

WATER



ART BY CHRISTI BELCOURT

IS LIFE

WATER PROTECTION IN WISCONSIN

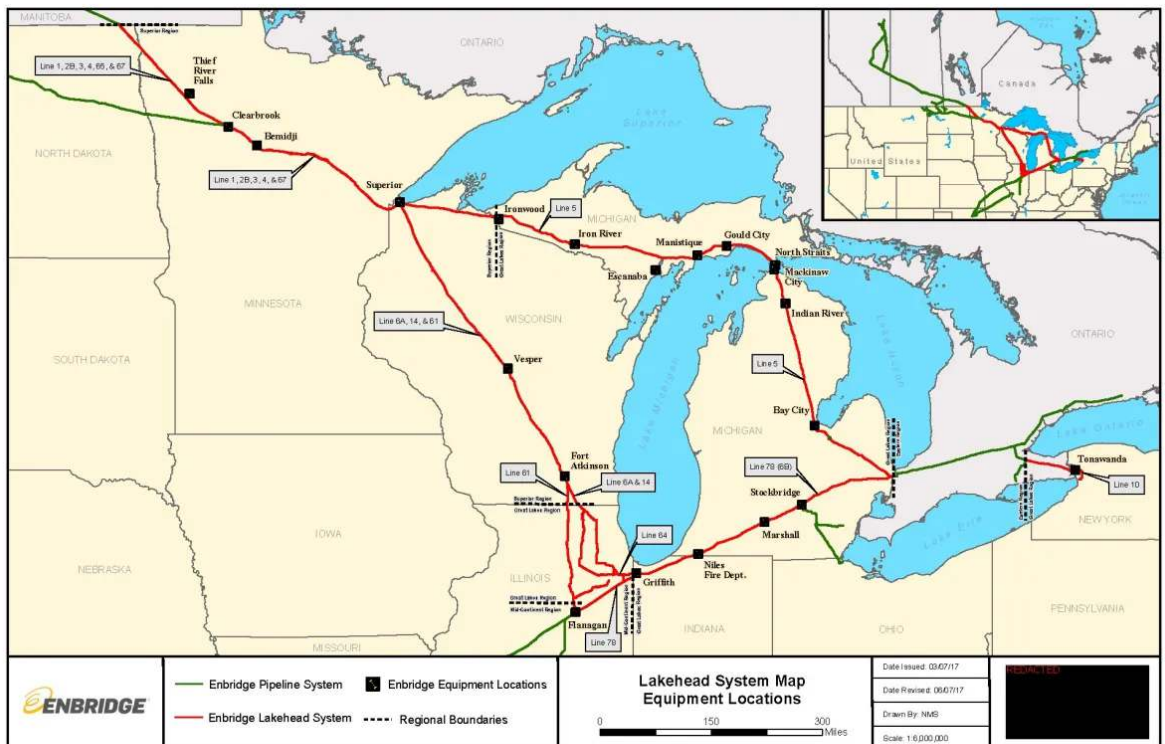
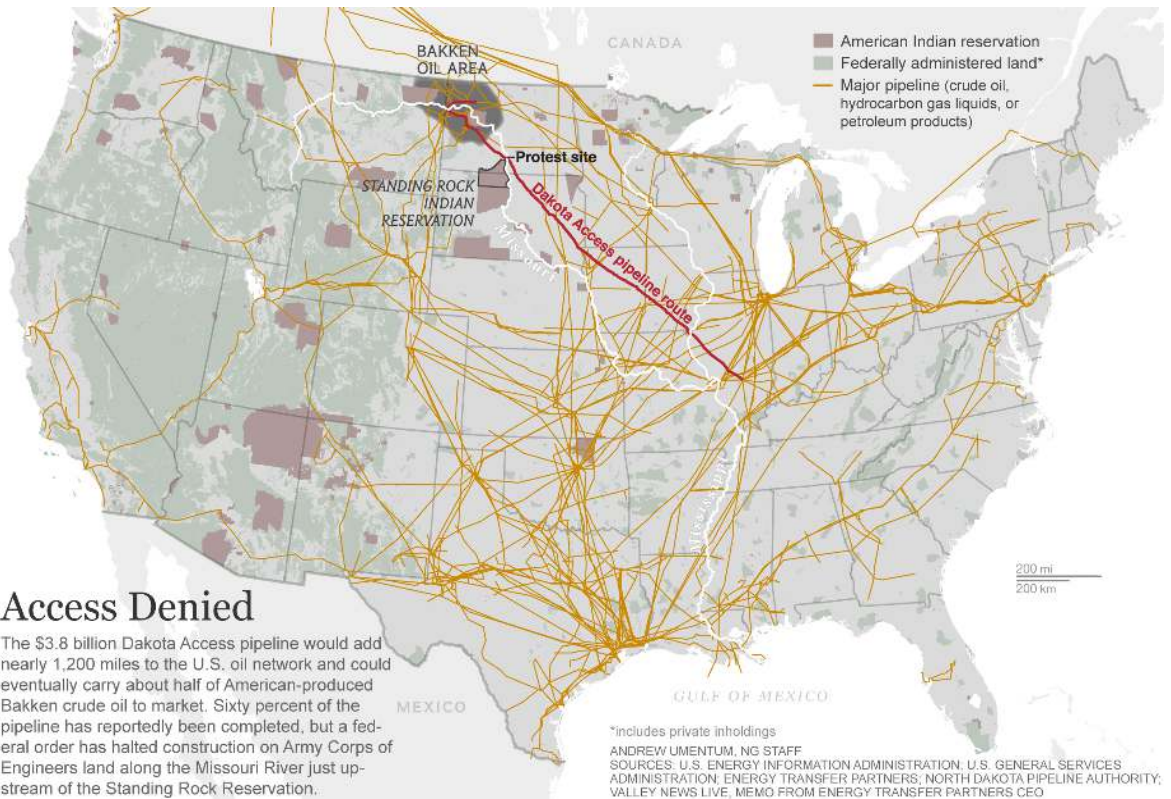
& WHY YOU SHOULD CARE

