RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
IN THE SUPREME COURT

In re APPLICATION OF ENBRIDGE ENERGY TO REPLACE & RELOCATE LINE 5

BAY MILLS INDIAN COMMUNITY, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS, GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS, NOTTAWASEPPI HURON BAND OF THE POTAWATOMI, ENVIRONMENTAL LAW & POLICY CENTER, and MICHIGAN CLIMATE ACTION NETWORK,

Appellants,

v.

MICHIGAN PUBLIC SERVICE COMISSION, et al.,

Appellees.

MSC No. 168335

COA Nos. 369156, 369159, 369161, 369162, 369165 (consolidated)

MPSC Case No. U-20763

Appellants' Appendix

A. Court of Appeals Opinion (February 19, 2025) 3

B. MPSC Final Order (December 1, 2023) 35

C. MPSC Order on Motion In Limine (April 21, 2021) 388

D. ALJ Ruling on Motion In Limine on Remand (February 23, 2021) 464

E. MPSC Order Remanding Enbridge's Motion In Limine to ALJ in Light of Notice of Revocation & Termination of Easement (December 9, 2020) 492

F. ALJ Ruling on Motion In Limine (October 23, 2020) 503

G. Register of Actions (MPSC Case No. U-20763) 529

H. Notice of Revocation & Termination of Easement (November 13, 2020) 688

I. Petition to Intervene by Bay Mills (May 11, 2020) 723

J. Petition to Intervene by GTB (May 27, 2020) 744

K. Petition to Intervene by LTBB (August 3, 2020) 758

RECEIVED by MSC 11/14/2025 2:10:18 PM

L. Petition to Intervene by NHBP (August 4, 2020) 769

M. Petition to Intervene by NWF (June 4, 2020) 778

N. Testimony of Pres. Whitney Gravelle 798

O. Joint Response to Motion In Limine by MEC, GTB, Bay Mills, et al. – *Excerpt* (September 23, 2020) 818

P. Application of MEC, GTB, et al. for Leave to Appeal First ALJ Ruling – *Excerpt* (November 6, 2020) 824

Q. Application of Bay Mills for Leave to Appeal First ALJ Ruling – *Excerpt* (November 6, 2020) 828

R. Attorney General's Support for and Joinder in Applications for Leave to Appeal Ruling by ALJ on Motion Limine (November 6, 2020) 831

S. Testimony of Eric Hemenway 836

T. Testimony of Melissa Wiatrolik 844

U. Testimony of Jacques LeBlanc, Jr. 853

V. ALJ Order on Motions to Strike (January 13, 2022) 866

W. Motion Hearing Transcript – *Excerpt* (January 13, 2022) 890

X. Testimony of John Rodwan – *Excerpt* 893

Y. Exhibit 3 to Gravelle Direct Testimony – Tribal Comments on Dynamic Risk Report – *Excerpt* (August 1, 2017) 901

Z. Enbridge Energy Court of Appeals Brief – *Excerpt* (August 29, 2024) 919

AA. Testimony of Alex Morese – *Excerpt* 922

BB. Application of Tribal Appellants for Leave to Appeal Ruling on Motion in Limine – *Excerpt* (March 9, 2021) 937

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix A

If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

COURT OF APPEALS

In re APPLICATION OF ENBRIDGE ENERGY TO REPLACE AND RELOCATE LINE 5.

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS,

Appellant,

v

MPSC, MACKINAC STRAITS CORRIDOR AUTHORITY, MICHIGAN PROPANE GAS ASSOCIATION, NATIONAL PROPANE GAS ASSOCIATION, and MICHIGAN LABORERS' DISTRICT COUNCIL,

Appellees,

and

ENBRIDGE ENERGY LIMITED PARTNERSHIP,

Petitioner-Appellee.

FOR PUBLICATION
February 19, 2025
1:46 PM

No. 369156
Public Service Commission
LC No. 00-020763

In re APPLICATION OF ENBRIDGE ENERGY TO REPLACE AND RELOCATE LINE 5.

MICHIGAN ENVIRONMENTAL COUNCIL, TIP OF THE MITT WATERSHED COUNCIL, and NATIONAL WILDLIFE FEDERATION,

Appellants,

RECEIVED by MSC 11/14/2025 2:10:18 PM

v

No. 369157
Public Service Commission
LC No. 00-020763

MPSC, MACKINAC STRAITS CORRIDOR AUTHORITY, MICHIGAN PROPANE GAS ASSOCIATION, NATIONAL PROPANE GAS ASSOCIATION, and MICHIGAN LABORERS' DISTRICT COUNCIL,

Appellees,

and

ENBRIDGE ENERGY LIMITED PARTNERSHIP,

Petitioner-Appellee.

In re APPLICATION OF ENBRIDGE ENERGY TO REPLACE AND RELOCATE LINE 5.

BAY MILLS INDIAN COMMUNITY,

Appellant,

v

No. 369159
Public Service Commission
LC No. 00-020763

MPSC, MACKINAC STRAITS CORRIDOR AUTHORITY, MICHIGAN PROPANE GAS ASSOCIATION, NATIONAL PROPANE GAS ASSOCIATION, and MICHIGAN LABORERS' DISTRICT COUNCIL,

Appellees,

and

ENBRIDGE ENERGY LIMITED PARTNERSHIP,

Petitioner-Appellee.

In re APPLICATION OF ENBRIDGE ENERGY TO REPLACE AND RELOCATE LINE 5.

RECEIVED by MSC 11/14/2025 2:10:18 PM

GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS,

Appellant,

v

MPSC, MACKINAC STRAITS CORRIDOR AUTHORITY, MICHIGAN PROPANE GAS ASSOCIATION, NATIONAL PROPANE GAS ASSOCIATION, and MICHIGAN LABORERS' DISTRICT COUNCIL,

Appellees,

and

ENBRIDGE ENERGY LIMITED PARTNERSHIP,

Petitioner-Appellee.

No. 369161
Public Service Commission
LC No. 00-020763

In re APPLICATION OF ENBRIDGE ENERGY TO REPLACE AND RELOCATE LINE 5.

NOTTAWASEPPI HURON BAND OF THE POTAWATOMI,

Appellant,

v

MPSC, MACKINAC STRAITS CORRIDOR AUTHORITY, MICHIGAN PROPANE GAS ASSOCIATION, NATIONAL PROPANE GAS ASSOCIATION, and MICHIGAN LABORERS' DISTRICT COUNCIL,

Appellees,

and

ENBRIDGE ENERGY LIMITED PARTNERSHIP,

Petitioner-Appellee.

No. 369162
Public Service Commission
LC No. 00-020763

RECEIVED by MSC 11/14/2025 2:10:18 PM

In re APPLICATION OF ENBRIDGE ENERGY TO REPLACE AND RELOCATE LINE 5.

FOR LOVE OF WATER,

Appellant,

v

MPSC, MACKINAC STRAITS CORRIDOR AUTHORITY, MICHIGAN PROPANE GAS ASSOCIATION, NATIONAL PROPANE GAS ASSOCIATION, and MICHIGAN LABORERS' DISTRICT COUNCIL,

Appellees,

and

ENBRIDGE ENERGY LIMITED PARTNERSHIP,

Petitioner-Appellee.

No. 369163
Public Service Commission
LC No. 00-020763

In re APPLICATION OF ENBRIDGE ENERGY TO REPLACE AND RELOCATE LINE 5.

ENVIRONMENTAL LAW & POLICY CENTER and MICHIGAN CLIMATE ACTION NETWORK,

Appellants,

v

MPSC, MACKINAC STRAITS CORRIDOR AUTHORITY, MICHIGAN PROPANE GAS ASSOCIATION, NATIONAL PROPANE GAS ASSOCIATION, and MICHIGAN LABORERS' DISTRICT COUNCIL,

Appellees,

No. 369165
Public Service Commission
LC No. 00-020763

RECEIVED by MSC 11/14/2025 2:10:18 PM

and

ENBRIDGE ENERGY LIMITED PARTNERSHIP,

Petitioner-Appellee.

In re APPLICATION OF ENBRIDGE ENERGY TO REPLACE AND RELOCATE LINE 5.

MATTHEW S. BORKE,

Appellant,

v

No. 369231
Public Service Commission
LC No. 00-020763

MPSC, MACKINAC STRAITS CORRIDOR AUTHORITY, MICHIGAN PROPANE GAS ASSOCIATION, NATIONAL PROPANE GAS ASSOCIATION, and MICHIGAN LABORERS' DISTRICT COUNCIL,

Appellees,

and

ENBRIDGE ENERGY LIMITED PARTNERSHIP,

Petitioner-Appellee.

Before: M. J. KELLY, P.J., and LETICA and WALLACE, JJ.

PER CURIAM.

These consolidated appeals stem from a December 1, 2023 order of the Michigan Public Service Commission ("PSC" or "Commission") in which the PSC conditionally approved the application of Enbridge Energy Limited Partnership to relocate a portion of its "Line 5" fuel pipeline into a tunnel beneath the Straits of Mackinac. In Docket Nos. 369156, 369159, 369161, and 369162, intervenors Little Traverse Bay Bands of Odawa Indians, Bay Mills Indian Community, Grand Traverse Band of Ottawa and Chippewa Indians, and Nottawaseppi Huron Band of the Potawatomi ("the Tribes") appeal the order as of right. In Docket No. 369157, intervenors Michigan Environmental Council, Tip of the Mitt Watershed Council, and National Wildlife Federation appeal the order as of right; in Docket No. 369163, intervenor For Love of

RECEIVED by MSC 11/14/2025 2:10:18 PM

Water appeals the order as of right; and in Docket No. 369165, intervenors Environmental Law & Policy Center and Michigan Climate Action Network appeal the order as of right.[1] We affirm.

Enbridge, as well as the PSC and intervenors Mackinac Straits Corridor Authority ("MSCA"), Michigan Propane Gas Association, National Propane Gas Association, and Michigan Laborers' District Council argue in support of upholding the December 1, 2023 order. Amici curiae Michigan Chamber of Commerce and Small Business Association of Michigan filed briefs in support of upholding the order. Amici curiae Great Lakes Business Network and Michigan Attorney General ("AG")[2] filed briefs in support of a reversal or remand.

The intervenor-appellants contend that the PSC, when considering Enbridge's application, erred by only looking to the public need for the new portion of pipeline, to be located in a tunnel underneath the lakebed ("the Replacement Project"), as opposed to reconsidering the need for Line 5 as a whole. They also contend that the PSC used improper comparisons for its analysis under the Michigan Environmental Protection Act ("MEPA"), MCL 324.1701, *et seq*., and inadequately analyzed the impact of greenhouse-gas emissions ("GHGs") as they relate to supply of and demand for petroleum products. For the reasons set forth in this opinion, we find no basis to reverse or remand.

I. GENERAL FACTS

A. BACKGROUND INFORMATION, INCLUDING APPLICABLE LAWS AND AGREEMENTS

1929 PA 16 ("Act 16"), codified at MCL 483.1 *et seq*., vests the PSC with the power to regulate the transportation of "crude oil or petroleum, or any of the products thereof, or carbon dioxide substances, by or through pipe line or lines. . . ." See MCL 483.3. Mich Admin Code, R 792.10447(1)(c) states, in applicable part, that a "corporation, association, or person conducting oil pipeline operations within the meaning of 1929 PA 16, MCL 483.1 to 483.11, that wants to construct facilities to transport crude oil or petroleum or any crude oil or petroleum products as a common carrier" must file an application with the PSC for the authority to do so.

The present case began on April 17, 2020, when Enbridge filed an application asking the PSC to authorize Enbridge to proceed with a "Straits Line 5 Replacement Segment." See *In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered December 1, 2023 (Case No. U-20763), p 1. "[T]he project involves replacing the segment of the Line 5 pipeline (Line 5) that crosses the Straits of Mackinac (Straits) in Michigan with a single, 30-inch

[1] In Docket No. 369231, Matthew S. Borke attempts to file an appeal as of right from the order. As will be discussed *infra*, he has no basis for doing so.

[2] We note, however, that the AG's office supports upholding the order in its capacity as counsel for the PSC and the MSCA.

RECEIVED by MSC 11/14/2025 2:10:18 PM

diameter pipe and relocating the segment to a 'concrete-lined tunnel below the lakebed of the Straits' (Replacement Project)." *Id*. at 1-2.

The PSC's order engendering these appeals includes the following useful summary of some of the pertinent underlying facts:

> In its application, Enbridge explained that Line 5 was constructed by Lakehead Pipe Line Company (Lakehead) in 1953 and that it is a 645-mile inter-state pipeline that traverses Michigan's Upper and Lower Peninsulas, originating in Superior, Wisconsin, and terminating near Sarnia, Ontario, Canada. Enbridge stated that Line 5 was built to transport light crude oils and natural gas liquids (NGLs). While the vast majority of product shipped through Line 5 travels through Michigan to Canada, Enbridge asserted that Line 5 delivers NGLs to a propane production facility in Rapid River, Michigan, and delivers light crude oil to facilities that interconnect with other pipelines in Lewiston and Marysville, Michigan. Line 5 has an annual average capacity of 540,000 barrels per day (bpd), and Enbridge stated that the Replacement Project will not impact its annual average capacity or the nature of the service provided by Line 5.
>
> Enbridge explained that where Line 5 crosses the Straits, it currently consists of two, 20-inch-diameter pipes, four miles in length, referred to as the dual pipelines. Enbridge stated that pursuant to the Replacement Project, the four-mile segment of the dual pipelines will be replaced with a single, 30-inch-diameter pipe that will be located within a concrete-lined tunnel beneath the lakebed of the Straits (the tunnel). Enbridge asserted that the Replacement Project will provide greater protection from any release of liquid petroleum to the aquatic environment because compared to the dual pipelines that are currently situated on the top of the lakebed and vulnerable to a vessel anchor strike, the Replacement Project will relocate the Straits Line 5 segment to a concrete-lined tunnel deep beneath the lakebed. Enbridge noted that the construction of the tunnel is the subject of separate applications before other state and federal agencies, including EGLE [the Michigan Department of Environment, Great Lakes, and Energy] and the United States (U.S.) Army Corps of Engineers (USACE).
>
> Enbridge stated that beginning in 2017, it entered into a series of agreements with the State of Michigan relating to the relocation of the Straits Line 5 segment to the tunnel. Enbridge noted that the Michigan Legislature enacted Act 359 [2018 PA 359] in December 2018, which created MSCA and delegated to MSCA the authority to enter into agreements pertaining to the construction, operation, and maintenance of the tunnel to house the replacement pipe segment. Thus, Enbridge asserted that its request for Commission approval of the Replacement Project does not include "authorization to design, construct, or operate the tunnel" because "[t]he tunnel will be designed, constructed, and maintained pursuant to the 'Tunnel Agreement' entered between the MSCA and Enbridge pursuant to Act 359."
>
> Enbridge explained that, pursuant to the Tunnel Agreement, the tunnel will be constructed in the subsurface lands beneath the lakebed of the Straits within the

RECEIVED by MSC 11/14/2025 2:10:18 PM

> easement issued by the Michigan Department of Natural Resources (DNR) to MSCA in 2018 (2018 easement) and pursuant to the assignment of certain rights under that easement by MSCA to Enbridge. Enbridge stated that the tunnel will be constructed in accordance with all required governmental permits and approvals. Enbridge averred that it will enter into a 99-year lease with MSCA for the use of the tunnel to operate and maintain the Straits Line 5 replacement pipe segment.
>
> In its application, Enbridge seeks Commission approval to operate and maintain the replacement pipe segment located within the tunnel as part of Line 5 under Act 16. Enbridge stated that once the new four-mile pipe segment is placed into service within the tunnel, service on the dual pipelines will be discontinued. [*In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered December 1, 2023 (Case No. U-20763), pp 16-18 (record citations and footnotes omitted).]

The PSC ultimately approved Enbridge's application in a 349-page opinion and order. The approval was conditioned on, among other things, Enbridge's "obtaining the required governmental permits and approvals" and providing "the Mackinac Straits Corridor Authority with a detailed risk management plan." *Id*. at 347.

Line 5 as a whole has been considered by the Michigan Supreme Court. The PSC granted Enbridge's predecessor the authority for Line 5 as a whole on March 31, 1953. *In re Application of Lakehead Pipe Line Co, Inc*, order of the Public Service Commission, entered March 31, 1953 (Case No. D-3903-53.1). The 1953 order rejected as "without merit" the contention that the pipeline was "not in the public interest." *Id*. at 8. Subsequently, in *Lakehead Pipe Line Co v Dehn*, 340 Mich 25; 64 NW2d 903 (1954), the Michigan Supreme Court considered a challenge to condemnation proceedings undertaken in furtherance of the construction of the pipeline. The Court upheld the condemnation proceedings and stated that the statute relied upon by the pipeline company allowed for condemnation only for "a public use benefiting the people of the State of Michigan." *Id*. at 30, 37, 42.

In November 2017, an agreement ("the First Agreement") was signed between Enbridge and the State of Michigan. The First Agreement stated that "the continued operation of Line 5 through the State of Michigan serves important public needs by providing substantial volumes of propane to meet the needs of Michigan citizens, supporting businesses in Michigan, and transporting essential products, including Michigan-produced oil to refineries and manufacturers." It stated that the agreement was "intended to further protect ecological and natural resources held in public trust by the State of Michigan" and would "serve Enbridge's interest by providing clarity as to State's expectations concerning the safety and integrity of Line 5." Among other things, the First Agreement required Enbridge to assess the possibility of a replacement for the dual pipelines.

In October 2018, Enbridge and the State of Michigan entered into another agreement ("the Second Agreement"). The Second Agreement stated that, according to alternatives considered by Enbridge,

RECEIVED by MSC 11/14/2025 2:10:18 PM

> construction of a tunnel beneath the lakebed of the Straits connecting the upper and lower peninsulas of Michigan, and the placement in the tunnel of a new oil pipeline, is a feasible alternative for replacing the Dual Pipelines, and that alternative would essentially eliminate the risk of adverse impacts that may result from a potential oil spill in the Straits. . . .

The Second Agreement stated that the State and Enbridge would pursue agreements for the construction of a tunnel "in which a replacement for the Dual Pipelines could be located," and it further stated, "Enbridge agrees that following completion of the Straits Tunnel and after the Line 5 Straits Replacement Segment is constructed and placed into service by Enbridge within the Straits Tunnel, Enbridge will permanently deactivate the Dual Pipelines."

In accordance with the agreements, the Legislature enacted 2018 PA 359 ("Act 359"), effective December 12, 2018, which authorized the creation of the MSCA and spoke to the creation of a utility tunnel under the Straits. Act 359 defines "utility tunnel" as

> a tunnel joining and connecting the Upper and Lower Peninsulas of this state at the Straits of Mackinac for the purpose of accommodating utility infrastructure, including, but not limited to, pipelines, electric transmission lines, facilities for the transmission of data and telecommunications, all useful and related facilities, equipment, and structures, and all necessary tangible or intangible real and personal property, licenses, franchises, easements, and rights-of-way. [MCL 254.324(e).]

The Act further states:

> The Mackinac Straits corridor authority is created within the state transportation department. The Mackinac Straits corridor authority is a state institution within the meaning of section 9 of article II of the state constitution of 1963, and an instrumentality of this state exercising public and essential governmental functions. The creation of the Mackinac Straits corridor authority and the carrying out of the Mackinac Straits corridor authority's authorized purposes are public and essential governmental purposes for the benefit of the people of this state and for the improvement of the health, safety, welfare, comfort, and security of the people of this state, and these purposes are public purposes. The Mackinac Straits corridor authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this act. [MCL 254.324b(1).]

Act 359 indicates that the MSCA is empowered to enter into agreements for a utility tunnel. MCL 254.324d.

Soon after the enactment of Act 359, on December 19, 2018, Enbridge and the State entered into yet another agreement ("the Third Agreement"). The Third Agreement stated that Enbridge would construct and maintain "the Straits Line 5 Replacement Segment" within the tunnel at its own expense. The Third Agreement also stated that, provided that Enbridge complied with the three agreements, the original easement granted in 1953, and all other applicable laws, "the State agrees that . . . [t]he replacement of the Dual Pipelines with the Straits Line 5 Replacement

RECEIVED by MSC 11/14/2025 2:10:18 PM

Segment in the Tunnel is expected to eliminate the risk of a potential release from Line 5 at the Straits." The director of the Department of Natural Resources and the director of the Department of Environmental Quality were signatories to the Second and Third Agreements. Also on December 19, 2018, Enbridge and the MSCA entered into a "Tunnel Agreement." The Tunnel Agreement stated that Enbridge would construct the tunnel and that the MSCA would "issue a lease to Enbridge authorizing it to operate and maintain the 'Straits Line 5 Replacement Segment' within the Tunnel."

B. ENBRIDGE'S MOTION IN LIMINE

After Enbridge sought approval for the pipeline project by way of the current PSC proceedings, it filed a motion in limine, arguing that the administrative law judge ("ALJ") considering the motion should direct

> that the following issues be excluded from this proceeding: (1) the construction of the tunnel, (2) the environmental impact of the tunnel construction, (3) the public need for and continued operation of Line 5, (4) the current operational safety of Line 5, (5) climate change, and (6) the intervenors' climate agendas; and [also] direct that the proceeding be limited to whether: (A) there is a public need for the Project, (B) the replacement pipe segment is designed and routed in a reasonable [sic], and (C) the construction of the replacement pipe segment will meet or exceed current safety and engineering standards.

The ALJ initially ruled that the motion in limine was:

> 1. Denied as it pertains to the Utility Tunnel.
>
> 2. Granted regarding the operational aspects, including the public need and safety, of the entirety of Line 5.
>
> 3. Granted as it pertains to the review of the project under MEPA does not entail [sic] the environmental effects of greenhouse gas emissions and climate change.

The ALJ ruled that "under Act 16 the proper inquiry for a proposal involving a segment of an existing pipeline [encompasses only] that segment, as opposed to the entire pipeline system," and concluded that "evidence concerning the entirety of Line 5 is irrelevant." After various intervenors appealed the ruling of the ALJ, the PSC remanded the matter to the ALJ because Governor Gretchen Whitmer had, on November 13, 2020, stated that the previously granted 1953 easement to operate the dual pipelines in the bottomlands of the Straits was revoked and ordered that the

RECEIVED by MSC 11/14/2025 2:10:18 PM

dual pipelines cease to operate."[3] The Commission indicated that this action might impact the ALJ's ruling on the motion in limine.

On remand, the ALJ stated that even *if* the notice of revocation of the 1953 *easement* were to be given immediate effect, this would not serve to revoke "the right to operate Line 5 under the 1953 Order." The ALJ stated:

> [T]o accept the Notice [of revocation] as requiring a reexamination of the public need of Line 5 under Act 16, along with its operational and safety aspects, would result in a diminishment of [an] existing license under §92(1) of the APA [Administrative Procedures Act, MCL 24.201 *et seq*.] without providing the procedural due process protections afforded a licensee. Accordingly, the Notice cannot be used to expand the scope of this case to include an examination or determination of the public need for Line 5, or any aspect of its operation and safety. Rather, the Notice can only be considered in the context of the Act 16 criteria as applied to the proposal to relocate the dual pipelines from the bottomlands [i.e., the surface of the lakebed] to the proposed Utility Tunnel.

The ALJ stated that the notice of revocation did not change the 1953 authority under which Enbridge operates Line 5 as a whole and that "the operation and safety of that system is outside the conduct subject to review under MEPA" because the conduct at issue was the Replacement Project.

---

[3] The attempt to revoke the easement for the dual pipelines has a complicated history. The governor filed an action in the Ingham County Circuit Court to enforce her attempted revocation of the easement, Enbridge removed the lawsuit to federal court and sought a declaration that the revocation was unlawful, and the governor sought to remand the case back to the state court. See *Nessel on behalf of People of Michigan v Enbridge Energy Ltd Partnership*, 104 F4th 958, 962 (CA 6, 2024), cert pending (discussing the history). The United States District Court for the Western District of Michigan determined that the dispute regarding revocation of the 1953 easement involved substantial federal interests, such as an application of the federal Pipeline Safety Act, see, e.g., 49 USC 60104, and that federal court was the appropriate forum. *Michigan v Enbridge Energy Ltd Partnership*, 571 F Supp 3d 851, 859, 862 (WD Mich, 2021). "Soon thereafter [i.e., after the federal district court's ruling], the Governor voluntarily dismissed her case." See *Nessel on behalf of People of Michigan*, 104 F4th at 963. However, the AG filed another lawsuit in state court, seeking to "enjoin Enbridge's continued operation of Line 5 based on alleged violations of three state laws: the public-trust doctrine, common-law public nuisance, and the Michigan Environmental Protection Act." See *id*. at 961. Enbridge then sought to remove the case to federal court, but the federal court deemed the removal attempt untimely. *Id*. at 963, 968, 971-972. Accordingly, the lawsuit remains pending in the Ingham Circuit Court.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The ALJ ruled:

> Based on the foregoing, in 1953 the Commission issued an Act 16 license that authorized the construction, operation, and maintenance of Line 5. That license remains in effect and can only be subject to the actions listed in §92(1) of the APA after the notice and hearing provisions of the APA are satisfied. Accordingly, neither the filing of the Application at issue in this case, nor the State's Notice that the easement under which the dual pipelines were sited and operate is revoked and terminated as of May 13, 2021, allows for a reexamination of the public need for Line 5, or its operational and safety aspects, under Act 16. Rather, the Notice is relevant under the proper Act 16 review of the project: whether a public need exists to replace the existing dual pipelines on Great Lakes bottomlands in the Straits of Mackinac with a single pipeline in a proposed Utility Tunnel.
>
> The Commission's jurisdiction under Act 16 is over the proposal to relocate the existing pipelines into the Utility Tunnel, and a component of that jurisdiction is examining the environmental impacts of that conduct, consistent with the judicial and Commission construction of that term, under MEPA. The issuance of the Notice does not expand the MEPA inquiry to include the environmental effects of the operation and safety of Line 5, or those arising from the production, refinement, and consumption of the oil transported on Line 5.

Various intervenors appealed the ALJ's revisited ruling. Of note, however, is that the MSCA supported the ALJ's ruling. The PSC, in its subsequent order, stated:

> [I]n order to grant an application under Act 16, the Commission must find that: (1) the applicant has demonstrated a public need for the proposed pipeline, (2) the proposed pipeline is designed and routed in a reasonable manner, (3) the construction of the pipeline will meet or exceed current safety and engineering standards, and (4) the project complies with the requirements of MEPA. [*In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered April 21, 2021 (Case No. U-20763), p 57.]

The Commission noted that the "impetus" for Enbridge's application was Act 359. *Id.*[4]

In affirming the ALJ's ruling excluding evidence about the need for the entirety of Line 5, the Commission stated:

> In the 1953 order, the Commission approved the construction, maintenance, and operation of Line 5, finding that Line 5 was fit for the purpose of carrying and transporting crude oil and petroleum as a common carrier in interstate and foreign commerce. In the 1953 order the Commission stated "[i]t appears to this Commission that in times of national emergency delivery of crude oil for joint

[4] This Court has considered and rejected a challenge to Act 359. See *Enbridge Energy, LP v State*, 332 Mich App 540; 957 NW2d 53 (2020).

RECEIVED by MSC 11/14/2025 2:10:18 PM

> defense purposes would be greatly enhanced by operation of the proposed pipe line." 1953 order, p. 4. Denmark Township moved for denial of the application on grounds that the pipeline was not in the public interest. The Commission found the motion to be without merit, and it was denied. *Id*., p. 8. The Commission found that the proposed Line 5 met the requirements of Act 16, and Lakehead (Enbridge's predecessor) received permission to construct and operate the pipeline. Subsequently, in *Lakehead*, 340 Mich at 37, the Michigan Supreme Court held that construction and operation of Line 5 was "for a public use benefiting the people of the State of Michigan." Neither Act 16, nor Rule 447, nor Commission precedent require the Commission to make findings with respect to the length of time that an approved pipeline may operate, and such findings are not made in this order. Indeed, while intervenors argue that the issue of whether Line 5 will continue in operation indefinitely (as Enbridge has alleged) is a question of fact that should be tested, what is ignored by these parties is that whether Enbridge holds the legal right to operate the other 641 miles of Line 5 is not a question of fact but rather of law. *Nothing in the Commission's 1953 order set a termination date for the operation of Line 5*, and no party disputes Enbridge's legal authority to continue to operate the other 641 miles not at issue in this proceeding. [*In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered April 21, 2021 (Case No. U-20763), pp 60-61 (emphasis added; footnote omitted).]

The PSC also noted that its prior precedent did not support reexamining the entire length of a pipeline when a company proposed to replace only a segment. *Id*. at 61-62. It stated:

> [W]hen deciding an application to construct or relocate pipeline, the Commission has never examined any portion of existing pipeline that is interconnected with the segment that is proposed in the applicant's project but not within the proposed route; nor has it examined how the proposed pipeline segment could affect the lifespan of an existing interconnected pipeline system. [*Id*. at 62.]

The Commission stated that the pertinent issues were whether there was a public need for the tunnel and underground pipeline, whether this "Replacement Project" was designed and routed reasonably, and whether it met or exceeded safety and engineering standards. *Id*. at 63. It said that "[t]he public need for the existing portions of Line 5 has been determined." *Id*.

The Commission then considered MEPA. MCL 324.1705(2), a provision of MEPA, states:

> In administrative, licensing, or other proceedings, and in any judicial review of such a proceeding, the alleged pollution, impairment, or destruction of the air, water, or other natural resources, or the public trust in these resources, shall be determined, and conduct shall not be authorized or approved that has or is likely to have such an effect if there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare.

The PSC said that, similarly to the analysis regarding public need, MEPA analysis "does not extend to the entirety of Line 5, including the 641 miles of Line 5 outside of the proposed Replacement Project, but only to" the proposed embedded pipeline to be located in the tunnel. *In re Enbridge*

RECEIVED by MSC 11/14/2025 2:10:18 PM

Energy, Ltd Partnership, order of the Public Service Commission, entered April 21, 2021 (Case No. U-20763), p 64. It said that "some would narrowly constrain the review of pollution to the construction of the tunnel and pipeline," but concluded that this constraint was improper and that the MEPA analysis must encompass "the product being shipped through the Replacement Project." *Id*. It said that the pipeline segment under consideration "would involve hydrocarbons that may result in GHG pollution that must be subject to MEPA review." *Id*. at 67. The Commission said that, in light of the governor's attempt to revoke the easement for the dual pipelines, it was "unwilling to exclude evidence under MEPA that compares the pollution, impairment, or destruction attributable to an operating 4-mile pipeline segment in the Straits with non-operational 4-mile dual pipeline segments." *Id*. It said that, at this early stage in the case, it wanted to hear evidence about eventualities should the dual pipelines be shut down. *Id*. The PSC recognized that, "while Enbridge would retain the right to operate the other 641 miles of Line 5, it may not be able to ship product through the Straits by pipeline once the Notice is in force without the authorization that is sought in this case," *id*. at 68, and it added that "questions on the feasibility and prudence of alternatives—both in terms of alternative pipeline and non-pipeline shipping arrangements and alternatives to the products being shipped—are inherently questions of fact well suited to the development of record evidence," *id*. at 69. It emphasized that how to make proper comparisons of alternatives for the Replacement Project was a point yet to be determined. *Id*.

C. PSC'S FINAL ORDER AND EVALUATION OF ALTERNATIVES

The contested case then proceeded, with the submission of testimony and evidence. In its final order, the PSC concluded that there was a need for the Replacement Project, stating, "[T]he Commission finds that . . . the First, Second, and Third Agreements and Act 359 demonstrate that there is a public purpose and public need to replace the dual pipelines with the Replacement Project." *In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered December 1, 2023 (Case No. U-20763), p 300. It noted that there was a "public need for the products shipped through the Straits Line 5 segment." *Id*. at 302. The PSC determined:

> [T]he Commission finds that the Replacement Project essentially eliminates the risk of adverse impacts that may result from a potential release from Line 5 at the Straits and protects unique ecological and natural resources that are of vital significance to the State and its residents, to tribal governments and their members, to public water supplies, and to the regional economy . . . .
>
> In conclusion, the Commission finds that Enbridge has established both the public need for the products to be shipped through the Replacement Project and the need to relocate the Straits Line 5 segment inside the tunnel, and as such, has established the public need for the Replacement Project. [*Id*. at 305.]

With regard to its MEPA analysis, the Commission first stated that certain environmental concerns would be addressed by way of permitting decisions by other agencies:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> As an initial matter, the Commission agrees with the Staff[5] that several potential environmental impairments resulting from the construction of the Replacement Project fall in the regulatory purview of other state and federal agencies and will be addressed by separate permitting decisions. For example, [certain] witnesses . . . asserted that the discharge of wastewater in the Great Lakes during construction of the tunnel and regular operations of the Replacement Project is likely to affect the Great Lakes' ecosystem. The Staff noted that the NREPA [Natural Resources Environmental Protection Act] Part 31 permit "establishes parameters for authorized discharge, including quantity and composition." . . . The Commission agrees with the Staff that Enbridge's compliance with these permit requirements should minimize potential environmental impacts from construction and operation of the Replacement Project. [*Id*. at 328.]

The Commission went on to state, however, that the Replacement Project would have some environmental impacts not addressed by other permitting decisions and not adequately addressed by Enbridge's plans. Those impacts were "increased noise, dust/particulates, and light from construction, and impacts to surface water, local residents, flora, fauna, air quality, groundwater, surface soils, and vegetations." *Id*. at 329. The Commission agreed with the recommendation of a PSC Staff witness that "these environmental impacts should be specifically addressed in Enbridge's final mitigation plans to minimize the environmental impairments." *Id*. It characterized the impairments as "environmental impairments pursuant to MEPA." *Id*. The PSC also recognized that construction of the Replacement Project would involve GHGs and that Line 5 as a whole involves GHGs. *Id*. at 330.

The PSC stated:

> Once the Commission concludes that the proposed conduct, i.e., the Replacement Project, is likely to pollute, impair, and destroy natural resources, the Commission may not approve the action if there is a feasible and prudent alternative. [*Id*. at 331.]

The PSC considered six (at least theoretically possible) alternatives presented in a report by "Dynamic Risk," two alternatives presented by the MSCA, and six alternatives presented by PSC Staff. The Dynamic Risk alternatives were (1) a new pipeline that does not cross the Great Lakes; (2) use of existing pipeline infrastructure that does not cross the Great Lakes; (3) decommissioning Line 5 and using rail, trucks, or barges to transport Line 5 products from Wisconsin to Canada without the products crossing the Straits; (4) using a pipeline in a trench or "sealed annulus tunnel"[6] to cross the Straits; (5) continued operation of the dual pipelines; and (6) using alternative

[5] In PSC contested cases, "PSC Staff" provides testimony and evidence to help develop the issues.

[6] This tunnel would be somewhat different in character from the tunnel in the Replacement Project, but the PSC stated that the tunnels were largely equivalent in terms of environmental risk, with the Enbridge design having an advantage in terms of workers' future ability to inspect possible pipeline issues as they might arise. See *id*. at 340.

RECEIVED by MSC 11/14/2025 2:10:18 PM

transportation such as rail or trucks to transport Line 5 product through the Straits if the dual pipelines were shut down.[7] *Id*. at 331-335. The MSCA alternatives were (1) suspending a replacement pipe segment from the Mackinac Bridge and (2) suspending a replacement pipe from a new suspension bridge. *Id*. at 335-336. The PSC Staff alternatives were (1) taking no action and allowing the dual pipelines to continue to be used, (2) using an "Open-Cut Alternative" for a pipeline,[8] (3) using a "horizontal directionally drilled" (HDD) method to install a pipeline across or under the Straits, (4) protecting the dual pipelines with rock armoring, (5) using alternative transportation for Line 5 products "in a hypothetical post-Line 5 shutdown scenario"; and (6) using alternative products from those transported by Line 5. *Id*. at 336.

The PSC concluded that Dynamic Risk option 1 would involve putting a pipeline across numerous streams and "231 miles of wetlands" and other sensitive areas and would present a greater safety risk than tunneling. *Id*. at 338. The PSC also concluded that rail transportation as discussed in option 3 was feasible;[9] however, it carried a greater likelihood of environmental harm because, in part, rail transportation presented a higher safety risk than the Replacement Project and "[r]ail transportation of Line 5 product will cross 11 rivers, 11 streams, 6 drainage canals, 6-7 miles of wetlands, 14 protected areas, and 72 miles of highly populated areas in Michigan." *Id*. at 338-339. It noted that the trench analyzed in option 4 would be less safe than the Replacement Project and that the "sealed annulus tunnel" analyzed in option 4 would be largely equivalent in safety to the Replacement Project but that the Enbridge design had an advantage in terms of workers' future ability to inspect possible pipeline issues as they might arise. *Id*. at 339-340. As for option 5, the Commission stated that the dual pipelines posed a much greater risk than the Replacement Project. *Id*. at 340. For option 6, the PSC stated that although rail transport would be feasible, it presented a greater risk than tunneling. *Id*. at 339, 341. It also stated that option 2 was not feasible and was equivalent to abandonment of any pipeline, leaving rail as the possibility to transport Line 5 product. *Id*. at 338, 341.

Regarding the MSCA alternatives, the PSC stated:

> The Commission also reviewed the two alternatives presented by MSCA. The Commission agrees with MSCA that it is not feasible to suspend a replacement pipe segment from the Mackinac Bridge. . . . In addition, the Commission agrees with MSCA that while construction of a suspension bridge to house a replacement pipe segment is feasible, it has "significant disadvantages compared to a tunnel" and is therefore imprudent. [*Id*. at 341.]

[7] The Dynamic Risk report, for alternative 6, took into account whether Line 5 as a whole would be abandoned "if the fragmented segments [i.e., the segments fragmented by the decommissioning of the Straits segment] could not be effectively used."

[8] This involves trenching or partial trenching to lay a pipeline.

[9] Nevertheless, the PSC agreed with Dynamic Risk that, "tanker truck, oil tanker, and barge transportation are not feasible." *Id*. at 338.

RECEIVED by MSC 11/14/2025 2:10:18 PM

As for the Staff options, the PSC stated that the open-cut alternative (option 2) presented more of a risk of release than the Replacement Project and that the HDD method (option 3) was not feasible in light of current technical capabilities. *Id*. at 342. As for option 4 (rock armoring), the PSC stated that it would present more safety concerns than the Replacement Project. *Id*. at 342-343. Regarding option 1 (continued operation of the dual pipelines), the PSC noted that this was not a safe alternative. *Id*. at 346-347. As for option 5, the PSC stated that rail and truck transportation would result in greater GHGs than using a pipeline. *Id*. at 346. It made an apparent reference to option 6 by stating that "a shutdown of the dual pipelines *would not immediately alter demand for the products shipped on Line 5*, and consequently the modes of transportation for crude oil and NGLs would shift to rail and truck." *Id*. at 345 (emphasis added).

The PSC concluded: "[T]he Commission finds that after a review of the record evidence, there are no feasible and prudent alternatives to the Replacement Project pursuant to MEPA." *Id*. at 347. The Commission ordered:

> A. Enbridge Energy, Limited Partnership's application is approved as set forth in the order.
>
> B. The route and location of Enbridge Energy, Limited Partnership's Straits Line 5 Replacement Segment is approved conditioned upon the company obtaining the required governmental permits and approvals. Significant changes to the design of the tunnel that are completed subsequent to this approval, including the addition of third-party utilities, shall be considered by the Commission to be inconsistent with the approval of this application and would require further application to, and approval by, the Commission.
>
> C. Prior to construction of the tunnel, Enbridge Energy, Limited Partnership shall provide the Mackinac Straits Corridor Authority with a detailed risk management plan. The plan shall include a description of the planned geotechnical test bores and frequency of probe-hole testing ahead of the tunnel boring machine and should include reporting of both test-bore data and probe-hole data in real time so that the State of Michigan can assess risks and construction plan modifications based on the data. The plan should also include inspections for concrete cast sections prior to moving them into the tunnel and after being put into place, placement of gaskets, regular analyses of bentonite mix properties, and changes in slurry pressure. Deviations from and modifications to the plan during the construction process should be reported by Enbridge Energy, Limited Partnership and available for public review.
>
> D. Enbridge Energy, Limited Partnership shall implement procedures for low-hydrogen welding for all mainline girth welds, shall ensure that the procedures require both preheat and inter-pass temperature requirements, and shall ensure that the mainline girth welds are nondestructively tested using automatic phased array ultrasonic testing methods as proposed by the Commission Staff.
>
> The Commission reserves jurisdiction and may issue further orders as necessary. [*Id*. at 347-348.]

RECEIVED by MSC 11/14/2025 2:10:18 PM

II. ANALYSIS

A. PSC'S RULING ON THE MOTION IN LIMINE

Intervenors the Tribes, Michigan Environmental Council, Tip Of The Mitt Watershed Council, National Wildlife Federation, For Love Of Water, Environmental Law & Policy Center, and Michigan Climate Action Network argue that the PSC erred because it did not allow intervenors to introduce evidence regarding the public need for the continued operation of Line 5, yet, in its final order, it referred to this alleged public need. Intervenors contend that the PSC acted inconsistently and take issue with other aspects of the PSC's ruling regarding the motion in limine.

1. STANDARDS OF REVIEW

MCL 462.26(8) states, "In all appeals under this section the burden of proof shall be upon the appellant to show by clear and satisfactory evidence that the order of the commission complained of is unlawful or unreasonable." Pursuant to MCL 462.25, practices and services prescribed by the PSC are presumed, prima facie, to be lawful and reasonable. See also *Mich Consol Gas Co v Pub Serv Comm*, 389 Mich 624, 635-636; 209 NW2d 210 (1973). To establish that a PSC order is unlawful, the appellant must show that the PSC failed to follow a statutory requirement or abused its discretion in the exercise of its judgment. *In re MCI Telecom Complaint*, 460 Mich 396, 427; 596 NW2d 164 (1999). Also, the "hurdle of unreasonableness" is high. *Id*. "Within the confines of its jurisdiction, there is a broad range or 'zone' of reasonableness within which the PSC may operate." *Id*.

A final order of the PSC must be authorized by law and be supported by competent, material, and substantial evidence on the whole record. Const 1963, art 6, § 28; *In re Consumers Energy Co*, 279 Mich App 180, 188-189; 756 NW2d 253 (2008).

A reviewing court "gives due deference to the PSC's administrative expertise and is not to substitute its judgment for that of the PSC." *Attorney General v Pub Serv Comm No 2*, 237 Mich App 82, 88; 602 NW2d 225 (1999). Issues of statutory interpretation are reviewed de novo. *In re Complaint of Rovas*, 482 Mich 90, 102; 754 NW2d 259 (2008). A reviewing court should give an administrative agency's interpretation of statutes it is obliged to execute respectful consideration, but not deference. *Id*. at 108.

Whether the PSC exceeded the scope of its authority is a question of law subject to review de novo. *In re Complaint of Pelland Against Ameritech Mich*, 254 Mich App 675, 682; 658 NW2d 849 (2003).

In *Nat'l Wildlife Federation v Dep't of Environmental Quality (No. 1)*, 306 Mich App 336, 342; 856 NW2d 252 (2014), the Court stated that an administrative tribunal's "evidentiary decisions are reviewed for an abuse of discretion."

2. DISCUSSION

We find no basis upon which to reverse the PSC's final order, in light of (1) prior statements made by the PSC (in its April 21, 2021 order), which reflected a finding that the public need for

RECEIVED by MSC 11/14/2025 2:10:18 PM

Line 5 had already been established; (2) the incorporation of this April order into the final order; (3) the deferential standard of review to be applied by this Court; and (4) the fact that the PSC did eventually allow evidence regarding the need for Line 5 to be introduced.[10]

The Michigan Legislature vested the PSC with the power to regulate the transportation of "crude oil or petroleum, or any of the products thereof, or carbon dioxide substances, by or through pipe line or lines. . . ." See MCL 483.3. Mich Admin Code, R 792.10447(1)(c), states, in applicable part, that a "corporation, association, or person conducting oil pipeline operations within the meaning of 1929 PA 16 . . . that wants to construct facilities to transport crude oil or petroleum or any crude oil or petroleum products as a common carrier" "shall file an application with the commission for the necessary authority to do" so. The applicant must set forth "[a] full description of the proposed new construction or extension, including the manner in which it will be constructed." Mich Admin Code, R 792.10447(2)(e).

In a 2002 case, the PSC explained that it evaluates public need when considering proposed pipelines:

> Pursuant to 1929 PA 16, MCL 483.1 et seq., (Act 16) the Commission is granted the authority to control and regulate oil and petroleum pipelines. Act 16 provides the Commission with broad jurisdiction to approve the construction, maintenance, operation, and routing of pipelines delivering liquid petroleum products for public use. *Generally, the Commission will grant an application pursuant to Act 16 when it finds that the applicant has demonstrated a public need for the proposed pipeline* and that the proposed pipeline is designed and routed in a reasonable manner, which meets or exceeds current safety and engineering standards. [*In re Wolverine Pipe Line Co*, order of the Public Service Commission, entered July 23, 2002 (Case No. U-13225), pp 4-5 (emphasis added).]

As stated in *Ass'n of Businesses Advocating Tariff Equity v Pub Serv Comm*, 219 Mich App 653, 662; 557 NW2d 918 (1996), "[T]his Court ordinarily will uphold the PSC's interpretation of its own orders as long as the interpretation is reasonable or supported by the record." See also *In re MCI Telecommunications Corp Complaint*, 240 Mich App 292, 303; 612 NW2d 826 (2000). No party argues that the Commission's adopted three-part "test" of need, reasonableness of design and routing, and safety is unreasonable. As such, public need in general was at issue.

However, Rule 447(1)(c) refers to the construction of facilities, and Rule 447(2)(e) refers to a description of the "*new construction or extension*." (Emphasis added.) Enbridge, in its application, was not seeking approval for the construction of Line 5. It was seeking approval for the Replacement Project.

[10] The PSC allowed such evidence as part of its MEPA analysis but ended up also considering it for the "public need" issue.

RECEIVED by MSC 11/14/2025 2:10:18 PM

As stated in *United Parcel Serv, Inc v Bureau of Safety & Regulation*, 277 Mich App 192, 202; 745 NW2d 125 (2007), "The rules of statutory construction apply to both statutes and administrative rules." The panel in that case went on to state:

> When interpreting a statute, our primary goal is to ascertain and give effect to the intent of the Legislature. We must first look to the specific language of the statute or rule, and if the plain and ordinary meaning of the language is clear, judicial construction is neither necessary nor permitted. We may not read into a statute or rule that which is not within the manifest intention of the Legislature as gathered from the statute or rule itself. *Only where the language under review is ambiguous may a court properly go beyond the words of the* statute or *administrative rule to ascertain the drafter's intent*. [*Id*. at 202 (quotation marks and citations omitted; emphasis added).]

It is difficult to conclude that the PSC abused its discretion, see *Nat'l Wildlife Federation*, 306 Mich App at 342, by concluding that the need for Line 5 as a whole was simply not a salient issue in the proceedings because the application was for the Replacement Project, not for the construction of Line 5 as a whole. Significantly, the Commission recognized the concern that "a pipeline operator who knows that hundreds of miles of approved, existing, and reliable pipeline will be put at risk through the filing of an application to improve a few miles of that pipeline may be unlikely to decide to make those improvements." *In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered April 21, 2021 (Case No. U-20763), pp 69-70.

Certain intervenors argue that the PSC's ruling on the motion in limine violated the APA and the Michigan Rules of Evidence. MCL 24.272(3), a provision of the APA, states that "[t]he parties shall be given an opportunity to present oral and written arguments on issues of law and policy and an opportunity to present evidence and argument on issues of fact." In *Smith v Lansing Sch Dist*, 428 Mich 248, 257; 406 NW2d 825 (1987), the Court said that this statute "require[s] affording the opportunity to present evidence on issues of fact only when such issues exist." MRE 401, at the time of the decision on the motion in limine, stated, " 'Relevant evidence' means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence."[11] Again, there was no abuse of discretion by virtue of the PSC's evidentiary ruling, given that the application at issue was for the Replacement Project. *Nat'l Wildlife Federation*, 306 Mich App at 342.

[11] MRE 401 now states:

> Evidence is relevant if:
>
> (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
>
> (b) the fact is of consequence in determining the action.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Intervenors contend that the PSC acted inconsistently and violated its own rules by essentially concluding in its final order that there was a public need for Line 5 as a whole. The PSC stated the following:

> In the present case, the public need is not based on the need for additional capacity, but on the ongoing reliance on the current capacity of the dual pipelines, even as other sourcing options emerge. Furthermore, the Commission finds that there is substantial evidence on the record in the present case to show that if the dual pipelines are damaged, deemed inoperable due to safety concerns, or [shut down], *Line 5 in Michigan may be abandoned in full* or in part, which will require higher-risk and costlier alternative fuel supply sources and transportation to Michigan customers than what is proposed in the Replacement Project. . . . *Thus, the Commission finds that there is a public need for the products shipped through the Straits Line 5 segment.* The evidence in this case, in addition to the official findings of public need and public benefit identified in Act 359 and the First, Second, and Third Agreements, clearly supports a finding of public need for the Replacement Project. [*In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered December 1, 2023 (Case No. U-20763), p 302 (emphasis added).]

At first blush, it does seem that the Commission violated its own ruling by incorporating references to the need for Line 5 as a whole into its decision. However, in its April 2021 ruling on the motion in limine, the Commission stated:

> In the instant case, the Commission finds that the first issue is whether there is a public need to carry out the Replacement Project, a project to replace the dual pipelines with a new pipeline in a tunnel, and does not concern approved, existing pipeline that is merely interconnected with the segment that is the subject of the application. *The public need for the existing portions of Line 5 has been determined.* The public need for the Replacement Project has yet to be determined. [*In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered April 21, 2021 (Case No. U-20763), p 63.]

In the April 2021 order, the Commission referred to the 1953 order and Supreme Court *Lakehead* decision and stated that "[n]othing in the Commission's 1953 order set a termination date for the operation of Line 5, and no party disputes Enbridge's legal authority to continue to operate the other 641 miles not at issue in this proceeding." *Id*. at 60-61. The PSC's comments in the December order must be viewed in the context of this April order, which the PSC, in fact, incorporated into the December order. *In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered December 1, 2023 (Case No. U-20763), p 292. In large part, what the PSC was stating in the December order was that the *already-established* public need for Line 5 was a piece of the puzzle demonstrating a need for the Replacement Project.

In addition, the Commission stated that there was a need for the Replacement Project because the dual pipelines posed an oil-spill risk, whereas the proposed tunnel alternative posed virtually no risk of an oil spill. *Id*. at 303-305. It cited the testimony of Travis Warner, a member

RECEIVED by MSC 11/14/2025 2:10:18 PM

of the PSC Staff, who noted that the Replacement Project would "substantially reduce" "if not eliminate" the risk of an oil spill in the Straits and who added:

> At this time, there is no certainty as to how long the existing Dual Pipelines would continue to operate if the Replacement Project is not completed. This uncertainty creates the potential for perpetual and unnecessary risk for an undetermined length of time into the future. Based on the information currently known, Staff determined that support of the Replacement Project is prudent, in the public interest, and will reduce the risk of contamination of the Great Lakes.

The Commission's analysis reflected a heavy focus on the need for the Replacement Project as an alternative to the dual pipelines and accorded with the language of Rule 447(1)(c). In other words, that Enbridge has the authority to operate Line 5 has already been established, and the public will be served by the Replacement Project because of the risk posed by the continued use of the dual pipelines.[12]

On balance, we conclude that affirmance is appropriate, not only because of the wording of the April order and the deferential standard of review but also because, as will be discussed more fully *infra*, the Commission, despite its ruling on the motion in limine, did in fact end up allowing intervenors the opportunity to present evidence of possible alternatives for Line 5. Moreover, in its analysis of the "public need" issue, the Commission considered the viability of those alternatives. See *In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered December 1, 2023 (Case No. U-20763), pp 293-296, 300-302.

We note, lastly, that For Love of Water argues about the public trust. It refers to the fact that, "[u]nder common law, the state owns and holds the waters and bottomlands of the Straits and Great Lakes in public trust." As stated in *Glass v Goeckel*, 473 Mich 667, 678; 703 NW2d 58 (2005), with regard to the public trust doctrine, "[U]nder longstanding principles of *Michigan's common law*, the state, as sovereign, has an obligation to protect and preserve the waters of the Great Lakes and the lands beneath them for the public." (Emphasis added.) However, the PSC is a "creature of the Legislature" and has no common-law powers; it "possesses only that authority bestowed upon it by statute." *Union Carbide Corp v Pub Serv Comm*, 431 Mich 135, 146; 428 NW2d 322 (1988). All its power must derive from statutes. *Id*. As such, the reliance by For Love of Water on the public trust doctrine is misplaced.

[12] As set forth in the statement of facts, although the AG has initiated a lawsuit to shut down Line 5, that ligation is unresolved.

RECEIVED by MSC 11/14/2025 2:10:18 PM

B. PSC'S MEPA ANALYSIS IN GENERAL

Intervenors the Tribes, Michigan Environmental Council, Tip Of The Mitt Watershed Council, National Wildlife Federation, And For Love Of Water argue that the PSC made various errors in connection with its general[13] MEPA analysis.

1. STANDARDS OF REVIEW

We note that in *West Mich Environmental Action Council, Inc v Natural Resources Comm*, 405 Mich 741, 754; 275 NW2d 538 (1979), the Court referred to de novo review in MEPA cases. This was stated in the context of "an environmental protection act case . . . filed in a circuit court." *Id*.; see also *id*. at 749. In other words, the Court stated that a circuit court must look at the evidence de novo in a MEPA case. *Id*. at 754. At issue here is not a separate MEPA action but a MEPA analysis made in the context of a PSC permitting decision. In *Friends of Crystal River v Kuras Props*, 218 Mich App 457, 470, 472; 554 NW2d 328 (1996), de novo review was applied by a circuit court in the context of a wetlands permitting decision, and this Court approved of the process. The Court of Appeals, of course, serves a different role from that of a circuit court and is not a finder of fact, and in *Friends of Crystal River*, *id*. at 470, this Court spoke about the circuit court's "finding" regarding the impairment of a natural resource. Also, in *West Mich Environmental Action Council*, 405 Mich at 754, the Court spoke about a circuit court making "findings of fact" under MEPA. (Quotation marks and citation omitted.) The factual circumstances in that case involved a process contemplated by statute, i.e., a circuit court using an administrative tribunal to conduct certain proceedings. See *id*. at 752-754, former MCL 691.1204, and current MCL 324.1704. The *West Mich Environmental Action Council* Court stated that "the Legislature specifically addressed the relationship between suits brought under the environmental protection act and administrative proceedings" and concluded that de novo review by the circuit court was required because of the statutory scheme. *Id*. at 752, 754.

In this case, there was no "suit" under MEPA. We note, too, that in *Cipri v Bellingham Frozen Foods, Inc*, 235 Mich App 1, 8-9; 596 NW2d 620 (1999), the Court spoke about according deference to a *trial court's findings* in a MEPA case. Given all the circumstances, including that judicial review of PSC decisions is set forth by way of statute, we conclude that the standards of review as set forth in Part II.A.1. of this opinion are applicable.

2. DISCUSSION

We conclude that the Commission's general MEPA decision was adequately supported by the law and evidence.

MCL 324.1705(2), a provision of MEPA, states:

[13] As discussed *infra*, certain intervenors take issue specifically with how the PSC addressed GHGs during its MEPA analysis. These arguments are addressed in Part II.C. of this opinion.

RECEIVED by MSC 11/14/2025 2:10:18 PM

> In administrative, licensing, or other proceedings, and in any judicial review of such a proceeding, the alleged pollution, impairment, or destruction of the air, water, or other natural resources, or the public trust in these resources, shall be determined, and conduct shall not be authorized or approved that has or is likely to have such an effect if there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare.

The Tribes, Michigan Environmental Council, Tip of the Mitt Watershed Council, and National Wildlife Federation contend that the Commission erred by failing to consider the risks of oil spills from Line 5 as a whole when making its environmental findings. But the proceedings at issue involved an application for the Replacement Project, and the "conduct" sought to be "authorized or approved" was the Replacement Project. Again, as stated in *United Parcel Serv*, 277 Mich App at 202:

> [This Court] may not read into a statute or rule that which is not within the manifest intention of the Legislature as gathered from the statute or rule itself. Only where the language under review is ambiguous may a court properly go beyond the words of the statute or administrative rule to ascertain the drafter's intent.

The Commission, by looking to the desired "conduct," was following the plain language of MCL 324.1705(2).

Various intervenors take issue with the comparisons the PSC used as possible feasible and prudent alternatives. For example, the Tribes contend that the Commission acted arbitrarily by failing to examine the risk of oils spills from Line 5 as a whole but then, when considering possible alternatives such as rail, taking into account the entire length of needed rail.

As noted, the PSC concluded that there *would* be some environmental impairment as a result of the Replacement Project. See, e.g., *In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered December 1, 2023 (Case No. U-20763), p 329. Accordingly, under MCL 324.1705(2), the PSC was tasked with determining if there was a feasible and prudent alternative. This could theoretically encompass (1) the status quo, with the dual pipelines in place; (2) replacement of or alternatives for only the Straits segment of Line 5; or (3) alternative transportation methods for the entire line. As set forth in the statement of facts in this opinion, the PSC looked at all of these options. While it could have limited its "alternatives" analysis merely to alternative methods of getting product *through the Straits*, it decided to examine *all* the presented alternatives to the Replacement Project. We acknowledge that it is concerning that the PSC, when discussing rail transport, looked to the effect of rail being used for the entire transport system and at first compared it to just the tunnel project; the Commission mentioned, for example, how many rivers and wetlands a rail system would cross but then did not mention the same statistics for Line 5 as a whole. See, e.g., *id*. at pp 339, 341. However, and importantly, the Commission also relied heavily on the presented evidence that using rail as transport would produce significantly more GHGs, for the same amount of product, than using Line 5 as a whole for transport. *Id*. at 345-346. Accordingly, we conclude that the PSC's MEPA decision is adequately supported by the record.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Tribes, Michigan Environmental Council, Tip of the Mitt Watershed Council, and National Wildlife Federation contend that the PSC acted inconsistently because it did not consider the risk of oil spills for the entire line yet considered evidence about GHGs regarding the entire line. For Love of Water makes a related argument. The Commission's decision was evidently tied to the fact that the purpose of the Replacement Project was to transport hydrocarbons. It concluded that "its obligations under MEPA extend[] to the products being shipped through the Replacement Project" and, therefore, it considered the impact of GHGs in relation to various alternatives. See *id*. at 51. We conclude that the Commission acted appropriately because it *could* have limited its "comparisons" analysis to just alternatives for the Straits segment of pipeline (such as those presented by the MSCA) but instead decided to look to *all* presented alternatives, and ultimately it reached a decision that was supported by the evidence in the record.

For Love of Water, Environmental Law & Policy Center, and Michigan Climate Action Network contend that the PSC did not apply a proper burden of proof because, once the Commission concluded that there would be some environmental impairment as a result of the Replacement Project, it was Enbridge's burden to demonstrate that there was no feasible and prudent alternative, and Enbridge did not present evidence of the lack of such alternatives. MCL 324.1703(1) states:

> When the plaintiff in the action has made a prima facie showing that the conduct of the defendant has polluted, impaired, or destroyed or is likely to pollute, impair, or destroy the air, water, or other natural resources or the public trust in these resources, the defendant may rebut the prima facie showing by the submission of evidence to the contrary. The defendant may also show, by way of an affirmative defense, that there is no feasible and prudent alternative to defendant's conduct and that his or her conduct is consistent with the promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment, or destruction. Except as to the affirmative defense, the principles of burden of proof and weight of the evidence generally applicable in civil actions in the circuit courts apply to actions brought under this part.

The statute speaks to the defendant's opportunity to show the lack of a feasible and prudent alternative, but it does not state that *only* the defendant or petitioner can present evidence about alternatives. The PSC Staff and the MSCA presented possible alternatives, and the PSC also considered the alternatives set forth in the Dynamic Risk report, which, notably, was a report introduced by Environmental Law & Policy Center. In *Ray v Mason Co Drain Comm'r*, 393 Mich 294, 312-313; 224 NW2d 883 (1975), the Michigan Supreme Court stated:

> If the defendant rather than, or in addition to attempting, to rebut plaintiff's case seeks to establish an affirmative defense, then *the judge must set out those facts which led him to conclude 1) that feasible and prudent alternatives do or do not exist and what the claimed alternatives were* and 2) that the defendant's conduct is or is not consistent with the promotion of public health, safety and welfare. [Quotation marks omitted; emphasis added.]

RECEIVED by MSC 11/14/2025 2:10:18 PM

In this case, the PSC explained why the alternatives that were presented were not feasible and prudent in its view. Also, it is important to note that the Straits-specific alternatives presented by the MSCA were *on behalf of Enbridge*. Indeed, the MSCA intervened on Enbridge's behalf and stated that "MSCA . . . will suffer an injury in fact if Enbridge's permit application is denied." A remand is unwarranted because numerous alternatives were in fact presented and considered, even if they did not originate from Enbridge itself.

For Love of Water contends, in a reply brief, that the PSC, in its MEPA analysis, did not consider the public trust. MCL 324.1705(2) refers to "the alleged pollution, impairment, or destruction of the air, water, or other natural resources, or the public trust in these resources[.]" The Commission considered this statutory reference to the "public trust in [the] resources" by way of its overall MEPA review.

The AG contends that the PSC's MEPA analysis was flawed because the Commission limited its consideration of alternatives, such as rail transport. This is not accurate, however. The Commission, in its April 2021 order, ruled that it would consider evidence concerning alternative transportation methods. *In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered April 21, 2021 (Case No. U-20763), pp 64, 68-69. It stated:

> At this early stage of the proceeding, the Commission is not persuaded that it should prohibit arguments and evidence addressing what the appropriate point of comparison is for any pollution, impairment, or destruction of Michigan's natural resources resulting from the proposed Replacement Project. Such questions on the feasibility and prudence of alternatives—*both in terms of alternative pipeline and non-pipeline shipping arrangements* and alternatives to the products being shipped—are inherently questions of fact well suited to the development of record evidence. However, *while allowing evidence to be considered on this point*, the Commission notes that this is only the beginning of the inquiry, and the Commission must ultimately determine, consistent with its responsibilities under MEPA, whether there is any pollution, impairment, or destruction as a result of the Replacement Project—including in comparison to the possible closure of the dual pipeline segments currently in the Straits if the Notice is enforced; whether any pollution, impairment, or destruction is consistent with the protection of Michigan's natural resources; and whether there are feasible and prudent alternatives to any pollution, impairment, or destruction that is found as a result of the Replacement Project. [*Id*. (emphasis added).]

Intervenors were *allowed* to present evidence of alternatives. Some intervenors presented evidence regarding alternative scenarios. See *In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered December 1, 2023 (Case No. U-20763), pp 118-126. And, as discussed, the PSC considered alternatives such as rail transport before concluding that there was not a feasible and prudent alternative to the Replacement Project.

Moreover, the Commission stated that some environmental concerns will be addressed by way of permitting decisions by other agencies:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> As an initial matter, the Commission agrees with the Staff that several potential environmental impairments resulting from the construction of the Replacement Project fall in the regulatory purview of other state and federal agencies and will be addressed by separate permitting decisions. For example, [certain] witnesses . . . asserted that the discharge of wastewater in the Great Lakes during construction of the tunnel and regular operations of the Replacement Project is likely to affect the Great Lakes' ecosystem. The Staff noted that the NREPA Part 31 permit "establishes parameters for authorized discharge, including quantity and composition." . . . The Commission agrees with the Staff that Enbridge's compliance with these permit requirements should minimize potential environmental impacts from construction and operation of the Replacement Project. [*Id*. at 328.]

Certain intervenors contend that the PSC could not "defer" to another agency as it did in this passage. But the PSC's decision was supported by evidence in the record, such as permit language, indicating that Enbridge would need to comply with particular discharge requirements.

On balance, we find no basis on which to reverse or remand.

C. PSC'S MEPA ANALYSIS AS SPECIFICALLY APPLIED TO GREENHOUSE-GAS EMISSIONS

Intervenors Environmental Law & Policy Center and Michigan Climate Action Network argue that Commission made various errors with regard to how it analyzed the impact of GHGs in the context of its MEPA decision.

1. STANDARDS OF REVIEW

The standards of review are discussed in Part II.B.1.

2. DISCUSSION

We conclude that the Environmental Law & Policy Center and the Michigan Climate Action Network have not established entitlement to appellate relief in connection with their arguments about how the PSC evaluated the impact of GHGs.

The Environmental Law & Policy Center and the Michigan Climate Action Network argue that the PSC, in evaluating GHGs in connection with MEPA, failed to properly take into account the expert testimony they presented concerning the following:

> [a] standard methodology [that] includes both "direct" GHG emissions from construction and operation of the project [i.e., GHGs from building the tunnel and new pipeline segment] and "indirect" upstream and downstream GHG emissions from extraction, refining, and consuming the oil and gas that would flow through the pipeline.

Their expert witness Peter Erickson testified:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> [W]hen compared to a scenario in which the existing Line 5 pipeline no longer operates, construction and operation of the Proposed Project would lead to an increase of about 27 million metric tons CO2e annually in global greenhouse gas emissions from the production and combustion of oil.

Erickson explained further:

> In the case of the Proposed Project, the availability of oil pipelines, including Line 5, affects global GHG emissions because pipelines help increase the supply of oil. Evaluation of these dynamics is a typical methodology for analyzing incremental GHG emissions of an energy infrastructure project.

Erickson said that he calculated the 27-million-ton increase by looking at increased costs for oil as a result of rail transport, comparing these to the lower costs for oil if Line 5 were used, and considering " '[l]ong-run elasticities.' " He elaborated:

> "Long-run" elasticities are intended to gauge effects over a period of time in which producers and consumers have time to make changes in their equipment or investment decisions, such as the decision of what kind of car to buy or whether or not to drill a new oil field. Over this time period—the next several years—the flexibility of decisions is greater than in the "short run," and hence the effects of a change in price are greater. The long-run elasticities of supply (0.6) and demand (-0.3) that I use here are the same as in my most recent peer-reviewed research.

The Environmental Law & Policy Center and the Michigan Climate Action Network argue that the PSC, in evaluating GHGs, ignored the pricing pressure on supply and demand, simply *assumed* no diminishment in demand, and, therefore, failed to take into account that facilitating the continuation of Line 5 would result in an increase in GHGs.

Alexander Morese, a member of the PSC Staff, stated that the increase in prices resulting from alternative transportation methods "would not be enough to curb current usage" of petroleum products. Morese disputed Erickson's conclusion that a shutdown of Line 5 would result in "reduced demand, and thus reduced GHG emissions." He stated that long-term effects would be unlikely. The PSC, in making its GHGs analysis, cited to transcript pages that included Morese's testimony. *In re Enbridge Energy, Ltd Partnership*, order of the Public Service Commission, entered December 1, 2023 (Case No. U-20763), p 345. Also, it noted, correctly, that "Erickson did not dispute that moving oil by rail will increase GHG emissions" (i.e., by virtue of the transport itself). *Id*. at 346.

The argument by the Environmental Law & Policy Center and the Michigan Climate Action Network is not persuasive because the PSC supported its conclusions regarding GHGs by direct reference to the testimony in evidence. The Environmental Law & Policy Center and the Michigan Climate Action Network contend that the Commission should have placed more emphasis on long-term effects as testified to by Erickson. The PSC did make reference to "short term" and "immediate" effects, see *id*. at 345, without explaining why it should not be focusing on all eventualities. But again, despite the wording the PSC employed, its ultimate conclusions regarding GHGs has support in the cited evidence. In addition, it is important to remember, as the

RECEIVED by MSC 11/14/2025 2:10:18 PM

PSC itself strongly emphasized immediately after discussing GHGs, see *id*. at 346, that the dual pipelines pose a clear environmental threat. Any MEPA analysis needed to take into account that the attempt to shut the dual pipelines down has not yet been successful, and the granting of the permit by the PSC will resolve the problem posed by the dual pipelines.

The Environmental Law & Policy Center and the Michigan Climate Action Network further argue that the PSC violated *Ray*, 393 Mich at 306-307, because it did not "adopt and apply a standard and methodology" for evaluating GHGs. But the Environmental Law & Policy Center and the Michigan Climate Action Network do not indicate under what authority the PSC would be acting in adopting such standards. As already noted, the Commission is a "creature of the Legislature" and has no common-law powers; it "possesses only that authority bestowed upon it by statute." *Union Carbide Corp*, 431 Mich at 146. In the *Ray* case, the Court was speaking about the Legislature, by way of MEPA, leaving it to courts to "develop[] a common law of environmental quality." *Ray*, 393 Mich at 306-307. The bottom line is that the Commission considered the evidence presented in the contested case, which is what it was tasked with doing.

The Environmental Law & Policy Center and the Michigan Climate Action Network also suggest that the PSC violated *Thomas Twp v John Sexton Corp of Mich*, 173 Mich App 507; 434 NW2d 644 (1988), in which this Court stated that MEPA's impairment standard requires a "statewide perspective." In *Thomas Twp, id*. at 509-511, this Court reviewed the granting of a permit to drain an artificial lake. This Court stated:

> The [lower] court concluded that draining the lake would violate MEPA, reasoning that although the lake would be considered an abandoned clay pit filled with water if it were located elsewhere, in Saginaw County it was a rare resource.
>
> * * *
>
> This case does not concern the destruction of animal or plant life, nor the loss of a valuable natural resource. The lake is an abandoned clay pit filled with water which is hazardous to people and property. The lake's only significant value is its potential to be a recreational facility. The record indicates that this potential would not be realized even if the lake were not drained. . . .
>
> From a statewide perspective, draining the lake will not constitute the impairment or destruction of a natural resource under MEPA. [*Id*. at 516-517.]

The Commission in the present case considered general environmental impacts and did not run afoul of *Thomas Twp*.

The Environmental Law & Policy Center and the Michigan Climate Action Network also contend that the PSC, in evaluating GHGs, ran afoul of *Nemeth v Abonmarche Dev, Inc*, 457 Mich 16, 31; 576 NW2d 641 (1998), wherein the Court noted that a MEPA review generally requires an evaluation of the environmental situation before the proposed action as compared to the probable environmental situation afterwards. But the Commission did, in fact, evaluate the environmental situation before the proposed action.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Accordingly, we conclude that the GHG-specific arguments raised by the Environmental Law & Policy Center and the Michigan Climate Action Network do not warrant a reversal or remand.

III. BORKE'S ATTEMPT TO APPEAL

Matthew S. Borke filed an appeal as of right in this case. All appellants in these consolidated appeals were formally recognized as intervenors in the proceedings below, *except* Borke. Borke, in his jurisdictional checklist, cites MCR 7.203(A)(2) and MCL 462.26. MCR 7.203(A)(2) states that this Court

> has jurisdiction of an appeal of right filed by an aggrieved party from the following:
>
> * * *
>
> (2) A judgment or order of a court or tribunal from which appeal of right to the Court of Appeals has been established by law or court rule.

MCL 462.26 provides that "*any* common carrier or *other party in interest*, being dissatisfied with any order of the commission . . . fixing any regulations, practices, or services, may within 30 days from the issuance and notice of that order file an appeal as of right in the court of appeals." (Emphasis added.) Borke merely offered *public comments* in the proceedings below; his contributions consisted of two short e-mails complaining generally about Enbridge's honesty and motives and alleging misconduct, sometimes in connection with a project unrelated to the instant case. No supported legal arguments were advanced. "[A]ny . . . *party* in interest," see MCL 462.26 (emphasis added), cannot include each and every person who happened to offer comments, but nothing more, in a contested case. Borke contends in a reply brief that the PSC can permit intervention if someone will bring a unique perspective to a case, but, crucially, he never states that *he* was granted intervention. He also cites MCL 460.6g(4), which is inapposite because it deals with appeals from certain types of rate-setting. And he cites Mich Admin Code, R 792.10413, which speaks of "participation without intervention" in certain proceedings and specifically states that a person participating in this manner "shall not be regarded as a party to the proceeding." See Mich Admin Code, R 792.10413(2). *Hundreds and hundreds* of people, perhaps thousands, offered comments in this case, and this is common for a high-profile case. It is not tenable that each is entitled to an appeal as of right.[14] We decline to consider Borke's arguments.

[14] We note that MCR 7.203(F)(1) states, "Except when a motion to dismiss has been filed, the chief judge or another designated judge may, acting alone, dismiss an appeal or original proceeding for lack of jurisdiction." In addition, the Court of Appeals may "enter any judgment or order or grant further or different relief as the case may require[.]" MCR 7.216(A)(7).

RECEIVED by MSC 11/14/2025 2:10:18 PM

IV. CONCLUSION

The PSC issued a comprehensive and detailed opinion. We find no basis for ordering a reversal or remand. The Commission acted reasonably when one considers its actions and rulings as a whole.

Affirmed.

/s/ Michael J. Kelly
/s/ Anica Letica
/s/ Randy J. Wallace

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix B

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of **ENBRIDGE ENERGY, LIMITED PARTNERSHIP,** for authority to replace and relocate the segment of Line 5 crossing the Straits of Mackinac into a tunnel beneath the Straits of Mackinac, if approval is required pursuant to 1929 PA 16, MCL 483.1 *et seq*., and Rule 447 of the Commission's Rules of Practice and Procedure, R 792.10447, or the grant of other appropriate relief.	Case No. U-20763

At the December 1, 2023 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Katherine L. Peretick, Commissioner
Hon. Alessandra R. Carreon, Commissioner

ORDER

I. HISTORY OF PROCEEDINGS

On April 17, 2020, Enbridge Energy, Limited Partnership (Enbridge) filed an application (application) and supporting exhibits in this docket pursuant to Public Act 16 of 1929, MCL 483.1 *et seq*. (Act 16) and the Commission's Rules of Practice and Procedure, Mich Admin Code, R 792.10447 (Rule 447) requesting that the Commission grant Enbridge the authority for its project known as the Straits Line 5 Replacement Segment. According to Enbridge, the project involves replacing the segment of the Line 5 pipeline (Line 5) that crosses the Straits of Mackinac (Straits) in Michigan with a single, 30-inch diameter pipe and relocating the segment to a

RECEIVED by MSC 11/14/2025 2:10:18 PM

"concrete-lined tunnel below the lakebed of the Straits" (Replacement Project). Application, p. 2. Enbridge sought *ex parte* approval of the application. In the alternative, Enbridge requested a declaratory ruling confirming that it already has the requisite authority to construct the Replacement Project pursuant to the March 31, 1953 order in Case No. D-3903-53.1 (1953 order).

On April 22, 2020, the Commission issued an order in this case seeking comments on the threshold issue presented in Enbridge's declaratory ruling request. The Commission also decided to hold Enbridge's application in abeyance while it considered the request for a declaratory ruling.

On June 12, 2020, Enbridge filed in this docket supplemental authority for its request for a declaratory ruling, citing a recent decision of the Michigan Court of Appeals that affirmed the constitutionality of Public Act 359 of 2018, MCL 254.324 *et seq*. (Act 359). On June 25, 2020, Bay Mills Indian Community (Bay Mills) filed supplemental authority in this docket, citing recent motions and briefs filed by the Michigan Department of Attorney General (Attorney General) in *Nessel v Enbridge Energy, Ltd Partnership*, Docket No. 19-474-CE, Ingham County Circuit Court, Michigan.

On June 30, 2020, the Commission issued an order in this case denying both *ex parte* approval of Enbridge's application and its requested declaratory relief (June 30 order). The Commission set this matter for a contested proceeding, invited the continued submission of comments, and decided to read the record. June 30 order, p. 70.

On July 29, 2020, Enbridge filed in this docket a petition for rehearing of the June 30 order (July 29 petition for rehearing) pursuant to Mich Admin Code, R 792.10437 (Rule 437).

On August 11, 2020, Enbridge filed in this docket limited objections to the notice of intervention filed by the Attorney General and the petitions to intervene filed by Bay Mills, Grand Traverse Band of Ottawa and Chippewa Indians (GTBOC), Little Traverse Bay Bands of Odawa

RECEIVED by MSC 11/14/2025 2:10:18 PM

Indians (LTBB), Nottawaseppi Huron Band of the Potawatomi (NHBP), the Michigan Environmental Council (MEC), Tip of the Mitt Watershed Council (TMWC), National Wildlife Federation (NWF), For Love of Water (FLOW), Environmental Law & Policy Center (ELPC), and Michigan Climate Action Network (MiCAN). On August 12, 2020, NHBP and FLOW each filed in this docket a reply to Enbridge's limited objections to the petitions to intervene. Also on August 12, 2020, a prehearing conference was held before Administrative Law Judge Dennis W. Mack (ALJ Mack), at which intervention was granted to the Attorney General; FLOW; MEC, GTBOC, TMWC, and NWF (together, the MEC Coalition); Bay Mills; ELPC and MiCAN (together, ELPC/MiCAN); LTBB; NHBP; Michigan Laborers' District Council (MLDC); Michigan Propane Gas Association (MPGA) and the National Propane Gas Association (together, the Associations); and the Mackinac Straits Corridor Authority (MSCA).[1] The Commission Staff (Staff) also participated. On August 13, 2020, ALJ Mack adopted a schedule for the case.

On August 19, 2020, the MEC Coalition, the Staff, Bay Mills, and ELPC/MiCAN each filed a response to Enbridge's July 29 petition for rehearing in this case.

On August 24, 2020, the Commission held a public hearing on the application, where the Commissioners listened to oral comments from members of the public. Written comments have been filed in this docket throughout the pendency of the case.

On September 2, 2020, Enbridge filed a motion in limine in this docket (September 2 motion in limine). On September 23, 2020, responses to the September 2 motion in limine were filed in this docket by the Staff; ELPC/MiCAN; FLOW; the Attorney General; the Associations; and

[1] ALJ Mack and the parties have used various shortened names in the documents filed in this docket. To reduce confusion, when reproducing a quote in this order, the shortened names or acronyms designated herein are used (in brackets).

RECEIVED by MSC 11/14/2025 2:10:18 PM

MEC, Bay Mills, GTBOC, TMWC, and NWF. On September 30, 2020, ALJ Mack held a hearing on the motion.

On October 23, 2020, ALJ Mack issued a ruling in this docket granting Enbridge's September 2 motion in limine in part and denying it in part (ALJ Mack's initial ruling). On November 6, 2020, Bay Mills, the MEC Coalition, ELPC/MiCAN, FLOW, and the Attorney General[2] each filed in this docket an application for leave to appeal ALJ Mack's initial ruling under Mich Admin Code, R 792.10433 (Rule 433). On November 20, 2020, Enbridge, the Associations, the Staff, and MSCA each filed in this docket a response to the November 6, 2020 applications for leave to appeal.

On November 24, 2020, the MEC Coalition filed in this docket a motion for entry of a protective order to "govern the release, use, and disclosure of confidential, proprietary, or sensitive information, including information designated as Critical Energy Infrastructure Information." MEC Coalition's November 24, 2020 motion for protective order, filing #U-20763-0451, p. 1. On November 25, 2020, Enbridge filed in this docket a motion to compel answers to requests for admission from the Attorney General.

On December 4, 2020, the Staff filed in this docket a response supporting the MEC Coalition's motion for entry of a protective order. On that same date, Enbridge filed in this docket an answer to the MEC Coalition's motion for entry of a protective order, a brief in support, and a proposal for its own protective order. In addition, on December 4, 2020, MSCA filed in this docket a statement partially concurring with Enbridge's answer to the MEC Coalition's motion for protective order. Also on December 4, 2020, the Attorney General filed in this docket a response

[2] The Attorney General did not file her own application but filed a notice that she joins in the other four filed applications.

RECEIVED by MSC 11/14/2025 2:10:18 PM

to Enbridge's November 25, 2020 motion to compel. On December 7, 2020, the MEC Coalition and Bay Mills jointly filed in this docket objections to the protective order requested by Enbridge in its December 4, 2020 answer.

On December 8, 2020, ALJ Mack held a hearing on the MEC Coalition's and Enbridge's motions for entry of a protective order and Enbridge's motion to compel. At the close of the hearing, ALJ Mack took the motions for entry of a protective order under advisement and denied Enbridge's motion to compel.

On December 9, 2020, the Commission issued an order in this case (December 9 order) remanding Enbridge's September 2 motion in limine to ALJ Mack in light of Governor Gretchen Whitmer's November 13, 2020 issuance of a notice of revocation of Enbridge's existing Line 5 easement in the Straits (Notice), which was issued during the briefing on the applications for leave to appeal ALJ Mack's initial ruling.

On December 10, 2020, ALJ Mack issued a ruling granting the MEC Coalition's motion for entry of a protective order in this case and denying Enbridge's proposed modifications. ALJ Mack set a revised schedule for the case on December 21, 2020.

On December 23, 2020, Enbridge filed a motion in this docket requesting approval to file supplemental direct testimony and exhibits (December 23 motion), and on that same date, filed the proposed supplemental direct testimony and exhibits. On January 8, 2021, the Staff filed a response in this docket in support of Enbridge's December 23 motion. On January 11, 2021, ALJ Mack granted Enbridge's December 23 motion, and the supplemental direct testimony and exhibits appear in the docket as filing #U-20763-0509.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Initial briefs on the remanded September 2 motion in limine were filed in this docket on January 15, 2021, and reply briefs were filed on January 29, 2021.[3] ALJ Mack held a hearing on the remanded motion on February 5, 2021. On February 5 and 8, 2021, Enbridge filed in this docket a supplemental filing of Enbridge's Michigan Department of Environment, Great Lakes, and Energy (EGLE) permits and responsiveness summaries, respectively.

On February 23, 2021, ALJ Mack issued a ruling in this docket granting the remanded September 2 motion in limine in part and denying it in part, consistent with his initial ruling (ALJ Mack's ruling on remand). On March 9, 2021, ELPC/MiCAN; FLOW; the MEC Coalition;[4] and Bay Mills, GTBOC, LTBB, and NHBP[5] each filed in this docket an application for leave to appeal ALJ Mack's ruling on remand pursuant to Rule 433. On March 23, 2021, MLDC, Enbridge, the Associations, the Staff, and MSCA each filed in this docket a response to the applications for leave to appeal ALJ Mack's ruling on remand.

On April 21, 2021, the Commission issued an order in this case (April 21 order) addressing both sets of appeals. The Commission granted the applications for leave to appeal and granted the requested relief in part and denied it in part.

On May 5, 2021, ALJ Mack set a revised schedule for the case.

On May 21, 2021, the Tribal Intervenors filed in this docket a joint petition for rehearing of the April 21 order pursuant to Rule 437 (May 21 petition for rehearing). On June 11, 2021, Enbridge and the Associations each filed in this docket a response to the Tribal Intervenors'

[3] At the time of the briefing on remand of the September 2 motion in limine, the alignment of certain parties changed. At the time of the filing of the second round of applications for leave to appeal, the alignment of certain parties changed again, as described below.

[4] At this stage of the proceeding, the MEC Coalition is comprised of MEC, TMWC, and NWF.

[5] Collectively, Tribal Intervenors for purposes of this application.

RECEIVED by MSC 11/14/2025 2:10:18 PM

May 21 petition for rehearing. On that same date, the Staff filed a letter in this docket stating that it would not be filing a response to the Tribal Intervenors' May 21 petition for rehearing but "reserve[s] the right to address any issue and argument raised in the petition if they arise again throughout the course of this proceeding, related proceeding, or in any subsequent appeals." Staff's letter in response to the Tribal Intervenors' petition for rehearing, p. 1.

On September 14, 2021, direct testimony and exhibits were filed in this docket by LTBB, the Staff, MSCA, NHBP, Bay Mills, and ELPC/MiCAN. On September 15, 2021, ELPC/MiCAN filed in this docket additional direct testimony and exhibits, and MSCA filed the corrected testimony of Dr. Michael A. Mooney.

On December 14, 2021, rebuttal testimony and exhibits were filed in this docket by Enbridge, the Staff, the Associations, Bay Mills, and ELPC/MiCAN.

On December 21, 2021, Enbridge filed in this docket motions to strike portions of the direct testimony of Dr. Charles E. Cleland, Peter A. Erickson, and Jacques LeBlanc, Jr.; portions of the direct testimony and exhibits of Frank Ettawageshik, Whitney B. Gravelle, Dr. Peter Howard, and John Rodwan; and portions of the direct and rebuttal testimony of Dr. Elizabeth A. Stanton. On that same date, Enbridge filed in this docket a motion to strike portions of the rebuttal testimony of Richard Kuprewicz. On January 11, 2022, NHBP, the Staff, Bay Mills, the Associations, and ELPC/MiCAN each filed in this docket a response to Enbridge's motions to strike. On that same date, Enbridge filed in this docket revised Exhibits A-4 and A-21.1.

On January 13, 2022, ALJ Mack issued a ruling on the motions to strike in this case (ALJ Mack's January 13 ruling), finding that: (1) Enbridge's motion to strike portions of Dr. Cleland's direct testimony and Exhibit BMC-35 is granted; (2) Enbridge's motion to strike portions of Mr. Kuprewicz's rebuttal testimony is denied, but Enbridge's requested alternative relief to file

RECEIVED by MSC 11/14/2025 2:10:18 PM

surrebuttal is granted; (3) Enbridge's motion to strike portions of Mr. LeBlanc's direct testimony is granted; (4) Enbridge's motion to strike portions of Ms. Gravelle's testimony and Exhibits BMC-1 through BMC-5 is granted; (5) Enbridge's motion to strike portions of Mr. Ettawageshik's direct testimony and Exhibits BMC-17 through BMC-30 is granted; (6) Enbridge's motion to strike Dr. Howard's direct testimony, in its entirety, and Exhibits ELP-8 through ELP-10 is denied; (7) Enbridge's motion to strike portions of Mr. Erickson's direct testimony is granted; (8) Enbridge's motion to strike portions of Dr. Stanton's direct and rebuttal testimony is denied; and (9) Enbridge's motion to strike portions of Mr. Rodwan's direct testimony and Exhibit NHBP-3 is granted. *See*, ALJ Mack's January 13 ruling, pp. 16-18. On January 14, 2022, Enbridge filed in this docket the surrebuttal testimony of Aaron Dennis, and NHBP filed the revised testimony of Mr. Rodwan. On January 17, 2022, Enbridge filed in this docket Exhibits A-13.1 and A-14.1, which are updates to Exhibits A-13 and A-14. On January 18, 2022, ELPC/MiCAN filed the revised direct testimony of Mr. Erickson in this docket.

On January 19, 2022, Bay Mills filed in this docket the revised direct testimony of Dr. Cleland, Ms. Gravelle, Mr. Ettawageshik, and Mr. LeBlanc. On that same date, Bay Mills filed a motion in this case to file the sur-surrebuttal testimony of Mr. Kuprewicz (Bay Mills' January 19 motion) or, "in the alternative to take official notice under Rule 428, [Mich Admin Code,] R. 792.10428, of a Joint Industry Report titled *Enhanced Girth Weld Performance for Newly Constructed Grade X70 Pipeline* [Joint Industry Report]—the exact grade of pipeline to be used in the Tunnel Project—and which was reviewed, approved, and signed by an Enbridge representative during the pendency of this contested case." Bay Mills' January 19 motion, p. 2. Also on January 19, 2022, Bay Mills filed Exhibit BMC-42C under seal. On January 20, 2022, ALJ Mack granted Bay Mills' motion to bind in the rebuttal and sur-surrebuttal testimony of

RECEIVED by MSC 11/14/2025 2:10:18 PM

Mr. Kuprewicz, and ALJ Mack admitted Exhibits BMC-37 and BMC-43. On that same date, Bay Mills filed in this docket the sur-surrebuttal testimony of Mr. Kuprewicz and filed the revised direct testimony of Dr. Cleland under seal. On January 24, 2022, MSCA filed in this docket a motion to file the sur-sur-surrebuttal testimony of Daniel M. Cooper. On that same date, ALJ Mack granted MSCA's motion to bind in the sur-sur-surrebuttal testimony of Mr. Cooper.

Direct and cross-examination was conducted on January 14, 18-21, and 24, 2022.

On February 18, 2022, Bay Mills, GTBOC, LTBB, and NHBP;[6] ELPC/MiCAN; Enbridge; FLOW; MLDC; MSCA; and the Staff each filed an initial brief in this docket. On that same date, in its initial brief, Bay Mills filed an application for leave to appeal ALJ Mack's January 13 ruling. On February 22, 2022, the Associations filed an initial brief in this docket. On March 11, 2022, the Tribal Nations, ELPC/MiCAN, Enbridge, FLOW, the MEC Coalition, the Staff, and the Associations each filed a reply brief in this docket.

On March 14, 2022, ALJ Mack filed a notice in this docket that the record in this case closed on January 24, 2022, and that the case was to be transmitted to the Commission for its consideration.

On April 6, 2022, the Staff filed a Fee Exhibit in this docket pursuant to the requirements of MCL 460.119 and the December 19, 2019 order in Case No. U-20634. *See*, Case No. U-20763, filing #U-20763-1142. On May 16, 2022, the Commission's Executive Secretary filed a memorandum in the docket acknowledging that Enbridge fulfilled its payment obligations. *See*, Case No. U-20763, filing #U-20763-1190.

[6] For this stage of the proceeding, Bay Mills was joined by the GTBOC, LTBB, and the NHBP, and they refer to themselves as the Tribal Nations in their initial brief.

RECEIVED by MSC 11/14/2025 2:10:18 PM

On July 7, 2022, the Commission issued an order in this case (July 7 order) reopening the record to receive additional testimony, exhibits, and rebuttal. In the July 7 order, the Commission found that additional evidence is necessary for the Commission to complete its Act 16 analysis of whether the Replacement Project is designed and routed in a reasonable manner and whether it meets or exceeds current safety and engineering standards. However, the Commission stated that briefing by the parties on the reopened record would not be permitted. On July 22, 2022, ALJ Mack set a revised schedule for the case.

On August 5, 2022, Enbridge, the Associations, and MLDC filed a joint petition for rehearing of the July 7 order (August 5 joint petition for rehearing) requesting that the Commission permit the parties to "advocat[e] their positions in briefing related to the reopened evidentiary record." August 5 joint petition for rehearing, p. 3. On August 22, 2022, MSCA and Bay Mills each filed a response to the August 5 joint petition for rehearing stating that they do not object to the relief sought in the petition. On September 8, 2022, the Commission issued an order in this docket (September 8 order) finding that the request by Enbridge, the Associations, and MLDC to file additional briefing is reasonable and should be granted. Thus, the Commission stated that "initial briefs of no more than 30 pages addressing the evidence presented in the supplemental record developed April 4-7, 2023, may be filed no later than May 5, 2023, and reply briefs of no more than 25 pages addressing the evidence presented in the supplemental record developed April 4-7, 2023, may be filed no later than May 19, 2023."[7] September 8 order, p. 5.

On September 14, 2022, this case was reassigned to Administrative Law Judge Christopher S. Saunders (ALJ Saunders).

[7] The hearing schedule was revised at a motion hearing on January 12, 2023, and the cross-examination scheduled for April 4-7, 2023, was rescheduled for April 11-14, 2023.

RECEIVED by MSC 11/14/2025 2:10:18 PM

On October 21, 2022, Enbridge filed in this docket the direct testimony on reopening of Ashley Rentz and John Godfrey and Exhibits A-28 and A-29. On December 12, 2022, Bay Mills filed a motion in this docket to strike Appendix B to Exhibit A-29 (December 12 motion to strike). On December 20 and 21, 2022, ELPC/MiCAN and the Attorney General each filed a response in this docket, respectively, supporting Bay Mills' December 12 motion to strike. On December 21, 2022, the Staff filed in this docket a response in partial support of Bay Mills' December 12 motion to strike, and Enbridge filed in this docket a response opposing Bay Mills' December 12 motion to strike. On December 28, 2022, the Associations filed a response in this docket to Bay Mills' December 12 motion to strike, supporting Enbridge's response to the motion.

On January 11, 2023, ALJ Saunders held a hearing on Bay Mills' December 12 motion to strike. On January 12, 2023, ALJ Saunders issued a ruling in this docket on Bay Mills' December 12 motion to strike (ALJ Saunders' January 12 ruling), agreeing with Bay Mills, the Staff, the Attorney General, and ELPC/MiCAN that "Appendix B has not been offered in an admissible form and should be stricken." ALJ Saunders' January 12 ruling, p. 4. However, because the information in Appendix B was specifically requested by the Commission in the July 7 order, ALJ Saunders stated that Enbridge should be provided the opportunity to resubmit the information in an admissible form. ALJ Saunders directed Enbridge to "cure the evidentiary defects in the submission of Appendix B" and to submit the necessary testimony by January 17, 2023. ALJ Saunders' January 12 ruling, p. 5. ALJ Saunders thereafter set a revised schedule for the case.

On January 17, 2023, Enbridge filed in this docket the direct testimony on reopening of Ray Philipenko, the supplemental direct testimony on reopening of Mr. Dennis, the direct testimony on reopening of Steven Bott, and Exhibits A-30 through A-32. On January 18, 2023, Enbridge filed

RECEIVED by MSC 11/14/2025 2:10:18 PM

in this docket the corrected direct testimony on reopening of Mr. Bott and Exhibit A-32. On that same date, Enbridge filed in this docket the amended corrected direct testimony on reopening of Mr. Bott, with Schedule 1 and Exhibit A-29.

On February 3, 2023, the Staff filed in this docket the direct testimony on reopening of Travis Warner and Exhibits S-31 through S-36. On that same date, Bay Mills filed in this docket the direct testimony on reopening of Mr. Kuprewicz, Brian O'Mara, and Ms. Gravelle, and Exhibits BMC-50 through BMC-63. Also, on February 3, 2023, MSCA filed in this docket a statement noting that it would not be filing additional testimony but reserved the right to file any rebuttal testimony as necessary and appropriate.

On February 23, 2023, Bay Mills filed in this docket a motion for leave to file the supplemental direct testimony on reopening of Mr. Kuprewicz based on newly publicized information (February 23 motion). On March 1, 2023, Enbridge filed in this docket a response and limited non-objection to Bay Mills' February 23 motion (March 1 response). Enbridge stated that it does not object to Bay Mills filing the supplemental direct testimony on reopening of Mr. Kuprewicz but "reserves all of its other rights including, but not limited to, filing a motion to strike the supplemental direct testimony . . . ." Enbridge's March 1 response, p. 3. On March 2, 2023, the Staff filed a letter in this docket stating that it would not be filing a response to Bay Mills' February 23 motion. On March 7, 2023, ALJ Saunders granted Bay Mills' February 23 motion. On that same date, Bay Mills filed in this docket the supplemental direct testimony on reopening of Mr. Kuprewicz and Exhibit BMC-64.

On March 10, 2023, Enbridge, the Staff, Bay Mills, and MSCA each filed in this docket rebuttal testimony on reopening and exhibits.

RECEIVED by MSC 11/14/2025 2:10:18 PM

On March 29, 2023, Enbridge filed in this docket a motion to strike the rebuttal testimony on reopening and exhibits of Ms. Gravelle, asserting that it is not proper rebuttal, is outside the scope of the proceeding, is hearsay, and seeks to introduce information that was struck by ALJ Mack. On that same date, Bay Mills filed a motion in this docket to strike portions of Mr. Cooper's rebuttal testimony on reopening, asserting that it is not proper rebuttal, is irrelevant, and is outside the scope of the directives contained in the July 7 order. Also on March 29, 2023, Bay Mills filed a motion in this docket to strike portions of Paul Eberth's rebuttal testimony on reopening and Exhibit A-33 in its entirety. Further, on that same date, Bay Mills filed a motion in this docket to strike the direct testimony on reopening of Mr. Philipenko and Exhibit A-30, the supplemental direct testimony on reopening of Mr. Dennis and Exhibit A-31, and the amended corrected direct testimony on reopening of Mr. Bott and Exhibit A-32. In addition, on March 29, 2023, Bay Mills filed a motion in this docket to strike: (1) the direct testimony on reopening of Mr. Godfrey and Exhibit A-29; (2) the direct testimony on reopening of Gabriele Ferrara, Ph.D., and Exhibit A-35; (3) the March 10, 2023 rebuttal testimony on reopening of Mr. Dennis; and (4) the March 10, 2023 rebuttal testimony on reopening of Mr. Bott and Exhibit A-34. On April 7, 2023, Enbridge, the Staff, and MSCA filed in this docket responses opposing Bay Mills' March 29, 2023 motions to strike. On that same date, the Associations filed in this docket a brief in support of Enbridge's response opposing Bay Mills' March 29, 2023 motions to strike, and MLDC filed in this docket a concurrence with Enbridge's motion to strike and Enbridge's response opposing Bay Mills' March 29, 2023 motions to strike.

At a hearing conducted on April 11, 2023, Bay Mills orally made a motion and filed a motion in this docket requesting leave to file the surrebuttal testimony on reopening of Mr. O'Mara in response to Dr. Ferrara's direct testimony on reopening and exhibit. On that same date, ALJ

RECEIVED by MSC 11/14/2025 2:10:18 PM

Saunders: (1) granted Enbridge's motion to strike the rebuttal testimony on reopening and exhibits of Ms. Gravelle; (2) granted Bay Mills' motion to strike portions of Mr. Cooper's rebuttal testimony on reopening; (3) denied Bay Mills' motion to strike the direct testimony on reopening of Dr. Ferrara and Exhibit A-35; (4) granted in part and denied in part Bay Mills' motion to strike the rebuttal testimony on reopening of Mr. Bott and Exhibit A-34; (5) granted Bay Mills' motion to strike portions of Mr. Eberth's rebuttal testimony on reopening and Exhibit A-33 in its entirety; (6) denied Bay Mills' motion to strike the direct testimony on reopening of Mr. Philipenko and Exhibit A-30, the supplemental direct testimony on reopening of Mr. Dennis and Exhibit A-31, and the amended corrected direct testimony on reopening of Mr. Bott and Exhibit A-32; and (7) denied Bay Mills' motion to strike the direct testimony on reopening of Mr. Godfrey and Exhibit A-29. 15 Tr 2056-2061.

At a hearing conducted on April 12, 2023, ALJ Saunders granted Bay Mills' motion to file the surrebuttal testimony on reopening of Mr. O'Mara. On that same date, Bay Mills filed in this docket the surrebuttal testimony on reopening of Mr. O'Mara. In addition, at the hearing conducted on April 12, 2023, Bay Mills orally renewed its motion to strike the amended corrected direct testimony on reopening of Mr. Bott and Exhibit A-32 (April 12 motion to strike). 16 Tr 2370. At the April 12, 2023 hearing, ALJ Saunders denied Bay Mills' April 12 motion to strike. 16 Tr 2374-2375.

On April 14, 2023, Bay Mills filed in this docket Exhibit BMC-70. On April 17, 2023, Enbridge, the Staff, and Bay Mills each filed in this docket official hearing exhibits.

On April 25, 2023, Bay Mills filed an application in this docket for leave to appeal ALJ Saunders' April 11 and 12, 2023 rulings admitting evidence on the record (April 25 application for leave to appeal). In the April 25 application for leave to appeal, Bay Mills objects to ALJ

RECEIVED by MSC 11/14/2025 2:10:18 PM

Saunders' ruling that denied Bay Mills' motion to strike the direct testimony of Mr. Godfrey and Exhibit A-29 and ALJ Saunders' ruling that denied Bay Mills' motion to strike the amended corrected direct testimony on reopening of Mr. Bott and Exhibit A-32.

On April 27, 2023, Bay Mills filed in this docket corrected Exhibits BMC-50 through BMC-57. On April 28, 2023, Enbridge filed in this docket the corrected rebuttal testimony on reopening of Dr. Stanley Vitton.

On May 5, 2023, Enbridge, the Staff, Bay Mills, MLDC, and the Associations each filed in this docket an initial brief on reopening. On May 9, 2023, Enbridge filed in this docket a response to Bay Mills' April 25 application for leave to appeal and an accompanying initial brief. On May 19, 2023, Enbridge, the Staff, Bay Mills, the Associations, and MLDC each filed in this docket a reply brief on reopening.

On May 22, 2023, ALJ Saunders filed a notice in this docket that the reopened record closed on April 14, 2023, and that the case was to be transmitted to the Commission for its consideration.

On June 14, 2023, the Staff filed a Reopened Record Fee Exhibit in this docket pursuant to the requirements of MCL 460.119 and the December 19, 2019 order in Case No. U-20634. *See*, Case No. U-20763, filing #U-20763-1450. On July 19, 2023, the Commission's Executive Secretary filed a memorandum in the docket acknowledging that Enbridge fulfilled its payment obligations. *See*, Case No. U-20763, filing #U-20763-1451.

RECEIVED by MSC 11/14/2025 2:10:18 PM

II. BACKGROUND

In its application, Enbridge explained that Line 5 was constructed by Lakehead Pipe Line Company (Lakehead)[8] in 1953 and that it is a 645-mile interstate pipeline that traverses Michigan's Upper and Lower Peninsulas, originating in Superior, Wisconsin, and terminating near Sarnia, Ontario, Canada. Application, p. 5. Enbridge stated that Line 5 was built to transport light crude oils and natural gas liquids (NGLs). While the vast majority of product shipped through Line 5 travels through Michigan to Canada, Enbridge asserted that Line 5 delivers NGLs to a propane production facility in Rapid River, Michigan, and delivers light crude oil to facilities that interconnect with other pipelines in Lewiston and Marysville, Michigan. Application, pp. 5-6. Line 5 has an annual average capacity of 540,000 barrels per day (bpd), and Enbridge stated that the Replacement Project will not impact its annual average capacity or the nature of the service provided by Line 5. Application, pp. 5, 8, 13.[9]

Enbridge explained that where Line 5 crosses the Straits, it currently consists of two, 20-inch-diameter pipes, four miles in length, referred to as the dual pipelines. Enbridge stated that pursuant to the Replacement Project, the four-mile segment of the dual pipelines will be replaced

---

[8] Enbridge states that, in 1991, Lakehead transferred Line 5 to Lakehead Pipe Line Company, Limited Partnership, which changed its name to Enbridge Energy, Limited Partnership, in 2002. Enbridge's reply comments, p. 4. *See also*, November 8, 1991 order in Case No. U-9980.

[9] Enbridge witness Marlon Samuel states that, for the past 10 years, Line 5 has operated at about 90% of its annual average capacity of up to 540,000 bpd. 7 Tr 757. Ninety percent of average capacity is about 486,000 bpd, or 20,400,000 gallons per day, of crude oil and NGLs transported though Line 5. The Upper Peninsula (U.P.) Energy Task Force estimates that the Rapid River facility produces approximately 30,660,000 gallons per year of propane. *Upper Peninsula Energy Task Force Committee Recommendations, Part I, Propane Supply*, EGLE, April 17, 2020, p. 48. *See*, https://www.michigan.gov/documents/egle/Upper_Peninsula_Energy_Task_Force_Committee_Recommendations_Part_1_Propane_Supply_with_Appendices_687642_7.pdf (accessed December 1, 2023) (U.P. Energy Task Force Report).

RECEIVED by MSC 11/14/2025 2:10:18 PM

with a single, 30-inch-diameter pipe that will be located within a concrete-lined tunnel beneath the lakebed of the Straits (the tunnel). Application, pp. 2, 8. Enbridge asserted that the Replacement Project will provide greater protection from any release of liquid petroleum to the aquatic environment because compared to the dual pipelines that are currently situated on the top of the lakebed and vulnerable to a vessel anchor strike, the Replacement Project will relocate the Straits Line 5 segment to a concrete-lined tunnel deep beneath the lakebed. Enbridge noted that the construction of the tunnel is the subject of separate applications before other state and federal agencies, including EGLE and the United States (U.S.) Army Corps of Engineers (USACE).

Enbridge stated that beginning in 2017, it entered into a series of agreements[10] with the State of Michigan relating to the relocation of the Straits Line 5 segment to the tunnel. Enbridge noted that the Michigan Legislature enacted Act 359 in December 2018, which created MSCA and delegated to MSCA the authority to enter into agreements pertaining to the construction, operation, and maintenance of the tunnel to house the replacement pipe segment.[11] Thus, Enbridge asserted that its request for Commission approval of the Replacement Project does not

[10] *See*, Agreement Between the State of Michigan and Enbridge Energy, Limited Partnership and Enbridge Energy Company, Inc. (First Agreement) (Exhibit A-8); Second Agreement Between the State of Michigan, Michigan Department of Environmental Quality, and Michigan Department of Natural Resources and Enbridge Energy, Limited Partnership, Enbridge Energy Company, Inc. and Enbridge Energy Partners, L.P. (Second Agreement) (Exhibit A-10); Third Agreement Between the State of Michigan, Michigan Department of Environmental Quality, and Michigan Department of Natural Resources and Enbridge Energy, Limited Partnership, Enbridge Energy Company, Inc. and Enbridge Energy Partners, L.P. (Third Agreement) (Exhibit A-1); and Tunnel Agreement (Tunnel Agreement) (Exhibit A-5). Required terms of the Tunnel Agreement are contained in MCL 254.324d(4). In this order, the First, Second, Third, and Tunnel Agreements are referred to collectively as the Agreements.

[11] On October 31, 2019, the Michigan Court of Claims held that Act 359 is constitutional and confirmed the validity and enforceability of the Agreements. *Enbridge Energy, LP v Michigan*, Case No. 19-000090-MZ (Oct. 31, 2019). The Michigan Court of Appeals affirmed the Michigan Court of Claims' order in *Enbridge Energy, LP v Michigan*, 332 Mich App 540; 957 NW2d 53 (2020). That order was not appealed.

RECEIVED by MSC 11/14/2025 2:10:18 PM

include "authorization to design, construct, or operate the tunnel" because "[t]he tunnel will be designed, constructed, and maintained pursuant to the 'Tunnel Agreement' entered between the MSCA and Enbridge pursuant to Act 359." Application, p. 3.

Enbridge explained that, pursuant to the Tunnel Agreement, the tunnel will be constructed in the subsurface lands beneath the lakebed of the Straits within the easement issued by the Michigan Department of Natural Resources (DNR) to MSCA in 2018 (2018 easement) and pursuant to the assignment of certain rights under that easement by MSCA to Enbridge. Enbridge stated that the tunnel will be constructed in accordance with all required governmental permits and approvals. Enbridge averred that it will enter into a 99-year lease with MSCA for the use of the tunnel to operate and maintain the Straits Line 5 replacement pipe segment. Application, pp. 13-14.

In its application, Enbridge seeks Commission approval to operate and maintain the replacement pipe segment located within the tunnel as part of Line 5 under Act 16. Enbridge stated that once the new four-mile pipe segment is placed into service within the tunnel, service on the dual pipelines will be discontinued. Application, p. 3.

III. PETITIONS, EASEMENT REVOCATION, PERMITS, AND APPLICATIONS FOR LEAVE TO APPEAL

A. Enbridge Energy, Limited Partnership's Petition for Rehearing

On July 29, 2020, Enbridge filed a petition for rehearing of the June 30 order in this case. In the July 29 petition for rehearing, Enbridge argued that its petition should be granted because "the Commission's June 30, 2020 Order is based on an erroneous conclusion of law: that Enbridge is ***not*** a utility. This erroneous conclusion resulted in a misinterpretation and misapplication of Rule 447 (R 792.10447), and a faulty determination that Enbridge was required to file an application seeking approval for the [Replacement] Project." July 29 petition for rehearing,

RECEIVED by MSC 11/14/2025 2:10:18 PM

pp. 1-2 (emphasis in original) (footnote omitted). Enbridge reiterated the arguments set forth in its initial comments filed in response to the April 22 order, specifically asserting that Enbridge *is* a utility pursuant to Act 16, that Rule 447 only applies to new construction of a utility pipeline and not to construction that relocates a portion of an existing pipeline, and that, pursuant to the 1953 order, the company already has the requisite authority to construct the Replacement Project. As a result, Enbridge contended that it was not required to file a new application with the Commission for approval of the Replacement Project. Finally, in the petition, Enbridge requested that the Commission rule on the petition for rehearing "at the time of the final order in the contested case hearing on its application, and only in the event that the Commission denies the application." Enbridge's July 29 petition for rehearing, p. 2, n. 2.

On August 19, 2020, the Staff, the MEC Coalition, Bay Mills, and ELPC/MiCAN each filed a response to Enbridge's July 29 petition for rehearing (August 19 responses). In the August 19 responses, the parties argued that Enbridge's July 29 petition for rehearing does not meet the Commission's rehearing standards because Enbridge merely reiterates the arguments set forth in previous filings, which have been addressed and rejected by the Commission. Additionally, in Bay Mills' August 19 response to Enbridge's July 29 petition for rehearing, Bay Mills asserted that if the Commission grants Enbridge's requested relief, it will "violate the State's obligation to confer with Bay Mills and to consider the impact of the Tunnel Project on Bay Mills' treaty rights." Bay Mills' August 19 response, p. 3. Furthermore, in ELPC/MiCAN's August 19 response to Bay Mills' July 29 petition for rehearing, ELPC/MiCAN requested that Enbridge's "proposal that the Commission rule on this petition for rehearing at the time of the final order in

RECEIVED by MSC 11/14/2025 2:10:18 PM

the contested case hearing, and only in the event that the Commission denies the application, should be denied." ELPC/MiCAN's August 19 response, p. 1.[12]

For the reasons set forth in section VII of this order, the Commission finds that Enbridge's July 29 petition for rehearing is moot.

B. Enbridge Energy, Limited Partnership's Motion in Limine

In its September 2 motion in limine, Enbridge requested that ALJ Mack limit the scope of this Act 16 proceeding by excluding evidence that Enbridge characterizes as irrelevant: "(1) the construction of the utility tunnel, (2) the environmental impact of the tunnel construction, (3) the public need for and continued operation of Line 5, (4) the current operational safety of Line 5, (5) whether Line 5 has an adverse impact on climate change, and (6) the intervening parties' climate change agendas." September 2 motion in limine, pp. 1-2. In addition, Enbridge contended that the scope of the proceeding should be restricted to the following issues: "(A) is there a public need to replace the existing Line 5 crossing of the Straits with a pipe segment relocated in a utility tunnel beneath the Straits, (B) is the replacement pipe segment designed and routed in a reasonable manner, and (C) will the construction of the replacement pipe segment meet or exceed current safety and engineering standards?" *Id.*, p. 2.

In his initial ruling, ALJ Mack noted that Enbridge argues that the tunnel "is a standalone structure that is being constructed under Act 359 to accommodate a host of utility infrastructure, one of which is its relocated pipeline." ALJ Mack's initial ruling, p. 8. In addition, ALJ Mack stated that according to Enbridge, the tunnel should not be included in the Commission's Act 16 review because "it cannot be deemed a fixture under [MCL 483.1(2)], a facility under Rule 447, or

[12] Because ELPC/MiCAN's August 19 response is not paginated, the Commission clarifies that page 1 starts in natural order with the first page of the response.

RECEIVED by MSC 11/14/2025 2:10:18 PM

a consideration in quantifying the physical and economic impact from the construction [of the] pipeline under [MCL 483.2b]." ALJ Mack's initial ruling, p. 8. ALJ Mack disagreed with Enbridge. Although other utility infrastructure may be relocated to the newly constructed tunnel, ALJ Mack noted that this other utility infrastructure is not the reason Enbridge is proposing to construct the tunnel; rather, the relocation of the Straits Line 5 segment "is the entire reason Enbridge is undertaking the project. The argument that the Utility Tunnel and relocated pipeline are unrelated disregard the fact that those components are, for the reasons discussed, inextricably connected." *Id.*, p. 8.

ALJ Mack also found that, pursuant to Act 16, the Commission must:

> ensure that pipelines are designed, routed, constructed, and operated in a safe and economical manner. . . . The only way to make that determination is for the Commission to have a record that contains all relevant information concerning the proposal to relocate the existing pipelines into the Utility Tunnel. That necessarily requires the development of a record on the design, construction, and operational aspects of both the pipeline and Utility Tunnel. Counsel for [MSCA] indicated during Oral Argument [that] the plans for the Utility Tunnel will be completed while this case is pending and will be offered as evidence in this case. 2 TR 205-207. To exclude that evidence under Enbridge's Motion would effectively preclude the Commission from performing its statutorily mandated review of a project under Act 16.

ALJ Mack's initial ruling, p. 9 (footnote omitted). Moreover, ALJ Mack found that, as set forth in Act 16, the tunnel is a fixture and, pursuant to Rule 447, the tunnel is a facility. Therefore, he asserted that the tunnel's "design, construction and operation are relevant in considering Enbridge's Application to relocate the existing [dual] pipelines." ALJ Mack's initial ruling, p. 10.

Next, ALJ Mack noted that according to Enbridge, "any issue pertaining to the operation of Line 5 in its entirety, including the public need for that pipeline and its continued operation, are outside the scope of this case." *Id.*, pp. 10-11. He found Enbridge's argument persuasive and granted the company's September 2 motion in limine regarding the current operational aspects of

RECEIVED by MSC 11/14/2025 2:10:18 PM

Line 5. ALJ Mack stated that Enbridge's proposed relocation of the Straits Line 5 segment, as set forth in the application, does not warrant "a review of the operation of Line 5 in its entirety." ALJ Mack's initial ruling, p. 15 (footnote omitted).

Finally, ALJ Mack noted that Enbridge claims that the Michigan Environmental Protection Act, MCL 324.1701 *et seq*. (MEPA), does not apply to the tunnel, and that MEPA does not allow the Commission to consider climate change when reviewing the application for replacement of the Straits Line 5 segment. ALJ Mack disagreed, stating that:

> given the conclusion the Utility Tunnel is a "fixture" under [MCL 483.1(2)], a "facility" under Rule 447, and a necessary component of the determination under [MCL 483.2b] on whether a good-faith effort is made to minimize the physical impact and economic damage from the construction of the pipeline, [Enbridge's] contention cannot be sustained. Because the Utility Tunnel must be considered in determining whether the project can be approved under Act 16, it is necessarily part of the "conduct" in a licensing proceeding subject to review under MEPA.

ALJ Mack's initial ruling, p. 17. However, ALJ Mack noted that EGLE and USACE will review the construction of the tunnel, and he stated that the Commission may "rely on the expertise of those agencies as part of its MEPA review, and [it] avoids the potential for conflicting results between the agency decisions." *Id*.

ALJ Mack noted that Bay Mills, ELPC/MiCAN, FLOW, and the MEC Coalition argue that consumer consumption of the fuels shipped on Line 5 results in greenhouse gas (GHG) emissions and harmful effects to the environment and that these GHG emissions may be reviewed by the Commission under MEPA. He stated that:

> MEPA requires an examination of the "conduct" to determine its effect on the natural resources. The conduct in this case is the activity proposed in the Application and subject to the Commission's jurisdiction under [the] Act: the replacement of the existing pipelines on the bottomlands with a pipeline in a Utility Tunnel. In effect, the Parties opposing the exclusion of evidence concerning greenhouse gases and climate change are advancing a quite broad interpretation of the "conduct" that is subject to review under MEPA. Specifically, consideration of the environmental effect of the oil transported on the pipeline after it is refined and

RECEIVED by MSC 11/14/2025 2:10:18 PM

> placed in the market for consumption would also extend the conduct to the extraction and refinement processes. While the Parties opposing the Motion provide a great deal of argument on the deleterious effect on the environment from greenhouse gases and climate change, they do not provide any substantive legal basis to support such a broad construction of the term "conduct" in MEPA.

ALJ Mack's initial ruling, p. 18. ALJ Mack concluded that, "consistent with Act 16 and as it pertains to MEPA, the conduct at issue in this case does not include the environmental effects from the extraction, refinement, or consumption of the oil transported on Line 5. Therefore, any evidence in that regard, including the environmental effect of greenhouse gas emissions and climate change, is irrelevant." ALJ Mack's initial ruling, p. 19. Thus, ALJ Mack granted Enbridge's September 2 motion in limine on this issue.

On November 6, 2020, Bay Mills, ELPC/MiCAN, and FLOW each filed an application for leave to appeal ALJ Mack's initial ruling (November 6 applications for leave to appeal). On that same date, the Attorney General filed a letter of support for and joinder in the November 6 applications for leave to appeal. Enbridge, the Associations, MSCA, and the Staff each filed a response to the applications for leave to appeal on November 20, 2020. On April 21, 2021, the Commission issued an order in this case addressing the November 6 applications for leave to appeal, which is discussed *infra*.

C. State of Michigan's Notice of Revocation and Termination of Easement

Seven days after Bay Mills, ELPC/MiCAN, and FLOW filed the November 6 applications for leave to appeal, Governor Whitmer and the DNR revoked and terminated the easement for the dual pipelines that was granted on April 23, 1953, by the State of Michigan to Enbridge's predecessor, Lakehead. The November 13, 2020 Notice of Revocation and Termination of Easement (Notice) states that:

> the State of Michigan hereby provides formal notice to Enbridge . . . that the State is revoking and terminating the 1953 Easement . . . . The revocation and

RECEIVED by MSC 11/14/2025 2:10:18 PM

> termination each take legal effect 180 days after the date of this Notice to provide notice to affected parties and to allow for an orderly transition to ensure Michigan's energy needs are met. Enbridge must cease operation of the Straits Pipelines 180 days after the date of this Notice.

Notice, p. 1.[13, 14]

D. Remand and Rehearing of Enbridge Energy, Limited Partnership's Motion in Limine

Following the issuance of the November 13, 2020 Notice, the Commission issued the December 9 order. In the order, the Commission noted that at the outset of these proceedings, it recommended that:

> the administrative law judge (ALJ) set a schedule that would conclude the evidentiary portion of the proceeding and briefing approximately 10 months from the date of the prehearing conference. In providing this guidance, the Commission

[13] *See*, https://content.govdelivery.com/attachments/MIEOG/2020/11/13/file_attachments/1600920/Notice%20of%20%20Revocation%20and%20Termination%20of%20%20Easement%20%2811.13.20%29.pdf (accessed December 1, 2023).

[14] On November 13, 2020, the Attorney General filed an action in the Ingham County Circuit Court on behalf of the State of Michigan, Governor Whitmer, and the DNR, seeking declaratory and injunctive relief to acknowledge and enforce the revocation (Case No. 20-646-CE). On November 24, 2020, Enbridge filed an action against the State of Michigan in the U.S. District Court for the Western District of Michigan (U.S. District Court) in Case No. 1:20-CV-1141 for declaratory and injunctive relief seeking a determination that the revocation is not lawful. Subsequently, the Attorney General filed a motion in Case No. 1:20-CV-1141 to remand the case to state court pursuant to 28 USC 1447(c). On November 16, 2021, the U.S. District Court issued an opinion and order in Case No. 1:20-CV-1142 (November 16 opinion and order), finding that the proceeding is properly in federal court: "The State Parties' claims 'arise under' federal law because the scope of the property rights the State Parties assert necessarily turns on the interpretation of federal law that burdens those rights, and this Court is an appropriate forum for deciding these disputed and substantial federal issues." *Mich v Enbridge Energy*, 571 F Supp 3d 851, 862 (WD Mich, 2021) (quoting 28 USC 1331).

On November 30, 2021, the Attorney General filed a notice requesting that the case pending before the U.S. District Court be voluntarily dismissed. However, in a press release dated March 3, 2023, the Attorney General noted that although she voluntarily dismissed the case in U.S. District Court, she is continuing to pursue litigation against Enbridge in state court. *See*, 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 (accessed December 1, 2023).

RECEIVED by MSC 11/14/2025 2:10:18 PM

> recognizes that significant developments may arise that could affect the schedule and scope of the proceeding and, therefore, looks to the ALJ to work with the parties to make appropriate adjustments to this general timeframe without seeking approval from the Commission.

December 9 order, p. 5 (quoting June 30 order, p. 70). In the December 9 order, the Commission found that the Notice, which revoked and terminated the 1953 easement, is a "significant development" and remanded Enbridge's September 2 motion in limine to ALJ Mack for rehearing. *Id*. The Commission stated that the rehearing would:

> give the parties the opportunity to brief the question of whether, and, if so, to what extent Governor Whitmer's action to revoke and terminate the 1953 easement changes the scope of review in this proceeding and how that change, if any, effects the issues presented in the motion in limine, including the issues of public need for the Line 5 Project and the required environmental review of the Line 5 Project.

December 9 order, p. 6.

Accordingly, on December 21, 2020, ALJ Mack provided an amended case schedule to allow briefing on remand and, if applicable, appeals of ALJ Mack's ruling on Enbridge's remanded September 2 motion in limine. On January 15, 2021, Enbridge, Bay Mills and the MEC Coalition, FLOW, the Associations, MSCA, and the Staff each filed an initial brief on remand in this docket. On that same date, ELPC/MiCAN filed in this docket a supplemental response to Enbridge's September 2 motion in limine. In addition, on that same date, the Attorney General filed in this docket a letter supporting the relief requested in the initial briefs on remand filed by ELPC/MiCAN and Bay Mills and the MEC Coalition. *See*, Attorney General's support for relief requested in initial briefs on remand filed by Tribal and environmental intervenors, p. 1.

In their initial briefs on remand, Enbridge, the Staff, and the Associations each asserted that the Notice does not affect the disposition of the September 2 motion in limine and does not alter the scope of review in this case. *See*, Enbridge's initial brief on remand regarding the September 2 motion in limine, p. 1; Staff's initial brief on remand of ALJ Mack's ruling on Enbridge's

RECEIVED by MSC 11/14/2025 2:10:18 PM

September 2 motion in limine, p. 2; Associations' initial brief on remand regarding Enbridge's September 2 motion in limine, p. 2. In its initial brief on remand, MSCA stated that it supports the conclusions set forth in Enbridge's and the Staff's initial briefs on remand. MSCA's initial brief in support of ALJ Mack's ruling on Enbridge's September 2 motion in limine, p. 1.

In their initial brief on remand, Bay Mills and the MEC Coalition contended that the purpose of the Replacement Project is to extend the lifespan of Line 5 and to provide Enbridge with additional years of revenue from the shipment of product on Line 5. According to Bay Mills and the MEC Coalition, as a result of the revocation and termination of the 1953 easement and the possible shutdown of the dual pipelines, Enbridge must construct a tunnel in the Straits in order to continue the operation of Line 5 as a whole. Thus, Bay Mills and the MEC Coalition argued that the construction of the tunnel, the Replacement Project, and the continued operation of Line 5 are inextricably linked and the Commission must consider "whether there is a public need to secure and extend the operating life of Line 5 in this manner." Bay Mills' and the MEC Coalition's initial brief on remand regarding Enbridge's September 2 motion in limine, p. 9.

In addition, Bay Mills and the MEC Coalition noted that, according to Enbridge, the Replacement Project will significantly reduce the risk of an oil spill from the Straits Line 5 segment into the Great Lakes and better protect the environment. However, Bay Mills and the MEC Coalition asserted that the Notice, if enforced, will eliminate the risk of an oil spill from the dual pipelines and, thus, "the objective Enbridge claimed the [Replacement] Project would attain may be attained by other means. Moreover, it is possible that the evidence could show that the [Replacement] Project would reinstate the risk of an oil spill to the Great Lakes, and inland waters, when compared to the status quo under revocation and termination." *Id*., p. 21. Finally, Bay Mills and the MEC Coalition averred that, "[i]n light of the revocation and termination, it is even more

RECEIVED by MSC 11/14/2025 2:10:18 PM

apparent that greenhouse gas emissions related to the transportation of hydrocarbons through Line 5 after Project completion should be considered emissions that may not occur in the absence of this Project." Bay Mills and the MEC Coalition's initial brief on remand regarding Enbridge's September 2 motion in limine, p. 29.

In its supplemental response to Enbridge's September 2 motion in limine, ELPC/MiCAN argued that because the Notice revokes the 1953 easement and directs the shut-down of the dual pipelines, the Replacement Project has become new construction of a pipeline in a new easement for the purpose of restarting a decommissioned pipeline. As a result, ELPC/MiCAN asserted that MEPA requires a comparison of the direct and indirect GHG emissions from a decommissioned pipeline with the direct and indirect GHG emissions from a restarted pipeline. Additionally, ELPC/MiCAN contended that the "MEPA analysis of Enbridge's request to restart a decommissioned Line 5 cannot be undertaken without considering all GHG emissions that will result from construction of the Proposed Project." ELPC/MiCAN's supplemental response to Enbridge's September 2 motion in limine, pp. 14-15 (footnote omitted). Finally, ELPC/MiCAN argued that a wholesale exclusion of evidence regarding GHG emissions is contrary to Michigan law.

In its initial brief on remand, FLOW asserted that the remand should focus on four issues. First, because the Commission is an agency of the State of Michigan, FLOW argued that the Commission "must ensure that its decisions conform to requirements of public trust law. This is particularly important in the present matter, because of the scope of the Commission's obligation to determine whether the tunnel and tunnel pipeline is based on the public interest, necessary [sic], and siting or locating the project in or under public trust bottomlands of the Great Lakes." FLOW's initial brief on remand regarding Enbridge's September 2 motion in limine, p. 2. Second,

RECEIVED by MSC 11/14/2025 2:10:18 PM

FLOW stated that "an agency of the State cannot fulfill its sworn duty under the public trust doctrine without considering the evidence regarding all aspects of the public trust and paramount public uses connected with all of Line 5." *Id*., p. 3. Third, FLOW contended that Enbridge no longer has the right to operate the dual pipelines pursuant to the Notice, and Enbridge's claimed interests in public trust bottomlands through the 2018 easement "have not been authorized under and [as] required by the Great Lakes Submerged Lands Act ('GLSLA'), and are, therefore, void and/or have no legal effect; as a result, Enbridge cannot proceed under Act 16 unless and until it has obtained authorization for these claimed rights . . . ." FLOW's initial brief on remand regarding Enbridge's September 2 motion in limine, p. 4 (footnote omitted). Lastly, FLOW argued that ALJ Mack's initial ruling improperly narrowed the scope of the review required under Act 16 and MEPA.

On January 29, 2021, Enbridge, the Attorney General, Bay Mills and the MEC Coalition, ELPC/MiCAN, MLDC, the Associations, and the Staff each filed a reply brief on remand. MLDC asserted that it concurs with the Staff's initial brief on remand. *See*, MLDC's reply brief on remand in support of Enbridge's motion in limine, p. 2. In their reply brief on remand, the Associations asserted that the "Intervenors' arguments should be rejected and the Ruling affirmed. The Notice does not affect the issues presented in Enbridge's motion in limine, and no substantive changes to the Ruling establishing the scope of review in this proceeding are necessary." Associations' response brief on remand regarding Enbridge's September 2 motion in limine, p. 3.

In its reply brief on remand, Enbridge disagreed with Bay Mills and the MEC Coalition, asserting that the Notice does not alter Enbridge's activity as set forth in the application, it does not impact the Commission's Act 16 jurisdiction, and it does not change the Commission's MEPA review. In addition, Enbridge stated that Bay Mills and the MEC Coalition, ELPC/MiCAN, and

RECEIVED by MSC 11/14/2025 2:10:18 PM

FLOW "fail to present any argument that justifies expanding the scope of this proceeding on the basis of the Notice." Enbridge's reply brief on remand regarding the September 2 motion in limine, p. 1. Enbridge asserted that the Notice does not revoke the Commission's 1953 order that provides Enbridge the authority to construct, operate, and maintain Line 5.

In its reply brief on remand, the Staff disagreed with Bay Mills and the MEC Coalition, ELPC/MiCAN, and FLOW, stating that:

> [t]hey explicitly or implicitly assume that the Notice will lead to the revocation and termination of Enbridge's 1953 Easement to operate the existing dual pipelines on the Straits' lakebed. Staff does not dispute the validity of the Notice, but given the uncertainty surrounding ongoing litigation, Staff does not assume that Line 5 will be shut down. And even if Line 5 is temporarily decommissioned until the pipeline can be relocated in the proposed tunnel—assuming Enbridge acquires all necessary regulatory approvals—the parties have not pointed to any caselaw or Commission precedent that a temporary decommissioning would automatically terminate the prior Act 16 authorization for Line 5 or require it to be reevaluated.

Staff's reply brief on remand of ALJ Mack's ruling on Enbridge's September 2 motion in limine, p. 2. In addition, the Staff averred that the public trust doctrine and MEPA do not change the scope of the case.

Bay Mills and the MEC Coalition contended that Enbridge, the Associations, and the Staff "erroneously downplay the import of that revocation and termination." Bay Mills' and the MEC Coalition's reply brief on remand, p. 1. Additionally, Bay Mills and the MEC Coalition asserted that the Staff's arguments in its initial brief on remand are inconsistent with the Michigan Rules of Evidence (MRE), Commission precedent, and MEPA. Finally, Bay Mills and the MEC Coalition argued that Enbridge, the Associations, and the Staff recommend a limited review of the operational risks of Line 5, which improperly omits an analysis of GHG emissions that is required by MEPA.

RECEIVED by MSC 11/14/2025 2:10:18 PM

In her reply brief on remand, the Attorney General disagreed with Enbridge's characterization of the revocation and termination of the 1953 easement, asserting that the Notice changed the status quo on the issues of public need for the Replacement Project and the Commission's MEPA review. She stated that "[t]he fact remains that the Notice was issued by the grantor of the 1953 Easement—the State of Michigan—and that in the absence of a valid and effective easement, the continued presence and operation of the Enbridge pipelines on state-owned bottomlands is unlawful." Attorney General's response brief on remand involving Enbridge's September 2 motion in limine, p. 3. According to the Attorney General, Enbridge presumptively cannot continue operation of the dual pipelines and, therefore, the scope of the case should be broadened to reevaluate the issue of the public need for Line 5 and to include a review of the environmental effects of the Replacement Project.

ELPC/MiCAN asserted that "[t]he cases and Michigan Rules of Evidence [the] Staff references in support of its conclusion that the Notice does not impact the scope of this case are not relevant here." ELPC/MiCAN's reply to initial briefs on remand, p. 1.

On February 23, 2021, ALJ Mack issued a ruling on the remanded September 2 motion in limine (February 23 ruling). He noted that the initial ruling:

> held that under Act 16 the proper inquiry for a proposal involving a segment of an existing pipeline is on that segment, as opposed to the entire pipeline system. Case No. U-20763, October 23, 2020, Ruling, pg. 15. Therefore, any evidence concerning the entirety of Line 5 is irrelevant. Id., pgs. 15-16. The holding [in the initial ruling] remains before the Commission under the pending Appeals, but under the Order of Remand is to be reconsidered in light of the subsequent issuance of the Notice.

February 23 ruling, p. 13.

ALJ Mack stated that Bay Mills and the MEC Coalition, ELPC/MiCAN, the Attorney General, and FLOW argued that the Notice terminated Enbridge's authority to operate Line 5 in

RECEIVED by MSC 11/14/2025 2:10:18 PM

the Straits and, consequently, the Commission should reexamine the public need for the entire pipeline. However, he noted that "the 1953 Order issued under Act 16 establish[ed] that Line 5 serves a public need and is in the public interest." February 23 ruling, p. 16. In addition, because the 1953 order does not have an expiration date or require renewal, ALJ Mack found that Enbridge's authority to operate the other 641 miles of Line 5 remains in effect. Furthermore, ALJ Mack noted that the Commission has not executed proceedings pursuant to MCL 24.205(a) and MCL 24.292(1) to suspend, revoke, or cancel Enbridge's Act 16 license to operate Line 5 that was issued in the 1953 order. Thus, ALJ Mack determined that the Notice did not extinguish Enbridge's authority to operate the other 641 miles of Line 5 and it does not require a reexamination of the public need for the entire system.

Regarding the Commission's MEPA review of the application, ALJ Mack stated that the initial ruling:

> held [that] the conduct subject to review under MEPA is the proposal to relocate the dual pipelines into a Utility Tunnel. Concomitantly, the Initial Ruling granted the Motion as it pertained to the environmental effects of both the Line 5 system, and the extraction, refinement and ultimate consumption of the oil shipped on that system as being beyond the scope of the Commission's MEPA review.

February 23 ruling, p. 19. He noted that Bay Mills and the MEC Coalition, ELPC/MiCAN, the Attorney General, and FLOW assert that the Notice broadens the MEPA review, thus allowing the Commission to consider the environmental effects of the oil transported on the system through the entirety of Line 5. ALJ Mack disagreed, stating that "[t]he Notice does not change the activity proposed in the Application, i.e., the conduct as that term is used in MEPA, the Commission's jurisdiction over that proposal, or the legal authority underlying the Initial Ruling's conclusion concerning the MEPA review." February 23 ruling, p. 20 (footnote omitted).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Accordingly, ALJ Mack concluded that "the Notice is relevant under the proper Act 16 review of the project: whether a public need exists to replace the existing dual pipelines on Great Lakes bottomlands in the Straits of Mackinac with a single pipeline in a proposed Utility Tunnel." February 23 ruling, p. 21. Additionally, he found that the Notice does not broaden the scope of the Commission's MEPA review to consider the "environmental effects from the production, refinement, and consumption of oil transported on Line 5." *Id.*

E. Permits Relating to the Construction of the Utility Tunnel

On January 29, 2021, EGLE granted Enbridge a set of permits relating to the construction of the utility tunnel, which were filed in this docket on February 5, 2021, as filing #U-20763-0574. Specifically, EGLE approved Enbridge's applications for a National Pollutant Discharge Elimination System (NPDES) wastewater permit, a Natural Resources and Environmental Protection Act (NREPA) Part 303 wetlands protection permit, and a NREPA Part 325 Great Lakes submerged lands permit. On February 8, 2021, Enbridge filed in this docket a supplemental filing containing the responsiveness summaries for the NPDES permit and the NREPA Parts 303 and 325 permits.

F. Applications for Leave to Appeal Administrative Law Judge Dennis W. Mack's Ruling Regarding the Remanded September 2, 2020 Motion in Limine and the April 21, 2021 Order

On March 9, 2021, Bay Mills, the MEC Coalition, ELPC/MiCAN, and FLOW each filed an application for leave to appeal ALJ Mack's February 23 ruling. In its application for leave to appeal, Bay Mills asserted that:

> [t]he Remand Ruling failed to address the bases upon which the Tribal Intervenors opposed Enbridge's Motion in Limine and excludes from the contested case evidence concerning significant and relevant issues of deep importance to the Tribal Intervenors. If the Remand Ruling stands, the Tribal Intervenors will be deprived of the opportunity to present evidence of how the Project threatens their Treaty-protected rights.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Bay Mills' application for leave to appeal the February 23 ruling, p. 12. Specifically, Bay Mills argued that the February 23 ruling improperly excluded the following evidence that is relevant to the Commission's review of Enbridge's application: (1) the public need for Line 5, (2) the environmental effects of continuing to operate Line 5, and (3) the GHG emissions related to Line 5 and the Replacement Project. *Id*., p. 14. Bay Mills contended that by excluding this relevant evidence, ALJ Mack has impermissibly narrowed the scope of the case, which is an error of law. In its application for leave to appeal, the MEC Coalition presented substantially similar arguments. *See*, MEC Coalition's application for leave to appeal the February 23 ruling, pp. 4-6.

ELPC/MiCAN argued that "the primary function of the [initial and February 23] Rulings is to limit discovery, and as a result limit the information presented to the Commission for consideration." ELPC/MiCAN's application for leave to appeal the October 23 and February 23 rulings, p. 2.[15] ELPC/MiCAN asserted that ALJ Mack's initial and February 23 rulings are contrary to public interest and will have a negative impact on the environment. Accordingly, ELPC/MiCAN requested that the Commission reverse the initial and February 23 rulings, permit the admission of evidence pertaining to GHG emissions and the climate impacts from the Replacement Project, and perform the required MEPA review.

FLOW contended that the Commission should deny "Enbridge's thinly disguised effort through its motion in limine to severely constrict and prevent a comprehensive review of a fully developed record under Act 16, MEPA, and public trust law through its motion in limine and arguments on remand, which were adopted by the ALJ in its rulings." FLOW's application for

[15] Because ELPC/MiCAN's application for leave to appeal is not paginated, the Commission clarifies that page 1 starts in natural order with the first page of the application.

RECEIVED by MSC 11/14/2025 2:10:18 PM

leave to appeal the February 23 ruling, p. 13.[16] In addition, FLOW reiterated that, pursuant to the GLSLA, Section 2129 of NREPA, and public trust law, Enbridge has not received the required authorization from EGLE for the 2018 easement, the 2018 easement assignment, or the 99-year lease for the Replacement Project. Furthermore, FLOW disputed Enbridge's claim that the 1953 order constitutes a "determination of public need or necessity for purposes of any easement, assignment, or 99-year lease for the Tunnel Project," and contended that the 1953 order cannot limit the Commission's consideration of the public need for Line 5 under Act 16. *Id.*, p. 21. Finally, FLOW argued that, pursuant to MEPA, the Commission must consider evidence relating to the impact of the tunnel and the continued operation of Line 5 on climate and the environment. In conclusion, FLOW requested that ALJ Mack's initial and February 23 rulings be reversed and remanded for a fully contested case regarding the public need for Line 5, an analysis of the alternatives to the Replacement Project, and a review of the environmental impacts of the Replacement Project.

In response, Enbridge disagreed with Bay Mills, the MEC Coalition, ELPC/MiCAN, and FLOW that ALJ Mack's initial and February 23 rulings impermissibly narrow the scope of the case. Enbridge asserted that the actual issues to be "presented in this Act 16 proceeding are straightforward," and "issues such as: the need for Line 5, the operation and safety of Line 5 in its entirety, the impact of greenhouse gases associated with products shipped on Line 5, the Marshall incident along Line 6B, [the] need for fossil fuels given the rise of electric vehicles, the public trust doctrine, and their overall general opposition to the fossil fuel industry" are "clearly outside the scope of an Act 16 proceeding." Enbridge's response to the applications for leave to appeal

[16] Because FLOW's application for leave to appeal is not paginated, the Commission clarifies that page 1 starts in natural order with the first page of the application.

RECEIVED by MSC 11/14/2025 2:10:18 PM

the February 23 ruling, p. 10. Enbridge requested that the Commission deny the applications for leave to appeal the February 23 ruling or, in the alternative, deny the relief requested in the applications.

The Staff responded that:

> the ALJ properly considered all material relevant to the Commission's review under MCL 483.1, *et seq*[.] ("Act 16"), the Michigan Environmental Protection Act ("MEPA"), applicable administrative rules, and Commission and court precedent to reach his decision. Staff acknowledges the significant public interest generated by the proposed project; however, public interest alone cannot provide blanket authorization to expand the statutory scope of this proceeding or allow consideration of extraneous and irrelevant material.

Staff's response brief in opposition to joint appellant's applications for leave to appeal the February 23 ruling, p. 2. In addition, the Staff disputed the claim by Bay Mills, the MEC Coalition, ELPC/MiCAN, and FLOW that the 1953 order failed to consider the public need for Line 5 and disagreed that the public need should be reexamined in this case. Furthermore, the Staff "agree[d] with the ALJ that the appropriate MEPA analysis for this case is limited by the activity proposed in the application and the Commission's Act 16 jurisdiction" and that the scope of the Commission's MEPA review may not be broadened to include Line 5 in its entirety. *Id.*, p. 23. Accordingly, the Staff requested that, in the event the Commission grants the applications for leave to appeal the February 23 ruling, the Commission affirm ALJ Mack's initial and February 23 rulings.

MSCA contended that the Commission should deny the applications for leave to appeal the February 23 ruling "because Judge Mack properly concluded that the Governor and the [DNR]'s November 13, 2020 Notice of Revocation and Termination of Easement (the "Notice") does not allow for a reexamination of Line 5's need or its operational and safety aspects because this

RECEIVED by MSC 11/14/2025 2:10:18 PM

Commission already considered those issues when it approved Line 5's construction in the 1953 Order." MSCA's response to the applications for leave to appeal the February 23 ruling, pp. 1-2.

Similarly, the Associations asserted that:

> The ALJ correctly found that in determining whether there is a public need for the Line 5 Project, the question is whether there is a public need for the four-mile replacement pipeline, and the Notice provides no basis for expanding that review. And in reviewing the Line 5 Project under MEPA, the Remand Ruling correctly found that the focus is on the conduct under agency review, and the Notice does not change the activity proposed in Enbridge's application.

Associations' response to the applications for leave to appeal the February 23 ruling, pp. 6-7.

Additionally, MLDC asserted that the Notice does not affect Enbridge's application to relocate the dual pipelines into a tunnel beneath the Straits or alter the Commission's jurisdiction over Enbridge's proposed activities under Act 16. *See*, MLDC's response to the applications for leave to appeal the February 23 ruling, pp. 3-4. MSCA, the Associations, and MLDC requested that if the Commission grants Bay Mills', the MEC Coalition's, ELPC/MiCAN's, or FLOW's application for leave to appeal the February 23 ruling, the requested relief should be denied.

In the April 21 order, the Commission noted that "FLOW, the MEC Coalition, Bay Mills, and ELPC/MiCAN argue that the Commission should grant the applications [for leave to appeal] because a decision on the initial ruling and ruling on remand before submission of the full case to the Commission will materially advance a timely resolution of the proceeding and will prevent substantial harm to each appellant and to the public." April 21 order, pp. 53-54. The Commission agreed and granted the applications for leave to appeal. *Id*., pp. 54, 72.

To determine whether ALJ Mack's initial and February 23 rulings impermissibly narrowed the scope of this case as alleged in the applications for leave to appeal, the Commission first examined the statutory requirements for reviewing the Act 16 application filed in this case. Pursuant to the requirements in Section 3(1) of Act 16, MCL 483.3(1), the Commission has developed and applied

RECEIVED by MSC 11/14/2025 2:10:18 PM

a three-part test to determine whether to grant an Act 16 application: "(1) the applicant has demonstrated a public need for the proposed pipeline, (2) the proposed pipeline is designed and routed in a reasonable manner, and (3) the construction of the pipeline will meet or exceed current safety and engineering standards." April 21 order, p. 55; *see also*, March 7, 2001 order in Case No. U-12334, pp. 13-17; July 23, 2002 order in Case No. U-13225 (July 23 order), pp. 4-5; January 31, 2013 order in Case No. U-17020, p. 5. In addition, pursuant to MCL 324.1705, the Commission must perform a MEPA review in pipeline siting cases. *See*, *State Hwy Comm v Vanderkloot*, 392 Mich 159, 189-190; 220 NW2d 416 (1974); *Buggs v Mich Pub Serv Comm*, unpublished per curiam opinion of the Court of Appeals, issued January 13, 2015 (Docket Nos. 315058 and 315064) (*Buggs I*), p. 9. However, the Commission stated that "courts have repeatedly found that these MEPA obligations are supplementary to other statutes and regulations and should be read *in pari materia* with other laws. *See*, *Mich Oil Co v Natural Resources Comm*, 406 Mich 1, 32-33; 276 NW2d 411 (1979)." April 21 order, p. 56.

The Commission also noted that Section 14b of Act 359, MCL 254.324b, created MSCA and that Section 14d(1) of Act 359, MCL 254.324d(1), transferred from the Mackinac Bridge Authority to MSCA "[a]ll liabilities, duties, responsibilities, authorities, and powers related to a utility tunnel as provided in section 14a and any money in the straits protection fund shall transfer to the corridor authority board upon the appointment of the members of the corridor authority board under section 14b(2)." April 21 order, p. 58 (quoting MCL 254.324d(1)). Next, the Commission noted that Section 14d(4)(a)-(b) of Act 359, MCL 254.324d(4)(a)-(b), directed MSCA to "enter into an agreement or a series of agreements for the construction, maintenance, operation, and decommissioning of a utility tunnel" no later than December 31, 2018, so long as: (1) MSCA finds that the governor has provided a proposed tunnel agreement by that date and

RECEIVED by MSC 11/14/2025 2:10:18 PM

(2) the agreement "allows for the use of the utility tunnel by multiple utilities, provides an option to better connect the Upper and Lower Peninsulas of this state, and provides a route to allow utilities to be laid without future disturbance to the bottomlands of the Straits of Mackinac." April 21 order, p. 59 (quoting MCL 254.324d(4)). The Commission asserted that "[t]he Agreements referenced in MCL 254.324d(4) have been duly entered into and affirmed by the courts. . . . Under Act 359, the 2018 tunnel easement has been assigned to Enbridge by MSCA. Exhibit A-6; Application, p. 13." April 21 order, p. 59. Accordingly, in the April 21 order, the Commission found that:

> [i]n its application, consistent with the Agreements executed with the State of Michigan and the easement it has been assigned by MSCA, Enbridge proposes to construct a replacement segment of Line 5 that crosses the Straits, to be housed in the utility tunnel. In its June 30 order, the Commission previously described the Replacement Project as the "replacement of the Dual Pipelines with a new, 30-inch-diameter, single pipeline to be relocated within a new concrete-lined tunnel." June 30 order, p. 68. As such, the Commission must consider how both the three-part test under Act 16 and the requirements of MEPA apply to the Replacement Project. However, as described more fully below, the application of these provisions do not extend to the remainder of the line approved in the 1953 order.

April 21 order, p. 59.

After reviewing the statutory requirements, the Commission responded to FLOW's, the MEC Coalition's, and Bay Mills' argument that ALJ Mack's initial and February 23 rulings improperly exclude relevant evidence about the public need for Line 5. The Commission agreed with ALJ Mack that:

> the scope of this case is dictated by two factors: (1) the activity proposed in the application, namely replacement of the existing 4-miles of dual pipelines located on the bottomlands with a pipeline located in a tunnel, as contemplated in Act 359 and various agreements with the State; and (2) the Commission's jurisdiction over that proposal under Act 16, the administrative rules promulgated under its authority, and MEPA (initial ruling, p. 14), and that "the standards of Act 16 are well established and must be applied in this case." [Initial ruling], p. 15.

April 21 order, p. 60.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Next, the Commission explained that the 1953 order approved the construction, maintenance, and operation of Line 5 in its entirety. In the April 21 order, the Commission noted that, in 1953, it was determined that:

> Line 5 was fit for the purpose of carrying and transporting crude oil and petroleum as a common carrier in interstate and foreign commerce. In the 1953 order the Commission stated "[i]t appears to this Commission that in times of national emergency delivery of crude oil for joint defense purposes would be greatly enhanced by operation of the proposed pipe line." 1953 order, p. 4. Denmark Township moved for denial of the application on grounds that the pipeline was not in the public interest. The Commission found the motion to be without merit, and it was denied. [1953 order], p. 8.

April 21 order, p. 60. Additionally, the Commission stated that, in 1954, the Michigan Supreme Court found that the construction and operation of Line 5 was "for a public use benefiting the people of the State of Michigan." April 21 order, p. 61 (quoting *Lakehead Pipe Line Co v Dehn*, 340 Mich 25, 37; 64 NW2d 903 (1954) (*Lakehead*)).

In the April 21 order, the Commission asserted that the 1953 order did not set an expiration date for Enbridge's authority to operate the Line 5 system, and no party is disputing Enbridge's authority to operate the other 641 miles of Line 5 not included in the application. Furthermore, the Commission stated, "[n]either Act 16, nor Rule 447, nor Commission precedent require the Commission to make findings with respect to the length of time that an approved pipeline may operate, and such findings are not made in this order." April 21 order, p. 61. Rather, the Commission averred, the proper scope of the proceeding is for the Commission to examine whether there is a public need for the Replacement Project as set forth in the application.

Additionally, the Commission agreed with ALJ Mack that "the Tribal treaty-reserved rights asserted by Bay Mills do not serve to expand the scope of the Commission's Act 16 jurisdiction. The treaty-reserved rights do not confer on the Commission the ability to review the authority to own and operate the segments of an approved pipeline system that are not the subject of the Act 16

RECEIVED by MSC 11/14/2025 2:10:18 PM

application before the agency." April 21 order, p. 63. Therefore, the Commission denied Bay Mills', the MEC Coalition's, ELPC/MiCAN's, and FLOW's request to reverse ALJ Mack's initial and February 23 rulings on this issue and it affirmed ALJ Mack's conclusion that the legal scope of this case may not include a reexamination of the public need for the entirety of Line 5 and the environmental risks associated with the operation of the entire Line 5 system. April 21 order, p. 63.

Turning to the issue of the Commission's MEPA review in this case, the Commission noted that Section 5(1) of MEPA states that the Commission may permit the attorney general or other person to intervene in a proceeding to challenge "conduct that has, or is likely to have, the effect of polluting, impairing, or destroying the air, water, or other natural resources or the public trust in these resources." MCL 324.1705(1). Additionally, the Commission noted that Section 5(2) of MEPA states that, in the proceeding, the Commission shall determine "the alleged pollution, impairment, or destruction of the air, water, or other natural resources" and "conduct shall not be authorized or approved that has or is likely to have such an effect if there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare." April 21 order, p. 65; MCL 324.1705(2). Accordingly, the Commission found that "[s]everal parties have intervened in this proceeding and have made assertions about the conduct at issue and its likelihood to have the effect of polluting, impairing, or destroying natural resources in their petitions to intervene, the briefs on this motion, and the offers of proof. The Commission must evaluate these assertions as provided under Section 5(2)." April 21 order, p. 65. However, the Commission found that its MEPA review only applies to the Replacement Project and cannot be broadened to include the entirety of the Line 5 system.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Commission asserted that GHG emissions are "widely recognized as pollutants," that they "fit within the statutory language of Section 5 of MEPA, and therefore must be reviewed in this case." *Id*., p. 66. The Commission stated that:

> [i]t defies both well accepted principles of statutory interpretation as well as common sense to apply MEPA to a pipeline but not to the products being transported through it. As the Commission finds that conduct at issue in constructing the Replacement Project is indistinguishable from the purpose behind it or its result, the Commission's obligations under MEPA must also extend to the products being shipped through the Replacement Project.

April 21 order, p. 64. Therefore, the Commission found that the parties may provide evidence of GHG emissions and any pollution, impairment, or destruction resulting from the Replacement Project as set forth in Enbridge's application.

In addition, the Commission noted that there is a possibility that the Notice would be enforced and Enbridge would cease operation of the dual pipelines. The Commission stated that:

> should the Commission at this point in the proceeding exclude evidence simply on the basis of the uncertainty surrounding the validity of the Notice, it would lose the ability to consider evidence related to the loss of the use of the 4-mile dual pipeline segment in the Straits should the State ultimately prevail. As such, the Commission is unwilling to exclude evidence under MEPA that compares the pollution, impairment, or destruction attributable to an operating 4-mile pipeline segment in the Straits with non-operational 4-mile dual pipeline segments.

Id., p. 67.

The Commission also noted that MEPA requires a determination of "feasible and prudent alternatives" to the Replacement Project and "a determination of whether the project 'is consistent with the promotion of the public health, safety and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment or destruction.'" MCL 324.1705; *State Hwy Comm*, 392 Mich at 159; *Buggs I*, p. 9." April 21 order, p. 68. The Commission found that this proceeding is in the early stage and, therefore, it would be inappropriate to disallow arguments and evidence regarding:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> whether there is any pollution, impairment, or destruction as a result of the Replacement Project – including in comparison to the possible closure of the dual pipeline segments currently in the Straits if the Notice is enforced; whether any pollution, impairment, or destruction is consistent with the protection of Michigan's natural resources; and whether there are feasible and prudent alternatives to any pollution, impairment, or destruction that is found as a result of the Replacement Project. Given the many considerations involved in the production, transportation, and ultimate refining and consumption of the products being transported, evidence addressing how to account for GHG pollutant impacts attributable to the proposed Replacement Project, where the proper boundaries of GHG pollutants should be drawn, and the correct alternative(s) for comparison would be helpful to the Commission in making this determination.

April 21 order, p. 69. Therefore, the Commission partially granted the relief requested by Bay Mills, the MEC Coalition, ELPC/MiCAN, and FLOW in their applications for leave to appeal ALJ Mack's initial and February 23 rulings on this issue. April 29 order, p. 69.

Next, the Commission agreed with ALJ Mack that the litigation involving the Notice will not affect the approvals granted in the 1953 order. The Commission stated that it "is expressly not seeking to re-examine or reconsider the approvals granted in that case, nor is it taking steps toward the possible 'suspension, revocation, annulment, withdrawal, recall, cancellation or amendment of a license' under MCL 24.292(1), MCL 24.205(a), and *Rogers* [*Rogers v Mich State Bd of Cosmetology*, 68 Mich App 751; 244 NW2d 20 (1976)]." April 21 order, p. 71.

Finally, the Commission noted that several parties requested permission to offer proofs of "the economics of fossil fuel pipelines, the risk of stranded costs, and the safety issues arising from leaks on any part of the pipeline system." *Id*. The Commission found that those are not issues that may be considered in this case. *Id*.

RECEIVED by MSC 11/14/2025 2:10:18 PM

G. Bay Mills Indian Community's, Grand Traverse Band of Ottawa and Chippewa Indians', Little Traverse Bay Bands of Odawa Indians', and Nottawaseppi Huron Band of the Potawatomi's Joint Petition for Rehearing of the April 21, 2021 Order

On May 21, 2021, Bay Mills, GTBOC, LTBB, and NHBP[17] filed a joint petition for rehearing of the April 21 order in this docket (May 21 joint petition for rehearing). On June 11, 2021, Enbridge and the Associations each filed in this docket a response to the May 21 joint petition for rehearing. On that same date, the Staff filed a letter in this docket stating that it was not filing a response to the May 21 joint petition for rehearing.

In the May 21 joint petition for rehearing, the Tribal Intervenors stated that, in the April 21 order, the Commission correctly decided to include in its MEPA review consideration of any pollution, impairment, or destruction arising from the products being transported through the Replacement Project, including GHG pollution. However, the Tribal Intervenors disputed the Commission's finding that "'[i]ssues raised by Bay Mills and other intervenors on potential pollution, impairment, and destruction of Michigan's natural resources resulting from existing sections of Line 5 are . . . outside the scope of the Commission's MEPA review as it relates to the Replacement Project.'" Tribal Intervenors' May 21 joint petition for rehearing, pp. 1-2 (quoting April 21 order, p. 64) (footnote omitted). The Tribal Intervenors argued that the Commission "improperly excluded from its [MEPA] review the effects of the products shipped through the [Replacement] Project in the form of an oil spill or leak from the existing sections of pipeline." Tribal Intervenors' May 21 joint petition for rehearing, p. 1. The Tribal Intervenors asserted that the Commission's decision is an error of law, leads to unintended consequences, and should be reversed on rehearing pursuant to Rule 437.

[17] Collectively, Tribal Intervenors for purposes of this petition for rehearing.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Specifically, the Tribal Intervenors explained that, historically, there have been leaks and spills associated with Line 5 and that there are likely to be additional leaks and spills in the future. The Tribal Intervenors argued that it is illogical to allow the parties to introduce "evidence of the environmental impacts of the oil products shipped by the pipeline *after* they are combusted for purposes of transportation, electricity, and other industrial processes, releasing GHGs—but not allow evidence of the environmental impacts of the oil products themselves in the likely scenario that the pipeline spills or leaks." Tribal Intervenors' May 21 joint petition for rehearing, p. 2 (emphasis in original). In addition, the Tribal Intervenors contended that because the Replacement Project will permit Enbridge to continue to operate the Line 5 system in its entirety, any spill or leak of oil products from Line 5 "are the result of the Project, regardless of whether the spill or leak occurs from the portion of the pipeline that runs through the Straits." *Id*., p. 6. Therefore, the Tribal Intervenors asserted that MEPA requires the Commission to determine whether pollution, impairment, or destruction will result from oil being transported on the Line 5 system, including the Replacement Project.

The Tribal Intervenors asserted that the Notice itself recognizes that "[c]rude oil contains toxic compounds that would cause both short- and long-term harm to biota, habitat, and ecological food webs." *Id*., p. 5 (quoting the Notice, p. 8). The Tribal Intervenors also cited a recent report that recognizes that oil spills on Line 5 threaten natural resources.[18] Furthermore, the Tribal Intervenors argued that courts routinely require agencies to consider the likelihood of oil spills in making environmental determinations, and the Tribal Intervenors pointed out that the language of

[18] *See*, May 21 joint petition for rehearing, p. 5 (citing Michigan Technological University, *Independent Risk Analysis for the Straits Pipelines*, September 15, 2018, pp. 165-185).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Section 5(2) of MEPA provides that the alleged pollution "*shall be determined*." Tribal Intervenors' May 21 joint petition for rehearing, p. 6 (emphasis in original) (footnote omitted).

Accordingly, the Tribal Intervenors asserted that the April 21 order has the unintended consequence of treating the pollution from GHG emissions and oil spills differently. They also argued that the April 21 order stifles the Tribal Intervenors' ability to address the effect of the Replacement Project on natural resources. Finally, the Tribal Intervenors contended that the April 21 order has the unintended consequence of prematurely limiting the scope of this case and preventing the development of a full record. They requested that the Commission apply the same reasoning used to allow the admission of evidence of GHG emissions related the Replacement Project and allow the admission of evidence regarding the effects of an oil spill or leak.

In their response, the Associations asserted that the Tribal Intervenors' May 21 joint petition for rehearing is a rehash of arguments made in response to the September 2 motion in limine and should be denied on that basis. The Associations stated that the Commission already considered and rejected the Tribal Intervenors' arguments regarding oil spills and leaks and they noted that the Commission stated that "the safety issues arising from leaks on any part of the pipeline system" are "not issues in this case." Associations' answer to the Tribal Intervenors' May 21 joint petition for rehearing, p. 3 (quoting April 21 order, p. 71). The Associations contended that the allegation that a leak is likely to occur is speculative and hypothetical. They argued that GHG emissions are different from leaks, because the combustion of the oil products as an end use is the purpose of the pipeline, whereas spills or leaks are not the purpose of the pipeline and are not part of the conduct at issue in the Replacement Project. The Associations contended that nothing in MEPA requires the Commission to "consider the effect of speculative, unintended events that are

RECEIVED by MSC 11/14/2025 2:10:18 PM

unrelated to the project being approved." Associations' answer to the Tribal Intervenors' May 21 petition for rehearing, p. 7.

Enbridge also argued that the Tribal Intervenors' arguments have been considered and rejected by the Commission. Enbridge asserted that there are differences between the consideration of GHG emissions and the consideration of pipeline safety issues. Enbridge noted that the Commission found that the purpose of Act 16 is directly tied to the transportation of hydrocarbons, whereas "the safety of the sections of the pipeline not at issue in the Application is not similarly indistinguishable from the construction of the pipeline segment at issue and the flow of product through the pipeline." Enbridge's answer to the Tribal Intervenors' May 21 joint petition for rehearing, p. 3. Further, Enbridge argued, pipeline safety is within the exclusive jurisdiction of the federal Pipeline and Hazardous Materials Safety Administration (PHMSA) and, therefore, a review of the safety of the other 641 miles of Line 5 is outside the Commission's purview. Enbridge asserted that the federal Pipeline Safety Act (PSA), specifically 49 USC 60104(c), provides PHMSA with exclusive jurisdiction to regulate the safety of already-constructed interstate pipelines, which preempts state jurisdiction. *See also*, 49 USC 60102(a)(2). Enbridge averred that if the Tribal Intervenors have complaints regarding the safety of the Line 5 system, they may take those complaints to PHMSA. Enbridge's answer to the Tribal Intervenors' May 21 joint petition for rehearing, p. 8, n. 20. Enbridge contended that parties may introduce evidence regarding the safety of the siting of the Replacement Project but argued that the April 21 order correctly recognizes the distinction between the Commission's siting authority and PHMSA's authority over the safety of operating pipelines. *See*, 49 USC 60104(c).

Enbridge further argued that the Commission's decision regarding the review of GHG emissions under MEPA did not serve to expand the Commission's jurisdiction over speculative

RECEIVED by MSC 11/14/2025 2:10:18 PM

events that may occur on the entirety of the Line 5 system. Enbridge stated that the Commission's conclusion in the April 21 order "is wholly distinguishable from the claim that the Commission must also analyze the safety and integrity of the other 641-miles of Line 5" pursuant to MEPA. Enbridge's answer to the Tribal Intervenors' May 21 joint petition for rehearing, p. 10. In addition, Enbridge stated that the Tribal Intervenors:

> failed to show "conduct that has, or is likely to have, the effect of polluting . . . natural resources" which is a prerequisite under MEPA. All they have done is make bald and speculative assertions relating to releases from other portions of Line 5 not before the Commission in this Application. They have not shown that any such releases are likely.

Id., p. 9, n. 22 (quoting MCL 324.1705(1)). Enbridge noted that, according to the Commission, the purpose of the four-mile Replacement Project is to transport hydrocarbons and, therefore, the resultant GHG emissions are subject to review under MEPA. Enbridge argued that the same reasoning does not apply to oil leaks and spills, which are not the purpose of the Replacement Project.

Finally, Enbridge disagreed with the Tribal Intervenors' claim that the April 21 order results in the unintended consequence of prematurely limiting the scope of the case. *See*, Mich Admin Code, R 792.10421(1)(d). Enbridge stated that "[t]he Commission's procedural rules encourage and allow for an early determination of the scope of issues in a proceeding." Enbridge's answer to the Tribal Intervenors' May 21 joint petition for rehearing, p. 11. In any event, Enbridge contended, the Tribal Intervenors were among the parties requesting an early determination of the issues. Furthermore, Enbridge noted that the April 21 order was issued a year after the application was filed, belying any argument that it was issued too early.

The Commission notes that, pursuant to Rule 437, a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or

RECEIVED by MSC 11/14/2025 2:10:18 PM

unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

The Commission finds that the Tribal Intervenors' petition for rehearing repeats arguments that were made during briefing on the motion in limine and that were considered and rejected by the Commission. In the April 21 order, the Commission stated that:

> Bay Mills asserts that the Commission must also examine the safety of Line 5, under obligations imposed by Tribal treaty rights, MEPA, and Act 16. Bay Mills points out that the Notice acknowledges the Tribal Nations' interests in the habitat of the Straits. Bay Mills states that "Treaty resources would be impacted by the approval of a Project that would allow Line 5 to operate well into the future." [Bay Mills' March 9, 2021 application for leave to appeal the ruling on remand], p. 24. Bay Mills argues that, under *State Hwy Comm* [*State Hwy Comm v Vanderkloot*, 392 Mich 159, 185; 220 NW2d 416 (1974)], the Commission must conduct an independent analysis of the evidence presented in this case, as well as consider the evidence embodied in other agencies' determinations. Bay Mills also contends that the Commission must consider alternatives, including:
>
> > Evidence regarding the risk of oil leaks and spills to the Great Lakes and inland waters and resources from Line 5 if the Project is constructed. The Commission should also consider the risks from either an alternative method of delivering the commodities carried by Line 5 or the existing pipeline operating for a shorter duration than if the Project is allowed and constructed (as it almost certainly will be, in light of the Revocation and Termination).

RECEIVED by MSC 11/14/2025 2:10:18 PM

> *Id.*, p. 28. Bay Mills again argues that, under the APA [Administrative Procedures Act, MCL 24.201 *et seq.*], the parties must be allowed to rebut Enbridge's assertion that the Replacement Project will reduce the risk of an oil spill into the Great Lakes. Bay Mills wishes to present evidence regarding hydrologically connected waterways and potential environmental damage. Like the MEC Coalition, Bay Mills describes the Replacement Project as reinstating a nonoperational pipeline. Bay Mills again avers that nothing in federal law limits the Commission's authority to review Line 5's safety, stating "[b]ecause the Commission's obligations under Tribal Treaties, MEPA, Act 16, and the APA are not safety standards covered by Section 60104(c) of the PSA, none of those authorities are preempted by the PSA." *Id.*, p. 33.

April 21 order, pp. 41-42 (footnote omitted).

Addressing these arguments, the Commission found:

> Similar to the analysis in applying the three-factor test on project need, whether the proposed project's design and route is reasonable, and whether it meets or exceeds current safety and engineering standards, the application of MEPA is limited to the conduct at issue in this case. As such, the Commission's MEPA review does not extend to the entirety of Line 5, including the 641 miles of Line 5 outside of the proposed Replacement Project, but only to the "replacement of the Dual Pipelines with a new, 30-inch-diameter, single pipeline to be relocated within a new concrete-lined tunnel." June 30 order, p. 68. Issues raised by Bay Mills and other intervenors on potential pollution, impairment, and destruction of Michigan's natural resources resulting from existing sections of Line 5 are therefore outside the scope of the Commission's MEPA review as it relates to the Replacement Project.

April 21 order, pp. 63-64. In the Commission's analysis applying the three-factor test, the Commission stated:

> In its application, consistent with the Agreements executed with the State of Michigan and the easement it has been assigned by MSCA, Enbridge proposes to construct a replacement segment of Line 5 that crosses the Straits, to be housed in the utility tunnel. In its June 30 order, the Commission previously described the Replacement Project as the "replacement of the Dual Pipelines with a new, 30-inch-diameter, single pipeline to be relocated within a new concrete-lined tunnel." June 30 order, p. 68. As such, the Commission must consider how both the three-part test under Act 16 and the requirements of MEPA apply to the Replacement Project. However, as described more fully below, the application of these provisions do not extend to the remainder of the line approved in the 1953 order.

RECEIVED by MSC 11/14/2025 2:10:18 PM

April 21 order, p. 59. The Commission thereafter described prior Commission cases in which it declined to re-examine the remainder of a pipeline system that interconnected with the segments proposed for work or repair targeted in a pipeline operator's application. The Commission found:

> As Commission precedent under Act 16 shows, when deciding an application to construct or relocate pipeline, the Commission has never examined any portion of existing pipeline that is interconnected with the segment that is proposed in the applicant's project but not within the proposed route; nor has it examined how the proposed pipeline segment could affect the lifespan of an existing interconnected pipeline system. The Commission has similarly never considered the projected length of usage of a pipeline system in its review of the public need for the replacement or relocation of a segment of the system. For this reason, the Commission is unpersuaded by the MEC Coalition's argument that the first issue in this case is "whether there is a public need to replace the dual pipelines with a new pipeline in a tunnel so as to perpetuate Line 5 for decades to come." The MEC Coalition's application for leave to appeal the initial ruling, p. 10.
>
> In determining public need, the Commission has instead looked at whether the applicant has explained the need for the construction or relocation of the segment or segments being proposed, and, where alleged, has considered the capacity and safety issues presented by the use of the existing pipeline segment that is proposed for improvement.
>
> In the instant case, the Commission finds that the first issue is whether there is a public need to carry out the Replacement Project, a project to replace the dual pipelines with a new pipeline in a tunnel, and does not concern approved, existing pipeline that is merely interconnected with the segment that is the subject of the application. The public need for the existing portions of Line 5 has been determined. The public need for the Replacement Project has yet to be determined.
>
> The alleged purpose of the Replacement Project is to improve the safety of the 4-mile segment that crosses the Straits. This is a question of fact that the parties may contest, and that is relevant to all three criteria that are considered in an Act 16 case: whether there is a public need for the Replacement Project, whether the Replacement Project is designed and routed reasonably, and whether the Replacement Project meets or exceeds current safety and engineering standards.
>
> Finally, the Commission also agrees with the ALJ that the Tribal treaty-reserved rights asserted by Bay Mills do not serve to expand the scope of the Commission's Act 16 jurisdiction. The treaty-reserved rights do not confer on the Commission the ability to review the authority to own and operate the segments of an approved pipeline system that are not the subject of the Act 16 application before the agency.

RECEIVED by MSC 11/14/2025 2:10:18 PM

April 21 order, pp. 62-63. Finally, regarding the Commission's review of the other 641 miles of Line 5 (and related arguments), the Commission stated:

> Notably, the Commission finds that the outcome of the litigation surrounding the Notice has no impact on the approvals granted in the 1953 order. The Commission agrees with the ALJ that the 1953 order remains in effect, and the Commission is expressly not seeking to re-examine or reconsider the approvals granted in that case, nor is it taking steps toward the possible "suspension, revocation, annulment, withdrawal, recall, cancellation or amendment of a license" under MCL 24.292(1), MCL 24.205(a), and *Rogers*. Rather, as noted by the Staff, the Notice involves not Enbridge's rights under the 1953 order, but the ongoing property interest to continue to operate in its current location under the easement granted by the predecessor to the DNR. Staff's response to the applications for leave to appeal the ruling on remand, p. 19. As such, the notice and other procedural protections provided by the APA and *Rogers* are not at issue in this case.
>
> Finally, the other offers of proof described in the applications for leave to appeal focus on the economics of fossil fuel pipelines, the risk of stranded costs, and the safety issues arising from leaks on any part of the pipeline system. These are not issues in this case.

April 21 order, p. 71.

As these excerpts show, the Tribal Intervenors' arguments were comprehensively examined and rejected. The Commission finds that the Tribal Intervenors' May 21 petition for rehearing fails to demonstrate an error of law in the April 21 order or unintended consequences flowing from the Commission's decision. In the April 21 order, the Commission found that its obligations under MEPA extended to the products being shipped through the Replacement Project. The Commission disagrees with the Tribal Intervenors' assertion that the logical extension of this finding is to expand the Commission's obligations under MEPA to usurp the clear federal jurisdiction over the safety of existing interstate pipelines laid out in the PSA. Although the April 21 order stated that nothing in the PSA precluded the Commission's required environmental review under MEPA, the Commission did not conversely find that MEPA preempted federal authority over the safety of existing pipelines because such a finding would be an error of law. *See*, 49 USC 60104(c). The

RECEIVED by MSC 11/14/2025 2:10:18 PM

safety review of the entirety of Line 5 sought by the Tribal Intervenors is precluded by both federal law and by the fact that those sections of the pipeline outside of the Replacement Project are not at issue in this case. *See*, April 21 order, pp. 63-64. The April 21 order intentionally drew a clear distinction between the MEPA issues associated with the Replacement Project and the safety issues associated with Line 5 and, accordingly, rejected Bay Mills' arguments.

The Commission finds that Bay Mills' joint petition for rehearing does not meet the standards of Rule 437 and should be denied.

H. Bay Mills Indian Community's, Grand Traverse Band of Ottawa and Chippewa Indians', Little Traverse Bay Bands of Odawa Indians', and Nottawaseppi Huron Band of the Potawatomi's February 18, 2022 Application for Leave to Appeal

As part of their initial brief in this case, Bay Mills, GTBOC, LTBB, and NHBP[19] filed an application for leave to appeal ALJ Mack's January 13, 2022 ruling in which he granted several of Enbridge's motions to strike (January 13 ruling).[20] The Tribal Nations contended that ALJ Mack erred in granting the motions to strike with respect to five of the Tribal Nations' witnesses: Ms. Gravelle, Mr. LeBlanc, Mr. Ettawageshik, Mr. Rodwan, and Dr. Cleland.

In their application for leave to appeal the January 13 ruling, the Tribal Nations began by noting that the Commission has indicated the need for "comprehensive testimony and evidence, and a well-developed record" in this case. Tribal Nations' initial brief, p. 47 (quoting the June 30 order, p. 69). The Tribal Nations urged the Commission to apply a broad evidentiary standard and asserted that, due to the January 13 ruling, "the perspectives of the Tribal Nations have been

[19] Collectively, Tribal Nations for purposes of this application for leave to appeal.

[20] The Tribal Nations may appeal directly to the Commission without seeking leave to appeal because this order is the final disposition of the proceeding. Mich Admin Code, R 792.10433(5).

RECEIVED by MSC 11/14/2025 2:10:18 PM

stricken in this matter." Tribal Nations' initial brief, p. 48. The Tribal Nations stated that the testimony and exhibits that were mistakenly stricken are:

- Direct Testimony of Whitney Gravelle – President of the Bay Mills Indian Community:
  - Page 6, lines 3 through 20
  - Page 12, line 13 through page 13, line 5
  - Sponsored Exhibits BMC-1 through BMC-5

- Direct Testimony of Jacques LeBlanc – Vice President of Bay Mills Indian Community and Tribal Fisherman:
  - Page 8, line 5 through page 9, line 19

- Direct Testimony of Frank Ettawageshik – Former Chairman of Little Traverse Bay Bands of Odawa Indians and climate change expert:
  - Page 7, line 3 through page 8, line 10
  - Page 8, line 11 through page 10, line 14
  - Page 10, line 15 through page 12, line 12
  - Page 14, line 2 through page 15, line 8
  - Page 15, line 10 through page 16, line 9
  - Sponsored Exhibits BMC-17 through BMC-30

- Direct Testimony of John Rodwan – Environmental Department Director of the Nottawaseppi Huron Band of the Potawatomi:
  - Page 12, line 11 through page 13, line 4
  - Page 14, lines 12 – 13
  - Page 16 lines 9 – 18
  - Page 16, line 19 through page 17, line 2
  - Sponsored Exhibit NBHP-3

- Direct Testimony of Dr. Charles Cleland – Ethnohistorian with decades of experience studying the culture and history of tribal communities in the upper Midwest:
  - Page 7, lines 16 – 20
  - Page 14, lines 11 – 15
  - Page 15, lines 3 – 7
  - Page 17, line 15 through page 20, line 10
  - Page 23, line 16 through page 24, line 2
  - Page 24, line 19 through page 25, line 20
  - Page 28, lines 5 – 8
  - Page 32, line 15 through page34, line 22
  - Page 35, line 8 through page 36, line 10
  - Page 37, line 11 through page 39, line 9
  - Sponsored Exhibit BMC-35

RECEIVED by MSC 11/14/2025 2:10:18 PM

Id., pp. 48-49. The Tribal Nations contended that the testimony and exhibits listed above relate directly to Enbridge's Act 16 application and the Commission's MEPA analysis.

The Tribal Nations argued that Ms. Gravelle's testimony addresses the route of the tunnel, the risk of an oil spill, and the issue of climate change. The Tribal Nations stated that the stricken exhibits, which include two tribal resolutions, two letters to the Governor, and two official comment letters, cast doubt on the safety and reasonableness of the route. The Tribal Nations asserted that ALJ Mack erred in finding that the testimony and exhibits address "concerns over the safety and operational aspects of the entirety of Line 5." *Id.*, p. 50 (quoting the January 13 ruling, p. 7). In the Tribal Nations' opinion, the testimony repeatedly refers to the dual pipelines and the Straits, and the exhibits are explicitly about the plan to replace the dual pipelines.

The Tribal Nations averred that ALJ Mack mistakenly stated that the Staff supported Enbridge's motion. The Tribal Nations claimed that, during oral argument, the Staff revised its position and opposed striking any of Ms. Gravelle's direct testimony that addressed the risk of an oil spill in the Straits. Tribal Nations' initial brief, p. 51 (citing 6 Tr 437). The Tribal Nations contended that the "double standard is apparent. Numerous other witnesses were permitted to discuss the risk of an oil spill in the Straits, but the President of an intervening Tribal Nation was not. This is inconsistent with the dictates of the APA." Tribal Nations' initial brief, pp. 51-52 (footnote omitted) (citing MCL 24.272(3)-(4)).

The Tribal Nations also contended that the testimony of Mr. LeBlanc was mistakenly stricken. The Tribal Nations stated that Enbridge provided testimony addressing potential impairment to fisheries and, thus, the Tribal Nations should be allowed to do the same. According to the Tribal Nations, Mr. LeBlanc has been a commercial fisherman in the Straits since the age of 12, and they observe that he should be allowed to testify as to the probable effect on fishing families if the

RECEIVED by MSC 11/14/2025 2:10:18 PM

ecosystem is damaged by the Replacement Project. Tribal Nations' initial brief, p. 53. The Tribal Nations asserted that Mr. LeBlanc's testimony is foundational to his conclusion that the route is not appropriate.

The Tribal Nations asserted that the testimony and exhibits of Mr. Ettawageshik are central to the issue of climate change. The Tribal Nations stated that Mr. Ettawageshik addressed "the nature of climate change, the severity of the problem, what has been done to address the problem, and what must be done going forward to combat the global, existential threat." Tribal Nations' initial brief, p. 54 (footnote omitted). The Tribal Nations argued that ALJ Mack erred in finding that the April 21 order limited the Commission's examination of GHG emissions to the emissions associated with the four-mile pipeline section that is the subject of the Replacement Project. *See,* January 13 ruling, p. 8. The Tribal Nations posited that to perform the MEPA analysis, the Commission needs to understand climate change, its global nature, and its impact on the Tribal Nations. For example, the Tribal Nations contended, one of the stricken exhibits illustrates how climate change has influenced negotiations with the State of Michigan over treaty-protected rights.

Next, the Tribal Nations asserted that the testimony and exhibit of Mr. Rodwan were stricken in error. In the Tribal Nations' opinion, Mr. Rodwan's testimony regarding the Line 6B oil spill will assist the Commission in performing its Act 16 analysis by providing information on "how much weight and credibility should be given to Enbridge's statements about the safety of the Proposed Project." Tribal Nations' initial brief, p. 56. The Tribal Nations averred that the Line 6B oil spill polluted many tribal natural resources, and the Tribal Nations stated that its proffered evidence addresses the issue of inadequate pipeline safety standards.

Finally, the Tribal Nations contended that the testimony and exhibit of Dr. Cleland were stricken in error. According to the Tribal Nations, Dr. Cleland's testimony is relevant to the

RECEIVED by MSC 11/14/2025 2:10:18 PM

Commission's Act 16 analysis because it addresses the terrestrial archeological sites in and around the Replacement Project area in the Straits, the unreasonableness of the proposed route, and the importance of considering alternatives. The Tribal Nations observed that ALJ Mack failed to provide an explanation as to why he found the expert analysis of the 141 terrestrial archeological sites to be outside the scope of this case. The Tribal Nations stated that "[t]he ALJ simply stated that the testimony in question goes beyond the scope of the hearing 'by addressing operational and safety aspects of Line 5 and the dual pipelines.'" *Id.*, p. 58 (quoting the January 13 ruling, p. 3). The Tribal Nations asserted that this testimony is well within the qualifications of Dr. Cleland and provides context for the Commission's analysis under both Act 16 and MEPA. In addition, the Tribal Nations asserted that Dr. Cleland's testimony addresses the need for further study.

In Appendix A to Enbridge's reply brief in this case, the company responded to the Tribal Nations' application for leave to appeal the January 13 ruling. Enbridge agreed with ALJ Mack's finding that Ms. Gravelle's evidence "addressing concerns over the safety and operational aspects of the entirety of Line 5" is inconsistent with the scope of the case as defined in the April 21 order. Enbridge's reply brief, Appendix A, p. 2 (quoting the January 13 ruling, pp. 7-8). Thus, Enbridge contended that it was appropriate to exclude the referenced testimony and exhibits of Ms. Gravelle.

Similarly, Enbridge argued that Mr. LeBlanc's testimony, which addressed the consequences of allowing Line 5 to continue to operate in the territory ceded by the Tribal Nations and the effects of climate change on tribal territories, is irrelevant and exceeds the scope of this case as defined in the April 21 order. Enbridge's reply brief, Appendix A, p. 3 (citing the January 13 ruling, pp. 6-7). Enbridge also noted that Mr. Ettawageshik's evidence addressed the history of climate change advocacy carried out by several tribes, and the company asserted that ALJ Mack

RECEIVED by MSC 11/14/2025 2:10:18 PM

correctly found it to be focused on "climate change on a global level," which is outside the scope of this case as set forth in the April 21 order. Enbridge's reply brief, Appendix A, p. 4 (quoting the January 13 ruling, p. 8). In addition, Enbridge argued that Mr. Rodwan's evidence addressed harms associated with the continued operation of Line 5 and harms arising from the general use of fossil fuels, as well as the effects of a release from Line 6B in the Kalamazoo River in 2010. Enbridge asserted that ALJ Mack correctly found this material to be irrelevant to the company's Act 16 application in this case and the Commission's MEPA analysis of the Replacement Project and inconsistent with the Commission's findings in the April 21 order.

Finally, Enbridge argued that Dr. Cleland's evidence was correctly stricken by ALJ Mack because it addressed the harms to cultural and historical sites from the continued operation of Line 5 as a whole and because Dr. Cleland purports to opine on the damage associated with the physical act of tunneling. Enbridge noted that Dr. Cleland is an ethnohistorian and has no training in tunnel construction or engineering. Enbridge contended that ALJ Mack correctly found that the testimony addresses "operational and safety aspects of Line 5" and that Dr. Cleland "lacks any basis to opine on the actual or potential impact to the physical world from the proposed project." Enbridge's reply brief, Appendix A, p. 7 (quoting the January 13 ruling, pp. 3-4). Enbridge further argued that ALJ Mack appropriately found that Exhibit BMC-35 was inadmissible as hearsay within hearsay, noting that ALJ Mack found that "[a] document that a witness relies on that is authored by someone who lacks personal knowledge of the facts it contains and does not identify who made the statements or their basis, is inherently unreliable." Enbridge's reply brief, Appendix A, p. 8 (quoting the January 13 ruling, p. 4).

On pages 50-58 of its reply brief in this case, the Staff responded to the Tribal Nations' application for leave to appeal the January 13 ruling. The Staff contended that ALJ Mack properly

RECEIVED by MSC 11/14/2025 2:10:18 PM

determined that, in general, the stricken evidence falls outside the scope of this proceeding as defined in the April 21 order. In addition, the Staff asserted that the Tribal Nations rehashed evidentiary arguments that have been considered and rejected by ALJ Mack and the Commission. The Staff averred that it is within the Commission's discretion to exclude material that is irrelevant, immaterial, or unduly repetitious. Staff's reply brief, p. 52 (citing MCL 24.275 and Mich Admin Code, R 792.10427(1) (Rule 427(1)). Quoting the April 21 order, the Staff argued that:

> the Commission has already concluded that tribal input, although welcomed, does not expand its Act 16 jurisdiction over the application. (4/21/2021 Order, p 63.) ("Tribal treaty-reserved rights . . . do not confer on the Commission the ability to review the authority to own and operate the segments of an approved pipeline system that are not the subject of the Act 16 application before the agency.")

Staff's reply brief, p. 53 (quoting the April 21 order, p. 63).

With respect to Dr. Cleland, the Staff agreed with ALJ Mack that the witness lacks the expertise necessary to opine on the physical risks posed by the tunnel and agreed that Exhibit BMC-35 is hearsay within hearsay. The Staff noted that, in general, it agrees with ALJ Mack's January 13 ruling striking portions of Ms. Gravelle's and Mr. LeBlanc's testimony and exhibits:

> The Tribes are correct that Staff noted on the record that "it is not seeking to strike testimony about the risk of an oil spill from the tunnel" or exclude testimony that may relate to a spill in the Straits. Because Staff supported portions of Enbridge's motions, Staff felt it was important to distinguish its position from comments Enbridge made on the record that testimony alleging that the proposed "project would . . . damage the Straits of Mackinac" should be stricken. (6 TR 429.) Staff also revised its written response to the motion to strike portions of President Gravelle's testimony to reflect this distinction. (6 TR 437.) Specific impacts of the project on the Straits, whether harmful or remedial, should be considered. With that said, Staff believes the issue of an oil spill in the Straits and an oil spill elsewhere on Line 5 due to the "continued operation of Line 5" is so interwoven in the stricken portions of testimony of President Gravelle and Jacques LeBlanc, Jr., that the [January 13 ruling] is correct in its determination and should be affirmed.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Staff's reply brief, pp. 54-55 (quoting Tribal Nations' initial brief, p. 51, n. 260). Finally, the Staff maintained that Mr. Rodwan's evidence was correctly struck because it pertains to the 2010 oil spill on the Kalamazoo River from Line 6B, which is outside the scope of this case as defined by the April 21 order.

In the March 17, 2022 order in Case No. U-21090 (March 17 order), the Commission stated that "it will reverse an ALJ's ruling if the Commission finds that a different result is more appropriate." March 17 order, p. 14 (citing, June 5, 1996 order in Case No. U-11057, p. 2; May 19, 2020 order in Case No. U-20697, p. 9); *see also*, November 10, 2011 order in Case No. U-16230, pp. 7-8; October 5, 2018 order in Case No. U-20165, p. 17. The Commission has reviewed the Tribal Nations' application for leave to appeal and finds that ALJ Mack's January 13 ruling should be affirmed.

Regarding the testimony and exhibits of Ms. Gravelle, the Commission agrees with ALJ Mack that "[t]he challenged testimony and exhibits can only be characterized as addressing concerns over the safety and operational aspects of the entirety of Line 5." January 13 ruling, p. 7. The Commission finds that ALJ Mack appropriately preserved Ms. Gravelle's testimony concerning the proposed route of the Replacement Project and the potential impacts to cultural resources and struck testimony and exhibits that substantially addressed the potential harms associated with the continued operation of Line 5 as a whole, which the Commission determined is outside the scope of this case.

The stricken portions of Mr. LeBlanc's testimony state that Line 5 could damage rivers and lakes in the ceded territory and that reliance of fossil fuels is harmful to the environment. The Commission agrees with ALJ Mack that these portions of Mr. LeBlanc's testimony address issues

RECEIVED by MSC 11/14/2025 2:10:18 PM

outside the scope of this case and, therefore, the Commission finds that this testimony was properly stricken.

ALJ Mack found that portions of Mr. Ettawageshik's testimony and Exhibits BMC-17 through BMC-30 should be stricken because they fail to address the "discreet issue" of whether the hydrocarbons that are shipped through the Straits Line 5 segment may result in GHG emissions that pollute, impair, or destroy Michigan's natural resources or the public trust in those resources. January 13 ruling, p. 8. The Commission agrees. After a review of those portions of Mr. Ettawageshik's testimony and Exhibits BMC-17 through BMC-30, the Commission finds that the stricken testimony and exhibits substantially address global climate change and tribal advocacy on this issue, which are unquestionably important to the Tribes, but are outside the scope of this case. Therefore, the Commission finds that these portions of Mr. Ettawageshik's testimony and Exhibits BMC-17 through BMC-30 were properly stricken.

Regarding the stricken portions of Mr. Rodwan's testimony and Exhibit NHBP-3, the Commission agrees with ALJ Mack's finding that the testimony and exhibit focus on issues outside the scope of this case. Specifically, the stricken testimony and exhibit substantively include information and documents pertaining to the Line 6B release into the Kalamazoo River, the decommissioning of Line 5 as a whole, the harmful effects of fossil fuels in general, and the notation of cultural resources and sites outside of Michigan. Although these issues are of undeniable importance to NHBP, they are not relevant to the issue presented in Enbridge's application: replacement of the Straits Line 5 segment and relocation of the segment to a tunnel beneath the Straits' lakebed. Thus, the Commission finds that these portions of Mr. Rodwan's testimony and Exhibit NHBP-3 were properly stricken.

RECEIVED by MSC 11/14/2025 2:10:18 PM

In the Tribal Nations' application for leave to appeal, they argue that portions of Dr. Cleland's testimony and Exhibit BMC-35 were improperly stricken because ALJ Mack failed to explain why the testimony and exhibit were not relevant to the Commission's Act 16 determination and its MEPA analysis. ALJ Mack determined that because Dr. Cleland is an ethnohistorian, he "lacks any basis to opine on the actual or potential impact to the physical world from the proposed project," including "the potential for a catastrophic event emanating from the tunnel." January 3 ruling, p. 4. The Commission has reviewed the stricken testimony and agrees with ALJ Mack that the stricken portions address issues that are beyond the scope of this case and Dr. Cleland's professed expertise. *See*, 10 Tr 1526-1530. In addition, the Commission agrees with ALJ Mack that Exhibit BMC-35 contains "hearsay within hearsay because not only does Dr. Cleland lack personal knowledge of the claims in it, the author of the document, Dr. O'Shea, claims no such knowledge." January 3 ruling, p. 4. Therefore, the Commission finds that these portions of Dr. Cleland's testimony and Exhibit BMC-35 were properly stricken.

IV. POSITIONS OF THE PARTIES

A. Direct Testimony

1. Enbridge Energy, Limited Partnership

Amber Pastoor testified that she is Enbridge's Project Manager for the Replacement Project and she sponsored Exhibits A-1 through A-11. As an initial matter, she explained that Enbridge is an interstate common carrier pipeline company that operates in accordance with conditions of service and rates set in tariffs filed with the Federal Energy Regulatory Commission (FERC) and that the company "provides transportation service to qualified shippers of liquid petroleum" as nominated on a month-to-month basis. 7 Tr 558. She stated that Enbridge owns and operates the Lakehead System, which is the U.S. portion of an operationally integrated pipeline system located

RECEIVED by MSC 11/14/2025 2:10:18 PM

within Canada and the United States, and which operates in seven Great Lakes states and spans approximately 1,900 miles from the international border near Neche, North Dakota, to the international border near Marysville, Michigan. Ms. Pastoor asserted that "Line 5 is a pipeline integrated within the Lakehead System." 7 Tr 558.

Ms. Pastoor testified that the purpose of the Replacement Project is to address an environmental concern raised by the State of Michigan's Pipeline Safety Advisory Board regarding the Straits segment of Line 5 known as the dual pipelines. She contended that relocating the Straits segment of Line 5 within a tunnel beneath the lakebed will eliminate the risk of a release of Line 5 products due to an accident such as an anchor strike. She asserted that the tunnel will be located 60 to 250 feet beneath the lakebed[21] and that approximately 0.4 to 0.8 miles of pipe will be used to connect the replacement pipe segment to the existing Line 5 on both sides of the Straits. Ms. Pastoor stated that "[t]he [Replacement] Project will also include all the associated fixtures, structures, systems, coating, cathodic protection and other protective measures, equipment and appurtenances relating to the replacement pipe segment and to the existing Line 5 pipeline on both sides of the Straits." 7 Tr 556-557.

Ms. Pastoor testified that the Replacement "Project does not include the tunnel itself;" rather, she contended, the tunnel will be constructed and maintained in accordance with the Tunnel Agreement (Exhibit A-5) entered into between MSCA and Enbridge pursuant to Act 359.

[21] In Exhibit A-13.1, an update to Exhibit A-13 that contains the Tunnel Design and Construction Report for the Straits line 5 Replacement Segment (Tunnel Design and Construction Report), Enbridge noted that, on page 5 of the Tunnel Design and Construction Report, "there is reference to the tunnel 'being at a depth of approximately 60 feet to 250 feet beneath the lakebed.' Based on new data the tunnel will be at a depth of approximately 60 to 370 feet beneath the lakebed, except that from the TBM [tunnel boring machine] launch site on the south side the tunnel will be 30 feet below the lakebed and will taper to the depth of 60 feet or more below the lakebed for 250 feet from the shoreline."

RECEIVED by MSC 11/14/2025 2:10:18 PM

7 Tr 557. She explained that Enbridge must also obtain environmental permits from USACE and EGLE and that the tunnel will be constructed within the area described in the 2018 "Easement to Construct and Maintain Underground Utility Tunnel at the Straits of Mackinac" granted by the DNR and MSCA. *See*, Exhibits A-6 and A-11. Ms. Pastoor asserted that Enbridge plans to deactivate the dual pipelines once the replacement pipe goes into service within the tunnel in accordance with the Third Agreement (Exhibit A-1) and the 1953 easement (Exhibit A-2).

Ms. Pastoor described the work area for the Replacement Project as including 16 acres on the north side of the Straits and 25 acres on the south side and being located on property owned by Enbridge or property for which Enbridge has acquired the right of access. She explained that the replacement pipe segment contained in the tunnel "will be designed, installed, operated, and maintained in accord with federal pipeline safety regulations, specifically the Pipeline and Hazardous Materials Safety Administration ('PHMSA') pipeline safety regulations Parts 194 and 195 (49 Code of Federal Regulations 'CFR' Parts 194 and 195)." 7 Tr 561-562. In addition, she stated that the replacement pipe segment will tie into the existing Mackinaw Station on the south side of the Straits and the existing North Straits facility located on the north side of the Straits within the limits of disturbance created by the tunnel construction. Ms. Pastoor averred that the tie-in on the north side of the Straits is within the North Straits facility or on Enbridge-owned land in Moran Township, Mackinac County, Michigan; and the tie-in on the south side of the Straits is within the Mackinaw Station in Wawatam Township, Emmet County, Michigan. She contended that Enbridge will make modifications at its existing facilities to accommodate the change from the two 20-inch diameter dual pipelines to the single 30-inch diameter pipeline. Ms. Pastoor asserted that the Replacement Project will not change the annual average capacity of Line 5, which is currently 540,000 bpd. *See*, 7 Tr 564.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Ms. Pastoor explained that approximately two million labor staff-hours and 200 workers will be required to construct the tunnel and the Replacement Project. She stated that the "contractor has also committed to utilizing Indigenous Peoples for at least 10 percent of the total operating engineering and labor staff-hours worked." 7 Tr 564-565. Ms. Pastoor also noted that Enbridge has acquired all necessary land rights to construct the project.

Finally, Ms. Pastoor described the alternatives analysis required by the First Agreement that was undertaken by Enbridge and submitted to the State of Michigan on June 15, 2018 (Exhibit A-9). She stated that:

> Enbridge's alternatives analysis concluded that construction of a tunnel beneath the lakebed of the Straits connecting the Upper and Lower Peninsulas of Michigan, and the installation of a replacement pipe segment within the tunnel, was a feasible alternative to the Dual Pipelines, and that this alternative would essentially eliminate the risk of a potential release [of Line 5 products] in the Straits.

7 Tr 566; *see also*, 7 Tr 567-569. She noted that on October 4, 2018, Enbridge entered into the Second Agreement (Exhibit A-10), which recognized that "'the evaluations carried out pursuant to the First Agreement have identified near-term measures to enhance the safety of Line 5, and a longer-term measure – the replacement of the Dual Pipelines – that can essentially eliminate the risk of adverse impacts that may result from a potential release from Line 5 at the Straits.'" 7 Tr 566 (quoting Exhibit A-10, p. 3). Ms. Pastoor asserted that in December 2018, Enbridge entered into the Tunnel Agreement (Exhibit A-5) and the Third Agreement (Exhibit A-1), both of which state that the Replacement Project and the tunnel should eliminate the risk of a release of Line 5 products into the Straits.

Paul Turner stated that he is an Environmental Specialist for Enbridge and acts as the project lead for environmental permitting for the Replacement Project. He sponsored Exhibits A-9, A-11, and A-12. Mr. Turner testified that he participated in the preparation of the Environmental Impact

RECEIVED by MSC 11/14/2025 2:10:18 PM

Report (EIR) for the Replacement Project and its appendices, which include the Environmental Protection Plan (EPP) and the Unanticipated Discovery Plan (UDP). He explained that the team that prepared the EIR included wetland and wildlife scientists, archeologists, and environmental specialists, who consulted publicly available data sources. Describing the results of the EIR, he stated that:

> The construction of the tunnel is not part of the [Replacement] Project that is the subject of this Application, but rather is the subject of the Joint Permit Application filed with EGLE and USACE, Exhibit A-11. The tunnel is also the subject of the Tunnel Agreement entered into between the Mackinac Straits Corridor Authority and Enbridge pursuant to 2018 PA 359. Given that the construction of the tunnel is not part of the [Replacement] Project, the impacts of the [Replacement] Project are minimal to the environment. The construction footprint for this [Replacement] Project – which includes storing the replacement pipe, welding the pipe, locating the replacement pipe segment into the tunnel, tying in the replacement pipe segment into Line 5 and installing all associated fixtures, structures, systems, coating, cathodic protection and other protective measures, equipment and appurtenances relating to the new 30-inch diameter pipeline to the already existing Enbridge facilities – is small. The pipeline construction will be contained within areas previously disturbed during the construction of the tunnel. Enbridge believes the construction and operation of the [Replacement] Project will result in minor short-term impacts on the human and natural environments. There would only be negligible temporary, and no permanent, impacts associated with the construction of the replacement pipe segment.

7 Tr 602-603. In addition, he stated that the Replacement Project will be constructed in accordance with the environmental permits obtained from EGLE and USACE. 7 Tr 604.

Next, Mr. Turner testified that Enbridge explored alternatives to the Replacement Project:

> Specifically, the alternatives assessment considered, in addition to the tunnel alternative, installing a replacement pipe segment across the Straits by placing a pipe inside a larger, secondary containment pipe, which would be buried in a trench near the shore and laid on the lakebed covered with rock and a replacement pipeline installed through a horizontal directional drilling ("HDD") method.

7 Tr 603. He explained that the trench alternative was rejected due to its potential environmental impacts during construction, and the HDD alternative was rejected because it was not technically

RECEIVED by MSC 11/14/2025 2:10:18 PM

feasible. Mr. Turner asserted that the alternatives evaluation report concluded that the tunnel was the best alternative among those assessed.

Marlon Samuel testified that he is Vice President of Customer Service for Enbridge and that he is "familiar with the past, current, and forecasted usage of Line 5." 7 Tr 754. Explaining the current use of Line 5, Mr. Samuel stated as follows:

> Line 5 transports light crude, light synthetic, light sweet crude oil, and natural gas liquids ("NGLs") volumes providing transportation service from Superior, Wisconsin to Sarnia, Ontario. Line 5 delivers NGLs to a facility at Rapid River in Michigan. At the Rapid River facility, much of the NGLs deliveries are converted to propane which is then distributed to heat homes and power industry in the Upper Peninsula. The non-propane NGL component are then re-injected back into Line 5, delivering to a Sarnia, Ontario facility for further processing. In the Lower Peninsula, Line 5 accepts Michigan light crude oil production at Lewiston, where Line 5 interconnects with another pipeline system. Also, in the Lower Peninsula, Line 5 delivers crude to the Marysville Crude Terminal that connects with a third-party pipeline, that then transports crude from the Marysville Crude Terminal to refineries in Detroit and Toledo. These refineries produce petroleum products, including gasoline and aviation fuels used by consumers in Michigan and surrounding regions. Line 5 light crude is also delivered to the Sarnia area, including local Sarnia refineries. A portion of the volume is delivered to Enbridge's Sarnia operational terminal where the crude is then injected on pipelines that are ultimately being delivered to refineries in New York and elsewhere. Line 5 also delivers NGLs to a facility in Sarnia, where it is converted to propane for both local consumption and to be imported back to Michigan to meet Michigan's needs. Line 5 is not transporting heavy crude oil and the terms of the September 3, 2015 Agreement between Enbridge and Michigan restricts Line 5's transportation of heavy crude oil.

7 Tr 755-756. Mr. Samuel testified that, for the past 10 years, Line 5 has operated at about 90% of its annual average capacity of up to 540,000 bpd, and this use is expected to continue into the future "because there is lack of sufficient capacity on other pipelines to serve these markets and transport these volumes and types of light crude oil, light synthetic crude and NGLs." 7 Tr 757. He stated that the nature of the service currently furnished by Line 5 will remain unchanged after the Replacement Project is complete.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Aaron Dennis testified that he is an Engineer Specialist for Enbridge and that he acts as the lead engineer on the Replacement Project. He stated that the purpose of his supplemental direct testimony is to provide the two supplemental exhibits that were requested by the Staff. He sponsored Exhibit A-13, which is the Tunnel Design and Construction Report "that explains how the Great Lakes Tunnel will perform as a location to construct, operate, and maintain the replacement pipe segment, and how the tunnel will act as a secondary containment facility." 8 Tr 788. Mr. Dennis also sponsored Exhibit A-14, which consists of discovery responses provided by Enbridge to the Staff explaining "various aspects of the [Replacement] Project, such as the tie-in of the replacement pipe segment, pipe specifications, pipe support within the tunnel, and pipe bends." 8 Tr 788.

2. The Commission Staff

Travis Warner testified that he is a Public Utilities Engineer Specialist in the Energy Security Section of the Commission's Energy Operations Division. 12 Tr 1696. He sponsored Exhibits S-1 through S-8. Mr. Warner stated that the purpose of his testimony is to provide information on behalf of the Staff regarding the dual pipelines and Enbridge's application for approval of the Replacement Project. In addition, Mr. Warner noted that as a part of the Staff's review and analysis of Enbridge's application, the Staff has been communicating and meeting with Michigan's 12 federally recognized Indian Tribes since April 2020. He testified that two Tribes submitted comments and that, specifically, "the Gun Lake Tribe requests that several topics be included in Staff's review and analysis of Tribal Treaty Rights" as they relate to the application. 12 Tr 1713. Mr. Warner stated that although some of the Tribes' comments were submitted too late in the process to be incorporated into the Staff's testimony, these comments are being submitted to the record as Exhibits S-4 and S-5.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Mr. Warner testified that since 2014, he has been "provid[ing] engineering support as part of an interagency technical team comprised of staff from the [DNR], [EGLE], and the Office of the Attorney General (AG) (the Technical Team)." 12 Tr 1698. He noted that in 2016, the Technical Team selected Dynamic Risk Assessment Systems, Inc. (Dynamic Risk) to compose a report for the State of Michigan that would examine alternatives to the siting of Line 5 and would include safety, environmental, and economic considerations (Alternatives Report). In addition, Mr. Warner stated that "in 2017, the Technical Team began working with Michigan [Technological] University (MTU) on a separate report that analyzed the environmental and economic consequences of a 'worst case' spill from the Dual Pipelines into the Straits of Mackinac (Risk Analysis)." 12 Tr 1715.

