

St. Paul District Corps of Engineers
Chronology to support National Historic Preservation Act (NHPA), Tribal
Trust, and Government to Government Consultation and Coordination:
Enbridge Line 5 Wisconsin Segment Relocation Project (WI L5R)

July 10, 2020

- Tribal Consultation Invite Letters to 18 Tribes, addressed to Chairpersons, signed by St. Paul Corps of Engineers District Commander (Colonel Jansen). Included map overview of proposed Line 5 Relocation route that would avoid the Bad River Reservation, Ashland and Iron Counties, WI. Corps mailed letters to Chairpersons and emailed to Tribal Historic Preservation Officers (THPOs) the following week.
- Six (6) tribes officially responded to consult; others would attend subsequent consultation meetings. The Corps continued to provide information to all tribes except for tribes who specifically responded that they did not wish to consult or receive any project information.

August 7, 2020

- Discussed an appropriate area of potential effects (APE) for the undertaking with the Wisconsin State Historic Preservation Officer (SHPO).

October 22, 2020

- Corps emailed all consulting and potentially-consulting THPOs the investigations prepared to-date along the proposed corridor for their review: 2019 Phase I archaeological report, 2020 Phase I Addendum, and 2020 Tribal Cultural Resource Survey Report (TRCS). Placed the reports and permit area map sets on SAFE ftp sharing site for download.

October 29, 2020

- Initiated NHPA tribal consultation for the proposed WI L5R project, WebEx Meeting
- Discussed Corps Regulatory involvement, permit areas and APE, and sought information and expertise from tribes on the identification of historic properties.
 - Identified consulting parties (36 CFR 800.2)
 - Defined undertaking (36 CFR 800.3; 33 CFR 325)
 - Discussed Identification of Historic Properties (36 CFR 800.4): discussed APE, seeking and gathering information, review existing information (investigations conducted), and level of effort.

- THPOs requested additional time to review the existing materials, and to collect/gather information from their communities to identify potential historic properties.

November 17, 2020:

- Tribal technical meeting with Corps staff, tribal staff, and Great Lakes Indian Fish and Wildlife Commission (GLIFWC) staff.

November 24, 2020:

- Provided (emailed) the final meeting notes from the 29OCT20 meeting, provided the 2020 architectural report for THPOs to review, provided info requested during the consultation meeting (alternate routes to Bad River Band of Lake Superior Chippewa THPO).

December 10, 2020:

- Tribal technical meeting with Corps staff, tribal representatives, GLIFWC staff.

January 13, 2021:

- Tribal NHPA consultation meeting, via WebEx platform (COVID-19 protocols)
- Discussed investigation reports and the Corps asked if interest in oral-history interviews. Interest expressed, briefly discussed COVID interview protocols (e.g., phone interviews).

January 22, 2021

- Tribal technical meeting with Corps staff, tribal staff, and GLIFWC staff.

February 24, 2021:

- Received written comment from the Forest County Potawatomi Community (FCPC) THPO.
 - Corps reviewed all comments and required corresponding revisions to the reports.

March 03, 2021:

- The Bad River Band of Lake Superior Chippewa (Bad River Band) THPO and the Red Cliff Band of Lake Superior Chippewa (Red Lake) THPO confirmed they would conduct interviews within their communities. Additionally, the FCPC THPO confirmed he would conduct interviews. In total, at this time, 3 tribes expressed interest in conducting interviews to further identify potential historic properties within the proposed L5R corridor. Ultimately, the FCPC THPO and the Red Cliff Band THPO did not move forward to conduct oral-history interviews and did not submit oral-history results.

March 11, 2021:

- Tribal technical meeting with Corps staff, tribal staff, and GLIFWC staff.

March 24, 2021:

- L5R initial recurring biweekly THPO NHPA consultation meeting. Introduction to these meetings: opportunity to provide information, updates, status, questions, concerns, will occur every two weeks, open to those who can participate and understand not everyone may be able to attend each meeting. Five tribes represented by THPO and non-THPO staff, and GLIFWC representatives.

March 31, 2021:

- The Corps met with Bad River Band THPO to discuss interviews. Based on discussions, the Corps set up biweekly recurring NHPA consultation meetings for Wednesday afternoons for the THPOs conducting interviews, starting 14APR21.

