



-- Updated February 11, 2020\*\* --

Public Advisor  
Minnesota Public Utilities Commission  
121 7th Place East  
St. Paul, MN 55101

January 16, 2020

Regarding: PUC Docket Numbers: PL-9/CN-14-916 and PL-9/PPL-15-137

Thank you for taking comments on the Second Revised Final Environmental Impact Statement regarding the Line 3 Replacement Project. As member organizations of Minnesota Environmental Partnership, the undersigned groups write to share their concerns and comments on the document.

In December 2019 the Minnesota Commerce Department release its Second Revised Final Environmental Impact Statement (Revised FEIS) regarding the Proposed Line 3 Replacement Project. The document is meant to include an analysis of the potential impact of an oil spill into the Lake Superior watershed.

The questions before the Public Utilities Commission are:

- Is the Revised FEIS adequate?
- In light of the Revised FEIS, what action should the Commission take on the application for a certificate of need for the Line 3 Replacement Project?
- In light of the Revised FEIS, what action should the Commission take on the application for a pipeline routing permit for the Line 3 Replacement Project?

### **Is the Revised FEIS adequate?**

Based on our analysis, the answer to the first question is clearly “No.”

At the public comment opportunity in Duluth on December 19, 2019, citizens testified to many important concerns about the overall impact of the proposed new pipeline. They testified as to the impact of the pipeline on carbon emissions and climate change. They testified to the impact of the pipeline construction and labor forces on the pressing issues of public safety and Missing and Murdered Indigenous Women (MMIW). Our groups strongly share the concerns expressed about climate, public safety, MMIW and economic disparities.

Specifically regarding the adequacy of the Revised EIS as released, our groups have the following concerns:

**The spill models shows dramatic impact on the Lake Superior watershed but that result is buried in the Addendum.**

Despite the public relations spin presented by many of the people at the December 19 public comment opportunity, the spill models do clearly show impact on the St. Louis River, which is the largest US tributary to Lake Superior. That impact will be strongest on Jay Cooke State Park and also on the ecologically valuable St. Louis River estuary.

We believe the final Addendum should provide a short executive summary near the beginning of the document stating clearly that a spill scenario would definitely impact the Lake Superior watershed, especially Jay Cooke State Park and the St. Louis River estuary. Without that summary, it is nearly impossible to find that information as it is buried about two-thirds of the way through a highly technical document.

### **A spill in the Pokegama River should have been modeled**

The scope of the work was unnecessarily narrow, especially given the December 23, 2019 ruling of the Minnesota Court of Appeals regarding the Nemadji Trail Energy Center. As we learned, the Revised FEIS presumes an oil spill IN Minnesota was appropriate for responding to the Appeals Court. Enbridge and the Minnesota Department of Commerce chose a point well upstream from the main lake and concluded the threat to Lake Superior would be small. However, if the spill site had been at a point along the Line 3 route through Wisconsin the distance to the Lake would be significantly shorter and impacts therefore greater. Wisconsin spill sites that are far closer to Lake Superior include the Nemadji crossings and the Pokegama Creek crossings near the Village of Superior.

The Appeals Court, in the Nemadji Trail Energy Center case, decided that the Minnesota Environmental Policy Act applies if the point of impact is a resource of Minnesota interest even though the source of the impact was outside the borders of the state.

### **The Fond du Lac Dam is not permanent**

The model in the Revised FEIS relies heavily on the ongoing presence of the Fond du Lac Dam. However, there is no assurance that this dam will continue to be in place. Repeatedly in the Revised FEIS the Fond du Lac Dam is shown to be a stoppage or slow-down point for water and oil. For example, on page 4.60, the Revised FEIS states,

“Under average river flow conditions, the CLB [Cold Lake Blend] was predicted to not move beyond the waters above the Fond du Lac Dam after 24 hours.”

Also on page 4.60, the Revised FEIS states,

“For the high river flow scenario, CLB was predicted to go over the Fond du Lac Dam (0.65-1 day into the release), becoming re-entrained within the water column, and transported downstream to river mile 20.”