a zine by nipinet

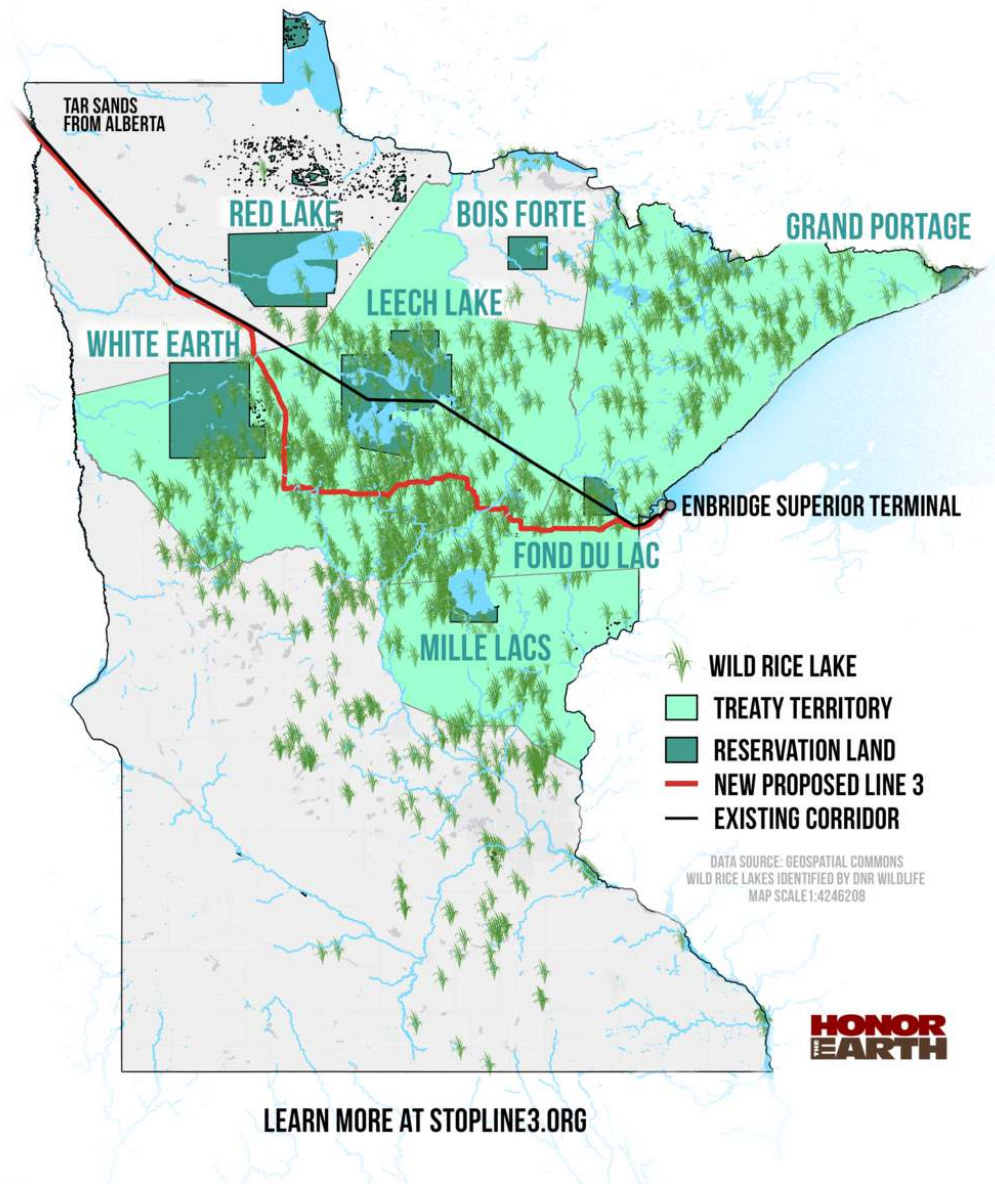
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ENBRIDGE LINE 3 IMPACT ON TREATY RESOURCES



WHAT IS LINE 3?



