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Chapter 9

Tribal Resources

9.1 INTRODUCTION

Impacts analyzed within an Environmental Impact Statement (EIS) generally rely heavily on quantitative data and a western worldview of science and its applications (Dongoske et al. 2015). Using western scientific methods to evaluate environmental impacts “fails to consider and incorporate Native American perspectives of, values about, and relationships with the environment.” The goal of this chapter is to provide an alternative, qualitative measure of the impacts of Enbridge’s proposed Line 3 Project (Project) on American Indian tribes. This chapter reflects American Indian values and relationships to the environment, traditional ecological knowledge, and the impacts associated with constructing a pipeline through areas of traditional, cultural, spiritual, and natural resource significance.

Quantitative impacts are discussed in the preceding chapters of the EIS. Chapters 5 and 6 analyze impacts of the Certificate of Need and route alternatives, including impacts on reservation lands, treaty lands, resources that hold tribal significance, such as wild rice, water resources, wildlife, and climate change. To fully understand and appreciate the impacts of the proposed Project and its alternatives on tribal communities and cultures within the project area, qualitative *and* quantitative discussions are necessary. The differences between these approaches highlight the unique impacts on tribal communities and tribal members. In combining these two approaches, an opportunity is created to better incorporate feedback received through consultation and to understand impacts within the cultural context of American Indian tribes (Barnhardt and Kawagley 2005; USFWS 2011).

American Indian traditions are interwoven into the ecosystems in which they live, from hunting and gathering to sacred sites—places and activities that have spiritual and artistic meaning. For example, wild rice has important cultural ties to local traditions, spiritual fulfillment, sustenance, local economies, and more. “Culturally important ecosystem services often cannot be measured in pounds, gallons, acres, or kilowatts” (Fletcher and Christin 2015). Knowledge formed through this understanding is known as traditional ecological knowledge (TEK) or Indigenous Knowledge (Plumer 2017; USFWS 2011). “This knowledge is specific to a location and includes the relationships between plants, animals, natural phenomena, landscapes and timing of events that are used for lifeways, including but not limited to hunting, fishing, trapping, agriculture, and forestry” (USFWS 2011).

This chapter identifies tribal resources and details their importance to the survival of traditional ways. By incorporating tribal input received through consultation and sources provided by tribes, the intent is to provide a more complete analysis of long-term consequences of any alteration, modification, or rerouting of Line 3, all which would have impacts on the natural and cultural environment important to American Indian tribes.

9.2 SOVEREIGNTY

Federally recognized tribes are sovereign nations that retain the power of self-governance over their lands and members. The U.S. Supreme Court has characterized tribal governments as “domestic dependent nations” to whom the federal government has essentially a fiduciary relationship. One

element of this fiduciary relationship has been to preserve American Indian tribes' status as self-governing entities within their territories, including protection from state interference without their prior, informed consent absent an act of Congress. Tribal sovereignty and the right to self-govern is the central tenet of federal American Indian policy.

Treaties are the supreme law of the land which necessarily supersede state laws, and the significance of treaty rights and treaty-protected resources in Minnesota has been acknowledged in judicial decisions that have addressed those rights both on and off reservations.¹ Treaties continue to affirm the inherent sovereignty of American Indian nations, enabling tribal governments to maintain a nation-to-nation relationship with the United States government; manage their lands, resources, and economies; protect their people; and build a more secure future for generations to come.²

9.3 HISTORICAL AND LEGAL FRAMEWORK

Eleven federally recognized American Indian tribes and reservations are located in Minnesota; seven Anishinaabe (Chippewa, Ojibwe) reservations and four Dakota (Sioux) communities.³ The current reservation locations were established by treaty. The seven Ojibwe reservations in Minnesota were originally established by treaty, and the United States government accordingly considers them as unique sovereign nations (Figure 9-1 and Figure 9-2).

The Dakota (Sioux) Communities in the state are: Lower Sioux, Prairie Island, Shakopee-Mdewakanton, and Upper Sioux. The Ojibwe (Chippewa) tribes in Minnesota are: Bois Forte Band of Chippewa (Nett Lake), Fond du Lac Band of Lake Superior Chippewa, Grand Portage Band of Chippewa Indians, Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, Red Lake Band of Chippewa Indians, and White Earth Band of Ojibwe. The members of the Minnesota Chippewa Tribe include: Bois Forte Band of Chippewa, Fond du Lac Band of Lake Superior Chippewa, Grand Portage Band of Chippewa Indians, Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, and White Earth Band of Ojibwe. The six Wisconsin Ojibwe Bands—St. Croix Chippewa Indians of Wisconsin, Lac Courte Oreilles Band of Lake Superior Chippewa, Sakoagan (Mole Lake) Chippewa Community, Bad River Band of Lake Superior Chippewa Tribe, Red Cliff Band of Lake Superior Ojibwe, and Lac du Flambeau Band of Lake Superior Chippewa Indians —also have treaty rights within the portion of the 1837 ceded territory that lies within the state of Minnesota. The Ho-Chunk Nation of Wisconsin also has trust lands within Minnesota. Many other tribal groups currently residing in the Midwest and the western United States have historical and ancestral ties to what is now Minnesota.

¹ For example, see *Minnesota et al. v. Mille Lacs Band of Chippewa Indians et al.*

² Minnesota Indian Affairs Council, *Why Treaties Matter*, <http://mn.gov/indianaffairs/>

³ For this discussion, the names Chippewa, Ojibwe, and Anishinaabe are used interchangeably, as are Dakota and Sioux. The use of Dakota more frequently is used within this chapter unless referencing a particular community, consistent with how these four communities are presented by the State of Minnesota Indian Affairs Council. It is recognized that multiple names often are used when discussing the Sioux communities, such as Dakota, Lakota, or Nakota. Where a specific reference is not made, "American Indian tribe" or "tribe" is used. Please note, however, that individual tribal governments may refer to themselves as tribes, nations, communities, confederacies, or bands.

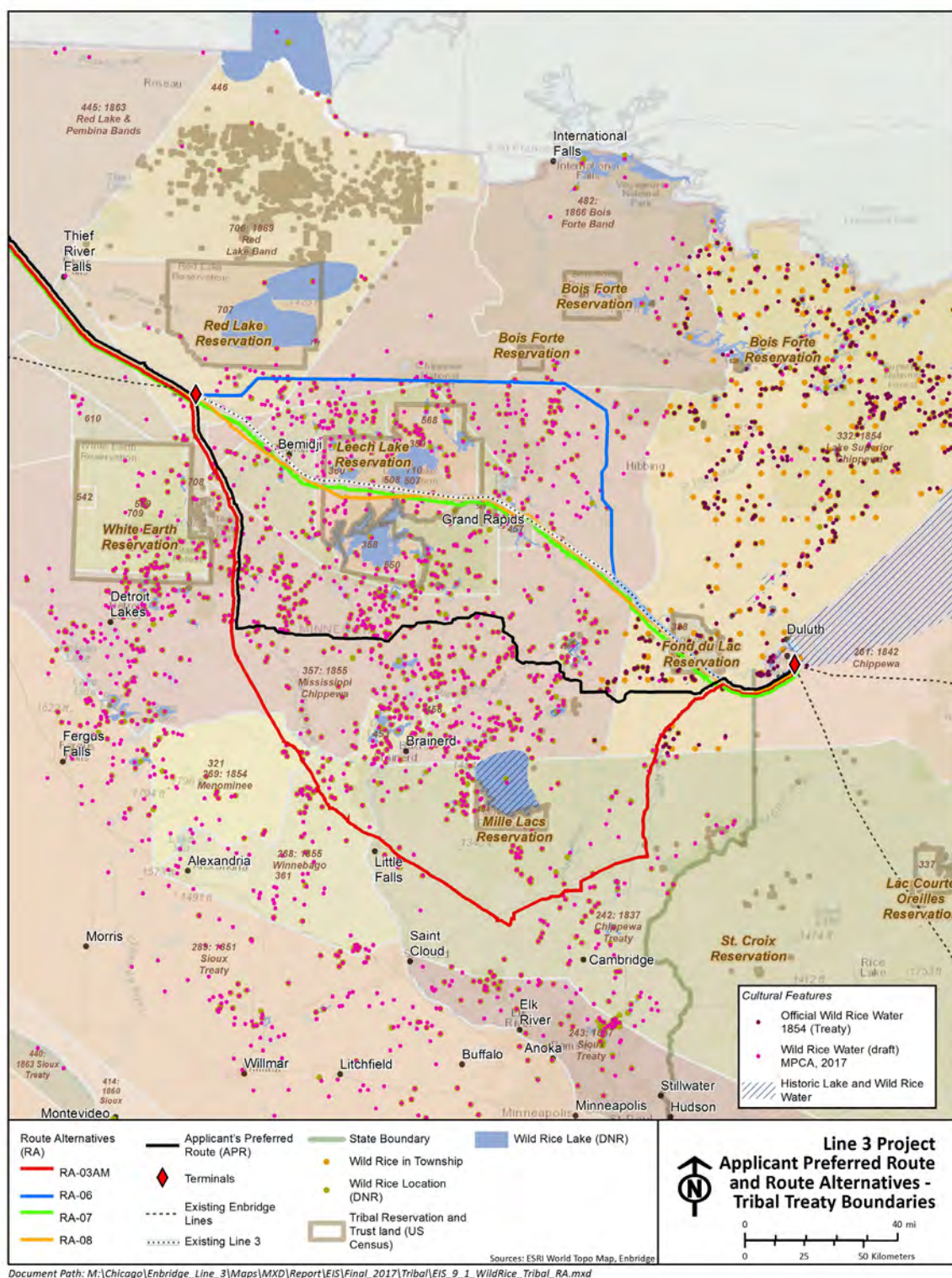


Figure 9-1. Applicant Preferred Route and Route Alternatives - Tribal Treaty Boundaries

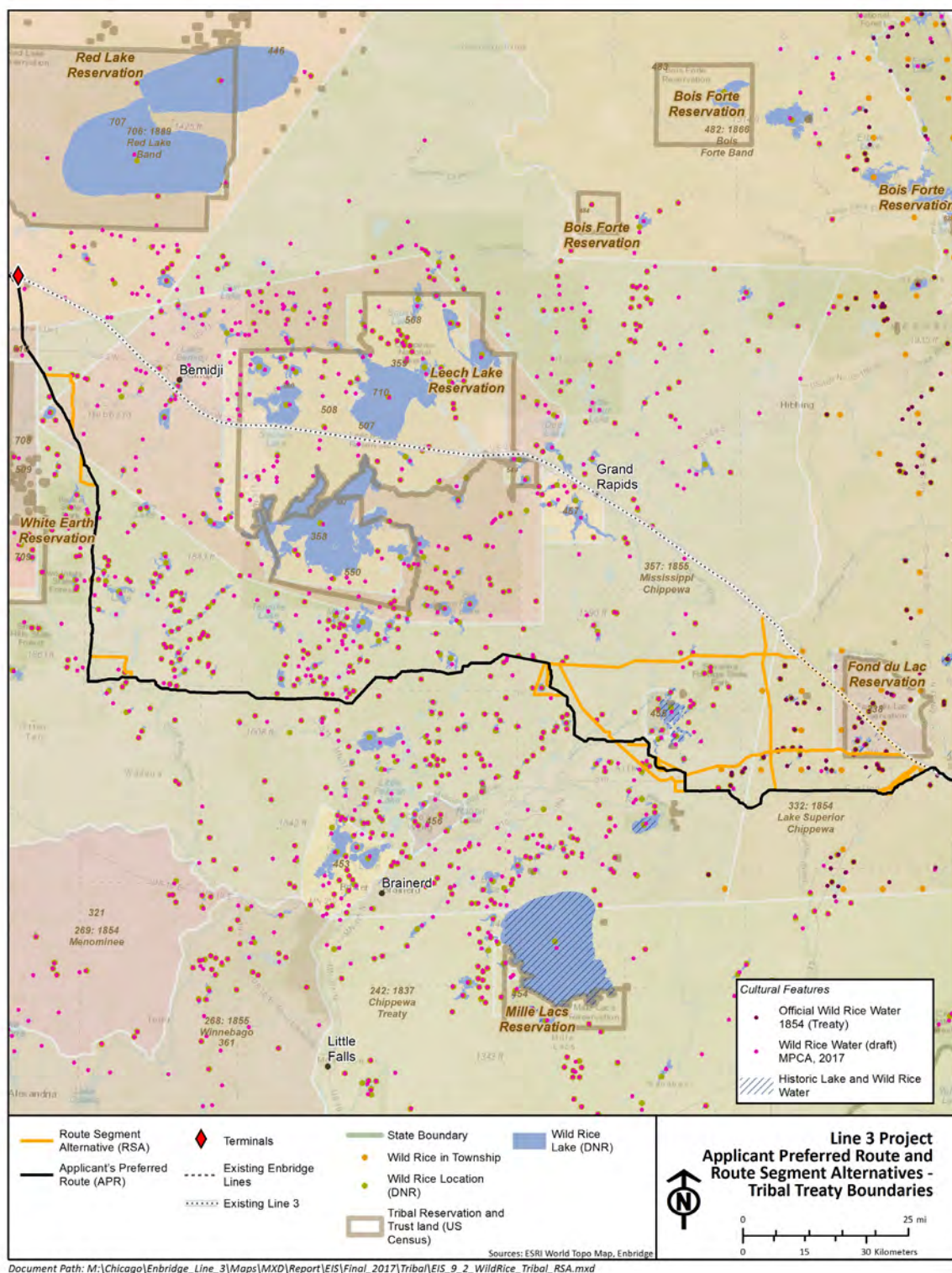


Figure 9-2. Applicant Preferred Route and Route Segment Alternatives - Tribal Treaty Boundaries

American Indians have fished, hunted, and gathered for thousands of years within the land now known as Minnesota and neighboring states; these lands are their ancestral homeland. As sovereign nations, some federally recognized tribes manage natural resources accordingly. In association with the multiple treaties signed between tribes and the United States government, numerous tribes in the region retain the right to fish, hunt, and gather on their ceded lands, which extend outside of reservation boundaries. Tribal members continue to exercise these rights by fishing, hunting, and gathering on traditional lands for a variety of plants, animals, fish, and materials traditionally and currently used in or as medicines, foods, tools, textiles, building materials, carvings, and sacred objects.