Mr. Warner contended that there were several key conclusions in the Alternatives Report and Risk Analysis. He stated that in the Alternatives Report, "'anchor hooking' was determined to be the dominant primary threat to the Dual Pipelines that could cause a rupture. Dynamic Risk estimated that this threat represented more than 75% of the annualized total threat probability . . . ." 12 Tr 1716 (quoting Exhibit ELP-24, p. 28). He noted that, according to Dynamic Risk, internal and external corrosion, selective seam corrosion, stress corrosion cracking, construction defects, and manufacturing defects are secondary threats. Mr. Warner testified that a second "significant finding of the Alternatives [Report] is that replacement of the Dual Pipelines within a tunnel beneath the Straits would likely be a feasible alternative to Line 5's current configuration." 12 Tr 1717. He stated that in Dynamic Risk's opinion, the risk of a release of Line 5 products into the waters of the Great Lakes is negligible if the proposed Replacement Project is constructed.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Next, Mr. Warner explained that the Risk Analysis considered the amount of natural resources damages, the governmental costs incurred, and other public and private economic damages that would result from a worst-case-scenario release of Line 5 products into the Great Lakes. However, Mr. Warner noted that the Risk Analysis "did not consider any potential alternatives for replacing the Dual Pipelines, including within a tunnel, or the associated risk of environmental contamination with replacement alternatives." 12 Tr 1717-1718. He stated that "[t]he final report was completed in 2018 and determined that a worst-case scenario with the highest economic impact would be one in which oil spreads westward from the Straits along the shore of Lake Michigan and reaches Wisconsin. This scenario would cause anticipated damages of around $1.37 billion in total." 12 Tr 1718. Mr. Warner testified that according to the Risk Analysis, the study was based on an accumulation of worst-case assumptions and does not include any notion of probability.

Mr. Warner stated that "[i]n 2017 and 2018, the Technical Team provided support in the State's development of the three agreements between Enbridge and the State of Michigan relating to Line 5 . . . ." 12 Tr 1715. He noted that pursuant to the stipulations set forth in the First Agreement executed in 2017, the State of Michigan and Enbridge agreed to "complete a report that assesses options to mitigate the risk of a vessel's anchor puncturing, dragging, or otherwise damaging the Dual Pipelines." Exhibit A-8, p. 4. Accordingly, Mr. Warner stated that the Technical Team employed an engineering company to assist in conducting the required study. 12 Tr 1720. He testified that the report concluded that a protective cover of gravel and rock of 72 feet in diameter and 6 feet in depth over the dual pipelines would be the most effective barrier to protect against an anchor strike. Mr. Warner stated that "this type of covering would cost approximately $150 million to install along the entire length that the Dual Pipelines are exposed

RECEIVED by MSC 11/14/2025 2:10:18 PM

on the lakebed" and that it would result in a 99% reduction in the risk of an anchor strike. 12 Tr 1721. However, he noted that the "the protective barrier would eliminate the ability to visually inspect the outside of the pipeline using a remote operated vehicle (ROV) or with divers as is done currently." 12 Tr 1721. Mr. Warner testified that if the protective barrier is installed, Enbridge would have to inspect the integrity of the dual pipelines using in-line inspection (ILI) tools. In addition, he asserted that the "installation of the barrier would likely cause environmental impairments and would require at least 11 state and federal environmental permits and approvals." 12 Tr 1721. Mr. Warner noted that the State of Michigan chose not to support this alternative.

Mr. Warner also noted that pursuant to the stipulations set forth in the First Agreement, the State of Michigan and Enbridge agreed to conduct an evaluation of alternatives for replacing the dual pipelines. He explained that the State of Michigan retained Dr. Mooney, Grewcock Chair Professor of Underground Construction and Tunneling, Colorado School of Mines, and Mr. Cooper, Senior Principal Engineer with HT Engineering, Inc., to provide the Technical Team with subject matter expertise regarding possible replacement alternatives. Mr. Warner stated that with Dr. Mooney's and Mr. Cooper's input, the Technical Team completed a report entitled "Alternatives for replacing Enbridge's dual Line 5 pipelines crossing the Straits of Mackinac" (Alternatives Analysis), which was attached to Enbridge's application as Exhibit A-9. Mr. Warner noted that the Alternatives Analysis "assessed the feasibility of three alternatives for replacing the segment of Line 5 that crosses the Straits:"

> (1) placing a new pipeline or pipelines in a tunnel under the Straits (Tunnel Alternative); (2) installing a new pipeline or pipelines under and across the Straits by the use of a horizontal directionally drilled method (HDD Alternative); and (3) installing a new pipeline or pipelines across the Straits with an open-cut method that includes secondary containment (Open-Cut Alternative).

12 Tr 1722.

RECEIVED by MSC 11/14/2025 2:10:18 PM

According to Mr. Warner, the Alternatives Analysis found that the Tunnel Alternative would be feasible to construct and operate and that a concrete tunnel could serve as an effective secondary containment vessel in the event of a release of Line 5 products from the replacement pipe segment. In addition, he noted that the Alternatives Analysis stated that the Open-Cut Alternative would be safe and feasible, with a 30-inch diameter pipe to carry the hydrocarbon products and a 36-inch diameter outer pipe to contain a release of Line 5 products from the replacement pipe segment. However, Mr. Warner stated that "[t]he study concluded that the HDD Alternative would be technically infeasible based on current technology, primarily due to the diameter of pipe and the length of the drill required." 12 Tr 1723.

Mr. Warner testified that the Staff considered the following alternatives to the Line 5 Replacement Project:

1. No Action Alternative
2. Replacement of the Dual Pipelines using the Open Cut Alternative
3. Replacement of the Dual Pipelines using the HDD method
4. Protection of the Dual Pipelines by installing rock armoring
5. Alternative transportation methods to Line 5 and associated GHG emissions
6. Product switching and alternative fuel sources in the absence of Line 5 throughput.

12 Tr 1726-1727.

Regarding Alternative 1, Mr. Warner explained that "[t]he No Action Alternative assumes that the Replacement Project is not completed as proposed and the Dual Pipelines would not be replaced and decommissioned in the foreseeable future." 12 Tr 1728. He stated that if the dual pipelines continue to operate in an exposed position on the lakebed of the Straits, Enbridge must continue to monitor, maintain, and repair the pipelines. According to Mr. Warner, "to mitigate the risk of anchor strikes, Enbridge is [currently] monitoring vessel traffic by patrolling the Straits. In addition, Enbridge continues to visually inspect the exterior of the pipelines for damage or

RECEIVED by MSC 11/14/2025 2:10:18 PM

unsupported spans. If these events occur, Enbridge would need to complete repairs using divers and vessels anchored in the Straits." 12 Tr 1729. Furthermore, he noted that pursuant to the First and Second Agreements, Enbridge must temporarily discontinue operation of the dual pipelines during "Sustained Adverse Weather Conditions" and notify the State of Michigan. 12 Tr 1729 (citing Exhibit A-8, p. 4, and Exhibit A-10, pp. 4-5).

Mr. Warner asserted that the Staff is not arguing that the continued operation of the dual pipelines presents an acceptable or unacceptable risk to the state of Michigan. Rather, he stated that "the Replacement Project proposed is superior to the no action alternative because it not only reduces the risk of a spill into the Straits, but also eliminates the need to continue most of the measures described above once the Dual Pipelines are decommissioned as planned." 12 Tr 1730.

Regarding Alternative 2, the Open-Cut Alternative, Mr. Warner testified that this alternative is inferior to the Replacement Project because the "the environmental impacts from this alternative would be substantially greater than those resulting from the Tunnel Alternative." 12 Tr 1730. In addition, Mr. Warner noted that another drawback of the Open-Cut Alternative is that without the construction of a utility tunnel, there is no opportunity for third-party infrastructure to be installed.

Mr. Warner testified that Alternative 3, the HDD alternative, is not feasible because of current HDD limitations, as discussed in the Alternatives Analysis. 12 Tr 1730. Regarding Alternative 4, he stated that the Staff considered two options for installing rock armoring for the dual pipelines. However, Mr. Warner contended that "neither rock armoring variation would be a prudent alternative to the Replacement Project" because: (1) rock armoring would not contain a release of Line 5 products from the dual pipelines into the Straits, (2) the rock armoring could damage the pipe exterior, (3) the installation of the rock armoring will disturb the lakebed and require special

RECEIVED by MSC 11/14/2025 2:10:18 PM

permits, and (4) the rock armoring will prevent exterior visual inspection of the dual pipelines. 12 Tr 1731.

Mr. Warner noted that Alternatives 5 and 6 are feasible only if Enbridge ceases operation of the dual pipelines prior to the completion of the Replacement Project. He stated that, "[i]f the Dual Pipelines are allowed to continue operating, a denial of this application by the [Commission] would presumably have no effect on the existing operations of Line 5 and the original approval of Line 5 under Act 16. Therefore, consideration of alternatives to Line 5 or the products transported is neither relevant nor appropriate." 12 Tr 1727. However, Mr. Warner contended that the GHG emissions that relate to the Replacement Project are relevant to the proceeding whether or not the dual pipelines cease operations. He stated that, "[i]f a court determines the Revocation Notice to be valid and forces the Dual Pipelines to cease operation, the GHG emissions associated with Alternatives 5 and 6 may become relevant to the Commission's MEPA obligation as well." 12 Tr 1727.

Mr. Warner noted that in the April 21 order, the Commission stated that it "is interested in evidence that discusses the range of alternatives and environmental impacts that would be relevant in the event that that [sic] Dual Pipelines are shut down prior to completion of the proposed tunnel and Replacement Project." 12 Tr 1708 (citing April 21 order, p. 68). He testified that if the dual pipelines cease operation, an alternative mode of transportation would be needed for Line 5 products. Therefore, he stated that the Staff "reviewed and considered GHG emissions associated with" transporting "the full volume of Line 5, 540,000 [barrels]/day . . . ." 12 Tr 1732.

Mr. Warner also noted that the Staff considered alternative locations for the Replacement Project. However, he stated that "the alignment of the proposed tunnel was already determined through geotechnical analysis and design considerations between the MSCA and Enbridge. Also,

RECEIVED by MSC 11/14/2025 2:10:18 PM

EGLE permits have already been granted based on existing plans for the tunnel alignment." 12 Tr 1732. Moreover, Mr. Warner contended that Enbridge already acquired the property rights to complete the tie-in segments and the installation of the Replacement Project. Therefore, he asserted that the Staff did not identify any feasible routing alternatives.

In conclusion, Mr. Warner stated that:

> the replacement of the Dual Pipelines with a new pipeline in a tunnel below the lakebed serves a public need, is in the public interest, and is the best option out of the alternatives described above. . . . There are no alternatives that would be feasible and prudent when compared to the proposed Replacement Project. While the likelihood of a release from the Dual Pipelines is low, the consequences of such a release could be catastrophic for the Great Lakes, the surrounding region, and Michigan's residents and economy. Replacement of the Dual Pipelines with a pipeline encased in a tunnel would substantially reduce the risk of oil reaching the Straits of Mackinac in the event of a rupture at the Straits crossing. Replacement would reduce the likelihood of damage to Line 5 which could cause a rupture; and mitigate, if not eliminate, the volume of oil that could reach the waters of the Great Lakes in the event a rupture does occur.

12 Tr 1736-1737.

David Chislea testified that he is the Manager of Gas Operations in the Commission's Energy Operations Division.[22] 12 Tr 1746. He sponsored Exhibits S-9 through S-11. Mr. Chislea stated that the purpose of his testimony "is to provide background and expertise relating to the [Commission]'s role in pipeline safety oversight." 12 Tr 1750.

In his testimony, Mr. Chislea explained that PHMSA has the authority to inspect hazardous liquid pipelines in Michigan and enforce pipeline safety regulations for hazardous liquids. He asserted that when a hazardous liquids pipeline is being constructed in Michigan, the Staff "consults with PHMSA to ensure that they reviewed the design, will be inspecting the

[22] On August 15, 2022, the Commission's Gas Operations section was reorganized and renamed the Gas Safety & Operations Division, and Mr. Chislea became the director of the division.

RECEIVED by MSC 11/14/2025 2:10:18 PM

construction, and will inspect ongoing operation and maintenance of the pipeline." 12 Tr 1752. He stated that:

> On March 5, 2021, I sent a request letter to PHMSA outlining Staff's questions to PHMSA regarding the progress of their safety review of Enbridge's filing for the [Replacement] Project. These questions are the questions posed to PHMSA: 1) Based on your review of Enbridge's Act 16 application and supporting testimony and exhibits, will the proposed 30" replacement pipeline comply with design, construction and testing requirements of 49 CFR Part 195 [Part 195]? 2) In light of the proposed 30" pipeline's location in a tunnel across the Straits of Mackinac, do you see any obstacles to compliance with the operation, maintenance, integrity management, corrosion control and emergency response requirements of 49 CFR Parts 194 and 195?

12 Tr 1753; Exhibit S-9. Mr. Chislea noted that on March 26, 2021, PHMSA responded that its review is ongoing and that it did not have a final evaluation or compliance determination at that time. 12 Tr 1753; Exhibit S-10. He stated that on April 16, 2021, the Staff sent another letter to PHMSA inquiring about the date on which PHMSA expected to complete its final evaluation. 12 Tr 1753; Exhibit S-11.

Mr. Chislea noted that on August 26, and September 2, 7-9, 2021, the Staff met with PHMSA to discuss "the design, materials, construction, operations and maintenance, and emergency response of the replacement pipeline." 12 Tr 1754. He asserted that during these meetings, the Staff and PHMSA discussed Enbridge's ability to comply with the safety regulations in 49 CFR 194 and 195 and that "PHMSA did not express any design, construction, or operation issues that would preclude Enbridge from compliance with the pipeline safety regulations." 12 Tr 1754.

According to Mr. Chislea, the Staff plans to continue working with PHMSA on the Replacement Project. He stated that:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> Per 49 U.S.C. 60106 certified state programs are allowed to participate in the inspection of interstate operators. The Staff will continue to coordinate with PHMSA as they perform their safety reviews of the design and construction of the pipeline. PHMSA will be the agency performing inspections on the construction of the [Replacement] Project, though Staff anticipates ongoing communication and participation in these inspections and reviews.

12 Tr 1754.

Alex Morese testified that he is the State Administrative Manager of the Energy Security Section in the Commission's Energy Operations Division. 12 Tr 1762. He sponsored Exhibits S-12 through S-15. Mr. Morese stated that the purpose of his "testimony is to submit information on behalf of Staff relating to greenhouse gas (GHG) emissions associated with Enbridge's Line 5 Straits Replacement Project and alternatives under review." 12 Tr 1766. In addition, Mr. Morese noted that he is a member of the Technical Team and that "[s]ome of the specific topics relevant to [his] participation [in the Technical Team] included alternatives analysis of Line 5, propane and petroleum market analysis, risk analysis of the Straits water crossing, severe weather warnings, and identification of higher risk Line 5 water crossings in Michigan." 12 Tr 1765.

Mr. Morese testified that in the April 21 order, the Commission stated that the scope of this case should include an analysis of alternatives in the event that the Notice is enforced and Enbridge ceases operation of the dual pipelines. He explained that this case "could result in not only the replacement of a segment of pipeline into a tunnel but also a restart of a pipeline system idled by the loss of easement rights. The Commission stated that restarting the pipeline after a closure of the Straits segment should result in a broader Michigan Environmental Protection Act (MEPA) review that includes GHG emissions." 12 Tr 1767. Mr. Morese stated that Weston Solutions, Inc. (Weston) assisted the Staff in determining the environmental impacts of the Replacement Project and the tunnel, including an evaluation of GHG emissions. He testified that

RECEIVED by MSC 11/14/2025 2:10:18 PM

in September 2021, Weston completed a report entitled "Green House Gas Emissions Evaluation," which is set forth in Exhibit S-24.

Mr. Morese explained that with the assistance of Weston, the Staff evaluated GHG emissions in two scenarios: (1) tunnel construction with subsequent pipeline operation within the tunnel and (2) rail and truck transportation of Line 5 products in the event the dual pipelines are no longer operational. However, he clarified that the Staff's analysis does not include "the ecological impacts of burning fossil fuels or the resulting impacts of global climate change . . . because the transportation alternatives in this case will likely result in no significant change to consumption of the primary end products (gasoline, diesel, jet fuel, propane, etc.) thus resulting in no material decrease in GHG emissions from the products being consumed." 12 Tr 1769-1770.

For the Staff's analysis of GHG emissions, Mr. Morese testified that the Staff focused on a 5- to 30-year timeframe because "[i]t is very difficult to speculate what the future holds in regard to technological developments/improvements, availability of energy infrastructure, or petroleum prices within regional markets or on an international scale." 12 Tr 1770. He noted that the Staff provided baseline assumptions to Weston so that it could evaluate the GHG emissions related to alternatives to shipping petroleum products on Line 5. More specifically, Mr. Morese stated that the baseline assumptions are:

> 1) A Line 5 shutdown would not alter the demand at market end points for the product transported on Line 5.
>
> a. Volumes shipped would remain consistent with historical averages and be required in those markets where refining and storage infrastructure resides.
>
> b. GHG emissions will only be calculated between primary beginning and end points of the supply chain.
>
> 2) Natural Gas Liquids (NGLs) would not flow on Enbridge Line 1 from western Canada to Superior, Wisconsin (Superior) following a Line 5 shutdown.

RECEIVED by MSC 11/14/2025 2:10:18 PM

a. NGL or purity propane would be shipped via rail from western Canada to Sarnia, Ontario (Sarnia) and Rapid River, Michigan (Rapid River).

3) Crude oil would still flow on Enbridge Line 1 from western Canada to Superior.

a. Crude oil would be transported via rail from Superior to Marysville, Michigan (Marysville).

4) The primary mode of transportation for crude oil and NGL would be rail.

a. Trucking the volumes transported on Line 5 would not be feasible, except for the Michigan-produced crude oil volumes currently injected into Line 5 at Lewiston, Michigan (Lewiston).

b. Trucking may be used to supplement propane transportation.

12 Tr 1771.

Regarding Assumption 1, Mr. Morese contended that if Line 5 is shut down, he does not expect that fossil fuel extraction, the consumption of fossil fuels, or related GHG emissions will decrease. He stated that "[i]t is reasonable to assume that halting a primary petroleum transportation route/method to the region will not result in a demand reduction for products currently carried by Line 5. Existing and operational liquid pipelines serve solely as a transportation mode and not a determinate of demand." 12 Tr 1772. Mr. Morese asserted that the only method for reducing GHG emissions is to reduce demand for, or consumption of, petroleum products by end users.

Mr. Morese noted that for "the transportation and supply chain beginning and end points . . . for the GHG emissions evaluation," the Staff tried "to select the most feasible routes to transport these products based on current market locations, availability of supply, refining and distribution infrastructure, configuration of the Lakehead system, and previous studies by [Dynamic Risk] and Public Sector Consultants." 12 Tr 1772-1773 (footnotes omitted). In addition, he explained that the Staff selected these routes because the results of the comparison between the pipeline and other

RECEIVED by MSC 11/14/2025 2:10:18 PM

transportation modes are more consistent. However, Mr. Morese stated that "the analysis has also determined a per barrel-mile emission value for each transportation mode (i.e., pipeline, truck, rail) which provides flexibility in analyzing potential routes." 12 Tr 1773.

Regarding Assumptions 2 and 3, Mr. Morese noted that according to Enbridge, if the Line 5 throughput is shut down, NGLs will no longer be transported on Line 1 because NGLs cannot be stored or transported "on any south routes of the Lakehead system." 12 Tr 1773 (footnote omitted). In addition, he stated that "[b]ased on public statements by Plains Midstream (Exhibit S-12), '. . . shutting down Line 5 would result in the inevitable shutdown of Plains facilities at Sarnia, Rapid River, and Superior,' [and] the economic viability of the Superior fractionator is in question should NGL shipments no longer pass through to Rapid River and Sarnia." 12 Tr 1773. Mr. Morese testified that Enbridge may be able to ship NGLs on other pipelines of the Mainline System (Lines 6, 14, and 61) downstream of the Superior Terminal; however, "it would reduce the available capacity to ship crude oil on those lines and would likely require pump station and other upgrades." 12 Tr 1775.

Regarding Assumption 4, Mr. Morese noted that:

> According to research by Dynamic Risk and Public Sector Consultants, the most likely alternate [sic] mode(s) of transportation [of Line 5 products] are by rail for the largest volumes and distances, and truck for shorter volumes and distances. Dynamic Risk considered rail "the most practical and cost-effective" of alternative transportation methods and deemed a truck-only alternative "nonviable."

12 Tr 1774 (quoting Exhibit ELP-24, pp. 349-350) (footnotes omitted). He explained that if the crude oil was to be transported by truck only, it would require 1,800 tanker trucks each day and transload facilities that are able to load 75 tanker trucks per hour, 24 hours per day.

Mr. Morese stated that the pipeline map depicted in Exhibit S-13 "demonstrates that without Line 5 takeaway capacity, there would not be enough available capacity to transport Line 5

RECEIVED by MSC 11/14/2025 2:10:18 PM

volumes on the other pipelines of the Lakehead System and apportionment would be needed." 12 Tr 1776 (footnote omitted). Moreover, Mr. Morese contended that in the Risk Analysis, MTU noted that crude oil refineries are configured to receive a specific mix of light-, medium-, and heavy-weight oils. He asserted that if the mix of oils shipped to refining facilities is altered, production must be reduced until substantial re-engineering of the refining facilities occurs.

Furthermore, Mr. Morese contended that if Line 5 is shut down and alternative modes of transportation are utilized, the price of end products such as gasoline, diesel, jet fuel, and propane will increase. He stated that:

> According to Enbridge's FERC filed tariff for the Lakehead System, the cost to transport light crude oil and NGLs between Superior, WI and the international boundary near Marysville, MI (Line 5) is $1.63 and $1.46 per barrel, respectively. Conversely, the cost to ship an equivalent barrel of petroleum product by rail is estimated to range from $6.49 per barrel ($0.155/gallon) to $7.64 per barrel ($0.182/gallon), on average.

12 Tr 1777-1778 (footnotes omitted).

Mr. Morese also noted that the Alternatives Analysis and London Economics International's (LEI's) "Assessment of Alternative Methods of Supplying Propane to Michigan in the Absence of Line 5" quantified the cost increases for gasoline and propane. He testified that, in the Alternatives Analysis:

> Dynamic Risk estimated the gasoline price impact to Michigan consumers to be an increase of $0.038/gallon in the scenario where an alternative transport mode (rail) is used to transport the volume of crude oil shipped on Line 5. Further, [Dynamic Risk] estimate[d] the impact to propane consumers to be $0.026/gallon and between $0.10 – $0.35/gallon (dependent upon scenario) for lower and upper peninsula consumers, respectively. LEI did not publish estimates for cost impacts to gasoline but estimated that the propane price impact would be $0.11/gallon (of which $0.05/gallon would be borne by Michigan U.P. consumers) based on the lowest cost alternative. LEI further contends that the price impact to Lower Peninsula propane consumers may be negligible.

RECEIVED by MSC 11/14/2025 2:10:18 PM

12 Tr 1778. Mr. Morese contended that these price increases are not likely to curtail current utilization of end-use products, explaining that "[c]onsumption of gasoline, diesel, jet fuel, and propane are relatively price inelastic. This means that it takes rather dramatic price movements for consumers to alter their purchasing habits." 12 Tr 1779. Therefore, Mr. Morese concluded that the GHG emissions associated with extraction and end use should remain static if the throughput on Line 5 is eliminated.

Next, Mr. Morese explained that the primary end products that are shipped on Line 5 are: (1) propane for "home heating and cooking" and for "transportation and crop drying;" (2) butane, which is primarily used as "a motor gasoline blending component, but also as a commercial and industrial fuel source;" and (3) crude oil that is primarily used "as the feedstock for refinery operations which produce a wide range of petroleum end products such as gasoline, diesel, jet fuel, and propane." 12 Tr 1780. He noted that according to U.S. Census Bureau data, "approximately 326,681 Michigan households use bottled, tanked, or LP [liquified propane] gas (propane) as their primary heating source." 12 Tr 1780 (footnote omitted). Mr. Morese stated that Line 5 provides 42.9% of the propane supply for Michigan's Lower Peninsula and 87.6% of the propane supply for Michigan's U.P. He asserted that if the propane from Enbridge's Superior fractionator is included in the calculation, the U.P. estimate increases to 93.8%.

Mr. Morese testified that in the short- or medium-term, it is not feasible for the majority of customers who purchase Line 5 propane to switch to natural gas for home heating and other fuel needs. He asserted that:

> Propane is commonly used in rural areas of the state where natural gas infrastructure is not present, nor economical, to build out given the population density. Where natural gas main line extensions are considered/implemented, costs are shared amongst residents along the specified route and commonly reach thousands of dollars per customer. Additionally, any upgrade required for propane appliances (i.e., furnace, stove/oven, dryer, water heater) would likely be cost

RECEIVED by MSC 11/14/2025 2:10:18 PM

> prohibitive for most consumers. The EIA [United States Energy Information Administration], in their 2021 Annual Energy Outlook (AEO) Assumptions, list the installed cost for a natural gas furnace to range between $2,050 and $3,040. Costs associated with other appliances (~$3,110) are detailed in the table below. Whether a propane appliance requires replacement vs. installation of a fuel conversion kit is highly dependent on the age of the appliance.

12 Tr 1781-1782 (footnotes omitted). Additionally, Mr. Morese opined that if propane or natural gas customers were to switch to electric heat, "such as an air-source heat pump," there will likely be reductions in GHG emissions. 12 Tr 1782. However, he contended that switching to electricity for home heating and other energy needs is not an economical alternative for a majority of propane customers. Mr. Morese stated that "according to the American Council for an Energy-Efficient Economy (ACEEE) for northern midwestern climates such as Michigan, there is no payback over the lifecycle of the appliance" for switching to an electric air-source heat pump. 12 Tr 1782.

Mr. Morese testified that the consumption of liquified petroleum gases, jet fuel, and distillate fuel oil is projected to increase between 2020 and 2050. However, he noted that the consumption of motor gasoline is to remain static for the next 30 years, explaining that according to the U.S. Department of Energy and the "Electric Vehicle Cost-Benefit Analysis" conducted by M.J. Bradley & Associates LLC, electric vehicle adoption is expected to increase between 2020 and 2050. 12 Tr 1783-1788. Nevertheless, Mr. Morese stated that based on the AEO, "[i]t is evident that the EIA expect[s] conventional fueled vehicles to still have a considerable market share in the long-term." 12 Tr 1784.

If throughput on Line 5 is unavailable, Mr. Morese stated that alternative modes of transportation such as rail and truck will be necessary to transport petroleum. To determine the GHG emissions related to these alternative modes of transportation, he explained that:

> Using the baseline parameters established by the [Staff] (detailed in [12 Tr 1771-1772]), Weston sought to determine variables (i.e., shipping distance, approximate weight of products, size and number of vehicles required, equipment used, etc.)

RECEIVED by MSC 11/14/2025 2:10:18 PM

> required for use in the GHG Emissions from Transport or Mobil Sources tool by the Greenhouse Gas Protocol [GHG Protocol] and the World Resources Institute. These inputs were then used to calculate approximate GHG emissions associated with transporting petroleum via rail and truck.

12 Tr 1789 (footnote omitted). He also stated that Weston calculated the GHG emissions associated with the construction of the tunnel for the Replacement Project by analyzing the equipment used for excavation, transportation, boring, and overall tunnel construction. Further, Mr. Morese asserted that using the data provided by Enbridge, Weston calculated the GHG emissions related to transporting petroleum on Line 5. He contended that "[t]his allows for a direct comparison of emissions associated with transportation of products between beginning and end points while providing flexibility to adjust those pathways while maintaining a basis for comparison." 12 Tr 1789.

Next, Mr. Morese stated that Weston used the GHG Protocol model "to estimate the emissions associated with transporting crude oil, NGL, and propane between critical refining and distribution hubs via different modes of transport. Staff calculated two additional routes to provide more flexibility to the NGL/propane analysis." 12 Tr 1790. He noted that to assist in the Staff's evaluation, Weston calculated the GHG emissions per-barrel-mile value for each proposed route or mode of transport. Mr. Morese asserted that pursuant to Weston's analysis, transporting petroleum products via rail, rather than by truck, produces significantly less GHG emissions. 12 Tr 1790.

In conclusion, Mr. Morese stated that Weston's analysis demonstrates that the GHG emissions associated with transporting petroleum products via rail or truck are substantially more than the GHG emissions related to shipping the same amount of petroleum products on Line 5. He contended that the Staff would "like to emphasize the following observations and conclusions:"

> 1) The appropriate framework for evaluating GHG emissions for the alternatives before the Commission should be bounded by transportation methodology only. If Line 5 throughput is unavailable, the extraction, refining, and consumption of

RECEIVED by MSC 11/14/2025 2:10:18 PM

petroleum is unlikely to change significantly, therefore resulting in similar GHG emissions for these activities.

2) While the potential for Michigan residents and businesses to shift to natural gas or electricity for space heating and other appliances is technically possible, this transition will come at a significant financial cost without appropriate incentives and/or policy changes. Based on prior research by Public Sector Consultants, approximately 45% of Michigan's propane volume is derived from Line 5. Considering an approximate cost of $8,000 per household, it would cost over [$]1.1 billion dollars to shift 45% of Michigan's 327,000 propane households to an alternative. This transition would likely take a considerable amount of time to accomplish due to supply chain considerations, technical workforce availability, and financial requirements, making this infeasible over the short term.

3) The ongoing transition to light duty [electric vehicles] will likely reduce Michigan's demand for motor fuels (gasoline and diesel) in decades to come but is currently not a viable alternative to the products shipped on Line 5. Infrastructure improvements such as increased charging stations, home electrical system upgrades (meter, charger, panel), and grid improvements are needed to realize this potential. Current and projected sales of traditional internal combustion engines along with the resiliency of these vehicles within the automotive fleet reinforce the continued need for access to fossil fuels in the short to medium term.

4) Utilizing truck and rail as alternative modes of transport if throughput on Line 5 ceases will lead to an increase in GHG emissions. Based on the table above [set forth in testimony], GHG emissions associated with moving an equivalent volume of petroleum through a combination of rail and truck will result in approximately 160 percent more GHG emissions than the shipment of these products via pipeline.

5) Staff concludes that when considering the alternatives, pipeline transportation of the petroleum products in consideration will result in the least GHG emissions and is therefore the most feasible and prudent alternative as required for consideration under MEPA.

12 Tr 1791-1792.

Daniel N. Adams stated that he is a Tunnel Engineer and Chief Executive Officer of McMillen Jacobs Associates. 12 Tr 1811. He sponsored Exhibits S-16 and S-17. Mr. Adams testified on behalf of the Staff, stating that the purpose of his "testimony is to address concerns on risks of leakage from the tunnel in the event that the pipe within the tunnel leaks." 12 Tr 1814. He

RECEIVED by MSC 11/14/2025 2:10:18 PM

explained that Exhibit S-16 is a "whitepaper" that was prepared under his direction and review that:

> documents our assessment of several items that limit the potential for escape of petroleum fluids from the tunnel in the event of a pipe rupture within the tunnel. These items, in order of their effectiveness preventing materials from escaping the tunnel, are external hydrostatic pressures, gasketed segmental lining, annular grout, rock cover, and soil cover. The external hydrostatic pressure and gasketed segmental lining provide the most effective means of secondary containment, and result in a very low probability of fluids escaping from the tunnel.

12 Tr 1814.

Mr. Adams testified that Exhibit S-17 is a geotechnical data report provided by Enbridge that explains the drilling investigation, describes the expected geologic conditions, and includes a graphic model that details the bedrock formations along the proposed tunnel route. He stated that "[t]his document was used to determine ground conditions at tunnel level and above the tunnel, for purposes of determining secondary containment provided by the ground." 12 Tr 1815. In addition, Mr. Adams asserted that he reviewed Enbridge's "Report to the State of Michigan Alternatives for Replacing Enbridge's Dual Line 5 Pipelines Crossing the Straits of Mackinac" (Exhibit A-9), which describes the feasibility of constructing the tunnel and the proposed construction methods. He testified that "[t]his report discussed the use of precast concrete tunnel linings (PCTL) with gaskets as both a short and long term lining system. This system has a proven record for providing a stable and mostly watertight tunnel system." 12 Tr 1816.

Mr. Adams noted that, according to Enbridge, the cavity for the tunnel will be excavated using a slurry TBM. He stated that the TBM "will be launched from the south side of the straits from a portal excavation, and will excavate north across the Straits. The TBM will install a gasketed segmental [PCTL] within the TBM, and push off of the assembled lining to advance the TBM and tunnel excavation." 12 Tr 1817. Mr. Adams explained that the small ring-shaped void between

RECEIVED by MSC 11/14/2025 2:10:18 PM

the PCTL and bedrock will be filled with backfill cement grout as the TBM advances, which will lock the PCTL in place. 12 Tr 1817. He contended that:

> The TBM will excavate with full face pressure, matching the external hydrostatic pressures and anticipated ground loads, throughout the drive. For planned or unplanned maintenance stops, either work will be performed under hyperbaric pressures within the front of the machine to balance external pressures; or a "safe haven" will be created to limit risks of instability and/or excessive inflows in non-pressurized conditions. The TBM will be retrieved from a shaft on the north side of the Straits.

12 Tr 1817. Mr. Adams stated that after reviewing Enbridge's proposed construction method for the Replacement Project, he finds that there is a low risk that Line 5 products will escape the secondary containment tunnel in the event of a rupture of the replacement pipe segment.

Mr. Adams noted that he did not attend the Commission's July 27, 2021 technical consultation between the Staff and Michigan's federally recognized Tribes, but stated that he was briefed on the proceedings by his project manager. He stated that "[i]ssues that were raised during the meeting were directly answered" and that none of the issues required additional reviews. 12 Tr 1818.

In conclusion, Mr. Adams contended that there are no feasible and prudent alternatives to Enbridge's proposed Replacement Project relating to secondary containment. He testified that "[t]he construction techniques proposed represent the state of the art in the industry for secondary containment, and have been developed to deal with anticipated ground conditions, with mitigation measures for unanticipated conditions." 12 Tr 1818.

Chris Douglas stated that he is a Project Manager/Environmental Consultant at Weston. 12 Tr 1822. He sponsored Exhibit S-18. Mr. Douglas testified that he is:

> providing expert witness testimony on behalf of Staff based on reviews or document preparation completed by [him] or under [his] supervision. The subject matter of these reviews includes environmental reviews of specific project related documents for compliance with MEPA, high level review of EGLE permits, Tribal Treaty Rights and Resources, and preparation of a Greenhouse Gas (GHG) Emissions Evaluation. As project manager for Weston's work with Staff, [he is]

RECEIVED by MSC 11/14/2025 2:10:18 PM

> also providing an overview of topics covered by other Weston experts and their testimony.

12 Tr 1828. He explained that Exhibit S-18 is a summary of Weston's review of EGLE's permits, which includes the NREPA Parts 303 and 325 permits and the NPDES Part 31 permit for the Replacement Project. Mr. Douglas asserted that although he reviewed Enbridge's application, Mr. Turner's testimony, and the EIR set forth in Exhibit A-12, his testimony focuses primarily on the NREPA and NPDES permits.

Mr. Douglas testified that "Weston provided a high-level review of the permits. Two Weston staff subject matter experts (one in wetlands and one in NPDES/surface water discharge) conducted the reviews under [his] supervision." 12 Tr 1832. In addition, Mr. Douglas noted that he personally reviewed the permits to ensure that Weston had a comprehensive understanding of the Replacement Project. He stated that Weston presumes that the permits were appropriately reviewed and approved by EGLE and that the permits comply with state and federal regulations. Mr. Douglas asserted that "[t]he purpose of Weston's high-level review of the permits was to identify any environmental issues that may not have been addressed in the permitting process without duplicating efforts by other agencies (i.e., EGLE Water Division, etc.)." 12 Tr 1832-1833.

According to Mr. Douglas, Weston found that the EGLE permits addressed impacts to wetlands, surface water, endangered species, submerged lands, and local culture and archeology. In addition, he contended that the EGLE permits specify discharge requirements, biological assessments, and wetland mitigation. However, Mr. Douglas stated that Weston identified several potential environmental impairments that may result from the Replacement Project: (1) "increased noise, light, and particulates, surface water impacts, groundwater impacts, impacts to flora and fauna;" (2) "noise impacts to aquatic life, light impacts due to construction, potential release of hazardous materials, disturbances to shipping and vehicular traffic;" and (3) possible impairments

RECEIVED by MSC 11/14/2025 2:10:18 PM

to cultural and archeological resources. 12 Tr 1833-1834. Nonetheless, he asserted that Weston did not identify any issues or environmental concerns relating to the permits so long as Enbridge complies with the monitoring, reporting, and screening requirements set forth in the permits; follows all special instructions; and executes all required mitigation measures. Mr. Douglas noted that Weston's conclusions regarding the permits are set forth in Exhibit S-18.

In conclusion, Mr. Douglas asserted that there are no feasible and prudent alternatives to the location, the land requirements, or the construction techniques for the Replacement Project.

Kathleen Mooney stated that she is an Environmental Consultant at Weston. 12 Tr 1839. She sponsored Exhibits S-19 through S-21. Testifying on behalf of the Staff, Ms. Mooney explained that:

> Weston was tasked with review of Enbridge's EIR which is a 102-page document that describes the potential environmental impacts and the measures that Enbridge proposes to use to mitigate those impacts during construction of the replacement pipeline. Construction of the tunnel and decommissioning of the dual pipelines were outside of the scope of the EIR. As previously noted, Weston's original SOW [scope of work] only included the replacement pipeline installation and not the tunnel construction. However, review of potential impacts of the tunnel construction was later added to Weston's SOW. Weston reviewed the EIR to determine if any potential environmental impacts were not addressed in the document.

12 Tr 1845-1846.

Ms. Mooney testified that she reviewed the location and land requirements for the Replacement Project and the pipeline tie-in segments. She stated that "[t]he proposed Tunnel Alternative would require 10-15 acres of workspace on the north shore, and 2-8 acres on the south shore. Disturbed onshore areas would be reclaimed after construction with [a] permanent operational footprint remaining of up to one acre at entry and exit locations where aboveground portal structures would be built." 12 Tr 1847-1848. Ms. Mooney explained that to construct the 21-foot diameter tunnel, Enbridge would bore up to 371 feet below the lakebed of the Straits and

RECEIVED by MSC 11/14/2025 2:10:18 PM

line the tunnel with concrete. She noted that there will be tunnel access portals on the north and south shores of the Straits.

However, Ms. Mooney contended that her review revealed several environmental issues and missing details in the EIR. She stated that "[a]fter completion of the review, [she] assisted Chris Douglas of Weston in preparing discovery questions, which were submitted by [the Commission] Staff to Enbridge (Responses attached as Exhibits S-19 and S-21). These questions requested additional information from Enbridge about control of potential environmental impairments." 12 Tr 1846. She asserted that Weston reviewed Enbridge's discovery responses and determined that some questions were inadequately answered and recommended that the Staff follow-up with additional discovery requests. Ms. Mooney contended that after a review of the discovery responses to the follow-up request, Weston found that Enbridge failed to fully answer the questions and, therefore, Weston was unable to "completely evaluate the potential environmental impairments associated with the project. Weston has identified the following potential environmental impairments as a result of the project if adequate preventative measures are not planned, executed, monitored, and documented prior to, and during, the project:"

1. Increased noise generated from construction operations that may impact nearby residences and fauna.

2. Increased dust/particulates generated during construction that may impact nearby residences and fauna and possibly impact surface water.

3. Increased light generated from construction operations that may impact nearby residences and fauna.

4. Increased light from construction and operation of the project that could have potential impacts to the Headlands International Dark Sky Park located south and west of the southern workspace.

5. Surface water impairments:

    a. Impacts such as dewatering operations during construction of the tunnel.

RECEIVED by MSC 11/14/2025 2:10:18 PM

b. Impacts associated with construction equipment traffic.
c. Impacts associated with using lake water for hydrostatic testing of the pipe.

6. Environmental impairments to local residences and fauna associated with construction.

7. Air quality impacts associated with use of additional internal combustion engines during construction and operation.

8. Groundwater impacts:

   a. Impacts to groundwater during construction due to spills of hazardous materials from construction equipment.
   b. Impacts to drinking water wells due to construction.
   c. Impacts to shallow groundwater aquifers and groundwater quality during trenching, excavation, and backfilling maintenance activities.
   d. Impacts to surface drainage and groundwater recharge patterns altered by clearing, grading, trenching, and soil stockpiling activities, potentially causing minor fluctuations in groundwater levels and/or increased turbidity, particularly in shallow surficial aquifers.
   e. Reduced infiltration and increased surface runoff and ponding due to soil compaction caused by heavy construction vehicles.

9. Environmental impacts to surface soils, vegetation, and surface water due to storage and handling of fuels/hazardous liquids during construction and operation.

10. Impacts to local flora and fauna due to the introduction of aquatic invasive animals and plants during construction.

12 Tr 1848-1849. She recommended that "Enbridge develop, document, and implement specific plans and procedures to mitigate impairments and prevent significant environmental impacts for the potential impacts noted above. Weston recommends that the plans and procedures for the project should be specific and address each of the potential impacts." 12 Tr 1851-1852. However, Ms. Mooney concluded that she did not identify any feasible and prudent alternatives to the location, land requirements, and construction techniques for the Replacement Project.

Philip Martin Ponebshek stated that he is a Project Manager at Weston. 12 Tr 1855. He sponsored Exhibits S-22 through S-24. Mr. Ponebshek testified on behalf of the Staff, stating that

RECEIVED by MSC 11/14/2025 2:10:18 PM

the purpose of his testimony is to review "Exhibit A-9, 'Alternatives for Replacing Enbridge's Dual Line 5 Pipelines Crossing the Straits of Mackinac, dated June 15, 2018'" and related discovery responses from Enbridge. 12 Tr 1862. He explained that his review of Exhibit A-9 was to determine whether the Alternatives Analysis presented accurate and appropriate information about the feasible alternatives to the dual pipelines and whether the Replacement Project is the best choice among the alternatives.

Mr. Ponebshek stated that there are three construction methodologies for replacing the dual pipelines presented in the Alternatives Analysis: (1) the Replacement Project, (2) the open cut with secondary containment alternative, and (3) HDD. 12 Tr 1864. He noted that for the Replacement Project:

> the TBM would drill through the solid rock and unconsolidated materials beneath the Straits using a pressurized slurry to maintain the integrity of the tunnel at the TBM cutterhead as well as facilitate excavation. A slurry and rock mixture produced by the excavation would be routed via dedicated pipe back through the tunnel to the on-shore facilities, where the slurry would be treated to remove spoils prior to reuse. As construction proceeds, precast concrete tunnel lining would be brought into the tunnel behind the TBM and installed and sealed with rubber gaskets to maintain tunnel integrity. Immediately ahead of the TBM, test probes would be used to assess the nature and integrity of the geologic formations, and as needed grouting would be injected into less consolidated materials to present a more consistent matrix for the cutterhead to encounter, reducing the probability for formation collapse and tunnel flooding. As the tunnel lining is completed, pipeline segments will be tied-in via welding at the south end of the tunnel, and advanced through the tunnel on permanent rollers.

12 Tr 1865.

For the open cut with secondary containment alternative, Mr. Ponebshek stated that there are two options. He explained that the first option is to cut a trench from the shoreline through the lakebed to a point where the water depth is 30 feet. Mr. Ponebshek asserted that at the 30-foot water depth, the pipeline will be laid on the surface of the lakebed and covered with an engineered gravel and cobble layer that is six- to eight-feet deep. 12 Tr 1866. He contended that "the cover

RECEIVED by MSC 11/14/2025 2:10:18 PM

would minimize risk of impact from anchor drops and other factors. To further minimize the risk of loss of product to the environment, this alternative would rely on a pipe in pipe design, whereby a 30 inch diameter product pipe would be strung within a 36 inch secondary containment pipe." 12 Tr 1865. Mr. Ponebshek explained that the second option is to cut a trench through the lakebed for the entire pipeline. He stated that, "[w]hile feasible, Option 2 was discarded from detailed analysis for a number of reasons including complexity of trenching at a 250 foot depth below water level, environmental impacts related to turbidity and dredge material handling, impacts to ship traffic in the Straits, and high likelihood of hard soils on the lakebed." 12 Tr 1865-1866.

Mr. Ponebshek testified that the third alternative, directional drilling of the entire pipeline length under the lakebed of the Straits, is not feasible. He noted that "[t]he depth of the Straits would not allow for staging to conduct the drilling in segments, while the overall length of the crossing exceeds current directional drilling technology capabilities." 12 Tr 1866.

Mr. Ponebshek asserted that in reviewing the Replacement Project and the open cut with secondary containment alternative, he determined that the potential impacts to the environment for both alternatives were similar. He explained that there will be "significant underwater noise levels" as a result of trenching, dredging, filling, leveling, and laying pipeline, which will "directly disturb fish and benthic organisms, and would impact diel vertical migrations of organisms such as zooplankton." 12 Tr 1867. He recommended the use of silt curtains to mitigate the effects of turbidity in the water, and that Enbridge should avoid trenching and dredging during Lake Trout and Lake Whitefish spawning seasons. In addition, Mr. Ponebshek noted that the construction process may disrupt navigation in the Straits during construction and, in the long term, pipeline inspection may interfere with shipping lanes. He stated that the Replacement Project and the open cut with secondary containment alternative may disturb shoreline and shallow water habitat and

RECEIVED by MSC 11/14/2025 2:10:18 PM

may "release into the water . . . hazardous materials/hazardous waste currently present in lakebed soils during construction." 12 Tr 1867. Furthermore, he testified that the Replacement Project or open cut with secondary containment alternative may disrupt local traffic because of the onshore land requirements for "stringing of pipeline segments," and cause visual environmental impairment "from lighted platforms and vessels used for offshore construction." 12 Tr 1867-1868.

Mr. Ponebshek asserted that, as set forth in Exhibit A-9, there are several measures to mitigate the environmental impairments associated with the open cut with secondary containment alternative. However, he stated that:

> many of the potential impacts and mitigation measures were not completely reviewed in this document because they would require additional studies which have not yet been performed (e.g. – an assessment of potential noise impacts on aquatic organisms would require detailed background noise modeling, as well as a comprehensive cataloguing of the species which may be affected by construction noise as well as the levels of underwater noise which may disturb their functions). If the Open Cut with Secondary Containment Alternative were to become the preferred Alternative, it is anticipated that additional studies would identify and quantify more potential impacts which would require a refinement of currently proposed mitigation measures as well as likely additional measures.

12 Tr 1868.

In addition, Mr. Ponebshek asserted that he has not identified any feasible and prudent alternatives for the location, land requirements, and construction techniques for the Replacement Project and the open cut with secondary containment alternative. He stated that "[t]his determination is made in the absence of a number of additional studies not conducted which would still be necessary to fully catalogue the environmental impacts of the Open Cut with Secondary Containment alternative. It is very likely that those additional studies would further expand the difference in expected environmental impacts between the two feasible alternatives." 12 Tr 1870-1871. Therefore, Mr. Ponebshek contended that the Replacement Project is "the more prudent of the two feasible alternatives." 12 Tr 1871.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Next, Mr. Ponebshek testified that Weston reviewed the GHG emissions associated with the Replacement Project and Line 5. Mr. Ponebshek stated that he analyzed "the following scenarios associated with alternative modes of transportation:"

1. Existing Enbridge Line 5 Pipeline.
2. Construction of Tunnel and Enbridge Line 5 Replacement Pipeline.
3. Operation of Enbridge Line 5 Replacement Pipeline within Tunnel.
4. Shut down of Enbridge Line 5 Pipeline and alternate [sic] modes of transporting liquid products comparing:
   a. Rail.
   b. On-Road Tanker Trucks – Lewiston, Michigan to Marysville, Michigan component, only.

12 Tr 1871. He noted that for the Replacement Project, Weston calculated the emissions from the use of diesel- and gasoline-powered construction equipment to clear the land and construct the tunnel, the emissions from the continued operation of the dual pipelines during construction, and the emissions from the use of Line 5 after construction of the Replacement Project.

Mr. Ponebshek testified that "[t]he greenhouse gas impacts from various transportation alternatives were estimated by evaluating the shortest distance road or rail routes available, and in combination with the weight of the product to be transported via each alternative entered into the Greenhouse Gas Protocol 'GHG Emissions from Transport or Mobil Sources' Calculation Tool (GHG Calculation Tool)." 12 Tr 1872. He explained that the GHG Calculation Tool is a standard model used widely by industry experts to calculate GHG emissions from various industrial and transportation activities. Mr. Ponebshek noted that Weston authored a report that explains the assumptions, methodology, data, and calculations used to analyze the GHG emissions, which is set forth in Exhibit S-24. 12 Tr 1872. He stated that according to the report in Exhibit S-24, the existing Line 5 pipeline emits approximately 209,854 metric tonnes of carbon dioxide (CO_2) equivalent (tCO_2e) per year. *See*, Exhibit S-24, p. 3. Mr. Ponebshek asserted that the report also states that during construction of the Replacement Project, approximately 6,036 tCO_2e per year

RECEIVED by MSC 11/14/2025 2:10:18 PM

will be emitted as a result of construction activities each year. *Id*. He noted that after the Replacement Project is complete, the report asserts that the GHG emissions will be the same as the existing Line 5 GHG emissions: 209,854 tCO_2e per year. However, he averred that if Line 5 is shut down and rail transportation of the products is required, the report states that GHGs will be emitted as follows: (1) crude oil, 501,255 tCO_2e per year; (2) NGLs on Line 1, 193,060 tCO_2e per year; (3) NGLs from the pipeline origin to Sarnia, Ontario, 36,246 tCO_2e per year; (4) NGLs from Conway, North Dakota to Sarnia, Ontario, 80,734 tCO_2e per year; and (5) purity propane, 4,446 tCO_2e per year. Mr. Ponebshek stated that if Line 5 is shut down and tanker truck transportation of crude oil from Lewiston, Michigan to Marysville, Michigan is required, the report asserts that 44,283 tCO_2e will be emitted each year.

In conclusion, Mr. Ponebshek testified that a more detailed risk management plan should be provided to the State of Michigan prior to construction of the Replacement Project. He explained that:

> [t]his plan would include a description of the planned geotechnical test bores and frequency of probe-hole testing ahead of the TBM and should include reporting of both test-bore data and probe-hole data in real time so that the State can assess risks and construction plan modifications based on the data. The plan should also include inspections for concrete cast sections prior to moving them into the tunnel and after being put into place, placement of gaskets, regular analyses of bentonite mix properties, changes in slurry pressure. Deviations from and modifications to the plan during the construction process should be reported and available for public review.

12 Tr 1872-1873.

Wilson Yee stated that he is an environmental scientist and Project Manager for Weston. 12 Tr 1649. He sponsored Exhibit S-25. Mr. Yee testified on behalf of the Staff, stating that he:

> was asked to participate in a tribal consultation meeting on behalf of [the Commission] Staff and review seven documents either in full or selected pages identified by [the Commission] Staff that were relevant to the scope of Weston's review, which included cultural, spiritual, and economic resources, as well as treaty

RECEIVED by MSC 11/14/2025 2:10:18 PM

> rights. The purpose of [his] involvement in the tribal consultation and [his] document review is to identify tribal treaty rights concerns and assist the [Commission] with ensuring consistency with Michigan's tribal consultation directive.

12 Tr 1653.

Mr. Yee explained that Exhibit S-25 is a summary of comments and recommendations that were collected by the Staff during the tribal consultation, "including potentially new information regarding cultural resources, treaty rights and traditional cultural interests, and environmental concerns." 12 Tr 1653. Mr. Yee asserted that the Commission should consider these recommendations "to ensure consistency with ongoing tribal treaty rights, environmental impact, and/or cultural resource impact analyses being conducted by USACE and other federal, tribal, and state parties." 12 Tr 1653. He stated that his review focuses on whether the comments relating to tribal interests have been addressed or will be addressed by other state and federal agencies. Further, Mr. Yee testified that his review analyzed whether there was additional information needed for the Commission to make its final determinations.

Mr. Yee noted that he reviewed the NPDES permit; the January 29, 2021 Draft Permit for Countersignature; and the "federal requirements for compliance with [Part 404 of the Clean Water Act (CWA), 33 USC 1344, and Part 402 of the CWA, 33 USC 1342], Section 106 of the National Historic Preservation Act [54 USC 306101], Section 7 of Endangered Species Act [16 USC 1536], and treaty rights in general." 12 Tr 1654. According to Mr. Yee, he was unable to fully evaluate the impact of the Replacement Project to wetlands because Enbridge provided an incomplete wetland survey. Furthermore, he asserted that the Replacement Project may impact rare or unique coastal habitats, shoreline alvar, Great Lakes cobble beach, lake bottomlands, and cultural and historical resources. In conclusion, Mr. Yee testified that Exhibit S-25 "contains a list of all

RECEIVED by MSC 11/14/2025 2:10:18 PM

recommendations for addressing comments as part of the [Commission]'s tribal consultation process." 12 Tr 1655.

3. Little Traverse Bay Bands of Odawa Indians

Kevin Donner testified that he is the Great Lakes Fisheries Program Manager for LTBB. 9 Tr 1172. He sponsored Exhibits LTBB-KD-1 through LTBB-KD-3. Mr. Donner stated that he works with the Chippewa Ottawa Resource Authority (CORA) Biological Service Division, which includes members of LTBB, Little River Band of Ottawa Indians, GTBOC, Bay Mills, and the Sault Ste. Marie Tribe of Chippewa Indians.

In his testimony, Mr. Donner described the types of fish that tribally licensed commercial fishers harvest in the Straits and the types of fish that tribally licensed subsistence fishers harvest in the Straits, as well as the plant and animal species that these fish rely on for food. 9 Tr 1173-1174. He asserted that the commercial and subsistence records set forth in Exhibit LTBB-KD-2 were compiled by biologists from all of the CORA member tribes. According to Mr. Donner, Exhibit LTBB-KB-2 reflects the monetary value of the fishery by grid and Exhibit LTBB-KD-3 depicts the fish spawning grounds in the Straits. 9 Tr 1174.

Mr. Donner opined that "[d]estruction or impairment of spawning grounds will negatively impact recruitment/reproduction rates," which will lead to reductions in species population in the long term. 9 Tr 1177. Referring to the Line 5 Project, Mr. Donner testified that:

> The proposed activities include discharge of wastewater directly into Lake Michigan both during construction and during regular operations thereafter. The chemical composition of this wastewater has not been disclosed, so [it] could contain chemical compounds that have direct and indirect effects on fish health, the edibility of fish, and the ability of tribal fishers to market Great Lakes fish and therefore effectively conduct the Treaty fishery. . . . The proposed activities also indicate that operational byproducts may be part of the wastewater though the specific nature of those byproducts has not been disclosed. Without information on the byproduct we are unable to fully account for potential contaminant related effects of the project. However we can conclude that these activities elevate the

RECEIVED by MSC 11/14/2025 2:10:18 PM

> risk of introducing non-natural and man-made contaminants to the water which, in turn, may be directly accumulated by fish and indirectly accumulated through bioaccumulation in the food web.

9 Tr 1177-1178. In conclusion, Mr. Donner requested a "comprehensive accurate accounting of the chemical composition and volumes" of wastewater discharge associated with the replacement of the dual pipelines to fully understand and account for the potential environmental impacts. 9 Tr 1178.

Melissa Wiatrolik stated that she is the Tribal Historic Preservation Officer/Tribal Officer for Native American Graves Protection and Repatriation Act, and Tribal representative to the Michigan Anishinaabek Cultural Preservation and Repatriation Alliance (also known as the THPO/NAGPRA/MACPRA officer) for LTBB. 9 Tr 1181. She testified that the Straits are integral to Odawa history and culture and "[contain] some of the important places where Manidok (spiritual beings) reside who have helped us as a people, but also personally and individually." 9 Tr 1183. Ms. Wiatrolik asserted that the proposed construction activities will "disrupt the ancient relationship that the Odawa have with a Manido known as Mishibizhii," who is known to the Odawa as a malevolent or guardian spirit in the Great Lakes region and who is "principal Manido over all the other underwater and underground animals, fish, Manidok and other creatures." 9 Tr 1185. In addition, Ms. Wiatrolik stated that the fish, plants, and animals that inhabit the Straits have an important relationship with the tribes as food, medicine, and economic commodities.

Ms. Wiatrolik next testified that she has examined the map for the tunnel and Replacement Project and she asserted that the project would disturb Odawa cultural sites. She noted that the tunnel begins on the north side of the Straits near the site of a former Odawa settlement where there are known burials. Ms. Wiatrolik also stated that "many people of the sturgeon clan were

RECEIVED by MSC 11/14/2025 2:10:18 PM

buried in Lake Michigan" and opined that there could be potential disturbances to historic period burials, which could result in the souls of the dead negatively affecting their living relatives. 9 Tr 1185. She explained that:

> Mishibizhii is accustomed to receiving tobacco from the Anishinaabek accompanied with a request usually for safe passage through the waters of the Great Lakes and many other personal needs. The construction activity could confuse him, especially the use of explosives and any machinery activity that makes loud noises or vibrations that resemble the sounds of the Thunder Manidok. Mishibizhii has a long history of a turbulent relationship with the Thunder Manidok and he may not approach the area of those sounds so that the tobacco with its request would not be received by Mishibizhii who would become angered and use his power to cause bad things to happen to the people.

9 Tr 1186.

Eric Hemenway testified that he is the Director of LTBB Repatriation, Archives, and Records. 9 Tr 1188. He stated that the LTBB have historic villages located in St. Ignace, Ainse, Mackinac Island, Mackinaw City, Bois Blanc Island, and Round Island. He provided testimony regarding his knowledge of Odawa burial rituals and locations and the importance of the protection of burial sites in the Straits. Mr. Hemenway noted that he has examined a map of the proposed tunnel and Replacement Project and asserted that the proposed construction activity will disturb Odawa burials, which would be a violation of traditions and religious beliefs. He opined that such violations "create low self esteem, anger and withdrawal within Tribal community members." 9 Tr 1193.

4. Mackinac Straits Corridor Authority

Dr. Mooney testified that he is a Consulting Engineer for MSCA. 9 Tr 1201. He sponsored Exhibits MM1 through MM7. Dr. Mooney stated that he originally served as a tunnel engineering expert for the Michigan Agency for Energy (MAE) during the development of the Tunnel Agreement and later began acting as a consultant to MSCA. He explained that MSCA "is

RECEIVED by MSC 11/14/2025 2:10:18 PM

responsible for overseeing construction and operation of [the] tunnel in bedrock beneath the waters of the Straits of Mackinac. MSCA will own the tunnel after its construction and provide independent oversight throughout its life." 9 Tr 1201. He further stated that MSCA exercises its duties through the MSCA Board, which consists of three members appointed by the governor with the advice and consent of the Senate.

Dr. Mooney opined that the placement of Line 5 inside the tunnel will reduce the risk of petroleum products leaking into the Great Lakes to "practically zero." 9 Tr 1204. He contended that this is a notable reduction in environmental risk compared to the current dual pipelines. Dr. Mooney explained that the tunnel will be designed and constructed according to the criteria established in the Tunnel Agreement and the standards set forth in the design-services request for proposals. He asserted that the tunnel is to have a service life of 99 years and will "be constructed of a suitable structural lining providing secondary containment to prevent any leakage of liquids from the Line 5 Replacement Segment into the lakebed or Straits." 9 Tr 1205. Dr. Mooney noted that once the tunnel is completed, third-party utilities may apply for "access to construct, operate, and maintain utilities inside of the tunnel" under conditions set forth in the Tunnel Agreement. 9 Tr 1214.

Dr. Mooney indicated that he was a member of the joint specifications team (JST), which included Michigan Department of Transportation engineers and consultants and Enbridge's consultants. He testified that the JST developed the Project Specifications that include nine construction specifications for the permanent tunnel structure: "(1) Structural concrete materials; (2) cast-in-place concrete; (3) precast structural concrete; (4) precast concrete tunnel lining; (5) sealing leaks; (6) excavation by tunnel boring machine; (7) backfill grout; (8) bored piles; and (9) diaphragm walls." 9 Tr 1207; *see*, Exhibit MM7. Dr. Mooney explained that pursuant to the

RECEIVED by MSC 11/14/2025 2:10:18 PM

Project Specifications, the tunnel will be constructed using a slurry pressure balance TBM. He stated that the cuttings will be hauled away and the slurry will be recycled and reused. He added that the:

> [PCTL] is installed inside and at the back or tail of the shield. The tunnel process will involve the following repeating sequence: (a) excavate ahead 5.5 ft [feet] using slurry pressure balance with the SPBM [slurry pressure balance machine] pushing off the leading edge of the most recently installed PCTL ring; (b) while excavation is paused and while slurry pressure balance is used, assemble a PCTL ring, approx. 5.5 ft in width, using six PCTL segments. For a tunnel length of approximately 20,000 ft (4 miles), some 3500+ cycles of excavate-ring build will be performed to construct the tunnel.

9 Tr 1210.

Dr. Mooney testified that the designer of the tunnel is Arup, a global engineering firm with extensive experience designing tunnels. He stated that Arup "engaged a number of their top tunnel design engineers, geologists, and hydrogeologists and structural engineers from Asia, Europe, and the Americas to design the project. They also engaged a number of third-party experts to participate." 9 Tr 1211. In Dr. Mooney's opinion, the quality of their work is excellent. Additionally, he explained that he had extensive access to observe and monitor the design process, which he describes as rigorously conducted. Dr. Mooney contended that "some of the particularly challenging aspects" of the design process include the high groundwater pressure, face stability with reduced pressure, and ground characterization. 9 Tr 1212.

Dr. Mooney opined that the tunnel will meet or exceed industry standards. He stated that MSCA will engage a consulting firm to perform independent quality assurance (IQA) throughout construction, which will be paid for by Enbridge per the Tunnel Agreement. Dr. Mooney explained that the IQA contractor is independent of Enbridge's own quality assurance practices and that the IQA contractor "will monitor the construction quality, ensuring that the [tunnel] is constructed in accordance with the jointly developed project specifications and in accordance with

RECEIVED by MSC 11/14/2025 2:10:18 PM

state of industry practice." 9 Tr 1213. He stated that MSCA's acceptance of ownership of the tunnel following construction will be dependent on the IQA contractor's documentation.

Dr. Mooney also testified that Enbridge will develop a Tunnel Operations and Maintenance (O&M) Plan that must be approved by MSCA. He stated that the risks "to the tunnel during the 99-year design service life" include degradation of the concrete and water infiltration through joints or cracks over time. 9 Tr 1216. However, Dr. Mooney contended that the tunnel has been designed with these risks in mind.

In conclusion, Dr. Mooney opined that the tunnel is designed and routed in a reasonable manner. Regarding pollution or impairment of the water in the Straits, he stated that there is no direct construction in the lake and that the high levels of groundwater pressure will be counterbalanced and stabilized, preventing appreciable groundwater inflow into the tunnel and ground destabilization. Dr. Mooney asserted that Enbridge has met every requirement set forth in the Tunnel Agreement, that the tunnel will be safe and constructed to industry standards, and that the new pipeline will be able to be safely laid within the tunnel. 9 Tr 1215-1216.

Mr. Cooper stated that the purpose of his "testimony is to provide pipeline engineering expertise on behalf of [MSCA] regarding Enbridge's application pursuant to Public Act 16 of 1929 to replace and relocate the segment of Line 5 crossing the Straits of Mackinac into a tunnel beneath the Straits." 9 Tr 1235. He noted that he worked part-time for MAE in 2017-2019 and participated in Enbridge's evaluation of replacement alternatives and risks. Mr. Cooper stated that he agrees with the outcome of Enbridge's alternatives study, which demonstrates that the tunnel is the best option. He opined that the Replacement Project is important to the state of Michigan because: (1) it will allow Line 5 to continue operating and fulfilling the public need identified in the 1953 order; (2) it will eliminate the risk associated with a large vessel anchor strike; and (3) it

RECEIVED by MSC 11/14/2025 2:10:18 PM

will provide a safe and accessible transportation corridor for other energy and communications utilities, linking the Upper and Lower Peninsulas. 9 Tr 1237.

Mr. Cooper described two other alternatives not considered in the 2017 Alternatives Analysis or the 2018 alternatives study, namely, suspending a replacement pipeline from the Mackinac Bridge or constructing a new suspension bridge. He explained that these options are not, however, practical or economical. 9 Tr 1238-1239. In addition, Mr. Cooper considered retention of the dual pipelines to be impractical due to the already-demonstrated risk of anchor strikes. Moreover, he stated that, "[t]o abandon the existing 20-inch lines without replacing them would not meet the public need for operation of Line 5 as established by [the 1953 order] . . . ." 9 Tr 1240.

Mr. Cooper contended that Enbridge's application and evidence demonstrate that the Replacement Project will meet PHMSA requirements, federal regulations, and industry standards. He stated that the Tunnel Design and Construction Report (Exhibit A-13) indicates Enbridge's commitment to comply with these requirements, and he noted that the pipeline and tunnel interior will be available for inspection after construction is complete. In addition, Mr. Cooper opined that the plans for the tunnel are technically sound and in compliance with 49 CFR 195.110(a), which requires that the tunnel have the ability "to expand and contract with temperature and pressure changes." 9 Tr 1242. However, he stated that he is curious whether Enbridge has considered the weight of ILI tools traveling through the pipeline.

Mr. Cooper stated that, "[b]ased on [his] knowledge and experience, this work can be completed safely and successfully by properly trained and experienced personnel using appropriate care and diligence." 9 Tr 1244. He further opined that the Replacement Project will provide better access for direct inspection and maintenance of the pipeline. In addition, Mr. Cooper contended that divers, ROVs, and equipment for direct inspection and repair activities

RECEIVED by MSC 11/14/2025 2:10:18 PM

will no longer be needed. Moreover, he asserted that "[t]here will be no further need for screw anchor supports to limit unsupported span lengths, and no risk of damage to the pipeline by marine vessel anchors or cables." 9 Tr 1245.

Mr. Cooper noted that Enbridge plans to add a second layer of leak detection to the existing computational pipeline monitoring system. He explained that:

> [t]he computational system compares actual operating data with computed values of pipeline pressure, temperature, flow rate, and product characteristics, and alerts operators of discrepancies that could indicate a pipeline leak. The added layer will consist of hydrocarbon vapor and liquid detectors directly monitoring the tunnel space and alerting operators of a leak. This direct monitoring of the tunnel will allow detection of a small leak that may fall below the detection limit of the computational pipeline monitoring system.

9 Tr 1246. As to how Enbridge's plans for the Replacement Project could be strengthened, Mr. Cooper suggested possible heat treatment of tunnel pipeline riser girth welds. He also expressed concern that the presence of other utilities could impact the pipeline's integrity or produce safety hazards, such as electric transmission cable that may "accelerate corrosion of the pipeline" or "create electric shock hazards for personnel working on the line." 9 Tr 1247. He contended that Enbridge could remedy these concerns by thoroughly examining these risks in the planning stages, implementing proper safety measures, and continuing to monitor the effectiveness of these safety measures.

In conclusion, Mr. Cooper predicted that the replacement pipeline and tunnel will perform safely over the life of the project and beyond. He encouraged Enbridge and the State of Michigan to consider the possible value of the dual pipelines for other service such as a conduit for power or communications lines.

RECEIVED by MSC 11/14/2025 2:10:18 PM

5. Nottawaseppi Huron Band of the Potawatomi

John Rodwan, Environmental Director of NHBP, testified that he is responsible for "administering Tribal and Federal environmental natural resource programs and grants," and he "direct[s] community-based programs related to [the] environment . . . ." 10 Tr 1272. Mr. Rodwan stated that he serves on the steering committee for the Michigan Wild Rice Initiative and that he has worked to reestablish wild rice as a Tribal and ecologic resource. He explained that wild rice is central to many Native cultures, including the NHBP community, as a source of nutrition, culture, and spirituality. In addition, Mr. Rodwan asserted that wild rice is an important component of aquatic ecosystems because "it contributes to primary production, nutrient cycling, and habitat structure. Its shoots, foliage and grain are important food resources for a range of wildlife, notably waterfowl." 9 Tr 1277. Mr. Rodwan contended that more frequent and intense climate related stressors, including heightened storms and droughts, resulted in a failure of over 90% of the wild rice crop in Michigan in 2021. 9 Tr 1279.

Mr. Rodwan expressed concern that the Replacement Project will further impact climate change. He stated that:

> [v]iewing the proposed tunnel in a holistic manner from a Tribal perspective we see both direct and indirect impending impacts. Direct impacts are related to construction, operation and maintenance. Enormous amounts of resources, including fresh water and energy, will be used as part of the drilling operation. These operations will contribute greenhouse gases to the atmosphere. Also, untreated drilling fluids will pose an imminent threat of release to the Straits, thereby posing a direct threat to the aquatic community including high value natural resources such as fisheries and Wild Rice. As a unique Traditional Cultural Property the Straits are formerly and currently of extreme significance to Tribal communities within the Great Lakes Watershed.

10 Tr 1287.

RECEIVED by MSC 11/14/2025 2:10:18 PM

6. Bay Mills Indian Community

Ms. Gravelle testified that she is the elected President of the Bay Mills Indian Community, which is a federally recognized Tribe and sovereign nation located in the eastern part of the U.P. 10 Tr 1415. She stated that she is also a former Chief Judge of the Bay Mills Tribal Court. In addition, Ms. Gravelle asserted that, as a woman of Anishinaabe culture, she is a waterkeeper who is "responsible for maintaining and protecting water for [her] people, praying to the water, and caring for the water during ceremonies." 10 Tr 1415. She sponsored Exhibits BMC-1 through BMC-7.[23] 10 Tr 1417.

Ms. Gravelle stated that the tunnel project runs through lands and waters that are central to Bay Mills' existence and that both the dual pipelines and the Replacement Project "have the potential to significantly affect, and indeed pose serious threats to, the exercise of our reserved treaty rights, our ability to preserve cultural resources, our cultural and religious interests in the Great Lakes, our economy, and the health and welfare of our tribal citizens." 10 Tr 1419. She explained that "the Straits of Mackinac and the Great Lakes are central to Bay Mills' cultural, traditional, and spiritual identity" because they are part of the Tribe's creation story, cultural teachings, and oral history. 10 Tr 1421. In addition, Ms. Gravelle stated that the Straits make up part of Bay Mills' fishery and that over half of Bay Mills' citizen households rely on fishing for some or all of their income.

Ms. Gravelle described the 1836 Treaty of Washington (1836 Treaty) and the ceded territories, noting that Bay Mills is the successor to a signatory of that treaty, the Ojibwe people. She noted that Bay Mills has had to protect its treaty rights through litigation, which has resulted in significant precedent upholding the Tribe's treaty rights, particularly as they relate to fishing.

[23] Exhibits BMC-1 through BMC-5 were struck following the January 13 ruling, pp. 7-8.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Ms. Gravelle stated that she "share[s] the legal history of the Treaty fishing controversies not only to emphasize the existence of Tribal rights regarding the fishery, but also to serve as evidence that the right to fish, and the need for a natural environment in which fish can thrive, is of the utmost importance to the Tribe and its members . . . ." 10 Tr 1425.

Ms. Gravelle expressed concern that climate change is negatively impacting land, resources, and members of indigenous communities in the U.S. She averred that "[c]limate change is already greatly harming the Great Lakes, and the fisheries, habitats, and ecosystems and[,] accordingly, having a negative impact on tribal sovereignty, economies, and cultures . . . ." 10 Tr 1428. Ms. Gravelle asserted that, specifically, Tribal cultural resources such as lake whitefish, walleye, wild rice, loons, and maple syrup produced by the sugar maple are threatened by climate change.

Ms. Gravelle indicated that Bay Mills is pursuing nomination of the Straits as a Traditional Cultural Property for inclusion on the National Register of Historic Places (NRHP) because the Straits contain bottomland and terrestrial archaeological sites that are significant to the Tribe, such as submerged paleo-landscapes, cemeteries, and burials sites. She stated that "damage, destruction, or contamination of one part of the landscape damages the entire landscape." 10 Tr 1427.

In sum, Ms. Gravelle contended that she is "deeply concerned about the proposed route for the Line 5 Tunnel Project," and "[d]ue to Bay Mills Indian Community's significant and critical connection to the Straits of Mackinac, the Great Lakes, and the inland lands and waters that are part of the ceded territory, we have been deeply involved in the various permit processes for the Line 5 Tunnel Project." 10 Tr 1419, 1427.

Mr. LeBlanc testified that he is a citizen of the Bay Mills Indian Community and serves on the Bay Mills Conservation Committee. Mr. LeBlanc stated that he is a fisher in the waters of the

RECEIVED by MSC 11/14/2025 2:10:18 PM

ceded territory and that he has been a commercial fisherman since he was 12 years old, primarily fishing for whitefish. He asserted that:

> [f]ishing is an engrained tradition within the Bay Mills Indian Community and is considered a traditional and cultural practice by many throughout [his] Tribe. [His] fishing outfit does more than just support [his] family. Through [his] own commercial operation, [he has] employed several dozen tribal citizens throughout the years who also exercise their treaty right as a means to support their family financially. In addition to supporting [his] family and [his] community, a large part of why [he] fish[es] is because of the efforts of [his] grandfather and father, and the way that we were brought up.

10 Tr 1517. Mr. LeBlanc testified that his ancestors have fished for hundreds of years, and his grandfather was instrumental in litigation that preserved this traditional lifeway.

Dr. Karen M. Alofs, Assistant Professor in the School for Environment and Sustainability at the University of Michigan, testified as an expert witness on behalf of Bay Mills. She stated that her "research focuses on the impacts of environmental change on freshwater biodiversity, primarily in fish communities." 10 Tr 1447. She sponsored Exhibits BMC-8 and BMC-9.

Dr. Alofs testified that walleye fish are "a coolwater adapted species" that "live in freshwater streams and lakes primarily across central North America." 10 Tr 1449. She stated that walleye are "culturally and economically important" because they "support important recreational, commercial, and subsistence fisheries" in the Great Lakes region. 10 Tr 1449. She noted that recreational fishing is estimated to contribute about $2.3 billion in economic activity in Michigan.

Dr. Alofs asserted that "[s]cientists have expected that, in North America, climate change might favor warm water adapted species (including bass species) and hinder cool- and cold-water adapted species (including walleye and trout, salmon and whitefish) . . . ." 10 Tr 1451. She explained that successful walleye reproduction is strongly connected to cooler water temperatures and, as the climate and water warm, populations will become less sustainable. Dr Alofs contended

RECEIVED by MSC 11/14/2025 2:10:18 PM

that declines in walleye will have negative impacts on lake ecosystems and on recreational, commercial, and subsistence fisheries.

Dr. Alofs noted that walleye are found in all five Great Lakes and avers that, "[w]hile walleye in inland lakes appear to be more threatened by climate change than in the Great Lakes themselves, [she is] concerned that the indirect impacts of climate change on walleye in the Great Lakes are not well understood or difficult to measure or predict." 10 Tr 1459. She asserted that to manage a sustainable fishery, reliable and accurate predictions of fish populations are necessary so that catch limits and spatial distribution of fishing may be set. Accordingly, Dr. Alofs recommended that "the management of Great Lakes resources . . . move from reactive actions (e.g. following population crashes or ecological impairments) to proactive actions with a focus on protection." 10 Tr 1459.

Dr. Inés Ibáñez, Professor in the School for Environment and Sustainability at the University of Michigan, testified as an expert witness on behalf of Bay Mills. She explained that she is a forest ecologist with a focus on the forest ecosystems of the Great Lakes region, which includes the study of the effects of climate change on the sugar maple that grows abundantly in the U.P. 10 Tr 1466-1467. Dr. Ibáñez sponsored Exhibits BMC-10 and BMC-11.

Dr. Ibáñez opined that climate change will negatively impact the sugar maple, which requires cold winters and springs for proper dormancy and germination. She stated that "[l]ack of snow cover protection over the winter, a consequence of warmer temperatures, negatively affects the roots. Roots freeze without the protecting snow layer. Increasing growing season temperatures are associated with an increased risk of desiccation in seedlings and of growth reduction in adults due to lack of sufficient moisture." 10 Tr 1472. Dr. Ibáñez asserted that she believes that sugar

RECEIVED by MSC 11/14/2025 2:10:18 PM

maple habitat will decline by the end of the century as a result of climate change, including in the U.P.

Dr. Daniel Larkin testified that he is an Associate Professor and extension specialist in the Department of Fisheries, Wildlife and Conservation Biology at the University of Minnesota-Twin Cities and is testifying as an expert witness on behalf of Bay Mills. Dr. Larkin stated that he is a plant ecologist with a focus on wetlands, lakes, woodlands, and prairies of the Upper Midwest and aquatic plant species. 10 Tr 1480. He added that he studies the impact of climate change on freshwater ecosystems and on wild rice in particular. He sponsored Exhibits BMC-12 and BMC-13.

Dr. Larkin stated that wild rice is most abundant in Minnesota, Wisconsin, and Michigan, in descending order, and is an irreplaceable cultural and commercial resource for Native peoples as well as a critical component of aquatic ecosystems. He described the typical habitat, lifecycle, and reproduction of wild rice in the upper Great Lakes region and explained how wild rice is harvested. However, Dr. Larkin stated that:

> there are several stressors or disturbances to wild rice that can kill or displace the species. These include disturbances associated with climate change and corresponding temperature and precipitation changes, as well as lakeshore development (shoreline hardening, damage from motorboats, physical or chemical aquatic plant control), elevated sulfides from iron ore mining which are deadly to wild rice, hydrologic disturbances that change water levels (e.g., dams, flooding, watershed development), and attack by other organisms . . . .

10 Tr 1484. He noted that there has been a "sustained downward [trend] in the geographic distribution and local abundance of wild rice" that has "been observed over decades" and that Michigan has suffered the greatest loss. 10 Tr 1487-1488.

RECEIVED by MSC 11/14/2025 2:10:18 PM

In Dr. Larkin's opinion, climate change is impacting wild rice, both directly through temperature changes and indirectly through growing threats from pathogens and pests. He averred that:

> [i]t is highly likely that climate change has already negatively impacted wild rice. How much climate change has affected wild rice to date has not been quantified. While wild rice has clearly declined, it is difficult to separate the impacts of climate change from other stressors that wild rice has been subjected to (e.g., wetland loss, watershed development, agricultural intensification).

10 Tr 1493. He asserted that "[i]f the severe effects of future climate change that have been predicted are not prevented," climate change will have catastrophic effects on wild rice populations in the coming years. 10 Tr 1494.

Dr. Alec R. Lindsay, a Professor of Biology at Northern Michigan University, offered expert testimony on behalf of Bay Mills. He stated that the primary focus of his research is the genetics and behavior of Holarctic birds, which includes the common loon. 10 Tr 1499. He sponsored Exhibits BMC-14 and BMC-15.

Dr. Lindsay stated that common loons are found in the Great Lakes region and breed in Michigan. He described the migration process and typical habitat of common loons. Dr. Lindsay stated that climate change has already affected common loons, noting that:

> [o]ne study of a population of breeding loons . . . found that in the last 38 years loon productivity declined in Ontario, and attributed that decline to "climate change-induced stress, acting through multiple interacting pathways." As to changes in loon migration, data collected over the last 30 years at Whitefish Point Bird Observatory ("WPBO") on Lake Superior demonstrate that:
> • loons are migrating north earlier in the spring (Figure 1)
> • numbers of migrating loons are declining in the spring (Figure 2)
> • loons are migrating south later in the fall (Figure 3).

10 Tr 1504. Dr. Lindsay continued, stating that:

> [He is] concerned about the impact of climate change on loons. [His] primary concerns are the loss of breeding habitats in Michigan associated with the overall loss of breeding range of loons, and the direct loss of individuals due to more

RECEIVED by MSC 11/14/2025 2:10:18 PM

> frequent and intense botulism type E outbreaks than have been experienced in the past.

10 Tr 1507. Dr. Lindsay explained that the botulism toxin grows more easily under the conditions in lakes created by climate change. He opined that climate change will reduce the number of, and possibly eliminate, common loons in Michigan.

Frank Ettawageshik, Executive Director of the United Tribes of Michigan, testified on behalf of both LTBB and Bay Mills. He stated that he is a citizen of LTBB, is a former Tribal Chairman, and sits on the LTBB appellate court. Mr. Ettawageshik was appointed to the Michigan Climate Action Council in 2008 by Governor Jennifer M. Granholm. *See*, Exhibit BMC-16, p. 6. He sponsored Exhibits BMC-16 through BMC-30.[24]

Mr. Ettawageshik stated that the purpose of his testimony is to express "why Tribes are deeply concerned about climate and why it is important to take immediate steps to address climate change for the wellbeing of the State's ecosystem, and all the species that depend on it." 10 Tr 1571. He explained that the Tribal way of life is closely tied to the Earth and climate change directly impacts the food the Tribe eats and the way in which the Tribe works. 10 Tr 1579-1581.

Dr. Cleland testified that he is a Distinguished Professor Emeritus at Michigan State University and an independent consultant. He stated that he is testifying as an expert witness on behalf of Bay Mills and that his "expertise is in the field of ethnohistory . . . ." 10 Tr 1527. He sponsored Exhibits BMC-31 through BMC-36.[25]

Dr. Cleland described the impact of the 1836 Treaty in which several native Tribes ceded 13 million acres of land, including what is now Michigan, along with the waters of Lakes Huron,

[24] Exhibits BMC-17 through BMC-30 were struck following the January 13 ruling, p. 8.
[25] Exhibit BMC-35 was struck following the January 13 ruling, p. 4.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Michigan, and Superior to the U.S., while retaining the right to hunt, fish, and gather over the land and waters that had been ceded (later enforced through litigation). He indicated that for the Ojibwe (Chippewa) and Odawa (Ottawa) people, the Straits represent the center of the creation of the Earth and are of deep religious and cultural significance. 10 Tr 1542.

Next, Dr. Cleland described the importance of historic preservation. He asserted that the historical record of preliterate, prehistoric societies is contained only in the archeological context, and thus damage to prehistoric sites (often the result of earth moving construction) constitutes the destruction of the only existing evidence of this type of cultural history. Dr. Cleland stated that the Straits have been occupied in the past by several native societies, including the Ojibwa and the Odawa. He averred that there are numerous archeological sites and that "they collectively contain a record of thousands of years of tribal history." 10 Tr 1535. Dr. Cleland described several prehistoric terrestrial sites that are in or near the Straits that he considers to be endangered.[26] 10 Tr 1545-1548. He also noted an endangered underwater archeological prehistoric site. 10 Tr 1549; *see*, Exhibit BMC-36.

In addition, Dr. Cleland stated that 84 shipwrecks have occurred in the Straits, of which 41 have been discovered. He opined that there has been "no adequate professional study of the effects of tunnel construction or petroleum fouling on the shipwreck sites" and recommends that a study be conducted. 10 Tr 1551-1552. Furthermore, Dr. Cleland explained that the Straits are within a bottomland preserve and contain endangered historic archeological sites that are important to the tourism industry, including Fort Michilimackinac, the Mill Creek Site, the Marquette Mission Site, and an indigenous cemetery. He opined that the most at-risk sites are

[26] To protect the identity of their location, unexcavated sites are named only in the confidential version of Dr. Cleland's testimony.

RECEIVED by MSC 11/14/2025 2:10:18 PM

those terrestrial sites that are on the sandy shores of Lakes Michigan and Huron and their associated islands.

Dr. Cleland averred that:

> [a]rchaeological sites are by their nature vulnerable resources since they are usually buried and therefore not visible on the surface of the ground. Given their condition, many sites have been and are being unintentionally destroyed by the modern construction of roads, homes, and businesses. This renders those sites which remain intact all the more valuable as non-renewable cultural resources.

10 Tr 1560. He stated that there are no remediation measures that address the loss of archeological sites of cultural and historical value. Therefore, Dr. Cleland asserted that "it is necessary to know the location and characteristics of the site, the extent and nature of the potential damage, and finally the practicality of the corrective measures themselves." 10 Tr 1562.

7. Environmental Law & Policy Center and Michigan Climate Action Network

Mr. Erickson stated that he is a Senior Scientist and the Climate Policy Program Director at Stockholm Environment Institute-U.S. He testified as an expert witness on behalf of ELPC/MiCAN, and he noted that his expertise is on "greenhouse gas (GHG) emissions accounting and the role of policy mechanisms in reducing GHG emissions." 9 Tr 1038. Mr. Erickson stated that the purpose of his testimony is to estimate, quantify, and explain the level of GHG emissions associated with the Replacement Project, including emissions associated with construction and operation of the tunnel and the new pipeline as well as GHG emissions associated with the use of the oil and NGLs that will be transported through the replacement pipe segment. He sponsored Exhibits ELP-1 through ELP-7.

Mr. Erickson provided an overview of climate change and explained why there is a need for rapid and steep cuts in GHG emissions. He stated that in the "Midwest of the United States, climate change will lead to increased temperatures and precipitation that will reduce agricultural

RECEIVED by MSC 11/14/2025 2:10:18 PM

productivity, erode soils, and lead to pest outbreaks, while also leading to poor air quality, substantial loss of life, and worsening economic conditions for people." 9 Tr 1045 (footnote omitted). He added that the Intergovernmental Panel on Climate Change (IPCC) has produced a report identifying the emission levels necessary to comply with the Paris Agreement of 2015 and the timeframe in which these levels must be achieved. Mr. Erickson noted that according to the report, net global CO_2 emissions must reach zero by about 2050 in order to meet the temperature limit, which means that the use of coal, gas, and oil must decline dramatically.

To estimate the GHG emissions associated with the Replacement Project, Mr. Erickson stated that he used standard GHG emissions accounting practices, consistent with the Greenhouse Gas Protocol initiative, and he reported his results in the standard units of millions of metric tons of CO_2e. 9 Tr 1042, n. 10. He averred that this method is routinely used in GHG emissions assessments. Mr. Erickson summarized his findings as follows:

- First, [he] estimate[s] that the Proposed Project is associated with about 87 million metric tons carbon-dioxide equivalent (CO_2e) annually.
- Second, [he] conclude[s] that, when compared to a scenario in which the existing Line 5 pipeline no longer operates, construction and operation of the Proposed Project would lead to an increase of about 27 million metric tons CO_2e annually in global greenhouse gas emissions from the production and combustion of oil.

9 Tr 1043.

Mr. Erickson explained that the Replacement Project will result in GHG emissions in two ways: (1) GHGs will be released by the equipment that is used to construct and operate the tunnel and pipeline, and (2) GHGs will be released when the petroleum products that are transported through the replacement pipe segment are produced and combusted. He estimated that the GHG emissions associated with construction of the tunnel and replacement pipe segment are 87,000 metric tons of CO_2e in total and that the GHG emissions associated with its operation are

RECEIVED by MSC 11/14/2025 2:10:18 PM

520 metric tons annually. 9 Tr 1051, 1056. Mr. Erickson stated that he made these calculations using standard GHG emissions accounting practices, information provided by Enbridge, and other published information regarding energy usage for proposed activities, such as the production and use of concrete and steel.

In addition, Mr. Erickson estimated that the GHG emissions associated with the end use of the oil and NGL products transported through the replacement pipe segment will be 87,000,000 metric tons CO_2e annually. 9 Tr 1057. He stated:

> The Proposed Project is expected to handle 540,000 barrels per day (b/d) of liquid, comprising about 450,000 b/d of crude oil, and 90,000 b/d of natural gas liquids, chiefly propane and butane, again all for many years into the future. GHG emissions are released at each stage of producing, processing, and combusting petroleum, and so [he] estimate[s] the total emissions by splitting the "life cycle" of a barrel of crude oil or NGL into stages, which are typically referred to in this type of analysis as the "upstream" and "downstream" stages.

9 Tr 1057 (footnotes omitted). He explained that upstream refers to extraction and processing and downstream refers to end use, and he described the research that he relied upon in making his estimates. Mr. Erickson asserted that his estimate includes the assumption that 8% of the petroleum products handled by the replacement pipe segment will ultimately not be combusted. He noted that he amortized the emissions over the planned 99-year life of the replacement pipe segment. 9 Tr 1060.

Next, Mr. Erickson explained that a no-action scenario is one in which the dual pipelines are shut down and the Replacement Project does not go forward. He opined that it is important to consider the no-action scenario because it would achieve Enbridge's stated purpose of removing the environmental threat to the Straits. *See*, 9 Tr 1061. Mr. Erickson stated that he also estimated the incremental GHG emissions associated with the Replacement Project in comparison to the no-action scenario. According to Mr. Erickson, the incremental emissions are about 27,000,000

RECEIVED by MSC 11/14/2025 2:10:18 PM

metric tons CO_2e annually, and he explained that this is "lower than my estimate of all emissions associated with the Project of 87,000,000 metric tons CO_2e annually because, in my estimation, some of those emissions would occur even if the Proposed Project does not proceed." 9 Tr 1063.

Mr. Erickson stated that "[t]o quantify the incremental GHG emissions of an energy project or action, one must first describe how that project or action will change the energy market." 9 Tr 1063. He asserted that pipelines increase the supply of oil by transporting oil to market when other options do not exist or are more expensive. Mr. Erickson contended that "[e]stimating the effect of the Proposed Project on oil supply requires clearly articulating what would happen in a 'no-action' scenario, so that the effect of the Proposed Project can be compared to that, and the incremental effect of the Proposed Project can be quantified." 9 Tr 1064. According to Mr. Erickson, because the State of Michigan is revoking and terminating the 1953 easement, the no-action scenario would be one in which the Line 5 pipeline is no longer operating and the Replacement Project is not constructed.

Regarding the no-action scenario, Mr. Erickson stated that:

> [i]n such a case, where the Line 5 pipeline through the Straits of Mackinac is not replaced, more of the oil from Montana, North Dakota, and Western Canada would likely be transported by rail, which is generally more expensive than pipelines for transporting petroleum. The key difference of the scenario with the Proposed Project and the scenario without the Project is therefore the cost of transporting oil out of these regions of North America. [He] will refer to these regions as the greater Williston Basin, which includes both the Bakken and Duvernay formations.

9 Tr 1065. Relying on studies, he calculated that the added cost associated with increased movement of light crude oil by rail rather than pipeline is $6 per barrel, which he described as a midrange estimate. He noted that GHG emissions will be slightly higher as well and he added this difference to his accounting.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Mr. Erickson noted that the Canadian Energy Regulator (CER) has forecasted a $53 per barrel crude oil price by 2030 (though the EIA forecasts $73 per barrel). In light of this trend and the $6 per barrel add-on, he stated that about 290,000 bpd are at risk of being stranded. Additionally, Mr. Erickson asserted that if there is not sufficient rail capacity to move oil, as much as 450,000 bpd could be undeveloped. 9 Tr 1071. However, Mr. Erickson stated that his estimates could turn out to be lower. Mr. Erickson noted that his estimates do not reflect the additional costs accruing to Michigan oil producers, specifically, if they no longer had access to Line 5.

In sum, he stated that the no-action scenario "would lead to less, and more costly, oil supplied from the greater Williston Basin over the long term" and that "building the Proposed Project would lead to a net, incremental increase in annual global oil consumption of about 150,000 bpd, equivalent to 27,000,000 metric tons CO_2e per year from burning and producing that oil." 9 Tr 1072, 1074. Again, Mr. Erickson explained that elasticities of supply and demand dictate that his GHG emissions estimates may turn out to be higher or lower but that they represent a reasonable approximation of the incremental effect of the Replacement Project.

Dr. Howard, Economics Director of the Institute for Policy Integrity, New York University School of Law, testified as an expert witness on behalf of ELPC/MiCAN. He sponsored Exhibits ELP-8 through ELP-10.

To begin, Dr. Howard noted that one of the alternatives to the Replacement Project is the no-action alternative, which involves shutting down the dual pipelines and not replacing them or building the tunnel. He stated that if the no-action alternative is selected, it would decrease the supply of oil and NGLs and, consequently, the price for oil and NGLs will increase. Dr. Howard opined that in response to the increasing price, demand for oil and NGLs will decrease. He stated that:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> [d]ecreased demand for oil and natural gas liquids will decrease the combustion of oil and natural gas liquids, which will decrease emissions of greenhouse gases and other harmful pollutants. The reductions in lifecycle emissions from the oil and gas products that the Proposed Project would otherwise transport, as well as avoided emissions from the construction and operation of any action alternative, can be monetized as the incremental benefits of selecting the no-action alternative (or, equivalently, as the incremental costs of selecting the Proposed Project).

9 Tr 1109-1110.

Dr. Howard stated that he relies on Mr. Erickson's calculations of the total GHG emissions from construction and operation of the Replacement Project, as well as the lifecycle emissions from the transported oil and gas that will run through the pipeline in the tunnel "to monetize the Proposed Project's climate costs." 9 Tr 1110. He averred that monetization can help decisionmakers to understand the true nature of the pollution and impairment that are associated with the Replacement Project. In addition, Dr. Howard stated that "[m]onetization can help decisionmakers and the public weigh climate costs against other costs and benefits of various alternatives, and so determine the relative prudence of the no action alternative as compared to the Proposed Project." 9 Tr 1113.

Dr. Howard asserted that the federal Interagency Working Group (IWG) routinely uses the Social Cost of Greenhouse Gases (SCGG) method to monetize climate damages from GHGs, and he recommended that Michigan do likewise. He explained that "[e]conomists monetize climate damages by linking together global climate models with global economic models, producing what are called integrated assessment models," and that the SCGG model "is widely considered to be the best available calculation of the social cost of climate change." 9 Tr 1116-1117 (footnote omitted). He added that using the SCGG, IWG calculates climate damage from GHGs using estimates based a "defensible set of input assumptions that are grounded in the existing scientific and economic literature." 9 Tr 1117 (footnote omitted). Dr. Howard noted that IWG updated its

RECEIVED by MSC 11/14/2025 2:10:18 PM

estimates in the SCGG in February 2021 to reflect the latest scientific and economic data, and he expected they will be updated again in January 2022. However, he asserted that for current GHG estimates, the IWG provides a "'central estimate' of social costs per metric ton of emissions per year based on a 3% discount rate and [by] taking the average from a probability distribution . . . ." 9 Tr 1118. Dr. Howard stated that he is concerned that the current discount rate of 3% set forth in the SCGG is too high compared to "recently updated market data on U.S. Treasury rates, consumer saving rates, and economic forecasts—as well as updated economic literature on uncertainty, correlations between climate damages and economic growth, preferences for inter-generational equity, expert elicitations, and other technical concepts . . . ." 9 Tr 1119-1120 (footnote omitted).

Dr. Howard asserted that discount rates are important because they are "used to take all the marginal climate damages that an additional ton of emissions emitted in the near future will inflict over the next 300 years, and translate those future damages back into present-day values." 9 Tr 1119. He supplied data for both a 2.5% and 2% discount rate, in addition to the current 3% discount rate, as well as showing IWG's High Impact Estimate (95^{th} percentile at a 3% discount rate). 9 Tr 1121. By the year 2070, his calculations show a social cost of $108 per metric ton of CO_2 at 3%, $144 per metric ton at 2.5%, and $328 per metric ton under the High Impact scenario. 9 Tr 1122. Dr. Howard urged the State of Michigan to consider this information and to weigh the no-action alternative against the impacts of the Replacement Project. He noted that climate change does not respect political borders and requested that the State of Michigan consider the externalities of GHG emissions that fall outside its borders.

Turning to the climate damages estimate for the Replacement Project, Dr. Howard stated that he relied on Mr. Erickson's estimates of the metric tons of CO_2e emissions that are associated with

RECEIVED by MSC 11/14/2025 2:10:18 PM

construction and operation of the Replacement Project, as well as the lifecycle emissions of transported oil and NGLs relative to emissions in the no-action scenario. Dr. Howard explained that based on Enbridge's estimates, he assumes construction would begin in 2027 and end in 2028. He noted that Mr. Erickson's calculation of 87,000 metric tons of CO_2e emissions from construction was split between 2027 and 2028. Dr. Howard asserted that:

> [w]e then multiplied these annual construction emissions by the corresponding year's estimates of the social cost of carbon dioxide, considering the four sets of values defined above (3%, 2.5%, 2%, and high-impact). We then discounted these future damage estimates back to their present-day value in the current year of 2021 using the discount rate that corresponds to the underlying rate used to calculate the relevant social cost of carbon values (i.e., a 2.5% discount rate is used when applying the social cost of carbon values calculated at a 2.5% rate).

9 Tr 1128-1129.

For his calculation, Dr. Howard assumed annual emissions of 520 metric tons of CO_2e, with operations of the Replacement Project beginning in 2029 and continuing through the 99-year service life to 2127. However, he noted that the IWG/U.S. Environmental Protection Agency (EPA) social cost of CO_2 estimates do not extend beyond 2070; therefore, he used "linear extrapolation" to project the IWG/EPA's estimates beyond 2070. 9 Tr 1129; Exhibits ELP-9 and ELP-10. Dr. Howard opined that "[f]rom 2027 to 2070, the climate costs of the Proposed Project's emissions from the construction and operation of the pipeline equals $5.0 million dollars when applying the social cost of carbon values calculated at the 3% discount rate. 84% of these effects stem from the pipeline's construction." 9 Tr 1130.

Turning to the products to be delivered through the replacement pipe segment, Dr. Howard again relied on Mr. Erickson's estimates and assumed a net increase of 27 million metric tons of CO_2e annually from the products transported by the new pipeline as compared to emissions under the no-action alternative. 9 Tr 1131. He estimated the social cost of CO_2 in 2020 dollars to be

RECEIVED by MSC 11/14/2025 2:10:18 PM

$41 billion using the 3% discount rate for 2027-2070, $65 billion using a 2.5% discount rate, and $124 billion using the High Impact estimate. According to Dr. Howard, his climate cost projection is likely a conservative estimate for three reasons: (1) certain highly significant forms of climate damage have not yet been quantified, (2) he applied a conservative discount rate of 3% that is likely outdated, and (3) the $41 billion reflects the net present value of the Replacement Project's climate impact only though 2070 and not beyond because the federal government's estimates of the social cost of carbon currently end in 2070. 9 Tr 1133.

Dr. Jonathon T. Overpeck stated that he is an interdisciplinary climate scientist and the Samuel A. Graham Dean of the School for Environment and Sustainability at the University of Michigan. 9 Tr 1137. He testified as an expert witness on behalf of ELPC/MiCAN and sponsored Exhibits ELP-11 through ELP-16. Dr. Overpeck stated that he has 40 years of experience studying climate change, that he served as the "Working Group 1 Coordinating Lead Author for the Nobel Prize-winning IPCC 4th Assessment (2007)," and that he served on Michigan's Council on Climate Solutions. 9 Tr 1139.

Dr. Overpeck stated that climate change is tied to human activity, and that 97%-100% of scientists believe that the burning of fossil fuels is warming the planet. He warned that not only are changes to the climate currently occurring but they are accelerating. In addition, Dr. Overpeck asserted that climate change is affecting Michigan and the Great Lakes region, which is demonstrated by the significant temperature and precipitation related changes, increased flooding, and recent record high water levels in the Great Lakes. Furthermore, he explained that:

> [t]he Great Lakes, as well as smaller water bodies in the region, are all warming substantially, and the increase in average and extreme precipitation is also generating more runoff into the lakes. Collectively, human-driven climate changes are changing the lake environments in dramatic ways, altering the temperature, nutrient and oxygen gradients in the lakes. Moreover, the warming is reducing lake

RECEIVED by MSC 11/14/2025 2:10:18 PM

> ice duration, coverage and thickness, which affects the lake's ecosystems and the region's climate.

9 Tr 1149. Dr. Overpeck described possible climate futures and tipping points, including algal blooms in the Great Lakes resulting from more intense rainfall, and he expressed concern regarding the future quality of drinking water. He also described the various tipping points for the Earth's oceans.

Dr. Overpeck opined that continued reliance on fossil fuels will make these impacts more significant. He stated that "fossil-fuel-rich greenhouse gas emissions have the potential to warm Michigan and the Great Lakes region by an additional 5° [Celsius] or more by the end of the century," which will result in warmer surface air, warmer winters, more extreme-heat days, more annual precipitation, and worse droughts and storms. 9 Tr 1159. Dr. Overpeck concluded that there will be profound disruption of natural resources in the region, including greater tree mortality and increased lethal anoxic conditions in the lakes. Additionally, he stated that "[t]ourism, recreation, water supplies, healthy natural resources and more are all at increasing risk in Michigan and the Great Lakes region as long as we permit greenhouse gas emission[s] to continue." 9 Tr 1163.

Regarding human health, Dr. Overpeck stated:

> Michigan and the Great Lakes region will likely see a large increase in extreme temperature-related premature deaths if greenhouse gas emissions are not halted quickly. Increased flooding, fueled by greenhouse gas emissions, will become even more lethal and increase health risks related to degraded water treatment, disease spread, and access to critical health services. Risks from disease are also made worse by climate change.

9 Tr 1163 (citing Exhibit ELP-15). He contended that climate change adaptation strategies are not likely to be cost-effective or sufficient.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Dr. Stanton stated that she is the Director and Senior Economist at the Applied Economics Clinic. She testified as an expert witness on behalf of ELPC/MiCAN and Bay Mills, and she sponsored Exhibits ELP-17 through ELP-25, and ELP-29. Dr. Stanton stated that the purpose of her "testimony is to determine whether 'no-action' was considered by Enbridge as an alternative that would meet the Company's stated purpose for the Proposed Project and whether such an alternative is feasible." 9 Tr 942.

Dr. Stanton noted that Enbridge considered three alternatives to operating the dual pipelines: (1) the Replacement Project, (2) the Open-Cut Alternative, and (3) the HDD method. She asserted that Enbridge did not analyze a no-action alternative and that, consequently, the company "overlooked an essential alternative that would meet its stated purpose of alleviating environmental risks to the Great Lakes." 9 Tr 946. Dr. Stanton stated that, in her opinion, it is "best practice" to consider a no-action alternative because it provides the Commission with all available alternatives for alleviating potential environmental harm to the Great Lakes. 9 Tr 946. In addition, she contended that because the State of Michigan has ordered a shutdown of the dual pipelines, a no-action alternative should be part of a full and proper alternatives analysis.

Dr. Stanton stated that if Line 5 were shut down and the products shipped on the pipeline were no longer available, Michigan consumers would still be able to heat their homes. She asserted that current propane consumers would either purchase fuels that were transported by rail and truck or switch to non-hydrocarbon fuels, such as modern heat pumps. Dr. Stanton averred that her findings are consistent with the short- and long-term recommendations of the U.P. Energy Task Force:

> The UP Energy Task Force report suggests the following alternatives to propane supplies via Line 5: the increased use of rail infrastructure and the creation of new track capacity; improvement of transloading in the Upper Peninsula; new wholesale and retail storage capacity, maximizing propane injected into storage reserves;

RECEIVED by MSC 11/14/2025 2:10:18 PM

> developing a "Strategic Propane Reserve;" requiring contracts with the state government to have an attestation that companies will meet their supply obligations if Line 5 is shut down; pre-buying of propane to lock-in supply; and removal of barriers to propane deliverability (land acquisition, brownfield redevelopment assistance and permitting). The UP Energy Task Force's analysis of propane supply alternatives also considered trucking.

9 Tr 950-951 (citing Exhibits ELP-22 and ELP-23). In addition, she contended that "[m]odern electric heat pumps are a practical and economic alternative to propane space heating; electric hot water heaters (including heat pump hot water heaters) . . . can replace propane water heaters, stoves and dryers," and she claimed that air source heat pumps are four times more efficient than propane heaters. 9 Tr 952. Furthermore, Dr. Stanton testified that propane heaters emit twice the amount of GHGs than "air source heat pumps do for the same amount of heat." 9 Tr 953. She noted that heat pumps are available in Michigan, however there may be significant upfront costs for the conversion. Dr. Stanton asserted that the upfront costs could be addressed through a state-mandated zero-interest loan, and she noted that utilities offer a small rebate for installation.

Dr. Stanton disagreed with Enbridge's claim that if the Straits Line 5 segment is closed and not replaced, there will be a negative impact on Michigan oil producers, refineries, and jet fuel consumers. She stated that Line 5 provides only 10% of the jet fuel used at Detroit Metropolitan Wayne County Airport, rather than the 50% asserted by Enbridge. Dr. Stanton also suggested that Enbridge has exaggerated the alleged impact on refineries; rather, she argued that the closure of Line 5 would have "a positive or neutral effect on the Michigan economy." 9 Tr 957. She explained that businesses that have focused their investments in fossil fuels will see losses; however, "businesses with investments in electric supply, electric equipment manufacture and installation, and other 'green' goods and services should benefits [sic] from a Line 5 closure." 9 Tr 958. In addition, Dr. Stanton asserted that the question of whether a particular alternative

RECEIVED by MSC 11/14/2025 2:10:18 PM

may benefit some businesses more than others should make no difference in the determination of whether the alternative is reasonable and prudent.

Finally, Dr. Stanton contended that a proper alternatives analysis must look at whether the demand for fossil fuels will be the same in 10, 25, and 100 years. She noted that Executive Directive (ED) 2020-10, Executive Order 2020-182, and the MI Healthy Climate Plan require statewide reduction of GHG emissions by 2025 and a "transition towards economywide carbon neutrality" by 2050. 9 Tr 960 (quoting Exhibit ELP-25). Accordingly, Dr. Stanton opined that it is not reasonable to assume that fossil fuel demand will not change, stating that "[w]ithin the next two to three decades, operating fossil fuel-fired equipment will not be permitted" in Michigan and fossil-fueled equipment and infrastructure will become stranded assets. 9 Tr 960; *see also*, 9 Tr 961-962. She argued that the no-action alternative represents the exercise of sound judgment because it achieves Enbridge's express purpose of eliminating the environmental risk to the Straits and advances climate change goals that have recently been established by state government.

B. Rebuttal Testimony

1. Enbridge Energy, Limited Partnership

Mr. Turner provided rebuttal testimony responding "to various environmental issues relating to the construction of the tunnel raised by Staff and intervenors." 7 Tr 609. To begin, Mr. Turner explained how Enbridge addressed potential environmental impairments. He testified that Enbridge developed an EPP, which is submitted as Exhibit A-11, pages 228-359. Mr. Turner stated that "[t]he baseline EPP is intended to meet or exceed federal, state, and local environmental protection and erosion control requirements, specifications, and practices" and that over time "a baseline EPP may be revised to include specifics for a particular project." 7 Tr 609. He noted that

RECEIVED by MSC 11/14/2025 2:10:18 PM

an updated EPP was provided to the Staff through discovery and is included as Exhibit S-19, pages 3-59. Additionally, Mr. Turner asserted that:

> the United States Army Corps of Engineers (USACE) will prepare an Environmental Impact Statement (EIS) to ensure compliance with the National Environmental Policy Act (NEPA) and the EIS will evaluate potential impacts to, and mitigation measures for, environmental and cultural resources. Eventually, a detailed project-specific EPP will be developed after federal, state, and local authorizations have been obtained and prior to construction, in order to incorporate any permit conditions not specifically addressed in the earlier versions of the EPP. To ensure that Enbridge and its contractors comply with all applicable local, state, and federal regulatory requirements and permit conditions, Enbridge will develop a project-specific Environmental Training and Compliance Manual. This manual will be used to train construction personnel and establish guidelines for project-specific environmental protection measures that will meet or exceed applicable permit conditions and Enbridge standards.

7 Tr 610.

In response to Ms. Mooney's recommendation that Enbridge develop plans to address the increased noise generated from construction, Mr. Turner noted that the residences located within the workspaces and adjacent to the south side workspace will not be inhabited during construction because they have been purchased by Enbridge. In addition, he averred that Enbridge will implement the following measures to mitigate the sound impacts to nearby residences:

- Equipment will have muffled exhausts;
- Construction vehicles will minimize idle time to the extent practicable;
- Contractors will utilize sound control devices no less effective than those provided by the manufacturer and maintain equipment in accordance with manufacturer's recommendations;
- Equipment with the highest noise impact will be operated only when necessary;
- Equipment shields will be utilized at the contractor's discretion; and
- If blasting is required, blasting mats may be used as applicable.

7 Tr 612. Mr. Turner opined that because of the increased construction noise, wildlife may temporarily relocate but would likely return after construction. In any event, he asserted that "[g]iven the limited [construction] area and abundant adjacent habitat, the short-term disturbance of local fauna due to construction noise will not have population-level effects." 7 Tr 612.

RECEIVED by MSC 11/14/2025 2:10:18 PM

In response to Ms. Mooney's recommendation that Enbridge develop plans to address increased dust and particulates from the construction project, Mr. Turner testified that Enbridge's typical dust control measures are outlined in the company's EPP. He contended that dust control plans are also included "in the stormwater pollution prevention plans and county erosion and sediment control permits that will be developed/obtained prior to construction." 7 Tr 612. Moreover, Mr. Turner stated that if additional mitigation is required at the time of construction, "the contractors may develop and implement additional measures based on industry-standard practices for dust control at construction sites." 7 Tr 612.

Next, Mr. Turner explained how Enbridge will control dust emissions, asserting that these measures "will meet or exceed the dust control best management practices (BMPs) outlined in the Michigan Department of Environment, Great Lakes, and Energy (EGLE) Nonpoint Source Best Management Practices Manual (2017)." 7 Tr 612-613. He stated that the dust control measures include:

- Watering access roads, storage piles and disturbed surfaces;
- Using temporary covers for stockpiles and other areas where vehicle traffic does not occur (e.g., mulch, vegetation, erosion control blanket, tarps, etc.);
- Placement of construction stone on unpaved areas, as practicable;
- Imposing speed restrictions for vehicles driving on unpaved areas; and
- Installing gravel tracking pads at entrances to the workspaces to help remove dirt from tires and tracks.

7 Tr 613. Mr. Turner asserted that additional mitigation measures will be utilized if blasting is required such as "fog cannons to spray atomized water across the excavation area" or pre-soaking the excavation area with water and using blast mats, if necessary. 7 Tr 613.

Regarding Ms. Mooney's claim that increased light from construction will impact nearby residences, fauna, and the Headlands International Dark Sky Park, Mr. Turner testified that "[l]ight generated during construction activities will be limited to discrete times when 24-hour

RECEIVED by MSC 11/14/2025 2:10:18 PM

construction activities are required." 7 Tr 613. In addition, he stated that, during periods of nighttime construction, lighting will only be used to ensure that work areas are sufficiently illuminated so construction workers can avoid hazardous conditions and injuries. To reduce the impact of work-site lighting on residences and fauna, Mr. Turner asserted that Enbridge will implement the following measures:

- lighting will be downward-facing and include hooded lights to prevent skyglow;
- lighting will be of minimum necessary brightness while still allowing for required worker safety and security; and
- lighting will only be operated in areas of active construction.

7 Tr 613. Mr. Turner added that "[p]roject-specific plans will be developed after applicable federal, state, and local authorizations have been obtained and prior to construction, in order to incorporate any permit conditions not specifically addressed in the current version of the EPP and incorporated as necessary in the project-specific Environmental Training and Compliance Manual." 7 Tr 614.

Mr. Turner opined that the addition of permanent low-level lighting needed for operation of the tunnel after construction and the installation of security lighting at the ventilation building will not be a significant increase of light. Further, he stated that to minimize and mitigate impacts upon the Headlands International Dark Sky Park, Enbridge will develop a permanent operational lighting plan prior to construction, which may include motion-detected lighting, lighting at the minimum necessary brightness for operational safety and security, and downward-facing and hooded lighting to prevent skyglow. 7 Tr 614. Mr. Turner noted that Enbridge believes that permanent perimeter lighting is unnecessary.

Mr. Turner stated that Enbridge has developed plans to address Ms. Mooney's concerns about surface water impairments. First, he testified that "[i]f water is generated from trench dewatering, then it would be discharged within the construction workspaces using practices outlined in

RECEIVED by MSC 11/14/2025 2:10:18 PM

Section 16 of the EPP Staff Exhibit S-19." 7 Tr 615. Mr. Turner explained that water generated from tunnel dewatering will be tested, monitored, and discharged pursuant to the authorizations in the NPDES permit. Second, he stated that "[s]ediment tracking from construction traffic will be controlled using erosion and sediment controls, as outlined in Enbridge's EPP." 7 Tr 615. Specifically, Mr. Turner explained that Enbridge will implement measures that include limiting vehicle access to the workspace, minimizing vehicle tracking of soil, street sweeping of sediment on public roads, employing temporary erosion and sediment control measures, and providing cat tracking. 7 Tr 615-616. He noted that additional soil and erosion management measures may be implemented as required by permits. Third, Mr. Turner testified that the water withdrawal from Lake Michigan for Enbridge's hydrostatic testing "will have a de minimis impact on the overall volume of the Great Lakes" and that the "[w]ithdrawn water will be fully treated before being discharged via the outfalls." 7 Tr 616.

In response to Ms. Mooney's recommendation that Enbridge mitigate air quality impacts, Mr. Turner asserted that the equipment used to construct the Replacement Project must comply with EPA's "mobile source regulations for on-road and non-road engines in 40 CFR Parts 85 to 90 and Parts 1033 to 1054." 7 Tr 617. In addition, he testified that "Enbridge and its contractors will maintain all fossil-fueled construction equipment in accordance with manufacturer's recommendations to minimize construction-related emissions. On-site vehicle idle time while in the construction area will be minimized for all equipment, to the extent practicable. Air emissions from the construction will be localized, intermittent, and short-term." 7 Tr 617-618.

Next, Mr. Turner addressed five concerns regarding potential ground water impacts. As a preliminary matter, he noted that the tunnel and Replacement Project will be constructed according to the criteria set forth in the EPP, county soil and erosion control permits, EGLE's Nonpoint

RECEIVED by MSC 11/14/2025 2:10:18 PM

Source Best Management Practices Manual, and all applicable local, state, and federal permit and regulatory requirements. Turning to his first point, Mr. Turner contended that "[i]mpacts to surface drainage and groundwater recharge patterns due to construction activities including clearing, grading, trenching, and soil stockpiling activities will be minor, temporary, and will not significantly affect groundwater resources." 7 Tr 618. Second, he stated that there may be an increase in surface runoff and a reduction in infiltration of rainfall but asserted that these impacts are "temporary and will not significantly affect groundwater resources." 7 Tr 618. Third, Mr. Turner asserted that Enbridge has developed a spill plan that includes measures to prevent or minimize the impact of a hazardous material spill during construction. Fourth, he explained that nine drinking water wells within the workspace will be plugged and abandoned, and the remaining wells in the workspace will be properly protected. Mr. Turner averred that "[i]n the event construction adversely affects the well, it will be restored to its former quality, to the extent practicable, or replaced." 7 Tr 621. Fifth, he concluded that the trenching, excavation, and backfill activities will be "will be minor, temporary, and will not significantly affect groundwater resources." 7 Tr 621.

Mr. Turner testified that during construction of the Replacement Project, impacts to soils, vegetation, and surface water will be minimized by implementing the criteria set forth in the EPP. He stated that these measures include:

- Locating equipment parking areas, equipment refueling areas, concrete coating activities, and hazardous material storage at least 100 feet from surface waters, unless unfeasible;
- Installing and maintaining temporary erosion and sediment control BMPs throughout construction and until final restoration is achieved; and
- Implementing the Spill Plan to help prevent spills from occurring and mitigating a spill or leak if it occurs during construction.

RECEIVED by MSC 11/14/2025 2:10:18 PM

7 Tr 622. He then explained the specific measures that are included in Enbridge's Spill Plan. 7 Tr 622. In addition, Mr. Turner testified that Enbridge will comply with condition 14 of the EGLE Water Resources Division Permit that requires the company "to minimize the risk of spreading terrestrial and aquatic invasive species" during construction. 7 Tr 623.

Next, Mr. Turner responded to the concerns regarding cultural resources expressed by the Tribes and noted in Exhibit S-25. He stated that USACE is preparing an EIS and will evaluate potential impacts to cultural and historical resources as part of that effort, which is done in consultation with Michigan's First Nations Peoples. Mr. Turner added that the evaluation will look at "the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use to historic properties (including properties of cultural or religious significance to Indian tribes) if such properties exist." 7 Tr 624. Mr. Turner asserted that the EGLE permit also addresses Tribal concerns in Special Condition 21, which reads as follows:

> The Straits of Mackinac bottomland and shore are notable for the presence of historic properties, such as terrestrial and bottomland archaeological sites (including historic aircraft and shipwrecks), submerged paleo landscapes, cemeteries and isolated human burials, significant architecture and objects, historic districts, National Historic Landmarks, and traditional cultural properties and landscapes. The USACE has federal permitting authority over this project and is required to comply with Section 106 of the National Historic Preservation Act of 1966, as amended (Section 106). Section 106 requires federal agencies to consider the effects of their undertakings on historic properties in consultation with the State Historic Preservation Officer, consulting Tribes, and other stakeholders. Any adverse effects on historic properties must be avoided, minimized, or mitigated. The SHPO [State Historic Preservation Office] recommended [an] additional survey to identify historic properties in the project area (November 10, 2020). This recommendation will remain under consideration during the Section 106 consultation process. Note that historic properties on state-owned land and the state-owned bottomland are the property of the State of Michigan. Archaeological surveys that may be proposed on state-owned land and the state-owned bottomland will require a Department of Natural Resources Permit for Archaeological Exploration on State-Owned Land.

7 Tr 625 (quoting Exhibit A-17).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Mr. Turner stated that to address these concerns, Enbridge has performed a desktop and Phase I cultural resources investigation in coordination with USACE. He testified that:

> geophysical surveys of the workspaces on the north and south sides, where practical, were conducted in the summer of 2021. Additionally, Enbridge conducted additional marine archaeological surveys within the area of potential effect in the summer and fall of 2021. Tribal officials were present for portions of the geophysical and marine surveys. Enbridge will also be paying for an ethnographic study to be performed by a third party under the direction of the USACE as part of the cultural resource evaluations that will be conducted as part of the EIS and Section 106 processes.

7 Tr 626. Mr. Turner noted that Enbridge's survey methods were approved by USACE and SHPO. He explained that the data from these surveys is currently being processed and will be provided to USACE, which will make determinations regarding the potential effect of the project on cultural and historical resources and will publish the results in the EIS. Mr. Turner added that Enbridge has conducted additional cultural resource and wetland surveys in the area of Outfall 002, and he noted that the data results are being processed and submitted to EGLE and USACE.

Furthermore, Mr. Turner testified that wetland and waterbody field surveys were completed for the Replacement Project and submitted to EGLE and USACE. He noted that no costal alvar is present in the workspace. Mr. Turner stated that "[i]mpacts to limestone cobble shore will be limited to a small footprint required for the construction of Outfall 1 on the south side and Outfall 3 on the north side. Exhibit A-18 is the EGLE Responsiveness Summary for the Water Resources Permit, and it discusses the Permit conditions and efforts to minimize impacts to coastal wetlands." 7 Tr 628. He also noted that Exhibit A-15 is the EGLE Water Resources Permit, which includes authorization of the Replacement Project under Part 325 of the GLSLA.

Mr. Turner stated that the Replacement Project will have no direct impact on commercial fishing, fish populations, or spawning areas in the Great Lakes, including whitefish and walleye,

RECEIVED by MSC 11/14/2025 2:10:18 PM

and there will be no permanent impacts to the lakebed or aquatic habitats. He noted that all water discharged to the Straits via the permitted outfalls will be tested in accordance with the EGLE NPDES permit. *See*, Exhibits A-15, A-16. In addition, he testified that construction of the Replacement Project will have no effect on wild rice and no direct impact on common loon populations. Mr. Turner contended that although construction "will include removal of individual sugar maple trees," the Replacement Project "will not impact overall populations of sugar maple or maple syrup production." 7 Tr 629.

Mr. Turner also responded to Dr. Cleland's testimony regarding cultural resources. He referenced the desktop and Phase I cultural investigations, stating that:

> [c]ultural resource consultants searched the files of the MI SHPO [Michigan SHPO] and the Office of the State Archaeologist (OSA) in order to identify cultural resource locations and investigations that have been previously recorded within a one-mile study area for the project. In 2019 and 2020, cultural resource consultants conducted Phase I cultural resources surveys in the north side and south side study areas in accordance with MI SHPO standards. . . . MI SHPO records show a total of 11 previously identified archaeological sites within one mile of the workspaces: these are one (1) unverified site on the north side, and five (5) unverified and five (5) verified sites on the south side of the Straits of Mackinac. Based on MI SHPO records, no previously recorded archaeological sites have been verified within the workspace; however, it may be possible that portions of three of the unverified sites cross into the workspace: sites 20EM11, 20EM12, and 20MK15.

7 Tr 632-633. Mr. Turner stated that with respect to the one historic structure and six archeological sites identified, none are recommended for inclusion in the NRHP by the cultural resource consultant. He noted that the information will be provided to USACE and USACE will complete the process in consultation with the Tribes and SHPO.

Finally, Mr. Turner stated that Enbridge will implement a UDP, which will be submitted to USACE for approval prior to construction. Exhibit A-12, pp. 98-102. Moreover, he asserted that the tunnel is being designed to avoid any impacts to the bottomlands of the Straits. Specifically, Mr. Turner stated that "[d]irect impacts to bottomlands will not occur as a result of tunnel

RECEIVED by MSC 11/14/2025 2:10:18 PM

construction" with the exception of a small area around the temporary water intake structures. 7 Tr 636. He also cited a study that was conducted to evaluate the potential impacts of construction vibrations to very sensitive structures. Mr. Turner testified that:

> [a]nticipated vibration levels could be close to 0.1 inches per second near the shoreline where the tunnel is less than 75 feet deep. The study noted that while impacts to sensitive sites on the lakebed are not likely to occur due to vibrations from the TBM, location specific analyses could be conducted to verify potential impacts if sensitive sites are present in near-shore areas where the tunnel is less than 75 feet deep.

7 Tr 636. He added that Enbridge conducted additional marine archeological surveys in the fall of 2021, which were developed by a third party, approved by USACE and SHPO, and witnessed by Tribal officials.

2. The Commission Staff

Mr. Chislea responded to MSCA's testimony presented by Mr. Cooper regarding the construction of the replacement pipe segment in the tunnel. He recommended that "[f]or all mainline girth welds, Enbridge should be required to develop low-hydrogen welding procedures and qualify them per the requirements found in 49 CFR 195.214." 12 Tr 1757. Mr. Chislea also recommended that the welding procedures include pre-heat requirements and inter-pass temperature requirements and that the non-destructive testing of the mainline girth welds include automatic phased array ultrasonic testing methods. He stated that if these recommendations are implemented, "post-heat treatment is not necessary." 12 Tr 1758. Finally, Mr. Chislea sponsored Exhibit S-26, PHMSA's response letter regarding their design review of the Replacement Project that was described in his direct testimony, stating that he sought "to admit the letter into evidence once we received it, which [he is] now doing as part of [his] rebuttal testimony." 12 Tr 1758.

Responding to Dr. Stanton's no-action alternative, wherein the Notice is enforced and the dual pipelines are shut down, Mr. Warner contended that the "scenario as described by Dr. Stanton is

RECEIVED by MSC 11/14/2025 2:10:18 PM

not an appropriate alternative for consideration" in this case. 12 Tr 1739. He explained that: (1) Dr. Stanton failed to support her claim that the Notice is likely to be enforced and a shutdown of the dual pipelines is likely to occur; (2) in the event the Commission denies Enbridge's application for the Replacement Project, Enbridge still has continuing authority to operate the dual pipelines; (3) Enbridge has not indicated that it will be voluntarily shutting down Line 5; and (4) the purpose of the Replacement Project is not only to mitigate the risk of an oil spill but also to continue service on Line 5. *See*, 12 Tr 1740-1742. In addition, Mr. Warner stated that Dr. Stanton failed to demonstrate that it is likely that service on the dual pipelines will be discontinued because, as a result of the Notice, the Canadian government "formally invoked the dispute settlement provision of the 1977 Agreement between the Government of Canada and the Government of the United States of America Concerning Transit Pipelines. This escalation to international dispute resolution adds further uncertainty to the enforceability of the easement revocation which was initiated over a year ago." 12 Tr 1741 (footnote omitted).

According to Mr. Warner, the more appropriate no-action alternative for Commission consideration "is the scenario in which the proposed Replacement Project is not completed." 12 Tr 1742. He stated that if the Replacement Project is not constructed, the status quo would be maintained and there would be no effect on the current or future operation of Line 5. However, Mr. Warner contended that "[i]f the Dual Pipelines and Line 5 are shut down prior to the completion of [Commission] Case No. U-20763, the Commission should consider that new scenario (Line 5 shutdown scenario) to be the status quo. In the Line 5 shutdown scenario, Staff anticipated that Line 5 products would be transported by other methods, such as rail or trucking," as described in Mr. Morese's direct testimony. 12 Tr 1742.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Mr. Morese responded to the direct testimony of Mr. Erickson and Dr. Stanton, and he sponsored Exhibit S-28. He disagreed with these witnesses, stating that "[t]he appropriate 'no-action' before Staff and the Commission is the denial or withdrawal of Enbridge's application, which would result in the status quo[:] operational Dual Pipelines resting on the bottomlands of the Great Lakes." 12 Tr 1795. Mr. Morese argued that the status quo is less desirable than the Replacement Project because the location of the dual pipelines in the Straits poses a health, safety, and environmental risk. 12 Tr 1795.

Mr. Morese also disagreed with some of Dr. Stanton's assertions regarding the ability of electric heat pumps to act as a practical and economic alternative to propane in Michigan. He noted that according to research, the lifecycle costs for electric heat pumps can be high compared to natural gas furnaces. Mr. Morese explained that "positive lifecycle costs for heat pumps can be expected for residents of states in the South and Northwest where the temperatures are warmer, but not for states in the Midwest such as Michigan, Illinois, or Wisconsin." 12 Tr 1796. He further noted that many homes will need an approximate $2,000 upgrade to 200-amp electrical service and opined that parts of the distribution system may also require upgrades or improvements to handle the additional load caused by electric heat pumps. Finally, Mr. Morese asserted that with a typical conversion cost (propane to electric heat pump) of more than $9,000, there are problems with affordability. Therefore, to reduce GHG emissions from residential consumers/homes as recommended by Dr. Stanton, Mr. Morese testified that it will require a holistic approach supported by local, state, and national policy, with the involvement of building codes, incentives, tax credits, rebates, and low-interest loans.

Mr. Morese also objected to Dr. Stanton's reliance on a study conducted in Massachusetts that found that propane is far more expensive than other forms of heating. He asserted that those study

RECEIVED by MSC 11/14/2025 2:10:18 PM

conclusions are "not applicable to Michigan because the price structures for heating alternatives are different in the Northeast U.S. compared to those seen in the Midwest, particularly in Michigan." 12 Tr 1799. Moreover, Mr. Morese disputed Dr. Stanton's claim that GHG emissions limits or other zero emission energy requirements will prohibit the future use of fossil-fuel equipment and, as a result, propane heating equipment will become a stranded asset. He posited that the definition of carbon neutrality does not generally include the notion that all fossil fuel burning activities will be prohibited.

In response to Mr. Erickson's claim that a shutdown of Line 5 will result in increased petroleum prices, reduced demand, and reduced GHG emissions, Mr. Morese contended that Mr. Erickson's analysis has flawed assumptions. Mr. Morese explained that:

> [w]hile stating that the U.S. Dept. of Energy's EIA predicted almost $73/bbl [barrel] crude oil for 2030 . . . , Mr. Erickson's analysis chose to utilize the much more conservative $53/bbl predicted by the Canadian Energy Regulator . . . . This singular decision underpins Mr. Erickson's argument that future oil projects would go undeveloped in the greater Williston Basin and has ramifications throughout his testimony. It is historically very difficult to predict the future price of volatile commodities such as crude oil. As of November 15, 2021, Brent crude oil is over $80 a barrel.

12 Tr 1801-1802. Although Mr. Morese conceded that the additional cost of transporting crude oil by rail would be approximately $6/bbl, he disagreed with Mr. Erickson that the $6/bbl increase will result in 290,000 barrels of crude oil being stranded in the Williston Basin in Canada. He also noted that Canada's regional throughput is increasing, and he disputed the price elasticity value chosen by Mr. Erickson. Furthermore, Mr. Morese objected to Mr. Erickson's calculation that a shutdown of Line 5 would result in a long-term increase in the global price of crude oil by about $0.29/bbl. He stated that the "Staff is not confident the estimated increase of $0.29/bbl is significant enough to actually alter demand and impact behavioral change on the part of the consumer." 12 Tr 1804-1805.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Finally, Mr. Morese disagreed with Mr. Erickson that a shutdown of Line 5 would result in increased petroleum prices and reduced worldwide petroleum demand. He stated that:

> Line 5's volume of 450,000 crude barrels accounts for approximately 0.45 percent of daily world crude consumption based on 100,000,000 barrels. Planned and unplanned production or supply outages are frequent occurrences. These outages can and do have impacts on crude oil prices, but these impacts are difficult to predict and are often short term in nature when relatively small volumes are involved. As seen from the chart below, monthly unplanned disruptions averaged 2.58 million barrels a day over the last ten years, ranging from under 100,000 barrels to over 4,000,000 barrels. When compared to the monthly West Texas Intermediate (WTI) price of crude oil, it is difficult to precisely pinpoint the relationship Mr. Erickson relies on.

12 Tr 1805. Mr. Morese also noted that the Organization of Petroleum Exporting Countries have significant excess production capacity available to address market shortfalls, and he posited that the world crude oil market would adjust to limit any long-term price impact. 12 Tr 1806. Finally, he stated that the consumption of liquid fuels has trended upward for 20 straight years with little indication that this trend is influenced by insignificant price changes.

Mr. Ponebshek responded to Mr. Erickson's testimony and sponsored Exhibit S-27. He noted that Mr. Erickson's estimate of GHG emissions associated with the construction of the replacement pipe segment is significantly higher than the estimate calculated by Weston. Mr. Ponebshek explained that Weston's GHG emissions estimate included Scope 1 emissions, which are fuel combustion, company vehicle, and fugitive emissions. He noted that Mr. Erickson's GHG emissions estimate also included Scope 1 emissions but that Mr. Erickson added Scope 2 emissions (purchased electricity, heat, and steam) and Scope 3 emissions (purchased goods and services, business travel, employee commuting, waste disposal, use of sold products, transportation and distribution, investments, leased assets, and franchises). Mr. Ponebshek asserted that Weston's estimate of Scope 1 emissions is comparable to Mr. Erickson's estimate. However, Mr. Ponebshek disagreed with the source data used by

RECEIVED by MSC 11/14/2025 2:10:18 PM

Mr. Erickson for the Scope 2 emissions, and he believed that Scope 3 emissions are "outside a proper range for this study." 12 Tr 1879.

3. Environmental Law & Policy Center and Michigan Climate Action Network

Mr. Erickson responded to Mr. Morese's and Mr. Ponebshek's testimony regarding GHG emissions analysis assumptions, and he sponsored Exhibits ELP-26 through ELP-28. In his rebuttal testimony, Mr. Erickson stated that he reached three main conclusions:

- First, Mr. Morese and Mr. Ponebshek erroneously assume that the Line 5 tunnel project, relative to a scenario in which this Proposed Project is not built, will have no effect on consumption of the oil anticipated to be handled by the project, nor any effect on emissions from producing or burning that oil. This is contrary to portions of their own testimony that support a conclusion that, if Line 5 is not re-started, oil prices would increase and global oil consumption decrease.

- Second, and perhaps as a consequence of the error above, Mr. Morese and Mr. Ponebshek fail to estimate or disclose the largest sources of greenhouse gas emissions associated with the proposed Line 5 tunnel project: the emissions associated with extracting and burning the oil and other liquids anticipated to be handled by the project.

- Third, Mr. Ponebshek fails to estimate the largest sources of emissions associated with tunnel construction: those from electricity to power the tunnel boring machine and the concrete used to construct the tunnel.

9 Tr 1087; *see also*, 9 Tr 1088-1102.

Mr. Erickson noted that according to Mr. Morese, the oil market is "relatively price inelastic" in the short term and, therefore, an increase in price would not result in a meaningful decrease in demand. 9 Tr 1090 (citing 12 Tr 1779). However, Mr. Erickson stated that, "by assuming that there would be zero change in global oil usage, [Mr. Morese] is treating demand as *perfectly* inelastic (elasticity of zero) – not *relatively* inelastic—which, as [Mr. Erickson] described above, is contrary to the evidence [Mr. Morese] cites." 9 Tr 1091 (emphasis in original). He also asserted that Mr. Morese only analyzed oil consumption in Michigan and that Mr. Morese failed to

RECEIVED by MSC 11/14/2025 2:10:18 PM

consider the effect of a price increase globally. Furthermore, Mr. Erickson disagreed with Mr. Morese's use of short-term elasticities, arguing that Mr. Morese should have used long-term elasticities because it is more appropriate "for a project like the Proposed Project – designed to last 99 years . . . ." 9 Tr 1092.

Mr. Erickson contended that Mr. Morese inappropriately concluded "that oil consumption will not be affected if the existing Line 5 shuts down and the tunnel is not approved." 9 Tr 1902. Mr. Erickson asserted that the Bureau of Ocean Energy Management (BOEM) of the U.S. Department of Interior made a similar error during its analysis of global oil consumption for the Liberty Project in Alaska, which resulted in the 9th Circuit Court of Appeals finding that BOEM's analysis was arbitrary and capricious.

Next, Mr. Erickson claimed that:

> [b]ecause Mr. Ponebshek did not estimate GHG emissions associated with increased oil consumption, decision-makers do not have a complete and transparent basis for making decisions about the environmental impacts that will be caused by the proposed project compared to if the proposed tunnel project was not built. Moreover, by not accounting for the Proposed Project's increase in greenhouse gas emissions, Mr. Morese inappropriately suggests that the ecological impacts of GHG emissions need not be considered . . . .

9 Tr 1095. He argued that Mr. Morese and Mr. Ponebshek improperly narrowed the focus of their analysis to the primary beginning and end points of the supply chain and the direct emissions from the Replacement Project. Mr. Erickson asserted that a proper GHG emissions analysis should include the direct and indirect GHG emissions from the Replacement Project and that "uncertainty is no excuse for excluding these very large sources of emissions, because methods to calculate them are readily available, and associated uncertainties can be described." 9 Tr 1099 (footnote omitted).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Mr. Erickson also argued that making electricity, cement, and steel to construct the tunnel results in CO_2 emissions. He asserted that there are readily available methods to estimate these emissions and that Mr. Ponebshek's analysis should have included these estimates. 9 Tr 1100-1102.

Dr. Stanton responded to Mr. Morese's testimony, and she sponsored Exhibit ELP-29. She agreed with Mr. Morese that it is not feasible for most Michigan propane customers to switch to natural gas for home heating and other fuel needs but disagreed that it is infeasible for the majority of Michigan's propane customers to switch to electricity for home heating needs. Dr. Stanton explained that if Line 5 is shut down and the price of propane increases, "[m]any households will electrify, and electrification will be economical for many households. However, households would not be forced to electrify in the short term. Accordingly, some households may, in the short term, respond to an increase in propane prices by reducing somewhat the amount of propane they consume and paying more for the propane they continue to purchase." 9 Tr 967. She stated that if customers continue to use propane but at a lower volume, it will cost each household an additional $55 to $209 per year.

In addition, Dr. Stanton contended that MTU researchers found that after transitioning from propane to heat pumps for residential buildings, there were lower lifetime costs and lower GHG emissions, as shown in Exhibit ELP-29. Furthermore, she noted that an additional benefit of switching from propane to electric heat pumps is that "[e]very kWh [kilowatt-hour] of renewable energy added to Michigan's grid will reduce electric emission rates, increase savings from a propane-to-electric heat pump transition, and decrease its dollar per ton cost." 9 Tr 970. Dr. Stanton acknowledged that there may be up-front costs to transition to heat pumps that may be cost prohibitive for low-income families. However, she stated that "zero- and low-interest loan

RECEIVED by MSC 11/14/2025 2:10:18 PM

programs, geared to meet the needs of households at all income levels," should be "an essential part of an equitable decarbonization effort." 9 Tr 971.

Next, Dr. Stanton asserted that "Mr. Morese has not provided any support or rationale for his conclusion that a transition from gasoline to electric vehicles is 'not a viable alternative' or that there is a 'continued need for access to fossil fuels in the short to medium term.'" 9 Tr 972 (quoting 12 Tr 1734, 1792). She also disagreed with Mr. Morese's claim that if the price of petroleum products increases, demand will not decrease—i.e., the demand for products shipped through Line 5 is perfectly inelastic. Dr. Stanton stated that:

> [d]emand for fossil fuels is more elastic over longer time frames (and less elastic over shorter time frames). Reacting to a fuel price increase over weeks, months or even a few years, consumers may be unable to change their consumer behavior quickly. Given more time, however, consumers react to a fuel price increase by changing behavior and/or purchasing equipment that runs on a different power source.

9 Tr 974. She encouraged the Commission to consider long-term demand elasticity when analyzing the no-action alternative in which Line 5 no longer operates.

4. Bay Mills Indian Community

Ms. Gravelle responded to Mr. Warner's and Mr. Yee's direct testimony, and she sponsored Exhibits BMC-38 through BMC-40. She testified that in the government-to-government consultation process, Mr. Warner mischaracterized how the Tribes' concerns with the Replacement Project would be addressed. She stated that:

> [p]ursuant to Executive Directive No. 2019-17, . . . each executive agency must consult *on a government-to-government basis* with the tribes before taking an action or implementing a decision that may affect one or more of the tribes. Contrary to Mr. Warner's assertion, the obligations of Executive Directive No. 2019-17 were not satisfied when the Staff chose to send a memorandum—on the day before testimony was due to be filed in the contested case—that attempted to summarize discussions that took place between the Staff and the tribes. Bay Mills' concerns about the tunnel project are not accurately or comprehensively described in the Staff's memo. The memo also does not accurately or

RECEIVED by MSC 11/14/2025 2:10:18 PM

> comprehensively describe how any of Bay Mills' concerns were addressed in the [Commission]'s final decision on the proposed tunnel as required by the Executive Directive, as no final decision has been made.

10 Tr 1436 (emphasis in original). Ms. Gravelle opined that because Bay Mills and the Staff are both parties to this litigation and have taken adverse positions, the free exchange of ideas that is necessary for an effective consultation has not been able to occur and communication has been hampered. In addition, Ms. Gravelle contended that, according to the Staff, the consultation process is complete because the Staff has submitted testimony summarizing "what it believes to be the tribes' concerns. But, consistent with ED No. 2019-17, government-to-government consultation should continue until there is a final decision or action. The submission of testimony in the contested case is not a final decision or action in this matter." 10 Tr 1437.

Moreover, Ms. Gravelle objected to the Staff's reliance on Mr. Yee's testimony as evidence that the Staff's consultation obligation has been satisfied. She stated that "Mr. Yee participated in one meeting between the [Commission] Staff and the tribes but never asked a single question about the tribes' concerns. He offered no opinion about any issues raised." 10 Tr 1438. Ms. Gravelle opined that Mr. Yee has no understanding of Bay Mills' position regarding the Replacement Project and, as a result, could not assist the Staff in its consultation obligation.

Ms. Gravelle also disagreed with Mr. Warner's view "that the USACE will complete a comprehensive and rigorous study in preparation of the Environmental Impact Statement . . . ." 10 Tr 1439. She stated that USACE "announced its intention not to follow the proper regulatory process under Section 106 . . . ." 10 Tr 1439; *see also,* 54 USC 306108; 36 CFR 60.4; Exhibits BMC-38, BMC-39. Even if USACE uses the appropriate process and complies with Section 106, Ms. Gravelle asserted that Section 106 only requires that federal agencies consider the effects of the Replacement Project on historic properties, not cultural resources. Thus, she

RECEIVED by MSC 11/14/2025 2:10:18 PM

contended that the Staff should not rely on USACE to conduct a proper review of cultural resources in its EIS. Finally, Ms. Gravelle asserted that the Commission should coordinate with the SHPO to determine whether the Replacement Project will impact cultural resources.

Mr. Kuprewicz responded to the Staff's and MSCA's testimony and sponsored Exhibit BMC-37. He asserted that the Staff underestimates the potential for a release of Line 5 products into the Straits from the tunnel. Mr. Kuprewicz explained that although the risk of release is low, it is not negligible and could occur "by way of a catastrophic explosion" caused by a spark from electrical equipment or human error. 10 Tr 1326. He opined that the ventilation system is not infallible, cannot eliminate all fuel vapor from the tunnel, and will not prevent "an explosion from occurring following the accumulation, or pocketing, of vapor in the tunnel." 10 Tr 1328. To help prevent an electrical ignition of fuel vapor, Mr. Kuprewicz suggested that all electrical equipment comply with Class 1, Division 1 specifications, rather than Class 1, Division 2 specifications.

Mr. Kuprewicz noted that the Replacement Project presents the opportunity to increase the volume and, therefore, the capacity of Line 5 because the new 30-inch diameter replacement pipe segment will have a maximum operating pressure of 1440 pounds per square inch gauge (psig). Accordingly, he disputed the Staff's claim that the tunnel would take 50 hours to fill with petroleum product. Rather, Mr. Kuprewicz asserted that because the replacement pipe segment will have a greater operating capacity, the tunnel will fill more quickly, which increases the environmental risk in the event of a release into the Straits. *See,* 10 Tr 1331; Exhibit S-16, Table 2.

In addition, Mr. Kuprewicz contended that "the Staff is not taking into account that this Tunnel Project is relying too heavily on Computation Pipeline Monitoring ('CPM')-based release

RECEIVED by MSC 11/14/2025 2:10:18 PM

detection approaches . . . ." 10 Tr 1332. He stated that "[b]ased on my knowledge and expertise with pipeline safety measures, CPM-based released detection approaches defined in federal pipeline safety regulation are not reliable enough nor rapid enough for timely indication of leak detection of the pipeline segment in the unique siting/placement within a tunnel." 10 Tr 1332. Mr. Kuprewicz argued that a second leak detection system with mandatory shutdown procedures should take priority over the CPM-based approach.

Next, Mr. Kuprewicz asserted that the Replacement Project should not be approved because the Staff failed to "acknowledge that human error creates a risk that crude oil and/or propane will be released in the tunnel, that there will be a delay in recognizing a release, and that the released crude oil or propane will ignite." 10 Tr 1335. He contended that the Staff is overly reliant on the protection afforded by compliance with PHMSA regulations and CPM, stating that these standards and technology will not prevent a release of Line 5 products into the Straits.

5. Michigan Propane Gas Association

Michael D. Sloan, Managing Director of the natural gas and liquids advisory services practice at ICF, provided rebuttal testimony on behalf of the Associations. Mr. Sloan testified that Dr. Stanton's recommended conversion to electric heat pumps fails "to provide any assessment of the timeline of a conversion away from propane, hence does not provide any insight into whether or not her proposed solution to the Line 5 shutdown would address the impacts on Michigan propane customers in the near to medium term (one to ten years)." 8 Tr 905. He noted that Dr. Stanton seems to rely on the recommendations from the U.P. Energy Task Force to address the near-term impacts of a potential Line 5 shut down. However, Mr. Sloan contended that:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> the Upper Peninsula Task Force proposals are unlikely to reduce the price impacts of the termination, and . . . will have only a limited impact on the ability of the system to respond to extreme weather conditions or other supply shortages. They do not and cannot replace the supply flexibility provided by the regional propane production facilitated by Line 5. In addition, they are focused on propane markets in the Upper Peninsula and will have limited impact on Michigan propane consumers outside of the Upper Peninsula. While the Upper Peninsula represents the highest concentration of propane consumers per capita, the impacts on consumers in the rest of Michigan are also important to consider.

8 Tr 907.

Mr. Sloan stated that in the near term, to replace products transported by Line 5 following a shutdown, there would be an increased reliance on rail and truck transport, although "neither would be capable of offsetting the loss of Line 5 given the lack of existing infrastructure at locations dependent on propane deliveries manufactured from Line 5 volumes." 8 Tr 906. In addition, he asserted that rail and truck transport each have economic and environmental impacts that must be considered such as road safety issues, environmental accidents, and increased direct GHG emissions.

Mr. Sloan disagreed with Dr. Stanton's claim that "propane customers do not need a healthy propane distribution industry" in order to address heating and other energy uses. 8 Tr 908. He asserted that Dr. Stanton misjudges the complexity of the propane distribution and storage system when she states that homes and businesses can self-deliver propane in bottles or small tanks. Mr. Sloan explained that Dr. Stanton "fails to recognize that propane used for most home heating is delivered via pressurized tanker trucks (bobtails) and stored in permanently mounted residential storage tanks that are permanently connected to the permanently mounted residential propane appliances." 8 Tr 908-909. Furthermore, he stated that self-delivery "is generally limited to the 20 pound cylinders that are typically used by outdoor grills and portable outdoor space heaters and

RECEIVED by MSC 11/14/2025 2:10:18 PM

firepits. A very small share of the propane market uses portable cylinders larger than 20 pounds." 8 Tr 909.

Mr. Sloan also testified that the examples of heat pumps cited by Dr. Stanton are not relevant to Michigan or the U.P. He disputed Dr. Stanton's reliance on heat pump studies from Massachusetts and San Francisco and on national averages, stating that these studies "do not reflect the actual conditions that heat pumps would face in the Upper Peninsula or the rest of Michigan" because: (1) temperatures in Michigan and the U.P. are much colder than the temperatures cited in the studies, (2) air conditioning requirements in the U.P. and propane prices in Michigan are lower than in the areas reflected in the studies, and (3) electricity prices in the U.P. are "significantly higher than national average electricity prices." 8 Tr 910-911. He further explained that Michigan has more annual heating degree days compared to California and Massachusetts and "the difference in temperature affects the performance and the cost of the heat pumps." 8 Tr 911. Mr. Sloan contended that for Michigan's colder climate, "the heat pump needs to be a larger size, or have a larger backup heat source in order to meet peak space heating requirements," which makes the units more expensive. 8 Tr 911-912. Furthermore, he testified that because Michigan has less cooling degree days compared to the national average, the economic impact of the heat pump's air conditioning capability is reduced.

Regarding propane prices, Mr. Sloan noted that "[r]esidential propane prices are generally more than 50% higher in Massachusetts than in Michigan," which indicates that heat pump economics for Massachusetts are not relevant for Michigan. 8 Tr 912 (footnote omitted). Concomitantly, he stated that Michigan's electric prices are approximately "23 percent higher than the national average," and the U.P.'s electric rates are "nearly 39 percent higher than the national

RECEIVED by MSC 11/14/2025 2:10:18 PM

average. Hence the use of national average data to estimate heat pump economics is not useful for either Michigan or the Michigan Upper Peninsula." 8 Tr 913-914 (footnotes omitted).

Mr. Sloan averred that Dr. Stanton's indication that heat pumps are available in Michigan is not helpful and may be misleading. He explained that although heat pumps are widely available across the nation, only 10 percent of households in Michigan use electric space heating, which may include electric resistance space heating in addition to, or in lieu of, heat pumps. Mr. Sloan stated that the new generation cold climate heat pumps referred to by Dr. Stanton "still face significant challenges and are not yet widely available." 8 Tr 914.

Mr. Sloan further opined that "[c]onversions of propane heating customers to heat pumps will not significantly reduce the propane supply issues associated with a potential Line 5 shutdown in the near to mid-term (one to ten years)" because, absent a mandate by the government with financial incentives, there is unlikely to be a transition to heat pumps. 8 Tr 915. He noted that when reviewing historical data, the transition will take time and, even with market intervention, the transition will be too gradual to affect the near to mid-term. Mr. Sloan estimated that "[e]ven if the State of Michigan halted all sales of propane appliances, it would take up to 20 years or more before the likely appliance replacement rate would offset the loss of propane supply associated with a shutdown of Line 5." 8 Tr 916. He indicated that he has not observed evidence showing that heat pumps can take a market share from propane. Mr. Sloan opined that in the event of a Line 5 shut down in the near- to mid-term, it is more likely that customers would shift from propane to wood rather than to heat pumps. However, he stated that in the longer term, a slow transition to heat pumps is likely, given that the technology is improving.

Mr. Sloan also stated that, in addition to some U.P. customers converting to heat pumps, he "would also expect a significant number to convert (or convert back) to wood and to electric

RECEIVED by MSC 11/14/2025 2:10:18 PM

resistance heat" if propane is not available or sales of propane appliances are prohibited. 8 Tr 918. He reiterated that there are a number of lower-than-average cooling degree days in the U.P. and, therefore, the value of a heat pump is significantly reduced in this region. Mr. Sloan asserted that "customers that are forced to move away from propane are likely to look for other lower cost space heating sources, including wood burning stoves, instead of installing a heat pump." 8 Tr 918. He also indicated that heat pumps may be more attractive in the remainder of Michigan given the lower heating load and higher cooling load, when compared to the U.P.

Mr. Sloan indicated that there is a lack of industry standards for utilizing heat pumps as heating systems and that contractors have struggled to properly size systems based upon heating loads. He opined that it will take significant incentives for customers and increased education efforts to accelerate the conversion from propane to electric heat pumps.

In response to Dr. Stanton's testimony that, compared to air source heat pumps, propane heaters are less efficient and emit more GHGs, Mr. Sloan averred that Dr. Stanton's estimated emissions benefits are not realistic in the short term. Based on ICF data, he stated that when assuming:

> a new propane furnace has an efficiency of 82 percent, the heat pump would require an annual COP [coefficient of performance] of about 3.4 in order to support Dr. Stanton's conclusions. While there will be some heat pumps capable of reaching this COP in practice, many will not, particularly when operating in a colder environment including both Michigan and the Michigan Upper Peninsula.

8 Tr 920. He noted that Dr. Stanton's evidence "references a Minnesota heat pump study with a COP of 2.3, which would lead to a moderately lower carbon emissions for the heat pump relative to a propane furnace when combined with the current carbon intensity of electricity." 8 Tr 920 (footnote omitted). However, Mr. Sloan noted that this is a laboratory calculation and, in reality, many customers would continue to utilize their propane furnace to supplement a heat pump during

RECEIVED by MSC 11/14/2025 2:10:18 PM

the coldest parts of the year. Specifically, he stated that "[t]he electric utilities in Massachusetts that participate in the Mass Save program are currently recommending that customers not remove their existing fossil [fuel] heating systems, but rather keep them in operation for backup use." 8 Tr 921 (footnote omitted).

In addition, Mr. Sloan testified that Dr. Stanton did not consider the impact that a transition to heat pumps would have on the electric grid, noting that "[t]he increase in power requirements is potentially significant, particularly if the transition occurs in an accelerated fashion." 8 Tr 921 (footnote omitted). He averred that an increase in demand would require significant investments in the electrical grid, and he expected an increase in electricity prices even though the U.P. already has some of the highest electricity prices in the nation.

Finally, Mr. Sloan objected to Dr. Stanton's testimony regarding stranded assets. He alleged that Dr. Stanton "has not conducted any analysis of the costs of potential stranded assets, and has ignored the costs of the assets that would of necessity become stranded in the event that service on Line 5 is terminated and Michigan shifts to a net zero energy economy." 8 Tr 922. Mr. Sloan further disputed Dr. Stanton's suggestion that propane use will need to be eliminated by 2050 to achieve the goal of net zero emissions. He indicated that, currently, "there is very little clarity on how Michigan consumers will meet net zero requirements, and it is clear that Michigan is considering alternative approaches, including approaches that would rely on carbon-based fuels." 8 Tr 923. Mr. Sloan opined that renewable propane may be available before 2050, which would be consistent with environmental policies. He also noted that other low carbon technologies will develop in the next 30 years that "would allow existing propane households to be adapted to use hydrogen or other net zero emissions delivered fuels in the future, without requiring conversion to electric heat pumps." 8 Tr 923.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Ms. Pastoor responded to Dr. Stanton's proffered no-action alternative. She asserted that no action means maintaining the status quo, which would result in continued operation of the dual pipelines. She stated that the purpose of the Replacement Project has always been to ensure the continued operation of Line 5 and that the need for Line 5 is evidenced by the 1953 order and the Second and Third Agreements. Ms. Pastoor posited that the litigation over the 1953 easement has not changed this purpose and she noted that the State of Michigan voluntarily dismissed its suit in federal court on November 30, 2021.[27]

Ms. Pastoor also responded to Mr. Ponebshek's recommendation for a risk management plan. Noting that the construction of the tunnel is governed by the Tunnel Agreement, she stated that:

> [i]t is anticipated that probe-hole testing ahead of the TBM will be addressed in the Construction Execution Plan. As far as access to real time data gathered during construction, the Tunnel Agreement requires an Independent Quality Assurance Contractor who is unaffiliated with Enbridge to report to the [MSCA]. The Independent Quality Assurance Contractor will have access to construction documents, monthly progress reports, and the construction sites. Exhibit A-5, p. 13 ¶7.8. Risk management is important to both Enbridge and the [MSCA] and it is and will be continuously addressed within the framework created by Act 359 and the Tunnel Agreement.

7 Tr 578.

Mr. Dennis responded to Mr. Cooper's testimony regarding the heat treatment of girth welds, stating that:

> [f]or each project, Enbridge establishes a Welding Procedure Specification (WPS) that will require that the girth welds meet or exceed the strength, ductility, and hardness of the pipe used in the project. (See, Exhibit A-7, page 3 for the description of the pipe to be used this project.) This standard is established by Enbridge's own requirements, API [American Petroleum Institute] 1104 – "Welding of Pipelines and Related Facilities," and applicable provisions of ASME/ANSI B31.

[27] The State of Michigan filed a notice with the U.S. District Court in Grand Rapids, Michigan on November 30, 2021, stating that it was withdrawing its lawsuit against Enbridge from federal court so that the State could focus its efforts on a separate lawsuit that was filed in state court.

RECEIVED by MSC 11/14/2025 2:10:18 PM

8 Tr 794.

Responding to Dr. Cleland, Mr. Dennis posited that the Replacement Project will not result in any release from the dual pipelines because the portal and shaft locations are safely offset from the dual pipelines. He explained that vibrations will be monitored and that the TBM supports the rock face during advancement through the tunnel. 8 Tr 795-796. Mr. Dennis averred that the expected vibrations at shallow depths will be well below industry limits. He also disagreed with Mr. Rodwan's assertions regarding untreated drilling fluid. Mr. Dennis opined that Mr. Rodwan is confusing inadvertent returns from HDD with the tunneling process proposed here, which does not rely on HDD. 8 Tr 797.

Mr. Eberth stated that he is the Director of Tribal Engagement, Public Affairs, Communication, and Sustainability for Enbridge. He provided rebuttal testimony on Enbridge's relations with First Nations People. Mr. Eberth stated that Enbridge seeks to reduce its operational impact on First Nations People while seeking to partner with them. He cited a 2017 shareholder resolution to implement an Indigenous Peoples Policy and to "integrate Indigenous rights sensitivities into our investment processes through early identification across our different types of investments." 7 Tr 770; Exhibit A-19. Mr. Eberth stated that Enbridge seeks to achieve Indigenous awareness training for all employees and contractors by the end of 2022. He asserted that in 2018, Enbridge attended a meeting with all of the 1836 Treaty Tribes and in 2019, Enbridge offered to meet with the Tribes. Mr. Eberth stated that the Tribes have participated in the regulatory process by filing comments with both EGLE and the Commission. He added that 13 Tribes have been invited to observe activities that are part of the USACE review process. *See*, 7 Tr 773; Exhibit A-23.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Jeffry Bennett testified that he is a Senior Air Quality Engineer for Enbridge. He responded to Mr. Erickson's testimony regarding the GHG emissions associated with transportation by rail, stating that:

> [a]ssuming rail transportation is available, my calculations show the GHG emissions from shipping crude oil by Line 5 by rail depending on the route would result in 0.9 to 1.9 million metric tons CO_2e per year. This represents a 4-to-9-fold increase in GHG emissions for rail transport compared to relocating Line 5's Straits crossing within a tunnel. Overall, my analysis shows that from a GHG emission standpoint only, the best alternative would be the no action alternative where the Dual Pipelines continued to be operated. The next best alternative would be to relocate Line 5's Straits crossing within a tunnel. The worst approach by far among these three alternatives would be the use of rail transport.

7 Tr 763. Mr. Bennett conceded that neither he nor Mr. Erickson determined whether rail transport is actually feasible. However, he stated that by his calculations, both northern and southern rail routes will result in significantly more GHG emissions than the Replacement Project. *See*, 7 Tr 763, p. 765; Exhibit A-26. Mr. Bennett disagreed with the notion of using the lifecycle GHG emissions for consideration in the analysis of whether rail transportation is an appropriate alternative, positing that the responsibility for GHG emissions should be placed on the causer of the emissions, such as the producer or end user.

Neil K. Earnest testified that he is a Professional Engineer and President of Muse, Stancil & Co. He responded to Mr. Erickson's testimony regarding GHG emissions associated with the use of rail transport. Mr. Earnest argued that Mr. Erickson's methodology is flawed and that Mr. Erickson made substantive mathematical errors in his calculations. He also questioned Mr. Erickson's assumption that Line 5 will close if the Replacement Project is not completed. *See*, 7 Tr 656-659.

Mr. Earnest asserted that Mr. Erickson failed to consider and analyze the pipeline takeaway capacity from North Dakota or any other region of the U.S. He also noted that the CER draft

RECEIVED by MSC 11/14/2025 2:10:18 PM

report disagrees with Mr. Erickson's conclusions on takeaway capacity from Western Canada. In addition, Mr. Earnest opined that Mr. Erickson has no basis for his claims on higher Canadian crude oil supply costs or constraints caused by the failure to complete the Trans Mountain Expansion Project in Canada. *See,* 7 Tr 662-663.

Mr. Earnest argued that Mr. Erickson fails to demonstrate that a closure of Line 5 will force Bakken oil producers to shift from pipeline transportation to rail transportation; he noted that Line 5 is not a major route for oil producers. He further explained that Western Canadian oil producers "have pipeline transportation alternatives, and Mr. Erickson offers no evidence that the U.S. Bakken crude oil **producers** have pipeline transportation constraints. However, the U.S. and Canadian **refiners** that currently receive crude oil via Line 5 may have to use rail, to the extent that it is even possible, to transport crude oil to their refineries." 7 Tr 665 (emphasis in original). Mr. Earnest contended that the rail cost would be borne by the refiners and their customers, not the crude oil producers.

Mr. Earnest stated that Mr. Erickson's analysis regarding GHG emissions associated with rail transportation is unsupported and contains errors. Regarding the additional cost per barrel, Mr. Earnest argued that Mr. Erickson failed to include the one million barrels per day of light crude produced in Western Canada, and that, when the correct denominator is applied to the formula, the actual increased cost is $0.78 per barrel, not $6 per barrel. 7 Tr 667.

Next, Mr. Earnest averred that Mr. Erickson's calculation of the impact on crude oil production volume of the higher U.S. and Canadian crude oil supply cost is also in error. He stated that volume would be decreased (as a result of constraints caused by the loss of Line 5) by 80 b/d, not 286,000 b/d; he contended that this is a negligible change. Mr. Earnest stated that by correcting this error, Mr. Erickson's estimate of the impact to the global supply costs is

RECEIVED by MSC 11/14/2025 2:10:18 PM

unsupported. He opined that in addition to the calculation error, Mr. Erickson's methodology has an arbitrary element that renders his conclusions invalid. 7 Tr 671.

Finally, Mr. Earnest asserted that Mr. Erickson's calculation of the increase in the global marginal crude oil supply price is in error because "the elasticity of supply (E_s) value and the data set used to calculate the elasticity of supply value are inappropriate." 7 Tr 672. He objected to the $53/bbl value selected by Mr. Erickson based on the CER draft report and noted that Mr. Erickson was aware that the EIA forecasted $73/bbl for 2030, which is the same time period. Mr. Earnest opined that the EIA forecast is more appropriate.

C. Surrebuttal Testimony

Mr. Dennis provided surrebuttal testimony in response to Mr. Kuprewicz's claims regarding the risk of explosion in the tunnel. In Mr. Dennis's opinion:

> There is no credible scenario that would result in an explosion within the tunnel. To have an explosion three events must occur: (1) there must be a release; (2) the release must be sufficient to create an explosive atmosphere; and (3) there must be an ignition source. While it is theoretically possible for these events to occur, the tunnel and replacement pipe segment have been designed and will be constructed, operated, inspected, and maintained to prevent the occurrence of these events, thereby effectively eliminating the possibility of any explosion.

8 Tr 799.

Elaborating on his claim that there is virtually no risk of explosion in the tunnel, Mr. Dennis averred that the risk of release of products from the replacement segment is less than 0.000001, or one in one million. 8 Tr 800. He explained that the risk of release is less than one in one million because the design and construction of the replacement pipe segment will exceed federal standards. In addition, he asserted that the pipeline will be subjected to multiple periodic inspections to allow for early identification and repair of pipe degradation. Moreover, Mr. Dennis stated that the location of the replacement pipe segment within a tunnel eliminates the risk of

RECEIVED by MSC 11/14/2025 2:10:18 PM

excavation or third-party damage to the pipeline. Therefore, in his opinion, there is effectively no risk of release from the replacement pipe segment. Mr. Dennis contended that in the unlikely scenario that there is a release of products from the replacement pipe segment in the tunnel, the leak detection systems will detect the release and initiate shutdown procedures. *See*, 8 Tr 802-803.

Next, Mr. Dennis stated that all of the equipment in the tunnel will be Class 1, Division 2, which "are designed to not arc or spark and will not serve as an ignition source. Thus, even in the extremely unlikely scenario of a release[,] which then went undetected long enough to create an explosive atmosphere, there is still not an ignition source within the tunnel." 8 Tr 803. He also asserted that there will be procedures to prevent personnel from introducing an ignition source in the tunnel.

Finally, Mr. Dennis disputed Mr. Kuprewicz's claim that the replacement pipe segment will allow Enbridge to increase the shipping capacity of Line 5. Mr. Dennis stated that "the design decision to have the replacement pipe segment be 0.625 inches thick and be able to withstand 1440 psig is based on safety[;] it has nothing to do with increasing the overall capacity of Line 5. As a practical matter, one does not increase the capacity of an entire 645-mile pipeline by replacing 4-miles of it with thicker or larger diameter pipe." 8 Tr 804-805.

D. Sur-surrebuttal Testimony

Mr. Kuprewicz disputed Mr. Dennis's claim that the replacement segment will be "manufactured specifically for this project in a manner that exceeds API 5L Pipeline Specification Level," and, therefore, the risk of release from the pipeline is less than 0.000001. 10 Tr 1340 (quoting 8 Tr 800). Mr. Kuprewicz asserted that a pipeline that meets or exceeds this standard is still vulnerable to failure at its girth welds and associated heat affected zones. In support, he cited the Joint Industry Report, set forth in Exhibit BMC-43, and he noted that the report "identifies

RECEIVED by MSC 11/14/2025 2:10:18 PM

some failures of X70 girth welds and their associated heat affected zones and found that the X70 pipeline has demonstrable issues of failure. The admission of this Joint Industry Report provides a credible warning about the specific grade of pipe to be used in the Tunnel Project that the Commission should consider." 10 Tr 1340.

E. Sur-sur-surrebuttal Testimony

In response to Mr. Kuprewicz's claim that there are failure issues associated with X70 pipe, Mr. Cooper asserted that he has no concerns about the specific grade of pipe proposed for the Replacement Project. He explained that:

> [t]he Joint Industry Report raises a concern that when longitudinal strain is placed on a pipeline where the girth welds, including adjacent heat-affected zones in the pipes, under-match the original longitudinal tensile properties of the pipes (i.e., the girth weld is weaker than the pipe), the strain will be focused in the girth weld and result in high local strain and an increased risk of failure at the under-matched girth weld. From a design perspective, longitudinal strains on the replacement pipe segment are expected to be small (well within elastic limits) relative to the strain capacity of a pipeline with overmatched girth welds.
>
> There are two main reasons why the issues raised in [the] Joint Industry Report should not be a concern for the replacement pipe segment within the tunnel. First, the replacement pipe segment in the tunnel will not experience the same longitudinal strain as a pipeline buried in the ground. A buried pipeline is subject to strain created by ground movement and the interaction of thermal or pressure-related expansion and contraction of the pipe with frictional forces between the pipe and surrounding soil. No such environment exists for the replacement pipe segment within the tunnel. The replacement pipe segment in the tunnel is not buried and is not subject to ground movement or frictional forces and the temperature in the tunnel will be relatively stable. When the replacement pipe segment does expand or contract due to temperature or pressure changes, it will be on supports with rollers which will allow the replacement pipe segment to expand or contract freely toward or from the expansion loops located outside the tunnel. This is an entirely different environment and does not impose the type of longitudinal stress and strain experienced by buried pipe.
>
> Second, as set forth in the Joint Industry Report (BMC-43), Enbridge states that it has already implemented the Joint Industry Report's recommendations intended to eliminate under-matched girth welds and minimize weld heat-affected zone softening. (Appendix B.)

RECEIVED by MSC 11/14/2025 2:10:18 PM

> Since the replacement pipe segment will not be subject to the longitudinal strain of a buried pipeline and Enbridge states it has adopted the recommendations in the Joint Industry Report (BMC-43) with respect to under-matched girth welds and heat-affected zones, the Commission should not be concerned by the proposed use of Grade X70 pipe in the Tunnel Project.

12 Tr 1886-1887.

F. Initial Briefs

1. Enbridge Energy, Limited Partnership

Enbridge asserted that it has satisfied the Act 16 criteria required for Commission approval of the Replacement Project, namely: (1) there is a public need for the Replacement Project, (2) the replacement pipe segment is designed and routed in a reasonable manner, and (3) the construction of the replacement pipe segment will meet or exceed safety and engineering standards. Enbridge's initial brief, p. 1. Enbridge stated that it has also satisfied its MEPA obligations because the Replacement Project is not likely to pollute, impair, or destroy natural resources in Michigan. The company contended that even if the Replacement Project was likely to cause pollution, there are no feasible and prudent alternatives to eliminate the perceived environmental threat caused by the continued operation of the dual pipelines. *See*, MCL 324.1705.

Enbridge stated that in the April 21 order, p. 63, the Commission found that the three Act 16 criterion must be applied to the Replacement Project and not to Line 5 in its entirety. For the first prong of the Act 16 determination—demonstrated public need—Enbridge argued that by enacting Act 359 and executing the First, Second, and Third Agreements, the Michigan Legislature and the State of Michigan, respectively, determined that relocating the Line 5 Straits crossing into a State-owned utility tunnel would serve a public need. Specifically, Enbridge noted that according to the First Agreement, "the continued operation of Line 5 through the State of Michigan serves important public needs by providing substantial volumes of propane to meet the needs of Michigan

RECEIVED by MSC 11/14/2025 2:10:18 PM

citizens, supporting businesses in Michigan, and transporting essential products, including Michigan-produced oil to refineries and manufacturers." Enbridge's initial brief, pp. 2-3 (quoting Exhibit A-8, p. 1); *see also*, Enbridge's initial brief, pp. 11-13. In addition, Enbridge contended that:

> [t]he NGL and crude volumes transported by Line 5 to [fuel] markets cannot be transported by other pipelines given the lack of available capacity on other pipelines. The [fuel] markets currently served by Line 5 will continue to require the volumes and types of light crude oil, light synthetic crude and NGLs transported by Line 5 long after the location of the replacement pipe segment within the utility tunnel.

Id., p. 4 (citing 7 Tr 757) (internal citations omitted). Enbridge asserted that according to the Second Agreement, the Replacement Project will meet the public need for NGLs and light crude oils in Michigan and "**can essentially eliminate the risk of adverse impacts that may result from a potential release from Line 5 at the Straits**." Enbridge's initial brief, p. 5 (citing Second Agreement, p. 4) (emphasis in original). Accordingly, Enbridge averred that the Michigan Legislature and the State of Michigan have determined that there is a public need for the Replacement Project.

Regarding the second prong of the Act 16 analysis, Enbridge contended that the replacement pipe segment is designed and routed in a reasonable manner. Beginning with design, Enbridge averred that the replacement pipe segment will meet or exceed all applicable PHMSA standards. Enbridge explained that the segment will be manufactured specifically for this project and will exceed API 5L Specification Level 2. Enbridge's initial brief, p. 17 (citing Exhibit A-14, pp. 133-178). In addition, Enbridge noted that the pipe wall thickness will be greater than what is required by applicable federal regulations. Enbridge also stated that the pipe segment is designed for a maximum operating pressure (MOP) of 1440 psig, whereas normal operating pressure is 480 psig. Enbridge's initial brief, p. 18 (citing 8 Tr 801). Enbridge posited that the increased MOP,

RECEIVED by MSC 11/14/2025 2:10:18 PM

combined with installation of the automatic shutoff valves at both ends of the segment, "effectively eliminates the risk of a breach of the replacement pipe segment due to operations." Enbridge's initial brief, p. 18. Moreover, Enbridge noted that all pipeline appurtenances are located outside the tunnel and the segment will be subject to visual inspection within the tunnel. Enbridge asserted that because of these enhanced design factors, the risk of a release from the replacement pipe segment is one in a million (0.000001). Enbridge's initial brief, p. 19 (citing 8 Tr 802, 877, and 880-881). Enbridge contended that the Staff, MSCA, and PHMSA had no concerns with the safety of the replacement pipe segment. Enbridge's initial brief, p. 20 (citing 9 Tr 1240-1242, 12 Tr 1752-1755, and Exhibit S-26, p. 1).

Enbridge disputed Mr. Kuprewicz's claim that the grade X70 pipe, proposed for use in the Replacement Project, has had issues of failure. Enbridge's initial brief, p. 20 (citing 10 Tr 1340 and Exhibit BMC-43). Enbridge noted that Mr. Cooper, testifying on behalf of MSCA, points out that the replacement pipe segment will not be buried in the ground and thus will not experience the same longitudinal strains identified by Mr. Kuprewicz. Enbridge's initial brief, p. 21 (citing 12 Tr 1886-1887). Additionally, Enbridge stated that it has already adopted the recommendations in the Joint Industry Report, set forth in Exhibit BMC-43, that are intended to address this pressure-related concern.

Next, Enbridge asserted that the replacement pipe segment is routed in a reasonable manner, noting that the route was chosen by the DNR and is the shortest distance between the U.P. and the Lower Peninsula of Michigan. Enbridge contended that by placing the replacement pipe segment in a tunnel, the possibility of an anchor strike is eliminated and, in the unlikely case of a release, the tunnel will act as a secondary containment feature. Enbridge reiterated that the likelihood of a release was described in the Alternatives Analysis as "negligible, and un-quantifiably low."

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge's initial brief, p. 22 (quoting Exhibit ELP-24, pp. 3-60). The company noted that this low risk of release is supported by the testimony of Dr. Mooney and Mr. Adams. Enbridge's initial brief, p. 22 (citing 9 Tr 1204 and 12 Tr 1811-1816).

Enbridge objected to Mr. Kuprewicz's testimony that there is a possibility of an explosion in the tunnel. The company argued that Mr. Kuprewicz "offers no quantification or likelihood of the risk of an explosion that might result in any hypothetical release impacting the Great Lakes." Enbridge's initial brief, p. 24. In addition, Enbridge asserted that Mr. Kuprewicz failed to indicate how the risk of a release from the tunnel compares to the risk of a release from the dual pipelines. In any event, Enbridge asserted that there is no credible scenario that would lead to an explosion in the tunnel and reiterated the explanation provided by Mr. Dennis. *See*, Enbridge's initial brief, p. 24 (quoting 8 Tr 799) (internal citations omitted). Enbridge also argued that the design, construction, inspection, and maintenance of the replacement pipe segment, along with the leak detection system, make an explosion extremely unlikely. Furthermore, the company explained that there are various procedures for manual and automatic shutdown of the pipeline based on the leak detection system, and Enbridge contended that there will be no ignition sources in the tunnel.

Enbridge disputed Mr. Kuprewicz's testimony that Class 1, Division 1 equipment and instrumentation should be required in the tunnel. Enbridge stated that, "[i]n making these assertions, Mr. Kuprewicz did not consult with the fire protection code, the state or national electric code, or an electric engineer. While Mr. Kuprewicz claims to be an expert with respect to pipeline safety, he admits he has never been involved in the design or construction of a utility tunnel." Enbridge's initial brief, p. 25, n. 19 (internal citations omitted). The company explained that there is nothing in the tunnel that would provide an ignition source. In addition, Enbridge contended that inspection and maintenance personnel will not create an ignition source in the

RECEIVED by MSC 11/14/2025 2:10:18 PM

tunnel because personnel will be barred from entering the tunnel unless they undergo a permitting process that includes, at a minimum, issuance of a safe work permit, a plan for appropriate personal protective equipment and air monitoring, and the presence of a rescue team on standby, as well as several other safety measures.

For the third prong of the Act 16 analysis, Enbridge asserted that the replacement pipe segment will meet or exceed safety and engineering standards. The company noted that Mr. Cooper found Enbridge's installation plans to be technically sound and in compliance with applicable federal regulations. In addition, Enbridge stated that according to Dr. Mooney, if the tunnel is built to the Project Specifications, it will be safely constructed and meet industry standards. Furthermore, the company noted that Mr. Adams concluded that the tunnel design is state of the art for secondary containment. Enbridge's initial brief, pp. 28-29.

Enbridge argued that the parties who are opposing the Replacement Project have a different policy objective, namely, the shutdown of Line 5, which is beyond the scope of this proceeding and is contrary to the goal of providing greater protection for the Great Lakes. Enbridge contended that "[t]he Michigan Legislature through its enactment of Act 359 conclusively determined the need for the state-owned utility tunnel beneath the Straits . . . ." Enbridge's initial brief, p. 14. The company asserted that this proceeding cannot be used to second guess the determination of the Michigan Legislature and is limited to the question of whether the replacement pipe segment should be sited within the proposed tunnel.

Next, Enbridge averred that it performed the required MEPA analysis for the Replacement Project. The company contended that Exhibit A-12, which contains the EIR, and Exhibit A-12.1, which provides updates to the EIR, demonstrate that locating the replacement pipe segment within the proposed utility tunnel is not likely to have the effect of polluting, impairing, or destroying the

RECEIVED by MSC 11/14/2025 2:10:18 PM

air, water, or other natural resources, or the public trust in these resources. Enbridge explained that there will be no permanent impact to groundwater, surface water, or lakes. Enbridge's initial brief, p. 31 (citing Exhibit A-12, pp. 11-12, 15). The company added that there are no expected impacts to geology, soils, terrestrial resources, or drinking water resources. Moreover, the company argued that the emissions associated with the Replacement Project are not likely to pollute, impair, or destroy natural resources "because Line 5's capacity will not be increased due to the project." Enbridge's initial brief, p. 33. As a result, the company asserted that the first step in the MEPA analysis is satisfied, and no further MEPA inquiry is required. Enbridge also argued that the result is the same even if the Commission considers construction of both the replacement pipe segment and the utility tunnel (rather than the replacement pipe segment alone). Enbridge's initial brief, p. 32 (citing Exhibit A-18, pp. 2, 6).

Enbridge stated that it expects that the Replacement Project will minorly impact wetlands; however, pursuant to the standard set forth in MEPA, the impact will not pollute, impair, or destroy the natural resource because the impact will be mitigated. The company explained that:

> [w]hile the Water Resource Permit allows Enbridge to place clean fill in up to 0.13 acre of wetlands, the planned mitigation will require Enbridge to: (a) place 1.3 (which is ten times the wetland impact) acres of Great Lakes coastal wetlands into a conservation easement, and (b) either construct a new 0.26 (which is two times the wetland impact) acres of coastal forested wetland or purchase 0.26 (which is two times the wetland impact) wetland mitigation bank credits. (Exhibit A-17, pp. 7-8.) Even if one considers the impacts caused by the construction of the tunnel, which are unnecessary for the Commission's MEPA review, the standard imposed by MEPA is satisfied.

Enbridge's initial brief, pp. 32-33 (citing to *Friends of Crystal River v Kuras Properties*, 218 Mich App 457, 470-471; 554 NW2d 328 (1996) (finding no impairment to natural resources where wetlands are replaced by "almost twice as many acres of mitigation wetlands")).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge stated that if the Commission continues to step two of the MEPA analysis, there are no feasible and prudent alternatives to the Replacement Project consistent with the public health, safety, and welfare. The company argued that in the April 21 order, "the Commission determined that the public need for Line 5 has been established and that need is not subject to dispute in this proceeding." Enbridge's initial brief, p. 33 (citing April 21 order, p. 63). In addition, the company reiterated that through the enactment of Act 359 and the execution of various agreements, the Replacement Project was selected as the most feasible and prudent option. Enbridge asserted that, "[i]f the Commission denies Enbridge's Application, then the Dual Pipelines will continue to operate in their current location, because there is a need for Line 5 and there is no other feasible or prudent alternative to its current Straits crossing." Enbridge's initial brief, p. 34.

In response to Dr. Stanton's claim that a voluntary shutdown of Line 5 is a feasible and prudent alternative to the Replacement Project, Enbridge contended that this option is not before the Commission in the company's application. In any event, Enbridge noted that "Line 5 provides critical energy transportation services for the State and the surrounding region." Enbridge's initial brief, p. 34 (citing 7 Tr 755-756). Enbridge maintained that the shutdown of Line 5 would not be consistent with the public health, safety, and welfare.

Enbridge noted that in the April 21 order, "the Commission stated it wished to consider the GHG impacts resulting from the potential resumption of service through the replacement pipe segment compared to other alternatives in case there was a shutdown of the Dual Pipelines." Enbridge's initial brief, p. 35 (citing April 21 order, p. 67). The company contended that any temporary shutdown of Line 5 is unlikely. Enbridge pointed out that the legal landscape of this case has changed significantly since the issuance of the April 21 order, namely, the State of Michigan's civil action to enforce the Notice has been dismissed and a federal court has

RECEIVED by MSC 11/14/2025 2:10:18 PM

determined that the issues should be litigated in federal court, and the Government of Canada has invoked formal treaty dispute resolution provisions. Therefore, Enbridge requested that the Commission "take the changed circumstances into account in weighing the GHG impact evidence and acknowledge that a closure of Line 5 will not occur." Enbridge's initial brief, p. 36.

In any case, according to Enbridge, other fuel transportation methods produce more GHGs than Line 5. The company noted that Mr. Bennett testified that shipping the same amount of crude oil by rail would result in a four-to-nine-fold increase in GHG emissions compared to shipment on Line 5. *Id*. (citing 7 Tr 763-764). Enbridge also asserted that there is no other pipeline transportation available to ship the volume of product currently shipped on Line 5. Enbridge's initial brief, p. 36 (citing 7 Tr 757; 12 Tr 1775, 1790, 1801).

Enbridge disagreed that a closure of Line 5 will ultimately reduce demand for the fuel products transported on the pipeline; rather, the company asserted that demand will remain static and prices will increase modestly. Enbridge's initial brief, pp. 38-39 (citing 7 Tr 660, 666-667; 12 Tr 1779). Enbridge explained that even if Line 5 were closed and there was reduced production in Western Canada or the Bakken region, those fuel products could be easily replaced by other global producers such as Russia and Saudi Arabia.

2. The Commission Staff

In its initial brief, the Staff stated that "[t]he possibility that the Dual Pipelines could continue to operate if Enbridge's application is denied requires a candid assessment of the risk of an oil spill from the Dual Pipelines and a plan for an alternative that minimizes the risk of a spill as much as possible. This is the approach that Staff took when evaluating Enbridge's application." Staff's initial brief, p. 2. The Staff recognized that, currently, an anchor strike to the dual pipelines poses a risk and requires the implementation of numerous measures to mitigate that risk.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Staff stated that it analyzed the comparative risk of operating the dual pipelines with the Replacement Project, evaluated the Act 16 criterion, and considered the environmental impact of the Replacement Project. The Staff concluded that the Replacement Project meets the public need, is in the public interest, and "is the best option out of the alternatives." Staff's initial brief, p. 4 (quoting 12 Tr 1736). Accordingly, the Staff recommended that the Commission approve Enbridge's Act 16 application subject to several conditions.

To begin, the Staff stated that pursuant to ED 2019-17, State of Michigan agencies must "implement a process for engaging in consultation with Michigan's 12 federally recognized Tribes," and ED 2019-17 "requires that the consultation process be used before a department or agency makes any decision that may affect one or more of the Tribes." Staff's initial brief, p. 36. The Staff noted that direct communication between the Tribes and the Commissioners is impermissible under MCL 24.282 in this contested case. Thus, to implement the consultation process, the Commission promulgated the Guide for Involvement by Tribal Governments in Infrastructure Siting Cases at the Michigan Public Service Commission (Involvement Guide), which appears in the record as Exhibit S-30, pp. 5-10. The Staff contended that consistent with the Involvement Guide, it made extensive efforts to seek input from the Tribes and logged numerous meetings and communications as set forth in Exhibits S-2 and S-3. The Staff stated that the purpose of the consultation process in the Involvement Guide was to "facilitate meaningful and mutually beneficial exchanges to inform Staff's direct testimony." Staff's initial brief, p. 38. The Staff observed that the Involvement Guide describes three potential methods for involvement in cases: formal intervention, consultation with the Staff, and public comment. *Id.*, p. 40 (citing Exhibit S-30, pp. 8-10). The Staff noted that the Tribes chose differing routes for involvement, which lead to all three methods being used.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Staff disagreed with Bay Mills' assertion that in written feedback, the Staff failed to explain how the Tribes' input was considered. The Staff noted that it issued a request for information and a memo describing how the Staff considered the concerns raised by the Tribes. *See*, Exhibits BMC-46 and S-25. The Staff contended that both intervening and non-intervening Tribes were given many opportunities to provide input and explain their concerns. The Staff noted that ED 2019-17 allows for disagreement between tribes and agencies and does not bar the agency from acting despite disagreement. Staff's initial brief, p. 43 (citing ED 2019-17, ¶ 6).

The Staff also disagreed with Bay Mills' assertion that Mr. Yee's testimony and memo are unrepresentative of the Tribes' views and concerns. The Staff stated that:

> [b]eing a party in the case, Bay Mills had the opportunity to present its own concerns about the project without having to rely on an expert retained by Staff. Correspondingly, Staff did not set out to present all of Bay Mills' concerns to the Commission with the assumption that Bay Mills was much better suited to make these arguments on its own. . . . Mr. Yee's recommendations were not averse to the Tribal Government's concerns or even oppositional. Mr. Yee recommended that the Commission "[c]onsider coordination with SHPO on recommended cultural resources" and that it "also monitor the conclusions of a Section 106 review process . . . for these upland areas and reassess as needed." (Exhibit S-25, pp 2–4.)

Staff's initial brief, pp. 43-44. The Staff contended that, although the goals of each party in the consultation and litigation process are not always in harmony, in this case, the objectives of ED 2019-17 were satisfied, if not surpassed. However, if Bay Mills feels that the final requirement of ED 2019-17 (written follow-up) was not satisfied, the Staff asserted that the Commission's final order "may ultimately do more to satisfy this requirement." Staff's initial brief, p. 47.

For the first prong of the Act 16 analysis, the Staff averred that there is a clear public need to replace the dual pipelines. In the Staff's opinion, the Replacement Project will significantly reduce the risk of a release of NGLs and light crude oil into the Straits from Line 5. The Staff

RECEIVED by MSC 11/14/2025 2:10:18 PM

stated that it "is not taking a position as to whether continued operation of the Dual Pipelines presents an acceptable or unacceptable level of risk to the State. Rather, Staff is comparing the risk of continued operation of the Dual Pipelines to that of the replacement project proposed." Staff's initial brief, p. 112. The Staff observed that there is no certainty regarding how long the dual pipelines will operate, and this uncertainty leads to "perpetual and unnecessary risk for an undetermined length of time into the future." *Id.*

Regarding the second prong of the Act 16 analysis, the Staff stated that "[t]he route and location of the replacement pipeline is heavily constrained by the existing onshore Line 5 segments, the tunnel easement, geotechnical considerations, and the planned tunnel alignment." *Id.*, p. 49. Because of these factors, the Staff contended that the proposed location for the Replacement Project is established and not subject to serious debate. In the Staff's opinion:

> the only routing determinations to be made in this case concern the "tie-in" segments that connect the replacement pipeline to the existing Line 5 segments on the north and south shores of the Straits. With this in mind, the goal should be to use existing facilities, previously disturbed land, and rights of way to the extent practicable to develop a reasonable route for these segments.

Staff's initial brief, p. 50. The Staff asserted that Enbridge has shown that its proposed tie-in segments are reasonable and meet the required criteria, referencing Exhibit A-12.1 and 7 Tr 556-563.

Next, the Staff noted that the pipeline construction work-space is contained within areas that are already disturbed by tunnel construction and, therefore, Enbridge needs no additional land rights. The Staff stated that:

> Bay Mills appears to believe that any route crossing through or under the Straits of Mackinac would be unreasonable. Thus, Staff views Bay Mills' objection to the route as opposition to the tunnel and replacement project as a whole rather than an objection to the specific route proposed. Bay Mills did not provide any route variations or mitigative measures for the Commission to consider.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Staff's initial brief, pp. 51-52. The Staff asserted that the proposed crossing location is appropriate and recommended that the Commission approve the route. *Id.*, p. 52 (citing 12 Tr 1869).

The Staff also addressed the design component and safety standard under the third prong of the Act 16 analysis. The Staff asserted that the Replacement Project is designed to meet or exceed relevant safety standards, and going forward, Enbridge should incorporate the Staff's recommendations for additional safety measures. The Staff explained that its safety recommendations were made in consultation with PHMSA, which retains jurisdiction over the safety and inspection of interstate pipeline facilities. Staff's initial brief, p. 54 (citing 12 Tr 1751-1754).

The Staff objected to Bay Mills' claim that the Staff simply sanctioned the Replacement Project because PHMSA stated that there are "no noncompliance issues identified with the proposed design, construction and testing of the replacement segment." Staff's initial brief, p. 55 (citing Exhibit S-26, p. 1). The Staff responded that it:

> has independently recommended that the Commission require the Company to exceed minimum pipeline safety requirements. The design is not likely to be finalized for the Commission's review and approval, and Staff's recommendations enhance the safety of the project with the understanding that ongoing and future work will ensure that the final designs will meet and exceed the requirements of the regulations.

Staff's initial brief, p. 55.

Additionally, the Staff recommended improvements to Enbridge's proposed welding procedures. The Staff stated that:

> for all mainline girth welds, the Company "should be required to develop low-hydrogen welding procedures and qualify them per the requirements found in 49 CFR 195.214." (12 TR 1757.) Witness Chislea further recommended that "the procedures should include pre-heat requirements prior to starting welding and inter-pass temperature requirements" and that "the non-destructive testing of the mainline girth welds should include automatic phased array ultrasonic testing

RECEIVED by MSC 11/14/2025 2:10:18 PM

> methods." (12 TR 1758.) If the above recommendations are met, then no further post heat-treatment should be required. (*Id*.)

Staff's initial brief, pp. 56-57; *see also*, 9 Tr 1247. The Staff contended that if these recommendations are adopted, they will address Bay Mills' concerns regarding girth welds and welding procedures. The Staff acknowledged that these specifications exceed the minimum requirements under federal regulations and argued that they will ensure quality welds in both the deposited material and in the heat-affected zones.

In response to Bay Mills' concern regarding X70 girth weld failures, the Staff asserted that its recommendations will remedy this potential risk and that no further measures are required. The Staff stated that it:

> still firmly recommends that the Company address Staff's pre-filed recommendation that low-hydrogen welding procedures are in place for all mainline girth welds; that welding procedures require both preheat and inter-pass temperature requirements; and that the mainline girth welds are nondestructively tested using automatic phased array ultrasonic testing methods.

Staff's initial brief, p. 59. The Staff stated that it expects to continue to coordinate with PHMSA and will make further recommendations where needed.

The Staff argued that the design of the Replacement Project will reduce the risk of a spill of hazardous liquids into the Straits because the tunnel will provide effective secondary containment. The Staff explained that:

> Staff witness Mr. Adams testified that several factors would limit a potential release from the tunnel; in "order of their performance of what prevents materials from escaping the tunnel, [these factors] are external hydrostatic pressures, gasketed segmental lining, annular grout, rock cover, and soil cover." (12 TR 1816.) Thus, the likelihood of a release must overcome the external hydrostatic pressures and gasketed segmental lining as the best preventive factors in the tunnel design. Mr. Adams reports that this "combination of factors . . . results in a very low probability of a spill escaping from the tunnel." (12 TR 1817.) As such, Staff does not have a further recommendation to the tunnel design to improve tunnel integrity or the secondary containment characteristics.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Staff's initial brief, pp. 61-62.

The Staff stated that although Bay Mills claims that there is a risk of explosion in the tunnel, Bay Mills does not quantify the risk of an explosion that could damage the tunnel. In any event, the Staff contended that the risk of explosion has been mitigated to an acceptably low level and that the Replacement Project presents a lower likelihood of a release reaching the Straits compared to the dual pipelines. And contrary to Bay Mills' argument that the Replacement Project will allow Enbridge to increase the volume on Line 5, the Staff argued that MSCA provided evidence that "the project will have 'very little influence on the overall transportation capacity of Line 5.'" *Id.*, p. 63 (quoting 9 Tr 1245). In addition, the Staff asserted that the Replacement Project will not increase the capacity of Line 5 "in any substantive way that would cause safety concerns or change Staff's evaluation of the risk of release or the risk of a serious explosion." Staff's initial brief, p. 63.

The Staff also agreed with Enbridge that the design of the replacement pipe segment, the pipeline material, and the tunnel reduce the likelihood of an explosion, as do the leak detection systems, which consist of both the CPM and the external leak detection system (which relies on gas monitors and liquid hydrocarbon detection). The Staff noted that 27 detectors will be located throughout the tunnel and a ventilation system will be installed. The Staff asserted that the leak detectors will be appropriately placed at low points in the tunnel to detect heavier-than-air vapors. The Staff concluded that:

> [b]ased on all the above, it is extraordinarily unlikely that there will be an explosion in the tunnel resulting in product leaking into the Straits. Further, at this time, there are no additional mitigative measures for pipe material, gas and leak detection, or electrical equipment requirements that would further substantively reduce this likelihood. Staff fully intends to continue evaluating the risk of such a scenario in future discussions with Enbridge, the [MSCA], and PHMSA as it relates to the

RECEIVED by MSC 11/14/2025 2:10:18 PM

> construction and design of the project, and Staff will make further recommendations in those discussions as needed.

Staff's initial brief, p. 69.

Turning to the 10 potential environmental impairments identified by Staff witness Mooney in her testimony at 12 Tr 1849-1850, the Staff asserted that these potential impairments may be mitigated or minimized. As an initial matter, the Staff reiterated that its MEPA review is intended to complement, not replace, the environmental reviews performed by other agencies. In addition, the Staff noted that some potential environmental impairments and several concerns identified by intervening parties will be addressed through the permitting process performed by other agencies. *See*, Staff's initial brief, pp. 71-74. The Staff asserted that although there may be potential environmental impairments, no feasible and prudent alternatives to the Replacement Project have been identified that would more effectively promote the public health, safety, and welfare. *See*, Exhibits A-8 and A-9.

Regarding environmental impairments that may not be addressed by other agencies' permitting processes, the Staff stated that these "[o]ther potential impairments should be addressed when the Company finalizes its mitigation plans, which should be specific enough to minimize the environmental impacts." Staff's initial brief, p. 75. Specifically, the Staff recommended that Enbridge include additional details in its final environmental mitigation plan showing an evaluation of the impact of construction noise, increased dust, and increased light. Regarding impacts to surface water associated with construction equipment traffic and the five potential impacts to groundwater from construction identified by Ms. Mooney, the Staff pointed to Enbridge's evidence describing mitigation measures and the minor nature of the potential impacts. The Staff also noted Enbridge's spill mitigation plan for addressing the impact of hazardous materials on surface soils, vegetation, and surface water. *Id.*, pp. 78-82. The Staff stated that

RECEIVED by MSC 11/14/2025 2:10:18 PM

"with the understanding that the Company will finalize its impairment mitigation plans to satisfy all local, state, and federal permitting requirements and to address the potential environmental impairments from construction discussed above," the Staff recommended approval of the Replacement Project. *Id.*, pp. 85-86.

In the Staff's opinion, the GHG emissions associated with construction of the tunnel are typical for a project of this size and scope. The Staff asserted that using the Greenhouse Gas Protocol standards, it is appropriate to consider Scope 1 and Scope 2 emissions from construction. *Id.*, p. 82 (citing 9 Tr 1042 and 12 Tr 1872, 1877). The Staff explained that "[g]enerally, Scope 1 activities for this project included construction of the tunnel, fuel used by trucks and vehicles, and land clearing activities, while Scope 2 activities included electricity used by the tunnel boring machine and other electric tools and equipment. (12 TR 1877.)" Staff's initial brief, p. 83. The Staff contended that Mr. Erickson's Scope 2 emissions estimates should be given little weight, if any, because he used emission factors for non-baseload electricity, which is contrary to the guidance provided by the EPA, and he included emissions associated with purchased concrete and steel. The Staff asserted that the Commission should rely on the estimates produced by Mr. Ponebshek.

Although construction of the Replacement Project is expected to result in temporary additional GHG emissions, the Staff contended that pursuant to MEPA, there are no alternatives that outweigh the benefits of the Replacement Project. The Staff explained that:

> the only feasible alternative discussed by other parties in this case (the Open Cut with Secondary Containment approach) would likely cause more harm to the environment. (12 TR 1870.) All construction projects come with some associated impairments, including GHG emissions, and this project is no different. But the emissions from Enbridge's proposed utility tunnel, while real, will cause far less environmental harm than the harm the project is intended to mitigate (i.e., a potential spill from the Dual Pipelines). In other words, the project's risk-reducing benefits outweigh the impairments from construction.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Staff's initial brief, p. 86. Additionally, the Staff argued that the Replacement Project would reduce or eliminate some of the GHG emissions associated with the current operation of the dual pipelines, such as patrolling the Straits to monitor vessel traffic and periodic underwater visual inspection of the dual pipelines' exterior and spans. The Staff stated that, "[a]lthough the GHG emissions associated with these activities were not calculated, it's reasonable to conclude that GHG emissions would be reduced if these activities ceased. This reduction would help offset the increased GHG emissions caused by construction and operation of the tunnel." *Id.*

Next, the Staff objected to the no-action alternative described by Dr. Stanton, noting that she assumes that the dual pipelines will be shut down, which has not occurred. The Staff argued that the dual pipelines are not likely to be shut down, even if the Replacement Project is not approved, because the State of Michigan's lawsuit to enforce the Notice was voluntarily dismissed, Enbridge's federal lawsuit is still pending in federal court, and Canada has invoked the dispute resolution process under the 1977 Transit Treaty between the U.S. and Canada. *See*, Staff's initial brief, p. 89.

The Staff also argued that a true no-action scenario—continued operation of the dual pipelines—is not a prudent alternative to the Replacement Project. The Staff asserted that the status quo leaves the dual pipelines in their current position, which is vulnerable to anchor strikes, as was illustrated by the damage that occurred in April 2018 and June 2020. Staff's initial brief, p. 91 (citing 12 Tr 1724-1725). The Staff noted that any rupture to the dual pipelines results in a direct release of NGLs and light crude oils into the waters of the Straits.

The Staff disagreed with Mr. Erickson's assertion that a one cent per gallon increase to the price of gasoline would result in less petroleum being consumed worldwide and less overall GHG emissions. *See*, Staff's initial brief, p. 99 (citing 12 Tr 1801, 1805; 7 Tr 661, 667, 672).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Accordingly, the Staff asserted that Mr. Erickson failed to convincingly demonstrate that the shutdown of Line 5 would result in "product switching or a meaningful reduction in GHG emissions due to the cost and impracticability of such changes." Staff's initial brief, p. 102. Moreover, the Staff contended that alternative transportation methods, such as rail and truck, will produce more GHG emissions than the use of Line 5 for the same volume of product. *Id.*, pp. 103-104 (citing 12 Tr 1790-1791).

The Staff further argued that at this time, transitioning Michigan customers away from propane for home heating is not a feasible plan. *See*, Staff's initial brief, p. 105 (citing 12 Tr 1781-1782). In addition, the Staff asserted that electrification and heat pumps currently are not economically feasible alternatives to propane for most Michigan customers who depend on propane for home heating. *See*, Staff's initial brief, pp. 106-108 (citing 7 Tr 971; 12 Tr 1782-1783, 1791). Furthermore, the Staff observed that gas-powered vehicles and the need for motor fuels "will continue to play a large role in the transportation landscape for some time." Staff's initial brief, p. 109.

Regarding the issue of the Replacement Project's impact on cultural resources, the Staff noted that SHPO has acknowledged that the Straits are an area of cultural and historical importance. *Id.*, pp. 113-115 (citing 12 Tr 1668-1669); *see also*, Exhibit S-25. The Staff urged the Commission to continue to monitor developments of the SHPO process and the USACE Clean Water Act Section 404 Nationwide Permit program process, and to consider any potential impacts to cultural and archeological resources within the context of these reviews. *See*, Staff's initial brief, pp. 116-117.

Finally, the Staff objected to Bay Mills' claims that the Replacement Project will accelerate climate change, harm Tribal resources, and damage the local environment because, in the Staff's

RECEIVED by MSC 11/14/2025 2:10:18 PM

opinion, Bay Mills provided generalized concerns and failed to quantify the alleged harm. *Id.*, pp. 122-125. The Staff stated that "the concerns regarding the tribal resources discussed above, though culturally and environmentally significant, should not serve as a basis for denial of the application." Staff's initial brief, pp. 123-124.

In conclusion, the Staff recommended that the Commission approve Enbridge's application subject to the Staff's conditions set forth above. Staff's initial brief, pp. 125-126.

3. The Michigan Propane Gas Association and the National Propane Gas Association

Similar to Enbridge, the Associations argued that, pursuant to the Commission's determination in the April 21 order, the question of public need under the first prong of the Act 16 analysis applies solely to the Replacement Project and not to Line 5 as a whole. *See,* Associations' initial brief, p. 9; *see also*, April 21 order, p. 63. And, like Enbridge, the Associations asserted that the Michigan Legislature and the State of Michigan conclusively determined that there is a public need for the Replacement Project by passing Act 359 and executing the First, Second, and Third Agreements, respectively. Associations' initial brief, p. 10 (citing 7 Tr 565; Exhibit A-8, p. 1; Exhibit A-1, p. 4; and Exhibit A-10, p. 1). In addition, the Associations averred that the DNR recognized the public need for the Replacement Project by granting a new easement for the tunnel to MSCA. Furthermore, the Associations noted that in the NREPA Parts 303 and 325 permits, "EGLE 'considered the concerns raised by comments that this project is in the public interest, and . . . EGLE has determined that . . . the project is in the public interest.'" Associations' initial brief, p. 10 (quoting Exhibit A-18, p. 8). The Associations also noted that the Staff concluded that the Replacement Project "serves a public need, is in the public interest, and is the best option out of the alternatives considered." Associations' initial brief, p. 12 (citing 12 Tr 1736).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Additionally, the Associations contended that the Replacement Project serves a public need because it will alleviate an environmental concern relating to the dual pipelines and will provide greater protection to the Great Lakes and the public. The Associations noted that according to witness testimony and the Alternatives Analysis, if the Replacement Project is constructed, the risk of release from the tunnel would be "negligible, and un-quantifiably low." Associations' initial brief, p. 11 (quoting Exhibit ELP-24, pp. 3-60); *see also*, 9 Tr 1204; Exhibit A-9, Appendix 7, p. 88.

For the second prong of the Act 16 analysis, the Associations asserted that the replacement pipe segment is designed and routed in a reasonable manner and will meet or exceed PHMSA regulations and standards. *See*, Associations' initial brief, p. 13; *see also*, 8 Tr 800; Exhibit A-13, p. 12; Exhibit A-14, pp. 133-178; Exhibit S-26, p. 1. The Associations also posited that the route is reasonable because it is the shortest distance between the two peninsulas. Associations' initial brief, p. 13 (citing 7 Tr 584; 8 Tr 788; and Exhibits A-6 and A-13).

Regarding the third prong of the Act 16 analysis, the Associations averred that the Replacement Project meets or exceeds applicable safety and engineering standards as demonstrated by the testimony of MSCA witness Mr. Cooper. Associations' initial brief, pp. 13-14.

Regarding the required MEPA analysis, the Associations asserted that the Commission's MEPA review applies solely to the replacement pipe segment and not to the construction of the tunnel. The Associations argued that the record demonstrates that the replacement pipe segment will not pollute, impair, or destroy the air, water, or other natural resources, or the public trust in these resources. Associations' initial brief, p. 15. In addition, the Associations noted that the EIR concluded that there are no anticipated impacts on geology, soils, terrestrial resources, air

RECEIVED by MSC 11/14/2025 2:10:18 PM

emissions, groundwater, or drinking water. *Id*. (citing Exhibit A-12, pp. 11-15, 18). Thus, in the Associations' opinion, the MEPA analysis should end here.

However, if the Commission were to consider the impacts of the tunnel construction, the Associations contended that there will be no pollution, impairment, or destruction of natural resources. *See*, Associations' initial brief, pp. 16-17. The Associations further asserted that because the Replacement Project will not increase the capacity of Line 5 or alter the nature of its transportation services, GHG emissions will not pollute, impair, or destroy natural resources. Associations' initial brief, p. 18 (citing 7 Tr 564, 757). Moreover, the Associations argued that:

> it would be inappropriate to compare the GHG emissions from the proposed [Replacement] Project to a scenario where the dual pipelines are non-operational. The State of Michigan has abandoned its effort to enforce the Notice and the Commission has already ruled that Enbridge has the authority under the 1953 Order to continue to operate Line 5. (7 Tr. 576; Order, at 60.) While the Commission in April of 2021 was "unwilling to exclude evidence under MEPA that compares the pollution, impairment, or destruction attributable to an operating 4-mile pipeline segment in the Straits with nonoperational 4-mile dual pipeline segments," that decision was premised on "uncertainty" created by the Notice and the possibility that the State would "succeed[ ] in its action to enforce the Notice." (Order, at 67.) But much has taken place since the Commission's decision, and the facts simply do not support a comparison of the proposed Project to a non-operational Line 5.

