

**Department of Environment, Great Lakes, and Energy  
Water Resources Division**

**PROJECT REVIEW REPORT**

Site Name: Enbridge Energy-Line 5-Straits of Mackinac

Submission Number: HNY-NHX4-FSR2Q

Name of Reviewer: Joseph Haas

Date of Field Review: December 23, 2020

**GENERAL INFORMATION:**

1. Name of applicant: Enbridge Energy, Limited Partnership
2. Name of property owner: SAME
3. Water body type (check all that apply): <input checked="" type="checkbox"/> wetland <input type="checkbox"/> warmwater stream <input checked="" type="checkbox"/> Great Lake <input type="checkbox"/> canal (Great Lake) <input type="checkbox"/> floodplain <input type="checkbox"/> coldwater stream <input type="checkbox"/> inland lake <input type="checkbox"/> canal (inland lake or stream)
4. Jurisdictional determination (for Part 303): a. Is the wetland contiguous, as defined in Section 30301? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No b. Approximate size of wetland = <u>200+</u> acres c. Is the project within a county with a population >100,000? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5. A permit is required under: <input type="checkbox"/> Part 31 <input type="checkbox"/> Part 301 <input checked="" type="checkbox"/> Part 303 <input type="checkbox"/> Part 323 <input checked="" type="checkbox"/> Part 325 <input type="checkbox"/> Section 404
6. Is the application drawing complete and accurate? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, why: _____

**FIELD REVIEW (for Part 303):**

7. Total wetland acreage owned by property owner = <u>&gt;50</u> acres					
8. Total wetland acreage to be impacted by proposed activity = <u>0.13</u> acres					
Dominant Plants	Indicator Status	Other Plants	Indicator Status	Soils (description)	Depth
Thija occidentalis	FACW				
Larix laricina	FACW				
Abies Balsamea	FAC				
Juncus sp.	OBL				
Eleocharis sp	OBL				
<b>DESCRIBE HYDROLOGIC INDICATORS: LaBarbe Side-Standing Water in roadside ditches</b>					
<b>GENERAL FIELD NOTES/COMMENTS:</b> (Attach other page(s) for additional notes/comments.) Wetland Delineations and EGLE Level 3 Wetland Identification Reviews have been completed and are part of the MiWaters Record					

**FILE REVIEW:** File Number: HNY-NHX4-FSR2Q; Site Name: Enbridge Energy-Line 5-Straits of Mackinac

9. a. Is there reasonable potential for impacts to state or federally listed threatened or endangered species?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
b. If yes, has the DNR and/or USFWS reviewed and signed off on potential impacts?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
10. Would the project adversely affect fish and wildlife?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
11. Would the project adversely affect recreation and aesthetics?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
12. Would the project adversely affect navigation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
13. Would the project adversely affect historic or archeological sites?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
14. Would the project comply with state Water Quality Standards?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
15. Would the project comply with the Michigan Natural Rivers Act?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
16. Would the project comply with Part 323 (Shorelands Protection and Management)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
17. Would the project comply with the Michigan Coastal Zone Management Program?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>18. If the project is proposed under Part 301 or 325:</b>	
a. Would the project adversely affect riparian rights?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
b. Would the project adversely affect the public trust?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
c. Would the project adversely affect other criteria listed in Section 30106 of Part 301 or Section 32515 of Part 325 as appropriate?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
d. Would the project involve work on state-owned bottomlands of the Great Lakes?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
e. If yes, would a conveyance be required?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
f. Would the project be consistent with similar structures or other permitted projects in the area?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>19. If the project is proposed under Part 303:</b>	
a. Would the activity be in the public interest?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
b. Is a permit necessary to realize the benefits derived from the activity?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
c. Would adverse secondary or cumulative effects occur due to the probable impacts of the proposed project in addition to the existing and anticipated activities in the watershed?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
d. Is the activity otherwise lawful?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
e. Has the applicant shown that an unacceptable disruption to the aquatic resources would not result?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
f. Has the applicant shown that the proposed activity is wetland dependent? OR Has the applicant shown that no feasible and prudent alternatives exist?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>20. If the project is proposed as a Minor Project (Part 301 or Part 325) or General Permit (Part 303):</b>	
a. Is the activity listed by the EGLE as a category for a minor project or under a general permit?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
b. Would the activity have only minimal adverse environmental effects when performed separately?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

c. Would the activity have only minimal adverse environmental effects cumulatively?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
d. If proposed under a General Permit, would the activity comply with Part 303 review criteria in No. 19.a-f?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>EXPLANATION OF FINDINGS AND RECOMMENDATION:</b> (Attach other page(s) for additional explanation.) See Attached Explanation of Findings and Recommendation.	
<b>RECOMMENDATION:</b> <input checked="" type="checkbox"/> Issue <input type="checkbox"/> Deny <input type="checkbox"/> Modify	
Date of review completion: January 28, 2021	

**Attachment to Project Review Report (PRR)**  
**Explanation of Findings and Recommendation**  
**January 28, 2021**

Enbridge Energy, Limited Partnership (Enbridge), applied for a permit under Part 303, Wetlands Protection, and Part 325, Great Lakes Submerged Lands, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). The proposed construction of a Straits of Mackinac tunnel and installation of the pipeline and associated infrastructure includes fill, and placement of structures in wetlands and on Great Lakes bottomlands/shoreline.

