Rice, Robin (PUC)

From: Sandy Sterle <ssterle777@gmail.com>
Sent: Friday, January 23, 2015 12:17 PM
To: staff, cao (PUC)
Subject: our written comments
Attachments: Crude Oil Transportation.docx; 1.21.15.letter.docx

Tracy, my husband and I are going to drive down to your office with our written comments for CN-13-473 due today at 4:30 pm. I tried to upload this information in the PUC's online system, but it took out pictures and messed up charts. If something happens, could you please make sure these two attachments are placed on the docket? Thank you so much for your continued help! Sandy Sterle
Analyzing Need for the Sandpiper Pipeline -
A Comparative Examination of the Modes of Crude Oil
Transportation: Efficiency, Safety, and Cost
Docket# CN-13-473

As I review the discussion draft of the Great Lakes Commission report “Summary of
Issues and Trends Surrounding the Movement of Crude Oil in the Great Lakes-St.
Lawrence River Region”, they highlight the ties that the Great Lakes basin has to the
oil industry, as a region that refines large quantities of crude arriving from other parts
of the US and Canada, as a product to be consumed by various industries located
there, but also as an essential product used in a wide variety of products in everyday
life for the people of the US and Canada. This is complicated by the fact that this
region also has and is dependent upon the vast water resource found there, with
20% of the world's fresh water supply and 95% of the US fresh water supply. This
water is important in supporting a variety of industries, and is the principle source of
domestic water for the millions of people living there.

So, the shipment of crude over the Great Lakes looks extremely problematic when
considering the environmental consequences. By comparison, the shipping of light
sweet Bakken crude looks more favorable than heavy Canadian tar-sands crude,
because Bakken crude would float on the surface of the lakes when there is a spill.
But this is an insufficient evaluation of the problem. While Bakken crude would float,
history has shown that most spilled oil is never recovered. Just how difficult it is to
recover spilled oil, is found in a commentary by Greg Seitz (and linked to a story in
Canoe and Kayak Magazine written by Alan Kesselheim) as reported in the New
York Times on Jan 20, 2015. On July 1, 2011 on the Yellowstone River in Montana,
Exxon Mobil released an estimated 42,000 gallons. Following a massive clean-up
effort only about one (1)% of the oil was ever recovered. Since Canadian tar sands
is heavier than water, meaning it would sink to the bottom of the very deep
environments of the Great Lakes, it’s unlikely, to virtually impossible that any spilled
tar sands would ever be recovered. This oil would continue to contaminate the
lake(s) for many decades or centuries afterwards. In a similar cold-water
environment, the Prince William Sound in Alaska, the Exxon-Valdez spilled massive
quantities of crude. National Geographic reported on the 25-anniversary that the
Sound is still contaminated with crude following that spill, and that biotic life there
has yet to recover. And example closer to home, of the difficulty of recovering oil
and cleaning up the environment, is the spill Enbridge experienced in Marshall
Michigan in 2010 when it spilled tar sands oil into the Kalamazoo River. At last
report the spill cleanup has cost Enbridge $2.1 billion. This cleanup required that the
river bottom be dredged for almost 35 miles. Such an effort would be physically impossible in the open waters of the Great Lakes. So, clearly The Great Lakes waterway is a very poor choice for the shipment of crude, when these lakes are so critically important as a source for drinking water and already supports a vibrant and diverse economy. The potential risk simply is not worth taking.

On top of that, the shipment of crude on the Great Lakes would only be viable during the ice-free season, and while the locks are operational. This window is difficult to predict in this time of changing climate. 2014 would have been very challenging, with extremely thick and long lasting ice covering all of the Great Lakes, with ice persisting on Lake Superior into early June. Shippers and refiners would quickly become frustrated by this unpredictable nature. So from an economic as well as environmental standpoint, this should be dispense with as simply not a dependable and viable mode of transportation for crude. So let’s look elsewhere for possible solutions.

With the sudden and unexpected surge in domestic oil production, primarily from the Bakken shale formation in western North Dakota, Montana and north into the adjoining provinces in Canada, there was insufficient crude oil pipeline transportation infrastructure to ship the crude to refiners. With a widespread infrastructure already in place across most of the continent, rail was the first and best available method for meeting this surging need. From 2008 to 2014 rail transportation of crude surged 68 fold, going from 9,500 to 650,000 carloads. But this came at a cost, as other traditional users such as coal, grain, forest products, taconite, and other bulk commodities, were suddenly displaced by crude oil, as rail shippers clearly favored the higher income produced when shipping crude oil. Therefore they prioritized oil over most other products. The formation of oil unit trains, or mixed load trains sometimes with a high percentage of oil tank cars carrying crude to market, became an impediment to the timely delivery of many other products. This was a major issue for farmers, whose product was perishable farm commodities, and to electric power companies that failed to receive timely shipments of coal.

Inherent from the beginning was a growing safety concern, as older (now considered obsolete) DOT 111 tank cars full of highly combustible sweet Bakken crude began to roll through towns large and small. Two major disasters suddenly caught the attention of the public, politicians and regulators. The first was the derailment and subsequent explosion and fire in Lac Megantic Quebec that incinerated the heart of the city, killing 47 people, causing billions of dollars in damage, and dumping crude into the Chaudiere River, contaminating drinking water for thousands of people downstream. The second occurred five months later in Castleton, North Dakota.
when an oil unit train hit an adjacent derailed grain train. The images of the explosions resulted in new legislation in 2014 in Minnesota to provide additional safety precautions, including $8 million in new funding for additional training for first responders, hiring new track inspectors for more frequent track inspection, and for railroad crossing safety measures where these trains traverse the state. In the past year BNSF railroad said "it offered 1,200 Minnesota first responders community hazmat training this year, sent 130 Minnesota firefighters to the national railroad training center in Colorado and has trained 70,000 first responders across its system since 1996." (Minneapolis Star Tribune "Study finds state's preparedness lacking for oil disasters" author David Shaffer)

The NTSB and other federal regulators are also responding to these two disasters, trying to learn from these accidents and correcting obvious problems. The most apparent issue is the use of outdated railcars (DOT 111) that lack important safety construction standard that would prevent or at least reduce the release of this highly combustible Bakken crude when there is a derailment. This review of safety protocols is ongoing and should continue to help to alleviate safety issues surrounding rail transportation of oil.

On top of that, the 2014 Minnesota legislature ordered a study of rail and pipeline safety, and spill and disaster preparedness. In the Business Section of the January 16, 2015 issue of the Minneapolis Star Tribune, an article entitled "Study finds state's preparedness lacking for oil disasters" author David Shaffer reports that a report by the state Department of Public Safety found many first responders lacked training and equipment to deal with a significant crude oil related accident, whether by rail or pipeline. The report asked legislators "to adopt deadlines for responding to pipeline accidents, a requirement that now only applies to railroads. Enbridge Energy, the Calgary-based company with the most crude oil pipelines in Minnesota, has opposed the requirement..."

The state of Minnesota is also exploring possible ways of reducing the volatility of Bakken crude, which has a flash point similar to gasoline, so that it can be transported more safely by rail, subsequently making it safer for rail employees, first responders and the states citizens. One factor to be considered is that statistics show that rail transportation consistently spills less crude oil per ton mile than any other type of land transportation, making it as safe or safer than other transportation modes.

As state and federal officials work to improve railroad safety, the railroad industry involved in crude oil transportation continues to work to quickly expand railroad
infrastructure to relieve rail congestion. It is in the rail industry's best interest to maintain or expand their market share of crude oil transportation. This is also a response to the needs of other traditional bulk cargo shippers, particularly coal and farm commodities that have been quite vocal in stating their need for more timely transportation. These industries suffered significant economic losses in 2013 and early 2014 as a result of the delayed rail shipment of their goods. Again, railroads do not want to lose these economic opportunities that have been the backbone of their industry of decades, and they have and will continue to respond to the growing need for better rail transportation by investing in expanded rail infrastructure, including additional double track rail, and additional cars, to meet this sudden and rapidly growing demand. Warren Buffet, the majority owner of BNSF and one of the wealthiest men in the world, didn't get that wealthy by letting others outmaneuver him and take away his business and profits. He will make the necessary investments to protect, maintain, and possibly expand his market share for both oil, and rail's traditional commodities.

