

Fond du Lac Line 4 Project
PERMIT COMPLIANCE FILING

Permittee: Enbridge Energy, Limited Partnership

Permit: Route Permit

Project Location: Fond du Lac Reservation, St. Louis and Carlton Counties, MN

Docket No.: PL-9/PPL-18-752

Permit Section: Section 4.3.7 – Rare and Sensitive Environmental Resources Procedures

Date of Submission: Update December 21, 2020

On July 1, 2020, Enbridge Energy, Limited Partnership (“Enbridge”) submitted the Rare and Sensitive Environmental Resources Procedures as part of its Construction Environmental Control Plan (“CECP”) in compliance with the Minnesota Public Utilities Commission’s (“Commission”) requirement that Enbridge submit an EMCP 60 days prior to the first plan and profile submission. *See* Compliance Filing (eDocket No. [20207-164559-01](#)). The Rare and Sensitive Environmental Resources Procedures (the “Plan”) sets forth Enbridge’s conservation measures for rare and sensitive resources and complies with the specific requirements identified by the Commission.

In accordance with the staff recommendations in the Department of Commerce, Energy Environmental Review and Analysis July 31, 2020 compliance review, Enbridge is submitting the attached copy of the final version of the Plan, reflecting the Minnesota Department of Natural Resource’s (“MDNR”) assessment that negative impacts to the pale sedge (*Carex pallescens*) are not anticipated. The MDNR concurrence correspondence e-mail dated December 18, 2020 (reference number ERDB #20190305) is also included in Attachment A of the Plan.



Rare and Sensitive Environmental Resources Procedures

Fond du Lac Line 4 Project

December 2020

Version: 2

Version Date: December 2020

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ATTACHMENTS

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ACRONYMS AND ABBREVIATIONS

BGEPA	Bald and Golden Eagle Protection Act
CECP	Construction Environmental Control Plan
EI	Environmental Inspector
Enbridge	Enbridge Energy, Limited Partnership
EMCP	Environmental Monitor Control Plan
EPP	Environmental Protection Plan
ESA	Federal Endangered Species Act of 1973
FdL	Fond du Lac Band of Lake Superior Chippewa
MDNR	Minnesota Department of Natural Resources
MN Rule	Minnesota Administrative Rule
MP	Milepost
MPCA	Minnesota Pollution Control Agency
Plan	Rare and Sensitive Environmental Resource Plan
Project	Fond du Lac Line 4 Project
state-listed species	State-Threatened and State-Endangered Species
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service

1.0 INTRODUCTION

Enbridge Energy, Limited Partnership (“Enbridge”) is proposing to construct the Fond du Lac Line 4 Project (“Project”). The Project will replace an approximately 10-mile-long segment of Enbridge’s existing Line 4 pipeline within the exterior boundaries of the Fond du Lac Band of Lake Superior Chippewa Indian Reservation located in Carlton and St. Louis Counties, Minnesota.

Enbridge’s Rare and Sensitive Environmental Resource Plan (“Plan”) summarizes the conservation and mitigation measures that Enbridge will be implementing for federal-, state-, and Tribal-protected species and habitats along the Project’s Designated Route described in applicable permits and authorizations or obtained through the consultation process. These federal-, state-, and Tribal-protected species and habitat include the following:

- Federally listed species under the Federal Endangered Species Act of 1973 (“ESA”);
- Bald eagles and bald eagle nests under the federal Bald and Golden Eagle Protection Act (“BGEPA”);
- State-threatened and state-endangered species (“state-listed species”) under Minnesota’s Endangered Species Statute;
- Minnesota Department of Natural Resources (“MDNR”)-designated trout streams per Minnesota Statute 97C.005 1(a)(2) Special Management Waters;
- Cool- and warm-water fisheries that are public waters¹ regulated by the MDNR; and
- Fond du Lac Band of Lake Superior Chippewa (“FdL”) tribal species of concern.