9.3.1 Federal Indian Law and Policy

American Indian law and public policy have evolved significantly since the founding of the United States. The Indian Commerce Clause of the U.S. Constitution recognizes tribes as distinct political entities by authorizing Congress “to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.” In addition, the Treaty Clause, while not explicitly referencing American Indian tribes, played a major role in structuring a government-to-government relationship between tribes and the United States. The Indian Commerce Clause and the Treaty Clause are most often cited as the constitutional basis for legislation regarding American Indian tribes. In 2004, the Supreme Court reaffirmed that the federal power to regulate American Indian affairs is derived from the structure and text of the Constitution (Cohen 1982: §5.01).⁴

The courts have recognized that Congress has broad or “plenary” power to legislate in the area of American Indian affairs, and Congressional power to set policy in Indian affairs supersedes conflicting state laws or state constitutional provisions. Congress may constitutionally enact legislation, execute provisions of a treaty, or ratify agreements with a tribe, even if doing so affects state interests (Cohen 1982: §5.02). This power includes the power to recognize and to terminate tribal relations with the United States and to impose federal laws limiting tribal authority without tribal consent.

In 1871, Congress discontinued the practice of treaty making with Indian tribes, while expressly continuing existing treaties in force. Subsequently, the executive branch negotiated agreements with tribes, which were then enacted into law by Congress. These agreements are accorded the same legal standing as treaties; they are the supreme law of the land. In recent years, American Indian tribes have entered into a number of agreements with the executive branch, implemented by legislation, dealing with a variety of subjects including settlement of land and water rights claims.

Treaties, agreements, and federal laws implementing them preempt state laws and state constitutional provisions. Treaties and treaty substitutes, such as agreements and compacts, remain in force absent later Congressional action abrogating particular provisions and serve as the source of judicially enforceable property rights and personal rights (Cohen 1982: §5.01).

⁴ See *United States v. Lara*, 541 U.S. 193, 200 (2004) (Commerce and Treaty clauses and structure of Constitution are basis for “plenary and exclusive” power of Congress); *McClanahan v. Ariz. State Tax Comm’n*, 411 U.S. 164, 172, n.7 (1973) (“[t]he source of federal authority over Indian matters has been the subject of some confusion, but it is now generally recognized that the power derives from federal responsibility for regulating commerce with Indian tribes and for treaty making”); see also *Morton v. Mancari*, 417 U.S. 535, 551–552 (1974) (“[t]he plenary power of Congress to deal with the special problems of Indians is drawn both explicitly and implicitly from the Constitution itself.”).

9.3.2 Indian Country and Indian Lands

“Indian country” is land that falls under the primary jurisdiction of the tribe inhabiting it and the federal government. State jurisdiction over Indian country is limited. Once established, Indian country can only be diminished or terminated by Congress, and its intent to do so must be clearly expressed. Indian country includes all land within the limits of any Indian reservation, including fee lands and rights-of-way, dependent Indian communities, and lands allotted to Indian individuals.

A federal Indian reservation is an area of land reserved for a tribe or tribes under treaty or other agreement with the United States, executive order, or federal statute or administrative action as permanent tribal homelands, and where the federal government holds title to the land in trust on behalf of the tribe (BIA 2017). Lands held in simple fee title by both non-Indians and tribal members and non-Indian government land also exist within the exterior boundaries of reservations due to massive land losses suffered by the tribes in the “Allotment Era.” This means that tribes may at times not control all of the land within its reservation. For instance, the Fond du Lac Band has expended large amounts of revenue to regain its land base within its own reservation, a common story for American Indian tribes. In 1934 through the Wheeler-Howard Act (or Indian Reorganization Act), Congress delegated to the Secretary of the Interior the authority to take land in trust for American Indians, establish new reservations, or add area to existing reservations.

Lands can be owned by individuals or by the tribe. Individual ownership may consist of two types: trust land and restricted fee land. Allotted trust lands are held in trust for the use of an individual Indian (or his or her heirs). The federal government holds the legal title and the individual (or his or her heirs) holds the beneficial interest. For restricted fee land, an individual Indian holds legal title, but legal restrictions are in place against alienation and encumbrance (TEEIC n.d.).

Tribally owned lands may consist of trust land, restricted fee land, and fee land purchased by the tribes. Indian trust land is land owned in fee by the United States, but administered for the benefit of the tribes and individuals who are the equitable owners of the land. As discussed, land may be held in trust for tribes or individual Indians. The federal government, as the trustee of the lands, has a fiduciary duty to administer the land for the benefit of the Indian owners. Trust land cannot be sold or conveyed by its tribal or individual Indian owners without federal consent.

Tribal trust lands are held in trust by the federal government for a tribe’s use. Tribal trust land is held in common for the benefit of all members of the tribe. Trust land is exempt from state and local property taxes. Although most tribal property is trust land, not all tribal property is held in trust. Congress or the Secretary of the Interior can accept fee land into trust for individual Indians or tribes. For restricted fee lands, the tribe holds legal title, but restrictions are in place against alienation or encumbrance.⁵ Fee land purchased by tribes is where a tribe acquires legal title under specific statutory authority. Fee land owned by a tribe outside the boundaries of a reservation is not subject to legal restrictions against alienation or encumbrance, absent any special circumstances (TEEIC n.d.).

It is important to distinguish an Indian reservation from tribal property. An Indian reservation is a place within which a tribe may exercise tribal powers, but not all land within a reservation may belong to the tribe. In addition, tribes may own land, including trust land, outside the limits of a reservation, or tribes

⁵ Alienation refers to the capacity for a piece of property or a property right to be sold or otherwise transferred from one party to another, while encumbrance is a burden, obstruction, or impediment on property that lessens its value or that can restrict the owner's ability to transfer title to the property.

may claim rights in land now occupied by others by virtue of original possession and exercise of sovereignty or rights reserved by treaty (Cohen 1982: §15.02). State power over tribal property is limited to those powers that Congress has delegated to it or those that have not been preempted by federal or tribal law.

American Indians face numerous challenges to their identities through the cession and colonization of their lands (Cohen 1982: §5.01).⁶ The land, watershed, and air are not only part of the landscapes they call home, but integral to who they are and to their sense of self and community (Cohen 1982: §5.02). For many tribes, self-governance centers on the management of tribally important natural resources. A fundamental difference between natural resource management by American Indian tribes and non-tribal governments is the “cultural significance of being indigenous to the United States with cultural roots to the land” (Cohen 1982: §5.02). Tribes have regulatory authority over lands and resources within the boundaries of their respective reservations, but have limited authority outside reservation boundaries. Tribally important resources off-reservation are sometimes “co-managed” with federal or state governments (Cohen 1982: §5.01).

In addition to lands within reservation boundaries, this chapter takes into account the ceded lands affected by Enbridge’s proposed Project due to the tribal resources, benefits, and conditions retained by the tribes.

9.3.3 Treaties and Reserved Rights

Treaties are contracts signed between American Indian tribes and the U.S. government prior to 1871 that recognize and establish sets of rights, benefits, and conditions for the tribes who agreed to cede millions of acres of their homelands to the United States and accept the protection of the United States in return (BIA 2017).

Before Europeans arrived in North America, many American Indian tribes relied on hunting, fishing, trapping, and gathering to provide food, clothing, and shelter. As the Supreme Court stated in *United States v. Winans* (198 U.S. 371 (1905)), these activities “were not much less necessary to the existence of the Indians than the atmosphere they breathed.” Aboriginal, or original Indian, title over land includes the right to engage in hunting, fishing, and gathering activities. Aboriginal title, along with its component hunting, fishing, and gathering rights, remains in the tribe that originally possessed it unless it has been granted to the United States by treaty or extinguished by statute. If aboriginal title to land is extinguished, the hunting, fishing, and gathering rights on the land are extinguished as well, unless those rights are expressly or implicitly reserved by treaty, statute, or executive order (Cohen 1982: §18.01).

Some American Indian tribes entered into treaties that expressly reserved hunting, fishing, and gathering rights on specified lands outside reservation borders. Treaties reserving hunting, fishing, and gathering rights over previously owned tribal lands do not constitute a “grant of rights to the Indians, but a grant of rights from them—a reservation of those not granted.” Treaty-reserved hunting, fishing, and gathering rights on off-reservation lands are akin to easements running with the burdened lands

⁶ See *United States v. Lara*, 541 U.S. 193, 200 (2004) (Commerce and Treaty clauses and structure of Constitution are basis for “plenary and exclusive” power of Congress); *McClanahan v. Ariz. State Tax Comm’n*, 411 U.S. 164, 172, n.7 (1973) (“[t]he source of federal authority over Indian matters has been the subject of some confusion, but it is now generally recognized that the power derives from federal responsibility for regulating commerce with Indian tribes and for treaty making”); see also *Morton v. Mancari*, 417 U.S. 535, 551–552 (1974) (“[t]he plenary power of Congress to deal with the special problems of Indians is drawn both explicitly and implicitly from the Constitution itself.”).

and include easements to access hunting, fishing, and gathering sites. Thus, reserved rights on off-reservation lands do not require the tribe to have title to the underlying land (Cohen 1982: §18.02).

As noted by Natalie Weyaus, with regard to treaties, “All of the grandfathers, our ancestors that signed the treaties were not only thinking of themselves then, they were thinking of the future generations. So when we get to practice our rights, our treaty rights to gather, hunt, and fish, that was thought of way before our time. They didn't give that up. That we're always connected to the land to do what we have to do to survive.”

Tribal resources include collective rights reserved by tribes for tribal members to hunt, fish, and gather natural resources. These resources may be used for commercial, subsistence, or ceremonial purposes. Tribes regulate hunting, fishing, and gathering on their reservations. Congress may abrogate treaty rights, but it must clearly express its intent to do so.

In addition to collective rights reserved by the tribes, usufructuary property rights are individual, and “operate as an affirmative defense to attempts by the state to regulate Treaty-protected hunting, fishing and gathering.”⁷ Pursuant to the *1842 Treaty with the Chippewa*, “all the unceded lands belonging to the Indians of Fond du Lac, Sandy Lake, and Mississippi bands, shall be the common property and home of all the Indians, party to this treaty.”⁸

Despite attempts by the state to limit collective and individual rights, “the courts have held that the Chippewa’s individual usufructuary rights to hunt, fish and gather are part of a right to earn a modest living, are protected by federal statutes and can only be modified or impinged upon by congress. These are important, constitutionally protected, long-term food, health, and economic rights meant to sustain the Chippewa in perpetuity. These rights are meant to be accomplished by using natural resources on and off reservation.”⁹

The United States has a trust responsibility under which the United States has both moral and legally enforceable fiduciary obligations to protect tribal resources, lands, assets, and resources (BIA 2017). Therefore, when a project such as Enbridge’s proposed Line 3 Project is under consideration for federal approvals, permitting, or licensing, tribes must be consulted per federal regulations, policies, and/or executive orders; they have legally protected standing because of the unique impacts on tribal rights and resources. However, tribes with co-management authority over natural resources would assert that along with the co-management of the land, the same consultation as the federal government is required as to the managed resources.

9.3.3.1 Ceded Lands in Minnesota

Ceded lands are those lands that American Indian tribes relinquished to the U.S. government as part of a treaty (Figure 9-1 and Figure 9-2). Treaties were written in the English language, the language of the

⁷ See *U.S. v. Brown*, 777 F.3d 1025 (8th Cir. 2015). (As noted in the 1855 Treaty Authority comments on the draft EIS (Bibeau 2017), it is well settled, however, that an individual Indian may assert usufructuary rights in a criminal prosecution. For example, the Supreme Court stated in *United States v. Dion* that hunting and fishing “treaty rights can be asserted by Dion as an individual member of the Tribe.” 476 U.S. at 738 n. 4, 106 S.Ct. 2216. Evaluating usufructuary rights in *United States v. Winans*, the Court explained that while “the negotiations were with the tribe,” treaties “reserved rights, however, to every individual Indian, as though named therein.” 198 U.S. at 381, 25 S.Ct. 662.

⁸ See 1842 Treaty with the Chippewa, Art. 3.

⁹ See 1855 Treaty Authority Comment Letter, July 10, 2017.

people seeking to appropriate the lands from the Dakota and Ojibwe people in Minnesota. The treaty negotiations were conducted under the implicit threat of an armed military invasion, as had been done against tribes farther to the east. Tribes may retain treaty rights over ceded lands, if such rights are reserved within the treaty. Tribal members still rely on natural and cultural resources located within ceded lands. Within the state of Minnesota's boundaries, all of the Applicant's preferred route and its alternatives traverse ceded lands.

The 1837 White Pine Treaty or Treaty of St. Peters and the 1854 Ojibwe Land Cession Treaty with the Ojibwe provide for the "usufructuary right to hunt, fish, and gather the wild rice, upon the lands, the rivers, and the lakes included in the territory ceded" outside the reservation boundaries (MIAC and Minnesota Humanities Council n.d., TASC 2016). For many decades, the State of Minnesota actively interfered with treaty rights held by the Ojibwe bands of Minnesota and Wisconsin. Many Anishinaabeg people were subject to fines, jail, harassment, and even imprisonment by the state and by non-Indian citizens simply for exercising the rights their ancestors had preserved in the treaties. As a result, the Ojibwe were forced to pursue litigation in federal courts to protect the free exercise of their treaty rights within the ceded territories. Treaty rights to the ceded territory were found to remain in force by the Federal District Court, the Eighth Circuit Court of Appeals, and finally the Supreme Court in *Minnesota v. Mille Lacs* in the 1990s, which upheld the Mille Lacs Band, the Fond du Lac Band, and several Wisconsin Ojibwe bands retain the right to hunt, fish, and gather on the Treaty of 1837 ceded lands, which extend from northeast Minnesota to Canada.

The bands developed a conservation code with the State of Minnesota for the 1837 Ceded Territory. As part of the conservation measures, a management plan was created that included a series of measures to regulate their members' hunting, fishing, and gathering activities. The Mille Lacs Band of Ojibwe also agreed with the State of Minnesota to a series of protocols coordinating harvest management and resource assessment in the ceded area (Squires 2014).

The 1854 treaty established permanent reservations for the Fond du Lac, Grand Portage, and Bois Forte Bands. Article 11 of the 1854 treaty retains the three bands' right to hunt and fish within the ceded territory (Kappler 1904). The Minnesota Legislature approved an agreement with the three bands in 1988 by which the bands agreed to restrict hunting, fishing, and wild rice gathering off-reservation in exchange for an annual payment from the state.

