



By electronic mail to MonsmaM@Michigan.gov

March 29, 2024

Re: Request to Alter Ambassador Bridge Hazardous Materials Route Restrictions

The following comment is submitted by the Great Lakes Environmental Law Center, a nonprofit organization providing legal support to communities across Michigan disproportionately impacted by pollution. This comment addresses the changes requested by owners of the 94-year-old Ambassador Bridge (Bridge) to allow for the transport of Class 3 (flammable liquids) and Class 8 (corrosive substances) hazardous materials across what is the only privately owned international border crossing bridge in North America. Detroit International Bridge Co. (DIBC) is a subsidiary of CenTra, Inc., a company held under private ownership by the Moroun family of Grosse Pointe Farms, MI, owners of the Bridge.¹

Based on our review of federal and state law, an MDOT-commissioned study, two decades of documents the Company has submitted to government agencies, three decades of the Company's court filings, and the additional supporting materials cited throughout this comment, granting of this redesignation will not enhance public safety as required by the law.

The Great Lakes Environmental Law Center and the attached signatories urge MDOT to deny the redesignation request for the reasons explained in this comment.

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¹ Members of the Moroun family and the corporate entities under their control, including but not limited to CenTra Inc., Crown Enterprises, and the Detroit International Bridge Co., are collectively referred to as "Morouns" and "Company" throughout this comment.

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Michigan's 6th Congressional District

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United States Representative

Michigan's 12th Congressional District

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I. Granting the Morouns’ request to redesignate the Ambassador Bridge would violate federal and state law requiring redesignation to enhance public safety, not merely be public safety neutral.

The Federal Hazardous Materials Transportation law aims to “protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.”² The Federal Motor Carrier Safety Administration (FMCSA) bears the statutory authority over highway routing of hazardous materials. This authority has been delegated in part to States and Indian tribes.³ In Michigan, the Motor Carrier Safety Act of 1963 codifies the authority to create routing designations and restrictions on the travel of non-radioactive *hazardous materials* (NRHM) within the Michigan Department of Transportation (MDOT).⁴

The Act explicitly adopts federal regulations regarding routing designations for non-radioactive hazardous materials.⁵ 49 U.S.C. 5112 (b)(A) specifically requires that “a highway routing designation, limitation, or requirement of a State... **shall enhance public safety.**”⁶ This requirement is further enumerated in the Code of Federal Regulations. 49 CFR Part 397, entitled “*Enhancement of public safety*,” requires states to first “make a finding, supported by the record,” that “any NRHM routing designation **enhances** public safety.”⁷

When construing a statute, Michigan’s courts have adopted the plain meaning rule, where ordinary and accepted meanings are granted to statutory words and phrases. “Thus, the presumption is that ‘shall’ is mandatory.”⁸

In requiring that non-radioactive hazardous material routing designations “shall” enhance public safety, the law makes clear its corollary: that designations cannot harm public safety, nor can they be public safety neutral.

A 2023 study prepared for MDOT by Factor examined this very question regarding the proposed changes at the Ambassador Bridge requested by the Morouns. The study found that the “difference in statewide risk if the existing Class 3 and 8 restrictions were lifted... is not significant enough to make a compelling case for or against any

² Federal Hazardous Materials Transportation Law, 49 U.S.C. § 5101 et seq.

³ 49 U.S.C. § 5112 (a)(2)(A).

⁴ M.C.L. § 480.11a(1)(b)(i).

⁵ M.C.L. § 480.11a(1)(b).

⁶ 49 U.S.C. § 5112 (b)(A). (emphasis added)

⁷ 49 C.F.R. § 397 (b)(1).(emphasis added)

⁸ Browder v. International Fidelity Ins. Co., 413 Mich. 603, 612 (1982).

changes.”⁹ According to the study, statewide population risk would decline by an estimated 4% overall. However, “exposure to special populations, services, and facilities” would increase an additional 1-6%. At the same time, environmental risk “would remain virtually unchanged.”¹⁰

The state, in its technical review of this request, has demonstrated the same reality exists today as did when the Morouns requested to allow hazardous materials across the Bridge when it was ten years younger; “that no net improvement to public safety would result from granting the modifications requested by the DIBC.”¹¹ Without clear enhancements to public safety, an MDOT redesignation would violate 49 U.S.C. 5112 and its implementing regulations.

MDOT’s determination that the redesignation would be public safety neutral requires denial of the Morouns’ request. Even so, the limited scope of MDOT’s review fails to account for numerous unique characteristics of this particular bridge, which is necessary to understand the full consequences of allowing additional hazardous materials to travel it. When viewed in their totality, these facts establish that redesignation is not only neutral to public safety but would harm it.