As reported by the Minneapolis Star Tribune on Jan 7th, 2015 Federal regulators in the U. S. Surface Transportation Board are also taking steps to insure the timely transport of goods by rail. They have ordered BNSF to come up with a plan to continuously supply power plants in Minnesota with enough coal to get them through this winter. The utilities say deliveries have improved lately, and BNSF spokesman Mike Trevino said that they would comply by producing a contingency plan as requested.

A Research Briefs produced by Jenny Nash for the Minnesota House Transportation Finance and Policy Committee on Jan. 21, 2015 reinforce the State's commitment to increasing rail safety (see attached). Many of the grade crossing recommendations mentioned in this Brief are excellent public safety measures that would benefit the citizens of the state, regardless of the product being shipped on these rail lines. The oil unit-train issue has simply brought intensified light on this issue, generating greater focus and response by regulators and politicians alike. If adopted, these measures will serve the public for decades to come, even after oil fields dry up and unit-trains become a thing of the past.

The briefing also focuses on increased coordination, training, and planning between all units of state and local government, so that when a major spill happens again in our state, everyone is ready to fulfill their obligations and roles in the response. This includes funding for local first responders, better coordinated planning efforts, and an additional state track inspector. The Briefing also points to new Federal Government
(US DOT) requirements for higher, stricter safety construction standards starting Oct. 1, 2015 for all rail cars transporting oil.

The changing landscape for rail transportation has resulted in far fewer complaints about delayed shipments, and while this is still an issue to be addressed, this situation has been gradually disappearing over the past year. In a story reported in the Minneapolis Star Tribune on Jan. 21st, 2015, "Low oil prices give Minnesota railroads regulators breather to address train safety", it reports "Train traffic is leveling off, giving regulators space to refocus on safety issues..." That statement came from Dave Christianson a rail planner for MNDOT, before a Minnesota House committee. The bottom line may be that while congestion was a significant issue in the past, particularly during the harsh winter of 2013-2014, for a number of reasons it likely won’t be as much of an issue over the coming years. Those reasons are reduced production in the Bakken formation because of a severe dip in crude oil prices, resulting in lower transportation needs by crude oil shippers; and increased focus on infrastructure development by the railroads, that can now better accommodate the needs of all their customers.

As previously mentioned, rail already has a widespread infrastructure capable of reaching nearly everywhere in the US and Canada. When comparing the rail and pipeline infrastructure capable of meeting and matching crude oil delivery capacity of the light sweet crude being pumped from the Bakken, to the major refiners using this product, we find there is no pipeline capacity capable of reaching the refiners with the facilities designed to refine light sweet crude. There is currently little refining capacity in the upper Midwest for this kind of oil. Nearly all the refining capacity for light sweet crude is along the eastern seaboard or Gulf, because this is the type of oil these refiners traditional handled from the tankers inbound from their suppliers in overseas countries.

Because none of the east coast refiners are accessible by existing pipeline infrastructure, the only way to get direct shipment of domestic oil from the Bakken to these east coast refiners is to ship it by rail. Shipment of Bakken oil by pipeline to the east coast would therefore necessitate a two-step process. First, use a pipeline to ship the oil to a Midwest terminal; then loaded the crude onto rail tank cars, or ocean going barges along the St. Lawrence for shipment east to the coast. A more streamline, direct and logical approach is to load the Bakken crude on rail tank cars in the Bakken and ship it east to these refiners. Therefore, building the Sandpiper fails to ever satisfy this obvious "need".
Over and above existing facilities, there are currently nine planned, newly built or expanded crude oil loading facilities serving the Bakken region, and five newly built oil unloading facilities under construction in 2015 in the east, that are or soon will be ready to receive Bakken crude and deliver the oil where it’s needed. Enbridge is exploring rail-unloading facilities at their Flanagan Terminal near Pontiac, Illinois, and are partnering with Tundra to load crude in Cromer, Manitoba. Clearly Enbridge is aware of this economic opportunity and the necessity that oil-to-train provides, and despite being primarily a pipeline company they recognize it as a viable shipping reality.

In addition to already having the necessary infrastructure to handle oil-to-rail shipment, rail offers two other advantages. First, it is far quicker to ship oil by train than by pipeline, with shipping from the Bakken to the Gulf taking 5-7 days, while a pipeline would take up to 40 days. Second, the speed of shipment and widespread rail infrastructure allows shippers and refiners greater flexibility. This means refiners have the opportunity to play the market and buy oil from a variety of suppliers at discounted prices. While the average price of crude shipped by pipelines is cheaper than rail ($5-10/ barrel cheaper), this flexibility allows refiners to buy the cheapest oil available and at the time they want it delivered. This eliminates risky long-term contracts (10-15 years) that lock shippers/refiners into a price that may work to their disadvantage.

Currently the American market is glutted with crude, and prices have dropped precipitously with no bottom yet visible. The Minneapolis Star Tribune reported on Jan. 14th, 2015 in a story by David Shaffer entitled “Drilling declines in North Dakota on low oil prices”, that since December (2014) the number of drilling rigs in operation are down 13%, to 158 rigs, with most active operations concentrated in the central productive core of the Williston basin. If prices continue to hold at this level, Lynn Helms the director of the North Dakota Dept. of Mineral Resources predicts that drilling will fall to about 120 rigs. This will undoubtedly lead to further retractions in Bakken production.

The glut of oil in America has existed for several years. According to the “Information Brief from the MN House of Representatives”, dated June 2013, “Minnesota’s refineries cannot absorb additional crude supplies at this time.” And in a newspaper article, written by Russell Gold and Nicole Freidman for the Wall Street Journal and reported in the business section of the Minneapolis Star Tribune (Dec. 8th, 2013), titled “An Oil Glut Forms in the U.S. Gulf”, it states, “The glut reflects surging output from West Texas and North Dakota...” The glut is actually depressing
the price of crude, and they went on to say, "experts believe a nationwide oil glut is coming".

Well, the glut is no long coming, it is here. The elephant entered the room in 2014 when the Saudi Arabian government decided that they were going to push back on the American and Canadian oil producers, by increasing their production to the point that it literal flooded the American market. While the Saudi’s can produce oil at $10-25/barrel (see Figure 1), because the fracking technique needed to extract oil in the Bakken is much more expensive, Bakken producers pay between $54 to 79/barrel just to get the oil out of the ground. With current market prices for crude selling for under $50/barrel ($47.19 at closing on Jan 22nd, 2015), Bakken producers are losing money on every barrel they produce. This massive price difference per barrel is having the intended affect the Saudi’s wanted, pushing the American and Canadian producers to shut down or go out of business. Those Bakken producers that were already producing oil from new wells in the most productive parts of the formation, and that have adequate capital backing them, will probably hold out for a while. For those producers that have wells that are less productive, because they are older wells, or because they are in a poorer location that simply doesn’t produce at a high volume, and for those producers that lack substantial cash reserves, most will be forced out of the market quickly or are already gone.

The glut has driven oil prices down almost 60% in the last six months, giving a significant advantage to refiners not locked into long term contracts, allowing them to save money by shopping and purchasing crude on the open market, and receiving quick and timely arrival of oil shipped by rail. That’s a distinct economic advantage over the slow delivery and fixed high price of oil by pipeline. The price of crude has gotten bad enough, that the Bank of Canada (Canada’s central bank) unexpectedly cut key interest rates by a quarter of a percent, as a direct reflection of the price of oil. “The bank says the price collapse poses considerable uncertainty for economic growth in the oil producing nation.” as reported in an Associate Press report, on Jan. 21st, 2015.

