Sandpiper) in Minnesota. This letter appends the Minnesota Pollution Control Agency (MPCA) letter on this subject, which was submitted to you on April 4, 2014.

We understand the topics open for comment include alternate routes, human and environmental impacts to be studied in the Comparative Environmental Analysis (CEA), and whether any specific methods or mitigation exist to address these impacts that should be studied in the CEA. MPCA's additional comments on these topics include:

- Inspection and monitoring;
- Additional items for evaluation in the CEA;
- Watershed Restoration and Protection Strategy;
- Carbon footprint;
- Environmental justice;
- Alternate route analysis; and
- Cumulative impacts.

Inspection and Monitoring

On April 16, 2014, Enbridge, doing business as North Dakota Pipeline Company LLC, submitted a proposal to the MPCA regarding independent/third-party environmental monitors for the proposed Sandpiper project. MPCA does not agree that Enbridge should be hiring and directing these inspectors/monitors, but rather that they report directly to a state agency with jurisdiction over the project. The MPCA requests that the PUC require that another agency directly hire independent inspection and monitoring contractors and/or temporary staff to conduct this work under MPCA oversight to be funded by Enbridge.

The structure, workplan and cost of a monitoring and inspection plan should be determined while the CEA is being prepared. The MPCA and Minnesota Department of Natural Resources (DNR) staff, who have been working collaboratively on the Sandpiper project, are willing to participate with Enbridge and participating agencies to develop the appropriate information and mechanism. The mechanisms for this would be worked out among the parties. The payment of the state's reasonable costs should be a provision of the PUC's route permit issued to Enbridge.

Additional Items for Evaluation in the CEA

The MPCA requests that Enbridge complete a Phase I Environmental Assessment (Phase I) of the selected pipeline construction corridor in accordance with the All Appropriate Inquiry (AAI) standard as per the National Environmental Policy Act (NEPA), Title 40, Code of Federal Regulations Part 312. The Phase I is conducted to research and review potential locations of existing/historic dumps, hazardous waste sites and other environmental concerns. If areas of environmental concern are identified in association with construction of the pipeline, Enbridge should be required to prepare work plans to describe how solid/hazardous waste/contaminated soil and groundwater will be investigated prior to construction and how impacted areas will be dealt with in accordance with state and local regulations.

MPCA requests that the CEA include a detailed risk assessment regarding the potential for leaks to occur, how much oil might be released, and how this could affect groundwater, surface water, aquatic life, and others. The hydrogeology of the pipeline corridor area should be studied to determine potential fate and transport of a release, and potential vapor intrusion issues if a release occurs in close proximity to human habitation.

Watershed Restoration and Protection Strategy

In 2006, the Minnesota Legislature passed the Clean Water Legacy Act, which required the MPCA to develop an approach to comprehensively monitor and assess the waters of the state every 10 years and provided one-time funding for that effort. In order to provide long term, consistent funding for Minnesota's clean water efforts, on November 4, 2008, Minnesota's voters passed the Clean Water, Land and Legacy Amendment (Legacy Amendment) to the Minnesota Constitution to, in part, protect and restore lakes, rivers, streams and groundwater. The Amendment imposed three-eighths of one percent sales tax to fund the effort for 25 years. Subsequently, in 2013, the Clean Water Accountability Act was passed by the Minnesota Legislature. This new law requires the MPCA to develop watershed restoration and protection strategies (WRAPS) for each of the state's 81 major watershed units, which correspond to the 8-digit hydrologic unit codes (HUCs). WRAPS include the monitoring and assessment information, as well as land use-based models that demonstrate the source of the highest contributors of pollutants in each watershed. This information is then used to develop strategies to either protect waters that meet water quality standards or restore waters that do not meet standards.

The WRAPS is a collaborative effort that involves the MPCA, the DNR, the Board of Water and Soil Resources, the Department of Health, the Department of Agriculture, local soil and water conservation districts, watershed districts, the University of Minnesota, industry and business organizations, and the private citizens of Minnesota. WRAPS components are: monitoring and assessment of hydrology and the chemical and biological constituents of water quality, a stressor identification process, TMDLs and restoration plans for impaired waters, protection strategies for waters that currently meet standards, and a civic engagement process to assist stakeholders with implementing protection and restoration strategies.

While not yet completed, WRAPS are in process in the following major watersheds that the Sandpiper proposal will cross, also identified by the corresponding eight-digit HUCs:

- Grand Marais Creek HUC 09020306
- Red Lake River HUC 09020303
- Clearwater River HUC 09020305

- Mississippi – Headwaters HUC 07010101
- Crow Wing River HUC 07010106
- Pine River HUC 07010105
- Mississippi – Grand Rapids HUC 07010103
- Kettle River HUC 07030003
- St. Louis River HUC 04010201
- Nemadji River HUC 04010301

One of the first tenets of any protection strategy is to avoid impacts where possible. The Sandpiper proposal is not consistent with the protection strategies that are currently in development for these WRAPS, due to the large number of high quality surface waters that lie along the path of the proposed route. Enbridge should participate in stakeholder groups for these WRAPS. Stakeholder groups provide a forum for engaged citizens and interested groups to develop implementation strategies to restore and protect each watershed. The CEA should review and consider how to integrate the strategies into the proposal, or find alternate routes that have less potential for impacting surface and groundwater.

Carbon Footprint – Greenhouse Gas Emissions

The MPCA is concerned about the carbon footprint of a project. The Minnesota Legislature established greenhouse gas (GHG) reduction goals in the Next Generation Energy Act (Minn. Stat. 216H.02). The goals of the Next Generation Energy Act are to reduce greenhouse gas emissions by 15 percent below 2005 levels by 2015, and 80 percent by 2050. Greenhouse gases, upon release to the atmosphere, warm the atmosphere and surface of the planet, and lead to alterations in the earth's climate. The GHG emissions measured and reported in Minnesota include carbon dioxide (CO₂), nitrous oxide (N₂O), methane (CH₄), sulfur hexafluoride (SF₆), and two classes of compounds known collectively as hydrofluorocarbons (HFCs) and perfluorocarbons (PFCs). These GHG emissions result from fuel combustion, the calcination of limestone, the degradation of organic (peats) and mineral soils, permanent land clearing and forest harvesting, and a variety of other sources. Pertaining to this project, source types include stationary and mobile source combustion from construction equipment, emissions from venting, and wetland and forest disruptions.

To track progress with the Next Generation Energy Act reduction goals, the CEA should evaluate the GHG emissions from the project and the impact these emissions may have on the attainment of the State's GHG reduction goals. Alternatives and options to reduce GHG emissions or to offset/mitigate GHG emissions should also be identified in the CEA. In addition, the CEA should evaluate the GHG impacts if this project is not built – specifically, if oil is transported by rail or truck instead of by pipeline.

Environmental Justice

The MPCA works to incorporate environmental justice principles into its projects. Environmental Justice (EJ) involves assuring the fair treatment and meaningful involvement of all persons, regardless of race or income when making environmental decisions. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies. Meaningful involvement means: people have an opportunity to participate in decisions about activities that may affect their health and the environment

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in which they live; the public's contribution can influence the regulatory agency's decision; their concerns will be considered in the decision making process; and, decision makers seek out and facilitate the involvement of those potentially affected.

The proposed route of the Sandpiper Pipeline and other alternate routes may directly affect low income and minority populations. If a pipeline leak or break occurs, adverse impacts could occur in both surface and subsurface drinking water supplies, areas with stands of wild rice important to local Tribes and tribal members, cropland areas, impaired waters, and wildlife management areas among other types of environmental, social and economic impacts. If the Northern route or other alternate routes are chosen, the Sandpiper Pipeline may affect tribal lands.

The CEA should include consideration of EJ issues. The CEA should look at how pipeline construction and operation, and potential problems during each of these phases, may cause disproportionate impacts on low-income or minority populations. In addition, local, state and federal agencies should engage residents to assure that they are aware of opportunities to participate in the process and understand how their comments and concerns are incorporated into the final draft CEA.

Alternate Route Analysis

The MPCA staff's analysis of the proposed Sandpiper route shows many water body crossings for which there would be very difficult or no access downstream of the crossing to clean up spills in the event of a crude oil release. The lack of possible access to these areas by people and equipment necessary to clean up spills increases the likelihood that an incident could result in significant long-term environmental damage. A failure to account for these possibilities is considered to be a substantial flaw with the currently proposed Sandpiper route.

There are many variables that could be examined when considering the potential for environmental damage in the event of a release. These include: soil types, wetland types, sensitive or endangered species, proximity to aquifers, hydrology, forest types, state park boundaries, proximity to human populations, proximity to wild rice waters, connectivity of surface waters, and others. However, for purposes of providing a simpler and effective comparison between alternative route proposals that is both visual and quantifiable (within certain limitations that will be discussed in this letter), MPCA staff has elected to compare the routes based on access to potential leak sites for purposes of containment of spills and possible clean up.

To minimize variables and subjectivity for this analysis, MPCA staff opted to identify, using ArcGIS technology, water body crossings that had neither road or traversable upland features within 250 feet of flowages of water (heavily forested areas are not considered for this purpose to be traversable, as trees would have to be removed before equipment could be brought in), or portions of larger wetland complexes that fell within a 2000 foot buffer of the point where the proposed pipeline route was to cross a stream, lake, or wetland. The 250-foot distance from access point to flowage is somewhat arbitrary. MPCA staff conferred with contractors and engineers who specialize in road construction, and most felt that in a best-case scenario, with aggregate and equipment available, a 250-foot road into a bog or wetland would be constructed within 24 hours. Thus, for purposes of this analysis MPCA staff assumed that it is possible to build an access road to reach areas where containment of a spill might be accomplished before the spilled product covers an area large enough that cleanup would be highly destructive to a sensitive environment, or impossible. Similarly, there is no regulatory basis for choosing

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the 2000 foot buffer distance, other than it is a significant distance for oil impacts to occur over any surface water and easy to apply consistently statewide. It is a distance that for most people would be easy to visualize, yet small enough to create a fair comparison between routes. These numbers provide a basis for comparisons between routes and have little significance beyond that. However, if these criteria are used consistently for all proposed routes, it does provide a basis to compare the potential for each route to cause considerable environmental damage in the event of a release.

There are some factors to consider that fall beyond the scope of this comparison. For example, the water crossings proposed for the Sandpiper route are frequently streams or flowages with connectivity to other water bodies downstream. By contrast, water body crossings on the Northern route, including the Alberta Clipper pipeline, frequently involve very large wetland complexes rather than smaller, faster moving flowages. The area needed to access might be much greater, but the oil may move more slowly in such areas. Counting becomes a bit more difficult here as well, because it is difficult to establish criteria for counting "crossings" that is comparable to the different features observed in the Sandpiper route. In most cases, DNR catchment flow lines were used to distinguish one crossing point from another.

In any case, the method used as a basis for comparison by MPCA staff does provide quantifiable data to analyze the proposed routes from a meaningful perspective: Which route proposals pose the greatest risk to create destructive and expensive containment and cleanup operations in the event of a spill?

MPCA staff compared four proposed routes in their entirety (Figure A). The four proposed routes that were compared were 1) The currently proposed Sandpiper route; 2) The "Northern" route, which includes the Alberta Clipper pipeline, which has been suggested as an alternative by other entities; 3) The Viking/Magellan/Sandpiper gas line route which was identified as a possible alternative by MPCA staff; and (4) The southern "Alliance/Kinder Morgan" route which exits the state at the Iowa border and would be required to tie into the Enbridge infrastructure either in another state, or to circle around outside of Minnesota to end at the Superior Terminal. The fourth route was suggested as an alternative by the citizen group "Friends of the Headwaters."

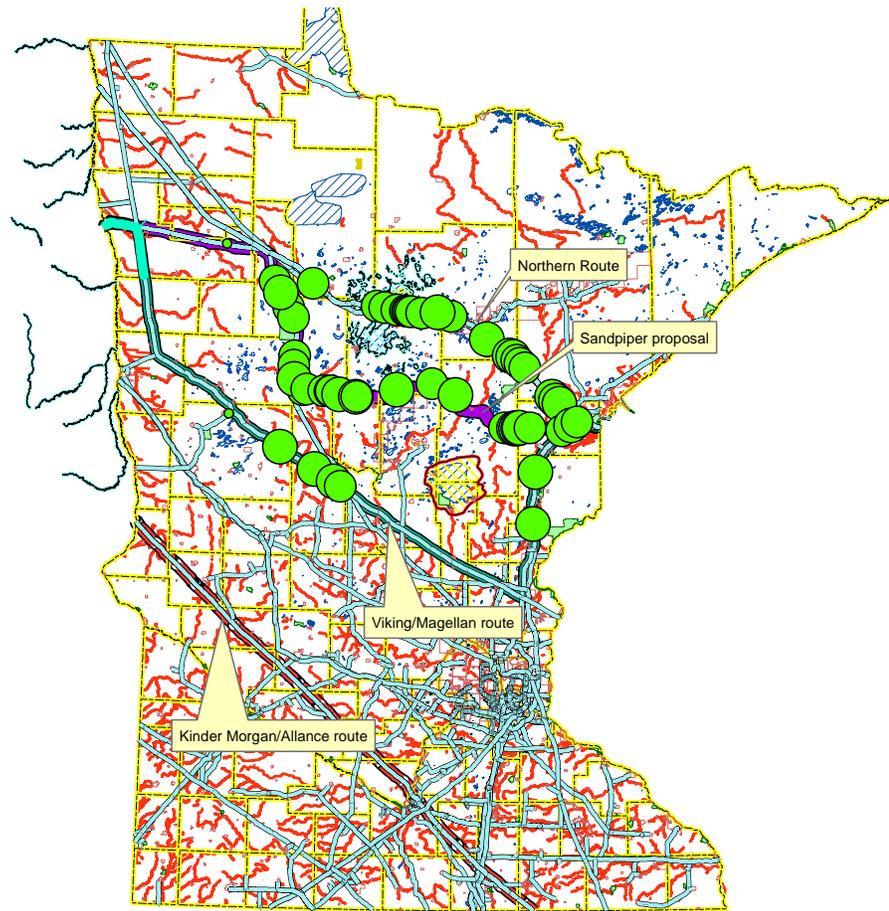


Figure A-Comparison of alternative route proposals. Green circles mark points where access concerns were identified. Light blue lines are existing pipeline corridors.

Any water body crossing, especially streams, rivers, or flowages of any kind that can carry oil downstream, pose the risk of creating large scale environmental damage in the event of a release. If possible, it is best to avoid crossing surface waters altogether with oil pipelines in order to minimize this risk. However, if a water body, bog or otherwise sensitive area is to be crossed, then serious consideration should be given to whether the site can be accessed quickly in the event of a release to contain the product, minimize migration of product into surface waters, soils and groundwater, and perform clean-up operations. In situations where roads have to be constructed to access a spill, the act of constructing the road, excavating and clearing vegetation can all exacerbate the damage that the spill itself created. Additionally, placement of flow control valves in strategic locations along/near sensitive areas may help to minimize backflow of product out of a fractured line into those areas. MPCA is providing separately an interactive map on the ArcGIS Online site for the Sandpiper project that identifies areas along the four examined routes where no practical access was observed within 2000 linear feet downstream, or in some cases, within 2000 feet diameter, of the water body crossing point and potential leak site. For purposes of this letter, hard copy photos showing examples of no-access sites and an overall view of the alternative route proposals are included.

A difficulty with aerial photograph analysis as opposed to field surveying of water crossings is that it is difficult to determine whether a stream or wetland is permanently, seasonally, or intermittently flooded. MPCA staff relied on National Wetland Inventory maps to identify wetland types, which will to some extent help to determine the likelihood of the wetland having open water at the time of a leak, which would allow transport of released oil to occur more quickly, or merely be in a state of saturated soil, which would result in easier and faster containment and cleanup of a spill.

