



---

# Archaeological and Historic Resources Plan

**Enbridge Energy, Limited Partnership • Fond du Lac Line 4 Project**

**June 2020**

**Enbridge Energy, Limited Partnership**

**Line 4 Fond Du Lac Project**

**Archaeological and Historic Resources Plan**

**June 2020**

**MPUC Docket No. PL-9/PPL-18-752**

**TABLE OF CONTENTS**

<b>1.0</b>	<b>INTRODUCTION</b> .....	<b>1</b>
<b>2.0</b>	<b>DEFINITIONS</b> .....	<b>1</b>
<b>3.0</b>	<b>REGULATORY FRAMEWORK</b> .....	<b>5</b>
	3.1 Federal .....	5
	3.2 Non-Federal.....	5
	3.3 Tribal.....	5
	3.4 Historic Property Identification, Evaluation and Treatment Standards and Guidelines.....	5
<b>4.0</b>	<b>COORDINATION AND PLAN DEVELOPMENT</b> .....	<b>6</b>
<b>5.0</b>	<b>CONFIDENTIALITY</b> .....	<b>7</b>
<b>6.0</b>	<b>IDENTIFICATION</b> .....	<b>7</b>
	6.1 Literature Review .....	7
	6.2 Historic/Architectural Survey .....	7
	6.3 TCR Survey .....	7
<b>7.0</b>	<b>EVALUATION</b> .....	<b>8</b>
	7.1 Eligibility.....	8
	7.2 Effect .....	8
<b>8.0</b>	<b>TRIBAL MONITORING</b> .....	<b>8</b>
<b>9.0</b>	<b>CONSTRUCTION</b> .....	<b>8</b>
<b>10.0</b>	<b>CURATION</b> .....	<b>8</b>
<b>11.0</b>	<b>PLAN MODIFICATIONS</b> .....	<b>9</b>

**LIST OF APPENDICES**

Appendix A	Professional Qualification Standards for Archaeologist
Appendix B	Scope of Work for TCR Survey
Appendix C	Bureau of Indian Affairs and FdL Tribal Historic Preservation Officer Correspondence
Appendix D	NRHP Eligibility Criteria – 36 CFR 60.4
Appendix E	Avoidance and Minimization Methods
Appendix F	Unanticipated Discoveries Plan
Appendix G	Traditional Cultural Resources Training Plan

**ACRONYMS AND ABBREVIATIONS**

ACHP	Advisory Council of Historic Preservation
APE	Area of Potential Effect
BIA	Bureau of Indian Affairs
CFR	Code of Federal Regulations
CECP	Construction Environmental Control Plan
Commission	Minnesota Public Utilities Commission
MDNR	Minnesota Department of Natural Resources
DOC	Minnesota Department of Commerce
DOC-EERA	Minnesota Department of Commerce, Energy Environmental Review and Analysis
DOE	Determination of Eligibility
EIS	Environmental Impact Statement
Enbridge	Enbridge Energy, Limited Partnership
ESA	Environmentally Sensitive Area
FdL	Fond du Lac Band of Lake Superior Chippewa
HDD	horizontal directional drill
L3R	Line 3 Replacement Project
LOD	Limits of Disturbance
MIAC	Minnesota Indian Affairs Council
N/A	Not Applicable
NHPA	National Historic Preservation Act
NRHP	National Register of Historic Places
OSA	Office of the State Archaeologist
Plan	Archaeological and Historic Resources Plan
Project	Fond du Lac Line 4 Project
SHPO	State Historic Preservation Office
TCP	Traditional Cultural Property
TCR	Tribal Cultural Resources
THPOs	Tribal Historic Preservation Officers
U.S.C.	United State Code
USACE	U.S. Army Corps of Engineers

## **1.0 INTRODUCTION**

In its Route Permit for the Fond du Lac Line 4 Project (“Project”), the Minnesota Public Utilities Commission (“Commission”) has included a condition requiring Enbridge Energy, Limited Partnership (“Enbridge”) to develop and implement an Archaeological and Historic Resources Plan (“Plan”). Specifically:

### **Section 4.3.5 Archaeological and Historic Resources Plan**

The Permittee shall develop and implement an Archaeological and Historic Resources Plan (“Plan”) to identify and avoid impacts to archaeological and historic properties, including traditional cultural properties (“TCP”) and traditional cultural landscapes.

The Permittee shall develop this Plan, incorporating outcomes of consultation required in conjunction with any state approvals (permits, licenses, etc.) needed in order to construct the Project including state agencies’ and departments’ consultation with 1) the State Historic Preservation Office (“SHPO”) pursuant to the Minnesota Historic Sites Act (M.S. 138.665-666), and 2) the SHPO, the Office of the State Archaeologist (“OSA”), the Minnesota Indian Affairs Council (“MIAC”) pursuant to the Minnesota Field Archaeology Act (M.S. 138.40). The permittee shall also incorporate into the Plan the outcomes of federal consultation with any consulting tribes participating in the Bureau of Indian Affairs and U.S. Corps of Engineers review of this project pursuant to Section 106 of the National Historic Preservation Act.