And things are no better in the American oil industry. In the Minneapolis Star Tribune, another Associate Press story reported that oil service company Baker Hughes Inc. will lay off 7,000 employees in preparation for the downturn in the oil market. This is on top of the 9,000 employees being cut by the largest oil service company Schlumberger Ltd., and another 1,000 at competitor Halliburton. With no end in sight, oil production will suffer and deliveries will eventually drop, until only the cheapest, most productive Bakken wells are still operating.
It's also no secret that many refiners prefer rail over pipeline because of the relative purity of the oil being delivered. What this means is that there is only one kind of oil in each tank car; whereas oil in pipelines sometimes come as a blend of crude products from various producers, or the pipeline sends various grades of oil in batches within a single delivery, which requires additional refining and hence additional costs to the refiners. The additional refining costs likely offset any lower shipping price paid to pipeline companies, so of course some refiners are going to prefer these uncontaminated deliveries of light sweet crude.

Additionally, with the cost of railroad track and other rail infrastructure improvements shared by multiple users over time, and the cost of oil-to-rail loading/unloading facilities comparatively cheap to build when compared to the cost of the entire pipeline infrastructure which would have to be created from scratch, it makes rail look very cost competitive.

Rail looks even more attractive if recent oil production projections are realized. These projections show that each fracked well rapidly declines in productivity during the first two to three years, falling approximately 85% from the initial production rates, before slowly tapering off to a very low flow over the remaining life of the well. This means producers must continually drill new wells to maintain high production rates, a very capital-intensive proposition that continually must be fed with new investment cash. However, projections now say that the easy and most productive wells are already in place, and that ongoing efforts will be less productive and more costly. With lower crude prices in place, the overcapitalized production operations are being forced from the market, with overall production likely to quickly wane. It's possible that if production had continued at the pace seen in early 2014 rate, by 2025, just nine years from now, the peak of production would have passed, and there would be a steady downward trend in oil production in the N. D. Bakken. With such a short time remaining in this play, is there truly a "need" to develop a new, multi-billion dollar pipeline infrastructure, when the existing rail infrastructure appears capable of handling the production for the foreseeable future? I don't believe the need can be demonstrated, and the CON should be denied.

With the DOC ER finding that the use of oil is expected to stay flat or decline over the coming years, it should be apparent that current rail infrastructure is capable of meeting shipping and refining needs. Why should we consider the "need" for a new pipeline when there is so clearly no domestic need for the oil and no need to produce a new transportation facility when the existing rail facility is already in place to handle shipper needs? Minnesota doesn't need this oil, and Midwest refiners can't use and don't need this oil. Bakken oil has to go to the Gulf or eastern
seaboard to find a refiner. And with an oil glut in the American market, it's clear the refiners will want to ship this oil overseas to the highest bidder. We can all see this is not a "need", but instead is a profit driven demand by the applicant and shippers. Minnesotans rejects this as need, and insists that the Minnesota Public Utilities Commission Certificate of Need be denied.

Finally, the fact that crude oil producers have been attempting to very rapidly ramp up production in spite of this downward trend in our oil use in Minnesota, a question needs to be asked. Is the "need" for additional production and transportation capacity a need we should currently be considering? Or, is this need really being generated by crude producers for the purpose of sending our nations oil overseas, so producers, transporters and refiners can quick generate their profits, while at the same time rapidly depleting America's energy reserves? I can see no other apparent rationale for this pipeline, and I believe that is the motivation of the proposal. Because this project does not serve the immediate or future needs of the people of the state of Minnesota, does not serve our national need of domestic oil, and leads to the depletion of our future energy reserves, the PUC should deny this Certificate of Need.

So, in comparing pipeline vs. railroads we see that:
- Rail has significant advantages with widespread existing infrastructure that can easily transport Bakken crude to the east-coast refiners that are capable of refining light sweet crude. All of these refiners are inaccessible through the existing pipeline system. The building of the Sandpiper will not address this need because it will not deliver Bakken crude to these facilities.
- According to Oil Change International railroads are currently adding infrastructure, including nine rail loading facilities in the Bakken and five unloading facilities to serve east-coast refiners. The capacity of these facilities will exceed the capacity of the Sandpiper. This would easily meet the need of the Bakken shippers.
- Infrastructure improvements, more frequent rail inspection by more inspectors, changes in regulatory requirements, installation of safety measures at highway-railroad crossings, all are designed to make rail transportation safer near-term, and in the future. The pipeline companies successfully killed additional safety measures proposed during the 2014 Minnesota legislative session.
- Pipeline transportation requires long-term contracts (10-15 years) with shippers. Rail transportation offers shippers and refiners greater flexibility (1-2 year contracts), as well as being a quicker form of transportation;
therefore refiners can shop the market for the cheapest available producer and shippers, and receive prompt delivery (5-7 days for rail vs. 40 days for rail), both important qualities in these uncertain times where there are glutted markets and rapidly falling crude prices.

- Rail offers refiners single source oil, whereas pipelines often ship blended crude or batches of various crudes in a single shipment, increasing refining costs. Higher refining costs do not fulfill a “need” for refiners, and partially offset any price advantage pipelines have over rail.

- Ongoing rail infrastructure improvements have relieved much of the past problems of congestion, and will allow the timely delivery of traditional bulk commodities like grain, coal, taconite, etc., while still allow rail to continue to dominate the shipping of crude to market. Rail transportation of crude will continue unabated, regardless of whether the Sandpiper is built. Therefore, the Sandpiper is not needed.

- With its massive existing infrastructure, if a section of track must be closed, there are other routing options for getting the crude to market. If the pipeline ruptures, all pumping stops, and delivery is disrupted to refiners. This existing redundancy in rail infrastructure is important to guarantee the uninterrupted supply of crude.

In conclusion, the rapidly falling crude oil pricing in the past 6-7 months has resulted in a very unstable economic market for the American and Canadian oil industry. New pricing paradigms created by suppliers outside of America, who have significant cost production advantages over high priced domestic crude producers, will likely force prices even lower in the near term, below the current price of less than $47/barrel, with speculation that it could go as low as $32/barrel, with the stated goal of re-establishing their share and dominance in the oil producing market. Because Bakken producers cannot come close to matching these prices, most will be forced to stop production. As producers pull out, refiners already buying the cheaper overseas oil, will terminate contracts with Bakken producers and shift back to the lower priced crude. The need for the Sandpiper as currently proposed will no longer exist. And for the few Bakken producers that are able to hang on, the current rail delivery system that has been in place since before the Bakken market heated up, will still be there and will be able to easily handle the diminished shipping demand. Market forces are going to make the Sandpiper obsolete, even before it’s built. Without, belaboring the point further, rail can serve the need of our domestic inland producers at the Bakken, and the Sandpiper Certificate of Need must be deni
**TABLE 1:** New, Expanding and Planned Oil-by-Rail Loading Facilities for Bakken Oil
From Oil Change International website priceofoil.org:

<table>
<thead>
<tr>
<th>Company</th>
<th>Location</th>
<th>Current Capacity</th>
<th>Future Cap.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ceres Global</td>
<td>Northgate, Sask.</td>
<td>35,000 b/d</td>
<td>70,000 b/d</td>
</tr>
<tr>
<td>Crestwood Mid. Part.</td>
<td>Epping, ND</td>
<td>120,000 b/d</td>
<td>160,000 b/d</td>
</tr>
<tr>
<td>Dakota Gold Transfer LLC</td>
<td>Plaza, ND</td>
<td>Planned for 2015</td>
<td></td>
</tr>
<tr>
<td>Dakota Plains</td>
<td>Newton, ND</td>
<td>Current Cap Jan, 2015</td>
<td>57,500 b/d</td>
</tr>
<tr>
<td>Watco/Kinder M.</td>
<td>Dore, ND</td>
<td>New in 2014</td>
<td>70,000 b/d</td>
</tr>
<tr>
<td>Northstar Tran. E.</td>
<td>Fairview, ND</td>
<td>New in 2014</td>
<td>180,000 b/d</td>
</tr>
<tr>
<td>Hess</td>
<td>Tioga, ND</td>
<td>Expand late 2014</td>
<td>50,000 b/d</td>
</tr>
<tr>
<td>Phil. 66 &amp; Energy Part.</td>
<td>Palermo, ND</td>
<td>Planned for 2016</td>
<td></td>
</tr>
<tr>
<td>Tundra Energy &amp; Enbridge</td>
<td>Cromer, Canada</td>
<td>Expand in 2015</td>
<td></td>
</tr>
</tbody>
</table>