The 1854 Treaty Authority is governed by the Bois Forte and Grand Portage Bands; it protects and manages off-reservation treaty rights and resources for those Bands in the 1854 Ceded Territory in northeastern Minnesota (this includes all of Lake and Cook Counties, most of St. Louis and Carlton Counties, and portions of Aitkin and Pine Counties). The Fond du Lac Band manages their own off-reservation treaty rights and resources in the 1854 Ceded Territory.

The 1855 Land Cession Treaty with the Ojibwe established the Mille Lacs and Leech Lake reservations, among others. The 1863 treaty included the Red Lake and Pembina¹⁰ bands. The treaty ceded 11,000,000 acres in present-day Minnesota and North Dakota to the United States. The 1863 treaty was changed before being ratified, and several Ojibwe bands did not sign it. The next year, a new version was negotiated, which increased the annual payments.

¹⁰ The Pembina Band of Chippewa Indians is a historical band of the Ojibwe. The Red Lake Band aligned with the Pembina Band as part of the 1863 Treaty (Red Lake Nation 2016).

Memoranda of understanding (MOU) between the tribes and the U.S. Forest Service (Chippewa National Forest) for co-management of forest lands are included in Appendix P (Leech Lake Reservation Tribal Council and Chippewa National Forest 1993; U.S. Department of Agriculture – Forest Service and Tribes 2012). The MOUs outline the responsibilities/standards of the U.S. Forest Service and the tribes that they will enact when on national forest lands within areas ceded per the treaties of 1836, 1837, and 1842. The MOUs were signed by the agency and tribes to recognize treaty rights of tribes to hunt, fish, and gather wild plants on national forest lands.

9.3.3.2 *Reservation Land*

Within the context of this EIS and as aforementioned, a federal Indian reservation is an area of land that is reserved for an Indian tribe or tribes, under treaty or other agreement with the United States, executive order, or federal statute or administrative action, as permanent tribal homelands (BIA 2017).

9.3.3.3 *Government Lands*

Reservation lands may include other land holdings, including those of state and federal agencies. Government-owned lands within the context of this EIS refers to all lands owned by a government, either state or federal, and subject to sale or disposal under the homestead laws.

9.3.3.3.1 *Ojibwe Tribes*

The seven Minnesota Ojibwe reservations are located across central and northern Minnesota, in the following areas: Grand Portage Reservation is located in the northeast corner of the state; Bois Forte Reservation is located in northern Minnesota; Red Lake Reservation is located in northern Minnesota west of Bois Forte; White Earth Reservation is located in northwestern Minnesota; Leech Lake Reservation is located in the north-central portion of the state; Fond du Lac Reservation is located in northeast Minnesota west of the city of Duluth; and Mille Lacs Reservation is located in the central part of the state, south and east of Brainerd (Figure 9-1 and Figure 9-2).

Six of the seven reservations were allotted to individual Indians during the late 1800s or otherwise subjected to federal action that resulted in reservation lands passing out of tribal ownership. The Red Lake Indian Reservation is the only reservation in Minnesota that was never allotted; all of the reservation land continues to be held in common by all tribal members. The other six Minnesota Ojibwe reservations are a mix of tribal trust land, tribal fee land, and land not owned by the governing tribe.

Within this EIS, the boundaries of the White Earth Reservation are depicted according to geographic information system (GIS) shapefiles from the United States Census Bureau with a metadata update of October 2, 2015 and a file date of 2014. This depiction matches that of the Minnesota Legislative Coordinating Commission. The boundary of the White Earth Reservation, however, is depicted differently when considering the use of a ceded lands shapefile from the USDA Forest Service Geospatial Service and Technology Center, USDA Forest Service, dated July 2017. This file more closely matches a compilation of federal lands databases published by ESRI and dated 2004 (Figure 9-3). As shown in Figure 9-3, the Applicant's preferred route and RA-03AM would cross through the reservation. The Applicant has proposed a route segment alternative (RSA-05) to avoid this area.



In the Old Crossing Treaty of 1863, the Red Lake Nation ceded more than 11 million acres of the richest agricultural land in Minnesota in exchange for monetary compensation and a stipulation that the “President of the United States direct a certain sum of money to be applied to agricultural education and to such other beneficial purposes calculated to promote the prosperity and happiness of the Red Lake Indian.” In 1889 and 1904, Red Lake Nation ceded another 2,256,152 acres, but received guarantees that all benefits under existing treaties would not change.

According to the 1837 and 1842 treaties, the Ojibwe were to receive annuities for 25 years as payment for relinquished land (GLIFWC n.d.). The annuities were made to the people in the fall months on Madeline Island in Lake Superior. In 1850, President Zachary Taylor ordered the Ojibwe people living east of the Mississippi River to move to unceded land. The order failed, so Ramsey (Territorial Governor and Superintendent of Indian Affairs in Minnesota) informed the Ojibwe that in order to receive their annuities, they would have to travel from Madeline Island to Sandy Lake, 285 miles by canoe to the west. The intent was to trap the Ojibwe at Sandy Lake over the winter. More than 5,500 Ojibwe set out for Sandy Lake. They arrived exhausted. There was no food. Living conditions deteriorated. A harsh winter and disease took hold; more than 150 Ojibwe people died. The government sent a 3-day food supply early in December. In response, many people headed home on foot. An additional 250 Ojibwe died on the reverse trail; those who reached their homelands vowed that they would never leave again. There is a present-day memorial located on a glacial mound overlooking Sandy Lake called the Mikwendaagoziwag Memorial (GLIFWC n.d.).

9.3.3.3.2 Dakota Communities

The four Dakota Communities in Minnesota are primarily in the southern and western areas of the state. Shakopee Mdewakanton is located south of the Twin Cities near Prior Lake; Prairie Island is located near Red Wing; Lower Sioux is located near Redwood Falls; and Upper Sioux is near the city of Granite Falls.

The Shakopee Mdewakanton Sioux Community (SMSC) are part of the Eastern Dakota. Their reservation was formed from land purchased by the U.S. government between 1886 and 1891. The federal government granted the SMSC official recognition in 1969 (SMSC n.d.).

The Prairie Island Community are descendants of the Mdewakanton Band of Eastern Dakota (also known as the Mississippi or Minnesota Sioux). The Mdewakanton Band was a party to treaties with the United States from 1805 to 1851. In the treaty of October 15, 1851, a 10-mile-wide strip of land on both sides of the Minnesota River from Little Rock to Yellow Medicine River was preserved as the permanent home of the Dakota. However, after the U.S.-Dakota Conflict of 1862, Congress severed all treaties with the Dakota and forced them from their homes in the state. The Prairie Island reservation was created in 1886 when the Secretary of Interior purchased land and placed it into trust for the tribe (Prairie Island Indian Community n.d.).

The Lower Sioux also are part of the Mdewakanton Band. The reservation was established under the Treaty of Traverse des Sioux in 1851 with the federal government. The reservation was greatly reduced following the Dakota War of 1862 and was re-established in the late 1880's (MHS n.d.).

The Upper Sioux Community was established in 1938, when 746 acres of original Dakota lands in Minnesota were returned to the community. The original territory of the community was along the Minnesota River Valley (Upper Sioux Community n.d.).

The four Dakota Community land bases today represent a small fraction of the original reservations as a result of the U.S. Dakota War of 1862 and subsequent policies and treatment of the Dakota communities; the reservations were restored to the Dakota by acts of Congress or Proclamations of the Secretary of Interior.

9.3.3.3 Formal Tribal Government Actions on Line 3 Project

The Minnesota Chippewa Tribe, the Minnesota Indian Affairs Council (MIAC), the National Congress of American Indians, Leech Lake Band of Ojibwe, and Red Lake Band of Chippewa Indians have passed formal resolutions (Resolutions) in opposition to the proposed Project. The White Earth Band of Minnesota Chippewa passed a similar resolution regarding the Sandpiper petroleum pipeline, a project no longer in consideration by the MN PUC. The Resolutions are included in Appendix P.

9.4 METHODOLOGY

The unique sovereign status of each tribe and their tribal resources are critical to understanding the impacts on natural, cultural, and spiritual resources. Tribal resources rights include access to fishing, hunting, wild rice, and medicinal and traditional plants and foods, which are the foundation of the physical and mental well-being of the tribal community. An evaluation of this Project's potential impacts on tribal resources can only be made within the cultural context from which those values are derived (Bureau of Land Management 2015).

The information presented in this chapter is informed by the following methods:

1. Tribal consultation with the sovereign nations affected by the proposed Project,
2. Coordination with tribal natural resource departments and technical experts and Tribal Historic Preservation Offices (THPOs),
3. Community meetings,
4. Interviews with tribal elders and historians,
5. Comments submitted during comment periods in 2015 and 2016, and
6. Literature reviews.

This chapter relies heavily on information gathered through consultation and coordination, including information obtained from members of the Ojibwe tribes. It focuses on those lands and resources that potentially would be impacted by the Applicant's preferred route and the route alternatives (Figure 9-1 and Figure 9-2).

9.4.1 Tribal Consultation

Tribal consultation with the sovereign nations affected by the proposed Project began in 2015 with a request from the Mille Lacs Band of Ojibwe for formal government-to-government consultation with the Minnesota Department of Commerce (Commerce Department) on Enbridge's Sandpiper pipeline application. The Commerce Department identified the need to develop a formal consultation policy and asked the MIAC to accept an interim policy for use in March 10, 2016 (see Appendix P).

The Commerce Department developed and began tribal consultation, even though it was not required under Governor Dayton's Executive Order 13-10, to establish a formal government-to-government tribal

consultation policy and a tribal liaison. Once accepted by MIAC, the Commissioner of Commerce held formal government-to-government consultations with the Fond du Lac Band of Lake Superior Chippewa, Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, Red Lake Band of Chippewa Indians, and White Earth Band of Minnesota Chippewa. In addition, the commissioner consulted with the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, the Mille Lacs Band of Ojibwe, Red Lake Band of Chippewa Indians, and White Earth Band of Minnesota Chippewa specifically on the EIS in early 2017. Letters were sent to these tribes in February, March, and April 2017 (see Appendix P).

Through consultation with MIAC and the sovereign nations directly affected by the proposed Project, the Commerce Department was made aware of bands with land holdings and ceded territories that could also be affected by the proposed Project. This includes the six federally recognized Wisconsin Ojibwe bands that are also signatories to the 1837 treaty and thus exercise harvesting rights and governmental co-regulatory authority with the Minnesota American Indian tribes and the State of Minnesota in that portion of the 1837 ceded territory within Minnesota.

Commerce sent letters to Bois Forte Band of Chippewa, Grand Portage Reservation Tribal Council, Lower Sioux Agency, Upper Sioux Community, Prairie Island Indian Community, Shakopee Mdewakanton Sioux Community, Ho-Chunk Nation (Wisconsin), Bad River Band of the Lake Superior Tribe of Chippewa (Wisconsin), Lac Courte Oreilles Band of Lake Superior Chippewa (Wisconsin), Lac du Flambeau Band of Lake Superior Chippewa (Wisconsin), Red Cliff Band of Lake Superior Chippewa (Wisconsin), Sokaogon Chippewa Community (Wisconsin), and the St. Croix Chippewa Indians of Wisconsin for formal consultation (see Appendix P).

Among the responses from the Dakota communities, the Prairie Island Indian Community declined consultation. Chief Arvol Looking Horse of the Cheyenne River Reservation, Oceti Sakowin has noted that they would like to be more involved in identifying important cultural corridors.

Consultation and information obtained through consultation does not constitute tribal consent or approval with the Applicant's proposed Project nor any decision made by the Public Utilities Commission. Consultation is intended to provide meaningful communication and coordination between the DOC and tribal officials. It allows for American Indian tribes to voice at an equal level with state officials potential concerns and issues to be evaluated as part of the state decision-making process, as well as to share information that may be difficult to acquire from other types of sources. The consultation process allows tribal governments and tribal members an opportunity to provide information to prepare the EIS and which assists the Commission in their decision making process for approval or denial of the Certificate of Need and route permit.

Consultation recognizes tribal sovereignty, which is the right of American Indian tribes to determine their own future. American Indian tribes have a special legal status derived from their status as sovereign nations under the U.S. Constitution and federal law. Through elected tribal governments, federally recognized American Indian tribes have the right to operate as self-governing nations over their lands and people (MN House of Representatives 2017).

Tribal consultation and coordination for the Line 3 Project will continue through the construction of the project, if the Certificate of Need and subsequent route permit are issued. The DOC also will continue to coordinate and consult with American Indian tribes, regardless of the status of the Line 3 Project.

9.4.1.1 Federal Regulations, Policies, and Executive Orders

Federal executive orders (EOs), policies, and memoranda provide for consultation with American Indian tribes, along with some components of federal legislation. Some of the federal regulations also allow for the preservation and management of cultural resources, largely pertaining to those that are archaeological or historic in nature (see Sections 5.4 and 6.4 for a discussion of these types of resources). While federal regulations do not hold states to the same requirements of federal agencies, these were considered when consulting American Indian tribes for the Line 3 Project.

EO's and memoranda requiring consultation with American Indian tribes and nations include the following:

- EO 13175, Consultation and Coordination with Indian Tribal Governments (November 6, 2000). This EO requires that federal agencies consider tribal rights in the development of their regulatory policies and that they establish accountable processes for consultation. Policies that have tribal implications are defined as those regulations, legislative comments, or proposed legislation and other policy statements or actions that have substantial direct effects on one or more tribes (Clinton 2000a). President Clinton's statement on signing the EO (also dated November 6, 2000) indicates that the intent of the EO was to ensure not only that all federal agencies consult with tribes but that they also respect tribal sovereignty (Clinton 2000b).
- Presidential Memorandum dated November 5, 2009. This memorandum emphasizes federal agencies' need to comply with EO 13175 by requiring the submittal of plans for how consultation will be conducted (Obama 2009).
- Presidential Memorandum dated April 29, 1994, Government-to-Government Relations with Native American Governments. This memorandum establishes that federal agencies should undertake activities affecting tribal rights or trust resources in a manner that is knowledgeable, sensitive, and respectful of tribal sovereignty. In this manner, it requests that federal agencies ensure a government-to-government relationship with federally recognized tribal governments (Clinton 1994).

