MR. STAN SATTINGER: I'm Stan, S-T-A-N, last name Sattinger, S-A-T-T-I-N-G-E-R. I have a copy -- detailed copy of my testimony that I can furnish.

Okay. So I'm a resident of South Minneapolis. I'm a registered mechanical engineer and past employee of Westinghouse Electric Corporation, where I worked on the design and testing of mechanical systems.

My five-year-old grandson comes to vacation with us up north in Minnesota each year, and I want to do my part to ensure that together we

can enjoy waters that are uncontaminated by crude oil spills. So I've reviewed the analysis of the likelihood of spills from the proposed line replacement, as presented in Chapter 10.

Section 10.2.1 outlines how the probabilities of failures were put together at a number of water crossing sites per the route using historic data on failure incident. No rationale is offered for taking the presence of a water crossing or any other feature as a basis for determining the likelihood of a rupture. 2050-1

Pipelines are typically operated over wide ranges of flow rates, so there are up-and-down cycles of pressure on the pipe wall. The pipe wall fatigue damage that results from these -- from this pressure cycling causes ruptures, which tend to occur at close distances from pump discharges. 2050-2

The National Transportation Safety Board established that fatigue played dominant roles in the 6,000-barrel rupture of Enbridge Line 4 at Cohasset in 2002 and in the 20,000-barrel rupture of Enbridge Line 6B in Marshall, Michigan in 2010.

In my opinion, using historic failure data to make valid failure probability predictions would require taking into account the distances from

2050-2
Cont'd

the nearest pump discharges where the actual historic failures occurred and where the predictions are to apply in the new system.

On page 10-17 of the DEIS appears a statement that, quote, the risk of an accidental spill on an existing pipeline in the Enbridge system in Wisconsin or elsewhere would not be materially different whether Line 3 operates at the current capacity of 390,000 barrels per day or at the proposed 760.

Levi, Andrew (COMM)

From: Stan Sattinger <sattin501@gmail.com>
Sent: Monday, July 10, 2017 5:13 PM
To: MN_COMM_Pipeline Comments
Subject: Comment Submittal -- Line 3 Replacement Project DEIS
Attachments: Sattinger Comments- Line 3 DEIS- GHG Emiss..docx

To: Jamie MacAlister, Environmental Review Manager, Minnesota Department of Commerce

Jamie --

I'm attaching a document commenting on emissions aspects of the subject DEIS. Please forward to the appropriate parties.

Thanks,
Stan Sattinger

DOCKET # CN-14-916
DOCKET # PPL-15-137

Draft Environmental Impact Statement for the Line 3 Replacement Pipeline Project

COMMENT ON ASSESSMENTS OF GREENHOUSE-GAS EMISSIONS IN THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) FOR THE LINE 3 REPLACEMENT PIPELINE PROJECT

Stan Sattinger
Registered Mechanical Engineer
Minneapolis, MN 55407
Sattin501@gmail.com

1. Background and Scope:

I hold a Bachelor's degree in Mechanical Engineering from Georgia Tech and Master's degrees in Engineering Mechanics from Cornell University and Vibration and Acoustics from Massachussetts Institute of Technology. I'm a past employee of the Westinghouse Electric Corporation, where I was involved in the design and testing of mechanical systems and managed the Dynamics and Acoustics Section of the Westinghouse Science & Technology Center.

Working as a volunteer, I founded or co-founded three environmentally related non-profit organizations, including the all-volunteer Montour Trail Council, which has converted western Pennsylvania's abandoned Montour Railroad into a premiere 50-mile recreational trail. Another start-up was the Montour Run Watershed Association, which has cleaned up much of the polluted drainage resulting from the abandonment of coal mines throughout a 37-square-mile watershed.

I've become familiar with crude-oil pipeline issues through a four-year volunteer involvement with the non-profit group MN350, which seeks to limit or reverse climate destabilization due to uncontrolled releases of carbon dioxide (CO_2) and other greenhouse gases (GHG). I testified in scoping hearings on the Environmental Impact Statements for the Sandpiper and Line 3 Replacement projects in 2016 and have followed the MN Public Utilities Commission's proceedings on them from the beginning.

I have a 5-year-old grandson on whom the current and future impacts of unmitigated climate change are of grave concern to me. I've reviewed many sections of the DEIS for its conclusions on the impacts of the Line 3 Replacement project on continued GHG releases. I am convinced that the DEIS does not do an adequate job of evaluating these impacts.

2. Summary: The Line 3 DEIS does not fulfill its intended purpose; it fails to adequately assess project impacts on the emissions of greenhouse gases that destabilize the climate.

Although Minnesota Department of Commerce policies seem to imply otherwise, the worsening of climate change must be a prime consideration in undertaking infrastructure projects world-wide for the foreseeable future. Applicable policies on climate, including Governor Dayton's Re-commitment to the Paris Climate Accord, the Minnesota Environmental Policy Act, and the Next Generation Energy Act, have been ignored in this DEIS.

The writers of this DEIS must begin to regard climate change as the crucial issue that it is, for America and for the world. I offer specific observations below on the inadequacies of the DEIS with regard to its treatment of climate change.

3. Annual ("operations") emissions of greenhouse gases are falsely evaluated in the DEIS. 2473-1

The annual greenhouse-gas (GHG) emissions estimates given in the DEIS do not address Line 3 in its entirety. As a result, the comparison between the Applicant's preferred route (APR) and the alternate SA-04 given in the Executive Summary (Table ES-3, reproduced here for ease of referral) erroneously credits the APR as being less emitting.

Table ES-3. Summary of Greenhouse Gas Emissions and Costs for Certificate of Need Alternatives

Route/Certificate of Need Alternative	Direct GHG Emissions (tons per year)	Indirect GHG Emissions (tons per year)	30-Year SCC for Direct and Indirect GHG Emissions[a]	Loss of Carbon Sequestration (tons per year)
Applicant's preferred route	375.9	452,496.6	$673,365,150	1,262.3
Continued use of existing Line 3	--	--	--	--
System alternative SA-04[c]	850.3	946,670.5	$1,408,845,737	74.3
Rail alternative	568,472.8	--	$845,248,443	--
Truck alternative	1,506,291.3	--	$2,239,688,011	--
Continued use of existing Line 3 with rail	284,236.4	--	$422,624,221	--
Continued use of existing Line 3 with truck	753,145.6	--	$1,119,833,958	--

GHG = greenhouse gas, SCC = social cost of carbon

The APR in actuality is no less emitting than alternate SA-04. Given that the "indirect" category would be dominated by emissions associated with power generation for crude-oil pumping, it is meaningless to compare emissions over just the contending-route segments of the pumping. Table 1 shows that the total miles over which oil must be pumped in the two cases would be almost exactly equal. Therefore, the APR option would, in reality, offer no advantage like that shown.

Pro-rating the indirect GHG emissions values from the table by the ratios of total distance to segment distance, the resulting figures for total indirect emissions are 2.06 million tons per year for the APR versus 1.85 million tons per year for SA-04. Except for minor percentages of difference in line

2473-1 Cont'd

diameters, it is appropriate to pro-rate as described, because the indirect emissions would be dominated by the energy consumed in pumping.

TABLE 1
COMPARISON OF DISTANCES THROUGH WHICH LINE 3 CRUDE OIL WOULD FLOW: EDMONTON, ALBERTA TO FLANAGAN TERMINAL, JOLIET, IL

Via Applicant's Preferred Route (APR) Plus Line 61		Via Alternate SA-04	
Segment	Length, mi	Segment	Length, mi
Edmonton to Neche, ND	757	Edmonton to Neche, ND	757
APR, Neche, ND to Superior, WI	340	Route SA-04, Neche, ND to Flanagan Term.	795
Line 61, Superior to Flanagan Term.	454		
	1,551		1,552

Table ES-3 should be replaced, and its conclusions totally revamped in the Executive Summary and elsewhere. If the project's declared purpose were to supply the energy that people and nation's economy need to function, rather than transporting oil from the Applicant's Point A to Point B, the merits of the route featuring segment SA-04 would become clear: advantages such as the 17-fold smaller annual loss of carbon sequestration seen in the right-most column of Table ES-3. This would be a result of much less destruction of wetlands vegetation that would, if undisturbed, enable greatly needed sequestration of CO2 and other GHG's to continue.

On p.1-6 of the DEIS appears the statement that it does not "determine the need for the project." And in doing so it avoids clarifying what the purpose or need is for the project -- a determination that is essential to the selection of reasonable alternatives.

4. Greenhouse-gas emissions due to construction are improperly compared among route alternatives in the DEIS.

2473-2

In comparing Table 5.2.7-6. (Estimated Construction Emissions for the Applicant's Preferred Route) with Table 5.2.7-12. (Estimated Construction Emissions for the System Alternative SA-04), one sees that the corresponding per-spread emissions estimates are almost exactly the same. The only differences taken into account are the numbers of spreads per route. No attempt has been made to distinguish differences in per-mile emissions among these route alternatives due to differences in land cover, vegetation type, soil properties, etc. This extreme oversimplification has been made on emissions, despite considerable detail regarding, for example, differences in soil characteristics reported elsewhere in the DEIS. SA-04 is likely to actually release less GHG than the APR owing to less destruction of wetlands, but that question can only be speculated, because the DEIS basis of assessment is faulty.

2473-2
Cont'd

Table 5.2.7-6. Estimated Construction Emissions for the Applicant's Preferred Route

Emission Source Description	Direct Emissions (tons)							
	VOCs	NOx	CO	SO_2	PM-10	PM-2.5	GHGs	HAPs
On- and off-road diesel equipment combustion emissions	8.6	123.5	121.0	0.2	5.3	5.0	23,690.0	0.5
On- and off-road gasoline equipment combustion emissions	1.10	2.34	15.3	1.2	0.2	0.2	2,105.0	0.0
Fugitive emissions from paved roads	0.0	0.0	0.0	0.0	59.1	14.5	0.0	0.0
Fugitive emissions from unpaved roads	0.0	0.0	0.0	0.0	8.4	0.8	0.0	0.0
Emissions from open burning of wood debris	0.0	0.0	272.7	0.0	26.6	26.6	141.0	0.0
Blasting emissions[a]	0.0	0.2	0.3	0.003	0.0005	0.00003	0.0	0.0
Subtotal per spread	***9.7***	***126.0***	***409.3***	***1.4***	***99.6***	***47.1***	***25,936.0***	***0.5***
TOTAL EMISSIONS[b]	**67.7**	**880.8**	**2,863.3**	**9.8**	**697.3**	**329.6**	**181,552.0**	**3.7**

Source: Enbridge 2017.

Notes:

[a] Blasting would be required for only one 1,500-foot section in Spread 7.

[b] Total emissions represent emissions from 7 construction spreads.

CO = carbon monoxide, GHGs = greenhouse gases, HAPs = hazardous air pollutants, NOx = nitrogen oxide, PM-10 = suspended particulate matter less than or equal to 10 microns in diameter, PM-2.5 = fine PM less than or equal to 2.5 microns in diameter, SO_2 = sulfur dioxide, VOCs = volatile organic compounds

2473-2
Cont'd

Table 5.2.7-12. Estimated Construction Emissions for the System Alternative SA-04

Emission Source Description	Direct Emissions (tons)							
	VOCs	NOx	CO	SO_2	PM-10	PM-2.5	GHGs	HAPs
On- and off-road diesel equipment combustion emissions	8.6	123.5	121.0	0.2	5.3	5.0	23,690.0	0.5
On- and off-road gasoline equipment combustion emissions	1.10	2.34	15.3	1.2	0.2	0.2	2,105.0	0.0
Fugitive emissions from paved roads	0.0	0.0	0.0	0.0	59.1	14.5	0.0	0.0
Fugitive emissions from unpaved roads	0.0	0.0	0.0	0.0	8.4	0.8	0.0	0.0
Emissions from open burning of wood debris	0.0	0.0	272.7	0.0	26.6	26.6	141.0	0.0
Blasting emissions[a]	--	--	--	--	--	--	--	--
Subtotal per spread	***9.7***	***125.8***	***409.0***	***1.4***	***99.6***	***47.1***	***25,936.0***	***0.5***
TOTAL EMISSIONS	**145.1**	**1,887.0**	**6,135.0**	**21.0**	**1,494.3**	**706.4**	**389,040.0**	**8.0**

Source: Enbridge 2017.

Notes:

Total emissions represent emissions from 15 construction spreads (absent blasting).

[a] Blasting emissions have not been quantified.

CO = carbon monoxide, GHG = greenhouse gas, HAPs = hazardous air pollutants, NOx = nitrogen oxide, PM-10 = suspended particulate matter less than or equal to 10 microns in diameter, PM-2.5 = fine PM less than or equal to 2.5 microns in diameter, SO_2 = sulfur dioxide, VOCs = volatile organic compounds

"--" = Emissions not estimated.

This faulty basis for estimating the construction release of GHG's has been carried over into the comparison of emissions for route alternatives. The comparisons of GHG emissions due to pipeline construction, Table 6.3.7-14., is a false portrayal of the differences among the APR and all other route alternatives included/presented. A related question is why corresponding total construction emissions estimates for the APR should differ so drastically between Table 6.3.7-14. and Table 5.2.7-6: all of the APR emissions numbers reported in Table 6.3.7-14 are only 58% of the corresponding numbers in Table 5.2.7-6.

2473-2
Cont'd

Table 6.3.7-14. Estimated Total Construction Emissions for the Applicant's Preferred Route and Route Alternatives between Clearbrook and Carlton

Route	Direct Emissions (tons)						
	VOCs	NOx	CO	SO_2	PM-10	PM-2.5	GHGs
Applicant's preferred route	39.0	507.0	1,648.3	5.6	401.5	189.8	104,525.1
Route alternative RA-03AM	48.5	631.2	2,052.3	7.0	499.9	236.3	130,143.3
Route alternative RA-06	34.7	451.5	1,468.0	5.0	357.6	169.0	93,093.0
Route alternative RA-07	29.6	384.9	1,251.5	4.3	304.8	144.1	79,359.9
Route alternative RA-08	29.1	378.3	1,229.9	4.2	299.6	141.6	77,992.0

Notes:

The estimates for GHGs do not include emissions from forest clearance.

Blasting emissions have not been quantified for the route alternatives.

CO = carbon monoxide, GHGs = greenhouse gases, NOx = nitrogen oxide, PM-10 = suspended particulate matter less than or equal to 10 microns in diameter, PM-2.5 = fine PM less than or equal to 2.5 microns in diameter, SO_2 = sulfur dioxide, VOCs = volatile organic compounds

We cannot rely on this comparison because it does not reflect differences in land characteristics, and other errors have been made, as noted above. In my view, all of the sections on construction emissions in Chapters 5 and 6 are in need of revision. I would also suggest that the reported 205,500 tons of CO2e to be released by 1,682 acres of tree removal in the APR, and the 12,033 tons released by 99 acres of removal in SA-04, be included and tallied up with all other sources of GHG emissions in revising the above tables.

5. The DEIS omits significant greenhouse-gas emissions that would occur due to disturbances of soils and peat bogs throughout construction.

2473-3

The writers of this document are apparently unaware of the carbon-storage densities of soils, and especially those of peat bogs, and how construction-caused disturbances of both would release significant amounts of carbon dioxide and other greenhouse gases.

According to the journal, Scientific American": [1]

> "Peatlands are wetland ecosystems that accumulate plant material to form layers of peat soil up to 60 feet thick"……."the world's peat bogs represent an important 'carbon sink'—a place where CO_2 is stored below ground and can't escape into the atmosphere and exacerbate global warming. When drained or burned, however, peat decomposes and the stored carbon gets released into the atmosphere."

This reference states that the world's estimated 988 million acres of peatland are capable of storing some two trillion tons of CO_2 , from which I calculate a storage density of 2,020 tons CO_2 per acre. By way of comparison, a paper on GHG emissions from Canadian peat extraction[2] states that northern Canadian peatlands cover approximately 3.5×10^{12} m^2 and store between 220 and 460 Gt of carbon, from which the storage density value is 1,440 tons CO_2 per acre.

The 1,730 tons CO_2 per acre average value of these two figures for peatland carbon storage is larger than the 30.2 tons CO_2 per acre for the average of forests cited in the DEIS by a factor of 57. The

2473-3
Cont'd

illustrated importance of minimizing peat destruction due to pipeline installation needs to be highlighted in the final EIS.

6. The DEIS makes empty promises of special provisions to prevent environmental damage, but it does not identify parties responsible for carrying them out and following up on their completion.

Promises are put forth in Section 2.7.2.5 and elsewhere that special drilling procedures would be used to install the pipeline under wetlands. This is but one example of the many promises made in the DEIS. Where would Enbridge Energy document agreement that they will take on all of the described precautions? What agencies will be asked to ensure that Enbridge actually implements them? How will the public know that those agencies accept those roles?

Section 2.7.6, "Environmental Compliance and Inspection," states that "EIs (Environmental Inspectors) would monitor compliance with the environmental restoration and mitigation measures included as permit conditions and in contract specifications with landowners along the construction work area." What agencies would provide those inspection services? At whose cost?

7. CONCLUSION: The MPUC cannot rely on this document in its present form for ensuring that the climate-destabilizing impacts of the proposed project are adequately addressed and minimized.

Section 1.4.1.2 of the DEIS lists "the risks associated with extracting and transporting fossil fuels, including potential threats to human rights." It states that human rights include the following:

- The right to water
- The right to health
- The right to information about the potential effects of these industries
- The right to protest, and
- Indigenous rights to free, prior, and informed consent.

Omitted from this list has been the right of humans to a survivable future, i.e., survivable conditions on the earth.

This project has the potential for major adverse environmental effects, the most important of which is arguably the worsening of the climate crisis through significant additional greenhouse gas releases, both by the construction and operation of the facility and by the combustion of the conveyed crude oil. In my view, the DEIS is in need of major revisions to adequately address this most serious of impacts.

Stan Sattinger
July 10, 2017

References:

---

1 "How the Loss of Peat Lands Affects Greenhouse Gas Buildup," Earth Talk, June 2009, https://www.scientificamerican.com/article/peat-lands-and-greenhouse-gasses/ .

2 “Greenhouse Gas Emissions from Canadian Peat Extraction, 1990–2000: A Life-cycle Analysis,” by Julian Cleary, Nigel T. Roulet and Tim R. Moore, http://www.geog.mcgill.ca/faculty/roulet/Published%20Manuscript%20pdfs/Cleary%20et%20al.%20Ambio%202005.pdf

June 9, 2017

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

Re: Public Comment: Line 3 Project (CN-14-916 and PPL-15-137)

Jamie MacAlister,

I am writing to provide my written comment to you on the Draft EIS that was discussed in Brainerd, MN on June 8th, 2017. A brief word about me; I am a 6 month AZ / 6 month MN resident. I have been retired 3 years from a rewarding career in Environmental Health and Safety. I have experience in writing EIS and Wastewater Discharge Permit applications in Arizona as well as Emergency Preparedness, IH, Life Safety and Joint Commission compliance. When I was working, I held the Certified Safety Professional (CSP) and Certified Medical Laser Safety Officer (CMLSO) credentials.

The Draft Environmental Impact Statement (DEIS) does not seem to specifically address that the Applicant's Preferred Route (APR) endangers the Headwaters of the Mississippi River, and it's watershed. In the permit application, Appendix O - Water Bodies Crossed, there are noted two crossings of the Mississippi River and 1 crossing of a Mississippi River Tributary. 0338-1

In RA-03AM-L3 it is stated in Table 1 that 41 public waters are crossed by the APR. One hundred sixty seven (167.2) acres of wetlands are within the APR corridor. In the Appendix F by Eberth (Updates Appendix E) pages 703-706 of 950 pages (docket 20171-128676-19) it describes the processes for wetland crossings; clearing the Right of Way (ROW), etc. etc. but does not specify any measures that will be taken to protect areas of wild rice or any methods to restore damaged lands growing wild rice. In discussion about oil spills, Eberth states, 0338-2

> "Oil released into a wetland would spread less and move more slowly than in flowing water. In the event of a crude oil release, wetland migration could result in effects to a lake if free product were to flow through a wetland to a lake or a tributary to a lake. Oil released into a wetland spreads under the influence of gravity, but energy to induce flow is limited because the water surface in a wetland is essentially flat and water flow velocity is negligible. Oil migration in a wetland is also limited by wetland vegetation which impedes oil movement"

The APR crosses Treaty lands and impacts Anishinaabeg and the Tribal members way of life. It brings great risks to water areas that provide one quarter of North America with clean drinking water, and poses great risk to wild rice, hunting, fishing, and cultural and religious practices. All this at a time when the US can and should be moving to clean energy.

I am also quite concerned that the data used in this DEIS may have been provided by Enbridge - and that they may have not provided all the data they possess. The MN-PUC has a responsibility to the public to provide robust, independent, comprehensive, and fair environmental impact statement that is analytical, not encyclopedic.