The results of the MPCA staff analysis are as follows:

Sandpiper Route

The proposed Sandpiper route crosses 28 water bodies for which there is no access for possible containment within 2000 linear feet downstream of the proposed pipe crossing. Of these 28 water body crossings, one is a stream to lake system, 12 are wetland complexes, 10 are streams that flow to wetland systems, and five are streams that flow to wild rice areas. (Example Figures B and C)

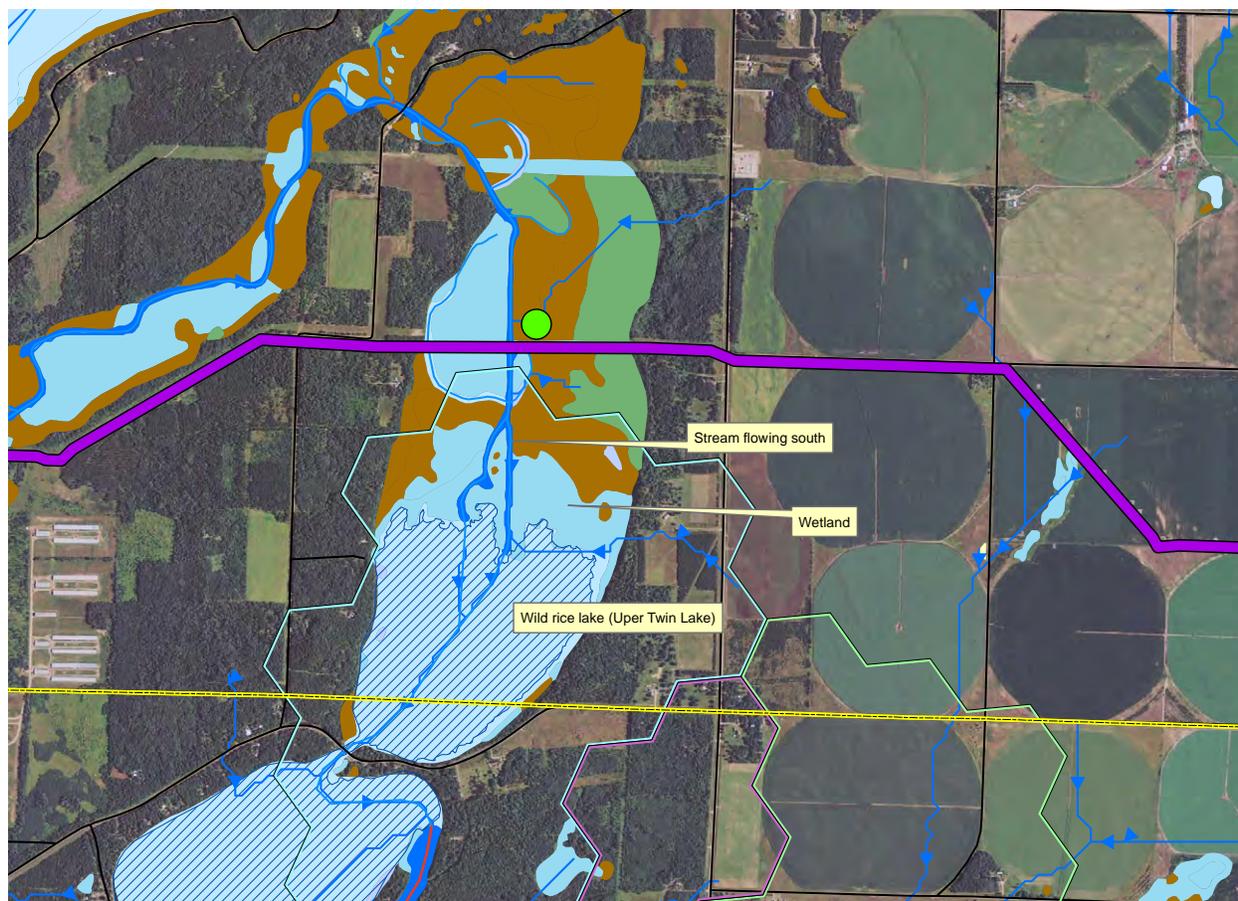


Figure B-This figure shows an example of a proposed crossing point over surface water that flows south (see arrows on dark blue flowage line) through a wetland complex and into a wild rice lake (the Twin Lakes near Menahga and Park Rapids, Minnesota). However, to determine accessibility, the wetland identification layer must be turned off so that land features can be examined as in Figure C below. The purple line is the proposed Sandpiper route.

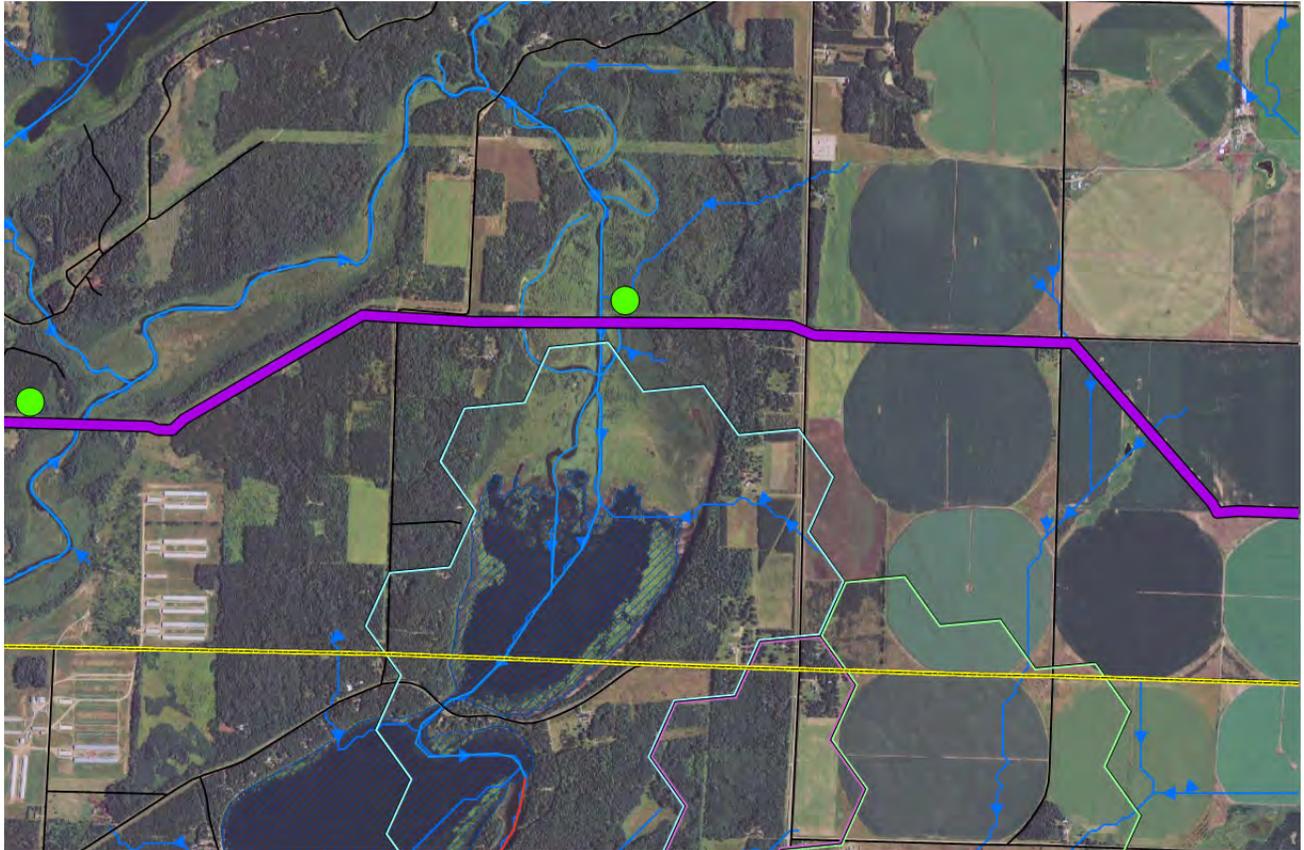


Figure C-Here, the wetland layer is turned off so that the landscape can be examined for accessibility. In this instance, there are no roads or open farmland to bring containment or clean-up equipment within 1,500 feet of the flowage that would potentially deliver leaked crude oil into the upper most of the Twin Lakes. The curvy black line between the lakes is a road, and the first good point of access. This road is 6,700 feet from the pipeline crossing, although it is possible that boats or barges could access the lake from the farm fields to the right (east) or the road (black line) to the left and contain a spill within the lake.

Hill Route

The “Hill route alternative,” suggested by the DNR as a way to avoid features of concern, would not differ from the proposed Sandpiper route based on the criteria discussed here.

Northern Route

The Northern route, which follows the path of the Alberta Clipper project crosses 22 water bodies for which there is no access within 2000 feet downstream of the location where crossings would occur if the route were followed. Along the Northern route, water bodies without access to potential leak sites within 2000 feet include one stream that flows to a lake, 14 wetland complexes, five stream/wetland systems, and two streams or wetlands that flow to wild rice production areas or wetlands (see example of the Northern Route crossing in Figures D & E below).

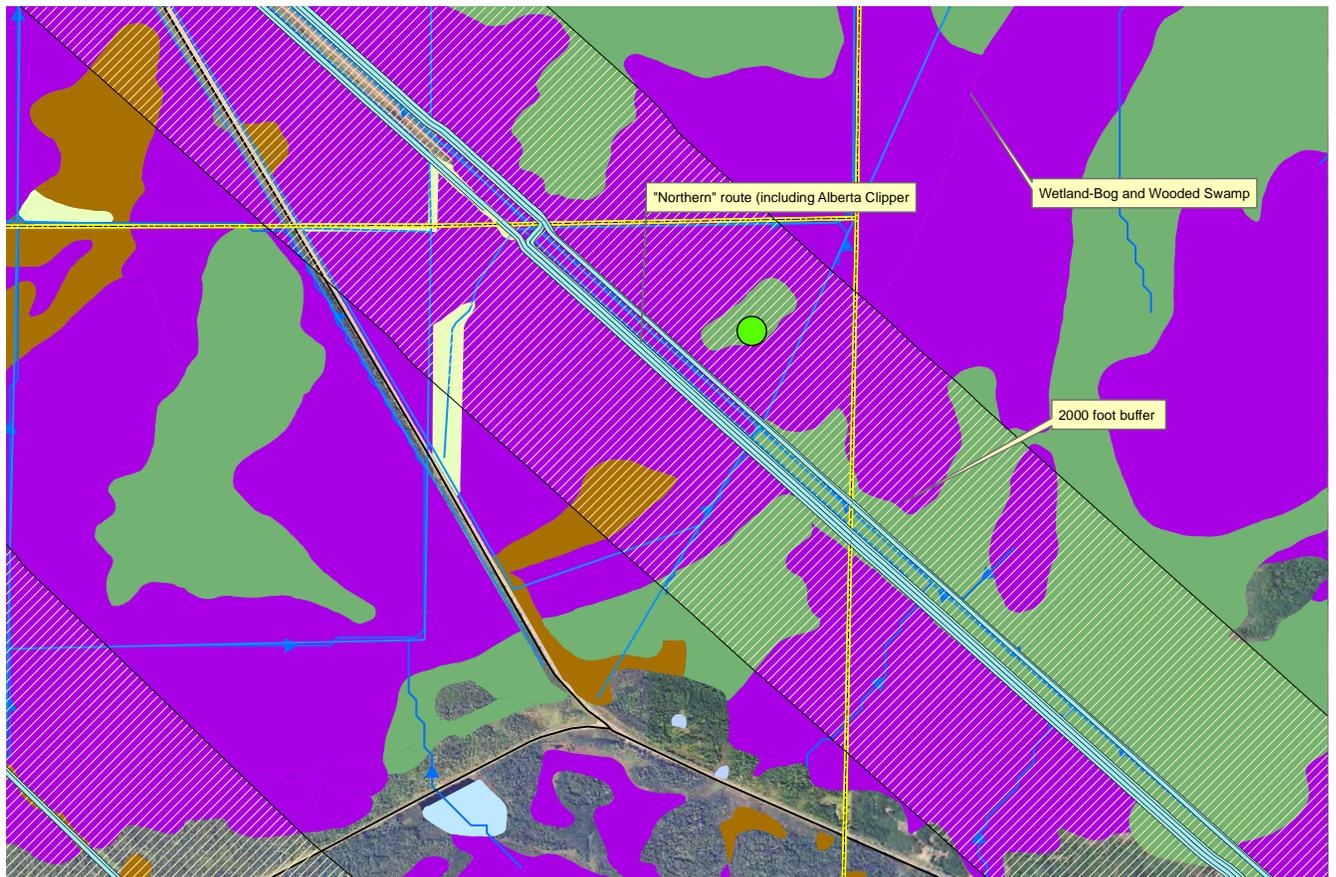


Figure D-With NWI wetland layer turned on, one can see wetland extending well beyond the 2,000 foot buffer at this crossing along the "Northern" route. The purple is bog, the green is forested wetland.

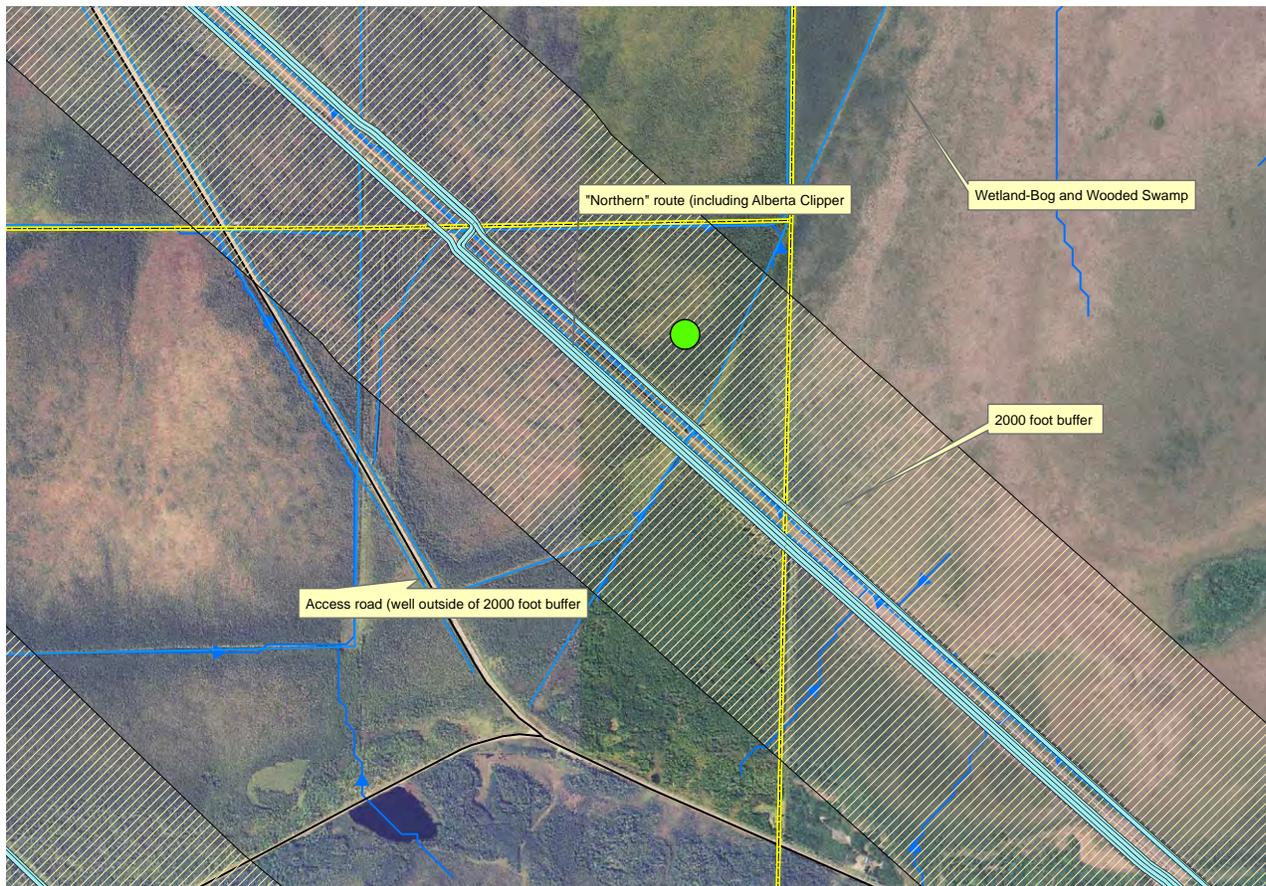


Figure E- With the wetland identifying layers turned off, it can be seen that there are no roads or upland areas from which to access potential leak sites at this crossing. The closest road is southwest of the 2,000 foot buffer; to the northeast is bog and forested swamp for several thousand feet.

Viking/Magellan Route

The "Viking/Magellan" route corridor, which was referenced earlier in the letter, begins at the same western point that both the Sandpiper and Northern routes do; however, roughly 20 miles west of the North Dakota border it veers south and follows the Viking Gas Transmission Co. pipeline south and then southwest to roughly five miles west of North Branch, Minnesota, where it then follows the Magellan Pipeline Company, LP line north, where it eventually intersects with the proposed Sandpiper route just west of Superior, Wisconsin. This route has seven water body crossings with no access within 2000 feet downstream of the pipe crossing; however, these water bodies are often smaller wetland complexes than are seen on either the Sandpiper route or the Northern route. These crossings without access within 2000 feet include two wetland complexes, four stream/wetland systems, and one wild rice production area (see Figures F and G for crossing examples for this route proposal).