Associations' initial brief, p. 18.

The Associations asserted that there is no feasible and prudent alternative to the Replacement Project that is consistent with the public health, safety, and welfare. Specifically, the Associations argued that the no-action alternative, which involves Commission rejection of the Replacement Project, is not feasible or prudent. The Associations explained that the litigation regarding the Notice has been dismissed and "Enbridge has the right to continue to operate the [dual pipelines] under the authority granted by the Commission in 1953." Associations' initial brief, p. 20. Therefore, the Associations contended that if the Replacement Project is not approved, the dual

RECEIVED by MSC 11/14/2025 2:10:18 PM

pipelines will continue to operate and the Great Lakes will not benefit from the tunnel project as a means of secondary containment in the event of a release from the Straits Line 5 segment.

The Associations also rejected Dr. Stanton's conclusion that the state's energy needs can be met through electrification. The Associations asserted that Line 5 provides a critical supply of affordable propane for Michigan residents that cannot be met with existing rail infrastructure or truck transport. Associations' initial brief, p. 22. In addition, the Associations averred that electric heat pumps are not a feasible alternative for heating needs because installation costs are high, Michigan has more than twice the heating load than the national average, and the price of electricity in Michigan "is more expensive, with electricity prices in the Upper Peninsula among the highest in the lower-48 states." *Id.*, p. 23.

4. Michigan Laborers' District Council

MLDC requested that the Commission approve Enbridge's application for the Replacement Project. To begin, MLDC explained that it represents seven local labor unions and that Line 5 provides direct and indirect employment to MLDC members. MLDC asserted that the Replacement Project is expected to generate almost two million labor hours for approximately 200 Michigan workers over a multi-year period in the U.P. and the northern Lower Peninsula, along with hundreds of maintenance jobs after completion. MLDC's initial brief, p. 3. MLDC averred that the Replacement Project will also provide the union with the ability to recruit new talent because of these long-term jobs. In addition, MLDC stated that the Replacement Project "will positively impact Michigan and regional and local governments, that will benefit from enhanced taxes, broadened employment, pension benefits and healthcare earned by private-sector labor, and an expanded trained and experienced workforce that will be available for future government road and infrastructure construction and maintenance." *Id.*, p. 4. Moreover, MLDC

RECEIVED by MSC 11/14/2025 2:10:18 PM

argued that Line 5 benefits Michigan businesses and residents because a substantial amount of Line 5 product is sent back to Michigan to meet business and residential energy needs. *Id.*, p. 5. Finally, MLDC contended that the Replacement Project should be approved because it will eliminate the risk of an anchor strike to the dual pipelines and will improve environmental safety.

5. Bay Mills Indian Community

Bay Mills[28] asserted that there are three reasons for the Commission to deny Enbridge's application: (1) the route is unreasonable, (2) Enbridge has failed to demonstrate that the design of the pipeline is reasonable, and (3) the Replacement Project fails the MEPA analysis.

Beginning with the route, Bay Mills argued that the Straits area is a traditional cultural landscape and specific historical sites will be negatively impacted by the Replacement Project. Bay Mills averred that no party disputed that the Straits are of deep spiritual and cultural significance as the center of the Tribal Nations' creation story and a place of treaty-protected fishing rights. In addition, Bay Mills stated that SHPO has recognized that the Straits area "is sensitive for the presence of terrestrial and bottomland archeological sites . . . ." Bay Mills' initial brief, p. 15 (quoting Exhibit BMC-40, p. 1). Bay Mills contended that the Replacement Project will degrade the integrity and the values associated with this cultural landscape and for this reason alone the Commission should find the route to be unreasonable.

Bay Mills asserted that the Straits area contains 141 recorded archeological sites, including culturally significant village and burial sites, and that SHPO has stated that there are likely to be more. Bay Mills' initial brief, p. 16 (citing Confidential Exhibit BMC-34, and Exhibit BMC-40, p. 1). Bay Mills stated that:

> [c]onstruction activities and disturbances on and near Point La Barbe, including construction of proposed outfalls, operation of the tunnel boring machine, and

[28] In its initial brief, Bay Mills is joined by the GTBOC, LTBB, and NHBP.

RECEIVED by MSC 11/14/2025 2:10:18 PM

> excavation of a large retrieval shaft for the tunnel boring machine, will disturb and degrade the cultural values associated with particular sites. One such site is a prehistoric burial mound, recorded in the SHPO files as 20MK15, that is mapped near the [Replacement] Project area and within the limits of disturbance.

Bay Mills' initial brief, p. 17 (citing Confidential Exhibit BMC-42, pp. 10 and 21, and Confidential Exhibit BMC-34, p. 5). Bay Mills contended that similar disturbances will occur on McGulpin Point, arguing that the vibrations from the massive TBM may cause damage to cultural and archeological sites around the work area. Bay Mills asserted that Enbridge has failed to properly mitigate this risk because there is no plan for the company to adhere to a vibratory limit that would protect these sensitive structures. Finally, Bay Mills averred that the route is unreasonable because Enbridge has not completed the necessary investigation of the cultural and historical resources that may be affected by the Replacement Project. Bay Mills maintained that these investigations are ongoing and incomplete. Bay Mills' initial brief, p. 19 (citing 7 Tr 625; Exhibit BMC-40, p. 1; and Exhibit BMC-41).

Next, Bay Mills argued that the design of the pipeline and tunnel is unreasonable because it is hazardous and untested. Bay Mills stated that:

> Enbridge plans to run a pipeline of liquid propane and crude oil, two highly volatile and flammable substances, through an enclosed underground tunnel. It is undisputed that this type of project has never been implemented anywhere else in the world. And for good reason. What is unique—and potentially catastrophic—about the Proposed Project is that it includes a tunnel where the three necessary elements for an explosion have the potential to be present at the same time: (1) a failure of the pipeline resulting in a hydrocarbon release, (2) that forms a heavier than air vapor cloud, and (3) that is ignited by a source of electricity.

Bay Mills' initial brief, p. 20 (citing 10 Tr 1327-1329, 8 Tr 803-807). Bay Mills asserted that a failure of the X70 pipe selected by Enbridge could lead to an explosion that damages the tunnel which, in turn, could lead to a release of Line 5 products into the Straits.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Bay Mills contended that the X70 pipe that is proposed for use in the Replacement Project has a demonstrated risk of failure at girth welds or heat affected zones. Bay Mills' initial brief, p. 20 (citing 10 Tr 1339-1340 and Exhibit BMC-43, pp. 11-14). Bay Mills asserted that the X70 pipe carries this risk of failure even where all applicable safety standards have been met. *See*, Bay Mills' initial brief, pp. 23-24 (citing 10 Tr 1336). In addition, Bay Mills stated that the fact that the pipeline will not be buried is irrelevant, explaining that "[t]he proposed design anchors the pipeline in the middle of the tunnel and uses rollers to allow for movement on either side. The movement will create additional stress on the girth welds and heat affected zones. And, as the [Joint Industry Report] recognizes, stress on the girth welds and heat affected zones leads to failure." Bay Mills' initial brief, p. 25.

Bay Mills argued that Enbridge's calculation of 0.000001 chance of an explosion in the tunnel and release of Line 5 products into the Straits is not credible or verified. Bay Mills stated that the "[assignment of] a probability to a risk through a Quantitative Risk Analysis ('QRA') is not utilized in the United States on pipeline projects, nor is it even defined in federal regulations." Bay Mills' initial brief, p. 25 (citing 10 Tr 1404-1405). Bay Mills contended that Enbridge provided no evidence to support its calculation and that Enbridge's witness, Mr. Dennis, "could not testify who calculated the number, when it was calculated, or crucially, what data points or equations were used to determine the probability." Bay Mills' initial brief, p. 25 (citing 8 Tr 812-818). Bay Mills asserted that the record is devoid of evidence to assist the Commission in confirming or refuting the credibility of the calculation.

Furthermore, Bay Mills posited that the design of the Replacement Project is unreasonable because it "lacks independency, meaning that each aspect of the design is linked to a common failure—a hydrocarbon release that produces a heavier than air vapor cloud. Multiple design

RECEIVED by MSC 11/14/2025 2:10:18 PM

features within the Tunnel Project are all vulnerable to this same failure and therefore the design fails to provide independent, multi-level protection." Bay Mills' initial brief, p. 26. Bay Mills asserted that all of Enbridge's alert systems, including the CPM, gas detection equipment, automatic shutoff valves, and Class 1, Division 2 electrical equipment, are subject to this same vulnerability, due to faulty design. Bay Mills argued that both the Staff and the company rely too heavily on the CPM system, which Bay Mills contended is not foolproof or sufficiently rapid to identify the heavier-than-air vapor cloud. Additionally, in Bay Mills' opinion, the "design proposal . . . rests on the ventilation system working properly and there is no guarantee in Enbridge's proposal that the ventilation system will succeed in sweeping the low-lying vapor clouds upwards within the tunnel" so that the vapor is clear of potential sources of electricity and protected from flammability. *Id*., p. 27 (footnote omitted).

Turning to the MEPA analysis, Bay Mills contended that there is no dispute that the Replacement Project will result in GHG emissions and argued that these emissions will "harm the Tribal economies, cultural practices, and traditional knowledge that depend on those treaty-protected natural resources." Bay Mills' initial brief, p. 29. Bay Mills noted that construction of the Replacement Project will produce a significant amount of GHG emissions, and operation of the replacement pipe segment results in hundreds of metric tons of emissions annually. In addition, Bay Mills asserted that GHG emissions will be released through the production, processing, and combustion of the products that are transported by the replacement pipeline, which will result in 87,000,000 metric tons of CO_2e annually. *See, id*., p. 30 (citing 9 Tr 1057).

Bay Mills argued that the Staff's GHG emissions calculation is flawed because the Staff failed to include several sources of emissions during construction. Moreover, Bay Mills asserted that both the Staff's and Enbridge's GHG emissions calculations fail to account for the emissions

RECEIVED by MSC 11/14/2025 2:10:18 PM

associated with the products that will be shipped through the new pipeline. Bay Mills stated that these emissions will contribute to climate change and will harm Michiganders and the Tribal Nations. *See*, Bay Mills' initial brief, pp. 32-38.

Next, pursuant to the MEPA analysis, Bay Mills argued that there is a feasible and prudent alternative to the Replacement Project: the potential shut down of the dual pipelines or the no pipeline alternative. Bay Mills stated that:

> [a]t the outset of this proceeding, Enbridge defined the purpose of the project as alleviating environmental risk to the Great Lakes. The Commission recognized this as the purpose, stating that the "purpose of the Replacement Project is to improve the safety of the 4-mile segment that crosses the Straits." Ceasing operation of the dual pipelines and not building the tunnel would achieve that purpose. Indeed, in June 2020, ceasing operations of the dual pipelines is exactly how Enbridge temporarily alleviated environmental risk to the Straits. The most obvious way to prevent an oil spill to the Straits is to stop transporting oil through the Straits. That means of achieving the purpose must be considered by the Commission.

Bay Mills' initial brief, pp. 40-41 (footnotes omitted). In addition, Bay Mills noted that other alternatives would be Enbridge's voluntary compliance with the Notice or forced shutdown of the dual pipelines through litigation.

Bay Mills further opined that the 1953 order does not constrain the Commission's MEPA analysis. Specifically, Bay Mills explained that MEPA does not require the permitting agency to consider only the alternatives that the permitting agency has the authority to implement. Rather, Bay Mills asserted that "[a]n agency can and should consider multiple possible alternatives" and that the agency's MEPA analysis should consider whether each of those alternatives is feasible and prudent. Bay Mills' initial brief, p. 42.

According to Bay Mills, the no pipeline alternative is feasible because "current consumers of propane [will] purchase fuels transported by other means or [will] switch energy sources, such as through electrification." Bay Mills' initial brief, p. 45 (citing 9 Tr 948-953, 1017-1018). Bay

RECEIVED by MSC 11/14/2025 2:10:18 PM

Mills contended that the no pipeline alternative will eliminate the environmental risk to the Straits, will further the State's climate goals and policies, and will honor and respect the Tribal Nations' cultures and economies. *See*, Bay Mills' initial brief, p. 46 (citing 9 Tr 1043, 1063).

In conclusion, Bay Mills requested that the Commission deny Enbridge's Act 16 application, or, in the alternative, grant Bay Mills' petition for rehearing so that a full and complete record may be developed.

6. For Love of Water

FLOW asserted that the State of Michigan has a duty to protect public trust resources such as the Straits. In addition, FLOW contended that the law strictly limits the circumstances under which a state may convey a property interest in a public trust natural resource to a private entity, the narrow exceptions being: (1) when the conveyance results in the improvement of the interest thus held or (2) when parcels can be disposed of without detriment to the public interest in the lands and waters remaining. FLOW's initial brief, p. 2 (citing *Obrecht v Nat'l Gypsum Co*, 361 Mich, 399; 105 NW2d 143 (1960)). FLOW asserted that the Commission's "sister agencies" have failed to make the necessary findings to support the conveyance of the 2018 easement to MSCA and Enbridge. FLOW's initial brief, p. 2.

FLOW stated that the GLSLA "requires that any conveyance, lease, agreement, occupancy, use or other action in the waters or on, in, through or under the bottomlands of the Great Lakes, be authorized by [EGLE] pursuant to the public trust standards in the GLSLA and the common law of the public trust doctrine." FLOW's initial brief, p. 3 (citing MCL 324.32502-324.32508). FLOW contended that before the State of Michigan may convey an interest in Great Lakes waters and bottomlands to a private entity, the State of Michigan must determine that the public trust will not be impaired or substantially affected. FLOW further argued that pursuant to MEPA, the

RECEIVED by MSC 11/14/2025 2:10:18 PM

Commission must prevent or minimize environmental degradation, which is a duty independent of the Commission's Act 16 determination. FLOW's initial brief, p. 4 (citing MCL 324.1705 and *State Hwy Comm v Vanderkloot*, 392 Mich 159, 186; 220 NW2d 416 (1974) (*Vanderkloot*)).

In addition, FLOW stated that Act 359 requires that all parties to the Replacement Project obtain all requisite permits and approvals under MCL 254.324d(4)(g). FLOW contended that "Enbridge . . . did not apply for or obtain any authorization for the 2018 Easement or 2018 Assignment of Easement under the conveyance or occupancy and use sections of the GLSLA." FLOW's initial brief, pp. 8, 13-15. FLOW also argued that the DNR failed to make the necessary findings to convey the property interests to MSCA and Enbridge pursuant to public trust law or the GLSLA. Furthermore, FLOW maintained that the Agreements do not provide the requisite findings. Thus, FLOW contended that the 2018 easement conveyance is unlawful and the Commission cannot grant the Act 16 application because the Replacement Project would, if approved, unlawfully occupy submerged public trust lands and waters of the Straits. Similarly, FLOW asserted that Enbridge failed to obtain proper authorization from the State Administrative Board or from the relevant Tribes "and failed to consider and determine the effect on[,] and potential impairment to the substantial tribal property rights of the 1836 Treaty Tribes in, fishing, fishery habitat and other usufructuary activities protected by the Treaty of 1836." FLOW's initial brief, p. 16.

FLOW stated that Enbridge did not consider or evaluate a no-action alternative and did not consider the capacity available on other pipelines on Enbridge's pipeline system. FLOW's initial brief, p. 10 (citing 7 Tr 585-586). FLOW argued that ELPC/MiCAN made a prima facie showing that the Replacement Project will result in pollution or impairment of the air, water, natural resources, and public trust in those resources. *See*, FLOW's initial brief, p. 10.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Regarding the MEPA analysis, FLOW asserted that Enbridge's Act 16 application must be denied because the Replacement Project will likely result in pollution, impairment, or destruction of public trust resources. In addition, FLOW averred that as part of its MEPA analysis, the Commission must consider a no-action alternative and must evaluate whether Line 6B has "the capacity to meet market demand if Line 5 closes" and whether the Replacement Project may potentially become a stranded asset. *Id.*, p. 24.

7. Environmental Law and Policy Center and Michigan Climate Action Network

ELPC/MiCAN asserted that the Replacement Project will result in pollution, impairment, and destruction of natural resources, and as a result, Enbridge's Act 16 application must be denied pursuant to the requirements of MEPA. They argued that the no pipeline alternative[29] is reasonable and prudent and should not have been dismissed by Enbridge. ELPC/MiCAN's initial brief, p. 9.

ELPC/MiCAN contended that Mr. Erickson's testimony demonstrates that there are two reasons why the Replacement Project will result in increased GHG emissions, which are a pollutant under MEPA. *See*, ELPC/MiCAN's initial brief, pp. 9-13. First, ELPC/MiCAN noted that according to Mr. Erickson, the equipment used to build and operate the tunnel will produce GHG emissions, and he used standard GHG emissions accounting practices to determine the resulting amount. ELPC/MiCAN stated that "[n]o party disputes the propriety of [the GHG emissions accounting] methodology, though Staff inappropriately narrows the scope of the methodology when it is undertaken by Staff experts" (referring to Weston). *Id.*, p. 12.

[29] ELPC/MiCAN explained that they prefer the term "no pipeline alternative" over "no action alternative," in order to distinguish it from the no-action alternative described by the Staff in which the dual pipelines continue to operate. ELPC/MiCAN's initial brief, pp. 49-50, note 9. The Commission also notes that, when addressing this issue of terminology, "alternative" and "scenario" are used interchangeably in this order.

RECEIVED by MSC 11/14/2025 2:10:18 PM

ELPC/MiCAN asserted that Mr. Erickson calculated about 87,000 metric tons of CO_2e (in total) related to the construction of the Replacement Project and 520 metric tons CO_2e annually for operation of the Straits Line 5 segment. ELPC/MiCAN averred that Enbridge provided no rebuttal on this issue. *Id.*, pp. 13-14 (citing 9 Tr 1048-1052 and 7 Tr 707). ELPC/MiCAN noted that the Staff's estimates were lower, but they asserted that the Staff mistakenly restricted the types of indirect emissions included in the analysis.

Second, ELPC/MiCAN asserted that GHG emissions result from the product that flows through the Straits Line 5 segment. *See*, ELPC/MiCAN's initial brief, pp. 14-15. ELPC/MiCAN noted that, according to Enbridge, the same amount of product will be transported through the Replacement Project as is currently transported through the dual pipelines "for an indeterminate number of years." *Id*., p. 17. ELPC/MiCAN stated that "GHG emissions are released at each stage of producing, processing, and combusting petroleum." *Id*. Therefore, ELPC/MiCAN contended that the product's lifecycle emissions upstream stage ("all stages that happen before, or upstream, of final combustion") and downstream stage ("combustion at the point of end use") should be included in the MEPA analysis. *Id*.

According to ELPC/MiCAN, Mr. Erickson found that if the Replacement Project was not constructed, it would not mean that these emissions would be avoided. Rather, ELPC/MiCAN noted that Mr. Erickson estimated that in a no pipeline scenario, the GHG emissions would be 27,000,000 metric tons of CO_2e annually, compared to 87,000,000 CO_2e metric tons annually from the Replacement Project. ELPC/MiCAN's initial brief, p. 19 (citing 9 Tr 1061). Therefore, because the no pipeline alternative would result in substantially less GHG emissions than the Replacement Project, ELPC/MiCAN asserted that it is the most feasible and prudent alternative, as demonstrated by the testimony on the record. *See*, ELPC/MiCAN's initial brief, pp. 19-38 (citing

RECEIVED by MSC 11/14/2025 2:10:18 PM

7 Tr 661-675, 697, 709, 711, 713, 718-721, 725-726, 733-734; 9 Tr 972-974, 1047-1048, 1061-1079, 1087-1092; 12 Tr 1777, 1801-1802).

ELPC/MiCAN argued that these increased GHG emissions will pollute, impair, and destroy Michigan air, water, and other natural resources and contribute to climate change. ELPC/MiCAN asserted that Michigan is already experiencing the effects of climate change through increased temperatures, precipitation, and drought. ELPC/MiCAN contended that the increased GHG emissions from the Replacement Project will further exacerbate climate change in Michigan and impact the state's natural resources. ELPC/MiCAN's initial brief, pp. 43-44 (citing 9 Tr 1148-1164).

ELPC/MiCAN stated that Dr. Howard quantified the social cost of GHG emissions, also known as the social cost of carbon, to monetize the incremental costs associated with both the construction/operation of the Replacement Project as well as the lifecycle GHG emissions associated with the products that will be transported through the Replacement Project. ELPC/MiCAN's initial brief, p. 45 (citing 9 Tr 1105-1116). ELPC/MiCAN noted that according to Dr. Howard, a conservative estimate of the cost associated with the increased GHG emissions is $41 billion. ELPC/MiCAN explained that:

> [t]his means at least $41 billion of damage to Michigan, the United States, and globally, manifesting as energy system disruptions, air quality impacts, extreme temperatures, water quality and water scarcity impacts, agricultural productivity losses, property damage, biodiversity losses, and costs to other climate-vulnerable market sectors and natural resources important to Michiganders.

ELPC/MiCAN's initial brief, p. 46.

ELPC/MiCAN argued that the no pipeline scenario is a feasible and prudent alternative that is consistent with Enbridge's stated environmental safety goal, as well as with the State's duty to protect natural resources and its policy goal of reducing GHG emissions. ELPC/MiCAN

RECEIVED by MSC 11/14/2025 2:10:18 PM

contended that Enbridge erred in limiting its alternatives analysis to only those options identified in the First Agreement, arguing that a party may not simply use an agreement to avoid the required review under MEPA. They argued that an Act 16 applicant may not simply choose to exclude a feasible alternative, and they objected to Enbridge's decision to define "the alternatives analysis to exclude any alternative that does not include the flow of oil across the Straits of Mackinac." ELPC/MiCAN's initial brief, p. 48. ELPC/MiCAN asserted that the Staff is mistaken in describing the no-action alternative as one where the dual pipelines continue to operate "until Enbridge determines to voluntarily cease operations or a legal or regulatory action forces Enbridge to cease operations." *Id.*, p. 49 (quoting 12 Tr 1728). ELPC/MiCAN observed that the Staff is asking the Commission to simply assume that the Notice is invalid.

ELPC/MiCAN argued that the no pipeline scenario is a feasible and prudent alternative. ELPC/MiCAN posited that in the absence of the Line 5 Straits segment, propane will be transported to Michigan by alternative methods or customers will switch to other alternatives, such as electric heat pumps. ELPC/MiCAN contended that in the no pipeline scenario, "losses to Michigan refineries would be limited to 15 percent of supply and . . . the related increase in gasoline prices would be lower than 1 cent per gallon." ELPC/MiCAN's initial brief, p. 53 (citing Exhibit ELP-24; 9 Tr 959). In addition, ELPC/MiCAN asserted that Michigan households could continue to use the same amount of propane at an additional cost of $55.00 to $209.00 per year. *See*, ELPC/MiCAN's initial brief, p. 53 (citing 9 Tr 959, 968, and Exhibit ELP-24, p. ES-2). ELPC/MiCAN contended that the U.P. Energy Task Force identified several alternative methods of shipping propane to the U.P., and Public Sector Consultants observed that rail transport is a feasible option for the supply of propane.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Finally, ELPC/MiCAN asserted that the no pipeline alternative is consistent with the State's climate policies while accomplishing the purpose of the Replacement Project, and they state that "Michigan propane users may face some increases in costs of propane, but most would eventually transition to cost-effective electric heat pumps that are more in line with state and national climate goals." ELPC/MiCAN's initial brief, pp. 58-59.

G. Reply Briefs

1. Enbridge Energy, Limited Partnership

As an initial matter, Enbridge contended that FLOW, ELPC/MiCAN, and Bay Mills do not dispute that the public interest will be better served by the Replacement Project as compared to the continued operation of the dual pipelines.

Turning to Bay Mills' claim that "the Straits is an inappropriate location for the tunnel and pipeline," Enbridge argued that Bay Mills disregards the fact that the dual pipelines are already located in the Straits and will continue to operate with or without the Replacement Project. Enbridge's reply brief, p. 2. Rather, Enbridge asserted that the material issue in this proceeding is determining the appropriate route for the Replacement Project so that the dual pipelines may be replaced and the Great Lakes better protected. Additionally, Enbridge objected to Bay Mills' contention that the design of the Replacement Project is unsafe. Enbridge stated that "[t]he fatal flaw with this argument is that every qualified expert who has examined the risk associated with locating the Line 5 Straits crossing within a tunnel has determined that its relocation within a tunnel is safer than the existing Line 5 Straits crossing and by any measure extremely safe." *Id.*, p. 3 (citing Exhibit ELP-24, pp. 3-60; 12 Tr 1737; 9 Tr 1204; and Exhibit A-9, Appendix 7).

Enbridge also disputed Bay Mills' claim that pursuant to the Commission's MEPA analysis, the company's application should be denied because the Replacement Project will result in

RECEIVED by MSC 11/14/2025 2:10:18 PM

increased GHG emissions and irreparable damage to tribal, cultural, and natural resources. Enbridge reiterated that the dual pipelines will continue to operate whether or not the Replacement Project is approved, thus resulting in the same, or a similar, amount of GHG emissions. In addition, Enbridge noted that there are no meaningful alternative fuel sources and that demand for Line 5 products is not expected to change. Finally, Enbridge stated that there is no dispute that truck and rail transportation result in more GHG emissions, rather than less, as compared to pipeline transportation.

Next, Enbridge addressed Bay Mills' claim that vibrations from tunnel construction will negatively impact cultural and natural resources. Enbridge noted that EGLE "determined that the construction activities associated with the tunnel project 'do not authorize impairment of, and are not anticipated to adversely affect fish, wildlife, or habitat, nor the ability to hunt, fish, or gather in the Straits.'" Enbridge's reply brief, p. 8 (quoting Exhibit A-8, p. 2). In addition, Enbridge stated that SHPO identified a total of 11 archaeological sites within one mile of the project work area and:

> [w]ith respect to those identified sites, the survey revealed only one historic structure (a residence and modern outbuilding) actually within the south workspace, and two archaeological sites located within the north workspace. Based on the established review criteria, the one historic structure and the two archaeological sites were recommended as **not** eligible for listing in the National Register of Historic Places.

Enbridge's reply brief, p. 9 (emphasis in original) (citing 7 Tr 633) (internal citations omitted). Furthermore, Enbridge asserted that any potential impact on Tribal and natural resources will be appropriately addressed through USACE's Section 106 process. Concomitantly, Enbridge noted that it is performing additional surveys addressing a potential burial ground near Outfall 002 in response to a request by USACE. Enbridge's reply brief, p. 10, n. 11 (citing 7 Tr 627).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge disputed Bay Mills' claim that the design of the Replacement Project is unique and untested. Enbridge cited Exhibit BMC-41, p. 21, which contains a list of hydrocarbon pipelines that are located and operating safely within tunnels. Enbridge reiterated the arguments set forth in its initial brief regarding the design of the tunnel, the grade of pipe, and the low risk of a release of Line 5 products from the tunnel. *See*, Enbridge's reply brief, pp. 11-19.

Enbridge asserted that Bay Mills provided only one alternative to the Replacement Project—the shut-down of Line 5—which is not feasible or prudent. Enbridge contended that the no pipeline alternative was not presented in the company's application and is not an alternative pending before the Commission. Enbridge stated that in any case, a shutdown of Line 5 is not consistent with the requirements of public health, safety, and welfare pursuant to the standard set forth in MEPA. *See*, Enbridge's reply brief, pp. 19-21.

In reply to ELPC/MiCAN and FLOW, Enbridge contended that the no pipeline scenario is not feasible or prudent to alleviate or eliminate potential environmental impairment. Enbridge reiterated that the additional GHGs emitted during construction of the tunnel are minor compared to the GHGs emitted in the no pipeline scenario, which would require transporting the fuel products by rail. *See*, Enbridge's reply brief, pp. 23-24 (citing 7 Tr 665). Additionally, Enbridge asserted that contrary to the arguments made by ELPC/MiCAN, a shutdown of Line 5 would not strand oil in Western Canada and the Bakken regions, would not significantly increase the cost of fuels, would not reduce the demand for the fuels, and would not reduce GHG emissions. *See*, Enbridge's reply brief, pp. 24-32. Therefore, Enbridge concluded that "[t]he 'no pipeline alternative' creates far more environmental harm than the approval of Enbridge's Application." *Id.*, p. 34.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge disputed FLOW's claim that the company's application must be denied "until the tunnel easement and assignment (Exhibit A-6) have been authorized pursuant to the common law public trust doctrine, the Great Lakes Submerged Lands Act and Act 10." Enbridge's reply brief, p. 34 (footnote omitted). Enbridge contended that the Commission has no jurisdiction to resolve these disputes and FLOW provides no statutory or other legal support that would empower the Commission to do so. Rather, Enbridge argued, the Commission has the obligation to comply with the public policy set forth in Act 359 to approve the construction of a pipeline in a utility tunnel beneath the Straits.

Responding to the Staff's initial brief, Enbridge "commends the Staff for its thorough and accurate assessment of the issues and arguments," however the company "believes that the Staff has overreached in imposing conditions beyond this Commission's jurisdiction." *Id.*, p. 39. Enbridge explained that:

> [t]hese conditions are that Enbridge "commit to finalize its impairment mitigation plans to satisfy all local, state, and federal permitting requirements and to address potential environmental impairments from construction identified in Staff's testimony." Staff also stated that the "Commission should condition any approval such that it would be considered null and void if the [USACE] rejects Enbridge's application, or the [USACE's] review results in significant changes to the design of the proposed utility tunnel and replacement pipeline that are inconsistent with any proposal approved in this case."

Enbridge's reply brief, pp. 39-40 (quoting Staff's initial brief, pp. 117, 125) (internal citations omitted) (footnote omitted).

Regarding the Staff's first condition, which involves 10 potential environmental impacts identified by Ms. Mooney, Enbridge stated that it has addressed each issue. *See*, Enbridge's reply brief, p. 40 (citing 12 Tr 1849-1850; 7 Tr 610-624). In addition, Enbridge asserted that it will develop an EPP that will be continuously updated and will meet or exceed all federal, state, and local environmental protection and erosion control requirements. Enbridge noted that the baseline

RECEIVED by MSC 11/14/2025 2:10:18 PM

EPP is set forth in Exhibit A-11, pp. 228-359, and an updated EPP is set forth in Exhibit S-19, pp. 13-59. Enbridge's reply brief, p. 41, n. 43. Enbridge contended that, in any case, the Commission has no jurisdiction over tunnel construction, permitting, or environmental conditions; rather, the Commission only has jurisdiction over the replacement pipe segment. *See*, *id.*, pp. 41-42.

Next, Enbridge responded to the Staff's second condition that Commission approval of the company's Act 16 application should be null and void if USACE rejects Enbridge's Sections 7 and 106 applications or if USACE recommends significant changes to the design of the proposed tunnel and replacement pipeline that are inconsistent with Enbridge's Act 16 application. Enbridge stated that:

> were the issues that are properly before this Commission to be impacted by the USACE permitting process in a way such that it would affect the decision to be issued by the Commission, the Commission of course, on its own could reopen this proceeding as necessary to adjust its decision as may be warranted. Thus, no condition relating to the USACE process as Staff has proposed is warranted.

Enbridge's reply brief, p. 42. Enbridge concluded by requesting that the Commission issue an order approving the company's application without condition so as to fulfill the purpose of Act 359.

2. The Commission Staff

In response to the arguments set forth in the intervenors' initial briefs, the Staff stated that:

> [a]t present, the Dual Pipelines operate with no buffer between the pipeline and the waters of the Straits. No one wants this to continue, but it may continue if Enbridge is not allowed to proceed with its proposed project. [ELPC/MiCAN] and the Tribes discount this possibility and instead argue that a no-pipeline alternative should be considered as the best way to fulfill Enbridge's stated purpose of alleviating the risk of a spill. The purpose of Enbridge's proposed replacement and relocation project, however, is not only to alleviate risk; it is also to maintain operation of the four-mile segment of Line 5 crossing the Straits. A no-pipeline alternative obviously does not fulfill this purpose. And because it does not fulfill one of the two primary purposes of the proposed project, it is not a viable alternative to the pipeline.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Staff's reply brief, pp. 1-2 (internal citations omitted) (footnote omitted). In addition, the Staff asserted that the April 21 order defined the scope of this proceeding and made clear that the no pipeline alternative is outside the scope of this case. *See*, Staff's reply brief, pp. 5-10.

The Staff noted that FLOW, ELPC/MiCAN, and Bay Mills argue that the no pipeline scenario is a feasible and prudent alternative. The Staff stated that "although this supposed alternative is not a direct challenge to the need for Line 5 as a whole, it implies that Line 5 is no longer needed. In other words, by suggesting that the Commission consider a scenario in which there is no Line 5, they question the need for Line 5 in violation of the Commission's scope order." Staff's reply brief, p. 11. In addition, the Staff asserted that the feasible and prudent alternatives considered by the Commission in its MEPA analysis must align with the purpose of the proposed project. The Staff noted that one purpose of Enbridge's Act 16 application is replacement of the dual pipelines, and "[t]he inherent purpose of the 'replacement,' to substitute the function of the Dual Pipelines, must be acknowledged in addition to the purpose of reducing the risk of an oil spill into the Great Lakes." Staff's reply brief, p. 14. Accordingly, the Staff asserted that a no pipeline alternative does not effectuate one of the purposes of the Replacement Project and, therefore, cannot be considered a "true alternative." *Id*.

Furthermore, the Staff noted that "no party in this proceeding has identified a past petroleum pipeline case under Act 16 of 1929, or even a natural gas pipeline case under [Public Act 9 of 1929], in which the Commission considered shutting down an existing pipeline as an alternative to a proposed replacement." Staff's reply brief, p. 16. In any case, the Staff argued that no party has provided convincing evidence that the no pipeline scenario is a feasible and prudent alternative. *See, id*., pp. 18-22.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Next, the Staff objected to FLOW's claim that pursuant to the public trust doctrine and the GLSLA, the Commission may not approve Enbridge's Act 16 application. The Staff argued that "[t]he true threshold matter in this case is not the validity of Enbridge's property rights [subject to the public trust doctrine and GLSLA], as FLOW suggests, but whether the Act 16 criteria have been met and whether the project satisfies MEPA's requirements." Staff's reply brief, p. 23. The Staff averred that:

> [t]hough the status of property rights and easements is undoubtably relevant to Act 16 proceedings, the Commission's four [Act 16] criteria do not require an applicant to obtain all property rights for a proposed project before approval. This has never been a prerequisite to Act 16 approval in the almost 100 years that Act 16 has been in effect. Rather, through an Act 16 application, qualifying entities have been able to request authority to obtain property rights through eminent domain. MCL 483.1; MCL 483.2. It follows that property rights may be obtained after Act 16 approval is granted. And the Commission has indeed granted approval in Act 16 proceedings where additional easement rights would be required.

Staff's reply brief, p. 24. Furthermore, the Staff contended that contrary to FLOW's claim, the Commission is not legally required, or even authorized, in its Act 16 review to find that the 2018 easement and assignment of easement by independent State of Michigan agencies were invalid. *See*, Staff's reply brief, pp. 25-27.

In response to Bay Mills' concerns about the route of the Replacement Project and its impact to cultural and natural resources, the Staff asserted that these concerns will be addressed by SHPO, EGLE, and USACE. *See*, Staff's reply brief, pp. 29-33. And, regarding Bay Mills' claim that the vibrations from the TBM will damage cultural and archaeological areas, the Staff stated that:

> [t]he Tribes have not provided any testimony that the potential archeological sites would be impacted by vibration, let alone the small levels anticipated by McMillan Jacobs. Nonetheless, the Company explained in testimony that it is still analyzing data on this issue that will be provided to [USACE] in consultation with SHPO and the Tribes . . . .

RECEIVED by MSC 11/14/2025 2:10:18 PM

Staff's reply brief, p. 34. In addition, the Staff asserted that it is "confident that the potential issues identified by the Tribes will be granted due attention given the rigor of the EIS process and the stakeholders involved. Consistent with this view, the Commission should make any approval contingent on approval from other state and federal permitting agencies, including [USACE]." *Id.*, p. 35.

The Staff disputed Bay Mills' claim that the Replacement Project has not been designed in a reasonable or safe manner. The Staff argued that while the configuration of the Replacement Project has not been previously used for this type of fuel mix, each separate feature of the Replacement Project has been used and has proven to be safe and reliable. *See*, Staff's reply brief, pp. 36-40. In addition, the Staff disagreed with Bay Mills that in the unlikely event of an explosion in the tunnel, the concrete lining in the tunnel would shatter and allow fuel products to escape into the Straits. The Staff asserted that "the tunnel lining material 'has been designed to be resilient against a hydrocarbon fire and any anticipated fire exposure condition,'" and in the unlikely event of a breach of the tunnel, outside hydrostatic pressure would prevent fuel products from reaching the Straits. Staff's reply brief, p. 41 (quoting Exhibit A-13, p. 12).

In response to Enbridge's claim that the Staff has no concerns with the safety of the Replacement Project, the Staff stated that it:

> would like to clarify this point, recognizing that the Company cited Staff witness David Chislea's testimony, where Mr. Chislea said, "At this time, based on the preliminary design and construction plans," Staff does not have any concerns. Although this is still true, Staff will remain in ongoing communications with PHMSA during its inspections and review. Staff maintains that the Company can mitigate pipeline safety concerns and to do so, firmly recommends that the Company implement all of Staff's recommendations.

Staff's reply brief, pp. 43-44 (internal citation omitted).

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Staff noted that ELPC/MiCAN claim that the upstream and downstream GHG emissions will be significantly reduced if Line 5 is shut down. However, the Staff stated that "[t]he scenario envisioned by [ELPC/MiCAN] collapses if any of the [scenario] premises are wrong or any of the [scenario] predictions fail to reach fruition." Staff's reply brief, p. 47. Specifically, the Staff contended that ELPC/MiCAN's Line 5 shut down scenario will likely result in a 0.3% increase in petroleum prices, which, in the Staff's opinion, is not substantial (i.e., a penny increase in price). The Staff asserted that this modest increase will not deter consumption of petroleum products and, as a result, will not reduce GHG emissions. Therefore, the Staff states that the no pipeline scenario is not a prudent alternative that should be considered in the Commission's MEPA analysis.

3. For Love of Water

In its reply brief, FLOW reiterated that Enbridge has not obtained the necessary property rights to occupy the bottomlands of the Straits and construct the Replacement Project. *See*, FLOW's reply brief, pp. 2-7.[30] Additionally, FLOW restated that pursuant to the MEPA analysis, the evidence on the record demonstrates that the Replacement Project is likely to impair or destroy Michigan's natural resources or the public trust in those resources. *See*, FLOW's reply brief, pp. 7-14. Moreover, FLOW contended that "the environmental impacts of the proposed conduct are far greater than those in its construction phase alone." *Id*., p. 10. FLOW asserted that there are a variety of reasonable feasible and prudent alternatives to the Replacement Project that would better protect the air, water, natural resources or public trust in those resources. As a result, FLOW requested that the Commission deny Enbridge's application for the Replacement Project.

[30] Because FLOW's reply brief is not paginated, the Commission clarifies that page 1 starts in natural order with the first page of the brief.

RECEIVED by MSC 11/14/2025 2:10:18 PM

4. The Michigan Propane Gas Association and the National Propane Gas Association

The Associations replied that on the record, the only feasible and prudent alternative proposed by the intervenors is to simply not construct the Replacement Project. However, the Associations argued that shutting down Line 5 "is not feasible, prudent, or consistent with the reasonable requirements of the public health, safety, and welfare." Associations' reply brief, p. 3. The Associations explained that the fuels transported on Line 5 supply a critical energy need in Michigan and the region.

Next, the Associations disputed the intervenors' claim that construction of the Replacement Project will have a lasting negative impact on fish populations in Lake Michigan or that it will produce an excessive amount of GHG emissions that will pollute, impair, or destroy natural resources. The Associations argued that "the alternative of transporting the Line 5 products by truck or rail would produce more GHG emissions, not less." Associations' reply brief, p. 5. Furthermore, the Associations objected to the intervenors' request that the Commission consider the lifecycle GHG emissions associated with the products transported on Line 5 that are "produced and processed and combusted by end users." *Id.* They contended that the Commission should reject this request because if the Replacement Project is not approved, Line 5 will continue to operate in its current location; it will transport the same fuels for production, processing, and combustion, and it will result in the same amount of GHG emissions. In addition, the Associations argued that pursuant to its MEPA review, the Commission need not examine alternatives to the Replacement Project because the evidence shows that the Replacement Project will not pollute, impair, or destroy natural resources.

The Associations asserted that the intervenors "misconstrue what the purpose [of the Replacement Project] is, characterizing it as only alleviating an environmental risk to the Great

RECEIVED by MSC 11/14/2025 2:10:18 PM

Lakes . . . ." Associations' reply brief, p. 7. Rather, the Associations stated that "[t]he purpose of the [Replacement] Project is and always has been to allow Line 5 to continue operating, only with a safer crossing under the Straits." *Id*. (citing 7 Tr 756 and 12 Tr 1740-1742). The Associations contended that the Commission should reject the no pipeline alternative because it does not achieve this purpose.

In the event the Commission considers the no pipeline alternative, the Associations requested that the Commission approve the Replacement Project because there are no feasible and prudent alternatives that are consistent with the public health, safety, and welfare. The Associations averred that Line 5 "serves a public need" because "it provides transportation for critical energy services in Michigan and the region, including propane to heat homes in the Upper and Lower Peninsulas of Michigan." Associations' reply brief, p. 8. According to the Associations, if the Commission declines to approve the Replacement Project, "substantial investment in new infrastructure" for fuel transportation would be required and new and expensive home heating pumps will be needed. *Id*., p. 9. The Associations asserted that the intervenors fail to explain how these projects would be financed and economically constructed.

Finally, the Associations disputed the intervenors' contention that "the no-pipeline alternative is prudent because it advances the State's goals in the Governor's MI Healthy Climate Plan." Associations' reply brief, p. 11. The Associations argued that the Legislature has determined the public need for the Replacement Project in Act 359, and the Governor's MI Healthy Climate Plan cannot supplant that legislation.

5. Environmental Law and Policy Center and the Michigan Climate Action Network

ELPC/MiCAN asserted that Enbridge, the Staff, and the Associations failed to rebut ELPC/MiCAN's prima facie MEPA case that "[t]he Proposed Project will exacerbate climate

RECEIVED by MSC 11/14/2025 2:10:18 PM

change through the direct and indirect emission of greenhouse gases" and that the only feasible and prudent alternative is the no pipeline scenario. ELPC/MiCAN's reply brief, p. 1. They also argued that the conclusions offered by MLDC regarding employment and commerce are unsupported and irrelevant. ELPC/MiCAN's reply brief, p. 1, n. 1.

ELPC/MiCAN noted that "Enbridge, [the] Staff, and the Propane Associations recite the development and content of various agreements between the State of Michigan and Enbridge in an effort to establish the necessity and propriety of the Proposed Project." ELPC/MiCAN's reply brief, p. 2. ELPC/MiCAN argued that the provisions of the Agreements are not relevant to the Commission's MEPA review because MEPA is supplementary to other administrative and regulatory procedures that are required by law. *See*, ELPC/MiCAN's reply brief, p. 2 (citing *Her Majesty the Queen v Detroit*, 874 F2d 332, 337 (CA6 1989)). In addition, ELPC/MiCAN asserted that the Agreements are negotiated outcomes and "do not represent the State's chosen outcome from a thorough alternatives analysis." ELPC/MiCAN's reply brief, p. 2. They contended that agreements between private companies and State agencies "cannot take the place of the Commission's independent MEPA review." *Id.*, p. 4, n. 2.

Next, ELPC/MiCAN asserted that Enbridge failed to evaluate all feasible and prudent alternatives in its MEPA analysis in this case. ELPC/MiCAN argued that Enbridge should have considered the scenario in which the dual pipelines are shut down and the company does not construct the Replacement Project. ELPC/MiCAN stated that:

> [c]onsideration of this alternative would require analysis by Enbridge of how oil would get to market. . . . Mr. Earnest testified that he has access to and has used in the past a Market Optimization Model that assesses crude oil market implications of changes in logistical infrastructure, such as Line 5, that enables crude oil to reach the global market. (Earnest Cross, 7 TR 731–32). Enbridge did not ask Mr. Earnest to employ that model here.

ELPC/MiCAN's reply brief, p. 6.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Additionally, ELPC/MiCAN objected to the Staff's contention that if the Notice is not enforced and the Replacement Project is not approved and constructed, then the dual pipelines will continue to operate in their current location. ELPC/MiCAN argued that the Commission must assume that the Notice is valid and enforceable and that there is a scenario in which the dual pipelines could be shut down. In such a scenario, ELPC/MiCAN averred that in the MEPA analysis, the Commission must "compare the current environmental situation with the probable condition of the environment after the construction of the Proposed Project." ELPC/MiCAN's reply brief, p. 6.

ELPC/MiCAN also objected to the Staff's and Enbridge's characterization of the purpose of the Replacement Project, claiming that it is inconsistent and inaccurate. ELPC/MiCAN asserted that the "Staff seeks to define Enbridge's purpose [of the Replacement Project] to include the need for a pipeline through the Straits, even though Enbridge has explicitly argued that the need for Line 5 is outside the scope of this case." *Id*., p. 8. Furthermore, ELPC/MiCAN noted that Enbridge has stated that the purpose of the Replacement Project "is to alleviate an environmental concern to the Great Lakes." *Id*. However, ELPC/MiCAN argued that Enbridge has failed to consider that a no pipeline alternative would effectively achieve the purpose of protecting the Great Lakes from a release of fuel products from Line 5.

ELPC/MiCAN asserted that according to the Staff, the Commission "does not have explicit statutory authority to shut down the Dual Pipelines," and, therefore, should not consider a no pipeline scenario in its MEPA analysis. ELPC/MiCAN's reply brief, p. 10. ELPC/MiCAN, however, disagreed and contended that MEPA directs the agency to evaluate the actual or probable environmental impairment from the applicant's proposed conduct and any feasible and prudent alternatives, such as the no pipeline scenario. In ELPC/MiCAN's opinion, the analysis of feasible

RECEIVED by MSC 11/14/2025 2:10:18 PM

and prudent alternatives, including the no pipeline scenario, is not contingent on whether the Commission has the authority to shut down the dual pipelines.

In addition, ELPC/MiCAN argued that the Staff failed to properly evaluate the GHG emissions associated with the Replacement Project as required by MEPA. In ELPC/MiCAN's opinion, "MEPA does not ask whether pollution is 'typical' for the activity at issue. The statute asks whether the conduct at issue pollutes, impairs, or destroys the air[,] water or other natural resources, or the public trust in those resources." ELPC/MiCAN's reply brief, p. 10 (quoting Staff's initial brief, p. 82). ELPC/MiCAN asserted that the Staff did not rebut ELPC/MiCAN's prima facie case that the Replacement Project results in GHG emissions that contribute to climate change and negatively impact fish, loons, sugar maples, and wild rice in Michigan.

ELPC/MiCAN also claimed that the Staff improperly excluded Scope 3 emissions (those from indirect sources not owned or controlled by the company) from its construction-related GHG emissions estimate. ELPC/MiCAN noted that the Staff argued "that Scope 3 emissions should not be included because they are optional under the Greenhouse Gas Protocol for corporate accounting and reporting." ELPC/MiCAN's reply brief, p. 14. However, ELPC/MiCAN asserted that:

> [u]nder MEPA, the question is whether GHG emissions are the result of the conduct at issue. The protocol recognizes that "Scope 3 emissions are a consequence of the activities of the company, but occur from sources not owned or controlled by the company." This language supports including Scope 3 emissions in a MEPA analysis, even though the protocol's Scope 1/2/3 construct intended for business use is not a useful guide for evaluating environmental harm from greenhouse gases under MEPA.

ELPC/MiCAN's reply brief, pp. 14-15 (footnote omitted). Additionally, ELPC/MiCAN contended that in the April 21 order, the Commission found that its MEPA analysis should be applied to the products shipped through the Replacement Project. Moreover, ELPC/MiCAN noted that federal courts have determined that indirect emissions may be included in a MEPA analysis.

RECEIVED by MSC 11/14/2025 2:10:18 PM

ELPC/MiCAN disputed the Staff's claim that if the dual pipelines are shut down, Enbridge will continue to ship the same amount of fuel products, albeit by rail and truck, and that these types of transportation will produce more GHG emissions than the Replacement Project. ELPC/MiCAN asserted that "because rail is more expensive, and less oil is therefore transported, the net effect is a reduction in GHG emissions." ELPC/MiCAN's reply brief, p. 16. Moreover, ELPC/MiCAN objected to the Staff's and Enbridge's contention that if the Straits Line 5 segment is shut down, global oil markets will meet the demand for fuel products, and GHG emissions will remain static. ELPC/MiCAN urged the Commission to "require an actual analysis of market impacts and resulting [GHG] emissions." *Id.*, p. 22. ELPC/MiCAN cited several federal cases in support of their request, and they argued that these analyses can provide valuable information for decisionmakers.

In response to Enbridge's claim that the Commission's MEPA analysis should not include construction of the proposed utility tunnel, ELPC/MiCAN asserted that "the tunnel is a pipeline fixture pursuant to Act 16, and the construction of the tunnel must be considered in the MEPA analysis." ELPC/MiCAN's reply brief, p. 17. Additionally, ELPC/MiCAN contended that Enbridge: (1) failed to address Mr. Erickson's and Mr. Ponebshek's testimony that construction of the Replacement Project will produce GHGs, (2) did not deny that GHGs cause climate change, and (3) did not rebut ELPC/MiCAN's prima facie case regarding the negative impact of the GHGs produced by the Replacement Project.

ELPC/MiCAN stated that the Associations "repeat Enbridge and Staff's arguments that the Proposed Project does not pollute, impair, or destroy natural resources. [ELPC/MiCAN] addressed the flaws in those arguments in their opening brief and in reply to Enbridge and Staff's opening briefs." ELPC/MiCAN's reply brief, p. 22.

RECEIVED by MSC 11/14/2025 2:10:18 PM

In conclusion, ELPC/MiCAN asserted that "[s]hutting down the Dual Pipelines and not building the tunnel is a feasible alternative Enbridge should have analyzed. On the record evidence before it, this Commission must conclude that the [Replacement] Project violates MEPA and deny Enbridge's Act 16 application." ELPC/MiCAN's reply brief, p. 25.

6. Michigan Environmental Council, National Wildlife Federation, and Tip of the Mitt Watershed Council

According to the MEC Coalition, "Enbridge declares that the public need [for the Replacement Project] has been conclusively determined based on the language of the Agreements." MEC Coalition's reply brief, p. 6 (footnote omitted). The MEC Coalition disagreed, explaining that "the Agreements were predicated on and bolstered by analyses and reports narrowly tailored to conclude that continued reliance on light crude oils and natural gas liquids (NGLs), as well as the current route, were most appropriate." *Id*. In addition, the MEC Coalition stated that the Agreements do not consider environmental harm that could occur outside the Straits or Great Lakes. Moreover, the MEC Coalition argued that "the conclusions about public need in these Agreements were drawn before any thorough planning and investigation into this project were completed." *Id*., pp. 6-7.

The MEC Coalition also noted that the Alternatives Analysis was completed five years ago and the report failed "to look at energy alternatives[;] instead the focus was on alternative *methods* of moving the same commodities in the same quantities." MEC Coalition's reply brief, p. 7 (emphasis in original) (citing Exhibit ELP-24). The MEC Coalition contended that another alternatives analysis was conducted after the execution of the First Agreement and it also failed to consider alternative pipeline routes or energy alternatives. The MEC Coalition asserted that the Agreements and the Alternatives Analysis are outdated and conclusory and, therefore, cannot be

RECEIVED by MSC 11/14/2025 2:10:18 PM

relied upon. The MEC Coalition requested that the Commission conduct an independent Act 16 analysis of public need.

The MEC Coalition disputed Enbridge's claim "that the State Legislature has preemptively determined the need for this project by passing Public Act 359." MEC Coalition's reply brief, p. 9. The MEC Coalition asserted that Act 359 did not preapprove the Replacement Project. Rather, the MEC Coalition noted that, according to Section 14d(g) of Act 359, the constructing entity, Enbridge, must obtain all required governmental approvals for the Replacement Project, which includes the Commission's approval of the company's Act 16 application. Further, the MEC Coalition asserted that the 1953 order does not preclude the Commission from considering the public need for the Replacement Project. The MEC Coalition stated that "[e]ven though the 1953 Order recognized at that time a benefit to the proposed Lakehead project, that does not permanently bind this Commission to that conclusion in an application for a new project." MEC Coalition's reply brief, p. 11.

In addition, the MEC Coalition asserted that the Replacement Project will have an adverse impact on archaeological and cultural resources. The MEC Coalition noted that SHPO has recognized that the Straits are an important cultural area for the Tribes and recommended "not moving forward with permit approvals until further research is completed to provide baseline cultural resources data." *Id.*, p. 49 (quoting Exhibit BMC-40, p. 3). Therefore, the MEC Coalition posited that the Commission lacks sufficient information to determine that the route is reasonable.

Turning to the MEPA analysis, the MEC Coalition contended that the "Staff acknowledge and identify the [environmental] risks but disagree with ELPC and the Tribes regarding their significance; Enbridge simply asserts these risks do not exist." MEC Coalition's reply brief, pp. 16-17. The MEC Coalition asserted that the environmental risks associated with the

RECEIVED by MSC 11/14/2025 2:10:18 PM

construction and operation of the Replacement Project have not been adequately analyzed or addressed and, as a result, the Commission lacks sufficient information to make an informed decision regarding the MEPA analysis for Enbridge's Act 16 application. Additionally, the MEC Coalition argued that the tunnel design results in a risk for catastrophic explosion and a release of Line 5 products into the Straits. The MEC Coalition contended that the Staff and Enbridge have failed to provide a scientific demonstration that there is no risk of explosion and that the tunnel will prevent a release of Line 5 products. The MEC Coalition stated that the Staff's assurance that it will continue to evaluate the environmental risks in future discussions with Enbridge, MSCA, and PHMSA is insufficient.

Next, the MEC Coalition pointed to the Staff's list of 10 potential environmental concerns with the Replacement Project "that could 'pollute, impair, or destroy natural resources,' as testified to by Staff Witness Ms. Kathleen Mooney." MEC Coalition's reply brief, p. 20 (quoting 12 Tr 1848-1850). The MEC Coalition stated that the:

> Staff accordingly admit that "the status of the Company's plans and current stage of the project prevents a final comprehensive evaluation of the overall effectiveness of the mitigation plans." This lack of information is an unmovable obstacle blocking the Commission's required MEPA review; as a result, the Commission should not approve Enbridge's application.

MEC Coalition's reply brief, p. 21 (quoting Staff's initial brief, p. 75).

Furthermore, the MEC Coalition argued that the Staff relies too heavily on Enbridge to address potential environmental impairments that are not addressed by the permitting process. Specifically, the MEC Coalition contended that the Staff requested that the Commission approve Enbridge's Act 16 application with conditions, "including 'a requirement that the Company commit to finalize its impairment mitigation plans to satisfy all local, state, and federal permitting requirements and to address potential environmental impairments from construction identified in

RECEIVED by MSC 11/14/2025 2:10:18 PM

Staff's testimony.'" MEC Coalition's reply brief, p. 22 (quoting Staff's initial brief, pp. 125-126). The MEC Coalition asserted that the Staff's request for these conditions is "especially telling: they are required because none of these risks has yet been incorporated into Enbridge's existing mitigation plans." MEC Coalition's reply brief, pp. 22-23 (footnote omitted).

The MEC Coalition also disputed Enbridge's and the Staff's evaluation of GHG emissions. According to the MEC Coalition, "Enbridge argues that the amount of GHG emissions will be the same as they currently are upon completion of the replacement project because 'the service furnished on Line 5 will remain unchanged,' and therefore 'the project is not likely to have the effect of polluting, impairing, or destroying natural resources.'" MEC Coalition's reply brief, p. 32 (quoting Enbridge's initial brief, p. 33). Regarding the Staff's evaluation, the MEC Coalition asserted that the Staff downplays the GHG emissions associated with the Replacement Project, stating that, according to the Staff, the emissions are "typical for a project of this scope." *Id.* (quoting Staff's initial brief, p. 82). The MEC Coalition reiterated that the construction and operation of the Replacement Project, along with consumption of the products transported by the Straits Line 5 segment, will result in GHG emissions, which exacerbate climate change and impair, pollute, and destroy Michigan's natural resources.

Regarding feasible and prudent alternatives to the Replacement Project, the MEC Coalition asserted that pursuant to MEPA case law, alternatives need not be limited to those put forward by the applicant. *Id.*, pp. 37-38 (citing *Wayne Co Dep't of Health, Air Pollution Control Div v Olsonite Corp*, 79 Mich App 668, 703; 263 NW2d 778 (1977); *In Re: Wetlands Act Appeal of Kuras Properties, Inc*, order of the Michigan Natural Resources Commission, entered November 14, 1990 (File No. 88-6-5W), p. 5). The MEC Coalition stated that "if the Commission is to adequately consider alternatives under MEPA consistent with its April 2021 Order, it must

RECEIVED by MSC 11/14/2025 2:10:18 PM

consider an alternative in which hydrocarbons are *not* shipped through the tunnel." MEC Coalition's reply brief, p. 40 (emphasis in original). The MEC Coalition asserted that the State of Michigan's "dismissal of the federal lawsuit to enforce the Notice of Revocation and Termination, Enbridge's pending federal lawsuit against the state, and Canada's invocation of the dispute resolution provisions of Article IX of the 1977 Transit Treaty to dismiss the no-pipeline alternative does not prove that a no-pipeline alternative is infeasible." MEC Coalition's reply brief, pp. 40-41. Rather, the MEC Coalition explained that it is possible that the State of Michigan could pursue an effort to shut down the Straits Line 5 segment, Enbridge may not prevail in its federal lawsuit, and binding arbitration between the U.S. and Canada could result in a shutdown of Line 5.

The MEC Coalition noted that Enbridge and the Staff argue that there are no feasible and prudent alternatives to the Replacement Project because Michigan citizens and businesses are dependent upon the products shipped on Line 5. The MEC Coalition disagreed, asserting that the intervenors have "presented evidence that customers can procure the products that Line 5 transports via other modes of transport or through electrification." MEC Coalition's reply brief, pp. 42-43. The MEC Coalition asserted that Enbridge failed to persuasively rebut this evidence. *See, id.*, pp. 43-44.

The MEC Coalition also objected to the Staff's claims that the Replacement Project will not affect Tribal treaty rights and that the Staff "made extensive efforts to seek input from the Tribes" in this case. MEC Coalition's reply brief, p. 51. The MEC Coalition asserted that the source of the Tribal treaty rights are the 1836 Treaty of Washington and the 1855 Treaty of Detroit. The MEC Coalition averred that these treaties preserve the Tribes' right to hunt and fish in the territory ceded to the U.S. and that these rights are antecedent to any State or private property rights established after the creation of the treaties. The MEC Coalition contended that in the 1953 order,

RECEIVED by MSC 11/14/2025 2:10:18 PM

the Commission determined the public need for Line 5 without meaningfully consulting with the Tribes. In addition, the MEC Coalition stated that in the 1953 order, "the Commission failed to consider the impacts of approving Line 5 on paramount, pre-existing treaty rights in areas of the ceded territory," and it "does not preclude the Commission in a new case from considering the impacts of extending Line 5's operation in the ceded territory by relocating the Straits segment in a tunnel." MEC Coalition's reply brief, p. 48. The MEC Coalition encouraged the Commission to consider modifying its 1953 order to reflect a consideration of treaty rights and to employ "meaningful and mutually beneficial communication and collaboration" with the Tribes in the Commission's evaluation of Enbridge's Act 16 application. MEC Coalition's reply brief, p. 54 (quoting ED 2019-17); *see also*, MEC Coalition's reply brief, pp. 51-55.

In conclusion, the MEC Coalition contended that "[i]t is imperative that the Commission review the whole record independently while deciding whether to grant the application." MEC Coalition's reply brief, p. 10. In addition, the MEC Coalition noted that pursuant to the APA, the Commission must make specific factual findings to support its final decision. The MEC Coalition asserted that based on the evidence currently on the record, the Commission lacks competent, material, and substantial evidence to approve the Replacement Project under Act 16 and MEPA.

7. Bay Mills Indian Community, The Little Traverse Bay Bands of Odawa Indians, The Grand Traverse Band of Ottawa and Chippewa Indians, and the Nottawaseppi Huron Band of the Potawatomi

Similar to the MEC Coalition, Bay Mills argued that "Act 359 and the Tunnel Agreements do not determine the outcome of any Act 16 criteria, the [MEPA review], or the Commission's review." Bay Mills' reply brief, p. 3. Bay Mills stated that according to Act 359 and the Agreements, any project to replace the dual pipelines will require consent and approval from federal and state agencies, which includes the Commission. In addition, Bay Mills asserted that

RECEIVED by MSC 11/14/2025 2:10:18 PM

the language in Act 359 and the Agreements are not determinative of public need under Act 16; the Commission must perform an independent review and determine whether there is a public need for the Replacement Project.

Bay Mills noted that "[i]n their initial briefs, Enbridge and the Propane Associations suggest that the past actions the State [of Michigan] has taken with respect to the tunnel are to eliminate the risk of an oil spill from Line 5 to the Straits." Bay Mills' reply brief, p. 9. Bay Mills contended that:

> [a]ssuming there is an environmental risk to the Straits from the dual pipelines and that risk needs to be addressed, it does not necessarily follow that this particular Project is needed. Act 16 and MEPA criteria require the Commission to determine that the public needs the pipeline and that there is no feasible and prudent alternative that causes less environmental harm than the Project. As described in Tribal Intervenors' initial brief . . . this Project will not meet a public need of alleviating an environmental threat to the Straits because it still presents at least five unacceptable environmental risks . . . .

Bay Mills' reply brief, p. 10 (footnote omitted). Bay Mills reiterated that the five environmental risks are: (1) the route of the Replacement Project threatens cultural resources; (2) the design of the Replacement Project presents a risk of catastrophic explosion; (3) the Replacement Project contributes to climate change and impairs, pollutes, or destroys Michigan's natural resources; (4) construction of the Replacement Project will impair and pollute the waters of the Great Lakes and may destroy wildlife; and (5) the Replacement Project results in other environmental risks. However, Bay Mills noted that the Commission determined that the other environmental risks could not be included on the record.

In response to Enbridge's claim that the Replacement Project is necessary so that needed fuel transportation may continue on Line 5, Bay Mills argued that Enbridge presented arguments in its initial brief that are outside the scope of the case. Bay Mills noted that "Enbridge specifically sought to exclude evidence about whether there is a public need for the fuels transported by Line 5

RECEIVED by MSC 11/14/2025 2:10:18 PM

from this case," and that motion was granted by the ALJ and affirmed by the Commission in the April 21 order, pp. 62-63. Thus, Bay Mills asserted, the Commission must disregard any evidence or argument presented by Enbridge in its initial brief that the Replacement Project is necessary to transport fuels to meet energy needs in Michigan.

Turning to the route of the Replacement Project, Bay Mills reiterated that it has provided extensive evidence that the location of "the [Replacement] Project poses an unacceptable risk to specific cultural and historical sites within that cultural landscape." Bay Mills' reply brief, p. 14. Bay Mills restated that the entire Straits area is a place of immense cultural significance and that damage to any part of this landscape is damage to the whole. *See*, Bay Mills' reply brief, pp. 14-15, 18-24.

Bay Mills also requested that the Commission reject Mr. Yee's recommendation that the Commission "continue to monitor developments of SHPO and the NWP [Nationwide Permit] 12 review process in terms of Section 106 compliance." Bay Mills' reply brief, p. 24 (quoting Staff's initial brief, p. 115). Bay Mills argued that Mr. Yee is "unqualified to opine on matters pertaining to cultural or historic resources," he lacks an understanding of the state and federal permit processes, and he reviewed a very limited body of information prior to making a recommendation. Bay Mills' reply brief, p. 25. Because of these shortcomings in Mr. Yee's qualifications and testimony, Bay Mills objected to Mr. Yee's recommendation that the Commission simply monitor the federal permitting process; instead, Bay Mills requested that the Commission accept the Tribes' concerns at face value as part of the Commission's Act 16 review.

Regarding the design of the tunnel, Bay Mills asserted that the "Staff and Enbridge inappropriately minimized the inherent risks associated with the Tunnel Project." Bay Mills' reply brief, p. 28. Bay Mills reiterated the arguments set forth in its initial brief addressing the risk of an

RECEIVED by MSC 11/14/2025 2:10:18 PM

explosion and argued that "the Commission should conclude that any level of risk associated with such a high magnitude event is unreasonable, unsafe, and should not be routed through the Straits of Mackinac." Bay Mills' reply brief, p. 29; *see also*, *id*., pp. 29-33.

Bay Mills also restated its concerns regarding the use of X70 pipe in the Replacement Project and the risk of failure at girth welds. Bay Mills asserted that:

> Staff attempts to solve this problem by recommending that "low-hydrogen welding procedures [be put] in place for all mainline girth welds; that welding procedures require both preheat and inter-pass temperature requirements; and that the mainline girth welds [be] nondestructively tested using automatic phased array ultrasonic testing methods." Staff justifies this recommendation because it will require Enbridge to exceed the minimum regulations that are enforceable by PHMSA. This recommendation, however, falls short of negating any risk surrounding girth weld failure in X70 pipelines. Staff is vague in its reference to ultrasonic testing methods as to whether it will record photographs or data that will be maintained for the life of the pipeline and that can be audited. Staff is also vague as to whether it is recommending that only the "main line girth welds" be inspected or all girth welds.

Bay Mills' reply brief, p. 35 (quoting Staff's initial brief, pp. 59-60). Bay Mills contended that these measures may reduce the likelihood of a pipeline failure but will not negate the risk and, therefore, the use of X70 pipe contributes to the risk for catastrophic explosion in the tunnel.

Bay Mills reiterated that there will be ignition sources in the tunnel, and Enbridge and the Staff are overly reliant on faulty ventilation and warning systems to detect and prevent an explosion. *See*, Bay Mills' reply brief, pp. 37-41. Bay Mills restated that Class 1 Division 1 electrical specifications are necessary to prevent electrical ignition of a vapor cloud in the tunnel. Additionally, Bay Mills contended that the new pipeline will be capable of transporting a larger volume of fuel products. Bay Mills asserted that as a result, "[t]he effect of an explosion could be greater if the capacity of the replacement pipeline is increased." *Id*., p. 42. Finally, on the issue of design, Bay Mills argued that the Commission cannot adequately review the risks presented because the design of the Replacement Project is not yet final and, thus, important safety issues are

RECEIVED by MSC 11/14/2025 2:10:18 PM

still unclear. Consequently, Bay Mills contended that Enbridge's Act 16 application is incomplete and should not be approved.

Regarding the MEPA analysis, Bay Mills asserted that the construction and operation of the Replacement Project will impair, pollute, or destroy Michigan's natural resources that are also protected by treaty rights. *See*, Bay Mills' reply brief, pp. 52-59. Bay Mills contended that "Enbridge and Staff err in calculating—and failing to calculate—emissions from the construction and operation of the [Replacement] Project, as well as from the burning of the fuels transported by the [Replacement] Project." Bay Mills' reply brief, p. 47. Bay Mills argued that these GHG emissions contribute to climate change and that the emissions pollute, impair, and destroy Michigan's natural resources that are of critical importance to Tribal Nations, including fish, wild rice, loons, and sugar maples. Bay Mills requested that the Commission conduct an independent investigation of all the potential environmental impacts of the Replacement Project.

Next, Bay Mills reiterated that the no pipeline scenario is the most feasible and prudent alternative to the Replacement Project because it causes the least amount of impairment to, and destruction of, natural resources. Bay Mills asserted that the Commission is not limited to the alternatives offered by Enbridge or to alternatives that the Commission has the specific authority to implement; "[r]ather, the inquiry is about whether a reasonable and prudent alternative exists that will avoid or lessen the environmental harm threatened by the proposal." Bay Mills' reply brief, p. 60. Bay Mills averred that the State of Michigan continues its effort to shut down the dual pipelines, which "underscore[s] the importance of considering the no pipeline alternative." *Id.*, p. 64.

RECEIVED by MSC 11/14/2025 2:10:18 PM

According to Bay Mills, the Staff claims that if Enbridge's Act 16 application is denied and the Replacement Project is not constructed, the dual pipelines will continue to operate in the Straits. Bay Mills stated that:

> it is true that it is not certain that the dual pipelines will cease operating if the [Replacement] Project is denied. Enbridge may remain steadfast in its stubborn refusal to comply with Governor Whitmer's Revocation and Termination and perpetuate the risk it has created in the Straits. But that uncertainty does not change the fact that Enbridge could choose to cease operations and not build a tunnel. Enbridge's refusal to comply does not define the contours of the legal analysis.

Bay Mills' reply brief, p. 67.

Finally, Bay Mills argued that the Staff's description of the tribal consultation process is inaccurate and that the process itself did little to further the objectives of ED 2019-17. Bay Mills stated that "nothing in the Staff's testimony or in its briefing demonstrates how Staff put to use the extensive expert knowledge shared with Staff by the Michigan Tribes." Bay Mills' reply brief, p. 68. Bay Mills asserted that the consultation process should have been a dialogue between governments for the exchange of ideas and to find common ground, but the "Staff's testimony reveals almost no points of agreement or deference to sovereign nations." *Id.*, pp. 68-69. However, Bay Mills acknowledged that because this is a contested case and the parties are participating as litigants, the parties' ability to engage in meaningful dialogue has been hampered.

Bay Mills objected to the Staff's reliance on Mr. Yee to ensure that the Commission has complied with ED 2019-17. Bay Mills reiterated that Mr. Yee lacks experience with Tribal matters and the consultation process; he failed to properly review the documents, treaties, and comments relating to the consultation process; and he was not actively engaged in the consultation process. *See*, Bay Mills' reply brief, pp. 71-72. As a result, Bay Mills asserted that the views of the Tribal nations have not been fully heard or understood, and the Commission lacks a complete record on which to decide Enbridge's Act 16 application. In conclusion, Bay Mills requested that

RECEIVED by MSC 11/14/2025 2:10:18 PM

the Commission grant Bay Mills' petition for rehearing and asked that the Commission reverse its ruling on the motions to strike. *See*, Bay Mills' reply brief, p. 73.

V. REOPENING OF THE RECORD TO RECEIVE ADDITIONAL EVIDENCE

In the July 7 order, the Commission noted that "when an application is filed pursuant to Act 16, the Commission must determine whether: (1) the applicant has demonstrated a public need for the proposed pipeline system, (2) the project is designed and routed in a reasonable manner, and (3) the project meets or exceeds current safety and engineering standards." July 7 order, pp. 7-8 (citing the March 7, 2001 order in Case No. U-12334, pp. 14-17). For the second prong of the Act 16 analysis, the Commission found that:

> given that at least a portion of Enbridge's justification for the proposed tunnel and pipeline project is to alleviate environmental concerns connected with the dual pipelines, the Commission must have sufficient evidence on the record regarding the current condition, maintenance, and safety of the dual pipelines and the future maintenance and safety of the dual pipelines in order to effectively determine whether the tunnel and pipeline segment proposed for the Replacement Project are designed and routed in a reasonable manner, and whether the proposed Replacement Project fulfills the alleged purpose of reducing the environmental risk to the Great Lakes posed by the dual pipelines. Although there is information on the record regarding the current condition, maintenance, and safety of the dual pipelines and the future maintenance and safety of the dual pipelines, additional evidence must be filed in the record for the Commission to complete prong (2) of its Act 16 analysis.

July 7 order, pp. 8-9.

The Commission noted that in the First Agreement, Enbridge was to provide the State of Michigan with a copy of a report that was required by paragraphs 81-83 of the federal consent decree. The Commission stated that "the federal consent decree cited in the First Agreement, the subsequent modifications to the federal consent decree noted in Exhibit S-8, and the Consent Decree Report cited in Exhibit A-8 have not been provided on the record in this case." July 7 order, p. 25. In addition, the Commission found that the following items required by the First

RECEIVED by MSC 11/14/2025 2:10:18 PM

Agreement were not provided on the record: (1) additional technologies to detect leaks or coating damage to the dual pipelines that were not discussed in the Consent Decree Report and (2) options to mitigate the risk of damage from an anchor strike to the dual pipelines.

Pursuant to the terms of the Second Agreement, the Commission stated that "Enbridge has implemented near-term measures to enhance the safety of Line 5 and plans to continue these measures; however very few details describing these measures have been provided on the record in this case." July 7 order, p. 25. Additionally, the Commission found that according to the Second Agreement, "the State of Michigan planned to install radar technology to . . . determine whether SAWC [Sustained Adverse Weather Conditions] exist [in the Straits]. The Commission finds that there is no information on the record confirming whether the radar technology was installed, if it is in use, and whether information has been gleaned from the radar technology and shared with Enbridge." *Id*. Furthermore, the Commission noted that in the Second Agreement, Enbridge agreed to conduct a close interval survey (CIS) of the dual pipelines in 2018 and every two years thereafter. And in the Second Agreement, the Commission stated that Enbridge agreed to provide up to $200,000 for the installation of video cameras to assist the U.S. Coast Guard in monitoring vessel activity in the Straits. The Commission found that the record contains no information about whether the CISs have been performed or if the video cameras were installed at the Straits.

Next, the Commission noted that Appendix 1 to the Third Agreement was not attached to the agreement in Exhibit A-1. The Commission stated that Appendix 1 "contains specific details regarding the company's enhanced inspection regime for the dual pipelines . . . ." July 7 order, p. 26. In addition, the Commission found that "Enbridge's visual inspection of the coatings on the dual pipelines, the company's work plan, and the number and location of repaired areas of bare metal have not been provided on the record in this case. Furthermore, the results of Enbridge's

RECEIVED by MSC 11/14/2025 2:10:18 PM

biennial inspections to verify that no unsupported spans exceed the specified maximum have not been provided on the record in this case." *Id.* The Commission also determined that the results of Enbridge's biota investigations on the dual pipelines were not provided on the record.

The Commission found that the information and documents discussed above are crucial to developing a full record for the second prong of the Act 16 analysis. Therefore, pursuant to Mich Admin Code, R 792.10436 (Rule 436) of the Commission's Rules of Practice and Procedure, the Commission determined that the record in this case should be "reopened for Enbridge to file the aforementioned information and documents, and any other relevant evidence regarding the current condition, safety, and maintenance and the future safety and maintenance of the dual pipelines because this evidence 'is necessary for the development of a full and complete record.'" July 7 order, p. 27 (quoting Rule 436(1)).

For the third prong of the Act 16 analysis, the Commission must determine whether the Replacement Project meets or exceeds current safety and engineering standards. The Commission noted that according to Enbridge, "the likelihood of a release of Line 5 products into the tunnel is 0.000001. However, the Commission finds that Enbridge did not provide record evidence of the data and methodology used to calculate the Replacement Project's alleged one in one million risk of release, and therefore the parties and the Commission are unable to review the calculation." July 7 order, p. 45. In addition, the Commission found that it is necessary for Enbridge to provide, on the record, "information regarding the feasibility of exceeding the minimum OSHA [U.S. Occupational Safety and Health Administration] standards and designing the electric equipment in the tunnel to Class 1, Division 1 or other methods of reducing the risk of ignition" in the tunnel. *Id.* The Commission also determined that the record lacks data and information about the concrete lining of the tunnel and its ability to withstand the effect of a high-pressure air impact from an

RECEIVED by MSC 11/14/2025 2:10:18 PM

explosion. Furthermore, the Commission noted that "there is no information on the record regarding the procedure for full replacement of a PCTL segment (or segments) in the event of severe cracking or acute damage from a high-intensity fire or explosion and how this replacement procedure might affect the Line 5 pipe segment within the tunnel." *Id.*, p. 46. Finally, the Commission directed Enbridge to file a cohesive explanation of its planned CPM, leak detection, and shut-down systems for the Replacement Project.

In conclusion, the Commission stated that "[t]he record shall be reopened to receive testimony, exhibits, and rebuttal, but no briefing will be permitted." *Id.*, p. 47.

On August 5, 2022, Enbridge, the Associations, and MLDC (joint petitioners) filed in this docket a joint petition for rehearing of the July 7 order (August 5 joint petition for rehearing). The joint petitioners noted that in the July 7 order, the Commission reopened the record in this case to receive additional evidence, but the Commission stated that the parties would not be permitted to file further briefs. The joint petitioners asserted that, pursuant to Rule 437, the July 7 order results in unintended consequences.

The joint petitioners argued that "the plain language of Rule 434(2) of the Commission's Rules of Practice and Procedure [Mich Admin Code, R 792.10434(2)] vests the parties to a contested case the right (at their discretion) to file briefs and reply briefs and that rule does not contain language which might provide the Commission with latitude to deny the parties that right." August 5 joint petition for rehearing, p. 3. In addition, the joint petitioners asserted that the Commission's decision to deny the parties an opportunity for briefing is a change to Rule 434 that was not adopted through the formal rulemaking process as set forth in the APA. Moreover, the joint petitioners stated that, "on appeal, parties to this proceeding may argue that their free speech, due process, or other substantive rights have been violated by not being allowed to brief the

RECEIVED by MSC 11/14/2025 2:10:18 PM

Supplemental Record, presenting a reviewing court with one or more bases to reverse the Commission's final order as violating the APA or the protections afforded to parties by other laws. See MCL 24.306." August 5 joint petition for rehearing, pp. 3-4. As a result, the joint petitioners requested that the Commission grant rehearing of the July 7 order and allow the parties to provide limited briefing on the evidence submitted to the reopened record.

On August 22, 2022, MSCA and Bay Mills filed in this docket responses stating that they have no objection to the relief sought in the August 5 joint petition for rehearing.

In the September 8 order, the Commission stated that it:

> does not find any error or unintended consequences associated with the decisions in the July 7 order. Noting that Rule 434(2) contains the caveat "unless otherwise provided," the Commission disagrees with the joint petitioners' interpretation of the rule. However, the Commission observes that the joint petitioners' request is reasonable, and finds that, pursuant to the agency's authority as presiding officer, the relief requested should be approved.

September 8 order, p. 5. Thus, the Commission granted the joint petitioners' request and permitted the parties to file, by May 5, 2023, initial briefs of no more than 30 pages that specifically address the evidence submitted to the reopened record. In addition, the Commission stated that the parties may file, by May 19, 2023, reply briefs of no more than 25 pages that specifically address the evidence submitted to the reopened record.

On April 25, 2023, Bay Mills filed an application for leave to appeal ALJ Saunders' April 11 and 12, 2023 rulings admitting evidence into the reopened record and a brief in support (April 25 application for leave to appeal and Bay Mills' brief in support of the April 25 application for leave to appeal, respectively). Bay Mills argued that MRE 702 and 703 require that expert opinions be supported by sufficient facts and data on the record and, in previous cases, the Commission has granted motions to strike expert testimony and exhibits that do not comply with MRE 703.

RECEIVED by MSC 11/14/2025 2:10:18 PM

In Bay Mills' opinion, Mr. Bott's testimony on behalf of Enbridge and Exhibit A-32 do not "[provide] the data and methodology used to calculate the [one in one million] risk of release and, crucially, the parties and the Commission are still unable to review the calculations and conclusions asserted in the exhibit." Bay Mills' brief in support of the April 25 application for leave to appeal, p. 12. Bay Mills noted that Mr. Bott based his analysis on four prior Enbridge release incidents, but the three databases that he consulted are owned by Enbridge and are non-public. In addition, Bay Mills argued that the record does not include the following information:

- Facts and analysis to support Mr. Bott's inclusion of the June 22, 2013 release, the March 11, 2016 release, the February 27, 2017 release, and the January 9, 2018 release identified in Table 1 including, but not limited to, the specific location, any other relevant causes beyond the stated "primary cause," and the analyses performed to determine whether the release is applicable to the tunnel conditions;

- Facts and analyses to support the exclusion of any other Enbridge release during the stated timeframe; and

- The actual location of the stated 10,000 km [kilometers] of transmission pipeline relied on in the calculation, including the geographic location (i.e., Canada and/or the United States) and the environmental location (i.e., buried pipe, above-ground, in water).

Id., p. 11. Bay Mills asserted that reopening the case has changed nothing because "Enbridge still has not provided the data and methodology used to calculate the risk of release." *Id*., p. 12. Therefore, Bay Mills contended that Mr. Bott's testimony and exhibit that address this issue should be stricken.

Next, Bay Mills asserted that according to Enbridge, Mr. Godfrey's testimony and his probability of failure (POF) report in Exhibit A-29 purport to include an analysis regarding the POF of the tunnel project. However, Bay Mills stated that "[n]one of the calculations that support Mr. Godfrey's opinions on the probability of a Line 5 failure are supported by facts and data in the record." Bay Mills' brief in support of the April 25 application for leave to appeal, p. 13.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Specifically, Bay Mills noted that Mr. Godfrey claimed to calculate the POF for five scenarios. However, for Scenarios 1 and 2, Bay Mills asserted that Mr. Godfrey notes one actual failure that he deemed relevant in the BOEM data but "the underlying report and charted information lack any underlying facts or data about the '1 failure' used to calculate a failure frequency." *Id.* Bay Mills also contended that according to Mr. Godfrey, he consulted three European data sources for Scenarios 1 and 2, but he does not reveal the data that he reviewed from each source. Bay Mills made the same complaint with respect to the PHMSA data that Mr. Godfrey reviewed for Scenarios 3-5, as well as the ignition model that he applied. *Id*., p. 14.

Similarly, Bay Mills stated that the failure modes and effects diagnostic analysis (FMEDA) results in Appendix A of the probability of failure (POF) report, *Enbridge Line 5 Great Lakes Tunnel Project: Probability of Failure Analysis* (POF Report), "are incomplete and lacks [sic] any description or indication of the 'standards and integrity management program' that was considered in reaching the stated conclusion." Bay Mills' brief in support of April 25 application for leave to appeal, p. 14 (quoting Exhibit A-29, p. 3). In addition, Bay Mills argued that the failure history supplied to Mr. Godfrey by Mr. Bott for use at the FMEDA workshop should be disregarded because it was not entered into the record and its existence was only revealed during the evidentiary hearing. *Id*., p. 15. Thus, Bay Mills disagreed with ALJ Saunders' finding that Enbridge satisfied the requirements of the MRE and argued that Mr. Godfrey's testimony and exhibit on this issue should be stricken.

On May 9, 2023, Enbridge filed a response to Bay Mills' April 25 application for leave to appeal (May 9 response) and a brief accompanying its response. Enbridge stated that Bay Mills' April 25 application for leave to appeal should be denied because pursuant to Rule 433(2), "[g]ranting the Application cannot possibly 'advance a timely resolution of the proceeding,' given

RECEIVED by MSC 11/14/2025 2:10:18 PM

that the proceeding is already in its final stage. Nor it [sic] is granting the Application necessary to 'prevent substantial harm to the appellant or the public-at-large' because all issues raised by Bay Mills in its Application can be (and should have been) raised in Bay Mills' initial brief." Enbridge's May 9 response, p. 2 (quoting Rule 433(2)) (footnote omitted).

In Enbridge's opinion, ALJ Saunders correctly determined that Mr. Godfrey's and Mr. Bott's testimony and exhibits satisfy the requirements of MRE 703 and the Commission's evidentiary standards. Enbridge asserted that the record demonstrates that "Mr. Godfrey is a leading expert in integrity management, regulatory compliance, standards development, pipeline operations, and design and construction." Enbridge's brief in response to the April 25 application for leave to appeal, p. 9 (footnote omitted). In addition, Enbridge contended that there are sufficient facts and data on the record to support Mr. Godfrey's opinion. *See, id*., pp. 10-15 (citing Exhibit A-29, pp. 4-12; Exhibit A-32; Exhibit BMC-69, p. 4; 17 Amended Tr 2449-2450). Furthermore, Enbridge argued that Bay Mills' objection to Mr. Godfrey's opinions based on MRE 702 was not raised in Bay Mills' motions to strike and is, therefore, improperly preserved and considered waived. Enbridge stated that "[e]ven if [the objection is] not waived, Bay Mills has not demonstrated that MRE 702 is a basis for objection." Enbridge's brief in response to the April 25 application for leave to appeal, p. 17.

Regarding Mr. Bott's testimony and Exhibit A-32, Enbridge asserted that ALJ Saunders properly admitted the testimony and exhibit into the record because the facts and data relied upon by Mr. Bott were provided in the record. *See,* Enbridge's brief in response to the April 25 application for leave to appeal, pp. 18-20. In addition, Enbridge contended that according to Mr. Bott, the data he supplied in support of his opinion and calculation is information "kept in Enbridge's business records in the ordinary course of its business." *Id*., p. 18.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Finally, Enbridge argued that "[e]ven if it were determined that MRE 703 were not completely satisfied, Mr. Godfrey's and Mr. Bott's testimony and exhibits are still admissible. Commission Rule 427(1) and MCL 24.275 affirmatively provide that 'an agency may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.'" Enbridge's brief in response to the April 25 application for leave to appeal, pp. 20-21 (quoting MCL 24.275). In any event, Enbridge asserted that Mr. Godfrey's and Mr. Bott's testimony and exhibits comply with MRE 703 and requested that the Commission deny Bay Mills' April 25 application for leave to appeal.

The Commission finds that granting Bay Mills' April 25 application for leave to appeal will resolve purported issues regarding the sufficiency of evidence submitted into the record. Thus, the Commission finds that Bay Mills' April 25 application for leave to appeal should be granted. If the Commission grants review, "it will reverse an ALJ's ruling if the Commission finds that a different result is more appropriate." March 17, 2022 order in Case No. U-21090, p. 14 (citing, June 5, 1996 order in Case No. U-11057, p. 2; May 19, 2020 order in Case No. U-20697, p. 9); *see also*, November 10, 2011 order in Case No. U-16230, pp. 7-8; October 5, 2018 order in Case No. U-20165, p. 17.

Regarding Bay Mills' motion to strike Mr. Godfrey's testimony and Exhibit A-29, ALJ Saunders stated that:

> [he] think[s] that both the parties have presented compelling arguments in this matter and, frankly, [he does] agree with Bay Mills' position that there are some issues in relation to some of the data and the facts that are relied upon in terms of not being abundantly clear, however, [he] think[s] that Mr. Godfrey has identified a good portion, albeit voluminous, of what it was that [Mr. Godfrey] relied upon, and [he] think[s] that that is just enough to get over the threshold of MRE 703, however, again, this is up to the Commission to decide the weight to give to this testimony in this matter . . . .

RECEIVED by MSC 11/14/2025 2:10:18 PM

15 Tr 2060-2061. The Commission has reviewed the testimony, Exhibit A-29, the motion, and the response in this matter and agrees with ALJ Saunders. The Commission finds that Mr. Godfrey has expertise in the areas of pipeline manufacturing, operations, integrity management, consulting, and asset integrity services. 17 Amended Tr 2434. Mr. Godfrey testified regarding the basis of his POF opinions and calculations contained in the POF Report. 17 Amended Tr 2436. In addition, Mr. Godfrey stated that the data he relied upon for the POF Report is collected by PHMSA pursuant to 49 CFR 195.50-54, which requires the reporting of hazardous liquid pipeline accidents. 17 Amended Tr 2449-2450. Furthermore, the Commission finds that the data contained in Exhibit A-29 is adequate for the Commission to determine that Enbridge has sufficiently demonstrated the methodology of its calculations and opinions. Therefore, the Commission finds that ALJ Saunders' April 11 ruling denying Bay Mills' motion to strike should be affirmed.

In his April 11, 2023 ruling denying Bay Mills' motion to strike Mr. Bott's testimony and Exhibit A-32, ALJ Saunders granted Bay Mills' motion in part and denied it in part. Bay Mills argued that the databases on which Mr. Bott relies for his one in one million calculation are not publicly accessible and, therefore, Enbridge has not provided the data and methodology to support the calculation. Enbridge responded, asserting that Mr. Bott relied on data that is kept in the ordinary course of business and that "it is evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs." Enbridge's brief in response to the April 25 application for leave to appeal, p. 20. In addition, Enbridge asserted that if the entirety of the business record were to be admitted into evidence, it "would result in mountains of data being introduced in the record that was neither relevant nor relied upon." *Id*. Furthermore, Enbridge contended that although the company provided the data, analysis, and explanation of the one in

RECEIVED by MSC 11/14/2025 2:10:18 PM

one million calculation, Bay Mills was entitled to make additional discovery requests regarding the data but chose not to.

The Commission finds that Mr. Bott's testimony and Exhibit A-32 directly respond to the Commission's request for additional information in the July 7 order regarding the one in one million calculation. Mr. Bott testified that he has "knowledge of and access to certain information and data requested by the Commission's [sic] in its July 7, 2022 Order regarding the Line 5 replacement segment to be located in the Great Lakes Tunnel Project (Project)." 16 Tr 2316. Accordingly, the Commission finds that Mr. Bott relied on data kept in the ordinary course of business pursuant to Rule 427(1) and MRE 803. In addition, the Commission finds that the data and analysis in Exhibit A-32 is adequate for the Commission to determine that Enbridge demonstrated the methodology of the one in one million calculation and the POF as requested in the July 7 order. Therefore, the Commission finds that ALJ Saunders' denial of Bay Mills' motion to strike Mr. Bott's testimony and Exhibit A-32 should be affirmed.

VI. POSITIONS OF THE PARTIES ON REOPENING OF THE RECORD

A. Direct Testimony on Reopening of the Record

1. Enbridge Energy, Limited Partnership

Ashley Rentz testified that she is a paralegal for Enbridge. She sponsored Exhibit A-28. Ms. Rentz stated that the documents contained in Exhibit A-28 are prepared and maintained in the normal course of business by Enbridge and are responsive to portions of the July 7 order. 15 Tr 2069.

Mr. Godfrey stated that he is a Senior Principal Consultant with the Integrity Solutions and Compliance Department within the Energy Services Group of DNV GL USA, Inc. (DNV). Mr. Godfrey sponsored Exhibit A-29, which includes the POF Report. Mr. Godfrey noted that the

RECEIVED by MSC 11/14/2025 2:10:18 PM

POF Report was authored by himself and other DNV employees. 17 Amended Tr 2435. Mr. Godfrey stated that in performing his analysis, he relied upon the materials in Appendix B attached to his testimony (materials supplied by Enbridge) and exhibits sponsored by Mr. Dennis.

Mr. Godfrey testified that his analysis is based on the FMEDA, which is "a risk assessment methodology that considers the different ways in which a failure can occur and then reviews the means for detecting and preventing failures. When applied to [the] Line 5 Replacement Segment, the specific question addressed was what failure mechanisms could exist that could result in a pipeline failure?" 17 Amended Tr 2436. He explained that the FMEDA was presented as a virtual workshop in November 2021 and five potential failure scenarios were analyzed. He opined that the POF of the replacement pipe segment is extremely low, equating to "less than one failure in over 663,000 years" and that the probability of ignition in the event of a release of Line 5 products is "extremely remote . . . equivalent to approximately 6 in a billion chances per year or one ignition event every 169 million years." 17 Amended Tr 2437-2438. He stated that these low probabilities reflect the safety factors that the company has incorporated into the design. He further averred that these probabilities are conservative and that the actual failure rate should be an order of magnitude less. He added that the use of Class 1, Division 2 equipment is conservative because under the National Electrical Code (NEC), the tunnel "could be considered an unclassified location . . . ." 17 Amended Tr 2439.

Consistent with the ruling on the motion to strike materials in Appendix B, Enbridge filed the following additional testimony on reopening.

Ray Philipenko testified that he is the Director of TIS Pipeline Control Systems and Leak Detection for Enbridge. He sponsored Exhibit A-30, which he states "is identical to the information and data previously submitted as Response Nos. 1, 6, and 7 in Appendix B to

RECEIVED by MSC 11/14/2025 2:10:18 PM

Exhibit A-29, the *Enbridge Line 5 Great Lakes Tunnel Project: Probability of Failure Analysis* sponsored by Witness John Godfrey filed on October 21, 2022." 16 Tr 2255-2256.

Mr. Dennis sponsored Exhibit A-31, which he states is "identical to the information and data previously submitted as Response Nos. 2, 3, 4, 5, 9, and 10 in Appendix B to Exhibit A-29, the *Enbridge Line 5 Great Lakes Tunnel Project: Probability of Failure Analysis* sponsored by Witness John Godfrey filed on October 21, 2022." 15 Tr 2087.

Steven Bott testified that he is the Manager of LP Pipeline Integrity Business Planning for Enbridge. He sponsored Exhibit A-32, which he states is "identical to the information and data previously submitted as Response No. 8 in Appendix B to Exhibit A-29, the *Enbridge Line 5 Great Lakes Tunnel Project: Probability of Failure Analysis* sponsored by Witness John Godfrey filed on October 21, 2022." 16 Tr 2316.

2. The Commission Staff

Mr. Warner testified regarding the Staff's review of the filings made by Enbridge in response to the July 7 order, and he sponsored Exhibits S-31 through S-36. He stated that the Staff analyzed the sufficiency of the information. 18 Tr 2790.

Mr. Warner asserted that Enbridge responded to all the evidentiary requests made by the Commission in the July 7 order. However, he stated that the Staff also sought additional clarifying information through two successive rounds of discovery served on Enbridge after the company's filing. The responses supplied by Enbridge are provided by Mr. Warner as Exhibits S-31, S-32, and S-33. He stated that the discovery responses provide additional information on: (1) the POF of the pipeline and the probability of ignition within the proposed tunnel, (2) the leak detection system, (3) the ventilation system, and (4) shutdown procedures. 18 Tr 2792. He noted that the Staff met with PHMSA personnel three times in late 2022 to discuss the discovery responses, as

RECEIVED by MSC 11/14/2025 2:10:18 PM

well as with USACE and MSCA. He added that the Staff also re-initiated discussions with the Tribes and referred to Exhibit S-34, which contains a log of those discussions. He concluded that:

> the information provided has reinforced Staff's position that the Replacement Project is a significant improvement over the existing Dual Pipelines. Staff posits that the new information provides further confidence that the project is designed and routed in a reasonable manner in accordance with prong (2), and meets or exceeds current safety and engineering standards in accordance with prong (3) of the Commission's analysis under Act 16.

18 Tr 2793-2794.

3. Bay Mills Indian Community

Mr. Kuprewicz sponsored Exhibits BMC-50 through BMC-60. Mr. Kuprewicz testified that he is responding to the testimony regarding risk. He stated that:

> Mr. Dennis, Mr. Bott, and Mr. Godfrey all assign a numeric probability to various events that could cause a pipeline failure, fire, and explosion. This approach to risk assessment, particularly during the permit approval stage, finds no support in federal pipeline regulations. . . . This assignment of probability estimates to known, identified risks during a permitting process is dangerous because it invites complacency. An operator who adopts this approach to the construction and operation of a pipeline will inevitably drive the line toward failure.

17 Amended Tr 2622. He opined that assigning numeric probability values to risks creates a false sense that the project is safe. He stated that federal integrity management regulations appear in 49 CFR 195.452 and he described the history of the development of those regulations. Mr. Kuprewicz asserted that the regulations adopt a performance-based approach, which requires pipeline operators to use risk assessment to address potential threats and provides guidance for operators to develop their own integrity management programs.

While acknowledging that federal regulations allow pipeline operators to use quantitative risk assessment, Mr. Kuprewicz stated that the type of quantitative risk assessment used in this case (which makes risks appear to be nonexistent) leads to pipeline failure and fails to evaluate threats "on an iterative basis based on sound engineering principles." 17 Amended Tr 2626. He added

RECEIVED by MSC 11/14/2025 2:10:18 PM

that compliance with PHMSA regulations does not ensure that failure will not occur. Moreover, Mr. Kuprewicz described the POF Report as "flawed, misguided, and dangerous," and he contended that the methodology employed in the report relies on cherry-picking the data. 17 Amended Tr 2627. He also opined that quantitative risk analysis "creates what [he] refer[s] to as a 'kill threshold,' or a prescriptive limit on the amount of death or destruction caused by an event. There is no such limit or threshold established in U.S. federal pipeline safety regulations." 17 Amended Tr 2628. Mr. Kuprewicz noted that Mr. Godfrey relied on data found in the PHMSA database, and he asserted that much of the incident data is provided to PHMSA by pipeline operators and is not verified or regulated.

Turning to a discussion of girth welds and heat-affected zones, Mr. Kuprewicz testified that prudent pipeline operators will exceed the regulations and will radiographically inspect all girth welds before the pipeline is installed. He asserted that for the X70 pipe grade, the heat-affected zone can also be affected, resulting in cracking. Mr. Kuprewicz specifically noted that this pipeline will be installed on rollers to allow it to move and opined that this will place abnormal loading on the girth welds and heat-affected zones. Thus, he contended that the risk of failure should not be dismissed by a probability analysis but, rather, should be addressed according to how conditions will change over the life of the pipe. As in earlier testimony, Mr. Kuprewicz noted that the Joint Industry Report addresses this issue and argued that Enbridge has not taken the issue seriously. *See*, 17 Amended Tr 2632-2634; Exhibits BMC-54, BMC-55, and BMC-56.

Mr. Kuprewicz also asserted that the POF Report ignores the issue of human error, particularly with regard to the CPM system. He stated that the 10-Minute Rule adopted by Enbridge (automatic shutdown 10 minutes after an alarm) will not prevent catastrophe because during previous pipeline ruptures, Enbridge has failed to shut down the pipeline within the

RECEIVED by MSC 11/14/2025 2:10:18 PM

10-minute window. 17 Amended Tr 2637-2638. Mr. Kuprewicz listed several other aspects of Enbridge's design that are vulnerable to human error including data collection from the ILI tools and subsequent analysis, response to the telephone in the above-ground control room, reliance on CPM and historical data, system monitoring, responses to audio and visual alarms, and manual control of the fan plant in the event of fire. 17 Amended Tr 2639-2641. He further stated that it is "a dangerous view to think that any measure would prevent an explosion." 17 Amended Tr 2642. Mr. Kuprewicz asserted that Exhibit BMC-60 illustrates how a false sense of safety is created, and concluded that:

> [s]ound engineering and risk assessment principles require that you separate marketing of a product—here, the proposed tunnel—from the engineering risks associated with the project. Combining the two, as Enbridge has done, leads to what [he has] labeled over the decades as "Space Shuttle Syndrome," which as [he] previously testified, refers to what occurs when people ignore or underestimate risk to drive to [sic] a preordained decision to the point where they dismiss or ignore very real risk in favor of going forward with a project.

17 Amended Tr 2643.

Brian J. O'Mara stated that he is the founder and Principal of Agate Harbor Advisors LLC. He testified regarding the ability of the tunnel's concrete structure to withstand a fire and, in the event of the failure of the structure, the likelihood that Line 5 product would overcome the hydrostatic pressure on the pipeline and migrate to the Great Lakes. He sponsored Exhibits BMC-61 through BMC-63. 18 Tr 2668-2669.

Mr. O'Mara stated that, in general:

> an explosion will occur if flammable gas or vapors are present in the air of the tunnel at a concentration that is between the Lower Explosive Limit (LEL) and the Upper Explosive Limit (LEL)[sic], and those gasses or vapors are ignited. There are two sources of flammable gasses or vapors that will be present in the tunnel project: the product transported through Line 5, and groundwater with dissolved methane that may infiltrate the tunnel.

RECEIVED by MSC 11/14/2025 2:10:18 PM

18 Tr 2670. He stated that the concrete lining of the tunnel would be severely damaged by a fire or an explosion, particularly in a fuel-rich environment that could result in a fire exceeding 1200°C. Such a fire, he explained, may cause spalling, which occurs when pieces of concrete separate, exposing the steel inside, which is then vulnerable to buckling and failure. 18 Tr 2671-2672.

Mr. O'Mara asserted that:

> Enbridge has no active fire suppression system for the Line 5 tunnel and relies only on passive fire-resistant concrete and stopping ventilation. The state of the practice for fire suppression in tunnels includes the use of Fixed Fire Fighting Systems (FFFS) and advanced ventilation systems that can quickly extinguish or limit fires and facilitate the removal of smoke so fire fighters can rescue trapped workers and extinguish fires. FFFS have been retrofitted in tunnels like the Chunnel [Channel Tunnel] and FFFS have proved effective in putting out fires in underwater tunnels in Tokyo, Sydney and Melbourne.
>
> Enbridge states that, in the event of a fire, it will secure the air lock and switch-off the ventilation system to starve the fire of oxygen. This plan ignores the fact that a fire in a tunnel usually reaches its peak temperature within 5 minutes. Crucially, sealing the two ends of the tunnel can lead to internal temperatures greater than if the tunnel portals were not sealed. Enbridge's plan would likely exacerbate the already heat-intense fire.
>
> Even if the tunnel was effectively sealed off, there would be more than 6,500,000 cubic feet of air in the tunnel, which could provide enough oxygen for a fire to burn for well over two hours. Enbridge stated it could lose up to 2 percent of the product shipped (approximately 460,000 gallons) before they detected the release using their pressure and flow monitoring approach. The amount of time before detection could result in a very large pool of product with a limited surface area that could burn for hours or days before it was "starved of oxygen".

18 Tr 2674-2675 (quoting Exhibit A-13, p. 17).

Mr. O'Mara opined that based on his professional experience, Class 1, Division 2 electrical equipment is not sufficient for the Replacement Project. He stated that "Class [1] Division 1 electrical equipment is both feasible and prudent based on the unique tunnel design and associated risks if there is a product release from the pipeline." 18 Tr 2675.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Referring to the existence of methane in the groundwater, Mr. O'Mara explained that methane could thus be introduced into the tunnel during the excavation by the TBM and "indefinitely by the never-ending seepage of groundwater into the tunnel through groundwater infiltration through the joints of the precast concrete tunnel segmented lining . . . ." 18 Tr 2675. He stated that the methane could then encounter a spark from any of several potential sources, including maintenance work, static electricity, freezing conditions, or a lightning strike. Mr. O'Mara described a methane explosion as similar to a shotgun blast, which can result in a loss of life. He noted that Enbridge's Geotechnical Data Report (Exhibit MM-4) "indicates that methane was found in 19% of the groundwater samples tested . . . ." 18 Tr 2677; *see also*, 18 Tr 2688.

Next, Mr. O'Mara addressed the hydrostatic pressure issue. Noting that Mr. Kuprewicz did not opine on hydraulic questions, Mr. O'Mara stated that he has "experience with tunneling in the Great Lakes with geology similar to the proposed Line 5 tunnel." 18 Tr 2679. He explained that:

> [h]ydrostatic pressure is the downward force exerted by gravity from the water, sediment and rock present above the proposed tunnel. The pressure is different at varying points in the proposed tunnel elevation. For example, the hydrostatic pressure is going to be the highest at the lowest depth of the tunnel compared with the pressure that would be present at either end of the tunnel. McMillan Jacobs Associates has estimated in its Technical Memorandum dated May 24, 2021 that the hydrostatic pressure at the deepest part of the tunnel to be 17 bar, which is roughly equivalent to 250 psi [pounds per square inch]. To overcome the hydrostatic pressure at the deepest part of the tunnel, the product would need to be released at a pressure that exceeds 250 psi.

18 Tr 2679-2680. He opined that if a fire caused a breach of the secondary containment system, Line 5 product would migrate into the Straits because the product will be discharged at the operating pressure of the pipeline, which is 1440 psi at the deepest part of the tunnel.

Mr. O'Mara further stated that if the pipeline is severed, product would flow at about 16,000 gallons per minute from the north side, and the flow would continue until it reached the hydrostatic pressure of 250 psi. He added that the pipeline product "would easily jet away the

RECEIVED by MSC 11/14/2025 2:10:18 PM

highly fractured and brecciated rock and sediments overlying the tunnel. Product would move relatively rapidly outward and upward from the pipeline release point as long as the pipeline was flowing, or the product pressure exceeded the hydrostatic pressure." 18 Tr 2681. He noted that the pipeline product is lighter than water and would "continue to rise until it breaks through the lakebed sediment and enters the water column" where it would "eventually reach the shores of the Straits and be carried far into both Lake Huron and Lake Michigan." 18 Tr 2682. He added that:

> [i]n addition to the migration of the mobile product, there would be an immobile fraction that would remain stuck in the rock and sediments and slowly dissolve into the groundwater, and ultimately the water column, for decades or possibly centuries. Dissolved hydrocarbons are neutrally buoyant and travel with ground water or surface water flow and can travel hundreds of miles when driven by currents and wave action. These immobile product residuals would remain a long-term source of pollution in the Straits.

18 Tr 2682.

Ms. Gravelle responded to the testimony of Mr. Godfrey regarding risk. She stated that a single explosive event would be catastrophic for the citizens of Bay Mills and other tribal nations in the region. She described the Anishinaabe water keepers' profound connection to the water and stated that however small the chance of a release, any release is catastrophic, which is an issue that is ignored by the POF Report. Ms. Gravelle opined that a release from Line 5 "can only mean loss. A loss of oneself, a loss of one's past and future, a loss of one's culture, and a loss of one's Tribe." 17 Amended Tr 2611. Thus, she posited that it is essential to protect the Straits from even a single release no matter how unlikely. She stated that Mr. Godfrey's evidence does not address the perspective of the people who will be directly affected by a spill, however unlikely it is, and That the brunt of such accidents is often borne by indigenous people.

RECEIVED by MSC 11/14/2025 2:10:18 PM

B. Rebuttal Testimony on Reopening of the Record

1. Enbridge Energy, Limited Partnership

Enbridge initially provided testimony from seven witnesses in the rebuttal phase of the reopened case. Two of the witnesses (Dr. Ferrara and Dr. Vitton) are new to the case. One of the witness's testimony (Mr. Eberth) was withdrawn by Enbridge. 17 Amended Tr 2564.

Mr. Bott responded to Mr. Kuprewicz's claim that Enbridge's quantitative risk analysis improperly minimizes the risk of the Replacement Project. He asserted that Enbridge employs a pipeline integrity management program (IMP) and explained that it "uses a 'defense in depth' approach to maintain integrity of the pipeline system. This approach leverages prevention, monitoring, and damage mitigation." 16 Tr 2322. Mr. Bott stated that probability analysis is an assessment tool that allows the operator to determine whether additional prevention measures are required in the design and operation of the proposed pipeline, and it should be conducted prior to construction. He further averred that probability analysis remains an important component of pipeline operation as well.

Mr. Bott asserted that Enbridge's IMP is designed to meet or exceed PHMSA requirements and to be in alignment with API 1160, API 1176, and API 1183. He stated that "[p]robability analysis is used to ensure that the deterministic requirements in 49 CFR 195.452(h) and Enbridge's liquid pipeline IMP procedures provide an adequate level of reliability" and that "probability and/or risk analysis may identify additional integrity actions that are required to maintain the risk to as low as reasonably practicable (ALARP) where deterministic requirements did not achieve the desired level of reliability or where additional preventative measures could further reduce risk." 16 Tr 2323-2324. He added that ILI is another tool for evaluating pipeline integrity that provides detailed information on interacting conditions. Moreover, Mr. Bott testified

RECEIVED by MSC 11/14/2025 2:10:18 PM

that the issue of human error is addressed by Enbridge in three ways: (1) the company maintains a competency management program for pipeline integrity staff as required under Part 195 of the CFR and monitors vendor qualifications, (2) peer review and subject matter expert review is employed in plan development and analysis, and (3) the performance of the IMP is monitored.

In his rebuttal testimony, Mr. Philipenko objected to Mr. Kuprewicz's claim that Enbridge's leak detection system is ineffective. He described Enbridge's approach to leak detection, which involves multiple layers for overlapping and comprehensive protection in different operating scenarios. He explained that:

> [t]he CPM systems provide alarms to the Pipeline Controller and the Leak Detection Analyst in the event of a potential leak. The Leak Detection Analyst is located in the control room and provides operational support and root cause analysis for the leak detection alarms generated by the CPM systems. The Leak Detection Department is made up of approximately 40 employees located in Edmonton, Alberta.

16 Tr 2259. Mr. Philipenko contended that the method employed by Enbridge meets or exceeds all applicable engineering standards and regulatory requirements.

Mr. Philipenko asserted that Enbridge's leak detection strategy does not rely on any single technology or human factor and that operational testing of the CPM is part of the company's continuous improvement to ensure optimal performance. Specifically, he explained that Enbridge conducts regular fluid withdrawal tests (removing fluid from a live pipeline system) in order to verify that the CPM alarms are operating as expected and to test the human response as well. 16 Tr 2260-2261. Mr. Philipenko added that pipeline controllers and leak detection analysts undergo rigorous training and are guided by procedures that ensure consistency.

Next, Mr. Philipenko noted that "there are already automatic shut-off valves on each side of the Straits," which close automatically within three minutes of a threshold pressure loss. 16 Tr 2262. He stated that, following the 2010 incident in Marshall, Michigan, Enbridge has

RECEIVED by MSC 11/14/2025 2:10:18 PM

"made significant improvements to the operations of the control center and leak detection system capabilities . . . ." 16 Tr 2262. Mr. Philipenko provided a description of the improvements:

> Leak Detection Improvements:
>
> • Additional instrumentation to enhance sensitivity & reliability
> • Single area of leak detection organizational accountability
> • Improvements to existing CPMs with additional statistical alarm analysis
> • Implementation of new CPMs and decision support tools
> • Industry leading testing strategy, tools and research
> • Training enhancements including competency program implementation for leak detection analysts
>
> Control Center Improvements:
>
> • Implementation of a Control Room Management Plan
> • Construction of a world-class control room facility
> • Management system implementation for effective monitoring and continuous improvement
> • Enhanced training program including team training and pipeline simulations
> • World class control center interdependent safety culture
> • Procedure rationalization, quality management system and procedures management tool
> • Implementation of new decision support tools, Leak Detection Alarm Manager (LDAM), Column Separation Management and Controller Portal

16 Tr 2263-2264.

Mr. Philipenko also disputed Mr. Kuprewicz's claim that historically, Enbridge has not complied with the 10-Minute Rule for shut down. He stated that Mr. Kuprewicz's concerns fail to recognize that the shut-off valves at either end of the Straits are "fully-automated, pressure-sensitive shutoff valves [that] are not subject to human error because they operate without need for human intervention." 16 Tr 2264. Mr. Philipenko added that:

> [t]he addition of the LDAM system after [the Marshall incident] includes a requirement for the Alarm Response Team (ART) to independently assess each CPM alarm. The ART consists of the Controller, the Senior Technical Advisor (STA) and the Leak Detection Analyst (LDA). Each member of the ART must complete an independent investigation of the pipeline for leak triggers within 10 minutes. To continue operating the pipeline all three members must independently select an invalid assessment. If within 10 minutes no assessment is

RECEIVED by MSC 11/14/2025 2:10:18 PM

> completed, or any one of the 3 ART members identify leak triggers, then the LDAM system will request an emergency shutdown of the pipeline system. Additionally, the LDAM system contains an auto shutdown capability, where if an alarm has not been invalidated after 10 minutes, an automated shut down occurs at the 11-minute mark. Given the automated capabilities of the control systems design and LDAM, concerns related to the 10 Minute Rule have been alleviated.

16 Tr 2264-2265. Additionally, he noted that the 10 Minute Rule is "a component of the federal court-approved Consent Decree issued related to the Marshall incident between Enbridge, the United States Department of Justice, and the United States Environmental Protection Agency." 16 Tr 2265.

Mr. Godfrey responded to Mr. Kuprewicz's and Mr. O'Mara's testimony regarding the issues of probability analysis and human error. First, he noted that Mr. Kuprewicz and Mr. O'Mara fail to understand that the FMEDA provides the information requested by the Commission in the July 7 order. Mr. Godfrey asserted that the DNV POF Report (Exhibit A-29) provides the POF analysis that allows the Commission to compare the safety of the dual pipelines with the safety of the Replacement Project. Second, he stated that locating the replacement pipe segment within a tunnel eliminates or greatly reduces the risks that the dual pipelines present because the new pipeline: (1) will no longer be subject to anchor strikes and bending stress, (2) can be directly examined, (3) will have enhanced leak protection, and (4) will be encased in the secondary containment of the tunnel. 17 Amended Tr 2446. Third, Mr. Godfrey contended that the DNV POF Report that was based on the FMEDA is consistent with recent PHMSA recommendations, which favor probabilistic risk assessment.

Mr. Godfrey disputed Mr. Kuprewicz's claim that the assignment of numerical probability values creates a false sense of safety. He argued that the POF analysis accurately reflects the risk of a release and the risk of an ignition of product within the tunnel under multiple potential threats and failure scenarios. In addition, Mr. Godfrey noted that "the POF for each selected FMEDA

RECEIVED by MSC 11/14/2025 2:10:18 PM

scenario was estimated by using publicly available pipeline data." 17 Amended Tr 2448. He contended that rather than being ignored (as Mr. Kuprewicz alleged), known risks are being considered along with appropriate preventive and mitigative measures. 17 Amended Tr 2449. Regarding Mr. Kuprewicz's claim that PHMSA's data for hazardous liquid pipeline accidents is unreliable, Mr. Godfrey asserted that pipeline operators are required to submit DOT Form 7000-1 following an accident and that accident reporting requirements are codified at 49 CFR 195.50-195.54. He testified that PHMSA collects this data in order to assess industry performance and that by comparison, the National Transportation Safety Board does little investigation of such events.

Turning to the issue of girth welds and the potential for catastrophic failure, Mr. Godfrey stated that Mr. Kuprewicz fails to acknowledge several important facts, beginning with the Joint Industry Report (Exhibit BMC-43) which Mr. Kuprewicz relied upon in his testimony. Mr. Godfrey asserted that the Joint Industry Report notes that Enbridge has already implemented the recommendations set forth in Exhibit BMC-43 and has designed the Replacement Project to reduce the risk of girth weld failure. Next, he contended that Mr. Kuprewicz is mistaken in asserting that the placement of the pipeline on rollers will increase stress on the pipe; rather, it will achieve the opposite, and Mr. Godfrey cited Mr. Cooper's testimony at 9 Tr 1241-1243 in support. He opined that this "is a significant improvement over the existing dual pipelines or a conventional buried pipeline which are subject to loading due to earth movement, hydrologic forces, and thermal effects." 17 Amended Tr 2452. He also stated that Mr. Kuprewicz's testimony significantly misrepresents the weld dimensions (by a factor of more than 10) and thus overstates the risk associated with the girth welds. Mr. Godfrey averred that Mr. Kuprewicz's references to

RECEIVED by MSC 11/14/2025 2:10:18 PM

Exhibits BMC-54 and BMC-55, two PHMSA advisory bulletins, are inapt because these bulletins address a different issue.

Regarding the Keystone pipeline failure and Exhibit BMC-64 introduced by Mr. Kuprewicz, Mr. Godfrey testified that his conclusions about girth weld POF have not changed. He contended that the Replacement Project is significantly different from the Keystone pipeline, as illustrated by the fact that the replacement pipe segment "will have no pipe to fitting transition welds which is a potential source of weld flaws due to the weld geometry." 17 Amended Tr 2454. And, because the replacement pipe segment will not be buried in the ground, Mr. Godfrey asserted that "bending stress loads will be distributed across the tunnel pipe support and roller system by design." 17 Amended Tr 2454. Mr. Godfrey also objected to Mr. Kuprewicz's reference to the May 4, 2020 rupture on Enbridge's Line 10. He stated that Line 10 was constructed in 1952, "which was prior to PHMSA regulation and modern welding standards." 17 Amended Tr 2455. In addition, Mr. Godfrey noted that, in the case of Line 10, the failure involved a tie-in weld, however there are no tie-in welds in the Replacement Project. Therefore, due to the lack of similarity, he stated that the Line 10 failure was not considered in the FMEDA process. In any event, Mr. Godfrey contended, modern welding standards and Enbridge's commitment to examine all the welds will protect against the same type of failure.

Next, Mr. Godfrey responded to criticism that Enbridge is overly reliant on ILI tools to monitor safety conditions, reiterating that the threat of girth weld failure is being addressed through the design and construction of the Replacement Project. Regarding Mr. Kuprewicz's claim that the communications system is subject to human error, Mr. Godfrey asserted that it is "unclear what human error Mr. Kuprewicz envisions or how it would be mitigated further." 17 Amended Tr 2456. Turning to the alleged weaknesses of the CPM system, Mr. Godfrey

RECEIVED by MSC 11/14/2025 2:10:18 PM

rejected Mr. Kuprewicz's concern related to the elevation of the tunnel. He explained that there is no basis to think that a pressure loss would not quickly result in the identification of a pipeline rupture because "the lower the elevation of a rupture, the greater the pressure drop and initial flow rate out of the pipe." 17 Amended Tr 2457.

In response to Mr. O'Mara's concern regarding the operating and hydrostatic pressure on the replacement pipe segment, Mr. Godfrey noted that Mr. O'Mara assumes the pipeline will operate at its MOP of 1440 psig when, in fact, the normal operating pressure will be 480 psig. 17 Amended Tr 2458 (citing 8 Tr 801). He also stated that Mr. O'Mara misunderstands how the pipeline will operate hydraulically, adding that "the tunnel will act as an elongated storage tank. Product leaving the pipeline will quickly equalize with ambient tunnel pressure until the tunnel is completely filled." 17 Amended Tr 2459. Mr. Godfrey asserted that, in any event, the automatic shutoff valves would close within three minutes.

Dr. Ferrara testified that he is a Principal Consultant with DNV Services UK Limited Energy Systems (also referred to as DNV). He sponsored Exhibit A-35. Dr. Ferrara stated:

> DNV conducted a numerical computational fluid dynamics (CFD) 3D modeling study to assess the severity (in terms of blast overpressures) of a hypothetical explosion occurring as a result of a release of natural gas liquids (NGLs) from the new Line 5 Replacement Segment within the Great Lakes Tunnel Project (GLTP). As a result of this study, [he] along with other DNV employees prepared a report titled *Enbridge Line 5 Great Lakes Tunnel Project: Tunnel Explosion Computational Fluid Dynamic Study* (Explosion Study), which is Exhibit A-35. The Explosion Study addresses concerns regarding an explosion within the tunnel that were raised by other witnesses. . . . Based on the modeling of four scenarios discussed in the Explosion Study, [they] concluded that the overpressure generated in the tunnel created by an explosion from an ignition of NGLs product in a conservative, worst case explosion scenario is 0.386 barg [bar gauge]. [They] understand from Enbridge that the tunnel's design will allow the tunnel to withstand overpressure [of] 3 barg where its overburden is least and overpressure of 29 barg where its overburden is greatest.

17 Amended Tr 2405-2406.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Mr. Dennis responded to Mr. O'Mara and Mr. Kuprewicz on the issues of fire suppression and risk management. He explained that Enbridge does not expect methane to be present in the tunnel at levels of concern during construction or operation of the tunnel. However, Mr. Dennis stated that:

> we still take seriously the risks that methane might create. To address the risk of methane during construction, as required by [OSHA], the [TBM] will be equipped with monitors to detect methane. In the unlikely event that the TBM were to encounter methane at levels that would present a risk, the TBM operators would be able to initiate appropriate safeguards to safely tunnel in that methane environment. The use of a TBM that is equipped to detect methane helps to ensure the safe mining of the tunnel. A TBM equipped to detect methane will also confirm the existence or lack of existence of methane along the entire path of the tunnel. If methane is identified at significant levels during tunneling, then we will take appropriate design and operational steps to address the existence of methane to operate the tunnel safely.

15 Tr 2090. In addition, Mr. Dennis contended that there will be vapor monitors in the tunnel after construction and during operation that will detect the presence of methane and if the gas is detected, the company will take steps to address the issue.

Mr. Dennis objected to Mr. O'Mara's request that Enbridge install an FFFS in the proposed utility tunnel similar to those installed in transportation tunnels. He stated that transportation tunnels have a much higher risk of accidental fire than the proposed utility tunnel and are better suited for an FFFS. In addition, Mr. Dennis asserted that an FFFS is not advisable in this situation:

> From an engineering and safety perspective, we have concluded that installing a [FFFS] is counterproductive for this tunnel. First, the risk of a fire is extremely remote, and the tunnel is a confined space which will not typically be occupied by humans. Second, by installing a [FFFS] within the tunnel, we would be increasing the number of hours personnel would need to be in the confined space of the tunnel to maintain the [FFFS]. These increased hours for maintenance on the [FFFS] creates more potential harm to human health and life than the benefits that such a system would provide. Therefore, given the tunnel is treated as a confined space, the risk of fire is extremely remote, and the additional risks in terms of human

RECEIVED by MSC 11/14/2025 2:10:18 PM

> health and life to maintain a [FFFS], the installation of such a system is inappropriate.

15 Tr 2091-2092.

Mr. Dennis further concluded that Dr. Ferrara's explosion study, set forth in Exhibit A-35, is accurate. He noted Dr. Ferrara's conclusions regarding the tunnel lining's ability to withstand overpressure (3 barg at each end of the tunnel and 29 barg at its lowest point) and the fact that the largest overpressure that can be expected from an explosion is just under 0.4 barg. As a result, Mr. Dennis asserted that the tunnel lining will maintain its integrity in the event of an explosion. 15 Tr 2092-2093. Finally, he stated that Dr. Vitton's testimony shows that, even in the event of a failure of a portion of the lining, Line 5 product would not be released into the strata around the damaged lining.

Turning to the topic of risk assessment, Mr. Dennis noted that Enbridge based its design decision for managing risk on ISO 31000, which is a "widely adopted industry standard relating to risk management . . . codified by the International Organization for Standardization (ISO)." 15 Tr 2094. He stated that even where risks are low or are already mitigated, the company has not become complacent. Mr. Dennis cited methane as an example, as well as the steps taken to reduce the chance of a release of Line 5 product, stating that even though these risks are virtually nonexistent, the company has taken significant risk avoidance measures.

Finally, Mr. Dennis disputed Mr. Kuprewicz's claim that the strobe light alarm, which warns of a gas leak in the tunnel, and the communications system are subject to human error. He stated that along with the strobe light alarm, there are other modes of protection available such as a horn and personal gas monitors. Regarding the communications system, Mr. Dennis explained that:

> Enbridge will install two redundant communication systems within the tunnel. One is a radio system provided via a distributed antenna system, and the other is a fixed system provided via a mine telephone system. This duplicative communication

RECEIVED by MSC 11/14/2025 2:10:18 PM

> system is sound risk management in the case that one system fails. This approach is well supported by industry practice and compliance with federal regulations concerning construction of underground tunnels.

15 Tr 2097. Furthermore, Mr. Dennis noted that "[a]ny entry team going into the tunnel will have a dedicated team outside the tunnel monitoring and ensuring their safety who will be located in the control room." 15 Tr 2097.

Stanley J. Vitton, Ph.D., testified that he is a Senior Geotechnical Engineer at Barr Engineering Company. In response to Mr. O'Mara's concern about a methane explosion during construction and operation of the Replacement Project, Dr. Vitton asserted that methane is not a risk for the Replacement Project. He stated that there are no sources of methane within the area of the tunnel "that have the ability to produce methane levels remotely capable of reaching explosible methane levels. Mr. O'Mara has drawn faulty conclusions from the Geotechnical Data Report (GDR) conducted by Enbridge." 17 Amended Tr 2465.

Dr. Vitton explained that, according to the GDR, very low levels of methane were detected in four samples (from the 18 boreholes) that range from 5.3 micrograms/liter (μ/L) to 11 μ/L. He stated that these "four samples are common for areas in or near shore water where the methane comes mainly from decomposed vegetation and atmospheric deposition." 17 Amended Tr 2465. Dr. Vitton added that the GDR samples taken from the main waterway showed no methane and there are no gas deposits underlying the Straits.

Dr. Vitton noted that the National Institute for Occupational Safety and Health publishes its Informational Circular 9486, *Handbook for Methane Control in Mining* (Kissell, 2006), that states that the "No Immediate Action" level for methane is <10 milligrams/Liter. 17 Amended Tr 2467, Table 9. According to Dr. Vitton, the highest level of methane reported in the GDR is 0.1% of the "No Immediate Action" level and, therefore, no mitigation measures are necessary. He also noted

RECEIVED by MSC 11/14/2025 2:10:18 PM

that the findings in the GDR are consistent with the known geology of the Straits. 17 Amended Tr 2468-2470. Furthermore, he asserted that Mr. O'Mara provided no evidence or analysis to support his concerns regarding methane.

Next, Dr. Vitton discussed the examples of methane explosions in tunnels in the Great Lakes Basin cited by Mr. O'Mara, stating that they involved tunneling in areas that were well known to have a high methane concentration—one in a collector sewer tunnel constructed in swamp soils and the other in a tunnel constructed through the Antrim Shale. 17 Amended Tr 2471-2473. He argued that these tunneling projects are an apples-to-oranges comparison to the Replacement Project.

Finally, Dr. Vitton testified that he disagrees with Mr. O'Mara's assessment of the potential escape of Line 5 product into the Great Lakes in the event of a tunnel collapse. He concluded that:

> [a]ssuming a hypothetical breach of the tunnel lining caused by either an explosion or fire, any NGLs or petroleum products would likely be consumed by the fire or explosion. Further, the surrounding hydrostatic water pressure in the strata is higher than the atmospheric pressure in the tunnel, thus, groundwater would be forced into the tunnel, not allowing the product to move out of the tunnel and into the strata. The only way for the product to migrate into the strata is for the atmospheric pressure in the tunnel to somehow be at a pressure higher than the hydrostatic water pressure for a sustained period of time. There is no conceivable scenario for this to occur. For example, the force [of] an explosion would last only milliseconds and not be a cause of product to migrate through the strata. Even assuming that the tunnel lining were breached and then the tunnel allowed to fill with product, the water hydrostatic pressure would still be higher than the pressure from the product since the density of the NGLs and petroleum products is lighter than water. Again, water would move into the tunnel and up to the level of the water in the Straits, not out into the rock formation.

17 Amended Tr 2475. He contended that the path of least resistance would be the tunnel shafts, leading to the portals at the two ends. Dr. Vitton stated that "if such a breach were to occur, Enbridge would be in a position [to] remediate the release by vacuuming the product from the tunnel at either portal." 17 Amended Tr 2476.

RECEIVED by MSC 11/14/2025 2:10:18 PM

2. The Commission Staff

In his rebuttal testimony on reopening, Mr. Adams responded to Mr. O'Mara and sponsored Exhibit S-37.[31] He argued that the examples provided by Mr. O'Mara of fires in large tunnel projects are not relevant to the Replacement Project. Mr. Adams explained that all the projects cited by Mr. O'Mara were built before 2000, all are tunnels used for the transportation of cars and trains, and all are regularly occupied by humans.

Mr. Adams stated that "the tunneling industry has made significant advances in both analysis and practical design considerations for large fire events for tunnel lining design."
17 Amended Tr 2570. He asserted that the Replacement Project design meets the current standard of practice and has been designed for the Rijkwaterstaat (RWS) fire event. Mr. Adams explained that this standard involves the use of polypropylene fibers in the concrete mix used for the tunnel lining, which reduces the impact from explosive spalling of the concrete in the event of a fire, and that this design will be incorporated by Enbridge in the Replacement Project.

Turning to Mr. O'Mara's discussion of the risks of long-term seepage of methane, Mr. Adams stated as follows:

> Per joint specifications developed by Enbridge and the [MSCA]'s specifications technical team, specifically Section 317117, Paragraph 3.14, the tunnel lining has an allowable inflow leakage of 7000 gallons per day total over the full length of the tunnel, or 0.7 gallons per minute per 1000 feet of tunnel over shorter stretches of the tunnel. [(]Exhibit MM-7, Page 237 of 238.) From the [GDR] for this project (Exhibit MM-4, Page 45 of 2625), methane detected in groundwater samples were a maximum of 11 micrograms of methane per liter of water, with average values of approximately 7 micrograms per liter.
>
> Exhibit S-37 provides estimates of the duration it would take to reach LEL in the tunnel for parameters cited above. These estimates have been made for both allowable flow rates cited above, and used the following conservative assumptions: No tunnel ventilation occurs, allowing methane concentrations to accumulate

[31] Mr. Adams is now the Chief Executive Officer of Delve Underground, formerly known as McMillen Jacobs Associates.

RECEIVED by MSC 11/14/2025 2:10:18 PM

> without air exchange; all inflows into the tunnel contain methane at the maximum concentration detected along the tunnel alignment; all methane in the groundwater is released into the tunnel atmosphere; and methane is assumed to concentrate in a smaller portion of the tunnel, approximately 5% of the overall tunnel length. Our duration estimates suggest it would take approximately 800 and 2,400 years for the allowed tunnel inflow rates as well as higher inflow rates for short periods and lengths of the tunnel, to reach this level of methane concentration within the air in the tunnel. These calculations are provided in Exhibit S-37. In conclusion, durations are well beyond the design life of the tunnel even for conservative assumptions throughout.

17 Amended Tr 2572-2573.

Mr. Chislea responded to Mr. Kuprewicz on the issues of probability analysis and pipeline management. He disagreed with Mr. Kuprewicz that federal regulations provide no support for the use of numeric probabilities in performing risk assessment. Noting the requirements of Part 195 of the CFR, specifically 49 CFR 195.452 and Appendix C of Part 195 (which provides instructions on how to identify risk factors), Mr. Chislea concluded that "federal regulations on pipeline integrity management require pipeline risk assessment, which can include calculating numeric probabilities, to establish baseline and continual assessment schedules." 18 Tr 2810.

In response to Mr. Kuprewicz's description of the federal integrity management regulations concerning hazardous liquids pipelines, Mr. Chislea noted that 49 CFR 195.452 and 195.454 govern pipeline integrity management for hazardous liquid and carbon dioxide pipelines and that PHMSA has the responsibility for inspection and enforcement of hazardous liquid pipeline safety in Michigan. He explained that with a typical Act 16 application, the Staff consults with PHMSA to ensure that that agency is carrying out the required reviews and inspections, and the Staff may also make recommendations to the Commission depending on the information obtained in consultation with PHMSA.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Turning to the issue of the girth welds, Mr. Chislea reiterated his recommendation that Enbridge be required to develop low-hydrogen welding procedures and qualify them per 49 CFR 194.214, which exceeds the procedures required by API Standard 1104. 18 Tr 2812.

3. Mackinac Straits Corridor Authority

Mr. Cooper responded to Mr. Kuprewicz and Mr. O'Mara on the issue of probability assessment. He disputed Mr. Kuprewicz's claim that Enbridge's risk assessment is not supported by federal regulations. Rather, Mr. Cooper asserted that the pipeline integrity management regulations located in 49 CFR 195.452 and 195.454 require risk-based decision-making. Mr. Cooper further stated that risk assessment helps a pipeline operator decide when to take measures that exceed federal standards, such as when there are threats to the pipeline that are greater than those anticipated by federal regulations. He asserted that this is illustrated by Enbridge's decision to place the pipeline in a tunnel, which is not required by federal safety regulations but has been shown through risk assessment to provide greater safety than the existing dual pipelines which lay on the lakebed.

Mr. Cooper also disputed the notion that risk assessment results in complacency; rather, he asserted that risk assessment is a form of diligence. He stated that Enbridge has followed industry standards for estimating risk as "described by American Petroleum Institute Recommended Practice 1160 *Managing System Integrity for Hazardous Liquid Pipelines* and American Society of Mechanical Engineers Standard B31.8S *Managing System Integrity of Gas Pipelines*." 17 Amended Tr 2591.

In addition, Mr. Cooper objected to Mr. Kuprewicz's claim that Mr. Godfrey's numeric probability values are misleading. He testified that Mr. Godfrey's POF analysis follows industry standards for such assessments and that the need for "risk-based decision making is well

RECEIVED by MSC 11/14/2025 2:10:18 PM

established in federal pipeline safety regulations." 17 Amended Tr 2593. Mr. Cooper noted that Mr. Godfrey reviewed PHMSA data for quality and even excluded data where there were better sources in order to provide an apples-to-apples comparison.

Next, he asserted that the issues identified in the Joint Industry Report (Exhibit BMC-43) regarding girth welds in grade X70 pipe are not applicable to the Replacement Project. Mr. Cooper reiterated that the replacement pipe segment will not be buried in the ground but will instead be located in the tunnel on supports with rollers and, as such, will not experience the stresses related to ground movement or the pressures related to thermal changes that are experienced by buried pipelines. He further noted that Enbridge has already implemented the measures recommended in the Joint Industry Report for this issue.

In response to Mr. Kuprewicz's claim that Enbridge underestimates the probability of explosion and release of Line 5 product into the Straits, Mr. Cooper stated that Mr. Kuprewicz failed to explain any observed situations where an explosion occurred, "how they compare with the proposed pipeline and tunnel, what safety measures were in place, and what events and causes led to product release and ignition." 17 Amended Tr 2597. Additionally, Mr. Cooper asserted that Mr. Kuprewicz misinterpreted Exhibit BMC-60, which contains Mr. Cooper's handwritten notes. Mr. Cooper testified that the notes were intended to provide Enbridge with examples of recommended "risk units to be used for reporting probability of failure analysis results," not targets that the State would find acceptable. 17 Amended Tr 2599.

Regarding Mr. O'Mara's assertions relating to the potential for product leaks, Mr. Cooper noted that the tunnel pipeline will not operate at 1440 psig but rather at a maximum steady-state pressure of 463 psig and a transient surge pressure of 750 psig. He stated that the lower pressure

RECEIVED by MSC 11/14/2025 2:10:18 PM

reduces the potential for the destruction of rock and sediment, thus reducing the chance that product could reach the Straits. 17 Amended Tr 2599-2600.

C. Surrebuttal Testimony on Reopening of the Record

On behalf of Bay Mills, Mr. O'Mara responded to Dr. Ferrara and addressed the explosion study contained in Exhibit A-35. He sponsored Exhibit BMC-64. Mr. O'Mara contended that the explosion study was not based on a worst-case explosion scenario, which in his opinion, undercuts the conclusions of the study. He also objected to the explosion study, testifying that it: (1) only looks at vapor cloud releases from NGLs and not releases from crude oil; (2) does not evaluate an explosion following a full bore rupture; (3) assumes that the tunnel is level and only 1000 feet long rather than V-shaped and four miles long; (4) assumes a release from a single hole with a 0.315 inch diameter when it should look at releases from larger breaches including a full bore rupture; (5) assumes a vapor cloud height, width, and length that do not represent the worst-case scenario; (6) fails to include methane vapors; and (7) assumes a tunnel temperature of 42°F when it could actually be much colder or warmer. 18 Tr 2703-2704.

D. Initial Briefs on Reopening of the Record

1. Enbridge Energy, Limited Partnership

Enbridge asserts that the evidence in the reopened record demonstrates that replacing the dual pipelines with the Replacement Project will make the Straits safer. The company argues that in comparison to the dual pipelines, the Replacement Project reduces the probability of a release and decreases the overall environmental risk.

Enbridge begins with a description of the legal framework of the case, stating that under Act 359, MSCA is the ultimate owner of the tunnel and has authority over construction, operation, and maintenance of the tunnel. The company notes that the statute requires MSCA to ensure that

RECEIVED by MSC 11/14/2025 2:10:18 PM

the tunnel will act as "secondary containment" and mandates that the purposes of MSCA are "public purposes." Enbridge's initial brief on reopening, p. 2 (quoting MCL 254.324d(4)(d) and MCL 254.324b(1), respectively). The company contends that PHMSA is vested with exclusive jurisdiction over "the safe operation of Line 5" under the PSA, "which expressly preempts a state's authority over the safe interstate pipeline operation." Enbridge's initial brief on reopening, p. 2 (citing 49 USC 60101 and 60104(c)).

Enbridge then describes the July 7 order and notes that in addition to supplementary information on the Replacement Project, the Commission requested information relating to the current and future operation of the dual pipelines. The company states that the Staff concluded that Enbridge addressed each of the Commission's information requests. Enbridge's initial brief on reopening, p. 4 (citing 18 Tr 2791).

Turning to the Commission's Act 16 analysis and the evidence on the reopened record, Enbridge argues that the second prong of the Act 16 analysis is satisfied because locating the replacement pipe segment within the tunnel is a better design and route than the dual pipelines. The company states that "[t]he additional evidence requested by the Commission regarding the current and future operations of the dual pipelines is set forth in Exhibit A-28, and that evidence demonstrates that the dual pipelines are being operated safely. Nonetheless, the testimony submitted on reopening demonstrates that locating Line 5 within the tunnel provides even greater protection." Enbridge's initial brief on reopening, p. 4. Enbridge contends that Mr. Godfrey's evidence demonstrates that the tunnel will reduce or eliminate the risks associated with the dual pipelines because the tunnel: (1) provides protection from anchor strikes and bending stress, (2) allows for direct examination of the pipeline, (3) provides better leak detection, and (4) acts as

RECEIVED by MSC 11/14/2025 2:10:18 PM

secondary containment. Enbridge posits that the tunnel provides "a far superior design and route than the current dual pipelines." Enbridge's initial brief on reopening, p. 5.

Additionally, Enbridge notes, Mr. Godfrey's review of PHMSA data shows that the risk of a release of Line 5 product from the Replacement Project is less than once every 663,000 years, and his analysis of the risk of ignition in the tunnel is once every 169 million years. Enbridge's initial brief on reopening, p. 5 (citing 17 Amended Tr 2437, 2439). The company further posits that the evidence of Dr. Ferrara, Dr. Vitton, and Mr. Dennis demonstrate that the tunnel's design will allow it to withstand a worst-case explosion, and that even in the event of such an explosion, hydrostatic pressure would prevent any released product from migrating into the Straits. Instead, Enbridge asserts, released product would migrate to the end portals where it would be fully recovered. However, the company asserts, secondary containment will "be maintained in any explosion scenario." Enbridge's initial brief on reopening, p. 5. Enbridge states that even Mr. O'Mara agreed that a properly designed, constructed, and operated tunnel would be safer than the existing dual pipelines. *Id*., p. 6 (citing 18 Tr 2719). Therefore, Enbridge concludes that the second prong of the Commission's Act 16 analysis is satisfied.

For the third prong of the Act 16 analysis, Enbridge contends that the Replacement Project meets or exceeds current safety and engineering standards. The company asserts that it responded to the 10 categories of information sought by the Commission in the July 7 order and offered additional expert testimony, all of which rebuts the contentions of Bay Mills.

Enbridge claims that, on rebuttal, Mr. Godfrey and Mr. Cooper debunked Mr. Kuprewicz's assertion that probabilistic risk assessment should not be used at this stage. The company argues that PHMSA encourages quantitative risk analysis specifically for hazardous liquids pipelines. Enbridge states that:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> Mr. Kuprewicz relies on anecdotal evidence based on personal experience. By contrast, Enbridge's approach critically reviews relevant data, rigorously scrutinizes, analyzes, and computes it to inform reliable, fact-based opinions as to risk. At no point does Mr. Kuprewicz demonstrate that locating Line 5 within the tunnel is less safe than the existing dual pipelines.

Enbridge's initial brief on reopening, pp. 9-10.

Enbridge asserts that even in the extremely unlikely event of a release and an ignition (once in 169 million years), the tunnel will withstand the explosion and there will be no localized collapse. In support, the company cites Dr. Ferrara's evidence showing that even a worst-case explosion would not cause the tunnel to fail because the greatest blast overpressure that would be created in the tunnel is 0.4 barg, which is well within the range of 3 barg (at the area with the lowest overburden pressure) to 29 barg (at the area with the highest overburden pressure). Enbridge's initial brief on reopening, p. 11 (citing 15 Tr 2092-2093, 17 Amended Tr 2405-2406) (Enbridge rounds up from 0.386 barg). Enbridge argues that:

> [i]n sur-rebuttal, Mr. O'Mara criticized the inputs to the model used by Dr. Ferrara. Based on his own testimony, however, Mr. O'Mara has no expertise in modeling explosions and his lack of qualifications stand in stark contrast to the qualifications of Dr. Ferrara. Mr. O'Mara readily admits that he did no actual engineering or mathematical analysis, himself, on the effects of an explosion in the tunnel, and he did not even attempt to run a model using different inputs. In fact, Mr. O'Mara has never used a computational fluid dynamics model to calculate the overpressure generated by an explosion for this or any other tunnel. Dr. Ferrara presented the only analysis of overpressure generated by a worst-case explosion, demonstrating that the tunnel will remain intact in the extremely unlikely event of an explosion.

Enbridge's initial brief on reopening, pp. 11-12 (citing 17 Amended Tr 2408-2429; 18 Tr 2683-2687, 2695, 2737-2738).

Turning to the issue of methane, Enbridge argues that Mr. O'Mara made no attempt to analyze whether the methane values found in the GDR samples could result in an explosive atmosphere in the tunnel. By contrast, the company avers, Dr. Vitton analyzed the sample values and stated unequivocally that there are no methane sources in the area of the tunnel that "have the ability to

RECEIVED by MSC 11/14/2025 2:10:18 PM

produce methane levels remotely capable of reaching explosible methane levels." Enbridge's initial brief on reopening, p. 13 (quoting 17 Amended Tr 2465). Enbridge asserts that the methane values in the GDR samples fall well below levels of concern according to the Methane Control Handbook. According to the company, Mr. O'Mara admitted that he relies on this handbook; however, Enbridge states that he failed to consider the handbook in his evidence because it would have undercut his assertions of risk.

Enbridge further argues that Mr. Adams' Exhibit S-37 concludes that it would take between 875 and 2,452 years for methane to accumulate in the proposed utility tunnel sufficient to reach the LEL. The company adds that Mr. O'Mara's two examples of methane explosions in tunnels in the Great Lakes Basin are inapposite in this case. Enbridge's initial brief on reopening, pp. 14-15. Enbridge asserts that, despite the fact that methane is highly unlikely to be a concern during construction or operation of the Replacement Project, the company has addressed any potential risk by equipping the TBM with methane detectors and equipping the tunnel with gas detectors.

Next, Enbridge contends that even if the tunnel liner failed, secondary containment would be maintained. The company argues that, again, Mr. O'Mara provides anecdotal evidence based on false assumptions. Specifically, Enbridge states that "Mr. O'Mara fails to explain how the pressure of the product exiting the pipe after a fire or explosion would be maintained at the same pressure within the pipe and not fall to the ambient atmospheric pressure of the tunnel after exiting the pipeline" or why the product would continue to be released at pressure after the automatic shutoff valves closed after three minutes. Enbridge's initial brief on reopening, p. 17. The company highlights Mr. Vitton's testimony indicating that it is implausible that the atmospheric pressure within the tunnel could be higher than the hydrostatic water pressure for a sustained period. Accordingly, Enbridge states, "there is no circumstance under which product released

RECEIVED by MSC 11/14/2025 2:10:18 PM

from the Line 5 replacement segment could escape the tunnel." Enbridge's initial brief on reopening, p. 17 (citing 17 Amended Tr 2475). The company contends that any released product would float on the water inside the tunnel and be recovered at the portals.

Enbridge maintains that the CPM and other proposed leak detection systems for the Replacement Project will meet or exceed safety and engineering standards. As a preliminary matter, Enbridge notes that pursuant to its leak detection testing program, the company conducts fluid withdrawal tests on its various pipeline systems and that the performance of the system, in all such tests, including the human element, have always met or exceeded expectations. In addition to the CPM and the leak detection systems, Enbridge states that the Replacement Project will contain hydrocarbon vapor detectors, which will alarm if vapors reach 20% of the amount needed to create an explosive atmosphere. The company adds that:

> [i]f these detectors issue an alarm and the Control Center is unable to rule out the possibility of a release within ten minutes, then the pipeline will be shut-down. In addition to the hydrocarbon monitors, there are already automatic shut-off valves on each side of the Straits. These shut-off valves will close automatically within three minutes should a threshold pressure loss occur. The closure would be independent of and could not be overridden by any Control Center action.

Enbridge's initial brief on reopening, p. 19 (citing Exhibit A-32, p. 2; 16 Tr 2262; and Exhibit A-10, p. 20). Enbridge asserts that, as a direct result of the 2010 Marshall incident, the company implemented the LDAM to strengthen compliance with the 10-Minute Rule. The company explains that unless all three members of the ART find the alarm to be invalid, the pipeline will shut down automatically at the 11th minute.

Enbridge contends that the design of the Replacement Project ensures that the risk of a release of Line 5 product from the replacement pipe segment is less than one in one million. However, the company describes that figure as a reliability target for the IMP and states that the actual probability of a release is reflected in Mr. Godfrey's finding of once in 663,000 years. Enbridge

RECEIVED by MSC 11/14/2025 2:10:18 PM

notes that, in calculating the one in one million reliability target, Mr. Bott testified that he considered the performance of the company's mainline transmission pipelines installed after 2000 and the IMP, as well as the fact that the replacement pipe segment will not be buried, can be visually inspected, and will operate at a much lower percentage capacity than its design allows. Enbridge's initial brief on reopening, p. 21 (citing 16 Tr 2355-2356 and Exhibit A-32). The company argues that of the pipelines installed by Enbridge between 2000 and 2022 (10,000 km), it has experienced only four releases. Enbridge explains that two were caused by ground movement and two were caused by third-party damage and, therefore, none of the causes would be applicable to the Replacement Project. The company notes that the one in one million figure represents the upper bound POF.

Next, Enbridge addresses the issue of the electrical equipment that will be located within the tunnel and contends that the reopened record shows that Class 1, Division 2 is conservative and appropriate. The company notes that Mr. Godfrey's estimate of the risk of ignition of once in 169 million years is based on the use of Class 1, Division 2 equipment. Enbridge highlights Mr. Godfrey's testimony that he was "unable to locate any data sets that would show [that] the use of Class 1, Division 1 equipment would make the risk of an ignition even more remote." Enbridge's initial brief on reopening, pp. 23-24 (quoting 17 Amended Tr 2439).

The company contends that:

> [d]esigning the electrical equipment to meet the more stringent standards for Class 1, Division 1: (1) is inconsistent with the [NEC], (2) may not be feasible, and, (3) more importantly, would create other safety concerns that are inconsistent with the design philosophy of the tunnel and adversely impact human safety.

Enbridge's initial brief on reopening, p. 24 (citing Exhibit A-31, p. 7). First, Enbridge explains that NEC 500.5(B)(1) requires Class 1, Division 1 equipment only where vapors can exist under normal operating conditions. The company avers that vapors will not exist in the tunnel under

RECEIVED by MSC 11/14/2025 2:10:18 PM

normal operating conditions of the replacement pipe segment. Second, according to the company, it is not clear whether the Tunnel Service Vehicle (TSV) could even be designed to meet the Class 1, Division 1 standard. Enbridge assumes that the equipment would need to be larger and bulkier, and thus the tunnel itself may need to be redesigned. Third, the company states that it has designed the tunnel to limit to the extent possible the need for humans to be in the tunnel. Enbridge argues that a Class 1, Division 1 requirement would undercut that goal by requiring inspection and maintenance personnel to be in the tunnel for longer periods of time and, thus, imposing unnecessary safety risks.

Regarding the ventilation system, Enbridge states that it is designed to exceed OSHA requirements and will be activated only when personnel are in the tunnel. The company notes that the ventilation system will not be automatically activated in response to a release of Line 5 products because the tunnel is designed to act as secondary containment. Enbridge's initial brief on reopening, pp. 25-26.

Finally, with respect to the third prong of the Act 16 analysis, Enbridge addresses the issue of fire and reiterates that, according to Mr. Godfrey, the likelihood of a release with an ignition is once in 169 million years. The company argues that its evidence demonstrates that the risk of fire is extremely remote, that the tunnel meets the state of the practice for fire design, and that, even in the event of a fire, there is a repair process for the PCTL segments. Noting its goal of limiting the need for personnel in the tunnel, Enbridge maintains that the installation of FFFS would be counterproductive by increasing the number of required hours spent by workers in a confined space, particularly in light of the "incredibly remote risk of a fire." Enbridge's initial brief on reopening, p. 29. In conclusion, the company contends that it has satisfied the requirements for the third prong of the Act 16 analysis.

RECEIVED by MSC 11/14/2025 2:10:18 PM

2. The Commission Staff

In its initial brief on reopening, the Staff notes that Enbridge's Exhibit A-28 contains materials responsive to the Commission's request in the July 7 order for additional evidence regarding the current condition, and future maintenance, of the dual pipelines. The Staff states that, after reviewing Exhibit A-28, the Staff sponsored Exhibit S-33, which is "a report entitled 'Evaluation of Identified Underwater Technologies to Enhance Leak Detection of the Dual Line 5 Pipelines'– which is also responsive to the Commission's request for additional evidence on leak detection and other relevant evidence regarding the current dual pipelines." Staff's initial brief on reopening, p. 2 (footnote omitted).

For the third prong of the Act 16 analysis, the Staff notes that in the July 7 order, the Commission requested additional information on 10 topics, including "the likelihood of release from the pipeline, the tunnel design's ability to meet or exceed safety standards, and the pipeline design's ability to meet or exceed safety standards." Staff's initial brief on reopening, p. 3. The Staff states that the reopened record contains two sources of evidence regarding the likelihood of a release, one being Exhibit A-32, which the Staff describes as providing "the achievable integrity performance for the project" (one in one million), and the second being Exhibit A-29, which includes Mr. Godfrey's POF analysis (once in 663,000 years). Staff's initial brief on reopening, p. 4. The Staff asserts that Exhibit A-32 includes a description of the four releases that have occurred on Enbridge's pipelines installed after 2000, and the Staff notes the company's conclusion that the causes are inapplicable to the Replacement Project.

Regarding Mr. Godfrey's POF analysis in Exhibit A-29, the Staff states that he relied on publicly available pipeline data from PHMSA and BOEM and looked at five POF scenarios. The Staff notes that it "sent a discovery request to Enbridge seeking, in part, a justification that

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge's mitigation measures would result in a reduction in the probability by an order of magnitude less, as claimed in the POF Analysis." Staff's initial brief on reopening, p. 6. The Staff states that:

> Enbridge's response acknowledged that quantitative risk assessments do "not fully account for continuous improvement of pipeline designs, materials, and operating practices" but that "it is appropriate to apply factors that align the results of the data analysis with the expected performance characteristics of the new pipeline." (Exhibit S-31, pp 3-4.) Enbridge further explained that "[t]he order of magnitude reduction factor was chosen by DNV subject matter experts based on the unique design attributes of the Line 5 Replacement Segment." (Id. at 4.) Staff considers this to be a reasonable assumption for a risk assessment at this time, pending assumptions derived from future integrity assessments during operation and maintenance.

Staff's initial brief on reopening, p. 6. The Staff notes that the reopened record does not indicate a standard that sets a specific acceptable probability of release.

In response to Bay Mill's concerns regarding the girth welds, the Staff cites the testimony of Mr. Cooper in which he states that the girth weld issues identified in the Joint Industry Report are not applicable to the Replacement Project because the pipeline will not be buried and Enbridge has already carried out the recommendations in that report with respect to eliminating under-matched girth welds and minimizing weld softening in the heat affected zones. In addition, the Staff highlights Mr. Chislea's recommendations for low-hydrogen welding and testing procedures and notes that his recommendations exceed the standards that are incorporated into 49 CFR 195.214 (by reference). Staff's initial brief on reopening, pp. 8-9 (citing 17 Amended Tr 2595-2596, 18 Tr 2812).

According to the Staff, Enbridge filed additional information on the ventilation system in response to the July 7 order. The Staff describes the OSHA requirements for the ventilation system and contends that the company's proposed system is designed to exceed those safety requirements. Staff's initial brief on reopening, p. 11.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Staff notes that Mr. O'Mara provided a general opinion that an explosion could damage the tunnel lining, and Enbridge responded with Dr. Ferrara's Exhibit A-35, which models four scenarios to determine a worst-case scenario. The Staff states that Dr. Ferrara concluded that a worst-case scenario would generate an overpressure of 0.386 barg, whereas the tunnel can tolerate an overpressure of 3 to 29 barg (moving from lowest overburden to highest overburden). Staff's initial brief on reopening, p. 12 (citing Exhibit A-35, p. 12; 17 Amended Tr 2406). The Staff asserts that it does not concur with Mr. O'Mara's criticisms of Exhibit A-35 and disagrees with Mr. O'Mara that a full bore rupture is the worst-case scenario. The Staff states that, for example, "there is already evidence on the record regarding the existing dual pipelines that indicates the outcomes from a 3-inch hole release could be more severe than those from a full-bore rupture. (*See* [Exhibit] ELP-24, p 253.)" Staff's initial brief on reopening, pp. 12-13.

Regarding the question of whether Line 5 product could reach the Straits in the event of an explosion, the Staff points out that Mr. O'Mara assumed an operating pressure of 1440 psi whereas normal operating pressure will be about 480 psi. Additionally, the Staff states that:

> the pressure inside the tunnel and against the surrounding geology could not match the pressure within the pipeline and overcome the hydrostatic pressure unless the pipeline continued to operate even after the tunnel filled with product. (Exhibit S-16, pp 2, 5-6.) The record indicates this would require at least two full days of continued pipeline operation for this to become possible. (17 TR 2459; Exhibit S-16, pp 5-6.)

Staff's initial brief on reopening, p. 13. The Staff argues that Exhibit A-35 is significant because it demonstrates that the anticipated pressure from an explosion is about seven times less than what the tunnel is designed to withstand at its highest levels and about seventy times less than what the tunnel is designed to withstand at its lowest level. The Staff contends that any released product would remain within the tunnel and could be recovered at the portals. The Staff avers that the

RECEIVED by MSC 11/14/2025 2:10:18 PM

current tunnel design mitigates the risks associated with explosion and is consistent with safety and engineering standards. *Id*., p. 14.

The Staff asserts that the reopened record shows that the concrete lining of the tunnel can withstand a high-intensity fire and can resist spalling. Noting Mr. O'Mara's opinion that a fire is more likely to cause failure than an explosion, the Staff finds that this was rebutted by Mr. Adam's testimony regarding recent improvements to tunnel design and tunnel lining (such as the RWS fire event standard) and Mr. Dennis' testimony explaining why installation of an FFFS is not appropriate for the Replacement Project. Staff's initial brief on reopening, p. 15 (citing 17 Amended Tr 2570-2583, 18 Tr 2091-2092).

Turning to the issue of the electrical equipment located in the tunnel and the risk of fire, the Staff supports a recommendation by the Commission that Enbridge exceed the minimum OSHA standards for certain components. The Staff notes that a Class 1, Division 1 location is one in which flammable gases or vapors may exist under normal operating conditions, and a Class 1, Division 2 location is one in which hazardous gases, vapors, or liquids are normally confined within closed systems. Staff's initial brief on reopening, pp. 16-17 (citing Exhibit A-31 and 29 CFR 1926.449). The Staff asserts that, in response to discovery, Enbridge stated in Exhibit S-31 that it had not yet acquired the equipment that will be located in the tunnel and so the company cannot determine whether the more stringent standard would require bulkier equipment. The Staff states that it recognizes that the Replacement Project "appears to meet the definition of a Class 1, Division 2 location in which flammable liquids and gasses are handled, but will normally be confined within the pipeline, unless there is an 'accidental rupture' or other abnormal operation of equipment. (Exhibit A-31, p 6.)." Staff's initial brief on reopening, p. 17. However, the Staff states that:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> the reopened record also indicates there may be opportunities to design to the more stringent Class 1, Division 1 standard when finalizing the design. (Exhibit S-31, p 13; 16 TR 2187.) If the application is approved and the Commission deems it appropriate, Staff supports a Commission recommendation that certain equipment be designed to the more stringent Class 1, Division 1 standard to the extent such equipment is feasible, beneficial, safe, and permitted by the agreements and other permitting authorities governing the project.

Staff's initial brief on reopening, pp. 17-18 (footnote omitted). However, the Staff also acknowledges that technical feasibility should not be the only consideration in this decision.

The Staff asserts that the reopened record shows that the Replacement Project is designed to minimize the chance of fire or explosion. Pointing to the POF Report in Exhibit A-29, the Staff states that this analysis assumes that "an undetected leak achieved the required vapor concentration at the same time and location as an equipment failure that could result in ignition," and the report found the POF to be less than one failure in over 663,000 years and the probability of ignition to be one ignition event every 169 million years. Staff's initial brief on reopening, p. 18 (citing Exhibit A-29, pp. 16-17).

The Staff notes that Mr. Kuprewicz alleged that Mr. Godfrey cherry-picked the PHMSA data for the DNV POF Analysis and virtually ignored the engineering risks of the proposed tunnel project. The Staff highlights Mr. Cooper's disagreement and states that, "[w]hile the DNV POF Analysis does not appear to be directly responsive to one of the ten specific requests for additional prong (3) evidence, Staff recognizes the relevance to the July 7 Order and notes that findings showing an explosion is a relatively low-probability event does not, on its own, equate to ignoring a risk." Staff's initial brief on reopening, p. 19.

On the issue of methane in the groundwater and the possibility of seepage into the tunnel, the Staff notes Mr. Adams' rebuttal and states that his:

> sponsored analysis assumed the highest recorded maximum measured methane concentration and also incorporated several conservative assumptions throughout

RECEIVED by MSC 11/14/2025 2:10:18 PM

> the analysis. (Exhibit S-37.) The conservative assumptions used in preparing Exhibit S-37 include assuming that: (1) no tunnel ventilation occurs, (2) all inflows contain the maximum methane concentration detected along the tunnel alignment; (3) all dissolved methane is released into the tunnel atmosphere; and (4) methane would accumulate in only 5% of the overall tunnel length. (17 TR 2572–73; Exhibit S-37, p 1.) The calculated durations needed to reach LEL in Exhibit S-37 were based on these conservative assumptions and, as witness Adams concludes, "are well beyond the design life of the tunnel." (17 TR 2573.)

Staff's initial brief on reopening, p. 21. The Staff also cites the testimony of Mr. Dennis and Dr. Vitton on this topic.

The Staff notes that Enbridge provided a response to the Commission's request for more information on the procedure for repairing or replacing PCTL segments. Staff's initial brief on reopening, pp. 23-24; *see also*, Exhibit A-31, pp. 8-9.

Next, the Staff states that the reopened record contains additional information regarding the leak detection system and the CPM. The Staff notes that Enbridge's response to the Commission's request:

> provides detail regarding the models, locations, and quantity of gas and liquid hydrocarbon detectors within the tunnel. (Exhibit A-31, pp 1-2.) Three hydrogen sulfide detectors and three gas hydrocarbon detectors will be located at nineteen separate locations in the tunnel. Each detector will operate independently, and the system will function on a voting basis to avoid false alarms. (*Id*. at p 2.) Three liquid hydrocarbon detectors will be placed at four locations. In the event that a leak alarm is generated, Enbridge's Control Center would initiate an investigation and shut down the pipeline if unable to rule out the possibility of a release within ten minutes. (*Id*.) Enbridge further described the rationale for the selected locations for the gas detectors and provided a schematic showing the locations in a discovery response to Staff. (Exhibit S-32, pp 3-4.)

Staff's initial brief on reopening, p. 25.

The Staff asserts that in response to the Commission's request for additional information, Enbridge reported that the gas detectors will be set to detect a threshold level of 20% of the LEL. *Id*. The Staff explains that, in discovery, it sought additional information about the detectors' ability to detect gas. The Staff states that Enbridge provided Exhibit A-32, which notes that

RECEIVED by MSC 11/14/2025 2:10:18 PM

although the detectors will be "calibrated for propane, other gases will be subject to detection. Enbridge explains that the 20% threshold is an industry standard and provides a sufficient safety factor to account for minor variances in product types or inaccuracy of the detectors." Staff's initial brief on reopening, p. 26.

Regarding Enbridge's shutdown procedures in the event of a release, the Staff notes that Enbridge described the automatic shutoff valves that are pressure-sensitive and operate without human interaction, the activation of the ventilation system to assist in the evacuation of personnel, subsequent deactivation of the ventilation system, and the ultimate closure of the tunnel. The Staff observes that, in general, the conditions for shutdown of the tunnel pipeline are the same as the procedures in place for shutdown of the dual pipelines. *Id*., p. 28.

In conclusion, the Staff recommends approval of Enbridge's application with certain conditions. The Staff contends that the record as a whole supports a finding that the Replacement Project fulfills the purpose of reducing the environmental risk to the Great Lakes posed by the dual pipelines, and the additional information on the reopened record addresses prongs (2) and (3) of the Commission's Act 16 analysis. In addition to the conditions and recommendations made in its initial brief on the original record, the Staff "recommends Enbridge be required to implement certain welding and testing procedures and, to the extent the Commission deems it appropriate, Staff supports a Commission recommendation that certain equipment within the tunnel be designed to the more stringent Class 1, Division 1 under the circumstances described above." Staff's initial brief on reopening, pp. 28-29.

3. Bay Mills Indian Community

Bay Mills continues to oppose Enbridge's application and characterizes the company's response to the Commission's request for additional information on reopening of the record as "a

RECEIVED by MSC 11/14/2025 2:10:18 PM

series of flawed and biased analyses manufactured to suggest that the risks identified by renowned experts are unlikely to occur." Bay Mills' initial brief on reopening, p. 1.

Bay Mills begins with the third prong of the Act 16 analysis and argues that the Replacement Project presents significant safety concerns. Regarding the X70 pipe proposed for use in the Replacement Project, Bay Mills contends that "Enbridge and Mr. Godfrey have been dismissive of the threat posed by catastrophic failure at the girth welds or [heat affected zones] of this pipe. Mr. Godfrey's analysis fails to account for the unique design and the abnormal loading and stress that pose a serious risk to the pipeline's integrity." Bay Mills' initial brief on reopening, p. 5. Specifically, Bay Mills argues that the installation of the replacement pipe segment on rollers will place abnormal loading on the pipe at these two areas, which can lead to a rupture. In addition, Bay Mills avers that PHMSA has issued an advisory explaining that the strength value of X70 pipe may be 15% lower than that specified by the manufacturer. *Id*., p. 4 (citing 17 Amended Tr 2630-2633). Bay Mills cites the rupture of the Keystone pipeline on December 7, 2022, as an example of a girth weld failure on X70 pipe caused by bending stress and a weld flaw that resulted in a crack (which propagated over time). Bay Mills emphasizes that this failure occurred despite the fact that the pipeline underwent all required inspection and testing. *See*, Exhibit BMC-64.

Bay Mills maintains that Enbridge has failed to adequately address concerns about the electrical equipment that will be located inside the tunnel, which may provide a source of ignition. Bay Mills notes that in the July 7 order, p. 45, the Commission requested information on the feasibility of exceeding the OSHA standard of Class 1, Division 2 equipment. Bay Mills contends that Mr. Godfrey did not determine the extent to which his reported POF could be lowered through the use of Class 1, Division 1 equipment. In addition, Bay Mills asserts that Mr. Godfrey provided no support for his conclusion that Class 1, Division 2 equipment is acceptable and that he provided

RECEIVED by MSC 11/14/2025 2:10:18 PM

no feasibility analysis of exceeding the Class 1, Division 2 standard. Moreover, Bay Mills argues that contrary to Enbridge's claim, Exhibit A-31 does not actually offer a feasibility assessment for using the more stringent Class 1, Division 1 standard. Bay Mills' initial brief on reopening, p. 6. Bay Mills states that Enbridge had almost a year to determine whether it was feasible to move to Class 1, Division 1, and the company does not explain why it still does not know whether the TSV could be designed to meet that standard. *Id*., p. 7, n. 21. Bay Mills notes that the space-proofing exercise was never undertaken and observes that Enbridge made no serious effort to respond to the Commission's request for information.

Next, Bay Mills contends that Enbridge is overly reliant on the CPM system and notes that Enbridge's shutdown procedures are triggered by pressure loss rather than hydrocarbon accumulation in the tunnel. Bay Mills asserts that by the time the pressure in the replacement pipe segment has dropped to 45 psi and the alarms have sounded, explosive conditions may already exist. Bay Mills' initial brief on reopening, p. 8.

Turning to the issue of methane accumulation, Bay Mills argues that compared to Mr. O'Mara, Dr. Vitton does not have the same practical tunneling experience, and Mr. O'Mara "is the only witness in these proceedings who has experience with and direct training following an explosive event caused by methane accumulation." Bay Mills' initial brief on reopening, p. 9 (footnote omitted). Bay Mills asserts that Mr. O'Mara has provided well-founded concerns about methane accumulation during construction and operation of the Replacement Project, and Enbridge has improperly dismissed these concerns.

Bay Mills states that Enbridge's GDR "does not support Dr. Vitton's sweeping conclusion that 'there are *no methane sources* within the area of the tunnel that could lead to methane levels remotely capable of reaching explosible methane levels.' Rather, the GDR falls well short of

RECEIVED by MSC 11/14/2025 2:10:18 PM

industry standards, relies on an insufficient number of samples, and the laboratory results are, at best, inconclusive." Bay Mills' initial brief on reopening, p. 11 (quoting 17 Amended Tr 2465) (emphasis added to initial brief on reopening). Additionally, Bay Mills argues that Enbridge obtained too few borings, the borings were too shallow, and they did not reach the tunnel depth; thus, the GDR does not represent actual geological conditions in the area of the Replacement Project. Bay Mills also contends that 23 of the 24 GDR samples had quality control issues rendering the results useless. Bay Mills' initial brief on reopening, p. 12 (citing Exhibit MM-4, 17 Amended Tr 2534-2536, 18 Tr 2757).

Bay Mills posits that Exhibit BMC-70, a U.S. Geological Society (USGS) survey from 2020, shows that "there *is* a significant oil and gas reserve directly situated under the Straits" and that Dr. Vitton looked only at surface water samples from outside the area proposed for the tunnel. Bay Mills' initial brief on reopening, p. 13 (emphasis in original). Bay Mills asserts that groundwater may contain dissolved methane and that "[t]he threat of methane may arise during construction activities if dissolved methane is encountered during excavation. After the tunnel is complete, methane may accumulate via constant groundwater infiltration through the joints of the precast tunnel segmented lining, as well as through leaks in the portal and exit shafts." *Id.*, p. 9 (footnotes omitted). Bay Mills contends that ignition of this methane could occur via an equipment malfunction, maintenance work, or static electricity.

On the issue of fire in the proposed utility tunnel, Bay Mills argues that in Enbridge's response to the July 7 order, the company failed to provide evidence demonstrating that the concrete can withstand a high-pressure explosion. Bay Mills maintains that as a result of an explosion, the concrete will experience spalling due to fire in the tunnel and eventually the underlying steel structure will buckle. Noting Mr. Adams' testimony that the tunnel lining will be tested using the

RECEIVED by MSC 11/14/2025 2:10:18 PM

RWS fire curve, Bay Mills contends that this curve only tests for fires with a maximum temperature of 1200°C for 180 minutes, and a tunnel fire could last longer or achieve a higher temperature. Bay Mills' initial brief on reopening, p. 15.

In the event of an explosion or fire in the proposed utility tunnel that results in a localized collapse of the tunnel lining, Bay Mills asserts that Line 5 product, pumped at its normal operating pressure, would escape the tunnel and migrate into the surrounding sediment and eventually into the waters of the Straits. Bay Mills' initial brief on reopening, p. 16 (citing 18 Tr 2679). Bay Mills argues that Dr. Ferrara's testimony and Explosion Study should be given little weight because he relied on findings derived from Mr. Godfrey's POF Report, which has been shown to be unreliable. Additionally, Bay Mills states that in his Explosion Study, Dr. Ferrara failed to evaluate a worst-case scenario such as a full bore rupture. Moreover, Bay Mills asserts that the Explosion Study is not credible because it assumed that the tunnel is level and only 1,000 feet long, and the study only examined a pinhole sized failure. Finally, Bay Mills notes that the Explosion Study ignores the potential for methane to enter the tunnel via groundwater seepage.

Turning to the second prong of the Commission's Act 16 analysis, Bay Mills argues that the reopened record fails to show that the Replacement Project will reduce or eliminate the environmental risks posed by the dual pipelines and that the tunnel simply replaces one set of risks for another. As an initial matter, Bay Mills avers that the probability analyses offered by Messrs. Godfrey and Bott should be disregarded "because the facts and data upon which they rely are not in evidence and the analyses do not consider worst case scenarios." Bay Mills' initial brief on reopening, p. 18. Accordingly, Bay Mills notes that it sought to strike the testimony of Messrs. Godfrey and Bott and Exhibits A-29 and A-32, which was denied by ALJ Saunders on April 11 and 12, 2023. Bay Mills states that it incorporates herein all the arguments made in its

RECEIVED by MSC 11/14/2025 2:10:18 PM

April 25 application for leave to appeal. Bay Mills' initial brief on reopening, p. 19.[32]

In addition, Bay Mills contends that Mr. Godfrey and his employer DNV lack credibility, noting that Mr. Philipenko testified that DNV's software is used to provide support to the CPM. Bay Mills' initial brief on reopening, p. 22 (citing 16 Tr 2282-2285). Bay Mills posits that Mr. Godfrey's conclusions cannot be considered objective in light of the fact that he is an employee of the company that licenses the software which forms the basis for the CPM. Bay Mills further notes that Mr. Warner testified that in 2016 the State of Michigan terminated a contract with DNV for cause due to a conflict of interest. Bay Mills' initial brief on reopening, p. 23 (citing 18 Tr 2804-2805). Bay Mills states that Mr. Godfrey's testimony and POF Report should be disregarded.

Next, Bay Mills asserts that Enbridge failed to appropriately quantify the risks of the Replacement Project. Bay Mills faults Mr. Godfrey's POF Report for failure to consider all types of scenarios including installation damage, vandalism, lightning strikes, and seismic activity. Bay Mills reiterates that none of the probability analyses considered a worst-case scenario, such as a full bore rupture inside the tunnel, and Bay Mills notes that a 0.315-inch hole in the pipeline is not a worst-case scenario. Bay Mills' initial brief on reopening, p. 26. Bay Mills contends that Enbridge should have looked at a scenario involving a large amount of oil NGLs, or flammable gases, accumulating within the tunnel.

[32] The Commission notes that the arguments presented on this issue in Bay Mills' initial brief on reopening are almost identical to the arguments supporting the tribe's April 25 application for leave to appeal and will not be repeated here. The April 25 application for leave to appeal is addressed by the Commission *supra*.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Bay Mills also argues that the use of quantitative risk analysis is inappropriate and dangerous at the permitting stage of this type of project because it can downplay identified risks. Bay Mills asserts that "Enbridge gives no attention to the potentially catastrophic consequences of a pipeline failure within the tunnel. Instead, its analyses only offer mathematical conclusions, without supporting facts and data, suggesting that the likelihood of certain failure events is quite small." *Id.*, p. 27. Bay Mills contends that low risk is not the same as no risk.

4. The Michigan Propane Gas Association and the National Propane Gas Association

The Associations support Enbridge's application and argue that the additional evidence in the reopened record shows that the application meets all of the Act 16 criteria. The Associations state that Line 5 delivers a significant portion of the propane that is essential for the state of Michigan, and they argue that none of the proposals for addressing a propane supply shortage following a shutdown of the pipeline are viable. Citing the POF Report and the fact that the tunnel will act as secondary containment, the Associations argue that the reopened record shows that the Replacement Project is safer than the dual pipelines and will provide greater protection to the Great Lakes. Associations' initial brief on reopening, p. 5. The Associations point to the testimony of Mr. Godfrey, Dr. Ferrara, and Dr. Vitton on the reopened record as showing that the Replacement Project is safe from both a release of product and an ignition of a release and is far superior to the dual pipelines.

5. Michigan Laborers' District Council

MLDC supports Enbridge's application for the Replacement Project, stating that "Line 5 currently provides direct and indirect employment to MLDC members in Michigan and throughout the region." MLDC's initial brief on reopening, p. 3. MLDC notes that construction of the Replacement Project is expected to employ about two hundred Michigan workers over a

RECEIVED by MSC 11/14/2025 2:10:18 PM

multi-year period in an area of the state where jobs are needed. MLDC states that, once constructed, the tunnel and replacement pipe segment will provide hundreds of permanent maintenance jobs, and the Replacement Project will allow Michigan businesses to provide goods and services. In addition, MLDC contends that the Replacement Project will have a positive impact on local governments. *Id*., p. 5. MLDC also notes that "Line 5 has current vulnerability, including being susceptible to potential damage from anchors dropped by ships using the Straits. The [Replacement] Project, MLDC understands, will reduce this vulnerability to near zero." *Id*., p. 6. In conclusion, MLDC asserts that Enbridge's application has met all legal requirements and should be approved.

E. Reply Briefs on Reopening of the Record

1. Enbridge Energy, Limited Partnership

In its reply brief on reopening, Enbridge asserts that Bay Mills "focuses on highly-remote risks" and ignores the substantial environmental benefits offered by the Replacement Project in comparison to the dual pipelines. Enbridge's reply brief on reopening, p. 2. Enbridge contends that the Replacement Project eliminates the risk of anchor strikes and pipeline stress caused by currents and offers the benefits of direct inspection of the pipeline, enhanced leak detection, and secondary containment.

Enbridge maintains that "[t]he extensive record in this case makes clear that Enbridge has adopted sound design, safety, and engineering principles to avoid and mitigate a fire and explosion. As a result, the likelihood of both a release and an ignition of that release is extraordinarily remote: one occurrence every 169 million years." *Id*., p. 3. Enbridge posits that Mr. Adams refuted Mr. O'Mara's anecdotal theory of fire risk, and the company states that it is simply speculative to assume that a fire in the tunnel will burn longer and hotter than an RWS fire

RECEIVED by MSC 11/14/2025 2:10:18 PM

event. *Id*., p. 4. Finally, on this point, Enbridge argues that Dr. Ferrara showed that the worst-case explosion within the tunnel would create an overpressure well below what the tunnel is designed to withstand and notes that Bay Mills' offered no overpressure calculations of its own.

Next, Enbridge highlights the benefit of secondary containment offered by the tunnel. Enbridge explains that the tunnel resembles an elongated storage tank and notes that it would take two days to fill; during that time, the pressure of the escaped product will equalize with the ambient pressure in the tunnel thus preventing a release into the lakebed. Enbridge states that "there is 'no conceivable scenario' where oil will penetrate the rocks and reach the Great Lakes" because groundwater will be forced into the tunnel at a pressure greater than the atmospheric pressure of the tunnel. *Id*., p. 7 (quoting 17 Amended Tr 2475). Enbridge posits that any release will float on the water within the tunnel until it is recovered at the end portals. Accordingly, Enbridge asserts that the tunnel achieves the goal contained in the Third Agreement—namely, it will eliminate the risk of a release of Line 5 product into the Straits presented by the dual pipelines.

Regarding the issue of methane accumulation during construction and operation of the Replacement Project, Enbridge contends that it is a nonissue and that Bay Mills' arguments are overstated. Enbridge notes that it has taken safety measures (despite the fact that there are no known sources of methane in the Straits) which include monitoring for methane during construction and operation of the tunnel, and the company has prepared mitigation and remedial actions, if needed. Enbridge's reply brief on reopening, p. 8. In addition, Enbridge maintains that the GDR samples demonstrate that methane is not a concern and that the only detected methane resulted from naturally occurring decay in organic material near the shore.

RECEIVED by MSC 11/14/2025 2:10:18 PM

In response to Bay Mills' claim that the GDR samples are unreliable, Enbridge notes that "Dr. Mooney already testified that the GDR was completed 'in accordance with the state of practice in tunnel design'" and that "Bay Mills never challenged Dr. Mooney's conclusions in the earlier phase of this proceeding, and only does so belatedly, and now only after it realized that the GDR samples unequivocally show that methane is not a concern." *Id*., pp. 8-9 (quoting Exhibit MM-5, p. 6) (footnote omitted). Furthermore, Enbridge notes that, contrary to Bay Mills' claim, the USGS survey in Exhibit BMC-70 does not demonstrate that methane is a concern in the Straits area. Enbridge states that:

> no witness testified that this document establishes the existence of gas and oil reserves in the Straits. In fact, the only witness to mention Exhibit BMC-70 was Dr. Vitton during his cross-examination, testifying that "there's nothing in this paper to suggest there is or are deposits there, this is strictly trying to identify an area that could be [utilized for] future exploration[.]"

Enbridge's reply brief on reopening, p. 10 (quoting 17 Amended Tr 2562). Enbridge also adds that the two tunnel explosions in the Great Lakes Basin caused by methane cited by Bay Mills are not analogous to the geologic conditions existing at the Replacement Project.

Turning to Bay Mills' request for Class 1, Division 1 equipment in the tunnel, Enbridge avers that Bay Mills' proposal should be rejected as simply an attempt to focus the Commission on a non-issue. First, the company notes that Mr. Godfrey has shown that the risk of ignition is once in every 169 million years and his conclusion assumes the use of Class 1, Division 2 electrical equipment. Second, Enbridge states that Mr. Godfrey testified that even the use of Class 1, Division 2 equipment is a conservative design decision because the NEC "**suggests that the tunnel could be considered an unclassified location (i.e., one that does not require either Class 1, Division 1 or Class 1, Division 2 equipment)**." Enbridge's reply brief on reopening, p. 12 (emphasis added to reply brief on reopening) (quoting 17 Amended Tr 2439). Third,

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge notes that there is nothing in the record that demonstrates that the use of the higher standard will reduce the risk of ignition.

Enbridge also reiterates that installing Class 1, Division 1 equipment would increase the risk to human life because it would require personnel to spend longer periods of time in the tunnel for inspection and maintenance duties. In any event, Enbridge argues that certain non-permanent equipment, such as welding equipment, will never be able to meet this standard. Thus, the company concludes, no space-proofing exercise was required because Class 1, Division 1 equipment is not feasible, "and even if it were feasible, moving to the Class 1, Division 1 standard only adds risk to human health and safety with no demonstrable benefits." Enbridge's reply brief on reopening, p. 12.

Enbridge contends that Bay Mills failed to show that locating the replacement pipe segment on rollers in a tunnel is an unsafe design. The company notes that in the July 7 order, the Commission did not request any additional information on girth welds, heat affected zones, or pipelines placed on rollers. In addition, Enbridge points out that in the reopened record, Mr. Cooper repeated his sur-sur-surrebuttal testimony addressing the fact that the pipeline will not be buried, and Mr. Godfrey explained that the rollers decrease stress on the pipeline by distributing loads away from the welds. Enbridge argues that the only similarity between the Keystone failure and the Replacement Project is that the same type of pipe is used; however, there are important differences noted by Mr. Godfrey in his rebuttal testimony admitted on the reopened record. Enbridge's reply brief on reopening, p. 15 (citing 17 Amended Tr 2454-2455). Enbridge contends that the replacement pipe segment will meet all PHMSA requirements under 49 CFR Part 195. Enbridge's reply brief on reopening, p. 15.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Turning to the issue of leak detection, Enbridge asserts that it is only prudent (rather than imprudent) to rely on the PHMSA-required CPM and control room procedures. Enbridge argues that Bay Mills should address its safety-related concerns to PHMSA because that federal agency has exclusive jurisdiction over "leak detection and control room safety standards for interstate liquids pipelines. *See* 49 U.S.C. § 60104(c)." Enbridge's reply brief on reopening, p. 16. Nevertheless, Enbridge asserts, Mr. Philipenko rebutted all of Bay Mills' contentions. Specifically, Enbridge states that Mr. Philipenko demonstrated that the CPM is safe and reliable, reiterating that the CPM has successfully performed 97 fluid withdrawal tests at 22 different locations. *Id*. (citing 16 Tr 2258-2262). In addition, Enbridge avers that it has implemented the LDAM, which addresses Bay Mills' concerns about shutdown capability. The company explains that the LDAM requires that three members of the ART independently assess each CPM alarm and within 10 minutes, "if any one of the members identify a leak trigger, then the pipeline will be shut down. If all three have not independently selected the alarm as invalid within that time, then the pipeline is automatically shut down." Enbridge's reply brief on reopening, p. 17 (citing 16 Tr 2264-2265). Enbridge asserts that it has improved its compliance with the 10-Minute Rule and has addressed all of the recommendations made by the NTSB in the wake of the Line 6B release.

Next, Enbridge asserts that Mr. Godfrey's and Mr. Bott's risk assessments meet industry standards and use appropriate data and methodology. Enbridge notes that, "[w]hile Bay Mills argues that the use of risk assessment in the permitting phase of [the] project is inappropriate," the company disagrees, reasoning that risk assessment allows appropriate risk reduction measures to become part of the design, and, in this case, allows for comparisons between the Replacement Project and the dual pipelines. Enbridge's reply brief on reopening, p. 20. Enbridge posits that

RECEIVED by MSC 11/14/2025 2:10:18 PM

Exhibit ELP-24 (the Dynamic Risk Report) already provides the Commission with an assessment of the risk of release from the dual pipelines and argues that Exhibits A-29 and A-32 provide similar assessments for the Replacement Project. Enbridge's reply brief on reopening, pp. 20-21.

Enbridge contends that Mr. Bott's calculation of a one in one million POF is properly supported by data in Exhibit A-32, which is based on his analysis of actual failures experienced by Enbridge. The company restates that it installed over 10,000 km of pipeline between 2000 and 2022 and experienced only four releases and that the causes of those releases (ground movement or third-party damage) do not apply to the Replacement Project. Enbridge's reply brief on reopening, p. 22. Enbridge then modelled hypothetical typical flaws and arrived at the one in one million figure; however, the company states that the actual POF during real operation will be even lower. Enbridge's reply brief on reopening, pp. 22-23 (citing Exhibit A-32, p. 2). Enbridge contends that this data, too, is admissible because it is evidence of the type that is commonly relied upon by reasonably prudent persons in the conduct of their affairs. *Id*., p. 23; *see*, Mich Admin Code, R 792.10427(1). The company concludes that "[t]he reopened record makes abundantly clear that the safety of the Great Lakes will be enhanced by locating the Line 5 replacement segment within the tunnel. The highly remote risks alleged by Bay Mills (which, notably, are inherent in any major project) have been fully studied, mitigated, and are in all instances outweighed by the secondary containment provided by the tunnel." Enbridge's reply brief on reopening, p. 23.

2. The Commission Staff

In its reply brief on reopening, the Staff argues that Bay Mills' comparisons to other pipeline failures are not appropriate because those failures occurred under conditions fundamentally different from the conditions that apply to the Replacement Project. The Staff notes that the

RECEIVED by MSC 11/14/2025 2:10:18 PM

PHMSA Advisory Bulletin relied upon by Bay Mills states that these failure issues "were present on pipelines being constructed in hilly terrain and high stress concentration locations such as at crossings, streams, and sloping hillsides with unstable soils." Staff's reply brief on reopening, p. 2 (quoting Exhibit BMC-55, pp. 1-2). The Staff argues that Mr. Cooper's testimony shows that the Replacement Project involves an entirely different environment that does not impose the kind of strains typical for buried pipes. The Staff contends that the Keystone failure is also inapplicable for the same reasons.

The Staff recommends exceeding the minimum OSHA standards for certain electric equipment to allow for Class 1, Division 1 equipment and states that the "Staff is not recommending the Commission impose such a requirement on all equipment in the tunnel. Instead, Staff's position recognizes there may be opportunities to exceed this standard for certain equipment as the design is finalized." Staff's reply brief on reopening, p. 4. Referring to the fact that Enbridge has not yet purchased the equipment, the Staff reiterates that there may be opportunities to exceed the applicable Class 1, Division 2 standard for some equipment and recommends its use where "feasible, beneficial, safe, and permitted by the applicable agreements and permitting authorities." *Id.*, p. 5.

The Staff refutes Bay Mills' assertion that Enbridge is overly reliant on the CPM system. The Staff notes that the CPM system is actually three systems, which are complemented by a leak detection system that includes several different elements, each employing a different technology. The Staff notes that the control center can be alerted to a potential release by any one of these systems and elements. The Staff further notes that the pipeline already has an automatic shutdown system, which will activate in the event of a threshold pressure loss without human intervention.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Staff posits that there is no evidence on the record showing that an additional shutoff system is required for safety purposes. *Id*., p. 6.

The Staff contends that methane is not a likely source of fire or explosion in the tunnel. The Staff argues that Exhibit S-37 shows that at the low methane concentrations detected in the four GDR samples, it would take 800 to 2,400 years for those concentrations to accumulate at the LEL inside the tunnel. Turning to the issue of whether the GDR samples met relevant quality standards, the Staff states:

> [w]hile [Bay Mills] notes that the GDR indicates that certain samples failed to meet certain parameters for analysis, there is no evidence showing failure to meet these parameters impacted the concentrations of methane detected in the samples, let alone to a level significant enough to reduce the time requirement (800 or 2400 years) to a time frame that would be of reasonable concern.

Id., p. 7. In addition, the Staff notes that the gas detectors in the tunnel will detect methane. *Id*. (citing 15 Tr 2090).

The Staff states that the USGS report contained in Exhibit BMC-70 relies on a model that includes assumptions about oil and gas within the Collingwood Formation and is based on a number of wells that were drilled to a depth at least 1,300 feet below the deepest spot for the tunnel (which is at a depth of 600 to 700 feet). The Staff asserts that the USGS report provides no factual evidence that there is methane at the depth of the Replacement Project and, therefore, it does not invalidate Dr. Vitton's conclusions. Staff's reply brief on reopening, p. 8.

The Staff further states that Mr. Adams refuted Bay Mills' argument regarding the risk of tunnel failure in the event of fire. The Staff contends that Mr. Adams' "assessment of the state of designing for potential fires in tunnels" is more current and more accurate, and he explained "that the inclusion of polypropylene fibers into the concrete mix typically has resulted in very little to no spalling observed." Staff's reply brief on reopening, p. 9. The Staff asserts that Mr. Adams

RECEIVED by MSC 11/14/2025 2:10:18 PM

testified that the tunnel has been designed for the RWS fire event "in which the concrete is subjected to a temperature of 1200 degrees Celsius for 180 minutes . . . ." *Id.* The Staff notes that there is no record evidence showing that a fire of longer than 180 minutes would be significantly more damaging. Moreover, the Staff states that the RWS fire event "has been determined by experts in the industry as the appropriate standard-of-practice in designing for potential fires in tunnels, thus, the current design for the proposed tunnel meets applicable engineering and safety standards." *Id.*, p. 10.

The Staff also argues that it is not plausible that, in the event of a tunnel failure, product will reach the Straits. According to the Staff, Bay Mills' "claim that product would be forced out of the tunnel and migrate upward is based on several faulty assumptions as detailed in Staff's initial brief." Staff's reply brief on reopening, p. 10. The Staff reiterates that Bay Mills' arguments were mistaken with respect to the operating pressure and the hydraulic elements affecting a product release.

The Staff maintains that the record demonstrates that the Replacement Project would substantially reduce the environmental risks posed by the dual pipelines. The Staff notes that in Bay Mills' initial brief, it acknowledges that the Commission must conduct a qualitative review of the Replacement Project. The Staff contends that such a review reveals a clear reduction to overall risk, particularly with respect to "anchor hooking, vortex-induced vibration from currents in the Straits, and spanning stress." *Id.*, p. 11 (citing Exhibit ELP-24, p. 28). Additionally, the Staff asserts that if the Replacement Project is constructed, the exterior of the replacement pipe segment can be visually inspected more easily, and the tunnel will offer secondary containment.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Staff disputes Bay Mills' claim that there is a reasonable risk that Line 5 product will be released from the Replacement Project into the Straits. For this to occur, the Staff asserts that an implausible chain of events is required:

> Initially, a release must occur. Then, product must evade gas detectors (or gas detectors must malfunction) and accumulate in a portion of the tunnel at the LEL. (18 TR 2670.) At which point in time and location, an abnormal spark must occur to ignite the product. (*Id.* at 2676.) The ignition must then cause a fire to burn long and hot enough to damage the tunnel lining (despite concrete designed to withstand fire) to a point that would allow product to escape. (*Id*. at 2671, 17 TR 2570-71.) Then, the pipeline must continue to operate for two full days in order to fill the tunnel and reach a pressure that may overcome the surrounding hydrostatic pressure. (17 TR 2459, Exhibit S-16, pp 5-6.) Finally, the product must migrate through the geology upward, continuously overcoming downward water pressure, for a volume of product to eventually reach the waters of the Straits. (17 TR 2475.)

Staff's reply brief on reopening, p. 12. The Staff also posits that "it is incomprehensible to conclude that such a chain of a events following a rupture from the proposed replacement segment is equally likely to reach the Straits as a rupture from the dual pipelines." *Id*., pp. 12-13.

The Staff notes that according to Bay Mills, Mr. Godfrey "is 'tipping the scales' and that due to his employment with DNV, his analysis could not be objective." *Id*., p. 13 (quoting Bay Mills' initial brief on reopening, p. 22). The Staff disagrees, asserting that Mr. Godfrey's employment status is not relevant nor is the fact that the State of Michigan terminated a contract with DNV seven years ago due to the actions of a different employee regarding a different issue. Staff's reply brief on reopening, p. 13.

Finally, the Staff states that it is not replying to the Associations or to MLDC.

3. Bay Mills Indian Community

Bay Mills asserts that Enbridge has failed to demonstrate that the Replacement Project meets or exceeds current safety and engineering requirements and thus the third prong of the Act 16 criterion is not satisfied. Bay Mills restates that:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> Enbridge's central argument on remand—that a catastrophic failure in the tunnel is an extremely unlikely event—relies on a quantitative risk assessment that minimizes identified engineering risks by assigning a misleading numeric probability value to suggest that the proposed project is "safe." As Mr. Kuprewicz testified, this assignment of probability estimates to known, identified risks during a permitting process is dangerous because it invites complacency.

Bay Mills' reply brief on reopening, p. 2 (quoting 17 Amended Tr 2622). Bay Mills also reiterates that the risk assessments, such as in Exhibits A-29 and A-32, cannot be checked for accuracy because the underlying data has not been made available and cannot be replicated. Bay Mills adds that Enbridge failed to recognize the interactive nature of risks and that a POF analysis for the tunnel should include "the sum total of all events, not just a reliance on one numerical value attached to one event." Bay Mills' reply brief on reopening, p. 3 (footnote omitted).

In addition, Bay Mills asserts that Mr. Godfrey's quantitative risk analysis does not address Mr. Kuprewicz's concern regarding the design of the Replacement Project. Bay Mills argues that the installation of the replacement pipe segment on rollers will result in abnormal loading on the girth welds, a concern that is heightened by the use of grade X70 pipe. Moreover, Bay Mills notes that Enbridge's engineer of record, Arup, provided no testimony on the potential axial shear stress that the pipeline segment will experience. Bay Mills' reply brief on reopening, p. 4.

Bay Mills states that Enbridge also failed to support the decision to adjust Mr. Godfrey's calculated POF down by an order of magnitude. Bay Mills notes that Mr. Godfrey claims that the adjustment is appropriate because "Enbridge has an Integrity Management program that prevents failures from occurring and detects them should they occur. In essence, Godfrey suggests that Enbridge should be given a probability 'credit' because, in his view, Enbridge is unlikely to experience 'operator error.'" *Id.*, p. 5 (footnote omitted). However, Bay Mills argues that Mr. Godfrey's conclusion is not credible because the PHMSA database (on which Mr. Godfrey

RECEIVED by MSC 11/14/2025 2:10:18 PM

relies for his adjustment) notes that Enbridge had 20 incidents of operator error between 2002 and 2022.

Next, Bay Mills restates that Enbridge's explosion analysis failed to consider the worst-case scenario. Bay Mills explains that Dr. Ferrara's Explosion Study (Exhibit A-35) "only suggest[s] that a tunnel—about seven-times smaller than the one proposed—can withstand the overpressure generated by an explosion following a pinhole release; it proves nothing more." Bay Mills' reply brief on reopening, p. 7 (citing Exhibit A-35, p. 11). Bay Mills reiterates that a worst-case scenario would involve a full bore rupture of the pipeline, and instead, Dr. Ferrara "chose to run a model based on a tunnel that was level and only 1000 meters long; a release from a single hole that was 0.315 inches in diameter; a vapor cloud width, length, and height that did not fill the tunnel; and a constant atmospheric temperature, all of which were provided by Enbridge." Bay Mills' reply brief on reopening, pp. 7-8 (citing Exhibit A-35, pp. 8, 11). Accordingly, Bay Mills asserts that Dr. Ferrara's evidence should be given little weight. Bay Mills also contends that following the Marshall incident, the NTSB concluded that Enbridge had failed to plan for a worst-case discharge. Bay Mills argues that the Replacement Project is facing the same fate.

Bay Mills objects to Dr. Vitton's opinion that there is no methane in the area of the Replacement Project, asserting that his opinion is contradicted by the evidence on the record. Bay Mills refers to the USGS survey (Exhibit BMC-70) and states that shale oil has been identified in the geologic area (the Collingwood Formation) which lies directly under the Straits. Citing Exhibit BMC-70, Bay Mills states as follows:

> Dr. Vitton responded that "there's nothing in this paper to suggest there is or are deposits there." Vitton Cross-Examination, 17 Tr. 2562. That is not accurate. For clarification, the Fact Sheet refers to "undiscovered, technically recoverable" oil and gas resources. Exh. BMC 70 at 1. The USGS assesses "undiscovered, technically recoverable resources" as those which are estimated to exist based on geological knowledge and theory. *See* https://www.usgs.gov/faqs/what-difference-

RECEIVED by MSC 11/14/2025 2:10:18 PM

between-assessed-oil-and-gas-resources-and-reserves#:%7E:text=The%20USGS%20assesses%20%E2%80%9Cundiscovered%2C%20technically,on%20geologic%20knowledge%20and%20theory[.]

Bay Mills' reply brief on reopening, p. 9, n. 40. Bay Mills asserts that Enbridge failed to investigate the rock at the deepest part of the Straits or the deepest elevation of the tunnel. Moreover, Bay Mills states that with four of the GDR samples showing methane, "the evidence suggests that methane could pose a risk to the construction and operation of the replacement pipeline." *Id.*, p. 10. Bay Mills also notes that Dr. Vitton contributed to a report submitted to the State of Michigan by Enbridge in 2018 (Exhibit A-9) which found that explosive gases, including methane and hydrogen sulfide, form a potential hazard in the Straits.

In addition, Bay Mills disputes Enbridge's claim that "there is 'no conceivable scenario' in which Line 5 product could escape the confines of the tunnel and migrate into the Straits . . . ." Bay Mills' reply brief on reopening, p. 11 (quoting 17 Amended Tr 2475). Bay Mills again asserts that Enbridge failed to consider a worst-case scenario, stating that the "hydrostatic pressure outside the tunnel will naturally push fractured rock, sediment, and water against the intact tunnel, or into a compromised tunnel, because the pressure inside the tunnel is essentially zero . . . ." Bay Mills' reply brief on reopening, p. 11. In the event there is an explosion in the tunnel, Bay Mills states that it "could ignite a product fire resulting in a fuel-rich flame from a large pool of hydrocarbons that burns for hours, *not 180 minutes*, and triggers additional explosions and fires throughout the length of the 4-mile-long pipeline filled with hazardous liquids." *Id.*, p. 12 (emphasis in original) (footnote omitted). Bay Mills asserts that this type of scenario could result in a "'pancake failure,' or a failure where the weight of the rock, sediment and water above the tunnel will cause the weakened portions of the tunnel segmented liner to fail and collapse inward." *Id.* (footnote omitted). Bay Mills contends that in this scenario, the tunnel interior will commingle with rock,

RECEIVED by MSC 11/14/2025 2:10:18 PM

sediment, and water, and the secondary containment feature will be lost while the product in the pipeline escapes. Bay Mills states that the product's operating pressure of 463 psi will significantly exceed the hydrostatic pressure, including the pressure at the deepest part of the tunnel. *Id*., p. 13, n. 56.

Bay Mills avers that although Enbridge touts its leak detections systems and automatic shutdown procedures as effective and almost instantaneous, the company has experienced numerous releases due to operator error in the past 20 years. Accordingly, Bay Mills asserts that there is no reason to believe that Enbridge's LDAM system will effectively detect and prevent a catastrophe with the Replacement Project. Bay Mills contends that a full bore rupture will fill the tunnel "with tons of product in a matter of minutes" and an explosive environment will have already been created even if the leak is detected. *Id*., p. 14. Turning to Enbridge's assertion of a one in one million risk of release, Bay Mills argues that Enbridge initially pulled the number out of thin air (though presented it as evidence) and then later described it as a reliability target for the IMP rather than as a probability of release. *Id*., p. 15.

Bay Mills notes that the Commission requested information in the July 7 order on the feasibility of exceeding OSHA standards and using Class 1, Division 1 electrical equipment. However, Bay Mills contends that Enbridge failed to provide that information and simply indicated that it is unclear whether it is feasible. Bay Mills notes that "[t]he only reason the feasibility of using a more stringent electrical classification for the proposed tunnel remains *unclear* is because Enbridge, as the applicant, failed to supply the information that the Commission ordered it to produce." *Id*., pp. 16-17 (emphasis in original). Bay Mills argues that Class 1, Division 1 equipment will reduce the risk of an ignition in a location where hazardous

RECEIVED by MSC 11/14/2025 2:10:18 PM

gases or vapors may exist and that a requirement to use this type of equipment is entirely appropriate.

Bay Mills further contends that Enbridge has made clear that the purpose of the ventilation system is not to prevent a catastrophic accumulation of hydrocarbon vapor in the tunnel. Rather, Bay Mills states that according to Enbridge, the ventilation system is designed strictly to provide "'breathable air' when maintenance personnel are in the tunnel." *Id*., p. 18 (quoting Exhibit A-31, p. 4). In any event, Bay Mills contends that Enbridge has not shown that the ventilation system is adequate, stating that:

> Enbridge calculated the critical velocity needed to be achieved to provide personnel with an exit path clear of smoke in the event of a fire. However, the "design fire size" used in the calculation was "10 MW." That measurement is "representative of a large vehicle fire." The size of a large vehicle fire cannot be said to be comparable to the size or intensity of a fire resulting from a breach of Line 5, and even less so to a full-bore rupture of the line—a 4-mile-long segment transporting 540,000 barrels per day—releasing roughly 16,000 gallons per minute. Enbridge has suggested only that its proposed ventilation system will allow workers a path out of the tunnel in the event of a car fire; it has proved nothing more.

Id., pp. 18-19 (citing Exhibit A-31, p. 4, and 7 Tr 564).

Furthermore, Bay Mills maintains that Enbridge has failed to show that its fire response system meets or exceeds current safety and engineering standards. Bay Mills notes that the company has proposed a passive fire suppression system that simply seals off the ends of the tunnel to starve a fire of oxygen. Bay Mills argues that Enbridge needs an active fire suppression system such as the FFFS and an advanced ventilation system that will remove smoke. Bay Mills observes that Enbridge based its decision on the need to reduce the presence of workers in the tunnel, and yet the evidence shows that workers will routinely be entering the tunnel. Bay Mills' reply brief on reopening, p. 19 (citing 16 Tr 2194).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Regarding the second prong of the Act 16 analysis, Bay Mills asserts that Enbridge has not shown that the Replacement Project eliminates the risks associated with the dual pipelines, asserting that "the tunnel substitutes one set of risks for another." Bay Mills' reply brief on reopening, p. 20. Bay Mills states that the dual pipelines are not safe and have been shut down by court order. While acknowledging that anchor strikes and bending stresses may be alleviated by the tunnel, Bay Mills argues that the design of the Replacement Project presents its own unique and specific risks including the possibility of explosion arising from a heavier-than-air vapor release that settles in the lowest spot in the tunnel and is ignited. Bay Mills notes that the siting of a hazardous liquid pipeline within a tunnel has never been attempted before and contends that it has "the potential to create a catastrophe in the Great Lakes." *Id.*, p. 22.

Finally, Bay Mills states that it is not responding to the initial briefs filed by MLDC and the Associations because they do not comply with Mich Admin Code, R 792.10434 in that they include factual assertions without citations to the record. *Id.*, pp. 23-24.

4. Michigan Propane Gas Association and National Propane Gas Association

In their reply brief, the Associations support Enbridge's application and state that they disagree with Bay Mills' arguments regarding the evidence presented by Mr. Godfrey and Mr. Bott. The Associations' reply brief on reopening, pp. 1-2.

5. Michigan Laborer's District Council

In its reply brief, MLDC supports Enbridge's application and states its disagreement with Bay Mills' arguments regarding the evidence presented by Mr. Godfrey and Mr. Bott. MLDC's reply brief on reopening, pp. 1-2.

RECEIVED by MSC 11/14/2025 2:10:18 PM

VII. LEGAL FRAMEWORK

Enbridge's application requests that the Commission grant the company authority to construct and operate the Replacement Project pursuant to Act 16 and Rule 447. As set forth in the title, the purpose of Act 16 "is to regulate the business of carrying or transporting, buying, selling, or dealing in crude oil or petroleum or its products" and "to provide for the control and regulation of all corporations, associations, and persons engaged in such business, by the Michigan public service commission . . . ." In addition, Section 1(2) of Act 16, MCL 483.1(2), states in relevant part:

> A person exercising or claiming the right to carry or transport crude oil or petroleum, or any of the products thereof . . . by or through pipe line or lines . . . or exercising or claiming the right to engage in the business of piping, transporting, or storing crude oil or petroleum, or any of the products thereof . . . does not have or possess the right to conduct or engage in the business or operations, in whole or in part, or have or possess the right to locate, maintain, or operate the necessary pipe lines, fixtures, and equipment belonging to, or used in connection with that business . . . except as authorized by and subject to this act.