Line 3 is a pipeline owned and operated by Enbridge, a Canadian oil company, that ships crude oil from Alberta to Superior, WI. It crosses the Leech Lake and Fond du Lac reservations in Minnesota and the 1855, 1854, and 1842 treaty areas, as well as the headwaters of the Mississippi. Line 3 was built in 1961 and has had numerous ruptures and spills. Instead of cleaning it up, Enbridge spent 2021 building a new pipeline to run alongside it through Ojibwe treaty territory. They call it a replacement but it is not: it is larger, with a higher volume, in a new corridor. Indigenous nations, tribal governments, landowners, environmental groups, and impacted communities have spent 5+ years fighting to stop Line 3.

Construction on Line 3 completed summer 2021. According to the MN DNR, Enbridge violated permits and punctured three ancient artesian aquifers during its construction, causing extensive undisclosed damage to groundwater resources and losing nearly 300 million gallons to the surface. The most serious confirmed breach has yet to be fully stopped. The DNR ordered Enbridge to pay \$3.32 million for its Clearbrook aquifer breach and referred the matter for criminal prosecution, meaning Minnesota is now criminally prosecuting both the multinational corporation damaging domestic water supply and those who tried to protect that water. Other unresolved concerns include at least 28 “frac-out” spills of significant quantities of toxic drilling fluid, polluting ground and surface waters, vegetation and wildlife, including at the Mississippi headwaters.

Hundreds of water protectors are facing criminal charges in Minnesota for opposing Line 3, standing in defense of the land, water, and the treaty rights of the Anishinaabeg. Police departments funded by Enbridge have responded to the Line 3 movement as Enbridge’s private security firms. They have been reimbursed \$8.6 million through a Public Safety Escrow Trust directly funded by Enbridge, and have met water protectors with surveillance, harassment, physical torture (pain compliance), and trumped up charges. Water protectors and supporters are currently calling on state officials to drop the charges against arrested water protectors. Many water protectors have been charged with “felony theft”, which is dubious- the argument is that they have stolen time from Enbridge, rather than anything physical.

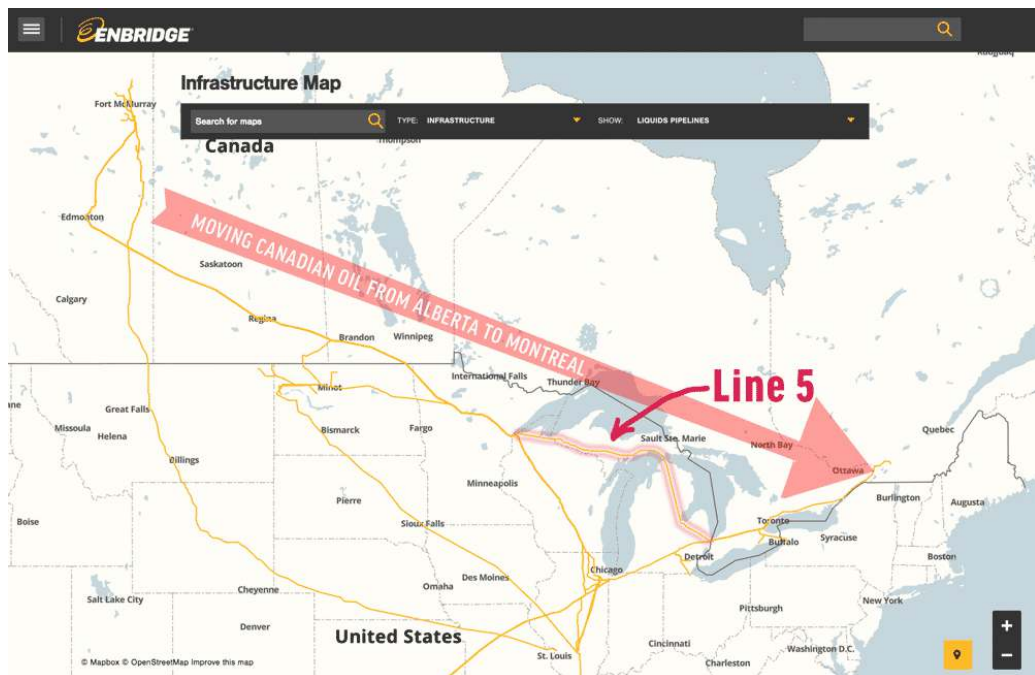
The United Nations Committee on the Elimination of Racial Discrimination requested a response from the United States regarding allegations of human rights violations against the Anishinaabe associated with Line 3 construction. The UN Special Rapporteur on Human Rights Defenders met with Indigenous leaders about violations of rights in the UN Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, in addition to Free, Prior and Informed Consent as outlined in the UN Declaration of the Rights of Indigenous Peoples. The investigation is ongoing.

Sources:

<https://www.stopline3.org/>

<https://www.dropline3charges.com>

WHAT IS LINE 5?



Line 5 is actually two aging pipelines flowing from Superior, WI through the Bad River Watershed and the Straits of Mackinac to Sarnia, ON. It was constructed in 1953 and is owned by Enbridge. It lies exposed at the bottom of the lakebed at the Straits of Mackinac, elevated from the lakebed into the current of the straits for 3 miles. Line 5 has spilled 33 times and at least 1.1 million gallons along its length since 1968. Currently there are ongoing compliance issues between Enbridge and the State of Michigan, including the fact that in 2021 Gov. Gretchen Whitmer ordered Line 5 to be shut down and the pipeline still operates.

