

MINUTES

MICHIGAN PIPELINE SAFETY ADVISORY BOARD

Causeway Bay Lansing Hotel and Conference Center
Ballroom F - J
6820 South Cedar Street
Lansing, Michigan 48911

December 11, 2017
9:00 a.m. – 3:30 p.m.

Present: Valerie Brader, Co-Chair, Michigan Agency for Energy (MAE)
Heidi Grether, Co-Chair, Department of Environmental Quality (DEQ)
Keith Creagh, Department of Natural Resources
Craig Hupp, Public Member
Capt. Chris Kelenske, (*Designee for Col. Kriste Kibbey Etue*), Michigan State Police
Shawn Lyon, Marathon Petroleum
Homer Mandoka, Nottawaseppi Huron Band of the Potawatomi
Jennifer McKay, Tip of the Mitt
Matthew Schneider (*Designee for Attorney General Bill Schuette*), Department of Attorney General (DAG)
Jeffrey Pillon, National Association of State Energy Officials
Jerome Popiel, United State Coast Guard
Brad Shamlal, Enbridge Energy Company
Chris Shepler, Shepler's Mackinac Island Ferry Service
Michael Shriberg, National Wildlife Federation
Sally Talberg, Michigan Public Service Commission (MPSC)

Others: Matt Goddard, DEQ
Guy Meadows, Michigan Technological University
Laura Moody, DAG
Alex Morese, MAE
Robert Reichel, DAG
Holly Simons, DEQ
Travis Warner, MPSC

I. CALL TO ORDER

Valerie Brader, Executive Director, Michigan Agency for Energy (MAE), called the meeting to order at 9:04 a.m.

II. WELCOME AND INTRODUCTIONS

Co-Chair Brader welcomed everyone and reminded the Board that Holly Simons, elected by the Board to be Secretary, will take the minutes for today's meeting.

III. PUBLIC PARTICIPATION

- Richard Douglas, Eastern Michigan University, shared verbal comments.
- Nancy Shiffler shared verbal comments.

- David Benac shared verbal comments.
- Allen Webb, Western Michigan University, shared verbal comments.
- Lisa Baehert shared verbal comments.
- David Dwyer, Straits Area Concerned Citizens for Peace, Justice, and the Environment (SACCPJE), shared verbal comments.
- Anabel Dwyer, SACCPJE, shared verbal comments.
- Marian Horowitz shared verbal comments.
- Marshall Clabeaux shared verbal comments.
- James Clift, Michigan Environmental Council, shared verbal comments.
- Jane Ann Montague shared verbal comments.
- Teri Wilkerson shared verbal comments.
- Anne Woiwode, Sierra Club, shared verbal comments.
- Sean McBrearty, Oil and Water Don't Mix, shared verbal comments.
- Liz Kirkwood, For the Love of Water (FLOW), shared verbal comments.
- Kathy Schoen shared verbal comments.
- Desmond Berry shared verbal comments.
- Iris Potter shared verbal comments.
- Jerilynn Tucker shared verbal comments.

Co-Chair Brader requested any additional members of the public acknowledge their desire to provide comment by 11:00 a.m. at which time the Board will break from their agenda for an additional public comment period.

IV. SEPTEMBER 18, 2017 MEETING MINUTES

Having reviewed the minutes from the September 18, 2017 meeting, Co-Chair Brader asked for comments. Hearing none, she requested a motion to approve.

Brad Shamla moved, seconded by Co-Chair Grether, that the minutes from the September 18, 2017 meeting be approved. The vote was taken on the motion. The motion carried unanimously.

V. CORRESPONDENCE RECEIVED

Correspondence received on behalf of the Board since its last meeting was shared with the Board in the pre-meeting packet, including:

Board Members

- Brad Shamla, Enbridge Energy Company

Non-Board Members

- Carol Gilewicz
- Anna Fisher
- Dale Giddings
- James Hill
- Barbara Steer
- Drue Pearce, Acting Administrator, U.S. Department of Transportation
- Cam Spady, Cylo Technologies
- Liz Kirkwood and Jim Olson, FLOW

VI. OLD BUSINESS

Co-Chair Brader provided an update on old business items including pipeline mapping, independent alternative analysis, the letter to the Secretary of Transportation and the pipeline safety best practices and siting subcommittee. Discussion took place.

