A satellite image of the Great Lakes region in North America. The water bodies are a deep blue-green color, indicating a high concentration of phytoplankton or algae. The surrounding land is a mix of green and brown, representing forests and agricultural fields. The text is overlaid on the top left of the image.

# ENBRIDGE

## OVER TROUBLED WATER

### THE ENBRIDGE GXL SYSTEM'S THREAT TO THE GREAT LAKES

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*PHOTO CREDIT: SEAWIFS PROJECT, NASA/GODDARD SPACE FLIGHT CENTER, AND ORBIMAGE*



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TAR SANDS MINING IN ALBERTA CANADA. PHOTO CREDIT: NIKO TAVERNISE

# PREFACE

If you drive a car in Minnesota, Wisconsin, Illinois or Michigan, chances are there's tar sands in your tank. That fuel probably comes to you courtesy of Canada's largest pipeline company, Enbridge.

This report tells the story of that company and its system of oil pipelines in the Great Lakes region.

Before there was Keystone, there was the Lakehead System. That is the name of the spiderweb of pipelines Enbridge built to bring Canadian crude to the Great Lakes region.

When many of these pipelines were originally built beginning in the 1950's, they were routinely green-lighted as part of a national energy infrastructure build out, bringing conventional crude from our northern neighbor. As late as 2009, the US State Department permitted Enbridge's Alberta Clipper tar sands pipeline (Line 67) with little fanfare. Somewhere along the way, the Enbridge pipeline system became the primary means of bringing tar sands crude to the US. That permitting process was entirely disconnected from the reality of the tar sands industry.

Just a few years ago, there was virtually no awareness outside of Alberta that vast areas of boreal forest were being clear cut and bulldozed to get at the tar sands

**TAR SANDS OIL** refers to a class of crude oils that are derived from a mix of water, sand, clay and bitumen, a heavy hydrocarbon, found primarily under the boreal forests of Alberta. The most destructive form of extraction is to clearcut the entire forest, remove the earth over the tar sands deposits, and then process it to extract the bitumen, which is eventually converted into synthetic crude oil and refined into diesel and gasoline.

Another extraction method is to heat bitumen underground using massive amounts of natural gas so that it can be pumped out and then mixed with toxic materials to thin it so it can be pumped through pipelines. Tar sands oil is the most carbon intensive oil in the world, releasing about 20% more greenhouse gases than the world's average conventional oil.

lying below. There was no reporting in the U.S. on the First Nations whose rights, livelihoods and health were trampled along with the forest. There was no public consciousness in the US about the toxic emissions, the gargantuan toxic tailings ponds (used to dump waste), and the poisoning of the Athabasca River. Few Americans made the connection to the refineries near the Great Lakes that invested billions of dollars in new equipment to process tar sands crude from Alberta, increasing toxic emissions from these hazardous facilities. Certainly there was almost no understanding that the tar sands deposits were so large, and so dirty, that unleashing the full force of the industry all but doomed the fight against climate change.

But now we know better. Alberta is home to the one of the most destructive industries on earth. The worst destruction is found at its source in the Athabasca region, but pipelines carrying tar sands spread around the Great Lakes and Upper Midwest to the Kalamazoo River, where tar sands oil balls still lie on the riverbed from the 2010 spill there; to Detroit and Chicago, where piles of petcoke (a coal like byproduct of tar sands oil refining ) blow their toxic ash on communities already living with toxic exposures; to the sacred wild rice fields of the White Earth Nation in Minnesota; to the Headwaters of the Mississippi.

The original tar sands oil invasion of the United States was stealthy. The companies and their products were obscure and little was known about potential impacts. But starting in 2008, environmental campaigners in the US and Canada answered a cry for help from First Nations in Alberta, and began fighting hard against the rapid and reckless expansion of this industry. The effort started too late to prevent the construction of the Alberta Clipper or Keystone I tar sands pipelines, but the campaign against Keystone XL achieved a monumental victory against further expansion of this disastrous industry.

By 2011, Keystone XL became one of the most politicized and high profile environmental campaigns of our time. On November 6, 2015, President Obama rejected Keystone XL, invoking the need for leadership on climate.

Keystone XL has become an inspiration and a reference point for tar sands and pipelines. Because it became a 1,700-mile long political football, it has also cast a media shadow, blocking out attention on other pipelines. Keystone I has a capacity of 591,000 barrels per day, and Keystone XL would have topped out at 830,000 bpd. The Enbridge Great Lakes Pipelines, collectively, can carry 2.5 million barrels per day.

Call it Enbridge GXL. Enbridge has ambitions beyond moving tar sands oil. As this report shows, the proposed Sandpiper line, which threatens Tribal Nations and private landowners in Northern Minnesota, is slated to take fracked oil from the Bakken oilfields in North Dakota. In addition, the company expects Sandpiper will open an additional pipeline corridor in the region that would be home to a new and expanded Line 3 to carry tar sands oil. Line 5, a rickety 60-plus year old line suspended precariously over the bottom of a trench between the confluence of Lakes Michigan and Huron, carries conventional crude and partially refined synthetic crude derived from tar sands.

Here's the good news. We don't need any more Enbridge pipelines or any expansion along current lines. Over approximately the last decade, oil consumption in Minnesota, for example, is down 18%. Similarly, Illinois's use has fallen 8%, Indiana's has dropped 7%, and New York's has declined 15%.<sup>1</sup> We don't need the oil and we don't need the risk posed by more pipelines. The alternative to expanding the Enbridge network of oil pipelines is simply to not expand. There will be no shortage of fuel, no rise in prices, and no harm to the economy. In fact, the more oil we import the longer it will take us to transition away from fossil fuels to cleaner alternatives.

Citizens around the Great Lakes are protesting the Enbridge GXL expansion. In June of 2015, 5,000 people rallied against the Great Lakes pipelines in St Paul, Minnesota. In July, several hundred people participated in a Healing Walk at the site of the tragic Line 6B tar sands spill in Kalamazoo. In September, over 20 youth were arrested at Secretary John Kerry's house in Washington, DC protesting Enbridge's Line 67/Line 3 scheme to double tar sands oil transport across the border by switching flow between the two lines in an effort to escape the required public review. In October, 11 US Senators signed a letter to Secretary of State John Kerry questioning the lack of environmental review of that double cross. In early November in Duluth, over 200 people marched to occupy an Enbridge office and seven were arrested when the company would not accept a letter of demands from indigenous leaders and northern allies.

This is the type of action that killed Keystone XL. This report shows why citizens are taking similar actions to stop the expansion of Enbridge GXL.

