



United States  
Department  
of  
Agriculture

Forest Service

Eastern  
Region

Hiawatha  
National  
Forest



**DECISION NOTICE  
and  
FINDING OF NO SIGNIFICANT IMPACT**

**Pipeline Maintenance - Line 5, Milepost 1369**

**in Delta County, Michigan**

**Enbridge Pipelines (Lakehead), LLC**

**August 2013**

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The deciding official for this project is Joanne M. Sanfilippo, District Ranger of Rapid River/Manistique. This Decision Notice and Finding of No Significant Impact (DN/FONSI) documents the selection of an alternative for the implementation of maintenance repair work planned by Enbridge Pipelines (Lakehead), L.L.C. (Enbridge) at two locations, Mileposts (MPs) 1369.4668 and 1369.8501, on their Line 5 pipeline.

## **1.0 Introduction**

This Decision Notice (DN) documents my decision to implement the proposed action as described in section 2.2.1 of the EA. The proposed action includes excavation, inspection, and if needed, repairs of the Enbridge petroleum/natural gas liquids pipeline. The proposed action also includes restoration of the Right of Way (ROW) and associated workspace, and reduces the potential for a pipeline release.

The USDA Forest Service has prepared an Environmental Assessment (EA) for the proposed pipeline maintenance on Enbridge Line 5, Milepost 1369 in Delta County, Michigan in accordance with the requirements of the National Environmental Policy Act (NEPA) and other relevant federal and state laws and regulations. The EA disclosed the direct, indirect, and cumulative environmental impacts that would result from the proposed action. The EA and supporting documents are available for review at the Rapid River/Manistique Ranger District Office in Rapid River, Michigan, and at the following website: <http://fs.usda.gov/goto/hiawatha/projects>. Detailed records of the environmental analysis and the supporting Project File are available for public review at the Rapid River office.

## **2.0 Purpose and Need**

As part of Enbridge's regular Operations and Maintenance program, pipeline integrity testing is performed with the purpose of identifying pipelines that require visual inspection and, if needed, repair. An internal inspection tool (pig) is sent through the pipeline to collect integrity data and identify potential anomalies.

The internal inspection has signaled that there is a need to visually inspect and if necessary, repair two sections of Enbridge's Line 5 (30" diameter) pipeline located in the Hiawatha National Forest (HNF). The maintenance activities enable Enbridge to maintain their assets and minimize larger more expensive repairs as well as minimize the potential for petroleum and natural gas liquids releases and contamination.

These maintenance activities are also required by the U.S. Department of Transportation (DOT) regulations 49 CFR Part 195.452 on Integrity Management.

## **3.0 Decision Notice**

### ***3.1 Decision***

It is my decision to implement the proposed action alternative. The proposed action includes excavation, inspection, and if needed, repairs of the Enbridge petroleum/natural gas liquids pipeline. The maintenance work is scheduled to begin approximately in the fall of 2013 or winter of 2014 and continue for three to four weeks.

The proposed action also includes restoration of the ROW and associated workspace. The excavation at Milepost 1369.6448 will be approximately 30 to 35 feet wide, 60 to 70 feet long, and up to 10 feet deep; up to 910 cubic yards of soil will be excavated, temporarily stored, and backfilled. A portion of the extra workspace, used for parking and storing equipment will be located outside the existing ROW, and still on the HNF. The excavation at Milepost 1369.8501 will be approximately 25 to 40 feet wide, 50 to 60 feet long, and 8 feet deep; up to 700 cubic yards of soil will be excavated, temporarily stored, and backfilled. Equipment used will include a backhoe or similar excavator, and trucks to transport personnel, equipment and soil.

Dewatering will be needed in order to successfully complete the maintenance work at both MPs. Discharge will be directed to straw bale dewatering structures in upland infiltration locations. No dewatered discharge or resultant runoff will be discharged directly into the Sturgeon River.

