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August 24, 2015

Dan Wolf
Executive Secretary
Minnesota Public Utilities Commission **VIA ELECTRONIC SERVICE**
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

Re: In the Matter of the Application of North Dakota Pipeline Company LLC for a Certificate of Need for the Sandpiper Pipeline Project in Minnesota
MPUC Docket Nos. PL-6668/CN-13-473
OAH Docket Nos. 8-2500-31260

Dear Mr. Wolf,

In connection to the above-captioned docket please find the enclosed Motion for Reconsideration and Amendment of the Commission's August 3, 2015 Order filed on behalf of Friends of the Headwaters. Also attached is an Affidavit of Service.

Sincerely,

/s/ Kathryn Hoffman
Kathryn Hoffman
Staff Attorney

KH/em

Enclosure

cc: Service List

STATE OF MINNESOTA
FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger	Chair
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
John Tuma	Commissioner
Betsy Wergin	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 Nos. PL-6668/CN-13-473 PL-6668/PPL-13-474 OAH Docket Nos. 8-2500-31260 8-2500-31259

FRIENDS OF THE HEADWATERS' PETITION FOR RECONSIDERATION AND **AMENDMENT OF THE COMMISSION'S** AUGUST 3, 2015 ORDER

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INTRODUCTION

Friends of the Headwaters requests that the Minnesota Public Utilities Commission reconsider its August 3, 2015 decision to approve the Certificate of Need ("CON") for the Sandpiper Pipeline. At the outset of the Commission's deliberations on June 5, 2015, a few things were evident. The Commission was dissatisfied with the Administrative Law Judge's ("ALJ") report and his treatment of several issues, including his characterization of the parties' positions and the viability of SA-03. Indeed, the Commissioners supported SA-03 far more than the ALJ. But there was substantial uncertainty about how to address these problems. The result is that the certificate of need granted for the Sandpiper is based on findings that do not match the conclusions, and a lack of emphasis on the public good, as well as inaccurate assumptions and procedural irregularities in the record, and must be reconsidered.

Most striking about the Commission's decision was the controversy over SA-03. There are two main differences between NDPC's preferred route and SA-03. One is the headwaters of the Mississippi River. NDPC's route travels through it; SA-03 does not. The other is a connection in Clearbrook, Minnesota. NDPC's route connects there; SA-03 does not. Approving NDPC's preferred route without additional consideration for SA-03 puts the headwaters of the Mississippi River at risk, along with the rivers, lakes, streams, wetlands, wild rice, and other natural resources in that area. But approving SA-03 allows for further consideration of a pipeline that doesn't connect at Clearbrook, something that NDPC insists it needs to comply with its (arguably premature) contractual obligations.

And yet, at the close of deliberations, it appeared that a majority of Commissioners valued the headwaters of the Mississippi River, and a majority was not impressed with NDPC's arguments for the necessity for a connection at Clearbrook. At deliberations, the sole barrier to

approval of SA-03 had nothing to do with either the headwaters of the Mississippi or Clearbrook, Minnesota. It was about agency resources, and whether the agencies had the resources to investigate an additional route.

The answer is, unequivocally, "yes." And the reason is simple – agencies are allowed to bill an applicant for the cost of responding to its application, including the cost of environmental review as part of the route permit process. The public bears many of the costs of pipelines, including the risk of a major spill. But NDPC must bear at least one cost, and that is the cost of including SA-03 in the route permit process. Altering the Commissions' decision to grant the certificate of need to include SA-03 is supported by facts, logic and the public interest. Refusing to alter the Commission's decision is reversible error.

FACTS AND PROCEDURAL HISTORY

The history of these proceedings is well-known and we need not recount it here. FOH offered a full history up until the ALJ's Findings of Fact in its Exceptions to the ALJ's Report. We begin our history with events after the ALJ's report was issued.

On June 3, 2015, the parties argued their position before the Commission. In particular, FOH expressed its concerns about the impacts of a major oil spill from a pipeline, an occurrence that repeats itself regularly around the country and world; the ALJ's failure to acknowledge the evidence from the PCA, the DNR and other independent experts in the record that establishes NDPC's preferred route as the worst route from an environmental perspective; the ALJ's treatment of the burden of proof for showing "reasonable and prudent alternatives"; and the ways in which NDPC has boxed in the Commission by signing contracts to deliver oil via a pipeline project before it obtained regulatory approval for that project.

On June 5, the deliberations commenced with a vigorous discussion over the limitations of the ALJ report. All Commissioners expressed some reservations, but opinions varied about whether to reject the entire report, adopt portions of it, or adopt most of it with some modifications.[1] The changes adopted by the Commission reflected: (1) greater support for SA-03[2]; (2) disagreement with the ALJ about the abilities of a pipeline to improve rail congestion[3]; (3) disagreement with the ALJ's statements about the burden of proof for reasonable and prudent alternatives under Minnesota Rule 7853.0130[4]; and (4) disagreement with the ALJ's characterization of the parties' positions.[5]

The Commission's position on SA-03 reflected the fact that at least three of the five Commissioners did not think that NDPC carried its burden of proof on whether a connection was needed at Clearbrook, Minnesota.[6] Indeed, when the question of amending the ALJ's report to support SA-03 as a "suitable modification" of NDPC's proposal under Minnesota Rule 7853.0130(C), thus allowing the route alternative to be included within the route permit proceedings, three of the five Commissioners supported it.[7] However, when the chair and Commissioner Wergin seemed confused about the nature of the vote, Commissioner Lipschultz

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[1] *See* Discussions pp. 23-44 of Transcript, June 5, 2015 PUC Deliberations.
[2] *See Id.,* Discussions and motion pp. 80-90 adopting Department's Findings on SA-03.
[3] *See Id.,* Discussions and motion pp. 61-66 striking portions of ALJ findings that Sandpiper has the "potential to sharply reduce" rail congestion.
[4] *See Id.,* Discussions and motion pp. 66-73 regarding whether alternatives may be adequately supported by an entity other than a pipeline company; see also removal of Memorandum from ALJ opinion in Commission's Findings of Fact.
[5] *See Id.,* Discussions and motion, pp. 90-98, paragraphs 526-531.
[6] *See Id.,* "The record does not support a conclusion that the project would result in a net benefit to Minnesota refineries," Commissioner Lipschultz at 78:7-9; "I think [Friends of the Headwaters] did an excellent job showing us that there isn't a substantial need" for the pipeline to Minnesota's refineries, Commissioner Tuma at 91:22-92:5; "[T]hat's really the sole reason that I eliminated Sa-03. Not because, you know, I felt strongly that it had to go to Clearbrook, I don't." Commissioner Lange at 148:14-17.
[7] *Id.* at 120:16-25.

