May 27, 2015

Beverly Jones Heydinger, Chair
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, MN 55101-2147

Dear Chairwoman Heydinger,

It is my understanding that the Public Utilities Commission (PUC) is scheduled to vote on June 5, 2015, on whether the PUC should adopt the administrative law judge’s Findings of Fact, Summary of Public Testimony, Conclusions of Law, and Recommendation, and whether it should authorize recommencement of the route permit application proceedings.

I am writing to respectfully request that the Public Utilities Commission postpone its vote on this matter until it has had the opportunity to engage in appropriate government-to-government consultation with the American Indian tribal governments that will be most impacted by a potential spill. To date, government-to-government consultation required between State agencies and Indian tribes pursuant to Governor Dayton’s Executive Order 13-10 has not occurred on this matter, nor was there any mechanism for consultation in Administrative Law Judge Lipman’s hearing process. There has been no consultation between the Mille Lacs Band of Ojibwe (as well as the other impacted tribes) and the PUC, nor has Enbridge consulted with the Mille Lacs Band of Ojibwe.

The Sandpiper Pipeline matter is of grave concern to the Mille Lacs Band of Ojibwe. This pipeline is proposed along a route that has great potential to result in an environmental impact on lands, waters and resources on or near the East Lake Community of the Mille Lacs Reservation. Our wild rice, in particular, is at severe risk of pipeline activity or construction that impacts the Rice Lake or Big Sandy Lake Watersheds.

The Minnesota Public Utilities Commission has held a series of hearings taking testimony from the public and local governments. However, the Mille Lacs Band notes that none of the hearings were held on Indian reservations, despite tribal requests that at least one
hearing be located on an Indian reservation to afford tribal members an opportunity to engage in the hearing process.

As a sovereign tribal government, the Mille Lacs Band of Ojibwe is holding a Public Hearing in our East Lake Community Center of District II of the Mille Lacs Reservation on June 5, 2015, at 10:00 a.m. The purpose of this hearing is to collect information from Band Members and experts regarding legal and environmental concerns. I ask that you postpone the PUC’s scheduled vote until after June 5 and after the PUC has had an opportunity to study our hearing report.

Attorney Nicholas Targ will serve as our Hearing Officer and compile a written report. Mr. Targ is the former Counsel and Associate Director to EPA’s Office of Environmental Justice. We expect that the hearing report will reflect valuable legal and environmental information that the PUC will benefit from taking into consideration prior to making any final decisions regarding the Sandpiper. We invite and encourage Members of the PUC to attend this hearing.

The purpose of this hearing is to collect information from Band Members and experts regarding:

1. Concerns regarding oil spills and the potential risks to surface and ground water on or near the East Lake Community and lands held in federal trust status for the Mille Lacs Band of Ojibwe;

2. Concerns regarding the self-sufficiency of individual Band members and cultural practices, such as harvesting wild rice within the Big Sandy Lake and Rice Lake watersheds, including the Rice Lake National Wildlife Refuge;

3. The implications of the lack of consultation with the Mille Lacs Band of Ojibwe;

4. The legal implications of the lack of consultation between Enbridge and the Mille Lacs Band of Ojibwe’s Tribal Historic Preservation Office (THPO) regarding to the identification of lands along the pipeline route related to their historical, archeological and cultural significance; and

5. The potential legal involvement of the federal government: First, whether the Department of the Interior is properly carrying out its Trust Responsibility with regard to federal and tribal land; Second, whether the Environmental Protection Agency (EPA) should conduct an Environmental Impact Statement (EIS) to assess the safety of the Sandpiper pipeline project to lands and waters important to Indian tribes and federal land; and Third, whether the U.S. Army Corp of Engineers (USACE) should conduct an EIS to assess the potential impact of the Sandpiper project to wetlands and waters under its jurisdiction.

This hearing will be held pursuant to 4 MLBWA Section 12(a) (3), wherein the Chief Executive is authorized to hold hearings for the following purposes: To investigate and
inquire into matters affecting the general welfare of the Band or its organs of government. The hearing shall be held in accordance with MLBSA Section 13.

Respectfully, on behalf of the Mille Lacs Band of Ojibwe, I again urge you to postpone the PUC vote on this matter until such time as the PUC Members have an opportunity to consider the views of the Native Americans who will be most impacted by potential spills and have an opportunity to study the Band's report of this hearing, which we will provide to you immediately upon its completion.

Again, I encourage and warmly invite PUC Members to attend our hearing and hear the perspective of tribal members living along this proposed route as well as national experts. If you are able to attend, please contact Emily Johnson, of my office, at (218) 349-0233.

Sincerely,

Melanie Benjamin
Chief Executive

cc: Commissioner Lange
Commissioner Lipschultz
Commissioner Tuma
Commissioner Wergin
Governor Mark Dayton
Congressman Rick Nolan
Senator Amy Klobuchar
Senator Al Franken