



**Comments of the Great Lakes Business Network and the National Wildlife Federation to the Army Corps of Engineers on the Draft Environmental Assessment, Clean Water Act Section 404(b)(1) Guidelines Evaluation, and Public Interest Review (“Draft CDD”)**

**for**

**Enbridge’s Proposed Line 5 Wisconsin Segment Relocation Project**

These comments are submitted by the Great Lakes Business network, an unincorporated association of over 200 businesses and business leaders in the Great Lakes region, and the National Wildlife Federation, a national organization with thousands of members and supporters throughout Wisconsin and Michigan and other Great Lakes states. Our comments provide new data and analysis from credible and authoritative experts—including Enbridge’s own experts-- that demonstrate:

- The purpose of the project should be flexible enough to include all the alternatives to supply energy to the customer base served by Line 5—not just the alternatives identified by Enbridge. In particular, the purpose should not be constrained to supplying all the products from Enbridge’s Superior, WI refinery; other origin points should be included.
- The no-action alternative is feasible and preferable to the proposed reroute. The reroute is not needed either to protect the Bad River Band’s reservation lands or to supply oil and NGLs to markets. The Draft CDD presumes that Line 5 would unacceptably operate indefinitely on the Bad River Band’s reservation lands absent the proposed reroute; but a federal court order will shut down Line 5 by June, 2026 or earlier without the reroute. And Line 5 is not needed to supply oil and NGLs to refineries or consumers—the market is already adjusting to supply every barrel of oil and gallon of propane at similar (or lower) costs using other transportation routes.
- The public interest review must include two of the most significant detriments of the proposed reroute: the downstream greenhouse gas emissions that will result if the reroute goes forward, and the consequences of a rupture of the rerouted pipeline. In addition, that analysis should include the consequences of a rupture anywhere along Line 5’s current route because the reroute will enable Line 5 to continue operating along its entire length and thus create a potential for oil spills and fuel leaks everywhere it currently lies.

- The public interest review should consider the sworn evidence, given under oath, in the *Bad River Band* trial, as well as the credible evidence submitted by the businesses of the Business Network, that demonstrate the lack of public need for the reroute.
- The water quality analysis should consider the impact on water quality of an oil spill from the proposed reroute.

Once these data and analyses are considered, the Corps should conclude that the project is contrary to the public interest, that it has a high potential to violate water quality standards, and that a full EIS is required.

These comments reference and include 30 attachments that we are submitting as accompanying documents and are part of the record. A list of those attachments is provided on pages 17-18. We are submitting the attachments as separate documents in groups because of their size. For convenience and where possible, the references in the text also include a digital link to the documents.

### **Description of commenter Great Lakes Business Network**

Our comments below provide extensive data and analysis on the flaws in the proposed reroute and the Draft CDD. Before presenting them, we believe it is important to underline who the Great Lakes Business Network is and why their data and evaluation are especially credible in this matter. The Great Lakes Business Network is “dedicated to fostering a healthy and thriving environment and economy, supported by a passionate and diverse business community.” The Business Network works to “uplift the narrative that a clean and healthy Great Lakes is essential to economic prosperity of the Great Lakes region.”<sup>1</sup> They are profoundly concerned about the entirety of Line 5 and its likelihood to spill oil into the Great Lakes, specifically including the potential for a rupture in the Bad River, with its potential for contaminating Lake Superior. They are confident that the closure of Line 5 will not have any significant negative impacts on their businesses.

The Business Network has attracted member-businesses from a wide array of industries, all of which are significant to the Michigan and Wisconsin economies. The Business Network has grown from its 11 founding businesses to over 200 member-businesses, including Lake Charlevoix Brewing Company, Short’s Brewing Company, Lakefront Brewery, Patagonia, Bar Fly, Cherry Republic, Keweenaw Mountain Lodge, Sleeping Bear Surf & Kayak, Shepler’s Ferry, and Beth Price Photography. Larger member-companies, such as Bell’s Brewery, Patagonia, and Cherry Republic, have broad market reach in their respective industries across the region. However, each and every business in the Business Network contributes to the region’s rich business economy and many depend on the Great Lakes for survival.

For example, Michigan’s and Wisconsin’s craft beer industries—including Business Network members Bell’s Brewery, Lake Charlevoix Brewing Company, Barrel and Beam, Short’s Brewing Company, and Lakefront Brewery—rely on the reputation, marketing, and

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<sup>1</sup> *About GLBN*, Great Lakes Bus. Network, <https://glbusinessnetwork.com/about-us/>

branding associated with the clean pure water of the Great Lakes. The Great Lakes also provide critical water resources for the brewing process itself. As Richard Bergmann, the owner of the hospitality firm Round Lake Group, Bridge Street Tap Room, and a Business Network member described:

We draw our water from the Charlevoix municipal system, sourced directly from Lake Michigan. Water of the highest quality is what makes it possible for us to succeed and employ 65 people, while helping to build the economic base for Charlevoix and the surrounding area.<sup>2</sup>

Barrel and Beam, a brewery in Marquette, relies on water from Lake Superior to brew its beer. A spill from Line 5 into Lake Superior would not only threaten its water supply, but also its reputation and brand. Bell's Brewery, too, depends on the health and vitality of the Great Lakes to drive the region's tourism economy which brings visitors to the brewery from near and far, and helps define the company's brand identity and sales in the marketplace. One of its more popular brews is Lager for the Lakes, which it says was "inspired" by the Great Lakes. "[F]resh water is vital in so many ways. The name is intentional: it's a reminder that great beers require clean water."<sup>3</sup>

The health of Lake Superior is of particular concern to many other Business Network members whose businesses would be damaged by a rupture of Line 5 in the Bad River and the resulting oil contamination of the lake. For example, The Keweenaw Mountain Lodge in Copper Harbor, Michigan, situated half a mile from Lake Superior, is a jumping-off place for boating, kayaking and eco- and adventure-tourism on the Lake and the peninsula.

The contamination of the Great Lakes with crude oil when a Line 5 spill occurs will certainly obliterate the business reputation and sales of these essential Michigan and Wisconsin businesses, resulting in untold financial loss and the forfeiture of thousands of jobs.