**TABLE 2:** East Coast 2014 & 2015 Oil-by-Rail Unloading Facilities for Light Tight Oil
From Oil Change International website priceofoil.org:

<table>
<thead>
<tr>
<th>Company</th>
<th>Location</th>
<th>Previous Capacity</th>
<th>New Capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arc Logistics Partners</td>
<td>Mobile, AL</td>
<td>17,000 b/d</td>
<td>70,000 b/d</td>
</tr>
<tr>
<td>Eddystone Rail Terminal</td>
<td>Philadelphia, PA</td>
<td>80,000 b/d</td>
<td>160,000 b/d</td>
</tr>
<tr>
<td>Monroe Energy</td>
<td>Trainer, PA</td>
<td>35,000 b/d</td>
<td>75,000 b/d</td>
</tr>
<tr>
<td>PBF Refining</td>
<td>Delaware City, DE</td>
<td>145,000 b/d</td>
<td>210,000 b/d</td>
</tr>
<tr>
<td>Targa (Light Tight &amp; Tar Sands)</td>
<td>Baltimore, Maryland</td>
<td>Planned for 2015</td>
<td>25,000 b/d</td>
</tr>
</tbody>
</table>
Figure 1:

Crude Oil Cost Curve, Canada & United States

Mid-Cycle Breakeven Costs in Fall 2014 (including 9% After-tax Return)*
Selected Producing Regions
WTI Oil Price Required, US$ per barrel

**Weighted Average = US$60-61

- 46.00 Montney Bakken
- 47.00 Eagle Ford, USA Shale*
- 50.00 Lloyd & Saol Conv. Heavy, AB
- 53.00 Conv. Light, AB & SK
- 58.50 Niobrara, USA Shale
- 59.50 SAGD Bitumen, AB $40-80
- 65.00 North Dakota Bakken, Shale $54-79
- 69.00 Permian Basin, TX Shale $59-82
- 68.00 Legacy Projects

Cumulative Production (mb/d)

* Excludes 'up-front' costs (initial land acquisition, seismic and infrastructure costs); treats 'up-front' costs as 'sunk'. Rough estimate of 'up-front' costs = US$5-10 per barrel, though wide regional differences exist. Includes royalties, which are more advantageous in Alberta/Saskatchewan.
+ Liquids-rich Eagle Ford plays, assuming natural gas prices of US$3.80 per mmbtu.
++ Weighted avg. = US$60-61 including existing Integrated Oil Sands at C$53 per barrel.


Data source: Scotiabank Equity Research and Scotiabank Economics.
January 21, 2015

From: Sandy Sterle  
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Before the Office of Administrative Hearings  
600 Robert Street North  
St. Paul, MN 55101

For the Minnesota Public Utilities Commission  
121 Seventh Place East, Suite 350  
St. Paul, MN 55101

RE: PL-6668/CN-13-473 (Certificate of Need)  
OAH 8-2500-31260

Dear Judge Lipman and Honorable Commissioners,

This letter is commenting on the Certificate of Need (CON) for the proposed Sandpiper Pipeline in Minnesota. After introductory remarks, this letter will be presented in three sections: looking at the companies involved; the rule criteria and Minn. Statutes need to be applied in this decision; and discussing the Department of Commerce’s (DOC) conclusions in relation to the criteria.

The reason for writing is not that I am for or against a pipeline.

The overarching reason is to encourage transparent and fair consideration in the application of the law, so corporations do not receive more consideration than the people, waters and environment of Minnesota. I am against a foreign corporation protected by a United States LLC shell using Minnesota for yet another new hazardous industrial corridor that will inevitably lead to the detriment of the tribes and citizens living in our state. Just look at what recently happened to Glendive, Montana’s water supply from 50,000 gallons of oil spilled 6 miles upriver with only a 12” pipeline under the Yellowstone River.

I would like to encourage finding, *if necessary, a route with the least impact* to our waters and environment so that tribal treaty obligations and the health and well being of all people in Minnesota are respected. It would punctuate the injustice of this process if a new hazardous industrial corridor were granted on economic justification alone for the benefit of a few who demand privilege. It is ironic that testimony was given in favor of the proposed Sandpiper expressing a belief that it would lead to less war over oil. An object like a pipeline will not stop war...people go to war either from having been manipulated into it or when their rights and their environment are treated *without respect*, thus fighting to protect their way of life. This is not unlike what the applicant has set up in pursuing this proposed pipeline. There would be no conflict if transparent and fair consideration is applied in this decision, and if the applicant were to cooperate with the parties and state agencies to find a solution for everyone’s benefit and well being.

This CON should be denied to uphold the principles of cooperation and fairness. The applicant needs a “No” to influence them to change. Minnesota should give a clear message to the applicant that using manipulation, refusal to cooperate, and expectations of privilege without minimal accountability are unacceptable business practices in our state.

Minnesotans may have the reputation for being nice, but we are intelligent, caring and progressive people who deserve respect. This company’s strategy of using partial truths to promote misperception, using threats of eminent domain for disempowerment, and waving incentives of economic gain to gather blind support, has been applied across the state from the media to the public to landowners to county commissioners to tribes to state agencies to Legislators... This strategy is disrespectful. This strategy does not build trust nor does it build relationships. It was so interesting to watch late in the Duluth hearing how a man testifying was deceived into believing it was important that the proposed Sandpiper would provide Bakken crude to the Minnesota refiners after it was already established that they have no need for the proposed pipeline. One of the applicant’s panel members did not answer the man’s question directly, but focused on the idea of connection of the proposed Sandpiper at Clearbrook, MN to imply this was important to Minnesota refiners. The man testifying looked confused by this partial information, yet seemed to accept the answer.
From education and experience as a counselor, I know this company’s strategy will not change unless those who have the power to set firm limits continue to exercise consequences that will hold the applicant accountable. It takes courage to stop making decisions based on an emotion like fear evoked by manipulation, and it takes vision to see outside the box from having been convinced that there is no choice. Minnesota does have a choice to apply transparent and fair consideration in the application of the law.

Section 1: Looking at the Companies Involved

The original application was submitted by Enbridge Pipelines LLC. But the application now is under a subsidiary called North Dakota Pipeline Company LLC (NDPC). Early in 2014, I asked an Enbridge employee, “Why the name change?” He indicated in an email that when a project is significantly shared, like the proposed Sandpiper is shared with Marathon, it is the policy of Enbridge to change the name. He also said the Duluth personnel are still Enbridge employees even though they were working on the proposed Sandpiper. Since NDPC had some of those Duluth Enbridge personnel on the panel at the hearings, and the application uses Enbridge facilities in its description and justification, I will reference the true company behind this application in this letter, which is Enbridge. It is important to acknowledge the concern expressed by the public at the Duluth hearing over NDPC having been set up as a limited liability corporation, and concern over the question of what would be the limits on NDPC’s responsibility when Minnesota faces consequences from a Sandpiper crude oil spill?

To get a glimpse over what is the importance of Marathon to this project, I went to the Illinois Commerce Commission’s (ICC) website http://www.icc.illinois.gov to check out if there was a connection with the facility mentioned by DOC that a committed shipper required to be constructed to fulfill their contract. The facility had been identified in the DOC’s testimony as the Southern Access Extension (SAX) pipeline still in dispute in Illinois. The ICC file number is 07-0446. Like the proposed Sandpiper, Marathon is both part owner of the SAX and a major committed shipper of the SAX. Picture 1 shows some of Marathon’s holdings in the U.S. under the company name of MPC, which includes pipelines, terminals,
refineries, barges and gas stations. I was stunned that MPC's holdings include every step from transportation of crude to refining to owning the gas stations. Notice that Marathon has an inland water terminal in the New York Great Lakes Region.

