

Levi, Andrew (COMM)

From: youneek one <youneeekone@gmail.com>
Sent: Saturday, July 08, 2017 3:51 PM
To: MN_COMM_Pipeline Comments
Subject: CN-14-916 and PPL-15-137

Nancy Oldham

13332 Beach Haven Rd

Park Rapids, MN 56470

Re: Docket numbers CN-14-916 and PPL-15-137

As a property owner in Hubbard County in northern Minnesota, I strongly object to the proposed, relocated Line 3 Pipeline. Enbridge has picked the worst possible route for this pipeline, with significant potential to harm aquifers, drinking water, recreational areas, tribal lands, rice fields, residential, agricultural land and wildlife. Spills are inevitable. The issue is not WHETHER there will be a spill, but when, where and how much. Let's not allow this pipeline to risk Minnesota's most valuable resources.

The draft environmental impact statement that has been released is impossible for the public to review thoroughly, as it is thousands of pages long and feet high. It would likely take years of research to properly verify all of the statements, facts and figures used in the report.

Of great concern is assumptions made for evaluating hypothetical spills. As Section 7.5.3 notes, "The maximum simulation duration using OILMAP Land was 24 hours, as it was assumed that emergency response measures to prevent continued downstream transport of released oil would be in place within that length of time." In reality, there may be areas in which identification of a spill and a spill response couldn't even BEGIN within that length of time, such as those for which a temporary road may need built in order to get equipment to a spill site.

1436-1

Safety equipment certainly doesn't always detect a spill. Landowners and the public have discovered many spills in the past. Imagine a break in a pipeline at night, undetected by equipment. It would likely be hours and possibly even days before such a spill was identified, much less remediated.

Another deeply problematic assumption is that complete remediation of an area is even possible after a spill. In many spills in the past, the spill area experiences environmental problems many, many years after the event. Think of Kalamazoo, Michigan. Here, Enbridge operators assumed an alarm to be a false one, and failed to shut down the leaking line for SEVENTEEN HOURS.

In the draft EIS section about the Sandy River there is the following statement, “It is assumed in the model that crude oil would enter directly into the Sandy River with no holdup of oil on land. In the event of an actual oil release, any oil on land would undergo prompt and effective remediation.” This is clearly the public hope and goal. However, prompt and effective remediation is, quite simply, not always the experience AND not always possible. However, it is commonly known that oil companies own stock in the companies that remediate spills, meaning that they profit from spills as well as the transportation and sale of oil.

PLEASE see that a foreign company such as Enbridge does not gain the power to profit from and endanger the State of Minnesota, its landowners, visitors and economic as well as environmental resources. Many pray the state will focus on alternative energy sources and U.S.-based businesses.



Comment Form

Line 3 Project Draft EIS Public Meeting

Please provide your contact information. This information and your comments will be publicly available.

Name: JAMES M OLSON

Street Address: 37018 ROINEZ TRL

City: BATTLE LAKE State: MN Zip Code: 56515

Phone or Email: mjolson@prtcl.com

Please share your comments on the Line 3 Project Draft EIS. What could be improved in the EIS? What is missing?

0633-1

In the Line 3 Project Draft EIS, I am unable to find a discussion of the solvents required to make the tar sand crude "pumpable". The current line must be employing such a solvent and the proposed Line 3 will be requiring a great deal more. These solvents are not environmentally friendly and need to be accounted for - and how will facilities in Duluth handle the increased volume?



Comment Form

Line 3 Project Draft EIS Public Meeting

Please provide your contact information. This information and your comments will be publicly available.

Name: Josh Olson

Street Address: 305 E 24th St AS

City: Minneapolis State: MN Zip Code: 55404

Phone or Email: 218 348 5701

Please share your comments on the Line 3 Project Draft EIS. What could be improved in the EIS? What is missing?

I have come here today, of my own free will, to express my concern of Line 3's DEIS. The draft is both inadequate and inconsistent. As someone who values proper research & truthful information, I am disappointed that the document contains incorrect information. Such as on page 4 of Chapter 7, which lists Line 67's (Alberta Clipper) flow rate to be 570,000 bpd, the line instead operates at close to 800,000 bpd since 2014.

0729-1

I am also upset that the document references broken links, and cites non-existent sources such as "historicaltrauma.com" (Chapter 9). This is extremely unprofessional, and it leads me to question the legitimacy of all information contained within the document.

0729-2

I am disappointed in Enbridge's Draft Environmental Impact Statement, and concerned about the true impact and implications of this pipeline for MN citizens.

Levi, Andrew (COMM)

From: Joan Ostrove <ostrove@macalester.edu>
Sent: Wednesday, July 05, 2017 7:53 PM
To: MN_COMM_Pipeline Comments

The recently released Draft Environmental Impact Statement concerning the proposed new Line 3 pipeline raises many concerns. I write with the request that the proposal be *denied* given the fact that it encourages investment in a dying industry (tar sands) and commitment to the use of fossil fuels which must be stopped and not only destructive but are clearly a way of the past (e.g., Volvo just announced that all of its cars will be electrified by 2019). In addition, it endangers Indigenous/tribal lands and livelihoods in Minnesota.

Below are some more specific comments about the DEIS.

There is absolutely no discussion of what would happen with exposed pipe, only the acknowledgement: "When a pipe is empty, the weight of the liquid load that once contributed to buoyancy control is lost. As a result, the pipe could become buoyant and begin rising toward the surface at watercourse crossings, in wetlands, and in locations where soil density is low and the water table is high" (8.3.1).

1226-1

The report clearly states that Line 3 would contribute to climate change.

Line 3's direct and indirect emissions alone would be 453,000 tons of CO2 per year. Over a 50-year lifespan, that would cost an estimated \$1.1 billion. (Executive Summary p.18).

1226-2

Climate change is having a devastating impact on humans and other forms of life - displacement, loss of biodiversity, conflict and war; the effects on indigenous peoples are disproportionate.

Chapter 5, "Existing Conditions, Impacts, and Mitigation" states that Line 3 will NOT create

permanent jobs

, and few if any jobs would go to Minnesotans

. Enbridge's application states that "existing operations staff would be able to operate the [pipeline] and that few additional employees would be hired to assist the staff" (5.3.4).

The DEIS concludes that "disproportionate and adverse impacts would occur to American Indian populations in the vicinity of the proposed Project" (11.5)

That should be a reason to deny the project.

Chapter 6 states that Enbridge's preferred route would impact more wild rice lakes and areas rich in biodiversity than any of the proposed alternative routes (Figure ES-10).

The "No Build" Alternative is not really considered. It is framed as "Continued Use of Existing Line 3" (Chapters 3 and 4), but nowhere is the "Shut Line 3 Down" option considered. There is no discussion of renewable energy, conservation, or the rapid development of electric car technology.

The DEIS indicates that the costs far outweigh the benefits. Please do not allow a permit of Line 3. It would be much better to develop renewable energy infrastructure.
Thank you, Joan M. Ostrove

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Levi, Andrew (COMM)

From: Star Otto <creatastar@gmail.com>
Sent: Sunday, July 09, 2017 9:09 PM
To: Ek, Scott (PUC); Wachtler, John (COMM); MN_COMM_Pipeline Comments
Subject: Commentary for the DEIS for Line Three - Wichahpi Otto
Attachments: Enbridge Letter.docx

Attached is my public submission for the DEIS for Line 3. Please respond that this has been received and filed appropriately.