— *Kenny Bruno*  
January 2016

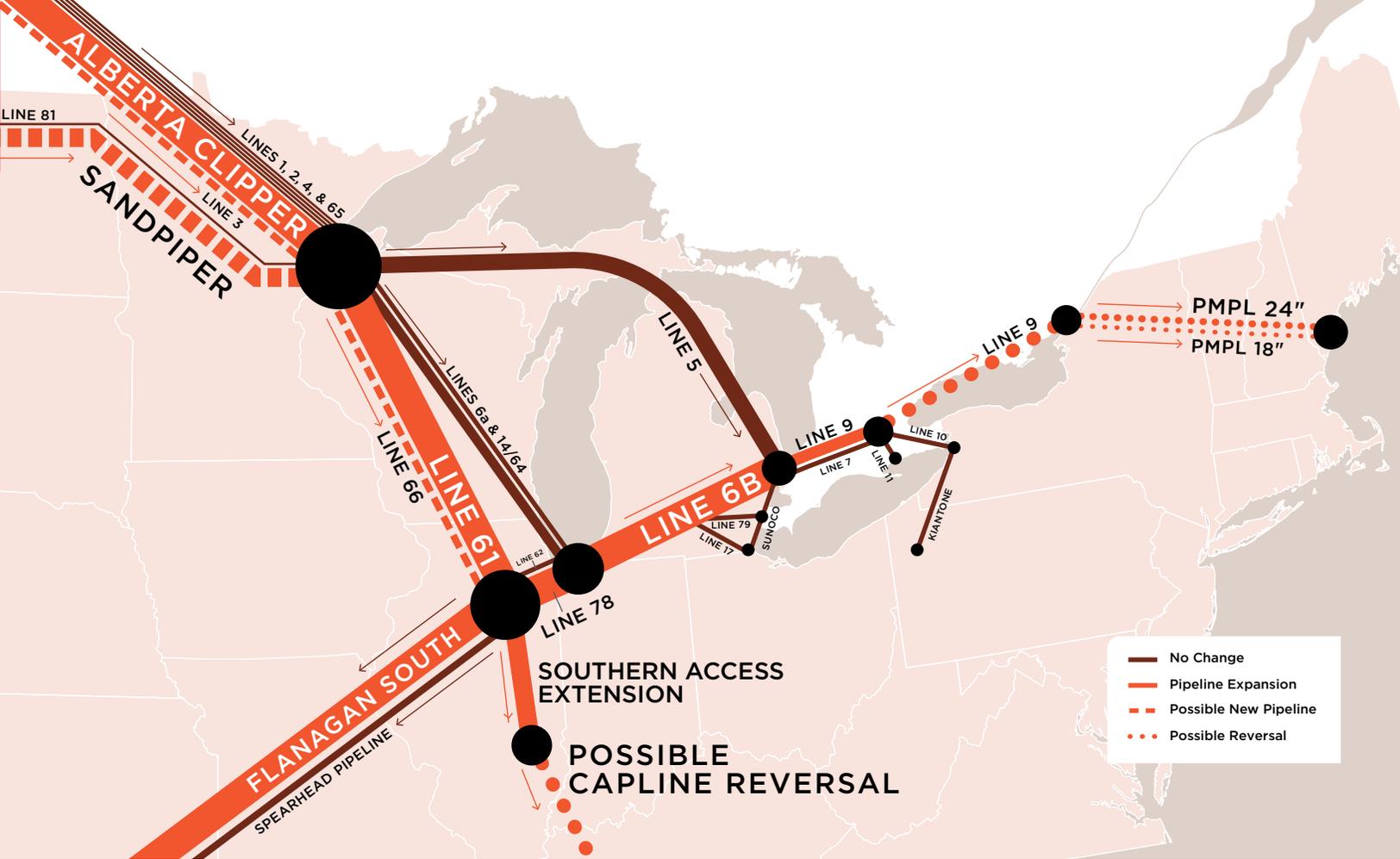
# EXECUTIVE SUMMARY

Pipeline giant Enbridge owns and operates a labyrinth of pipelines that wend their way through the Great Lakes region, creating a massive Great Lakes Tar Sands Pipeline System, or Enbridge GXL. Heavy toxic tar sands oil currently flows across the border from Canada on a pipe called Line 4 and another line called the Alberta Clipper. Tar sands derived oil also moves on Enbridge's Lines 1, 2, and 3. Enbridge is actively seeking to increase tar sands oil transport into the Great Lakes region by about 1.1 million bpd — substantially more oil than was proposed for the rejected Keystone XL Pipeline — while working behind closed doors with regulators to avoid the type of public environmental review that ultimately sank the Keystone XL Pipeline. Once the tar sands oil is across the border, Enbridge has plans to move it with new and existing pipelines throughout the Great Lakes to destinations as far as the Gulf Coast and East Coast, placing countless communities and resources at risk.

Tar sands oil is far dirtier than conventional oil. It is about 20% more carbon polluting on a lifecycle basis than the average oil in the US. It takes two basic forms: heavy diluted bitumen, referred to as dilbit, and lighter syncrude, which is partially refined before being shipped from Canada. Both types present significant environmental risks. As confirmed by a recent National Academy of Sciences report,<sup>2</sup> dilbit is nearly impossible to clean up when it spills — which it inevitably does. In fact, since 2005, Enbridge has been responsible for 763 spills, totaling 93,852 barrels of both light and heavy crude, including tar sands crude, which have spilled and devastated local waterways. And its extraction is destroying and polluting large swaths of the important and habitat rich evergreen boreal forest in Canada, poisoning resources like the Athabasca River that Canadian First Nations depend on for sustenance.

A close look at Enbridge itself reveals that this company has plans that are counter to the Administration's climate goals and the national interest. Moreover, they flaunt the unwavering laws of physics and the growing world response to climate change as seen in the recent landmark international Paris agreement which requires reducing carbon emissions to avert catastrophic global warming. Here are some facts you need to know:

- Enbridge is the world's biggest transporter of carbon intensive tar sands oil, one of the dirtiest fuels on the planet.
- Enbridge is actively seeking ways to short-circuit public review processes in order to allow it to increase tar sands oil movement in the United States by as much as 1.1 million bpd.
- Enbridge has one of the worst safety records of major pipeline companies and was called out as incompetent by the National Transportation Safety Board for its role in allowing for the largest inland pipeline disaster in the United States, the massive July 2010 spill into Michigan's Kalamazoo River. Enbridge's pipelines had more than 800 spills in the U.S. and Canada between 1999 and 2010, leaking 6.8 million gallons of oil.<sup>3</sup>
- Enbridge has shown careless disregard for home and landowner's safety or property, placing pipelines as close as seven feet from people's homes despite federal guidance that pipelines should be placed at a safe distance. In fact, Enbridge's placement has been so close to some houses that it has threatened their structural integrity.<sup>4</sup>



## This report details the following features of Enbridge’s GXL system:

- **ALBERTA CLIPPER DOUBLE CROSS SCHEME.**

Enbridge has already doubled the amount of tar sands coming over the border on its transboundary Alberta Clipper line, getting backdoor approval from the State Department to manipulate its border crossing to pour more tar sands oil into the United States and undermine any meaningful review of that expansion. A coalition of tribes and environmental groups challenged this scheme in federal court, but a judge ruled the State Department’s approval of this scheme was not subject to court review.

- **LINE 3 ABANDONMENT IN MINNESOTA.** Enbridge is planning to build a new line in a new corridor through Minnesota’s pristine lake country and then abandon its old Line 3, a corroding pipeline built in the late-1960s. This would allow Enbridge to bring an additional 370,000 bpd of tar sands across the border.

- **LINES 61 AND 66 – WISCONSIN, THE TAR SANDS ARTERY.** In order to move all the extra tar sands oil Enbridge wants to move across the border throughout the United States, Enbridge plans to expand a major tar sands oil artery that cuts through the heart of Wisconsin, by expanding an existing pipeline and building a new

one next to it. This expansion would link pipelines in Minnesota to a web of pipelines in Illinois that would then allow tar sands oil to spiderweb through a series of pipelines and refineries that stretch from Portland, Maine to Houston, Texas and beyond.

- **LINE 5 – RUSSIAN ROULETTE WITH THE STRAITS OF MACKINAC.** Enbridge continues to carry oil on an aging line that runs along the bottom of the treasured, oft-frozen and remote Straits of Mackinac between Lakes Michigan and Huron. While the line does not currently carry dilbit, it does carry syncrude which presents different but considerable risks. A spill from this line could permanently foul one of America’s most pristine and treasured resources.
- **SANDPIPER – FRACKED OIL FOLLY.** Enbridge is eager to move fracked oil from the Bakken fields of North Dakota through a new pipeline to be placed parallel to the proposed Line 3 replacement. The proposed Sandpiper line would traverse and put at risk land and pristine lakes, rivers, and streams treasured by tribes and outdoor lovers alike, including the headwaters of the Mississippi River.



# DOUBLE CROSS

## ENBRIDGE'S SCHEME TO EXPAND TRANSBORDER TAR SANDS OIL FLOW WITHOUT PUBLIC OVERSIGHT

Last year, in a behind-the-scenes maneuver to approximately double the amount of tar sands oil flowing from Canada into the United States, Enbridge jumped the gun on a massive expansion of its Alberta Clipper tar sands pipeline, undermining a public review process that was just getting started. And worst of all, the State Department went along with it.

The Alberta Clipper pipeline, also known as “Line 67,” extends approximately 1,000 miles from Alberta’s tar sands to the shores of Lake Superior in Superior, Wisconsin. Like Keystone XL and other cross-border pipelines, the construction and operation of Alberta Clipper required a “presidential permit” from the State Department.<sup>5</sup> In 2009, the State Department permitted Alberta Clipper after determining that the project “would serve the national interest,” but it specifically limited Enbridge to importing 450,000 bpd of oil and made clear that any increase in capacity would require a new permit and new environmental impact statement (EIS).<sup>6</sup>

Environmental and Indigenous groups challenged that 2009 approval in federal court.<sup>7</sup> During court proceedings, Enbridge emphatically denied any expansion plans. Enbridge lawyer David Coburn argued, “[The plaintiffs] say that the Alberta Clipper pipeline might be expanded from 450,000 barrels a day to 800,000 barrels a day and that that should have been analyzed. But there are no facts to support that; it’s simply not the case. And Enbridge is on record as stating ... that they have no intention of doing that in the reasonably foreseeable future.”<sup>8</sup> The judge agreed, but ruled that, “If Enbridge proposes to increase the capacity of the Project in the future, the proposed changes to the system would be reviewed... by the appropriate federal... agencies, including reviews of potential environmental impacts.”<sup>9</sup>

As it turns out, it was the case that Enbridge wanted to expand the lines. A mere two years after denying expansion plans in court, Enbridge announced its intent to increase the flow of Alberta Clipper to 800,000 bpd.<sup>10</sup> As instructed by the court, the State Department began a new permitting process to analyze the impacts of transporting more oil at

higher volumes and pressures. These impacts include the potential for much larger oil spills and additional climate-polluting tar sands oil extraction that the expansion would allow in Alberta.<sup>11</sup>