April 8, 2021:

- Consultation invite letters sent to Directors of the two County Historical Societies (Ashland and Iron) where the proposed L5R would traverse. Emailed electronic copy on 8APR; hardcopy via USPS on 9APR.
 - On 23APR21, the Corps received (email) response from Ashland County Historical Society President that they decline to participate in consultation on this project.

April 14, 2021:

- L5R recurring biweekly THPO NHPA consultation meeting: discussion centered on submittal of interview proposals/budgets.

May 12, 2021:

- Held recurring biweekly THPO NHPA meeting, but no THPO staff were able to participate (2 GLIFWC reps on the meeting and 1 non-THPO tribal rep). Participants tabled GLIFWC presentation and updates and discussion until next meeting.

May 28, 2021:

- Letter received from Bad River Band contained estimate proposal for conducting interviews, a TCRS of the corridor, request for another archaeological survey, and archival research.

June 3, 2021:

- Submitted initial coordination to the WI SHPO. All consulting tribes' THPOs received the coordination for their concurrent review. Also provided to the Wisconsin Department of Natural Resources (WI DNR) archaeologist/Historic Preservation Officer (HPO).

June 4, 2021:

- Sent all consulting THPOs and WI DNR archaeologist/HPO project shapefiles.

June 14, 2021:

- Corps (COL Jansen) government-to-government meeting with the Bad River Band Chairman and Council.

June 28, 2021:

- Received email from the WI SHPO that she completed her review of all submitted materials (SHPO Further Coordination: 21-0809/AS, IR - L5R Pipeline).

June 30, 2021:

- Tribal technical meeting with Corps staff, Bad River Band Natural Resources staff, and GLIFWC staff.

July 8, 2021:

- Received formal comment from the Bad River Band on the tribal survey and the APE.

July 16, 2021:

- COL Jansen letter to Chairman Wiggins, Bad River Band, acknowledging receipt of the Band's July letter and our June consultation meeting, and continuing our commitment to meaningful consultation and communication, and sharing information.

September 16 & 17, 2021:

- Corps staff participated in field visits with GLIFWC and Bad River Band Natural Resources staff to review wetland mapping.

September 27, 2021:

- Corps staff met with GLIFWC and Bad River Natural Resources staff to discuss results of field reviews.

October 14, 2021:

- Corps (COL Jansen) government-to-government meeting with the Bad River Band Chairman, virtual meeting.

November 19, 2021

- Notified Bad River Band and GLIFWC of Corps decision to evaluate regulated impacts under a standard individual permit (SIP).

December 10, 2021:

- Received letter from Bad River Band as follow-up to the 14OCT21 consultation meeting.

December 15, 2021

- Second Tribal Consultation Invite Letters to 18 Tribes, addressed to Chairpersons, signed by our District Commander (COL Jansen). Letters included notification to the tribes of the Corps decision to conduct a standard permit review (SIP) and that a public notice would be published to provide tribes another opportunity to comment on proposed activity, including concerns of effects on tribal rights (including treaty rights), tribal resources, or tribal lands.

January 7, 2022

- Email to all tribes provided as a follow-up to our December 15, 2021, letter informing of SIP and that the Corps posted a PN with project information and was seeking comments.

January 11, 2022:

- COL Jansen met G-to-G with Bad River Band Chairman Wiggins at tribal headquarters in Odanah, Wisconsin, to continue consultation discussion of proposed L5R. Corps staff attended with Bad River Band Natural Resources staff.

January 19, 2022

- Corps staff provided clarification to GLIFWC and Bad River Band via email on waterbody crossing table on webpage (waterbodies crossed that result in a regulated discharge).

January 20, 2022

- Notified all consulting tribes of public notice to extend comment period an additional 30 days, from February 5 to March 7, 2022. PN extended a second time from March 7 to March 22.

March 3, 2022

- Received letter from GLIFWC regarding number of waterbody crossings.

March 4, 2022

- Received letter from Bad River Band regarding number of waterbody crossings.

March 10, 2022

- Tribal technical meeting with Corps staff, GLIFWC & Bad River Band Natural Resources staff discuss waterbody crossings. Shared 2021 ESA consultation documents.

March 25, 2022:

- Corps COL Jansen letter to Bad River Band, which provided responses and answers to questions and requests from the Band in previous correspondence.