Thank you!

Wichahpi Otto

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July 10, 2017

Minnesota Public Utilities Commission
 Attn: Scott Ek, Planning Director
 121 E. 7th Place East, Suite 350
 St. Paul, MN 55101-2147
 Email: Scott.Ek@state.mn.us
 Phone: 651-201-2255

Re: DEIS Line 3 Comments, Enbridge Energy, Ltd.

I am writing this scoping letter to respond to the Draft Environmental Impact Statement for Line 3, Enbridge's proposed project requires two separate approvals from the Minnesota Public Utilities Commission (Commission) – a certificate of need (CN) and a route permit. The Commission's docket numbers for these approvals are PL9/CN-14-916 and PL9/PPL-15-137.

I respectfully request that the Minnesota Public Utilities Commission comply with the Minnesota Statute 216H.02 Greenhouse Gas Emission Control, subdivision 1, greenhouse gas emission-reduction goal. Currently, the goal reflects that the state to reduce statewide greenhouse gas emissions across all sectors producing those emissions to a level at least 15% below 2005 levels by 2015, to a level at least 30 percent below 2005 levels by 2025, and to a level at least 80 percent below 2005 levels by 2050.

The last dated report on the Minnesota Pollution Control Agency's website is lacking two years of data, with the last report done in 2014. Fortunately, the report can be found at https://www.eqb.state.mn.us/sites/default/files/documents/CSEO_EQB.pdf

Oddly, with the last legislation, Representative Garofalo entered a bill to violate the Minnesota Statute 212H.02. His attempt to simply bypass the greenhouse gas emission reduction plan for the state of Minnesota while holding the position as House Speaker was a dangerous action for him to make and one that does not represent the views of the State of Minnesota, based on the 2016 report. At the Omnibus session, handouts were given to the floor acknowledging climate change as real. I watched him throw his papers on the floor and tantrum about false information that he had no knowledge on arguing without this DEIS. Fortunately, Governor Dayton vetoed Garofalo's attempt and removed the language that would have violated every single Minnesota Residents right to clean air by violating the code per a uniformed and biased legislative vote.

Fortunately, the allowance to simply pass the pipeline with no certificate of need was removed as language from the bill. As the next steps by the State of Minnesota Residents would and still should come at the cost of demanding and enforcing the **Minnesota Statute 216H.02**. To date, per the 2016 EQB report, the State of Minnesota has not met the goal of reducing greenhouse

gas emissions, in fact has increased greenhouse gas emissions and just about considered that the republican viewpoint in the great state of Minnesota that is known for its pristine forests, the land of 10,000 lakes, a place for families and a state where families can enjoy the land that is still very much lush in its landscape.. I know, because I have lived here my entire life. Since some people of the state believed that the majority needs to be a republican point of view, which does not agree with the standing Minnesota Statute, I bring this statute to your attention and again, assert that the Public Utilities Commission must enforce the reduction of greenhouse gas emissions for this project by denying the permits and asserting the no action plan.

The DEIS for Line 3 did not sufficiently calculate the CO2 emissions in the assessment. While the Draft EIS on page ES-17 argues that the pipeline will cause indirect and direct Greenhouse Gas (GHG). The current EQB report from 2016 directly reflects that the clause of the Direct and Indirect section of transporting the pipeline has two clauses to consider that reinforces that the State of Minnesota will not meet the **Minnesota Statute 216H.02**. First, while running through a pipeline may produce smaller numbers in transportation, the DEIS fails to acknowledge that the product transported in the line, is in fact a fossil fuel. The very same product that is outlined in the 2016 EQB report as the product that must be reduced in order to meet the **Minnesota Statute 216H.02** of reducing fossil fuels.

1440-1

While the State did capture some information through the DEIS, there is some very large components that the DEIS did not capture. As a contractor in the State of Minnesota, I know that construction produces some of the highest GHG emissions. From construction waste, to transportation in the industry, as well as what was not included was the additional traffic that will be rerouted in additional miles and extra fossil fuels for the construction of the line. As well as one other important component, there are inspections that must be done and traveled to in order to assure that the line is appropriately built, as well as continued education and new education that must be traveled to in order to educate oneself on spill reduction and mitigation, not through just the construction company, however, the emergency response teams in effort to gain the education to cope with spills should they occur.

Minnesota has already experienced more than enough damages from Enbridge. In July 2010 there was a 20,000 barrel loss of crude oil into the Kalamazoo. Enbridge also reflects that they have 56 reported crude oil spills in the last five years just on its Midwest Pipeline System. Enbridge in the State of Minnesota had the most accidents, while the least amount spilled through the six states they house in, mainly at their terminal and pumping stations.. With the worst occurring in 2007 with the loss of 2 workers who died in an explosion and fire near Clearbrook, MN.. Sadly, the loss of human life cost some people their jobs, however, it will never replace the damages caused by the fire, explosion and more importantly, people who had families that will never ever see their family member again. Enbridge produces a lot of handouts to the public that they will do more to improve the environment and assure that the environment and public is safe, however, the proof of Enbridge's actual actions reflect that they

do **not** show that they actually do what they say.

The essence of factoring in GHG is skipping a lot in the construction process of the contribution to GHG. The consideration of the preferred line has consideration of the removal of the old line. Doubling the construction to the area. Thus increasing the potential GHG count. On top of it, the DEIS clearly outlines that the impacts to increase GHG is considered, in part, but has not given due diligence in the fact that the construction activity itself should be included in consideration of the GHG factor and all contributing factors that would be included with calculations. It all adds up at the end of the day, and while the DEIS wants to consider current effects and does not consider long term effects, I believe that the public is aware enough and wise enough to the concept of what is being stated within the parameters of the law that by taking the No Action Plan, that the Public Utility Commission will maybe actually start achieving what is not just a goal for the state of Minnesota In reducing GHG, however, it is the law. Your job is to make decisions per the law that would protect the public interest. Knowing that the PUC has failed to contribute all activity of transportation for all contractors, subcontractors, and employees of the pipeline for transportation, as well as time to educate, certify, inspect and train for mitigation planning that the PUC has failed to sufficiently meet the criteria of the **Administrative Rules 4410.0300, Subp. 3, and Subp. 4.**

1440-2

The PUC has also not contributed the rise in public awareness with public commentary and the fact that there are many locations to travel to for public commentary. It is clear that there are people and groups, including myself that must battle the concept of producing GHG emissions just to travel to the Public Hearings that have not been included in the calculations of GHG for the State of Minnesota just driving to participate in the Public Meetings and commentary, as well as the Hearings as well. The rise in people who traveled just to Standing Rock and are moving all over the nation right now to fight the pipelines may produce a demand for fossil fuels, but consider that the travel is done in effort to fight the fossil fuel industry and the only way that people have been literally forced to find a way into having a voice, is to travel and fight in person to assure objectivity to the pipelines. Just Standing Rock alone is a reflection of how many people felt compelled to go to North Dakota from all over the country to fight Dakota Access Pipeline, a company that Enbridge is invested in and preparing to produce more fossil fuels, with an estimated count of people driving 1.5 additional miles out of the way, the cost of security to keep people from a shorter route of travel and reduce the GHG through travel, as well as the last known count of approximately 23,000 people who had arrived to object to not only Dakota Access but the consideration of the connected action with Enbridge that will have a trigger effect on not only just Minnesota, but across the United States in six other states that Enbridge transports across from Minnesota to Michigan and down a tree like pattern all the way to Texas.. As Enbridge is housed in Houston, Texas and holds a base in Canada as well. The cross the continent effect of GHG count has not thoroughly been calculated that has been raised to attempt to get the message across that the public does not want fossil fuels as a means of energy any longer.