Sincerely,

Sharli L Schaitberger

Sharli L. Schaitberger
1402 S. 8th Street
Brainerd, MN 56401

e-mail: SharliF@cox.net

June 9, 2017

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

Re: Public Comment: Line 3 Project (CN-14-916 and PPL-15-137)

Jamie MacAlister,

At no time in the discussion in Brainerd, MN on 6/8/17 did anyone comment about security for the pipeline. I bring this up because without security, there is an increased risk of release. In keeping with Homeland Security, Critical Infrastructure - Chemical Sector defined as integral component of the US economy that manufacturers, stores, uses, and ***transports*** potentially dangerous chemicals upon which a wide range of other critical infrastructure sectors rely. (www.dhs.gov). The Department of Homeland Security requires that Critical Infrastructure be "secured". Pipelines that are "hanging above streams" are not secure. In Appendix D - Pipeline Safety Report Page 24 Emergency Response, Enbridge acknowledges their status in this partial quote: "As the operator of ***vital energy infrastructure*** across North American . . . ". In Table 1 of RA-03AM-L3 regarding public waters crossed by the APR, the crossing methods for streams and rivers are described as "span in-stream support". There are also many open ditch crossings that may not be underground, it was difficult to find any information about their construction or security. 0338-3

I must say that I am disappointed in the DEIS in the lack of information in the form of data and abundance of generalized talk. Something as important as an Environmental Impact Statement, being generated by the State of Minnesota and having potential impact on all of North America, deserves serious attention with forward thinking analysis.

Sincerely,

Sharli L Schaitberger

Sharli Schaitberger
1402 S. 8th Street
Brainerd, MN 56401

e-mail: SharliF@cox.net

June 9, 2017

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

Re: Public Comment: Line 3 Project (CN-14-916 and PPL-15-137)

Jamie MacAlister,

Why are we leaving "old Line 3 in place"? Concerns include:

- built 1961 with defective steel
- seam wrap off polyethylene ("PE") tape has separated from the steel and allowed corrosion
- flash welded (FW) longitudinal seams are failing (53% of welds are FW, including the 1991 spill of 1.7 Million gallons in the Grand Rapids spill).
- covers approx. 300 miles
- crosses 1855 and 1842 treaty areas (Tribal)
- substances have been deposited on the walls inside of the pipeline
- pipeline can transform into a water conduit and could drain areas impacting the ecosystems

0338-4

It is stated in the Executive Summary that there is a Federal safety regulation that outlines the process and requirements for abandoning oil pipelines. It has also been stated elsewhere that there are no Federal rules, so I respectfully suggest that a reasonable model for requiring Enbridge to responsibly manage the "old" Line 3 (not simply abandon Line 3 to become the next Superfund Cleanup Site) would be to look to Canada's National Energy Board Commission (NEBC).

I further assert that if it is true, that Enbridge Energy is a LLC with many firewalls against liability, (as stated during Public Comments 6/8/17) then the Superfund site that will result from the "Old" Line 3 being left in place will fall to the State of Minnesota and the Minnesota land/homeowners. Knowing this is possible, even probable, makes allowing the "Old" Line 3 to be abandoned a very bad idea that must be avoided. If Enbridge wants "line 3" bad enough, make them take out the "Old Line 3" and replace it with the new technologically advanced pipeline in the same locations.

Sincerely,

Sharli L Schaitberger

Sharli Schaitberger
1402 S. 8th Street
Brainerd, MN 56401

e-mail: SharliF@cox.net

MINNESOTA

Comment Form
Line 3 Project Draft EIS Public Meeting

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

Name: Brian Shea

Street Address: 610 W Franklin Ave #116

City: Minneapolis State: MN Zip Code: 55405

Phone or Email: 612.423.7705 brian.shea@gmail.com

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

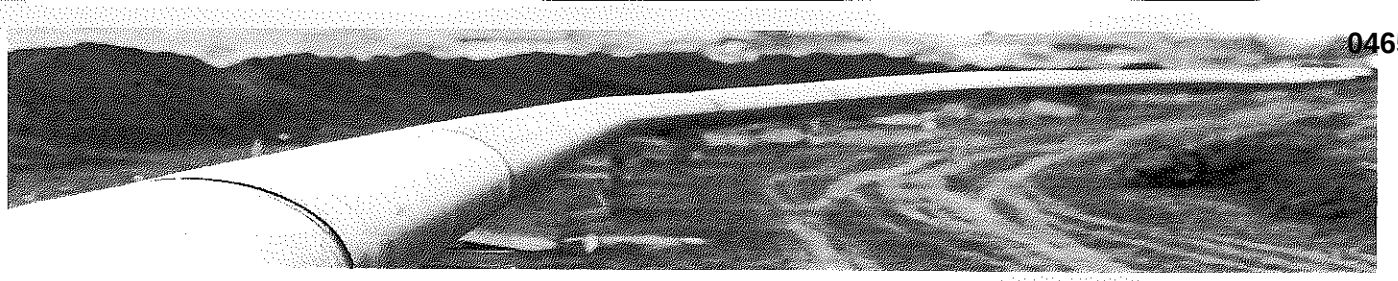
In the executive summary of the draft Environmental Impact Statement, Figure ES-4 might be improved in a few ways:

(1) The two axes are confusing in parallel, but have a straightforward interpretation when presented orthogonally — the product of the average number of accidental release incidents per year and average size of accidental release is the average total volume released over the years included — see the attached figure for an example 0465-1

(2) The average size of the releases is recorded in the last paragraph of page 16. This paragraph indicates that the figure is mislabelled. The blue bar for "pipeline" indicates ~250 [redacted], but the text indicates 462 barrels. It seems that the blue bars and purplish bars are both referring to the left hand vertical axis for counts. 0465-2

(3) The footnote indicates that the incident counts come from PHMSA data, but not specifically what data. Unlike the average release volumes, the incident counts are not reported in the text. 0465-3

If including additional pages please number them and tell us how many you are providing: 1 *pages*



Line 3 Draft Environmental Impact Statement Public Hearing: June 2017

Thank you for joining us at this Public Meeting. Minnesota's Department of Commerce (DOC) will be advising the Public Utility Commission in their process of reviewing the impacts of the expansion of tar sands infrastructure coming across the border from Canada and through the state of Minnesota. They recently drafted an Environmental Impact Statement (EIS) and are now holding public meetings and gathering public comment from across the state. Today's hearing is a part of the process necessary to review the controversial expansion and reroute of Enbridge's Line 3 tar sands pipeline. Currently, this aging and corroded Line 3 is operating at a lower capacity of 390,000 bpd. **This public meeting is an opportunity for you to voice your concerns about the impacts of tar sands expansion and ensure that the DOC does a more robust analysis ahead of their final EIS and making a final decision on the Line 3 tar sands pipeline expansion. You are encouraged to add in additional thoughts, facts and stories from your own experience.**

Start out with an introduction:
Hi, my name is _____ and I am a [name of organization/affiliation] member/activist and a citizen of Minnesota. I want to thank the Department of Commerce for drafting an Environmental Impact Statement and voice my concerns about what this draft analysis does not adequately review in regards to how this tar sands pipeline expansion is posing a threat to the safety and wellbeing of fellow Minnesotans and to the environment.

Tar Sands expansion is all risk, no reward for Minnesotans:

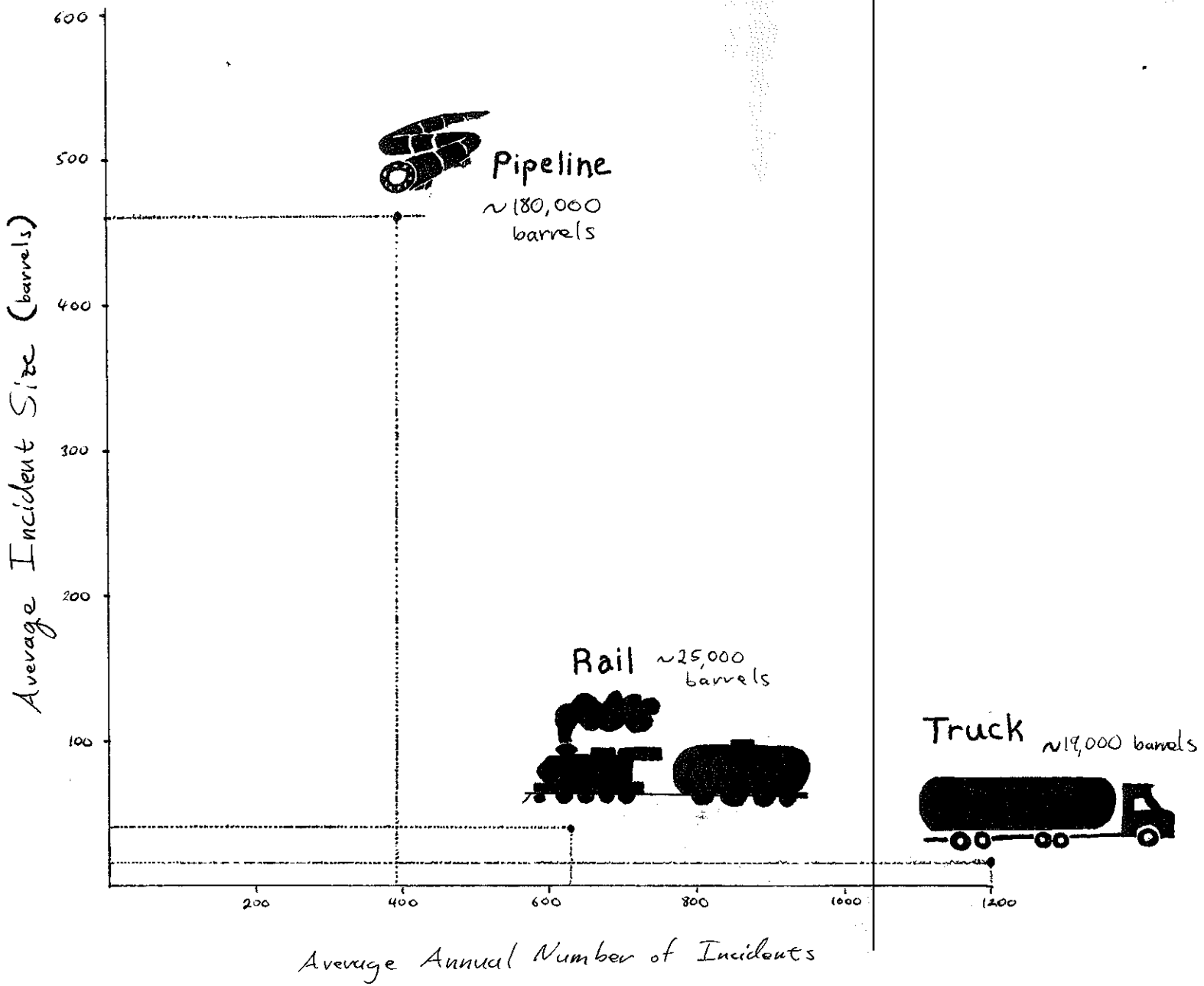
- The DEIS fails to prove that the new tar sands pipeline is needed, especially as Minnesota's oil consumption rates are down 19% and have continued to drop since their peak in 2004.
- The tar sands in Line 3 is some of the dirtiest oil in the world, and also the most difficult to clean when it spills. A recent National Academy of Sciences report found that cleaning up a tar sands spill in a waterway is much more difficult and up to 14.5 times more expensive than cleaning up a non-tar sands spill. Enbridge has a history of spills and greater scrutiny is needed for spill clean-up, permanent damage to waterways, impacts to Minnesota's economy and the threat to Ojibwe wild rice rights and sensitive ricing waters.
- It is not inevitable that this tar sands will get to market without a pipeline expansion, but the no action alternative in this analysis assumes that tar sands comes out of the ground and to market by rail or truck if there is no pipeline permitted, but we know that with current oil prices rail is cost prohibitive and this tar sands would not come out of the ground.
- In this analysis, the Department of Commerce values the Line 3 pipeline's increase to the social cost of carbon at $287 billion over 30 years. At a time when our Governor has just recommitted our state to the strongest climate action.

The voices of impacted citizens need to be heard:

- Enbridge is proposing the construction of a brand new 3-foot diameter steel tar sands pipeline called Line 3 and abandoning the existing line for hundreds of miles without adequate landowner consultation or clean-up.
- The new route would cut through Mississippi River headwaters region and the pristine lake country of northern Minnesota where Native Americans harvest wild rice and hold treaty rights to carry Canadian oil to out-of-state markets..
- The Department of Commerce recognizes in its analysis that there are environmental justice issues related to disproportional impact (of construction and maintenance) activities, stating that this project would "add to the negative mental, spiritual, and physical health impacts already disproportionately suffered by American Indian populations" and must recognize that therefore this pipeline should not be built.

Ask the Minnesota Department of Commerce to ensure that the final Environmental Impact Statement takes into account the climate impacts of additional tar sands extraction and transport and further considers the risk of impacting Ojibwe cultural heritage and wild rice harvesting waters!

Revision of Figure ES-4 (pg 16) from DEIS executive summary



MINNESOTA

Comment Form
Line 3 Project Draft EIS Public Meeting

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

Name: Lauren Siegel

Street Address: 2709 W 60th St.

City: Minneapolis State: MN Zip Code: 55410

Phone or Email: 262-844-7012

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

(1) I don't believe the EIS adequately addresses the future impact of the pipeline ① considering the trend toward renewable energy, ② the increasing scarcity of clean water. As well as the future impact of keeping another pipeline in the ground. Which is the fate of the proposed Pipeline.

(2) I am very concerned about the lack of substance in the EIS on the predicted increase of human/sex trafficking along the pipeline. Duluth + Bloomington are already outliers in this way and we need a commitment from the state of Minnesota to reduce increased risk of this

(3) I am not happy with the amount of analysis on opportunity cost of funding workers/jobs for this project to the deficit of workers to construct renewable projects. We know more jobs are created creating renewable opportunities in comparison to those created by this project. 0758-1

(4) Enbridge has proven itself to be irresponsible - with numerous fines with a history of violations, fines and deferred maintenance. They are responsible for the largest-ever inland oil spill in the US (continental) Shouldn't the risks of this + Enbridge's past track record be included in this report? All potential actions from this should be analyzed in here

(5) We can't ignore how this route impacts indigenous + rural areas would be disproportionately impacted. This environmental justice issue needs to be a priority as the state of MN has a strategic priority of addressing racial/ethnic disparities - this priority was set by Gov. Dayton.

If including additional pages please number them and tell us how many you are providing:_____ pages

Public Comments of the Sierra Club on the

Draft Environmental Impact Statement

for the Proposed Line 3 Pipeline Project

Submitted to the Minnesota Department of Commerce

Energy Environmental Review and Analysis

Docket Nos. CN-14-916/PL-15-137

July 10, 2017

Via electronic and U.S. mail to:

Minnesota Department of Commerce
Attn: Jamie MacAlister, Environmental Review Manager
85 7th Place East, Suite 280
St. Paul, MN 55101-2198
Pipeline.Comments@state.mn.us

I. INTRODUCTION

Sierra Club submits the following comments on the Draft Environmental Impact Statement ("DEIS") for the proposed Line 3 Pipeline Project (hereinafter "L3 project" or "the project"). The Revised Notice of Availability of Draft Environmental Impact Statement for the project was published on May 15, 2017 and indicated that the public comment period closes on July 10, 2017.

The Department of Commerce ("the Department") has produced a DEIS that does exactly what the Minnesota Court of Appeals said it should not do—it substitutes the review requirements for the Public Utilities Commission's ("the Commission") Certificate of Need ("CN") and route permit decisions for those of the EIS environmental review process under the Minnesota Environmental Policy Act ("MEPA"). As such, the DEIS also violates the Commission's EIS Order, which directed the Department to produce an EIS in accordance with MEPA and not the CN and route permit criteria. If finalized, the EIS would face certain appeal and overturn.

As a result of being prepared using CN and route permit requirements instead of MEPA requirements, the DEIS is grossly incomplete. It does not adequately identify or assess alternatives to the project, it fails to assess whether the project is in the interest of the state, and it is riddled with technical errors in methodology.

Any additional delays resulting from having to complete a more thorough EIS are justified by the magnitude and permanence of the project's environmental risks and impacts.

II. DEIS DOES NOT SATISFY THE LEGAL REQUIREMENTS OF THE MINNESOTA ENVIRONMENTAL POLICY ACT (MEPA)

A. Legal Requirements Under MEPA

MEPA establishes that it is the policy of the state of Minnesota to:

> . . . use all practicable means and measures . . . in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of the state's people.[1]

In enacting MEPA, the legislature did not establish this policy as a mere aspiration; the statute imposes on the state government the obligation to account for a robust set of environmental considerations in course of carrying out its other mandates, including preserving sensitive natural resources and habitats, minimizing the environmental impacts of energy production and use, and discouraging economic activities than harm the environment.[2] The most rigorous of MEPA's obligations are the substantive and procedural mandates imposed on state agencies by the statute's requirement that they prepare a "detailed environmental impact statement" before taking any action with the "potential for significant environmental effects."[3]

The legal requirements for environmental review by EIS are established both in §116D.04 of MEPA and in rules adopted by the EQB pursuant to the statute, which are codified in Minn. R. Ch. 4410 (hereinafter, "EQB Rules"). An EIS is required to be "an analytical rather

[1] Minn. Stat. § 116D.02, subd 1.
[2] Minn. Stat. § 116D.02, subd. 2.
[3] Minn. Stat. § 116D.04, subd. 2a.

than an encyclopedic document"[4] that evaluates the environmental, economic, employment, and sociological effects that are direct, indirect, and cumulative for the proposed action and each reasonable alternative to it.[5] The EIS must also identify any measures that could mitigate these effects.[6]

MN courts apply a "hard look" approach to MEPA and its requirements for an EIS. The MN Supreme Court has stated that, like the National Environmental Policy Act (NEPA), its federal counterpart on which it was modeled, MEPA "primarily operate[s] by requiring administrative agencies to take a `hard look' at the environmental consequences of governmental action"[7] and that its purpose is "to force agencies to make their own impartial evaluation of environmental considerations before reaching their decisions."[8] Because it was patterned on NEPA, MN courts often use federal case law to interpret MEPA.[9] As such, the MN Supreme Court has adopted the U.S. Supreme Court's reasoning that:

> [p]ublication of an EIS . . . also serves a larger informational role. It gives the public the assurance that the agency has indeed considered environmental concerns in its decisionmaking process . . . and, perhaps more significantly, provides a springboard for public comment."[10]

However, one critical difference between the two statutes is that, while NEPA's EIS requirements are entirely procedural, MEPA's also include a substantive requirement in § 116D.04, subd. 6:

---

[4] Minn. Stat. 116D.04, subd. 2a
[5] Minn. R. 4410.2300 (H).
[6] Minn. R. 4410.2300 (I).
[7] *Minn. Ctr. for Envtl. Advocacy v. Minn. Pollution Control Agency*, 644 N.W.2d 457, 468 (Minn. 2002).
[8] *No. Power Line, Inc. v. Minn. Envtl. Quality Council*, 262 N.W.2d 312, 327 (Minn. 1977).
[9] *See, e.g., MN Center for Environmental Advocacy v. MNPUC*, 644 NW 2d 457, 468; *No Power Line,* 262 N.W. 2d at 325*; MPIRG v. Minnesota EQC,* 237 N.W.2d 375 (1975).
[10] *MCEA v. MNPUC*, 644 NW 2d at 468 (2002) (quoting *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349, 109 S.Ct. 1835, 104 L.Ed.2d 351 (1989)).

> No state action significantly affecting the quality of the environment shall be allowed, nor shall any permit for natural resources management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources located within the state, so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction. Economic considerations alone shall not justify such conduct.

As such, like NEPA, MEPA does not have any substantive requirements for an agency to grant or deny an approval for a project on the basis of an EIS showing the existence or absence of environmental impacts.[11] However, unlike NEPA, MEPA does require that an agency deny a permit for a project if there exists a "reasonable and prudent alternative" that is more environmentally sound, even if it is more expensive or less economically beneficially. Furthermore, the Minnesota Environmental Rights Act (MERA), which has no federal equivalent, gives this MEPA requirement teeth by granting grants any private party or local government the right to sue an agency in district court over any action the plaintiff can show has or is likely to have adverse environmental impacts and, also, making the agency's only affirmative defense:

> . . . that there is no feasible and prudent alternative and the conduct at issue is consistent with and reasonably required for promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction. Economic considerations alone shall not constitute a defense hereunder. [12]

As such the alternatives are even more so "the heart of the environmental impact statement"[13] under MEPA than under NEPA, especially since, the Minnesota Supreme Court has

---

[11] Minn. R. 4410.0300, subp. 3 ("Environmental documents shall not be used to justify a decision, nor shall indications of adverse environmental effects necessarily require that a project be disapproved. Environmental documents shall be used as guides in issuing, amending, and denying permits and carrying out other responsibilities of governmental units to avoid or minimize adverse environmental effects and to restore and enhance environmental quality.").

[12] Minn. Stat. 116B.04, 116B.03, subd. 1 and 116B.02, subd. 5.