The Plan therefore must include mitigation procedures resulting from (1) the federal Section 106 process, (2) the Minnesota Historic Sites Act/Minnesota Field Archaeology Act review, and (3) any additional surveys, mitigation, or avoidance procedures developed in coordination with the FDL, SHPO, the OSA, the MIAC, and any consulting tribes participating in the Section 106 process.

The Plan, including specific mitigation and avoidance procedures for archaeological and historic properties identified, including TCPs and traditional cultural landscapes, must be filed with the Commission for approval upon completion (with appropriate protections for any confidential and sensitive data). Construction cannot start on any portion of the pipeline Project until the Commission approves the final Plan, which must include the survey results, and mitigation and avoidance procedures.

This Plan describes how Enbridge proposes to comply with the above-referenced requirements imposed by the Commission.

## **2.0 DEFINITIONS**

The following definitions shall apply to this Plan, to the extent not inconsistent with applicable state and federal regulations, including but not limited to Title 36 Code of Federal Regulations (“CFR”) Part 60, 36 CFR Part 800, 33 CFR Part 325 – Appendix D, and Minnesota Statutes Chapter 138.

### **Applicable Regulations**

#### 36 CFR 800

A commonly adopted set of implementing regulations for federal agencies to comply with the requirements of Section 106 of the NHPA. The regulations provide guidance for the initiation of the Section 106 process, the identification of Historic Properties, and the resolution of adverse effects to Historic Properties. These regulations are utilized by a wide variety of federal agencies in lieu of agency-specific rules for Section 106 compliance.

#### The Indian Affairs Manual—50 IAM Chapter 8

The BIA Manual defining policies and responsibilities of BIA Officials to identify and evaluate Historic Properties.

#### Minnesota Statutes 138

State of Minnesota statute that provides regulations for state agencies regarding issues of historical societies, historic sites, archives, archaeology, and folklife. For the current Project, the most applicable sections are referred to as the Minnesota Field Archaeology Act (Minnesota Statutes § 138.31 to 138.42), which outlines the requirements of state agencies when authorizing archaeological investigations on non-federal public land and issuing Project approvals.

### **Area of Potential Effect**

The Area of Potential Effect (“APE”) is the geographic area or areas defined and documented by the Bureau of Indian Affairs (“BIA”), in consultation with the FdL Tribal Historic Preservation Officer (“THPO”), where ground disturbing activities are likely to occur. Ground disturbing activities will be confined to a 12.94-mile corridor ranging from 145’ to 200’ wide, 6.9 miles of access roads with an 80-foot right-of-way, associated laydown yards, staging areas and temporary impact areas. The total Project APE is approximately 173.4 acres.

### **Bureau of Indian Affairs**

The federal agency required by Section 106 of the NHPA to take into account the effects of its Undertaking on Historic Properties.

### **Consulting Party**

Parties (individuals or groups) invited by a federal agency (during initiation of the Section 106 process) to participate in the Section 106 process. Parties can include, but are not limited to, local governments, Project applicants seeking federal agency approvals, Indian Tribes and/or Native Hawaiian organizations, and other parties who provide requests in writing to the federal agency (36 CFR 800.3(f)).

### **Consulting Tribe**

A Tribe included in the NHPA Section 106 consultation for this Project.

### **Cultural Resource**

Locations of human activity, occupation, or usage that contain materials, structures, or landscapes that were used, built, or modified by people.

### **Determination of Adverse Effect**

A determination made by a federal agency that, within the defined and documented APE, an Undertaking may alter, directly or indirectly, any of the characteristics of a Historic Property that qualify the property for inclusion in the National Register of Historic Places (“NRHP”) in a manner that would diminish the integrity of the property’s location, design, setting, materials, workmanship, feeling, or association (36 CFR § 800.5).

### **Determination of Effect**

A determination made by a federal agency in regards to an Undertaking’s effect, either no effect, no adverse effect, or adverse effect, upon a Historic Property, as defined by 36 CFR Part 800.

### **Determination of Eligibility**

A Determination of Eligibility (“DOE”) is a determination made by a federal agency in regards to an archaeological or historic/architectural property’s eligibility for inclusion in the NRHP and more fully described in 36 CFR Part 60, 36 CFR § 800.4(c)(1), (2) and 36 CFR § 800.16(l)(2).

### **Effect**

An alteration to the characteristics of a Historic Property qualifying it for inclusion in or eligibility for the NRHP (see 36 CFR § 800.16(i)).

### **Historic Property(ies)**

Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the NRHP maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. This term includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization and that meet the National Register Criteria (see 36 CFR § 800.16(1)(a)).

