

Levi, Andrew (COMM)

From: Loudenslager, Christopher <christopher_loudenslager@nps.gov>
Sent: Monday, July 10, 2017 8:14 AM
To: MN_COMM_Pipeline Comments
Cc: MacAlister, Jamie (COMM); Bruce Matthews; Andrea Ketchmark; Matt Davis; Mark Weaver; Christopher Loudenslager
Subject: Line 3 Pipeline Project Draft EIS: docket numbers CN-14-916 and PPL-15-137
Attachments: MN_Enbridge EIS Response_7JUL17.pdf; MN_Enbridge Pipeline_Itasca Vicinity Map_25MAY16.pdf; MN_Enbridge Pipeline_Itasca Vicinity Project Map_21MAR16.pdf

Good morning Mr. MacAlister,

Attached please find the National Park Service, North Country National Scenic Trail's comments, response, and accompanying maps for the Line 3 Pipeline Draft EIS.

Please contact me with any questions and to collaborate on developing and implementing the protection and mitigation measures discussed in the document, should a decision be made to implement the proposed project and Preferred Alternative. Please also continue to communicate project information and updates with us as the plan progresses.

Thank you very much for your cooperation and consideration of the North Country National Scenic Trail. Sincerely,

Chris Loudenslager
Trail Planner, North Country National Scenic Trail
National Park Service
PO Box 288
219 East Main Street
Lowell, MI 49331
(616) 970-7026



United States Department of the Interior

NATIONAL PARK SERVICE
North Country National Scenic Trail
P.O. Box 288
Lowell, Michigan 49331



July 7, 2017

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

RE: Line 3 Pipeline Project, Docket Numbers CN-14-916 and PPL-15-137

Dear Mr. MacAlister:

The North Country National Scenic Trail is a 4,600-mile hiking and backpacking trail extending from Lake Sakakawea State Park in North Dakota to Crown Point State Historic Site in New York. The North Country National Scenic Trail (NCT) is administered by the National Park Service, and is one of only 11 National Scenic Trails authorized by Congress.

We have reviewed the documents and links you provided to determine if there may be an impact on the North Country National Scenic Trail (NCT) by the proposed Line 3 Replacement Projects. The Preferred Alternative, as described in the Draft EIS, will have a significant impact on the NCT and the hiking experience the Trail is intended to provide in one location:

East of Highway 71 and Itasca State Park; Hubbard County, NE ¼ of Section 5, T142N R35W. Please refer to attached Itasca Vicinity Map; and Enbridge Project Map.

The NCT crosses the existing pipeline right of way just south of the road identified as State Park Road 7 on the project survey map. This section of trail is identified as Certified Trail, which denotes the highest level of protection and permanence a section of the NCT may achieve. The NCT is a well-established and highly used foot trail in this location given its proximity and connection to Itasca State Park. It is critically important that public safety, trail access, and the scenic and aesthetic character of the trail are protected to the greatest extent possible.

As described in the Draft EIS, the Preferred Alternative will have a significant impact on the NCT in the following ways:

1. Unacceptable Encroachment and Impact on the NCT

The current project maps (see attached Enbridge Survey Map) depicts a planned Construction Workspace that appears to be located directly on the NCT where the trail leaves the forest and crosses the pipeline corridor. The proposed Construction Workspace represents an unacceptable



impact to trail access, public safety, and long-term adverse effects on the trail's fundamental scenic and aesthetic character.

1B. Proposed Mitigation Measures: Unacceptable Encroachment and Impact on the NCT

It is critical that the planned Construction Workspace be relocated- the adverse effects posed by this staging area will result in both short-term and long-term impacts to the NCT that cannot be mitigated, but easily avoided by relocation. Our recommended alternative would be to expand the planned Construction Workspace situated on the north side of State Park Road 7.

2421-1

2. Loss of Trail Access:

The current project description indicates that construction activities may close the NCT for an undetermined amount of time. While the potential window for trenching is identified as up to three days, this does not account for the additional amount of time that the trail may be blocked by equipment and staged sections of pipe waiting to be installed. A "temporary" closure of the NCT for any amount of time must be avoided because there is no alternative hiking route to avoid this crossing, and a hiker passing through the area cannot "wait out" the construction at the work site where no food, water, or overnight facilities are provided.

2B. Proposed Mitigation Measures: Loss of Trail Access

We request the following considerations to mitigate loss of trail access:

- Communication between the Pipeline/construction site representative and the local trail stewards will be established to ensure the trail crews and public know when construction is scheduled to be start, when it has ended, and to allow dialogue between the trail stewards and construction crew should any question or issues arise.
- When staging sections of pipe prior to installation, maintain a 4' gap between the sections most proximal to the NCT to allow hikers to pass through the area. As an alternative, a structure that will allow hikers to safely cross over staged pipe shall be provided.
- Utilize the tunneling installation method where the pipeline will cross the NCT rather than trenching. If tunneling is not a possible method, then some temporary bridging of the open trench shall be provided to allow hikers to safely negotiate the crossing.
- Construction crew shall have designated representatives who alert workers of the presence of hikers passing through the area and guide hikers through the work area safely during active construction operations.

2421-2

If safe passage and access across the work site cannot be provided and the NCT must be closed for any amount of time, we request the following alternative mitigation:

- The Pipeline/construction site representative shall establish a shuttle service with pick-up/drop-off sites on either side of the corridor to transport hikers around the

construction site. Signage notifying hikers of the construction, trail closure, and provision of shuttle service will be posted on both sides of the approaching trail in advance of the shuttle site. Pipeline representatives with cell phones or radios will staff the shuttle sites while this section of NCT must be closed to passage. When hikers arrive at these sites, the Pipeline representative will contact the shuttle driver for the need of transport.

