

Comment in letter	Response
Concerns around the management of Line 3 permits in the context of severe drought	<ul style="list-style-type: none"> • The DNR is managing this drought as prescribed under the State Drought Management Plan. This ensures restrictions and modifications are applied fairly and consistently across the state and among permittees, according to Minnesota’s statutory water use priorities. • DNR has applied the same water use restrictions on Enbridge as it has to all other regulated water users in areas subject to appropriations suspensions due to low-flow conditions. • As of August 31, DNR has suspended Enbridge’s surface water appropriations in 9 watersheds across Minnesota due to low-flow conditions. This includes appropriations associated with dust control at 26 locations along the Line 3 route, and with hydrostatic testing and horizontal directional drilling at 23 locations along the Line 3 route. • A list of <u>current</u> suspensions of Enbridge surface water appropriations may be found here. Note that this list will change as conditions change.¹
“Minnesota Department of Natural Resources allowed Enbridge to remove an additional 4.5 billion gallons of water from seasonal wetlands...”	<ul style="list-style-type: none"> • This is false. Neither the original permit for temporary trench dewatering nor the June 4, 2021 amendment allows water to be removed from surface water bodies, including seasonal wetlands. • Furthermore, through August 2021, Enbridge has temporarily appropriated 814.4 million gallons (less than 17% of the company’s permitted limit). The vast majority of this water has been returned to the water table, with the estimated evaporative loss totaling between 20 and 41 million gallons. • It is precisely <u>because</u> of the drought conditions that Enbridge did not need to dewater as extensively as the company anticipated needing to do, and as would have been allowed under the amended permit. • Dewatering is needed when groundwater seeps into a construction trench. Because groundwater levels are low, trenches did not fill in nearly as readily as they might under more typical conditions. • As a result, the Line 3 replacement project has led to far less water appropriation than was authorized in Enbridge’s permit.
The Minnesota Department of Natural Resources permitted this dewatering “without undergoing additional environmental review or	<ul style="list-style-type: none"> • DNR followed applicable state statute and rule (Minn. Stat 103G and Minn. R. 6115) in evaluating the company’s application for an amendment to the temporary dewatering permit.

¹ <https://www.dnr.state.mn.us/line3/index.html>

<p>assessments of impacts on treaty rights.”</p>	<ul style="list-style-type: none"> • This amendment request did not meet the Minnesota Environmental Policy Act’s standards for ordering a supplemental environmental impact statement; therefore, one was not ordered. • Prior to approving the amendment, the DNR carefully evaluated the requested volume increase and determined it would not threaten groundwater sustainability or have other unacceptable natural resource impacts. DNR is confident that the project, as permitted, meets all regulatory requirements. • Some of the factors DNR considered in evaluating the amendment included: <ul style="list-style-type: none"> ○ The location and nature of the area involved ○ The type of appropriation and its impact on the availability, distribution, and condition of water and related land resources in the area involved. ○ The hydrology and hydraulics of the water resources involved and the capability of the resources to sustain the proposed appropriation ○ The quantity, quality, and timing of any waters returned after use and the impact on the receiving waters involved. ○ The efficiency of use and intended application of water conservation practices. ○ The comments received in response to a request for comments. Comments were solicited from Minnesota’s 11 tribal nations, the Minnesota Chippewa Tribe, the 1854 Treaty Authority, four interested tribal nations beyond Minnesota, 13 soil and water conservation districts; three watershed districts; 13 counties; State and Federal agencies including the U.S. Army Corps of Engineers, the Minnesota Board of Water and Soil Resources, Minnesota Pollution Control Agency and DNR staff; and staff from the Great Lakes Indian Fish & Wildlife Commission. ○ The relationship, consistency, and compliance with existing federal, state, and local laws, rules, legal requirements, and water management plans. ○ The public health, safety, and welfare served or impacted by the proposed appropriation.
<p>“Minnesota Department of Transportation and Public Safety attempted to “evict” a treaty camp.”</p>	<ul style="list-style-type: none"> • Red Lake Nation (RLN) established a camp at the MnDOT right of way. This is <u>not</u> a recognized treaty site but is considered an important religious site due to its location near the river. However, through negotiations with MnDOT and RLN, a verbal agreement was reached which

