June 1, 2015

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

Re: Certificate of Need for the Sandpiper Pipeline Project

Dear Chairwoman Heydinger:

The White Earth Band of Ojibwe requests that the Public Utilities Commission postpone its vote on whether to adopt Administrative Law Judge Eric Lipman’s Findings of Fact, Summary of Public Testimony, Conclusions of Law, and Recommendation; and on whether to refer this matter for proceedings with respect to Enbridge’s application for a route permit. The White Earth Band of Ojibwe believes that a postponement of this vote is necessary in order for the State of Minnesota to engage in government-to-government consultation with the White Earth Band of Ojibwe and the other Tribal Nations potentially impacted by the Sandpiper Pipeline project. To date, government-to-government consultation required between state agencies and Tribal Nations pursuant to Governor Dayton’s Executive Order 13-10 has not occurred on this matter, nor was there any mechanism for consultation in the Administrative Hearing process on the Certificate of Need.

The White Earth Band of Ojibwe intervened in the permit proceedings regarding the Sandpiper Pipeline because of its concern that the project as proposed poses a significant risk to the environment on and near the White Earth Reservation, as well as within the 1855 treaty-ceded territory where White Earth members and other successors in interest to the signatories of the Treaty possess retained and reserved usufructuary use rights that are threatened by this project. The White Earth Band of Ojibwe has repeatedly noted its concern that the project as proposed poses a significant risk, in particular, to wild rice, a plant of supreme cultural significance to the people of White Earth and the other Ojibwe Tribes of Minnesota.
The White Earth Band of Ojibwe requested, and received assurances, that a public meeting would be held on the White Earth Reservation to permit its members to participate in the proceedings. None of the public hearings were held on White Earth. The White Earth Band of Ojibwe is holding a Public Hearing in the Rice Lake Community on June 4, 2015 at 5:00 p.m., the purpose of which is to collect information from White Earth members and experts regarding the proposed Sandpiper Pipeline. The Mille Lacs Band of Ojibwe will hold a Public Hearing in its East Lake Community Center on June 5, 2015 at 10:00 a.m. for the same purpose. The White Earth Band of Ojibwe requests that the Public Utilities Commission postpone its vote of June 5, 2015 until after the Commission has had an opportunity to review the hearing reports from these hearings.

The White Earth Band of Ojibwe expects that the hearing report will reflect valuable legal and environmental information that the Public Utilities Commission will benefit from prior to making any final decisions regarding the proposed Sandpiper Pipeline project. The White Earth Band of Ojibwe invites and encourages members of the Public Utilities Commission to attend the hearings on June 4 and June 5, 2015.

The purpose of the hearing is to collect information from White Earth Band Members and experts regarding:

1. Concerns regarding oil spills and the potential risks to surface and ground water on or near the White Earth Reservation, lands held in federal trust status for the White Earth Band of Ojibwe, and lands within the 1855 Treaty-ceded territory;
2. Concerns regarding the self-sufficiency of individual Band members and cultural practices, such as harvesting wild rice within the White Earth Reservation and the 1855 Treaty-ceded territory;
3. The implications of the lack of consultation with the White Earth Band of Ojibwe;
4. The legal implications of the lack of consultation between Enbridge and the White Earth Band of Ojibwe’s Historic Preservation Office regarding the identification of lands along the pipeline route of historic, archeological, and cultural significance;
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 should conduct an Environmental Impact Statement (EIS) to assess the safety of the Sandpiper Pipeline project to lands and waters important to Tribal Nations and federal land; and Third, whether the U.S. Army Corps of Engineers should conduct an EIS to assess the potential impact of the Sandpiper Pipeline project to wetlands and waters under its jurisdiction.

Respectfully, the White Earth Band of Ojibwe again urges the Public Utilities Commission to postpone its vote scheduled on the Sandpiper Pipeline project scheduled for June 5, 2015 until such time as the members of the Public Utilities Commission have had an opportunity to consider the views of the Native Americans who will be most impacted by potential spills and
the construction of this project, and have had an opportunity to study the report on the hearing on June 4, 2015, which will be provided to the Commission immediately upon completion.

Again, the White Earth Band of Ojibwe encourages and warmly invites members of the Public Utilities Commission to attend the hearing on June 4, 2015 and hear the perspective of tribal members potentially impacted by the proposed route, as well as national experts.

Sincerely,

[Signature]

Erma J. Vizenor
Chairwoman

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