

Mackinac Straits Tunnel Permit Decisions

Frequently Asked Questions

What permits did EGLE issue to Enbridge Energy Co. regarding the proposed tunnel in the Straits of Mackinac?

Permits were issued allowing wastewater discharge to Great Lakes waters under the state's Water Resources Protection law (Part 31); and for work within protected wetlands under the state's Wetlands Protection Act (Part 303) and under Great Lakes Submerged Lands (Part 325) of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended (NREPA).

What does Line 5 transport?

Enbridge's current Line 5 transports light crude oil and natural gas liquids and has an annual average capacity of 540,000 barrels per day. These products are delivered to facilities in Ontario, Michigan and Ohio where they are converted into refined petroleum products, such as gasoline and aviation fuels, as well as propane. Most of the oil and natural gas liquids carried on Line 5 originate outside of Michigan, while a small portion of the crude oil it carries is produced in the Lower Peninsula.

Does this mean EGLE has authorized the pipeline that is proposed to run through the tunnel?

No. Authorization of the pipeline itself is under the jurisdiction of the Michigan Public Service Commission which has a docket open on this topic. Additional information is available at Michigan.gov/Line5.

What kind of wastewater would be discharged?

During normal operation, the wastewater treatment plant would discharge an average of approximately 1.4 million gallons per day and have a peak capacity of five million gallons a day. The discharge would be required to meet water quality standards. The permit requires EGLE be notified if the plant reaches 66%

capacity, and must cease tunneling operations if capacity reaches 100%. Stormwater is handled separately from the construction wastewater stream. After any construction activity, groundwater that infiltrates into the shaft and tunnel would be captured and treated before being discharged into the Straits. It is predicted that approximately 1,500 gallons per day could be generated on the north side, and approximately 15,000 to 75,000 gallons per day on the south side.

What wetlands would be impacted?

Roughly 0.13 acres, or the size of one-tenth of a football field, of wetlands would be impacted. The permit requires wetland mitigation through purchase of wetland mitigation bank credits, and conservation easement protection for more than 1.3 acres of Great Lakes coastal wetland.

Would boring a tunnel harm the Straits bottomlands, aquatic resources, or potential cultural and historical sites?

EGLE received comments from the State Historic Preservation Office (SHPO), which reiterated the regulatory protections over cultural resources, and included best management practices necessary to avoid impacts to cultural resources as part of this project. EGLE has included those requirements as a condition of this permit. Enbridge is also required to obtain necessary federal Clean Water Act Section 404 approval from the U.S. Army Corps of Engineers for this work, and that process also includes review and potential requirements to protect cultural resources. 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 Permit for Archaeological Exploration.

Was the threat of a spill part of EGLE's considerations?

Continued operation of the existing 68-year-old pipeline was an alternative to construction of the proposed tunnel judged to be an unacceptable risk. That affirms the finding of the Michigan Department of Natural Resources, which determined the current pipeline violates the Public Trust Doctrine and poses an unacceptable risk to the Great Lakes.

What conditions must Enbridge abide by under the permits?

The permits include several conditions that protect water quality during construction of the proposed tunnel. Examples include:

- EGLE added a permit condition requiring Enbridge to develop and submit for approval plans for an Operations and Maintenance manual that includes the design specifications of the treatment system, the operational and construction procedures to ensure the dewatering and treatment system flow rates are maintained, and an emergency operating plan to initiate if needed. EGLE is notified if the water treatment plant operates above 65% capacity and Enbridge must cease tunneling activities if the system needs to operate at 100% capacity.
- To ensure that fish and other aquatic life are protected from temperature impacts, EGLE included a heat load limitation from November to May and a daily temperature limitation of 85 degrees Fahrenheit for treated water that is discharged back into the Great Lakes.
- Any adverse effects on historic properties or cultural sites must be avoided, minimized or mitigated. The State Historic Preservation Office has recommended additional surveys to identify historic properties in the project area.

Was climate change a consideration during the permit deliberations?

There is no statutory mechanism for EGLE to factor climate considerations into its review of these permits. The review of this application under Part 303 and 325 of NREPA is limited to the construction activities, including fill and placement of structures in wetlands and Great Lakes bottomlands, but does not include the operation of the pipeline or the fate of products transported by the pipeline.

The state of Michigan, with EGLE playing a leading role, is committed to reducing our reliance on fossil fuels and meeting Gov. Gretchen Whitmer's MiHealthyClimate plan goal of net-zero greenhouse gas emissions by 2050 (Executive Directive 2010-10). The Council on Climate Solutions, created by Gov. Whitmer's Executive Order 2020-182, will be charged with overseeing and implementing the MiHealthyClimate plan.

Gov. Gretchen Whitmer and the Michigan DNR have revoked and terminated Enbridge's easement for the existing Line 5 pipeline through the Straits. Enbridge has challenged that decision. What impact will these permits have on that process?

The permits issued for the proposed tunnel have no direct bearing on the revocation and termination of Enbridge's 1953 easement agreement for the existing pipeline. These permit applications are being requested under a separate easement issued by the state in 2018. EGLE's issuance of the tunnel permits in no way relieves Enbridge of its duty to comply with the revocation and termination of the 1953 easement.

How was public input factored into the decisions?

The review involved four public information sessions, four public hearings and four tribal consultations along with input from the State Historic Preservation Office and an independent civil engineering firm that specializes in complex tunneling projects. EGLE also reviewed more than 2,600 comments from the public on the permit applications and devoted more than 2,000 staff-hours to the consideration of the proposed project. Recordings of the hearings and information sessions are available at the [Line 5 in Michigan website](#).

Are these decisions final?

Parties who disagree with the final permit decisions may file a petition for a contested case hearing. A contested case is a quasi-judicial proceeding before an administrative law judge that allows each party to present witnesses and cross-examine witnesses (including department staff). The administrative law judge then determines if the permit decisions by the department and their findings of fact and law comply with applicable laws and regulations and are supported by the record in the case. The decision by the administrative law judge may then be reviewed by the Environmental Permit Review Commission. Parties may also appeal the final agency decisions in circuit court.

The National Pollutant Discharge Elimination System (NPDES) permit is a final action by EGLE. But the 303/325 permit is a proposed counter-signed permit and is not yet final. Meaning, EGLE has drafted conditions and is providing those conditions to Enbridge for their consideration. The permit is not final until Enbridge agrees to the conditions and signs the permit, at which point EGLE would sign the permit to make it final.

Michigan's Environmental Justice Policy promotes the fair, non-discriminatory treatment and meaningful involvement of Michigan's residents regarding the development, implementation, and enforcement of environmental laws, regulations, and policies by this state. Fair, non-discriminatory treatment intends that no group of people, including racial, ethnic, or low-income populations, will bear a disproportionately greater burden resulting from environmental laws, regulations, policies, and decision-making.

Meaningful involvement of residents ensures an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health.