This Plan provides a synopsis of Enbridge’s consultations with the U.S. Fish and Wildlife Service (“USFWS”), MDNR, and FdL to date regarding the species and habitats included in this Plan and addresses conservation and mitigation commitments that Enbridge made regarding federally listed species. Consultations regarding state-listed species are ongoing. Enbridge will update relevant plans as consultations are completed and submit any plans requiring review to relevant agencies. Applicable permits and authorizations issued for these resources will be provided in Attachment I of the Construction Environmental Control Plan (“CECP”).

Federal- and state-protected species, state species of special concern, and habitats for which conservation and mitigation measures will be implemented are listed in Table 1.0-1. FdL Tribal Species of Concern are presented in Section 5.0.

¹ Public water or public waters means those waters of the state identified under Minnesota Statutes, section 103G.005, subdivision 15 or 15a, or 103G.201, as shown on the public water inventory maps.

Table 1.0-1 Federal- and State-Protected Species, State Species of Special Concern, and Habitats Involving Conservation and Mitigation Measures			
Resource	Federal Protection	State Status	Counties of Occurrence
FEDERAL			
Gray Wolf (<i>Canis lupus</i>)	Threatened	--	St. Louis, Carlton ^a
Canada Lynx (<i>Lynx canadensis</i>)	Threatened	Special Concern	St. Louis, Carlton ^a
Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	Threatened w/ 4d Rule	Special Concern	St. Louis, Carlton ^b
Bald Eagle Nest ^c (<i>Haliaeetus leucocephalus</i>)	BGEPA	--	No known nests in Project Area
STATE			
Animal Species			
Consultations are ongoing			
Plant Species			
Consultations complete			
Habitats			
Trout Streams ^d	--	MDNR-Designated	Carlton
Public Water Cool- and Warm-water Fisheries ^d	--	State-Regulated	St. Louis, Carlton
^a Gray wolf and Canada lynx have the potential to occur in the listed counties during Project activities, and suitable habitat or habitat contiguous with suitable habitat is present in the vicinity of the Project. Project surveys were not necessary to document species presence in these counties. ^b Suitable foraging and potential roost habitat is present within and surrounding the Project area; however, according to USFWS and MNDNR, there are no known occupied roost trees or hibernacula within 150 feet or 0.25 mile, respectively, of the Project area. ^c Enbridge conducted surveys along the Line 4 corridor, and no bald eagle nests were identified within 660 feet of the Project. ^d None of the waterbodies crossed by the Project are designated as state-listed trout streams; however, the FdL Band identified Stoney Brook as trout streams and cold-water fisheries. Stoney Brook is listed as the PWI Cool/Warm Water Fisheries.			

General Project-based conservation and mitigation measures will minimize potential impacts on protected species and their habitats. These measures are described in the Project’s Environmental Protection Plan (“EPP”) (see Attachment A of the CECP). Enbridge will also implement the measures identified in its Invasive and Noxious Species Management Plan to manage terrestrial and aquatic invasive and noxious species, included as Appendix B of the EPP.

Species- and habitat-specific conservation measures will also be implemented, as appropriate, and as further described below.

2.0 FEDERALLY LISTED SPECIES

Three federally listed species may be affected by the Project: gray wolf, Canada lynx, and northern long-eared bat. The Bureau of Indian Affairs (“BIA”), the lead federal agency for the Project, developed an Environmental Assessment (“EA”) for the Project. The EA assessed potential impacts and described mitigation measures that Enbridge will implement to avoid and minimize impacts on these federally listed species. Based on the BIA’s analysis, the BIA issued a Finding of No Significant Impact (“FONSI”) on January 7, 2020. The BIA FONSI concurrence is included in Attachment I of the CECP. The conservation measures that Enbridge will implement per the EA are provided below by species.

2.1 GRAY WOLF

To mitigate potential impacts, all work would stop if a wolf is encountered or reported within one mile of the Project Area until the individual leaves the area. In addition, Enbridge will coordinate with the FdL to avoid and minimize potential negative impacts on the gray wolf on the FdL Reservation. Any wolf sightings by a contractor or Environmental Inspector (“EI”) will be immediately reported to the USFWS and FdL.