As Minnesota must consider the MEPA process, I ask that the PUC consider Federal factors when attempting to move a public utility through the State of Minnesota that works in conjunction with Federal Permits as well.

Considering other factors such as Federal Permits that are still needed. With this DEIS, it is based on The Minnesota Environmental Policy Act, The Minnesota Environmental Rights Act (MERA), and the National Environmental Policy Act (NEPA). With crossing the Mississippi, there is a connected action currently that reflects that

The DEIS did not analyze the impacts of the Federal Action (granting the easement) on lands outside of Federal jurisdiction. Granting of the easement is a connected action with construction of the entire pipeline. Actions are connected if they automatically trigger other actions that require an EIS, cannot proceed unless those actions are taken, or if the actions are **interdependent parts** of a larger action and depend upon the larger action for their justification (see 40 CFR 1508.25 (a)(i, ii, iii)). This clearly meets the criteria of a connected action as defined by the *Council of Environmental Quality Regulations for the Implementation of the National Environmental Policy Act* (CFR Part 1500). What that means, in basic terms, is that the pipeline cannot proceed without the easement. Accordingly, the Corps of Engineers is required to disclose all impacts of its decision, included the connected action impacts on private and tribal lands (40 CFR 1508.25 (a)(1)). As such, the Army Corps permit approval makes it the prime decision-maker in the pipeline going forward and NEPA requires the Corps to disclose the entire impacts of the pipeline as connected actions to that decision.

Please note the following court decisions related to the requirement to disclose the impacts of connected actions.

National Trust For Historic Preservation in The United States v. United States Department of Veterans Affairs In The United States District Court For The District of Columbia, May 1, 2009

"24. Federal agencies must also analyze the impacts of "connected" actions in a single EA or EIS. 40 C.F.R. § 1508.25(a). Actions are connected if they "automatically trigger other actions which may require [EISs]," "cannot or will not proceed unless other actions are taken previously or simultaneously," or "are interdependent parts of a larger action and depend on the larger action for their justification." 40 C.F.R. § 1508.25(a)(1)." [Paragraph 24]

It is my understanding that while Minnesota is constitutional capable of writing their own laws, Minnesota however, is not to write laws that conflict with federal laws.

Source: [National Trust for Historic Preservation.pdf](#)

Thomas v. Peterson, 753 F.2d 754 (9th Cir. 1985)

"The construction of the road and the sale of the timber in the Line 3 area meet the second and third, as well as perhaps the first, [2](#) of these criteria. It is clear that the timber sales cannot proceed without the road, and the road would not be built but for the contemplated timber sales. This much is revealed by the Forest Service's characterization of the road as a "logging road," and by the first page of the environmental assessment for the road, which states that "the need for a transportation route in the assessment area is to access the timber lands to be developed over the next twenty years." Moreover, the environmental assessment for the road rejected a "no action" alternative because that alternative would not provide the needed timber access." [A. CEQ Regulations, Para. 24]

"Rather, we believe that if the sales are sufficiently certain to justify construction of the road, then they are sufficiently certain for their environmental impacts to be analyzed along with those of the road. Cf. City of Davis v. Coleman, [521 F.2d 661](#), 667-76 (9th Cir.1975) (EIS for a road must analyze the impacts of industrial development that the road is designed to accomodate). Where agency actions are sufficiently related so as to be "connected" within the meaning of the CEQ regulations, the agency may not escape compliance with the regulations by proceeding with one action while characterizing the others as remote or speculative." [C. Timing of the EIS, Para. 32]

"We therefore reverse the district court on the NEPA issue and hold that, before deciding whether to approve the proposed road, the Forest Service is required to prepare and consider an environmental impact statement that analyzes the combined impacts of the road and the timber sales that the road is designed to facilitate." [C Timing of the EIS, Para. 34]

Source: [Open Jurist: Thomas v Peterson](#)

Save the Yaak Committee v. J.R. Block, 840 F.2d 714 (9th Cir. 1988)

"Thomas teaches that an environmental assessment must include an analysis of these connected actions. This assessment of connected actions is necessary even if the impact of the proposed action is not significant. The impact or significance of a particular project is a separate analysis to be considered in deciding whether to prepare an EIS or only an EA." [C. The EA's Analysis of Connected Actions, Para. 39].

"Both connected actions and unrelated, but reasonably foreseeable, future actions may result in cumulative impacts. As discussed, there is an inextricable nexus between the road reconstruction and the logging operations. Yet, the EA did not evaluate the environmental impacts of either the reconstruction or the ongoing and future accelerated timber harvest. The cumulative impact of these actions raises material issues of fact concerning the project's effect upon the human environment." [C. The EA's Analysis of Connected Actions, Para. 45]

Source: [Open Jurist: Save the Yaak Committee v Block](#)

Should the States assessment be used for Federal Permitting, the parameters of the process do not meet the criteria to allow the federal permits and both conflict with one another.

Hells Canyon Preservation Council, Earthworks, and the Northwest Environmental Defense Center v. Richard J. Haines, Steve Ellis, and United States Forest Service, CV. 05-1057-PK (Aug. 4, 2006) in the United States District Court for Oregon

“As noted above, part of the purpose and need for the Project at issue here is to address the fact that several reaches of the North Fork Burnt River and its tributaries do not meet state water quality standards for temperature and sediment. AR 7936; ROD at 1. The Forest Service may not ignore or defer its responsibility to remedy existing water pollution in the project area based on a misguided notion that the right to mine trumps federal and state environmental laws. For the foregoing reasons, plaintiffs' motion for summary judgment on claims under the Clean Water Act is granted.” [Opinion and Order, Page 11]

Source: [Hells Canyon Decision.pdf](#)

Colorado Rail Passenger Association v. Federal Transit Administration, Denver Union Station Project Authority and the Regional Transportation District

“Construction authorization for the area around DUS will not only result in immediate ground-disturbing activities as trenches are dug, pipes laid, a tunnel excavated and foundations poured, but it will also open the door to DUSPA and private real estate developers to begin environmentally destructive construction activities on a project which has not been properly analyzed for its environmental impacts as a “connected action” with respect to areas which are not properly part of the Environmental Impact Statement (“EIS”) and in violation of CEQ regulations in 40 CFR § 1508.35 mandating EIS scope. The irreparable harm will include, among other things, degradation of the irreplaceable historic environment of Lower Downtown Denver; harm to the traveling public; mobility impairment for disabled and elderly persons. Further, the harm results from danger signals arising from the failure of FTA to take a “hard look” at serious environmental problems that have been inadequately analyzed and proposed to be mitigated.” [Page 6]

The artificially segmentation of the analysis was contrived as a justification for the Corps’ claim that the granting of the Corps easement does not constitute a significant impact and to allow them to permit the project based on an Environmental Assessment and a subsequent Finding of No Significant Impact (FONSI). As stated above, because the easement has no independent utility, the Corps needs to consider the impacts of the entire pipeline in determining significance. Under CEQ regulations, significance is defined through considerations of the context and intensity of impacts. Context refers to its impact on human and natural resources, including the affected local and region and associated interests. Intensity refers to the severity of the impacts (40 CFR 1508.27). To determine severity of effect, you must consider direct, indirect (including connected actions), and cumulative effects (40 CFR 1508.25(c)).