### **Monitoring Plan**

A plan (more fully described in Section 8) that identifies appropriate areas for monitoring construction by professionals under the supervision of individuals that meet the professional qualifications in Appendix A. The monitoring plan’s principal goal is to reduce the potential for impacts to unidentified Historic Properties, or inadvertent adverse impacts to previously identified Historic Properties, during construction.

### **Traditional Cultural Properties**

Traditional Cultural Properties (“TCPs”) are a subtype of Historic Properties recognized as eligible for listing on the Minnesota State and/or NRHP as further defined in National Register Bulletin

#38, “Guidelines for Evaluating and Documenting Traditional Cultural Properties” and other federal guidance.

### **Traditional Cultural Landscapes**

A subtype of Historic Properties recognized as eligible for listing on the Minnesota State and/or NRHP, as further defined by National Park Service Preservation Brief 36, “Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes” and other federal guidance.

### **Tribal Cultural Resources**

Tribal Cultural Resources (“TCR”) is an umbrella term to refer to all Historic Properties of importance to tribes (including but not limited to both TCPs and Traditional Cultural Landscapes) and any other Cultural Resources of importance to tribes.

### **Tribal Cultural Resources Survey**

A TCR Survey is a survey that will be conducted in accordance with existing state and federal guidance and requirements, is intended to comply with the Permittee’s federal, state, and contracted obligations to conduct a survey of tribal Historic Properties and other Cultural Resources that may be affected by the Project, and must include: field surveys to identify Tribal Sites along the entire length of any approved route that identify (preserving confidentiality of sites) (sic); literature review; the results of Tribal consultation; and other matters.

### **Tribal Monitor**

A monitor the Permittee is required to hire to represent the interests of Tribes in the field during construction and as provided under certain permit conditions.

### **Tribal Sites**

Historic Properties of tribal cultural and/or religious significance to Native American tribes.

### **Tribe**

A federally recognized Indian tribe.

### **Undertaking (Federal)**

The Project is subject to review by the Bureau of Indian Affairs - Midwest Regional Office (“BIA”) for a right-of-way grant across certain tracts within the exterior boundaries of the Fond du Lac Reservation.

### **Workspace**

The area requested by Enbridge for construction of the Project. This workspace is also often referred to as the Limits of Disturbance (“LOD”).



### **3.0 REGULATORY FRAMEWORK**

#### **3.1 FEDERAL**

The BIA is evaluating an application for the grant of right-of-way for the Project to cross certain property held in trust by the BIA for the FdL. This grant of right-of-way is an Undertaking requiring compliance with Section 106 of the NHRP and 36 CFR Part 800.

Enbridge will apply for a regional general permit to the St. Paul District, USACE for the Project for the placement of dredged or fill material in waters of the United States pursuant to Section 404 of the Clean Water Act.

#### **3.2 NON-FEDERAL**

Minnesota laws outline state agencies' responsibilities to consider protection of archaeological sites and designated Historic Properties. These laws include Minnesota Statutes Chapter 138, specifically Minnesota Statutes §§ 138.665-666, if state approvals have the potential to impact designated Historic Properties, and § 138.40 for any approvals (permits, licenses) to utilize non-federal public lands/waters. Also applicable to this Project is Minnesota Statutes Chapter 307, which is concerned with human remains. In addition, the Project crosses non-federal public lands and non-federal public waters and public waters wetlands listed on the Minnesota Department of Natural Resources ("MDNR") Public Waters Inventory. Enbridge will submit applications to MDNR for utility licenses to cross non-federal public lands and non-federal public waters.

#### **3.3 TRIBAL**

The Project will traverse the FdL Reservation that contains property held in trust by the United States Government for the FdL, a federally recognized Indian Tribe that exercises its inherent governmental authority within the exterior boundaries of the Reservation. The FdL adopted Ordinance No. 03/14, *Preservation of Cultural Resources*. The FdL conducted historic property surveys (also TCR Survey) on the Reservation and documented their results in its 2019 technical report. Enbridge has also applied to FdL for a number of permits related to construction of the Project, including a standard wetland activity permit, land use permit, Section 401 Water Quality Certification, timer use permit and other approvals.

#### **3.4 HISTORIC PROPERTY IDENTIFICATION, EVALUATION AND TREATMENT STANDARDS AND GUIDELINES**

Identification and evaluation studies, and any treatment measures identified under this Plan, considered the following:

1. The Advisory Council on Historic Preservation's ("ACHP") applicable policy statements regarding protection of Historic Properties and guidance regarding implementation of Section 106 regulations, including, but not limited to *Section 106 Archaeology Guidance* (2007 at [https://www.achp.gov/protecting-historic-properties/Section\\_106\\_Archaeology\\_Guidance](https://www.achp.gov/protecting-historic-properties/Section_106_Archaeology_Guidance)); *Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects* (February 23, 2007 at <https://www.achp.gov/digital-library-section-106-landing/achp-policy-statement-regarding-treatment-burial-sites-human>);

