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State Representative

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Minnesota House of Representatives

July 10, 2017

To: Minnesota Department of Commerce

Re: PUC Docket Numbers CN-14-916 and PPL-15-137

These comments are focused on a single issue: While chapter 8 of the Draft Environmental Impact Statement (DEIS) attempts to compare the environmental risks and benefits of removing the existing Line 3 pipeline with abandoning it in place, it does not contain enough information to enable decision makers to make a fully informed decision between those options. The absence of such information results in the failure of the DEIS to achieve one of the objectives of the environmental review process: to “provide usable information to . . . governmental decision makers and the public concerning the primary environmental effects of a proposed project.”¹

This is particularly important since, while there are environmental risks attendant to the process of removal itself – chiefly, given the location of Line 3, the risks of an accident from conducting the work adjacent to operating high-pressure pipelines – the post-removal risks appear to be minimal. In contrast, as the DEIS makes clear, the risks associated with abandonment in place, while methods exist to reduce them, remain and will have to be addressed as long as the pipe stays in the ground.

Some elements of Enbridge’s proposed abandonment plan to mitigate environmental risks of abandonment in place are to be undertaken proactively; others would be implemented only when monitoring indicated that a problem needed to be addressed.

One of the proactive elements is the removal of oil and other substances from the pipe. The DEIS states: “Enbridge has developed and tested a cleaning protocol using a 12-mile abandoned section of Line 3 in Manitoba . . . [which] removes over 99.99 percent of the remaining oil and hydrocarbons from a pipeline.”² However, the DEIS goes on to say that “It is currently unknown whether Enbridge’s protocol works on a longer length of pipeline” such as the 282-mile long Line 3 pipeline within Minnesota. Although “[p]otential future impacts . . . could be minimized by ensuring that Enbridge’s protocol works on the longer length of pipeline in Minnesota as well as it did in testing of the protocol,”³ there is

¹ Minnesota Rules, chapter 4410.0300, subpart 4(A).

² Minnesota Department of Commerce, Energy Environmental Review and Analysis, *Draft Environmental Impact Statement, Line 3 Project*, Docket Nos. PPL-15-137/CN-14-916, May 15, 2017, p. 8-6. (Hereafter, “DEIS.”)

³ *Ibid.*

no mention of what, if any, actions Enbridge commits itself to make in order to provide that assurance and minimize those impacts, or what actions it might take if the test results on a longer line are negative. As a result, there is little guidance for decision makers weighing the risk posed to soils and groundwater by leaving an abandoned Line 3 in place that still contains some level of oil and hydrocarbons.⁴

The DEIS discusses other potential problems with abandonment in place. “[A]s the abandoned Line 3 corrodes and loses its structural integrity, soil could enter the pipeline, causing a subsidence of the ground. This would likely occur over time. . . Subsidence could affect public safety, particularly if it occurred at highways, railroads or other utility crossings. It could also affect agricultural production and could lead to water channeling and erosion”⁵

With respect to subsidence, the DEIS tells us that “the primary mitigation strategy would be effective monitoring and adaptive management,” which presumably means dealing with problems once they manifest themselves. Impacts are “anticipated to be minimal in the near term (i.e., the next 40 years) but could be significant longer term. . . [S]ubsidence can be corrected, to some extent, by fill with soil in some areas,” although not where the pipeline passes beneath a waterbody.⁶

“Anticipated . . . could. . . to some extent . . . in some areas. . . .” These imprecise qualifiers do not help decision-makers trying to assess the level of risk posed by abandonment in place. In what kinds of areas does fill material **not** correct subsidence? How prevalent are these areas along the abandoned Line 3 route? Precisely to **what** extent can subsidence be corrected, and what problems remain? The DEIS is silent on these matters, leaving decision makers without the information they need to make a careful well-supported decision between abandonment in place and removal.

The public safety risks of subsidence with respect to roads, railways and utilities would have to be evaluated on an individual basis, according to the DEIS, but one important factor it fails to address is the extent to which monitoring can accurately identify locations where risks are significant, allowing preventive action to be taken. This is both a technical issue and a question of resources as well. With Line 3 crossing over 297 roads and 17 railways, Enbridge’s projected monitoring budget of \$100,000 per year⁷ amounts to \$318 per crossing, or, alternatively, \$355 for each of the 282 miles of the pipeline located in the state. The DEIS contains no discussion of the adequacy of this monitoring budget to reduce the risks of environmental harm to an acceptable level that could be compared to the risks posed by pipeline removal.