Picture 1:

MPC Integrated System

There is a contested case of landowners identified at ICC as the Turner Interveners who are arguing that the SAX pipeline is for the private use of Marathon, so Marathon should not be granted eminent domain. Picture 2 shows the proposed Sandpiper is critical to Marathon's plans to move both Canadian and ND light crude through the proposed Sandpiper to Wisconsin through the Enbridge system pipelines to the SAX to Marathon's own pipeline from Patoka to MPC's Robinson refinery. The applicant for the SAX argues that they are a common carrier because 10% is available for other shippers. In a brief, dated November 6, 2014, on page 5, the Turner Interveners cite Marathon's own description of the interconnection between the proposed Sandpiper and SAX in a 10-K filed with the SEC, writing "Our commitment to the Sandpiper project also gives us the option to increase our
ownership interest in Enbridge's Southern Access Extension Pipeline to 35 percent." This may be why the DOC concluded, "increased domestic production of light crude oil will displace imported oil and increase demand by refiners for less expensive domestic oil." The use of the word domestic is misleading; because in documents from the ICC website, the applicant includes Canadian oil for shipping on the proposed Sandpiper. The DOC did not mention why the oil could be less expensive; because Marathon has ownership in every facility from transportation to the pump allowing an advantage to influence the cost for each of these steps or leverage from being one of the largest committed shippers on the proposed Sandpiper and SAX.

In picture 2 on the next page, the light crude oil from the proposed Sandpiper connected by the Enbridge system in Wisconsin to the SAX opens the way for this light crude oil to also reach Marathon's facilities in the Gulf. The word crude/condensate in the title is apropos. A December 30, 2014 article from Reuters reports that the U.S. export authority has [http://www.reuters.com/article/2014/12/30/us-usa-crude-exports-exclusive-idUSKBN0K80SE20141230](http://www.reuters.com/article/2014/12/30/us-usa-crude-exports-exclusive-idUSKBN0K80SE20141230) alerted oil companies that they can ship a processed form of crude call condensate without formal permission. Then, the Sandpiper oil could not only funnel into MPC’s own refineries, but also into MPC’s Gulf facilities to be sold overseas. I agree with the Turner Interveners. How can granting eminent domain be justified for expansion and profit of Marathon when the DOC admits the people of Minnesota do not need it?
Section 2: The Rule Criteria and Minn. Statutes Need to be Applied in this Decision.

There are two sections of statutes that do not support decision-making using only economic reasons in large-scale projects. The definition of eminent domain requires a higher standard of public benefit than just economic consideration; and the standard of in the public trust regarding MEPA protection of Minnesota’s environmental amenities and values also requires equal consideration to economic consideration.

The DOC concluded that the proposed Sandpiper is needed for committed shippers who will be adversely affected if the CON is denied. Looking closer at Illinois Commerce Commission’s (ICC) contested case 07-0446, Marathon plans for the proposed Sandpiper to funnel light oil from Canada and ND to their own refineries and possibly their Gulf facilities
to sell condensate overseas. And, Minnesota counties would receive additional tax revenue. *These are only economic development justifications.*

The definition of public use and public purpose in the eminent domain Minn. St. 117.025 does include function of a public service corporation, which includes pipelines. Yet in (b) of the definition of public use and public purpose, economic development includes "an increase in tax base, tax revenues, employment, or general economic health" and (b) further states these "do not by themselves constitute a public use or public purpose". Minn. St. 117.025 is *not included in the Minn. St. 117.189 exclusion list* for Public Service Corporations. Thus, this definition of public use and public purpose still applies and should be considered before granting eminent domain. This is a critical distinction, since the granting of the CON effectively gives the applicant the use of eminent domain over private landowners. Do not Minn. Statutes have more influence on decisions than rules?

In response to my questions for testimony in Duluth, the DOC admitted hypothetically that the proposed Sandpiper could be justified with Canadian shipper contracts, which is verified by looking at ICC's contested case files. This explains the DOC conclusion that "the Project must go through or near Clearbrook based on shipper demand and contracts"; because at Clearbrook, MN, Canadian crude oil comes into the Enbridge terminal and can be transferred to ship over the rest of the proposed Sandpiper to Superior, WI. The preferred route from Clearbrook, MN to Superior, WI would create a new corridor through the most sensitive soils and pristine waters of our state. And, this is where the largest number of new landowners (76% of the preferred route) who would be affected by the use of eminent domain, and who have been threatened by eminent domain to sign easement contracts prematurely - before the CON is granted and route approved. Without directly proving public use and purpose is more than just economic development, this project does not satisfy the definition for the use of eminent domain. Recently, Minnesotan's spoke and the Legislature changed the statute so eminent domain could not be granted to a corporation simply for economic development. Then, if this applicant were given access to eminent domain, this decision would disrespect the wishes of the people of our state.
Economic considerations alone also do not satisfy MEPA statutes. The public trust needs to be upheld as described in Minn. St. 116D.03 with equal considerations to the environment as to economic considerations, and Minn. St. 116D.04 concludes “Economic considerations alone shall not justify such conduct.” Therefore, the adverse cumulative impacts from the proposed Sandpiper and the Line 3 upgrade on the environment in construction, adverse impacts in the event of oil spill(s), and adverse impacts upon abandonment of the pipeline, like the proposed with Line 3 upgrade, must be equally weighed with economic benefits.

This preferred route would enable Enbridge to abandon more pipelines on the mainline, and easily justify additional upgrades, like Line 3, with larger diameters to ship greater volumes of Canadian crude through our state to Superior, WI where one of their affiliates, Calumet Refinery, is working towards using barges to ship crude oil over the Great Lakes. By looking at the first picture in section 1 above, it shows Marathon owns barges and has an inland water terminal in New York with access to the Great Lakes region. Transporting Canadian and Bakken crude oil over the Great Lakes or to the Gulf - essentially to world markets - is not a public purpose for people of Minnesota. It is more likely a detriment and a greater risk to Minnesota’s waters and environment. The MEPA statutes of require equal consideration of these risks that people and tribes living in Minnesota would bear.

The Environmental Report (ER) by DOC that was developed without public input on scoping, without public input on the document before final release, without public access to the data, and without testimony of the agencies whose role is to protect the environment; and especially considering the document was released late on the Friday before Christmas holiday just a few weeks before the hearings does not meet the standard of equal consideration of the environment. Knowing Line 3 Upgrade application is already in the agencies’ hands raises the question of and shows justification for a full EIS before the matter of need is decided with economic reasons alone. Please call for a full EIS to uphold the public trust.

Last fall the PUC told the public and parties in a meeting that they are necessary for this process to work. All of the parties and the public who are concerned about Minnesota’s waters and environment are trying to show you that there are better choices for our state.
This is why I am asking that the Minnesota MEPA and eminent domain Statutes be applied as well as the rule criteria in decision-making on the CON, so that the promise of economic gain, which the supporters of this pipeline are so excited and seemingly blinded by, does not override the importance of upholding the sacred public trust.

Section 3: Discussing the DOC's Conclusions in Relation to the Criteria

First, this paragraph will discuss what is the implication of placing a condition on the CON to wait for construction of the facility - Southern Access Extension pipeline. I understand and agree to the reason for this condition, because the shipper contracts have a termination clause if the facility is not built within a certain time period. So, these contracts cannot be used right now to justify need, because they could still be terminated. If these contracts are important enough to put a condition on the CON, then their weight has bearing on criteria A meaning Enbridge has not proven supply to the applicant’s customers will be adversely affected by building the proposed Sandpiper. It is only after construction and with the addition of the Southern Access Extension pipeline that this “OR” portion of criteria A will be met in the future. Therefore, at the time of decision, criteria A regarding the applicant’s customers has not been met and cannot be used as justification to grant the CON.