II. The functional obsolescence of the Ambassador Bridge combined with current and forthcoming hazardous material routes that are far more protective of the public render the proposed redesignation of the Ambassador Bridge an unnecessary public safety risk.

With over nine decades of service, structural deterioration, technological obsolescence, and capacity constraints, the Ambassador Bridge is near the end of its useful life. The Bridge’s owners have acknowledged as much.

In 2006, the Morouns submitted an application to the U.S. Coast Guard for a permit to construct a new bridge adjacent to the Ambassador Bridge. The Company argued this

⁹ FACTOR, MI DEPARTMENT OF TRANSPORTATION, *Draft Final Report: A Hazardous Material Route Registry Study and Report for the Ambassador Bridge In Detroit*, MI (2023).

¹⁰ FACTOR, MI DEPARTMENT OF TRANSPORTATION, *DRAFT FINAL REPORT: A HAZARDOUS MATERIAL ROUTE REGISTRY STUDY AND REPORT FOR THE AMBASSADOR BRIDGE IN DETROIT*, MI (2023).

¹¹ Jim Kasuba, *Detroit: Owner denied permission to allow hazardous materials on bridge*, The News-Herald, February 4, 2014.

was necessary “due to the age of the existing structure, the need to update to current standards for safety shoulders and the demands of modern traffic and security.”¹²

In 2009, the Company submitted an environmental assessment of the project to the U.S. Coast Guard. As part of the assessment, the Ambassador Bridge’s owners described it as “an obsolete, aging bridge... near[ing] the end of its life span.”¹³ In support of this assessment, the owners highlighted:

- “substandard 11’ wide travel lanes rather than current standard 12’ lanes,”¹⁴
- “minimal safety shoulders, resulting in backups and congestion whenever work is required on the bridge or a vehicle breaks down”¹⁵

The Ambassador Bridge was built to accommodate the traffic needs of its time. As such, the Bridge also lacks a dedicated lane for truck traffic, forcing ordinary passenger vehicles to share a narrow bridge deck with enormous freight trucks carrying hazardous materials. Limitations imposed by the original infrastructure make upgrading the Bridge’s deficiencies to modern standards functionally impossible. “The existing bridge cannot feasibly be widened due to engineering restrictions since it is constrained by the existing towers and catenary cables.”¹⁶

These limitations extend to the Bridge’s retrofitted fire suppression system. The system “runs parallel to the roadway surface, and it is exposed to potential damage in the event of a highway vehicle crash.”¹⁷ At the same time, the Bridge’s system utilizes waterless dry fire suppression. “[M]any fires involving Class 3 [hazardous materials] require aqueous foam solution to properly extinguish.”¹⁸ Granting redesignation would “place additional burdens on fire stations and other locally available foam supplies.

Congestion may cause delays in response where prompt containment and recovery are essential for minimizing bridge damage and continuing traffic flow and commerce.”¹⁹

¹² DETROIT INTERNATIONAL BRIDGE COMPANY, ENVIRONMENTAL ASSESSMENT, AMBASSADOR BRIDGE ENHANCEMENT PROJECT, app. A (2019).

¹³ DETROIT INTERNATIONAL BRIDGE COMPANY, FINAL ENVIRONMENTAL ASSESSMENT; AMBASSADOR BRIDGE ENHANCEMENT PROJECT (2009).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ FACTOR, MI DEPARTMENT OF TRANSPORTATION, DRAFT FINAL REPORT: A HAZARDOUS MATERIAL ROUTE REGISTRY STUDY AND REPORT FOR THE AMBASSADOR BRIDGE IN DETROIT, MI (2023).

¹⁸ *Id.*

¹⁹ *Id.*

Maintaining an aging structure like the Ambassador Bridge requires continuous maintenance to keep it operational and safe for public use. The bridge owners repeatedly and rightly highlight that “the existing bridge would continue to subject the aging bridge to the effects of heavy commercial traffic”²⁰ and that “[t]he effort required for maintenance and repairs while still supporting traffic will result in an ever increasing frequency of lane closures and other disruptions to the users which will add to backups in the neighborhoods around the facility.”²¹ The owners point out that this “could potentially affect the environment in the area, especially air quality, resulting from traffic congestion and idling trucks.”²²

In stark contrast, the Gordie Howe International Bridge, set to open to the public next year, is a modern infrastructure project directly addressing many of the irremediable concerns raised by this requested redesignation. Its design incorporates advanced construction, design, technology, and safety measures that will allow the public to travel alongside hazardous cargo far more safely. These include designated truck lanes for commercial and non-commercial traffic segregation as well as abiding by modern standards that will allow it to accommodate higher traffic volumes while reducing congestion and potential accidents due to overcrowding.