Consultation with American tribes also is governed by the following federal laws:

- National Historic Preservation Act of 1966 (NHPA), as amended – in carrying out its Section 106 requirements, federal agencies must consult with any tribe that attaches religious and/or cultural significance to historic properties;
- Archaeological and Historic Preservation Act of 1974 – this act requires federal agencies to consult with tribal authorities before permitting archaeological investigations on tribal lands. It also requires the confidentiality of information concerning the nature and location of archaeological resources (which includes tribal archaeological resources);
- American Indian Religious Freedom Act of 1978 – this act establishes the policy of the federal government to protect and preserve traditional religions and allows for access to sites, use and possession of sacred objects, and the freedom to worship; and
- Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) – this act requires consultation with tribes, traditional religious leaders, and lineal descendants regarding the treatment and disposition of specific kinds of human remains, funerary objects, sacred objects, and other items (WH-IAEWG, CACAG 2009).

The Antiquities Act of 1906, the Historic Sites Act of 1935, and the Archaeological Resources Protection Act of 1979 also provide for the consideration of cultural resources for federal actions. In addition to these regulations, Executive Order 13007 Indian Sacred Sites provides for the protection of sacred sites, and Executive Order 11593 provides necessary guidance on protection and enhancement of cultural resources.

9.4.1.2 State Regulations, Policies, and Executive Orders

In addition to Minnesota's state policy on tribal consultation through EO 13-10, the EIS also must consider impacts to archaeological sites, which includes tribal resources on public lands and the protection of human remains and burials.

The State Historic Preservation Office (SHPO) consults with applicants, as well as federal and state government agencies, to identify historic properties and ways to avoid or reduce adverse effects on those properties. If a permit is issued for this project, the SHPO will continue to work with the Applicant and other agencies to identify, evaluate, and protect archaeological and historic resources.

Minnesota Statutes sections 138.31-138.42 require licensure for field archaeology undertaken on all lands or waters owned, leased by, or subject to the paramount right of the state or its subdivisions, as well as on lands affected by publicly funded development projects. Proposed projects are reviewed to assess the appropriateness of research methodology and to assist in identifying strategies for mitigating potential adverse effects on known cultural resources. Only professional archaeologists meeting the Secretary of the Interior's Standards for Archaeology (36 Code of Federal Regulations Part 61) may be licensed to conduct such investigations in the State of Minnesota.

Minnesota's Private Cemeteries Act (Minnesota Statutes 307.08) protects all human remains and burials older than 50 years and located outside of platted, recorded, or identified cemeteries from unauthorized disturbance, whether on public or private lands or waters. In the event that a burial is either known or suspected to be associated with American Indian peoples, the Office of the State Archeologist work together with the MIAC to ensure the integrity of these sites. The Office of the State Archaeologist maintains a database of identified burial sites in the state.

The MIAC shares legal responsibility for monitoring and enforcing laws that protect Indian human remains and associated burial items. The MIAC reviews archaeological license applications to conduct fieldwork to determine if a burial or cemetery is within a project area. The authority for the MIAC is contained in Minnesota Statute section 138.31, Field Archaeology Act.¹¹

9.4.1.3 Other Policies and Resolutions

In 2007, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was developed. The resolution received the support of the United States in 2010.

Among the important tenets of the resolution is the recognition that all indigenous peoples are equal to all other people and that each deserve to be treated with respect. The resolution further notes that all people contribute to the diversity and richness of the shared civilizations in which all people live. The

¹¹ Minn Stat. sections 138.32-138.42; 307.08

resolution outlines 46 individual articles, many describing the importance of “free, prior and informed consent” (UNDRIP 2007).

9.4.2 Technical Coordination Meetings

Technical coordination meetings were held between tribal technical staff and Department of Commerce, Energy Environmental Review and Analysis (DOC-EERA) technical staff beginning in 2015. These meetings included tribal natural resource departments (wildlife, fisheries, biology, air quality, and many other tribal technical staff). The meetings provided an opportunity for tribal technical staff to share information on natural resources and culturally important or sensitive areas. In addition to sovereignty and treaty rights, the tribal resource concerns and interests currently identified through coordination are spill analysis, groundwater impacts, surface water impacts, wild rice impacts, tribal resources, climate change, and the impact of abandoning the existing Line 3 (see Appendix P).

9.4.3 Community Meetings

The Commerce Department invited all of the Ojibwe tribes in the proposed Project vicinity to co-host a community meeting for tribal members. The meeting was held as the Ojibwe tribes would have the potential to be directly impacted if one of the route alternatives were to be constructed. The purpose of the meeting was to provide an informal question-and-answer session on the development of the Draft EIS and the environmental review process. Community meetings were held with the Mille Lacs and Fond du Lac Bands in March 2017. At the request of the Fond du Lac Band, a community meeting on the Draft EIS also was held in June 2017.

9.4.4 Interviews with Tribal Elders and Historians

To gain information for this chapter, Commerce Department staff interviewed tribal elders and historians. Staff from the Mille Lacs THPO and the MIAC provided oral information on the cultural, spiritual, and historical Ojibwe culture in Minnesota. The Commerce Department asked the following questions for gathering insight and input for this chapter:

- Describe the interconnectedness of land, identity, and spirituality. Can they be separated from one another, and if not, why?
- What obligations do the Anishinaabe have to Mother Earth and how can they be met today?
- There are many projects that affect tribal interests, such as energy transmission, rights-of-way, etc. Is there something specific about pipelines that threatens the Anishinaabe way of life and relationship to place?
- What are sacred places? How is this different from sacred sites? What are culturally significant sites or cultural sites?
- What do you see as the biggest difference between the Anishinaabe communal, traditional use of land and the Anglo-Saxon concept of private land ownership and land use?
- How could state agencies more effectively understand or respect the inherent right to self-govern and sovereignty when coordinating special projects that affect tribal interests?
- What cultural resources are most threatened by pipeline projects? Please describe.
- We have heard of the water protectors—please explain their role(s) within the community.

Elders and participants during the interview with the Mille Lacs Band of Ojibwe include Natalie Weyaus (Tribal Elder and Tribal Historic Preservation Officer), Terry Kemper (Tribal Elder), John Reynolds, Charlie Lippert, and Carl Klimah. As a member of the Great Sioux Nation, Chief Arvol Looking Horse of the Cheyenne River Reservation, Oceti Sakowin also submitted a statement.

The Leech Lake Band of Ojibwe provided oral statements obtained during hearings held by the tribe in February of 2017 on Line 3. The Mille Lacs Band of Ojibwe provided statements from a hearing held by the tribe in September of 2015 on the Applicant's preferred route.

During the coordination meetings and the meetings with tribal elders and historians, Commerce Department staff collected information about traditionally important cultural and spiritual sites across northern Minnesota. This information became the basis of two maps for this chapter (Figure 9-4 and Figure 9-5), and they illustrate the rich history and value the land holds for American Indians in Minnesota (see Appendix P for information on the consultation).

9.4.5 Scoping Comments

Scoping meetings for the Project were held in 2015 and 2016. Fifteen scoping meetings were held in the Project vicinity in 2015, with meetings held on the White Earth and Mille Lacs reservations. Twelve scoping meetings were held in 2016, including meetings held on the White Earth and Mille Lacs reservations. Written and oral comments from the scoping meetings were cataloged and used to develop the scope of the EIS and develop route alternatives (DOC-EERA 2016).

9.4.6 Guiding Principles

The preparation of this chapter is guided by the following principles:

- Recognition of the privilege and importance of the information shared and presented;
- Respect for, and protection of, the rights, interests, and sensitivities of sovereign tribal governments in Minnesota;
- Accountability through face-to-face interviews and opportunity for review and feedback; and
- Accuracy in reflecting the information gathered.

For this chapter, the concept of region of interest, as defined in other chapters, does not apply. To use an artificial distance from the center of a pipeline route alternative is antithetical to understanding tribal concepts of resource importance and use. While this chapter generally focuses on potential impacts to American Indian tribes, lands, and resources within Minnesota, the conception of land and interconnection to people transcends a state boundary and thereby impacts may be experienced by tribes and lands (and waters) beyond Minnesota.

Cultural differences and different worldviews between tribal and non-tribal governments may create a dilemma when discussing potential impacts on resources due to the different perspectives of non-tribal and tribal members. For example, common within the framework of the National Environmental Policy Act or the Minnesota Environmental Policy Act is to view tribal governments as another partner in the federal or state process with the same regulatory or review roles as other agencies. This construct may force tribal governments to "participate" in processes that are not reflective of their governments' or cultural belief systems. According to scholars, a different model of government-to-government relations

would be to accept tribal cultural differences and to recognize “tribal governments can form the basis for a different civic community with a different sense of the public good” (Ranco et al. 2011).

Members of all 11 federally recognized sovereign nations in Minnesota maintain longstanding ancestral and traditional-use practices, which connect them to the natural and spiritual worlds. Tribal connections are maintained by protecting these resources and retaining the ability to manage them. Management of, and access to, tribal resources provides opportunities to pass traditional ecological knowledge to younger generations and to cement social bonds and shared cultural values (Ranco et al. 2011).

The well-being of tribal members depends on the health of tribal cultural and traditional resources (Ranco et al. 2011). When tribes are deprived of access to, and management of, natural and cultural resources, their cultural identity suffers. This has led to historical and current trauma that some tribal members may experience. The traditional tribal worldview may consider the cultural and spiritual value of the resource and not the total number of affected resources. For example, some tribes consider an adverse impact on a single natural resource, as harmful as an impact on multiple resources.

9.5 TRIBAL RESOURCES

This section describes resources important to American Indians. Tribal resources refer to the collective rights and resources associated with a tribe’s sovereignty or formal treaty rights, or their interest in and use of these resources. These resources have natural, spiritual, and cultural values associated with them. Four of the five route alternatives would cross reservation boundaries, and all would cross treaty lands (when considering the potential to cross the White Earth Reservation). Chapter 4 provides a description of the Certificate of Need and the route alternatives.

9.5.1 Cultural Resources

For American Indian tribes, cultural resources have evolved in concert with natural resources, such that one is dependent on the other. In this manner, no distinction is present between what is considered a cultural resource and a natural resource (Stults et. al 2016). Therefore, a natural resource is also one of cultural and spiritual value. Traditional American Indian cultural belief considers all elements of an ecosystem to be interconnected and that certain species of wildlife and plants are relatives and spiritual messengers.

This chapter, therefore, focuses on those cultural resources that include plants, animals, habitat, and locations associated with hunting, fishing, and gathering activities for subsistence or ceremonial use. Other types of cultural resources, including traditional cultural properties (TCPs), are discussed in Sections 5.4 and 6.4.

For example, the White Earth Nation defines cultural resources as prehistoric and historic archaeological or anthropological sites, objects, historic standing structures, sacred and burial locations, and areas where traditional practices, resources, or cultural properties are used, located or collected (see Appendix P). The Mille Lacs band defines its cultural resources as the ceremonial areas, cemeteries, archeological sites and artifacts, bodies of water, wild rice lakes and rivers, wildlife, and medicinal plants within the historical Ojibwe native region. Cultural resources also include the language, customs, beliefs, and significant items of the Ojibwe people. Many tribal members respect the natural world by paying reverence to wildlife phenomena as divine inspiration and prefer to eat wild, traditional foods from their ancestral homelands. Any diminishment of natural resources or access to those resources amounts to a diminishment of treaty-protected rights, which are also tribal property rights. Traditional cultural

resources associated with cultural practices and beliefs of a living community are rooted in history and are important in maintaining the continuing cultural identity of the community; such properties are not quantifiable nor alienable.

9.5.2 Cultural Corridors

Cultural corridors are geographic areas that served as conduits for trade or travel of American Indians. In Minnesota, many of these corridors are along rivers and streams, where American Indian cultures lived and traveled. Sensitive locational information, however, is not provided within the context of this EIS. This type of information when known, however, was considered in evaluating the potential impacts to cultural resources.

Jim Jones, the cultural historian for MIAC, describes cultural corridors in the Project vicinity as areas that were important in the development of tribal communities (including both the Ojibwe and the Dakota) today. Many of these corridors are historic routes that go back thousands of years and are based on historic trade routes that indigenous people have had with one another for centuries. Tribes retain the inherent rights to fish, travel, hunt, and gather along these routes and watersheds. The crossing of the proposed route north of Outing, Minnesota and north of Roosevelt Lake is another example of this type of corridor. While seven Ojibwe reservations are located within what is now known as Minnesota, these lands also were once part of the Dakota communities. As noted by Natalie Weyaus, “Those are sites that are maybe not Anishinaabe, but they are Dakotas, and we need to protect those, too.”

MIAC recommends a complete survey of the entire proposed route; this survey should occur prior to the start of any construction, as it will involve gaining input from a number of tribal communities and gathering their oral histories to assist with the identification of these places. Figure 9-4 and Figure 9-5 identify some of the cultural corridors and features described during tribal consultation, coordination, and community meetings.¹² As shown in these figures, water is a central component to the vitality of American Indian tribes and is considered an important resource to be managed for the future.

Applicable state and federal laws govern cultural resource management and the different cultural areas of the state. For example, any survey work conducted as part of federal approvals, permitting, and/or licensing will have to meet certain federal requirements, while concurrently coordinating with the different tribal nations, multiple agencies, and the different landowners potentially affected by this Project (see Appendix P).

¹² The cultural corridors shown in Figure 9-4 and Figure 9-5 were developed through information shared during tribal coordination meetings and tribal community meetings and provides an overview of the rich history of American Indian culture across the project area.