3. Risk to Public Safety:

The current project description indicates that heavy equipment, staged pipe, support vehicles, and other work activities will be present immediately along and adjacent to the NCT for an unspecified amount of time. Hikers passing through the area will emerge silently from the forest at random intervals and will be difficult to notice by workers and equipment operators. Hikers may also pass through the work area at any time, including during the hours of darkness, where warning signs or other visual indicators would not be seen. An open trench, staged pipe, construction equipment, and other hazards pose an imminent risk to the public regardless of whether or not active construction is occurring.

3B. Proposed Mitigation Measures: Risk to Public Safety

We request that the same mitigations discussed under **Proposed Mitigation Measures: Loss of Trail Access** be utilized to avoid the risk to public safety impacts.

2421-3

4. Physical Impact to Trail:

The nature of the proposed construction will have an unavoidable impact to the physical attributes of the NCT regardless of the installation method. Construction activities will destroy the existing built tread and disturb surround soils and vegetation.

4B. Proposed Mitigation Measures: Physical Impact to Trail

Physical damage to the NCT is understandably unavoidable, but can be easily mitigated. After construction activities have been completed, all evidence of construction or residual materials must be cleared from the site. The original shape and structure of the treadway should be restored to its original condition and ensure that water does not pool or otherwise collect and flow along the trail. Seeding disturbed soils with site-appropriate grasses will partially restore the site aesthetics and prevent against erosion.

2421-4

5. Impact to surrounding scenic and aesthetic character of the Trail

We support siting new pipeline within an existing, previously disturbed pipeline corridor. While the NCT currently passes through such a corridor, the proposed plan would expand the width of the corridor in the vicinity of the NCT by approximately 100'. The expansion of the corridor will present both short-term and long-term visual degradation of the scenic and aesthetic values that are fundamental to the NCT.

5B. Proposed Mitigation Measures: Impact to surrounding scenic and aesthetic character of the Trail

Before construction activities begin:

- Minimize removal of trees and vegetation to the greatest extent possible within visual distance of the established route of the NCT.

After construction activities have been completed:

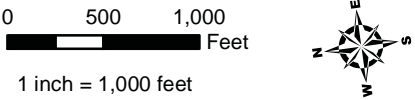
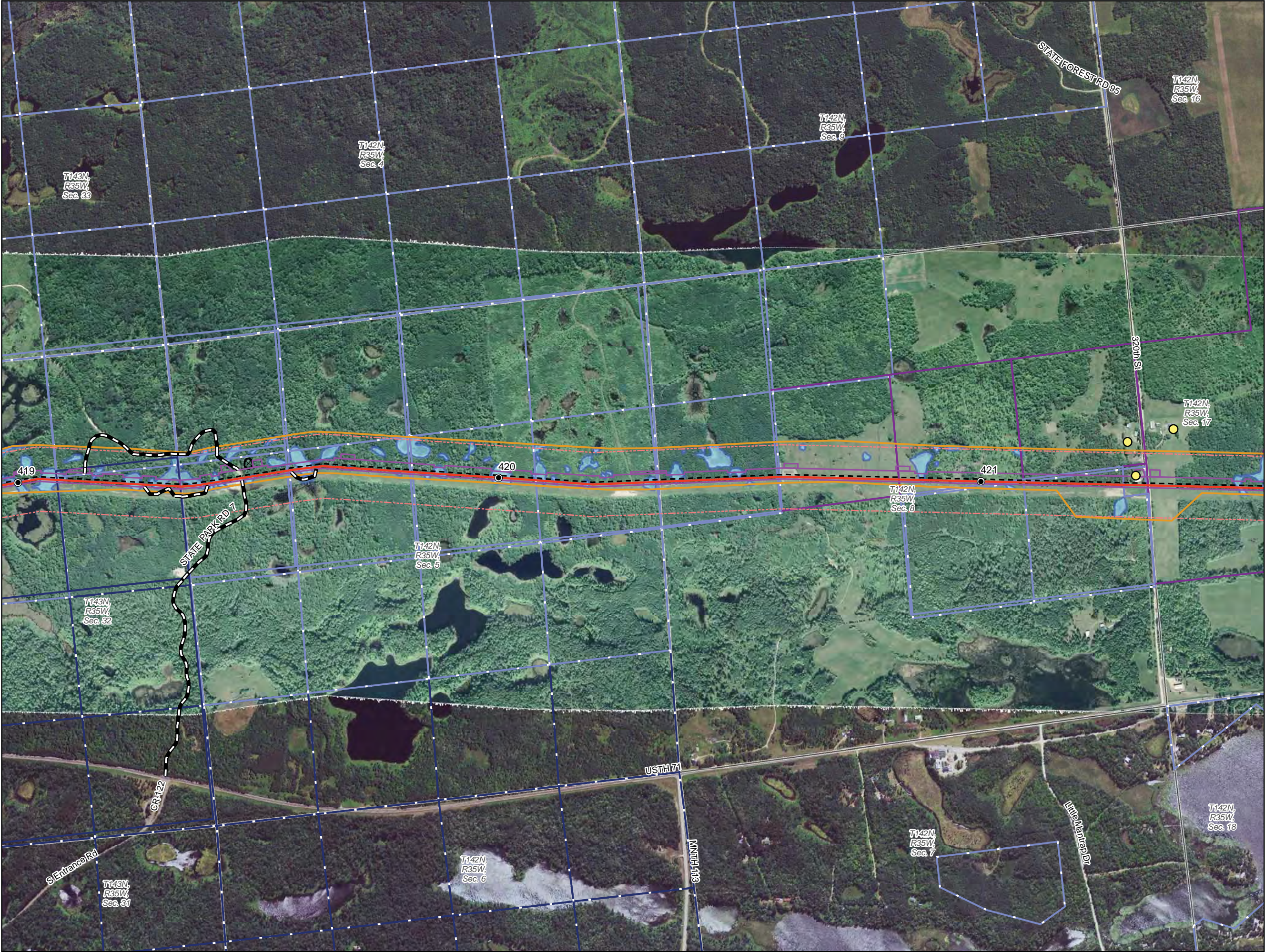
- All evidence of construction or residual materials must be cleared from the site immediately along the NCT as well as what might be observable from the trail
- The original shape and structure of the treadway should be restored to its original condition and ensure that water does not pool or otherwise collect and flow along the trail. Seeding disturbed soils with site-appropriate grasses will partially restore the site aesthetics and prevent against erosion.
- Given the expanded width of the pipeline corridor after construction, consider planting or seeding the area with site-appropriate wildflowers so that the opening mimics a naturally occurring meadow or prairie landscape.
- Re-vegetate the corridor adjacent to the NCT to the greatest extent possible with site-appropriate trees, shrubs, and ground vegetation to obscure the linear appearance of the corridor and mimic a naturally occurring opening.