Moreover, the Commission has broad jurisdiction over the construction and operation of pipeline facilities and has the "authority to review and approve proposed pipelines, and to place conditions on their operations." March 7, 2001 order in Case No. U-12334 (March 7 order), p. 13, citing *Lakehead*; *see also*, January 31, 2013 order in Case No. U-17020, p. 5. The Commission has previously found that "[i]nherent in that jurisdiction is the power to make a qualitative evaluation regarding whether a proposed system would be safe and in the public interest." March 7 order, p. 14.

Pursuant to Section 8 of Act 16, MCL 483.8, the Commission has authority to make rules, regulations, and orders to give effect to and enforce the provisions of Act 16. Accordingly, the Commission promulgated Rule 447, which states in relevant part:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> (1) An entity listed in this subrule shall file an application with the commission for the necessary authority to do the following:
>
> (c) A corporation, association, or person conducting oil pipeline operations within the meaning of 1929 PA 16, MCL 483.1 to 483.9, that wants to construct facilities to transport crude oil or petroleum or any crude oil or petroleum products as a common carrier for which approval is required by statute.

Rule 447 (1)(c). In the June 30 order, the Commission found that Enbridge was required by Act 16 and Rule 447 to file an application for authority to construct and operate the Replacement Project. June 30 order, pp. 61, 66-67.

The July 23 order sets forth the criteria by which the Commission reviews an Act 16 application: "Generally, the Commission will grant an application pursuant to Act 16 when it finds that the applicant has demonstrated a public need for the proposed pipeline and that the proposed pipeline is designed and routed in a reasonable manner, which meets or exceeds current safety and engineering standards." July 23 order, pp. 4-5.

In addition to this three-part test, courts have found that state agencies have an obligation to apply the requirements of MEPA to its decisions, including to Commission pipeline siting cases. *State Hwy Comm v Vanderkloot*, 392 Mich 159, 189-190; 220 NW2d 416 (1974) (*State Hwy Comm*); *Buggs I*, p. 9. Section 5 of MEPA, MCL 324.1705, provides, in pertinent part:

> (1) If administrative, licensing, or other proceedings and judicial review of such proceedings are available by law, the agency or the court may permit the attorney general or any other person to intervene as a party on the filing of a pleading asserting that the proceeding or action for judicial review involves conduct that has, or is likely to have, the effect of polluting, impairing, or destroying the air, water, or other natural resources or the public trust in these resources.
>
> (2) In administrative, licensing, or other proceedings, and in any judicial review of such a proceeding, the alleged pollution, impairment, or destruction of the air, water, or other natural resources, or the public trust in these resources, shall be determined, and conduct shall not be authorized or approved that has or is likely to have such an effect if there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Accordingly, Section 5(2) of MEPA, MCL 324.1705(2), requires that in an administrative permitting proceeding, an agency must determine whether the conduct under review will pollute, impair, or destroy natural resources, and, if likely so, the proposed conduct shall not be approved if a feasible and prudent alternative exists that is consistent with the reasonable requirements of the public health, safety, and welfare. The substantive duty that is placed on administrative agencies and courts by Section 5(2) of MEPA is separate from the procedural rights afforded under Section 5(1) of MEPA. *State Hwy Comm*, 392 Mich at 185-186, 190-191; *Buggs I*, p. 9.

VIII. DISCUSSION

As an initial matter, the Commission notes that ED 2019-17 directs State agencies to "provide feedback to the tribe(s) involved in the consultation [process] to explain how their input was considered in the final decision or action." ED 2019-17, ¶ 2(d). The Commission has reviewed Exhibits S-25, S-34, S-35, S-36 and the comments filed on the record and finds that the concerns expressed during the Tribal consultation process and in comments were formally presented on the record for the Commission's consideration. Pursuant to its obligations under ED 2019-17, the Commission has fully considered the concerns presented by the Tribes in the Commission's Act 16 and MEPA analyses below.

To determine whether Enbridge's application for authority to construct and operate the Replacement Project should be approved, the Commission begins with the Act 16 analysis.

A. Is There a Public Need to Replace the Line 5 Segment that Crosses the Straits of Mackinac and Relocate the Segment to a Concrete-lined Tunnel Below the Lakebed of the Straits?

Enbridge asserted that the execution of the First, Second, and Third Agreements and the enactment of Act 359 demonstrate that there is a public need for the Replacement Project. *See*, Enbridge's initial brief, pp. 11-13. The Associations agreed. Associations' initial brief, pp. 9-12.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Staff also contended that the execution of the Second and Third Agreements and the enactment of Act 359 "determined it to be in the public's interest" to replace the dual pipelines with a new segment located in a tunnel beneath the lakebed of the Straits. Staff's initial brief, p. 110. The MEC Coalition and Bay Mills argued that Enbridge failed to demonstrate a public need for the Replacement Project and that the Commission should deny Enbridge's application. *See*, MEC Coalition's reply brief, pp. 6-10; Bay Mills' reply brief, pp. 6-13.

The Commission begins its discussion of the public need for the Replacement Project by noting the Michigan Supreme Court's 1954 finding that the construction and operation of Line 5, as a whole, was "for a public use benefiting the people of the State of Michigan." *Lakehead*, p. 37. Further, as noted in the April 21 order, the Commission reaffirms its finding that "the first issue is whether there is a public need to carry out the Replacement Project, a project to replace the dual pipelines with a new pipeline in a tunnel, and does not concern approved, existing pipeline that is merely interconnected with the segment that is the subject of the application. The public need for the existing portions of Line 5 has been determined. The public need for the Replacement Project has yet to be determined." April 21 order, p. 63.

To determine whether there is a public need for the Replacement Project, the Commission begins by examining the record evidence explaining the rationale for the proposal to replace the dual pipelines with the Replacement Project.

The Commission notes that on February 22, 2016, the State of Michigan issued a Request for Information and Proposals:

> to provide the State of Michigan and other interested parties with an independent, comprehensive analysis of alternatives to the existing Straits Pipelines, and the extent to which each alternative promotes the public health, safety and welfare and protects the public trust resources of the Great Lakes. The work [should] not include a recommendation by the contractor of a preferred alternative. Rather, the work [should include] the development of information that can be used by the State

RECEIVED by MSC 11/14/2025 2:10:18 PM

> [of Michigan] and other interested parties in making decisions about the future of the Straits Pipelines.

Exhibit ELP-24, p. 4. In response to the State of Michigan's request, on October 26, 2017, Dynamic Risk completed the Alternatives Report that analyzed alternatives to the dual pipelines. Dynamic Risk noted that "[t]he scope of work addressed within the analysis includes an independent review of the risks associated with Enbridge Pipelines' existing [dual pipelines] . . . ." *Id*.

The Commission reviewed the Alternatives Report and notes that according to Dynamic Risk:

> the Principal Threats that were found to contribute to the operating risk on the existing 20-[inch] Straits Crossing segments are, in order of decreasing contribution, anchor hooking, incorrect operations, vortex-induced vibration (VIV), and spanning stress. . . . As shown in Figure ES-4, the dominant threat, representing more than 75% of the annualized total (all-threat) failure probability, is that of anchor hooking caused by the inadvertent deployment of anchors from ships traveling through the Straits.

Exhibit ELP-24, p. 28; *see*, 12 Tr 1716. Dynamic Risk also provided a technical evaluation of six alternatives to the dual pipelines that included, for each alternative, a design-based cost estimate, an economic feasibility analysis, the socioeconomic impact, the market impact, and a spill risk analysis.

Alternative 1 in the Alternatives Report involved constructing a new pipeline that does not cross the open waters of the Great Lakes. Dynamic Risk explained that it explored two routes for the pipeline: (1) a northern route through Canada, around the Great Lakes, and south to Sarnia, Ontario, Canada, and (2) a southern route that follows existing Enbridge assets south to Chicago, Illinois, east to Marysville, Michigan, and east to Sarnia, Ontario, Canada. Dynamic Risk stated that the "northern new-build option was filtered out at a very advanced stage of analysis, after full design and costing were conducted and economic feasibility indicators were developed." Exhibit ELP-24, p. 46. Dynamic Risk asserted that the southern route for a pipeline includes 75 major

RECEIVED by MSC 11/14/2025 2:10:18 PM

crossings (rail, highway, and watercourses), 17 of which would be in Michigan, it would cost $225 million/year upon start-up, and it would cost $165 million/year to operate. *See*, Exhibit ELP-24, pp. 25, 316, 359.

In its analysis for Alternative 2, Dynamic Risk considered whether existing Canadian and American pipeline infrastructure that does not cross the open waters of the Great Lakes could be used to carry the volume of petroleum products currently being shipped on Line 5 from Superior, Wisconsin, to Sarnia, Ontario, Canada. Dynamic Risk concluded that:

> the relatively short length and limited excess capacity in the available sections (Stockbridge-Sarnia and North Bay-Barrie), combined with the limited information on availability of the TransCanada line, mean that Alternative 2 would nonetheless still require that significant new infrastructure be built to complement this excess capacity. From that perspective, Alternative 2 is not significantly different enough from Alternative 1. Therefore, a separate cost analysis was not completed for Alternative 2.
>
> Also, as there is no meaningful partial capacity within existing infrastructure, any attempt to rely on Alternative 2 is essentially equivalent to the full abandonment option (Alternative 6b).

Exhibit ELP-24, p. 307.

For Alternative 3, Dynamic Risk analyzed alternative methods of transportation such as rail, tanker trucks, and oil tankers and barges in the event that Line 5 is decommissioned in Michigan and Line 5 product will need transportation from Superior, Wisconsin, to Sarnia, Ontario, Canada. Dynamic Risk asserted that:

> [t]o handle the Line 5 volumes would require 2,150 trucks per day on average, or an average of 90 trucks leaving the terminal every hour, 24 [hours] per day. . . . This rate of added vehicles will put significant strain on the existing infrastructure including wear and tear on public roadways. The probability of accidents associated with such heavy vehicle traffic makes it likely that spills will happen.

ELP-24, p. 348. For oil tankers and barges, Dynamic Risk stated that:

> [t]anker transportation of crude oil and NGLs from Superior to Sarnia would have to pass through the locks on the St. Marys River at Sault Ste. Marie. The Soo

RECEIVED by MSC 11/14/2025 2:10:18 PM

> Locks are aging and in need of substantial investment to bring them back to reliable operation for this additional traffic. Should a problem arise or a restriction be placed on these locks[,] the feasibility of this option is severely limited.
>
> Additionally, the Soo Locks between Lake Superior and Lake Huron are closed for repairs from January 15th to March 25th, or two and a half months, each year. To accommodate this situation, volumes would need to be transported by another means or storage capacity would be required in the Superior and Sarnia areas to handle the large buffer volume required.

Id., p. 349. Regarding the rail option, Dynamic Risk noted that:

> [a]ccommodating Line 5's capacity of 450,000 bbl/d of crude oil, and 90,000 bbl/d of NGL would require approximately 800 rail cars per day on average. Considering unit trains comprised of 100 cars, this option would require 8 unit trains per day. Weather and other potential interruptions that may impact a large number of trains would need to be considered. A buffer storage volume of product would need to be available and the fleet of railcars would need to be large enough to catch up within a set period of time.

Id., pp. 349-350. For rail transportation of Line 5 petroleum products, Dynamic Risk calculated a construction cost of $907 million and an operating cost of $1,220 million/year. *See, id.*, p. 25. Although Dynamic Risk stated that the increased rail transportation may negatively impact urban and farm areas and may pose an environmental threat to over 1,000 other aquatic environments in Michigan in the event of a rail accident and spill, Dynamic Risk found it to be the most practical and cost-effective option of the Alternative 3 transportation options. *See, id.*, pp. 349-350.

In Alternative 4, Dynamic Risk analyzed a tunneling option. Dynamic Risk estimated that the total cost of the tunneling project would be approximately $153 million, but that the $95 million/year operational costs of the existing Line 5 system would remain the same and there would be negligible impacts to the market. *See, id.*, pp. 230-232. Dynamic Risk contended that the tunneling option would require the procurement of shoreline locations, but stated that there are potentially available undeveloped sites along the shoreline. In addition, Dynamic Risk asserted that "[g]ood rock conditions and minimal water inflow are anticipated at the Straits and no adverse

RECEIVED by MSC 11/14/2025 2:10:18 PM

geotechnical conditions are known to exist which would negate tunneling as an option." *Id*., p. 229. Dynamic Risk noted that there may be some socioeconomic factors to consider during construction of the tunnel, including air pollution, noise impacts, and limited housing for workers. In its risk assessment of Alternative 4 and the likelihood of Line 5 products entering the Great Lakes, Dynamic Risk stated that "the risks associated with the potential for a release of Line 5 products to enter the waters of the Great Lakes from a Straits tunnel crossing of a design, as proposed, is considered to be negligible, and un-quantifiably low." *Id*., p. 275.

For Alternative 5, Dynamic Risk conducted "a comprehensive engineering study of the current condition and operation of the existing pipeline segments based on an evaluation of design, materials properties, installation procedures, operating conditions, as well as a review of Enbridge's assessment data and integrity standards." Exhibit ELP-24, p. 88. Dynamic Risk asserted that continued operation of the dual pipelines presented no *new* operating costs, socioeconomic impacts, or environmental concerns. However, after conducting a threat assessment of the dual pipelines, Dynamic Risk noted that:

> [w]hile there have been no incidents involving anchor strike (drag/drop) in the operating history of the Straits pipelines (68), it must be noted that with respect to the above vulnerability factors, the Straits Crossing segments cross a busy shipping lane (see Figure 2-5), where they lie exposed on top of lakebed with no protective cover. They also are situated in water that is shallow, relative to the anchor chain lengths of most cargo vessels. Furthermore, a 20-[inch] diameter pipeline is small enough to fit between the shank and flukes of a stockless anchor for a large cargo vessel, and thus, is physically capable of being hooked.

Exhibit ELP-24, p. 123.

In Alternative 6, Dynamic Risk considered a scenario in which service on the dual pipelines was eliminated. Dynamic Risk analyzed the resulting market impacts and assessed alternatives for the delivery of propane to Michigan retailers and customers. *See, id*., pp. 276-278.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Commission notes that on November 27, 2017, following publication of the Alternatives Report, the State of Michigan and Enbridge executed the First Agreement, which stated that "the continued operation of Line 5 through the State of Michigan serves important public needs by providing substantial volumes of propane to meet the needs of Michigan citizens, supporting businesses in Michigan, and transporting essential products, including Michigan-produced oil to refineries and manufacturers . . . ." Exhibit A-8, p. 1; *see*, 7 Tr 565-566. The First Agreement also stated that "the State [of Michigan] and Enbridge desire to establish additional measures and undertake further studies with respect to certain matters related to Enbridge's stewardship of Line 5 within Michigan and the transparency of its operation." Exhibit A-8, p. 2. Accordingly, the First Agreement required Enbridge to perform an additional Alternatives Analysis for three options that were selected for replacing the Straits Line 5 segment: (1) installation in a tunnel below the lakebed of the Straits, (2) installation using an open-cut method that includes secondary containment, and (3) installation using HDD. The First Agreement noted that the Alternatives Analysis should compare the feasibility of construction, the associated costs, engineering considerations, the potential environmental impacts and mitigation measures, and the risk of failure for the three alternatives. After analyzing the three alternatives, Enbridge concluded that the tunnel option was feasible, had the least impactful environmental construction process, and that there was "no credible scenario that would result in a release of product into the Straits." Exhibit A-9, p. 67; *see*, 7 Tr 566-568.

In addition, the Commission notes that according to MSCA's witness, Mr. Cooper, there are two other possibilities for replacing the Straits Line 5 segment that were not considered in the Alternatives Report or Enbridge's Alternatives Analysis: suspending a replacement pipeline from the Mackinac Bridge or constructing a new suspension bridge to house the replacement pipe

RECEIVED by MSC 11/14/2025 2:10:18 PM

segment. He concluded that it would not be practical to suspend the Straits Line 5 replacement pipe segment from the Mackinac Bridge because:

> [t]he pipeline would add load to the Mackinac Bridge for which it was not designed and would tend to shorten the 64-year-old bridge's useful life. Maintenance of the pipeline would be challenging if it were suspended below the bridge deck, especially in the winter months. A suspended pipeline could include secondary containment, but a concurrent failure of pipe and casing would release product into the waters of the Straits.

9 Tr 1238. Regarding a new suspension bridge, Mr. Cooper asserted that this option would be difficult and expensive to maintain, at risk for aircraft and wind impacts, and cause visual impacts to the scenic beauty of the Straits. Similar to the option of suspending a pipeline from the Mackinac Bridge, he noted that a new suspension bridge with a pipeline and secondary containment feature would suffer from the same threat of concurrent failure of the pipe and casing, thus releasing product into the Straits.

A Second Agreement between the State of Michigan and Enbridge was executed on October 3, 2018. The Commission finds that the Second Agreement includes the same sentence regarding public need for the continued operation of Line 5 that is contained on page 1 of the First Agreement. Exhibit A-10, p. 1. However, the Commission finds that the Second Agreement identified a second element of public need: protection of public resources. Specifically, the Second Agreement stated that:

> the State and Enbridge recognize that the Straits Crossing and the St. Clair River Crossing (collectively "Crossings") are located in the Great Lakes and connecting waters that include and are in proximity to unique ecological and natural resources that are of vital significance to the State and its residents, to tribal governments and their members, to public water supplies, and to the regional economy, and the Crossings are also present in important infrastructure corridors . . . .

Exhibit A-10, p. 2. The Second Agreement noted that:

> Enbridge prepared and submitted to the State [of Michigan] the report entitled *Alternatives for replacing Enbridge's dual Line 5 pipelines crossing the Straits of*

RECEIVED by MSC 11/14/2025 2:10:18 PM

> *Mackinac* (June 15, 2018) ("Alternatives Analysis"). That Alternatives Analysis concluded that construction of a tunnel beneath the lakebed of the Straits connecting the upper and lower peninsulas of Michigan, and the placement in the tunnel of a new oil pipeline, is a feasible alternative for replacing the Dual Pipelines, *and that alternative would essentially eliminate the risk of adverse impacts that may result from a potential oil spill in the Straits . . . .*

Id., p. 5 (emphasis added); *see*, 7 Tr 566-567.

On December 18, 2018, the Third Agreement between the State of Michigan and Enbridge was executed to fulfill the parties' obligations as set forth in the Second Agreement. The Third Agreement stated that "[t]he replacement of the Dual Pipelines with the Straits Line 5 Replacement Segment in [a] Tunnel is expected to eliminate the risk of a potential release from Line 5 at the Straits." Exhibit A-1, p. 4; *see*, 7 Tr 567.

Further, the Commission notes that concurrent with the Third Agreement, the Michigan Legislature enacted Act 359. Section 14a(1) of Act 359, MCL 254.324a(1), states in relevant part that "[t]he Mackinac bridge authority may acquire, construct, operate, maintain, improve, repair, and manage a utility tunnel" connecting the Upper and Lower Peninsulas. Notably, Act 359 also states that "[t]he carrying out of the Mackinac bridge authority's purposes, including a utility tunnel, are for the benefit of the people of this state and constitute a public purpose." MCL 254.324a(5).

In accordance with the obligations set forth in the Second Agreement and Act 359, the State of Michigan and Enbridge executed the Tunnel Agreement on December 18, 2018. *See*, MCL 254.324d(4); 7 Tr 567. The Tunnel Agreement states in relevant part: "The Tunnel, subject to the design and engineering work including the Geotechnical Investigations required under this Agreement, is to . . . be constructed of a suitable structural lining, providing secondary containment to prevent any leakage of liquids from the Line 5 Replacement Segment into the lakebed or Straits." Exhibit A-5, p. 10; *see*, 7 Tr 567.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Additionally, in 2018, the DNR granted MSCA a new easement in the Straits for the Replacement Project, which was then assigned to Enbridge. *See*, Exhibit A-6.

Based on a review of this record evidence, the Commission finds that as noted by Enbridge, the Staff, and the Associations, the First, Second, and Third Agreements and Act 359 demonstrate that there is a public purpose and public need to replace the dual pipelines with the Replacement Project. The Commission also notes that the Associations point to the DNR's granting of a new easement for the tunnel to MSCA as recognizing the need for the Replacement Project, as well as EGLE's granting of the NREPA Parts 303 and 325 permits, where "EGLE 'considered the concerns raised by comments that this project is in the public interest, and . . . determined that . . . the project is in the public interest.'" Associations' initial brief, p. 10 (quoting Exhibit A-18, p. 8). However, the Commission finds Dynamic Risk's Alternatives Report and testimony presented by the Staff and the Associations to be particularly informative in determining public need for the Replacement Project.

For Alternative 6 in the Alternatives Report, Dynamic Risk assessed "the potential market and economic impacts of eliminating all transportation of petroleum products and [NGLs] through the segment of Enbridge's Line 5 which crosses the Straits of Mackinac. The crossing would then be abandoned and potentially all of Line 5 would be abandoned if the fragmented segments could not be effectively used." Exhibit ELP-24, p. 276. According to Dynamic Risk, if Line 5 was abandoned in full or in part, Enbridge would need to secure alternative supply sources to continue current refinery and petro-chemical operations, it may require plant or infrastructure modifications and capital additions, and it would require replacement access to alternative markets to secure sufficient supply, which is likely to increase transportation costs and tariffs. *See*, *id*., p. 278.

Dynamic Risk also noted that:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> [i]n 2015, Michigan consumed 460 million gallons of propane, with propane being distributed from several [in-state] storage and distribution terminals. Of this, approximately 430 million gallons were consumed in the Lower Peninsula. The Michigan Lower Peninsula is itself an important United States hub for natural gas and propane storage, which permits secure supplies of storage to be available to consumers in the Lower Peninsula. Line 5 does not deliver any NGLs directly to the Lower Peninsula, but deliveries to Sarnia approach 90 kbbl[kilobarrels]/[day]. Flows of propane from Sarnia to Michigan are estimated to be 25 kbbl/[day]; this is equivalent to about 380 million gallons annually and represents a significant proportion of total demand within Michigan.

Id., p. 280 (footnote omitted).

Further, Dynamic Risk noted that:

> [t]he assessment carried out for Alternative 6b focused on the impacts to energy facilities within the [s]tate of Michigan that rely on Line 5 for the receipt or delivery of commodities to their respective facilities. The alternative transportation chosen and estimated costs are presented in Table 4-5. In addition, the Sarnia fractionator was identified as an important potential source of propane into the Michigan storage and distribution hub.
>
> * * *
>
> Additionally, the incremental feedstock costs for the refineries may translate into higher refined product costs for gasoline and distillates of 2.13¢/[gallon] throughout the [s]tate of Michigan. Assuming the incremental cost is passed through to Michigan consumers, who consume 5,700 million [gallons]/[year], this cost equates to $121 million/[year].

Exhibit ELP-24, p. 300.

Moreover, Mr. Sloan, who testified on behalf of the Associations, stated that if Line 5 in Michigan was abandoned in full or in part, there have been no proposals to:

> address the increases in propane prices that are widely expected to occur in the absence of Line 5. In the near term, the replacement option for Line 5 is increased reliance on rail and truck transport. However, neither would be capable of offsetting the loss of Line 5 given the lack of existing infrastructure at locations dependent on propane deliveries manufactured from Line 5 volumes.

8 Tr 906. Mr. Sloan also asserted that alternatives to propane heating in Michigan, such as heat pumps, are (at this time) prohibitively expensive for propane customers. *See*, 8 Tr 909-919.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Similarly, Staff witness Mr. Morese contended that a shutdown of the dual pipelines would not immediately alter demand for the products shipped on Line 5, and consequently the modes of transportation for crude oil and NGLs would shift to rail and truck. *See*, 12 Tr 1771-1777, 1791-1792, 1801-1807; *see also*, 9 Tr 948, 974, 1092.

The Commission recognizes that there have been a number of steps taken in recent years by market participants to develop alternative sourcing options for propane and petroleum products. However, a determination of public need is not limited to whether other sourcing options may exist. For example, in the decision approving Enbridge's application to replace sections of its Line 6B in 2013, the Commission found that, "[o]n the issue of public need . . . Enbridge's shipper and refinery customers both have a present need for additional pipeline capacity." January 31, 2013 order in Case No. U-17020, p. 22. In the present case, the public need is not based on the need for additional capacity, but on the ongoing reliance on the current capacity of the dual pipelines, even as other sourcing options emerge. Furthermore, the Commission finds that there is substantial evidence on the record in the present case to show that if the dual pipelines are damaged, deemed inoperable due to safety concerns, or shutdown, Line 5 in Michigan may be abandoned in full or in part, which will require higher-risk and costlier alternative fuel supply sources and transportation to Michigan customers than what is proposed in the Replacement Project. *See*, ELP-24, pp. 278, 300; 8 Tr 906, 908-919; 12 Tr 1777-1778. Thus, the Commission finds that there is a public need for the products shipped through the Straits Line 5 segment. The evidence in this case, in addition to the official findings of public need and public benefit identified in Act 359 and the First, Second, and Third Agreements, clearly supports a finding of public need for the Replacement Project.

RECEIVED by MSC 11/14/2025 2:10:18 PM

In addition, the Commission notes that the stated purpose behind the Replacement Project is to alleviate the risk of a spill and that this rationale further supports the public need to replace the dual pipelines with the Replacement Project. The Alternatives Report identified several threats to the integrity of the dual pipelines in their current configuration, the dominant threat being anchor hooking with the potential for a spill into the Great Lakes. *See*, Exhibit ELP-24, pp. 28, 123. The Commission also finds that alternative modes of transporting Line 5 products, such as truck, rail, oil tankers and barges, will likely increase environmental impairment and may increase the threat of spills that could significantly damage the Great Lakes, the state's terrestrial environment, and more than 1,000 other aquatic environments in Michigan. *See*, Exhibit ELP-24, pp. 348-350, 362-367.

The Commission also reviewed Enbridge's Alternatives Analysis, which evaluated construction feasibility, costs and engineering, environmental impacts, and approvals and authorizations necessary for three alternatives to the dual pipelines: (1) relocating the Straits Line 5 segment to a tunnel beneath the lakebed of the Straits, (2) relocating the Straits Line 5 segment using HDD, and (3) relocating the Straits Line 5 segment using an open-cut method that includes secondary containment. *See*, Exhibit A-9, p. 5; 12 Tr 1722. According to the Alternatives Analysis, Alternative 2 is not feasible to construct and was withdrawn from consideration. *See*, Exhibit A-9, p. 53. When Enbridge compared Alternatives 1 and 3, the company noted that for Alternative 1, the "[r]isk of product release into the Straits" is "negligible—considered virtually zero." *See*, Exhibit A-9, pp. 9, 14, 64, 66, 68; *see also*, 8 Tr 800, 822, 825; 12 Tr 1717, 1723. For Alternative 3, Enbridge noted that the "[r]isk of product release into the Straits" is "an extremely low value." *See*, Exhibit A-9, pp. 9, 32, 68.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Furthermore, the Alternatives Analysis conducted a preliminary evaluation of the potential environmental impacts for constructing Alternative 1, relocating the Straits Line 5 segment to a tunnel, and constructing Alternative 3, relocating the Straits Line 5 segment using an open cut method with secondary containment. *See*, Exhibit A-9, pp. 14, 32, 60-62. The Alternatives Analysis concluded that Alternative 1 was the "[l]east impactful construction process—[it] would have no impact to shores [sic] lines or [the] lakebed; marine work [would] only [be] required during the geotechnical program," whereas Alternative 3 would result in "[c]onstruction impacts to the shore lines and [the] lakebed; marine work [would be required] for two consecutive summer seasons, plus one summer season for geotechnical investigation/surveys." Exhibit A-9, p. 67. Thus, it was determined that Alternative 1 would cause the least environmental damage. *See*, 12 Tr 1868-1869. The Commission agrees.

The Commission notes that when asked if there are alternative methods for protecting the dual pipelines, Staff witness Mr. Warner testified that a study was conducted to determine whether a physical barrier of engineered gravel/rock cover could be installed to protect the dual pipelines. Mr. Warner stated that:

> the protective cover would need to be approximately 72 feet wide and a minimum of eight feet high from the lakebed to reach a minimum height of six feet from the top of the existing Dual Pipelines. The report also explains that this type of covering would cost approximately $150 million to install along the entire length that the Dual Pipelines are exposed on the lakebed. As an alternative, this covering could be installed only in areas where the Dual Pipelines are within the shipping channel with a buffer on each side, totaling approximately 2,000 feet of covering for each of the Dual Pipelines. A consultant hired for the study anticipated that a physical barrier of this design would result in a 99-percent reduction in the probability of an intentional or unintentional anchor strike causing a release of the Dual Pipelines.
>
> * * *
>
> One significant consideration was that the protective barrier would eliminate the ability to visually inspect the outside of the pipeline using a remote operated

RECEIVED by MSC 11/14/2025 2:10:18 PM

> vehicle (ROV) or with divers as is done currently. The report explains that Enbridge would continue to assess the integrity of the Dual Pipelines using in-line inspection tools. . . . Additionally, installation of the barrier would likely cause environmental impairments and would require at least 11 state and federal environmental permits and approvals.

12 Tr 1721-1722 (footnote omitted). Mr. Warner noted that the State of Michigan declined to support this alternative.

Mr. Warner contended that if the Commission does not approve the Replacement Project, "the Dual Pipelines would continue operating on the lakebed of the Straits unless and until Enbridge determines to voluntarily cease operations or a legal or regulatory action forces Enbridge to cease operations. Further, the safety benefits and protections of the proposed replacement within a tunnel would not be realized." 12 Tr 1728. Mr. Warner "conclude[d] that the replacement of the Dual Pipelines with a new pipeline in a tunnel below the lakebed serves a public need, is in the public interest, and is the best option out of the alternatives described above. . . . There are no alternatives that would be feasible and prudent when compared to the proposed Replacement Project." 12 Tr 1736.

Accordingly, the Commission finds that the Replacement Project "essentially eliminates the risk of adverse impacts that may result from a potential release from Line 5 at the Straits" and protects "unique ecological and natural resources that are of vital significance to the State and its residents, to tribal governments and their members, to public water supplies, and to the regional economy." Exhibit A-10, pp. 2-3.

In conclusion, the Commission finds that Enbridge has established both the public need for the products to be shipped through the Replacement Project and the need to relocate the Straits Line 5 segment inside the tunnel, and as such, has established the public need for the Replacement Project.

RECEIVED by MSC 11/14/2025 2:10:18 PM

B. Are the Replacement of the Line 5 Segment that Crosses the Straits of Mackinac and the Relocation of the Segment to a Concrete-lined Tunnel Below the Lakebed of the Straits Designed and Routed in a Reasonable Manner?

Enbridge asserted that the Replacement Project is designed and routed in a reasonable manner because the pipeline is being routed through a tunnel deep beneath the lakebed of the Straits, thus eliminating the risk of anchor strikes and providing secondary containment in the unlikely event of a release. In addition, Enbridge stated that the tunnel easement is located within the shortest distance between the Upper and Lower Peninsulas. Enbridge's initial brief, pp. 22-28. The Associations agreed. Associations' initial brief, p. 13. Although the Replacement Project "is heavily constrained by the existing onshore Line 5 segments, the tunnel easement, geotechnical considerations, and the planned tunnel alignment," the Staff contended that the route and location of the Replacement Project are reasonable. Staff's initial brief, pp. 49-52. FLOW, Bay Mills, and the MEC Coalition argued that Enbridge failed to demonstrate that the Replacement Project is designed and routed in a reasonable manner and asserted that the Commission should deny Enbridge's application. Bay Mills' initial brief, pp. 13-28; FLOW's initial brief, pp. 11-17; MEC Coalition's reply brief, pp. 49-51; Bay Mills' reply brief, pp. 14-43.

The Commission notes that the Tunnel Agreement provided a general description of the tunnel's design, location, and construction process:

> Project Description - The Tunnel, subject to the design and engineering work including the Geotechnical Investigations required under this Agreement, is to: (i) be approximately four (4) miles in length, extending from an opening point as near as practical to Enbridge's existing station located on the north shoreline of the Straits to an opening point as near as practical to Enbridge's existing Mackinaw station located on the south shoreline of the Straits; (ii) except for the opening points on either side of the Straits, be constructed entirely underground, below the lakebed of the Straits; (iii) be approximately ten (10) feet in finished diameter or other diameter that is deemed by Enbridge to not be greater than that necessary to efficiently construct the Tunnel and to construct, operate and maintain a 30-inch Line 5 Replacement Segment, in which Third-Party Utilities, including but not limited to electric and broadband cables, may also be housed, provided that:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> (a) such Third-Party Utilities do not increase the diameter of the Tunnel beyond that necessary to construct, operate, maintain and use a 30-inch Straits Line 5 Replacement Segment; and (b) the presence of such Third-Party Utilities is not incompatible with the operation, maintenance or use of the Line 5 Replacement Segment; (iv) be designed and constructed in accordance with prevailing, state of the practice tunnel standards and specifications for a design life of no less than ninety-nine (99) years; and (v) be constructed of a suitable structural lining, providing secondary containment to prevent any leakage of liquids from the Line 5 Replacement Segment into the lakebed or Straits.

Exhibit A-5, p. 10, ¶ 6.1. In addition, the Tunnel Agreement stated that MSCA:

> has or will acquire from [DNR] a Tunnel Easement that will provide [MSCA] with the lawful right to enter, occupy, and use, lands beneath the lakebed of the Straits of Mackinac necessary for the construction, use, operation, and maintenance of the Tunnel . . . which will include the right to construct a liquid hydrocarbon pipeline within the Tunnel, and which will allow and authorize assignment to Enbridge in accordance with this Agreement.

Exhibit A-5, p. 6. On December 17, 2018, DNR conveyed an easement to MSCA to construct a tunnel under the lakebed of the Straits, which included the option to assign the easement rights. *See*, Exhibit A-6, pp. 1-2. On December 19, 2018, MSCA assigned the easement to Enbridge. *Id*., pp. 5-6. In addition to constructing the tunnel beneath the lakebed of the Straits, Enbridge will "tie-in, operate, and maintain approximately 0.4 to 0.8 miles of pipe to connect the replacement pipe segment to Enbridge's existing Line 5 on both sides of the Straits," which will be located in workspace on land Enbridge owns or has the right to access. 7 Tr 556; *see also*, 7 Tr 561.

Intervenors Bay Mills and FLOW objected to the route and location of the Replacement Project. Bay Mills argued that the location of the Replacement Project will harm important cultural landscapes, historical sites, and threatened and endangered species in the Straits. *See*, Bay Mills' initial brief, pp. 13-19. FLOW asserted that the Commission may not approve the Replacement Project unless and until the 2018 easement and the 2018 assignment of easement are authorized under public trust law and the GLSLA. *See*, FLOW's initial brief, pp. 11-17.

RECEIVED by MSC 11/14/2025 2:10:18 PM

In response to Bay Mills' claim that the proposed location of the Replacement Project may disturb sensitive cultural, historical, and natural sites, the Staff asserted that DNR, EGLE, SHPO, and the USACE possess the legal authority to review the Replacement Project and its impact upon these sites, and the Staff argued that these reviews should not be duplicated by the Commission. *See*, Staff's reply brief, pp. 21-35. In addition, the Staff contended that it complied with ED 2019-17 and the Commission's "Guide for Involvement by Tribal Governments in Infrastructure Siting Cases at the Michigan Public Service Commission" in good faith, and the Staff averred that it engaged in meaningful and mutually beneficial communication and collaboration with Michigan's 12 federally recognized Tribes. *See*, Staff's initial brief, pp. 36-48; *see also*, 12 Tr 1653-1655; Exhibits S-2, S-3, S-25, S-30, S-34. Although Bay Mills expressed some disagreement with the Staff's characterization of the consultation process, Bay Mills acknowledged that:

> the status of the . . . Staff and Bay Mills as litigants in a formal administrative proceeding hampered the free-flowing exchange of ideas that is necessary for effective consultation. Simply put, in its conversations with the . . . Staff, Bay Mills could not describe in detail the tribe's concerns about the proposed tunnel project because Bay Mills was working with its attorneys to prepare testimony and exhibits about those concerns.

10 Tr 1436-1437; *see*, 10 Tr 1438. Ultimately, the Staff recommended that the Commission approve Enbridge's Act 16 application contingent upon approval from other state and federal permitting agencies.

The Commission finds the Staff's position on this issue persuasive, concluding that there are several cultural, historical, and environmental characteristics of the Replacement Project that are within the regulatory authority of separate state and federal agencies. As noted by ALJ Mack in his initial ruling, "some degree of deference must be afforded those determinations." ALJ Mack's initial ruling, p. 17. EGLE is the state agency charged with the duty to issue NREPA Parts 31,

RECEIVED by MSC 11/14/2025 2:10:18 PM

303, and 325 permits; SHPO is the state agency that assists USACE with the Section 106 review; and USACE is the federal agency authorized to prepare an EIS, conduct a Section 106 review, and issue a Section 10 permit pursuant to the Rivers and Harbors Act of 1899, 33 USC 403, and Section 404 of the Clean Water Act, 33 USC 1344. *See*, 12 Tr 1702.

However, the Commission notes that several Staff witnesses examined the permits and agency reviews and made recommendations. Staff witnesses Mr. Douglas and Ms. Mooney reviewed the environmental permits and proposed several improvements to Enbridge's EIR, which Enbridge addressed. *See*, 7 Tr 610-624; 12 Tr 1835-1836, 1849-1850; Exhibits A-9, A-12, S-18, S-19. In addition, in the NREPA Parts 303 and 325 permits, EGLE stated that "SHPO recommended [an] additional survey to identify historic properties in the project area (November 10, 2020). This recommendation will remain under consideration during the Section 106 consultation process." Exhibit A-17, p. 7. Furthermore, Staff witness Mr. Warner noted that according to USACE's website:

> [Enbridge's] application will be reviewed under Section 106 of the National Historic Preservation Act and that the USACE will consult with [SHPO] and federally recognized tribes. Relating to threatened and endangered species, the website further explains that USACE will review the potential impacts of the tunnel project on federally listed threatened and endangered species pursuant to Section 7 of the Endangered Species Act. Once the USACE determines that the biological assessment is adequate for consultation, the [USACE] will initiate formal consultation with the U.S. Fish and Wildlife Service.

12 Tr 1711. Accordingly, the Commission agrees with the Staff and finds that the route and location of the Replacement Project should be approved conditioned upon Enbridge obtaining the required governmental permits and approvals. The Commission acknowledges that the USACE review is ongoing and finds that significant changes to the design of the tunnel directed by USACE shall be inconsistent with the approval granted in this case and may require further review and approval by the Commission.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Next, the Commission notes that in response to FLOW, the Staff stated that "the Commission's four [Act 16] criteria do not require an applicant to obtain all property rights for a proposed project before approval." Staff's reply brief, p. 24. According to the Staff, an Act 16 applicant may acquire the rights to property through eminent domain and that these rights may be obtained after the Commission grants approval of the Act 16 application. The Staff stated that, in fact, "the Commission has indeed granted approval in Act 16 proceedings where additional easement rights would be required." *Id*. The Commission agrees. *See*, MCL 483.1-483.2; *see also*, January 31, 2013 order in Case No. U-17020, pp. 9-12, 24-30.

Responding to FLOW's argument that the Replacement Project has not been authorized by public trust law, the Staff noted that FLOW "appears to indicate that the determination under the public trust doctrine should be made by the DNR—the agency that granted the easement." Staff's reply brief, p. 26. In the Staff's opinion, FLOW fails to demonstrate that the Commission has a legal obligation to "evaluate the validity of other State agencies' actions in this Act 16 proceeding." *Id*. The Commission agrees.

Turning to the issue of whether the design and route of the Straits Line 5 replacement segment in an underground tunnel is reasonable, Enbridge claimed that relocation of the pipe segment to a tunnel eliminates the possibility of anchor strikes, virtually removes the likelihood of bending stress, provides the ability for direct examination of the pipe segment exterior, allows for enhanced leak monitoring, and provides secondary containment in the unlikely event of a release. *See*, 17 Amended Tr 2446; Exhibit S-32, pp. 3-4.

The Commission notes that MSCA's witness Dr. Mooney testified that Arup, "a global engineering firm," was employed to design the tunnel. 9 Tr 1210. He asserted that Arup's design team has an impressive depth of knowledge and design skills and "extensive experience in North

RECEIVED by MSC 11/14/2025 2:10:18 PM

America and internationally" designing tunnels like the Replacement Project. 9 Tr 1210. In Dr. Mooney's opinion, Arup engaged "key experts from around the world" to ensure that the tunnel is designed to withstand "high groundwater pressure, face stability with reduced pressure, ground characterization, etc." and that the tunnel design meets or exceeds industry standards. 9 Tr 1212. Dr. Mooney also noted that the tunnel is routed within the 2018 easement and in a vertical alignment to stay within the bedrock beneath the Straits. 9 Tr 1218; *see*, Exhibit A-13.1. Furthermore, Dr. Mooney argued that "[p]lacing Line 5 inside the tunnel reduces the risk of leaking product reaching the Great Lakes to practically zero. . . . This is a notable reduction in environmental risk from the current dual pipeline configuration on the lakebed." 9 Tr 1204; *see*, 8 Tr 788; 17 Amended Tr 2445; Exhibit A-13.

Dr. Mooney noted that according to paragraph 5.3 of the Tunnel Agreement, MSCA must employ an "Independent Quality Assurance Contractor with appropriate technical expertise to monitor the construction of the Tunnel and provide information to [MSCA]." Exhibit A-5, pp. 9, 13; *see*, 9 Tr 1213. Dr. Mooney also stated that the Tunnel Agreement directs Enbridge to develop and provide MSCA with a Tunnel O&M Plan that will ensure a 99-year design life for the tunnel and "continued physical integrity for secondary containment purposes." Exhibit A-5, p. 14; *see*, 9 Tr 1205, 1216.

The Commission notes that Staff witness Mr. Adams reviewed the feasibility of constructing the tunnel, the anticipated methods, and the use of PCTL. In his opinion, the tunnel design proposed by Enbridge "has a proven record for providing a stable and mostly watertight tunnel system" and will "result in a very low probability of fluids escaping from the tunnel." 12 Tr 1816; *see*, 12 Tr 1817-1818; Exhibit S-16, p. 2; Exhibit A-9, pp. 14-31.

RECEIVED by MSC 11/14/2025 2:10:18 PM

However, Staff witness Mr. Ponebshek provided several recommendations for tunnel construction. Mr. Ponebshek stated that he:

> would recommend a more detailed risk management plan be delivered to the State [of Michigan] ahead of construction. This plan would include a description of the planned geotechnical test bores and frequency of probe-hole testing ahead of the TBM and should include reporting of both test-bore data and probe-hole data in real time so that the State [of Michigan] can assess risks and construction plan modifications based on the data. The plan should also include inspections for concrete cast sections prior to moving them into the tunnel and after being put into place, placement of gaskets, regular analyses of bentonite mix properties, [and] changes in slurry pressure. Deviations from and modifications to the plan during the construction process should be reported and available for public review.

12 Tr 1872-1873. Enbridge did not explicitly respond to Mr. Ponebshek's recommendations.

The Commission notes that Bay Mills argued that Enbridge's proposal to locate a liquid petroleum pipeline within a tunnel is a "first-of-its-kind" design and that "[t]he evidence in the record demonstrates that Enbridge's untested proposal is neither reasonably routed nor designed." Bay Mills' initial brief, pp. 1, 13. Bay Mills' witness Mr. Kuprewicz testified that "[f]rom an engineering standpoint, there is a potential for a release into the Straits from the tunnel by way of a catastrophic explosion. While a risk of release in this manner may be considered low, it is not negligible . . . ." 10 Tr 1326. Bay Mills asserted that an explosion could result from vapors accumulating in the tunnel from a leak in the pipeline, a failure in the ventilation system, and a spark from electrical equipment or human error. *See*, 10 Tr 1327-1328; 18 Tr 2670-2671. According to Mr. Kuprewicz, this type of catastrophic explosion has "the potential of shattering concrete, especially segment concrete linings. In short, an explosion would cause a high-pressure event that would put the concrete structures at risk. This in turn runs the risk of releasing material into the Straits." 10 Tr 1330.

Bay Mills' witness Mr. O'Mara also testified that dissolved methane could enter the tunnel during excavation or through continual seepage of groundwater and create an ignition source. *See*,

RECEIVED by MSC 11/14/2025 2:10:18 PM

18 Tr 2675-2676. Bay Mills contended that Enbridge has failed to properly calculate the probability of an explosion and tunnel failure and that the company has not adequately designed the tunnel and its systems to avoid the risk. *See*, 10 Tr 1328, 1332-1333, 1367-1368; 17 Amended Tr 2622-2629; 18 Tr 2670-2675, 2679-2682. To help prevent this scenario, Bay Mills recommended that: (1) all electrical equipment in the tunnel comply with Class 1 Division 1 specifications; (2) Enbridge perform proper girth welding techniques and inspections; (3) the gas detection systems be designed with independency and redundancy, and that the detectors be placed in proper locations in the tunnel; and (4) the secondary leak detection system "incorporate mandatory (even automatic) pipeline shutdown/isolation and tunnel ventilation procedures," and that "the system be designed to not generate false signals/alarms." 10 Tr 1333; *see*, 10 Tr 1328-1329, 1368, 1370-1374.

Enbridge disagreed with Bay Mills that the Replacement Project is unique and untested, noting that although there are no other pipelines in North America that transport NGLs through an underground tunnel, there are several tunnels worldwide that transport hydrocarbons. *See*, Exhibit BMC-41, p. 21.[33] The Alternatives Analysis also provides several examples of hydrocarbon pipelines within tunnel structures. *See*, Exhibit A-9, pp. 11, 13-15.

Next, Enbridge asserted that because the risk of release from the Straits Line 5 replacement segment in the tunnel is less than 0.000001, there is virtually no risk of explosion in the tunnel. *See*, 8 Tr 800-803; 16 Tr 2322; 17 Amended Tr 2437-2438, 2448-2450; 18 Tr 2589-2590, 2593, 2810-2811; *see also*, Exhibits S-31 and S-32. In addition, Enbridge stated that it does not expect to encounter methane at a level to cause concern. 17 Amended Tr 2465-2470. However, Enbridge

[33] Because Exhibit BMC-41 is not paginated, the Commission clarifies that page 1 starts in natural order with the first page of the documents in the exhibit.

RECEIVED by MSC 11/14/2025 2:10:18 PM

contended that to address the potential risk of encountering methane during construction, the TBM will be equipped with monitors to detect methane. Enbridge stated that if methane is detected at significant levels during construction, the company will adjust its design and operations of the project. After completion of the Replacement Project, Enbridge averred that the gas monitors installed in the tunnel are capable of detecting methane. 15 Tr 2090.

Enbridge averred that in the unlikely event of an explosion and high-intensity fire in the tunnel, the concrete lining of the tunnel will maintain its integrity. 15 Tr 2092-2093. However, if a portion of the lining were to fail, Enbridge contended that Line 5 products would not migrate into the strata around the damaged lining. *See*, 15 Tr 2093; 17 Amended Tr 2458, 2475; Exhibit A-35.

Enbridge's witness Mr. Dennis asserted that there is no need for an FFFS in the tunnel because "[t]he risk of a fire in the tunnel housing the Replacement Project is extremely low and when compared to the added risk to human safety of sending personnel into the tunnel to maintain such a system, the balance of risks weighs in favor of not installing such a system." 15 Tr 2095. In any event, Mr. Dennis claimed that there will be no ignition sources in the tunnel and that "[t]here are numerous methods to detect and shutdown the replacement pipe segment in the extremely unlikely event of a release." 8 Tr 802; *see*, 8 Tr 803-804, 867-868.

Enbridge argued that it provided an overview of its pipeline integrity, gas monitoring and leak detection systems, and human error in detecting a failure, and the company responded to Bay Mills' concerns regarding the leak and gas detection systems for the Replacement Project. 15 Tr 2096-2097; 16 Tr 2256-2265, 2323-2324; 17 Amended Tr 2446-2448, 2456-2458. Additionally, Exhibits A-13, A-29, S-31, and S-32 describe Enbridge's plans for leak and gas detection, ventilation, sump pumps, the TSV, and emergency procedures. *See*, Exhibit A-13, pp. 15-17;

RECEIVED by MSC 11/14/2025 2:10:18 PM

Exhibit S-31, p. 9; Exhibit S-32, pp. 3-4, 7. Furthermore, Enbridge added a second layer of leak detection to the existing CPM system. 9 Tr 1246-1247. Finally, Enbridge asserted that the use of Class 1 Division 2 equipment in the tunnel "is a conservative design decision and errs on the side of safety." Enbridge's initial brief on reopening, p. 23. Enbridge argued that the use of Class 1 Division 1 equipment is inconsistent with the National Electric Code, may not be feasible, and may create other safety concerns. *See*, *id*., p. 24; *see also*, Exhibit A-31, p. 7.

The Staff noted that it reviewed Enbridge's "methodology and assumptions used by [DNV] to estimate the [POF] of the pipeline and the Probability of Ignition within the proposed tunnel" and found that it "did not raise any additional concerns . . . ." 18 Tr 2792; *see*, 18 Tr 2794. In the Staff's opinion, Enbridge's design and operation of the leak and gas detection systems and the Staff's recommended girth weld procedures address Mr. Kuprewicz's concerns. *See*, Staff's initial brief, pp. 68-69; *see also*, 18 Tr 2792. Regarding Mr. Kuprewicz's concerns with the tunnel's ventilation system and human presence in the tunnel, the Staff noted that the ventilation system exceeds OSHA requirements and that Enbridge has implemented procedures to avoid human contact with harmful vapors and to prevent an ignition source. *See*, Staff's initial brief, pp. 66-67; *see also*, Exhibit A-31, p. 4; 18 Tr 2792. However, the Staff stated that if the Commission approves the Replacement Project, the Commission should recommend "that certain equipment be designed to the more stringent Class 1, Division 1 standard to the extent such equipment is feasible, beneficial, safe, and permitted by the agreements and other permitting authorities governing the project." Staff's initial brief on reopening, pp. 17-18 (footnote omitted); *see*, Exhibit S-31, p. 13.

Next, the Commission notes that the Second Agreement, Act 359, and the Tunnel Agreement require that the design of the tunnel allow for the accommodation of third-party utilities, so long as

RECEIVED by MSC 11/14/2025 2:10:18 PM

they are not incompatible with the operation of the Line 5 Replacement Project. *See*, Exhibit A-10, p. 6; MCL 254.324d(4); Exhibit A-5, p. 7, ¶ 3.3 and pp. 48-51; *see also*, Exhibit A-11, p. 14.

The Tunnel Agreement stated, in relevant part, that the tunnel:

> be approximately ten (10) feet in finished diameter or other diameter that is deemed by Enbridge to not be greater than that necessary to efficiently construct the Tunnel and to construct, operate and maintain a 30-inch Line 5 Replacement Segment, in which Third-Party Utilities, including but not limited to electric and broadband cables, may also be housed, provided that: (a) such Third-Party Utilities do not increase the diameter of the Tunnel beyond that necessary to construct, operate, maintain and use a 30-inch Straits Line 5 Replacement Segment; and (b) the presence of such Third-Party Utilities is not incompatible with the operation, maintenance or use of the Line 5 Replacement Segment . . . .

Exhibit A-5, p. 10, ¶ 6.1. In addition, the Alternatives Analysis stated that:

> [w]hile increasing the TBM size to accommodate future third-party utilities is not specifically considered in this report, Hatch [Ltd] confirmed that increasing the tunnel size would not impact the feasibility of tunneling under the Straits. Tunnels are scalable in size and can be designed to accommodate a variety of services. **For a Straits tunnel, it would be critical to understand before design and engineering begins whether the tunnel could have a purpose beyond the pipeline, such as for third-party services/assets, and specifically risks associated with co-locating different types of infrastructure.** A scope change of this magnitude just before construction would limit or potentially eliminate the options for accommodating additional services.

Exhibit A-9, p. 26 (emphasis added).

Accordingly, Enbridge's Tunnel Design and Construction Report provided a design for the tunnel to accommodate the 30-inch liquid petroleum pipeline and future third-party utilities. *See*, Exhibit A-13, pp. 20-22, 26. The Tunnel Design and Construction Report stated that:

> Provisions have been made to accommodate the future installation for third-party electric and telecommunication utilities:
>
> - Electrical Power Circuits: the tunnel and portal Facilities will accommodate up to two (2) 230[kilovolt] circuits comprising of 3No 1000 kilocircular mils phase conductors, a ground and a communications cable.
> - Telecommunications: space in tunnel for a thirty-six-inch (36-inch) cable tray.

RECEIVED by MSC 11/14/2025 2:10:18 PM

> Third-party utilities shall seek access to utilize the tunnel in accordance with the procedures established in the Tunnel Agreement executed by [MSCA] and Enbridge. Third-party utilities shall be responsible for the means and methods of construction including but not limited to provisions to prevent any damage to the pipeline/facilities or other existing third-party utilities including cable installation, operational fault conditions and any electric magnetic field mitigation required to prevent induced currents.

Exhibit A-13, pp. 8-9. Specifically, Dr. Mooney testified that the tunnel "will also serve as a conduit for third party utilities to cross the Straits, including possibly broadband telecommunications, high voltage electrical and other utilities that may become apparent and of need during the service life of the tunnel." 9 Tr 1204; *see*, 9 Tr 1203, 1214-1216; Exhibit MM3, pp. 22, 162.

Dr. Mooney also sponsored Exhibit MM3, which is Enbridge's draft request for proposals (RFP) for a design services contractor and a construction manager-general contractor. Section 2.5.2.1 of the draft RFP states that "[t]unnel systems shall be controlled to maintain acceptable operating temperature and humidity conditions for the pipeline and third-party utilities, and to maintain combustible gases at or below acceptable levels." Exhibit MM3, p. 165.

When asked if he had concerns about locating third-party utilities in the proposed tunnel, MSCA's witness Mr. Cooper stated that he is "concerned that future utilities could impact the pipeline's integrity or create safety hazards for maintenance personnel. For example, an electric transmission cable installed within the tunnel could create induced electric current in the pipeline. This could potentially accelerate corrosion of the pipeline and create electric shock hazards for personnel working on the line." 9 Tr 1247. He asserted that this risk could be mitigated by a thorough consideration of the hazards presented by third-party utilities in the planning and design stage, by implementing measures to protect against these hazards, and by continually monitoring the threats and protection measures. 9 Tr 1248.

RECEIVED by MSC 11/14/2025 2:10:18 PM

MSCA stated that it "is aware that third-party utility Peninsula Fiber Network LLC has expressed interest in operating in the tunnel" but, "[o]ther than Peninsula Fiber Network, MSCA is not aware of any other Prospective Third-Party Utilities that have provided in writing a formal request with scope of use information." Exhibit BMC-44, p. 4. Bay Mills noted that according to a letter sent by American Transmission Company (ATC) to the Chippewa Ottawa Resource Authority, ATC would not locate electric cables in the tunnel because it is too dangerous. Exhibit BMC-46, p. 92.[34] However, the ATC letter referenced by Bay Mills in Exhibit BMC-46 was not provided on the record for the Commission's review.

In a discovery response, Enbridge stated that:

> [t]he tunnel is also designed to accommodate third-party utilities and third-party access would be subject to separate agreements with [MSCA]. (See, e.g., Exhibit A-5 pp. 53-56.) It is uncertain whether a third-party utility's equipment could meet the overly stringent standard of Class 1, Division 1, or whether meeting this standard would be feasible. Finally, it is uncertain whether [MSCA] could or would impose the overly stringent standard of Class 1, Division 1 on a third-party utility seeking access to the tunnel.

Exhibit A-31, p. 7.

Although Enbridge contended that the tunnel is designed to accommodate third-party utilities and third-party access, the POF Report does not take into account the presence of third-party installations. *See*, 9 Tr 1214; Exhibit A-13, pp. 8-9, 20-22, 26. The POF Report stated that in reference to the inputs used to conduct the probability of ignition, "[t]hese inputs are as per the current design and do not contemplate any future installations by third party utilities within the tunnel as those would need to be separately addressed." Exhibit A-29, p. 16.

[34] Exhibit BMC-46 contains a collection of separate documents that is not paginated as a single exhibit. Therefore, the Commission clarifies that page 1 starts in natural order with the first page of the documents following the cover page labeled "Exhibit BMC-46."

RECEIVED by MSC 11/14/2025 2:10:18 PM

In its initial brief, Enbridge noted that "MCL 254.314d(4)(g) requires utilities using the tunnel to obtain any required governmental approvals for use. Given Act 16 provides the Commission siting authority over petroleum pipelines, Enbridge filed this Application to use the utility tunnel. On the other hand, telecommunication providers would not need such approval to use the utility tunnel for their facilities." Enbridge's initial brief, p. 15, n. 11.

After a review of the record evidence on this issue, the Commission finds that the route, location, and design of the Straits Line 5 replacement segment in a tunnel beneath the lakebed of the Straits is reasonable and should be approved, subject to conditions. As discussed above, provided that Enbridge receives the required governmental permits and approvals and there are no significant changes to the route and location of the Straits Line 5 replacement segment within the tunnel following Commission approval of this application, the Commission finds that the route and location of the Replacement Project are reasonable.

Regarding the design and physical integrity of the tunnel as a fixture, secondary containment feature, and route for the Straits Line 5 replacement segment, the Commission finds that Enbridge has demonstrated by a preponderance of the evidence that the tunnel has been designed by an experienced and knowledgeable engineering firm and that the tunnel will be constructed using state-of-the-art materials and practices that will meet or exceed industry standards. In addition, the Commission finds, by a preponderance of evidence on the record, that the Replacement Project is a significant improvement over the dual pipeline configuration currently installed in the Straits because it virtually eliminates the risk of anchor strikes confronting the dual pipelines and it will serve as a secondary containment vessel to prevent Line 5 product from reaching the Straits. Although the intervenors presented concerns about the integrity of the tunnel lining, explosion risk, methane infiltration, fire, leak and gas detection systems, ventilation, and human error, the

RECEIVED by MSC 11/14/2025 2:10:18 PM

Commission finds that, subject to the conditions below, there is a preponderance of explanatory and convincing evidence on the record to rebut these concerns. However, the Commission recommends that Enbridge adopt Mr. Ponebshek's proposal, which is set forth at 12 Tr 1872-1873, to provide a detailed risk management plan to the State of Michigan, ahead of construction, regarding geotechnical test bores and related data and real-time reporting, concrete cast section inspections, placement of gaskets, analyses of bentonite mix, and any changes in slurry pressure.

In addition, the Commission agrees with the Staff that after a review of the evidence presented on the reopened record, there may be opportunities to design certain equipment in the tunnel to a Class 1 Division 1 standard. Therefore, the Commission recommends that to the extent feasible, beneficial, safe, and permitted by agreements and other permitting authorities, all equipment be designed to the more stringent Class 1 Division 1 standard. The Commission finds that this recommendation provides additional safety and risk mitigation in the event of an "accidental rupture or breakdown of [closed] containers or systems, or in case of abnormal operation of equipment" associated with the Straits Line 5 replacement segment. Exhibit A-31, p. 6.

Although the Commission finds that the route, location, and design of the Straits Line 5 replacement segment in a tunnel beneath the lakebed of the Straits is reasonable, the Commission finds that Enbridge failed to demonstrate by a preponderance of the evidence that co-locating third-party utilities in the tunnel with the Straits Line 5 replacement segment is reasonable or safe. The question here is not whether telecommunications providers require Commission approval to locate their facilities within the tunnel. They do not, and pursuant to Act 359 and the Tunnel Agreement, the decision of whether to allow third-party utilities access to the tunnel rests with MSCA. However, as Enbridge notes, "Act 16 provides the Commission siting authority over petroleum pipelines," and as such "Enbridge filed this Application to use the utility tunnel."

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge's initial brief, p. 15. In its Act 16 review determining whether the project is designed and routed in a reasonable manner, the Commission must consider the risks to the pipeline, including any risks that could be introduced within the tunnel by third parties. As noted by the Alternatives Analysis, it is "critical to understand before design and engineering begins whether the tunnel could have a purpose beyond the pipeline, such as for third-party services/assets, and specifically risks associated with co-locating different types of infrastructure." Exhibit A-9, p. 26.

The Commission notes that the Second Agreement, Act 359, and the Tunnel Agreement specifically state that the tunnel could accommodate electric transmission lines and data and telecommunications facilities. There is testimony and record evidence demonstrating that co-locating electric cables with the Straits Line 5 replacement segment within the tunnel is dangerous and could "accelerate corrosion of the pipeline and create electric shock hazards for personnel working on the line." 9 Tr 1247; *see*, Exhibit BMC-46, p. 92.

MSCA provided record evidence that a telecommunications company is interested in operating in the tunnel. The Commission finds that there is no evidence on the record detailing the "means and methods of construction" of the telecommunications facilities in the tunnel, explaining how the telecommunications company would "prevent damage to the pipeline/facilities" during construction, or providing the "operational fault conditions and any electric magnetic field mitigation required to prevent induced currents." Exhibit A-13, p. 9. The Commission also finds that there is no evidence on the record detailing the probability of failure of the Replacement Project in the presence of third-party utilities. *See*, Exhibit A-29, p. 16. Finally, Enbridge acknowledged that it is unknown whether a third-party utility's equipment could meet the Class 1 Division 1 standard to ensure greater safety and risk management. *See*, Exhibit A-31, p. 7. Therefore, based on the evidence provided on the record, the Commission cannot find that the

RECEIVED by MSC 11/14/2025 2:10:18 PM

inclusion of third-party utilities that could increase the risks posed to the Replacement Project is compatible with the Commission's obligations under Act 16 to ensure the project is designed and routed in a reasonable manner. The Commission further finds that nothing in Act 359, nor anything in the First, Second, or Third Agreements, nor the Tunnel Agreement, obviates, restricts, or lessons the Commission's obligations under Act 16.

Accordingly, the Commission finds that the route, location, and design of the Straits Line 5 replacement segment in a tunnel beneath the lakebed of the Straits is reasonable and prudent subject to the condition that no third-party utilities are co-located in the tunnel with the Straits Line 5 replacement segment without further application to, and approval by, the Commission.

C. Does the Replacement Line 5 Segment that Crosses the Straits of Mackinac Meet or Exceed Current Safety and Engineering Standards?

The Commission notes that according to Enbridge, the Replacement Project will meet or exceed applicable federal pipeline safety regulations administered by PHMSA. Enbridge's initial brief, pp. 17-19. The Associations agreed. Associations' initial brief, pp. 12-13. The Staff recommended that Enbridge perform specific procedures during pipeline construction that exceed the minimum pipeline safety requirements. Staff's initial brief, pp. 55-59. Bay Mills argued that the specific grade of pipe proposed by Enbridge for use in the project has a demonstrated history of failure and, consequently, the company's application should not be approved. Bay Mills' initial brief, pp. 22-25.

Regarding the design of the Straits Line 5 replacement segment, Enbridge asserted that it "will be manufactured specifically for this Project, in a manner that exceeds API 5L Pipeline Specification Level 2 . . . ." 8 Tr 800; *see*, Exhibit A-14, p. 5. In addition, Enbridge stated that the pipe segment is designed using a greater maximum operating pressure and wall thickness than is required by federal regulations. 8 Tr 800. Enbridge's witness Mr. Dennis testified that "the entire

RECEIVED by MSC 11/14/2025 2:10:18 PM

circumference on 100% of the welds will be inspected (as opposed to the 10% made by each welder as required by the applicable regulations) and the replacement pipe segment will also be hydrotested to 150 percent of the MOP, which is 2160 psig." 8 Tr 801. Furthermore, with the automatic shutoff valves on both sides of the Straits and the pipeline appurtenances located outside of the tunnel, Enbridge claimed that the risk of release from the pipe segment is virtually eliminated. 8 Tr 801.

Bay Mills argued that the specific grade of pipe that Enbridge proposes for use in the Straits Line 5 replacement segment, API 5L X70 pipe, has a demonstrated risk of failure at girth welds. Bay Mills referenced the JIR, which cited several recent pipeline failures in API 5L X70 pipe. *See*, 10 Tr 1340; Exhibit BMC-43. Bay Mills' witness Mr. Kuprewicz testified on the reopened record that "[t]he risk of failure at the girth welds or heat affected zones in the X-70 pipeline should be addressed through sound Integrity Management analysis and procedures that go well beyond the API [Standard] 1104 for girth welding and heat treatment of pipe." 17 Tr 2631.

MSCA's witness Mr. Cooper testified that the issues raised in the JIR are not applicable to the Straits Line 5 replacement segment. He stated that the Straits Line 5 replacement segment in the tunnel will not experience "the type of longitudinal stress and strain experienced by buried pipe" and, therefore, the girth welds will not be affected by this type of strain. 12 Tr 1886. In addition, Mr. Cooper noted that "as set forth in the [JIR] (BMC-43), Enbridge states that it has already implemented the [JIR]'s recommendations intended to eliminate under-matched girth welds and minimize weld heat-affected zone softening. (Appendix B.)" 12 Tr 1887; *see*, 17 Amended Tr 2450-2456. Finally, Mr. Cooper stated that in designing the Straits Line 5 replacement segment, Enbridge properly considered and accounted for thermal expansion and contraction and stresses during hydrostatic testing. 9 Tr 1242-1243. Mr. Cooper concluded that the Straits Line 5

RECEIVED by MSC 11/14/2025 2:10:18 PM

replacement segment complies with PHMSA requirements, federal regulations, and industry standards.

The Staff noted that it met with PHMSA five times in 2021 to discuss PHMSA's review of Enbridge's compliance with safety regulations and to review "the design, materials, construction, operations and maintenance, and emergency response of the replacement pipeline." 12 Tr 1754. The Staff also met with PHMSA three times in 2022, which "consisted of open discussions relating to Enbridge's testimony and relevant discovery responses." 18 Tr 2792-2793. The Staff contended that PHMSA did not have any concerns with the design, construction, or operation of the Straits Line 5 replacement segment. 12 Tr 1754. The Staff asserted that it will continue to communicate and coordinate with PHMSA regarding the safety reviews of the design and construction of the Straits Line 5 replacement segment. 12 Tr 1754.

However, after "consider[ing] PHMSA's process, discussions with PHMSA personnel, conversations with [Mr.] Cooper, and [the] Staff's own expertise," the Staff "recommend[ed] parameters that should be included in the Company's welding procedures." Staff's initial brief, pp. 55-56. Specifically, Staff witness Mr. Chislea recommended that Enbridge "develop low-hydrogen welding procedures and qualify them per the requirements found in 49 CFR 195.214." 12 Tr 1757. In addition, Mr. Chislea testified that "the procedures should include pre-heat requirements prior to starting welding and inter-pass temperature requirements" and "the non-destructive testing of the mainline girth welds should include automatic phased array ultrasonic testing methods." 12 Tr 1758. He stated that if Enbridge implements these recommendations, post-heat treatment is not necessary. According to the Staff, Mr. Chislea's recommendations will address Bay Mills' and Mr. Kuprewicz's concerns regarding the API 5L X70 pipe and will exceed the minimum federal regulations. 18 Tr 2812.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Commission finds that the Straits Line 5 replacement segment meets or exceeds current safety and engineering standards and should be approved, subject to conditions. Enbridge provided a preponderance of evidence that the manufacture of the Straits Line 5 replacement segment exceeds API 5L Pipeline Specification Level 2 and that the company has exceeded industry standards for tolerances for pipe roundness, wall thickness, toughness, and chemical composition. *See*, 8 Tr 800-801. In addition, the Commission finds that the inspection procedures required by Enbridge at the manufacturing and installation levels exceed required minimum safety standards. *See*, 8 Tr 800-801. As discussed above, the Staff and MSCA reviewed Enbridge's design for the Straits Line 5 replacement segment and stated that it complies with 49 CFR Part 195 as administered by PHMSA. *See*, 9 Tr 1240; 12 Tr 1752. And, as noted by the Staff, PHMSA has not identified any compliance issues with the federal pipeline safety requirements for the design, construction, and testing of the Straits Line 5 replacement segment. *See*, Exhibit S-26, p. 1.

The Commission finds that the Staff's recommendation to exceed the minimum federal regulations is reasonable and prudent to ensure the safety, integrity, and reliability of the Straits Line 5 replacement segment. Thus, Enbridge shall implement procedures for low-hydrogen welding for all mainline girth welds and shall ensure that the procedures require both preheat and inter-pass temperature requirements. In addition, Enbridge shall ensure that the mainline girth welds are nondestructively tested using automatic phased array ultrasonic testing methods. *See*, 12 Tr 1757-1758.

The Commission also finds that there is a preponderance of the evidence on the record that Bay Mills' concerns regarding the use of API 5L X70 pipe in the Straits Line 5 replacement segment have been addressed. *See*, 12 Tr 1886-1887; 17 Tr 2450-2451; Exhibit BMC-43. Moreover, the Commission has adopted the Staff's recommended procedures that exceed federal

RECEIVED by MSC 11/14/2025 2:10:18 PM

regulations and that address Bay Mills' and Mr. Kuprewicz's concerns. 12 Tr 1757-1758; 18 Tr 2812. Subject to these conditions, the Commission finds that the Replacement Project meets or exceeds current safety and engineering standards.

Finally, the Commission notes Bay Mills' concerns that Enbridge failed to recognize the interactive nature of risks involved in the Replacement Project. Bay Mills' reply brief on reopening, p. 3 (footnote omitted). Through the conditions added to address issues relating both to the siting of the Replacement Project and the safety and engineering standards that the Replacement Project will need to meet, the Commission finds that it has addressed the stated concerns over the interactive nature of risks in a way that is consistent with the Commission's statutory responsibilities and the well-established framework for adjudicating the Act 16 criteria.

Once the Commission determines that the application has satisfied the three Act 16 criteria, the Commission must conduct a MEPA review of the proposed project.

D. Michigan Environmental Protection Act Review

According to Enbridge, locating the Straits Line 5 replacement segment in a tunnel is not likely to have the effect of polluting, impairing, or destroying the air, water, or other natural resources, or the public trust in these resources pursuant to MEPA. Enbridge's initial brief, pp. 30-33; *see*, 7 Tr 602-604; Exhibits A-11, A-12, A-12.1. Specifically, Enbridge contended that the Replacement Project is not likely to impact ground water, surface water, or lake bodies; air emissions "will be localized, intermittent, and short-term;" and there are no anticipated impacts to geology, soils, terrestrial resources, or drinking water. Exhibit A-12, pp. 11-12, 15, 18. Thus, Enbridge argued that the Commission's MEPA analysis should conclude here. However, Enbridge stated that if the Commission determines that the Replacement Project is likely to have the effect of polluting, impairing, or destroying natural resources or the public trust in these

RECEIVED by MSC 11/14/2025 2:10:18 PM

resources, there are no feasible and prudent alternatives to the Replacement Project. Enbridge's initial brief, pp. 33-35. The Associations agreed. Association's initial brief, pp. 14-27.

ELPC/MiCAN argued that the Replacement Project "will pollute, impair, and destroy Michigan's air, water, and other natural resources." ELPC/MiCAN's initial brief, p. 8. In particular, ELPC/MiCAN focused on the GHG emissions associated with construction and operation of the Replacement Project. Citing Mr. Erickson's testimony, methodology, and data, ELPC/MiCAN stated that GHG emissions will be produced during construction of the Replacement Project through "the use of a [TBM], operation of other construction equipment, and the making and installation of key construction materials, including steel and concrete," and operation of the tunnel systems. *Id*., p. 12; *see*, 9 Tr 1048-1057. ELPC/MiCAN also asserted that the products that are transported by the Replacement Project will emit GHG emissions when produced, processed, and combusted. ELPC/MiCAN's initial brief, pp. 17-19; *see*, 9 Tr 1057-1060. ELPC/MiCAN contended that the construction and operation of the Replacement Project will result in 87,000 metric tons of CO_2e per year and that these GHG emissions are likely to pollute, impair, or destroy Michigan's air, water, or other natural resources. ELPC/MiCAN's initial brief, pp. 12-13, 38-47; *see*, 9 Tr 1141-1168. In ELPC/MiCAN's opinion, there are feasible and prudent alternatives to the environmental impairments, which include denial of Enbridge's application for the Replacement Project and shutting down the dual pipelines. ELPC/MiCAN's initial brief, pp. 49-57; *see*, 9 Tr 946-949.

Similarly, Bay Mills, FLOW, and the MEC Coalition argued that the Replacement Project will impair the air, water, and other natural resources in the state of Michigan and that a shutdown of the dual pipelines and decommissioning of Line 5 are feasible and prudent alternatives. *See*, Bay Mills' initial brief, pp. 29-47; FLOW's initial brief, pp. 18-24; MEC Coalition's reply brief,

RECEIVED by MSC 11/14/2025 2:10:18 PM

pp. 14-44. In addition to environmental and health impairment from GHG emissions, Bay Mills asserted that the Replacement Project would impair other natural resources such as fisheries, wild rice, loons, and sugar maple. *See*, 10 Tr 1278-1279, 1449-1458, 1472, 1504.

The Staff identified several potential environmental impairments resulting from the Replacement Project but asserted that there are no feasible or prudent alternatives. Staff's initial brief, pp. 70-87; *see*, 12 Tr 1828-1834; Exhibit S-18.

As an initial matter, the Commission agrees with the Staff that several potential environmental impairments resulting from the construction of the Replacement Project fall in the regulatory purview of other state and federal agencies and will be addressed by separate permitting decisions. For example, witnesses for LTBB and NHBP asserted that the discharge of wastewater in the Great Lakes during construction of the tunnel and regular operations of the Replacement Project is likely to affect the Great Lakes' ecosystem. *See*, 9 Tr 1176-1179; 10 Tr 1287. The Staff noted that the NREPA Part 31 permit "establishes parameters for authorized discharge, including quantity and composition." Staff's initial brief, p. 72; *see*, Exhibit A-15, pp. 3-9. The Commission agrees with the Staff that Enbridge's compliance with these permit requirements should minimize potential environmental impacts from construction and operation of the Replacement Project.

However, the Commission examined the testimony and exhibits of Staff witness Mr. Douglas, who reviewed the NPDES, Wetlands, and GLSLA permits issued by EGLE, and of Staff witness Ms. Mooney, who reviewed Enbridge's EIR. The Commission notes that Ms. Mooney identified several potential environmental impacts from construction of the Replacement Project and she determined that "specific details about preventing the impairments were not provided in [Enbridge's] EIR or the response to discovery requests." 12 Tr 1848; *see*, Exhibits S-19, S-20,

RECEIVED by MSC 11/14/2025 2:10:18 PM

S-21. These impairments included increased noise, dust/particulates, and light from construction, and impacts to surface water, local residents, flora, fauna, air quality, groundwater, surface soils, and vegetation. 12 Tr 1850. Ms. Mooney determined that these environmental impacts should be specifically addressed in Enbridge's final mitigation plans to minimize the environmental impairments. 12 Tr 1850-1851. The Commission agrees, and also finds that the 10 impairments identified by Ms. Mooney are environmental impairments pursuant to MEPA.

The Commission also reviewed the record evidence regarding potential GHG emissions associated with the Replacement Project. The Commission notes that Staff witness Mr. Ponebshek explained that according to the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard, there are three types of GHG emissions: Scope 1, Scope 2, and Scope 3. 12 Tr 1877-1878. Mr. Ponebshek stated that Scope 1 emissions for the Replacement Project, which include emissions from construction equipment and land clearing, are expected to be 6,036 metric tons of CO_2e per year. He noted that ELPC/MiCAN's witness Mr. Erickson calculated Scope 1 emissions to be 5,635 metric tons of CO_2e per year, a difference of about 10%. 12 Tr 1878; Exhibit S-24, p. 6. In Mr. Ponebshek's opinion, "[a] difference of less than 10 percent (%) is not considered significant in this context." 12 Tr 1878. Regarding Mr. Erickson's calculations for Scope 2, which include emissions from the TBM and other electric equipment, Mr. Ponebshek stated that Mr. Erickson incorrectly used data for purchased electricity that is not recommended by the EPA. Mr. Ponebshek contended that "Mr. Erickson's GHG emissions from purchased electricity would be the same as calculated by Weston (37,320 metric tons of CO2e per year) had Mr. Erickson used the recommended EPA default emission inventory total output [emission factors]." 12 Tr 1879; *see*, Exhibit S-27. Additionally, Mr. Ponebshek asserted that Mr. Erickson's Scope 3 emissions should be excluded from consideration because of the uncertainty involved with the data.

RECEIVED by MSC 11/14/2025 2:10:18 PM

ELPC/MiCAN disagreed with Mr. Ponebshek that Mr. Erickson's Scope 2 emissions calculation included improper data and stated that the EPA "clearly indicates that the non-baseload emission factor is the appropriate factor to use for estimating changes in GHG emissions." ELPC/MiCAN's initial brief, p. 16. In response to Mr. Ponebshek's claim that Mr. Erickson's Scope 3 emissions calculation should be excluded, ELPC/MiCAN stated that the methods used by Mr. Erickson are "readily available" and that he "cites reputable academic and government sources for reputable information on indirect GHG emissions." *Id*., p. 15 (citing 9 Tr 1099).

Regarding the GHG emissions resulting from the liquid petroleum transported by the Replacement Project, Mr. Erickson stated that his "central estimate of 27,000,000 metric tons CO_2e is a reasonable approximation of the incremental effect of the Proposed Project on global GHG emissions based on available information regarding supply and demand elasticities." 9 Tr 1078; *see*, 9 Tr 1063, 1077-1079, 1096-1099. Staff witnesses asserted that Exhibit S-24 contains a GHG analysis and calculations completed by Weston, which states that the current Line 5 pipeline emits 209,854 metric tons of CO_2e annually. Exhibit S-24, pp. 3, 6; *see*, 12 Tr 1768, 1831, 1862, 1872, 1875. Enbridge and the Staff noted that whether the Replacement Project is approved and completed does not affect service on Line 5; the Straits Line 5 segment will continue to transport 540,000 bpd and, thus, the GHG emissions will remain static (209,854 metric tons CO_2e annually). 7 Tr 564, 757; Exhibit S-24, pp. 3, 4, 6.

Although Mr. Ponebshek and Mr. Erickson disagree as to which GHG emissions should be included in the Scope 2 emissions calculation, their Scope 1 emissions are substantially similar, and both Scope 1 and Scope 2 calculations represent an increase in GHG emissions that would not exist but for construction of the Replacement Project. Moreover, no party disputes that GHG emissions will be emitted during construction of the Replacement Project. *See*, Enbridge's reply

RECEIVED by MSC 11/14/2025 2:10:18 PM

brief, p. 23; Staff's initial brief, pp. 82-85; Bay Mills' initial brief, pp. 29-31; ELPC/MiCAN's initial brief, pp. 11-19; FLOW's initial brief, pp. 19-20; MEC Coalition's reply brief, pp. 32-33. Therefore, as stated in the April 21 order, the Commission finds that "GHGs are widely recognized as pollutants that trap heat in the atmosphere and contribute to climate change, thereby polluting, impairing, and destroying natural resources." April 21 order, p. 65; *see*, 9 Tr 1044-1050; 12 Tr 1849-1850; Exhibits ELP-2, ELP-3.

Once the Commission concludes that the proposed conduct, i.e., the Replacement Project, is likely to pollute, impair, and destroy natural resources, the Commission may not approve the action if there is a feasible and prudent alternative. Enbridge, the Staff, and the intervenors analyzed several potential alternatives to the Replacement Project.

Enbridge asserted that:

> [p]ursuant to the First Agreement, Enbridge performed [the Alternatives Analysis] for replacing the Dual Pipelines. The two feasible alternatives were and [sic] open-cut with secondary containment or a relocation within a tunnel. The open-cut with secondary containment option caused additional environmental impacts that would not be caused by the tunnel option. Through the passage of Act 359 and the various agreements entered between Enbridge and the state, the tunnel option was selected.

Enbridge's initial brief, pp. 33-34 (internal citations omitted).

As noted in the Act 16 analysis above, ELPC/MiCAN presented Exhibit ELP-24 that contained a report by Dynamic Risk, who evaluated six alternatives to the dual pipelines. The report included preliminary environmental analyses for several of the alternatives.

Alternative 1 involved constructing a new pipeline that does not cross the open waters of the Great Lakes. Dynamic Risk explained that it explored two routes for the pipeline: (1) a northern route through Canada, around the Great Lakes, and south to Sarnia, Ontario, Canada, and (2) a southern route that follows existing Enbridge assets south to Chicago, Illinois, east to Marysville,

RECEIVED by MSC 11/14/2025 2:10:18 PM

Michigan, and east to Sarnia, Ontario, Canada. Dynamic Risk stated that, "[d]ue to the substantial cost advantage of the southern route in both capital and operating costs, the northern route was screened out . . . and the southern route was selected for continued analysis of market impacts, socioeconomic impacts[,] and risks." Exhibit ELP-24, p. 316.

According to Dynamic Risk, the southern pipeline route in Alternative 1 would cross 8 rivers, 24 streams, 5 drainage canals, and 231 miles of wetlands in Michigan. *See, id*., p. 328. In addition, Dynamic Risk stated that the southern pipeline option would "transect or come within 95 yards of Protected Areas 13 times in Michigan" and would traverse 52.9 miles of highly populated areas in Michigan. *Id*., p. 332. Dynamic Risk also contended that the southern pipeline route would affect 11 well-head protection areas for a total of 70.69 miles and "two 'Community Drinking Water Wells' areas would be exposed to a potential pipeline oil spill." *Id*. (internal citations omitted).

For Alternative 2, Dynamic Risk considered whether existing Canadian and American pipeline infrastructure that does not cross the open waters of the Great Lakes could be used to carry the volume of petroleum products currently being shipped on Line 5 from Superior, Wisconsin, to Sarnia, Ontario, Canada. Dynamic Risk concluded that because "there is no meaningful partial capacity within existing infrastructure, any attempt to rely on Alternative 2 is essentially equivalent to the full abandonment option" set forth in Alternative 6. *Id*., p. 307. Thus, Dynamic Risk did not conduct an environmental analysis for this option.

In its analysis of Alternative 3, Dynamic Risk analyzed other methods of transportation such as rail, tanker trucks, oil tankers and barges, in the event that Line 5 is decommissioned in Michigan and Line 5 product will need transportation from Superior, Wisconsin, to Sarnia, Ontario, Canada. Dynamic Risk noted that for tanker trucks, "[t]he risk factors associated with

RECEIVED by MSC 11/14/2025 2:10:18 PM

this option, and the large capital cost, make it nonviable, and therefore no further analysis was conducted for truck transportation." *Id*., p. 349. Similarly, for oil tankers and barges, Dynamic Risk concluded that transportation of Line 5 products is not feasible and, therefore, it was not considered further. *Id*.

Dynamic Risk explained that for rail transportation of Line 5 product in Michigan, 11 rivers, 11 streams, 6 drainage canals, and 6-7 miles of wetlands would be crossed. *See*, *id*., p. 369. After a review of EGLE informational materials, Dynamic Risk found that many Michigan wetlands would be affected by Alternative 3, including rare wetlands and endangered species. In addition, Dynamic Risk stated that a spill of Line 5 product "directly on, or via dispersion into, palustrine and other aquatic environment would cause significant environmental damage that would be particularly difficult to contain and cleanup. The consequence to remaining wetland habitat and the rare or conservationally-important species that they support would most certainly be significant." Exhibit ELP-24, p. 371. Dynamic Risk also contended that Alternative 3 rail transportation would contact or transect 14 protected areas and 72 miles of highly populated areas in Michigan. *Id*., p. 374. Furthermore, Dynamic Risk asserted that a spill of Line 5 product from a rail accident would affect 44 well-head protected areas and five community drinking water well resource areas. *Id*.

Dynamic Risk analyzed a trench or tunneling option in Alternative 4. Regarding the oil spill impacts associated with a trenching alternative, Dynamic Risk stated that "once an event occurs the actual scale and significance of impacts to the various baseline habitats and biodiversity are not readily discernable with those associated with a Line 5 full rupture or leak" of the existing dual pipelines. *Id*., p. 261. Thus, Dynamic Risk provided a brief analysis of the differences in potential

RECEIVED by MSC 11/14/2025 2:10:18 PM

ecological impacts between a release of product from a trenched pipeline and the existing dual pipelines, asserting that:

> [t]he only evident difference that can be determined at this level of analysis is that [for a trenching alternative] there will be reductions in oil volumes that reach certain sensitive habitat in the event of an oil spill. This could, in principle, lead to lower levels of acute oil smothering impacts to diving and wading birds and shoreline mammals. The potential for longer-term exposure from weathered oils (e.g., less entrained oils) to certain habitats such as fish habitat may also be reduced.

Exhibit ELP-24, p. 262.

For the tunneling option in Alternative 4, Dynamic Risk analyzed a sealed annulus tunnel wherein the opening between the pipe and tunnel wall is filled with an impermeable cement bentonite grout material. Dynamic Risk stated that for this tunnel design, "there are no foreseeable mechanisms whereby the pressure membrane of the welded steel pipe might be breached, leading to migration of pipeline contents through the grout annulus, the concrete liner, the surrounding bedrock, and the overburden, leading to contamination of the waters of the Great Lakes." *Id.*, p. 274. Regarding the potential for a release from the sealed annulus tunnel, Dynamic Risk stated that the risk is negligible and unquantifiably low. *Id.*, p. 275.

For Alternative 5, Dynamic Risk studied the current condition and operation of the dual pipelines and analyzed the environmental risks that would result from a release of Line 5 product. According to Dynamic Risk, the consequences of a light oil spill into the Straits include:

- portions of the light oil will dissolve resulting in decreasing toxin concentrations towards the outer potions [sic] of the modeled spill plume or slick
- in relation to the above, there is a higher probability of potentially direct toxic lethal effects to susceptible species (e.g., sessile or species unable to move away from certain habitat)
- as the plume or slick disperses further and comes into contact with the shore (typically with heavier hydrocarbon chains due [to] evaporation of lighter

RECEIVED by MSC 11/14/2025 2:10:18 PM

fractions), direct contact with littoral zone or shoreline vegetation / wetlands and species will occur

- In relation to the above, lake waters, shorelines and littoral wetlands would experience:
    - Oil smothering impacts (e.g., coating fur or feathers) to sessile species or juveniles unable to escape the spreading oil leading to stresses at potentially lethal or sub-lethal levels.
    - Oil trapped in shoreline vegetation or coating vegetation (including floating vegetation) which could in turn be remobilized under certain metrological and hydraulic conditions.
    - Oil smothering of certain critical habitat (e.g., foraging or spawning grounds) making them inaccessible to various species, thereby causing stresses at potentially lethal or sub-lethal levels.
- mobile oils in lake water that undergo longer-term emulsification, submergence / sedimentation and photo-oxidation, could cause consequentially longer-term ecological exposure of sensitive receptors to lighter oil droplets in the water column, contaminated benthic sediments and tar balls.

Exhibit ELP-24, p. 179. Dynamic Risk also analyzed the impacts of a Line 5 product spill to birds, fish, herpetofauna, mammals, other flora and fauna, and habitat. *See*, *id*., pp. 179-189. Dynamic Risk concluded that the impact analysis "points to the many core and interconnected components of Lake Michigan and Lake Huron ecological environment that could be impacted" and "it is therefore prudent to assign a major negative impact level of significance." *Id*., p. 192.

Alternative 6 explored eliminating transportation service on the dual pipelines and alternatives for delivering Line 5 product to Michigan. Dynamic Risk contended that if Line 5 were partially or fully abandoned with no additional construction of infrastructure, Enbridge would have to rely on rail and truck to deliver Line 5 product to Michigan. *Id*., pp. 278-279. Dynamic Risk did not conduct an environmental analysis for this option.

MSCA also discussed two alternatives to the Replacement Project: suspending a replacement pipe segment from the Mackinac Bridge, or constructing a new suspension bridge in the Straits to

RECEIVED by MSC 11/14/2025 2:10:18 PM

house the replacement pipe segment. *See*, 9 Tr 1238. However, the alternative of suspending a replacement pipe segment from the Mackinac Bridge was discarded by MSCA because a suspended "pipeline would add load to the Mackinac Bridge for which it was not designed and would tend to shorten the 64-year-old bridge's useful life." 9 Tr 1238. Regarding the construction of a new suspension bridge to house the replacement pipe segment, MSCA determined this option was imprudent because the structure would require regular and expensive maintenance, would be exposed to aircraft and high-wind impacts, and a failure of both the pipeline and the casing would result in a catastrophic release of product into the Straits.

The Staff stated that it considered six alternatives to the Replacement Project: (1) no action, (2) replacement of the dual pipelines using the Open-Cut Alternative, (3) replacement of the dual pipelines using HDD, (4) protection of the dual pipelines by installing rock armoring, (5) alternative transportation methods for Line 5 product, and (6) product switching and alternative fuel sources. 12 Tr 1726-1727. For Staff's Alternative 1, the Staff assumed that the Replacement Project is not constructed and, as a result, the dual pipelines continue to operate in their current location. The Staff stated that, "while the *likelihood* of a release from the Dual Pipelines is relatively low, the *consequences* of an unmitigated rupture directly into the Straits could be high. Therefore, the overall risk of the Dual Pipelines continuing to operate is not insignificant." 12 Tr 1729 (emphasis in original). As a result, the Staff concluded that although it is feasible, Staff's Alternative 1 is an inferior and imprudent option compared to the Replacement Project.

Regarding Staff's Alternative 2, the Staff rejected this option because it would cause substantially greater environmental impacts than the Replacement Project. *See*, 12 Tr 1865-1870. The Staff noted that Alternative 3, HDD, was found to be infeasible. For Staff's Alternative 4, the Staff contended that installation of rock armoring would not contain a release of Line 5 product, it

RECEIVED by MSC 11/14/2025 2:10:18 PM

could damage the pipe exterior, it would disturb the lakebed and require additional state/federal permits, and it would prevent exterior inspection of the pipeline; therefore, the Staff found Alternative 4 to be a less prudent option. The Staff explained that Alternatives 5 and 6 are only relevant if the dual pipelines are shutdown. However, the Staff stated that for Alternative 5, it would result in "significantly more GHG emissions than an equivalent volume by pipeline," and Alternative 6 is imprudent and infeasible in the short term because it would "take a considerable amount of time to accomplish" and "come at a significant financial cost . . . ." 12 Tr 1791-1792.

Therefore, after considering the Replacement Project, the environmental impairments identified by Ms. Mooney, the GHG emissions, and the alternatives, the Staff concluded that there are no feasible and prudent alternatives to Replacement Project or the proposed construction techniques. *See*, Staff's initial brief, pp. 85-86.

ELPC/MiCAN asserted that the purpose of the Replacement Project is to alleviate the environmental risk posed by the dual pipelines to the Great Lakes. Accordingly, ELPC/MiCAN argued that "[c]ontinuing to operate the existing pipelines would not achieve Enbridge's stated purpose, and therefore cannot be considered as a component of an alternative here." ELPC/MiCAN's initial brief, p. 49. Rather, ELPC/MiCAN stated that the Commission must consider as a feasible and prudent alternative that the dual pipelines may cease to operate. *See*, *id*., pp. 52-57. Bay Mills, FLOW, and the MEC Coalition agreed. *See*, Bay Mills' initial brief, pp. 39-47; FLOW's initial brief, pp. 21-24; MEC Coalition's reply brief, pp. 39-44.

The Commission reviewed the record evidence regarding alternatives to the Replacement Project pursuant to the analysis required by MEPA and applicable case law. MCL 324.1705(2); *State Hwy Comm v Vanderkloot*, 392 Mich 159, 184-190; 220 NW2d 416 (1974); *Ray v Mason County Drain Comm*, 393 Mich 294, 890-891; 224 NW2d 833 (1975); *Friends of Crystal River*

RECEIVED by MSC 11/14/2025 2:10:18 PM

v Kuras Prop(s), 218 Mich App 457, 466-467;554 NW2d 328 (1996) (*Kuras*); *Buggs I*, p. 8; *Buggs v Mich. Pub Serv Comm*, unpublished per curiam opinion of the Court of Appeals, issued May 16, 2017 (Docket Nos. 329781 and 329909).

The Commission analyzed the six alternatives studied by Dynamic Risk set forth in Exhibit ELP-24. For Alternative 1, the southern pipeline route, the Commission finds that although the alternative pipeline route is feasible, it is not prudent. As noted by Dynamic Risk, the alternative southern pipeline route would cross 8 rivers, 24 streams, 5 drainage canals, 231 miles of wetlands, 13 protected areas, and 52.9 miles of highly populated areas, and could expose 11 well-head protection areas and two community drinking water well areas to a potential oil spill. *See*, Exhibit ELP-24, pp. 328, 332. Moreover, as set forth in Dynamic Risk's Alternatives Report, the southern pipeline route exhibits a greater failure frequency and safety risk when compared to the tunneling alternative. *See*, *id*., p. 30.

Regarding Alternative 2, the Commission notes that Dynamic Risk did not explicitly conduct an environmental review for this option but stated that it was "essentially equivalent to the full abandonment option" in Alternative 6. Therefore, the Commission will conduct its MEPA review of this option in conjunction with Alternative 6.

For Alternative 3, other methods of transportation, the Commission finds that as noted by Dynamic Risk, tanker truck, oil tanker, and barge transportation are not feasible. However, for rail transportation of Line 5 product, the Commission finds that although this alternative is feasible, it is not prudent as it carries a greater likelihood of environmental harm. Rail transportation of Line 5 product will cross 11 rivers, 11 streams, 6 drainage canals, 6-7 miles of wetlands, 14 protected areas, and 72 miles of highly populated areas in Michigan. *See*, Exhibit ELP-24, pp. 369, 374. In addition, a rail transportation alternative will produce significantly more GHGs than the

RECEIVED by MSC 11/14/2025 2:10:18 PM

Replacement Project. Furthermore, the Commission finds that the Dynamic Risk report demonstrated that a spill of Line 5 product from a rail accident would have a significantly negative effect on Michigan wetlands and endangered species. The Commission also finds that as set forth in Dynamic Risk's Alternatives Report, rail transportation exhibits a greater failure frequency and safety risk when compared to the tunneling alternative. *See, id*., p. 30.

The trenched pipeline option in Alternative 4 is similar to the Open Cut Alternative analyzed by the Staff and discussed further below. The Commission finds that compared to a release of Line 5 product from the existing dual pipelines, the trenched pipeline option would reduce the volume of oil that could reach and impact the environment. However, as noted by Dynamic Risk, a release from a trenched pipeline would still impact diving and wading birds, shoreline mammals, and fish habitat. *See*, Exhibit ELP-24, p. 262. In addition, the estimated annual probability of rupture of a trenched pipeline and the estimated annual probability of leakage are both greater than the probability of release of Line 5 product from the proposed pipeline into the tunnel of the Replacement Project, and greater than the probability of release of Line 5 product from the tunnel into the Great Lakes, which is "negligible—considered virtually zero." Exhibit A-9, p. 9; *see also*, Exhibit ELP-24, p. 251; 8 Tr 800-803; 16 Tr 2322, 2355-2360; 17 Amended Tr 2437-2438, 2448-2450, 2475, 2589-2590, 2593; 18 Tr 2810-2811; Exhibit A-9, pp. 14, 64, 66, 68; Exhibits S-31 and S-32. Therefore, the Commission finds that the trenched pipeline option is imprudent as it too carries a greater risk of environmental harm than the proposed tunnel.

For the tunneling option in Alternative 4, the Commission notes that according to Dynamic Risk, "tunnels have advantages over other types of installation, in part, because they provide a self-contained environment that can be isolated from the natural environment by sealed concrete walls that are in turn, surrounded by bedrock." *Id*., p. 273. The Commission finds that the sealed

RECEIVED by MSC 11/14/2025 2:10:18 PM

annulus tunnel option presented in Alternative 4 is feasible because, like the Replacement Project, it could effectively prevent spills from reaching the Great Lakes. However, the Commission finds that Dynamic Risk's assessment of the potential for a release from the sealed annulus tunnel as being negligible and unquantifiably low is essentially the same as the estimated "negligible—considered virtually zero" probability of release of Line 5 product from the tunnel. Exhibit A-9, p. 9. As such, the Commission finds there is no additional environmental benefit to the sealed annulus tunnel considered by Dynamic Risk in Alternative 4 over the open annulus tunnel proposed by Enbridge. Because the open annulus design appears to have been chosen over the closed annulus design on the basis of pipeline integrity management and inspection, *see, e.g.*, Exhibit BMC-60, p. 12, the Commission further finds that these rationales add additional support to the proposed Replacement Project being preferred over the sealed annulus in Alternative 4 from a MEPA perspective, as the ability to visually inspect the pipeline in the tunnel—an option not available for "an inline tunnel in grout"—allows for a higher likelihood of identifying and remediating any pipeline integrity threats before they can cause environmental harm. *Id.*; *see,* Exhibit A-9, p. 73.

The Commission finds that Alternative 5 is feasible but not prudent. In the discussion below, the Commission analyzes this option as the "no action" alternative. The Commission notes that according to Dynamic Risk, the annual probability of failure of the dual pipelines due to anchor strike, VIV, and spanning and the annual probability of leak from the dual pipelines are both significantly higher than the estimated probability of release of Line 5 product from the proposed pipeline into the tunnel of the Replacement Project and the probability of release of Line 5 product from the tunnel into the Great Lakes. *See*, Exhibit A-9, p. 9; *see also*, Exhibit ELP-24, p. 208.

RECEIVED by MSC 11/14/2025 2:10:18 PM

For the same reasons provided in the discussion of Alternative 3 above, the Commission finds that Alternative 6 is feasible but not prudent. If Enbridge must rely on rail to deliver Line 5 product to Michigan, the annual probability of failure and the environmental consequences of an oil spill in this scenario would be substantially similar to those set forth in Alternative 3. *See*, Exhibit ELP-24, p. 30. In addition, as discussed above, the GHG emissions associated with rail transportation of Line 5 product in Michigan are greater than that produced by the Replacement Project.

The Commission also reviewed the two alternatives presented by MSCA. The Commission agrees with MSCA that it is not feasible to suspend a replacement pipe segment from the Mackinac Bridge. *See*, 9 Tr 1238. In addition, the Commission agrees with MSCA that while construction of a suspension bridge to house a replacement pipe segment is feasible, it has "significant disadvantages compared to a tunnel" and is therefore imprudent. 9 Tr 1238.

Regarding the Open-Cut Alternative analyzed by the Staff, the Commission finds the Staff's position on this issue persuasive. As noted in Exhibit A-9, compared to the Replacement Project, the Open-Cut Alternative would cause more impacts and impairments to the Great Lakes' shorelines, waters, and lakebed, and marine construction work would be required for two consecutive summer seasons, plus an additional summer season for geotechnical investigation and surveys as compared to the single summer season required for marine/geotechnical work for the Replacement Project. *See*, Exhibit A-9, pp. 9, 67; 12 Tr 1865-1866. In addition, Mr. Ponebshek stated that although the Alternatives Analysis concluded that the Open-Cut Alternative was feasible, it "was discarded from detailed analysis for a number of reasons including complexity of trenching at a 250 foot depth below water level, environmental impacts related to turbidity and

RECEIVED by MSC 11/14/2025 2:10:18 PM

dredge material handling, impacts to ship traffic in the Straits, and high likelihood of hard soils on the lakebed." 12 Tr 1865-1866.

In addition, the Commission notes that the purpose of the Replacement Project is to "alleviate an environmental concern to the Great Lakes" posed by the dual pipelines. Application, p. 1. The Alternatives Analysis stated that "[t]he secondary containment design of the [Open-Cut Alternative] reduces the probability of a release into the Straits to an extremely low value." Exhibit A-9, p. 9. However, the Alternatives Analysis determined that the "[r]isk of product release into the Straits" from the Replacement Project is "[n]egligible—considered virtually zero." *Id*. Accordingly, the Commission finds that although the Open-Cut Alternative may be feasible, it is not prudent because the risk of release and the environmental impairments are greater than those associated with the Replacement Project.

Next, the Commission finds persuasive the Staff's position that the HDD method is not feasible. 12 Tr 1730, 1864. As set forth in Exhibit A-9, there are not available technical capabilities to do a single shore-to-shore installation and it would not be feasible to place marine platforms in the middle of the Straits' shipping channel to complete an installation from other points in the Straits. *See*, Exhibit A-9, pp. 6, 8, 50-53.

Regarding the installation of rock armoring on the dual pipelines, the Commission finds the Staff's testimony on this issue persuasive. Mr. Warner stated that although this alternative is feasible, the "potential negative consequences" of rock armoring the dual pipelines are that it "eliminate[s] the ability to visually inspect the outside of the pipeline using a remote operated vehicle (ROV) or with divers as is done currently," and "it would likely cause environmental impairments and would require at least 11 state and federal environmental permits and approvals." 12 Tr 1722. Thus, the Commission finds that installation of the rock armoring would reduce

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge's ability to conduct safety inspections and perform maintenance on the exterior of the dual pipelines, which is currently done to ensure the integrity of the pipeline segment and prevent a release of Line 5 product into the Straits. In addition, as noted by the Staff, this alternative does not provide secondary containment and it would involve more disturbance of the lakebed compared to the Replacement Project. 12 Tr 1731. Therefore, the Commission finds that rock armoring of the dual pipelines is not a prudent alternative.

Finally, the Commission notes that several parties presented a "no-action" or "no-pipeline" alternative. Enbridge and the Staff argued that if the Commission denies Enbridge's application for the Replacement Project, the dual pipelines will continue to operate in their current position and the purpose of the Replacement Project will not be effectuated, i.e., alleviating the environmental threat to the Great Lakes posed by the dual pipelines. *See*, Staff's initial brief, pp. 87-90. Enbridge and Staff have labeled this the "no-action" alternative. However, ELPC/MiCAN, FLOW, Bay Mills, and the MEC Coalition argued that Enbridge and the Commission "must consider alternatives that serve [the] same purpose" of alleviating the environmental threat of the dual pipelines to the Great Lakes such as a "no-pipeline" alternative, which involves shutting down the dual pipelines and not constructing the Replacement Project. ELPC/MiCAN's initial brief, p. 49.

Although the "no-pipeline" alternative presented by ELPC/MiCAN, Bay Mills, FLOW, and the MEC Coalition might similarly reduce the environmental threats to the Great Lakes, MEPA requires that the alternative must also be feasible and prudent. MCL 324.1705(2). In defining what constitutes a feasible and prudent alternative, the Michigan Court of Appeals stated that its duty was:

> to identify and effectuate the intent of the Legislature, and, if necessary, interpret language that does not on its face reveal legislative intent. *Piper v. Pettibone*

RECEIVED by MSC 11/14/2025 2:10:18 PM

> *Corp*., 450 Mich. 565, 571, 542 N.W.2d 269 (1995). A fundamental rule of statutory construction is that the Legislature is presumed to have intended the plain meaning of words used in a statute. *Attorney General v. Sanilac Co. Drain Comm'r*, 173 Mich.App. 526, 531, 434 N.W.2d 181 (1988). Because the words "feasible" and "prudent" are not defined by the statute, an acceptable method of determining intent is to refer to a dictionary for the common usage of the words. *Nelson v. Grays*, 209 Mich.App. 661, 664, 531 N.W.2d 826 (1995) [(*Nelson*)]. A "feasible" alternative is one that is "capable of being put into effect or accomplished; practicable" or "capable of being successfully utilized; suitable." *Funk & Wagnalls Standard Dictionary* (1980). "Prudent" is defined as "exercising sound judgment." *Id*.

Kuras, 218 Mich at 466. Similarly, without a definition of "feasible and prudent" in MEPA, the Commission finds that it is acceptable to refer to a dictionary for the common use of the words "feasible and prudent" and accordingly adopts the definitions set forth in *Kuras*. *See*, *Nelson*, Mich App at 664.

ELPC/MiCAN asserted that the "no-pipeline" alternative is feasible and prudent because Governor Whitmer issued the Notice revoking the 1953 easement for the dual pipelines and the Attorney General is pursing legal action to shut down the dual pipelines, both of which could prove to be successful in the future. ELPC/MiCAN's initial brief, pp. 50-51. The MEC Coalition stated that the 1953 order "does not foreclose a future without Line 5" because the order "does not prohibit the Commission from considering an alternative without it." MEC Coalition's reply brief, pp. 39-40. In addition, the MEC Coalition contended that "the state's dismissal of the federal lawsuit to enforce the [Notice], Enbridge's pending federal lawsuit against the state, and Canada's invocation of the dispute resolution provisions of Article IX of the 1977 Transit Treaty to dismiss the no-pipeline alternative" do not make a shutdown infeasible. *Id*., pp. 40-41. Finally, Bay Mills argued that the "no-pipeline" alternative is feasible because Enbridge could voluntarily cease

RECEIVED by MSC 11/14/2025 2:10:18 PM

operation of the dual pipelines. Bay Mills' initial brief, pp. 40-41. *See*, FLOW's initial brief, p. 24; FLOW's reply brief, p. 13.[35]

Putting aside the issue that a halting of operations of the current dual pipelines has not yet occurred and it is uncertain whether the additional actions necessary for such a halting of operations will occur, the Commission notes that many of the arguments raised in support of this "no-pipeline" alternative speak more to the need for the pipeline than to the Commission's required findings under MEPA. Given the record evidence in this case, the Commission is unconvinced that a "no-pipeline" alternative would actually result in reduced GHG emissions when compared with the Replacement Project.

Indeed, if the current GHG emissions associated with the product transported by the dual pipelines are compared with the GHG emissions that would be produced following a shutdown of the dual pipelines, the Commission finds that a shutdown would actually result in a significant increase in GHG emissions, at least in the short term, as a shutdown of the dual pipelines would not immediately alter demand for the products shipped on Line 5, and consequently the modes of transportation for crude oil and NGLs would shift to rail and truck. 12 Tr 1771-1777, 1791-1792, 1801-1807; *see*, 9 Tr 948, 974, 1092. Enbridge's witness Mr. Bennet testified that:

> [his] calculations for the operation of existing Line 5 conclude that just slightly over 200,000 metric tons CO_2e per year are emitted and that the increase for tunnel operations will amount to approximately 440 metric tons CO_2e per year. Assuming rail transportation is available, [his] calculations show the GHG emissions from shipping crude oil by Line 5 by rail depending on the route would result in 0.9 to 1.9 million metric tons CO_2e per year. This represents a 4-to-9-fold increase in GHG emissions for rail transport compared to relocating Line 5's Straits crossing within a tunnel.

[35] Because FLOW's reply brief is not paginated, the Commission clarifies that page 1 starts in natural order with the first page of the reply brief.

RECEIVED by MSC 11/14/2025 2:10:18 PM

7 Tr 763. The Staff agreed, asserting that transporting "an equivalent volume of petroleum through a combination of rail and truck will result in approximately 160 percent more GHG emissions than the shipment of these products via pipeline." 12 Tr 1792. ELPC/MiCAN's witness Mr. Erickson did not dispute that moving oil by rail will increase GHG emissions. 9 Tr 1067.

Furthermore, and most importantly, should the dual pipelines remain in operation, the Commission finds that the "no-action" alternative is not "consistent with the reasonable requirements of the public health, safety, and welfare." MCL 324.1705(2). As set forth in the record evidence, in 2016, Dynamic Risk was selected to examine the alternatives to the current configuration of the dual pipelines in the Straits. Staff Witness Mr. Warner testified that according to Dynamic Risk's Alternatives Report, "'anchor hooking' was determined to be the dominant primary threat to the Dual Pipelines that could cause a rupture. Dynamic Risk estimated that this threat represented more than 75% of the annualized total threat probability . . . ." 12 Tr 1716 (quoting Exhibit ELP-24, p. 28). Mr. Warner also stated that "to mitigate the risk of anchor strikes, Enbridge is [currently] monitoring vessel traffic by patrolling the Straits. In addition, Enbridge continues to visually inspect the exterior of the pipelines for damage or unsupported spans. If these events occur, Enbridge would need to complete repairs using divers and vessels anchored in the Straits." 12 Tr 1729. However, even with these mitigation measures in place, the Commission finds that in the last five years, the dual pipelines have experienced two incidents, including one anchor strike incident, that could have resulted in a catastrophic release of Line 5 products into the Straits. *See*, 10 Tr 1333-1334; 12 Tr 1724-1725; Exhibit S-6, p. 1. In addition, in their current configuration, the dual pipelines are subject to VIV and spanning stress, which

RECEIVED by MSC 11/14/2025 2:10:18 PM

may contribute to the risk of failure and a release of Line 5 product. *See*, Exhibit ELP-24, pp. 17, 28, 141.

A rupture of the dual pipelines would be catastrophic for the Great Lakes, costing an estimated $1.37 billion damages and resulting in long-lasting health, environmental, and cultural damages. *See*, 12 Tr 1717-1718. Thus, the Commission finds that the "no-action" alternative to the Replacement Project would not be "consistent with the reasonable requirements of the public health, safety, and welfare." MCL 324.1705(2).

In conclusion, the Commission finds that after a review of the record evidence, there are no feasible and prudent alternatives to the Replacement Project pursuant to MEPA.

THEREFORE, IT IS ORDERED that:

A. Enbridge Energy, Limited Partnership's application is approved as set forth in the order.

B. The route and location of Enbridge Energy, Limited Partnership's Straits Line 5 Replacement Segment is approved conditioned upon the company obtaining the required governmental permits and approvals. Significant changes to the design of the tunnel that are completed subsequent to this approval, including the addition of third-party utilities, shall be considered by the Commission to be inconsistent with the approval of this application and would require further application to, and approval by, the Commission.

C. Prior to construction of the tunnel, Enbridge Energy, Limited Partnership shall provide the Mackinac Straits Corridor Authority with a detailed risk management plan. The plan shall include a description of the planned geotechnical test bores and frequency of probe-hole testing ahead of the tunnel boring machine and should include reporting of both test-bore data and probe-hole data in real time so that the State of Michigan can assess risks and construction plan modifications based on the data. The plan should also include inspections for concrete cast sections prior to

RECEIVED by MSC 11/14/2025 2:10:18 PM

moving them into the tunnel and after being put into place, placement of gaskets, regular analyses of bentonite mix properties, and changes in slurry pressure. Deviations from and modifications to the plan during the construction process should be reported by Enbridge Energy, Limited Partnership and available for public review.

D. Enbridge Energy, Limited Partnership shall implement procedures for low-hydrogen welding for all mainline girth welds, shall ensure that the procedures require both preheat and inter-pass temperature requirements, and shall ensure that the mainline girth welds are nondestructively tested using automatic phased array ultrasonic testing methods as proposed by the Commission Staff.

The Commission reserves jurisdiction and may issue further orders as necessary.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of Attorney General - Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Katherine L. Peretick, Commissioner

I abstain.

Alessandra R. Carreon

By its action of December 1, 2023.

Lisa Felice, Executive Secretary

RECEIVED by MSC 11/14/2025 2:10:18 PM

PROOF OF SERVICE

STATE OF MICHIGAN)

Case No. U-20763

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on December 1, 2023 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

Brianna Brown

Subscribed and sworn to before me
this 1st day of December 2023.

Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

RECEIVED by MSC 11/14/2025 2:10:18 PM

Service List for Case: U-20763

Name	On Behalf of	Email Address
Abigail Hawley	Tip of the Mitt Watershed Council (TOMWC)	abbie@envlaw.com
Adam J. Ratchenski	Bay Mills Indian Community (BMIC)	aratchenski@earthjustice.org
Amit T. Singh	MPSC Staff	singha9@michigan.gov
Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	amy.wesaw@nhbp-nsn.gov
Christopher M. Bzdok	Michigan Environmental Council	chris@tropospherelegal.com
Christopher M. Bzdok	Nottawaseppi Huron Band of Potawatomi Indians	chris@tropospherelegal.com
Christopher M. Bzdok	National Wildlife Federation - Great Lakes Regional Center	chris@tropospherelegal.com
Christopher M. Bzdok	Tip of the Mitt Watershed Council (TOMWC)	chris@tropospherelegal.com
Christopher M. Bzdok	Grand Traverse Band of Ottawa and Chippewa Indians	chris@tropospherelegal.com
Christopher P. Legghio	Michigan Laborers' District Council (MLDC)	cpl@legghioisreal.com
Christopher R. Clark	Bay Mills Indian Community (BMIC)	cclark@earthjustice.org
Christopher S. Saunders	ALJs - MPSC	saundersc4@michigan.gov
Daniel E. Sonneveldt	MPSC Staff	sonneveldtd@michigan.gov
Daniel P. Ettinger	Michigan Propane Gas Association (MPGA)	dettinger@wnj.com
Daniel P. Ettinger	National Propane Gas Association (NPGA)	dettinger@wnj.com
David L. Gover	Bay Mills Indian Community (BMIC)	dgover@narf.org
Deborah Musiker	Bay Mills Indian Community (BMIC)	dchizewer@earthjustice.org
Enbridge Energy, Limited Partnership	Enbridge Energy, Limited Partnership	gregg.johnson@enbridge.com
Howard A. Learner	Environmental Law & Policy Center (ELPC)	hlearner@elpc.org
Howard A. Learner	Michigan Climate Action Network (MiCAN)	hlearner@elpc.org
James A. Bransky	Little Traverse Bay Bands of Odawa Indians	jbransky@chartermi.net
James M. Olson	For the Love of Water (FLOW)	jim@flowforwater.org

RECEIVED by MSC 11/14/2025 2:10:18 PM

Jennifer U. Heston	Enbridge Energy, Limited Partnership	jheston@fraserlawfirm.com
John S. Swimmer	Nottawaseppi Huron Band of Potawatomi Indians	john.swimmer@nhbp-nsn.gov
Julie M. Goodwin	Bay Mills Indian Community (BMIC)	jgoodwin@earthjustice.org
Kathryn L. Tierney	Bay Mills Indian Community (BMIC)	candyt@bmic.net
Kiana E. Courtney	Michigan Climate Action Network (MiCAN)	kcourtney@elpc.org
Lauren E. Crummel	Michigan Laborers' District Council (MLDC)	crummel@legghioisreal.com
Leah J. Brooks	Mackinac Straits Corridor Authority (MSCA)	brooksl6@mi.gov
Mary K. Rock	Bay Mills Indian Community (BMIC)	mrock@earthjustice.org
Michael S. Ashton	Enbridge Energy, Limited Partnership	mashton@fraserlawfirm.com
Nicholas J. Schroeck	Environmental Law & Policy Center (ELPC)	schroenj@udmercy.edu
Nicholas J. Schroeck	Michigan Climate Action Network (MiCAN)	schroenj@udmercy.edu
Nicholas Q. Taylor	MPSC Staff	taylorn10@michigan.gov
Scott Strand	Environmental Law & Policy Center (ELPC)	sstrand@elpc.org
Scott Strand	Michigan Climate Action Network (MiCAN)	sstrand@elpc.org
Sean P. Gallagher	Enbridge Energy, Limited Partnership	sgallagher@fraserlawfirm.com
Stuart M. Israel	Michigan Laborers' District Council (MLDC)	israel@legghioisrael.com
Troy M. Cumings	Michigan Propane Gas Association (MPGA)	tcumings@wnj.com
Troy M. Cumings	National Propane Gas Association (NPGA)	tcumings@wnj.com
Wesley J. Furlong	Bay Mills Indian Community (BMIC)	wfurlong@narf.org
William Rastetter	Grand Traverse Band of Ottawa and Chippewa Indians	bill@envlaw.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix C

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of **ENBRIDGE ENERGY, LIMITED PARTNERSHIP,** for authority to replace and relocate the segment of Line 5 crossing the Straits of Mackinac into a tunnel beneath the Straits of Mackinac, if approval is required pursuant to 1929 PA 16, MCL 483.1 *et seq*., and Rule 447 of the Commission's Rules of Practice and Procedure, R 792.10447, or the grant of other appropriate relief.	Case No. U-20763

At the April 21, 2021 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Tremaine L. Phillips, Commissioner
Hon. Katherine L. Peretick, Commissioner

ORDER

I. HISTORY OF PROCEEDINGS

On April 17, 2020, Enbridge Energy, Limited Partnership (Enbridge), filed an application (application) and supporting exhibits pursuant to Public Act 16 of 1929, MCL 483.1 *et seq*. (Act 16) and the Commission's Rules of Practice and Procedure, Mich Admin Code, R 792.10447 (Rule 447) requesting that the Commission grant Enbridge the authority for its project known as the Straits Line 5 Replacement Segment (Replacement Project), which involves constructing a replacement segment of the Line 5 pipeline (Line 5) that crosses the Straits of Mackinac (Straits). Enbridge sought *ex parte* approval of the application. In the alternative, Enbridge requested a

RECEIVED by MSC 11/14/2025 2:10:18 PM

declaratory ruling confirming that it already has the requisite authority to construct the Replacement Project pursuant to the March 31, 1953 order in Case No. D-3903-53.1 (1953 order).

On April 22, 2020, the Commission issued an order in this case seeking comments on the threshold issue presented in the declaratory ruling request. The Commission also decided to hold Enbridge's full application in abeyance while it considered the request for a declaratory ruling.

On June 30, 2020, the Commission issued an order in this case denying both *ex parte* approval of the application and the requested declaratory relief (June 30 order). The Commission also decided to read the record. June 30 order, p. 70. The Commission set this matter for a contested proceeding, and invited the continued submission of comments.

On August 12, 2020, a prehearing conference was held before Administrative Law Judge Dennis W. Mack (ALJ), at which intervention was granted to the Michigan Department of Attorney General (Attorney General); For Love of Water (FLOW); the Michigan Environmental Council (MEC), Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council, and the National Wildlife Federation (together, the MEC Coalition); Bay Mills Indian Community (Bay Mills); Environmental Law & Policy Center (ELPC) and Michigan Climate Action Network (MiCAN) (together, ELPC/MiCAN); Little Traverse Bay Band of Odawa Indians; Nottawaseppi Huron Band of the Potawatomi; Michigan Laborers' District Council (MLDC); Michigan Propane Gas Association and the National Propane Gas Association (together, the Associations); and the Mackinac Straits Corridor Authority (MSCA).[1] The Commission Staff (Staff) also participated. On August 13, 2020, the ALJ adopted a schedule for the case.

[1] The ALJ and the parties have used various shortened names. In order to reduce confusion, when reproducing a quote in this order the shortened names or acronyms designated herein are used (in brackets).

RECEIVED by MSC 11/14/2025 2:10:18 PM

On September 2, 2020, Enbridge filed a motion in limine. On September 23, 2020, responses to the motion were filed by the Staff, ELPC/MiCAN and Bay Mills (jointly), FLOW, the Attorney General, the Associations, and the MEC Coalition. On September 30, 2020, the ALJ held a hearing on the motion.

On October 23, 2020, the ALJ issued a ruling granting the motion in part, and denying it in part (the initial ruling). On November 6, 2020, Bay Mills, the MEC Coalition, ELPC/MiCAN, FLOW, and the Attorney General[2] filed applications for leave to appeal the initial ruling under Mich Admin Code, R 792.10433 (Rule 433). On November 20, 2020, Enbridge, the Associations, the Staff, and MSCA filed responses to the applications for leave to appeal.

On December 9, 2020, the Commission issued an order remanding the motion in limine to the ALJ in light of Governor Gretchen Whitmer's November 13, 2020 issuance of a notice of revocation of the existing Line 5 easement in the Straits, which took place during the briefing on the applications for leave to appeal (December 9 order). The ALJ thereafter set a revised schedule.

Initial briefs on the remanded motion in limine were filed on January 15, 2021, and reply briefs were filed on January 29, 2021.[3] The ALJ held a hearing on the remanded motion on February 5, 2021.

On February 23, 2021, the ALJ issued a ruling granting the motion in part and denying it in part, consistent with the initial ruling (the ruling on remand). On March 9, 2021, ELPC/MiCAN,

[2] The Attorney General did not file her own application, but filed a notice that she joins in the other four filed applications.

[3] At the time of the briefing on remand, the alignment of certain parties changed. At the time of the filing of the second round of applications for leave to appeal, the alignment of certain parties changed again, as described below.

RECEIVED by MSC 11/14/2025 2:10:18 PM

FLOW, Bay Mills,[4] and the MEC Coalition[5] filed applications for leave to appeal the ruling on remand under Rule 433. On March 23, 2021, MLDC, Enbridge, the Associations, the Staff, and MSCA filed responses to the applications for leave to appeal the ruling on remand.

After providing a brief background, this order moves chronologically through the ALJ's two rulings and the associated applications for leave to appeal and responses, organized by issue.

II. BACKGROUND

In its application, Enbridge explains that Line 5 was constructed by Lakehead Pipe Line Company (Lakehead)[6] in 1953 and that it is a 645-mile interstate pipeline that traverses Michigan's Upper and Lower Peninsulas, originating in Superior, Wisconsin, and terminating near Sarnia, Ontario, Canada. Application, p. 5. Enbridge states that Line 5 was built to transport light crude oils and natural gas liquids (NGLs). While the vast majority of product shipped through Line 5 travels through Michigan to Canada, Enbridge explains that Line 5 delivers NGLs to a propane production facility in Rapid River, Michigan, and delivers light crude oil to facilities which interconnect with other pipelines in Lewiston and Marysville, Michigan. Application, pp. 5-6. Line 5 has an annual average capacity of 540,000 barrels per day (bpd), and Enbridge states

[4] At this stage of the proceeding, Bay Mills was joined by the Grand Traverse Band of Ottawa and Chippewa Indians, the Little Traverse Bay Band of Odawa Indians, and the Nottawaseppi Huron Band of the Potawatomi.

[5] At this stage of the proceeding, the MEC Coalition includes MEC, Tip of the Mitt Watershed Council, and the National Wildlife Federation.

[6] Enbridge states that, in 1991, Lakehead transferred Line 5 to Lakehead Pipe Line Company, Limited Partnership, which changed its name to Enbridge Energy, Limited Partnership, in 2002. Enbridge's reply comments, p. 4. *See also,* November 8, 1991 order in Case No. U-9980.

RECEIVED by MSC 11/14/2025 2:10:18 PM

that the Replacement Project will not impact its annual average capacity or the nature of the service provided by Line 5. Application, pp. 5, 8, 13.[7]

Enbridge explains that, where Line 5 crosses the Straits, it currently consists of two, 20-inch-diameter pipes referred to as the dual pipelines. Enbridge states that, pursuant to the Replacement Project, the four mile segment of the dual pipelines will be replaced with a single, 30-inch-diameter pipe, which will be located within a concrete-lined tunnel beneath the lakebed of the Straits (the tunnel). Application, pp. 2, 8. Enbridge asserts that, because the pipeline will be located in a tunnel deep beneath the lakebed, the aquatic environment will be protected from any release of liquid petroleum caused by a vessel anchor strike. Enbridge notes that the construction of the tunnel is the subject of separate applications before other state and federal agencies, including the Department of Environment, Great Lakes, and Energy (EGLE) and the U.S. Army Corps of Engineers (USACE).

[7] Enbridge witness Marlon Samuels states that, for the past 10 years, Line 5 has operated at about 90% of its annual average capacity of up to 540,000 bpd. Samuels testimony, p. 5. Ninety percent of average capacity is about 486,000 bpd or 20,400,000 gallons per day of crude oil and NGLs transported though Line 5. The Upper Peninsula Energy Task Force estimates that the Rapid River facility produces approximately 30,660,000 gallons per year of propane. *Upper Peninsula Energy Task Force Committee Recommendations, Part I, Propane Supply*, Department of Environment, Great Lakes, and Energy, April 17, 2020, p. 48. *See,* https://www.michigan.gov/documents/egle/Upper_Peninsula_Energy_Task_Force_Committee_Recommendations_Part_1_Propane_Supply_with_Appendices_687642_7.pdf (accessed March 25, 2021).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge states that it entered into a series of agreements[8] with the State of Michigan relating to the relocation of the Line 5 pipe segment within the tunnel. Enbridge notes that the Michigan Legislature enacted Public Act 359 of 2018 (Act 359), which created the MSCA and delegated to the MSCA the authority to enter into agreements pertaining to the construction, operation, and maintenance of the tunnel to house the replacement pipe segment.[9] Enbridge explains that its request for Commission approval of the Replacement Project does not include "authorization to design, construct, or operate the tunnel" because "[t]he tunnel will be designed, constructed, and maintained pursuant to the 'Tunnel Agreement' entered between the MSCA and Enbridge pursuant to Act 359." *Id.*, p. 3.[10] Enbridge states that the tunnel will be constructed in the subsurface lands beneath the lakebed of the Straits within the easement issued by the Michigan Department of Natural Resources (DNR) to the MSCA (the 2018 easement), and pursuant to the assignment of certain rights under that easement by the MSCA to Enbridge. Enbridge states that

[8] *See*, Agreement Between the State of Michigan and Enbridge Energy, Limited Partnership and Enbridge Energy Company, Inc. (First Agreement) (Exhibit A-8); Second Agreement Between the State of Michigan, Michigan Department of Environmental Quality, and Michigan Department of Natural Resources and Enbridge Energy, Limited Partnership, Enbridge Energy Company, Inc. and Enbridge Energy Partners, L.P. (Second Agreement) (Exhibit A-10); Third Agreement Between the State of Michigan, Michigan Department of Environmental Quality, and Michigan Department of Natural Resources and Enbridge Energy, Limited Partnership, Enbridge Energy Company, Inc. and Enbridge Energy Partners, L.P. (Third Agreement) (Exhibit A-1); and Tunnel Agreement (Tunnel Agreement) (Exhibit A-5). Required terms of the Tunnel Agreement are contained in MCL 254.324d(4). In this order, the First, Second, Third, and Tunnel Agreements are referred to collectively as the Agreements.

[9] On October 31, 2019, the Michigan Court of Claims held that Act 359 is constitutional and confirmed the validity and enforceability of the Agreements. *Enbridge Energy, LP v Michigan*, Case No. 19-000090-MZ (Oct. 31, 2019). The Michigan Court of Appeals affirmed the Michigan Court of Claims' order in *Enbridge Energy, LP v Michigan*, ___ Mich App ___; ___ NW2d ___ (2020) (Docket No. 351366). That order was not appealed.

[10] In the initial ruling, the ALJ found that the construction of the utility tunnel is within the Commission's jurisdiction under Act 16. Initial ruling, pp. 8-10; *see also,* June 30 order, pp. 59, 67.

RECEIVED by MSC 11/14/2025 2:10:18 PM

the tunnel will be constructed in accordance with all required governmental permits and approvals. Enbridge explains that it will enter into a 99-year lease with MSCA for the use of the tunnel to operate and maintain the replacement pipe. Application, pp. 13-14. Enbridge seeks Commission approval to operate and maintain the replacement pipe segment located within the tunnel as part of Line 5 under Act 16. Enbridge states that once the new 4-mile pipe segment is placed into service within the tunnel, service on the dual pipelines will be discontinued. *Id.*, p. 3.

On November 13, 2020, Governor Whitmer and the DNR revoked and terminated the 1953 easement and directed Enbridge to cease operations of the dual pipelines no later than 180 days from the date of the termination notice, or approximately May 13, 2021.[11] The Notice of Revocation and Termination of Easement (Notice), p. 1, states:

> [T]he State of Michigan hereby provides formal notice to Enbridge . . . that the State is revoking and terminating the 1953 Easement . . .. The revocation and termination each take legal effect 180 days after the date of this Notice to provide notice to affected parties and to allow for an orderly transition to ensure Michigan's energy needs are met. Enbridge must cease operation of the Straits Pipelines 180 days after the date of this Notice.

Also on November 13, 2020, the Attorney General filed an action in the Ingham County Circuit Court on behalf of the State of Michigan, Governor Whitmer, and the DNR, seeking declaratory and injunctive relief to acknowledge and enforce the revocation (Case No. 20-646-CE). On November 24, 2020, Enbridge filed an action against the State of Michigan in the U.S. District

[11] *See*, https://content.govdelivery.com/attachments/MIEOG/2020/11/13/file_attachments/1600920/Notice%20of%20%20Revocation%20and%20Termination%20of%20%20Easement%20%2811.13.20%29.pdf (accessed February 5, 2021).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Court for the Western District of Michigan for declaratory and injunctive relief seeking a determination that the revocation is not lawful (Case No. 1:20-CV-1141).[12]

On January 29, 2021, EGLE granted Enbridge a set of permits relating to the construction of the utility tunnel.[13]

III. THE INITIAL RULING

In its motion in limine, Enbridge argued that certain evidence and issues should be found to be beyond the scope of this proceeding.

> Specifically, Enbridge seeks an order directing that the following issues be excluded as legally irrelevant to this proceeding: (1) the construction of the utility tunnel, (2) the environmental impact of the tunnel construction, (3) the public need for and continued operation of Line 5, (4) the current operational safety of Line 5, (5) whether Line 5 has an adverse impact on climate change, and (6) the intervening parties' climate change agendas.

Motion in limine, pp. 1-2. Enbridge argued that the listed issues are outside of the Commission's jurisdiction and irrelevant to this pipeline siting proceeding under Act 16.

The ALJ began the initial ruling by noting that in the June 30 order the Commission found as follows:

> The Commission notes that, as set forth in its title, the purpose of Act 16 "is to regulate the business of carrying or transporting, buying, selling, or dealing in crude

[12] The State's declaratory relief action has been removed to the federal court and consolidated with Enbridge's action, and both cases are set for mediation. Enbridge's response to the applications for leave to appeal the ruling on remand, Attachment A. *See,* U.S. District Court for the Western District of Michigan, Case Nos. 1:20-CV-1141 and 1:20-CV-1142. The Notice has also been the subject of testimony by Canadian officials before the Michigan Senate Natural Resources Committee and the Energy and Technology Committee. *See,* https://www.mlive.com/public-interest/2021/03/canadian-officials-testify-line-5-shutdown-would-have-big-impact-on-the-region-during-michigan-senate-committee.html (accessed March 26, 2021).

[13] *See*, https://www.michigan.gov/line5/0,9833,7-413-99507-550860--,00.html and https://www.michigan.gov/documents/line5/2021-01-29-Draft-Permit-for-Countersignature_714718_7.pdf (accessed March 27, 2021).

RECEIVED by MSC 11/14/2025 2:10:18 PM

> oil or petroleum or its products" and "to provide for the control and regulation of all corporations, associations, and persons engaged in such business, by the Michigan public service commission . . . ." In addition, Section 1(2) of Act 16 states, in relevant part:
>
> > A person exercising or claiming the right to carry or transport crude oil or petroleum, or any of the products thereof . . . by or through pipe line or lines . . . or exercising or claiming the right to engage in the business of piping, transporting, or storing crude oil or petroleum, or any of the products thereof . . . does not have or possess the right to conduct or engage in the business or operations, in whole or in part, or have or possess the right to locate, maintain, or operate the necessary pipe lines, fixtures, and equipment belonging to . . . except as authorized by and subject to this act.
>
> MCL 483.1(2) (emphasis added). Based on the above language, the Commission finds that it has broad jurisdiction over the construction and operation of pipeline facilities and has the "authority to review and approve proposed pipelines, and to place conditions on their operations." March 7, 2001 order in Case No. U-12334 (March 7 order), p. 13, citing *Dehn*, 340 Mich at 41; see also, January 31, 2013 order in Case No. U-17020 (January 31 order), p. 5. Moreover, "[i]nherent in that jurisdiction is the power to make a qualitative evaluation regarding whether a proposed system would be safe and in the public interest." March 7 order, p. 14.

Initial ruling, pp. 2-3, quoting the June 30 order, p. 59 (citing *Lakehead Pipe Line Co v Dehn*, 340 Mich 25; 64 NW2d 903 (1954). The ALJ goes on to find that:

> [t]he Parties also agree that in prior decisions the Commission has established the general criteria for deciding an application filed under Act 16: whether the applicant has established a public need for the proposed pipeline; whether the proposed pipeline is designed and routed in a reasonable manner; and whether the construction of the pipeline will meet or exceed current safety and engineering standards.

Initial ruling, p. 3, n. 1, citing the July 23, 2002 order in Case No. U-13225, pp. 4-5, and the January 31, 2013 order in Case No. U-17020, p. 5. The ALJ found that Enbridge's motion addresses three issues: (1) the Commission's jurisdiction over the tunnel under Act 16; (2) review of the operation of, and need for, Line 5 in its entirety; and (3) the application of the Michigan Environmental Protection Act (MEPA), specifically MCL 324.1705, to the Replacement Project,

RECEIVED by MSC 11/14/2025 2:10:18 PM

including whether climate change must be considered in making a determination under Act 16 and MEPA. Initial ruling, pp. 4-20.

A. The Tunnel

While no party sought leave to appeal the decision in the initial ruling on this issue, the Commission includes it here as a necessary part of the background of this order.

Enbridge argued that the tunnel is within the exclusive jurisdiction of MSCA under Act 359, specifically MCL 254.324a(1) and MCL 254.324d(1), and that the Commission is precluded from considering any aspect of the construction or operation of the tunnel.

Citing the Black's Law Dictionary meaning of "fixture," the Staff argued that the tunnel is a fixture under Act 16 because it is an irremovable component of real property. Citing a three-part definition of "fixture" from case precedent, the MEC Coalition also argued that the tunnel is a "fixture" because "(1) it is annexed to the realty, whether the annexation is actual or constructive; (2) its adaptation or application to the realty being used is appropriate; and (3) there is an intention to make the property a permanent accession to the realty." Initial ruling, p. 6, quoting *Wayne Cty v Britton Trust*, 454 Mich 608, 611; 563 NW2d 674 (1997).

The Staff, the MEC Coalition, and FLOW also argued that the Commission has authority over the tunnel under administrative rules promulgated pursuant to Act 16, specifically Rule 447(1)(c), which provides that the Commission has authority to consider projects "to construct facilities to transport crude oil or petroleum products as a common carrier for which approval is required by statute." These parties argued that the tunnel is a "facility," because it serves numerous functions associated with the operation of the pipeline.

Finally, the Staff contended that the Commission exercises authority over the tunnel under MCL 483.2b, which provides that "[a] pipeline company shall make a good-faith effort to

RECEIVED by MSC 11/14/2025 2:10:18 PM

minimize the physical impact and economic damage that result from the construction and repair of a pipeline." The Staff posited that the tunnel is inseparable from the pipeline replacement project, and it is impossible to review how the pipeline will be constructed, maintained, or repaired without considering the design of the tunnel.

The ALJ found that Act 359 does not divest other agencies of regulatory oversight of the tunnel, citing MCL 254.324d(4)(g), which provides:

> Except as provided in subdivision (a), no later than December 31, 2018, the Mackinac Straits corridor authority shall enter into an agreement or a series of agreements for the construction, maintenance, operation, and decommissioning of a utility tunnel, if the Mackinac Straits corridor authority finds all of the following: . . . (g) That the proposed tunnel agreement does not exempt any entity that constructs or uses the utility tunnel from the obligation to obtain any required governmental permits or approvals for the construction or use of the utility tunnel.

The ALJ noted that Enbridge is seeking regulatory approvals for the tunnel from EGLE and USACE. Turning to Act 16, the ALJ noted that Section 1(2) of that act defines the Commission's jurisdiction, and provides:

> A person exercising or claiming the right to carry or transport crude oil or petroleum, or any of the products thereof . . . through pipe line . . . does not have or possess the right to conduct or engage in the business or operations, in whole or in part, or have or possess the right to locate, maintain, or operate the necessary pipe lines, fixtures, and equipment . . . except as authorized by and subject to this act.

MCL 483.1(2); initial ruling, p. 5.

The ALJ rejected Enbridge's argument that the tunnel is a standalone structure subject solely to Act 359, finding that "Enbridge is seeking to have the Commission undertake its Act 16 review of the project as if the Utility Tunnel has been designed, constructed, and placed into operation, which is obviously not the case." Initial ruling, p. 8. The ALJ found that the relocation of the pipeline into the tunnel is the reason for the Replacement Project, and the pipeline and tunnel are inextricably connected. The ALJ stated:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> As the Commission held in this case, the purpose of Act 16 is to ensure that pipelines are designed, routed, constructed, and operated in a safe and economical manner. See Case No. U-20763, June 30, 2020 Order, pg. 59; see also Case No U-13225, July 23, 2002 Order, pgs. 4-5. The only way to make that determination is for the Commission to have a record that contains all relevant information concerning the proposal to relocate the existing pipelines into the Utility Tunnel. That necessarily requires the development of a record on the design, construction, and operational aspects of both the pipeline and Utility Tunnel. Counsel for the Corridor Authority indicated during Oral Argument the plans for the Utility Tunnel will be completed while this case is pending and will be offered as evidence in this case. 2 TR 205-207. To exclude that evidence under Enbridge's Motion would effectively preclude the Commission from performing its statutorily mandated review of a project under Act 16. Having said that, Staff's contention that this case does not entail the "approval" of the Utility Tunnel is accurate. Rather this case entails a review of the proposal to relocate the pipeline into the Utility Tunnel that necessarily requires consideration of the design, construction, and operational features of both so as "to make a qualitative evaluation regarding whether a proposed system would be safe and in the public interest." [June 30 order], pg. 59, citing Case No. U-17020, January 31, 2013 Order, pg. 5. Finally, undertaking the inquiry required under Act 16 does not usurp the Corridor Authority's role under Act 359, but rather is entirely consistent that the requirement that the Utility Tunnel obtain all necessary regulatory approvals. MCL 254.324d(4)(g).

Initial ruling, pp. 9-10 (notes omitted). Applying rules of statutory construction, the ALJ found that the tunnel is a "fixture" under both the "irremovable" test cited by the Staff and the three-part test posed by the MEC Coalition for purposes of Act 16, and is also a "facility" as that term is used in Rule 447. Finally, the ALJ also found that in order for the Commission to determine whether a good faith effort was made to limit the physical impact and economic damage from the construction of the pipeline, it is necessary to consider the tunnel under MCL 483.2b. Initial ruling, p. 10. Thus, the ALJ denied Enbridge's motion in limine as it pertains to review of the tunnel.

No party sought leave to appeal this decision.

In response to a request from the Staff, on December 23, 2020, Enbridge filed supplemental direct testimony and exhibits addressing aspects of the design and construction of the tunnel.

RECEIVED by MSC 11/14/2025 2:10:18 PM

B. Public Need for Line 5/Operation of Line 5

In its motion, Enbridge contended that any issue pertaining to the operation of Line 5 in its entirety, including the public need for the pipeline, is outside the scope of this proceeding, based on the fact that the finding of public need was already made by the Commission in the 1953 order and affirmed by the Michigan Supreme Court in 1954 in *Lakehead Pipe Line Co v Dehn*, 340 Mich 25, 37; 64 NW2d 903 (1954) (*Lakehead*). Enbridge argued that Act 359 establishes the continued need for Line 5, and that federal law preempts state law with respect to the issues of pipeline safety and operations for an interstate pipeline like Line 5. *See,* 49 USC 60104(c). Finally, Enbridge argued that Act 16 does not allow for another determination as to whether the pipeline should continue in operation. The Staff supported Enbridge's position, and the MEC Coalition and FLOW opposed it.

The ALJ disagreed with Enbridge's view of the 1953 order and the *Lakehead* decision, noting that the Commission already found that the Replacement Project differs significantly from the project proposed in 1953 and requires an independent review. June 30 order, pp. 38, 58. The ALJ explained that the scope of this case is dictated by two factors: (1) the activity proposed in the application, namely replacement of the existing four miles of dual pipelines located on the bottomlands with a pipeline located in a tunnel, as contemplated in Act 359 and various agreements with the State; and (2) the Commission's jurisdiction over that proposal under Act 16, the administrative rules promulgated under its authority, and MEPA. Initial ruling, p. 14. He found that it is not in dispute that the Tribal nations have treaty rights in the Straits and, under Executive Directive (ED) 2019-17, have a right to be consulted when their interests are affected.

However, the ALJ determined that neither FLOW nor the MEC Coalition provided any substantive legal basis for finding that a review of the operation of Line 5 in its entirety or a re-

RECEIVED by MSC 11/14/2025 2:10:18 PM

determination of the public need is required. The ALJ found that these intervenors did not show that Enbridge is a public utility seeking a certificate of necessity or a certificate of public convenience and necessity. Initial ruling, p. 15, n. 7. The ALJ stated that "the standards of Act 16 are well established and must be applied in this case." *Id.*, p. 15; *see* June 30 order, pp. 59, 65-67. He held:

> Based on those standards, this case involves a review of the proposed pipeline relocation under Act 16 to determine whether a public need exists for it, whether it is designed and routed in a reasonable manner, and whether its construction will satisfy applicable safety and engineering standards. Accordingly, any issues concerning the current or future operational aspects of the entirety of Line 5, including the public need for the 645-mile pipeline that was approved by the Commission in 1953 and affirmed in *Lakehead Pipe Line Co., supra*., is outside the scope of this case.

Initial ruling, p. 15 (note omitted). The ALJ granted the motion in limine regarding the operation of Line 5 in its entirety.

The MEC Coalition, Bay Mills, the Attorney General, and FLOW seek leave to appeal this decision in the initial ruling.

In its application for leave to appeal, the MEC Coalition asserts that the exclusion of relevant evidence is an error of law. *See,* MRE 401. Rule 433(3) provides that "An offer of proof shall be made in connection with an appeal of a ruling excluding evidence. The offer of proof shall be made on the hearing record." While noting that this subsection does not apply at this stage of the case because there is no hearing record, the MEC Coalition nevertheless makes an offer of proof under Rule 433. The MEC Coalition provides information regarding two witnesses who could testify about the economics of fossil fuel pipelines and the risks associated with such pipelines.

The MEC Coalition notes that the Commission has already established the approval criteria for Act 16 cases, and one of those three approval criteria is whether there is a "public need" for the project. March 7, 2001 order in Case No. U-12334 (2001 order), p. 13; July 23, 2002 order in

RECEIVED by MSC 11/14/2025 2:10:18 PM

Case No. U-13225, p. 4 (2002 order); January 31, 2013 order in Case No. U-17020, p. 5 (2013 order). The MEC Coalition begins by arguing that, in order to determine whether there is a public need for the Replacement Project, the Commission must determine whether there is a public need to extend the life of Line 5. The MEC Coalition contends that Enbridge has alleged that there is a public need for the services of Line 5, and that the Replacement Project will eliminate environmental risk to the Straits. Application, p. 3. Enbridge also states that it will have the right to occupy the tunnel with Line 5 for 99 years. Against this background, the MEC Coalition argues there are two distinct issues: "The first issue is whether there is a public need to replace the dual pipelines with a new pipeline in a tunnel so as to perpetuate Line 5 for decades to come. The second issue is whether perpetuating Line 5 for decades to come by building the project would perpetuate other environmental risks." The MEC Coalition's application for leave to appeal the initial ruling, p. 10. The MEC Coalition argues that the ALJ merged these two issues into a single misstated issue of whether the operational aspects of the entirety of Line 5 could be considered in this Act 16 review.

The MEC Coalition contends that no party denies that Line 5 will operate longer with approval of the Replacement Project. In answer to Enbridge's assertion that Line 5 will continue in operation indefinitely whether the project is approved or not, the MEC Coalition argues that this is a question of fact and the parties should be allowed to develop the record on this question. While stating that there is no need to revisit the Commission's 1953 determination of public need, the MEC Coalition also contends that Enbridge's application requires a determination of whether there is a public need to extend the life of Line 5. The MEC Coalition notes that the Michigan Administrative Procedures Act of 1969 (APA), specifically MCL 24.272, provides that in an administrative proceeding the parties are entitled to the opportunity to present evidence and

RECEIVED by MSC 11/14/2025 2:10:18 PM

argument on the issues of law, policy, and fact. The MEC Coalition claims that Enbridge submitted testimony on the issue of the public need for Line 5 from two witnesses. The MEC Coalition asserts that the other parties are entitled, under the APA, to do the same.

The MEC Coalition further argues that a review under Act 16 must consider whether the proposed pipeline is routed in a reasonable manner, and this involves looking at risk. The MEC Coalition asserts that in Act 16 cases the Commission examines all risks that will foreseeably result from the proposed project, and evaluates the risks of the proposed project against the risks of other available alternatives. The MEC Coalition further notes that Enbridge has alleged that the project will protect the aquatic environment and eliminate the risk of releases into the Straits, and argues that this issue must also be examined.

The MEC Coalition posits that the Commission must also independently consider the safety of Line 5 in performing its MEPA analysis. Section 5(2) of MEPA provides:

> In administrative, licensing, or other proceedings, and in any judicial review of such a proceeding, the alleged pollution, impairment, or destruction of the air, water, or other natural resources, or the public trust in these resources, shall be determined, and conduct shall not be authorized or approved that has or is likely to have such an effect if there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare.

MCL 324.1705(2). The MEC Coalition asserts that this statutory language places two duties upon the Commission: "(1) to determine whether the proposed course of conduct will pollute, impair, or destroy natural resources; and (2) not authorize the proposed conduct if it is likely to have that effect and there are feasible and prudent alternatives." The MEC Coalition's application for leave to appeal the initial ruling, p. 22. The MEC Coalition contends that this involves consideration of both the conduct (what is proposed) and the likely effect of the conduct (which goes beyond the proposal). Positing that the purpose of the Replacement Project is to extend the life of Line 5, the MEC Coalition contends that this evidence is relevant. The MEC Coalition argues that failure to

RECEIVED by MSC 11/14/2025 2:10:18 PM

consider this evidence constitutes the basis for finding an abuse of discretion by the agency. *See, State Hwy Comm v Vanderkloot*, 392 Mich 159, 185; 220 NW2d 416 (1974) (*State Hwy Comm*); *Buggs v Mich Pub Serv Comm*, unpublished per curiam opinion of the Court of Appeals, issued January 13, 2015 (Docket Nos. 315058 and 315064) (*Buggs I*), p. 8; *Buggs v Mich Pub Serv Comm*, unpublished per curiam opinion of the Court of Appeals, issued May 16, 2017 (Docket Nos. 329781 and 329909) (*Buggs II*).

Anticipating Enbridge's response, the MEC Coalition notes that the federal Pipeline Safety Act (PSA), specifically 49 USC 60104(c), provides that "[a] State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation." The MEC Coalition contends that this language does not preempt the Commission's consideration of safety in its MEPA review. The MEC Coalition argues that this preemption provision is limited to pipeline safety standards, and does not preempt the requirements of MEPA, which address environmental impacts. The MEC Coalition asks the Commission to clarify that federal law does not preempt the required safety review under MEPA.

Finally, the MEC Coalition argues that the Commission must consider the impact that extending the life of Line 5 will have on Tribal treaty-reserved rights to natural resources in the ceded territories, and indicates that it supports the arguments made by Bay Mills. The MEC Coalition asserts that "[t]he Commission cannot satisfactorily meet its obligation to consult and adequately assess the potential harm to the Tribes' property rights if evidence of public need and safety is excluded." The MEC Coalition's application for leave to appeal the initial ruling, p. 27.

In its application for leave to appeal, Bay Mills contends that evidence concerning the risk of an oil spill from both the 4-mile segment and from elsewhere on Line 5 is relevant to this proceeding. Bay Mills states that Enbridge has introduced evidence on this issue, and contends

RECEIVED by MSC 11/14/2025 2:10:18 PM

that the other parties are entitled to present evidence on this issue under the APA. MCL 24.272(3), (4). Bay Mills argues that this is also consistent with the Commission's broad authority under Act 16 and the comprehensive environmental review that is required under MEPA. Additionally, Bay Mills asserts that its treaty-protected rights require consideration of evidence on the risk of oil spills and the potential effect on natural resources in all of the ceded territories. Bay Mills asserts that public need and safety must be examined as separate issues.

Bay Mills points out that Enbridge has alleged in its application and its proffered testimony that the Replacement Project will alleviate the risk of an oil spill from Line 5 into the Great Lakes. Bay Mills contends that the initial ruling deprives the parties of this right to challenge Enbridge on this central issue, stating:

> [i]f the purpose of the Line 5 [Replacement] Project is to address the significant risk of a catastrophic oil spill, then all of the risks along the length of Line 5 must be evaluated to determine whether the tunnel will actually achieve its stated purpose. A spill in another part of the pipeline can reach or harm the Straits and or Great Lakes because of the hydrological connections of waterways that Line 5 crosses in the region. . .. [I]t would make little sense—and would not serve the public—to construct a tunnel to alleviate the risk of an oil spill from one segment of Line 5 if the same or similar risks are left unaddressed throughout the pipeline's length.

Bay Mills' application for leave to appeal the initial ruling, pp. 9-10. If evidence regarding the risk of an oil spill on the entirety of Line 5 is barred, Bay Mills asserts that Enbridge's allegations will have been accepted without examination. Citing the 2001, 2002, and 2013 orders, Bay Mills argues that, under Act 16, the Commission has historically undertaken a broad review of potential risks associated with the route, feasibility, and environmental impact of pipeline projects.

Like the MEC Coalition, Bay Mills notes that Rule 433(3) does not apply here because no specific evidence has been excluded from the proceeding and there is no hearing record; however, Bay Mills also offers a description of the evidence that it would provide on the risk issue and the effect of the Replacement Project on fisheries and other natural resources.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Bay Mills argues that MEPA also requires an analysis of the environmental risk posed by the entire pipeline, and including the dual pipelines, during construction of the tunnel. Like the MEC Coalition, Bay Mills emphasizes the breadth of the MEPA statute and the Commission's duty to perform an independent MEPA review. Bay Mills urges the Commission to consider the environmental effects from the entirety of the conduct proposed in Enbridge's direct evidence, including the extension of the life of Line 5. Bay Mills points out that MEPA requires the consideration of feasible and prudent alternatives, and argues that these alternatives must include operation using the dual pipelines, operation of the pipeline in the tunnel, operation of pipeline that lies outside the tunnel, operation using a different route, and operation for a shorter duration than that proposed in Enbridge's application. *Id.*, p. 17.

Like the MEC Coalition, Bay Mills argues that federal law does not preempt any aspect of the Commission's review under Act 16 or MEPA. Bay Mills notes that, under federal law, the location or routing of a pipeline facility is left to the states. 49 USC 60104(e). Bay Mills also points to the Staff's status as a certified agent for the Pipeline Hazardous Materials Safety Administration (PHMSA) under 49 USC 60105 and 49 USC 60117. Bay Mills contends that the preemption power is limited to interstate pipeline safety standards and does not affect the Commission's Act 16 or MEPA review in this case.

Bay Mills then turns to the treaty-protected resources in the ceded territories, arguing that the Commission must give full consideration to the impacts of the Replacement Project on these resources. Bay Mills explains that the 1836 Treaty between Bay Mills' predecessors and the United States (1836 Treaty), in which Tribal Nations ceded territory to the United States for the creation of the State of Michigan, is the supreme law of the land under US Const, art VI. Bay Mills explains that, in the 1836 Treaty, Tribal Nations reserved the right to hunt, fish, and gather

RECEIVED by MSC 11/14/2025 2:10:18 PM

throughout the ceded lands and waters, including the right of commercial and subsistence fishing in the Great Lakes. Bay Mills explains that only the U.S. Congress can abrogate the 1836 Treaty.

Bay Mills argues that the ALJ misunderstood the role of these treaty rights, contending that the Tribe does not seek to expand the Commission's authority under Act 16 but rather seeks proper consideration of the Replacement Project's effects on its treaty rights. Bay Mills states that it "would submit evidence about the consequences of a potential oil spill from the dual pipelines in the Straits—and the continued spills into waterways that are hydrologically connected to the Great Lakes—on plants, fisheries, and cultural resources in the Straits and the Great Lakes relied on by Bay Mills." *Id.*, p. 22. Bay Mills describes its treaty rights as "antecedent and superior to any rights Enbridge may have." *Id.*, p. 26.

Bay Mills goes on to describe additional legal authority for the requested review, including the 2002 Government-to-Government Accord between the State of Michigan and the Federally Recognized Indian Tribes in the State of Michigan (the 2002 Accord) and ED 2019-17. Bay Mills states that the 2002 Accord requires the opportunity for input and recommendations from a Tribal government to the State government regarding state actions. ED 2019-17 provides that: "Each department and agency must adopt and implement a process for consulting on a government-to-government basis with Michigan's federally recognized Indian tribes. The department or agency must engage in this consultation process before taking an action or implementing a decision that may affect one or more of these tribes." ED 2019-17, p. 2. Bay Mills indicates that the Staff and Bay Mills have begun consultation, and argues that the initial ruling incorrectly limits the scope of that consultation.

Bay Mills next argues that a finding of public need is necessary, and that the ALJ erred in barring evidence addressing the public need issues related to the current and future operational

RECEIVED by MSC 11/14/2025 2:10:18 PM

aspects of the entirety of Line 5. Bay Mills contends that Act 359 does not control the public need determination and does not revise Act 16 in any way or displace the Commission's required analysis. Bay Mills contends that Enbridge introduced the issues of continued operation and longevity, and that parties must be allowed to present evidence as to whether the public will actually need to transport fuels through Line 5 for decades to come. Like the MEC Coalition, Bay Mills notes that Enbridge claims that Line 5 will continue to operate whether or not the Replacement Project is approved, but argues that this is a question of fact that the parties should be allowed to explore through discovery.

FLOW echoes many of the arguments made by the MEC Coalition and Bay Mills. FLOW contends that the ALJ improperly restricted the scope of review in this case, and that the initial ruling does not comport with findings the Commission already made in the June 30 order. FLOW notes that in the 2013 order, p. 5, the Commission adopted the following criteria for an Act 16 review: "(1) the applicant has demonstrated a public need for the proposed pipeline, (2) the proposed pipeline is designed and routed in a reasonable manner, and (3) the construction of the pipeline will meet or exceed current safety and engineering standards." FLOW argues that, under the language of Act 16, any issue concerning the current or future operational aspects of the entirety of Line 5 is relevant, and that these issues involve questions of fact that can only be decided after a hearing. MCL 483.1(2). Citing the APA, FLOW argues that the parties have a right to present evidence on issues including the public need for the Replacement Project, and the operation of transporting crude oil through Line 5 itself for the next 99 years. FLOW argues that the true purpose of the tunnel and the 99-year lease should be fully developed on the record, noting that the 2018 easement created by Act 359 is different from the 1953 easement.

RECEIVED by MSC 11/14/2025 2:10:18 PM

FLOW contends that the Commission must examine whether it is in the public interest to authorize new or expanded pipeline service, and must consider whether there is a market for this service. FLOW asserts that the Act 16 review must "entail thorough analyses that evaluate and model future demand for fossil fuel-based technologies and infrastructure, including the market, financial, and regulatory risks such technologies and infrastructure may present, as well as their potential to become stranded investments." FLOW's application for leave to appeal the initial ruling, p. 15. FLOW contends that determining whether a project represents a financial risk to ratepayers is a core function of the Commission. FLOW asserts that the Commission needs to have a full record, including forecasts of all types, in order to probe the issue of whether a public need for Line 5 exists and whether the Replacement Project is in the public interest.

Turning to the responses to the applications for leave to appeal, MSCA expresses support for the initial ruling in its response.

In their response, the Associations also contend that the initial ruling should be affirmed. They argue that Enbridge is not seeking, and does not require, approval to continue to operate Line 5. The Associations contend that the Legislature confirmed the continued need for Line 5 when it authorized the construction of the tunnel through Act 359, and the initial ruling properly limits review by the Commission to the Replacement Project itself. They further argue that the initial ruling "is correct not only as a matter of law, but as a practical matter; requiring an applicant to re-justify the need for their entire facility whenever they seek Commission approval for improvements on one aspect of that facility will discourage future applicants from pursuing such improvements." The Associations' response to the applications for leave to appeal the initial ruling, pp. 5-6. The Associations argue that Enbridge has not put the lifespan of Line 5 at issue, and that only future consumer demand and market economics will determine how long Line 5

RECEIVED by MSC 11/14/2025 2:10:18 PM

operates. They point out that, whatever the outcome of this proceeding, Enbridge will have the legal right to operate Line 5. Finally, the Associations contend that the initial ruling comports with the limits of the Commission's jurisdiction, which does not extend to interstate pipelines or interstate pipeline safety.

In its response, Enbridge contends that the parties opposing the motion have no interest in addressing the actual issue in this case which is whether relocation of the pipeline within the tunnel will serve a public purpose by better safeguarding the Great Lakes.[14] Enbridge points to the Agreements as evidence of what the State of Michigan finds to be in the public interest, and notes that the Staff supported the motion on this issue.

Enbridge contends that the initial ruling properly found that the public need for Line 5 and the issue of its continued operation are both outside the scope of this proceeding, and states that the parties opposing the motion have conceded that there is a public benefit to deactivating the dual pipelines. Enbridge argues that the requirement to relocate the pipeline within the Straits was generated by the State of Michigan, and that the company has a legal duty to relocate the 4-mile pipeline segment to the tunnel. Enbridge avers that the public need for Line 5 was conclusively decided in the 1953 order and the *Lakehead* case and is not subject to re-litigation in this proceeding. Enbridge states that the Replacement Project seeks to fulfill the purpose of Act 359, and that the project proposed in the application has nothing to do with Line 5's lifespan. The company avers that Bay Mills cites no statutory basis for arguing that the Commission must review the operation of Line 5, and that, in any case, the procedural requirements included in the APA and in case law for terminating a license or permit have not been met. Like the Associations,

[14] Enbridge notes that it did not seek leave to appeal the portion of the initial ruling denying the motion in limine with respect to review of the construction and operation of the tunnel, but reserves its right to later challenge that decision. *See,* Rule 433(5).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge asserts that any arguments about the longevity of Line 5 are based on speculation because only economic realities such as customer demand will determine the lifespan of the pipeline. Enbridge also argues that the 1953 order authorizes Enbridge to operate and maintain Line 5 in perpetuity, and thus evidence regarding the 99-year lease is irrelevant as well, noting that no party disputes Enbridge's legal right to continue to operate the other 641 miles of Line 5. Enbridge posits that a re-review of the public need for Line 5 would assert a chilling effect on pipeline owners' willingness to pursue major repairs on pipelines in the future.

Enbridge contends that its statements in the application and testimony simply provide necessary background and do not open the door to a new examination of public need. The company points out that the initial ruling affirms the ability of all parties to present evidence about whether the Replacement Project satisfies a public need and meets all applicable standards. Enbridge states "To the extent the Commission believes that this background information in Enbridge's prefiled testimony opens the door to an analysis of the continuing need for Line 5, Enbridge will withdraw the testimony." Enbridge's response to the applications for leave to appeal the initial ruling, p. 11, n. 9. Enbridge notes that PHMSA has exclusive jurisdiction to regulate the safety of interstate pipelines under the PSA. 49 USC 60104(c); 49 USC 60102(b)(1); 49 USC 60117(1). Enbridge maintains that, simply because it asserts that the Replacement Project will better safeguard the Great Lakes does not mean that every risk potentially associated with the entirety of Line 5 is in dispute. Finally, Enbridge argues that Tribal rights cannot be used to expand the Commission's statutory jurisdiction, and the initial ruling correctly adhered to the limits of that jurisdiction.

In its response, the Staff urges the Commission to affirm the initial ruling. The Staff notes that the criteria for making a determination on an Act 16 application were set by the Commission in the

RECEIVED by MSC 11/14/2025 2:10:18 PM

2002 order, pp. 4-5, and they include whether: (1) the applicant has demonstrated a public need for the proposed pipeline; (2) the proposed pipeline is designed and routed in a reasonable manner; and (3) the construction of the pipeline will meet or exceed current safety and engineering standards. The Staff urges the Commission to reject the opposing parties' invitation to review anything other than the application, arguing that:

> [b]eyond the lack of a procedural, statutory, and precedential basis to review the operational aspects, including the public need and safety, of an entire pipeline system, evidence concerning the propriety of Line 5 as a whole is irrelevant and unnecessarily confuses the issues. Even if the Commission were to deny Enbridge's Act 16 application, one cannot assume, with any certainty, that Line 5 will cease operating in its current state. Therefore, the only evidence that the Commission's determination will impact ongoing Line 5 operations is speculative and should therefore be excluded. MRE 402; MRE 602.

Staff's response to the applications for leave to appeal the initial ruling, p. 6 (note omitted).

The Staff argues that Act 16 requires review of the proposed project and not the entire pipeline, and that, in any case, review of the entire pipeline has not been properly noticed in the application. The Staff asserts that the Commission's approach to Act 16 determinations was set in the 2002 order, where Wolverine Pipeline Company (Wolverine) sought permission to construct, operate, and maintain a 26-mile pipeline segment. The Staff notes that at no point in that case did the Commission examine "(1) any portion of Wolverine's existing pipeline system not related to the proposed route; (2) how the pipeline could extend the life of the existing pipeline system or; (3) how the pipeline should be considered in light of Wolverine's prior dealings with the state." *Id.*, p. 8. The Staff contends that the ALJ correctly found that, in that case, "the Commission applied the Act 16 standards to the portion of the pipeline proposed to be replaced." Initial ruling, p. 15, n. 8. Thus, the Staff argues that consideration of the entirety of Line 5 would depart from Commission precedent. The Staff notes that the Tunnel Agreement discusses the possibility of an oil release from the dual pipelines, and does not discuss that threat with respect to any other

RECEIVED by MSC 11/14/2025 2:10:18 PM

portion of Line 5. The Staff also maintains that long-term trends in the fossil fuel industry are irrelevant to this Act 16 case.

The Staff argues that the Commission must consider the public need for the Replacement Project, and not the public need for Line 5 or whether the Replacement Project will extend the lifespan of Line 5. The Staff contends that the opposing parties can cite to no law supporting such an extension of the Commission's review, and notes that the issue of the authorization of Line 5 has not been noticed as required under the APA. The Staff, like the other parties in support of the motion, contends that such an extension would have a chilling effect on future applicants seeking to improve, relocate, or reinforce pipeline segments. The Staff notes that maintenance can extend the life of any asset, but argues that proposed maintenance should not automatically trigger review of the public need for the entire pipeline system.

The Staff further contends that the initial ruling was correct with respect to treaty rights. The Staff indicates that it has already initiated consultation with Bay Mills and other Tribes, but argues that treaty rights cannot expand the Commission's jurisdiction. The Staff states that it agrees with Bay Mills "that the Commission should consider reasonable and prudent alternatives to the proposed pipeline project, including the impact of the tunnel, the public need for the project, and how the project impacts relevant treaty-impacted rights, such as fishing rights in the Straits of Mackinac." *Id.*, p. 22.

C. The Michigan Environmental Protection Act Review

In its motion, Enbridge argued that MEPA does not apply to the activity of constructing the tunnel proposed in the application, and does not allow for the consideration of climate change in determining whether to approve the Replacement Project under Act 16. *See*, MCL 324.1705. The Staff agreed with Enbridge that MEPA does not allow consideration of climate change in

RECEIVED by MSC 11/14/2025 2:10:18 PM

examining the impact of the proposed activity, but disagreed regarding the applicability of MEPA to construction of the tunnel. The MEC Coalition, ELPC/MiCAN, Bay Mills, and FLOW opposed the request to limit evidence regarding climate change.

The ALJ found that, in light of his conclusion that the tunnel is a fixture under MCL 483.1(2), is a facility under Rule 447, and is a necessary component of the duties imposed by MCL 483.2b, MEPA is applicable to the tunnel activities proposed in the application. Initial ruling, p. 17. The ALJ stated that, "[b]ecause the Utility Tunnel must be considered in determining whether the project can be approved under Act 16, it is necessarily part of the 'conduct' in a licensing proceeding subject to review under MEPA." *Id.* The ALJ acknowledged that the Commission will also be able to rely on the expertise of EGLE and USACE as part of its MEPA review. *See*, 2 Tr 197-201. The ALJ denied the motion in limine on the issue of the applicability of MEPA to the tunnel activities proposed in the application. No party sought leave to appeal this decision.

Turning to the issue of climate change, the ALJ noted that MEPA requires an examination of the "conduct" proposed in the license application, and found that the "conduct in this case is the activity proposed in the Application and subject to the Commission's jurisdiction under [the] Act: the replacement of the existing pipelines on the bottomlands with a pipeline in a Utility Tunnel." Initial ruling, p. 18. The ALJ found that "consideration of the environmental effect of the oil transported on the pipeline after it is refined and placed in the market for consumption would also extend the conduct to the extraction and refinement processes." *Id.* He found that the parties opposing the motion failed to show any legal support for such a broad construction of MEPA. The ALJ concluded that the "Commission lacks jurisdiction over greenhouse gas emissions that may result from oil shipped on Line 5 after it is refined and consumed." Initial ruling, p. 19. The ALJ

RECEIVED by MSC 11/14/2025 2:10:18 PM

granted the motion in limine on the issue of whether the review under MEPA requires an examination of evidence of climate change.

FLOW, Bay Mills, the MEC Coalition, and ELPC/MiCAN seek leave to appeal this decision in the initial ruling.

In its application, the MEC Coalition argues that the Commission must consider climate change as part of its MEPA analysis. Distinguishing this case from the *Buggs* cases, in which the appellants argued that the Commission's pipeline approval decision might encourage the construction of more gas wells utilizing hydraulic fracturing, the MEC Coalition posits that:

> unlike hydraulic fracturing, there is no regulatory body in Michigan that has exclusive authority to regulate climate change issues. Instead, it is an issue that all state agencies with regulatory powers that impact the environment must consider at some level, and would inform an agency's MEPA analysis if evidence of climate change-related pollution, impairment, or destruction of natural resources tied to conduct the agency authorizes is presented.

The MEC Coalition's application for leave to appeal the initial ruling, p. 28. The MEC Coalition notes that the Commission has previously considered the issue of climate change in adopting weather normalized sales, and in the filing requirements for integrated resource plan (IRP) filings. *See,* June 3, 2010 order in Case No. U-15985, p. 39; November 21, 2017 order in Case No. U-18418, p. 72. The MEC Coalition contends that it is unreasonable to argue that the Commission may not consider climate change in its MEPA analysis simply because it does not regulate greenhouse gas (GHG) emissions.

In its application, Bay Mills notes that Governor Whitmer has recently set decarbonization goals for Michigan in Executive Order (EO) 2020-182 and ED 2020-10, which articulate the public need to move away from fossil fuels and thereby mitigate the worst harms associated with GHG emissions. Bay Mills argues that, because the fuels transported by Line 5 contribute to GHG emissions, the Replacement Project and the assessment of the public need for the project must be

RECEIVED by MSC 11/14/2025 2:10:18 PM

viewed in light of the state's climate goals. Bay Mills notes that ED 2020-10 finds that climate change is already degrading Michigan's environment and hurting the state's economy, and further finds that the state needs to eliminate its dependence on out-of-state fossil fuels. Bay Mills contends that, in order for the Commission to make a determination on the public need for the Replacement Project, "evidence must be permitted on how the Project, which would transport fossil fuels from out of state, relates to Michigan's public need to eliminate dependence on out of state fossil fuels and their downstream impacts on the health and well-being of Michigan residents." Bay Mills' application for leave to appeal the initial ruling, p. 36.

Bay Mills further argues that the Commission's MEPA analysis must examine whether GHGs will contribute to "pollution, impairment, or destruction of the air, water, or other natural resources, or the public trust in those resources." MCL 324.1705(2). Bay Mills states it this way:

> The Project will transport fuels so that they can be refined for petroleum products, including gasoline and aviation fuels, which emit greenhouse gases when combusted. Greenhouse gas emissions contribute to "pollution, impairment, or destruction" of natural resources. Thus, the greenhouse gas emissions that will result from fuels transported by the Project must be considered in a MEPA analysis.

Bay Mills' application for leave to appeal the initial ruling, p. 38 (notes omitted). Bay Mills posits that there is no dispute that fossil fuels will be transported through Line 5 and will be combusted, and argues that foreseeable GHG emissions are a typical consideration in doing an environmental impact analysis. Bay Mills urges the Commission to avoid a decision that is based only on immediate concerns and the Replacement Project.

FLOW also points to the State of Michigan's new commitments to address climate change, noting that Michigan joined the U.S. Climate Alliance in February 2019. FLOW avers that state agencies are integrating climate assessments into their departmental programs, and notes that in Section 6t of Public Act 341 of 2016 the Legislature required the consideration of environmental

RECEIVED by MSC 11/14/2025 2:10:18 PM

factors in utility IRPs. *See,* MCL 460.6t(5)(m). FLOW encourages the Commission to reject the ALJ's finding that the conduct at issue in this case does not include the environmental effects of extraction, refinement, and consumption of crude oil. FLOW maintains that this finding is contrary to the purposes of MEPA and Act 16, and is short-sighted. FLOW argues that:

> [a]s the tunnel is proposed to extend the operable life of Line 5 for 99 years, the MPSC must determine the evaluate [sic] the environmental and health consequences of approving the tunnel. When gasoline and diesel fuel are burned they produce carbon dioxide a greenhouse gas (GHG), carbon monoxide, nitrogen oxides, particulate matter, and unburned hydrocarbons. Scientific consensus holds that these unavoidable byproducts of petroleum combustion have profound environmental, climactic, and public health consequences that are now quantifiable and monetizable. Line 5 transports approximately 8.4 billion gallons of crude oil and natural gas liquids per year (23 million gallons per day). The combustion of these petroleum fuels will yield approximately 57 million tons of atmospheric carbon annually.

FLOW's application for leave to appeal the initial ruling, pp. 23-24 (note omitted). FLOW contends that climate change is already affecting Michigan, and that MEPA imposes additional environmental review requirements that are supplemental to other administrative and statutory schemes. MCL 324.1706.

In their application, ELPC/MiCAN begin by noting that the Commission has already highlighted the importance of a well-developed record in this proceeding. *See,* June 30 order, p. 69. ELPC/MiCAN argue that the primary function of a motion in limine at such an early stage in a proceeding is to limit discovery, which thereby also limits the record. Like the other appellants, ELPC/MiCAN make an offer of proof regarding the environmental effects associated with the Replacement Project, arguing that the information that they will provide will assist the Commission in its decisionmaking. The offered information will include total GHG emissions from the project; the environmental, public health, and social welfare costs associated with the GHG emissions; and the placement of the estimated emissions within the context of global and

RECEIVED by MSC 11/14/2025 2:10:18 PM

state policy goals. ELPC/MiCAN argue that they are entitled to discover relevant information from Enbridge, including:

> information on the materials and methods used in construction of the tunnel and pipeline, the known sources of the petroleum to be transported through the Proposed Project, the known end-uses of that petroleum, the operational and economic life of the Proposed Project, and whether the Proposed Project is expected to extend the time period over which petroleum products will be transported by Enbridge through the Straits of Mackinac.

ELPC/MiCAN's brief in support of its application for leave to appeal the initial ruling, p. 5.

ELPC/MiCAN argue that the language of MEPA clearly requires examination of both the direct and indirect effects of the Replacement Project. They posit that GHG emissions are pollutants that threaten Michigan's natural resources and must be considered under MEPA. They argue that it is clear legal error to fail to determine the magnitude of the impact of this pollutant in the MEPA analysis. ELPC/MiCAN contend that the ALJ erred when he found that GHG emissions that result both directly from the construction of the tunnel and indirectly from the project's "likely and quantifiable upstream and downstream impacts" are not relevant to this case. *Id.*, p. 8. ELPC/MiCAN argue that this finding does not make sense given the ALJ's first finding that MEPA clearly applies to the Replacement Project.

ELPC/MiCAN assert that the environmental effects at issue in this case are not speculative. They contend that the fact that the Commission does not have authority to regulate GHG emissions does not mean that such emissions play no role in the Commission's MEPA determination, and argue that "MEPA requires analysis of both direct and indirect environmental impacts, because it instructs agencies to consider both conduct that ***has*** and conduct that is ***likely to have*** the effect of polluting, impairing, or injuring the environment." *Id.*, p. 11 (emphasis in original). ELPC/MiCAN argue that the initial ruling overlooks this statutory directive, stating:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> [w]hile the Commission does not have jurisdiction over under [sic] Act 16 over the extraction of oil in Canada, or the refinement of oil in Detroit, the Commission does have the discretion under MEPA and Act 16 to evaluate credible expert testimony on the likely impact the Proposed Project will have on the amount of greenhouse gas emissions resulting from the known uses of the petroleum products that are transported through the replaced section of pipeline in the Straits of Mackinac.

Id., p. 12. Regarding Enbridge's argument that it will transport the same amount of oil whether the project is approved or not, ELPC/MiCAN, like the other appellants, assert that this is a question of fact. ELPC/MiCAN contend that there is little dispute that the Replacement Project will extend the useful life of Line 5. Finally, ELPC/MiCAN argue that the scope of discovery is broad. *See*, MCR 2.302(B).

Turning to the responses, MSCA again expresses support for the initial ruling.

In their response, the Associations argue that the initial ruling correctly found that MEPA does not require a review of the environmental effects of GHG emissions with respect to the Replacement Project, because the "conduct" at issue is the replacement of the dual pipelines with the single pipeline and tunnel. They argue that, in all MEPA actions, the focus is on the applicant's actual conduct and actions. *See, Preserve the Dunes, Inc v Dep't of Environmental Quality*, 471 Mich 508, 517; 684 NW2d 847 (2004). The Associations point out that Enbridge's application does not seek approval for consumers' consumption of fossil fuels, but seeks only to relocate the existing pipeline.

The Associations contend that the Michigan Court of Appeals has not required the Commission to carry out an independent investigation or conduct a contested hearing under MEPA, and has held that the Commission need not consider speculative arguments (such as arguments about whether a pipeline would encourage the growth of new production wells in the future). *See, Buggs I* and *Buggs II*. Rather, the Associations argue, the court has affirmed that the Commission may make a MEPA determination under Section 5(2) based on whatever materials

RECEIVED by MSC 11/14/2025 2:10:18 PM

are presented in the record. The Associations note that such materials may include the determinations made by other agencies that are also conducting reviews, such as, in this case, EGLE and USACE. The Associations explain that Enbridge must obtain a wetlands protection permit, a Great Lakes Submerged Lands Act disturbance permit (MCL 324.32501 *et seq.*) and a National Pollutant Discharge Elimination System permit from EGLE,[15] as well as permits under the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act from USACE. The Associations posit that these materials may provide information for the Commission in making its MEPA determination.

In its response, Enbridge contends that the parties opposing the motion are simply opposed to the use of fossil fuels; but argues that the MEPA review is confined to the Replacement Project. Enbridge argues that the ALJ properly applied the plain language of MEPA and the opposing parties have pointed to no case where the Commission considered climate change in the context of an Act 16 application. Enbridge notes that Act 16 does not contain the extensive environmental mandates contained in MCL 460.6t, the statute governing IRPs. Enbridge offers that the Commission has already rejected an expansive interpretation of the term "conduct" as that word is used in Section 5 of MEPA in the September 23, 2015 order in Case Nos. U-17195 *et al.*, where the Commission found that it lacked jurisdiction to examine whether a pipeline would encourage future new production wells utilizing hydraulic fracturing.

Addressing EO 2020-182, which created the Council on Climate Solutions, Enbridge reminds the Commission that it has only the statutory powers granted to it by the Legislature, and argues that the EO does nothing to expand the Commission's authority. Enbridge argues that issues such as the causes of climate change and potential changes in consumer behavior are outside the scope

[15] These permits were granted after the briefing had been filed.

RECEIVED by MSC 11/14/2025 2:10:18 PM

of this proceeding. The company further argues that "the issue of whether greenhouse gases generated by the construction activity to relocate the Straits crossing within a tunnel need not be considered by the Commission," and reminds the Commission that it is not required to conduct an independent investigation, or even a contested case, under Section 5(2) of MEPA. *Buggs I*, pp. 9-10**;** *Buggs II*, pp. 10-11. Finally, Enbridge argues that MEPA does not require the submission of evidence regarding alternatives, and that, in any case, alternatives to the operation of Line 5 are irrelevant to this case. With respect to the Replacement Project, Enbridge contends that the only relevant scenarios are the status quo or the proposed relocation of the 4-mile segment in the Straits.

In its response, the Staff urges the Commission to affirm the initial ruling. The Staff avers that the Commission must conduct its own analysis of the proposed project, and that that analysis must focus on the conduct proposed in the application. *State Hwy Comm*, 392 Mich at 185-186, 190-191. The Staff contends that the ALJ properly found that the conduct at issue herein does not involve the extraction, refinement, or consumption of fossil fuels, and that the Commission lacks jurisdiction over GHG emissions that may result from products shipped on Line 5. The Staff argues that the Commission's review involves the replacement and relocation of the 4-mile segment beneath the Straits and the construction and operation of the utility tunnel that will house the new pipeline segment.

The Staff also notes that Act 16 and Section 5 of MEPA do not contain the same environmental requirements as MCL 460.6t, and the opposing parties have not cited any statute or other precedent authorizing the Commission to consider indirect emissions, or upstream or downstream impacts, from the proposed project under MEPA. The Staff avers that the Commission's decision on the application is "unrelated to the consumption habits of the public."

RECEIVED by MSC 11/14/2025 2:10:18 PM

Staff's response to the applications for leave to appeal the initial ruling, p. 19. The Staff argues that the Commission has no statutory authority to include a climate change analysis in rendering licensing or permitting approvals, and has never made the consideration of GHG emissions a part of an Act 16 case. Regarding EO 2020-10 and its commitment to include considerations of climate change in government decisionmaking, the Staff posits that GHG emissions from electric generation are driven by IRPs.

IV. THE RULING ON REMAND

The ALJ began the remanded decision by noting that the December 9 order was issued by the Commission in response to issuance of the Notice.[16] The ALJ stated that the initial ruling rejected the arguments of those opposing the motion in limine regarding the necessity of inquiring into the public need for Line 5, and the arguments favoring a review of the environmental impacts of the consumption of petroleum products that are transported on Line 5. He noted that both of these issues were appealed to the Commission. The ALJ stated that the December 9 order "did not reach the merits of the Appeals, but rather directed rehearing and reconsideration of the scope of the Act 16 and MEPA inquiry relative to the Notice." Ruling on remand, p. 4. The ALJ describes the issues on remand as follows:

> Enbridge, the Associations, [MLDC], [MSCA], and Staff argue the Notice cannot expand the Commission's jurisdiction under Act 16 and MEPA, and the holding in the Initial Ruling on the scope of this case is proper. Further, these Parties contend the litigation concerning the Notice is in its early stages and will likely take years before the issue is decided and appeals are exhausted. Conversely, the [MEC Coalition], ELPC, FLOW, and the Attorney General . . . contend the Notice necessarily requires the scope of the case include a determination of whether a

[16] In response to arguments from Enbridge and the Staff about its admissibility, the ALJ found that the Notice is on the record in this case because the Commission relied upon it in the December 9 order, and, additionally, because it is admissible as the type of evidence that a reasonable person would rely on in the conduct of their affairs. Ruling on remand, p. 13, n. 6; *see*, MCL 24.276, MCL 24.275.

RECEIVED by MSC 11/14/2025 2:10:18 PM

> public need exists for Line 5, consideration of the safety and operational aspects of Line 5, and development of a record of the environmental effects of the petroleum products transported on Line 5. To these Parties, the litigation is of no moment, and as of May 13, 2021, the dual pipelines can no longer legally transport petroleum products and Line 5 will be decommissioned.

Ruling on remand, p. 5 (note omitted).

A. Public Need for Line 5/Operation of Line 5

The ALJ began with the Act 16 analysis. He noted that the motion in limine argued that the Commission's review of the Replacement Project does not encompass consideration of the public need for, or operational and safety aspects of, Line 5 in its entirety. The initial ruling granted this part of the motion, finding that "under Act 16 the proper inquiry for a proposal involving a segment of an existing pipeline is on that segment, as opposed to the entire pipeline system." Ruling on remand, p. 13. The ALJ stated that this holding remains "before the Commission under the pending Appeals, but under the Order of Remand is to be reconsidered in light of the subsequent issuance of the Notice." *Id.* The ALJ found that, with respect to the Notice, "the only definitive point is that as of May 13, 2021, the State will consider the easement withdrawn and revoked and Enbridge will consider the easement valid." Ruling on remand, p. 14 (note omitted). Noting that Enbridge has been issued the requisite permits by EGLE, the ALJ found that any issues regarding the public trust have been resolved. *Id.*, pp. 11-12.

The ALJ explained that the parties opposing the motion argue that the Notice serves as a basis for expanding the scope of this proceeding to include an examination of the entirety of Line 5. The ALJ disagreed. He noted that the 1953 order is still in effect and found that the pipeline meets a public need and serves the public interest, and authorized the construction, operation, and maintenance of Line 5 under Act 16. Thus, he determined, to accept that the Notice requires another finding of public need means that the 1953 order is being revisited, and therefore that the

RECEIVED by MSC 11/14/2025 2:10:18 PM

Commission is taking steps toward the possible "suspension, revocation, annulment, withdrawal, recall, cancellation or amendment of a license" under MCL 24.292(1), MCL 24.205(a), and *Rogers v Mich State Bd of Cosmetology*, 68 Mich App 751; 244 NW2d 20 (1976) (*Rogers*). The ALJ found that, in order for the Commission to undertake such a review, first, the "agency shall give notice . . . to the licensee of facts or conduct which warrant the intended action;" second, "the licensee shall be given an opportunity to show compliance with all lawful requirements for retention of the license" through a hearing that complies with *Rogers*; and third, a second notice of hearing commences the contested case. Ruling on remand, p. 16; MCL 24.292(1); *Rogers*, 68 Mich App at 754. The ALJ noted that the Commission did not provide this type of notice to the permittee, and that this is not an agency-initiated proceeding but rather a proceeding based on the Act 16 application filed by Enbridge.

The ALJ observed that all parties have the right to offer relevant evidence regarding the public need for the activity proposed in the application, but found that the public need for Line 5, as established by the 1953 order, is not relevant to this proceeding. He found that the Notice has no effect on Enbridge's existing authorization for Line 5 as established in the 1953 order. The ALJ noted that the Commission has, in its discretion, the authority under Act 16 to revoke a license previously granted, if it chooses to commence that type of proceeding based upon the Notice. *See*, MCL 483.3(1). But, he found, that proceeding must comply with the requirements of the APA and *Rogers*.

The ALJ further found that, even if the Notice is given presumptive effect and Enbridge loses the right to operate the dual pipelines on May 13, 2021, this does nothing to extinguish the legal right to operate Line 5 under the 1953 order, stating:

> as Enbridge and Staff note if the operation of Line 5 ceases for whatever reason, under Act 16 it can be restarted in the future under the existing license without first

RECEIVED by MSC 11/14/2025 2:10:18 PM

> having to obtain Commission approval. See Enbridge Reply Brief, pg. 15; Staff Reply Brief, pgs. 2, 9; 5 TR 337-338, 400-401. While the practical effect of the Notice on Line 5 on May 13, 2021, is unknown, its legal effect does not extend to revoking the Act 16 license issued in the 1953 Order or nullifying the public need/public interest determination embodied in that license. Based on the foregoing, to accept the Notice as requiring a reexamination of the public need of Line 5 under Act 16, along with its operational and safety aspects, would result in a diminishment of its existing license under §92(1) of the APA [MCL 24.292(1)] without providing the procedural due process protections afforded a licensee. Accordingly, the Notice cannot be used to expand the scope of this case to include an examination or determination of the public need for Line 5, or any aspect of its operation and safety.

Ruling on remand, pp. 18-19.

FLOW, the MEC Coalition, and Bay Mills filed applications for leave to appeal the ruling on remand.

In its second application for leave to appeal, FLOW focuses on the easements. FLOW contends that the ALJ misapplied the public trust doctrine, and that Enbridge has not been granted authorization for the 2018 easement from the DNR, the MSCA easement assignment, or the 99-year leaseback. FLOW argues that, in the absence of a finding by the DNR that the public trust in the lake waters will not be impaired, the easement, the assignment, and the lease are all void. FLOW charges the DNR with not having made the necessary determinations, and contends that this requires reversal of the ALJ's determinations in the ruling on remand. FLOW further alleges that the 1953 easement suffers from the same lack of authorization because the required findings regarding the public trust were never made. *See,* MCL 324.32512, MCL 324.32502 through MCL 324.32508. FLOW contends that the Commission's prior findings cannot form a basis for narrowing the review in the instant case to an examination of the public need for the Replacement Project.

In its second application for leave to appeal, the MEC Coalition argues that the Notice means that it is likely that Line 5 will not operate in the Straits until the tunnel is approved and

RECEIVED by MSC 11/14/2025 2:10:18 PM

constructed. The MEC Coalition points to Enbridge's repeated claims, in its motion in limine and in the subsequent briefing, that the company will continue to operate Line 5 in perpetuity whether or not the Replacement Project is approved. After the Notice, the MEC Coalition posits that this is simply posturing, because the State has ended the operation of Line 5 and the pipeline is decommissioned. The MEC Coalition argues that, "[u]nder these precepts, because the foundation of Enbridge's motion is a factual assertion that is contested or in doubt, that precludes the granting of the motion. There is no factual basis on which to assume that the tunnel is irrelevant to the remaining longevity of Line 5." The MEC Coalition's application for leave to appeal the ruling on remand, p. 10.

The MEC Coalition repeats some of the arguments made in its first application, stating that Enbridge has put the issue of public need into play in this case, that this determination must consider the entire pipeline system, and that, under the APA, the intervenors are entitled to counter the assertions made by Enbridge. The MEC Coalition highlights the "need for evidence on the underlying assumption of perpetual future operation." *Id.*, p. 12. With respect to the need for the Replacement Project, the MEC Coalition asserts that Enbridge has addressed the issue of fuel demand, as well as the issue of alternatives to the dual pipelines, by including its alternatives analysis with the application.

The MEC Coalition asserts that the Commission has, in past Act 16 cases, looked at the entire pipeline and not just the segment addressed in the application, in the sense that the Commission has made note of changes in demand that drive requests to increase capacity. *See,* 2001 order, p. 15; 2013 order, p. 23. The MEC Coalition maintains that in these prior Act 16 cases the Commission "reviewed the public need for replacement segments under Act 16 by considering the need for the pipeline system of which the segments were a part." The MEC Coalition's

RECEIVED by MSC 11/14/2025 2:10:18 PM

application for leave to appeal the ruling on remand, p. 20. The MEC Coalition argues that, because the 4-mile segment at issue here is the linchpin of the Line 5 system, such a review is even more important in this case because approval will allow a decommissioned pipeline to restart.

The MEC Coalition contends that the 1953 order made no findings with respect to public need for Line 5, nor did the *Lakehead* case, stating that:

> neither the 1953 Orders nor *Lakehead* decided the issue explicitly. The standard had not been articulated yet and the 1953 Orders and *Lakehead* were responding to a different question. It would be quite a stretch indeed to conclude that the 1953 Orders and *Lakehead* made findings on a standard that had not been articulated yet at that time and that these findings should be deemed conclusive for all time and for all related future projects.

Id., p. 23. The MEC Coalition reiterates that it is not seeking to alter any prior findings, but rather simply to contest the public need for a new project that would extend the use of Line 5 by decades. Thus, they argue, there are no notice or due process issues in the instant case because the intervenors do not seek to revoke any prior permits or licenses. The MEC Coalition avers that this is a new license that will have the effect of restarting a closed pipeline.

In its second application for leave to appeal, Bay Mills repeats many of the arguments made in its first application, and indicates that it incorporates by reference the briefing of the MEC Coalition and ELPC/MiCAN. Bay Mills states that, following issuance of the Notice, the Staff has paused its consultation with the Tribal intervenors. Bay Mills provides more detail respecting its offer of proof.

Bay Mills argues that the Notice makes the determination of whether there is a public need for Line 5 more exigent, arguing "If Michiganders will not need the fuels that would be transported by the Project, then there is no need for the Project." Bay Mills' application for leave to appeal the ruling on remand, pp. 16-17 (note omitted). Bay Mills notes that Governor Whitmer, in ED 2020-10, has indicated a public need to "move away from the very fuels that would be transported by

RECEIVED by MSC 11/14/2025 2:10:18 PM

the Project." *Id.*, n. 41. ED 2020-10 includes an explicit commitment to reduce greenhouse gas emissions by 2025 and achieve carbon neutrality by 2050; and because of this, Bay Mills argues, the Commission must look at whether approval of the Replacement Project will extend the life of Line 5. Bay Mills posits that a court may issue a permanent injunction against operation of the dual pipelines. Bay Mills again asserts that Enbridge has put the issue of the public need for Line 5 into question, as well as the length of its future operation, and the parties have the right to test this evidence.

As it did in its first application for leave, Bay Mills asserts that the Commission must also examine the safety of Line 5, under obligations imposed by Tribal treaty rights, MEPA, and Act 16. Bay Mills points out that the Notice acknowledges the Tribal Nations' interests in the habitat of the Straits. Bay Mills states that "Treaty resources would be impacted by the approval of a Project that would allow Line 5 to operate well into the future." *Id.*, p. 24. Bay Mills argues that, under *State Hwy Comm*, the Commission must conduct an independent analysis of the evidence presented in this case, as well as consider the evidence embodied in other agencies' determinations. Bay Mills also contends that the Commission must consider alternatives, including:

> evidence regarding the risk of oil leaks and spills to the Great Lakes and inland waters and resources from Line 5 if the Project is constructed. The Commission should also consider the risks from either an alternative method of delivering the commodities carried by Line 5 or the existing pipeline operating for a shorter duration than if the Project is allowed and constructed (as it almost certainly will be, in light of the Revocation and Termination).

Id., p. 28. Bay Mills again argues that, under the APA, the parties must be allowed to rebut Enbridge's assertion that the Replacement Project will reduce the risk of an oil spill into the Great Lakes. Bay Mills wishes to present evidence regarding hydrologically connected waterways and potential environmental damage. Like the MEC Coalition, Bay Mills describes the Replacement

RECEIVED by MSC 11/14/2025 2:10:18 PM

Project as reinstating a nonoperational pipeline. Bay Mills again avers that nothing in federal law limits the Commission's authority to review Line 5's safety, stating "[b]ecause the Commission's obligations under Tribal Treaties, MEPA, Act 16, and the APA are not safety standards covered by Section 60104(c) of the PSA, none of those authorities are preempted by the PSA." *Id.*, p. 33.

In its response, MSCA supports the ALJ's findings in the ruling on remand.

In its response, MLDC also supports the ruling on remand, arguing that the Notice does not expand the scope of this case or the Commission's jurisdiction. MLDC argues that the Replacement Project will address the environmental and operational problems associated with the dual pipelines and will generate nearly two million work hours providing collectively-bargained jobs, and will help maintain jobs at regional refineries. MLDC contends that the actual effect of the Notice cannot be ascertained at this time, and urges the Commission to act expediently.

The Associations also argue that the Notice does nothing to expand the scope of this case or the Commission's jurisdiction, and that the Replacement Project is the conduct at issue. The Associations aver that the Commission can prevent needless delay in this case by firmly establishing the appropriate scope. The Associations repeat their arguments regarding the 1953 order and the public interest, and assert that the continued need for Line 5 has been reaffirmed in Act 359, which finds that the tunnel "is for the benefit of the people of this state." MCL 254.324a(5). The Associations point out that the Notice does not challenge the public need for Line 5, and that the press release announcing the Notice explicitly stated that the Notice did not prevent Enbridge from constructing the tunnel. The Associations contend that the Notice was not intended to affect the progress of the Replacement Project. The Associations argue that, if the Notice in fact decommissioned the whole pipeline, then it violated the due process requirements contained in the APA and *Rogers.*

RECEIVED by MSC 11/14/2025 2:10:18 PM

In its response, the Staff also supports the ruling on remand. Addressing some of the arguments and offers of proof, the Staff states that:

> [w]ithout reasonable and legally sound limitations, the Joint Appellants' anything-goes-approach would expand and weigh down the evidentiary record until it buckles. For example, proposed topics of consideration include BP restructuring its business model, oil and gas producers filing for bankruptcy, cancellation of tar sand projects, global climate change impacts related to the use of petroleum, electric vehicle industry growth, and the oil and gas policies of foreign countries.

Staff's response to applications for leave to appeal the ruling on remand, p. 7. The Staff notes that the Commission itself described the application as proposing the "replacement of the Dual Pipelines with a new, 30-inch-diameter, single pipeline to be relocated within a new concrete-lined tunnel" in the June 30 order, p. 68.

The Staff maintains that the Commission's three Act 16 criteria are well established, and notes that, after the issuance of *Buggs I*, the Commission must also conduct a MEPA review. The Staff notes that the Commission is a creature of statute, and the scope of breadth of the agency's authority is limited by legislative mandate. *See, Union Carbide Corp v Pub Serv Comm*, 431 Mich 135; 428 NW2d 322 (1988). The Staff argues that the key word in the Act 16 review criteria is "pipeline," and that "[n]otably the latter two considerations about the design, route, and whether the pipeline meets or exceeds industry standards leaves no doubt what pipeline is in question." Staff's response to applications for leave to appeal the ruling on remand, p. 9. The Staff notes that in the 2002 order, the Commission's review was limited to the 26-mile segment at issue in the case, and at no point in that order did the Commission consider any other part of Wolverine's pipeline system, or whether the proposed segment would extend the operation of the rest of the system. Likewise, the Staff notes, in the 2013 order the Commission reviewed the proposed five, noncontiguous pipeline segments, and did not revisit the public need for the remainder of Line 6B or any other part of the Lakehead pipeline system. The Staff contends that the appellants are

RECEIVED by MSC 11/14/2025 2:10:18 PM

insisting on a new requirement that the applicant demonstrate the public need for a previously authorized pipeline to continue to operate. The Staff also notes that Enbridge is required to maintain Line 5 for as long as it chooses to operate Line 5. The Staff again contends that simply because a project has a beneficial long-term effect should not result in an automatic review of the entire pipeline system. The Staff notes that the litigation surrounding the Notice gives rise to uncertainty.

The Staff argues that government-to-government consultation does not expand the Commission's Act 16 jurisdiction. The Staff states that consultation with the Tribes was briefly delayed in order to allow time to evaluate the impact of the Notice, but is scheduled to resume in April 2021.[17]

The Staff repeats its arguments regarding the finding of public need in the 1953 order and in *Lakehead.* The Staff argues that the appellants may not simply reverse a Commission determination and require an applicant to relitigate a final order. Like the Associations, the Staff contends that the Notice does not revoke or rescind the 1953 order, and notes that EGLE has already found that the adverse effects to the public trust are minimal and has issued the permits for which that finding must be made. The Staff posits that Act 16 is focused on the siting of a pipeline and its associated fixtures and facilities, whereas the Governor and the DNR are concerned with the conveyance of property interests. MCL 483.6; cf. MCL 324.2129. The Staff notes that all of the cases cited by FLOW apply the public trust doctrine to the DNR (and its predecessor, the Conservation Commission), and not to the Commission. The Staff argues that Act 359 reaffirmed the public need for Line 5 and found that the tunnel is for the benefit of the people of Michigan. MCL 254.324a(5). In the Staff's view, the Legislature has conclusively determined that the

[17] The Commission notes that this consultation took place on April 15, 2021.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Replacement Project is in the public interest. The Staff goes on to repeat its argument that, even if the 1953 order were deficient, the APA and *Rogers* set certain requirements for making such a determination.

In its response, Enbridge also argues that the Notice has no effect on either its application or the Commission's jurisdiction. Enbridge contends that the effect of the Notice will be decided by the courts, and states that, in its complaint for declaratory relief, the State acknowledged that actual controversies exist between the parties. Like the other responses, Enbridge notes that the Notice does not address the public need for Line 5 or undermine the approval given in the 1953 order. The company argues that, in any case, if the Notice attempted to do so then the procedural safeguards provided by Section 92 of the APA and the *Rogers* case would need to be satisfied. Enbridge points out that Act 359, the 2018 easement grant, the assignment of the easement by MSCA, and the Agreements are all unaffected by the Notice. Enbridge states that "the Notice simply initiated an additional round of litigation over the validity of the 1953 Easement and Enbridge's compliance with its terms. In the meantime, Enbridge will continue to operate Line 5, including the Dual Pipelines." Enbridge's response to the applications for leave to appeal the ruling on remand, p. 6.[18]

Enbridge argues that the outset of this proceeding is the proper time to hear a motion determining the scope of the case. Mich Admin Code, R 792.10421(1)(d). Enbridge claims that its purpose in filing its application is to further the State's established decision to relocate the Straits crossing into a tunnel, as illustrated by the language of Act 359 and the Agreements.

[18] Enbridge points out that the validity of the 1953 easement is also the subject of an ongoing 2019 action brought by the Attorney General. *See, Nessel v Enbridge Energy, Limited Partnership, et al.*, Ingham County Circuit Court, Case No. 19-474-CE. *Id.*

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge again asserts that the background information provided by its proffered witnesses changes nothing about the determinations made by the Legislature in Act 359, and repeats its intent to withdraw any testimony that is found to open the door to an examination of the need for Line 5. Enbridge avers that there is no expiration date on the 1953 order, and no basis in Act 16 for extinguishing an existing pipeline approval every time an improvement project is proposed. Enbridge contends that the 2002 and 2013 orders support these conclusions because, in those cases, the Commission never evaluated the need for the entire pipeline, whether the proposed segment would extend the life of the entire pipeline, or any environmental effects that could occur beyond the location of the replacement segment. Noting that these cases involved lengthy new segments (20 and 42 miles, and 110 and 50 miles), Enbridge contends that it seeks to relocate only 4 miles of pipeline, and that, unlike these cases, the relocation will add no new capacity. Enbridge argues that, in the 2013 order, the Commission rejected as irrelevant evidence pertaining to a portion of Line 6B that was not being replaced.[19]

Enbridge further argues that Tribal rights do not change the scope of this case under Act 16 or the Commission's jurisdiction, and, as a creature of statute, the Commission's jurisdiction is not changed by the Notice. Enbridge again argues that, as an interstate pipeline, the federal PSA preempts a state's examination of the safety of an interstate pipeline, and any allegations that go to the alleged safety of the operations of Line 5 in its entirety are outside the scope of this

[19] The Commission rejected as irrelevant proposed Exhibit I-19, a National Transportation Safety Board Report on the July 25, 2010 failure of Line 6B in Marshall, Michigan. The Commission approved Enbridge's application to replace the compromised segment of Line 6B in the December 6, 2011 order in Case No. U-16856. In the 2013 order, the Commission found "The segment of Line 6B that failed was the subject of Case No. U-16856. Proposed Exhibit I-19 does not address Enbridge's current application to replace the remaining segments of Line 6B." 2013 order, p. 27 (notes omitted).

RECEIVED by MSC 11/14/2025 2:10:18 PM

proceeding. Enbridge notes that the ALJ's rulings did not preclude any evidence addressing safety issues related to the siting proposed in the Replacement Project.

B. Michigan Environmental Protection Act Review

The ALJ began his analysis by noting that in the initial ruling he found that the conduct subject to review under MEPA is the proposal to relocate the dual pipelines into the tunnel, and thus found the "environmental effects of both the Line 5 system, and the extraction, refinement and ultimate consumption of the oil shipped on that system as being beyond the scope of the Commission's MEPA review." Ruling on remand, p. 19. Here, also, the ALJ rejected the argument that the Notice serves to expand the MEPA review to the entirety of Line 5 and the environmental effects of the products that are transported on Line 5. The ALJ found that the Notice does not change the activity proposed in the application, which is the "conduct" as that term is used in Section 5(2) of MEPA. He further found that the Notice does not change any aspect of the Commission's jurisdiction over this matter, or his initial analysis. The ALJ found that MEPA's focus is on the conduct which is subject to the agency's review, which he found is the proposal to relocate the dual pipelines into the tunnel. *See*, *Preserve the Dunes*, 417 Mich at 517.

In conclusion, the ALJ found that Enbridge's license to operate and maintain Line 5 remains in effect, and that:

> the Notice is relevant under the proper Act 16 review of the project: whether a public need exists to replace the existing dual pipelines on Great Lakes bottomlands in the Straits of Mackinac with a single pipeline in a proposed Utility Tunnel. . . . The issuance of the Notice does not expand the MEPA inquiry to include the environmental effects of the operation and safety of Line 5, or those arising from the production, refinement, and consumption of the oil transported on Line 5.

Ruling on remand, p. 21.

RECEIVED by MSC 11/14/2025 2:10:18 PM

In its second application for leave to appeal, FLOW contends that the Commission's authority under Act 16 and MEPA is broad, and is not limited by any findings in the 1953 order. FLOW asserts that Act 16 explicitly applies to the transport of crude oil, and that "the transport of oil necessarily cannot be separated from its consumption." FLOW's application for leave to appeal the ruling on remand, p. 25.[20] FLOW notes that MCL 324.1706 provides that MEPA is supplementary to other existing regulatory and administrative procedures, and argues that the Commission is required under MCL 324.1705(2) to consider the likely environmental effects of the proposed project and the full range of alternatives to the proposed project. FLOW argues that, in *State Hwy Comm*, the statute in question (the state highway condemnation law) had no express environmental review provision, but the court found the environmental review to be mandatory under MEPA. *State Hwy Comm*, 392 Mich at 189-190. FLOW contends that the Commission may only fulfill its mandate by performing a public need review that looks at "the crude oil markets today and over the course of the Project, the effects and risks associated with operating Line 5, and the critical impacts to dams, shoreline infrastructure, lakes, and Great Lakes and public trust in these waters within the State of Michigan from climate change." FLOW's application for leave to appeal the ruling on remand, p. 29.

