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Mr. Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 Seventh Place East, Suite 350  
Saint Paul, MN 55101-2147

January 28, 2019

**Re: In the Matter of Enbridge's Proposed Tribal Economic Opportunity and Labor Education Plan as a Condition of the Line 3 Replacement Project  
PL-9/PPL-15-137, Submission: 201812-148543  
PUC Filed: 12/17/2018**

Dear Mr. Wolf:

On December 17, 2018, the Minnesota Public Utility Commission published notice of the comment period for official parties on Enbridge's Tribal Economic Opportunity and Labor Education Plan ("the Plan") as part of the Line 3 pipeline routing permit compliance filing requirement. This comment period includes official party comments on answers provided by Enbridge about the Plan.

The attached is Honor the Earth's comment on Enbridge's responses to our questions. We seek a detailed description, quantifiable selection matrices, and trackable markers of how \$100M will be invested into Minnesota's communities; a 12-page plan is not enough. The Plan is inadequate as written and must contain precise, defined language about quotas committed to Minnesota's tribes, clear commitment to renewable energy and wild rice restoration, and conflicts of interest surrounding the tribal liaison and the definition of a "Minnesota-based businesses".

Thank you for your time and consideration.

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A handwritten signature in cursive script, appearing to read "Tara Houska".

Tara Houska, Honor the Earth



On January 4, 2019, Honor the Earth formally submitted several questions to the Minnesota Public Utility Commission about Enbridge's Tribal Economic Opportunity and Labor Education Plan ("the Plan") published December 17, 2018. Most of our questions were either returned with censored information, or answered with vague, nondetailed responses by Enbridge filed with the Minnesota Public Utility Commission on January 15, 2019.

Honor's primary challenge to the Plan remains: Enbridge claims it will invest \$100M into Minnesota's tribal communities, yet it is largely unclear how the company will achieve this as only twelve pages have been submitted for public comment. Second, the broad language within those twelve pages leaves open room for much of this funding to benefit non-tribal communities or non-Minnesotan tribal nations/members. Third, the language contains no reference whatsoever to ecosystem and/or wild rice restoration as a direct impact to Minnesota tribal communities, or any renewable energy investments specifically within Minnesota tribal nations.

Enbridge spends nearly one page of the twelve-page Plan extolling upon the company's commitment to tribal nations as evidenced in its *Indigenous Peoples Policy*. The policy references the importance of the Declaration on the Rights of Indigenous Peoples, commitments as a shared responsibility of Enbridge affiliates, employees, and contractors, acknowledgment of the history and diversity of Indigenous peoples, and commitment to consultation, engagement, and creation of long-lasting, mutually beneficial relationships. What Enbridge does not include in the touting of its *Indigenous Peoples Policy* is the recommendation by Enbridge to its shareholders that a more stringent *Indigenous Peoples Policy* be adopted, in May 2017, as a direct result of the company's nearly 1/3 ownership in Energy Transfer Partners' Dakota Access Pipeline project.

On September 3, 2016, attack dogs wielded by security hired by Energy Transfer Partners were deployed on unarmed indigenous peoples trying to stand in the path of construction equipment permanently destroying a site sacred to the Lakota people. As a 1/3 owner of the project, Enbridge had a clear stake in both the outcome of the Dakota Access project and in the human rights abuses that occurred in relation to the construction of that project. Enbridge touts its respect and commitment to Indigenous peoples through its *Indigenous Peoples Policy*, yet that policy presented no issue with numerous, well-documented human rights abuses and clear lack of tribal consent for the Dakota Access Pipeline.

Enbridge's *Indigenous Peoples* policy failed to protect the rights of indigenous peoples during the construction of the Dakota Access Pipeline in 2016-2017 – it is unclear how that unchanged policy will protect the rights of Minnesota's indigenous peoples now. Enbridge's own shareholders acknowledged the weakness of the policy in 2017, when 30% of shareholders voted

against the company's recommendation and instead sought a more stringent *Indigenous Peoples Policy*.<sup>1</sup>

In short, Enbridge has provided a vague promise to invest in Minnesota's tribal nations, with no clear quota of the \$100M dedicated to those tribes, no clear response as to how much of the \$100M will directly benefit Enbridge's Line 3 replacement project, no discussion whatsoever of mitigating the irrevocable damage the Line 3 replacement project holds for these nations, and strong reliance on an *Indigenous Peoples Policy* that was shown to be woefully inadequate.

