

22 June 2022

Walz-Flanagan Administration, County Prosecutors, Minnesota Leadership:

As you know, hundreds of water protectors are currently facing criminal charges in Minnesota for standing against Enbridge's Line 3 expansion. They did so in defense of safe water, habitable climate, and Anishinaabe treaties, having exhausted every alternative.

More than 1,000 arrests were made in Minnesota to discourage opposition to this Canadian tar sands oil project. Police repression wrought egregious civil and constitutional rights violations, including surveillance, harassment, "pain compliance" torture, use of "less lethal" weapons against unarmed people including rubber bullets and pepper balls, denial of medical care, strip searches, solitary confinement, and credentialed journalists arrested without warning.

Hundreds of people are facing thousands of charges for protecting Minnesota's water, including dozens of dubious "felony theft" charges, "felony attempted assisted suicide," and "conspiring, aiding and abetting" for publicly encouraging others to help protect the drinking water of millions from Line 3 tar sands. Some defendants may be crushed with fines over \$3 million or jail time over a decade. Nearly 100,000 people have signed a petition requesting all charges be dropped.¹ One district court judge requested a legal brief on dismissing charges "in the interest of justice."

Law enforcement executing these arrests have been reimbursed \$8.6 million through a "Public Safety Escrow Trust" directly funded by the Enbridge Corporation. The largest recipient of these reimbursements has been the MN Department of Natural Resources (DNR).² Despite Enbridge's agreement with the MN Public Utility Commission not to engage in counterinsurgency tactics, Minnesotans were heavily surveilled, harassed, and targeted by the Northern Lights Task Force, an intelligence operation comprised of Enbridge private security and law enforcement.³

In response to this repression, the United Nations Committee on the Elimination of Racial Discrimination took the extraordinary measure of requesting a response from the United States regarding allegations of human rights violations against the Anishinaabe associated with Line 3 construction.⁴ The UN Special Rapporteur on Human Rights Defenders also met with Indigenous leaders over human rights concerns, specifically, violations of rights in the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,

¹ <https://actionnetwork.org/letters/drop-the-charges>

² [DNR files \\$2.2M bill for policing during Enbridge Line 3 construction](#), 3/4/22

³ [Pipeline Giant Enbridge Uses Scoring System To Track Indigenous Opposition](#), 1/23/22

⁴ [United Nations Committee on the Elimination of Racial Discrimination letter to the United States Government requesting a response to allegations of human rights violations against the Anishinaabe associated with the Enbridge Line 3 pipeline construction](#), 8/25/21

in addition to Free, Prior and Informed Consent as outlined in the UN Declaration on the Rights of Indigenous Peoples.⁵ The Rapporteur's investigation is ongoing.

Water protectors should not be criminalized for peacefully upholding treaty rights protected by UN conventions, the US Constitution, and affirmed by the US Supreme Court. With the climate in "code red"⁶ and the expanded Line 3 emissions equivalence of 50 new coal-fired power plants,⁷ it is critical we heed – not prosecute – those who put their bodies and their freedom on the line to defend a habitable planet.

Clearly, the concerns of tribal nations and peoples of all walks of life were justified. Enbridge's rushed construction caused dire, ongoing damage to pristine aquifers, waters and wetlands, raising the need for a robust Line 3 federal Environmental Impact Statement to an emergency level.⁸

According to the MN DNR, Enbridge violated permits and punctured three ancient artesian aquifers during Line 3 construction, causing extensive undisclosed damage to groundwater resources, losing nearly *300 million gallons* to the surface. The most serious confirmed breach has yet to be fully stopped,⁹ and additional breaches are suspected.

The DNR ordered Enbridge to pay \$3.32 million for its Clearbrook aquifer breach, and referred the matter for criminal prosecution.¹⁰ This puts Minnesota in the duplicitous position of criminally prosecuting both the multinational corporation damaging precious domestic water *and* those who tried to protect that water.