Today, the Morouns seek not to alleviate the risk of traffic congestion or to operate within the structural limitations of their bridge for the benefit of public safety. Instead, their request would compound the potential risks to the public posed by travel on their bridge, adding more opportunities for foreseeable and unnecessary tragedies to occur.

III. MDOT’s hazardous route study relies on incorrect truck routing data, adding a nonexistent 560-foot buffer between residential properties that are, in reality, only 20 feet from trucks that could be carrying potentially hazardous and explosive materials.

The proximity of trucks carrying hazardous materials to residential homes directly impacts the level of risk posed. When these trucks are closer to residential areas, there is a greater chance that residents will be exposed to hazardous materials in the event of a spill or accident. Similarly, trucks carrying hazardous materials that are stationary in

²⁰ DETROIT INTERNATIONAL BRIDGE COMPANY, FINAL ENVIRONMENTAL ASSESSMENT; AMBASSADOR BRIDGE ENHANCEMENT PROJECT (2009).

²¹ *Id.*

²² *Id.* at 19.

traffic pose increased collision-based risks. In this case, the data utilized by the study to assess these two factors - the distance and movement of trucks - was undeniably erroneous, leading to an underestimation of the risks posed by allowing added hazardous classifications to traverse the bridge.

MDOT's "study was conducted to better understand and evaluate the risks associated with transportation of hazardous materials on the Ambassador Bridge from Porter Street to Canada should any of the existing restrictions be changed."²³ The methodology used to calculate the relative risk of the proposed plan versus the current route rightfully implemented an "emphas[is on] population risk."²⁴ This analysis is partly reliant on the distance between the truck route and the public. At the same time, the comparative risk values for each route analyzed "were only computed for the *outbound* trip to key border crossings."²⁵

The data relied upon by the study includes a glaring error that excludes what is likely the single closest point between trucks potentially carrying hazardous materials and the public. In describing U.S. inbound traffic, the study states it "passes through Canadian Customs in Windsor, proceeds to the bridge crossing, and *then exits via I-75 without stoppage*."²⁶ The route described leaves roughly 560 feet between U.S.-bound traffic and residential properties. (Map 1) **It is, however, only meant for passenger vehicles.** Trucks follow a very different route, entering a loop that brings them a mere 20 feet from residential properties. (Map 2)

Map 1: MDOT U.S.-Bound Travel Map



Map 2: Actual U.S.-Bound Truck-Specific Route



²³ FACTOR, MI DEPARTMENT OF TRANSPORTATION, DRAFT FINAL REPORT: A HAZARDOUS MATERIAL ROUTE REGISTRY STUDY AND REPORT FOR THE AMBASSADOR BRIDGE IN DETROIT, MI, at 1 (2023).

²⁴ Id. at 5.

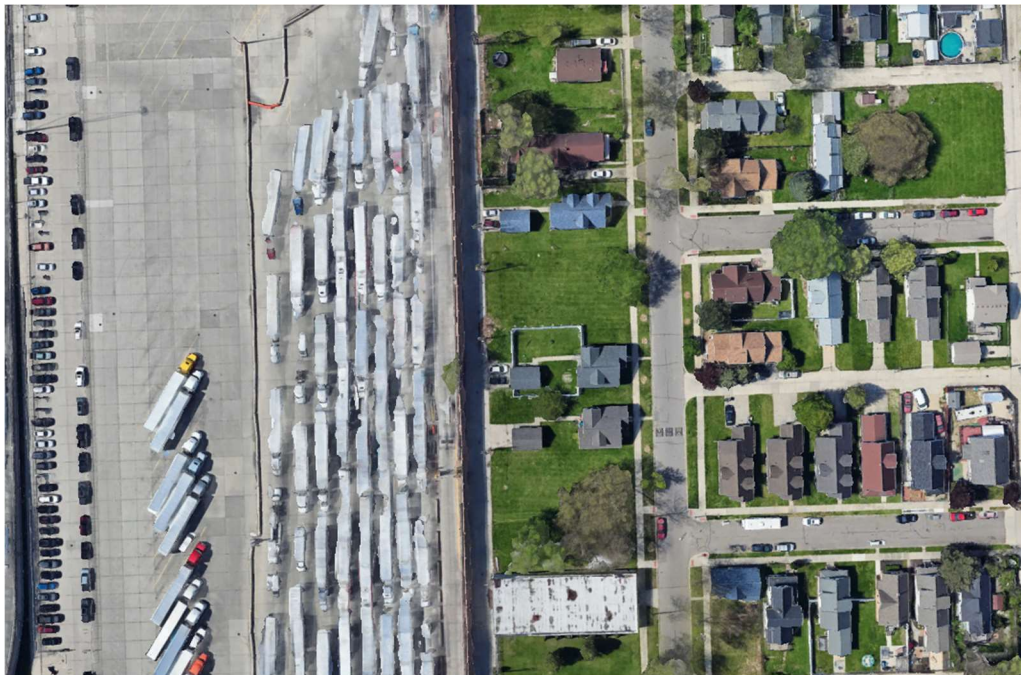
²⁵ Id. at 22. (emphasis added)

