

Decommissioning Violence in the Great Lakes
How Line 5 Co-opts the Public Good and Threatens Anishinaabe Futurity

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April 18, 2023

Abstract

Using theoretical frameworks from Indigenous scholars Dr. Anne Spice and Dr. Kyle Whyte, this paper seeks to demonstrate how Enbridge's Line 5 dual oil pipeline and proposed tunnel project are forms of invasive infrastructure that enact environmental violence against Anishinaabe peoples, particularly in Michigan, by threatening their collective continuance. This environmental violence is justified and obfuscated by Enbridge and sanctioned by the settler colonial states of Canada and the United States by framing fossil fuel infrastructure as a critical public good that serves the national security, economic growth, and energy independence of the nation states. Despite this settler capitalist framing, the environmental violence of Line 5 and other fossil fuel infrastructure against tribal nations and Indigenous peoples occurs at each stage in the lifecycle of fossil fuel infrastructure, from siting to decommissioning. Situated within a long history of Indigenous resistance to invasive infrastructure, Anishinaabe tribal nations and communities have been asserting their right to a self-determined future free of oil snaking through the land and waters of Turtle Island. In collaboration with the Anishinaabek Caucus of the Democratic Party, the authors of this paper conducted several interviews at the 2022 Water is Life Festival to create a short documentary-style video centering visions for water protection and energy futures as told by Anishnaabe persons. Although not representative of the diverse tribes and peoples of the Anishinaabe, these voices illustrate some important perspectives, lived experiences, philosophies and cosmologies of the Anishinaabe. The visions for the future they shared align with concepts of collective continuance and assert a futurity that is sustainable for all—humans and non-humans, alike.

Introduction

Fossil fuel corporations, in conjunction with the settler colonial nation states of the U.S. and Canada, leverage the rhetorical concept of a public good to justify the extraction of oil and the construction of oil infrastructure. However, fossil fuel corporations, like Enbridge, cause tangible harm that cannot be justified, harm that extends across the extraction and transportation of oil, as well as the construction, maintenance, and decommissioning of oil infrastructure. This violence makes oil infrastructure a form of settler invasion, rather than a public good. The colonial conception of a public good intentionally obfuscates the environmental violence it generates.

Indigenous people and collective continuance are disproportionately harmed by the environmental violence of invasive fossil fuel infrastructure. A prime example is seen in the Line 5 dual oil pipeline and proposed tunnel project located in the Straits of Mackinac, a place of deep spiritual, social, economic, ancestral, and cultural significance for Anishinaabe (Neshnabe)¹ people in particular. It is also seen in the Enbridge-owned and operated network of oil infrastructure crisscrossing the lands and waters of Michigan, from which the largest inland oil spill of the 21st century already occurred with negligible reparations provided to nearby affected tribes. These forms of invasive infrastructure are sanctioned and constructed without the consent of nearby Indigenous communities and—in disrupting critical kinship ties—are wholly incompatible with Indigenous conceptions of energy infrastructure and water protection in Michigan.

¹ Some scholars, see Whyte 2018, have referenced the different spelling and pronunciation for different Anishinaabe groups. We acknowledge that too, and will use, from here on out, Anishinaabe.

In and around what are now called the Straits of Mackinac in Michigan, Anishinaabe activists and leaders are resisting invasive infrastructure by leveraging treaty rights and engaging in activism to make real to the public the harm that Enbridge has done and will continue to do to the earth's climate and air, Michigan's land and waterways, Indigenous lifeways, Indigenous lives, and the future.

Rather than reinforcing a colonial rhetorical public good, the visions of an energy future shared by Anishinaabe activists and thought leaders promotes the teaching of seven generations. This conception of relational stewardship across time informs the generation of an Indigenous sustainability which is sustainable for all. The energy future envisioned and enacted by Enbridge and other invasive energy extraction systems is unsustainable because it is irreconcilable with Indigenous visions of sustainable energy futures.

“Public good” oil infrastructure creates environmental violence

“Public good” justifications for oil infrastructure

In strict economic terms, the definition of a public good is a good that is non-excludable and non-rivalrous.² More broadly, a public good is a commodity or service that is available to all members of a society, frequently administered by governments, and paid for collectively through taxation. In settler colonial nations, fossil fuel infrastructure has been positioned and maintained as a public good via the concept of “critical infrastructure,” the invocation of eminent domain or expropriation, and the inaccurate attribution of economic growth.

As settler colonial nation states, the United States and Canada justify fossil fuel infrastructure as a public good by claiming it as a form of “critical infrastructure.” The U.S. government associates the term with transportation and energy, as well as sectors like water and wastewater services, communications, defense, critical manufacturing, dams, emergency services, and financial services.³ Infrastructure is defined as critical for those “sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, national economic security, national public health or safety, or any combination thereof.”⁴ Similarly, the Canadian legislature defines critical infrastructure as “processes, systems, facilities, technologies, networks, assets and services essential to the health, safety, security or economic well-being of Canadians and the effective functioning of government.”⁵ This stands in contrast to an Indigenous understanding of critical infrastructure which acknowledges the interconnectedness of human and other-than-human beings that sustain Indigenous life in mutual relation.⁶ The settler colonial

² Mark Walker, “Public Goods: Examples,” 2014,

http://www.u.arizona.edu/~mwalker/11_PublicGoods/Public%20Goods%20Examples.pdf.

³ USAFacts, “What Is Infrastructure and What Does the Government Have to Do with It?,” USAFacts, 2021, <https://usafacts.org/articles/transportation-infrastructure-government-spending-explained/>.

⁴ Cybersecurity and Infrastructure Security Agency, “Critical Infrastructure Sectors,” Government, Cybersecurity and Infrastructure Security Agency, 2019,

<https://www.cisa.gov/topics/critical-infrastructure-security-and-resilience/critical-infrastructure-sectors>.

⁵ Public Safety Canada, “Canada’s Critical Infrastructure,” Public Safety Canada, 2020,

<https://www.publicsafety.gc.ca/ent/ntnl-scrtr/crtcl-nfrstrctr/cci-iec-en.aspx>.

⁶ Anne Spice, “Fighting Invasive Infrastructures,” *Environment and Society* 9, no. 1 (2018): 40–56, <https://doi.org/10.3167/ares.2018.090104>.

definitions of critical infrastructure are reflective of the settler mindset that disconnects nature from everyday life and, instead, restricts nature to “rural areas” and national parks.

By justifying fossil fuel infrastructure as being a rhetorical public good, nation states and corporations obfuscate the environmental violence created in the development, deployment, and aftermath of fossil fuel infrastructure. Tlingit scholar, Anne Spice (Kwanlin Dun First Nation), explains that the government utilizes this language to transform “industry projects into crucial matters of national interest.”⁷ Spice asserts this is a form of settler invasion and suggests the term “invasive infrastructure” or infrastructure is “rooted in a settler future” that enables the “material transit of an empire.” This invasive infrastructure “must be normalized and maintained to assert settler jurisdiction towards nation-building projects.” Due to the political and economic ties of the two settler colonial nation states, Canada and the United States can collude in justifying cross-border fossil fuel infrastructure and other extractive, wealth-building forms of built infrastructure to assert their nation states. Spice explains, “because the discourse of critical infrastructure is tightly linked to one of ‘national security,’ as well as ‘economic well-being,’ there is discursive and legal space open for an understanding of oil and gas pipelines as critical infrastructure because of the economic reliance of both the United States and Canada on revenue from fossil fuels.”⁸ One of the key legal methods used is land acquisition via eminent domain in the United States or expropriation in Canada. Both laws allow the government to take private property for “public use” as long as there is “just compensation” to the landowner. When invoked for fossil fuel infrastructure, both laws reflect the settler colonial understandings of the public good.

Fossil fuels are further framed as a public good for the economic growth and job creation attributed to the expansion and production. However, this economic growth is falsely attributed to the fossil fuel industry which receives massive subsidies that keep oil prices artificially low and by the nature of the colonial economy does not consider externalities of the industry, such as environmental, climate, and health impacts. The fossil fuel industry in the US receives approximately \$20 billion annually in direct subsidies and tax benefits, with 80% going to petroleum and natural gas and 20% to coal.⁹ The purpose of fossil fuel subsidies is to lower the production costs and ensure a stable supply of domestically extracted energy sources. Subsidies are intended to encourage investment in the fossil fuel industry and make these fuels more affordable and competitive in the marketplace. They are often justified as a way to protect jobs in the industry and promote the goal of “energy independence” or the vague goal that the country exports more energy than it consumes. Moreover, this economic growth and job creation also requires an unsustainable increase in the flow of fossil fuels, a finite resource, to maintain it.

Environmental violence of oil infrastructure

Oil infrastructure often presents as environmental violence to nearby Indigenous communities, beginning with its threat to or outright violation of the rights enshrined and asserted in the United Nations

⁷ Spice.

⁸ Spice, “Fighting Invasive Infrastructures.”

⁹ Sarah Lozanova, “The Fossil Fuel Sector, Subsidies and Job Creation,” 2021, <https://www.triplepundit.com/story/2021/fossil-fuel-jobs/721011>.

Declaration on the Rights of Indigenous Peoples (UNDRIP).¹⁰ Although not a legally-binding document,¹¹ UNDRIP carries moral force as an internationally recognized and endorsed assertion of rights. The adoption of UNDRIP by nation states is intended to show commitment to adopting laws and policies that reflect the ideals enshrined within them.¹² In countries that failed to adopt UNDRIP in 2007 when it was formally issued, including the United States and Canada, the threat of environmental violence that violates UNDRIP is all the more severe. The United States endorsed UNDRIP in 2010, yet, a decade later, pressure continues from the international community to address a long history of human rights abuses in the United States, including violations against the rights of Indigenous peoples.¹³ In the case of oil infrastructure, environmental violence occurs across the project lifecycle, from siting to construction to maintenance to decommissioning. The manifestations of environmental violence spurred by oil and gas span political, social, economic, and environmental geographies. These manifestations of environmental violence are numerous and various, occurring both locally and globally. Due to the precarity created by settler colonialism, Indigenous peoples are disproportionately harmed by invasive oil infrastructure.

Oil infrastructure violates Indigenous rights when it is constructed or protected by settler colonial nation states without the express free, prior and informed consent (FPIC)¹⁴ of Indigenous nations and communities (UNDRIP Article 19). To ignore the right to FPIC is to also ignore the right of Indigenous peoples to self-determination, or the right to “freely determine their political status and freely pursue their economic, social, and cultural development” (UNDRIP Article 3), including the “right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development” (UNDRIP Article 20, Section 1). Making such dramatic changes to the landscape as oil infrastructure demands, which threaten the health of the land, waters, and non-human counterparts of the surrounding ecosystem, poses particular threat to other rights asserted in UNDRIP. These rights include those to protect and maintain cultural practices, well-being, and spirituality (UNDRIP Articles 8, 11, 24, and 34), as well as rights to occupy, steward, maintain a spiritual relationship with, and protect “traditionally owned or occupied lands, territories, waters and coastal seas” (UNDRIP Articles 10, 25, 26, 27, and 29). As a form of environmental violence, oil infrastructure already violates Indigenous rights to be protected from harm and discrimination (UNDRIP Article 7). This violation is made all the worse by the uptick in sexual violence against Indigenous people of marginalized genders and children that follows construction camps associated with oil infrastructure, a devastating violation of the right of special protection from violence asserted for Indigenous women, Two-Spirit people, non-binary people, transgender people, and children (UNDRIP Article 22, Section 2).¹⁵

¹⁰ United Nations Permanent Forum on Indigenous Issues, “United Nations Declaration on the Rights of Indigenous Peoples,” 61/295 § (2007), un.org/law/avl.

¹¹ Renata Sivacolundhu, “Frequently Asked Questions: Declaration on the Rights of Indigenous Peoples” (United Nations Permanent Forum on Indigenous Issues, 2007), <https://www.un.org/esa/socdev/unpfii/documents/FAQsindigenousdeclaration.pdf>.

¹² Sivacolundhu.

¹³ Working Group on the Universal Periodic Review, “Summary of Stakeholders’ Submissions on the United States of America,” Universal Periodic Review (United Nations Human Rights Council, 2020), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/062/28/PDF/G2006228.pdf?OpenElement>.

¹⁴ Food and Agriculture Organization of the United Nations, “Free, Prior and Informed Consent | Indigenous Peoples,” Government (Rome, Italy: Food and Agriculture Organization of the United Nations, 2015), <https://www.fao.org/indigenous-peoples/our-pillars/fpic/en/>.

¹⁵ United Nations Permanent Forum on Indigenous Issues, United Nations Declaration on the Rights of Indigenous Peoples.

Defined against Anishnaabe intellectual traditions, settler colonial environmental violence at its core is the disruption of Indigenous eco-social relations—the kinship relationships Indigenous peoples have with humans, non-humans (e.g., plants, animals, fish, insects, rocks, water, forests), and particular places.¹⁶ This disruption is violent, because to undermine kinship relationships is to undermine collective continuance, “a society’s capacity to self-determine how to adapt to change in ways that avoid reasonably preventable harms.”¹⁷ Collective continuance is enacted by living according to principles of interdependence, systems of responsibility, and migration—principles that all rely on strong kinship relationships.

Living according to a principle of interdependence is to act with knowledge of the ways in which human societies are an integral part of nature, being “entangled in relationships” in and habituated to particular ecosystems in ways that emphasize “reciprocity or mutuality between humans and the environment” and the fact “that nonhumans have their own agency, spirituality, knowledge, and intelligence.”¹⁸ One cannot live according to interdependence without an intimate and ongoing awareness of and maintenance of kinship relationships.

Living according to a principle of systems of responsibilities is to act in accordance with the ways reciprocal expectations of relationships—“the moral quality of being accountable for returning what one has been given”¹⁹—are systematized, meaning that “environmental identities and responsibilities are coordinated with one another through complex social, cultural, economic and political institutions” in ways that center reciprocity.²⁰ One cannot uphold their responsibilities to return what has been given in complex systems of coordination with others without an awareness of and maintenance of kinship relationships.

Living according to a principle of migration is to act with the understanding that “relationships of interdependence and systems of responsibility...arise from contexts of constant change and transformation,” so they must shift in accordance with the environment so as “not to sacrifice the possibility of continuity.”²¹ One cannot adjust to the ways interdependence and responsibilities shift with time and space in ways that enable sustainability without an awareness of and maintenance of kinship relationships. In the language of UNDRIP, to disrupt kinship relationships is to violate rights to practice sovereignty, culture, land stewardship, and well-being.²² Disrupting kinship relationships is to precipitate environmental violence.

¹⁶ Kyle Powys Whyte, “Settler Colonialism, Ecology, and Environmental Injustice,” *Environment and Society* 9, no. 1 (2018): 125–44, <https://doi.org/10.3167/ares.2018.090109>.

¹⁷ Whyte, 131.

¹⁸ Whyte, 127–28.

¹⁹ Kyle Powys Whyte, “Critical Investigations of Resilience: A Brief Introduction to Indigenous Environmental Studies & Sciences,” *Daedalus* 147, no. 2 (2018): 136–47, https://doi.org/10.1162/DAED_a_00497.

²⁰ Whyte, “Settler Colonialism, Ecology, and Environmental Injustice,” 127.

²¹ Whyte, 129.

²² United Nations Permanent Forum on Indigenous Issues, United Nations Declaration on the Rights of Indigenous Peoples.

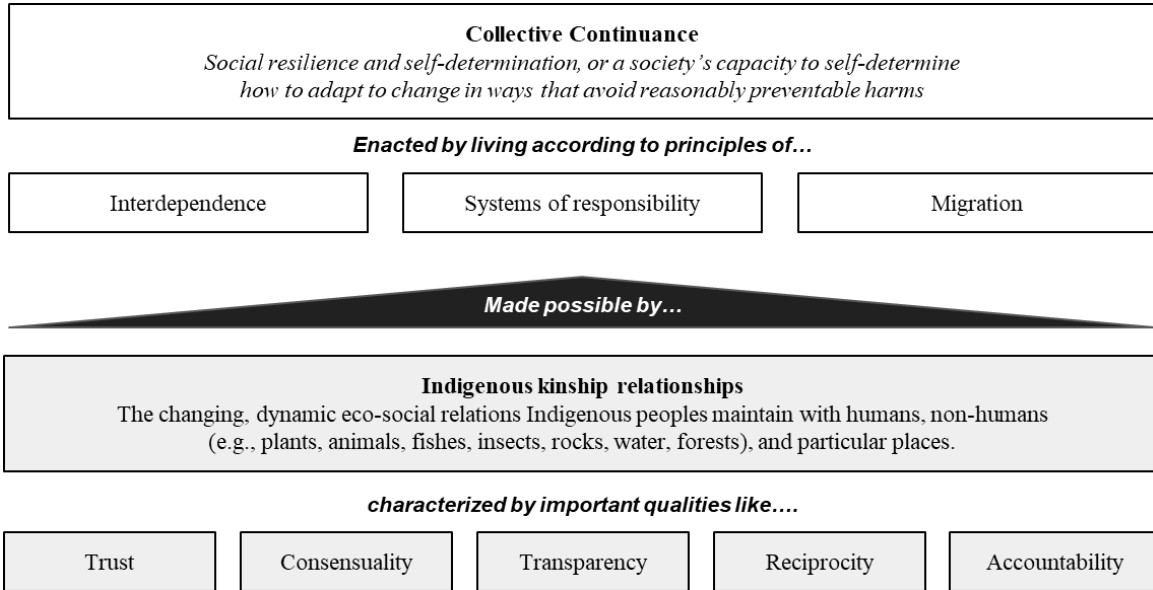


Figure 1. Derived from “Settler Colonialism, Ecology, and Environmental Injustice” and “Anti-Colonial Action through Kinship.”²³

Simply positioning oneself against fossil fuel infrastructure, however, does not mean there is no violation of these responsibilities and kinship relationships. In fact, historically, white environmentalists have perpetuated violence against Indigenous peoples by remaining loyal to the settler colonial nation state in their pursuit of sustainability. This Eurocentric environmentalism stems from Enlightenment philosophy²⁴ and colonial sciences.²⁵ Emerging from these philosophies, white environmentalism is situated within a long history of an imagined pristine landscape separate from humans that was only made possible through land displacement, subjugation, and erasure of Indigenous peoples. This vision abstracted land into isolated fortresses where ‘good and civilized’ men, afflicted by the coldly industrializing world, could find solace in beautiful, untouched purity.

