



November 11, 2021

Brenda Mallory
Chair, Council on Environmental Quality
Executive Office of the President
730 Jackson Place, NW
Washington, DC 20503

Dear Chair Mallory,

We, the undersigned organizations, applaud the accomplishments of your first months as Chair of the Council on Environmental Quality (CEQ). Rescinding the Trump Administration's 2019 Draft National Environmental Policy Act (NEPA) Guidance on Consideration of Greenhouse Gas Emissions, and your initiative in opening Docket CEQ-2021-0001, clearly support the Biden Administration's climate change goals, as reflected in President Biden's Executive Orders 13990 and 14008, which direct federal agencies to ensure use of sound science and fair processes to address the climate crisis and environmental injustice.

Most recently, your announcement on October 6 to restore community safeguards in NEPA is critical. We support your Phase 1 rule changes to restore consideration of (1) direct, indirect, and cumulative impacts, (2) alternative approaches to minimize environmental and public health costs, and (3) establishing NEPA as a floor rather than a ceiling for environmental review standards.

We want to alert you, however, that while these laudable broad steps are moving forward, a deeply troubling petroleum pipeline project, Enbridge Line 5, is in ongoing stages of planning, construction, and replacement. Today and in the future, Line 5 poses threats to the Great Lakes, which hold 95% of the surface fresh water in the U.S. We believe that this project has potentially catastrophic environmental, climate, and social justice impacts.

We write to ask for your further leadership at CEQ by:

- encouraging a comprehensive NEPA review of Line 5, which includes impacts along the entire pipeline route;
- considering an emergency action or other steps to ensure that the analysis and approvals for the Enbridge Line 5 in Wisconsin and Michigan be consistent with the Biden Administration's priorities on climate and environmental justice and CEQ-announced revisions to NEPA.

We believe that Line 5 offers an opportunity for CEQ to facilitate consistency between the Administration's stated goals and pipeline regulation. This past January, cancellation of Keystone XL signaled resolve to address climate change in pipeline approvals. However, subsequent decisions (e.g., Dakota Access, Enbridge Line 3, and ConocoPhillips Willow North Slope) have not shown consistent regard for climate or environmental justice. The following summary of Line 5 highlights aspects that relate to Biden Administration goals, and opportunities for CEQ leadership.

Background

As you may be aware, Line 5 was first constructed in 1953, prior to establishment of NEPA or other comprehensive federal environmental review processes. The pipeline, owned by Canadian-based corporation Enbridge Inc., carries crude oil across Wisconsin and Michigan to refineries in Ontario. Enbridge is currently seeking permits, easements, and special use permits/authorizations from a variety of Tribal, state, federal, and local entities for replacing parts of its aging infrastructure and continuing operation.

The Line 5 route crosses National Forests, Tribal Reservations, state, county, and private lands. Its controversial crossing under the Straits of Mackinac (waters connecting Lakes Michigan and Huron) has drawn considerable public concern regarding impacts on the Great Lakes. The State of Michigan opposes Enbridge's plans and has brought two lawsuits against

the company, one relating to continued use of the existing underwater pipeline and a second related to construction of a new tunnel and pipeline under the Straits. The Army Corps of Engineers is requiring an environmental impact statement (EIS) for the tunnel construction proposal while Enbridge continues to operate the aging pipeline. Most recently, the government of Canada has invoked a 1977 pipeline treaty between the U.S. and Canada in an attempt to influence our U.S. agency and court processes, and in particular block Michigan's efforts to halt use of the line.

Less publicized, but compelling concerns exist for the portion of Line 5 across Wisconsin's Lake Superior south shore, where spills pose significant threats to Lake Superior and its watershed, as well as the traditional life ways of Native American Tribes. Specifically, Tribes and citizens have mounted strong opposition to a proposed re-route of the pipeline around the Reservation of the Bad River Band of Lake Superior Chippewa, citing Enbridge's poor safety record and arguing that operation of Line 5 poses risks to Tribal and rural communities' current and future generations.