²⁶ Id. at 2. (emphasis added)

Nor do trucks exit “without stoppage.”²⁷ U.S. Customs and Border Protection processes commercial shipments at its Fort Street Cargo Facility located adjacent to the intersection of St. Anne St. and W. Lafayette Blvd. The images below, captured in May of 2023, show over 100 trucks amassed and awaiting entry to the U.S. Customs and Border Protection station, idling just feet away from residents.



This map includes data from: Google, Landsat/ Copernicus, TerraMetrics. ©2023. Imagery from 5/9/2023.



This map includes data from: Google. ©2023. Imagery from 5/9/2023.

²⁷ Id. at 2.

The study's failure to accurately consider the distance between hazardous trucks and residential properties and the regular stoppage of these trucks in proximity to homes has significant implications for understanding the potential risk involved. The consequent underestimation of risk further reinforces the reality that this proposal fails to meet the legal requirement that it serves to enhance public safety.

IV. A decision to approve a redesignation of the Ambassador Bridge, which would disproportionately increase risks posed to an already disparately impacted community of color, will implicate Title VI of the Civil Rights Act of 1964.

Title VI of the Civil Rights Act of 1964 (Title VI) is a federal law that prohibits any federally funded program or activity from discriminating on the basis of race, color, or national origin, and provides a statutory basis for relief for victims. Section 601 of Title VI requires that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”²⁸ Section 602 directs federal agencies that are empowered to extend financial assistance to issue rules, regulations, or orders of general applicability, “which shall be consistent with achievement of the objectives” of Title VI.²⁹

Central to the Department of Transportation's Title VI implementing regulations is the *consequence* of agency policies and decisions, not their *intent*.³⁰ “Facially neutral policies or practices that result in discriminatory effects of disparate impacts violate DOT's Title VI regulations.”³¹ As such, the agency includes prohibitions against both intentional and unintentional discrimination by DOT-funded agencies, including MDOT.³²

Unintentional discrimination includes those actions that have a disproportionately adverse effect on individuals of a certain race, color, or national origin.³³

²⁸ 42 USCS § 2000d

²⁹ 42 USCS § 2000d-1

³⁰ *The U.S. Department of Transportation Title VI Program*, DOT 1000.12C at 4 (2021). (Defining discrimination as “any action or inaction, whether intentional or unintentional, in any program of a recipient of Federal financial assistance that results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, or national origin.”)

³¹ US Department of Transportation, *Title VI Requirements and Guidelines for Federal Transit Administration Recipients*, FTA C 4702.1B at I-7,8 (2012).

³² US Department of Transportation, *supra* note 30.

³³ US Department of Transportation, *supra* note 31.

Both U.S. and Canada-bound truck routes are located in Wayne County census tract 521100. Despite comprising an area of only 0.7 of a square mile largely occupied by sprawling highways, land owned by DIBC, and part of the Detroit River, 1,700 people call the tract their home.³⁴ The median household income is a mere \$24,391.³⁵ 77% of residents identify as people of color, higher than 90% of the state.³⁶ At 15%, the concentration of limited English speaking households is 7.5 times the state average and greater than 97% of the state.³⁷

The operation of a massive trucking operation quite literally in the backyard of a dense urban neighborhood has already created numerous adverse pollution-related risks that are disproportionately levied upon this community. Levels of particulate matter are higher than 98 percent of the entire United States.³⁸ The count of underground storage tanks per km² is 7.75 times the state average and higher than 99 percent of the country.³⁹ Similarly, air toxics cancer risk (98 percentile), diesel particulate matter (96 percentile), traffic proximity (97 percentile), and toxic releases to air (94 percentile) are among the highest levels in the entire state.⁴⁰

The predominance of people of color and limited English speaking households combined with the uniquely high existing levels of public health risks reflect an already overburdened community. Granting the Morouns' request to expand the classes of hazardous materials transported just feet from residents in this community would unjustifiably exacerbate these risks, creating a disproportionate and discriminatory effect that, even though unintentional, would implicate Title VI. As such, denial is not only a matter of justice but a statutory obligation.

V. As the only major crossing into the United States owned by a private company, profit has taken precedence over public safety, transparency, and the need for necessary upgrades and improvements.

Though significant, the Bridge's structural issues outlined throughout this comment are merely those publicly disclosed, often only after extensive litigation, government action,

³⁴ EPA, *EJScreen Community Report, Tract: 26163521100* (March 29, 2024).