The lives of people in dominant society, within the settler mindset, are lived outside of nature because nature is what was spared and turned into a National Park to be patronized. Over the 20th century, ‘nature’ became even more obscured due to rapid urbanization, functional railroads, and the automobile. This division of nature and culture meant that anywhere that was not conserved was primed to host a complicated network of oil and gas pipelines. Simultaneously, the creation of the National Parks solidified the idea that the federal government of the United States was the ultimate authority on ecological health and land protection with the authority to charge people for access to nature. Therefore, this paternalistic view of nature as something that needs saving—and is paid for with an admission fee—rather than a relationship that should be fostered contributes to how oil infrastructure is justified. When nature is

²³ Kyle Powys Whyte, “Indigenous Environmental Justice: Anti-Colonial Action through Kinship,” in *Environmental Justice* (Routledge, 2020), <https://www.taylorfrancis.com/chapters/edit/10.4324/9780429029585-23/indigenous-environmental-justice-kyle-whyte>.

²⁴ Gilbert F. LaFreniere, “Rousseau and the European Roots of Environmentalism,” *Environmental History Review* 14, no. 4 (1990): 41–72, <https://doi.org/10.2307/3984813>.

²⁵ Richard H. Grove, “Origins of Western Environmentalism,” *Scientific American* 267, no. 1 (1992): 42–47.

treated as a commodity that is only valuable if it has the potential to make money, fossil fuel infrastructure becomes justifiable if it can make enough money and provide ‘value’ to society—no matter what other relatives, both human and non-human, stand in the way of its implementation.

Infrastructure has been defined as “built networks that facilitate the flow of goods, people, or ideas and allow for their exchange over space.”²⁶ Fossil fuel infrastructure has been justified first by settler nation states and then by corporations as critical, being the underpinning of the economy and, therefore, society. As Spice writes, “the extraction of oil and gas is normalized, and the petro-economy invades Native lands in the name of the settler public, extending the net of economic relations reliant on oil and gas and making it harder and harder to imagine and live into relations outside of capitalism.” However, the first and most important infrastructure on which systems of society depend is the land itself. As Spice explains, for Indigenous communities, true critical infrastructure must include the complex interdependencies forged between humans and the ecosystem to which they are habituated, including “other-than-human relations.”²⁷ Spice writes, “when Indigenous land defenders point to ‘our critical infrastructures,’ they are pointing to another set of relations that sustains the collective life of Indigenous peoples: the human and non-human networks that have supported Indigenous polities on this continent for tens of thousands of years.”²⁸ Borrowing from the definition of collective continuance above, protection of true critical infrastructure—or place-based interdependence with the landscape—relies on systems of responsibility and migration. There is no public good justification available where built infrastructure—like oil pipelines—ignores interdependence with the surrounding environment and disrupts kinship relationships.

*"So because the oil and gas infrastructure was **never consented to by the communities that have to endure the pollution**, and the other negative impacts of those industries, the presence of the fossil fuel sector is always one that's marked by painful histories. Second, **the fossil fuel industry—they don't really collaborate with communities. They hire lawyers, they invest millions upon millions of dollars of resources in order to convince politicians, to fight legal battles, to force their industrial operations on communities.** And the reason why there are so many people of color and Indigenous people that live nearby the most polluting fossil fuel industries, including the transportation infrastructure like pipelines, is because the fossil fuel industry targeted those communities. [...] And so **the fossil fuel industry is often violent, it's often confrontational.**"*

*Kyle Whyte*²⁹

A central element of Anishinaabe kinship philosophies relates to time. Kinship and relationality do not only extend to those currently living, but to ancestors and descendants as well.³⁰ This cosmological

²⁶ Brian Larkin, “The Politics and Poetics of Infrastructure,” *Annual Review of Anthropology* 42, no. 1 (2013): 327–43, <https://doi.org/10.1146/annurev-anthro-092412-155522>.

²⁷ Spice, “Fighting Invasive Infrastructures.”

²⁸ Spice.

²⁹ Kyle Powys Whyte, Interview with Kyle Whyte on Line 5, Enbridge and Anishinaabe Futurity, interview by Erin Posas and Jessica Berger, 2022.

³⁰ Deborah McGregor, “Honoring Our Relations: An Anishinaabe Perspective On Environmental Justice,” in *Speaking for Ourselves: Environmental Justice in Canada*, by Julian Agyeman (Vancouver, BC: University of British Columbia Press, 2009), <https://bookshop.org/p/books/speaking-for-ourselves-environmental-justice-in-canada-julian-agyeman/9400680>.

grounding requires looking forward to the next seven generations. It articulates that one’s responsibility is not only with oneself and those around oneself, but also with those yet to be born. This commitment to responsibility for the future means those living today must do everything in their power to ensure that those who come after are sustained. This also means understanding that those that came before also had the responsibility to sustain those living now. What does the current world reveal about those that came before? What wisdom can be learned from them?³¹ This circular, rather than linear, conception of time weaves together past, present, and future and reinforces that “the whole of existence is made up of a web of interrelationships sustained by responsibilities.”³² Built infrastructure—like oil pipelines—that puts short term gains over long term collective continuance and ignores the legacy of care demonstrated by ancestors to kinship relationships is irreconcilable with Indigenous critical infrastructures.

Fossil fuel infrastructure is often inherently invasive, as it is erected without the consent of communities and in accordance with conceptions of a public good that are inherently incompatible with the philosophies, perspectives, knowledge, and cosmology that might have made consent possible. Fossil fuel infrastructure is not built in a way that recognizes interdependence with the land that it threatens. Fossil fuel infrastructure is not built according to the responsibility humans have to steward land and water, not as resources, but as relatives with their own rights and responsibilities to uphold. Fossil fuel infrastructure is not built in a way that enables adaptation to a shifting landscape, let alone a shifting climate, over time. It is not built with an orientation towards protecting those yet born and honoring those that have come before. As a settler colonial concept, a public good is not defined by its ability to maintain and support kinship relationships that are characterized by important qualities like “trust, consensuality, transparency, reciprocity, and accountability.”³³ Fossil fuel infrastructure, built without consent and out of touch with these principles, inhibits collective continuance. Invasive fossil fuel infrastructure creates environmental violence.

Environmental violence extends across the lifecycle of oil infrastructure, including the following stages:

Stage	Description
Siting	Determination of where oil infrastructure, including wells, refineries, and transportation pipelines will be placed. This process can include geological studies, site appraisals, permitting approvals, and environmental impact assessments.
Construction	Establishing and building oil infrastructure, including wells, refineries, petroleum terminals (storage facilities), and transportation pipelines.
Extraction*	Removing crude oil from the ground via deep drilling or separating bitumen from sand and clay with hot steam and water.
Refinement*	Removing impurities from crude oil or bitumen to convert them into products like fuel.

³¹ Nicole Bell, “Anishinaabe Bimaadiziwin: Living Spiritually with Respect, Relationship, Reciprocity, and Responsibility” (Leiden, The Netherlands: Brill, 2013), 89–107, <https://brill.com/view/book/edcoll/9789462092938/BP000007.xml>.

³² Glen Aikenhead and Herman Michell, “Indigenous Ways of Living in Nature,” in *Bridging Cultures: Indigenous and Scientific Ways of Knowing Nature*, 1st edition (Toronto: Pearson, 2010).

³³ Whyte, “Indigenous Environmental Justice.”

Transportation	Transporting crude oil, bitumen, or refined oil via pipeline, truck, or railway.
Maintenance	The process of conducting inspections, making repairs to equipment, and marking and communicating the location of infrastructure (e.g., pipelines) to prevent damage by other construction.
Abandonment	The decommission of wells, refineries, and pipelines, which can leave them in the landscape in a state of disrepair.

Table 1. High-level overview of the project lifecycle of oil infrastructure³⁴

**Excluded from this analysis, since this report is focused specifically on oil pipelines*

Siting

The siting of oil infrastructure is often completed without adhering to the right to FPIC of local Indigenous communities, a violation of sovereignty and self-determination. This continues a long legacy of economic exploitation and environmental racism, as the occupied and stolen lands of local Indigenous communities are targeted for extraction. When the Dakota Access Pipeline (DAPL) was originally proposed, it was planned to run through the Missouri River just north of Bismarck, North Dakota, a city that is nearly 90% white³⁵. However, after the U.S. Army Corps of Engineers (USACE) determined that the pipeline would threaten the safety of Bismarck’s drinking water and overall environmental health of the city, it was rerouted to cross the Missouri near the Standing Rock Sioux Reservation³⁶. Although the pipeline was ardently opposed by Standing Rock early on due to fear that it would contaminate their waters, the USACE dug their heels in, despite a clear willingness to reroute the pipeline away from Bismarck for similar reasons.³⁷ The USACE refusal to move DAPL despite Standing Rock’s concerns ignited some of the largest fossil fuel protests in the United States. The Standing Rock protests highlight how oil corporations violate and circumnavigate the fundamental rights of Indigenous peoples when siting oil pipelines and other extractive infrastructure. In Article 32, Section 2 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), it asserts that “[s]tates shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.”³⁸

*"What's really frustrating about that is when Tribes ask for further or even greater consultation. A lot of the burden is placed on the tribes. And it's really important to understand that historically tribes have lived in poverty. We don't have a lot of resources, we don't have a lot of capacity. And it's almost like we have this **overwhelming burden that we have to prove to the state to not take an action.**"*

³⁴ Andrew Turgeon and Elizabeth Morse, “Petroleum,” in *National Geographic*, 2023, <https://education.nationalgeographic.org/resource/petroleum>.

³⁵ United States Census Bureau, “U.S. Census Bureau QuickFacts: Bismarck City, North Dakota,” United States Census Bureau, 2021, <https://www.census.gov/quickfacts/fact/table/bismarckcitynorthdakota/PST045221>.

³⁶ Nick Estes, “Fighting for Our Lives: #NoDAPL in Historical Context,” *Wicazo Sa Review* 32, no. 2 (2017): 115–22, <https://doi.org/10.5749/wicazosareview.32.2.0115>.

³⁷ Estes.

³⁸ United Nations Permanent Forum on Indigenous Issues, United Nations Declaration on the Rights of Indigenous Peoples.

*It's like there's a presumption that the permit or the action will happen, and then the burden falls on the tribes to then create a cumulative body of evidence that can convince the state agency not to take the action. **It's really unfair because in true consultation, it should be the state and the federal agencies that are carrying that burden to prove to the tribes why something should proceed, not the other way around.** And that's really the major difference that I think exists between how tribes view consultation versus how state or federal agencies view it."*

Whitney Gravelle³⁹

Construction

Oil infrastructure construction presents specific and significant risks to local Indigenous communities in the form of increased sexual violence, a particularly virulent disruption of kinship ties. In addition to the contamination risks that pipeline construction near or on water poses, there is a well-documented social threat to Indigenous communities whenever a pipeline is under construction in proximity to tribal nations. When pipelines are under construction, they establish “man camps,” a term to describe the large, temporary lodging sites for pipeline workers. Given that the oil and gas industry as a whole is made up of only 15.7% women and the construction industry only 10.9%,⁴⁰ it is likely that there are even fewer women employed in oil pipeline construction specifically. Therefore aptly named, man camps bring together a workforce of mostly non-Native men that overwhelmingly have no connection to the land or communities where project sites are located.⁴¹ These camps can house over a thousand workers.⁴² Enticed by steady work and a hefty paycheck,⁴³ the workers’ temporary residence introduces a massive influx of gender-based violence in the area.

This issue exists within a larger epidemic endangering Indigenous people of marginalized genders and children. Missing and Murdered Indigenous Relatives (MMIR),⁴⁴ the movement in response to this troubling pattern, highlights the sexual violence perpetrated against Indigenous people of marginalized genders by non-Native people. Indigenous people are the only racial group in the United States to

³⁹ Whitney Gravelle, *Treaties, Indigenous Land and Resource Rights in the Great Lakes and Enbridge’s Line 5 Pipeline: Interview with Whitney Gravelle*, interview by Christen Corcoran, 2022, <https://www.globallandalliance.org/articles/treaties-indigenous-land-and-resource-rights-in-the-great-lakes-and-enbridge-line-5-pipeline-interview-with-whitney-gravelle>.

⁴⁰ U.S. Bureau of Labor Statistics, “Employed Persons by Detailed Industry, Sex, Race, and Hispanic or Latino Ethnicity,” *Census*, 2022, <https://www.bls.gov/cps/cpsaat18.htm>.

⁴¹ Women’s Earth Alliance and Native Youth Sexual Health Network, “Violence on the Land, Violence on Our Bodies: Building an Indigenous Response to Environmental Violence,” 2016.

⁴² Summer Blaze Aubrey, “Violence against the Earth Begets Violence against Women: An Analysis of the Correlation between Large Extraction Projects and Missing and Murdered Indigenous Women, and the Laws That Permit the Phenomenon through an International Human Rights Lens,” *Arizona Journal of Environmental Law and Policy* 10, no. 1 (2020): 34–67.

⁴³ Sarah Deer, “Relocation Revisited,” in *The Beginning and End of Rape: Confronting Sexual Violence in Native America* (Minneapolis, MN: University of Minnesota Press, 2015), <http://ebookcentral.proquest.com/lib/umichigan/detail.action?docID=4391837>.

⁴⁴ In this section, we will be discussing the movement that is most commonly known as MMIW, or Missing and Murdered Indigenous Women. It is vital to note that this is an issue of racialized, gendered violence. However, this also disproportionately impacts Two-Spirit, transgender and genderqueer individuals as well as children. For this reason, we will be referring to the movement as MMIR, or Missing and Murdered Indigenous Relatives.

experience more interracial sexual violence than intraracial sexual violence.⁴⁵ Contemporary studies show that Native women are 2.5x more likely than women of other races to experience sexual violence in their lifetime. However, this is a conservative estimate considering many do not end up reporting due to fears of retaliation and understandable distrust of the government.⁴⁶ Even for cases that are reported, only 65% actually get prosecuted.⁴⁷ In addition, despite also being at increased risk of sexual violence, there is hardly any data on Indigenous Two-Spirit, non-binary, genderqueer, or even transgender persons that exist within the gender binary.⁴⁸

At the core of the issue is settler colonial violence that undermines Indigenous sovereignty and governance. Although gender-based violence against Indigenous people has been a cornerstone of violence perpetrated by settlers, a series of laws⁴⁹ that undercut how Indigenous communities can respond to said violence has left survivors and tribal courts without a clear path to justice. Ultimately, the United States government forced tribal courts to assimilate to a system that relies on incarceration and financial restitution as a response to violent crimes and then subverted their jurisdiction to do even that.⁵⁰ Arguably the most devastating federal law that has widespread implications for preventing and prosecuting sexual assault against Indigenous persons is *Oliphant v. Suquamish*. This case determines that tribal courts have no jurisdiction over non-Native people for criminal offenses. They may only do so in conjunction with state or federal personnel.⁵¹ While the reinstatement of the Violence Against Women Act in 2010 did alter this so that tribal courts could prosecute criminal domestic violence cases against non-Natives, this does little to resolve all other kinds of violence done against Indigenous people of marginalized genders or children, including violence perpetuated by transient fossil fuel workers.⁵²

Increased sexual violence that accompanies the presence of oil infrastructure construction perpetuates a colonial legacy of violence against Indigenous peoples. Used as a tool to subjugate and suppress, gendered violence and human trafficking have always been linked to the theft and desecration of Indigenous land. María Lugones describes the impositions of development in the colonial process as “the

⁴⁵ *The Beginning and End of Rape; Professor Sarah Deer (Day 1)*, Presentation (Arizona State University, 2017), <https://vimeo.com/214715744>.

⁴⁶ Ashley Noel Mack and Tiara R. Na’puti, “‘Our Bodies Are Not Terra Nullius’: Building a Decolonial Feminist Resistance to Gendered Violence,” *Women’s Studies in Communication* 42, no. 3 (July 3, 2019): 347–70, <https://doi.org/10.1080/07491409.2019.1637803>.

⁴⁷ Women’s Earth Alliance and Native Youth Sexual Health Network, “Violence on the Land, Violence on Our Bodies: Building an Indigenous Response to Environmental Violence.”

⁴⁸ Mack and Na’puti, “‘Our Bodies Are Not Terra Nullius.’”

