



Enbridge Line 3 Public Comments
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

April 10, 2020

Regarding: 401 Certification of Enbridge Line 3

We thank you for the opportunity to comment on the 401 Certification of Enbridge Line 3. At the same time we must acknowledge the deeply troublesome box in which people who care to make comment on the Line 3 project have been placed. Materials posted by the PCA offer examples of what are helpful comments: specific actions that “improve the final permit” (such as the employment of silt curtains or total suspended solids effluent limits) rather than comments seeking to “stop the project.”¹

Comments of this specificity would require Minnesota residents to become intimately familiar with over 3,500 pages of documents that the PCA has posted for this permit², as well as having knowledge about a broad range of topics from engineering materials and pipeline drilling practices, to the health of wetland ecosystems and water quality standards to name a few.

The PCA asks for all of this when anyone looking at the factual contours of the project as a whole against the current state of the world can see that the Line 3 expansion project should not be permitted.³ It is imperative that the MPCA not lose sight of the forest for the trees in the permitting of such an impactful project. We will not restrict our comments to improving the proposed permit, nor accept the agency guidance to assume that a 401 permit will be issued.

The Line 3 Expansion contradicts in every way the progress Minnesota must make – on climate, on water quality, on health, on environmental justice – in deference to old, declining, toxic fossil fuel interests and a dying past.

We oppose the Line 3 expansion because it is unneeded.

In 2017, the Minnesota Department of Commerce [testified](#) that our state's economy had no need for the new pipeline, and that we'd be better off if the old one were shut down entirely without a replacement. Their case has only been strengthened over the ensuing three years.

¹ According to the infographic at <https://www.pca.state.mn.us/sites/default/files/MPCA-effective-public-comments.pdf>

² It is worth noting that the initial 30-day comment period, with now a seven day extension ending April 10, is continuing during a time of global pandemic when the interests of decision-makers, policy-makers, experts, the media and the average interested person have been elsewhere as every aspect of our daily lives has been upended over the past month.

³ Indeed, those most able to understand the consequences of this project should be the people at state agencies who have both the technical expertise and the charge to “protect and improve the environment and human health.”

We oppose the Line 3 expansion because it traverses over 200 miles of new corridor along its 355 mile route in Minnesota and makes 227 crossings of our cleanest waters. Tar sands oil is heavier than other forms of crude and sinks in water, making it virtually impossible to entirely remove once leaked.

We oppose Line 3 because it will despoil treaty lands guaranteed to the Ojibwe people in Minnesota, violating their rights and threatening their culture and health.

We oppose Line 3 because the oil it would carry would have a [greater annual climate impact](#) than *the entire economy of Minnesota from every sector combined*. Every year the pipeline runs as intended is the emissions equivalent of 50 new coal plants running year round. (Minnesota currently has 4 coal plants in its borders.)

Minnesota has the power to stop this project. The PCA has the responsibility to stop this project for the benefit of the residents of Minnesota. The temporary benefits from construction jobs are outweighed by the certain destructive consequences to our climate, public health, lands and waters. We can do better. We must.

We, the undersigned organizations, ask for the following:

- 1) **That the PCA deny the permits with prejudice because of the unacceptable environmental impacts this project will have when it operates as intended.**

The facts of this project show that it cannot meet state water quality standards and its contributions to greenhouse gas emissions more than offset all efforts Minnesota might undertake to meet its own emission reduction goals.

- 2) **In the alternative, we ask that the PCA both**

- i. **Deny the permit without prejudice due to missing information.** Several categories of missing critical information remain, as detailed below.
- ii. **Grant a contested case hearing to consider incomplete information.**

Please deny the 401 certification permits for Line 3 with prejudice because the project cannot meet Minnesota's statutory commitment to environmental standards.

Minnesota Rules 6135.1100 says pipeline routes should avoid lakes, streams, areas with high water tables and wetlands. Yet this project proposes to cross over 227 surface waters. Over 79 miles (20% of the total route) crosses wetlands, impacting over 11,000 acres of wetlands.