Threats to Wisconsin Waterways and Communities

The pipeline currently crosses the Bad River, threatening the Bad River and Kakagon Sloughs, the largest wetland complex on Lake Superior, and a RAMSAR Wetland of International Importance.

Enbridge's proposed reroute expansion does not remove threats to the watershed. It crosses many more waterways, many flowing into the Bad River and all eventually leading to Lake Superior. The potential for spills along the proposed reroute is significant and a spill would impact all communities in the watershed.

The Lake Superior basin experienced intense flooding in the summers of 2012, 2016, and 2018, likely the result of climate change. The damage to roads and other infrastructure experienced during these flood events suggests a high probability of future damage to the pipeline. The topography and access in the region would make it difficult or impossible to respond in a timely manner to a future leak or spill occurring during a major storm event. Such a spill would also threaten Lake Superior fisheries, wildlife and the nearby Apostle Islands National Lakeshore. In addition to these direct threats to natural resources and Lake Superior, broader impacts include the social and economic impacts of pipelines to all the communities in the watershed.

Environmental Justice

In all permit and EIS processes related to Line 5, priority should be given to environmental justice concerns consistent with Biden Administration's stated goals.

The pipeline will flow through many rural communities where local resources to respond to spills are limited. As noted above, the geography and infrastructure of the region poses challenges to speedy and efficient spill response times. Spill responses may also be inhibited through delays in identifying leaks, especially leaks of less than 1% of pipeline capacity that evade leak detection technologies and may not rise to the surface, preventing identification through visual inspection. Such delays can exacerbate impacts by persisting over time and jeopardizing groundwater that many communities and families depend for clean drinking water through individual wells. This rural region would therefore face disproportionate risk and have a diminished ability to recover from the impacts from a spill, which are likely to be significant.

Climate Impacts

Continued use of Line 5 to transport petroleum products promotes extraction and use of carbon-intensive fuels. The Biden Administration's stated goals focus on the need to shift away from fossil fuels to renewable energy. We ask that all consideration of Line 5 include greenhouse gas emissions projections (domestic and foreign) and alternatives to the pipeline, in line with the recent U.S. District Court decision that reversed approvals for the ConocoPhillips' Willow Pipeline, in Alaska.

The White House announcement of your appointment as CEQ Chair on April 14, 2021, lists "combat climate change; pursue environmental justice; conserve the nation's lands, waters, and wildlife; and ensure that environmental reviews are conducted fairly..." as priorities. Your leadership on Line 5 would significantly further those goals.

We are asking that you take action to:

- Encourage NEPA review of Line 5 in its entirety, recognizing the lack of historical review in 1953, and the breadth of its impacts on rural and impoverished communities and Tribal Nations.
- Ensure that tribes and local communities can meaningfully engage with the Line 5 permitting process and that climate change and environmental justice goals are fully considered.
- Encourage consideration of direct, indirect and cumulative impacts, emissions projections and alternatives to Line 5 - including a decommissioning alternative - in the EIS consistent with Biden Administration goals and CEQ ongoing rule changes to NEPA.

In addition, we support the efforts of area Tribes and the Great Lakes Indian Fish and Wildlife Commission to consult on a government-to-government basis with the federal agencies on the Line 5 project.

Finally, we note that the direct impacts of spills on Great Lakes resources would be significant. Between 2010 and 2021 approximately \$3.8 billion have been spent through the Great Lakes Restoration Initiative to address Areas of Concern, toxics, invasive species, habitats and more. In Wisconsin alone, \$405 million of those funds have been spent. In a time when clean water is increasingly important, these “national treasures” warrant the utmost protection. Lake Superior, which holds 10% of the world’s fresh water, and its tributary rivers, streams, and wetlands are irreplaceable. We encourage CEQ to take actions to prevent damaging impacts to Lake Superior and the Great Lakes, and to support environmental justice concerns of local communities. We also invite additional dialog if we can be of service.



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