Access to the site will use the existing ROW directly off Forest Highway 13. In advance of the work, Enbridge will coordinate with the Delta County Road Commission on using the road for access and hauling. Signage and flagging will be installed on Forest Highway 13 during maintenance activities to alert other drivers to proceed with caution. Personal vehicles of Enbridge contractors will not be parked along Forest Highway 13. All of the activities associated with the work except for a portion of the extra workspace (used for parking and storing equipment) at Milepost 1369.6448 will be located within the existing ROW. To minimize congestion along the highway, single trailer logging trucks will be used. A log and timber mat landing area will be put in place and a limited amount of gravel will be used for leveling purposes. The gravel will be placed on geotextile fabric to facilitate clean-up. Mats and equipment will be off-loaded from trucks staged on the mats. Additionally, logging trucks will be loaded while staged on the mats. Tree limbs and brush will be trimmed to accommodate the mat loading area. To minimize visual impacts, trees and vegetation closest to Forest Highway 13 will be left intact, to the extent possible. Shrubs and brush will be cleared to allow access to the project area. From 100 feet east of Forest Highway 13 to the work area, the access road will be 25

feet wide. From the center of the pipeline, 5 feet will be cleared south of the pipeline and 20 feet will be cleared north of the pipeline.

**Mitigation measures, management requirements, and monitoring provisions (EA section 2.2.1):**

- The ROW will be restored as soon as possible, after backfilling.
- A re-vegetation plan approved by the HNF will be implemented.
- Should heritage resources such as artifacts or bones be discovered during the project, work at the site will stop and the State Historic Preservation Office (SHPO) will be notified immediately.
- Erosion control measures, such as silt fencing and straw bales, will be installed prior to soil disturbance.
- To reduce the potential for introduction or spread of Non-native Invasive Plants (NNIP), construction equipment will be cleaned before being brought on HNF managed lands in a designated area outside the project, training will be provided on the identification and removal of invasive plant species to appropriate personnel to facilitate awareness of NNIP and help prevent inadvertent spreading, and measures will be taken to ensure construction equipment is free of soil, seeds, vegetative matter, or other debris that could contain or hold seeds.
- Reed Canary grass is present on the pipeline ROW. Enbridge will coordinate with the HNF to either remove and/or minimize the spread of the invasive plants by manual and/or mechanical methods prior to this project work.
- A Visual Mitigation Plan was prepared for this project and will include a re-vegetation plan approved by the HNF.
- To limit impact to recreational activity in the area, a flyer (developed by Enbridge and approved by the United States Forest Service) will be posted at the Flowing Well Campground bulletin board that describes the purpose of the work and the schedule. This will enable campers and other users to make alternate plans in the event that the maintenance project is too disruptive.
- Any trees that are dropped into the Sturgeon River will be removed.

### ***3.2 Decision Rationale***

The decision to implement the proposed action meets the purpose and need for the project as described above. The EA sharply defined the differences between each alternative and provided a clear basis for choice among options by the decision maker and the public. In making the decision to implement the proposed action, consideration was given to public comments and concerns, environmental consequences, and non-

environmental effects such as visual, recreation, and heritage concerns. Other laws and regulations applicable at the time of the decision include but are not limited to U.S. Department of Transportation (DOT) regulation 49 CFR Part 195.452, which requires maintenance activities for integrity management of the pipeline. Environmental documents considered in the decision making include:

- The Natural Resources Conservation Service (NRCS) Web Soil Survey and the United States Department of Agriculture (USDA) Hiawatha National Forest Plan were consulted to determine the topography and soil conditions present in the project area and the effects of the maintenance activities on these respective features.
- The Hiawatha National Forest Plan was also consulted to determine the hydrologic conditions, water quality, the occurrence of Federally Listed and Regional Forester Sensitive Species (RFSS), the Management Indicator Species (MIS), the aquatic habitat, recreational potential, visual quality, and heritage resources present in the project location and the effects of the maintenance activities on these items.
- The USDA Forest Service HNF Final Environmental Impact Statement was consulted to determine the vegetation present in the project location including native and non-native species and the effects of the maintenance activities on these species.

All considerations were weighed and balanced in arriving at the decision to implement the proposed action. It has been determined that the minimal effects of the pipeline maintenance activities are outweighed by preventing a potential pipeline failure and avoiding greater impacts in the future.

### ***3.3 Alternatives Considered***

A no action alternative was considered for this project as described in section 2.2.2 of the EA. Under this alternative, the United States Forest Service (USFS) would not issue the temporary special use permit and no pipeline maintenance activities would be implemented at Line 5 MPs 1369.6448 and 1369.8501. This alternative was not chosen due to the potential for larger impacts including pipeline release and contamination in the future if the maintenance work was not conducted on these mileposts.

