

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
David C. Boyd
Nancy Lange
Dan Lipschultz
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Applications of
North Dakota Pipeline Company LLC
for a Certificate of Need and Pipeline
Routing Permit for the Sandpiper
Pipeline Project

MPUC Docket No. PL-6668/CN-13-
473 OAH Docket No. 8-2500-31260

MPUC Docket No. PL-6668/PPL-13-
474 OAH Docket No. 8-2500-31259

***HONOR THE EARTH'S RESPONSE TO MOTIONS FOR
RECONSIDERATION OF NORTH DAKOTA PIPELINE
COMPANY LCC'S PETITION FOR RECONSIDERATION
OF THE COMMISSION'S OCTOBER 7, 2014 ORDER***

To: The Public Utilities Commission (PUC)

Honor the Earth opposes the requests by NDPC and supporting Unions and the Chamber to re-combine the two proceedings for Certificate of Need and the Routing Permit. The PUC made it very clear that additional alternatives need to be considered under Minnesota law when the Minnesota Pollution Control Agency (MPCA) made it clear that the “preferred” Sandpiper route was the LEAST environmentally acceptable route of the original 8 System Alternatives.

The PUC also made it clear that if other routes, than the *proposed* route were

not considered, especially when the other routes are MORE environmentally acceptable considering all the criteria used, then the Certificate of Need should be denied forthwith for failing to follow the Minnesota Environmental Policy Act Minn. Stat. 116D *et seq.* MEPA spells out how the state laws are required to be complied with by the PUC, other agencies and Applicant Enbridge:

The legislature, ***recognizing the profound impact of human activity on the interrelations of all components of the natural environment***, particularly the profound influences of population growth, high density urbanization, industrial expansion, resources exploitation, and new and expanding technological advances and ***recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of human beings***, ***declares that it is the continuing policy of the state government***, in cooperation with federal and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, ***to create and maintain conditions under which human beings 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.

(See Subd. 1. Emphasis added).

In short we have one planet, one Minnesota, one very unique, fresh water resource across 3 major, North American watersheds and time to make well informed decisions, especially since Enbridge is now seeking to also include Line 3 or its *so-called Replacement* pipeline along the same proposed Sandpiper corridor, through the most pristine parts of Minnesota's lakes and rivers, wild rice country and our most precious resource, clean fresh water, ecosystems and habitat.

That is why the Legislature spells out the requirements for the State agencies' responsibilities

In order to carry out the policy set forth in Laws 1973, chapter 412, it is the continuing responsibility of the state government to use all practicable means, consistent with other essential considerations of state policy, *to improve and coordinate state plans*, functions, programs and resources to the end that the state may:

- (1) *fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;*
- (2) *assure for all people of the state safe, healthful, productive, and aesthetically and culturally pleasing surroundings;*
- (3) *discourage ecologically unsound aspects of population, economic and technological growth, and develop and implement a policy such that growth occurs only in an environmentally acceptable manner;*
- (4) preserve important historic, cultural, and natural aspects of our national heritage, and *maintain, wherever practicable, an environment that supports diversity, and variety of individual choice;*
- (5) encourage, through education, a *better understanding of natural resources management principles* that will develop attitudes and styles of living that minimize environmental degradation;
- (6) *develop and implement land use and environmental policies, plans, and standards for the state as a whole and for major regions thereof through a coordinated program of planning and land use control;*
- (7) define, designate, and protect environmentally sensitive areas;
- (8) establish and maintain statewide environmental information systems sufficient to gauge environmental conditions;
- (9) 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;

(10) preserve important existing natural habitats of rare and endangered species of plants, wildlife, and fish, and provide for the wise use of our remaining areas of natural habitation, including necessary protective measures where appropriate;

(11) reduce wasteful practices which generate solid wastes;

(12) minimize wasteful and unnecessary depletion of nonrenewable resources;

(13) conserve natural resources and minimize environmental impact by encouraging extension of product lifetime, by reducing the number of unnecessary and wasteful materials practices, and by recycling materials to conserve both materials and energy;

(14) improve management of renewable resources in a manner compatible with environmental protection;

(15) provide for reclamation of mined lands and assure that any mining is accomplished in a manner compatible with environmental protection;

(16) reduce the deleterious impact on air and water quality from all sources, including the deleterious environmental impact due to operation of vehicles with internal combustion engines in urbanized areas;

(17) minimize noise, particularly in urban areas;

(18) prohibit, where appropriate, flood plain development in urban and rural areas; and

(19) encourage advanced waste treatment in abating water pollution.

