



# WHITE EARTH RESERVATION

**CHAIRMAN** Michael Fairbanks **SECRETARY-TREASURER** Leonard Alan Roy

**DISTRICT I** Raymond Auginaush, Sr. **DISTRICT II** Kathy Goodwin **DISTRICT III** Eugene "Umsy" Tibbetts

March 26, 2020

Governor Tim Walz  
130 State Capitol  
75 Rev Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

## RE: ENBRIDGE LINE 3 APPLICATION

Dear Governor Walz,

I write to request that you direct the Minnesota Pollution Control Agency to deny the present Enbridge Line 3 Clean Water Act Section 401 application, without prejudice, to provide for refiling after the COVID-19 pandemic is resolved. State and Federal laws do not provide for suspending the Clean Water Act 401 timelines for pandemic emergencies. Meanwhile our important off-reservation treaty protected natural resources that are critical to support our rights to hunt, fish, trap and gather are facing unnecessary regulatory risk when the Coronavirus is speeding the fall of oil prices. As Minnesota Governor you have issued what may be the first, two-week stay-at-home order to slow spread of COVID-19 and protect health care system.

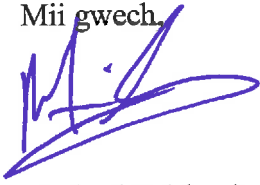
A year ago, former White Earth Chairman Terry Tibbetts gave notice that "we challenge the State of Minnesota's unilateral authority to grant Section 401 Clean Water Act permits for Enbridge's Line 3R pipeline activities, without our consent, and request full hearing, with contested case proceedings, if Minnesota plans to exercise primary jurisdiction." (See copy attached). We are facing the greatest environmental threats to our traditional food resources, thus requiring consent for an easement across our treaty protected *Chippewas of the Mississippi* water quality property rights for wild rice, fish, syruping, etc.

On May 17, 2019, Monica Hedstrom, Director of Natural Resources for White Earth e-filed "Comments on Enbridge Line 3 Replacement environmental impacts to Chippewa Treaty Protected Resources and Cultural Properties" with DNR Commissioner Strommen. (See copy attached) I am unaware of any written response by DNR Commissioner Strommen addressing the May 17, 2019 concerns and/or requests of the Jan. 25, 2019 letter from Chairman Tibbetts.

The Pollution Control Agency scheduling telephone town hall meetings and a one-week extension on the comment period is not really providing for Consultation, Coordination, and Cooperation under Executive Order 19-24. Too often tribal members do not have the time, resources and ability to electronically participate in a meaningful way and prefer public hearings to speak to share their concerns. Hindsight shows that both PolyMet, Sandpiper Pipeline and Line 3 regulatory permitting has resulted in adversarial litigation where State agencies decisions are Appellate Court reversed as not adequately supported by proper environmental review. Permitting Line 3 should not be a distraction for us.

We have many important issues to solve together to protect the health, safety and welfare of our peoples. There is nothing urgent, immediate or necessary about rushing the Line 3 MPCA 401 permitting. Let us avoid and prevent continued waste of legal and financial resources for the Line 3 permitting presently, at least and instead work together on much more important, productive issues.

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Michael Fairbanks, Chairman  
WHITE EARTH BAND OF OJIBWE

Attachments:

Chairman Tibbetts Jan. 25, 2019 letter to Gov. Walz  
Chairman Fairbanks March 13, 2020 letter to MPCA Comm. Bishop  
White Earth May 17, 2019 Line 3 Comments to DNR Comm. Strommen

cc: White Earth Band of Ojibwe  
Cathy Chavers, President, Minnesota Chippewa Tribe  
Robert L. Larsen, Board Chair, Minnesota Indian Affairs Council  
Honorable Keith Ellison, Minnesota Attorney General  
Honorable Peggy Flanagan, Minnesota Lt. Governor  
Laura Bishop, Commissioner, Minnesota Pollution Control Agency  
Sarah Strommen, Commissioner, Department of Natural Resources  
Thomas Hingsberger, St. Paul District, U.S. Army Corps of Engineers  
Patricia Olby, Bureau of Indian Affairs  
Walt Ford, Tribal Liaison U.S. Fish and Wild Life Service  
Cathy Stepp, Administrator, Environmental Protection Agency Region 5  
Frank Bibeau, 1855 Treaty Authority