2. Applicable SHPO statewide inventory resources and guidance pertaining to conducting and reporting on archaeological and historic/architectural surveys in Minnesota (2017 at [https://mn.gov/admin/assets/surveymanual\\_tcm36-327675.pdf](https://mn.gov/admin/assets/surveymanual_tcm36-327675.pdf) and 2005 at [https://mn.gov/admin/assets/archsurvey\\_tcm36-327672.pdf](https://mn.gov/admin/assets/archsurvey_tcm36-327672.pdf));
3. The Secretary of the Interior's *Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716-42, September 29, 1983 at [https://www.nps.gov/history/local-law/arch\\_stnds\\_0.htm](https://www.nps.gov/history/local-law/arch_stnds_0.htm)), and also concerning identification of Historic Properties of religious and cultural significance to Tribes, with additional guidance found in the National Register Bulletins No. 38 and 41 (referenced below);
4. The *Treatment of Archaeological Properties* (ACHP 1980 at [http://libraryarchives.metro.net/DPGTL/archaeology/1980\\_treatment\\_archaeological\\_properties.pdf](http://libraryarchives.metro.net/DPGTL/archaeology/1980_treatment_archaeological_properties.pdf));
5. National Register Bulletin No. 41, *Guidelines for Evaluating and Registering Cemeteries and Burial Places* (<https://www.nps.gov/nr/publications/bulletins/pdfs/nrb41.pdf>);
6. National Register Bulletin No. 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (<https://www.nps.gov/nr/publications/bulletins/pdfs/nrb38.pdf>);
7. Minnesota Statutes Chapters 138 (<https://www.revisor.mn.gov/statutes/cite/138>) and 307 (<https://www.revisor.mn.gov/statutes/cite/307>), as applicable;
8. *State Archaeologist Procedures for Implementing Minnesota's Private Cemeteries Act* (2008 at [https://mn.gov/admin/assets/PrivateCemeteriesActProcedures\\_tcm36-187138.pdf](https://mn.gov/admin/assets/PrivateCemeteriesActProcedures_tcm36-187138.pdf));
9. FdL, Ordinance No. 03/14, *Preservation of Cultural Resources*; and
10. Any other federal or state guidelines concerning the identification, evaluation, and treatment of Historic Properties.

## **4.0 COORDINATION AND PLAN DEVELOPMENT**

The Project has been the subject of coordination in federal, state, and tribal regulatory processes. With respect to the federal regulatory process, the BIA consulted with the FdL THPO, since the Project is located entirely within the exterior boundaries of the FdL Reservation. The FdL served as the fiscal agent for the TCR Survey that surveyed the entire APE for the Project, and executed a contract with Enbridge by which Enbridge funded training for the TCR Survey and the TCR Survey itself (Appendix B). There were no properties identified within the APE, and FdL confirmed in a letter to the BIA dated July 9, 2019 with a BIA finding of "No Historic Properties Affected".

Related to the Commission's regulatory process, FdL participated directly in the Commission's process for evaluation of Enbridge's application for a route permit and partial exemption for the Project. FdL submitted a letter to the Commission, dated February 25, 2019 and representatives appeared at several Commission meetings to provide oral comments.

## **5.0 CONFIDENTIALITY**

Nothing in this Plan is intended to require the disclosure of the location of any specific Tribal Sites, the location and content of which may be extremely sensitive in nature, and Enbridge (and respective employees and agents) will abide by federal guidance regarding ways to avoid and/or mitigate impacts on Tribal Sites while also maintaining confidentiality.

## **6.0 IDENTIFICATION**

Surveys have been completed for the Project route and related facilities, including but not limited to access roads, staging areas, additional temporary workspaces, and other infrastructure. All surveys utilize the methods and standards established in discussion with the BIA and FdL THPO. Correspondence from BIA and FdL can be found in Appendix C.

Historic property identification and evaluation surveys, reporting, and avoidance measures identified under this Plan will be carried out by or under the direct supervision of a professional(s) who meets, at a minimum, the *Secretary of the Interior's Historic Preservation Professional Qualification Standards* (48 Federal Register 44716, September 29, 1983; 36 CFR Part 61 (Appendix A)).

Identification of Historic Properties, including archaeological and historic/architectural, and tribal properties has been accomplished via the following methods.

## **6.1 LITERATURE REVIEW**

Enbridge conducted a literature search, also referred to as a desktop review, to identify the type and character of archaeological and historic/architectural properties previously identified within the Project's APE, which considers both direct effects, such as ground disturbance, and indirect effects, such as impacts to the viewshed, setting, or use of a Historic Property. Among the sources maintained by the State of Minnesota, but not limited to these databases, are the following: History/Architecture Inventory, History/Architecture Reports, Archaeological Sites, Archaeological Reports, Review and Compliance documentation, Shipwreck files, Ghost Town files, Fur Trade Post files, Property Type files, and Historic Contexts files. The SHPO maintains records for both architectural history inventories and archaeological site inventories; the OSA maintains records for archaeological site inventories with a focus on non-federal public lands.