⁴⁹ Due to the Major Crimes Act (MCA), passed in 1885, rape and sexual assault are considered crimes that must be prosecuted by the federal government, despite how the survivor or the tribal government may wish to proceed. However, Indigenous nations in the United States still retain the authority over all crimes, including those listed in the MCA. Rather, this act instead limits tribal courts from responding in a way consistent with their own governance systems, and are instead required to work closely with federal agencies. In addition, the Indian Civil Rights Act of 1968 (ICRA) attempted to limit the abuses of tribal courts, despite many of those abuses stemming from forced assimilation into the United States legal system. In reality, the law was another method of undermining tribal authority. The ICRA places caps on sentencing lengths and fines on tribal courts that more closely reflect those of misdemeanors. (See following footnote by Deer (2015) for source)

⁵⁰ Sarah Deer, “At the Mercy of the State,” in *The Beginning and End of Rape: Confronting Sexual Violence in Native America* (Minneapolis, MN: University of Minnesota Press, 2015), <http://ebookcentral.proquest.com/lib/umichigan/detail.action?docID=4391837>.

⁵¹ Deer.

⁵² *The Beginning and End of Rape; Professor Sarah Deer (Day 1)*.

euphemistic mask of brutal access to people's bodies through unimaginable exploitation, violent violation, control of reproduction, and systematic terror."⁵³ Land dispossession and dispossession of bodily autonomy are intimately connected through assertions of power and dominance, making discussion of invasive oil infrastructure inherently one of environmental violence that disrupts the ways Indigenous people inhabit their land and maintain kinship relationships without fear of bodily harm.

"Maintenance" and response

As discussed earlier, part of collective continuance relies on migration, the acknowledgement that interdependent relationships and systems of responsibilities are dynamic and must shift with time and space in ways that enable sustainability. Oil pipelines inhibit this flexibility—they are difficult to change and already out of touch with the changing climate. To make matters worse, the idea that they are maintained in ways that secure safety, let alone flexibility, is a myth. Oil pipelines are buried underground or run underwater on the floor of water crossings. Their architected disappearance in the landscape makes their maintenance that much more difficult, as they are physically difficult to access for maintenance and regulation and psychologically distant from laypersons who are left to be ignorant of their proximity and risk. Evidence suggests that the maintenance of oil pipelines is hardly possible. Maintenance depends on regular monitoring, leak detection systems, and patchwork repairs to prevent corrosion of the pipes or events of overpressure in the pipes, which could lead to explosions.⁵⁴ According to the U.S. Department of Energy, corrosion and equipment failure have been the top events affecting both crude oil and product pipelines in the last 30 years in terms of annualized frequency.⁵⁵ A statistical analysis of pipelines in the U.S., Canada, Europe, and Brazil found that while external corrosion and material/construction are responsible for a significant number of pipeline failures, accidental or intentional human actions are the primary cause.⁵⁶ Being static forms of built infrastructure that are impossible to maintain in ways that protect the surrounding landscape, oil pipelines are inherently environmentally violent forms of invasive infrastructure.

If oil pipelines are difficult—arguably impossible—to maintain consistently, that means they inevitably leak. Contamination from leaks harms the land and kinship relationships on which collective continuance relies. A statistical analysis of pipeline spills between 2010 to 2017 found that over 90% of the pipeline accidents crossing water bodies had uncased pipelines, resulting in more than 2,100 gallons of fuel released into these water bodies in about 30% of cases. Spills affected surface water, groundwater, and municipal and private drinking water. More than half of spills in those seven years caused soil contamination, while 41% affected ecologically sensitive areas. While railway or trucking accidents are

⁵³ Maria Lugones, "Toward a Decolonial Feminism," *Hypatia* 25, no. 4 (2010): 742–59, <https://doi.org/10.1111/j.1527-2001.2010.01137.x>.

⁵⁴ Apache Pipeline Products, "The Importance of Proper Pipeline Maintenance," Commercial, Apache Pipeline Products, 2020, <https://www.apachepipe.com/news/proper-pipeline-maintenance/#:~:text=Proper%20pipeline%20maintenance%20involves%20maintaining,through%20regular%20inspections%20and%20repairs.>

⁵⁵ Cybersecurity, Energy Security, and Emergency Response, "Data Sources and National Comparisons: Energy Sector Risk Profile" (U.S. Department of Energy, 2021), <https://www.energy.gov/sites/default/files/2021-03/Data%20Sources%20and%20National%20Comparisons%20Energy%20Sector%20Risk%20Profile.pdf>.

⁵⁶ Sérgio B. Cunha, "Comparison and Analysis of Pipeline Failure Statistics" (2012 9th International Pipeline Conference, American Society of Mechanical Engineers Digital Collection, 2013), 521–30, <https://doi.org/10.1115/IPC2012-90186>.

reported within minutes, pipeline failures took hours to be discovered—an average of 9 hours for an accident to be identified and an average of over 5 hours for operators to respond. Of the fuel released by pipeline accidents in this time period, about 85% remained unrecovered.⁵⁷ Of course, these averages and percentages assume all pipeline spills were even found.

When there is an oil spill, the impacts of the contamination linger in both bodies and the land, both long past the initial exposure inflicted during immediate clean up efforts and as a result of ongoing exposure to toxins afterwards. For example, those who live close to or participate in the cleanup of a spill experience health effects that can last for years after, including issues related to mental health, cardiovascular and liver functions, reproductive health, immune system functions, or endocrine system functions.⁵⁸ The aftermath of the 2010 Deepwater Horizon oil spill in the Gulf of Mexico demonstrated a long list of adverse health effects, resulting from both the actual toxins—air pollutants like hydrocarbons, aerosol particles, particulate matter, ozone, sulfur oxides, carbon monoxide, and nitrogen oxides—and from the sociocultural, economic, and psychological stress of experiencing the spill. Apart from illnesses associated with the aerosolization of toxins, there was financial stress from loss of income, increased risk of domestic violence, disruption in livelihoods associated with the environment, and increased risks of harmful algal blooms and bacteria in the water.⁵⁹ While natural disasters can also create adverse health impacts on eco-social relations, oil spills create special prolonged acute stress on an individual and community level particularly because they are caused by humans—and therefore preventable. The longest term health impacts for the Deepwater Horizon oil spill were found to be mental health ones.⁶⁰

The untenability of pipelines poses particular harm to local Indigenous communities who live close to oil infrastructure and are disproportionately impacted. For example, in Canada, more than 50% of Indigenous communities in reserve areas are at high risk of pipeline spills.⁶¹ Pipeline expansion stands to increase health risk directly through ever increasing chemical toxins that bioaccumulate as well as through increased hazardous biotoxins. For example, elevated shellfish biotoxin levels were found in Tsleil-Waututh Nation traditional territory where crude oil is piped, creating a direct risk to the bodily

⁵⁷ Chiara Belvederesi, Megan S. Thompson, and Petr E. Komers, “Statistical Analysis of Environmental Consequences of Hazardous Liquid Pipeline Accidents,” *Heliyon* 4, no. 11 (2018): e00901, <https://doi.org/10.1016/j.heliyon.2018.e00901>.

⁵⁸ Blanca Laffon, Eduardo Pávaro, and Vanessa Valdiglesias, “Effects of Exposure to Oil Spills on Human Health: Updated Review,” *Journal of Toxicology and Environmental Health. Part B, Critical Reviews* 19, no. 3–4 (2016): 105–28, <https://doi.org/10.1080/10937404.2016.1168730>; Mark A. D’Andrea and G. Kesava Reddy, “The Development of Long-Term Adverse Health Effects in Oil Spill Cleanup Workers of the Deepwater Horizon Offshore Drilling Rig Disaster,” *Frontiers in Public Health* 6 (2018), <https://www.frontiersin.org/articles/10.3389/fpubh.2018.00117>.

⁵⁹ Maureen Lichtveld et al., “The Deepwater Horizon Oil Spill Through the Lens of Human Health and the Ecosystem,” *Current Environmental Health Reports* 3, no. 4 (2016): 370–78, <https://doi.org/10.1007/s40572-016-0119-7>; Ruth L. Eklund et al., “Oil Spills and Human Health: Contributions of the Gulf of Mexico Research Initiative,” *GeoHealth* 3, no. 12 (2019): 391–406, <https://doi.org/10.1029/2019GH000217>; Lawrence A. Palinkas, “A Conceptual Framework for Understanding the Mental Health Impacts of Oil Spills: Lessons from the Exxon Valdez Oil Spill,” *Psychiatry: Interpersonal and Biological Processes* 75, no. 3 (2012): 203–22, <https://doi.org/10.1521/psyc.2012.75.3.203>.

⁶⁰ Palinkas, “A Conceptual Framework for Understanding the Mental Health Impacts of Oil Spills”; Lichtveld et al., “The Deepwater Horizon Oil Spill Through the Lens of Human Health and the Ecosystem.”

⁶¹ Margot A. Hurlbert and Ranjan Datta, “When the Environment Is Destroyed, You’re Destroyed: Achieving Indigenous Led Pipeline Justice,” *Energy Research & Social Science* 91 (2022): 102711, <https://doi.org/10.1016/j.erss.2022.102711>.

health and food sovereignty of the community.⁶² Risks of hidden contamination mount ever higher based on features of the landscape in question. For example, in the Great Lakes, only 1% of the water leaves each year, meaning that pollutants stay put and become more concentrated as time goes on.⁶³ This risk of accumulated contamination is particularly virulent for Indigenous communities, who—being place-based and in reciprocal relationship with the land—bear the brunt of land remediation costs, labor, and health impacts long after official cleanup crews have packed up and gone home. They also bear the brunt of long-term, slow-moving health impacts that result from contamination that goes undiscovered in the land—such as in the cases of smaller dispersed spills that go undiscovered underground or oil and gas equipment that lay abandoned in the land.

Decommissioning

Even when oil infrastructure supposedly operates without major incident, it is liable to be a risk to the surrounding land and waters when it is abandoned in decommissioning, languishing as it does in disrepair without proper clean up. Similar to pipeline maintenance, the abandonment of pipelines is regulated by few rules at the federal or state level. Companies are not required to notify landowners of an abandoned pipeline running through their land, and they have every incentive to leave abandoned pipelines in the ground, given the expense, red tape, and—for pipelines laid before 1980—asbestos protection required to remove them.⁶⁴ Underwater pipelines have a similar fate. For example, of the pipelines decommissioned in the Gulf of Mexico since the 1960s, over 97% of them have been left on the seafloor, totaling a staggering 18,000 miles.⁶⁵ For inland pipelines, the public may take the scale of abandoned oil and gas wells as an indicator of regulation and environmental protection. The Department of Interior found over 130,000 documented orphaned wells in the U.S., which does not include the wells that were drilled prior to regulation in the mid-1900s. The EPA estimates that two thirds of the estimated 3 million abandoned oil and gas wells that remain in the land are old or poorly plugged.⁶⁶ Once built, oil infrastructure becomes a threat that is likely to outlast the time it was used, especially for Indigenous peoples disproportionately impacted by it.

Oil infrastructure is invasive, creating disproportionate environmental violence against Indigenous peoples. This manifests across the project lifecycle of oil pipelines—from siting that is done without free, prior and informed consent to construction that exacerbates gender-based violence to untenable maintenance and decommissioning that poisons people and their land.

⁶² Michael E. Jonasson et al., “Oil Pipelines and Food Sovereignty: Threat to Health Equity for Indigenous Communities,” *Journal of Public Health Policy* 40, no. 4 (2019): 504–17, <https://doi.org/10.1057/s41271-019-00186-1>.

⁶³ Safe Drinking Water Foundation, “The Great Lakes,” *Safe Drinking Water Foundation* (blog), 2022, <https://www.safewater.org/fact-sheets-1/2017/1/23/the-great-lakes>.

⁶⁴ Kate Wheeling, “Pipeline Firms Are Abandoning Oil and Gas Lines, Leaving Landowners to Deal With the Mess,” *Nexus Media News*, 2021, <https://nexusmedianews.com/landowners-abandoned-pipelines/>.

⁶⁵ Sarah Giltz, “Abandoned Oil Pipelines Pollute Our Ocean,” *Oceana USA*, December 13, 2021, <https://usa.oceana.org/blog/abandoned-oil-pipelines-pollute-our-ocean/>.

⁶⁶ Reuters, “U.S. Says More than Half of States Will Seek Oil Well Cleanup Funds,” *Reuters*, January 5, 2022, sec. Energy, <https://www.reuters.com/business/energy/us-says-more-than-half-states-will-seek-oil-well-cleanup-funds-2022-01-05/>.

Enbridge's Line 5 dual pipeline and proposed tunnel creates environmental violence

Line 5 in the Straits of Mackinac

The 10 km stretch of water that connects Lake Michigan with Lake Huron and separates lower Michigan with its upper peninsula is known as the Straits of Mackinac. It is at the heart of the Great Lakes, which make up over 20% of the world's freshwater supply. This area has historic and cultural significance to Anishinaabe and other Indigenous peoples of the Great Lakes. In fact, the Straits themselves are the site of the Anishinaabe creation story. As Whitney Gravelle of the Bay Mills Indian Community describes, "Mackinac actually comes from *Michilimackinac*, which means 'the place of the Great Turtle' [in Anishinaabemowin]." She emphasizes, "it's a place of spirituality."⁶⁷ However, this sacred place plays host to settler-colonial environmental violence that threatens Anishinaabe collective continuance, kinship relationships, lifeways, livelihoods, ecosystems, and the cultural heritage of the historical and contemporary stewards of the Great Lakes. Hidden below the surface, Enbridge's Line 5 snakes its way through the Straits.

Line 5 is connected to Enbridge's Lakehead system, which is one of the largest pipeline networks in the world, beginning in Superior, Wisconsin, crossing Michigan, and ending in Sarnia, Ontario.⁶⁸ Built in 1953, Line 5 spans Michigan at 645 miles long, and it turns 70 this year—20 years past its intended lifetime.⁶⁹ The part of Line 5 that crosses the Straits is made up of two 20-in pipelines that carry about 20 million gallons of crude oil each day. About a decade ago, University of Michigan Water Center researcher Dave Schwab demonstrated that the Straits of Mackinac would be the worst place in the Great Lakes for an oil spill. Due to the strength of the currents and the way they reverse direction every few days, the currents in the Straits have the power to rapidly spread an oil spill. Under certain weather conditions, a 10,000 barrel spill from Line 5 (the mid-size estimate, equivalent to 0.5% of what runs through the pipelines in a day) in the Straits could spread to cover over 1600km² of open water—an area over twice the size of New York City.⁷⁰ In April 2018, many Michiganders got a wake-up call to the danger of an oil spill when an anchor struck Line 5 in the Straits, leaving three gouges in the pipeline without any detection by Enbridge.⁷¹ Amidst the public outcry that ensued, the then-Governor Snyder (R) administration released a preliminary agreement with Enbridge in October 2018 to build a tunnel in the lakebed floor that would house a replacement Line 5 pipeline for up to 99 years, following completion of the tunnel.⁷² Said Enbridge in a statement, "The replacement of Line 5 inside a tunnel will protect one of the most important and vital natural resources in the world. Buried 100 feet below the lakebed, the

⁶⁷ *Water Is Life | Indigenous Lifeways Threatened by Enbridge's Line 5* (Mackinac, MI, 2022), <https://www.youtube.com/watch?v=OCW6fiNSXjs>.

⁶⁸ Jeff Alexander and Beth Wallace, "Sunken Hazard: Aging Oil Pipelines beneath the Straits of Mackinac an Ever-Present Threat to the Great Lakes," Analytical (Ann Arbor, MI, 2012), https://www.nwf.org/~media/PDFs/Regional/Great-Lakes/NWF_SunkenHazard.ashx.

⁶⁹ Department of Environment, Great Lakes, and Energy, "Overview of Line 5," Department of Environment, Great Lakes and Energy, 2020, 5, <https://www.michigan.gov/egle/about/featured/line5/overview>.

⁷⁰ David J. Schwab, "Statistical Analysis of Straits of Mackinac Line 5 Worst Case Spill Scenarios" (Michigan: Water Center and Graham Sustainability Institute - University of Michigan, 2016), <http://ippsr.msu.edu/sites/default/files/MAPPR/Mackinac-Line-5-Worst-Case-Spill-Scenarios.pdf>.

⁷¹ Clean Water Action, "Line 5: A Timeline of a Ticking Bomb," Clean Water Action, 2022, <https://cleanwater.org/line-5-timeline-ticking-bomb>.

⁷² Clean Water Action.

chances of a product release into the Straits are reduced to near zero.”⁷³ Of course, while touting the so-called merits of the tunnel agreement, there is little acknowledgement paid to the fact that the original Line 5 would remain in operation during the ten years it would take to build the tunnel—all while the rest of the world sets goals to transition away from fossil fuels.

Authorization Needed for the Tunnel Project

To gain the necessary permits required for construction of the proposed tunnel project, Enbridge would need authorization by the Mackinac Straits Corridor Authority (MSCA) and the Michigan Public Service Commission (MPSC), permit approvals by Michigan’s Department of Environment, Great Lakes, and Energy (EGLE), and permit approval by the U.S. Army Corps of Engineers (USACE).⁷⁴ At the time of writing this paper, the MSCA had approved the tunnel project—having been created expressly for that purpose—and EGLE had already approved Enbridge’s permits. However, the MPSC and USACE had not.