The *Preliminary Anti-Degradation Determination for 401 Certification* prepared by the PCA states that

- “degradation of high water quality is unavoidable”
- “the Project activity is proposed to result in some physical alteration to surface waters (i.e, streams and wetlands)”
- the project will create “functional loss to streams...resulting from open trench crossing methods and permanent impacts to riparian buffers”

The permit's proposed mitigation to this wetland destruction is to create new wetlands elsewhere, but studies⁴ have found the ecosystem services a wetland supplies cannot be adequately replaced. The result is a net loss to the environment and public good – at the very time we need these wetland services most due to climate change.

In order to dismiss the environmental standards that would be violated, this permit relies on the finding of important economic or social benefits, yet it includes no description or accounting of net social costs and benefits of the project.

The environmental impacts of this project mean that state standards cannot be maintained. Therefore this permit must be denied.

If the PCA opts *not* to deny the permit with prejudice outright, we ask that the PCA both

i. Deny the permit without prejudice due to missing information. Several categories of information are absent from this record.

- a. **Meaningful Public Engagement:** has been blocked or hampered throughout the Line 3 permitting process across multiple venues.

Though the current Covid-19 pandemic could not have been anticipated, it has meant that the three scheduled public hearings (all in Northern Minnesota) with opportunities for engagement with knowledgeable agency staff during the open house period were rightly canceled. We appreciate that the PCA accommodations for this crisis include a seven-day extension of the comment period and the opportunity to make public comments on a “telephone town hall” conference call. But in no way can these calls replace the chance to gain further understanding about the project through an in-person meeting and open house. These calls presented no opportunity to ask questions with hope of a response, even concerning the most basic of questions. The PCA did ask that questions be posed in writing to the agency by March 29 – a deadline that coincides with the days leading up to the Governor’s stay-at-home order – though this opportunity passed many by. These measures, as well-intentioned as they might be, have not been a suitable substitute for public engagement on such a critical and controversial project with such sweeping consequences.⁵

While this project had numerous hearings in front of the PUC, the only opportunities for public comment asked the public to limit its comments to specific technical thoughts about the accuracy of the original and revised Environmental Impact Statements. The PCA’s current comment period mimics this approach, asking for specific improvements to the permit rather than comments that ask for a denial of the permit altogether.

⁴ Eric Chivian and Aaron Bernstein, *How Our Health Depends on Biodiversity*, Center for Health and the Global Environment. Harvard Medical School. Also, Randall Hunt, *Do Created Wetlands Replace the Wetlands that are Destroyed?* at <https://pubs.usgs.gov/fs/1996/0246/report.pdf> Also, William J. Mitsch, Blanca Bernal & Maria E. Hernandez (2015) *Ecosystem services of wetlands*, International Journal of Biodiversity Science, Ecosystem Services & Management, 11:1, 1-4.

⁵ We note that other proceedings have received more significant holds for purposes of public engagement, such as the Clean Cars Rulemaking and even applications for solvent and coatings emission reduction grants.

- b. **Climate Impacts:** The world has changed since critical permits were first issued. New information and events have changed the landscape of many important factors either considered or omitted during prior decision-making. For instance, two critical reports on climate have been issued since the Public Utilities Commission first decided to approve the permits for this project in June of 2018.
- i. In September 2018 the International Panel on Climate Change (IPCC) released a report indicating that the world must decrease greenhouse gas emissions by 45% from 2010 levels by 2030, and then proceed to eliminate GHG emissions entirely by 2050 in order to have a reasonable chance to keep warming to 1.5 degrees Celsius and avoid the catastrophic consequences associated with greater temperature increases.
 - ii. In November 2018 the Fourth National Climate Assessment compiled by 13 federal agencies found that climate change is affecting the natural environment, land and water resources, and human health and welfare across the U.S. and its territories.

