

# Line 5 Waterway & Wetland & Stormwater Permit FAQs

November 14, 2024

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## What is Line 5?

Operational since 1953, Line 5 is part of an extensive network of petroleum transport pipelines owned and operated by Enbridge Energy, LLC. Line 5 runs for 645 miles from Superior, Wisconsin to Sarnia, Ontario and transports light crude oil and natural gas liquids.

Natural gas liquids are refined into liquid propane at facilities in Sarnia and Rapid River, Michigan. Light crude oil received at the Marysville, Michigan pumping station is redirected via a separate line to refineries in Detroit, Michigan and Toledo, Ohio. Remaining light crudes received at Line 5's terminus in Sarnia are either transported to Sarnia area refineries or Enbridge's Line 7 for distribution to facilities in southern Ontario.

## What is Enbridge proposing to do?

Approximately 12 miles of the existing pipeline passes through the Bad River Reservation of the Bad River Band of Lake Superior Chippewa. Enbridge is proposing to replace a 20-mile section of the existing pipeline extending from 4.4 miles west of the Reservation boundary to 3.3 miles east of the Reservation Boundary with a 41-mile section of new pipeline routed outside Reservation b.

## What authority does the DNR have to regulate interstate petroleum pipelines like Line 5?

The DNR has no general authority to regulate any aspect of interstate petroleum pipeline siting, design, construction, operation, maintenance, safety or emergency response planning (including spill response planning).

DNR's regulatory authorities pertain only to construction activities that impact waters of the state (Ch. 283, Wis. Stats.), navigable waterways (Ch. 30, Wis. Stats.), wetlands (§ 281.36, Wis. Stats.), state-listed threatened and endangered species (§ 29.604, Wis. Stats.), historic and cultural resources (§ 44.40, Wis. Stats.), ground water (§ 281.34 and Ch. 283, Wis. Stats.) and air emissions (Ch. 285, Wis. Stats.).

## What do these permits authorize Enbridge to do?

The Waterway and Wetland Individual Permit is issued under the authority of Ch. 30 and § 281.36, Wis. Stats., and authorizes Enbridge to conduct activities that impact navigable waterways and wetlands as specifically described in the permit application, associated plans and permit conditions, including:

- Placing temporary structures (dam & pump or flow bypass systems) on the beds of navigable waterways (§ 30.12, Wis. Stats.)
- Placing permanent structures (bank stabilization structures) on the beds of navigable waters (§ 30.12, Wis. Stats.)
- Placing temporary bridges over navigable waterways (§ 30.123, Wis. Stats.)
- Removing material from the beds of navigable waters (i.e. dredging; (§ 30.12, Wis. Stats.)
- Operating motor vehicles on the beds of navigable waters (§ 30.29, Wis. Stats.)
- Placing temporary matting in wetlands (§ 281.36, Wis. Stats.)
- Excavating and backfilling trenches and bore pits in wetlands (§ 281.36, Wis. Stats.)
- Placing permanent fill in wetlands (§ 281.36, Wis. Stats.)
- Converting forested wetlands (§ 281.36, Wis. Stats.)

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The [Construction Site Stormwater General Permit](#) coverage is conveyed under the authority of Ch. 283, Wis. Stats., and authorizes Enbridge to engage in land disturbing activities including clearing, grading and/or excavating to discharge storm water to waters of the state.

## **What is the basis for DNR's permitting decisions?**

DNR's individual permit decisions are based on the extent to which the verifiable facts of the proposed activities for which permits are required substantiate that the project can proceed while meeting all applicable legal standards and requirements. This analysis is presented in detail in the waterway and wetland individual permit's Findings of Fact and Conclusions of Law.

General permit coverage conveyance decisions are based on the extent to which the verifiable facts of the proposed activities substantiate that the project meets the applicability criteria specified in Section 1 of the general permit.

## **What does it mean to approve an individual permit with conditions?**

If upon completing its review of the verifiable facts associated with an individual permit application the department concludes that additional measures must be taken to ensure compliance with the standards, the department can include those requirements in the permit as enforceable conditions.

## **How is the project EIS considered in DNR's permitting decisions?**

DNR reviews Enbridge's permit application materials and gives due consideration to the EIS as part of the process of making final decisions to approve, deny or condition the permit.

## **Were there opportunities for public involvement pertaining to the Waterway & Wetland permit?**

The DNR published a [public notice](#) of the wetland and waterway permit application on June 8, 2020, held a virtual public hearing on July 1, 2020 and accepted public comments for 30 days following the publication of the public notice.

## **What is a water quality certification?**

Under Section 401 of the Clean Water Act (CWA), a federal agency may not issue a permit or license to conduct any activity that may result in any discharge into waters of the United States unless a Section 401 water quality certification is issued, or certification is waived. States and authorized tribes where the discharge would originate are responsible for issuing water quality certifications, which are legal determinations that a proposed activity is capable of meeting state-promulgated water quality standards.

Enbridge has applied to the U.S. Army Corps of Engineers for a permit to discharge dredged or fill materials to waters of the United States under Section 404 of the Clean Water Act. The Corps cannot make a permit decision until the Section 401 process, which includes a WDNR water quality certification decision, is complete. The DNR has determined that the project as proposed will meet state water quality standards and in turn has issued its water quality certification.

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## **Does Enbridge need any other permits or approvals before the project can proceed?**

Yes. In addition to the Army Corps Section 404 permit, additional required DNR permits and approvals include:

- Coverage under the WPDES General Permit for Discharge related to Hydrostatic Testing of Petroleum systems
- State Endangered Resources Review.
- Additional permits for burning of slash, dewatering groundwater and incidental take of listed species may also be required.