2.2 CANADA LYNX

If a Canada lynx is sighted by Enbridge’s contractor or EI within one mile of the construction workspace during construction, or if the USFWS notifies Enbridge of a Canada lynx sighting within one mile of the construction workspace, construction activities will cease until the individual(s) have left the area. Any lynx sightings by a contractor or EI will be immediately reported to the USFWS and FdL.

2.3 NORTHERN LONG-EARED BAT

Per the USFWS’ Final 4(d) Rule for the northern long-eared bat,² Enbridge will avoid clearing known maternity roost trees and trees within 150 feet of known maternity roost trees from June 1 to July 31. Where clearing may be necessary for modification or development of access roads, Enbridge will adhere to these same timing restrictions. Enbridge will also not remove trees within 0.25 mile of a known hibernacula at any time of the year or conduct any Project activities within known hibernacula.

3.0 BALD EAGLE AND BALD EAGLE NESTS

Enbridge will comply with the Bald and Golden Eagle Protection Act; however, Enbridge conducted surveys along the Line 4 corridor, and no bald eagle nests were identified within 660 feet of the Project.

4.0 STATE-LISTED SPECIES AND SPECIES OF SPECIAL CONCERN

In a letter provided on December 18, 2020, MDNR concurred that negative impacts to pale sedge (*Carex pallescens*) are not anticipated (ERDB #20190305). Consultations with MDNR for state-listed plant species is complete. Consultations with MDNR regarding state-listed animal species is ongoing. The MDNR e-mail correspondence is included within Attachment A.

5.0 SENSITIVE HABITATS

Enbridge is seeking Federal Approvals Exemption for Utilities under the Wetland Conservation Act for the Project. However, this exemption does not apply to public waters,³ to calcareous fens as identified by the commissioner, to activities that affect any of the special considerations

² USFWS. 2016. Endangered and Threatened Wildlife and Plants; Listing the Northern Long-Eared Bat with a Rule Under Section 4(d) of the Act; Final Rule. 81 Federal Register 1900 (14 January 2016).

³ Enbridge will apply for a License to Cross Public Waters and a Work in Public Waters Permit (for public waters located on private lands) with the MDNR.

identified in Minnesota Administrative Rule (“MN Rule”) Chapter 8420.0515, or to other circumstances identified in MN Rule Chapter 8420.0420, subpart 1, item B.

5.1 TROUT STREAMS AND COOL/WARM-WATER FISHERIES

None of the waterbodies crossed by the Project are State-designated trout streams at the crossing locations; however, information provided by the FdL lists one waterbody as supporting trout (see Table 5.1-1).

Waterbody Name	Approximate Milepost	County	Proposed Crossing Method	Comments
Stoney Brook (Drainage Ditch)	1062.4	Carlton	Wet Open Cut	Based on surveys conducted by the Band, Stoney Brook is a cold water fishery that is likely to support trout species. Listed on the PWI Cool/Warm Water Fisheries.

The MDNR’s License to Cross Public Waters and FdL Permits may include additional conditions for these resources. The MDNR’s issued permits and Licenses that contain the conservation and mitigation measures for these resources will be included in Attachment I of the CECP.

5.2 CALCAREOUS FENS

The Project will not cross Calcareous Fens.

5.3 NATIVE PLANT COMMUNITIES

Enbridge will minimize impacts on native plant communities by co-locating the Project with Enbridge’s existing pipeline corridor and reducing the width of the construction workspace in wetland areas. In addition, Enbridge will develop a Compensatory Wetland Mitigation Plan in consultation with the USACE, and the FdL.

Enbridge will also use the Minnesota Board of Water & Soils native seed mixes to restore the construction workspace and temporary access roads as described in Section 7.0 and Appendix C of the EPP and will manage invasive and noxious species as described in the Invasive and Noxious Species Management Plan (Appendix B of the EPP).