**The economic data and analyses provided by the Great Lakes Business Network are particularly credible as the Corps considers the project's need, economic impact, and energy impact**

For these reasons, the Business Network has been closely following the multiple issues surrounding Line 5, including the Wisconsin reroute proposal being considered by the Corps. The Business Network is not a political or advocacy organization. They are business realists, with responsibilities to the employees, investors, customers, and local and state governments that they support. As businesses who rely not only the Great Lakes but also on oil and propane for energy, the Business Network has repeatedly assessed whether its members would be able to obtain energy if Line 5 were to shut down. As detailed below, the Business Network is completely confident that there are multiple alternatives to Line 5 that would provide comparably-priced oil and propane. Neither Line 5 nor the propose reroute are necessary for the

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<sup>2</sup> *GLBN Members*, Great Lakes Bus. Network, <https://glbusinessnetwork.com/>

<sup>3</sup> *Lager for the Lakes*, Bell's Brewery (June 22, 2023) <https://bellsbeer.com/news/lager-for-the-lakes-bells-new-beer-thats-crisp-refreshing-and-timeless/>.

energy security of their member businesses or others in the region and nationally. But the Great Lakes are essential for their survival, and Line 5 and the reroute put them at needless risk.

Analysis and data from the Business Network, as well as the Federation, follow.

**I. The Draft CDD artificially narrows the project purpose, inflates the project need, and fails to adequately consider the no-action alternative**

The regulations implementing NEPA require an environmental assessment to discuss the purpose and need of the project and the alternatives that meet that purpose and need, including the no-action alternative. 40 CFR 1501.5(2). The purpose and need of the project are not those defined by the project applicant; they are broader than that and must be determined by the permitting agency. *Abemba v Fornell*, 807 F.2d 633, 638 (1986) (“the evaluation of ‘alternatives’ mandated by NEPA is to be an evaluation of alternative means to accomplish the *general* goal of an action; it is not an evaluation of the alternative means by which a particular applicant can reach his goals.”) Otherwise an applicant could so narrowly define the project goal and need to ensure that the only possible alternative is the one proposed by the applicant, which would nullify the requirements of NEPA. *Coalition for the Advancement of Reg’l Transp. v. FHA*, 576 Fed.Appx. 477, 487, 25 Case, (“[An agency] cannot define a project’s purpose and need so narrowly that it contravenes NEPA’s mandate to evaluate reasonable alternatives. *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196, 290 U.S. App. D.C. 371 (D.C. Cir. 1991).”)

Unfortunately, the Draft CDD makes precisely that error. Unsurprisingly, Enbridge defines the purpose of the reroute exclusively for its own economic benefit: to reroute the pipeline so that it can supply oil and NGLs from its Superior, WI terminal to exactly the same customers in exactly the same quantities. Draft CDD at 25. The Corps adopts an even narrower purpose for the project: “to relocate approximately 12 miles of the existing Line 5 pipeline within the Bad River Band Reservation with new pipeline located entirely outside the boundaries of the Reservation at approximately the same capacities provided by Enbridge’s Line 5 pipeline.” Section 3.5, page 26.

NEPA requires the Corps to do otherwise. The Corps’ purpose should be broader, not narrower, than Enbridge’s, as the Corps is obligated to define a purpose that allows all reasonable alternatives to be considered. The Draft CDD’s project purpose makes three faulty assumptions: that oil and NGLs must continue to be transported through Line 5; that without the reroute, such transport would continue indefinitely on the Band’s reservation lands; and that the Corps cannot consider alternative oil and propane supplies that originate outside of Enbridge’s Superior, WI refinery. As discussed below, none of those assumptions are true and they artificially constrain the project purpose. If the Corps had defined the purpose properly as the full and cost-equivalent supply of energy to refiners and consumers via transportation routes that do not cross the Band’s reservation lands, the Draft CDD would have been able to consider additional reasonable alternatives—in particular, the no-action alternative-- that have fewer environmental impacts and where the public interest balance between detriments and benefits is better served.

## **A. No action on the reroute proposal would result in the shutdown of Line 5**

The Draft CDD fails to recognize that under the status quo, Line 5's days on the Band's lands are numbered and the reroute is not needed to protect the Band's lands and waters. In 2023, the federal district court in Wisconsin issued a decision finding that Line 5 is trespassing illegally on the Band's reservation lands and that such trespass cannot continue indefinitely. *Bad River Band v. Enbridge*, 3:19-cv-00602-wmc, Opinion and Order (Attachment 1) at 50-52. The court ordered Enbridge to cease operating Line 5 on the reservation by June, 2026. *Id.* The court also ordered a shutdown protocol if erosion of the banks of the Bad River could lead to a pipeline rupture. *Id.* at 34-38. The Corps is not at liberty to ignore this ruling; as a federal court order, it is the law of the land. This order means that the status quo is a shutdown of Line 5 soon—no later than June of 2026. The no-action alternative needs to start with the recognition that no action means a Line 5 shutdown and the cessation of Line 5's trespass on the Band's lands.

## **B. The reroute and the overall operation of Line 5 are not needed to supply oil and propane to the markets currently served by Line 5**

Because the no-action alternative is the shutdown of Line 5, the Corps must assess the economic and energy impacts of such a shutdown. In the *BRB v Enbridge* case and subsequent reports, there is extensive evidence (submitted herein) that when Line 5 does shut down, every gallon of oil and propane from Line 5 can and will be replaced by other sources at similar costs. This evidence is from the Band's experts, outside consultants, and Enbridge's own experts. The evidence and analysis we submit and discuss below addresses both oil and propane.

### **1. Alternative transport modes eliminate the need for Line 5 to transport oil.**

Line 5 carries up to 450,000 barrels per day (bpd) of oil that supplies 10 refineries in the U.S. and Canada. The evidence and experts in the Bad River Band case—including Enbridge's own experts—demonstrate that without Line 5, all of that oil would be transported to those refineries by other means at similar costs. The refineries would continue operating as they are now; refined products would be produced as they are now; and the consumer prices would remain at what they are now. The 450,000 bpd of oil would be transported as follows:

- 100,000 bpd would be transported via another Enbridge pipeline, Line 78, that does not cross the Straits. Line 78 has at least that much additional capacity now (and as discussed below, could be expanded). Experts from both the Band and Enbridge agreed that Line 78 could offset this volume of Line 5 oil.<sup>4</sup>

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<sup>4</sup> The Band's expert was Sarah Emerson; Enbridge's expert was Neil K. Earnest. See Neil K. Earnest Testimony Tr, 10/28/22 afternoon, at 99:11–20, *Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation v. Enbridge Energy Company, Inc.*, 626 F.Supp.3d 1030 (W.D. Wis. 2022) (No. 19-CV-602-WMC) [hereinafter "*Bad River Band*"], Attachment 2 hereto; Expert Report of Neil K. Earnest (hereinafter "*Earnest Report*") at 65, *Bad*