agreed to allow a second vote.[8] Upon reconvening, Commissioner Lange stated that she had changed her vote.[9] Her sole reason for changing her vote was that she was concerned about devoting the limited resources of the Department towards evaluating an additional route,[10] even though 54 other route alternatives had already been approved. Commissioner Heydinger had already made a similar statement on the record, saying that requiring the Department to evaluate SA-03 "will be very time-consuming and costly," and the Chair "would prefer to put our resources into a very thorough evaluation of the routes that we've already identified for study."[11]

On August 3, 2015, the Commission issued its written Order. This Order adopted the ALJ's Report with certain, limited modifications. But it also left in significant portions of the ALJ's original report, some of which are inconsistent with the Commissioners' statements on the record. Surprisingly, the Commission's Order also states that it "agrees with the ALJ that none of the system alternatives considered in the certificate of need proceeding, with the possible exception of SA-03 AM (discussed later in this order), meet the Applicant's commercial need for the Project and the region's need." This statement was inconsistent with the deliberations, where Commissioners stated that SA-03 could meet NDPC's commercial need, but the Department of Commerce might not have the resources to address it.

Despite expressing significant reservations about the lack of DNR and PCA involvement during the testimonies of those agencies on June 3, the Commission stated in its written order that the record on the environmental impact of various proposed alternatives was sufficient.[12] For instance, the Commission adopted the ALJ's observation that "none of the System Alternatives

[8] *Id.* at 128:7-14.
[9] *Id.* at 134:13-135:3.
[10] *Id.*
[11] *Id.* at 131:14-21
[12] Order Granting Certificate of Need With Conditions, August 3, 2015 (August 3, 2015 Order), p. 26.

present a clear advantage over the proposed Project,"[13] a statement that fails to acknowledge the public comments from DNR and PCA. Surprisingly, the Commission reiterated the ALJ's statement that "the record in this proceeding does not establish that any of the system alternatives have lower risks of a spill,"[14] despite the fact that many parties expressed concerns not that spills were more likely to occur for system alternatives, but that they were likely to have a much greater impact in particular areas that system alternatives would avoid.

ARGUMENT

I. The Commission Must Reconsider Whether SA-03 Is A "Suitable Modification" Of NDPC's Proposed Route Based On Its Own Findings.

This case is about the private interest of a few companies weighed against the public interest of the state of Minnesota and its citizens. The Legislature has specifically instructed that it intends for Minnesota laws to be interpreted "to favor the public interest as against any private interest."[15] In addition, the certificate of need statute revolves around the public interest.[16] Almost every factor under the statute is designed to address whether there is a public interest in the proposed energy facility. For instance, Factors (1) and (3) address whether the facility is necessary to serve the state's energy needs. Factors (2), (6) and (8) address whether conservation or efficiency may be used instead of building the facility, with the underlying assumption that increased efficiency and conservation are superior choices for the public interest. Factor (5) asks whether the output of the facility is socially beneficial, including its ability to "protect or enhance environmental quality" or "increase reliability" of energy supplies. In fact, not a single criterion

[13] ALJ Findings of Fact § 504.
[14] *Id.* at 28.
[15] Minn. Stat. § 645.17.
[16] Minn. Stat. § 216B.243.

asks whether the proposed facility is economically viable or advantageous for the project proposer.

Thus, when reconsidering the question of need, the Commission must not lose sight of its charge. Its charge is not serve the needs of oil refineries in the lower Midwest, or serve the business needs of pipeline companies. Its charge is to ensure that Minnesota's energy policy serves the public good. In particular, some public goods, such as natural resources, are inherently devalued by corporate entities such as pipeline companies, and can *only* be protected by agencies that have not lost sight of their mandate.

A. The Commission's Findings do not support its rejection of SA-03.

The Commission must find that SA-03 is a "suitable modification" of NDPC's route, and forward SA-03 to the route permit proceedings. Minnesota Rule 7853.0130 allows the Commission to grant a certificate of need for a "suitable modification" of the project. Thus, it could reasonably be interpreted as a "suitable modification" of the project.

The Commission's Findings of Fact related to SA-03 do not support its decision to recommend granting the certificate of need for the pipeline without also approving SA-03 as a route alternative. The Commission found that SA-03 fulfills NDPC's need, albeit at a higher cost in the findings of fact, yet stated in its conclusions that SA-03 does not meet NDPC's need. Three of five Commissioners stated that they do not believe that NDPC provided support for a connection at Clearbrook.[17] The Commission refused to adopt the ALJ's findings in relation to

[17] "The record does not support a conclusion that the project would result in a net benefit to Minnesota refineries," Commissioner Lipschultz at 78:7-9; "I think [Friends of the Headwaters] did an excellent job showing us that there isn't a substantial need" for the pipeline to Minnesota's refineries, Commissioner Tuma at 91:22-92:5; "[T]hat's really the sole reason that I eliminated Sa-03. Not because, you know, I felt strongly that it had to go to Clearbrook, I don't." Commissioner Lange at 148:14-17.

SA-03, and instead adopted more favorable findings. Based on the findings of fact it adopted, the Commission must reconsider its decision to reject SA-03.

The Commission's August 3, 2015 order cannot be reconciled with its changes to the ALJ's report, and the statements of the Commissioners during deliberation. The primary controversy over SA-03 remains the connection at Clearbrook. SA-03 does not connect at Clearbrook, NDPC pointed out, and therefore would not honor at least some of the TSAs.[18] However, the Commission's findings show a lack of support for NDPC's argument. The Commission's August 3, 2015 Order does acknowledge increased cost of SA-03 due to increased length and "pressure cycling."[19] However, the Commission indicated its agreement with Mr. Heinen's testimony when it adopted the Department's recommended findings on SA-03 as part of the ALJ report. For instance, it adopted findings stating that "It is significant that no Applicant testified that, if SA-03 were selected for a CN, those increased costs would render the pipeline to be uneconomic to build or operate."[20] It also adopted findings stated that "As to added costs, the record does not show SA-03's expected higher cost are likely to be of economic significance since there is no showing that the higher cost would materially impact demand for the volumes associated with the Project."[21] Ultimately, the Commission concluded that the higher costs from SA-03 "still would be significantly lower than comparable alternatives such as shipment by rail."[22] The Commission also adopted the statement that "The record does not support a conclusion that the Project would result in a net benefit to Minnesota refiners.[23]

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[18] NDPC Initial Brief at 90.
[19] Commission's Order, August 3, 2015, p. 17.
[20] *Id.*, p. 40
[21] *Id.*
[22] *Id.*
[23] Commission's Order, August 3, 2015, p. 38.