[13] 40 CFR 1502.14.

consistently applied a standard that sets a very high bar for an alternative to not be "feasible and prudent."

B. Procedural History

The routing of pipelines falls into the category of actions for which an EIS is mandatory;[14] however, MEPA grants the EQB authority to promulgate rules establishing alternative forms of environmental review that satisfy the same issue and procedural requirements as an EIS.[15] Pursuant to this authority, EQB has approved, and MN Courts have upheld, the comparative environmental analysis (CEA) required by Minn. Rule 7852.1500 for granting a pipeline route permit as an acceptable alternative to preparing an EIS.[16] Since the Commission has traditionally always combined CN and route permit dockets for oil pipelines, the CEA has served as the MEPA-compliant environmental review document for both decisions.

In October 2014, the Commission ordered the CN and route permit dockets for the Sandpipe Pipeline Project to be bifurcated such that the CN proceedings would happen first.[17] This meant that the CN proceedings would happen without a MEPA-compliant environmental review document. Friends of the Headwaters petitioned for reconsidered of this decision, which the Commission denied, resulting in an appeal to the MN Court of Appeals.[18]

---

[14] 4410.4400, subpt. 24 (2009).
[15] Minn. Stat. 116D.04, subd. 4a
[16] *Minn. Ctr. for Envtl. Advocacy v. Minn. Public Utilities Comm 'n*, No. AI0- 812, 2010 WL 5071389, at *3-4 (Minn. ct. App. Dec. 14, 2010) (finding that finding that Minn. R. Ch. 7852 complies with the alternative environmental-review process required under MEPA); see also In re Minn. Pipe Line Co., No. A07-1318, 2008 WL 2344736, at *10 (Minn. ct. App. June 10,2008) (stating that Minn. R. Ch. 7852 is an approved alternative form of environmental review for proposed pipelines).
[17] *See* Docket Nos. PL-6668/CN-13-473, PL-6668/PPL-13-474, *Order Separating Certificate of Need and Route Permit Proceedings and Requiring Environmental Review of System Alternatives*, October 7, 2014.
[18] Docket Nos. PL-6668/CN-13-473, PL-6668/PPL-13-474, *Petition for Reconsideration and Amendment*, October 27, 2014; *In re N. Dakota Pipeline Co. LLC*, 869 N.W.2d 693, 696 (Minn. App. 2015),*review denied* (Minn. Dec. 15, 2015) (explaining the procedural history of the case).

On September 14, 2015, the MN Court of Appeals held that CN decisions on oil pipelines independently trigger MEPA requirements for an EIS.[19] The Court further said that it was "not convinced" that EQB's approval of CEA as a MEPA-compliant alternative for a route permit decision should extend to a CN decision in any case since neither the legislature nor the EQB saw fit to explicitly exempt need determinations for pipelines from the requirement for an EIS nor allow for an alternative form of review.[20] The Court further stated that, while the CN process does provide for a "high level environmental review, . . . [t]his review was not meant to serve as a substitute for the more rigorous and detailed review needed to satisfy MEPA, and it cannot take the place of a formal EIS now."[21] On December 15, 2015, the MN Supreme Court declined to review the Court of Appeal's decision.

The Commission met on December 17, 2015 to consider how to move forward with the dockets for Line 3, which it had similarly bifurcated before the Court's decision in the Sandpiper case. On February 1, 2017, the Commission ordered that proceedings for Line 3's CN and route permit dockets be joined and that the Department prepare "a combined environmental impact statement that addresses issues related to the certificate of need and routing permit dockets in accordance with Minn. Stat. § 116D.04 and Minn. R. Ch. 4410."[22]

C. The DEIS Substitutes the Review Process for CN and Route Permit Decisions for that of an EIS in Direct Violation of MEPA, the Court of Appeals Decision, the Commission's EIS Order, and Its Own Final Scoping Document

In its section that explains its approach to MEPA's requirements for environmental review, the DEIS provides that the Commission has ordered the Department to prepare an EIS in

[19] *In re N. Dakota Pipeline Co. LLC,* 869 N.W.2d 693, 696 (Minn. App. 2015),*review denied* (Minn. Dec. 15, 2015)
[20] *In re N. Dakota Pipeline Co. LLC,* 869 N.W.2d 693, 696 (Minn. App. 2015),*review denied* (Minn. Dec. 15, 2015)
[21] Id. At 699.
[22] Order Joining Need and Routing Dockets, February 1, 2016, eDockets Number 20162-117877-01.

accordance with Minn. R. Ch. 4410, so "[t]he EIS content and procedures therefore are being completed under [those Rules]."[23] It then states, however, that since the Commission is required to assess the criteria in Minn. R. Ch. 7853 and 7852 in order to make it decisions on the CN and route permit, the EIS will also use Minn. R. Ch. 7853 and 7852 to evaluate the impacts and alternatives for these decisions.[24]

It is very unclear how it is possible for the Department to claim that the "content and procedures" of the EIS are being completed in accordance with MEPA and its related EQB Rules when, concurrently, it demonstrates that they categorically are not. It appears that the Department may be trying to argue that all it and the EIS need to do to satisfy the legal obligations of MEPA is go through the EIS scoping process and the public meetings and comment periods for the DEIS. The fact that the Department does not recognize that using the criteria for CN and route permit decisions to evaluate the impacts and alternatives of the project is exactly what the Court of Appeals ruled impermissible is demonstrative of a fundamental and profound misunderstanding of the MEPA process and the purpose of an EIS with respect to agency permitting decisions. This faulty understanding is reflected strongly and consistently in many of the most major deficits of the DEIS. 2803-1

The Department is incorrect in its belief that because the EIS is being prepared to inform the Commission's CN and route permit decisions, then its purpose, scope, and content are also governed by those two decisions. The requirement for the EIS is triggered by the Commission's CN and route permit decisions, but not because of the legal requirements for certifying need or permitting a route. The EIS exists because MEPA requires its preparation for any significant 2803-2

[23] DEIS at 1-4.
[24] DEIS at 1-4.

government action that may impact the environment.[25] As such, the Commission has ordered that the Department prepare an EIS so that it can satisfy its legal obligations under MEPA to independently take a "hard look" at the potential effects of permitting the proposed pipeline, consider all feasible and prudent alternatives to the project, and consider any methods for mitigating the adverse impacts of the project.[26]

2803-2 cont

The Department, in turn, must satisfy the legal obligations imposed by MEPA on the RGU that is responsible for preparing the EIS. These include, but are not limited to, the obligations to produce a detailed and analytic EIS that evaluates the environmental, economic, employment, and sociological effects that are direct, indirect, and cumulative for the proposed action and each reasonable alternative to it.[27] It also includes the requirement that:

> [t]he responsible governmental unit shall, *to the extent practicable, avoid duplication and ensure coordination … between environmental review and environmental permitting*. Whenever practical, information needed by a governmental unit for making final decisions on permits or other actions required for a proposed project shall be developed in conjunction with the preparation of an environmental impact statement. [28]

(emphasis added).

Indeed, the Department needs to look no further than MEPA's plain statutory text to see that it has prepared a 5,000 page DEIS for the express purpose of providing entirely discretionary information that relates directly to decision-making matters that are expressly outside the scope of the required environmental review. This is not to say that it is discretionary for the EIS to provide information on the alternatives that Minn. R. 7853 and 7852 require the Commission to consider before issuing a CN or routing permit—the EIS must, in fact, do that in order to avoid

[25] 116D.04, subd. 2a.
[26] 116D.04; 4410.2000, subp. 1.
[27] Minn. R. 4410.2300 (H).
[28] 116D.04, subd. 2a (g).

the situation where the Commission is required by Minn. R. 7853 or 7852 to consider some alternative without knowing its impacts in violation of MEPA or vice versa. Rather, it is to say that, we can also get to the conclusion that the DEIS substitutes the CN and route permit processes under Minn. R. 7853 and 7852 for that of an EIS under MEPA by looking at what the statute itself provides is outside its legal scope. The provision quoted above clearly shows that MEPA differentiates between the information it requires for environmental review (which must be in the EIS) and the information required other statutes for environmental permitting (which may be in the EIS). Because the only information the DEIS evaluates is that which is required pursuant to other statutes for environmental permitting,[29] the DEIS contains only information that is discretionary under MEPA because it actually belongs to another statue—this is substitution and, by itself, it requires that the DEIS be entirely redone.

2803-2 cont

D. The DEIS Is Based Entirely on Enbridge's Purpose and Need Which Renders Defective All the Analysis in the DEIS and Gives Enbridge Multiple Advantages

The DEIS states that it will not define the purpose and need for the proposed project because deciding whether the project is needed is the Commission's responsibility pursuant to its authority to issue a CN.[30] Furthermore, the DEIS does not seek to inform that aspect of the Commission's CN decision based on the Department's belief that the CN process assigns that responsibility to the parties that are participating in the contested case hearing. The DEIS believes it is only then that "if the Applicant establishes the underlying need," the Commission

2803-3

[29] Minn. R. 7853 and 7852 are authorized by Minn. Stat. § 216B.243 and § 216G.02, respectively.
[30] DEIS at 1-6.

can begin looking at the environmental and socioeconomic analysis in the EIS to evaluate whether any of the alternatives are better.[31]

MEPA requires that the Department independently identify a purpose and need for the project. Without doing so, the Department is unable to produce the most important part of the EIS, the analysis of alternatives to the project. This is because, in order for an alternative to be reasonable and feasible, it must satisfy the same purpose or need as that which it seeks to replace. Accordingly, under the EQB Rules, "[a]n alternative may be excluded from analysis in the EIS if it would not meet the underlying need for or purpose of the project" [32]

Because the Department does not identify the purpose and need for the project, the DEIS is unable to carry out its legal requirement under MEPA to independently identify and evaluate prudent and reasonable alternatives to it. Furthermore, in opting not to define the purpose and need for the project, what the Department actually does is to assume Enbridge's purpose and need for the project as the basis for the alternatives evaluated in the EIS. That has, in essence, allowed Enbridge to control which alternatives are included or excluded from the EIS based exclusively on their ability to meet the company's economic need for the pipeline. Unsurprisingly, the handful of alternatives that made it into the DEIS are all as or more environmentally unsound as Enbridge's proposal and preferred route.

Without the independent assessment of the EIS as to the purpose and need for the project, the Commission is also impaired in its ability carry out its statutory obligation to base its CN determination on whether the project serves the interests of the state because, per the DEIS'

[31] DEIS at ES-4
[32] 4410.2300 (G)

approach, all that information and analysis would have to be developed through the contested case hearing process.[33]

Minn. Stat. § 645.17 provides that the laws of the state should be interpreted in accordance with the intent of the legislature "to favor the public interest as against any private interest."

The DEIS correctly states that "the CN is a decision by the Commission about whether a proposed project is in the State's interest."[34] Under Minn. Stat. §2156.243, the statute that governs CNs for pipelines, the criteria that the Commission must use to assess need for a project are entirely focused on the public interest matters including: the extent to which the project contributes to overall state energy needs and security, whether the need could instead be met through energy conservation or efficiency measures, whether the project offers any benefits in terms of protecting or enhancing environmental quality, and whether demand for the project may be the result of promotional activities. None of the criteria are concerned with the economic interests of the applicant.[35]

E. DEIS Relies Excessively on Enbridge's Filings

2803-4

The DEIS demonstrates a very high degree of reliance on and deference to Enbridge's filings for information and analysis that, under MEPA, is the legal obligation of the Department to independently produce.

[33] Minn. Stat. § 216.243.
[34] DEIS at ES-3.
[35] Minn. Stat. § 216.243, subd. 3.

Federal Courts have repeatedly held that NEPA prohibits an agency from preparing an EIS that relies solely on information provided by projects proponent.[36] Based on these federal decision, MN Courts have held that:

2803-4

> The purpose of all environmental legislation, at both the state and the federal levels, is to force agencies to make their own impartial evaluation of environmental considerations before reaching their decisions. The agency's role in the preparation of an EIS is not to serve as an arbiter between two opposing parties, as a judge is expected to do in the adversary process. Instead, it is expected to be a source of independent expertise whose scientific investigation can uncover the data necessary to make an informed environmental decision.[37]

F. The Department Should Have Prepared an EIS That Could Be Used By Other Federal, State, Regional, and Local Agencies

A frequent criticism of environmental review, especially by permit applicants, is that it is often poorly coordinated among the local, state, and federal agencies with overlapping permitting authority and, as such, takes too long and is too repetitive. MEPA addresses this by requiring that the RGU preparing an EIS "avoid duplication and ensure coordination between state and federal environmental review" to the extent practicable.[38] Furthermore, the EQB Rules provide that two

---

[36] *City of Des Plaines v. Metropolitan Sanitary Dist. of Chicago*,552 F.2d 736 (7 Cir. 1977); *Greene County Planning Bd. v. Federal Power Comm.*,455 F.2d 412, 420 (2 Cir. 1972); *Calvert Cliffs' Coordinating Committee, Inc. v. Atomic Energy Comm.*, 146 U.S.App. D.C. 33, 43, 449 F.2d 1109, 1119 (1971).

[37] No power line at 327

[38] Minn. Stat. 116D.04, subd. 2a(g).

of the objectives of the EIS process are to "reduce delay" and "eliminate duplication."[39] Under MEPA, coordination with other agencies is not just an aspirational priority of environmental review. It is the first of a small number of duties imposed by MEPA on all state agencies which they must carry out in the course of all their work. [40]

The Department acknowledges this in the DEIS when it states that, in addition to the Commission's CN and route permit decisions, the EIS will also be used by "other state and local agencies with permitting authority over the project."[41] It also indicates that federal agencies that are required to prepare an EIS under NEPA, "most notably the U.S. Army Corp of Engineers," can also opt to use tis EIS, or they can prepare their own.[42]

As explained above, this DEIS, if finalized, would be invalid under MEPA even for the dockets at hand; however, even if that were not the case, it still would not be useable by any other agency, be it local, state, or federal. This is not because it would be impracticable for the Department to prepare the EIS in a manner that would serve multiple agencies and jurisdictions, but, rather, because the Department has foreclosed that possibility by design through limiting the alternatives and impacts evaluated by the EIS, as well as the evaluation criteria used, to only those that are required for CN and route permit decisions under Minn. R. Ch. 7853 and 7852. As such, even if its technical analyses of the pipeline's impacts were flawless, no agency would be able to the use this EIS to satisfy its own legal obligations under MEPA or NEPA. 2803-5

[39] Minn. R. 4410.0300, subp. 4 (E) and (F).
[40] 116D.03, subd. 2 ("All departments and agencies of the state government shall: (1) on a continuous basis, seek to strengthen relationships between state, regional, local and federal-state environmental planning, development and management programs").
[41] DEIS at ES-3.
[42] DEIS at ES-3.

III. COMMENTS ON ALTERNATIVES

The DEIS evaluates too narrow a set of alternatives. Under MEPA, an EIS "must address one or more alternatives of each of the following types of alternatives or provide a concise explanation of why no alternative of a particular type is included in the EIS: alternative sites; alternative technologies; modified designs or layouts; modified scale or magnitude, and alternatives incorporating reasonable mitigation measures identified through comments received during the comment periods for EIS scoping or for the draft EIS.[43] Alternatives may only be excluded from the EIS if they don't meet the need for or purpose of the project or it is not any better environmentally than the proposed project or some other alternative.[44] The DEIS does not provide alternatives for each of these categories and does not provide adequate explanation for why. 2803-6

A. No Action Alternative is Wrong

The DEIS assumes that under the No-Action alternative, Enbridge would either (a) use a different pipeline system to move Line 3 oil, (b) use an alternative transportation mode such as rail or trunk to move Line 3 oil, or (c) continue using the existing Line 3, with or without rail or truck supplement, to move Line 3 oil.

i. Continued use of old line 3 is neither reasonable nor prudent, so it shouldn't be included at all as an alternative 2803-7

Enbridge can't be reasonably expected to meet shipper demand through continued use of the old line 3 because old Line 3 is too dangerous to be in operation. Even though Enbridge has

[43] 4410.2300 (G)
[44] 4410.2300 (G)

framed their project in terms "restoring the line's capacity," they have very ready availed themselves of the subtext that the people of Minnesota are choosing between a "brand new, state of the art pipeline with all the most recent safety technology" and a "60 year old pipeline that requires a ton of regular maintenance and monitoring to prevent another big spill coming from it."

ii. No Action Alternative should be surrogate for alternative energy

2803-8

One reasonable outcome of the No-Action Alternative is that Enbridge decommissions the existing Line 3 and does not take any measures reroute or use alternative transportation to move Line 3 oil but, rather, abandons shipment of this oil. This outcome is entirely reasonable given that oil consumption rates in MN are continuing to drop and oil prices continue their persistent decline. In fact, per the final Scoping Decision Document for Line 3, it is necessary for the DEIS to consider this fourth reasonable outcome. Page 36 of that document states that "evaluation of alternative energy types or energy conservation efforts is beyond the scope of the EIS....However, it will include a No-Action Alternative, which is an effective surrogate for the evaluation of energy alternatives because it assess the consequences of the only action available to the PUC—denial of the Project—to implement a change in regional or national energy use." Exclusion of this fourth reasonable outcome renders the No-Action Alternative incomplete, making it impossible for the PUC to properly assess need for the Line 3 pipeline replacement.

B. No Action Alternative Assumes a False-Choice

There's no justification or support for the assumption that, without a Line 3 replacement, Enbridge will continue to operate at its current capacity by either using the existing pipeline, rerouting to another pipeline system, or using rail or truck transport. This assumption sets up a false choice between pipelines and rail/truck as the only two options for "maintaining the future adequacy, reliability, or efficiency of energy supply." This is a false choice because there is also a third option available for maintaining the future energy supply—the use of energy alternatives like renewable sources of energy (e.g., solar, wind). Again, the scoping document indicates that the No-Action Alternative is the vehicle by which energy alternatives are to be considered.

C. The No Action Alternatives are Inadequate for the Commission to Use in its CN Process

2803-9

Because the No Action Alternative is flawed and incomplete, it is impossible for the PUC to evaluate whether the "consequences to society of granting the CN are more favorable than the consequences of denying the certificate." Currently, the DEIS is framed such that PUC is forced to falsely weigh the positive consequences of granting of the CN (a state-of-the-art pipeline) versus the negative consequences of denying the CN (the adverse risks of using a failing pipeline, a different pipeline systems, or rail/truck transport). However, if as the Final Scoping Document states the No Action Alternative serves to "assess the consequences of the only action available to the PUC…to implement a change in regional or national energy use," then the DEIS should provide the PUC with information to also weigh the negative consequences of granting of the CN (the risks and hazards of continued transport and consumption of tar sands oil) versus the

positive consequences of denying the CN (stable, economically-beneficial, and environmentally-friendly energy supply from renewable sources).

D. DEIS should evaluate alternative pipeline capacity owned by Enbridge and other companies

2803-10

The DEIS states that "[t]he EIS is not evaluating [alternative pipelines owned by Enbridge or others] based on whether they meet the need for this proposed Project." This Sierra Club finds this language and reasoning to be unclear. It appears to be saying that the EIS is not evaluating alternative pipelines to assess whether they could meet the need for the proposed project.

This is problematic because § 216B.243, Subd. 3(6) requires that the Commission consider:

> possible alternatives for satisfying the energy demand or transmission needs including but not limited to potential for increased efficiency and *upgrading of existing energy generation and transmission facilities*, load-management programs, and distributed generation . . . .

(Emphasis added.) Furthermore, 7853 might require something like this to be considered as an alternative if parties can show in the CCH that it's reasonable and there's sufficient evidence to support it (7853.0120 says the commission "shall consider only those alternatives proposed before the close of the public hearing and for which there exists substantial evidence on the record with respect to each of the criteria listed in part 7853.0130.") 7853.0130(B) in turn requires that only alternatives that are "reasonable" and "prudent" be considered, but given that 216B.243 specifically requires it and the fact that there's plenty of empirical examples to show

it, it's a mistake for DOC to categorically exclude alternatives based on upgrading and more efficiently using existing infrastructure.

Again, this would require the Commission to either violate 216B by excluding consideration of upgrading existing facilities as an alternative or to violated MEPA by considering it without environmental review.

It seems like DOC anticipates that this might be the case because they provide in the DEIS that it does not evaluate the environmental impacts of alternative pipeline capacity owned by Enbridge or other companies because "[t]heir environmental impacts have been (or would be) evaluated in other jurisdictions."[45] Sierra Club understands this to be an acknowledgment by the DOC that the Commission may have to consider other pipeline alternatives and that MEPA would require consideration of their environmental impacts. Deferring to an existing or, worse yet, hypothetical EIS from another jurisdiction does not satisfy this requirement, especially in the absence of any analysis as to the sufficiency, quality, or adequacy of those other EISes to satisfy the requirements imposed by MEPA and other relevant MN statutes and rules. It is unreasonable, impractical, and improper for the DEIS to abdicate its primary responsibility to analysis that may or may not exist in another jurisdiction. This is especially troubling with respect to the public's rights to transparency, accountability, and input into decisions about the proposed Project. Also, PUC can't take a hard look at the impacts of granting or denying the CN if it doesn't have information about the potential impacts of alternative pipelines. It's not acceptable under MEPA for DOC to assume that PUC would get this information from the parties through the CCH because MEPA requires DOC to do it.