- 200,000 bpd would be shipped by waterborne transport to refineries in Montreal, where it would be routed to other refineries in the region. Ships would carry the oil via the St. Lawrence Seaway and Atlantic ports, not through the Great Lakes. Here again, the experts from the Band and Enbridge were in agreement.<sup>5</sup> In fact, according to *Enbridge's* lead expert, ships could carry an additional 200,000 bpd to refineries in Quebec via the St. Lawrence Seaway and Atlantic ports who already have unloading and storage capacity because those refineries were supplied with that quantity of oil prior to 2015.<sup>6</sup> And the record shows that the Quebec refineries have already made contingency plans for waterborne transport of oil so that the shutdown of Line 5 would not affect them.<sup>7</sup>
- 63,000 bpd would be shipped by reactivating existing rail facilities at the Michigan, Ohio and Ontario facilities (which already accept some oil by rail). The experts from the Band and Enbridge once more were in agreement.<sup>8</sup>

Taken together, existing infrastructure replaces almost all of the oil presently transported by Line 5. Enbridge's expert Earnest agreed that "[i]f the Quebec refineries were, in fact, to go back to waterborne sources of crude oil, then the shortfall in the Line 5 delivery area would be reduced to 79,000 barrels a day[.]"<sup>9</sup> And that is using only existing infrastructure. Enbridge does not dispute that Line 78's capacity could be further expanded with pumping stations (not requiring a new or expanded pipeline) to carry at least another 110,000 bpd. These market responses would replace virtually all of the Line 5 oil.<sup>10</sup>

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*River Band*, Attachment 4; Expert Report of Sarah Emerson (hereinafter "Emerson Report") at 24–26, *Bad River Band*, Attachment 3.

<sup>5</sup> Testimony Tr. of Earnest Testimony at 91:17–92:2 (Attachment 2), 130:6–11, *Bad River Band*; Emerson Report at 27, 33, *Bad River Band* (Attachment 3).

<sup>6</sup> Earnest Test. Tr. 91:17–92:2, 130:6–11, Attachment 2; *see also* Emerson Report 24 n.42, Attachment 3.

<sup>7</sup> Emerson Report 24 (citing Valero spokeswoman in Virginie Ann, *Quebec's Location and Energy Alternatives Give It Options If Line 5 Closes: Expert*, Canadian Press (May 12, 2021), <https://www.bnnbloomberg.ca/quebec-s-location-and-energy-alternatives-give-it-options-if-line-5-closes-expert-1.1603019>) ("We have access to a deepwater port, allowing us to be supplied by ships."), Attachment 3; *see also id.* (quoting Pierre-Olivier Pineau, chair in energy sector management at HEC business school in Montreal, that Quebec refineries could return to their pre- 2015 oil supply chain and be fully supplied by waterborne, rail and other pipelines), Attachment 3.

<sup>8</sup> Emerson Report at 14 fig. 12, *Bad River Band*, Attachment 3; Expert Report of Neil Earnest at 54, 113–14, *Bad River Band*, Attachment 4; Earnest Test. Tr. at 99:21–100:3, *Bad River Band*, Attachment 2.

<sup>9</sup> *See* Earnest Testimony Tr. at 103:3–8, *Bad River Band*, Attachment 2.

<sup>10</sup> Defs.' Objs. and Resps. to Pls.' Fourth Set of Interrogs., Dkt. 399-4, 5, *Bad River Band* (describing actions needed to expand each segment of Line 78), Attachment 5; Expert Rebuttal Report of Graham Brisben (hereinafter "Brisben Report"), Dkt. 255-1, 51-53, *Bad River Band* ("The Line 78 expansion would mostly involve increasing the pressure of the pipeline by adding compression (vs. replacing with bigger pipe or twinning the pipeline).") (showing expansion of Line 78A from 570,000 bpd to 680,000 bpd of capacity would allow for full use of downstream pipelines Line 78B, Line 17, and Line 79). Attachment 6.

The evidence and testimony presented in the Bad River Band case is buttressed by a recent study published by PLG Consulting, an industry expert in the pipeline logistics field. In October, 2023, PLG released a 100-page report, *Likely Market Response to a Potential Shutdown of Line 5* (“PLG Report”), Attachment 7, that was the result of many months of research.<sup>11</sup> The report concludes that existing pipelines, waterborne transport (not through the Great Lakes but using existing ocean-going routes), and rail will enable the market to replace 87 percent of Line 5’s oil within 3 months and all of it within 18 months. *PLG Report* at 13.

Finally, recent historical experience confirms the conclusions by the experts in the PLG report and the Wisconsin trial. **Line 5 has already been shut down with no impact on gasoline prices in the U.S. or Canada.** In 2020, after the discovery that a cable from a passing ship had tangled with the dual lines in the Straits of Mackinac and yanked them and their supports out of alignment at dangerous angles, both lines of the pipeline were completely shut down for 19 days, and one of the lines was shut down for 78 days, cutting Line 5’s capacity by 270,000 bpd during that period. Gasoline prices in Michigan and Toronto actually declined during that period—both in absolute terms and relative to their national averages.<sup>12</sup>

## **2. Alternative modes of transporting propane can quickly replace Line 5’s Natural Gas Liquids (NGLs).**

Line 5 carries 86,000 bpd of NGLs to and from three fractionators in Superior, WI; Rapid River, MI; and Sarnia, Ontario which produce from it propane used in Wisconsin, Michigan and Ontario. As with oil, all of that propane can be transported without Line 5 at similar costs.

The experts in *Bad River Band* testified that the markets served by Line 5 already obtain propane from rail delivery and other pipelines.<sup>13</sup> The market response to a Line 5 shutdown will be to transport more propane by those alternatives. And if existing infrastructure does not have enough excess capacity to offset Line 5, new propane infrastructure can quickly be constructed (and as discussed below, is already being constructed). In Wisconsin and Michigan’s Upper Peninsula, all that would be required to replace the Line 5 supply are additional propane unloading facilities, either 4-6 mobile transloaders to enable the transfer of propane from rail cars to trucks or storage, or two small permanent facilities. Enbridge’s experts testified that the

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<sup>11</sup> *Likely Market Shutdown Responses to a Shutdown of Line 5*, PLG Consulting, October 2023 <https://plgconsulting.com/white-paper-likely-market-responses-to-a-line-5-shutdown/> . Attachment 7. PLG was an expert for the Band in the *Bad River Band* case.