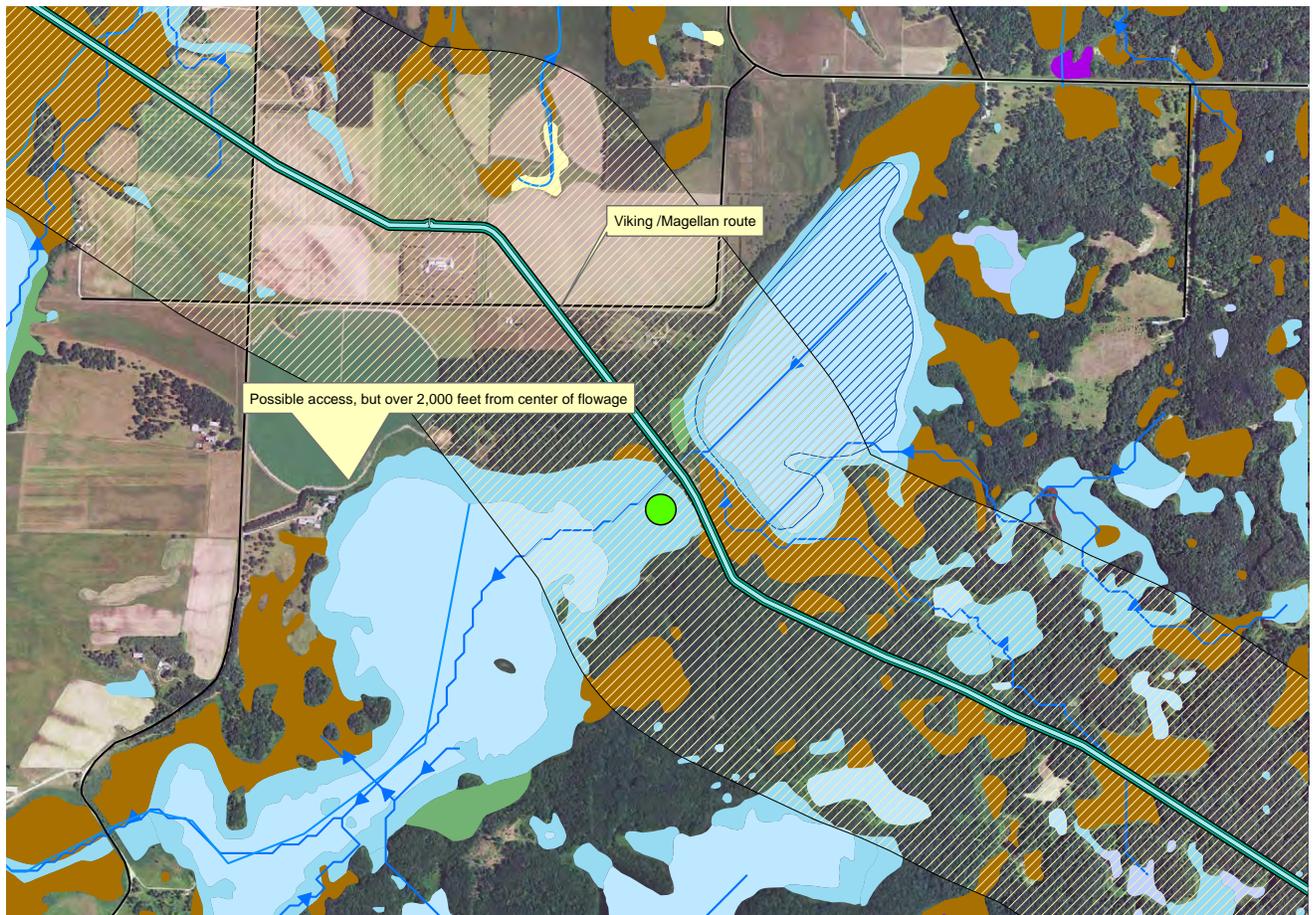


Figure F-Wetland layer identifies an open water wetland south of the pipe crossing that would likely receive oil from a leak.

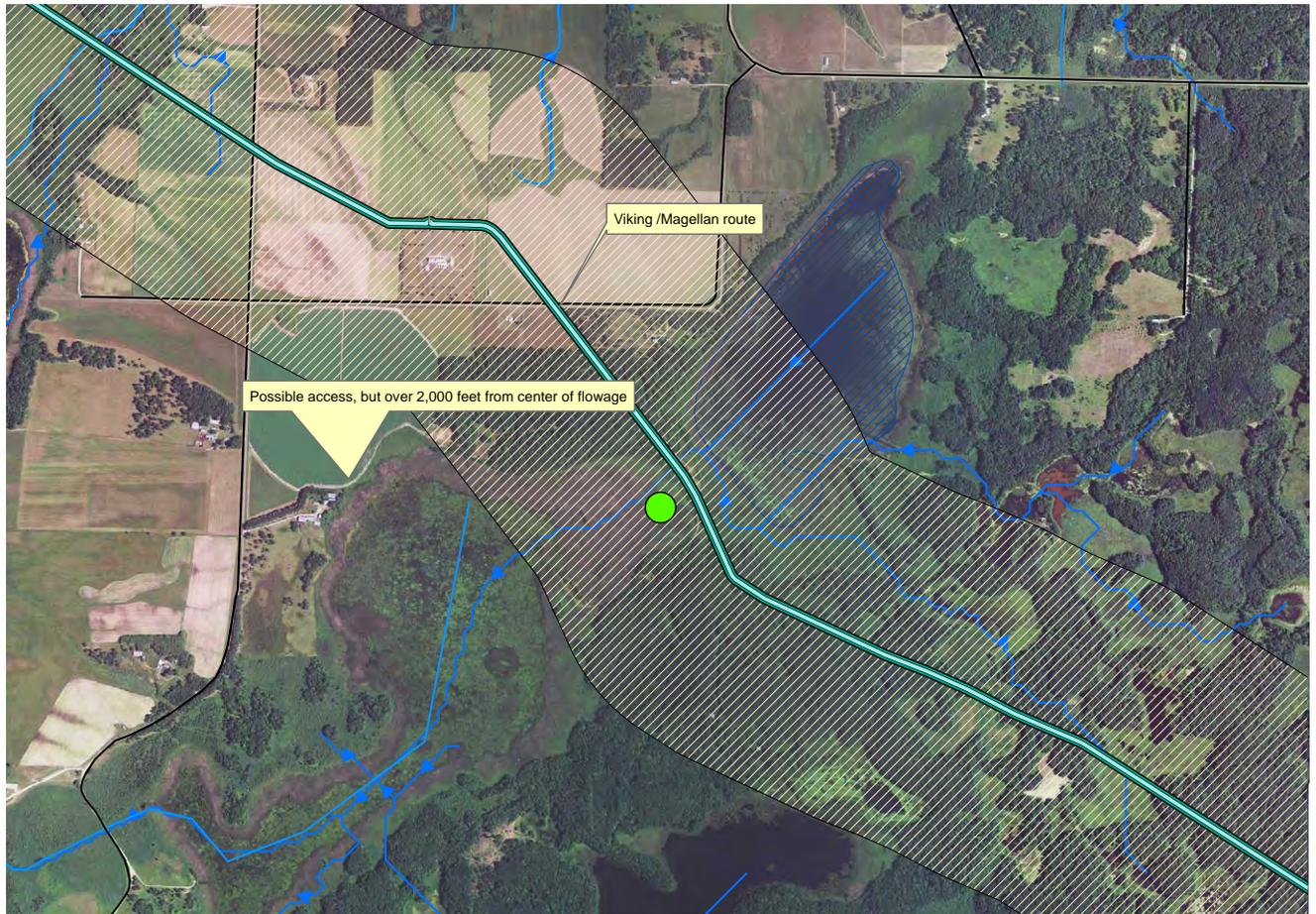


Figure G-With the wetland layer turned off, the nearest access to the main stem of the flowage is seen to be roughly 2,000 feet to the west. If the wetland is traversable by boat or barge, which is possible given the wetland type (Type 3/5 shallow marsh and open water), then it is possible that access to material could be gained within the 2,000 foot buffer here.

Kinder Morgan Cochin LLC and Alliance Pipeline LTD Route

The Kinder Morgan Cochin LLC and Alliance Pipeline LTD (Kinder Morgan/Alliance) line corridor enters the state in Traverse County just west of Wheaton, Minnesota, and runs to a southeast bearing until it exits the state south of Austin, MN. A pipeline along this route would cross no water bodies lacking access within 2000 feet of a potential leak site in surface water. There are very few water bodies crossed by this route in general over the proposed route.

National Hydrography Dataset

Even if access issues are taken out of the equation, the proposed Sandpiper route does not fare well in comparisons with alternative proposals based on examination of the National Hydrography Dataset (NHD) layer. Using the NHD layer, the proposed Sandpiper route would cross 20 water bodies, the Northern route would cross 10, the Viking/Magellan alternative would cross 12, and the Kinder Morgan/Alliance route would cross one water body within the state of Minnesota. The NHD layer

obviously does not identify all water bodies that are being crossed; however, it does identify water bodies that are part of a connected network of surface waters which may also be a good gauge of potential environmental impact if an incident were to occur.

Notably, the two routes in this analysis that crossed the fewest water bodies and put water resources at the lowest risk for environmental damage both aligned away from the Clearbrook terminal. Perhaps the most problematic aspect of the design of this proposed route is the continued expansion of terminal capacity at the Clearbrook location. Any pipelines that are built to transport material out of the Clearbrook terminal are forced to enter the largest concentration of lakes, streams, and open-water wetlands in the state. Any route proposed out of Clearbrook, either south or east will cross dense expanses of open waters. A northern to eastern route from Clearbrook would cross massive wetland complexes and wild rice areas. If future, new terminals, were to be constructed in western Polk (could collect from Canada or North Dakota), Kittson (could collect from Canada or North Dakota) or even Clay counties (North Dakota) the creation a route proposal that avoids the greatest concentration of surface waters becomes feasible.

Summary of Route Analysis

There are numerous pipeline corridors that currently exist in Minnesota. Of those, there are several that cross far fewer water bodies and have better potential for access in the event of a release than the current Sandpiper proposal. MPCA staff examined three existing corridors in addition to the proposed Sandpiper route. While performing risk assessment, the current use of the corridors in question should also be considered, as much of the proposed Sandpiper route follows a corridor in which three other oil pipelines currently exist. Thus, not just one pipeline would be crossing sensitive water bodies with limited access, but four. The likelihood of an incident in which crude oil product is released is thus greater than what a single pipeline would entail. This is also true of the Northern route, in which numerous pipelines carrying crude oil exist. What has happened in the past with regard to location of pipeline routes is from this perspective unfortunate; MPCA staff believes that past routes have crossed too many water bodies in inaccessible areas, and the risk of large-scale impact as a result of a release incident is significant and ongoing. As this analysis shows, options posing a lesser risk to surface waters may be available.

Of the four possible routes that MPCA staff has examined, the proposed Sandpiper route and the previously followed Northern route show a significantly higher potential for environmental damage than either the Viking/Magellan corridor or the Kinder Morgan/Alliance route. It is also possible that an as-yet unexplored route could also score well relative to the Sandpiper proposal. The analysis of the Kinder Morgan route is incomplete in that possible impacts outside of the Minnesota State boundaries were not looked at, so the surface waters avoided or protected by this route are only located in Minnesota per this analysis. It is also acknowledged that the MPCA staff analysis focused on the potential water quality and natural resource aspects of the project and not on other types of resources or land uses. Nevertheless, the criteria adopted for this analysis show a clear difference in potential risk to surface waters between the Sandpiper proposal and other possible routes, and that in the event of a significant oil release, the Sandpiper route proposal has a significantly greater potential for large-scale environmental damage than other route proposals.

It is important to note that the construction of accesses through sensitive “no access” areas as a preventative measure can also create environmental hazards and damages and cannot be assumed to be an acceptable remedy. Rather, route proposals put forth now and in the future should take these factors into consideration and avoid continuing to cross surface waters at these locations. The minimization of surface water crossings in any location should become a priority for consideration when planning a route to construct a pipeline.

Cumulative Impacts

The NEPA, Title 40, C.F.R. 1508.7, defines cumulative impact as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.”

The cumulative impacts review in the CEA should include current and proposed transmission line corridors, highway construction, water delivery systems, landfills, railroads, power generations plants, feedlots, and mine and mineral extraction sites which have the potential to interact with the proposed project. The CEA should also review the potential for significant cumulative effects related to past, present and future projects in the Duluth/Superior area involving increased transmission, storage, processing or refining activities, including the expansion of the Calumet Superior Refining facility in Superior, Wisconsin, or transportation of oil, fuels or products refined or manufactured from oil. Areas in which such impacts could occur include air quality in Duluth and the surrounding area in Minnesota, water quality as related to new or increased discharges or shipping activities, and transportation whether by truck, rail or ships.

The CEA should identify the impacts of past incidents associated with pipeline construction and operation, past incidents involving two or more associated utility lines, accidents or emergencies which may arise due to an unforeseen chain of events during the operational life of the pipeline, and effects within the project limits, and local and regional effects. Cumulative impacts may occur to:

- Human activities, such as recreation, agriculture and loss of prime farmland;
- Wildlife including migratory birds and aquatic species;
- Habitat and alterations to terrestrial vegetation;
- Endangered species;
- Air quality, including dust (particulate matter) and visual impacts;
- Land values;
- Watersheds; and
- Local and state socioeconomics.

According to data provided by the Pipeline and Hazardous Materials Safety Administration (PHMSA), to date, there are 2,408 miles of crude oil pipeline in the State of Minnesota. More are planned within the next few years. Much of this infrastructure exists in corridors shared by several other pipelines carrying liquefied petroleum gas, natural gas, diluent for tar sands oil, refined petroleum product and other hazardous materials. In total, there are 10,475 miles of pipeline through the state. According to PHMSA, over the last 20 years, there has been an average of 14 spills from pipelines per year in Minnesota, an

average of 1,812 barrels of hazardous liquids spilled per year in Minnesota, an average of 1,093 net barrels lost per year in Minnesota, and an average of \$3,135,572 of property damage annually in Minnesota. Five lives have been lost as a result of pipeline incidents.

The MPCA has numerous concerns about the number of pipelines planned to use the same corridors. With each water body crossed by a pipeline carrying crude oil, the risk of a major incident increases. A cursory review of the PHMSA web site identifies apparent causes of pipeline failure to include: incorrect operation, equipment failure, internal and external corrosion, third party damage (excavation), construction damage, material failure (pipe, fitting, weld), weld leak, and other unknown causes. For example, at the site of the Enbridge pipeline release in Marshall, Michigan, the National Transportation Safety Board found "that deficiencies in Enbridge's integrity management (IM) program contributed to the release of hazardous liquid..." (Federal Register, Volume 79, No. 87, Tuesday, May 6, 2014 (25990 – 25994). See also Enbridge Incorporated Hazardous Liquid Pipeline Rupture and Release, Marshall, Michigan, July 25, 2010 (NTSB/PAR-12/01, PB2012-916501). Ultimately, the perspective should not be if a pipeline fails, but how will a release be mitigated when a failure occurs and at any given location (and the environmental susceptibility of that area to a release).

As explained above, MPCA examination of the proposed Sandpiper route and the previously used Northern route (Alberta Clipper) shows that significantly more open water bodies are crossed by the pipelines in these corridors than alternative routes. Far more of these crossings have no available access within a 2,000 foot buffer, meaning that release incidents are more likely to impact surface waters within that 2,000 buffer. Both the Sandpiper and Alberta Clipper routes are corridors for numerous crude oil pipelines; consequently, these routes are more vulnerable and less able to properly mitigate damage to aquatic environments. Whereas oil does travel through soils and overland, it travels significantly farther in aquatic environments.

Pipeline construction will involve soil excavation, vegetation removal, the crossing of water bodies, and the alteration or loss of wildlife habitat. These activities and the creation of new corridors can result in forest fragmentation affecting numerous species of wildlife that require expanses of undisturbed forest. Wetland perches may be broken causing alteration of natural hydrology in wetland areas, and stream geomorphology can be altered by damaging banks or stirring up stream bottoms. Herbicides used to control vegetation in pipeline corridors may adversely affect pollinators, particularly honeybees, resulting in hidden impacts that are difficult to trace, but nonetheless exist.

The construction, operation, maintenance, incidents and repairs associated with crude oil pipelines have been accompanied by significant environmental impacts. With more proposals in the works, more cumulative impacts can be expected to occur. Therefore, concerted effort is needed to take a close look at and carefully analyze the creation of common routes and corridors for pipeline projects where the risks of impacts to the environmental and human health can be minimized. The routes that have been used in the past pose substantial risks as noted above. Continuing to open more corridors will increase these risks and impacts. The MPCA would support and participate in a joint effort by state agencies to begin examining the feasibility of such a corridor, both for the purpose of expediting approval of future proposals and minimizing the potential for environmental impacts. A fresh look at the routing of energy transportation projects from a larger and more comprehensive perspective has the potential to make a significant contribution to streamlining the review and permitting processes as well as preventing and minimizing cumulative impacts.

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Conclusion

It is requested that the comments provided in this letter and MPCA's letter dated April 4, 2014, be entered into the record to be addressed in the Draft CEA. We continue to look forward to assisting the Department of Commerce, as desired, during the preparation of the CEA for this project and its subsequent review upon its release. Through this process, the MPCA seeks to obtain further additional information to facilitate the MPCA staff review of the Project, well in advance of the time a decisions on the required MPCA authorizations are needed to commence construction. Ultimately, it is the responsibility of North Dakota Pipeline Company LLC to secure any required permits and to comply with any requisite permit conditions. If you have any questions, please contact me at 651-757-2465.

Sincerely,



Patrice Jensen
Planner Principal
Environmental Review
Resource Management and Assistance Division

PJ:mbo

cc: Jamie Schrenzel, DNR
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April 24, 2016

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

Subject: PUC Docket Numbers:

Sandpiper: PL-6668/CN-13-473 and PPL-13-474

Line 3 Replacement: PL-9/CN-14-916 and PPL-15-137

Dear Jamie,

I am writing to ask that the MN Department of Commerce / Public Utilities Commission to consider extending the comment period for the Scoping Environmental Assessment Worksheet and the Draft Scope for Sandpiper Pipeline and Line 3 Replacement Projects for at least 30 additional days for two reasons; the sheer number of documents to review across the 2 separate projects plus the timing of the public meetings being held in the next two weeks when many seasonal residents are not present and are unable to participate.

These two separate proposed projects by two separate companies have the potential to be in place here in Minnesota for 50 years or more. There are 34 document IDs in Docket 13-474 and 38 document IDs in Docket 14-916 each related to the EAW and Draft Scope. These documents were just placed on the dockets 4/11 and 4/12/16. In order to comment appropriately as a member of the public these documents require careful reading, understanding and analysis.

Thank you for considering the extension of the comment period for the Scoping Environmental Assessment Worksheet and the Draft Scope for Sandpiper Pipeline and Line 3 Replacement Projects.