The CEQ includes considerations to use in evaluating the significance of the intensity of project impacts **(40 CFR 1508.27)**. I have listed those applicable criteria by which the project clearly meets the CEQ definition for significant impacts. Line Three not only affects the water quality of Federal Standards, however, has not proven sufficiently in the DEIS that it can work in conjunction with federal needs and conflict, once again.

- 1) **Public health and safety (40 CFR 1508.27)**. This history of oil pipelines, particularly those operated by Enbridge and affiliates, indicate that they will leak. The DEIS assumption regarding an average leak are a very slight chance of leak misrepresents the risk posed by a large leak so close to a water supply. In fact, Sunoco, who is a subsidiary of Energy Transfer Partners recently had one of their pipelines leak approximately 1,300 barrels of gasoline to the Susquehanna River in Pennsylvania. A review of federal records indicates that pipelines constructed/operated by Energy Transfer Partners (who owns the Dakota Access Pipeline Project), and that Enbridge is an investor in, have leaked a total 18,845 barrels of crude oil across the country since 2005. Sunoco Logistics, who will operate the pipeline, has had more leaks of hazardous materials in the last decade than any other company (274 incidents). The second company on the list for most leaks had 18 incidents in the past decade and it operates over 4 times the miles of pipeline as Sunoco (See ABC new report at <http://kstp.com/news/oil-and-water-dakota-access-pipeline-north-dakota-energy-transfer-partners-standing-rock-sioux-reservation/4319858/>). Because of the importance of the Mississippi, the listed aquifers, as well as the wells, and ground water listed as drinking water sources for the tribe, as well as other downstream users, the pipeline project clearly poses a risk to public health and safety. The DEIS did not include a description of the methodologies used in making the determination that an average leak would be 4 barrels, nor did it include the full risk assessment used to support a conclusion that the risk of leakage and contamination would be low ("Stantec 2015" is referenced in Section 3.2.2.2 as the citation for an analysis of benzene contaminations, but the full reference is not provided and the report is not included an appendix to the EA). The DEIS must analyze and disclose a robust risk assessment for public review and comments.

2) **Degree to which effects are likely to be highly controversial (40 CFR 1508.27(b)(4))**

It is clear that the level of public controversy related to the pipeline is extremely high, as shown by massive local, national, and international protests against the project. Additionally, I would note that **several federal agencies (including those with regulatory authority over resources impacted by the project) disagreed with the Corps conclusion that the pipeline did not have significant environmental impacts**, including impacts related to environmental justice. **The agencies expressing these concerns included the Environmental Protection Agency (EPA), the U.S. Department of Interior (DOI), and the Advisory Council on Historic Preservation (ACHP)**. It is clear that both the public and major federal agencies are in disagreement with the findings of the Environmental Impact Statement and the findings of the Public Utilities Commission.

3) Consideration of whether the action is related to other actions with cumulatively significant impacts (40 CFR 1508.27(b)(7))

As noted above, the easement is inextricably connected to the entire pipeline, which could not be built without the granting of the Certificate of Need. Currently, Enbridge has moved their materials into place and is already prepared to allow this without the Certificate of Need secured. **Accordingly, the impacts of the entire pipeline must be disclosed and considered when making a determination of significance.** A pipeline of this length, number of stream crossings, and public concerns clearly would have significant impacts as shown by similar EIS analyses conducted for other pipelines throughout the country. I reference the following examples:

- Final Environmental Impact Statement For the Keystone Oil Pipeline Project
- Final Environmental Impact Statement for the Rover Pipeline, Panhandle Backhaul, and Trunkline Backhaul Projects, 2016
- Sandpiper Pipeline and Line 3 Replacement Projects EIS (prior and current)
- Atlantic Sunrise Project (CP15-138-000)
- NEXUS Gas Transmission Project and Texas Eastern Appalachian Lease Project (CP16-22-000, CP16-23-000)
- Leach XPress and Rayne XPress Expansion Projects (CP15-514-000, CP15-539-000)
- Golden Pass Products, LLC; and Golden Pass Pipeline, LLC's Golden Pass LNG Export Project (Docket Nos. CP14-517-000, and CP14-518-000)

4) Any effects that threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment (40 CFR 1508.27(b)(10)).

The easement and the associated proposed pipeline threaten to violate laws imposed for the protection of the environment by the Clean Water Act. Enbridge's record of violations of these requirements is well documented (see text above) and the assertions in the DEIS regarding the safety of the pipeline are not supported by the "hard-look" analysis required by NEPA and the softer look at the impacts through the MEPA. Accordingly, those conclusions are arbitrary and capricious and require a robust analysis in the EIS, including quantitative analysis and detailed qualitative description to support any conclusions.

Similarly, the alternatives development process for the easement is in clear violation of Executive Order 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. This executive order requires that Federal agencies achieve environmental justice by addressing, as appropriate, disproportionately high and adverse human health or environment effects of its programs, policies, and activities on minority populations and low-income populations

in the United States and its territories. The Sioux tribe clearly meets the definition of one of these communities. The alternatives development process described in the EA specifically states that a potential alternative to the existing proposed route was eliminated as a viable alternative retained for detailed analysis because of its proximity to municipal water supply wells for the town of Bismarck, North Dakota (92% white). In its place, the Corps retained a route that provided a direct risk to the water supply for the Sioux tribe. The analysis of environmental justice dismissed this potential impact by indicating that there were non-tribal water sources at risk closer to the proposed crossing. This disclosure does little to establish the context of the potential impacts to those wells. Do they serve an entire community, for example? In fact, it is arbitrary to use this as justification for dismissing potential impacts to the Standing Rock Sioux water supply. Native American tribes typically have some of the worst municipal infrastructure in the nation due to neglect from the Federal and State government. Regardless of the “percentage of low-income and minorities in the area”, a spill affecting the tribe water supply would in and of itself constitute a disproportionate impact as the Tribe does not have the same resources to upgrade infrastructure or address contamination as easily as affluent communities with State and Federal support. A similar example is demonstrated in Flint, Michigan, where low-income communities have contaminated water after years of systematic and informed neglect by State and Federal agencies. **This concern was also expressed by the United States Commission on Civil Rights in a news release published November 22, 2016. The Commission stated “The pipeline also poses a threat to the water supply of the Standing Rock Sioux, which raises issues of environmental justice and the lack of power of marginalized communities to have a say in the environmental health of the their communities.”**

This assessment does not assess all minorities and low income populations in the State of Minnesota and has reflected an extreme bias in removing other minorities and low income citizens of the State of Minnesota.