Our support for the Preferred Alternative described in the Draft EIS is contingent that the final plan and decision accounts for the impacts to the NCT we have identified and includes, at a minimum, the protective measures and mitigations we have discussed in this response. Our staff and North Country Trail Association partners will welcome the opportunity to work closely with you and your specialists to more fully develop and implement a comprehensive protection and mitigation plan. Please do not hesitate to contact me if you have any questions or if I may be able to assist in bringing our collective trails experts together to collaborate on this project.

Sincerely,

Chris Loudenslager
Trail Planner, North Country National Scenic Trail
National Park Service
Christopher_loudenslager@nps.gov
(616)970-7026

Cc: B. Matthews, A. Ketchmark, M.Davis, M. Weaver



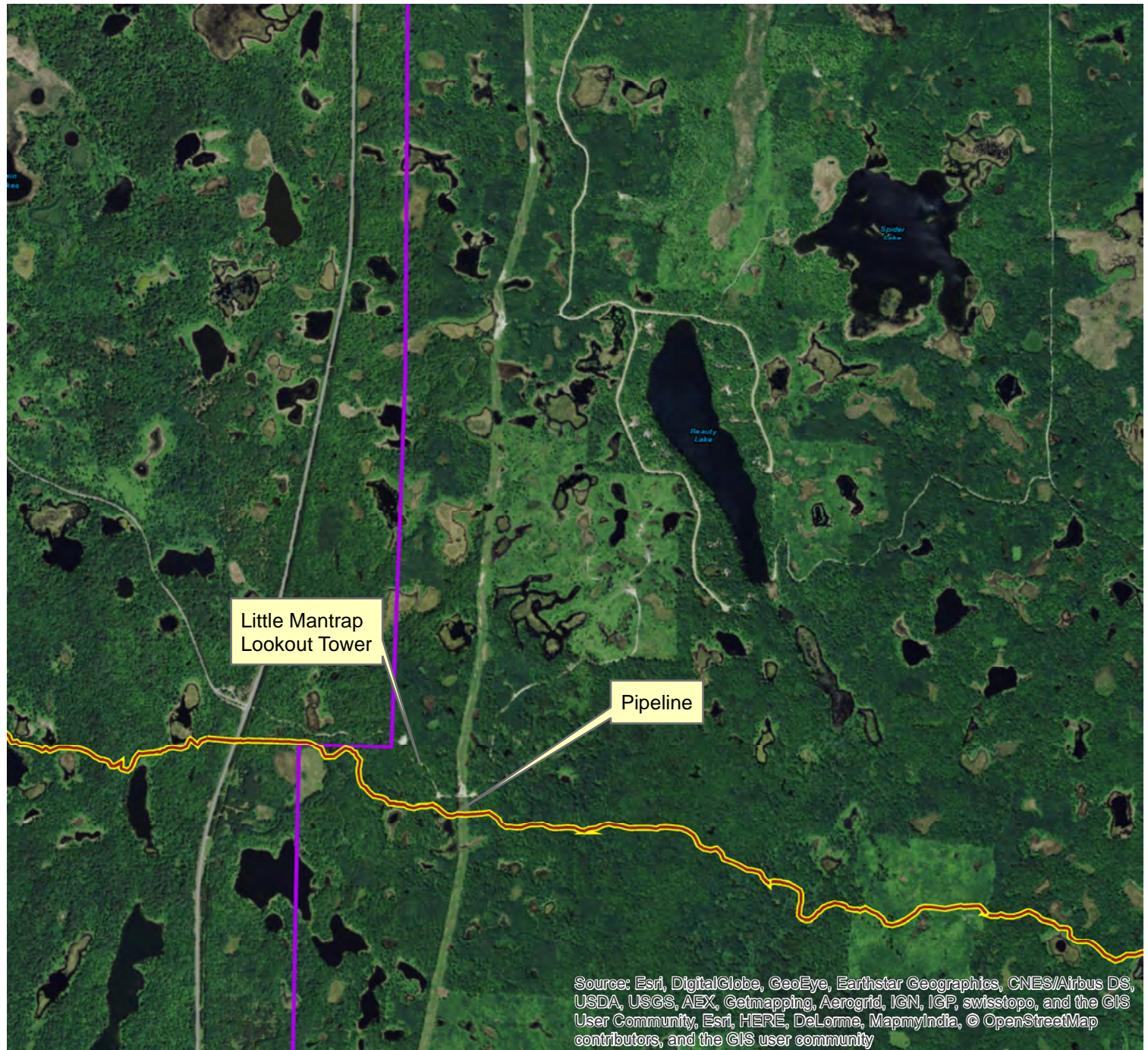
- Milepost
- Sandpiper Centerline
- L3R Centerline
- Construction Workspace
- Environmental Survey Area
- Route Width
- Widened Route Width
- Cathodic Protection Location
- Valve Location
- Pump Station - Boundary
- Pump Station - Disturbed Area
- Noise Sensitive Receptors
 - Private
 - Public
 - Commercial/Industrial
 - Other
- Temporary Access Road
- Permanent Access Road to Valve
- Delineated Waterbody
- Delineated Wetland
- Environmentally Sensitive Area
- Section Boundary
- Federal Land
- Tribal Land
- County Tax-Forfeit Land
- State Land
- Parcel Ownership
 - State Land
 - County Land
 - Private Lands/Other