In their second application for leave to appeal, ELPC/MiCAN repeat many of the arguments put forth in the first application. ELPC/MiCAN state that GHGs are widely recognized as pollutants, and that they are pollutants that result in environmental and societal damage. Thus, they argue, these pollutants fall under the plain and ordinary meaning of the language in MEPA regarding conduct that may "pollute, impair, or destroy." ELPC/MiCAN note that the

[20] FLOW's application for leave to appeal the ruling on remand is not paginated. The page numbers indicated herein correspond to the Table of Contents provided by FLOW.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Intergovernmental Panel on Climate Change has determined that some natural resources are permanently damaged by GHG emissions. ELPC/MiCAN's brief in support of application for leave to appeal the ruling on remand, p. 12, n. 30, 32, and 34. ELPC/MiCAN argue that:

> While the ALJ concluded that GHG gas emissions are outside the scope of an environmental assessment, the plain language of the statute, the dictionary definition of MEPA's terms and the available caselaw all support that it is within the scope of this contested case for the Commission to consider whether GHG emissions from Enbridge's proposed project will or are likely to pollute, injure, or destroy Michigan's natural resources.

Id., p. 14. ELPC/MiCAN charge the Commission with a duty to examine both direct and indirect GHG emissions, including a review that "is 'not restricted to actual environmental degradation but also encompasses probable damage to the environment as well.'" *Id.*, p. 17, quoting *Ray v Mason Cty Drain Comm'r*, 393 Mich 294, 309; 224 NW2d 883 (1975).

ELPC/MiCAN argue that Line 5 is now a decommissioned pipeline, and that therefore the Replacement Project is actually an application to restart a closed pipeline. Thus, ELPC/MiCAN state, Enbridge's application requires the full review under MEPA that would be required for a new Line 5. ELPC/MiCAN assert that this review must include consideration of upstream and downstream GHG emissions. ELPC/MiCAN argue that the ALJ's ruling on remand puts "the most exigent environmental issue of our time . . . beyond the scope of Michigan's most significant environmental protection statute." *Id.*, p. 18. Noting Enbridge's repeated claim that it will operate Line 5 indefinitely whether or not the tunnel is built, ELPC/MiCAN argue that the Notice calls this claim into question, and they offer proof regarding the amount of GHG emissions that will result when the pipeline is restarted after construction of the tunnel is complete. ELPC/MiCAN point out that the Commission is not required to strictly follow the Michigan Rules of Evidence. They also point out that Enbridge will be able to avail itself of motions to strike.

RECEIVED by MSC 11/14/2025 2:10:18 PM

In its second application for leave to appeal, the MEC Coalition posits that, due to the Notice, continued operation of Line 5 is now less likely, and the Commission has a duty under Act 16 and MEPA to review the environmental effects of the project and to consider available alternatives. The MEC Coalition asserts that Line 5 cannot continue to operate because the Notice requires no further action in order to be implemented. The MEC Coalition repeats its arguments regarding the "conduct" proposed by the application and the alleged pollution, impairment, or destruction that may result from that conduct. The MEC Coalition urges the Commission to take a broad view when conducting its environmental analysis.

In its second application for leave to appeal, Bay Mills contends that issuance of the Notice means that, without approval of the Replacement Project, Line 5 is even more likely to cease operations. Bay Mills argues that GHG emissions fall squarely within MEPA and the Commission is required to evaluate environmental conditions both with and without approval of the Replacement Project. Bay Mills argues that the environmental effects of transporting fuels are not as speculative as the possibility of incentivizing future additional gas wells, as was at issue in *Buggs II*. Bay Mills states that GHG emissions are concrete and will be a direct result of approval of the Replacement Project because that project will allow for the continued and extended operation of Line 5. Bay Mills posits that it is irrelevant that the Commission is not empowered to regulate GHG emissions themselves. Bay Mills notes that ED 2020-10 sets a goal of carbon neutrality by 2050 for Michigan, and requires that "[a]ll departments and agencies must follow the policies and procedures developed in connection with this directive." ED 2020-10, p. 1. Bay Mills asserts that GHG emissions have become a standard consideration in environmental reviews for federal agencies, and in some states.

In its response, MSCA supports the ALJ's findings in the ruling on remand.

RECEIVED by MSC 11/14/2025 2:10:18 PM

In their response, the Associations also support the ruling on remand, arguing that the MEPA review must be limited to the conduct proposed in the application. The Associations contend that Line 5 is not a decommissioned pipeline, and argue, moreover, that Enbridge would not need approval to restart the pipeline even if it were. The Associations maintain that nothing in Act 16 requires "a pipeline operator to secure Commission approval to restart a pipeline that was previously approved," and they note that the appellants have provided no authority to support this argument. Associations' response to applications for leave to appeal the ruling on remand, p. 14. The Associations repeat their arguments regarding GHG emissions, and they contend that MEPA is far more limited than the federal law that governs environmental impact statements. The Associations note that the language of MEPA is limited to the effects that the "conduct" at issue "has or is likely to have." MCL 324.1705(2). They aver that ED 2020-10 is unrelated to the Notice and that discussion of the ED exceeds the scope of the question that the Commission designated for remand in the December 9 order. The Associations also argue that FLOW's discussion of the public trust doctrine goes well beyond the scope of the remand order and is not within the Commission's authority under Act 16, in any case.

In its response, the Staff argues that the appellants have not cited a single Commission case where GHG emissions were considered in the context of Act 16 or Public Act 9 of 1929 (Act 9), even though MEPA has been in effect for decades; and the Staff points out that Michigan has no legislative directive requiring that agencies consider GHG emissions when making determinations on permits, licenses, or other approvals. The Staff points out that Enbridge is not seeking authorization to operate Line 5 in this case. The Staff also asserts that the legal effect of the Notice remains unclear, the pipeline has not been shut down or decommissioned, and Enbridge retains the legal right to operate Line 5. The Staff contends that the language of Section 5(2) of

RECEIVED by MSC 11/14/2025 2:10:18 PM

MEPA does not extend to considering the indirect emissions associated with the extraction, refinement, or consumption of petroleum products transported through Line 5, and the statute makes no reference to indirect emissions. The Staff states:

> Staff does not dispute that greenhouse gas emissions could be an appropriate consideration in certain regulatory contexts. Indeed, the Commission has encouraged utilities to document their greenhouse gas emissions in integrated resource planning. . . . However, Staff agrees with the ALJ's Rulings that irrespective of the environmental harm the Joint Appellants contend is caused by greenhouse gas emissions, "MEPA requires an examination of the 'conduct' to determine its effect on natural resources" and "the conduct at issue in this case does not include the extraction, refinement, or consumption of the oil transported on Line 5."

Staff's response to applications for leave to appeal the ruling on remand, pp. 29-30, citing the November 21, 2017 order in Case No. U-18418, p. 5, and quoting the ruling on remand, pp. 18-19.

In its response, Enbridge maintains that the Notice does not serve to expand the Commission's MEPA review to the entirety of Line 5. Enbridge also reminds the Commission that neither Act 16 nor Rule 447 require the pipeline operator to apply to the Commission to approve the restart of a pipeline that holds an existing approval, noting that Act 16 provides the Commission with the authority to approve construction and operation but says nothing about the services provided over the pipeline once it is constructed, or about approvals required to stop or start a pipeline.

Enbridge also argues that the Notice does not extend the Commission's MEPA review to GHG emissions, and the conduct at issue in this case does not include the environmental effects of the extraction, refinement, or consumption of petroleum products. Enbridge notes that the "Commission does not authorize or approve of the use of fossil fuels by consumers which may create GHG," and argues that an agency's grant of authority must be conferred by clear and unmistakable language. *Id.*, p. 27, citing *Union Carbide*, 431 Mich at 151. Enbridge also argues that ED 2020-10 is outside the scope of this remand, which, in the December 9 order, sought only

RECEIVED by MSC 11/14/2025 2:10:18 PM

a review of the impact of the Notice. Enbridge points out that no prior Commission order in an Act 16 proceeding has considered GHG emissions in its MEPA review, and argues that an ED cannot expand the agency's jurisdiction or change the statute's language. Finally, Enbridge contends that FLOW's arguments regarding the public trust are well outside the scope of the Commission's jurisdiction and the Great Lakes Submerged Lands Act provides no authority to the Commission.

V. DISCUSSION

Rule 433 establishes the standards for reviewing applications for leave to appeal. Not every application merits immediate review. An appellant must establish one of the following conditions before the Commission will grant review:

> (a) A decision on the ruling before submission of the full case to the Commission for final decision will materially advance a timely resolution of the proceeding.
>
> (b) A decision on the ruling before submission of the full case to the Commission for final decision will prevent substantial harm to the appellant or the public-at-large.
>
> (c) A decision on the ruling before submission of the full case to the Commission for final decision is consistent with other criteria that the Commission may establish by order.

Rule 433(2)(a)-(c). If the Commission grants immediate review, it will reverse an administrative law judge's ruling if the Commission finds that a different result is more appropriate. June 5, 1996 order in Case No. U-11057, p. 2; May 19, 2020 order in Case No. U-20697, p. 9.

In their applications for leave to appeal, FLOW, the MEC Coalition, Bay Mills, and ELPC/MiCAN argue that the Commission should grant the applications because a decision on the initial ruling and ruling on remand before submission of the full case to the Commission will

RECEIVED by MSC 11/14/2025 2:10:18 PM

materially advance a timely resolution of the proceeding and will prevent substantial harm to each appellant and to the public.

The Commission notes that discovery is ongoing, and that testimony from the Staff and the intervenors is due on May 18, 2021. The Commission grants the applications for leave to appeal the initial ruling and the ruling on remand (the rulings). The Commission finds that a timely resolution of the full proceeding will be advanced by granting both rounds of applications and addressing the important issues presented therein.

A. Requirements for Commission Approval of an Act 16 Application

The starting point in the Commission's evaluation of the arguments presented is rooted in the requirements for approval of an application submitted under Act 16. As set forth in its title, the purpose of Act 16 is "to regulate the business of carrying or transporting . . . crude oil or petroleum or its products through pipe lines; . . . [and] to provide for the control and regulation of all corporations, associations and persons engaged in such business" by the Commission. Section 1(2) of Act 16 provides:

> A person exercising or claiming the right to carry or transport crude oil or petroleum, or any of the products thereof, or carbon dioxide substances, by or through pipe line or lines, for hire, compensation or otherwise, or exercising or claiming the right to engage in the business of piping, transporting, or storing crude oil or petroleum, or any of the products thereof, or carbon dioxide substances, or engaging in the business of buying, selling, or dealing in crude oil or petroleum or carbon dioxide substances within this state, does not have or possess the right to conduct or engage in the business or operations, in whole or in part, or have or possess the right to locate, maintain, or operate the necessary pipe lines, fixtures, and equipment belonging to, or used in connection with that business on, over, along, across, through, in or under any present or future highway, or part thereof, or elsewhere, within this state, or have or possess the right of eminent domain, or any other right, concerning the business or operations, in whole or in part, except as authorized by and subject to this act.

MCL 483.1(2). Section 3(1) of Act 16 provides:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> Subject to subsection (2), the commission is granted the power to control, investigate, and regulate a person doing any of the following:
>
> (a) Exercising or claiming the right to carry or transport crude oil or petroleum, or any of the products thereof, or carbon dioxide substances, by or through pipe line or lines, for hire, compensation, or otherwise within this state.
>
> (b) Exercising or claiming the right to engage in the business of piping, transporting, or storing crude oil or petroleum, or any of the products thereof, or carbon dioxide substances within this state.
>
> (c) Engaging in the business of buying, selling, or dealing in crude oil or petroleum or carbon dioxide substances within this state.

MCL 483.3(1).[21]

In its implementation of these statutory requirements, the Commission has developed and repeatedly applied a three-part test in its consideration of applications submitted under Act 16. In order to grant an application under Act 16, the Commission must find that: (1) the applicant has demonstrated a public need for the proposed pipeline, (2) the proposed pipeline is designed and routed in a reasonable manner, and (3) the construction of the pipeline will meet or exceed current safety and engineering standards. 2001 order, pp. 13-17; 2002 order, pp. 4-5; 2013 order, p. 5.

In addition to this three-part test, courts have found that state agencies have an obligation to apply the requirements of MEPA to its decisions, including to Commission pipeline siting cases. *State Hwy Comm*, 392 Mich at 189-190; *Buggs I*, p. 9. Section 5 of MEPA, MCL 324.1705, provides, in pertinent part:

> (1) If administrative, licensing, or other proceedings and judicial review of such proceedings are available by law, the agency or the court may permit the attorney general or any other person to intervene as a party on the filing of a pleading asserting that the proceeding or action for judicial review involves conduct that has, or is likely to have, the effect of polluting, impairing, or destroying the air, water, or other natural resources or the public trust in these resources.

[21] To assist in carrying out this authority, Rule 447(1)(c) provides for the filing of an application with the Commission.

RECEIVED by MSC 11/14/2025 2:10:18 PM

> (2) In administrative, licensing, or other proceedings, and in any judicial review of such a proceeding, the alleged pollution, impairment, or destruction of the air, water, or other natural resources, or the public trust in these resources, shall be determined, and conduct shall not be authorized or approved that has or is likely to have such an effect if there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare.

Thus, Section 5(2) of MEPA requires that, in an administrative permitting proceeding, an agency must determine whether the conduct under review will pollute, impair, or destroy natural resources, and, if likely so, the proposed conduct shall not be approved if a feasible and prudent alternative exists that is consistent with the reasonable requirements of the public health, safety, and welfare. The substantive duty that is placed on administrative agencies and courts by Section 5(2) is separate from the procedural rights afforded under Section 5(1). *State Hwy Comm*, 392 Mich at 185-186, 190-191; *Buggs I*, p. 9.

In *Buggs I* – a pipeline approval case brought under Act 9 – the Michigan Court of Appeals found that the Commission had duties under MEPA: namely, it had to consider whether the proposed project would impair the environment, whether there was a feasible and prudent alternative to the impairment, and whether the impairment was consistent with the promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment, or destruction. *Buggs I*, p. 9, citing *State Hwy Comm*, 392 Mich at 185-186; *see also*, September 23, 2015 order in Case Nos. U-17195 *et al.*

Finally, courts have repeatedly found that these MEPA obligations are supplementary to other statutes and regulations and should be read *in pari materia* with other laws. *See, Mich Oil Co v Natural Resources Comm*, 406 Mich 1, 32-33; 276 NW2d 411 (1979). The U.S. Court of Appeals for the Sixth Circuit has similarly held that:

> MEPA is supplementary to existing administrative and regulatory procedures provided by law. It specifically authorizes the court to determine the validity, applicability, and reasonableness of any standard for pollution or pollution control

RECEIVED by MSC 11/14/2025 2:10:18 PM

> equipment set by state agency *and* to specify a *new* or *different* pollution control standard if the agency's standard falls short of the substantive requirements of MEPA.

Her Majesty the Queen v Detroit, 874 F2d 332, 337 (CA 6, 1989) (emphasis in original, internal citation omitted). And the Michigan Supreme Court has held that MEPA "allows the courts to fashion standards in the context of actual problems as they arise in individual cases and to take into consideration changes in technology which the Legislature at the time of the Act's passage could not hope to foresee." *Ray v Mason Cty Drain Comm,* 393 Mich 294, 306-307; 224 NW2d 883 (1975).

Against this backdrop, in order to grant an application under Act 16, the Commission must find that: (1) the applicant has demonstrated a public need for the proposed pipeline, (2) the proposed pipeline is designed and routed in a reasonable manner, (3) the construction of the pipeline will meet or exceed current safety and engineering standards, and (4) the project complies with the requirements of MEPA.

B. Applicability of Act 16 Requirements to the Replacement Project

In applying these statutory provisions, the Commission considers the conduct at issue in this case, which is the Replacement Project proposed by Enbridge in the application. The impetus for Enbridge's application is Act 359, which provides an informative background for this discussion. Act 359 is, among other things, "[a]n act authorizing the Mackinac bridge authority to acquire a bridge and a utility tunnel connecting the Upper and Lower Peninsulas of Michigan, . . . [and] authorizing the operation of a utility tunnel by the [Mackinac bridge authority] or the Mackinac Straits corridor authority." Title, Act 359. A "utility tunnel" means "a tunnel joining and connecting the Upper and Lower Peninsulas of this state at the Straits of Mackinac for the purpose of accommodating utility infrastructure, including, but not limited to, pipelines . . .." MCL

RECEIVED by MSC 11/14/2025 2:10:18 PM

254.324(e). Section 14a(1) of Act 359 provides that the "Mackinac bridge authority may acquire, construct, operate, maintain, improve, repair, and manage a utility tunnel." MCL 254.324a(1). Section 14a further provides that:

> (3) . . . The Mackinac bridge authority has the right to use and full easements and rights-of-way through, across, under, and over any lands or property owned by this state or in which this state has any right, title, or interest, without consideration, that may be necessary or convenient to the construction and efficient operation of the utility tunnel.
>
> (4) The Mackinac bridge authority may perform all acts necessary to secure the consent of any department, agency, instrumentality, or officer of the United States government or this state to the construction and operation of a utility tunnel and the charging of fees for its use, and to secure the approval of any department, agency, instrumentality, or officer of the United States government or this state required by law to approve the plans, specifications, and location of the utility tunnel or the fees to be charged for the use of the utility tunnel.
>
> (5) The carrying out of the Mackinac bridge authority's purposes, including a utility tunnel, are for the benefit of the people of this state and constitute a public purpose, and the Mackinac bridge authority is performing an essential government function in the exercise of the powers conferred upon it by this act.

MCL 254.324a(3)-(5). These rights and duties of the Mackinac bridge authority are transferred to MSCA, as follows: "All liabilities, duties, responsibilities, authorities, and powers related to a utility tunnel as provided in section 14a and any money in the straits protection fund shall transfer to the corridor authority board upon the appointment of the members of the corridor authority board under section 14b(2)." MCL 254.324d(1).

Section 14b of Act 359 provides:

> The Mackinac Straits corridor authority is created within the state transportation department. . . . The creation of the Mackinac Straits corridor authority and the carrying out of the Mackinac Straits corridor authority's authorized purposes are public and essential governmental purposes for the benefit of the people of this state and for the improvement of the health, safety, welfare, comfort, and security of the people of this state, and these purposes are public purposes.

MCL 254.324b(1). Upon its creation, and:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> no later than December 31, 2018, the Mackinac Straits corridor authority shall enter into an agreement or a series of agreements for the construction, maintenance, operation, and decommissioning of a utility tunnel, if the Mackinac Straits corridor authority finds all of the following:
>
> (a) That the governor has supplied a proposed tunnel agreement to the Mackinac Straits corridor authority on or before December 21, 2018. . . .
>
> (b) That the proposed tunnel agreement allows for the use of the utility tunnel by multiple utilities, provides an option to better connect the Upper and Lower Peninsulas of this state, and provides a route to allow utilities to be laid without future disturbance to the bottomlands of the Straits of Mackinac.

MCL 254.324d(4)(a)-(b). The Agreements referenced in MCL 254.324d(4) have been duly entered into and affirmed by the courts. *See,* notes 8 and 9, *supra.* Under Act 359, the 2018 tunnel easement has been assigned to Enbridge by MSCA. Exhibit A-6; Application, p. 13.

In its application, consistent with the Agreements executed with the State of Michigan and the easement it has been assigned by MSCA, Enbridge proposes to construct a replacement segment of Line 5 that crosses the Straits, to be housed in the utility tunnel. In its June 30 order, the Commission previously described the Replacement Project as the "replacement of the Dual Pipelines with a new, 30-inch-diameter, single pipeline to be relocated within a new concrete-lined tunnel." June 30 order, p. 68. As such, the Commission must consider how both the three-part test under Act 16 and the requirements of MEPA apply to the Replacement Project. However, as described more fully below, the application of these provisions do not extend to the remainder of the line approved in the 1953 order.

1. Public Need for Line 5/Operation of Line 5

Enbridge seeks approval for the Replacement Project under Act 16. The appellants argue that the Commission's determination in this Act 16 proceeding must go beyond the bounds of the Replacement Project and must include an examination of whether there is a public need for Line 5, and whether Line 5 may be safely operated. FLOW, Bay Mills, and the MEC Coalition argue that

RECEIVED by MSC 11/14/2025 2:10:18 PM

the ALJ's rulings on the motion in limine and its remand result in the exclusion of relevant evidence from this proceeding and must be reversed.

In his October 23, 2020 initial ruling, the ALJ explained that the scope of this case is dictated by two factors: (1) the activity proposed in the application, namely replacement of the existing 4-miles of dual pipelines located on the bottomlands with a pipeline located in a tunnel, as contemplated in Act 359 and various agreements with the State; and (2) the Commission's jurisdiction over that proposal under Act 16, the administrative rules promulgated under its authority, and MEPA (initial ruling, p. 14), and that "the standards of Act 16 are well established and must be applied in this case." *Id.*, p. 15. As such, the ALJ held:

> Based on those standards, this case involves a review of the proposed pipeline relocation under Act 16 to determine whether a public need exists for it, whether it is designed and routed in a reasonable manner, and whether its construction will satisfy applicable safety and engineering standards. Accordingly, any issues concerning the current or future operational aspects of the entirety of Line 5, including the public need for the 645-mile pipeline that was approved by the Commission in 1953 and affirmed in *Lakehead Pipe Line Co., supra*., is outside the scope of this case.

Initial ruling, p. 15 (note omitted). The Commission agrees.

In the 1953 order, the Commission approved the construction, maintenance, and operation of Line 5, finding that Line 5 was fit for the purpose of carrying and transporting crude oil and petroleum as a common carrier in interstate and foreign commerce. In the 1953 order the Commission stated "[i]t appears to this Commission that in times of national emergency delivery of crude oil for joint defense purposes would be greatly enhanced by operation of the proposed pipe line." 1953 order, p. 4. Denmark Township moved for denial of the application on grounds that the pipeline was not in the public interest. The Commission found the motion to be without merit, and it was denied. *Id.*, p. 8. The Commission found that the proposed Line 5 met the requirements of Act 16, and Lakehead (Enbridge's predecessor) received permission to construct

RECEIVED by MSC 11/14/2025 2:10:18 PM

and operate the pipeline.[22] Subsequently, in *Lakehead*, 340 Mich at 37, the Michigan Supreme Court held that construction and operation of Line 5 was "for a public use benefiting the people of the State of Michigan." Neither Act 16, nor Rule 447, nor Commission precedent require the Commission to make findings with respect to the length of time that an approved pipeline may operate, and such findings are not made in this order. Indeed, while intervenors argue that the issue of whether Line 5 will continue in operation indefinitely (as Enbridge has alleged) is a question of fact that should be tested, what is ignored by these parties is that whether Enbridge holds the legal right to operate the other 641 miles of Line 5 is not a question of fact but rather of law. Nothing in the Commission's 1953 order set a termination date for the operation of Line 5, and no party disputes Enbridge's legal authority to continue to operate the other 641 miles not at issue in this proceeding.

Furthermore, a focus on the need for the Replacement Segment – as opposed to a reconsideration of the need for the entire pipeline – is strongly supported by the Commission's precedent in this area. In the 2001 order, for example, Wolverine sought approval of discrete 12- and 16-inch petroleum products pipeline systems (those which remained after Wolverine's motion to withdraw its application respecting a particular segment was granted). 2001 order, p. 9. The Commission granted approval under Act 16 for Wolverine to construct, operate, and maintain the proposed segments. In granting this approval, the Commission did not examine the remainder of Wolverine's pipeline system that interconnected with the proposed segments, nor did it consider the potential lifespan of any part of Wolverine's system.

[22] It is important to note that the 2014 amendments to Act 16 contained in Public Act 85 of 2014 did not amend the provisions of Act 16 that are at issue in this case. *See*, http://www.legislature.mi.gov/documents/2013-2014/billanalysis/House/pdf/2013-HLA-4885-4DE9C223.pdf (accessed March 17, 2021). The same provisions were in place at the time of the 1953 order. Additionally, Act 359 does not revoke or otherwise affect the provisions of Act 16.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Similarly, in the 2002 order, the Commission examined a 12-inch, 26 mile pipeline segment proposed by Wolverine, under Act 16. Again, the Commission did not consider other interconnected pipeline systems in its decision to approve the 26-mile segment, nor did it consider the potential lifespan of any part of Wolverine's system.

Finally, in the 2013 order, the Commission examined a proposal under Act 16, filed by Enbridge, to construct, operate, and maintain 110 miles of new 36-inch pipeline, and 50 miles of new 30-inch pipeline, which replaced certain 30-inch pipeline segments on Line 6B. The application sought approval to replace five separate, noncontiguous pipeline segments. 2013 order, p. 2, n. 2. Again, the Commission did not examine the remainder of Enbridge's pipeline system that interconnected with the five proposed segments, nor did it consider the potential lifespan of any part of Enbridge's system including Line 6B.

As Commission precedent under Act 16 shows, when deciding an application to construct or relocate pipeline, the Commission has never examined any portion of existing pipeline that is interconnected with the segment that is proposed in the applicant's project but not within the proposed route; nor has it examined how the proposed pipeline segment could affect the lifespan of an existing interconnected pipeline system. The Commission has similarly never considered the projected length of usage of a pipeline system in its review of the public need for the replacement or relocation of a segment of the system. For this reason, the Commission is unpersuaded by the MEC Coalition's argument that the first issue in this case is "whether there is a public need to replace the dual pipelines with a new pipeline in a tunnel so as to perpetuate Line 5 for decades to come." The MEC Coalition's application for leave to appeal the initial ruling, p. 10.

In determining public need, the Commission has instead looked at whether the applicant has explained the need for the construction or relocation of the segment or segments being proposed,

RECEIVED by MSC 11/14/2025 2:10:18 PM

and, where alleged, has considered the capacity and safety issues presented by the use of the existing pipeline segment that is proposed for improvement.

In the instant case, the Commission finds that the first issue is whether there is a public need to carry out the Replacement Project, a project to replace the dual pipelines with a new pipeline in a tunnel, and does not concern approved, existing pipeline that is merely interconnected with the segment that is the subject of the application. The public need for the existing portions of Line 5 has been determined. The public need for the Replacement Project has yet to be determined.

The alleged purpose of the Replacement Project is to improve the safety of the 4-mile segment that crosses the Straits. This is a question of fact that the parties may contest, and that is relevant to all three criteria that are considered in an Act 16 case: whether there is a public need for the Replacement Project, whether the Replacement Project is designed and routed reasonably, and whether the Replacement Project meets or exceeds current safety and engineering standards.

Finally, the Commission also agrees with the ALJ that the Tribal treaty-reserved rights asserted by Bay Mills do not serve to expand the scope of the Commission's Act 16 jurisdiction. The treaty-reserved rights do not confer on the Commission the ability to review the authority to own and operate the segments of an approved pipeline system that are not the subject of the Act 16 application before the agency.

The applications for leave to appeal the rulings on this issue are granted, and the requested relief is denied.

2. Michigan Environmental Protection Act Review

Similar to the analysis in applying the three-factor test on project need, whether the proposed project's design and route is reasonable, and whether it meets or exceeds current safety and engineering standards, the application of MEPA is limited to the conduct at issue in this case. As

RECEIVED by MSC 11/14/2025 2:10:18 PM

such, the Commission's MEPA review does not extend to the entirety of Line 5, including the 641 miles of Line 5 outside of the proposed Replacement Project, but only to the "replacement of the Dual Pipelines with a new, 30-inch-diameter, single pipeline to be relocated within a new concrete-lined tunnel." June 30 order, p. 68. Issues raised by Bay Mills and other intervenors on potential pollution, impairment, and destruction of Michigan's natural resources resulting from existing sections of Line 5 are therefore outside the scope of the Commission's MEPA review as it relates to the Replacement Project.

However, the Commission also cannot separate the construction of the Replacement Project from the reason for doing so. Such a finding is grounded in the plain language of Act 16, which defines "pipeline" in relation to the product being shipped: a pipeline under Act 16 is one "used or to be used to transport crude oil or petroleum or carbon dioxide substances." MCL 483.2a. Similarly, section 1(2) of Act 16 states that the Act's provisions apply to "A person exercising or claiming the right to carry or transport crude oil or petroleum, or any of the products thereof, or carbon dioxide substances, by or through pipe line or lines …" MCL 483.1(2). While some would narrowly constrain the review of pollution to the construction of the tunnel and pipeline, such an interpretation is untenable. It seems clear the Legislature intended for Act 16 to cover not just the construction of pipelines for the sake of building pipelines, but also that their purpose and the products flowing through them were inherently part of the regulatory framework established in Act 16. It defies both well accepted principles of statutory interpretation as well as common sense to apply MEPA to a pipeline but not to the products being transported through it. As the Commission finds that conduct at issue in constructing the Replacement Project is indistinguishable from the purpose behind it or its result, the Commission's obligations under MEPA must also extend to the products being shipped through the Replacement Project.

RECEIVED by MSC 11/14/2025 2:10:18 PM

As noted above, Section 5(1) of MEPA allows an agency to "permit the attorney general or any other person to intervene as a party on the filing of a pleading asserting that the proceeding . . . involves conduct that has, or is likely to have, the effect of polluting, impairing, or destroying the air, water, or other natural resources." Several parties have intervened in this proceeding and have made assertions about the conduct at issue and its likelihood to have the effect of polluting, impairing, or destroying natural resources in their petitions to intervene, the briefs on this motion, and the offers of proof. The Commission must evaluate these assertions as provided under Section 5(2). Thus, in this proceeding, "the alleged pollution, impairment, or destruction of the air, water, or other natural resources . . . shall be determined" by the Commission. MCL 324.1705(2). Further, as discussed above, courts have held that the Commission does not have a duty to independently investigate whether the project complied with MEPA, but rather could rely on the record presented in the case.

Statutory interpretation begins with the plain language of the statute. The word "pollution" should be understood as it is ordinarily used. *Nawrocki v Macomb Co Rd Comm*, 463 Mich 143, 159; 615 NW2d 702 (2000) (words should be given "their common and ordinary meaning."). The ordinary meaning of "pollution" is "the action of polluting especially by environmental contamination with man-made waste."[23] As noted by ELPC/MiCAN and others, GHGs are widely recognized as pollutants that trap heat in the atmosphere and contribute to climate change, thereby polluting, impairing, and destroying natural resources. *See, e.g.*, ELPC/MiCAN Opposition to

[23] *Merriam- Webster Online Dictionary*, https://www.merriam-webster.com/dictionary/pollution (accessed March 26, 2021).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge's Motion in Limine, p. 4-6.[24] Nothing in MEPA limits the types of "pollution" that can be asserted by an intervenor as resulting from the "conduct," and, as the history of both environmental degradation and regulation show, new pollutants continue to be identified. The Commission finds that MEPA is broadly written to apply to all "administrative, licensing, or other proceedings" conducted by an "agency" or a "court," and is not limited to agencies that act as environmental regulators.[25] Further, both the statutory language of MEPA and the language of MEPA case law support a broad interpretation of whether "conduct . . . has or is likely to have" the effect of pollution, impairment, or destruction.

On this basis, the Commission finds that the allegations of GHG pollution made by several intervenors to this case fit within the statutory language of Section 5 of MEPA, and therefore must be reviewed in this case. The Commission disagrees with the ALJ's rejection of the inclusion of GHG emissions in such a review where intervenors have introduced the allegation of pollution consistent with Section 5(1) of MEPA.[26] The Commission finds that GHGs are pollutants within the scope of the clear language of MEPA, and thus the parties are free to introduce evidence addressing the issue of GHG emissions and any pollution, impairment, or destruction arising from the activity proposed in the application. MCL 324.1705(2); MCL 24.272. While the project under

[24] *See also, Massachusetts v Environmental Protection Agency*, 549 US 497, 528-535; 127 S Ct 1438; 167 L Ed 2d 248 (2007); and Greenhouse Gas Emissions: Sources of Greenhouse Gas Emissions, U.S. Environmental Protection Agency, available at https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions (accessed March 28, 2021).

[25] However, the Commission agrees with parties that argued that an ED does not expand an agency's jurisdiction under MEPA, finds that the Attorney General has opined definitively on this point, and notes the parties have not cited any case that holds otherwise. Op. Att. Gen. 2009, No. 7224.

[26] The Commission notes that Enbridge also refers to the potential for GHG emissions from construction equipment as part of its air quality analysis in Exhibit A-11, p. 338 (the EGLE/USACE permit application), and Exhibit A-12, p. 14 (the Environmental Impact Report).

RECEIVED by MSC 11/14/2025 2:10:18 PM

consideration is limited to the 4-mile section of the pipeline described in the application, this pipeline section would involve hydrocarbons that may result in GHG pollution that must be subject to MEPA review.

The Commission finds that consideration of the Notice is unnecessary to making the findings about MEPA's applicability to the product being flowed through the Replacement Project, or for GHGs to be considered "pollution" under MEPA. However, the existence of the Notice – and the uncertainty surrounding it – does inform the basis of comparison between the Replacement Project and the potentially non-operational segments crossing the Straits. The Commission finds that it cannot ignore the possibility that Enbridge will cease to operate the 4-mile dual pipeline segment of Line 5 in the Straits if the State succeeds in its action to enforce the Notice; and, should the Commission at this point in the proceeding exclude evidence simply on the basis of the uncertainty surrounding the validity of the Notice, it would lose the ability to consider evidence related to the loss of the use of the 4-mile dual pipeline segment in the Straits should the State ultimately prevail. As such, the Commission is unwilling to exclude evidence under MEPA that compares the pollution, impairment, or destruction attributable to an operating 4-mile pipeline segment in the Straits with non-operational 4-mile dual pipeline segments.

It is true that Act 359, the 2018 easement grant, the assignment of the easement by MSCA, and the Agreements are all unaffected by the Notice. However, as the Commission has already stated in the June 30 order, the need for a robust record in this case is crucial. June 30 order, p. 69. The Commission notes that the scope of discovery in Michigan is broad, as is the definition of relevant evidence. MCR 2.302(B)(1); MRE 401. Under MRE 401, "relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the

RECEIVED by MSC 11/14/2025 2:10:18 PM

determination of the action more probable or less probable than it would be without the evidence." Section 75 of the APA provides:

> In a contested case the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but an agency may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent [persons] in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded.

MCL 24.275.

The Commission finds that evidence related to the potential shutdown of the 4-mile dual pipeline segment is not irrelevant or immaterial to the MEPA review. If the State prevails in its action to enforce the Notice, the conduct at issue in this case – the Replacement Project – would be the lynchpin providing the company with the ability to ship product on this 4-mile stretch of Line 5. In other words, while Enbridge would retain the right to operate the other 641 miles of Line 5, it may not be able to ship product through the Straits by pipeline once the Notice is in force without the authorization that is sought in this case.

Finally, MEPA requires a determination by the administrative agency of "feasible and prudent alternatives" to the proposed project and a determination of whether the project "is consistent with the promotion of the public health, safety and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment or destruction." MCL 324.1705; *State Hwy Comm*, 392 Mich at 159; *Buggs I*, p. 9. At this early stage of the proceeding, the Commission is not persuaded that it should prohibit arguments and evidence addressing what the appropriate point of comparison is for any pollution, impairment, or destruction of Michigan's natural resources resulting from the proposed Replacement Project. Such questions on the feasibility and prudence of alternatives – both in terms of alternative pipeline and non-pipeline shipping arrangements and alternatives to the products being shipped – are inherently questions of

RECEIVED by MSC 11/14/2025 2:10:18 PM

fact well suited to the development of record evidence. However, while allowing evidence to be considered on this point, the Commission notes that this is only the beginning of the inquiry, and the Commission must ultimately determine, consistent with its responsibilities under MEPA, whether there is any pollution, impairment, or destruction as a result of the Replacement Project – including in comparison to the possible closure of the dual pipeline segments currently in the Straits if the Notice is enforced; whether any pollution, impairment, or destruction is consistent with the protection of Michigan's natural resources; and whether there are feasible and prudent alternatives to any pollution, impairment, or destruction that is found as a result of the Replacement Project. Given the many considerations involved in the production, transportation, and ultimate refining and consumption of the products being transported, evidence addressing how to account for GHG pollutant impacts attributable to the proposed Replacement Project, where the proper boundaries of GHG pollutants should be drawn, and the correct alternative(s) for comparison would be helpful to the Commission in making this determination.

The applications for leave to appeal the rulings on this issue are granted, and the requested relief is partially granted.

3. Other Issues

Finally, the Commission finds it appropriate to address the concerns of parties who argued that to allow consideration of the public need for Line 5 and its applicability to the Replacement Project would produce a chilling effect on future efforts to maintain, improve, or repair pipeline infrastructure. These parties proclaimed that a pipeline operator who knows that hundreds of miles of approved, existing, and reliable pipeline will be put at risk through the filing of an application to improve a few miles of that pipeline may be unlikely to decide to make those improvements, and such a finding in this case would prove a disservice to the public.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Commission recognizes this concern, and notes that the factual situation at issue in this case is distinguishable from other cases involving repairs or even replacements of existing pipelines. As noted in the Commission's June 30 order, many instances involving repairs or replacements on existing lines do not trigger the need for an Act 16 application. However, in the present case:

> Enbridge proposes to relocate the portion of Line 5 that crosses the Straits from atop the lakebed to a tunnel 60 to 250 feet below the lakebed, which will be constructed in a new easement issued by the State of Michigan. As discussed above, this is a significant change in location and route of the Line 5 pipeline. Therefore, based on the factors listed above and relevant Commission precent, the Commission finds that an Act 16 application is required to obtain approval for the Line 5 Project.

June 30 order, p. 67.[27] However, the Commission reiterates that it is only the conduct at issue in the application – the construction of the proposed Replacement Project – that is subject to both the three-part test under Act 16 and MEPA review.

Finally, from the perspective of what evidence can be considered to inform this alternatives comparison, the present case is distinguishable in light of the uncertainty over Enbridge's current easement to operate the existing 4-mile segment through the Straits as a result of the Notice. In other pipeline cases, even those requiring applications under Act 9 or Act 16, the pipeline operator

[27] In the June 30 order, after reviewing a series of relevant cases, the Commission found that there are two factors that require the filing of a new application pursuant to Rule 447: (1) a change in pipeline diameter (i.e., capacity) and (2) a relocation of the pipeline. June 30 order, p. 63. The Commission further found that "it is sufficient that the proposed activity meet only one of the two factors [to trigger the Rule 447 application requirement]; it is not necessary that it meet both." *Id.* Finally, as noted in the June 30 order, the replacement of the current 20-inch-diameter dual pipelines with a new 30-inch-diameter pipeline represents a change "that is capable of increasing the volume of the pipeline." *Id.* at 65. As this case involves "significant factual and policy questions and complex legal determinations that can only be resolved with the benefit of discovery, comprehensive testimony and evidence, and a well-developed record," *id.* at 69, the Commission expresses its expectation that factual questions surrounding any potential future capacity increases resulting from the Replacement Project will also be developed as part of the record evidence in this case.

RECEIVED by MSC 11/14/2025 2:10:18 PM

retains the right to restart the entire line without any additional approvals. Indeed, even were the state to be successful in enforcing the Notice, it remains uncontradicted that Enbridge would enjoy the same rights in restarting or continuing to operate the other 641 miles of Line 5 not subject to the application in this case. However, should the State be successful in enforcing the Notice, the existing section of Line 5 between the Upper Peninsula and the Lower Peninsula could become dormant, as early as next month. While, again, no party disputes Enbridge's right to operate the remainder of the line, without the approval being sought in this case for the Replacement Segment, Enbridge may lose its ability to ship product across the Straits by pipeline if the Notice is enforced.

Notably, the Commission finds that the outcome of the litigation surrounding the Notice has no impact on the approvals granted in the 1953 order. The Commission agrees with the ALJ that the 1953 order remains in effect, and the Commission is expressly not seeking to re-examine or reconsider the approvals granted in that case, nor is it taking steps toward the possible "suspension, revocation, annulment, withdrawal, recall, cancellation or amendment of a license" under MCL 24.292(1), MCL 24.205(a), and *Rogers*. Rather, as noted by the Staff, the Notice involves not Enbridge's rights under the 1953 order, but the ongoing property interest to continue to operate in its current location under the easement granted by the predecessor to the DNR. Staff's response to the applications for leave to appeal the ruling on remand, p. 19. As such, the notice and other procedural protections provided by the APA and *Rogers* are not at issue in this case.

Finally, the other offers of proof described in the applications for leave to appeal focus on the economics of fossil fuel pipelines, the risk of stranded costs, and the safety issues arising from leaks on any part of the pipeline system. These are not issues in this case.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Commission acknowledges that today's order likely changes the nature and scope of the testimony to be submitted in this proceeding, and authorizes the ALJ to modify the case schedule as needed to accommodate any additional time needed by the parties in this regard.

THEREFORE, IT IS ORDERED that the applications for leave to appeal the October 23, 2020 and February 23, 2021 rulings on Enbridge Energy, Limited Partnership's motion in limine filed by the Michigan Department of Attorney General, For Love of Water, the Michigan Environmental Council, the Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council, National Wildlife Federation, Bay Mills Indian Community, Environmental Law & Policy Center, Michigan Climate Action Network, the Little Traverse Bay Band of Odawa Indians, and the Nottawaseppi Huron Band of the Potawatomi, are granted, and the requested relief is granted in part and denied in part, as described in this order.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Tremaine L. Phillips, Commissioner

Katherine L. Peretick, Commissioner

By its action of April 21, 2021.

Lisa Felice, Executive Secretary

RECEIVED by MSC 11/14/2025 2:10:18 PM

PROOF OF SERVICE

STATE OF MICHIGAN)

Case No. U-20763

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on April 21, 2021 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

Brianna Brown

Subscribed and sworn to before me
this 21st day of April 2021.

Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

RECEIVED by MSC 11/14/2025 2:10:18 PM

Service List for Case: U-20763

Name	Email Address
Abigail Hawley	abbie@envlaw.com
Adam J. Ratchenski	aratchenski@earthjustice.org
Amy L. Wesaw	amy.wesaw@nhbp-nsn.gov
Benjamin J. Holwerda	holwerdab@michigan.gov
Christopher M. Bzdok	chris@envlaw.com
Christopher P. Legghio	cpl@legghioisreal.com
Christopher R. Clark	cclark@earthjustice.org
Courtney A. Kachur	ckachur@saulttribe.net
Daniel P. Ettinger	dettinger@wnj.com
David L. Gover	dgover@narf.org
Deborah Musiker	dchizewer@earthjustice.org
Dennis Mack	mackd2@michigan.gov
Enbridge Energy, Limited Partnership	gregg.johnson@enbridge.com
Esosa R. Aimufua	eaimufua@elpc.org
Howard A. Learner	hlearner@elpc.org
James A. Bransky	jbransky@chartermi.net
James M. Olson	jim@flowforwater.org
Jeffrey S. Rasmussen	jrasmussen@nativelawgroup.com
Jennifer U. Heston	jheston@fraserlawfirm.com
Jeremy J. Patterson	jpatterson@nativelawgroup.com
John S. Swimmer	john.swimmer@nhbp-nsn.gov
Johnathan R. Loera	jloera@nativelawgroup.com
Kathryn L. Tierney	candyt@bmic.net
Kiana E. Courtney	kcourtney@elpc.org
Lauren E. Crummel	crummel@legghioisreal.com
Leah J. Brooks	brooksl6@mi.gov
Lydia Barbash-Riley	lydia@envlaw.com
Margaret C. Stalker	mstalker@wnj.com
Margrethe Kearney	mkearney@elpc.org
Mary K. Rock	mrock@earthjustice.org
Matthew L. Campbell	mcampbell@narf.org
Megan R. Condon	mcondon@narf.org
Michael S. Ashton	mashton@fraserlawfirm.com
Nicholas Q. Taylor	taylorn10@michigan.gov
Paul D. Bratt	pbratt@wnj.com
Robert P. Reichel	reichelb@michigan.gov
Shaina R. Reed	sreed@fraserlawfirm.com
Spencer A. Sattler	sattlers@michigan.gov
Stuart M. Israel	israel@legghioisrael.com
Troy M. Cumings	tcumings@wnj.com
William Rastetter	bill@envlaw.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix D

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

Application of Enbridge Energy, Limited Partnership for the for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief.	Case No. U-20763

RULING ON MOTION IN *LIMINE* ON REMAND

1. Procedural History

On December 9, 2020, the Commission entered an Order (Order of Remand) on a Motion *in Limine* filed by Enbridge Energy, Limited Partnership (Enbridge) directing rehearing on the Motion, and reconsideration of the October 23, 2020, Ruling on the Motion (Initial Ruling). The Order of Remand is in response to a Notice of Revocation and Termination of Easement (Notice) issued by the Governor and Director of the Department of Natural Resources to Enbridge on November 13, 2020. The Notice requires Enbridge to cease operations of the dual pipelines located on the bottomlands of the Straits of Mackinac in 180 days and decommission the pipelines under a plan submitted and approved by the State. Case No. U-20763, December 9, 2020, Order, pg. 4, fn. 1. The Order of Remand directed the schedule in this case be revised to provide "the parties the opportunity to brief the question of whether, and, if so, to what extent

RECEIVED by MSC 11/14/2025 2:10:18 PM

Governor Whitmer's action to revoke and terminate the 1953 easement changes the scope of review in this proceeding and how that change, if any, effects the issues presented in the motion in limine, including the issues of public need for the Line 5 Project and the required environmental review of the Line 5 Project." Id., pg. 6.

Consistent with the Order of Remand, and under a schedule agreed to by the Parties, except where noted Briefs on Remand and Reply Briefs were filed by: Enbridge; Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council, National Wildlife Federation, Bay Mills Indian Community, and Nottawaseppi Huron Band of the Potawatomi (Joint Response[1]); Environmental Law & Policy Center and Michigan Climate Action Network (ELPC); Mackinac Straits Corridor Authority (Authority) (Initial Brief only); For Love of Water (FLOW) (Initial Brief only); Michigan Propane Gas Association and the National Propane Gas Association (Associations); the Michigan Laborers' District Council (Council) (Reply Brief only); the Attorney General; and Commission Staff. Oral Argument on the Motion was held on February 3, 2021.

2. Notice of Revocation and Termination of Easement and Order of Remand

Under the Order of Remand, consideration of the Notice must be made relative to Enbridge's Motion in *Limine*, where it sought:

[1] The September 23, 2020, Brief in Response to the Motion was filed collectively by five of these parties and the Initial Ruling identified them and the filing as the "Joint Response". The Briefs on Remand was also filed those parties along with the Nottawaseppi Huron Band of the Potawatomi. For consistency with the initial Ruling, the filings of these six parties will continue to be identified collectively as the Joint Response.

RECEIVED by MSC 11/14/2025 2:10:18 PM

> [A] ruling that essentially sets the scope of hearing in two regards. First, it seeks to exclude as legally irrelevant any evidence on the following issues:
>
> > (1) the construction of the utility tunnel; (2) the environmental impact of the tunnel construction; (3) the public need for and continued operation of Line 5; (4) the current operational safety of Line 5; (5) whether Line 5 has an adverse impact on climate change; and (6) the intervening parties' climate change agendas. Motion, pgs. 1-2.
>
> Second, it seeks a ruling that limits the evidence to the following issues:
>
> > (A) is there a public need to replace the existing Line 5 crossing of the Straits with a pipe segment relocated in a utility tunnel beneath the Straits; (B) is the replacement pipe segment designed and routed in a reasonable manner; and (C) will the construction of the replacement pipe segment meet or exceed current safety and engineering standards[.]
> > *Id*., pg. 2. [2]

The Initial Ruling held the construction and operational aspects of the relocated pipeline, including the Utility Tunnel, were proper considerations in reviewing the Application under Public Act 16 of 1929 (Act 16) and the administrative rules promulgated under its authority. MCL 483.1, *et seq*. The Initial Ruling also held the review of the Application concerning the public need under Act 16 and environmental impacts under the Michigan Environmental Act (MEPA), MCL 324.1701, *et seq*., were properly limited to the proposal to relocate the existing dual pipelines located on the bottomlands to the proposed Utility Tunnel. In so doing, the Initial Ruling rejected the arguments of the Parties opposing the Motion that the public need inquiry should include the entirety of Line 5 located in Michigan, and the MEPA analysis consider the environmental impacts

[2] Case No. U-20763, October 23, 2020, Ruling, pgs. 2-3.

RECEIVED by MSC 11/14/2025 2:10:18 PM

of the consumption of the petroleum products, particularly greenhouse gas (GHG) emissions, transported on Line 5. Appeals were taken on the last two issues, and while they were pending before the Commission the Notice was issued. The Order of Remand did not reach the merits of the Appeals, but rather directed rehearing and reconsideration of the scope of the Act 16 and MEPA inquiry relative to the Notice. [3]

The Notice is the State of Michigan advising Enbridge of its intent to revoke and terminate the easement under which the dual pipelines located on Great Lakes bottomlands in the Straits of Mackinac were sited and operated since 1953. The Notice has, predictably, resulted in litigation. Contemporaneous with the issuance of the Notice, the State filed suit "in the Ingham County Circuit Court on behalf of the State of Michigan, Governor Whitmer, and the DNR, seeking declaratory and injunctive relief to acknowledge and enforce the revocation (Case No. 20-646-CE). [footnote omitted]. On November 24, 2020, Enbridge filed an action against the State of Michigan in the U.S. District Court for the Western District of Michigan for declaratory and injunctive relief seeking a determination that the revocation is not lawful (Case No. 20-CV-01141)." Order of Remand, pgs. 4-5. As of the Oral Argument, the state case has been transferred to federal court and motions will soon be filed. 5 TR 333.

[3] No appeal was taken of the Initial Ruling's holding concerning the Utility Tunnel and after it was entered Enbridge filed, at Staff's request, supplemental testimony and exhibits concerning the design, construction, and operational aspects of that feature. See Dkt. #0509 & 0531. Accordingly, that issue will not be revisited except to note that Enbridge maintains its right to appeal that holding in the future under R 792.10433(5). See Initial Brief on Remand, pg. 9, fn. 3. In addition, any arguments raised in the Initial Briefs on the Motion and Appeals, and raised again in the Briefs on remand, that are outside the scope of the Order of Remand are preserved and will not be addressed in this Ruling. Finally, while all of the arguments raised by the Parties have been considered, this Ruling only addresses those necessary to reach and decide the issues raised in the Order of Remand.

RECEIVED by MSC 11/14/2025 2:10:18 PM

3. Positions of the Parties

As set forth below, the Parties diverge on the significance of both the Notice and litigation on the scope of this case. Enbridge, the Associations, the Council, the Authority, and Staff argue the Notice cannot expand the Commission's jurisdiction under Act 16 and MEPA, and the holding in the Initial Ruling on the scope of this case is proper. Further, these Parties contend the litigation concerning the Notice is in its early stages and will likely take years before the issue is decided and appeals are exhausted. Conversely, the Joint Response, ELPC, FLOW, and the Attorney General argue the Notice requires Enbridge to cease operation of the dual pipelines on May 13, 2021, and thus effectively serves to decommission Line 5 in Michigan. [4] This, in turn, requires the scope of the case be expanded from the holding in the Initial Ruling that the proper inquiry under Act 16 and MEPA was the proposal to relocate the dual pipelines from the bottomlands to a Utility Tunnel and the attendant environmental effects. These Parties contend the Notice necessarily requires the scope of the case include a determination of whether a public need exists for Line 5, consideration of the safety and operational aspects of Line 5, and development of a record of the environmental effects of the petroleum products transported on Line 5. To these Parties, the litigation is of no moment, and as of May 13, 2021, the dual pipelines can no longer legally transport petroleum products and Line 5 will be decommissioned.

[4] The 180th day after the issuance of the Notice is identified by the Parties as both May 12 and May 13. Under the method for counting days in a statute or rule, the first day is excluded and the last day is included, 180 days after November 13, 2020, is May 13, 2021. See MCL 8.6. That date will be used in this Ruling.

RECEIVED by MSC 11/14/2025 2:10:18 PM

As indicated, Enbridge argues the Notice is not a basis to expand the Commission's jurisdiction under Act 16 or MEPA. In support, Enbridge contends the Notice is not-self executing as evidenced by the contemporaneous lawsuit the State filed to enforce its terms. That suit, along with the suit Enbridge filed, will ultimately determine if the dual pipelines will be decommissioned and until that time Enbridge intends to continue to operate the dual pipelines under the terms of the easement and the requirements of federal law. Enbridge also takes issue with the reference in the Order of Remand that the continued operation of Line 5 and lifespan of the system is central to its case and are now called into question by the Notice. Enbridge argues that it has been clear in its filings that consistent with the applicable law and its 2018 Agreements with the State, which the Notice acknowledges, its intent has always been to operate Line 5, including the dual pipelines, until the Utility Tunnel is operational and that portion of the pipeline can be relocated and decommissioned. To Enbridge, the lifespan of Line 5, and the effect of the Notice on it, are not relevant considerations when considering its Application under Act 16.

Enbridge next argues Line 5 was approved by the Commission in 1953 and deemed "for a public use benefiting the people of the State of Michigan." *Lakehead Pipeline v Dehn*, 340 Mich 25, 37-42; 64 NW2d 903 (1954). Enbridge notes the Notice does not expressly challenge that approval, nor could it without first affording the procedural steps required under the Administrative Procedures Act (APA). MCL 24.205(a) & 24.292(1); *Rogers v Michigan State Bd of Cosmetology*, 68 Mich App 751; 244 NW2d 20 (1976).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Regarding MEPA, Enbridge contends the Notice does not change the holding in the Initial Ruling that under case law and Commission precedent the examination is on the environmental effects of the activity proposed in the Application. Therefore, the Notice is not a basis to extend that examination to an assessment of the environmental effects of Line 5 or the consumption of the oil transported on the system.

Similar to Enbridge, the Associations contend the Notice does not change the scope of this case as set forth in the Initial Ruling under Act 16 or MEPA. As to Act 16, the Associations note the Notice is not self-executing based on the State's lawsuit, and unless and until a judicial determination is rendered to the contrary Line 5 will continue to operate under the Commission's 1953 approval. Further, the Notice involves a dispute over the easement that allowed the siting and construction of the dual pipelines on the bottomlands, and as such can have no effect on the determination of a public need for Line 5 in that 1953 approval, or the similar determination embodied in Act 359 and the 2018 Agreements. The Notice does not challenge the continued operation of Line 5 and was issued with the knowledge of the on-going effort to obtain regulatory approval to relocate the dual pipelines into the Utility Tunnel. [5] Therefore, the Associations argue the Notice has no effect on the scope of this case, which is properly limited under Act 16 to the proposal to locate the dual pipelines to the Utility Tunnel. Similarly, the Notice cannot provide a basis to expand the conduct under MEPA to include a review of the environmental impacts of the petroleum products transported on Line 5.

[5] The Associations note the State's press release regarding the Notice indicated it had no effect on the on-going regulatory review of the Utility Tunnel. Initial Brief, pg. 8, fn. 9.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Irrespective of the Notice, the Associations contend the conduct subject to MEPA remains the activity proposed in the Application and over which the Commission has jurisdiction: the relocation of the dual pipelines into the Utility Tunnel. To expand the conduct in the manner sought by the Parties opposing the Motion to the entirety of Line 5, or the effects of the petroleum products transported on it, is legally deficient under Michigan jurisprudence. See *Preserve the Dunes, Inc., v Dep't of Envtl Quality*, 417 Mich 508, 517; 684 NW2d 847 (2004).

Staff contends that the Notice should not be considered because the ultimate decision in the pending lawsuits on the validity of the easement will not be made in the foreseeable future. Until that decision is made, Staff argues it would be improper to consider whether Line 5 will continue to operate, just as it would be improper to rely on a 2019 suit filed by the Attorney General that sought to decommission Line 5. If the Notice is considered, Staff argues on two points it does not provide a basis to expand the scope of this case to include consideration of the public need of Line 5. First, the Notice does not reach the 2018 Agreements between the State and Enbridge to construct a Utility Tunnel for the purpose of relocating the dual pipelines. Therefore, even if the Notice is given effect and the dual pipelines cease operation on May 13, 2021, the review of the proposal to relocate that segment of Line 5 into the Utility Tunnel under Act 16 will continue. Second, the Notice does not change Commission precedent that the scope of an Act 16 case involving a segment of an existing pipeline does not allow reconsideration of the public need determination of the entire pipeline system. See Case No. U-13225, July 23, 2002 Order; See also Initial Ruling, pg. 15, fn. 8.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Staff also argues that expanding the scope of this case based on the Notice to include consideration of the public need for Line 5 would be contrary to the notice provisions of the APA. Similar to Enbridge and the Associations, Staff also contends the Notice cannot serve to expand the Commission's review under MEPA, which is properly limited to the project under review, i.e. the conduct, and the Commission's jurisdiction over that activity. See Initial Ruling, pgs. 18-19.

The Joint Response maintains its argument that under Act 16 the determination of whether a public need exists for the project proposed in the Application necessarily entails a similar determination on the entirety of Line 5. As it pertains to the Notice, the central precept of its argument is the operational lifespan of Line 5 is now in doubt with the revocation of the easement, and the project must be viewed as a means to extend the system's lifespan. This, in turn, strengthens its argument that the scope of this case must include an examination of the safety and public need for Line 5, and diminishes Enbridge's position that the operational aspects of Line 5 are not implicated by the filing of the Application because irrespective of the Commission's decision it can continue to operate the system. Because the Notice effectively renders the operation of the system impossible without the project in this case, the Joint Response contends the issue of the public need for Line 5 is relevant.

The Joint Response argues extensively that Enbridge has introduced the operational aspects of Line 5, along with the proposition the system can operate indefinitely, in its Application and pre-filed testimony. The Joint Response argues this proffered testimony is cast into doubt by the Notice, and the other Parties have the right

RECEIVED by MSC 11/14/2025 2:10:18 PM

to offer evidence about the need for the project and the continued operation of Line 5. See MCL 24.272(3). The Joint Response also argues the operational and safety deficiencies of the dual pipelines identified in the Notice raise similar issues about the integrity of Line 5 and the environmental risks, particularly to resources protected under tribal treaties, posed from its continued operation if the dual pipelines are relocated into the Utility Tunnel, and thus are relevant to the Act 16 review of the project.

The Joint Response argues the Notice requires a "broad and unrestricted" review of the project under MEPA because the conduct is now the continued operation of the pipeline based on the proposed relocation of the dual pipelines into the proposed Utility Tunnel. Under §1705(2) the scope of the MEPA inquiry necessarily entails an examination of the potential environmental harm from the operation of Line 5, such as an oil spill, relative to alternatives, such as operating the pipeline for a shorter duration or whether the transportation of oil across the Straits is necessary. The Joint Response also contends the question of the continued operation of Line 5 and treaty rights requires the Tribal Parties be allowed to present evidence concerning the potential environmental effects on those resources protected under those treaties. Finally, the Joint Response argues that because the Notice effectively makes this case about the future of Line 5, consideration of the environmental effects of greenhouse gas (GHG) emissions resulting from the consumption of oil it will transport if the project is approved is relevant under MEPA.

The ELPC argues that the Notice legally decommissions Line 5 on May 13, 2021, and as a result the scope of this case now entails a proposal to put into service a pipeline

RECEIVED by MSC 11/14/2025 2:10:18 PM

that will transport oil. Thus, rather than a proposal to replace a segment of an existing pipeline system the effect of the Notice is to render the project as a proposal to restart what is in effect a new pipeline system. The ELPC claims the pending litigation is immaterial in this case because to consider it would require the Commission to make assumptions about the validity of the Notice. Rather, unless a court holds to the contrary, the Commission must treat the Notice as valid and enforceable and give effect to its revocation and termination of the easement, along with the authorization under which Line 5 currently operates, as of May 13, 2021.

Under Act 16 the Notice requires a review of the project that entails an examination of the entirety of Line 5, including the public need, and on this point the ELPC adopts and incorporates the Joint Response's analysis. Initial Brief, pg. 6, fn. 1. Under MEPA the ELPC argues the fact that the Notice effectively decommissions Line 5 as of May 13, 2021, requires an examination the environmental effects of increased oil supply and consumption, including GHG emissions, that would result from a project that restarts the system. The ELPC maintains its argument addressed in the Initial Ruling that case law supports a broad interpretation of the conduct subject to MEPA. Now it contends that interpretation should be utilized because the decommissioning of Line 5 under the Notice necessarily turns this case into a reexamination of whether the entire system should be restarted by relocating the dual pipelines into the Utility Tunnel.

FLOW's argument focuses on the public trust implications for both the easement for the dual pipelines and the Utility Tunnel. Regarding the latter, FLOW contends the easement conveyed through the 2018 Agreements did not make the requisite finding

RECEIVED by MSC 11/14/2025 2:10:18 PM

regarding the public trust, and thus just as with the 1953 easement the conveyance is improper. Accordingly, FLOW argues Enbridge is precluded from receiving authorization under Act 16 and MEPA for the project and this case should be dismissed or held in abeyance until the public trust issues concerning the Utility Tunnel are resolved. Initial Brief, pgs. 5, 29. This argument fails for two reasons. First, this case does not entail the "approval" of the Utility Tunnel. See Initial Ruling, pg. 9. Second, Enbridge has been issued a permit for the Utility Tunnel by the Department of Environment, Great Lakes, and Energy (EGLE) under Part 325, Great Lakes Submerged Lands, of the NREPA, 1994 PA 451. MCL 324.32501, *et seq*. Dkt. #0574. A permit can only be issued under Part 325 upon a determination that the adverse effects to the public trust are minimal. R 322.1015(a). For the purposes of this case, that permit resolves any issue with the public trust. The remainder of FLOW's arguments concerning the scope of this case under Act 16 and MEPA relative to the Notice are essentially the same as those offered in the first round of briefing of the Motion and remain pending before the Commission.

The Attorney General adopts the arguments of the Joint Response and ELPC concerning the proper scope of review under Act 16 and MEPA relative to the Notice. The Attorney General also takes issue with Enbridge's argument that the Notice is not self-executing and has, standing alone, no practical effect. The Attorney General argues that under the Notice the presence and operation of the dual pipelines is unlawful as of May 13, 2021, and absent a court staying or enjoining its terms Enbridge is legally obligated to cease operations at that time. As a result of the presumptive effect that must be afforded the Notice, Enbridge's argument that the public need for the project at issue

RECEIVED by MSC 11/14/2025 2:10:18 PM

in this case is as an alternative to the continued operation of the dual pipelines is no longer valid.

4. Analysis

A. Act 16

The Motion *in Limine* raised the issue of whether the filing of the Application to relocate the portion of the pipeline system on the bottomlands into the Utility Tunnel required consideration of the public need, operational, and safety aspects of Line 5 in its entirety. Applying Commission precedent, the Initial Ruling held that under Act 16 the proper inquiry for a proposal involving a segment of an existing pipeline is on that segment, as opposed to the entire pipeline system. Case No. U-20763, October 23, 2020, Ruling, pg. 15. Therefore, any evidence concerning the entirety of Line 5 is irrelevant. Id., pgs. 15-16. The holding remains before the Commission under the pending Appeals, but under the Order of Remand is to be reconsidered in light of the subsequent issuance of the Notice.

The Notice constitutes an official act of the State of Michigan to withdraw and revoke the 1953 easement granted by the Conversation Commission to Enbridge's predecessor that allowed the placement and operation of the dual pipelines portion of Line 5 on great lakes bottomlands. [6] As the grantor, the State is well within its rights to deem the easement withdrawn and revoked, just as Enbridge, as the grantee, has the

[6] Enbridge and Staff argue the Notice is inadmissible and thus cannot be considered. The fact the Commission based its Order of Remand on the Notice means it is on this record. MCL 24.276. Even if that were not the case, if offered the Notice is admissible as evidence a reasonable person would rely on in the conduct of their affairs given it was relied on in the Order of Remand. MCL 24.275.

RECEIVED by MSC 11/14/2025 2:10:18 PM

right to dispute that action, with the ultimate determination of the validity of the easement made by a court of competent jurisdiction. It is reasonable to assume that prior to that date a judicial determination will be made on the status of the easement while the matter is litigated, particularly on the equities of enjoining the transportation of oil through the dual pipelines based on the Notice. However, the only definitive point is that as of May 13, 2021, the State will consider the easement withdrawn and revoked and Enbridge will consider the easement valid.[7]

Based on the foregoing, the Notice will be considered consistent with Commission precedent that in reviewing a project on a segment of a pipeline under Act 16 the focus is on that activity, as opposed to the entire previously approved pipeline. Initial Ruling, pgs. 14-16. Under that authority, the Notice is relevant in considering whether a public need exists for the proposal to relocate the dual pipelines into the Utility Tunnel. The question is whether the Notice serves to expand the review of the project proposed in the Application to allow for an examination to include the entirety of Line 5 under Act 16, particularly whether a public need exists for its continued operation.

The Parties seeking to expand the scope of this case to the entirety of Line 5 frame it in the context as being relevant to the review of the project proposed in the Application. For example, the Parties argue the project will extend the operational lifespan of Line 5, and if there is no public need for the entire pipeline or it is operated unsafely, the project

[7] In a letter to the State dated January 12, 2021, Enbridge set forth the basis for rejecting the Notice and indicating its intent to continue to operate the dual pipelines until the Utility Tunnel is operational. Staff Initial Brief, Attachment A.

RECEIVED by MSC 11/14/2025 2:10:18 PM

should not be authorized. [8] That contention was briefed, argued, and addressed in the Initial Ruling, and will be ultimately decided by the Commission in the pending Appeals. Now these Parties contend the Notice also serves as a basis to expand the scope of the hearing to the entirety of Line 5. To accept these arguments requires a determination that the Notice effectively extinguishes the authority under which Line 5 operates, thereby allowing the public need to be revisited in this case. The viability of that contention turns on the nature of that authority.

As noted by Enbridge, Staff, and the Associations, the 1953 Order was issued under Act 16 and authorized the construction, operation, and maintenance of Line 5. March 31, 1953, Order in Case No. D-3903-53.1, pg. 9, at U-20763, Exhibit A-3, Dkt. #003. [9] That Order was issued under the authority of Act 16, and held the pipeline meets a public need and serves a public interest. Id., pgs. 7-10; See also Concurring Opinion, pgs. 1-2. In a separate proceeding involving condemnation for the pipeline, but implicating the Line 5 public need determination, the Supreme Court "specifically noted that, in adopting Act 16, the Legislature 'did not undertake to authorize condemnation proceedings other than for a public use benefitting the people of the State of Michigan. That was the basis for legislative action.'"

[8] Staff is accurate that whether the project will expand the lifespan of Line 5 is speculative, and numerous factors will determine how long that system operates. Initial Remand Brief, pgs. 12-14. Beyond this, the lifespan argument disregards the fact that Operators are required to maintain pipelines under federal regulations, which requires periodic maintenance or improvements on segments of the system. Id. These projects will to some degree extend, as opposed to shorten, the operational lifespan of a pipeline. To accept the Parties contention that under Act 16 any project that extends the lifespan of a pipeline somehow extinguishes the existing approval to the point that requires a reexamination of the entire pipeline is untenable.

[9] "[Lakehead] has complied in all respects with the procedure specified by PA 1929, No. 16. It sought and obtained the approval of the commission for its proposed pipeline across the State." *Lakehead Pipeline,* 340 Mich at 41.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Case No. U-12344, March 7, 2001, Commission Order, pg. 13, citing *Lakehead Pipeline,* 340 Mich at 37. Accordingly, the 1953 Order issued under Act 16 establishes that Line 5 serves a public need and is in the public interest. Further, since neither are provided for under Act 16, the 1953 Order does not have an expiration date or require renewal, so the authority to operate Line 5 under its authority remains in effect today.

To revisit that authorization based on the Notice implicates fundamental administrative law principles because the authority to operate Line 5 under the 1953 Order is a license under Administrative Procedures Act (APA). MCL 24.205(a). [10] Certain steps are required before an agency begins "proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation or amendment of a license…." MCL 24.292(1). First, the "agency shall give notice…to the licensee of facts or conduct which warrant the intended action." Id. Next, "the licensee shall be given an opportunity to show compliance with all lawful requirements for retention of the license…" through what is termed a Rogers hearing. Id.; *Rogers, supra*. If the matter remains unresolved, the final step is the issuance of a second notice of hearing that commences the contested case where the agency has the burden to prove the conduct it alleges warrant the §92(1) action on the license. *Rogers*, 68 Mich App at 754. None of these steps have or will be taken in this case, which is based on the Application for authorization under Act 16 to relocate the dual pipelines to the Utility Tunnel, as opposed to an agency initiated

[10] "A license is permission by competent authority to do an act which, without such permission, would be illegal." *Westland Convalescent Center v Blue Cross & Blue Shield of Michigan*, 414 Mich 247, 272; 324 NW2d 851 (1982), quoting Bienenfeld, Michigan Administrative Law (Ann Arbor: Institute of Continuing Legal Education) pg. 7-1. .

RECEIVED by MSC 11/14/2025 2:10:18 PM

proceeding where facts or conduct is alleged that requires revocation of the license issued in the 1953 Order.

The Parties opposing the Motion contend they are not seeking a revocation of the approval of Line 5, but only seek to litigate whether the public need determination is still viable in the context of the public need for the proposal to relocate the dual pipelines into the Utility Tunnel, and now under the terms of the Notice. See Initial Ruling, pg. 13; Joint Response, Reply Brief, pgs. 8-9; 5 TR 376-377. To be clear, these Parties have the right to offer relevant evidence concerning the public need for the activity proposed in the Application. However, the issue raised in the Motion is the relevancy of the public need for Line 5, which was established in the 1953 Order. No matter how the context or purpose is framed, these Parties are seeking to litigate the issue to ultimately obtain a determination that a public need does not exist for Line 5. Thus, the Parties opposing the Motion are effectively arguing the Notice extinguishes the existing authorization of Line 5 and requires an examination of the entire system under Act 16, including the public need. This argument cannot be sustained because the 1953 Order that authorized Line 5 under Act 16, including the determination it serves a public need and public purpose, remains in effect. The Commission, at its discretion, has the authority under Act 16 to commence a proceeding to revoke the license issued under the 1953 Order if it deems the Notice is a fact or gives rise to conduct that warrants that action under §92(1). [11] See MCL 483.3(1).

[11] The Joint Response's argument that the 1953 Order suffers the same flaw as the 1953 easement identified in the Notice, failure address the public trust upon issuance, also goes beyond the scope of this case. To revisit the validity of the license issued in the 1953 Order based on that assertion, or any other, implicates the §92(1) notice and hearing requirements.

RECEIVED by MSC 11/14/2025 2:10:18 PM

But that step must be done under the notice and hearing provisions of the APA, and not in a case on an Application to replace a segment of a licensed pipeline. [12]

This leaves the issue of the effect of the Notice on the Motion in *Limine* as it pertains to the review of the project under Act 16. If, as the Attorney General argues, the Notice is given presumptive effect, and absent a court staying or enjoining its effect, then on May 13, 2021, Enbridge can be considered to no longer possess the right under the easement to maintain or operate the dual pipelines. However, that does not extinguish the right to operate Line 5 under the 1953 Order. If on or after May 13, 2021, the dual pipelines are in fact shut down, and as a result Line 5 is also shut down, the right to operate will, as a matter of law, remain in effect. In fact, as Enbridge and Staff note if the operation of Line 5 ceases for whatever reason, under Act 16 it can be restarted in the future under the existing license without first having to obtain Commission approval. See Enbridge Reply Brief, pg. 15; Staff Reply Brief, pgs. 2, 9; 5 TR 337-338, 400-401. While the practical effect of the Notice on Line 5 on May 13, 2021, is unknown, its legal effect does not extend to revoking the Act 16 license issued in the 1953 Order or nullifying the public need/public interest determination embodied in that license.

Based on the foregoing, to accept the Notice as requiring a reexamination of the public need of Line 5 under Act 16, along with its operational and safety aspects, would

[12] The Joint Response contends the §71 notice requirements under the APA are satisfied by the Notice of Hearing issued by the Executive Secretary (Dkt. #0140), and its Petition to Intervene provided notice that the continued public need for Line 5 was at issue in this case. Reply Brief, pgs. 27-29. However, the notice issued under §71 was for the contested case on the Application. If the validity of the existing license is at issue, the §71 process is initiated only after the §92(1) requirements, including the agency providing the licensee notice of the alleged facts or conduct that form the basis of the action, are satisfied. *Rogers*, 68 Mich App at 755-756.

RECEIVED by MSC 11/14/2025 2:10:18 PM

result in a diminishment of its existing license under §92(1) of the APA without providing the procedural due process protections afforded a licensee. Accordingly, the Notice cannot be used to expand the scope of this case to include an examination or determination of the public need for Line 5, or any aspect of its operation and safety. Rather, the Notice can only be considered in the context of the Act 16 criteria as applied to the proposal to relocate the dual pipelines from the bottomlands to the proposed Utility Tunnel.

B. MEPA

The next issue is what, if any, effect the Notice has on the Commission's review of the Application under MEPA. MCL 324.1701, *et seq*. The scope of the review under MEPA is controlled by the text of the statute, case law and Commission precedent. See Initial Ruling, pgs. 16-19. Under that authority and consistent with the Commission's jurisdiction, the Initial Ruling held the conduct subject to review under MEPA is the proposal to relocate the dual pipelines into a Utility Tunnel. Concomitantly, the Initial Ruling granted the Motion as it pertained to the environmental effects of both the Line 5 system, and the extraction, refinement and ultimate consumption of the oil shipped on that system as being beyond the scope of the Commission's MEPA review.

The Parties opposing the Motion argue at great length that the Notice serves to expand the MEPA review to the entirety of Line 5 and the effects of the oil transported on the system. For the most part, those arguments and supporting legal authority are the same that were raised in the first briefing of the Motion and considered in the Initial Ruling.

RECEIVED by MSC 11/14/2025 2:10:18 PM

As it pertains to the specific issue in the Order of Remand, the Notice will be considered in determining the scope of the MEPA review in this case.

As noted, the Notice constitutes the State advising Enbridge the easement under which the dual pipelines were sited and operate is revoked and terminated as of May 13, 2021. The Notice does not change the activity proposed in the Application, i.e., the conduct as that term is used in MEPA, the Commission's jurisdiction over that proposal, or the legal authority underlying the Initial Ruling's conclusion concerning the MEPA review. [13] Specifically, as set forth under the Act 16 analysis, the Notice also does not change the authority under which Line 5 operates, and thus the operation and safety of that system is outside the conduct subject to review under MEPA. Further, the Notice does not provide the substantive legal basis in Michigan law the Initial Ruling found lacking to expand the MEPA review to the environmental effects of the extraction, refinement and ultimate consumption of the oil shipped on Line 5. Under MEPA, the focus is on the conduct under agency review and the statutory authority underlying that review. Initial Ruling, pgs. 18-19. For these reasons, the Notice does not change the scope of the Commission's MEPA review of the project at issue in this case as set forth in the Initial Ruling.

[13] In support of their respective arguments concerning the scope of the conduct under MEPA, the Parties rely on *Preserve the Dunes, supra*. While *Preserve the Dunes* involved an original circuit action seeking declaratory and other equitable relief under §1701, as opposed to an agency licensing matter under §1705, the focus was on the environmental effects of the conduct of the Defendants: the DEQ's issuance of a permit under the Sand Dune Mining Act, MCL 324.63701, *et seq*., and Technisand Inc.'s mining operation under that permit. Therefore, *Preserve the Dunes* supports the proposition that under MEPA the conduct is the proposal to relocate the dual pipelines to the proposed Utility Tunnel.

RECEIVED by MSC 11/14/2025 2:10:18 PM

5. Conclusion

Based on the foregoing, in 1953 the Commission issued an Act 16 license that authorized the construction, operation, and maintenance of Line 5. That license remains in effect and can only be subject to the actions listed in §92(1) of the APA after the notice and hearing provisions of the APA are satisfied. Accordingly, neither the filing of the Application at issue in this case, nor the State's Notice that the easement under which the dual pipelines were sited and operate is revoked and terminated as of May 13, 2021, allows for a reexamination of the public need for Line 5, or its operational and safety aspects, under Act 16. Rather, the Notice is relevant under the proper Act 16 review of the project: whether a public need exists to replace the existing dual pipelines on Great Lakes bottomlands in the Straits of Mackinac with a single pipeline in a proposed Utility Tunnel.

The Commission's jurisdiction under Act 16 is over the proposal to relocate the existing pipelines into the Utility Tunnel, and a component of that jurisdiction is examining the environmental impacts of that conduct, consistent with the judicial and Commission construction of that term, under MEPA. The issuance of the Notice does not expand the MEPA inquiry to include the environmental effects of the operation and safety of Line 5, or those arising from the production, refinement, and consumption of the oil transported on Line 5.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Upon the reconsideration required in the Order of Remand, the Motion in *Limine* is granted in part, and denied in part, consistent with this Ruling and the October 23, 2020, Ruling.

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
For the Michigan Public Service Commission

Dennis W. Mack

Digitally signed by: Dennis W. Mack
DN: CN = Dennis W. Mack email = mackd2@michigan.gov C = US O = MOAHR OU = MOAHR - PSC
Date: 2021.02.23 10:10:48 -05'00'

Dennis W. Mack
Administrative Law Judge

February 23, 2021
Lansing, Michigan

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

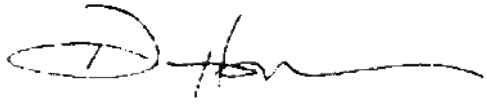
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

STATE OF MICHIGAN)
)
County of Ingham) Case No. U-20763
)

PROOF OF SERVICE

David Hagar being duly sworn, deposes and says that on February 23, 2021, he served a copy of the attached Ruling on Motion *in Limine* on Remand via email and/or first-class mail, to the persons as shown on the attached service list.



David Hagar

Subscribed and sworn to before me
this 23rd day of February 2021.



Brianna L. Brown
Notary Public, Clinton County
My Commission Expires July 4, 2021

RECEIVED by MSC 11/14/2025 2:10:18 PM

SERVICE LIST
CASE NO. U-20763

ENBRIDGE ENERGY, LIMITED PARTNERSHIP
Michael S. Ashton
Shaina Reed
Jennifer U. Heston
mashton@fraserlawfirm.com
sreed@fraserlawfirm.com
jheston@fraserlawfirm.com

MICHIGAN PUBLIC SERVICE COMMISSION STAFF
Spencer A. Sattler
Nicholas Q. Taylor
Benjamin J. Holwerda
sattlers@michigan.gov
taylorn10@michigan.gov
holwerdab@michigan.gov

MICHIGAN ENVIRONMENTAL COUNCIL
Christopher M. Bzdok
Lydia Barbash-Riley
Karla Gerds
Kimberly Flynn
Breanna Thomas
chris@envlaw.com
lydia@envlaw.com
karla@envlaw.com
kimberly@envlaw.com
breanna@envlaw.com

FOR LOVE OF WATER
James M. Olson
Nayt Boyt
jim@flowforwater.org
nayt@flowforwater.org

GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS
William Rastetter
Christopher M. Bzdok
Lydia Barbash-Riley
Karla Gerds
bill@envlaw.com
chris@envlaw.com
lydia@envlaw.com
karla@envlaw.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

BAY MILLS INDIAN COMMUNITY
Christopher M. Bzdok
Whitney Gravelle
Kathryn Tierney
Deborah Musiker (aka Debbie Chizewer)
Christopher R. Clark
David L. Gover
Matthew L. Campbell
Mary K. Rock
Megan R. Condon
Adam J. Ratchenski
chris@envlaw.com
wgravelle@baymills.org
candyt@bmic.net
dchizewer@earthjustice.org
cclark@earthjustice.org
dgover@narf.org
mcampbell@narf.org
mrock@earthjustice.org
mcondon@narf.org
aratchenski@earthjustice.org

TIP OF THE MITT WATERSHED COUNCIL
Abigail Hawley
Christopher M. Bzdok
Lydia Barbash-Riley
Karla Gerds
Kimberly Flynn
Breanna Thomas
abbie@envlaw.com
chris@envlaw.com
lydia@envlaw.com
karla@envlaw.com
kimberly@envlaw.com
breanna@envlaw.com

NATIONAL WILDLIFE FEDERATION
Christopher M. Bzdok
Lydia Barbash-Riley
Karla Gerds
chris@envlaw.com
lydia@envlaw.com
karla@envlaw.com

DEPARTMENT OF ATTORNEY GENERAL
Robert P. Reichel
reichelb@michigan.gov

RECEIVED by MSC 11/14/2025 2:10:18 PM

ENVIRONMENTAL LAW & POLICY CENTER AND MICHIGAN CLIMATE ACTION NETWORK
Margrethe Kearney
Esosa R. Aimufua
Howard A. Learner
Kiana E. Courtney
Rebecca Lazer
Ariel Salmon
mkearney@elpc.org
eaimufua@elpc.org
hlearner@elpc.org
kcourtney@elpc.org
rlazer@elpc.org
asalmon@elpc.org

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
James Bransky
jbransky@chartermi.net

NOTTAWASEPPI HURON BAND OF THE POTAWATOMI (NHBP)
Christopher M. Bzdok
John Swimmer
Amy L. Wesaw
chris@envlaw.com
john.swimmer@nhbp-nsn.gov
amy.wesaw@nhbp-nsn.gov

MICHIGAN LABORERS' DISTRICT COUNCIL (MLDC)
Christopher P. Legghio
Stuart M. Israel
Lauren E. Crummel
cpl@legghioisrael.com
israel@legghioisrael.com
crummel@legghioisrael.com

MACKINAC STRAITS CORRIDOR AUTHORITY
Ray Howd
Leah Brooks
howdr@michigan.gov
brooksl6@michigan.gov

NATIONAL PROPANE GAS ASSOCIATION
Troy M. Cumings
Daniel P. Ettinger
Margaret C. Stalker
Paul D. Bratt
tcumings@wnj.com
dettinger@wnj.com
mstalker@wnj.com
pbratt@wnj.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix E

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of **ENBRIDGE ENERGY, LIMITED PARTNERSHIP,** for authority to replace and relocate the segment of Line 5 crossing the Straits of Mackinac into a tunnel beneath the Straits of Mackinac, if approval is required pursuant to 1929 PA 16, MCL 483.1 *et seq*., and Rule 447 of the Commission's Rules of Practice and Procedure, R 792.10447, or the grant of other appropriate relief.	Case No. U-20763

At the December 9, 2020 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Sally A. Talberg, Commissioner
Hon. Tremaine L. Phillips, Commissioner

ORDER

History of Proceedings

On April 17, 2020, Enbridge Energy, Limited Partnership (Enbridge), filed an application and supporting exhibits pursuant to Public Act 16 of 1929, MCL 483.1 *et seq*. (Act 16) and the Commission's Rules of Practice and Procedure, Mich Admin Code, R 792.10447, requesting that the Commission grant Enbridge the authority for its project known as the Straits Line 5 Replacement Segment (Line 5 Project), which involves constructing a replacement segment of the Line 5 pipeline (Line 5) that crosses the Straits of Mackinac (Straits). Enbridge sought *ex parte* approval of the application. In the alternative, Enbridge requested a declaratory ruling confirming

RECEIVED by MSC 11/14/2025 2:10:18 PM

that it already has the requisite authority to construct the Line 5 Project pursuant to the March 31, 1953 order in Case No. D-3903-53.1.

On April 22, 2020, the Commission issued an order in this case seeking comments on the threshold issue presented in the declaratory relief request. The Commission also decided to hold Enbridge's application in abeyance while it considered the request for a declaratory ruling.

On June 30, 2020, the Commission issued an order in this case denying both *ex parte* approval of the application and the requested declaratory relief (June 30 order). The Commission set this matter for a contested proceeding, and invited the continued submission of comments.

On August 12, 2020, a prehearing conference was held before Administrative Law Judge Dennis W. Mack (ALJ), at which intervention was granted to the Michigan Department of the Attorney General (Attorney General); For Love of Water (FLOW); the Michigan Environmental Council (MEC), Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council, and National Wildlife Federation (together, the MEC Coalition); Bay Mills Indian Community (Bay Mills); Environmental Law & Policy Center (ELPC) and Michigan Climate Action Network (MiCAN) (together, ELPC/MiCAN); Little Traverse Bay Bands of Odawa Indians; Nottawaseppi Huron Band of the Potawatomi; Michigan Laborers' District Council; Michigan Propane Gas Association and the National Propane Gas Association (together, the Associations); and the Mackinac Straits Corridor Authority (MSCA). The Commission Staff (Staff) also participated. On August 13, 2020, the ALJ adopted a schedule for the case.

On September 2, 2020, Enbridge filed a motion in limine. On September 23, 2020, responses to the motion were filed by the Staff, ELPC/MiCAN and Bay Mills, FLOW, the Attorney General, the Associations, and the MEC Coalition. On September 30, 2020, the ALJ held a hearing on the motion.

RECEIVED by MSC 11/14/2025 2:10:18 PM

On October 23, 2020, the ALJ issued a ruling granting the motion in part, and denying it in part (the ruling). On November 6, 2020, Bay Mills, the MEC Coalition, ELPC/MiCAN, FLOW, and the Attorney General filed applications for leave to appeal the ruling under Mich Admin Code, R 792.10433. On November 20, 2020, Enbridge, the Associations, the Staff, and MSCA filed responses to the applications for leave to appeal.

Background

In its application, Enbridge explains that Line 5 was constructed in 1953 and is a 645-mile interstate pipeline that traverses Michigan's Upper and Lower peninsulas, originating in Superior, Wisconsin, and terminating near Sarnia, Ontario, Canada. Application, p. 5. Enbridge states that Line 5 was built to transport light crude oils and natural gas liquids. Enbridge states that, where Line 5 crosses the Straits, it currently consists of two, 20-inch-diameter pipes referred to as the dual pipelines. Enbridge states that, pursuant to the Line 5 Project, the dual pipelines will be replaced with a single, 30-inch-diameter pipe, which will be located within a concrete-lined tunnel beneath the lakebed of the Straits (the tunnel). Application, pp. 2, 8. Enbridge asserts that, because the pipeline will be located in a tunnel deep beneath the lakebed, the aquatic environment will be protected from any release of liquid petroleum caused by a vessel anchor strike or some other event. The construction of the tunnel is the subject of separate applications before other state and federal agencies.

Enbridge states that it entered into a series of agreements with the State of Michigan relating to the relocation of the Line 5 pipe segment within the tunnel. Enbridge notes that the Michigan Legislature enacted Public Act 359 of 2018 (Act 359), which created the MSCA and delegated to the MSCA authority to enter into agreements pertaining to the construction, operation, and maintenance of the tunnel to house the replacement pipe segment. Enbridge states that the tunnel

RECEIVED by MSC 11/14/2025 2:10:18 PM

will be constructed in the subsurface lands beneath the lakebed of the Straits within the easement issued by the Michigan Department of Natural Resources (DNR) to the MSCA, and pursuant to the assignment of certain rights under that easement by the MSCA to Enbridge. Enbridge seeks Commission approval to operate and maintain the replacement pipe segment located within the tunnel as part of Line 5 under Act 16. Enbridge states that once the pipe segment is placed into service within the tunnel, service on the dual pipelines will be discontinued. *Id.*, p. 3. Enbridge explains that the discontinuation will occur pursuant to certain agreements between Enbridge and the State of Michigan, "and the 1953 Easement that is administered by the [DNR], which authorizes the Dual Pipelines to be located within the Straits" (1953 easement). *Id.*

On November 13, 2020, Governor Gretchen Whitmer and the DNR revoked and terminated the 1953 easement and directed Enbridge to cease operations of the dual pipelines no later than 180 days from the date of the termination notice, or approximately May 13, 2021.[1] The Notice of Revocation and Termination of Easement, p. 1, states:

> [T]he State of Michigan hereby provides formal notice to Enbridge . . . that the State is revoking and terminating the 1953 Easement . . . The revocation and termination each take legal effect 180 days after the date of this Notice to provide notice to affected parties and to allow for an orderly transition to ensure Michigan's energy needs are met. Enbridge must cease operation of the Straits Pipelines 180 days after the date of this Notice.

Also on November 13, 2020, the Attorney General filed an action in the Ingham County Circuit Court on behalf of the State of Michigan, Governor Whitmer, and the DNR, seeking declaratory and injunctive relief to acknowledge and enforce the revocation (Case No. 20-646-CE). On

[1] *See*, https://content.govdelivery.com/attachments/MIEOG/2020/11/13/file_attachments/1600920/Notice%20of%20%20Revocation%20and%20Termination%20of%20%20Easement%20%2811.13.20%29.pdf (Notice of Revocation and Termination of Easement) (accessed November 29, 2020).

RECEIVED by MSC 11/14/2025 2:10:18 PM

November 24, 2020, Enbridge filed an action against the State of Michigan in the U.S. District Court for the Western District of Michigan for declaratory and injunctive relief seeking a determination that the revocation is not lawful (Case No. 20-CV-01141).

Remand Determination

In the June 30 order, the Commission stated:

> The Commission recommends that the administrative law judge (ALJ) set a schedule that would conclude the evidentiary portion of the proceeding and briefing approximately 10 months from the date of the prehearing conference. In providing this guidance, the Commission recognizes that significant developments may arise that could affect the schedule and scope of the proceeding and, therefore, looks to the ALJ to work with the parties to make appropriate adjustments to this general timeframe without seeking approval from the Commission.

June 30 order, p. 70. The Commission concludes that the revocation and termination of the 1953 easement is just such a significant development, and remands the motion in limine to the ALJ for rehearing. MCL 24.287(1). As stated above, the Commission looks to the ALJ and the parties to make appropriate adjustments to the current schedule to allow the parties to file new responses to the motion in limine in light of the revocation, and to adjust the schedule to allow for a ruling on the remanded motion prior to the date on which the Staff and the intervenors must file their testimony. The Commission recognizes that this is likely to affect other dates including the dates for rebuttal testimony, cross-examination, and briefing.

Clarity with respect to its scope is fundamental to this proceeding, and the Commission notes that the ALJ's ruling, along with the motion and the responses to the motion, were premised on the continued existence of the 1953 easement and the continued operation of the dual pipelines under that easement. With the State of Michigan's revocation and termination of the 1953 easement, the facts have changed. The Commission is concerned that such a fundamental change may

RECEIVED by MSC 11/14/2025 2:10:18 PM

significantly affect the arguments that the parties would have made in support of, and in opposition to, the motion.[2]

The Commission also notes that the revocation occurred subsequent to the filing of the applications for leave to appeal but before the date for the filing of responses to the applications. Thus, the four responding parties were able to address the occurrence of the revocation, but the applicants for leave to appeal were not. Additionally, no party was able to address the fact of the revocation in the responses to the motion or the oral argument. The Commission wishes to give the parties the opportunity to brief the question of whether, and, if so, to what extent Governor Whitmer's action to revoke and terminate the 1953 easement changes the scope of review in this proceeding and how that change, if any, effects the issues presented in the motion in limine, including the issues of public need for the Line 5 Project and the required environmental review of the Line 5 Project.

THEREFORE, IT IS ORDERED that:

A. Enbridge Energy, Limited Partnership's motion in limine is remanded to the Administrative Law Judge for rehearing and reconsideration.

B. The Administrative Law Judge shall set a revised schedule for this matter that allows the parties to file new responses to Enbridge Energy, Limited Partnership's motion in limine, and that extends the schedule to accommodate the additional time required for this rehearing and reconsideration.

[2] For example, in response to the applications for leave to appeal, Enbridge argues that Line 5 will continue in operation in the Straits indefinitely, whether or not the Line 5 Project is approved, based on demand. Enbridge's Response to Applications for Leave to Appeal, p. 9.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Sally A. Talberg, Commissioner

Tremaine L. Phillips, Commissioner

By its action of December 9, 2020.

Lisa Felice, Executive Secretary

RECEIVED by MSC 11/14/2025 2:10:18 PM

PROOF OF SERVICE

STATE OF MICHIGAN)

Case No. U-20763

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on December 9, 2020 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

Brianna Brown

Subscribed and sworn to before me
this 9th day of December 2020.

Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

RECEIVED by MSC 11/14/2025 2:10:18 PM

Service List for Case: U-20763

Name	Email Address
Abigail Hawley	abbie@envlaw.com
Adam J. Ratchenski	aratchenski@earthjustice.org
Amy L. Wesaw	amy.wesaw@nhbp-nsn.gov
Benjamin J. Holwerda	holwerdab@michigan.gov
Christopher M. Bzdok	chris@envlaw.com
Christopher M. Bzdok	chris@envlaw.com
Christopher M. Bzdok	chris@envlaw.com
Christopher M. Bzdok	chris@envlaw.com
Christopher M. Bzdok	chris@envlaw.com
Christopher P. Legghio	cpl@legghioisreal.com
Christopher R. Clark	cclark@earthjustice.org
Courtney A. Kachur	ckachur@saulttribe.net
Daniel P. Ettinger	dettinger@wnj.com
Daniel P. Ettinger	dettinger@wnj.com
David L. Gover	dgover@narf.org
Deborah Musiker	dchizewer@earthjustice.org
Dennis Mack	mackd2@michigan.gov
Enbridge Energy, Limited Partnership	gregg.johnson@enbridge.com
Esosa R. Aimufua	eaimufua@elpc.org
Esosa R. Aimufua	eaimufua@elpc.org
Howard A. Learner	hlearner@elpc.org
Howard A. Learner	hlearner@elpc.org
James A. Bransky	jbransky@chartermi.net
James M. Olson	jim@flowforwater.org
Jeffrey S. Rasmussen	jrasmussen@nativelawgroup.com
Jennifer U. Heston	jheston@fraserlawfirm.com
Jeremy J. Patterson	jpatterson@nativelawgroup.com
John S. Swimmer	john.swimmer@nhbp-nsn.gov
Johnathan R. Loera	jloera@nativelawgroup.com
Kathryn L. Tierney	candyt@bmic.net
Kiana E. Courtney	kcourtney@elpc.org
Kiana E. Courtney	kcourtney@elpc.org
Lauren E. Crummel	crummel@legghioisreal.com
Leah J. Brooks	brooksl6@mi.gov
Lydia Barbash-Riley	lydia@envlaw.com
Lydia Barbash-Riley	lydia@envlaw.com
Lydia Barbash-Riley	lydia@envlaw.com
Margaret C. Stalker	mstalker@wnj.com
Margaret C. Stalker	mstalker@wnj.com
Margrethe Kearney	mkearney@elpc.org
Margrethe Kearney	mkearney@elpc.org

Mary K. Rock	mrock@earthjustice.org
Matthew L. Campbell	mcampbell@narf.org
Megan R. Condon	mcondon@narf.org
Michael S. Ashton	mashton@fraserlawfirm.com
Nicholas Q. Taylor	taylorn10@michigan.gov
Paul D. Bratt	pbratt@wnj.com
Paul D. Bratt	pbratt@wnj.com
Robert P. Reichel	reichelb@michigan.gov
Shaina Reed	sreed@fraserlawfirm.com
Spencer A. Sattler	sattlers@michigan.gov
Stuart M. Israel	israel@legghioisrael.com
Troy M. Cumings	tcumings@wnj.com
Troy M. Cumings	tcumings@wnj.com
Whitney B. Gravelle	wgravelle@baymills.org
William Rastetter	bill@envlaw.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix F

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

Application of Enbridge Energy, Limited Partnership for the for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief.	)	Case No. U-20763

RULING ON MOTION *IN LIMINE*

Under a schedule set during the August 12, 2020 pre-hearing conference, Enbridge Energy, Limited Partnership (Enbridge) filed a Motion *in Limine*. Responses to the Motion were filed by: Michigan Environmental Council, Grand Traverse Band Of Ottawa and Chippewa Indians, Bay Mills Indian Community, Tip Of The Mitt Watershed Council, and National Wildlife Federation (Joint Response); For Love of Water (FLOW); Environmental Law & Policy Center's and Michigan Climate Action Network (ELPC); Attorney General; Michigan Propane Gas Association and the National Propane Gas Association (Associations); and Public Service Commission Staff (Staff). Oral Argument on the Motion was heard on September 30, 2020.

In its Motion Enbridge seeks a ruling that essentially sets the scope of hearing in two regards. First, it seeks to exclude as legally irrelevant any evidence on the following issues:

RECEIVED by MSC 11/14/2025 2:10:18 PM

> (1) the construction of the utility tunnel; (2) the environmental impact of the tunnel construction; (3) the public need for and continued operation of Line 5; (4) the current operational safety of Line 5; (5) whether Line 5 has an adverse impact on climate change; and (6) the intervening parties' climate change agendas.
> Motion, pgs. 1-2.

Second, it seeks a ruling that limits the evidence to the following issues:

> (A) is there a public need to replace the existing Line 5 crossing of the Straits with a pipe segment relocated in a utility tunnel beneath the Straits; (B) is the replacement pipe segment designed and routed in a reasonable manner; and (C) will the construction of the replacement pipe segment meet or exceed current safety and engineering standards[.]
> *Id*., pg. 2.

Enbridge argues the relief it seeks in the Motion is warranted by the scope of the activity proposed in the Application at issue in this case and the Commission's jurisdiction under Public Act 16 of 1929 (Act 16) that provides the authority to regulate that activity.

The Commission has provided a detailed recitation on the history and transportation capacity of the Line 5 pipeline (Line 5) based on Enbridge's Application, including the segment that currently crosses the Straits of Mackinac and the proposal to relocate it into a Utility Tunnel beneath the Straits. Case No. U-20763, June 30, 2020 Order, pgs. 1-5. The Commission recognized, but declined to address, one of the issues raised in the Motion: whether the proposed Utility Tunnel that will house the relocated pipeline is within the scope of its review under Act 16. Id., pg. 58. However, in denying Enbridge's request for *ex parte* approval of its Application and setting the matter for hearing, the Commission addressed its jurisdiction under Act 16:

> The Commission notes that, as set forth in its title, the purpose of Act 16 "is to regulate the business of carrying or transporting, buying, selling, or dealing in crude oil or petroleum or its products" and "to provide for the control and regulation of all corporations, associations, and persons

RECEIVED by MSC 11/14/2025 2:10:18 PM

engaged in such business, by the Michigan public service commission…." In addition, Section 1(2) of Act 16 states, in relevant part:

> A person exercising or claiming the right to carry or transport crude oil or petroleum, or any of the products thereof . . . by or through pipe line or lines . . . or exercising or claiming the right to engage in the business of piping, transporting, or storing crude oil or petroleum, or any of the products thereof . . . does not have or possess the right to conduct or engage in the business or operations, in whole or in part, **or have or possess the right to locate, maintain, or operate the necessary pipe lines, fixtures, and equipment belonging to . . . except as authorized by and subject to this act.**

MCL 483.1(2) (emphasis added). Based on the above language, the Commission finds that it has broad jurisdiction over the construction and operation of pipeline facilities and has the "authority to review and approve proposed pipelines, and to place conditions on their operations." March 7, 2001 order in Case No. U-12334 (March 7 order), p. 13, citing Dehn, 340 Mich at 41; see also, January 31, 2013 order in Case No. U-17020 (January 31 order), p. 5. Moreover, "[i]nherent in that jurisdiction is the power to make a qualitative evaluation regarding whether a proposed system would be safe and in the public interest." March 7 order, p. 14.
Case No. U-20763, June 30, 2020 Order, pg. 59.

The Parties also agree that in prior decisions the Commission has established the general criteria for deciding an application filed under Act 16: whether the applicant has established a public need for the proposed pipeline; whether the proposed pipeline is designed and routed in a reasonable manner; and whether the construction of the pipeline will meet or exceed current safety and engineering standards.[1] In addition, in reviewing the Application the Commission is to consider the applicable provisions of the Michigan Environmental Protection Act (MEPA). MCL 324.1701, et seq.; *State Highway*

[1] See Motion, pgs. 16-17, citing Case No. U-17020, January 31, 2013 Order, pg. 5, and Case No. U-13225, July 23, 2002 Orders, pg. 4-5; Joint Response, pg. 7, citing Case No. U-17020, January 31, 2013 Order, pg. 5; FLOW Response, pg. 6, citing Case No. U-17020, January 13, 2013 Order, 5; Michigan Propane Gas Association & National Propane Gas Association, pg. 5, citing Case No. U-13255, July 23, 2002 Order; and Staff Response, pgs. 3-4, citing Case No. U-13225, July 23, 2002 Order, pgs. 4-5.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Commission v Vanderkloot, 329 Mich 159, 167-168 (1974). The Commission's statutory authority will control the determination of whether the issues raised in the Motion are proper for consideration in this case.[2]

1. The Utility Tunnel

There is no dispute that the activity proposed in the Application, replacing the existing two 20-inch diameter pipelines on the bottomlands with a single 30-inch diameter pipeline located in a Utility Tunnel under the lakebed, is subject to the Commission's jurisdiction under Act 16. Where the Parties diverge is on the question of what, if any, jurisdiction the Commission has over the Utility Tunnel. Enbridge argues the oversight of the proposed Utility Tunnel, including its construction and operation, is exclusively vested with the Mackinac Straits Corridor Authority (Corridor Authority) by virtue of its enabling statue, Public Act 329 of 2018 (Act 359). Specifically, that once constituted the Corridor Authority "may acquire, construct, operate, maintain, improve, repair, and manage a utility tunnel." MCL 254.324a(1) and MCL 254.324d(1). To Enbridge, Act 359 provides the Corridor Authority with "specific and unequivocal jurisdiction…" over the Utility Tunnel, and "precludes the Commission…" from considering any aspect of its construction and operation because it lacks specific authority under Act 16 over that aspect of the project. Motion, pgs. 3, 9.

It is important to note that Act 359 does not divest regulatory oversight of the Utility Tunnel under applicable statutory schemes concerning its construction or use. MCL 254.324d(4)(g). Thus, while the Corridor Authority certainly has jurisdiction over

[2] The arguments of all the Parties were considered in issuing this Ruling, while only those deemed necessary to decide the issues are addressed.

RECEIVED by MSC 11/14/2025 2:10:18 PM

the Utility Tunnel, its construction and use bring it, to some degree, under the jurisdiction of other governmental entities. For example, Enbridge is currently seeking regulatory approval for the Utility Tunnel from the Department of Environmental, Great Lakes, and Energy (EGLE) and the U.S. Army Corps of Engineers (Corps) under the statutory schemes they administer. Motion, pg. 6. Similarly, the relocation of the pipelines into the Utility Tunnel implicate the Commission's jurisdiction under Act 16. As noted, the issue raised in the Motion is the extent of that jurisdiction. Enbridge and the Associations argue that jurisdiction does not include the Utility Tunnel, with the other Parties arguing the jurisdiction extends, to differing degrees, to that portion of the project. That determination turns on the applicable provisions of Act 16.

The first provision cited by Staff, Joint Response, and FLOW vests the Commission with jurisdiction over "[a] person exercising or claiming the right to carry or transport crude oil or petroleum, or any of the products thereof…through pipe line…does not have or possess the right to conduct or engage in the business or operations, in whole or in part, or have or possess the right to locate, maintain, or operate the necessary pipe lines, fixtures, and equipment…except as authorized by and subject to this act." MCL 483.1(2). The Parties opposing the limits on the Commission's consideration of the Utility Tunnel argue it is a fixture of Enbridge's pipeline operations, and thus a relevant issue under Act 16. Enbridge and the Associations contend the Utility Tunnel does not fall under §1(2) because it is neither a fixture nor equipment, and thus not a proper consideration in reviewing the Application.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Act 16 does not define the term "fixtures", so it must be interpreted under the well-established rules of statutory construction:

> "The primary goal of statutory interpretation is to give effect to the intent of the Legislature." In re MCI Telecommunications Complaint, 460 Mich 396, 411 (1999). "Statutory interpretation begins with examining the plain language of the statute. When that language is clear and unambiguous, no further judicial construction is required or permitted." In re Reliability Plans of Elec Utilities, ___Mich___; ___ NW2d ___ (2020) (Docket Nos. 158305–158308); slip 6 op at 11. If the meaning of a statute is in question, "[A] court must look to the object of the statute, the harm which it is designed to remedy, and apply a reasonable construction which best accomplishes the statute's purpose." In re Forfeiture, 432 Mich 242, 248 (1989).
> Staff's Response to Enbridge's Petition for Rehearing, pgs. 5-6 (Dkt. #0240).

Staff, relying on the Black's Law Dictionary, defines a "fixture" as personal property attached to land that is an "irremovable" part of the property. Response, pg. 10. Under this definition, Staff contends the Utility Tunnel is properly considered a fixture under Act 16 given that it will unquestionably be an irremovable component of real property that is integral to the safe operation of the relocated pipeline. While the Joint Response also provides a dictionary definition similar to the Black's Law definition, it relies on a three-part test:

> Property is a fixture if (1) it is annexed to the realty, whether the annexation is actual or constructive; (2) its adaptation or application to the realty being used is appropriate; and (3) there is an intention to make the property a permanent accession to the realty.
> *Wayne County v Britton Trust*, 454 Mich 608, 611 (1997), reaffirming *Morris v Alexander*, 208 Mich 387 (1919).

The Joint Response contends that the Utility Tunnel, which will be a permanent and useful attachment to the realty, meets the definition of "fixture" under long-standing Michigan law. Joint Response, pgs. 10-11.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Staff, the Joint Response, and FLOW also argue the Commission has authority to consider the Utility Tunnel based on an administrative rule promulgated under Act 16 pertaining to a proposal "to construct facilities to transport crude oil or petroleum products as a common carrier for which approval is required by statute." R 792.10447(1)(c) (Rule 447).[3] The Parties contend the term "facilities" must be construed consistent with the Commission's authority under Act 16 to regulate any aspect of a proposed pipeline reasonably related to its operation. As Staff notes, the Utility Tunnel serves a number of functions in this regard: a protective layer for the pipeline; secondary containment in the event of a leak or spill; foundation for the pipeline's support; housing for measures directly related to the safe operation of the pipeline, including leak detection, pressure monitoring and cathodic protection. Response, pg. 11.

Staff also argues the Commission has the authority to consider the Utility Tunnel under the requirement that "[a] pipeline company shall make a good-faith effort to minimize the physical impact and economic damage that result from the construction and repair of a pipeline." MCL 483.2b. In support, and as it did under its §1(2) and Rule 447 argument, Staff notes the Utility Tunnel that Enbridge will construct is dependent upon, and thus inseparable from, the pipeline replacement project. Further, it is not possible to determine how Enbridge will construct, maintain, and undertake any repairs to the relocated pipeline without considering the Utility Tunnel's design.

[3] Rule 447 was promulgated under the authority of Act 16, and the Commission held the Application to relocate the pipeline into the Utility Tunnel implicates its provisions. Case No. U-20763, June 30, 2020 Order, pgs. 59-67.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Accordingly, Staff contends the Commission must be able to consider the Utility Tunnel to determine whether Enbridge has met its burden under §2b.

Enbridge argues the Utility Tunnel is a standalone structure that is being constructed under Act 359 to accommodate a host of utility infrastructure, one of which is its relocated pipeline. Therefore, it cannot be deemed a fixture under §1(2), a facility under Rule 447, or a consideration in quantifying the physical and economic impact from the construction pipeline under §2b. In effect, Enbridge is seeking to have the Commission undertake its Act 16 review of the project as if the Utility Tunnel has been designed, constructed, and placed into operation, which is obviously not the case. In fact, the development phase of the Utility Tunnel has not reached the point where design and construction plans are finalized. See Joint Response, pg. 13. Further, the relocated pipeline is not just one piece of utility infrastructure that will ultimately be in the Utility Tunnel, it is the entire reason Enbridge is undertaking the project. The argument that the Utility Tunnel and relocated pipeline are unrelated disregard the fact that those components are, for the reasons discussed, inextricably connected. Quite simply, Enbridge has agreed to construct and pay for the Utility Tunnel so it could relocate the existing pipelines. While the potential certainly exists for other infrastructure to be sited in the Utility Tunnel, under its agreement with the State the relocated pipeline has priority over those lines and facilities. See Joint Response, pg.12. Therefore, Enbridge's argument that the Utility Tunnel and pipeline are somehow separate and distinct considerations cannot be sustained.

RECEIVED by MSC 11/14/2025 2:10:18 PM

As the Commission held in this case, the purpose of Act 16 is to ensure that pipelines are designed, routed, constructed, and operated in a safe and economical manner. See Case No. U-20763, June 30, 2020 Order, pg. 59; see also Case No U-13225, July 23, 2002 Order, pgs. 4-5. The only way to make that determination is for the Commission to have a record that contains all relevant information concerning the proposal to relocate the existing pipelines into the Utility Tunnel. That necessarily requires the development of a record on the design, construction, and operational aspects of both the pipeline and Utility Tunnel. Counsel for the Corridor Authority indicated during Oral Argument the plans for the Utility Tunnel will be completed while this case is pending and will be offered as evidence in this case. 2 TR 205-207.[4] To exclude that evidence under Enbridge's Motion would effectively preclude the Commission from performing its statutorily mandated review of a project under Act 16. Having said that, Staff's contention that this case does not entail the "approval" of the Utility Tunnel is accurate. Rather this case entails a review of the proposal to relocate the pipeline into the Utility Tunnel that necessarily requires consideration of the design, construction, and operational features of both so as "to make a qualitative evaluation regarding whether a proposed system would be safe and in the public interest." Case No. U-20763, June 30, 2020 Order, pg. 59, citing Case No. U-17020, January 31, 2013

[4] Counsel for the Corridor Authority indicated the submission of the plans are not intended as an indication that the Commission has the authority to "approve" the construction of the Utility Tunnel. 2 TR 205-207. Rather, it will be offered so the Commission can consider its specifications as part of its review of the Application under Act 16. Id.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Order, pg. 5.[5] Finally, undertaking the inquiry required under Act 16 does not usurp the Corridor Authority's role under Act 359, but rather is entirely consistent that the requirement that the Utility Tunnel obtain all necessary regulatory approvals. MCL 254.324d(4)(g).

Based on the foregoing, under the definitions advanced by Staff and the Joint Response, particularly the *Morris* three-part test, the Utility Tunnel is a fixture as that term is used in Act 16.[6] Concomitantly, the Utility Tunnel is a facility under Rule 447 and its design, construction and operation are relevant in considering Enbridge's Application to relocate the existing pipelines. Finally, to determine under §2b whether a good faith effort was made to limit the physical impact and economic damage that will result from the construction of the pipeline it is necessary to consider the Utility Tunnel. For these reasons, Enbridge's Motion *in Limine* concerning the scope of this case as it pertains to the Utility Tunnel is denied.

2. Operation of Line 5

The construction and operation of Line 5 was approved by the Commission in 1953 and subsequently deemed to be "for a public use benefiting the people of the State of Michigan." *Lakehead Pipe Line Co v Dehn*, 340 Mich 25, 37; 64 NW2d 903 (1954); Application, pg. 5. Based on this authority Enbridge contends any issue pertaining to the operation of Line 5 in its entirety, including the public need for that

[5] Assuming, *arguendo*, the Application was filed after the Utility Tunnel was constructed, Act 16 would still require consideration of its design and operational features as it relates to a proposal to relocate the pipeline in it so the same determination of the system's safety and public interest could be made.
[6] The Joint Response also argues the Utility Tunnel is "equipment" under §1(2). Since "fixtures" and "equipment" are necessarily distinct features as used in this provision, the conclusion the Utility Tunnel is properly considered the former renders this argument moot.

RECEIVED by MSC 11/14/2025 2:10:18 PM

pipeline and its continued operation, are outside the scope of this case. Motion, pg. 13, Exhibit A-3. This aspect of the Motion is in response to certain arguments raised by various Parties in their Petitions to Intervene. Motion, pgs. 13-14. Enbridge also contends Act 359 establishes a continued public need for Line 5 by authorizing the Utility Tunnel for the replacement pipeline. As it pertains to the issue of safety and the current operation of Line 5, Enbridge notes that federal law preempts state regulation in that regard. See 49 U.S.C. §60104(c). Finally, Enbridge argues the fact that it filed an Application under Act 16 does not allow for a determination on whether Line 5 should continue operating. Any proceeding of that nature would equate to an agency action to suspend, revoke, or modify an existing license that implicates the Administrative Procedures Act (APA) procedural requirements. See MCL 24.292(1); see also *Rogers v. Michigan State Board of Cosmetology*, 68 Mich App 751 (1976).

Staff agrees with the limit sought by Enbridge as it pertains to the continued operation of Line 5, noting the 1953 approval and Supreme Court decision as controlling the issue, and the APA procedural requirements that would attach to an agency action seeking to limit or terminate its operation. Staff also notes that irrespective the outcome of this case, Enbridge retains the right under the 1953 easement and approvals to operate Line 5 as it is currently constituted, making any evidence on that point outside the scope of this case. As for the claims concerning the safety of Line 5, Staff notes it operates under a federal delegation for certain aspects of pipeline operations, but the Commission has historically not considered the operations of an entire pipeline when considering a proposal to replace a segment under Act 16. Response, pg. 16.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Accordingly, Staff concludes any evidence regarding the current and future operation of the entirety of Line 5 should be excluded. Id., pgs. 15-16.

The Joint Response and FLOW advance a relatively expansive view of the relevance of Line 5 in this case. These Parties argue that the continued operation of the entirety of Line 5, including its safety, the public need, and potential environmental impacts, are all proper considerations for the Commission in reviewing the Application under Act 16. In general, these Parties contend that since the purpose and effect of the proposed relocation of the pipeline into the Utility Tunnel is to extend the operational life of Line 5 and remove the potential risks posed by the dual pipelines currently on the bottomlands, the issues concerning its entire operation are relevant. The Joint Response contends a review of the entirety of Line 5 is supported by Commission precedent and the June 30, 2020 Order opening this case. Regarding the latter, the Joint Response relies on a decision in a case involving Wolverine Pipe Line Company concerning the replacement of existing petroleum pipelines. In that case the Commission noted its "broad jurisdiction over the construction and operation of pipeline systems…" including "the power to make a qualitative evaluation regarding whether a proposed system would be safe and in the public interest." Case No. U-13225, July 23, 2002 Order, pg. 6. Consistent with that jurisdiction the Commission undertook what is termed "a broad range of environmental risks associated with the project" that is also required in this case. Joint Response, pg. 31. The Joint Response also notes that in this case the Commission recognized "the significant public interest and concern regarding the Line 5 Project's potential environmental impact on the Great Lakes…",

RECEIVED by MSC 11/14/2025 2:10:18 PM

which it argues warrants consideration of the entire system. Case No. U-20763, June 30, 2020 Order, pg. 69.

The Joint Response also challenges Enbridge's argument concerning the continued operation of Line 5, noting these Parties are not seeking a revocation of any prior approval, but only intends to enter evidence concerning whether a public need exists for the relocation of the pipeline into the Utility Tunnel. Joint Response, pgs. 32-33. Further, Enbridge's argument that the public need for Line 5 is established by the 1953 easement and *Lakehead Pipe Line Co.*, *supra*, is misplaced given that the Commission held the proposed project "differs significantly…" from those actions and requires independent review under Act 16. Case No. U-20763, June 30, 2020 Order, pg. 58. The Joint Response also notes that the treaty rights of the Tribal nations that are a party to this case, along with the rights of those entities for meaningful consultation with the State on any subject that significantly affects their interests, require an examination of Line 5 in this case. To limit the scope of this case in the manner sought by Enbridge would diminish the Tribe's rights to "submit evidence regarding how the continued operation of Line 5 threatens their interests." Joint Response, pg. 35. Finally, the Joint Response argues that, contrary to Enbridge's assertion, federal law does not preclude the Commission from considering the environmental risks from the location and routing of a pipeline under Act 16 and MEPA. Based upon that consideration, which the Joint Response Parties intend to present evidence on, "the Commission may prohibit the siting of Line 5 in the Straits of Mackinac if the Commission determines that the location or routing is unreasonable." Id., 38.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Similar to the Joint Response, FLOW argues the Act 16 public need analysis must include consideration of the entirety of Line 5 given that the project purpose is to extend its operation for 99 years. Response, pgs. 10-11. FLOW contends that analysis requires a quantification of the health, environmental, and climate impacts of extending the operational life of Line 5. In addition to Act 16, FLOW argues the analysis is required because Enbridge is a public utility seeking a Certificate of Necessity for the project, and MEPA requires a determination of whether the project is in the public interest.

The scope of this case is necessarily dictated by two factors. The first is the activity proposed in the Application: replace the existing 4-miles of dual pipelines located on the bottomlands under the auspices of the 1953 easement with a pipeline in a proposed Utility Tunnel as contemplated in Act 359 and various Agreements with the State. The second factor is the Commission's jurisdiction over that proposal under Act 16, the administrative rules promulgated under its authority, and MEPA, which is addressed below. The Joint Response and FLOW contend consideration of the operational aspects of the entirety of Line 5 in conjunction with the proposed activity is warranted under Act 16 and other authority. Regarding the latter, just as Act 359 cannot serve to limit the Commission's jurisdiction, the converse is also true. For example, it is not in dispute that the Tribal nations have treaty rights in the Straits and other areas where Line 5 is located, and under Executive Directive No. 2019-17 a right to consultation before a decision of a state agency that may affect their interests is

RECEIVED by MSC 11/14/2025 2:10:18 PM

implemented. See Joint Response, pgs. 19, 35-36. However, those rights cannot, standing alone, be a basis to expand the Commission's jurisdiction under Act 16.

As it pertains to Act 16, neither the Joint Response nor FLOW provide any substantive basis to determine the review of the project proposed in the Application requires a review of the operation of Line 5 in its entirety. [7] As noted, the standards of Act 16 are well established and must be applied in this case. See Case No. U-20763, June 30, 2020 Order, pg. 59, 65-67.[8] Based on those standards, this case involves a review of the proposed pipeline relocation under Act 16 to determine whether a public need exists for it, whether it is designed and routed in a reasonable manner, and whether its construction will satisfy applicable safety and engineering standards. Accordingly, any issues concerning the current or future operational aspects of the entirety of Line 5, including the public need for the 645-mile pipeline that was approved by the Commission in 1953 and affirmed in *Lakehead Pipe Line Co.*, *supra*., is outside the scope of this case.[9] Undoubtedly, the prior approval of Line 5 and enactment of Act 359 as a means to remove the dual pipelines from the bottomlands certainly go to the public need for the proposal under consideration in this case. However, that authority

[7] It is unclear under what statute FLOW bases its argument that Enbridge is a public utility and is seeking a certificate of necessity for the relocated pipeline that warrants a review of the entirety of Line 5. Response, pgs. 11-12; 2 TR 147. If the Argument is based on Act 9 or Act 69, the Commission held in the Order opening this case Enbridge is not a public utility under either. Case No. U-20763, June 30, 2020 Order, pg. 61. In any event, as Enbridge noted during Oral Argument, it is not seeking a certificate of public convenience and necessity for the project due to the enactment of Act 359. Id., 207-208.

[8] The Joint Response's characterization of *Wolverine* (Case No. U-13225, July 23, 2002 Order) as standing for the proposition that Act 16 requires an examination of the entire pipeline system cannot be accepted. A fair reading of *Wolverine* is the Commission applied the Act 16 standards to the portion of the pipeline proposed to be replaced.

[9] Enbridge's argument that the safety operational aspect Line 5 is pre-empted by federal law, and the Joint Response's argument that the location and routing of a pipeline are not pre-empted and implicate safety, are immaterial because any consideration of the operational aspects of the entirety of Line 5 is beyond the scope of the issue in this case.

RECEIVED by MSC 11/14/2025 2:10:18 PM

does not, as Enbridge argues, end the inquiry on that point. Act 16 requires the Commission determine, *inter alai*, whether a public need for the proposed project has been established, and the Parties have the right to enter evidence and make argument on whether that requirement has been satisfied.

Based on the foregoing, any evidence concerning the current and future operational aspects of the entirety of Line 5, including the public need and safety issues, is outside the scope of this case. Therefore, Enbridge's Motion *in Limine* concerning the current operational aspects of Line 5 is granted.

3. Michigan Environmental Protection Act

MEPA requires that in a licensing proceeding an agency determine whether the conduct under review will pollute, impair, or destroy the natural resources, or the public trust in those resources, and if so not approve the conduct if a feasible and prudent alternative exists that is consistent with reasonable requirements of the public health, safety, and welfare. MCL 324.1705(2). Enbridge raises two arguments concerning the application of MEPA to its proposed project: 1) it does not apply to the Utility Tunnel, and; 2) it does not allow for the consideration of climate change in determining whether to approve the project under Act 16. Motion, pgs. 11-12, 15-16. Accordingly, the Motion seeks a determination that any evidence concerning either issue be disallowed. Staff agrees that MEPA does not allow consideration of climate change in considering the impact of the proposed activity, nor is it a means to expand the Commission's review under Act 16 to the entirety of Line 5. Response, pg. 16.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge's argument that MEPA cannot be considered relative to the construction of the Utility Tunnel is premised on its contention that all aspects of that portion of the project is outside the scope of Act 16. However, given the conclusion the Utility Tunnel is a "fixture" under §1(2), a "facility" under Rule 447, and a necessary component of the determination under §2b on whether a good-faith effort is made to minimize the physical impact and economic damage from the construction of the pipeline, that contention cannot be sustained. Because the Utility Tunnel must be considered in determining whether the project can be approved under Act 16, it is necessarily part of the "conduct" in a licensing proceeding subject to review under MEPA. However, it is recognized that EGLE and the Army Corps of Engineers will also review the construction of the Utility Tunnel under the respective substantive resource protection statutes they administer, and some degree of deference must be afforded those determinations. This, in turn, allows the Commission to rely on the expertise of those agencies as part of its MEPA review, and avoids the potential for conflicting results between the agency decisions.[10]

This leaves the issue of whether the "conduct" reviewed under MEPA entails the environmental effects of the use of the fossil fuels, specifically greenhouse gas emissions that the intervening parties contend contribute to climate change. The ELPC, along with FLOW and the Joint Response, argues that greenhouse gases contribute to climate change that results in the pollution, impairment, and destruction of the air, water,

[10] Staff is monitoring the processing of the applications pending before EGLE and intends to factor the ultimate decisions on them into its MEPA analysis of the project, including the Utility Tunnel. 2 TR 197, 200-201.

RECEIVED by MSC 11/14/2025 2:10:18 PM

and other natural resources, and thus are proper considerations under MEPA.[11] The ELPC also notes that administrative agencies are considering greenhouse gas emissions and the resultant environmental impact is occurring on both the federal and state level, and thus is appropriate with a review of the project in this case under Act 16.

As noted, MEPA requires an examination of the "conduct" to determine its effect on the natural resources. The conduct in this case is the activity proposed in the Application and subject to the Commission's jurisdiction under Act: the replacement of the existing pipelines on the bottomlands with a pipeline in a Utility Tunnel. In effect, the Parties opposing the exclusion of evidence concerning greenhouse gases and climate change are advancing a quite broad interpretation of the "conduct" that is subject to review under MEPA. Specifically, consideration of the environmental effect of the oil transported on the pipeline after it is refined and placed in the market for consumption would also extend the conduct to the extraction and refinement processes. While the Parties opposing the Motion provide a great deal of argument on the deleterious effect on the environment from greenhouse gases and climate change, they do not provide any substantive legal basis to support such a broad construction of the term "conduct" in MEPA.

A similar expansive definition of conduct was raised in a case on an application to construct and operate natural gas pipelines under Act 9. MCL 483.101 *et seq*. In those cases, the parties challenging the application argued the pipelines would serve as

[11] FLOW also argues that MEPA and public trust doctrine requires an examination of the entirety of Line 5, including in relation to other pipelines in the State and North America. Response, pgs. 22-26. Consistent with the ruling that the scope of this case is controlled by Act 16, and it cannot by implication be constricted or expanded by other authority, this argument is rejected.

RECEIVED by MSC 11/14/2025 2:10:18 PM

"bait" for new production wells in the area that would use hydraulic fracking and cause forest fragmentation, and the environmental harms from both must be considered under MEPA. The Commission rejected the argument and held that it lacked jurisdiction over the drilling of gas wells and the extraction process and would limit its review and MEPA analysis to the issue over which it had jurisdiction, the construction and operation of the pipelines. Case Nos. U-17195/U-17196, September 23, 2015 Order, pg. 7; see also *Buggs v Public Service Commission, et al.*, unpublished per curium decision of the Court of Appeals, issued May 16, 2017 (Docket Nos. 329781 and 329909). The same principle applies in this case, the Commission lacks jurisdiction over greenhouse gas emissions that may result from oil shipped on Line 5 after it is refined and consumed. Rather, the Commission's jurisdiction under Act 16 is over the proposal to relocate the existing pipelines into the Utility Tunnel, and a component of that jurisdiction is examining the environmental impacts of that conduct under MEPA.

Based on the foregoing, consistent with Act 16 and as it pertains to MEPA, the conduct at issue in this case does not include the environmental effects from the extraction, refinement, or consumption of the oil transported on Line 5. Therefore, any evidence in that regard, including the environmental effect of greenhouse gas emissions and climate change, is irrelevant.

RULING

Consistent with the foregoing, Enbridge's Motion *in Limine* is:

1. Denied as it pertains to the Utility Tunnel.

2. Granted regarding the operational aspects, including the public need and safety, of the entirety of Line 5.

RECEIVED by MSC 11/14/2025 2:10:18 PM

3. Granted as it pertains to the review of the project under MEPA does not entail the environmental effects of greenhouse gas emissions and climate change.

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
For the Michigan Public Service Commission

Dennis W. Mack

Digitally signed by: Dennis W. Mack
DN: CN = Dennis W. Mack email = mackd2@michigan.gov C = US O = MOAHR OU = MOAHR - PSC
Date: 2020.10.23 14:11:17 -04'00'

Dennis W. Mack
Administrative Law Judge

October 23, 2020
Lansing, Michigan

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

STATE OF MICHIGAN	)	
	)	
County of Ingham	)	Case No. U-20763
	)	

PROOF OF SERVICE

Meaghan Dobie being duly sworn, deposes and says that on October 23, 2020, she served a copy of the attached Ruling on Motion *in Limine* via email and/or first-class mail, to the persons as shown on the attached service list.



Meaghan Dobie

Subscribed and sworn to before me
this 23rd day of October 2020.



Brianna L. Brown
Notary Public, Clinton County
My Commission Expires July 4, 2021

RECEIVED by MSC 11/14/2025 2:10:18 PM

SERVICE LIST
CASE NO. U-20763

ENBRIDGE ENERGY, LIMITED PARTNERSHIP
Michael S. Ashton
Shaina Reed
Jennifer U. Heston
mashton@fraserlawfirm.com
sreed@fraserlawfirm.com
jheston@fraserlawfirm.com

MICHIGAN PUBLIC SERVICE COMMISSION STAFF
Spencer A. Sattler
Nicholas Q. Taylor
Benjamin J. Holwerda
sattlers@michigan.gov
taylorn10@michigan.gov
holwerdab@michigan.gov

MICHIGAN ENVIRONMENTAL COUNCIL
Christopher M. Bzdok
Lydia Barbash-Riley
Karla Gerds
Kimberly Flynn
Breanna Thomas
chris@envlaw.com
lydia@envlaw.com
karla@envlaw.com
kimberly@envlaw.com
breanna@envlaw.com

FOR LOVE OF WATER
James M. Olson
Nayt Boyt
jim@flowforwater.org
nayt@flowforwater.org

GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS
William Rastetter
Christopher M. Bzdok
Lydia Barbash-Riley
Karla Gerds
bill@envlaw.com
chris@envlaw.com
lydia@envlaw.com
karla@envlaw.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

BAY MILLS INDIAN COMMUNITY
Christopher M. Bzdok
Whitney Gravelle
Kathryn Tierney
Deborah Musiker (aka Debbie Chizewer)
Christopher R. Clark
David L. Gover
Matthew L. Campbell
Mary K. Rock
Megan R. Condon
chris@envlaw.com
wgravelle@baymills.org
candyt@bmic.net
dchizewer@earthjustice.org
cclark@earthjustice.org
dgover@narf.org
mcampbell@narf.org
mrock@earthjustice.org
mcondon@narf.org

TIP OF THE MITT WATERSHED COUNCIL
Abigail Hawley
Christopher M. Bzdok
Lydia Barbash-Riley
Karla Gerds
Kimberly Flynn
Breanna Thomas
abbie@envlaw.com
chris@envlaw.com
lydia@envlaw.com
karla@envlaw.com
kimberly@envlaw.com
breanna@envlaw.com

NATIONAL WILDLIFE FEDERATION
Christopher M. Bzdok
Lydia Barbash-Riley
Karla Gerds
chris@envlaw.com
lydia@envlaw.com
karla@envlaw.com

DEPARTMENT OF ATTORNEY GENERAL
Robert P. Reichel
reichelb@michigan.gov

RECEIVED by MSC 11/14/2025 2:10:18 PM

ENVIRONMENTAL LAW & POLICY CENTER AND MICHIGAN CLIMATE ACTION NETWORK
Margrethe Kearney
Esosa R. Aimufua
Howard A. Learner
Kiana E. Courtney
Rebecca Lazer
Ariel Salmon
mkearney@elpc.org
eaimufua@elpc.org
hlearner@elpc.org
kcourtney@elpc.org
rlazer@elpc.org
asalmon@elpc.org

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
James Bransky
jbransky@chartermi.net

NOTTAWASEPPI HURON BAND OF THE POTAWATOMI (NHBP)
Christopher M. Bzdok
John Swimmer
Amy L. Wesaw
chris@envlaw.com
john.swimmer@nhbp-nsn.gov
amy.wesaw@nhbp-nsn.gov

MICHIGAN LABORERS' DISTRICT COUNCIL (MLDC)
Christopher P. Legghio
Stuart M. Israel
Lauren E. Crummel
cpl@legghioisrael.com
israel@legghioisrael.com
crummel@legghioisrael.com

MICHIGAN PROPANE GAS ASSOCIATION; NATIONAL PROPANE GAS ASSOCIATION
Troy M. Cumings
Daniel P. Ettinger
Margaret C. Stalker
Paul D. Bratt
tcumings@wnj.com
dettinger@wnj.com
mstalker@wnj.com
pbratt@wnj.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

MACKINAC STRAITS CORRIDOR AUTHORITY
Ray Howd
Leah Brooks
howdr@michigan.gov
brooksl6@michigan.gov

SAULT SAINT MARIE TRIBE OF CHIPPEWA INDIANS
Jeffrey S. Rasmussen
Jeremy J. Patterson
Johnathan R. Loera
jrasmussen@nativelawgroup.com
jpatterson@nativelawgroup.com
jloera@nativelawgroup.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix G

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
DEPARTMENT OF LICENSING & REGULATORY AFFAIRS

MICHIGAN PUBLIC SERVICE COMMISSION
7109 W. Saginaw Hwy.
Lansing, Michigan 48917
Telephone: (517) 284-8090
Email Address: mpscedockets@michigan.gov
Website: www.michigan.gov/mpsc

Case Number U-20763

Case Detail

Case Number	Description	On Behalf of Company	On Behalf of Company 2	On Behalf of Company 3	Industry	Open Date
U-20763	In the Matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	Enbridge Energy, Limited Partnership			Gas	04/17/20

Filing Detail

Filing #	File Date	Filed By	On Behalf of Company	Filing Type	Filing Description	# Pages
File Link						
U-20763-1490	04/02/25	Matthew Borke	Matthew Borke	Notice	Notice of filing an application for leave to appeal with the Michigan Supreme Court	391
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068cs00000iHp6PAAS						
U-20763-1489	04/02/25	Christopher M. Bzdok	Bay Mills Indian Community	Notice	Notice of Filing Application for Leave to Appeal; Application for Leave to Appeal by Bay Mills Indian Community, Little Traverse Bay Bands of Odawa Indians, Grand Traverse Band of Ottawa and Chippewa Indians, Nottawaseppi Huron Band of the Potawatomi, Environmental Law and Policy Center, and Michigan Climate Action Network; and Proof of Service.	52
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068cs00000iCqO7AAK						
U-20763-1488	02/19/25	State of Michigan	State of Michigan Court of	Court Opinion	The decision and opinion of the Court of Appeals in IN RE APPLICATION OF ENBRIDGE ENERGY TO REPLACE & RELOCATE LINE 5, Docket No.369231 has been released. [Consolidated with	31

RECEIVED by MSC 11/14/2025 2:10:18 PM

		Court of Appeals Staff	Appeals		369156,369157,369159,369161,369162,369163,369165]	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068cs00000bK5JGAA0						
U-20763-1487	02/19/25	State of Michigan Court of Appeals Staff	State of Michigan Court of Appeals	Court Opinion	The decision and opinion of the Court of Appeals in IN RE APPLICATION OF ENBRIDGE ENERGY TO REPLACE & RELOCATE LINE 5, Docket No.369165, has been released. [Consolidated with 369156,369157,369159,369161,369162,369163,369231]	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068cs00000bKF0qAAG						
U-20763-1486	02/19/25	State of Michigan Court of Appeals Staff	State of Michigan Court of Appeals	Court Opinion	The decision and opinion of the Court of Appeals in IN RE APPLICATION OF ENBRIDGE ENERGY TO REPLACE & RELOCATE LINE 5, Docket No.369163, has been released. [Consolidated with 369156,369157,369159,369161,369162,369165,369231]]	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068cs00000bK7XvAAK						
U-20763-1485	02/19/25	State of Michigan Court of Appeals Staff	State of Michigan Court of Appeals	Court Opinion	The decision and opinion of the Court of Appeals in IN RE APPLICATION OF ENBRIDGE ENERGY TO REPLACE & RELOCATE LINE 5, Docket No.369162, has been released. [Consolidated with 369156,369157,369159,369161,369163,369165,369231]	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068cs00000bJjnWAAS						
U-20763-1484	02/19/25	State of Michigan Court of Appeals Staff	State of Michigan Court of Appeals	Court Opinion	The decision and opinion of the Court of Appeals in IN RE APPLICATION OF ENBRIDGE ENERGY TO REPLACE & RELOCATE LINE 5, Docket No.369161, has been released. [Consolidated with 369156,369157,369159,369162,369163,369165,369231]	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068cs00000bJRNXAA4						
U-20763-1483	02/19/25	State of Michigan Court of Appeals Staff	State of Michigan Court of Appeals	Court Opinion	The decision and opinion of the Court of Appeals in IN RE APPLICATION OF ENBRIDGE ENERGY TO REPLACE & RELOCATE LINE 5, Docket No.369159, has been released. [Consolidated with 369156,369157,369161,369162,369163,369165,369231]	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068cs00000bJmq6AAC						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1482	02/19/25	State of Michigan Court of Appeals Staff	State of Michigan Court of Appeals	Court Opinion	The decision and opinion of the Court of Appeals in IN RE APPLICATION OF ENBRIDGE ENERGY TO REPLACE & RELOCATE LINE 5, Docket No.369157, has been released. [Consolidated with 369156,369159,369161,369162,369163,369165,369231]	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068cs00000bKBJoAAO						
U-20763-1481	02/19/25	State of Michigan Court of Appeals Staff	State of Michigan Court of Appeals	Court Opinion	The decision and opinion of the Court of Appeals in IN RE APPLICATION OF ENBRIDGE ENERGY TO REPLACE & RELOCATE LINE 5, Docket No. 369156, has been released. [Consolidated with 369157,369159,369161,369162,369163,369165,369231]	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068cs00000bJCtCAAW						
U-20763-1480	09/24/24	State of Michigan Court of Appeals Staff	State of Michigan Court of Appeals	Court Order	Court of Appeals, State of Michigan, Court Order - Docket#369156	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068cs00000BH86AAAT						
U-20763-1479	06/03/24	Leah J. Brooks	Mackinac Straits Corridor Authority	Attorney Withdrawal	Notice of Withdrawal of Attorney Appearance	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000DpYtWAAV						
U-20763-1478	05/30/24	Michigan Public Service Commission	Michigan Public Service Commission	Affidavit	Transmittal of Record to Court of Appeals - Docket #369231	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000Dm0WMAAZ						
U-20763-1477	05/30/24	Michigan Public Service Commission	Michigan Public Service Commission	Request	Court Request of Record to Court of Appeals - Docket #369231	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000Dm08wAAB						
U-20763-1476	05/23/24	Michigan Public Service Commission	Michigan Public Service Commission	Affidavit	Transmittal of Record to Court of Appeals - Docket #369163	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000DgEvFAAV						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1475	05/23/24	Michigan Public Service Commission	Michigan Public Service Commission	Request	Court Request of Record to Court of Appeals - Docket #369163	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000DgC4qAAF						
U-20763-1474	05/23/24	Michigan Public Service Commission	Michigan Public Service Commission	Affidavit	Transmittal of Record to Court of Appeals - Docket #369162	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000DgCtdAAF						
U-20763-1473	05/23/24	Michigan Public Service Commission	Michigan Public Service Commission	Request	Court Request of Record to Court of Appeals - Docket #369162	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000DgDHtAAN						
U-20763-1472	05/23/24	Michigan Public Service Commission	Michigan Public Service Commission	Affidavit	Transmittal of Record to Court of Appeals - Docket #369161	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000DgET4AAN						
U-20763-1471	05/23/24	Michigan Public Service Commission	Michigan Public Service Commission	Request	Court Request of Record to Court of Appeals - Docket #369161	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000DgAw6AAF						
U-20763-1470	05/23/24	Michigan Public Service Commission	Michigan Public Service Commission	Affidavit	Transmittal of Record to Court of Appeals - Docket #369159	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000DgChmAAF						
U-20763-1469	05/23/24	Michigan Public Service Commission	Michigan Public Service Commission	Request	Court Request of Record to Court of Appeals - Docket #369159	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000DgDzAAAV						
U-20763-1468	05/23/24	Michigan Public Service Commission	Michigan Public Service Commission	Affidavit	Transmittal of Record to Court of Appeals - Docket #369157	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000DgDfyAAF						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1467	05/23/24	Michigan Public Service Commission	Michigan Public Service Commission	Request	Court Request of Record to Court of Appeals - Docket #369157	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000DgDe1AAF						
U-20763-1466	05/23/24	Michigan Public Service Commission	Michigan Public Service Commission	Affidavit	Transmittal of Record to Court of Appeals - Docket #369156	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000DgC1wAAF						
U-20763-1465	05/23/24	Michigan Public Service Commission	Michigan Public Service Commission	Request	Court Request of Record to Court of Appeals - Docket #369156	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000DgDLaAAN						
U-20763-1464	03/01/24	Matthew Borke	Matthew Borke	Other	Court of Appeals docketing statement filed 2/29/2024	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000CGTKpAAP						
U-20763-1463	01/30/24	Matthew Borke	Matthew Borke	Appeal	Matthew Borke Filed to the Appellate Court. MI Appellate Case No 369231 and Lower Court U-20763	730
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000Bkx2bAAB						
U-20763-1462	01/02/24	Matthew Borke	Matthew Borke	Notice	Notice of Appeal of case No. U-20763 Enbridge Line 5 Tunnel Permit and Certificate of Service	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000BKh5DAAT						
U-20763-1461	12/28/23	James M. Olson	For the Love of Water	Notice	Notice of Filing Court of Appeals Claim of Appeal Case No. 369163 by For Love Of Water	525
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000BHt9VAAT						
U-20763-1460	12/28/23	William Rastetter	Grand Traverse Band of Ottawa and Chippewa Indians	Notice	Notice of Filing Court of Appeals Claim of Appeal Case No. 369161 by Grand Traverse Band of Ottawa and Chippewa Indians	525
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000BHnfLAAT						
U-20763-1459	12/28/23	Christopher M. Bzdok	Bay Mills Indian Community	Notice	Notice of Filing Court of Appeals Claim of Appeal Case No. 369159 by Bay Mills Indian Community	525

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000BHj95AAD						
U-20763-1458	12/28/23	Christopher M. Bzdok	Nottawaseppi Huron Band of Potawatomi Indians	Notice	Notice of Filing Claim of Appeal Case No. 369162 by Nottawaseppi Huron Band of Potawatomi Indians	525
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000BHmvwAAD						
U-20763-1457	12/28/23	Christopher M. Bzdok	Michigan Environmental Council	Appeal	Michigan Environmental Council, Tip of the Mitt Watershed Council and National Wildlife Council Claim of Appeal 369157	526
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000BHn51AAD						
U-20763-1456	12/22/23	Nicholas N. Wallace	Environmental Law & Policy Center	Notice	Notice of Filing of Claim of Appeal to the Court of Appeals	362
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000BEIozAAH						
U-20763-1455	12/01/23	Michigan Public Service Commission	Michigan Public Service Commission	Press Release		3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000At1gfAAB						
U-20763-1454	12/01/23	Michigan Public Service Commission	Michigan Public Service Commission	Order	Approves the application subject to conditions	352
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000At0GQAAZ						
U-20763-1453	10/26/23	Ashley G. Chrysler	Michigan Propane Gas Association	Appearance	Entry of Appearance in an Administrative Hearing	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000AOUcSAAX						
U-20763-1452	10/11/23	Margaret C. Stalker	Michigan Propane Gas Association	Attorney Withdrawal	Notice of withdrawal of appearance of Margaret C. Stalker	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000AC19TAAT						
U-20763-1451	07/19/23	Michigan Public Service Commission	Michigan Public Service Commission	Other	Payment of assessed fee	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000008f8s1AAA						
		Nicholas Q.				

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1450	06/14/23	Taylor	MPSC Staff	Exhibits	MPSC Staff's Reopened Record Fee Exhibit	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000087AB9AAM						
U-20763-1449	06/09/23	Michigan Public Service Commission	Michigan Public Service Commission	Memorandum	Public Comments Submitted at the June 9, 2023 Commission Meeting.	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000084HVDAA2						
U-20763-1448	05/22/23	Christopher S. Saunders	ALJs - MPSC	Transmittal		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007tPRkAAM						
U-20763-1447	05/19/23	Amit T. Singh	MPSC Staff	Reply Brief	MPSC Staff Reopened Record Reply Brief	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007sSNvAAM						
U-20763-1446	05/19/23	Margaret C. Stalker	Michigan Propane Gas Association	Reply Brief	Intervenors Michigan Propane Gas Association and national Propane Gas Association's Reply Brief on Reopening in Support of Enbridge Energy, Limited Partnership's Application	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007sQXxAAM						
U-20763-1445	05/19/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Reply Brief	Enbridge Energy, Limited Partnership's Reply Brief on Reopening and Certificate of Service	30
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007sP2aAAE						
U-20763-1444	05/19/23	Christopher R. Clark	Bay Mills Indian Community	Reply Brief	Response Brief on Remand on Behalf of the Bay Mills Indian Community	32
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007sKNaAAM						
U-20763-1443	05/19/23	Megan B. Boelstler	Michigan Laborers' District Council	Proof of Service	MLDC Proof of Service for Reply	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007rax6AAA						
U-20763-1442	05/19/23	Megan B. Boelstler	Michigan Laborers' District Council	Reply Brief	MLDC Reply Brief	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007sHHVAA2						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1441	05/09/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Brief	Enbridge Energy, Limited Partnership's Response and Accompanying Brief to the Application by the Bay Mills Indian Community for Leave to Appeal the April 11 and 12, 2023 Rulings Admitting Evidence into the Record and a Certificate of Service.	272
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007kC7nAAE						
U-20763-1440	05/05/23	Margaret C. Stalker	Michigan Propane Gas Association	Brief	MPGA & NPGA 's Initial Brief Reopening in Support of Enbridge Energy Limited Partnership's Application	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007iEBAAA2						
U-20763-1439	05/05/23	Christopher R. Clark	Bay Mills Indian Community	Brief	BMIC Initial Brief on Remand, Appendix A and Certificate of Service	70
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007iD7TAAU						
U-20763-1438	05/05/23	Nicholas Q. Taylor	MPSC Staff	Brief	MPSC Staff's Reopened Record Initial Brief	36
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007iDLMAA2						
U-20763-1437	05/05/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Brief	Enbridge Energy, Limited Partnership's Initial Brief on Reopening and Certificate of Service	36
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007iBttAAE						
U-20763-1436	05/05/23	Megan B. Boelstler	Michigan Laborers' District Council	Proof of Service	proof of service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007i5ulAAA						
U-20763-1434	05/05/23	Megan B. Boelstler	Michigan Laborers' District Council	Brief	MLC Initial Brief on Reopening in Support of Enbridge Application	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007i7nNAAQ						
U-20763-1433	04/28/23	Lori A. Penn	Penn Reporting, LLC	Transcript	Amended Vol. 17, April 13, 2023, Cross-Examination (Reflecting Corrected Rebuttal Testimony on Reopening of Stanley Vitton)	256
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007e8kIAAQ						
U-20763-1432	04/28/23	Sean P. Gallagher	Enbridge Energy, Limited	Testimony-Rebuttal	Enbridge Energy, Limited Partnership's Corrected Rebuttal Testimony on Reopening of Dr. Stanley Vitton and a Certificate of	19

RECEIVED by MSC 11/14/2025 2:10:18 PM

			Partnership		Service	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007dfioAAA						
U-20763-1431	04/27/23	Christopher R. Clark	Bay Mills Indian Community	Exhibits-Official Hearing	Corrected Exhibits BMC-50 to BMC-57	112
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007dJVAAA2						
U-20763-1430	04/25/23	Christopher R. Clark	Bay Mills Indian Community	Appeal	Application by the Bay Mills Indian Community for Leave to Appeal April 11 and 12, 2023 Rulings Admitting Evidence into the Record with Brief in Support	24
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007bk56AAA						
U-20763-1429	04/24/23	Lori A. Penn	Penn Reporting, LLC	Transcript	Volume 18, April 14, 2023, Cross-Examination	166
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007aPrLAAU						
U-20763-1428	04/24/23	Lori A. Penn	Penn Reporting, LLC	Transcript	Volume 17, April 13, 2023, Cross-Examination	256
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007aP8YAAU						
U-20763-1427	04/24/23	Lori A. Penn	Penn Reporting, LLC	Transcript	Volume 16, April 12, 2023 - Cross-Examination	239
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007aPnsAAE						
U-20763-1426	04/21/23	Lori A. Penn	Penn Reporting, LLC	Transcript	Volume 15, April 11, 2023, Cross-Examination	203
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007Zpu3AAC						
U-20763-1425	04/18/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Exhibits-Official Hearing	Cover Letter with Links to Parts 1-3 of Enbridge Energy, Limited Partnership's Exhibit A-28 and Certificate of Service	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007X630AAC						
U-20763-1424	04/17/23	Christopher R. Clark	Bay Mills Indian Community	Exhibits-Official Hearing	Final Exhibits List and Certificate of Service of BMIC and Exhibits BMC-59 to 64 ; 68-70	106
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007WjxNAAS						
U-20763-1423	04/17/23	Christopher	Bay Mills Indian	Exhibits-Official	Final Exhibit BMC-58 Part 2 of 2	83

RECEIVED by MSC 11/14/2025 2:10:18 PM

		R. Clark	Community	Hearing		
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007WlaNAAS						
U-20763-1422	04/17/23	Christopher R. Clark	Bay Mills Indian Community	Exhibits-Official Hearing	Final Exhibit BMC-58 Part 1 of 2	83
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007Wm3bAAC						
U-20763-1421	04/17/23	Christopher R. Clark	Bay Mills Indian Community	Exhibits-Official Hearing	Final Exhibit BMC-50 through BMC-57	124
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007WlNmAAK						
U-20763-1420	04/17/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Exhibits-Official Hearing	Final Exhibit A-28 Part 3 of 3	821
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007WJI4AAO						
U-20763-1419	04/17/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Exhibits-Official Hearing	Final Exhibit A-28 Part 2 of 3	1409
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007WIGGAA4						
U-20763-1418	04/17/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Exhibits-Official Hearing	Final Exhibit A-28 Part 1 of 3	809
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007WJNsAAO						
U-20763-1417	04/17/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Exhibits-Official Hearing	Enbridge Energy, Limited Partnership's Final Exhibit List and Official Exhibits A-29, A-30, A-31, A-32, and A-35 and Certificate of Service.	77
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007VYfCAAW						
U-20763-1416	04/17/23	Nicholas Q. Taylor	MPSC Staff	Exhibits-Official Hearing	MPSC Staff's Official Hearing Exhibits.	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007WFSuAAO						
U-20763-1415	04/17/23	Nicholas Q. Taylor	MPSC Staff	Exhibits-Official Hearing	MPSC Staff's Official Hearing Exhibit.	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007WG0dAAG						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1414	04/17/23	Nicholas Q. Taylor	MPSC Staff	Exhibits-Official Hearing	MPSC Staff's Official Hearing Exhibit	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007WEStAAO						
U-20763-1413	04/17/23	Nicholas Q. Taylor	MPSC Staff	Exhibits-Official Hearing	MPSC Staff's Official Hearing Exhibit.	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007WG5oAAG						
U-20763-1412	04/17/23	Nicholas Q. Taylor	MPSC Staff	Exhibits-Official Hearing	MPSC Staff's Official Hearing Exhibit.	29
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007WFUyAAO						
U-20763-1411	04/17/23	Nicholas Q. Taylor	MPSC Staff	Exhibits-Official Hearing	MPSC Staff's Official Exhibit Corrected S-32	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007WD7eAAG						
U-20763-1410	04/17/23	Nicholas Q. Taylor	MPSC Staff	Exhibits-Official Hearing	MPSC Staff's Official Exhibit S-31	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007WFUxAAO						
U-20763-1409	04/14/23	Christopher R. Clark	Bay Mills Indian Community	Exhibits	Exhibit BMC-70 filed on behalf of Bay Mills Indian Community	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007VOdzAAG						
U-20763-1408	04/12/23	Christopher R. Clark	Bay Mills Indian Community	Testimony	Sur-Rebuttal Testimony of Brian J. O'Mara on behalf of Bay Mills Indian Community	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007U68sAAC						
U-20763-1407	04/12/23	Raymond O. Howd	Mackinac Straits Corridor Authority	Proof of Service	Proof of Service regarding Responses to Bay Mills Indian Community's Second Discovery Requests to Mackinac Straits Corridor Authority	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007TkmKAAS						
U-20763-1406	04/11/23	Christopher R. Clark	Bay Mills Indian Community	Motion	Motion for Sur-Rebuttal Testimony of Brian J. O'Mara on behalf of Bay Mills Indian Community	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007TVYfAAO						
			Michigan			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1405	04/07/23	Megan B. Boelstler	Laborers' District Council	Proof of Service	MLDC Concurrence with Enbridge	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007RXS2AAO						
U-20763-1404	04/07/23	Megan B. Boelstler	Michigan Laborers' District Council	Other	MLDC Concurrence with Enbridge	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007RWt1AAG						
U-20763-1403	04/07/23	Margaret C. Stalker	Michigan Propane Gas Association	Brief	Intervenors Michigan Propane Gas Association and National Propane Gas Association's Brief in Support of Response of Enbridge Energy, Limited Partnership to Bay Mills Indian Community's Motions to Strike	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007RX2SAAW						
U-20763-1402	04/07/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Response	Enbridge Energy, Limited Partnership's Concurrence with Mackinac Straits Corridor Authority's Response to Bay Mills Indian Community's Motion to Strike the Rebuttal Testimony of Daniel M. Cooper relating to Risk Assessment in Other Industries	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007RW2HAAW						
U-20763-1401	04/07/23	Christopher R. Clark	Bay Mills Indian Community	Response	Bay Mills Indian Community's Response to Enbridge's Motion to Strike Portions of the Direct Testimony and Exhibits of Bay Mills Witness President Whitney B. Gravelle	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007RUbDAAW						
U-20763-1400	04/07/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Response	Enbridge Energy, Limited Partnership's Response to Bay Mills Indian Community's Motion to Strike John Godfrey's Testimony and Exhibit A-29	259
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007RTHJAA4						
U-20763-1399	04/07/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Response	Enbridge Energy, Limited Partnership's Response to Bay Mill Indian Community's Motion to Strike a Portion of Paul Eberth's March 10, 2023 Testimony and Sponsored Exhibit A-33	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007RTg0AAG						
U-20763-1398	04/07/23	Sean P.	Enbridge Energy,	Response	Enbridge Energy, Limited Partnership's Response to Bay Mills I"ndian Community's Motion to Strike Dr. Gabriele Ferrera's	43

RECEIVED by MSC 11/14/2025 2:10:18 PM

		Gallagher	Limited Partnership		March 10, 2023 Testimony and "Explosion Report"	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007RTy7AAG						
U-20763-1397	04/07/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Response	Enbridge Energy, Limited Partnership's Response to Bay Mills Indian Community's Motion to Strike (1) the Direct Testimony on Reopening of Ray Philipenko, (2) the Supplemental Direct Testimony on Reopening of Aaron Dennis, and (3) the Amended Corrected Direct Testimony on Reopening of Steven Bott	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007RUAxAAO						
U-20763-1396	04/07/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Response	Enbridge Energy, Limited Partnership's Response to Bay Mills Indian Community's Motion to Strike Steven Bott's March 10, 2023 Testimony	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007RTy5AAG						
U-20763-1395	04/07/23	Raymond O. Howd	Mackinac Straits Corridor Authority	Proof of Service	PROOF OF SERVICE re Mackinac Straits Corridor Authority's Response to BMIC's Motion to Strike	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007RNmKAAW						
U-20763-1394	04/07/23	Raymond O. Howd	Mackinac Straits Corridor Authority	Response	Mackinac Straits Corridor Authority's Response to BMIC's Motion to Strike the Rebuttal Testimony of Daniel M. Cooper, Relating to the Risk Assessment in Other Industries	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007RIMWAA4						
U-20763-1393	04/07/23	Nicholas Q. Taylor	MPSC Staff	Response	MPSC Staff's Response to Motion to Strike.	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007ROsjAAG						
U-20763-1392	03/29/23	Christopher R. Clark	Bay Mills Indian Community	Motion	Bay Mills Indian Community's Motion to Strike Steven Bott's Testimony Filed on March 10, 2023	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007Lg5RAAS						
U-20763-1391	03/29/23	Christopher R. Clark	Bay Mills Indian Community	Motion	Bay Mills Indian Community's Motion to Strike Dr. Gabriele Ferrara's March 10, 2023 Testimony and "Explosion Report"	75
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007LgjtAAC						
		Christopher	Bay Mills		Bay Mills Indian Community's Motion to	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1390	03/29/23	R. Clark	Indian Community	Motion	Strike John Godfrey's Testimony and Exhibit A-29	75
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007LaSlAAK						
U-20763-1389	03/29/23	Christopher R. Clark	Bay Mills Indian Community	Motion	Bay Mills Indian Community's Motion to Strike (1) The Direct Testimony on Reopening of Ray Philipenko, (2) The Supplemental Direct Testimony on Reopening of Aaron Dennis, and (3) The Amended Corrected Direct Testimony on Reopening of Steven Bott	74
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007LfAMAA0						
U-20763-1388	03/29/23	Christopher R. Clark	Bay Mills Indian Community	Motion	Bay Mills Indian Community's Motion to Strike Paul Eberth's March 10, 2023 Testimony and Sponsored Exhibit	55
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007LfOCAA0						
U-20763-1387	03/29/23	Christopher R. Clark	Bay Mills Indian Community	Motion	Bay Mills Indian Community's Motion to Strike the Rebuttal Testimony of Daniel M. Cooper Relating to Risk Assessment in Other Industries	27
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007LcOjAAK						
U-20763-1386	03/29/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Motion	Motion to Strike the Rebuttal Testimony on Remand [sic] and Sponsored Exhibits of President Whitney B. Gravelle filed on behalf of the Bay Mills Indian Community	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007LYNwAAO						
U-20763-1385	03/29/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Enbridge Energy, Limited Partnership's Supplemental Response to Sixth Set of Discovery Requests from Bay Mills Indian Community	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007LWzWAAW						
U-20763-1384	03/29/23	Daniel P. Bock	Department of Attorney General	Appearance	Appearance of Daniel Bock	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007LHwmAAG						
U-20763-1383	03/29/23	Robert P. Reichel	Department of Attorney General	Attorney Withdrawal	Withdrawal of Appearance of Robert Reichel	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007LLNWAA4						
U-20763-1382	03/24/23	Christopher	Bay Mills Indian	Proof of	Bay Mills Indian Community's Second Set of Discovery Requests to Mackinac Straits	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

		R. Clark	Community	Service	Corridor Authority	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007IxfBAAS						
U-20763-1381	03/23/23	Christopher S. Saunders	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007I0FMAA0						
U-20763-1380	03/21/23	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Bay Mills Indian Community's Sixth Discovery Requests to Enbridge Energy	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007GwXqAAK						
U-20763-1379	03/21/23	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Bay Mills Indian Community's Supplemental Response to Enbridge's Eighth Discovery Request	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007GwnqAAC						
U-20763-1378	03/20/23	Daniel E. Sonneveldt	MPSC Staff	Appearance	MPSC Staff's Appearance of Daniel Sonneveldt.	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007FpcrAAC						
U-20763-1377	03/20/23	Amit T. Singh	MPSC Staff	Appearance	Appearance of Amit Singh for Michigan Public Service Commission.	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007FnUJAA0						
U-20763-1376	03/13/23	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Bay Mills Indian Community's Response to Enbridge's Tenth Discovery Request	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007Bo11AAC						
U-20763-1375	03/10/23	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Bay Mills Indian Community's Response to Enbridge's Eleventh Discovery Request	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007A7nXAAS						
U-20763-1374	03/10/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Testimony-Rebuttal	Rebuttal testimony on reopening of Paul Eberth, Steven Bott, Ray Philipenko, John Godfrey, Dr. Gabriele Ferrera, Aaron Dennis, and Dr. Stanley Vitton.	193
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000007A3G2AAK						
U-20763-1373	03/10/23	Christopher R. Clark	Bay Mills Indian Community	Testimony-Rebuttal	Rebuttal Testimony and Exhibits of President Whitney B. Gravelle on behalf of Bay Mills Indian Community	341
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000079znFAAQ						
			Mackinac			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1372	03/10/23	Raymond O. Howd	Straits Corridor Authority	Proof of Service	Proof of Service of Rebuttal Testimony of Daniel M. Cooper on Remand	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000079ih4AAA						
U-20763-1371	03/10/23	Raymond O. Howd	Mackinac Straits Corridor Authority	Testimony-Rebuttal	Rebuttal Testimony of Daniel M. Cooper on Remand	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000079jCDAAY						
U-20763-1370	03/10/23	Michelle Conarton	MPSC Staff	Testimony-Rebuttal	Testimony and Exhibits of Adams and Chislea	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000079glWAAQ						
U-20763-1369	03/08/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service of Enbridge Energy, Limited Partnership's Corrected 9th, 10th, and 11th Sets of Discovery to Bay Mills Indian Community	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000772VFAAY						
U-20763-1368	03/07/23	Christopher R. Clark	Bay Mills Indian Community	Testimony and Exhibits	Supplemental Direct Testimony and Exhibit of Richard B. Kuprewicz	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000076bJyAAI						
U-20763-1367	03/07/23	Christopher S. Saunders	ALJs - MPSC	Ruling	Ruling on Motion for Leave to File Supplemental Direct Testimony of Richard B. Kuprewicz Based on Newly Publicized Information; Proof of Service	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000076UAJAA2						
U-20763-1366	03/03/23	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Bay Mills Indian Community's Response to Enbridge's Ninth Discovery Requests	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000074QJIAA2						
U-20763-1365	03/02/23	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Bay Mills Indian Community's Response to Enbridge's Eighth Discovery Request	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000073jbBAAQ						
U-20763-1363	03/02/23	Nicholas Q. Taylor	MPSC Staff	Letter	Letter advising MPSC Staff will not be filing a response to Bay Mills Indian Community's Motion for Leave to File Supplemental Direct Testimony	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000073MRLAA2						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1362	03/01/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Response	Response and Limited Non-Objection of Enbridge Energy, Limited Partnership to Bay Mills Indian Community's Motion for Leave to File Supplemental Direct Testimony of Richard B. Kuprewicz Based on Newly Publicized Information and Proof of Service	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000072tQOAAY						
U-20763-1361	02/24/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Enbridge Energy, Limited Partnership's Supplemental Response to BMIC's Fifth Set of Discovery Requests	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006xrjSAAQ						
U-20763-1360	02/24/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Enbridge Energy, Limited Partnership's tenth set of interrogatories to BMIC	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006xrE1AAI						
U-20763-1359	02/24/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for 9th Set of Interrogatories to BMIC	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006xogiAAA						
U-20763-1358	02/24/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for 8th Set of Interrogatories to BMIC	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006xpj1AAA						
U-20763-1357	02/23/23	Christopher R. Clark	Bay Mills Indian Community	Motion	Motion for Leave to File Supplemental Direct Testimony of Richard B. Kuprewicz Based on Newly Publicized Information	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006thBRAAY						
U-20763-1356	02/10/23	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Bay Mills Indian Community’s Response to Enbridge’s Seventh Discovery Request	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006n0UHAAY						
U-20763-1355	02/03/23	Christopher R. Clark	Bay Mills Indian Community	Testimony and Exhibits	Testimony and Exhibits of Richard B. Kuprewicz, Brian J. O’Mara, and President Whitney B. Gravelle on behalf of Bay Mills Indian Community	414
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006eeR6AAI						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1354	02/03/23	Nicholas Q. Taylor	MPSC Staff	Proof of Service	Proof of Service for MPSC Staff's 2nd Discovery Response to Enbridge.	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006eXqFAAU						
U-20763-1353	02/03/23	Michelle Conarton	MPSC Staff	Testimony and Exhibits	Testimony and Exhibits of Warner	68
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006eOEkAAM						
U-20763-1352	02/03/23	Raymond O. Howd	Mackinac Straits Corridor Authority	Other	Mackinac Straits Corridor Authority's Statement Regarding Additional Testimony	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006dHHzAAM						
U-20763-1351	01/24/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service of Enbridge Energy, Limited Partnership Responses to Bay Mills Indian Community's 5th Discovery Requests	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006QzdSAAS						
U-20763-1350	01/19/23	Sean P. Gallagher	Enbridge Energy Company	Request	Letter requesting removal of document containing discovery	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006KFP2AAO						
U-20763-1349	01/18/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	Corrected Certificate of Service	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006Je8BAAS						
U-20763-1348	01/18/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Testimony and Exhibits	Amended Corrected Direct Testimony on Reopening of Steven Bott with Sch. 1 and Ex. A-32	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006JKiMAAW						
U-20763-1347	01/18/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Testimony and Exhibits	Enbridge Energy, Limited Partnership, Corrected Direct Testimony on Reopening of Steven Bott and Exhibit A-32, including the portion of Schedule 1 and Proof of Service	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006J3zVAAS						
U-20763-1346	01/17/23	Sean P. Gallagher	Enbridge Energy, Limited	Testimony and Exhibits	Direct Testimony on Reopening of Ray Philipenko and Exhibit A-30, Supplemental Direct Testimony on Reopening of Aaron	33

RECEIVED by MSC 11/14/2025 2:10:18 PM

			Partnership		Dennis and Exhibit A-31, Direct Testimony on Reopening of Steven Bott and Exhibit A-32 and Proof of Service	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006Hew2AAC						
U-20763-1345	01/17/23	Lori A. Penn	Penn Reporting, LLC	Transcript	Volume 14, January 11, 2023, Motion Hearing	50
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006HSOxAAO						
U-20763-1344	01/13/23	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Response	Enbridge Energy, LP Response to MPSC Staff 10th Discovery Requests and Proof of Service - DOCUMENT REMOVED PER REQUEST OF FILER - SEE U-20763-1350 LETTER	7
U-20763-1343	01/12/23	Christopher S. Saunders	ALJs - MPSC	Ruling	Ruling on Motion to Strike; Proof of Service	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006D6LbAAK						
U-20763-1342	01/09/23	Benjamin J. Holwerda	MPSC Staff	Attorney Withdrawal	MPSC Staff's Notice of Withdrawal of Attorney of Benjamin Holwerda	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000006822wAAA						
U-20763-1341	01/09/23	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Bay Mills Indian Community's Fifth Discovery Requests to Enbridge Energy, Limited Partnership	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000067suyAAA						
U-20763-1340	12/28/22	Margaret C. Stalker	Michigan Propane Gas Association	Response	Intervenors Michigan Propane Gas Association and National Propane Gas Association's Brief in Support of Response of Enbridge Energy. Limited Partnership to Bay Mills Indian Community's Motion to Strike Appendix B of Enbridge Energy, Limited Partnership's 10/21/22 Filing	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000005vTpVAAU						
U-20763-1339	12/28/22	Benjamin J. Holwerda	MPSC Staff	Proof of Service	Proof of Service of Michigan Public Service Commission Staff's10th Discovery request to Enbridge, LP	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000005vTQSAA2						
U-20763-1338	12/21/22	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Response	Response of Enbridge Energy, Limited Partnership to Bay Mills Indian Community's Motion to Strike Appendix B of Enbridge Energy, Limited Partnership's October 21, 2022 Filing and Certificate of Service	90

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000005i7YLAAY						
U-20763-1337	12/21/22	Benjamin J. Holwerda	MPSC Staff	Response	Michigan Public Service Commission Staff's Response in Partial Support of Bay Mills Indian Community's Motion to Strike	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000005i4mgAAA						
U-20763-1336	12/21/22	Robert P. Reichel	Department of Attorney General	Response	Attorney General's Response in Support of Bay Mills Indian Community's Motion to Strike	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000005hgNmAAI						
U-20763-1335	12/20/22	Scott Strand	Environmental Law & Policy Center	Response	Response of MiCAN and ELPC in Support of Bay Mills Indian Community's Motion to Strike Appendix B of Enbridge Energy, Limited Partnership's October 21, 2022 Filing	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000005gwhMAAQ						
U-20763-1334	12/16/22	Christopher S. Saunders	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000005d4orAAA						
U-20763-1333	12/12/22	Christopher R. Clark	Bay Mills Indian Community	Motion	Bay Mills Indian Community's Motion to Strike Appendix B of Enbridge Energy, Limited Partnership's October 21, 2022 Filing	219
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000005XkYkAAK						
U-20763-1332	12/08/22	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000005UKSIAA4						
U-20763-1331	12/06/22	Spencer A. Sattler	MPSC Staff	Attorney Withdrawal	MPSC Staff's notice of withdrawal of Spencer A. Sattler.	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000005RVkXAAW						
U-20763-1330	12/01/22	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	4 Proofs of Service	19
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000005Lo6NAAS						
U-20763-1329	11/15/22	Benjamin J. Holwerda	MPSC Staff	Proof of Service	Proof of Service for MPSC Staff's 9th Discovery Request to Enbridge.	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000053mVmAAI						
U-20763-1328	11/07/22	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	BAY MILLS INDIAN COMMUNITY'S FOURTH DISCOVERY REQUESTS TO ENBRIDGE ENERGY, LIMITED PARTNERSHIP	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000004vdt4AAA						
U-20763-1327	10/25/22	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000004gcBLAAY						
U-20763-1326	10/21/22	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Enbridge Energy, Limited Partnership's Response to Bay Mills Indian Community's Third Discovery Requests	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000004dzwQAAQ						
U-20763-1325	10/21/22	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Exhibits	Exhibit A-28, Part 3 of 3 as to Witness Ashley Rentz	821
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000004dsOfAAI						
U-20763-1324	10/21/22	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Exhibits	Exhibit A-28, Part 2 of 3 as to Witness Ashley Rentz	1409
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000004dsDsAAI						
U-20763-1323	10/21/22	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Exhibits	Exhibit A-28, Part 1 of 3 as to Witness Ashley Rentz	809
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000004ds0tAAA						
U-20763-1322	10/21/22	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Testimony and Exhibits	Direct Testimony of Ashley Rentz, Exhibit A-28, Direct Testimony of John Godfrey, and Exhibit A-29 and Proof of Service	72
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000004drLyAAI						
U-20763-1321	10/10/22	Lydia Barbash-Riley	Michigan Environmental Council	Attorney Withdrawal	Notice of Withdrawal of Lydia Barbash-Riley and Proof of Service	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000004UF8WAAW						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1320	10/07/22	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service with attached service list	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000004SpCZAA0						
U-20763-1319	09/22/22	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Bay Mills Indian Community's Third Discovery Requests to Enbridge Energy, Limited Partnership	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000004I7vGAAS						
U-20763-1317	09/14/22	Sharon L. Feldman	ALJs - MPSC	Memorandum	Reassignment Memo	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000004Bo9FAAS						
U-20763-1316	09/08/22	Michigan Public Service Commission	Michigan Public Service Commission	Press Release		4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000047itVAAQ						
U-20763-1315	09/08/22	Michigan Public Service Commission	Michigan Public Service Commission	Order	Grants the August 5, 2022 joint request for additional briefing on the supplemental record	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000047eiGAAQ						
U-20763-1314	09/02/22	Kiana E. Courtney	Environmental Law & Policy Center	Attorney Withdrawal	Notice of Withdrawal of Kiana Courtney	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000044RBJAA2						
U-20763-1313	08/25/22	David L. Gover	Bay Mills Indian Community	Attorney Withdrawal	Notice of Withdrawal of Matthew L. Campbell and Megan R. Condon on behalf of Bay Mills Indian Community	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003z1fKAAQ						
U-20763-1312	08/23/22	Kiana E. Courtney	Environmental Law & Policy Center	Appearance	Appearance of Scott Strand	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003xOokAAE						
U-20763-1311	08/22/22	Christopher R. Clark	Bay Mills Indian Community	Attorney Withdrawal	Notice of Withdrawal of Appearance of Noorulanne Jan	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003wh0iAAA						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1310	08/22/22	Christopher R. Clark	Bay Mills Indian Community	Response	Bay Mills Indian Community's Response To Joint Petition For Rehearing Of Enbridge Energy, Limited Partnership, Michigan Propane Gas Association,National Propane Gas Association And Michigan Laborers' District Council	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003wfDiAAI						
U-20763-1309	08/22/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Response	Mackinac Straits Corridor Authority's Response to Joint Petition for Rehearing filed by Enbridge Energy, Limited Partnership, Michigan Propane Gas Association, National Propane Gas Association, and Michigan Laborers' District Council	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003wS3mAAE						
U-20763-1308	08/19/22	Dennis Mack	ALJs - MPSC	Ruling	Permission for Scott Strand to Appear Temporarily; Proof of Service	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003vNykAAE						
U-20763-1307	08/19/22	Kiana E. Courtney	Environmental Law & Policy Center	Motion	Motion for Admission Pro Hac Vice of Scott Strand	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003vFzqAAE						
U-20763-1305	08/12/22	Paul D. Bratt	Michigan Propane Gas Association	Attorney Withdrawal	Withdrawal of Appearance - Paul Bratt	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003pnwKAAQ						
U-20763-1304	08/09/22	Margrethe Kearney	Environmental Law & Policy Center	Substitution	Notice of Substitution of Margrethe Kearney	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003nfPmAAI						
U-20763-1303	08/05/22	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Petition	Joint Petition for Rehearing of Enbridge Energy, Limited Partnership, Michigan Propane Gas Association, National Propane Gas Association, and Michigan Laborers' District Council and Certificate of Service	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003lfMIAAY						
U-20763-1302	08/01/22	Public Comment	Public Comment	Comments	Comments submitted by 11 individuals	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003ilj8AAE						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1301	08/01/22	Comment	Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003iEvYAAU						
U-20763-1300	07/29/22	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003gyqyAAA						
U-20763-1299	07/28/22	Michigan Public Service Commission	Michigan Public Service Commission	Memorandum	Public comments from July 27, 2022 Commission Meeting	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003gPABAA2						
U-20763-1298	07/28/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003gMwiAAE						
U-20763-1297	07/27/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003fBRvAAM						
U-20763-1296	07/26/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003ebxWAAQ						
U-20763-1295	07/26/22	Public Comment	Public Comment	Comments	Comments of The Michigan Advisory Council	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003eZfCAAU						
U-20763-1294	07/26/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003eD9uAAE						
U-20763-1293	07/26/22	Lori A. Penn	Penn Reporting, LLC	Transcript	Volume 13, July 21, 2022, Prehearing	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003e8idAAA						
U-20763-1292	07/25/22	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003dLUWAA2						
U-20763-1291	07/22/22	Public Comment	Public Comment	Comments	Comment submitted by 1 individual	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003cUUDAA2						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1290	07/22/22	Dennis Mack	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003cNdkAAE						
U-20763-1289	07/22/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003cBXfAAM						
U-20763-1288	07/21/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003bjWTAAY						
U-20763-1287	07/20/22	Public Comment	Public Comment	Comments	Comments submitted by 13 individuals	17
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003al1nAAA						
U-20763-1286	07/19/22	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003ZqGCAA0						
U-20763-1285	07/19/22	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003ZIZmAAO						
U-20763-1284	07/18/22	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003Z2abAAC						
U-20763-1283	07/18/22	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003YvzRAAS						
U-20763-1282	07/18/22	Sean P. Gallagher	Enbridge Energy, Limited Partnership	Appearance	Entry of Appearance	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003YlvWAAS						
U-20763-1281	07/18/22	Public Comment	Public Comment	Comments	Comments submitted by 50 individuals	52
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003YQOMAA4						
U-20763-1280	07/15/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	3

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003XmUIAA0						
U-20763-1279	07/15/22	Public Comment	Public Comment	Comments	Comments submitted by 17 individuals	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003XZ78AAG						
U-20763-1278	07/14/22	Public Comment	Public Comment	Comments	Comments submitted by 7 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003WzMWAA0						
U-20763-1277	07/14/22	Public Comment	Public Comment	Comments	Comments submitted by 18 individuals	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003WbgxAAC						
U-20763-1276	07/13/22	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003W8xvAAC						
U-20763-1275	07/13/22	Public Comment	Public Comment	Comments	Comments submitted by 21 individuals	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003VmZPAA0						
U-20763-1274	07/12/22	Public Comment	Public Comment	Comments	Comments submitted by 11 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003VFGeAAO						
U-20763-1273	07/12/22	Dennis Mack	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003V5ebAAC						
U-20763-1272	07/12/22	Public Comment	Public Comment	Comments	Comments submitted by 28 individuals	30
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003UuHgAAK						
U-20763-1271	07/11/22	Public Comment	Public Comment	Comments	Comments submitted by 14 individuals	25
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003USZLAA4						
U-20763-1270	07/11/22	Public Comment	Public Comment	Comments	Comments submitted by 485 individuals	494
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003U8T3AAK						
U-20763-1269	07/08/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003U3yEAAS						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1268	07/07/22	Comment	Comment	Comments	Comments submitted by 73 individuals	75
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003U3FwAAK						
U-20763-1267	07/07/22	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003U1kgAAC						
U-20763-1266	07/07/22	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003TOQtAAO						
U-20763-1265	07/07/22	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003TN99AAG						
U-20763-1264	07/07/22	Public Comment	Public Comment	Comments	Comments submitted by 20 individuals	25
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003TI5SAAW						
U-20763-1263	07/07/22	Public Comment	Public Comment	Comments	Virtual comments at today's commission meeting	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003TD7rAAG						
U-20763-1262	07/07/22	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003SyaoAAC						
U-20763-1261	07/07/22	Public Comment	Public Comment	Comments	Comments submitted by Susan Sheinfeld	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003SvN9AAK						
U-20763-1260	07/07/22	Public Comment	Public Comment	Comments	Comments submitted by Magdelynn Miller	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003SvsLAAS						
U-20763-1259	07/07/22	Michigan Public Service Commission	Michigan Public Service Commission	Press Release		5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003Sfm4AAC						
U-20763-1258	07/07/22	Public Comment	Public Comment	Comments	Comments submitted by Matthew Borke	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003SZa4AAG						
		Michigan	Michigan			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1257	07/07/22	Public Service Commission	Public Service Commission	Order	Reopens the record to receive testimony, exhibits, and rebuttal as set forth in the order	51
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003Sdv8AAC						
U-20763-1256	07/07/22	James M. Olson	For the Love of Water	Comments	Public Comments on behalf of FLOW	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003SN3TAAW						
U-20763-1255	07/07/22	Public Comment	Public Comment	Comments	Comments submitted by 13 individuals	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003SMsHAAW						
U-20763-1254	07/07/22	Public Comment	Public Comment	Comments	Comments submitted by 15 individuals	17
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003SKcYAAW						
U-20763-1253	07/07/22	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003SI11AAG						
U-20763-1252	07/07/22	Public Comment	Public Comment	Comments	Comments submitted by 14 individuals	21
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003SEXbAAO						
U-20763-1251	07/06/22	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003RneEAAS						
U-20763-1250	07/05/22	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	17
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003QTdfAAG						
U-20763-1249	07/01/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003Plv0AAC						
U-20763-1248	06/30/22	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003OgA1AAK						
U-20763-1247	06/29/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003OD2hAAG						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1246	06/29/22	Comment	Comment	Comments	Comments submitted by 3 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003Nt9oAAC						
U-20763-1245	06/28/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003N7NcAAK						
U-20763-1244	06/27/22	Public Comment	Public Comment	Comments	Comment submitted by 1 individual	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003McdKAAS						
U-20763-1243	06/27/22	Public Comment	Public Comment	Comments	Comments submitted by 11 individuals	17
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003MZHFAA4						
U-20763-1242	06/24/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003La2AAAS						
U-20763-1241	06/24/22	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003LJvKAAW						
U-20763-1240	06/23/22	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003KibaAAC						
U-20763-1239	06/22/22	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003K7QgAAK						
U-20763-1238	06/21/22	Public Comment	Public Comment	Comments	Comments submitted by 21 individuals	39
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003JHi1AAG						
U-20763-1237	06/21/22	Public Comment	Public Comment	Comments	Comments submitted by 7 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003IxOmAAK						
U-20763-1236	06/17/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003Hj9JAAS						
U-20763-1235	06/16/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003GzsUAAS						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1234	06/15/22	Public Comment	Public Comment	Comments	Comments submitted by 9 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003G9t6AAC						
U-20763-1233	06/14/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003FMpdAAG						
U-20763-1232	06/14/22	Public Comment	Public Comment	Comments	Comments submitted by 13 individuals	24
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003EvQCAA0						
U-20763-1231	06/13/22	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003EcuAAAS						
U-20763-1230	06/13/22	Public Comment	Public Comment	Comments	Comments submitted by 11 individuals on 6/11/22 and 6/12/22	21
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003EJKIAA4						
U-20763-1229	06/10/22	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003DWA1AAO						
U-20763-1228	06/09/22	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003Bkq2AAC						
U-20763-1227	06/09/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003BUihAAG						
U-20763-1226	06/08/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003B2l9AAC						
U-20763-1225	06/08/22	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003AmBvAAK						
U-20763-1224	06/07/22	Public Comment	Public Comment	Comments	Comments submitted by Gary Street, M.S. Chemical Engineering, P.E. Michigan	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003Abd2AAC						
U-20763-1223	06/07/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	2

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003A45nAAC						
U-20763-1222	06/07/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000039jq6AAA						
U-20763-1221	06/06/22	Public Comment	Public Comment	Comments	Comments submitted by 11 individuals	19
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000037nwcAAA						
U-20763-1220	06/03/22	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000035ye1AAA						
U-20763-1219	06/02/22	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000035Gn7AAE						
U-20763-1218	06/01/22	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000034VnjAAE						
U-20763-1217	06/01/22	Public Comment	Public Comment	Comments	Comments submitted by 7 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000346nwAAA						
U-20763-1216	05/31/22	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000033jJzAAI						
U-20763-1215	05/31/22	Public Comment	Public Comment	Comments	Comments submitted by 27 individuals	52
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000033iP2AAI						
U-20763-1214	05/27/22	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000032XJbAAM						
U-20763-1213	05/27/22	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000032AvZAAU						
U-20763-1212	05/26/22	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000031qf2AAA						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1211	05/26/22	Public Comment	Public Comment	Comments	Comments submitted by 9 individuals	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000031SJ5AAM						
U-20763-1210	05/25/22	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000315bJAAQ						
U-20763-1209	05/25/22	Public Comment	Public Comment	Comments	Comments submitted by 14 individuals	28
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000030bJpAAI						
U-20763-1208	05/24/22	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000030Cy0AAE						
U-20763-1207	05/24/22	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002zrovAAA						
U-20763-1206	05/23/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002zUiPAAU						
U-20763-1205	05/23/22	Public Comment	Public Comment	Comments	Comments submitted by 40 individuals	79
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002zNs8AAE						
U-20763-1204	05/20/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002yXDMAA2						
U-20763-1203	05/20/22	Public Comment	Public Comment	Comments	Comments submitted by 21 individuals	38
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002yMdjAAE						
U-20763-1202	05/19/22	Public Comment	Public Comment	Comments	Comments submitted by 41 individuals	79
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002xrwzAAA						
U-20763-1201	05/19/22	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002xZoZAAU						
U-20763-1200	05/19/22	Public Comment	Public Comment	Comments	Comments submitted by 15 individuals	25

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002xQkGAAU						
U-20763-1199	05/18/22	Public Comment	Public Comment	Comments	Comments submitted by 11 individuals	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002x8zIAAQ						
U-20763-1198	05/18/22	Public Comment	Public Comment	Comments	Comments submitted by 28 individuals	59
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002x0aVAAQ						
U-20763-1197	05/18/22	Public Comment	Public Comment	Comments	Comments submitted by 435 individuals	765
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002wtRSAAY						
U-20763-1196	05/17/22	Public Comment	Public Comment	Comments	Comments submitted by 296 individuals	529
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002wMpdAAE						
U-20763-1195	05/18/22	Public Comment	Public Comment	Comments	Comments submitted by 23 individuals	40
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002x0YuAAI						
U-20763-1194	05/16/22	Shaina R. Reed	Enbridge Energy, Limited Partnership	Attorney Withdrawal	Notice of Withdrawal of Shaina R. Reed as Counsel	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002vgDfAAI						
U-20763-1193	05/16/22	Public Comment	Public Comment	Comments	Comments submitted by 175 individuals	306
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002veP4AAI						
U-20763-1192	05/16/22	Public Comment	Public Comment	Comments	Public Comments from 27 individuals	47
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002vdyWAAQ						
U-20763-1191	05/16/22	Public Comment	Public Comment	Comments	Public Comments from 8 individuals	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002vdhaAAA						
U-20763-1190	05/16/22	Michigan Public Service Commission	Michigan Public Service Commission	Other	Payment of assessed fee	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002vbWiAAI						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1189	05/16/22	Comment	Comment	Comments	Comments submitted by 435 individuals	862
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002vUmdAAE						
U-20763-1188	05/16/22	Public Comment	Public Comment	Comments	Public comments from 79 individuals	133
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002vOkyAAE						
U-20763-1187	05/16/22	Michael S. Ashton	Enbridge Energy, Limited Partnership	Letter	May 16, 2022 Letter to MPSC	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002vNRPAA2						
U-20763-1186	05/13/22	Public Comment	Public Comment	Comments	Comments submitted by 314 individuals	601
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002ueV8AAI						
U-20763-1185	05/17/22	Public Comment	Public Comment	Comments	Comments submitted by 282 individuals	499
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002w2L6AAI						
U-20763-1184	05/17/22	Public Comment	Public Comment	Comments	Comments submitted by 288 individuals	507
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002w0jGAAQ						
U-20763-1183	05/17/22	Public Comment	Public Comment	Comments	Comments submitted by 259 individuals	500
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002vz2oAAA						
U-20763-1182	05/13/22	Public Comment	Public Comment	Comments	Comments submitted by 286 individuals	512
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002vxKmAAI						
U-20763-1181	05/13/22	Public Comment	Public Comment	Comments	Public Comments from 16 individuals	27
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002uYs1AAE						
U-20763-1180	05/13/22	Public Comment	Public Comment	Comments	Public Comments filed by 207 individuals	372
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002uYiOAAU						
U-20763-1179	05/13/22	Public Comment	Public Comment	Comments	Comments submitted by 26 individuals	48
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002uR5UAAU						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1178	05/13/22	Comment	Comment	Comments	Comments submitted by 60 individuals	101
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002uI5PAAU						
U-20763-1177	05/13/22	Public Comment	Public Comment	Comments	Comments submitted by 71 individuals	142
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002uHxVAAU						
U-20763-1176	05/10/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002sGvXAAU						
U-20763-1175	05/09/22	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002rfyzAAA						
U-20763-1174	05/09/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002rfH0AAI						
U-20763-1173	05/06/22	Public Comment	Public Comment	Comments	Comments submitted by 20 individuals	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002qNBmAAM						
U-20763-1172	05/04/22	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002pFEJAA2						
U-20763-1171	05/03/22	Public Comment	Public Comment	Comments	Comments submitted by 52 individuals	52
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002o2MrAAI						
U-20763-1170	04/29/22	Public Comment	Public Comment	Comments	Comments submitted by 20 individuals	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002mYUbAAM						
U-20763-1169	04/29/22	Public Comment	Public Comment	Comments	Comments submitted by 145 individuals	145
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002mNCvAAM						
U-20763-1168	04/28/22	Public Comment	Public Comment	Comments	Comments submitted by 188 individuals	188
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002lkNvAAI						
U-20763-1167	04/28/22	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002lS4vAAE						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1166	04/27/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002kqMVAAY						
U-20763-1165	04/27/22	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002keqnAAA						
U-20763-1164	04/26/22	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002k2OnAAI						
U-20763-1163	04/26/22	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002jh9DAAQ						
U-20763-1162	04/25/22	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002iuDjAAI						
U-20763-1161	04/25/22	Public Comment	Public Comment	Comments	Postcard Comments submitted by 8 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002isAZAAY						
U-20763-1160	04/22/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002iCFoAAM						
U-20763-1159	04/21/22	Public Comment	Public Comment	Comments	Comments submitted by 7 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002hUvCAAU						
U-20763-1158	04/20/22	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002giFMAAY						
U-20763-1157	04/19/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002fwzZAAQ						
U-20763-1156	04/18/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002fCV1AAM						
U-20763-1155	04/18/22	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	8

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002emPlAAI						
U-20763-1154	04/15/22	Public Comment	Public Comment	Comments	Comments submitted by 28 individuals	28
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002dwX6AAI						
U-20763-1153	04/14/22	Public Comment	Public Comment	Comments	Comments submitted by 33 individuals	33
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002dYmOAAU						
U-20763-1152	04/14/22	Public Comment	Public Comment	Comments	Comments submitted by 45 individuals	45
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002dVqHAAU						
U-20763-1151	04/13/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002cnWhAAI						
U-20763-1150	04/13/22	Public Comment	Public Comment	Comments	Comments from the office of Ohio State Representative Michael Sheehy	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002cjObAAI						
U-20763-1149	04/13/22	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002cVurAAE						
U-20763-1148	04/12/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002c65XAAQ						
U-20763-1147	04/11/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002bJc3AAE						
U-20763-1146	04/11/22	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002ayfTAAQ						
U-20763-1145	04/08/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002ZaIFAAS						
U-20763-1144	04/07/22	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002ZAHsAAO						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1143	04/06/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002YRK4AAO						
U-20763-1142	04/06/22	Nicholas Q. Taylor	MPSC Staff	Exhibits	MPSC Staff's Fee Exhibit	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002YCwVAAW						
U-20763-1141	04/06/22	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002Y7ZHAA0						
U-20763-1140	04/05/22	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002XTLZAA4						
U-20763-1139	04/05/22	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002XRw2AAG						
U-20763-1138	04/04/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002WtCAAA0						
U-20763-1137	04/01/22	Public Comment	Public Comment	Comments	Comments submitted by 16 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002Vk5tAAC						
U-20763-1136	04/01/22	Public Comment	Public Comment	Comments	Comments of Senator Theresa Gavarone (Senate District 2) and Minority Leader Kenny Yuko	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002VZv6AAG						
U-20763-1135	03/31/22	Public Comment	Public Comment	Comments	Comments submitted by 13 individuals	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002UxDYAA0						
U-20763-1134	03/31/22	Public Comment	Public Comment	Comments	Comments submitted by 18 individuals	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002Uo0SAAS						
U-20763-1133	03/29/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002TDF4AAO						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1132	03/28/22	Comment	Comment	Comments	Comments submitted by 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002SNsgAAG						
U-20763-1131	03/28/22	Public Comment	Public Comment	Comments	Comments submitted by 62 individuals	62
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002SGhAAAW						
U-20763-1130	03/25/22	Public Comment	Public Comment	Comments	Comments submitted by 21 individuals	21
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002RDb4AAG						
U-20763-1129	03/25/22	Public Comment	Public Comment	Comments	Comments submitted by 38 individuals	38
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002R5qXAAS						
U-20763-1128	03/25/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002QzRMAA0						
U-20763-1127	03/24/22	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002QU8ZAAW						
U-20763-1126	03/22/22	Michigan Public Service Commission	Michigan Public Service Commission	Memorandum	Comments from 3-17-2022 Commission Meeting	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002OUhPAAW						
U-20763-1125	03/21/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002O1RHAA0						
U-20763-1124	03/18/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002MirlAAC						
U-20763-1123	03/18/22	Public Comment	Public Comment	Comments	Comments submitted by Susan J. Smith, M.D	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002MgK1AAK						
U-20763-1122	03/17/22	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002MGhBAAW						
		Michigan	Michigan			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1121	03/17/22	House of Representatives	House of Representatives	Letter	House Resolution Number 250 dated March 9, 2022	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002MEfGAAW						
U-20763-1120	03/17/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002M4BdAAK						
U-20763-1119	03/17/22	Public Comment	For the Love of Water	Comments	Comments from For Love of Water ("FLOW")	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002M12CAAS						
U-20763-1118	03/17/22	Margaret O'Brien	Michigan Senate	Letter	Senate Resolution No. 114 dated March 9, 2022	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002LwmlAAC						
U-20763-1117	03/17/22	Public Comment	Public Comment	Comments	Comments by 1 individual	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002LsRPAA0						
U-20763-1116	03/16/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002LTY0AAO						
U-20763-1115	03/14/22	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002Js7AAAS						
U-20763-1114	03/14/22	Public Comment	Public Comment	Comments	Comments submitted by 81 individuals	81
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002Jhc7AAC						
U-20763-1113	03/14/22	Dennis Mack	ALJs - MPSC	Transmittal		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002JUOhAAO						
U-20763-1112	03/11/22	Spencer A. Sattler	MPSC Staff	Reply Brief	Reply Brief – FILED UNDER SEAL	0
Confidential File						
U-20763-1111	03/11/22	Paul D. Bratt	Michigan Propane Gas Association	Reply Brief	Michigan Propane Gas Association and National Propane Gas Association's Reply Brief in Support of Enbridge Energy, Limited Partnership's Application and Certificate of Service	18

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002IiZAAA0						
U-20763-1110	03/11/22	James M. Olson	For the Love of Water	Reply Brief	Reply Brief of For Love of Water (FLOW)	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002IiOqAAK						
U-20763-1109	03/11/22	Public Comment	Public Comment	Comments	Comments submitted by 28 individuals	28
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002IeogAAC						
U-20763-1108	03/11/22	Public Comment	Public Comment	Comments	Comments of Mr. Jeffrey Insko	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002IdkDAAS						
U-20763-1107	03/11/22	Christopher R. Clark	Bay Mills Indian Community	Reply Brief	Response Brief of the Bay Mills Indian Community, the Little Traverse Bay Bands of Odawa Indians, the Grand Traverse Band of Ottawa and Chippewa Indians, and the Nottawaseppi Huron Band of the Potawatomi	83
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002IcmwAAC						
U-20763-1106	03/11/22	Spencer A. Sattler	MPSC Staff	Reply Brief	Reply Brief of MPSC Staff (Redacted)	67
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002IcjFAAS						
U-20763-1105	03/11/22	Christopher M. Bzdok	Michigan Environmental Council	Reply Brief	Reply Brief of MEC, NWF and Watershed Council	59
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002Icj9AAC						
U-20763-1104	03/11/22	Michael S. Ashton	Enbridge Energy, Limited Partnership	Reply Brief	Reply Brief of Enbridge Energy, Limited Partnership and Proof of Service	63
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002Ic8ZAAS						
U-20763-1103	03/11/22	Public Comment	Public Comment	Comments	Comments submitted by 61 individuals	61
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002Ic2NAAS						
U-20763-1102	03/11/22	Margrethe Kearney	Environmental Law & Policy Center	Reply Brief	Reply Brief on Behalf of the Environmental Law and Policy Center and Michigan Climate Action Network	32
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002IXWFAA4						
U-20763-1101	03/10/22	Valerie J.M.	Michigan Chamber of	Comments	Comment of the Michigan Chamber of	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

		Brader	Commerce		Commerce regarding MEPA Analysis	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002I4vOAAS						
U-20763-1100	03/10/22	Public Comment	Public Comment	Comments	Comments submitted by 57 individuals	59
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002HsySAAS						
U-20763-1099	03/10/22	Public Comment	Public Comment	Comments	Comments submitted by 130 individuals	130
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002Hlz0AAC						
U-20763-1098	03/09/22	Valerie J.M. Brader	Small Business Association of Michigan	Comments	Comment from the Small Business Association of Michigan	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002HBYoAAO						
U-20763-1097	03/09/22	Public Comment	Public Comment	Comments	Comments submitted by 630 individuals	630
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002H3eHAAS						
U-20763-1096	03/09/22	Public Comment	Public Comment	Comments	Comments submitted by 85 individuals	85
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002GsRSAA0						
U-20763-1095	03/08/22	Public Comment	Public Comment	Comments	Comments submitted by 24 individuals	24
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002GBfQAAW						
U-20763-1094	03/08/22	Public Comment	Public Comment	Comments	Comments submitted by 136 individuals	136
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002GDZfAAO						
U-20763-1093	03/08/22	Public Comment	Public Comment	Comments	Comments submitted by 305 individuals	305
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002FpPKAA0						
U-20763-1092	03/07/22	Public Comment	Public Comment	Comments	Comments submitted by 971 individuals	971
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002FUXbAAO						
U-20763-1091	03/07/22	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002FME8AAO						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1090	03/07/22	Comment	Comment	Comments	Comments submitted by 32 individuals	32
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002FIEoAAO						
U-20763-1089	03/07/22	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000002EwSGAA0						
U-20763-1088	02/24/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000028jHXAAY						
U-20763-1087	02/24/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000028OtYAAU						
U-20763-1086	02/22/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000026tLeAAI						
U-20763-1085	02/22/22	Paul D. Bratt	Michigan Propane Gas Association	Brief	Michigan Propane Gas Association and National Propane Gas Association's Initial Brief in Support of Enbridge Energy, Limited Partnership's Application and Corrected Certificate of Service	33
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000026ntfAAA						
U-20763-1084	02/18/22	Spencer A. Sattler	MPSC Staff	Brief	MPSC Staff's Initial Brief	137
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000025fFbAAI						
U-20763-1083	02/18/22	James M. Olson	For the Love of Water	Brief	Initial Brief of Intervenor For Love of Water	32
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000025ehYAAQ						
U-20763-1082	02/18/22	Margrethe Kearney	Environmental Law & Policy Center	Brief	Initial Brief of the Environmental Law and Policy Center and Michigan Climate Action Network	66
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000025d2aAAA						
U-20763-1080	02/18/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Brief	MSCA Initial Brief, Cover letter and Proof of Service on parties	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000025aW9AAI						
		Michael S.	Enbridge Energy,		Initial Brief of Enbridge Energy, Limited	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1079	02/18/22	Ashton	Limited Partnership	Brief	Partnership	54
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000025VtmAAE						
U-20763-1077	02/18/22	Christopher R. Clark	Bay Mills Indian Community	Brief	Initial Brief of the Bay Mills Indian Community, the Little Traverse Bay Bands of Odawa Indians, the Grand Traverse Band of Ottawa and Chippewa Indians, and the Nottawaseppi Huron Band of the Potawatomi	68
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000025UEWAA2						
U-20763-1076	02/18/22	Megan B. Boelstler	Michigan Laborers' District Council	Proof of Service	Proof of Service of MLDC Brief	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000025FrZAAU						
U-20763-1075	02/18/22	Megan B. Boelstler	Michigan Laborers' District Council	Brief	MLDC's Initial Brief in Support of Enbridge's Application	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000025FlMAAU						
U-20763-1074	02/18/22	Megan B. Boelstler	Michigan Laborers' District Council	Appearance	The appearance of Megan Boelstler on behalf of MLDC	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000025FVeAAM						
U-20763-1073	01/28/22	Spencer A. Sattler	MPSC Staff	Proof of Service	Proof of Service of MPSC Staff's Official Hearing Exhibits	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001stagAAA						
U-20763-1072	01/27/22	James A. Bransky	Little Traverse Bay Bands of Odawa Indians	Exhibits-Official Hearing	LTBB Odawa Official Exhibits, cover and POS	40
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001sAgAAAU						
U-20763-1071	01/27/22	Paul D. Bratt	Michigan Propane Gas Association	Exhibits-Official Hearing	MPGA NPGA Official Hearing Exhibit	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rxX1AAI						
U-20763-1070	01/27/22	Lori A. Penn	Penn Reporting,	Transcript	Vol. 12, January 24, 2022, Cross-	254

RECEIVED by MSC 11/14/2025 2:10:18 PM

			LLC		Examination	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rvgbAAA						
U-20763-1069	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Exhibit MM7 (Joint Specifications) to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	238
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rohsAAA						
U-20763-1068	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Exhibit MM6 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rof3AAA						
U-20763-1067	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Exhibit MM5 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001roc9AAA						
U-20763-1066	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Exhibit MM4 (part 8) to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	425
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001roZAAAY						
U-20763-1065	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Exhibit MM4 (part 7) to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	400
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001roXnAAI						
U-20763-1064	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Exhibit MM4 (part 6) to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	400
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001roVwAAI						
U-20763-1063	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Exhibit MM4 (part 5) to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	200
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001roU0AAI						
U-20763-1062	01/27/22	Raymond O. Howd	Mackinac Straits Corridor	Exhibits-Official	Exhibit MM4 ((part 4) to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac	200

RECEIVED by MSC 11/14/2025 2:10:18 PM

			Authority	Hearing	Straits Corridor Authority	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001roMuAAI						
U-20763-1061	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Exhibit MM4 (part 3) to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	200
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rnqiAAA						
U-20763-1060	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Exhibit MM4 (part 2) to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	200
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001roFxAAI						
U-20763-1059	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Exhibit MM4 (part 1) to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	600
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001roB7AAI						
U-20763-1058	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Exhibit MM3 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	308
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rnguAAA						
U-20763-1057	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Exhibit MM2 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rnxyAAA						
U-20763-1056	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Exhibit MM1 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	62
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rngsAAA						
U-20763-1055	01/27/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits-Official Hearing	Mackinac Straits Corridor Authority's Official Exhibit List	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rmhbAAA						
U-20763-1054	01/26/22	Christopher R. Clark	Bay Mills Indian Community	Exhibits-Official Hearing	Exhibits BMC-34 and BMC-42 – FILED UNDER SEAL	0

RECEIVED by MSC 11/14/2025 2:10:18 PM

Confidential File						
U-20763-1053	01/26/22	Christopher R. Clark	Bay Mills Indian Community	Exhibits-Official Hearing	Bay Mills Indian Community's Official Exhibits BMC-46, BMC-47, and BMC-49	285
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rXDKAA2						
U-20763-1052	01/26/22	Christopher R. Clark	Bay Mills Indian Community	Exhibits-Official Hearing	Bay Mills Indian Community's Official PUBLIC Hearing Exhibits BMC-6 through BMC-16, and BMC-31 through BMC-45	854
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rX73AAE						
U-20763-1051	01/26/22	Lori A. Penn	Penn Reporting, LLC	Transcript	Volume 10 – January 20, 2022 Cross Examination Hearing – FILED UNDER SEAL	0
Confidential File						
U-20763-1050	01/26/22	Lori A. Penn	Penn Reporting, LLC	Transcript	Vol 11, Jan 21, 2022, Cross-Examination	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rC0sAAE						
U-20763-1049	01/26/22	Lori A. Penn	Penn Reporting, LLC	Transcript	Vol. 10, Jan 20, 2022, Public Cross-Examination	324
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rBwaAAE						
U-20763-1048	01/26/22	Margrethe Kearney	Environmental Law & Policy Center	Exhibits-Official Hearing	Official Hearing Exhibits ELP-24 through ELP-34 of the Environmental Law and Policy Center and Michigan Climate Action Network	414
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rATPAA2						
U-20763-1047	01/26/22	Margrethe Kearney	Environmental Law & Policy Center	Exhibits-Official Hearing	Official Hearing Exhibits ELP-23 & ELP-23.1 of the Environmental Law and Policy Center and Michigan Climate Action Network	276
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rALVAA2						
U-20763-1046	01/26/22	Margrethe Kearney	Environmental Law & Policy Center	Exhibits-Official Hearing	Official Hearing Exhibits ELP-16 through ELP-22 of the Environmental Law and Policy Center and Michigan Climate Action Network	83
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rAFiAAM						
U-20763-1045	01/26/22	Margrethe Kearney	Environmental Law & Policy Center	Exhibits-Official Hearing	Official Hearing Exhibit ELP-15 (Part 2 of 2) of the Environmental Law and Policy Center and Michigan Climate Action Network	715