The EPA states that environmental justice is the “fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” (See EPA Environmental Justice webpage at <https://www.epa.gov/environmentaljustice>). Clearly the development of the proposed route did not include “fair treatment” as it put the Tribes and other Minority groups as well as Citizens within the way of Line 3’s water supply at risk to protect the water supply.. This is particularly true of the concerns expressed by the tribe regarding traditional cultural properties and the spiritual significance of the area to the tribe. The DEIS shows no evidence of how these concerns were addressed in the DEIS for both the Chippewa Tribes and the Seven Fire’s Tribes in the State of Minnesota.

Additionally, regulations for the implementation of Section 106 of the NHPA (36 CFR Part 800) require that Federal agencies consult with Indian Tribes on a government-to-government basis, in a manner that is **“respectful of tribal sovereignty”** and that they **“acknowledge the special expertise of Indian Tribes in determining which historic properties are of religious and cultural significance to them”** (See ACHP publication *List of Federal Tribal Consultation Statutes, Orders, Regulations, Rules, Policies, Manuals, Protocols and Guidance, January 2009*). The fact that the Public Utilities Commission has hand selected tribal representation and misrepresented that the Sierra Club, Honor the Earth and other organizations can represent Sioux Treaty Rights. **The Public Utilities Commission depicts the removal of Tribal representatives sent from the Oceti Sakowin to speak on Treaty and represent on the Sioux Community.**

It is also worth noting once again that the flawed process of intentionally segmenting the analysis of the project in an attempt to permit the permits, regardless of public commentary or the appropriate process under the State and Federal laws and regulations.

No other alternative is discussed as options, even though the Administrative rules clearly articulate that other alternatives with the no action plan is allowed under the rules of MEPA. Another alternative that the State of Minnesota needs to consider knowing that the climate is changing, the medicines of the State of Minnesota is growing at a rate that months ahead of the normal bloom time for the sacred ceremonies of the tribe. As one who is on the Medicine Road for the Oceti Sakowin, I can personally attest that there is a difference in the environment as a whole, when medicines that should not be ready now are growing and the medicines I should be able to use now have bloomed ahead of time and at an expedited rate that they are not usable as they should be for the timing of the ceremonies that have been practiced for the last five hundred years.

Knowing the great changes that are occurring throughout the world with climate change, the alternative would be to enforce the law under Minnesota Statute 216H.02 Greenhouse Gas Emission Control, subdivision 1, greenhouse gas emission-reduction goal. Enbridge should be moving to new demands of the public, which is the demand for renewable energy and the Certificate of Need as well as the Route Permits should be denied.

The State and the Federal Government do not meet on the same level of the law and the protection of the public, therefore the Permits should be denied and Enbridge should be asked to meet the new and growing upcoming public demands of clean and renewable energy instead of fossil fuels, which is proven to add to the problems of climate change.

Lastly, the public commentary did hold public meetings, however, had failed to reach other communities for public engagement such as those who hold specific psychological disabilities such as learning disabilities, cognitive disorders, nor reached those who are fall within other

governed disability categories such as the blind and the deaf. There are many tribal members who are financially disabled with no access to transportation, nor internet services besides their phone. To attempt to go through such a document removes many people from access to these documents, or knowing about them without more elaborate efforts to obtain public engagement.

At the St. Paul public meeting, I personally met with many people who were unsure how to read the DEIS or comment. There is no way for the public to know all the rules and regulations that would govern the involvement of the public and has unfairly produced a situation that has limited much of the public's involvement with this process nor be educated appropriately in how to comment and what would be construed a valid comment to aid in the process to make better decisions for the people of the State of Minnesota.

In conclusion, capping on the entire commentary letter:

The effect of the codes from municipality to municipality is not addressed in the impacts on how that affects the people under the governing laws, and as one that directly works in that field, do not feel that it has been properly addressed or represented.

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As well as other minority groups either. In fact the DEIS omits covering other minority groups at all in the Draft EIS. As a dual minority female, the effects to me as multiple minorities as I outlined in my original intervention, are not covered at all in the DEIS and do not believe that I should be omitted from intervention due to the lacking representation.

Enbridge is an investor in the Dakota Access Pipeline. The reflection of the current legal proceedings reflect that there has already been a spill, which is indicative that the construction process was not adequately covered.

Also, the legal proceedings reflect that the Environmental Assessment was not appropriately addressed. While the State believes that the Draft EIS is comprehensive, it reflects bias in research. As one who

holds a degree in mitigation as well as clinical research that is certified by degree, and can add to the record to help the public remove the bias that is reflected in the court documents, I ask that my intervention be resubmitted and that this letter be added to the record as an amendment to the assertion of the intervention.

Respectfully,

Wichahpi Otto

15444 Lesley Lane

Eden Prairie, MN 55346

July 10, 2017

Minnesota Public Utilities Commission
 Attn: Scott Ek, Planning Director
 121 E. 7th Place East, Suite 350
 St. Paul, MN 55101-2147
 Email: Scott.Ek@state.mn.us
 Phone: 651-201-2255

Re: DEIS Line 3 Comments, Enbridge Energy, Ltd.

I am writing this scoping letter to respond to the Draft Environmental Impact Statement for Line 3, Enbridge's proposed project requires two separate approvals from the Minnesota Public Utilities Commission (Commission) – a certificate of need (CN) and a route permit. The Commission's docket numbers for these approvals are PL9/CN-14-916 and PL9/PPL-15-137.

I respectfully request that the Minnesota Public Utilities Commission comply with the Minnesota Statute 216H.02 Greenhouse Gas Emission Control, subdivision 1, greenhouse gas emission-reduction goal. Currently, the goal reflects that the state to reduce statewide greenhouse gas emissions across all sectors producing those emissions to a level at least 15% below 2005 levels by 2015, to a level at least 30 percent below 2005 levels by 2025, and to a level at least 80 percent below 2005 levels by 2050.

The last dated report on the Minnesota Pollution Control Agency's website is lacking two years of data, with the last report done in 2014. Fortunately, the report can be found at https://www.eqb.state.mn.us/sites/default/files/documents/CSEO_EQB.pdf

Oddly, with the last legislation, Representative Garofalo entered a bill to violate the Minnesota Statute 212H.02. His attempt to simply bypass the greenhouse gas emission reduction plan for the state of Minnesota while holding the position as House Speaker was a dangerous action for him to make and one that does not represent the views of the State of Minnesota, based on the 2016 report. At the Omnibus session, handouts were given to the floor acknowledging climate change as real. I watched him throw his papers on the floor and tantrum about false information that he had no knowledge on arguing without this DEIS. Fortunately, Governor Dayton vetoed Garofalo's attempt and removed the language that would have violated every single Minnesota Residents right to clean air by violating the code per a uniformed and biased legislative vote.

