



To: U.S. Army Corps of Engineers  
St. Paul District, Regulatory Branch  
180 5th Street E, Suite 700  
Saint Paul, MN 55101

June 4, 2024

Re: Enbridge Line 5 - Wisconsin segment relocation<sup>1</sup> (reference:  
MVP-2020-00260-WMS)

To the US Army Corps of Engineers:

The Superior Rivers Watershed Association writes to urge the US Army Corps of Engineers (USACE) to deny Enbridge the requested permit for the proposed Line 5 pipeline relocation and new construction in Ashland County, Wisconsin and Iron County, Wisconsin.

Superior Rivers Watershed Association (SRWA) is a non-profit organization based in Ashland, Wisconsin whose mission is to promote and protect water resources in Wisconsin's Lake Superior Basin. We promote healthy connection between the people and natural communities of our watersheds by involving citizens in assessing, maintaining and improving watershed integrity for future generations. We represent seven board members, three staff members, and around 212 volunteer members. Originally formed in 2002 as the Bad River Watershed Association, our organization's staff and volunteers have collected water quality data across the ten watersheds. This data has been used to give special designations to 180 miles of riverways, inform local decision makers, and help us understand climate change's effect on waterways around Lake Superior's South Shore. The proposed Line 5 reroute runs directly through the heart of SRWA's service area.

We request that US ACE denies Enbridge the requested 404 Clean Water Act permit for the following reasons:

- (1) The existing Line 5 pipeline and proposed new Line 5 construction threaten the health and integrity of numerous ecologically significant waterways.

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<sup>1</sup> [https://www.mvp.usace.army.mil/Enbridge\\_Line5-WI/](https://www.mvp.usace.army.mil/Enbridge_Line5-WI/)

- The proposed pipeline corridor will be developed within the Mashkiiziibii (Bad River) watershed, which is characterized by numerous high quality water resource streams, wetlands, and the Kakagon Sloughs.
- The proposed corridor will cross a State of Wisconsin Department of Natural Resources-designated Exceptional or Outstanding Resource Water stream segments nine times.
- Pipeline construction damages the watershed and increases erosion and sedimentation, which in turn severely impairs many rivers and streams in the sub-watersheds of the Bad River. Parts of the pipeline corridor lie within areas prioritized by regional interagency working groups for reduction of erosion and sedimentation potential.
- Creating new, long-term openings in habitat breaks up habitat blocks. Furthermore, heavy equipment is a major vector for invasive plant species that imbalance healthy forest and wetland ecosystems.
- The proposed route crosses numerous stream system drainages. If directional boring is employed to locate the pipeline beneath these stream beds, this will inevitably result in penetration of aquifers that are presently isolated from surface water. The impact of this redistribution of groundwater has not been adequately studied in terms of thermal and hydraulic volume changes taking place both in the aquifers and in the surface waters that may be artificially commingled. Thermal and hydraulic volume changes may directly impact stream, floodplain, and adjacent wetland ecology.

(2) The existing Line 5 pipeline and proposed new Line 5 construction poses a serious risk to the health of native fish and reptile species habitat and spawning grounds.

- Of concern to the Superior Rivers Watershed Association is that the proposed reroute will increase, not minimize, the potential for water quality degradation by increasing the number of streams and wetlands it will cross. For example, the proposed corridor will cross a US Fish and Wildlife Service-designated critical brook trout fishery stream five times.
- Additionally, the entire corridor footprint lies in the documented range of the wood turtle, a Wisconsin DNR-listed special concern species. Twenty-one potential nesting habitat sites may experience short term to permanent negative impacts from construction disturbances.
- Our volunteer-collected, multi-year water temperature data collection at 14 sites in the proposed corridor demonstrate the presence of exceptional

cold water resources in the Bad River watershed (see <https://www.superiorrivers.org/about-our-waters/watershed-profiles/>). Any removal of shading vegetation cover at pipeline stream crossings has a direct impact on streams where cold water temperatures are at least partially maintained by shading from abundant streamside vegetation.

