

Senator
John Marty

Senate
State of Minnesota

VIA EMAIL: Pipeline.Comments@state.mn.us
Public Comment on Line 3 Project (CN-14-916 and PPL-15-137)

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Dear Jamie,

I am writing to comment on the Line 3 “Replacement” Project Draft Environmental Impact Statement.

Rigorous and legally sufficient environmental reviews of pipeline projects are long overdue, and it is important to acknowledge that this process would never have occurred but for the persistence of affected communities. While I am glad that such a review is being conducted, I have concerns about major flaws in the Draft EIS. This is not a comprehensive list of concerns, but given the tight timeline for comment, I want to raise some points that need to be addressed in the EIS. In no particular order, here are some key flaws:

- If the “replacement” Line 3 Pipeline is built, **the Public Utilities Commission must give landowners the right to require that the existing pipeline be removed**, not simply abandoned. The landowners have hosted the Line 3 Pipeline for approximately 50 years, and have earned our appreciation and respect. Now, it would be unconscionable to grant Enbridge the sole power to decide how the land is reclaimed. Landowners should have the primary power to decide whether the pipeline will be removed or left in place with appropriate mitigation measures. These mitigation measure could include, but would not be limited to: segmentation of the pipeline to prevent water movements; filling the pipeline with grout to limit the chance that it will emerge from the ground; and a survey for contamination, which if found would be fully removed and otherwise mitigated. Leaving an aging pipeline in place is like buying a new car and leaving the old, rusting car in the backyard, slowly dripping remnants of toxic fluids into the ground. Fluids *do* continue to leak out, even if the tanks have been drained.

However in this case, the analogy would be even worse. It would be like leaving your rusting car in *somebody else’s* backyard, without their consent, to pollute their soil and water. Providing landowners with the option of requiring removal of the existing pipeline and cleaning up contaminated soils near the pipeline must be an integral part of its replacement and needs to be addressed in the EIS.

- This points to another flaw in the draft: regardless of the number of years that the Line 3 replacement pipeline is used, there will be a time when it is no longer used. The draft contains no calculation of the cost and challenges of removing *this new pipeline* at that time, just as the current pipeline removal is not addressed. If the removal of the existing pipeline is so difficult, it is essential that **the removal of this new pipeline when it is no longer in use needs to be addressed in the EIS.** It is not acceptable to simply abandon it knowing that it will cause environmental harm and risks to public health and safety just because the worst of those impacts will occur many years down the road.
- Many of the people most affected by the Line 3 replacement project are native people, whose families have lived here for hundreds of years or longer. The Draft EIS states that “*disproportionate and adverse impacts would occur to American Indian populations.*” It continues, “*Any of the routes selected would negatively affect tribal resources and tribal members.*” (pg 11-13) **The EIS cannot simply acknowledge this environmental injustice; it must offer a means to prevent it.**
- As unacceptable as that harm to native Minnesotans is, the acknowledged harm is based on the assumption that the pipeline construction and operation will be done according to plan. It *further* assumes a 30 or perhaps 50-year use of the pipeline and then an end to those impacts. Enbridge’s failure to plan for removal of either the current line 3, or this proposed replacement shows that the extent of these negative effects on native Minnesotans is inadequately understood.

For native people who have lived here for hundreds of years or more, the impact of the pipeline matters not only while it is under construction and while it is transporting tar sands, but also 100 years from now, decades after it is no longer in use.

Enbridge’s irresponsible plan to abandon the existing Line 3 Pipeline after it is shut down and its failure to take responsibility for fully cleaning up their mess, is sufficient in itself to show that Enbridge is not an acceptable party for building and operating this project.

- Existing Enbridge pipelines in Minnesota are well over 50 years old and the draft EIS recognizes that the proposed Line 3 replacement will last far longer than 30 years, yet the estimates of the pipeline’s impact on greenhouse gases assume a 30-year operational lifespan. **The estimates of the pipeline’s greenhouse gas emissions must be measured for the entire expected life of the pipeline,** not the 30 years used in the draft. The draft EIS estimates of climate-altering greenhouse gas emissions are grossly understated for this reason alone.
- Since 2007, Minnesota has had greenhouse gas emissions reduction goals in state law. Yet, other than one brief mention of that law, there is no reference to how this project fits in with the statutory goals. The Line 3 replacement project moves Minnesota farther from those goals, yet the draft EIS never directly addresses that conflict. **The EIS must explicitly show how the project fits in with the greenhouse gas reduction goals in Minnesota law.**
- In the executive summary on the draft EIS, there is a section titled: “The Effects of Climate Change on the Project.” This is obviously important because climate change *will*

intensify the environmental damage caused by the project. However, *the bigger issue is the inverse of that, namely “the effects of the project on climate change.”* Minnesota and the people of Minnesota will face significant, permanent harm from climate change. This letter is not the place to spell out the devastating impacts that will occur, but the draft makes clear that a “no build” option is the only option that will not make climate change even *worse*. **The EIS needs to fully address the *profound* environmental and health impacts that would result from the project’s contribution to greenhouse gas emissions.**