Sincerely,
Sharon Natzel

May 25, 2016

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

Dear Ms. MacAlister,

I write you concerning the common route proposed by Enbridge for the Sandpiper and Line 3 pipelines.

I also write you as an active member of the Lyndale United Church of Christ, Minneapolis, and the Union Congregational Church of Hackensack, MN. The following comments are my own but the opinion is virtually unanimous on this subject among all the members of these two communities.

I and my family for three generations have and continue to come to our small cabin on Hand Lake, Cass County to relax, refresh, and renew ourselves from and for the demands and tensions of city life. The sense of peace and quiet affirmation we receive from being "at the lake" is priceless and irreplaceable.

We are like hundreds of thousands of other families coming to the "Lakes Country" of north central Minnesota.

It is impossible to build a pipeline that does not pose a threat of rupture and spilling. Putting two pipelines in the same corridor only increases this threat.

Clean-up procedures developed so far for oil spills all assume relatively light oil that can be skimmed from the water's surface or washed from the land and animals. No one yet knows how to clean up "heavy" oil that sinks in water, oil like that currently proposed by Enbridge for at least one of the pipelines.

Any pipelines and especially like those for the purposes proposed by Enbridge replace security with worry about a rupture. They replace peace and quiet affirmation with concern about the impossibility of adequate clean-up.

Being "at the lake" will no longer be relaxing and renewing. Being "at the lake" will simply mean a scarred place for new worries and concerns.

There are alternate routes that are more accessible and already environmentally compromised; the inter-state corridors for example.

Please require Enbridge to develop a more environmentally responsible and considerate route.

Thank you for your consideration of these concerns,

Sincerely,

Frederick W. Smith

May 7, 2015

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

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

Dear Honorable Commissioners,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

Sandy and Craig Sterle
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218-384-4054

Erosion exposes Enbridge oil pipelines near river in NW Minn.

Environment

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

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

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

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

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

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

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

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

Pipelines are visible in this image from Google Maps:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

May 5, 2016

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

RE: Proposed Sandpiper: 13-473 & 13-474 and Line 3 Rebuild: 14-916 & 15-137

Dear Ms. MacAlister:

This letter is written to highlight what I believe is important points and including previous letters I have written that will be referenced for further discussion that will be attached. In general, I have been involved in this process as a landowner originally barraged with paperwork and phone calls by Enbridge (before renamed to NDPC) who pushed for us to sign saying it was a "done deal" even before they even submitted their application. I stood at my property line with a camera when a surveyor showed intent to come onto our property anyway (by watching him stamp away in a huff). Then was sent a letter threatening "formal proceedings" using legal language the attorney identified they could not use as reason for access, etc. I have found this company whether called Enbridge or NDPC to use omission and power plays to push for what they want. To Carlton County they promised more tax dollars while at the same time they were in Tax Court to reduce their taxes to a Western County in Minnesota. When I asked a DOC employee whether they looked at how much other pipelines are in use, she responded "No", they only look at the shipper contracts and went on to explain the threat of suing by Enbridge/NDPC or North Dakota if the pipeline was not approved, yet I contacted FERC by email and they wrote it was up to the State to decide not just the contracts. Therefore, whether through Enbridge/NDPC, adjoining States or Legislators what I am saying to you is *threats and power plays should **not** dictate the conclusions of this EIS*. It needs to be scientifically based looking transparently at all the impacts. If you find them power playing you, please do not back down, but recognize you are on to something and need to look further.

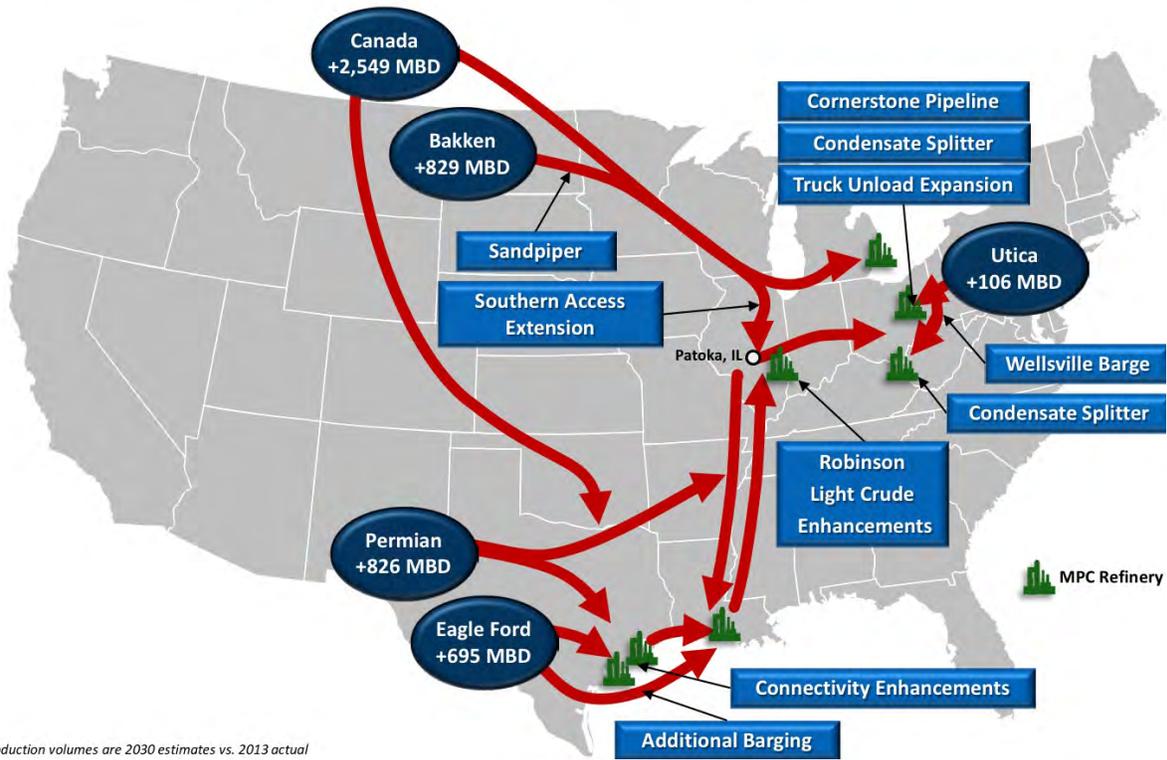
1. I would like to recognize that this EIS process is very important, because Minnesota has not done an EIS for pipelines before. As a Minnesota citizen, I expect that the intent behind preparing these EIS is... *in the public trust*. In other words, it is **not** to be a document **to market pipelines** by: emphasizing a shorter route to enable higher profits, but ignoring the quality of the water put at risk; or counting jobs as 1 per year (2nd year as the 2nd), but not including the risk to the tourism industry; or by focusing on population, but ignoring topography and lack of accessibility for response to spill cleanup; or simply counting features like making a ditch equal to a shallow lake that produces wild rice. Each of these is a numerical way to hide and lessen the importance of the social, cultural and environmental impacts as compared to corporate financial interests. Please do not allow this EIS to be manipulated to put profit first! The EIS must transparently weigh the impact of different routes on the **health and well being of the environment** on which native people, private landowners, and rural communities along each route so dearly depend.

2. In the project description, it seems that you have already limited the routes to study as going through Clearbrook, MN and on to Superior, WI. That is what NDPC, Enbridge and Marathon want. I heard the executive from Marathon last year in front of the Judge justify going through Clearbrook, MN by stating it was his “right” to sell their product to the Twin Cities. But, what is the proposed Sandpiper really for? NDPC claimed it was for transporting North Dakota oil through Minnesota to Superior, WI. Calumet Refinery in Superior, WI is small and consumes heavy crude not ND sweet crude. So, unless the sweet crude is shipped over the Great Lakes, it must move through WI to a Midwest hub and on to refineries capable of refining sweet crude. *The EIS needs to recognize where the crude oil is going by widening its scope of routes from Tioga, ND to the hub in Patoka, IL and/or seriously study the impact of crude oil transport over Lake Superior on Duluth and the North Shore.* The only reason to limit the scope of the EIS is to allow NDPC and Marathon to dictate that their financial interests have precedence over the environmental impacts to Minnesota.

3. Marathon’s shipper contracts with NDPC require the Southern Access Extension (SAX) to be completed. In the slide below from the Illinois Commerce Commission’s (ICC) contested SAX case 07-0446, Marathon quantifies shipping **more crude** over Sandpiper **from Canada to Patoka, IL** than from ND. The crude will go to refineries or the Gulf. Marathon may desire to sell to Minnesota Refineries, but their interest is to *pass crude oil through Minnesota from Canada to their refineries and sell overseas*. If you look at the 2nd slide, you can see that Marathon has Inland Water Terminals on the Great Lakes. Is the use of eminent domain justified for the profit of corporations when the product will pass through Minnesota from Canada to overseas? Does this justify the risk of spills? **The EIS needs to identify where the crude oil is going and do a cost/benefit analysis to Minnesota on the use of eminent domain discussing how can this be a public purpose?**

4. In my first letter to the PUC, I wrote on how the proposed Sandpiper was not just about one pipeline, but a means to open us a new corridor for expansion of their pipeline system to the Gulf and through the Great Lakes. A short time later, Calumet Refinery in Superior, WI was trying to get licensing to upgrade a section of the Port in Wisconsin to restart shipping of crude oil over Lake Superior. Please note that Marathon, their major shipper has already barge capability for shipping over the Great Lakes. Calumet Refinery wanted to reopen the use of a 30 years old pipe under the City of Superior. The WI DNR at first said this was a done deal, but had a local meeting to satisfy the public, but later said an EIS needed to be completed. I believe this was simply put on hold by Calumet Refinery because Enbridge at the time did not want this to be used as a way to stop their expansion. It is still a possibility! So this EIS must consider, especially since both the Sandpiper and Line 3 are expansions, where is the oil going? The EIS needs to address the possibility of shipping over Lake Superior and the effect of both light and tars sands crude oil spills in Lake Superior to the cities that depend on water from Lake Superior, people who live next to the lake, Isle Royal National Park, aquatic life, tourism businesses in the region, etc.

MPC Creating Crude/Condensate Advantage



MPC Integrated System



5. This EIS must seriously consider the effect of the routes on the cultural and financial vitality of the Native American Tribes by including the impact on their hunting and gathering rights – especially - Wild Rice. And, there should be representation from the Tribes in direct consult for preparation of this EIS. I was appalled by testimony showing NDPC's own environmental employee did not even know the pipeline's policy; and went to historical records instead of contact with the tribes for data as input to NDPC's Environmental Report. *The lands of several Minnesota Tribes have been greatly impacted by Enbridge pipelines. It is time to honor the knowledge and culture of the Tribes.* A way must be found to quantify not just in comparison of dollars, but to look at the cultural livelihood as a whole to the Tribes of the impact of losing wild rice and other rights granted through their Treaty Lands from building, operating and eventual spills from a new crude oil pipeline corridor along the preferred route by the corporation. Even more reasonably, ***the Tribes need direct representation in this EIS.***
6. Routes: EIS needs to consider in understanding the crude will just pass through Minnesota that a higher standard needs to be met for routing to protect Minnesota's natural resources.

The Mainline needs serious study as a route in both EIS. In the Alberta Clipper application, Enbridge wrote there is one more slot available after the Alberta Clipper is built. The impact of adding the proposed Sandpiper to an already existing route makes sense environmentally because the ***impacts already exist.*** This is non-proliferation and an important part of the law to avoid unnecessary degradation of Minnesota's forests, waters and environment by requiring efficient use of existing pipeline routes.

Just like the Mainline, other system alternative routes that follow existing gas and oil pipelines need to be included even if they are not NDPC/Enbridge's preference. The EIS needs to consider whether locating a new corridor along electrical power lines adds to spill risk from unexpected corrosion. See comments previously submitted by former DNR employee, Paul Stolen, in his Aug. 29th letter - page 3, 1st paragraph, where Paul mentions that "The Keystone 1 pipeline in Missouri, built in 2009, *suffered extreme and unexpected corrosion only three years after installation.* An internal report commissioned by the pipeline company found that this was caused by stray voltage."

And, the study of the Mainline should include the environmental advantage of replacing Line 3 in place instead of abandoning it. I understand pipeline companies do not identify any size of leaks as spills. Line 3 has a history of significant spills, but what about leaks underground? **A cost/benefit analysis must be completed on abandonment/rebuild in different corridor vs. clean up/replace Line 3 in Mainline** when considering (a) there are pipelines on the Mainline exposed to the elements; (b) how many more jobs would be created by direct replacement of Line 3 in the Mainline; and (C) once a pipeline is abandoned then who is responsible to pay for clean up of underground leaks, degraded pipe, etc? In this cost/benefit analysis the following questions need to be addressed from Enbridge's plan for abandonment of Line 3.

- (1) *How do they plan to safely dispose of the discharge from within Line 3 that is called "transported liquid and vapor with an inert material"?* In reality this contains crude oil with hazardous chemicals from the oil and whatever liquid, plus cleaning

agents. Enbridge should not be allowed to simply dump these contents into a waterway or upon the ground somewhere along the route. It is not enough for Enbridge to say they will follow Federal or State regulations. Enbridge needs to clearly state the composition of these chemicals and how they plan to protect the environment and properly dispose of these contents.

(2) *How do they plan to support the existing Line 3 where it is exposed to the elements by design or erosion?* It is not enough to seal the ends. When the pipeline is exposed it can also be a hazard to emergency personnel, children and the public. It is not enough to say they will follow Federal or State regulations. Enbridge needs to clarify a long-term safety plan for exposed sections of Line 3. In the attached article by Dan Gunderson, he describes an example of where Enbridge pipelines are suspended across a river and along the channel. These portions of the pipe risk being damaged by the elements, flood and debris. The pipe inspector quoted in the article said he is “aware of several locations across the state where exposed pipelines crosses rivers or ditches”. And, what about the old pipeline collapse? *The EIS needs to address each of the sites where line 3 is exposed and describe their long-term plan for keeping each portion sealed, supported and safe for the public.*

(3) It is not enough to seal the ends. *How do they plan to seal the portions of Line 3 in which they already admit in section 1 page 1-7, that “Enbridge’s pipeline maintenance program has revealed corrosion growth and other pipe material flaws that have impacted the operating capabilities of the pipeline”?*

These problems will multiply with Enbridge’s plan to abandon more pipelines on the Mainline. In a news article attached written by Dan Gunderson from MPR.org , <http://www.mprnews.org/story/2014/07/29/enbridge-pipelines-exposed> he writes an Enbridge spokesperson admitted they have plans for more than just Line 3. The spokesperson said they plan to “reroute two of the lines next year.” Line 3 is one of these 2 lines. And the spokesperson continued, “A third line is slated for replacement in 2017.” These are existing lines in the Northern Mainline Route, which Enbridge plans to replace. The EIS needs to consider the impact of abandoning several pipelines in the Mainline.

The EIS needs to seriously look at the No-Build option for the Sandpiper and simple replacement of Line 3 in the Mainline because:

- a. A series of two Bakken pipelines are proposed (Dakota Access Pipeline to deliver up to 570,000 bpd from ND to Patoka, IL near Enbridge’s pipeline hub and Energy Transfer Crude Oil Pipeline to deliver up to 570,000 bpd from Patoka, IL to Nederland, TX) which would not pass through Minnesota and would go to pipeline hubs in PADD II and PADD III. These pipelines would have capacity to provide shipment for the same source of oil to similar markets **with more direct routes**. Therefore, should be included in the EIS in the No-Build option.
- b. Rail may be a better option for ND sweet crude because pipelines do not go to the East and West Coasts of the U.S. where refineries of sweet crude are located. For a further discussion on Rail, see my attached comments send from another email that are on record for the proposed Sandpiper.

- c. The oil industry downturn may be a long-term trend with the growing interest in Tesla and other manufacturer's electric vehicles and more efficient use of fuel in hybrid vehicles. Building new and larger pipelines with the intention of 50-60 years of use may more likely become *stranded assets* as crude oil use lessens. Winona LaDuke from Honor the Earth wrote clearly about this and it is on record.
- d. With the signing of the Paris Climate Initiative, Minnesota must step up and question the impact of decisions like more and larger pipelines as being counter productive to stopping Climate change.

7. The EIS needs to study the impact of a new corridor on private landowners vulnerable to the threats and power plays of Enbridge/NDPC. The fact that landowners have already signed is more of a reason to see the effect of this behavior than a reason to support the Enbridge/NDPC's preferred route. As stated above, I have first hand experience of this and luckily by having been a Chemical Dependency Counselor, I know how to address power plays whether they are puffing you up or pushing you down. But, most people do not have this experience and would be intimidated - thus signing to the pressure. See my letter in separate email on the social and financial effects of this process. This needs to be included in the EIS because if you look at the preferred route, private landowners were targeted. Direct lands of the Tribes, Counties, and State were avoided. I have read a copy of the initial contract presented to a landowner. In it they want "perpetual use of temporary areas", access to "any path, road" on their property, no protection of ground water is addressed and they are presented with a so-called "Bonus" if they sign early. The irony is when you add the "Bonus" and the other amount is the real value of the 30 foot easement, but does not pay for the full 120 foot easement they want perpetual use of. In our case, it was worst-case scenario with much larger temporary staging areas because of how much wetlands we have. Effectively, the bonus is only a power play in some cases people were given 24 hours, which does not allow them to find an experienced lawyer. In the initial Carlton meeting, landowners who complained were quickly ushered out to talk to a representative. Please consider the individuals and families who would directly affected by Enbridge/NDPC's plans.