## **6.2 HISTORIC/ARCHITECTURAL SURVEY**

Field survey, inventory, and evaluations of above-ground resources, including, but not limited to, buildings, bridges, landscapes, and other manmade structures, have been completed as specified in consultation documents with SHPO, THPOs, and BIA.

## **6.3 TCR SURVEY**

The TCR Survey was conducted in support of the BIA Section 106 process, as well as a result of commitments made by Enbridge. It was led by the FdL and funded by Enbridge. The objective of the TCR Survey was to provide a uniform framework to survey and identify, throughout the Project corridor, Historic properties including those of cultural and/or religious significance to Tribes that may be affected by the Project, in accordance with state and federal requirements.

The TCR Survey was conducted in accordance with the Plan developed for that survey and in conjunction with the Section 106 process. Further details on the scope of work for this survey are included in Appendix B.

## **7.0 EVALUATION**

### **7.1 ELIGIBILITY**

Evaluation of NRHP eligibility for identified properties complied with applicable NRHP. Enbridge supported BIA and state agencies/departments in its consultation with FdL. Two sites were recommended as eligible through the TCR Survey. Both sites were avoided by a lateral reroute of the LOD.

### **7.2 EFFECT**

Consistent with 36 CFR 800.4(d), 36 CFR 800.5, the BIA, in consultation with FdL and Enbridge, determined whether the Undertaking, within the APE, had the potential to cause effects to identified Historic Properties. As stated in its June 20, 2019 correspondence to FdL, the BIA made a determination of “No Historic Properties Affected.” The FdL THPO concurred with this finding by letter dated July 9, 2019.

## **8.0 TRIBAL MONITORING**

Enbridge committed to fund Tribal Monitors to implement the roles in observing construction activities, and responsibilities to address concerns related to avoidance of Project impacts during construction to identified Historic Properties of cultural and/or religious significance to Tribes, or other Cultural Resources identified by Tribes, or to observed or suspected TCRs or human remains.

## **9.0 CONSTRUCTION**

Enbridge will provide construction progress reports to DOC-EERA, to which consulting parties will have access. Enbridge will comply with applicable federal, state, and tribal laws if additional Historic Properties are identified during construction of the Project, or if previously identified Historic Properties are affected in an unanticipated manner during construction. See Appendix F, Unanticipated Discoveries Plan. In addition, as described in more detail in Appendix G (Traditional Cultural Resources Training Plan), workers will be trained about the need to identify during construction and avoid or mitigate impacts to Traditional Cultural Resources.

## **10.0 CURATION**

Enbridge and persons conducting Cultural Resources investigations will treat all materials collected and records produced during Cultural Resource investigations in a manner consistent with Curation of Federally-Owned and Administered Archaeological Collections under 36 CFR Part 79, particularly the standards at 36 CFR 79.9 and 79.10. Archaeological materials collected on state, federal, or tribal lands must be preserved in a manner specified by the appropriate land-managing agency and the consulting parties. Specifically, federal agencies will curate any artifacts, materials, or records that are not subject to the Native American Graves Protection and Repatriation Act or other federal law, but are resulting from archaeological identification and

mitigation conducted on federal lands under their jurisdiction in accordance with 36 CFR Part 79, “Curation of Federally-Owned and Administered Archaeological Collections.” Recovered artifacts are the property of the landowner. Artifacts on non-federal public land must be curated at the Minnesota Historical Society or another approved facility as per the State archaeological license. All artifacts recovered from MDNR-administered lands must be curated at the Minnesota Historical Society. Enbridge will return material collected from private lands to the landowner after analysis is complete unless the landowner releases control to an approved repository or Tribe, or if applicable law dictates otherwise. Enbridge will encourage and assist landowners in donating any returned artifacts to a local curation facility identified by the appropriate land-managing agency and the consulting parties.

## **11.0 PLAN MODIFICATIONS**

This Plan may be modified from time to time after coordination with applicable parties to reflect and/or adapt to Project design and construction, and such updated Plan shall be filed as a compliance filing with the Commission. For example, as stated previously herein, this Plan is intended to reflect and be consistent with the BIA Section 106 process.

**Appendix A**  
**Professional Qualification Standards for Archaeologist**

Appendix A  
Professional Qualification Standards for Archaeologist

**Secretary of the Interior's Standards and Guidelines  
[As Amended]**

**Summary**

This notice sets forth the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. These standards and guidelines are not regulatory and do not set or interpret agency policy. They are intended to provide technical advice about archeological and historic preservation activities and methods.

**Dates**

These Standards and Guidelines are effective on September 29, 1983.<sup>1</sup>

The following requirements are those used by the National Park Service, and have been previously published in the Code of Federal Regulations, Title 36 Code of Federal Regulations Part 61 (36 CFR 61). The qualifications define minimum education and experience required to perform identification, evaluation, registration, and treatment activities. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the Historic Properties involved. In the following definitions, a year of full-time professional experience need not consist of a continuous year of full-time work but may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

**History**

The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historic organization or agency, museum, or other professional institution; or

Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

**Archeology**

The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:

At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;

At least four months of supervised field and analytic experience in general North American archeology, and

Demonstrated ability to carry research to completion.