<sup>12</sup> See Gary Street, *Column: Gas Price Hikes are Another Enbridge Scare Tactic*, Michigan Advance (June 3, 2023 4:05 PM) <https://michiganadvance.com/2023/06/03/column-gas-price-hikes-are-another-enbridge-scare-tactic/> , Attachment 8.

<sup>13</sup> Brisben Report 16–17, 40–41 48-49, *Bad River Band*, Attachment 6; Earnest Report 34 fig.8 (map showing propane-by-rail terminals in Wisconsin and Michigan), *Bad River Band*, Attachment 4.



mobile transloaders would cost less than \$1 million each, for a total of \$4-6 million;<sup>14</sup> or alternatively, the two permanent unloading terminals would cost \$5 million each, for a total of \$10 million.<sup>15</sup>

This switch from pipeline to rail will have little to no impact on prices, according to the expert testimony in the *Bad River Band* case. They point to the market's reaction to the Cochin Pipeline in Wisconsin. Before 2012, that pipeline, with a capacity of 76,000 bpd of propane (approximately the same amount of propane carried by Line 5), supplied propane to Wisconsin and other states. In 2012, the owner announced that it would reverse the pipeline and thereby completely stop the propane supply. Enbridge's expert acknowledged that by the time the reversal took place in 2014, several new rail facilities had been built and Wisconsin and the Midwest were fully supplied with propane.<sup>16</sup> And there was no discernible impact on the price.<sup>17</sup>

The *PLG Report* (Attachment 7) confirms this testimony. It outlines solutions for propane delivery to specific regions, including utilizing existing rail terminals in the short term, and longer-term options like expanding rail terminals. *PLG Report* at 15. It highlights the resiliency of Line 5 products and markets, with large energy firms having developed contingency plans since 2017. Some have already put those plans in place. *Id.* at 8. And it concludes that energy markets can be expected to adapt to a Line 5 shutdown without experiencing supply shortages or price spikes. In fact, the markets are already adjusting to the prospect of a Line 5 shutdown. *Id.*

The evidence shows that such adjustments have already begun. Here are a few examples:

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<sup>14</sup> See William Rennie Testimony Tr., Dkt. 604, at 95:21–24, *Bad River Band*, Attachment 9.

<sup>15</sup> See Earnest Testimony, Tr. (Dkt. 610, at 122:23–123:1 (acknowledging that a \$5 million rail facility can enable receipt of enough propane to supply 35,000 homes), *Bad River Band*, Attachment 2; Dep't of Env't, Great Lakes, & Energy, [Upper Peninsula Energy Task Force Committee Recommendations: Part I – Propane Supply](#) (2020), at 6 (admitted as Trial Ex. 265) (stating that 23,000 households in the Upper Peninsula use propane), <https://www.michigan.gov/-/media/Project/Websites/egle/Documents/Groups/UPETF/Report-2020-04-17-Recommendations-Part1-Propane-Supply.pdf?rev=470b36456e154378924c79e58cf139af>, *Bad River Band*, Attachment 10.

<sup>16</sup> Earnest Report at 37–38, *Bad River Band*, Attachment 4.

<sup>17</sup> See Earnest Testimony Tr. At 115:20–23, *Bad River Band*, Attachment 2; see also Corbett Grainger Testimony Tr. (10/31/22 a.m.), Dkt. 604, at 125:21–126:2, *Bad River Band*, Attachment 9; U.S. Energy Info. Admin., [Weekly Wisconsin Propane Residential Price](#) (admitted as Trial Ex. 241), [https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=W\\_EPLLPA\\_PRS\\_SWI\\_DPG&f=W](https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=W_EPLLPA_PRS_SWI_DPG&f=W), *Bad River Band*, Attachment 11; see also *No Cochin, No Cry – Part 2 - New Infrastructure To Deliver Midwest Propane Supplies* (2014), <https://rbnenergy.com/no-cochin-no-cry-part-2-new-infrastructure-to-deliver-midwest-propane-supplies> (describing \$24 million investment in 5 small rail terminals for unloading propane, which allowed for full transition away from the Cochin Pipeline without impacting consumers), Attachment 12.



- Two years ago, shortly after Michigan’s governor terminated the easement allowing Enbridge to run Line 5 through the Straits of Mackinac, Michigan propane suppliers like U.P. Propane (serving 14,000 U.P. customers in 14 of 15 U.P. counties) began switching from Line 5 to rail cars, citing the potential closure of Line 5 as the reason.<sup>18</sup>
- Private funds and a grant from the state of Michigan also resulted in a multimillion-dollar investment to expand propane delivery and storage capacity at a rail terminal in Kincheloe, Michigan in the eastern UP, as part of the state of Michigan’s plan, “MI Propane Security: Ensuring Resilience Without Line 5.”<sup>19</sup>
- In Wisconsin, Superior Fuel Company, citing a potential Line 5 closure as a reason for its investment, is constructing a new propane by rail terminal.<sup>20</sup>
- In 2022, another facility in Kalkaska, Michigan increased the capacity of rail to deliver propane, including 480,000 gallons of propane storage and associated rail and truck facilities.<sup>21</sup>
- The Ambassador propane pipeline in Michigan has been upgraded, enabling it to carry propane in both directions to respond quickly to changes in market supply and demand.<sup>22</sup>
- The oil markets also are adjusting. For example, in May, 2023, Canadian National Railway (CN) announced the opening of a new fuel terminal in its MacMillan Yard to serve the greater Toronto area which will be able to bring in 30,000-45,000 bpd of fuel.<sup>23</sup>

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<sup>18</sup> Zara Ahmad, *Some Michigan Propane Suppliers Switching to Rail Cars in Anticipation of Line 5 Closure*, MLive (Mar. 12, 2021, 12:49 PM), <https://www.mlive.com/public-interest/2021/03/some-michigan-propane-suppliers-switching-to-rail-cars-in-anticipation-of-line-5-closure.html>, Attachment 13.

<sup>19</sup> State of Michigan, *MI Propane Security Plan: Ensuring Resilience Without Line 5* (2021), [https://www.michigan.gov/-/media/Project/Websites/mpsc/consumer/propane/MI\\_Propane\\_Security\\_Plan\\_Overview.pdf?rev=9b0d4da17bbfb482a96fec64e2201b6c9](https://www.michigan.gov/-/media/Project/Websites/mpsc/consumer/propane/MI_Propane_Security_Plan_Overview.pdf?rev=9b0d4da17bbfb482a96fec64e2201b6c9), Attachment 14.