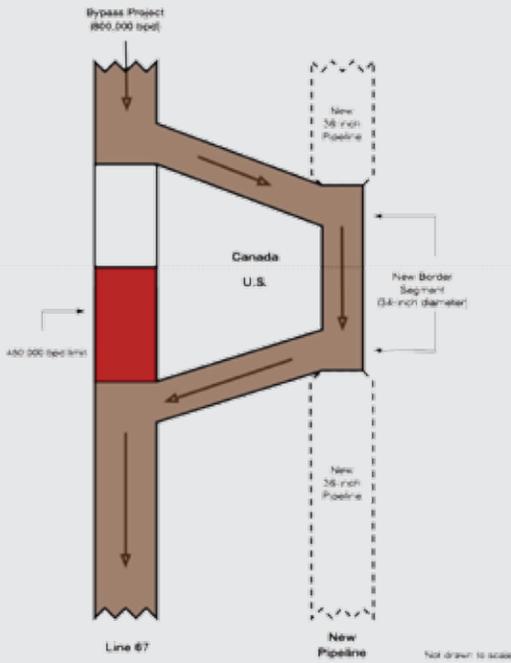
By 2012, when the expansion was announced, there was a national spotlight on tar sands oil. Opposition to Keystone XL had reached a fever pitch, and public concern over tar sands oil infrastructure in the Great Lakes was steadily growing. Environmental and Indigenous groups, communities along the pipeline route, and concerned citizens from around the country weighed in to the State Department with serious concerns about the project and began gearing up for a Keystone like engagement in the permitting process. When the Minnesota Public Utilities Commission held hearings for the expansion, over a thousand people attended.<sup>12</sup>

### ENBRIDGE SAW THAT THE DAYS OF EASY TAR SANDS OIL PIPELINE APPROVALS WERE OVER.

So Enbridge came up with a sneaky plan to skirt the ongoing federal review process and expand the Alberta Clipper pipeline immediately, without any public or agency involvement. In a June 16, 2014 letter, Enbridge informed the State Department that it planned to build a new, higher-capacity pipeline that would cross the border just a few feet away from Alberta Clipper in the same right-of-way; divert the flow of Alberta Clipper oil to this new pipeline in Canada just before the international border; and then divert the oil back to Alberta Clipper once inside the United States.<sup>13</sup> Enbridge claimed that the State Department’s jurisdiction over the Alberta Clipper expansion was limited to just the border crossing. Enbridge was literally trying to make an end-run around the State Department’s jurisdiction, and claimed that the State Department was powerless to stop it.

This double cross scheme raises the question: Wouldn’t this new pipeline require its own State Department permit where it crosses the border? According to Enbridge, construction of the new pipeline was just routine “maintenance” of a corroding 1960’s era pipeline called

## Plaintiffs' Conceptual Representation of the Bypass Project



ALBERTA CLIPPER PIPELINE BORDER BYPASS, COURTESY OF VERMONT ENVIRONMENTAL LAW CLINIC

Line 3 (see pages 21-23 below), which was built before the National Environmental Policy Act was passed and never underwent any environmental review. Although the permit for Line 3 clearly prohibits any operational changes, Enbridge claimed that the permit does not have an express limitation on the pipeline's capacity, as the permits for Alberta Clipper and most other pipelines do. In short, Enbridge planned to exploit vague language contained in a 50 year-old permit for Line 3, use it to expand Alberta Clipper and, as detailed later in this report, lay the foundation to build an entirely new line.

After a series of private meetings with Enbridge, the State Department bowed to industry pressure and went along with Enbridge's plan.<sup>14</sup> A letter from Patrick Dunn, a mid-level State Department official, stated that, "Enbridge's intended changes to the operation of the pipeline outside of the border segment do not require authorization from the U.S. Department of State."<sup>15</sup>

The problem with Enbridge's double cross scheme is that the State Department has both the authority and the legal obligation to stop it. Pursuant to Executive Order 13,337, the State Department has jurisdiction over the construction and the operation of cross-border pipelines. The permits for both Alberta Clipper and Line 3 prohibit any significant operational changes without State Department approval.

The language of the permits also allows the State Department to revoke, terminate, or amend that permission at any time.

Enbridge's plan was not contemplated when either pipeline was permitted. In fact, Enbridge admitted that the new scheme was hatched in response to what it called "the unforeseen Line 67 Project permitting delay at the Department of over a year."<sup>16</sup>

For the same reasons the Keystone XL pipeline was rejected, the Alberta Clipper expansion should be rejected. The State Department's "national interest determination" is based on a broad range of factors, not just the physical installation of pipe across the border. In rejecting Keystone XL, the President stated, "[t]he net effects of the pipeline's impact on our climate will be absolutely critical to determining whether [a] pipeline can go forward."<sup>17</sup> The State Department decided Keystone XL would not serve the national interest because it "would precipitate the extraction and increased consumption of a particularly GHG-intensive crude oil" and "would undermine U.S. climate leadership and thereby have an adverse impact on encouraging other States to combat climate change."<sup>18</sup>

The same holds true for the Alberta Clipper tar sands pipeline. The State Department's machinations in approving Enbridge's double cross scheme have enraged tribal nations and environmental advocates. In November 2014, a coalition of environmental and indigenous groups challenged the expansion in federal court, but the judge recently ruled it did not have authority to decide the matter.<sup>19</sup>

On June 6, 2015, a diverse coalition of over 5,000 citizens marched on the capitol in St. Paul, Minnesota protesting the tar sands oil invasion of the region with a keen focus on this double cross scheme. It represented the biggest march against tar sands oil the Midwest has ever seen.<sup>20</sup> And on October 27, eleven senators wrote to Secretary Kerry raising questions about why these pipelines are not being held to the same standard as Keystone XL.<sup>21</sup>

The State Department will presumably move forward with its environmental review of the Alberta Clipper expansion, but now that review is occurring after the expansion has already effectively happened.<sup>22</sup> Enbridge has already started pumping approximately 800,000 bpd of tar sands crude through Alberta Clipper, making it the same size as the now-rejected Keystone XL. This will almost certainly influence the analysis of the impacts of the project in a way that gives bias towards approval. It is critical that the State Department put a stop to Enbridge's end run around the law and conduct a thorough review of the impacts of Enbridge's proposed expansion before making a decision on whether to allow it.

# CASE STUDY IN SEGMENTATION

## FLANAGAN SOUTH

The Alberta Clipper double cross expansion is far from the only example of Enbridge pipelines being approved behind closed doors. Since the Keystone XL pipeline brought the tar sands into the national spotlight, Enbridge has avoided any public environmental review process for several of its pipelines. Of particular note, is the 600 mile Flanagan South pipeline from Northern Illinois to Oklahoma, which provides a key link that allows tar sands oil to be pumped from Alberta to the Gulf Coast—the same ultimate origin and destination of the rejected Keystone XL pipeline.

The Flanagan South pipeline was proposed by Enbridge in 2013, when Keystone XL was stalled. It was designed to transport heavy dilbit from Enbridge's pipeline network in the Midwest to the pipeline hub in Cushing, Oklahoma, where it could then be sent south to refineries along the Texas Gulf Coast via the Seaway pipeline\*<sup>23</sup>

Prior to 2012, crude oil pipelines of this magnitude always prompted federal agencies to prepare an environmental impact statement pursuant to the National Environmental Policy Act (NEPA). With Flanagan South, however, despite the involvement of numerous federal agencies, no agency

evaluated the environmental impacts of Flanagan South before it was constructed.

Instead, each involved agency used legal loopholes to avoid NEPA review. For example, the Army Corps of Engineers artificially treated each one of the 1,950 water bodies that Flanagan South cut across as 1,950 separate, singular projects, rather than as a single, massive pipeline. Despite defying common sense, this allowed the pipeline to be exempted from review because each crossing was allowed under an expedited permitting process that is only supposed to apply to pipelines with up to a ½-acre of impacts. If the pipeline had been considered as one project, instead of almost 2,000 separate projects, it would have had to undergo a comprehensive review of its environmental impacts.

Environmental groups challenged the Flanagan South approval in federal court. While the court ultimately found the law was violated, it relied on a technicality in failing to require the agencies to prepare any further environmental review.<sup>24</sup>



CONSTRUCTION OF FLANAGAN SOUTH PIPELINE IN LIVINGSTON COUNTY, ILLINOIS. PHOTO CREDIT: JENNA DOOLEY/NORTHERN PUBLIC RADIO



# THREAT TO THE HEARTLAND

## WISCONSIN, THE TAR SANDS ARTERY

In 2006, Enbridge began work on a massive new tar sands pipeline, intending to further enlarge its crude oil corridor through the heart of Wisconsin and connecting oil coming into Superior to a massive array of pipelines that Enbridge intended to extend from the Gulf Coast to the East Coast. Originally called Southern Access, a name later dropped in favor of Line 61, the purpose of this pipeline was to connect oil coming into Superior with pipelines further south and east by enlarging Enbridge's crude oil corridor through the heart of Wisconsin.

As the disastrous effects of the Kalamazoo oil spill would confirm four years later, residents back in 2006 expressed concern for the number of important natural areas that

**SOON TO BE THE LARGEST TAR SANDS PIPELINE is Enbridge Line 61 through Wisconsin, which is being expanded from its original 400,000 bpd capacity to 1.2 million bpd. Not satisfied with this expansion, Enbridge is also considering a new Line 66, parallel to Line 61, to carry another million or so barrels per day.**

the pipeline would cross through. Line 61 begins on the shore of Lake Superior, crosses the headwaters of the St. Croix River, a National Scenic and Wildlife River, and continues southeast across the Wisconsin River and the Rock River in Southern Wisconsin. These major rivers are among the most important waterways in the state, supporting fishing, providing drinking water, and contributing substantially to Wisconsin's \$18 billion tourism economy.<sup>25</sup> Significant damage to any of these critical waterways could impair the health of the communities nearby and Wisconsin's economy as a whole. Despite these concerns, the Wisconsin Department of Natural Resources (WDNR) permitted the project.