**North Dakota Pipeline
Company LLC**
Sandpiper Pipeline Project
1:12,000 Aerial Survey Maps




Hubbard County, Minnesota

Page 50 of 125





Legend

-  NCT
-  NCT (on-road)
-  State Park Boundary

Data Sources:

National Park Service (NOCO)
North Country Trail Association
USGS
Additional: See basemap citation



1:25,000
1 in = 0.4 miles
UTM Zone 15 NAD83

0 0.4 0.8 Miles

Regional Overview



Levi, Andrew (COMM)

From: Hingsberger, Thomas J CIV USARMY CEMVP (US)
<thomas.j.hingsberger@usace.army.mil>
Sent: Monday, July 10, 2017 4:15 PM
To: MN_COMM_Pipeline Comments
Cc: MacAlister, Jamie (COMM); Beaudet, Andrew D CIV USARMY CEMVP (US); Morningstar, Desiree L CIV USARMY CEHQ (US)
Subject: MPUC docket numbers CN-14-916 and PPL-15-137; Enbridge Line 3 Draft EIS Comments, USACE
Attachments: DEIS Comments 2014-01247-TJH adb.pdf

St. Paul District USACE comments on the Draft Environmental Impact Statement (DEIS) for the Enbridge Line 3 Pipeline Project are attached.

Thank you,

Tom Hingsberger
Regulatory Project Manager, NW Section
Corps of Engineers, St. Paul District
180 East Fifth Street, Suite 700
St. Paul, MN 55101-1638
Phone: 651-290-5367
Fax: 651-290-5330
Email: thomas.j.hingsberger@usace.army.mil
<http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>



DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
 180 FIFTH STREET EAST, SUITE 700
 ST. PAUL, MN 55101-1678

REPLY TO ATTENTION OF
 REGULATORY BRANCH

Regulatory File No. MVP 2014-01071-TJH

July 10, 2017

Jamie MacAlister, Environmental Review Manager
 Minnesota Department of Commerce
 85 7th Place East, Suite 280
 St. Paul, MN 55101-2198

Dear Ms. MacAlister:

The St. Paul District, US Army Corps of Engineers is reviewing the Draft Environmental Impact Statement for the Enbridge Line 3 Project dated 5/15/2017 (Docket numbers CN-14-916 and PPL-15-137) prepared by the Minnesota Department of Commerce (DOC). We appreciate the opportunity to participate in the review of this document. Enclosed are comments and recommendations to consider while preparing the Environmental Impact Statement. The Corps will continue to review the DEIS and Appendices as we evaluate the project pursuant to our authorities under the National Environmental Policy Act (NEPA), Section 10 of the Rivers and Harbors Act, and Section 404 of the Clean Water Act (CWA).

In addition to the enclosed specific comments, the following general information concerning our regulatory program applies to the proposed project.

Proposals that involve activities in navigable waters of the United States may be subject to the Corps of Engineers' jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 (Section 10). Section 10 prohibits the construction, excavation, or deposition of materials in, over, or under navigable waters of the United States, or any work that would affect the course, location, condition, or capacity of those waters, unless the work has been authorized by a Department of the Army permit.

Proposals that involve discharges of dredged or fill material into waters of the United States may be subject to the Corps of Engineers' jurisdiction under Section 404 of the Clean Water Act (CWA Section 404). Waters of the United States include navigable waters, their tributaries, and adjacent wetlands (33 CFR § 328.3). CWA Section 301(a) prohibits discharges of dredged or fill material into waters of the United States, unless the work has been authorized by a Department of the Army permit under Section 404. Information about the Corps permitting process can be obtained online at <http://www.mvp.usace.army.mil/regulatory>.

The Corps evaluation of a Section 10 and/or a Section 404 permit application involves multiple analyses, including (1) evaluating the proposal's impacts in accordance with the National Environmental Policy Act (NEPA) (33 CFR part 325), (2) determining whether the proposal is contrary to the public interest (33 CFR § 320.4), and (3) in the case of a Section 404 permit, determining whether the proposal complies with the Section 404(b)(1) Guidelines (Guidelines) (40 CFR part 230).

For proposals that require a Section 404 permit application, the Guidelines specifically require that "no discharge of dredged or fill material shall be permitted if there is a practicable

Regulatory Branch (File No. MVP 2014-01071-TJH)

alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences" (40 CFR § 230.10(a)). Time and money spent on the proposal prior to applying for a Section 404 permit cannot be factored into the Corps' decision whether there is a less damaging practicable alternative to the proposal.

A Department of the Army (DA) permit application for the applicant's preferred route (APR) has been submitted, and we are at this time awaiting a revised permit application from Enbridge. We will continue to meet with the applicant to obtain information regarding the data, studies or other information that will be necessary for the DA permit evaluation process.