Judicial Challenges of Line 5 and the Tunnel Project

The continued operation of the pipeline and construction of the tunnel project also depend on outcomes of court rulings. Two court cases were filed by Michigan against Enbridge, and have since been escalated to federal court by Enbridge in an attempt to invoke concerns about energy security and U.S. - Canadian relations. While Governor Whitmer dropped one of the cases, Attorney General Nessel is appealing to have the second, returned to state court, since it was unduly interrupted far into state court proceedings.⁷⁵ AG Nessel’s case argues that the 1953 easement allowing Line 5’s operation is void and violates the public trust doctrine.⁷⁶ In the meantime, the Canadian government has been requesting a pause on the federal case while the U.S. and Canada continue treaty discussions. Given Canada’s interference in the regulation and approval of Line 5, “a coalition of 51 tribal and First Nations has submitted a report to the United Nations’ Human Rights Council (HRC) detailing why Canada should be made to abandon those efforts and listen to input from Indigenous

⁷³ Michael Kransz, “Gov. Snyder Finalizes Line 5 Tunnel Deal,” *MLive*, 2018, sec. Grand Rapids, <https://www.mlive.com/news/grand-rapids/2018/12/new-authority-approves-line-5-tunnel-under-straits-of-mackinac.html>; Michael Kransz, “Video Shows ‘Shocking’ Aftermath of Line 5 Anchor Strike,” *MLive*, 2019, sec. Grand Rapids,

<https://www.mlive.com/news/grand-rapids/2019/05/video-shows-shocking-aftermath-of-line-5-anchor-strike.html>.

⁷⁴ Michigan Department of Environment, Great Lakes and Energy, “Line 5 in Michigan,” Michigan Department of Environment, Great Lakes and Energy, 2022, <https://www.michigan.gov/egle/about/featured/line5>.

⁷⁵ Sheri McWhirter, “Environmental Analysis of Line 5 Tunnel Plan Kicks off, Feds Say,” *MLive*, 2022, sec. Public Interest, <https://www.mlive.com/public-interest/2022/08/environmental-analysis-of-line-5-tunnel-plan-kicks-off-feds-say.html>; Michigan Department of the Attorney General, “Attorney General Nessel Asks Court of Appeals to Move Enbridge Case Back to Michigan,” Michigan Department of the Attorney General, 2023, <https://www.michigan.gov/ag/news/press-releases/2023/03/03/attorney-general-nessel-asks-court-of-appeals-to-move-enbridge-case-back-to-michigan>.

⁷⁶ *Michigan v. Enbridge Energy, Ltd. P’ship*, 571 F. Supp. 3d 851, No. No. 1:21-cv-1057 (United States District Court for the Western District of Michigan, Southern Division August 18, 2022); *Nessel v. Enbridge Energy Ltd. P’ship*, 2022 U.S. Dist. LEXIS 239944, No. No. 1:20-cv-1142 (United States District Court for the Western District of Michigan, Southern Division November 16, 2021).

communities affected by Line 5.” This action was done ahead of the Universal Periodic Review (UPC) of Canada happening in 2023.⁷⁷

A Recent History of Line 5 in the Straits of Mackinac

2018: Since the 2018 anchor strike, the political struggle to shutdown Line 5 in the Straits of Mackinac has been tumultuous. Within two months of announcing the tunnel agreement in 2018, a lame duck legislature passed SB 1197, a bill to create the Mackinac Straits Corridor Authority (MSCA), a three member board intended to cement the proposed tunnel project ahead of newly elected Governor Gretchen Whitmer and Attorney General Dana Nessel being sworn into office.

2019: In opposition, Attorney General Nessel filed a case to the Ingham County Circuit Court, “People of Michigan v Enbridge,” in June 2019, contending that noncompliance with the public trust doctrine should nullify the Line 5 easement, or long-term use of public land.^{78,79} The public trust doctrine as applied to surface water is understood in Michigan as the legal principle of “protecting public water resources for the use and enjoyment of all” with the understanding that “water itself is not property of the state, but a public good.” In fact, the Michigan Constitution states: “The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction. (Article IV, section 52).⁸⁰

2020: In June 2020, another anchor hit Line 5 in the Straits, damaging structural supports. In response, Ingham County Circuit Court Judge James Jamo ordered Enbridge to cease Line 5 operations temporarily.⁸¹ Later that year in November, Governor Whitmer and the Department of Natural Resources revoked Enbridge’s 1953 easement for the Straits and gave the company 180 days to shut down the pipeline. To legally enforce the revocation, Attorney General Nessel took the lawsuit against Enbridge to state court. Enbridge countersued to take the case to federal court.

2021: Enbridge continued to operate Line 5, doing so illegally in opposition to the revocation of their easement. In January 2021, Enbridge announced it would not shut down Line 5 until forced to by court order. In response, in May 2021 the Bay Mills Indian Community formally banished

⁷⁷ Laina G. Stebbins, “Tribes, First Nations Decry Canada’s Support of Line 5 in Letter to United Nations ★ Michigan Advance,” *Michigan Advance*, 2023, <https://michiganadvance.com/2023/04/07/tribes-first-nations-decry-canadas-support-of-line-5-in-letter-to-united-nations/>.

⁷⁸ Department of Environment, Great Lakes, and Energy, “Public Trust Doctrine and Water Withdrawals Aim to Protect the Great Lakes,” 2020, <https://www.michigan.gov/egle/newsroom/mi-environment/2020/10/15/public-trust-doctrine-and-water-withdrawals-aim-to-protect-the-great-lakes>.

⁷⁹ Clean Water Action, “Line 5.”

⁸⁰ Department of Environment, Great Lakes, and Energy, “Public Trust Doctrine and Water Withdrawals Aim to Protect the Great Lakes.”

⁸¹ Craig Mauger, “Judge: Enbridge Must Temporarily Shut down Line 5,” *The Detroit News*, 2020, <https://www.detroitnews.com/story/news/local/michigan/2020/06/25/judge-enbridge-temporarily-shut-line-5/3258325001/>.

“Enbridge Energy, Inc.’s Line 5 dual pipelines” from their reservation and the lands and waters of their ceded territory, including the Straits of Mackinac, where “banishment is a traditional, historical, and customary form of tribal law [that] has existed since time immemorial and is only exercised by Bay Mills Indian Community when egregious acts and misconduct have harmed [their] tribal citizens, treaty rights, territories, and resources.”⁸² A month later, the U.S. Army Corps of Engineers (USACE) announced the decision to conduct a full environmental impact study (EIS) on the proposed Line 5 tunnel project, with an emphasis on ensuring comprehensive Tribal consultation.⁸³ In October, Canada invoked the 1977 Transit Pipeline Treaty with the U.S. using a broad interpretation of the treaty to claim shutting down hydrocarbon infrastructure between the U.S. and Canada is subject to the Canadian government’s approval. In November, Governor Whitmer voluntarily dropped the case filed against Enbridge in 2020, following the denial to move the case back to state court. In December, a federal judge accepted the motion by Enbridge to remand the *People of Michigan v Enbridge* case that had been filed in 2019 to federal court.

2022: In March, the Michigan state senate passed a resolution intended to encourage policies in favor of oil and gas drilling that supports U.S. energy independence, including the continued operation of Line 5. In contrast, the MPSC postponed issuance of a permit to Enbridge for the proposed tunnel project by reopening the record to additional information and rebuttals, citing insufficient information on safety and engineering measures.⁸⁴

2023: In March, Attorney General Dana Nessel was able to appeal the decision to remove her 2019 case against Michigan to federal court.⁸⁵ That same month, following the receipt of over 17,000 public comments during the NEPA scoping period, the U.S. Army Corps of Engineers decided to

⁸² Bay Mills Indian Community, “RESOLUTION NO. 21-05-10A: Banishment of Enbridge Energy, Inc. Line 5 Dual Pipelines from the 1836 Treaty of Washington Ceded Territory, Waters of the Great Lakes, and the Straits of Mackinac” (2021), https://narf.org/nill/documents/20210510BayMills_banish_Enbridge.pdf?_ga=2.239143744.2105983367.1624287541-1503385769.1619537483.

⁸³ Laina G. Stebbins, “Army Corps to Conduct Enviro Impact Review for Line 5 Tunnel, Promises Tribal Input ★ Michigan Advance,” *Michigan Advance*, 2021, <https://michiganadvance.com/2021/06/24/army-corps-to-conduct-enviro-impact-review-for-line-5-tunnel-promises-tribal-input/>.

⁸⁴ Sheri McWhirter, “Michigan Regulators Demand More Info from Enbridge on Its Line 5 Tunnel Plan,” *MLive*, 2022, sec. Public Interest, <https://www.mlive.com/public-interest/2022/07/michigan-regulators-demand-more-info-from-enbridge-on-its-line-5-tunnel-plan.html>; Environmental Law & Policy Center, “Michigan PSC Requests More Safety Info from Enbridge for Line 5 Tunnel Permit,” 2022, <https://elpc.org/news/michigan-psc-requests-more-safety-info-from-enbridge-for-line-5-tunnel-permit/>.

⁸⁵ Michigan Department of the Attorney General, “Attorney General Nessel Asks Court of Appeals to Move Enbridge Case Back to Michigan.”

extend the period of review for their EIS.⁸⁶ A month later, a coalition of tribal and First Nations submitted their report to the UN HRC to highlight Canada's interference in Line 5.⁸⁷

Enbridge and the public good

Enbridge has long touted their oil and gas infrastructure as being for the good of the public. The company's infrastructure includes pipelines, storage facilities, and terminals that transport and distribute crude oil, natural gas, and other energy products throughout Canada and the United States. Enbridge argues that their infrastructure, including Line 5, provides essential energy resources that power homes, businesses, and industries, and that their operations create jobs, stimulate economic growth, and contribute to energy security. Enbridge's narrative is reinforced by the settler colonial state definitions of "public good" by both Canada and the United States introduced earlier.

From the very beginning, Enbridge was able to build Line 5 as a result of a settler colonial understanding of a public good. Michigan's Department of Conservation granted Enbridge a bottomlands easement to the Straits of Mackinac in 1953 via Public Act 10.⁸⁸ The easement specifically says that the "proposed pipeline system will be of benefit to all of the people of the State of Michigan and in furtherance of public welfare" and that the bottomlands are "held in trust" for the people of Michigan.⁸⁹ The easement, however, was granted without tribal consultation nor seeking public input. Since the public benefit attributed to the pipeline did not consider the interconnectedness of human and non-human relationships, the easement neglected to account the public benefit of Indigenous people of Michigan.

Since then, a dominant narrative that Enbridge relies on is that the Line 5 is "a critical piece of North American energy infrastructure that benefits both Canada and the U.S." As such, Enbridge argues that it fulfills a "public good" by providing reliable and affordable access to energy sources or "energy security" for Canada and the United States. By doing so, Enbridge has sought to align its business interests with the settler colonial nation-building goals of Canada and the United States which seek to assert global dominance and "energy independence" via increased domestic energy production. However, this narrative is ultimately misguided because no country is independent of the world oil market which dictates the price of oil and increased domestic production is unable to shelter prices from market disruptions. Furthermore, according to government sources, the United States and Canada, who are each other's top sources of imported energy, have a "unique relationship" that is "forged by shared geography, similar values, common interests, deep personal connections and powerful, multi-layered economic

⁸⁶ U.S. Army Corps of Engineers, "Corps of Engineers Revises Enbridge Line 5 EIS Schedule to Ensure Thorough Analysis," Detroit District, 2023, <https://www.lre.usace.army.mil/Media/News-Releases/Article/3338591/corps-of-engineers-revises-enbridge-line-5-eis-schedule-to-ensure-thorough-anal/https%3A%2F%2Fwww.lre.usace.army.mil%2FMedia%2FNews-Releases%2FArticle%2F3338591%2Fcorps-of-engineers-revises-enbridge-line-5-eis-schedule-to-ensure-thorough-anal%2F>.

⁸⁷ Stebbins, "Tribes, First Nations Decry Canada's Support of Line 5 in Letter to United Nations ★ Michigan Advance."

⁸⁸ Wayland Osgood, "Straits of Mackinac Pipe Line Easement Conservation Commission of the State of Michigan to Lakehead Pipe Line Company," Act No. 10, P. A. 1953 § (1953), <https://mipetroleumpipelines.org/document/1953-straits-easement-line-5>.

⁸⁹ Osgood.

ties.”⁹⁰ Therefore, the Canadian government in line with Enbridge argues the public good of Line 5 stating any shutdown would harm the geopolitical relationship between Canada and the United States by causing fuel price spikes and layoffs, in addition to violating the 1977 Pipeline Transit Treaty. The notion of “energy independence” has been heightened with the Russian-Ukrainian war that began in February 2022. In response, the Canadian government issued a statement stating “the impact of the Ukraine crisis on energy supply and demand further reinforces the importance of Canada-U.S. energy trade and expanding cross-border energy infrastructure.”⁹¹

“It’s been extremely offensive to see, Enbridge and other companies actually put out commercials and advertisements and stories saying that they engaged in cultural peacemaking with Anishinaabe people and Indigenous people. Yet, how could that be true? If the elected leaders of federally recognized tribes in Michigan, and other parts of the Great Lakes have, by and large, said no to Line 5, they’ve spoken out against it, they’ve been very, very clear that it’s not good for their communities.”

Kyle Whyte⁹²

Environmental violence across the lifecycle of Line 5 and Enbridge oil infrastructure

Ever since the tunnel was introduced, Enbridge has crafted a false binary in which the only options are to build the tunnel or allow the pipeline to continue in its current state. In 2021 alone, Enbridge spent over \$8 million on advertising and giveaways to “spread disinformation about their operations and the likely consequences of decommissioning Line 5.”⁹³ Enbridge attempts to obfuscate the third solution: shutting down the pipeline altogether. By opting to construct the tunnel project, Enbridge continues their environmental violence against Indigenous communities of the Great Lakes.

Siting

In particular, the proposed tunnel project for an updated Line 5 pipeline and the continued operation of the significantly outdated current pipeline⁹⁴ are an infringement against the human and treaty rights of the Anishinaabe people⁹⁵. When the easement for Line 5 was granted in 1953,⁹⁶ there were no international frameworks like UNDRIP to protect the rights of Indigenous peoples. However, what were already in place were the very same legally-binding agreements that are still in effect today: treaties. In particular, the Treaty of Washington of 1836 establishes distinct usufruct rights for Anishinaabe in much of

⁹⁰ Global Affairs Canada, “Canada-United States Relations,” Government of Canada, 2019, <https://www.international.gc.ca/country-pays/us-eu/relations.aspx?lang=eng>.

⁹¹ Global Affairs Canada.

⁹² Whyte, Interview with Kyle Whyte on Line 5, Enbridge and Anishinaabe Futurity.

⁹³ Clean Water Action, “Line 5.”

⁹⁴ Great Lakes Business Network, “Line 5 Pipeline in the Straits of Mackinac,” *Great Lakes Business Network* (blog), 2022, <https://glbusinessnetwork.com/home/line-5-pipeline-straits-mackinac/>.

⁹⁵ Anishinaabek Caucus of the Michigan Democratic Party, “Line 5/Tunnel Plan Unconstitutional, In Violation of Treaties: Michigan Tribes Calls the Decommissioning of Enbridge’s Line 5,” 2019, <https://www.anishinaabekcaucus.org/our-work/line-5>.

⁹⁶ Osgood, Straits of Mackinac Pipe Line Easement Conservation Commission of the State of Michigan to Lakehead Pipe Line Company.

Michigan, including the Straits of Mackinac.⁹⁷ This is further clarified in a 1979 ruling, *United States v. State of Michigan*, stating that the treaties determine explicit fishing rights for tribes in the Great Lakes⁹⁸. Due to Line 5's location at the heart of two Great Lakes, its presence threatens those treaty rights.

It is important to keep in mind that, despite the rights stated in the treaties, tribes of the Great Lakes had little legal power to combat the original easement since they were not federally recognized in 1953. Enbridge did not consult with or consider tribes when constructing Line 5 and the Anishinaabe peoples nor any of the other Great Lakes nations are mentioned in the easement. Since the Great Lakes Indigenous nations never gave their consent during the siting of Line 5, UNDRIP recommendations on redress, described in Article 11, Section 2 and Article 28, Section 1,⁹⁹ can be used as guidelines to rectify the lack of consultation and consent in this process.

However, when Anishinaabe have tried to invoke the right to free, prior, and informed consent, Enbridge has shown that they are willing to push boundaries to their limits. For example, when the Bad River Band of Lake Superior Chippewa attempted to remove the 12 miles of Line 5 from their land when their easement expired in 2013, they never stopped pumping oil through the pipeline. So, in 2019 Bad River Band sued Enbridge for trespassing and before arriving at any judgment, they instead rerouted the pipeline on a 41.1 mile stretch around the reservation border. While technically outside of the reservation, this is not in the spirit of consent. In reality, Enbridge only rerouted the pipeline so that Bad River Band had less of a say in the process. To make matters worse, the judge eventually did rule that Enbridge was trespassing but the only method of accountability in the decision was to ensure that Enbridge and Bad River Band come up with a mitigation plan if there is a spill. Especially when considering the fact that all twelve federally recognized tribes in the state of Michigan oppose the Line 5 dual pipelines as well as the tunnel project,¹⁰⁰ the only way to honor treaties and Indigenous self-determination is by shutting down the operation altogether.¹⁰¹

"We've spoken to quite a few federal agencies. [...] You get a lot of everyone else saying, 'oh, well, your concerns lie with this other agency'. Truthfully, when you go back to those treaty obligations, the United States as a whole has the treaty trust responsibility, and every single one of those agencies

⁹⁷ United States Federal Government and Delegates of the Ottawa and Chippewa Nations, "Treaty with the Ottawa, Etc." (1836), https://www.saulttribe.com/images/pdf/treaties/1836_treaty_washington.pdf.

⁹⁸ United States of America et al., Plaintiffs, v. State of Michigan et al., Defendants, No. M26-73 C.A. (U.S. District Court for the Western District of Michigan May 7, 1979).