I understand that you want to limit what you have to review, but there is some important documentation on the record for both the CON and Routing dockets: MNPCA and MNDNR; Paul Stolen; MN350; Friends of Headwaters; Carlton County Land Stewards; Honor the Earth; and the Tribes (White Earth, Fond du Lac, Mille Lacs, Leach Lake, Red Lake, etc.), Lake Associations and others. Please consider reviewing these.

Thank you for your consideration.

Sandy Sterle
2676 County Road 104
Barnum, MN 55707
218-384-4054

1 attachment – my previous letters still applicable will be sent under a separate email.

Erosion exposes Enbridge oil pipelines near river in NW Minn.

Environment

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

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

. LISTEN Story audio 4min 18sec

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

Pipelines are visible in this image from Google Maps:

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

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

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

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

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

"There are certainly risks," he said. "If you had log jams,

and things like that could put a pipeline at risk, yes."

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

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

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

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

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

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

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

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

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

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

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

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

January 21, 2015

From: Sandy Sterle
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Before the Office of Administrative Hearings
600 Robert Street North
St. Paul, MN 55101

For the Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101

RE: PL-6668/CN-13-473 (Certificate of Need)
OAH 8-2500-31260

Dear Judge Lipman and Honorable Commissioners,

This letter is commenting on the Certificate of Need (CON) for the proposed Sandpiper Pipeline in Minnesota. After introductory remarks, this letter will be presented in three sections: looking at the companies involved; the rule criteria and Minn. Statutes need to be applied in this decision; and discussing the Department of Commerce's (DOC) conclusions in relation to the criteria.

The reason for writing is not that I am for or against a pipeline.

The overarching reason is to ***encourage transparent and fair consideration*** in the application of the law, so corporations do not receive more consideration than the people, waters and environment of Minnesota. I am against a foreign corporation protected by a United States LLC shell using Minnesota for yet another new hazardous industrial corridor that will inevitably lead to the detriment of the tribes and citizens living in our state. Just look at what recently happened to Glendive, Montana's water supply from 50,000 gallons of oil spilled 6 miles upriver with only a 12" pipeline under the Yellowstone River.

http://hosted.ap.org/dynamic/stories/U/US_PIPELINE_SPILL?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT

I would like to encourage finding, *if necessary, a route with the least impact* to our waters and environment so that tribal treaty obligations and the health and well being of all people in Minnesota are respected. It would punctuate the injustice of this process if a new hazardous industrial corridor were granted on economic justification alone for the benefit of a few who demand privilege. It is ironic that testimony was given in favor of the proposed Sandpiper expressing a belief that it would lead to less war over oil. An object like a pipeline will not stop war...people go to war either from having been manipulated into it or when their rights and their environment are treated *without respect*, thus fighting to protect their way of life. This is not unlike what the applicant has set up in pursuing this proposed pipeline. There would be no conflict if transparent and fair consideration is applied in this decision, and if the applicant were to cooperate with the parties and state agencies to find a solution for everyone's benefit and well being.

This CON should be denied to uphold the principles of cooperation and fairness. The applicant needs a "No" to influence them to change. Minnesota should give a clear message to the applicant that using manipulation, refusal to cooperate, and expectations of privilege without minimal accountability are unacceptable business practices in our state.

Minnesotans may have the reputation for being nice, but we are intelligent, caring and progressive people who deserve respect. This company's strategy of using partial truths to promote misperception, using threats of eminent domain for disempowerment, and waving incentives of economic gain to gather blind support, has been applied across the state from the media to the public to landowners to county commissioners to tribes to state agencies to Legislators... This strategy is disrespectful. This strategy does not build trust nor does it build relationships. It was so interesting to watch late in the Duluth hearing how a man testifying was deceived into believing it was important that the proposed Sandpiper would provide Bakken crude to the Minnesota refiners after it was already established that they have no need for the proposed pipeline. One of the applicant's panel members did not answer the man's question directly, but focused on the idea of connection of the proposed Sandpiper at Clearbrook, MN to imply this was important to Minnesota refiners. The man testifying looked confused by this partial information, yet seemed to accept the answer.

From education and experience as a counselor, I know this company's strategy will not change unless those who have the power to set firm limits continue to exercise consequences that will hold the applicant accountable. It takes courage to stop making decisions based on an emotion like fear evoked by manipulation, and it takes vision to see outside the box from having been convinced that there is no choice. Minnesota does have a choice to apply transparent and fair consideration in the application of the law.

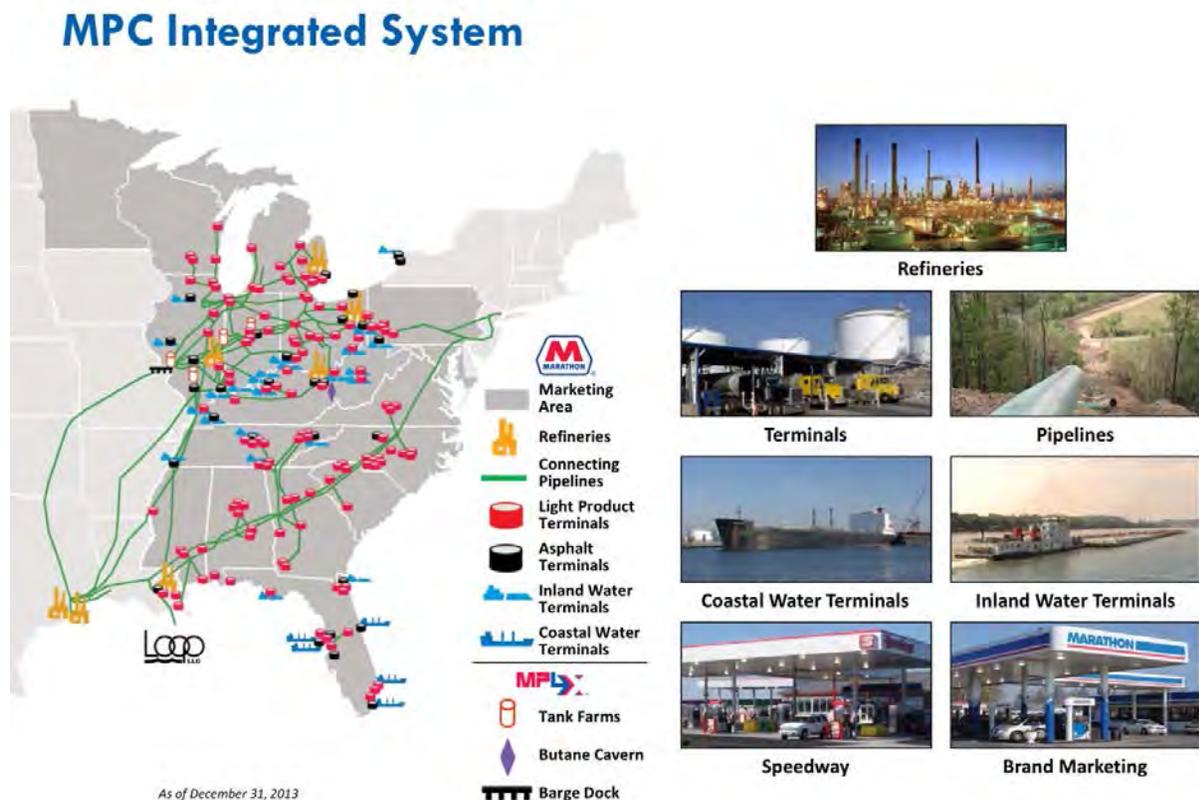
Section 1: Looking at the Companies Involved

The original application was submitted by Enbridge Pipelines LLC. But the application now is under a subsidiary called North Dakota Pipeline Company LLC (NDPC). Early in 2014, I asked an Enbridge employee, "Why the name change?" He indicated in an email that when a project is significantly shared, like the proposed Sandpiper is shared with Marathon, it is the policy of Enbridge to change the name. He also said the Duluth personnel are still Enbridge employees even though they were working on the proposed Sandpiper. Since NDPC had some of those Duluth Enbridge personnel on the panel at the hearings, and the application uses Enbridge facilities in its description and justification, I will reference the true company behind this application in this letter, which is Enbridge. It is important to acknowledge the concern expressed by the public at the Duluth hearing over NDPC having been set up as a limited liability corporation, and concern over the question of what would be the limits on NDPC's responsibility when Minnesota faces consequences from a Sandpiper crude oil spill?

To get a glimpse over what is the importance of Marathon to this project, I went to the Illinois Commerce Commission's (ICC) website <http://www.icc.illinois.gov> to check out if there was a connection with the facility mentioned by DOC that a committed shipper required to be constructed to fulfill their contract. The facility had been identified in the DOC's testimony as the Southern Access Extension (SAX) pipeline still in dispute in Illinois. The ICC file number is 07-0446. Like the proposed Sandpiper, Marathon is both part owner of the SAX and a major committed shipper of the SAX. Picture 1 shows some of Marathon's holdings in the U.S. under the company name of MPC, which includes pipelines, terminals,

refineries, barges and gas stations. I was stunned that MPC's holdings include every step from transportation of crude to refining to owning the gas stations. Notice that Marathon has an inland water terminal in the New York Great Lakes Region.

Picture 1:



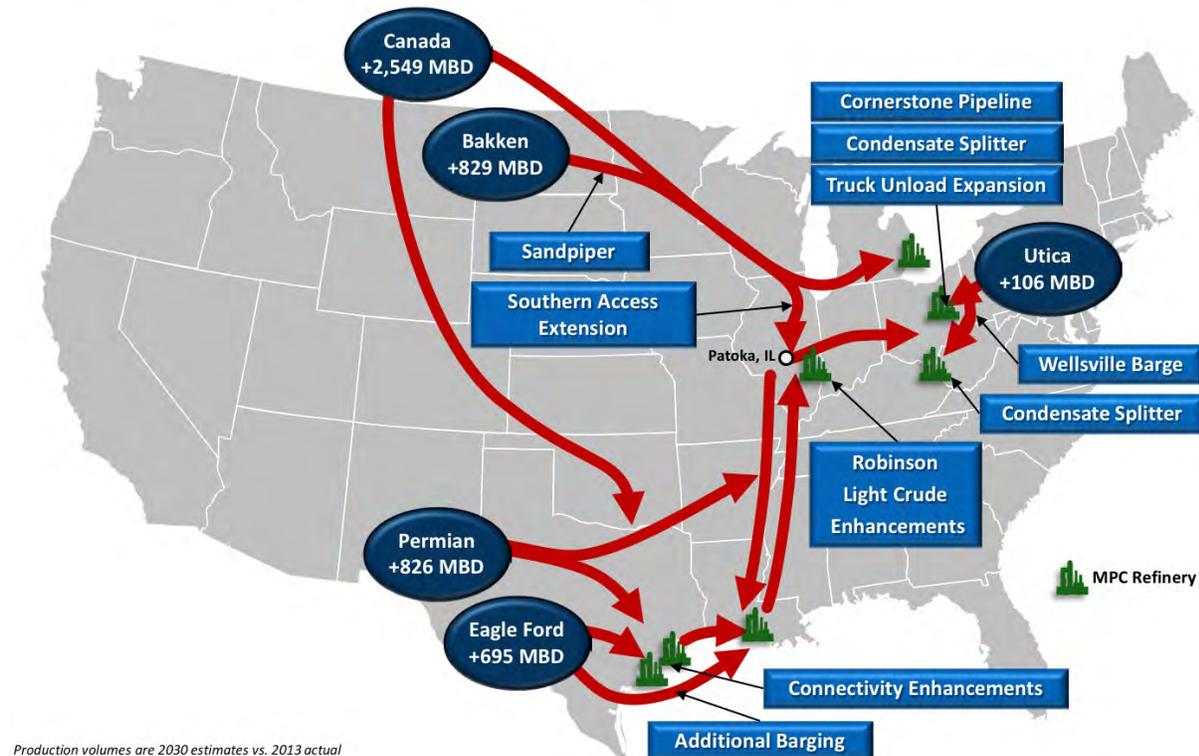
There is a contested case of landowners identified at ICC as the Turner Interveners who are arguing that the SAX pipeline is for the private use of Marathon, so Marathon should not be granted eminent domain. Picture 2 shows the proposed Sandpiper is critical to Marathon's plans to move **both Canadian and ND light crude** through the proposed Sandpiper to Wisconsin through the Enbridge system pipelines to the SAX to Marathon's own pipeline from Patoka to MPC's Robinson refinery. The applicant for the SAX argues that they are a common carrier because 10% is available for other shippers. In a brief, dated November 6, 2014, on page 5, the Turner Interveners cite Marathon's own description of the interconnection between the proposed Sandpiper and SAX in a 10-K filed with the SEC, writing "*Our commitment to the Sandpiper project also gives us the option to increase our*

ownership interest in Enbridge's Southern Access Extension Pipeline to 35 percent. “ This may be why the DOC concluded, *“increased domestic production of light crude oil will displace imported oil and increase demand by refiners for less expensive domestic oil.”* The ***use of the word domestic is misleading***; because in documents from the ICC website, the applicant includes Canadian oil for shipping on the proposed Sandpiper. The DOC did not mention why the oil could be less expensive; because Marathon has ownership in every facility from transportation to the pump allowing an advantage to influence the cost for each of these steps or leverage from being one of the largest committed shippers on the proposed Sandpiper and SAX.

In picture 2 on the next page, the light crude oil from the proposed Sandpiper connected by the Enbridge system in Wisconsin to the SAX opens the way for this light crude oil to also reach Marathon's facilities in the Gulf. The word *crude/condensate* in the title is apropos. A December 30, 2014 article from Reuters reports that the U.S. export authority has <http://www.reuters.com/article/2014/12/30/us-usa-crude-exports-exclusive-idUSKBN0K80SE20141230> alerted oil companies that they can ship a processed form of crude call condensate without formal permission. Then, the Sandpiper oil could not only funnel into MPC's own refineries, but also into MPC's Gulf facilities to be sold overseas. I agree with the Turner Interveners. How can granting eminent domain be justified for expansion and profit of Marathon when the DOC admits the people of Minnesota do not need it?

Picture 2:

MPC Creating Crude/Condensate Advantage



Section 2: The Rule Criteria and Minn. Statutes Need to be Applied in this Decision.

There are two sections of statutes that do *not support decision-making using only economic reasons* in large-scale projects. The definition of eminent domain requires a higher standard of public benefit than just economic consideration; and the standard of *in the public trust* regarding MEPA protection of Minnesota's environmental amenities and values also requires equal consideration to economic consideration.

The DOC concluded that the proposed Sandpiper is needed for committed shippers who will be adversely affected if the CON is denied. Looking closer at Illinois Commerce Commission's (ICC) contested case 07-0446, Marathon plans for the proposed Sandpiper to funnel light oil from Canada and ND to their own refineries and possibly their Gulf facilities

to sell condensate overseas. And, Minnesota counties would receive additional tax revenue. ***These are only economic development justifications.***

The definition of public use and public purpose in the eminent domain Minn. St. 117.025 does include function of a public service corporation, which includes pipelines. Yet in (b) of the definition of public use and public purpose, economic development includes “*an increase in tax base, tax revenues, employment, or general economic health*” and (b) further states these “*do not by themselves constitute a public use or public purpose*”. Minn. St. 117.025 is ***not included in the Minn. St. 117.189 exclusion list*** for Public Service Corporations. Thus, this definition of public use and public purpose still applies and should be considered before granting eminent domain. This is a critical distinction, since the granting of the CON effectively gives the applicant the use of eminent domain over private landowners. Do not Minn. Statutes have more influence on decisions than rules?

In response to my questions for testimony in Duluth, the DOC admitted hypothetically that the proposed Sandpiper could be justified with Canadian shipper contracts, which is verified by looking at ICC’s contested case files. This explains the DOC conclusion that “*the Project must go through or near Clearbrook based on shipper demand and contracts*”; because at Clearbrook, MN, Canadian crude oil comes into the Enbridge terminal and can be transferred to ship over the rest of the proposed Sandpiper to Superior, WI. The preferred route from Clearbrook, MN to Superior, WI would create a new corridor through the most sensitive soils and pristine waters of our state. And, this is where the largest number of new landowners (76% of the preferred route) who would be affected by the use of eminent domain, and who have been ***threatened by eminent domain*** to sign easement contracts prematurely – before the CON is granted and route approved. Without directly proving public use and purpose is more than just economic development, this project does not satisfy the definition for the use of eminent domain. Recently, Minnesotan’s spoke and the Legislature changed the statute so eminent domain could not be granted to a corporation simply for economic development. Then, if this applicant were given access to eminent domain, this decision would disrespect the wishes of the people of our state.

Economic considerations alone also do not satisfy MEPA statutes. The public trust needs to be upheld as described in Minn. St. 116D.03 with equal considerations to the environment as to economic considerations, and Minn. St. 116D.04 concludes “*Economic considerations alone shall not justify such conduct.*” Therefore, the adverse cumulative impacts from the proposed Sandpiper and the Line 3 upgrade on the environment in construction, adverse impacts in the event of oil spill(s), and adverse impacts upon abandonment of the pipeline, like the proposed with Line 3 upgrade, must be equally weighed with economic benefits.

