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## Appendix T

### Comments and Responses

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# Comment Response Appendix

In preparing this Final Environmental Impact Statement (EIS), the Department of Commerce reviewed all public comments submitted to the Department during the Draft EIS public comment period, which ended July 10, 2017. All timely public comments are included in this appendix to the Final EIS. The first section of the comment response appendix contains responses to substantive comments on the Draft EIS. Substantive comments were identified by evaluating whether a comment included:

1. Specific reference to the EIS, and
2. Rationale for an addition, clarification, correction, discussion of uncertainty, or application of alternative methodology.

All of the public oral and written comments determined to contain both substantive elements are provided in Section T-1 of this Appendix. Responses to substantive comments are provided in Section T-2.

Many of the remaining comments submitted during the Draft EIS comment period indicated the opinions and preferences of individuals and organizations on whether to issue a permit or high-level policy issues; provided general critiques of the draft document; or included sample studies and articles for reference without providing clear rationale for an addition, clarification, correction, discussion of uncertainty or application of alternative methodology. These comments did not provide direct or actionable feedback on the content of the Draft EIS. While all comments were read and considered, an individual response was not provided for these types of comments.

All public comments not included in Section T-1 are included in Section T-3 of this Appendix and are part of the record that is available for the Administrative Law Judge (ALJ) and the Minnesota Public Utilities Commission (Commission) to consider in the need and routing decisions. Several of the broad themes present in the comments included in Section T-3 (and often raised in submittals provided in Section T-1) are addressed generally below.

## **1. General support for or opposition to the project or general preference for a particular alternative**

Many comments were submitted expressing support for or opposition to the project. As discussed in Chapter 3 of the EIS, an EIS does not advocate, recommend, or state a preference for a specific alternative. Instead, it analyzes and compares alternatives so that citizens, agencies, and governments can work from a common set of facts. Thus, comments expressing general opposition, support for the project, identifying a general preference for a certain alternative, or advocating for a certain course of action (renewable energy development, electric car promotion, routes that were not carried forward from scoping) did not aid the development of the Final EIS.

Additionally, a number of commenters cited the presence of the existing Line 3, which has been in operation for well over the 30-year timeframe analyzed in the EIS, as evidence that the EIS should have analyzed a 50- or 60-year operational timeline. The Applicant has stated that the expected lifetime of the proposed project is approximately 30 years. Due to the difficulty of predicting future events or

energy needs, and considering the dynamic nature of energy markets and the finite nature of oil deposits, the Department did not think it was warranted to include alternative operational timelines.

These comments, however, are included as part of the record and made available to both the ALJ and the Commission. During the public hearings for the project, citizens and organizations will have an opportunity to provide comment to the ALJ on their support for or opposition to the project or preference for a particular alternative for her consideration as she develops her findings and recommendations to the Commission.

## **2. Opposition to oil pipelines and continued reliance on fossil fuels**

Many commenters expressed opposition to the project based on the human and environmental impacts of ongoing use of fossil fuels and the particularly intense impacts associated with tar sands oil. Many of these commenters advocated for changes in energy policy to promote alternatives to fossil fuels.

Chapter 1 of the EIS includes a discussion of broad energy policy level questions related to fossil fuels that are not comprehensively evaluated in this EIS. While pipeline projects are increasingly contributing to public debate over important, broad energy policy issues, many of these overarching issues are beyond the scope of this EIS because they extend beyond the specific decision before the Commission. Where these policy issues specifically relate to the Certificate of Need (CN) or routes, however, the EIS provides a project-level assessment that the Commission will consider in their evaluation of the need and route of the project. It should be noted that the need decision before the Commission is limited to the approval (possibly with conditions) or denial of Enbridge Energy, Limited Partnership's (Enbridge's, or the Applicant's) proposal. In its decision on the Line 3 Project CN application, the scope of the Commission's jurisdiction does not extend to other oil pipelines or statewide alternative energy policy.

## **3. Concerns about the fate of existing Line 3**

Many commenters expressed opposition to Enbridge's proposal to abandon the existing Line 3 in place following Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations. These commenters advocated for complete removal of the existing Line 3, removal or abandonment based on landowner preference, or a Commission decision denying the CN and ordering Enbridge to discontinue use of the existing Line 3 and remove it from the ground.

Chapter 8 evaluates the environmental impacts that would result from abandonment and removal of the existing Line 3. If the Commission denies the CN for the proposed project, it has no regulatory authority to determine the fate of the existing Line 3. If the Commission decides to issue a CN for the proposed project, it is possible that they may consider permit conditions prescribing abandonment, removal, or a combination of abandonment and removal for the existing Line 3. The analysis in Chapter 8 provides environmental impact information to inform such a decision, should the Commission determine that it has the necessary authority. Chapter 8, however, does not advocate for a certain outcome or recommend whether the Commission can or should take up this issue through permit conditions.

