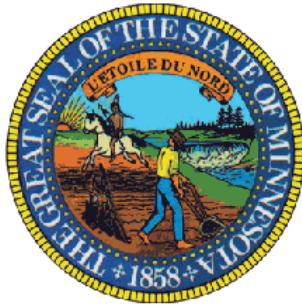


Minnesota House Of Representatives

100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155



Minnesota Senate

75 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 551055

September 23, 2014

William Seuffert
Executive Director, Environmental Quality Board
520 Lafayette Road
St. Paul, MN 55155

Dear Mr. Seuffert:

We are writing to thank the Environmental Quality Board (EQB) for leading an inter-agency effort to better understand the impacts of projected oil pipeline expansions in Minnesota. We are specifically interested in the study's examination of environmental and transportation issues.

The EQB assessment is particularly important and timely. As a result of environmental and public safety concerns regarding increased transportation of crude oil in the state, the 2014 legislature enacted an oil transportation safety bill with a focus on both railroads and pipelines.

With regard to pipeline safety, there is significant public concern with Enbridge Energy's Sandpiper and Alberta Clipper projects.

These projects are in various stages of the federal and state permitting process. Taken together, they constitute a nearly 20% increase in Enbridge's oil transportation capacity in the state. These projects will be transporting particularly dangerous Alberta Tar Sands and North Dakota Bakken crude.

We are recommending that the EQB white paper on pipelines examine three specific areas of concern with regard to Minnesota's pipeline industry:

- Spill response
- Lessons from the Enbridge Kalamazoo River disaster
- Spill history, and safety violations involving the pipeline industry

Enbridge and pipeline industry stridently oppose safety legislation

In February and March 2014, the chairs of the House and Senate transportation committees conducted meetings with the leadership of the Minnesota Department of Transportation, Department of Public Safety and Pollution Control Agency. As a result of those meetings, legislation was drafted whose primary purpose is to:

- 1) Direct additional state and private sector resources to improved training and equipment for first responders along rail and pipeline routes.
- 2) Study gaps in current response protocols.
- 3) Increase the number of track inspectors, and study and fund improvements in rail grade crossings along oil train routes.
- 4) Ensure timely response from railroad and pipeline companies to a major oil discharge.

Pipeline and railroad companies were invited to meet with public agencies and the bill authors to address concerns with the proposed legislation. As a result of meetings with the railroad industry, bill authors made significant changes to the legislation. The rail industry did not actively oppose the legislation in either the Senate or House.

Pipeline industry representatives met once with the House bill author, and then proceeded to lobby aggressively in the Senate to exclude any mention of pipelines in any part of the legislation. As a result, the Senate version did not include pipelines in the bill before a conference committee.

During conference committee deliberations the pipeline industry continued to insist on a complete exclusion from the bill. In a May 14th, 2014 letter, Governor Dayton implored the conferees to include the pipeline provisions. His letter stated, "I am deeply concerned that your Conference Committee has rejected attempts to include pipelines in the hazardous materials disaster preparedness and response sections of the Transportation Article"

As a result of the Governor's letter, the committee did adopt provisions to assess pipeline companies \$1.25 million per year (the same amount as the rail safety assessment) and include pipelines in public safety training and planning provisions.

The parts of the bill, however, dealing with timely oil spill disaster response continued to be strongly opposed by the pipeline industry. Only the response protocols for railroads were included in the oil transportation safety legislation signed by Governor Dayton. As a result, the pipeline industry was exempted from these requirements.

The pipeline industry's continued strident and aggressive opposition to common sense and practical oil spill response requirements agreed to by the rail industry is alarming and is cause for grave concern given the extent of Enbridge's current pipeline expansion plans.

For example, Enbridge and the pipeline industry were unwilling to agree to:

- Provide a qualified company employee to advise public sector incident commander by telephone within one hour of a major pipeline oil discharge;
- Provide monitoring equipment within three hours of a discharge, or to develop an annual plan to deliver monitoring equipment to a discharge site to comply with the provision;
- Provide qualified personnel to advise incident commanders at the discharge site within three hours of a major spill;
- Provide containment booms from land across sewer outfalls, creeks, ditches and other places where oil and other hazardous substances may drain in order to contain leaked material before it reaches those resources;
- To have capability to deliver containment booms, boats, oil recovery equipment and trained staff within eight hours of a confirmed discharge to recover 10% of a worst case discharge, including protection of listed sensitive areas and potable water intakes within one mile of a discharge site
- Deliver equipment to protect sensitive environmental areas and drinking water intakes, within 60 hours of a major spill
- Provide updated disaster prevention and response plans to the Pollution Control Agency every three years

Recommendation: The EQB pipeline document should evaluate the environmental importance of timely spill clean-up and make recommendations to the legislature and other public entities on ways in which Minnesota can improve its spill response, including ideas for new legislation or updates of existing legislation. The EQB should assess the environmental implications of retaining the status quo for pipeline spill response protocols.

Enbridge's Kalamazoo River Spill

Enbridge and the pipeline industry's refusal to agree to these provisions is particularly alarming given the conclusions of the Federal Pipeline and Hazardous Materials Safety Administration (PHMSA) report of May 6, 2014.

The report, Pipeline Safety: Lessons Learned from the Release at Marshall Michigan documents the deficiencies in Enbridge's response to a major pipeline rupture and release of oil in the Kalamazoo River in July, 2010.

The document lists findings of the National Transportation Safety Board (NTSB) investigation, whose conclusions found significant problems with Enbridge's:

- Integrity Management (IM) protocols;
- Control Center Operations and Training Regulations;
- Public Awareness and Public Education Program

This is not an example of a pipeline company's failures in a minor incident -- the Enbridge Kalamazoo spill was the largest on-shore oil spill in US history, with a cleanup cost of over \$1 billion.

Recommendation: The EQB pipeline document should review information regarding spill response and cleanup related to the Enbridge Kalamazoo River disaster and reports concerning spill response from other incidents around the country in order to apply lessons learned from these events to Minnesota's experience.

Minnesota's pipelines frequently leak

Pipeline companies and their allies continually made representations to legislative committees in 2014 that the industry is "safe" and spills have been infrequent and small in scale.

Yet, the Pollution Control Agency disputed that perspective in giving a historic representation of major spills in Minnesota in testimony before the conference committee on HF 3172. According to a PCA spreadsheet shared with the committee, there were 16 major pipeline spills in Minnesota since 1996, which released a total of 1,801,300 gallons of petroleum products into Minnesota's environment.

Recommendation: The EQB pipeline document should include a thorough history and accounting of all pipeline spills in the state, and other permit and safety violations involving the pipeline industry.

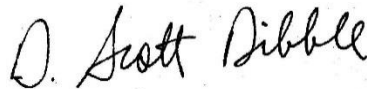
We appreciate the EQB's directive to further study the environmental impacts of pipelines in Minnesota. The white paper is timely given significant expansion proposals before state regulatory agencies. Current pipeline expansion proposals pose extensive potential impacts on sensitive Minnesota ground waters, surface waters, and wetlands in Northern and Central Minnesota. The pipeline industry in general, and these proposals in particular, deserve a high degree of public scrutiny.

We look forward to following the progress of your upcoming report.

Sincerely,



Representative Frank Hornstein
Chair, Transportation Finance Committee



Senator Scott Dibble
Chair, Transportation and Public Safety
Committee



Representative Jean Wagenius
Chair, Environment, Natural Resources, and
Agriculture Finance Committee



Senator John Marty
Chair, Environment and Energy Policy
Committee