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

or in service of the Morouns' greater monopolistic ambitions. The nature of a privately owned bridge incentivizes secrecy, particularly about the disclosure of negative facts that could impact the value of an incredibly lucrative privately owned asset. As the recent history of the Ambassador Bridge makes clear, this is particularly relevant in relation to bridge safety inspection reporting.

"Because the Ambassador Bridge is privately owned, the company hires engineers to conduct inspections." "Government officials can't go on the bridge to inspect it themselves"⁴¹ and the Morouns have not always been willing to provide reports to the government.⁴² When the Morouns have provided inspection reports to government agencies in the past, they have gone to extreme lengths in attempting to impede the government's disclosure of facts, even to elected representatives.

In 2009, the Moroun family sued the U.S. Federal Highway Administration in an attempt to halt the agency from fulfilling its obligations under the Freedom of Information Act to disclose the Bridge's 2007 inspection report to the requestor, then U.S. Representative John Dingell.⁴³ Despite the inherent public safety implications embedded in the public's use of a vital bridge linking the United States and Canada, the Morouns argued that the report "contain[ed] competitive proprietary information."⁴⁴

U.S. District Judge Patrick J. Duggan rejected the requests of the Morouns, ordering the release of the bridge inspection information to Representative Dingell. The report was released on October 13, 2009, roughly two years after the Morouns had it conducted. It found numerous problems at the Bridge, including:

- "Deficiencies ... on the main cables that should receive priority attention.
- Hairline cracks and unsound concrete on the bridge abutment on the U.S. side
- Severely deteriorated railing connections, sidewalk support channels and other supporting metalwork below the sidewalk and east curb throughout the entire bridge.
- Significant quantities of debris have accumulated on all surfaces (accelerating) the corrosion process.

⁴¹ Pam Fessler, *Private Bridge on Canada Border a Security Concern*, NATIONAL PUBLIC RADIO, May 21, 2007.

⁴² Joann Muller, *Why One Rich Man Shouldn't Own An International Bridge*, FORBES, January 12, 2012.

⁴³ *Detroit International Bridge Company v. Federal Highway Administration*, No. 09-13805 (E.D. Mich. Feb. 17, 2010).

⁴⁴ Jonathan Oosting, *Ambassador Bridge safety report might be released*, THE ASSOCIATED PRESS, October 14, 2009.

- The main span deck was in poor condition with cracked, unsound and spalled concrete, exposing significantly corroded reinforcing steel.
- The lighting and electrical systems were in fair to poor condition with rusted junction boxes, holes in conduit and exposed wires.
- Wheeled travelers used for inspection and maintenance “have operational and potential safety problems.”⁴⁵

On October 15, 2009, two days after the report was released, the Morouns announced that all four lanes of the Bridge would be resurfaced. Despite the uncanny proximity to the report’s release and being two years after the inspection was conducted, the Morouns’, through a spokesman, insisted that the announcement was “not directly related to the inspection report.”⁴⁶

In 2015, “the deteriorating old bridge... rained pieces of concrete onto streets in Windsor.”⁴⁷ Debris falling from the span forced Windsor officials to close at least three streets beneath the Bridge.⁴⁸ One year later, the Canadian government was forced to issue an emergency order to the Morouns due to the deterioration of curbs and railings on the Bridge. Transport Canada, in a public statement, made clear that the government agency had previously voiced concerns about the railings and curbs to the Company.⁴⁹ The agency issued the order after determining that the Company’s failure to repair the Bridge posed a risk to public safety.⁵⁰

Greater threats arise from the restraints on public oversight that shield critical data from public scrutiny, hindering efforts to address potential hazards and leaving communities in the dark about the risks they face daily. To ensure government agencies are fulfilling the requirements of the law, to “protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce,” hazardous materials must be restricted from traveling on critical infrastructure where regulators lack unfettered access.⁵¹

⁴⁵ Brandy Baker, *Ambassador Bridge to get deck upgrade*, THE DETROIT NEWS, October 16, 2009. (internal quotations omitted)

⁴⁶ Brandy Baker, *Ambassador Bridge to get deck upgrade*, THE DETROIT NEWS, October 16, 2009.

⁴⁷ Jack Lessenberry, *Businessman’s shadow evident in lack of work on new bridge*, THE BLADE, August 12, 2016.

⁴⁸ *Debris closes Windsor streets under Ambassador*, THE DETROIT NEWS, October 15, 2015.

⁴⁹ Ian Thibodeau, *Canadians order Moroun to fix Ambassador’s curbs*, THE DETROIT NEWS, September 4, 2016.

⁵⁰ Transportation Canada, *Transport Canada issues Emergency Direction to owner of Ambassador Bridge*, September 3, 2016.