Neither of these reports nor their implications have been considered anywhere during the permitting of this project. A true accounting of the social costs and benefits of the Line 3 expansion would evaluate the critical nature of the climate crisis, its impacts on our state and world, and what is needed to avert further calamity.

Specifically, Minnesota needs to know how this project's contributions to climate change

- impact the water quality of Minnesota
- further burden the health of forests, wildlife, ecosystems and people in our state
- further burden the health of ecosystems and people around the world
- increase risks to the integrity of the pipeline and thus the possibility of oil spills.

- c. **Recent Development in Oil Markets:** The “need” or demand for tar sands oil in the face of shifting oil markets and public resolve to move away from fossil fuels has changed since the PUC decision of June 2018 and February of this year.
- d. **Meaningful Exploration of Ecosystem Impacts:** Despite the fact that multiple agencies have devised a calculus of ratios in order to allow projects to pay to pollute, the science of the matter is that Minnesota's environment will suffer serious consequences. The functionality of high value wetlands to an ecosystem cannot be replaced by trying to put a new wetland somewhere else. Destruction to a streambed in one place is not mitigated by giving the MPCA funds to restore a streambed in another place. Minnesota deserves a scientifically robust assessment of how the disruption and or destruction of ecosystems further degrades Minnesota's ability to counteract and be resilient to existing and growing environmental threats, including the climate crisis.
- e. **Meaningful comparison of spill risks between the existing Line 3 and the proposed expansion:** While Enbridge claims the potential for spills is pressing, the actual amount of leakage from the existing pipeline over the last ten years has been minimal, perhaps due to the monitoring currently being employed by Enbridge.

- f. **Final Orders from the PUC:** As of this writing, and for reasons unknown, the PUC has not yet issued the order pertaining to the approval of permits for a Certificate of Need and Route Permits (the split-decision vote was taken in the first days of February). Thus, without knowing the contents of the PUC's yet unwritten order, it is inappropriate to rely on that order to grant the 401 certification.
- g. **Identification of which agency along the permitting process has been charged with taking a "big picture" look** at the value of the project against its certain negative consequences pertaining to climate pollution. To date, no agency has taken responsibility for making these consequences part of its review. Recent court cases suggest this analysis should be in the purview of the MPCA. (In the *Daley Farms* case, the Court of Appeals found the PCA's permit approval insufficient because it lacked an analysis of climate impacts for the project.)

In addition to denying the permit without prejudice, we ask that the agency

- ii. **Grant a contested case hearing to consider incomplete and disputed information outlined in items a. through g. above.**

To conclude, we are alarmed that our state agencies charged with protecting our environment and human health have concluded that this project meets environmental standards and on balance serves a public need. Times have changed since the post-war era in the 50's and 60's when laws promoting the construction of pipelines in order to fuel the growth of our economy were enacted. Now we know the continued growth of those pipelines only fuels our own destruction.

Please exercise your authority to stop this pipeline.

Sincerely,



Steve Morse
Executive Director

** denotes not an MEP member*

Alliance for Sustainability
Anoka Area Climate Action*
Audubon Minnesota
Austin Coalition for Environmental Sustainability
Center for Biological Diversity
Clean Up the River Environment (CURE)
Clean Water Action Minnesota
Cooperative Energy Futures*
Environment Minnesota
Friends of Minnesota Scientific & Natural Areas
Health Professionals for a Healthy Climate*
Honor the Earth
Izaak Walton League of America - MN Division
Land Stewardship Project

League of Women Voters Minnesota
Mankato Area Environmentalists
Minnesota Interfaith Power & Light
Minnesota Ornithologists Union
Minnesota Well Owners Organization
MN350
Pesticide Action Network North America
Renewing the Countryside
Save Lake Superior Association
Save Our Sky Blue Waters
St. Croix River Association
Vote Climate
WaterLegacy
West Metro Climate Action*