Therefore, Honor the Earth asks Minnesota's Public Utility Commission to reject the Plan and demand further clarity, substance, and definition, as Enbridge has failed to meet one of the conditions of approval for its Line 3 replacement project.

Honor the Earth addresses Enbridge's responses to our questions on the Plan below.

### **Request TE03: No Defined Quota of Investment in Minnesota Tribal Nations**

Honor the Earth requested further clarity on how much of the \$100M investment will be specific to Minnesota tribes, Enbridge's response did not provide a specific quota but instead reaffirmed that the \$100M investment can include "Minnesota-based businesses regardless of ownership" and "tribal-owned and tribal-member owned businesses not located in Minnesota".

Enbridge itself is a Canadian corporation, that has opened numerous offices within the state of Minnesota, including the establishment of a land-holding entity called "Tri-State Holdings". Under the terms of this Plan, Enbridge could qualify as a "Minnesota-based business". So can the many non-Native contractors who will be needed to construct Enbridge's Line 3 replacement project.

The lack of substantive data on the actual investment committed to Minnesota tribal nations demonstrates the shallow, ingenuine nature of the Plan to positively impact Minnesota's tribes.

### **Request TE06: Tribal Liaison and Public Communication Conflict of Interest**

Enbridge's Plan anticipates that the Minnesota Public Utility Commission will appoint a tribal liaison, but also notes that this liaison will be funded by Enbridge, presenting a direct conflict of interest and violation of public trust. By creating a position that presents the appearance of accountability to the public, but is directly funded by the entity seeking to meet the conditional requirements of constructing its tar sands project, the requirement is not met.

Further, there is no clarity on the liaison's auditing authority or communications as required. Enbridge instead states that it "does not anticipate" having a role in selecting the tribal liaison or overseeing communications. According to the words of its own twelve page Plan, Enbridge will fully fund the tribal liaison position. Enbridge will have an ongoing financial relationship with

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<sup>1</sup> <https://www.forbes.com/sites/morgansimon/2018/11/01/were-not-done-with-dapl-how-investors-can-still-support-indigenous-rights/#33ecae0c6e0d>

Minnesota's Public Utility Commission, while simultaneously claiming the company "does not anticipate" any oversight.

**Request TE09-TE010: No Quota for Renewable Energy or Wild Rice Restoration**

Enbridge's response to Honor's inquiries about renewable energy investments specific to Minnesota tribes and wild rice restoration demonstrate the inadequacy of the Plan. With regard to renewable energy, there is not specific renewable energy goal, and Enbridge further notes that renewable energy investment can be associated with powering the Line 3 replacement project. Again, the Plan demonstrates lack of clear commitment to investment in benefitting Minnesota's tribes. Instead, the Plan leaves plenty of room to directly benefit Enbridge's Project – Minnesota's tribes are merely one demographic of many set to benefit of the \$100M Enbridge has committed to invest.

Enbridge's response does not detail a renewable energy commitment, instead the most detail provided is reference to a December 13, 2018 letter between Enbridge and the Leech Lake Band of Ojibwe to potentially "work together in the development of renewable energy projects." This does not clarify either the amount of renewable energy that will directly benefit Minnesota's tribes, nor the commitment of Enbridge to the four other impacted Ojibwe nations.

The response to inquiry about wild rice restoration lacks clarity of amount dedicated to critical work that directly benefits Minnesota's tribal nations, and states that the hiring of restoration contractors will lie with the primary construction contractors. By these terms, the primary beneficiary of Enbridge's construction contracts will be responsible for giving preference to a Minnesota tribally-owned or operated business to do the restoration work. This presents a direct conflict of interest on what is one of the most pressing matters to the Ojibwe peoples impacted.

The harvesting of wild rice is a treaty-defined right held by the Ojibwe nations of Minnesota – the survival of wild rice is critical to upholding this treaty right. With no clear amount dedicated to the restoration from any damages to wild rice as a result of the Enbridge Line 3 replacement project, the Plan is inadequate and violative of the intent with which it was mandated.

For the foregoing reasons, Honor the Earth asks the Minnesota Public Utility Commission to reject Enbridge's proposed Tribal Economic Opportunity and Labor Education Plan.