[45] DEIS at 4-8.

E. Mitigation factors should be applied to alternatives

DEIS doesn't provide mitigation analysis for the alternatives the way it does for the project. It should take into consideration the extent to which their impacts would be reduced assuming full compliance with regulatory frameworks + adoption of all the best practices available.

IV. DEIS DEVIATES TOO MUCH FROM FINAL SCOPING DECISION

2803-11

MEPA requires "an early and open process" of scoping to determine "the form, content and level of detail of the [environmental impact] statement as well as the alternatives which are appropriate for consideration in the statement,"[46] which is subsequently to be "incorporated into the order requiring the preparation of an environmental impact statement."[47] As an "early and open" process, scoping ensures that the public and other government bodies whose areas of expertise or jurisdictions are implicated by the EIS or the project have an opportunity to review and provide input on the EIS before public funds are used to prepare it. Relatedly, the open process of scoping is also a critical component of the public participation, transparency, and accountability that the EIS process is supposed to provide under MEPA and, as such, includes an opportunity for public hearing and comment under Minn. R. 4410.2100.

The purpose of scoping is "insure[] that the EIS provides a comprehensive overview of all environmental impacts of the project, . . . including appropriate alternatives."[48] The Final Scoping Decision Document (FSDD) is supposed to provide a roadmap for what to include in the

[46] Minn. Stat. 116D.04, subd. 2a (f).
[47] Minn. Stat. 116D.04, subd. 2a (f).
[48] Iron Rangers Ridge Action v. Resources, 531 NW 2d 874, 884 - Minn: Court of Appeals 1995

DEIS in order to satisfy the requirements of MEPA. To that end, the EQB Rules provide that it must at a minimum include the following information:

> A. the issues to be addressed in the EIS;
>
> B. time limits for preparation, if they are shorter than those allowed by parts 4410.0200 to 4410.6500;
>
> C. identification of the permits for which information will be gathered concurrently with EIS preparation;
>
> D. identification of the permits for which a record of decision will be required;
>
> E. alternatives that will be addressed in the EIS;
>
> F. identification of potential impact areas resulting from the project itself and from related actions which shall be addressed in the EIS; and
>
> G. identification of necessary studies requiring compilation of existing information or the development of new data that can be generated within a reasonable amount of time and at a reasonable cost.[49]

Adherence to a well-conceived FSDD can help to significantly enhance the efficiency of environmental review by reducing the chance of mistakes, oversights, and deficiencies in the DEIS. As such, adherence to the FSDD is mandatory under MEPA and the EQB Rules, which explicitly states that a DEIS "shall be prepared consistent with [the rules in ch. 4100] and in accord with the scoping determination."[50] Indeed, one of the three requirements that must be

[49] 4410.2100 subp. 6
[50] 4410.2600 subp. 1

satisfied in order for PUC to make a positive adequacy determination on the EIS is that it addresses all the issues and alternatives identified in scoping so that all issues "for which information can be reasonably obtained have been analyzed."[51]

Sierra Club has been and continues to be critical of the FSDD that was prepared for the Line 3 DEIS. Indeed, in December 2016, we petitioned the Commission to reconsider its order approving the FSDD and to amend its contents.[52] In that petition, we identified and explained the many ways in which the FSDD was unlawful and unreasonable and cautioned that it would result in a DEIS that falls well short of MEPA requirements—and, indeed, it has. As anticipated, many of our most substantial problems with the DEIS discussed in these comments are the very same ones we have expressed concern about in the FSDD. However, at the same time that the DEIS comports to all the flawed aspects of the FSDD, it also deviates substantially from some of the parts of the FSDD that were consistent with MEPA.

As stated above, the nonconformity of an EIS with its underlying scoping decision is legally impermissible and renders the EIS inadequate under the explicit terms of the EQB Rules. It also, as a matter of practice, undermines the very purpose of scoping that has the most statutory, administrative, and judicial emphasis—public transparency and participation. In developing the FSDD for the Line 3 EIS, the department reviewed and incorporated oral and written comments from the 45-day public comment period on the DSDD, which included 12 public scoping meetings in 7 of the 10 counties crossed by the proposed L3R, as well as from 15 public meetings held by Department and Commission staff in 2015.[53] These public inputs into

[51] Minn. R. 4410.2800 Subp. 4.
[52] Exhibit 1 (Sierra Club Petition for Rehearing and Reconsideration of Order Approving Scoping Decision and for Amendment ff Proposed Final Scoping Decision Document, December 20, 2016).
[53] Fsdd 4-5

the environmental review process and the citizen rights from which they stem are rendered meaningless if the Department is permitted to ignore the determinations of the scoping process with impunity. This not only breaks the public's trust but, worse, creates the false sense of security about the procedural and substantive rigors of the EIS process, including the false pretense that public input matters.

Attempting to correct these nonconformities in the FEIS does little to rectify the procedural harms to the public. They should have been afforded the opportunity during the DEIS comment period to evaluate and weigh in on the issues, alternatives, data sources, and analysis methods that were required by the FSDD to be developed for the DEIS.

V. PROBLEMS WITH DEIS PROJECT DESCRIPTION

Minn. R. 4410.2300, which governs the contents of an EIS, states in that an EIS must include a "project description" section in which "the proposed project shall be described with *no more detail than is absolutely necessary* to allow the public to identify the purpose of the project, its size, scope, environmental setting, geographic location, and the anticipated phases of development. (Emphasis added) This restrictive language is usually and conspicuously emphatic such that it very clearly intends to limit the information provided in the project description section of the EIS to a discrete, enumerated set of basic project aspects presented in manner that minimizes the chances of subjectivity, partiality, misinformation, or mislead. This requirement for informational restraint and objectivity in this section of the EIS makes sense given the Rule's specification that the section's purpose is to enable members of the public to identify the main aspects of the proposed project.

As such, it would not be particularly concerning that the preface to the Project Description section of the DEIS states "[t]he Project information in this chapter is primarily based on public filings by the Applicant" were the section limited to just the basic information listed in Minn. R. 4410.2300.[54] This is not the case, however—the Project Description section of the DEIS provides a high level of detail about a wide range of project aspects that fall well outside the legally permissible scope of this section, all presented from Enbridge's partial and self-interested perspective and drawn from a range of Enbridge's filings. At the same time, the DEIS omits information legally required to be included in this section even when majority of the necessary information is provided in the "General Information" section Enbridge's CN application, as well as included elsewhere in the DEIS pursuant to the other EIS requirements of MEPA.

Indeed, Enbridge in its CN application provides all the information that 4410.2300 requires to be included in the DEIS Project Description section, plus some additional information required for the CN application that 4410.2300 does not require, and does so in nine pages. The DEIS's Project Description section, by comparison, is forty-six pages long.

A. DEIS' Project Description Section Omits Legally Required Information

The Project Description section is legally required to describe the proposed project's purpose, size, scope, environmental setting, geographic location, and anticipated phases of development using the absolute least amount of detail necessary.[55] It does not meet this legal

[54] DEIS at 2-1.
[55] Minn. R. 4410.2300 (2016).

requirement with respect to the size, scope, or environmental setting of the project. In fact, one would think that the clearest and most logical way to present this information without extraneous detail and in a manner that allows the public to easily identify these factors would be to have a subsection for each size, scope, environmental setting, geographic location, and anticipated phases of development in the Project Description section. The DEIS's Project Description section, however, has no such subsections. In fact, the words "scope" and "environmental setting," do not even appear in this section of the DEIS and the words "size" and "location" only appear in reference to a few specific components of the project such as additional temporary work spaces and mainline valves and never with respect to the proposed pipeline itself.

i. Project Size is Inadequately Described

2803-12

The size of the proposed project should be described in the EIS Project Description section in a manner consistent with and relevant to the purposes of EIS, as well as in compliance with other relevant legal definitions for measuring the size of a pipeline such as the one proposed. The DEIS' Project Description section does neither.

Minn. R. 7853.0010 provides definitions for pipeline CNs and states in Subp. 16 that:

"Mbpd-mile" [Million barrels per day-miles] means a descriptive unit used as a measure of the size of a pipeline, the quantity of which is determined by multiplying:

A. either the length in miles of the new (section of) pipeline in Minnesota, or 50 if the capacity expansion is achieved by adding power; and

B. the new or additional design capacity in thousand barrels per day (Mbpd), at a viscosity of 100 SSU/60 degrees Fahrenheit and a specific gravity of .88/60 degrees Fahrenheit.

> If the pipeline capacity would be expanded by a combination of looping and adding power, the Mbpd-mile corresponding to each method of expansion shall be calculated and the sum of the two shall be the size of the pipeline.

This is the unit of measure in which the CN law requires the size of the proposed pipeline to be stated.[56] However, the DEIS does not include this measurement in the Project Description section. In its CN Application, Enbridge states that the size of the proposed L3R pipeline will be 256,120 Mbpd-mile.[57] This measurement, however, is based on the annual average capacity of 760,000 bpd at which Enbridge purports it will operate the pipeline and not the ultimate annual average capacity of the pipeline which is 915,000 bpd.[58] To accurately convey the size of the pipeline, the EIS should include the size of the L3R pipeline in Mbpd-miles based on this latter ultimate capacity.

Since the purpose of the DEIS is broader than just the CN and requires consideration of all of the pipeline's cumulative environmental impacts, it makes sense for the size of the proposed project to be described to the public in the manners that are consistent with those impact analyses. As such, the Project Description section should also list the size of the Enbridge Mainline System in Mbpd-miles.

ii. Project Scope is Inadequate Described

2803-13

The DEIS takes a totally delimited approach to describing the project's scope in the Project Description section and liberally includes Enbridge's descriptions of the various

---

[56] Minn. R. 7853.0230, Subp. 1(D) (2003) (requiring that a CN applicant describe the size of the proposed pipeline in mbpd-miles).
[57] Enbridge Energy, Limited Partnership, Certificate of Need Application, MPUC Docket No. PL-9/CN-14-916 (April 2015), p. 2-6.
[58] *Id.* at. 8-3.

regulatory and voluntary mitigation measures that will purportedly alleviate some of the project's environmental impacts. Interestingly, while the Department saw it fit to detail as part of the scope of the project the many ways in which Enbridge claims it will be a model of regulatory compliance and environmental stewardship, it did not see it fit to also include as part of that scope the adverse environmental impacts of the project that create the need for those mitigation measures.

2803-13 cont

Describing the scope of the project for the purposes of the DEIS' Project Description section makes most sense in terms of identifying the components of the project that must be included for the purposes of the DEIS.

The EQB Guide further provides that "cumulative potential effects [have] nothing to do with determining what is the complete project… [and] [o]nly 'other projects' that are connected or phased actions" are relevant to this determiniation.[59]

iii. Environmental Setting is Improperly Described

2803-14

The DEIS' Project Description section takes a highly bizarre approach to describing the environmental setting of the proposed project that is completely antithetical and counterproductive to the purpose of this section. Rather than describing the types of environmental settings the project sits in or impacts, the Project Description hints at some of these settings by means of describing Enbridge's proposed efforts to mitigate harms to those settings. This approach thus substitutes descriptive information that is prohibited by 4410.2300 (explained further below) in place of descriptive information that is required by it. Furthermore,

[59] EQB Guide at 12.

it requires that members of the public read through page after page of Enbridge's unsubstantiated claims of how it intends to mitigate environmental impacts just to get an incomplete sense of what some of the project's environmental settings might be.

For example, rather than state that the proposed pipeline would run through agricultural land, the DEIS Project Description states:

> Enbridge proposes that topsoil would be stripped and segregated to maintain the integrity of the existing seed bed in cropland, hayfields, pastures, government set-aside program areas, and other areas as requested by landowners along the construction work area and in accordance with the Environmental Protection Plan and the Agricultural Protection Plan.[60]

(internal citations excluded).

The Department's approach here is particularly perplexing and unacceptable because Enbridge's CN Application includes this necessary descriptive information. For example:

> Approximately 40.3 percent of the area affected by the construction ROW will be agricultural land. This land consists of pastures or hay fields and cultivated crops such as corn, soybeans, wheat, oats, wild rice, and dry edible beans. Potatoes, sugar beets, vegetables, sod, and Christmas trees are also common crops in the counties crossed by the Project (USDA 2012). Approximately 46.8 percent of the area affected by the construction ROW will involve forested land, consisting of deciduous, evergreen, and mixed forests. The construction ROW will also cross wetlands/open water (approximately 6.2 percent of the area, including emergent herbaceous wetlands, woody

[60] DEIS at 2-25.

wetlands, and open water), open land (approximately 6.5 percent of the area, including maintained rights-of-way, shrub/scrub areas, grasslands, developed open space, and barren land), and developed land (less than 1.0 percent, including areas of intensive use with much of the land covered by structures).[61]

The EIS must be corrected to remove the extraneous information and add the necessary information about the project's environmental settings. As it is currently written, members of the public are denied the ability to identify this critical information without having to search through the dense and detailed portions of the DEIS. Furthermore, as explained further below, members of the public may well be misled by the conclusory and biased nature of the information that is currently include in this section.

B. Extraneous Information in the DEIS Project Description Section is Biased and Misleading to the Public and Violates the Law

The Projects Description section of the DEIS includes considerable detailed information about several aspects of the project that have no nexus to the section's legal purpose of allowing the public to identify the proposed project's purpose, size, scope, environmental setting, geographic location, and anticipated phases of development using the absolute least amount of detail necessary.[62]

As one example, the Project Description section includes extraneous information about the project's costs for Enbridge:

[61] Enbridge CN Application at 9-6.
[62] Minn. R. 4410.2300 (2016).

2803-15

> Enbridge expects the total costs of designing, permitting, and constructing the Line 3 Replacement Project from Hardisty, Alberta, Canada, to Superior, Wisconsin, to be $7.5 billion. Enbridge expects the U.S. portion of the Project to total approximately $2.6 billion and the Minnesota portion of the Project to account for approximately 80 percent, or $2.1 billion, of the U.S. total.[63]

This information is wholly irrelevant to the project aspects that this section needs to describe. The cost of the proposed project to the Applicant is an irrelevant matter for environmental review of the project.

More problematically, the DEIS' Project Description section also includes detailed information about "Construction Methods," which primarily focuses on describing with considerable detail "the measures Enbridge would be required and/or has proposed to take to avoid or minimize potential impacts from the Project."

The inclusion of the impermissible extraneous details about mitigation measures in the Project Description section of the EIS is highly problematic because it takes assertions drawn directly from Enbridge's filings[64] and presents them in a manner that is very conclusory as to their effectiveness.

For example, the measures Enbridge proposes to undertake to prevent the spread of noxious weeds and invasive species are summarized in considerable detail but without any attendant

[63] DEIS at 2-18.

[64] DEIS at 2-1 (stating "[t]he Project information in this chapter is primarily based on public filings by the Applicant.").

information about the nature and magnitude of the spread of these plants resulting from the project, as well as whether and to what extent the mitigation measures described are likely to be effective.[65] Statements like "[t]o best protect sensitive resource areas such as wetlands or waterbodies, trench breakers would be installed on site specific conditions . . . ." suggest that the installation of trench breakers in the manner described are, as a matter of fact, the way to best protect sensitive resource areas without any information referenced or cited to by which to substantiate such a conclusion.[66] Similarly, the assertion that "Enbridge would restore the site as much as possible to its original condition" is a misleading statement in the absence of additional language that indicates what that possibility is. As one final and particularly glaring example, the following statement from the Project Description on Enbridge's crude oil transport operations reads like marketing language for the company:

2803-15 cont

> Enbridge abides by all PHMSA regulations and works directly with regional, state, and local agencies, landowners, and other stakeholders to ensure that its programs meet the needs of the community in which it operates.[67]

2803-16

DOC must eliminate these and other instances of extraneous language from the Project Description as they do nothing "to allow the public to identify the purpose of the project, its size, scope, environmental setting, geographic location, and the anticipated phases of development" but, rather, mislead the public into thinking that claims of mitigation efforts by Enbridge that have yet to be conclusively evaluated are, instead, fact descriptions of the Project components.

[65] DEIS at 2-24.
[66] DEIS at 2-27
[67] DEIS at 2-37

C. DEIS' Description of Project Purpose is Excessively Detailed

Our comments here pertaining to way the DEIS approaches the project purpose are explained in much greater detail and with more holistic analysis as to the legal requirements for the EIS in section ____ of these Comments. Here we draw on that later analysis by reference in order to provide more limited comments specific to the legal requirements for stating the project's purpose in the EIS' Project Description section.

The Project Description section should define the project purpose in accordance with the way the EIS defines the project purpose in order to satisfy the requirements of MEPA—that is in terms of state and public need for the project and not the needs of the Applicant. Furthermore, the EIS should frame the project purpose such that it allows the Commission to identify and evaluate the full range of reasonable and prudent alternatives to the project. 2803-17

The DEIS' Project Description section, however, describes the project's purpose exclusively from the perspective of Enbridge and its private interests. Drawing directly from Enbridge's filings, the Project Description states that the purpose of the project is to replace the existing Line 3 pipeline to (a) avoid the expense of having to continue maintaining it, (b) increase the capacity of Enbridge's pipeline system to meet demand for Canadian crude oil, and (c) reduce curtailment, improve operational flexibility, and the energy efficiency of Enbridge's system.[68]

The reasons for why this approach to defining the project's purpose result in the EIS violating MEPA are explained later in these Comments. In the context of the DEIS' Project Description section, however, the Department's decision to define the project purpose based on

[68] DEIS at 2-5.

Enbridge's purpose is problematic because it confuses and misleads the public to the aspects of the project that matter for the purposes of the environmental review and the Commission's decision about the pipeline.

VI. THE DEPARTMENT SHOULD DEVELOP A NEW DEIS IN CLOSE CONSULTATION AND COORDINATION WITH OTHER AGENCIES THAT HAVE MORE EXPERIENCE WITH PREPARING AN EIS AND MORE EXPERTISE IN EVALUATING ENVIRONMENTAL IMPACTS

The DEIS major deficiencies by and large take two forms: (1) failures to meet MEPA requirements for an EIS, which are detailed in these comments and (2) failures in methodology for evaluating impacts, which are detailed in the comments of many of our organizational allies and technical experts. Both can be attributed in great part to the fact preparation of an EIS is highly complex, both legally and technically, This is understandable and but also especially concerning given the complexity, scale, and range of the project itself and of its impacts on our water, land, air, health, safety, security, and communities.

We encourage the Department to prepare a new DEIS in close coordination and consultation with the Department of Natural Resources, the Pollution Control Agency, and other agencies who can lend both their knowledge and experience on how to prepare an EIS so that it complies with the requirements of MEPA and their technical expertise on evaluating the range of environmental effects the EIS must consider.

MINNESOTA

Comment Form
Line 3 Project Draft EIS Public Meeting

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

Name: Nicolette Slagle

Street Address:

City: Pons fond State: MN Zip Code:

Phone or Email:

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

Appendix B. 7.1

↳ Cleaning Validation Report is from NEB filing. They couldn't be bothered to write a new one for Minnesota?

↳ where does flush water go after the cleaning process?

↳ all of the other various permits that Enbridge will need to get over the life time of the project should be spelled out so we can get a full picture of all the impacts

0257-1

→ Appendxx B pg 15

→ creation of water conduits along outside of the pipe → we can already see these water conduits from Google Earth.

General Comment → where is the discussion of the fact that even Enbridge has been talking about the need to replace this line since 2003, ~~Ext than~~ Dispite this, they waited till the cost between repair & building a new line reached equilibrium before looking to start this project.

→ at what point can we have a dialouge w/ the DOC, PUC, & enbridge? We have been told throughout this process the time is not now. When will this time be?

→ Appendix B pg 25 → hoop stress → how is the hoop not facing external pressure after it is empty?

If including additional pages please number them and tell us how many you are providing:_____ pages

0257-2

Levi, Andrew (COMM)

From: Cynthia Smith <cynthiasmith5333@gmail.com>
Sent: Sunday, July 09, 2017 1:41 PM
To: MN_COMM_Pipeline Comments
Subject: Sandpiper Concerns

TO:

JAMIE MACALISTER
ENVIRONMENTAL REVIEW MANAGER
MN DEPT OF COMMERCE
85 7TH PLACE EAST, SUITE 280
SAINT PAUL, MN 55101-2198

I am very concerned that the DEIS (Draft Environmental Impact Statement), supplied by Enbridle and their paid contractors, does not consider the effect of Line 3 Project on our waters. It is of great concern that there are 192 water crossings in Minnesota via the proposed route.

Among my concerns are:
-There is no disclosure of hydraulic drilling fluids used to tunnel under streams, but which are known to be TOXIC to aquatic life.
-There is no winter spill analysis - how to clean a lake or river covered by ice.
-Explaination of how first response personnel get to the site of aa spill where no roads exist?

