



SENT ELECTRONICALLY

March 20, 2020

Commissioner Laura Bishop
Minnesota Pollution Control Agency
520 Lafayette Road North
St Paul, MN 55155

RE: Enbridge Line 3 Pipeline Replacement Project
Request for Rescheduled and Additional Public Hearings and Extension

Dear Commissioner Bishop:

This letter is submitted on behalf of the following environmental and civic organizations: Sierra Club – North Star Chapter, Honor the Earth, MN350 and the Minnesota Environmental Partnership.

We appreciate that the Minnesota Pollution Control Agency (MPCA) cancelled the scheduled public hearings on the draft 401 water quality certification, draft National Pollutant Discharge Elimination System/State Disposal System wastewater permit, and draft capped air emission permit application for Enbridge’s Line 3 project, because of the COVID-19 public health crisis. We also realize that “The MPCA is currently reviewing additional options to solicit public comments and share information.” However, given the nature of threat posed by COVID-19 and the need for the members of the public to focus on stopping the spread of the virus and safeguarding the health and wellbeing of their families, we would urge MPCA to also postpone the public comment period—including the deadline for written comments—for an initial minimum of thirty days and as needed until it is safe for the public hearings to be rescheduled.

Public hearings are at the core of adequate public review of complex projects with environmental quality impacts. There is no adequate replacement for public hearings in how they allow citizens to hear each other’s concerns and respond in real time with their own testimony. The hearings in Bemidji, Grand Rapids, and Mahanomen therefore must take place and must be open and in-person. Given the unknown duration of the Governor’s executive orders to avoid public gatherings, it may not be possible to reschedule those hearings in the near-term and the comment deadline may have to remain open pending lifting of those executive orders.

We appreciate that MPCA has a timeline for making its decision on the water quality certification under Section 401 of the Clean Water Act. However, MPCA has options if the delays caused by the need to take all reasonable precautions during the COVID-19 crisis to protect public health and respect the sanctity of the public comment process cause MPCA to bump up against those deadlines.

First, the Army Corps of Engineers has not given MPCA the full one-year time to make its decision provided by the Clean Water Act. If the COVID-19 pandemic causes delays in MPCA being able to collect the information it needs to make its decision—which includes here the required public comments and input—MPCA can and must ask the Corps for the full amount of time under the statute. It would be the height of irrationality for the Corps to deny such a reasonable request in the face of a global pandemic.

Second, if the Corps refuses to extend MPCA's time or the delays caused by the COVID-19 crisis make it impossible for MPCA to get adequate public input and complete its decision-making process within the one-year, MPCA can deny Enbridge's application for a water quality certification without prejudice based on MPCA's inability to gather the information it needs. Enbridge would be free to reapply once the COVID-19 virus abates and meaningful public comment is once again possible.

In addition, we greatly appreciate Governor Walz's clearly stated belief that in major governmental decisions affecting our state, that the people most impacted need to be at the table. However, when considering the impacts that construction of the proposed Line 3 project will have on all residents of our state, the three scheduled hearings do not provide adequate opportunity for participation by the large majority of Minnesota residents that will be affected by the operation of this pipeline. Line 3 risks causing widespread impacts to huge swaths of Minnesota's watersheds and special habitats—impacts that will affect the interests of all Minnesotans who recreate in the nature and beauty of these critical areas and value preserving the quality of Minnesota's resources. Line 3 presents an unacceptable risk to those natural resources by ensuring the transportation of high volumes of toxic, dangerous, carbon-intensive tar sands oil for decades to come. If Line 3 causes a spill like the one in Kalamazoo, Michigan, all Minnesotans will suffer.

Minnesotans located in the Twin Cities, therefore, should not be excluded from the process. And the three scheduled hearings are not in locations that are remotely convenient to that significant concentration of our state's citizens. We would ask MPCA to schedule a fourth hearing in the Twin Cities in order to create a real opportunity for the residents of the Twin Cities metro area to comment on the proposed permits for the pipeline and thus ensure a broad representation of the public's perspective on these important permitting issues.

To reiterate, our groups are seeking

- an initial 30-day extension of the comment period for the proposed Enbridge Line 3 permits, to be extended as needed,
- the rescheduling of the three planned public hearings, and
- the addition of a public hearing in the Twin Cities area.

Please inform us at your earliest convenience of the MPCA response to our requests. You can contact our groups regarding our request by email addressed to steve@mepartnership.org.

Thank you for your interest in ensuring effective public participation and public hearings in this matter.

Sincerely yours,

A handwritten signature in black ink that reads "Steve Morse". The signature is written in a cursive style with a large, stylized "S" and "M".

Steve Morse, Executive Director
Minnesota Environmental Partnership

Margaret Levin, Chapter Director
Sierra Club North Star Chapter

Winona LaDuke, Executive Director
Honor the Earth

Sam Grant, Executive Director
MN350

cc: Peter Tester, Deputy Commissioner, MPCA
Katrina Kessler, Assistant Commissioner, MPCA
Helen Waqui, Director of Public Engagement and Tribal Liaison
Melissa Kuskie, Manager, Environmental Review & Rules Section