This preferred route would enable Enbridge to abandon more pipelines on the mainline, and easily justify additional upgrades, like Line 3, with larger diameters to ship greater volumes of Canadian crude through our state to Superior, WI where one of their affiliates, Calumet Refinery, is working towards using barges to ship crude oil over the Great Lakes. By looking at the first picture in section 1 above, it shows Marathon owns barges and has an inland water terminal in New York with access to the Great Lakes region. Transporting Canadian and Bakken crude oil over the Great Lakes or to the Gulf - essentially to world markets - is not a public purpose for people of Minnesota. It is more likely a detriment and a greater risk to Minnesota’s waters and environment. The MEPA statutes of require equal consideration of these risks that people and tribes living in Minnesota would bear.

The Environmental Report (ER) by DOC that was developed without public input on scoping, without public input on the document before final release, without public access to the data, and without testimony of the agencies whose role is to protect the environment; and especially considering the document was released late on the Friday before Christmas holiday just a few weeks before the hearings ***does not meet the standard of equal consideration of the environment.*** Knowing Line 3 Upgrade application is already in the agencies’ hands raises the question of and shows justification for a full EIS before the matter of need is decided with economic reasons alone. Please call for a full EIS to uphold the public trust.

Last fall the PUC told the public and parties in a meeting that they are necessary for this process to work. All of the parties and the public who are concerned about Minnesota’s waters and environment are trying to show you that there are better choices for our state.

This is why I am asking that the Minnesota MEPA and eminent domain Statutes be applied as well as the rule criteria in decision-making on the CON, so that the promise of economic gain, which the supporters of this pipeline are so excited and seemingly blinded by, does not override the importance of upholding the sacred public trust.

Section 3: Discussing the DOC's Conclusions in Relation to the Criteria

First, this paragraph will discuss what is the implication of placing a condition on the CON to wait for construction of the facility - Southern Access Extension pipeline. I understand and agree to the reason for this condition, because the shipper contracts have a termination clause if the facility is not built within a certain time period. So, these contracts cannot be used right now to justify need, because they could still be terminated. If these contracts are important enough to put a condition on the CON, then their weight has bearing on criteria A meaning Enbridge has not proven supply to the applicant's customers will be adversely affected by building the proposed Sandpiper. It is only after construction and with the addition of the Southern Access Extension pipeline that this "OR" portion of criteria A will be met in the future. Therefore, ***at the time of decision, criteria A regarding the applicant's customers has not been met and cannot be used as justification to grant the CON.***

The next part of this letter follows the Minnesota 7853.0130 Criteria. Each alphabetic letter and number in parenthesis is associated to the particular criteria discussed. The criteria are not quoted, because they are written in a double negative, but instead the comments are written in more direct language. I apologize if it seems like I am repeating topics, but I am trying to be thorough and specific to each criteria.

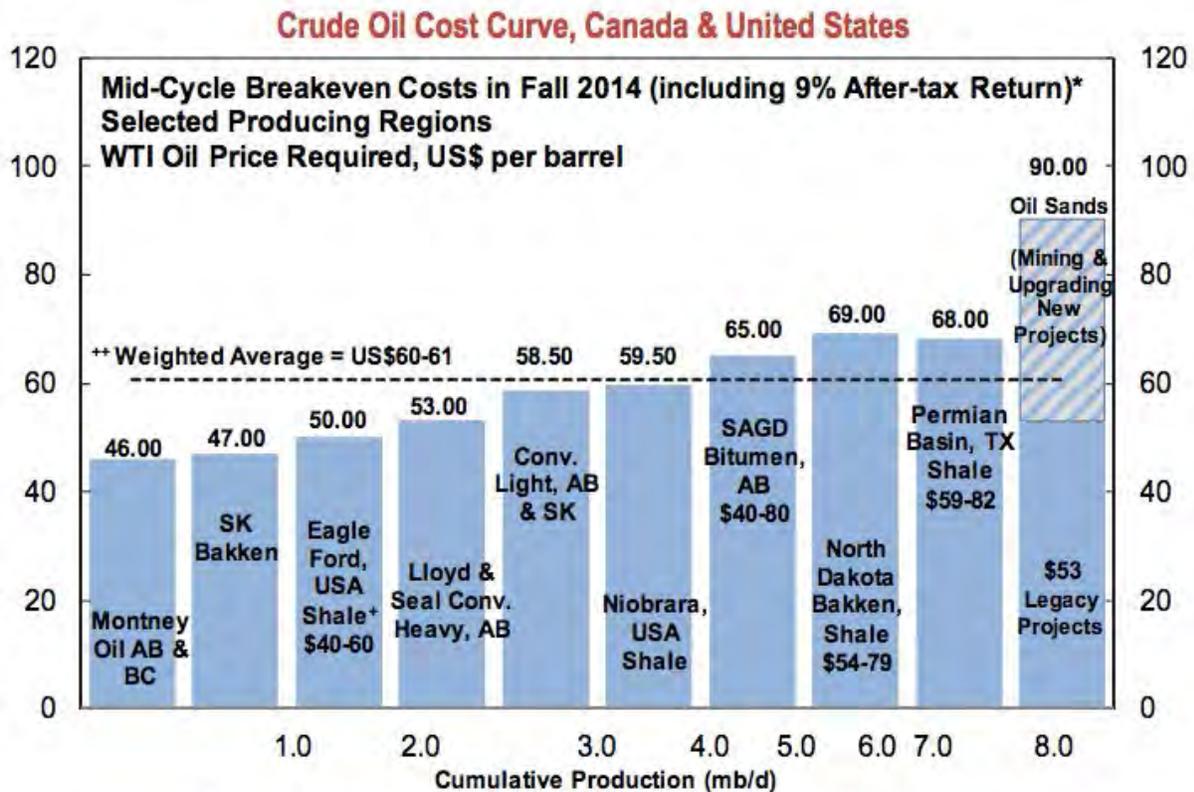
A. The Information Brief for the MN House of Representatives from June of 2013 states that *"Minnesota's refineries cannot absorb additional crude supplies at this time"* and it quotes Enbridge in footnote #12 describing their intension is to connect Bakken Oil to PADD II refineries, eastern Canada and the Gulf Coast. The DOC also concludes the *"overall demand for crude oil, at both the national and regional level, is expected to be flat or declining over the next 25 years"* and *"Minnesota refiners are not expected to benefit from*

Sandpiper since they are primarily heavy oil operations and their demand for light oil has remained constant.” By these conclusions the DOC recognizes this proposal has no direct benefit to the people of Minnesota, neighboring states or the nation. And, the additional conclusion can be made that ***by denying this CON there would be NO adverse affect of future supply to the people of Minnesota, neighboring states and the NATION.***

But, the DOC adds “*increased domestic production of light crude oil will likely displace imported oil and increase demand by refiners for the less expensive domestic oil*”. As described in section 1, the oil could be less expensive because Marathon has ownership in each facility from transportation to the pump, including partial ownership in the proposed Sandpiper and SAX. This gives Marathon the advantage to minimize costs for each of these steps and leverage itself as one of the major committed shippers. Shown in graph below, the cost of crude oil from what have been stable sources for decades, like, Saudi Arabia, in the current market are less costly than sources from fracking, because the cost of production for *Saudi crude is in the \$10-\$25 range where the cost of production for ND Bakken oil is in the \$54-\$79 range. Therefore, this DOC statement that the domestic oil will be cheaper and likely displace imported oil may be true if Minnesota allows Marathon to have this advantage, and may not be true anyway if oil prices continue to stay low as predicted in 2015.

A (1). The price of crude has dropped significantly since last summer from a glut of oil in the United States, from weakening oil demand in China and Europe, and stagnation around the world as reported by Brad Plumer on January 6, 2015 in “*Why Oil prices keep falling – and throwing the world into turmoil*” at website <http://www.vox.com>. As of Monday, WTI Crude Oil index was reporting the price of crude was down to \$48.69 with a 1 year forecast for \$55 a barrel. Fracking wells decline quickly to 55% after the first year, to 30% after the second and to 17% after the third. The current price does not support investment in new wells because it is below breakeven. See Graph below titled “Crude Oil Cost Curve, Canada & U.S.”, which shows breakeven prices for ND Bakken Oil from \$54 to \$79 a barrel. Bakken oil production will decline quickly in the next 3 years without new wells, so there is a ***question whether there will be capacity available to fill the proposed Sandpiper and whether there will be demand*** for the oil transported by the proposed Sandpiper.

Already, ND is seeing a 23% drop from December in working oil rigs in the core of the Williston Basin as reported on Jan. 14, 2015, by David Shaffer in the Star Tribune. He added that drilling could decline further where ND oil output could drop below current levels and some companies have made decisions to suspend drilling in 2015. The applicant claims they will receive payment in penalties even if shippers do not follow contracts. Then with an ongoing low crude oil cost, this mean that the shipper contracts signify a virtual need (a promise to pay penalties), but not an actual need to ship Bakken oil if production continues to drop as reported. Therefore, ***the drop in oil prices over the last 6 months leading to less Bakken production has the probable result of denial of the CON would NOT adversely affect the future Bakken oil energy supplied to the applicant, or to the applicant's customers***, because there would not be capacity to fill it.



* Excludes 'up-front' costs (initial land acquisition, seismic and infrastructure costs): treats 'up-front' costs as 'sunk'. Rough estimate of 'up-front' costs = US\$5-10 per barrel, though wide regional differences exist. Includes royalties, which are more advantageous in Alberta/Saskatchewan.
 + Liquids-rich Eagle Ford plays, assuming natural gas prices of US\$3.80 per mmbtu.
 ++ Weighted avg. = US\$60-61 including existing Integrated Oil Sands at C\$53 per barrel.
 Saudi Arabia: US\$10-25 per barrel.
 Data source: Scotiabank Equity Research and Scotiabank Economics.

A (1). In a recent filing by Enerplus Resources Corp. (20151-106145-01), they identify themselves as a committed shipper for the proposed Sandpiper. In the second paragraph on page 3, Enerplus writes, “*the termination of one of Enerplus’ rail supply contracts coincides with the original Sandpiper in-service date. If Sandpiper’s preferred route is not approved, Enerplus may recontract those volume under terms relying on less advantageous rail netback pricing.*” This admission by Enerplus is not that their supply will be affected if the CON is not granted, **but their costs will be affected**. This proves that there will not be a lack of supply to this applicant’s customer, because this shipper’s oil has and could still be transported by rail. This is why I asked the question in the Duluth hearing of can a shipper simply transfer their contract(s) from another means of transport (existing pipeline or rail) to justify the proposed Sandpiper’s need? The DOC said they only look at the existing contracts for the proposed pipeline, but these contracts in the case of Enerplus only show the shipper’s desire to reduce costs of shipping oil. Only by analyzing current rail or pipeline capacity - OR - at least asking committed shippers if they have an existing or planned means to transport the oil contracted to the proposed Sandpiper, can it be determined if there will be adverse affects of the future energy supply to the applicant’s customer. ***If shippers like Enerplus are simply transferring their contracts to the proposed Sandpiper for their economic advantage and this does not meet the criteria in A.*** How can eminent domain be justified for only giving companies like Enerplus an economic advantage?

Enerplus continues with...“*Commercial arrangements may be adversely affected, and these adverse effects extend beyond just Enerplus.*” Enerplus is alluding to other committed shippers also looking to the proposed Sandpiper for economic advantage who otherwise would be able to ship oil by rail. Therefore, ***the result of a denial of the CON will NOT adversely affect the future supply to the applicant’s customers,*** and the criteria does not specify need as giving the applicant’s customers an economic advantage.

A (4). The DOC concluded other alternatives like rail do not meet the need or would negatively affect Minnesota and neighboring states. Enerplus as discussed above has been using oil-to-rail to meet their needs and wrote they intend to return to rail shipping if the

proposed Sandpiper is not built. When asked in the Duluth hearing whether the DOC had **direct evidence** that the proposed Sandpiper would reduce train congestion, the response was only an indirect association between rail congestion and the proposed Sandpiper. The DOC indicated there had been congestion from oil-to-train shipping last fall affecting farmers, etc... The evidence necessary to prove a direct relationship is by having reviewed committed shippers contracts that would transfer their light crude oil capacity from rail to pipeline. But, the DOC may not have wanted to reveal this, because it would have shown as discussed above that shippers were simply transferring their contracts to the proposed Sandpiper for their economic advantage and this does not meet the criteria in A.

Even if the committed shippers were transferring their contracts to the proposed Sandpiper, the oil-to-rail industry is continuing to expand. Without the oil to rail industry's commitment to ship less oil by train through Minnesota, building the proposed Sandpiper will not change train congestion. Even the MN Dept. of Transportation has testified that the proposed Sandpiper will not reduce rail congestion. The data in Tables 1 & 2 on the next page are from Oil Change International's interactive map on their website <http://www.priceofoil.org>. Table 1 lists 9 companies that are recently expanding, under construction for 2015 or planned for 2016 to provide more capacity to load Bakken oil onto trains. This includes a new facility in Cromer, Manitoba owned by Tundra to be connected to Enbridge pipelines to load 30,000 to 60,000 bpd oil to trains. The combined new and expanding oil to train loading capacity is greater than what the proposed Sandpiper would transport out of North Dakota. Enbridge's own website does not say pipelines are replacing rail, but states that "**Pipelines and rail serve complementary roles, and rail plays a role in extending crude oil supply networks**". The Sandpiper will not change the amount of Bakken oil transported by rail. These 9 company's plans show this industry intends to increase its capacity to load Bakken oil onto trains whether the proposed Sandpiper is built or not.

The reason why shippers are moving oil by rail is not just because a lack of pipeline availability. Kathy Hollander at the St. Paul hearing outlined why oil by rail is here to stay because of the following market based reasons. Rail offers flexibility so a refinery can

purchase the capacity of ND light crude oil when it needs it. Rail transportation of oil is faster than pipeline. The rail loading facilities are significantly less expensive to build than pipelines. Rail keeps light crude oil uncontaminated which results in a better price. Right now there are no pipelines to the East and West coasts where a lot of refineries that use light crude oil are located. See Table 2 for new and expanding unloading facilities in the East. There are new and expanding oil to train unloading facilities in the midwest, too. Enbridge is planning one at their Flanagan Terminal near Pontiac, IL.

TABLE 1: New, Expanding and Planned Oil-by-Rail Loading Facilities for Bakken Oil

from Oil Change International website *priceofoil.org*:

<u>Company</u>	<u>Location</u>		<u>Current Capacity</u>	<u>Future Cap.</u>
Ceres Global	Northgate, Sask.	Expand in 2015	35,000 b/d	70,000 b/d
Crestwood Mid. Part.	Epping, ND	Expand in 2015	120,000 b/d	160,000 b/d
Dakota Gold				
Transfer LLC	Plaza, ND	Planned for 2015	none	70,000 b/d
Dakota Plains	Newtown, ND	Current Cap Jan, 2015	57,500 b/d	80,000 b/d
Watco/Kinder M.	Dore, ND	New in 2014	70,000 b/d	
Northstar Tran.	E. Fairview, ND	New in 2014	180,000 b/d	
Hess	Tioga, ND	Expand late 2014	50,000 b/d	120,000 b/d
Phill. 66 & Energy Part.	Palermo, ND	Planned for 2016	none	no stats
Tundra Energy & Enbridge	Cromer, Canada	Expand in 2015	30,000 b/d	60,000 b/d

TABLE 2: East Coast 2014 & 2015 Oil-by-Rail Unloading Facilities for Light Tight Oil

from Oil Change International website *priceofoil.org*:

<u>Company</u>	<u>Location</u>	<u>Previous Capacity</u>	<u>New Capacity</u>
Arc Logistics Partners	Mobile, AL	17,000 b/d	70,000 b/d
Eddystone Rail Terminal (75% Enbridge & 25% Canopy Prospecting)	Philadelphia, PA	80,000 b/d	160,000 b/d
Monroe Energy	Trainer, PA	35,000 b/d	75,000 b/d
PBF Refining	Delaware City, DE	145,000 b/d	210,000 b/d
Targa (Light Tight & Tar Sands)	Baltimore, Maryland	Planned for 2015	25,000 b/d

The oil to rail facilities will continue to operate as long as it is profitable. This proposed Sandpiper will not lessen rail congestion and instead ***A (4) the growing rail loading capacity could meet future transportation demand for Bakken Oil that the Sandpiper proposes to fulfill without requiring a CON.*** Enbridge has access to their own operating and planned oil to rail facilities for both loading and unloading. The shippers have reasons for moving oil by rail that are not just because a lack of pipeline availability. And, if there is less production because of oil glut and prices stay low or later when the Bakken fields lose productivity in a decade or so, at least rail has the flexibility to transport other goods unlike pipelines whose companies want to abandon them, so landowners, tribes or Minnesota will end of with the responsibility to cleanup any hazardous chemicals left in the ground.

Oil to rail trains do have problems that need to be solved. The train industry is responding to public and governmental pressure to increase safety by agreeing to upgrade tracks, adding safer oil cars, and slowing down in critical areas. Farmers need equal access to train transportation that ***can only be reasonably solved through Federal regulation.*** This is not unlike how the coal industry and power plants are working with the U.S. Surface Transportation Board resulting in cooperation by BNSF to respond to electrical generation company coal shipping needs in Minnesota as reported by WDIO.com on January 7, 2015.

B. A series of two Bakken pipelines are proposed (Dakota Access Pipeline to deliver up to 570,000 bpd from ND to Patoka, IL near Enbridge's pipeline hub and Energy Transfer Crude Oil Pipeline to deliver up to 570,000 bpd from Patoka, IL to Nederland, TX) which would not pass through Minnesota and would go to pipeline hubs in PADD II and PADD III. These pipelines are planned to be completed by the end of 2016 and would have capacity to provide shipment for the same source of oil to similar markets ***with more direct routes.*** These two proposed pipelines above are a reasonable alternative that the Department of Commerce ignored in their recent report on "*Sandpiper Pipeline: Comparison of Environmental Effects of Reasonable Alternatives*".

