

**ENVIRONMENTAL PERMIT REVIEW COMMISSION (EPRC)  
CONTESTED CASE REVIEW PANEL  
MINUTES**

**Friday, June 24, 2022, 9:00 a.m.**

Michigan Department of Environment, Great Lakes, and Energy (EGLE)  
Meeting held in Constitution Hall, Lee Walker Conference Room, Atrium, North Tower,  
525 West Allegan Street, Lansing, Michigan and virtually via Microsoft Teams

RE: In the Matter of the Petition of Bay Mills Indian Community on the permit issued to Enbridge Energy, Limited Partnership – Docket No. 21-008197.

**EPRC Members Present:** Murray Borrello  
Heather Dawson  
Matthew Germane  
Bradley Venman - alternate

**Panel Staff:** Wendy Wisniewski – Michigan Office of Administrative Hearings  
and Rules (MOAHR)  
Susan Maul – MOAHR  
Robert Reichel - Michigan Office of Attorney General (OAG)  
Brad Pagratis - EGLE  
Dale Shaw - EGLE

**Parties Present:** Debbie Chizewer – Attorney for Petitioner  
Robert Lundberg – Attorney for Petitioner  
Adam Ratchenski – Attorney for Petitioner  
Phillip DeRosier – Attorney for Permittee/Intervenor  
Shannon Benzer – Representative for Permittee/Intervenor  
Luanne Laemmerman – OAG – Attorney for Respondent EGLE

**Participants Via Teams:** David Gover – Attorney for Petitioner  
Laura Berglan – Attorney for Petitioner  
Whitney Gravelle – Representative for Petitioner  
Christopher Clark – Representative for Permittee/Intervenor

**1. Call to Order and Welcome**

The meeting was called to order at 9:00 a.m. by Chair Matthew Germane.

**2. Roll Call**

- a. Roll call was taken and all three members, and the alternate member, were present.
- b. See list above of parties that participated in person and via Teams.

### **3. Approval of Agenda**

No changes were made to the agenda.

**MOTION** by Murray Borrello, seconded by Heather Dawson, to approve the agenda.

Yeas: Borrello, Dawson, Germane

Nays: None

Abstain: None

MOTION PREVAILED.

### **4. Approval of Minutes from April 15, 2022 Meeting**

**MOTION** by Murray Borrello, seconded by Heather Dawson, to approve the minutes from the April 15, 2022 meeting.

Yeas: Borrello, Dawson and Germane

Nays: None

Abstain: None

MOTION PREVAILED.

### **5. Review and Discussion of File #21-008197**

The panel began discussion of the file. All of the parties were given the opportunity to discuss their positions and documentation submitted. The panel asked questions of the parties as they were presenting. The panel also asked Mr. Reichel questions regarding the procedural process.

### **6. Public Comments**

Whitney Gravelle thanked the panel for their attention to the matter.

### **7. Panel Deliberation**

The panel began discussion of the file. Robert Reichel reiterated the panel's options.

Murray Borrello proposed the following motion:

The panel unanimously decides to reverse the Administrative Law Judge and remand to consider the case on the merits in the contested case of Bay Mills Indian Tribe in Permit issued to Enbridge Energy, Limited Partnership (Docket #). The panel determines that the Administrative Law Judge in this case did not act properly in dismissing the Bay Mills Indian Tribe's contested case petition on the grounds of being untimely. The wording of the administrative code (109 subpart 2) clearly states the petition must be received by 5:00 pm Eastern Standard Time, which as argued by Bay Mills has a distinct and definitive interpretation that not only is understood by the general public, but is defined explicitly by the Royal Observatory in Greenwich, England as -5 Greenwich Mean Time. Any other interpretation of this would violate the plain language guidelines.

**MOTION** by Murray Borrello to reverse and remand the matter to the Administrative Law Judge for the above reasons. Motion was seconded by Heather Dawson.

Yeas: Borrello, Dawson, Germane  
Nays: None  
Abstain: None

MOTION PREVAILED.

#### **8. Determination of Next Meeting**

It was determined that there was not a need for an additional meeting.

#### **9. Adjournment**

**MOTION** by Murray Borrello, seconded by Heather Dawson, to adjourn the meeting at 10:05 a.m.

Yeas: Borrello, Dawson, Germane  
Nays: None  
Abstain: None

MOTION PREVAILED.

Prepared by:  
Wendy Wisniewski, Panel Support  
Michigan Office of Administrative Hearings and Rules

June 27, 2022

**\*Meeting minutes were APPROVED at the Environmental Permit Review Meeting 2-6-25\***