⁹⁹ United Nations Permanent Forum on Indigenous Issues, United Nations Declaration on the Rights of Indigenous Peoples.

¹⁰⁰ *Water Is Life | Indigenous Lifeways Threatened by Enbridge's Line 5*.

¹⁰¹ Ray Levy Uyeda, "Enbridge's Line 5 Threatens Indigenous Land and Peoples," *Prism*, 2023, <http://prismreports.org/2023/02/09/enbridge-line-5-threatens-land/>.

¹⁰² Gravelle adds more detail in the same source in the place of the ellipses: "The US Army Corps of Engineers is one of the permitting agencies for the tunnel project. We've talked to the Environmental Protection Agency (EPA). We've talked to the Pipeline and Hazardous Materials Safety Administration (PHMSA), we've talked to the Department of Transportation (DoT). But what we see in a lot of those conversations is that you will hear from federal agencies: PHMSA regulates what goes through the pipeline, and EPA regulates if there's a land spill. But the Coast Guard will regulate if there's a water spill. And the Army Corps only regulates waters of the United States. And if you're going to be offsetting sediments and other things from construction, talk to Environment, Great Lakes, and Energy (EGLE), which has the Clean Water Act authority that has been delegated from EPA."

*is the United States. So the question I always ask is: **at what point will all of those agencies come together and then take action as the United States in order to protect the treaty rights and fulfill their treaty trust responsibility?***

– Whitney Gravelle¹⁰³

Construction

The proposed tunnel project is not only an affront to Anishinaabe treaty rights, but new construction associated with it puts Anishinaabe communities at risk of increased human trafficking, as discussed earlier. While the increased risk is true for all large-scale fossil fuel infrastructure projects, Enbridge has already demonstrated that it is no different. In fact, the corporate giant “is at the top of the list in terms of industries that literally are responsible for bringing predators and other people with no accountability to the well being of the communities that they’re working nearby.”¹⁰⁴ This was demonstrated when workers on the Enbridge Line 3 replacement project in Minnesota were arrested in two sex trafficking sting operations, one in February 2021 and another in June 2021. Two workers were arrested on both occasions.¹⁰⁵ Although Enbridge claimed it has a ‘zero-tolerance policy’ for this and the workers were subsequently fired, they were made aware that their presence in the area heightened the risk of this and still moved forward with the project. One such method of bringing this to Enbridge’s attention was through the Public Utilities Commission hearings while the replacement project was being proposed. Sheila Lamb, an Ojibwe and Cherokee city councilmember for Cloquet, MN, testified about the link between extractive infrastructure and MMIR.¹⁰⁶ Furthermore, despite the Minnesota Public Utilities Commission specifically detailing the requirement to host human trafficking training as a condition to receiving the permit,¹⁰⁷ Enbridge said in a January 2021 statement that the company “absolutely rejects the allegation that human trafficking will increase in Minnesota as a result of the Line 3 replacement project.”¹⁰⁸ Sadly, but unsurprisingly, this willful ignorance did not stop the first incident from happening just a month later.

¹⁰³ Gravelle, *Treaties, Indigenous Land and Resource Rights in the Great Lakes and Enbridge’s Line 5 Pipeline*.

¹⁰⁴ Whyte, Interview with Kyle Whyte on Line 5, Enbridge and Anishinaabe Futurity.

¹⁰⁵ Anya Zoledziowski, “At Least 4 Oil Pipeline Workers Linked to Sex Trafficking in Minnesota,” *Vice*, 2021, <https://www.vice.com/en/article/g5gkpw/four-enbridge-pipeline-workers-linked-to-sex-trafficking-minnesota>.

¹⁰⁶ Hilary Beaumont, “Sexual Violence along Pipeline Route Follows Indigenous Women’s Warnings,” *The Guardian*, 2021, sec. US news, <https://www.theguardian.com/us-news/2021/jun/04/minnesota-pipeline-line-3-sexual-women-violence>.

¹⁰⁷ Katie J. Sieben et al., “Line 3 Final and Order Amending Permit” (Minnesota Public Utilities Commission, 2020), <https://www.documentcloud.org/documents/20501035-line-3-final-permit-and-order-amending-permit#document/p42>.

¹⁰⁸ Brooks Johnson, “Sex Trafficking Could Spike near Enbridge Pipeline Project, Minnesota Warns,” *Star Tribune*, 2021, <https://www.startribune.com/sex-trafficking-could-spike-near-enbridge-pipeline-project-minnesota-warns/600008533/>.

Another controversial element in the permit was the Public Safety Escrow Account to fund the policing, surveilling and prosecuting of protesters and water protectors.¹⁰⁹ While Enbridge shirks themselves of all responsibility by emphasizing that they did not have any decision-making authority, it was no secret that the \$8.6 million in total funding that was distributed to public agencies across the state was from the oil company. Additionally, since the money was provided through reimbursement and not up front, it incentivized departments to terrorize water protectors and other protesters in order to justify reimbursement for riot gear, weapons, wages, jailing protesters, gas money, training and a whole host of other ‘public safety’ expenses.¹¹⁰

Both Enbridge and the public agencies that were recipients of the money emphasize that this is a method of saving taxpayers from fronting these costs. However, as Mara Verheyden-Hillard from the Center for Protest Law and Litigation puts it, “it becomes very easy to sell this to the public as a savings for taxpayers, when instead what they’re doing is selling their police department to serve the pecuniary interests of a corporation.”¹¹¹ In addition, the communications director for the Minnesota Coalition Against Sexual Assault, Lauren Rimestad, frames it as “pre-paying for trafficking [...] citizens.”¹¹² Furthermore, some worry that this funding method will be deployed across the country for other extractive industry projects, which could spell disaster for water protectors and protesters, including those resisting Line 5.¹¹³ Especially since a part of the money is used to prevent and respond to human trafficking that these projects attract, local officials could be convinced to put similar escrow accounts in place.

*"Oil infrastructure is dangerous, and it's especially dangerous for Indigenous women. In Line 3, they had Enbridge employees [that] were caught with a human sexual trafficking ring. Do we want that here in Michigan? I don't. **This is the land of my people—my sisters, my aunts, my cousins, my family. My tribal citizens that I call sisters all are here.** Do I want to put us in danger? No. It's terrifying to think that that could be coming here to these beautiful lands where we're all caring and loving and peaceful. **And who's going to be held accountable? Not Enbridge; they're not even held accountable for the oil spills.**"*

— Andrea Pierce¹¹⁴

So just how much of the money did actually go to human trafficking prevention and response? Including employee trainings, sting operations, reimbursing non-profits for survivors’ hotel rooms, hazard pay for

¹⁰⁹ John McCracken and Alleen Brown, “Documents Show How a Pipeline Company Paid Minnesota Millions to Police Protests,” *Grist*, 2023, <https://grist.org/protest/enbridge-line-3-pipeline-minnesota-public-safety-escrow-account-invoices/>; Sieben et al., “Line 3 Final and Order Amending Permit.”

¹¹⁰ McCracken and Brown, “Documents Show How a Pipeline Company Paid Minnesota Millions to Police Protests.”

¹¹¹ McCracken and Brown.

¹¹² Beaumont, “Sexual Violence along Pipeline Route Follows Indigenous Women’s Warnings.”

¹¹³ McCracken and Brown, “Documents Show How a Pipeline Company Paid Minnesota Millions to Police Protests.”

¹¹⁴ Andrea Pierce, Interview with Andrea Pierce on Line 5, Enbridge and Anishinaabe Futurity, interview by Erin Posas and Jessica Berger, 2022.

non-profit employees due to the pandemic, and other miscellaneous expenses, the total was just under a quarter of a million dollars at \$241,000.¹¹⁵ While this may seem like a substantial amount, that accounts for under 3% of the total amount of reimbursements and considering that this money would be supplementary at best had they not allowed the project, it is negligible. On top of this, advocates that attended the training noted that it was inadequate, and believed that most workers were not that invested in understanding it.¹¹⁶ Also, while the four employees mentioned previously were caught in the sting operation, the increased culture of violence against women and other marginalized genders in the area suggests that that is only the tip of the iceberg. The Violence Intervention Project, a non-profit that advocates for survivors of domestic violence, expressed that, overall, there had been an increased need for their services since the replacement project began.¹¹⁷ They report that the incidents range in severity from inappropriate grabbing, following people from their vehicles, creating an “aura of intimidation”,¹¹⁸ harassing patrons and workers of local establishments to even more acute violence.¹¹⁹ On top of this, while some non-profits were reimbursed after putting survivors up in hotels when their emergency shelters were full, they noted how complicated this task was considering all of the hotels were full of pipeline workers.¹²⁰

While human trafficking response expenses got the short shrift and most of the money went to detain protesters and disrupt demonstrations, one public agency received \$2.1 million from Enbridge on its own: the Minnesota Department of Natural Resources (DNR). Logically, one might assume that this was for something akin to environmental remediation to clean up construction-induced contamination. On the contrary, the money went to protest response, and training enforcement officers to “wrangle protesters”.¹²¹ One such training was on the use of chemical weapons. Despite Enbridge’s track record that resulted in the DNR charging the company for aquifer breaches and drilling fluid spills, conservation officers joined law enforcement when facing off with water protectors.¹²² This is a clear demonstration on how foundational colonization and violence is to white environmentalism and conservation. Although Enbridge is the entity that pollutes waterways, desecrates the land and uproots communities through racist, environmental and cisheteropatriarchal violence, the government agency abandons its pledge to protect the natural resources in its stewardship and instead makes a commitment to white supremacy. Their alignment with a fossil fuel giant shows that as long as the landscape eventually returns to the fallacy of ‘pristine’ nature for white people to enjoy, they have no problem further undermining already vulnerable Indigenous communities.

¹¹⁵ McCracken and Brown, “Documents Show How a Pipeline Company Paid Minnesota Millions to Police Protests.”

¹¹⁶ Zoledziowski, “At Least 4 Oil Pipeline Workers Linked to Sex Trafficking in Minnesota.”

¹¹⁷ McCracken and Brown, “Documents Show How a Pipeline Company Paid Minnesota Millions to Police Protests.”

¹¹⁸ Beaumont, “Sexual Violence along Pipeline Route Follows Indigenous Women’s Warnings.”

¹¹⁹ Rilyn Eischens, “Shelter Reports Assaults, Harassment Linked to Line 3 Pipeline Workers,” *Minnesota Reformer*, 2021,

<https://minnesotareformer.com/2021/03/08/shelter-reports-assaults-harassment-linked-to-line-3-pipeline-workers/>;

Beaumont, “Sexual Violence along Pipeline Route Follows Indigenous Women’s Warnings.”

¹²⁰ Eischens, “Shelter Reports Assaults, Harassment Linked to Line 3 Pipeline Workers.”

¹²¹ McCracken and Brown, “Documents Show How a Pipeline Company Paid Minnesota Millions to Police Protests.”

¹²² McCracken and Brown.

Yet another violation the proposed tunnel project presents to kinship relationships is a disruption of Anishinaabe ancestors. A consultant from Florida-based SEARCH, Inc. was hired by Enbridge to survey the lakebed of the Straits to look for shipwrecks.^{123,124} However, while surveying for ships, the consultant instead found evidence of a 10,000-year-old sacred archaeological site on the bed of the Straits built by the ancestors of contemporary Anishinaabe people. If made by humans, the site would have to have been constructed near the end of the last ice age, when the area was not yet covered by the Great Lakes.¹²⁵ The surveyor at SEARCH, Inc. requested to consult John O’Shea, a Professor of Archaeology at the University of Michigan who had published a 2009 article in PNAS on evidence of early caribou hunters found in Lake Huron,¹²⁶ but Enbridge denied the request. Furthermore, the consultant was removed from the project altogether and was blocked from accessing the final report.¹²⁷ When Dr. O’Shea heard about this in January of 2020, he called the whole situation, “very disturbing”¹²⁸ in a letter to the Deputy State Historic Preservations Office.

Coincidentally, in the same year, a group of Anishinaabe set out on a mission to take a closer look at the state of Line 5 unexpectedly found the same site. Andrea Pierce, the Chair of the Anishinaabek Caucus and the person that our team has been working with most closely, was one of those people. In the fall of 2020, the crew set out on the Straits and used a remote-operated underwater vehicle, or ROV, that was equipped with side-scan sonar, a type of device that creates images with sound. They found evidence of a cultural site and Dr. O’Shea supported the group’s findings.¹²⁹ Since then, the Little Traverse Bay Bands of Odawa Indians have moved to classify the Straits as Traditional Cultural Property. While this does not necessarily mean that Enbridge would have to immediately pack up and leave, they would be required to take cultural significance into consideration when proposing new development, such as the tunnel project.¹³⁰

Additionally, Eric Hemenway, a professional historian on Odawa history, who is himself Odawa, gave testimony against the tunnel project during the public comment period for the Public Service

¹²³ The State of Michigan designated the Straits of Mackinac as a shipwreck preserve in 1983. It is illegal to remove any artifacts from the ships. (Source for this information found in the first citation immediately after this one, Straits of Mackinac Shipwreck Preserve (2021).)

¹²⁴ Straits of Mackinac Shipwreck Preserve, “Straits of Mackinac Shipwreck Preserve Brochure” (Straits of Mackinac Shipwreck Preserve, 2021), <https://www.straitspreserve.com/wp-content/media/Straits-brochure-2021.11.24.bold-FINAL.pdf>; Keith Matheny, “Group Thinks It Has Found Proof of 10,000-Year-Old, Ice Age Culture in Straits of Mackinac,” *Detroit Free Press*, 2020, <https://www.freep.com/story/news/local/michigan/2020/10/14/straits-mackinac-ice-age-culture-native-american-tribes/5978992002/>.

¹²⁵ Matheny, “Group Thinks It Has Found Proof of 10,000-Year-Old, Ice Age Culture in Straits of Mackinac.”

¹²⁶ John M. O’Shea and Guy A. Meadows, “Evidence for Early Hunters beneath the Great Lakes,” *Proceedings of the National Academy of Sciences* 106, no. 25 (2009): 10120–23, <https://doi.org/10.1073/pnas.0902785106>.

¹²⁷ Matheny, “Group Thinks It Has Found Proof of 10,000-Year-Old, Ice Age Culture in Straits of Mackinac.”

¹²⁸ John M. O’Shea to Marth McFarlane-Faes, “Letter to the Deputy State Historic Preservation Officer,” 2020, <https://twitter.com/garretellison/status/1316486451958345728/photo/1>.

¹²⁹ Nick Mordowanec, “Could an Ancient, Submerged Cultural Site Stop Enbridge’s Great Lakes Pipeline?,” *Detroit Metro Times*, 2021, <https://www.metrotimes.com/news/could-an-ancient-submerged-cultural-site-stop-enbridges-great-lakes-oil-and-gas-pipeline-26991598>.

¹³⁰ Patrick Shea, “Michigan Tribe Seeks Cultural Property Protection in Path of Line 5 Project,” *Great Lakes Now*, 2021, <https://www.greatlakesnow.org/2021/04/cultural-property-protection-michigan-line-5/>.

Commission. He emphasized the importance of burial sites to the Odawa and described some of the ceremonies that recognize and honor ancestors, such as ghost suppers and the Feast of the Dead. He cited the Indian Religious Freedom Act of 1978 in his testimony, arguing that construction in the Straits disturb burial sites and therefore interfere with the religious practices of Odawa citizens.¹³¹ His testimony showed that the tunnel project is an affront to more recent sacred sites in addition to the 10,000 year old site, posing a harm to multiple generations of Anishinaabe ancestors.

Even if what Enbridge claims about the limited disturbance of these sites because it is routed deeper than the surface through bedrock, this introduces a whole new concern. Brian O'Mara, a geological engineer, points out that there are several seismic concerns to consider. He cites poor rock quality, solution cavities and fault zones as particular challenges. On top of that, he says that the risk assessment that Enbridge performed was not sufficient to prevent these issues. He called the potential risks "catastrophic": it could trigger an explosion that would not only kill workers but cause an enormous amount of environmental damage. Mike Wilczynski, a former senior geologist with the Department of Environment, Great Lakes and Energy for over 12 years, is alarmed by the slurry that Enbridge is proposing to use. In the slurry is bentonite clay, which is extremely sticky and can coat the gills of fish, the lakebed and wetland vegetation and it stays "suspended in water almost forever."¹³² This could be disastrous for manoomin, which is discussed in more detail later in this section. Enbridge has clearly not prepared enough for accidents that could occur during construction and would risk the lives of their workers and everyone who relies on the Great Lakes.

"Maintenance"

Even after construction crews pack up, pipelines must be closely monitored to minimize inevitable malfunctions. Maintenance depends on regular monitoring, leak detection systems, and patchwork. As of 2018, the network of oil pipelines criss-crossing Michigan spanned almost 3,000 miles, and over half of them were constructed before 1970 or in an unknown year. In the last three decades, the top events affecting crude oil pipelines in Michigan in order of per annum frequency include equipment failure, corrosion, incorrect operation, and material/weld failure.¹³³ These events, demonstrating the limits of human engineering, monitoring, and regulation, far exceed the kinds of events that would fall outside the realm of human error, such as natural forces. This calls into question just how possible it is to "maintain" oil pipelines, especially at the scale at which they exist in Michigan.