In Wisconsin, 12 miles of Line 5 slice through the Bad River Reservation, which consists of nearly 200 square miles of mostly wild and undeveloped land including 16000 acres of wetlands. Said reservation is protected by an 1854 treaty with the United States government, which was ignored when the pipeline

was originally constructed in 1953 to give Enbridge easements to use tribal territory. In 2013, several of these easements expired, which allowed Bad River to expel Enbridge from its territory and reject the renewal of the easements. Enbridge refused to adhere, so Bad River filed a federal lawsuit seeking removal of the pipeline from their territory and the entire watershed, given that any contamination of the watershed would also violate the treaty and contaminate the reservation. Enbridge proposed to relocate 41 miles of Line 5 to the edge of the reservation.

An oil spill in the Bad River watershed would be devastating: the area is a web of interconnected waterways and estuaries that sustain wild rice, fish hatcheries, agriculture, and hunting traditions practiced since time immemorial. The Kakagon Sloughs and Copper Falls State Park are especially at risk. The Sloughs are critical to maintaining the genetic diversity of wild rice in Lake Superior and have been named one of Wisconsin's 100 wetland gems by RAMSAR. Any spill here would contaminate the wild rice beds before anyone has time to launch a response, even with the pipeline being moved. Line 5 is broadly opposed by locals and activists alike. In July 2020, the DNR held a hearing regarding wetland and water permits for Enbridge and more than 500 people attended. 92.4% of the 300+ who testified at the hearing called for the DNR to shut down Line 5.

sources

<https://www.oilandwaterdontmix.org/problem>

<https://www.sierraclub.org/wisconsin/line-5>

TREATY RIGHTS

Sovereignty: the right to self determination and self government, guaranteed to Tribal nations by the US constitution and affirmed repeatedly by the US Supreme Court. Tribes are the sole arbiters of what happens on their land and to their people.

Even on ceded territory (off-reservation), Ojibwe tribal members retain certain property rights that allow them to "make a modest living from the land". These are called usufructuary rights, and are guaranteed by the treaties, and include the rights to hunt, fish, gather medicinal plants, harvest and cultivate wild rice, and preserve sacred or culturally significant sites.

Oil pipelines violate these treaty rights by endangering critical natural and cultural resources in the 1842, 1854, and 1855 treaty areas.

The United Nations Declaration on the Rights of Indigenous People outlines protections for Indigenous people worldwide and was adopted in 2007 by the UN General Assembly. The US was one of 4 countries that voted against it and all 3 others have since reversed their position and officially endorsed the document.

UNDRIP includes:

- The right to land and health
- The right to practice, maintain and protect culture,
- The right to self determination,
- And free prior and informed consent regarding any policy decisions that may affect Indigenous people, "which the United States understands to call for a process of meaningful consultation with tribal leaders, but not necessarily the agreement of those leaders, before the actions addressed in those consultations are taken." (taken from the Announcement of US Support for UNDRIP)

sources:

<https://2009-2017.state.gov/s/srgia/154553.htm>

<https://narf.org/category/water-rights/>

<https://narf.org/cases/enbridges-line-5-pipeline/>



TREATY RIGHTS AND OIL PIPELINES: What You Need To Know

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SUMMARY:

Even on ceded territory (off-reservation), Ojibwe tribal members retain certain property rights that allow them to “make a modest living from the land.” These use-rights are called usufructuary rights, and are guaranteed by the treaties between Ojibwe bands and the US government, protected by the US Constitution, and affirmed by the US Supreme Court. They include the rights to hunt, fish, gather medicinal plants, harvest and cultivate wild rice, and preserve sacred or culturally significant sites.



The proposed new oil pipelines in northern MN violate the treaty rights of the Anishinaabeg by endangering critical natural resources in the 1854, 1855, and 1867 treaty areas. All pipelines leak, and catastrophes like Enbridge’s 1 million gallon spill in 2010 on the Kalamazoo River are not unlikely. The pipelines threaten the culture, way of life, and physical survival of the Ojibwe people. Where there is wild rice, there are Anishinaabeg, and where there are Anishinaabeg, there is wild rice. It is our sacred food. Without it we will die. It’s that simple.

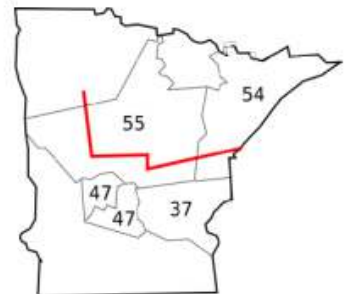
HISTORY:

- **1837 White Pine Treaty** (aka Treaty of St. Peters) – July 29, 1837 at Fort Snelling.

The Ojibwe nations ceded to the US a large tract of modern-day MN and WI (east of the Mississippi River and south of Lake Superior). The purpose was to exploit the region’s lumber resources, especially giant white pines, for use in the construction boom across the country. The United States bought millions of acres for about \$24,000. In turn, Article 5 granted the signatory Ojibwe bands usufructuary rights to hunt, fish and gather within the ceded territory. An Ojibwe chief from Leech Lake known as Eshkibagikoonzhe (Flat Mouth) demanded that his people retain the right to “get their living from the lakes and rivers” because “we cannot live, deprived of our lakes and rivers.”