The Commission was also persuaded by the case made by Mr. Heinen, and the evidence from the FERC proceedings, which strongly demonstrates that the connection at Clearbrook, and the associated costs for an additional pipeline, would be harmful rather than helpful to the St. Paul refineries.[24] The Commission summarized its findings on SA-03 thusly:

> SA-03 appears to meet the need identified in the TSAs from a non-environmental perspective, albeit at a higher cost, with greater operational issues such as pressure cycling and additional transportation time of about a day for oil to reach Superior, and with legal uncertainties regarding application of the TSAs and the FERC Declaratory Order referenced by Applicants. The record does not show that the higher cost likely associated with SA-03 would materially impact demand from volumes associated with the Project. Transportation of oil via SA-03 still appears to be less costly than other alternatives including rail.

Yet, the Commission ultimately concluded that the System Alternatives, including SA-03 "do not connect to both Clearbrook and Superior" and therefore "do not meet the Project's need."[25] Thus, the Commission's findings support SA-03 as a "suitable modification" of the project because it does support the applicant's need, yet it ultimately refused to forward it to the route permit proceedings. These two positions must be reconciled by amending the Commission's Order to include SA-03 in the route permit phase.

B. The stated reasons on the record for rejecting SA-03 are arbitrary, capricious, and unsupported by law.

The objection that the Department does not have additional resources to evaluate SA-03 is factually incorrect, and it does not provide a legal basis for rejecting a route. First, it is factually incorrect because the Department of Commerce can bill the costs for its work associated with NDPC's application back to NDPC.[26] In addition, as part of the route permit

[24] FOH Initial Brief at 14-18; FOH Exceptions at 34; MDOC Initial Brief at 53-65.
[25] ALJ Report as adopted by the Commission, Conclusions of Law, ¶ 8.
[26] "[C]ertainly we have the ability to assess NDPC for the costs associated with any of the work that you might require us to do." Bill Grant, Department of Commerce, Commissioner, June 5,

proceedings, the Department of Commerce will be completing its EIS-equivalent process as approved by the Environmental Quality Board. This review is conducted pursuant to the Minnesota Environmental Policy Act, which allows the agency conducting the EIS for a project to bill its cost to the applicant.[27] Thus, the resources of the Department, or any state agency, do not pose a constraint for evaluation of route alternatives in the route permit proceeding.

Moreover, the resource limitations of the Department are not a legal basis for rejecting a "suitable modification" of the applicant's proposed route under Minnesota Rule 7853.0130(C). This rule states that the Commission shall grant a certificate of need if:

> C. The consequences to society of granting the certificate of need are more favorable than the consequences of denying the certificate, considering:
>
> (1) the relationship of the proposed facility, or a suitable modification of it, to overall state energy needs;
>
> (2) the effect of the proposed facility, or a suitable modification of it, upon the natural and socioeconomic environments compared to the effect of not building the facility;
>
> (3) the effects of the proposed facility or a suitable modification of it, in inducing future development; and
>
> (4) socially beneficial uses of the output of the proposed facility, or a suitable modification of it, including its uses to protect or enhance environmental quality;

2015 hearing at 150:21-23; Minn. R. 7852.4000 (requiring application fee to "cover actual costs necessarily and reasonably incurred in processing an application for…pipeline route selection").

[27] Minn. R. 4410.6000 *et seq.*

Additionally, the pipeline route permit rules state that the criteria for considering a route includes only that:

> A. The proposed pipeline route or route segment must be set out specifically on appropriate maps or aerial photos specified in part 7852.2600, subpart 1.
>
> B. The pipeline route or route segment proposal must contain the data and analysis required in parts 7852.2600, subpart 3, and 7852.2700, unless the information is substantially the same as provided by the applicant.
>
> C. The route proposal must be presented to the commission within 70 days of acceptance by the commission of the applicant's permit application.[28]

"If the proposal contains the required information, the commission *must* consider acceptance of the route proposal for public hearing."[29] Nowhere in either of these provisions does it discuss the limitations of the agencies in paying for the cost of investigating the routes. That is not a basis for refusal to consider a route alternative, and an appellate court would consider it reversible error.

For these reasons, the Commission should reconsider its refusal to forward SA-03 to the route permit proceeding, as it is "suitable modification" of NDPC's proposed route and was proposed in accordance with Minnesota Rule 7852.1400.

II. The Commission Must Reconsider Granting The CON.

A. **The Commission's action violates MERA because it limits alternatives based on** economic considerations alone.

When the Commission granted NDPC's CON application, it violated MERA because it rejected prudent and feasible alternatives based solely on economic grounds dictated by the applicant.[30] The Commission refused to consider a range of potential alternative locations for the pipeline because the system alternatives were longer and would result in higher construction

[28] Minn. R. 7852.1400, subp. 3.
[29] *Id.*, Subp. 4.
[30] Minn. Stat. 116D.01 *et seq.*

costs and potentially higher costs to shippers. But those system alternatives also avoided the headwaters of the Mississippi and the sensitive areas of wetlands, lakes, rivers, and wild rice contained therein, thus posing the potential for a significantly smaller environmental impact. Yet the Commission simply accepted the company's premise that it could not afford to build a pipeline in an alternative location because it would be more expensive and might result in loss of support from shippers, thus harming the economic viability of the project.

The Commission's decision sets a precedent that is both illegal and bad public policy for the state of Minnesota. It is bad public policy because it allows the applicant to dictate the limits of the Commission's authority to regulate a proposed project. By its nature, any agency can—and will—require changes to a proposed project to improve that project in favor of the public interest. Some of those changes will be over the applicant's objections. If an agency needed an applicant's approval of a project rather than vice versa, there would be no need for the regulatory agency. But in this case, the applicant has signed contracts with customers first, and proposed a project consistent with those contracts second. NDPC now demands that these contracts constrain the Commission's authority. The Commission should be find this constraint unacceptable, and reject it.