If you have any questions, please contact Tom Hingsberger in our St. Paul office at (651) 290-5367 or thomas.j.hingsberger@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,



Andrew D. Beaudet
Chief, Northwest Section

Enclosure

Re: Docket Nos. CN-14-916 / PPL-15-137

USACE Comments, Proposed Line 3 Pipeline Project				
Date: July 10, 2017				
Comment Number	Page/Location/Section	Comment/Concern	Commenter: USACE	Notes
1	ES-8, Consultation and Public Involvement	Statement: "At the federal level, for example, a U.S. Army Corps of Engineers permit must be obtained for construction activities that result in impacts to across wetlands and at stream and river crossings."	Revise Sentence	Throughout the document it might be more accurate to state that activities in navigable waters of the United States may be subject to Corps of Engineers' jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 (Section 10). Section 10 prohibits the construction, excavation, or deposition of materials in, over, or under navigable waters of the United States, or any work that would affect the course, location, condition, or capacity of those waters, unless the work has been authorized by a Department of the Army permit. Activities that involve a discharge of dredged or fill material into waters of the United States may be subject to the Corps of Engineers' jurisdiction under Section 404 of the Clean Water Act (CWA Section 404). CWA Section 301(a) prohibits discharges of dredged or fill material into waters of the United States, unless the work has been authorized by a Department of the Army permit under Section 404. Waters of the United States include navigable waters, their tributaries, and adjacent wetlands (33 CFR § 328.3).
2	3-1, Ch. 3, Regulatory Framework	...and potential wetland impacts resulting from the discharge of dredged or fill material into wetlands would require a Department of the Army permit from the U.S. Army Corps of Engineers (USACE).	Revise statement to include text in bold letters	
3	3.6.1.1, Last Sentence	Dredged or fill material, including material that moves from adjacent construction sites into these waters, could affect the quality of the waters, and USACE requires permits for projects that could have such effects.		
4	6 - 188, Navigable Waterways	The U.S. Army Corps of Engineers (USACE) has jurisdiction over navigable waterways in accordance with Section 10 of the Rivers and Harbors Act of 1899. Navigable waters of the United States are those that are subject to the ebb and flow of the tide or are presently used, have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Work in or affecting these waterways must be approved by USACE under the Section 10 of the The Rivers and Harbors Act and under CWA Section 404 of the CWA if the activity involves discharging dredged or fill material into waters of the US. and Rivers and Harbors Act Section 10. A CWA Section 401 Individual Water Quality Certification for the proposed Project in Minnesota is under the jurisdiction of USACE – St. Paul District and Minnesota PCA. required. The Minnesota PCA is responsible for CWA Section 401 certification in Minnesota.	Suggested revisions.	401 Cert is required for all Section 404 permits. Section 10 is for work in, under, or over navigable waters. Section 404 is for discharges of dredged or fill material in WOUS, including wetlands.
5	ES-8, Consultations and Public Involvement	At the federal level, for example, a U.S. Army Corps of Engineers permit must be obtained for construction across activities that result in impacts to wetlands and at stream and river crossings.	Revise sentence	
6	5.2.1.3.1 Regulatory Context and Methodology	CWA Section 404 and Rivers and Harbors Act Section 10 Individual Permits and associated state CWA Section 401 Individual Water Quality Certification for the Project in Minnesota are under the jurisdiction of USACE – St. Paul District and Minnesota PCA. USACE requires that projects avoid impacts on wetlands to the extent practicable, potential impacts have been minimized, and may require compensation be provided for unavoidable impacts (addressed below).	General Comment	The Corps' evaluation of a Section 10 and/or a Section 404 permit application involves multiple analyses, including (1) evaluating the proposal's impacts in accordance with the National Environmental Policy Act (NEPA) (33 CFR part 325), (2) determining whether the proposal is contrary to the public interest (33 CFR § 320.4), and (3) in the case of a Section 404 permit, determining whether the proposal complies with the Section 404(b)(1) Guidelines (Guidelines) (40 CFR part 230). If the proposal requires a Section 404 permit application, the Guidelines specifically require that "no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences" (40 CFR § 230.10(a)).