- **1855 Treaty with the Chippewa** – February 22, 1855 in Washington DC.

The Ojibwe ceded 10 million acres of northern Minnesota lake country, including the headwaters of the Mississippi River, and the US government established 9 small reservations.



- **The Voigt Decision (1983)** - In the 1970s, the Lac Court Orielles Band of

Ojibwe challenged Wisconsin’s efforts to regulate their hunting and fishing off-reservation. The conflict started when 2 Ojibwe men were arrested for harvesting fish with spears, and charged with poaching. In 1983, the US 7th Circuit Court of Appeals delivered the “Voigt Decision” in *LCO Band of Chippewa Indians v. Lester P. Voigt, et al*, affirming Ojibwe rights to hunt and fish anywhere on ceded territory, even on privately owned land. Over the next 8 years, which were marked by civil unrest and racial conflict as white sport fishermen protested tribal members’ exercising of treaty rights, the US District Court rejected repeated appeals by the State of Wisconsin. The US Supreme Court refused to hear the case, and the Voigt decision still stands today.

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• 1999 Supreme Court Decision - Minnesota v. Mille Lacs Band of Chippewa Indians

This is the landmark decision. During the 70s and 80s, Ojibwe tribal members in Minnesota were repeatedly arrested and harassed for asserting their fishing rights. This led to a series of protracted legal battles, culminating in the 1999 U.S. Supreme Court decision *Minnesota v. Mille Lacs*. The Court ruled that the Ojibwe retained hunting, fishing, and gathering rights on the lands it had ceded to the federal government in the 1837 White Pine Treaty and that the state governments of MI, MN, and WI, had unfairly asserted authority of hunting and fishing rights without regard for treaty rights guaranteed to the Ojibwe before those states were even formed. The Court also concluded that the same protections survived in the 1855 Treaty, even though it did not explicitly outline usufructuary rights, because the Chippewa delegates that signed it clearly did not believe they were relinquishing such rights.

• 2015 Squarehook case

Operation Squarehook was a large multi-year state and federal investigation into black market walleye. On Feb. 10, 2015, the 8th Circuit U.S. Court of Appeals ruled that the federal government could not prosecute 4 Ojibwe men for netting walleye on Leech Lake Reservation and selling them. This upheld the 2013 US District Court decision to toss the cases. The men were accused of selling hundreds of thousands of dollars' worth of netted fish and charged with wildlife trafficking under the Lacey Act. The court upheld the

rights guaranteed by the 1837 White Pine Treaty as the same rights the signatory Chiefs would have understood in 1855, even though the 1855 treaty did not directly apply because the Leech Lake Reservation did not exist yet. In its decision, the court repeatedly referenced the Supreme Court's landmark 1999 Mille Lacs decision. It effectively ended Operation Squarehook.



TRIBAL INTERVENTION AGAINST THE SANDPIPER/LINE 3 CORRIDOR:

Tribal nations have federally protected property rights in the treaty areas, yet have not even been consulted about the Sandpiper/Line 3 corridor. The PUC bluntly denied requests for public hearings on the reservations. So in June 2015, the White Earth and Mille Lacs Bands each held their own public hearings to document public sentiment and expert testimony on potential impacts. The bands also wrote letters to the PUC asking for a stay on the permitting process until tribes could be properly consulted, and letters to Governor Mark Dayton asking him to fulfill his responsibilities for cooperation with tribal governments as outlined in Executive Order 13-10. Approval of this pipeline corridor is a declaration of war against the Anishinaabeg, a slap in the face of tribal governments, and a threat to the precious fresh water of Minnesota. Tribal governments are now exploring options for intervention at the federal level and expect a long and protracted legal and regulatory battle over the coming years.



VISIT OUR WEBSITE FOR RESOURCES AND
WAYS TO TAKE ACTION TODAY!