Once the project was underway, Enbridge demonstrated an alarming disregard for the environment. Violations of state environmental regulations designed to protect impacted waterways during construction of Line 61 resulted in one

of the largest settlements for a wetlands and waterways case in Wisconsin history.<sup>26</sup> Ultimately, Enbridge was forced to pay \$1.1 million for over 100 violations across the state, prompting Attorney General J.B. Van Hollen to report that "...the incidents of violation were numerous and widespread, and resulted in impacts to the streams and wetlands throughout the various watersheds."<sup>27</sup>

## USING LOBBYING MUSCLE TO OVERRUN THE WILL OF WISCONSINITES

Six years after the initial construction, Enbridge announced plans to triple the amount of oil flowing through this new line from 400,000 bpd to 1.2 million bpd. Should it be fully expanded, Line 61 would be the largest tar sands pipeline in North America. Enbridge has claimed they had always planned to expand the pipeline, and were clear on this when they originally proposed it. However, the original environmental analysis points to Enbridge's all too predictable pattern of dissembling. It clearly states the project was to be "approximately 400,000 barrels per day" and never mentions a figure approaching 1.2 million barrels anywhere in the 120-page document.<sup>28</sup> Despite the unprecedented size of this expansion, on June 12, 2014, the WDNR permitted the project without conducting an Environmental Impact Statement or any additional analysis.<sup>29</sup>

To construct the pump stations necessary for such a significant pressure increase, Enbridge needed permits from each of the affected counties. Upon researching the risks of the proposed expansion — and noting Enbridge's fight with insurers over the 1.2 billion dollar clean-up costs for the tragic Kalamazoo spill — Dane County, which houses Wisconsin's capital city, Madison, required that the company purchase \$25 million in environmental impact liability insurance. Considering Kalamazoo's record clean-up costs, the county felt that such assurances were necessary to protect it financially in the event of a spill.

Despite the fact that a similar insurance condition exists on a partially Enbridge-owned pipeline in the state of Washington,<sup>30</sup> Enbridge claimed that the county's insurance requirements were preempted by Federal law.<sup>31</sup> Dane



ENBRIDGE PIPELINE MARKER IN NORTHERN MINNESOTA. PHOTO CREDIT: ANDY PEARSON

County, however, was not deterred and pressed ahead with its own insurance requirements. Two weeks later, all indications show that Enbridge began using its extensive lobbying presence in the Wisconsin state legislature to outlaw the county's insurance requirements.<sup>32</sup>

In a move with Enbridge's fingerprints all over it, an unsigned, last-minute addition to the 2015 Wisconsin state budget prohibited counties from requiring pipeline companies to purchase additional insurance, thereby preventing counties from protecting their citizens.<sup>33</sup>

Incredibly, Enbridge Energy Partners president Mark Maki denied the company had any hand in drafting a provision tailor-made for its specific benefit, claiming, "Enbridge was not involved in drafting of the insurance provision nor did the company support or advocate for it as part of the state budget."<sup>34</sup>

The same last minute addition to the 2015 Wisconsin state budget also included a change to Wisconsin's eminent domain laws — another boon to Enbridge. In what seemed a subtle word shift, condemnation authority was expanded by removing the term "corporation" and replacing it with the much broader term, "business entity."<sup>35</sup> This change removes a hurdle for Enbridge, which owns and operates pipelines as a limited liability partnership, to wield the power of eminent domain — or the power to take

property — in Wisconsin. An Open Records Request for legislative drafting files found clear evidence that Enbridge sought and helped write this change.<sup>36</sup>

## TWIN TROUBLE

Recently, those still working to stop the expansion of Line 61 have had to cope with the disturbing news that Enbridge plans to go even further. "Early development work" on a second pipeline in the same corridor is underway, a project the company currently refers to as a "Line 61 Twin." This twin, or Line 66, will allow Enbridge to bring even more tar sands and fracked oil to a web of connection points that reach from the Gulf Coast to the East Coast. When asked specifically about this plan for further expansion, Enbridge denied it not once,<sup>37</sup> but twice,<sup>38</sup> despite having shown investors materials which included the new 42-inch diameter line months earlier.<sup>39</sup>

As impacted landowners reel under the burden of handing over even more of their property to an ever-expanding pipeline corridor, they have found Enbridge cagey on the details. To this point, the pipeline giant has not provided residents with any specifics,<sup>40</sup> leaving many in the state to wonder at how quickly, quietly, and without debate Wisconsin has become the nation's new tar sands freeway.



# FOULING THE KALAMAZOO

## ENBRIDGE'S "KEYSTONE KOPS"

On July 25, 2010 in Marshall, Michigan, approximately a million gallons of toxic tar sands crude spilled into Talmadge Creek and 38 miles of the Kalamazoo River from Enbridge's Line 6B, which starts south of Chicago near Lake Michigan's southern end and then traverses Michigan on its way to Sarnia, Ontario.<sup>41</sup> This spill was the largest and most toxic inland oil spill in our nation's history.<sup>42</sup>

The National Transportation Safety Board (NTSB) found that Enbridge knew that line 6B was unsafe prior to the 2010 spill. Corrosion and cracking were some of the issues that Enbridge failed to adequately address on the line.<sup>43</sup>

Enbridge's feckless response when the line finally burst, which was compared to the "Keystone Kops" by the NTSB, should alarm anyone who lives near an Enbridge pipeline. A 6.5 foot gash in the pipeline went undetected for more than 17 hours the day of the spill, with workers dismissing

numerous alarm bells that sounded to notify them of an issue with the pipeline. All this time, the pipeline was pouring out toxic tar sands oil into the water. In fact, over 80% of the spilled oil was pumped after the breach.<sup>44</sup> When, after almost a full day, the spill was brought to authorities' attention by a local utility, the local health department immediately issued a voluntary evacuation notice for 30 to 50 homes following the spill.<sup>45</sup>

Two years after the spill, there were still 390 acres of submerged oil in the water. Since then, costs have topped \$1.2 billion, making this spill the costliest onshore oil spill clean-up in history.<sup>46</sup> In March 2015, the state of Michigan announced a \$75 million settlement with Enbridge, \$5 million of which went directly to the state, with another \$30 million as estimated costs for Enbridge to restore or construct 300 acres of wetlands in the watershed for permanent protection.<sup>47</sup>



CLEANUP CREWS NEAR MARSHALL, MICHIGAN AFTER THE 2010 TAR SANDS SPILL IN THE KALAMAZOO RIVER. PHOTO CREDIT: US EPA



PIPELINE RUPTURE IN ENBRIDGE'S LINE 6B.  
PHOTO CREDIT: NATIONAL TRANSPORTATION SAFETY BOARD.

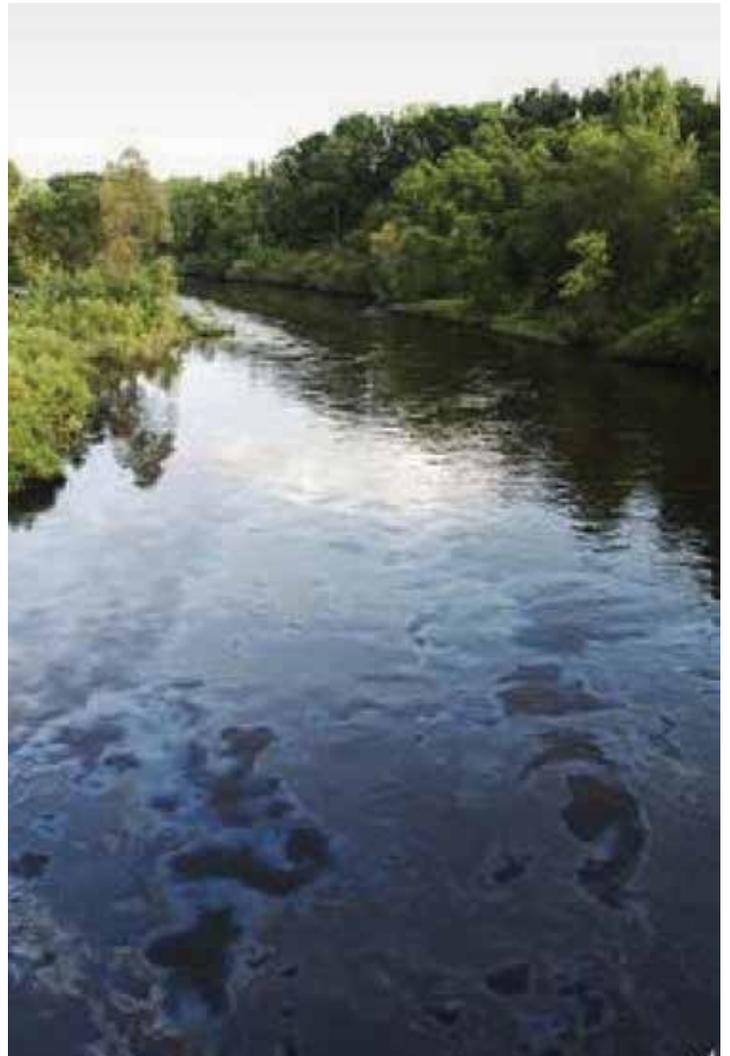
The NTSB investigation of the disaster was scathing in both its criticism of Enbridge's response and its critique of existing safety regulations, which it found inadequate.