The same objections apply to the loss of buoyancy control at watercourse crossings, as a result of which the pipeline, freed from the weight of transported oil, may become exposed at the land surface and “could adversely affect natural resources, including soil erosion and impacts on streambeds.”⁸ Once again, the DEIS points to monitoring and adaptive management as the primary mitigation measures, but Enbridge makes no commitment to taking proactive measures to prevent the problem. Interestingly, the document states that, in a report to the Canadian National Energy Board, “Enbridge indicated that it would conduct

4 The heading of one section of this discussion in the DEIS reads: “**If** Effective on Long Pipelines, Enbridge’s Protocol **Could** Minimize Effects on Soils and Waters.” [Emphasis added] *Ibid.*

5 DEIS, p. 8-8.

6 *Ibid.*

7 *Ibid.*, pp. 8-9 and 8-10.

8 *Ibid.*, p. 8-9.

a preliminary buoyancy analysis of Line 3 in Canada to determine areas where there might be pipeline buoyancy issues.” No such commitment is made to Minnesota, although the document says that such an analysis “may” be required by the federal Pipeline and Hazardous Materials Safety Administration. Again, without information on the likelihood that these problems will occur if the pipeline is left in place in Minnesota, it is hard to compare abandonment in place with the removal option.

Appendix B of the DEIS, *Line 3: Permanent Deactivation Plan*, concludes: “Enbridge assessed the relative risks of removing the pipeline and Permanently Deactivating it in place.”⁹ This statement is belied by the fact that this 86 page document devotes less than two pages to the impacts of removal. The only impact mentioned in addition to those of working adjacent to existing pipelines and the disruption to landowners and the public due to removal activities, is that “soil stability issues caused by pipe removal could damage the roads, bridges, and crossings.”¹⁰ There is no discussion of the extent to which such impacts have actually occurred as a result of previous pipeline removal projects.

The statement that something “could” happen does not provide any guidance to help decision makers choose between options. Yet that is largely all that the DEIS offers to those seeking to compare the potential impacts of removing the pipeline with leaving it in place. This vagueness does not meet the statutory requirements of Minnesota’s environmental review process.

One thing is abundantly clear from the DEIS. The cost of pipeline removal is estimated by Enbridge to be approximately \$1.28 billion, compared with \$85 million for abandonment in place, with annual monitoring costs of \$100,000.¹¹ From Enbridge’s point of view, the vast difference between those amounts – even anticipating the sizeable costs of mitigation activities the company is likely to incur to respond to problems that arise from leaving the pipeline in place – makes abandonment the most cost-effective option.

Yet the Minnesota Environmental Policy Act, under which this DEIS was written, specifically prohibits Minnesota public officials from adopting such a viewpoint. It states:

No state action significantly affecting the quality of the environment shall be allowed, nor shall any permit for natural resources management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources located within the state, 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.¹²

What is missing from the DEIS is an accurate estimate of the environmental risks posed by leaving the pipeline in place. To better understand the scope of these risks, Minnesota officials need to know the level and kinds of monitoring that can and cannot be done under the proposed \$100,000 annual budget, and what commitments Enbridge is willing to make to take proactive measures to prevent problems

⁹ DEIS, *Appendix B, Line 3: Permanent Deactivation Plan*, p. 59.

¹⁰ *Ibid.*, p. 7.

¹¹ DEIS, pp. 8-13, 8-10.

¹² Minnesota Statutes 2017, section 116D.04, subdivision 6

occurring where monitoring indicates the highest risks exist. There is a crucial difference between mitigating risk and mitigating damage. The DEIS often conflates the two.

With the DEIS in its present form, Minnesota officials cannot make the informed decisions required of them under the Minnesota Environmental Policy Act. The omissions discussed in these comments need to be addressed in the final EIS if the state's "paramount concern" with environmental protection is to be maintained and reflected in the decisions made regarding Line 3.

A handwritten signature in black ink, appearing to read "Rick Hansen", written over a horizontal line.

State Representative Rick Hansen (District 52A)