---

<sup>1</sup> The National Park Service has not republished "The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation" since 1983 (48 FR 44716). The National Park Service has updated portions of the Standards and Guidelines.

Appendix A

Professional Qualification Standards for Archaeologist

In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

**Architecture**

The minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time experience in architecture; or a State license to practice architecture.

**Historic Architecture**

The minimum professional qualifications in historic architecture are a professional degree in architecture or a State license to practice architecture, plus one of the following:

At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or

At least one year of full-time professional experience on historic preservation projects.

Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.



**Appendix B  
Scope of Work for TCR Survey**

Appendix B  
Scope of Work for TCR Survey

The scope of work includes providing Tribal Cultural Report along the entire Designated Route where landowner permission has been granted. The FdL served as the fiscal agent for the TCR Survey with participation from multiple Consulting Tribes, and executed a contract with Enbridge by which Enbridge funded training for the TCR Survey and the TCR Survey itself. More specifically, the FdL led the following tasks associated with the survey efforts:

- a) Archival research;
- b) Oral interviews for the purposes of understanding tribal history and potential sites of significance to the Consulting Tribes;
- c) Field survey of the Project land requirements;
- d) Analysis of field and informant interview data; and
- e) Completion of a report of findings with recommendations.

The report was submitted for comment to the other Consulting Tribes, DOC-EERA, SHPO, and the BIA, as required by tribal, state, and federal law. This was done in conjunction with such other consultations required under tribal, state, or federal law. The report was then finalized, taking comments into consideration. The work was completed during the 2018-2019 field seasons, with reports provided to the necessary agencies in May to support further consultation efforts.

## **Appendix C**

### **Bureau of Indian Affairs and FdL Tribal Historic Preservation Officer Correspondence**

**Appendix C  
Bureau of Indian Affairs and  
FdL Tribal Historic Preservation Officer Correspondence**

U.S. Department of the Interior  
Bureau of Indian Affairs Concurrence

**Appendix C  
Bureau of Indian Affairs and  
FdL Tribal Historic Preservation Officer Correspondence**



United States Department of the Interior  
BUREAU OF INDIAN AFFAIRS  
Midwest Regional Office  
Norman Pointe II, Suite 500  
5600 West American Boulevard

Division of Environmental and Cultural Resource Management

JUN 20 2019

Kevin R. Dupuis, Sr., Chairman  
Fond du Lac Center  
1720 Big Lake Road  
Cloquet, Minnesota 55720

RE: Section 106, National Historic Preservation Act (NHPA) Consultation - Enbridge Right-of-Way Application within the Exterior Boundaries of the Fond Du Lac Reservation

Dear Chairman DuPuis,

We are writing to you regarding the Section 106 consultation and review of the Enbridge Right-of-Way (ROW) Application within the Exterior Boundaries of the Fond Du Lac (FDL) Reservation located near Cloquet, in Carlton and St. Louis Counties, Minnesota (Enclosure 1). The BIA received the Enbridge Right-of-Way (ROW) Application on October 12, 2018 that included FDL Tribal Resolution number 1245/18 entitled Granting 20-Year Right-of-Way to Enbridge Energy.

25 C.F.R. Part 169 requires the BIA to review and approve the ROW application therefore the subject application is an undertaking per 36 C.F.R. § 800.16 (y) (2004). The undertaking is located on Tribal lands (36 C.F.R. § 800.16 (x) (2004)) and is a type of activity that has the potential to cause effects on historic properties (36 C.F.R. § 800.3 (a) (2004)). Therefore consultation with the Fond du Lac Band of Lake Superior Chippewa Tribal Historic Preservation Office is required (36 C.F.R. § 800.2 (c) (2004)).

The area of potential effect (APE) is defined to encompass the entire undertaking as stated in the subject application. The APE was surveyed for archaeological purposes by Macfarlane and Cummings (2019) (enclosure 2). Macfarlane and Cummings' (2019) archaeological survey states the APE is previously disturbed and recommended a proposed finding of "No Historic Properties Affected".

The Fond du Lac Line 3 Replacement segment will occur in previously disturbed fields or existing wetlands and drainage ditches that have minimal or no potential to contain intact archaeological deposits. We propose a finding of "No Historic Properties Affected" with the following qualifications:

- The survey was performed only within the project boundaries as defined in this report. If the APE is altered beyond those boundaries, additional testing may be required.
- Standard survey techniques cannot always detect buried features (e.g. pits,

**Appendix C  
Bureau of Indian Affairs and  
FdL Tribal Historic Preservation Officer Correspondence**

graves). If archaeological materials are discovered during construction the immediate discovery area should be avoided until the significance of the find can be assessed.