B (3). By not recognizing these as reasonable alternatives in their study shows this ER is incomplete. Because these pipelines do not go through Minnesota, avoid shipping Bakken

oil over the Great Lakes, and especially do not go through areas of the state with sensitive soils and pristine waters that support wild rice production, fishing and state hatchery, communities' water supply, resort industry, etc., they qualify as a reasonable alternative which would have less effect upon our natural and socioeconomic environments.

C. The negative consequences to Minnesota of granting the CON are **greater** than a denial of the CON.

C (1). In June of 2013, a Minnesota Legislative report stated "*Minnesota refineries cannot absorb additional crude supplies at this time.*" In Adam Heinen's testimony for DOC he stated that Minnesota's historical petroleum consumption has decreased, that it is unclear whether apportionment on Line 81 has had any effects on Minnesota refineries; and that the St. Paul refinery and shippers argued to FERC that the proposed Sandpiper project was unnecessary and would increase production costs. Therefore, building the proposed Sandpiper would not affect overall state energy needs.

Enbridge claims a portion of the Sandpiper from ND to Clearbrook, MN could be a backup. The Information Brief for the MN House of Representatives Legislative dated June 2013 describes, "*About three-fourths of the crude oil used in Minnesota's refineries is imported from Canada*". Minnesota also receives refined petroleum products directly from ND, from Calumet in Superior, WI, which refines Canadian crude, and BP's refinery in Indiana, which refines crude from Canada, Texas and the Gulf. Therefore, the claim that the proposed Sandpiper could be a backup seems insignificant to the overall state's energy needs. On page 28 of Adam Heinen's DOC testimony, he concludes "*it is unclear if Minnesota refiners would benefit from a redundant pipeline system. In fact, Minnesota refiners may face higher crude oil prices as a result of the Project, which could counteract any positive benefits from redundant service.*" Consumers and organizations, like our schools, which use Minnesota refined products, would receive a detrimental economic impact from higher prices at the pump.

C (2). Advocates for the proposed Sandpiper at the hearings argue financial benefits of jobs and additional tax revenue are of greater importance. **Enbridge is a master at using money to influence people.** This CON cannot be decided on potential financial gain only. What the unions need are not 6-month temporary high-paying jobs that a good share go to workers from outside of our state, but instead, they need long-term, stable, good paying jobs that support Minnesota families. A better solution would be for Enbridge employees in Duluth to bring renewable energy projects to Minnesota to partner with our electrical power generation companies to develop solar gardens to meet the states renewable goals. With uncertainty over what are the limits of responsibility of a LLC designation, additional tax revenue to local governments or the state would not cover the hard to quantify urgent situational costs from oil spills, like: cost of providing bottled water and clearing a public water supply of hazardous chemicals like benzene, loss of the DNR trout hatchery or a nationally recognized trout stream, loss of highly valued property in recreational areas from polluted water sheds and lakes, damage to prized state parks and rivers, or loss of natural habitat which sustains our resources based economy. Temporary jobs and additional tax revenue do not balance against these known risks.

The Center for Biological Diversity analyzed oil spill data from the Pipeline and Hazardous Materials Safety Administration. Since 1986, there have been nearly 8,000 pipeline incidents resulting in 500 deaths, over 2,300 injuries and up to \$7 billion in damages. In 2013, approximately 5 million gallons of oil spilled from pipelines in America. **Oil spills are a reality of the pipeline business** including Enbridge. And, oil spills from pipelines are statistically found to be larger.

Last year when the Minnesota Legislature was working on the Oil Spill Act, the pipeline industry lobbyists refused to accept even minimum standards regarding oil spill preparedness and response. Winona LaDuke in her testimony lists those minimum standards. She illustrates what she calls the catastrophic problem with the Sandpiper because of its proposed route through sensitive environmental areas and inaccessibility. Enbridge and other pipeline companies operating in Minnesota should be held accountable

to at least minimum standards and the denial of the CON would be one way to send this message.

As previously shown, the proposed Bakken pipeline is a vehicle for Enbridge to open ***a new corridor in Minnesota*** with the Line 3 upgrade being quickly on Sandpiper's heels. This new corridor is intended to expand transport of Canadian crude to ports to ship overseas: Lake Superior Harbor, Montreal/St. Lawrence Seaway and the Gulf. This is not in the public interest to risk beloved environmental resources like the Great Lakes for shipping Canadian crude overseas. The new corridor proposed for the Sandpiper and Line 3 upgrade ***poses too much a risk***.

More specifically, in the August 21, 2014 letter from MPCA on the docket, they identified that the preferred route of the proposed Sandpiper has ***the greatest potential impact to:*** "pristine areas of the state and/or areas that have high habitat scores", "areas of the state with the best water quality", "state forests, parks and wildlife management areas", and "stands of wild rice economy" – as compared to other system alternatives.

The science of climate change is proven and Minnesota citizens are already experiencing the effects of growing climate instability with a recent both colder and snowier winter, a 100 year flood event in Carlton County and 2 years in a row of significant floods along the border lakes. These climate events have had socioeconomic costs born by citizens, counties, and businesses in our state, but not are considered as potential impacts by the applicant. Yet, the use of the crude oil transported through Minnesota to other states and countries will add to climate change effects in Minnesota. Climate change effects may be hard to quantify specifically to this pipeline proposal, but they will add to the overall consequences to our society if this CON is granted.

C (3). A report by the Global Commission on the New Climate Economy found on the web at <http://www.newclimateeconomy.report> succinctly describes the negative effect of spending money on unsustainable energy infrastructure as *"it can lock in an energy infrastructure that exposes countries to future market volatility, air pollution and other*

environmental and social stresses". The money spent on building the proposed Sandpiper not only could be better utilized to develop clean and sustainable energy, but also could deter current spending on sustainable energy.

What this means regarding criteria C, there are more negative consequences to society in Minnesota and surrounding Great Lakes Region by granting the CON, especially when looking at the whole picture - higher crude costs for Minnesota refiners leading to higher costs for consumers, yet to be determined urgent situational costs from an oil spill, how the preferred route has the greatest potential impact to Minnesota's pristine waters, wild rice economy, and environment as compared to other system alternatives, the costs from consequences from growing climate instability and how energy infrastructure like the proposed Sandpiper could deter spending on sustainable energy.

Summary Remarks:

This letter was written to encourage transparent and fair consideration of the law when weighing the decision on this applicant's CON application, and consideration of system routes with lesser impacts. The principles of cooperation and fairness are important business practices that need to be promoted by those who have this legal power to insure the people of the state are treated with respect and uphold the sacred public trust.

When looking at the companies involved in this application, it is sobering to find out how Marathon has holdings, which include each step from transport of crude oil to refining to owning gas stations. With plans to add the proposed Sandpiper and SAX to their holdings, this adds to Marathon the ability to transport both Canadian and ND light crude oil to their Marathon refineries or facilities in the Gulf, which could result in significant advantage and also leverage as a larger committed shipper to influence costs.

The rule Criteria and Minn. Statutes for MEPA and eminent domain need to be applied in this decision to ensure that economic reasons alone are not the deciding factor whether to grant the CON. The ER was developed without public review and lacked timely access to

the report and data before the hearings. This does not meet the standard of equal consideration of the environment, especially considering the cumulative impacts with Line 3 upgrade. Please call for an EIS to uphold the public trust.

In discussing the DOC's conclusion in relation to the criteria, this letter took a closer look at parts of the criteria. By placing a condition on the CON, this gives pause to clarify whether need is met now since the 2 facilities (proposed Sandpiper and SAX) together are necessary to fulfill the shipper contract(s). Marathon is most likely the shipper involved as revealed from reviewing ICC's contested case on the SAX. Both Heinen's testimony and DOC's written one page handout leads to the conclusion that there would be no adverse affect of future supply to the people of Minnesota, neighboring states and the Nation. The drop in oil prices over the last 6 months leading to less Bakken production has the probable result of denial of the CON would not adversely affect future Bakken supply to the applicant or its customers, because there could not be capacity to fill the proposed Sandpiper. And, if other committed shippers like Enerplus are simply transferring their contracts to the proposed Sandpiper for their economic advantage, this does not meet the criteria clause of affecting supply to the applicant's customers either. Lastly, oil to rail may not be unproblematic for transporting Bakken crude oil, but this industry is growing and cooperating with regulatory changes and could meet future transportation demand for Bakken oil that the Sandpiper proposes to fulfill without requiring a CON. This letter asserts that by taking a closer look at the details behind the DOC's conclusions, that Criteria A has not met the standard for need regarding future energy supply, and instead the proposed Sandpiper is more for the expansion and higher profitability of the companies involved. When considering the negative consequences addressed in C, it seems clear that the people, waters and environment of Minnesota will have greater negative consequences than if the CON is denied. Therefore, economic reasons alone should not determine whether to grant the CON.

The choice seems simple. Do you give Marathon significant economic advantages and Enbridge expansion of their Canadian crude oil system through the U.S. – OR – do you protect the sacred public trust of the people of Minnesota?

I greatly appreciate your consideration in this matter.

Sincerely,

Sandy Sterle

March 31, 2014

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

Sent VIA Email: PublicComments.PUC@state.mn.us

RE: PUC Docket Number PL-6668/PPL-13-474

Dear Dr. Haar:

This letter is commenting on the human impacts as to be applied on route selection for Pipeline Route Permit by North Dakota Pipeline Company LLC (NDPC/Enbridge) for the proposed Sandpiper Pipeline Project in Minnesota (EIR – 11/8/2013 and Revised EIR – 1/31/14).

In the Revised EIR in section 4.2.1 on Land Use, there is a table showing land ownership on the Preferred Southern Route as 9.2% State, 15.4% County and 75.5% Private lands. The alternative route comparison tables show state lands, but there are no statistics for comparing the County and private land ownership to different alternative routes. Figures including private and County lands may be partially included in other categories in the route alternative tables, but ***there is no transparent comparison of County and Private land ownership across route alternatives.*** Land ownership patterns in north central Minnesota need to be analyzed as distributed into county, state, federal and tribal lands vs. private property owners. It seems the proposed Southern route does not match these ownership patterns. Instead, 75.5% of the route is private land where NDPC can use eminent domain to quickly acquire a right-of-way. These are lands where private citizens would not likely have the expertise to identify or authority to enforce the best construction, safety, and management practices for pipelines carrying hazardous materials. The private landowner's only recourse in disputes is through litigation afterwards. ***The Southern route should not be preferred just to meet NDPC's desire for a quick-take, to avoid expert scrutiny, and to choose landowners who have the least legal recourse.***

My husband did a search in the Duluth area (largest city in the Northland) for lawyers with experience to represent landowners in negotiations. He found very few, who were not working for the pipeline industry already. This results in private landowners having very limited access to local legal resources, and then, private landowners will most likely be under-represented in negotiations. Because of this shortage of available experienced local counsel, this would leave private landowners vulnerable to being overpowered in negotiations. There is a concern that route selection has been based in part on legal disadvantage, which would result in less compensation to the private landowner and cheaper ROW acquisition for NDPC. ***The Southern Route should not be preferred based on cheaper ROW acquisition, but instead this legal disparity should be considered a financial burden and impact to private landowners.***

For most families, their home and land are their ***largest lifetime investment***, one that takes the better part of their lifetime to establish, or one that has been handed down through generations. The economic impact of a new pipeline corridor, especially on land, which has no utility corridor, would have a significant negative impact on the value of both their home and land as a whole. A

local resident in Blackhoof Township, who has worked as a realtor, reported it has been harder recently to sell homes and property on or near a pipeline. ***For NDPC to request to develop a route through 75.5% private land, where owners have spent a lifetime or possibly generations to acquire, just so NDPC can save on the cost of ROW acquisition, seems like an unjustifiable burden on private landowners rights.*** Especially, when NDPC would in only a few short years get a return in profits from the development of this proposed pipeline. A one-time payment to the private landowner for only the 50-foot easement does not adequately compensate for the physical and emotional investment of a lifetime of work.

The human impact of a new ROW is not only economic, but it also has health and social impacts from adding a hazardous industrial site across their property. In the Revised EIR in Table 4.3.5-1, it shows there will be 168 residences within 500 feet and 21 within 50 feet (if not removed) from the new proposed pipeline corridor. These families will be left with this burden for as long as they own their land, each wondering: is their drinking water is safe; will their pets or farm animals be safe; will they be able to afford insurance for their home with a pipeline of explosive Bakken crude nearby; as organic farmers or resort owners, will they lose their livelihood; who is motoring around their land unannounced; how will they stop ATV and snowmobile trespass; how do they limit the spread of invasive species; how can they protect their family if there is a spill; could they afford to sell at a loss; and will they develop health consequences from stress or pollution from an oil release or ROW maintenance chemicals? These health and social human impacts need to be included in the EIR, especially since the greatest land-use is private ownership.

On many private lands without existing ROW's, NDPC locates the proposed route through the middle of the property. This creates an artificial border that will limit or eliminate further development of their property. Because most people build their home and structures closer to the middle of their property, this leads to the greatest impact on the private landowner's safety, greatest impact on the value of their home, greatest sacrifice to their land's aesthetics, and greatest limits to managing and developing their property. These are impacts that must be included in the EIR, and instead, ***the least impact route should be found and chosen.***

When reading the EIR, what strikes me most is how concealed is the impact on the landowner. In the media and at meetings, it is like ***the landowner is considered collateral damage to NDPC*** – an object of nuisance, which can just be paid off or politically disempowered. When I say landowner, I am not only talking just about private landowners, but also anyone who is responsible to protect the waters and land on to which NDPC is proposing the Sandpiper route.

How you bring to awareness and quantify what is concealed is through transparent, detailed and cumulative impacts documented in the EIR. But, the EIR is only the plan, and there is little evidence that this will be followed without randomly examining ROW easement contracts, considering previous construction inspection reports and citations, and considering other plans announced, but not included in the application. For example, in the Revised EIR in 4.3.1 in the last paragraph, it states “Forested areas on the temporary right-of-way and in additional temporary workspaces will be restored to allow the natural reestablishment of forest cover”. In a recent contract, NDPC has a clause of “the perpetual right to use and occupy such of Grantor's land adjacent to the Right-of-Way”... The whole, or a significant portion of the temporary space effectively will become permanent right-of-way, not as the Revised EIR states of allowing the temporary workspace to be restored to forest cover. And, Enbridge announced on March 5, 2014 as written in the Duluth News Tribune that the Line 3 upgrade could follow the Sandpiper line, so

they clearly have plans to expand this new proposed corridor. These give us clues to what is concealed on how ***the real impact on the landowner will be much greater than is described in the current Revised EIR.*** The EIR must give a transparent, detailed and cumulative analysis of the human economic, social and health impacts from proliferating a new pipeline corridor through Minnesota.

Please recognize that all of us who are giving you comments in opposition to the Preferred Southern Route are trying to protect Minnesota's pristine environment, to protect a sustainable livelihood, and to protect the health of our families by drawing attention to the ongoing and real threat of a second continuous hazardous industrial site through rural Minnesota. We are not collateral damage. In this letter, I am trying to reveal how the Preferred Southern Route is (by hiding the detail of how it impacts the landowner) crafted more in the interests of NDPC expansion, rather than considering the criteria of what route has least impact and is best for the people who live in our state.

With all these human impacts, it seems clear that the existing Northern Mainline corridor needs to be more clearly analyzed and seriously considered in the Revised EIR.

And, NDPC needs to clearly justify by analyzing least impact criteria as compared to the existing Northern Mainline corridor, why the private landowner should have the greatest burden with 75.5% of the Preferred Southern Route being located on their lands. Without this, the Preferred Southern Route should be rejected.

I greatly appreciate your consideration in this matter.

Sandy Sterle
2676 County Road 104
Barnum, MN 55707

December 5, 2013

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

Sent VIA Email: PublicComments.PUC@state.mn.us

RE: PL-6668/CN-13-473 (Certificate of Need)
PL-6668/PPL-13-474 (Pipeline Route)

Dear Honorable Commissioners,

This letter is commenting on issues of fact with respect to the representations made in the Certificate of Need application for Enbridge Pipeline (North Dakota) LLC for the proposed Sandpiper Pipeline Project in Minnesota. This application seems to propose a new *single* pipeline across Minnesota. Yet, the preferred pipeline route would open a new corridor for a single pipeline. This application proposes to enlarge the Sandpiper pipeline as it leaves Clearbrook, MN allowing it to add a significant portion of Line 81 capacity from North Dakota. And, this application does not *specifically* mention the expansion plans of Enbridge's affiliate, Calumet Refinery in Superior, WI, who is actively seeking permits to ship crude oil over Lake Superior. I am asking you to consider that the proposed Sandpiper Pipeline Project in this current Certificate of Need application seems to *lack* details and transparency to identify Enbridge's wider scope of expansion; and thus, minimizes the accumulated impact of the criteria for route selection of a new corridor and the impact on our Great Lake Superior.