On the side of regulation, there is a dangerous mismatch between the number of federal inspectors existing versus the quantity of pipelines there are. In Michigan, 135 federal inspectors are responsible for inspecting almost 20,000 miles of pipeline each. Meanwhile, no federal or Michigan regulation exists to require corporations like Enbridge to communicate directly with the public, even when pipelines cross private property. Basic information, such as pipeline location, dates of inspections, and emergency response plans, are not readily available or easy to find. The public is hardly able to hold Enbridge to

¹³¹ "Testimony of Eric Hemenway on Behalf of Little Traverse Bay Bands of Odawa Indians to the Michigan Public Service Commission," 2021.

¹³² Mary Schuermann Kuhlman, "Geologists Share Concerns about Line 5 Tunnel," *Detroit Metro Times*, 2020, <https://www.metrotimes.com/news/geologists-share-concerns-about-line-5-tunnel-25445314>.

¹³³ Cybersecurity, Energy Security, and Emergency Response, "State of Michigan Energy Sector Risk Profile" (U.S. Department of Energy, 2021), <https://www.energy.gov/sites/default/files/2021-09/Michigan%20Energy%20Sector%20Risk%20Profile.pdf>.

account or conduct their own monitoring, thanks to the Patriot Act of 2011, which obscures basic information on oil pipelines in the name of national security. Despite the Pipeline Hazardous Materials Safety Administration (PHMSA) finding some 2,400 defects for Line 5 as of 2011, the PHMSA will not provide details on where defects are located.¹³⁴ In 2015, a pseudo regulatory body, called the Michigan Pipeline Safety Advisory Board, was created by Governor Rick Snyder and comprised a majority of oil industry insiders, including officials from Enbridge.¹³⁵

To evaluate Enbridge's ability to maintain oil pipelines, one need only look at their record. Throughout Enbridge's pipeline system from 1999 to 2013, Enbridge is responsible for 7.4 million gallons of oil contaminating the environment in over 1,000 spills—the equivalent of over a spill per week for 15 years straight, averaging over 70 spills and half a million gallons of oil dumped per year.¹³⁶ For Line 5 in particular, Enbridge has had a shoddy record of safety compliance. In 1963, it was discovered that Enbridge had failed to secure the pipeline to the lakebed every 75 feet, thereby violating their easement. In 1992, an additional 17 unsupported spans of pipeline were discovered in the Straits, four of them exceeding 200 feet in length and thereby risking bends in the pipeline. Five years later, 45 additional unsupported spans were discovered in the Straits, the longest spanning 421 feet. Meanwhile, Enbridge is responsible for three large spills along Line 5. Over 250,000 gallons of oil were spilled near Iron River in 1972 due to a longitudinal weld failure, while about 210,000 gallons of oil were spilled near Gogebic in 1976. Then, in 1999, over 220,000 gallons of natural gas liquids were spilled near Crystal Falls, Michigan, resulting in a 36-hour fire and evacuation of 500 people. Of the 2,400 defects for Line 5 detected by PHMSA in 2011, Enbridge had only inspected a little over ten percent of them. Amidst this track record, Line 5 in the Straits has been struck by anchors at two different times, once in 2018 and another time in 2020.¹³⁷

"I know that if there was an oil spill that happened in the Straits of Mackinac, there would be nothing we could do to stop it. And so when we're talking about December or January, and there's three feet of ice covering the Straits, there's nothing we can do to break through that in order to stop an oil spill, and what's going to happen is it'll bloom beneath the ice and spread even further, as the current pulls it underneath. And so without a proper safety plan in place without even being able to answer the question of what you would do when there's ice coverage. It's just further evidence of why we can't trust Enbridge and why we can't trust their safety record either."

– Whitney Gravelle¹³⁸

While this spill record speaks for itself, it should not. There is a dangerous lack of transparency and reporting surrounding pipeline maintenance. On the corporate side, there is an implied lack of expertise at best and obfuscation at worst. Enbridge testified to Congress in 2010 that the company could detect a leak

¹³⁴ Oil & Water Don't Mix, "Lack of Transparency," Oil & Water Don't Mix, 2021, <https://www.oilandwaterdontmix.org/transparency>.

¹³⁵ Clean Water Action, "Line 5."

¹³⁶ "Enbridge Safety Record," Oil & Water Don't Mix, n.d., https://www.oilandwaterdontmix.org/enbridge_safety_record.

¹³⁷ Clean Water Action, "Line 5."

¹³⁸ *Water Is Life | Indigenous Lifeways Threatened by Enbridge's Line 5*.

“almost instantaneously.” Yet, not even a year later, thanks to negligence and operator error, Enbridge would be responsible for one of the largest inland oil spills in U.S. history—second only to a Line 3 spill in Minnesota also wrought by Enbridge (then called Lakehead Oil Company). In 2010, Enbridge’s Line 6B pipeline ruptured into Talmadge Creek. The pipeline spilled diluted bitumen, called “dilbit,” from Talmadge Creek into the Kalamazoo River while releasing toxic airborne hydrocarbons. As author Mark Brooks wrote, “Records from the US Pipeline and Hazardous Materials Safety Administration reveal that the defect that led to the rupture was detected at least three times before the spill occurred and Enbridge had done nothing to address the problem.”¹³⁹ The spill was made all the worse, because Enbridge mistook a rupture in the pipe for a bubble obstruction and increased the rate of pumping for an additional near 17 hours as a result. An emergency was declared in Kalamazoo County in response to the 843,000 gallons of dilbit (if we are to trust Enbridge’s estimation) spilled into Talmadge Creek. Yet, the EPA estimated that over 1.2 million gallons were spilled into the creek, calling into question the accuracy of Enbridge’s account.¹⁴⁰

Response and recovery

In evaluating risks associated with a potential spill of Line 5, one must think not just about the pipeline maintenance but also spill response and recovery. The Kalamazoo River spill occurred in July, but it was not until September that it was announced that the initial cleanup was complete. In July of the following year, the EPA estimated that while 90 percent of the oil was removed from the Kalamazoo River, oil still existed in 200 acres where the oil had mixed with sediment at the bottom of the river. In September 2011, Enbridge announced that removing the remaining 10 percent of oil that was mixed into the bed of the river would take additional time because of issues removing the oil from the river bed. The process would involve dredging of the river bottom and was finally completed in October 2014, four years after the spill initially occurred. Demonstrating in part the magnitude of the spill, the total cleanup cost for Enbridge ended up tallying \$1.21 billion.¹⁴¹

*"For years, driving by that area, **you could just smell it.** You know, even in the wintertime, people go out there and they find remnants of oil on the shoreline or along the riverbeds. And [Line 6B] was about 10 years newer than the one that's sitting in the Straits here. So if that could happen to something that's newer, the one here—it's **just an accident waiting to happen.**"*

— Richard Lewis¹⁴²

Spill response and recovery is not limited to physical remediation of the landscape; it must include how corporations like Enbridge fail to be accountable to their actions in repairing harm they cause to communities; the violence enacted by disrupting kinship relationships with the environment. On August

¹³⁹ Mark Brooks, “The Cautionary Tale of Kalamazoo - A\J,” *AJ*, 2014,

<https://www.alternativesjournal.ca/science-research/the-cautionary-tale-of-kalamazoo/>.

¹⁴⁰ U.S. Environmental Protection Agency, “EPA Response to Enbridge Spill in Michigan,” Collections and Lists, U.S. Environmental Protection Agency, 2016, <https://www.epa.gov/enbridge-spill-michigan>.

¹⁴¹ Alex Mitchell, “Timeline of Major Events in Kalamazoo River Oil Spill,” *MLive*, 2015, sec. Kalamazoo, https://www.mlive.com/news/kalamazoo/2015/07/kalamazoo_river_oil_spill_time.html.

¹⁴² D. Richard Lewis, Interview with D. Richard Lewis on Line 5, Enbridge and Anishinaabe Futurity, interview by Erin Posas and Jessica Berger, 2022.

9, 2010, two weeks after the Kalamazoo River spill, Enbridge asked the Pipeline and Hazardous Materials Safety Administration if they could restart Line 6B. The request was denied within 24 hours because Enbridge lacked detail in addressing issues in the pipe that PHMSA said were similar to the issues near where the spill occurred two weeks earlier.¹⁴³ Enbridge did not only demonstrate insensitivity to the harm they caused, the corporation went on to execute what researchers Nilufer Yapici and Ratan Dheer call “forgetting work,” a strategy of precipitating social memory loss of irresponsible behaviors, which “allows corporations to protect their image and maintain legitimacy in the shareholder and state’s eyes, attenuate institutional pressures, and co-opt external stakeholders, communities, and the society while continuing irresponsible behaviors.”

This forgetting work included manipulating media coverage; influencing oil and gas public policy via political participation at all levels of government in tandem with U.S. and Canada trade and industry associations; lobbying state and federal governments before and after the spill for control over regulatory rules; and publicizing engagement with local communities—including Indigenous communities—in ways that actually subsumed and silenced, rather than centered, community voices. In the short term, Enbridge dodged accountability by omitting the cause of the spill and refusing to accept blame for the spill as far as two years after the spill while minimizing the perceived harm of the spill by omitting the real nature of dilbit, keeping its spill estimate low, and providing unrealistic estimates of remediation time.¹⁴⁴ In the long term, Enbridge supported their image and worked to delegitimize local concerns by spreading misinformation about dilbit’s dangers, positioning themselves as safety-oriented, and weaponizing controversy against pipeline opponents through sponsorship of academic research, sustainability initiatives, pro-pipeline education campaigns, and more.¹⁴⁵

One can argue Enbridge’s various payouts and legal proceedings served to clear their name and cement their “forgetting work,” rather than repair the harm they wrought. Immediately following the Kalamazoo River spill and the \$85 million dip in their earnings as a result of the spill, Enbridge sought to clear their name. First, Enbridge settled a class action lawsuit brought against them by residents who lived within 1000 feet of the river. Enbridge agreed to pay \$250-\$750 per parcel to properties affected, as well as to support a donation fund of \$150,000 to community impacts, a \$1.5 million general claims fund for property owners, and a fund of \$50,000 to go towards a well testing program.¹⁴⁶ Furthermore, Enbridge settled and agreed to pay the Michigan Department of Environmental Quality \$75 million as part of a lawsuit. The money would go towards wetland restoration, removing the Ceresco dam, restoring the Kalamazoo River, and reimbursing the state’s cleanup costs from the spill.¹⁴⁷ Enbridge also paid \$4 million for a “natural resource damage” settlement with tribal, state, and federal officials.¹⁴⁸ As a result of

¹⁴³ Elizabeth McGowan and Lisa Song, “The Dilbit Disaster: Inside The Biggest Oil Spill You’ve Never Heard Of, Part 2,” *Inside Climate News*, 2012, 2, <https://insideclimatenews.org/news/27062012/dilbit-kalamazoo-marshall-oil-spill-bitumen-enbridge-patrick-daniel-6b-pipeline-epa-tar-sands/>.

¹⁴⁴ Nilufer Yapici and Ratan Dheer, “Forgetting Work: Its Role in Sustaining Corporate Social Irresponsibility,” *Academy of Management Proceedings* 2022, no. 1 (2022): 10153, <https://doi.org/10.5465/AMBPP.2022.97>.

¹⁴⁵ Yapici and Dheer.

¹⁴⁶ Rosemary Parker, “Enbridge Settles Class Action Lawsuit over Kalamazoo River Oil Spill,” *MLive*, 2014, sec. Kalamazoo, https://www.mlive.com/news/kalamazoo/2014/12/enbridge_settles_class_action.html.

¹⁴⁷ Aaron Mueller, “\$75 Million Settlement Reached in Enbridge’s Kalamazoo River Oil Spill,” *MLive*, 2015, sec. Kalamazoo, https://www.mlive.com/news/kalamazoo/2015/05/75_million_settlement_reached.html.

¹⁴⁸ Mitchell, “Timeline of Major Events in Kalamazoo River Oil Spill.”

their legal actions, Enbridge somehow came out ahead. In October 2011, Patrick Daniel, Enbridge CEO, was named Canada's "CEO of the Year" and was recognized for the charitable work that the company did.¹⁴⁹ However, as previously referenced, formal cleanup efforts were still not complete in 2011 and would not be until 2014.

*"Back in 2010, when Pipeline 6B fractured in the Kalamazoo River, which is part of our original territory, it fractured not far from the Pine Creek reservation. And almost directly behind the business that our tribe operates in Emmett Township, Michigan [...] As far as the cleanup and everything else, the damage that was done, you know, **local, state and federal agencies, at least initially, were very resistant and very reluctant to recognize our tribal sovereignty, as, you know, a voice that as an important voice that should be at the table when those negotiations were happening. [...] They didn't view us as a sovereign government, they didn't view us as having a right to have a seat at the table.**"*

– Nat Spurr¹⁵⁰

The damage of a spill is not limited to the costs, time, and labor associated with its supposed immediate clean up, nor can its breadth of harm be calibrated using simple metrics like number of gallons spilled—the Kalamazoo River illustrates how harm is long-lasting and multifaceted in disrupting kinship ties. In the Kalamazoo River spill, two Indigenous communities were impacted in particular: the Match-E-Be-Nash-She-Wish Band and the Nottawaseppi Huron Band of the Potawatomi (NHBP) Tribe. Not only is the Kalamazoo river considered a community member by the NHBP Tribe, its entire watershed is contained within NHBP's traditional territory and its banks act as an important site for growing manoomin.¹⁵¹ The Kalamazoo River is also critical for manoomin cultivation for the Match-E-Be-Nash-She-Wish Band. The Kalamazoo River has been a critical site for food cultivation and foraging, medicine gathering, recreation, transportation, and fishing—it made the practice of lifeways and spiritual nourishment possible.

*"It almost completely shut down the river for five years, for everything, all of its normal uses, and its spiritual importance was compromised. I would call myself to some degree a manoomin protector. Manoomin is the Anishinaabemowin word for wild rice. **Manoomin is something that our people depended on for half the calories to get us through the winter, these cold Michigan winters. It was at least one-sixth of our total economy. [...] Manoomin has incredibly old and extremely important cultural aspects to our people, as well as being a food source—something that was***

¹⁴⁹ McGowan and Song, "The Dilbit Disaster," 2012.

¹⁵⁰ Nat Spurr, Interview with Nat Spurr on Line 5, Enbridge and Anishinaabe Futurity, interview by Erin Posas and Jessica Berger, 2022.

¹⁵¹ U.S. Fish & Wildlife Service, "Enbridge 2010 Kalamazoo River Oil Spill - Natural Resource Damage Assessment and Restoration | U.S. Fish & Wildlife Service," *FWS.Gov* (blog), 2023, <https://www.fws.gov/project/enbridge-2010-kalamazoo-river-oil-spill-natural-resource-damage-assessment-and-restoration>; Nottawaseppi Huron Band of the Potawatomi, "The Great Stain: 10 Years After the Kalamazoo River Oil Spill," *NHBP* (blog), 2020, <https://nhbp-nsn.gov/media/the-great-stain-10-years-after-the-kalamazoo-river-oil-spill/>; Amy Y. Conry Davis, "Kalamazoo River Oil Spill: Facts and Environmental Impact," *Treehugger*, 2021, <https://www.treehugger.com/kalamazoo-oil-spill-5101531>.

considered sacred all around. And, it's completely dependent on water [...] We're trying to revitalize it, because over the last at least 100 years, the manoomin population in Michigan has been devastated by things like boating, channeling dams, pollution, global warming. It was almost wiped out; it was brought to the brink of extinction before all twelve federally recognized tribes in Michigan [began their] own individual manoomin restoration program[s].

*This time of year, when we, as Native people, are out harvesting wild rice, it's not just for us. The rice that we're not able to get into the canoe—it falls down to the floor of the river. That's food for the fish. That's to reseed plants for next year. That's for birds that are on their way back down south. It's for beavers and muskrats. It's for all parts of the ecosystem. So, it's not just humans. And I think that's a difference between the way an Indigenous person looks at things, and someone who's not Indigenous [...] **The spill at Kalamazoo River made manoomin restoration impossible, because of the devastation that had gone on in the river.***

— Nat Spurr¹⁵²

Heavy rains carried the oil spilled at Talmadge Creek 38 miles to the Kalamazoo river. Since dilbit relies on liquid chemicals to dilute it enough to be transported through the pipelines, it was susceptible to clumping and sinking when the dilution chemicals evaporated. The bitumen sank to the river floor, making usual oil cleanup methods useless. The Kalamazoo River Watershed Council said the Talmadge Creek coordinator had to be largely excavated and re-filled, and the Forest and Wildlife Service estimated that the efforts to remove the bitumen resulted in damage to over 1,500 acres of in-stream habitat, almost 3,000 acres of floodplain forests, and over 180 acres of upland habitats. In terms of ecological impacts, a few weeks after the spill, Jay Wesley from the Michigan DNR, sampled Talmadge Creek and only found 3 species of fish and 53 individual fish. This was a significant decline from a survey from the year 2000 when 11 species of fish and 192 individual fish were found.¹⁵³ A study years later in 2015 by William Dew, Alice Hontela, and Greg Pyle found that while exact effects are still unclear, a spill such as the one that occurred likely had effects across trophic levels, strongly hurting the area's biodiversity. Ten years after the fact, the NHBP Tribe notes the plant and animal diversity has been reduced, including an entire generation of turtles that are missing.¹⁵⁴

In order to maintain kinship relationships, one must also care for their own health. The Kalamazoo River spill had irreparable health impacts on people. The afternoon after the spill, experts warned the general public to avoid the river. More specifically, "Experts warn the chemical, used to move thick tar sands oil through the pipeline, can cause leukemia and anemia—among other side effects—after prolonged periods of exposure." Workers from county and state health departments shortly after went door to door handing

¹⁵² Spurr, Interview with Nat Spurr on Line 5, Enbridge and Anishinaabe Futurity.