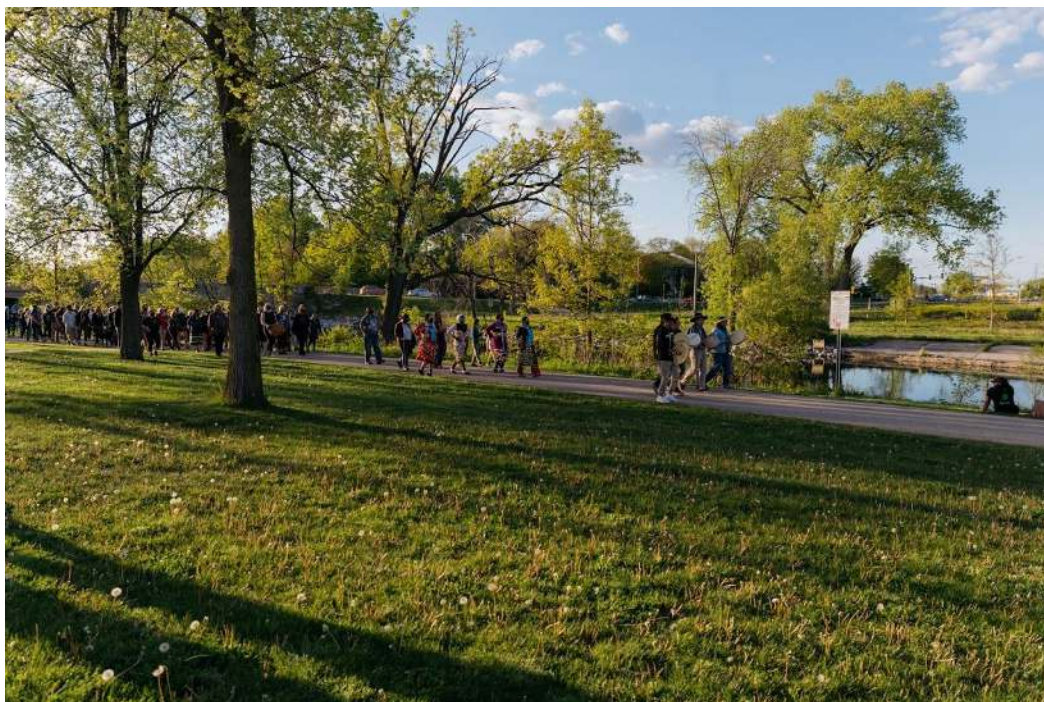
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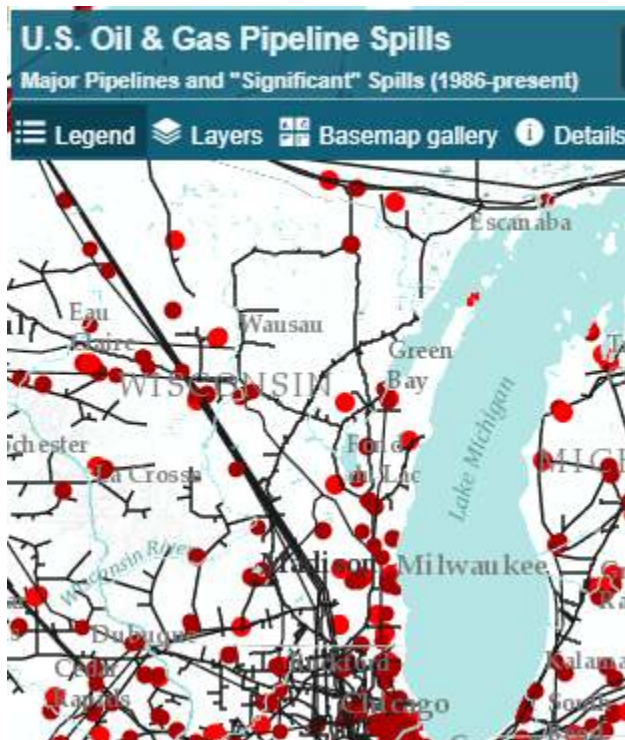
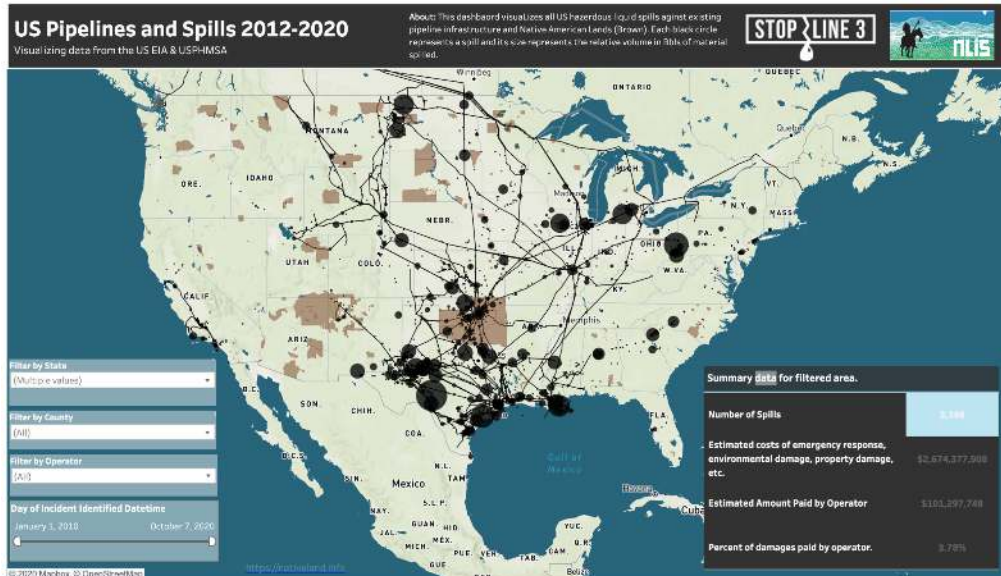


Teejop walk for water, may 12th 2021. Photo by Dakota Mace



Treaty people walk, august 2021.

ENVIRONMENTAL IMPACTS OF PIPELINES



Interactive map on oil and gas pipeline spills since 1986. The map was created for a project called Spill Stories and is displayed on the Climate Alliance Mapping Project USA Map.

The map shows over 8000 spills reported since 1986, including oil spills, gas distribution spills, and gas transmission spills. Spills marked in light red indicate that someone was injured or killed as a result.