### ***3.4 Public Involvement***

Information was submitted to the Forest Service in May, 2012 (File Code 2720) regarding work at MP 1369.8501 and a scoping letter regarding the maintenance activity at this location was published on May 16, 2012. Work at MP 1369.6448 was added by

Enbridge's pipeline inspection program to this maintenance activity and due to its proximity it was incorporated into the scope of work; therefore, the USFS provided another opportunity to comment on this activity through the EA which assessed and documented both locations.

Comments received during the initial May 16th scoping were considered along with any new comments in response to this effort. The updated proposal was listed on the HNF NEPA projects webpage on December 20, 2012 and in the Schedule of Proposed Actions on the same date. A legal notice was published in the Daily Press of Escanaba, Michigan on December 27, 2012. The proposal was provided to interested parties through a scoping letter which requested comment from December 27, 2012 to January 27, 2013. The scoping letter was mailed to thirty-two parties and one letter was returned by the post office.

The Forest Service identified the following relevant issues based on the one comment received:

- Sediment-laden run-off entering the Sturgeon River
- Introduction of NNIP
- Tree-clearing and associated visual impacts

Each issue is addressed by the proposed action and is discussed in detail in section 2.2.1 of the EA. Using comments from the public, the interdisciplinary team developed a list of issues to address in the EA. The EA issues and public concerns were considered in making the decision to implement the proposed action.

## **4.0 Finding of No Significant Impact**

“Significant” as used in NEPA requires considerations of both context and intensity. Based on the EA and the evaluation of the factors described in 40 CFR 1508.27, the proposed action is not a major federal action, either individually or cumulatively, and will not *significantly* affect the quality of the human environment. Therefore, an Environmental Impact Statement (EIS) is not required. The following factors support this conclusion and follow the format of 40 CFR 1508.27:

### **4.1 Context**

***Context*** means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance,

*in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.*

The analysis of the proposed action reveals localized effects only for the immediate area. The pipeline maintenance project will temporarily impact a small section of Forest Highway 13 which will be used for access and hauling. Signage and flagging will be installed on Forest Highway 13 during maintenance activities to alert other drivers to proceed with caution. All other effects will be confined to the ROW, the small area of project work outside the ROW (log and timber mat landing area adjacent Forest Highway 13) and the Wild and Scenic River (WSR) segment one mile up and down river of the project area. Approximately 1.26 acres of land (including .12 acres of wetland) will be impacted within the approximate timeframe of fall of 2013 or winter of 2014. The maintenance activities will begin once all permits and permissions have been obtained. The maintenance effort will be active for three to four weeks. Restoration activities will take place once the maintenance is complete and be completed in the summer through the fall.

Based upon the consideration of the factors disclosed for short- and long-term effects, it has been determined that the proposed action is a site-specific action that by itself does not have international, regional, or statewide importance. The discussion of significance that follows applies to the intended action and is within the context of local importance in the area associated with the pipeline maintenance project.

## **4.2 Intensity**

*Intensity refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:*

### **4.2.1 Impacts that may be both beneficial and adverse**

A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial. This Finding of No Significant Impact considers both beneficial and adverse effects. No significant resource effects from implementing the proposed action were identified in the EA (Chapter 3). The project is designed to protect the Outstandingly Remarkable Values (ORV) of the Sturgeon River, and to be in compliance with the WSR conditions.

### **4.2.2 Impacts to public health or safety**

This alternative will not significantly affect public health and safety. This finding is analogous to the implementation of similar past projects. The project will temporarily impact the scenic quality of the area as described in Chapter 3 of the EA. All impacts recognized in the EA are remediated as part of the proposed action and therefore I have determined the selected alternative will have no effects on public health and safety.

#### **4.2.3 Unique characteristics of the geographic area**

Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas have been reviewed. The proposed action is designed to protect the ORV of the Sturgeon River, and to be in compliance with the WSR Act. The EA has identified the wildlife, botany, recreational, and historic values of the project area and these values will be protected against adverse effects resulting from the proposed project. Based on this information, I conclude that there will be no adverse effects on unique resources.

#### **4.2.4 The degree to which the effects on the quality of the human environment are likely to be highly controversial**

“Human Environment” shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment.

Effects to the human environment may include slight visual changes in the immediate vicinity of the excavation and pipeline ROW and temporary audible interruptions at the nearby campground during the time of excavation. Based on the previous implementation of similar projects and the results of the EA, the effects of the proposed action on the quality of human environment are not likely to be highly controversial.