The next part of this letter follows the Minnesota 7853.0130 Criteria. Each alphabetic letter and number in parenthesis is associated to the particular criteria discussed. The criteria are not quoted, because they are written in a double negative, but instead the comments are written in more direct language. I apologize if it seems like I am repeating topics, but I am trying to be thorough and specific to each criteria:

A. The Information Brief for the MN House of Representatives from June of 2013 states that “Minnesota’s refineries cannot absorb additional crude supplies at this time” and it quotes Enbridge in footnote #12 describing their intension is to connect Bakken Oil to PADD II refineries, eastern Canada and the Gulf Coast. The DOC also concludes the “overall demand for crude oil, at both the national and regional level, is expected to be flat or declining over the next 25 years” and “Minnesota refiners are not expected to benefit from
Sandpiper since they are primarily heavy oil operations and their demand for light oil has remained constant." By these conclusions the DOC recognizes this proposal has no direct benefit to the people of Minnesota, neighboring states or the nation. And, the additional conclusion can be made that **by denying this CON there would be NO adverse affect of future supply to the people of Minnesota, neighboring states and the NATION.**

But, the DOC adds "**increased domestic production of light crude oil will likely displace imported oil and increase demand by refiners for the less expensive domestic oil**". As described in section 1, the oil could be less expensive because Marathon has ownership in each facility from transportation to the pump, including partial ownership in the proposed Sandpiper and SAX. This gives Marathon the advantage to minimize costs for each of these steps and leverage itself as one of the major committed shippers. Shown in graph below, the cost of crude oil from what have been stable sources for decades, like, Saudi Arabia, in the current market are less costly than sources from fracking, because the cost of production for *Saudi crude is in the $10-$25 range where the cost of production for ND Bakken oil is in the $54-$79 range*. Therefore, this DOC statement that the domestic oil will be cheaper and likely displace imported oil may be true if Minnesota allows Marathon to have this advantage, and may not be true anyway if oil prices continue to stay low as predicted in 2015.

A (1). The price of crude has dropped significantly since last summer from a glut of oil in the United States, from weakening oil demand in China and Europe, and stagnation around the world as reported by Brad Plumer on January 6, 2015 in "**Why Oil prices keep falling – and throwing the world into turmoil**" at website [http://www.vox.com](http://www.vox.com). As of Monday, WTI Crude Oil index was reporting the price of crude was down to $48.69 with a 1 year forecast for $55 a barrel. Fracking wells decline quickly to 55% after the first year, to 30% after the second and to 17% after the third. The current price does not support investment in new wells because it is below breakeven. See Graph below titled "**Crude Oil Cost Curve, Canada & U.S.**", which shows breakeven prices for ND Bakken Oil from $54 to $79 a barrel. Bakken oil production will decline quickly in the next 3 years without new wells, so there is a **question whether there will be capacity available to fill the proposed Sandpiper** and **whether there will be demand** for the oil transported by the proposed Sandpiper.
Already, ND is seeing a 23% drop from December in working oil rigs in the core of the Williston Basin as reported on Jan. 14, 2015, by David Shaffer in the Star Tribune. He added that drilling could decline further where ND oil output could drop below current levels and some companies have made decisions to suspend drilling in 2015. The applicant claims they will receive payment in penalties even if shippers do not follow contracts. Then with an ongoing low crude oil cost, this mean that the shipper contracts signify a virtual need (a promise to pay penalties), but not an actual need to ship Bakken oil if production continues to drop as reported. Therefore, the drop in oil prices over the last 6 months leading to less Bakken production has the probable result of denial of the CON would NOT adversely affect the future Bakken oil energy supplied to the applicant, or to the applicant’s customers, because there would not be capacity to fill it.

**Crude Oil Cost Curve, Canada & United States**

<table>
<thead>
<tr>
<th>Mid-Cycle Breakeven Costs in Fall 2014 (Including 9% After-tax Return)*</th>
<th>Selected Producing Regions</th>
<th>WTI Oil Price Required, US$ per barrel</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Weighted Average = US$60-61</strong></td>
<td>Eagle Ford, USA Shale $40-60</td>
<td>Conv. Light, AB &amp; SK</td>
</tr>
<tr>
<td>SK Bakken</td>
<td>50.00</td>
<td>Niobrara, USA Shale</td>
</tr>
<tr>
<td>Montney Oil AB &amp; BC</td>
<td>46.00</td>
<td>SAGD Bitumen, AB $40-80</td>
</tr>
<tr>
<td>47.00</td>
<td>53.00</td>
<td>65.00</td>
</tr>
<tr>
<td>69.00</td>
<td>68.00</td>
<td>Permian Basin, TX Shale $59-82</td>
</tr>
<tr>
<td>50.00</td>
<td>59.50</td>
<td>65.00</td>
</tr>
<tr>
<td>68.00</td>
<td><strong>Weighted avg. = US$60-61</strong> including existing Integrated Oil Sands at C$53 per barrel.</td>
<td></td>
</tr>
<tr>
<td><strong>80.00</strong></td>
<td><strong>Oil Sands</strong></td>
<td></td>
</tr>
<tr>
<td><strong>100.00</strong></td>
<td><strong>Mining &amp; Upgrading New Projects</strong></td>
<td></td>
</tr>
<tr>
<td><strong>120.00</strong></td>
<td><strong>90.00</strong></td>
<td></td>
</tr>
</tbody>
</table>

* Excludes 'up-front' costs (initial land acquisition, seismic and infrastructure costs): treats 'up-front' costs as 'sunk'. Rough estimate of 'up-front' costs = US$5-10 per barrel, though wide regional differences exist. Includes royalties, which are more advantageous in Alberta/Saskatchewan.

+ Liquids-rich Eagle Ford plays, assuming natural gas prices of US$3.80 per mmbtu.


Data source: Scotiabank Equity Research and Scotiabank Economics.
A (1). In a recent filing by Enerplus Resources Corp. (20151-106145-01), they identify themselves as a committed shipper for the proposed Sandpiper. In the second paragraph on page 3, Enerplus writes, "the termination of one of Enerplus' rail supply contracts coincides with the original Sandpiper in-service date. If Sandpiper's preferred route is not approved, Enerplus may recontract those volume under terms relying on less advantageous rail netback pricing." This admission by Enerplus is not that their supply will be affected if the CON is not granted, but their costs will be affected. This proves that there will not be a lack of supply to this applicant's customer, because this shipper's oil has and could still be transported by rail. This is why I asked the question in the Duluth hearing of can a shipper simply transfer their contract(s) from another means of transport (existing pipeline or rail) to justify the proposed Sandpiper's need? The DOC said they only look at the existing contracts for the proposed pipeline, but these contracts in the case of Enerplus only show the shipper's desire to reduce costs of shipping oil. Only by analyzing current rail or pipeline capacity - or - at least asking committed shippers if they have an existing or planned means to transport the oil contracted to the proposed Sandpiper, can it be determined if there will be adverse affects of the future energy supply to the applicant's customer. If shippers like Enerplus are simply transferring their contracts to the proposed Sandpiper for their economic advantage and this does not meet the criteria in A. How can eminent domain be justified for only giving companies like Enerplus an economic advantage?

Enerplus continues with..."Commercial arrangements may be adversely affected, and these adverse effects extend beyond just Enerplus." Enerplus is alluding to other committed shippers also looking to the proposed Sandpiper for economic advantage who otherwise would be able to ship oil by rail. Therefore, the result of a denial of the CON will NOT adversely affect the future supply to the applicant's customers, and the criteria does not specify need as giving the applicant's customers an economic advantage.

A (4). The DOC concluded other alternatives like rail do not meet the need or would negatively affect Minnesota and neighboring states. Enerplus as discussed above has been using oil-to-rail to meet their needs and wrote they intend to return to rail shipping if the
proposed Sandpiper is not built. When asked in the Duluth hearing whether the DOC had *direct evidence* that the proposed Sandpiper would reduce train congestion, the response was only an indirect association between rail congestion and the proposed Sandpiper. The DOC indicated there had been congestion from oil-to-train shipping last fall affecting farmers, etc... The evidence necessary to prove a direct relationship is by having reviewed committed shippers contracts that would transfer their light crude oil capacity from rail to pipeline. But, the DOC may not have wanted to reveal this, because it would have shown as discussed above that shippers were simply transferring their contracts to the proposed Sandpiper for their economic advantage and this does not meet the criteria in A.