<sup>20</sup> Brian Richesson, *Superior Fuel Co. builds supply security with new rail terminal* LPGas (Nov. 9, 2021), available at: <https://www.lpgasmagazine.com/superior-fuel-co-builds-supply-security-with-new-rail-terminal/>, Attachment 15.

<sup>21</sup> Brian Richesson, *NGL Supply Wholesale flows propane at new Michigan terminal*, LPGas (May 4, 2022), available at: <https://www.lpgasmagazine.com/ngl-supply-wholesale-flows-propane-at-new-michigan-terminal/>, Attachment 16.

<sup>22</sup> Brisben Report 51-52, Attachment 6.

<sup>23</sup> Doug McDonald, *Sell the Plan: An Integrated Approach to Sustainable, Profitable Growth*, Canadian National Railway Company (2023), <https://www.cn.ca/-/media/Files/Investors/Investor-Day/20230503-Sell-the-plan-EN.pdf?la=en&hash=00B6063496CA85C7499B987C864AC24B96914E3C>, Attachment 17.

If the Corps takes no action, Line 5 will shut down and the markets will adjust, providing refineries and consumers with the same supply of oil and propane at similar (and in some cases, lower) costs. Line 5 is not needed and neither is the proposed reroute project.

**C. The Corps should consider all the credible economic data and not simply defer to Enbridge's one-sided and inaccurate analysis**

In the Draft CDD, the Corps expressly relies on Enbridge's economic and energy analyses and "assumes that the appropriate economic evaluations have been completed." pp. 76; 86. The Corps cites their permitting regulations, 320.4(q) which state:

**(q) Economics.** When private enterprise makes application for a permit, it will generally be assumed that appropriate economic evaluations have been completed, the proposal is economically viable, and is needed in the market place. **However, the district engineer in appropriate cases, may make an independent review of the need for the project from the perspective of the overall public interest.**

(emphasis added). This regulation does not require the district engineer to accept the applicant's economic analysis without question; it provides the district engineer with the discretion to undertake an independent review. The courts, led by the 7<sup>th</sup> Circuit, have required such an independent review when the information provided by the applicant has been challenged by credible sources and shown to be materially incomplete and erroneous. *Abemma v Fornell*, 807 F.2d at 639 ("the Corps is responsible for the independent verification of specifically challenged information obtained from applicants or outside consultants... If the Corps bases its conclusions on entirely false premises or information, even when its attention is specifically directed to possible defects in its information, we would have difficulty describing its conclusions as reasoned; we would have to call them arbitrary and capricious", citations omitted); *id.* at 643 ("An overall public welfare review cannot be deemed reasonable when the economic half of the balance is obscured by a record of miscalculations...")

If there was ever a case for the district engineer to conduct an independent review of the economics and the public interest need for the project, this is it. Enbridge's economic review is not only one-sided; it is riddled with errors. It ignores Line 78 as an alternative transportation route; it ignores the waterborne transportation from the Gulf to Montreal refineries that were in use prior to 2015; and it proposes that the primary alternative is that all of the oil in Line 5 would need to be transported by rail and truck—an alternative that no one has taken seriously and that likely has been proposed so that it can be dismissed.

Worse, in this matter, Enbridge knows that the analysis it submitted to the Corps is false. When its experts were under oath in the Bad River Band trial, they told a very different story than they told the Corps. As noted above (pp. 5-8), Enbridge's experts Earnest, Rennie and Grainger testified at various times that they agreed with the Band's experts on the availability of Line 78 and waterborne transportation for oil and the existing rail lines and storage for propane.

Finally, the entity submitting the challenging evidence here is the Great Lakes Business Network, a private business organization that has studied the economic and energy impacts of Line 5 for many years. The Business Network’s evidence and analysis is balanced—we seek stable energy supplies at reasonable prices for our businesses, while at the same time pursuing a healthy Great Lakes that are also important to our bottom line. When a business interest submits economic evidence that is credible and challenges that of applicant, as we did here, the district engineer should make every effort to weigh that evidence independently.

## **II. The Draft CDD’s public interest analysis ignores major reasonably foreseeable detriments and inflates the benefit of the proposed project**

Under Section 404 of the Clean Water Act and its implementing regulations, the Corps must deny a permit that is contrary to the public interest. 33 CFR 320.4(a). This requirement is independent of the Corps’ consideration of whether discharges from the project would meet water quality standards, wetlands standards, and other potential impacts from the discharge. *Abemma v Fornell*, 807 F.2d at 637-38. It tasks the Corps with examining the reasonably foreseeable consequences of the project—even if addressing those consequences is not within the Corps’ direct jurisdiction. The public interest requirement is a fail-safe: even if a project’s discharge is not itself a problem, the project must still be denied if it would result in substantial harm to the public that outweighs its public benefits.

The Draft CDD repeatedly misapplies the Corps’ public interest analysis requirements and wrongly makes a preliminary conclusion that the proposed project is not contrary to the public interest. Page 88. It refuses to evaluate the project’s reasonably foreseeable harms of oil spills and greenhouse gas releases—the two most obvious and largest detriments from the project-- and then for oil spills considers only a biased Enbridge report. Then it unquestioningly accepts Enbridge’s economic analysis that the project is needed not just by Enbridge, but by the public—despite overwhelming evidence (provided earlier in these comments) that the public benefits of the project can be replaced by other means at the same or even lower costs. The Corps must conduct a thorough analysis of these reasonably foreseeable detriments of the proposed project and the real project benefits—including the no-action alternative. When it does so, it should conclude that the harms outweigh the benefits and the project is contrary to the public interest.

### **A. The Corps must consider the oil spills and downstream greenhouse gas emissions as reasonably foreseeable consequences of the proposed project.**

Under the 404(b) regulations governing the Corps’ consideration of project applications, the Corps must assess *all* the reasonably foreseeable detriments of the proposed project and balance those with the expected benefits of the project to determine whether the project is in the public interest. The Corps must consider the “cumulative effects” of a great many factors, including economics, general environmental concerns, energy needs, and “the needs and welfare of the people.” 33 CFR 320.4(a)(1). The Corps must evaluate the relative “public and private need” for the proposed project and “the extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work is likely to have on public and private

uses...” 33 CFR 320.4(a)(2). If the balance from this analysis indicates that the project is “contrary to the public interest,” the Corps must deny the permit for the project. 33 CFR 320.4(a)(1).

