

Emmet County Lakeshore Association

Summer 2019 Newsletter



Dear ECLA Members and Friends:

The ECLA Board continues as its principal focus the defense of the lawsuit started by the Odawa Indian Nation to make our community its Indian Reservation. Who will want to live here if the Tribe succeeds? That is the problem we all face. That is why we are defending to preserve our rights.

Much has happened recently and major court decisions and proceedings are soon forthcoming. We expect to shortly send you an update of the Federal court proceedings that took place June 24 and 25.

We encourage you to attend the ECLA Annual Meeting on August 2. You have received a notice of the meeting. Our attorneys will be present to explain where we are and what to expect in the near future.

The aggression by the Odawa Nation is a serious threat to the culture, character, and future of our community. Everyday we feel heartfelt thanks to ECLA members and friends for your financial support needed to defend against the Tribe. We are in continuing need of financial support. Please make a tax deductible contribution to the following:

PROTECTION OF RIGHTS ALLIANCE FOUNDATION
c/o Sara Smith, CPA
PO Box 28
Harbor Springs, MI 49740

Gary Rentrop
President, ECLA

Lou Kasischke
Vice President, ECLA

Tribal Lawsuit Update 2019

I. The lawsuit:

A. What the Tribe seeks and the consequences of living on an Indian Reservation

The Little Traverse Bay Bands of Odawa Indians Tribe started the fight in United States Federal Court to establish most of Emmet County and a significant part of Charlevoix County as its Indian Reservation. If the Tribe succeeds, the character, culture, and way of life now enjoyed here will drastically change—for the worse.

As of now, the Tribe is not claiming legal title to land owned by non-Indians. But here are just some reasons why the quality of life and sense of tranquility currently enjoyed by non-Indians won't continue if a court rules they are living on an Indian reservation.

- 1. Property Values Drop.** Given the many attractive options in northern Michigan, why would anyone build a new home or buy an existing home on an Indian Reservation? Buyers can go elsewhere. Property values will fall.
- 2. Property Tax Revenue Drops.** At the same time as property values fall, the Tribe and its members can assert that their property is exempt from local or state taxation—just as happened in the Upper Peninsula with members of the Keweenaw Bay Tribe, who no longer pay taxes. Schools and other public services will suffer and diminish.
- 3. Residents Lose Protections.** Residents in historic communities, resort associations, golf and retirement communities, and condominium associations think they have land use protection via deed restrictions and association documents. Not necessarily so. If the Tribe or any of its members is involved in a dispute, they can take it to Tribal Court. Guess who wins?

Continued on page 2

4. No Zoning Laws Apply. Zoning and land use regulations will not apply to the Tribe or its members. So, how will you feel about a wind farm, a fast food restaurant, or an auto body repair shop going in next door to your residence? Regarding land use, there is no stopping the Tribe or any of its members from doing whatever they want, wherever they want it.

5. Gambling Explodes. Gambling locations (machines in grocery stores, gas stations, convenience stores, hotels, motels, etc.) and fast food stores will explode all over Emmet County. The Tribe and each of its members are exempt from State and local zoning, health or other regulations. Federal requirements for the State to agree to tribal gambling apply only to some types of gambling—which is why the Tribe could open its newest slots-only casino in Mackinaw City even though the City voted against it. Tribes in other states have put slots in gas stations while tribal members opened smoke shops selling tax-free cigarettes. Think about how all this will affect the local character, culture, and lifestyles.

6. Michigan Law Not Applicable. State and local law does not apply to the behavior and activities of the Tribe or its members. Our police will have no authority over the Tribe or its members. This condition leads to social instability, jurisdictional nightmares, and potential chaos.

7. Tribal Control of Development. The Tribe will directly control non-Indian businesses and development through its power to control federal environmental permits regarding air quality, water quality, water usage, water discharge, wetlands, etc. Nothing significant in this area will happen without Tribe control. New investment by non-Indian businesses will be dead.

8. Tribal Laws Apply. Non-Indian businesses, and even public institutions such as schools and hospitals, can be dragged into Tribal Court for perceived violations of Tribal laws. For example, if your business employs a Tribal member (even without knowing he or she is a Tribal member), that member can make a claim in Tribal Court for violation of Tribal employment and discrimination laws. What a mess. What a nightmare.

9. Business Values Drop. Non-Indian business values will fall. Non-Indians won't be able to compete with Tribe or Tribal member owned businesses that don't pay taxes and are not subject to the multitude of state and local regulations, such as parking, signage, taxes and the like. If your business includes selling liquor, the Tribe may well control who gets future permits and licenses, and impose taxes on these businesses. Why would a non-Indian want to do business here? Existing non-Indian businesses may be driven out of town.

Make no mistake, if the Tribe succeeds, it will dominate everyday life in Emmet County. In fact, the Tribe's Constitution demands it. Unless the Tribe allows it, as a non-Indian, you have no vote on Tribal laws or on the election of officials; you cannot attend meetings of the Tribe, and your lawyer cannot even appear in Tribal Court.



