

# **Bakken Oil: Impacts on Minnesota**

by

**Craig Sterle**

**W. J. McCabe Chapter**

On August 1<sup>st</sup>, 2013, I was rattled from my relatively comfortable retirement by a letter from Enbridge Pipeline Company, saying they wanted to put their newly proposed Sandpiper Pipeline through our property. The proposed line would run just north of our home, and would bisect all four of our forties. It took my wife and me completely by surprise. In the intervening twelve months since then, we have learned more about pipelines, the permitting process, and environmental activism than either of us ever imagined.

Our first reaction was to get together with neighbors that were also concerned about this proposal. We immediately bonded with these like-minded families to form the Carlton County Land Stewards (CCLS). Four of the families were involved in organic farming, a growing trend that supplies a variety of produce and other foods to Duluth and surrounding communities. With no existing pipeline corridors along this newly proposed route, we had to ask ourselves, "Why here?" Enbridge had an existing corridor several miles to the north, known as their Mainline, which held six existing pipelines, including the recently completed Alberta Clipper. The Mainline corridor bisects northern Minnesota, running east out of North Dakota or south out of Canada meeting at the Clearbrook, MN Terminal, then heading east and south to a terminal in Superior, Wisconsin. From there oil is shipped to Calumet Refinery in Superior, WI and through multiple lines to refiners in the Midwest, Canada, and the Gulf. Almost all of this oil comes from western Canada, with small amounts coming from elsewhere.

As a group, we collectively thought that any new oil should be shipped along this existing corridor. The Sandpiper however was designed to leave Clearbrook, MN and go due south, toward Park Rapids, MN, where it would then turn more southeasterly, passing through Aitkin Co. near Sandy Lake, and at McGregor it would turn to run due east through the center of Carlton County. The proposal would attempt to utilize existing pipeline and electrical utility rights-of-way whenever practical, but would still involve significant development of right-of-way in "greenfield", i.e. undeveloped woodland, wetlands, lakes, rivers, and farmlands. It was likely the rejection by Enbridge of their Mainline, and the creation of a new, 44 mile longer pipeline route, with a significant amount of greenfield development, that most attracted citizen attention.

Out in the Park Rapids area and at the White Earth Reservation, the proposal stirred concerns about contamination of the surface waters when a spill occurs, and the impact this would have on tourism and wild rice production, contamination of the aquifer which sits in a region of porous sandy soils, and the impact this would have on wells for municipal and private drinking water supplies, as well as on the

\$500,000,000/year potato industry which depends heavily on groundwater irrigation. Two citizens group there entered the fight, Friends of the Headwaters (FoH) and Honor the Earth (HtE). Recently, in Aitkin Co. the Sandy Lake - Lake Association has become more actively involved in the process.

To keep this article short enough to stay manageable for the editors, I will provide you with the abridged version of the history and Public Utilities Commission (PUC) process to date. On Friday, Nov. 8<sup>th</sup>, 2013, Enbridge filed their Certificate of Need (CoN) and Route Permit request with the Minnesota Public Utilities Commission (PUC). An Enbridge representative having previously met with one of the Commissioners of the Carlton County Board, agreed to amend their Route Permit after filing to utilizing existing utility rights-of-way through eastern Carlton County, rather than their filed proposal that was entirely greenfield development through the “organic farming district”.

The review process got somewhat inverted at the first PUC hearing. The Dept. of Commerce (DOC), which does both the environmental review (Route Permit) and verifies need (CoN) on utility projects, had requested the list of markets for the oil on this proposed Sandpiper pipeline. At the hearing, council for Enbridge said that Federal law protected this information, and they wanted to wait to release it until after a protection order was in place, which they had not yet filed. DOC argued that if the CoN was considered complete without this information, then the timeline would have started back in November and thus, they would not have the time for a full review. The PUC ruled the CoN incomplete and set a deadline for this information to be provided. The timeline for the application would not start until the CoN was considered complete. However, the Route Permit was approved to move ahead.

Several weeks passed before Enbridge provide the documentation requested by the DOC, but the Route was now well ahead of the CoN. This is like putting the cart before the horse. And because this is considered a contested case hearing, the CoN was sent to the Dept. of Administrative Services – Administrative Law Judge (ALJ) who is currently taking testimony. Citizens must now follow both processes concurrently to keep track of the application progress.

As part of the PUC process, there is a public comment period for both the CoN and Routing Permit. In early April there was a deadline for commenting on the Route. Over a thousand comments were received. An appeal for additional time for more comments with route alternatives was requested and granted, giving everyone an additional 30 days. FoH submitted six different route alternatives that would circle south around the lakes region of central Minnesota (see attached map), and these are now known as System Alternatives (SA's), a term never before used, and not defined in any DOC or PUC process, and not found in rules or statutes. The term was coined by Enbridge and accepted by DOC, to the objection of several interveners, who feel these are simply route alternatives. SA's were identified as not going through Clearbrook, MN and ending in Superior, WI. The DOC used these

two points as new criteria to dismiss these routes from the route alternatives. This criteria was added in analysis after these alternatives were handed in.