The NTSB found Enbridge largely at fault for the spill, documenting the company's safety shortcuts and ignoring warning signs of issues with their pipeline.<sup>48</sup> Investigators also found that Enbridge failed to learn from previous errors that led to accidents on other lines. Since 2005, Enbridge has been responsible for 763 spills, totaling 93,852 barrels of both light and heavy crude, including tar sands crude that has spilled and devastated local waterways.<sup>49</sup>

The communities impacted by the spill into the Kalamazoo River are still feeling the impacts five years later. Enbridge claims that about 800,000 gallons were spilled, but the EPA reports over 1.1 million gallons recovered so far, with 180,000 gallons of bitumen still unrecovered from the riverbed.<sup>50</sup> As confirmed by a recent NAS report,<sup>51</sup> bitumen is heavier than water, so that when a spill occurs, the

chemicals used to dilute the bitumen separate and the bitumen sinks to the riverbed, becoming nearly impossible to fully clean up and leaving residents and their water supplies at risk.

The spill has also led to public health concerns. The Michigan State Health Department's survey of 550 people in affected Kalamazoo River communities found 58% of respondents reported adverse health effects that they attributed to the spill.<sup>52</sup> Chief complaints included headaches, breathing problems, and nausea. Oil contains petroleum hydrocarbons, which are toxic and irritating to the skin and airways. It also contains volatile organic compounds (VOCs), which can cause acute health effects such as headaches, dizziness and nausea. Over the long term, many of these chemicals have been linked to cancer. People that are particularly at risk include pregnant women and people with respiratory diseases.<sup>53</sup> The short term health impacts of this spill were observed, but no long term studies have been ordered by the state or federal governments. No community should have to live with this risk of exposure.



OIL SHEEN ON THE KALAMAZOO RIVER IN 2010. PHOTO CREDIT: MICHELLE BARLONDSMITH



BOOM CAPTURING OIL OFF THE SURFACE OF THE KALAMAZOO RIVER AFTER THE 2010 SPILL.  
PHOTO CREDIT: GREENPEACE USA

# TAR SANDS INVASION OF THE EAST

## LINE 9 AND PMPL

Enbridge intends to use the Great Lakes region as a pass through for oil headed to the East Coast for export. In 2008, Enbridge and the Exxon-owned Portland Pipe Line Company proposed a plan to move tar sands oil from the Michigan-Ontario border to Portland, Maine. This would provide a route to send tar sands oil abroad and to coastal refineries. This proposal, then called Trailbreaker, included two parts: reversing the Enbridge owned Line 9, which runs from Sarnia, Ontario, just over the Michigan border, to Montreal and a second phase of reversing the Portland-Montreal pipeline, which is majority owned by an Exxon subsidiary.

After a behind-the-scenes approval by the US State Department, which concluded that such a reversal and conversion to tar sands oil use did not require a new permit or environmental review,<sup>54</sup> this project was temporarily shelved due to the economic downturn in 2009. However, as pressure to move tar sands oil to market started to pick up, Enbridge recommenced its efforts to pursue the Canadian portion of the project in 2011.<sup>55</sup> In May 2012, Enbridge publicly announced a \$3.2 billion project to move oil from western Canada (including tar sands oil) to refineries near Montreal.<sup>56</sup>

In November 2012 — several months after receiving a permit to reverse a section of its Line 9 pipeline — Enbridge applied for a Canadian National Energy Board permit to fully reverse and expand Line 9. This would enable Enbridge to send tar sands oil all the way to Montreal, Quebec.<sup>57</sup> Full reversal of this line was approved on September 30, 2015 and it is believed that Line 9 is carrying a mix of oils to Montreal.<sup>58</sup> This oil will be refined in Quebec or transported on ship to refineries or for export.

Enbridge's plan to reverse Line 9 mobilized New Englanders into action, who saw Enbridge's moves to reverse Line 9 as a revival of the 2008 plan that would send tar sands oil through New England. After denials of plans to move tar sands, the Exxon-owned company owning the New England line finally admitted that it would consider such transport.<sup>59</sup> After extensive community organizing and engagement, in 2014, the City of South Portland, Maine passed an ordinance protecting its waterfront that effectively prohibits this pipeline from transporting tar sands or other oil from Montreal to the New England coast. The industry is challenging South Portland's law in court and has specifically made clear its desire to move Canadian oil to the coast, claiming that "[the company's] pipelines are currently underutilized due to market conditions that favor the transportation of oil south from Canada to the United States and other international markets," and that South Portland's ordinance "adversely affects PPLC's ability to respond to market conditions."<sup>60</sup>

Should it prevail in overturning the will of South Portland voters, prior plans to use the Exxon-owned pipeline to move tar sands oil through sensitive areas in New England, like Sebago Lake, the drinking water supply of 200,000 people, will almost surely be pursued by Enbridge and its industry allies.

# “THE WORST POSSIBLE PLACE”

## LINE 5 AND THE STRAITS OF MACKINAC

The Straits of Mackinac span the confluence of two of America’s largest and most iconic lakes: Huron and Michigan. Lurking beneath the five-mile bridge that spans the Straits are two aging Enbridge pipelines that run along the deep canyon beneath the water’s surface.

These dual pipelines, together called Enbridge’s Line 5, carry up to 22.7 million gallons of crude oil and natural gas fluids each day from Superior, Wisconsin, to Sarnia, Ontario. The pipelines were placed in the Straits of Mackinac in 1953 and have never been replaced.

In response to this risk, a coalition of more than 20 Michigan environmental organizations organized a campaign called ‘Oil and Water Don’t Mix’ that is calling for the shut down of the pipeline at the Straits, and many prominent business leaders and elected officials are also calling for its closure. In addition, a state task force was so concerned about the pipeline that Attorney General Bill Schuette noted that Line 5’s future should be “limited in duration.”<sup>61</sup>

Line 5’s location is the epitome of precarious. It traverses very uneven terrain at the bottom of the Straits. The pipeline is suspended over an up to 240 feet-deep, quarter-mile-wide, underwater canyon with steep walls. The strong underwater currents, fierce winds, and extreme winter weather conditions — sometimes including foot-thick ice cover — at the Straits make them ecologically sensitive and would make cleanup or recovery from a pipeline

spill especially difficult.<sup>62</sup> At times, the volume of water flowing beneath the Mackinac Bridge moves at a rate of three feet per second, fifty times greater than the average flow of the St. Clair River, one of the largest rivers in the Great Lakes basin.<sup>63</sup>

A rupture under the Straits could be unimaginably devastating.<sup>64</sup> According to Enbridge’s emergency response plans, it takes the company a minimum of eight minutes to shut down a ruptured pipeline and isolate the flow of oil from the leaking pipe.<sup>65</sup> Enbridge has estimated that a “worst case” discharge for line 5, with the eight minute shut off, would be up to 1.5 million gallons of oil released.<sup>66</sup>

However, Enbridge’s response plans are far from failsafe and its “worst case” scenarios have proved to be far too optimistic. As detailed above, Enbridge did not react to the Kalamazoo River spill for 17 hours despite warnings from their leak detection system. If Line 5 ruptured and gushed oil for 17 hours, the resulting oil slick could spread up to 35 miles to the east and even travel west of the Mackinac Bridge.<sup>67</sup>

Swift and fluctuating currents could quickly flush any oil spilled at the Straits of Mackinac into Lake Michigan and Lake Huron. Extreme conditions in the Straits, from ice in the winter and lake currents that occasionally flow in opposite directions at different depths, would make cleaning up oil in the Straits especially challenging. A 2014 University of Michigan study determined that the Straits of Mackinac are the “worst possible place” for a contaminant release, such as an oil spill, in the Great Lakes.<sup>68</sup>

Every few days, the strong currents switch bi-directionally from eastward to westward. Depending on the course of movement at the time of a leak, contaminants could be “transported eastward into Lake Huron or westward into Lake Michigan — and may move back and forth through the Straits several times.”<sup>69</sup> Any release of oil into the Straits could have devastating impacts on surrounding ecologically sensitive areas.



A DIVER POINTS OUT RUSTED METAL STRAPS ON LINE 5 BENEATH THE STRAITS OF MACKINAC.  
PHOTO CREDIT: STILL FROM VIDEO PRODUCED BY THE NATIONAL WILDLIFE FEDERATION.