This historically premium resort and retirement home area will lose its national appeal as a coveted destination due to the negative aura of being under the jurisdiction of Odawa Tribal leaders within an Indian Reservation. Given other premium choices, who would choose to come here?

The Tribe says none of this will happen. Don't be fooled. Just Google what is happening on Indian Reservations all across America. Furthermore, ask this question: why is the Tribe asking the Federal Court for the power to make all this happen if it doesn't plan to use that power?

We need your help to fight back. You can help by making a tax deductible contribution to the Protection of Rights Alliance Foundation, P.O. Box 28, Harbor Springs, MI 49740.

Since our last Newsletter, it has been determined that tribes can tax non-tribal members' property if located in a reservation. In June of 2018 the U.S. Supreme Court declined to hear an appeal from the Federal Court of Appeals case of **Michael Thomas et al. v. Tulalip Tribes of Washington**, leaving as law the Court of Appeals' decision. In that case, the Tribe imposed a tax on the transfer of private land owned by non-tribal members. A property owner sued in Federal Court to stop the tax. The Court held that the Tribe could not be sued in Federal or State Court in that the Tribe, as a sovereign nation, is immune to suit, thus leaving the tax in place.

We raised concern over signage in our last two and current Newsletters. The picture below shows what happened in the resort community of the Hamptons, which now has a gateway entry billboard, 61 feet in height, installed by the Shinnecock Tribe, although the state obtained a temporary restraining order against an additional 61-foot sign.

B. Motions for Summary Judgment to Dismiss the Tribe's Case

In mid-May, 2019, the parties to the case files the last of their written briefs asking the Court to rule on entire case, or certain aspects of it, without holding a trial. The Court has now taken the unusual step of setting aside four consecutive days for oral arguments commencing June 24. Scheduling such a lengthy hearing is a clear indication that the case is getting the Court's full attention and, without doubt, the Court will be well prepared to examine and to discuss in detail the issues presented by the pending motions and supporting briefs.

ECLA and PORA Motion for Summary Judgement

The Associations contend that the 1855 Treaty's language is unambiguous and under its terms no permanent Indian reservation was established. Rather, land owned by the federal government was merely temporarily withdrawn from public sale so as to allow individual Indians limited time to select land to own individually. Thereafter, all unselected lands were restored to the public market and sold. Alternatively, should the Court determine that a reservation was established, the Associations also contend that any such reservation was diminished or disestablished when Congress passed various acts in the 1870's ("1870s Acts").

The Tribe maintains that the Court must look beyond the language of the Treaty to understand its terms, claiming the language of the Treaty is ambiguous as to whether a reservation was created. The Tribe contends that by law any ambiguity must be resolved in the Tribe's favor. The Tribe also asserts that the 1870s Acts did not diminish or disestablish the claimed reservation.

The Other Defendants' "Historical" Motions

The State and the Cities and Counties (joined by the Townships) also filed motions setting forth arguments similar to those of the Associations. With regard to the Tribe's assertions about ambiguities in the language of the Treaty, the State and the Cities and Counties argue that the Tribe has failed to identify any plausible ambiguity in the Treaty and to explain how such an ambiguity could have been read to establish an Indian reservation.

The Tribe's Motion for Summary Judgement

The Tribe filed a motion to dismiss certain disestablishment or diminishment defenses, by which all defendants argue that Congress disestablished or diminished any reservation by putting lands back on the public market. Because the Tribe's motion largely mischaracterizes these defenses, all defendants responded by disentangling the legal issues for the court and explained that the Tribe's argument is simply an attempt to shift the Tribe's burden of proof to the defendants.

Non-Historical Motions

The state filed an additional motion arguing that the Court lacks jurisdiction over the case because federal courts may only resolve actual controversies – e.g., an actual factual dispute over how the Tribe has been harmed by the State's assertion of jurisdiction over the area now claimed as a reservation. The Tribe maintains that the case is about boundary lines and the boundary dispute in itself creates a controversy sufficient for the Court to have jurisdiction. If the motion is granted, a dismissal of the case would be without prejudice and the Court would allow the Tribe to re-file its claim.

Finally, the Tribe filed a motion seeking dismissal of "release" defense put forth by the Cities and Counties. That defense asserts that Article 3 of the Treaty (releasing the United States from any further obligations to the Tribe) could operate to bar this lawsuit. The Tribe argues that Article 3 did not release any claims based on the 1855 Treaty, but only certain claims arising under prior treaties. The Cities and Counties maintain that this defense, if successful, acts as a bar to the extent that the Tribe bases any of its claims in this case on pre-1855 Treaties. (The Tribe has been coy as to whether it believes it as any existing rights to a reservation under an 1836 Treaty.)