The Commission's decision is illegal because it cuts off further inquiries into potential alternatives by the state because the applicant claims that those alternatives are financially unattractive, which is expressly prohibited by MERA.[31] Under MERA, a party may intervene in an administrative proceeding in order to demonstrate that the proposed action will cause pollution, impairment or destruction to the environment.[32] To oppose an action based on a MERA violation, an intervening party must first establish that there is a protectable natural

[31] Minn. Stat. § 116B.04; Minn. Stat. § 116B.09.
[32] Minn. Stat. § 116B.09.

resource, and the conduct poses the risk of pollution, impairment or destruction of that natural resource. The agency may rebut that prima facie case by asserting that the proposed action—in this case building a pipeline across 300 miles of Minnesota—poses no risk whatsoever to any protectable resource.[33]

Alternatively, if the prima facie case cannot be rebutted, the agency may also raise an affirmative defense. The administrative agency's duty in this situation is as follows:

> [N]o conduct shall be authorized or approved which does, or is likely to have such effect 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.[34]

When evaluating whether there is a "feasible and prudent alternative" to the proposed action, Minnesota courts forbid balancing compensable with noncompensable damages as inappropriate under MERA.[35] The Minnesota Supreme Court observed that questions of cost, directness of route, and community disruption could *always* be used to justify destruction of a natural resource.[36] That is why the statute was written to give the protection of natural resources "paramount importance":

> The few green havens that are public parks were not to be lost unless there were truly unusual factors present in a particular case or the cost of community disruption resulting from alternative routes reached extraordinary magnitudes. If the statutes are to have any meaning, the Secretary cannot approve the destruction of parkland unless he finds that alternative routes present unique problems.[37]

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[33] *See Minnesota Public Interest Research Group v. White Bear Lake Rod and Gun Club*, 257 N.W. 2d 762, 769 (Minn. 1977); *People for Environmental Enlightenment and Responsibility (PEER), Inc. v. Minnesota Environmental Quality Board*, 266 N.W. 2d 858, 867-8 (Minn. 1978).
[34] *Id.*
[35] *State by Archabal v. Cnty. of Hennepin*, 495 N.W.2d 416, 422 (Minn. 1993).
[36] *Id.* (citing *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 411 (1976)).
[37] *Id.* at 423. (quoting *Overton Park*, which addresses a similar statue that protects parkland. MERA, of course, protects more than parks.).

In this case, the Commission has not rebutted the arguments made by Friends of the Headwaters and other parties that a pipeline, by its very nature, causes pollution, impairment and destruction. Construction causes direct impacts to wetlands, streams, lakes and habitat, and risks later impacts from accidental releases.[38] No amount of safety measures can eliminate the risk, and pipelines pose considerable risks even with NDPC's proposed measures.[39]

Rather, the Commission has chosen instead to focus on whether there is a feasible and prudent alternative that is less environmentally harmful than building the Sandpiper Pipeline in NDPC's preferred location, and the Commission has determined that there is not. But the determination of whether the proposed system alternatives are "feasible and prudent" is focused on the company's convenience and economic needs, not the paramount interest in the environment. The Supreme Court of Minnesota has already rejected this logic—in fact, it *forbid* the Commission from engaging in exactly this type of inquiry, the type of wide-ranging inquiry in which it weighs the need to transport oil and the company's economic obligations against the environmental risks of siting a pipeline in a pristine environment.[40]

In *Archabal*, the Minnesota Supreme Court rejected Hennepin County's bid to put a new prison at the site of the historic Armory.[41] The existing prisons were over-crowded, the County wished to build a new facility close to the courthouse. However, the Minnesota Supreme Court rejected the bid because it would destroy a historic resource, the Armory building. The analogies between this case and *Archabal* are quite striking. First, in both cases, the parties agree on the fundamental need for a new facility. In *Archabal*, the county needed a new prison because the

[38] NDPC Initial Brief at 26-29; 33-38.
[39] MPCA Comments dated Jan. 23, 2015 at 4; Ex. 180 (Direct at Testimony of Paul Stolen) at 6; Ex. 185 (Testimony of Jamie Schrenzel, DNR) at 22:25-23:20.
[40] *State of Minnesota by Archabal v. County of Hennepin*, 495 N.W.2d 416 (Minn. 1993).
[41] *Id.*

existing prisons were over capacity. Similarly, here, the parties do not disagree that there is a strong need to transport oil out of the Bakken region to refineries, and that a pipeline is a good way to transport the oil. Thus, the question in both cases is not whether there is a need, but how best to serve that need in a way that is consistent with MERA.

Second, in both cases, the project proposer alleged convenience and cost as the driving need for a particular location. In *Archabal,* the trial court agreed that the historic Armory site was the best location for a new prison for reasons based on public safety, efficiency, and convenience. The County wanted a tunnel between the prison and the courthouse that would allow the secure transport of prisoners and make prisoner escapes less likely, and also claimed the site would increase efficiencies for the public defenders' office, the Minneapolis Police Department and the Hennepin County Sheriff due to less travel time.[42] Similarly, in the Sandpiper matter, the pipeline that NDPC proposes is the most direct route to the place where NDPC wishes to transport the oil, and therefore requires the fewest associated facilities and is the least expensive to build and operate.[43] (In fact, arguably, the defendants in *Archabal* put on a much stronger case because the county gave very clear reasons for their desired location for its proposed prison, but in this case, it remains something of a mystery on the record as to why NDPC and Marathon wish to ship oil to Superior, Wisconsin, rather than Illinois directly, even though the refineries they wish to serve are all in Illinois and points east.)