Jennifer McKay moved, seconded by Chris Shepler, to amend the agenda to add a formal discussion of the Enbridge Agreement after the Update by Keith Creagh. The vote was taken on the motion. The motion carried unanimously.

VII. LINE 5 COATING PRESENTATION

Brad Shamla introduced Peter Holran, Director, US Government and Public Affairs for Enbridge, who provided a presentation.

Co-Chair Brader opened the floor for comments and questions from the board. Discussion took place.

VIII. BREAK

The board adjourned for a break at 11:14 a.m. and reconvened at 11:21 a.m.

IX. PUBLIC PARTICIPATION

Co-Chair Brader acknowledged additional members of the public who desired to provide comment.

- Dale Giddings shared verbal comments.
- Linda Rogers, SACCPJE, shared verbal comments.
- Vince Lumetta shared verbal comments. (*Written commentary included in Attachment A.*)
- Rita Mitchell shared verbal comments.
- Jerilynn Tucker shared verbal comments.
- Mike Salina shared verbal comments.
- Andrew McGraw shared verbal comments.
- Nikki Phan, Clean Water Action, shared verbal comments.

X. BREAK FOR LUNCH

Co-Chair Brader requested any additional members of the public acknowledge their desire to provide comment. Hearing none, the board adjourned for lunch at 11:43 p.m. and reconvened at 1:02 p.m.

XI. INDEPENDENT RISK ANALYSIS UPDATE

Guy Meadows provided a presentation. Discussion took place.

Craig Hupp moved, seconded by Jennifer McKay, that the Co-Chairs appoint a balanced committee to act as a sounding board for the Independent Risk Analysis research team. The committee would not substitute decisions of the board as a whole. The vote was taken on the motion. The motion carried unanimously.

XII. ENBRIDGE AGREEMENT UPDATE

Keith Creagh provided an update. Discussion took place.

XIII. FORMAL DISCUSSION OF ENBRIDGE AGREEMENT

Jennifer McKay provided background on a memorandum and three resolutions seeking action by the board. Discussion took place.

Jennifer McKay moved, seconded by Michael Shriberg, that the board approve the resolution calling for action by the State to amend the agreement with Enbridge regarding coating gaps (Attachment B). Roll call vote was taken. The motion carried with members Hupp, Mandoka, McKay, Shepler, and Shriberg voting in favor; Co-Chair Brader and members Creagh, Kelenske, Lyon, Schneider, Shamla, and Talberg abstaining; and Pillon voting against. Co-Chair Grether was not present for the vote. Jerome Popiel is a non-voting member.

Craig Hupp moved, seconded by Jennifer McKay, that the board approve the resolution calling for action by the State to amend the agreement with Enbridge regarding the revision of “sustained adverse weather conditions” (Attachment C). Roll call vote was taken. The motion carried with members Hupp, Mandoka, McKay, Shepler, and Shriberg voting in favor; Co-Chair Brader and members Creagh, Kelenske, Lyon, Pillon, Schneider, Shamla, and Talberg abstaining. Co-Chair Grether was not present for the vote. Jerome Popiel is a non-voting member.

Jeff Pillon moved, seconded by Craig Hupp, that the board amend the last paragraph of resolution regarding the need for further assessment of Michigan-focused alternatives to Line 5 (Attachment D) as such:

*NOW, THEREFORE, BE IT RESOLVED, that the State conduct a detailed analysis on the public need for Line 5 in Michigan, a more robust study of alternative pipeline capacity to reroute the portion of Line 5's flow dedicated to Michigan's needs, and a more robust study of options to supply propane and oil to meet Michigan's needs currently met by Line 5, **supplied from sources both in and outside the state of Michigan**, and to transport of oil to market from northern Michigan. This analysis would be completed by no later than June 25, 2018.*

The vote was taken on the motion. The motion carried unanimously.