Other unresolved concerns include at least 28 "frac-out" spills of significant quantities of toxic drilling fluid,¹¹ polluting ground and surface waters, vegetation and wildlife. The company polluted surface water at 63% of HDD sites, including at the Mississippi headwaters, and released an undisclosed volume of toxic drilling fluid into aquifers.¹²

Another day, this could well be Canadian tar sands poisoning rivers, including the Mighty Mississippi, from Minnesota on down through 10 states to the Gulf of Mexico, endangering the water millions rely on daily. Who will be blamed then, and who will pay? Tar sands oil, among the world's dirtiest extreme fossil fuels, is nearly impossible to clean up because it sinks to the bottom of waterways.

Enbridge's violations in Minnesota have compounded the oil giant's admission it will not abide by agreed conditions to obtain liability insurance or establish an escrow fund to

⁵ [Line 3 Indigenous Water Protectors Meet with U.N. Special Rapporteur on Human Rights Defenders over Human Rights Violation Concerns](#), 8/18/21

⁶ ['Code red': UN scientists warn of worsening global warming](#), 8/10/21

⁷ MN 350 [Line 3 Report: A Giant Step Backward](#)

⁸ MN Environmental Partnership [Update on the Enbridge Line 3 Aquifer Breaches and Spills](#), 1/20/22

⁹ [Enbridge crews punctured three aquifers during Line 3 oil pipeline construction, DNR says](#), 3/21/22

¹⁰ MN DNR [Enforcement Resolution](#) 9/16/21

¹¹ MN Environmental Partnership [Understanding the Line 3 Aquifer Breach and Spills](#), 9/23/21

¹² [Minn. Lawmaker Demands Data on Line 3 Frac-Outs](#), 2/23/22

mitigate damages from future spills.¹³ Moreover, Minnesotans continue to wait for the stipulated decommissioning plan – a standard Enbridge follows in Canada, with over \$1 billion paid.¹⁴ Together, these failures on Line 3, aka Line 93, leave landowners and taxpayers holding significant liability. Enbridge's record includes the largest inland oil spill in US history and over 800 spills in the past 15 years.¹⁵

We urgently invite and implore you to stand responsibly on the public-trust side of history.
Do everything in your power to support dropping the charges against water protectors.

For any charges not dropped, we specifically call on the Walz-Flanagan Administration, under Minn. Stat. § 8.01, to appoint Attorney General Ellison as special prosecutor for the most egregious cases, including those in which the State is extending inconsistent plea offers to water protectors.

The fossil fuel era is over, time is short for managing its decline and building just green economies. Use your power to demonstrate concern for integrity and justice, water and climate, people and future.

~ Signatories ~

Indigenous Leaders:

Tania Aubid, Welcome Water Protector Center, Mille Lacs Band of Ojibwe

Nancy Beaulieu, MN 350 Northern Minnesota Organizer, Leech Lake Reservation Enrollee

Sasha Beaulieu, Red Lake Treaty Camp Founder, Red Lake Band of Chippewa Line 3 Construction/Cultural Monitor, Red Lake Nation Cultural Advisor

Julia Bernal, Director, Pueblo Action Alliance, Sandia Pueblo and Yuchi

Carole Blodgett, Founder and Director of Nurture The Children and their annual Water is Life Walks, Water Walker, Penobscot and Lakota

Crystal Cavalier, Founder and Executive Director, Missing Murdered Indigenous Women Coalition of NC, Citizen, Occaneechi Band of the Saponi Nation

Sherry Couture, Fond Du Lac Band of Lake Superior Chippewa, Anishinaabe

Paul DeMain, Chairman of the Board, Honor the Earth, Oneida Nation of Wisconsin

Louise Erdrich, writer, Turtle Mountain Chippewa, Owner Birchbark Books

¹³ [Tar Sands Industry Enbridge Face Collapsing Insurance Market for Spill Cleanups](#), 9/20/21

¹⁴ [Minnesotans for pipeline cleanup urge landowners to comment to the PUC](#), 5/16/22

¹⁵ [Importing Disaster: The Anatomy of Enbridge's Once and Future Oil Spills](#)

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Ron Turney, Traditional Artist, Photographer, Indigenous Environmental Network Media, White Earth Nation

Signing in Support of Indigenous Leaders:

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