- If human remains or a suspected burial area is encountered during project operations, activity in the immediate area must cease. The appropriate County Sheriff's office, the Fond du Lac THPO and the BIA must be contacted for further assistance. The Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) prohibits the intentional disturbance of human burials (Macfarlane and Cummings 2019).

The APE of the undertaking is previously disturbed and was surveyed for archaeological purposes with a recommended finding of "No Historic Properties Affected". Based on the documented ground disturbance and the results of Marfarlane and Cummings' (2019) archaeological survey, the Bureau of Indian Affairs has determined a *No Historic Properties Affected* finding. Please let us know if you agree or disagree with our finding within 30 days.

If you have any questions contact Timothy J. Guyah, Regional Archaeologist, at 612-725-4512.

Sincerely,



Regional Director

Enclosures (2)  
cc w/encl:

Jill Hoppe, Tribal Historic Preservation Officer, Fond du Lac Band of Lake Superior Chippewa  
Patricia Olby, Superintendent, BIA-MR Minnesota Agency

**Appendix C  
Bureau of Indian Affairs and  
FdL Tribal Historic Preservation Officer Correspondence**

Fond du Lac Band of Lake Superior Chippewa  
Tribal Historic Preservation Office Concurrence

**Appendix C  
Bureau of Indian Affairs and  
FdL Tribal Historic Preservation Officer Correspondence**



Fond du Lac Band  
of Lake Superior Chippewa  
TRIBAL HISTORIC PRESERVATION OFFICE  
1720 Big Lake Road, Cloquet, MN 55720  
Phone: 218-878-7129 E-Mail: [jillhoppe@fdlrez.com](mailto:jillhoppe@fdlrez.com)

July 9, 2019

Mr. Timothy LaPointe  
Regional Director  
United States Department of the Interior  
Bureau of Indian Affairs  
Midwest Regional Office  
Norman Pointe II, Suite 500  
5600 West American Boulevard  
Bloomington, Minnesota 55437

RE: Section 106, National Historic Preservation Act (NHPA) Consultation—Enbridge Right-of-Way Application within the Exterior Boundaries of the Fond du Lac Reservation.

Dear Mr. LaPointe,

The Fond du Lac Tribal Historic Preservation Office has received and reviewed your letter and enclosures dated June 20, 2019 concerning the area of potential effect (APE) defined to encompass the entire undertaking as stated in the Enbridge Right-of-Way (ROW) Application within the Exterior Boundaries of the Fond du Lac Reservation.

We concur with The Bureau of Indian Affairs determination of *No Historic Properties Affected* finding. The APE of the undertaking is previously disturbed and was surveyed for archaeological purposes with a recommended finding of *No Historic Properties Affected* based on the documented ground disturbance and the results of McFarlane and Cummings' (2019) archaeological survey.

Sincerely,

Jill Hoppe  
Tribal Historic Preservation Officer  
Fond du Lac Band of Lake Superior Chippewa  
1720 Big Lake Road  
Cloquet, MN 55720  
Office: (218) 878-7129  
Fax: (218) 878-7168  
Email: [jillhoppe@fdlrez.com](mailto:jillhoppe@fdlrez.com)



## **Appendix D**

### **NRHP Eligibility Criteria – 36 CFR 60.4**

Appendix D  
NRHP Eligibility Criteria – 36 CFR 60.4

**36 CFR 60.4 – Criteria for Evaluation<sup>2</sup>**

The criteria applied to evaluate properties (other than areas of the National Park System and National Historic Landmarks) for the National Register are listed below. These criteria are worded in a manner to provide for a wide diversity of resources. The following criteria shall be used in evaluating properties for nomination to the National Register, by the National Park Service in reviewing nominations, and for evaluating National Register eligibility of properties. Guidance in applying the criteria is further discussed in the “How To” publications, Standards & Guidelines sheets and Keeper's opinions of the National Register. Such materials are available upon request.

*National Register Criteria for Evaluation.* The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and

- (a) that are associated with events that have made a significant contribution to the broad patterns of our history; or
- (b) that are associated with the lives of persons significant in our past; or
- (c) that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (d) that have yielded, or may be likely to yield, information important in prehistory or history.

*Criteria considerations.* Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria of if they fall within the following categories:

- (a) A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
- (b) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or

---

<sup>2</sup> As referenced by 36 CFR 63.4.

Appendix D  
NRHP Eligibility Criteria – 36 CFR 60.4

- (c) A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life.
- (d) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
- (e) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
- (f) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or
- (g) A property achieving significance within the past 50 years if it is of exceptional importance.

**Appendix E**  
**Avoidance and Minimization Methods**

Appendix E  
Avoidance and Minimization Methods

***Avoidance through Route Adjustment***

For each reroute, Enbridge will file with the Commission a map at 1:24,000 scale or better that clearly shows with mileposts the original surveyed corridor, the known boundaries of the eligible or unevaluated property, the reroute that avoids the property, and survey information showing that no Historic Properties are located within the reroute.