On page 14 of section 7853.20 of Certificate of Need, Enbridge states "EPND has no other expansion projects being developed other than the Project described herein." First of all, they do have a current expansion project before the PUC of adding capacity through the Alberta Clipper. In the letter to landowners dated October 8, 2013, Enbridge did not specifically include their "ultimate design capacity" of 711,000 bpd from Clearbrook, MN to Superior, WI now shown in this application. Instead, the proposed Sandpiper was presented in the letter as "the initial capacity" of 375,000 bpd from Clearbrook, MN to Superior, WI. As a landowner, I was surprised to find in the Certificate of Need application that Enbridge proposes a much greater capacity than was represented in the letter to us. By not giving full disclosure in the letter, Enbridge minimized the extent of the proposed Sandpiper pipeline to landowners. I am concerned in this application that Enbridge may be minimizing the number of pipelines they are planning for a preferred new pipeline corridor. So can the question be asked of why does Enbridge propose a new corridor for just one pipeline?

Enbridge's Line 81 pipeline transports Bakken crude oil into Clearbrook, MN. On page 2 of Section 7853.0240, Enbridge does not discuss where the Line 81 capacity is *currently* being transported through their pipeline(s) on the Northern Route from Clearbrook, MN to Superior, WI. It appears that Enbridge is planning to disconnect the Bakken oil from the

Northern Route of the Mainline System by redirecting 150,000 bpd into the proposed Sandpiper to Superior, and 60,000 bpd to the Twin Cities; and then terminating the current Line 81 connection to the Mainline System. Does Enbridge plan to decommission one of their pipelines on the Northern Route? Would Enbridge be able to expand pipeline capacity of Canadian tar sands crude oil *by default* on the Northern route? By asking Enbridge these questions, it could identify any more expansion plans in this Certificate of Need application, and identify additional pipeline construction space available on the Northern Route following decommissioning an existing pipeline. In Canada, Enbridge Pipelines Inc. proposes to decommission segments of Line 3, which also goes through Minnesota on the Northern route of the Mainline System to Superior, WI.

<https://camrosecounty.civicweb.net/Documents/DocumentDisplay.aspx?Id=35465>

If Enbridge plans to abandon segments of a pipeline in Minnesota and the proposed Sandpiper is the means for them to do this, then this application is the place for the public to give comment and for the PUC to have the details to be able to make a determination.

On page 10 of Section 7853.0240, Enbridge writes “Minnesota’s refinery capacity somewhat exceeds demand for refined products within the state”. In a Minnesota House of Representative report dated June 2013, on page 4 it states “Minnesota’s refineries cannot absorb additional crude supplies at this time”. In the Superior Telegram news article dated February 24, 2013, Enbridge’s affiliate, Calumet Refinery, announced it is seeking permits to ship crude oil across Lake Superior. The article goes on to say: “The transfer from pipeline to water-based transportation makes sense because Enbridge can bring 500,000 more barrels a day into Superior than it can send out, Podratz said”.

http://www.superiortelegram.com/event/article/id/259640/publisher_ID/36/

So where will the oil go from the proposed Sandpiper? It appears the majority of the proposed Sandpiper crude oil is not for local refining, but may be planned to ship over Lake Superior, or directed farther down the pipeline system, as a replacement for Canadian tar sands crude oil, which could be planned to ship across the Great Lakes.

Is the proposed Sandpiper driven entirely by what Enbridge states on page 7 of Section 7853.0240 “to meet the transportation requirements of the Bakken oil producers and refineries”? Thus, more detail in this section is critical to determine where the crude oil is proposed to go beyond Minnesota, and to understand how much of this application is just for the oil industry to expand. For example, an additional column could be added to the table on pages 7-10 on what kind of oil each facility refines and their current ability for accepting additional capacity. And, detail is needed in page 5-7 on how much oil capacity can be absorbed now in Enbridge’s pipeline system where the Sandpiper ends in Superior, WI vs. how much capacity is planned to be shipped over the Great Lakes. Since the proposed Sandpiper potentially adds capacity to both Bakken and tar sands oil (see previous paragraph) this should include both types of crude oil. Once crude oil is shipped over the Great Lakes, its destination can be significantly farther, more market driven, and more about expansion of the crude oil transportation system than about a Minnesota need.

What I am suggesting is that the proposed Sandpiper Certificate of Need application lacks transparency necessary for full and accurate review of Enbridge’s proposed expansion(s). I am asking that more detail be required in this application so that significant questions can

be answered; such as: why a new pipeline corridor is necessary for just one pipeline; is a pipeline in the Northern route planned to be decommissioned; is there an implied expansion of Canadian oil in the Northern route; and how much of this application is simply for the oil industry to expand crude oil transportation into the Great Lakes? By answering these questions, it gives our state the opportunity to take a step back, and to consider the impact of expansion of shipping crude oil over Lake Superior, and the accumulated impact of a new proposed pipeline corridor on our people, lands and water. I wish that Enbridge could be directed to work as a partner in a group including: other energy providers, the tribal communities, federal/state/county agencies, landowners and the public to create a long-term and sustainable plan for Minnesota's energy needs with the least impact to our environment.

We greatly appreciate your consideration in this matter.

Sincerely,

Sandy and Craig Sterle
2676 County Road 104
Barnum, MN 55707
218-384-4054



Ms. Jamie MacAlister
jamie.macalister@state.mn.us
Environmental Review Manager
Minnesota Department of Commerce
Energy Environmental Review and Analysis
85 7th Place East, Suite 500
Saint Paul, MN 55101-2198

Re: Scoping Decision for Sandpiper Pipeline Project – PUC Dockets CN-13-473 and PPL-13-474;
and Scoping Decision for Line 3 Replacement Pipeline Project – PUC Dockets CN-14-916 and
PPL-15-137

Dear Ms. MacAlister:

On behalf of the Whitefish Area Property Owners Association (WAPOA), a nonprofit Sec 501c3 member association located in northern Crow Wing County, we firmly recommend and advocate for the completion of a thorough and professional prepared Environmental Impact Statement (EIS), both individual for each pipeline application and jointly for the cumulative environmental impacts, for Enbridge’s proposed Sandpiper pipeline and the Line 3 Replacement pipeline individually and cumulatively.

The decision of the Minnesota Court of Appeals, together with the Minnesota Supreme Court decision to not review or consideration the Court of Appeals decision, in reversing the MN Public Utilities Commission (MN PUC) decision approving the Certificate of Need for the Sandpiper pipeline and remanding the matter to the MN PUC. The Court of Appeals decision remanding with the requirement of an Environmental Impact Statement (EIS) be completed prior to any further consideration of Enbridge’s applications for the Sandpiper or Line 3 replacement pipelines is a major decision directed at advising State of Minnesota agencies in addressing these and similar matters. WAPOA fully agrees with the Court of Appeals decision, and have been advocating for the completion of an EIS in these two (2) pipeline matters, both for each petroleum pipeline individually and cumulatively.

The Whitefish Area Property Owners Association (WAPOA) provides the following specific suggestions and recommendations regarding the scope of the EIS:

- 1. The definition of the purpose of these pipeline proposals must be defined broadly to encompass reasonable alternatives to the proposed project.**

Defining the purpose as a system to transport oil from Clearbrook, MN to Superior WI is not reasonable considering the market for the petroleum products proposed for transport via these proposed pipelines. The applicant Enbridge and its related companies have proposed the “narrow” purpose so as to exclude significant, functional,

Post Office Box 342 Crosslake, MN 56442

and environmentally appropriate alternatives with destinations that leave Minnesota and the Upper Midwest and are destined for foreign markets and company operations in eastern and southern parts of the United States.

MN Administrative Rules 4410.2300 requires an EIS “. . . shall compare the potentially significant impacts of the proposal with those of other reasonable alternatives for the proposed project”. That clearly does not limit the scope of an EIS to a project purpose proposed by an applicant. The broader definition is important also for the reason that the environmental, economic, employment and sociological impacts must be thoroughly analyzed. Minnesota is one state and it should not allow the applicant to limit project scope, which is a strategic business decision for the applicant to reduce its capital investment with significant disregard for the quality of this state’s natural resources.

2. The EIS must address the economic, employment impacts the pipeline proposals, including all reasonable alternatives to the proposed project.

As a result of “good, quality lakes”, regions of Minnesota such as North Central Minnesota, Crow Wing County and the greater Whitefish Area Chain of Lakes are highly sought-after destinations. The local economy of the region, county, and the Whitefish Area benefits significantly from travel, tourism, second homeowners and the expenditures they make.

How significant are “good, quality lakes” to the local economy? The greater Whitefish Chain of Lakes area is a major tourism area in Minnesota and drives the economy of this northern Crow Wing County area. “Going to the lake” or “going up north” is a Minnesota quality of life feature, and according to the research “good, quality lakes” are the attraction.

What is the tourism economy in our area – northern Crow Wing County, southern Cass County, and Hubbard County? Water is the attraction and key element for the tourism industry in this area year-round, but especially in the summer season. Based on research completed by the University of Minnesota, Extension Service, during a recessionary period, travel and tourism spending was nearly \$300 million in Crow Wing County, the third largest spending outside of the Twin Cities seven county area only after Olmstead and St. Louis Counties, as shown in this table:

<u>2007-08</u>	<u>Traveler Exp</u>	<u>State Revenue</u>	<u>FTE Jobs</u>
Crow Wing	\$294,295,204	\$135,953,389	7,218
Aitkin	74,257,356	30,992,479	1,556
Cass	245,867,979	113,581,822	6,033
Hubbard	<u>99,248,707</u>	<u>45,849,199</u>	<u>2,431</u>
Total	\$713,669,246	\$326,376,889	17,238

Source: Univ of MN, Extension Service, June 2007-May 2008, Davidson-Peterson Associates

In fact, the combined travel and tourism annual expenditures in Aitkin, Cass, Crow Wing and Hubbard Counties exceeds every Minnesota county except Hennepin and Ramsey Counties. Travel and tourism is not a single industry. Travel and tourism expenditures in this University research are composed of spending on food and beverage (24.8%), lodging (18.7%), retail (18.5%), transportation (16.0%), recreation

(15.9%), and second homes (6.0%). This is one measure of travel and tourism economics and a broader measure than the State leisure and hospitality sector.

Leisure and hospitality spending as a measure of direct tourism spending (used by the State of Minnesota Departments of Revenue and Employment and Economic Development) in Crow Wing County, along with Cass, Hubbard and Aitkin Counties, for calendar year 2013 gross sales, sales tax revenue and employment is very significant as shown in this table:

<u>2013</u>	<u>Gross Sales</u>	<u>Sales Tax Rev</u>	<u>Employment</u>
Crow Wing	\$205,526,213	\$12,933,542	3,871
Aitkin	\$ 19,782,724	\$ 1,363,440	487
Cass	\$100,740,225	\$ 6,295,129	1,785
Hubbard	\$ 30,563,260	\$ 2,031,545	754
Total	\$356,612,422	\$22,623,656	6,897

Source: Tourism and the Economy Fact Sheet – 2015, State of MN, Explore Minnesota

How large is the impact of travel and tourism on the local economy? Statewide, travel/tourism industry gross sales was \$13 billion in 2013. In the Central Minnesota region, the spending in Crow Wing County was 18% of the regional total; the county with the most travel and tourism spending in the region. The Leisure and Hospitality industry consists of accommodations; food and beverage businesses; and arts, entertainment and recreation. As you can see, travel and tourism spending is a significant contributor to sales, employment, and taxes in Crow Wing County and our area as shown in these two measures.

Yes, Enbridge indicates that they will have a one billion dollar (\$1B) impact on the economy along the proposed pipeline route. The report Enbridge paid the University of Minnesota-Duluth to prepare using Enbridge data on employment, tax revenue, and economics is limited to a two (2) year period, largely the construction period. This projection reduces, according to Enbridge to much less tax revenue, economics and employment after construction.

The above data we present about the present local economy far exceeds anything Enbridge has presented, especially over a longer period of years as compared to the two (2) years of construction.

MN Administrative Rules 4410.2300 requires an EIS “for the proposed project and each major alternative there shall be a thorough but succinct discussion of potentially significant adverse or beneficial effects generated . . .” It is obvious to WAPOA that a thorough, professionally prepared EIS is the priority for these subject areas.

3. The EIS must address impacts of the predicted spills associated with the pipeline proposals, including all reasonable alternatives to the proposed project.

The area of North Central Minnesota has very important and significant natural resources among plants, animals, fish, and lake-based ecosystems and sensitive areas for these natural resources. WAPOA cannot imagine a project that has more potential for “significant environmental effects” than these pipeline projects. The lakes of and about

the Whitefish Chain of Lakes and the Pine River Watershed, which are some of the clearest and cleanest in Minnesota, along with the area rivers, creeks, and wetlands are all extremely vulnerable to adverse impacts from construction, leaks and spills from these pipelines. Our water resources, including both surface and ground water, are extremely vulnerable to these adverse impacts and threats from construction and spills. Actual incidents that are highly predictable could be devastating to these public waters. The forests, lands and wildlife in the area of the proposed Pipeline are also vulnerable to adverse impacts that should be analyzed thoroughly.

WAPOA has a major concern about safety. We know that pipeline spills, leaks, fires and other pipeline breaches have occurred, both in Enbridge operations (over 800 in ten years); recently in Montana. While we have reviewed most materials submitted by Enbridge/ NDPC, we believe strongly that proposed prevention and safety measures for protecting our wetlands, rivers, lakes and environmentally sensitive lands and areas from the construction and operation of the proposed Sandpiper Pipeline must be factored in the economics of this proposal.

We are also providing the attached article printed in the Minneapolis Star Tribune entitled "Take time to get Sandpiper pipeline route right". This same argument applies to Line 3 replacement pipeline.

WAPOA appreciates this opportunity to submit our comments and suggestions about the scope of the Environmental Impact Statement (EIS).

Regards,

Thomas N. Watson
President
Whitefish Area Property Owners Association
39195 Swanburg Court
Pine River, MN 56474

Support Court of Appeals Decision on Sandpiper Pipeline

On September 14, the Minnesota Court of Appeals reversed and remanded to the Public Utilities Commission its June decision approving Enbridge's Sandpiper pipeline certificate of need. Our 1200 member, nonprofit lake association is pleased with the Court's decision requiring an Environmental Impact Statement (EIS) be completed before making next pipeline decisions. We are joined with all lake associations, Friends of Headwaters and others concerned about the risks to the quality waters of our area in north central Minnesota, and all "Good and High Quality Lakes" areas.

A week ago, Speaker of the MN House Kurt Daudt and his GOP caucus opined about the jobs and property tax revenue negated by the Court's decision, and expressing their displeasure with the decision. We communicated with Speaker Daudt and expressed our displeasure with their failing at their press conference to address ALL relevant environmental and major economic factors for our area of Minnesota, and their providing misleading jobs and tax data.

We are NOT OPPOSED to pipelines, but were ARE OPPOSED to approving pipeline routes in area of quality lakes and waters and an area with a major significance to the Minnesota economy and the travel and tourism economy. Pipelines are not DFL or GOP, the last I checked.

Travel and tourism and second homeowners provide over \$600 million ANNUAL expenditures and over \$300 million ANNUAL tax revenues in Hubbard, Cass, Crow Wing and Aitkin Counties combined, an area through which Enbridge proposes not one, or two, but multiple pipelines. Travel and tourism also provides an estimated 17,250 JOBS. This travel and tourism employment is more than ten (10) times the 1,500 jobs Enbridge proposes for work to be performed along the proposed North Dakota to Superior route, which is not limited to the four (4) counties as inferred. Enbridge testified at an August 24th Pine River hearing, they expect 20-25 jobs would be long-term along the entire pipeline route.

We have offered Rep. Kurt Daudt and his assistants our research information covering property, income and sales tax revenue and spending, and related employment, generated by second homeowners, businesses, visitors, and conferences/events in Crow Wing County, Whitefish Chain of Lakes (the 9th largest lake in MN) area, and the four counties through which Enbridge prefers the Sandpiper and Line 3 pipelines routing.

Because unanticipated environmental consequences can be costly to undo and environmentally sensitive areas impossible to restore, environmental review creates the opportunity to anticipate and manage these issues before projects like pipelines are built in significant "environmental, social, and economic" areas. The more comprehensive EIS, compared to the limited CEA analysis, should also examine whether there are alternative project designs or locations or existing pipelines that would result in fewer environmental impacts. This should have been completed long before now, based on my eighteen years' experience as a Mayor and an elected municipal government official in Ramsey County (retired in 2009), when considering local land use decisions and comprehensive plans, managing actions to sustain quality water, and addressing dangerous chemicals in groundwater (a drinking water source).

We agree that the estimated \$25M in annual property taxes and 1500 jobs is important, but SMALL compared to the consequence of a negative event (e.g. oil spill, breaches, and "Enbridge anomalies"), considering Enbridge has experienced 800 spills, or more than 1.5 per month, or about 200 barrels per each spill/"anomaly" in past ten (10) years.

Speaker Daudt should know that the estimated jobs and taxes will be realized wherever a pipeline is constructed. But we can't predict when and where spills will occur. They will occur! Enbridge does not deny that fact!

Incidentally a pipeline using the southern Minnesota existing corridor to Enbridge's Chicago destination, as recommended by Friends of Headwaters and others, and not through Superior, would have MORE jobs, MORE tax revenue and a southern Minnesota route in an area with "lakes under stress; mostly likely can't be restored" as the DNR/EPA reports.

The EIS is critical before any decisions are made as Governor Dayton implied. We also invite and encourage Speaker Daudt, the House GOP, all of our legislators, and regulatory agencies to consider all relevant environmental, social, economic and routing alternatives during the preparation of the EIS and before any next pipeline decisions are made.

Tom Watson, President
Whitefish Area Property Owners Assn
PO Box 342
Crosslake, MN 56442