2280-1

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2280-6

7	5.2.1.3.1 Regulatory Context and Methodology and 6.3.1.3.1 Regulatory Context and Methodology	For CWA Section 401 certification, Minnesota PCA is responsible for non-reservation wetlands in Minnesota, Wisconsin DNR is responsible for wetlands in Wisconsin, and North Dakota DH's Division of Water Quality is responsible for wetlands in North Dakota. Permitting for system alternative SA-04 would require obtaining a CWA Section 401 certification from Iowa DNR and Illinois DNR. Adherence to state-specific general construction and stormwater permit conditions, buffer laws, and other state and local resource protection measures also would be required, which would serve as a duplicative mechanism for oversight and protection of jurisdictional wetland resources.	General Comment	Note: USEPA is responsible for 401 certifications on reservation lands, with the exception of Grand Portage and Fond du Lac Bands in MN, and Mole Lake and Lac du Flambeau Bands in WI, which have their own 401 programs.	2280-7
8	5.2.1.3.1 Regulatory Context and Methodology, page 5-109, Minnesota Wetland Mitigation Bank Easements	Bank credit ratio is reduced if the credit area used is in a different service area than the disturbance area (Minnesota BWSR 2016).	General Comment	The compensatory mitigation ratio can be increased if a compensation site or wetland bank is located in a different Bank Service Area (BSA).	2280-8
9	5.2.1.3.3, Compensatory Mitigation, p 5-120	Compensatory wetland mitigation would be provided by the Applicant for permanent impacts on forested, scrub/shrub, and emergent wetlands as required in the federal and state-specific permits issued. The overall objective of compensatory wetland mitigation would be to compensate for aquatic resource functions lost due to construction of the Applicant's preferred route, taking into consideration what is available and feasible. Although site-specific compensatory wetland mitigation has yet to be identified, it would continue to be considered in consultation with the permitting agencies to minimize and offset wetland impacts. Compensatory wetland mitigation would be consistent with applicable policies, regulations, and rules governing compensatory wetland mitigation for purposes of Section 404 CWA (see Section 5.2.1.3.1).	It should be noted that compensatory mitigation would be required for permanent impacts to other types of wetlands as well. Permanent impacts would include conversion of forested wetlands to other wetland types. Compensatory mitigation via wetland banking is an option that should be included in this discussion.		2280-9
10	5.2.1.3.3, Compensatory Mitigation, p 5-121	For the APR, our understanding was that the total amount of permanent wetland impacts associated with pump stations and valves for the Project (in MN) was 7.24 acres. The total amount of temporary wetland impacts and wetland type conversions, including those for access road construction and cathodic protection areas (in MN) was 988.2 acres.	Understanding the disclosure in this section is for the line from Neche, ND to Superior, WI, check (confirm) impact acreage and classifications for the APR.		2280-10
11	5.2.6.2.1 Applicant's Preferred Route, Federal Land, p 5-413	There are two sites where the APR would cross Corps easement lands (at Lost River and at Sandy River). A consent to cross flowage easement is required to cross easement lands. There is also a crossing at the Red River between MN and ND that may require permission from the Corps (33 USC 408). Section 408 provides that the Secretary of the Army may, upon the recommendation of the Chief of Engineers, grant permission to other entities for the permanent or temporary alteration or use of any USACE Civil Works project.		Enbridge is aware of these sites and will request permissions and easement agreements from the Corps.	2280-11
12	6.3.1.3 Wetlands, p 6-275	General Comment	General information	The Corps defines wetlands as follows: "Wetlands are those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas." (33 CFR 328	2280-12
13	6.3.1.3 Wetlands, p 6-275 (and elsewhere in the DEIS)	Throughout the document, "...impacts on wetlands..." is stated. "...impacts to wetlands" would be preferred.	General comment		2280-13
14	6.3.1.3.1 Regulatory Context and Methodology Regulatory Context General Wetlands, Federal and State Jurisdictional Wetlands p 6-275	"Compensatory wetland mitigation may be required in federal and state-specific permitting for permanent impacts on forested, scrub/shrub, and emergent wetlands."	The broad description of the wetlands that may require mitigation excludes bogs and other community types such as open water (PUB) wetland communities that should be included here, in the General Wetlands section of Chapter 5, and elsewhere in the document.		2280-14

15	Specially Designated Wetlands, p 6-277	"Impacts on calcareous fens are regulated by Minnesota DNR under the WCA."	Also regulated by the USACE under CWA 404. Include here and elsewhere in the document.	(Note: The Corps requires a MnDNR-approved Calcareous Fen Management Plan as well for unavoidable impacts to (or near) calcareous fens.
16	6.3.1.3.2 Existing Conditions, Wetland Types, p 6-278	"Wetland types crossed by the route alternatives are grouped into three categories: forested wetland, scrub/shrub wetland, and emergent wetland."	See comment 14	
17	Table 6.3.1.3-3. p 6-281	Related to comments 14 and 16. The impacts to Type 3 & Type 4 shallow marsh and deep marsh wetlands are disclosed in the table but they should be discussed along with the forested, scrub/shrub, and emergent wetlands. (In the route alternatives sections, too). Consider combining Tables 6.3.1.3-1 & 6.3.1.3-3 - and the similar Tables in the route alternative sections if applicable.	General comment	Note: Our review of early plans for the APR indicated that approximately 9.21 acres of PUB (Cowardin) wetlands would be temporarily impacted. Compensatory mitigation may be required for these impacts as well in accordance with District policy and the federal mitigation rule.
18	General Wetlands, p 6-280	"...and approximately 234of wetlands"	Typo in 1st paragraph, last sentence	
19	pp 6-291 through 6-303	The Impact Assessment sections for the APR and RAs are a bit difficult to follow and it might be beneficial to add a brief impact summary for each alternative before moving to the next one.	General comment	
20	Table 6.3.1.3-15	The comparative tables in the final summary quantifying permanent and temporary impacts associated with each alternative are helpful. Can a column or additional table be added to disclose the permanent and temporary impacts for the ND border to Clearbrook corridor?	General comment	
21	Chapter 6.3.1.3		General comment	USACE is reviewing the wetland impacts and appendices associated with the APR and Route Alternatives
22	6.3.5.1 Regulatory Context and Methodology	The Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c)	While not a federally-listed T&E species, the Bald Eagle and their nests remain protected. No known nests along the APR but the Protection Act might be mentioned in this section.	The Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c) prohibits anyone, without a permit issued by the Secretary of the Interior, from "taking" bald eagles, including their parts, nests, or eggs. (Referenced on 6-483)
23	Table 6.8-1. Status of Required Permits and Approvals, p 6-751	Row 1: U.S. Army Corps of Engineers – St. Paul District and Minnesota Pollution Control Agency (Minnesota PCA) "Application Submitted and determined Complete (January 28, 2016). Pending Submittal of Revised Application	Add: Pending Submittal of Revised Application	
24	Table 6.8-1. Status of Required Permits and Approvals, p 6-751	Add Row under Row 1: U.S. Army Corps of Engineers – St. Paul District: Consent and Permission to Cross Flowage Easement and USACE Civil Works project, if needed. (33 USC 408)	Status would be "Not Initiated" for the APR and "Not Initiated" for the Route Alternatives.	Note: This is related to comment 11.