FRAC-OUTS

A frac-out is when drilling fluids (often bentonite clay or polymers mixed into a mud) seep out of the hole used in horizontal directional drilling and makes it back to either the surface of the drill site or into underground waterways. The fine particles of the drilling fluid can smother plants and animals, especially if it gets into aquatic environments. Sometimes saltwater polymer fluid is used, and the salt can impact freshwater systems. Frac-outs can also damage neighboring infrastructure or services, such as causing sections of roads to rise, nearby water pipelines to fail when the frac-out washes away the bedding sand, power boxes filling with fluid, and the creation of sinkholes. For Line 3, between June 5 and Aug 8 2021, there were 28 frac outs at 12 river crossing locations, including 80-100 gallons in the Willow River and another at the Mississippi headwaters. The MPCA says there were 13 spills into wetlands and 14 accidental releases in upland areas, although one of those flowed into a wetland.

sources

<https://www.mprnews.org/story/2021/08/10/mpca-line-3-drilling-fluid-spilled-into-wetlands>

PIPELINES AND MMIW

Pipeline construction brings violence to Indigenous communities. Given that so many of these pipelines border or cross reservations, pipeline workers are directly exposed to vulnerable communities that already have inadequate resources to support population booms. "Man camps", or temporary settlements of highly-paid pipeline workers who are outsiders to the community, are consistently reported to bring violence and trafficking into vulnerable areas. In 2015, violent crime reports increased in the Bakken oil-producing region of Montana and North Dakota consistent with the influx of man camps. There was no corresponding rise of violent crimes in the counties outside of the Bakken oil region. Water protectors at Unist'ot'en described the man camp culture as one that exacerbated "isolation, drug and alcohol abuse, violence, misogyny, hyper-masculinity, and racism among the men living there."

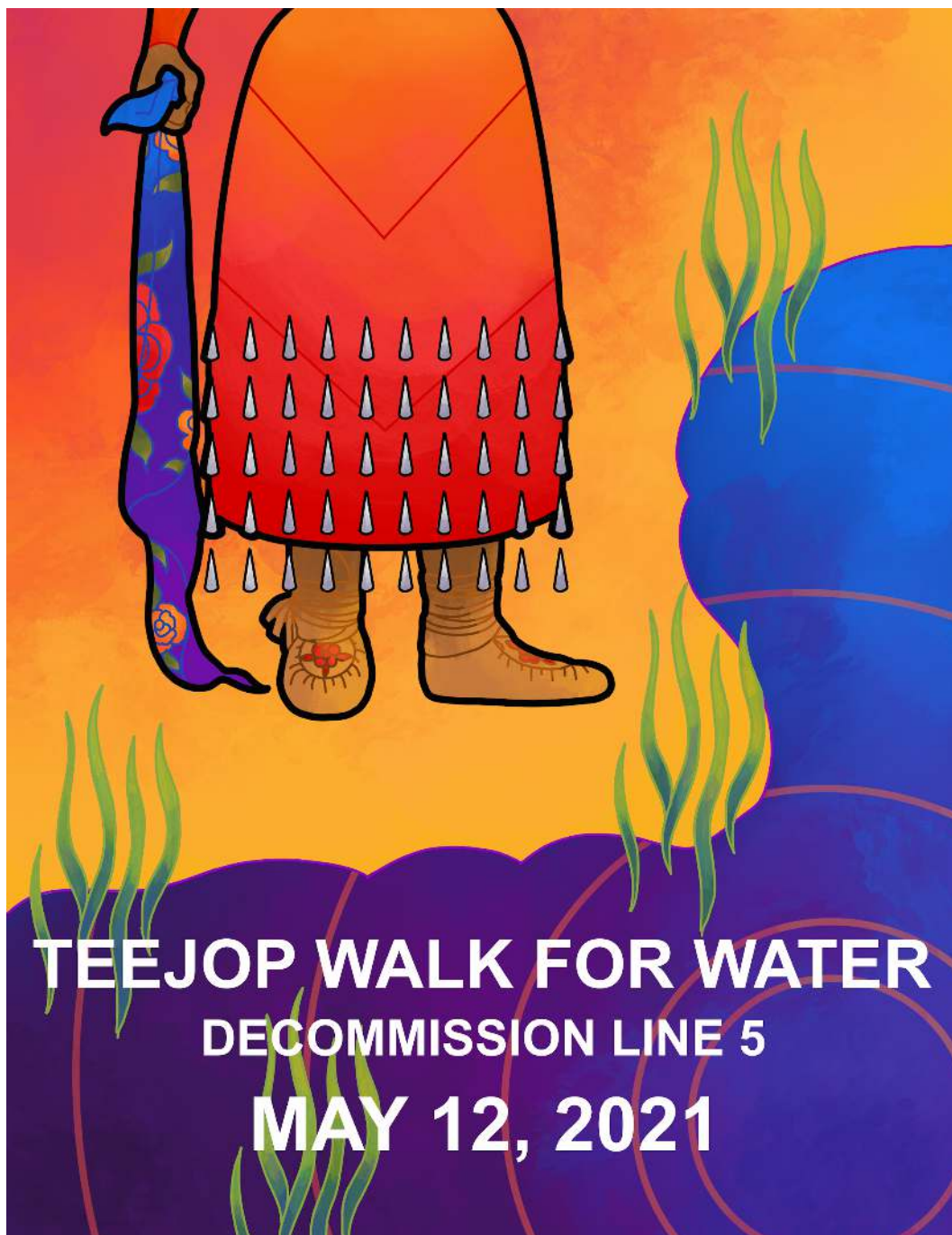
Native communities have reported increased rates of human trafficking, sex trafficking, and MMIW in our communities since the oil boom, and numerous studies and eyewitness reports connect these crimes with man camps. In February 2021, multiple pipeline workers associated with Line 3 were arrested for sex trafficking. Indigenous women are murdered and disappeared at rates ten times higher than the national average. This is further complicated by federal "Indian" law requirements surrounding the land status of where crimes were committed and the identity of the perpetrator. A jurisdictional analysis is required to determine which governmental body is responsible for arrest, detention, and prosecution. Tribes also lack resources, making this process longer.