¹⁵³ Elizabeth McGowan and Lisa Song, "The Dilbit Disaster: Inside The Biggest Oil Spill You've Never Heard Of, Part 3," *Inside Climate News*, 2012, 3, <https://insideclimatenews.org/news/28062012/dilbit-disaster-diluted-bitumen-oil-spill-enbridge-6b-michigan-epa-kalamazoo-river/>.

¹⁵⁴ William A. Dew et al., "Biological Effects and Toxicity of Diluted Bitumen and Its Constituents in Freshwater Systems," *Journal of Applied Toxicology* 35, no. 11 (2015): 1219–27, <https://doi.org/10.1002/jat.3196>.

out evacuation notices.¹⁵⁵ Three days after the spill, 30-50 homes were evacuated and lives uprooted. 60% of those surveyed reported an increase in health effects such as headaches, vomiting, or difficulty breathing after the spill.¹⁵⁶ Ultimately about 150 families had to move altogether to escape their contaminated-turned-carcinogenic homes.¹⁵⁷ As NHBP put it, “certainly, the spirit of the people residing within the watershed and beyond has been permanently stained.”¹⁵⁸ One can only imagine the level of devastation a Line 5 oil spill in the Straits would inflict.

*"I want to speak up for and protect the plants because I **do have a reciprocal relationship with them**...One really important plant medicine is the Tamarack tree or larch and the Tamarack tree grows in water. So it grows in this area and it's a very important plant medicine [...] And if there's an oil spill, that'll destroy the Tamarack, and it doesn't grow everywhere because it literally grows in water. And it's a really good medicine. So that, red Willow, is another culturally significant plant that grows along the water. Bear bury, which is also called oversee kinnikinnick is another good, really important medicine like the Tamarack, it extends your life [...] **I live one mile from Lake Huron, and I am a subsistence wild edible forger. So, the Great Lakes are my lifeline; I sustainably harvest medicines, and there's a lot of at-risk medicines in the area.** And that's why I'm very concerned about the corroded pipeline breaking, because it would decimate all our culturally significant medicines. And it's such a pristine area—this pipeline, it just needs to be decommissioned, and no tunnel. **It needs to be removed; it should have been removed years ago, and it should have never been allowed.**"*

— Monica Cady¹⁵⁹

Line 5—particularly in the Straits—is inherently invasive infrastructure that creates environmental violence against Indigenous communities in and around the Great Lakes. As a settler colonial nation state, Canada has enabled and supported this environmental violence. As a fellow settler colonial nation state, the United States has failed to stop the environmental violence enacted by Enbridge in siding with the federal Canadian government over sovereign tribal nations. As the actor behind Line 5, Enbridge enacts environmental violence across the lifecycle of Line 5, in the siting, construction, and so-called maintenance of the dual pipeline and the proposed tunnel project. The siting of Line 5 has been done both without and expressly against the free, prior, and informed consent of tribal nations and Indigenous communities in the Straits and elsewhere along the pipeline's route. Construction of the proposed Line 5 tunnel poses a threat of MMIR—an obvious and egregiously violent rupture of kinship ties of Indigenous communities within and between one another. Construction of the proposed Line 5 tunnel would destroy the archeological site discovered on the lakebed floor, representing a disruption of kinship ties with ancestors. It also poses a threat to the seismic stability of the Straits, thereby risking a disruption of

¹⁵⁵ Elizabeth McGowan, Lisa Song, and InsideClimate News, “The Dilbit Disaster: Inside The Biggest Oil Spill You’ve Never Heard Of, Part 1,” *Inside Climate News* (blog), 2012, <https://insideclimatenews.org/news/26062012/dilbit-diluted-bitumen-enbridge-kalamazoo-river-marshall-michigan-oil-spill-6b-pipeline-epa/>.

¹⁵⁶ McGowan and Song, “The Dilbit Disaster,” 2012.

¹⁵⁷ Uyeda, “Enbridge’s Line 5 Threatens Indigenous Land and Peoples.”

¹⁵⁸ Nottawaseppi Huron Band of the Potawatomi, “The Great Stain.”

¹⁵⁹ Monica Cady, Interview with Monica Cady on Line 5, Enbridge and Anishinaabe Futurity, interview by Erin Posas and Jessica Berger, 2022.

kinship ties with the Great Lakes as a sacred site of gathering. The contamination that would be wrought either by construction of the tunnel project or the continued operation of the dual pipeline—unmaintained as it has always been—would cause irreparable damage to water (drinking and ground), the surrounding landscape (including wetland ecosystems and agriculture), and the living beings in and around the lakes (e.g., whitefish and manoomin).¹⁶⁰ A Line 5 spill in the Straits would forever negatively impact how local Indigenous peoples relate with the Great Lakes—spiritually, culturally, economically, and ecologically—and maintain the eco-social relationships on which their cultural continuance depends. Line 5 is a danger to all human and non-human beings that rely on the Great Lakes.

"But what it is, really, it's like a constant wound. It's like digging at the wound; every second that thing's [Line 5] running. It's doing the same thing. It's hurting us."

— Nichole Biber¹⁶¹

Anishinaabek Caucus actively resists invasive oil infrastructure

The Anishinaabek Caucus of the Michigan Democratic Party has adopted multiple strategies to engage with Enbridge, policymakers, and the public to dismantle Enbridge's projected image as providers of a public good. Enbridge's advertising would have us believe in a public good where Anishinaabe personhood does not exist (and, as a consequence, neither do their treaty rights). Or, Enbridge would have us believe in an Indigeneity that is in alignment with Enbridge's corporate goals, as seen in its advertisements with supposedly Indigenous archeologists. The Caucus's strategy in dismantling Enbridge's projection of "public" is rooted in the *public* expression of Anishinaabe identity—that is, their representation and protection of Anishinaabe identity and personhood challenges Enbridge's assertion of the "public" by revealing Enbridge's historic and contemporary pattern of refusing to engage with an Indigenous consultation process that meets the bare minimum standards of FPIC. While not all members of the Caucus are Anishinaabe, the core of the Caucus' organizing strategy is rooted in uplifting the interests of the Anishinaabe people. Indeed, organizing to resist the environmental violence caused by fossil fuel extraction is in itself an expression of Indigenous identity, acting on the Anishinaabe cultural value of responsibility for and stewardship of their contemporary and ancestral homeland. The Caucus' affiliation with the Michigan Democratic Party also increases the political capital of Anishinaabe people in the state of Michigan and increases Anishinaabe access to local and state policymakers. The Caucus' activism brings Enbridge's pretense at tribal consultation and consent to light and simultaneously makes visible the Anishinaabe experience of environmental violence at the hands of fossil fuel extractivists to the public at large. Enbridge's marketing narrative as a purveyor of a public good in the form of fossil fuels cannot be true if their Indigenous consultation process is performative, exploitative, and violates treaty-protected Anishinaabe sovereignty. Consequently, the expression of Anishinaabe identity and personhood is integral to the Caucus' Line 5 resistance strategy.

¹⁶⁰ Esteban Chiriboga, "Cumulative Environmental Risk of Crude Oil and Natural Gas Pipelines in the 1837, 1837, 1842, and 1854 Ceded Territories" (Great Lakes Indian Fish and Wildlife Commission, 2022), <https://data.glifwc.org/reports/>.

¹⁶¹ Nichole Biber, Interview with Nichole Biber on Line 5, Enbridge and Anishinaabe Futurity, interview by Erin Posas and Jessica Berger, 2022.

Asserting Indigenous identity is also integral to the strategy employed by the Caucus in their partnerships with traditional environmental organizations like the Sierra Club, justice-centered environmental organizations like the Michigan Environmental Justice Coalition, and specialized fossil fuel resistance coalitions like Oil & Water Don't Mix. That the Anishinaabek Caucus of the Michigan Democratic Party exists demonstrates that it needs to exist, and that it is needed demonstrates that, corporate DEI initiatives aside, 'Big Greens' still largely fail to center Indigenous experience in their recognition or restorative justice efforts, or invest in solutions that honor an Indigenous vision of a sustainable energy future. In this way, by asserting Anishinaabe personhood in environmental organization spaces, the Caucus can ally with other organizations on the causes on which they align, and only on those which they align.

The Caucus has also formed strategic partnerships in the scientific and academic spheres of influence, as in their work with John O'Shea. Indeed, the act of writing this paper is an example of the Caucus's strategic engagement of the academic sphere, offering the graduate student authors of this paper the opportunity to learn from, organize and engage in activism with the Caucus in their fight against Line 5. The Academy has been slow in recognizing the validity of Traditional Ecological Knowledge, and while academic validation is supplementary at best, partnering with academics and graduate students increases the Caucus's access to specialized instrumentation, expertise, ideas, and labor. It is on the academics to ensure that knowledge is used respectfully, with the free, prior, and informed consent of those who gave it; the Academy has been shown time and again (like Enbridge) to exploit the Anishinaabe peoples.

The Caucus' Line 5 resistance strategy also makes visible both the harm that Line 5 and other pipelines have caused to the water, the climate, and people (especially Indigenous people) and the risks and inevitabilities of future harm. This dismantles the public good narrative leveraged by Enbridge and other fossil fuel corporations because Enbridge cannot be peddling the public good if its production causes such measurable, demonstrable, and intentional harm. This is actualized in much of the Caucus' participation in public facing grassroots activism. The Caucus leverages their presence at Michigan Public Service Commission hearings, town halls, and activism events like The Water is Life Festival (held in conjunction with other fossil fuel resistance efforts across the US) to educate politicians and the public about the harms that Enbridge has already caused in the Straits over Line 5's lifetime, and in the devastating Line 6B spill. The Caucus also educates local, state, and federal politicians on the dangers posed by Enbridge's continued operation in the Straits. In this way, the Anishinaabek Caucus' resistance to Enbridge's Line 5 pipeline dismantles the co-opted public good narrative. The commodities that Enbridge provides and the infrastructure constructed to transport oil and gas only serve a racial capitalist public of corporate elites, not a diverse public which meaningfully includes and honors Indigeneity.

Anishinaabe futurity visions shared at the 2022 Water is Life Festival

On the first weekend of September in 2022, a portion of our team members packed two cars full of camping gear, video equipment and tabling materials and made the five hour journey from Ann Arbor to Mackinaw City for the Water is Life Festival.

Founded by Jannan Cornstalk, the Water is Life Festival is a way for community members to come together to celebrate water and strategize ways to resist those that treat it as an inexhaustible resource in

the name of greed and wealth accumulation.¹⁶² The festival has been held every year since its inception in 2017 at the Straits of Mackinac. At the start of the festival is the Pipe Up Paddle Out Flotilla, which is done in collaboration with Oil & Water Don't Mix. Taking place just under the Mackinac Bridge, participants hold up signs that read "Evict Enbridge" and "Stop Line 5" while floating in kayaks and jimaans.^{163,164}

The location of the festival poses a direct challenge to Enbridge, to let them know that despite their billions of dollars, the desire of the people to protect the Great Lakes is stronger than their marketing budget, more powerful than their propensity for violence, and fueled by an intimate relationship with the land that has been shaped since time immemorial. We felt privileged to be in community with water protectors and other activists that do not take their responsibility to defend the water lightly.

In addition to lending our support and meeting the people who have been pivotal in the fight against Line 5, one of the main goals of our participation in the Festival was to interview Anishinaabe scholars, activists and knowledge keepers for a short documentary ultimately called "Water is Life: Indigenous Lifeways Threatened by Enbridge's Line 5."¹⁶⁵ Conceptualized in a consent-based visioning process with the Anishinaabek Caucus, this documentary is intended to present to the general public visions for Michigan's energy and water protection future as told by Indigenous persons—a future that does not depend on oil infrastructure or suffer from environmental violence. By interviewing Anishinaabe participants at the Festival, we hoped to present facts and testimonies that centered Indigenous voices, perspectives, cosmologies, experiences, and knowledge, being indispensable as they are to any discussion involving the Great Lakes and the Straits of Mackinac. By presenting these interviews in a documentary format, we hoped to contribute to the ongoing work being done by the Anishinaabek Caucus, Anishinaabe peoples, water protectors, and protestors to challenge the false narratives put out by the U.S., Canada, and Enbridge that the continued operation or expansion of Line 5 is necessary, safe, and peaceful. Keeping in mind the intention of the video and the theme of the festival that year, "Water is the Future," we asked 10 interviewees to describe alternative visions for the future of water and energy they have. Of the people we interviewed, all but one are Anishinaabe persons who are contemporarily or traditionally from the Great Lakes region, whose tribal nations include the Little Traverse Bay Bands of Odawa Indians, the Bay Mills Indian Community, the Mackinac Bands of Chippewa and Ottawa Indians, the Nottawaseppi Huron Band of the Potawatomi, the Sault Tribe of Chippewa Indians, and the Citizen Potawatomi Nation.

It was a privilege to hear these critical testimonies, which coalesced around the cosmological and material importance of water as a life-giving relative and sacred being; the spiritual, cultural, ecological, and economic importance of the Great Lakes to the Anishinaabe in particular; the importance of water and the Great Lakes to the practice and continuance of Anishinaabe lifeways; the need for renewable energy to replace invasive oil infrastructure like Line 5; and ultimately, how the collection of Anishinaabe future visions expressed prioritize collective continuance according to the seven generations teaching. Excerpts

¹⁶² Emily Burkhart, "Indigenous Women Celebrate and Protect Water with the Water Is Life Festival," *Arts Help* (blog), 2022, <https://www.artshelp.com/the-water-is-life-festival/>.

¹⁶³ Birch bark canoes originating from the Odawa.

¹⁶⁴ Emily Burkhart, "Indigenous Women Celebrate and Protect Water with the Water Is Life Festival."

¹⁶⁵ Can be found at the Youtube channel of the Anishinaabek Caucus or via the link: <https://www.youtube.com/watch?v=OCW6fiNSXjs&t=327s>

from the interviews or the video are included below to best represent what we heard—largely in the words of the interviewees, themselves.¹⁶⁶

“Water is Our Future”

Water is especially important to collective continuance. Anishinaabe scholar Deborah McGregor (Whitefish River First Nation), with fellow scholar and Steven Whitaker, note that concern and reverence for water far precede concerns about pollution in Indigenous communities, being conceptualized “as a fundamental life-giving force,” as “life itself” since time immemorial. McGregor writes, “water has a role and a responsibility to fulfill, just as people do. We do not have the right to interfere with water’s duties to the rest of Creation.”¹⁶⁷

At the 2022 Water is Life Festival, we heard the reverence and respect held for water loud and clear in conversations with attendees. The theme of this year’s celebration was “Water is Our Future.” It was clear to us that there is no conversation about futurity that is not by necessity based on protection of, reverence for, and reciprocity with water. In Anishinaabe tradition, water is treated as a relative with rights and responsibilities, on whom Anishinaabe—and all living things—depend and also owe reciprocity for the gift of life water provides. This sentiment was echoed in the conversations we had.

“Water is sacred to us. It's life. From an Indigenous perspective, water isn't just for me or you, or the human race, it's for everything. It's for plant life, the entire ecosystem from top to bottom, all walks of life—plant life, animal life. I mean, we're all dependent upon water.”

– Nat Spurr¹⁶⁸

“[Water] is a sacred being, not a natural resource. We've got to protect it. Because when it's gone, there's no second choices there. I mean, you can't live off of Coca Cola.”

– Andrea Pierce¹⁶⁹

“This water—it's my relative. So if it's your relative [and] you had that relationship with it, then you're gonna have a different emotional connection, and you're gonna want to do the very best to try to take care of it and make sure that it's here for future generations, like my grandchildren and

¹⁶⁶ Other interview quotes relating to the harms perpetrated by Enbridge and their dual oil pipeline and proposed tunnel project are interspersed in previous sections of the paper, where relevant.

¹⁶⁷ McGregor, “Honoring Our Relations: An Anishinaabe Perspective On Environmental Justice.”

¹⁶⁸ Spurr, Interview with Nat Spurr on Line 5, Enbridge and Anishinaabe Futurity.

¹⁶⁹ Pierce, Interview with Andrea Pierce on Line 5, Enbridge and Anishinaabe Futurity.

*grandchildren's grandchildren. **We have a reciprocal relationship with the water; that is going to impact many, many things in the future.***

– Jannan Cornstalk¹⁷⁰

Because many women can also give the gift of life, they have a special relationship with water, including the responsibility to speak for water, in addition to the responsibility to care for it that all beings have.¹⁷¹ As fierce water protectors, Andrea Pierce and Jannan Cornstalk articulated on multiple occasions the responsibility they felt to care and speak for water.

The Great Lakes

Water protectors like Andrea and Jannan steward one of the most important waterways in the world. Contamination of the Great Lakes not only has significance for everyone that calls it home, but its connections to other bodies of water like the Mississippi River could mean that impacts would be dispersed beyond the region. Since the Lakes make up over one fifth of the world's freshwater, any disaster at the Great Lakes could contribute to an already accelerating water shortage.¹⁷²

*"This not only impacts the local community, or the state of Michigan, **because all of the rivers, streams and creeks and the tributaries that lead right into the Mississippi come right out of the Great Lakes...** It's not just the Great Lakes problem, [it] is the national problem."*

– Richard Lewis¹⁷³

*"For centuries, Anishinaabe people made their homes in the watery places of the Great Lakes region. **People need to understand that every possible place you could visit in the Great Lakes region—anytime you see or experience water—you are in the presence of Anishinaabe stories and Anishinaabe history.** And so for Anishinaabe people, the Great Lakes is where our entire history has been staged. And so it matters greatly what happens in the Great Lakes."*

– Kyle Whyte¹⁷⁴

In addition to its implications for the global water supply, Line 5's position through the Straits of Mackinac threatens all the relationships that Anishinaabe have formed with each other, plants, animals and the non-living across millenia. This relationship to land in all its components is what built

¹⁷⁰ Jannan Cornstalk, Interview with Jannan Cornstalk on Line 5, Enbridge and Anishinaabe Futurity, interview by Erin Posas and Jessica Berger, 2022.