Michael Shriberg moved, seconded by Craig Hupp, that the board approve the amended resolution calling for action by the State to amend the agreement with Enbridge regarding the need for further assessment of Michigan-focused alternatives to Line 5 (Attachment D). Roll call vote was taken. The motion carried with members Hupp, Pillon, Mandoka, McKay, Shepler, and Shriberg voting in favor; Co-Chair Brader and members Creagh, Kelenske, Lyon, Schneider, Shamla, and Talberg abstaining. Co-Chair Grether was not present for the vote. Jerome Popiel is a non-voting member.

XIV. ORGANIZATIONAL ITEMS

Co-Chair Brader highlighted the proposed meeting dates for 2018. Discussion took place regarding adjustment of the schedule to better facilitate work deadlines. Follow-up with proposed dates will be conducted via e-mail.

XV. ADJOURN

Co-Chair Brader called the meeting to adjourn at 3:12 p.m.

NEXT MEETING TBA

ATTACHMENT A

Lumetta, Vincent 12-11-17 PSAB

The last few times I spoke here I highlighted my frustration with this process in trying to find an intelligent solution to the line 5 issue. Well, my frustration is now turning to anger and I'll bet that many of you on this board are, if not angry, a bit agitated. With all the effort we have all put into this and to have a backroom deal with the devil... well, who wouldn't be upset. We should have known better. This is the guy that gave us failed emergency manager programs, the Flint debacle and, oh yah, he taxed my pension too.

And then there is our wonderful Attorney General. He could have put this right a long time ago... If he had a spine. This state is purely lacking true leadership. I'm talking about leadership that that represents the needs of the state and its people.

There have been tens of thousands of comments favoring decommissioning line 5. Plus there have been editorials, letters to the editors, resolutions from citizens, business and tribes giving good argument for decommissioning. Yet our leadership ignores this and listens to Enbridge. Something is not right here.

ATTACHMENT A

Lumetta, Vincent 12-11-17 PSAB

Mr. Shamla, you say your company is going through a cultural change. I'm not seeing it. Whenever we gather for public comment Enbridge employees and contractors are present and they often project hostile and intimidating attitude. Believe me, we are not intimidated. But it tells me that your change of culture has a long way to go.

After World War II we had a huge population spike. Roads, bridges and other infrastructure, including pipelines couldn't be built fast enough. If any thought was given in advance many of these structures would not have ended up where they are now. Right now, the infrastructure of this nation is failing at a rapid rate, yet you want to tell us that you have a pristine piece of pipe in the Straits of Mackinac. We know that pipe is at or near its end of life cycle. We are not fools. Well, you may have found one fool and his name is Rick Snyder.

Yesterday I attended a Cantata in Mackinaw City to celebrate the birth of Jesus. A beautiful event. A prayer was offered to begin the program. One part of the prayer was to give thanks for all the beauty and nature that Northern Michigan has to offer.

ATTACHMENT A

Lumetta, Vincent 12-11-17 PSAB

If you continue to pump your poison through that pipe it is going to fail and you – we will never be able to clean it up and all that beauty and nature will be lost, and so will the lives and livelihoods of many people.

Mr. Shamla, I hope you live a long life. And everyday when you get out of bed I want you to carry the shame and the guilt of what you reaped on the people of Michigan. And when your time comes you will stand before God He will ask you how you could put profits over His children and His beauty and His nature.

I want to know. How will you answer that? How will you?

ATTACHMENT B

A Resolution Set Forth by the Michigan Pipeline Safety Advisory Board Regarding the Agreement Between the State of Michigan and Enbridge Energy, Limited Partnership and Enbridge Energy Company, Inc. (November 27, 2017)

ACTION ON COATING GAPS

WHEREAS the Michigan Pipeline Safety Advisory Board (MPSAB) was created by Governor Snyder's Executive Order 2015-14;

WHEREAS the MPSAB was established to advise and assist in the implementation of matters relating to hazardous liquid and gas pipeline safety, routing, construction, operation and maintenance, and provide recommendations for statutory, contractual, or procedural changes to improve the safety of pipelines in this state;