sources

https://vsdvalliance.org/press_release/what-do-pipelines-have-to-do-with-sexual-violence/

<https://lawblogs.uc.edu/ihr/r/2021/05/28/pipeline-of-violence-the-oil-industry-and-missing-and-murdered-indigenous-women/>





TEEJOP WALK FOR WATER
DECOMMISSION LINE 5
MAY 12, 2021



Treaty people gathering, 2021

FOLLOWING INDIGENOUS LEADERSHIP

Water protection is an Indigenous-led movement, and more than that, it's a movement led by specific Tribes and specific communities hyper-local to their immediate affected area. This means that Indigenous local leadership is the heart of the movement, and anyone joining the fight needs to recognize that and follow their lead. What is a fight for Indigenous sovereignty if the Indigenous leaders are not in charge? As a Native person, I'm aware that I'm on another Tribe's land, and therefore I'm also following their leadership. In my time at water protection camps and in movement spaces, I've noticed a tendency for people to get excited, plan big, and take charge, all of which are useful traits in most organizing but not when trying to listen to Indigenous experiences and fight for Indigenous rights. This isn't a race. Sometimes all you have to do to support is listen.

You have to find a balance in this work between using your privilege and your talents to get things done without putting undue pressure on marginalized communities, and knowing when to take a step back and center local Indigenous leaders. It can be hard, and you will make mistakes. That's okay. Just apologize and move on. Your job is to uplift and support, not be the face of the movement. If you go to a camp or an action, you're there to put yourself between the cops and the Indigenous organizers, and other than that to do whatever needs doing to keep the camps functional. You're there to participate in community as an invited guest, and you have to be respectful of that. Remember that at the end of the day, this is someone else's home. You can leave and return to your home when the action is over, but they can't.

GET INVOLVED

SUPPORT WATER PROTECTION FINANCIALLY!

The Native American Rights Fund (NARF) provides legal assistance to Tribes, organizations, and Native individuals who might otherwise have gone without. NARF has successfully defended Indigenous rights in tribal sovereignty, treaty rights, natural resource protection, voting rights, and education.

Keep an eye out for mutual aid posts from Indigenous community members, water protection camps, and tribes. See social media pages to follow on the next page. Mutual aid provides financial support directly to those with the most immediate needs- make space for mutual aid in your monthly budget.

Buy from Indigenous artists, crafters, and stores!

Keep camping supplies, blankets, and non perishable food on hand to donate to camps and supply drives- camps need a lot of support to stay active.



POLITICAL INVOLVEMENT!

Currently, many water protectors are facing legal battles for their participation in the movement against Line 3 last year. They need political support as well as financial- this could look like petitioning, contacting your representatives to pressure them to drop charges, or showing up to their hearings in solidarity. This QR code links to resistline3.org, which has resources for current defendants and links to find out more about the current state of legal affairs.

Lakota People's Law Project is another organization that has up to date information on legal battles Indigenous nations are facing in the realms of sovereignty, resource protection, and other current events. They often host petitions.

Here is a link for how to find your representatives on the federal, state, county, and local levels for any reason you may have to contact them.

Another thing to keep an eye out for in terms of political engagement is town hall meetings- currently in northern Wisconsin, Enbridge and the DNR are currently hosting town hall meetings about the proposed changes to Line 5. It's important to show up to these and let your voice be heard- the more people show up in opposition, the more likely they are to listen.



AT HOME!

Water protection matters at home in Madison and Milwaukee as well. We in Madison are downstream from Line 3 and Line 5, and Line 61 runs across the state past Madison itself. One of the goals of water protection is preventing pollution, which is something you can practice in your everyday life regardless of where you are. This is a link to the MMSD page on pollution prevention in Madison and includes information on mercury, phosphorus, PFAs, chloride, and more.



ONLINE!

Amplify indigenous voices in online spaces and spread the word of events, mutual aid, and calls for support whenever you can.

PAGES TO FOLLOW

Giniw Collective



R.I.S.E. Coalition



Red Lake Treaty Camp



Migizi Will Fly



Honor the Earth



Gichigumi Scouts



Indigenous Environmental Network



Welcome Water Protectors