⁵¹ 49 U.S.C. § 5101.

Unlike the Ambassador Bridge, the Blue Water Bridge in Port Huron is publicly owned and controlled, as will be the Gordie Howe International Bridge upon completion. As such, these bridges are “managed more in the public interest and... allow access to public security and safety officials.”⁵² These modern bridges, without the same oversight restrictions as the Ambassador, must remain the only permitted routes for the requested designations. At the same time, the state should impose further restrictions on the transportation of hazardous materials on the Bridge, especially after the Gordie Howe International Bridge is completed.

VI. For decades, the owners of the Ambassador Bridge have openly and notoriously refused to enforce current restrictions on hazardous materials. Allowing additional classes of hazardous materials would undermine the principles of justice, fairness, and the rule of law.

In the words of U.S. District Court Judge Janet T. Neff, the Moroun family has “a well-earned reputation as a serial litigator in the courts of Michigan.”⁵³ The positions they have taken over their extensive history of obstructionist abuse of the legal system are central to understanding the profound ethical, legal, and societal concerns raised by allowing for a redesignation of their bridge.

In 2017, the Morouns, through the Detroit International Bridge Company and Canadian Transit Company, sued Kirk Steudle, the then-serving director of Michigan’s Department of Transportation, in his official capacity.⁵⁴ The Morouns sought a declaration from the court finding that “MDOT does not have jurisdiction over the Ambassador Bridge,” that MDOT “is without authority to authorize or approve MDOT enforcement of NRHM routing designations on the Ambassador Bridge,” and that “current NRHM routing designations over the Ambassador Bridge are ... invalid.”⁵⁵

In support of this request, the Morouns willingly asserted to the court that their practice was to flout hazardous materials routing designations in their entirety. The Morouns were incredulous that the “NRHM haulers received citations for allegedly violating MDOT’s NRHM routing designations, even when the NRHM haulers *had permission*

⁵² U.S. Department of State, *Confidential Message from American Consulate in Toronto to US Secretary of State: Border Crossing Update*, June 2006. (obtained through Freedom of Information Act).

⁵³ Court transcript of premotion conference proceedings, *DIBC v Kirk Stuedle*, No. 1:17CV172 (W.D. Mich. 2017).

⁵⁴ Complaint, *DIBC v Kirk Stuedle*, No. 1:17CV172 (W.D. Mich. 2017).

⁵⁵ *Id.*

from the DIBC and CTC to cross the Bridge. “In their view, “permission from the DIBC and CTC,” private corporations under the exclusive control of a single family of billionaires, preempted state laws.”⁵⁶

This was not a new position for the Morouns. The Morouns developed a “practice of issuing ‘permits’ allowing some commercial carriers to truck dangerous goods across the international span.”⁵⁷ Numerous letters on DIBC letterhead dating as far back as 1996 attempted to grant trucking companies permission “to cross the bridge even through they (the commodities) are placarded as hazardous.”⁵⁸

By 2001, an Ontario Ministry of Transportation study estimated a total of roughly 9,000 illegal truckloads of hazardous cargo cross the Ambassador Bridge annually.⁵⁹ At the time, Windsor Fire Chief Dave Fields remarked, “you or I can rent a truck, load it up with explosives (and drive on to the bridge).”⁶⁰ David Hawkes, a firefighter who worked part-time as a commercial trucker recalled doing just that, “crossing the Ambassador Bridge with 40,000 pounds of highly flammable, combustible barbecue lighter fluid and I didn’t even need to be placarded.”⁶¹ The Bridge owners’ attacked Michigan’s legal authority to regulate hazardous traffic, stating “it’s our bridge – how can a state entity say what can or cannot cross private property?”⁶²

Again, a report in 2007 found that “bridge workers were told to wave through trucks carrying hazardous cargo banned in the United States.”⁶³ The family continued to “maintain that federal rules barring hazardous wastes, explosives, and other toxic materials don’t apply to [them].”⁶⁴ Instead, the Morouns give “authorization letters’ to certain truckers to haul some banned contents across [their] bridge. [They] won’t let state troopers nab trucks on the bridge--they must ticket them upon leaving.”⁶⁵ In their

⁵⁶ *Id.*

⁵⁷ Doug Schmidt, *Bridge Barricade Drags Fire; Hazardous Shipment Exemptions Put on Shelf*, WINDSOR STAR, March 16, 2002.

⁵⁸ Short Sea Shipping Opportunities in the United States: Hearing before the Subcomm. on Coast Guard and Maritime Transportation of the Comm. on Transportation and Infrastructure, 110th Cong. at 124-130 (2007).

