October 14 2022

USACE Detroit District Regulatory Office

477 Michigan Avenue

Detroit, Michigan 48226

RE: Comments on the Enbridge Line 5 Tunnel Permit EIS scoping

Greetings,

I am Tim Van Deelen, a life-long resident of the Great Lakes region, currently living in Waunakee, Wisconsin. I oppose the construction of the Enbridge Tunnel in the Straits of Mackinac.

I am a professor of Wildlife Ecology at UW-Madison, specializing in terrestrial wildlife conservation. I am speaking for myself, not my employer or my collaborators.

The Army Corps of Engineers has not yet produced required environmental analyses for the entirety of Line 5, including evaluating the costs of allowing a pipeline to remain under the Straits and threats to drinking water resources, Tribal treaty rights, and our Great Lakes. This is especially alarming since Line 5 is also currently operating on an expired easement in Wisconsin, in the Bad River Reservation. Enbridge has proposed a new Line 5 Segment to replace that portion of Line 5. The Bad River Band opposes the new Line 5 Segment as well, because it would keep Line 5 within the Bad River watershed.

Line 5 was constructed prior to oversight mandated by the National Environmental Policy Act (NEPA). As proposed, the tunnel project clearly represents a “major action significantly affecting the human environment” warranting a full environmental impact statement under NEPA. Here’s why:

1. It would commit Michigan and the people and environment of the Great Lakes region to another 99 years of unacceptable risks.
2. The Army Corp has never conducted a full review of Line 5 under NEPA and must do so now to meet both the spirit and letter of the law.
3. If it grants the permit, the Army Corps is authorizing two new pipelines in the Straits compared to the baseline scenario in the Straits which is, under Governor Whitmer’s new order, no more pipelines in the Straits as of May 2021. The Corp must not contravene the clear public trust obligation of the state of Michigan to protect the lake bed and the waters of the Great Lakes as exercised by Michigan’s Governor.
4. The tunnel proposal raises significant questions of risks, costs, and feasibility that are inadequately addressed in the permit application.
5. The tunnel and the construction pose risks to environmental and human cultural values including that of an important archeological site recently discovered.
6. The project threatens Tribal treaty rights and other cultural resources (or relatives) as explained by the Bay Mills Indian Community, Lake Superior Ojibwe and other Tribal Nations

I have read the Permit Application that Enbridge prepared for the Army Corp of Engineers and the Michigan Department of Environment, Great Lakes, and Energy for The line 5 tunnel project under the straits. I am asking for a full Environmental Impact Study under State and Federal laws and I request that the following inadequacies of the Enbridge permit application be addressed.

1) The permit application ignores risks associated with operation of the line 5 pipeline. The report restricts itself to discussions of impacts associated solely with construction of the tunnel in the straits of Mackinac while implicitly assuming that fossil fuel products carried to the pipeline’s endpoint must happen. In fact, the straits segment cannot be decoupled from the pipeline’s operation therefore any consideration of “adverse environmental impacts” under the National Environmental Policy Act stemming from the construction must include adverse environmental impacts associated with operation of the line 5 pipeline itself including all 645 miles of it – especially those Wisconsin – most notably the segment upstream of the Bad River Estuary and the Kakagon slough, an internationally significant freshwater wetland cared for by the sovereign Bad River band of Lake Superior Ojibwe.

2) The report fails to quantify the risks associated with pipeline failure that would be enabled or facilitated by the tunnel. The report describes much about the technological and managerial machinery in place to prevent or mitigate a spill but does not honestly quantify the risk. Spills are not anomalies that cannot be evaluated. Enbridge has a track record. Since 1968, line 5 has ruptured or spilled roughly 30 times releasing 1.1 million gallons of oil into the environment. Throughout its pipeline system, Enbridge has experienced over 1000 spills between 1999 and 2013 roughly 71 per year with an average release of roughly 500,000 gallons. In 2010, their clean-up and mitigation was unable to remove or recover 20% of the catastrophic spill that occurred in the Kalamazoo river – meaning that 160,000 gallons of oil remained to contaminate soils, sediments, and ground water. These data must be used to create a statistical model of the yearly risk posed by the pipeline in terms of the magnitude of the releases, the response times of recovery and mitigation, and the efficacy of the mitigation efforts for line 5. Otherwise, any discussion of cumulative risk is meaningless and managers are unable to weigh the public interest and benefits.

3) The application fails to quantify the costs and benefits to the people of the Great Lakes region. Apart from “tax revenue” which is neither quantified or estimated, there are real costs to the region estimated in terms of impairments to recreational activity, clean-up and mitigation of spills, and irreparable damage to wetlands, groundwater, cultural resources, and the Great Lakes of Superior and Michigan in the event of spills that can be anticipated. Regulators need to see the balance sheet.

4) The “no action” alternative in the permit application explicitly claims that absent construction of the tunnel, petroleum products will continue to flow through the damaged and corroded and neglected pipeline segment on the lake bed as they are now. This is completely inadequate since Enbridge is in violation of their original easement agreement and the state of Michigan acting through Gov. Witmer and Attorney General Nessel is rightly fulfilling its public trust obligations by retracting the easement enabling the pipeline cross the straits. In light of this, the “no action” alternative must be the shut down and decommissioning of line 5.

5) The EIS must address water pollution from both construction of the tunnel and operation of the pipeline (including the contamination of ground water and drinking water) wherever the pipeline operates. The Corps has yet to perform an adequate Endangered Species Act consultation and Enbridge permit application has not provided sufficient information about its plan to disturb sensitive coastal wetlands to allow the Corps to evaluate the impacts to waters of the UnitedStates

6) The EIS must address tribal treat rights including fishing rights in any area plausibly affected by a spill – whether it occurs in the Lake Michigan or Lake Superior basin/tributaries. Eleven Ojiwbe tribes hold the legal right to hunt, fish and gather in the region crossed by line 5.

7) The EIS must address Climate change impacts enabled the construction of the tunnel and the continued operation of line 5.

8) The EIS must address Enbridge’s poor track record of spills, ruptures, and equipment failures, most notably the permit application fails to demonstrate that Enbridge plan for spill mitigation in the event of a rupture during ice cover or during a storm event. Does Enbridge have access to enough equipment staged in areas close enough to deal with a catastrophic failure in the straits during a harsh Michigan winter? It has not demonstrated that is has.

Permitting for Line 5 cannot be done piecemeal because it offends the public trust to pretend that conducting oil products under the straits of Mackinac in aging and damaged pipelines or in a tunnel is independent of risk elsewhere in Wisconsin and Michigan. Line five is an unacceptable risk, the risk is a cumulative one and that risk cannot be decoupled from any single segment.

An adequate EIS would demonstrate that the Line 5 tunnel project is an unacceptable risk for the people of the Great Lakes region and its terrestrial, aquatic and shoreline ecosystems.

Thank you,



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