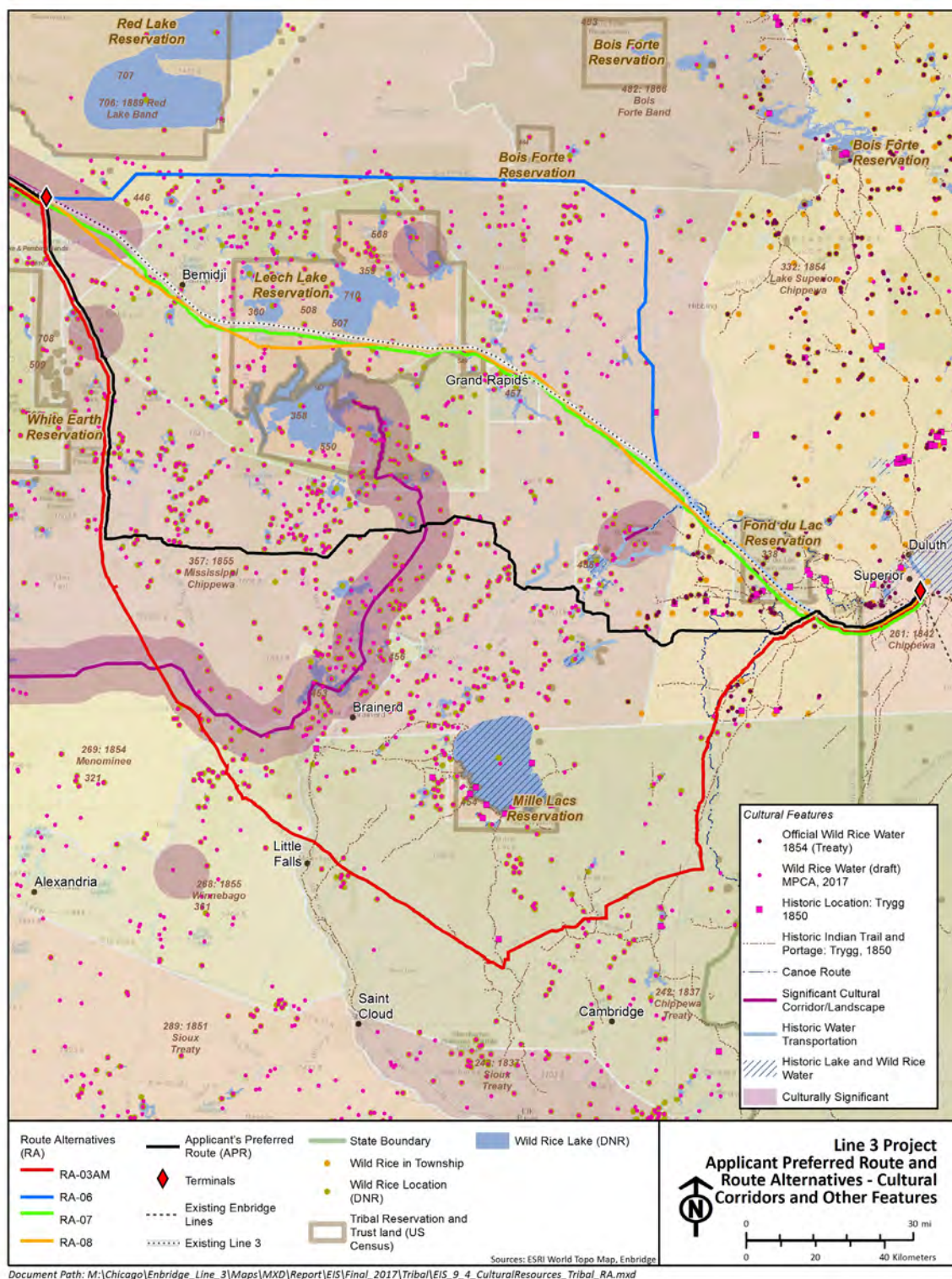


Figure 9-4. Applicant Preferred Route and Route Alternatives - Cultural Corridors and Other Features

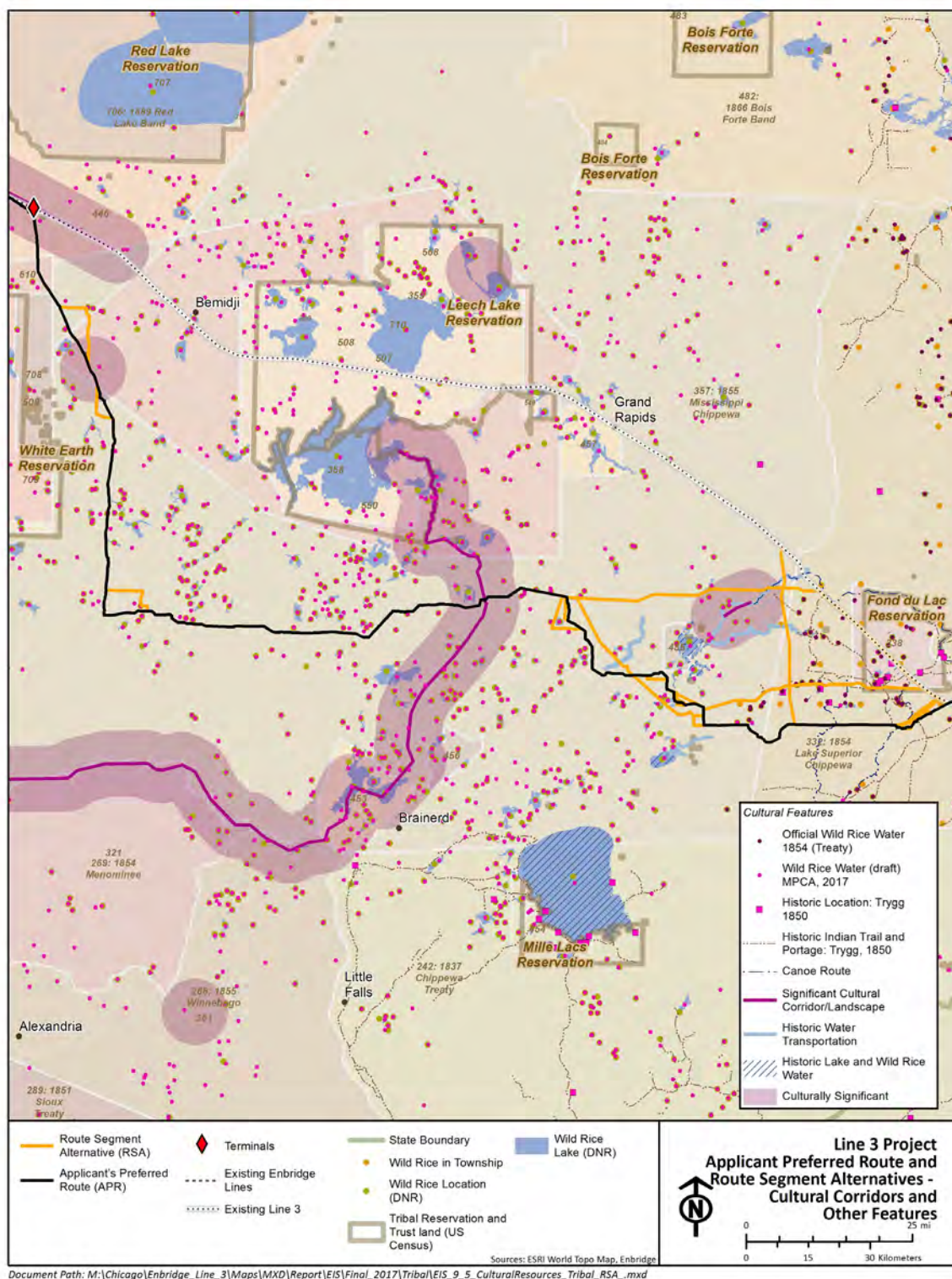


Figure 9-5. Applicant Preferred Route and Route Segment Alternatives - Cultural Corridors and Other Features

The Applicant's preferred route, as well as any proposed alternative, would result in a diminishment of Indian interests. Potential impacts to tribal resources include the following:

- Water – disruption to water bodies or degradation of water quality; degradation of spiritual connectedness to water and to Mother Earth, as a result of contamination and loss of water quality and water resources;
- Hunting – restricted access to hunting areas due to construction and loss of resources from fragmented forests, contamination, and habitat destruction;
- Fishing – restricted access to fishing areas due to construction and loss of resources from contamination and habitat destruction;
- Wild rice – restricted access to wild rice lakes due to construction and loss of resources from contamination and habitat destruction;
- Spiritual practices- construction activities and operation may impact land areas and/or cultural or sacred sites of importance in which spiritual practices take place;
- Medicinal and traditional plants and foods – restricted access to resource gathering areas due to construction and loss of resources from contamination and habitat destruction; and
- Health and mental well-being – loss of tribal connections and educational opportunities due to restricted access to tribal resources and contaminated or destroyed tribal resources; and experiences of historical and current trauma due to stresses associated with construction and operation of the pipeline.

American Indian tribes depend on traditional land use activities and related natural resources that exist along the Applicant's preferred route and route alternatives, such as wild rice gathering locations, hunting and fishing habitats, hunting trails, and areas for harvesting plant foods and medicinal plants. The Project also proposes leaving the existing Line 3 pipeline in its current location through abandonment. Line 3 directly crosses the boundaries of the Leech Lake and Fond du Lac Reservations, and potential impacts of abandonment could also affect the environment, thus affecting tribal resources.

9.5.3 Traditional Uses

Tribal resources reinforce traditional practices, beliefs, and tribal values. Such resources are interconnected with and inseparable from the health and well-being of the tribal communities. For example, Manoomin (wild rice) is the very identity of the Ojibwe nations—it is the reason for migration from the east “to find and settle where food grows on water” (Erlinder 2011). According to tradition, the original clans emerged from an ocean that could have been the Atlantic Ocean. Sometime prior to 1500, the Anishinaabe began a migration through the Great Lakes watershed to find a place where food grows on water (wild rice), guided by a vision of a miigis shell (Baca 2005; Benton-Banai 1979; Myer 1994). Anishinaabe oral tradition relates a 500-year journey, with some groups settling along the way (Minnesota Department of Commerce and U.S. Department of Agriculture Rural Development 2010: 30). Ojibwe tradition teaches that Manoomin is a gift that should not be altered by man and is not intended for profit making; rather, it is given by the Creator to them for spiritual and material sustenance (Dussias 2010).

Near the end of this journey, the fifth of the seven stopping places was at Sault Ste. Marie, where a group stayed because of the rich fisheries. From Sault Ste. Marie, the Ojibwe split into two groups. One traveled north around Lake Superior and the other south around the lake. They met at Spirit Island in the St. Louis River estuary, the sixth stopping place and where they found wild rice. From Spirit Island, some moved east along the south shore of Lake Superior to find the seventh stopping place, which was at Madeline Island, the last point on the migration.

During consultation, members of the Ojibwe tribes stated that “Manoomin, the food that grows on the water, not the oil that is underneath, is the source of all the life they were given and this is why we’re here.” Traditional resources are essential to the maintenance and realization of tribal lifeways, and the destruction or desecration has profound cultural consequences that affect quality of life for tribal members. Resources are not just shared within tribal communities, but also are given to surrounding non-Indian communities and shared with other tribes.

9.5.4 Spiritual Connection to the Land

Tribal communities are concerned that traditional tribal lifeways and sites of spiritual and cultural significance are at risk of harm. In the distant and recent past, Minnesota tribes have survived relocation, termination, assimilation, and other traumatic events and persevered against overwhelming odds. As presented during consultation, they now see Enbridge’s Line 3 Project as yet another threat to their culture and future generations. For tribal communities, the Project threatens the rich watersheds in the region and is a threat to everything that depends on water.

The effects of land dispossession, culture destruction, and loss of sovereignty rights have cumulatively subjected American Indians in Minnesota to poverty, economic vulnerability, and limited political capacity. Some tribal advocates have referred to the Applicant’s preferred route and its alternatives as environmental racism due to its disproportionate impact on Native resources and rights, which are discussed in Chapter 11, Environmental Justice. As stated by Terry Kemper, “Even through all atrocities that they did to Native American people, taking our land, putting us in boarding schools, even killing us, murder, death, by the army, we’re still connected. And that’s -- that is so profound to say that, to be sitting here and telling you that I still remember my relatives from long ago.” One of the primary values expressed by tribal members is the quiet solitude of the reservation, which reduces stress, enhances peace of mind and mental health, and enriches the spirit. Many elders teach that the practice of Indian spirituality requires undisturbed access to culturally significant places and their resources. These specific places derive their power and sacredness from their natural state that was provided by the Creator. The Lakota/Dakota hold the earth sacred, and its places and associated ceremonies are a necessary expression of Indian spirituality and often are a key to wellness and public health.

At community meetings, members described detrimental mental health effects due to the presence of pipe yards and storage, which are identified as the trigger for the beginning of adverse land use changes and increased risks to the quality of water and land, which the bands depend upon for sustenance. Protection of riparian corridors is also a very high priority, both to protect the streams, but also because riparian corridors have a high biodiversity. Riparian corridors and viewsheds are culturally and aesthetically important, as well (AESE, Inc. 2008).

Based on the sovereign, inherent right to self-determination, tribes collectively oversee sacred responsibilities to the land, waters, and people. Tribal members maintain a cultural responsibility to safeguard a future for all people to protect their land, water, air, and climate from harm, which comes from a legal and cultural responsibility to protect their land, water, air, and climate. Tribes are entrusted

to protect the sacred resource of water. Water sustains all life, and because all water is interconnected, it is, therefore, a tribal resource. Traditional uses of plants and animals drive the need to protect vegetation and wildlife diversity. Appreciation of the water, the air, and the soils goes far beyond scientific or measurable descriptions typically discussed within an EIS.

This view is exemplified by feelings expressed by tribal members as part of the consultation. Natalie Weyaus of the Mille Lacs Band, for instance, noted her connection to the physical world by saying, “We are not alone in this world. We are not above anything else. We’re just part of the environment, and not better or not worse, just here with the environment. And as I grow older, we were, we are stewards of the environment and we don’t waste anything that’s out there. Even the little trees. We don’t cut them down, because they need a chance to grow.”

Tribal member identities are rooted in their relationship and responsibility to the land and all of its inhabitants. Traditionally, the Ojibwe clan system was created to provide leadership and to care for these needs. There are seven original clans, and each clan is known by its animal emblem, or totem. The animal totem symbolized the strength and duties of the clan. The seven original clans are given a function to serve for their people (Benton-Banai 1979).

- The Crane and the Loon clans are given the power of Chieftainship. By working together, these two clans give the people a balanced government with each serving as a check on the other. Between the two chief clans is the Fish Clan.
- The people of the Fish Clan are the teachers and scholars. They help children develop skills and healthy spirits. They also draw on their knowledge to solve disputes between the leaders of the Crane and Loon clans.
- The Bear Clan members are the strong and steady police and legal guardians. Bear Clan members spend a lot of time patrolling the land surrounding the village, and in so doing, they learn which roots, bark, and plants can be used for medicines to treat the ailments of their people.
- The people of the Hoof Clan are gentle, like the deer and moose or caribou for whom the clan is named. They care for others by making sure the community has proper housing and recreation. The Hoof Clan people are the poets and pacifists avoiding all harsh words.
- The people of the Martin Clan are hunters, food gatherers, and warriors of the Ojibwe. Long ago, warriors fought to defend their village or hunting territory. They became known as master strategists in planning the defense of their people.
- The Bird Clan are the spiritual leaders of the people and give the nation its vision of well-being and its highest development of the spirit. The people of the Bird Clan are said to possess the characteristics of the eagle, the head of their clan, in that they pursued the highest elevations of the mind just as the eagle pursues the highest elevations of the sky.

