

June 26, 2020

See Attached Service List

**Re: *In the Matter of the Draft 401 Certification for the Line 3 Replacement Project***  
**OAH 60-2200-36909**

Dear Counsel:

Enclosed and served upon you please find the **SCHEDULING ORDER** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7888, [lisa.armstrong@state.mn.us](mailto:lisa.armstrong@state.mn.us), or via facsimile at (651) 539-0310.

Sincerely,



LISA ARMSTRONG  
Legal Assistant

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
PO BOX 64620  
600 NORTH ROBERT STREET  
ST. PAUL, MINNESOTA 55164

**CERTIFICATE OF SERVICE**

In the Matter of the Draft 401 Certification for the Line 3 Replacement Project	OAH Docket No.: 60-2200-36909
---	----------------------------------

Lisa Armstrong certifies that on June 26, 2020, she served the true and correct **SCHEDULING ORDER** by electronic mail, addressed to the following individuals:

**VIA EMAIL ONLY**

Peter Farrell  
Oliver Larson  
Minnesota Attorney General's Office  
[peter.farrell@ag.state.mn.us](mailto:peter.farrell@ag.state.mn.us);  
[oliver.larson@ag.state.mn.us](mailto:oliver.larson@ag.state.mn.us)

**VIA EMAIL ONLY**

Scott Strand  
Attorney at Law  
Environmental Law & Policy Center  
for Friends of the Headwaters  
[sstrand@elpc.org](mailto:sstrand@elpc.org)

**VIA EMAIL ONLY**

Moneen Nasmith  
Sophia Jayanty  
Attorneys at Law  
Earthjustice  
for Sierra Club  
[mnasmith@earthjustice.org](mailto:mnasmith@earthjustice.org);  
[sjayanty@earthjustice.org](mailto:sjayanty@earthjustice.org)

**VIA EMAIL ONLY**

Joseph Plumer  
General Counsel  
Red Lake Band of Chippewa Indians  
[jplumer@paulbunyan.net](mailto:jplumer@paulbunyan.net)

**VIA EMAIL ONLY**

Paul Blackburn  
Attorney at Law  
Honor the Earth  
[paul@honorearth.org](mailto:paul@honorearth.org)

**VIA EMAIL ONLY**

Frank Bibeau  
Attorney at Law  
Honor the Earth  
White Earth Band of Ojibwe  
[frankbibeau@gmail.com](mailto:frankbibeau@gmail.com)

**VIA EMAIL ONLY**

Christiana J. Brusven  
Halley Walter Pitts  
Fredrikson & Byron, P.A.  
for Enbridge Energy  
[cbrusven@fredlaw.com](mailto:cbrusven@fredlaw.com);  
[hwallerpitts@fredlaw.com](mailto:hwallerpitts@fredlaw.com)

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE POLLUTION CONTROL AGENCY

In the Matter of the Draft 401 Certification  
for the Line 3 Replacement Project

**SCHEDULING ORDER**

This matter came before Administrative Law Judge James E. LaFave for a prehearing conference on June 23, 2020.

Peter Farrell and Oliver Larson, Assistant Attorneys General, appeared on behalf of the Minnesota Pollution Control Agency (MPCA).

Scott Strand, Attorney at Law, Environmental Law and Policy Center, appeared on behalf of the Friends of the Headwaters.

Moneen Nasmith and Sophia Jayanty, Attorneys at Law, Earthjustice, appeared on behalf of the Sierra Club.

Joseph Plumer, General Counsel, appeared on behalf of the Red Lake Band of Chippewa Indians.

Paul Blackburn, Attorney at Law, appeared on behalf of Honor the Earth.

Frank Bibeau, Attorney at Law, appeared on behalf of Honor the Earth and the White Earth Band of Ojibwe.

Christina J. Brusven and Halley Waller Pitts, Attorneys at Law, Fredrickson & Byron P.A., appeared on behalf of Enbridge Energy, LP (Enbridge).

