



NEWS RELEASE



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Decision by Minnesota Judge Vindicates Dane County's Prescient Actions

ST PAUL: Late yesterday, the judge overseeing Enbridge's Line 3 replacement pipeline project released her recommendation. This new Line 3 replacement pipeline would be the first leg of a pipeline network that would force the creation of the Line 66 pipeline through the heart of Wisconsin, along the same route as Enbridge's existing Line 61. The judge recommended that Enbridge be allowed to move ahead with its plans for Line 3, though on a different route than the company had originally wanted, and with a number of conditions. The judge's decision stated that if the new Line 3 is built, it must be located in the same corridor as the existing Line 3, which must be removed to make way for the replacement line. This requirement was included in the recommendation in order to avoid expanding the significant risks of oil pipelines to entirely new parts of Minnesota. The recommendation also reaffirmed the sovereign rights of tribes to refuse to accept a new pipeline across their lands.

"Community members, landowners, environmentalists, and other concerned people across Wisconsin are watching what happens in Minnesota," stated Elizabeth Ward, Conservation Programs Coordinator of the Sierra Club—John Muir Chapter. "If this pipeline is allowed to move forward, it is almost certain that Enbridge will begin trying to take Wisconsin's land for another pipeline, ignore the rights of the sovereign tribes that could be impacted, and jeopardize our economy and environment by wanting to build the pipeline under more than 200 streams and lakes, including the Namekagon, Wisconsin, and Rock Rivers."

If built, the new pipeline system would result in the export of an additional 400,000 barrels of tar sands oil per day from Alberta. The extraction of tar sands oil releases three times as much greenhouse gas emissions as the extraction of conventional oil. Also, tar sands oil's hazardous and abrasive constituents significantly increase the risks and consequences of catastrophic accidents. For these reasons, the judge also recommended that Enbridge be required to purchase clean-up insurance, and that Enbridge be fully liable for clean-up, echoing the requirements placed on Enbridge by Dane County in 2015. (See a summary of other key requirements [below](#).)

Mary Beth Elliott, Tar Sands Lead for 350 Madison, said, "This decision from Wisconsin's sister state reaffirms the wisdom of Dane County's best efforts in 2015 to protect county taxpayers. The county required Enbridge to carry dedicated clean-up insurance to ensure that taxpayers do not wind up forced to bail out a foreign company whose gross negligence caused the worst inland oil spill in US history, near Kalamazoo, Michigan, in 2010."

Shortly after Dane County imposed its insurance requirement on Enbridge in 2015, Governor Walker and the Republican majority on the Joint Finance Committee slipped an 11th-hour amendment into the state budget that sought to override Dane County's authority to compel oil companies to carry dedicated clean-up insurance. The applicability of this amendment to Dane County is currently being litigated in the Wisconsin Court of Appeals.

"It's great to see that Minnesota residents will be protected from the liability of a potential pipeline spill," stated Ward. "Hopefully, Governor Walker will follow suit and begin putting the interests of Wisconsin's above those of a foreign corporation that is giving us all the risk with no reward."

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The 350 Madison Climate Action Team is dedicated to achieving a just transition to a reduction in atmospheric CO₂ below 350 parts per million (ppm) by working locally in concert with a powerful global movement. Learn more: 350madison.org

Founded in 1892 by John Muir, the Sierra Club is America's oldest, largest and most influential grassroots environmental organization. The Sierra Club's mission is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out those objectives. The Sierra Club – John Muir Chapter is made up of 15,000 members and supporters working to promote clean energy and protect water resources in Wisconsin.

The conditions of greatest relevance to Wisconsin are:

1. No reliance can be placed on Enbridge's promises to clean up major accidents because it has erected a complex organizational structure separate from the nominal applicant, Enbridge Energy Limited Partnership (EELP), the very purpose of which is to legally insulate the bulk of the combined entity's assets so that it would not be legally liable. Also, Enbridge's current financial capacity to clean up major accidents will erode over time as limits are imposed on fossil fuels in order to avert global warming. Therefore, the separate entity where most assets are controlled—Enbridge, Inc.—must agree to be legally liable for any accidents caused by the nominal applicant, EELP.
2. As oil pipelines are abandoned, Enbridge must remove and clean up any contaminated soil, instead of simply shutting down the pipelines and walking away. Also, to ensure that there are funds with which to carry out this proper clean-up, Enbridge must establish a decommissioning fund while the pipelines are still operating profitably.
3. The standard business insurance policy that EELP carries—commercial general liability coverage—contains too many exclusions and complex exceptions to be relied upon to protect taxpayers when a major accident occurs. Therefore, EELP must also carry an Environmental Impairment Liability (EIL) policy, which is dedicated clean-up coverage. This is the same type of policy that, in 2015, Dane County ordered Enbridge to carry as a condition of the company's permit to triple the capacity of its existing tar sands pipeline, Line 61, by constructing new pumping stations, including the Waterloo Pump Station in the town of Medina. (See pp. 267–289 of the decision.)