To meet all the needs of the nation, the clans work together and cooperate to achieve their goals. The clan system has built in equal justice, voice, and law and order, and it reinforces the teachings and principles of a sacred way of life.

The Ojibwe believe that any time something is taken from the land, a spirit is being removed from its natural state and environment. This could range from the smallest rock to the biggest animal. Because the spirit is being displaced, the Ojibwe people will offer tobacco to that spirit as a gift for the energy

that that spirit will now share with them. The spirit will accept the gift and use it to communicate with the spirits around to relay the purpose and need of that spirit to the Ojibwe people.

Intimate familial ties to specific places in the natural world create a spiritual relationship to the land for Ojibwe and Dakota people. One result is a value placed on sustainability; Indian tribal cultures are built for the long-haul and have endured for centuries. By contrast, at times, the American economic and political system may place value on material progress over sustainability and the understanding of land as real estate (MIAC n.d.; MIAC and National Museum of the American Indian n.d.).

9.5.4.1 Tribal Lands

Every mile of the Applicant's preferred route crosses ceded lands (1854, 1855, and 1863 treaties). The Applicant's preferred route also crosses through the Treaty of 1842 ceded lands near Duluth. From the Minnesota border to Superior, Wisconsin, the Applicant's preferred route would traverse through 1842 ceded territory, to which the Fond du Lac Band is a signatory.

The Applicant's preferred route and RA-03AM would not cross any American Indian reservation land; however, these routes would cross near the White Earth Reservation and Fond du Lac Reservation on ceded land. Route alternative RA-06 would cross the Fond du Lac Reservation and ceded land. Route alternatives RA-07 and RA-08 would cross both the Fond du Lac and Leech Lake Reservations and ceded land.

Within the Fond du Lac Reservation:

- RA-06 crosses seven rivers or streams and one waterbody
- RA-07 crosses seven rivers or streams and one waterbody
- RA-08 crosses five rivers or streams and one waterbody

Within the Leech Lake Reservation:

- RA-07 would cross seven rivers or streams and four waterbodies
- RA-08 would cross 22 rivers or streams and five waterbodies. (For RA-08, one of these waterbodies includes Nushka Lake, which is identified as a wild rice lake. RA-08 would directly affect less than 0.1 acre of the wild rice lake.)

The Fond du Lac Reservation is approximately 19 miles west of the main body of Lake Superior, while the Leech Lake Reservation is approximately 83 miles northwest.

Chapter 11 provides information on the census tracts that are crossed by the Applicant's preferred route and route alternatives.

9.5.4.1.1 Natural Resources and Traditional Uses

This section references some of the traditional foods, plants, and medicinal plants used for various purposes by the Anishinaabe. Traditionally (in the past and today), plants are used by the Anishinaabe for some purpose; this is known through the oral tradition and is referenced in *Ethnobotany of the Ojibwe Indians* (Smith 1932). The author, Huron H. Smith, reports:

The writer collected every plant he could find in each region because he had been informed that the Ojibwe differ from other Wisconsin Indians in that they believe that every plant that grows is some kind of medicine or useful for something. The only plants discovered for which they had no name or use were adventive plants, and one could fairly well establish the date of their appearance in the state, because the Indians pay much more attention to our native flora than do the whites.

The Ojibwe tribes, and other American Indian tribes, use the majority of plants and foods for medicinal and traditional purposes as they have for generations. Often called “first foods,” these plants and foods are important to tribal identities and cultural continuation, in addition to meeting nutritional and utilitarian needs (Vickery and Hunter 2014). Traditional foods include wild rice, cattail, mushrooms, game animals, fish (particularly walleye), mushrooms, and a variety of berries and roots (Zoll 2016).

Traditional plants include wetland reeds, birch trees, tamarack, white cedar, red maple, and balsam fir (Zoll 2016).

Medicinal plants include lily pad roots, sage, sweet grass, Labrador tea, cranberry, red-osier dogwood, bitterroot, iron wood, birch, cha ga (birch tree fungus), and red cedar (Zoll 2016). Each medicine is a gift from one of the four directions. Depending on the tribe, the medicines may differentiate from the direction and teaching that represent it. The reason for this is that each of the medicines traditionally traveled its own path to each tribe. Both spiritually and physically, medicine would have entered each community through different methods. For example, sweet grass (discussed herein) could have been carried from the great lakes to a northern tribe through trade, or sage could have begun to grow to the south of one tribe and west from another. When addressing the directional representation of each medicine, the geography, agriculture, and traditions of the local tribes must be considered. Additionally, clams are used for ceremonial purposes (Zoll 2016).

The traditional plant communities in the Mille Lacs band community include the following: Northern Rich Tamarack Swamp, Northern Spruce Bog, Northern Poor Conifer Swamp, Northern Open Bog (McGregor Marsh), and Northern Poor Fen. First foods, spiritual medicines, and traditional plants are all found within Minnesota (Zoll 2016).

9.5.4.1.2 Management of Natural Resources

The National Congress of American Indians and the Minnesota Chippewa Tribe, along with the individual tribes of the White Earth Nation, Red Lake Nation, Leech Lake, and Mille Lacs, passed resolutions to assert the importance of their natural and cultural resources and that indicated the need for fiduciary and legal protection and preservation of culturally important resources, as well as mandating full consultation with the tribes for federal agencies, such as the Army Corps of Engineers (see Sections 5.4.1 and 6.4.1 for a discussion of tribal policies and ordinances).

For example, the National Congress of American Indians’ resolution indicates the need for an Environmental Protection Agency (EPA) official to engage with the Army Corps of Engineers. The White Earth Reservation Tribal Council’s 2014 resolution (No. 001-14-012) notes their concern for potential leaks or ruptures near the reservation.¹³ The Red Lake Band of Chippewa Indians’ resolution notes the need to consult with the Army Corps of Engineers for all activities that occur on tribal land, regardless of

¹³ The White Earth Reservation Tribal Council’s resolution concerns the permitting of the Sandpiper pipeline between Tioga, North Dakota and Superior, Wisconsin. A copy of the resolution is included in Appendix P.

land status; similar language is found in the resolution of the Minnesota Chippewa Tribe (see Appendix P).

Natural resources (and thereby cultural resources) within tribal lands often are managed by the respective tribe. All of the tribes in the area of the Applicant's preferred route and route alternatives have natural resource departments that manage natural resources and in some cases co-manage natural resources with state or federal agencies. For instance, the 1854 Treaty Authority is governed by the Bois Forte and Grand Portage Bands; they protect and manage off-reservation treaty rights and resources for those bands in the 1854 Ceded Territory. The Fond du Lac Band managed their own off-reservation treaty rights and resources in the ceded territory, as well. Resource management includes, but is not limited to, forestry, fisheries, wildlife, wild rice, and air. In this manner, the management of these resources extends beyond reservation boundaries.

9.5.4.1.3 Use of Natural Resources

During information and community meetings, tribal members expressed that if the food resources are injured, so will the people. Water and Manoomin are not commodities, but rather a means of sustenance and way of life. The destruction of the ability to exercise usufructuary rights because of contamination or other human diminishment would profoundly affect tribal cultural, spiritual, and physical well-being. Traditional gathering also allows for the opportunity to experience, learn, and promote cultural activities, all treaty-protected rights. Tribal members believe all routes, including, but not limited to, the Applicant's preferred route pose irreparable harm to their landscapes, protected resources, and practices. A discussion on sweet grass and cedar is provided as an illustration of the types of plants used by American Indian tribes. As shown in this discussion, numerous other plants are used by American Indian tribes.

Sweet Grass - Wiingash

Sweet grass is a gift from Mother Earth. It is said to be part of her hair, and the use of sweet grass promotes strength and kindness. When braiding sweet grass, each strand of the braid represents mind, body, and spirit. American Indians are taught the importance of remembering this representation of the sweet grass braid and walking that way when wearing a braid in one's hair.

Sweet grass, as well as sage, also were harvested, and often burned for medicinal and spiritual purposes (McClurken and Cleland 2000).

Cedar – Giizhig (aandag)

Cedar is used for purification and bringing balance into oneself. It is also known for attracting positive feelings, energy, and emotions. Cedar is often hung around the home and laid out on the floor of ceremonial lodges to offer protection from bad or harmful energy.

9.5.5 Hunting

Traditional terrestrial game and waterfowl hunting grounds are habitat for a variety of subsistence resources. As shown in regulations for permits to hunt and through traditional practices, these animals include deer, bear, ducks, geese, and turkey (GLIFWC 2014; Treuer 2012). According to information provided in a 2016 report by the Technical Assistance Services for Communities (TASC), the Applicant's preferred route crosses highly productive wild turkey hunting grounds in Clearwater and Hubbard

counties (TASC 2016). Two hunter trails are located nearby, including the White Elk Trail and the Salo Marsh Trail (TASC 2016). The White Elk Trail may be crossed by the proposed Project (TASC 2016).

9.5.6 Water

Surface water and groundwater are important to all people, “but it would be hard to imagine a group of people more dependent upon freshwater resources...than the Ojibwe, the original residents of the land of a thousand lakes.”¹⁴ They are sources of drinking water and support all life; water has a spiritual significance, as well as a physical significance. In this manner, the protection of clean water is high on the list of sacred responsibilities of Anishinaabe people (Plumer 2017). Water is also tied to tribal ceremonies, such as spring celebrations of aquatic life, and its quality affects fisheries and wild rice production (Mille Lacs Band of Ojibwe DNR n.d.).

High-quality waterbodies and rivers support wild rice, which is extremely sensitive to chemical pollutants.¹⁵ The St. Louis River watershed is a primary source of wild rice. The river remains the primary reservation fishery for the Fond du Lac Band of Lake Superior Chippewa. The main stem of the St. Louis River and several of its larger tributaries have been dammed for hydropower generation, disrupting connectivity and increasing mercury bioaccumulation in fish (Fletcher and Christin 2015).

Waterfowl habitat within Minnesota includes wild rice lakes, such as Upper Rice Lake in Clearwater County (TASC 2016). Additional migratory birds and waterfowl habitat include the Sherburne National Wildlife Refuge, Rice Lake National Wildlife Refuge, and important bird areas (IBA), including McGregor IBA at Grayling Marsh Wildlife Management Area (WMA), Savanna State Forest, Kimberly March WMA, McGregor Marsh Scientific and Natural Area (SNA), Lawler WMA, and Sandy Lake Reservoir (WMA).

“Nagachiwanong” in Ojibwemowin translates to “where the water ends” and Fond du Lac in French translates to “the foot of the lake.” Water is central to the existence of the band. The Fond du Lac Band of Lake Superior Chippewa formerly resided on the shores of the St. Louis River and Lake Superior in villages located in what is now Duluth, Minnesota and Superior, Wisconsin. The current Fond du Lac Reservation includes a stretch of the St. Louis River upstream from those ancestral villages. The Applicant’s preferred route is not many river miles from “Gitchee gumme,” known as Lake Superior. Lake Superior is the world’s largest freshwater lake by area and is of paramount importance to all of the Ojibwe bands, tribes, communities, and First Nations that reside upon its shores in what is now referred to as Minnesota, Wisconsin, Michigan, and Ontario (Canada).

Members of the Mille Lacs Band explained that the entire subsistence cycle of hunting, fishing, and gathering depends upon the region’s water system, which itself is intricately connected to the region’s vast wetland resources. Traditional knowledge recognizes that these wetlands are not only vessels of life for a vast array of plant and animals, but are an integral part of the traditional life. Members of the Mille Lacs Band feel that the following resources may be affected by the Project:

- Habitats and associated species
- Sherburne National Wildlife Refuge (important to migratory birds and waterfowl)
- Rice Lake National Wildlife Refuge (important to ring-necked ducks)

¹⁴ Mille Lacs Band of Ojibwe, Hearing Examiner’s Report on Enbridge Energy Sandpiper Pipeline, August 2015.

¹⁵ Ibid.

- Wild rice lakes and populations
- Hydrology
- Wakefield Brook flows to Rice Lake
- Other National Wildlife Refuges (important to migratory birds and waterfowl)
- Fisheries

9.5.7 Fishing

Reserved tribal resources include access to traditional fishing areas. Tribal resources include walleye and trout fisheries, which are predominately used for subsistence. Numerous trout streams are crossed by or located near the Applicant's preferred route (Mille Lacs Band of Ojibwe DNR n.d.; TASC 2016). Additionally, tullibee sensitive lakes are near the Applicant's preferred route including Roosevelt and Washburn lakes (Mille Lacs Band of Ojibwe DNR n.d.). Walleye (also called Ogaa) is a very important species to the affected tribes. Walleye lakes include Lake Mille Lacs, Big LaSalle, Two Inlets, Island, Blueberry, Twin, Roosevelt, Bass, Park, Washburn, Upper Twin, Lower Twin, and First Crow Wing (Mille Lacs Band of Ojibwe DNR n.d.). Additional lakes of concern to the Mille Lacs Band near the Applicant's preferred route include Rice Lake, Rice River, and Wayfield Brook; Big Sandy Lake Reservoir; Lake Minnewawa; Sandy River; and Long Lake Creek.

Fishing also is an important economic generator. According to the White Earth Reservation, fish and wildlife provide an impact of approximately \$1,050,000 annually (White Earth Economic Development Office 2013). As part of public comments provided in June 2017, fish were noted as an important economic generator for the Leech Lake Band of Ojibwe (Brown 2017).

9.5.8 Manoomin

Manoomin—wild rice—is sacred not only to the Anishinaabe, but also to other American Indian tribes. Minnesota and northern Wisconsin are the largest producers of it in the United States, making it an economic mainstay, as well as a federally protected tribal resource. Tribal members believe that Manoomin is priceless; it nourishes the soul, community, and bodies of the Anishinaabe (Aubid, Sandy Lake Elder and District Representative, pers. comm., 2017). According to the Ojibwe, Manoomin is animate and is grammatically referred to as “him/her” not “it” (Minnesota DNR 2008). Manoomin is both a commercial and a subsistence resource that has been used for hundreds of years. It is cultivated in numerous lakes and streams, some of which are named, while others remain unnamed.