2280-15

2280-16

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2280-24

Levi, Andrew (COMM)

From: Laszewski, Virginia <Laszewski.Virginia@epa.gov>
Sent: Monday, July 10, 2017 4:38 PM
To: MN_COMM_Pipeline Comments
Cc: MacAlister, Jamie (COMM); Westlake, Kenneth; Walts, Alan
Subject: Proposed Line 3 Pipeline Project DEIS (MnDOC/EERA) (Docket Nos. CN-14-196 and PPL-15-137)
Attachments: MEPA-Line3-DEIS_EPA-Ltr_07-10-2017.pdf

Please see attached file for U.S. EPA (Region 5) letter (dated 07/10/2017) regarding the above referenced Line 3 DEIS. The signed/dated original letter is in the mail. Thank you.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 5
 77 WEST JACKSON BOULEVARD
 CHICAGO, IL 60604-3590

JUL 10 2017

REPLY TO THE ATTENTION OF:

Jamie MacAlister
 Energy Review Manager
 Minnesota Department of Commerce
 85 7th Place East, Suite 280
 Saint Paul, Minnesota 55101-2198

Re: Minnesota Department of Commerce, Energy Environmental Review and Analysis Draft
 Environmental Impact Statement (DEIS) Line 3 Project (May 15, 2017) (Docket Nos.
 CN-14-916/PPL-15-137)

Dear Ms. MacAlister:

The U.S. Environmental Protection Agency, Region 5 (EPA) appreciates the opportunity to comment on this DEIS, prepared to meet Minnesota's environmental review requirements for determining whether to issue or deny a certificate of need and a route permit for Enbridge Energy's proposed Line 3 replacement project. Our enclosed comments address: the U.S. Department of Justice (on behalf of EPA) / Enbridge consent decree as it pertains to Line 3; EPA and tribal jurisdiction regarding Clean Water Act (CWA) Section 402 National Pollutant Discharge Elimination System (NPDES) discharge permits and construction stormwater permits, 4) CWA Section 401 certification, and 5) Wetlands/Waters of the U.S. and U.S. Army Corps of Engineers CWA Section 404 permit requirements.

I hope these comments will be helpful as Minnesota Department of Commerce completes its environmental review. If you have any questions, please contact me at (312) 886-2910 or westlake.kennth@epa.gov; or Virginia Laszewski of my staff at (312) 886-7501 or laszewski.virginia@epa.gov.

Sincerely,

A handwritten signature in blue ink, which appears to read "Kenneth A. Westlake", is written over a horizontal line.

Kenneth A. Westlake, Chief
 NEPA Implementation Section
 Office of Enforcement and Compliance Assurance

Enclosure: 1

Cc: Stacey Jensen, Acting Chief, Regulatory Branch, U.S. Army Corps of Engineers,
St. Paul District, MN, stacy.jensen@usace.army.mil
Tom Hingsberger, U.S. Army Corps of Engineers, St. Paul District, MN
Thomas.j.hingsberger@usace.army.mil
Peter Fasbender, Field Office Supervisor, U.S. Fish and Wildlife Service, Bloomington,
MN, peter_fasbender@fws.gov
Andrew Horton, U.S. Fish and Wildlife Service, Bloomington, MN
Andrew.Horton@fws.gov
Fond du Lac Band of Chippewa, 1720 Big Lake Road, Cloquet, Minnesota 55720
Kevin Dupuis, Chairman, kevindupuis@fdlrez.com
Wayne Dupuis, Environmental Program Manager, waynedupuis@fdlrez.com
Nancy Schuldt, Water Projects Coordinator, nancyschuldt@fdlrez.com
Leech Lake Band of Ojibwe, 190 Sailstar Drive N.W., Cass Lake, Minnesota 56633
Jackson Faron, Chairman, jacksonl.faron@llbo.org
Levi Brown, Environmental - Land Director, LeviB@lldrm.org
Brandy Toft, Environmental Deputy Director, air@lldrm.org
Mille Lacs Band of Ojibwe, 43408 Oodena Drive, Onamia, Minnesota 56359
Melanie Benjamin, Chief Executive Officer, Melanie.benjamin@millelacsband.com
Ryan Rupp, Environmental Programs Manager, ryan.rupp@millelacsband.com
Perry Bunting, Director of Environmental Programs,
Perry.Bunting@millelacsband.com
White Earth, PO Box 418, White Earth, Minnesota 56591
Terrance Tibbetts, Chairperson, White Earth Reservation Tribal Council,
Terrence.tibbetts@whiteearth-nsn.gov
Monica Hedstrom, Director of Natural Resources,
Monica.Hedstrom@whiteearth-nsn.gov
Red Lake Band of Chippewa, 15761 High School Drive, PO Box 279, Red Lake, Minnesota
56671
Darrell Seki, Chairman, dseki@redlakenation.org
John LeBlanc, Environmental Director, jleblanc@redlakenation.org
Shane Bowe, Water Resources Program Director, SBowe@redlakenation.org

**EPA Comments on the Minnesota Department of Commerce
Energy Environmental Review and Analysis (MnDOC/EERA)
Draft Environmental Impact Statement (DEIS) for Enbridge Energy's (Enbridge)
Proposed Line 3 Project (May 15, 2017)
Aitkin, Beltrami, Benton, Carlton, Cass, Clearwater, Crow Wing, Hubbard, Itasca,
Kanabec, Kittson, Marshall, Mille Lacs, Morrison, Pennington, Pine, Polk, Red Lake, St.
Louis, and Todd Counties, Minnesota**

**U.S. Department of Justice (on behalf of U.S. Environmental Protection Agency) /
Enbridge Energy Consent Decree**

Page ES-10 of the DEIS states *"The January 2017 revised Consent Decree entered between Enbridge and the U.S. Department of Justice on behalf of the U.S. Environmental Protection Agency and the U.S. Coast Guard . . . provides a framework to allow ongoing operation of the existing Line 3. While this framework would require heightened integrity work and progressive decreases in operating pressure, continued operation of existing Line 3 is not impossible."*

