



Joe McGaver
Technical Manager
Environment
Environment Projects (US)

tel 713-627-4791
cell 218-390-9254
Joe.McGaver@enbridge.com

Enbridge
5400 Westheimer CT
Houston, TX 77056

September 27, 2021

Ben Callan
Wisconsin Department of Natural Resources
Chief, Integration Services Section
Environmental Analysis & Sustainability Program
101 South Webster Street
Madison, WI 53707-7921

**Re: WDNR Water Resources Application for Project Permits
Navigability Determination**

Dear Ben:

As part of Enbridge Energy, Limited Partnership's ("Enbridge") Water Resources Application for Project Permits for the proposed Line 5 Wisconsin Segment Relocation Project ("Project"), Enbridge requested that the Wisconsin Department of Natural Resources ("DNR") conduct a navigability determination of five select feature crossings (updated Project information submitted June 11, 2021). These features were identified on National Hydrography Dataset or DNR 24K Hydrography data as navigable waterbodies; however, field delineation work completed by Enbridge in 2019 and 2020 did not support that determination.

On August 27, 2021 the DNR and Enbridge participated in a joint review of the five features (WDH-102_x1, WDH-102_x2, WDH-102_x3, WDH-107_x1 and WDH-107_x2). These five locations represent three separate sections of feature WDH-102 and two separate sections of feature WDH-107). Based on the review, four features were determined to be non-navigable and one feature was determined to be navigable. The attached information summarizes the navigability determination field visit.

If you have questions about the information presented in the attached materials, please contact me at (218) 390-9254.

Sincerely,

Joe McGaver, PE
Technical Manager Environment
Enbridge Energy, Limited Partnership

cc: w/o enclosures: Adam Mednick, Wisconsin Department of Natural Resources
Bill Sande, U.S. Army Corps of Engineers

Enclosures:

- Site Evaluation Summary

Navigability Determination

As part of Enbridge's wetland/waterbody surveys conducted in 2019 and 2020, Enbridge identified linear waterbody features such as streams and rivers, and open waterbodies such as ponds and lakes. Delineations were conducted in accordance with the *Regulatory Guidance Letter No. 05-05 for Ordinary High Water Mark Identification* (USACE, 2005). Linear waterbodies were classified into one of four regimes according to the definitions provided by the USACE for the Nationwide Permit Program in Code of Federal Regulations (CFR) 33 Part 330.

- Perennial Stream – A perennial stream has flowing water year round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.
- Intermittent Stream – An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.
- Ephemeral Stream – An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.
- Connecting Swale – As described in *U.S. Army Corps of Engineers Jurisdictional Determination Form Instructional Guidebook*, dated May 30, 2007; in accordance with the *Rapanos* Guidance (USEPA & USACE, 2008), certain geographic features (e.g., swales, ditches, pipes) may contribute to a surface hydrologic connection where the feature connects two Waters of the United States ("WOUS").

Prior to conducting field delineations, Enbridge reviewed public information to identify potential linear waterbody features based on a desktop review of aerial signatures, Wisconsin Wetland Inventory ("WWI"), National Wetland Inventory ("NWI"), National Hydrography Dataset ("NHD"), and DNR 24K Hydrography ("WDH") mapped inventories. Enbridge then conducted the field delineations to verify the feature locations and collect information at the crossing location. Enbridge also collected Non-Water points in areas that were expected to be stream habitat based on the desktop review. Photographs (shown below) were taken along NHD/WDH lines to document the existing field conditions areas and classification as a non-stream feature. Documentation of such data points serves as a record that substantiates the discrepancy between observed field conditions and the NHD/WDH datasets. A list of Non-Water Points was included as Appendix G of the Delineation Report. Non-water point data forms and associated photographs were included as Appendix H of the 2019 Wetland Delineation Report and the 2020 Supplemental Report.

Enbridge requested that the Wisconsin Department of Natural Resources ("DNR") conduct a navigability determination of five specific features (WDH-102_x1, WDH-102_x2, WDH-102_x3, WDH-107_x1 and WDH-107_x2). These five locations represent three separate segments of feature WDH-102 and two separate segments of feature WDH-107.

Enbridge Feature I.D.: WDH-102_x1, WDH-102_x2, and WDH-102_x3

DNR 24K Hydrography data identifies this feature as Unnamed Waterbody (WBIC 5002055). The feature was reviewed by Enbridge field crews in 2019 and 2020. Enbridge's field delineations evaluated the locations and determined that the feature did not meet the definition of a waterbody, as discussed above. Photographs were taken to document field conditions and the segments were identified as: NOASA011, NOASA012, NOASE1002, NOASE1003, and NOASE1004 (see Enbridge's Line 5 Wisconsin Segment Relocation Project Wetland and Waterbody Delineation Report, February 2020 and Supplemental Report).

The DNR field review completed on August 27th evaluated the features for navigability determination. The DNR determined that segments of the feature were not navigable (WDH-102_x1 and WDH-102_x2) and segments of the feature were navigable (WDH-102_x3) (see figure 1).

Photograph looking W/NW at WDH -102_x2 segment determined non-navigable.



Photograph looking SE at WDH-102_x3 segment determined navigable.



Enbridge Feature I.D.: WDH-107_x1 and WDH-107_x2

DNR 24K Hydrography data identifies this feature as Unnamed Waterbody (WBIC 5001801). The area was reviewed by Enbridge field crews in 2019 (see figure 2). Enbridge's field delineations evaluated the locations and determined that the feature did not meet the definition of a waterbody, as discussed above (identified as noivr003). However, WDH-107_x2 was identified as a wetland (wirv009f).

The DNR field review on August 27th evaluated the feature segments for navigability determination. The DNR determined that the feature segments were not navigable (WDH-107_x1 and WDH-107_x2).


