

March 21, 2005

BY E-MAIL AND U.S. MAIL

Mr. Alan Mitchell
Minnesota Environmental Quality Board
300 Centennial Bldg. – 3rd Floor
658 Cedar Street
St. Paul, MN 55155

Re: Request for Comments on Possible Amendments to Rules Governing Routing of
Proposed Intrastate Pipelines, Minnesota Rules, Chapter 4415

Dear Mr. Mitchell:

This letter is submitted on behalf of the undersigned members of the Minnesota pipeline industry (the “Industry”) in response to the January 20, 2005 Request for Comments of the Minnesota Environmental Quality Board (“MEQB”), to submit preliminary comments and to confirm the interest of the Industry in the current rulemaking process of the MEQB relating to pipeline routing.

At the outset, the Industry notes that any proposal to modify the current rules in Chapter 4415 needs to be measured against the fact that for nearly the last twenty years pipeline routing under Chapter 4415 has worked very well, with one exception involving a Minnesota municipal utility. Given this history, the requirement that any proposed rule changes be shown to be reasonable and necessary applies with particular force. The Industry notes that only a small portion of the proposed changes relate to matters that grew out of the recent Hutchinson municipal utility matter, while a significant majority of the proposed changes are entirely unrelated to the problems presented in the Hutchinson matter, and seem to be more a solution looking for a problem. For sound public policy reasons, as well as in accordance with the requirements of Minnesota Statutes, Chapter 14, the current regulatory review process should be kept in place except where change is shown to be necessary.

A second complicating factor is presented by the fact that while the MEQB is considering the commencement of proposed rulemaking, it is at the same time considering legislation that would make significant changes to the scope of the MEQB’s authority to promulgate rules. Parallel proceedings could result in inconsistent and/or redundant provisions. Additionally, this undermines the public input into the rulemaking process because until the legislative process is completed, no interested person is in a position to predict what the statutory framework for proposed rules will ultimately be, and to comment accordingly.

Third, the proposed rules appear generally to do away with the current provisions relating to the partial exemption of Minn. Rule, part 4415.0035, subpart 1. The types of projects that

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would be eligible for the so-called “shorter review process” in parts 4515.4000 to 4515.4500 are severely restricted in comparison to the current availability of the partial exemption process. Most significantly, it appears that any pipeline project that has a “portion of which [that] is located in the Twin Cities metropolitan area” would not be available for this shorter review process. This is an unfortunate and unwarranted restriction. This restriction and the others do not correspond to the existing provisions of Minnesota Statutes, Chapter 116I. These restrictions unduly limit what is now under the existing rules a matter of discretion of the MEQB as to whether to grant a partial exemption.

Finally, the extent of the various review requirements related to a full review of a pipeline project, particularly when read together with the requirement that most projects will need such full review, will guarantee significant delays and long, drawn-out proceedings in connection with most pipeline projects in Minnesota. This has not been the case in the past and may well be not in the public interest in the future.

We appreciate the opportunity to participate in this process and your approach of seeking input from representatives of the pipeline industry. We look forward to working with you to determine whether there is a need to revise the current regulatory program relating to pipeline routing and, if so, what revisions would be appropriate, reasonable and necessary. We do note, however, the importance of this subject matter to not only the future plans and potential projects of pipeline companies, but also to the energy and economic development needs of the residents of the State of Minnesota.

Representatives of the Minnesota pipeline industry look forward to discussing these matters further with you in the near future.

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