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rA3rAAE						
U-20763-1044	01/26/22	Margrethe Kearney	Environmental Law & Policy Center	Exhibits-Official Hearing	Official Hearing Exhibit ELP-15 (Part 1 of 2) of the Environmental Law and Policy Center and Michigan Climate Action Network	825
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rA7EAAU						
U-20763-1043	01/26/22	Margrethe Kearney	Environmental Law & Policy Center	Exhibits-Official Hearing	Official Hearing Exhibits ELP-1 through ELP-13 of the Environmental Law and Policy Center and Michigan Climate Action Network	487
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001rA1LAAU						
U-20763-1042	01/25/22	Spencer A. Sattler	MPSC Staff	Exhibits-Official Hearing	MPSC Staff Official Hearing Exhibits	376
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001qf00AAA						
U-20763-1041	01/25/22	Michael S. Ashton	Enbridge Energy, Limited Partnership	Exhibits-Official Hearing	PART 4 of Enbridge's Official Exhibits	128
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001qdefAAA						
U-20763-1040	01/25/22	Michael S. Ashton	Enbridge Energy, Limited Partnership	Exhibits-Official Hearing	PART 3 of Enbridge's Official Exhibits	367
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001qTN0AAM						
U-20763-1039	01/25/22	Michael S. Ashton	Enbridge Energy, Limited Partnership	Exhibits-Official Hearing	PART 2 of Enbridge's Official Exhibits	359
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001qcl5AAA						
U-20763-1038	01/25/22	Michael S. Ashton	Enbridge Energy, Limited Partnership	Exhibits-Official Hearing	PART 1 of Enbridge's Official Exhibits	255
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001qcPCAAY						
U-20763-1037	01/25/22	Lori A. Penn	Penn Reporting, LLC	Transcript	Vol. 9, Jan. 19, 2022, Cross-Examination	335
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001qFWcAAM						
			Penn			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1036	01/25/22	Lori A. Penn	Reporting, LLC	Transcript	Vol 8, Jan. 18, 2022, Cross-Examination	150
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001qEbQAAU						
U-20763-1035	01/24/22	Dennis Mack	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001pu01AAA						
U-20763-1034	01/24/22	Lori A. Penn	Penn Reporting, LLC	Transcript	Vol. 7, January 14, 2022 - Cross-Examination	242
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001pbZMAAY						
U-20763-1033	01/24/22	Lori A. Penn	Penn Reporting, LLC	Transcript	Volume 6, January 13, 2022 - Motion Hearing	119
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001pbPcAAI						
U-20763-1032	01/24/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Motion	Motion to File Sur-Sur-Surrebuttal Testimony of Daniel M. Cooper	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001pVcCAAU						
U-20763-1031	01/24/22	Public Comment	Public Comment	Comments	Comments submitted by Brian J. O'Mara.: Additional Comments and Concerns related to the Proposed Line 5 Tunnel/Pipeline	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001pN7xAAE						
U-20763-1030	01/24/22	Public Comment	Public Comment	Comments	Comments submitted by Brian J. O'Mara.: Technical comments on Enbridge Testimony and my concerns related to fire and explosion during construction and/or operations of the tunnel and pipeline	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001pMXqAAM						
U-20763-1029	01/21/22	Dennis Mack	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001oXKwAAM						
U-20763-1028	01/20/22	Christopher R. Clark	Bay Mills Indian Community	Testimony	Revised Direct Testimony of Dr. Charles Cleland – FILED UNDER SEAL	0
Confidential File						
		Christopher	Bay Mills Indian	Proof of	Proof of Service Bay Mills Indian Community's Response to Michigan Public	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1027	01/20/22	R. Clark	Community	Service	Service Commission Staff's Third Discovery Request to Bay Mills Indian Community	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001nz73AAA						
U-20763-1026	01/20/22	Christopher R. Clark	Bay Mills Indian Community	Testimony and Exhibits	Sur-Sur-Rebuttal Testimony and Exhibit of Richard B. Kuprewicz on behalf of Bay Mills Indian Community	134
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001nr2eAAA						
U-20763-1025	01/20/22	Dennis Mack	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001nm0gAAA						
U-20763-1024	01/19/22	Dulce M. Flores	Bay Mills Indian Community	Exhibits	Exhibit BMC-42C – FILED UNDER SEAL	0
Confidential File						
U-20763-1023	01/19/22	Christopher R. Clark	Bay Mills Indian Community	Motion	Bay Mills Indian Community's Motion to File Sur-Sur-Rebuttal Testimony or in the Alternative to Take Official Notice, with Attachments A and B	143
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001nJzSAAU						
U-20763-1022	01/19/22	Christopher R. Clark	Bay Mills Indian Community	Testimony	Revised Direct Testimony of Jacques LeBlanc Jr. on behalf of Bay Mills Indian Community	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001n5QdAAI						
U-20763-1021	01/19/22	Christopher R. Clark	Bay Mills Indian Community	Testimony	Revised Direct Testimony of Frank Ettawageshik on behalf of Bay Mills Indian Community and Little Traverse Bay Bands	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001n5GtAAI						
U-20763-1020	01/19/22	Christopher R. Clark	Bay Mills Indian Community	Testimony	Revised Direct Testimony of Pres. Whitney B. Gravelle on behalf of Bay Mills Indian Community	23
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001n5CDAAY						
U-20763-1019	01/19/22	Christopher R. Clark	Bay Mills Indian Community	Testimony	Public Revised Direct Testimony of Dr. Charles E. Cleland on behalf of Bay Mills Indian Community	45
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001n4vZAAQ						
U-20763-1018	01/18/22	Margrethe Kearney	Environmental Law &	Testimony	Revised Testimony of Peter Erickson on Behalf of the Environmental Law and Policy Center and Michigan Climate Action	52

RECEIVED by MSC 11/14/2025 2:10:18 PM

			Policy Center		Network	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001m4PRAAY						
U-20763-1017	01/18/22	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001lvgaAAA						
U-20763-1016	01/17/22	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Enbridge Energy, Limited Partnership's Discovery Response to Bay Mills Indian Community's Second Set of Discovery Requests	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001lZWlAAM						
U-20763-1015	01/17/22	Michael S. Ashton	Enbridge Energy, Limited Partnership	Exhibits	Enbridge Energy, Limited Partnership's Exhibits 13.1 and 14.1	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001lW3cAAE						
U-20763-1014	01/14/22	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Proof of Service Bay Mills Indian Community's 2nd Discovery Request to Enbridge	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001ktlLAAQ						
U-20763-1013	01/14/22	Christopher M. Bzdok	Nottawaseppi Huron Band of Potawatomi Indians	Testimony and Exhibits	Revised Testimony of John Rodwan in behalf of Nottawaseppi Huron Band of the Potawatomi	36
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001ksqeAAA						
U-20763-1012	01/14/22	Dennis Mack	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001ko37AAA						
U-20763-1011	01/14/22	Michael S. Ashton	Enbridge Energy, Limited Partnership	Testimony-Rebuttal	Surrebutal Testimony of Aaron Dennis and its Proof of Service	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001klm8AAA						
U-20763-1010	01/14/22	Public Comment	Public Comment	Comments	Comments submitted by Gary Street, M.S., P.E.	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001kQ04AAE						
U-20763-1009	01/13/22	Dennis Mack	ALJs - MPSC	Ruling	Ruling on Motions to Strike; Proof of Service	23

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001k8vJAAQ						
U-20763-1008	01/13/22	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Enbridge Energy, Limited Partnership's Response to No. 7 of Bay Mills Indian Community's First Set of Discovery Requests	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001k3ZeAAI						
U-20763-1007	01/13/22	James M. Olson	For the Love of Water	Proof of Service	Proof of Service of Second Discovery Requests to Enbridge Energy, Limited Partnership by FLOW	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001k2aFAAQ						
U-20763-1006	01/13/22	Paul D. Bratt	Michigan Propane Gas Association	Proof of Service	Certificate of Service for Intervenors Michigan Propane Gas Association and National Propane Gas Association's Responses to First Discovery Requests of The Bay Mills Indian Community	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001jxTXAAY						
U-20763-1005	01/12/22	Christopher M. Bzdok	Bay Mills Indian Community	Appearance	Appearance of Wesley Furlong on behalf of Bay Mills Indian Community	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001jMuxAAE						
U-20763-1004	01/12/22	Spencer A. Sattler	MPSC Staff	Proof of Service	MPSC Staff's proof of service.	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001jM0MAAU						
U-20763-1003	01/12/22	Raymond O. Howd	Mackinac Straits Corridor Authority	Proof of Service	Proof of Service regarding Mackinac Straits Corridor Authority's Responses to Bay Mills Indian Community's First Discovery Requests	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001jIOeAAM						
U-20763-1002	01/12/22	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Enbridge Energy, Limited Partnership's Response to Bay Mills Indian Community's First Discovery Requests	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001jG4vAAE						
U-20763-1001	01/12/22	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Enbridge Energy, Limited Partnership's Response to Environmental Law & Policy Center's Seventh Discovery Requests	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001jGcsAAE						
		Dennis			Permission for Wesley James Furlong to	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-1000	01/12/22	Mack	ALJs - MPSC	Ruling	Appear Temporarily; Proof of Service	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001jH86AAE						
U-20763-0999	01/11/22	Paul D. Bratt	Michigan Propane Gas Association	Proof of Service	Certificate of Service for Enbridge Energy, Limited Partnership and Intervenors Michigan Propane Gas Association and National Propane Gas Association's Responses To First Discovery Requests of The Environmental Law And Policy Center and The Michigan Climate Action Network	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001ieN4AAI						
U-20763-0998	01/11/22	Margrethe Kearney	Environmental Law & Policy Center	Response	ELPC & MiCAN Response to Enbridge Energy, Limited Partnership's Motion to Strike Testimony of Dr. Peter Howard	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001ieEqAAI						
U-20763-0997	01/11/22	Margrethe Kearney	Environmental Law & Policy Center	Response	ELPC, MiCAN, & The Bay Mills Indian Community Response to Enbridge Energy, Limited Partnership's Motion to Strike Portions of the Direct and Rebuttal Testimony of Dr. Elizabeth A. Stanton	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001ieBNAAY						
U-20763-0996	01/11/22	Margrethe Kearney	Environmental Law & Policy Center	Response	ELPC & MiCAN Response to Enbridge Energy, Limited Partnership's Motion to Strike Portions of the Testimony of Peter Erickson	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001ie5yAAA						
U-20763-0995	01/11/22	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Proof of Service of Bay Mills Indian Community's Response To Michigan Public Service Commission Staff's Second Discovery Request	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001ie4RAAQ						
U-20763-0994	01/11/22	Paul D. Bratt	Michigan Propane Gas Association	Response	Michigan Propane Gas Association and the National Propane Gas Association's Response in Support of Enbridge Energy, Limited Partnership's Motions to Strike, and Certificate of Service	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001idh9AAA						
U-20763-0993	01/11/22	Christopher R. Clark	Bay Mills Indian Community	Response	Bay Mills Indian Community's Response to Enbridge's Motion to Strike Portions of the Direct Testimony of Bay Mills Witness Jacques LeBlanc Jr.	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001ibO2AAI						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0992	01/11/22	Christopher R. Clark	Bay Mills Indian Community	Response	Bay Mills Indian Community's Response to Enbridge's Motion to Strike Portions of the Direct Testimony and Exhibits of Bay Mills Witness President Whitney B. Gravelle	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001iZYmAAM						
U-20763-0991	01/11/22	Christopher R. Clark	Bay Mills Indian Community	Response	Bay Mills Indian Community's Response to Enbridge's Motion to Strike Portions of the Rebuttal Testimony and Exhibits of Bay Mills Witness Richard Kuprewicz	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001ibXCAAY						
U-20763-0990	01/11/22	Christopher R. Clark	Bay Mills Indian Community	Response	Bay Mills Indian Community's Response to Enbridge's Motion to Strike Portions of the Direct Testimony and Sponsored Exhibits of Frank Ettawageshik Filed on Behalf of Bay Mills Indian Community and Little Traverse Bay Bands of Odawa Indians	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001ibP4AAI						
U-20763-0989	01/11/22	Christopher R. Clark	Bay Mills Indian Community	Response	Bay Mills Indian Community's Response to Enbridge's Motion to Strike Portions of the Direct Testimony of Dr. Charles E. Cleland	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001ibEoAAI						
U-20763-0988	01/11/22	Benjamin J. Holwerda	MPSC Staff	Response	The Michigan Public Service Commission Staff's Response in Partial Support of Enbridge Energy Limited Partnership's Motions to Strike	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001iZHkAAM						
U-20763-0987	01/11/22	Benjamin J. Holwerda	MPSC Staff	Proof of Service	MPSC Staff's Proof of Service	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001iY4IAAE						
U-20763-0986	01/11/22	Christopher M. Bzdok	Bay Mills Indian Community	Motion	Motion of Admission Pro Hac Vice of Wesley James Furlong as Co-Counsel of Record on behalf of BMIC	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001iWOFAA2						
U-20763-0985	01/11/22	Christopher M. Bzdok	Nottawaseppi Huron Band of Potawatomi Indians	Response	NHBP'S RESPONSE TO ENBRIDGE'S MOTION TO STRIKE PORTIONS OF THE DIRECT TESTIMONY AND EXHIBITS OF NHBP'S WITNESS JOHN RODWAN	29
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001iT1IAAE						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0984	01/11/22	Comment	Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001iNziAAE						
U-20763-0983	01/11/22	Michael S. Ashton	Enbridge Energy, Limited Partnership	Exhibits	Enbridge Energy, Limited Partnership's Revised Exhibits A-4 and A-21.1 and its Proof of Service	66
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001iJSXAA2						
U-20763-0982	01/11/22	Dennis Mack	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001i81QAAQ						
U-20763-0981	01/10/22	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Proof of Service of 8th Discovery Requests to Enbridge Energy, Limited Partnership Company by ELPC and MiCAN	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001hRX3AAM						
U-20763-0980	01/07/22	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Proof of Service Bay Mills Indian Community’s 1st Discovery Request to National Propane Gas Association and Michigan Propane Gas Association	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001gb3gAAA						
U-20763-0978	01/05/22	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Proof of Service of Bay Mills Indian Community's First Discovery Requests to Makinac Straits Corridor Authority	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001fEOZAA2						
U-20763-0977	01/04/22	Benjamin J. Holwerda	MPSC Staff	Proof of Service	MPSC Staff's Proof of Service.	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001eTQdAAM						
U-20763-0976	01/04/22	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Proof of Service of Bay Mills Indian Community's First Discovery Request to MPSC Staff	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001eTD1AAM						
U-20763-0975	01/04/22	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Proof of Service of Bay Mills Indian Community's First Discovery Requests to Enbridge	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001eTEdAAM						
U-20763-0974	01/04/22	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Proof of Service of 1st Discovery Request to Enbridge Propane Associations by ELPC & MiCAN	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001eLkiAAE						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0973	01/04/22	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Proof of Service of 7th Discovery Requests to Enbridge Energy, Limited Partnership Company by ELPC and MiCAN	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001eNZgAAM						
U-20763-0972	01/04/22	Dennis Mack	ALJs - MPSC	Ruling	Permission for Julie Goodwin to Appear Temporarily; Proof of Service	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001e1gVAAQ						
U-20763-0971	01/04/22	Dennis Mack	ALJs - MPSC	Ruling	Permission for Noorulanne Jan to Appear Temporarily; Proof of Service	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001e1amAAA						
U-20763-0970	01/03/22	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Bay Mills Indian Community's Response to Michigan Public Service Commission Staff's First Discovery Request to Bay Mills Indian Community	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001djp0AAA						
U-20763-0969	12/28/21	Spencer A. Sattler	MPSC Staff	Proof of Service	Proof of Service of Michigan Public Service Commission Staff's 1st Discovery Request to Bay Mills Indian Community	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001b2AZAAY						
U-20763-0968	12/22/21	Christopher M. Bzdok	Bay Mills Indian Community	Motion	Motion for Admission Pro Hac Vice of Noorulanne Jan as Co-Counsel on behalf of Bay Mills Indian Community and Affidavit in Support of Motion for Admission Pro Hac Vice	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001YpCbAAK						
U-20763-0967	12/22/21	Christopher M. Bzdok	Bay Mills Indian Community	Motion	Motion for Admission Pro Hac Vice of Julie Goodwin as Co-Counsel on behalf of Bay Mills Indian Community and Affidavit in Support of Motion for Admission Pro Hac Vice	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001YpAGAA0						
U-20763-0966	12/22/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Supplemental Responses of Enbridge Energy, Limited Partnership to the Sixth Discovery Requests of The Environmental Law & Policy Center and The Michigan Climate Action Network	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001YjQFAA0						
			Enbridge Energy,		Certificate of Service of Responses of Enbridge Energy, Limited Partnership to the	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0965	12/21/21	Michael S. Ashton	Limited Partnership	Proof of Service	Sixth Discovery Requests of The Environmental Law & Policy Center and The Michigan Climate Action Network	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001Xxq7AAC						
U-20763-0964	12/21/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Motion	Motion to Strike Portions of the Direct and Rebuttal Testimony of Dr. Elizabeth A. Stanton Filed on Behalf of the Environmental Law & Policy Center, the Michigan Climate Action Network, and the Bay Mills Indian Community	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001XtGKAA0						
U-20763-0963	12/21/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Motion	Motion to Strike portions of the Direct Testimony and Sponsored Exhibits of John Rowdan Filed on Behalf of the Nottawaseppi Huron Bank of Potawatomi	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001XstLAAS						
U-20763-0962	12/21/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Motion	Motion to Strike Portions of the Direct Testimony of Jacques LeBlanc Jr. Filed on Behalf of the Bay Mills Indian Community	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001XsaYAAS						
U-20763-0961	12/21/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Motion	Motion to Strike Portions of the Rebuttal Testimony of Richard Kuprewicz Filed on Behalf of the Bay Mills Indian Community or Other Appropriate Relief	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001XsLYAA0						
U-20763-0960	12/21/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Motion	Motion to Strike the Direct Testimony and Sponsored Exhibits of Dr. Peter Howard Filed on Behalf of the Environmental Law & Policy Center and the Michigan Climate Action Network	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001Xs06AAC						
U-20763-0959	12/21/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Motion	Motion to Strike Portions of the direct Testimony and Sponsored Exhibits of Chairperson Whitney B. Gravelle Filed on Behalf of the Bay Mills Indian Community	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001XrlfAAC						
U-20763-0958	12/21/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Motion	Motion to Strick Portions of the Direct Testimony and Sponsored Exhibits of Frank Ettawageshik Filed on Behalf of Bay Mills Indian Community and Little Traverse Bay Bands of Odawa Indians	10

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001XrGOAA0						
U-20763-0957	12/21/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Motion	Motion to Strick Portions of the Direct Testimony of Peter A. Erickson filed on Behalf of the Environmental Law & Policy Center and the Michigan Climate Action Network	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001XqvfAAC						
U-20763-0956	12/21/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Motion	Motion to Strike Portions of the Direct Testimony of Dr. Charles E. Cleland filed on Behalf of the Bay Mills Indian Community	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001XqNUAA0						
U-20763-0955	12/20/21	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Bay Mills Indian Community's Response to Enbridge Energy, Limited Partnership's Sixth Set of Discovery Requests to Bay Mills Indian Community	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001XPsWAAW						
U-20763-0954	12/20/21	Spencer A. Sattler	MPSC Staff	Proof of Service	MPSC Staff's Proof of Service of 8th Discovery Request to Enbridge	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001X7xVAAS						
U-20763-0953	12/15/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Enbridge Energy, Limited Partnership's Sixth Set of Discovery Requests to the Bay Mills Indian Community	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001UDM1AAO						
U-20763-0952	12/15/21	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Proof of Service of Objections and Responses to Enbridge's Seventh Request to ELPC and MiCAN	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001TyPCAA0						
U-20763-0951	12/15/21	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Proof of Service of Sixth Discovery Requests to Enbridge from ELPC and MiCAN	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001TpvwAAC						
U-20763-0950	12/15/21	James M. Olson	For the Love of Water	Proof of Service	Proof of Service- FLOW's Responses to Enbridge Energy's First Discovery Requests	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001Tn48AAC						
U-20763-0948	12/14/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Rebuttal Testimony and Exhibits of Peter Erickson and Elizabeth Stanton on Behalf of ELPC & MiCAN	52

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001TCJrAAO						
U-20763-0947	12/14/21	Paul D. Bratt	Michigan Propane Gas Association	Exhibits	Exhibit for Rebuttal Testimony of Mr. Michael Sloan on behalf of the National Propane Gas Association, Michigan Propane Gas Association, and Enbridge Energy LP	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001T7BYAA0						
U-20763-0946	12/14/21	Paul D. Bratt	Michigan Propane Gas Association	Testimony-Rebuttal	Rebuttal Testimony of Mr. Michael Sloan on behalf of the National Propane Gas Association, Michigan Propane Gas Association, and Enbridge Energy LP	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001T7PMAA0						
U-20763-0945	12/14/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service of Enbridge Energy, Limited Partnership's ("Enbridge") Seventh Set of Discovery Requests to the Environmental Law & Policy Center and Michigan Climate Action Network.	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001T2YJAA0						
U-20763-0944	12/14/21	Christopher R. Clark	Bay Mills Indian Community	Testimony-Rebuttal	Rebuttal Testimony and Exhibits of Pres. Whitney B. Gravelle on behalf of Bay Mills Indian Community	37
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001StGfAAK						
U-20763-0943	12/14/21	Christopher R. Clark	Bay Mills Indian Community	Testimony-Rebuttal	Rebuttal Testimony and Exhibits of Richard B. Kuprewicz on behalf of Bay Mills Indian Community	32
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001SsuUAAS						
U-20763-0942	12/14/21	Michelle Conarton	MPSC Staff	Testimony-Rebuttal	Rebuttal Testimony and Exhibits of Chislea, Morese, Ponebshek and Warner	79
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001T1KIAAK						
U-20763-0941	12/14/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Exhibits	Enbridge Energy, Limited Partnership's Rebuttal Exhibits A-15, A-16, A-17, A-18, A-19, A-20, A-21, A-22, A-23, A-24, A-25, and A-26 and its Proof of Service	124
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001SnbPAAS						
U-20763-0940	12/14/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Testimony-Rebuttal	Rebuttal Testimonies of Paul Turner, Paul Eberth, Amber Pastoor, Aaron Davis, Jeffry Bennett, and Neil Earnest on behalf of Enbridge Energy, Limited Partnership	98
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001SnJBAA0						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0939	12/01/21	Sierra Pedley	Nottawaseppi Huron Band of Potawatomi Indians	Proof of Service	Proof of Service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001JvmYAAS						
U-20763-0938	11/29/21	James A. Bransky	Little Traverse Bay Bands of Odawa Indians	Proof of Service	LTBB Odawa Proof of Service of Responses to Enbridge's 4th Discovery Requests	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001HwvFAAS						
U-20763-0937	11/29/21	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001Hc4pAAC						
U-20763-0936	11/24/21	Benjamin J. Holwerda	MPSC Staff	Proof of Service	MPSC Staff's Proof of Service.	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001GDCvAAO						
U-20763-0935	11/17/21	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Second Discovery Requests to Michigan Public Service Commission Staff by The Environmental Law & Policy Center and The Michigan Climate Action Network	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000001BYCfAAO						
U-20763-0934	11/15/21	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Proof of Service evidencing service of Bay Mills Indian Community's Response to Enbridge Energy, Limited Partnership's 5th Set of Discovery Requests	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000017Br5AAE						
U-20763-0933	11/09/21	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Proof of Service of ELPC-MiCAN Responses to MPSC Staff's First Discovery Request	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000013t0pAAA						
U-20763-0932	11/09/21	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Proof of Service of ELPC-MiCAN Objections and Responses to Enbridge's Sixth Discovery Request	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000013sr1AAA						
U-20763-0931	11/09/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Proof of Service	Proof of Service regarding Mackinac Straits Corridor Authority's Responses to the Michigan Public Service Commission Staff's First Discovery Responses	3

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000013dWnAAI						
U-20763-0930	11/08/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service for Enbridge Energy, Limited Partnership's Response to the Seventh Set of Discovery Requests from the MPSC Staff	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000134J5AAI						
U-20763-0929	11/05/21	Sierra Pedley	Nottawaseppi Huron Band of Potawatomi Indians	Proof of Service	Proof of Service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y0000010pXrAAI						
U-20763-0928	11/04/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Enbridge Energy, Limited Partnership's Fourth Set of Discovery Requests to the Nottawaseppi Huron Band of the Potawatomi	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000000zrUIAAY						
U-20763-0927	11/04/21	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000000znwyAAA						
U-20763-0926	11/04/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service for Enbridge Energy, Limited Partnership's Fourth Set of Discovery Requests to the Little Traverse Bay Bands of Odawa Indians	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000000zn7BAAQ						
U-20763-0925	11/04/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service for Enbridge Energy, Limited Partnership's Fifth Set of Discovery Requests to the Bay Mills Indian Community	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000000zmgxAAA						
U-20763-0924	11/04/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service for Enbridge's Fourth Set of Discovery Requests to the Grand Traverse Band of Ottawa and Chippewa Indians	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000000zhAcAAI						
U-20763-0923	11/02/21	Christopher M. Bzdok	Grand Traverse Band of Ottawa and Chippewa Indians	Proof of Service	Of The Grand Traverse Band of Ottawa and Chippewa Indians Response to Enbridge Energy, Limited Partnership's Third Set of Discovery Requests	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000000yQm2AAE						
U-20763-0922	11/02/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service for Enbridge's Sixth Set of Discovery Requests to the Environmental Law & Policy Center and Michigan Climate Action Network	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000000yKwqAAE						
U-20763-0921	11/02/21	Benjamin J. Holwerda	MPSC Staff	Proof of Service	Proof of Service of MPSC Staff's 1st Discovery Request to MSCA	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000000xotRAAQ						
U-20763-0920	11/02/21	Benjamin J. Holwerda	MPSC Staff	Proof of Service	Proof of Service of MPSC Staff's 7th Discovery Request to Enbridge Energy, LP	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000000xoqXAAQ						
U-20763-0919	11/01/21	Spencer A. Sattler	MPSC Staff	Proof of Service	Proof of Service of Michigan Public Service Commission Staff's 1st Discovery Request to Environmental Law and Policy Center	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000000xUCNAA2						
U-20763-0918	10/29/21	James A. Bransky	Little Traverse Bay Bands of Odawa Indians	Proof of Service	LTBB Proof of Service of Responses to Enbridge's Third Set of Discovery Requests	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Vj7iAAAR						
U-20763-0917	10/29/21	James A. Bransky	Little Traverse Bay Bands of Odawa Indians	Proof of Service	proof of service for discovery responses	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Vj5TfAAJ						
U-20763-0916	10/28/21	Dulce M. Flores	Bay Mills Indian Community	Proof of Service	Proof of Service evidencing service of Bay Mills Indian Community's Response to Enbridge Energy, Limited Partnership on all parties	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000ViYkMAAV						
U-20763-0915	10/22/21	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Proof of Service for ELPC-MiCAN Objections and Responses to Enbridge Fifth Discovery Request	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000VgbIbAAJ						
			Enbridge		Certificate of Service for Enbridge's Fourth	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0914	10/15/21	Michael S. Ashton	Energy, Limited Partnership	Proof of Service	Set of Discovery Requests to the Bay Mills Indian Community	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000VJBQaAAP						
U-20763-0913	10/15/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service for Enbridge's Third Set of Discovery Requests to the Grand Traverse Band of Ottawa and Chippewa Indians	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000VJBGjAAP						
U-20763-0912	10/15/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service for Enbridge's Third Set of Discovery Requests to the Little Traverse Bay Bands of Odawa Indians	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000VJB8BAAX						
U-20763-0911	10/15/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service for Enbridge's Third Set of Discovery Requests to the Nottawaseppi Huron Band of the Potawatomi	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000VJAypAAH						
U-20763-0910	10/15/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Protective Order	Enbridge's Protective Order Non-Disclosure Certificates and its Proof of Service	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000VIvfyAAD						
U-20763-0909	10/14/21	Benjamin J. Holwerda	MPSC Staff	Proof of Service	Proof of Service of Michigan Public Service Commission Staff's Response to Environmental Law and Policy Center and Michigan Climate Action Network' 1st Discovery Request	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000VIhWRAA1						
U-20763-0908	10/14/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service for Enbridge's Fifth Set of Discovery Requests to the Environmental Law & Policy Center and Michigan Climate Action Network	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000VIeTvAAL						
U-20763-0907	10/11/21	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Objections and Responses to Enbridge's Fourth Discovery Request to ELPC and MICAN	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000VHID3AAP						
		Christopher	Bay Mills	Proof of	Bay Mills Indian Community's Response to	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0906	10/11/21	R. Clark	Indian Community	Service	Enbridge Energy, Limited Partnership's Third Set of Discovery Requests	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000VHFKdAAP						
U-20763-0905	10/07/21	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	First Discovery Requests to Michigan Public Service Commission Staff by The Environmental Law & Policy Center and The Michigan Climate Action Network	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000UeOD2AAN						
U-20763-0904	10/07/21	Public Comment	Public Comment	Comments	Comment submitted by Annette McLane	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000UeJ4mAAF						
U-20763-0903	10/06/21	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Certificate of Service of Objections and Responses to Enbridge's Third Discovery Request to ELPC and MICAN	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Udw7EAAR						
U-20763-0902	10/04/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service for Enbridge's Fourth Set of Discovery Requests to the Environmental Law & Policy Center and Michigan Climate Action Network	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ud4uEAAR						
U-20763-0901	10/04/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service for Enbridge's Third Set of Discovery Requests to the Bay Mills Indian Community	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ud4uCAAR						
U-20763-0900	10/04/21	Dulce M. Flores	Bay Mills Indian Community	Proof of Service	Proof of Service	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000UcvRSAAZ						
U-20763-0899	09/30/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Enbridge's Third Set of Discovery Requests to Environmental Law & Policy Center and Michigan Climate Action Network	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000UbiNoAAJ						
U-20763-0898	09/29/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Protective Order	Protective Order Non-Disclosure Certificates and Proof of Service	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000UbUM5AAN						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0897	09/27/21	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Proof of Service	Proof of Service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000U2oeZAAR						
U-20763-0896	09/27/21	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Letter	Letter re Proof of Service	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000U2oYIAAJ						
U-20763-0895	09/24/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Enbridge's Supplemental Responses to the Third Set of Discovery Requests of the Nottawaseppi Huron Band of the Potawatomi	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000U2KibAAF						
U-20763-0894	09/16/21	Public Comment	Public Comment	Comments	Comments submitted by Mr. Robert Rutkowski	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Tz2ALAAZ						
U-20763-0893	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Proof of Service of ELPC/MiCAN Responses to Enbridge’s 2nd Discovery Requests	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Tyo6TAAR						
U-20763-0892	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 22 (ELP-15)	117
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TyoPKAAZ						
U-20763-0891	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 21 (ELP-15)	148
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TyoKuAAJ						
U-20763-0890	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 20 (ELP-15)	179
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TyoArAAJ						
U-20763-0889	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 19 (ELP-15)	181

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TyoAqAAJ						
U-20763-0888	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 18 (ELP-15)	191
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Tyo6SAAR						
U-20763-0887	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 17 (ELP-15)	189
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Tyo00AAB						
U-20763-0886	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 16 (ELP-15)	173
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TyntwAAB						
U-20763-0885	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 15 (ELP-15)	179
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Tyno7AAB						
U-20763-0884	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 14 (ELP-15)	205
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TynhLAAR						
U-20763-0883	09/15/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Proof of Service	Proof of Service regarding the Corrected Direct Testimony of Dr. Michael Mooney on behalf of the Mackinac Straits Corridor Authority	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TymmBAAR						
U-20763-0882	09/15/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Testimony	Corrected Direct Testimony of Dr. Michael Mooney on Behalf of Mackinac Straits Corridor Authority	34
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TVPVGAA5						
U-20763-0880	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 13 (IPCC Report)	203
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TVIXzAAP						
U-20763-0879	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 12 (IPCC Report)	754

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TVITnAAP						
U-20763-0878	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 11 (IPCC Report)	754
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TVII1AAP						
U-20763-0877	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 10 (IPCC Report)	754
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TVI0cAAH						
U-20763-0876	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 9 (IPCC Report)	754
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TVHykAAH						
U-20763-0875	09/15/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 8 (IPCC Report)	754
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TVHq6AAH						
U-20763-0874	09/15/21	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Proof of Service	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TV9aeAAD						
U-20763-0873	09/14/21	Christopher R. Clark	Bay Mills Indian Community	Testimony and Exhibits	Testimony & Exhibits of Dr. Charles E. Cleland – FILED UNDER SEAL	0
Confidential File						
U-20763-0870	09/14/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 7	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TV1kbAAD						
U-20763-0869	09/14/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony	Testimony and Exhibits of ELPC/MiCAN Part 6	384
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TV1i2AAD						
U-20763-0868	09/14/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 5	218
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TV1i1AAD						
			Environment			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0867	09/14/21	Margrethe Kearney	al Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 4	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TV1JPAA1						
U-20763-0866	09/14/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 3	171
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TV1H4AAL						
U-20763-0865	09/14/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 2	107
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TV19UAAT						
U-20763-0864	09/14/21	Margrethe Kearney	Environmental Law & Policy Center	Testimony and Exhibits	Testimony and Exhibits of ELPC/MiCAN Part 1	328
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TV111AAD						
U-20763-0863	09/14/21	Christopher R. Clark	Bay Mills Indian Community	Testimony and Exhibits	PUBLIC Direct Testimony and Exhibits of Dr. Charles E. Cleland on behalf of Bay Mills Indian Community	123
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUzgsAAD						
U-20763-0861	09/14/21	Christopher R. Clark	Bay Mills Indian Community	Testimony and Exhibits	Direct Testimony and Exhibits of Frank Ettawageshik on behalf of Bay Mills Indian Community and Little Traverse Bay Bands	484
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUyZDAA1						
U-20763-0860	09/14/21	Christopher R. Clark	Bay Mills Indian Community	Testimony and Exhibits	Direct Testimony and Exhibits of Dr. Alec R. Lindsay on behalf of Bay Mills Indian Community	30
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUy7PAAT						
U-20763-0859	09/14/21	Christopher R. Clark	Bay Mills Indian Community	Testimony and Exhibits	Direct Testimony and Exhibits of Dr. Daniel Larkin on behalf of Bay Mills Indian Community	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUxo5AAD						
U-20763-0858	09/14/21	Christopher R. Clark	Bay Mills Indian Community	Testimony and Exhibits	Direct Testimony and Exhibits of Dr. Inés Ibáñez on behalf of Bay Mills Indian Community	41
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUy3gAAD						
U-20763-0857	09/14/21	Christopher R. Clark	Bay Mills Indian Community	Testimony and Exhibits	Direct Testimony and Exhibits of Dr. Karen M. Alofs on behalf of Bay Mills Indian Community	37

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUxwhAAD						
U-20763-0856	09/14/21	Christopher R. Clark	Bay Mills Indian Community	Testimony	Direct Testimony of Jacques LeBlanc Jr. on behalf of Bay Mills Indian Community	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUxo4AAD						
U-20763-0855	09/14/21	Christopher R. Clark	Bay Mills Indian Community	Testimony and Exhibits	Direct Testimony and Exhibits of Pres. Whitney B. Gravelle on behalf of Bay Mills Indian Community	69
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUxgKAAT						
U-20763-0854	09/14/21	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Testimony and Exhibits	Testimony and exhibits	124
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUx0uAAD						
U-20763-0853	09/14/21	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Proof of Service	Proof of Service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUwl6AAD						
U-20763-0852	09/14/21	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Letter	Letter	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUwlyAAD						
U-20763-0851	09/14/21	Michelle Conarton	MPSC Staff	Exhibits	MPSC Staff Exhibits	326
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUwLMAA1						
U-20763-0850	09/14/21	Michelle Conarton	MPSC Staff	Testimony	MPSC Staff Testimony	159
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUwGRAA1						
U-20763-0849	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Proof of Service	Proof of Service regarding the Direct Testimony of Dr. Michael Mooney and the Direct Testimony of Daniel M. Cooper on behalf of the Mackinac Straits Corridor Authority	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUrknAAD						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0848	09/14/21	Benjamin J. Holwerda	MPSC Staff	Proof of Service	Proof of Service of Michigan Public Service Commission Staff's Response to Enbridge Energy's 1st Discovery Request	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUrnqAAD						
U-20763-0847	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Testimony	Direct Testimony of Daniel M. Cooper on behalf of Mackinac Straits Corridor Authority	27
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUqtLAAT						
U-20763-0846	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	Exhibit MM7 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	238
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUqVuAAL						
U-20763-0845	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	Exhibit MM6 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUqZmAAL						
U-20763-0844	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	Exhibit MM5 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUqdsAAD						
U-20763-0843	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	Exhibit MM4 - Part 10 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	424
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUqZIAAL						
U-20763-0842	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	Exhibit MM4 - Part 9 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	400
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUqVtAAL						
U-20763-0841	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	Exhibit MM4 - Part 8 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	400
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUqPhAAL						
			Mackinac		Exhibit MM4 - Part 7 to Direct Testimony of	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0840	09/14/21	Raymond O. Howd	Straits Corridor Authority	Exhibits	Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	200
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUqPgAAL						
U-20763-0839	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	Exhibit MM4 - Part 6 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	200
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUpnOAAT						
U-20763-0838	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	Exhibit MM4 - Part 5 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	100
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUqBFAA1						
U-20763-0837	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	Exhibit MM4 - Part 4 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	100
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUq7SAAT						
U-20763-0836	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	Exhibit MM4 - Part 3 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	100
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUq31AAD						
U-20763-0835	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	U-20763 MSCA Exhibit MM4 - Part 2 to Direct Testimony of Dr. Michael Mooney	100
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUpznAAD						
U-20763-0834	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	Exhibit MM4 - Part 1 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	600
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUpvlAAD						
U-20763-0833	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	Exhibit MM3 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	308
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUpcBAAT						
			Mackinac		Exhibit MM2 to Direct Testimony of Dr.	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0832	09/14/21	Raymond O. Howd	Straits Corridor Authority	Exhibits	Michael Mooney on behalf of Mackinac Straits Corridor Authority	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUpCCAA1						
U-20763-0831	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Exhibits	Exhibit MM1 to Direct Testimony of Dr. Michael Mooney on behalf of Mackinac Straits Corridor Authority	62
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUpZ1AAL						
U-20763-0830	09/14/21	Raymond O. Howd	Mackinac Straits Corridor Authority	Testimony	Direct Testimony of Dr. Michael Mooney on Behalf of Mackinac Straits Corridor Authority	34
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUpCAAA1						
U-20763-0829	09/14/21	James A. Bransky	Little Traverse Bay Bands of Odawa Indians	Testimony and Exhibits	Little Traverse Bay Bands Odawa testimony of Eric Hemenway	27
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUeh4AAD						
U-20763-0828	09/14/21	James A. Bransky	Little Traverse Bay Bands of Odawa Indians	Testimony	Little Traverse Bay Bands Odawa testimony of Melissa Wiatrolic	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUegJAAT						
U-20763-0827	09/14/21	James A. Bransky	Little Traverse Bay Bands of Odawa Indians	Testimony and Exhibits	Little Traverse Bay Bands Odawa testimony of Kevin Donner	29
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUednAAD						
U-20763-0826	09/14/21	James A. Bransky	Little Traverse Bay Bands of Odawa Indians	Proof of Service	Little Traverse Bay Bands of Odawa Indians Proof of Service for testimony filings	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TUebXAAT						
U-20763-0825	09/10/21	Christopher	Nottawaseppi Huron Band	Proof of	Proof of Service of Third Discovery Request to Enbridge Energy, Limited Partnership by	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

		M. Bzdok	of Potawatomi Indians	Service	Nottawaseppi Huron Band of the Potawatomi	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TTgusAAD						
U-20763-0824	09/09/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Enbridge Energy, Limited Partnership's Supplemental Responses to the Second Set of Discovery Requests of the Nottawaseppi Huron Band of the Potawatomi DR # 2(5), 2(6), 2(9), and 2(10)	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000TTHtPAAX						
U-20763-0823	09/03/21	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000T196CAAR						
U-20763-0822	09/02/21	Margrethe Kearney	Environmental Law & Policy Center	Attorney Withdrawal	Notice of Withdrawal of Attorney Appearance of Esosa Aimufua	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000T0c3vAAB						
U-20763-0821	09/02/21	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000T0ZfbAAF						
U-20763-0820	08/31/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Enbridge's Supplemental Response to the Second Set of Discovery Requests of the Nottawaseppi Huron Band of the Potawatomi	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SzDHQAA3						
U-20763-0818	08/30/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for the Third Set of Discovery Requests to the Attorney General	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SyVAsAAN						
U-20763-0817	08/30/21	Public Comment	Public Comment	Comments	Comments submitted by Ms. Kirsten Hensley	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SyVsZAAV						
U-20763-0816	08/30/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for the Second Set of Discovery Requests to the Environmental Law & Policy Center and Michigan Climate Action Network	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SyVf8AAF						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0815	08/30/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for the Second Set of Discovery Requests to the Tip of the Mitt	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SyVArAAN						
U-20763-0814	08/30/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for the Second Set of Discovery Requests to the National Wildlife Federation	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SyUd3AAF						
U-20763-0813	08/30/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for the Second Set of Discovery Requests to the Nottawaseppi Huron Band of the Potawatomi	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SyTYyAAN						
U-20763-0812	08/30/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for the Second Set of Discovery Requests to the Michigan Environmental Council	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SyTsGAAV						
U-20763-0811	08/30/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for the Second Set of Discovery Requests to the Little Traverse Bay Bands of Odawa Indians	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SyTUyAAN						
U-20763-0810	08/30/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for the Second Set of Discovery Requests to The Grand Traverse Band of Ottawa and Chippewa Indians	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SyT1VAAV						
U-20763-0809	08/30/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for the Second Set of Discovery Requests to For Love of Water	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SySKFAA3						
U-20763-0808	08/30/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Second Set of Discovery Requests to Bay Mills Indian Community	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SyRO9AAN						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0807	08/30/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for the First Set of Discovery Requests to the Michigan Public Service Commission	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SyOf8AAF						
U-20763-0806	08/26/21	Public Comment	Public Comment	Comments	Comments submitted by Mr. Joseph Dugan	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000STiGqAAL						
U-20763-0805	08/24/21	Public Comment	Public Comment	Comments	Comments submitted by Ms. Elizabeth Frolick	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SSZmWAAX						
U-20763-0804	08/19/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service for Discovery Response	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000SQXG2AAP						
U-20763-0803	08/13/21	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000RmUs3AAF						
U-20763-0802	07/26/21	Public Comment	Public Comment	Comments	Comment submitted by Ms. Julie Brunzell	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000RBLY3AAP						
U-20763-0801	07/23/21	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000RAaIbAAL						
U-20763-0800	07/16/21	Public Comment	Public Comment	Comments	Comment submitted by Ms. Catherine LeBlanc	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000R8gOFAAZ						
U-20763-0799	07/14/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	The Certificate of Service regarding the Discovery Response of Enbridge Energy, Limited Partnership to the Discovery Request 6(8) of the Michigan Public Service Commission Staff	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000QdffxAAB						
U-20763-0798	07/12/21	Michael S.	Enbridge Energy,	Proof of	Certificate of Service regarding the Responses of Enbridge Energy, Limited	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

		Ashton	Limited Partnership	Service	Partnership to the Sixth Discovery Requests of the Michigan Public Service Commission Staff	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000QckZCAAZ						
U-20763-0797	07/01/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding the Responses of Enbridge Energy, Limited Partnership to the Fifth Discovery Requests of The Environmental Law & Policy Center and The Michigan Climate Action Network	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NivO1AAJ						
U-20763-0796	06/25/21	Spencer A. Sattler	MPSC Staff	Proof of Service	Proof of Service of MPSC Staff's 6th Discovery Request to Enbridge Energy, LP	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Px0IpAAB						
U-20763-0795	06/25/21	Public Comment	Public Comment	Comments	Comments submitted by 1 individual	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000PwxFRAAZ						
U-20763-0794	06/23/21	Public Comment	Public Comment	Comments	Comments submitted by Lisa Patrell	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Pw8IbAAJ						
U-20763-0793	06/22/21	Public Comment	Public Comment	Comments	Comments submitted by 26 individuals	26
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Pvk1yAAB						
U-20763-0792	06/21/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's ("Enbridge") Responses to the Second Set of Discovery Requests of the Nottawaseppi Huron Band of the Potawatomi ("NHBP")	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000PvTXrAAN						
U-20763-0791	06/18/21	Public Comment	Public Comment	Comments	Comments submitted by 27 individuals	27
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000PRYeuAAH						
U-20763-0790	06/17/21	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Proof of Service of Fifth Discovery Requests to Enbridge from ELPC and MiCAN	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000PRQM1AAP						
U-20763-0789	06/15/21	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000PQjRUAA1						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0788	06/14/21	Public Comment	Public Comment	Comments	Comments submitted by 13 individuals	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000PQNXsAAP						
U-20763-0787	06/11/21	Paul D. Bratt	Michigan Propane Gas Association	Answer	Michigan Propane Gas Association and National Propane Gas Association's Answer to the Petition for Rehearing Filed by Bay Mills Indian Community, Grand Traverse Band of Ottawa and Chippewa Indians, Little Traverse Bay Band of Odawa Indians, and Nottawaseppi Huron Band of The Potawatomi	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000PPoMTAA1						
U-20763-0786	06/11/21	Benjamin J. Holwerda	MPSC Staff	Letter	Letter advising that the Michigan Public Service Commission Staff (Staff) will not be filing a response to the Joint Petition for Rehearing on behalf of Bay Mills Indian Community, Grand Traverse Band of Ottawa and Chippewa Indians, Little Traverse Band of Odawa Indians, and Nottawaseppi Huron Band of the Potawatomi	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000PPmJhAAL						
U-20763-0785	06/11/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Answer	Applicant Enbridge Energy, Limited Partnership's Answer to The Joint Petition for Rehearing Filed by Bay Mills Indian Community, Grand Traverse Band of Ottawa and Chippewa Indians, Little Traverse Bay Band of Odawa Indians, and Nottawaseppi Huron Band of The Potawatomi	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000PPIELAA1						
U-20763-0784	06/11/21	Public Comment	Public Comment	Comments	Comments submitted by 30 individuals	30
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000PPfVOAA1						
U-20763-0783	06/09/21	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000POyhfAAD						
U-20763-0782	06/08/21	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000POqXyAAL						
U-20763-0781	06/07/21	Public Comment	Public Comment	Comments	Comments submitted by 17 individuals	17

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000POUEPAA5						
U-20763-0780	06/07/21	Christopher M. Bzdok	Nottawaseppi Huron Band of Potawatomi Indians	Proof of Service	Proof of Service of Second Discovery Requests to Enbridge Energy, Limited Partnership by Nottawaseppi Huron Band of the Potawatomi	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000POTofAAH						
U-20763-0779	06/04/21	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000PNmeuAAD						
U-20763-0778	06/03/21	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OpqNmAAJ						
U-20763-0777	06/02/21	Public Comment	Public Comment	Comments	Comments submitted by 15 individuals	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OpVPJAA3						
U-20763-0776	06/01/21	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OpMd1AAF						
U-20763-0775	05/28/21	Public Comment	Public Comment	Comments	Comments submitted by 9 individuals	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OobMrAAJ						
U-20763-0774	05/27/21	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OoQNmAAN						
U-20763-0773	05/26/21	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Oo6OvAAJ						
U-20763-0772	05/25/21	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OnjopAAB						
U-20763-0771	05/25/21	Public Comment	Public Comment	Comments	Comments submitted by 27 individuals	27
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OnbfVAAR						
U-20763-0770	05/24/21	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OnCJkAAN						
U-20763-0769	05/24/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding the Corrected Supplemental Response of Enbridge Energy, Limited Partnership to the following Discovery Request of The Environmental Law & Policy Center and The Michigan Climate Action Network, IR #2(6)	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OnB5yAAF						
U-20763-0768	05/21/21	Public Comment	Public Comment	Comments	Comments submitted by 26 individuals	26
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Omr2oAAB						
U-20763-0767	05/21/21	Christopher M. Bzdok	Bay Mills Indian Community	Petition	BMIC-GTB-NHBP-LTBB Petition for Rehearing of April Order	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ommn1AAB						
U-20763-0766	05/21/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Corrected Certificate of Service regarding the Responses of Enbridge Energy, Limited Partnership to the following Discovery Requests of The Environmental Law & Policy Center and The Michigan Climate Action Network, IR #4(1)	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OmjkfAAB						
U-20763-0765	05/21/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Supplemental Responses of Enbridge Energy, Limited Partnership to the following Discovery Requests of The Environmental Law & Policy Center and The Michigan Climate Action Network, IR #4(1)	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Omj6dAAB						
U-20763-0764	05/21/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Supplemental Responses of Enbridge Energy, Limited Partnership to the following Discovery Requests of The Environmental Law & Policy Center and The Michigan Climate Action Network, IRs # 1(8), 1(9), 2(1), 2(4), and 2(5)	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OmeBDAAZ						
U-20763-0763	05/20/21	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OmLCQAA3						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0762	05/19/21	Comment	Comment	Comments	Comments submitted by 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OmCqMAAV						
U-20763-0761	05/19/21	Public Comment	Public Comment	Comments	Comments submitted by 15 individuals	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Olz7NAAR						
U-20763-0760	05/18/21	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OQevjAAD						
U-20763-0759	05/17/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding the Supplemental Responses of Enbridge Energy, Limited Partnership to the following Discovery Requests of The Environmental Law & Policy Center and The Michigan Climate Action Network, IRs # 1(10), 2(2), 2(3), and 2(6) with regard to the above-referenced matter.	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OQViGAAX						
U-20763-0758	05/17/21	Public Comment	Public Comment	Comments	Comments submitted by Ms. Margaret Schwanitz	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OQNxDAAX						
U-20763-0757	05/17/21	Public Comment	Public Comment	Comments	Comments submitted by 9 individuals	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OQImSAAX						
U-20763-0756	05/14/21	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OPx6uAAD						
U-20763-0755	05/14/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	The Certificate of Service regarding the Responses of Enbridge Energy, Limited Partnership to the Third Set of Discovery Requests of The Environmental Law & Policy Center and The Michigan Climate Action Network	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OPtXdAAL						
U-20763-0754	05/14/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	The Certificate of Service regarding the Responses of Enbridge Energy, Limited Partnership to the Fifth Set of Discovery Requests of the Michigan Public Service Commission Staff.	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OPsEXAA1						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0753	05/14/21	Public Comment	Public Comment	Comments	Comments submitted by 20 individuals	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OPlyNAAT						
U-20763-0752	05/13/21	Public Comment	Public Comment	Comments	Comments submitted by 15 individuals	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OPI3wAAH						
U-20763-0751	05/13/21	Public Comment	Public Comment	Comments	Comments submitted by Mary Ames	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OPFooAAH						
U-20763-0750	05/12/21	Public Comment	Public Comment	Comments	Comments submitted by 9 individuals	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OP7VzAAL						
U-20763-0749	05/12/21	Public Comment	Public Comment	Comments	Comments submitted by 19 individuals	21
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OOtBjAAL						
U-20763-0748	05/11/21	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OOjt5AAD						
U-20763-0747	05/11/21	Public Comment	Public Comment	Comments	Comments submitted by 28 individuals	28
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OOUt8AAH						
U-20763-0746	05/10/21	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Fourth Discovery Requests to Enbridge Energy, Limited Partnership Company By The Environmental Law & Policy Center And The Michigan Climate Action Network	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OOFq1AAH						
U-20763-0745	05/10/21	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000ONy84AAD						
U-20763-0744	05/07/21	Public Comment	Public Comment	Comments	Comments submitted by 29 individuals	29
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000ONYmAAAX						
U-20763-0743	05/07/21	Public Comment	Public Comment	Comments	Comments submitted by 19 individuals	19
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000ONKP1AAP						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0742	05/06/21	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000ON9sGAAT						
U-20763-0741	05/05/21	Public Comment	Public Comment	Comments	Comments submitted by 9 individuals	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OMm3qAAD						
U-20763-0740	05/05/21	Dennis Mack	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000OMjbXAAT						
U-20763-0739	05/04/21	Public Comment	Public Comment	Comments	Comments submitted by 18 individuals	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NokpKAAR						
U-20763-0738	05/04/21	Public Comment	Public Comment	Comments	Comments submitted by 11 individuals	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NoTLgAAN						
U-20763-0737	05/03/21	Public Comment	Public Comment	Comments	Comments submitted by 17 individuals	17
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NoLIPAA3						
U-20763-0736	05/03/21	Dennis Mack	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NoLPSAA3						
U-20763-0735	05/03/21	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NoBbFAAV						
U-20763-0734	04/30/21	Public Comment	Public Comment	Comments	Comments submitted by 23 individuals	23
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Nnk4BAAR						
U-20763-0733	04/30/21	Nicholas Q. Taylor	MPSC Staff	Proof of Service	Proof of Service of Michigan Public Service Commission Staff's Fifth Discovery Request to Enbridge Energy, LP	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Nnjc8AAB						
U-20763-0732	04/30/21	Public Comment	Public Comment	Comments	Comments submitted by Ms. Elizabeth Cassidy	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NngcsAAB						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0731	04/30/21	Comment	Comment	Comments	Comments submitted by Ms. Vivian Howey	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NngVcAAJ						
U-20763-0730	04/30/21	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Proof of Service of Third Discovery Requests to Enbridge Energy, Limited Partnership Company by the Environmental Law & Policy Center and the Michigan Climate Action Network	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NnfzBAAR						
U-20763-0729	04/30/21	Public Comment	Public Comment	Comments	Comments submitted by 18 Individuals	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NnZ3VAAV						
U-20763-0728	04/30/21	Raymond O. Howd	Department of Attorney General	Proof of Service	Proof of Service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NnWCMAA3						
U-20763-0727	04/30/21	Raymond O. Howd	Department of Attorney General	Appearance	Amended Appearance	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NnVj4AAF						
U-20763-0726	04/29/21	Public Comment	Public Comment	Comments	Comments submitted by 28 individuals	28
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NnIb5AAF						
U-20763-0725	04/29/21	Public Comment	Public Comment	Comments	Comments submitted by 13 Individuals	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NnBy0AAF						
U-20763-0724	04/28/21	Public Comment	Public Comment	Comments	Comments submitted by 31 individuals	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NmsTeAAJ						
U-20763-0723	04/27/21	Public Comment	Public Comment	Comments	Comments submitted by 35 individuals	35
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NmRLrAAN						
U-20763-0722	04/27/21	Public Comment	Public Comment	Comments	Comments submitted by 16 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NmAdsAAF						
U-20763-0721	04/26/21	Public Comment	Public Comment	Comments	Comments submitted by 14 individuals	14

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Nm2ITAAZ						
U-20763-0720	04/26/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's ("Enbridge") Supplemental Response to the First Set of Discovery Requests of the Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council and National Wildlife Federation, IR 67	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NlwQcAAJ						
U-20763-0719	04/23/21	Public Comment	Public Comment	Comments	Comments submitted by 23 individuals	23
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Nl8zjAAB						
U-20763-0718	04/23/21	Public Comment	Public Comment	Comments	Comments submitted by 7 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NkvhwAAB						
U-20763-0717	04/22/21	Public Comment	Public Comment	Comments	Comments submitted by 46 individuals	46
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000NknsIAAR						
U-20763-0716	04/22/21	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MOcmpAAD						
U-20763-0715	04/21/21	Public Comment	Public Comment	Comments	Comments submitted by 33 individuals	33
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MOWYaAAP						
U-20763-0714	04/21/21	Michigan Public Service Commission	Michigan Public Service Commission	Press Release		3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MOT3NAAX						
U-20763-0713	04/21/21	Michigan Public Service Commission	Michigan Public Service Commission	Order	Grants the applications for leave to appeal the administrative law judge's October 23, 2020 and February 23, 2021 rulings on the motion in limine filed by Enbridge Energy, Limited Partnership, and the requested relief is granted in part and denied in part	75
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MOSVDAA5						
U-20763-0712	04/21/21	Public Comment	Public Comment	Comments	Comments submitted by 14 individuals	14

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MOQGaAAP						
U-20763-0711	04/20/21	Public Comment	Public Comment	Comments	Comments submitted by 21 individuals	21
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MOLn8AAH						
U-20763-0710	04/20/21	Public Comment	Public Comment	Comments	Comments submitted by 14 individuals	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MODolAAH						
U-20763-0709	04/19/21	Public Comment	Public Comment	Comments	Comments submitted by 25 individuals	25
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MO9iyAAD						
U-20763-0708	04/19/21	Public Comment	Public Comment	Comments	Comments submitted by 18 individuals	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MO3ONAA1						
U-20763-0707	04/19/21	Public Comment	Public Comment	Comments	Comments submitted by the Operating Engineers 324 (OE 324)	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MO0w6AAD						
U-20763-0706	04/16/21	Public Comment	Public Comment	Comments	Comments submitted by 39 individuals	39
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MNp8UAAT						
U-20763-0705	04/16/21	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MNhvfAAD						
U-20763-0704	04/15/21	Public Comment	Public Comment	Comments	Comments submitted by 18 individuals	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MNdo6AAD						
U-20763-0703	04/15/21	Public Comment	Public Comment	Comments	Comments submitted by 7 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MNYW7AAP						
U-20763-0702	04/14/21	Public Comment	Public Comment	Comments	Comments submitted by 21 individuals	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MNSMOAA5						
U-20763-0701	04/13/21	Public Comment	Public Comment	Comments	Comments submitted by 30 individuals	30
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MNFGwAAP						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0700	04/13/21	Comment	Comment	Comments	Comments submitted by 18 individuals	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MN8ENAA1						
U-20763-0699	04/12/21	Public Comment	Public Comment	Comments	Comments submitted by 13 individuals	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MN463AAD						
U-20763-0698	04/12/21	Public Comment	Public Comment	Comments	Comments of Mr. Jeremy Garza, Michigan Pipe Trades State Political Lead	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MN3pnAAD						
U-20763-0697	04/12/21	Public Comment	Public Comment	Comments	Comments submitted by the Michigan Manufacturers Association	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MN0cpAAD						
U-20763-0696	04/12/21	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMzXkAAL						
U-20763-0695	04/09/21	Public Comment	Public Comment	Comments	Comments submitted by 13 individuals	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMnsIAAT						
U-20763-0694	04/09/21	Public Comment	Public Comment	Comments	Comments submitted by 11 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMgFzAAL						
U-20763-0693	04/08/21	Public Comment	Public Comment	Comments	Comments submitted by 16 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMaUFAA1						
U-20763-0692	04/08/21	Public Comment	Public Comment	Comments	Comments submitted by Lansing Regional Chamber of Commerce (LRCC)	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMaQrAAL						
U-20763-0691	04/08/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service of Enbridge's Responses to the Fourth Set of Discovery Requests of the Michigan Public Service Commission Staff	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMZqOAAX						
U-20763-0690	04/08/21	Public Comment	Michigan House of Representatives	Comments	Comments submitted by Sara Cambensy, State Representative, 109th District	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMZ7ZAAX						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0689	04/08/21	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMWprAAH						
U-20763-0688	04/08/21	Public Comment	Public Comment	Comments	Comments filed by Mark A. Griffin, President of the Michigan Petroleum Association, the Michigan Association of Convenience Stores, the Michigan Oil Change Association , the Michigan Petroleum Service Corporation, and the Michigan Petroleum Education Foundation	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMWgoAAH						
U-20763-0687	04/08/21	Public Comment	Michigan House of Representat ives	Comments	Comments filed by John N. Damoose, State House of Representatives, 107th District	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMWWiAAP						
U-20763-0686	04/08/21	Public Comment	Public Comment	Comments	REVISED Comments submitted by the Saginaw County Chamber on 4/7/2021	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMWSqAAP						
U-20763-0685	04/07/21	Public Comment	Public Comment	Comments	Comments submitted by 19 individuals	19
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMQBJAA5						
U-20763-0684	04/07/21	Public Comment	Public Comment	Comments	Comments submitted by Charles Owens, Michigan State Director of National Federation of Independent Business (NFIB)	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMQ7RAAX						
U-20763-0683	04/07/21	Public Comment	Public Comment	Comments	Comments submitted by the Saginaw County Chamber	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMLbVAAX						
U-20763-0682	04/07/21	Public Comment	Public Comment	Comments	Comments submitted with an an updated letter and with additional signatures from a total of 120 organizations and businesses and 1,920 individuals.	66
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMJtPAAX						
U-20763-0681	04/07/21	Public Comment	Public Comment	Comments	Comments submitted by 9 individuals	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMId7AAH						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0680	04/06/21	Comment	Comment	Comments	Comments submitted by 15 individuals	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMDsgAAH						
U-20763-0679	04/06/21	Public Comment	Public Comment	Comments	Comments submitted by the American Petroleum Institute	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MMCM6AAP						
U-20763-0678	04/06/21	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MM7wgAAD						
U-20763-0677	04/05/21	Public Comment	Public Comment	Comments	Comments submitted by 26 individuals	26
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MM4qDAAT						
U-20763-0676	04/05/21	Public Comment	Public Comment	Comments	Comments of Julie A. Wash	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MLygXAAT						
U-20763-0675	04/05/21	Public Comment	Public Comment	Comments	Comments submitted by Sarah Lucas on behalf of the Lake Superior Community Partnership	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MLybHAAT						
U-20763-0674	04/05/21	Public Comment	Public Comment	Comments	Comments submitted by 14 individuals	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MLx4kAAD						
U-20763-0673	04/02/21	Public Comment	Public Comment	Comments	Comments submitted by 14 individuals	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MLq8OAAT						
U-20763-0672	04/01/21	Public Comment	Public Comment	Comments	Comments submitted by 30 individuals	30
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MLeJpAAL						
U-20763-0671	04/01/21	Public Comment	Public Comment	Comments	Comments submitted by 17 individuals	17
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MLYAdAAP						
U-20763-0670	03/31/21	Public Comment	Public Comment	Comments	Comments submitted by 22 individuals	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MLSvPAAX						
U-20763-0669	03/31/21	Public Comment	Public Comment	Comments	Comments of Paul Kerman	2

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MLOhSAAX						
U-20763-0668	03/30/21	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MLE5OAAX						
U-20763-0667	03/30/21	Public Comment	Public Comment	Comments	Comments submitted by 41 individuals	41
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000ML7M2AAL						
U-20763-0666	03/30/21	Public Comment	Public Comment	Comments	Comments of Sarah Keith	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000ML70aAAD						
U-20763-0665	03/29/21	John Dulmes	Michigan Chemistry Council	Comments	Comments of the Michigan Chemistry Council	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MKyfbAAD						
U-20763-0664	03/29/21	Public Comment	Public Comment	Comments	Comments submitted by 20 individuals	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MKwA5AAL						
U-20763-0663	03/26/21	Public Comment	Public Comment	Comments	Comments of 1500 individuals and organizations	51
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MKuo4AAD						
U-20763-0662	03/26/21	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MKgy2AAD						
U-20763-0661	03/26/21	Public Comment	Public Comment	Comments	Comments of Mr. Jeffrey Insko	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000MKeDiAAL						
U-20763-0660	03/25/21	Christopher M. Bzdok	Bay Mills Indian Community	Attorney Withdrawal	BMIC Notice of Withdrawal of Attorney Appearance- Gravelle	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LFKYCAA5						
U-20763-0659	03/25/21	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LFHapAAH						
U-20763-0658	03/25/21	Nicholas Q. Taylor	MPSC Staff	Proof of Service	MPSC Staff's Proof of Service	3

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LFHa1AAH						
U-20763-0657	03/25/21	Public Comment	Public Comment	Comments	Comments submitted by 36 individuals	36
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LFC0CAAX						
U-20763-0656	03/25/21	Public Comment	Public Comment	Comments	Comments submitted by 44 individuals	44
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LF9B4AAL						
U-20763-0655	03/24/21	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LF34jAAD						
U-20763-0654	03/23/21	Public Comment	Public Comment	Comments	Comments submitted by 22 individuals	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LEn2cAAD						
U-20763-0653	03/23/21	Paul D. Bratt	Michigan Propane Gas Association	Response	Michigan Propane Gas Association and the National Propane Gas Association's Response Brief to the Applications for Leave to Appeal Ruling on Remand and Certificate of Service	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LEmx7AAD						
U-20763-0652	03/23/21	Debra L. Krell	Michigan Laborers' District Council	Proof of Service	proof of service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LEmEFAA1						
U-20763-0651	03/23/21	Lauren E. Crummel	Michigan Laborers' District Council	Response	MLDC Response	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LEm6oAAD						
U-20763-0650	03/23/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Response	Applicant Enbridge Energy, Limited Partnership's Response to the Applications for Leave to Appeal on Remand Filed by For Love Of Water, Environmental Law & Policy Center, Michigan Climate Action Network, Bay Mills Indian Community, Grand Traverse Band Of Ottawa And Chippewa Indians, Little Traverse Bay Band Of Odawa Indians, Nottawaseppi Huron Band Of The Potawatomi, Michigan Environmental	41

RECEIVED by MSC 11/14/2025 2:10:18 PM

					Council, Tip Of The Mitt Watershed Council, and National Wildlife Federation and Certificate of Service	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LEln1AAD						
U-20763-0649	03/23/21	Benjamin J. Holwerda	MPSC Staff	Response	Michigan Public Service Commission Staff's Response Brief in Opposition to Joint Appellants' Applications for Leave to Appeal the Administrative Law Judge's Ruling on Motion In Limine on Remand	48
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LElCdAAL						
U-20763-0648	03/23/21	Leah J. Brooks	Mackinac Straits Corridor Authority	Proof of Service	Proof of Service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LEkwbAAD						
U-20763-0647	03/23/21	Leah J. Brooks	Mackinac Straits Corridor Authority	Response	Response to Application for Leave to Appeal	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LEkqiAAD						
U-20763-0646	03/23/21	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LEgpPAAT						
U-20763-0645	03/22/21	Public Comment	Public Comment	Comments	Comments submitted by 37 individuals	37
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LESfhAAH						
U-20763-0644	03/22/21	Public Comment	Public Comment	Comments	Comments submitted by 29 individuals	29
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LERE6AAP						
U-20763-0643	03/19/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Responses of Enbridge Energy, Limited Partnership to the Third Set of Discovery Requests of the Michigan Public Service Commission Staff, IR (3)17	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LEBAAA5						
U-20763-0642	03/19/21	Public Comment	Public Comment	Comments	Comments submitted by 16 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LEAsqAAH						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0641	03/18/21	Public Comment	Public Comment	Comments	Comments submitted by 28 individuals	28
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LDwsAAAT						
U-20763-0640	03/18/21	Public Comment	Public Comment	Comments	Comments submitted by 16 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LDs3gAAD						
U-20763-0639	03/17/21	Public Comment	Public Comment	Comments	Comments submitted by 46 individuals	46
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LDibuAAD						
U-20763-0638	03/17/21	Public Comment	Public Comment	Comments	Comments submitted by 11 individuals	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LDaJdAAL						
U-20763-0637	03/16/21	Public Comment	Public Comment	Comments	Comments submitted by 19 individuals	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LDTpjAAH						
U-20763-0636	03/16/21	Public Comment	Public Comment	Comments	Comments filed by Lisa Patrell	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LDOGJAA5						
U-20763-0635	03/15/21	Public Comment	Public Comment	Comments	Comments submitted by 18 individuals	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LDGTeAAP						
U-20763-0634	03/15/21	Public Comment	Public Comment	Comments	Comments submitted by 34 individuals	34
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LD5x5AAD						
U-20763-0633	03/15/21	Public Comment	Public Comment	Comments	Comments submitted by 35 individuals	35
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LD5mJAAT						
U-20763-0632	03/12/21	Public Comment	Public Comment	Comments	Comments submitted by 14 individuals	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCvitAAD						
U-20763-0631	03/12/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Responses of Enbridge Energy, Limited Partnership to the Third Set of Discovery Requests of the Michigan Public Service Commission Staff	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCv4ZAAT						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0630	03/12/21	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCqc8AAD						
U-20763-0629	03/11/21	Public Comment	Public Comment	Comments	Comments submitted by 24 individuals	24
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCk8QAAT						
U-20763-0628	03/11/21	Public Comment	Public Comment	Comments	Comments submitted by 34 individuals	34
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCc9cAAD						
U-20763-0627	03/10/21	Public Comment	Public Comment	Comments	Comments submitted by 24 individuals	24
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCYM7AAP						
U-20763-0626	03/10/21	Public Comment	Public Comment	Comments	Comments submitted by 28 individuals	29
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCR2hAAH						
U-20763-0625	03/09/21	Margrethe Kearney	Environmental Law & Policy Center	Appeal	Application by the Environmental Law & Policy Center and Michigan Climate Action Network for Leave to Appeal October 23, 2020 and February 23, 2021 Rulings Excluding Evidence	79
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCMd7AAH						
U-20763-0624	03/09/21	James M. Olson	For the Love of Water	Appeal	For Love of Water Application for Leave to Appeal Legal Ruling by ALJ on Remand Regarding Motion in Limine	36
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCMc4AAH						
U-20763-0623	03/09/21	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCLkZAAX						
U-20763-0622	03/09/21	Christopher M. Bzdok	Bay Mills Indian Community	Appeal	BMIC-GTB-LTBB-NHBP Application for Leave to Appeal ALJ Ruling on Motion in Limine on Remand	54
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCJUXAA5						
U-20763-0621	03/09/21	Michael S. Ashton	Enbridge Energy, Limited	Proof of Service	Certificate of Service of Enbridge Energy, Limited Partnership's ("Enbridge") Second Supplemental Responses to Discovery the First Set of Discovery Requests of the Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

			Partnership		Indians, Tip of the Mitt Watershed Council and National Wildlife Federation, IR 25 and 31	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCIPIAAP						
U-20763-0620	03/09/21	Christopher M. Bzdok	Michigan Environmental Council	Appeal	MEC-TOMWC-NWF Application for Leave to Appeal Ruling on Motion in Limine on Remand	38
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCHATAA5						
U-20763-0619	03/09/21	Public Comment	Public Comment	Comments	Comments submitted by 11 individuals	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCDzGAAX						
U-20763-0618	03/08/21	Public Comment	Public Comment	Comments	Comments submitted by 13 individuals	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCAEnAAP						
U-20763-0617	03/08/21	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LCA7bAAH						
U-20763-0616	03/08/21	Public Comment	Public Comment	Comments	Comments submitted by 16 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LByvAAAT						
U-20763-0615	03/05/21	Spencer A. Sattler	MPSC Staff	Proof of Service	Proof of Service of MPSC Staff's 3rd Discovery Request to Enbridge Energy, LP	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LBp01AAD						
U-20763-0614	03/05/21	Public Comment	Public Comment	Comments	Comments submitted by 13 individuals	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LBodAAAT						
U-20763-0613	03/05/21	Public Comment	Public Comment	Comments	Comments submitted by 27 individuals	27
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LBiycAAD						
U-20763-0612	03/04/21	Public Comment	Public Comment	Comments	Comments submitted by 24 individuals	24
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LBcIMAA1						
U-20763-0611	03/04/21	Public Comment	Public Comment	Comments	Comments submitted by 119 individuals	119
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LBXfrAAH						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0610	03/03/21	Public Comment	Public Comment	Comments	Comments submitted by 23 individuals	23
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000LBPbUAAX						
U-20763-0609	03/02/21	Public Comment	Public Comment	Comments	Comments submitted by 14 individuals	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KIeMOAA1						
U-20763-0608	03/01/21	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KII3ZAAX						
U-20763-0607	02/26/21	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KHi2WAAT						
U-20763-0606	02/25/21	Public Comment	Public Comment	Comments	Comments submitted by 55 individuals	55
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KHSeqAAH						
U-20763-0605	02/25/21	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KHBtmAAH						
U-20763-0604	02/24/21	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KH7ImAAD						
U-20763-0603	02/23/21	Public Comment	Public Comment	Comments	Comments submitted by 78 individuals	78
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KGu3FAAT						
U-20763-0602	02/23/21	Dennis Mack	ALJs - MPSC	Ruling	Ruling on Motion in Limine on Remand; POS	27
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KGpz0AAD						
U-20763-0601	02/23/21	Public Comment	Public Comment	Comments	Comments submitted by 49 individuals	49
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KGlnhAAD						
U-20763-0600	02/22/21	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KGghDAAT						
U-20763-0599	02/22/21	Public Comment	Public Comment	Comments	Comments submitted by Dawn Young	2

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KGaIwAAL						
U-20763-0598	02/19/21	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KGJnzAAH						
U-20763-0597	02/19/21	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KGAOaAAP						
U-20763-0596	02/18/21	Valerie J.M. Brader	Michigan Chamber of Commerce	Comments	Appendix to the comments of the comments of the Michigan Chamber of Commerce (Army Corps of Engineers Comments)	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KG5urAAD						
U-20763-0595	02/18/21	Valerie J.M. Brader	Michigan Chamber of Commerce	Comments	Comment on behalf of the Michigan Chamber of Commerce	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KG5lfAAD						
U-20763-0594	02/18/21	Public Comment	Public Comment	Comments	Comments submitted by 9 individuals	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KG5dMAAT						
U-20763-0593	02/18/21	Public Comment	Public Comment	Comments	Comments submitted by 43 individuals	43
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KFybrAAD						
U-20763-0592	02/17/21	Public Comment	Public Comment	Comments	Comments submitted by 24 individuals	24
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KFqtwAAD						
U-20763-0591	02/16/21	Public Comment	Public Comment	Comments	Comments submitted by 31 individuals	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KFqsKAAT						
U-20763-0590	02/16/21	Public Comment	Public Comment	Comments	Comments submitted by 29 individuals	29
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KFVXZAA5						
U-20763-0589	02/15/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's ("Enbridge") Supplemental Response to the First Set of Discovery Requests of the Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council and National Wildlife Federation, IR 25	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KFOSrAAP						
U-20763-0588	02/12/21	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KFCUNAA5						
U-20763-0587	02/12/21	Public Comment	Public Comment	Comments	Comments submitted by 21 individuals	21
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KF4RjAAL						
U-20763-0586	02/11/21	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KEt3VAAT						
U-20763-0585	02/11/21	Lori A. Penn	Penn Reporting, LLC	Transcript	Volume No. 5, February 5, 2021, Motion Hearing	109
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KEt9TAAT						
U-20763-0584	02/10/21	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J9Q5YAAV						
U-20763-0583	02/09/21	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J9IzNAAV						
U-20763-0582	02/09/21	Public Comment	Public Comment	Comments	Comments submitted by Lisa Patrell	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J9DkfAAF						
U-20763-0581	02/09/21	Public Comment	Public Comment	Comments	Comments submitted by 22 individuals	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J9DioAAF						
U-20763-0580	02/08/21	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J96maAAB						
U-20763-0579	02/08/21	Public Comment	Public Comment	Comments	Comments submitted by 7 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J93kBAAR						
U-20763-0578	02/08/21	Public Comment	Public Comment	Comments	Comments submitted by Gayla Reuter-Alm	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J93ARAAZ						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0577	02/08/21	Public Comment	Public Comment	Comments	Comments submitted by Shirley Jackson	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J938aAAB						
U-20763-0576	02/08/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Other	Supplemental Filing of Enbridge Energy, Limited Partnership of The Michigan Department of Environment, Great Lakes, and Energy's Responsiveness Summaries and Certificate of Service	26
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J8zuRAAR						
U-20763-0575	02/05/21	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J8nA3AAJ						
U-20763-0574	02/05/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Other	Supplemental Filing of Enbridge Energy, Limited Partnership of The Michigan Department of Environment, Great Lakes, and Energy's Permits and Certificate of Service	72
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J8fKiAAJ						
U-20763-0573	02/05/21	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J8d8dAAB						
U-20763-0572	02/04/21	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J8RCgAAN						
U-20763-0571	02/03/21	Public Comment	Public Comment	Comments	Comments submitted by 17 individuals	17
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J8LuSAAV						
U-20763-0570	02/03/21	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J8DqYAAV						
U-20763-0569	02/03/21	Valerie J.M. Brader	Small Business Association of Michigan	Comments	Comment on behalf of the Small Business Association of Michigan	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J8DBAAA3						
U-20763-0568	02/02/21	Public Comment	Public Comment	Comments	Comments submitted by 16 individuals	17

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J89QGAAZ						
U-20763-0567	02/02/21	Public Comment	Public Comment	Comments	Comments submitted by 24 individuals	25
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J82iJAAR						
U-20763-0566	02/01/21	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J7rYAAAZ						
U-20763-0565	01/29/21	Margrethe Kearney	Environmental Law & Policy Center	Reply Brief	Reply to Initial Briefs on Remand of the Environmental Law & Policy Center and Michigan Climate Action Network	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J7eFmAAJ						
U-20763-0564	01/29/21	Robert P. Reichel	Department of Attorney General	Reply Brief	Attorney General's Response Brief on Remand Involving the Motion in Limine	150
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J7e3qAAB						
U-20763-0563	01/29/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Reply Brief	Enbridge Energy, Limited Partnership's Reply Brief on Remand Regarding the Motion in Limine and Certificate of Service	23
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J7dIpAAJ						
U-20763-0562	01/29/21	Benjamin J. Holwerda	MPSC Staff	Reply Brief	MPSC Staff's Reply Brief on Remand re Motion in Limine.	21
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J7czVAAR						
U-20763-0561	01/29/21	Paul D. Bratt	Michigan Propane Gas Association	Reply Brief	Michigan Propane Gas Association and the National Propane Gas Association's Response Brief on Remand Regarding Enbridge Energy, LP's Motion in Limine and Certificate of Service	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J7ciVAAR						
U-20763-0560	01/29/21	Lauren E. Crummel	Michigan Laborers' District Council	Proof of Service	Certificate of Service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J7cESAAZ						
U-20763-0559	01/29/21	Lauren E. Crummel	Michigan Laborers' District Council	Reply Brief	MICHIGAN LABORERS' DISTRICT COUNCIL'S REPLY BRIEF IN SUPPORT OF ENBRIDGE'S MOTION IN LIMINE	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J7boAAAR						
U-20763-0558	01/29/21	Christopher M. Bzdok	Michigan Environmental Council	Reply Brief	MEC-GTB-TOMWC-BMIC-NWF-NHBP Reply to Initial Briefs on Remand	46
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J7barAAB						
U-20763-0557	01/29/21	Public Comment	Public Comment	Comments	Comments submitted by 35 individuals	35
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J7WyaAAF						
U-20763-0556	01/28/21	Public Comment	Public Comment	Comments	Comments submitted by 22 individuals	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J7KfJAAV						
U-20763-0555	01/27/21	Public Comment	Public Comment	Comments	Comments submitted by 26 individuals	26
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J77pHAAR						
U-20763-0554	01/26/21	Public Comment	Public Comment	Comments	Comments submitted by 61 individuals	61
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J6wvwAAB						
U-20763-0553	01/25/21	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J6iggAAB						
U-20763-0552	01/22/21	Public Comment	Public Comment	Comments	Comments submitted by 16 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J6S9DAAV						
U-20763-0551	01/21/21	Public Comment	Public Comment	Comments	Comments submitted by 24 individuals	24
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J6EDdAAN						
U-20763-0550	01/20/21	Public Comment	Public Comment	Comments	Comments submitted by 22 individuals	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J63cuAAB						
U-20763-0549	01/19/21	Public Comment	Public Comment	Comments	Comments submitted by 9 individuals	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5ysVAAR						
U-20763-0548	01/19/21	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5rDTAAZ						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0547	01/15/21	Leah J. Brooks	Department of Attorney General	Proof of Service	Proof of Service of MSCA Brief in Support of ALJ's Ruling on Motion in Limine	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5cT4AAJ						
U-20763-0546	01/15/21	Leah J. Brooks	Department of Attorney General	Brief	Mackinac Straits Corridor Authority's Brief in Support of Administrative Law Judge's Ruling on Motion in Limine	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5cQeAAJ						
U-20763-0545	01/15/21	James M. Olson	For the Love of Water	Brief	FLOW Initial Brief on Remand Regarding Motion in Limine	36
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5cMgAAJ						
U-20763-0544	01/15/21	Robert P. Reichel	Department of Attorney General	Letter	Attorney General's Support for Relief Requested in Briefs on Remand Filed by Tribal and Environmental Intervenors	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5cFAAAZ						
U-20763-0543	01/15/21	Paul D. Bratt	Michigan Propane Gas Association	Brief	Michigan Propane Gas Association and the National Propane Gas Association's Brief on Remand Regarding Enbridge Energy, LP's Motion in Limine and Certificate of Service	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5c7aAAB						
U-20763-0542	01/15/21	Benjamin J. Holwerda	MPSC Staff	Brief	The Michigan Public Service Commission Staff's Brief of the Michigan Public Service Commission's Remand of the Administrative Law Judge's Ruling on Motion in Limine	34
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5bKUAAZ						
U-20763-0541	01/15/21	Margrethe Kearney	Environmental Law & Policy Center	Response	Supplemental Response to Enbridge's Motion In Limine by the Environmental Law & Policy Center and Michigan Climate Action Network	27
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5bCuAAJ						
U-20763-0540	01/15/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Brief	Enbridge Energy, Limited Partnership's Initial Brief on Remand Regarding the Motion in Limine and Certificate of Service	124
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5b0eAAB						
U-20763-0539	01/15/21	Christopher M. Bzdok	Michigan Environmental Council	Brief	Initial Brief of MEC-GTB-TOMWC-NWF-BMIC-NHBP on Remand Regarding Motion in Limine	78
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5Xd2AAF						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0538	01/15/21	Public Comment	Public Comment	Comments	Comments submitted by 26 individuals	26
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5UvqAAF						
U-20763-0537	01/14/21	Public Comment	Public Comment	Comments	Comments submitted by Mr. Gary L. Street, M.S. (Chemical Engineering, P.E. (Michigan))	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5MnyAAF						
U-20763-0536	01/14/21	Public Comment	Public Comment	Comments	Comments submitted by 24 individuals	24
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000J5K4wAAF						
U-20763-0535	01/13/21	Public Comment	Public Comment	Comments	Comments submitted by 16 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000I00ATAAZ						
U-20763-0534	01/12/21	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HzmoNAAR						
U-20763-0533	01/11/21	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HzisvAAB						
U-20763-0532	01/11/21	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Proof of Service	Letter and Proof of Service	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HzigLAAR						
U-20763-0531	01/11/21	Dennis Mack	ALJs - MPSC	Ruling	Ruling on Motion to File Supplemental Testimony and Exhibits; Proof of Service	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HzejTAAR						
U-20763-0530	01/11/21	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HzbVUAAZ						
U-20763-0529	01/11/21	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Proof of Service evidencing service of Non-Disclosure Certificates and Non-Disclosure Agreement and Certificate for Critical Energy Infrastructure Information	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HzbE3AAJ						
					MPSC Staff's Response to Enbridge's	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0528	01/08/21	Spencer A. Sattler	MPSC Staff	Response	Motion to File Supplemental Direct Testimony and Exhibits	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HzRUcAAN						
U-20763-0527	01/07/21	Public Comment	Public Comment	Comments	Comments submitted by Ms. Jill Lampen	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HzHX2AAN						
U-20763-0526	01/07/21	Public Comment	Public Comment	Comments	Comments submitted by 34 individuals	35
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HzAwkAAF						
U-20763-0525	01/06/21	Public Comment	Public Comment	Comments	Comments submitted by Michelle Klingensmith	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hz6NSAAZ						
U-20763-0524	01/05/21	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service of Responses of Enbridge Energy, Limited Partnership to the Second Set of Discovery Requests of the Michigan Public Service Commission Staff	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HysM2AAJ						
U-20763-0523	01/05/21	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HymYiAAJ						
U-20763-0522	01/04/21	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hyig1AAB						
U-20763-0521	01/04/21	Public Comment	Public Comment	Comments	Comments submitted by 38 individuals	38
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HybhkAAB						
U-20763-0520	12/30/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HyFbxAAF						
U-20763-0519	12/30/20	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hy8dCAAR						
U-20763-0518	12/29/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hy3WNAAZ						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0517	12/29/20	Public Comment	Public Comment	Comments	31 postcards in support of Project	33
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hy0cSAAR						
U-20763-0516	12/29/20	Public Comment	Public Comment	Comments	Comments submitted by Lisa Patrell	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HxzcyAAB						
U-20763-0515	12/28/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's ("Enbridge") Supplemental Response to the First Set of Discovery Requests of the Michigan Public Service Commission Staff, IR No. 1.	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HxqBxAAJ						
U-20763-0514	12/28/20	Public Comment	Public Comment	Comments	Comments submitted by 29 individuals	29
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hxm25AAB						
U-20763-0513	12/28/20	Public Comment	Public Comment	Comments	Comments submitted by Lisa Patrell	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hxlh7AAB						
U-20763-0512	12/23/20	Public Comment	Public Comment	Comments	Comments submitted by Mary Pelton Cooper	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HxWwoAAF						
U-20763-0511	12/23/20	Dennis Mack	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HxWgqAAF						
U-20763-0510	12/23/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Testimony and Exhibits	Enbridge Energy Limited Partnership's Motion to File Supplemental Direct Testimony and Exhibits and Certificate of Service.	220
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HxWHZAA3						
U-20763-0509	12/23/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Testimony and Exhibits	Enbridge Energy, Limited Partnership's Supplemental Direct Testimony and Exhibits of Aaron Dennis and Certificate of Service	217
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HxWGHAA3						
U-20763-0508	12/23/20	Public Comment	Public Comment	Comments	Comments submitted by 16 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HxSXfAAN						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0507	12/23/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's ("Enbridge") Responses to the Second Set of Discovery Requests of The Environmental Law & Policy Center and The Michigan Climate Action Network	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HxReZAAV						
U-20763-0506	12/22/20	Public Comment	Public Comment	Comments	Comments submitted by 7 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HxNTgAAN						
U-20763-0505	12/22/20	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HxHPgAAN						
U-20763-0504	12/21/20	Public Comment	Public Comment	Comments	Comments submitted by 26 individuals	26
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HxC5zAAF						
U-20763-0503	12/21/20	Dennis Mack	ALJs - MPSC	Scheduling Memo		2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HxBeLAAV						
U-20763-0502	12/21/20	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Proof of Service	Letter and POS re NDA and Certificates	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hx9LNAAZ						
U-20763-0501	12/21/20	Christopher M. Bzdok	Tip of the Mitt Watershed Council	Proof of Service	Proof of Service for TOMWC's Second Supplemental Response to Enbridge	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hx6jtAAB						
U-20763-0500	12/21/20	Public Comment	Public Comment	Comments	Comments submitted by 20 individuals	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hx5ynAAB						
U-20763-0499	12/18/20	Public Comment	Public Comment	Comments	Comment submitted by Jeanne Blandino	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HwvxDAAR						
U-20763-0498	12/18/20	Public Comment	Public Comment	Comments	Comments submitted by 17 individuals	17

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hwqg4AAB						
U-20763-0497	12/17/20	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hwcc9AAB						
U-20763-0496	12/16/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's ("Enbridge") Supplemental Responses to the First Set of Discovery Requests of the Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council and National Wildlife Federation, IRs 3, 7, 9, 16, 16's additional attachment, and 24 .	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HwXqiAAF						
U-20763-0495	12/16/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's ("Enbridge") Supplemental Responses to Discovery the First Set of Discovery Requests of the Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council and National Wildlife Federation, IR 22.	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HwXQ2AAN						
U-20763-0494	12/16/20	Public Comment	Public Comment	Comments	Comments submitted by 9 individuals	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HwSdiAAF						
U-20763-0493	12/15/20	Public Comment	Public Comment	Comments	Comments submitted by 16 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HwF9BAAV						
U-20763-0492	12/14/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's ("Enbridge") Responses to the First Set of Discovery Requests of the Nottawaseppi Huron Band of the Potawatomi ("NHBP")	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hw9cUAAR						
U-20763-0491	12/14/20	Public Comment	Public Comment	Comments	Comments submitted by Pat Tourney	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hw5tkAAB						
U-20763-0490	12/14/20	Public Comment	Public Comment	Comments	Comments submitted by 13 individuals	14

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Hw3ZVAAZ						
U-20763-0489	12/11/20	Public Comment	Public Comment	Comments	Comments submitted by Jenelle Bartlett	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HUae1AAD						
U-20763-0488	12/11/20	Lori A. Penn	Penn Reporting, LLC	Transcript	Volume No. 4 - December 8, 2020 - Motion Hearing	19
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HUWjxAAH						
U-20763-0487	12/11/20	Lori A. Penn	Penn Reporting, LLC	Transcript	Volume No. 3 - December 8, 2020 - Motion Hearing	75
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HUWQXAA5						
U-20763-0486	12/11/20	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HUUfVAAX						
U-20763-0485	12/10/20	Nicholas Q. Taylor	MPSC Staff	Proof of Service	Proof of Service of MPSC Staff's 2nd Discovery Request to Enbridge Energy, LP	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HUQw2AAH						
U-20763-0484	12/10/20	Dennis Mack	ALJs - MPSC	Protective Order	Protective Order; Proof of Service	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HUPE9AAP						
U-20763-0483	12/10/20	Dennis Mack	ALJs - MPSC	Ruling	Ruling on Motion for Entry of a Protective Order; Proof of Service	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HUPAgAAP						
U-20763-0482	12/10/20	Public Comment	Public Comment	Comments	Comments submitted by 5 people	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HUK1wAAH						
U-20763-0481	12/09/20	Michigan Public Service Commission	Michigan Public Service Commission	Press Release		3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HUEDbAAP						
U-20763-0480	12/09/20	Michigan Public Service Commission	Michigan Public Service Commission	Order	Remands Enbridge Energy, Limited Partnership’s motion in limine to the Administrative Law Judge to allow for new briefing and to set a revised schedule	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HUDsEAAX						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0479	12/09/20	Margrethe Kearney	Environmental Law & Policy Center	Proof of Service	Proof of Service for Second Discovery Requests to Enbridge Energy, Limited Partnership Company by the Environmental Law & Policy Center and the Michigan Climate Action Network	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HUBW2AAP						
U-20763-0478	12/09/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's Responses to the First Set of Discovery Requests of the First Discovery Requests of The Environmental Law & Policy Center and The Michigan Climate Action Network	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HU8a4AAD						
U-20763-0477	12/09/20	Public Comment	Public Comment	Comments	Comments submitted by 16 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HU8GYAA1						
U-20763-0476	12/08/20	Public Comment	Public Comment	Comments	Comments submitted by 7 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HU45XAAT						
U-20763-0475	12/08/20	Public Comment	Public Comment	Comments	Comments submitted by 19 individuals	19
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HTxCBAA1						
U-20763-0474	12/07/20	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HTtSuAAL						
U-20763-0473	12/07/20	Christopher M. Bzdok	Michigan Environmental Council	Objections	Objections by MEC-GTB-BMIC-TOMWC-NWF to Protective Order Submitted by Enbridge Energy, Limited Partnership	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HTnFIAAL						
U-20763-0472	12/07/20	Public Comment	Public Comment	Comments	Comments submitted by Lisa Patrell	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HTmf3AAD						
U-20763-0471	12/04/20	Raymond O. Howd	Department of Attorney General	Proof of Service	Proof of Service of MSCA's Statement Partially Concurring with Enbridge's Resp to Mot for Prot Ord	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HTclTAAT						
U-20763-0470	12/04/20	Raymond	Department of Attorney	Other	MSCA's Statement Partially Concurring w/	3

RECEIVED by MSC 11/14/2025 2:10:18 PM

		O. Howd	General		Enbridge's Resp to Mot for Prot Ord & POS	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HTcfkAAD						
U-20763-0469	12/04/20	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HTcMYAA1						
U-20763-0468	12/04/20	Spencer A. Sattler	MPSC Staff	Response	MPSC Staff's Response in Support of Motion for a Protective Order	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HTcOyAAL						
U-20763-0467	12/04/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Response	Enbridge Energy, Limited Partnership's Answer and Supporting Brief in Response to Motion for Entry of a Protective Order and Certificate of Service of same	76
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HTbVyAAL						
U-20763-0466	12/04/20	Robert P. Reichel	Department of Attorney General	Response	Attorney General's Response to Enbridge Energy Limited Partnership's Motion to Compel	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HTaU1AAL						
U-20763-0465	12/04/20	Public Comment	Public Comment	Comments	Comments submitted by 18 individuals	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000HTW6iAAH						
U-20763-0464	12/03/20	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GdLPUAA3						
U-20763-0463	12/02/20	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GdFL0AAN						
U-20763-0462	12/02/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's ("Enbridge") Third Supplemental Responses to the First Set of Discovery Requests of the Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council and National Wildlife Federation.	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GdFIsAAN						
U-20763-0461	12/02/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gd96nAAB						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0460	12/01/20	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gd5FKAAZ						
U-20763-0459	12/01/20	Public Comment	Public Comment	Comments	Comments submitted by 14 individuals	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gd0cTAAR						
U-20763-0458	11/30/20	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Proof of Service	Proof of Service re First Discovery Requests to Enbridge Energy, Limited Partnership by NHBP	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gcud2AAB						
U-20763-0457	11/30/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GcnweAAB						
U-20763-0456	11/25/20	Dennis Mack	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GcYTvAAN						
U-20763-0455	11/25/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Motion	Notice of Hearing, Enbridge Energy, Limited Partnership's Motion to Compel Answers to Requests for Admission and Certificate of Service	21
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GcX9LAAV						
U-20763-0454	11/25/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service of Enbridge Energy, Limited Partnership's Second Discovery to Attorney General	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GcWq3AAF						
U-20763-0453	11/25/20	Public Comment	Public Comment	Comments	Comments submitted by 20 individuals	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GcSwDAAV						
U-20763-0452	11/25/20	Dennis Mack	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GcSjdAAF						
U-20763-0451	11/24/20	Lydia Barbash-Riley	Michigan Environmental Council	Motion	Motion for Protective Order	20

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GcP6TAAV						
U-20763-0450	11/24/20	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GcHozAAF						
U-20763-0449	11/23/20	Public Comment	Public Comment	Comments	Comments submitted by Rohit Laungani	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GcEN3AAN						
U-20763-0448	11/23/20	Public Comment	Public Comment	Comments	Comments submitted by 13 individuals	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gc7yvAAB						
U-20763-0447	11/20/20	Benjamin J. Holwerda	MPSC Staff	Response	The Michigan Public Service Commission Staff's Response in Opposition to Joint Appellants' Application for Leave to Appeal the Administrative Law Justice's Ruling on Motion to Limine	26
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gc1Q0AAJ						
U-20763-0446	11/20/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gc0maAAB						
U-20763-0445	11/20/20	Paul D. Bratt	Michigan Propane Gas Association	Response	Michigan Propane Gas Association and National Propane Gas Association's Response to the Applications for Leave to Appeal Filed By For The Love Of Water, The Environmental Law & Policy Center, The Michigan Climate Action Network, The Bays Mill Indian Community, The Michigan Environmental Council, The Grand Traverse Band Of Ottawa And Chippewa Indians, The Tip Of The Mitt Watershed Council, The National Wildlife Federation and The Attorney General, and Certificate of Service of same.	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gc0J2AAJ						
U-20763-0444	11/20/20	Raymond O. Howd	Mackinac Straits Corridor Authority	Proof of Service	Proof of Service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gc03DAAR						
U-20763-0443	11/20/20	Raymond O. Howd	Mackinac Straits Corridor	Other	MSCA Statement	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

			Authority			
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gc0CYAAZ						
U-20763-0442	11/20/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Response	Applicant Enbridge Energy, Limited Partnership's Response to the Applications for Leave to Appeal Filed By For The Love Of Water, The Environmental Law & Policy Center, The Michigan Climate Action Network, The Bays Mill Indian Community, The Michigan Environmental Council, The Grand Traverse Band Of Ottawa And Chippewa Indians, The Tip Of The Mitt Watershed Council, The National Wildlife Federation and The Attorney General and Certificate of Service of same.	44
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gc08CAAR						
U-20763-0441	11/20/20	Dennis Mack	ALJs - MPSC	Ruling	Permission for Jeffrey S. Rasmussen to Appear Temporarily; Permission for Johnathon R. Loera to Appear Temporarily; Permission for Jeremy J. Patterson to Appear Temporarily; Proof of Service	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GbyGfAAJ						
U-20763-0440	11/20/20	Public Comment	Public Comment	Comments	Comments submitted by 22 individuals	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GbunnAAB						
U-20763-0439	11/19/20	Public Comment	Public Comment	Comments	Comments submitted by 38 individuals	38
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GbmWtAAJ						
U-20763-0438	11/18/20	Public Comment	Public Comment	Comments	Comments submitted by 34 individuals	34
U-20763-0437	11/18/20	Public Comment	Public Comment	Comments	Comments submitted by 31 individuals	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GbUBmAAN						
U-20763-0436	11/17/20	Dennis Mack	ALJs - MPSC	Ruling	Ruling on Petition to Intervene; Proof of Service	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GbP4nAAF						
U-20763-0435	11/17/20	Public Comment	Public Comment	Comments	Comments submitted by 28 individuals	28
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GbJXwAAN						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0434	11/16/20	Public Comment	Public Comment	Comments	Comments submitted by Mr. Ron Renaud	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GbFWpAAN						
U-20763-0433	11/16/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Objections	Enbridge Energy, Limited Partnership's Objection to the Late Filed Petition to Intervene of the Sault Ste. Marie Tribe of Chippewa Indians	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GbCGJAA3						
U-20763-0432	11/13/20	Jeffrey S. Rasmussen	Sault Ste. Marie Tribe of Chippewa Indians	Motion	MOTION FOR TEMPORARY ADMISSION TO PRACTICE- JRL includes CGS	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gb3V1AAJ						
U-20763-0431	11/13/20	Jeffrey S. Rasmussen	Sault Ste. Marie Tribe of Chippewa Indians	Motion	MOTION FOR TEMPORARY ADMISSION TO PRACTICE - JR Loera	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gb3RxAAJ						
U-20763-0430	11/13/20	Jeffrey S. Rasmussen	Sault Ste. Marie Tribe of Chippewa Indians	Motion	MOTION FOR TEMPORARY ADMISSION TO PRACTICE	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gb3NRAAZ						
U-20763-0429	11/13/20	Jeffrey S. Rasmussen	Sault Ste. Marie Tribe of Chippewa Indians	Motion	MOTION FOR TEMPORARY ADMISSION TO PRACTICE	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gb3L6AAJ						
U-20763-0428	11/13/20	Public Comment	Public Comment	Comments	Comments submitted by 28 individuals	28
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Gaw8jAAB						
U-20763-0427	11/12/20	Public Comment	Public Comment	Comments	Comments submitted by 31 individuals	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GaqDaAAJ						
U-20763-0426	11/12/20	Public Comment	Public Comment	Comments	Comments submitted by 29 individuals	30
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GalywAAB						
		Robert P.	Department	Proof of	Attorney General's First Supplemental	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0425	11/09/20	Reichel	of Attorney General	Service	Response to Enbridge Energy's First Discovery Request	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GaLhMAAV						
U-20763-0424	11/09/20	Dennis Mack	ALJs - MPSC	Scheduling Memo		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GaJUQAA3						
U-20763-0423	11/06/20	Margrethe Kearney	Environmental Law & Policy Center	Appeal	Application for Leave to Appeal, Brief in Support of Application to Appeal, Declaration of Peter A. Erickson, C. V. of Peter A. Erickson, Declaration of Dr. Peter H. Howard, Ph.D., CV of Dr. Peter H. Howard, Ph. D.	52
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GaCUQAA3						
U-20763-0422	11/06/20	Robert P. Reichel	Department of Attorney General	Letter	Attorney General's Support for and Joinder in Applications for Leave to Appeal form October 23, 2020 Ruling by ALJ on Motion Limine	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GaCDPAA3						
U-20763-0421	11/06/20	Christopher M. Bzdok	Bay Mills Indian Community	Appeal	Application for Leave to Appeal the Administrative Law Judge's Ruling on Motion in Limine by Bay Mills Indian Community	48
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GaBxSAAV						
U-20763-0420	11/06/20	James M. Olson	For the Love of Water	Appeal	FLOW Application for Leave to Appeal the Ruling by Administrative Law Judge on Scope of Review of Evidence	38
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000GaBmBAAV						
U-20763-0419	11/06/20	Lydia Barbash-Riley	Michigan Environmental Council	Appeal	Application for Leave to Appeal the Administrative Law Judge's Ruling on Motion In Limine By MEC, GTB, TOMWC, and NWF	94
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ga9t0AAB						
U-20763-0418	11/06/20	Christopher M. Bzdok	Michigan Environmental Council	Proof of Service	Proof of Service of TOMWC's Supplemental Discovery Response to Enbridge	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ga7dnAAB						
U-20763-0417	11/06/20	Christopher M. Bzdok	Michigan Environmental Council	Proof of Service	Proof of Service of NWF's Supplemental Discovery Response to Enbridge	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ga7ckAAB						
U-20763-0416	11/06/20	Christopher M. Bzdok	Michigan Environmental Council	Proof of Service	Proof of Service of GTB's Supplemental Discovery Response to Enbridge	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ga7bcAAB						
U-20763-0415	11/06/20	Christopher M. Bzdok	Michigan Environmental Council	Proof of Service	Proof of Service of MEC's Supplemental Discovery Response to Enbridge	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ga7aAAAR						
U-20763-0414	11/05/20	Public Comment	Public Comment	Comments	Comments submitted by 11 individuals	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ga25xAAB						
U-20763-0413	11/05/20	Public Comment	Public Comment	Comments	Comments submitted by 20 individuals	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FUpzfAAD						
U-20763-0412	11/04/20	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FUjxdAAD						
U-20763-0411	11/02/20	Public Comment	Public Comment	Comments	Comments submitted by 20 individuals	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FUUJlAAP						
U-20763-0410	11/02/20	Dennis Mack	ALJs - MPSC	Ruling	Permission for Adam J. Ratchenski to Appear Temporarily; Proof of Service	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FUOquAAH						
U-20763-0409	10/30/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's ("Enbridge") Second Supplemental Response to Discovery No. 13 in the First Set of Discovery Requests of the Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council and National Wildlife Federation	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FUG42AAH						
U-20763-0408	10/30/20	Christopher M. Bzdok	Bay Mills Indian Community	Motion	Motions for Admission Pro Hac Vice of Adam J. Ratchenski as Co-counsel of Record for Bay Mills Indian Community	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FUFDHAA5						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0407	10/30/20	Public Comment	Public Comment	Comments	Comments submitted by 25 individuals	25
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FUCJiAAP						
U-20763-0406	10/29/20	Public Comment	Public Comment	Comments	Comments submitted by 21 individuals	21
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FU1jMAAT						
U-20763-0405	10/28/20	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTrCdAAL						
U-20763-0404	10/27/20	James A. Bransky	Little Traverse Bay Bands of Odawa Indians	Proof of Service	LTBB Odawa Proof of Service for Amended Discovery Responses (ENB-LTBB 1-6)	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTifWAAT						
U-20763-0403	10/27/20	Public Comment	Public Comment	Comments	Comments submitted by 24 individuals	24
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FThbmAAD						
U-20763-0402	10/26/20	Courtney A. Kachur	Sault Ste. Marie Tribe of Chippewa Indians	Appearance	Entry of Appearance - Courtney Kachur	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTeNmAAL						
U-20763-0401	10/26/20	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTeCUAA1						
U-20763-0400	10/26/20	Courtney A. Kachur	Sault Ste. Marie Tribe of Chippewa Indians	Other	Brief in Support of Petition to Intervene	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTdx5AAD						
U-20763-0399	10/26/20	Courtney A. Kachur	Sault Ste. Marie Tribe of Chippewa Indians	Petition	Petition to Intervene	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTdvJAAT						
U-20763-0397	10/26/20	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTYvCAAX						
U-20763-0396	10/23/20	Dennis Mack	ALJs - MPSC	Ruling	Ruling on Motion in Limine; Proof of Service	25
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTQghAAH						
U-20763-0395	10/23/20	Public Comment	Public Comment	Comments	Comments submitted by 14 individuals	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTMwjAAH						
U-20763-0394	10/22/20	Public Comment	Public Comment	Comments	Comment submitted by Ms. Lindsey Sullivan	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTIt5AAH						
U-20763-0393	10/22/20	Jeffrey S. Rasmussen	Sault Ste. Marie Tribe of Chippewa Indians	Other	Brief in Support of Petition to Intervene	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTFYEAA5						
U-20763-0392	10/22/20	Jeffrey S. Rasmussen	Sault Ste. Marie Tribe of Chippewa Indians	Petition	SSM Petition to Intervene	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTFfeAAH						
U-20763-0391	10/22/20	Jeffrey S. Rasmussen	Sault Ste. Marie Tribe of Chippewa Indians	Motion	SSM Motion to Appear as Counsel	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTFcBAAX						
U-20763-0390	10/22/20	Johnathan R. Loera	Sault Ste. Marie Tribe of Chippewa Indians	Appearance	Entry of Appearance for Attorney JR Loera	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTFY8AAP						
U-20763-0389	10/22/20	Jeremy J. Patterson	Sault Ste. Marie Tribe of Chippewa Indians	Appearance	Entry of Appearance for Attorney Jeremy J. Patterson	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTFWgAAP						
U-20763-0388	10/22/20	Jeffrey S. Rasmussen	Sault Ste. Marie Tribe of Chippewa Indians	Appearance	Entry of Appearance for Attorney	1

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTFPuAAP						
U-20763-0387	10/22/20	Public Comment	Public Comment	Comments	Comments from 10 individuals	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTDSGAA5						
U-20763-0386	10/21/20	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FTAFIAA5						
U-20763-0385	10/21/20	Public Comment	Public Comment	Comments	Comments submitted by 11 individuals	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000FT59MAAT						
U-20763-0384	10/20/20	Public Comment	Public Comment	Comments	29 postcards received in support of project by Enbridge	32
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ek2ucAAB						
U-20763-0383	10/20/20	Public Comment	Public Comment	Comments	Comments submitted by Lisa Patrell	103
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ek2EkAAJ						
U-20763-0382	10/20/20	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ek20JAAR						
U-20763-0381	10/20/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service Regarding Enbridge Energy, Limited Partnership's ("Enbridge") Supplemental Response to Discovery No. 13 in the First Set of Discovery Requests of the Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council and National Wildlife Federation	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ek0Z0AAJ						
U-20763-0380	10/19/20	Public Comment	Public Comment	Comments	Public comment from 9 individuals supporting the plan to build the Great Lakes Tunnel in the Straits of Mackinac.	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjvaaAAB						
U-20763-0377	10/19/20	Public Comment	Public Comment	Comments	Public comment from 110 individuals supporting the plan to build the Great Lakes Tunnel in the Straits of Mackinac.	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjvZSAAZ						
U-20763-0376	10/19/20	Public Comment	Public Comment	Comments	Comments of Carol Graham-Banes and Craig Banes	1

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjvHsAAJ						
U-20763-0375	10/19/20	Public Comment	Public Comment	Comments	Comments of Ms. Catherine Daligga	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ejr5uAAB						
U-20763-0374	10/19/20	Public Comment	Public Comment	Comments	Comments submitted by 7 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjqPLAAZ						
U-20763-0372	10/19/20	Public Comment	Public Comment	Comments	Comments of Terri Wilkerson and Fred Harrington, Jr.	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjpxtAAB						
U-20763-0371	10/19/20	Public Comment	Public Comment	Comments	Comments of Ms. Lisa Patrell	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjpuBAAR						
U-20763-0370	10/16/20	Valerie J.M. Brader	Public Comment	Comments	Comments on behalf of Michigan Chamber of Commerce	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjlnPAAR						
U-20763-0369	10/16/20	Christopher M. Bzdok	Grand Traverse Band of Ottawa and Chippewa Indians	Proof of Service	Proof of Service of Grand Traverse Band's First Discovery Responses to Enbridge	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjlFmAAJ						
U-20763-0368	10/15/20	Public Comment	Public Comment	Comments	46 postcards received by Enbridge in support of the Project	48
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjbM2AAJ						
U-20763-0367	10/15/20	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjW5nAAF						
U-20763-0366	10/14/20	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Proof of Service	Proof of Service for NHBP's Discovery Responses to Enbridge	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjSxMAAV						
		Margrethe	Environmental Law &	Proof of	Objections and Responses to Enbridge's First Discovery Request to the Environment	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0365	10/14/20	Kearney	Policy Center	Service	al Law & Policy Center and Michigan Climate Action Network	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjSmCAAV						
U-20763-0364	10/14/20	Christopher R. Clark	Bay Mills Indian Community	Proof of Service	Proof of Service evidencing service of Bay Mills Indian Community's Response to Enbridge Energy, Limited Partnership on all parties	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjMMtAAN						
U-20763-0363	10/13/20	Public Comment	Public Comment	Comments	Comment submitted by Ms. Elizabeth Post	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjIfcAAF						
U-20763-0362	10/13/20	Public Comment	Public Comment	Comments	Comment filed by Marlana Huston	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjE0TAAV						
U-20763-0361	10/12/20	Michael E. Moody	Department of Attorney General	Proof of Service	Attorney General's Response to Enbridge Energy, Limited Partnership's First Set of Discovery Requests	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjB2UAAV						
U-20763-0360	10/12/20	Public Comment	Public Comment	Comments	Comments submitted by Mr. Mike Wilton	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EjAXWAA3						
U-20763-0359	10/12/20	James A. Bransky	Little Traverse Bay Bands of Odawa Indians	Proof of Service	LTBB Odawa proof of service of discovery responses to Enbridge (ENB-LTBB 1-6)	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ej84wAAB						
U-20763-0358	10/08/20	Public Comment	Public Comment	Comments	Public comment from 172 individuals supporting permit applications to build the Great Lakes Tunnel in the Straits of Mackinac.	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EioJYAAZ						
U-20763-0357	10/08/20	Public Comment	Public Comment	Comments	Comment filed by Catharine Miller	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EioG5AAJ						
U-20763-0356	10/07/20	Christopher M. Bzdok	Tip of the Mitt Watershed	Proof of Service	Proof of Service of Tip of the Mitt Watershed Council's First Discovery Responses to	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

			Council		Enbridge (TOM-1 throughTOM-23)	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EilcAAAR						
U-20763-0355	10/06/20	Public Comment	Public Comment	Comments	Comment filed by Karl Vanhorn	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EiYRaAAN						
U-20763-0354	10/06/20	Public Comment	Public Comment	Comments	46 Postcards received from public by Enbridge in support of the project	47
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EiXJQAA3						
U-20763-0353	10/05/20	Public Comment	Public Comment	Comments	Comment filed by Kaylie Patacca	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EiPlJAAV						
U-20763-0352	10/05/20	Marie T. Schroeder	Metro Court Reporters	Transcript	Volume 2, 09-30-2020, Motion In Limine	121
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EiNZQAA3						
U-20763-0351	10/05/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's ("Enbridge") Supplemental Response to Discovery No. 31 in the First Set of Discovery Requests of the Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council and National Wildlife Federation	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EiNPLAA3						
U-20763-0350	10/02/20	Public Comment	Public Comment	Comments	Comments submitted by Mr. Robert J. Bemben	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EiKDvAAN						
U-20763-0349	10/02/20	Christopher M. Bzdok	National Wildlife Federation	Proof of Service	Proof of Service of National Wildlife Federation's Discovery Responses to Enbridge (NWF-1 through NWF-15)	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EiImmAAF						
U-20763-0348	10/02/20	Christopher M. Bzdok	Michigan Environmental Council	Proof of Service	Proof of Service of Michigan Environmental Council's First Discovery Responses to Enbridge (MEC-1 through MEC-14)	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EiII0AAF						
U-20763-0347	09/30/20	Public Comment	Public Comment	Comments	52 Postcards Received by Enbridge in Support of Project	54
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EiBDFAA3						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0346	09/30/20	Public Comment	Public Comment	Comments	Comments submitted by Mr. Benjamin Schumitz	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EiAW1AAN						
U-20763-0345	09/30/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's First Set of Discovery Requests to For Love of Water ("FLOW") and Environmental Law & Policy Center ("ELPC") and Michigan Climate Action Network ("MCAN").	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EiAS9AAN						
U-20763-0344	09/30/20	Public Comment	Public Comment	Comments	66 Postcards received by Enbridge in support of project	68
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ei97vAAB						
U-20763-0343	09/28/20	Dennis Mack	ALJs - MPSC	Ruling	Permission for Mary K. Rock to Appear Temporarily; Permission for Megan R. Condon to Appear Temporarily; Proof of Service	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ei19qAAB						
U-20763-0342	09/28/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's First Set of Discovery Requests to the Little Traverse Bay Bands of Odawa Indians, The Grand Traverse Band of Ottawa and Chippewa Indians, Bay Mills Indian Community and Nottawaseppi Huron Band of the Potawatomi	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ei0wWAAR						
U-20763-0341	09/28/20	Public Comment	Public Comment	Comments	Comment submitted by Ms. Andrea Belden	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ei0QzAAJ						
U-20763-0340	09/28/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Responses of Enbridge Energy, Limited Partnership to the First Set of Discovery Requests of For Love of Water ("FLOW")	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ei061AAB						
U-20763-0339	09/28/20	Christopher M. Bzdok	Bay Mills Indian Community	Motion	Motions for Admission Pro Hac Vice of Mary K. Rock and Megan R. Condon as Co-counsel of Record for Bay Mills Indian Community	25
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhzZmAAJ						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0338	09/28/20	Public Comment	Public Comment	Comments	Public comment from 26 individuals supporting permit applications necessary to build the Great Lakes Tunnel in the Straits of Mackinac.	27
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhzXHAAZ						
U-20763-0337	09/28/20	Public Comment	Public Comment	Comments	Public comment from 96 individuals supporting permit applications necessary to build the Great Lakes Tunnel in the Straits of Mackinac.	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhzWEAAZ						
U-20763-0336	09/25/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding the the Supplemental Responses to Discovery Request Nos. 9, 20, 27, 32 and 53 of Enbridge Energy, Limited Partnership to the First Set of Discovery Requests of the Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council and National Wildlife Federation.	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhuJLAAZ						
U-20763-0335	09/25/20	Public Comment	Public Comment	Comments	Comments Submitted by Fatimah Alkhafahji	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhrlKAAR						
U-20763-0334	09/24/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding the Responses of Enbridge Energy, Limited Partnership to the First Set of Discovery Requests of the Michigan Public Service Commission Staff	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhoFdAAJ						
U-20763-0333	09/24/20	Benjamin J. Holwerda	MPSC Staff	Proof of Service	(Updated) Proof of Service of Michigan Public Service Commission Staff's Response to Enbridge Energy, Limited Partnership's Motion in Limine	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhnL2AAJ						
U-20763-0332	09/23/20	Paul D. Bratt	Michigan Propane Gas Association	Response	Michigan Propane Gas Association and National Propane Gas Association's Response in Support of Enbridge Energy, LP's Motion in Limine	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhjiGAAR						
U-20763-0331	09/23/20	Robert P. Reichel	Department of Attorney General	Response	Attorney General's Response to Enbridge Energy Limited Partnership's Motion in Limine	5

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhjaGAAR						
U-20763-0330	09/23/20	James M. Olson	For the Love of Water	Response	Response to Enbridge Energy's Motion in Limine by FLOW	41
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhjXRAAZ						
U-20763-0329	09/23/20	Margrethe Kearney	Environmental Law & Policy Center	Response	Environmental Law & Policy Center's and Michigan Climate Action Network's Opposition to Enbridge Energy Limited Partnership's Motion in Limine; Proof of Service	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhjUDAAZ						
U-20763-0328	09/23/20	Benjamin J. Holwerda	MPSC Staff	Response	The Michigan Public Service Commission Staff's Response to Enbridge Energy, Limited Partnership's Motion in Limine	83
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhjTAAAZ						
U-20763-0327	09/23/20	Public Comment	Public Comment	Comments	Public comments submitted via postcard from 26 supporters of the Great Lakes Tunnel project through the Great Lakes. Michigan Jobs coalition.	27
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhimBAAR						
U-20763-0326	09/23/20	Christopher M. Bzdok	Michigan Environmental Council	Response	MEC-GTB-BMIC-TOMWC-NWF Joint Response to Enbridge's Motion in Limine	60
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhikPAAR						
U-20763-0325	09/22/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service of Enbridge Energy, Limited Partnership’s First Set of Discovery Requests to the Tip of the Mitt Watershed Council	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ehc8aAAB						
U-20763-0324	09/21/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service of Enbridge Energy, Limited Partnership's First Set of Discovery Requests to the Attorney General	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhYIwAAN						
U-20763-0323	09/21/20	Public Comment	Public Comment	Comments	Comments Submitted by Gary Street, Engineering Consultant	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhY9fAAF						
U-20763-0322	09/21/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhXaVAAV						
U-20763-0321	09/21/20	Public Comment	Public Comment	Comments	Comments of former State Legislator and retired Judge, Joseph P. Swallow	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhVFjAAN						
U-20763-0320	09/18/20	Public Comment	Public Comment	Comments	Public comments supporting the Great Lakes Tunnel from 214 people through the Great Lakes Michigan Jobs coalition.	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhO2OAAV						
U-20763-0319	09/18/20	Public Comment	Public Comment	Comments	Comment submitted by Dickinson County Commissioner Joseph Stevens	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhNn9AAF						
U-20763-0318	09/17/20	Public Comment	Public Comment	Comments	Comments submitted by Ms. Rachel Aleks	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhJaSAAV						
U-20763-0317	09/17/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's First Set of Discovery Requests to The National Wildlife Federation	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhIIHAA3						
U-20763-0316	09/17/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding Enbridge Energy, Limited Partnership's First Set of Discovery Requests to The Michigan Environmental Council	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000EhIANAA3						
U-20763-0315	09/16/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E4ISPAA3						
U-20763-0314	09/16/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E4EGjAAN						
U-20763-0313	09/14/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service of Enbridge Energy, Limited Partnership's ("Enbridge") Supplemental Response to Discovery #26 in the First Set of Discovery Requests of the Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council and National Wildlife Federation	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E44YkAAJ						
U-20763-0312	09/14/20	James M. Olson	For the Love of Water	Proof of Service	Proof of Service for First Discovery Request to Enbridge Energy, Limited Partnership by FLOW	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E440vAAB						
U-20763-0311	09/14/20	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E421LAAR						
U-20763-0310	09/11/20	Public Comment	Public Comment	Comments	349 supportive comments for the Great Lakes Tunnel as collected through an online petition by the Great Lakes Michigan Jobs coalition	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E3xePAAR						
U-20763-0309	09/11/20	Public Comment	Public Comment	Comments	Comments submitted by Michael Phillips	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E3xb1AAB						
U-20763-0308	09/11/20	Public Comment	Public Comment	Comments	Public Comments of 91 individuals showing support for the Great Lakes Tunnel projects from Michigan residents through the Great Lakes Michigan Jobs coalition	92
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E3wYFAAZ						
U-20763-0306	09/11/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E3uZ7AAJ						
U-20763-0305	09/10/20	Nicholas Q. Taylor	MPSC Staff	Proof of Service	Proof of Service of MPSC Staff's First Discovery Requests to Enbridge Energy, LP	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E3r96AAB						
U-20763-0304	09/10/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E3ogFAAR						
U-20763-0303	09/09/20	Public Comment	Public Comment	Comments	Comments submitted by Ms. Kelsey Michaud	35
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E3jz0AAB						
U-20763-0302	09/09/20	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E3jgIAAR						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0301	09/09/20	Public Comment	Public Comment	Comments	Comment submitted by Bernadene Crampton	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E3im5AAB						
U-20763-0300	09/08/20	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E3esKAAR						
U-20763-0299	09/08/20	Public Comment	Public Comment	Comments	Comments filed by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000E3b46AAB						
U-20763-0298	09/03/20	Public Comment	Public Comment	Comments	Comment submitted by Ms. Anna Bunting	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DdpSDAAZ						
U-20763-0297	09/03/20	Public Comment	Public Comment	Comments	Comments filed by 2 individuals.	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DdnMSAAZ						
U-20763-0296	09/02/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Motion	Enbridge Energy, Limited Partnership's Motion in Limine	32
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DdjmJAAR						
U-20763-0295	09/02/20	Public Comment	Public Comment	Comments	Public comment supporting the Great Lakes Tunnel project through an online petition by the Great Lakes Michigan Jobs coalition	23
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ddjd7AAB						
U-20763-0294	09/02/20	Public Comment	Public Comment	Comments	Public Comments of 71 individuals supporting the Great Lakes Tunnel project	72
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ddi2EAAR						
U-20763-0293	09/02/20	Public Comment	Public Comment	Comments	Public Comments of 62 individuals supporting the Great Lakes Tunnel project	63
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ddi1PAAR						
U-20763-0292	09/02/20	Public Comment	Public Comment	Comments	Comment from Mary Finnegan	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Ddhk9AAB						
U-20763-0291	09/01/20	Raymond O. Howd	Department of Attorney General	Proof of Service	Proof of Service of Response to First Discovery Requests	3

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DddE3AAJ						
U-20763-0290	09/01/20	Public Comment	Public Comment	Comments	Comment from Harold Smith	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DdbhGAAR						
U-20763-0289	09/01/20	Marie T. Schroeder	Metro Court Reporters	Transcript	Public Hearing, August 24, 2020	147
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DdZu8AAF						
U-20763-0288	08/31/20	Public Comment	Public Comment	Comments	Comments submitted by Mr. Matthew Halso	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DdVcTAAV						
U-20763-0287	08/31/20	Public Comment	Public Comment	Comments	United Steelworkers Enbridge Line 5 Act. 16 Application Comment Submission	64
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DdURKAA3						
U-20763-0286	08/31/20	Public Comment	Public Comment	Comments	13 Comment Cards Recd by Enbridge	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DdSc2AAF						
U-20763-0285	08/31/20	Public Comment	Public Comment	Comments	Comments filed by 11 individuals.	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DdS0uAAF						
U-20763-0284	08/28/20	Public Comment	Public Comment	Comments	Comments filed by 4 individuals.	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DdHvfAAF						
U-20763-0283	08/27/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Proof of Service of Responses of Enbridge Energy, Limited Partnership to the First Set of Discovery Requests of the Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council and National Wildlife Federation	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DdDbUAAV						
U-20763-0282	08/27/20	Public Comment	Public Comment	Comments	Comments submitted by Ms. LuAnne Kozma and Ms. MaryAnne Macy	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DdD1oAAF						
U-20763-0281	08/27/20	Public Comment	Public Comment	Comments	Comments filed by 4 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DdAQIAAN						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0280	08/27/20	Public Comment	Public Comment	Comments	Comments filed by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dd9MUAAZ						
U-20763-0279	08/26/20	Public Comment	Public Comment	Comments	Comments submitted by 7 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dd75NAAR						
U-20763-0278	08/26/20	Christopher M. Bzdok	Nottawaseppi Huron Band of Potawatomi Indians	Appearance	Appearance of Christopher M. Bzdok as Co-Counsel on behalf of the Nottawaseppi Huron Band of Potawatomi (NHBP)	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dd6uAAAR						
U-20763-0277	08/26/20	Public Comment	Public Comment	Comments	Comments filed by 6 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dd541AAB						
U-20763-0276	08/26/20	Public Comment	Public Comment	Comments	Comments from the Sarnia-Lambton Economic Partnership	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dd4yNAAR						
U-20763-0275	08/26/20	Public Comment	Public Comment	Comments	Comments submitted by 16 individuals	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dd3bqAAB						
U-20763-0274	08/26/20	Public Comment	Michigan House of Representatives	Comments	Comments submitted by Majority Floor Leader in the House of Representatives, Tristan Cole and the members most affected by the Great Lakes Tunnel Project.	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dd3V4AAJ						
U-20763-0273	08/25/20	Public Comment	Public Comment	Comments	Comments submitted by 19 individuals	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dd0fQAAR						
U-20763-0272	08/25/20	Public Comment	Public Comment	Comments	Comments submitted by 43 individuals	43
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dczf4AAB						
U-20763-0271	08/25/20	Public Comment	Public Comment	Comments	Comments submitted by Muhammad Salman Rais, Democratic Candidate for State House District 93; Leonard Page, Vice-Chair, Straits of Mackinac Alliance, and 27 individuals	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcyToAAJ						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0270	08/25/20	Public Comment	Public Comment	Comments	Comments from Lisa Patrell	13
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dcxt6AAB						
U-20763-0269	08/25/20	Public Comment	Public Comment	Comments	Comments filed by 13 individuals	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcxkXAAR						
U-20763-0268	08/25/20	Public Comment	Public Comment	Comments	Comments from Stephanie Kromer on behalf of the Ohio Chamber of Commerce	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcxY1AAJ						
U-20763-0267	08/25/20	Public Comment	Public Comment	Comments	Comments from Harry Andersen the Senior Vice President, External Affairs & Chief Legal Officer at the Pembina Pipeline Corporation	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcxKOAAZ						
U-20763-0266	08/25/20	Public Comment	Public Comment	Comments	Comments submitted by 44 individuals	47
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcxJfAAJ						
U-20763-0265	08/25/20	Public Comment	Public Comment	Comments	Comments from Sean McBrearty, MI Legislative and Policy Director for Clean Water Action, and Campaign Coordinator for OWDM	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcxEpAAJ						
U-20763-0264	08/24/20	Public Comment	Public Comment	Comments	Comments submitted by 14 individuals	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcuGsAAJ						
U-20763-0263	08/24/20	Valerie J.M. Brader	Michigan Oil & Gas Association	Comments	Comments of the Michigan Oil and Gas Association	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dcu5LAAR						
U-20763-0262	08/24/20	Public Comment	Public Comment	Comments	Comments submitted by Washtenaw350	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DctrTAAR						
U-20763-0261	08/24/20	Public Comment	Public Comment	Comments	Comments Submitted by 90 individuals including comments from the Dickinson Area Economic Development Alliance (The Alliance), a private-public collaboration in Dickinson County, Michigan	92

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DctpNAAR						
U-20763-0260	08/24/20	Public Comment	Public Comment	Comments	Comments submitted by 347 individuals	353
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DctZtAAJ						
U-20763-0259	08/24/20	Public Comment	Public Comment	Comments	Comments submitted by 186 individuals.	186
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DctInAAJ						
U-20763-0258	08/24/20	Valerie J.M. Brader	Public Comment	Comments	Comment of Valerie Brader on behalf of the Small Business Association of Michigan (SBAM)	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcsoJAAR						
U-20763-0257	08/24/20	Public Comment	Public Comment	Comments	Comments from Patty Peek the Chair of the Straits of Mackinac Alliance	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcrXpAAJ						
U-20763-0256	08/24/20	Public Comment	Public Comment	Comments	Comments from Gary Street	26
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcrfQAAR						
U-20763-0255	08/24/20	Public Comment	Public Comment	Comments	Comments from The Michigan Resource Stewards	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dcr81AAB						
U-20763-0254	08/21/20	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DclgfAAB						
U-20763-0253	08/21/20	Public Comment	Public Comment	Comments	Supportive public comments for the Great Lakes Tunnel from people all over the state and country as collected by the Great Lakes. Michigan Jobs. coalition	27
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DclWnAAJ						
U-20763-0252	08/21/20	Public Comment	Public Comment	Comments	Public comments supporting the Great Lakes Tunnel project from residents across Michigan via the Great Lakes MI Jobs coalition (Batch 2 of 2)	109
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DclTGAAZ						
U-20763-0251	08/21/20	Public Comment	Public Comment	Comments	Public comments supporting the Great Lakes Tunnel project from residents around the state through the Great Lakes MI Jobs coalition	200

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DclNHAAZ						
U-20763-0250	08/21/20	Public Comment	Public Comment	Comments	Comment on behalf of Canada's Consul General Joseph Comartin	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DckOgAAJ						
U-20763-0249	08/21/20	Public Comment	Public Comment	Comments	Comments received from 9 individuals	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcjlDAAR						
U-20763-0248	08/21/20	Public Comment	Public Comment	Comments	Comments received from 5 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcjktAAB						
U-20763-0247	08/21/20	Public Comment	Public Comment	Comments	Comments submitted by 20 individuals	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dcil6AAB						
U-20763-0246	08/21/20	Public Comment	Lambda Energy Resources, LLC	Comments	Letter from the CEO and president of Lambda Energy Resources in Michigan, Harry A. Faulkner P.E.	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcijoAAB						
U-20763-0245	08/20/20	Public Comment	Public Comment	Comments	Comments submitted by 114 individuals	114
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dcg1qAAB						
U-20763-0244	08/20/20	Public Comment	Public Comment	Comments	43 Individual Comments recd in support of Tunnel Project	45
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DccgLAAR						
U-20763-0243	08/20/20	Public Comment	Public Comment	Comments	Comments from Bob Erickson	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DccfmAAB						
U-20763-0242	08/19/20	Public Comment	Public Comment	Comments	Comments submitted by 66 individuals	66
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dca6vAAB						
U-20763-0241	08/19/20	Margrethe Kearney	Environmental Law & Policy Center	Response	Environmental Law & Policy Center and Michigan Climate Action Network's Response to Enbridge Energy's Request for Rehearing	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcZzpAAF						
		Spencer A.			MPSC Staff's Response in Opposition to	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0240	08/19/20	Sattler	MPSC Staff	Response	Enbridge's Petition for Rehearing	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcZymAAF						
U-20763-0239	08/19/20	Public Comment	Public Comment	Comments	Comments submitted by Hon. Tiffany Snyder - Mayor of Ward, CO (Ret.) Boulder, Colorado, and 112 individuals	113
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcYrQAAV						
U-20763-0238	08/19/20	Christopher M. Bzdok	Bay Mills Indian Community	Response	Bay Mill's Indian Community's Response to Enbridge Energy's Request for Rehearing	16
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcYVjAAN						
U-20763-0237	08/19/20	Christopher M. Bzdok	Michigan Environmental Council	Response	MEC-GTB-TOMWC-NWF Response to Enbridge Energy's Request for Rehearing	17
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcYJnAAN						
U-20763-0236	08/19/20	Public Comment	Public Comment	Comments	Midland County Board of Commissioner's Resolution in support of Enbridge's Great Lakes Tunnel Project	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcY8MAAV						
U-20763-0235	08/19/20	Public Comment	Public Comment	Comments	Comments filed on behalf of 19 individuals	21
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcXx9AAF						
U-20763-0234	08/18/20	Public Comment	Public Comment	Comments	Comments submitted by 389 individuals	390
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcTGAAA3						
U-20763-0233	08/18/20	Christopher M. Bzdok	Michigan Environmental Council	Proof of Service	Proof of Service (1st Discovery Requests to Mackinac Straits Corridor Authority by MEC-GTB-TOMWC-NWF)	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcS3qAAF						
U-20763-0232	08/18/20	Marie T. Schroeder	Metro Court Reporters	Transcript	Volume 1, 08-12-2020, Prehearing	91
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcRrLAAV						
U-20763-0231	08/18/20	Scott Stevenson	Telecommunications Association of Michigan	Letter	Letter regarding permit application.	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcPyDAAV						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0230	08/17/20	Comment	Comment	Comments	Comments submitted by 164 individuals	164
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcND5AAN						
U-20763-0229	08/17/20	Public Comment	Public Comment	Comments	Comment submitted by Brian VanOss	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcJv0AAF						
U-20763-0228	08/17/20	Jennifer U. Heston	Enbridge Energy, Limited Partnership	Appearance	Entry of Appearance in an Administrative Hearing and Certificate of Service	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcJilAAF						
U-20763-0227	08/17/20	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcJkXAAV						
U-20763-0226	08/14/20	Public Comment	Public Comment	Comments	Comment submitted by Luke Peterson., Senior Pipeliner, Ironwood PLM Great Lakes Region	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DcCBtAAN						
U-20763-0225	08/13/20	Public Comment	Public Comment	Comments	Comments submitted by Bruce Rabe, Technical Director of Environmental Resources Management, Inc.	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dc7yUAAR						
U-20763-0224	08/13/20	Public Comment	Public Comment	Comments	Comments submitted by Robert Pallarito, Otsego County Commissioner	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dc7jdAAB						
U-20763-0223	08/13/20	Public Comment	Public Comment	Comments	Comments submitted by two individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dc7bFAAR						
U-20763-0222	08/13/20	Dennis Mack	ALJs - MPSC	Scheduling Memo		2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dc61FAAR						
U-20763-0220	08/12/20	Christopher M. Bzdok	Michigan Environmental Council	Proof of Service	Proof of Service (First Discovery Respnse to Enbridge Energy by MEC, GTB, TOMWC, NWF)	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dc3YuAAJ						
U-20763-0219	08/12/20	Public Comment	Public Comment	Comments	Official Statement from Operating Engineers 324 regarding the Line 5 Pipeline Replacement and Relocation to the Great	3

RECEIVED by MSC 11/14/2025 2:10:18 PM

					Lakes Tunnel	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dc2fpAAB						
U-20763-0218	08/12/20	James M. Olson	For the Love of Water	Other	FLOW's Reply to Enbridge's Objections to Petition to Intervene	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dc1HIAAZ						
U-20763-0217	08/12/20	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Proof of Service	Letter and Proof of Service for NHBP's Reply Brief on Enbridge's Limited Objection on NHBP's Petition to Intervene.	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dc0bbAAB						
U-20763-0216	08/12/20	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Reply Brief	Reply brief to Enbridge's Objection for Petition to Intervene	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dc0aJAAR						
U-20763-0215	08/12/20	Public Comment	Public Comment	Comments	Comments filed by Brian Dicken, Vice President, Advocacy & Public Policy with the Toledo Regional Chamber of Commerce	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dc0U6AAJ						
U-20763-0214	08/12/20	Christopher M. Bzdok	Michigan Environmental Council	Exhibits	Supplemental Exhibits to MEC Petition to Intervene (Exhibits C and D)	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dc0ODAAZ						
U-20763-0213	08/12/20	Public Comment	Public Comment	Comments	In support of the permit applications under consideration to build the Great Lakes Tunnel in the Straits of Mackinac, the Great Lakes Michigan Jobs coalition invited supporters to send in postcards going on-the-record with their support for the project. Please find enclosed formal public comments from supporters from across Michigan, each in support of the Tunnel project and approval of permit applications. These public comments were mailed in by supporters using their own postage, demonstrating their public support for this critical infrastructure project.	393
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dc0HgAAJ						
					A copy of the petition language and the names, hometowns and more for the 1,300	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0212	08/12/20	Public Comment	Public Comment	Comments	men and women who personally asked that supportive comments be relayed in their names when the Great Lakes Michigan Jobs coalition and its member organizations in late July 2020 made available to individuals across the state the opportunity to sign an online petition or otherwise offer public comment.	40
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dc0C7AAJ						
U-20763-0211	08/11/20	Tracy McAnally	Enbridge Energy, Limited Partnership	Affidavit	Supplemental to Affidavit of Mailing of Notice of Hearing	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbyEYAAZ						
U-20763-0210	08/11/20	Public Comment	Public Comment	Comments	Comments of the Canadian Propane Association (CPA)	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbyBFAAZ						
U-20763-0209	08/11/20	Public Comment	Public Comment	Comments	Comments submitted on behalf of the Ohio Chemistry Technology Council (OCTC)	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbyACAAZ						
U-20763-0208	08/11/20	Public Comment	Public Comment	Comments	Comments submitted by Robert Pallarito, Otsego County Commissioner	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dby73AAB						
U-20763-0207	08/11/20	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbxaEAAR						
U-20763-0206	08/11/20	Public Comment	Public Comment	Comments	Comments on behalf of the Michigan Pipe Trades Association	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbxA2AAJ						
U-20763-0205	08/11/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Proof of Service	Certificate of Service regarding service of (1) Applicant Enbridge Energy, Limited Partnership's Limited Objections to the Notice of Intervention of the Attorney General; (2) Applicant Enbridge Energy, Limited Partnership's Limited Objections to the Petitions to Intervene Filed by The Bay Mills Indian Community, The Grand Traverse Band Of Ottawa And Chippewa Indians, Little Traverse Bay Bands Of Odawa Indians, and Notttawaseppi Huron Band Of The Pottawatomi; (3) Applicant Enbridge Energy, Limited Partnership's	5

RECEIVED by MSC 11/14/2025 2:10:18 PM

					Objections to the Petitions to Intervene Filed by The Michigan Environmental Council, Tip Of The Mitt Watershed Council, The National Wildlife Federation, For Love Of Water, The Environmental Law & Policy Center, And Michigan Climate Action Network.	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dbx1KAAR						
U-20763-0204	08/11/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Objections	Applicant Enbridge Energy, Limited Partnership's Objections to the Petitions to Intervene Filed by The Michigan Environmental Council, Tip Of The Mitt Watershed Council, The National Wildlife Federation, For Love Of Water, The Environmental Law & Policy Center, And Michigan Climate Action Network	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dbx0WAAR						
U-20763-0203	08/11/20	Public Comment	Public Comment	Comments	Comments of the Northwest Ohio Building & Construction Trades Council	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dbx45AAB						
U-20763-0202	08/11/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Objections	Applicant Enbridge Energy, Limited Partnership's Limited Objections to the Petitions to Intervene Filed by The Bay Mills Indian Community, The Grand Traverse Band Of Ottawa And Chippewa Indians, Little Traverse Bay Bands Of Odawa Indians, and Notttawaseppi Huron Band Of The Pottawatomi	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbwzOAAR						
U-20763-0201	08/11/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Objections	Applicant Enbridge Energy, Limited Partnership's Limited Objections to the Notice of Intervention of the Attorney General.	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbwyuAAB						
U-20763-0200	08/11/20	Public Comment	Public Comment	Comments	Comments of the American Petroleum Institute of Michigan (API-MI)	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbwyGAAR						
U-20763-0199	08/11/20	Public Comment	Public Comment	Comments	Comments of Consumer Energy Alliance (CEA)	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbwxNAAR						
		Tracy	Enbridge Energy,		Affidavit of Mailing of Notice of Hearing and	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0198	08/11/20	McAnally	Limited Partnership	Affidavit	Affidavits of Publication	36
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dbw1dAAB						
U-20763-0197	08/11/20	Public Comment	Public Comment	Comments	Comments on behalf of Canadian Fuels Association members	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbuaRAAR						
U-20763-0196	08/10/20	Public Comment	Public Comment	Comments	49 Postcards recd by Enbridge in support of the Tunnel Application	50
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbtVjAAJ						
U-20763-0195	08/10/20	Public Comment	Public Comment	Comments	Comments submitted by 9 individuals	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbrNsAAJ						
U-20763-0194	08/10/20	Public Comment	Public Comment	Comments	Comments on behalf of the Lake Superior Community Partnership (LSCP).	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbrERAAZ						
U-20763-0193	08/10/20	Public Comment	Public Comment	Comments	Post cards received by Enbridge in support of the Project	25
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbqL0AAJ						
U-20763-0192	08/10/20	Public Comment	Public Comment	Comments	Resolution of the Village of Mackinaw City in support of the proposed Line 5 tunnel	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dbq5HAAR						
U-20763-0191	08/10/20	Public Comment	Public Comment	Comments	Comments submitted by 4 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dbp7RAAR						
U-20763-0190	08/10/20	John Dulmes	Michigan Chemistry Council	Comments	Comments of The Michigan Chemistry Council (MCC)	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DboldAAB						
U-20763-0189	08/07/20	Tracy McAnally	Public Comment	Comments	Postcards Received by Enbridge in support of Tunnel Project	83
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Dbhg8AAB						
U-20763-0188	08/07/20	James Holcomb	Michigan Chamber of Commerce	Comments	Comments submitted on behalf of the Michigan Chamber of Commerce	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbhZ2AAJ						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0186	08/06/20	Leah J. Brooks	Mackinac Straits Corridor Authority	Proof of Service	Proof of Service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbaIiAAJ						
U-20763-0185	08/06/20	Margrethe Kearney	Environmental Law & Policy Center	Appearance	Appearances of Esosa Aimufua, Kiana Courtney, Margrethe Kearney, and Howard Learner on behalf of the Environmental Law & Policy Center and Michigan Climate Action Network; Proof of Service	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbZrlAAF						
U-20763-0184	08/05/20	Paul D. Bratt	Michigan Propane Gas Association	Proof of Service	Amended Proof of Service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbX3yAAF						
U-20763-0183	08/05/20	Leah J. Brooks	Mackinac Straits Corridor Authority	Petition	Petition to Intervene Mackinac Straits Corridor Authority (MSCA)	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbW4vAAF						
U-20763-0182	08/05/20	Raymond O. Howd	Mackinac Straits Corridor Authority	Appearance	Appearance of Ray Howd	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbW3TAAV						
U-20763-0181	08/05/20	Leah J. Brooks	Mackinac Straits Corridor Authority	Appearance	Appearance of Leah Brooks	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbVveAAF						
U-20763-0180	08/05/20	Public Comment	Public Comment	Comments	Comments submitted on behalf of PBF Energy	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbVMeAAN						
U-20763-0179	08/05/20	Paul D. Bratt	Michigan Propane Gas Association	Proof of Service	Proof of Service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbUiNAAV						
U-20763-0178	08/05/20	Paul D.	Michigan Propane Gas	Appearance	Appearances of Daniel P. Ettinger, Troy M. Cumings, Margaret C. Stalker, and Paul D. Bratt on behalf of the Michigan Propane Gas	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

		Bratt	Association		Association and National Propane Gas Association	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbUTJAA3						
U-20763-0177	08/05/20	Paul D. Bratt	Michigan Propane Gas Association	Intervention	Petition for Leave to Intervene by Michigan Propane Gas Association and National Propane Gas Association	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbUZLAA3						
U-20763-0176	08/05/20	Lauren E. Crummel	Michigan Laborers' District Council	Appearance	Appearance of Lauren E. Crummel	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbSpLAAV						
U-20763-0175	08/05/20	Christopher P. Legghio	Michigan Laborers' District Council	Appearance	Appearance of Christopher P. Legghio	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbSohAAF						
U-20763-0174	08/05/20	Stuart M. Israel	Michigan Laborers' District Council	Appearance	Appearance of Stuart M. Israel	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbSnoAAF						
U-20763-0173	08/05/20	Stuart M. Israel	Michigan Laborers' District Council	Petition	Petition for leave to intervene	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbSlEAAV						
U-20763-0172	08/05/20	Public Comment	Public Comment	Comments	Comments on behalf of the members of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union ("United Steelworkers" or "USW").	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbSSbAAN						
U-20763-0171	08/04/20	Public Comment	Public Comment	Comments	Comments of the Michigan Petroleum Association and Michigan Association of Convenience Stores (MPA/MACS)	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbP9oAAF						
U-20763-0170	08/04/20	Amy L.	Nottawasepp i Huron Band of	Proof of	Proof of Service	3

RECEIVED by MSC 11/14/2025 2:10:18 PM

		Wesaw	Potawatomi Indians	Service		
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbNpwAAF						
U-20763-0169	08/04/20	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Appearance	Appearance of Amy L. Wesaw	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbNoKAAV						
U-20763-0168	08/04/20	John S. Swimmer	Nottawaseppi Huron Band of Potawatomi Indians	Appearance	Appearance of John S. Swimmer	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbNt5AAF						
U-20763-0167	08/04/20	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Intervention	Petition to Intervene and Affidavit	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbNkrAAF						
U-20763-0166	08/04/20	Amy L. Wesaw	Nottawaseppi Huron Band of Potawatomi Indians	Letter	Letter	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000DbNfSAAV						
U-20763-0165	08/03/20	James A. Bransky	Little Traverse Bay Bands of Odawa Indians	Intervention	Petition to Intervene by the Little Traverse Bay Bands of Odawa Indians	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D7wf0AAB						
U-20763-0164	08/03/20	James A. Bransky	Little Traverse Bay Bands of Odawa Indians	Appearance	Entering appearance on behalf of Little Traverse Bay Bands of Odawa Indians	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D7wb3AAB						
U-20763-0163	08/03/20	Public Comment	Public Comment	Comments	Comments of the Michigan Manufacturers Association	2

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D7vYLAAZ						
U-20763-0162	07/31/20	Dennis Mack	ALJs - MPSC	Ruling	Permission for Kiana Courtney to Appear Temporarily; Proof of Service	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D7nS5AAJ						
U-20763-0161	07/31/20	Dennis Mack	ALJs - MPSC	Ruling	Permission for Howard Learner to Appear Temporarily; Proof of Service	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D7nMIAAZ						
U-20763-0160	07/31/20	Dennis Mack	ALJs - MPSC	Ruling	Permission for Esosa Aimufua to Appear Temporarily; Proof of Service	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D7nPQAAZ						
U-20763-0159	07/31/20	Public Comment	Michigan Propane Gas Association	Comments	Comments from the Michigan Propane Gas Association	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D7mHxAAJ						
U-20763-0158	07/30/20	Margrethe Kearney	Environmental Law & Policy Center	Motion	Motion for Admission Pro Hac Vice of Kiana Courtney	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D7hrBAAR						
U-20763-0157	07/30/20	Margrethe Kearney	Environmental Law & Policy Center	Motion	Motion for Admission Pro Hac Vice of Howard Learner	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D7hpyAAB						
U-20763-0156	07/30/20	Margrethe Kearney	Environmental Law & Policy Center	Motion	Motion for Admission Pro Hac Vice of Esosa Aimufua	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D7hndAAB						
U-20763-0155	07/29/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Petition	Applicant Enbridge Energy, Limited Partnership's Petition For Rehearing and Certificate of Service	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D7dJhAAJ						
U-20763-0154	07/23/20	Public Comment	Public Comment	Comments	Comments submitted by Mr. Charles Owens, State Director in Michigan for the National Federation of Independent Business (NFIB)	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D7FEsAAN						
U-20763-0153	07/22/20	Robert P.	Department of Attorney	Appearance	Appearance of Robert Reichel	1

RECEIVED by MSC 11/14/2025 2:10:18 PM

		Reichel	General			
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D75KUAAZ						
U-20763-0152	07/22/20	Robert P. Reichel	Department of Attorney General	Intervention	Attorney General's Notice of Intervention	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D75JbAAJ						
U-20763-0151	07/16/20	Christopher M. Bzdok	Bay Mills Indian Community	Appearance	Appearances of Christopher Clark and Deborah Musiker on behalf of Bay Mills Indian Community	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D6Jf2AAF						
U-20763-0150	07/16/20	Christopher M. Bzdok	Bay Mills Indian Community	Appearance	Appearances of David Gover and Matthew Campbell on behalf of Bay Mills Indian Community	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D6JcNAAV						
U-20763-0149	07/14/20	Public Comment	Public Comment	Report	Salt Collapse Report	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D5qvgAAB						
U-20763-0148	07/14/20	Public Comment	Public Comment	Report	USGS Report	40
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D5qrtAAB						
U-20763-0147	07/09/20	Michigan Public Service Commission	Michigan Public Service Commission	Response	MPSC Response to Ms. Lisa Patrell's Comments (Filing #145)	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D5Ev9AAF						
U-20763-0146	07/07/20		Michigan House of Representatives	Other	Michigan House Resolution Number 282	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D4rOQAAZ						
U-20763-0145	07/07/20	Public Comment	Public Comment	Comments	Comments submitted by Lisa Patrell	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D4icuAAB						
U-20763-0144	07/06/20	Dennis Mack	ALJs - MPSC	Ruling	Permission for Christopher R. Clark to Appear Temporarily; Proof of Service	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D4dIQAAZ						
					Permission for Deborah Musiker (as known	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0143	07/06/20	Dennis Mack	ALJs - MPSC	Ruling	as Debbie Chizewer) to Appear Temporarily; Proof of Service	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D4dGoAAJ						
U-20763-0142	07/06/20	Dennis Mack	ALJs - MPSC	Ruling	Permission for David L. Gover to Appear Temporarily; Proof of Service	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D4dExAAJ						
U-20763-0141	07/06/20	Dennis Mack	ALJs - MPSC	Ruling	Permission for Matthew L. Campbell to Appear Temporarily; Proof of Service	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D4cwGAAR						
U-20763-0140	07/01/20	Michigan Public Service Commission	Michigan Public Service Commission	Notice of Hearing	Prehearing to be held by Video & Teleconference on August 12, 2020 at 1:00 PM	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D4AKEAA3						
U-20763-0139	07/01/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D492bAAB						
U-20763-0138	06/30/20	Michigan Public Service Commission	Michigan Public Service Commission	Comments	Public comments submitted by 3 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D48OOAAZ						
U-20763-0137	06/30/20	Public Comment	Public Comment	Comments	Comments submitted by Nancy Potter	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D3ywRAAR						
U-20763-0136	06/30/20	Public Comment	Public Comment	Comments	Comments submitted by Keith Cooley	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D3z4FAAR						
U-20763-0135	06/30/20	Margrethe Kearney	Environmental Law & Policy Center	Intervention	Petition to Intervene of the Environmental Law & Policy Center and Michigan Climate Action Network	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D3whKAAR						
U-20763-0134	06/30/20	Michigan Public Service Commission	Michigan Public Service Commission	Press Release		3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D3vCwAAJ						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0133	06/30/20	Michigan Public Service Commission	Michigan Public Service Commission	Order	Grants Enbridge's request for a declaratory ruling but denies the requested relief. In addition, the order denies Enbridge's request for ex parte approval of its application and sets the matter for hearing	76
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000D3uWYAAZ						
U-20763-0132	06/25/20	Christopher M. Bzdok	Bay Mills Indian Community	Letter	Letter to the Commission on behalf of Bay Mills Indian Community requesting formal consultation	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CJ8ASAA1						
U-20763-0131	06/25/20	Christopher M. Bzdok	Bay Mills Indian Community	Other	Supplemental Authority Submitted by Bay Mills Indian Community Regarding Enbridge Energy, Limited Partnership's Request for Declaratory Relief	86
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CJ5sZAAT						
U-20763-0130	06/12/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Other	Supplemental Authority Filed by Applicant Enbridge Energy, Limited Partnership Regarding its Request for Declaratory Relief and Certificate of Service	12
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CHXEUAA5						
U-20763-0129	06/12/20	Public Comment	Public Comment	Comments	Comments from Lisa Patrell	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CHV1uAAH						
U-20763-0128	06/10/20	Public Comment	Public Comment	Comments	Comments submitted by Ms. Suzanne McGill	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CH8W8AAL						
U-20763-0127	06/05/20	Public Comment	Public Comment	Comments	Comments from Dan Morris	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CGX9XAAX						
U-20763-0126	06/04/20	Christopher M. Bzdok	National Wildlife Federation	Intervention	Petition to Intervene by National Wildlife Federation (NWF)	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CGPZbAAP						
U-20763-0125	06/04/20	Christopher M. Bzdok	National Wildlife Federation	Appearance	Appearances of Christopher M. Bzdok and Lydia Barbash-Riley on behalf of National Wildlife Federation (NWF)	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CGPYJAA5						
			Tip of the			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0124	05/29/20	Abigail Hawley	Mitt Watershed Council	Intervention	Petition to Intervene by Tip of the Mitt Watershed Council	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFtvQAAT						
U-20763-0123	05/29/20	Abigail Hawley	Tip of the Mitt Watershed Council	Appearance	Appearances of Abigail Hawley, Christopher M. Bzdok and Lydia Barbash-Riley on behalf of Tip of the Mitt Watershed Council	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFtsIAAD						
U-20763-0122	05/28/20	Public Comment	Public Comment	Comments	Comments on behalf of Sokaogon Chippewa Community	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFkXHAA1						
U-20763-0121	05/28/20	Public Comment	Public Comment	Comments	Reply Comments of the Lac du Flambeau Band of Lake Superior Chippewa	57
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFkO5AAL						
U-20763-0120	05/28/20	Christopher M. Bzdok	Bay Mills Indian Community	Comments	Bay Mills Indian Community's REPLY COMMENTS and Transmittal Letter supporting for the Bad River Band of the Lake Superior Ojibwe.	56
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFji3AAD						
U-20763-0119	05/28/20	Public Comment	Public Comment	Comments	The Keweenaw Bay Indian Community comments	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFheSAAT						
U-20763-0118	05/27/20	Margrethe Kearney	Environmental Law & Policy Center	Comments	Reply Comments by the Environmental Law & Policy Center and Michigan Climate Action Network	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFe8IAAT						
U-20763-0117	05/27/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Response	Response Comments of Applicant Enbridge Energy, Limited Partnership in Support of its Request for Declaratory Relief and Certificate of Service	75
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFdw7AAD						
U-20763-0116	05/27/20	Public Comment	Public Comment	Comments	Comments of Great Lakes Indian Fish and Wildlife Commission (GLIFWC) staff	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFdfQAAT						
U-20763-0115	05/27/20	Spencer A. Sattler	MPSC Staff	Letter	Letter advising MPSC Staff will not be filing reply comments	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFdfBAAT						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0114	05/27/20	Christopher M. Bzdok	Bay Mills Indian Community	Comments	Reply Comments of Bay Mills Indian Community Opposing the Request for a Declaratory Ruling by Enbridge Energy, Limited Partnership	55
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFdWTAA1						
U-20763-0113	05/27/20	Public Comment	Public Comment	Comments	Comments of the Lac Vieux Desert Band of Lake Superior Chippewa Indians in Opposition to a Request for Declaratory Rule by Enbridge Energy	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFdMxAAL						
U-20763-0112	05/27/20	Christopher M. Bzdok	Michigan Environmental Council	Comments	Reply to Enbridge Energy Limited Partnership Comments Regarding Request for Declaratory Ruling by MEC-GTB-WC-NWF	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFbILAAT						
U-20763-0111	05/27/20	Public Comment	Public Comment	Comments	Comments submitted by 8 individuals	17
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFb6hAAD						
U-20763-0110	05/27/20	Christopher M. Bzdok	Grand Traverse Band of Ottawa and Chippewa Indians	Intervention	Petition to Intervene by Grand Traverse Band of Ottawa and Chippewa Indians	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFanmAAD						
U-20763-0109	05/27/20	Public Comment	Little Traverse Bay Bands of Odawa Indians	Comments	Reply Comments of the Little Traverse Bay Bands of Odawa Indians in Opposition to a Request for a Declaratory Ruling by Enbridge Energy	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFaJVAA1						
U-20763-0108	05/26/20	Christopher M. Bzdok	Bay Mills Indian Community	Motion	Motions for Admission Pro Hac Vice of David L. Gover and Matthew L . Campbell as Co-counsel of Record for Bay Mills Indian Community	25
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000CFSkiAAH						
U-20763-0107	05/26/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BZTH9AAP						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0106	05/19/20	Public Comment	Public Comment	Comments	Comments submitted by Mr. Donald Garlit	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYyx0AAD						
U-20763-0105	05/19/20	Public Comment	Public Comment	Comments	Comments submitted by Suzanne Camino	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYvHAAA1						
U-20763-0104	05/18/20	Public Comment	Public Comment	Comments	Comments submitted by Kendal Kuneman	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYqLzAAL						
U-20763-0103	05/18/20	Public Comment	Public Comment	Comments	Comments submitted by 3 individuals	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYl7FAAT						
U-20763-0102	05/15/20	Public Comment	Public Comment	Comments	Comments submitted by 11 filers	11
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYd0iAAD						
U-20763-0101	05/15/20	Public Comment	Public Comment	Comments	Comments submitted by Kurt Larson, Bonnie Janssen, and Paula Larson	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYbQpAAL						
U-20763-0100	05/14/20	Public Comment	Public Comment	Comments	Comments submitted by 7 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYXEKAA5						
U-20763-0099	05/14/20	Public Comment	Public Comment	Comments	Comments of the Straights of Mackinac Alliance	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYVAIAA5						
U-20763-0098	05/14/20	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYV1zAAH						
U-20763-0097	05/14/20	Public Comment	Public Comment	Comments	Comments submitted by 66 individuals	68
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYUFUAA5						
U-20763-0096	05/14/20	Public Comment	Sault Ste. Marie Tribe of Chippewa Indians	Comments	Comments submitted by Aaron A. Payment Chairperson of the Sault Ste. Marie Tribe of Chippewa Indians.	54
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYSOcAAP						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0095	05/14/20	Public Comment	Public Comment	Comments	Comments submitted by District 18 State Senator Jeff Irwin	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYRv4AAH						
U-20763-0094	05/13/20	Attorney General Dana Nessel	Department of Attorney General	Comments	Comments submitted on behalf of Attorney General Dana Nessel	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYRc7AAH						
U-20763-0093	05/14/20	Christopher M. Bzdok	Bay Mills Indian Community	Comments	Bay Mills Indian Community's Comments and Transmittal Letter supporting the Bad River Band of the Lake Superior Ojibwe	54
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYRBwAAP						
U-20763-0092	05/13/20	Public Comment	Public Comment	Comments	Comments submitted by 18 individuals	18
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYQ9kAAH						
U-20763-0091	05/13/20	James M. Olson	For the Love of Water	Comments	For Love of Water (FLOW) Public Comment on Enbridge Energy Limited Partnership Request for Declaratory Relief	40
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYOP8AAP						
U-20763-0090	05/13/20	Spencer A. Sattler	MPSC Staff	Letter	Letter indicating MPSC Staff will not be filing comments	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYNMaAAP						
U-20763-0089	05/13/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Comments	Comments of Applicant Enbridge Energy, Limited Partnership in Support of its Request for Declaratory Relief and Certificate of Service	25
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYNDxAAP						
U-20763-0088	05/13/20	Margrethe Kearney	Environmental Law & Policy Center	Comments	Comments and Objections to the Request for Declaratory Ruling by the Environmental Law & Policy Center and Michigan Climate Action Network	14
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYMxPAAX						
U-20763-0087	05/13/20	Public Comment	Public Comment	Comments	Comments of Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians	54
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYMghAAH						
U-20763-0086	05/13/20	Public Comment	Public Comment	Comments	Comments of the Keweenaw Bay Indian Community	21
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYMdZAAX						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0085	05/13/20	Public Comment	Public Comment	Comments	Comments of the Great Lakes Indian Fish and Wildlife Commission	56
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYMVpAAP						
U-20763-0084	05/13/20	Public Comment	Public Comment	Comments	Comments of the Lac Vieux Desert Band of Lake Superior Chippewa Indians	53
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYMO0AAP						
U-20763-0083	05/13/20	Public Comment	Public Comment	Comments	Comments of the Lac du Flambeau Band of Lake Superior Chippewa Indians	55
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYMLBAA5						
U-20763-0082	05/13/20	Public Comment	Public Comment	Comments	Comments submitted by 20 individuals	21
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYMEYAA5						
U-20763-0081	05/13/20	Public Comment	Public Comment	Comments	Comments submitted by the Sokaogon Chippewa Community	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYLr1AAH						
U-20763-0080	05/13/20	Anne Woiwode	Sierra Club	Comments	Comments of Sierra Club	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYLsDAAX						
U-20763-0079	05/13/20	Public Comment	Public Comment	Comments	Comments submitted by 79 individuals	80
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYLQrAAP						
U-20763-0078	05/13/20	Christopher M. Bzdok	Bay Mills Indian Community	Motion	Motions for Admission Pro Hac Vice of Deborah Musiker (also known as Debbie Chizewer) and Christopher R. Clark as Co-counsel of Record for Bay Mills Indian Community	23
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYKU1AAP						
U-20763-0077	05/13/20	Public Comment	Little Traverse Bay Bands of Odawa Indians	Comments	Comments of the Little Traverse Bay Bands of Odawa Indians	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYK7vAAH						
U-20763-0076	05/13/20	Public Comment	Public Comment	Comments	Comments submitted by Red Cliff Band of Lake Superior Chippewa Indians	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYJ3iAAH						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0075	05/13/20	Public Comment	Nottawaseppi Huron Band of Potawatomi Indians	Comments	Comments submitted by Nottawaseppi Huron Band of the Potawatomi	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYIr9AAH						
U-20763-0074	05/13/20	Public Comment	Public Comment	Comments	Comments submitted by the Environmental Justice & Tribal Communities	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYHz7AAH						
U-20763-0073	05/13/20	Public Comment	Public Comment	Comments	Comments submitted by Pokagon Band of Potawatomi Indians	4
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYHsQAAX						
U-20763-0072	05/13/20	Public Comment	Public Comment	Comments	Comments submitted by 90 individuals	91
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYHmDAAX						
U-20763-0071	05/13/20	Christopher M. Bzdok	Bay Mills Indian Community	Comments	Comments of Bay Mills Indian Community Opposing the Request for a Declaratory Ruling by Enbridge Energy, Limited Partnership +Attachments A-F	53
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYHklAAH						
U-20763-0070	05/13/20	Public Comment	Public Comment	Comments	Comments filed by The Michigan Resource Stewards	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYHdRAAX						
U-20763-0069	05/13/20	Public Comment	Public Comment	Comments	Comments submitted by 89 individuals	90
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYHVCAA5						
U-20763-0068	05/13/20	Public Comment	Public Comment	Comments	Comments submitted by 120 individuals	120
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYGZWAA5						
U-20763-0067	05/12/20	Public Comment	Public Comment	Comments	Comments submitted by 252 individuals	252
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYD5jAAH						
U-20763-0066	05/12/20	Public Comment	Public Comment	Comments	Comments submitted by 146 individuals	146
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BYCWAAA5						
U-20763-0065	05/12/20	Public Comment	Public Comment	Comments	Comments filed by Dennis and Kim Ferraro	157

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BY9ysAAD						
U-20763-0064	05/12/20	Christopher M. Bzdok	Michigan Environmental Council	Comments	Comments in Opposition to Request for Declaratory Ruling by MEC, GTB, Watershed Council and NWF	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BY8gqAAD						
U-20763-0063	05/12/20	Public Comment	Public Comment	Comments	Comments submitted by Mr. Dick Swartley	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BY8WnAAL						
U-20763-0062	05/12/20	Public Comment	Public Comment	Comments	Comments submitted by 220 individuals	220
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BY83CAAT						
U-20763-0061	05/11/20	Public Comment	Public Comment	Comments	Comments submitted by 15 individuals	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BY5zYAAT						
U-20763-0060	05/11/20	Christopher M. Bzdok	Bay Mills Indian Community	Appearance	Appearances of Christopher M. Bzdok, Kathryn Tierney and Whitney Gravelle on behalf of Bay Mills Indian Community	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BY3OpAAL						
U-20763-0059	05/11/20	Christopher M. Bzdok	Bay Mills Indian Community	Intervention	Petition to Intervene by Bay Mills Indian Community	21
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BY3LWAA1						
U-20763-0058	05/11/20	Public Comment	Public Comment	Comments	Comments submitted by 81 individuals	81
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BY31xAAD						
U-20763-0057	05/11/20	Public Comment	Public Comment	Comments	Comments from 60 individuals	65
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BY15NAAT						
U-20763-0056	05/11/20	Public Comment	Public Comment	Comments	Comments submitted by Spirit of the Woods Conservation Club	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BY0rsAAD						
U-20763-0055	05/11/20	Public Comment	Public Comment	Comments	Comments submitted by 62 individuals	63
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXyLMAA1						
U-20763-0054	05/08/20	Public Comment	Public Comment	Comments	Comments from 29 individuals	29

RECEIVED by MSC 11/14/2025 2:10:18 PM

https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXrIPAA1						
U-20763-0053	05/08/20	Public Comment	Public Comment	Comments	Comments filed by 19 individuals	19
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXnITAA1						
U-20763-0052	05/07/20	Public Comment	Public Comment	Comments	Comments submitted by 26 individuals	30
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXjmvAAD						
U-20763-0051	05/07/20	Public Comment	Public Comment	Comments	Comments submitted by 35 individuals	38
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXgCyAAL						
U-20763-0050	05/06/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXbukAAD						
U-20763-0049	05/06/20	Public Comment	Public Comment	Comments	Comments submitted by 37 individuals	39
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXbrRAAT						
U-20763-0048	05/06/20	Public Comment	Public Comment	Comments	Comments submitted by 34 individuals	35
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXXLoAAP						
U-20763-0047	05/05/20	Public Comment	Public Comment	Comments	Comments submitted by 10 individuals	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXTlCAAX						
U-20763-0046	05/05/20	Public Comment	Public Comment	Comments	Comments submitted by 15 individuals	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXQsVAAX						
U-20763-0045	05/05/20	Public Comment	Public Comment	Comments	Comments submitted by 7 individuals	7
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXQtwAAH						
U-20763-0044	05/05/20	Public Comment	Public Comment	Comments	Comments submitted by 105 individuals	106
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXO1QAAX						
U-20763-0043	05/04/20	Public Comment	Public Comment	Comments	Comments submitted by 180 individuals	183
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXKZeAAP						

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0042	05/04/20	Public Comment	Public Comment	Comments	Comments submitted by 307 individuals	307
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXKMHAA5						
U-20763-0041	05/04/20	Public Comment	Public Comment	Comments	Comments submitted by Michigan Democratic Party Environmental Caucus	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXGZVAA5						
U-20763-0040	05/01/20	Public Comment	Public Comment	Comments	Comments submitted by 35 individuals	35
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BX6r2AAD						
U-20763-0039	05/01/20	James M. Olson	For the Love of Water	Intervention	Appearance of James M. Olson and Petition for Permissive Intervention by For Love of Water (FLOW)	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BX5eFAAT						
U-20763-0038	05/04/20	Public Comment	Public Comment	Comments	Comments submitted by 72 individuals	73
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXKd8AAH						
U-20763-0037	05/04/20	Public Comment	Public Comment	Comments	Comments submitted by 173 individuals	173
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXKguAAH						
U-20763-0036	05/05/20	Public Comment	Public Comment	Comments	Comments submitted by 588 individuals	590
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BXOHsAAP						
U-20763-0035	04/29/20	Public Comment	Public Comment	Comments	Comments submitted by 6 individuals	8
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BWp2nAAD						
U-20763-0034	04/29/20	Public Comment	Public Comment	Comments	Comments submitted by Friends Of the Land of Keweenaw (FOLK)	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BWkveAAD						
U-20763-0033	04/28/20	Public Comment	Public Comment	Comments	Comments submitted by 5 individuals	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BWfVNAA1						
U-20763-0032	04/27/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BWWR5AAP						
		Public	Public			

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0031	04/27/20	Comment	Comment	Comments	Comments submitted by 25 individuals	31
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BWUo5AAH						
U-20763-0030	04/27/20	Public Comment	Public Comment	Comments	Comments submitted by 17 individuals	17
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BWQZgAAP						
U-20763-0029	04/24/20	Public Comment	Public Comment	Comments	Comments submitted by 9 individuals	9
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BWMBPAA5						
U-20763-0028	04/24/20	Public Comment	Public Comment	Comments	Comments submitted by 17 individuals	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BWHFQAA5						
U-20763-0027	04/23/20	Public Comment	Public Comment	Comments	Comments submitted by 12 individuals	15
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BWA8IAAH						
U-20763-0026	04/22/20	Michigan Public Service Commission	Michigan Public Service Commission	Proof of Service		1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BW8VvAAL						
U-20763-0025	04/23/20	Public Comment	Public Comment	Comments	Comments submitted by 2 individuals	2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BW7H0AAL						
U-20763-0024	04/22/20	Public Comment	Public Comment	Comments	Comments submitted by Superior Watershed Partnership	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BSAWJAA5						
U-20763-0023	04/22/20	Michigan Public Service Commission	Michigan Public Service Commission	Press Release		2
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BSAhVAAX						
U-20763-0022	04/22/20	Michigan Public Service Commission	Michigan Public Service Commission	Order	Establishes a public comment period regarding the request for a declaratory ruling and places the Act 16 application in abeyance pending a decision on the request for a declaratory ruling.	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BSAe2AAH						
		Public	Public		Comment submitted by Representative	

RECEIVED by MSC 11/14/2025 2:10:18 PM

U-20763-0021	04/22/20	Comment	Comment	Comments	Yousef Rabhi, District 53	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BS9VwAAL						
U-20763-0020	04/22/20	Public Comment	Public Comment	Comments	Comments submitted by Anishinaabek Caucus, John Forslin and Lisa Patrell	10
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BS8POAA1						
U-20763-0019	04/22/20	Public Comment	Public Comment	Comments	Comments submitted by Washtenaw350	6
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BS6eFAAT						
U-20763-0018	04/21/20	Public Comment	Public Comment	Comments	Comments submitted by Dr. Mary Pelton Cooper	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BS4IQAAT						
U-20763-0017	04/21/20	Christopher M. Bzdok	Michigan Environmental Council	Intervention	Petition to Intervene by Michigan Environmental Council and Affidavits of Conan Smith, Patricia Peek and Bill Crane	22
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BS0SfAAL						
U-20763-0016	04/20/20	Lydia Barbash-Riley	Grand Traverse Band of Ottawa and Chippewa Indians	Appearance	Appearances of William Rastetter, Christopher Bzdok and Lydia Barbash-Riley on behalf of Grand Traverse Band of Ottawa and Chippewa Indians	5
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRm1QAAT						
U-20763-0015	04/20/20	Benjamin J. Holwerda	MPSC Staff	Appearance	MPSC Staff's Appearance of Benjamin Holwerda.	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRiLGAA1						
U-20763-0014	04/20/20	Nicholas Q. Taylor	MPSC Staff	Appearance	MPSC Staff's Appearance of Nicholas Taylor.	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRiAxAAL						
U-20763-0012	04/20/20	Spencer A. Sattler	MPSC Staff	Appearance	MPSC Staff's Appearance of Spencer Sattler.	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRhyhAAD						
U-20763-0011	04/17/20	Margrethe Kearney	Environmental Law & Policy Center	Appearance	Appearance of Margrethe Kearney on behalf of the Environmental Law & Policy Center and Proof of Service	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRYrzAAH						
U-20763-0010	04/17/20	Christopher	Michigan Environment	Appearance	Appearances of Christopher M. Bzdok and Lydia Barbash-Riley on behalf of Michigan	4

RECEIVED by MSC 11/14/2025 2:10:18 PM

		M. Bzdok	al Council		Environmental Council (MEC)	
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRVoxAAH						
U-20763-0009	04/17/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Letter	Letter re: Payment of Fee	1
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRTwWAAX						
U-20763-0008	04/17/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Appearance	Entries of Appearances in an Administrative Hearing	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRTMhAAP						
U-20763-0007	04/17/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Exhibits	Exhibit A-11- Part 4 through Exhibit A-12	248
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRT3BAAX						
U-20763-0006	04/17/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Exhibits	Exhibit A-11- Part 3	3
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRT28AAH						
U-20763-0005	04/17/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Exhibits	Exhibit A-11- Part 2	116
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRT0gAAH						
U-20763-0004	04/17/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Exhibits	Exhibit A-11- Part 1	96
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRStmAAH						
U-20763-0003	04/17/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Exhibits	Exhibits A-1 through A-10	263
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRSuKAAX						
U-20763-0002	04/17/20	Michael S. Ashton	Enbridge Energy, Limited	Testimony	Pre-Filed Direct Testimony of Amber Pastoor, Paul Turner and Marlon Samuel.	41

RECEIVED by MSC 11/14/2025 2:10:18 PM

			Partnership			
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRSw0AAH						
U-20763-0001	04/17/20	Michael S. Ashton	Enbridge Energy, Limited Partnership	Application	In Re: Enbridge Energy, Limited Partnership - Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	20
https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000BRSuOAAX						

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix H

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF REVOCATION AND TERMINATION OF EASEMENT

INTRODUCTION

Through Governor Gretchen Whitmer and the Department of Natural Resources, the State of Michigan hereby provides formal notice to Enbridge (as defined below) that the State is revoking and terminating the 1953 Easement. The 1953 Easement authorized Lakehead Pipe Line Company, Inc., and its successors, to operate dual pipelines in the Straits of Mackinac to transport petroleum and other products. As more fully described below, the Easement is being revoked for violation of the public trust doctrine, and is being terminated based on Enbridge's longstanding, persistent, and incurable violations of the Easement's conditions and standard of due care. The revocation and termination each take legal effect 180 days after the date of this Notice to provide notice to affected parties and to allow for an orderly transition to ensure Michigan's energy needs are met. Enbridge must cease operation of the Straits Pipelines 180 days after the date of this Notice.

BACKGROUND

On April 23, 1953, the Conservation Commission of the State of Michigan granted an easement entitled "Straits of Mackinac Pipe Line Easement Conservation Commission of the State of Michigan to Lakehead Pipe Line Company, Inc." ("1953 Easement" or "Easement"), a copy of which is attached as Exhibit 1.

The Easement was issued by the Conservation Commission under the authority of 1953 PA 10 and in consideration of a one-time payment of $2,450.00 by the Grantee to the Grantor.

Subject to its terms and conditions, the Easement granted Lakehead Pipe Line Company, Inc., the Grantee, and its successors and assigns, the right "to construct, lay, maintain, use and operate" two 20-inch diameter pipelines for the purpose of transporting petroleum and other products "over, through, under, and upon" specifically described public trust bottomlands owned by the State of Michigan in the Straits of Mackinac.

The two pipelines subject to the Easement ("Straits Pipelines" or "Pipelines") were completed in 1953 and thereafter have been operated by the Grantee and its successors.

The Grantee's current successors, Enbridge Energy, Limited Partnership, Enbridge Energy Company, Inc., and Enbridge Energy Partners, L.P. (collectively "Enbridge"), operate the Straits Pipelines as part of the Enbridge Line 5 pipeline that

RECEIVED by MSC 11/14/2025 2:10:18 PM

extends from Superior, Wisconsin and across Michigan, to Sarnia, Ontario. Line 5, including the Straits Pipelines, currently transports an average of 540,000 barrels or 22,680,000 gallons of crude oil and/or natural gas liquids per day.

The Governor is the chief executive officer of the State of Michigan. The Department of Natural Resources ("DNR") is the successor to the Conservation Commission, Grantor of the 1953 Easement.

On June 27, 2019, Governor Gretchen Whitmer directed the DNR to undertake a comprehensive review of Enbridge's compliance with the 1953 Easement. The DNR submitted several requests to Enbridge to provide documents and information pertaining to its compliance with the Easement. Beginning in February 2020 and ending in June 2020, Enbridge provided some documents in response to these requests.[1]

This Notice is based on review of the records recently submitted by Enbridge, other documents in the public domain, and the legal and factual grounds specified below.

I. REVOCATION OF EASEMENT PURSUANT TO THE PUBLIC TRUST DOCTRINE

The State of Michigan, in both its sovereign and proprietary capacities, is revoking the Easement pursuant to the public trust doctrine.

A. The Public Trust Doctrine

In *Glass v Goeckel,* 473 Mich 667, 678-679 (2005), the Michigan Supreme Court held that the state, as sovereign, is obligated to protect and preserve the waters of, and lands beneath, the Great Lakes. "The state serves, in effect, as the *trustee of public rights* in the Great Lakes for fishing, hunting, and boating for commerce or pleasure." *Id*. at 679 (emphasis added).[2]

---

[1] Among other things, the DNR included a request for records confirming that Enbridge systematically has undertaken efforts (inspections, investigations, assessments and evaluations) to comply with the Easement from its issuance in 1953 to the present. In response, Enbridge produced few contemporaneous records and little evidence that it conducted a pipeline inspection and maintenance program from 1953 to the late 1990s or early 2000s – i.e., during most of the Easement's existence.

[2] The Michigan Legislature has recognized the public trust doctrine in various state statutes. For example, Part 17 of the Natural Resources and Environmental Protection Act ("NREPA"), the Michigan Environmental Protection Act, grants broad standing to any person to file an action in circuit court "against any person for the protection of the air, water, and other natural resources and the *public trust in these resources* from pollution, impairment, or destruction." MCL 324.1701(1) (emphasis added). In Part 301 of NREPA, Inland Lakes and Streams, the Department of Environment, Great Lakes, and Energy is prohibited from issuing a permit for a proposed project or activity if it will "adversely affect the public trust,"

RECEIVED by MSC 11/14/2025 2:10:18 PM

These public rights are protected by a "*high*, *solemn* and *perpetual* trust, which it is the duty of the state to forever maintain." *Collins v Gerhardt*, 237 Mich 38, 49 (1926) (emphasis added). As the Michigan Supreme Court long ago explained, "[t]he state is sovereign of the navigable waters within its boundaries, bound, however, in trust, to do nothing in hindrance of the public right of navigation, hunting and fishing." *Nedtweg v Wallace*, 237 Mich 14, 20 (1926).

Both the United States Supreme Court and the Michigan Supreme Court have held that the public trust doctrine strictly limits the circumstances under which a state may convey property interests in public trust resources. In *Illinois Central Railroad Co v Illinois*, 146 US 387, 455-456 (1892), the United States Supreme Court identified only two exceptions under which such a conveyance is permissible:

> The trust with which they are held, therefore, is governmental, and cannot be alienated, except in those instances mentioned, of parcels used in the improvement of the interest thus held, or when parcels can be disposed of without detriment to the public interest in the lands and waters remaining.

The Court held that because neither of those conditions was satisfied by a state statute purporting to grant submerged lands along the Chicago lakefront to a private company, a subsequent state statute revoking that grant and restoring public rights was valid and enforceable. *Id.* at 460.

In *Obrecht v National Gypsum Co,* 361 Mich 399, 412 (1960), the Michigan Supreme Court declared that "[l]ong ago we committed ourselves . . . to the universally accepted rules of such trusteeship as announced by the Supreme Court in *Illinois Central*," including *Illinois Central*'s delineation of the limited conditions under which public trust resources may be conveyed:

> [N]o part of the beds of the Great Lakes, belonging to Michigan and not coming within the purview of previous legislation . . . can be alienated or otherwise devoted to private use *in the absence of due finding of one of two exceptional reasons for such alienation or devotion to non-public use*. One exception exists where the State has, *in due recorded form*, determined that a given parcel of such submerged land may and should be conveyed 'in the improvement of the interest thus held' (referring to the public trust). The other is present where the State has, *in similar form*, determined that such disposition may be made 'without detriment to the public interest in the lands and waters remaining.'

---

which includes consideration of uses of lakes and streams for "*recreation, fish and wildlife, aesthetics, local government, agriculture, commerce, and industry*." MCL 324.30106 (emphasis added). And, as noted in footnote 3 below, Part 325 of NREPA, Great Lakes Submerged Lands, includes *"hunting, fishing, swimming, pleasure boating, or navigation*" as public uses. MCL 324.32502 (emphasis added); see also, e.g., MCL 324.32503 & .32505.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Obrecht, 361 Mich at 412-413, quoting *Illinois Central*, 146 US at 455-456 (emphasis added). The Michigan Legislature has incorporated and codified that common-law standard and "due finding" requirement into Part 325 (Great Lakes Submerged Lands) of the Natural Resources and Environmental Protection Act, MCL 324.32501 *et seq*.[3]

B. The 1953 Easement Violated the Public Trust and Was Void From its Inception

The 1953 Easement violated the public trust doctrine from its inception because the State never made a finding that the Easement: (1) would improve navigation or another public trust interest; or (2) could be conveyed without impairment of the public trust. The Easement itself contains no such findings, and there is no contemporaneous document in which the State determined that the proposed Easement met either of the two exceptions. In fact, there is no indication whatsoever that the Conservation Commission determined that the conveyance of the Easement and the operation of the Straits Pipelines would improve public rights in navigation, fishing, or other uses protected by the public trust. Moreover, there is no evidence that the Commission determined that the Pipelines' operation could not adversely affect those rights.[4]

Also, contemporaneous approval of the construction of what is now Enbridge's Line 5 in Michigan by the Michigan Public Service Commission ("PSC") lacked any such public trust findings and determinations.[5]

Finally, the enactment of 1953 PA 10, the statute authorizing issuance of the Easement, does not evidence a finding that either of the public trust limitations would

---

[3] See, e.g., MCL 324.32502 (conveyance of property interests in submerged lands allowed "whenever it is determined by the department that the private or public use of those lands and waters will not substantially affect the public use of those lands and waters for hunting, fishing, swimming, pleasure boating, or navigation or that the public trust in the state will not be impaired by those agreements for use, sales, lease, or other disposition"); MCL 324.32503(1) (requiring a "finding that the public trust in the waters will not be impaired or substantially affected" in order to "enter into agreements pertaining to waters over and the filling in of submerged patented lands, or to lease or deed unpatented lands"); MCL 324.32505(2) (requiring a "finding that the public trust will not be impaired or substantially injured" in order to "allow, by lease or agreement, the filling in of patented and unpatented submerged lands and allow permanent improvements and structures").

[4] The 1953 Easement lacks any mention of the two required findings and merely states the following: "*WHEREAS, the Conservation Commission is of the opinion that the proposed pipe line system will be of benefit to all of the people of the State of Michigan and in furtherance of the public welfare*" and "*WHEREAS, the Conservation Commission duly considered the application of Grantee and at its meeting held on the 13th day of February, A.D. 1953, approved the conveyance of an easement.*"

[5] PSC Opinion and Order for the 1953 Line 5 pipeline (March 31, 1953), https://www.michigan.gov/documents/deq/Appendix_A.3_493982_7.pdf.

RECEIVED by MSC 11/14/2025 2:10:18 PM

be satisfied by the Straits Pipelines. That legislation merely authorized the Conservation Commission to grant easements for pipelines, electric lines and telegraph lines on certain state lands and lake bottomlands, subject to terms and conditions determined by the Commission. The statute did not find or determine that the 1953 Easement, as subsequently granted, would either benefit public trust uses or not impair such uses of the Great Lakes and the bottomlands.

In the absence of either of the due findings required under the public trust doctrine, the 1953 Easement was void from its inception.

C. Current and Continued Use of the Straits Pipelines Violates the Public Trust

As noted above, public rights in navigable waters "are protected by a *high, solemn*, and *perpetual* trust, which it is the duty of the state to forever maintain." *Collins,* 237 Mich at 49 (emphasis added). The State did not surrender its trust authority and concurrent responsibilities when it granted the 1953 Easement to Enbridge's predecessor. "The state, as sovereign, cannot relinquish [its] duty to preserve public rights in the Great Lakes and their natural resources." *Glass*, 473 Mich at 679. A state's conveyance of property rights "to private parties leaves intact public rights in the lake and its submerged land. . . . Under the public trust doctrine, the sovereign never had the power to eliminate those rights, *so any subsequent conveyances . . . remain subject to those public rights*." *Id.* at 679-681 (emphasis added).

Under Michigan law, all conveyances of bottomlands and other public trust resources are encumbered by the public trust. *Nedtweg,* 237 Mich at 17. When the State conveys a property interest in Great Lakes bottomlands, "it necessarily conveys such property *subject to the public trust." Glass*, 473 Mich at 679. Even if initially valid, the 1953 Easement remains subject to the public trust and the State's continuing duty to protect the Great Lakes public trust resources. Indeed, the Easement itself broadly reserved the State's rights. 1953 Easement, Paragraph M ("All rights not specifically conveyed herein are reserved to the State of Michigan.").

As the United States Supreme Court held in *Illinois Central,* a grant of property rights in public trust resources "is necessarily revocable, and the exercise of the trust by which the property was held by the state can be resumed at any time." 146 US at 455. In that case, the State of Illinois subsequently determined that it should rescind its prior grant of lake bottomlands to a private entity and the Court upheld that action.

Recent events have made clear that continued operation of the Straits Pipelines cannot be reconciled with the State's duty to protect public trust uses of the Lakes from potential impairment or destruction. As outlined below, transporting millions of gallons of petroleum products each day through two 67-year old pipelines that lie exposed in the Straits below uniquely vulnerable and busy shipping lanes presents an extraordinary, unreasonable threat to public rights because of the very

RECEIVED by MSC 11/14/2025 2:10:18 PM

real risk of further anchor strikes and other external impacts to the Pipelines, the inherent risks of pipeline operations, and the foreseeable, catastrophic effects if an oil spill occurs at the Straits.

The Straits Pipelines are located where multiple lanes of heavy shipping activity converge and are oriented north-south, perpendicular to the direction of most commercial vessel traffic. Also, despite near-shore sections of the Straits Pipelines (those in waters less than 65 feet deep) being laid in trenches and covered with soil, most of each Pipeline was placed and remains on or above the State-owned lakebed, exposed in open water and with no covering shielding it from anchor strikes or other physical hazards.

In October 2017, Dynamic Risk Assessment Systems, Inc. ("Dynamic Risk"), an independent consulting firm working under a contract with the State of Michigan, issued the final report of its Alternatives Analysis for the Straits Pipelines ("Dynamic Risk Report") that included, among other things, an analysis of the risks associated with continued operation of the existing Pipelines. Dynamic Risk determined that the dominant threat of a rupture to the Pipelines is the inadvertent deployment of anchors from ships traveling through the Straits. The Report noted that inadvertent anchor strikes are known in the industry to be the principal threat to offshore pipelines. They are both "increas[ing] in frequency" and "not influenced by mitigation measures."[6]

According to the Dynamic Risk Report, the risk of a pipeline-anchor incident depends largely on four "vulnerability factors": (1) size of the pipeline; (2) water depth (relative to anchor chain length); (3) pipeline protection (depth of burial, use of armoring material); and (4) number and size distribution of ship crossings per unit of time. Dynamic Risk found that the Straits Pipelines score high on all four of these factors.[7]

Recent events confirm that the threat of damage to the Straits Pipelines from anchor strikes or impacts from other external objects is very real. In April 2018, a commercial tug and barge vessel inadvertently dropped and dragged an anchor across the lakebed at the Straits. The anchor severed or dragged several electric transmission cables located on the bottom of the Straits near the Pipelines. The anchor actually struck and dented the Pipelines at three locations, though neither Pipeline ruptured. Fortunately, those strikes to the Pipelines happened to occur at locations where the Pipelines rest on the lakebed rather than other areas where they are suspended above it and are particularly vulnerable to anchor hooking.

The 2018 anchor strike was not an isolated event. Most recently, in June 2020, Enbridge disclosed that both the east and west legs of the Straits Pipelines had been

---

[6] Dynamic Risk Report, p. 2-35, https://mipetroleumpipelines.com/document/alternatives-analysis-straits-pipeline-final-report.

[7] *Id.*, pp. 2-36, 2-42 to -43.

RECEIVED by MSC 11/14/2025 2:10:18 PM

hit by external objects, apparently cables or anchors deployed from vessels operating near the Pipelines, most likely in 2019. Those impacts damaged pipeline coatings and, at one location on the east Pipeline, severely damaged a pipeline support structure previously installed by Enbridge. Tellingly, none of the measures implemented by Enbridge since the April 2018 incident to mitigate the risk of anchor strikes was sufficient to prevent or even contemporaneously detect the recently disclosed impacts to the Pipelines. And while the specific cause(s) of the impacts has not yet been determined, Enbridge's own reports on these events conclude that four of the five vessels potentially responsible for the impacts were operated by Enbridge's own contractors.[8]

According to Dynamic Risk, even apart from their unique vulnerability to anchor strikes, operation of the Straits Pipelines presents inherent risks of environmental harm. Dynamic Risk sought to identify what it classified as the "Principal Threats," i.e., "Threats for which an evaluation of susceptibility attributes indicates *a significant vulnerability*, and that have the potential to provide the most significant contributions to overall failure probability."[9] The threats considered included "incorrect operations," which were described as follows:

> The threats to transmission pipeline integrity from incorrect operations include, but are not necessarily limited to accidental over-pressurization, exercising inadequate or improper corrosion control measures, and improperly maintaining, repairing, or calibrating piping, fittings, or equipment.[10]

Dynamic Risk concluded that notwithstanding the various operational and procedural changes Enbridge adopted after the Marshall, Michigan Line 6B failure, "incorrect operations" remain a Principal Threat for the Straits Pipelines.[11]

The Straits of Mackinac are at the heart of the Great Lakes, a unique ecosystem of enormous public importance. As noted in "Independent Risk Analysis for the Straits Pipelines," Michigan Technological University (September 2018), a report commissioned by the State and carried out by a multi-disciplinary team of experts ("Michigan Tech Report"):

> The Straits of Mackinac hydraulically link Lakes Michigan and Huron. . . and are wide and deep enough . . . to permit the same average water level in both water bodies, technically making them two lobes of a single large lake. The combined Michigan–Huron system forms the largest lake in the world by surface area and the fourth largest by volume, containing nearly 8% of the world's surface freshwater. The Straits of

---

[8] Enbridge Report, Investigation of Disturbances to Line 5 in the Straits of Mackinac Discovered in May and June of 2020 (Updated August 21, 2020), p. 8.
[9] Dynamic Risk Report, p. 2-11 (emphasis added).
[10] *Id.*, p. 2-37.
[11] *Id.*, p. 2-47.

RECEIVED by MSC 11/14/2025 2:10:18 PM

> Mackinac serve as a hub for recreation, tourism, commercial shipping, as well as commercial, sport and subsistence [including tribal] fishing . . . .[12]

An oil spill at the Straits threatens a wide range of highly valuable resources:

> The waters and shoreline areas of Lake Michigan and Lake Huron including areas surrounding and adjacent to the Straits of Mackinac contain abundant natural resources, including fish, wildlife, beaches, coastal sand dunes, coastal wetlands, marshes, limestone cobble shorelines, and aquatic and terrestrial plants, many of which are of considerable ecological and economic value. These areas include stretches of diverse and undisturbed Great Lakes shorelines that provide habitat for many plant and animal species.[13]

Among other complicating factors, water currents in the Straits are unusually strong, complex, and variable:

> Water currents in the Straits of Mackinac can reach up to 1 [meter per second] and can also reverse direction every 2-3 days flowing either easterly into Lake Huron or westerly towards Lake Michigan. . . . Flow volumes through the Straits can reach 80,000 [cubic meters per second] and thus play essential roles in navigation and shipping in this region, the transport of nutrients, sediments and contaminants between Lakes Michigan and Huron, and also the ecology and biodiversity of this region.[14]

Consequently, oil spilled into the Straits could be transported into either Lake, and depending upon the season and weather conditions, could impact up to hundreds of miles of Great Lakes shoreline.[15]

Crude oil contains toxic compounds that would cause both short- and long-term harm to biota, habitat, and ecological food webs.[16] Numerous species of fish, especially in their early life stages, as well as their spawning habitats and their supporting food chains, are also at risk from an oil spill.[17] Viewed as a whole, the ecological impacts would be both widespread and persistent.[18]

---

[12]Michigan Tech Report, p. 26, https://mipetroleumpipelines.com/files/document/pdf/Straits_Independent_Risk_Analysis_Final.pdf.
[13] *Id.,* p. 165.
[14] *Id.*, p. 56.
[15] *Id.,* pp. 68-69.
[16] *Id.,* pp. 166-169, 176, 181-185.
[17] *Id.,* pp. 192-199.
[18] *Id.,* pp. 213-214.

RECEIVED by MSC 11/14/2025 2:10:18 PM

And "[b]ecause of the unique and complex environment of the Great Lakes and the Straits area," it is uncertain how effectively and at what cost the affected resources could be restored.[19] The Michigan Tech Report also estimated several types of economic and natural resource damages that would likely result from a worst-case oil spill from the Straits Pipelines.[20] Among other findings, the Report estimated large damages to recreational fishing, recreational boating, commercial fishing, and commercial navigation,[21] all activities within the rights subject to the public trust.

The Great Lakes and the Straits of Mackinac also have special ecological, cultural and economic significance for the tribes of Michigan, including, but not limited to, the tribes that retain reserved hunting, fishing and gathering rights in the lands and waters ceded to the United States under the 1836 Treaty of Washington.[22] An oil spill or release from the Straits Pipelines would have severe, adverse impacts for tribal communities. The tribes have fundamental interests in the preservation of clean water, fish and habitat at the Straits. Many tribal members rely on treaty-protected rights of commercial and subsistence fishing in the Straits and other Great Lakes waters that could be impacted by an oil spill or release.

Enbridge's operation of the Straits Pipelines presents a substantial, inherent and unreasonable risk of an oil spill and such a spill would have grave ecological and economic consequences, severely impairing public rights in the Great Lakes and their public trust resources. While Enbridge has proposed to replace the existing Pipelines with a new pipeline to be constructed in a tunnel beneath the lakebed, that project is likely years away from completion at best. For all these reasons, the Governor and the Director of the Department of Natural Resources find that Enbridge's use of the Straits Pipelines is contrary to and in violation of the public trust.

D. The December 19, 2018 Third Agreement Between the State of Michigan and Enbridge Does Not Preclude Revocation of the 1953 Easement

On December 19, 2018, the then Governor of Michigan, the then Director of the DNR, the then Director of the Department of Environmental Quality, and representatives of Enbridge signed a document entitled "Third Agreement Between the State of Michigan, Michigan Department of Environmental Quality, and Michigan Department of Natural Resources and Enbridge Energy, Limited Partnership, Enbridge Energy Company, Inc., and Enbridge Energy Partners, L.P." ("Third Agreement") relating to the Straits Pipelines. The Third Agreement provided

---

[19] *Id.,* pp. 261-263.
[20] *Id.,* pp. 272-318.
[21] *Id.,* pp. 285-294.
[22] Those tribes are the Bay Mills Indian Community, the Grand Traverse Band of Ottawa and Chippewa Indians, the Little River Band of Ottawa Indians, the Little Traverse Bay Bands of Odawa Indians, and the Sault Ste. Marie Tribe of Chippewa Indians. The exercise of those rights in the Great Lakes is covered by the 2000 Consent Decree in *United States v Michigan* to which the State of Michigan is a party.

RECEIVED by MSC 11/14/2025 2:10:18 PM

that, subject to specified conditions, Enbridge could continue to operate the existing Straits Pipelines pending completion of a tunnel beneath the Straits and of a Straits Line 5 Replacement Segment to be constructed and operated within the proposed tunnel.

Specifically, Article 4.1 of the Third Agreement states:

> 4.1 The State agrees that Enbridge may continue to operate the Dual Pipelines, which allow for the functional use of the current Line 5 in Michigan, until the Tunnel is completed, and the Straits Line 5 Replacement segment is placed in service within the Tunnel, subject to Enbridge's continued compliance with all of the following:
>
> (a) The Second Agreement;
>
> (b) The Tunnel Agreement;
>
> (c) This Third Agreement;
>
> (d) *The 1953 Easement; and*
>
> (e) *All other applicable laws,* including those listed in Section V of the Second Agreement. (Emphasis added.)

Notwithstanding the Third Agreement, the 1953 Easement is subject to revocation under the public trust doctrine, and the Third Agreement's stated conditional right to continue to operate the Straits Pipelines does not preclude that revocation, for at least two reasons. First, as detailed below in Section II of this Notice, Enbridge incurably has violated and continues to violate the 1953 Easement. Second, as set forth above, the public trust doctrine is among the laws that apply to the existing Straits Pipelines and Enbridge's continued operation of the Pipelines violates the public trust.

Section 4.2 of the Third Agreement states in part:

> 4.2 Provided that Enbridge complies with Section 4.1 above, the State agrees that:
>
> ***
>
> (c) The replacement of the Dual Pipelines with the Straits Line 5 Replacement Segment in the Tunnel is expected to eliminate the risk of a potential release from Line 5 at the Straits.
>
> (d) In entering into this Third Agreement, and thereby authorizing the Dual Pipelines to continue to operate until such time that the Straits Line 5 Replacement Segment is placed into service within the Tunnel, the State has acted in accordance with and in furtherance of the public's interest in the protection of waters,

RECEIVED by MSC 11/14/2025 2:10:18 PM

> waterways, or bottomlands held in public trust by the State of Michigan.

The language of Section 4.2 quoted above does not and cannot preclude the revocation of the 1953 Easement under the public trust doctrine for at least the following reasons. To begin, it is expressly conditioned on Enbridge's compliance with Section 4.1; as discussed, Enbridge is not, and has not been, in compliance with that provision. Furthermore, nothing in Section 4.2 provides a "due finding" that Enbridge's continued use of public trust bottomlands and waters to operate the existing Straits Pipelines would either enhance the public trust or not impair the public trust uses of waters and lands at the Straits. Section 4.2(d) does not itself supply it. Nor does the related assertion in Section 4.2(c) that the eventual replacement of the existing Pipelines with a new pipeline in the proposed tunnel is expected to eliminate the risk of a potential release from Line 5 at the Straits. It simply does not follow from that assertion that continuing to operate the existing Pipelines until they are replaced would somehow enhance the public trust or not impair it. And nothing else in the Third Agreement suggests, let alone embodies, a finding that continued operation of the Pipelines now, before a tunnel is completed, mitigates the risk of releases from them. Nor, for that matter, could the requisite due finding have been made when the Third Agreement was signed in December 2018, given the substantial, inherent and unreasonable risk of grave harm presented by the continued operation of the Straits Pipelines. See Section I.C, *supra*.

Finally, even if the Third Agreement contained a lawful finding by the State officials who signed it in 2018 that Enbridge's continued operation of the Straits Pipelines is consistent with the public trust—which it did not—any such finding is not permanently binding on the State and those former State officials' successors, who retain a solemn, perpetual and irrevocable duty to protect the public trust. Accordingly, the Third Agreement does not preclude the revocation of the 1953 Easement for the reasons stated in this Notice.

II. TERMINATION OF EASEMENT FOR VIOLATION AND BREACH BY ENBRIDGE

A. Easement Terms and Conditions

1. Standard of Due Care

Paragraph A of the 1953 Easement provides: "Grantee [originally Lakehead Pipe Line Company, Inc., now Enbridge] in its exercise of rights under this easement, including its designing, constructing, testing, operating, maintaining, and, in the event of termination of this easement, its abandoning of said pipe lines, shall follow the usual, necessary and proper procedures for the type of operation involved, and *at all times shall exercise the due care of a reasonably prudent person* for the safety and welfare of all persons and of all public and private property . . . ." (Emphasis added.)

RECEIVED by MSC 11/14/2025 2:10:18 PM

The standard of due care under the Easement is that of a reasonably prudent person. The Merriam-Webster Dictionary's definition of "prudence" includes "skill and good judgment in the use of resources" and "caution or circumspection as to danger or risk."[23]

2. Compliance Obligations

Paragraph A of the Easement further states: "Grantee shall comply with the following minimum specifications, conditions and requirements, unless compliance therewith is waived or the specifications or conditions modified in writing by Grantor . . . ."

Among other requirements, the Easement includes specific conditions obligating the Grantee to: (1) maintain a maximum span or length of unsupported pipe not to exceed 75 feet; (2) protect all pipe with a specified coating and wrap; and (3) maintain a minimum curvature of any section of pipe of not less than 2,050 feet radius.[24]

3. Easement Termination

Paragraph C.(1) of the Easement provides that the Easement may be terminated by Grantor "[i]f, after being notified in writing by Grantor of any specified breach of the terms and conditions of this easement, Grantee shall fail to correct said breach within ninety (90) days, or, having commenced remedial action within such ninety (90) day period, such later time as it is reasonably possible for the Grantee to correct said breach by appropriate action and the exercise of due diligence in the correction thereof . . . ."

The stated timeframes for correcting a breach of the Easement presume that the identified breach or violation is "correctable." As more fully explained below, Enbridge has failed for decades to meet its compliance and due-care obligations under the Easement, and it remains in violation of those obligations. There is nothing Enbridge can do to change its past behavior and callous disregard for its duties under the Easement, and its breaches of the Easement's terms and conditions cannot be corrected or otherwise cured.

B. Enbridge Has Violated Conditions of the Easement and the Easement's Standard of Due Care

Enbridge has breached or violated the standard of due care and its obligations to comply with the conditions of the Easement in several fundamental and incurable ways.

---

[23] https://www.merriam-webster.com/dictionary/prudence.

[24] 1953 Easement, Paragraphs A.(10), (9), and (4).

RECEIVED by MSC 11/14/2025 2:10:18 PM

1. Unsupported Pipeline Spans or Lengths

Paragraph A.(10) of the Easement requires that each Pipeline must be physically supported (i.e., either rest on the lakebed or be supported by some other structure/device) at least every 75 feet. This prohibition of unsupported pipeline "spans" longer than 75 feet serves to protect the structural integrity of the Pipelines from stresses and vibrations that may be caused by the strong currents surrounding the Pipelines. Those same currents can erode the lakebed on which portions of the Pipelines rest, creating excessive spans.

For virtually the entire time the Easement has been in place, Enbridge has ignored the 75' span requirement.[25] Documents provided by Enbridge confirm that since at least 1963 and continuing through 2012, Enbridge has known that multiple unsupported pipe spans have exceeded 75 feet but has failed to take remedial action to address the non-compliant spans:

- 1963: 17 spans detected – action taken on 0 spans
- 1972: 7 spans detected – action taken on 0 spans
- 1975: 13 spans detected – action taken on 3 spans
- 1982: 7 spans detected – action taken on 0 spans
- 1987: 7 spans detected – action taken on 7 spans
- 1992: 17 spans detected – action taken on 6 spans (4 spans exceeded 200': 216'; 221'; 292'; 359')
- 1997: 45 spans detected – action taken on 0 spans (4 spans exceeded 200': 278'; 311'; 286'; 421')
- 2001: 50 spans detected – action taken on 8 spans
- 2003: 62 spans detected – action taken on 16 spans
- 2004: 75 spans detected – action taken on 16 spans
- 2005: 40 spans detected – action taken on 14 spans
- 2006: 64 spans detected – action taken on 12 spans
- 2007: 64 spans detected – action taken on 0 spans
- 2010: 62 spans detected – action taken on 7 spans
- 2012: 33 spans detected – action taken on 17 spans[26]

Spreadsheet data on pipe spans for Calendar Years 2005 through 2012 provided by Enbridge further confirm that Enbridge failed to take timely corrective action to address span lengths known to exceed 75 feet for significant periods of time,

---

[25] In correspondence to then Attorney General Bill Schuette and then DEQ Director Dan Wyant, dated June 27, 2014, Enbridge refers to a Span Management Program employed by the company *since construction of the dual pipelines* in the Straits of Mackinac. Despite this reference, Enbridge failed to produce any such document(s) or proof of the program's existence and later, through legal counsel, acknowledged that *"Enbridge is not aware of a single document that fits this description."* Correspondence from William Hassler to Steven Chester, dated May 8, 2020.