Fortunately, the allowance to simply pass the pipeline with no certificate of need was removed as language from the bill. As the next steps by the State of Minnesota Residents would and still should come at the cost of demanding and enforcing the **Minnesota Statute 216H.02**. To date, per the 2016 EQB report, the State of Minnesota has not met the goal of reducing greenhouse

gas emissions, in fact has increased greenhouse gas emissions and just about considered that the republican viewpoint in the great state of Minnesota that is known for its pristine forests, the land of 10,000 lakes, a place for families and a state where families can enjoy the land that is still very much lush in its landscape.. I know, because I have lived here my entire life. Since some people of the state believed that the majority needs to be a republican point of view, which does not agree with the standing Minnesota Statute, I bring this statute to your attention and again, assert that the Public Utilities Commission must enforce the reduction of greenhouse gas emissions for this project by denying the permits and asserting the no action plan.

The DEIS for Line 3 did not sufficiently calculate the CO2 emissions in the assessment. While the Draft EIS on page ES-17 argues that the pipeline will cause indirect and direct Greenhouse Gas (GHG). The current EQB report from 2016 directly reflects that the clause of the Direct and Indirect section of transporting the pipeline has two clauses to consider that reinforces that the State of Minnesota will not meet the **Minnesota Statute 216H.02**. First, while running through a pipeline may produce smaller numbers in transportation, the DEIS fails to acknowledge that the **product** transported in the line, is in fact a fossil fuel. The very same product that is outlined in the 2016 EQB report as the product that must be reduced in order to meet the **Minnesota Statute 216H.02** of reducing fossil fuels.

1571-1

While the State did capture some information through the DEIS, there is some very large components that the DEIS did not capture. As a contractor in the State of Minnesota, I know that construction produces some of the highest GHG emissions. From construction waste, to transportation in the industry, as well as what was not included was the additional traffic that will be rerouted in additional miles and extra fossil fuels for the construction of the line. As well as one other important component, there are inspections that must be done and traveled to in order to assure that the line is appropriately built, as well as continued education and new education that must be traveled to in order to educate oneself on spill reduction and mitigation, not through just the construction company, however, the emergency response teams in effort to gain the education to cope with spills should they occur.

Minnesota has already experienced more than enough damages from Enbridge. In July 2010 there was a 20,000 barrel loss of crude oil into the Kalamazoo. Enbridge also reflects that they have 56 reported crude oil spills in the last five years just on its Midwest Pipeline System. Enbridge in the State of Minnesota had the most accidents, while the least amount spilled through the six states they house in, mainly at their terminal and pumping stations.. With the worst occurring in 2007 with the loss of 2 workers who died in an explosion and fire near Clearbrook, MN.. Sadly, the loss of human life cost some people their jobs, however, it will never replace the damages caused by the fire, explosion and more importantly, people who had families that will never ever see their family member again. Enbridge produces a lot of handouts to the public that they will do more to improve the environment and assure that the environment and public is safe, however, the proof of Enbridge's actual actions reflect that they

do not show that they actually do what they say.

The essence of factoring in GHG is skipping a lot in the construction process of the contribution to GHG. The consideration of the preferred line has consideration of the removal of the old line. Doubling the construction to the area. Thus increasing the potential GHG count. On top of it, the DEIS clearly outlines that the impacts to increase GHG is considered, in part, but has not given due diligence in the fact that the construction activity itself should be included in consideration of the GHG factor and all contributing factors that would be included with calculations. It all adds up at the end of the day, and while the DEIS wants to consider current effects and does not consider long term effects, I believe that the public is aware enough and wise enough to the concept of what is being stated within the parameters of the law that by taking the No Action Plan, that the Public Utility Commission will maybe actually start achieving what is not just a goal for the state of Minnesota In reducing GHG, however, it is the law. Your job is to make decisions per the law that would protect the public interest. Knowing that the PUC has failed to contribute all activity of transportation for all contractors, subcontractors, and employees of the pipeline for transportation, as well as time to educate, certify, inspect and train for mitigation planning that the PUC has failed to sufficiently meet the criteria of the **Administrative Rules 4410.0300, Subp. 3, and Subp. 4.**

The PUC has also not contributed the rise in public awareness with public commentary and the fact that there are many locations to travel to for public commentary. It is clear that there are people and groups, including myself that must battle the concept of producing GHG emissions just to travel to the Public Hearings that have not been included in the calculations of GHG for the State of Minnesota just driving to participate in the Public Meetings and commentary, as well as the Hearings as well. The rise in people who traveled just to Standing Rock and are moving all over the nation right now to fight the pipelines may produce a demand for fossil fuels, but consider that the travel is done in effort to fight the fossil fuel industry and the only way that people have been literally forced to find a way into having a voice, is to travel and fight in person to assure objectivity to the pipelines. Just Standing Rock alone is a reflection of how many people felt compelled to go to North Dakota from all over the country to fight Dakota Access Pipeline, a company that Enbridge is invested in and preparing to produce more fossil fuels, with an estimated count of people driving 1.5 additional miles out of the way, the cost of security to keep people from a shorter route of travel and reduce the GHG through travel, as well as the last known count of approximately 23,000 people who had arrived to object to not only Dakota Access but the consideration of the connected action with Enbridge that will have a trigger effect on not only just Minnesota, but across the United States in six other states that Enbridge transports across from Minnesota to Michigan and down a tree like pattern all the way to Texas.. As Enbridge is housed in Houston, Texas and holds a base in Canada as well. The cross the continent effect of GHG count has not thoroughly been calculated that has been raised to attempt to get the message across that the public does not want fossil fuels as a means of energy any longer.

As Minnesota must consider the MEPA process, I ask that the PUC consider Federal factors when attempting to move a public utility through the State of Minnesota that works in conjunction with Federal Permits as well.

Considering other factors such as Federal Permits that are still needed. With this DEIS, it is based on The Minnesota Environmental Policy Act, The Minnesota Environmental Rights Act (MERA), and the National Environmental Policy Act (NEPA). With crossing the Mississippi, there is a connected action currently that reflects that

The DEIS did not analyze the impacts of the Federal Action (granting the easement) on lands outside of Federal jurisdiction. Granting of the easement is a connected action with construction of the entire pipeline. Actions are connected if they automatically trigger other actions that require an EIS, cannot proceed unless those actions are taken, or if the actions are **interdependent parts** of a larger action and depend upon the larger action for their justification (see 40 CFR 1508.25 (a)(i, ii, iii)). This clearly meets the criteria of a connected action as defined by the *Council of Environmental Quality Regulations for the Implementation of the National Environmental Policy Act* (CFR Part 1500). What that means, in basic terms, is that the pipeline cannot proceed without the easement. Accordingly, the Corps of Engineers is required to disclose all impacts of its decision, included the connected action impacts on private and tribal lands (40 CFR 1508.25 (a)(1)). As such, the Army Corps permit approval makes it the prime decision-maker in the pipeline going forward and NEPA requires the Corps to disclose the entire impacts of the pipeline as connected actions to that decision.

Please note the following court decisions related to the requirement to disclose the impacts of connected actions.

National Trust For Historic Preservation in The United States v. United States Department of Veterans Affairs In The United States District Court For The District of Columbia, May 1, 2009

"24. Federal agencies must also analyze the impacts of "connected" actions in a single EA or EIS. 40 C.F.R. § 1508.25(a). Actions are connected if they "automatically trigger other actions which may require [EISs]," "cannot or will not proceed unless other actions are taken previously or simultaneously," or "are interdependent parts of a larger action and depend on the larger action for their justification." 40 C.F.R. § 1508.25(a)(1)." [Paragraph 24]

It is my understanding that while Minnesota is constitutional capable of writing their own laws, Minnesota however, is not to write laws that conflict with federal laws.