Nevertheless, in *Archabal*, the Minnesota Supreme Court rejected the county's proposal, just as the Commission should reject NDPC's. Despite the county's public safety and cost arguments, the Minnesota Supreme Court reversed the trial court and found that the county's reasons for preferring the Armory site did not overcome the state's paramount interest in

[42] *Id.* at 424.
[43] August 3, 2015 Order, at 28.

preserving historic and natural resources. In finding that none of these reasons constituted a valid affirmative defense under MERA, the Minnesota Supreme Court held that the trial court's error was in engaging "precisely the kind of wide-ranging balancing of compensable versus non-compensable interests which our case law forbids."[44] The Court turned to some of its earliest MERA cases, including *PEER*, 266 N.W. 2d 858 (Minn. 1978), *State by Powderly v. Erickson*, 285 N.W.2d 84 (Minn. 1979), and *County of Freeborn by Tuveson v. Bryson*, 243 N.W.2d 316 (Minn. 1976). In *Powderly*, the Court had held that when evaluating whether the requirements for an affirmative defense under MERA have been met,

> the trial court is not to engage in wide-ranging balancing of compensable against noncompensable impairments. Rather, protection of natural resources is to be given paramount consideration, and those resources should not be polluted or destroyed unless there are *truly unusual factors* present in the case or the cost of community disruption from the alternatives reaches an *extraordinary magnitude.*

State by Powderly, 285 N.W.2d at 88 (emphasis added). Thus, the Court held in *Archabal*, even though the county had established real efficiencies and public safety advantages to placing the new prison at the Armory site, it had still not met its burden under MERA because those efficiencies did not rise to the level of "truly unusual factors" or community disruption of an "extraordinary magnitude."

In this case, the Commission concluded that NDPC has a "need" to build a pipeline as its proposed location because the Project "makes effective use of resources by expanding the existing NDPC System,"[45] and "the project will enhance the future adequacy, reliability, and efficiency of the energy supply needed by the state of Minnesota and the surrounding region."[46] Additionally, the proposed alternatives are not

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[44] *Id.* at 426.
[45] ALJ's Report as Adopted by the Commission, Conclusions of Law ¶ 1.e.
[46] *Id.* ¶ 3.c.

"reasonable and prudent" because they "would have later in-service dates,"[47] they do not yet have a "development sponsor or underlying financial commitments,"[48] and they "do not connect to both Clearbrook and Superior" and therefore "do not meet the Project's need."[49]

All of the alleged impacts of rejecting NDPC's proposed route are entirely compensable—that is, they relate to the company's costs or economic impacts in general. A system alternative would allegedly make less "effective use" of NDPC's current system. A system alternative would have a later in-service date, which would drive up the cost of shipping oil in the meantime. A system alternative, allegedly, might not serve the "adequacy, reliability and efficiency" of the energy needs of the state of Minnesota,[50] which could cause an unspecified economic impact on the region.

But the major insult to MERA in this proceeding came with the Commission's refusal to consider feasible and prudent system alternatives that are not consistent with NDPC's contracts, the Transportation Service Agreements. NDPC is attempting to hold the State of Minnesota hostage to its business plan by threatening not to build a pipeline if it does not connect at both Clearbrook and Superior. But NDPC chose to conduct an open season in which they only proposed one route, and only obtained shipper support for one route. They chose to seek preliminary approval from FERC for a single route. And in so doing, they made only that one route "feasible" by their own actions.

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[47] *Id.* ¶ 5, 6.
[48] *Id.* ¶ 7.
[49] *Id.* ¶ 8.
[50] FOH seriously disputes this contention, *see* Initial Brief filed on behalf of Friends of the Headwaters at 14-21.

The record reveals why NDPC made these choices: a pipeline that does not go through Clearbrook will not allow NDPC to foist some of the costs of the pipeline onto captive non-committed shippers. Marathon, the anchor shipper for the Project, admitted that it wants the pipeline to ship oil from the Bakken formation in North Dakota to Illinois—which is exactly the route of SA-04.[51] If there were actually a need, or demand, to ship oil out of the Bakken to various refineries in the Midwest, any of the proposed System Alternatives would accomplish this. What the System Alternatives do *not* accomplish is allowing these new pipelines to be considered "expansions" thereby allowing Enbridge and Marathon to foist the cost of building the project onto captive non-committed shippers.[52] But this is just another economic consideration for NDPC that cannot be the basis to approve a pipeline through the worst possible location for the environment and the people that depend on it for clean water, air, and their livelihoods.

The Commission's violation of MERA, therefore, comes earlier and is far more severe than the county's in *Archabal*. In *Archabal*, the county at least made a thorough evaluation of alternative locations and provided support for its decision to pursue the Armory site. The Commission in this case has allowed the applicant, NDPC, to cut off investigation of valid alternatives before it has even begun. The record is very thin on whether there might be shipper support for an alternative location for a pipeline—for example the Bakken pipeline received immediate strong shipper commitments,[53] while another, the Koch Pipeline going directly from the Bakken region to Illinois, did not go through due to lack of shipper support.[54] The parties can argue about the meaning of these two examples, but the truth is that neither NDPC, nor the

[51] Evidentiary Hearing Transcript Vol. III at 48:19-49:1.
[52] Evidentiary Hearing Transcript Vol. II at 70:20-71:1-6.
[53] NDPC Initial Brief at 65.
[54] *Id.* at 63-64.

Commission, nor the Department, nor any other party in these proceedings has made a serious investigation into whether any of the System Alternatives have shipper support, or whether lack thereof would present "truly unusual factors" or cause disruption of an "extraordinary magnitude." The Commission determined they are not feasible for the simple reason that NDPC does not prefer these alternatives.

If the Commission fails to fulfill its duties under MERA, then the bottom line for the pipeline company will always win, and our clean lakes, rivers, streams and wetlands will always lose. As the U.S. Supreme Court observed in *Overton Park*, this would be yet another case where directness of route, cost, and expediency mean that destruction of natural resources is the cheapest option, because it *always* is, and *always* will be. And that is why MERA was passed in the first place – because unless our lawmakers, our agencies and our courts place a paramount value on our natural resources, the companies that build infrastructure such as pipelines never will.

Friends of the Headwaters' request to the Commission is straightforward here. Take the time necessary to investigate alternative locations. The Commission has several options available to accomplish this. It could order a study of potential alternative locations as part of the need determination and hire a consulting firm to evaluate shipper support. It could reject NDPC's application, requiring NDPC to seriously investigate alternative routes itself as part of a new application. Or it could order an EIS that investigates alternative locations as the State Department has done in Keystone.[55] Any of these options would fulfill the Commission's duties under MERA. Refusing to allow serious considerations of alternatives—and sacrificing the

[55] *See* Keystone XL Pipeline Project Final Environmental Impact Statement at http://keystonepipeline-xl.state.gov/archive/dos_docs/feis/ (last visited 8/18/2015).

headwaters of the Mississippi for the sake of the applicant's economic justifications in the process—is a clear violation of MERA.