Photograph looking NE at WDH-107_x1 feature




Photograph looking SW at WDH-107_x1 feature







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<ul style="list-style-type: none">MilepostProposed CenterlineProposed WorkspaceSurvey CompletePermanent Valve/Road	<ul style="list-style-type: none">SSURGO Map UnitWisconsin DNR 24K HydroPerennial Stream/RiverIntermittent StreamWI DNR Waterbody	Delineated Waterbody <ul style="list-style-type: none">PondPerennial WaterbodyIntermittent WaterbodyEphemeral Waterbody	Delineated Wetland <ul style="list-style-type: none">PFO WetlandPSS WetlandPEM Wetland
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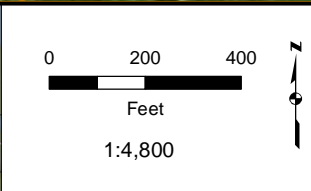
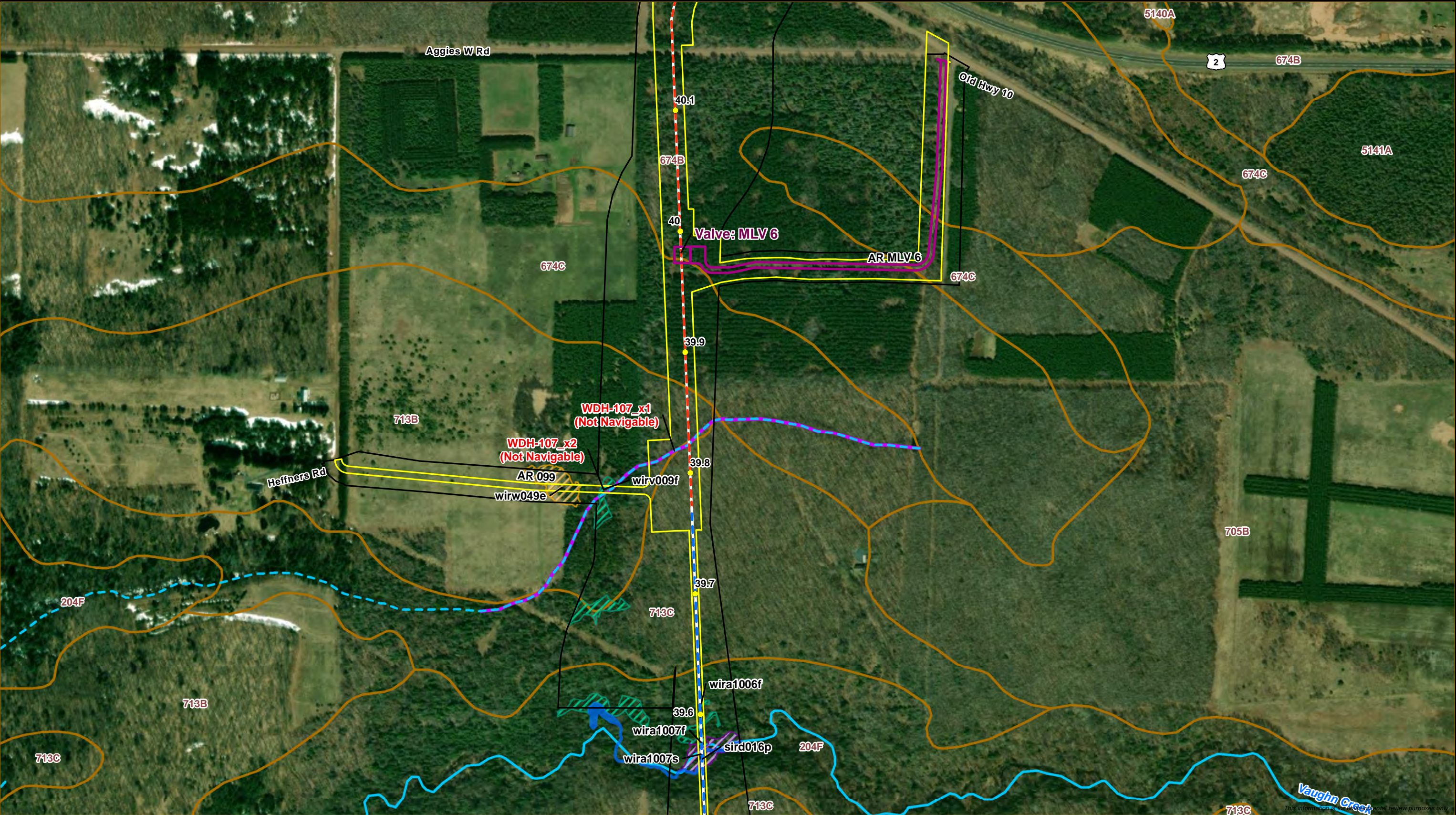


Figure 1
WIDNR Navigability Determination (08/27/2021)
Line 5 Wisconsin Segment Relocation Project
Enbridge Energy, L.P.





<ul style="list-style-type: none">MilepostProposed CenterlineHDD/Direct BoreProposed WorkspaceSurvey Complete	<ul style="list-style-type: none">Permanent Valve/RoadSSURGO Map UnitWisconsin DNR 24K HydroPerennial Stream/RiverIntermittent Stream	<ul style="list-style-type: none">WI DNR WaterbodyDelineated WaterbodyPondPerennial WaterbodyIntermittent Waterbody	<ul style="list-style-type: none">Ephemeral WaterbodyDelineated WetlandPFO WetlandPSS WetlandPEM Wetland
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Figure 2
WIDNR Navigability Determination (08/27/2021)
Line 5 Wisconsin Segment Relocation Project
Enbridge Energy, L.P.

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