

RESOLUTION 32-17

- WHEREAS,** the Minnesota Chippewa Tribal Executive Committee is the duly elected governing body of the Minnesota Chippewa Tribe, comprised of six member reservations (Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs and White Earth), each of which is separately recognized by the United States as an Indian tribe; and
- WHEREAS,** the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe provides that the purposes of the tribal organization under the Act of June 18, 1934 (48 Stat. 984) include the conservation of tribal resources and promotion of the general welfare of members of the Tribe; and
- WHEREAS,** water sustains all life, and the protection of clean water is our sacred responsibility as Anishinabe people; and
- WHEREAS,** manomin, or wild rice, is also sacred to Anishinabe people, and because all waters are interconnected, even subtle changes in water quality or levels can profoundly harm the health of manomin, which is a trust resource with federal protections; and
- WHEREAS,** private companies are proposing and planning several oil and gas pipeline and other large infrastructure projects that would cross lands and waters where Tribal members gather wild rice and natural resources, and where Tribal cultural resources are located; and
- WHEREAS,** construction of such large infrastructure poses a threat to waters, natural resources and cultural resources from disturbance during construction and permanent destruction by project activities; and
- WHEREAS,** oil pipelines in particular pose a unique threat to Ojibwe in Minnesota where those pipelines cross over, under or through waters, wetlands and ecosystems on which Ojibwe depend for wild rice, fish, game, and other culturally-important natural resources; and
- WHEREAS,** impacts to natural and cultural resources from large-diameter pipeline construction include streambank degradation, increased sedimentation of waters, long-term wetland disruption, and destruction of fish and wildlife habitat corridors through permanent vegetation removal; and
- WHEREAS,** wild rice is particularly sensitive to changes in water levels, water quality, increased sedimentation, and pollutants; and
- WHEREAS,** pipeline proponents deliberately select new pipeline routes with the intent of avoiding all possible environmental review of pipeline projects; and

- WHEREAS,** as a result, routes for pipelines and other large infrastructure projects frequently avoid passing through Indian reservations and Tribal trust lands but still pass through treaty-ceded territories and tribal aboriginal lands where Tribal members hunt, fish, and gather, and where Tribal cultural resources are located; and
- WHEREAS,** Enbridge's proposed Line 3 Replacement Project will, if constructed, carry Canadian tar sands oil via 36-inch diameter pipeline through pristine wild rice lakes, waters, rivers and interconnected aquifers of Minnesota including the headwaters of the Mississippi and two other major North American watersheds; and
- WHEREAS,** many of those wild rice waters, rivers, lakes and aquifers are interconnected downstream and upstream with ecosystems which are the primary sources of natural resources important to Tribal members; and
- WHEREAS,** many of those interconnected waters flow through Ojibwe treaty-ceded territories and aboriginal lands where Tribal members exercise reserved hunting, fishing and gathering rights and where cultural resources are located, or through Tribal trust lands and Reservations; and
- WHEREAS,** the Line 3 Replacement Project proposed route fastidiously avoids actually crossing any Indian Reservations or Tribal trust lands yet will still impact important natural and cultural resources; and
- WHEREAS,** the significance of treaty rights and treaty resources in Minnesota has been acknowledged in judicial decisions that have addressed those rights both on and off reservations; and
- WHEREAS,** current federal law and state law governing permitting of oil pipelines places greater emphasis on meeting the needs of the pipeline proponent than ensuring that natural resources, cultural resources, and Tribal rights, interests and resources are considered and protected; and
- WHEREAS,** current Army Corps of Engineers tribal consultation policy requires consultation with tribes on activities that occur within a tribe's aboriginal lands, regardless of land status; and
- WHEREAS,** the Army Corps of Engineers has looked to guidelines drafted in 1997 (Attached as Exhibit A) when ascertaining its trust responsibilities to Indian tribes and since that time there have been developments in the law both generally and specifically with respect to treaties with Minnesota tribes; and

NOW THEREFORE BE IT RESOLVED that the Tribal Executive Committee hereby requests that the U.S. Army Corps of Engineers initiate early and robust tribal consultation for any infrastructure projects proposed to be located within Ojibwe aboriginal lands, regardless of land status or reservation status; and

BE IT FURTHER RESOLVED that the Tribal Executive Committee hereby requests that such tribal consultations be initiated at the earliest stages of project proposal to allow tribes to identify tribal natural and cultural resources that may be impacted; and

BE IT FURTHER RESOLVED that the Tribal Executive Committee hereby requests that the U.S. Army Corps of Engineers work with Ojibwe tribes in Minnesota and Wisconsin to develop new Clean Water Act Section 404 permitting processes for wild rice waters in recognition of the special impacts created to wild rice resources by activities covered under Section 404; and


BE IT FURTHER RESOLVED that the Tribal Executive Committee hereby requests that the U.S. Army Corps of Engineers seek all necessary authority to condition Section 404 permit approval over infrastructure projects occurring within tribal aboriginal lands with serious potential impacts to tribal cultural and natural resources on receipt of the informed consent of the impacted tribes; and

BE IT FINALLY RESOLVED that the Tribal Executive Committee hereby requests that the U.S. Army Corps of Engineers: (1) consult with the Minnesota Chippewa Tribe and its constituent Bands to update the guidelines (Exhibit A); (2) make a firm unequivocal commitment that it will follow those guidelines and fulfill its trust obligations to Indian tribes; and (3) enter into agreements with the MCT or a constituent Band to establish protocols for tribal input and consultation on proposed actions impacting tribal cultural and natural resources.

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 9 For, 1 Against (Dennis Morrison), 0 Silent, at a Special Meeting of the Minnesota Chippewa Tribal Executive Committee, a quorum present, held on November 30, 2016 via electronic polling, Cass Lake, Minnesota.



Kevin R. Dupuis, President
THE MINNESOTA CHIPPEWA TRIBE



Melanie Benjamin, Secretary
THE MINNESOTA CHIPPEWA TRIBE