

THE CASE AGAINST LINE 3

A primer on the March 23 MN Court of Appeals hearing

Indigenous and environmental groups, as well as the MN Department of Commerce (DOC), are part of an ongoing lawsuit in the MN Court of Appeals challenging the Line 3 pipeline. While the plaintiffs' arguments differ, their goal is the same: **to appeal the MN Public Utilities Commission's decision to approve the Environmental Impact Statement, the Certificate of Need, and the Routing Permit for Line 3.**

[The DOC has opposed the Line 3 project since 2017](#) and filed a petition in May for the PUC to review its Line 3 permit approvals. This petition was denied but opened the door for DOC Commissioner Steve Kelley to file a lawsuit in the Court of Appeals alongside Indigenous and environmental groups in August. This decision [later cost Kelley his job](#) when the Republican-led MN Senate voted not to confirm him in September.

After construction began in December, it became clear that Enbridge would be allowed to build much of Line 3 while lawsuits were still underway. The Red Lake and White Earth Bands of Ojibwe, supported by other Indigenous and environmental groups, [requested a stay on construction](#) while these lawsuits played out. [The MN Court of Appeals denied their request](#) in February.

The oral argument for the case will take place on March 23, and we expect final court decisions in late spring or early summer. Judge Lucinda Jesson, a Gov. Dayton appointee, will preside. If the plaintiffs win, the PUC's major permit approvals will be overturned, and Enbridge will be forced to halt construction. Enbridge may challenge this decision in court but will have taken a serious blow from Line 3 opponents.

This is one of several lawsuits that opponents of Line 3 have filed. Plaintiffs are also appealing the U.S. Army Corps of Engineers' and the MN Pollution Control Agency's approvals of key Line 3 water permits in two other lawsuits at the federal and state levels.

WHO ARE THE PLAINTIFFS?

**RED LAKE BAND OF CHIPPEWA INDIANS
WHITE EARTH BAND OF OJIBWE
MILLE LACS BAND OF OJIBWE
HONOR THE EARTH
FRIENDS OF THE HEADWATERS
THE SIERRA CLUB
YOUTH CLIMATE INTERVENORS
MINNESOTA DEPARTMENT OF COMMERCE**

WHAT ARE THE PLAINTIFFS ARGUING?

Indigenous and environmental groups contend the PUC did not adequately take into account that the pipeline violated Indigenous treaty rights or its harmful impacts on the climate, environment, and water resources.

TREATY RIGHTS

Line 3 is being built through land where the Anishinaabeg people have the legal right to hunt, fish, and gather sacred cultural resources. Line 3 construction damages these resources, and the high likelihood of an oil spill threatens them further. [Indigenous communities have argued to the Court of Appeals](#) that construction of Line 3 would infringe on these treaty rights, as “tribal members . . . use treaty resources in and near the route, including for physical, cultural, and spiritual sustenance.”

CLIMATE

According to the project’s [Final Environmental Impact Statement](#), Line 3 would have a disastrous effect on the climate, costing society \$287 billion in damages over 30 years. The Youth Climate Intervenors, one of the plaintiffs, have argued that the PUC did not take these costs into full account, and that the PUC’s order for Enbridge to adopt a tree replacement program is grossly inadequate. [The Youth Climate Intervenors submitted to the MN Court of Appeals](#) that “[The tree replacement program] . . . does nothing to avert the irreparable harms to cultural resources, water quality, and natural habitats cited by movants — actual, irreversible changes to the land that will occur as a result of construction.”

IRREPARABLE HARM TO WATER, ENVIRONMENT, AND COMMUNITIES

Line 3 would cross more than 200 bodies of water in Northern Minnesota, including the Mississippi River. If the pipeline spills, tar sands oil is extremely difficult to remove from water bodies and could harm them irreparably. [Honor the Earth and the Sierra Club argued in a court filing](#) that “Once [Line 3 is] constructed, the earth cannot be restored, the trees and other removed plants cannot be put back, the waterbodies cannot be restored, and indigenous peoples cannot be made whole by money or sympathy.”

NO DEMAND

Multiple parties argue that Enbridge never proved this pipeline is needed to meet the local or global demand for oil. Line 3 would increase the amount of oil being transported through Minnesota by nearly half a million barrels per day while global demand is dropping fast and [will continue to drop by 30% over the next decade](#). As the [Minnesota Department of Commerce](#) points out, “Enbridge didn’t introduce, and so the [Public Utilities Commission] could not evaluate the accuracy of, a long-term [oil] demand forecast.” Because Enbridge did not present a forecast, the DOC says, it did not prove that Line 3 is needed infrastructure, a [key requirement for receiving a Certificate of Need](#).

MORE BACKGROUND

MN350.org: [Line 3 Facts](#)

Honor the Earth: [Treaty Rights and Oil Pipelines: What You Need to Know](#)

StopLine3.org: [Over 350 groups call on President Biden to stop Line 3](#)