⁵⁹ Doug Schmidt, *Bridge Barricade Drags Fire; Hazardous Shipment Exemptions Put on Shelf*, WINDSOR STAR, March 16, 2002.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ Jack Kelly, *One man, one bridge, two nations - a good idea*, THE BLADE, March 2, 2007.

⁶⁴ *Id.*

⁶⁵ Joann Muller, *Why One Rich Man Shouldn’t Own An International Bridge*, FORBES, January 12, 2012.

world, it is the Michigan state police, not hazardous materials, that are “generally banned from bridge property.”⁶⁶

Blessing decades of unguarded contempt for the rule of law by granting their request to legalize activities the Morouns have blatantly engaged in for decades would send a message that violating laws and regulations can be tolerated or excused under certain circumstances, eroding public trust in the legal system and undermining the principle that everyone, irrespective of their status or influence, must abide by the law. It signals to the public that the powerful can benefit from circumventing the law without facing consequences. Instead, efforts to hold violators accountable for past illegal actions and enforce appropriate corrective measures and penalties must take precedence over granting privileges to those with a history of disregarding the law.

VII. The bridge owners’ decades-long history of flagrant disregard for city, state, and federal laws requires far stricter scrutiny of the public safety impacts of the proposed hazardous material redesignations.

*“The developers involved had an arrogant disregard for the offenses they have committed and pretended to be obtuse to the laws which they have been breaking.”*⁶⁷

Carol Hayes, member of the DeKalb County Soil and Water Conservation District in Georgia, in reference to owners of the Ambassador Bridge.

Considering past illegal activities when granting an owner of critical infrastructure license to allow the transport of hazardous materials across their bridge is essential to ensure public safety, uphold regulatory standards, and mitigate potential risks. Even in Detroit, a city besieged by ruthless speculators and avaricious corporate behemoths, the owners of the Ambassador Bridge stand in a league of their own for their pattern of non-compliance. The following is a small selection of examples where the Morouns have repeatedly violated the law, often with impunity.

- In 2004, the Morouns entered a contract with the Michigan Department of Transportation. The agreement intended to upgrade the I-75 and I-96 expressways to facilitate more efficient travel onto and off the Bridge. While the

⁶⁶ Doug Schmidt, *Bridge Oks Risky Cargo Letter of Permission Given to Chemical Company*, WINDSOR STAR, April 12, 2006.

⁶⁷ J.D. Capelouto, *Developer illegally cut down thousands of trees near river, county officials say*, THE ATLANTA JOURNAL- CONSTITUTION, July 2, 2019.

state fulfilled its obligations to upgrade the expressways, the Morouns refused to build the ramps connecting the Bridge to them. Instead, they built roadways to direct traffic towards their own gas station and duty-free store.⁶⁸ In 2012, eight years after the contract was created, a frustrated Judge Prentis Edwards ordered Matty Moroun and Dan Stamper, president of the Detroit International Bridge Co., to be held in Wayne County jail after they “had spent the past two years willfully violating an explicit court order.”⁶⁹

- In 2009, courts ordered the Morouns to vacate portions of Detroit’s Riverside Park that they had illegally seized.⁷⁰ The family erected fencing around the park and displayed counterfeit Homeland Security signage.⁷¹ The fencing blocked access to the park’s public boat ramp.⁷²
- In 2012, MDARD found that a duty-free gas station next to the Ambassador Bridge owned by the Morouns was violating state and federal air quality laws.⁷³ To reduce Southeast Michigan’s ozone levels when ozone pollution is generally at its worst, the state began enforcing “an [EPA] rule requiring gas stations in Wayne County to dispense low-pressure gasoline in the summer.”⁷⁴ The Morouns “resisted efforts to apply the rule to its gasoline sales”⁷⁵ and “ignored a stop sales order associated with the violation.”⁷⁶ In court, the Morouns argued that neither the state nor federal laws applied to them, and that it could not be enforced against them even if it did. It was not until 2022, ten years after the initial violation was discovered, eighteen years after the EPA designated southeast Michigan as a nonattainment area for ozone, and two lawsuits later, that the US Court of Appeals ended their resistance, ordering the family to follow the law.⁷⁷

⁶⁸ Dave Battagello, *Moroun ordered to pay millions to reimburse transportation department*, WINDSOR STAR, December 17, 2021.

⁶⁹ Curt Guyette, *Moroun family lies*, DETROIT METRO TIMES, January 18, 2012.

⁷⁰ *Bridge too far*, THE BLADE, January 25, 2010.

⁷¹ Jack Lessenberry, *Morouns making bridge mischief again*, THE BLADE, October 21, 2021.

⁷² *Don’t fence us out*, DETROIT METRO TIMES, October 8, 2008.

⁷³ M.C.L. § 290.650d.

⁷⁴ *Ammex, Inc. v McDowell*, No. 20-1250 (6th Cir. 2022).