Similarly, the EIS does not take a position regarding whether or not financial assurances for removal of the existing Line 3 are appropriate or should be included as a condition of approval. The Commission will consider such concerns in its decision.

#### **4. General concern about oil spill risk**

Many commenters advocated for denial of the CN based on the risk of spills. In some cases commenters suggested that, based on spill risk, the Commission should deny the CN and order Enbridge to discontinue use of the existing Line 3 and remove it from the ground or even order Enbridge to discontinue use of other pipelines as well.

An analysis of oil spill risk is provided in Chapter 10, but comments expressing opposition, or recommending denial of the CN without additional relevance to the analysis in Chapter 10, do not aid in the development of the Final EIS. These comments are included as part of the record and made available to both the ALJ and the Commission.

#### **5. Arguments related to project need**

While the need for the proposed pipeline with the proposed throughput capacity is an issue for the Commission, this EIS does not assess the overall project need. Instead, the EIS evaluates the environmental impacts associated with the range of reasonable alternatives to aid the Commission's evaluation of the need criteria set forth in Minnesota Administrative Rules Chapter 7853. As discussed in Chapter 3, under these criteria, the Commission first considers the underlying economic demand for the proposed pipeline. This economic analysis is conducted by Minnesota Department of Commerce Division of Energy Resources Energy Planning and Advocacy and other parties to the contested case hearing. This analysis aids the Commission in evaluating the underlying economic need. If the underlying economic demand is established, the evaluation of the environmental and socioeconomic impacts of the alternatives in the EIS will help the Commission weigh the advantages and disadvantages of alternative ways to meet the economic need and whether to issue a CN for the proposed project.

#### **6. General expressions of concern about certain resources or impacts**

Many of the comments submitted during the comment period highlighted a commenter's concern about impacts of the project or alternatives to the project on a certain resource or resources, but did not provide any actionable feedback on the analysis or characterization of impacts in the EIS itself.

As noted in Chapter 1, the EIS neither prioritizes one resource over another, nor prescribes how impacts on different types of resources should be weighted. Decisions about whether and how to prioritize resources in the need and routing decisions is the Commission's charge and is not prescribed by the EIS. During the public hearings for the project, citizens and organizations will have an opportunity to provide comment to the ALJ on their resource- or impact-related concerns or suggested permit conditions to manage impacts for her consideration as she develops findings and recommendations for the Commission.

#### **7. Concern regarding mitigation implementation and oversight**

Many commenters expressed concern regarding mitigation oversight, in some cases citing the Applicant's past performance, or alleged past performance, on other projects. The EIS assumes that, if a permit is granted, the Applicant would implement the project in the manner outlined in their application. The Commission will consider all commenter concerns regarding the Applicant's record of compliance and weigh those concerns accordingly prior to issuing or denying a permit. If the Applicant fails to adhere to mitigation outlined in the EIS, such instances would be investigated by the appropriate authorities on a case-by-case basis. The Commission assumes that the Applicant will comply with all

laws, rules, and statutes governing the construction and operation of pipelines in the State of Minnesota.

#### **8. Concern regarding landowner negotiations**

A number of commenters submitted comments regarding the Applicant's negotiations with landowners. The terms of the easement(s) are a matter to be settled between the Applicant and individual landowners and would contain specifics regarding pipeline crossing mechanisms, if necessary.

#### **9. Future decommissioning of the proposed Line 3 pipeline**

Some commenters requested that the future decommissioning of the proposed Line 3 replacement be considered in the EIS. Future decommissioning would be similar to the impacts described for construction. Similar types of equipment, ground disturbance, and workforce levels would be required. Decommissioning would require adherence to similar mitigation measures and best management practices (BMPs). Alternatively, the Applicant may request to abandon the pipeline in place in a manner similar to the description in Chapter 8. Whether the proposed new pipeline is ultimately abandoned or removed, the Applicant will be required to adhere to all laws and regulations in force at the time of decommissioning. Regarding financial assurances related to decommissioning, such considerations are beyond the scope of this EIS, but will be taken into consideration by the Commission.

#### **10. Frustration regarding the size of the EIS and the complexity of the subject matter**

The Department of Commerce made every effort during preparation of the EIS to ensure that the subject matter is accessible to the general public. Due to the technical, as well as controversial nature of the project, the EIS is necessarily long and contains detailed information for stakeholder consideration. The length of the EIS and scope of the analysis is necessary in order to provide a complete disclosure of potential environmental impacts.