MACKINAC BRIDGE OVER THE STRAITS OF MACKINAC IN MICHIGAN

An oil release in the Straits of Mackinac also poses a significant threat to the economy in the Great Lakes and Michigan. The Great Lakes are the largest cluster of freshwater lakes in the world, the backbone of one of the largest regional economies, and contain 84% of North America's fresh water supply.<sup>70</sup> The lakes provide drinking water for over 40 million people and support tourism, recreation, a \$7 billion fishing industry, and a \$16 billion boating industry.<sup>71</sup> In 2013, tourism brought \$1.2 billion in visitor spending to the state, which highlights the magnificence of the Great Lakes in their Pure Michigan tourism campaign.<sup>72</sup> One out of every five jobs in Michigan is linked to the high quality and quantity of fresh water, and tourism is one of Michigan's largest income industries generating billions of dollars in profit and tax revenue and 200,000 jobs.<sup>73</sup>

Line 5 was built before the Great Lakes Submerged Lands Act was adopted.<sup>74</sup> If Enbridge tried to build a line like this now, the Act would require the company to go through a more robust permitting process to ensure that the pipeline's use of the Lakes does not pose a threat to the waters or to the public's use of the waters — such as fishing or navigation.<sup>75</sup> Line 5 was not required to get this permit for occupation of the bottomlands of the Great Lakes. When engineers first laid the five-mile-long pipes, residents were told they would last 50 years, an expiration date that has long since come and gone.

Because the flow of oil in the 30-inch diameter Line 5 is split into two, 20-inch diameter pipes in the Straits, a pipeline rupture there would theoretically leak less oil than elsewhere along the route. But having two oil pipelines in the Straits doubles the risk of a spill.

Line 5's aging condition only amplifies the risk. A film along line 5 was done in 2013 and discovered undetected "structural defects,"<sup>76</sup> and in December 2014,

a "pinhole" leak was detected in the Upper Peninsula.<sup>77</sup> In 2014, Enbridge was found in violation of the spacing requirements of its 1953 easement for Line 5, due to missing support structures.<sup>78</sup> The pipes that cross the Straits were installed nearly 60 years ago and pipelines corrode over time. Line 5 is vulnerable to material, weld and equipment failures, which PHMSA identifies as the most common causes of pipeline ruptures.<sup>79</sup>

Especially given Enbridge's concerning safety record, it is not a question of if Line 5 will spill, but when. From 2005 to 2013, Enbridge spilled or released roughly 93,852 barrels, or almost 4 million gallons, of hydrocarbon products, such as light and heavy crude oil, including tar sands crude.<sup>80</sup>

The Line 6B Kalamazoo disaster provides some troubling parallels. Line 6B was an aging pipeline but younger than Line 5, having been built in the 1960s.<sup>81</sup> The NTSB attributed the spill to pipeline corrosion and "pervasive organizational failures"<sup>82</sup> on the part of Enbridge. According to the NTSB, Enbridge was aware that the section of the pipeline that ultimately burst was vulnerable, yet it failed to act on the information.<sup>83</sup> A spill in the Straits almost certainly has the potential to dwarf the effects of Enbridge's July 2010 pipeline rupture.

Line 5 continues to operate, despite the risks that it poses to Michigan's tourism-based economy, its aging infrastructure, and the lack of oversight and regulation to ensure public safety. In fact, in 2013, the line's capacity was increased by 50,000 bpd, from 490,000 to 540,000 bpd — meaning more oil going through at the Straits likely at a higher pressure with no changes made to the aging pipes.<sup>84</sup>

The Great Lakes and the region's environment, public health, and economy are at risk, solely for the benefit of Enbridge's bottom line. Piping millions of barrels of toxic hydrocarbons throughout the Straits is not in Michigan's — or the nation's — public interest.

## VOICES FROM DETROIT

**EMMA LOCKRIDGE:** Story from Winona LaDuke

The proposed Sandpiper Line is predicated on a “need.” This need was determined to be valid by the Minnesota Public Utilities Commission. The need is based on the needs of Marathon Oil, a one third owner of the proposed Sandpiper project. In the spring of 2015, Anishinaabe from the White Earth reservation went to see where the oil would go that the company wants to bring across their reservation. This is where they found Emma Lockridge, an organizer and community member living in the Boynton community of Detroit.

*When you step outside now, it feels as if you strike a match and the air will explode. The chemicals come into our homes, come into our basements and we smell it all the time. Don't let them put that pipeline here. I mean, it has always been bad, but not this bad. The air is just unbearable. It's like living inside a refinery.*

“We have a tar sands refinery in our community and it is just horrific. We are a sick community. We have tried to get them to buy us out. They keep poisoning us. And we cannot get them to buy our houses. I can't hardly breathe here,” she says to me. “Look at this stuff on my house.” True to form there's an orange and black soot on her white house, looking something like the Marathon Refinery discharge.

Emma continues talking; we laugh a lot, share common interests about working on issues, and a love of Bonnie Raitt. “I have had kidney failure. Neighbor died of dialysis. Neighbor next door with dialysis. Neighbor across the street has kidney failure. The chemicals in our pipelines and are in our water will be the same chemicals that come through your land and can break and contaminate. We have cancer, we have autoimmune illnesses, we have MS, we have chemicals that have come up into our homes...”

In 2011, when Marathon had almost completed its refinery upgrade, it did buy out over 275 homes in Oakwood Heights, another neighborhood on its

fence line, to create a green buffer zone. “Marathon... moved people from Oakwood Heights, and left us at the refinery,” Emma continues. “The people who they bought out were primarily white. The black people are left to die.... We want them to buy out our houses, so we can live.”

The state of Michigan maintains that each industrial plant in and around the area emits no more of the chemicals and soot particles than allowed, in their self reporting monitoring. And, that there is far less pollution there now than there was decades ago, before many plants installed modern pollution controls.

Emma and University of Michigan scientists point out the lack of cumulative impact assessment, and the disproportionate impact on children.

“There are no minimum requirements in Michigan for how far away from homes and schools industry must be,” said Paul Mohai, one of the professors who did the University of Michigan study explains “Kids are most at risk, because pound for pound, they breathe in more air,” he said. “Yet, they don't have a say in where they live or go to school.” At least 14



TAR SANDS RESISTANCE MARCH, JUNE 2015. PHOTO CREDIT: ARIELLE JOHNSON



EMMA LOCKRIDGE SPEAKING TO PRESS AT THE TAR SANDS RESISTANCE MARCH IN JUNE 2015. PHOTO CREDIT: SIERRA CLUB.

states, including California, Georgia and Washington, prohibit or limit how close schools can be to sources of pollution, highways, contaminated sites or pipelines, according to a 50-state survey done for the Environmental Protection Agency in 2006.

California and Oregon take into account the cumulative impact of pollution in decisions on permits for industry. Michigan does not yet. Michigan's regulatory avoidance is particularly problematic in terms of environmental justice. Studies are far from complete. But it turns out it's hard to get a study done. "We have asked the EPA for air monitors for the past five years," Emma tells us " We finally got one air monitor. " As we are standing there watching a low flying helicopter comes over the neighborhood. The next day, a group of men wearing EPA vests comes and looks at the sewers. It was an "accidental discharge", they told us. That would be a discharge into a public sewer system by the Marathon refinery.

Our family visits with Emma a bit more, and I ask her to come to the White Earth and Mille Lacs reservation for formal hearings sponsored by the tribal government on the Enbridge proposed lines. When I get her to northern Minnesota, she says to me, "I can breathe now. I can really breathe. You don't, know what it's like, to not be able to breathe." At the tribal hearings, a smartly dressed black woman goes to the front of the hearing to testify that although she is far from home, she acknowledges that her life is now linked to the Anishinaabe people, through a pipeline, a permit, and a company—or two companies, Enbridge and Marathon. "When you step outside now, it feels as if you strike a match and the air will explode. The chemicals come into our homes, come into our basements and we smell it all the time. Don't let them put that pipeline here. I mean, it has always been bad, but not this bad," says Emma. "The air is just unbearable. It's like living inside a refinery."



# OF WILD RICE AND FRACKED OIL

## THE SANDPIPER PIPELINE

Enbridge is not only intent on opening the gates for more tar sands oil, but also has plans to enable more extraction of fracked oil from the Bakken oil fields in North Dakota. Currently, Enbridge operates Line 81 from near Minot, North Dakota to Clearbrook, Minnesota. Some of this oil is shipped south to Twin Cities refineries and the rest is shipped east on Lines 2, 3, and 4 to Superior, Wisconsin. The Sandpiper Pipeline Project proposes to expand this capacity by building a new pipeline from North Dakota (via its terminal in Clearbrook) to its terminal in Superior, Wisconsin, for a total length of about 616 miles.<sup>85</sup>

Originally proposed in early 2012, the Sandpiper project would include a 24-inch diameter pipeline from Tioga, North Dakota to Clearbrook, Minnesota, and then a 30-inch pipeline from Clearbrook to Superior. The increase in size would allow Sandpiper to move crude oil brought to Clearbrook by Line 81 to Superior. Initially, the 24-inch segment would carry up to 225,000 bpd to Clearbrook, but this could be expanded to 365,000 bpd. From Clearbrook to Superior, the pipeline would initially carry up to 375,000 bpd but this could be expanded to 640,000 bpd. By shifting Bakken crude oil away from Lines 2, 3 and 4, these pipelines could import up to another 170,000 bpd of tar sands oil.<sup>86</sup>

Sandpiper would speed the extraction of fracked Bakken crude. The heat-trapping potential of methane gas is over 80 times greater than CO<sub>2</sub> over a 20-year period.<sup>87</sup> The fracking process needed to extract this light oil trapped in tight rock formations has been linked to high methane releases at fracking sites and requires large amounts of energy, mostly in the form of diesel fuel, making it almost as energy intensive as tar sands extraction.<sup>88</sup> Together, these factors have led some observers to declare it as much of a climate hazard as tar sands oil given the heat-trapping potential of methane gas.<sup>89</sup>

The Sandpiper project is currently under consideration at the Minnesota Public Utilities Commission (PUC), a five-member decision-making body appointed by Minnesota's governor. The PUC, which has a history of being industry friendly, originally allowed for the pipe to

be issued a "certificate of need" before completion of a full environmental impact statement, as required by law.<sup>90</sup>

Landowners, tribes, and local advocacy groups led by the all-volunteer citizens' organization Friends of the Headwaters challenged this PUC decision in court. They argued that the environmental impacts had to be considered before the "need" for the pipeline was determined. The court agreed and an appeal filed by Enbridge and the PUC to the Minnesota Supreme Court was unsuccessful.<sup>91</sup> Now the PUC must go back to the drawing board and complete an EIS prior to determining the need for the pipeline.<sup>92</sup> As a result, any PUC decision on the pipeline has likely been delayed until at least 2017.