⁷⁵ *Id.*

⁷⁶ Dave Battagello, *Moroun hit with lawsuit for selling non-compliant gas at duty-free plaza in Detroit*, WINDSOR STAR, Oct 25, 2012.

⁷⁷ *Ammex, Inc. v McDowell*, No. 20-1250 (6th Cir. 2022).

- At the same time, state regulators cited the Morouns numerous times for mislabelling gas, charging consumers higher prices for gasoline labeled with higher octane ratings, only to provide them with lower octane fuel.
- In 2018, the Moroun family procured a sprawling 200-acre expanse from the Wayne County Land Bank. The property, which encompassed the McLouth Steel Plant, runs along the shoreline of the Detroit River in Trenton. In January 2019, shortly after the Morouns began dismantling existing structures on the property, the Michigan Department of Environment, Great Lakes, and Energy issued a violation notice after witnessing friable asbestos being removed without abatement.⁷⁸ In November, the department issued yet another violation after witnessing “a large cloud of dust (visible emissions) that traveled North of the location and eventually off site” during the demolition of an asbestos-containing oven.⁷⁹
- This was not the first time the family botched a cleanup. In 1990, the Michigan Department of Transportation was forced to halt plans to construct a welcome center for travelers entering Michigan via the Ambassador Bridge. As the department was preparing to purchase a property owned by the Morouns, department officials found what was at the time one of the most seriously polluted sites in the state.⁸⁰ Two hundred thirty-six drums, roughly a third of which “contained waste oils, solvents, paints, and other substances,” were identified at the site, stirring state authorities and police to board the building. The Morouns demolished the warehouse three months later, hiring a “wrecking company that was not licensed to haul hazardous waste” that “apparently dumped many of the barrels’ contents on the ground.” The Morouns could only account for properly disposing of nine of the two hundred thirty-six drums.
- In a 2019 analysis of parcels the Morouns demanded as part of a land swap with the City of Detroit on behalf of Stellantis, “the Moroun empire [received] title to land [it] used for years without paying property taxes, drainage fees or other charges typically associated with parcel possession.”⁸¹

⁷⁸ Jackie Harrison-Martin, *Officials alarmed after cleanup violations cited at former McLouth Steel in Trenton*, NEWS-HERALD, January 25, 2019.

⁷⁹ MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY, *Violation Notice*, November 25, 2019.

⁸⁰ Laurie Bennet, *Toxic wastes near bridge site scuttle plans for state tourist center*, THE DETROIT NEWS, May 24, 1991.

⁸¹ Allie Gross, *Morouns, speculators look like winners in Detroit land swap to ensure FCA factory jobs*, DETROIT FREE PRESS, May 20, 2019.

- The Morouns were subject to legal action in Dekalb County, Georgia, in 2019 after being alerted that they had violated several environmental laws. Those included illegally cutting down thousands of trees on a 100-acre lot near the South River. The Company failed to appear at a pretrial hearing. In a letter to Dekalb officials, Carol Hayes, the elected district supervisor for DeKalb Soil and Water Conservation, wrote,

“The egregious illegal destruction of trees and vast and severe soil erosion were not what was most shocking to me... The developers involved had an arrogant disregard for the offenses they have committed and pretended to be obtuse to the laws which they have been breaking.”⁸²
- In 2015, the Morouns paid \$84,342 to settle code violations found at its properties in the City of Detroit that had accrued from 2002 to 2015 and that the family had failed to pay for.⁸³ In addition to the code violations, the Morouns paid \$72,345 to the city’s Department of Administrative Hearings for outstanding blight tickets and judgments.⁸⁴
- By November 2022, the Moroun family had again amassed tens of thousands in additional blight-related fines.⁸⁵ In a global settlement agreement covering 1,023 tax parcels, 808 vacant lots, and ten sites ripe for demolition, the Morouns paid \$50,000 for outstanding fees, fines, and invoices: \$27.16 per property.

Ensuring adherence to the highest safety standards is paramount when transporting hazardous materials. A history of disregarding laws or regulations must elicit severe concerns about an entity’s commitment to safeguarding the public’s well-being. In this decision, MDOT must prioritize safety, compliance, and the protection of communities and deny the redesignation request.

⁸² J.D. Capelouto, *Developer illegally cut down thousands of trees near river, county officials say*, THE ATLANTA JOURNAL- CONSTITUTION, July 2, 2019.

⁸³ Joe Guillen, *Moroun companies pay off \$156K in Detroit city fines*, DETROIT FREE PRESS, June 6, 2015.

⁸⁴ *Id.*

⁸⁵ Joe Guillen, *Moroun family settles outstanding blight tickets with city*, AXIOS, December 15, 2022.