Following multiple public meetings, public hearings, and tribal consultations, and review of the permit application, site conditions, other pertinent materials, and consideration of the statutory criteria for Part 303 and Part 325 of the NREPA, the Water Resources Division (WRD) approved the application on January 26, 2021 and prepared a draft countersignature permit for the applicant's consideration.

The WRD has also prepared a Resources Responsiveness Summary to address the thousands of comments and questions that were received during the permit application process. The Resources Responsiveness Summary is incorporated by reference in this PRR.

The WRD considered whether issuance of a permit is necessary to realize the benefits from the proposed project, the purpose of the project, the possibility of implementation in a manner that avoids adverse wetlands impacts and bottomlands impacts and available feasible and prudent alternatives.

For Part 325 of the NREPA, the WRD evaluated existing and potential adverse environmental effects of the application for permit. The WRD determined: (a) That the adverse effects to the environment, public trust, and riparian interests of adjacent owners are minimal and will be mitigated to the extent possible; and (b) That there is no feasible and prudent alternative to the applicant's proposed activity which is consistent with the reasonable requirements of the public health, safety, and welfare.

The waters of the Great Lakes are public trust resources which the state has a duty to protect, and the state, through the Department of Natural Resources, has previously determined that the current operation of the dual pipelines violates the public trust doctrine. The WRD has found that the existing Straits of Mackinac pipelines present an unacceptable risk to the Great Lakes and therefore their use needs to be discontinued.

The construction activities for this application, proposed under Part 303 and Part 325 of the NREPA, include wetland fill and placement of structures and fill on Great Lakes bottomland and construction of a tunnel beneath the lakebed in the Straits of Mackinac. Feasible and prudent alternatives have been thoroughly evaluated to ensure that impacts to wetlands and bottomlands have been minimized through the location and methods. The tunnel itself will be placed in the bedrock, with depth to the tunnel below grade ranging from 60-370 feet. The proposed project does not authorize adverse impacts to the lakebed and is not anticipated to impact navigation, hunting, fishing, or water quality as protected under the Public Trust doctrine.

The project purpose is to place a new pipeline with the construction of a tunnel connecting the existing Line 5 facilities in the Upper Peninsula and the Line 5 facilities in the Lower Peninsula, the alternatives analysis which considers alternative methods within the Straits is acceptable. The alternative method Horizontal Directional Drilling (HDD) for placement of new pipeline crossing the straits is currently not available. The required distance is not technically feasible and exceeds HDD capacity. Open cut/trenching with rock armoring would result in greater wetlands and Great Lakes bottomlands impacts by dredging, filling, bottomlands. The applicant has demonstrated feasible and prudent alternatives do not exist.

WRD requested additional information regarding consideration of feasible and prudent alternatives from Enbridge, specifically regarding the wetland impacts along Boulevard Drive. Enbridge provided sufficient information which demonstrated that the no other feasible and prudent alternatives exists, and wetland impacts have been minimized to the extent possible.

The State Historic Preservation Office (SHPO) provided the following statement regarding this application review:

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 U.S. Army Corps of Engineers 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 SHPO, consulting Tribes, and other stakeholders. Any adverse effects on historic properties must be avoided, minimized, or mitigated. The SHPO recommended 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.

## **Conclusion**

The proposal is to place fill in 0.13 acres wetlands at the north edge of the existing roadway. Structures are proposed to be placed on bottomlands within 200-foot by 100-foot areas near both north and south Straits of Mackinac shorelines for water intakes and associated pumps and 6 to 12-inch pipes. The proposal includes constructing two (2) 30-inch reinforced concrete pipe (RCP) storm water outfall structures on Great Lakes bottomlands/shoreline, impacting a total maximum 900 square feet of 3-inch to 3-foot angular rock at Point LaBarbe (North) and placing one (1) 30-inch RCP storm water outfall structure on Great Lakes bottomlands/shoreline, impacting a total maximum 450 square feet of 3-inch to 3-foot angular rock at McGulpin Point (South). The review of impacts under Part 303 and Part 325 of the NREPA is limited to the wetland fill and placement of structures on bottomland, not tunnel construction.

The relative size of project impacts is minimal in terms of direct impacts of fill placed in wetland, as well as bottomlands/shoreline impact associated with outfalls and water intake structures in the Straits of Mackinac.

The construction activities associated with tunnel project below the Straits of Mackinac do not authorize the impairment of, and are not anticipated to adversely affect fish, wildlife, or habitat, nor the ability to hunt, fish, or gather in the Straits of Mackinac. The wetland fill and placement of structures reviewed under Part 303 and Part 325 of the NREPA have been minimized, and will not adversely affect fish, wildlife, or habitat, nor the ability to hunt, fish, or gather in the Straits of Mackinac.

The applicant has demonstrated that a feasible and prudent alternative is not available, and the adverse impacts to the public trust have been minimized. The proposed project will not unlawfully impair or destroy any waters or other natural resources of the state. The applicant's mitigation plan provides adequate compensatory mitigation acreage for wetland fill impacts. The mitigation plan meets mitigation requirements for the creation of new wetlands, avoids net loss of wetlands, and offers the preservation of existing coastal wetlands. Bottomlands and wetlands impacts are minimized.

The WRD has determined overall impacts are minimal, mitigated to the extent practicable and the recommendation is to offer a countersignature permit.