April 18, 2022

- Submitted second formal coordination to the WI SHPO. All consulting tribes THPOs (16) received the coordination for their concurrent review. Also provided to the WI DNR archaeologist/HPO.
- Corps coordinated final eligibility determinations and effect finding (no effect, no historic properties) for architectural resources only.

April 19, 2022:

- WI SHPO concurred with the determination and effect finding for architectural resources. Consultation on above-ground architectural resources for the L5R project complete.

May 09, 2022:

Received revised Statement of Work (SOW) from the Bad River Band, letter from Chairman and SOW enclosure for 25 oral-history interviews.

May 23, 2022:

- Corps Tribal Liaison called Bad River Band THPO to discuss the revised interview proposal SOW, timeframes, and funding.

May 24, 2022:

- Received concurrence from WI SHPO on 18APR22 coordination: no effect to standing/architectural structures or archaeological sites within the LOD and APE.

June 02, 2022:

- Suspense date for comments within the provided 45 days for the 18APR22 coordination with consulting THPOs and the WI SHPO. The SCC THPO requested additional time to submit his comments and, as he requested, extended his timeframe to 17JUN22.

June 6, 2022:

- Provided shapefiles to Bad River and GLIFWC of the most current revised permit areas referenced in the April 18, 2022, letter to the Wisconsin SHPO and consulting THPOs.

June 07, 2022:

- Corps COL Jansen letter to Chairman Wiggins, Bad River Band, acknowledging the Band's oral-history effort of 25 interviews.

June 10, 2022:

- Corps Tribal Liaison and Bad River Band THPO continued to discuss funding for the interviews.

June 14, 2022:

- Received official comment from the Sokaogan Chippewa Community (SCC) on the 18APR22 coordination, letter from Chairman VanZile to COL Jansen.

June 24, 2022:

- Corps Tribal Liaison and Bad River Band THPO discussion. THPO requested additional 6 weeks to provide comment on the revised reports.

June 29, 2022:

- Tribal technical meeting with Corps staff, Bad River Band Natural Resources, Red Cliff, Lac du Flambeau and GLIFWC staff.

July 12, 2022:

- COL Jansen (outgoing Corps commander) and COL Swenson (incoming Corps commander), and regulatory staff met at Bad River, hosted by Chairman, THPO, and Natural Resources (NR) Director. Trip included a Bad River and slough boat tour and L5R discussion.

July 20, 2022:

- Corps provided map sets of USACE permit area via SAFE ftp file share to GLIFWC & Bad River Band.

August 2, 2022:

- Tribal technical meeting with Corps staff, GLIFWC staff, Bad River, Red Cliff, & Lac du Flambeau representatives.

August 4, 2022:

- Received letter from the Bad River Band Chairman regarding funding for the oral-history interviews; requested an additional 120-days to complete the interview effort.

September 8, 2022

- Letter to Bad River Band granting 120-day extension to provide oral-history interview report. (Report suspense date January 6, 2023.)

October 11, 2022

- Letter from Bad River Band THPO request comments extension on the Phase I survey report until 28OCT22.

October 19, 2022

- COL Swenson letter to Chairman granting review extension request to 28OCT22; noted importance of this timeframe for all consulting parties and for the Corps to meaningfully consider comments, address potential concerns and questions, especially prior to upcoming NHPA consultation meeting.

October 28, 2022

- Received Bad River Band's THPO and outside archaeologist review comments of the Phase I archaeological survey report (letter signed by vice-chairman addressed to COL Swenson).

November 7, 2022

- Tribal technical meeting to discuss pending Corps request for additional information from the applicant with Bad River Band & GLIFWC staff.

November 9-10, 2022

- NHPA Tribal Consultation meeting; Bad River Lodge and Casino, Odanah, WI.

November 14, 2022

- Bad River Band NR Director sent email to Corps staff with comments, including comment on marine archaeological survey and botanical survey.

December 8, 2022

- Provided November 9-10 consultation meeting notes to THPOs for review.

December 14, 2022

- Shared via email for tribes' awareness: December 2022 Request for Additional Information letter for Enbridge's proposed Line 5 Wisconsin Segment Relocation project.

December 19, 2022

- Letter from Bad River Chairman requesting extension, an additional 21 days, to submit the interview report. (New suspense would be 27JAN23.)

January 5, 2023

- Letter to Bad River Band, granting 21-day extension request for oral-history interview report. Report suspense date January 27, 2023.