B. The Commission's conclusion that NDPC's preferred alternative is environmentally preferable runs directly contrary to the record.

Some of the Commission's findings suggest that further investigation of the system alternatives is not necessary because NDPC's route is environmentally preferable. However, such a conclusion runs directly contrary to the evidence in the record. There is substantial evidence in the record to conclude that NDPC's Preferred Route is the *worst* of all the proposed routes, particularly the statements of MPCA and MDNR. By neglecting entirely the expert testimony offered by the parties and the agencies, the Commission has rendered that testimony meaningless and ignored perhaps the most important evidence in the record. It is not that the Findings of Fact reviewed the expert opinions in the record and rejected them, on balance, in favor of NDPC's arguments. The expert opinions were never addressed at all, as if they were never offered. This is a very troublesome approach.

There is a strong and consistent chorus of expert voices in the record stating that there *are* significant environmental differences between the routes. The Findings of Fact states that "none of the System Alternatives present a clear advantage over the proposed Project."[56] But the record is replete with testimony and statements from expert sources on behalf of FOH, Carlton County Land Stewards, MDNR and MPCA that NDPC's proposed route poses the greatest environmental risk. *Every* independent expert who compared the System Alternatives concluded that NDPC's Preferred Route was the most environmentally damaging of all of the System Alternatives.

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[56] ALJ Findings of Fact as adopted by the Commission ¶ 504.

Both MPCA and MDNR concluded that NDPC's Preferred Route posed the greatest environmental risk compared with all of the System Alternatives. MDNR concluded that "[w]ithin Minnesota, more southern routes (south of I-94 corridor) have less concentration of natural resources (regardless of length) within the 2-mile corridor. . . . From a natural resource perspective, the more southern routes appear to be feasible and prudent System Alternatives that merit consideration."[57] Similarly, MPCA concluded "that with respect to protection of the highest-quality natural resources in the state, the SA-Applicant route presents significantly greater risks of potential impacts to environment and natural resources than several of the System Alternatives."[58] Indeed, "the Applicant's proposed route encroaches on higher quality resources, superior wildlife habitat, more vulnerable ground water, and more resources unique to the State of Minnesota than do many of the proposed System Alternatives."[59]

In addition, CCLS witness Dr. Chapman conducted a GIS study of the various System Alternatives and analyzed the actual impacts of pipelines on those features based on his expertise as an ecologist.[60] Based on his study and analysis, he concluded that NDPC's Preferred Route posed the greatest environmental risk:[61]

> The weighting analysis of important oil pipeline effects showed that the Preferred Alternative has the potential for the greatest effects both in Minnesota and also the multi-state area. . . . In Minnesota, this was because the Preferred Alternative has the greatest potential effect on: (1) rare habitats, (2) forest fragmentation and degradation, (3) alteration and spread of product in wetlands with little surface water, and (4) encroachment on public and conservation lands.[62]

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[57] DNR Comments dated January 23, 2015, Ex. 185 at 2.
[58] MPCA Comments, dated January 23, 2015 at 4.
[59] *Id.*
[60] Direct Testimony of Dr. Kim Chapman, Ex. 110.
[61] Surrebuttal Testimony of Dr. Kim Chapman, Ex. 112 at 9.
[62] *Id.*

These experts also noted that the potential impacts of spills in NDPC's preferred location will be more significant when compared to the System Alternatives sponsored by FOH.[63] FOH witness Stolen documented in detail how certain landscapes, such as the Lake Country environmentally sensitive resources, may be more sensitive to oil spills, harder to clean up, or more difficult to access than other landscapes.[64] Similarly, MPCA stated that:

> An Alternative that avoids or impacts fewer sensitive ecosystems and water bodies than SA-Applicant will have a smaller likelihood of incurring significant response costs. As documented by the U.S. Environmental Agency ("USEPA"), it costs considerably more to restore or rehabilitate water quality than to protect it. The areas of the state traversed by the SA-Applicant have waters and watersheds that are currently subject to protection in the state's "Watershed Restoration and Protection Strategy" program, financed through the Clean Water Fund and aided by significant volunteer participation of Minnesota citizens. By keeping these waters as clean as possible before they become impaired, extensive costs of restoring waters to state standards can be avoided. Location of oil pipelines in these areas place their pristine waters at risk, and also place potentially millions of dollars in state and federal funds allocated for protection of these areas at risk.[65]

MPCA continues: "[L]ong-term impacts from a spill can be much more damaging in areas containing features such as environmentally sensitive areas and those with limited access."[66]

NDPC's Preferred Route presents many problems, including a greater number of pristine areas near natural water bodies. "A primary rule of thumb when planning for response to an oil leak is that a release in soil is better than a release in water, and a release in stagnant water is better than a release in flowing water."[67] MPCA noted that when evaluating spill response costs, certain factors make one corridor preferable to another, including: "fewer crossings of flowing

[63] DNR Comments dated January 23, 2015, Ex. 185; MPCA Comments, dated January 23, 2015.
[64] Surrebuttal Testimony of Paul Stolen, Ex. 184.
[65] MPCA Comments, dated January 23, 2015, footnotes omitted, emphases added.
[66] *Id.* at 7.
[67] *Id.* at 13.

water; fewer adjacent water bodies; quality of those waters; presence of especially sensitive areas or habitats or species or uses; better access to downstream oiled areas; tighter soils; and closer and more equipped and prepared responders."[68] MPCA concluded that "[f]rom the perspective of minimizing risk of major environmental incidents due to inability to access potential leak sites in Minnesota, the proposed Sandpiper route fares more poorly than any of the proposed System Alternatives."[69]

Ultimately, MPCA concluded that the consequences of building a pipeline in NDPC's preferred location were worse for all factors analyzed, including high quality surface waters, the potential for release at or near a water crossing, potential damage during construction and testing, threats to groundwater and potential drinking water supplies, and threats to wild rice and native forests.[70] MPCA concluded that FOH's System Alternatives were superior to NDPC's Preferred Route.[71]

There is no question that the record could be more robust on the comparison of the system alternatives, as some Commissioners acknowledged during deliberations.[72] However, even based on the record we have, which could have been further developed,[73] it is clear that the

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[68] *Id.* at 3.
[69] *Id.* at 14 (emphasis added).
[70] *See generally id.*
[71] *Id.* at 7.
[72] In particular, Commissioner Lange expressed concern about the participation of PCA and DNR at the June 3 hearing, and also noted that the DNR could only devote a single employee to the environmental analysis during the need process in the June 5 hearing. Transcript of June 5 hearing at 148:22-149:3.
[73] Unfortunately the record in this matter was limited by choices made the Department of Commerce. The Department of Commerce did not engage the DNR and PCA to the extent that the Commission ordered. *See* Transcript of Commission Hearing from Sept. 11, 2014, pp. 132-141; see also DNR testimony on June 3, 2015 stating that they had limited resources to provide for public comments, but could have brought more resources with a formal contract. In addition, as the Commissioners and other have acknowledged, the DOC-EERA itself was essentially

other system alternatives offer significant advantages from a natural resource perspective, and would be considered "feasible and prudent alternatives" under MERA.