During their review of the proposed route and the submitted alternatives, the MN Pollution Control Agency (MPCA) criticized the Enbridge proposal for numerous reasons, but was chiefly concerned with the lack of access, due to remote locations or to large expanses of wetlands and waters that would prevent a rapid emergency response during a spill. They were also concerned about the impacts to waters and wetlands, and the associated aquatic life, including the state's rice beds.

The MN Dept. of Natural Resources (MNDNR) also submitted numerous comments, including concerns about the crossing of the State's Kennecott mineral lease site southeast of McGregor, and potential disruption of spring flow that supplies water to the Spire Lake Fish Hatchery, as well as the threat to the hatchery stock if there was a spill. This hatchery has assumed increased responsibility as the State's primary coldwater hatchery ever since the French River Hatchery was forced to shift their trout and salmon rearing operations from French River to Spire Valley. Now nearly all the eggs are in one basket, so to speak.

At the Aug. 7<sup>th</sup> Route Permit hearing, the five PUC Commissioners listened to testimony provided by Enbridge and the interveners, including Kennecott Corp., CCLS, FoH, and the White Earth Reservation, plus numerous comments from the public. All but two of the public comments, the N.D. Pipe Fitters Union and the Hubbard County Chamber of Commerce, spoke against the proposed route. Most were concerned about the impact the route will have on natural resources, including both surface and/or groundwater, impacts on the tourist related economy, impacts on people's way of life, and on wild rice with its cultural significance, nutritional importance, and as an economic driver to individual native peoples.

Enbridge reiterated their willingness to support the study of the 53 route alternatives along their Preferred Route, but would not support the SA routes proposed by FoH and supported by MPCA.

Once the Commissioners began their public deliberations, it was clear that at least one of the SA routes would be studied along with the 53 route alternatives on Enbridge's preferred route. A couple of Commissioners objected to the last minute insertion of a completely new route, had concerns over due process for those on the new SA route, and concerns over mandatory timelines for completion of the permit process. The Commissioners selected to study SA-03 as a route alternative. But, on a split vote, they also chose to take two weeks of additional comments on the legal basis from all parties for determining how to consider the SA routes in the CoN and/or Route Permit proceedings. That comment period ended Aug. 21<sup>st</sup>. More updates will follow as this process moves forward. The PUC is hoping to have a final decision by next May, 2015.

For the Ike's there is much to be concerned about with the creation of a new pipeline corridor. Already Enbridge has proposed moving and expanding the

capacity of Line 3 from their existing Mainline to the new Sandpiper corridor. Line 3 has been the source of numerous spills over its life, including our state's largest spill of 1.7 million gallons near and into the LaPrairie River in Grand Rapids in 1991. A PUC Commissioner even mentioned the "tsunami" of pipeline applications they are beginning to deal with. These pipeline utility corridors eat up forests and wetlands, lakes, rivers and streams, fracture contiguous block of wildlife habitat, introduce invasive terrestrial plant species, and through hydrostatic testing of pipelines, could inadvertently lead to the spread aquatic invasives. I could go on, but you get the point. The corporations drive the pipeline process, with each company picking their own routes based on markets and profits. Because the pipeline statutes and agency rules fail to consider cumulative impacts, there is no evaluation of what all of these routes are doing to our environment. Our state has been, and will continue to be sliced and diced by all kinds of utility corridors. While no one project will likely lead to the sudden downfall of our environment, much like our loss of wetlands, prairies, and grasslands, we are suffering a death by a thousand small cuts.

In an attempt to look at the broader picture, to consider the cumulative impacts, and to better plan for the tsunami of energy corridors in our near future, I have initiated a conversation with the Environmental Quality Board and several legislators, to consider the need for a Generic Environmental Impact Statement (GEIS). If a GEIS is developed, it will likely take two to three years or more to complete. In the meantime, the PUC will continue to do the best they can to deal with the situation. I don't envy them for their level of responsibility and the workload that they are shouldering. Not to mention the cumbersome statutes and rules under which they are operating.