Similarly, Page 2-4 of the DEIS states *"A consent decree between Enbridge and the U.S. Department of Justice entered by the Justice Department in September 2016 on behalf of the U.S. Environmental Protection Agency and the U.S. Coast Guard . . . requires replacement or heightened integrity work on the Existing Line 3."*

On May 23, 2017, the Western District of Michigan entered a revised Consent Decree following public comment. Paragraph 22 of this Consent Decree requires Enbridge to seek all approvals necessary for the replacement of Line 3 and replace Line 3 as expeditiously as practicable, provided that Enbridge receives those approvals. Until decommissioning Line 3, Enbridge shall limit its operating pressure, as required in Paragraph 22.c of the Consent Decree. If Enbridge has not taken Line 3 out of service by December 31, 2017, it shall comply with additional pipeline integrity requirements in Paragraph 22.d of the Consent Decree.

Recommendation: The Final EIS should clarify and update statements regarding the Consent Decree as necessary. If the Consent Decree is lodged before the Final EIS, this should be noted as well.

2279-1

National Pollutant Discharge Elimination System (NPDES) 402 permits

Page 3-13, Chapter 3 Regulatory Framework, of the DEIS states *"There are seven Anishinaabe (Ojibwe) and four Dakota (Sioux) reservations in Minnesota. Each reservation and community is an American Indian tribal nation and is a distinct, sovereign government. The Applicant's preferred route and route alternatives evaluated in this EIS run near several tribal reservations. In addition, as part of the Project, Enbridge proposes to abandon the existing Line 3, which currently traverses the Leech Lake and Fond du Lac Indian reservations. Abandonment of the line could affect tribal resources within these reservations."* The DEIS also states *"Two route alternatives analyzed in this EIS (RA-07 and RA-08) cross the Leech Lake Indian Reservation and three route alternatives (RA-06, RA-07, and RA-08) cross the Fond du Lac Indian Reservation."*

If a new Line 3 would be constructed within or along Enbridge's Mainline System right of way (r-o-w) and/or the existing Line 3 is abandoned in-place or removed from the r-o-w within the exterior boundaries of a reservation, then CWA Section 402 NPDES discharge and/or construction stormwater permits would likely be required; and EPA would be the permitting authority within the exterior boundaries of the reservations.

Recommendation: The Final EIS should identify EPA's CWA Section 402 NPDES discharge and stormwater construction permitting authority within the Leech Lake and the Fond du Lac Reservations, including in Table 3.6-1 (page 3-10).

2279-2

Wetlands/Waters of the U.S.

Section 6.3.1.2 (Surface Water, Regulatory Context, Wild Rice Waterbodies, pages 6-188 and 6-189) indicates that tribal regulations related to the harvest and protection of wild rice within reservation boundaries vary by tribe and are managed by tribe-specific wild rice committees.

Recommendation: The Final EIS should identify potentially affected tribes and include tribe-specific information to the extent it is available.

2279-3

The Draft EIS quantifies wetland impacts for each of the alternative routes; but would benefit from including more complete information on the condition and quality of impacted wetlands.

Recommendation: As practicable, the Final EIS should address the condition and quality of impacted wetlands. This information should be readily-available from the Section 404 permit application (see next Recommendation). Means for describing wetland quality include: functional assessment by using the Minnesota Rapid Assessment Methodology or Floristic Quality Assessment, or by comparing project wetlands to nearby reference wetlands using existing monitoring information in state wetland information databases.

2279-4

Chapter 5 states that comprehensive quantitative data is not available pending selection of an alternative, and that field surveys and engineering would result in route refinement and methods to avoid and minimize impacts to wetlands and waterbodies. Consequently, the alternatives analysis for the CWA Section 404 permit would likely be insufficient at this stage. Further, indirect or secondary effects wouldn't necessarily be comprehensive enough for a 404 review. However, Table 6.8-1 of the EIS indicates that a Clean Water Act Section 404 permit application was submitted to the Army Corps of Engineers and determined to be complete on January 28, 2016. The level of detail a CWA 404 permit application contains (e.g., certified wetland delineation, wetland condition and quality, project-specific minimization and avoidance measures) is typically greater than the detail found in an EIS.

Recommendation: To provide further detail about the potential environmental impacts of this project, the Final EIS should include the CWA 404 application.

2279-5

Section 6.3.1.3.1 (Wetlands Section, Page 6-276) discusses regulatory authority for CWA Section 401 water quality certification. It does not indicate that EPA is the certifying authority

2279-6

for discharges within the Leech Lake Indian Reservation. In addition, Table 6.8-1 notes that the Fond du Lac Band is the certifying authority for discharges occurring within the Fond du Lac Indian Reservation; but this information is not included in the narrative in Section 6.3.1.3.1.

Recommendation: The Final EIS should reflect EPA and tribal jurisdiction as noted above.

Each tribe may have additional details on the existing conditions of surface waters and wetlands within their boundaries. The DEIS does not discuss whether this information was collected and considered.

Recommendation: The Final EIS should identify whether such information was collected and considered. If such information is available, we suggest including it in the Final EIS.

Wetlands Section, Page 6-281, indicates that no wetlands that are part of the Minnesota Board of Water and Soil Resources Mitigation Banking Program would be crossed by the preferred route. While most mitigation banks in Minnesota have both state and federal approval, some are only federally approved.

Recommendation: The Final EIS should also indicate whether a route crosses a federally approved U.S. Army Corps of Engineers mitigation bank.

2279-6
Cont'd

2279-7

2279-8