



National Congress of American Indians | 1516 P St NW, Washington, DC 20005 | (202) 466-7767 | www.ncai.org

The National Congress of American Indians Resolution #LV-24-030

Title: Opposing the Continued Operation of Pipelines Endangering Tribal Treaty Resources and Trespassing Against Sovereign Tribal Lands

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, in 2016, NCAI adopted Resolution Number SPO-16-003, entitled Opposing Continued Operation of Unsafe Pipelines That Endanger Tribal Lands and Resources; and

WHEREAS, the inherent rights and responsibilities of Tribal Nations as acknowledged in the United Nations Declaration on the Rights of Indigenous Peoples include protecting our citizens and resources from harm as we strive to live in harmony; and

WHEREAS, millions of people, animals, fish, plants, and other forms of life depend on the Great Lakes to survive, and in our native traditions we are charged with sacred duties to respect and live in harmony with all of creation; and

WHEREAS, Tribal and other economies of these regions depend on industry, agriculture, and tourism, all of which would be negatively affected by waters being contaminated from a petroleum spill; and

WHEREAS, the Great Lakes in the United States Midwest Region represent over 90% of fresh surface water in the United States; and

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WHEREAS, in 1953, a pipeline operated by Enbridge, commonly known as Line 5, was constructed between Superior, Wisconsin, and Sarina, Ontario, to carry petroleum products 645 miles across the Great Lakes ecosystem; and

WHEREAS, dual pipelines were placed on the bottomlands of the Straits of Mackinac between Lake Michigan and Lake Huron to allow Line 5 to cross between the upper and lower peninsulas of present-day Michigan; and

WHEREAS, the dual pipelines have twice been struck by anchors, and each strike was not discovered until Enbridge later conducted maintenance on the pipelines; and

WHEREAS, although this aged pipeline has not had a spill at the Straits, Line 5 has spilled at least 33 times since 1953, releasing at least 1.1 million gallons of oil into the environment; and

WHEREAS, most of these Line 5 spills were not detected by Enbridge's leak detection systems; and

WHEREAS, other Enbridge pipelines of a similar age have ruptured and caused extensive environmental damages, specifically on the Kalamazoo River in southern Michigan (Line 6); and

WHEREAS, studies have shown that a petroleum spill at the Straits would be catastrophic for the health and economies of the entire region. Because of strong currents in the Straits, these studies have shown that in a matter of hours both Lake Michigan and Northern Lake Huron would be affected.; and

WHEREAS, federal agencies such as Environmental Protection Agency (EPA), the Army Corps of Engineers, and the U.S. Coast Guard have testified that the current resources available are insufficient to deal with a spill from Line 5 in the Straits under good conditions, let alone in winter or bad weather conditions; and

WHEREAS, the Michigan Attorney General has said that if the Line 5 pipeline were to be proposed today, it would not be able to obtain the necessary permits. A large diverse group of local governments and organizations have joined in a growing chorus of voices calling for Line 5 to be shut down due to peril in which it puts the Great Lakes water resources; and

WHEREAS, Michigan Governor Whitmer and the Michigan Department of Natural Resources found that Enbridge was in "persistent and incurable" violation of its 1953 easement to cross the Straits of Mackinac on the bottomlands, and that the dual pipeline's continued operation in the Straits posed a substantial, inherent, and unreasonable risk of an oil spill; and

WHEREAS, Michigan's easement to Enbridge was therefore revoked and terminated; and



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WHEREAS, Enbridge has pursued state and federal permitting for the so-called Great Lakes Tunnel Project, which would further perpetuate the flow of petroleum products in Line 5 and across the Straits of Mackinac; and

WHEREAS, any flow of oil through the Straits of Mackinac poses an unacceptable risk to the Great Lakes, Tribal treaty resources, living indigenous lifeways, and the livelihood of millions; and

WHEREAS, protection of sacred and irreplaceable ecosystems, tribal treaty resources, and living indigenous lifeways is a shared obligation across Indian Country; and

WHEREAS, Line 5 not only crosses the Straits of Mackinac but traverses Indian Country, crossing through tribal lands, historic homelands, and areas containing significant treaty and trust natural resources that Indigenous people depend upon for traditional, cultural, and economic uses; and

WHEREAS, Tribal Nations retain inherent sovereign authority to govern their own lands, including the power to exclude non-Indians from, condition non-Indians' entry upon, and expel non-Indian trespassers from tribal lands; and

WHEREAS, Enbridge Line 5 has been found by a federal district court to have been in "conscious" and "willful" trespass against the sovereign lands of the Bad River Band of Lake Superior Tribe of Chippewa Indians since 2013; and

WHEREAS, the United States Department of Justice has written that Enbridge "lacks any legal right" to operate Line 5 on the Bad River Reservation; and

WHEREAS, Line 5 crosses the Bad River on the Bad River Reservation at a river meander, where natural erosional forces have resulted in the pipeline being one significant storm away from being exposed to river forces that it was not designed to withstand, , creating grave and unnecessary risk to the floodplain and watershed from which the Band receives its name, including the wild rice beds that lie at the heart of the Band's creation story as well as precious fisheries and wetland resources, all of which have sustained Band members and their way of life for centuries; and

WHEREAS, a rupture of Line 5 at the Bad River meander would also result in the release of large quantities of oil into Lake Superior, destroying the fisheries and shoreline and wetland resources that are likewise central to the Band's way of life, and that are also relied upon by neighboring Tribal Nations and the Band's non-Indian neighbors; and

WHEREAS, Enbridge has nonetheless continued to operate Line 5 on the Bad River Reservation in trespass and has argued that it has the right to operate Line 5, over the Band's objections, until a reroute can be completed; and



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WHEREAS, protection of Tribal Nations’ inherent sovereign rights to control their own lands is a shared obligation across Indian Country.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) finds that the continued operation of Line 5 is antithetical to the sovereign, safe, and responsible stewardship of Tribal Land, treaty trust resources, cultural lifeways, and the natural world; and

BE IT FURTHER RESOLVED, that NCAI strongly opposes the continued operation of Enbridge Line 5; and

BE IT FURTHER RESOLVED, that NCAI affirms Tribal Nations’ rights to be meaningfully consulted regarding any infrastructure proposed or operating within their traditional, permanent, and living homelands; and

BE IT FURTHER RESOLVED, that NCAI affirms that Tribal Nations’ sovereign right to control their own lands is inherent, undiminished, and absolute; and

BE IT FURTHER RESOLVED, that NCAI calls upon the United States to affirmatively defend Tribal Nations’ inherent sovereign rights to control their own lands; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2024 Annual Convention of the National Congress of American Indians, held October 27-November 1, 2024, in Las Vegas, NV with a quorum present.

A handwritten signature in black ink, appearing to read "Mark Macarro", written over a horizontal line.

Mark Macarro, President

ATTEST:

A handwritten signature in black ink, appearing to read "Leonard Fineday", written over a horizontal line.

Leonard Fineday, Acting Recording Secretary