#### **4.2.5 The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks**

Environmental effects described in the EA have been analyzed in detail to determine predictable results. Based on the previous implementation of similar projects and the results of the EA, the proposed action does not involve unique or unknown risks to the human environment.

#### **4.2.6 The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration**

There are no precedent-setting actions in the proposed EA, nor is this a decision in principle about future considerations.

#### **4.2.7 Whether the action is related to other actions with individually insignificant but cumulatively significant impacts**

Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts. Cumulative effects have been analyzed thoroughly in Chapter 3 of the EA. The EA has shown that cumulative effects of this decision, when considering other past, ongoing, and reasonably foreseen activities, are not expected to be significant.

#### **4.2.8 The degree to which the action may adversely affect listed or eligible historic places**

Section 106 of the National Historic Preservation Act (NHPA) requires all federal agencies to take into account the effect on any district, site, highway, structure, or object listed in or eligible for listing in the National Register of Historic Places. Section 106 of the NHPA also requires federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The Archeological Resources Protection Act covers the discovery and protection of historic properties (prehistoric and historic) that are excavated or discovered on national Forest System lands. The Native American Graves Protection and Repatriation Act covers the discovery and protection of Native American human

remains and objects that are excavated or discovered on National Forest System lands.

An area of potential effect (APE) was defined and surveyed for heritage resources in 1994. No heritage resources were identified within the APE for this project. No heritage resources will be directly or indirectly affected by this project; therefore, there will be no direct or indirect effects to heritage resources and consequently no cumulative effects. The Michigan SHPO was consulted and on May 16, 2012 and provided a determination that no historic properties would be affected within the area of the project.

#### **4.2.9 The degree to which the action may adversely affect an endangered or threatened species or its habitat**

The only federally listed animal with potential habitat adjacent to the project is Canada lynx. No lynx have been found during annual track surveys on the West Unit of the HNF. Thus, lynx would be unlikely to occur in the project area. The project area contains suitable habitat for lynx, based on forest types and age classes, but it is extremely unlikely lynx would be denning along a pipeline ROW. The project will not impact road density or forest habitat known to be used by lynx.

Wildlife Regional Forester Sensitive Species (RFSS) mentioned in the 2006 HNF Forest Plan for this area (Management Area 8.4.4, Sturgeon River Wild and Scenic River) include gray wolf, bald eagle, American marten, black-backed woodpecker, and wood turtle. A determination of “*no impact*” was made for bald eagle. A determination of “*May impact individuals but not likely to cause a trend to federal listing or a loss of viability*” was made for gray wolf, American marten, black-backed woodpecker, and wood turtle.

The Michigan Natural Heritage Program database was queried on April 18, 2012. No federally listed plant species are known to be present, and no suitable habitat for federally listed plants is present. There are no known RFSS occurrences in the vicinity of the project area. Meander surveys for RFSS and potential habitat were conducted onsite during June 2012. No RFSS or other protected species were found during the surveys.

Vascular plants identified as having potentially suitable habitat in the project area, but for which no occurrences are known include Blunt-lobed grapefern (*Botrychium oneidense*); Fir clubmoss (*Huperzia selago*); Butternut (*Juglans*

*cinerea*); and Veiny meadow rue (*Thalictrum venulosum*). The project may impact individual plants but is not likely to cause a trend to federal listing or a loss of viability.

Considering the minimal area affected, it is determined there will be no significant adverse impacts to threatened or endangered species or to RFSS species.

#### **4.2.10 Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment**

This action does not pose a violation of federal, state, or local environmental protection laws.

## **5.0 Findings Required by Other Laws and Regulations**

I have determined that my decision is consistent with all laws, regulations, and agency policy.

The following summarizes findings required by major environmental laws.

### ***5.1 National Forest Management Act (16 USC 1600 ET SEQ.)***

The National Forest Management Act (NFMA) and accompanying regulations require that several specific findings be documented at the project level. These are as follows:

- a) Consistency with Forest Plan (16 USC 1604(i)): the proposed action adheres to the requirements of NFMA, as well as to the Council on Environmental Quality (CEQ) regulations at 40 CFR 1500-1508.
- b) Sensitive Species: Federal law and direction applicable to sensitive species include the NFMA and the Forest Service Manual. The effects on sensitive plant and animal species listed as possibly occurring are discussed in the EA and I have determined they are not significant.