Post-Hearing Matters

If the defendants' motions are denied, a trial of possibly four to six weeks would likely occur in 2020 but several factors could operate to postpone the case. For example, a long delay in ruling on the motions would almost certainly push back the start of the trial. Also, if the State's jurisdictional motion is granted there would likely be a period of discovery concerning the specific disputes the Tribe presents in an amended complaint. Finally, the U.S. Supreme Court is poised to rule yet this month in a "claimed reservation" case from Oklahoma (see below) and the decision in that case could result in the need for additional discovery as to issues of significance in this case.

Other Matters of Interest (In Case You Are Not Yet Convinced There is Risk)

- Tribes in Washington and Wyoming have this year achieved significant victories in treaty rights cases decided by the U.S. Supreme Court with recently appointed Justice Neil Gorsuch siding with the Court's four-member liberal wing in both cases.
- Oklahoma Case – Whether the series of Congressional acts that ultimately led to Oklahoma statehood in 1907 has the effect of terminating an Indian reservation created under an 1866 treaty is the ultimate question presented in the case. A victory for the tribal member could eventually result in nearly half of the land Oklahoma becoming "Indian Country" – and home for over 40% of Oklahoma's residents.

Continued on next page

- Massachusetts Case – The Wampanoag Tribe has reportedly started work on the Aquinnah Cliffs Casino. The project is slated to include a 10,000 square foot facility with about 250 Class II games (such as electronic bingo), a beer and wine bar, outdoor seating and food trucks. The project location: none other than the beautiful, charming and serene summer resort island of Martha’s Vineyard. (The tribe prevailed before the U.S. Court of Appeals, First Circuit.)
- New York Case – “The Shinnecock Indian Nation is trying to show the leaders of tony South Hampton that hedgerows for billionaires aren’t the only tall things that can go up on the East End. The tribe is in the middle of erecting two massive 61 foot high signs that will loom over Route 27, the main road into the exclusive Hamptons enclave, bearing the Shinnecock seal and bright video screens. Work has already begun...” (New York Post, May 1, 2019)

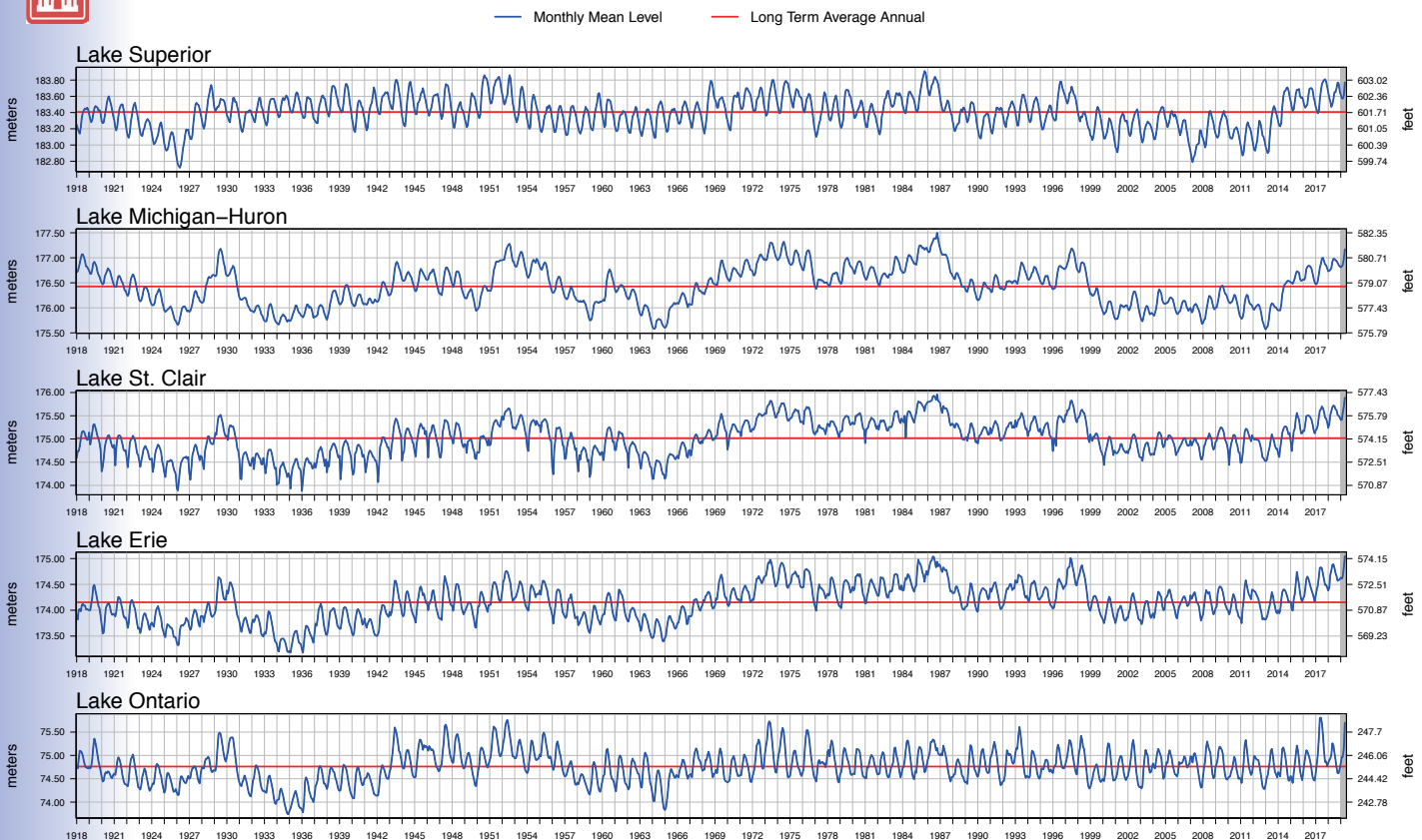
The Associations continue to need your help to defend our rights and interests against the Tribe’s claims. Tax-deductible donations can be made to:

The Protection of Rights Alliance
C/O Sara Smith, CPA
PO Box 28
Harbor Springs, MI 49740

II. It is critical that we continue funding the ECLA and PORA defense.

We have had amazing financial support for the defense against the Tribe’s litigation claim that this area is an Indian reservation. Legal and expert witness fees for the defense will continue since any favorable outcome for ECLA/PORA will be appealed by the Tribe to the 6th Circuit Court of Appeals and from there to the U.S. Supreme Court. If the Motions for Summary Judgment are not granted in favor of the Defendants, the case will go to trial for approximately 5 weeks, and if the Defendants are successful following trial, the Tribe will appeal the decision. So it is critical that you continue your support of the defense of the control of your land, environment, and culture.

Great Lakes Water Levels



The monthly average levels are based on a network of water level gages located around the lakes. Elevations are referenced to the International Great Lakes Datum (1985).

Water levels have been coordinated through 2018. Values highlighted in gray are provisional.

ARMY CORPS OF ENGINEERS WEEKLY GREAT LAKES WATER LEVEL UPDATE

May 10, 2019

WEATHER CONDITIONS

The wet weather has continued for much of this week in the Great Lakes basin. After a pleasant end of the weekend in the southern portions of the basin that saw high temperatures in the 70s on Sunday, more rain and below normal temperatures have impacted the region throughout the work week. A cold front moved across the Great Lakes basin Monday into Tuesday, which brought a drop in temperatures and rain showers to the region. Low temperatures in the northern portions of the basin were near the freezing mark and prompted the National Weather Service office in Gaylord, Michigan to issue Freeze Warnings and Frost Advisories for Wednesday morning in many counties in northern Michigan. On Wednesday afternoon, the next low pressure system began to impact the Great Lakes region, bringing another round of rain showers to the basin. As the system approached the region, strong easterly winds began Wednesday afternoon and are likely to continue into Thursday afternoon. This has caused flooding on the western shores of Lake Erie, which is currently experiencing daily water levels above the monthly record high water level for the month of May.

LAKE LEVEL CONDITIONS

The recent wet conditions have caused water levels to climb and currently, water levels across the basin are 8 to 12 inches above last year's water levels at this time. In the past month, all of the Great Lakes have experienced rises in water level with Lakes Superior, Michigan-Huron, St. Clair, Erie and Ontario rising by 5, 8, 12, 11, and 20 inches, respectively. The water levels of Lakes St. Clair and Erie are currently 4 inches above their record high monthly mean level for May, while Lake Superior is 1 inch below its May record high level. The projected levels for a month from now indicate Lakes Superior, Michigan-Huron, and Ontario rising by 4, 3, and 7 inches, respectively. Lakes St. Clair and Erie are projected to be 1 inch below their current level one month from now. See our [Daily Levels](#) web page for more water level information.

FORECASTED MONTHLY OUTFLOWS/CHANNEL CONDITIONS

Lake Superior's outflow through the St. Mary's River, and Lake Michigan-Huron's outflow into the St. Clair River, are forecasted to be above average in May. Outflows from Lake St. Clair through the Detroit River are also predicted to be above average. Lake Erie's outflow through the Niagara River and the outflow of Lake Ontario through the St. Lawrence River are forecasted to be above average for May as well.

ALERTS

Official records are based on monthly average water levels and not daily water levels. Users of the Great Lakes, connecting channels and St. Lawrence River should keep informed of current conditions before undertaking any activities that could be affected by changing water levels. Mariners should utilize navigation charts and refer to current water level readings.