(3) The existing Line 5 pipeline and proposed new Line 5 construction are situated within the treaty-ceded territories of the original peoples of the Great Lakes, the Ojibwe.

- The Treaty of 1842<sup>2</sup> between First Nations (the Chippewa Indians of Lake Superior) and the United States recognizes the sovereignty of the Bad River Band of Lake Superior Chippewa and the right to fishing, hunting, and foraging in treaty-ceded territories. The proposed pipeline reroute is set within the boundaries of those ceded territories<sup>3</sup> and any threat or risk to those fishing, hunting, and foraging rights is in direct violation of the Treaty of 1842.
- Extensive wetlands critical to the water and cultural resources of the Bad River Band of Lake Superior Chippewa Indians all lie directly downstream of the proposed pipeline reroute, including the Kakagon/Bad River Sloughs ecosystem, which was designated a Wetland of International Importance by the United Nations Ramsar Convention in 2012. This globally unique ecosystem:
  - Supports wild rice;
  - Supports diverse Lake Superior and inland fisheries;
  - Controls flooding; and
  - Filters pollutants from water.

(4) We are concerned by both the overall, on-the-ground impacts of new pipeline construction and the risk of pipeline failure, and Enbridge's poor safety record.

- Enbridge pipelines have a history of failure.<sup>4</sup> The ecological and human health risks of yet another pipeline spill threaten the waters Superior Rivers Watershed Association protects and monitors.
- Pipeline exposure and destabilization is also a concern. The Bad River watershed is an historically flood-prone region, and has been subjected to three record-breaking flooding events since 2012. These events have resulted in loss of life, property, and infrastructure, twice on a catastrophic

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<sup>2</sup> <https://glifwc.org/TreatyRights/TreatyChippewa10041842Web.pdf>

<sup>3</sup> <https://data.glifwc.org/ceded/>

<sup>4</sup> [https://www.oilandwaterdontmix.org/enbridge\\_safety\\_record](https://www.oilandwaterdontmix.org/enbridge_safety_record)

scale. Multiple regional climate models forecast increasing frequency of large precipitation events in the future, only exacerbating the risk to any existing or proposed new pipelines. We've seen the growing risk of flooding and subsequent erosion on the pipeline at a channel meander site where the Bad River is oxbowing and inching closer to exposing the pipeline.

- Construction through wetlands and streams results in erosion, gullies, and silt deposits downstream, which both impact aquatic species and exacerbates flooding in the region.
- In their permit application, Enbridge describes Line 5 as "vital energy infrastructure" (p.1). However, the above-mentioned impacts of climate change in the region make it imperative to shift away from oil and gas energy reserves. It is not in the long-term interest of the communities we serve to support fossil fuel energy infrastructure.

The Superior Rivers Watershed Association also supports the Bad River Band's stance that this public input process is premature given that the state has not yet issued a certification under section 401 of the Clean Water Act. This certification is a prerequisite for the Clean Water Act section 404 permit in question and the data and information used in this certification is necessary for adequate analysis for the 404 permit. On top of this, the tribe has not had adequate time to review the Environmental Assessment for this permitting process. With these two crucial steps in the process missing we believe this Environmental Assessment cannot be considered complete.

In summary, the potentially devastating localized effects of pipeline leaks or spills among other impacts of the proposed reroute gravely concerns Superior Rivers Watershed Association. We see the Environmental Assessment as incomplete and inadequate to be used to issue a 404 permit given the lack of state certification and tribal review. Our position is that transportation of hazardous materials, including pipelines carrying oil, gas, and other toxic fluids, should avoid crossing Lake Superior's watersheds. The past and future impacts that the Enbridge Line 5 pipeline has to wetlands, streams, rivers, the Kakagon Sloughs, the Bad River, Copper Falls State Park, and Lake Superior clearly demonstrate why the USACE should deny the requested permit. **We request that the USACE denies Enbridge the requested permit in accordance with Section 404 of the Clean Water Act for discharges of dredged or fill material into waters of the United States.**

Sincerely,  
Superior Rivers Watershed Association Board of Directors  
Superior Rivers Watershed Association Staff