The question of need is certainly one that needs reconsidering. Oil demand is down, as is Bakken production.<sup>93</sup> These and other factors — like the climate implications and the risk of spills to important tribal and natural resources areas — cast serious doubt on the need for the Sandpiper pipeline.

While the court and PUC processes play out, tribes and concerned citizens are continuing to fight the project, legally and on the ground. In November, over 200 concerned area residents from Minnesota and Wisconsin marched to the Enbridge office in Duluth, Minnesota (near the terminus in Superior, Wisconsin, Enbridge's U.S. headquarters) and seven were arrested attempting to deliver a letter of demands calling for full tribal consultation and environmental review. Sandpiper legal hearings have consistently drawn standing-room-only crowds. Many people feel they are not being heard by the existing process and intend to continue fighting this project.

# THE NEW SANDPIPER/LINE 3 REPLACEMENT CORRIDOR

## A DANGEROUS ROUTE THREATENING TRIBAL AND NATURAL RESOURCES

From Clearbrook to Superior, Enbridge is proposing to route the Sandpiper and Line 3 replacement pipelines along a new and largely undeveloped corridor which does not currently have any Enbridge pipelines. Enbridge has proposed this because it alleges that its existing right-of-way from Clearbrook to Superior is full, containing six other lines: lines 1, 2, 3, 4, 67 (Alberta Clipper), and 13 (Southern Lights, a line that takes diluent North to Canada to be mixed with tar sands bitumen).

Enbridge's preferred new corridor route is south of the company's existing mainline. This proposed route has been the subject of much controversy and opposition from citizens' groups and tribes. The Minnesota Pollution Control Agency (PCA) and Minnesota Department of Natural Resources (DNR) have also expressed concerns.

The corridor runs through the heart of Minnesota's lake country, threatening the state's \$12.5 billion tourism economy.<sup>94</sup> It crosses farmland and comes within a few miles of several organic farms which have consistently opposed the project. Enbridge's preferred corridor also bisects the 1855 treaty territory, a region of the state in which tribal hunting, fishing, and gathering rights are federally guaranteed. Wild rice, or manoomin, grows in

abundance in the region and is critical to the culture and identity of tribes as well as an important food and income source. The PCA and DNR have opposed Enbridge's route because it passes through remote wetlands which would be inaccessible to emergency cleanup equipment in the event of a spill.

Let us be clear, this is the only place in the world where there are Anishinaabeg and this is the only place in the world where there is wild rice. We understand that, and fully intend to protect all that is essential to our lives as Anishinaabeg people.

WINONA LADUKE

When the Sandpiper project was originally proposed, Enbridge insisted that this new corridor would only be for Sandpiper and that there were no plans to co-locate other new pipelines there. This proved false once the company's Line 3 replacement plans became public. If this new corridor is established, there would be little to prevent Enbridge from using it for other pipelines as well, potentially allowing for replacement/expansion of even more pipes in the current mainline.



WINONA LADUKE SPEAKING TO A CROWD TOPPING 5,000 AT THE TAR SANDS RESISTANCE MARCH IN JUNE 2015. PHOTO CREDIT: SIERRA CLUB

## HISTORICAL TRAUMA IN PIPELINE SITING

National and international studies on the impact of siting proposed polluting infrastructure projects in communities show increased psychological and social trauma on these communities. It is important to note, that the most impacted tribal communities on the proposed Enbridge route for Line 3 and Sandpiper are those of Rice Lake and East Lake in Northern Minnesota. Both of these communities already suffer from health disparities and duress. The White Earth Tribal Health budget currently consumes a disproportionate amount of the tribal budget in total, and adding more health problems to this community for the benefit of a Canadian pipeline company is an infringement of tribal interests and sensibilities.

The present mental and physical health conditions of the Ojibwe in Minnesota have been documented recently to the Minnesota Commissioner of Health with the Wilder Foundation. The study found:

“The evidence strongly suggests that social and economic conditions and structural racism contribute significantly to the relatively poor health outcomes of the American Indian population in Minnesota. Therefore, we feel that policy makers should take these critical factors into account in a systematic and transparent way when making decisions that potentially have wide ranging impacts...”<sup>95</sup>

As can be seen from the following statistics, Tribal communities currently have significant health disparities, which would be exacerbated by the proposed pipeline projects.

**NATIVE AMERICAN YOUTH 15-24 SUICIDE RATE more than 3x national average**

**SUICIDE LEADING CAUSE OF DEATH for those 10-34**

**RESERVATIONS among the POOREST PLACES in the nation**

**RATES OF DEPRESSION 2x national average**

**ALCOHOLISM 5.5x national rates**

**HEART DISEASE 2x national average**<sup>96</sup>

In its 2014 Advancing Health Equity Report to the Legislature, the Minnesota Department of Health



TAR SANDS RESISTANCE MARCH, JUNE 2015. PHOTO CREDIT: SIERRA CLUB

highlighted structural racism as a key contributor to health inequities in our state. “Structural racism—the normalization of historical, cultural, institutional and interpersonal dynamics that routinely advantage white people while producing cumulative and chronic adverse outcomes for people of color and American Indians—is rarely talked about. Revealing where structural racism is operating and where its effects are being felt is essential for figuring out where policies and programs can make the greatest improvements.”<sup>97</sup>

The psychological and social impacts of siting a project in an at-risk community are very significant. Widespread studies and stories from Canadian and other Indigenous Nations who have faced or become victims of megaprojects indicates that there is significant social and psychological trauma, resulting in additional deaths from these projects.<sup>98</sup>

The scope of oil projects will cause significant additional stress on these communities which are already under duress. The pipeline corridor, if routed through the heart of the wild rice country, would make the tribal communities of Minnesota “victims of progress.”

# ABANDONMENT

## ENBRIDGE LINE 3 MACHINATIONS

Enbridge's other major effort to bring a substantial expansion of tar sands oil across the border while largely evading review is the Line 3 replacement. Enbridge's original Line 3 pipeline was constructed in the 1960s and entered service in 1968.<sup>99</sup> It begins in Edmonton, Alberta and follows the mainline corridor (the same corridor as lines 1, 2, 4, 13, and 67) for 1,097 miles to Superior, Wisconsin, entering the U.S. near Neche, North Dakota.<sup>100</sup> Due to the age of the line and poor practices used at the time of construction, the line is fragile and operating under a pressure restriction that has reduced its capacity to 390,000 bpd from a maximum capacity of 760,000 bpd.<sup>101</sup>

Line 3 currently has a Presidential Permit that allows for the transport of liquid hydrocarbons.<sup>102</sup> As mentioned above, the permit, first issued in 1968 and renewed in 1991, does not have an express limit on the amount of oil that can be transported. But the permit expressly says that "no substantial change in the location of the United States facilities or in the operation authorized by this permit until such changes shall have been approved by the President of the United States."<sup>103</sup> The permit also expressly states that line is permitted for a width of 34 inches.

Enbridge is seeking to abandon the existing Line 3 in place underground and build a completely new larger line to replace the original line. The new line will be 36 inches

wide instead of 34 inches wide, with the exception of 17.4 mile stretch across the border. The replacement line would also follow a vastly different route than the current line, diverting from its historic course south of Clearbrook to follow the same corridor as the proposed Sandpiper line.