	SUPERIOR	MICH-HURON	ST. CLAIR	ERIE	ONTARIO
Forecasted Water Level for May 10, 2019 (feet)	602.76	581.14	577.17	574.41	247.90
Chart Datum (feet)	601.10	577.50	572.30	569.20	243.30
Difference from chart datum (inches)	+20	+44	+58	+63	+55
Difference from average water level for Apr 10, 2019 (inches*)	+5	+8	+12	+11	+20
Difference from average water level for May 10, 2018 (inches*)	+8	+9	+11	+9	+12
Difference from long-term monthly average of May (inches)	+14	+26	+31	+30	+21
Difference from highest monthly average of record for May (inches)	-1	-6	+4	+4	-9
Year of highest recorded monthly mean	1986	1986	1986	1986	2017
Difference from lowest monthly average of record for May (inches)	+38	+55	+59	+65	+57
Year of lowest recorded monthly mean	1926	1964	1934	1934	1935
Projected change in levels by Jun 10, 2019 (inches)	+4	+3	-1	-1	+7

ALL DATA SHOWN IN THIS SUMMARY ARE REFERENCED TO IGLD 1985
 *VALUES FOR SPECIFIC DAY ARE BASED ON 3-DAY DAILY AVERAGE AROUND SPECIFIED DATE
 LONG TERM AVERAGE PERIOD OF RECORD, 1918-2018

FORECASTED INFORMATION PROVIDED
 Department of the Army
 Detroit District, Corps of Engineers
[Detroit District Home](#)
 1-888-694-8313 ext. 1

RECORDED DATA (1918 – present)
 provided by
[NOAA Center for Operational Oceanic
 Products and Services](#)

FOR MORE INFORMATION VISIT
[Detroit District Great Lakes Homepage](#)
[International Joint Commission](#)
[Great Lakes Information Network](#)

Enbridge Line 5

Many of our members have asked “what is the news on Line 5?”

Our response -- “a lot!”

A quick background. Line 5, owned and operated by Enbridge, a Canadian company, pumps 23 million gallons of petroleum a day under the Straits of Mackinac. The lines were built in 1953 and if they were to rupture, as Enbridge petroleum lines did in the Kalamazoo River, hundreds of miles of the coastlines of Lake Michigan and Lake Huron could be severely impacted. A barge anchor strike recently heightened these concerns. Former Governor Snyder, in the last days of his administration, negotiated with Enbridge to allow the construction of a tunnel in the bedrock of the Straits to house the Enbridge and other utility lines crossing the Straits. Many oppose the tunnel and even more oppose Enbridge’s requirement that Line 5 remain operational for up to 10 years while the tunnel is being constructed.

The election of Gretchen Whitmer as Governor and Dana Nessel as Attorney General –both of whom opposed Line 5 and the construction of a tunnel during their campaigns – raises a series of new questions.

Q 1: Will the tunnel even get built?

A 1: The answer to this question has several components:

(A) Enbridge Financial Feasibility of Building a tunnel: Some are skeptical that Enbridge ever intends to build a \$500 million plus tunnel and is merely buying time to continue the use of Line 5. Enbridge and former Governor Snyder always envisioned that other utilities that have lines crossing the Straits would use the proposed tunnel and share in the cost of construction. On April 30, 2019 American Transmission Company, a company that runs high-voltage electric lines beneath the Straits of Mackinac, said in a letter that it is way too dangerous for their lines to be located next to lines that transport petroleum products, including propane.

(B) Political Platform of current Governor, Gretchen Whitmer.

(C) Political Platform of current Attorney General, Dana Nessel.

Q 2: Will Line 5 be decommissioned while a tunnel is being built?

A 2: The answer to this question also has several components:

(A) Enbridge’s position:

Enbridge has taken the position that it will not decommission the lines while the tunnel is being planned and built. In its words this is a “non-starter.” Some feel this is an arrogant response of Enbridge which should compel the State Government to take the bull by the horns and let Enbridge know who is the boss. However, there is little doubt that the State is concerned about a possible damage claim against it by Enbridge based on an alleged unlawful “taking” of what Enbridge claims to be a legal easement across the Straits. The State has demonstrated this concern when it has settled numerous wetlands “takings” claims to avoid exposure to a damage claim from regulating wetlands. Like property subject to wetlands regulation, an easement is a legal property right. Some groups such as Oil and Water Don’t

Mix have claimed that the work Enbridge has done on Line 5 requires a whole new application to the State for use of the Straits.

(B) Legal Challenges:

1. Lawsuits by NWF and by ELPC on Enbridge’s ability to address the cleanup of a spill in the Straits:

(a) The National Wildlife Federation just received a Federal Court decision declaring that the required plan filed by Enbridge with the Pipeline Hazardous Materials Safety Administration (PHMSA) did not meet the requirements of PHMSA, even though approved by PHMSA. In this case the NWF is asking the court to stop the transport of oil through the pipelines until PHMSA complies with federal law. The Sault Ste. Marie Tribe of Chippewa Indians and the Grand Traverse Band of Ottawa and Chippewa Indians were parties in the National Wildlife Federation Case. Enbridge was ordered to prepare a new plan to comply with PHMSA’s requirements.

(b) The Environmental Law and Policy Center (ELPC) filed a suit based upon the statement of the head of the Coast Guard, the entity charged with conducting a cleanup of a spill, that it could not clean up a spill in the Straits. This case is pending. No injunctions against Enbridge’s operation of Line 5 have as yet been issued in these cases.