Wild rice lakes are often considered to be sacred landscapes with cultural connections (TASC 2016). One such area, Lower Rice Lake on the White Earth Reservation, has been designated a Traditional Cultural Property (TCP) (TASC 2016). This TCP also was noted as an important cultural site in the scoping comments by the United States Environmental Protection Agency (USEPA 2016). Lower Rice Lake is also the only certified organic rice lake in Minnesota (TASC 2016). The Leech Lake Band of Ojibwe harvest and cultivate seeds used to reestablish wild rice beds, which can be in lakes or rivers. Leech Lake is one of the many wild rice lakes within Minnesota (Leech Lake Band of Ojibwe 2015). Another is Dead Fish Lake, from which the Fond du Lac Band of Lake Superior Chippewa gather wild rice; this lake is located over 0.6 miles west of RA-07 and RA-08.

The regulations regarding wild rice lakes are discussed in Section 6.3.1. Tribal regulations of the harvest and protection of wild rice within reservation boundaries vary from tribe to tribe. Among these policies,

for instance, is the Leech Lake Tribal Council Ordinance 99-01. This policy is for the protection and preservation of wild rice beds (Leech Lake Tribal Council 2001). In addition to tribal regulations, treaties and other agreements with the U.S. government have reserved off-reservation harvesting rights for some tribes.

As shown in Table 6.3.2.1-26, a total of 17 wild rice lakes are located within 0.5 miles of the centerline of the Applicant's preferred route; while five are within 0.5 miles of the centerline for RA-06, 11 for RA-07, 9 for RA-08, and 11 for RA-03AM. Wild rice is susceptible to disturbance in lake, river, or wetland habitats and is sensitive to temperature changes, contaminants, and hydrology changes. These changes could affect germination and production.

Similar to fishing, wild rice is an important economic generator. For example, the White Earth Nation estimates that wild rice has an economic impact of \$600,000 annually (White Earth Economic Development Office 2013). Comments provided on the draft EIS from the Leech Lake Band of Ojibwe indicate that 280,000 pounds of green rice are produced each year (Brown 2017). An additional discussion of wild rice as a commodity is provided in Section 6.5.1.

9.6 IMPACTS

All of the proposed routes and route alternatives cross ceded lands. RA-07 and RA-08 cross the reservation boundaries of the Leech Lake Band of Ojibwe and the Fond du Lac Band of Lake Superior Chippewa; while RA-06 crosses the Fond du Lac Reservation. The Applicant's proposed route and the route alternatives have the potential to impact tribal resources. The discussion of potential impacts considers both a quantifiable approach, which summarizes the potential impacts as they are described in Chapters 6, 8, and 10 (construction and operations impacts and abandonment), and the tribal perspective (overall impacts), which provides aspects of a qualitative approach.

The discussion of impacts focuses on the Applicant's preferred route and the route alternatives. Potential impacts to tribal resources associated with the CN alternatives would be similar for those areas that cross reservation or ceded lands. For example, the continued use of existing Line 3 (one of the CN alternatives) would pose similar operational risks as that of RA-07 and RA-08. The CN alternatives would have varying levels of quantifiable impacts to tribal resources dependent on their geographic proximity and the construction activities necessary for operation (see Chapters 5 and 10 for a discussion of potential impacts to CN alternatives and those related to releases). The qualitative discussion of impacts to tribal resources, however, would be similar to that presented within Chapter 9 regardless of the CN alternative.

9.6.1 Construction Impacts

As described in Chapter 6, most construction impacts would be temporary to short term and restricted to the construction work area, temporary workspaces, access roads, pump stations, and materials staging areas. In this manner, construction-related activities pose substantial threats to waters, natural resources and important cultural resources through the unavoidable disturbances during construction, as well as from the permanent environmental destruction which results through ongoing project activities. Potential impacts may be long-term or permanent, minor or major impact. Indirect impacts to some types of resources also may occur downstream or within a larger geographic area.

Construction work areas may result in fragmentation of forests and changes in forest composition, resulting in impacts on wildlife populations (see Section 6.3.4). Impacts could be permanent and major

depending on the habitat and species type present. As shown in Section 6.3.4, these impacts may include a decrease in total habitat area, amount of interior habitat, biodiversity (richness), and connectivity. Fragmentation also may cause an increase in the amount of edge habitat, increase the risk of invasive species spread, and isolate some habitat types. Figure 6.3.4-8, Example of Potential Fragmentation of Large-Block Habitats by the Applicant's preferred route, for instance, illustrates the potential occurrence of this fragmentation. These types of impacts may affect tribal resources consisting of both plant and animal species (see Sections 6.3.3 to 6.3.5).

Another impact that may occur due to construction and operation is the spread of invasive species, which are often introduced by construction equipment and seed mixes used for restoration. Over time, invasive species can outcompete native vegetation and change plant composition, altering the types and quantity of medicinal and traditional plants. Some invasive species, such as wild parsnip, contain chemicals that are phototoxic and cause severe damage to the skin of anyone who comes into contact with it. When plants, such as wild parsnip, become established as they have along the Enbridge Mainline corridor, a further diminishment of medicinal plant resources and a diminishment of the right to gather them due to the phototoxicity of the surrounding vegetation occurs. Tables 6.3.3-3, 6.3.3-5, 6.3.3-7, and 6.3.3-9 provide listings of the noxious weeds and invasive plants located within 0.5 miles of the Applicant's preferred route and the route alternatives. The Applicant will prepare a Noxious Weeds and Invasive Species Control Plan to prevent the spread of invasive species and noxious weeds (see Section 6.3.3).

Tribes are very concerned about accidental spills (see Chapter 10). Releases during construction may directly affect tribal resources, including, but not limited to, wild rice, aquatic animal species, and plants used for medicines (see Section 10.4). These types of resources are considered as part of the areas of interest (AOI). The impacts associated with a release would vary based upon the proximity of the resource and the type of resource, as well as the size and type of spill. Even if contained quickly, tribes state the resulting impact would compromise their protected landscapes. An example of this would be a spill during equipment refueling that may enter a wild rice lake, if it was not contained. As some spills may impact reservation land, these impacts could have a major impact on tribes. Tribes do not have the ability to replace lost resources in a different location or to move away from the reservation.

Access to resources, such as hunting and fishing areas, may be restricted due to closed work areas. During construction, prohibitions on hunting and fishing would be placed within the construction work area, which would typically be a moving area 120 feet wide and several miles long. Hunting success would be severely depressed in the larger area surrounding active construction and would likely be avoided by tribal hunters. A temporary loss of these activities during construction would result in negative impacts on tribal members. A major impact caused by hunting and fishing prohibitions may occur if the prohibition coincided with a peak hunt, harvest period, or ceremonial event, which would cause economic, subsistence, and health effects.

Neither the Applicant's preferred route nor the route alternatives cross through documented cemeteries. An ancestral burial ground was re-identified upon construction of a nearby transportation project at Highway 23 and 4th Street near Duluth, Minnesota. While this burial ground is associated with the Fond du Lac Band, it is not expected to be further disturbed or impacted by the Applicant's preferred route or route alternatives; the burial ground is over 3 miles from the closest alternative. Sections 5.4 and 6.4 provide discussion on known cemeteries and potential impacts associated with them.

Indirect construction-related impacts would include, but are not limited to, dust, vibration, noise, and air quality changes. Enbridge has identified various measures to limit these impacts, such as dust suppression, limiting idling by construction vehicles, and covering spoil piles (see Environmental Protection Plan in Appendix E).

Impacts on air quality during construction would be short term, minor, and localized (see Section 6.3.7). This is primarily due to the nature of the construction activities, in which people and equipment move along the route, thus limiting the exposure of residents and resources in any one area. Air quality also would be indirectly impacted through the removal of trees, for which some species are important resources for American Indian tribes.

Increased noise levels could result from normal construction activities, such as clearing, grading, and trenching. The most significant noise impacts during construction would be the result of horizontal directional drilling operations or blasting, if needed (see Section 6.2.2). Wildlife may be affected directly by construction activities or indirectly from disturbances caused by human activity and noise associated with construction activities. Increased noise may cause hunter prey species, such as deer to leave the area, resulting in a profound impact on tribal hunting (see Section 6.3.5). Since construction-related noise is temporary, the deer may return later, resulting in this impact being temporary to short term and negligible to minor.

The Applicant's preferred route would result in impacts on approximately 4.92 acres of wild rice lakes during construction and operation (Table 6.3.1.2-6). Additional information on impacts on wild rice are discussed in Section 6.3.1. Construction across waterbodies could result in increased turbidity and sedimentation (for more information see Section 6.3.1.2). Any waterbodies or streams crossed by the routes may experience increases in stormwater runoff and erosion from cleared vegetation, increases in turbidity and sedimentation, changes to stream flow due to horizontal directional drilling testing water, or degradation of aquatic habitat from instream construction. Such changes may affect wild rice habitat and production and fisheries. Enbridge has developed Applicant-proposed measures intended to minimize these types of impacts (see Environmental Protection Plan in Appendix E).

The Applicant's preferred route and route alternatives would cross ceded lands used for hunting, fishing, or gathering resources. Ancestral cultural sites within a reservation and/or ceded lands also would be subject to irreparable damage, if directly crossed by construction activities that cause ground disturbance or potential indirect visual impacts or access restrictions; these impacts, in turn, would damage each tribe's heritage. Impacts on various tribal resources on these lands would be similar to those described herein.

Route alternatives RA-06, RA-07, and RA-08 would cross the Fond du Lac Reservation (Figure 9-1). Both RA-07 and RA-08 would cross the Leech Lake Reservation. Each route could result in the loss of forested land. Hunting would be prohibited in the construction work area, which could limit tribal members from hunting various wildlife (as discussed above). These impacts could be temporary to short term and minor to major depending upon the species and the location.

Additionally, the loss of medicinal and traditional plants could be a short-term to permanent impact with a magnitude ranging from minor to major. If the same species were replanted during revegetation, the impact would be reduced. As shown in Section 6.3.3.4.1, the potential impacts on forested land would be long term to permanent and major for all route options due to the long period of time

required for forest regeneration. Loss of trees would be a direct impact on tribal resources, particularly for important species, such as cedar.

Although several acres of open water also would be affected by each of these routes through the reservation, Section 6.3.1.2 Surface Water, concludes that impacts on waterbodies during construction would likely be minor and temporary. However, impacts also would vary dependent on the quality of the existing waterbody. For instance, impacts on high-quality waterbodies, which may include trout streams and wild rice waterbodies may decrease the suitability of surface water as a habitat for sensitive species or degrade the existing beneficial use of the waterbody.

9.6.2 Operations Impacts

As described throughout Chapter 6, operations impacts would largely be associated with impacts on vegetation associated with maintenance of a permanent pipeline right-of-way and aboveground facilities, as well as air emissions from pump stations (see Section 6.3.3.3 and Section 6.3.7.3). The largest potential impact on tribal resources would be a pipeline incident that resulted in the accidental release of oil. For a detailed discussion of accidental releases, refer to Chapter 10. In the event of an accidental release of oil, the severity of impacts would depend on the location and type of resources within the area of the spill. Any release affecting a wild rice lake or river and/or a walleye or trout lake or stream would cause irreparable impact on tribal resources. Impacts on tribal resources may also affect the mental and physical health of the tribal community.

9.6.3 Abandonment

As detailed in Chapter 8, if Line 3 is replaced, Enbridge proposes to clean out the existing Line 3, cap it, and leave it in place (abandonment). Pipeline abandonment raises many concerns with the tribes.

The first concern is associated with responsibility for the abandoned pipe. If all of the pipelines in the corridor are abandoned, tribes are concerned that they would ultimately become responsible for any costs associated with removal, contamination, and remediation. For example, without knowing contamination is present in the existing corridor and the extent of any contamination, the costs associated with remediation could be significant. Another concern is the ability to reclaim the land currently occupied by the pipelines. Without the removal of abandoned pipelines, the ability of the tribes to reclaim the corridor is limited. Current right-of-way maintenance precludes many uses, including construction and many types of revegetation. In its current state, the corridor and recent construction areas are dominated by invasive species and have fragmented the landscape. If the existing corridor is contaminated, options for land reclamation may be further limited even if the pipelines were removed as a result of any necessary remediation.

During consultation, Mille Lacs leadership explained that mere abandonment without removal of existing pipeline would cause irreparable harm and that the abandonment would violate their spiritual beliefs and practices (see Appendix P):

When we use something from nature, we thank the Creator and the plants and animals for what they provide for us. We take only what is necessary and recognize our dependence on Earth and all that is in it to sustain our life. A pipeline takes the Earth out of the condition the Creator intended. When the pipeline no longer is needed, we must remove the pipeline, restore the environment, and allow nature to heal. We cannot continue to use the Earth by taking it out of its natural state when it is no longer necessary to do so. Just as a surgeon would remove the

gauze and other tools after a surgery and allow the body to heal, we must remove the pipeline from the Earth when it is no longer being used (Mille Lacs Band tribal member).

As the Applicant plans to abandon the existing Line 3 in place (see Section 2.9), two pipeline corridors would be in use, the existing Mainline corridor (where other pipelines are present) and the one where the new Line 3 pipeline would be constructed. The new pipeline corridor potentially could be used at a future time for additional infrastructure. This ultimately could result in an accumulation of multiple pipelines within the corridor chosen for the proposed Line 3 Project. This particularly would be the case with the Applicant's preferred route, RA03-AM, and RA-06 (see Executive Summary). If the existing Line 3 were removed (see Section 8.4), impacts still would be anticipated. Removing an existing pipeline is essentially the reverse of constructing a pipeline. This would include topsoil removal, excavation, pipe removal, backfilling and compaction of the trench, replacement of the topsoil, and revegetation measures. Impacts would be anticipated to be less than construction of a new pipeline or one within a new corridor. However, if the Applicant's proposed project/preferred route were permitted (i.e., a new location), but with the removal of the existing Line 3 (instead of abandonment), the Mainline corridor would still remain as other pipelines are present, and a second corridor would be opened for the new Line 3.

9.6.4 Overall Impacts

For American Indians, cultural resources cannot be separated from natural resources; therefore, the conclusion is that any pipeline route would affect cultural and natural resources. The degree to which these resources are affected would vary; if quantitative values are assigned, the impacts are direct and localized. If a holistic tribal perspective is used to determine impacts, any pipeline would have direct and permanent impacts.