III. The Commission Must Reconsider Its Denial Of An EIS Because It Has Violated MEPA.

Based on its recent written order, the Commission clearly does not wish to revisit the question of an EIS. And yet, the Commissioners must recognize how an EIS would effectively address so many of the problems that have plagued these proceedings:

(1) *Burden of Proof for Alternatives.* The Commissioners have expressed significant concerns over whether a party who is not a pipeline company can effectively propose a "reasonable and prudent alternative" as defined by Minnesota Rule 7853.0130(B). Of course, FOH shares this concern. In an EIS, the Responsible Governmental Unit (RGU) —in this case the Public Utilities Commission—would both define and investigate the impacts of potential alternatives, alleviating the public of that burden.

(2) *Need for the Project.* The Commissioners have expressed concern over whether they may require investigation of alternatives that do not meet the "need" as defined by the applicant. NDPC claims that its "need" is to deliver oil to Clearbrook, Minnesota and Superior, Wisconsin. But under an EIS, the agency, not the applicant, defines the "purpose and need" for the project. If the Commission determined that the "purpose and need" for the project is not, as the applicant wants, to deliver oil to Clearbrook and Superior, but instead to deliver oil out of the Bakken to refineries in the Midwest, the range of alternatives could look very different. The Commission is not constrained by the company's purpose and need; it can define the "purpose

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useless as a standalone document, and required expertise to provide analysis to make the data useful.

and need" of the project by its own terms, regardless of the company's wishes or even its own jurisdiction.

(3) *Resources for conducting investigation into System Alternatives*. At the hearing on June 5, 2015, Commissioner Lange expressed concerns about the resources that might be required to investigate SA-03.[74] As discussed above, this concern was not valid in the context of the route permit application because the Department of Commerce can assess the applicant for the cost of evaluating its applicant.[75] However, it is also the case that, when an EIS is completed, the RGU may assess the costs of preparing, reviewing and distributing the EIS.[76]

(4) *Lack of Support from other Agencies*. During their testimony on June 3, 2015, both the DNR and the PCA have pointed out the limitations of their involvement in the need hearings. An EIS would allow a formal contract with the agencies and bring the full resources and expertise of the DNR and the PCA to bear.[77]

(5) *Lack of Evidence in the Record on Environmental Impacts of System Alternatives*. The Commission and the ALJ have expressed concern about the lack of analysis in the record comparing the various system alternatives. In recognizing this deficiency, the Commission has ordered that the environmental review at the route permit proceedings include "quantitative as well as qualitative" analysis.[78] However, that does not remedy the deficiency at the need stage. Only an EIS can do that.

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[74] June 5, Transcript of Commission Deliberations at 134:13-135:3.
[75] *Id.* at 150:20-23.
[76] Minn. R. 5510.6000 *et seq.*
[77] Minn. R. 4410.2200 (allowing RGUs to request the assistance of other governmental units in help with completing the EIS).
[78] Commission Order Authorizing Recommencement of Route Permit Proceeding and Providing Direction for the Scope of the Comparative Environmental Analysis, August 3, 2015, at 5.

The Environmental Impact Statement has been used in essentially its current form at both the federal and state levels for almost forty years, and that is for a reason. It is a format that, when used properly, allows agencies and the public to gather sufficient information and objectively assess a potential project, its impacts, and its alternatives. The need proceedings for the Sandpiper Pipeline, in contrast, lay bare the types of problems that can arise when an agency chooses not to use it.

As FOH recently argued at the Minnesota Court of Appeals, the Commission has violated MEPA by granting a certificate of need to a proposed facility before MEPA compliance. FOH has just described the practical reasons why an EIS makes sense at this point. What follows is the legal case.

A. The Certificate Of Need Is A "Final Governmental Decision" Under MEPA.

MEPA prohibits any "final governmental decision . . . to grant a permit, approve a project or begin a project" until the EIS has been determined to be adequate.[79] A permit is defined to include "a permit, lease, license, certificate, or other entitlement for use or permission to act that may be granted or issued by a governmental unit."[80]

MEPA's prohibition applies to all permitting and approval decisions, including a CON for a large pipeline. The definition of "permit" is intentionally broad to encompass any sort of agency approval, including, notably, the term "certificate."[81] The Environmental Quality Board ("EQB") 2010 Guide (hereinafter "EQB Guide") uses similarly broad language, stating that one of the "key purposes of environmental review is to provide information about potential environmental effects and how to avoid or minimize those effects to each of the governmental

[79] Minn. Stat. § 116D.04, subd. 2b; Minn. R. 4410.3100.
[80] Minn. R. 4410.0200, subp. 58.
[81] *Id.*

units which will approve or conduct the project."[82] The information has no utility unless the governmental units have that information available when they take action on the permits.[83]

B. A "Final Governmental Decision" Such As A Certificate Of Need May Not Be Made Prior To Fulfilling The Procedural And Substantive Requirements Of MEPA.