2. Former Governor Snyder and the state legislature, in a last-ditch effort to put in place a state law before year’s end which provided for the construction of the tunnel and its management, likely created a law subject to constitutional challenge. In October 2018 the Snyder administration charged the Mackinac Bridge Authority (“MBA”) with the responsibility to oversee the proposed pipeline tunnel. Unfortunately, they failed to consult with the MBA prior to adding this responsibility. The MBA refused to accept this responsibility. The Snyder Administration then had to scurry to change the language in the already-drafted legislation from changing the responsible entity from the Mackinac Bridge Authority to a newly-created Mackinac Straits Corridor Authority. In the drafting haste, they failed to remove from the draft legislation certain provisions that could only be applicable to the Mackinac Bridge Authority. They essentially mixed “apples and oranges” in one piece of legislation -- including provisions applicable to the MBA into provisions now applicable to the Mackinac Straits Corridor Authority, a “no no” under our Michigan Constitution. For this reason, Attorney General Nessel has taken the position that the Agreement with Governor Snyder to construct a tunnel is unconstitutional. Governor Whitmer has expressed concern about litigating with Enbridge and the time that would take.

Q 3: If Line 5 is not decommissioned while the tunnel is being built, how long should it take to build the tunnel?

A 3: Governor Whitmer seems to have recently departed from her political position which was to “decommission Line 5”. As mentioned, her political position when running for Governor was “no Line 5” which was understood to include “no tunnel.” Recently, she has opened negotiations with Enbridge for the construction of a tunnel, but with a time limit of two years, as opposed to 7 to 10 years proposed by Enbridge. Enbridge has filed suit asking that the Governor Snyder Agreement be enforced. On June 27, 2019

Continued on next page



Michigan Attorney General Dana Nessel responded to the Enbridge lawsuit filed against the state, but simultaneously took the first step to decommission the 66-year-old dual pipelines that run through the Straits of Mackinac by filing a lawsuit in Ingham County Circuit Court.

The Attorney General filed her lawsuit the same day she filed a motion to dismiss Enbridge's lawsuit filed in the Court of Claims on June 6 seeking to enforce agreements made in the last months of the Snyder administration that purported to authorize Enbridge to build a tunnel and continue operating Line 5.

No doubt by the time this Newsletter goes to press there will be yet more to report.

Update from 2018 Michigan Department of Health and Human Services

Lyme Disease and Tick Increase in Michigan

Michigan's Program for tick identification and testing indicates that the black legged tick which can carry lyme disease to humans and animals is increasing in Michigan. In 2018, the blacklegged tick accounted for 32% if the ticks submitted to the State for identification. As of April 2018, NO black legged ticks were identified in Emmet County, but three were identified in Charlevoix County. However, deer are the main food source for these ticks and as they wander the fields and woods, they are spreading ticks throughout Michigan, especially in the U.P. and the southwestern parts of the Lower Peninsula. Previous years already showed increases in the central and south eastern parts of the State.

Lyme Disease

Lyme disease is caused by bacterium (*Borrellia burgdorfere*) transmitted by bites from the black legged tick. Signs of the disease include fever, chills, headaches, fatigue, muscle and joint aches and swollen lymph glands. A rash may occur beginning at the bite site within 3-30 days and may gradually expand, but it is rarely itchy or painful. As the reach enlarges, it may look like a bull's eye and reach up to 12 inches or more in size.

Treatment

Medical treatment within 1 to 3 days with antibiotics is generally effective in eliminating or reducing long term affects which include arthritis especially to knees, facial palsy, intermittent pain in tendons, muscles, joints and bones, irregular heartbeat, dizziness, shortness of breath, inflammation of the brain and spinal cord, nerve pain, shooting pains, numbness or tingling in hands and feet, and short term memory problems.

Prevention

Avoid walking in or near wooded or grassy areas without protective clothing and footwear. Use insect repellent on your skin, clothing and tents, if camping. Wear high boot socks, long pants and long sleeve shirts. Again, spray your clothing! It is recommended that one shower after returning from nature walks. To protect your yard, erect barriers to keep deer out of family areas and treating your pets with flea and tick medications is recommended. Most importantly, check for ticks each day and remove them as soon as possible with fine tip tweezers. If you develop a fever or rash, consult your doctor as soon as possible.



MDOT's Numerous New Traffic Signs on M-119 -- The Tunnel of Trees

Once it was the Tunnel of Trees -- now it is the Tunnel of Signs. The Tunnel of Trees Heritage Route Committee is an MDOT creation consisting of local residents who sit on a Committee to provide input on the scenic condition of the roadway. Until very recently, MDOT had an MDOT representative participate in the monthly meetings of this Heritage Route Committee. However, without any notice, consultation, or opportunity for input from the Heritage Route Committee, MDOT has added numerous new bright yellow traffic control signs with bright yellow poles, and new speed limit signs every quarter of a mile or less. This is contrary to the understanding that the Tunnel of Trees, as a scenic road with 8-foot lanes and no shoulders, would moderate the need for unsightly traffic control signage. ECLA has written MDOT asking for an explanation. A copy of this letter is below.