	<p>allowed a camp to exist at the site for purpose of cultural practices of religion.</p> <ul style="list-style-type: none"> • As Enbridge increased work in the area, the camp continued to grow which caused a traffic risk to drivers and individuals on the site. In order to avoid injuries, MnDOT requested that RLN manage the number of individuals at the site. RLN responded saying they no longer had control of the site. • In response to the lack of control at the site and the growing site numbers, MnDOT issued a trespass notice, (not an eviction notice). • On a separate occasion, State Patrol closed Highway 32 to traffic for 7 hours to ensure a safe demonstration zone and work zone, and to reduce the influx of people coming to the location and exacerbating challenges at the camp. • Following the road closure, MnDOT and RLN renegotiated the use of the site to ensure compliance. • <u>No</u> cultural artifacts were disturbed by non-tribal members or harmed during the Hwy 32 closure and trespassing notice.
Use of police dogs as a “show of intimidation”	<ul style="list-style-type: none"> • State law enforcement have <u>never</u> brought a police dog to any site associated with Line 3 protests. • On two occasions, once by the Thief River Falls Police Department and once by the Polk County Sheriff’s Office, a dog was brought to the site. On both occasions, the dog remained inside the fenced Enbridge area away from protestors. • Immediately upon learning the police dog had been brought on site, state law enforcement asked the local police department to remove the animal out of respect for historical trauma around the use of dogs in law enforcement. • At no point was any dog involved in the trespass order for protestors. This first dog incident occurred hours before the issuance of a trespass order. The second dog incident occurred during an all-call for police resources. • State law enforcement has actively discouraged the presence of police dogs. In one case, State Patrol asked a third local law enforcement to remove a squad car marked “K9 Unit” that did <u>not</u> contain a police dog, to avoid triggering fear among protestors.
Use of funds from Enbridge to pay for police response	<ul style="list-style-type: none"> • On June 29th, 2021 the <u>Minnesota Legislature passed the public safety omnibus bill</u> allowing public safety costs associated with Line 3 to be reimbursed from an account funded by Enbridge, rather than having those expenses paid by taxpayers.

	<ul style="list-style-type: none"> • The legislation is explicit that these funds may be used <u>only for reimbursing state agencies for officers' salaries and for personal protective equipment</u>. It may not be used for equipment such as tear gas, rubber bullets, extrication equipment, etc. • As of now, state agencies have received zero dollars from this account. • When state agencies do request funds from the account, they will seek reimbursement only for allowable expenses (salaries and personal protective equipment) • This legislation does <u>not</u> in any way incentivize a particular policing strategy such as increased arrests or patrols. It simply sets up a funding mechanism for reimbursement. • The following members of the Minnesota House² and Senate³ voted in favor of the public safety omnibus bill, which included the Enbridge reimbursement policy, while also signing the Line 3 letter to President Biden criticizing this funding mechanism: <i>Rep. Heather Keeler; Rep. Patty Acomb; Rep. Esther Agbaje; Rep. Jamie Becker-Finn; Rep. Kaela Jo Berg; Rep. Liz Boldon; Rep. Jim Davnie; Rep. Heather Edelson; Rep. Sandra Feist; Rep. Cedrick Fraizer; Rep. Mike Freiberg; Rep. Rick Hansen; Rep. Jess Hanson; Rep. Athena Hollins; Rep. Frank Hornstein; Rep. Michael Howard; Rep. Sydney Jordan; Rep. Fue Lee; Rep. Tina Liebling; Rep. Leon Lillie; Rep. Todd Lippert; Rep. Jamie Long; Rep. Sandra Masin; Rep. Carlos Mariani; Rep. Rena Moran; Rep. Kelly Morrison; Rep. Dave Pinto; Rep. Liz Reyer; Rep. Mohamud Noor; Rep. Samantha Vang; Rep. Ami Wazlawik; Rep. Tou Xiong; and Sen. Charles Wiger.</i>
"Staggering levels of violence, tear gas, and rubber bullets"	<ul style="list-style-type: none"> • State law enforcement officers have used <u>no</u> less-lethal tools in any interactions with Line 3 protestors (whether along the line, in St. Paul, or at other locations). • There have been <u>no</u> known injuries associated with any actions of state law enforcement personnel. • In one incident, local law enforcement in Pennington County used less-lethal munitions during a direct action protest. State law enforcement advised local police departments, like Pennington County, not to use these munitions.
"Arrest of Indigenous leaders"	<ul style="list-style-type: none"> • There have been no arrests of official tribal government leaders at any point. In addition, law enforcement personnel have worked closely with tribal members participating in lawful protest activities to protect their cultural practices and first amendment rights, and