The EQB Guide states that a "moratorium is automatically placed on action or project approval and construction" whenever environmental review is required.[84] The EQB explains in its Guide that this prohibition on granting approvals prior to completing environmental review is one of the "key purposes" of environmental review. "To issue permits or approvals before the information is available undermines the very purpose of the review. That is the reason why all decisions approving the project (or parts of the project) are prohibited until the review has been completed."[85]

The EQB has specifically explained that a "final governmental decision" in the context of MEPA means "not to be altered or undone; rather than 'last.'"[86] In fact, the EQB Guide explains that granting a preliminary approval prior to completion of MEPA review is a violation of the statute, and the EQB has had to correct this error in the past:

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[82] EQB Guide at 13.
[83] *Id.*
[84] *Id.*at 5.
[85] *Id.* at 13.
[86] *Id.*

> Governmental units have taken the position that permits or approvals that did not directly authorize the construction or operation of the project were not subject to the prohibition. To the contrary, the statutory wording applies to *all* permitting and approval actions that apply to a project for which environmental review is required and not yet completed. Again, the intent of the law is that all project-related governmental decisions benefit from the information disclosed through the process.[87]

The CON decision is precisely the sort of "final" government decision that is prohibited because it prejudices the ultimate decision prior to a completed environmental review. "Prejudicial actions are those that limit alternatives or mitigative measures or predetermine subsequent development."[88] Actions that "make one option, including the option of not building the project, more or less likely to be chosen are prohibited."[89] The CON will determine which route or routes will be examined as part of the Route Permit, and will eliminate other routes from consideration, thereby limiting alternatives and prejudicing the ultimate decision prior to completion of environmental review.

C. The Environmental Review Ordered By The Commission Does Not Comply With MEPA.

Although the Commission recognized the importance of conducting environmental review as part of the CON proceedings, the environmental review ordered the Commission is not, by its own admission, in compliance with MEPA. When the Commission ordered the environmental review, it "recognize[d]" that it would "not be equivalent in terms of the specificity and level of detail to a comparative environmental analysis undertaken in the Route Permit proceeding."[90] It also "emphasize[d]" that it "is not attempting to establish a separate

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[87] *Id.* at 14.
[88] *Id.* at 15.
[89] *Id.*
[90] Commission Order Separating Certificate of Need and Route Permit Proceedings and Requiring Environmental Review of System Alternatives, October 7, 2014, Ex. 48, at 12.

form of alternative environmental review for certificate of need proceedings."[91] Thus, the Commission did not comply with MEPA, but merely made a nod to its requirements and then pursued a different form of environmental review that is not recognized under MEPA and does not include any of MEPA's procedural safeguards.[92] Instead, it simply ignored the requirements of MEPA.

Moreover, the EQB-approved alternative environmental review conducted during the Route Permit stage will not comply with the requirements of MEPA for the CON determination because that alternative environmental review will not take place until *after* the CON is granted or denied. The Commission is authorized to conduct joint hearings on the Route Permit and CON hearings,[93] but in this case the Commission decided that it was in the public interest to bifurcate these decisions.[94] The Commission also decided that the need determination should occur first. Accordingly, the entire pipeline Route Permit process has been suspended indefinitely, including the EQB-approved alternative form of environmental review.

Without first completing an EIS or an EQB-authorized alternative form of environmental review, Commission cannot make a final decision about whether NDPC has justified a need for the Project.

IV. The **Commission's Order Should be Reversed On Other Bases**

The record in this case supports several additional bases for reconsideration, as outlined in FOH's Exceptions to the ALJ's Report dated April 28, 2015. These additional bases include the following, and those portions of FOH's brief cited are incorporated by reference:

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[91] *Id.*
[92] *See*, *e.g.*, Minn. R 4410.2100, .2600, .2700, .2800.
[93] Minn. Stat. § 216B.243, subd. 4.
[94] Commission Order Separating Certificate of Need and Route Permit Proceedings and Requiring Environmental Review of System Alternatives, October 7, 2014, Ex. 48.

(1) The DOC-EERA Report does not provide the analysis requested by the Commission and is therefore an insufficient basis on which to conclude that NDPC has met its burden of proof.[95]

(2) The ALJ erroneously excluded relevant evidence from MPCA and the Commission should reconsider granting the CON on this incomplete record.[96]

(3) NDPC did not meet its burden of proof to show that the probable result of denial will adversely affect the future adequacy, reliability, or efficiency of energy supplied to NDPC, NDPC's customers, or to the people of Minnesota and neighboring states.[97]

(4) NDPC did not meet its burden of proof to show that there are no reasonable and prudent alternatives.[98]

(5) NDPC did not meet its burden of proof to show that the consequences to society from granting the CON are more favorable than the consequences of denying it.[99]

[95] See, FOH Exceptions to ALJ's Report, Dated April 28, 2015 at 26-28.
[96] *Id.* at 28 - 31.
[97] *Id.* at 31 - 42.
[98] *Id.* at 42 – 47.
[99] *Id.* at 47 – 55.

CONCLUSION

The Commission has adopted inconsistent findings that do not support its conclusions. FOH urges the Commission to modify its Order to include SA-03, as its findings and the record supports such a modification. The Commission is also legally bound to allow a full investigation of the System Alternatives under MERA, rather rejecting System Alternatives based merely on NDPC's convenience and prematurely-made contracts, and FOH urges the Commission to fulfill its duties under MERA.

Dated: August 24, 2015

/s/ Kathryn M. Hoffman

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STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of North Dakota Pipeline Company LLC for a Certificate of Need for the Sandpiper Pipeline Project in Minnesota

AFFIDAVIT OF SERVICE

MPUC Docket Nos. PL-6668/CN-13-473
OAH Docket Nos. 8-2500-31260

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Erin Mittag, being duly sworn, says that on the 24th day of August, 2015 she served via e-dockets the following:

- Motion for Reconsideration and Amendment of the Commission's August 3, 2015 Order filed on behalf of Friends of the Headwaters

on the following persons, in this action, by filing through e-dockets or mailing to them a copy thereof, enclosed in an envelope, postage prepaid, and by depositing the same in the post office at St. Paul, Minnesota, directed to said persons at the last known mailing address of said persons:

Attached Service List.

Erin Mittag

Subscribed and sworn to before me
this 24th day of August, 2015

Karen Moss

KAREN E. MOSS
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My Commission Expires Jan. 31, 2016

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Kevin	Walli	kwalli@fryberger.com	Fryberger, Buchanan, Smith & Frederick	380 St. Peter St Ste 710 St. Paul, MN 55102	Electronic Service	No	OFF_SL_13-473_OFF_SL_13-473_Official
James	Watts	james.watts@enbridge.com	Enbridge Pipelines (North Dakota) LLC	26 E Superior St Ste 309 Duluth, MN 55802	Electronic Service	No	OFF_SL_13-473_OFF_SL_13-473_Official
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_13-473_OFF_SL_13-473_Official