Source: [National Trust for Historic Preservation.pdf](#)

Thomas v. Peterson, 753 F.2d 754 (9th Cir. 1985)

"The construction of the road and the sale of the timber in the Line 3 area meet the second and third, as well as perhaps the first, [2](#) of these criteria. It is clear that the timber sales cannot proceed without the road, and the road would not be built but for the contemplated timber sales. This much is revealed by the Forest Service's characterization of the road as a "logging road," and by the first page of the environmental assessment for the road, which states that "the need for a transportation route in the assessment area is to access the timber lands to be developed over the next twenty years." Moreover, the environmental assessment for the road rejected a "no action" alternative because that alternative would not provide the needed timber access." [A. CEQ Regulations, Para. 24]

"Rather, we believe that if the sales are sufficiently certain to justify construction of the road, then they are sufficiently certain for their environmental impacts to be analyzed along with those of the road. Cf. City of Davis v. Coleman, [521 F.2d 661](#), 667-76 (9th Cir.1975) (EIS for a road must analyze the impacts of industrial development that the road is designed to accomodate). Where agency actions are sufficiently related so as to be "connected" within the meaning of the CEQ regulations, the agency may not escape compliance with the regulations by proceeding with one action while characterizing the others as remote or speculative." [C. Timing of the EIS, Para. 32]

"We therefore reverse the district court on the NEPA issue and hold that, before deciding whether to approve the proposed road, the Forest Service is required to prepare and consider an environmental impact statement that analyzes the combined impacts of the road and the timber sales that the road is designed to facilitate." [C Timing of the EIS, Para. 34]

Source: [Open Jurist: Thomas v Peterson](#)

Save the Yaak Committee v. J.R. Block, 840 F.2d 714 (9th Cir. 1988)

"Thomas teaches that an environmental assessment must include an analysis of these connected actions. This assessment of connected actions is necessary even if the impact of the proposed action is not significant. The impact or significance of a particular project is a separate analysis to be considered in deciding whether to prepare an EIS or only an EA." [C. The EA's Analysis of Connected Actions, Para. 39].

"Both connected actions and unrelated, but reasonably foreseeable, future actions may result in cumulative impacts. As discussed, there is an inextricable nexus between the road reconstruction and the logging operations. Yet, the EA did not evaluate the environmental impacts of either the reconstruction or the ongoing and future accelerated timber harvest. The cumulative impact of these actions raises material issues of fact concerning the project's effect upon the human environment." [C. The EA's Analysis of Connected Actions, Para. 45]

Source: [Open Jurist: Save the Yaak Committee v Block](#)

Should the States assessment be used for Federal Permitting, the parameters of the process do not meet the criteria to allow the federal permits and both conflict with one another.

Hells Canyon Preservation Council, Earthworks, and the Northwest Environmental Defense Center v. Richard J. Haines, Steve Ellis, and United States Forest Service, CV. 05-1057-PK (Aug. 4, 2006) in the United States District Court for Oregon

“As noted above, part of the purpose and need for the Project at issue here is to address the fact that several reaches of the North Fork Burnt River and its tributaries do not meet state water quality standards for temperature and sediment. AR 7936; ROD at 1. The Forest Service may not ignore or defer its responsibility to remedy existing water pollution in the project area based on a misguided notion that the right to mine trumps federal and state environmental laws. For the foregoing reasons, plaintiffs' motion for summary judgment on claims under the Clean Water Act is granted.” [Opinion and Order, Page 11]

Source: [Hells Canyon Decision.pdf](#)

Colorado Rail Passenger Association v. Federal Transit Administration, Denver Union Station Project Authority and the Regional Transportation District

“Construction authorization for the area around DUS will not only result in immediate ground-disturbing activities as trenches are dug, pipes laid, a tunnel excavated and foundations poured, but it will also open the door to DUSPA and private real estate developers to begin environmentally destructive construction activities on a project which has not been properly analyzed for its environmental impacts as a “connected action” with respect to areas which are not properly part of the Environmental Impact Statement (“EIS”) and in violation of CEQ regulations in 40 CFR § 1508.35 mandating EIS scope. The irreparable harm will include, among other things, degradation of the irreplaceable historic environment of Lower Downtown Denver; harm to the traveling public; mobility impairment for disabled and elderly persons. Further, the harm results from danger signals arising from the failure of FTA to take a “hard look” at serious environmental problems that have been inadequately analyzed and proposed to be mitigated.” [Page 6]

The artificially segmentation of the analysis was contrived as a justification for the Corps' claim that the granting of the Corps easement does not constitute a significant impact and to allow them to permit the project based on an Environmental Assessment and a subsequent Finding of No Significant Impact (FONSI). As stated above, because the easement has no independent utility, the Corps needs to consider the impacts of the entire pipeline in determining significance. Under CEQ regulations, significance is defined through considerations of the context and intensity of impacts. Context refers to its impact on human and natural resources, including the affected local and region and associated interests. Intensity refers to the severity of the impacts (40 CFR 1508.27). To determine severity of effect, you must consider direct, indirect (including connected actions), and cumulative effects (40 CFR 1508.25(c)).

The CEQ includes considerations to use in evaluating the significance of the intensity of project impacts (**40 CFR 1508.27**). I have listed those applicable criteria by which the project clearly meets the CEQ definition for significant impacts. Line Three not only affects the water quality of Federal Standards, however, has not proven sufficiently in the DEIS that it can work in conjunction with federal needs and conflict, once again.

- 1) **Public health and safety (40 CFR 1508.27)**. This history of oil pipelines, particularly those operated by Enbridge and affiliates, indicate that they will leak. The DEIS assumption regarding an average leak are a very slight chance of leak misrepresents the risk posed by a large leak so close to a water supply. In fact, Sunoco, who is a subsidiary of Energy Transfer Partners recently had one of their pipelines leak approximately 1,300 barrels of gasoline to the Susquehanna River in Pennsylvania. A review of federal records indicates that pipelines constructed/operated by Energy Transfer Partners (who owns the Dakota Access Pipeline Project), and that Enbridge is an investor in, have leaked a total 18,845 barrels of crude oil across the country since 2005. Sunoco Logistics, who will operate the pipeline, has had more leaks of hazardous materials in the last decade than any other company (274 incidents). The second company on the list for most leaks had 18 incidents in the past decade and it operates over 4 times the miles of pipeline as Sunoco (See ABC new report at <http://kstp.com/news/oil-and-water-dakota-access-pipeline-north-dakota-energy-transfer-partners-standing-rock-sioux-reservation/4319858/>). Because of the importance of the Mississippi, the listed aquifers, as well as the wells, and ground water listed as drinking water sources for the tribe, as well as other downstream users, the pipeline project clearly poses a risk to public health and safety. The DEIS did not include a description of the methodologies used in making the determination that an average leak would be 4 barrels, nor did it include the full risk assessment used to support a conclusion that the risk of leakage and contamination would be low ("Stantec 2015" is referenced in Section 3.2.2.2 as the citation for an analysis of benzene contaminations, but the full reference is not provided and the report is not included an appendix to the EA). The DEIS must analyze and disclose a robust risk assessment for public review and comments.