1467-1

I feel that an independent third party should be involved in the DEIS, not Unbridle and their paid contractors.

Sincerely,

Cynthia Smith
PO Box 645
19675 Jig Saw Drive
Park Rapids, MN 56470

Levi, Andrew (COMM)

From: Steven Smokey <SSmokey@bepc.com>
Sent: Friday, July 07, 2017 3:10 PM
To: MN_COMM_Pipeline Comments
Subject: Comments Regarding Enbridge Energy's Proposed Line 3 Pipeline Project

In response to dockets: CN-14-916 and PPL-15-137

More specifically in regard to RSA-White Elk Lake:

As a property owner along the proposed alternate route (RSA-White Elk Lake) I support the studies' direction that the route proposed by the Minnesota DNR has significant drawbacks that reduce the alternate routes ranking. Although some details may have been missed, I would also include some important information that does not appear listed in the studies or contained maps.

1. Our family owns seasonal structures that were not included in the study. These structures are occupied for approximately 3 weeks in a year for recreational purposes. The construction of the pipeline through my property would greatly impact the use and enjoyment of my property. It also raises the question of why seasonal use property was not included in the study (i.e. cabins and lake homes). 1468-1
2. The RSA mentions impacts to White Elk Lake, but does not address impacts to Bass and Mud Lakes (there may also be a fourth lake in the corridor). Mud Lake is a historical ricing lake, and the surrounding wetlands may be more extensive than the White Lake wetland system. The hydrologic connectivity between Mud Lake and White Elk lake is far more complex than the report noted. 1468-2
3. The original DNR letter proposing this route is full of glaringly inaccurate biases regarding forest designation and wildlife impacts.
4. RSA-White Elk Lake follows a historic route where an old settlement and old farmsteads were located. There is a high potential in this corridor for archeological issues that were not impacted or addressed when the power line was installed. 1468-3

Should this route be seriously considered for construction, I will expand my comments and add additional ones.

Thank you
Steve Smokey

MINNESOTA

Comment Form
Line 3 Project Draft EIS Public Meeting

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

Name: Andrea Sonum

Street Address: 3908 5th Ave S. #1

City: Minneapolis State: MN Zip Code: 55409

Phone or Email: andreasonum2@gmail.com

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

To reduce spills into MN lakes, rivers, streams, etc. we need to shut down Line 3 and keep the Tar Sands in the ground. The EIS is negligent in commenting on environmental devastation pumping (and, consequentially, burning) the dirtiest crude oil in North America. The CO_2 released just from this oil would make our planet inhabitable. The danger to our waterways is completely irresponsible. My children are small (4 & 6) but already know that ocean acidity, melting icecaps & extreme weather are a frightening future. The EIS needs to address the impacts this pipeline will have on global climate change & the list alternatives that include not building a new Line 3 & shutting down the current Line 3. The EIS also needs to specify the chemicals (bitumen, etc.) Enbridge plans to use & how those affect the health of our state's environment & people.

0765-1

If including additional pages please number them and tell us how many you are providing:_____ pages

MS. MAHYAR SOROUR: Okay. Hi. So Mahyar Sorour. M-A-H-Y-A-R. S-O-R-O-U-R. And I am a member of the Minnesota Pollution Control Agency Environmental Justice Advisory Group. I'm here today as a St. Paul resident, as a lifelong Minnesotan, concerned with the inadequacy of the Draft Environmental Impact Statement for the proposed Line 3 Pipeline Project.

Every summer when I was growing up, I had the honor of going up to the Boundary Waters, swimming in Lake Superior, enjoying the pristine natural resources of the land. Now, as a St. Paul resident, I have the honor of living right by the the Mighty Mississippi River.

The DEIS contains no spill analysis

2065-1 Cont'd

for the tributaries of the St. Louis River or the Nemadji River, where spills could decimate Lake Superior and the harbors of the Twin Ports. A spill in Lake Superior not only affects the communities who reside near the water, but all Minnesotans, as the Mississippi River is connected. All of our water is connected.

As someone who has spent their life working on environmental justice, this project is a clear example of environmental racism. In the environmental justice chapter, Chapter 11 of the DEIS, which might I add is less than 20 pages long out of a 5,000-page document, it acknowledges that pipeline impacts on tribal communities are part of a larger pattern of structural racism that tribal people face in Minnesota, which was well documented in a 2014 student by the Minnesota Department of Health. It also concludes that the impacts associated with the proposed project and its alternatives would be an additional health stressor on tribal communities that already face overwhelming health disparities and inequities.

The injustices of cumulative impact is an aspect that must be acknowledged, but is clearly forgotten in this Draft Environmental Impact

Statement. You are proposing a pipeline on environmental injustice communities that already have to live with a number of disparities, and cutting off access to water, where native communities hunt, fish, and gather wild rice is environmental racism. This is just not right.

The Draft Environmental Impact Statement concludes that a disproportionate and adverse impacts would occur to native populations in the vicinity of the proposed project. Therefore, to honor our environmental justice communities and not perpetuate the cycle of structural and environmental racism that's so clear in our country today, we cannot move forward with this project

Thank you.

Levi, Andrew (COMM)

From: Carolyn Spangler <carolynspangler1@gmail.com>
Sent: Sunday, July 09, 2017 11:45 AM
To: MN_COMM_Pipeline Comments
Subject: public comment-line 3 project (CN-14-916 and PPL-15-137)

Dear Environmental Review Manager:

In the DEIS analysis there is no mention of the numbers used to calculate oil spill impacts. I have heard that Enbridge redacted those numbers from the public version of the DEIS. Without them, there is no reliable way an independent party to verify their results. 1475-1

I believe that in order for Minnesota citizens and agencies to make an educated decision about Line 3, we must have that information, and I would like to know why Enbridge won't release it. Please insist that Enbridge provide their data on oil releases and spills in Minnesota.

If Enbridge objects due to security reasons, then I would like to know why they have failed to cover the exposed pipes in the Tamarack River in northwest Minnesota, and why they allow people to joyride over exposed pipes south of Clearwater. This is surely a security issue as well. For Enbridge to pick and choose what issues warrant "security," is unacceptable.

Sincerely
Carolyn Spangler
15995 Freedom Drive
Park Rapids, MN 56470

Levi, Andrew (COMM)

From: Hannah Specht <hannah.m.specht@gmail.com>
Sent: Friday, June 23, 2017 11:35 AM
To: MN_COMM_Pipeline Comments
Subject: Line 3 Draft Environmental Impact Statement

Dear MN Department of Commerce:

I believe that the risks posed by the Enbridge Line 3 Draft Environmental Impact Statement to MN waters are unacceptable. The estimated 25% estimated annual spill probability is unacceptably high- it suggests that MN could experience an oil spill as often as every 4 years. This risks is FAR to high- it effectively acccepts contamination in our waters, which provide a source of recreation, habitat for Minnesota's wildlife & fish, and are critical to the quality of life. Furthermore, spills, especially those into moving water, would not necessarily be contained within the 10 mile region of interest designated in the EIS. At minimum, this ROI should be broadened to reflect the extent of the potential region of impact that COULD be affected in a bad spill (for example, Enbridge's spill on the Kalamazoo) based on spills in other similar systems. 0568-1

Thank you for your consideration of these important threats to MN's waters.

--
Hannah Specht
hannah.m.specht@gmail.com
413.636.9204

"Don't worry about what you will do next. If you take one step with all the knowledge you have, there is usually just enough light shining to show you the next step." ~ Mardy Murie

Levi, Andrew (COMM)

From: DeCourcy Squire <decourcy350@cs.com>
Sent: Monday, June 26, 2017 10:51 PM
To: MN_COMM_Pipeline Comments
Subject: Draft EIS line 3 pipeline PPL 15-137/CN 14-916
Attachments: DEIS testimony.docx

I spoke at the June 13 public meeting in St. Paul but because of time limitations I was not able to present my full testimony. I am attaching the complete copy, somewhat revised, to be added to the comments on the draft EIS of the line 3 pipeline, PPL 15-137/CN 14-916. Please add these comments into the record. (If you wish, you may delete my incomplete testimony from June 13 and replace it with this, if that is allowable.)

DeCourcy Squire
612-209-9561
1902 4th Avenue South #2
Minneapolis, MN 55404

Comments re the Draft EIS for Line 3 PPL 15-137 CN 14-916

My name is DeCourcy Squire of Minneapolis. I am here, not as an expert, but as a concerned citizen. I am extremely concerned about the risk the proposed pipeline may pose for the environment when there are spills.

I will not cover all the issues or all my questions, but will share a few comments and 12 questions based on my reading of chapter 10 of the DEIS.

The DEIS acknowledges in the introduction to chapter 10 section 10.1 "The probability of a release of some type along the entire pipeline during its lifetime is not low. The consequences of a large release can be significant." 1080-1

Enbridge commissioned two studies, which the DEIS drew largely on, by Stantec and by Stantec and Barr: one on pinhole leaks and one on larger leaks. The one on larger leaks redacts the estimates of how much the volume of potential leaks could be at various sites.

1. **Why is this not considered public information?**

Stantec et al. estimated the probability of leaks based only on past history although as financial advisers are always reminding us, past performance alone does not necessarily predict future performance. They took the number of incidents (80) and divided that by miles/year, miles of pipeline (roughly 2000 miles) times 14 years (2002-2015) for which they had data. (Tables 2.4 And 2.5 in their report *Line 3 Replacement Project: Assessment of Pinhole Release*) 1080-2

In the DEIS (section 10.2.5.3) the probabilities are figured by miles/single year using the length of the new Line 3 route only (380.38—although actually the Minnesota part is 337 miles). To get a better prediction, one also needs to look at the expected lifetime of the pipeline to see how many incidents there might be, (multiplying by the number of years) but also take into account that the older the pipeline gets, the higher the probability of leaks. It is also becoming more difficult to estimate the weather dangers as we are seeing some changes in average temperatures, severity of storms, etc.

The report cites extreme weather, storms, flooding, mudslides, and wind as being potential causes of leaks/spills.

2. How was the real problem of the changing climate, including *increased* summer heat and the increase in the number and severity of storms taken into account in assessing the risk?

3. How will the increased risk that these changes lead to be mitigated?

The lifetime of a pipeline is now expected to be about 60 years (according to Petroleum News, week of Feb. 14, 2010) although catastrophic spills have occurred when pipelines were less than 30 years old as with the old Line 3.

4. **How long is the new Line 3 expected to last?**
5. When it gives out, will it too be left in the ground to corrode and leak?

For prevention of large leaks, early detection and action is crucial. Leaks caused by pinhole leaks are more difficult to detect than regular leaks and can slowly lead to large leakage. In the 2015 report by the Department of Public Safety on *Minnesota's Preparedness for an Oil Transportation Incident*, there were numerous recommendations to improve the readiness of first responders dealing with pipeline leaks.
6. **Have these recommendations been fully implemented?**

There are 2.7 million miles of pipeline in the US and only 188 federal PHMSA inspectors and 340 state PHMSA certified inspectors. This is 5000 miles per inspector nationally. Minnesota is in the central region of PHMSA, made up of 12 states, with a total of 12 certified inspectors, of whom 2 are in Minnesota.
7. **Is this a sufficient number?**
8. If they detect a problem, will they have the authority to order the pipeline turned off?

I am concerned that with decreased funding for environmental concerns, there is likely to be less research on the national level to assess risk and to fund inspections.
9. In what ways is Minnesota able and ready to fill that breach?

I am not in favor of this new Line 3, but I agree that the old Line 3 should be closed down.
10. W**hy is there no provision for Enbridge to take responsibility to remove it?**

Pipelines leak, and rail or truck transport come with their own set of risks. So what about other options?

11. Very importantly, why was there no study of the impact of expanding the use of sustainable power, such as solar, to replace the use of oil for our energy needs?

12. What would be the environmental impact of this and the job creation and the amount of risk compared to the pipeline?

I feel it is a serious failure that the Draft EIS did not consider this option.

Our state has tribal treaty obligations; it has rice lands; it has 1/5 of the world's supply of fresh water; it has a beautiful countryside for tourism; it has agricultural land. All this could be endangered by the oil pipeline when the spills and leaks occur, which the DEIS acknowledges is inevitable.

I urge you to look closely at the risks vs. benefits of this pipeline proposal and investigate other non-fossil fuel options.

MS. DECOURCY SQUIRE: DeCourcy Squire. D-E capital C-O-U-R-C-Y. And last name is S-Q-U-I-R-E.

And I'm here not as an expert, but as a concerned citizen. And I've read parts of the Draft EIS, especially Chapter 10, and as well as the reports by Stantec that were commissioned to the EIS on pinhole releases and on assessment of accidental releases and also the 2015 report by the Department of Public Safety on Minnesota's preparedness for an oil transportation incident, because I'm extremely concerned about the risk the proposed pipeline may pose to the environment if there are spills. And

what reading the draft report has left me with are some questions. So here are 12 of them.

The DEIS acknowledges in the introduction to Chapter 10, Section 10.1, the probability of release of some type along the entire pipeline during its lifetime is not low. The consequences of a large release can be significant. 2114-1

Enbridge commissioned the two studies that I mentioned earlier. The one on the large release redacts the estimates of how much the potential leaks could be. Why is this not considered public information?

Stantec, et al., estimates the probability of leaks based on past history. And I realize we cannot always predict the future, even though my financial advisor is always saying past performance isn't a guarantee of the future.

What they did is they took the number of incidents, which were 80, over a period of 14 years, from 2002 to 2015, and they divided that on miles per year using the miles of the pipeline, roughly 2,000 miles. And that was Tables 2.4 and 2.5 in the report, Line 3 Replacement Project, Assessment of Pinhole Release.

In the DEIS Section 10.2.5.3, the

probabilities are figured by miles per single year, using the length of new Line 3 route only. But to get a better prediction one also needs to look at the expected lifetime of the pipeline to see how many incidents there might be, so multiplying by the number of years, although this does not take into account that the older the pipeline gets, the higher the probability of leaks. It's also becoming more difficult to estimate weather dangers, as we are seeing some changes in average temperature, severity of storms, et cetera.

The lifetime of a pipeline can be expected to be about 60 years, according to Petroleum News in the week of February 14th, 2010 newsletter, although catastrophic spills have occurred when pipelines were less than 30 years old, as with the old Line 3. So how long is the new Line 3 expected to last? And when it gives out, will it too be left in the ground to corrode and leak?

Reports cite to --

CN-14-916 PPL-15-137

0966

MINNESOTA

Comment Form
Line 3 Project Draft EIS Public Meeting

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

Name: Karen Stat Heller

Street Address: 101 Thompson SW

City: Verndale State: MN Zip Code: 56481

Phone or Email: 218-296-2525

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

Invasive machinery Bring Invasive plants.

Please include a study on how Invasive plants destroy native colonies as they spread outward from pipeline clearings.

Especially Reed Canary is very destructive in wetland eco systems.

0966-1

If including additional pages please number them and tell us how many you are providing:_____ pages

MR. GERALD STRIEGEL: Hi.

FACILITATOR: Start by spelling your name.

MR. GERALD STRIEGEL: Gerald Striegel. G-E-R-A-L-D. Striegel, S-T-R-I-E-G-E-L. Hi.

I'd like to focus on the greenhouse gas emissions associated with the materials to be pumped through the proposed pipeline. Although the Draft EIS identifies potential shipping variations, the corresponding lifecycle emissions are not quantified adequately. In the final EIS document is -- if the final EIS document is to provide heat-trapping contribution of the transported material lifecycle, greenhouse gas emissions must be thoroughly identified. 1540-1

In Section 10.3.1.1.2 both heavy crude and dilbit are listed. They are unique substances. But Table 5.2.7-10 lists only heavy Western Canada sedimentary basin crude, with a range of 584 through 632 kilograms of CO2 equivalent per barrel. We're going to call it WCSB basin from here on out. It's an expansive area and contains both conventional and tar sands formation.

So what material is being identified? Page 5-440 states that lifecycle analysis or greenhouse gas tracks the total production of greenhouse gases from their extraction from the earth to the end-use combustion of the refined petroleum products or by-products. So in the case of dilbit, is the inclusion of Petcoke -- is that inclusive of Petcoke, and what emission content is applicable? 1540-2

Given the expanse of the tar sands fields and the waning life of conventional basin assets, it seems that a worst-case scenario, dilbit and associated Petcoke products, would be an appropriate baseline. I would like to see those numbers identified and applied to the subsequent discussion. 1540-3

Independently, the proposed pipeline

and its lifetime distributions to atmospheric CO2 could be dismissed as insignificant, if all other considerations are ignored, an approach foolishly applied to many discussions today. It adds up. It's cumulative.

When we consider this or any pipeline servicing the tar sands formation, it's critical to recognize not just the destructive contribution of the proposed pipeline, but also those already existing. It's important to understand there are roughly 170 billion barrels of recovered tar sands material. And when burned, it will add 25 billion metric tons of carbon to the atmosphere.

Levi, Andrew (COMM)

From: Jerry Striegel <grstriegel@gmail.com>
Sent: Monday, July 10, 2017 12:36 PM
To: MN_COMM_Pipeline Comments
Subject: Docket Numbers CN-14-916 and PPL-15-137 Public Comments - DEIS Life Cycle GHG Emissions Omissions
Attachments: line 3 DEIS Life Cycle GHG Emissions Omissions.pdf

Jamie MacAlister, Environmental Review Manager

Minnesota Department of Commerce

Submissions to: Docket Numbers CN-14-916 and PPL-15-137

Subject: DEIS Life Cycle GHG Emissions Omissions

I will focus on the GHG emissions associated with the materials to be pumped through the proposed Line 3 pipeline. Though the DEIS identifies potential variations, the corresponding life cycle emissions are not quantified adequately. If the final EIS document is to provide the heat trapping contributions of transported material, life cycle GHG emissions must be clearly identified.

In Section 10.3.1.1.2 both heavy crude and dilbit are listed. They are unique substances, but Table 5.2.7-10 "Average Life-cycle GHG Emissions for Various Crude Oils" lists only Heavy WCSB crude with a range of 584-632 kg CO_2-e./barrel. That's quite a spread. WCSB is an expansive area containing both conventional and tar sands formations. So what material is being identified? Further, page 5-440 states that Life-cycle analysis for GHGs tracks the total production of GHGs from their extraction from the earth to the end-use combustion of refined petroleum products or byproducts. So, in the case of dilbit is that inclusive of petcoke and what emission content is applicable? 2692-1

Given the expanse of the tar sands fields and waning life of conventional WCSB assets it seems that a worst case scenario, dilbit and associated petcoke byproduct, would be an appropriate baseline. I would like to see those numbers identified and applied to any subsequent discussion.

Alone, the proposed pipeline and its lifetime contribution to atmospheric CO_2, could be dismissed as insignificant. An approach foolishly applied to many decisions today. It all adds up. It's cumulative.

When we consider this or any pipeline servicing the tar sands formation it is critical to recognize not just the destructive contribution of the proposed pipeline, but those already existing. It's important to understand the extraction of this material will produce roughly 170 billion barrels of dirty crude, and when burned will add some 25 billion metric tons of carbon to the atmosphere.

For the sake of argument, let's take life-cycle tar sands emissions at roughly 20% higher than the conventional U.S. oil supply. Why would our Trustee, the PUC, consider permitting this dirtier Canadian crude when both cleaner U.S. sources and conventional supplies are available? PUC members have to be able to see the GHG comparisons. There are no silver bullets in the race to mitigate climate change. There is a need for many smart decisions. A complete Final EIS is a starting point.

Gerald Striegel

400 Beacon Ave.

St. Paul, MN 55104

Jamie MacAlister, Environmental Review Manager

Minnesota Department of Commerce

Submissions to: Docket Numbers CN-14-916 and PPL-15-137

Subject: DEIS Life Cycle GHG Emissions Omissions

I will focus on the GHG emissions associated with the materials to be pumped through the proposed Line 3 pipeline. Though the DEIS identifies potential variations, the corresponding life cycle emissions are not quantified adequately. If the final EIS document is to provide the heat trapping contributions of transported material, life cycle GHG emissions must be clearly identified.

In Section 10.3.1.1.2 both heavy crude and dilbit are listed. They are unique substances, but Table 5.2.7-10 "Average Life-cycle GHG Emissions for Various Crude Oils" lists only Heavy WCSB crude with a range of 584-632 kg CO_2-e./barrel. That's quite a spread. WCSB is an expansive area containing both conventional and tar sands formations. So what material is being identified? Further, page 5-440 states that Life-cycle analysis for GHGs tracks the total production of GHGs from their extraction from the earth to the end-use combustion of refined petroleum products or byproducts. So, in the case of dilbit is that inclusive of petcoke and what emission content is applicable?

Given the expanse of the tar sands fields and waning life of conventional WCSB assets it seems that a worst case scenario, dilbit and associated petcoke byproduct, would be an appropriate baseline. I would like to see those numbers identified and applied to any subsequent discussion.