***Avoidance through Nonuse/Nonconstruction***

For each instance, Enbridge will file with the Commission a letter that states the facility or road at which the eligible or unevaluated property was located and a statement that the facility or road is no longer associated with the Project.

***Avoidance through Bore or HDD***

For each instance, Enbridge will file with the Commission a map and technical drawing that clearly shows the projected depth below surface and the entrance and exit points of the drill in relation to the boundaries of the eligible or unevaluated property.

***Avoidance by Narrowing the Construction Corridor (“Neck Down”)***

For each instance, Enbridge will file with the Commission an alignment sheet map at 1:500 scale or better that clearly shows the construction corridor (including additional temporary workspace) in relation to the eligible or unevaluated property boundary. Prior to any construction commencing in the area, safety fencing must be erected along the relevant outer edges of the eligible or unevaluated property. A qualified monitor must be present during installation of the pipeline in that area to ensure that accidental impacts do not occur to the property.

***Avoidance by Limiting Impacts to Existing Roadway***

For each instance, Enbridge will file with the Commission an alignment sheet map at 1:500 scale that clearly shows the access road in relation to the eligible or unevaluated property, a description of the existing state of the roadway, and a statement that Project traffic will be limited entirely to the existing roadway and that the road will not be widened or upgraded as a result of the Project.

See *also* the avoidance and minimization methods referenced in the Unanticipated Discoveries Plan and Drilling Mud Containment, Response, and Notification Procedures Plan.

**Appendix F**  
**Unanticipated Discoveries Plan**

[provided under separate cover – filed on eDockets]

## **Appendix G**

### **Traditional Cultural Resources Training Plan**

Appendix G  
Traditional Cultural Resources Training Plan

This Traditional Cultural Resources Training Plan (“Training Plan”) has been developed by Enbridge to ensure that, prior to construction, workers are trained about the need to identify during construction and avoid and mitigate impacts on TCRs. The requirements within this Training Plan will be integrated into Enbridge’s Environmental Training Program provided prior to the start of construction.

Enbridge will have a variety of reference tools to assist with implementation of this Training Plan. These tools include alignment sheets and development of the Construction Environmental Control Plan (“CECP”). In addition, ongoing Project trainings and the implementation of a tribal monitoring program will ensure that these requirements are communicated throughout the construction period.

***Construction Alignment Sheet***

Construction alignment sheets are plan maps that show the construction details of the pipeline, the conditions along the pipeline route, and important features both within and adjacent to the construction area. Environmentally sensitive areas such as archeological and Tribal Cultural Resources within or close to the construction footprint will be identified on these sheets with the label “ESA” to ensure Project staffs are aware of their location. The location of TCRs is sensitive, and Enbridge will work with the FdL, who managed the TCR Survey, to ensure the identification for any of these resources is appropriate.

Enbridge’s will complete a detailed page turn of the alignment sheets including a review of ESA areas with the contractor prior to the start of construction.

***Construction Environmental Control Plan***

The Project’s CECP ensures that appropriate systems are in place to achieve compliance with the various plans and permits that have been developed for the Project. The Unanticipated Discovery Plan, which outlines the procedures to be implemented in the unlikely event archeological and/or TCRs are identified during construction, will be included as an attachment to the CECP. In addition, archeological and/or TCR sites that have been identified through surveys may have additional Project requirements and will be identified in site specific management plans. These plans will be included in the CECP, as needed.

Project staff will be issued copies of the CECP, with instructions for its use, prior to and throughout construction.

***Environmental Training***

Environmental training will be conducted in a variety of ways to communicate Project requirements to Project staff. The content and level of detail will be tailored according to the work responsibility of the participants. An initial kick-off training will be conducted prior to construction for Enbridge representatives, the Construction Management Team, Contractor Supervisory Personnel, and agency and Tribal Monitors. This training will be comprehensive to the requirements for the Project, including the requirements specific to archeological and TCRs and the procedures contained in the Unanticipated Discoveries Plan. Enbridge will also conduct ongoing training throughout construction of the Project for newly assigned staff. Tailgate training (on-site field meetings) will be conducted on a periodic basis for construction crews and foreman to discuss specific topics, such as preparation for construction in and around sensitive areas such as archeological and tribal cultural resource areas.



Appendix G  
Traditional Cultural Resources Training Plan

***Tribal Monitors***

Enbridge has committed to provide Tribal Monitors for the Project. Tribal Monitors will work collaboratively with Enbridge's Environmental Inspection Team in an advisory role to assist the Project in the protection of known archeological and TCR sites and implementation of the Unanticipated Discovery Plan. The Tribal Monitors will have access to the construction areas as needed to conduct their work and have the discretion to choose locations based on the schedule of construction activities. Tribal Monitors will also be invited to assist with Project trainings and attend construction meetings where applicable Project related issues are discussed.