The potential for these types of effects to occur is illustrated by Mille Lacs Band member Terry Kemper:

So when you leave things behind like that [pipelines], it's like—or you create new avenues of putting those things in, it's like taking the love out of someplace and then how do you put that back? You know, how do you get that back into that area? So to us it's like the whole ecological system is just set upside down. It affects us mentally, spiritually, and physically. We're so interconnected to those things out there that even our Indian names are after them. Many people are named Zhingwaak for that [points] pine tree. People are named after rocks, Asin, Asiniikaa, Asiniinini. They're named after these things because that's how interconnected we are. We're interconnected so much that plants are things we're named after. The rocks, the earth, we're named after that. The universe and all the things that are there, people have names after that. So when they say that, you know, there wouldn't be damage, you know, digging eight feet in the ground and putting in a pipeline, that's not true to us. To us you're taking all of our relatives and you're turning them upside down. You're taking all of our medicines, all of our spirituality when you're turning it upside down and wasting it. And so it makes—it hurts. It hurts the whole tribe to see something. When you see something like that. And it affects a whole community because all of our community is connected to that. We're taught from a young age that these things have meaning to them, they have life. And so now you have 100 miles of trees that are cut down, or 50 or 25 miles of trees that are just—that's all death. They just took it. And then they come in and they plant the trees and they think that they're going to make up for it by creating a farm, you know, another ecological system. And that ecological system then is—is like us as a people trying to survive. That ecological system is

us trying to remember a time when this world was just beautiful. When this world was producing everything that we needed as a people in order for us to survive. You can't see those sacred places. The moon, that's a site, you can see it, it's sacred to us. Something in the earth, something in the water that's a sacred place, you can't see it. Sacred places are places you take in a spiritual journey that you can't see. When we get into a ceremony, we go places in a sacred site. Sacred places, when you go to sleep at night, you wander, your spirit wanders and travels. It's a place that is a sacred place, but when you come back into this world you can't see that site. You can't remember. You remember it as a human being, but you don't remember it as the place. You bring it into this world. So there's two different things there, and the very rice beds are sacred sites to us, every river, every stream, every waterbed, every swamp that you see out there is a sacred site, you can see it people. It affects our past, it affects everything that we're about.

At the end of the interview, Mr. Kemper struggled to find words to express his feelings regarding the potential impacts of the pipeline. When Commerce explained the impacts of each route were being assessed, he responded that it could not be done, and the impact could not be isolated or measured—any impact is harmful and equally concerning.

Elders, during consultation and interviews, revealed that the health of the tribes and their members directly relates to the health of the ecosystem (see Chapter 11). They manage their lands within their reservation boundaries; they also watch the land and water that surrounds the reservation boundaries, because their history and way of life is not limited to the lines on current-day maps. What they choose to protect helps define them as a people (see Appendix P):

And so to us we can't separate the two and that's why this Project will have such an impact to us as human beings, as Anishinaabe people, as Native American people, when things are disrespected, moved around, cut down, hurt, trees are cut down, plants and ground is dug up, because basically you're digging up us. Our relatives, our ceremonies, our everything is interconnected to that earth, to those trees, to those plants. So you can't separate the two of those (Terry Kemper).

The tribes look at not just the immediate impacts, but what is going to potentially affect future generations; they are taught to project to seven generations in the future. This sentiment is expressed by John Reynolds when he stated, "For the Indigenous people of this area, the way of life that they have is something that was given. And it's not something that they just live for today, it's something that they try and maintain for future generations." In this manner, American Indians link the time of the ancestors to that of the descendants. Any major changes to the environment affects not only the ceremony, but people's mental, physical, and spiritual health. Hunting, fishing, traditional use of resources, and gathering is ceremonial—they are not just for sustenance, but to bring a whole community together to connect with the outside world.

Tribal values for natural and cultural resources (e.g., medicinal plants, culturally or spiritually important areas or resources) are not quantifiable. Actions such as the proposed Project that result in the loss of a resource, or access to a resource, are considered equally detrimental by the tribes and cannot be mitigated. Such impacts contribute to the continued erosion of tribal resources, which in turn, contributes to overall societal and health impacts.

9.6.5 Cumulative Impacts

When past, present, and reasonably foreseeable future actions are analyzed in concert with the Applicant's preferred route, the potential for cumulative impacts to tribal resources would be present. Potential impacts may include the following:

- Disturbance to water bodies and water quality, animal populations (including game species), and plant resources;
- Potential disruption to habitat due to multiple project corridors;
- Potential demolition or alteration of archaeological or historic resources, sacred locations, or objects important to American Indian tribes;
- Potential disruption to access to sacred locations or landscapes;
- Construction in previously undeveloped areas or spaces used for hunting, gathering, and fishing;
- Multiple pipelines within ceded lands or reservations; and
- Pipeline and other project operation and maintenance activities, which have the potential to add either above-ground or underground infrastructure or the presence of people and equipment in otherwise quiet areas.

Chapter 12 provides additional discussion of resource-specific cumulative impacts.

Incremental impacts (or cumulative impacts) on American Indian communities are part of a larger pattern of structural racism, or "the normalization of an array of dynamics—historical, cultural, institutional and interpersonal—that routinely advantage white people while producing cumulative and chronic adverse outcomes for people of color and American Indians" (Minnesota Department of Health [Minnesota DH] 2014). These patterns are perpetuated when "decisions are made without accounting for how they might benefit one population more than another, or when cultural knowledge, history and locally-generated approaches are excluded. When this happens, programs and policies can reinforce or compound existing race-based inequities" (Minnesota DH 2014). Tribal communities also explained that the proposed Project would have an additional cumulative impact on historical and current trauma as the affected tribes continue to face the loss of tribal resources and ongoing degradation to the natural environment, because of the impacts of the Applicant's preferred route on tribal resources. Chapter 11 provides an environmental justice analysis.

9.6.6 Mitigation

Mitigation of impacts due to construction and operation are detailed in Chapter 6 for each of the specific resource areas; the mitigation measures are in addition to those measures that Enbridge proposes as part of their project description and/or are noted in their Environmental Protection Plan (Appendix E). Additional mitigation measures more specific to American Indian tribes may include the following:

- Impacts to cultural resources (archaeological and historic resources) – In addition to the unanticipated discoveries plan (see Appendix O), American Indian tribal monitors may be used to assist with surveys and construction oversight. This would help to identify resources that may require tribal and local knowledge.

- Impacts resulting from the use of herbicides or vegetation removal – American Indian tribes may be consulted to help avoid the application of herbicides to areas that may contain plants used by tribes (see Appendix B). The use of this mitigation measure would help to avoid potential damage to plants used by tribes.
- Impacts resulting from spills – American Indian tribes may be given a more active role in the monitoring and inspection of pipelines, such that they would be better prepared to address leaks or spills that could occur within reservation boundaries. The use of this mitigation measure would allow tribes to assist in the determination of appropriate methods to assist in the protection and preservation of tribal resources.

The Applicant's preferred route and RA-03AM would not cross reservation lands; however, they would cross ceded lands on which tribes exercise their treaty rights to access tribal resources. The other route alternatives (RA-06, RA-07, and RA-08) cross reservations, as well as ceded lands. Overall, route alternatives RA-07 and RA-08 would have the greatest direct impact on tribal resources within reservations, as they cross two reservations and various ceded lands. RA-06 would also have some minor to major impacts on tribal resources within the Fond du Lac Reservation.

Direct impacts from construction could occur on tribal resources; however, most of these are considered temporary to short term and minor. Indirect impacts could occur on tribal members from temporary restrictions during construction of the Applicant's preferred route on non-reservation lands used by the tribe for hunting, fishing, or farming operations.

While non-quantifiable impacts are difficult, if not impossible, to mitigate, tribes feel they should be entrusted with the inspection, monitoring, and maintenance activities in and through their lands and territories as they are most familiar with their resources.

9.7 UNIQUE TRIBAL IMPACTS

The American Indian tribes are very clear that the proposed Project, CN alternatives, the Applicant's preferred route, and the route alternatives (and route segment alternatives) would have a long-term detrimental effect on tribal lands, resources, spiritual places, medicines, food, and members. The impacts cannot be categorized by duration (short term or permanent) or by extent (region of interest, construction work, or pipeline right-of-way). It is also not possible to determine which alternative is better when each alternative affects tribal resources, tribal identity, and tribal health. All tribal members who submitted comments and/or participated in drafting the EIS reported that all of the routes, including keeping the current Line 3 in place and/or abandonment, would add to the negative mental, spiritual, and physical health effects already disproportionately suffered by American Indian populations.¹⁶

¹⁶ Historical trauma describes multigenerational trauma experienced by American Indians because of continuous subjection to traumatic events, poverty, dislocation, war, etc. It is cumulative and collective. The term "historical trauma" is used by scholars, such as Maria Yellow Horse Brave Heart, as a means to understand intergenerational psychological consequences of trauma. The original use of the term was for Holocaust survivors, but began to be used to describe the American Indian plight in the 1980's and 1990's and continues today (Whitbeck et al. 2004). Scholars have noted that methods of dealing with trauma are those that develop from within tribal communities and draw on the traditional ways of knowing and spirituality (Pember 2016).

In an interview, Mr. Kemper discussed the cumulative psychological impacts of having lands and resources diminished by ongoing infrastructure projects (see Appendix P):

You're taking all of our medicines, all of our spirituality when you're turning it upside down and wasting it. And so it makes—it hurts. It hurts the whole tribe to see something.

Many resources or the environment that was in place prior to clear cutting and activities related to other infrastructure projects (e.g., roads, transmission lines, development) have cumulatively diminished many of the once-existing resources. John Reynolds of the Mille Lacs Band explains “that if a pipeline of this magnitude comes through, it would basically destroy, you know, what’s remaining.”

9.7.1 Climate Change

The Fond du Lac Band of Lake Superior Chippewa elaborated on the cumulative effect of climate change from the Project, including the cost of petroleum extraction, the cost to the climate from production of the steel used to transport the oil, the cost of pumping the oil, the cost of trucking to transport the pipe and other assorted materials used in construction of the pipeline, the cost of the refining process, and the cost of using the oil once it is transported and refined. All of the tribes that participated in consultation and collaboration explained that any new oil transportation infrastructure serves to encourage the country’s reliance on an energy resource that is inherently damaging to the world’s climate, locking us into an uncertain future for children, grandchildren, and all future generations. The pipeline would lead to increasing greenhouse gas emissions and reducing chances of meeting pollution-reduction targets. Continued reliance on energy from oil is altering many resources on earth, contributing to devastating climate change (see Appendix P).

Climate change impacts threaten tribal lands and resources, ways of life, culture, and economies. Some alternatives cross the Leech Lake and the Fond du Lac Reservations, which both contain numerous resources, such as wild rice processing sites, cemeteries, and ceremonial grounds. The proposed Project and its alternatives are located within territories ceded to the United States by the Chippewa Indians under treaties. These lands and resources are important to preserving the traditional ways of life, including fishing, hunting, wild rice farming, maple sugar gathering, the collection of plants for medicines, spiritual, and ceremonial purposes, shelter, and other needs. Studies indicate rising temperatures, and hotter, drier summers will decrease water quality and quantity in the Great Lakes region, endangering homes, human health and safety, economies, culturally important species, medicinal plants, cultural sites, and traditional foods, such as wild rice in tribal communities.

In addition, American Indian tribes are tied to specific geographic location due to the presence of reservations and cultural, spiritual, and natural resources that sustain them. For many tribes, the reservation is a primary location for practicing traditional lifeways and for providing for its members. If impacts are permanent, tribes do not have the ability to replace lost resources in a different location or to move away from the reservation.

Loss of or diminishment of resources from global climate change would constitute an adverse effect on American Indian tribes. For example, hotter and drier summers could adversely affect water levels and wild rice and fish harvests. These impacts could potentially be exacerbated by declining water quality as a result of increased surface runoff and sewage overflows. Climate change could also shift or reduce the habitat ranges of culturally significant plant and animal species, thereby affecting the ability of tribal communities to harvest these species (U.S. Department of State 2017).

9.7.2 Health Impacts

Ojibwe and Dakota cultures have a deep and longstanding connection with the natural environment. This connection is integral to their cultural identity, and the loss of tribal resources results in profound impacts on mental health including increased incidence of alcoholism, depression, and suicide. The evaluation of health impacts in the EIS must include these impacts in addition to impacts on physical health resulting from potential exposure to pollutants, contaminants, and increased noise and dust during construction (see Section 11.3).

According to Chief Arvol Looking Horse of the Great Sioux Nation, “Now we have earth changes, climate changes, and global disasters. That’s happening today. Volcanos and earth quakes. All this is happening that the elders said. It’s all man made. What’s supposed to happen in the future is happening now. Things escalate so fast, now we are all getting sick from this environment, the foods we are eating, and our livelihood. So we have the statistics from the hospitals, it’s said how bad, how sick our people are. And, they are telling us, we are lucky to live until 60 years old.”

The potential impacts are amplified by the fact that the Applicant’s preferred route runs through the middle of the Mille Lacs Band’s District II Community. District II’s government services are located in the East Lake community south of the proposed pipeline, while the Minnewawa and Sandy Lake communities are located north of the proposed pipeline. If there were any road closures in the region as a result of a major pipeline failure, it would isolate the Minnewawa and Sandy Lake communities from the basic services provided through the East Lake community and would isolate family members living in different regions from each other. The effects of bisecting the community with the proposed pipeline would be particularly significant for the extremely traditional community with strong ties to time-honored culture. The consequences of construction and the constant threat of a spill that could impact traditional cultural practices would have long term devastating consequences to this community. The emotional toll of a spill in the area would be devastating (see Appendix P).

9.8 SUMMARY

This chapter provides insight into the American Indian views on the construction and operation of a new pipeline. From this perspective, any route, route segment, or system alternative would have a long-term detrimental impact on tribal members and tribal resources. The impacts cannot be categorized by extent (e.g., region of interest, construction work area, permanent right-of way). Tribal members and governments express their desire and expectation for a healthy and functional environment that ensures the meaningful use of treaty rights. A comparison of impacts to tribal resources, identity, and health for the Applicant’s preferred route and the route alternatives is difficult to accomplish, since this discussion is largely qualitative in nature. However, as part of this discussion of tribal resources, a summary of the impact analyses from Chapters 5 and 6 for the CN alternatives and the route alternatives pertinent to the use of natural and cultural resources was incorporated into this chapter. The intent is to provide an identification and quantification of animals, plants, and other resource types that may be impacted, as well as the amount of acres or crossings that occur.

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