Alone, the proposed pipeline and its lifetime contribution to atmospheric CO_2, could be dismissed as insignificant. An approach foolishly applied to many decisions today. It all adds up. It's cumulative.

When we consider this or any pipeline servicing the tar sands formation it is critical to recognize not just the destructive contribution of the proposed pipeline,

but those already existing. It's important to understand the extraction of this material will produce roughly 170 billion barrels of dirty crude, and when burned will add some 25 billion metric tons of carbon to the atmosphere.

For the sake of argument, let's take life-cycle tar sands emissions at roughly 20% higher than the conventional U.S. oil supply. Why would our Trustee, the PUC, consider permitting this dirtier Canadian crude when both cleaner U.S. sources and conventional supplies are available? PUC members have to be able to see the GHG comparisons. There are no silver bullets in the race to mitigate climate change. There is a need for many smart decisions. A complete Final EIS is a starting point.

Gerald Striegel

400 Beacon Ave.

St. Paul, MN 55104

Levi, Andrew (COMM)

From: Dan Sauve <dan.sauve@co.clearwater.mn.us>
Sent: Friday, June 23, 2017 8:53 AM
To: MN_COMM_Pipeline Comments
Subject: Docket Number CN-14-916 and PPL-15-137

Hello,

I attended the meeting on June 22, 2017 in Bemidji concerning the Draft EIS for Docket Number CN-14-916 and PPL-15-137. I provided verbal and written comments at that meeting. Here are some additional comments.

Page 16 of the Executive Summary and Figure ES-4 is really misleading. I believe that pipelines are the safest mode of transportation for oil. An attempt was made in Figure ES-4 and the accompanying text to compare the various modes of transportation. The only fair way to compare would be based on volume-miles transported versus total spill volume. So the left side of the chart would be "Total Volume Transported" and the right side of the chart would be "Total Spill Quantity". You could still discuss the average spill volume size, but the way it is presented it is really miss leading because there is so much more volume being transported by pipeline. So you really are not comparing apples to apples. The only way to compare to each other is to compare based on the same volume being transported by the various modes. 0564-1

I also feel a better explanation should be made in the safety comparison for humans. Again this needs to be compared by volume mile transported. Because if all the oil that is transported by pipeline is now placed in trains and trucks it will have a great impact to safety of the public using our roads and the towns it passes through. We have vehicle crash rate data based on miles travelled. So the increase in the various crash intensities can be calculated. Simple take the volume-miles being transported by pipeline and place that in a truck to get miles traveled in a truck. Take the total truck miles that would be needed to transport the same volume by truck. From there you can calculate the total number crashes, number of fatalities, and serious injury crashes. The MnDOT Traffic office could help with this calculation. A valid safety comparison needs to be made to transport the same volume by each mode of transportation. 0564-2

Thank you

Dan Sauvé, P.E.
County Engineer
Clearwater County
113 7th St. NE
Bagley, MN 56621
Phone (218) 694-6132
dan.sauve@co.clearwater.mn.us

Levi, Andrew (COMM)

From: Sara Suppan <sara.suppan@gmail.com>
Sent: Tuesday, July 04, 2017 1:59 PM
To: MN_COMM_Pipeline Comments
Subject: Citizen Comment: Line 3 DEIS 2017
Attachments: SaraSuppan_Comment_Line3DEIS.pdf

Attached: Sara Suppan, Comment on the Line 3 DEIS, July 4, 2017.

Please give response indicating that this comment has been received.

Thanks,
Sara

Sara Suppan
Comment on the Line 3 Replacement Project DEIS
Minnesota Department of Commerce
85 7th Place E, Suite 280, St Paul 55101
July 5, 2017

I. Qualifying Background and Introduction

My name is Sara Suppan. I have been a volunteer with MN350 for over a year now, during which time I have attended meetings of the PUC, EQB, and with the State Department in Bemidji, have attended and led info sessions about Line 3, have helped to compile a Fact Book about the pipeline, and have gotten to speak with dozens of Minnesotans who live along its current route. I've been following the Line 3 replacement proposal for fourteen months. Before that, I self-educated on environmental justice issues with voracious reading, by attending free lectures, and with a lot of documentaries. I have lived in Minnesota my whole life. I also grew up with a parent who works at the Institute for Agriculture & Trade Policy (as their Senior Policy Analyst of 25 years). I was raised on discussions of climate change. I went on to become the captain of my high school Earth Club, and also spent six weeks of school on a farm in Wisconsin where I tracked changes to the environment by counting birds and collecting plant samples. I had the pleasure of beekeeping there, and grew a relationship with bees that would last. In college, I worked with the University of Minnesota's bee labs on an art project to raise awareness of colony collapse. Now I often go up North to visit Duluth, Two Harbors, and Hermantown Minnesota, where my partner of four years has family. The new pipeline will affect them, and will affect me, and so I appreciate the opportunity to comment today.

I am writing out of concern that a new major oil pipeline in Minnesota will result in a new major oil spill in Minnesota. As I am certain others worry about what an inevitable spill will mean for our lakes and rivers, I will focus my comment on Chapter 10 of the Environmental Impact Statement for Line 3, titled "Accidental Crude Oil Releases". I am going to address the source for the study on which this analysis is based, errors of method, and factors left unconsidered in the DEIS. I will express the opinion throughout that this DEIS is both unreliable and dangerously inadequate, considering the wide scope of the project.

II. Considering the Source for this DEIS and Potential Bias

I ask, Can a study commissioned by Enbridge itself on the risk of an oil spill from the Line 3 Replacement be considered an ***independent*** source of assessment? I am doubtful. There are some troubling framing devices used in the study written by Enbridge-funded Stanec + Barr Engineering (2017) and Stanec et al (2017) (10.2.1.1.1), which I will allege suggest bias and are meant to persuade the Minnesota government and public, rather than inform them.

First, their spill analysis is stated in terms of ***annual*** spill risk, rather than risk multiplied across the lifetime of a pipeline, which could be 50 or 60 years (10.2.1.2) (Table 10.2-2). The estimated annual probabilities of an incident for the proposed pipeline are thus framed in inconceivable figures such as "0.249 incidents per year" (Table 10.2-1) (10.2.4.2.2). These estimates should be multiplied into a half-century to give a clearer picture of actual risk. The purpose of the DEIS is to provide information to both decision makers and to the public of Minnesota, and so framing the risk in honest terms matters a great deal. Indeed, since an older pipeline likely poses a greater leak threat, the DEIS really should have included an algorithmic estimate, compounding the leakage risk each year over the anticipated life of the pipeline. The older the pipeline gets, the higher the risk that it will spill. Presumably, the annual risk of a spill would not remain at a plateau across six decades.

Second, I believe that the route alternatives listed improve Enbridge's image unfairly, by using favorable language toward them. The authors of the spill risk assessment throughout will repeatedly use the word "***only"*** to describe risk statistics associated with the applicant's preferred route (APR), but do not use the qualifier "only" to describe the projections (i.e. number of spills, number of nearby water-bodies) for alternative routes like SA-04, which was proposed by Friends of the Headwaters. The language used in the DEIS idealizes Enbridge as a company while doing little to acknowledge Enbridge's historical failures to work up to its own standards. For example, the document claims that, "Modern crude oil pipeline systems are designed, constructed, and operated with technology to minimize the potential for integrity failures and to rapidly detect and manage unanticipated releases" (10.1.2.1). This sounds great, but does not disclose that Enbridge's rapid detection mechanisms have failed in the past. Sometimes control room operators have even ignored the detection mechanism warnings, and local residents are the ones to first report a smell or the presence of oil, as happened in Kalamazoo, Michigan. "Pinhole" leaks are numerous in the current Line 3 and go undetected and without response, which is why I am confused by the assumption in 10.3.1.4 that once the leaked substance reaches the surface, "visual detection and response would occur." This is cited as from Stanec et al 2017; but who are they to say there would ***actually*** be response to a pinhole leak? What is the record of Enbridge ever responding to a pinhole leak, when they've already acknowledged that the current Line 3 is "weeping" in numerous places, and they haven't shut it down? And if there are no adequately sensitive technological mechanisms to detect a tiny leak, who are we relying on for that visual detection? I learned from personnel at the Saint Paul public meeting that there are pigs that run up and down the line, as well as human staff that walk sections of it. But the DEIS does not disclose how often visual inspections occur, or how inspection for pinhole leaks are conducted underneath

bodies of water. And under ice? How many state inspectors are hired, and is there an adequate number of them to cover the hundreds of miles they will need to physically walk? The study warns that "Pinhole releases can remain undetected for long periods of time, ultimately releasing volumes that would be classified as medium or large spills" (10.3.1.4). So why are pinhole and small spills not monitored?

Next, the alternatives to the Applicant's Preferred Route seem intentionally unreasonable. The Friends of the Headwaters route SA-04 is frequently measured as being longer than the APR, and therefore as having greater negative impact. However, the DEIS does not account for the fact that the oil delivered by the APR will then have to continue from Wisconsin to Chicago. That distance and its impacts are not measured….in the Environmental Impact Statement! Some of the route alternatives that the Preferred Route is compared to seem like inappropriate alternatives, anyway. Just clearly bad or improbable ideas that will make Enbridge's proposal seem better, and which will give the illusion that some alternatives have been explored. By Truck and By Train are red herrings—easy outs. The DEIS does not even make clear to the reader how a combination of rail and pipe would work, even though these pairings are listed as alternatives. (In my mind, I had pictured some sort of funnel from a pipeline into a box car, until a staff member at the St Paul Public Meeting explained to me that it meant the two would be used in tandem. This process should be made explicit for the reader in Chapter 10.) Moreover, the DEIS analysis completely neglects an obvious alternative to the proposed route: an alternative called "No Pipeline At All". The DEIS is required to have a "No-Build" option, and it is bizarre to me that the continued operation of a failing, 55 year-old Line 3 would suffice as the "No-Build" option. In every table of the DEIS, Enbridge's preferred route is posed as the lesser of evils because it excludes a Minnesota without new oil infrastructure. A pipeline that threatens 6,903 Unusually Sensitive Ecological Areas (Table 10.4-2) seems somehow reasonable you frame it against worse numbers. No Pipeline At All is a promising option. The per-mile risk of an oil spill where there is no pipeline? Zero. If the purpose of this new pipeline were really to supply good energy to US citizens, and was not just a desperate attempt to squeeze the last dimes out of an oil industry in decline, renewable energy systems would have been evaluated as an alternative.

Back to the issue of biased language: The DEIS discloses that between 2002 and 2017, there were seven known pipeline failures in the existing Line 3 (10.2.4.1.2). But the conclusion drawn from that fact is that these spills "underscore the increased risk associated with the older Line 3 technology and pipeline aging compared to the newer technology for the other pipeline alternatives". The emphasis is on the newer and better technology; rather than that Enbridge continues to operate pipelines which are deeply flawed and at risk. It continues: "Enbridge

pipelines constructed before 1980, such as the existing Line 3 employed different coating technologies which do not meet current standards for corrosion". (10.2.1.3.1). This would include lines 1, 2, and 4, which, if not up to standard, must ***also*** require replacement. Line 3 is not their oldest pipeline. Enbridge says that the aging infrastructure still in operation is the reason for building a new pipeline. It is as if the analysis itself, which I believe is meant to be without bias, is advertising for Enbridge. It seems like the DEIS is sold on them, but I say Enbridge should stop operating their failing pipes. They have lost the right to a new pipeline.

The bottom line is that this 5,000 page document is insurmountable and is littered with Enbridge rhetoric. The Minnesota Environmental Policy Act (1973, MS 116D) requires that "The environmental impact statement shall be analytical rather than an encyclopedic document", and this DEIS is so encyclopedic that it takes a team of professionals to look at it. In summary of my concerns, each alternative seems intentionally framed to make the APR look best: Transportation by Rail and Transportation by Truck are the red herrings, Continued Use of Existing Line 3 is not an honest N0-Build scenario, Existing Line 3 Supplemented by Rail and by Truck are processes not well-described and not reasonable, and route SA-04 is measured as a much longer distance than the Applicant's Preferred Route, which conveniently does not measure an entire length of the APR from Wisconsin to Chicago. Not all alternatives are investigated equally here. The risk is calculated in miniscule year-to-year numbers, and the assessment describes Enbridge as an upstanding company with state-of-the-art equipment, while not disclosing their history of malfeasance; all to suggest that there is only one real option here.

III. Poor Systems of Measurement in the DEIS

Now I will cover some flaws of process in the assessment of environmental impact. I am not confident that this analysis was conducted with full scientific integrity. As a life-long skeptic, this was fun to pick apart. I am generally bothered that the methodology of the Spill Risk analysis was not thoroughly described, nor were sources consistently cited. I want to know why the method taken of analysis was the best among others available, I want to know who (if anyone) peer-reviewed the study by Stanec et. al, I want to know what initial criticisms were made during the review process and how those were resolved, and I want to see a demonstration of independent analysis. Because the Stanec study was commissioned by Enbridge, I would expect even more transparency. The section above describes why I am not convinced that the analysis was independent.

The Spill Risk Analysis in Chapter 10 charts the impact on various resources and areas of interest based only on each route's physical proximity to it. So the charts list how close, say, a pipeline would get to some number of drinking wells (Table 10.4-6). But the importance of a resource varies in a way not captured in these numbers. To take bodies of water as an example: these may be different based on current water quality, the ecosystem that depends on it, the families that enjoy visiting it, or even its historical significance. There are already data available that could be used to determine the value of various Minnesota resources, including the Minnesota Pollution Control Agency's "Stream Use Classification System" and "Index of Biotic Integrity". To just outline impacts based principally on physical distance in terms of acres misses the point.

So, the seven sites used to model the spill risk analysis are not, in fact, the worst-case zones when ranked by relative sensitivity or the importance of their resources. Route alternative SA-04, for example, passes mostly through already-disturbed agricultural lands that are not feasible to restore currently. The Applicant's Preferred Route, however, crosses more virgin territory where ecosystems are as-yet intact. The difference in conditions here is not recognized in the DEIS, suggesting to me that SA-04 was not considered seriously.

Finally, 10.3.1.3.1 Acknowledges that "small releases can persist in the environment for long periods of time and can cause localized contamination requiring cleanup and remediation", and that these are the most common spill category. Shouldn't there be more effort to monitor and report pinhole leaks if, when undetected, they can spill an amount equivalent to a medium spill? I am not certain why a pinhole or small leak would not be measured and documented in the spill analysis.

IV. Major Points Unconsidered in the DEIS

Now I will list nine more topics that I found missing from and unconsidered in the DEIS. Individually, these are glaring oversights, and collectively, they result in an Impact Statement with holes big enough to pass a 36-inch-diameter pipe through.

First, I would like to see more discussion of how the harsh climate in Minnesota will affect Enbridge's capacity for prompt and full cleanup in the likely event of a spill. There is no description of temperature as it relates to oil viscosity, and no information on whether the underwater cleanup equipment can actually be used in a river where the depth may only be one or two feet. (10.3).

Second, In the worst-case scenario spill modeling conducted by Stanec et al for seven cites along the proposed route, Enbridge has classified the Predicted Volume Out as "Non-Public Data". If those estimates exist, surely they must be disclosed so the public may respond to the projected leakage volume at each site. (Table 10.3-1)

Third, the terrestrial wildlife risk analysis does not include the bee population, which is under threat. My understanding is that there will be herbicides used around the pipeline. If so, there must be consideration of which herbicides will be used, and what the scientific literature says about how these herbicides will affect the food source for one of our state's most important pollinators. (10.4.2.1.1)

Fourth, the Effects on Aquatic Life section does not discuss the effect of small, medium, and large spills on algae and other microorganisms in the water, nor the long-term effects for aquatic plants and the food chain of removing oxygen from the water. Doesn't Enbridge have such data from previous spills and if so, why aren't they included in the DEIS? An Aquatic Life impact assessment should extend beyond the likelihood that fish may get sick from eating contaminated algae. (10.4.2.1.1) This section does not currently describe environmental consequences of using bioremediation techniques and chemicals to reduce the spread of oil in water. Even if Enbridge is not expressly permitted to use dispersant chemicals in Minnesota, they have done so against state law in the past, and so these effects still need to be described here. See article: "Did Enbridge Use Toxic Chemicals to Clean Up Their Oil Spill in Kalamazoo?", Michael Toledano, Vice News, December 24, 2013.

1081-1

1081-2

Fifth, 10.4.1 The analysis should consider non-potable water to also be an AOI (Area of Interest). Some water sources not considered a resource for humans will be a resource for wildlife. This relates to the aforementioned need to rank the value of various AOIs.

Sixth, The new Line 3 will carry 65% heavy and 35% light crude oil (10.3.1.1.1). The DEIS should describe the materiality of these crude types: a thick, sandy peanut butter sludge. The DEIS does not consider the amount of pressure required to force that sludge through pipe, and the potential to exacerbate weaknesses in the pipe with high pressure and pressure cycling. The list of factors cited in the DEIS that may result in a pipeline "incident" does not include the very threat thought to have been the culprit in some documented Enbridge spills: fatigue damage due to inadequate cradling during the shipping of pipe segments. The amplitude of pressure swings capable of producing fatigue cracks is a consequence of the pump discharge required to force heavy, viscous crude oil through the pipe. (10.2.1.2) To not

consider the relationship between high pressure, high volume, and fatigue cracking is an enormous oversight.

Seventh, What effective steps will Enbridge take to prevent intentional third-party damage? In some areas, the current pipeline is above ground and is clearly vulnerable to attack. In a corridor with multiple pipelines, it seems plausible that a terrorist could strike all at once and cause a multi-catastrophic event. The topic of Third-Party damage is addressed in 10.5.1.1.1, but the Public Awareness Program indicates only what measures will prevent accidental third-party rupture of a pipeline. Marking the pipeline may help stop an accident, but would help someone with the intention of doing a lot of damage very quickly.

Eighth, The Impact Statement narrowly focuses on the repercussions of this one project without considering the tangential human activity that has already changed the environment for each of the proposed routes. This is called the Cumulative Impact. Every pipeline has to be compounded with the sum of the impacts from highways, farmland, housing, plumbing, and deforestation to get a clearer picture of how further disrupted the area will be. The DEIS should respond to: What past projects have touched each site? What future projects are planned for these areas? Perhaps the DEIS should even consider what projects will no longer be possible along the route because Minnesota has chosen to build a new and costly pipeline rather than a sustainable project (Opportunity Cost). 1081-5

Finally, it is acknowledged that the risk of this pipeline is largely placed on rural communities, and that those communities won't have easy access to the promised rapid-response tech and crew. However, there is essentially a "To-Be-Decided" where there ***should*** be a plan for getting help to those remote areas. "In Minnesota, the Applicant's preferred route and route alternatives generally pass through rural, sparsely populated areas. Rural communities can face challenges regarding emergency preparedness and response, such as proximity to adequate response personnel and equipment, and may lack needed space, supplies, and staff to respond quickly and effectively to emergencies" (See section 10.5.3.2.1 below)

The above passage is a small part of "Potential Spill Response Challenges". When it indicates at the end to see section 10.5.3.2.1 below, titled, "Remote Area Analysis"...the following 4 sentences are the only thing in that section.

"The magnitude of potential impacts on a resource may be directly related to the response time and response time may be related to the accessibility of the spill. Rapid detection and response can reduce crude oil exposures and impacts on resources. Remote areas may be

less accessible to spill response teams and therefore potentially more vulnerable to effects from crude oil spills. When a final route is selected, spill response strategies will be developed for areas with difficult access" (My emphasis) 10.5.3.2.1

At least an ***outline*** of such response strategies should be detailed in the Environmental Impact Statement. The detection and cleanup procedures described by Enbridge sound great, but if they aren't readily available to the population that will need them most---those plans are not adequate. Surely Enbridge must be able to describe general strategies for accessing low-population areas without needing the route to be approved first?

V. Conclusion

I am not convinced at all that Minnesota will benefit by this massive pipeline project. In fact, the DEIS focuses so much on varying degrees of risk, that it fails to address any substantial evidence that a new oil pipeline ***is*** needed in Minnesota. Both the noticeably biased content and the unconsidered factors outlined here, reflected against the cases on record where Enbridge has failed as a corporate citizen, demonstrate that the DEIS is unreliable and inadequate.

Enbridge is unprepared for and undeserving of yet another pipeline, not to mention that they appear desperate in the face of declining demand for oil. There is no need: the damage will be too great, and the economics don't even make sense. This pipeline is transporting the thickest, dirtiest, and least profitable stuff. It has higher concentrations of heavy metals and because it does not flow easily, requiring higher pressure and more dilutent chemicals. The study shows that this pipeline is guaranteed to leak: supposedly once every four years. It is stated in the DEIS that heavy crude mixed with dilbit may sink or evaporate; that not all of it floats and may be collected off of the water: Dilbit is more likely to lose mass to evaporation, and will be quicker to adhere to loose soil. If it's worse for the economy, more likely to spread, and worsens the structural integrity of the pipe, why does Minnesota need the risk?

MS. SARA SUPPAN: My name is Sara Suppan. That's S-A-R-A, S-U-P-P-A-N. I am a volunteer with MN350, and I appreciate the opportunity to testify today.