It would seem as though such a substantial operational change would require a new permit from the US State Department. But in another clever move, Enbridge has convinced the State Department that no review is needed and this major project is covered under the existing permit. First, Enbridge contends that its replacement and relocation of line is simply "maintenance." Second, Enbridge argues that the permit only covers the border crossing, and, thus, the 34 inch limit only applies to the border crossing. So for the small border crossing segment, instead of laying the 36 inch pipe planned for the rest of the line, Enbridge has installed reinforced 34 inch pipe that can handle higher pressures and volumes of oil through the 17.4 mile stretch that spans the border.<sup>104</sup>

The company has already replaced the border crossing section of the line with new pipe to allow for the Alberta Clipper double cross scheme (see section on Alberta Clipper).<sup>105</sup> Neither the new line nor the existing Line 3 has ever undergone an environmental review under National Environmental Policy Act (NEPA).<sup>106</sup> Tribes and conservation groups have challenged the replacement of the border segment without any federal environmental review.<sup>107</sup>

Once the new line is built, Enbridge plans to decommission the existing Line 3 and abandon it underground. According to the company, the line will be purged of as much oil as possible, filled with nitrogen gas, and sealed.<sup>108</sup> Enbridge has provided no guarantee of how long the line will remain structurally sound in that state. This poses hazards to future users of affected land and can wreak havoc at water crossings, since an underwater leak into an abandoned pipeline can quickly drain a wetland or river and move the water miles away. Since federal law does not regulate pipelines once they are abandoned, landowners may be stuck with the bill for any eventual

**ALBERTA'S NEW CLIMATE PLAN** Shortly before the Paris climate negotiations, Alberta Premier Rachel Notley announced her province's climate leadership plan, which includes a cap on emissions from tar sands production of 100 Megatonnes per year.<sup>109</sup> This cap corresponds to approximately 3 million barrels per day, up from some 2.2 million barrels per day today. That means that there is a limited amount of Canadian tar sands oil that will ever be produced, and if all of Enbridge's plans go forward, there is a real possibility that there will be pipeline overcapacity.

removal of abandoned pipe or cleanup of oil leaks that are not discovered at the time of abandonment. The case is different in Canada, where abandonment is a much more regulated and expensive process for pipeline companies and some small sections of Line 3 are slated for removal and land restoration.

The Line 3 Replacement project is currently under consideration at the Minnesota Public Utilities Commission in the same process as the Sandpiper pipeline, including the preparation of a combined environmental impact statement. Although a state Environmental Impact Statement will be prepared for Line 3, Enbridge has sought to limit the time available for completing this critical environmental review.

Enbridge is banking on eventual approval of the Alberta Clipper expansion, which will free up Line 3 to move 790,000 bpd of tar sands or other oil. In short, if Enbridge succeeds in getting the Alberta Clipper expanded and escaping federal review for the Line 3 replacement, it will have expanded its ability to move tar sands oil across the border on Lines 67 and 3 from 840,000 bpd to about 1.6 million bpd with minimal review. This net increase would cause the lines to be about twice the size of Keystone XL.



PHOTO CREDIT: ARIELLE JOHNSON

## TRESPASSING ON YOUR OWN LAND?

**CARL WHITING, WISE ALLIANCE**

Property owners who stand their ground against Enbridge may wind up feeling as if they've fallen down a rabbit hole, at least until the jury arrives.

Jeremy Engelking of Superior, Wisconsin was out enjoying a late November morning in 2009 when he noticed an Enbridge crew setting up along the massive pipeline corridor bisecting his land. He informed the workers that he'd never agreed to nor accepted payment for any expansion of the original 1949 easement from Enbridge, and therefore the crew had no right to install any new lines on his property. In all, four Enbridge pipelines were crowding in on the family's land, and now the Canadian operator was preparing to add two more.

Just as he was turning to leave, Mr. Engelking told the Superior Telegram, an officer from the Douglas County Sheriff's Department arrived, and pointed his taser directly at him. The officer "ordered me to 'get down on the ground, now!'" Engelking reported. When the officer informed him he was being arrested for trespassing, Mr. Engelking attempted to clear up the matter by explaining that they were standing on his own property. "It doesn't matter. You're going to jail. You can tell it to a judge tomorrow," the officer told him.

Mr. Engelking offered no resistance, yet was handcuffed and taken to the Douglas County Jail, where he was required to post a \$200 bail bond, and face the Alice-in-Wonderland charge of trespassing on his own property.

Fortunately the story doesn't end there. In June of 2014, a Douglas County Jury found that Line 4, which Enbridge installed in 2002, and also Lines 67 and 13, added in 2009, had indeed been installed on the family's property illegally. Rather than Jeremy Engelking, Enbridge and their pipelines were the real trespassers. The Jury ordered Enbridge to pay the Engelkings \$150, 000. Enbridge said they would appeal.

# NORTHERN GATEWAY

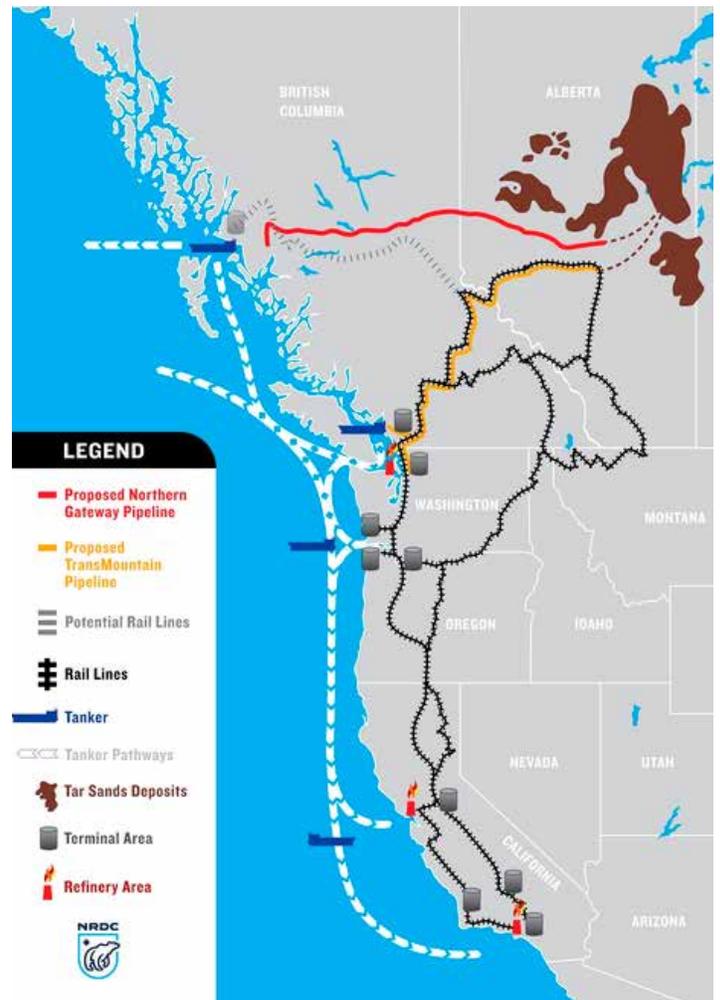
## AN ENBRIDGE THREAT TO CANADA'S WEST COAST GETS STOPPED IN ITS TRACKS

Although this pipeline is not in the Great Lakes region, it is worth noting that just one week after, President Obama rejected Keystone XL, new Canadian Prime Minister Trudeau announced a policy that spells the effective end of another major tar sands pipeline proposal — Enbridge's Northern Gateway pipeline. Northern Gateway was an Enbridge pipeline proposed to carry more than half a million barrels of tar sands crude daily through rugged mountain terrain and across critical salmon rivers and coastal rainforests. It would have then fed tar sands oil into tankers that would have been expected to thread through tight fjords in sensitive marine waters to refineries in California and elsewhere.

Prime Minister Trudeau put the final nail in Northern Gateway's coffin in November of 2015 when he ordered his Minister of Transport to formalize a crude oil tanker ban in British Columbia's North Coast.<sup>110</sup> Without the ability to load tar sands by tanker in British Columbia's North Coastal waters, neither Northern Gateway nor the primary crude by rail route through British Columbia are feasible.

By announcing a crude oil tanker ban in British Columbia's north coast, Trudeau has brought an end to a battle over a pipeline that lasted even longer than the Keystone XL fight. Enbridge proposed the concept for the Northern Gateway pipeline in 2002 and formally announced the project in 2005.<sup>111</sup> Over 130 First Nations depend on the land and water that the Northern Gateway project threatens. Their culture, the health of their communities, and their livelihoods could be affected by the proposed development.<sup>112</sup>

But now this nearly 15 year battle has come to an end. Without the use of oil tankers, Enbridge's pipeline to Kitimat is unworkable. It also spells the end of the only proposed only crude-by-rail route for tar sands through British Columbia — Nexen's proposed 550,000 bpd crude



CREDIT: NRDC

by rail terminal in Prince Rupert,<sup>113</sup> one of the only routes where tar sands by rail would have been potentially feasible on a large scale.<sup>114</sup> This is a tremendous victory for First Nations who have been fighting for their communities, livelihoods and way of life.

# CONCLUSIONS

In President Obama's rejection of Keystone XL, he noted that the pipeline "would not make a meaningful long-term contribution to our economy," that it "would not lower gas prices for American consumers," and that "shipping dirtier crude oil into our country would not increase America's energy security." He also argued that "approving this project would have undercut [America's] global leadership" on climate. For all these reasons, the State Department and the President determined that Keystone XL was not in the national interest.

By the same logic, the expansion of Enbridge GXL fails the test of public interest as well. Enbridge's plans are truly all risk and no reward for the Great Lakes. Just like Keystone XL, Enbridge's GXL massive tar sands oil expansion plans need to be thoroughly and publicly scrutinized and rejected.

## ENDNOTES

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