Even if the committed shippers were transferring their contracts to the proposed Sandpiper, the oil-to-rail industry is continuing to expand. Without the oil to rail industry’s commitment to ship less oil by train through Minnesota, building the proposed Sandpiper will not change train congestion. Even the MN Dept. of Transportation has testified that the proposed Sandpiper will not reduce rail congestion. The data in Tables 1 & 2 on the next page are from Oil Change International’s interactive map on their website [http://www.priceofoil.org](http://www.priceofoil.org). Table 1 lists 9 companies that are recently expanding, under construction for 2015 or planned for 2016 to provide more capacity to load Bakken oil onto trains. This includes a new facility in Cromer, Manitoba owned by Tundra to be connected to Enbridge pipelines to load 30,000 to 60,000 bpd oil to trains. The combined new and expanding oil to train loading capacity is greater than what the proposed Sandpiper would transport out of North Dakota. Enbridge’s own website does not say pipelines are replacing rail, but states that *"Pipelines and rail serve complementary roles, and rail plays a role in extending crude oil supply networks"*. The Sandpiper will not change the amount of Bakken oil transported by rail. These 9 company’s plans show this industry intends to increase its capacity to load Bakken oil onto trains whether the proposed Sandpiper is built or not.

The reason why shippers are moving oil by rail is not just because a lack of pipeline availability. Kathy Hollander at the St. Paul hearing outlined why oil by rail is here to stay because of the following market based reasons. Rail offers flexibility so a refinery can
purchase the capacity of ND light crude oil when it needs it. Rail transportation of oil is faster than pipeline. The rail loading facilities are significantly less expensive to build than pipelines. Rail keeps light crude oil uncontaminated which results in a better price. Right now there are no pipelines to the East and West coasts where a lot of refineries that use light crude oil are located. See Table 2 for new and expanding unloading facilities in the East. There are new and expanding oil to train unloading facilities in the midwest, too. Enbridge is planning one at their Planagan Terminal near Pontiac, IL.

**TABLE 1: New, Expanding and Planned Oil-by-Rail Loading Facilities for Bakken Oil**
from Oil Change International website priceofoil.org:

<table>
<thead>
<tr>
<th>Company</th>
<th>Location</th>
<th>Current Capacity</th>
<th>Future Cap.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ceres Global</td>
<td>Northgate, Sask.</td>
<td>Expand in 2015</td>
<td>35,000 b/d</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>70,000 b/d</td>
</tr>
<tr>
<td>Crestwood Mid. Part.</td>
<td>Epping, ND</td>
<td>Expand in 2015</td>
<td>120,000 b/d</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>160,000 b/d</td>
</tr>
<tr>
<td>Dakota Gold</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transfer LLC</td>
<td>Plaza, ND</td>
<td>Planned for 2015</td>
<td>none</td>
</tr>
<tr>
<td>Dakota Plains</td>
<td>Newtown, ND</td>
<td>Current Cap Jan, 2015</td>
<td>57,500 b/d</td>
</tr>
<tr>
<td>Watco/Kinder M.</td>
<td>Dore, ND</td>
<td>New in 2014</td>
<td>70,000 b/d</td>
</tr>
<tr>
<td>Northstar Tran. E. Fairview, ND</td>
<td>New in 2014</td>
<td>180,000 b/d</td>
<td></td>
</tr>
<tr>
<td>Hess</td>
<td>Tioga, ND</td>
<td>Expand late 2014</td>
<td>50,000 b/d</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>120,000 b/d</td>
</tr>
<tr>
<td>Phill. 66 &amp;</td>
<td>Palermo, ND</td>
<td>Planned for 2016</td>
<td>none</td>
</tr>
<tr>
<td>Energy Part.</td>
<td></td>
<td></td>
<td>no stats</td>
</tr>
<tr>
<td>Tundra Energy &amp;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enbridge</td>
<td>Cromer, Canada</td>
<td>Expand in 2015</td>
<td>30,000 b/d</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>60,000 b/d</td>
</tr>
</tbody>
</table>

**TABLE 2: East Coast 2014 & 2015 Oil-by-Rail Unloading Facilities for Light Tight Oil**
from Oil Change International website priceofoil.org:

<table>
<thead>
<tr>
<th>Company</th>
<th>Location</th>
<th>Previous Capacity</th>
<th>New Capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arc Logistics Partners</td>
<td>Mobile, AL</td>
<td>17,000 b/d</td>
<td>70,000 b/d</td>
</tr>
<tr>
<td>Eddystone Rail Terminal</td>
<td>Philadelphia, PA</td>
<td>80,000 b/d</td>
<td>160,000 b/d</td>
</tr>
<tr>
<td>(75% Enbridge &amp; 25% Canopy Prospecting)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monroe Energy</td>
<td>Trainer, PA</td>
<td>35,000 b/d</td>
<td>75,000 b/d</td>
</tr>
<tr>
<td>PBF Refining</td>
<td>Delaware City, DE</td>
<td>145,000 b/d</td>
<td>210,000 b/d</td>
</tr>
<tr>
<td>Targa (Light Tight &amp; Tar Sands)</td>
<td>Baltimore, Maryland</td>
<td>Planned for 2015</td>
<td>25,000 b/d</td>
</tr>
</tbody>
</table>
The oil to rail facilities will continue to operate as long as it is profitable. This proposed Sandpiper will not lessen rail congestion and instead A (4) the growing rail loading capacity could meet future transportation demand for Bakken Oil that the Sandpiper proposes to fulfill without requiring a CON. Enbridge has access to their own operating and planned oil to rail facilities for both loading and unloading. The shippers have reasons for moving oil by rail that are not just because a lack of pipeline availability. And, if there is less production because of oil glut and prices stay low or later when the Bakken fields lose productivity in a decade or so, at least rail has the flexibility to transport other goods unlike pipelines whose companies want to abandon them, so landowners, tribes or Minnesota will end of with the responsibility to cleanup any hazardous chemicals left in the ground.

Oil to rail trains do have problems that need to be solved. The train industry is responding to public and governmental pressure to increase safety by agreeing to upgrade tracks, adding safer oil cars, and slowing down in critical areas. Farmers need equal access to train transportation that can only be reasonably solved through Federal regulation. This is not unlike how the coal industry and power plants are working with the U.S. Surface Transportation Board resulting in cooperation by BNSF to respond to electrical generation company coal shipping needs in Minnesota as reported by WDIO.com on January 7, 2015.

B. A series of two Bakken pipelines are proposed (Dakota Access Pipeline to deliver up to 570,000 bpd from ND to Patoka, IL near Enbridge's pipeline hub and Energy Transfer Crude Oil Pipeline to deliver up to 570,000 bpd from Patoka, IL to Nederland, TX) which would not pass through Minnesota and would go to pipeline hubs in PADD II and PADD III. These pipelines are planned to be completed by the end of 2016 and would have capacity to provide shipment for the same source of oil to similar markets with more direct routes. These two proposed pipelines above are a reasonable alternative that the Department of Commerce ignored in their recent report on “Sandpiper Pipeline: Comparison of Environmental Effects of Reasonable Alternatives”.

B (3). By not recognizing these as reasonable alternatives in their study shows this ER is incomplete. Because these pipelines do not go through Minnesota, avoid shipping Bakken
oil over the Great Lakes, and especially do not go through areas of the state with sensitive soils and pristine waters that support wild rice production, fishing and state hatchery, communities' water supply, resort industry, etc., they qualify as a reasonable alternative which would have less effect upon our natural and socioeconomic environments.

C. The negative consequences to Minnesota of granting the CON are greater than a denial of the CON.

C (1). In June of 2013, a Minnesota Legislative report stated “Minnesota refineries cannot absorb additional crude supplies at this time.” In Adam Heinen’s testimony for DOC he stated that Minnesota's historical petroleum consumption has decreased, that it is unclear whether apportionment on Line 81 has had any effects on Minnesota refineries; and that the St. Paul refinery and shippers argued to FERC that the proposed Sandpiper project was unnecessary and would increase production costs. Therefore, building the proposed Sandpiper would not affect overall state energy needs.