I am concerned that a new major oil pipeline in Minnesota will result in a new major oil spill in Minnesota. I will focus my testimony on

accidental crude oil releases.

The premise that there is a need for a new pipeline is flawed. The DEIS discloses that between 2002 and '17 there were seven known pipeline failures in the existing Line 3. Remember that Enbridge continues to operate pipelines they know are at risk. Line 3 is not even their oldest pipeline in operation; it is their third oldest. It should also be acknowledged that this analysis misses an obvious alternative to the proposed route. It's called no pipeline at all.

Now I will list several points missing from the DEIS. First, the Terrestrial Wildlife Risk Analysis does not include the bee population. My understanding is that there will be herbicides used around the pipeline. If so, there must be consideration of which herbicides will be used and what scientific literature says about how these will affect one of our most important pollinators. 1543-1

Second, the effects on aquatic life section does not discuss the effects of spills on algae and other microorganisms in the water, nor the long-term effects of removing oxygen from the water. 1543-2

Third, this should cover what effective steps Enbridge will take to prevent

intentional third-party damage. In a corridor with multiple pipelines, it seems plausible that a terrorist could strike all at once and cause a multi-catastrophic event. The topic of a public awareness program indicates only what measures will prevent accidental third-party damage.

Fourth, I am confused by the assertion that the risk of a spill would not be different whether Line 3 operates at the current capacity or at the proposed capacity, which is almost double. This document does not consider the pressure required to force thick crude through pipe, and the potential to exacerbate weaknesses in the pipe with high pressure and pressure cycling. More oil, more pressure, more risk.

Finally, it is acknowledged that the risk of this pipeline is largely placed on rural communities and that those communities won't have easy access to the promised rapid response tech and crew.

However, the Remote Area analysis is a four-sentence placeholder where there should be a spill response strategy for areas with difficult access.

I am not convinced at all that

Minnesota will benefit by this massive pipeline project. Both the DEIS content and the unconsidered factors outlined here, reflected against the cases on the record where Enbridge has failed as a corporate citizen, demonstrate that Enbridge is unprepared for and undeserving of yet another pipeline. This pipeline is transporting the thickest, dirtiest, and least-profitable stuff. It has higher concentrations of heavy metal and, because it does not flow easily, requires higher pressure and more diluent chemicals. This pipeline is guaranteed to leak, supposedly once every four years.

Why does Minnesota need the risk?

Levi, Andrew (COMM)

From:	ssuppan@comcast.net
Sent:	Monday, July 10, 2017 3:09 PM
To:	MN_COMM_Pipeline Comments
Subject:	pdf version of my comment to Docket numbers CN-14-916 and PPL-15-137
Attachments:	Pipeline 3 Draft EIS comments FINAL 7.10.17.pdf

In the event that you are accept only pdf files for the comment on the DEIS for Pipeline 3, please find attached the pdf version of my comment.

Steve Suppan
16309 Adeline Lane
Wayzata, MN 55391

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

July 10, 2017

Comments on the Draft Impact Statement for the Pipeline 3 construction

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

Submitted electronically to Pipeline.Comments@State.mn.us

Dear Ms. MacAlister,

General comment

I am submitting the following short comment as a private citizen whose home lot borders the James J. Hill line of the BNSF Railway near Wayzata, MN, on which crude oil and coal are currently shipped. While I appreciate the opportunity to comment on the draft Environmental Impact Statement (DEIS), the time for comment relative to the length of the document is extraordinarily short, just five weeks, plus three weeks of public hearings. I have been commenting professionally on U.S. federal rulemakings in agriculture, trade policy and commodity market regulation for twenty-three years. A 90-day comment period for a 100 to 200-page proposed federal rule is routine, but often industry asks for, and is almost always granted, a 90-day comment extension. The DEIS indicates that the EIS will be finalized by the end of August, just 40 days after the comment period closes today.[1] This is an extra-ordinarily short amount of time to incorporate public comment to revise a 5,547-page document. There is no justification given for these very tight timelines, which give the impression that public comment will be reviewed hastily and is unlikely to result in substantive revision of the draft. The Minnesota Public Utilities Commission (Commission) and the Department of Commerce should extend both the deadline for comment by at least 60 days and the deadline for finalizing the EIS by at least 60 days following the close of the comment period.

The following comments are informed by my research as a Senior Policy Analyst at the Institute for Agriculture and Trade Policy (IATP), a non-profit, non-governmental organization headquarter in Minneapolis, with offices in Washington, DC and Berlin, Germany. I have worked at IATP since 1994. From 2009 to 2012, I represented IATP in the Non-Governmental Organization Majority Stakeholder Group of the United Nations Framework Convention on Climate Change (UNFCCC), focusing on climate finance, the adaptation of agriculture[2] and consequences for agriculture of the Business As Usual production of greenhouse gases, including those produced by agricultural practices.[3] IATP continues to monitor the UNFCCC negotiations[4] and has been critical of U.S. trade policy, which prioritizes and supports commercial objectives in binding rules and schedules. The environmental and public health

consequences of trade, when included in trade agreements, are referenced in non-binding 'best endeavor' language that is unenforceable. The categorical imperative of trade policy to increase trade, regardless of the environmental and public health costs, helps to exacerbate climate change.[5] We have co- organized a series of Rural Climate Dialogues in Minnesota to help rural communities and farm operations adapt to climate change.[6] The Dialogues have benefited from the participation of the Department of Commerce, the Department of Agriculture and the Environmental Quality Board, among other Minnesota agencies and organizations.

An IATP report has documented the trade policy synergy between increased Canadian tar sands exports and the loss of U.S. sovereignty over our economic development and environment under the terms of the energy chapter of the North American Free Trade Agreement.[7] TransCanada filed a $15 billion lawsuit against the U.S. State Department in 2016, under NAFTA's provision for a private arbitration investor tribunal, due to the Obama administration's decision not to permit the construction of the Keystone XL pipeline.[8] Enbridge Energy, Limited Partnership (Enbridge), a strong supporter of NAFTA and so-called free trade in energy,[9] could likewise file a NAFTA mediated lawsuit against federal or sub-federal entities if the Commission does not grant the company the permit to build Pipeline 3. Deciding whether to permit under the explicit or implicit threat of a NAFTA based lawsuit would be tantamount to extortion.

It is imperative that the Commission determine and document publicly whether permitting the construction and operation of Pipeline 3 is in the public interest of Minnesotans according to Minnesota law, conforming to the requirements of the Minnesota Environmental Policy Act (MEPA) and the Next Generation Energy Act of 2007. The Commission must make public any *ex parte* written and/or oral communications from and with Enbridge and/or its legal representation and/or communications from and with federal officials, contractors and/or legal representatives even hinting at the possibility of an Enbridge lawsuit against the State of Minnesota, in the event of a denial of permit to construct Pipeline 3. If a deciding factor in permitting Pipeline 3 is discovered to be the threat of an Enbridge lawsuit outside the due process of public law, the legal validity of the permitting process may become the subject of public interest litigation.

Comments on the Executive Summary and the Regulatory Framework of the DEIS

The Executive Summary invokes the MEPA at the outset of its explanation of the purpose of the EIS, but then reduces the authority of MEPA by subordinating it to the decision-making procedures of the Public Utilities Commission. As a result of the figurehead role given to MEPA in the DEIS, the Executive Summary "Certificate of Need Alternatives and Criteria," presents no alternatives to granting the Certificate of Need except for Business As Usual options to expand tar sands oil exports to up to 760,000 barrels per day by one means or another.[10] The option to not build a new Pipeline 3 and not to allow the continued operation of the existing Pipeline 3 is not considered, much less, proposed in the Certificate of Need analysis. As other commenters will inform you at greater length and detail than I can, the continued exodus of investors from Canadian oil sands investments is a strong indicator that the economic cost of mining and

transporting oil sands, to say nothing of the environment liabilities of mining and transporting tar sands, is too great for investors to continue supporting.[11] Calculating the rate of Return on Investment, a standard commercial practice, should be part of the Commission's decision-making, if it is not already.

The DEIS should be revised to enable review of the Enbridge application according to the standards of MEPA and State responsibilities under it, e.g. "practice thrift in the use of energy and maximize the use of energy efficient systems for the utilization of energy, and minimize the environmental impact from energy production and use" and "minimize wasteful and unnecessary depletion of nonrenewable resources."[12] If the Commission must not subordinate the authority of MEPA to the "Certificate of Need Alternatives and Criteria." To do so will reduce the decision-making weight of environmental, economic and public health damages from Pipeline 3's construction and operation to project-specific Region of Interest phenomena, whose description is often based on Enbridge supplied data. Enbridge promises to mitigate damages outlined in Chapter 5. The DEIS takes Enbridge at its word, despite the company's well-documented performance failure in risk prevention and mitigation, even failing to follow its own operational procedures.[13]

Given the legal literature on the past subordination of MEPA to project development regulations and administrative procedures,[14] it will be surprising if the Certificate of Need is not challenged in court, due to the MEPA subordinated inadequacy of the Regulatory Framework in the draft EIS. That inadequacy cannot be remedied by hasty and opportunistic citation: rather a systematic interpretation of data and literature under MEPA's and the Next Generation Energy Act's requirements must become the ground floor of the regulatory framework for an adequate EIS.

One of the many regrettable consequences of marginalizing MEPA in the draft EIS is that assessment of environmental and economic damage is confined to a specific Region of Interest, thus ignoring the potential impact of Pipeline 3 outside the specific region. For example, "The DEIS contains **no spill analysis for tributaries of the St. Louis River or Nemadji River"** (bold in the original)**[15]** which would contaminate Lake Superior and the port of Two Harbors. This is not a small oversight. A rupture in Line 3 in 1991 spilled at least 1.7 million gallons of crude oil into the Prairie River near Grand Rapids,[16] the largest U.S. inland water oil spill. The toxicity of that oil was low compared to that of diluted tar sands that Line 3 would transport. This historically significant spill is not mentioned in the Executive Summary. If it does not already, the final EIS should, at a minimum, contain a chapter on the 10 worst Line 3 spills, including how the spills were discovered, the mitigation measures taken, the efficacy of those measures, and the environmental and economic impacts of the spills. Enbridge's spill frequency and severity, and the efficacy of its mitigation measures should be compared to that of pipeline operations in other states.[17] The Executive Summary should briefly summarize this proposed chapter.

Enbridge claims that its "worst case scenario" spill data is a trade secret to which the public must not have access.[18] The Commission must not allow this data affecting public and

environmental health to remain secret. It would be arbitrary and capricious for the Commission to allow Enbridge, which is demanding so much from Minnesota[19], to maintain a purported trade secret to protect its worst-case scenario spill data. Enbridge has no competitor for building Line 3, so it cannot claim that the data must remain secret to protect it against a commercial competitor. What Enbridge seeks in the final EIS is for those data to remain secret from the public. There is no well-reasoned way for the Commission to legally justify that it is in the public interest of Minnesota to allow those data to remain secret.

2261-0 Cont'd

The Executive Summary acknowledges that climate change is one of six key issues in its Certificate of Need analysis within the DEIS. (ES-10) The DEIS attempts to estimate the long-term cost of the greenhouse gas emissions, in terms of the Obama administration's Social Cost of Carbon (SCC) for the alternatives the Commission has identified in its Certificate of Need Analysis. However, the estimate of $287 billion SCC assumes that Pipeline 3 will operate only for 30 years.[20] Because many current pipelines have been operating for up to 60 years,[21] this estimate should be more than doubled, taking into account both the likely operating life of Pipeline 3 and the greater volume of GHG emissions as the pipeline deteriorates. Whatever the Trump administration does to try to disrupt or at least create the appearance of doubt about the scientific consensus concerning the causes, effects and consequences of climate change science,[22] Minnesota's SCC will grow, if federal and state officials counter GHG mitigation projects with support for Pipeline 3 and other major GHG emitting projects.

2261-1

The Chapter 5 analysis of GHG emissions estimates specific to Enbridge's preferred route is given in terms of construction and operational impacts. However, these estimates are not correlated, even qualitatively, to economic, environmental, public health and cultural damages that cannot be captured in the SCC estimates, even though the DEIS acknowledges that "Given current modeling and data limitations, however, it [the SCC estimates] does not include all important damages." Because the self-imposed time frame for CN determination does not allow for the Commission to verify the data supplied by Enbridge, the final EIS should attempt to characterize and quantify the "important damages" out of the SCC formula and the data limitations of the DEIS.

2261-2

The DEIS makes no attempt to characterize or quantify the climate change damages of the life cycle of tar sands mining, conversion into transportable crude and end user consumption associated with Pipeline 3. The regulatory framework of the Certificate of Need applied to the proposed pipeline route spares the Commission from having to estimate the entire life cycle impact of tar sands oil on Minnesota's people, infrastructure and natural resources. Climate change, however, is a transboundary phenomenon and measures to mitigate damage from GHG emissions must be designed in a transboundary framework, even though the Commission's authority is not international. The DEIS should contain a robust estimate of tar sands life cycle GHG emissions for the proposed Pipeline 3 route and its alternatives to enable federal authorities to determine whether the construction and operation of Pipeline 3 meets

the public interest requirements of MEPA, the Next Generation Energy Act and the National Environmental Policy Act.

2261-2 Cont'd

Conclusion

The Minnesota Department of Commerce is well-aware that renewable energy is the growing future of energy for Minnesota, since your website proudly advertises the 22 percent of energy generation in Minnesota that currently comes from renewable sources. We are in a race against time to end Business As Usual energy generation and distribution and to transition, with difficulty and over three decades, to renewable energy.[23] Permitting the construction of Pipeline 3 would help cause Minnesota to lose that race by making Minnesota dependent for another 50-60 years on the most environmentally destructive and least economically efficient (once environmental and social remediation costs are internalized) form of oil as a source of transitional energy. Creating future long-term dependence on tar sands oil will be a disincentive to investment and job creation in renewable energy, particularly in northern Minnesota.

2261-3

An adequate DEIS for the energy and environmental future of Minnesota must develop a regulatory framework based on MEPA and the Next Generation Energy Act of 2007. If the regulatory framework for that future is limited to Minnesota Statutes § 216B.243 and Minnesota Administrative Rules Part 7853.0130 for approving major construction projects, then the Commission very likely will grant a Certificate of Need to authorize the construction and operation of a pipeline transporting 50-60 years of an energy source that is incompatible not only with achieving the federal Clean Power Rule's GHG emissions reduction targets, but with achieving the reduction requirements of Next Generation Energy Act—an 80 percent reduction in GHG emissions in Minnesota by 2050.[24] Permitting the construction and operation of Pipeline 3 appears to violate Article 5.3.3 of the Next Generation Energy Act, because Pipeline 3 is new construction that cannot be grandfathered under pre-2007 law.

The Commission's task in finalizing a DEIS with a regulatory framework that is adequate to Minnesota's energy and environmental future is a difficult one. Revising the DEIS is not a task that should be done in haste. I again urge the Commission to extend the deadline for comment on the DEIS by at least 60 days and to extend the Commission's self-imposed deadline for finalizing the EIS by at least 60 days following the last day of the comment extension period.

Respectfully submitted,

Steve Suppan, Ph.D.

16309 Adeline Lane
Wayzata, MN 55391

[1] Table ES-5: Key Milestones and Dates for the Line 3 Replacement Project, Executive Summary at 29. https://mn.gov/commerce/energyfacilities/documents/34079/1.DEIS_Line_3_Executive%20Summary.pdf
[2] E.g. Steve Suppan, "Agriculture and the Green Climate Fund: two U.S. bargaining chips at the climate talks," Institute for Agriculture and Trade Policy, December 1, 2011. https://www.iatp.org/blog/201112/agriculture-and-the-green-climate-fund-two-us-bargaining-chips-at-the-climate-talks
[3] E.g. Suppan, "The daily stipend and the future of climate negotiations," Institute for Agriculture and Trade Policy, June 4, 2012. https://www.iatp.org/blog/201206/the-daily-stipend-and-future-of-climate-negotiations
[4] E.g. Ben Lilliston, "Plotting the course: CoP 21 and agriculture," Institute for Agriculture and Trade Policy, December 21, 2015. https://www.iatp.org/blog/201512/plotting-the-course-cop21-and-agriculture
[5] Lilliston, "The Climate Costs of Free Trade: How TPP and free trade agreements undermine the Paris climate agreement," Institute for Agriculture and Trade Policy, September 6, 2016. https://www.iatp.org/climate-cost-of-free-trade
[6] "Rural Climate Dialogues: State Convening Report," The Jefferson Center and the Institute for Agriculture and Trade Policy, January 2017. https://www.iatp.org/documents/rural-climate-dialogues-state-convening-final-report
[7] Patrick Tsai, "Tar Sands: How Trade Rules Surrender Sovereignty and Extend Corporate Rights," Institute for Agriculture and Trade Policy, August 2014, particularly Figure 2, comparing greenhouse gas emissions source, based on Pembina Institute research. https://www.iatp.org/sites/default/files/2014_08_21_TarsSands_PT_f_0.pdf
[8] Todd Tucker, "TransCanada is suing the U.S. over Obama's rejection of the Keystone XL pipeline. The U.S. might lose." *The Washington Post*, January 8, 2016. https://www.washingtonpost.com/news/monkey-cage/wp/2016/01/08/transcanada-is-suing-the-u-s-over-obamas-rejection-of-the-keystone-xl-pipeline-the-u-s-might-lose/?utm_term=.181ca43e994f
[9] Shawn McCarthy, "North American energy leaders defend free trade at conference," *The Globe and Mail*, March 6, 2017. https://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/north-american-energy-leaders-defend-free-trade/article34226818/
[10] Table ES-1, ES, 5. https://mn.gov/commerce/energyfacilities/documents/34079/1.DEIS_Line_3_Executive%20Summary.pdf
[11] E.g. Nicholas Kusnetz. "Exodus from Canada's Oil Sands Continues as Energy Giants Shed Assets," *Inside Climate News*, April 14, 2017. https://insideclimatenews.org/news/13042017/canadian-oil-sands-tar-sands-climate-change-conocophillips-exxon
[12]"State Environmental Policy," Minnesota Statutes 1986, Chapter 116 D, Subdivision 2, paragraphs i and l. https://www.revisor.leg.state.mn.us/statutes/?id=116D&year=1986
[13] "Enbridge's Proposed Line 3 Replacement/Expansion/Re-Route, MN 350, March 2017, 30-33.
[14] E.g. Stacy Lee Bettison, "The Silencing of MEPA: The Minnesota Court of Appeals and the Need for Meaningful Judicial Review," *William Mitchell Review*, Vol 26:4 (2000). http://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1861&context=wmlr
[15] "The Line 3 DEIS Highlight Reel," Honor the Earth, June 2017, at 2. https://healingmnstories.files.wordpress.com/2017/06/deishighlightreel.pdf
[16] "Company revises oil spill upward to 1.7 million gallons," Associated Press, March 13, 1991. http://www.apnewsarchive.com/1991/Company-Revises-Minnesota-Oil-Spill-Upward-to-1-7-Million-Gallons/id-2d06afe9e6c0712a86b91309d7c4932b
[17] A useful source for developing a framework to make these proposed pipeline performance comparisons is L. Patterson et al, "Unconventional Oil and Gas Spills: Risks, Mitigation Priorities and State Reporting Requirements, *Environmental Science and Technology*, February 21, 2017, http://pubs.acs.org/doi/abs/10.1021/acs.est.6b05749
[18] Table 10.3-1 on page 36 of Chapter 12, as cited in "Line 3 DEIS Replacement—Talking Points for Public Comments," MN 350, June 2017, at 2. http://www.mn350.org/wp-content/uploads/2017/06/MN350-Public-Meeting-L3R-Testimony-Points-1.pdf
[19] In addition to demanding eminent domain access to public lands and water, access to tribal lands and water and access to private land via easements, Enbridge is demanding tax relief. Mike Hughlett, "Enbridge tax challenge could cost northern Minn. counties millions," *Star Tribune*, March 26, 2017. http://www.startribune.com/enbridge-tax-challenge-could-cost-counties-up-north/417137923/

[20] Table 5.2.7-11. Average Life Cycle Greenhouse Gas Emissions for Various Crude Oils. Chapter 5, DEIS, 443 https://mn.gov/commerce/energyfacilities/documents/34079/2.DEIS_Line_3_Chapter%205.pdf.
[21] "Line 3 DEIS Replacement—Talking Points for Public Comments," at 2.
[22] E.g. Brady Dennis and Julie Eilperin, "EPA chief pushing government-wide effort to question climate change science," *The Washington Post*, July 1, 2017. https://www.washingtonpost.com/news/energy-environment/wp/2017/07/01/epa-chief-pushing-governmentwide-effort-to-question-climate-change-science/?utm_term=.29f5e30870a9
[23] Richard Heinberg, "100% Renewable Energy Is Possible: Here's How," EcoWatch, February 28, 2016. https://www.ecowatch.com/100-renewable-energy-is-possible-heres-how-1882182049.html
[24]"Minnesota Next Generation Energy Act of 2007," Hogan Lovells, July 16, 2007. http://www.lexology.com/library/detail.aspx?g=861895ac-f2eb-4489-a922-231b94a57a64

Levi, Andrew (COMM)

From:	ssuppan@comcast.net
Sent:	Monday, July 10, 2017 3:05 PM
To:	MN_COMM_Pipeline Comments
Subject:	Comment on Pipeline 3 DEIS: Docket numbers CN-14-916 and PPL-15-137
Attachments:	Pipeline 3 Draft EIS comments FINAL 7.10.17.docx

Please find attached my comment on the Draft Environmental Impact Statement for Pipeline 3. Thank you for the opportunity to comment on this crucial public policy issue.