- The discussion of alternatives for consideration in the Certificate of Need hearing assumes the need to transport the 760,000 barrels/day desired by Enbridge. The draft simply says: “*Enbridge states that demand for Canadian crude oil exceeds current capacity,*” (pg 2-4, emphasis added) as if that is sufficient justification for putting Minnesotans at risk of significant harm. There is no independent analysis of whether that level is necessary or whether the tar sands industry needs such capacity given questions about its financial viability, let alone an analysis of whether it is in the public interest.

Last week, the Wall Street Journal (June 29, 2017) ran a story, “*A New Problem for Keystone XL: Oil Companies Don’t Want It*” that begins, “After weathering years of protests, pipeline operator TransCanada is struggling to attract customers amid low crude prices and competing oil-transportation options.”

Transporting massive amounts of tar sands through Minnesota puts our lands and waters at risk as well as worsens our climate crisis simply to address Enbridge’s “need,” which is far from obvious. With the climate crisis in mind and an uncertain supply of demand for the dirtiest form of oil, **the EIS must fully analyze the need for the pipeline and it must truly consider a “no build” option.**

- As is pointed out in the draft, the EIS is required to consider the environmental consequences of “no action” alternative. In the draft, the “no action” scenarios suggest that Enbridge would continue to operate the existing line 3. However, the U.S. Department of Justice Consent Decree makes it clear that the existing pipeline cannot continue to operate in its current form absent substantial improvements in maintenance and monitoring. The draft EIS improperly and inappropriately considers continued indefinite operation of the existing Line 3 as an alternative. **The EIS must be corrected to make it clear that “no action” does not mean that the existing Line 3 can continue to operate in its current unsafe, unreliable condition.**
- The Draft EIS creates the clear impression that the corroded, unsound existing Line 3 pipeline will continue to transport tar sands crude oil across Minnesota putting our environment at risk, *unless* Enbridge is given authority to move ahead with their proposed project. There is understandable fear that Enbridge will continue to operate with reckless disregard for the water and land in the pipeline corridor. **The EIS must go back and analyze each aspect of the proposal in a manner that recognizes that lack of trust that Enbridge will comply with requirements.**

- *Enbridge is responsible for the costliest oil pipeline spill ever recorded (Kalamazoo River, MI, 2010, \$1.21 Billion, according to Enbridge 2014 SEC filing). Enbridge told its shareholders that the Line 3 replacement is “the largest project in our history.”*

Yet the Draft EIS of the largest project from the biggest pipeline polluter, takes much of its information directly from Enbridge’s permit application, not from any independent analysis, and the methods for eliminating or mitigating the problems are all simply relying on Enbridge to responsibly handle. The Draft EIS frequently refers to the idea that “Enbridge would” take care of it, using statements such as: “Enbridge would not install equipment bridges across waterbodies...” often followed by hedge words: “unless an efficient and economical method... is not available.” (pg 2-33) In literally thousands of instances, the draft EIS describes what “would” happen, i.e., what Enbridge would do, without any acknowledgement of the fact that Enbridge has often been out of compliance, and without any reason for believing that Enbridge will comply in the future.

Furthermore, it is not sufficient or realistic to pretend that state and federal agencies have the resources to properly inspect and enforce compliance. **The EIS needs to conduct its own independent analysis to gather information, and it must be explicit that it offers no reliable means of ensuring that the proposed procedures and plans will be carried out in the manner proposed.**

- The Certificate of Need process is supposed to determine whether denial would adversely affect future adequacy, reliability, or efficiency of the energy supply. Yet each of the alternatives mentioned, from the existing Line 3 to the proposed replacement, and all the other options, are not needed for Minnesota or U.S. consumption. The U.S. already exports over 2 million barrels/day *more* than our total petroleum imports from Canada. The increased crude from the Line 3 Replacement would be used to displace more U.S. oil, which would then be exported.

The EIS fails to adequately address the purpose of transporting this dirty oil through Minnesota’s sensitive ecosystem—none of these alternatives are needed to meet the energy needs of Minnesota or our neighboring states. Instead, rapid advancements in electric vehicle and battery technology will continue to reduce our tragic dependence on crude oil-based fuels – and turn infrastructure such as Line 3 into stranded assets.

Enbridge and its shareholders would profit handsomely from the Line 3 replacement but their profits will be at the expense of the people of Minnesota and our treasured natural resources. The EIS is not acceptable unless it fully addresses each of the above concerns.

Thank you in advance for correcting these flaws in the draft.

Sincerely,



John Marty
Former chair, Senate Environment & Energy Committee