



Michigan Resource Stewards

Resource Professionals Continuing a Tradition of Service

Arminda Koch, President James Maturen, Vice President Gregory Eagle, Secretary Jim DeClerk, Treasurer

August 20, 2020

Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Hwy.
Lansing, MI 48917

Emailed To: mpscdockets@michigan.gov

RE: Case Number U-20763 (Enbridge Energy Straits of Mackinac pipeline project application)

Executive Secretary,

The Michigan Resource Stewards (Stewards), a Michigan non-profit organization whose mission is to advocate for sound science in public policy related to the management of Michigan natural resources and environment, submits comments to the Michigan Public Service Commission (hereafter MPSC and Commission) regarding case number U-20763. The Stewards previously submitted comments concerning Enbridge Energy (Enbridge) request for declaratory ruling. The Stewards are expressing concerns via this letter and wish for the contents to become part of the record on the Commission on this permit application. The Stewards are an organization advocating for sound science, and a natural resource and public health focus, in public policy. Protection of natural resources and public health is mandated by the Michigan Constitution making natural resources and public health of primary and paramount concern.

The Stewards seek to remain objective on the need to move oil and gas product. We prefer that the present pipeline not operate in its present condition and maximum level of product and pressure due to its age and threat and since the economic benefits of a pipeline under the Straits of Mackinac is far outweighed by the potential damage from an environmental and economic tragedy. But, as our organization's mission indicates, we also seek scientific solutions that can substantially minimize risk. The Stewards seek to work collaboratively in the new Line 5 pipeline process and view the following primary topics for review and consideration by the MPSC in the application review process:

- 1) The tunnel must be investigated and reviewed as part of the permit process and considered a component of any MPSC permit.**
 - a. Act 16 empowers the MPSC to "control, investigate and regulate" oil pipeline operators,
 - b. Act 16 mandates the review of the design and routing of pipelines.
 - c. Act 16 mandates that operators, "must make a good faith effort to minimize the physical impact and economic damages"
 - d. The applicant characterizes the 30" pipeline as a "replacement" of the two older Line 5 pipelines but the Commission as determined that this relocation is subject to a new permit.

- e. Enbridge asserts and admits that, “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 Straits of Mackinac (“Straits”).”
- f. The tunnel is practically and effectively part of the pipeline system since it will not only be the designated route of this new Line 5 pipeline, but also a secondary containment or, arguably, a double wall of the pipeline structure. The applicant admits that the tunnel’s purpose is to make the chance of release to waters of the state as a “remote” possibility.
- g. MPSC’s obligation to fully investigate requires a complete understanding of the construction, operation, environmental protection, and safety of the tunnel. This could and should entail a full review of design, construction, operation, and spill response.
- h. The application and review process must consider if the tunnel is so crucial to routing and environmental protection, it is worthy of regulation within any MPSC permit.

2) Additional criteria supporting classification of the tunnel as subject to review by the Commission:

- a. Enbridge states, “The 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 connection to the existing Line 5 pipeline on both sides of the Straits.” The tunnel is an associated fixture, structure, and protective measure.
- b. Enbridge further asserts, “The pipeline being located underground, within a tunnel and located at a depth of approximately 60 feet to 250 feet beneath the lakebed, will further protect the aquatic environment against the remote possibility of a release caused by another event.”
- c. The federal regulations state, “‘Transmission pipeline’ means a pipeline whether interstate or intrastate, subject to regulation by the United States Department of Transportation under 49 CFR 195, as amended through December 5, 1991, through which oil moves in transportation, including line pipes, valves, and other appurtenances connected to line pipe, pumping units, and fabricated assemblies associated with pumping units.” The tunnel serves as a critical appurtenance and assembly of the pipeline.
- d. Act 16 requires permitting for, “transporting, or storing crude oil or petroleum, or any of the products thereof,” and “fixtures, and equipment belonging to, or used in connection with that business” are subject to MPSC authority and permitting. The tunnel is in fact a crucial and necessary fixture for the transporting of product despite that it may not meet the definition of a pipeline.
- e. The tunnel, as currently proposed, is too small in diameter. After installation of ventilation piping and the 30” pipeline, there will be barely sufficient room for a single file passage of a human being.
 - i. As a secondary containment component and environmental protection system of the pipeline, the ability to traverse through the pipeline with spill response equipment is crucial.
 - ii. Maintenance and repair equipment will likely require more accessibility between the tunnel wall and the pipeline.
 - iii. Similar pipeline tunnels in the world even have railroad-style track systems.

- f. Though the tunnel will be owned and administered by the tunnel authority, the expertise and oversight of pipelines is the primary skill and expertise of the MPSC and its staff. Essentially there is a need for the tunnel to be co-regulated by the MPSC permit and the Mackinac Straits Tunnel Authority. That agreement should not and cannot overrule this Act 16 requirement.
- g. The points of pipeline entry into the tunnel in the proximity of the Lake Michigan shoreline are the most likely location for Great Lakes impacting spills. This possibility requires preventive and loss capture/containment systems sufficient to stop all releases within proximity of the shoreline. Adequate spill response equipment and supplies must be staged along the shorelines and stored for the most expeditious response to spills and releases.
- h. The National Environmental Policy Act places this project under a mandate for review and the MPSC must consider that review and make it part of the MPSC official record.
- i. The permittee must demonstrate significant financial responsibility since the taxpayers of Michigan, via ownership of the tunnel by the tunnel authority and public interest in surrounding public lands and waters. The taxpayers of Michigan must not face a financial responsibility and hardship for acts or omissions by Enbridge. Nor should future Michigan taxpayers face an expensive pipeline removal or tunnel decommissioning years from now.

3) The continued operation of Line 5 is not a necessity.

- a. Act 16 requires review of the necessity and benefit to the people of Michigan.
- b. The economic benefit process must focus on the economic benefit to Michigan for Lower Peninsula citizens and product needs of the Upper Peninsula should not drive decision-making since decisions on pipeline operation south of the Straits does not affect the usage of Line 5 in the Upper Peninsula.
- c. The economic benefit and risk evaluation must consider the impact of releases of pipeline product and operations on drinking water, tourism, recreation, waterborne shipping, fisheries, wildlife, and environmental justice. Evaluation of economic benefit cannot inappropriately focus on traditional views, rather be a holistic evaluation of the value of quality of life, public land, waters, fisheries and wildlife; including not giving undue weight to short term benefits such as construction jobs and tax income.
- d. Pipeline product supply may not be as beneficial to Michigan citizens when most of the product is destined for Ontario, Canada and eastward.
- e. Other Enbridge pipelines can adequately supply Canadian and western U.S. produced petroleum product to Michigan and Ontario refineries while not posing a direct threat to the Great Lakes.
- f. The recent accident related shutdown of one of the Line 5 segments in the Straits has not proven to have any significant impact on the delivery of product sufficient to meet demand.

In conclusion the Michigan Resource Stewards are very concerned that this new pipeline and associated transmission tunnel, if deemed to be necessary, to be constructed to state of the art standards, designed with paramount focus on environmental protection, and truly be a benefit to Michigan citizens. If the decision is made to permit this pipeline within a tunnel project, the MPSC must place a firm, short timeline for completion of the project since the substantial threat posed by the old Line 5 pipelines increases with

time unless flow through these lines is ceased and the lines are properly decommissioned. Again, we ask for serious consideration of our comments and that they become part of the official record.

Respectfully,

Arminda Koch
President
Michigan Resource Stewards
Reply to
Stewards Secretary
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Cc: Michigan Governor Whitmer
Michigan Attorney General Nessel