WHEREAS on November 27, 2017, the Governor for the State of Michigan entered into an Agreement Between the State of Michigan and Enbridge Energy, Limited Partnership and Enbridge Energy Company, Inc. ("the Agreement");

WHEREAS the Agreement is a contract intended to improve the safety of Enbridge's pipelines within the State that requires improved practices for pipeline safety and emergency response at the Straits, the St. Clair River and throughout the State of Michigan;

WHEREAS the Agreement provides the State may propose amendments to the Agreement and Enbridge agrees to consult in good faith in an effort to reach an agreement on any proposed amendment;

WHEREAS the State issued an Easement to Lakehead Pipeline Company Inc., subsequently renamed Enbridge Energy Company, Inc. on April 23, 1953 pursuant to Act No. 10, PA 1953. The Easement was granted subject to terms and conditions, including minimum specifications, conditions and requirements;

WHEREAS Section A.(9) of the Easement states "All pipe shall be protected by asphalt primer coat;" and

WHEREAS Enbridge recently inspected 48 out of 128 anchor locations along the pipeline route in the Straits and a majority of those 48 areas have coating gaps. The remaining 80 anchor locations still need to be inspected to identify additional coating gaps.

NOW, THEREFORE, BE IT RESOLVED, that the State shall immediately propose an amendment to the Agreement requiring Enbridge to temporarily shut down Line 5 operations in the Straits until the rest of the Dual Pipelines in the Straits of Mackinac can be inspected and all of the

ATTACHMENT B

bare steel and coating issues are fully repaired, in order to meet the terms and conditions set forth in the Easement. During this temporary shutdown, Enbridge would be required to ensure that propane is delivered to the Michigan markets served by Line 5 at a reasonable cost to customers;

AND, LET IT BE FUTHER RESOLVED, that the MPSAB calls upon Governor Rick Snyder to ensure full transparency by including consultation with the MPSAB with regard to future agreements or amendments to agreements with Enbridge.

ATTACHMENT C

A Resolution Set Forth by the Michigan Pipeline Safety Advisory Board Regarding the Agreement Between the State of Michigan and Enbridge Energy, Limited Partnership and Enbridge Energy Company, Inc. (November 27, 2017)

Revise “Sustained Adverse Weather Conditions”

WHEREAS the Michigan Pipeline Safety Advisory Board (MPSAB) was created by Governor Snyder’s Executive Order 2015-14;

WHEREAS the MPSAB was established to advise and assist in the implementation of matters relating to hazardous liquid and gas pipeline safety, routing, construction, operation and maintenance, and provide recommendations for statutory, contractual, or procedural changes to improve the safety of pipelines in this state;

WHEREAS on November 27, 2017, the Governor for the State of Michigan entered into an Agreement Between the State of Michigan and Enbridge Energy, Limited Partnership and Enbridge Energy Company, Inc. (“the Agreement”);

WHEREAS the Agreement is a contract intended to improve the safety of Enbridge’s pipelines within the State that requires improved practices for pipeline safety and emergency response at the Straits, the St. Clair River and throughout the State of Michigan;

WHEREAS the Agreement provides the State may propose amendments to the Agreement and Enbridge agrees to consult in good faith in an effort to reach an agreement on any proposed amendment;

WHEREAS Section I.C of the Agreement provides that Enbridge will temporarily shut-down the operation the Dual Pipelines while “Sustained Adverse Weather Conditions” remain in the effect in the Straits, and “Sustained Adverse Weather Conditions” are defined in the Appendix as “conditions in which median wave heights in the Straits of Mackinac over a continuous 60-minute period are greater than 8 feet based on ‘Near-real Time Data’ or in its absence ‘Modeled Data’”;

WHEREAS the current definition of “Sustained Adverse Weather Conditions” is inadequate to protect the public health, safety, and welfare and the unique ecological and natural resources of the Straits Crossing in the event of a release of petroleum from Line 5 because it does not correlate with conditions in the Straits that would prevent or significantly impair containment and recovery of spilled oil using current emergency response capabilities in the Straits of Mackinac based upon available equipment and resources; and

ATTACHMENT C

WHEREAS there are many maritime conditions that would prevent or significantly impair the effective containment and recovery of spilled oil or exacerbate the spread of spilled oil, including wave height, wind, ice cover, and surface and subsurface currents.