Yet the Corps refuses to consider—or considers only Enbridge’s submissions—for the largest foreseeable detriments from the proposed reroute: the potential for oil spills and the increase in downstream greenhouse gas emissions from the project. Regarding greenhouse gas emissions, the Draft CDD’s entire analysis is a single sentence: “[Q]uestions regarding the fate of products transported by Line 5 are operational in nature and are outside the Corps scope to consider.” P. 86. This statement is contrary to the Corps’ 404(b)(1) implementing regulations. The Corps must consider any and all reasonably foreseeable harms in determining the public interest in the project, and the “fate of products transported by Line 5” – the downstream greenhouse gas emissions if the Corps approves the project—certainly have reasonably foreseeable impacts on the public interest. The comments of Midwest Environmental Advocates, Clean Wisconsin *et al.* provide additional detail of the consequence and importance of downstream greenhouse gas emissions from the proposal project, and we support those comments.

On oil spills, the Corps initially claims they are “outside the Corps scope” because the “Corps does not regulate the operation or any substance transported by Line 5.” P. 79. But as noted above, the Corps must evaluate the reasonably foreseeable consequences of a project in determining the public interest even if those consequences fall outside its jurisdiction to regulate. And as a matter of law and practice, the Corps *does* have limited authority over the operation of Line 5: if it denies the permit for the proposed project, Line 5 will operate differently than if it approves the permit. So while the Corps does not have the authority to regulate pipeline operations, it does have the authority to determine the parameters of those operations. And it is required to do so by its public interest review regulations.

The Draft CDD then purports to consider the likelihood and impacts of an oil spill from the replacement segment. Its reasoning—which defies logic—is that it will consider information about a spill if it is provided by Enbridge, the applicant—even though the project applicant has an inherent and strong interest in providing only one-sided information. Pp. 79-80. As discussed below, that is clearly the case here. NWF and GLBN in these comments correct and supplement the record so the Corps will see that the risk of an oil spill in the segment is indeed significant and its impacts would be devastating for the Bad River, the Bad River Band, Lake Superior and the regional economy.

The risk of an oil spill along the reroute segment is not “extremely remote,” as the Draft CDD concludes after only considering Enbridge’s biased reporting. P. 80. The Draft CDD cites an Enbridge spill report that concludes that the risk of a spill along the segment is extremely low—1 in 6.99 million annually at any water crossing. *Id.* While we do not have the Enbridge report and cannot assess the assumptions behind the model, we know it is incorrect because it does not match historical experience of the pipeline industry generally and Enbridge specifically. The following data directly contradict the Enbridge study:

Nationally, according to PHMSA data, hazardous liquids pipelines—mostly transporting oil – have experienced 2,727 “significant incidents” between 2004 and 2023, over 100 per year. Significant incidents are those defined as causing fatalities or injuries, fires, the release of over 5 barrels (200 gallons) of product, or having a cleanup cost of over \$50,000. These reported incidents included 32 fatalities and 78 injuries.<sup>24</sup> When all incidents are counted, the total for the 20-year period is 7,422.<sup>25</sup>

Enbridge itself has experienced 29 spills totaling over a million gallons of oil along Line 5’s route over the last 50 years.<sup>26</sup> Enbridge’s response to the Line 6B spill into the Kalamazoo River is instructive. The 2010 Line 6B spill in the Kalamazoo River was made possible by years of corrosion and pipeline neglect permitted by Enbridge that led to a break in Line 6B beneath a major tributary to the Kalamazoo River. As a result, Line 6B spewed more than one million gallons of crude oil into Michigan waterways and caused over \$1 billion in damage—making it the largest land-based oil spill in U.S. history.<sup>27</sup> More than a decade later, the impact of the Kalamazoo River spill still lingers, and several nearby businesses have never recovered.<sup>28</sup>

The Draft CDD references Enbridge’s integrity Management Plan as describing “measures employed to prevent, monitor, and mitigate pipeline integrity threats.” P. 79. But an integrity management plan is only as effective as the pipeline operator’s ability to implement it—and Enbridge’s record there also has been abysmal. Despite claiming that it had state-of-the-art leak detection technology, including pressure differential alarms that sounded in its headquarters in Alberta, CA, Enbridge never discovered the Line 6B rupture.<sup>29</sup> For 17 hours, its operators in Alberta interpreted the pressure differential as a bubble in the pipeline and pumped more oil through the line to try to break up the non-existent bubble.<sup>30</sup> The leak was only discovered when a local utility worker smelled oil in the area and called the local public health authorities.<sup>31</sup> The federal National Transportation Safety Board conducted an investigation and published a report, concluding, “The rupture and prolonged release were made possible by pervasive organizational failures at Enbridge...”<sup>32</sup>

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<sup>24</sup> PHMSA Significant Pipeline Incidents, 2004-2023, Hazardous Liquid Systems, <https://portal.phmsa.dot.gov/analytics/saw.dll?Portalpages> , Attachment 18.

<sup>25</sup> PHMSA Pipeline Incidents, 2004-2023 Hazardous Liquid Systems, [https://portal.phmsa.dot.gov/analytics/saw.dll?Portalpages&PortalPath=%2Fshared%2FFPDM%20Public%20Website%2F\\_portal%2FSC%20Incident%20Trend&Page=All%20Reported](https://portal.phmsa.dot.gov/analytics/saw.dll?Portalpages&PortalPath=%2Fshared%2FFPDM%20Public%20Website%2F_portal%2FSC%20Incident%20Trend&Page=All%20Reported) , Attachment 19.

<sup>26</sup> Malewitz and Mauger, ‘History of failure’ highlights Line 5 risks outside Straits of Mackinac, BRIDGE (July 11, 2018), <https://www.bridgemi.com/michigan-environment-watch/history-failure-highlights-line-5-risks-outside-straits-mackinac>. See Attachment 20.

<sup>27</sup> *Kalamazoo River Oil Spill*, COLUMBIA LAW SCHOOL (May 19, 2015), <https://climate.law.columbia.edu/content/kalamazoo-river-oil-spill#:~:text=It%20was%20the%20largest%20land,%241.2%20billion%20to%20clean%20up>. See Attachment 21.

<sup>28</sup> Brad Devereaux, *10 Years Ago, Kalamazoo River Oil Spill was “An Awakening” in Pipeline Debate*, MLIVE.COM, (July 22, 2020), <https://www.mlive.com/news/kalamazoo/2020/07/10-years-ago-kalamazoo-river-oil-spill-was-an-awakening-in-pipeline-debate.html>. See Attachment 22.