Based upon the submissions of the parties and the hearing record,

**IT IS HEREBY ORDERED:**

1. The following schedule is adopted:

Milestone	Date
Intervention Deadline	June 29, 2020
Agency Certification of Record	June 30, 2020
Substantial Completion of Document Production	August 7, 2020
Status Conference	August 3, 2020, 10:00 a.m.
Pre-Filed Direct Testimony and/or expert disclosures	July 24, 2020
Pre-Filed Rebuttal Testimony and/or expert disclosures	August 7, 2020
Exhibit & Witness Lists and Subpoenas	August 17, 2020
Final Pre-Hearing Conference	August 19, 2020, 10:00 a.m.
Hearing	August 24-28, 2020
Post-Hearing Brief & Proposed Findings	September 15, 2020
ALJ Report	October 16, 2020
Exceptions	October 26, 2020
Commissioner Decision	November 14, 2020

## The Hearings

2. The status conference scheduled for **August 3, 2020, at 10:00 a.m.**, and the prehearing conference scheduled for **August 19, 2020, at 10:00 a.m.**, will be conducted by video using Webex. Call information will be issued in a separate order.

3. The hearing scheduled to begin on **August 24, 2020**, and continuing as necessary on **August 25, 26, 27, and 28, 2020**, will be conducted by video using Webex. Call information will be issued in a separate order.

## **Court Reporter**

4. The MPCA will arrange to have a court reporter present at the hearing. Parties must make arrangements with the Court Reporter to obtain a copy of the transcript.

## **Prefiled Testimony and Exhibits**

5. The parties shall confer regarding exhibit numbers, proper labeling conventions for hearing exhibits, and each party's submissions to the Master Exhibit List.

6. Prefiled testimony shall be marked as an exhibit and offered for admission into the record at the hearing. A hard copy shall be provided for that purpose.

7. Prefiled testimony that is amended or not offered into the record shall be considered withdrawn and no witness shall be cross-examined concerning the withdrawn testimony. Except for good cause shown, any new affirmative matter that is not offered in reply to another party's direct case will not be allowed in rebuttal testimony and exhibits. Except for good cause shown, all revisions or corrections to any prefiled testimony shall be in writing and served upon the Administrative Law Judge and the parties no later than three days prior to the commencement of the evidentiary hearing.

## **Order of Testimony**

8. Unless the parties agree otherwise, the order of testimony shall be: Enbridge; MPCA; Friends of the Headwaters; Sierra Club; the Red Lake Band of Chippewa Indians; Honor the Earth; the White Earth Band of Ojibwe; and then any other intervenors. Questioning the witnesses shall proceed in the same order, subject to change by agreement of the parties or further order of the Administrative Law Judge.

9. If a sponsoring party needs a day certain to offer the testimony of a witness, the sponsoring party should submit a request to the Administrative Law Judge and other parties.

## **Miscellaneous**

10. The parties have not requested accommodation for a disability nor the appointment of an interpreter. This Office shall be notified promptly if either an accommodation or an interpreter is needed.

11. Pursuant to Minn. R. 1400.7500 (2019), requests for continuances of a hearing shall be granted only upon a showing of good cause. A request for a continuance filed within five (5) business days of the hearing shall be denied unless the reason for the request could not have been earlier ascertained.

12. Requests for subpoenas for the attendance of witnesses or the production of documents shall be made in writing to the administrative law judge pursuant to Minn. R. 1400.7000 (2019). A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at <http://mn.gov/oah/>.

13. Any document filed with the Office of Administrative Hearings, or which a party wishes to make part of the record in this matter, may be filed with the Office of Administrative Hearings in any one of the following ways: (1) **by eFiling** through the Office of Administrative Hearings' eFiling system at <http://mn.gov/oah/forms-and-filing/efiling/>; (2) **by mail**; (3) **by fax**; or (4) **by personal delivery**. See Minn. Stat. § 14.58 (2018); Minn. R. 1400.5550, subp. 5 (2019). Attorneys representing government agencies are encouraged to eFile. Any party filing proposed hearing exhibits using the eFiling system or by fax shall also provide a paper copy of the proposed hearing exhibits to the Administrative Law Judge on the same date the exhibits are faxed or eFiled. Filings are effective on the date the Office of Administrative Hearings receives the filing. See Minn. R. 1400.5550, subp. 5, .5500 J, Q (2019).

Dated: June 26, 2020



JAMES E. LAFAVE  
James E. Laffave  
Administrative Law Judge