² <https://www.house.leg.state.mn.us/cc/journals/2021-22/J0629015.htm#765>

³ https://www.senate.mn/journals/2021-2022/20210629015_ss1.pdf#page=24

	<p>relatively few of the individuals arrested in association with Line 3 protests have been members of Minnesota tribal nations. Social media inaccurately continued this narrative and officers have <u>not</u> targeted Indigenous leaders.</p> <ul style="list-style-type: none"> • To the contrary, indigenous members engaged in ceremony have been exempted from the arrest process when state law enforcement has been present.
“Federal surveillance by Department of Homeland Security”	<ul style="list-style-type: none"> • The state cannot speak for the federal government, but we are not aware of any federal Department of Homeland Security personnel being assigned to surveillance activities around Line 3. • We are aware of one incident on June 7, when a federal Customs and Border Protection helicopter was flown over a protest area at low altitude. In response to the helicopter incident, DPS and DNR issued a letter denouncing the use of the helicopter. • The state received assurance that this incident would not be repeated.
Arrests of Line 3 workers in a human trafficking sting	<ul style="list-style-type: none"> • The Walz Flanagan Administration is known for its aggressive work against human trafficking. In addition to establishing the first ever Missing and Murdered Indigenous Women and Relatives Office, the Governor and Lt. Governor have prioritized efforts to end sex trafficking in Minnesota. • In response to shared concerns about the potential for human trafficking, the Bureau of Criminal Apprehension has participated in a focused effort to reduce human trafficking in the areas around the pipeline. • This has included numerous proactive operations to apprehend individuals who purchase women or girls for sex. • It has also included a robust statewide anti-trafficking campaign, “Your Call MN”, which, among other things, establishes a hotline for reporting suspected sex trafficking. • In 2020, the BCA trained more than 450 law enforcement on identification and investigation of human trafficking. • BCA also serves as a co-lead for the Human Trafficking subcommittee in partnership with the Tribes United Against Sex Trafficking (TRUST) Task Force. • BCA anti-trafficking staff have also worked with Enbridge and its subcontractors as well as with Truckers against Trafficking to ensure that Line 3 workers receive training that vividly describes the harsh realities associated with human trafficking, clearly states that it is illegal and taken seriously in Minnesota, and establishes a clear expectation

	<p>on the part of Enbridge and its contractors that there is zero tolerance for purchasing sex or discussing this topic at work.</p> <ul style="list-style-type: none"> • Senior leaders from the Bureau of Criminal Apprehension, the Minnesota State Patrol, and the Minnesota Department of Transportation met with officers of the Red Lake Tribal Council on July 22, 2021 to discuss concerns around sex trafficking and impacts on indigenous women. Information from this meeting was provided to teams actively working to combat human trafficking.
“Enbridge did not include key stakeholders in Tribal Cultural Resource Management survey team” and tribes “were unsuccessful in having their claims heard by the Minnesota Supreme Court.”	<ul style="list-style-type: none"> • The cultural resources review was legally contested by several tribes. The case was heard by the Minnesota Court of Appeals, which concluded that the cultural resources survey was sufficient. • The plaintiffs then appealed their case to the Minnesota Supreme Court, which declined to hear the case, allowing the ruling of the Minnesota Court of Appeals to stand.
Violations of tribal rights in relation to treaty camps/first amendment rights	<ul style="list-style-type: none"> • Since 2018, and as recently as this week, DNR leaders and managers have repeatedly exercised their authority to make many exceptions to state rules on the management and use of state parks and state forests in an effort to accommodate tribal cultural and spiritual activities and allow for First Amendment activities around Line 3. • This has included allowing individuals to remain in camp sites longer than normally allowed; accommodating larger gatherings than normally allowed; allowing a cultural structure to remain in place despite a determination by tribal historical monitors that it did not have significant historical/cultural value, and other accommodations. These accommodations have been documented and a list can be provided upon request.
800 COVID-19 Cases	<ul style="list-style-type: none"> • The 788 COVID-19 cases referenced in the article cited represent just .1% of the COVID-19 cases confirmed in Minnesota. • Enbridge has engaged in a robust bi-weekly testing program for unvaccinated employees. • This serial testing program may have resulted in cases among employees being identified at a higher rate than the general population. • The Minnesota Department of Health has provided technical assistance to Enbridge on their COVID-19 preparedness plans. • Enbridge provided vaccine opportunities and paid time off for interested employees to receive the COVID-19 vaccine.