### ***5.2 The Endangered Species Act (16 USC 1531 ET. SEQ.)***

The Endangered Species Act of 1973 was designed to protect critically imperiled species from extinction as a "consequence of economic growth and development untempered by adequate concern and conservation." It is determined there will be no significant adverse impacts to threatened or endangered species or to RFSS species. See section 4.2.9 of this document for details.

### ***5.3 National Historic Preservation Act (NHPA)***

The NHPA is legislation intended to preserve historical and archaeological sites in the United States of America. In compliance with Section 106 of the NHPA, all public lands involved within the APE for this project have been inventoried for heritage resources. It has been determined that no historic properties would be affected within the area of the project. See section 4.2.8 of this document for details.

### ***5.4 Environmental Justice Act***

The Environmental Justice Act of 1994 requires consideration of whether projects would disproportionately impact minority or low-income populations. Public involvement occurred for this project, and the results of it did not identify any adversely impacted local minority or low-income populations.

### ***5.5 Wild and Scenic Rivers Act***

The Wild and Scenic Rivers Act of 1968 requires protection of the free flow and the outstandingly remarkable values for which the river was included in the act. The proposed action has been designed to be in compliance with the Act.

### ***5.6 Clean Water Act***

The purpose of the Clean Water Act is to restore and maintain the integrity of waters. The EA complies with this Act with the use of BMPs.

### ***5.7 Clean Air Act***

The use of excavation equipment would contribute emissions of air pollutants. However, these emissions would not be in high enough concentrations to measure or adversely impact the environment.

## **6.0 Appeal Opportunities**

This decision is subject to appeal in accordance with 36 CFR 215. An appeal may be filed by individuals and organizations that provided comments or otherwise expressed interest in the

proposed action during the 30-day notice and comment period. The appeal must have an identifiable name attached or verification of identity will be required. A scanned signature may serve as verification on electronic appeals.

To appeal this decision, a written Notice of Appeal must be postmarked or received within 45 calendar days after the publication date of the legal notice of this decision. The publication date in *The Daily Press* (Escanaba, Michigan) is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source. It is the appellant's responsibility to provide sufficient project-specific or activity-specific evidence and rationale, focusing on the decision, to show why the Responsible Official's decision should be reversed. At a minimum, an appeal must include information as specified in 36 CFR 215.14(b). The Notice of Appeal should contain a subject line "Enbridge Line 5, Milepost 1369 Pipeline Inspection and Maintenance Project."

For written Notice of Appeal, send or deliver to:

Jo Reyer, Appeal Deciding Officer  
USDA-Forest Service, Eastern Region  
Gaslight Building, Suite 700  
626 East Wisconsin Avenue  
Milwaukee, WI 53202

Business hours for those submitting hand-delivered appeals are 7:30 am - 4:30 pm CT, Monday through Friday, excluding Federal holidays.

The Notice of Appeal may be faxed to: 414-944-3963, Attn: Appeals Deciding Officer, Jo Reyer, USDA Forest Service, Eastern Regional Office.

The Notice of Appeal may be submitted via e-mail to: [appeals-eastern-regional-office@fs.fed.us](mailto:appeals-eastern-regional-office@fs.fed.us). Acceptable formats for electronic comments are text or html email, Adobe portable document format (.pdf), and formats viewable in Microsoft Office applications.

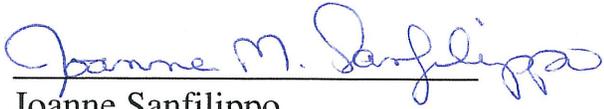
## **7.0 Implementation**

If no appeal is received, implementation of this decision may occur on, but not before, five (5) business days from the close of the appeal-filing period. If an appeal is received, implementation may not occur for fifteen (15) days following the date of appeal disposition.

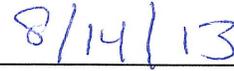
## **8.0 Contact**

For additional information concerning this decision, please contact Joanne Sanfilippo, District Ranger, USDA Forest Service, Rapid River/Manistique Ranger District, Hiawatha National Forest,

8181 US Highway 2, Rapid River, MI 49878; 906-474-6442, ext 123; or by email at  
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District Ranger  
Hiawatha National Forest



Date