EMMET COUNTY
LAKESHORE ASSOCIATION
P.O. BOX 277
HARBOR SPRINGS, MI 49740

June 4, 2019

Tom Doyle, Program Manager
Project Planning Division, MDOT
State Transportation Building
425 W. Ottawa St., P.O. Box 30050
Lansing, MI 48909

Dear Mr. Doyle,

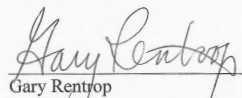
I am writing on behalf of the Emmet County Lakeshore Association and its 650 members who own property along M-119 -- "The Tunnel of Trees".

Please excuse my sarcasm, but it now looks more like "The Tunnel of MDOT Signs".

I contacted the MDOT-created Heritage Highway Route Committee ("Heritage Highway") to get an explanation of why there are so many signs, bouncing back and forth from 20 mph to 25 mph to 20 mph to 35 mph, with Adopt-a-Highway signs larger than those on State Road in Emmet County. To my surprise, Heritage Highway had had no prior contact from MDOT before signs were posted, nor any contact from MDOT after the postings.

I would very much appreciate an explanation, particularly concerning the failure of MDOT to reach out to Heritage Highway, on this matter.

Thank you for your anticipated response.


Gary Rentop
President, ECLA

cc: Henry Singer
Lou Kasischke

Watershed Council Volunteers Find Few Cases of Avian Botulism Last Fall

Courtesy of Caroline Keson, Watershed Specialist, Tip of the Mitt Watershed Council, (231) 347-1181

Many dead birds you see on a Great Lakes beach may have died of botulism. According to the Michigan Department of Natural Resources, botulism is a paralytic condition brought on by the consumption of a naturally occurring toxin produced by the bacterium *Clostridium botulinum*. The small bacterium is first eaten by mussels and larval macroinvertebrates like midges, who are then eaten by fish. Once the bacterium accumulates in fish, they can experience harmful effects such as a loss of equilibrium, erratic swimming, or uncontrollable floating near the surface. These fish become easy targets for birds, who are in turn affected. Avian botulism was first documented in the Great Lakes in the 1960s, and since then occasional waves of bird die-offs are common during periods of warmer water and

lower water levels. Recent outbreaks occurred in 2012 and 2016 throughout the Great Lakes, signifying lake ecosystem disruptions, likely due to pollution and invasive species.

From September to November, Tip of the Mitt Watershed Council volunteers walked nearly 100 miles of Lake Michigan shoreline in their search for bird carcasses. Only 31 birds were found, which is the third-lowest count since the Watershed Council began the volunteer program in 2011. Common loons made up the majority of dead birds, followed by herring gulls.

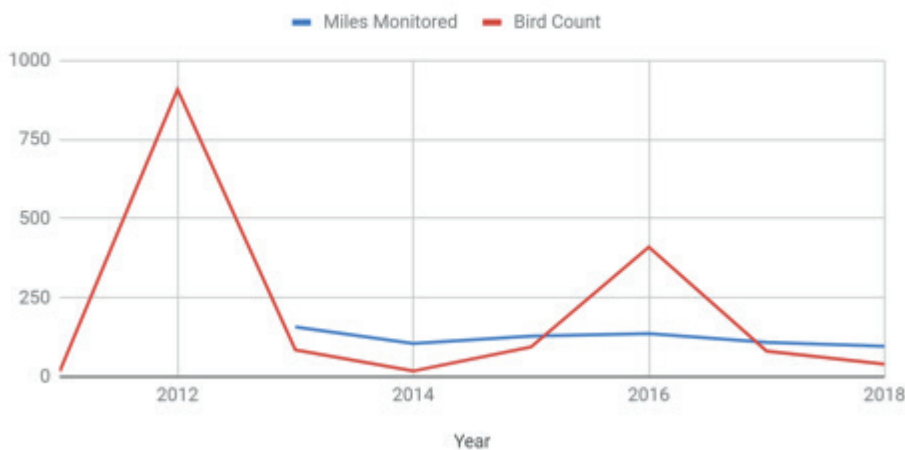
Of the 31 birds found, three birds were sent to the Michigan Department of Natural Resources for avian botulism testing. Test results showed they all likely died of botulism poisoning.

The Watershed Council’s data is used to estimate total Lake Michigan mortalities and predictions for next year. Botulism outbreaks throughout the Great Lakes are mapped using the Wildlife Health Information Sharing Partnership (WHISPer), which can be viewed at <https://www.nwhc.usgs.gov/whispers/>.