Tribal consultations	<ul style="list-style-type: none"> • Tribal consultation has been a high priority for this administration. As such, all agencies involved in regulatory processes related to Line 3 have engaged in extensive formal consultation and nonformal discussion with tribes. • The Minnesota Department of Natural Resources has engaged and continues to engage in formal tribal consultation and coordination with tribal nations throughout the process. The agency offered formal tribal consultation to all of the state's 11 tribes prior to making the original permit decisions. The 7 Ojibwe bands accepted the offer, and the consultations occurred as follows: <ul style="list-style-type: none"> o Bois Forte – January 8, 2020 o Fond du Lac – May 6, 2019 o White Earth – January 14, 2020 o Red Lake – February 7, 2020 o Leech Lake – May 28, 2019 o Grand Portage – June 27, 2019 o Mille Lacs – November 5, 2019 • DNR also participated in several technical coordination meetings with tribal staff: <ul style="list-style-type: none"> o 2019: In-person meeting in Duluth, attended by Fond du Lac, Lower Sioux, Minnesota Chippewa Tribe, White Earth, 1854 Treaty Authority o Meeting with Red Cliff band on December 13, 2019 o 2020: Two technical webinars with tribal staff o 2020: Numerous individual technical conversations regarding Tree4Tree, Fond du Lac peatlands, and with the THPOs regarding cultural resources • DNR engaged in additional tribal consultation following the November 2020 permit decision. Line 3 was a topic of discussion at the following regularly-scheduled annual tribal consultations: <ul style="list-style-type: none"> o Bois Forte – August 3, 2021 o Fond du Lac – June 4, 2021 o Grand Portage – July 20, 2021 o Mille Lacs, August 5 – 2021 o Red Lake – May 12, 2021 • DNR has also done outreach with tribes at key points, such as the 2021 permit amendment. <ul style="list-style-type: none"> o May 14, 2021: Email to tribal government natural resource directors and staff about the proposed amendment o May 27, 2021: Meeting on the permit amendment with representatives from Mille Lacs, White Earth,
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	<p>and Fond du Lac Bands and environmental staff representing Minnesota Chippewa Tribe</p> <ul style="list-style-type: none"> o June 23, 2021: Letter regarding permit amendment to White Earth and Minnesota Chippewa Tribe o July 20, 2021: Written information provided to Secretary Sam Strong of Red Lake regarding drought management o June 25, 2021: Tribal consultation via Zoom with White Earth on water appropriation permit amendment o July 26, 2021: Tribal consultation via Zoom with Red Lake Nation on water appropriation permit amendment <ul style="list-style-type: none"> • In addition to the tribal consultations and technical coordination meetings described above, DNR's commissioner, tribal liaison, and other senior leaders have had numerous conversations with individual tribal leaders regarding the Line 3 replacement project, including the dewatering permit amendment. • Formal Tribal consultations with DPS to discuss Line 3 took place on the following dates: <ul style="list-style-type: none"> o White Earth – November 1, 2019; July 29, 2019; December 17, 2019; February 5, 2021 o Leech Lake – November 1, 2019; December 16, 2019 o Upper Sioux – November 4, 2019 o Lower Sioux – November 4, 2019; September 30, 2020 o Red Lake – November 12, 2019 o Fond du Lac – November 18, 2019 o Mille Lacs – January 13, 2020 o Prairie Island – January 16, 2020 o Grand Portage – October 5, 2020 o Shakopee – October 12, 2020 • MnDOT Tribal Nation Engagement: <ul style="list-style-type: none"> o MnDOT and RLN communicated weekly during winter ceremonies to ensure elders had proper cold weather shelter. o During spring pre-construction, MnDOT and RLN officials had bi-weekly visits and conversations. o At the peak of construction, MnDOT was in continuous contact with RLN. However, as activity in and around MnDOT sites has decline, our need for communication about the site has as well but lines of communication remain open.
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