- 2) **Degree to which effects are likely to be highly controversial (40 CFR 1508.27(b)(4))**

It is clear that the level of public controversy related to the pipeline is extremely high, as shown by massive local, national, and international protests against the project. Additionally, I would note that **several federal agencies (including those with regulatory authority over resources impacted by the project) disagreed with the Corps conclusion that the pipeline did not have significant environmental impacts**, including impacts related to environmental justice. **The agencies expressing these concerns included the Environmental Protection Agency (EPA), the U.S. Department of Interior (DOI), and the Advisory Council on Historic Preservation (ACHP)**. It is clear that both the public and major federal agencies are in disagreement with the findings of the Environmental Impact Statement and the findings of the Public Utilities Commission.

3) Consideration of whether the action is related to other actions with cumulatively significant impacts (40 CFR 1508.27(b)(7))

As noted above, the easement is inextricably connected to the entire pipeline, which could not be built without the granting of the Certificate of Need. Currently, Enbridge has moved their materials into place and is already prepared to allow this without the Certificate of Need secured. **Accordingly, the impacts of the entire pipeline must be disclosed and considered when making a determination of significance.** A pipeline of this length, number of stream crossings, and public concerns clearly would have significant impacts as shown by similar EIS analyses conducted for other pipelines throughout the country. I reference the following examples:

- Final Environmental Impact Statement For the Keystone Oil Pipeline Project
- Final Environmental Impact Statement for the Rover Pipeline, Panhandle Backhaul, and Trunkline Backhaul Projects, 2016
- Sandpiper Pipeline and Line 3 Replacement Projects EIS (prior and current)
- Atlantic Sunrise Project (CP15-138-000)
- NEXUS Gas Transmission Project and Texas Eastern Appalachian Lease Project (CP16-22-000, CP16-23-000)
- Leach XPress and Rayne XPress Expansion Projects (CP15-514-000, CP15-539-000)
- Golden Pass Products, LLC; and Golden Pass Pipeline, LLC's Golden Pass LNG Export Project (Docket Nos. CP14-517-000, and CP14-518-000)

4) Any effects that threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment (40 CFR 1508.27(b)(10)).

The easement and the associated proposed pipeline threaten to violate laws imposed for the protection of the environment by the Clean Water Act. Enbridge's record of violations of these requirements is well documented (see text above) and the assertions in the DEIS regarding the safety of the pipeline are not supported by the "hard-look" analysis required by NEPA and the softer look at the impacts through the MEPA. Accordingly, those conclusions are arbitrary and capricious and require a robust analysis in the EIS, including quantitative analysis and detailed qualitative description to support any conclusions.

Similarly, the alternatives development process for the easement is in clear violation of Executive Order 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. This executive order requires that Federal agencies achieve environmental justice by addressing, as appropriate, disproportionately high and adverse human health or environment effects of its programs, policies, and activities on minority populations and low-income populations

in the United States and its territories. The Sioux tribe clearly meets the definition of one of these communities. The alternatives development process described in the EA specifically states that a potential alternative to the existing proposed route was eliminated as a viable alternative retained for detailed analysis because of its proximity to municipal water supply wells for the town of Bismarck, North Dakota (92% white). In its place, the Corps retained a route that provided a direct risk to the water supply for the Sioux tribe. The analysis of environmental justice dismissed this potential impact by indicating that there were non-tribal water sources at risk closer to the proposed crossing. This disclosure does little to establish the context of the potential impacts to those wells. Do they serve an entire community, for example? In fact, it is arbitrary to use this as justification for dismissing potential impacts to the Standing Rock Sioux water supply. Native American tribes typically have some of the worst municipal infrastructure in the nation due to neglect from the Federal and State government. Regardless of the “percentage of low-income and minorities in the area”, a spill affecting the tribe water supply would in and of itself constitute a disproportionate impact as the Tribe does not have the same resources to upgrade infrastructure or address contamination as easily as affluent communities with State and Federal support. A similar example is demonstrated in Flint, Michigan, where low-income communities have contaminated water after years of systematic and informed neglect by State and Federal agencies. **This concern was also expressed by the United States Commission on Civil Rights in a news release published November 22, 2016. The Commission stated “The pipeline also poses a threat to the water supply of the Standing Rock Sioux, which raises issues of environmental justice and the lack of power of marginalized communities to have a say in the environmental health of the their communities.”**

This assessment does not assess all minorities and low income populations in the State of Minnesota and has reflected an extreme bias in removing other minorities and low income citizens of the State of Minnesota.

The EPA states that environmental justice is the “fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” (See EPA Environmental Justice webpage at <https://www.epa.gov/environmentaljustice>). **Clearly the development of the proposed route did not include “fair treatment” as it put the Tribes and other Minority groups as well as Citizens within the way of Line 3’s water supply at risk to protect the water supply..** This is particularly true of the concerns expressed by the tribe regarding traditional cultural properties and the spiritual significance of the area to the tribe. The DEIS shows no evidence of how these concerns were addressed in the DEIS for both the Chippewa Tribes and the Seven Fire’s Tribes in the State of Minnesota.

Additionally, regulations for the implementation of Section 106 of the NHPA (36 CFR Part 800) require that Federal agencies consult with Indian Tribes on a government-to-government basis, in a manner that is **“respectful of tribal sovereignty”** and that they **“acknowledge the special expertise of Indian Tribes in determining which historic properties are of religious and cultural significance to them”** (See ACHP publication *List of Federal Tribal Consultation Statutes, Orders, Regulations, Rules, Policies, Manuals, Protocols and Guidance, January 2009*). The fact that the Public Utilities Commission has hand selected tribal representation and misrepresented that the Sierra Club, Honor the Earth and other organizations can represent Sioux Treaty Rights. **The Public Utilities Commission depicts the removal of Tribal representatives sent from the Oceti Sakowin to speak on Treaty and represent on the Sioux Community.**

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In conclusion, capping on the entire commentary letter:

The effect of the codes from municipality to municipality is not addressed in the impacts on how that affects the people under the governing laws, and as one that directly works in that field, do not feel that it has been properly addressed or represented.

1571-2

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1571-3

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As well as other minority groups either. In fact the DEIS omits covering other minority groups at all in the Draft EIS. As a dual minority female, the effects to me as multiple minorities as I outlined in my original intervention, are not covered at all in the DEIS and do not believe that I should be omitted from intervention due to the lacking representation.

Enbridge is an investor in the Dakota Access Pipeline. The reflection of the current legal proceedings reflect that there has already been a spill, which is indicative that the construction process was not adequately covered.

Also, the legal proceedings reflect that the Environmental Assessment was not appropriately addressed. While the State believes that the Draft EIS is comprehensive, it reflects bias in research. As one who

holds a degree in mitigation as well as clinical research that is certified by degree, and can add to the record to help the public remove the bias that is reflected in the court documents, I ask that my intervention be resubmitted and that this letter be added to the record as an amendment to the assertion of the intervention.

Respectfully,

Wichahpi Otto

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