[26] Summary Information and Tables provided by Enbridge Counsel, June 22, 2020; and June 27, 2014 Correspondence to Bill Schuette and Dan Wyant.

RECEIVED by MSC 11/14/2025 2:10:18 PM

including data indicating delays of up to 3 to 5 years to repair 17 noncompliant spans, 7 years to repair 11 noncompliant spans, and 9 years to repair 17 noncompliant spans.[27]

Several documents submitted by Enbridge suggest that at some point in time the company chose to ignore the Easement's 75' span requirement and replace it with a 140' requirement for taking corrective action on unsupported pipe spans. These include a 2003 Onyx ROV Report that indicates Onyx detected 61 pipe spans exceeding 75' and yet only 17 spans exceeding 140' were repaired, leaving 44 pipe spans exceeding 75' unrepaired. Two other documents referring to a 140' span length are the 2004 Kenny Report and the 2016 Kiefner and Associates Report.[28]

Enbridge has failed to produce any records or evidence that the 75' span length requirement of the Easement was ever waived or modified in writing by the State of Michigan. Enbridge's apparent unilateral adoption of a 140' pipe span criterion in lieu of the 75' Easement condition was itself a violation of the Easement. For virtually the entire life of the Easement, Enbridge disregarded its obligation to comply with the 75' pipe span requirement, and even failed to take corrective action when pipe spans exceeded 200' in length (e.g., see above, unsupported spans of 216' to 421' in length).

For decades, Enbridge violated and neglected its obligations under Paragraph A.(10) of the Easement, and its concomitant duties to inspect, timely repair, and disclose exceedances of pipe spans to the State of Michigan. In doing so, Enbridge exhibited an astonishing lack of candor and indifference to its due-care obligations under the Easement.

2. Pipeline Coatings

Paragraph A.(9) of the Easement requires Enbridge to maintain a multi-layer coating on the Pipelines. This protective coating is intended to prevent the steel from being exposed to environmental factors that could cause corrosion or other physical damage.

Since at least 2003, and continuing until 2014, Enbridge was on notice that heavy biota (i.e., mussels) accumulation on the Straits Pipelines made it impossible to do a detailed analysis of the integrity of the coating/wrap for the Pipelines over much of their length. Despite these repeated warnings, and notwithstanding its affirmative obligation under the Easement to ensure the integrity of the pipeline coating/wrap, documents submitted by Enbridge show it made little to no effort to undertake a more detailed study of the condition of the pipeline coating/wrap until 2016-2017 – a gap of approximately 13-14 years from notice to response.

---

[27] Recent Enbridge Document Submittals; June 27, 2014 Correspondence to Bill Schuette and Dan Wyant; and November 19, 2014 Correspondence to Bill Schuette and Dan Wyant.

[28] Onyx Inspection Survey Report (2003); JP Kenney Survey of Spans Report (2004); and Kiefner and Associates Report (October 12, 2016).

RECEIVED by MSC 11/14/2025 2:10:18 PM

The 2003 Onyx ROV Report stated that "[t]he focus of this inspection was to positively identify existing conditions, which could potentially compromise the safety of the line. Examples of these conditions could include *exposed* or unsupported *areas of pipe, severely degraded or missing coating*, or damage caused by impact. . . . The exposed portion of the pipeline is heavily covered in zebra mussel growth, *making a detailed analysis* of the coating and actual pipe condition *impossible*." (Emphasis added.)[29]

The very same notice and warning were repeated in the 2004 Onyx ROV Report, the 2005 Onyx ROV Report, the 2007 Veolia ROV Report, the 2011 Veolia ROV Report, and the 2012 Veolia ROV Report.

In 2014, Ballard Marine Construction completed an ROV and diver inspection of the Straits Pipelines which stated that *"a few instance* [sic] *of a small amount of coating delamination was observed.*"[30] Several years later, in a 2016 Inspection Report dated January 3, 2017, Ballard Marine once again found *"a few instances of a small amount of coating delamination"* and stated this information was similar to past findings including data obtained during the 2014 inspection.[31]

Despite such notice/warnings, Enbridge did not undertake a thorough investigation of the pipeline coating/wrap until it implemented a May 2017 Biota Work Plan required under a federal Consent Decree arising out of the Marshall, Michigan Line 6B failure. At last, after repeated warnings from Onyx (2003, 2004, and 2005) and Veolia (2007, 2011, and 2012), Enbridge committed to evaluating the effect of the biota (mussels) that covered much of the Straits Pipelines.

Pursuant to the Biota Work Plan, Enbridge would also investigate so-called "holidays" (i.e., gaps exposing bare metal) in the external pipeline coating. In March 2017, in response to questions raised by the Michigan Pipeline Safety Advisory Board, Enbridge publicly represented to the Board, whose members included State agency representatives, that no gaps existed on the Pipelines and there was no need for any repairs.[32] Yet in August 2017, Enbridge informed State officials that there were three small areas of bare metal exposed, and later was forced to acknowledge both that it had known of these coating gaps since 2014 and that some were apparently caused by Enbridge during the installation of pipe supports.[33] Subsequent inspections showed dozens more areas of coating damage.[34]

---

[29] 2003 Onyx Inspection Report, pp. 1 and 8.
[30] 2014 Ballard Report, p. 9 (emphasis added).
[31] 2017 Ballard Report, p. 9 (emphasis added).
[32] https://www.mlive.com/news/2017/03/enbridge_line_5_delamination.html.
[33] https://www.freep.com/story/news/local/michigan/2017/10/27/enbridge-straits-pipeline-coating-michigan/807452001/.
[34] https://www.freep.com/story/news/local/michigan/2017/11/14/enbridge-discloses-dozens-more-gaps-straits-mackinac-pipelines-protective-coating/863490001/.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge's course of conduct, by failing to undertake a detailed examination of the condition of the pipeline coating/wrap despite being on notice of the need to do so for 13-14 years, delaying disclosure to the State of several areas of bare metal for three years after initially denying such conditions existed, and only belatedly undertaking further inspections and repairs when demanded by the State, evidences a pattern of indifference to, and violation of, the conditions of Paragraph A.(9) of the Easement and its obligation to exercise due care.

3. Pipeline Curvature

Paragraph A.(4) of the Easement includes a condition that "[t]he minimum curvature of any section of pipe shall be no less than two thousand and fifty (2,050) feet radius." This condition relating to pipeline curvature limits stresses placed on the Pipelines.

The DNR requested documents and information relating in any way to Enbridge's efforts to ensure compliance with this condition, and Enbridge provided several GEOPIG Geometry Inspection Reports beginning in 2005.[35] The GEOPIG Reports do not refer to the pipe's radius curvature but rather record the diameter bend of the pipe. A diameter bend of 1230D feet is equivalent to a minimum curvature of 2,050 feet radius.

Any diameter bend between 0D and 1230D would violate the Easement standard. The GEOPIG Reports, however, only provide data on bends less than 100D. Even with this limitation, the GEOPIG Reports identify 20 to 25 exceedances of the Easement's minimum pipe curvature requirement.[36] To the best of the DNR's knowledge, Enbridge has never documented to the State that it took any measures to ensure compliance with this Easement condition when the Pipelines were installed, or reported these exceedances to the State when Enbridge learned of them. Nor are there any records or evidence that the 2,050 feet radius standard of the Easement was ever waived or modified in writing by the State of Michigan.

Enbridge ignored the pipeline curvature mandate of Paragraph A.(4) of the Easement, perhaps from the very beginning with installation of the Straits Pipelines. Noncompliance with the curvature condition continues today and remains uncorrected. This is contrary to the standard of due care imposed by the Easement and represents an ongoing, incurable violation of one of the Easement's fundamental terms and conditions.

4. Unreasonable Risks of Continued Operation of the Straits Pipelines

As discussed in Section I.C above, the continued operation of the Straits Pipelines cannot be reconciled with the State's duty to protect the public trust

[35] Enbridge Energy Limited Partnership, GEOPIG Geometry Inspection Reports (2005, 2016, 2018, and 2019).
[36] *Id.*

RECEIVED by MSC 11/14/2025 2:10:18 PM

resources of the Great Lakes from the risk of additional anchor strikes or other external impacts to the Pipelines, the inherent risks of pipeline operations, and the foreseeable, catastrophic effects of an oil spill in the Straits. These very same risks and concerns are contrary to and incompatible with Enbridge's obligation under the 1953 Easement to exercise the due care of a reasonably prudent person.

The threat of damage to the Straits Pipelines from anchor strikes and impacts by other external objects remains a clear and present danger. In its Report, Dynamic Risk identified anchor strikes as a "Principal Threat" to the Pipelines, and emphasized that these events are "increas[ing] in frequency" and "not influenced by mitigation measures."[37] As discussed in Section I.C above, in April 2018, a commercial tug and barge vessel inadvertently dropped and dragged an anchor which struck and dented the Straits Pipelines at three locations. But this is not the most recent occurrence of a potential anchor strike causing damage to the Straits Pipelines.

As also discussed in Section I.C above, sometime in 2019, the east and west legs of the Pipelines were hit by external objects (cables or anchors) deployed from vessels operating near the Pipelines. The impacts resulted in severe damage to a pipeline support structure previously installed by Enbridge. The company did not discover the substantial damage done to the support structure until June 2020, and **none** of the detection, mitigation and protective measures employed by Enbridge since the April 2018 incident were effective in preventing or even timely detecting the 2019 impacts and the damage to the Pipelines. Moreover, as discussed above, according to information provided by Enbridge, four of the five vessels that were potentially responsible for the damage disclosed in 2020 were operated by Enbridge contractors.

In the face of the documented and recently demonstrated vulnerability of the Straits Pipelines to external impacts from anchors and other objects, and the complete failure of safety systems intended to mitigate such impacts, as well as the inherent threats to pipeline integrity from incorrect operations and procedural errors, Enbridge's continued operation of the Straits Pipelines is contrary to and incompatible with its affirmative duty under the Easement to "exercise the due care of a reasonably prudent person for the safety and welfare of all persons and of all private and public property." Under these circumstances, continued operation of the Straits Pipelines presents a substantial, inherent and unacceptable risk of a catastrophic oil spill with grave ecological and economic consequences. *Accord* Michigan Tech Report, discussed *supra*, Section I.C.

C. The December 19, 2018 Third Agreement Between Enbridge and the State of Michigan Does Not Preclude Termination of the 1953 Easement

As noted in Section I.D above, the continued operation of the existing Straits Pipelines under the terms of the Third Agreement is expressly conditioned upon

[37] Dynamic Risk Report, pp. 2-35, 2-42 to -43.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge's compliance with the 1953 Easement. And, as outlined above, Enbridge incurably has violated and continues to violate the Easement.

Section 4.2 of the Agreement addresses compliance with certain terms and conditions of the Easement discussed in this Notice:

> 4.2 Provided that Enbridge complies with Section 4.1 above, the State agrees that:
>
> ***
>
> (b) Enbridge's compliance with *Article 5* below demonstrates compliance *with the specified conditions* of the 1953 Easement.
>
> ***
>
> (e) *Based on currently available information*, the State is not aware of any violation of the 1953 Easement that would not be addressed and cured by compliance with Section 4.1 and Article 5 of this Agreement. (Emphasis added.)

These provisions do not preclude termination of the Easement pursuant to this Notice for at least the following reasons. First, as noted above, Section 4.2 is conditioned on Enbridge's compliance with Section 4.1 of the Third Agreement, and Enbridge is not, and has not been, in compliance with that provision. Second, neither Section 4.2 nor Article 5 addresses in any way two of the terms and conditions of the Easement that form the basis of this Notice of Termination: the obligation to exercise due care and the condition on pipeline curvature in Paragraph A.(4). Third, the statement in Section 4.2(e)—that the State is not aware of any violation of the 1953 Easement that would not be addressed and cured by compliance with Article 5—expressly provided that it was "based on currently available information," i.e., information considered as of December 2018. Here, as noted above, beginning in 2019, the State undertook a systematic investigation and review of Enbridge's compliance with the Easement. It was through that subsequent review that the State has now identified the full scope of repeated past and continuing violations of the Easement that form the grounds for this Notice of Termination.

Article 5 of the Third Agreement, which is referenced in Section 4.2, addresses two of the Easement conditions at issue here: Paragraph A.(9) concerning pipeline coatings (addressed in Section 5.2 of the Third Agreement) and Paragraph A.(10) concerning unsupported pipe spans (addressed in Section 5.3 of the Third Agreement). But the language of Sections 5.2 and 5.3 is limited and qualified in two important ways. First, as in Section 4.2(e), the statements in these provisions of Article 5 regarding compliance with the Easement are expressly qualified by reference to "currently available information":

> The State agrees, *based upon currently available information*, that Enbridge's compliance with the requirements under this Section 5.2

RECEIVED by MSC 11/14/2025 2:10:18 PM

> satisfies the requirements of Paragraph A (9) of the 1953 Easement. (Section 5.2(d) (emphasis added).)
>
> ***
>
> The State agrees, *based upon currently available information,* that Enbridge's compliance with the requirements under this Section 5.3 satisfies the requirements of Paragraph A (10) of the 1953 Easement. (Section 5.3(d) (emphasis added).)

Again, as noted above, the full scope of violations of Paragraphs A.(9) and A.(10) of the Easement discussed in this Notice were identified through the State's recent review of Easement compliance. Moreover, the terms of Sections 5.2 and 5.3 were focused solely on actions to be taken prospectively regarding then current or potential future issues with pipeline coatings and unsupported pipe spans. They do not consider or address the longstanding pattern of Enbridge's violations of Paragraphs A.(9) and A.(10). Accordingly, the Third Agreement does not preclude the termination of the Easement for the reasons stated in this Notice.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Conclusion

By this Notice, the State of Michigan is formally notifying Enbridge that the State is revoking and terminating the 1953 Easement. The Easement is being revoked for violation of the public trust doctrine, and is being terminated based on Enbridge's longstanding, persistent, and incurable violations of the Easement's conditions and standard of due care.

ACCORDINGLY, the State of Michigan, for the legal and factual reasons stated herein:

A. Revokes the 1953 Easement, effective 180 days after the date of this Notice to provide notice to affected parties and to allow for an orderly transition to ensure Michigan's energy needs are met.

B. Terminates the 1953 Easement, effective 180 days after the date of this Notice to provide notice to affected parties and to allow for an orderly transition to ensure Michigan's energy needs are met.

C. Requires Enbridge to cease operation of the Straits Pipelines 180 days after the date of this Notice.

D. Requires Enbridge to permanently decommission the Straits Pipelines in accordance with applicable law and plans approved by the State of Michigan.





Gretchen Whitmer
Governor

Date: 11/13/20

Daniel Eichinger
Director, Department of
Natural Resources

Date: 11/13/20

RECEIVED by MSC 11/14/2025 2:10:18 PM

Exhibit 1

1953 Easement

123

STRAITS OF MACKINAC PIPE LINE EASEMENT

CONSERVATION COMMISSION OF THE STATE OF MICHIGAN

TO

LAKEHEAD PIPE LINE COMPANY, INC.

THIS EASEMENT, executed this twenty-third day of April, A. D. 1953, by the State of Michigan by the Conservation Commission, by Wayland Osgood, Deputy Director, acting under and pursuant to a resolution adopted by the Conservation Commission at its meeting held on February 13, 1953, and by virtue of the authority conferred by Act No. 10, P. A. 1953, hereinafter referred to as Grantor, to Lakehead Pipe Line Company, Inc., a Delaware corporation, of 510 22nd Avenue East, Superior, Wisconsin, hereinafter referred to as Grantee,

W I T N E S S E T H:

WHEREAS, application has been made by Grantee for an easement authorizing it to construct, lay and maintain pipe lines over, through, under and upon certain lake bottom lands belonging to the State of Michigan, and under the jurisdiction of the Department of Conservation, located in the Straits of Mackinac, Michigan, for the purpose of transporting petroleum and other products; and

WHEREAS, the Conservation Commission is of the opinion that the proposed pipe line system will be of benefit to all of the people of the State of Michigan and in furtherance of the public welfare; and

WHEREAS, the Conservation Commission duly considered the application of Grantee and at its meeting held on the 13th day of February, A. D. 1953, approved the conveyance of an easement.

RECEIVED by MSC 11/14/2025 2:10:18 PM

124

NOW, THEREFORE, for and in consideration of the sum of Two Thousand Four Hundred Fifty Dollars ($2,450.00), the receipt of which is hereby acknowledged, and for and in consideration of the undertakings of Grantee and subject to the terms and conditions set forth herein, Grantor hereby conveys and quit claims, without warranty express or implied, to Grantee an easement to construct, lay, maintain, use and operate two (2) pipe lines, one to be located within each of the two parcels of bottom lands hereinafter described, and each to consist of twenty inch (20") O D pipe, together with anchors and other necessary appurtenances and fixtures, for the purpose of transporting any material or substance which can be conveyed through a pipe line, over, through, under and upon the portion of the bottom lands of the Straits of Mackinac in the State of Michigan, together with the right to enter upon said bottom lands, described as follows:

All bottom lands of the Straits of Mackinac, in the State of Michigan, lying within an area of fifty (50) feet on each side of the following two center lines:

(1) Easterly Center Line: Beginning at a point on the northerly shore line of the Straits of Mackinac on a bearing of South twenty-four degrees, no minutes and thirty-six seconds East (S 24° 00' 36" E) and distant one thousand seven hundred and twelve and eight-tenths feet (1,712.8') from United States Lake Survey Triangulation Station "Green" (United States Lake Survey, Latitude 45° 50' 00", Longitude 84° 44' 58"), said point of beginning being the intersection of the center line of a twenty inch (20") pipe line and the said northerly shore line; thence, on a bearing of South fourteen degrees thirty-seven minutes and fourteen seconds West (S 14° 37' 14" W) a distance of nineteen thousand one hundred and forty-six and no tenths feet (19,146.0') to a point on the southerly shore line of the Straits of Mackinac which point is the intersection of the said center line of the twenty inch (20") pipe line and the said southerly shore line; and is distant seven hundred and seventy-four and seven tenths feet (774.7') and on a bearing of South thirty-six degrees, eighteen minutes and forty-five seconds West (S 36° 18' 45" W) from United States Lake Survey Triangulation Station "A. Mackinac West Base" (United States

RECEIVED by MSC 11/14/2025 2:10:18 PM

125

Lake Survey, Latitude 45° 47' 14", Longitude 84° 46' 22").

(2) Westerly Center Line: Beginning at a point on the northerly shore line of the Straits of Mackinac on a bearing of South forty-nine degrees, twenty-five minutes and forty-seven seconds East (S 49° 25' 47" E) and distant two thousand six hundred and thirty-four and nine tenths feet (2,634.9') from United States Triangulation Station "Green" (United States Lake Survey, Latitude 45° 50' 00", Longitude 84° 44' 58") said point of beginning being the intersection of the center line of a twenty inch (20") pipe line and the said northerly shore line; thence on a bearing of South fourteen degrees, thirty-seven minutes and fourteen seconds West (S 14° 37' 14" W), a distance of nineteen thousand four hundred and sixty-five and no tenths feet (19,465.0') to a point on the southerly shore line of the Straits of Mackinac which point is the intersection of the said center line of the twenty inch (20") pipe line and the said southerly shore line and is distant one thousand no hundred and thirty-six and four tenths feet (1,036.4') on a bearing of South sixty-three degrees, twenty minutes and fifty-four seconds East (S 63° 20' 54" E) from United States Lake Survey Triangulation Station "A. Mackinac West Base" (United States Lake Survey, Latitude 45° 47' 14", Longitude 84° 46' 22").

TO HAVE AND TO HOLD the said easement unto said Grantee, its successors and assigns, subject to the terms and conditions herein set forth, until terminated as hereinafter provided.

This easement is granted subject to the following terms and conditions:

A. Grantee in its exercise of rights under this easement, including its designing, constructing, testing, operating, maintaining, and, in the event of the termination of this easement, its abandoning of said pipe lines, shall follow the usual, necessary and proper procedures for the type of operation involved, and at all times shall exercise the due care of a reasonably prudent person for the safety and welfare

RECEIVED by MSC 11/14/2025 2:10:18 PM

126

of all persons and of all public and private property, shall comply with all laws of the State of Michigan and of the Federal Government, unless Grantee shall be contesting the same in good faith by appropriate proceedings, and, in addition, Grantee shall comply with the following minimum specifications, conditions and requirements, unless compliance therewith is waived or the specifications or conditions modified in writing by Grantor:

(1) All pipe line laid in water up to fifty (50) feet in depth shall be laid in a ditch with not less than fifteen (15) feet of cover. The cover shall taper off to zero (0) feet at an approximate depth of sixty-five (65) feet. Should it be discovered that the bottom material is hard rock, the ditch may be of lesser depth, but still deep enough to protect the pipe lines against ice and anchor damage.

(2) Minimum testing specifications of the twenty inch (20") OD pipe lines shall be not less than the following:

Shop Test----------1,700 pounds per square inch gauge
Assembly Test------1,500 pounds per square inch gauge
Installation Test--1,200 pounds per square inch gauge
Operating Pressure- 600 pounds per square inch gauge

(3) All welded joints shall be tested by X-Ray.

RECEIVED by MSC 11/14/2025 2:10:18 PM

127

(4) The minimum curvature of any section of pipe shall be no less than two thousand and fifty (2,050) feet radius.

(5) Automatic gas-operated shut-off valves shall be installed and maintained on the north end of each line.

(6) Automatic check valves shall be installed and maintained on the south end of each line.

(7) The empty pipe shall have a negative buoyancy of thirty (30) or more pounds per linear foot.

(8) Cathodic protection shall be installed to prevent deterioration of pipe.

(9) All pipe shall be protected by asphalt primer coat, by inner wrap and outer wrap composed of glass fiber fabric material and one inch by four inch (1" x 4") slats, prior to installation.

(10) The maximum span or length of pipe unsupported shall not exceed seventy-five (75) feet.

(11) The pipe weight shall not be less than one hundred sixty (160) pounds per linear foot.

(12) The maximum carbon content of the steel, from which the pipe is manufactured, shall not be in excess of .247 per cent.

RECEIVED by MSC 11/14/2025 2:10:18 PM

128

(13) In locations where fill is used, the top of the fill shall be no less than fifty (50) feet wide.

(14) In respect to other specifications, the line shall be constructed in conformance with the detailed plans and specifications heretofore filed by Grantee with Lands Division, Department of Conservation of the State of Michigan.

B. Grantee shall give timely notice to the Grantor in writing:

(1) Of the time and place for the commencement of construction over, through, under or upon the bottom lands covered by this easement, said notice to be given at least five (5) days in advance thereof;

(2) Of compliance with any and all requirements of the United States Coast Guard for marking the location of said pipe lines;

(3) Of the filling of said pipe lines with oil or any other substance being transported commerially;

(4) Of any breaks or leaks discovered by Grantee in said pipe lines, said notice to be given by telephone promptly upon discovery and thereafter confirmed by registered mail;

RECEIVED by MSC 11/14/2025 2:10:18 PM

(5) Of the completion of any repairs of said pipe lines, and time of testing thereof, said notice to be given in sufficient time to permit Grantor's authorized representatives to be present at the inspection and testing of the pipe lines after said repairs; and

(6) Of any plan or intention of Grantee to abandon said pipe lines, said notice to be given at least sixty (60) days prior to commencement of abandonment operations.

C. The easement herein conveyed may be terminated by Grantor:

(1) If, after being notified in writing by Grantor of any specified breach of the terms and conditions of this easement, Grantee shall fail to correct said breach within ninety (90) days, or, having commenced remedial action within such ninety (90) day period, such later time as it is reasonably possible for the Grantee to correct said breach by appropriate action and the exercise of due diligence in the correction thereof; or

RECEIVED by MSC 11/14/2025 2:10:18 PM

130

(2) If Grantee fails to start construction of the pipe lines authorized herein within two years from date of execution of this instrument; or

(3) If Grantee fails for any consecutive three-year period to make substantial use of said pipe lines commercially and also fails to maintain said pipe lines during said period in such condition as to be available to commercial use within thirty (30) days.

D. Construction of the pipe lines contemplated by this instrument shall not be commenced until all necessary authorization and assent of the Corps of Engineers, United States Army, so far as concerns the public rights of navigation, shall have been obtained.

E. In the event of any relocation, replacement, major repair, or abandonment of either of the pipe lines authorized by this easement, Grantee shall obtain Grantor's written approval of procedures, methods and materials to be followed or used prior to commencement thereof.

F. The maximum operating pressure of either of said pipe lines shall not exceed six hundred (600) pounds per square inch gauge.

RECEIVED by MSC 11/14/2025 2:10:18 PM

131

If there is a break or leak or an apparent break or leak in either of said pipe lines, or if Grantor notifies Grantee that it has good and sufficient evidence that there is or may be a break or leak therein, Grantee shall immediately and completely shut down the pipe line involved and said pipe line shall not be placed in operation until Grantee has conducted a shut-in two (2) hour pressure test of six hundred (600) pounds per square inch gauge showing that no substance is escaping from a break or leak in said pipe line.

G. If oil or other substance escapes from a break or leak in the said pipe lines, Grantee shall immediately take all usual, necessary and proper measures to eliminate any oil or other substance which may escape.

H. In the event the easement herein conveyed is terminated with respect to either or both of said pipe lines, or if any part or portion of a pipe line is abandoned, Grantee shall take all of the usual, necessary and proper abandonment procedures as required and approved by Grantor. Said abandonment operations shall be completed to the satisfaction of Grantor within one year after any abandonment of any part or portion of a pipe line; or in event of termination of this easement, within one year thereafter. After the expiration of one year following the termination of this easement, Grantee

RECEIVED by MSC 11/14/2025 2:10:18 PM

132

shall at the option of Grantor quit claim to the State of Michigan all of its right, title and interest in or to any pipe line, appurtenances or fixtures remaining over, through, under or upon the bottom lands covered by this easement. Abandonment procedures as used herein include all operations that may be reasonably necessary to protect life and property from subsequent injury.

I. Grantee shall permit Grantor to inspect at reasonable times and places its records of oil or any other substance being transported in said pipe lines and shall, on request, submit to Grantor inspection reports covering the automatic shut-off and check valves and metering stations used in connection with the Straits of Mackinac crossing.

J. (1) Grantee shall indemnify and hold harmless the State of Michigan from all damage or losses caused to property (including property belonging to or held in trust by the State of Michigan), or persons due to or arising out of the operations or actions of Grantee, its employees, servants and agents hereunder. Grantee shall place in effect prior to the construction of the pipe lines authorized by this easement and shall maintain in full force and effect during the life of this easement, and until Grantor has approved completion of abandonment operations, a Comprehensive Bodily Injury and Property Damage Liability policy, bond or surety, in form and substance acceptable to Grantor in the sum of at least One Million Dollars ($1,000,000.00), covering the liability herein imposed upon Grantee.

RECEIVED by MSC 11/14/2025 2:10:18 PM

133

(2) Grantee, prior to commencing construction of the pipe lines authorized by this easement, shall provide the State of Michigan with a surety bond in the penal sum of One Hundred Thousand Dollars ($100,000.00) in form and substance acceptable to Grantor, and surety or sureties approved by Grantor, to well, truly and faithfully perform the terms, conditions and requirements of this easement. Said bond shall be maintained in full force and effect during the life of this easement and until Grantor has approved completion of Grantee's abandonment operations. Said bond shall not be reduced in amount except with the written consent of Grantor.

K. Grantee shall within sixty (60) days thereafter notify Grantor in writing of any assignment of this easement.

L. The terms and conditions of this easement shall be binding upon and inure to the benefit of the respective successors and assigns of Grantor and Grantee.

M. All rights not specifically conveyed herein are reserved to the State of Michigan.

RECEIVED by MSC 11/14/2025 2:10:18 PM

134

N. Grantee shall not improvise, construct or maintain ship-to-shore or ship-to-pipe line loading or unloading facilities over, through, under or upon any of the bottom lands herein described for the purpose of removing material from or injecting material into said pipe lines.

O. Grantor shall have the right at all reasonable times and places to inspect the pipe lines, appurtenances and fixtures authorized by this easement.

P. It shall not be a breach of the terms and conditions of this easement if for operating or maintenance reasons Grantee shall make use of only one of said pipe lines at a time.

Q. Where provision is made herein that Grantee shall obtain the authorization, approval or consent of Grantor, Grantor agrees that it will not unreasonably withhold the same.

IN WITNESS WHEREOF, the State of Michigan by the Conservation Commission, by Wayland Osgood, Deputy Director, acting pursuant to authority specifically conferred upon him, has caused this instrument to be executed this twenty-third day of April, A.D. 1953.

Signed, Sealed and Delivered
in the Presence of:

/s/ Jane Bower
Jane Bower

/s/ Elizabeth Soule
Elizabeth Soule

STATE OF MICHIGAN
BY THE CONSERVATION COMMISSION

By /s/ Wayland Osgood
Wayland Osgood, Deputy Director, pursuant to resolutions of the Conservation Commission dated February 13, 1953 and July 10, 1951

RECEIVED by MSC 11/14/2025 2:10:18 PM

135

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

On this twenty-third day of April, A.D. 1953, before me, a Notary Public, in and for said county, personally appeared Wayland Osgood, Deputy Director, known by me to be the person who executed the within instrument and who, being duly sworn, deposes and says that he is the duly appointed deputy director of the Conservation Commission and that he executed the within easement under authority specifically conferred upon him by law and by the Conservation Commission at its meetings held on February 13, 1953 and July 10, 1951, and who acknowledged the same to be his free act and deed and the free act and deed of the State of Michigan by the Conservation Commission, in whose behalf he acts.

/s/ C. R. Humphrys
C. R. Humphrys, Notary Public, Ingham County, Michigan
My Commission expires September 20, 1954

Examined and approved 4/23/53
as to legal form and effect:

/s/ R. Glen Dunn
Assistant Attorney General

RECEIVED by MSC 11/14/2025 2:10:18 PM

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix I

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763

PETITION TO INTERVENE BY
BAY MILLS INDIAN COMMUNITY

1. Bay Mills Indian Community, a federally recognized Indian Tribe, seeks to intervene in this case under Rule 410 of the Commission's Rules of Practice and Procedure, R 792.10410, to represent the interests of its members in protecting treaty rights and natural resources from risk and harm associated with the project for which Enbridge Energy, Limited Partnership (Enbridge) seeks approval in this proceeding.

2. Gnoozhekaaning, "Place of the Pike," or the Bay Mills Indian Community is a federally recognized Indian Tribe with a government organized under the provisions of the Indian Reorganization Act of 1934, 25 USC §5101.

3. Bay Mills Indian Community has 2,196 enrolled members and a service area that includes Chippewa, Mackinac, and Luce Counties. More than half of the enrolled members live on or near the Bay Mills Reservation.

4. Bay Mills Indian Community is a modern-day successor in interest to Indians who were signatory to the March 28, 1836 Treaty of Washington, 7 Stat. 491.

RECEIVED by MSC 11/14/2025 2:10:18 PM

5. In the Treaty of Washington, the Indian signatories ceded to the federal government 14 million acres of land; while reserving the right to hunt, fish, and other privileges of occupancy. A map of the ceded territory over which these rights were reserved is attached as Exhibit 1 to this petition.

6. The Affidavit of Bay Mills Indian Community President Bryan T. Newland, attached as Exhibit 2 to this petition, provides further information regarding the Bay Mills Indian Community; the role of its predecessors-in-interest in the Treaty of Washington; the rights of the Bay Mills Indian Community arising out of the Treaty of Washington; and the role of Bay Mills Indian Community in the landmark case affirming those treaty rights known as *United States v. Michigan*, Case No. 2:73-cv-26 (WD Mich.).

7. As an 1836 Treaty Tribe, Bay Mills Indian Community retains usufructuary property rights to natural resources in the ceded territory, including in and around the Straits of Mackinac. The State of Michigan is obligated to honor these treaty-protected rights, and prohibited from diminishing them.

8. Bay Mills conservation officers patrol the ceded territory, including the land riparian to the Straits.

9. The Affidavit of Jacques LeBlanc, Jr., attached as Exhibit 3 to this petition, provides further information regarding the exercise of treaty-reserved fishing rights to waters in and around the ceded territory, and threats to those rights and resources posed by the project.

10. Bay Mills Indian Community and its members, are directly affected by Enbridge's application for approval of the Line 5 replacement project through its treaty resources. For this reason, Bay Mills and its members will be directly affected by the Commission's decision in this

RECEIVED by MSC 11/14/2025 2:10:18 PM

matter. The Tribe and its members have a strong interest in protecting treaty resources and natural resources from harm caused by Enbridge's proposed project.

11. Enbridge is seeking the Commission's approval under Public Act 16 of 1929, MCL 483.1 *et seq.* ("Act 16") and Rule 447 of the Commission's Rules of Practice and Procedure, R 792.10447, to replace the segment of its Line 5 pipeline that crosses the Straits of Mackinac with a new single pipe located within a newly constructed tunnel. Enbridge requests this approval in the form of a grant of authority from the Commission; or, in the alternative, a declaratory ruling that Enbridge already has the requisite authority from the Commission to construct the project. (Application, p. 1.)

12. Bay Mills Indian Community and its members have the potential to be harmed by the project that is the subject of this application. As Bay Mills President Newland states in his affidavit attached to this petition as Exhibit 2:

> At present, the Tribe is deeply concerned that environmental stressors such as climate change, invasive species, chemical pollutants and habitat destruction will combine to have a significant and perhaps permanent adverse impact of the fishery. The operation of current Line 5, and the prospect of the siting and construction of a tunnel in the Straits of Mackinac for the transport of petroleum products, is the most obvious and most preventable risk to the fishery resources throughout northern Lakes Michigan and Huron.

13. Bay Mills and its members have further concerns that the project may risk harm to the environment during construction and that it may not eliminate risk after construction. Bay Mills and its members are also concerned about the length of time in which the project may be under development and the continued operation of the pipes in the water in the meantime.

RECEIVED by MSC 11/14/2025 2:10:18 PM

14. The Michigan Public Service Commission recognizes two types of intervention.

a. First, intervention by right, which requires that the party will suffer an injury-in-fact as a result of the outcome of the case, and that the party is within the zone of interest protected by the statute. See for example, *Association of Data Processing Service Organizations, Inc v Camp*, 397 US 150; 90 S Ct 827; 250 L Ed 184 (1970).

b. Second, permissive intervention, where the Commission has the discretion to permit a party to intervene in the case where that party can provide useful information to the Commission or a unique perspective on the issues in the case. *In re Application of The Detroit Edison Co for Authority to Increase its Rates*, Case Nos. U-15768 and U-15751, January 11, 2010, Order, p. 7 ("*In re Detroit Edison*").

15. Bay Mills Indian Community meets both tests.

16. As described above, Bay Mills and its members face the prolonged risk of environmental harm caused by the continued operation of Line 5 and risk of harm to natural, treaty-protected resources from the project, as described above.

17. Bay Mills Indian Community and its members are within the zone of interests protected by Act 16. Act 16 authorize the Commission "to control, investigate, and regulate" oil pipeline operators within the state. MCL 483.3. As evidenced by Enbridge's submission of an Environmental Impact Report and alternatives analysis in its Application, the Commission may, and does, consider environmental impacts like the ones that would adversely impact Bay Mills and its members when considering Act 16 approvals. Act 16 also requires a pipeline company to "make a good-faith effort to minimize the physical impact and economic damage that result from the

RECEIVED by MSC 11/14/2025 2:10:18 PM

construction and repair of a pipeline." MCL 483.2b. Finally, the Commission has interpreted Act 16 to require a demonstration of public need for the proposed project; that it is designed and routed in a reasonable manner; and that the construction of the project will meet or exceed current safety and engineering standards – all of which are at issue in this case. In sum, Act 16 provides an avenue for the Commission to address the need for, design and routing of, and potential environmental harms from petroleum transport projects; and therefore, the statute protects the interests of Bay Mills and its members.

18. Bay Mills and its members are also within the zone of interests protected by the Michigan Environmental Protection Act ("MEPA") (MCL 324.1701 *et seq.*). MEPA Section 1705(1) authorizes the agency or court to permit any person to intervene in an administrative proceeding "on the filing of a pleading asserting that the proceeding or action for judicial review involves conduct that has, or is likely to have, the effect of polluting, impairing, or destroying the air, water, or other natural resources or the public trust in these resources." MCL 324.1705(1).

19. Bay Mills has organizational standing because its individual members meet the zone-of-interests test. Commission rules and precedent provide that an association may be granted intervention to represent the interests of its members. See *In re Detroit Edison* at 8. To establish standing to intervene in a Commission proceeding, an association can assert and represent the interests of its third-party members without specifically identifying each individual member whose interests are to be represented. *Id*.

20. Bay Mills also meets the test for permissive intervention, because it will provide useful information to the Commission and a unique perspective on the issues. The Commission has noted that "permissive intervention is appropriate where the intervenor's participation will provide a benefit that outweighs any resulting delay or expense. Permissive intervention has also

RECEIVED by MSC 11/14/2025 2:10:18 PM

been granted where a proceeding 'raises novel questions and important issues of policy' and the intervenor will 'bring a unique perspective' to the case." *In re Consumers Energy Company Energy Optimization Plan*, Commission Order in Case No. U-17771 (October 27, 2015), p 6 (citations omitted). Both grounds exist in this case.

21. In addition to its unique perspective as a federally-recognized Indian Tribe possessing treaty rights in natural resources affected by the project, Bay Mills Indian Community has engaged in myriad ways with the Line 5 pipeline and the tunnel replacement project. These include consultation and written comments to the Michigan Department of Environment, Great Lakes and Energy on Line 5 permitting; consultation and written comments to the United States Army Corps regarding Line 5 permitting; and written comments to the Governor of Michigan regarding these matters. Bay Mills has also convened a Line 5 summit with the Great Lakes Indian Fish and Wildlife Commission; and Bay Mills President Newland was appointed by the Governor to the Michigan Advisory Council on Environmental Justice, which also has engaged on this issue.

22. Moving ahead without Bay Mills involvement would undermine the Governor's recent Executive Directive that recognizes the government-to-government relationship between the State and Tribal Nations. The Directive requires agency consultation with the Tribal Nations before taking an action or implementing a decision that may affect a Tribal Nation. The consultation is to be meaningful and collaborative. *See* Governor Executive Directive No. 2019-17 (Detailing a four step process to ensure a meaningful consultation process is undertaken).

23. Bay Mills plans to evaluate Enbridge's application, testimony, and exhibits, and to conduct discovery, and then to raise those issues and take those positions that best serve the interests described above. Among other things, Bay Mills is opposing Enbridge's request for declaratory judgment that the project does not require Commission approval. Bay Mills also plans

RECEIVED by MSC 11/14/2025 2:10:18 PM

to challenge the public need for the proposed project. Bay Mills also plans to scrutinize and potentially challenge whether the project is designed and routed in a reasonable manner; and whether the construction of the project will meet or exceed current safety and engineering standards. Bay Mills may also raise issues under MEPA. Bay Mills reserves the right to advance other issues as the case develops.

24. This petition to intervene is timely.

25. Bay Mills requests that all notices and pleadings be served on:

Christopher M. Bzdok (P53094)
chris@envlaw.com

Olson, Bzdok & Howard, P.C.
420 E. Front St.
Traverse City, MI 49686

Debbie Chizewer*
dchizewer@earthjustice.org

Earthjustice
311 S. Wacker Drive, Suite 1400
Chicago, IL 60606

Christopher R. Clark*
cclark@earthjustice.org

Earthjustice
311 S. Wacker Drive, Suite 1400
Chicago, IL 60606

RECEIVED by MSC 11/14/2025 2:10:18 PM

David Gover*
Senior Staff Attorney
Native American Rights Fund
Boulder, CO
dgover@narf.org

Matt Campbell*
Staff Attorney
Native American Rights Fund
Boulder, CO
mcampbell@narf.org

**Pro Hac Vice* motions anticipated

and on:

Bay Mills Indian Community
Attn: Legal Department
12140 West Lakeshore Drive
Brimley, MI 49715

Kathryn Tierney (P24837)
candyt@bmic.net

Whitney Gravelle (P83217)
wgravelle@baymills.org

For the reasons just outlined, Bay Mills Indian Community respectfully requests that the Commission grant this petition to intervene and treat it as a party to this proceeding.

OLSON, BZDOK & HOWARD, P.C.
Counsel for Bay Mills Indian Community

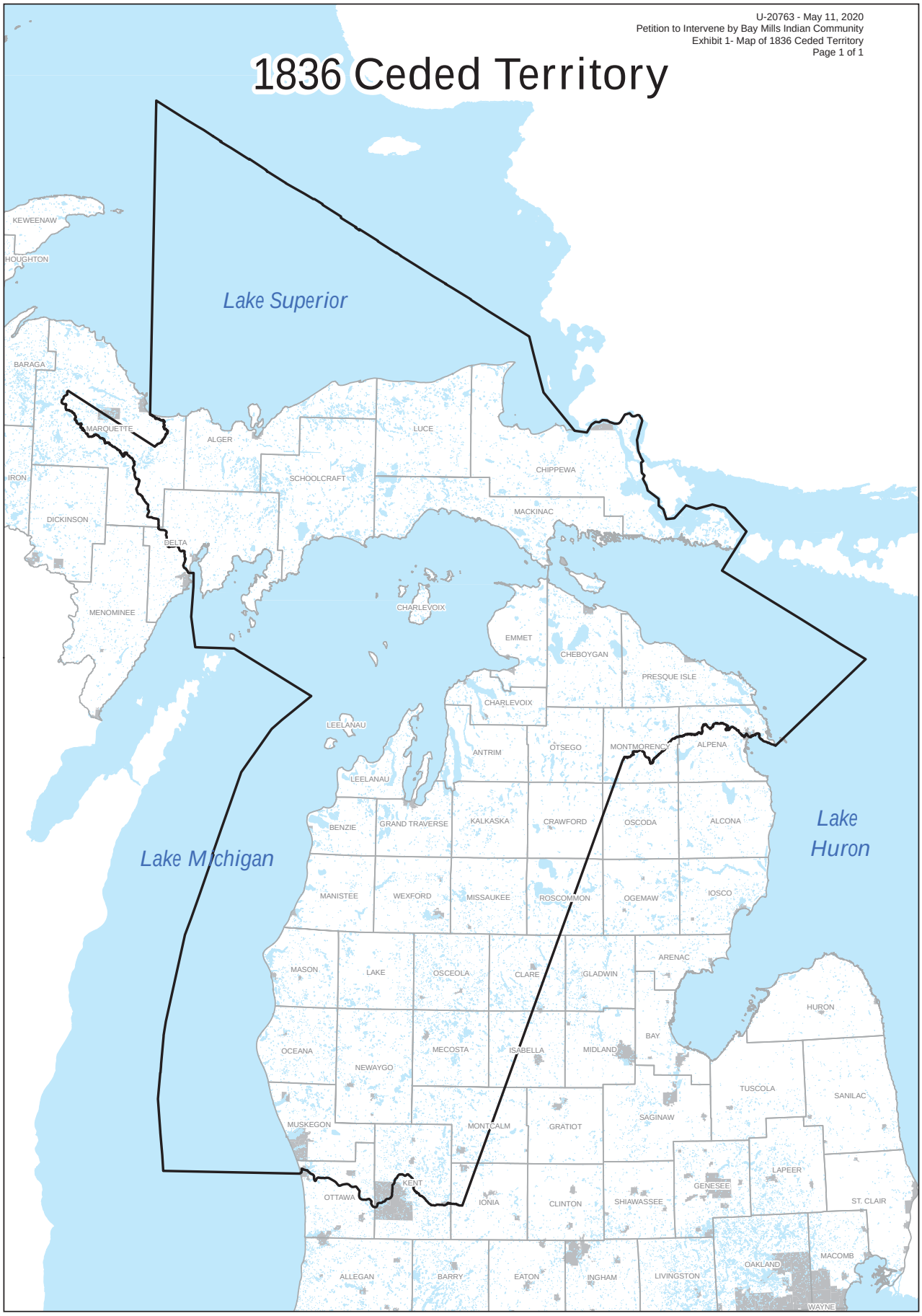
Digitally signed by Christopher M. Bzdok
Date: 2020.05.11 15:51:01 -04'00'

Date: May 11, 2020

By: _____

Christopher M. Bzdok (P53094)
420 E. Front St.
Traverse City, MI 49686
Phone: 231-946-0044

1836 Ceded Territory



N

0 12.5 25 50

Miles

Data: LTBB NRD, State of Michigan CGI, LTBB GIS, LTBB Legal
Based on 1836 Treaty of Washington, 7 Stat. 491.
February 1, 2010

Legend

- 1836 Ceded Territory
- County Line
- City - Village
- Lake

RECEIVED by MSC 11/14/2025 2:10:18 PM

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Rules of Practice and Procedure, R792.10447, or the Grant of other Appropriate Relief.

AFFIDAVIT OF BRYAN T. NEWLAND

Bryan T. Newland, being first duly sworn, deposes and states as follows:

1. I am the duly elected President of Gnoozhekaaning, "Place of the Pike," or the Bay Mills Indian Community, which is a federally recognized Indian Tribe with a government organized under the provisions of the Indian Reorganization Act of 1934, 25 U.S.C. §5101, *et seq.*

2. The Bay Mills Indian Community is the modern day successor in interest to six bands of Ojibwe people who were identified by the negotiators for the United States as living near Sault Ste. Marie in the Treaty of March 28, 1836, 7 Stat. 491.

3. At the time of the Treaty, the bands relied heavily on the fishery resources found in the Upper Great Lakes for their subsistence, and as an item of commerce with the citizens of the United States.

4. Band representatives joined with Ojibwe and Ottawa band representatives in Washington D.C. in early March, 1836, at the request of the United States to negotiate a treaty of cession.

RECEIVED by MSC 11/14/2025 2:10:18 PM

5. The Ojibwe and Ottawa signed the Treaty on March 28th, and ceded to the federal government over 14 million acres of land and, in addition, the waters of Lake Superior lying eastward of the Chocolay River, the northern portion of Lake Huron to the mouth of the Thunder Bay River, and the waters of Lake Michigan from Ford River south of Escanaba to Grand Haven on Lake Michigan's southeastern shore, and including all the waters connecting the three lakes.

6. Although our ancestors were willing to provide land to the United States, they carefully protected the traditional lifeway and its reliance on the environment's natural resources for food, shelter, medicines, and for trade. This was embodied in Article Thirteenth of the Treaty, which reserved the right to hunt, and the other usual privileges of occupancy until the land was required for settlement.

7. Commercial and subsistence fishing continue to be the primary occupation of members of the Bay Mills Indian Community from Treaty times until the present day. Over half our member households rely on fishing for all, or a portion of their annual income.

8. This right to fish has been fiercely protected by the Bay Mills Indian Community and its members, including litigation regarding: the continued existence of the Treaty right; the member's right to use traditional fishing gear such as gillnets; and the limitations on the State's power to regulate the exercise of the treaty right to fish. The first round ended in the 1976 decision of the Michigan Supreme Court that the right to fish in the ceded waters of Michigan's Great Lakes, expressly reserved by Article Thirteenth, continue to exist, and that the State's power to regulate treaty-protected fishermen was limited to those restrictions exclusively necessary to protect the resource

RECEIVED by MSC 11/14/2025 2:10:18 PM

from depletion. The case is *People v. LeBlanc*, 399 Mich. 31; 248 NW2d 199 (1976); it began with a call from Bay Mills member Albert LeBlanc to the local DNR office in 1972, stating that he had set a gill net in Lake Superior. Mr. LeBlanc was issued a citation for using an illegal fishing device and the battle began.

9. The next round was waged in federal court, and began in 1973 with the filing of a lawsuit against the State of Michigan by the United States, as trustee for the Bay Mills Indian Community, which asserted that the State's regulation of treaty-protected fishing activities by the Tribe's fishers impaired and interfered with the Tribe's treaty rights, in contravention of the laws and treaties of the United States. That litigation, known as *United States v. Michigan,* Case No. 2:73 -cv- 26 (W.D. Mich.) resulted in a decision in 1979 in which the Tribe's treaty rights were held paramount to the fishing regulations of the State; the case is reported at 471 F. Supp. 192 (W.D. Mich. 1979). The case has been on-going since then, as additional Tribes were federally recognized and management and regulatory frameworks were developed through a combination of negotiated agreements and court orders. The United States, the Tribes and the State are currently engaged in negotiations for a new management and allocation agreement which will replace the current one, which expires in August 2020.

10. The legal history of the Treaty fishing controversies is recited not only to emphasize the existence of Tribal rights regarding the fishery, but also to serve as evidence that the right to fish, and the need for a natural environment in which fish can thrive, is of the utmost importance to the Tribe and its members, and will be fiercely protected.

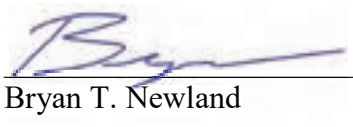
RECEIVED by MSC 11/14/2025 2:10:18 PM

11. At present, the Tribe is deeply concerned that environmental stressors such as climate change, invasive species, chemical pollutants and habitat destruction will combine to have a significant and perhaps permanent adverse impact of the fishery. The operation of current Line 5, and the prospect of the siting and construction of a tunnel in the Straits of Mackinac for the transport of petroleum products, is the most obvious and most preventable risk to the fishery resources throughout northern Lakes Michigan and Huron.

12. I have personal knowledge of the allegations in the Bay Mills Indian Community's Petition to Intervene in this case.

13. The factual allegations in the petition regarding the Bay Mills Indian Community, its members and its interests are true to the best of my knowledge, information and belief.

14. If called as a witness, I can competently testify as to the facts in the Petition to Intervene.



Bryan T. Newland

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN)
) ss
COUNTY OF CHIPPEWA)

Subscribed and sworn to before me this 8th day of May, 2020, by Bryan T. Newland.

KARLA L. GERDS
Notary Public, State of Michigan
County of Grand Traverse
My Commission Expires Nov. 13, 2024
Acting in the County of Chippewa

Karla L. Gerds, Notary Public
Grand Traverse County, Michigan
Acting in Chippewa County
My commission expires: November 13, 2024
Notarized using electronic remote technology*

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Rules of Practice and Procedure, R792.10447, or the Grant of other Appropriate Relief.

AFFIDAVIT OF JACQUES LEBLANC JR.

Jacques LeBlanc, Jr., being sworn, states:

1. I am a tribal citizen of Gnoozhekaaning, "Place of the Pike," or Bay Mills Indian Community in the Upper Peninsula of Michigan.

2. Since my birth in 1982, I have lived on or adjacent to the Bay Mills Indian Community reservation in Brimley, Michigan.

3. At the age of five, I began subsistence fishing with my father Jacques LeBlanc, Sr., and learned the fundamentals of fishing, how to prepare nets, and also how to filet fish so my immediate and extended family could eat fresh whitefish or lake trout for various meals.

4. At the age of twelve, I began commercially fishing with my father and my uncle Gary Parish to help support our family with living expenses. During this time, I learned how to gill net fish and live trap net fish, while also learning how to captain a boat and navigate the Great Lakes waters.

RECEIVED by MSC 11/14/2025 2:10:18 PM

5. My family has a long history of fishing in the State of Michigan and the Great Lakes waters. My grandfather, "Big Abe" LeBlanc, was instrumental in helping secure the treaty fishing rights for the Bay Mills Indian Community.

6. Fishing is an engrained tradition within the Bay Mills Indian Community and is considered a traditional and cultural practice by many throughout my Tribe.

7. I currently own a gill net fishing outfit and commercially fish the waters of the Great Lakes in various locations. Depending on the season and weather, I personally drive hundreds of miles to find the best location to launch my boat and catch fish to support my family.

8. Through many ways, my fishing outfit does more than just support my family. In operating my own commercial operation, I have employed several dozen tribal members throughout the years who also exercise their treaty right as a means to support their family financially.

9. I also serve on the Bay Mills Conservation Committee. The Conservation Committee is an elected nine member committee of the Bay Mills Indian Community with the authority and responsibility for regulation of all matters pertaining to hunting, trapping, and fishing. This responsibility includes all 13.7 million acres in the ceded territory that is encompassed in Bay Mills' treaty hunting and fishing rights.

10. I am extremely concerned about the proposed tunnel replacement project for the pipelines that run across the Straits of Mackinac and in the Great Lakes waters. The proposed tunnel and the pipelines themselves threaten the treaty fishing rights I exercise, my family exercise, and that many other tribal citizens exercise to support our families.

RECEIVED by MSC 11/14/2025 2:10:18 PM

11. Of the many things I have learned during my numerous years fishing, it is that the Great Lakes are the gate keepers of habitat management for the different species of fish that are available for harvest.

12. If a tunnel is built or the pipelines burst, the numerous spawning areas for fish in the Straits of Mackinac will be destroyed and poisoned to such an extent that no person will be able to fish, let alone eat anything that comes from those waters.

13. If the Great Lakes are harmed, there will be no more fish in the water and no means to continue supporting my family through treaty subsistence and commercial fishing.

14. I have personal knowledge of the allegations in the Bay Mills Indian Community's Petition to Intervene in this case.

15. The factual allegations in the petition concerning Bay Mills Indian Community, its tribal citizens, fishers, treaty hunting, and treaty fishing rights are true to the best of my knowledge, information, and belief.

16. If called as a witness, I could competently testify as to the facts in the Petition to Intervene.

Jacques A. LeBlanc Jr.
Jacques LeBlanc, Jr.

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN)
) ss
COUNTY OF CHIPPEWA)

Subscribed and sworn to before me this 8th day of May, 2020, by Jacques LeBlanc, Jr.

KARLA L. GERDS
Notary Public, State of Michigan
County of Grand Traverse
My Commission Expires Nov. 13, 2024
Acting in the County of Chippewa

Karla L. Gerds

Karla L. Gerds, Notary Public
Grand Traverse County, Michigan
Acting in Chippewa County
My commission expires: November 13, 2024
Notarized using electronic remote technology*

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763

PROOF OF SERVICE

On the date below, an electronic copy of **Petition to Intervene by Bay Mills Indian Community (BMIC)** was served on the following:

Name/Party	E-mail Address
Counsel for Enbridge Energy, Limited Partnership. Michael S. Ashton Shaina Reed	mashton@fraserlawfirm.com sreed@fraserlawfirm.com
Counsel for MPSC Staff Spencer A. Sattler Benjamin J. Holwerda Nicholas Q. Taylor	sattlers@michigan.gov holwerdab@michigan.gov taylorn10@michigan.gov
Counsel for Michigan Environmental Council Christopher M. Bzdok Lydia Barbash-Riley	chris@envlaw.com lydia@envlaw.com
Counsel for Grand Traverse Band of Ottawa and Chippewa Indians Bill Rastetter Christopher M. Bzdok Lydia Barbash-Riley	bill@envlaw.com chris@envlaw.com lydia@envlaw.com
Counsel for Environment Law & Policy Center Margrethe Kearney	mkearney@elpc.org

[SIGNATURE PAGE BELOW]

The statements above are true to the best of my knowledge, information and belief.

RECEIVED by MSC 11/14/2025 2:10:18 PM

OLSON, BZDOK & HOWARD, P.C.
Counsel for BMIC

Date: May 11, 2020

By: 
Digitally signed by Karla Gerds
Date: 2020.05.11 15:54:37 -04'00'

Karla Gerds, Legal Assistant
420 E. Front St.
Traverse City, MI 49686
Phone: 231/946-0044
Email: karla@envlaw.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix J

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763

PETITION TO INTERVENE BY
GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS

1. The Grand Traverse Band of Ottawa and Chippewa Indians ("Grand Traverse Band" or "GTB") seeks to intervene in this case under Rule 410 of the Commission's Rules of Practice and Procedure, R 792.10410, to represent the interests of its members in protecting and preserving rights reserved by Treaty with the United States.

2. The Grand Traverse Band is a sovereign Indian tribe with a six-county service area (Charlevoix, Antrim, Grand Traverse, Leelanau, Benzie, and Manistee Counties) along Lake Michigan in the northwest lower peninsula and more than 4,000 enrolled members.

3. The Grand Traverse Band is an intervening-plaintiff Indian Tribe in the *United States v. Michigan* litigation (W.D. Mich. Case No. 2:73-CV-26). The 1836 Treaty Tribes[1] reserved off-reservation fishing rights in the Great Lakes (including the Straits of Mackinac) in the March 28, 1836 Treaty of Washington (7 Stat. 491) that were confirmed in federal court litigation,

[1] Bay Mills Indian Community, Sault Ste. Marie Tribe of Chippewa Indians, Grand Traverse Band of Ottawa and Chippewa Indians, Little River Band of Ottawa Indians, and Little Traverse Bay Bands of Odawa Indians are collectively referenced as "the 1836 Treaty Tribes".

RECEIVED by MSC 11/14/2025 2:10:18 PM

see United States v. Michigan, 471 F. Supp. 192 (W.D. Mich. 1979), *aff'd.* 653 F.2d 277 (6th Cir. 1981), *cert. denied*, 454 U.S. 1124 (1981). In the 1836 Treaty these Tribes also reserved usufructuary fishing, hunting, trapping and gathering rights in inland portions of the cession that were confirmed by the November 2, 2007 Consent Decree (Dkt. 1799 in W.D. Mich. Case No. 2:73-CV-26).

4. Usufructuary rights reserved by the Indian Tribes in the 1836 Treaty – including fishing rights within the Straits of Mackinac through which Line 5 of Enbridge's Lakehead pipeline system extends and the proposed tunnel would be constructed – are the subject matter of *United States v. Michigan* which has been pending in the federal court since 1973. The State of Michigan is obligated to honor and to not sanction any diminishment of the 1836 Treaty Tribes' off-reservation fishing rights in the Great Lakes including the Straits of Mackinac.

5. The 1836 Treaty Tribes' treaty-reserved fishing rights in the Great Lakes' fishery resources (including Straits of Mackinac) "are property rights protected by the United States Constitution." *Grand Traverse Band of Ottawa and Chippewa Indians v. Director, Michigan Department of Natural Resources*, 971 F. Supp. 282, 288 (W.D. Mich. 1995), *aff'd.* 141 F.3d 635 (6th Cir. 1998), *cert. denied*, 525 U.S. 1040 (1998). These property rights in the treaty-reserved fishery resources in Lakes Michigan, Huron and Superior (and in particular the Straits of Mackinac) are likely to be adversely impacted by the construction of the tunnel in the Straits of Mackinac.

6. The 1836 Treaty Tribes' treaty-reserved fishing rights in the Great Lakes' fishery resources and particularly the Straits of Mackinac are of great historical significance. More than 300 years ago the explorer Antoine de la Mothe Cadillac made the following observation:

RECEIVED by MSC 11/14/2025 2:10:18 PM

The fishing of the Ottawa at Mackinac was described by Cadillac about 1695:

> *The great abundance of fish and the convenience of the place for fishing have caused the Indians to make a fixed settlement in those parts. It is a daily manna, which never fails; there is no family which does not catch sufficient fish in the course of the year for it subsistence. Moreover, better fish can not be eaten and they are bathed in the purest water, the clearest and the most pellucid you could see anywhere.*

Kinietz, W. Vernon, *The Indians of the Western Great Lakes 1615-1760* (1965), at pp. 239-40.

7. The 1836 Treaty Tribes' treaty-reserved fishing rights in the Great Lakes' fishery resources and particularly the Straits of Mackinac are of great cultural significance:

> The single most important defining element of the place we live, what makes this place unique in the entire world, is the Great Lakes and the waters that recharge these lakes from the springs, creeks, streams and rivers that make up this vast watershed. *We speak for and honor the waters as the life-blood of our Mother Earth as an integral part of our traditional spirituality*. As Native Nations we utilize these waters to define our boundaries, transport ourselves and trade goods, fish for our food and commerce, and enjoy their value for recreation and a strong economy.[2] (Emphasis added.)

8. The 1836 Treaty Tribes' treaty-reserved fishing rights in the Great Lakes' fishery resources and particularly the Straits of Mackinac are of great modern-day economic significance.

9. GTB and its members are directly affected by Enbridge Energy, Limited Partnership's ("Enbridge") Application for approval of its Line 5 replacement project. For this reason, GTB, and its members will be directly affected by the Commission's decision in this matter. The Tribe and its members have a strong interest in protecting themselves, their way of life and Michigan's natural resources from harm caused by Enbridge's proposed project.

---

[2] Frank Ettawageshik (Odawa, tribal leader and elder), *Protecting the Life-Blood of Mother Earth*, BEDOHGEIMO (Office of the United States Attorney for the Western District of Michigan, Grand Rapids, Mich.), Winter 2004-05, at p. 3 [quoted in Singel, W. T. and Fletcher, M. L. M., *Indian Treaties and the Survival of the Great Lakes*, 2006 Mich. St. L. Rev. 1285 (2006), at p. 1].

RECEIVED by MSC 11/14/2025 2:10:18 PM

10. Enbridge is seeking the Commission's approval under Public Act 16 of 1929, MCL 483.1 *et seq.* ("Act 16") and Rule 447 of the Commission's Rules of Practice and Procedure, R 792.10447, to replace the segment of its Line 5 pipeline that crosses the Straits of Mackinac with a single pipe located within a tunnel. Enbridge requests this approval in the form of a grant of authority from the Commission, or, in the alternative, "a ruling confirming that it already has the requisite authority from the Commission to construct the replacement segment of Line 5 that is the subject of this Application." (Application, p. 1.)

11. Before the Commission can approve Enbridge's Act 16 request, the Commission will consider whether "(1) the applicant has demonstrated a public need for the proposed pipeline, (2) the proposed pipeline is designed and routed in a reasonable manner, and (3) the construction of the pipeline will meet or exceed current safety and engineering standards." *In re Enbridge Energy Limited Partnership*, Case No. U-17020, January 31, 2013, Order, p. 5.

12. GTB and its members have the potential to be harmed if Line 5 continues to operate in the Straits of Mackinac, even if it is moved into a tunnel as Enbridge proposes. Specifically, GTB and its members face a daily risk of harm from a release of oil and/or natural gas liquid into the Straits from the existing aged underwater pipes. This risk will be prolonged for an indeterminate length of time if Enbridge waits until the tunnel is built and operational to decommission the aged underwater pipes. GTB and its members are further exposed to risks and impacts of the project especially in light of the continued vagaries of the project as described in the Application in this case. Further, GTB, and its members disagree with Enbridge's claim that "locating the pipeline in the tunnel virtually eliminates the already very small risk of a release from Line 5 impacting the Straits." (Application, p. 12.) GTB and its members are also harmed by the continued operation of Line 5 because it delays the transition to cleaner and more cost-effective low-carbon sources of energy and impedes efforts to mitigate the effects of climate change. Were

RECEIVED by MSC 11/14/2025 2:10:18 PM

the Commission to extend the life of Line 5 by approving Enbridge's proposed replacement, GTB and its members, and Michigan's environment and natural resources, would face the risks described in this paragraph for much longer than they would otherwise.

13. The Michigan Public Service Commission recognizes two types of intervention.

a. First, intervention by right, which requires that the party will suffer an injury-in-fact as a result of the outcome of the case, and that the party is within the zone of interest protected by the statute. See for example, *Association of Data Processing Service Organizations, Inc v Camp*, 397 US 150; 90 S Ct 827; 250 L Ed 184 (1970).

b. Second, permissive intervention, where the Commission has the discretion to permit a party to intervene in the case where that party can provide useful information to the Commission or a unique perspective on the issues in the case. *In re Application of The Detroit Edison Co for Authority to Increase its Rates*, Case Nos. U-15768 and U-15751, January 11, 2010, Order, p. 7 ("*In re Detroit Edison*").

14. GTB meets both tests.

15. As described above, GTB's members face the prolonged risk of environmental harm caused by the continued operation of Line 5 and by the project, as described above.

16. GTB and its members are within the zone of interests protected by Act 16. These statutes authorize the Commission "to control, investigate, and regulate" oil pipeline operators within the state. MCL 483.3. As evidenced by Enbridge's submission of an Environmental Impact Report and alternatives analysis in its Application, the Commission may, and does, consider environmental impacts like the ones that would adversely impact GTB's members when considering Act 16 approvals. Act 16 also requires a pipeline company to "make a good-faith effort to minimize the physical impact and economic damage that result from the construction and repair of a pipeline." MCL 483.2b. Finally, as noted above, the Commission has interpreted Act 16 to

RECEIVED by MSC 11/14/2025 2:10:18 PM

require a demonstration of public need for the proposed project; that it is designed and routed in a reasonable manner; and that the construction of the project will meet or exceed current safety and engineering standards – all of which are in substantial question in this case. In sum, Act 16 provides an avenue for the Commission to address the need for, design and routing of, and potential environmental harms from petroleum transport projects; and therefore the statute protects the interests of GTB's members.

17. GTB and its members are also within the zone of interests protected by the Michigan Environmental Protection Act ("MEPA") (MCL 324.1701 *et seq.*). MEPA Section 1705(1) authorizes the agency or court to permit any person to intervene in an administrative proceeding "on the filing of a pleading asserting that the proceeding or action for judicial review involves conduct that has, or is likely to have, the effect of polluting, impairing, or destroying the air, water, or other natural resources or the public trust in these resources." MCL 324.1705(1). Moreover, GTB's property rights in the natural resources (see paragraph 5, *supra*) provide an independent basis for a MEPA claim.

18. The Commission recently held in DTE Electric Company's Section 6t Integrated Resource Plan case that MEPA applies to Commission proceedings:

> The Commission finds that MEPA does apply to this proceeding, because the allegation of impairment has been made by intervenors. The Commission concludes that it is appropriate to determine under MEPA: (1) whether the IRP would impair the environment; (2) whether there was a feasible and prudent alternative to the impairment; and, (3) whether the impairment is consistent with the promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment or destruction.[3]

[3] *In the matter of the application of DTE Electric Company for approval of its Integrated Resource Plan pursuant to MCL 460.6t and for other relief*, Case No. U-20471, February 20, 2020, Order, p. 43.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Commission also noted that it applied MEPA in DTE's Certificate of Necessity case. *Id.* at p. 43, n. 5. Because GTB alleges and intends to submit testimony demonstrating that Enbridge's Application will likely pollute, impair, or destroy natural resources and the public trust therein, the Commission should grant GTB leave to intervene by right to advocate for the consideration of environmental impacts and potential alternatives in this case.

19. GTB has organizational standing because its individual members meet the zone of interests test. Commission rules and precedent provide that an association may be granted intervention to represent the interests of its members. See *In re Detroit Edison* at 8 (citing MPSC Rules of Practice and Procedure, Mich Admin Code R 460.17101(f), (g)(vii), and R 460.17201); see also *Drake v Detroit Edison*, 453 F Supp 1123, 1129 (WD Mich 1978) (noting that "a plaintiff may be granted standing when he asserts interests not of his own but of a third party that meet the zone of interests test."). To establish standing to intervene in a Commission proceeding, an association can assert and represent the interests of its third-party members without specifically identifying each individual member whose interests are to be represented. *In re Detroit Edison* at 8.

20. GTB also meets the test for permissive intervention, because GTB will provide useful information to the Commission and a unique perspective on the issues.

21. GTB plans to evaluate Enbridge's application, testimony, and exhibits, and to conduct discovery, and then to raise those issues and take those positions that best serve the interests described above. Among other things, GTB plans to contest as unfounded and unwarranted Enbridge's request for declaratory judgment that the project does not require Commission approval. GTB also plans to challenge the public need for the proposed project. GTB also plans to scrutinize and potentially challenge whether the project is designed and routed in a

RECEIVED by MSC 11/14/2025 2:10:18 PM

reasonable manner; and whether the construction of the project will meet or exceed current safety and engineering standards. GTB also plans to raise appropriate issues under MEPA, as described above. GTB reserves the right to advance other issues as the case develops.

22. This petition to intervene is timely.

23. GTB requests that all notices and pleadings be served on:

William Rastetter
bill@envlaw.com

Christopher M. Bzdok
chris@envlaw.com

Lydia Barbash-Riley
lydia@envlaw.com

Olson, Bzdok & Howard, P.C.
420 E. Front St.
Traverse City, MI 49686

and on:

Karla Gerds, Legal Assistant
karla@envlaw.com

For the reasons just outlined, Grand Traverse Band of Ottawa and Chippewa Indians respectfully requests that the Commission grant this petition to intervene and treat it as a party to this proceeding.

RECEIVED by MSC 11/14/2025 2:10:18 PM

OLSON, BZDOK & HOWARD, P.C.
Counsel for GTB

Date: May 27, 2020

By: 

William Rastetter (P26170)
Christopher M. Bzdok (P53094)
Lydia Barbash-Riley (P81075)
420 E. Front St.
Traverse City, MI 49686
Phone: 231-946-0044

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763

AFFIDAVIT OF Thurlow "Sam" McClellan

1. I am the Tribal Chairman of the Grand Traverse Band of Ottawa and Chippewa Indians.

2. I have personal knowledge of the allegations in the Grand Traverse Band of Ottawa and Chippewa Indians' Petition to Intervene in this case.

3. The factual allegations in the petition concerning Grand Traverse Band of Ottawa and Chippewa Indians and its members are true to the best of my knowledge, information and belief.

4. If called as a witness, I could competently testify to the facts in the Petition to Intervene.

Date: May 21, 2020

Thurlow "Sam" McClellan
Tribal Chairman
Grand Traverse Band of Ottawa and
Chippewa Indians

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
COUNTY OF GRAND TRAVERSE

Subscribed to and sworn before me via on this 21st day of May, 2020, by Thurlow "Sam" McClellan.

KARLA L. GERDS
Notary Public, State of Michigan
County of Grand Traverse
My Commission Expires Nov. 13, 2024
Acting in the County of Grand Traverse

Karla L. Gerds, Notary Public
Grand Traverse County, Michigan
Acting in Grand Traverse County
My commission expires: November 13, 2024

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763

PROOF OF SERVICE

On the date below, an electronic copy of **Petition to Intervene on behalf of the Grand Traverse Band of Ottawa and Chippewa Indians** was served on the following:

Name/Party	E-mail Address
Counsel for Enbridge Energy, Limited Partnership. Michael S. Ashton Shaina Reed	mashton@fraserlawfirm.com sreed@fraserlawfirm.com
Counsel for MPSC Staff Spencer A. Sattler Benjamin J. Holwerda Nicholas Q. Taylor	sattlers@michigan.gov holwerdab@michigan.gov taylorn10@michigan.gov
Counsel for Michigan Environmental Council (MEC) Christopher M. Bzdok Lydia Barbash-Riley	chris@envlaw.com lydia@envlaw.com
Counsel for Grand Traverse Band of Ottawa and Chippewa Indians (GTB) Bill Rastetter Christopher M. Bzdok Lydia Barbash-Riley	bill@envlaw.com chris@envlaw.com lydia@envlaw.com
Counsel for Environment Law & Policy Center Margrethe Kearney	mkearney@elpc.org
For Love Of Water (FLOW) James Olson	jim@flowforwater.org

RECEIVED by MSC 11/14/2025 2:10:18 PM

Counsel for Bay Mills Indian Community (BMIC)	
Christopher M. Bzdok	chris@envlaw.com
Whitney Gravelle	wgravelle@baymills.org
Kathryn Tierney	candyt@bmic.net
Debbie Chizewer	dchizewer@earthjustice.org
Christopher Clark	cclark@earthjustice.org
David Gover	dgover@narf.org
Matt Campbell	mcampbell@narf.org

The statements above are true to the best of my knowledge, information and belief.

OLSON, BZDOK & HOWARD, P.C.
Counsel for GTB

Date: May 27, 2020

By: Karla L Gerds Digitally signed by Karla Gerds Date: 2020.05.27 12:28:46 -04'00'

Karla Gerds, Legal Assistant
420 E. Front St.
Traverse City, MI 49686
Phone: 231/946-0044
Email: karla@envlaw.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix K

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac Pursuant to 1929 PA 16; MCL 483.1 *et seq*. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447	U-20763

PETITION TO INTERVENE BY

THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

1. The Little Traverse Bay Bands of Odawa Indians ("LTBB") seeks to intervene in this case under Rule 410 of the Commission's Rules of Practice and Procedure, R 792.10410, to represent the interests of its citizens in protecting and preserving rights reserved by Treaty with the United States.

2. LTBB is a sovereign federally recognized Indian tribe as reaffirmed by the United States in Public Law 103-324,108 Stat. 2156 (1994), *see also* the United States Department of Interior's list of federally recognized tribes published annually in the Federal Register, 84 FR 1200-01.

3. The United States holds land in trust for LTBB in Mackinaw City, and other nearby locations in Emmet and Charlevoix Counties. LTBB's service area delineated in Public Law 103-324 encompasses 27 Counties, including Emmet, Cheboygan and Mackinac counties on both sides of the Straits of Mackinac. LTBB has approximately 4,600 enrolled citizens.

RECEIVED by MSC 11/14/2025 2:10:18 PM

4. LTBB is a signatory to the Treaty of Washington of March 28, 1836, 7 Stat. 491 in which the signatory Odawa/Ottawa and Chippewa Tribes ceded almost 14 million acres of land, and large portions of Lakes Michigan, Huron and Superior that would become much of the State of Michigan in 1837.

5. In Article 13 of the 1836 Treaty, LTBB and the other signatory Tribes reserved the right to hunt, fish and gather throughout the ceded lands and waters, including the right of commercial and subsistence fishing on the Great Lakes. LTBB is an intervening-plaintiff Indian Tribe in the *United States v. Michigan* litigation (W.D. Mich. Case No. 2:73-CV-26) in which the federal court upheld the continued existence and exercise of the off-reservation Treaty rights on the Great Lakes, *United States v. Michigan*, 471 F. Supp. 192 (W.D. Mich. 1979), aff'd. 653 F.2d 277 (6th Cir. 1981), cert. denied, 454 U.S. 1124 (1981), and confirmed the Tribes' reserved usufructuary fishing, hunting, trapping and gathering rights in inland portions of the cession by the November 2, 2007 Inland Consent Decree (Dkt. 1799).[1]

6. The Straits of Mackinac, through which Line 5 of Enbridge's Lakehead pipeline system extends and the proposed tunnel would be constructed, is at the epicenter of the cession area in which the Tribes reserved and continue to exercise commercial and subsistence fishing rights as confirmed in *United States v. Michigan* which has been pending in the federal court since 1973. The State of Michigan is obligated to honor and to not sanction any diminishment of the 1836 Treaty Tribes' off-reservation fishing rights in the Great Lakes including the Straits of Mackinac.

---

[1] The other 1836 Treaty signatory Tribes party to the United States v Michigan case are the Bay Mills Indian Community, the Sault Ste. Marie Tribe of Chippewa Indians, the Grand Traverse Band of Ottawa and Chippewa Indians and the Little River Band of Ottawa Indians.

RECEIVED by MSC 11/14/2025 2:10:18 PM

7. LTBB, consisting of descendants of the Odawa that inhabited villages from Charlevoix to Cross Village, the Beaver Islands and the north shore of Lake Michigan before the arrival of Europeans, have fished northern Lake Michigan and especially the Straits of Mackinac for subsistence and commerce (Odawa means trader) since time immemorial. The exercise of subsistence and commercial fishing rights reserved in the Treaty of 1836 and affirmed by the Federal Court in the *United States v Michigan* case remain central to LTBB's culture, economy, and physical and spiritual well-being. An oil spill or geologic mishap from tunneling under the Straits would devastate LTBB beyond any economic valuation.

8. The Straits of Mackinac are critical spawning areas for numerous culturally significant fish species. This project could have serious negative impacts on Lake Whitefish, Lake Trout, Yellow Perch, Walleye, Smallmouth Bass, Alewife, suckers, and shiners which spawn in and near the Straits. These spawning grounds produce the vast majority of these species harvested by Tribal commercial fishers. These spawning populations would not only be gravely impacted by a spill from Line 5, but also from siltation discharged from outfalls from this tunnel project. Siltation can degrade the quality of spawning reefs and decrease offspring survival. Fish may uptake chemical constituents in the outflow which may result in further damage to the ecosystem and human health.

9. The tunnel project also threatens LTBB's inland off-reservation usufructuary Treaty rights. Habitat losses during construction and long-term would negatively impact the inland hunting, fishing and gathering rights confirmed in the *United States v Michigan* 2007

RECEIVED by MSC 11/14/2025 2:10:18 PM

Inland Consent Decree, as well as harming two threatened flora species, Houghton's goldenrod and the Dwarf lake iris.

10. For the reasons stated above LTBB and its citizens are directly affected by Enbridge Energy, Limited Partnership's ("Enbridge") application for approval of its Line 5 replacement project, and the Commission's decision in this matter. LTBB has a deep substantial interest in protecting its reserved ceded territory Treaty rights to preserve the health and way of life of its current and future generations of Tribal citizens. This interest obligates LTBB to ensure that the natural resources in and connected to the Straits are not harmed by Enbridge's proposed project.

11. Enbridge is seeking the Commission's approval under Public Act 16 of 1929, MCL 483.1 *et seq*. ("Act 16") and Rule 447 of the Commission's Rules of Practice and Procedure, R 792.10447, to replace the segment of its Line 5 pipeline that crosses the Straits of Mackinac with a single pipe located within a tunnel. Enbridge requests this approval in the form of a grant of authority from the Commission.

12. Before the Commission can approve Enbridge's Act 16 request, the Commission will consider whether "(1) the applicant has demonstrated a public need for the proposed pipeline, (2) the proposed pipeline is designed and routed in a reasonable manner, and (3) the construction of the pipeline will meet or exceed current safety and engineering standards." *In re Enbridge Energy Limited Partnership*, Case No. U-17020, January 31, 2013, Order, p. 5.

13. LTBB and its citizens have the potential to be harmed if Line 5 continues to operate in the Straits of Mackinac, even if it is moved into a tunnel as Enbridge proposes. Specifically, LTBB and its citizens face a daily risk of harm from a release of oil and/or natural

RECEIVED by MSC 11/14/2025 2:10:18 PM

gas liquid into the Straits from the existing aged underwater pipes. This risk will be prolonged for an indeterminate length of time if Enbridge waits until the tunnel is built and operational to decommission the aged underwater pipes. As set out above, the tunnel project itself exposes LTBB and its citizens to harm.

14. Climate change is already negatively impacting the Great Lakes fishery. In addition to the risk of an oil spill and the negative environmental impacts of the tunnel project, LTBB and its citizens are also harmed by the continued operation of Line 5 because it delays the transition to cleaner and more cost-effective low-carbon sources of energy and impedes efforts to mitigate the effects of climate change.

15. LTBB has documented numerous burial and other culturally significant sites that would be damaged or destroyed by this project.

16. The Michigan Public Service Commission recognizes two types of intervention:

a. First, intervention by right, which requires that the party will suffer an injury-in-fact as a result of the outcome of the case, and that the party is within the zone of interest protected by the statute. *See, e.g.*, *Association of Data Processing Service Organizations, Inc v Camp*, 397 US 150; 90 S Ct 827; 250 L Ed 184 (1970).

b. Second, permissive intervention, where the Commission has the discretion to permit a party to intervene in the case where that party can provide useful information to the Commission or a unique perspective on the issues in the case. *In re Application of The Detroit Edison Co for Authority to Increase its Rates*, Case Nos. U-15768 and U-15751, January 11, 2010, Order, p. 7.

RECEIVED by MSC 11/14/2025 2:10:18 PM

17. LTBB meets both intervention tests. LTBB falls within the zones of interests protected by Act 16, will suffer injury-in-fact from the project, and can provide useful information to the Commission regarding fish habitat and the locations of cultural and historic resources.

18. The Commission has held that the Michigan Environmental Protection Act ("MEPA") (MCL 324.1701 *et seq*.) applies to these types of proceedings. *See e. g. Application of DTE Electric Company for Approval of its Integrated Resource Plan*, Case No. U-20471, February 20, 2020, Order, p. 43. LTBB has standing to intervene under MEPA because this project "involves conduct that has, or is likely to have, the effect of polluting, impairing, or destroying the air, water, or other natural resources or the public trust in these resources." MCL 324.1705(1).

19. LTBB has organizational standing because its individual citizens meet the zone of interests test. *See In re Detroit Edison* at 8 (citing MPSC Rules of Practice and Procedure, Mich Admin Code R 460.17101(f), (g)(vii), and R 460.17201); Drake v *see also Detroit Edison*, 453 F Supp 1123, 1129 (WD Mich 1978).

20. This petition to intervene is timely.

21. LTBB requests that all notices and pleadings be served on:

James A. Bransky
jbransky@chartermi.net
9393 Lake Leelanau Drive
Traverse City, MI 49684-7713

and on:
Su Lantz, LTBB Executive Legal Assistant
slantz@ltbbodawa-nsn.gov

For the reasons above, the Little Traverse Bay Bands of Odawa Indians

respectfully requests that the Commission grant this petition to intervene and treat it as a party to this proceeding.

Date: August 3, 2020



James A. Bransky (P38713)
Attorney for Little Traverse Bay Bands of Odawa Indians
9393 Lake Leelanau Drive
Traverse City, MI 49684-7713
phone: (231) 946-5241
jbransky@chartermi.net

RECEIVED by MSC 11/14/2025 2:10:18 PM

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac Pursuant to 1929 PA 16; MCL 483.1 *et seq.* and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447

U-20763

Affidavit of Regina Gasco-Bentley

I, Regina Gasco-Bentley, being duly sworn, state:

1. I am the Tribal Chairperson of the Little Traverse Bay Bands of Odawa Indians.

2. I have personal knowledge of the allegations in the Little Traverse Bay Bands of Odawa Indians' Petition to Intervene in the case.

3. The factual allegations in the Petition concerning the Little Traverse Bay Bands of Odawa Indians and its citizens are true to the best of my information, knowledge and belief.

4. If called as a witness, I and Tribal staff could competently testify to the facts in the Petition to Intervene.

Affiant: Regina Gasco-Bentley

Regina Gasco-Bentley

Subscribed and sworn to before me this 3rd day of August, 2020 by Regina Gasco-Bentley.

My commission expires:

August 23, 2021

Julie Rose Janiskee - Notary Public
Little Traverse Bay Bands of Odawa Indians
1114 Hazelton St., Petoskey, MI 49770
Acting in Little Traverse Bay Bands' Jurisdiction
Serial Number: 11-09
My Commission Expires: August 23, 2021

Julie Rose Janiskee, Notary Public

August 3, 2020

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac Pursuant to 1929 PA 16; MCL 483.1 *et seq*. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447

U-20763

PROOF OF SERVICE

On August 3, 2020, I served a PDF copy of the PETITION TO INTERVENE BY THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS on the following:

Name/Party	E-mail Address
Counsel for Enbridge Energy, Limited Partnership Michael S. Ashton Shaina Reed Gregg Johnson	mashton@fraserlawfirm.com sreed@fraserlawfirm.com gregg.johnson@enbridge.com
Counsel for MPSC Staff Spencer A. Sattler Benjamin J. Holwerda Nicholas Q. Taylor	sattlers@michigan.gov holwerab@michigan.gov taylorn10@michigan.gov
Counsel for Michigan Environmental Council (MEC) Christopher M. Bzdok Lydia Barbash-Riley Abigail Hawley	chris@envlaw.com lydia@envlaw.com abbie@envlaw.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

Counsel for Grand Traverse Band of Ottawa and Chippewa Indians (GTB) Bill Rastetter Christopher M. Bzdok Lydia Barbash-Riley	 bill@envlaw.com chris@envlaw.com lydia@envlaw.com
Counsel for Environment Law & Policy Center Margrethe Kearney Kiana E. Courtney Howard A Learner Esosa R. Aimufua	 mkearney@elpc.org kcourtney@elpc.org hlearner@elpc.org eaimufua@elpc.org
For Love Of Water (FLOW) James Olson	 jim@flowforwater.org
Counsel for Bay Mills Indian Community (BMIC) Christopher M. Bzdok Whitney Gravelle Kathryn Tierney Deborah Chizewer Christopher Clark David Gover Matthew Campbell	 chris@envlaw.com wgravelle@baymills.org candyt@bmic.net dchizewer@earthjustice.org cclark@earthjustice.org dgover@narf.org mcampbell@narf.org
ALJ Dennis Mack	mackd2@michigan.gov

Date: August 3, 2020



James A. Bransky (P38713)
Attorney for Little Traverse Bay Bands of Odawa Indians
9393 Lake Leelanau Drive
Traverse City, MI 49684-7713
phone: (231) 946-5241
jbransky@chartermi.net

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix L

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763

PETITION TO INTERVENE BY
THE NOTTAWASEPPI HURON BAND OF THE POTAWATOMI

1. The Nottawaseppi Huron Band of the Potawatomi (NHBP) seeks to intervene in this case under Rule 410 of the Commissions Rule of Practice Procedure, R 792.10410, to represent the interests of its members in protecting and preserving natural resources from the risk of harm anticipated by the Enbridge Energy, Limited Partnership (Enbridge) project.

2. NHBP is a federally recognized sovereign Indian tribal nation with a seven-county service area (Allegan, Barry, Branch, Calhoun, Kalamazoo, Kent and Ottawa Counties) located in Michigan with over 1,400 enrolled Tribal Members.

3. NHBP and its members consistently maintain their culture and way of life through utilizing the natural resources at issue in Enbridge's application for approval of its Line 5 replacement project. The tribe and its members have a strong, vested interest in protecting themselves, their way of life and Michigan's natural resources from harm caused by Enbridge's proposed project. Accordingly, NHBP and its members will be directly affected by the Commission's decision in this matter.

4. Enbridge is seeking the Commission's approval in the form of a grant of authority under Public Act 16 of 1929, MCL 483.1 *et seq*. (Act 16) and Rule 447 of the Commissions Rule of Practice and

RECEIVED by MSC 11/14/2025 2:10:18 PM

Procedure, R 792.10447, to construct, as it characterizes it, a replacement segment of its Line 5 pipeline that crosses the Straits of Mackinac. In the alternative, Enbridge requests a declaratory "ruling confirming that it already has the requisite authority from the Commission to construct the replacement segment of Line 5 that is the subject of this application."[1] (Application, P. 1.)

5. Before the Commission can approve Enbridge's Act 16 request, the Commission will consider whether "(1) the applicant has demonstrated a public need for the proposed pipeline, (2) the proposed pipeline is designed and routed in a reasonable manner, and (3) the construction of the pipeline will meet or exceed current safety and engineering standards." *In re Enbridge Energy Limited Partnership*, Case No. U-17020, January 31, 2013, Order, Page 5.

6. NHBP and its members have the potential to be harmed if Line 5 continues to operate in Straits of Mackinac, even if it is moved into a tunnel as Enbridge proposes. Specifically, NHBP and its members face a daily risk of harm from the release of oil and/or natural gas liquid into the streets from existing aged underwater pipes. This risk will be immeasurably prolonged if Enbridge waits until the tunnel is built and operational to decommission the underwater pipes. NHBP and its members are further exposed to the impacts of the project, especially in light of those continued project whims as described in the Application of this case. Further, NHBP and its members vehemently disagree with Enbridge's claim that "locating the pipe line in the tunnel virtually eliminates the already very small risk of release from Line 5 impacting the streets." (Applicant, p. 12.) NHBP and its members are also harmed by the continued operation of Line 5 because it delays the transition to cleaner and more cost-effective, low carbon sources of energy and impedes efforts to mitigate the effects of climate change. If the Commission extended the life of Line 5 by approving Enbridge's proposed replacement, NHBP, its members and Michigan's environmental and natural resources would face the risk described in this paragraph 6 for much longer than they would otherwise.

[1] On June 30, 2020 MPSC Granted Enbridge's request for a declaratory ruling, but denied the relief requested, finding that Enbridge was required to proceed as a contested case under an application seeking authority for new construction associated with Line 5. On July 29, 2020, Enbridge filed a Petition for Rehearing on its request to proceed without requiring it to file an application seeking approval for its project.

RECEIVED by MSC 11/14/2025 2:10:18 PM

7. The Michigan Public Serve recognizes two types of intervention.

   a. First, intervention by right which requires that the party will suffer an injury-in-fact as a result of the outcome of the case and that the party is within the zone of interest protected by the statute. See for example *Association of Date Processing Service Organizations, Inc. v. Kamp,* 397 U.S. 150; 98S CT 827; 250 L ED 184 (1970).

   b. Second permissive intervention, where the Commission has the discretion to permit a party to intervene in a case where that party can provide useful information to the Commission or a unique prospective on the issues in the case. *In re Application of the Detroit Edison Co for Authority to Increase its rates* Case Nos. U-15768 and U-15751, January 11, 2020, order, p. 7 (*In re Detroit Edison)*.

Though no reminder may be needed, Michigan reached the ten-year anniversary of the largest inland oil spill in North American history: the Kalamazoo River Spill, July 25th 2010. Final remediations are still occurring along stretches of the River from this spill, which inflicted more than $1.5 billion dollars in damages to Michigan's environment. This spill directly affected natural and cultural resources used by the NHBP community, and serves as a benchmark for just how costly a modern spill can be; the dynamic Straits environment would be much costlier and harder to contain. The Kalamazoo Spill should constitute a cautionary warning that the insurance requirements carried by Enbridge are insufficient, particularly those related to the Tunnel Agreement and Leases signed in 2018, in the event of improper pipeline design, maintenance, or some unforeseen geologic event resulting in a worst-case release.

8. NHBP meets both these tests.

9. As described above, NHBP members face prolonged risk of environmental harm, which threatens their culturally significant way of life, caused by the continued operation of Line 5 and by the project as described above.

RECEIVED by MSC 11/14/2025 2:10:18 PM

10. NHBP and its members are within the zone of interests protected by Act 16. These statutes authorize the Commission to "to control, investigate, and regulate" oil pipeline operators within the state. MCL 483.3. As evidenced by Enbridge's submission of an Environmental Impact Report and alternatives analysis and its Application, the Commission may, and does, consider environmental impacts like the one that would adversely impact NHBP's members when considering Act 16 approvals. Act 16 also requires a pipeline company to "make a good-faith effort to minimize the physical impact and economic damage that result from construction and repair of a pipeline." MCL 483.2B. Finally, as noted above, the Commission interpreted Act 16 to require a demonstration of public need for the proposed project; that it is designed and routed in a reasonable manner; and that the construction of the project will meet or exceed current safety and engineering standards – all of which are in substantial question in this case. In sum, Act 16 provides an avenue for the Commission to address the needs for, design and routing of, and potential environmental harms from patrolling transport projects; and, therefore, the statute protects the interests of NHBP's members.

11. NHBP and its members are also within the zone of interest protected by the Michigan Environmental Protection Act (MEPA) (MCL 324.1701 et seq.). MEPA § 1705(1) authorizes the agency or court to permit any person to intervene in an administrative proceeding "on the filing of a pleading asserting that the proceeding or action for judicial review involves conduct that has, or is likely to have, the effect of polluting, impairing or destroying the air, water, or other natural resources or the public trust in these resources." MCL 324.1705(1). Moreover, NHBP's vested interest in the natural resources provide an independent basis for a MEPA claim.

12. The Commission recently held in DTE Electric Company's Section 6t Integrated Resource Plan case that MEPA applies to Commission proceedings:

> The Commission finds that MEPA does apply to this proceeding, because the allegation of impairment has been made by intervenors. The Commission concludes that it is appropriate to determine under MEPA: (1) whether the IRP would impair the environment; (2) whether there was a feasible and prudent alternative to the impairment; and, (3) whether the impairment is consistent with the promotion of the public health,

RECEIVED by MSC 11/14/2025 2:10:18 PM

> safety, and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment or destruction.[2]

The Commission also noted that it applied MEPA and DTE's Certificate of Necessity case. *Id* at p. 43, n. 5. Because NHBP alleges, and intends to submit testimony demonstrating, that Enbridge's Application will likely pollute, impair or destroy natural resources in the public trust therein, the Commission should grant NHBP leave to intervene by right to advocate for consideration of environmental impacts and potential alternatives in this case.

13. NHBP has organizational standing because its individual members meet the zone of interest test. Commission rules and precedent provide that an association may be granted intervention to represent the interest of its members. See *In re Detroit Edison* at 8 (citing MPSC Rules of Practice and Procedure, MICH Admin Code R 460.17101 (F), (g) (VII), and R 460.17201); See also *Drake v. Detroit Edison*, 453 F Sup 1123, 1129 (WD Mich 1978) (Noting that a "plaintiff may be granted standing when he asserts interest not of his own but of a third party that meet the zone of interest test."). To establish standing to intervene in a Commission proceeding, an association can assert and represent the interests of its third-party members without specifically identifying each member whose interests are to be represented. *In re Edison* at 8.

14. NHBP also meets the test for permission intervention because NHBP will provide useful information to the Commission and a unique perspective on the issues.

15. NHBP plans to evaluate Enbridge's application, testimony, and exhibits; and to conduct discovery; and then to raise related issues and take those positions which best serve the interests above. Among other things, NHBP plans to contest as unfounded and unwarranted Enbridge's request for rehearing on its declaratory judgment request that its project does not require Commission's approval. NHBP also plans to challenge the public need for the proposed project. NHBP intends on scrutinizing and potentially challenging whether the project is designed and routed in a reasonable manner, and whether

[22] *In the matter of the application of DTE Electric Company for approval of its Integrated Resources Plan pursuant to MCL 460.6t and for other relief*, Case No. U-20471, February 20, 2020, Order, p. 43.

RECEIVED by MSC 11/14/2025 2:10:18 PM

the construction of the project will meet or exceed current safety and engineering standards. NHBP also contemplates raising appropriate issues under MEPA, as described above. NHBP reserves the right to advance other issues as the case develops.

16. This petition to intervene is timely.

17. NHBP requests that all notices and pleadings be served on:

John Swimmer
john.swimmer@nhbp-nsn.gov

and on:

Amy L. Wesaw
amy.wesaw@nhbp-nsn.gov

For the reasons outlined above, NHBP respectfully requests the Commission grant its petition to intervene and treat it as a party to this proceeding.

Date: July 22, 2020

NHBP Legal Department

By: Amy L. Wesaw Digitally signed by: Amy L. Wesaw DN: CN = Amy L. Wesaw email = amy.wesaw@nhbp-nsn.gov C = AD O = NHBP OU = Legal Dep. Date: 2020.08.04 13:09:07 -04'00'

Amy L. Wesaw (P79995)
John Swimmer (P804089)
1485 Mno-Bmadzewen Way
Fulton, MI 49052
Phone: 269.704.8309

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763

AFFIDAVIT OF BARRY SKUTT

1. I am the Chief Executive Officer of the Nottawaseppi Huron Band of the Potawatomi (NHBP).

2. I have personal knowledge of the allegations in the NHBP's Petition to Intervene in this case.

3. The factual allegations in the petition concerning NHBP, its membership, locations, and cultural subsistence on the natural resources are true to the best of my knowledge, information and belief.

Date: August 4, 2020

By:

Barry Skutt, CEO
1485 MNO Bmadzewen Way
Fulton, MI 49052
Phone: 269.729.5151

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
COUNTY OF Calhoun

Subscribed to and sworn before me on this 4th day of August, 2020, by Barry Skutt.

Jasmyn Hill
Notary Public, State of Michigan
County of Kalamazoo
My Commission Expires in May 15, 2023
Acting in the County of Calhoun

Calhoun

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix M

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763

PETITION TO INTERVENE BY
THE NATIONAL WILDLIFE FEDERATION

1. The National Wildlife Federation ("NWF"), a nationwide organization with a regional office located in Michigan, seeks to intervene in this case under Rule 410 of the Commission's Rules of Practice and Procedure, R 792.10410, to represent its interests and the interests of its members in protecting and preserving Michigan's wildlife, navigable waters, and other natural resources from the impacts of oil spills.

2. NWF is the nation's largest not-for-profit conservation advocacy and education organization. NWF has more than 690,000 members nationwide, including 14,000 members in Michigan. NWF is a District of Columbia nonprofit corporation with its principal office located in Virginia and a Great Lakes office, the Great Lakes Regional Center, located in Ann Arbor, Michigan.

3. NWF's members include Bruce Wallace and Charles Borgsdorf, whose affidavits are attached as Exhibits A and B to this petition. Mr. Wallace and Mr. Borgsdorf both own property and seasonally reside near the Straits of Mackinac in Michigan's Upper Peninsula.

RECEIVED by MSC 11/14/2025 2:10:18 PM

4. NWF's members are directly affected by Enbridge Energy, Limited Partnership's ("Enbridge") Application for approval of its Line 5 replacement project and will be directly affected by the Commission's decision in this matter. These members have a strong interest in protecting themselves and Michigan's natural resources from harm caused by Enbridge's proposed project.

5. Enbridge is seeking the Commission's approval under Public Act 16 of 1929, MCL 483.1 *et seq.* ("Act 16") and Rule 447 of the Commission's Rules of Practice and Procedure, R 792.10447, to replace the segment of its Line 5 pipeline that crosses the Straits of Mackinac with a single pipe located within a tunnel. Enbridge requests this approval in the form of a grant of authority from the Commission, or, in the alternative, "a ruling confirming that it already has the requisite authority from the Commission to construct the replacement segment of Line 5 that is the subject of this Application." (Application, p. 1.)

6. Before the Commission can approve Enbridge's Act 16 request, the Commission will consider whether "(1) the applicant has demonstrated a public need for the proposed pipeline, (2) the proposed pipeline is designed and routed in a reasonable manner, and (3) the construction of the pipeline will meet or exceed current safety and engineering standards." *In re Enbridge Energy Limited Partnership*, Case No. U-17020, January 31, 2013, Order, p. 5.

7. NWF's members have the potential to be harmed if Line 5 continues to operate in the Straits of Mackinac, even if it is moved into a tunnel as Enbridge proposes. Specifically, NWF's members face a daily risk of harm from a release of oil and/or natural gas liquid into the Straits from the existing aged underwater pipes. This risk will be prolonged for an indeterminate length of time if Enbridge waits until the tunnel is built and operational to decommission the aged underwater pipes. Further, NWF's members disagree with Enbridge's claim that "locating the pipeline in the tunnel virtually eliminates the already very small risk of a release from Line 5

RECEIVED by MSC 11/14/2025 2:10:18 PM

impacting the Straits." (Application, p. 12.) NWF's members are also harmed by the continued operation of Line 5 because it delays the transition to cleaner and more cost-effective low-carbon sources of energy and impedes efforts to mitigate the effects of climate change. Were the Commission to extend the life of Line 5 by approving Enbridge's proposed replacement, NWF's members, and Michigan's environment and natural resources, would face the risks described in this paragraph for much longer than they would otherwise.

8. The Michigan Public Service Commission recognizes two types of intervention.

a. First, intervention by right, which requires that the party will suffer an injury-in-fact as a result of the outcome of the case, and that the party is within the zone of interest protected by the statute. See for example, *Association of Data Processing Service Organizations, Inc v Camp*, 397 US 150; 90 S Ct 827; 250 L Ed 184 (1970).

b. Second, permissive intervention, where the Commission has the discretion to permit a party to intervene in the case where that party can provide useful information to the Commission or a unique perspective on the issues in the case. *In re Application of The Detroit Edison Co for Authority to Increase its Rates*, Case Nos. U-15768 and U-15751, January 11, 2010, Order, p. 7 ("*In re Detroit Edison*").

9. NWF meets both tests.

10. As described above, NWF's members face the prolonged risk of environmental harm caused by the continued operation of Line 5 as described above.

11. NWF's members are within the zone of interests protected by Act 16. These statutes authorize the Commission "to control, investigate, and regulate" oil pipeline operators within the state. MCL 483.3. As evidenced by Enbridge's submission of an Environmental Impact Report and alternatives analysis in its Application, the Commission may, and does, consider environmental impacts like the ones that would adversely impact NWF's members when

RECEIVED by MSC 11/14/2025 2:10:18 PM

considering Act 16 approvals. Act 16 also requires a pipeline company to "make a good-faith effort to minimize the physical impact and economic damage that result from the construction and repair of a pipeline." MCL 483.2b. Finally, as noted above, the Commission has interpreted Act 16 to require a demonstration of public need for the proposed project; that it is designed and routed in a reasonable manner; and that the construction of the project will meet or exceed current safety and engineering standards – all of which are in substantial question in this case. In sum, Act 16 provides an avenue for the Commission to address the need for, design and routing of, and potential environmental harms from petroleum transport projects; and therefore, the statute protects the interests of NWFs members.

12. NWF's members are also within the zone of interests protected by the Michigan Environmental Protection Act ("MEPA") (MCL 324.1701 *et seq.*). MEPA Section 1705(1) authorizes the agency or court to permit any person to intervene in an administrative proceeding "on the filing of a pleading asserting that the proceeding or action for judicial review involves conduct that has, or is likely to have, the effect of polluting, impairing, or destroying the air, water, or other natural resources or the public trust in these resources." MCL 324.1705(1).

13. The Commission recently held in DTE Electric Company's Section 6t Integrated Resource Plan case that MEPA applies to Commission proceedings:

> The Commission finds that MEPA does apply to this proceeding, because the allegation of impairment has been made by intervenors. The Commission concludes that it is appropriate to determine under MEPA: (1) whether the IRP would impair the environment; (2) whether there was a feasible and prudent alternative to the impairment; and, (3) whether the impairment is consistent with the promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment or destruction.[1]

[1] *In the matter of the application of DTE Electric Company for approval of its Integrated Resource Plan pursuant to MCL 460.6t and for other relief*, Case No. U-20471, February 20, 2020, Order, p. 43.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Because NWF alleges and intends to submit testimony demonstrating that Enbridge's Application will likely pollute, impair, or destroy natural resources and the public trust therein, the Commission should grant NWF leave to intervene by right to advocate for the consideration of environmental impacts and potential alternatives in this case.

14. NWF has associational standing because its members meet the zone of interests test. Commission rules and precedent provide that an association may be granted intervention to represent the interests of its members. See *In re Detroit Edison* at 8 (citing MPSC Rules of Practice and Procedure, Mich Admin Code R 460.17101(f), (g)(vii), and R 460.17201); see also *Drake v Detroit Edison*, 453 F Supp 1123, 1129 (WD Mich 1978) (noting that "a plaintiff may be granted standing when he asserts interests not of his own but of a third party that meet the zone of interests test."). To establish standing to intervene in a Commission proceeding, an association can assert and represent the interests of its third-party members without specifically identifying each individual member whose interests are to be represented. *In re Detroit Edison* at 8.

15. NWF also meets the test for permissive intervention, because NWF will provide useful information to the Commission and a unique perspective on the issues.

16. NWF will bring significant expertise to bear in these proceedings. Its staff and witnesses have extensive knowledge and experience with oil pipeline safety generally and Line 5 in particular. NWF has commissioned reports that have identified the hazards posed by Line 5 and the economically feasible alternatives to its continued existence. NWF has been involved in litigation regarding Line 5, including its lawsuit against the U.S. Department of Transportation and the Pipeline and Hazardous Materials Safety Administration challenging the continued operation of Line 5 without an adequate spill response plan.

RECEIVED by MSC 11/14/2025 2:10:18 PM

17. NWF has also worked for years to advance policies through the legislative process that would benefit the public and the environment in these areas.

18. NWF plans to evaluate Enbridge's application, testimony, and exhibits, and to conduct discovery, and then to raise those issues and take those positions that best serve the interests described above. Among other things, NWF is contesting as unfounded and unwarranted Enbridge's request for declaratory judgment that the project does not require Commission approval; and has jointly filed comments and a reply to that effect following the Commission's preliminary order in this case. NWF also plans to challenge the public need for the proposed project. NWF also plans to scrutinize and potentially challenge whether the project is designed and routed in a reasonable manner; and whether the construction of the project will meet or exceed current safety and engineering standards. NWF also plans to raise appropriate issues under MEPA, as described above. NWF reserves the right to advance other issues as the case develops.

19. NWF will work in concert with the Michigan Environmental Council ("MEC") on this matter and will not burden the Commission with redundant filings.

20. This petition to intervene is timely.

21. No other party adequately represents the interests of NWF and its members.

22. NWF requests that all notices and pleadings be served on:

Christopher M. Bzdok
chris@envlaw.com

and on:

Karla Gerds, Legal Assistant
karla@envlaw.com

For the reasons just outlined, NWF respectfully requests that the Commission grant this petition to intervene and treat it as a party to this proceeding.

RECEIVED by MSC 11/14/2025 2:10:18 PM

OLSON, BZDOK & HOWARD, P.C.
Counsel for NWF

Date: June 4, 2020

By: 
Digitally signed by Christopher M. Bzdok
Date: 2020.06.04 10:22:29 -04'00'

Christopher M. Bzdok (P53094)
420 E. Front St.
Traverse City, MI 49686
Phone: 231-946-0044

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763

AFFIDAVIT OF BRUCE T. WALLACE

Bruce T. Wallace, being duly sworn, states as follows:

1. I am over the age of eighteen, and I do not suffer from any legal incapacity. I base this affidavit on my personal knowledge, information, and belief. If called as a witness, I could competently testify to the facts herein.

2. I am a member of the National Wildlife Federation ("NWF").

3. I am also a member of the Michigan Wolfpack. The Michigan Wolfpack is a group of business and community leaders organized as an advisory group by NWF's Great Lakes Regional Center and the Michigan League of Conservation Voters. The Michigan Wolfpack helps set, support, and carry out NWF's conservation initiatives in Michigan. In addition to my volunteer work for the Michigan Wolfpack, I make a substantial financial contribution to the Michigan Wolfpack each year.

4. I became a member of NWF's Board of Directors in 2010. I have served as a member of NWF's Board of Directors from that time through the present. NWF's Board of Directors directs NWF's business and financial affairs and establishes conservation policy in the interim between NWF's annual meetings.

RECEIVED by MSC 11/14/2025 2:10:18 PM

5. I served as the Chair of NWF's Board of Directors from 2015 to 2017.

6. Because of my interest in conserving natural resources, I support the legal actions NWF takes to protect the nation's waters and aquatic life.

7. I own a cabin in the Upper Peninsula of Michigan. This cabin is located on 200 acres of land, which I also own, fronting the shore of Search Bay, which is part of Lake Huron. My property extends several thousand feet along the shoreline of Search Bay. It adjoins the Search Bay Nature Preserve, which is located contiguous to the Hiawatha National Forest.

8. Search Bay is north and east of the Straits of Mackinac, approximately fifteen miles from the Straits in a direct line. The Straits connect Lakes Michigan and Huron. Search Bay is just east of St. Martin Bay, which is approximately thirteen miles from the Straits of Mackinac in a direct line.

9. I can look out over Search Bay from my property and see all the way to the Straits of Mackinac and the Mackinac Bridge. This is a sight of astounding beauty, which I value highly. The view and the solitude I experience when I am at my property restore my soul.

10. Many times every year for more than twenty years, including this year, I have vacationed at my cabin, and while there I have visited St. Martin Bay, the Carp River, Nunns Creek, the Straits, Mackinac Island, Bois Blanc Island, the Lake Huron shoreline from Mackinac City to Rogers City, and the Lake Michigan shoreline from Petoskey to Manistique with my family and children. My primary forms of leisure while I stay at my cabin include swimming, kayaking, fishing, hiking, wildlife watching, and general enjoyment of the outdoors, particularly in the aforementioned places that I have visited. I have fond memories of my children growing up at my cabin and of the time that we have spent together as a family enjoying the recreational opportunities and scenic beauty of the area's natural setting. I hope to share my cabin and these areas with my young grandchildren.

RECEIVED by MSC 11/14/2025 2:10:18 PM

11. I have been to my cabin twice this year, and I intend to stay there many more times in 2020, almost always with my children and grandchildren. I also plan to stay at the cabin in each succeeding year, following a substantially similar schedule. While at my cabin this year and the following years, I plan to visit some or all of the places mentioned that I have frequented in the past.

12. Because Line 5 runs under the Straits of Mackinac and transports up to 22.7 million gallons of oil per day, I am in constant fear of a discharge. Such a discharge would threaten the contamination or destruction of my cabin and property on Search Bay, as well as the natural resources – and the fish and wildlife those resources support – that are found on my property, in Search Bay, and in other nearby areas I use and enjoy many times a year. If Line 5 were to rupture in the middle of winter, when the Straits are covered with ice, the damage could be even worse. Such a rupture could cause a huge quantity of oil to discharge into and stay in the waters of the Straits and the surrounding environment because these conditions would reduce or eliminate evaporation and make the containment and removal of oil extremely challenging at best.

13. My concern about a discharge and its consequences for my property and the natural resources I use and enjoy has only increased since reading Dr. David J. Schwab's report titled "Statistical Analysis of Straits of Mackinac Line 5: Worst Case Spill Scenarios."[1] The "worst case" analyzed by the report is a discharge near the center of the Straits of Mackinac.

14. I understand from my reading of Dr. Schwab's report, particularly Figure 12 in the report, that oil discharged from Line 5 in the Straits of Mackinac would spread to Search Bay and St. Martin Bay in up to 20% of 840 simulations of the dispersal of oil; to the shorelines of

[1] David J. Schwab, Univ. of Mi. Water Center, *Statistical Analysis of Straits of Mackinac Line 5: Worst Case Spill Scenarios* (Mar. 31, 2016), available at http://graham.umich.edu/product/mackinac-straits-line-5-worst-caseoil-spill-scenarios.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Mackinac Island, Bois Blanc Island, and Lake Huron off St. Ignace and from Mackinac City to Cheboygan in 60-80% of the simulations; in the Straits themselves in 60-100% of the simulations; to the shoreline of Lake Huron adjoining Rogers City 40-60% of the simulations; and to the shoreline of Beaver Island and the shoreline of Lake Michigan adjoining Petoskey and Manistique in up to 20% of the simulations.

15. The threat of environmental catastrophe that would be caused by a discharge from Line 5 in the Straits of Mackinac is a constant distraction in the community. As a result of the public concern, I believe the market value of my property has decreased. I believe that, should I decide to sell my property, it will be difficult to recover its full value amidst the cloud that hangs over the Straits of Mackinac.

16. I am seriously concerned and anxious about the additional protracted timeframe of Line 5's operation while the long-term tunnel construction process is underway. If Enbridge waits until the tunnel is built and operational to decommission the existing underwater pipelines, I will continue to face the daily risk that a discharge will harm my property and the surrounding natural resources for an indeterminate length of time. My heightened sense of the risk of the continued operation of Line 5 in the Straits arises out of my daily awareness of the following alarming facts: the pipeline is of the same vintage as was the Kalamazoo pipeline, Line 5 itself has been the subject of many leaks and spills over the years, the pipeline has been the subject of an anchor strike and visually obvious deterioration of other kinds, and the pipeline was originally designed with a useful life of 50 years, which has been vastly exceeded.

17. I am also concerned with whether the State of Michigan will ensure that the proposed tunnel and the oil pipeline that would be located inside it comply with the law, including but not limited to the Michigan Environmental Protection Act, the Great Lakes Submerged Lands Act, and Act 16 of 1929.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Dated: June 2, 2020.

Bruce T. Wallace

STATE OF MICHIGAN)
)ss
COUNTY OF WASHTENAW)

Acknowledged before me on this 2nd day of June 2020, by Bruce T. Wallace.

Notary Public
WASHTENAW County, Michigan
Acting in WASHTENAW County
My commission expires: 01-04-2024

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763

AFFIDAVIT OF CHARLES W. BORGSDORF

Charles W. Borgsdorf, being duly sworn, states as follows:

1. I am over the age of eighteen, and I do not suffer from any legal incapacity. I base this affidavit on my personal knowledge, information, and belief. If called upon, I would testify under oath or affirmation to the statements I make in this affidavit.

2. I am a member of the National Wildlife Federation ("NWF").

3. I am also a member of the Michigan Wolfpack. The Michigan Wolfpack is a group of business and community leaders organized as an advisory group by NWF's Great Lakes Regional Center and the Michigan League of Conservation Voters. The Michigan Wolfpack helps set, support, and carry out NWFs conservation initiatives in Michigan. In addition to my volunteer work for the Michigan Wolfpack, I make a substantial financial contribution to the Michigan Wolfpack each year.

4. Because of my interest in conserving natural resources, I support the legal actions NWF takes to protect the nation's waters and aquatic life.

5. Twenty-five years ago, I bought property and built a house in the Upper Peninsula

RECEIVED by MSC 11/14/2025 2:10:18 PM

of Michigan. This house is located in Mackinac County, on the Lake Huron shore, on a peninsula. The property has 2,000 feet of shoreline on Hessel Bay. The house faces south at the West Entrance to the Les Cheneaux Islands. I view the Straits of Mackinac and Bois Blanc Island.

6. My family and I typically visit the house from April to November. Although due to the Governor's executive orders we had to delay visiting until late May, we intend to spend a significant amount of time at the house in 2020 and subsequent years. In addition to our visit this May, we plan to stay at the house this summer June through Labor Day and make several trips this fall. In the future, we will likely start our summer up there in June and continue until well into September.

7. My family and I kayak, canoe, and swim in the lake. I fish occasionally. We also watch the birds, observe the abundant wildlife, enjoy the wildflowers, hike nearby, and boat and kayak to the end of Brulee Point as well as along the shore of Marquette Island. My family and I also take advantage of the house's proximity to Mackinac Island. We have been visiting Mackinac Island each year for the past twenty-five years, and intend to visit it again this year. I enjoy visiting and hiking on the island because I appreciate its natural beauty and interesting geology and plant life, especially wildflowers.

8. Because Line 5 runs under the Straits of Mackinac and transports up to 22.7 million gallons of oil per day, I am in constant fear of a discharge. A discharge from Line 5 near the Straits of Mackinac would threaten to contaminate my property on Hessel Bay. A discharge would also threaten the natural resources – and the fish and wildlife those resources support – that are found on and near my property, in Hessel Bay, in the other nearby areas I use and enjoy many times every year, and on Mackinac Island. If Line 5 were to rupture in the middle of the winter, when the Straits are covered with ice, the damage could be even worse. Such a rupture could cause a huge quantity of oil to discharge into and stay in the waters of the

RECEIVED by MSC 11/14/2025 2:10:18 PM

Straits and the surrounding environment because these conditions would reduce or eliminate evaporation and make the containment and removal of oil extremely challenging at best.

9. My concern about a discharge and its consequences for my property and the natural resources I use and enjoy has only increased since reading Dr. David J. Schwab's report titled "Statistical Analysis of Straits of Mackinac Line 5: Worst Case Spill Scenarios."[1] The "worst case" analyzed by the report is a discharge near the center of the Straits of Mackinac.

10. I understand from my reading of Dr. Schwab's report that: (A) hundreds of miles of shoreline in Lakes Michigan and Huron and their islands, as well as thousands of square miles of the lakes' open water, are potentially vulnerable to a discharge from Line 5 in the Straits of Mackinac. These shores and waters include areas whose resources I use and enjoy frequently; (B) oil discharged from Line 5 in the Straits of Mackinac would spread to Hessel Bay in up to 20% of 840 simulations of the dispersal of oil; to the Les Cheneaux Islands near my property in 20-40% of the simulations; and to Mackinac Island in 60-80% of the simulations; and (C) oil discharged from Line 5 in the Straits of Mackinac was simulated to spread to Saint Martin Bay, to the west of Hessel Bay, in as little as thirty hours. Oil was simulated to spread to the south shore of Mackinac Island in as little as nine hours and to the north shore of Mackinac Island in as little as twelve hours.

11. I am concerned about the continued use of Line 5 while the tunnel construction process is underway. If Enbridge waits until the tunnel is built and operational to decommission the existing underwater pipelines, I will continue to face the daily risk that a dis-

[1] David J. Schwab, Univ. of Mi. Water Center, Statistical Analysis of Straits of Mackinac Line 5: Worst Case Spill Scenarios (Mar. 31, 2016), available at http://graham.umich.edu/product/mackinac-straits-line-5-worst-caseoil-spill-scenarios.

RECEIVED by MSC 11/14/2025 2:10:18 PM

charge will harm my property and the surrounding natural resources for an indeterminate length of time.

12. I am also concerned with whether the State of Michigan will ensure that the proposed tunnel and the oil pipeline that would be located inside it comply with the law, including but not limited to the Michigan Environmental Protection Act, the Great Lakes Submerged Lands Act, and Act 16 of 1929.

Dated: May 28, 2020.

Charles Borgsdorf

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN)
)ss
COUNTY OF WASHTENAW)

Acknowledged before me on this 28th day of May 2020, by Charles Borgsdorf.

Notary Public
_____ County, Michigan
Acting in _____ County
My commission expires: _____

RHONDA POTTS BROWN
NOTARY PUBLIC, STATE OF MI
COUNTY OF WASHTENAW
MY COMMISSION EXPIRES Jan 4, 2024
ACTING IN COUNTY OF WASHTENAW

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763

PROOF OF SERVICE

On the date below, an electronic copy of **Petition to Intervene by the National Wildlife Federation** was served on the following:

Name/Party	E-mail Address
Counsel for Enbridge Energy, Limited Partnership. Michael S. Ashton Shaina Reed	mashton@fraserlawfirm.com sreed@fraserlawfirm.com
Counsel for MPSC Staff Spencer A. Sattler Benjamin J. Holwerda Nicholas Q. Taylor	sattlers@michigan.gov holwerdab@michigan.gov taylorn10@michigan.gov
Counsel for Michigan Environmental Council (MEC), Tip of the Mitt Watershed Council and National Wildlife Federation Christopher M. Bzdok Lydia Barbash-Riley	chris@envlaw.com lydia@envlaw.com
Counsel for Grand Traverse Band of Ottawa and Chippewa Indians (GTB) Bill Rastetter Christopher M. Bzdok Lydia Barbash-Riley	bill@envlaw.com chris@envlaw.com lydia@envlaw.com
Counsel for Environment Law & Policy Center Margrethe Kearney	mkearney@elpc.org
For Love Of Water (FLOW) James Olson	jim@flowforwater.org

RECEIVED by MSC 11/14/2025 2:10:18 PM

Counsel for Bay Mills Indian Community (BMIC) Christopher M. Bzdok Whitney Gravelle Kathryn Tierney Debbie Chizewer Christopher Clark David Gover Matt Campbell	 chris@envlaw.com wgravelle@baymills.org candyt@bmic.net dchizewer@earthjustice.org cclark@earthjustice.org dgover@narf.org mcampbell@narf.org
Counsel for Tip of the Mitt Watershed Council Christopher M. Bzdok Lydia Barbash-Riley Abigail Hawley	 chris@envlaw.com lydia@envlaw.com abbie@envlaw.com

The statements above are true to the best of my knowledge, information and belief.

OLSON, BZDOK & HOWARD, P.C.
Counsel for NWF

Date: June 4, 2020

By: Digitally signed by Karla Gerds Date: 2020.06.04 10:19:56 -04'00'

Karla Gerds, Legal Assistant
420 E. Front St.
Traverse City, MI 49686
Phone: 231/946-0044
Email: karla@envlaw.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix N

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of Enbridge Energy, Limited Partnership for Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R. 792.10447, or the Grant of other Appropriate Relief	U-20763 ALJ Dennis Mack

REVISED DIRECT TESTIMONY OF PRES.

WHITNEY B. GRAVELLE ON BEHALF OF

BAY MILLS INDIAN COMMUNITY

January 18, 2022

~~**September 14, 2021**~~

RECEIVED by MSC 11/14/2025 2:10:18 PM

TABLE OF CONTENTS

I. INTRODUCTION & BACKGROUND 1

II. THE BAY MILLS INDIAN COMMUNITY 4

III. CONCERNS ABOUT THE ROUTE OF THE LINE 5 TUNNEL PROJECT 5

A. THE BAY MILLS INDIAN COMMUNITY HAS A DEEP CONNECTION TO THE STRAITS OF MACKINAC. 7

B. THE BAY MILLS INDIAN COMMUNITY HAS TRIBAL TREATY RIGHTS TO RESOURCES IN THE STRAITS OF MACKINAC AND THROUGHOUT THE GREAT LAKES REGION. 8

C. CULTURAL RESOURCES IN THE STRAITS OF MACKINAC. 13

IV. CONCERNS ABOUT CLIMATE CHANGE AND THE LINE 5 TUNNEL PROJECT. 14

RECEIVED by MSC 11/14/2025 2:10:18 PM

I. INTRODUCTION & BACKGROUND

Q. Please state for the record your name, job title, and business address.

A. My name is Whitney B. Gravelle. I am the duly elected President of Gnoozhekaaning, "Place of the Pike," or the Bay Mills Indian Community, which is a federally recognized Indian Tribe with a government organized under the provisions of the Indian Reorganization Act of 1934, 25 U.S.C. §5101, et seq. Bay Mills Indian Community is located at 12140 West Lakeshore Drive in Brimley, MI 49715.

Additionally, as a woman of Anishinaabe culture, I am a water keeper, which means I am responsible for maintaining and protecting water for my people, praying to the water, and caring for the water during ceremonies. Women carry sacred water teachings and pass them on to the next generation. I actively seek teachings with elders and medicine carriers within Bay Mills Indian Community, and help coordinate cultural trainings, sweat lodges, feasts, and opportunities to gather traditional medicines amongst our tribal community.

Q. Please state your educational background.

A. I earned a Bachelor of Arts of Interdisciplinary Studies in Social Science from Michigan State University with an emphasis in Political Science and East Asian Studies. I earned my juris doctor, cum laude, from Michigan State University Law School. I also completed an indigenous law certificate.

Q. On whose behalf is this testimony being **offered?**

RECEIVED by MSC 11/14/2025 2:10:18 PM

A. I am testifying on behalf of Bay Mills Indian Community. This testimony reflects my experiences as a lifelong citizen of Bay Mills, as former Chief Judge of Bay Mills Tribal Court and in-house counsel, as well as the current President of Bay Mills.

Q. Please summarize your experience in tribal government.

A. I have worked in tribal government for five years. On March 18, 2021, I was elected President of Bay Mills, and I was sworn into office on March 19, 2021. Prior to being elected President, I served as in-house counsel for Bay Mills from December 2018 to March 2021. I also served as chief judge for the Bay Mills Tribal Court from November 2017 to December 2018. I have been teaching tribal law at Bay Mills Community College since 2019.

In my role as President, I represent Bay Mills by serving on the Chippewa Ottawa Resource Authority, the Great Lakes Indian Fish and Wildlife Commission, the Inter-Tribal Council of Michigan, the United Tribes of Michigan, and also represent indigenous communities and perspectives by sitting on the Michigan Women's Commission and the Michigan Advisory Council on Environmental Justice.

Q. Have you testified about Bay Mills' interests before this Commission or in any other proceeding?

A. I have not previously testified before this Commission. In my role as President of Bay Mills, I have testified before Michigan Senate's Energy and Technology Committee.

Q. What is the purpose of your testimony?

RECEIVED by MSC 11/14/2025 2:10:18 PM

A. I am testifying on behalf of Bay Mills regarding Bay Mills' interests in protecting treaty rights and cultural and natural resources from risk and harm associated with the Line 5 Tunnel Project. Bay Mills and its citizens will be directly affected by the Commission's decision in this matter. I will testify that the proposed route for the Line 5 Tunnel Project is unreasonable because it would be constructed through and operate in an environmentally sensitive area of profound cultural and spiritual significance to Bay Mills. I will also testify that the proposed Line 5 Tunnel Project is likely to impair, pollute, and/or destroy natural resources and species because of the Project's contributions to climate change. I will highlight species that hold economic, subsistence, and cultural significance to Bay Mills: lake whitefish, walleye, loons, wild rice, and sugar maple.

Q. Are you sponsoring any exhibits?

A. Yes, I am sponsoring the following exhibits:

~~Exhibit BMC-1:~~	~~Resolution No. 21-05-01A~~
~~Exhibit BMC-2:~~	~~Resolution No. 15-3-16-B~~
~~Exhibit BMC-3:~~	~~Tribal Comments on Dynamic Risk Draft Alternatives Analysis, Aug. 1, 2017~~
~~Exhibit BMC-4:~~	~~Letter, President Bryan Newland to Governor Snyder, Feb. 7, 2018~~
~~Exhibit BMC-5:~~	~~Letter, President Bryan Newland to Governor Whitmer, May 10, 2019~~
Exhibit BMC-6:	Map of Ceded Territory
Exhibit BMC-7:	Albert LeBlanc Fishing Citation

RECEIVED by MSC 11/14/2025 2:10:18 PM

II. THE BAY MILLS INDIAN COMMUNITY

Q. Describe the Bay Mills Indian Community.

A. The Bay Mills Indian Community is a federally recognized tribe and sovereign nation. The Bay Mills Indian Community was first recognized by Congress in the treaty of Sault Ste. Marie in 1820 and was officially recognized by an Act of Congress on June 19, 1860. Bay Mills is one of several Anishinaabe (Ojibwe, Odawa, and Pottawatomi) tribal nations with a deep connection to the lands and waters of the Upper Great Lakes, who have lived several hundreds of years around the Whitefish Bay, the falls of the St. Mary River and the bluffs overlooking Tahquamenon Bay, all on Lake Superior, most of which still encompass their present-day homeland. The Anishinaabe are a group of culturally related people that live in both Canada and the United States, concentrated around the Great Lakes.

There are 2,236 citizens of Bay Mills. The tribal government structure as it exists today was created under the Indian Reorganization Act in 1934, with a formal Constitution adopted in 1936. Bay Mills Indian Community is comprised of five of the six bands of Sault Ste. Marie bands of Chippewa Indians. However, the ancestors of the people of the Bay Mills inhabited the current boundaries and surrounding areas for hundreds of years prior. The boundaries of the Bay Mills reservation span the surrounding townships of Bay Mills and Superior Townships. In addition, the Bay Mills Indian Community also includes 607 acres on the southwest shore of Sugar Island, an Island between the Michigan mainland and Canadian Province of Ontario.

The Bay Mills reservation is located in the eastern part of Michigan’s Upper Peninsula, and tribal citizens live throughout Chippewa, Mackinac, and Luce Counties.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Q. What does it mean to be a sovereign nation?

A. As a sovereign nation, Bay Mills has an inherent right to self-governance and self-determination. Bay Mills has a government-to-government relationship with both the United States and the state of Michigan.

As a sovereign entity, the Bay Mills is fully responsible for its own operations as a governmental unit, including public safety/law enforcement, judicial system, health care, and economic development.

Q. Was that government-to-government relationship respected at the time the Line 5 pipeline was initially constructed?

A. No. Bay Mills was an independent sovereign nation then, but the tribal nation was not consulted about the original route or construction of the pipeline.

III. CONCERNS ABOUT THE ROUTE OF THE LINE 5 TUNNEL PROJECT

Q. What is your opinion of the proposed route for the Line 5 Tunnel Project?

A. I am deeply concerned about the proposed route for the Line 5 Tunnel Project. It is dangerous to construct a tunnel and route a pipeline through lands and waters that are central to our existence as indigenous people and as a Tribal Nation. The Line 5 dual pipelines and tunnel project have the potential to significantly affect, and indeed pose serious threats to, the exercise of our reserved treaty rights, our ability to preserve cultural resources, our cultural and religious interests in the Great Lakes, our economy, and the health and welfare of our tribal citizens. The Straits of Mackinac is a place of deep spiritual and cultural meaning to my people, where there are important cultural and historic

RECEIVED by MSC 11/14/2025 2:10:18 PM

resources still being learned of, and where Bay Mills and other Tribal Nations have Treaty rights.

~~As the Bay Mills Indian Community recognized when the Executive Council requested the decommissioning of Line 5 at the Straits of Mackinac in Resolution No. 15-3-16, the human and natural ecosystems of the Straits of Mackinac are both too complex and too fragile for a replacement pipeline for Line 5 to be successfully sited and constructed. The continued operation of Line 5 may lead to a rupture and catastrophic damage to the waters of the northern Lakes Michigan and Huron and the people who depend on them for their economic livelihood, their quality of life, their cultural and aesthetic wellbeing, and their existence. For this reason, Bay Mills has both banished the existing Line 5 dual pipelines from our reservation and the lands and waters of our ceded territory, in Resolution No. 21-05-01A, and sought the decommissioning of Line 5, in Resolution No. 15-3-16-B (attached as Exhibits BMC-1 and Exhibit BMC-2, respectively). Bay Mills leadership has long advocated for the protection of the Straits of Mackinac from the continued operation of the Line 5 oil pipeline (see, e.g., Exhibits BMC-3, BMC-4, BMC-5, etc).~~

~~**Q. What is banishment?**~~

~~A. Banishment is a traditional, historical, and customary form of tribal law that has existed since time immemorial and is only exercised by Bay Mills when egregious acts and misconduct have harmed our tribal citizens, treaty rights, territories, and resources. Banishment is a permanent and final action.~~

RECEIVED by MSC 11/14/2025 2:10:18 PM

A. THE BAY MILLS INDIAN COMMUNITY HAS A DEEP CONNECTION TO THE STRAITS OF MACKINAC.

Q. What is Bay Mills' connection to the Straits of Mackinac?

A. Bay Mills recognizes the Straits of Mackinac as the center of creation. The Straits of Mackinac are also home to many species, natural resources, treaty resources, and cultural resources that are important to Bay Mills. The Straits of Mackinac and the Great Lakes are central to Bay Mills' cultural, traditional, and spiritual identity.

Q. Describe how the Straits of Mackinac are part of Bay Mills' creation story.

A. According to our oral histories, the creation of North America began with a flooded Earth. The animals received instructions from the Creator to swim deep beneath the water and collect soil that would be used to recreate the world. All of the animals failed, but the body of the muskrat, the last animal that tried, resurfaced carrying a small handful of wet soil in its paws. It is believed that the Creator used the soil collected and rubbed it on the Great Turtle's back, forming the land that became known as Turtle Island, the center of creation for all of North America. According to history, the Great Turtle emerged from the flood in the Straits of Mackinac. The word "Mackinac" is derived from the original name of the Great Turtle from the Ojibwe story of Creation. The Straits are more than a waterway; they are a place of ongoing spiritual significance to the way of life of Bay Mills since time immemorial.

Q. Describe Bay Mills' present relationship with the Straits of Mackinac.

A. For Bay Mills, water is life. The Straits of Mackinac waters are part of our fishery. Over half of Bay Mills' citizen households rely on fishing for some or all of their income. Fish and fishing are not only part of our citizens' subsistence and livelihoods, but traditional

RECEIVED by MSC 11/14/2025 2:10:18 PM

fishing knowledge is part of our culture, passed from generation to generation, and fish are an important food used in our ceremonies. Lake Whitefish, Lake Trout, and other fish are used in our cultural traditions for naming and for feasting in celebration of children, ghost suppers, burial ceremonies, and other cultural traditions.

Bay Mills also views the ceded territory, including the Straits of Mackinac, as one, cohesive traditional cultural landscape or traditional cultural property. Our interconnected relationship with land and water as indigenous people is also dependent on the exercise of our treaty rights, and that those treaty rights remain meaningful and available to Tribal Nations, such as by guaranteeing tribal citizens continued access to waters and lands where they hold rights, as well as by preserving the resources—like fish populations and habitats—upon which the treaty rights depend. Further, each of the Great Lakes has a water spirit—a water being—that protects the lake and its resources or helps guide and direct how water is used. Our cultural teachings instruct that the details of the water beings are only talked about at certain times of the year.

B. THE BAY MILLS INDIAN COMMUNITY HAS TRIBAL TREATY RIGHTS TO RESOURCES IN THE STRAITS OF MACKINAC AND THROUGHOUT THE GREAT LAKES REGION.

Q. Is Bay Mills a signatory to a treaty with the United States government?

A. The Bay Mills Indian Community is the modern-day successor in interest to the bands of Ojibwe people who were identified by the negotiators for the United States as living near Sault Ste. Marie in the Treaty of Sault Ste. Marie of June 16, 1820; the Treaty of Washington of March 28, 1836, 7 Stat. 491; the Treaty of Detroit of July 30, 1855; and the Treaty of Detroit of August 2, 1855.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Q. Describe the 1836 Treaty and how it came about.

A. At the time of the Treaty, the bands relied heavily on the fishery resources found in the Upper Great Lakes for their subsistence, and as an item of commerce with the citizens of the United States.

Band representatives joined with Ojibwe and Ottawa band representatives in Washington, D.C. in early March 1836 at the request of the United States to negotiate a treaty of cession.

The Ojibwe and Ottawa signed the Treaty on March 28th and ceded to the federal government over 14 million acres of land and, in addition, the waters of Lake Superior lying eastward of the Chocolay River, the northern portion of Lake Huron to the mouth of the Thunder Bay River, and the waters of Lake Michigan from Ford River south of Escanaba to Grand Haven on Lake Michigan's southeastern shore, and including all the waters connecting the three lakes.

Although our ancestors were willing to provide land to the United States, they carefully protected the traditional lifeway and its reliance on the environment's natural resources for food, shelter, medicines, and for trade. This was embodied in Article Thirteenth of the Treaty, which reserved the right to hunt, and the other usual privileges of occupancy until the land was required for settlement.

Q. What is the "ceded territory"?

A. The ceded territory is the approximately 14 million acres of land and inland waters and approximately 13 million acres in Lakes Michigan, Huron, and Superior that the tribal signatories to the 1836 Treaty ceded to the United States, paving the way for Michigan's

RECEIVED by MSC 11/14/2025 2:10:18 PM

statehood. The ceded territory includes a large part of Michigan's Upper and Lower Peninsulas and the Straits of Mackinac, and the Line 5 pipeline runs through the ceded territory. A map of the ceded territory is Exhibit BMC-6.

The tribes only agreed to this vast cession of our ancestral home upon assurance that we would have the continued ability to exercise our inherent rights, reserved by the Treaty, to hunt, fish, and gather throughout the ceded territory.

Q. How has Bay Mills protected its 1836 Treaty rights?

A. The Treaty right to fish has been fiercely protected by the Bay Mills Indian Community and its members, including litigation regarding: the continued existence of the Treaty right; the member's right to use traditional fishing gear such as gillnets; and the limitations on the State's power to regulate the exercise of the treaty right to fish. The first round of litigation ended in the 1976 decision of the Michigan Supreme Court that the right to fish in the ceded waters of Michigan's Great Lakes, expressly reserved by Article Thirteenth, continue to exist, and that the State's power to regulate treaty-protected fishermen was limited to those restrictions exclusively necessary to protect the resource from depletion. The case is *People v. LeBlanc*, 399 Mich. 31; 248 NW2d 199 (1976). This dispute began with a call from my grandfather, Bay Mills citizen Albert LeBlanc ("Big Abe") to the local DNR office in 1972, stating that he had set a gill net in Lake Superior. Mr. LeBlanc was issued a citation for using an illegal fishing device and the battle began (attached as Exhibit BMC-7).

The next round was waged in federal court and began in 1973 with the filing of a lawsuit against the State of Michigan by the United States, as trustee for the Bay Mills Indian

RECEIVED by MSC 11/14/2025 2:10:18 PM

Community, which asserted that the State's regulation of treaty-protected fishing activities by the Tribe's fishers impaired and interfered with the Tribe's treaty rights, in contravention of the laws and treaties of the United States. That litigation, known as *United States v. Michigan*, Case No. 2:73 -cv- 26 (W.D. Mich.) resulted in a decision in 1979 in which the Tribe's treaty rights were held paramount to the fishing regulations of the State; the case is reported at 471 F. Supp. 192 (W.D. Mich. 1979). The case has been on-going since then, as additional Tribes were federally recognized, and management and regulatory frameworks were developed through a combination of negotiated agreements and court orders. The United States, the Tribes and the State are currently engaged in negotiations for a new management and allocation agreement which will replace the current one.

I share the legal history of the Treaty fishing controversies not only to emphasize the existence of Tribal rights regarding the fishery, but also to serve as evidence that the right to fish, and the need for a natural environment in which fish can thrive, is of the utmost importance to the Tribe and its members, and will be fiercely protected. Commercial and subsistence fishing is the primary occupation of Bay Mills tribal citizens, and it has been from Treaty times until the present day. Tribal commercial and subsistence fishers are licensed and regulated by the Tribal Nation. Today, over half of our citizen households rely on fishing for all or a portion of their annual income.

In addition to the management and allocation agreements arising from that litigation, which primarily concern the Great Lakes fisheries, Bay Mills also collaborates with other Tribal Nations and the state of Michigan on the management and allocation of inland waters and land resources.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Bay Mills also is a member of and works with intertribal bodies including the Chippewa Ottawa Resource Authority ("CORA") and Great Lakes Indian Fisheries and Wildlife Commission ("GLIFWC") to study, manage, and protect the resources upon which our Treaty rights depend.

Q. What resources are protected by the 1836 Treaty?

A. The 1836 Treaty protects a lifeway or way of life. The right to fish, hunt, and gather as identified in the Treaty is then protected as part of that way of life. The activity of fishing goes much further than just fishing, it is about maintaining a relationship with fish – to sing, dance, and play with fish as our customs and culture dictate. This includes the teachings, stories, history, and culture that are also passed down between elder and child when engaging in a traditional lifeway such as fishing. In order to continue our lifeway, we need access to clean water and a healthy ecosystem.

~~**Q. In your opinion, will the Line 5 Tunnel Project affect the rights and resources protected by the 1836 Treaty if constructed and operated along the proposed route?**~~

~~A. Yes.~~

~~**Q. In your opinion, how will the Line 5 Tunnel Project affect the rights and resources protected by the 1836 Treaty if constructed and operated along the proposed route?**~~

~~A. In my opinion, the Line 5 Tunnel Project is a threat to Treaty resources and the natural resources of Michigan.~~

~~The Line 5 Tunnel Project, if constructed, will perpetuate the flow of oil to, through, and from the Straits of Mackinac. This carries the risk of an oil spill into the Straits into the~~

RECEIVED by MSC 11/14/2025 2:10:18 PM

~~future. It also carries the risk of an oil spill elsewhere in the ceded territory or, because many of the region's waters are connected, into the Straits and Great Lakes indirectly. Such a spill would be catastrophic for our people's economic livelihood and cultural wellbeing. Further, by perpetuating the flow of oil, I am concerned about the Line 5 Tunnel Project's contribution to climate change.~~

C. CULTURAL RESOURCES IN THE STRAITS OF MACKINAC.

Q. Describe cultural resources that are present in the Straits of Mackinac.

A. The Straits are part of our ceded territory, which contains bottomland and terrestrial archaeological sites that are significant to our people. These are submerged paleo-landscapes, cemeteries, and isolated human burials of our ancestors, many of which are eligible for listing on the National Register of Historic Places, a recognition that they are important to our national patrimony.

Q. What do you mean by a cultural landscape?

A. By cultural landscape, I mean that damage, destruction, or contamination of one part of the landscape damages the entire landscape. In fact, Bay Mills is pursuing the nomination of the Straits of Mackinac as a Traditional Cultural Property ("TCP") for inclusion on the National Register of Historic Places.

Due to Bay Mills Indian Community's significant and critical connection to the Straits of Mackinac, the Great Lakes, and the inland lands and waters that are part of the ceded territory, we have been deeply involved in the various permit processes for the Line 5 Tunnel Project.

RECEIVED by MSC 11/14/2025 2:10:18 PM

IV. CONCERNS ABOUT CLIMATE CHANGE AND THE LINE 5 TUNNEL PROJECT.

Q. Broadly, what concerns do you have regarding climate change and the future of Bay Mills?

A. As the effects of climate change continue to grow larger and more pronounced, the people, land, and resources of indigenous communities in the United States are threatened by various climate change impacts and vulnerabilities. The indigenous way of life that has persisted for thousands of years will be undermined as current and projected climate change impacts take their toll. Key vulnerabilities include the loss of traditional knowledge in the face of rapidly changing ecological conditions, increased food insecurity due to reduced availability of traditional foods, changing water availability, arctic sea ice loss, permafrost thaw, and relocation from historic homelands.

Climate change is already greatly harming the Great Lakes, and the fisheries, habitats, and ecosystems and accordingly, having a negative impact on tribal sovereignty, economies, and cultures the Great Lakes now sustain and have sustained since time immemorial.

A necessary precondition to sustainable fisheries or sustainable hunting and harvesting is a healthy Great Lakes ecosystem. Sustainable fish production requires dynamic and diverse habitats with biological, chemical, and physical features that continually meet reproductive, growth, and survival integrity standards. A healthy Great Lakes ecosystem also benefits commerce, the hospitality industry, recreational activities, and a myriad of other beneficial activities essential to quality of life for those fortunate enough to call the Great Lakes region home. Accordingly, strong self-sustaining fish populations are not only

RECEIVED by MSC 11/14/2025 2:10:18 PM

indicators of healthy ecosystems and healthy environmental conditions, but they also support associated fisheries in the Great Lakes, which provide inherent societal values.

Q. Describe the Bay Mills Indian Community's teachings that guide how you think about climate change.

A. Our people – the Anishinaabe – also have a teaching that says the decisions we make today should result in a sustainable world seven generations into the future. It reminds us to understand that the decisions we make are not limited by the immediate concerns of today, but instead have implications long after we are gone.

Q. Can you elaborate on a few specific resources that are important to Bay Mills?

A. Yes. For purposes of this testimony, I will discuss lake whitefish, walleye, wild rice, loons, and sugar maple. These are not the only species of importance to Bay Mills.

Q. Please describe the significance of lake whitefish.

A. As mentioned previously, within the Straits of Mackinac are numerous spawning grounds for different fish species – including Lake Whitefish – which our people hold in sacred regard. According to Tribal Nations' oral histories, during a time of famine and desolation, the eight traditional clans Bear, Turtle, Deer, Loon, Crane, Marten, Bird, and Whitefish came together to discuss how to save the Anishinaabe throughout the Great Lakes Region. After much debate and discussion, the Whitefish clan chose to sacrifice itself to provide for the wellbeing of the people. The Whitefish clan submerged itself in the Great Lakes and became the Lake Whitefish that the Tribal Nations fish and eat today, as a sole source and means to provide for the prosperity of the Anishinaabe.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Lake Whitefish are the primary commercial and subsistence fish that tribal fishers rely on to make an annual income. Tribal fishers can sell Lake Whitefish for more money per pound than they can sell any other fish. Unfortunately, Lake Whitefish are a coldwater fish species. It is widely recognized that climate change leads to the warming of their habitat and may lead to ecosystem disruptions in the Great Lakes region.

Q. Please describe the significance of wild rice.

A. To the Anishinaabe of the Great Lakes Region, wild rice ("manoomin") is much more than food, it is a culture, it is a history, and it is a livelihood. According to the oral traditions of the Anishinaabe, many centuries ago the Creator told the Anishinaabe people to travel west and find the lands where the "food grows on water" or the Anishinaabe people would perish. The word manoomin is derived from two words in Anishinaabemowin language, "manidoo" which means spirit and "miin" which means seed. Together they create manoomin, which translates into the "good spirit seed" in the Anishinaabemowin language. Wild rice is a food that is considered sacred and essential to the culture and traditions of the Anishinaabe in the Great Lakes region. Wild rice defines what it means to be Anishinaabe, it is the keeper of a culture, and to this day wild rice plays a significant role in the history and cultural traditions of the Anishinaabe. In fact, wild rice is a traditional gift of appreciation.

Q. Describe the significance of wild rice.

A. Wild rice is a traditional food source and part of the traditional diet of the Bay Mills citizens. Wild rice continues to be harvested in the ceded territory today in areas near Tribal Nations' reservations in Michigan.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Q. Please describe the significance of loons.

A. The Anishinaabe people believe that Creator gifted the clan system to maintain societal order on Earth. Each clan has roles, talents, and responsibilities to contribute to the overall wellbeing of the entire nation. There are seven primary clans of the Anishinaabe people; Loon, Crane, Fish, Bird, Bear, Marten, and Deer. Traditionally, the Loon ("maang"), clan worked together with the Crane clan as eloquent leaders and orators. They were skilled planners, negotiators, & upheld the Seven Teachings. If ever there was a conflict between the Loon & Crane clans, the fish clan helped mediate the situation.

Q. Please describe the significance of sugar maple.

A. Sugar maple is the species of trees that the Anishinaabe use to harvest maple syrup ("zhiiwaagamizigan"), during the months of March and April. Maple syrup is considered one of the first medicines given by the Creator during a time of year when it was difficult to hunt or harvest. Maple syrup is treated by the Anishinaabe as a gift that ended starvation and was a sign and beginning for a new season of life.

Q. Does that complete your testimony?

A. Yes.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix O

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of Enbridge Energy, Limited Partnership for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763 ALJ Dennis Mack

---

JOINT RESPONSE TO ENBRIDGE ENERGY, LIMITED PARTNERSHIP'S MOTION IN LIMINE BY MICHIGAN ENVIRONMENTAL COUNCIL, GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS, BAY MILLS INDIAN COMMUNITY, TIP OF THE MITT WATERSHED COUNCIL, AND NATIONAL WILDLIFE FEDERATION

RECEIVED by MSC 11/14/2025 2:10:18 PM

Further, Enbridge's plan to relocate the pipeline into a tunnel endangers Treaty-protected natural resources and ecosystems upon which Bay Mills, Grand Traverse Band, and other Tribal Nations depend. Specifically, the construction of the tunnel threatens to impair water quality where there are critical spawning grounds; emergent, forested and coastal wetlands; floodplains; and threatened and endangered species. According to Enbridge's Environmental Impact Statement, though, none of these impacts actually exist for the purposes of the MPSC proceeding:

> Enbridge reviewed potential impacts to geology, soils, vegetation, land use, terrestrial resources, protected species, drinking water resources and supplies, and cultural resources and determined that, since the Project workspaces will be comprised of previously disturbed land at the time of pipeline construction, impacts to these resources are not anticipated. Therefore, these resources are not discussed in this report.[90]

In other words, according to Enbridge, because the resources will already be impacted by its construction of a tunnel *for* the pipeline, the pipeline itself will not impact the resources. The Commission should reject Enbridge's attempt to circumvent the Commission's review of the potential impacts on these treaty rights and resources by claiming that only the pipeline replacement, not the tunnel, is at issue.

IV. RISKS ASSOCIATED WITH LINE 5 AND THE PUBLIC NEED FOR ITS CONTINUED OPERATION ARE CENTRAL TO THE COMMISSION'S EVALUATION OF THE PROJECT.

Enbridge's motion to exclude evidence regarding "the current operational safety of Line 5" and "the public need for and continued operation of Line 5" must be denied because these issues are central to the Commission's evaluation of the Project. Two critical components of the

[90] Exhibit A-12, pp. 10-11.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Commission's evaluation of an Act 16 application are (1) whether the applicant has demonstrated a public need for the proposed pipeline, and (2) whether the proposed pipeline is routed in a reasonable manner.[91]

Because the Project's purpose is to secure continued operation of Line 5 and extend its life for decades, the public need for Line 5 to operate for years and decades to come is necessarily part of the Commission's review. Likewise, concerns about the risks that Line 5 will continue to pose for decades to come if the Project is approved must also be part of the Commission's review, under Act 16 and especially MEPA. This section will discuss public need first, and then risk.

A. Information about the public's need for the continued operation of Line 5 is directly related to the purpose of the Tunnel Project.

An important aspect of the Commission's analysis is whether there is a public need for Enbridge to continue to operate Line 5. If approved, the Project will secure the continued operation of Line 5 and likely extend its life. The application states that the project will cost $500 million and includes a lease that will entitle Enbridge to occupy the area for another 99 years.[92] Enbridge's testimony states its intent to operate Line 5 well into the future if the Project is built.[93] While Enbridge claims that this will be the case whether the Project is built or the pipes stay in the water, the continued viability of the current arrangement is under review in both the Executive and Judicial branches.[94] It is therefore obvious that by investing the dollars and undertaking the Project,

[91] *In the matter of the application of Enbridge Energy, Limited Partnership*, Case No. U-17020. Order dated January 31, 2013.

[92] Exhibit A-9, p 14 ($500 million); Exhibit A-5, p 34, Section 5.3 (99 years).

[93] *See, e.g.*, Pre-filed Testimony of Marlon Samuel, p. 5 (asserting that the "utilization of Line 5" of the past ten years "is expected to continue into the future well after the completion of the Project").

[94] Exhibit 7, Statement dated June 27, 2019 from Governor Whitmer's Office; *Attorney General v Enbridge*, Ingham County Circuit Court Case No. 19-474-CE.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge seeks to secure Line 5's continued operation for decades to come, in a way that it is not secure now.

Because securing Line 5's continued operation for decades to come is both the purpose and effect of the Project, the Commission must evaluate whether there is a public need for such a long-term commitment. Enbridge assumes that there is, but the parties must be permitted to challenge Enbridge's evidence and counter it with their own.[95] Simply put, extending the life of Line 5 is part of this case and the intervening parties must, therefore, be permitted to submit testimony and evidence on the subject and to challenge Enbridge's assertions, evidence and testimony on the matter.

B. The purpose of the Tunnel Project, as defined by Enbridge, is claimed to be the elimination of a spill risk associated with Line 5, which puts all of the risks of Line 5 at issue.

In its application seeking approval of the Tunnel Project, Enbridge states: "The purpose of the Project is to alleviate the environmental concern to the Great Lakes raised by the State of Michigan relating to the approximate four miles of Enbridge's Line 5 that currently crosses the Straits of Mackinac."[96] Thus, Enbridge's own application raises issues about the risks associated with Line 5 and calls into question whether the Tunnel Project will adequately address the public need it purports to address – namely, alleviating the substantial environmental concerns about the continued operation of Line 5. In short, the Commission's evaluation of the Tunnel Project must

[95] MCL 24.272(4).

[96] Enbridge Application, p. 1.

RECEIVED by MSC 11/14/2025 2:10:18 PM

entail a critical assessment of the risks associated with Line 5's operation because mitigating those risks is the entire purpose of the proposed tunnel.[97]

Furthermore, the evaluation of Enbridge's proposal cannot logically be constrained to the environmental concerns associated only with the portion of the pipeline that currently runs through the Straits of Mackinac. If the stated purpose of the Tunnel Project is to address the significant risk of a catastrophic oil spill from the pipelines in the Great Lakes, then all of the risks along the length of Line 5 must be evaluated to determine whether the proposed tunnel truly addresses the public need to prevent a catastrophic spill. Indeed, it would make little sense—and would not serve the public—to construct a tunnel to alleviate environmental concerns in the Straits if the same or similar concerns are left unaddressed in other sections of the pipeline. Line 5 crosses over 290 rivers and streams—many of which the Tribes have treaty rights to, which are interconnected and, which flow to the Great Lakes. Thus, the risks presented by these crossings are directly relevant to the question of whether the Tunnel Project would actually achieve its intended purpose.

C. Commission precedent and the June 30, 2020 Order support a broad review of risks related to the Tunnel Project.

The Commission has historically conducted a broad review of potential risks and environmental consequences in Act 16 proceedings, most notably in the *In re Wolverine* cases.[98] In *Wolverine 1*, the Commission reviewed two segments of a proposed petroleum products pipeline. One of the pipeline segments was proposed to run within the same corridor as an existing

[97] In determining whether the Tunnel Project will achieve its intended purpose, the Commission should also consider that the dual pipelines—and the risk they present to the Great Lakes and the Straits of Mackinac—will remain in place during the years it will take to construct the tunnel and the new pipeline.

[98] *In re Wolverine Pipe Line Company*, Case No. U-12334, Order dated March 7, 2001, 2001 WL 306697 (*Wolverine 1*) and *In re Wolverine Pipe Line Company*, Case No. U-13225, Final Order dated July 23, 2002, 2002 WL 31057451 (*Wolverine 2*).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix P

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of Enbridge Energy, Limited Partnership for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763 ALJ Dennis Mack

---

APPLICATION FOR LEAVE TO APPEAL THE ADMINISTRATIVE LAW JUDGE'S RULING ON MOTION IN LIMINE
BY MICHIGAN ENVIRONMENTAL COUNCIL, GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS, TIP OF THE MITT WATERSHED COUNCIL, AND NATIONAL WILDLIFE FEDERATION

RECEIVED by MSC 11/14/2025 2:10:18 PM

Similarly, in the June 30, 2020, Order of this case, the ALJ determined that there was "significant public interest and concern regarding the Line 5 Project's potential environmental impact on the Great Lakes," and thus, determined a contested case proceeding was appropriate.[20] Evidence and testimony regarding the need and risk of the project are relevant. Therefore, an attempt to exclude that evidence now would limit the scope of the case more than the Commission's June 30 Order requires, and is an error of law.

C. Offer of proof.

Commission Rule 433 states in part: "An offer of proof shall be made in connection with an appeal of a ruling excluding evidence."[21] As noted in the application for leave by Bay Mills Indian Community, there are questions regarding the applicability of the offer of proof requirement in this procedural posture. While the underlying motion was styled as a motion in limine, it excluded categories of evidence rather than specific testimony or exhibits, with the objective of narrowing the scope of the case.

In any event, Rule 433 specifies procedures for particular situations – none of which apply directly here. MRE 103 describes an offer of proof as a communication by which "the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked."[22] A commonly-used secondary source states that "no particular form is required;" and suggests either live Q&A testimony out of the presence of the jury or simply "a statement by [counsel] of what the witness would have said if he or she had testified."[23] The latter

[20] Case No. U-20763, June 30, 2020, Order, p. 69.

[21] R 792.10433(3).

[22] MRE 103(a)(2).

[23] Lawson, et al, *Introducing Evidence at Trial* (ICLE), Chapter XII, Offer of Proof, §1.20.

RECEIVED by MSC 11/14/2025 2:10:18 PM

option applies better to the procedural posture here – since the ALJ did not rule at a hearing with witnesses present and discovery that experts will use to formulate their opinions remains pending.

In light of these authorities, MEC, GTB, Watershed Council, and NWF make the following offer of proof. These parties offer first to submit direct testimony by Elizabeth A. Stanton, Ph.D. Dr. Stanton is Director and Senior Economist at Applied Economics Clinic, and her CV is attached as Exhibit 1. Her areas of expertise include evaluating the economics of fossil fuel pipelines. She is expected to testify regarding the public need for the tunnel replacement project to secure and extend the service life of Line 5 over both short- and long-term time horizons.

Second, MEC, GTB, Watershed Council, and NWF offer to submit direct testimony by Richard Kuprewicz. Mr. Kuprewicz is a pipeline engineer with almost 50 years of experience, including oversight of the Trans Alaska Pipeline System. His CV is attached as Exhibit 2. He will testify that Line 5 has a history of crack failures, such that extending the life of the pipeline by replacing the Straits segment into a tunnel will expose inland waters near segments of the pipeline outside the tunnel to extended risks of ruptures based on the condition of the pipeline and its integrity and method of operation. He will also testify that prolonging the operation of the dual pipelines in the Straits while the tunnel replacement project is under development will continue to expose the dual pipeline to a variety of accident risks.

IV. ARGUMENT

A. To determine whether there is a public need to replace the Straits segment of Line 5 with a new pipeline in a tunnel, the Commission must determine whether there is a public need to perpetuate Line 5 for decades to come.

The Commission has noted that "Act 16 provides the Commission with broad jurisdiction to approve the construction, maintenance, operation, and routing of pipelines delivering liquid

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix Q

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of Enbridge Energy, Limited Partnership for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	MPSC Case No. U-20763 ALJ Dennis Mack

---

APPLICATION FOR LEAVE TO APPEAL THE ADMINISTRATIVE LAW JUDGE'S RULING ON MOTION IN LIMINE BY BAY MILLS INDIAN COMMUNITY

November 6, 2020

RECEIVED by MSC 11/14/2025 2:10:18 PM

may include testimony and exhibits that demonstrate: Line 5 crosses over 290 rivers and streams, many of which are interconnected and flow to the Great Lakes and the Straits; there has been a long history of leaks across the length of Line 5; there is a real and substantial risk of a catastrophic spill along segments of Line 5 that would not be relocated in the tunnel; Enbridge has a troubling record with detecting, responding to, and cleaning up leaks; and a spill from Line 5 would have devastating consequences on the lives and livelihoods of the members of Bay Mills.[23] Evidence could also include testimony and exhibits about the harms to fisheries and spawning grounds, threatened and endangered species, wetlands, floodplains, groundwater, the shoreline, or cultural resources and antiquities as a result of an oil spill from the dual pipelines in the Straits or along other portions of Line 5.[24] The APA and basic notions of fairness require that Bay Mills be permitted to develop and present this evidence. Otherwise, the

---

[23] Rule 433's requirement that an appealing party submit an offer of proof in connection with an appeal of a ruling excluding evidence, Mich Admin Code R 792.10433(3), is not applicable because the ALJ did not exclude particular evidence, but instead excluded entire topics or categories from consideration in the case. That particular requirement specifies, "the offer of proof shall be made on the hearing record." *Id.* Such a hearing record does not exist; the hearing is scheduled for May 2021. And, the parties are in the midst of discovery and still developing their respective cases. Nevertheless, to assist the Commission in its consideration of this request for leave to appeal, Bay Mills provides descriptions of evidence that they would seek to introduce. Consistent with the deadlines for filing testimony set by the ALJ, Bay Mills is in the process of developing testimony to describe the risks the Line 5 Project poses to Bay Mills members and their interests in fisheries and other resources. The witnesses who can and will provide this testimony include, among others, the tribal members who provided affidavits attached to Bay Mills Petition to Intervene. Bay Mills also incorporate by reference the offers of proof made in the Application for Leave to Appeal the Administrative Law Judge's Ruling on Motion in Limine by Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council, and National Wildlife Federation.

[24] Antiquities are well documented in the Region. *See e.g.*, John M. O'Shea and Guy A. Meadows, "Evidence for early hunters beneath the Great Lakes"*; see generally, Charles E. Cleland, Rites of Conquest: The History and Culture of Michigan's Native Americans.* (University of Michigan Press) (1992); John Halsey, ed., Retrieving Michigan's Buried Past (Cranbrook Institute of Science) (1999).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix R

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application for the authority to replace and relocate the segment of Line 5 crossing the Straits of Mackinac into a tunnel beneath the Straits of Mackinac, if approval is required pursuant to 1929 PA 16; MCL 483.1 *et seq*. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the grant of other appropriate relief.	)	MPSC Case No. U-20763

ATTORNEY GENERAL'S SUPPORT FOR AND JOINDER IN APPLICATIONS FOR LEAVE TO APPEAL FROM OCTOBER 23, 2020 RULING BY ALJ ON MOTION IN LIMINE

Intervenor Michigan Attorney General Dana Nessel, by and through Assistant Attorney General Robert P. Reichel, hereby supports and joins in the applications for leave to appeal under R 792.10433 from the October 23, 2020 ruling by the Administrative Law Judge granting in part Enbridge Energy Limited Partnership's Motion in Limine filed by the following parties:

- Bay Mills Indian Community and Little Traverse Bay Bands of Odawa Indians
- Michigan Environmental Council, Grand Traverse Band of Ottawa and Chippewa Indians, Tip of the Mitt Watershed Council, and National Wildlife Federation
- Environmental Law and Policy Center and Michigan Climate Action Network
- For Love of Water

The Attorney General adopts and incorporates the factual and legal arguments stated in those applications. And for the reasons stated therein, the

RECEIVED by MSC 11/14/2025 2:10:18 PM

Attorney General requests that the Commission reverse that portion of the Administrative Law Judge's October 23rd ruling that granted Enbridge's Motion in Limine.

Respectfully submitted,

Dana Nessel
Attorney General

/s/ *Robert P. Reichel*
Robert P. Reichel (P31878)
Assistant Attorney General
Attorney for Michigan Attorney General Dana Nessel
Environment, Natural Resources, and Agriculture Division
P.O. Box 30755
Lansing, MI 48909
(517) 335-7664
reichelb@michigan.gov

Dated: November 6, 2020

RECEIVED by MSC 11/14/2025 2:10:18 PM

PROOF OF SERVICE - U-20763

The undersigned certifies that a copy of the ***Attorney General's Support for and Joinder in Applications for Leave to Appeal from October 23, 2020 Ruling by ALJ on Motion Limine*** was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 6th day of November 2020.

Robert P. Reichel Digitally signed by Robert P. Reichel Date: 2020.11.06 16:18:24 -05'00'

Robert P. Reichel

MPSC Staff:
Spencer A. Sattler
Nicholas Taylor
Benjamin Holwerda
sattlers@michigan.gov
taylorn10@michigan.gov
holwerdab@michigan.gov

Attorney General of Michigan:
Robert P. Reichel
reichelb@michigan.gov

Administrative Law Judge:
Hon. Dennis Mack
Mackd2@michigan.gov

Enbridge Energy:
Michael Ashton
Shaina Reed
Jennifer Heston
mashton@fraserlawfirm.com
sreed@fraserlawfirm.com
jheston@fraserlawfirm.com

MEC:
Christopher Bzdok
Lydia Barbash-Riley
chris@envlaw.com
lydia@envlaw.com

ELPC:
Margrethe Kearney
Esosa Aimufua
Kiana Courtney
Howard Learner
mkearney@elpc.org
eaimufua@elpc.org
kcourtney@elpc.org
hlearner@elpc.org

Grand Traverse Band of Ottawa & Chippewa Indians:
William Rastetter
Christopher Bzdok
Lydia Barbash-Riley
bill@envlaw.com

FLOW:
James Olson
jim@flowforwater.org

BMIC:
Kathryn Tierney
Whitney Gravelle
Matthew Campbell
David Gover
Christopher Clark
Deborah Musiker
Christopher Bzdok
candyt@bmic.net
wgravelle@baymills.org
mcampbell@narf.org
dgover@narf.org
cclark@earthjustice.org
dchizewer@earthjustice.org

RECEIVED by MSC 11/14/2025 2:10:18 PM

Tip of the Mitt Watershed Council:
Abigail Hawley
Christopher Bzdok
Lydia Barbash-Riley
abbie@envlaw.com

The Little Traverse Bay Bands of Odawa Indians:
James Bransky
jbransky@chartermi.net

Nottawaseppi Huron Band of the Potawatomi:
John Swimmer
Amy Wesaw
John.swimmer@nhbp-nsn.gov
Amy.wesaw@nhbp-nsn.gov

Sault Ste. Marie Tribe of Chippewa Indians:
Jeffrey Rasmussen
Jeremy Patterson
Johnathan Loera
Courtney Kachur
jrasmussen@nativelawgroup.com
jpatterson@nativelawgroup.com
jloera@nativelawgroup.com
ckachur@saulttribe.net

Michigan Laborers' District Council:
Stuart Israel
Christopher Legghio
Lauren Curmmel
israel@legghioisrael.com
cpl@legghioisrael.com
crummel@legghioisrael.com

Michigan Propane Gas Association:
Daniel Ettinger
Troy Cumings
Margaret Stalker
Paul Bratt
dettinger@wnj.com
tcumings@wnj.com
mstalker@wnj.com
pbratt@wnj.com

Mackinac Straits Corridor Authority:
Leah Brooks
Raymond Howd
Brooksl6@michigan.gov
howdr@michigan.gov

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix S

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of Enbridge Energy, Limited Partnership for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763 ALJ Dennis Mack

---

TESTIMONY OF ERIC HEMENWAY

ON BEHALF OF

THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

Q. Please state and spell your name for the record.

A. Eric Paul Hemenway

Q. Describe your training in historic research.

A. My training in Odawa history began with my childhood. I grew up in Cross Village, MI. My mother, LTBB tribal Citizen, Peggy Hemenway, immersed our family in Odawa history and culture. She was instrumental in the Tribe's federal reaffirmation efforts in the 1980s and was on the Tribe's Tribal Council during this time. Due to her efforts, I was constantly exposed to Odawa history through events, elders and historians throughout my childhood and teen years in Cross Village. In addition, Cross Village had a vibrant Odawa community when my family lived

RECEIVED by MSC 11/14/2025 2:10:18 PM

there and many of my closest friends were Odawa from there. I was gaining historical and cultural knowledge through my friends and their families as well during my youth.

I began my career as a professional historian on Odawa history in 1997 when I worked as a research assistant for Dr. James McClurken, Lansing, MI. While working for Dr. McClurken, I learned the basics of conducting historical research, managing information and curating historic materials. All of the work I did for Dr. McClurken focused on Great Lakes tribal history, with an emphasis on Little Traverse Bay Bands of Odawa. Dr. McClurken is one of the preeminent scholars on Odawa history, with a particular focus on LTBB Odawa.

In 2006 I started working for LTBB Odawa in the Archives, Records and Cultural Preservation Department. I started out as a Research Assistant. I began working within the LTBB Archives, organizing the existing materials. In 2007, the majority of my work within the Archives focused on work under the Native American Graves Protection and Repatriation Act (NAGPRA). For the next several years, the vast majority of work was under NAGPRA. During my time doing repatriation for LTBB, I used my expertise in historic research to write over thirty successful repatriation claims under the law. Many of these claims were specific to LTBB Odawa and needed substantial, historic evidence to affiliate human remains and items to the Tribe. In 2009 I was chosen to serve on the National NAGPRA Review Committee, a federal commission that oversees the work under the law.

In 2012 I became the Director of LTBB Repatriation, Archives and Records. At this point I was no longer doing NAGRPA work for LTBB but focusing on collecting historic information and using that information to support the Tribe and create historic, educational materials. These projects have included numerous exhibits, signs, publications, media, presentations, lesson plans

RECEIVED by MSC 11/14/2025 2:10:18 PM

and consultations with the state of Michigan and National Park Service on Odawa history. I have given hundreds of lectures/presentations within my 15 years at LTBB, been published, have worked on over a dozen exhibits and interviewed for numerous media projects. My resume attached at Exhibit 1 describes the scope of projects I have worked on.

I have developed and honed my historic research skills through on-the-job training and completing a wide variety of projects over the last 18 years as a professional historian. Each new project I undertake I am forced to learn more, gather new information, effectively use that information and present it in the most appropriate manner for each specific project. The diversity of the projects I have completed has broadened my scope of historical research and created new depths of understanding of the history of LTBB Odawa. In addition, I am continually adding new materials to the archives and utilizing those materials in all of my work. I have been immersed in Odawa history my whole life but with added emphasis as a professional historian within the LTBB government as an employee for the last 15 years. I have become very knowledgeable of the collections within the LTBB Archives and how to use those collections to create the best historical project I can create. I am constantly surrounding myself with other professionals in the field, many times through collaborations on projects, to make myself a better and well-rounded historian.

Q. Is the resume attached to this testimony a full and accurate listing of your education, employment history, academic and professional achievements?

A. Yes.

Q. Who is your current employer?

A. The Little Traverse Bay Bands of Odawa Indians.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Q. What is your position and how long have you held that position?

A. I am the Director, Archives and Records. I have been Director for 9 years but have worked within the department for 15 years total.

Q. Describe your job duties.

A. Overseeing Archives staff, ensuring their job duties are being carried out and any administrative responsibilities that are related to the Director position, such as budgets, reports, timesheets, etc. Supporting the LTBB government, when requested, by providing historical information and resources, which include summaries, presentations, primary sources, reports, photos, maps, etc. Supporting tribal citizens in their historical research.

I Manage the materials within the Department, both physical and digital, and acquire new materials for the Department, both physical and digital. I use these materials to create historical, educational materials, including but not limited to: exhibits, signs, lesson plans, media, publications, presentations and consultations. My resume attache as Exhibit 1 contains includes a complete list of educational outreach.

In addition, I also take care of several historic Odawa cemeteries.

Q. Where were the Little Traverse Bay Bands of Odawa Indians traditional villages located in relation to the Straits of Mackinac?

A. LTBB Odawa have had historic villages located at: St. Ignace, Ainse, Mackinac Island, Mackinac City, Bois Blanc Island and Round Island.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Q. How have you acquired your knowledge of burials and other cultural resources in and near the Straits of Mackinac?

A. I have acquired my knowledge of burials by being Anishnaabe/Odawa and growing up in Cross Village (which is near to Mackinac), where I obtained oral histories on burials of the Odawa. I also have been a professional historian on Odawa history for 18 years. During these 18 years, I have read thousands of documents, dozens of books and reports, as well as numerous other primary sources, such as newspaper articles, photos, letters and other resources. I have used this information to write over thirty successful repatriation claims of ancestral human remains under the Native American Graves Protection and Repatriation Act (NAGPRA). Several of these claims were affiliated to LTBB and specific to the Straits of Mackinac. In doing the research for these claims, I had to demonstrate the historic presence of the Tribe at the area and the importance of honoring the dead in Odawa culture.

In addition to the NAGPRA claims, I have had to research Odawa burial locations for other projects, including exhibits, lesson plans, historic signs and numerous presentations. I also research the location of burials for the overall purpose of identifying and protecting sacred and historic sites for the Tribe. This information is shared with the Tribal Historic Preservation Office for LTBB, as well as being used internally for the tribal government. I utilize the full range of historic materials to produce as much information as possible on the location of burials and the significance they have for the Tribe.

Q. Are there Odawa and other Native burial sites by the Straits of Mackinac?

A. Yes, there are other Odawa and other native burials sites at the Straits of Mackinac.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Q. How would you describe the significance of burial sites to the Odawa?

A. Burial sites, their protection and honoring the dead are cornerstones of Odawa beliefs, tradition and culture. Its significance is seen every fall when Odawa families clean and decorate the graves of their kin. In addition to this activity, Odawa families hold "Ghost Suppers" or "Feast of the Dead" every fall. In this ceremony, the ancestors are remembered and fed. This is an ancient tradition, going back thousands of years.

Q. How important is the protection of burial sites to the Odawa?

A. It is of the utmost importance to the Odawa, based on their traditions and continued practiced of their beliefs in relation to their dead. There are numerous examples in the historic record of the Odawa citing the importance of being with their dead and taking care of them.

Q. Have you examined a map of the proposed tunnel under the Straits of Mackinac?

A. Yes.

Q. Based on your knowledge of the proposed construction activity location would the construction disturb Odawa and other Native burials?

A. Yes.

Q. How would this disturbance of burial sites impact the Odawa?

Disturbance of burials would be a direct violation of Odawa traditions, religion and beliefs. It would be seen as a further violation of their religious rights, which are protected under the Indian Religious Freedom Act of 1978. It would be seen as a disregard to their culture and way of life. Such violations create low self esteem, anger and withdrawal within Tribal community members, and perpetuate the on-going injustices the Odawa have suffered on their traditional homelands.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Q. Does this conclude your testimony?

A. Yes.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix T

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of Enbridge Energy, Limited Partnership for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763 ALJ Dennis Mack

---

TESTIMONY OF MELISSA WIATROLIK

ON BEHALF OF

THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

Q. Please state and spell your name for the record.

A. Melissa Wiatrolik.

Q. Describe your educational background and training.

A. I have a Business and Technology Certificate from Bay Mills Community College, and Advanced Business and Management certificate from Ferris State University, a Business and Tech Supervision Certificate from Ferris State University, Excel and Excel plus certificate, and Environment Review training certificate from the Association of Tribal Archives, Libraries, and Museums, and a Cultural Stewardship and Historic Preservation Certificate from Andrews Cultural Resources - Historic Preservation.

RECEIVED by MSC 11/14/2025 2:10:18 PM

I have worked for the government of the Little Traverse Bay Bands of Odawa Indians for 17 years. The first twelve years I worked as assistant to the Tribal Administrator helping oversee 26 departments within the Tribal government, then worked one year within the Housing Department where I developed the training for the Environmental Reviews for potential environmental impacts to determine whether Tribal housing projects meet federal, state, and local environmental standards. I currently and for the past for years have served as the Tribal Historic Preservation Officer/Tribal officer for Native American Graves Protection and Repatriation Act, and Tribal representative to the Michigan Anishinaabek Cultural Preservation and Repatriation Alliance (THPO/NAGPRA/MACPRA).

I am an enrolled citizen of the Little Traverse Bay Bands of Odawa Indians, and a 1st degree Midewin from the Midewin Society.

Q. Who is your current employer?

A. The Little Traverse Bay Bands of Odawa Indians.

Q. What is your position and how long have you held that position?

I am the THPO/NAGPRA/MACPRA officer and representative. I have held this position for four years.

Q. What are your job duties?

A. I work with the Grants Department in the development and oversight of grant compliance, administer Federal assistance funds received by the Tribe for Historic Preservation activities, develop and maintain the THPO budget utilizing grant funding sources, locate, document, and evaluate historic properties within the exterior boundaries of the LTBB reservation, identify historic properties, identify and nominate eligible properties to the National

RECEIVED by MSC 11/14/2025 2:10:18 PM

Register, and otherwise submit applications for listing historic properties on the National Register as required by statute, advocate for the repatriation of Native ancestral remains, cultural patrimony, sacred objects and the protection of traditional cultural properties and sacred sites, provide advice to Tribal Council on repatriation and protection of traditional cultural properties, hold public hearings to gather information from the Tribal Community and Citizens, share information regarding repatriation of remains and protection of traditional cultural properties with the Tribal Community and Tribal Citizens, consult with appropriate Federal agencies in accordance with the National Historic Preservation Act regarding Federal undertakings that may affect historic properties and evaluate the content and sufficiency of any plans developed to protect, manage, or to reduce or mitigate harm to such properties, and assure that these undertakings are conducted in full compliance with tribal laws and traditional practices, for Tribal Council's approval via the Land and Reservation Committee, advise Federal, State and local governments as to their responsibilities regarding undertakings of archaeological properties within the Tribe's jurisdiction, assume responsibility under Section 106 of the National Historic Preservation Act (NHPA), issue "Permits to Proceed with an Undertaking on Lands within the Reservation" as delineated within this Statute, develop and maintain a cultural and historic preservation database, develop and maintain program plans and policies that provide for short-and long-term goals, and objectives, conduct interviews to gather information related to public opinion and cultural and historical knowledge as needed, publicize the functions and mission of the Tribal Historic Preservation Office program as needed, write reports from research and interviews as needed, maintain the archaeological collections of the program, perform archaeological field and laboratory work, including excavating, data recordation, artifact

RECEIVED by MSC 11/14/2025 2:10:18 PM

processing as needed, handle Native American human remains for reburial as needed, participate as needed in various Native American ceremonies, and other cultural and spiritual activities, report and provide a monthly report to Tribal Council or as requested by Tribal Council, maintain confidentially of records and information, and assume other duties as assigned to meet program needs.

Q. What is the role of the Straits of Mackinac in Odawa History?

A. We call the region of the Straits of Mackinac "Gete Odenong" which translates into English as “The old or ancient town.” It was used as a connection between the lower peninsula with the regions to the north. It contains some of the most important places where Manidok (spiritual beings) reside who have helped us as a people, but also personally and individually. We remember and honor those Manidok (spirits) for what they have done and can do for all of us (Odawa Knowledge and Memories).

The ancient oral traditions of the Odawak are still remembered and told, about our living at the Straits before we moved to the Waganakising in the first half of the eighteenth century. This oral history places the Straits as the site of many very important events in our history. The earth was recreated there by the spirit-being known as Nanaboshoo, who also created the first people and clans (Odawa knowledge and memories; Blackbird 1887: 76-77).

Also, many historical documents exist that were created by Europeans who entered the Great Lakes region since the early seventeenth century mention the presence and significance of the Odawa at the Straits of Mackinac where fishing was an important activity. Several Odawa villages were situated at and near the Straits of Mackinac during the warmer months to obtain fish and after the French entered the region in the late seventeenth century the Odawa stationed

RECEIVED by MSC 11/14/2025 2:10:18 PM

themselves near the French Forts for trade and mutual protection from their enemies. We usually would only live at the Straits during the warm months and would go elsewhere for the winter to hunt for food and to obtain furs for trade with the French and in later years with the English and Americans (Tanner 1987: 34,40).

An island in the Straits is the location where the gift of the pipe of peace was given to people and is one of the most important tools that have been, and still are used, to heal social and political discord among peoples (Odawa Knowledge and memories).

Q. What is the relationship of the Odawa to the plants and animals in and near the Straits of Mackinac?

A. Some of the animals and fish are clan relatives. The fish are also an important source of food. In addition, the skins of some animals with their fur intact were traded for European commodities. A wide range of plants assisted the Odawa with maintaining our health, religious, and secular life in the past and in the present.

Q. Can you describe the significance of the Straits of Mackinac as a whole to the Odawa culturally?

A. The Straits, including the islands are where many very important events occurred within Odawa culture and history. It has played an important role is shaping who we are as a people today.

Q. Have you examined a map of the proposed tunnel under the Straits of Mackinac?

A. Yes. The tunnel appears to begin on the north side of the Straits within the western portion of Pointe La Barbe near the shore of Lake Michigan. It proceeds in a SE direction toward McGulpin Point where it meets the south shore of the Straits in the vicinity of the McGulpin

RECEIVED by MSC 11/14/2025 2:10:18 PM

Lighthouse. The distance between the Mackinac Bridge with the proposed tunnel corridor varies from 1.5 miles at its northern beginning on the north shore at Pointe LaBarbe, to a distance of just over 2 miles at the southern shore at the west side of McGulpin Point on the shore.

Q. Based on your knowledge of the proposed construction activity location would the construction disturb Odawa cultural sites?

A. There was formerly an Odawa settlement known as Pequatonong on the south side of the Straits in the vicinity of McGulpin Point. Its specific location is not known. Burials that are most likely associated with that village are known to exist in the area south of McGulpin Point. Artifacts recovered from some of these burials date to the eighteenth century providing strong evidence that they are associated with the Odawa living in the area at that time (Andrews 2003. In: LTBB Archives & Records Archaeological reports and inventories).

It would disrupt the ancient relationship that the Odawa have with a Manido known as Mishibizhii. He is generally perceived by the Anishinaabek as a malevolent Manido who lives under the earth and waters of the Great Lakes region. He is considered the principal Manido over all the other underwater and underground animals, fish, Manidok and other creatures. The Anishinaabek including the Odawa place tobacco and food into the water while crossing the Mackinac bridge or any body of water for Mishibizhii. Despite the malevolent reputation of Mishibizhii, there are some Anishinaabek who have a special relationship with him that more closely resembles that of a guardian spirit (Odawa Knowledge and Memories; Blackbird 1887: 79).

Another potential disturbance could occur to historic period burials that are in the water. Many people of the sturgeon clan were buried in Lake Michigan. While this was not universally

RECEIVED by MSC 11/14/2025 2:10:18 PM

practiced by all the sturgeon clan people, the specific locations of these burials are not known. It has not been done for many years. The last known burials of this type were performed off the Beaver Islands in the late nineteenth century (Odawa Knowledge and Memories).

Q. How would this disturbance impact the Odawa?

A. Mishibizhii is accustomed to receiving tobacco from the Anishinaabek accompanied with a request usually for safe passage through the waters of the Great Lakes and many other personal needs. The construction activity could confuse him, especially the use of explosives and any machinery activity that makes loud noises or vibrations that resemble the sounds of the Thunder Manidok. Mishibizhii has a long history of a turbulent relationship with the Thunder Manidok and he may not approach the area of those sounds so that the tobacco with its request would not be received by Mishibizhii who would become angered and use his power to cause bad things to happen to the people. Of special concern is for those persons who have a special relationship with Mishibizhii who would cause any manner of harmful things to happen to them when they traverse the Straits of Mackinac without providing him with tobacco and other customary gifts (Blackbird 1887: 79).

Regarding sturgeon clan burials in Lake Michigan and the consequence of disturbing them may have unfortunate impacts upon the living by the souls of the deceased relatives. The body has two souls, one which travels to the land of the dead after death, and the other which stays with the physical body of the deceased to protect it. Both souls return to the land of the living when our great feast of the dead is held each year to join with all the other Odawa. It is the only time when we are all one people again (Odawa Knowledge and Memories).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Q. Does this conclude your testimony?

A. Yes.

Principal Sources

Andrews, Wesley
2003 *Historical and Cultural context of a collection of eighteenth and nineteenth century artifacts from the Straits of Mackinac*. Prepared for the Little Traverse Bay Bands of Odawa Indians, Harbor Springs, Michigan. Inventory, drawings, and Field Notes of Burial items donated to LTBB Archives and Records that were excavated by an unidentified collector at an area south of McGulpin Point in the vicinity of the northern and eastern portions of Headlands Park of Emmet County, Michigan.

Blackbird, Andrew J.
1887 History of the Ottawa and Chippewa Indians of Michigan. Ypsilantian Job Printing House: Ypsilanti, Michigan. Contains written summary, inventory, drawings and Field Notes of Burial items donated to LTBB Archives and Records that were excavated by an unidentified person from an area south of McGulpin Point in the vicinity of the Dark Sky Park of Emmet County.

Odawa Knowledge and Memories.
These are collectively the ancient and contemporary LTBB Odawa traditions that have been told and exist within the present-day community. Some were related personally to Wesley Andrews during his lifetime from family and acquaintances. Others were written and are in his personal papers and some within the records of the THPO and NAGPRA Program Office of the LTBB. Some information was obtained from individuals exclusively for the purpose of understanding potential effects that the Enbridge pipeline might have on Odawa cultural and historical sites. The latter category of information was obtained with the understanding that the identity of the source would not be revealed.

Tanner, Helen H.
1987 Atlas of Great Lakes Indian History. University of Oklahoma Press: Norman and London.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix U

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of Enbridge Energy, Limited Partnership for Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R. 792.10447, or the Grant of other Appropriate Relief	U-20763 ALJ Dennis Mack

REVISED DIRECT TESTIMONY OF

JACQUES LEBLANC JR. ON

BEHALF OF BAY MILLS INDIAN

COMMUNITY

January 18, 2022

~~**September 14, 2021**~~

RECEIVED by MSC 11/14/2025 2:10:18 PM

TABLE OF CONTENTS

I. INTRODUCTION..... 1

II. FISHING IS AN ACTIVITY OF IMMENSE ECONOMIC, CULTURAL, AND TRADITIONAL IMPORTANCE TO BAY MILLS AND ITS PEOPLE..... 2

RECEIVED by MSC 11/14/2025 2:10:18 PM

I. INTRODUCTION

Q. Please state your name for the record.

A. My name is Jacques LeBlanc Jr. I am a tribal citizen of Gnoozhekaaning, "Place of the Pike," or Bay Mills Indian Community, in the Upper Peninsula of Michigan. Since my birth in 1982, I have lived on or adjacent to the Bay Mills Indian Community reservation in Brimley, Michigan.

Q. On whose behalf is this testimony being offered?

A. I am testifying on behalf of Bay Mills Indian Community (BMC).

Q. Have you previously testified before this Commission or in another court proceeding?

A. No. I have not previously testified before this Commission or in any other court proceeding.

Q. What is the purpose of your testimony?

A. I am a Bay Mills fisher. I am testifying before this Commission to explain the economic, cultural, and traditional importance of fishing to Bay Mills and its people.

Q. Are you sponsoring any exhibits?

A. No.

RECEIVED by MSC 11/14/2025 2:10:18 PM

II. FISHING IS AN ACTIVITY OF IMMENSE ECONOMIC, CULTURAL, AND TRADITIONAL IMPORTANCE TO BAY MILLS AND ITS PEOPLE

Q. Where do you fish?

A. I primarily fish within the ceded territory on waters of the Great Lakes and inland lakes.

Q. What is the "ceded territory"?

A. The ceded territory is the approximately 14 million acres of land and inland waters and approximately 13 million acres in Lakes Michigan, Huron, and Superior that the tribal signatories to the 1836 Treaty ceded to the United States, paving the way for Michigan's statehood. The ceded territory includes a large part of Michigan's Upper and Lower Peninsulas and the Straits of Mackinac. A map of the ceded territory is Exhibit BMC-6 (GRA-6).

The Tribes only agreed to this vast cession of our ancestral home upon assurance that we would have the continued ability to exercise our inherent rights, reserved by the Treaty, to hunt, fish, and gather throughout the ceded territory.

Q. How long have you been fishing on waters within the ceded territory?

A. I began commercial and subsistence fishing at the age of five. My father, Jacques LeBlanc, Sr., and others taught me the fundamentals of fishing, including how to prepare nets and how to filet fish so my immediate and extended family could eat fresh whitefish or lake trout for various meals. Throughout my childhood we ice-fished in the Straits when the lake iced over. By age twelve, I was a commercial fisherman, providing for my family, and

RECEIVED by MSC 11/14/2025 2:10:18 PM

fishing while working for my uncle. Fishing was our primary source of income. I received my first captain's license when I was eighteen years old, when I first owned a boat.

I currently own and operate a gill net fishing outfit and commercially fish the ceded waters of the Great Lakes in various locations, including at the Straits of Mackinac. Depending on the season and weather, I drive hundreds of miles to find the best location to launch my boat and catch fish to support my family.

My family has a long history of fishing in the State of Michigan and on the Great Lakes waters. We primarily fish whitefish, which constitutes more than 90% of our target (i.e., the type of fish we are trying to catch). At other times of the year, we also fish for smelt, trout, and walleye. Whitefish has historically been the most abundant species, and it is one of the easiest to target. Whitefish is the king for business, trade, and retail. There is a lucrative market for whitefish from restaurants and retail establishments.

Q. Do you fish recreationally?

A. Yes. I also fish recreationally within the ceded territory. When doing so, I target whitefish, salmon, pike, menominee (round whitefish), smallmouth bass, largemouth bass, walleye, and perch.

Q. What is the typical fishing season?

A. As a child, I fished year-round: ice-fishing in the winter and open water fishing the rest of the year. Due to both environmental and economic factors, I no longer do this, just as many other fishers have stopped doing this. Year-round fishing is hard and expensive, and due

RECEIVED by MSC 11/14/2025 2:10:18 PM

to depleting fish stocks from major environmental impacts such as zebra mussels, quagga mussels, and climate change, it is no longer economically viable to fish year-round. Currently, I fish in the spring after the ice thaws, and I continue fishing through the summer and fall, until either winter forces us out, or it is no longer economically beneficial. My fishing season generally ends around early December.

Q. Why is fishing important?

A. Fishing is an engrained tradition within the Bay Mills Indian Community and is considered a traditional and cultural practice by many throughout my Tribe. My fishing outfit does more than just support my family. Through my own commercial operation, I have employed several dozen tribal citizens throughout the years who also exercise their treaty right as a means to support their family financially.

In addition to supporting my family and my community, a large part of why I fish is because of the efforts of my grandfather and father, and the way that we were brought up. I hold fishing very near and dear to my heart. It is not just part of my history; it is who I am. I take my children fishing and have done so their entire lives. Through fishing, they have learned our Tribe's history and it has become a part of who they are. In fact, they frequently ask me to go on the lake.

Q. What is some of the work that is involved with fishing?

A. Fishing requires preparation of equipment including a vehicle, the boat, motors, nets, rope, and anchors, as well as working closely with staff. This work includes building new equipment, making new nets, and fixing, mending, and sewing new or used nets. We spread

RECEIVED by MSC 11/14/2025 2:10:18 PM

our nets to prepare them, sew and fix old nets, and make new nets. Gill net repair is labor-intensive and difficult, because once the twine breaks you can't replace it with a single piece of twine; instead, we have to cut the netting out and resew it, which requires a lot of work at home.

The net comes as a ready-made mesh of a certain length and height, but it doesn't have any of the weights or the floats for the net to stay in place in the water. We sew the floats and weights onto the nets. The mesh size varies depending on what kind of fish we're targeting. We also use nets of different thickness when targeting different species of fish.

I know how to prepare and fish with a gill net because of the knowledge that has been passed down through the generations and the experience that I have gained since beginning to fish at the age of 5.

Q. Will your children take over your fishing operation once you are finished?

A. Part of me hopes not, but part of me hopes so. If they can do it out of love and respect, I would hope so. That would make me very proud. Unfortunately, the entire landscape of fishing in the Great Lakes is changing due to climate change and environmental stressors, and I don't want to see my children struggle economically to do this. At the same time, I wish they would be able to carry on this legacy and tradition and carry on the love and respect for it that I have.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Q. How was your family involved in the effort to protect treaty fishing rights for the Bay Mills Indian Community?

A. My grandfather, "Big Abe" LeBlanc, was instrumental in helping protect the treaty fishing rights for the Bay Mills Indian Community. My ancestors, including my grandfather, have a history of gill net fishing going back hundreds of years. This way of life came under attack when the State of Michigan began issuing citations to fisherman for using gill nets, including Tribal fishers. In a planned, strategic effort to stop the state from interfering with our traditional practices, my grandfather agreed to be the test case to challenge the State's power to prohibit a type of gear by Tribal fishers, when the right to do so was reserved in a treaty with the United States since 1836. My grandfather set a gill net in Pendill's Bay of Lake Superior, and called the local DNR office to let them know he was fishing with a gill net. He was issued a citation (marked as Exhibit BMC-7 (GRA-7)) for using an illegal fishing device, and the court battle to protect our use of gill nets and exercise our treaty rights began.

Throughout the legal fight, my grandfather enjoyed the support of our family and the community. This round of litigation ended after the Michigan Supreme Court ruled in 1976 that the right to fish in the ceded waters of Michigan's Great Lakes, reserved in the 1836 Treaty, continued to exist and the State's power to regulate treaty-protected fishing activity was limited to those restrictions exclusively necessary to protect the resource from depletion (the so-called "conservation standard").

My grandfather's legacy means the world to me. When I am on the lake, I regularly think about those who stood up for us to have these fishing rights. Fishing has been part of Bay

RECEIVED by MSC 11/14/2025 2:10:18 PM

Mills' lifeway since time immemorial. Our people reserved the right to fish in the treaty and have protected these rights through sacrifices like my grandfather's – a sacrifice he made at a time when some other Tribes were not formally recognized by the United States.

Q. Why was it important to protect those rights?

A. It was important to protect our treaty fishing rights in order to preserve traditional lifeways, and to support commercial and subsistence fishing. It was important to ensure that future generations have the opportunity to continue our traditions and way of life as Anishinaabe people. We have an inherent, intimate connection with Mother Earth, who gives us our food, resources, and all we need to live.

Q. How are you involved in protecting natural resources, including the fishery?

A. I serve on the Bay Mills Conservation Committee. My term expires in November 2021.

Q. What is the Bay Mills Conservation Committee?

A. The Conservation Committee is an elected nine-member committee of the Bay Mills Indian Community with the authority and responsibility for regulation of all matters pertaining to hunting, trapping, and fishing. This responsibility spans the ceded territory. The way we've managed our lands, waters, and animals is to regard them as neighbors, not a resource. Every animal has a purpose in life, and we pay attention to it and honor it. We don't waste things; we aim to ensure our efforts aren't based on greed. We did not have to be taught resource management; it is simply a way of life for us.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Q. Why do you serve on the Bay Mills Conservation Committee?

A. I began serving on the Conservation Committee because I wanted to be involved in our decision-making processes. I wanted to have a voice for myself and the community. I wanted to serve my community and help in the ways that I could at that time.

~~**Q. What are your concerns about the Line 5 pipeline tunnel project?**~~

~~A. I am very concerned that the pipeline and the tunnel project will harm the Great Lakes ecosystem and other inland resources. Running a pipeline through and across waters puts those waters, and all animal species and humans that rely on those waters, at risk. This project would not only damage the Straits of Mackinac and surrounding area, it would also allow the pipeline to continue to operate throughout the ceded territory, where it crosses many more rivers and streams that flow into the Great Lakes.~~

~~Additionally, I am concerned that this project will continue our reliance on fossil fuels. We already know that climate change is harming our environment and disrupting the ecosystems that we rely on. This project will perpetuate that harm and threaten our traditional fishing lifeways. Of the many things I have learned during my numerous years fishing, it is that the Great Lakes are the gate keepers of habitat management for the different species of fish that are available for harvest. Any harm to the Great Lakes will inevitably harm the fish. These waters are too culturally and economically important to put at risk.~~

RECEIVED by MSC 11/14/2025 2:10:18 PM

~~Q. If there were an event that damaged the fishery, what effect would that have on you, your family, and Bay Mills fisherpersons?~~

~~A. If the fishery resources were significantly harmed, it would be devastating. The Great Lakes and connecting waters are key, and they are interconnected to all of our environment: plants, animals, medicines (both land-based and sea-based). The threat that the pipeline imposes on that entire system is not at all worth the risk. If the Great Lakes ecosystem is harmed, I will have no means to continue supporting my family through treaty subsistence and commercial fishing, or harvesting of medicines and animals.~~

~~Successful commercial fishing is a complex enterprise. Knowing when, how, and where to fish all involve special knowledge that has been passed down through multiple generations of fisherman. Beyond the harm that an oil spill or other event would have on the health of lake trout and whitefish, any disruption of the fishery for an extended period would stifle the transfer of fishing knowledge to younger generations. This could be devastating.~~

~~The scope of impact of a large oil spill, or other catastrophe, would go far beyond myself, my family, or indigenous people. It would impact everyone. It would change the entire flow of environmental growth for an immeasurable amount of time, eradicate some species, change spawning seasons, change entire future generations of land and sea species. It would impact things that we cannot measure. A major oil spill would be an epic catastrophe beyond comprehension.~~

Q. Does that conclude your testimony?

A. Yes.

RECEIVED by MSC 11/14/2025 2:10:18 PM

MR. CLARK: Thank you, your Honor. Bay Mills moves for the admission of the revised direct public testimony of Dr. Charles E. Cleland, along with the revised confidential testimony of Dr. Charles E. Cleland, both of which consist of a cover page and 40 pages of questions and answers, along with sponsored Exhibits BMC-31, BMC-32, BMC-33, BMC-34, and BMC-36, with BMC-35 having been stricken by previous order, and Bay Mills preserving all appellate rights with respect to the stricken exhibit.

JUDGE MACK: Thank you. Is there any objection to the offer? (No response.)

Hearing none, the revised public and confidential testimony of Dr. Cleland is bound into the record, and Exhibits BMC-31 through 34 and BMC-36 are admitted.

(Public Testimony bound in.)

(Confidential Testimony found on Page 1590 of the Confidential Record.)

- - -

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix V

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

Application of Enbridge Energy, Limited Partnership for the for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief.	Case No. U-20763

RULING ON MOTIONS TO STRIKE

On December 21, 2021, Enbridge Energy Limited Partnership (Enbridge) filed 9 Motions to Strike. On January 11, 2022, Responses to the Motions were filed.[1] Oral argument on the Motions was heard on January 13, 2022, and the hearing will commence on January 14, 2022.

In general, the Motions contend the cited testimony and exhibits are inadmissible because it is irrelevant under MRE 401 and MRE 402, hearsay under MRE 801(c) and MRE 802, improper opinion testimony under MRE 702, and/or improper rebuttal under R 792.10428(3). [2] Enbridge's challenge to the relevancy of the cited testimony/exhibits under MRE 402 is based on the Commission's holding that any issues concerning the

[1] The parties offering the challenged testimony and exhibits filed Responses in opposition to the Motions. The Michigan Propane Gas Association and National Propane Gas Association filed a Response supporting all the Motions. Staff filed a Response supporting three of the Motions and taking no position, except for the alternative relief sought, in one. Staff's positions are addressed under the applicable Motions.

[2] In a contested case under the Administrative Procedures Act "the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but an agency may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded." MCL 24.275; see also R 792.10427(1).

RECEIVED by MSC 11/14/2025 2:10:18 PM

current or future operational aspects of the entirety of Line 5 is outside the scope of the case. See Case No. U-20763, April 21, 2021 Order (April 2021 Order), pg. 60. Rather, the scope of this case under the April 2021 Order is twofold. First, a review of the activity proposed in the Application, the replacement of the existing dual pipelines on the bottomlands of the Straits of Mackinac with a pipeline in a proposed utility tunnel, under the provisions of Public Act 16 of 1929, MCL 483.1 et seq. (Act 16). Id., 57-63. Second, consideration of the project under the Michigan Environmental Protection Act, MCL 24.1701, *et seq*., (MEPA). Id., pgs. 63-69.

The Motions are addressed as follows:

1. Dr. Charles Cleland – Direct testimony on behalf of the Bay Mills Indian Community and proposed Exhibit BMC-35.

In this Motion Enbridge seeks to strike portions of Dr. Cleland's testimony pertaining to the continuing operation of Line 5, the possible impacts of construction of the proposed tunnel, and the methodology of a survey Enbridge submitted to the United States Corp. of Engineers (USACE) as part of the geotechnical program regarding the feasibility of the tunnel. Regarding the first point, Enbridge argues Dr. Cleland's testimony concerning the operation of Line 5, including the dual pipelines, is outside the scope of this case under the April 2021 Order. Enbridge also seeks to strike portions of the testimony because while Dr. Cleland is an expert on cultural and historical sites, he lacks any basis under MRE 702 to opine on the project's impact to those features. Finally, Enbridge contends Dr. Cleland's testimony and proposed Exhibit regarding the validity of an environmental survey it performed as part of an application with the

RECEIVED by MSC 11/14/2025 2:10:18 PM

USACE is based on hearsay, and irrelevant as it involves installation of observation towers far removed from the project area in this case.

In response, the Bay Mills Indian Community (BMIC) notes Dr. Cleland is an ethnohistorian who has studied the cultures and histories of the native people of the Upper Great Lakes, including the Straits of Mackinac, during his academic career. His testimony focuses on those subjects and the potential impact on them from both the project and a catastrophic event emanating from either the dual pipelines or proposed tunnel. The BMIC argues the proposed evidence is relevant under both Act 16 and MEPA as set forth in the April 2021 Order, and the evidentiary standards, which it terms as broad, in cases before the Commission. The BMIC contends the challenged testimony is also responsive to one of the stated purposes of the project, to alleviate potential environmental harm from a release from the dual pipelines by relocating them to the utility tunnel. The BMIC also contends the Motion mischaracterizes Dr. Cleland's testimony by claiming it addresses the potential for a catastrophic event when it instead addresses the effect of such an event. Finally, proposed Exhibit BMC-35 is not hearsay because it is being offered as a foundation of Dr. Cleland's opinion that additional underwater studies of the project area are necessary, and thus is admissible under MRE 703.

In considering the Motion, Enbridge's arguments are valid. The challenged testimony goes beyond the scope of the hearing set in the April 2021 Order by addressing operational and safety aspects of Line 5 and the dual pipelines. Further, while Dr. Cleland is obviously an expert in ethnohistory, the challenge is to his testimony

RECEIVED by MSC 11/14/2025 2:10:18 PM

concerning the potential for a catastrophic event emanating from the tunnel. As Enbridge notes, Dr. Cleland lacks any basis to opine on the actual or potential impact to the physical world from the proposed project. Finally, proposed Exhibit BMC-35 is, as Enbridge notes, hearsay within hearsay because not only does Dr. Cleland lack personal knowledge of the claims in it, the author of the document, Dr. O'Shea, claims no such knowledge. The Administrative Procedures Act (APA) provides for a relatively relaxed evidentiary standard by allowing evidence if it is the type a reasonable person would rely on in the course of their affairs. However, a relaxed standard does not equate to no standard. A document that a witness relies on that is authored by someone who lacks personal knowledge of the facts it contains and does not identify who made the statements or their basis, is inherently unreliable. In addition, the nature of the document effectively precludes cross-examination of the witness offering it and/or rebuttal of the facts in the document. Therefore, the cited testimony in the Motion and proposed Exhibit BMC-35 are stricken.

2. Richard Kuprewicz – Rebuttal testimony filed on behalf of Bay Mills Indian Community

This Motion pertains to Mr. Kuprewicz's rebuttal testimony concerning the potential for, and effects of, an explosion in the proposed utility tunnel. Enbridge contends that this issue was never raised in its direct testimony, or that filed by Commission Staff and the Mackinac Straits Corridor Authority (MSCA). Further Mr. Kuprewicz's rebuttal testimony is based on information regarding the design aspects of the tunnel filed before the BMIC filed it direct case, so the issue should have been raised in his direct testimony. Accordingly, the challenged testimony is improper

RECEIVED by MSC 11/14/2025 2:10:18 PM

rebuttal, which Enbridge notes is limited to testimony that "directly tends to disprove a witness' exact testimony." Motion, pg. 5, citing *Westland v Okopski*, 208 Mich App 66, 72 (1994). If the challenged rebuttal testimony is entered, Enbridge claims it will be unduly prejudiced, which is the result that the limit on rebuttal testimony is intended to avoid. Staff takes no position on this Motion but supports allowing the other Parties the right to file surrebuttal if the rebuttal testimony is admitted.

In response, the BMIC goes through Mr. Kuprewicz's rebuttal testimony and cites to the witnesses it is rebutting. However, the Motion is seeking to strike three discrete portions of the testimony that Enbridge claims is improper rebuttal because for the first time it raises the issue of a tunnel explosion and quantifies the chance of it occurring. The BMIC argues the challenged testimony rebuts the testimony of Staff and MSCA witnesses concerning the likelihood of a release from the tunnel into the Straits as negligible and un-quantifiably low. The BMIC contends Mr. Kuprewicz examined the basis of those opinions and rebutted them by opining such a release could result if an explosion occurred, and then quantified the chance of that as low, but not negligible. As Enbridge notes, the Staff and MSCA witnesses never testified to the likelihood of an explosion in the tunnel causing a release to the Straits of Mackinac, and thus the challenged rebuttal testimony is not directly responsive to the direct case of those Parties. However, the witnesses did quantify the risk of a release and the challenged testimony serves to rebut that testimony, albeit with information that was available before the BMIC filed its direct case. While the issue would have been best raised in the BMIC's direct case, which would have allowed the other Parties to address it in their

RECEIVED by MSC 11/14/2025 2:10:18 PM

rebuttal, characterizing Mr. Kuprewicz's testimony as rebuttal is proper. This is especially appropriate given Enbridge's alternative relief request, allowing for it to file surrebuttal under R 792.10427(3). During Oral Argument counsel indicated Enbridge is prepared to file surrebuttal during its case, which will allow for cross-examination of the witness, not require an adjustment of the schedule, and provide the Commission with an evidentiary record on this issue.[3] Therefore, the Motion to Strike Mr. Kuprewicz's rebuttal testimony concerning a release due to a tunnel explosion is denied, and Enbridge's alternative relief, leave to file surrebuttal, is granted.