<sup>29</sup> PIPELINE ACCIDENT REPORT, Enbridge Incorporated Hazardous Liquid Pipeline Rupture and Release, Marshall, Michigan, July 25, 2010, NTSB Report (Adopted July 10, 2012), NTSB Number: PAR-12-01, at xii, <https://www.nts.gov/investigations/AccidentReports/Reports/PAR1201.pdf> . See Attachment 23

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 3

<sup>32</sup> *Id.* at xii

Enbridge has claimed that it has changed since 2010—that it has a new safety culture and has invested heavily in spill prevention and detection. But in 2019 Enbridge had a spill of over 1,200 gallons on its Line 13 in Wisconsin, contaminating nearby water wells.<sup>33</sup> In 2021 alone it caused 28 spills of drilling fluids in quantities as high as 9,000 gallons as it reconstructed Line 3 in Minnesota – one in a river, thirteen in wetlands, and the rest on land.<sup>34</sup> In 2011 it spilled between 29,400 and 63,000 gallons of oil from its northern Canada pipeline.<sup>35</sup> And Line 5 itself spilled 840 gallons in Sterling, Michigan, in 2012—one of nine spills on Line 5 since 2010, according to a government database.<sup>36</sup>

The consequences of an oil spill along the rerouted pipeline have the potential to be devastating. A spill in the Bad River, for example, would result in harm ranging from significant to catastrophic. Several experts presented evidence in the *Bad River Band v. Enbridge* case that documented the damage that would occur to the Bad River, the rice beds harvested by the Band, and Lake Superior if the pipeline were to leak in the Bad River. They concluded that, depending on the size of the leak, there would be extensive damage to water, sediment, wildlife and plant life in the Bad River,<sup>37</sup> and extensive damage to the waters and shoreline of Lake Superior.<sup>38</sup>

This factual and expert evidence, now in the record, requires the Corps to do a thorough and independent analysis of the risks and consequences of an oil spill from the proposed rerouted pipeline. The Corps cannot simply rely on Enbridge’s assurances or ignore the issue entirely because it does not have jurisdiction over pipeline operations. The public interest review requires the Corps to evaluate the risks from all the evidence presented. And given the weight and volume of the evidence of risk, the Corps should revise its conclusion that the risk of rupture is “extremely remote.” The risk of rupture is in fact shockingly probable and the consequences would be severe. The oil spill risk significantly tilts the public interest balance against the proposed project proceeding.

## **B. There is no public need for the project**

The draft public interest review “concur[s] with the applicant’s need to continue the transportation of petroleum products to its customers,” P. 87, and from there, concludes that such need outweighs the negative impacts of the project, p. 89. As noted earlier, the reroute’s negative

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<sup>33</sup> MADISON.COM *Enbridge Line 13 Spill Timeline* (May 27, 2021) [https://madison.com/enbridge-line-13-spill-timeline/html\\_65e6b665-75c4-5bfd-8d3e-cd1ae0f982dd.html](https://madison.com/enbridge-line-13-spill-timeline/html_65e6b665-75c4-5bfd-8d3e-cd1ae0f982dd.html) See Attachment 24.

<sup>34</sup> Eischens, *Enbridge Line 3 drilling fluids: What we know so far*, MINNESOTA REFORMER (Aug. 16, 2021), <https://minnesotareformer.com/2021/08/16/enbridge-line-3-drilling-fluid-spills-what-we-know-so-far/> See Attachment 25.

<sup>35</sup> CBC News. *No coverup in N.W.T. pipeline leak: Enbridge* (June 7, 2011), <https://www.cbc.ca/news/canada/north/no-coverup-in-n-w-t-pipeline-leak-enbridge-1.1029611> See Attachment 26.

<sup>36</sup> Pipeline & Hazardous Material Safety Admin., *Distribution, Transmission & Gathering, LNG, and Liquid Accident and Incident Data*, U.S. DEPT. TRANSP. (last updated June 1, 2022), <https://www.phmsa.dot.gov/data-and-statistics/pipeline/distribution-transmission-gathering-lng-and-liquid-accident-and-incident-data>.

<sup>37</sup> “Engineering Evaluation of the Bad River Meander Adjacent to Enbridge Line 5 and Related Water Resources,” Wright Water Engineers, July 2022, at ES-1, ES-14, and 124-162, *Bad River Band*; see Attachments 27, 28 and 29.

<sup>38</sup> Matthew Horn’s Rebuttal Report – Enbridge Line 5, at 54-56, Ex. B, *Bad River Band*; see Attachment 30.

impacts are much greater than the draft document recognizes. On the other side of the balance, there is no public need for the project. Enbridge certainly has a private need for the reroute if it wants to keep making profits by pumping oil and NGLs through Line 5, but Enbridge's need is not the public's need and the Corps is obligated to assess the public's need for the project.

As demonstrated in detail above, there is no need for Line 5 and so no need to reroute Line 5 around the Bad River Band's reservation. The evidence submitted by the Business Network and NWF demonstrates that every barrel of oil transported by Line 5 and every gallon of propane resulting from Line 5 can be supplied at the same or lower costs to the same refineries and customers who receive it now. Our evidence—including the PLG report-- also demonstrates that within three months, the markets will adjust to make up the vast majority of Line 5's oil and NGLs, and within 18 months, all of it. See *supra* at 5-9 and Attachments 2-17. The Corps should give our evidence of public need greater weight than that submitted by Enbridge: Enbridge has a vested interest in claiming a public need; the Business Network does not. As noted above, Business Network members have been studying the need for Line 5 for years, pursuing a balance of stable and affordable energy supplies with a healthy Great Lakes. That is precisely the balance that the Corps should consider in its public interest review. Our evidence reflects that balance; Enbridge's does not.

The Draft CDD inflates the public benefits of the project while ignoring the harmful consequences. It should reassess both and find that the project is contrary to the public interest.

### **III. The Draft CDD ignores the reroute's primary threat to water quality: an oil spill**

The Draft CDD analyzes the proposed project's impact on water quality, pages 56-58, and concludes that the effects of the proposed discharges or dredge and fill activities would be "minor and temporary." P. 58. NWF and GLBN have concerns that even the activities described in that section of Draft CDD will have more significant impacts than the document suggests, and we support the comments of the Bad River Band and of Midwest Environmental Advocates, Clean Wisconsin *et al.* on this issue.