5.4 WILD RICE WATERS

Wild rice is an annual emergent grass that re-establishes itself from seed each spring. Enbridge used desktop and field survey methods to identify waters that support natural wild rice stands that could potentially be affected by Project construction. Enbridge accessed the Minnesota Pollution Control Agency (“MPCA”) database titled MPCA Draft List of Wild Rice Waters (MPCA, 2016).⁴ The MPCA states that this database includes waterbodies that the MDNR or other stakeholders have identified as supporting natural wild rice stands. Enbridge also accessed the MDNR Wild

⁴ MPCA. 2016. Draft database of wild rice waters, wq-s6-43x. <https://www.pca.state.mn.us/sites/default/files/wq-s6-43x.xlsx>. November 2016.

ENBRIDGE ENERGY, LIMITED PARTNERSHIP
RARE AND SENSITIVE ENVIRONMENTAL RESOURCE PLAN
DECEMBER 2020 (REV 2)

Rice waters list (MDNR, 2020)⁵ and the 2007 Harvester's survey (Norrgard et al., 2007).⁶ Enbridge subsequently conducted wild rice surveys in 2018 and 2019 at Project waterbody crossings and water appropriation sources near the proposed appropriation point. Enbridge used desktop methods to identify downstream waters that are known to support natural wild rice stands. No direct Project-related impacts to wild rice waters are anticipated.

Enbridge will abide by stream crossing methods and timing restrictions in accordance with permit conditions from the State and the FdL.

5.5 TRIBAL SPECIES OF CONCERN

Enbridge conducted biological surveys along the Project's Designated Route within the FdL in 2018 and 2019 for tribal species of concern. Enbridge received the FdL's list of tribal species of concern from Rick Gitar, Water Regulatory Specialist and Tribal Inspector with the FdL. Enbridge documented six of these species within the Enbridge survey corridor in the FdL:

- Miinagaawanzh or blueberry (*Vaccinium* spp.);
- Wigwaasi-mitig or white birch (*Betula papyrifera*);
- Aagimaak or black ash (*Fraxinus nigra*);
- Giizhik or white cedar (*Thuja occidentalis*);
- Sugar maple (*Acer saccharum*) and
- Manoomin or wild rice (*Zizania palustris*).

FdL requested notification of the locations of all tribal species of concern that Enbridge documented. Enbridge has provided these locations to the FdL so that the tribe can harvest or transplant them to a location outside of the Project construction workspace prior to construction.

Additional conservation measures related to FdL tribal species of concern will be described in an Addendum to this Plan and/or in FdL's issued permits in Attachment I of the CECP.

6.0 TRAINING AND COMPLIANCE

As described in Enbridge's Environmental Monitor Control Plan ("EMCP"), Enbridge will train Project staff and contracted personnel to identify rare and sensitive environmental resources and to implement the measures outlined above, in addition to specific permit conditions. EIs and Independent (third-party) Environmental Monitors will be present to ensure compliance with this Plan as described in detail in the EMCP.

7.0 AGENCY CONSULTATIONS

Enbridge has consulted with the USFWS, MDNR, and FdL throughout Project planning. Summaries of consultations with the USFWS, MDNR, FdL are provided in Attachment A.

⁵ MDNR. 2020. Wild Rice Lakes Identified by DNR Wildlife. Available online at https://resources.gisdata.mn.gov/pub/qdrs/data/pub/us_mn_state_dnr/biota_wild_rice_lakes_dnr_wld/metadata/metadata.html.

⁶ Norrgard, R., Drotts, G., Drewes, A., and Dietz, N. 2007. Minnesota Natural Wild Rice Harvester Survey: A Study of Harvesters' Activities and Opinions. Management Section of Wildlife, Division of Fish and Wildlife, Minnesota Department of Natural Resources, St. Paul, MN.