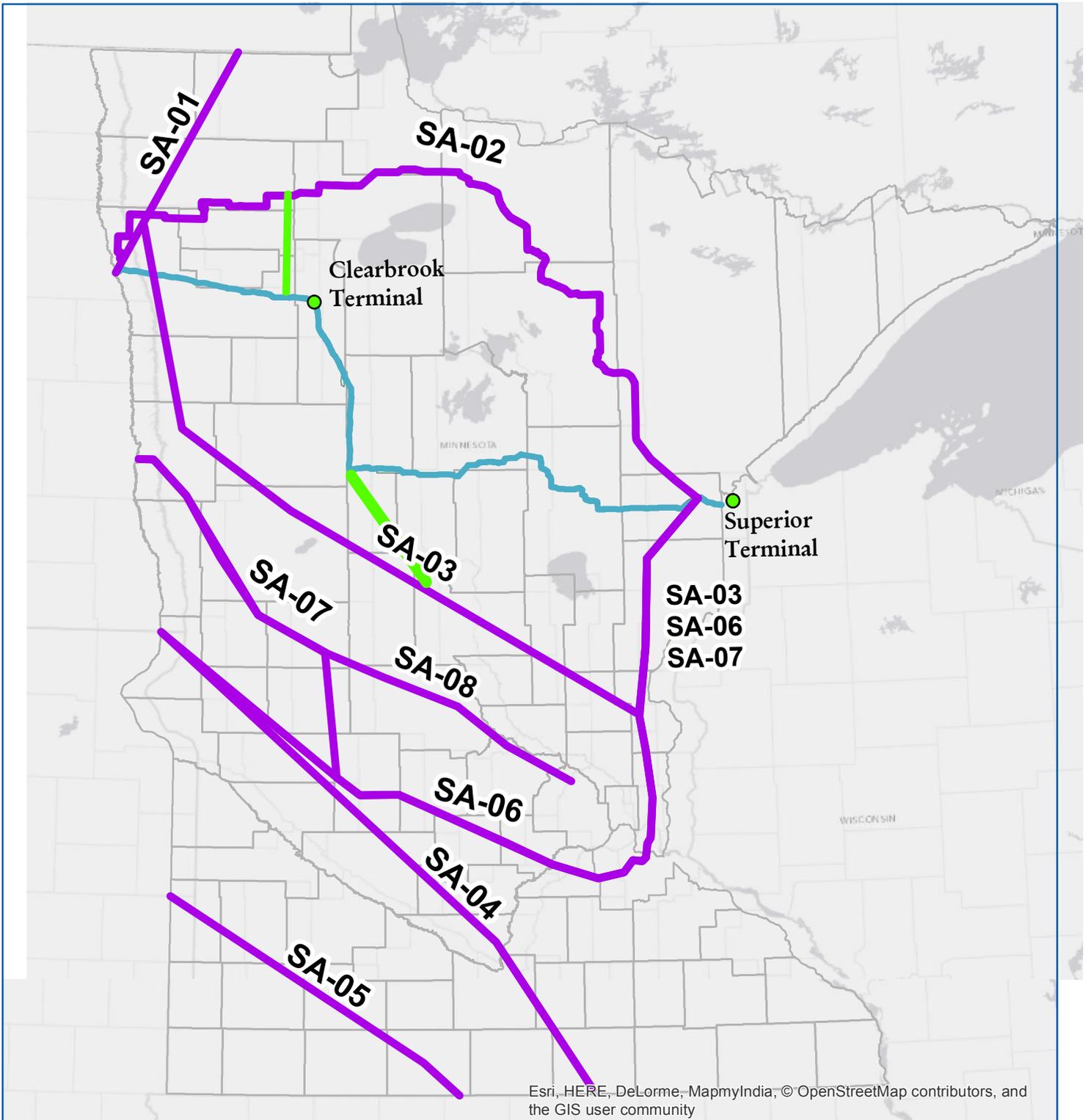
None of this in any way minimizes the other impacts that most Ike's in MN are well aware of, including the issue of frac sand mining in the southeastern part of the state, and the hazards of oil trains rolling through our communities. Considering that Minnesota has little or no known fossil fuel reserves, we certainly are deeply involved in the oil production industry.

To give you a few facts about the oil transportation industry through MN, consider this: the Bakken is second only to Texas in oil production, and a good share of that oil travels through MN, presently mostly by rail and some pipelines. When looking more specifically at Enbridge oil pipelines through Minnesota, they have requested with the PUC to boost the capacity of the recently built Alberta Clipper in two phases from 450,000 barrels/day (bpd) to 800-880,000 bpd (more than the proposed Keystone XL); Enbridge said it intends to move Line 3 to the Sandpiper corridor and increase capacity from 390,000 bpd to 760,000 bpd; the current capacity of the Mainline systems is 2,500,000 bpd and there are plans to expand capacity to 2,850,000 bpd. 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". With the refining capacity of the three local refineries (two in the Twin Cities and one in Superior, WI) at 396,200 bpd, it's easy to see a significant excess capacity beyond the needs of MN equal to 2,103,800 bpd. And this doesn't even consider the capacity of the MinnCan Lines, which are

already supplying most of the oil for both Twin Cities refineries. The pressure to move crude out of our region, and likely out of the country, could result in significant environmental risk; such as, when Calumet Refinery in Superior, WI proposed to ship by barge, tar sands crude oil (seasonally) out of the Lake Superior harbor. One can only envision an Exxon Valdes-like spill on the largest freshwater lake in the world. Unlike Bakken light sweet crude which floats on the water making it easier to recover, tar sands oil is heavier than water and rapidly sinks. Recovery would be nearly impossible, and like Valdez in Alaska, the environmental affects would persist for decades or possibly centuries. Through citizen and environmental group input, the WI DNR decided for a full environmental review of Calumet's request before proceeding further.

The Izaak Walton League has a vested interest in following energy developments over the coming years. We will monitor energy developments as the tsunami of pipeline requests build doing our best to protect the natural resources we all cherish by providing informed public comment and by seeking changes at the State and Federal level when necessary to protect our environment for future generations.





**Legend**

- System Alternative
- System Alternative Connector
- Sandpiper Proposed Route
- County Boundary