January 26-27, 2023

- Corps staff attended Spill Model presentation for tribes, Ashland, WI.
- Oral History Report received from Bad River Band.

February 3, 2023

- COL Swenson met with Chairman Wiggins to continue government-to-government consultation and discussion.

April 18, 2023

- COL Swenson letter to Chairman VanZile, SCC, responding to 14JUN22 letter of comments on Phase I survey and TCRS reports.

May 1, 2023

- Government-to-government meeting with COL Swenson and Chairman Wiggins at Bad River Casino to discuss Corps' NEPA process for L5.

May 21, 2023

- Emailed consulting THPOs attached Bad River Band's oral history report for review in advance of June 14 consultation meeting. Information provided to continue discussions about identification of cultural resources and historic properties.

June 14, 2023

- NHPA Tribal Consultation meeting; BIA office, Ashland, WI

June 22, 2023

- Letter from COL Swenson to Chairman Wiggins as a follow up from May 1, 2023, meeting regarding Corps' NEPA process for L5.

June 30, 2023

- Emailed THPOs following up on the Corps due outs from consultation meeting in Ashland on 14JUN. Included meeting notes and the two tables used during the meeting

with the additional information and notes added from discussion. Also, scheduling field visits to the resources identified during the tribal cultural survey.

July 11, 2023

- Tribal technical meeting with Corp staff and tribal staff to discuss wetland floristic quality assessments.

July 14, 2023

- Emailed consulting THPOs for proposed field day on Wednesday 09 AUG, working on scheduling, logistics, and access to the TCRS-identified resources, in addition to identified locations from Bad River's oral history report.

August 8, 2023

- Tribal technical meeting with Corps staff and tribal staff to discuss wetland functional assessments.

August 9, 2023

- L5 NHPA Tribal consultation field visits – reversed direction of itinerary to travel from the east to west at the tribes request due to concerns about invasive species.

August 29-30, 2023

- Corps PM facilitated site visits with EPA and Bad River Band Natural Resources staff.

September 12, 2023:

- Tribal technical meeting with Corps staff and tribal staff to review hydro-fracture analysis and HDD geotechnical info provided by the applicant.

September 15, 2023

- Emailed THPOs proposed dates for next consultation meeting for the second week in NOV 2023. Also noted upcoming 20SEP23 field day, what to visit and what was already visited in AUG. Corps PM provided a reminder of a summary report/evaluation of the locations visited by THPOs, requested by 06OCT23. PM provided examples of info that would be helpful to include: describe cultural significance of site visited; what effects of proposed action might be on cultural resource; and recommendations from THPO on how to minimize or mitigate the effects of the action on cultural resources.

September 20, 2023

- L5 NHPA Tribal consultation field visits.

October 10, 2023

- Tribal technical meeting with Corps staff and tribal staff to discuss status of information requests.

October 31, 2023

- L5 NHPA Tribal consultation field visits.

November 14, 2023

- Tribal technical meeting with Corps staff and tribal staff to discuss assessment of cumulative effects on wetlands.

November 15, 2023

- Virtual NHPA tribal consultation meeting via WebEx to discuss effects of the undertaking on identified historic and cultural resources within the APE, and to discuss avoidance and minimization measures.

December 12, 2023

- Virtual NHPA tribal consultation meeting via WebEx, continuing the effects assessment and avoidance and minimization measures discussions.

December 22, 2023

- Received route adjustment analysis near MP 25, Exhibit 10 Rock Outcrop, from the applicant's consultants in response to the Corps' request to analyze alignment shifts to minimize potential impacts to the northern portion of the rock outcrop as observed during the consulting THPOs and tribal staff field visit in August.

March 5, 2024

- Tribal technical meeting for Corps staff to share project review updates and share new or revised information received by the applicant with tribal staff.

May 3, 2024

- Submitted third Section 106 NHPA consultation to the WI SHPO and consulting THPOs, concurrent review: final eligibility determination (Potato River site, eligible under Criterion A) and final effect finding (no adverse effect to historic properties), included draft revised CRPP to support NAE finding (800.13(a)(2)).

May 6, 2024

- Provided letter to the Bad River Band THPO, responding to the January 26, 2024, comments letter submitted to the Corps.

May 6, 2024

- Provided letter to the Sokaogon Chippewa Community THPO, responding to the February 26, 2024, comments letter submitted to the Corps.