(Id. at Subd. 2, Emphasis added).

Presently, the MPCA, EQB and/or the Legislature have expressed concerns about Bakken and Tar Sands oil coming through environmentally sensitive areas of Minnesota, with a focus on “1) Spill response, 2) Lessons from the Enbridge Kalamazoo River disaster and 3) Spill history, and safety violations involving the

pipeline industry.”¹ It is readily apparent legislators and state agencies will be examining all the social, economic and environmental considerations, much in concert with DOC-EERA and this proposed project.

With the doubling down by Enbridge (NDPC) of Line 3 Replacement also in the Sandpiper corridor² and anticipated pipeline expansion expected, the PUC should consider *sua sponte* dismissal of the present Sandpiper dockets 13-473 and 13-474 because according to the story, Enbridge “said further improvements to the existing line would require digging in 900 places over six years, so the company decided to replace it instead.” Enbridge wants new places to give pipeline problems 50-60 years from now, without any plan for removing the old, abandoned and replaced, corrupted line. With the new pipeline border modifications, almost any crude, from any location could be coming with the Switcheroo attempts to escape permitting.

The PUC could combine both pipelines, Sandpiper and Line 3 Replacement in the new docket calendar where all the forthcoming, multi-agency environmental analysis can be properly planned, coordinated, thoroughly examined, accomplished, shared and considered---instead of rushing to make uniformed

¹ See Joint House and Senate Letter to William Seuffert, Executive Director, Environmental Quality Board, Sept. 23, 2014, attached as Exhibit A.

² See Enbridge files to replace problem Minn. pipeline, by David Shaffer, Minneapolis Star Tribune on Oct 27, 2014 at 11:16 p.m., <http://www.duluthnewtribune.com/content/enbridge-files-replace-problem-minn-pipeline>

arguments which are likely to result in another cascade of motions for reconsideration and unnecessary waste of limited Parties' resources.

As such, *Honor the Earth* urges the PUC to continue to protect our most valuable resources with the full environmental evaluation and investigation of better route alternatives with the certificate of need (Sandpiper and/or Line 3) being demonstrated before any further, unnecessary and confusing routing proceedings. *Honor the Earth* asks the PUC to give favorable consideration to the Intervenor briefs outlining concerns for unrealistic and unfair environmental information delivery deadlines for Intervenors' use and other scheduling arguments about family holidays, winter conditions put forward by Friends of the Headwaters and Carlton County Land Stewards.

CONCLUSION

Honor the Earth urges this Commission to dismiss these Sandpiper dockets and combine with the announced Line 3 Replacement pipeline dockets desiring the same route, so that fair and reasonable time can be given for meaningful and informed decision-making by all parties. The price of oil has dropped to nearly \$80 per barrel³ which makes this kind of extreme extraction financially unfeasible for the foreseeable future, so no urgency exists for Minnesota or the world market. Therefore actual need is in doubt and the schedule should be expanded to provide

³ See [U.S. Oil Prices Fall Below \\$80 a Barrel](http://nyti.ms/10lRr6N), by Clifford Krauss, NY Times, Business Day, <http://nyti.ms/10lRr6N> attached as Exhibit C.

reasonable time for the agency experts and fundamental fairness for all parties for briefing.

Respectfully submitted November 6, 2014.

/s/ Frank Bibeau
Frank Bibeau
51124 County Road 118
Deer River, Minnesota 56636
Cellular 218-760-1258
E-mail frankbibeau@gmail.com

Peter Erlinder
International Humanitarian Law Institute
325 Cedar Street, Suite 308
St. Paul, MN 55101
Cellular 651-271-4616
Email proferlinder@gmail.com

ATTORNEYS FOR *HONOR THE EARTH*