NOW, THEREFORE, BE IT RESOLVED, that the State immediately propose an amendment to modify the definition of “Sustained Adverse Weather Conditions” to “conditions in which median wave heights in the Straits of Mackinac over a continuous 60-minute period are greater than 3 feet based on ‘Near-real Time Data’ or in its absence ‘Modeled Data,’” because the current emergency response equipment cannot effectively respond to oil spills in waves greater than such conditions;

AND, LET IT BE FURTHER RESOLVED, that the State, in conjunction with federal, state, local and tribal agencies responsible for spill response in the Straits of Mackinac and the Oil Spill Response Organizations (OSROs) presently retained to perform response actions, shall promptly identify spilled oil removal sea state capabilities for current emergency response equipment as well as operational limitations associated with other maritime conditions including but not limited to wind speed, ice cover, and currents;

AND, LET IT BE FURTHER RESOLVED, that the State, in consultation with the MPSAB, shall propose an additional amendment to the Agreement to replace the definition of “Sustained Adverse Weather Conditions” with a new term “Significant Adverse Maritime Conditions” defined to include all maritime conditions based upon the identified sea state capabilities and operational limitations of watercraft and equipment that would prevent or significantly impair the effective containment and recovery of spilled oil or significantly exacerbate the spread of spilled oil;

AND, LET IT BE FURTHER RESOLVED, that the MPSAB calls upon Governor Rick Snyder to ensure full transparency by including consultation with the MPSAB with regard to future agreements or amendments to agreements with Enbridge.

ATTACHMENT D

A Resolution Set Forth by the Michigan Pipeline Safety Advisory Board Regarding the Agreement Between the State of Michigan and Enbridge Energy, Limited Partnership and Enbridge Energy Company, Inc. (November 27, 2017)

Need for Further Assessment of Michigan-Focused Alternatives to Line 5

WHEREAS the Michigan Pipeline Safety Advisory Board (MPSAB) was created by Governor Snyder's Executive Order 2015-14;

WHEREAS the MPSAB was established to advise and assist in the implementation of matters relating to hazardous liquid and gas pipeline safety, routing, construction, operation and maintenance, and provide recommendations for statutory, contractual, or procedural changes to improve the safety of pipelines in this state;

WHEREAS on November 27, 2017, the Governor for the State of Michigan entered into an Agreement Between the State of Michigan and Enbridge Energy, Limited Partnership and Enbridge Energy Company, Inc. ("the Agreement");

WHEREAS the Agreement is a contract intended to improve the safety of Enbridge's pipelines within the State that requires improved practices for pipeline safety and emergency response at the Straits, the St. Clair River and throughout the State of Michigan;

WHEREAS, the Agreement requires additional analysis of only one of the six outlined alternatives from the Final Alternatives Analysis Report currently under formal review with MPSAB and the public – replacement of Line 5 by evaluating the following options: placing a new pipeline in a tunnel under the Straits, installing a new pipeline below the lakebed using horizontal directional drilling, and placing a new pipeline in a secondary containment system in a trench on the bottom of the Great Lakes; and

WHEREAS, the Final Alternatives Report fails to fully review alternatives from the perspective of the State of Michigan and the needs of its citizens, fails to consider the public need for Line 5 in Michigan, fails to sufficiently evaluate alternative pipeline capacity and mixed modal transport, and fails to sufficiently evaluate workable alternatives to supply propane and oil to meet Michigan's needs currently met by Line 5.

NOW, THEREFORE, BE IT RESOLVED, that the State conduct a detailed analysis on the public need for Line 5 in Michigan, a more robust study of alternative pipeline capacity to reroute the portion of Line 5's flow dedicated to Michigan's needs, and a more robust study of options to supply propane and oil to meet Michigan's needs currently met by Line 5, supplied from sources both in and outside the State of Michigan, and to transport of oil to market from northern Michigan. This analysis would be completed by no later than June 25, 2018.