Enbridge claims a portion of the Sandpiper from ND to Clearbrook, MN could be a backup. The Information Brief for the MN House of Representatives Legislative dated June 2013 describes, “About three-fourths of the crude oil used in Minnesota’s refineries is imported from Canada”. Minnesota also receives refined petroleum products directly from ND, from Calumet in Superior, WI, which refines Canadian crude, and BP’s refinery in Indiana, which refines crude from Canada, Texas and the Gulf. Therefore, the claim that the proposed Sandpiper could be a backup seems insignificant to the overall state’s energy needs. On page 28 of Adam Heinen’s DOC testimony, he concludes “it is unclear if Minnesota refiners would benefit from a redundant pipeline system. In fact, Minnesota refiners may face higher crude oil prices as a result of the Project, which could counteract any positive benefits from redundant service.” Consumers and organizations, like our schools, which use Minnesota refined products, would receive a detrimental economic impact from higher prices at the pump.
C (2). Advocates for the proposed Sandpiper at the hearings argue financial benefits of jobs and additional tax revenue are of greater importance. *Enbridge is a master at using money to influence people.* This CON cannot be decided on potential financial gain only. What the unions need are not 6-month temporary high-paying jobs that a good share go to workers from outside of our state, but instead, they need long-term, stable, good paying jobs that support Minnesota families. A better solution would be for Enbridge employees in Duluth to bring renewable energy projects to Minnesota to partner with our electrical power generation companies to develop solar gardens to meet the states renewable goals. With uncertainty over what are the limits of responsibility of a LLC designation, additional tax revenue to local governments or the state would not cover the hard to quantify urgent situational costs from oil spills, like: cost of providing bottled water and clearing a public water supply of hazardous chemicals like benzene, loss of the DNR trout hatchery or a nationally recognized trout stream, loss of highly valued property in recreational areas from polluted water sheds and lakes, damage to prized state parks and rivers, or loss of natural habitat which sustains our resources based economy. Temporary jobs and additional tax revenue do not balance against these known risks.

The Center for Biological Diversity analyzed oil spill data from the Pipeline and Hazardous Materials Safety Administration. Since 1986, there have been nearly 8,000 pipeline incidents resulting in 500 deaths, over 2,300 injuries and up to $7 billion in damages. In 2013, approximately 5 million gallons of oil spilled from pipelines in America. *Oil spills are a reality of the pipeline business* including Enbridge. And, oil spills from pipelines are statistically found to be larger.

Last year when the Minnesota Legislature was working on the Oil Spill Act, the pipeline industry lobbyists refused to accept even minimum standards regarding oil spill preparedness and response. Winona LaDuke in her testimony lists those minimum standards. She illustrates what she calls the catastrophic problem with the Sandpiper because of its proposed route through sensitive environmental areas and inaccessibility. Enbridge and other pipeline companies operating in Minnesota should be held accountable
to at least minimum standards and the denial of the CON would be one way to send this message.

As previously shown, the proposed Bakken pipeline is a vehicle for Enbridge to open a new corridor in Minnesota with the Line 3 upgrade being quickly on Sandpiper’s heels. This new corridor is intended to expand transport of Canadian crude to ports to ship overseas: Lake Superior Harbor, Montreal/St. Lawrence Seaway and the Gulf. This is not in the public interest to risk beloved environmental resources like the Great Lakes for shipping Canadian crude overseas. The new corridor proposed for the Sandpiper and Line 3 upgrade poses too much a risk.

More specifically, in the August 21, 2014 letter from MPCA on the docket, they identified that the preferred route of the proposed Sandpiper has the greatest potential impact to: “pristine areas of the state and/or areas that have high habitat scores”, “areas of the state with the best water quality”, “state forests, parks and wildlife management areas”, and “stands of wild rice economy” – as compared to other system alternatives.

The science of climate change is proven and Minnesota citizens are already experiencing the effects of growing climate instability with a recent both colder and snowier winter, a 100 year flood event in Carlton County and 2 years in a row of significant floods along the border lakes. These climate events have had socioeconomic costs born by citizens, counties, and businesses in our state, but not are considered as potential impacts by the applicant. Yet, the use of the crude oil transported through Minnesota to other states and countries will add to climate change effects in Minnesota. Climate change effects may be hard to quantify specifically to this pipeline proposal, but they will add to the overall consequences to our society if this CON is granted.

C (3). A report by the Global Commission on the New Climate Economy found on the web at http://www.newclimateeconomy.report succinctly describes the negative effect of spending money on unsustainable energy infrastructure as "it can lock in an energy infrastructure that exposes countries to future market volatility, air pollution and other
environmental and social stresses. The money spent on building the proposed Sandpiper not only could be better utilized to develop clean and sustainable energy, but also could deter current spending on sustainable energy.

What this means regarding criteria C, there are more negative consequences to society in Minnesota and surrounding Great Lakes Region by granting the CON, especially when looking at the whole picture - higher crude costs for Minnesota refiners leading to higher costs for consumers, yet to be determined urgent situational costs from an oil spill, how the preferred route has the greatest potential impact to Minnesota's pristine waters, wild rice economy, and environment as compared to other system alternatives, the costs from consequences from growing climate instability and how energy infrastructure like the proposed Sandpiper could deter spending on sustainable energy.

Summary Remarks:

This letter was written to encourage transparent and fair consideration of the law when weighing the decision on this applicant's CON application, and consideration of system routes with lesser impacts. The principles of cooperation and fairness are important business practices that need to be promoted by those who have this legal power to insure the people of the state are treated with respect and uphold the sacred public trust.

When looking at the companies involved in this application, it is sobering to find out how Marathon has holdings, which include each step from transport of crude oil to refining to owning gas stations. With plans to add the proposed Sandpiper and SAX to their holdings, this adds to Marathon the ability to transport both Canadian and ND light crude oil to their Marathon refineries or facilities in the Gulf, which could result in significant advantage and also leverage as a larger committed shipper to influence costs.

The rule Criteria and Minn. Statutes for MEPA and eminent domain need to be applied in this decision to ensure that economic reasons alone are not the deciding factor whether to grant the CON. The ER was developed without public review and lacked timely access to
the report and data before the hearings. This does not meet the standard of equal consideration of the environment, especially considering the cumulative impacts with Line 3 upgrade. Please call for an EIS to uphold the public trust.

In discussing the DOC's conclusion in relation to the criteria, this letter took a closer look at parts of the criteria. By placing a condition on the CON, this gives pause to clarify whether need is met now since the 2 facilities (proposed Sandpiper and SAX) together are necessary to fulfill the shipper contract(s). Marathon is most likely the shipper involved as revealed from reviewing ICC's contested case on the SAX. Both Heinen's testimony and DOC's written one page handout leads to the conclusion that there would be no adverse affect of future supply to the people of Minnesota, neighboring states and the Nation. The drop in oil prices over the last 6 months leading to less Bakken production has the probable result of denial of the CON would not adversely affect future Bakken supply to the applicant or its customers, because there could not be capacity to fill the proposed Sandpiper. And, if other committed shippers like Enerplus are simply transferring their contracts to the proposed Sandpiper for their economic advantage, this does not meet the criteria clause of affecting supply to the applicant's customers either. Lastly, oil to rail may not be unproblematic for transporting Bakken crude oil, but this industry is growing and cooperating with regulatory changes and could meet future transportation demand for Bakken oil that the Sandpiper proposes to fulfill without requiring a CON. This letter asserts that by taking a closer look at the details behind the DOC's conclusions, that Criteria A has not met the standard for need regarding future energy supply, and instead the proposed Sandpiper is more for the expansion and higher profitability of the companies involved. When considering the negative consequences addressed in C, it seems clear that the people, waters and environment of Minnesota will have greater negative consequences than if the CON is denied. Therefore, economic reasons alone should not determine whether to grant the CON.

The choice seems simple. Do you give Marathon significant economic advantages and Enbridge expansion of their Canadian crude oil system through the U.S. – OR – do you protect the sacred public trust of the people of Minnesota?
I greatly appreciate your consideration in this matter.

Sincerely,

Sandy Sterle