But the biggest failure of the Draft CDD in assessing water quality is that it does not consider or even mention the largest threat to water quality from the project: an oil spill. Under the Corps' 401(b) implementing regulations:

"Applications for permits for **activities** which may adversely affect the quality of waters of the United States will be evaluated for compliance with applicable effluent limitations and water quality standards, during the construction **and subsequent operation** of the proposed activity." 33 CFR 320.4(d) (emphases added)

This requirement is broad: it covers "activities," not just discharges, and it covers "the subsequent operation of the proposed activity." As discussed above, the proposed reroute has a substantial likelihood of a spill or rupture in one of the water body crossings that would lead to a discharge of oil into navigable waters. Such a discharge of oil would damage the water body and result in the violation of water quality standards, as exemplified by the expert testimony referenced above concerning an oil spill into the Bad River. The Corps must evaluate whether the



reroute would be in compliance with water quality standards in the event of such a rupture, and if not, the permit should be denied.

#### **IV. The proposed project’s impacts on the Bad River Band, the Bad River, Lake Superior and the national climate are significant adverse effects that require the preparation of an Environmental Impact Statement**

NEPA’s implementing regulations require the preparation of a full EIS when a proposed project “is likely to have significant effects.” 40 CFR 1501.3(c)(3). Agencies determine the significance of effects based on “proximity to unique or sensitive resources or sensitive resources or communities with environmental justice concerns.” 1501.3(d)(1). The factors agencies must use in determining significance include public health and safety, adverse effects on “Tribal sacred sites... wetlands... or ecologically critical areas;” and adverse effects on the “rights of Tribal Nations that have been reserved through treaties...” 1501.3(d)(2).

As documented above, the proposed reroute poses a serious threat of oil spills that would be devastating for the Bad River Band’s wild rice beds, the Band’s reservation lands, the Bad River and Lake Superior—all “unique” and certainly “sensitive” resources and “Tribal sacred sites... wetlands... [and] ecologically sensitive areas.” These impacts would adversely affect the Band’s federally-recognized Treaty rights. The proposed project also would result in major greenhouse gas emissions from the refineries that receive its oil and NGLs, and would impair the transition to lower GHG-emission energy sources—raising public health concerns. In addition, as noted in other comments, the proposed project would have significant impacts on wetlands, water quality and wildlife. Under the NEPA regulations, these impacts will be significant—and so by law, the Corps must prepare an Environmental Impact Statement.

### **Conclusion**

These comments, including their 30 attachments, supplement and correct the record relied upon in the Draft CDD. They demonstrate that the Draft CDD greatly exaggerated the benefits of the proposed project and minimized the costs, contrary to data, analysis and the law. They provide detailed and credible data and analysis from independent experts and Enbridge’s own experts that the energy and economic impacts of shutting down Line 5 will be negligible because other transportation routes are available that would supply all of the oil and propane needs of the region and the nation at similar costs. This material is particularly compelling because it comes from businesses who depend on reliable and reasonably-priced energy as well as a healthy Great Lakes.

These comments establish that the project purpose must be expanded; that the no-action alternative must be reconsidered based on information the Draft CDD did not consider or ignored, including the federal court order that Line 5 must cease operating on the Bad River Band’s reservation by June, 2026 or earlier, and economic data and analysis demonstrating that a shutdown of Line 5 will have no impact on energy supplies, prices or jobs; that once the additional information is considered, it is clear that the no-action alternative is superior to the proposed project; that the public interest review must include all the greenhouse gas impacts of

the project, including downstream emissions; that the public interest review must also consider the probability and consequences of an oil spill from both the proposed new segment and the entire Line 5 pipeline; and that the water quality review must consider the impact of an oil spill from the proposed new pipeline segment. Further, these comments demonstrate that the adverse environmental effects of the proposed project are likely to be significant and that a full EIS is required. Finally, based on the information before the Corps, the Corps should decide that the project is contrary to the public interest and would violate water quality standards.

### **List of Attachments**

- Attachment 1: *Band River Band v Enbridge* Federal Court Order
- Attachment 2: *Bad River v. Enbridge* Transcript, Neil Earnest Testimony (Oct. 22, 2022)
- Attachment 3: Expert Report of Sarah Emerson (Jan. 31, 2022)
- Attachment 4: Expert Report of Neil Earnest (Jan. 31, 2022)
- Attachment 5: Enbridge Objections and Responses to BRB Fourth Set of Interrogatories
- Attachment 6: Expert Rebuttal Report of Graham Brisben (Apr. 8, 2022)
- Attachment 7: PLG Consulting – Potential Line 5 Shutdown
- Attachment 8: “Gas Price Hikes Are Another Enbridge Scare Tactic,” Gary Street article
- Attachment 9: *Bad River Band v. Enbridge* Transcript, William Rennie and Corbett Granger Testimony (Oct. 31, 2022)
- Attachment 10: Upper Peninsula Energy Task Force Committee Recommendations, Part 1 Propane Supply, With Appendices
- Attachment 11: Weekly Wisconsin Propane Residential Price (Dollars per Gallon)
- Attachment 12: “No Cochin, No Cry–Part 2–New Infrastructure to Deliver Midwest Propane Supplies,” RBN article
- Attachment 13: “Some Michigan propane suppliers switching to rail cars in anticipation of Line 5 closure,” mlive article
- Attachment 14: MI Propane Security Plan Overview
- Attachment 15: “Superior Fuel Co. builds supply security with new rail terminal,” LP Gas article

- Attachment 16: “NGL Supply Wholesale flows propane at new Michigan terminal,” LP Gas article
- Attachment 17: Sell the Plan: An Integrated Approach to Sustainable, Profitable Growth
- Attachment 18: PHMSA Significant Incident Data, 2004-2023
- Attachment 19: PHMSA Incident Data, 2004-2023
- Attachment 20: “‘History of failure’ highlights Line 5 risks outside Straits of Mackinac,” Bridge Michigan article
- Attachment 21: “Kalamazoo River Oil Spill,” Sabin Center for Climate Change Law article
- Attachment 22: “10 years ago, Kalamazoo River oil spill was ‘an awakening’ in pipeline debate,” mlive article
- Attachment 23: NTSB Accident Report on Enbridge Line 6B Rupture and Release
- Attachment 24: Enbridge Line 13 Spill Timeline
- Attachment 25: Enbridge Line 3 Drilling Fluid Spills
- Attachment 26: “No coverup in N.W.T pipeline leak: Enbridge,” CBC News article
- Attachment 27: WWE Expert Report, Part 1 of 5 (Jan. 2022)
- Attachment 28: WWE Expert Report, Part 2 of 5 (Jan. 2022)
- Attachment 29: WWE Expert Report, Part 3 of 5 (Jan. 2022)
- Attachment 30: Expert Rebuttal Report of Matthew Horn (Apr. 8, 2022)