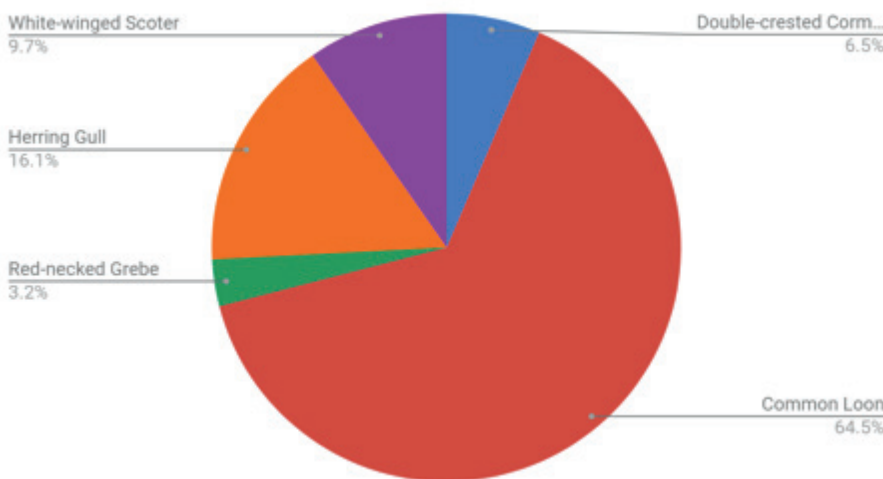
Avian botulism poses little danger to people since most bird species affected are not typically eaten by people and thorough cooking destroys the toxin. However everyone should take precautions if handling dead birds by using disposable gloves and washing thoroughly afterward. Anglers and hunters should avoid fish and waterfowl that are easy pickings due to strange behavior, such as lethargy and erratic swimming.

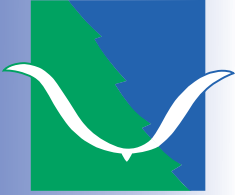
The Watershed Council is eager to include new volunteers to our program this fall of 2019. Staff will be focused on learning more about current avian botulism research throughout the year and look forward to sharing this information with volunteers. Volunteers will also get the chance to meet the experts doing research on this important topic during our training event in late summer. Call Caroline Keson at our office for details at 231-347-1181.

Tip of the Mitt Watershed Council Avian Botulism Monitoring Program



Avian Botulism Monitoring 2018 Bird Count





Emmet County Lakeshore Association

Post Office Box 277
Harbor Springs MI 49740

In unity, there is strength

Landslide in Sequoia Yacht Club Subdivision

This spring a major landslide occurred below M-119 at Good Hart. Two homes were damaged. See photograph. A number of possible contributing causes are being looked at. There was a major snow thaw and rain causing a large volume of water to run off of the farm hills (Lamkin Farm) onto M-119 and to channel around a house on the ledge of the landslide area. An old road built by Monte Bliss appears to have helped channel the water to the slide area. The slide area was at the Great Lakes Energy easement. The easement has been clear-cut and no root vegetation was present to hold the soils. The property that gave way in the slide is owned by the Sequoia Yacht Club Association in Good Hart. A meeting was held on June 5, 2019 with representatives from Great Lakes Energy, MDOT, and the homeowners whose properties were damaged. This is not the first landslide to occur along the steep bluff. Failing to leave vegetation in place and excavating the slopes without engineered stabilization in place, creates a risk of destabilized soil conditions.



Emmet County Lakeshore Association

Board of Directors

Jim Bacus • Brian Clauer • **Rob Deane, Nominating Chair** • Lou Kasischke, **Vice President** • Jan Malott
Franz Neubrecht, Secretary • Gary Rentrop, **President** • Sue Rentrop, **Treasurer** • Dick Selvala • Susan Stackhouse • Linnie Walters

Board Members Contact Info

Jim Bacus

jim@mobileapps1.com

Brian Clauer

E-mail: brianclauer@gmail.com
Telephone: (574) 286-5468

Rob Deane

E-mail: f.r.deane@att.net
Telephone: 616.456.8463

*Mandi Garber-Secretarial Services

E-mail: northernsec@yahoo.com
Telephone: 231.373.0754

Lou Kasischke

E-mail: louk@gtlakes.com
Telephone: 231.242.0147

Jan Malott

E-mail: malottfam@aol.com
Telephone: 248.941.2804

Franz Neubrecht

E-mail: franz@franrx.com
Telephone: 231.526.5170

Gary Rentrop

E-mail: grentrop@rentropmorrison.com
Telephone: 248.644.6970

Sue Rentrop

E-mail: srentrop@rentropmorrison.com
Telephone: 231.526.7362

Dick Selvala

E-mail: dickselvala@yahoo.com
Telephone: 231.526.5147

Susan Stackhouse

E-mail: shstackhouse@gmail.com
Telephone: 231.526.7896

Linnie Walters

E-mail: lynniewalters@gmail.com
Telephone: 231.526.7386

Association Address: ECLA • PO Box 277 • Harbor Springs, MI 49740