3. Jacques LeBlanc, Jr. – Direct testimony filed on behalf of Bay Mills Indian Community

The testimony challenged in this Motion pertains Mr. LeBlanc's concern over the continued operation of Line 5 and reliance on fossil fuels. Enbridge contends these issues are outside the scope of the hearing under the April 2021 Order, and thus irrelevant. Staff supports this Motion, and argues the cited testimony goes to the operational aspects of Line 5, which the Commission held is outside the scope of this case.

In response, the BMIC contends Mr. LeBlanc, a Bay Mills fisherman, testifies to the importance of fishing to the Community, along with the need to protect treaty rights and natural resources from the effects of both a release from the pipeline and climate change. As such, the BMIC contends the challenged testimony is relevant under the April 2021 Order, and admissible under the APA. While the BMIC asserts Mr. LeBlanc's

[3] Staff indicated that if it were to file surrebuttal an adjustment of the schedule would be necessary, but its concerns with Mr. Kuprewicz's rebuttal testimony may be alleviated by Enbridge's surrebuttal. Given the length of time this case has been pending and being on the eve of cross-examination, the schedule will not be adjusted.

RECEIVED by MSC 11/14/2025 2:10:18 PM

testimony is responsive to the project under consideration, and thus relevant, the testimony addresses the continued operation of Line 5 and a generalized concern over the effects of climate change. Consistent with the April 2021 Order, the challenged testimony is irrelevant, and the relief sought in the Motion is granted. Motion, pg. 3.

4. President Whitney Gravelle – Direct testimony filed on behalf of Bay Mills Indian Community and Exhibits BMC-1 through BMC-5

The testimony and exhibits challenged in this Motion pertains to the purported threat from the continued operation of Line 5, which Enbridge argues is outside the scope of this case under the April 2021 Order. Staff supports this Motion and argues the cited testimony and proposed Exhibits BMC-1 through BMC-5 go to the operational aspects of Line 5, which the Commission held is outside the scope of this case.[4]

In response, the EBIC notes President Gravelle testifies to the Community's treaty rights and the resources within the project area, and the challenged testimony is relevant under the April 2021 Order and admissible under the APA. Specifically, the EBIC argues the challenged testimony and exhibits provides the position of the Community through its Executive Council on the project, along with the spiritual, historical, and cultural importance of the Straits and the threat to them posed by the project. The challenged testimony and exhibits can only be characterized as addressing concerns over the safety and operational aspects of the entirety of Line 5. As such, it is outside the scope of this case under the April 2021 Order, and

[4] Staff takes no position on the admissibility of BMC-3, but notes it consists of comments submitted regarding a draft Alternatives Analysis and whether those comments are applicable to the final report is unknown.

RECEIVED by MSC 11/14/2025 2:10:18 PM

inadmissible as irrelevant. Therefore, the relief sought in the Motion is granted. Motion, pg. 3.

5. Frank Ettawageshik – Direct testimony on behalf of the Bay Mills Indian Community and Little Traverse Bay Band of Odawa Indians and proposed Exhibits BMC-17 through BMC-30

The Motion contends the testimony of Mr. Ettawageshik, and proposed exhibits, concerning tribal state and global advocacy on climate change does not go to the proper MEPA inquiry identified in the April 2021 Order. As such, the testimony and exhibits are irrelevant. In response, the BMIC and Little Traverse Bay Band of Odawa Indians contend the testimony and exhibits are relevant under the holding that "the parties are free to introduce evidence of GHG emissions…" for consideration under MEPA. Case No. U-20763, April 21, 2021 Order, pg. 66. Since the challenged testimony and exhibits go to greenhouse gas emissions, along with the broader, but related, issue of the climate change, they are relevant.

In holding the effects of greenhouse gas emissions is relevant the Commission limited the scope "to the 4-mile section of the pipeline described in the application…" that transport "hydrocarbons that may result in GHG emissions…." Id., pg. 67. The challenged testimony and exhibits do not address that discreet issue, but rather focus on climate change on a global level and the advocacy by the tribes on that issue. As such, the challenged testimony and exhibits are outside the scope of the April 2021 Order, and thus irrelevant. For these reasons, the relief sought in the Motion is granted. Motion, pg. 4.

RECEIVED by MSC 11/14/2025 2:10:18 PM

6. Dr. Peter Howard – Direct testimony on behalf of the Environmental Law and Policy Center and Michigan Climate Action Network and proposed Exhibits ELP-8 through ELP-10

The Motion seeks to strike on relevancy the entirety of Dr. Howard's testimony and the exhibits offered with that testimony.[5] At pg. 1 Dr. Howard "applies a widely-accepted economic methodology, known as the Social Cost of Greenhouse Gases, to monetize the incremental climate costs from the emissions from construction and operation of the proposed Line 5 project, as well as the lifecycle emissions from the oil and natural gas products that would be transported by that Proposed Project." Based on that methodology, at pg. 5 Dr. Howard testified the project will result in $41b in net monetized climate costs between 2027-2070 relative to a no-action alternative, i.e., allowing the existing pipeline to shut down and not relocating the dual pipelines from the bottomlands to the proposed utility tunnel. On pg. 6 Dr. Howard relied on Mr. Erickson's calculations of total greenhouse gas emissions from the construction and operation of the project and lifecycle emissions from the products shipped on the pipeline. The Motion contends Dr. Howard's testimony and exhibits are not relevant to the Commission's review of the project under Act 16 or MEPA.

In response, the Environmental Law and Policy Center and Michigan Climate Action Network (ELPC) argues Dr. Howard's testimony is admissible under the April 2021 Order and the relatively relaxed evidentiary standards in contested cases. Specifically, the ELPC comprehensively argues Dr. Howard's testimony is relevant under the MEPA analysis of the project by addressing the social cost of carbon under

[5] The Motion does not identify the exhibits. Dr. Howard's pre-filed testimony includes proposed Exhibits ELP-8, ELP-9, and ELP-10. Dkt. #0865.

RECEIVED by MSC 11/14/2025 2:10:18 PM

what is termed a globally accepted metric to quantify the effect of greenhouse gas emissions.

In opening this case the Commission found the proposed project "involves significant factual and policy questions and complex legal determinations that can only be resolved with the benefit of discovery, comprehensive testimony and evidence, and a well-developed record in a contested case proceeding." Case No. U-20763, June 30, 2020 Order, pg. 69. Subsequently, the Commission held greenhouse gas emissions resulting from the proposed activity "fit within the statutory language of Section 5 of MEPA, and therefore must be reviewed in this case" and "the parties are free to introduce evidence addressing the issue of GHG emissions…" as it pertains "to the 4-mile section of the pipeline described in the application…." Id., pgs. 66-67. Dr. Howard's testimony fits within the parameters of this holding, and thus is relevant. Concomitantly, Dr. Howard's testimony is relevant under the Commission's holding that it must determine whether there are feasible and prudent alternatives to the proposed project under MEPA and "evidence addressing how to account for GHG pollutant impacts attributable to the proposed Replacement Project, where the proper boundaries of GHG pollutants should be drawn, and the correct alternative(s) for comparison would be helpful to the Commission in making this determination." Id., pg. 69.

Based on the foregoing, the Motion to Strike Dr. Howard's testimony and proposed Exhibits ELP-8 through ELP-10 is denied.

RECEIVED by MSC 11/14/2025 2:10:18 PM

7. Peter Erickson – Direct testimony on behalf of the Environmental Law and Policy Center and Michigan Climate Action Network (ELPC)

This Motion argues Mr. Erickson's testimony concerning proposed project's compliance with the MI Healthy Climate Plan and the Paris Agreement on climate change are irrelevant, speculative, and/or improper opinion testimony. Enbridge acknowledges the Commission held greenhouse gas emissions are a proper consideration under the MEPA review of the project, but contends the challenged testimony ventures beyond that issue and raises proposals that are not substantive legal standards under which the project can be reviewed, and thus both are irrelevant. The Motion also notes the Healthy Climate Plan, which was to be submitted to the Governor on December 31, 2021, is included in Executive Directive 2020-10, which is intended to meet the goals of the Paris Agreement. Proposed Exhibit ELP-19. Given the Plan did not exist at the time Mr. Erickson filed his testimony, and its intended purpose could be achieved by various methods, the Motion contends the challenged testimony is speculative and inadmissible as expert opinion.

In response, the ELPC argues the challenged testimony provides context and foundation for the impact of oil production on greenhouse gas emissions and is relevant to the Commission's MEPA analysis of the project. Specifically, consideration of feasible and prudent alternatives to the proposed project. The Commission's holding on the scope of its review of the proposed project under MEPA includes, as set forth above, a determination on the effect of greenhouse gas emissions. Two considerations are important in determining whether the cited testimony is relevant to that issue. First, the Healthy Climate Plan will represent a policy derived from an Executive Directive, as

RECEIVED by MSC 11/14/2025 2:10:18 PM

opposed to a substantive standard under statute that creates legal rights, duties and obligations.[6] Second, and more importantly, the Healthy Climate Plan is still being formulated, so even if it is relevant to the Commission's MEPA analysis, whether the proposed project complies with it is unknown. Because the Plan does not exist, whether the proposed project complies with it is beyond the issues that are proper for expert testimony. Therefore, the Motion is granted, and the cited testimony is stricken. Motion, pg. 4.

8. Dr. Elizabeth Stanton – Environmental Law and Policy Center, Michigan Climate Action Network and Bay Mills Indian Community

This Motion seeks to strike as inadmissible portions of Dr. Stanton's direct and rebuttal testimony that pertains to:

- Shutting down Line 5 and the outcome of litigation over the Governor's notice to terminate the easement (pg. 4, lines 11-15; pg. 7, lines 5-11);
- The viability of the operation of fossil fuel-fired equipment such as a pipeline, and attendant diminishment of the value of such equipment as a "stranded cost", in the future under various state, federal and international efforts, including the MI Healthy Climate Plan (pg. 10, line 17 through pg. 11, line 6; pg. 21, line 9 through page 23, line 6; pg. 23, line 7 through pg. 24, line 8; pg. 24, line 16 through pg. 25, line 3, and rebuttal pg. 6, lines 18 through 22).
- The validity of comments of others based on a report, neither of which are entered on the record, on issues she acknowledges were not independently analyzed (pg. 17, line 19 through pg. 21, line 8).

Enbridge argues this testimony is irrelevant because it goes to issues outside the scope of this case, is admissible hearsay, and goes beyond proper opinion testimony.

In response, the ELPC argues Dr. Stanton does not opine on the outcome of the litigation on the easement or offer legal conclusions about the issue. Rather, Dr.

[6] An Executive Directive "does not expand an agency's jurisdiction under MEPA…." Case No. U-20763, April 21, 2021 Order, pg. 66, fn 25, citing Op. Att. Gen 2009, No. 7224.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Stanton states facts, the notice was issued and litigation ensued, as part of her analysis of what is termed the "no action alternative" she propounds, and is, according to the ELPC, relevant to the Commission's consideration of the "non-operational 4-mile dual pipeline segments." Case No. U-20763, April 21, 2021 Order, pg. 67. Along the same lines, the ELPC argues Dr. Stanton's testimony regarding climate goals and stranded assets underlies her opinion that the no action alternative is feasible and prudent under MEPA. Further, Dr. Stanton does not address compliance with the state and federal climate goals, but notes they are a consideration in the MEPA alternatives analysis. As to the hearsay objection, the ELPC notes Dr. Stanton is responding to public statements that seemingly inveigh against the no action alternative, which is consistent with the APA's allowance for admitting and giving effect to evidence a reasonable person would rely on in the course of their affairs.

The testimony concerning the future of Line 5 based on the litigation on the State's notice to revoke the easement and the viability of fossil fuel-fired equipment is used to support Dr. Stanton's opinion on the feasibility and prudence of what is termed the no action alternative. An examination of alternatives to the proposed project is required under MEPA. MCL 324.1705(2); See Case No. U-20763, April 21, 2021 Order, pgs. 68-69. Therefore, Dr. Stanton's testimony regarding that alternative is relevant, which leaves the issue of whether the challenged testimony is proper expert opinion. Dr. Stanton notes the issuance of the notice by the State, and litigation to enforce it, as one basis of her opinion concerning that alternative. While the subsequent dismissal of the suit seeking to enforce the notice undermines that basis, it does not render the

RECEIVED by MSC 11/14/2025 2:10:18 PM

testimony inadmissible, but rather leaves the issue as what, if any, weight should be assigned to the testimony. The same is true of Dr. Stanton's testimony that climate change goals established by the State of Michigan has the potential to render fossil-fuel equipment a stranded asset at some point in the future.[7] The fact that Enbridge disagrees with that contention does not render the testimony improper expert opinion, but goes to the question of what, if any, weight it can be assigned.

This leaves the testimony the Motion contends is inadmissible as hearsay. The challenged testimony goes to Dr. Stanton's contention that concerns over the no action alternative's impact on propane and fuel supply availability, and attendant economic impacts, are unfounded. Dr. Stanton's testimony responds to Enbridge's public statements and a report by an industry association on the impact of Line 5 being shutdown by noting they mirror the public statements of the Governor of Ohio and are called into question by a report issued by a party to this case that will apparently will not be offered as evidence. The sources referenced by Dr. Stanton are within scope of the relatively relaxed evidentiary standards in contested cases: "an agency may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent [people] in the conduct of their affairs." MCL 24.275

Based on the foregoing, the Motion to Strike portions of the direct and rebuttal testimony of Dr. Elizabeth Stanton is denied.

[7] Unlike Mr. Erickson's testimony at pg. 47 that the "construction of the project would work against, and therefore be inconsistent with, the goals of the global Paris Agreement and Michigan's Healthy Climate Plan…", Dr. Stanton generally references the Plan at pg. 22 in the context of efforts to reduce emissions and offers the Executive Directive as proposed Exhibit ELP-19.

RECEIVED by MSC 11/14/2025 2:10:18 PM

9. John Rodwan – Direct testimony on behalf of the Nottawaseppi Huron Band of Potawatomi and proposed Exhibit NHBP-3

The Motion contends the cited testimony and exhibit pertains to issues outside the scope of this case identified in the April 2021 Order. Specifically, Mr. Rodwan generally testifies to the deleterious effects of fossil fuel consumption, possible effects from the continued operation of Line 5, and the actual effects to the Kalamazoo River from the 2010 release from Enbridge's Line 6B.[8] Staff supports this Motion, and agrees the cited testimony and exhibit are outside the scope of this case under the April 2021 Order.

In response, The Nottawaseppi Huron Band of Potawatomi (NHBP) notes that the testimony challenged in the Motion goes to the impact of climate change on Wild Rice beds in the Tribe's territory and the efforts of the Tribe to restore the beds to enable traditional rice growing practices. Under the scope of the Commission's holding regarding MEPA and directive that a "robust record in this case is crucial", the NHBP argues Mr. Rodwan's testimony is relevant. See Case No. U-20763, April 21, 2021 Order, pgs. 66-67. As for the testimony regarding the release from Line 6B and proposed Exhibit NHBP-3, the NHBP contends Mr. Rodwan is providing a foundation for his opinion on the sensitive nature of the rice beds and how that is disturbed by climate change and the long-term effects of the release. Finally, the NHBP argues it, and the other Tribal Groups, have a particular right to be heard because this case involves resources central to their spiritual and culture life.

[8] Enbridge notes that in a case involving replacement of portions of Line 6B the Commission held the impacts from the 2010 release were properly excluded as irrelevant. Case No. U-17020, January 31, 2013 Order, pg. 27. The NHBP disputes this and notes the issue in that case was a government report that went to the cause of the release, an issue Mr. Rodwan does not address.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The challenged testimony all goes to the effect of Enbridge's Line 6B release into the Kalamazoo River in 2010, the potential harm from a similar release from Line 5, and generalized harms attributed to the use of fossil fuels. The challenged exhibit also goes to the Line 6B release, the decommissioning of Line 5, and a Memorandum of Understanding with the State of Illinois. While the testimony and exhibit addresses issues that are unquestionably important to the NHBP, this proposed evidence cannot be fairly characterized as relevant to the review of the project in this case under Act 16 and MEPA. [9] Consistent with the April 2021 Order, the challenged testimony and proposed exhibits are irrelevant, and the relief sought in the Motion is granted. Motion, pgs. 6-7.

Based on the foregoing, the following Motions to Strike are granted:

1. Dr. Charles Cleland's direct testimony at:

- Page 7, lines 16 – 20;
- Page 14, lines 11 – 15;
- Page 15, lines 3 – 7;
- Page 17, lines 15 – 17;
- Page 17, line 18 through page 19, line 15;
- Page 19, line 16 through page 20, line 10;
- Page 23, line 16 through page 24, line 2;
- Page 28, lines 5 – 8;
- Page 32, line 15 through page 34, line 22;
- Page 24, line 19 through page 25, line 20;
- Page 35, line 8 through page 36, line 10;
- Page 37, line 11 through page 38, line 9; and
- Proposed Exhibit BMC-35.

[9] In arguing for the admissibility of the challenged testimony the NHBP relies on the Commission's holding that "the need for a robust record in this case is crucial." Cas No. U-20763, April 21, 2021 Order, pg. 67, citing June 30, 2019 Order, pg. 69. The other Parties sponsoring the challenged testimony all cite to this holding in support, to some degree, of admitting the testimony. However, this holding must be considered consistent with the evidentiary standards in the APA and Commission rules, including the requirement that evidence entered on the record must be relevant.

RECEIVED by MSC 11/14/2025 2:10:18 PM

2. Jacques LeBlanc, Jr., direct testimony at page 8, line 5 through page 9, line 19.

3. President Whitney Gravelle's direct testimony at:

- Page 6, lines 3 through 20;
- Page 12, line 13 through page 13, line 5; and
- Proposed Exhibits BMC-1 through BMC-5.

4. Frank Ettawageshik's direct testimony at:

- Page 7, line 3 through page 8 line 10;
- Page 8, line 11 through page 10, line 14;
- Page 10, line 15 through page 12 line 12;
- Page 14, line 2 through page 15 line 8;
- Page 15, line 10 through page 16 line 9; and
- Proposed Exhibits BMC-17 through BMC–30

5. Peter Erickson's direct testimony at:

- Page 6, lines 18-20;
- Page 44, line 1 through page 46, line 17; and
- Page 47, lines 9 – 12.

6. John Rodwan direct testimony at:

- Page 12, line 11 through page 13, line 4;[10]
- Page 14, lines 12 – 13;
- Page 16 lines 9 – 18;
- Page 16, line 19 through page 17, line 2; and
- Proposed Exhibit NHBP-3.

Based on the foregoing the following Motions to Strike are denied:

1. Portions of Mr. Kuprewicz's rebuttal testimony concerning a tunnel explosion resulting in a release into the environment. Enbridge's alternative relief, leave to file surrebuttal on this issue under R 792.10427(3), is granted. That testimony shall be filed and served as soon as possible.

[10] The Motion challenges page 12, line 11 through page 12, line 4. During oral argument counsel for Enbridge clarified the testimony is page 12, line 11 through page 13, line 4.

RECEIVED by MSC 11/14/2025 2:10:18 PM

2. Dr. Howard's entire direct testimony and proposed Exhibits ELP-8 through ELP-10.

3. Portions of the direct and rebuttal testimony of Dr. Elizabeth Stanton.

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
For the Michigan Public Service Commission

Dennis W. Mack

Digitally signed by: Dennis W. Mack
DN: CN = Dennis W. Mack email = mackd2@michigan.gov C = US O = MOAHR OU = MOAHR-PSC
Date: 2022.01.13 16:22:24 -05'00'

Dennis W. Mack
Administrative Law Judge

January 13, 2022
Lansing, Michigan

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

STATE OF MICHIGAN)
) SS.
County of Ingham)

Case No. U-20763

PROOF OF SERVICE

Meaghan Dobie being duly sworn, deposes and says that on January 13, 2022, she served a copy of the attached Ruling on Motions to Strike via email and/or first-class mail, to the persons as shown on the attached service list.



Meaghan Dobie

Subscribed and sworn to before me this
13th day of January 2022.



Brianna L. Brown
Notary Public, Gratiot County
My Commission Expires July 4, 2028

RECEIVED by MSC 11/14/2025 2:10:18 PM

SERVICE LIST
CASE NO. U-20763

ENBRIDGE ENERGY, LIMITED PARTNERSHIP
Michael S. Ashton
Shaina Reed
Jennifer U. Heston
mashton@fraserlawfirm.com
sreed@fraserlawfirm.com
jheston@fraserlawfirm.com

MICHIGAN PUBLIC SERVICE COMMISSION STAFF
Spencer A. Sattler
Nicholas Q. Taylor
Benjamin J. Holwerda
sattlers@michigan.gov
taylorn10@michigan.gov
holwerdab@michigan.gov

MICHIGAN ENVIRONMENTAL COUNCIL
Christopher M. Bzdok
Lydia Barbash-Riley
Karla Gerds
Kimberly Flynn
Breanna Thomas
Jill Smigielski
chris@envlaw.com
lydia@envlaw.com
karla@envlaw.com
kimberly@envlaw.com
breanna@envlaw.com
jill@envlaw.com

FOR LOVE OF WATER
James M. Olson
jim@flowforwater.org

GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS
William Rastetter
Christopher M. Bzdok
Lydia Barbash-Riley
Karla Gerds
Kimberly Flynn
Breanna Thomas
Jill Smigielski
bill@envlaw.com

chris@envlaw.com
lydia@envlaw.com
karla@envlaw.com
kimberly@envlaw.com
breanna@envlaw.com
jill@envlaw.com

BAY MILLS INDIAN COMMUNITY

Christopher M. Bzdok
Julie M. Goodwin
Noorulanne H. Jan
Kathryn Tierney
Deborah Musiker (aka Debbie Chizewer)
Christopher R. Clark
David L. Gover
Matthew L. Campbell
Mary K. Rock
Megan R. Condon
Adam J. Ratchenski
Wesley James Furlong
chris@envlaw.com
jgoodwin@earthjustice.org
njan@earthjustice.org
candyt@bmic.net
dchizewer@earthjustice.org
cclark@earthjustice.org
dgover@narf.org
mcampbell@narf.org
mrock@earthjustice.org
mcondon@narf.org
aratchenski@earthjustice.org
wfurlong@narf.org

TIP OF THE MITT WATERSHED COUNCIL

Abigail Hawley
Christopher M. Bzdok
Lydia Barbash-Riley
Karla Gerds
Kimberly Flynn
Breanna Thomas
Jill Smigielski
abbie@envlaw.com
chris@envlaw.com
lydia@envlaw.com
karla@envlaw.com
kimberly@envlaw.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

RECEIVED by MSC 11/14/2025 2:10:18 PM

breanna@envlaw.com
jill@envlaw.com

NATIONAL WILDLIFE FEDERATION
Christopher M. Bzdok
Lydia Barbash-Riley
Karla Gerds
Kimberly Flynn
Breanna Thomas
Jill Smigielski
chris@envlaw.com
lydia@envlaw.com
karla@envlaw.com
kimberly@envlaw.com
breanna@envlaw.com
jill@envlaw.com

DEPARTMENT OF ATTORNEY GENERAL
Robert P. Reichel
reichelb@michigan.gov
AG-ENRA-Spec-Lit@michigan.gov

ENVIRONMENTAL LAW & POLICY CENTER AND MICHIGAN CLIMATE ACTION NETWORK
Margrethe Kearney
Howard A. Learner
Kiana E. Courtney
Ariel Salmon
mkearney@elpc.org
hlearner@elpc.org
kcourtney@elpc.org
asalmon@earthjustice.org

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
James Bransky
jbransky@chartermi.net

NOTTAWASEPPI HURON BAND OF THE POTAWATOMI (NHBP)
Christopher M. Bzdok
John Swimmer
Amy L. Wesaw
chris@envlaw.com
john.swimmer@nhbp-nsn.gov
amy.wesaw@nhbp-nsn.gov

RECEIVED by MSC 11/14/2025 2:10:18 PM

MICHIGAN LABORERS' DISTRICT COUNCIL (MLDC)
Christopher P. Legghio
Stuart M. Israel
Lauren E. Crummel
cpl@legghioisrael.com
israel@legghioisrael.com
crummel@legghioisrael.com

MACKINAC STRAITS CORRIDOR AUTHORITY
Raymond O. Howd
Leah Brooks
howdlaw@outlook.com
brooksl6@michigan.gov

MICHIGAN PROPANE GAS ASSOCIATION; NATIONAL PROPANE GAS ASSOCIATION
Troy M. Cumings
Daniel P. Ettinger
Margaret C. Stalker
Paul D. Bratt
tcumings@wnj.com
dettinger@wnj.com
mstalker@wnj.com
pbratt@wnj.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix W

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of ENBRIDGE ENERGY, LIMITED PARTNERSHIP, for authority to replace and relocate the Segment of Line 5 crossing the Straits of Mackinac into a tunnel beneath the Straits of Mackinac, if approval is required pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R792.10447, or the Grant of other Appropriate Relief.

Case No. U-20763

Volume 6

_____/

MOTION HEARING

Proceedings held via Microsoft Teams in the above-entitled matter before Dennis W. Mack, J.D., Administrative Law Judge with MOAHR, for the Michigan Public Service Commission, Lansing, Michigan, on Thursday, January 13, 2022, at 9:09 a.m.

APPEARANCES:

MICHAEL S. ASHTON, ESQ.
Fraser Trebilcock Davis & Dunlap, P.C.
124 West Allegan, Suite 1000
Lansing, Michigan 48933
-and-
SHANNON BENZER, ESQ.
11 East Superior
Duluth, Minnesota 55802

On behalf of Enbridge Energy, Limited Partnership

(Continued)

RECEIVED by MSC 11/14/2025 2:10:18 PM

of the case and to really surgically identify those portions of testimony that Staff believes go beyond the scope.

And to that end, I want to clarify that Staff is not seeking to strike testimony about the risk of an oil spill from the tunnel, but does not believe the testimony about the rest of the pipeline is within the scope, and for this reason, I want to revise our response to President Gravelle which inadvertently supported a request to strike testimony related to a spill from the Straits. Specifically in Staff's response, it supported the motion to strike President Gravelle's testimony from page 12, line 13, through page 13, line 5, and Staff would like to revise this response to apply only to page 13, lines 1 through 5, and those are the portions addressing other sections of Line 5.

And concerning Mr. LeBlanc's testimony that Enbridge moved to strike, there are portions that may also relate to the tunnel project and not just Line 5 as a whole. It was actually unclear to me and to Staff whether most of this testimony related specifically to the tunnel project or to Line 5 as a whole, and perhaps Bay Mills will speak to that.

Beyond that, your Honor, and with that background, I believe Staff's response to Enbridge's

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix X

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of Enbridge Energy, Limited Partnership for Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R. 792.10447, or the Grant of other Appropriate Relief	U-20763 ALJ Dennis Mack

---

REVISED

TESTIMONY OF JOHN RODWAN

ON BEHALF OF

THE NOTTAWASEPPI HURON BAND OF THE POTAWATOMI

January 14, 2022
~~**September 14, 2021**~~

RECEIVED by MSC 11/14/2025 2:10:18 PM

A. Oral tradition indicates that Wild Rice was an essential foodstuff for Native communities for many generations prior to contact with Euromericans. Not only did it directly nourish communities it was also an integral part of the ecosystem that hosted it. For instance, the Wild Rice ripened during the flyover season for migrating waterfowl and other avian species. Also, grain released into the waterway is known to be foraged by a variety of aquatic vertebrates. In the case of Zizania aquatica there has been limited Western-research conducted on ecological relationships. As has been discussed above and by a host of Wild Rice stewards, both scientific and traditional, Wild Rice is particularly sensitive to environmental stressors. Water quality, atmospheric and water temperature and humidity, invasive species, extreme storms, extreme water fluctuations and over-harvest appear as the leading agents of stress to Wild Rice beds. ~~In the case of the July 2010 Enbridge Line 6b release of oil into Talmadge Creek and the Kalamazoo River, NHBP's Wild Rice restoration program was essentially halted for five years within a 35-mile segment of the main channel that was closed to any human traffic unrelated to cleanup operations. This included harvesting of exiting Wild Rice beds, angling, foraging, medicine gathering, trapping, hunting, recreational activities and spiritual practices.~~

Q. ~~**If there continues to be interruption, what reasons are there for such interruption?**~~

A. ~~Compounding the direct effects of the oil itself are the indirect impacts from the dredging, skimming, excavation, removal of structural debris, and increased motorboat traffic that occurred as part of the cleanup. NHBP had identified Wild Rice bed restoration targets along the oiled stretch of the river and had been provided geospatial data by Enbridge regarding small areas of Wild Rice identified through their post-spill species inventory~~

RECEIVED by MSC 11/14/2025 2:10:18 PM

~~review. A common viewpoint of NHBP members is that the river is not viewed as a separate and distinct feature of the landscape in which we dwell, but rather as an interconnected and indivisible component of a traditional lifeway. Its position within the water cycle and the natural systems it interacts with, indeed, and are why, Water is Life.~~

Q. Please describe how Wild Rice reproduces.

A. As an annual plant Wild Rice sustains its populations through direct self-seeding. Sustainable harvesting in a traditional method can assist in the reseeding efforts and expansion of the beds by releasing the seed to the current and substrate. Wild river rice restoration practices include direct seeding and transplanting of immature Wild Rice plants into receiving beds of similar character. It has also been shown that birds and aquatic vertebrates also assist is seed distribution. Being an annual plant, it is particularly vulnerable to years that experience a reduction in seed production. Research may likely indicate that viable seedbanks lie within the substrate of existing beds, but disruption of that substrate through stream channelization or erosion may disrupt seed banks.

Q. Please describe typical population variability for Wild Rice.

A. As with other organisms, Wild Rice populations can be naturally variable. Normal seasonal weather events, naturally occurring predation and water quality change can and do affect Wild Rice production. What we are observing currently are extreme variations to an already stressed collective organism. Local waterways are subject to agricultural-related inputs, contaminated non-point source runoff and an -increasing variety of invasive

RECEIVED by MSC 11/14/2025 2:10:18 PM

species. Restoration of Wild Rice beds have proven to be challenging due to overall environmental change and increasing climate related extremes.

Q. Accounting for normal variations in population, has Wild Rice declined in population?

A. Native American communities throughout the State have worked very hard to stabilize and expand Wild Rice populations, which are remnant populations from a much more expansive precolonial range. These efforts have met with mixed success due to many of the changes to our anthropogenically modified landscape, but in general terms Tribal communities have been increasing their rate of success. NHBP has had a heighted degree of success due to our knowledge base, access to Traditional Ecological Knowledge, resources and partnerships with stewarding agencies and NGOs. However, these successes ~~are eroding due to the effects from a changing climate and a major oil release into the Kalamazoo River in 2010.~~

Barb Barton's award-winning book *Manoomin* provides a review of historic populations of Wild Rice in the State of Michigan. I also personally learned from Barb that her exhaustive research indicates that approximately 75% of Michigan's pre-contact acreage of Wild Rice beds have been lost.

Q. What are your primary concerns about climate change and its effects on Wild Rice?

A. Many resources have been applied by Michigan's Tribes the protect the remnant populations of Wild Rice in our waterways. There are many beds that have been stabilized

RECEIVED by MSC 11/14/2025 2:10:18 PM

and, in some cases, expanded. In a hard-wrought fashion, Wild Rice is regaining itself in its rightful place as a central feature within membership's diet, the environment and social consciousness. Climate changes and oil releases will negatively impact Wild Rice, Wild Rice ecologic communities and the people that live within the Wild Rice Culture.

Looking through the lens of climate change, I have serious concerns for the fate of Wild Rice. To counter those effects, it will be necessary to increase protection, increase research, and restore its populations, all of which need to be underscored by the need for high quality waterways.

Q. Has climate change affected Wild Rice?

A. As discussed earlier, NHBP has directly observed two successive years of Brown Spot Disease, which is based upon excessive nighttime humidity. This year, 2021, we witnessed extreme water fluctuations due to the frequency and intensity of storms, storm damage from extreme winds, warmer temperatures in late winter and early Spring, Of critical importance is the impact from invasive species, including Canadian Geese, Phragmites, cattails, purple loosestrife, and Asian Carp. Even naturally occurring populations of Wild Rice predators have become unbalanced and are having negative impact on Wild Rice., Excessive grazing by muskrat and blackbirds are examples.

Q. How will the proposed Line 5 Tunnel and replacement segment impact Climate Change?

RECEIVED by MSC 11/14/2025 2:10:18 PM

A. Viewing the proposed tunnel in a holistic manner from a Tribal perspective we see both direct and indirect impending impacts. Direct impacts are related to construction, operation and maintenance. Enormous amounts of resources, including fresh water and energy, will be used as part of the drilling operation. These operations will contribute greenhouse gases to the atmosphere. Also, untreated drilling fluids will pose an imminent threat of release to the Straits, thereby posing a direct threat to the aquatic community including high value natural resources such as fisheries and Wild Rice. As a unique Traditional Cultural Property the Straits are formerly and currently of extreme significance to Tribal communities within the Great Lakes Watershed. ~~Indirect impacts include the continued operation of Line 5 along the proposed replacement segment, which crosses beneath numerous streams and rivers, in addition to many culturally and ecologically sensitive habitats. As with the uncontrolled release of oil for 17 hours into Talmadge Creek in the Kalamazoo River Watershed, a release of oil from Line 5 would be catastrophic. Also, in the wake of accelerating Climate Change the continued unrestrained consumption of hydrocarbon-based fossil fuel transported within Line 5's proposed replacement segment is essentially an endorsement for massive input of greenhouse gases into our atmospheres, which has been discussed elsewhere in this testimony as a significant stressor to Wild Rice resources~~.

Q. ~~How is a traditional lifeway further imperiled by the continued use of fossil fuels/non-renewable energy sources?~~

A. ~~Native People practicing a traditional diet increases their exposure pathways to toxins within our environment (including fish, game, foraged goods and directly inhaling~~

RECEIVED by MSC 11/14/2025 2:10:18 PM

~~naturally sourced water in the form of steam sweat lodges). Sugar bush is also stressed, with earlier warm weather arrivals, decreased sap production and lowered sugar content.~~

Q. Does that complete your testimony at this time?

A. Yes. However, I reserve the right to supplement my testimony if needed based on information related to discovery responses furnished to NHBP very late by Enbridge.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix Y

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of Enbridge Energy, Limited Partnership for Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R. 792.10447, or the Grant of other Appropriate Relief	U-20763 ALJ Dennis Mack

TESTIMONY OF PRES. WHITNEY B. GRAVELLE

ON BEHALF OF

BAY MILLS INDIAN COMMUNITY

September 14, 2021



RECEIVED by MSC 11/14/2025 2:10:18 PM

August 1, 2017

Hon. Rick Snyder, Governor
State of Michigan
Post Office Box 30013
Lansing, Michigan 48909

Hon. Bill Schuette, Attorney General
Michigan Department of Attorney General
Post Office Box 30212
Lansing, Michigan 48909

Hon. C. Heidi Grether, Director
Michigan Department
of Environmental Quality
Post Office Box 30473
Lansing, Michigan 48909

Hon. Keith Creagh, Director
Michigan Department of Natural Resources
Post Office Box 30028
Lansing, Michigan 48909

Hon. Valerie Brader, Executive Director
Michigan Agency for Energy
Post Office Box 30221
Lansing, Michigan 48909

RE: Tribal Comments on Dynamic Risk Draft Alternatives Analysis

Dear Governor Snyder, Attorney General Schuette, Director Grether, Director Creagh, and Executive Director Brader,

The Straits of Mackinac occupy a hallowed place in the history of the Indian and non-Indian peoples of Michigan. They are at once an iconic symbol of the State and a sacred wellspring of Anishinaabe life and culture. They have served as a focal point of our shared history for centuries.

In response to the State's invitation, Michigan's twelve federally-recognized Tribes submit these comments regarding the June 27, 2017, Draft Alternatives Analysis for the Straits Pipelines prepared by Dynamic Risk ("Draft Report"). We do so in the spirit of our cherished partnership with the State as co-stewards of the Straits, which while mighty are also vulnerable, and which serve so powerfully as an emblem of our entwined past, present, and future.[1]

[1] Individual Tribes signatory to these comments may also submit additional comments on their own behalf.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Key Takeaways from the Draft Report

- In its February 22, 2016, Request for Information and Proposals (Independent Alternatives Analysis for the Straits Pipelines) ("RFP"), the State, quoting from the Michigan Petroleum Pipeline Task Force Report, declared:

  > *Decisions about the future of the Straits Pipelines must be informed by an independent, comprehensive analysis of alternatives . . . . [requiring] a study by relevant experts of the feasibility, costs, including the specific costs to Michigan, and public risks and benefits of alternatives to the existing Straits Pipelines.*

  RFP at 2 (emphasis in original) (quoting Task Force Report at 50). The RFP accordingly sought an alternatives analysis, the "overall objective of [which] is to provide the State of Michigan and other interested parties with an independent, comprehensive analysis of alternatives to the existing Straits Pipelines, and the extent to which each alternative promotes the public health, safety and welfare and protects the public trust resources of the Great Lakes." RFP at 5.

- Dynamic Risk's Draft Report evaluates a range of alternatives with respect to the Straits Pipelines, including maintenance of the status quo. While the Draft Report's discussion of those alternatives is subject to significant criticism – some of which is outlined below – there are two critical points growing out of the Draft Report that bear emphasis at the outset and should not be obscured by its flaws.

- First, the odds of a rupture of the Straits Pipelines are undeniably high. The Draft Report discusses those odds in mathematical/engineering terms that are somewhat obscure. *See* Draft Report at 2-105 – 2-108. However, at the July 6, 2017, meeting in Holt, Michigan, the project's Chief Engineer stated clearly that, based on the figures set forth in the Draft Report, the odds of a spill from the Straits Pipelines in the next 35 years are not one in a million, or one in a thousand, or even one in a hundred. They are *one in sixty*.[2] This projection stands as an unacceptable threat to an iconic resource, especially when considered in conjunction with the catastrophic consequences that would follow from such a spill. And there exists substantial reason to believe that the actual risk is considerably higher than Dynamic Risk has stated it.

[2] *See* Statements of James Mihell, P. Eng., at July 6, 2017, Information Meeting at Holt, Michigan, at 3:11:00–3:12:00. Available online at https://mipetroleumpipelines.com/event/watch-video-july-6-public-information-session-holt. Last visited July 29, 2017.

RECEIVED by MSC 11/14/2025 2:10:18 PM

- Second, decommissioning the Pipelines would best serve Michigan interests. In addition to its discussion of the risks posed by the Pipelines, the Draft Report contains two critical additional facts leading to this vitally important conclusion:

  Fact: **Michigan consumers and businesses rely on only a modest amount of the crude oil and natural gas liquids transported by Line 5, the significant majority of which is transported through the State and ends up in Canada or beyond.**

  Fact: **Feasible alternatives for supplying the amount of Line 5 product and capacity relied on in Michigan are readily available, such that the Straits Pipelines can be decommissioned with little disruption or increased cost to Michigan consumers and businesses.**

  Conclusion: **Thus, exposing the Straits of Mackinac to the risk of a catastrophic oil spill through the continued operation of the Straits Pipelines is not justified by significant interests of the State, the Tribes, or their citizens. That risk is instead being borne by the people of Michigan for the benefit of out-of-state interests.**

- The Draft Report establishes the first of these facts in unambiguous terms: "The majority of Line 5 throughput is delivered to the Sarnia, Ontario terminal in Canada where it is then transported to refineries across eastern Canada and the U.S. . . . Of the NGLs transported on Line 5, less than 5% are delivered into Rapid River [in the Upper Peninsula]. Lewiston oil injections are also less than 5% of Line 5 current throughput and do not appear to be increasing." Draft Report at 4-4 and 4-5. In other words, the Michigan portion of Line 5 is largely a thoroughfare for the transportation of product to the benefit of commercial, government, and consumer interests elsewhere, including, of course, to the benefit of Enbridge.

- The Draft Report establishes the second of these facts in discussing Alternative 6. *See id.* at 4-6 – 4-24. That Alternative considers the options that will be available to Michigan consumers and businesses to meet their energy and energy transport needs if the Straits Pipelines are decommissioned. The analysis confirms that there are feasible options presently available (1) for delivering an adequate supply of propane to Upper Peninsula customers by truck, *see id*. at 4-6 – 4-13; (2) for transporting Michigan-derived crude oil from Lewiston to refineries by truck, *id*. at 4-14 – 4-16; and (3) for providing significant alternative sources of crude oil for the Detroit and Toledo refineries, *id*. at 4-16 – 4-21.

- The Draft Report concludes that utilizing such alternatives will increase fuel prices for Michigan consumers, but only by modest amounts that fall well within the ambit of typical

RECEIVED by MSC 11/14/2025 2:10:18 PM

fluctuations in price. With respect to Upper Peninsula propane consumers, data in the Draft Report evidences that prices will increase by no more than 10 cents per gallon, whereas a "range of 10 cents/gal to 35 cents/gal . . . is similar to the year-to-year volatility experienced during normal seasonal fluctuations." *Id*. at 4-13; *see also id.* at 4-6 (propane price variation between the winter of 2015-2016 and 2016-2017 was 10 to 25 cents per gallon).[3]

- With respect to gasoline and other distillates, the Draft Report concludes that "[i]n addition to crude oil supply from [elsewhere in] the Enbridge System, the Detroit and Toledo refineries would access additional supplies from the Mid-Valley Pipeline (total capacity of 240 kbbl/d) as well as through truck and rail deliveries," *id*. at 4-17, with a projected increase in consumer prices of no more than 2.13 cents per gallon, *id*. at 4-20 – 4-21, an amount well within the range of normal fluctuations in cost. *See id*. at 4-21 (Table 4-5).

- The Draft Report, then, contains ample support for the conclusion that the Straits Pipelines can be decommissioned with little disruption and cost to the State, its citizens, and the Tribes. The continuing risk of an oil spill through the continued operation of the Straits Pipelines is simply not justified by Michigan interests.

- This should be a marquee finding in the Draft Report. It is instead omitted entirely from the executive summary and thereafter buried within the Draft Report's voluminous and detailed focus on the viability of the other alternatives. Even there its implications are never acknowledged, much less developed with the clarity that they obviously warrant. Alternative 6 comes across in the Draft Report as an afterthought when it should be the centerpiece. This is because, as explained next, much of the Draft Report rests on a faulty premise.

[3] The Draft Report explores four alternative sources of propane for Upper Peninsula consumers. *See id*. at 4-6 – 4-13. Trucking from Superior, Wisconsin, is the least expensive of these, and according to the Draft Report would result in an additional cost of 10 cents per gallon. *Id*. at 4-12 – 4-13. While the other options explored would be more costly (up to an additional 35 cents per gallon), the Draft Report provides no indication that the Superior option is infeasible, and hence 10 cents per gallon is the realistic upper bound of impact. Indeed, the Tribes understand that the State may receive comments from other sources indicating that even this figure is too high. The Tribes, of course, have many members living in the Upper Peninsula. They have no interest in seeing the costs of alternative propane supplies understated. But neither do they have an interest in seeing them overstated in a manner that may distort a proper assessment of the pipeline alternatives.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Key Shortcomings in the Draft Report

A. The Faulty Premise

- The Draft Report focuses the bulk of its analysis on Alternatives 1-5. In doing so, it does not assess the extent to which each of those alternatives would serve *Michigan* interests (including the interests of the State, its citizens, and the Michigan Tribes), as provided for in the RFP, and as was the expectation for the Draft Report of the public generally and the Tribes specifically.

- Instead, the Draft Report imposes on each of those Alternatives the limitation that they must maintain undiminished Enbridge's existing Line 5 product flow between Superior, Wisconsin, and the refineries in Sarnia, Ontario. *See, e.g.,* Draft Report at TS-3 ("For this study, the alternatives described are designed to provide equivalent capacity and deliveries to that of the existing Line 5."); *id*. at 6-1 ("Alternative 1 considers the construction of one or more new pipelines . . . *to transport the volume of petroleum products that are currently transported by Enbridge Line 5 from its terminal at Superior, Wisconsin to its terminus in Sarnia, Ontario*" (emphasis added)); *id*. at 5-1 (same for Alternative 2 (use of existing pipeline infrastructure)); *id*. at 7-1 (same for Alternative 3 (use of alternative transportation methods)). By contrast, the Draft Report evaluates Alternative 6 with the requirement of replicating the amount of Line 5 flow in fact relied upon by Michigan citizens and businesses. *See id.* at 4-6 – 4-24. In the Final Report, that should be the measure by which all of the alternatives are framed and evaluated.

- The Draft Report nowhere provides an explanation as to why the commercial needs of Enbridge should serve as the measure for evaluating the viability of all but one of the proposed alternatives to the Straits Pipelines. The absence of any such explanation diminishes the potential of the Draft Report to be used as a tool for reaching consensus regarding the best interests of Michigan, its citizens, and the Tribes with respect to the future of the Straits Pipelines.

- The Draft Report's approach could lead a casual reader to conflate those critical public interests with Enbridge's private interest in maintaining Line 5's product flow undiminished. But the interests of Michigan and those of Enbridge are not co-extensive. As noted, Line 5 largely carries its products through Michigan to the benefit of commercial, government and consumer interests elsewhere. *See id*. at 4-4 and 4-5 (stating that "[t]he majority of Line 5 throughput is delivered to . . . refineries across eastern Canada and the U.S.," and "less than 5%" of Line 5 NGLs go to the Upper Peninsula, and "Lewiston oil injections are also less than 5% of Line 5 current throughput"). The Draft Report does not reconcile that fundamental fact with its insistence that viable alternatives to the Straits Pipelines must replicate 100% of Line 5's throughput unabated.

RECEIVED by MSC 11/14/2025 2:10:18 PM

- The Draft Report's unexplained solicitude for Enbridge's commercial needs over Michigan-specific interests leads to a skewed focus on, and favoring of, alternatives that best serve Enbridge's needs. Perhaps the starkest example comes with the Draft Report's summary dismissal of Alternative 2, which was supposed to address the use of existing pipeline infrastructure. Instead, the Draft Report summarily dispenses with this option after concluding that the existing infrastructure cannot convey all 540,000 barrels of oil per day presently transported by Line 5. *See id*. at 5-1 – 5-4 (discussing same); *see also id*. at MS-2 ("[T]he option of using existing pipeline infrastructure was removed from further detailed analysis.").

- The Report discards this alternative from further consideration despite acknowledging that there presently exists significant excess capacity on Enbridge's existing Line 78, which extends from Griffith, Indiana (near Chicago), across southern Michigan, to Sarnia, *see id*. at 5-2, and despite further acknowledging that the Mid-Valley Pipeline could supply much of the remaining needs of the Detroit and Toledo refineries, *id*. at 4-7. An analysis focused on Michigan interests would have fleshed out these facts in detail. Instead, because of its focus on non-Michigan concerns, the Draft Report fails to complete the analysis.

- Fortunately, while some calculations remain to be done, much of the analysis is, as canvassed above, already contained in the discussion of Alternative 6 (decommissioning). *See id*. at 4-6 – 4-22. The Final Report should accordingly be able to address the ability of the existing pipeline infrastructure to satisfy Michigan needs without having to re-invent the wheel.

B. Failure to Properly Account for Costs to Michigan and the Tribes

- While focusing on the commercial needs of Enbridge, the Draft Report fails to properly consider the costs of the various alternatives to Michigan's citizens generally and to the Tribes specifically. For example, the Draft Report acknowledges that it "does not provide a separate valuation estimate for subsistence, commercial or cultural values associated with the use of resources by tribes." *Id*. at 1-9. As a result, while Tribal interests, including Tribal treaty rights, are mentioned at occasional junctures in the Draft Report, the costs associated with alternatives affecting tribal interests "are not necessarily fully accounted for," as acknowledged (in what can only be characterized as a significant understatement) by the project's economist at the July 6, 2017, Holt presentation.[4]

- These omissions are evident in the Draft Report's conclusion that the total cost of an oil spill in the Straits of Mackinac – which, in addition to all the other costs for Michigan and its citizens, would almost certainly wipe out a significant swath of the Tribes' treaty-guaranteed fishing, hunting and gathering activities for years – would be no more than 103-128 million

[4] Statements of Jack Ruitenbeek, PhD, at July 6, 2017, Information Meeting at Holt, Michigan, at 3:46:00–3:47:30. Available online at https://mipetroleumpipelines.com/event/watch-video-july-6-public-information-session-holt. Last visited July 29, 2017.

RECEIVED by MSC 11/14/2025 2:10:18 PM

dollars (with an environmental damages component of 62-76 million dollars). *See id*. at 2-104 – 2-105. These are stunningly low figures, and the Draft Report makes no attempt to reconcile them with the fact that the Marshall oil spill has, to date, resulted in 1.2 billion dollars in remediation and other costs due to its impact on the Kalamazoo River and surrounding communities.[5]

- The Tribes understand that the State will be receiving detailed comments from other sources about the Draft Report's failure to model worst-case spill scenarios, despite the State's explicit instruction that it do so, and regarding other flaws in the Draft Report's modeling and costs analysis. The Tribes will not duplicate those arguments here but will simply underscore that the Draft Report's analysis vastly understates the effects of a Straits spill on Tribal economies, cultures, and ways of life.

- The on- and off-reservation fishing, hunting, and gathering rights retained by a number of the undersigned Tribes in treaties with the United States were of vital importance to them as they ceded vast swaths of land to the government in the 19th century. The exercise of those rights was essential to their very survival, as well as to the maintenance of a way of life and cultural practices dating back to time immemorial. In *United States v. Michigan,* 471 F. Supp. 192 (W.D. Mich. 1979), the court explained that in negotiating the 1836 Treaty of Washington, 7 Stat. 491, the Tribes reserved the right "to hunt, fish, gather fruits of the land and use all land and water resources of the ceded area . . . [i]ndefinitely," *id*. at 236, and that this right "was extremely important to the Indians" because it meant that "they could continue living the way they had been living," *id*. at 235. With respect to fishing rights in particular, "the vital right to fish in the Great Lakes was something that the Indians understood would not be taken from them[.]" *Id*. at 253. "[T]he Indians were too heavily dependent upon fish as a food source and for their livelihood to ever relinquish this right." *Id*. at 259.

- The Tribes' reliance on their ancient fisheries, including in particular their fisheries in the Straits of Mackinac, is well documented. In *United States v. Michigan*, the court found that "[t]hroughout the period from first contact to the 1830's [when the Treaty of Washington was signed], missionaries, explorers, traders, and military and governmental officials wrote of the Indian gill net fishery in the Great Lakes and of its importance to the Indian inhabitants. For example, the Frenchman Joutel wrote [a] detailed description of Indian gill netting at the Straits of Mackinac in 1687." *Id*. at 222. The court further found that "[s]ubsistence fishing continued to be tremendously important to the Indians of the treaty area in the 1830's. The introduction of the market economy, the fur trade and the dependence of the Indians on trade goods did not alter the subsistence dependence of Indians on the fishery; to the contrary, as

[5] *See* Garrett Ellison, MLive.com, *New price tag for Kalamazoo River oil spill cleanup: Enbridge says $1.21 billion*, May 20, 2016. Available online at: http://www.mlive.com/news/grand-rapids/index.ssf/2014/11/2010_oil_spill_cost_enbridge_1.html. Last visited July 30, 2017.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Fitting reported in his 'Patterns of Acculturation at the Straits of Mackinac,' those factors actually [i]ncreased and amplified the importance of fishing." *Id.* at 224.

- As these passages suggest, firsthand accounts of the importance of the fisheries to the Tribes, including in the Straits of Mackinac in particular, abound. Those accounts make clear that it was the abundance of fish in the Straits that had led a number of the Michigan Tribes to reside there. The explorer Antoine de la Mothe Cadillac authored one of the most poignant of these in describing the Ottawa fisheries at Mackinac circa 1695:

> The great abundance of fish and the convenience of the place for fishing have caused the Indians to make a fixed settlement in those parts. It is a daily manna, which never fails; there is no family which does not catch sufficient fish during the course of the year for its subsistence. Moreover, better fish can not be eaten and they are bathed and nourished in the purest water, the clearest and the most pellucid you could see anywhere.

W. Vernon Kinietz, *The Indians of the Western Great Lakes: 1615-1760* (1965), at 239-40.

- And it was this same abundance of fish that led the Tribes to insist, when they ceded their lands, that their treaty reservations be located near the Straits and adjacent waters. As the court explained in *United States v. Michigan*:

> All Indians of the Upper Great Lakes, including the Ottawa and Chippewa, were fishing peoples. The settlement patterns of native peoples of the Upper Great Lakes, including the treaty Indians in the case at bar, were strongly influenced by available resources, especially fish. It is no mere coincidence that the [1836 reservations] are all located on the Great Lakes and all adjacent to important fishing grounds. It is also noteworthy that most major archaeological sites in the Upper Great Lakes are near or within [the 1836 reservations]. In order to reach a conclusion that the Indians were not dependent upon this valuable fishery resource, the court would have to ignore hundreds of years of recorded testimony and thousands of years of prehistoric information.

471 F. Supp. at 256.

- In the years since Cadillac wrote his account, and since the treaties were signed, much has changed. The waters, the fisheries, and the game have all suffered tremendously. But the Tribes have fought vigorously to retain their way of life and to restore those natural resources to some small measure of their former bounty. And the State, in recognition of the tremendous importance of those resources to all Michigan citizens, and to the very identity of the State, has worked in partnership with the Tribes towards that end.

RECEIVED by MSC 11/14/2025 2:10:18 PM

- The continuing importance of the Straits to the Tribes cannot be gainsaid. The Tribes have continued to reside and to maintain significant commercial and subsistence fisheries there. As a tribal Great Lakes fishery biologist recently declared:

> Northern Lake Michigan and Northern Lake Huron are very productive areas for lake whitefish [the most important commercial species] with biomass levels typically exceeding 10 million pounds annually. . . . Lake whitefish harvests from Northern Lake Michigan and Northern Lake Huron made up 37% to 76% of the total annual [Chippewa Ottawa Resource Authority] commercial lake whitefish harvest from the 1836 ceded waters and averaged 58% during 1986-2014."[6]

- In addition, to compensate for shortfalls in the fisheries from historic levels, the Tribes have invested enormous amounts of time, effort, and resources to develop other aspects of their economies, including tourism-related activities, that are likewise predicated on the health of the Straits.

- The Draft Report mentions little of this, and the paltry figure it attaches to the physical and cultural carnage that would result from an oil spill in the Straits fails to adequately capture or respect the importance of the Straits to the history and very identity of the Tribes and the State. It may well be that the central role that healthy Straits have played and continue to play in the life of the Michigan Tribes and their non-Indian neighbors cannot be adequately quantified. If Dynamic Risk's models do not allow for the monetization of that value it should forthrightly acknowledge that fact in its Final Report and eliminate any implication that it has fully captured the true cost of the harm that would result from a rupture of the Straits Pipelines.

C. Flawed Emphasis on Alternatives 5 (Status Quo) and 4 (Tunneling and Trenching)

- Ultimately, as a result of its unexplained focus on the commercial needs of Enbridge, the Report leaves the impression that the most prudent and reasonable alternative is to maintain Line 5 in place (Alternative 5), potentially with a revised Straits crossing via trench or tunnel (Alternative 4). But the Draft Report does not identify any interests of the State, its citizens, or the Tribes that would be advanced by these options.

- To the contrary, it is clear that Tribal interests, along with closely related interests of Michigan and its non-Indian citizens, have not been fully accounted for in the Draft Report's favorable discussion of the possibility of trenching or tunneling the Straits Pipelines. The Draft Report acknowledges that both trenching and tunneling will have significant

[6] *See* Attachment A (Declaration of Mark P. Ebener, Great Lakes fishery biologist for Chippewa Ottawa Resource Authority ("Ebener Decl.") at 4. Filed in *National Wildlife Federation v. Administrator of PHMSA*, Case No. 2:16-cv-11727, United States District Court, E.D. Mich. (July 14, 2016)).

RECEIVED by MSC 11/14/2025 2:10:18 PM

socioeconomic impacts in the Straits region. *See* Draft Report at 3-17 – 3-20 and Appendix Q. Trenching, which would not eliminate the risks of an oil spill posed by the Straits Pipelines,

> will require disruption of water traffic through the Straits. The Straits is an important link between Lake Michigan and Lake Huron. Important to recreational boating and fishing, it is a fundamental part of the tourism attraction to the region. It is also part of the area's tribal treaty waters, and important for tribal commercial and subsistence fisheries. The impacts of any disruption to water traffic needs careful assessment with area tribes, the MDNR Fisheries Division, and others affected by lake traffic in the area.

Id. at 3-20. In addition, "[a]djacent shoreline areas will be temporarily transformed into worksites for materials delivery and machinery installation." *Id*. at 3-17.

- Tunneling (projected to extend over at least a 27-month period) will involve, among other things, "considerable disturbance on the shoreline at both ends of the tunnel." *Id*. "Tunneling operations in particular require the extraction and trucking of large amounts of rock and soil; dust and noise will impact community residents and visitors." *Id*. at 3-20. And either of the proposed tunneling methods will quite predictably have significant disruptive effects on the bottomlands and on water quality. *See* Appendix E.3 for a description of the tunnel boring and drill and blast methods.

- Even on the face of the Draft Report, then, and without anything approaching a full exploration of the issues, it is clear that trenching or tunneling the Straits Pipelines will have significant, negative impacts on the Tribes' treaty-protected activities. Any degradation in water quality will threaten the already fragile fisheries. Moreover, the significant shoreline disturbances mentioned in the Draft Report are of great concern given that "lake whitefish spawning is concentrated in shallow rock and gravel areas adjacent to the shorelines," Ebener Decl. at 3, that "young lake whitefish occupy very shallow sandy areas less than 5 ft. deep adjacent to the spawning shoals," *id.* at 4, and that lake trout also "spawn to a lesser extent in shallow rocky areas along the shoreline of both [lakes]," *id.* at 5.

- Tunneling or trenching could also result in major disturbances to the waterfowl, migratory birds, aquatic furbearers, and other resources to which Tribal treaty rights attach, and to both the water and shoreline sites (potentially including Tribal trust and reservation lands) that Tribal members use to gain access to their treaty resources. They would further render off-limits additional portions of the bottomlands on which the Tribes have set their nets since time immemorial.

- The Final Report should properly reflect the vast disruption that would be entailed by tunneling or trenching and should make clear that these options are unnecessary to satisfy

RECEIVED by MSC 11/14/2025 2:10:18 PM

any significant interests of the State, the Tribes, or their citizens, but would instead be undertaken largely for the benefit of out-of-state interests.

D. Failure to Conduct an Apples-to-Apples Comparison of Risk

- The Draft Report's comparison of the risks presented by the various Alternatives is summarized at Table ES-2, which is found at page 23 of the Technical Summary (TS-23). Even a cursory glance at the Table suggests that something is amiss. According to the Table, the total economic risk of a spill from the utilization of a state-of-the-art pipeline constructed along the existing southern route (Alternative 1), which largely avoids exposure to the Great Lakes, is 46.26 times higher than the total economic risk of maintaining the Straits Pipelines in place, while the monetized environmental risk is 33.77 times higher (the numbers are even starker for the tunneling or trenching options). This is impossible to fathom, given that the pipeline industry in general, and the Draft Report itself, consistently tout the reduction in risk resulting from continual technological improvements in pipeline design, construction and installation, *see, e.g.,* Draft Report at 3-1, 3-6, 3-25, 3-27, and 6-3 – 6-4, and given the extremely sensitive nature of the Straits crossing.

- The explanation lies in another fundamental flaw in the Draft Report – its failure to conduct an apples-to-apples comparison of risk. Table ES-2 summarizes the Draft Report's assessment of the relative risks presented by the 4.5 mile Straits crossing against those presented by the *entire* 762 miles of a new southern pipeline (226 miles of which would fall in Michigan). *See* TS-23 (Table ES-2); *see also* 6-14 ("The failure likelihood component of the risk expression" for the southern route applies to "the segment of pipeline that would be used to bypass the Straits segment of Line 5."). No valid reason is provided for such an unbalanced comparison, and none exists. If the Straits crossing remains in place, so too will the rest of Line 5, and an accurate assessment of relative risk would therefore compare the risks and consequences of a spill along Line 5 in its entirety with those related to the replacement route. Or, to focus more precisely on Michigan interests, an accurate assessment would compare the risks and consequences of a rupture along Line 5 that could affect Michigan lands and waters with those associated with the replacement route. The Final Report should correct what is otherwise a highly misleading comparison of risk.

- The Draft Report likewise overstates the consequences of a southern route spill compared to a spill at the Straits. The former are calculated using incident data from 2010-2016, which sweeps in the disastrous Enbridge spills at Marshall and near Romeoville, Illinois in 2010. *See* Draft Report at 6-14 – 6-16. By contrast, those spills are nowhere factored into the Draft Report's assessment of the consequences of a Straits spill. The illogic of this is apparent. The results of failures of Enbridge's older pipelines are used to skew the risk analysis in favor of maintaining another aged pipeline under the Straits as opposed to constructing a new, state-of-the-art pipeline in an existing right-of-way far removed from the Straits. Dynamic Risk should rethink its approach to its comparison of relative risks, which at present is not defensible.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The State's Obligation to Act

- The foregoing comments, and others submitted to the State, including by members of the State's own Pipeline Safety Advisory Board, reflect significant shortcomings in the Draft Report. Dynamic Risk can and should fix those flaws. But regardless of whether it does, the Draft Report contains ample evidence establishing the State's obligations to decommission the Straits Pipelines under two cardinal, and in this context closely related, legal doctrines.

The Public Trust Doctrine

- The Draft Report's focus on the commercial needs of Enbridge is not simply deficient as a matter of fact and policy, but also as a matter of law. For whatever may be Enbridge's private interests, or the interests of other jurisdictions, in maintaining the Straits Pipelines (whether in their present or in tunneled or trenched form), the interests of the people of Michigan and of the Tribes in protecting the Straits and its resources are paramount under the public trust doctrine.

- Pursuant to that doctrine, certain natural resources held in common by the public constitute "the public trust." These resources specifically include "the waters of the Great Lakes and their submerged lands[.]" *Glass v. Goeckel*, 473 Mich. 667, 694 (2005). The State, as trustee, has an affirmative obligation to protect such public resources against impairment. *See id*. That obligation is enshrined in the Michigan Constitution. *See* Mich. Const. art. IV, § 52. As the Michigan Attorney General, citing seminal authority from the United States Supreme Court, explained in 2004, under the public trust doctrine the State has "not only the authority *but an affirmative obligation* to protect the public interest in navigable waters." Mich. Op. Att'y Gen. 7162 (2004), 2004 Mich. AG LEXIS 18, at *5 (citing *Ill. Cent. R.R. Co. v. Illinois*, 146 U.S. 387 (1892)) (emphasis added).

- Because of the paramount nature of the public's rights in the Straits, the 1953 easement presents no obstacle to the State's full exercise of its public trust authority with respect to the Straits. Indeed, the State did not surrender even a fraction of that authority – or the affirmative duties that underpin it – when it granted the easement. "The state, as sovereign, cannot relinquish this duty to preserve public rights in the Great Lakes and their natural resources." *Glass*, 473 Mich. at 679. To the contrary, the easement was issued fully "subject to the public trust" at its inception. *Id*. In other words, a state's conveyance of property rights "to private parties leaves intact public rights in the lake and its submerged land. . . . Under the public trust doctrine, the sovereign never had the power to eliminate those rights, *so any subsequent conveyances . . . remain subject to those public rights*." *Id*. at 679, 681 (emphasis added). *See also, e.g., Nedtweg v. Wallace*, 237 Mich. 14, 17 (1927) (stating that public trust "is an inalienable obligation of sovereignty" and "[t]he State may not, by grant, surrender such public rights" in favor of private interests). These are not mere academic concepts. As the Michigan Supreme Court has recently explained, "the public trust doctrine is alive and well in Michigan[.]" *Glass*, 473 Mich. at 681.

RECEIVED by MSC 11/14/2025 2:10:18 PM

- Accordingly, the State does *not* need to find a violation of the 1953 easement to revoke it and order the decommissioning of the Straits Pipelines. Because the easement was issued "subject to the public trust," *id.* at 679, it issued subject to the understanding that the State could unilaterally revoke it based on subsequent understandings (as opposed to those prevailing in 1953) of the threat to the public trust posed by the Pipelines. As the United States Supreme Court, in a seminal public trust decision oft-cited by the Michigan Supreme Court, has explained, "[t]here can be no irrepealable contract in a conveyance of property by a [sovereign] in disregard of [the] public trust[.]" *Ill. Cent. R.R. Co.*, 146 U.S. at 460. Thus, any grant of property rights (*e.g.*, an easement) in public trust resources

  > is necessarily revocable, and the exercise of the trust by which the property was held by the State can be resumed at any time. . . . [T]he power to resume the trust whenever the State judges best is . . . incontrovertible.

  Id. at 455. *See also id*. at 461-62 (recognizing power of the state under public trust doctrine "to resume control of the resources and property" based on subsequent "consideration of public policy" and stating that state's power to do so "is unquestionable").[7]

- Furthermore, the State not only has the authority under the public trust doctrine to revoke the easement, it has the *duty* to do so. Attorney General Bill Schuette has stated that "[c]ertainly the Straits Pipelines would not be built today[.]"[8] That is unquestionably true. Laying private crude oil pipelines in the Straits of Mackinac (of all places) for the primary benefit of out-of-state commercial interests simply cannot, based on what is known today, be squared with Michigan's paramount obligations to safeguard the public trust in the Straits and surrounding lands and waters. If the State would not permit the Straits Pipelines to be installed today because of their threat to the public trust, there exists no basis – and indeed *no authority* – to acquiesce in their continued operation. Again, the State's public trust obligations are affirmative. As the Michigan Supreme Court has made clear, "the state . . . *may permit only* those private uses that do not interfere with . . . the public trust." *Glass*, 473 Mich. at 694 (emphasis added). The trenching or tunneling of the Straits or the maintenance of the existing pipelines – in light of the known risks of catastrophic consequences identified in the Draft Report, and the known disruption that trenching or tunneling would cause – are private uses that would unquestionably interfere with public rights in that iconic resource. The Draft Report identifies no Michigan-based interests that would purport to justify such interference.

---

[7] The State would not be subject to a claim for compensation under the Takings Clause if it revoked the Straits easement in absence of a violation. *See, e.g., Hilt v. Weber*, 252 Mich. 198, 225 (1930) (where private property rights are withdrawn by a state for public use, "compensation must be made, *unless the use has a real and substantial relation to a paramount trust purpose*." (citing *Illinois Central*) (emphasis added)).

[8] Public statement made on July 14, 2015. Available online at http://www.michigan.gov/ag/0,4534,7-164-46849-359349--,00.html. Last visited July 30, 2017.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Tribal Treaty Rights and the Supremacy Clause

- As discussed above, the Tribes have well-established treaty rights to fish, hunt, and gather in the lands and waters surrounding the Straits of Mackinac, and the vitality of those rights depends on the health and quality of those resources. The ever-present risk of a spill from the Straits Pipelines, and the destruction that would be caused by the tunneling or trenching alternatives, pose unacceptable threats to those rights.

- Similar to its obligations under the public trust doctrine to treat certain natural resources as "paramount" and to protect them against impairment, the State is firmly bound under the Supremacy Clause of the United States Constitution, art. VI, cl. 2, to honor the Tribes' treaty rights and to refrain from impairing, or from permitting the impairment of, the resources to which those rights attach. "[A] treaty made under the authority of the United States becomes the supreme law of the land . . . . [and] maintains the same status as a federal statute[.]" *United States v. Michigan,* 471 F. Supp. at 217. *See also Menominee Tribe of Indians v. United States*, 391 U.S. 404, 411 n.12 (1968) (stating that treaties are "the supreme law of the land" and that rights "guaranteed to the tribe by the Federal Government [are not] subject" to abrogation by a state (internal quotation marks omitted)). That States may not act in derogation of rights guaranteed by Indian treaties is accordingly a "fundamental principle of federal constitutional law," 471 F. Supp. at 265, and it is one that the State of Michigan has respected for decades.

- In the case of the Straits Pipelines, the State's paramount public trust obligations and its constitutional duty to refrain from impairing the Tribes' treaty rights are firmly aligned, and both point to decommissioning the Pipelines. Indeed, the State and the Tribes have cooperated extensively in recent years in efforts to protect and enhance the fish, game, and plant-based resources on which Tribal members and Michigan's non-Indian citizens alike depend for subsistence, commercial, recreational, and cultural purposes. Their shared recognition of the incomparable value of such resources should underpin the decisions made by the State about the future of the Straits Pipelines.

* * *

The State of Michigan – with wisdom and courage commensurate with its paramount public trust and treaty obligations and its history of environmental leadership – should decommission the Straits Pipelines. When the State determines to do so, the Tribes and their members will stand shoulder-to-shoulder with the State and our non-Indian neighbors in defense of our shared legacy.

RECEIVED by MSC 11/14/2025 2:10:18 PM

/s/ Levi Carrick, Sr.
Levi Carrick, Sr., President
Bay Mills Indian Community
12140 W. Lakeshore Drive
Brimley, MI 49715

/s/ Thurlow "Sam" McClellan
Thurlow "Sam" McClellan, Tribal Chairman
Grand Traverse Band of Ottawa and Chippewa Indians
2605 N.W. Bayshore Drive
Suttons Bay, MI 49682

/s/ Kenneth Meshigaud
Kenneth Meshigaud, Tribal Chairperson
Hannahville Indian Community
N14911 Hannahville B1 Road
Wilson, MI 49896

/s/ Warren C. Swartz, Jr.
Warren C. Swartz, Jr., President
Keweenaw Bay Indian Community
16429 Beartown Road
Baraga, MI 49908

/s/ James Williams, Jr.
James Williams, Jr., Tribal Chairman
Lac Vieux Desert Band of Lake Superior Chippewa Indians
East 23968 Pow Wow Trail
Watersmeet, MI 49969

/s/ Larry Romanelli
Larry Romanelli, Tribal Ogema
Little River Band of Ottawa Indians
2608 Government Center Drive
Manistee, MI 49660

/s/ Regina Gasco-Bentley
Regina Gasco-Bentley, Tribal Chair
Little Traverse Bay Bands of Odawa Indians
7500 Odawa Circle
Harbor Springs, MI 49740

/s/ Scott Sprague
Scott Sprague, Tribal Chairman
Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan
2782 Mission Drive
Shelbyville, MI 49344

/s/ Jamie Stuck
Jamie Stuck, Tribal Chairman
Nottawaseppi Huron Band of Potawatomi Indians
1485 Mno-Bmadzewen Way
Fulton, MI 49052

/s/ John Warren
John Warren, Chairman
Pokagon Band of Potawatomi Indians
58620 Sink Road
Dowagiac, MI 49047

/s/ Frank J. Cloutier
Frank J. Cloutier, Tribal Chief
Saginaw Chippewa Indian Tribe of Michigan
707 E. Broadway
Mt. Pleasant, MI 48858

/s/ Aaron A. Payment
Aaron A. Payment, Tribal Chairperson
Sault Ste. Marie Tribe of Chippewa Indians
523 Ashmun Street
Sault Ste. Marie, MI 49783

cc: David Nyberg, Tribal Liaison, Governor's Marquette Office
Matthew Goddard, Energy Liaison, MDEQ
Teresa Seidel, MDEQ
S. Peter Manning, MDAG
Robert Reichel, MDAG
Trevor VanDyke, MDNR

RECEIVED by MSC 11/14/2025 2:10:18 PM

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix Z

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
IN THE COURT OF APPEALS

In the matter of the Application of **Enbridge Energy, Limited Partnership** for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if approval is Required Pursuant to 1929 PA 16, MCL 483.1, et seq., and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief.	Court of Appeals No. 369156, consolidated with Nos. 369157, 369159, 369161, 369162, 369163, and 369165, 369231 Lower Court: MPSC Case No. U-20763

BRIEF ON APPEAL OF PETITIONER-APPELLEE ENBRIDGE ENERGY, LIMITED PARTNERSHIP

ORAL ARGUMENT REQUESTED

August 29, 2024

FRASER TREBILCOCK DAVIS DUNLAP & CAVANAUGH, P.C.

Attorneys for Petitioner-Appellee Enbridge Energy, Limited Partnership

Michael S. Ashton (P40474)
Sean P. Gallagher (P73108)
124 West Allegan, Suite 1000
Lansing, Michigan
48933
(517) 482-5800

BURSCH LAW PLLC

Attorneys for Petitioner-Appellee Enbridge Energy, Limited Partnership

John J. Bursch (P57679)
9339 Cherry Valley Avenue, S.E., Unit 78
Caledonia, Michigan
49316-0004
(616) 450-4235

STEPTOE LLP

Attorneys for Petitioner-Appellee Enbridge Energy, Limited Partnership

Mark C. Savignac
(*pro hac vice* admission pending)
1330 Connecticut Avenue NW
Washington, DC
20036
(202) 429-3000

RECEIVED by MCOA 8/29/2024 3:01:23 PM

alternatives are properly compared, though, it becomes clear that there was no feasible and prudent alternative to the Replacement Project consistent with the public health, safety, and welfare. The Commission's MEPA analysis was correct and should be affirmed.

A. Standard of Review

This Court reviews de novo the Commission's determinations under MEPA. *West Mich Environmental Action Council, Inc v Natural Resources Comm'n*, 405 Mich 741, 754; 275 NW2d 538 (1979).

B. MEPA Step 1: The Commission correctly found that the Replacement Project was the "conduct" at issue and correctly limited its evaluation to the environmental effects of the Replacement Project.

Under the first step of the MEPA analysis, the Commission was required to determine whether the "conduct" that was to be "authorized or approved" by the "proceeding" "has, or is likely to have, the effect of polluting, impairing, or destroying the air, waters, or other natural resources of the public trust in these resources." MCL 324.1705. To do so, the Commission needed to determine which conduct to consider and which effects to analyze.

1. The Commission correctly determined that the "conduct" at issue was the Replacement Project—not the operation of Line 5 as a whole.

MEPA only requires the Commission to conduct an environmental effects analysis of the *conduct* that the Commission has authority to *authorize or approve* in *this proceeding*. MCL 324.1705; MCL 324.1706 (MEPA "is supplementary to existing administrative and regulatory procedures provided by law"). Since the conduct that the Commission may authorize or approve is determined by Act 16 in this case, the required scope of the Commission's MEPA analysis is coextensive with that of its Act 16 analysis. As explained in Section I, the Commission's Act 16 review was limited to Enbridge's proposal to replace the Dual Pipelines, *not* the ongoing operation of Line 5 as a whole since that operation is unaffected by the Commission's decision here.

RECEIVED by MSC 11/14/2025 2:10:18 PM

RECEIVED by MCOA 8/29/2024 3:01:23 PM

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix AA

RECEIVED by MSC 11/14/2025 2:10:18 PM

S T A T E OF M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

*** * * ***

In the matter of the application of Enbridge Energy, Limited Partnership for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 Of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447	)	Case No. U-20763

QUALIFICATIONS AND DIRECT TESTIMONY OF

ALEX MORESE

MICHIGAN PUBLIC SERVICE COMMISSION

September 14, 2021

RECEIVED by MSC 11/14/2025 2:10:18 PM

QUALIFICATIONS OF ALEXANDER MORESE
CASE NUMBER U-20763
PART I

Q. Please state your name, business address, and occupation?

A. My name is Alexander A. Morese and my business address is 7109 W. Saginaw Highway, Lansing, MI 48917. I am employed by the Michigan Public Service Commission (MPSC) as a State Administrative Manager of the Energy Security Section of the Energy Operations Division.

Q. On whose behalf are you testifying?

A. I am testifying on behalf of MPSC Staff (Staff).

Q. Will you briefly describe your educational background?

A. I earned a dual-major Bachelor of Arts degree from Florida State University in December of 1991 where I studied Economics and International Affairs. I also attended graduate school at Michigan State University from 1993-1999 in the Resource Development Department, pursuing studies in environmental policy and management. I departed the program with coursework completed but without completion of a thesis.

Q. Please explain your professional experience during your employment with MPSC.

A. In 2002 I began working as an economic analyst within what is now called the Energy Security section of the MPSC. From 2002 to 2008 my responsibilities included maintaining and supporting the MPSC website and associated online applications and monitoring state and regional energy supplies to maintain situational awareness for potential energy shortages and emergencies. In 2008 I accepted a position in the newly formed Renewable Energy Section created to facilitate implementation of PA 295 of 2008. In 2010 I accepted the manager

RECEIVED by MSC 11/14/2025 2:10:18 PM

position of the Energy Security Section. This section's responsibilities included: energy supply monitoring, energy emergency planning and response, petroleum sector monitoring, critical infrastructure protection, cybersecurity, and website and online application support. In May 2015 the Energy Security Section was transferred to the newly created Michigan Agency for Energy (MAE). Section responsibilities remained similar, with the addition of policy related research in support of MAE's mission and the transferring of all internet technology related responsibilities to the MAE/MPSC Administration Division. In September of 2015 I began working with the Pipeline Safety Advisory Board (PSAB) assisting the MAE Executive Director who served as the co-chair of the PSAB. Additionally, I and several colleagues formed what was referred to as the State Technical Team, a multi-departmental support group that provided technical research, review, and facilitation assistance to State leadership. My work with PSAB ended in late 2018 with the release of the final PSAB report and the dissolution of the PSAB. In 2019 the MAE was deconstructed by executive order and the Energy Security Section was moved back into the MPSC.

Q. What are your responsibilities in your current position?

A. As Manager of the Energy Security section within the Energy Operations Division at the MPSC, I am responsible for guiding a team of highly qualified individuals in our role of preparing for, responding to, recovering from, and helping to mitigate or head off energy emergencies in the State of Michigan. This entails a myriad of duties including but not limited to: monitoring and forecasting energy supplies, engaging with private sector energy emergency personnel

RECEIVED by MSC 11/14/2025 2:10:18 PM

through training and exercises, authoring and maintaining the Michigan Energy Assurance Plan and the Petroleum Shortage Response Plan, conducting the State Heating Oil and Propane Program survey, serving as petroleum sector liaison, monitoring utility cyber and physical security plans, and lastly, serving as the State Emergency Management Coordinator (SEMC) for energy at the State Emergency Operations Center (SEOC) of the Michigan State Police. As SEMC I coordinate an energy emergency response team at the Commission, ensuring members are adequately trained and prepared to provide support to the SEOC during emergencies, as needed.

Q. Have you had any additional training?

A. I have completed the two-week long "Annual Regulatory Studies Program" sponsored by the National Association of Regulatory Utility Commissioners at Michigan State University.

Q. Describe your professional experience specific to Enbridge's Line 5, including the Straits crossing.

A. In 2015, I was asked to join an interagency team composed of technical staff from the Department of Natural Resources (DNR), the Department of Environmental Quality (DEQ), the Michigan Public Service Commission (MPSC), the Michigan Agency for Energy (MAE), and the Office of the Attorney General (AG) (the Technical Team). This team was originally tasked with the review of proposals submitted to complete two studies recommended by the Michigan Petroleum

RECEIVED by MSC 11/14/2025 2:10:18 PM

QUALIFICATIONS OF ALEXANDER MORESE
CASE NUMBER U-20763
PART I

Pipeline Task Force Final Report,[1] an Alternatives Analysis and Risk Analysis, and provide recommendations for hire to the State. In the following years, the Technical Team provided administrative support to the PSAB and supported State leadership with oversight and review of ongoing research, collection and dissemination of pertinent data, and collaborated with Enbridge and outside contractors on additional reports required by the First Agreement. Some of the specific topics relevant to my participation included alternatives analysis of Line 5, propane and petroleum market analysis, risk analysis of the Straits water crossing, severe weather warnings, and identification of higher risk Line 5 water crossings in Michigan. The Technical Team also participated in negotiations with Enbridge on the three agreements with the State.

[1] Michigan Petroleum Pipeline Task Force Report - https://mipetroleumpipelines.org/document/michigan-petroleum-pipeline-task-force-report

RECEIVED by MSC 11/14/2025 2:10:18 PM

DIRECT TESTIMONY OF ALEXANDER MORESE
CASE NUMBER U-20763
PART II

Q. What is the purpose of your testimony in this proceeding?

A. The purpose of my testimony is to submit information on behalf of Staff relating to greenhouse gas (GHG) emissions associated with Enbridge's Line 5 Straits Replacement Project and alternatives under review.

Q. Are you sponsoring any exhibits and were they prepared by you?

A. Yes, I am sponsoring four exhibits which are listed below.

- Exhibit S-12: Plains Midstream letter to circuit court, is a four-page letter submitted to Judge Jamo of the Ingham County Circuit Court to express support for Line 5.

- Exhibit S-13: Enbridge Mainline System pipeline map, is a one-page document containing a map captured from Enbridge's website.

- Exhibit S-14: EIA's Updated Buildings Sector Appliance and Equipment Costs and Efficiencies, is an 11-page excerpt of specific data tables from an over 740-page document, that provide estimates for purchase and installation costs of common household appliances.

- Exhibit S-15: Addressing an Electrification Roadblock: Residential Electric Panel Capacity, is a 14-page report analyzing the electrical readiness of U.S. homes in preparedness for increased electrification.

Q. Why is Staff providing testimony about the GHG emissions?

A. The Commission, in its April 21, 2021 order[2] (April Order) responding to Enbridge's Motion in Limine, requested the scope of this case be expanded to

[2] Case U-20763 Commission Order, April 21, 2021 - https://mi-psc.force.com/sfc/servlet.shepherd/version/download/068t000000MOSVDAA5

RECEIVED by MSC 11/14/2025 2:10:18 PM

include an alternative should the Strait's portion of Line 5 (Dual Pipelines) cease operation due to a Notice of Revocation (of easement), thus providing for a scenario where this Act 16 case could result in not only the replacement of a segment of pipeline into a tunnel but also a restart of a pipeline system idled by the loss of easement rights. The Commission stated that restarting the pipeline after a closure of the Straits segment should result in a broader Michigan Environmental Protection Act (MEPA) review that includes GHG emissions.

> "If the State prevails in its action to enforce the Notice, the conduct at issue in this case – the Replacement Project – would be the lynchpin providing the company with the ability to ship product on this 4-mile stretch of Line 5. In other words, while Enbridge would retain the right to operate the other 641 miles of Line 5, it may not be able to ship product through the Straits by pipeline once the Notice is in force without the authorization that is sought in this case." (p. 68)
>
> "..the Commission must ultimately determine, consistent with its responsibilities under MEPA, whether there is any pollution, impairment, or destruction as a result of the Replacement Project – including in comparison to the possible closure of the dual pipeline segments currently in the Straits if the Notice is enforced; whether any pollution, impairment, or destruction is consistent with the protection of Michigan's natural resources; and whether there are feasible and prudent alternatives to any pollution, impairment, or destruction that is found as a result of the Replacement Project." (p. 69)

Q. Does your testimony's relevancy depend on whether the Dual Pipelines are ultimately shutdown via the current legal challenge?

A. Yes, in so much that the Commission has stated the case's expanded scope to include GHG emissions is dependent on a potential closure.

Q. What is your interpretation of what the Commission is seeking in regard to GHG emissions for this case, and particularly the Commission's MEPA review?

RECEIVED by MSC 11/14/2025 2:10:18 PM

DIRECT TESTIMONY OF ALEXANDER MORESE
CASE NUMBER U-20763
PART II

A. Based on the guidance provided on page 69 of the April Order, the Commission is asking for assistance in determining how GHG pollutants should be framed or bounded for consideration and how this affects the evaluation of reasonable and prudent alternatives.

> "Given the many considerations involved in the production, transportation, and ultimate refining and consumption of the products being transported, evidence addressing how to account for GHG pollutant impacts attributable to the proposed Replacement Project, where the proper boundaries of GHG pollutants should be drawn, and the correct alternative(s) for comparison would be helpful to the Commission in making this determination." (p. 69)

In this testimony Staff provides a framework for this evaluation and the reasoning behind said framework.

Q. Did Commission Staff rely on any outside consultants to assist their GHG investigation?

A. Yes, Staff retained the services of Weston Solutions Inc. (Weston) to provide support to Staff relating to the environmental impacts of the proposed tunnel and pipeline replacement, including an analysis of GHG emissions.

Q. What analyses completed by Weston will you be referencing in your testimony?

A. Staff is referencing Exhibit S-24, Greenhouse Gas Emissions Evaluation, sponsored by Phil Ponebshek that summarizes the GHG analysis completed by Weston.

Q. How is your testimony organized?

A. My testimony is organized into the following parts:

1. Discussion of baseline assumptions and background information.

RECEIVED by MSC 11/14/2025 2:10:18 PM

2. Economic and logistical considerations of petroleum product supply and demand in relation to alternative scenarios.

3. Staff analysis of feasibility of product switching over short to medium time frame.

4. Review of research and analysis by Weston.

5. Summary of conclusions.

Part 1. Discussion of baseline assumptions and background information.

Q. Are there boundaries to how you evaluated the question of GHG emissions?

A. Yes, Staff evaluated the GHG emissions associated with two primary scenarios. These include 1) combined pipeline operation and tunnel construction, and 2) GHG emissions resulting from rail and truck transportation in a scenario where the pipeline is no longer operational or has been shut down.

Q. Will you be providing testimony on the ecological impacts of burning fossil fuels or the resulting impacts of global climate change in your testimony?

A. No, Staff acknowledges that the burning of fossil fuels is a major source of GHGs in the atmosphere, thus contributing to global climate change. Staff also acknowledges that global climate change may have a deleterious effect on the Great Lakes ecosystem.

However, the environmental impacts associated with fossil fuels and climate change, while vitally important topics, should not determine the outcome of the case at hand because the transportation alternatives in this case will likely result in no significant change to consumption of the primary end products (gasoline,

RECEIVED by MSC 11/14/2025 2:10:18 PM

diesel, jet fuel, propane, etc.) thus resulting in no material decrease in GHG emissions from the products being consumed.

Q. Define the time frame over which Staff has analyzed alternative modes of transportation and product alternatives.

A. Staff has decided to focus on a short to medium term timeframe of approximately 5-30 years for our evaluation and assumptions. It is very difficult to speculate what the future holds in regard to technological developments/improvements, availability of energy infrastructure, or petroleum prices within regional markets or on an international scale.

Q. Describe the scope that Staff requested Weston to complete relating to GHG emissions.

A. Staff requested that Weston evaluate the GHG emissions associated with the:

1) current pipeline operation,

2) construction of the Line 5 Tunnel Project, and

3) alternatives to transporting the volumes of petroleum products shipped on Line 5 if the pipeline were unavailable.

Q. Describe the assumptions that Staff made in developing the scope for GHG emissions associated with alternative transportation modes.

A. Staff provided Weston with baseline assumptions for their evaluation of GHG emissions associated with the alternatives to transporting the volumes of petroleum product shipped on Line 5 over a 5 to 30-year timeframe as described above. These baseline assumptions included that:

RECEIVED by MSC 11/14/2025 2:10:18 PM

DIRECT TESTIMONY OF ALEXANDER MORESE
CASE NUMBER U-20763
PART II

1) A Line 5 shutdown would not alter the demand at market end points for the product transported on Line 5.

a. Volumes shipped would remain consistent with historical averages and be required in those markets where refining and storage infrastructure resides.

b. GHG emissions will only be calculated between primary beginning and end points of the supply chain.

2) Natural Gas Liquids (NGLs) would not flow on Enbridge Line 1 from western Canada to Superior, Wisconsin (Superior) following a Line 5 shutdown.

a. NGL or purity propane would be shipped via rail from western Canada to Sarnia, Ontario (Sarnia) and Rapid River, Michigan (Rapid River).

3) Crude oil would still flow on Enbridge Line 1 from western Canada to Superior.

a. Crude oil would be transported via rail from Superior to Marysville, Michigan (Marysville).

4) The primary mode of transportation for crude oil and NGL would be rail.

a. Trucking the volumes transported on Line 5 would not be feasible, except for the Michigan-produced crude oil volumes currently injected into Line 5 at Lewiston, Michigan (Lewiston).

b. Trucking may be used to supplement propane transportation.

The basis for the above stated scope and assumptions provided to Weston will be addressed in Part 2.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Part 2. Economic and logistical considerations of petroleum product supply and demand in relation to alternative scenarios.

Q. If throughput for Line 5 is eliminated, does Staff expect a reduction in fossil fuel consumption and therefore GHG emissions?

A. No. It is reasonable to assume that halting a primary petroleum transportation route/method to the region will not result in a demand reduction for products currently carried by Line 5. Existing and operational liquid pipelines serve solely as a transportation mode and not a determinate of demand. The only way to materially affect the GHG emissions from these products is to alter the demand for these products, the very consumption of them, by the end-user. Below, I explain that demand is unlikely to significantly change due to the price inelasticity of demand. Thus, if a particular transportation pathway is shut, consumption of the transported products is unlikely to change assuming alternate transportation modes are available.

Q. How were the transportation and supply chain beginning and end points selected for the GHG emissions evaluation?

A. Staff has attempted to select the most feasible routes to transport these products based on current market locations, availability of supply, refining and distribution infrastructure, configuration of the Lakehead system, and previous studies by Dynamic Risk Assessment Systems, Inc. (Dynamic Risk)[3] and Public Sector

[3] Alternatives Analysis for the Straits Pipelines (Section 7), https://drive.google.com/file/d/18NpC61Gfrbup43U0T3FtHy11ew2j5Nn6/view

RECEIVED by MSC 11/14/2025 2:10:18 PM

Consultants.[4] Additionally, by selecting these routes it allows for a more consistent comparison between the pipeline and other transportation modes. However, the analysis has also determined a per barrel-mile emission value for each transportation mode (i.e., pipeline, truck, rail) which provides flexibility in analyzing potential routes.

Q. Why do you assume NGL will no longer be carried on Line 1 if throughput on Line 5 is eliminated?

A. Enbridge in their presentation to the Upper Peninsula Energy Task Force (UPETF) stated that there was "No NGL storage or transport ability on any south routes"[5] of the Lakehead system. Based on public statements by Plains Midstream (Exhibit S-12), "...shutting down Line 5 would result in the inevitable shutdown of Plains facilities at Sarnia, Rapid River, and Superior," the economic viability of the Superior fractionator is in question should NGL shipments no longer pass through to Rapid River and Sarnia. Due to the lack of properly configured infrastructure to transport NGL via pipeline south of Superior, it was assumed purity propane would arrive via rail to markets supplying the Upper Peninsula. However, even if this conjecture is incorrect, due to the flexibility of the analysis conducted by Weston, we can estimate the GHG emissions associated with trucking propane from Superior or other regional terminals to the UP. We can

[4] Analysis of Propane Supply Alternatives for Michigan (p. 47-53), https://www.michigan.gov/documents/egle/Upper_Peninsula_Energy_Task_Force_Committee_Recommendations_Part_1_Propane_Supply_with_Appendices_687642_7.pdf

[5] Enbridge Line 5 Discussion to the U.P. Energy Task Force (p. 10), https://www.michigan.gov/documents/egle/egle-exe-upetf-Enbridge_Presentation_666523_7.pdf

RECEIVED by MSC 11/14/2025 2:10:18 PM

also estimate and compare the associated GHG emissions for transportation of NGL from Superior to Sarnia via rail. See Part 5's Summary of Conclusions.

Q. Why didn't you request that Weston evaluate the GHG emissions associated with the crude oil and NGL extraction process or their ultimate end use?

A. As stated previously, Staff assumed a negligible change in consumption of these products in the hypothetical loss of Line 5 throughput. Staff has seen no indication of a major shift in consumption by end users due to a change in transportation route or methodology. Therefore, emissions associated with extraction and end use are assumed to remain relatively unchanged for this analysis.

Q. What are the most likely alternative transportation modes for products currently shipped on Line 5?

A. According to research by Dynamic Risk[6] and Public Sector Consultants,[7] the most likely alternate mode(s) of transportation are by rail for the largest volumes and distances, and truck for shorter volumes and distances. Dynamic Risk considered rail "the most practical and cost-effective" of alternative transportation methods and deemed a truck-only alternative "nonviable." A quick analysis of the sheer volume of crude oil (approximately 440,000 bbl/day or 18,480,000 gal/day) transported on Line 5 from Superior would require nearly 1,800 additional tanker trucks on interstate highways each day and transload facilities

[6] Alternatives Analysis for the Straits Pipelines (Section 7), https://drive.google.com/file/d/18NpC61Gfrbup43U0T3FtHy11ew2j5Nn6/view

[7] Analysis of Propane Supply Alternatives for Michigan – https://www.michigan.gov/documents/egle/Upper_Peninsula_Energy_Task_Force_Committee_Recommendations_Part_1_Propane_Supply_with_Appendices_687642_7.pdf

RECEIVED by MSC 11/14/2025 2:10:18 PM

Appellants' Appendix BB

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of Enbridge Energy, Limited Partnership for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, of the Gran of other Appropriate Relief	U-20763 ALJ Dennis Mack

APPLICATION FOR LEAVE TO APPEAL THE ADMINISTRATIVE LAW JUDGE'S RULING ON MOTION IN LIMINE ON REMAND BY BAY MILLS INDIAN COMMUNITY, GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS, LITTLE TRAVERSE BAY BAND OF ODAWA INDIANS, AND NOTTAWASEPPI HURON BAND OF THE POTAWATOMI

March 9, 2021

RECEIVED by MSC 11/14/2025 2:10:18 PM

TABLE OF CONTENTS

INTRODUCTION **1**

STATEMENT OF FACTS AND PROCEEDINGS **3**

APPLICATION FOR LEAVE TO APPEAL **11**

I. Standard for Interlocutory Appeal 11

II. Offer of Proof 13

ARGUMENT **14**

III. Excluding Evidence Of Public Need For The Line 5 Tunnel Project To Extend The Life Of The Pipeline From This Case Is Contrary To Act 16 And The APA. 14

A. The 1953 Orders Do Not Control The Commission's Analysis In This Case. 15

B. Evidence Of The Public Need For The Line 5 Tunnel Project To Extend Line 5's Operating Lifespan Is A Necessary Part Of The Commission's Act 16 Review. 17

C. Under The APA, The Tribal Intervenors Must Be Able To Counter And Rebut The Evidence Of Public Need That Enbridge Already Has Submitted. 19

IV. Excluding Evidence Of The Environmental Effects Of Line 5 Is Contrary To The Commission's Obligation To Honor Tribal Treaty Rights, Complete A Comprehensive MEPA Review, And Provide Tribal Intervenors The Opportunity To Confront Enbridge's Evidence. 21

A. The Commission's Responsibility To Protect Treaty Rights And Resources Requires An Analysis Of The Environmental Risks Posed By Line 5. 22

B. The Commission's MEPA Obligations Require An Analysis Of The Environmental Impacts Posed By Line 5. 26

C. Under The APA, The Tribal Intervenors Must Be Able To Counter And Rebut Enbridge's Assertions That The ProjectWill Alleviate The Risk Of An Oil Spill From Line 5. 29

D. The Pipeline Safety Act Does Not Preempt The State's Treaty Obligations, MEPA, Or The APA, Each Of Which Is A Separate And Independent Basis For Including Evidence Of Operational Risks And Environmental Impacts Of Line 5 In This Case. 32

V. Excluding Evidence Of The Environmental Effects Of The Project's Greenhouse Gas Emissions Is Contrary To The Commission's Obligation To Honor Treaty-Protected Resources, The Required Analysis Under MEPA, And Michigan's Clean Energy Goals. 33

A. The Commission's Duty To Protect Treaty Rights And Resources Includes An Evaluation Of The Climate Change Impacts From The Project. 34

B. The Commission's Analysis Of The Project Under MEPA Requires An Analysis Of Foreseeable Effects Of The Project, Including Greenhouse Gas Pollution. 35

CONCLUSION AND REQUEST FOR RELIEF **40**

RECEIVED by MSC 11/14/2025 2:10:18 PM

Under Michigan Public Service Commission Rule 433, Bay Mills Indian Community ("Bay Mills"), Grand Traverse Band of Ottawa and Chippewa Indians ("GTB"), Little Traverse Bay Band of Odawa Indians ("LTBB"), and Nottawaseppi Huron Band of the Potawatomi ("NHBP") (collectively, "Tribal Intervenors") submit this Application for Leave to Appeal the February 23, 2021 decision of Administrative Law Judge ("ALJ") Dennis W. Mack (the "Remand Ruling"). The Remand Ruling adopted the ALJ's October 23, 2020 decision granting in part Enbridge Energy, Limited Partnership's ("Enbridge") Motion in Limine (the "October Ruling") as unchanged by the Notice of Revocation and Termination of Easement ("Revocation and Termination" or "Notice") issued by the Governor and Director of the Department of Natural Resources on November 13, 2020. In support of this Application, the Tribal Intervenors submit the following brief.

The Tribal Intervenors incorporate by reference the Applications for Leave to Appeal the Administrative Law Judge's February 23, 2021 Ruling on the Motion in Limine on Remand filed by Michigan Environmental Council, Tip of the Mitt Watershed Council, and National Wildlife Federation, as well as the appeal filed by Environmental Law & Policy Center and Michigan Climate Action. The Tribal Intervenors also incorporate by reference the prior Applications for Leave to Appeal the October Ruling filed by Bay Mills; Michigan Environmental Council, GTB, Tip of the Mitt Watershed Council, and National Wildlife Federation; and Environmental Law & Policy Center and Michigan Climate Action dated November 6, 2020.

INTRODUCTION

Enbridge seeks the Commission's approval of the re-routing of its Line 5 pipeline under the Straits of Mackinac and through a tunnel that Enbridge plans to construct for this purpose (the "Line 5 Tunnel Project" or "Project"). Even though Enbridge's proposal is complex and will

RECEIVED by MSC 11/14/2025 2:10:18 PM

have a significant impact on the operational lifespan of Line 5, Enbridge sought to exclude relevant evidence that the Commission must consider under 1929 PA 16 (Act 16), the Administrative Procedures Act ("APA"), the Michigan Environmental Protection Act ("MEPA"), and its Treaty obligations.

At the outset of discovery, Enbridge moved to exclude essential evidence regarding the tunnel, the public need to extend the life of Line 5 by constructing the Project; the environmental and operational risks of prolonging the life of Line 5 by constructing the Project; and the extent to which the Project would contribute to climate change. In the October Ruling, the ALJ correctly denied Enbridge's motion as it pertained to the tunnel, but incorrectly granted Enbridge's motion to exclude the other issues.

The Commission recognized that the October Ruling, and the arguments that Enbridge and Staff had made in support of it, "were premised on the continued existence of the 1953 easement and the continued operation of the Dual Pipelines under the easement."[1] Therefore, when the State of Michigan revoked and terminated the 1953 easement, the Commission asked the ALJ to rehear and reconsider the motion. But, despite the Commission's recognition that fundamental facts had changed,[2] the ALJ's conclusions did not.

[1] December 9, 2020 Remand Order, p. 5.

[2] December 9, 2020 Remand Order, p. 5-6 ("With the State of Michigan's revocation and termination of the 1953 easement, the facts have changed. The Commission is concerned that such a fundamental change may significantly affect the arguments that the parties would have made in support of, and in opposition to, the motion."); *see also* December 9, 2020 Remand Order, p. 6 n.2 (recognizing that Enbridge's argument that Line 5 will continue in operation in the Straits indefinitely, whether or not the Line 5 Project is approved, is one such argument that a party may not have made in light of the changed circumstances of revocation and termination).

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Remand Ruling erroneously excludes relevant evidence from the contested case. The Commission must reach a different outcome. Specifically, the Commission must allow a record to be developed on (1) the important issues of the public need to extend the life of Line 5 by installing a pipeline in a tunnel; (2) the risks caused by the continued operation of Line 5 if its life is so extended; and (3) the climate impacts of extending the life of Line 5 via the Project.

The Tribal Intervenors are four sovereign nations that have relied upon and vigorously fought to protect the land and waters through which Line 5 runs and, if the Project is approved, will continue to run for another century. Based on their intimate knowledge of the resources located throughout the Straits and along the pipeline. Tribal Intervenors can provide testimony that is directly relevant to the Commission's evaluation of the proposed project. The Commission should, therefore, reverse the portions of the ALJ's Rulings granting Enbridge's Motion in Limine.

STATEMENT OF FACTS AND PROCEEDINGS

On April 17, 2020, Enbridge filed an application, pursuant to Act 16 and Michigan Administrative Code, R 792.10447, requesting approval to route a segment of Line 5 crossing the Straits of Mackinac into a tunnel to be constructed beneath the Straits of Mackinac. As part of its application, Enbridge requested a declaratory ruling that its application did not need to proceed through the Commission's approval process because, according to Enbridge, it already had the requisite authority for the Line 5 Tunnel Project based on the Commission's grant of authority for the construction of the Line 5 pipeline in 1953.

On June 30, 2020, the Commission denied the declaratory relief requested by Enbridge "because Enbridge does not have the requisite authority to construct the Line 5 Project

RECEIVED by MSC 11/14/2025 2:10:18 PM

pursuant to the 1953 orders [or] the 1953 easement."[3] The Commission also ordered that this matter proceed as a contested case, specifically citing the impact of Line 5 on the Great Lakes as a rationale for its decision: "Moreover, due to the significant public interest and concern regarding the Line 5 Project's potential environmental impact on the Great Lakes, the Commission finds that it is in the public interest to conduct a contested case proceeding."[4]

Each of the Tribal Intervenors petitioned to intervene in the contested case.[5] The Tribal Intervenors described the natural resources at issue in Enbridge's application as important to their cultures, ways of life, and Tribal members' incomes and livelihoods. The Tribal Intervenors' interests in the Great Lakes and Straits of Mackinac long predate the 1953 pipeline construction or the 2020 application to construct and route a pipeline through a tunnel: The Tribal Intervenors have inhabited the lands of present-day Michigan and fished the waters of the Great Lakes and the Straits for subsistence and commerce since time immemorial.[6]

As described in their petitions to intervene, Bay Mills, GTB, and LTBB's interests in the Great Lakes and Straits of Mackinac are protected by a treaty with the United States. Threatened with removal from their homeland, the Ottawa (alternatively "Odawa") and Chippewa concluded a treaty in Washington, D.C. on March 28, 1836 (the "1836 Treaty") in

[3] June 30, 2020 Order, p. 58.

[4] June 30, 2020 Order, p. 69-70.

[5] Petition to Intervene by Bay Mills Indian Community (May 11, 2020) ("Bay Mills Petition"); Petition to Intervene by Grand Traverse Band of Ottawa and Chippewa Indians (May 27, 2020) ("GTB Petition"); Petition to Intervene by the Little Traverse Bay Bands of Odawa Indians (Aug 3, 2020) ("LTBB Petition"); Petition to Intervene by Nottawaseppi Huron Band of Potawatomi Indians (Aug 4, 2020) ("NHBP Petition").

[6] *See, e.g.*, LTBB Petition, p. 3.

RECEIVED by MSC 11/14/2025 2:10:18 PM

which they transferred to the United States almost half of the land and water that would become the State of Michigan: about 14 million acres of land and inland waters and 13 million acres in Lakes Michigan, Huron, and Superior.[7] This area, pictured in the map below, is known as the Ceded Territory. The Tribal Nations only agreed to this vast cession of their ancestral home upon assurance that they would have the continued reserved right to hunt, fish, and gather throughout the Ceded Territory.[8]

At the time of the 1836 Treaty, the Tribal Nations relied heavily on the fishery resources of the Upper Great Lakes for subsistence and as a form of commerce.[9] In the years since then, the 1836 Treaty Tribes have fiercely protected the Treaty fishing rights and other natural resources upon which the Treaty rights depend.[10] And today, commercial and subsistence

---

[7] Treaty of March 28, 1836, 7 Stat 491; *see also* Bay Mills Petition, p. 1-2. Bay Mills, GTB, and LTBB, as well as Sault Ste. Marie Tribe of Chippewa Indians and Little River Band of Ottawa Indiana are successors to the signatories of the 1836 Treaty and are collectively known as "the 1836 Treaty Tribes." Although NHBP is not one of the 1836 Treaty Tribes, NHBP and its members consistently maintain their culture and way of life through many of the same natural resources. NHBP Petition, p. 1.

[8] Treaty of March 28, 1836, 7 Stat 491. The promise of the Tribal Nations' permanent fishing rights in the Great Lakes, as well as hunting, fishing and gathering within the inland portions of the Ceded Territory, formed the lynch pin of the 1836 Treaty that paved the way for Michigan's statehood.

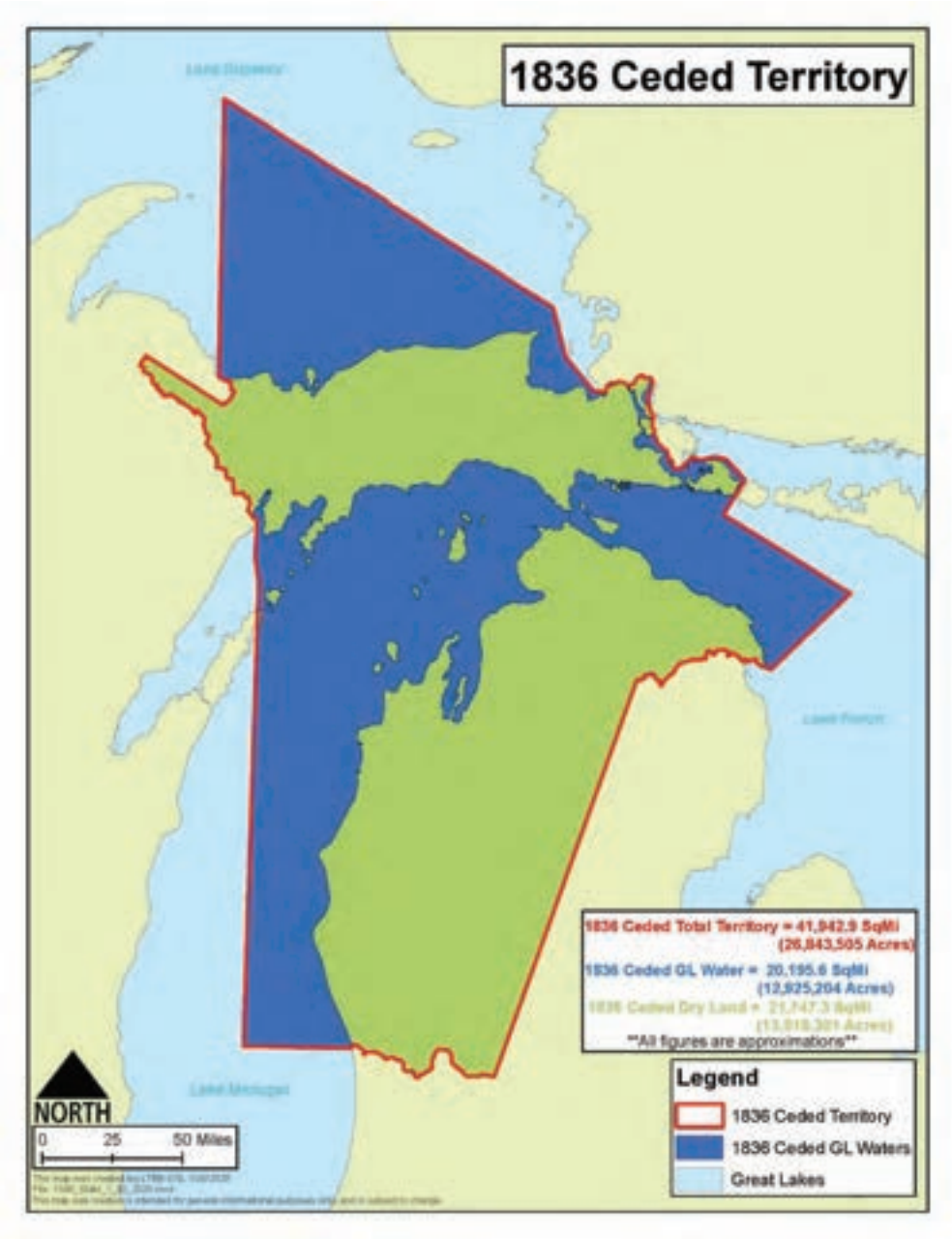
[9] Bay Mills Petition, Affidavit of Bryan T. Newland, p. 1.

[10] Bay Mills Petition, Affidavit of Bryan T. Newland, p. 2-3. With respect to the Great Lakes waters in the Ceded Territory, Bay Mills, as well as the GTB, LTBB, and other 1836 Treaty Tribes, and the United States (on Bay Mills' behalf) litigated the case of *United States v. Michigan*, 2:73-CIV-26 (WD MI), beginning in 1973, to confirm the continued right of the Tribal Nations to authorize their members to engage in commercial and subsistence fishing in Lakes Huron, Michigan, and Superior. After six years of extensive discovery, historic analysis, and a lengthy trial the Court issued its seminal decision in 1979 in which it upheld the Tribal Nations' continued right to fish for commercial and subsistence purposes throughout the Ceded Territory portions of Lakes Michigan, Huron and Superior. The Court explained that these were aboriginal rights that were affirmed and reserved in the Treaty. *United States v State of Mich*, 471 F Supp 192 (W D Mich 1979).

The 1836 Treaty Tribes, State of Michigan and United States addressed the Tribal Nations' reserved usufructuary Treaty right in the inland portions of the Ceded Territory by entering into the 2007 Inland Consent Decree (*United States v Michigan*, Docket #1799). The 2007 Decree permanently recognizes the Tribal Nations' hunting, fishing, and gathering rights to be exercised throughout the inland portions of the Ceded Territory on lands open to the

RECEIVED by MSC 11/14/2025 2:10:18 PM

fishing continue to be the primary occupation of many Tribal members. For example, over half of Bay Mills' member households rely on fishing for all or a portion of their annual income.[11]



general public for hunting, Tribal and Tribal member owned lands, and other private lands with owner permission with the Tribal Nations' agreement to authorize primarily subsistence, non-commercial inland activities.

[11] Bay Mills Petition, Affidavit of Bryan T. Newland, p. 2.

RECEIVED by MSC 11/14/2025 2:10:18 PM

On August 13, 2020, the ALJ issued an order granting as of right the Petitions to Intervene of Bay Mills, GTB, LTBB, and NHBP, among others. The ALJ set a schedule for the contested case that included the opportunity for the parties to file motions in limine early in the proceeding. Enbridge filed such a motion on September 2, 2020 ("Motion in Limine") and responses were filed on September 23, 2020.[12] The ALJ presided over oral argument on September 30, 2020 and issued a ruling on October 23, 2020. In the October Ruling, the ALJ denied Enbridge's motion to exclude evidence pertaining to the tunnel but granted the motion in other respects. Specifically, the ALJ ruled that "any evidence concerning the current and future operational aspects of the entirety of Line 5, including the public need and safety issue, is outside the scope of this case."[13] The ALJ further held that any evidence of "the environmental effect of greenhouse gas emissions and climate change, is irrelevant."[14]

On November 6, 2020, multiple parties, including Bay Mills and GTB filed applications to appeal the October Ruling. Enbridge, the Michigan Propane Gas and National Propane Gas Associations, MPSC Staff, and the Mackinac Straits Corridor Authority filed responses.

Between the November 6 appeals and the filing of responses, Governor Gretchen Whitmer and the Michigan Department of Natural Resources ("DNR") revoked and terminated the 1953 easement under which Enbridge currently operates Line 5 through the Straits of

[12] Bay Mills, GTB, Michigan Environmental Council, Tip of the Mitt Watershed Council, and National Wildlife Federation filed a joint response to Enbridge's motion ("Joint Respondents' Response"). In that joint response, the parties supported the arguments related to climate change found in the response filed jointly by the Environmental Law & Policy Center and Michigan Climate Action Network. The Attorney General filed a response adopting and incorporating the arguments in both of the joint response briefs.

[13] October Ruling, p. 16.

[14] October Ruling, p. 19.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Mackinac, effective 180 days after the November 13, 2020 Notice of Revocation and Termination. The Governor's Notice stated, "the Easement is being revoked for violation of the public trust doctrine, and is being terminated based on Enbridge's longstanding, persistent, and incurable violations of the Easement's conditions and standard of due care."[15] The Governor and DNR made several findings and observations supporting the Revocation and Termination, specifically:

- That the 1953 easement was "void from its inception" because the State never found that the Easement was in the public trust when it granted the easement, when it approved the construction of Line 5, or when 1953 PA 10 authorizing the easement issuance was enacted[16];
- That the "continued operation of the Straits Pipelines cannot be reconciled with the State's duty to protect public trust uses of the Lakes from potential impairment or destruction" due to "the very real risk of further anchor strikes and other external impacts to the Pipelines, the inherent risks of pipeline operations, and the foreseeable, catastrophic effects if an oil spill occurs at the Straits"[17];
- That the December 19, 2018 agreement allowing Enbridge to continue operating Line 5 subject to relocating the pipeline in the tunnel does not preclude revoking the easement;[18] and
- That Enbridge "breached or violated the standard of due care and its obligations to comply with the conditions of the Easement."[19]

---

[15] Notice of Revocation and Termination of Easement, November 13, 2020, p. 1, available at https://content.govdelivery.com/attachments/MIEOG/2020/11/13/file_attachments/1600920/Notice%20of%20%20Revocation%20and%20Termination%20of%20%20Easement%20%2811.13.20%29.pdf

[16] *Id.* at 4.

[17] *Id.* at 5-6.

[18] *Id.* at 9.

[19] *Id.* at 12. For example, according to the Notice of Revocation and Termination, Enbridge had violated conditions of the easement by ignoring the 75' span requirement "[f]or virtually the entire time the Easement has been in place," *id*. at 13, and failing to "inspect, timely repair, and disclose exceedances of pipe spans to the State of Michigan[,]" *id*. at 14. Enbridge had also left the condition of the pipeline coating/wrap in poor condition, *id*. at 15,

RECEIVED by MSC 11/14/2025 2:10:18 PM

The Attorney General also filed an action in the Ingham County Circuit Court on November 13, 2020 to enforce the Revocation and Termination (Case No. 20-646-CE). Enbridge subsequently sued the State of Michigan in the U.S. District Court for the Western District of Michigan opposing the revocation (Case No. 20-CV-01141). In its complaint, Enbridge called the Revocation and Termination "effectively a Shutdown Order" for the entire Line 5 pipeline transporting petroleum products across Michigan.[20] Enbridge sent a letter on January 12, 2021, announcing its plans to continue operating Line 5 beyond the end of the 180-day period in contravention of the State of Michigan's Revocation and Termination of the Easement.[21] In response, DNR Director Dan Eichinger replied with a statement that the State stands behind its Notice of Revocation and Termination and looks "forward to making our case in court, not via letters and press releases."[22]

The Revocation and Termination also resulted in a pause in consultation. In July 2020, Staff had begun a consultation process with the Tribal Intervenors pursuant to the 2002

---

and ignored exceedances of pipeline curvature standards, *id*. at 17. The Notice of Revocation and Termination also stated that Enbridge "produced few contemporaneous records and little evidence that it conducted a pipeline inspection and maintenance program from 1953 to the late 1990s or early 2000s – i.e., during most of the Easement's existence." *Id.* at 2, n. 1.

[20] Complaint in *Enbridge Energy, Limited Partnership v. Whitmer*, Case 1:20-cv-01141, at par. 1 (November 24, 2020). Officials from Canada and Ohio, as well as refineries, have also made statements showing that they consider the Revocation and Termination to mean that the entire Line 5 pipeline will cease to operate. *See* https://www.theglobeandmail.com/politics/article-canada-pressing-michigan-to-avert-shutdown-of-pipeline-critical-to/; https://www.detroitnews.com/story/news/local/michigan/2020/11/13/whitmer-moves-shut-down-enbridges-line-5/6279755002/.

[21] Enbridge Rejection of November 13, 2020, Notice of Revocation and Termination of 1953 Easement, January 12, 2021, p. VII-7, available at https://www.enbridge.com/~/media/Enb/Documents/Projects/line5/ENB_Michigan_Governor_Director_Letter_Jan_12_2021.pdf?la=en.

[22] Statement available at: https://www.michiganadvance.com/2021/01/12/enbridge-to-whitmer-we-will-not-shut-down-line-5/.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Government-to-Government Accord between the State of Michigan and the Federally Recognized Indian Tribes in the State of Michigan (the "2002 Accord") and Executive Directive No. 2019-17. Following the Revocation and Termination, however, Staff postponed consultation with the Tribal Intervenors. No consultation with the Tribal Intervenors about the Revocation and Termination or how it could affect the Tribal Intervenors or the scope of the case has taken place.

On December 9, 2020, the Commission remanded Enbridge's Motion in Limine for rehearing and reconsideration in light of the Revocation and Termination. The Commission acknowledged "that the ALJ's ruling, along with the motion and the responses to the motion, were premised on the continued existence of the 1953 easement and the continued operation of the dual pipelines under that easement[,]" and that as a result of the "revocation and termination of the 1953 easement, the facts have changed."[23] Accordingly, the Commission remanded Enbridge's Motion in Limine "to give the parties the opportunity to brief the question of whether, and, if so, to what extent Governor Whitmer's action to revoke and terminate the 1953 easement changes the scope of review in this proceeding . . . ."[24] The Commission instructed the parties to address in their briefs "how that change, if any, effects the issues presented in the motion in limine, including the issues of public need for the Line 5 Project and the required environmental review of the Line 5 Project."[25]

[23] Case No. U-20763, December 9, 2020, Order, p. 5.

[24] *Id.* at 6.

[25] *Id.* Tribal Intervenors note that the issue of whether the construction and environmental impacts of the tunnel itself were within the scope of the case was not appealed and are therefore not subject to the Commission's December 9, 2020 Remand Order. Nevertheless, Tribal Intervenors adopt and incorporate the arguments in MEC,

RECEIVED by MSC 11/14/2025 2:10:18 PM

Parties filed concurrent initial briefs on remand on January 15, 2021 and concurrent reply briefs on remand on January 29, 2021.[26] The ALJ presided over oral argument on February 5, 2021 and issued a ruling on February 23, 2021. In the Ruling on Remand, the ALJ declined to alter the October Ruling, determining that the Notice of Revocation and Termination is admissible,[27] but that his ruling on the Motion in light of Revocation and Termination was "consistent" with his earlier October Ruling (collectively, the "ALJ's Rulings").[28]

APPLICATION FOR LEAVE TO APPEAL

I. STANDARD FOR INTERLOCUTORY APPEAL

The Tribal Intervenors submit this Application for Leave to Appeal the Remand Ruling pursuant to Rule 433 of the Commission's Rules of Practice and Procedure. Rule 433 provides that, during the course of a proceeding, a party may appeal an ALJ's ruling to the Commission.[29]

GTB, Bay Mills, Watershed Council, and NWF's September 23, 2020 Joint Response Brief regarding the risks of and public need for the continued operation of Line 5. Unlike Enbridge's application, none of those arguments were based on the assumption that Line 5 would continue operating.

[26] Between the briefing and this application for appeal, the Michigan Department of Environment, Great Lakes, and the Energy ("EGLE") approved three permits for Enbridge's proposed tunnel construction: a Clean Water Act discharge permit on January 29, 2021, and both a wetlands permit and a bottomlands permit on February 25, 2021. Before tunnel construction may proceed, many more approvals must occur in addition to this Act 16 permitting process—as EGLE's permits expressly recognized. For example, the Army Corps of Engineers is reviewing Enbridge's Section 404 of the Clean Water Act permit application, which requires (1) a review of environmental impacts under the National Environmental Policy Act, (2) consultation with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act to evaluate project impacts to threatened and endangered species, and (3) consultation with Tribal Nations under Section 106 of the National Historic Preservation Act to evaluate project impacts to cultural and historic sites. In addition to the outstanding permitting processes before the Army Corps of Engineers and the Commission, persons aggrieved by EGLE's permit decisions may file a petition for a contested case within 60 days of the decision.

[27] Remand Ruling, p. 13 n.6.

[28] Remand Ruling, p. 22.

[29] Mich Admin Code R 792.10433.

RECEIVED by MSC 11/14/2025 2:10:18 PM

This rule sets forth the criteria used by the Commission when reviewing an Application for Leave to Appeal:

> The commission will grant an application and review the presiding officer's ruling if any of the following provisions apply: (a) A decision on the ruling before submission of the full case to the commission for final decision will materially advance a timely resolution of the proceeding. (b) A decision on the ruling before submission of the full case to the commission for final decision will prevent substantial harm to the appellant or the public-at-large. (c) A decision on the ruling before submission of the full case to the commission for final decision is consistent with other criteria that the commission may establish by order.[30]

The Commission will reverse an ALJ's determination "if the Commission finds that a different result is more appropriate."[31]

The Commission should grant the Tribal Intervenors' Application because by doing so, the Commission will prevent substantial harm to the Tribal Intervenors. The Remand Ruling failed to address the bases upon which the Tribal Intervenors opposed Enbridge's Motion in Limine and excludes from the contested case evidence concerning significant and relevant issues of deep importance to the Tribal Intervenors. If the Remand Ruling stands, the Tribal Intervenors will be deprived of the opportunity to present evidence of how the Project threatens their Treaty-protected rights. The Tribal Intervenors also will be deprived the opportunity to present evidence necessary to the Commission's MEPA and Act 16 analyses, including, but not limited to, issues of the environmental consequences of the Project and the public need for the Project.

[30] Mich Admin Code R 792.10433(2).

[31] *See, e.g.*, Case No. U-20165, October 5, 2018, Order, p. 17.

RECEIVED by MSC 11/14/2025 2:10:18 PM

II. OFFER OF PROOF

Commission Rule 433 states in part: "An offer of proof shall be made in connection with an appeal of a ruling excluding evidence. The offer of proof shall be made on the hearing record."[32] This requirement is not applicable here where the ALJ did not exclude particular evidence, but instead excluded entire topics or categories from consideration in the case. Moreover, there is no hearing record; the hearing is scheduled for August 2021. The parties are in the midst of discovery and still developing their respective cases.

Nevertheless, to assist the Commission in its consideration of this request for leave to appeal, the Tribal Intervenors provide the following offers of proof:

- The Tribal Intervenors incorporate the offers of proof of Dr. Elizabeth Stanton and Mr. Richard Kuprewicz made by the Michigan Environmental Council, GTB, Tip of the Mitt Watershed Council, and National Wildlife Federation in their Application for Leave to Appeal the October 23, 2020 Decision.

- The Tribal Intervenors incorporate the offers of proof of Mr. Peter Erickson and Dr. Peter Howard made by the Environmental Law & Policy Center and Michigan Climate Action Network in their Application for Leave to Appeal the October 23, 2020 Decision.

- Bay Mills offers to submit direct testimony by Brian Wesolek. Mr. Wesolek is an Aquatic Biologist for the Bay Mills Biological Services Department, and his CV is attached as Exhibit 1. He is expected to testify regarding the inland waters and aquatic species and habitats that Line 5 crosses.

- LTBB offers to submit direct testimony by Kevin Donner. Mr. Donner is a Great Lakes Fisheries Biologist for LTBB's Natural Resources Department, and his CV is attached as Exhibit 2. Mr. Donner is expected to testify regarding potential environmental impacts from the operation of Line 5 to fisheries resources.

- NHBP offers to submit direct testimony from John Rodwan, the NHBP Environmental Director, and his CV is attached as Exhibit 3. Mr. Rodwan was responsible as a Tribal representation on the Natural Resource Damage Assessment committee, restoration of cultural and natural resources, and Enbridge's mitigation efforts in the aftermath of the devastating Line 6B oil spill in 2010. Mr. Rodwan is expected to testify about the impact

[32] Mich Admin Code R 792.10433(3).

RECEIVED by MSC 11/14/2025 2:10:18 PM

this oil spill had on the NHBP community and its cultural resources. Mr. Rodwan will also testify to the overwhelming time and effort it took to restore, to the greatest extent possible, those resources and grant access back to the sacred waterways.

- The Tribal Intervenors offer to submit direct testimony by tribal members, employees, and/or representatives regarding the exercise of Treaty rights and cultural practices through which Line 5 crosses, such as exercise of fishing, hunting, and gathering rights.

ARGUMENT

The ALJ's Rulings incorrectly exclude three categories of evidence that are relevant to the Commission's evaluation of the Project – (1) the public need to extend the operation of Line 5, (2) the environmental effects of extending the operation of Line 5, and (3) the greenhouse gas emissions associated with the Project. As discussed below, and despite Enbridge's arguments to the contrary, consideration of this evidence does not "expand" the jurisdiction of the Commission. Rather, this evidence is directly relevant to the issues in this case and, therefore Enbridge's attempt to impermissibly narrow the scope of the case should be rejected.

III. EXCLUDING EVIDENCE OF PUBLIC NEED FOR THE LINE 5 TUNNEL PROJECT TO EXTEND THE LIFE OF THE PIPELINE FROM THIS CASE IS CONTRARY TO ACT 16 AND THE APA.

To grant an Act 16 application, the Commission must find that "the applicant has demonstrated a public need for the proposed pipeline."[33] The ALJ's Rulings, however, would exclude from this case "any evidence concerning the current and future operational aspects of the entirety of Line 5, including the public need."[34] Protecting Enbridge's ability to continue to operate Line 5 into the future has always been both the Project's purpose and the Project's effect. In light of the Revocation and Termination, the Project may be the only way that

[33] *In re Enbridge Energy, Ltd P'ship,* Case No. U-17020, Final Order dated January 31, 2013, at 5.

[34] October Ruling, p. 16; Remand Ruling, p. 22.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge can continue operating Line 5, because continuing to operate Line 5 through the Dual Pipelines will be a violation of the Revocation and Termination of the 1953 easement after May 2021. Therefore, whether there is a public need for the Project to enable the continued and future operation of Line 5 is critical to the Commission's Act 16 analysis.

A. The 1953 Orders Do Not Control The Commission's Analysis In This Case.

In moving to exclude evidence regarding the public need for the Line 5 Tunnel Project to extend the operating life of Line 5, Enbridge argued that the determination of need was "conclusively established" in two 1953 Commission orders and *Lakehead Pipe Line Co. v. Dehn*, 340 Mich 25 (1954).[35] The 1953 orders and 1954 opinion relate to a project that is significantly different from the present Project and do not control this case. Indeed, the Commission already has found that "it is evident that the Line 5 Project differs significantly from what was approved in the 1953 orders," and that "Enbridge does not have the requisite authority to construct the Line 5 Project pursuant to the 1953 orders."[36] Because this is a new Act 16 application, the Commission will need to make a new determination of all Act 16 factors, including public need.[37]

[35] Enbridge Motion in Limine, p. 4, 13.

[36] June 30 Order, p. 58.

[37] Similarly, Act 359, MCL 254.324a, *et seq.*, does not control the public need determination. Act 359 "creates the [Mackinac Straits] Corridor Authority . . . and authorizes the Corridor Authority to operate the utility tunnel." *Enbridge Energy, LP v. State*, 2020 WL 3106841, No. 351366 at *4 (Mich App June 11, 2020). It did not, however, revise or revoke Act 16 in any way; Act 359 did not displace the Commission's Act 16 public need analysis. *See* October Ruling, p. 10.

RECEIVED by MSC 11/14/2025 2:10:18 PM

The October Ruling correctly noted that the 1953 orders and *Lakehead Pipe Line Co.* do not "end the inquiry" on public need.[38] The Remand Ruling did, however, incorrectly determine that the 1953 orders were a basis for excluding evidence about the public need for the fuels to be transported through the Line 5 Tunnel Project. The Remand Ruling reasoned that "the 1953 Order issued under Act 16 establishes that Line 5 serves a public need and is in the public interest," and that because there is no "expiration date" for the 1953 Order, the authority to operate Line 5 remains in effect today.[39]

In the Remand Ruling, the ALJ reasoned that evidence of the public need for the fuels to be transported through the Line 5 Tunnel Project could not be used for the purpose of overturning the 1953 orders[40] and therefore that evidence could not be used for *any* purpose and could not come into the case at all. That determination was wrong. Evidence about the public need for the Line 5 Tunnel Project to extend the life of Line 5 is relevant to the Commission's decision about whether to allow a segment of pipeline to be re-routed—pursuant to Act 16—through an ecologically sensitive and culturally significant section of the Great Lakes. If Michiganders will not need the fuels that would be transported by the Project, then there is

[38] October Ruling, p. 16. The October Ruling also suggested that the 1953 orders go to the public need for the instant Project. *Id.* The Tribal Intervenors disagree with relying on the prior approval as persuasive authority.

[39] Remand Ruling, p. 16. This reasoning suffers another flaw: the 1953 orders and 1954 opinion did not make a determination of "public need." *See* Joint Intervenors' Initial Brief on Remand, p. 11-12.

[40] No party has asked for the 1953 orders to be overturned. But the Remand Ruling noted that if the Commission could reconsider the 1953 orders by, at its discretion, commencing "a proceeding to revoke the license issued under the 1953 Order if it deems the Notice is a fact or gives rise to conduct that warrants that action under §92(1)." Remand Ruling, p. 17 (citing MCL 483.3(1)).

RECEIVED by MSC 11/14/2025 2:10:18 PM

no need for the Project.[41] Simply put, the Commission can find that there is no public need for the Project without revoking the 1953 orders.

B. Evidence Of The Public Need For The Line 5 Tunnel Project To Extend Line 5's Operating Lifespan Is A Necessary Part Of The Commission's Act 16 Review.

As part of its Act 16 public need analysis, the Commission must assess whether there is a public need for the future operation of Line 5 because that is the effect of the Project.[42] The basis of Enbridge's argument to exclude this evidence was Enbridge's assumption that the Dual Pipelines could continue operating on the—now-revoked and terminated—1953 easement. Enbridge argued that the Line 5 Tunnel Project would not extend the life of the pipeline because, if the Project were denied, Line 5 would continue to operate on the Easement indefinitely.[43] Therefore, Enbridge argued, the risks of continued operation of Line 5 were outside the scope of this case.

Despite Enbridge having the burden of persuasion as the moving party, it never backed up with evidence its assertions about Line 5 continuing to operate indefinitely even without the Line 5 Tunnel Project. Enbridge's assumption about the pipeline's continued operation in the

[41] In fact, in Michigan, the Governor has announced a public need to move away from the very fuels that would be transported by the Project. Consideration of Michigan's climate objectives as outlined in the Executive Directive 2020-10 ("Building a Carbon-Neutral Michigan") fits squarely within the scope of an Act 16 public need analysis. As stated in Executive Directive 2020-10: "[W]e must build a carbon-neutral state. Carbon-neutrality is needed not only for the environment and public health, but also for the resilience of our economy." Indeed, the Executive Directive includes an explicit commitment to reduce greenhouse gas emissions by 2025 and achieve carbon neutrality by 2050. The Project clearly implicates the public need articulated in the Executive Directive. The fuels transported by the pipeline contribute to greenhouse gas emissions and the project is designed to perpetuate the reliance on those fuels for 99 years.

[42] *In re Enbridge Energy, Ltd P'ship,* Case No. U-17020, Final Order dated January 31, 2013, p 5 (noting that an Act 16 factor is whether that "the applicant has demonstrated a public need for the proposed pipeline").

[43] Enbridge Motion in Limine, p. 16.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Straits regardless of whether this Project is approved is unproven, unlikely in light of the Revocation and Termination, and the proper subject of evidence and testimony in this case.

There have always been reasons to doubt the continued operation of the Dual Pipelines. For example, there is a common-sense question of whether Enbridge would plan to spend more than $500 million on construction of a tunnel and years in permitting and building processes, if it could continue to operate its aging dual pipelines under the status quo model.[44] Additionally, in June 2020, the Ingham County Court issued a temporary restraining order requiring the shutdown of the Dual Pipelines in the Straits, explaining that "the severe risk of harm" from an oil spill was "so substantial and irreparable, and endangers so many communities and livelihoods and the natural resources of Michigan, the danger far exceeds the risk of financial loss to the defendants."[45] A court may well make such a finding again or issue a permanent injunction shutting down the pipeline.

Following the Revocation and Termination, however, Enbridge's argument for excluding evidence of public need and environmental risk of Line 5 on the grounds that the Dual Pipelines could remain in the Straits in perpetuity is not tenable. The Governor and DNR have revoked and terminated the 1953 easement, ordered Enbridge to cease operation of the Dual Pipelines by May 2021, and required Enbridge to permanently decommission the Dual Pipelines. Enbridge itself refers to the Revocation and Termination as "a Shutdown Order."[46] There is no

[44] Enbridge Application, Exhibit A-9, p. 14.

[45] Temporary Restraining Order, *Nessel v Enbridge Energy*, *LP*, *et al*, No. 19-474-CE (Ingham County Cir Ct Michigan, June 25, 2020); *see also* Brief in Support of Motion for Preliminary Injunction; and Motion For a Temporary Restraining Order, *Nessel v Enbridge Energy*, *LP*, *et al*, No. 19-474-CE (Ingham County Cir Ct Michigan).

[46] Complaint in *Enbridge Energy, Limited Partnership v Whitmer*, Case 1:20-cv-01141, at par. 1 (Nov. 24,2020).

RECEIVED by MSC 11/14/2025 2:10:18 PM

basis to assume that the Project and the longevity of Line 5 are unrelated.[47] The question of the public need to extend the life of Line 5 with the Project must be the subject of evidence.

C. Under The APA, The Tribal Intervenors Must Be Able To Counter And Rebut The Evidence Of Public Need That Enbridge Already Has Submitted.

Because Enbridge placed the issue of future operation of Line 5 and the longevity of the pipeline at issue in this case in its application and pre-filed testimony, the APA demands that other parties be permitted to present evidence on the issue and challenge Enbridge's evidence.

Under the APA, "[t]he parties shall be given an opportunity to present oral and written arguments on issues of law and policy and an opportunity to present evidence and arguments on issues of fact."[48] Also, "[a] party may cross-examine a witness, including the author of a document prepared by, on behalf of, or for the use of the agency and offered into evidence. A party may submit rebuttal evidence."[49]

[47] Enbridge and the Staff argue that even after the cessation of Line 5 operations, as a result of the Revocation and Termination, the pipeline could be restarted without seeking Commission approval. Notably, they do not provide legal support for this argument. The ALJ's Remand Ruling seems to adopt Enbridge's and the Staff's interpretation. Remand Ruling, p. 18. Yet, that interpretation is directly contrary to the Commission's June 30, 2020 ruling which rejected Enbridge's attempt to use the same basic reasoning to bypass the approval process for the tunnel project. The Commission states that "two factors that have initiated the filing of a new application pursuant to Rule 447: (1) a change in pipe diameter (i.e., capacity), and (2) a relocation of the pipeline." June 30, 2020 Order, p. 63. The Commission indicates that only one of these factors is needed to trigger the need for an application. *Id.* If Enbridge no longer has an easement for the dual pipelines to operate along the lakebed, any plan to restart Line 5 most definitely will involve relocation of the pipeline—whether it is in a new pipeline in the tunnel or another proposed reroute of the pipeline. At that time, the analysis of the public need for the relocation of the pipeline will depend considerably on a several factual developments—e.g., how the market adjusts to the shutdown of Line 5.

[48] MCL 24.272(3).

[49] MCL 24.272(4).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge's application materials state that the Project includes a lease for the tunnel to occupy the Straits for another 99 years.[50] In the testimony filed with its application, an Enbridge witness states Enbridge's intent to continue to use Line 5 "well into the future after the completion of the Project" because it "expect[s]" the utilization of Line 5 of the past ten years to continue because of "continued expected demand."[51] At the earliest and subject to permit approvals, Enbridge seeks to begin operating the Line 5 through the tunnel in 2024.[52]

Because Enbridge presented issues of fact regarding the operation of Line 5 in the future, the scope of this case must include the continued need for the operation of Line 5 and the fuels to be transported by the Project. Other parties must have an opportunity to challenge Enbridge's testimony regarding "continued expected demand" — that the public will need to transport fuels through Line 5 — well into the future.[53] Thus, the questions of whether utilization and demand of the past ten years will continue in 2024, "well into the future," and in 99 years are squarely at issue in this case.

The Commission should reverse the ALJ's Rulings and allow testimony on the issue of public need for this Project to extend, guarantee, and facilitate the future operation of Line 5.

[50] Enbridge Application, Exhibit A-5, p. 34, Section 5.3. Enbridge also states in its application that the Project will cost $500 million, which begs the question of why a company would invest that much money in infrastructure if it did not plan to use it for many years. Enbridge Application, Exhibit A-9, p. 14.

[51] Pre-filed Testimony of Marlon Samuel, p. 5.

[52] State of Michigan, Line 5 in Michigan, https://www.michigan.gov/line5/0,9833,7-413-99949-528646--,00.html; *see also* Exhibit A-9, p. 5 (stating a project timeline of "5 to 6 years" to construct the tunnel alternative).

[53] MCL 24.272(4).

RECEIVED by MSC 11/14/2025 2:10:18 PM

IV. EXCLUDING EVIDENCE OF THE ENVIRONMENTAL EFFECTS OF LINE 5 IS CONTRARY TO THE COMMISSION'S OBLIGATION TO HONOR TRIBAL TREATY RIGHTS, COMPLETE A COMPREHENSIVE MEPA REVIEW, AND PROVIDE TRIBAL INTERVENORS THE OPPORTUNITY TO CONFRONT ENBRIDGE'S EVIDENCE.

Enbridge seeks approval of the Project to secure for decades to come the operation of a pipeline that likely would cease to operate much sooner without the approval. Accordingly, foreseeable consequences from the long-term continued operation of the pipeline, such as potential oil spills, are the proper subject of testimony and evidence. Three separate authorities provide independent bases for the Commission to consider these environmental consequences: (1) the state's obligations to protect tribal Treaty rights; (2) MEPA; and (3) Act 16 and the APA.

Enbridge argued, in its Motion in Limine, for the exclusion of "issues regarding the continued operation of Line 5 or the safety of Line 5's operation."[54] Enbridge premised this argument on the assumption that "the Dual Pipelines can continue to operate even if the relocation permission sought here were denied."[55] Tribal Intervenors have always contended that Enbridge's assumption was flawed,[56] but after the Governor's Revocation and Termination of the Easement, Enbridge's assumption about the Dual Pipelines' continued operation is even less tenable. As a result, there is no basis for excluding evidence of the risks attendant with the operation of Line 5 because those risks are being perpetuated and enabled by the Project.

[54] Enbridge Motion in Limine, p. 13.

[55] Enbridge Motion in Limine, p. 16

[56] Joint Response to Motion in Limine, p. 27-28; Bay Mills Appeal, p. 32-34; MEC, GTB, Watershed Council, and NWF Appeal, p. 11-12.

RECEIVED by MSC 11/14/2025 2:10:18 PM

A. The Commission's Responsibility To Protect Treaty Rights And Resources Requires An Analysis Of The Environmental Risks Posed By Line 5.

The scope of the contested case must include full consideration of the impacts of the Line 5 Project on Treaty-protected resources. The October Ruling mistakenly stated that to consider Treaty resources would be an "expan[sion]" of the Commission's jurisdiction.[57] As discussed in detail below, state agencies like the Commission already have an affirmative obligation not to diminish treaty rights or resources. To meet that obligation, the Commission must consider whether this Project will impact and diminish Treaty rights or resources. Because the Project has the purpose and effect of extending the life of the pipeline, a complete consideration of the impacts of the Project requires evidence and testimony about the continuing and future risks to Treaty rights or resources from pipeline operation.

The state—and by extension, the Commission—has an obligation to protect tribal Treaty rights and resources. Treaties are the supreme law of the land,[58] and state agencies cannot act to render treaties meaningless.[59] If the resources that a treaty right depends upon are destroyed, the right is violated.[60] As the United States Supreme Court has said, not only is the federal government bound to honor tribal treaty rights, but so are states, their agents, and their

---

[57] October Ruling, p. 15. The Remand Ruling made no attempt to address the Joint Intervenors treaty arguments. *See* Joint Intervenors Initial Brief on Remand, p. 25-29.

[58] U.S. Const., Art. VI, cl.2.

[59] Only an act of Congress can diminish a treaty. *Minnesota v Mille Lacs Band of Chippewa Indians*, 526 US 172, 202 (1999); *Menominee Tribe v United States*, 391 US 404, 413 (1968).

[60] *See United States v Washington*, 853 F 3d 946 (9th Cir 2017), *aff'd by Washington v United States*, 138 S Ct 1832 (2018) (holding that where state-owned culverts located under state roads obstructed fish passage, diminishing the supply of fish, the state had violated its duty owed to tribes under treaties that guaranteed fishing rights).

RECEIVED by MSC 11/14/2025 2:10:18 PM

grantees.[61] For example, courts have held that states must guarantee tribal members continued access to waters and lands where they hold rights, and that states cannot deplete the resources upon which treaty rights depend.[62] In other words, the Michigan government and the Commission must guarantee that treaty rights remain meaningful and available.[63]

In other contexts, the State of Michigan acknowledges that it has this affirmative obligation not to diminish treaty resources. The Notice, for example, includes the Governor and DNR's recognition of Tribal Nations' "fundamental interests in the preservation of clean water, fish and habitat at the Straits," as well as that "[m]any tribal members rely on treaty-protected rights of commercial and subsistence fishing in the Straits and other Great Lakes waters that could be impacted by an oil spill or release" from Line 5.[64] The *United States v. Michigan* litigation and resulting consent decrees are another example. There, recognizing the 1836 Treaty Tribes' fishing rights, the court rejected the notion that the state could regulate tribal fishing in the same manner that it regulates other Michigan citizens.[65] As a result of the case, the State of Michigan and the 1836 Treaty Tribes entered into a consent decree in 1985

[61] *See United States v Winans*, 198 US, 371, 381-82 (1905).

[62] *See United States v Winans*, 198 US, 371, 381-82 (1905) (upholding the Tribal Nation's right of access over private land to fish in the Columbia River); *United States v Washington*, 2007 WL 2437166, *10 (W D Wash 2007), *aff'd United States v Washington*, 853 F 3d 946 (9th Cir 2016) (treaty-protected fishing rights "would only be meaningful if they carried the implied promise that neither the negotiators nor their successors would take actions that would significantly degrade the resource.").

[63] Beginning with their petitions to intervene, the Tribal Intervenors have stated unequivocally that "The State of Michigan is obligated to honor and to not sanction any diminishment of the 1836 Treaty Tribes' off-reservation fishing rights in the Great Lakes including the Straits of Mackinac." GTB Petition, p. 2; LTBB Petition, p. 3.

[64] Notice of Revocation and Termination, p. 9.

[65] United States v Michigan, 471 F Supp 192 (W D Mich 1979).

RECEIVED by MSC 11/14/2025 2:10:18 PM

regarding the management of the Great Lakes fishery.[66] That agreement, and subsequent agreements, demonstrate the State's obligation to work with the 1836 Treaty Tribes to preserve Treaty fishing rights and other natural resources.[67] Although the State entity in those consent decrees is the DNR, the obligation not to diminish treaty rights is not something the state can satisfy with whichever agency it chooses. Each agency whose actions might affect treaty rights, including the Commission, must consider them and not take action that would diminish these paramount Treaty-protected rights.[68]

Third, Treaty resources would be impacted by the approval of a Project that would allow Line 5 to operate well into the future. If approved, the Project, both tunnel and pipeline, would be constructed and operated through areas where Tribes hold usufructuary rights.[69] The Tribal Intervenors are deeply concerned about the risks that an aging pipeline—operated by a company that has already caused one of the largest inland oil spills in North American history, as NHBP knows too well[70]—poses to the inland waters, wetlands, and fish and plant habitats that it crosses.

---

[66] 12 Indian Law Reporter 3079 (August 1985).

[67] *See* Consent Decree, United States v Michigan, Case No. 2:73-cv-26 (W D Mich Aug 7, 2000) (regarding Great Lakes); Consent Decree, United States v Michigan, Case No. 2:73-cv-26 (W D Mich Nov 2, 2007) (regarding inland lands, rivers, and streams).

[68] It is not uncommon for all agencies to have responsibilities under one legal authority. Every agency has public trust obligations and MEPA obligations. Tribal consultation provides another analogy. Every agency involved in permitting the Tunnel Project must conduct government-to-government consultation with the Tribal Nations. *See* 2002 Government-to-Government Accord between the State of Michigan and the Federally Recognized Indian Tribes in the State of Michigan; Executive Directive No. 2019-17.

[69] "[I]t is not in dispute that the Tribal nations have treaty rights in the Straits and other areas where Line 5 is located." October Ruling, p. 14.

[70] NHBP Petition to Intervene, p. 3.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Bay Mills, GTB, and LTBB have inherent Treaty-protected rights to fish, hunt, and gather throughout the approximately 14 million acres of land and inland waters and 13 million acres of Great Lakes water that the Tribal Nation signatories to the 1836 Treaty ceded to the U.S. government for the creation of the State of Michigan.[71] The existence of these Treaty rights depends on underlying resources, such as clean water and plant habitats to support fish and game. The economic, social, cultural, and political existence of the 1836 Treaty Tribes is inextricably tied to the waters of Lakes Michigan and Huron that could be decimated by a large oil spill in the Straits of Mackinac or Great Lakes tributaries. Their relationship with the land, water, and wildlife sustained and defined their communities and continues to do so through this day. Tribal members have sustainably harvested fish in northern Lakes Michigan, Huron, and the Straits, and hunted, fished, and gathered medicines throughout Michigan lands, for subsistence and commerce for many centuries. These rights remain critical to the Tribal Nations. For example, over half of Bay Mills' member households rely on fishing for all or a portion of their annual income.[72] Fishing is not only an economic activity for Tribal Intervenors; fishing and fish are intertwined with cultural and spiritual practices and the ways in which the

[71] Treaty of March 28, 1836, 7 Stat 491. On land, the reserved rights are held throughout the inland portions of the Ceded Territory on lands open to the general public for hunting, Tribal and Tribal member owned lands, and other private lands with owner permission with the Tribes' agreement to authorize primarily subsistence, non-commercial inland activities.

Note that while three of the Tribal Intervenors (Bay Mills, GTB, and LTBB) have protected Treaty rights in the Straits and along Line 5 pursuant to the 1836 Treaty, the fourth Tribal Intervenor (NHBP) also relies on these natural resources as part of their cultural way of life. *See* NHBP Petition, p.3.

[72] Bay Mills Petition, Affidavit of Bryan T. Newland, p. 2.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Tribal Nations' teachings are passed through generations. None of the Tribal Intervenors should have to carry the burden of damage to any of the waters or resources that Line 5 threatens.

Tribal Intervenors must be able to submit evidence regarding all of the environmental impacts Line 5 will have on Treaty-protected rights and resources, including potentially affected fish habitat and species, wildlife, and plants. This evidence will help the Commission fully understand the Project's impacts and act to fulfill its solemn obligation to protect Treaty rights.

B. The Commission's MEPA Obligations Require An Analysis Of The Environmental Impacts Posed By Line 5.

MEPA requires a review of risks related to the Line 5 Tunnel Project, including spill risks and a comparison to project alternatives. Although the October Ruling recognizes that a MEPA analysis is necessary to this case and includes the construction of the tunnel,[73] the rulings fail to recognize that the MEPA analysis also must include consideration of the environmental impacts associated with the continued operation of Line 5.

[73] October Ruling, p. 17. Tribal Intervenors are concerned, however, by the October Ruling's suggestion of relying on other agencies' environmental determinations. While Tribal Intervenors do not disagree that the Commission may seek the input of other agencies such as EGLE and the Army Corps of Engineers, such input does not relieve the Commission of its obligation to conduct its own analysis of the Project's environmental impacts. Every agency taking action on a project must fulfill its MEPA obligations; Enbridge's suggestion, Enbridge Motion in Limine at 3, that the Commission should not conduct an environmental review because other agencies will, is wrong. *State Hwy Comm v Vanderkloot*, 329 Mich 159, 185-87 (1974) (requiring agencies to apply the substantive requirements of MEPA); *Buggs v Michigan Pub Serv Comm'n*, No. 315058, 2015 WL 159795, at *7 (Mich Ct App Jan 13, 2015) (confirming that the holding of *Vanderkloot* applies to MPSC determinations of public convenience and necessity in pipeline permitting decisions), *aff'd sub nom In re Application of Encana Oil & Gas re Garfield 36 Pipeline*, No. 329781, 2017 WL 2130276 (Mich Ct App May 16, 2017). And rather than merely deferring to those agencies, the Commission must conduct an independent analysis of the evidence presented both in this contested case and by other agencies. *Vanderkloot*, 392 Mich at 184. Failure to do so may be the basis for a finding of abuse of discretion. *Id.* at 191; *see also Nemeth v Abonmarche Development, Inc*, 357 Mich 16, 34 (1998) (noting, "simply because a [Department of Natural Resources] witness testified that the issuance of the permit did not have any MEPA implications does not make it so"). Staff appears to agree with this interpretation of MEPA, noting in its Response that "Although other agencies conduct their environmental review, such as EGLE, the Commission still has an independent obligation to review the results of that analysis." Staff Response to Enbridge's Motion in Limine, p. 12; *see also* Request for Proposal No. 2000000002241, https://www.michigan.gov/documents/line5/MPSC_Pipeline_Project_Environmental_Review_2nd_RFP_8-18-2020_699803_7.pdf.

RECEIVED by MSC 11/14/2025 2:10:18 PM

MEPA requires a broad review of all alleged environmental effects of a project. Section 5(2) of that statute provides:

> In administrative, licensing, or other proceedings, and in any judicial review of such a proceeding, the *alleged pollution, impairment, or destruction of* the air, *water, or other natural resources*, or the public trust in these resources, shall be determined, and conduct shall not be authorized or approved that has or is likely to have such an effect if there is a *feasible and prudent alternative* consistent with the reasonable requirements of the public health, safety, and welfare.[74]

Two components of the statutory text are worth emphasizing here. First, the phrase "likely to have such an effect" requires an agency to undertake broad consideration of potential effects from conduct under review.[75] Pollution risks from Line 5 for decades longer with the Line 5 Tunnel Project than without it is a likely effect of that conduct, and the Commission has a duty under MEPA to assess that risk. Tribal Intervenors have staff scientists who would be prepared to testify about the critical resources threatened by an oil spill from Line 5.

Indeed, NHBP witness John Rodwan was directly involved and witnessed the havoc associated with the Line 6B oil spill. His testimony will demonstrate how imminent the risk of pollution, impairment, or destruction of the air, water, or other natural resources is because of the actual devastation caused to the Kalamazoo River, surrounding area, and traditional lifeways of a community indigenous to the Kalamazoo River. It is vital to consider whether

---

[74] MCL 324.1705(2) (emphasis added).

[75] MEPA prescribes a broader consideration of the effects of a project in administrative proceedings than would necessarily be required in a circuit court action alleging a violation of MEPA. *Compare* MCL 324.1705(2) ("In administrative, licensing, or other proceedings, and in any judicial review of such a proceeding, the alleged pollution, impairment, or destruction of the air, water, or other natural resources, or the public trust in these resources, shall be determined, and conduct shall not be authorized or approved *that has or is likely to have such an effect* . . . .") (emphasis added), *with* MCL 324.1701(1) ("The attorney general or any person may maintain an action in the circuit court having jurisdiction where the alleged violation occurred or is likely to occur for declaratory and equitable relief against any person for the protection of the air, water, and other natural resources and the public trust in these resources from pollution, impairment, or destruction.").

RECEIVED by MSC 11/14/2025 2:10:18 PM

Enbridge will engage in the same practices and procedures for the Project as when Line 6B failed to safely transport hazardous crude oil through precious Tribal resources. The likeliness of effect to the air, water, and other cultural resources, such as wild rice, requires consideration of the extreme consequences that resulted from the construction, maintenance, and operation of a virtually indistinguishable pipeline.

Second, MEPA requires agencies to consider the existence of feasible and prudent alternatives.[76] Indeed, "an examination of alternatives that avoid or limit the impact to a resource is a hallmark of Michigan environmental law."[77] Therefore, the Commission should consider evidence regarding the risk of oil leaks and spills to the Great Lakes and inland waters and resources from Line 5 if the Project is constructed. The Commission should also consider the risks from either an alternative method of delivering the commodities carried by Line 5 or the existing pipeline operating for a shorter duration than if the Project is allowed and constructed (as it almost certainly will be, in light of the Revocation and Termination).

To comply with MEPA in this contested case, evidence must be available to the Commission to fully consider the impacts of the Project on "air, water, or other natural resources," including likely potential effects and whether there are alternatives that are more protective of public health, safety, and welfare.[78] Accordingly, Tribal Intervenors must be able

[76] MCL 324.1705(2); *see also Vanderkloot*, 392 Mich at 183-85; *Buggs*, 2015 WL 159795, at *7.

[77] *Petition of Dune Harbor Estates, LLC*, 2005 WL 3451406, at *5 n 8 (Mich Dept Nat Res Dec 7, 2005).

[78] MCL 324.1705(2).

RECEIVED by MSC 11/14/2025 2:10:18 PM

to present testimony and evidence of the environmental effects of continued operation of the pipeline as an impact of the Project.

C. Under The APA, Tribal Intervenors Must Be Able To Counter And Rebut Enbridge's Assertions That The Project Will Alleviate The Risk Of An Oil Spill From Line 5.

As part of its affirmative Act 16 application, Enbridge alleged facts about pipeline spill risks. As explained in the Tribal Intervenors' earlier appeal briefs, Commission precedent supports a broad Act 16 analysis that includes evidence on this subject.[79] Under the APA, Tribal Intervenors have the right to confront, rebut, and refute Enbridge's assertions that the Project will reduce the risk of an oil spill to the Great Lakes with evidence of their own. Under the APA, "[t]he parties shall be given an opportunity to present oral and written arguments on issues of law and policy and an opportunity to present evidence and arguments on issues of fact."[80] This includes opportunities to cross examine witnesses and submit rebuttal evidence.[81]

Enbridge has submitted evidence regarding whether the Line 5 Tunnel Project will alleviate the risk of an oil spill from Line 5 into the Great Lakes. This issue is presented prominently in Enbridge's application to the Commission which states: "The purpose of the Project is to alleviate an environmental concern to the Great Lakes raised by the State of Michigan relating to the approximate four miles of Enbridge's Line 5 that currently crosses the

[79] Tribal Intervenors adopt and incorporate their arguments, discussing the *In re Wolverine* cases, from the earlier appeal briefs. *See* Bay Mills Application for Leave to Appeal the October Ruling, p. 12-15; MEC-GTB-Watershed Council-NWF Application for Leave to Appeal the October Ruling, p. 15-21.

[80] MCL 24.272(3).

[81] MCL 24.272(4).

RECEIVED by MSC 11/14/2025 2:10:18 PM

Straits of Mackinac."[82] In support of this statement, Enbridge submitted witness testimony that the tunnel "would essentially eliminate the risk of adverse impacts that may result from a potential oil spill in the Straits."[83]

Under the APA, the parties must be provided the opportunity to present and challenge evidence about whether the Project will, as Enbridge asserts, "essentially eliminate" the risk of an oil spill to the Great Lakes. Because the effect of the Project is to extend the operating life of Line 5, potential oil spill risks from the continued operation of Line 5 to the Great Lakes are highly relevant to that issue.

Indeed, a spill from the continued operation of the pipeline as it approaches and ties into the Line 5 Tunnel Project could reach or harm the Straits and Great Lakes because of its proximity to the Straits. Line 5 crosses many hydrologically connected waterways in the region, which are critical to the health of the Great Lakes and the Straits as well as to the health of the inland Treaty resources. A spill to any of these waterways can cause local environmental damage, as well as damage to downstream or connected waters. Consider, for example, that the spill from Enbridge's Line 6b[84] that damaged the Kalamazoo River was a spill into a tributary, the Talmadge Creek.[85] The original location of that ruptured line was over 1 mile from

[82] Enbridge Application, p. 1, ¶2.

[83] *Id*., p. 14-15; *see also id.*, p. 15 (stating, "the Tunnel is expected to eliminate the risk of a potential release from Line 5 into the Straits").

[84] Now known as Line 78.

[85] *See* Joseph Riesterer, The Enduring Legacy of the 2010 Kalamazoo River Oil Spill, BELT MAGAZINE (July 12, 2019), https://beltmag.com/kalamazoo-river-line-6b-oil-spill/.

RECEIVED by MSC 11/14/2025 2:10:18 PM

the Kalamazoo River; and 40 miles of that watershed were ultimately impacted,[86] including natural and cultural resources used by the NHBP community.[87] There are large stretches of Line 5 that come within a mile of Lake Superior, Lake Michigan, or Lake Huron, all of which also cross major tributaries for these bodies of water.[88]

The Revocation and Termination further call into question the assertions about risk reduction in Enbridge's pre-filed testimony. It would make little sense to construct a tunnel to alleviate the risk of an oil spill from a segment of Line 5 that has already been terminated; the Project could reinstate and increase the risk of an oil spill to the Great Lakes and inland waters when compared to the nonoperational Dual Pipelines that should be shut down pursuant to the easement revocation.

By barring evidence regarding the operational risks of the entirety of Line 5, the ALJ's Rulings create a proceeding in which Enbridge's assertions about how the Project would alleviate risk would not be subject to critical examination or competing evidence from the Tribal Intervenors who depend on these resources for cultural and economic activities. Such a result is unfair and contrary to the requirements of the APA.

[86] https://www.epa.gov/sites/production/files/2016-04/documents/enbridge-fosc-report-20160407-241pp.pdf, page 5, section 1

[87] NHBP Petition to Intervene, p. 3.

[88] As another example, in Minnesota, a court of appeals deemed the risk of an oil spill reaching Lake Superior from Enbridge's planned Line 3, which does not cross Lake Superior, to be an essential part of the environmental analysis of Line 3 because of a recognition that oil spilled in one location can flow to and damage another area. *In re Enbridge Energy, Ltd P'ship*, 930 N W 2d 12, 17 (Minn Ct App 2019).

RECEIVED by MSC 11/14/2025 2:10:18 PM

D. The Pipeline Safety Act Does Not Preempt The State's Treaty Obligations, MEPA, Or The APA, Each Of Which Is A Separate And Independent Basis For Including Evidence Of Operational Risks And Environmental Impacts Of Line 5 In This Case.

Enbridge, in its Motion in Limine, argued that the Pipeline Safety Act ("PSA") expressly preempts the Commission's jurisdiction to review Line 5's "safety."[89] The ALJ's Rulings did not reach this issue.[90] However, to the extent Enbridge continues to pursue this issue before the Commission and continues to characterize oil spill risks and environmental impacts from operating Line 5 exclusively as "safety" issues, this argument must be rejected.

Enbridge's preemption argument is divorced from the plain text of the PSA and inappropriately attempts to diminish the Commission's authority. For a more detailed discussion of how Enbridge's Motion in Limine omitted relevant provisions of the PSA and is not supported by the cases Enbridge cited, Bay Mills Application for Leave to Appeal the October Ruling, pages 18-21. Indeed, courts have consistently held that the scope of PSA's preemption is limited.[91] And, while Act 16 and MEPA are state laws that provide the Commission authority,

---

[89] Enbridge Motion in Limine, p. 14-15. Federal preemption of state law may be express or implied. Express preemption must be stated by Congress in explicit language. *Lorillard Tobacco Co. v. Reilly*, 533 US 525, 541 (2001). Implied preemption includes field preemption or conflict preemption. *Arizona v. United States*, 567 US 387, 399 (2012). In its Motion, Enbridge raised express preemption based on the language of the PSA. Enbridge did not raise field preemption, likely because courts have ruled that the PSA does not occupy the field of natural gas siting. *See Washington Gas Light Co v Prince George's County Council*, 711 F 3d 412, 422 (4th Cir 2013). Enbridge also did not raise conflict preemption, and it is worth noting that the Commission's jurisdiction here would not thwart the purposes of the PSA because PHSMA's responsibilities do not include addressing the need for or environmental impacts of the proposed tunnel project.

[90] October Ruling, p. 15, n.9.

[91] *See Washington Gas Light Co*, 711 F3d at 420–21 (holding that a zoning plan was not preempted by the PSA); *Texas Midstream Gas Servs, LLC v City of Grand Prairie*, 608 F 3d 200, 210–211 (5th Cir 2010) (holding that a setback requirement for a compressor station was not preempted by the PSA because it was not a safety standard); *Enbridge Energy v Town of Lima*, 2013 WL 12109106 (W D Wis 2013) (concluding that local road use demands are not safety regulations preempted by the PSA); *Portland Pipe Line Corp*, 288 F Supp 3d 321, 429 (D Me 2017) (holding that an ordinance "prohibiting loading crude oil onto tankers and new structures" in a harbor was not preempted by the PSA because it was not a safety standard); *Davis v Sunoco Pipeline Ltd P'ship*, unpublished

RECEIVED by MSC 11/14/2025 2:10:18 PM

the Commission's Treaty obligations are not; those obligations arise from the "supreme law of the land," under the United States Constitution and have been recognized as part of state agency authority by the United States Supreme Court.[92] Because the Commission's obligations under Tribal Treaties, MEPA, Act 16, and the APA are not safety standards covered by Section 60104(c) of the PSA, none of those authorities are preempted by the PSA. Though the Commission's decisions may reflect considerations of safety and environmental risk, overlapping concerns are insufficient to transform the Commission's authority under Act 16—let alone its independent obligations to protect Treaty rights and conduct a MEPA analysis—into a safety standard.[93]

In sum, the Tribal Intervenors must be allowed to present evidence of the Project's environmental impacts associated with the continued operation of Line 5 and its impacts on Treaty-protected rights and resources.

V. EXCLUDING EVIDENCE OF THE ENVIRONMENTAL EFFECTS OF THE PROJECT'S GREENHOUSE GAS EMISSIONS IS CONTRARY TO THE COMMISSION'S OBLIGATION TO HONOR TREATY-PROTECTED RESOURCES, THE REQUIRED ANALYSIS UNDER MEPA, AND MICHIGAN'S CLEAN ENERGY GOALS.

If approved, the Project will secure for decades the operation of a fossil fuel pipeline that would otherwise likely cease to operate. Indeed, future operation of the pipeline is contingent upon completion of the Project—a fact made even more apparent by the Revocation and Termination.

---

per curiam opinion of the Court of Appeals, issued June 18, 2020 (Docket No. 346729), p. 6 (holding that rule prohibiting air contaminants or water vapor and nuisance rule not preempted by PSA).

[92] *See* Section IV.A, *supra*.

[93] *See Portland Pipe Line Corp*, 288 F Supp 3d at 434.

RECEIVED by MSC 11/14/2025 2:10:18 PM

A critical environmental consequence of extending the operation of Line 5 is the resulting greenhouse gas emissions and associated impact on climate change. The emissions and their resulting impacts bear directly on the Commission's obligation to protect Treaty rights and resources and the environmental review required by MEPA. The parties should be permitted to submit evidence on these topics.

A. The Commission's Duty To Protect Treaty Rights And Resources Includes An Evaluation Of The Climate Change Impacts From The Project.

Greenhouse gas emissions and climate change have profound implications for Treaty-protected rights and resources. Bay Mills, LTBB, and GTB are all signatories to the 1836 Treaty. As a result, they have Treaty-protected rights.

The Treaty-protected fishing right, in particular, is critically important to the Tribal Nations.[94] Many of the fish species that are part of the Treaty-protected resources—like whitefish—are part of what is referred to as "coldwater fisheries."[95] Coldwater fish are threatened by warming waters caused by climate change. The threat to these fish is a threat to the livelihoods of many members of the Tribal Nations and to Tribal cultural and spiritual practices in which the fish play a critical part, as tribal members will testify.[96]

[94] Bay Mills Petition, Affidavit of Bryan T. Newland, p. 2.

[95] *See* Mich Admin Code R 323.1043(r).

[96] Future threats, like those to coldwater fisheries from climate change, would be considered by Tribal decisionmakers. The Anishinaabe people, which includes the Tribal Intervenors, have a teaching that says the decisions we make today should result in a sustainable world seven generations into the future. It is a reminder that the consequences of decisions made today should not be limited to immediate concerns, but instead take into account implications long into the future.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Simply put, the consideration of climate change impacts is a component of the state's obligation to honor Treaty resources, especially here, where the approval of the Project likely will cause increased greenhouse gas emissions.

B. The Commission's Analysis Of The Project Under MEPA Requires An Analysis Of Foreseeable Effects Of The Project, Including Greenhouse Gas Pollution.

The Commission must address environmental impacts of the proposed Project under MEPA. Section 5(2) of MEPA mandates that "conduct shall not be authorized or approved that *has or is likely to have such an effect*" of polluting, impairing, or destroying air, water, or other natural resources, or the public trust in these resources, "if there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare.[97] The phrase "has or is likely to have such an effect" prescribes a broad evaluation of all likely effects of the conduct proposed in a project.[98] An agency must analyze those effects to determine whether a project will result in the pollution, impairment, or destruction of natural resources. To do so, the agency must "evaluate the environmental situation before the proposed action and compare it with the probable condition after."[99]

---

[97] MCL 324.1705(2) (emphasis added).

[98] This is not limited to effects that occur at the site of a project. *See e.g., Preserve the Dunes, Inc v Dep't of Envtl Quality*, 264 Mich App 257, 265–66, 690 N.W.2d 487,493 (1988) (upholding the trial court's conclusion that "[p]roper application of MEPA's impairment standard requires a statewide perspective").

[99] *Kent Cty Rd Comm'n v Hunting*, 170 Mich App 222, 233, 428 N.W.2d 353, 358 (1988); *see also City of Portage v Kalamazoo Cty Rd Comm'n*, 136 Mich App 276, 282, 255 N.W.2d 913, 915–16 (1984) ("In determining whether the impact of a proposed action on wildlife is so significant as to constitute an environmental risk and require judicial intervention, the court should evaluate the environmental situation prior to the proposed action and compare it with the probable condition of the particular environment afterwards.").

RECEIVED by MSC 11/14/2025 2:10:18 PM

Greenhouse gas emissions are a required part of the Commission's MEPA analysis. It is undisputed that the Project is designed to transport fuels so that they can be refined for petroleum products, including gasoline and aviation fuels.[100] These fuels produce greenhouse gases when combusted. Greenhouse gas emissions contribute to "pollution, impairment, or destruction" of natural resources.[101] Thus, greenhouse gas emissions fall squarely within the environmental impacts that must be considered under MEPA.

Furthermore, that the Project will have the effect of extending the life of Line 5 directly ties the conduct of building a tunnel to the production of greenhouse gases. Thus, consistent with the requirements of MEPA, the Commission must compare greenhouse gas emissions under a "Project Approved" scenario with emissions under a "Project Denied" scenario. Such a comparison will enable the Commission to assess the potential pollution caused by the Project.

The ALJ erred in relying on the Michigan Court of Appeals decision in *Buggs v Public Service Commission* and the Commission orders underlying that proceeding[102] to exclude evidence of greenhouse gas emissions from the Commission's MEPA analysis. In the *Buggs* cases, the Commission declined to consider the possibility of future gas wells and environmental impairment from hydraulic fracturing in its MEPA review of two gathering lines because "the topic of future forest fragmentation was neither ripe for review nor within the

[100] Pre-filed Testimony of Marlon Samuel, p. 4.

[101] *Massachusetts v EPA*, 549 US 497, 532 (2007) (recognizing that "greenhouse gases fit well within the Clean Air Act's . . . definition of 'air pollutant'").

[102] *Buggs v Michigan Pub Serv Comm,* unpublished per curiam opinion of the Court of Appeals, issued January 13, 2015 (Docket No. 315058), p. 9, *aff'd sub nom In re Application of Encana Oil & Gas re Garfield 36 Pipeline*, unpublished per curiam opinion of the Court of Appeals, issued May 16, 2017 (Docket No. 329781); Case Nos. U-17195/U-17196.

RECEIVED by MSC 11/14/2025 2:10:18 PM

PSC's jurisdiction."[103] In *Buggs* the petitioners asked the Commission to consider the impacts of hypothetical future hydraulic fracturing operations that the pipeline might "bait."[104]

The ALJ's reliance on *Buggs* was inappropriate because, unlike the hypothetical activity at issue in *Buggs*, the greenhouse gas emissions from Line 5 are not only concrete, but they are also the direct result of activities proposed in Enbridge's application and the Commission's decision in this proceeding. Indeed, the link between the proposed activity—building a tunnel—and the production of greenhouse gas emissions is even more apparent in light of the Revocation and Termination which definitively shows that the Project is necessary for the continued operation of Line 5.

As an administrative body that regulates energy companies in Michigan, it would make little sense if the Commission could not include in its MEPA analysis the impact of a Project within its regulatory authority on greenhouse gas emissions just because the Commission does not regulate the emissions themselves.[105] Neither the language of MEPA nor the *Buggs* decision requires such a restrictive scope. The Commission has taken climate change into account in other appropriate circumstances. For example, in Case No. U-15985, the Commission adopted the Residential Ratepayer Consortium's proposal to weather normalize sales volumes in the

---

[103] *In re Application of Encana Oil & Gas re Garfield 36 Pipeline*, unpublished per curiam opinion of the Court of Appeals, issued May 16, 2017 (Docket No. 329781), p. 10. The Commission noted that it "lacks the statutory authority to regulate hydraulic fracturing, or the drilling of gas wells in Michigan. That authority, and the concomitant environmental obligations that it engenders, rests with the State Supervisor of Wells and the Department of Environmental Quality." Case Nos. U-17195 & U-17196, September 23, 2015, Order on Remand, p. 7, n. 2.

[104] Case Nos. U-17195 & U-17196, September 23, 2015, Order on Remand, p. 7.

[105] Notably, the Commission in Buggs did consider environmental impacts on species—even though another agency has authority over preservation of species—because species were relevant to the MEPA analysis. *See* Case Nos. U-17195 & U-17196, September 23, 2015, Order on Remand.

RECEIVED by MSC 11/14/2025 2:10:18 PM

case using a 15-year rolling average in part because the company's proposed "30-year normalization method does not adequately account for climate change experienced in Mich Con's service territory . . . ."[106] The Commission also envisioned consideration of climate change in its IRP process by "requir[ing] the utilities to model a hard cap on emissions in the Environmental Scenario as opposed to placing a price on carbon."[107] Here, too, climate change is an appropriate consideration for the Commission.

Further, the Governor more recently formalized the consideration of climate change in Commission proceedings through Executive Directive 2020-10 ("Building a Carbon-Neutral Michigan").[108] The Directive sets the overall goals of achieving carbon neutrality by 2050, net negative GHG emissions after 2050, and a 28% reduction in greenhouse gases below 2005 levels by 2025. The Directive specifically requires that "[a]ll departments and agencies must follow the policies and procedures developed in connection with this directive."[109] The Directive further requires the Department of Environment, Great Lakes, and Energy to file advisory opinions in IRP proceedings that specifically "evaluate the potential impacts of proposed energy generation resources and alternatives to those resources, and also evaluate whether the IRPs filed by the utilities are consistent with the emission reduction goals included

[106] Case No. U-15985, June 3, 2010, Opinion and Order, p. 39.

[107] Case No. U-18418, November 21, 2017, Order, p. 72.

[108] At the same, the Governor issued Executive Order 2020-182 ("Council on Climate Solutions"). Together, these executive actions explained the negative impacts of climate change on Michigan's environment and economy, as well as on the health of its residents.

[109] Executive Directive 2020-10: Building a Carbon-Neutral Michigan, issued September 23, 2020.

RECEIVED by MSC 11/14/2025 2:10:18 PM

in this Directive."[110] The Commission must then analyze the evidence EGLE presents "in accordance with the standards of the IRP statute and the filing requirements and planning parameters established thereto."[111] Therefore, as a state regulatory body subject to the Directive, the Commission must integrate consideration of climate change under MEPA into its decisions.[112]

Foreseeable greenhouse gas emissions are a typical consideration in environmental impact analyses. Federal courts often require foreseeable greenhouse gas emissions from a project to be addressed, including emissions from the upstream and downstream use of oil and gas that will result from the Project.[113] State agencies also consider foreseeable greenhouse gas emissions when assessing the route of a pipeline project. For example, at the same time that Enbridge seeks to re-route Line 5 under the Straits in Michigan, it also seeks to re-route Line 5 in Wisconsin. Under the Wisconsin statute that is analogous to MEPA, Wisconsin's permitting agency plans to review "Greenhouse Gas Emissions – Climate Change."[114] Here, too, evidence

[110] *Id*.

[111] *Id*.

[112] Moreover, as explained in footnote 41, *supra*, consideration of Michigan's climate objectives as outlined in the Executive Directive fits squarely within the scope of an Act 16 public need analysis.

[113] *See Ctr For Biological Diversity v Bernhardt*, 982 F 3d 723 (9th Cir 2020) (holding that the agency erred in failing to include greenhouse gas emissions from foreign oil consumption in its no action alternative included in an environmental impact statement prepared for a proposed offshore oil drilling and production facility); *San Juan Citizens All v United States Bureau of Land Mgmt*, 326 F Supp 3d 1227, 1244 (D N M 2018) (holding that the agency's "failure to estimate the amount of greenhouse gas emissions which will result from the consumption of the oil and gas produced as a result of development of wells on the leased areas was arbitrary"); *WildEarth Guardians v Zinke*, 368 F Supp 3d 41 (D D C 2019) (holding that the agency's failure to quantify greenhouse gas emissions that were reasonably foreseeable effects of oil and gas development on public land was arbitrary and capricious).

[114] Wisconsin Dept of Natural Resources, Environmental Impact Statement on the Proposed Relocation of Enbridge Line 5 Pipeline: Draft Outline, p. 2, https://dnr.wi.gov/topic/EIA/documents/Enbridge/EnbridgeLine5_DraftEISOutline.pdf; *see also* Wisconsin Department of Natural Resources, Enbridge Projects in

RECEIVED by MSC 11/14/2025 2:10:18 PM

about greenhouse gas emissions should be available for the Commission's review in the re-routing of the Line 5 pipeline under the Straits.

The ALJ's Rulings granting Enbridge's motion to exclude evidence of greenhouse gas emissions and climate change should, therefore, be denied.

CONCLUSION AND REQUEST FOR RELIEF

For all of the reasons stated herein, the Tribal Intervenors respectfully request that the Commission reverse the portions of the ALJ's Rulings granting Enbridge's Motion in Limine.

OLSON, BZDOK & HOWARD, P.C.
Co-Counsel for Bay Mills, GTB, and NHBP

Digitally signed by Christopher M. Bzdok
Date: 2021.03.09 13:33:32 -05'00'

Date: March 9, 2021

By: _____
Christopher M. Bzdok (P53094)
Lydia Barbash-Riley (P81075)
Abigail Hawley (P82343)

OLSON, BZDOK & HOWARD, P.C.

Co-Counsel for Bay Mills Indian Community:

EARTHJUSTICE
311 S. Wacker Drive, Suite 1400
Chicago, IL 60606

Debbie Chizewer
dchizewer@earthjustice.org

Christopher R. Clark
cclark@earthjustice.org
Mary Rock
mrock@earthjustice.org
Adam Ratchenski
aratchenski@earthjustice.org

Wisconsin, https://dnr.wisconsin.gov/topic/EIA/Enbridge.html (providing a link to the Draft Outline and dating it June 8, 2020).

RECEIVED by MSC 11/14/2025 2:10:18 PM

NATIVE AMERICAN RIGHTS FUND
David Gover
Senior Staff Attorney
Boulder, CO
dgover@narf.org

Matt Campbell
Staff Attorney
Boulder, CO
mcampbell@narf.org

Megan Condon
Staff Attorney
Anchorage, AK
mcondon@narf.org

BAY MILLS INDIAN COMMUNITY
Attn: Legal Department
12140 West Lakeshore Drive
Brimley, MI 49715

Kathryn Tierney (P-24837)
candyt@bmic.net

Whitney Gravelle (P-83217)
wgravelle@baymills.org

Co-Counsel for GTB:

William Rastetter (P26170)
Tribal Attorney
Grand Traverse Band of Ottawa and Chippewa Indians

Counsel for LTBB:

James A. Bransky (P38713)
9393 Lake Leelanau Drive
Traverse City, MI 49684-7713
P: (231) 946-5241
jbransky@chartermi.net

Co-counsel for NHBP:

NHBP Legal Department
1485 Mno-Bmadzewen Way
Fulton, MI 49052

Amy L. Wesaw (P79995)
Amy.Wesaw@nhbp-nsn.gov

John Swimmer (P804089)
John.Swimmer@nhbp-nsn.gov

RECEIVED by MSC 11/14/2025 2:10:18 PM

Brian Edward Wesolek

Biological Services Department
Bay Mills Indian Community
12140 W. Lakeshore Dr., Brimley, Michigan 49715
Phone: (906)248-8648
Email: bwesolek@baymills.org

EDUCATION

M.S. 2009 Laurentian University**,** Sudbury, Ontario, Canada
Thesis: Spatial patterns in the recovery of littoral benthic invertebrate communities of acid- and metal-damaged lakes

B.S. 2006 Lake Superior State University, Sault Ste. Marie, Michigan, summa cum laude
Thesis: The genetic impact of stocking hatchery brook trout into the Ontonagon River System

A.S. 2004 Delta College, University Center, Michigan, magna cum laude

PROFESSIONAL EXPERIENCE

2013 – Present	**Aquatic Biologist**, Bay Mills Indian Community
2010 – 2012	**Adjunct Professor**, Saginaw Valley State University
2010 – 2012	**Adjunct Professor**, Delta College
2007 – 2009	**Teaching Assistant**, Laurentian University
2007 – 2009	**Biological Research Assistant**, Laurentian University
2005 – 2006	**Biological Research Assistant**, Lake Superior State University

GRANTS AWARDED

United States Environmental Protection Agency, Performance Partnership Grant (Grant Number: BG04E01004). Bay Mills Indian Community's Performance Partnership Grant containing general assistance program, surface water quality monitoring and nonpoint source pollution restoration programs. April 2020 - March 2022. Wesolek, B., and A. Maccoux-LeDuc. $425,000.

Bureau of Indian Affairs, Great Lakes Restoration Initiative Tribal Initiative Grant. Wetlands monitoring on the Bay Mills Indian Community Reservation. March 2019 - Present. Wesolek, B. $56,287.

United States Environmental Protection Agency, Performance Partnership Grant (Grant Number: BG03E01004). Bay Mills Indian Community surface water quality monitoring and nonpoint source pollution restoration and community education programs. April 2018 - March 2020. Wesolek, B., and A. Maccoux-LeDuc. $260,000.

United States Department of Agriculture, National Institute of Food and Agriculture, New Discovery Grant. Anthropogenic contributions of contaminants of emerging concern and their food web implications in Waishkey Bay, Michigan: With an investigation of freshwater mussels as a sentinel. 2017 - 2021. McKenzie, D., Maccoux-LeDuc, A., and B. Wesolek. $220,000.

United States Environmental Protection Agency, Performance Partnership Grant (Grant Number: BG02E01004). Bay Mills Indian Community surface water quality monitoring and nonpoint source pollution restoration and community education programs. April 2016 - March 2018. Wesolek, B., and M. Konieczki. $260,000.

RECEIVED by MSC 11/14/2025 2:10:18 PM

United States Environmental Protection Agency, Performance Partnership Grant (Grant Number: BG01E01004). Bay Mills Indian Community surface water quality monitoring and nonpoint source pollution restoration and community education programs. April 2014 - March 2016. Wesolek, B., and E. Martin. $260,000.

PROFESSIONAL PUBLICATIONS

Peer-reviewed Journals

Szkokan-Emilson, E., Wesolek, B., and J. Gunn. 2011. Terrestrial organic matter as subsidies that aid in the recovery of macroinvertebrates in industrially damaged lakes. Ecological Applications 21:2082-2093.

Wesolek, B., Genrich, E., Gunn, J., and K. Somers. 2010. Use of littoral benthic invertebrates to assess factors affecting biological recovery of acid- and metal-damaged lakes. Journal of the North American Benthological Society 29:572-585.

Wesolek, B., Szkokan-Emilson, E., and J. Gunn. 2010. Assessment of littoral benthic invertebrate communities at the land–water interface in lakes recovering from severe acid and metal damage. Human and Ecological Risk Assessment: An International Journal 16:536-559.

Szkokan-Emilson, E., Wesolek, B., and J. Gunn. 2010. Recovery of benthic invertebrate communities from acidification in Killarney Park lakes. Environmental Monitoring and Assessment 166: 293-302.

Gunn, J., Sarrazin-Delay, C., Wesolek, B., Stasko, A., and E. Szkokan-Emilson. 2010. Delayed recovery of benthic macroinvertebrate communities in Junction Creek, Sudbury, Ontario after the diversion of acid mine drainage. Human and Ecological Risk Assessment: An International Journal 16:901-912.

Technical Reports

Wesolek, B. 2020. Water Quality Assessment Report: Data Summary for 2005-2019. Bay Mills Indian Community. Submitted to USEPA on December 28, 2020.

Wesolek, B. 2019c. Beach Monitoring Quality Assurance Project Plan. Bay Mills Indian Community. Prepared under Grant Number BG03E01004. Approved by USEPA on May 23, 2019.

Wesolek, B. 2019b. Surface Water Quality Monitoring Quality Assurance Project Plan. Bay Mills Indian Community. Prepared under Grant Number BG03E01004. Approved by USEPA on May 23, 2019.

Wesolek, B. 2019a. Water Quality Assessment Report: Data Summary for 2018. Bay Mills Indian Community. Submitted to USEPA on July 2, 2019.

Wesolek, B. 2018. Water Quality Assessment Report: Data Summary for 2005-2017. Bay Mills Indian Community. Submitted to USEPA on September 21, 2018.

Wesolek, B. 2017. Water Quality Assessment Report: Data Summary for 2016. Bay Mills Indian Community. Submitted to USEPA on July 3, 2017.

Wesolek, B. 2016. Water Quality Assessment Report: Data Summary for 2005-2015. Bay Mills Indian Community. Submitted to USEPA on September 30, 2016.

Wesolek, B. 2015. Water Quality Assessment Report: Data Summary for 2014. Bay Mills Indian Community. Submitted to USEPA on April 21, 2015.

Wesolek, B. 2014. Water Quality Assessment Report: Data Summary for 2005-2013. Bay Mills Indian Community. Submitted to USEPA on September 30, 2014.

RECEIVED by MSC 11/14/2025 2:10:18 PM

Wesolek, B. 2013c. Beach Monitoring Quality Assurance Project Plan. Bay Mills Indian Community. Prepared under Grant Number BG00E01004. Approved by USEPA on February 20, 2014.

Wesolek, B. 2013b. Surface Water Quality Monitoring Quality Assurance Project Plan. Bay Mills Indian Community. Prepared under Grant Number BG00E01004. Approved by USEPA on February 20, 2014.

Wesolek, B. 2013a. Water Quality Assessment Report: Data Summary for 2012. Bay Mills Indian Community. Submitted to USEPA on July 2, 2013.

PROFESSIONAL PRESENTATIONS

McGlinch, A., Napoletano, D., McKenzie, D., Wesolek, B., and A. Maccoux-LeDuc. Emerging and legacy pesticide contamination in Waishkey Bay, Brimley, MI. Society of Environmental Toxicology and Chemistry North America 40th Annual Meeting. November 4-7, 2019. Toronto, Ontario, Canada. (Poster Presentation, Non-presenting Author)

Napoletano, D., McGlinch, A., McKenzie, D., Wesolek, B., and A. Maccoux-LeDuc. Microplastics in the Waishkey Bay Watershed: Implications for a Great Lakes Anishnaabe Community. Society of Environmental Toxicology and Chemistry North America 40th Annual Meeting. November 4-7, 2019. Toronto, Ontario, Canada. (Poster Presentation, Non-presenting Author)

Wesolek, B., Szkokan-Emilson, E., and J. Gunn. Use of littoral benthic invertebrates to assess factors that delay biological recovery of acid- and metal-damaged lakes. North American Benthological Society Annual Meeting, May 2009, Grand Rapids, Michigan. (Oral Presentation)

Wesolek, B., Szkokan-Emilson, E., and J. Gunn. Stream-lake confluence: Use of multiple methods to detect spatial differences in littoral benthic invertebrate communities in the land-water interface. Society of Canadian Limnologists Annual Conference, January 2009, Ottawa, Ontario, Canada. (Oral Presentation)

Wesolek, B., and J. Gunn. Use of littoral benthic invertebrates to assess factors that delay biological recovery of acid and metal damaged lakes. Aquatic Toxicity Workshop, October 2008, Saskatoon, Saskatchewan, Canada. (Oral Presentation)

Wesolek, B., Szkokan-Emilson, E., and J. Gunn. The use of littoral benthic invertebrates to assess factors that delay biological recovery in acid and metal damaged lakes. Canadian Conference for Fisheries Research, January 2008, Halifax, Nova Scotia, Canada. (Poster Presentation)

Wesolek, B and B. Evans. The genetic impact of stocking hatchery brook trout into the Ontonagon River System. IN-MI-OH Joint AFS Meeting, February 2007, Angola, Indiana. (Oral presentation)

PROFESSIONAL CERTIFICATIONS & DEVELOPMENT

- Co-instructed: **Family-level Aquatic Macroinvertebrate ID Workshop** sponsored by Michigan American Fisheries Society. April 4-5, 2019, Lake Superior State University.
- Attended: **Aquatic Plant Identification Training**. June 26-27, 2019, Kemp Natural Resources Station, University of Wisconsin.
- Attended: **Freshwater Mollusks of the Northern Great Lakes**. July14-17, 2018, Beaver Island Biological Station, Central Michigan University. Course Number BIO597Z4.

RECEIVED by MSC 11/14/2025 2:10:18 PM

- Attended: **Wetland Plants of the Upper Peninsula ID Workshop** sponsored by Michigan Wetlands Association. August 1-2, 2017, Keweenaw Peninsula, Michigan.
- Certified: **Ontario Benthos Biomonitoring Network (OBBN) Order-Level Aquatic Invertebrate Taxonomist**

PROFESSIONAL AFFILIATIONS

- **Bi-national Public Advisory Council, St Marys River Area of Concern**, October 2014 to Present
    - **2nd Vice Chair, Bi-national Public Advisory Council, St Marys River Area of Concern** April 2017 to March 2018

AWARDS & HONORS

2008 Natural Sciences and Engineering Research Council of Canada (NSERC) Research Capacity Building Grant
2007 Natural Sciences and Engineering Research Council of Canada (NSERC) Research Capacity Building Grant
2006 Lake Superior State University Outstanding Graduate Award
2005 Lake Superior State University Gilbert Gleason Fisheries and Wildlife Scholarship

RECEIVED by MSC 11/14/2025 2:10:18 PM

Kevin Donner

Great Lakes Fisheries Program Manager
Little Traverse Bay Bands of Odawa Indians
7500 Odawa Circle, Harbor Springs, MI
Phone: (231) 242-1672 Email: kdonner@ltbbodawa-nsn.gov

Education

M.S. Biology (aquatic ecology emphasis). 2011. Idaho State University, Dept. of Biological Sciences, Stream Ecology Center. Advisor: C.V. Baxter
B.S. Biology (aquatic science emphasis). 2006. Grand Valley State University. Advisor: E. B. Snyder

Experience

Great Lakes Fisheries Program Manager, Little Traverse Bay Bands of Odawa Indians	DEC 2011 – Present
Ecologist, United States Geological Survey, Corvallis, OR	MAR 2011–NOV 2011
Graduate Research Assistant, Idaho State University, Pocatello, ID	JUL 2008 – MAR 2011
Head Technician (Fisheries), Ohio State University, Columbus, OH	FEB 2008 – MAY 2008

Committee/Work Group Involvement

Biological Services Division – Chippewa Ottawa Resource Authority. Agency Representative December 2011-Present; Chairman- Jan. 2013 – Feb 2015
Lake Michigan Technical Committee. Agency Representative, Dec. 2011 – Present
Native Planktivore Restoration Taskgroup. Agency Representative, Dec. 2012 - Present
Scientific Advisory Committee – Great Lakes Fishery Trust. Agency Representative, Dec. 2011 - Present
Technical Fisheries Committee. Agency Representative, Dec. 2011 – Present
Modeling Sub-Committee. Agency Representative, modeler, Dec. 2011 - Present

Selected Publications

Breaker, BS, KL Pangle, **KC Donner**, JB Smith, BA Turschak, RM Claramunt, DB Bunnell, JL Jonas. 2020. Piscivory in recovering Lake Michigan cisco (Coregonus artedi): The role of invasive species. Journal of Great Lakes Research. 46(5):1402-1411

Claramunt, RM, J Smith, **KC Donner**, A Povolo, ME Herbert, T Galarowicz, TL Claramunt, S DeBoe, W Stott, JL Jonas. 2019. Resurgence of Cisco (Coregonus artedi) in Lake Michigan. Journal of Great Lakes Research, 45(4): 821-829

Donner, K. C., C. V. Baxter, W. F. Cross, E. J. Rosi Marshall, T. A. Kennedy, R. O. Hall Jr., S. E. Z. Seegert, and R. S. Rogers. Trophic Basis of Production and Potential Limitation by Food of Fishes in the Colorado River, Grand Canyon, Arizona. *In prep.*

Cross, W. F., C. V. Baxter, E. J. Rosi-Marshall, R. O. Hall, Jr., T. A. Kennedy, **K. C. Donner**, S.E.Z. Seegert, H. A. W. Kelly, M. D. Yard, and K.E. Behn. 2013. Foodweb dynamics in a large river discontinuum. *Ecological Monographs*. 83:311-337

Cross, W. F., C. V. Baxter, **KC Donner**, E. J. Rosi-Marshall, T. A. Kennedy, R. O. Hall Jr., H. A. Wellard-Kelly, and R. S. Rogers. 2011. Ecosystem ecology meets adaptive management: Food base response to a controlled flood on the Colorado River, Glen Canyon. *Ecological Applications.* 21:2016–2033

Selected Technical Reports

Larson, D. L. and **K. C. Donner.** 2015. Evaluation of Marking Methodology for Hatchery-Reared Native Cisco (Coregonus artedi). Technical Report. Little Traverse Bay Bands of Odawa Indians.

Bronte, C. R. M. E. Herbert, G. E. Whelan, D. B. Bunnel, R. E. Kinnenun, C. C. Kreuger, **K. C. Donner**, R. L. Eshenroder, and R. R. Gordon. 2015. Rationale, Prospects and Recommended Actions for Rehabilitation of Native Forage Fishes in Lake Michigan. Task Group Report. Lake Michigan Committee.

Donner, K. C. 2013. An assessment of mercury in commonly consumed fishes and water chemistry

RECEIVED by MSC 11/14/2025 2:10:18 PM

from inland water-bodies within and Adjacent to the 1855 Reservation Boundary of the Little Traverse Bay Bands of Odawa Indians. Technical Report. Little Traverse Bay Bands of Odawa Indians.

Donner, K. C. 2013. An assessment of mercury in fishes from Little Traverse Bay and Sturgeon Bay, Lake Michigan. Technical Report. Little Traverse Bay Bands of Odawa Indians.

Donner, K. C. 2011-present. Great Lakes Fisheries Program quarterly and annual reports. Technical Report Little Traverse Bay Bands of Odawa Indians.

Donner, K. C., C. Eagles-Smith, and N. Baker. 2011. Off-channel habitats in the Willamette River: implications for methylmercury cycling, bioaccumulation, and risk. U.S. Geological Survey. Forest and Rangeland Ecosystem Science Center.

Selected Presentations

Donner, K. C. 2018. Lake Whitefish in Lake Michigan: Where is the bottleneck? Lake Michigan Technical Committee. Michigan City, IN

Donner, K. C. 2017. A collaborative Beach Seine-Based Lake Whitefish (C. clupaeformis) recruitment Survey. 13th Annual Coregonid Symposium. Bayfield, WI.

Donner, KC. 2017. Overview of Tribal Fisheries Management and Research in the ceded waters of the Great Lakes. Ludington Regional Fisheries Workshop, Ludington, MI

Donner, KC. 2016. Spatial and temporal patterns of mercury in fish from water-bodies across northwestern Michigan: Implications for human and ecological health. Tip of the Mitt Watershed Coucil "Ice Breaker Series. Petoskey, MI.

Donner, KC, D Larson, and A Simon. 2016. Little Traverse Bay Bands of Odawa Indians Nme (Lake Sturgeon) In The Classroom: Adapting Fisheries Management Educational Outreach To The High School Level In The Context of Standards-Based Learning Goals. Midwest Fish and Wildlife Conference. Grand Rapids, MI.

Donner, KC and J Weldon**.** 2016. A Beach Seine-Based Coregonid Recruitment Survey: "Multi-Agency Collaboration In The Bag!". Midwest Fish and Wildlife Conference. Grand Rapids, MI.

Donner, KC. 2015. Tribal efforts to rehabilitate native cisco populations in Lake Michigan. Ludington Regional Fisheries Workshop, Ludington, MI & Stewardship Network Annual Conference, East Lansing, MI.

Donner KC, CV Baxter, DW Kinkaid, EJ Rosi Marshall, TA Kennedy, WF Cross, RO Hall Jr., and RS Rogers. 2010. Quality matters: Low diversity of high quality food items may amplify the potential for competition between native and non-native fishes in a large regulated river. North American Benthological Society. Santa Fe, NM

Select Funded Proposals

Smith, J. C. Lafaver, and **K. C. Donner.** 2018. The LTBB Coregonine Research Initiative. Phase 1. Great Lakes Restoration Initiative (via BIA). $150,727

Donner, K. C., J. Smith, and D. Larson. 2014-2017. Cisco Restoration Program: Phase1-4. Great Lakes Restoration Initiative (via BIA). $587,375

Larson, D. L. and **Donner, K. C.** 2013-2018. Capacity Building – Little Traverse Bay Bands of Odawa Indians Fish Hatchery Operations and Maintenance *via* Bureau of Indian Affairs. $384,575

Smith, J. and **K. C. Donner**. 2016. Investigating Otolith Laser Ablation as a Tool to Assign Origin and Determine Movement Patterns of Cisco in Lake Michigan. Great Lakes Restoration Initiative (Via EPA). $39,538

Davis, K., **K. C. Donner**, and D. Johnson. 2015. LTBB Community Consumption Rate Survey and Contamination Research Project. Environmental Protection Agency. $20,000

Stott, W., R. S. Cornman, E. Roseman, and **K. C. Donner.** 2014. Development and testing of genomic markers for coregonus species identification and population assessment. Great Lakes Fishery Commission. $90,000

Donner, K. C. 2013. Hydro-acoustic assessment of fish abundance and habitat in 1836 Ceded-Territories of Northern Lake Michigan. Request of $65,000 to BIA-great Lakes Restoration Initiative

RECEIVED by MSC 11/14/2025 2:10:18 PM

NOTTAWASEPPI HURON BAND OF THE POTAWATOMI

John Rodwan, Environmental Department Director

Educational Background

- Masters of Science – Geology, Western Michigan University, 1986
- Bachelors of Science – Geology, Eastern Michigan University, 1982

Current Position: Environmental Department Director, NHBP, 2006 - present

- Administer Tribal environmental and natural resource programs, including EPA CWA Section 106 and 319 Tribal TAS
- Administer Federal (EPA, BIA, FWS, NRCS) environmental and natural resource grants
- Alternate to Tribal Historical Preservation Officer
- Direct community-based programs related to environment, natural resources and indigenous culture, including maple syrup, wild rice and traditional lifeways restoration

Previous Work Experience

- Private Sector, Environmental Consulting, 1990-2005
  Senior professional responsible for hydrogeologic investigations, soil and groundwater remediation, storm water planning, environmental assessments and industrial hazardous materials compliance
- Public Sector, State of Michigan, Michigan Department of Environmental Quality, 1986-1990
  District Geologist responsible for hydrogeologic investigations, landfill compliance, uncontrolled hazardous waste spill responses and underground storage tank compliance

Committees/Organizations/Groups

- Certified Professional Geologist, AIPG No. 8257
- Certified Environmental Professional per ASTM 1527-05
- Board Member, Calhoun County Parks and Recreation Committee
- Vice Chair, Tribal Environmental Advisory Committee
- Tribal Planning and Land Use Committee
- Michigan Wild Rice Initiative
- Natural Resource Damage Assessment Resource Council, Enbridge Line 6B/Kalamazoo River Oil Spill
- Michigan Tribal Environmental Group

RECEIVED by MSC 11/14/2025 2:10:18 PM

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of Enbridge Energy, Limited Partnership for the Authority to Replace and Relocate the Segment of Line 5 Crossing the Straits of Mackinac into a Tunnel Beneath the Straits of Mackinac, if Approval is Required Pursuant to 1929 PA 16; MCL 483.1 et seq. and Rule 447 of the Michigan Public Service Commission's Rules of Practice and Procedure, R 792.10447, or the Grant of other Appropriate Relief	U-20763 ALJ Dennis Mack

---

PROOF OF SERVICE

On the date below, an electronic copy of the ***Application for Leave to Appeal the Administrative Law Judge's Ruling on Motion in Limine on Remand by Bay Mills Indian Community, Grand Traverse Band of Ottawa and Chippewa Indians, Little Traverse Bay Band of Odawa Indians, and Nottawaseppi Huron Band of the Potawatomi*** were served on the following:

Name/Party	E-mail Address
Counsel for Enbridge Energy, Limited Partnership. Michael S. Ashton Shaina Reed Jennifer Utter Heston	 mashton@fraserlawfirm.com sreed@fraserlawfirm.com jheston@fraserlawfirm.com
Counsel for MPSC Staff Spencer A. Sattler Benjamin J. Holwerda Nicholas Q. Taylor	 sattlers@michigan.gov holwerdab@michigan.gov taylorn10@michigan.gov
Counsel for Attorney General Robert P. Reichel	 reichelb@michigan.gov
Counsel for Michigan Environmental Council (MEC), and National Wildlife Federation Christopher M. Bzdok Lydia Barbash-Riley	 chris@envlaw.com lydia@envlaw.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

Counsel for Grand Traverse Band of Ottawa and Chippewa Indians (GTB) Bill Rastetter Christopher M. Bzdok Lydia Barbash-Riley	 bill@envlaw.com chris@envlaw.com lydia@envlaw.com
Counsel for Environment Law & Policy Center Margrethe Kearney Esosa Aimufua Kiana Courtney Howard Learner	 mkearney@elpc.org eaimufua@elpc.org kcourtney@elpc.org hlearner@elpc.org
For Love Of Water (FLOW) James Olson	 jim@flowforwater.org
Counsel for Bay Mills Indian Community (BMIC) Christopher M. Bzdok Whitney Gravelle Kathryn Tierney Debbie Chizewer Christopher Clark David Gover Matt Campbell Mary Rock Megan Condon Adam Ratchenski	 chris@envlaw.com wgravelle@baymills.org candyt@bmic.net dchizewer@earthjustice.org cclark@earthjustice.org dgover@narf.org mcampbell@narf.org mrock@earthjustice.org MCondon@narf.org aratchenski@earthjustice.org
Counsel for Tip of the Mitt Watershed Council Christopher M. Bzdok Lydia Barbash-Riley Abigail Hawley	 chris@envlaw.com lydia@envlaw.com abbie@envlaw.com
Mackinac Straits Corridor Authority (MSCA) Raymond O. Howd Leah J. Brooks	 howdr@michigan.gov brooksl6@michigan.gov
Michigan Propane Gas Association (MPGA) Paul D. Bratt Daniel P. Ettinger Troy M. Cumings Margaret C. Stalker	 pbratt@wnj.com dettinger@wnj.com tcumings@wnj.com mstalker@wnj.com

RECEIVED by MSC 11/14/2025 2:10:18 PM

Michigan Laborers' District (MLDC) Stuart M. Isreal Christopher P. Legghio Lauren Crummel	israel@legghioisrael.com cpl@legghioisrael.com crummel@legghioisrael.com
Nottawaseppi Huron Band of Potawatomi Indians Amy L. Wesaw John S. Swimmer	amy.wesaw@nhbp-nsn.gov John.Swimmer@nhbp-nsn.gov
Little Traverse Band of Odawa Indians James A. Bransky	jbransky@chartermi.net

The statements above are true to the best of my knowledge, information and belief.

Date: March 9, 2021

By: _____

Digitally signed by Karla Gerds
Date: 2021.03.09 13:38:14 -05'00'

OLSON, BZDOK & HOWARD, P.C.
Co-Counsel for BMIC/ GTB/NHBP
Karla Gerds, Legal Assistant
Kimberly Flynn, Legal Assistant
Breanna Thomas, Legal Assistant
420 E. Front St.
Traverse City, MI 49686
Phone: 231/946-0044
Email: karla@envlaw.com
kimbelry@envlaw.com
breanna@envlaw.com