¹⁷¹ McGregor, "Honoring Our Relations: An Anishinaabe Perspective On Environmental Justice."

¹⁷² Delaney Dryfoos, "UN Water Conference Highlights a Stubborn Shortage of Global Action," *Inside Climate News*, 2023, <https://insideclimatenews.org/news/17042023/un-water-conference-global-pact/>.

¹⁷³ Lewis, Interview with D. Richard Lewis on Line 5, Enbridge and Anishinaabe Futurity.

¹⁷⁴ Whyte, Interview with Kyle Whyte on Line 5, Enbridge and Anishinaabe Futurity.

Anishinaabe cosmologies and sustained them through hardship. The Great Lakes are especially important as sites of deep spiritual and cultural significance. In an interview conducted by Global Land Alliance, Whitney Gravelle of Bay Mills Indian Community explained, “Every society has a creation story. Our people, Anishinaabe people, have our own creation story as well. And for that creation story, it takes place in the Straits of Mackinac, where the dual pipelines run. We call that the heart of Turtle Island because it's the heart of where North America was created in that creation story. So for Bay Mills, for a lot of Indigenous people and tribal nations, that is the sacred place. If I were to try to call it something that Western society might be familiar with, you would think of the Garden of Eden as a comparison. That's the sacredness that place holds.”¹⁷⁵

Lifeways

Collective continuance as described above—self determination and social resilience as upheld by living interdependently in systems of responsibility that shift dynamically in response to need—depends on the ability to practice and maintain lifeways. These lifeways are an embodiment of the landed relationships that have been built between Anishinaabe people and their environment, and they demonstrate how survival is not just tied to, but rather dependent, on other non-human relatives.

*“The term lifeways is more about a sense of being, about **all of your cultural teachings being wrapped up, who you are as a person.** [...] It's told to us that during the time of famine, the White Fish Clan walked into the water and turned into the whitefish that we know today in order to provide and feed the people during that time. [...] **And we know that as long as lake whitefish continues to exist, that we will never starve.**”*

—Whitney Gravelle¹⁷⁶

Just as the White Fish Clan protected the Anishinaabe people during a time of extreme hunger, the Anishinaabe people work to honor and protect lake whitefish from current and future threats to their habitat. This exemplifies the practice of living interdependently with a nonhuman relative, like whitefish, in a reciprocal way to fulfill one's responsibility to them. Whyte describes how this web of relationality and interdependent responsibilities are tied to spiritual practices and ceremony to honor the importance of interconnected relatives as well as the significance of each relative on its own.¹⁷⁷ Cultural, spiritual, and subsistence practices—all lifeways—are wholly dependent on water.

*“These are **the Lakes and fishing has been part of our lifeways for many, many years, I mean, this water has sustained so many different things that we may not hear, see, feel, or taste or whatever, but there's just so many things that we depend on this water for.**”*

¹⁷⁵ Gravelle, Treaties, Indigenous Land and Resource Rights in the Great Lakes and Enbridge's Line 5 Pipeline.

¹⁷⁶ *Water Is Life | Indigenous Lifeways Threatened by Enbridge's Line 5.*

¹⁷⁷ Whyte, “Critical Investigations of Resilience.”

– Jannan Cornstalk¹⁷⁸

*"We're a fishing community, that's where we're from. I go to my cousin's house and she's cooking up whitefish and we just sit there and eat. We eat it, we talk, we visit, and even though we're not right there at the water, we still have the water with us, because we have that fish that came from the water, harvested in a good way. My cousin's son is a tribal fisherman. So he does it in a good way. And I want my grandson to know how to fish. **I want my family to know what we're doing. I want them to grow up speaking their language and going to learn all of our traditions, I want it to be available to them, I want them to have the choice.**"*

– Andrea Pierce¹⁷⁹

*"Imagine a situation where you'd grown up with somebody—you went to school with them, you shared a lot of your life with this person, **you really would call them a best friend.** You're that close. You could call them anytime you needed something; they would call you, you would reciprocate. You had a close relationship, almost like a family relationship. And imagine if somebody just said, You know what, you can find a new friend, we're just going to put an end to that longstanding best friendship that you had. You can just find a new friend. Well, you can't replace my best friend. Now imagine a culture like Anishinaabe culture that all relationships that Anishinaabe people have are actually relationships that Anishinaabe people feel are kinship relationships...**People think of their connection to water, like that best friendship or their connection to fish or to medicinal plants, like a best friendship.** But the difference is, is that the friendships are not just a lifetime long, they actually go back generations. **So how could somebody say that the relationships that Anishinaabe people have to water or sturgeon or wild rice, that they just replace them with a substitute. There's no substitute.**"*

– Kyle Whyte¹⁸⁰

These relationships cannot simply be replaced with new ones if Line 5 were to eradicate any part of this kinship system. Any conversation of Anishinaabe futurity must include the right to practice and pass down lifeways—to maintain kinship relationships free of environmental violence that would seek to disrupt them.

Renewable Energy

As demonstrated earlier in this paper, interviewees gave ample testimonies attesting to the environmental violence of oil infrastructure. However, several of the folks we spoke with brought up the impracticality of investing in more fossil fuel infrastructure. As more of the world considers its relationship to the

¹⁷⁸ Cornstalk, Interview with Jannan Cornstalk on Line 5, Enbridge and Anishinaabe Futurity.

¹⁷⁹ Pierce, Interview with Andrea Pierce on Line 5, Enbridge and Anishinaabe Futurity.

¹⁸⁰ Whyte, Interview with Kyle Whyte on Line 5, Enbridge and Anishinaabe Futurity.

planet, fossil fuel usage is on the decline.¹⁸¹ In a world poised towards an energy transition, Enbridge's proposed tunnel project makes little sense. In conversations, we heard interviewees challenge the validity of extending Line 5's life.

*"I'm actually concerned that **by the time Enbridge Line 5 would be rebuilt through the new tunnel, that by the time that project would be done, I mean, is the world really gonna still be that dependent on fossil fuels?** I mean, it doesn't even make sense from a practical standpoint. And so I believe that the energy future is one that's based on renewable energy, and that uplifts communities, not corporations. **Corporations and governments for too long have controlled the energy sector.**"*

– Kyle Whyte¹⁸²

*"You know, I understand a substitute in renewable energy—that's going to take time, and it is taking time. **But we do have a responsibility to make that transition. [...] It's doing a huge disservice to constituents to not act on this.**"*

– Nat Spurr¹⁸³

*"I would love to see green energy... I would love to see solar and wind and more mass transit, mass transportation, we need to get more cars off the road. And yeah, **get off this dirty oil. We need to end our addiction to oil and be more low impact.**"*

– Monica Cady¹⁸⁴

We heard a clear desire for an equitable energy future that does not rely on extractive infrastructure or allow control of energy to remain in the hands of questionable actors. Making the change to renewables was framed by some of the folks we spoke to as a responsibility—an idea in line with protecting Indigenous critical infrastructures and enabling collective continuance.

Vision

McGregor describes Anishinaabe constructions of Creation to be derived from vision.¹⁸⁵ In the Creation story, as told by Basil Johnson, Kitchi Manitou (The Great Spirit) envisioned every part of the world and

¹⁸¹ Josh Gabatiss, "Record Clean-Power Growth in 2023 to Spark 'New Era' of Fossil Fuel Decline," *World Economic Forum* (blog), 2023, <https://www.weforum.org/agenda/2023/04/record-clean-power-growth-in-2023-to-spark-new-era-of-fossil-fuel-decline/>.

¹⁸² Whyte, Interview with Kyle Whyte on Line 5, Enbridge and Anishinaabe Futurity.

¹⁸³ Spurr, Interview with Nat Spurr on Line 5, Enbridge and Anishinaabe Futurity.

¹⁸⁴ Cady, Interview with Monica Cady on Line 5, Enbridge and Anishinaabe Futurity.

¹⁸⁵ McGregor, "Honoring Our Relations: An Anishinaabe Perspective On Environmental Justice."

was struck by the sense of responsibility to create it.¹⁸⁶ This foregrounds Anishinaabe systems of governance as it attends to relationality and responsibility, which mimic that of Creation.¹⁸⁷ While spirituality is often classified in Western scientific thought as beliefs lacking evidence, when discussing Anishinaabe Creation stories, we can understand spirituality as the basis of “moral relationships”¹⁸⁸ and kinship. When asking interviewees about their vision for the future, the concepts of land stewardship and accountability to generations that follow were common themes.

*"For me, **the vision of the future is an Anishinaabe vision.** And it's one in which all of the cultural activities, all of the economic and social activities that really make our people who we are, and make us able to provide for our communities, **that we can practice all of them without any concern of the cleanliness of the water, without any concern about whether we can do so safely** because of threats to water quality or threats that make it so that the Lakes are no longer able to provide the habitat that they need to for the plants and animals that we really depend on."*

– Kyle Whyte¹⁸⁹

*"Michigan, Wisconsin, Minnesota, all of them have the **additional burden of being a steward to the largest freshwater body resource in the world.** [...] And what that means, then, is that we're not here to control the water, we're here to control ourselves—**control ourselves from damaging or harming those natural resources, so that they can continue to be enjoyed.** [...] Every action that we take today, whether it be one second from now, one day from now, a week from now, **must take into consideration those next seven generations.**"*

– Whitney Gravelle¹⁹⁰

*"Our goal is seven generations from now that our people will still catch fish and be able to eat them. Now what does that mean? It means first of all, that there's still fish here. Secondly, that they're edible. **So we can't clean up our fish without cleaning up everybody's fish.**"*

– Frank Ettawageshik¹⁹¹

"My people settled the Pine Creek reservation in 1840. [We] bought the deed with our own money for the property in 1845. And we've been there ever since. So it's a common theme in the Native

¹⁸⁶ Basil Johnston, *Ojibway Heritage*, Reprint edition (Lincoln: Bison Books, 1990); McGregor, “Honoring Our Relations: An Anishinaabe Perspective On Environmental Justice.”

¹⁸⁷ McGregor, “Honoring Our Relations: An Anishinaabe Perspective On Environmental Justice.”

¹⁸⁸ Whyte, “Critical Investigations of Resilience.”

¹⁸⁹ Whyte, Interview with Kyle Whyte on Line 5, Enbridge and Anishinaabe Futurity.

¹⁹⁰ *Water Is Life | Indigenous Lifeways Threatened by Enbridge's Line 5.*

¹⁹¹ Frank Ettawageshik, Interview with Frank Ettawageshik on Line 5, Enbridge and Anishinaabe Futurity, interview by Erin Posas and Jessica Berger, 2022.

*community, people talking about seven generations. And that was almost exactly seven generations back. You go back to 1840/1841, one of my ancestors settled Pine Creek, and my family has been there ever since. **The fact that we signed treaties and worked out a way to stay in Michigan; that's the reason why I'm still here. So I have to continue to fight for the people who fought for the right for me to be here.**"*

– Nat Spurr¹⁹²

*"The best case scenario is, someday we'll be the ones that are the elders, who are telling stories that people can't even believe. **We want them to find it horrid that there were wires everywhere, and that our water was being threatened, and that things were being poisoned.** We want it to be like people can't even believe that, because we did it—we brought that, making the conscious choice to know [that] whatever we put our hands to is what determines what is happening. So if we put our hands to restoring, if we put our hands to regeneration, if we just say, hey, there's a lot of jobs in taking down some of this concrete, and getting those pipelines shut down and taken out. **We did the work—the end goal became [that] the waters are running free.**"*

– Nichole Biber¹⁹³

Almost all of the people that we interviewed thought outside of their own lifetime when discussing an alternative vision without fossil fuels. In some, this involved relying on guidance from ancestors and honoring the strategic decisions they made to allow their descendants to thrive. In others, they envisioned creating a future that was so regenerative that it would make invasive infrastructure and extraction seem completely absurd to generations that follow us. In describing these visions, interviewees were not just naming a wishlist for the future, they were also seeking to define a role for themselves in making this future a reality.

Conclusion

Situated in the Straits of Mackinac, Enbridge's Line 5 dual oil pipelines and proposed tunnel project are forms of invasive infrastructure that risk the largest body of fresh surface water in the world while violating Indigenous rights in ongoing and unforgivable ways. The settler colonial nation states of the U.S. and Canada sanction fossil fuel infrastructure as a critical public good, thereby enabling Enbridge to use similar rhetoric in framing Line 5 as "critical infrastructure" that serves economic growth, energy security, and energy independence of the nation states. There is no justification possible for the continued operation or expansion of Enbridge's Line 5. Rather than being built with the consent of local Indigenous peoples according to the philosophies and practices that could theoretically make consent possible, this oil infrastructure was built without free, prior, and informed consent by an actor with a proven history of egregious harm inflicted on Indigenous peoples. By disrupting kinship relationships with other humans, more-than-human

¹⁹² Spurr, Interview with Nat Spurr on Line 5, Enbridge and Anishinaabe Futurity.

¹⁹³ Biber, Interview with Nichole Biber on Line 5, Enbridge and Anishinaabe Futurity.

relatives, ancestors, future descendants, and land, Line 5 inflicts environmental violence and threatens Anishinaabe collective continuance.

To assert their collective rights to a self-determined future free of oil snaking through the land and waters of Turtle Island, Anishinaabe tribal nations and communities have been protesting and building political power in numerous ways. In order to preserve Anishinaabe lifeways, the Anishinaabek Caucus strategically builds partnerships with political entities, other anti-fossil fuel organizations, and academic institutions. By positioning themselves within the Michigan Democratic Party, the Anishinaabek Caucus intentionally creates an additional avenue to advocate for Indigenous issues on their own terms.

In support of the work the Anishinaabek Caucus does to disrupt and challenge false narratives circulated about Line 5, we conducted several interviews at the 2022 Water is Life Festival to create a short documentary-style video centering visions for water protection and energy futures as told by Anishnaabe persons. Although not representative of the diverse tribes and peoples of the Anishinaabe, these voices illustrated some important perspectives, lived experiences, philosophies and cosmologies of the Anishinaabe. The visions for the future they shared align with concepts of collective continuance and assert a futurity that is sustainable for all—humans and non-humans, alike.

On a personal level for us, the research we have conducted throughout the course of this project and the testimonies we heard have fundamentally shifted how we, as environmental and sustainability students, think about environmental justice and sustainability. Anishinaabe scholars and knowledge keepers have written extensively on conceptions of environmental justice and sustainability informed by Anishinaabe cosmologies, philosophies, and knowledge practices. In reflecting on this project, a poignant passage from Deborah McGregor stands out as a reminder of what we have learned: “In the Anishnaabe worldview, all beings of Creation have spirit, with duties and responsibilities to each other to ensure the continuation of Creation. In contrast to perhaps more mainstream writings of environmental justice, all beings of Creation [have] agency and entitlement, according to Anishinaabe tradition. As well, the ancestors of current beings and those yet to come (at least as far ahead as seven generations from now) also have entitlement to environmental justice. From an Anishnaabe perspective, the spirit world and all beings of Creation, including people, have relationships and responsibilities.”¹⁹⁴ We are moved to think about environmental justice in more expansive terms—longer time spans looking both into the past and the future, wider networks of care that debunk the myth of human-nature separation, and deeper connections with others based on reciprocity and consent. Most immediately, we know we are committed to the responsibility we have to fight against Line 5.

Reflexivity statement

It is the responsibility of researchers and academics to be forthright about their positionality, as well as their relationship with research subject matter. In this case, it is especially important to note that the Master’s student authors of this paper are all white people of either European or Latin American descent

¹⁹⁴ McGregor, “Honoring Our Relations: An Anishinaabe Perspective On Environmental Justice.”

who grew up in the United States as citizens. The student authors of this paper are forthright in this positionality to make it clear that the views, perspectives, knowledge, or cosmologies of Anishnaabe or other Indigenous persons discussed in this paper are shared second-hand from either interviews or existing literature. Therefore, while the authors of this paper aim to add to an ongoing conversation on invasive fossil fuel infrastructure and its harmful impacts on Indigenous communities, they do so as complicit parts of the settler colonial project that is the United States. The authors of this paper completed their Master's Project, of which this paper is one component, with the Anishinaabek Caucus in Michigan. This introduces inevitable bias in favor of Anishinaabe viewpoints, but it also creates a more tangible link to the viewpoints the authors hope to represent with humility, respect, and authenticity. The student authors of this paper have also relied on guidance from their Master's Project advisor, Dr. Kyle Whyte.

Dr. Kyle Whyte is George Willis Pack Professor of Environment and Sustainability at the University of Michigan, where he coordinates the environmental justice specialization. He is founding Faculty Director of the Tishman Center for Social Justice and the Environment, Principal Investigator of the Energy Equity Project, and Affiliate Professor of Native American Studies and Philosophy. His research addresses environmental justice, focusing on moral and political issues concerning climate policy and Indigenous peoples, the ethics of cooperative relationships between Indigenous peoples and science organizations, and problems of Indigenous justice in public and academic discussions of food sovereignty, environmental justice, and the anthropocene. He is an enrolled member of the Citizen Potawatomi Nation.

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