**Attachment A
Summary of Agency Consultations**

ENBRIDGE ENERGY, LIMITED PARTNERSHIP
RARE AND SENSITIVE ENVIRONMENTAL RESOURCE PROCEDURES
ATTACHMENT A

Table A-1 Fond du Lac Line 4 Consultation Summary

Name of Agency	Type of Contact
Federal	
United States Fish and Wildlife Service - Ecological Services, Minneapolis Office	Letter
Bureau of Indian Affairs	Meeting
Tribal	
Fond du Lac Band	Meeting
Tribal Historic Preservation Office (THPO)	Meeting
State	
Minnesota Department of Natural Resources (MNDNR) - Division of Water and Ecological Resources	Letter
MNDNR - Division of Lands and Minerals	Letter
MNDNR - Natural Heritage Information System	Letter
Office of the Governor	Letter
Local	
Wetland Conservation Act (WCA) Local Government Unit (LGU) – St. Louis County	Letter
WCA LGU - Carlton County	Letter

From: Joyal, Lisa (DNR) <lisa.joyal@state.mn.us>
Sent: Friday, December 18, 2020 11:13 AM
To: Julianne Motis
Cc: Doneen, Randall (DNR); Kelley-Dobie, Cheryl (DNR); Arndt, Pamela (DNR); Marrier, Amy (DNR); Christine Essick; Bobby Hahn; Henning-Randa, Bridget (DNR)
Subject: [External] Enbridge L4 Relocation - Concurrence Request - DNR Response

EXTERNAL: PLEASE PROCEED WITH CAUTION.

This e-mail has originated from outside of the organization. Do not respond, click on links or open attachments unless you recognize the sender or know the content is safe.

Hi Julianne,

I have reviewed the attached assessment, and concur with your assessment that negative impacts to pale sedge (*Carex pallescens*) are not anticipated.

The reference number for this correspondence is ERDB #20190305.

Thank you for notifying us of this project, and for the opportunity to provide comments.

Sincerely,

Lisa Joyal

~~~~~  
**Lisa Joyal**  
Endangered Species Review Coordinator | EWR  
NHIS Data Distribution Coordinator | EWR

**Minnesota Department of Natural Resources**  
500 Lafayette Road, Box 25  
St. Paul, MN 55155  
Phone: 651-259-5109  
Email: [lisa.joyal@state.mn.us](mailto:lisa.joyal@state.mn.us)  
[mndnr.gov/eco](http://mndnr.gov/eco)

**From:** Julianne Motis [mailto:Julianne.Motis@enbridge.com]  
**Sent:** Monday, December 14, 2020 3:27 PM  
**To:** Joyal, Lisa (DNR) <lisa.joyal@state.mn.us>  
**Cc:** Doneen, Randall (DNR) <randall.doneen@state.mn.us>; Kelley-Dobie, Cheryl (DNR) <cheryl.kelley-dobie@state.mn.us>; Arndt, Pamela (DNR) <pamela.arndt@state.mn.us>; Marrier, Amy (DNR) <amy.marrier@state.mn.us>; Christine Essick <Christine.Essick@erm.com>; Bobby Hahn <bobby.hahn@enbridge.com>; Henning-Randa, Bridget (DNR) <Bridget.Henning-Randa@state.mn.us>  
**Subject:** L4 Relocation within FDL Reservation - no effect concurrence request  
**Importance:** High

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Good Afternoon Lisa:

Enbridge Energy, Limited Partnership (“Enbridge”) submits this Pale Sedge (Carex pallescens) No Effect Concurrence Request (“Concurrence Request”) to the Minnesota Department of Natural Resources (“MDNR”) for its Line 4 Relocation Project (“L4R” or “Project”). Please see attached.

As you are aware, Enbridge is proposing to relocate a segment of the existing Line 4 pipeline within the boundaries of the Fond du Lac (“FDL”) reservation in St. Louis and Carlton Counties, Minnesota. The relocation segment is approximately 10 miles in length and is fully within the boundaries of the FDL reservation. Enbridge’s proposed Line 4 Relocation Project will occur in the same corridor as the Line 3 Replacement Project (“L3R Project”), which has previously been sent to you for review. To minimize disturbance, Enbridge is proposing to construct the Line 4 Relocation project in conjunction with the Line 3 Replacement project this winter. We would appreciate your response as soon as possible.

Please contact me with any questions.

**Julianne Motis**  
Senior Environmental Advisor

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