It is clear that the model relies on the Fond du Lac dam either to stop and retain an oil spill or to slow it down.

Across the United States, dams are being removed. As American Rivers, a national river advocacy group puts it, “Dam removal brings a variety of benefits to local communities, including restoring river health and clean water, revitalizing fish and wildlife, improving public safety and recreation, and enhancing local economies.” Nationwide, 1,605 dams have been removed from 1912 through 2018. This includes 99 dams removed in 2018 alone. 2018 removals included two Minnesota dams, the Pelican Lake and the Marsh Lake Dam.

Local restoration ecologists have estimated that the reservoir behind the Fond du Lac dam has buried

at least eight miles of potential prime spawning habitat. This would be rare spawning habitat with direct hydrologic connections to the St. Louis River estuary and to Lake Superior. Already, lake sturgeon are spawning in restored habitat right at the base of the dam. For the model in the Revised FEIS to be valid, the Fond du Lac Dam would have to be in place for the life of the Line 3 pipeline.

### **Climate change impacts are ignored**

The Revised FEIS relies on the geospatial hydrological framework NHDPlus. This is a current-time framework and does not account for predicted changes in precipitation. Current trends show an ongoing increase in precipitation and in frequency of flood events in this region. The Revised FEIS does not account for these changes.

### **Impacts on wild rice are ignored**

While the Revised FEIS does identify wild rice as one of four “watercourse features” in the St. Louis River and St. Louis Estuary that could be affected by the oil spill, no effort seems to have been made to correlate potential spill areas with actual and potential wild rice beds. A full review of environmental impact should clearly state the number of actual and potential acres of wild rice that would be impacted.

### **Report ignores unique factors of the SLR Estuary**

#### Restoration and remediation work in the St. Louis River Area of Concern.

While the FEIS and Revised FEIS use the term “Sensitive Ecosystem” broadly to identify and categorize areas that will be impacted by an oil spill, that term is not specific enough to cover substantial parts of the St. Louis River estuary. Remediation of contaminated sediment, restoration of habitat, and revitalization of human uses are occurring throughout the estuary in the last ten years under the Great Lakes Water Quality Agreement and the Area of Concern project. We believe that the Revised FEIS should specifically identify areas in the path of pollution that have been remediated or restored, so decision makers have a clear sense of the impact of an oil spill on these investments. Some specific project sites that are threatened under the current scenario include Chambers Grove, Fond du Lac Dam sturgeon habitat, tribal wild rice restoration in Rask Bay, and Radio Tower Bay.

#### Mixing in the estuary

The Revised FEIS, while it mentions the St. Louis River Estuary by name, does not adequately explain or account for the dramatic mixing that occurs in the estuary. Unlike any of the other seven sites, the St. Louis River Estuary has pulses of widely differing water types, ranging from fresh cold Lake Superior water to nutrient-laden run-off. Water levels can rise two feet in a matter of hours and flood nearshore forests.

### **In light of the Revised FEIS, what action should the Commission take on the application for a certificate of need for the Line 3 Replacement Project?**

Briefly, we believe the Revised FEIS is not adequate to sufficiently address the certificate of need at this time. So the certificate of need should be denied.

### **In light of the Revised FEIS, what action should the Commission take on the application for a pipeline routing permit for the Line 3 Replacement Project?**

The Revised FEIS does not address our groups’ long-held concerns that the proposed route of Line 3 is fundamentally risky and should not be approved. In fact, with the additional information on dramatic impacts possible in the Lake Superior watershed, our opposition to the pipeline routing permit is stronger than before.

Thank you for your consideration of our concerns about the Second Revised Final EIS.

Sincerely,



Steve Morse  
Executive Director

Center for Biological Diversity

Clean Up the River Environment (CURE)

Honor the Earth

Izaak Walton League Minnesota Division

League of Women Voters Minnesota

Mankato Area Environmentalists

Minnesota Interfaith Power & Light

MN350

Pesticide Action Network North America

Renewing the Countryside

Save Lake Superior Association

Save Our Sky Blue Waters

Sierra Club North Star Chapter

*\*\* This letter has been revised since being submitted to reflect updated signatories.*