Steve Suppan
16309 Adeline Lane
Wayzata, MN 55391

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

July 10, 2017

Comments on the Draft Impact Statement for the Pipeline 3 construction

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

Submitted electronically to Pipeline.Comments@State.mn.us

Dear Ms. MacAlister,

General comment

I am submitting the following short comment as a private citizen whose home lot borders the James J. Hill line of the BNSF Railway near Wayzata, MN, on which crude oil and coal are currently shipped. While I appreciate the opportunity to comment on the draft Environmental Impact Statement (DEIS), the time for comment relative to the length of the document is extraordinarily short, just five weeks, plus three weeks of public hearings. I have been commenting professionally on U.S. federal rulemakings in agriculture, trade policy and commodity market regulation for twenty-three years. A 90-day comment period for a 100 to 200-page proposed federal rule is routine, but often industry asks for, and is almost always granted, a 90-day comment extension. The DEIS indicates that the EIS will be finalized by the end of August, just 40 days after the comment period closes today.[1] This is an extra-ordinarily short amount of time to incorporate public comment to revise a 5,547-page document. There is no justification given for these very tight timelines, which give the impression that public comment will be reviewed hastily and is unlikely to result in substantive revision of the draft. The Minnesota Public Utilities Commission (Commission) and the Department of Commerce should extend both the deadline for comment by at least 60 days and the deadline for finalizing the EIS by at least 60 days following the close of the comment period.

The following comments are informed by my research as a Senior Policy Analyst at the Institute for Agriculture and Trade Policy (IATP), a non-profit, non-governmental organization headquarter in Minneapolis, with offices in Washington, DC and Berlin, Germany. I have worked at IATP since 1994. From 2009 to 2012, I represented IATP in the Non-Governmental Organization Majority Stakeholder Group of the United Nations Framework Convention on Climate Change (UNFCCC), focusing on climate finance, the adaptation of agriculture[2] and consequences for agriculture of the Business As Usual production of greenhouse gases, including those produced by agricultural practices.[3] IATP continues to monitor the UNFCCC negotiations[4] and has been critical of U.S. trade policy, which prioritizes and supports commercial objectives in binding rules and schedules. The environmental and public health

consequences of trade, when included in trade agreements, are referenced in non-binding 'best endeavor' language that is unenforceable. The categorical imperative of trade policy to increase trade, regardless of the environmental and public health costs, helps to exacerbate climate change.[5] We have co- organized a series of Rural Climate Dialogues in Minnesota to help rural communities and farm operations adapt to climate change.[6] The Dialogues have benefited from the participation of the Department of Commerce, the Department of Agriculture and the Environmental Quality Board, among other Minnesota agencies and organizations.

An IATP report has documented the trade policy synergy between increased Canadian tar sands exports and the loss of U.S. sovereignty over our economic development and environment under the terms of the energy chapter of the North American Free Trade Agreement.[7] TransCanada filed a $15 billion lawsuit against the U.S. State Department in 2016, under NAFTA's provision for a private arbitration investor tribunal, due to the Obama administration's decision not to permit the construction of the Keystone XL pipeline.[8] Enbridge Energy, Limited Partnership (Enbridge), a strong supporter of NAFTA and so-called free trade in energy,[9] could likewise file a NAFTA mediated lawsuit against federal or sub-federal entities if the Commission does not grant the company the permit to build Pipeline 3. Deciding whether to permit under the explicit or implicit threat of a NAFTA based lawsuit would be tantamount to extortion.

It is imperative that the Commission determine and document publicly whether permitting the construction and operation of Pipeline 3 is in the public interest of Minnesotans according to Minnesota law, conforming to the requirements of the Minnesota Environmental Policy Act (MEPA) and the Next Generation Energy Act of 2007. The Commission must make public any *ex parte* written and/or oral communications from and with Enbridge and/or its legal representation and/or communications from and with federal officials, contractors and/or legal representatives even hinting at the possibility of an Enbridge lawsuit against the State of Minnesota, in the event of a denial of permit to construct Pipeline 3. If a deciding factor in permitting Pipeline 3 is discovered to be the threat of an Enbridge lawsuit outside the due process of public law, the legal validity of the permitting process may become the subject of public interest litigation.

Comments on the Executive Summary and the Regulatory Framework of the DEIS

The Executive Summary invokes the MEPA at the outset of its explanation of the purpose of the EIS, but then reduces the authority of MEPA by subordinating it to the decision-making procedures of the Public Utilities Commission. As a result of the figurehead role given to MEPA in the DEIS, the Executive Summary "Certificate of Need Alternatives and Criteria," presents no alternatives to granting the Certificate of Need except for Business As Usual options to expand tar sands oil exports to up to 760,000 barrels per day by one means or another.[10] The option to not build a new Pipeline 3 and not to allow the continued operation of the existing Pipeline 3 is not considered, much less, proposed in the Certificate of Need analysis. As other commenters will inform you at greater length and detail than I can, the continued exodus of investors from Canadian oil sands investments is a strong indicator that the economic cost of mining and

transporting oil sands, to say nothing of the environment liabilities of mining and transporting tar sands, is too great for investors to continue supporting.[11] Calculating the rate of Return on Investment, a standard commercial practice, should be part of the Commission's decision-making, if it is not already.

The DEIS should be revised to enable review of the Enbridge application according to the standards of MEPA and State responsibilities under it, e.g. "practice thrift in the use of energy and maximize the use of energy efficient systems for the utilization of energy, and minimize the environmental impact from energy production and use" and "minimize wasteful and unnecessary depletion of nonrenewable resources."[12] If the Commission must not subordinate the authority of MEPA to the "Certificate of Need Alternatives and Criteria." To do so will reduce the decision-making weight of environmental, economic and public health damages from Pipeline 3's construction and operation to project-specific Region of Interest phenomena, whose description is often based on Enbridge supplied data. Enbridge promises to mitigate damages outlined in Chapter 5. The DEIS takes Enbridge at its word, despite the company's well-documented performance failure in risk prevention and mitigation, even failing to follow its own operational procedures.[13] 2262-1

Given the legal literature on the past subordination of MEPA to project development regulations and administrative procedures,[14] it will be surprising if the Certificate of Need is not challenged in court, due to the MEPA subordinated inadequacy of the Regulatory Framework in the draft EIS. That inadequacy cannot be remedied by hasty and opportunistic citation: rather a systematic interpretation of data and literature under MEPA's and the Next Generation Energy Act's requirements must become the ground floor of the regulatory framework for an adequate EIS.

One of the many regrettable consequences of marginalizing MEPA in the draft EIS is that assessment of environmental and economic damage is confined to a specific Region of Interest, thus ignoring the potential impact of Pipeline 3 outside the specific region. For example, "The DEIS contains **no spill analysis for tributaries of the St. Louis River or Nemadji River"** (bold in the original)**[15]** which would contaminate Lake Superior and the port of Two Harbors. This is not a small oversight. A rupture in Line 3 in 1991 spilled at least 1.7 million gallons of crude oil into the Prairie River near Grand Rapids,[16] the largest U.S. inland water oil spill. The toxicity of that oil was low compared to that of diluted tar sands that Line 3 would transport. This historically significant spill is not mentioned in the Executive Summary. If it does not already, the final EIS should, at a minimum, contain a chapter on the 10 worst Line 3 spills, including how the spills were discovered, the mitigation measures taken, the efficacy of those measures, and the environmental and economic impacts of the spills. Enbridge's spill frequency and severity, and the efficacy of its mitigation measures should be compared to that of pipeline operations in other states.[17] The Executive Summary should briefly summarize this proposed chapter. 2262-2

Enbridge claims that its "worst case scenario" spill data is a trade secret to which the public must not have access.[18] The Commission must not allow this data affecting public and

environmental health to remain secret. It would be arbitrary and capricious for the Commission to allow Enbridge, which is demanding so much from Minnesota[19], to maintain a purported trade secret to protect its worst-case scenario spill data. Enbridge has no competitor for building Line 3, so it cannot claim that the data must remain secret to protect it against a commercial competitor. What Enbridge seeks in the final EIS is for those data to remain secret from the public. There is no well-reasoned way for the Commission to legally justify that it is in the public interest of Minnesota to allow those data to remain secret.

The Executive Summary acknowledges that climate change is one of six key issues in its Certificate of Need analysis within the DEIS. (ES-10) The DEIS attempts to estimate the long-term cost of the greenhouse gas emissions, in terms of the Obama administration's Social Cost of Carbon (SCC) for the alternatives the Commission has identified in its Certificate of Need Analysis. However, the estimate of $287 billion SCC assumes that Pipeline 3 will operate only for 30 years.[20] Because many current pipelines have been operating for up to 60 years,[21] this estimate should be more than doubled, taking into account both the likely operating life of Pipeline 3 and the greater volume of GHG emissions as the pipeline deteriorates. Whatever the Trump administration does to try to disrupt or at least create the appearance of doubt about the scientific consensus concerning the causes, effects and consequences of climate change science,[22] Minnesota's SCC will grow, if federal and state officials counter GHG mitigation projects with support for Pipeline 3 and other major GHG emitting projects.

The Chapter 5 analysis of GHG emissions estimates specific to Enbridge's preferred route is given in terms of construction and operational impacts. However, these estimates are not correlated, even qualitatively, to economic, environmental, public health and cultural damages that cannot be captured in the SCC estimates, even though the DEIS acknowledges that "Given current modeling and data limitations, however, it [the SCC estimates] does not include all important damages." Because the self-imposed time frame for CN determination does not allow for the Commission to verify the data supplied by Enbridge, the final EIS should attempt to characterize and quantify the "important damages" out of the SCC formula and the data limitations of the DEIS. 2262-3

The DEIS makes no attempt to characterize or quantify the climate change damages of the life cycle of tar sands mining, conversion into transportable crude and end user consumption associated with Pipeline 3. The regulatory framework of the Certificate of Need applied to the proposed pipeline route spares the Commission from having to estimate the entire life cycle impact of tar sands oil on Minnesota's people, infrastructure and natural resources. Climate change, however, is a transboundary phenomenon and measures to mitigate damage from GHG emissions must be designed in a transboundary framework, even though the Commission's authority is not international. The DEIS should contain a robust estimate of tar sands life cycle GHG emissions for the proposed Pipeline 3 route and its alternatives to enable federal authorities to determine whether the construction and operation of Pipeline 3 meets 2262-4

the public interest requirements of MEPA, the Next Generation Energy Act and the National Environmental Policy Act.

2262-4 Cont'd

Conclusion

The Minnesota Department of Commerce is well-aware that renewable energy is the growing future of energy for Minnesota, since your website proudly advertises the 22 percent of energy generation in Minnesota that currently comes from renewable sources. We are in a race against time to end Business As Usual energy generation and distribution and to transition, with difficulty and over three decades, to renewable energy.[23] Permitting the construction of Pipeline 3 would help cause Minnesota to lose that race by making Minnesota dependent for another 50-60 years on the most environmentally destructive and least economically efficient (once environmental and social remediation costs are internalized) form of oil as a source of transitional energy. Creating future long-term dependence on tar sands oil will be a disincentive to investment and job creation in renewable energy, particularly in northern Minnesota.

An adequate DEIS for the energy and environmental future of Minnesota must develop a regulatory framework based on MEPA and the Next Generation Energy Act of 2007. If the regulatory framework for that future is limited to Minnesota Statutes § 216B.243 and Minnesota Administrative Rules Part 7853.0130 for approving major construction projects, then the Commission very likely will grant a Certificate of Need to authorize the construction and operation of a pipeline transporting 50-60 years of an energy source that is incompatible not only with achieving the federal Clean Power Rule's GHG emissions reduction targets, but with achieving the reduction requirements of Next Generation Energy Act—an 80 percent reduction in GHG emissions in Minnesota by 2050.[24] Permitting the construction and operation of Pipeline 3 appears to violate Article 5.3.3 of the Next Generation Energy Act, because Pipeline 3 is new construction that cannot be grandfathered under pre-2007 law.

The Commission's task in finalizing a DEIS with a regulatory framework that is adequate to Minnesota's energy and environmental future is a difficult one. Revising the DEIS is not a task that should be done in haste. I again urge the Commission to extend the deadline for comment on the DEIS by at least 60 days and to extend the Commission's self-imposed deadline for finalizing the EIS by at least 60 days following the last day of the comment extension period.

Respectfully submitted,

Steve Suppan, Ph.D.

16309 Adeline Lane
Wayzata, MN 55391

[1] Table ES-5: Key Milestones and Dates for the Line 3 Replacement Project, Executive Summary at 29. https://mn.gov/commerce/energyfacilities/documents/34079/1.DEIS_Line_3_Executive%20Summary.pdf
[2] E.g. Steve Suppan, "Agriculture and the Green Climate Fund: two U.S. bargaining chips at the climate talks," Institute for Agriculture and Trade Policy, December 1, 2011. https://www.iatp.org/blog/201112/agriculture-and-the-green-climate-fund-two-us-bargaining-chips-at-the-climate-talks
[3] E.g. Suppan, "The daily stipend and the future of climate negotiations," Institute for Agriculture and Trade Policy, June 4, 2012. https://www.iatp.org/blog/201206/the-daily-stipend-and-future-of-climate-negotiations
[4] E.g. Ben Lilliston, "Plotting the course: CoP 21 and agriculture," Institute for Agriculture and Trade Policy, December 21, 2015. https://www.iatp.org/blog/201512/plotting-the-course-cop21-and-agriculture
[5] Lilliston, "The Climate Costs of Free Trade: How TPP and free trade agreements undermine the Paris climate agreement," Institute for Agriculture and Trade Policy, September 6, 2016. https://www.iatp.org/climate-cost-of-free-trade
[6] "Rural Climate Dialogues: State Convening Report," The Jefferson Center and the Institute for Agriculture and Trade Policy, January 2017. https://www.iatp.org/documents/rural-climate-dialogues-state-convening-final-report
[7] Patrick Tsai, "Tar Sands: How Trade Rules Surrender Sovereignty and Extend Corporate Rights," Institute for Agriculture and Trade Policy, August 2014, particularly Figure 2, comparing greenhouse gas emissions source, based on Pembina Institute research. https://www.iatp.org/sites/default/files/2014_08_21_TarsSands_PT_f_0.pdf
[8] Todd Tucker, "TransCanada is suing the U.S. over Obama's rejection of the Keystone XL pipeline. The U.S. might lose." *The Washington Post*, January 8, 2016. https://www.washingtonpost.com/news/monkey-cage/wp/2016/01/08/transcanada-is-suing-the-u-s-over-obamas-rejection-of-the-keystone-xl-pipeline-the-u-s-might-lose/?utm_term=.181ca43e994f
[9] Shawn McCarthy, "North American energy leaders defend free trade at conference," *The Globe and Mail*, March 6, 2017. https://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/north-american-energy-leaders-defend-free-trade/article34226818/
[10] Table ES-1, ES, 5. https://mn.gov/commerce/energyfacilities/documents/34079/1.DEIS_Line_3_Executive%20Summary.pdf
[11] E.g. Nicholas Kusnetz. "Exodus from Canada's Oil Sands Continues as Energy Giants Shed Assets," *Inside Climate News*, April 14, 2017. https://insideclimatenews.org/news/13042017/canadian-oil-sands-tar-sands-climate-change-conocophillips-exxon
[12]"State Environmental Policy," Minnesota Statutes 1986, Chapter 116 D, Subdivision 2, paragraphs i and l. https://www.revisor.leg.state.mn.us/statutes/?id=116D&year=1986
[13] "Enbridge's Proposed Line 3 Replacement/Expansion/Re-Route, MN 350, March 2017, 30-33.
[14] E.g. Stacy Lee Bettison, "The Silencing of MEPA: The Minnesota Court of Appeals and the Need for Meaningful Judicial Review," *William Mitchell Review*, Vol 26:4 (2000). http://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1861&context=wmlr
[15] "The Line 3 DEIS Highlight Reel," Honor the Earth, June 2017, at 2. https://healingmnstories.files.wordpress.com/2017/06/deishighlightreel.pdf
[16] "Company revises oil spill upward to 1.7 million gallons," Associated Press, March 13, 1991. http://www.apnewsarchive.com/1991/Company-Revises-Minnesota-Oil-Spill-Upward-to-1-7-Million-Gallons/id-2d06afe9e6c0712a86b91309d7c4932b
[17] A useful source for developing a framework to make these proposed pipeline performance comparisons is L. Patterson et al, "Unconventional Oil and Gas Spills: Risks, Mitigation Priorities and State Reporting Requirements, *Environmental Science and Technology*, February 21, 2017, http://pubs.acs.org/doi/abs/10.1021/acs.est.6b05749
[18] Table 10.3-1 on page 36 of Chapter 12, as cited in "Line 3 DEIS Replacement—Talking Points for Public Comments," MN 350, June 2017, at 2. http://www.mn350.org/wp-content/uploads/2017/06/MN350-Public-Meeting-L3R-Testimony-Points-1.pdf
[19] In addition to demanding eminent domain access to public lands and water, access to tribal lands and water and access to private land via easements, Enbridge is demanding tax relief. Mike Hughlett, "Enbridge tax challenge could cost northern Minn. counties millions," *Star Tribune*, March 26, 2017. http://www.startribune.com/enbridge-tax-challenge-could-cost-counties-up-north/417137923/

[20] Table 5.2.7-11. Average Life Cycle Greenhouse Gas Emissions for Various Crude Oils. Chapter 5, DEIS, 443 https://mn.gov/commerce/energyfacilities/documents/34079/2.DEIS_Line_3_Chapter%205.pdf.
[21] "Line 3 DEIS Replacement—Talking Points for Public Comments," at 2.
[22] E.g. Brady Dennis and Julie Eilperin, "EPA chief pushing government-wide effort to question climate change science," *The Washington Post*, July 1, 2017. https://www.washingtonpost.com/news/energy-environment/wp/2017/07/01/epa-chief-pushing-governmentwide-effort-to-question-climate-change-science/?utm_term=.29f5e30870a9
[23] Richard Heinberg, "100% Renewable Energy Is Possible: Here's How," EcoWatch, February 28, 2016. https://www.ecowatch.com/100-renewable-energy-is-possible-heres-how-1882182049.html
[24]"Minnesota Next Generation Energy Act of 2007," Hogan Lovells, July 16, 2007. http://www.lexology.com/library/detail.aspx?g=861895ac-f2eb-4489-a922-231b94a57a64

Levi, Andrew (COMM)

From: aimee sutherland <anmisutherland@yahoo.com>
Sent: Monday, July 10, 2017 5:02 PM
To: MN_COMM_Pipeline Comments
Subject: Line 3 (CN-14-916 and PPL-15-137)

To Whom it May Concern,

Having looks at some of the statements/finding in the DEIS, I find glaring holes will try to communicate those that concern me. I feel there are more concerns than I will touch on.

My two major concerns are impacts on the Native Americans and the environment, not that the two don't overlap. First the the affected tribes get separate chapter to address most of their impacts. Chapter 9 then states that "traditional resources are essential to the maintenance and realization of tribal life ways, and their destruction or damage can have profound cultural consequences" (9.4.3) But later your state (9.6) that the effects "cannot not be accurately categorized, quantified, or compared". So what then? Do we just ignore them? Place them in their own Chapter and forget about it. Well you did reprise that there as an effect in chapter 11. These (11.5)" disproportionate and adverse impacts would occur to the American Indian populations in the vicinity of the proposed project". But again we can' measure it so lets forget it. Why can't we hire a Native American to really get a good perspective? But lets consider the proposed route. The high number of wild rice lakes, 17, is higher than alternative routes. With the likely hood of spills (as seen with other pipelines) you bet their life ways will be affected. The 7 sites studied for spills were not good representatives of possible waterway contamination. No spill analysis was done for the the tributaries of the St. Louis or Nemadji Rivers. We need more impact Studies that are representative of the spills that are likely to occur. Why the 1 year delay for the cathodic protection to minimize the spill potential. We will have a spill before then with a small spill likely to occur that first year. While we are talking construction why only considering the impact of the 50 mile pipeline footprint when 750 mile path will be needed for the construction? 2263-1 2263-2

There are many considerations missed are dismissed in this draft. Archeological impacts- use Enbridge's info not complete. We need and expect more from a 5000 page report!!!

Thanks for your consideration and attention to this,

Aimee Sutherland