Emmet County Lakeshore Association

Summer 2020 Newsletter

Dear ECLA Members and Friends:

Unfortunately, because of Covid-19 there will be no annual meeting this year. We are hopeful this Newsletter will bring you up to date on the various issues pending in our area.

The ECLA Board continues with its principal focus of defending against the lawsuit started by the Little Traverse Bay Band of Odawa Indians which sought to declare our area an Indian Reservation or "Indian Country". We have had great success with Federal District Court Judge Maloney ruling in favor of ECLA and the other Defendants, finding no reservation was created by the 1855 Treaty. As you know, the Tribe has appealed that decision and we are awaiting additional briefs to be filed and then a decision from the appellate court. More detail on the status of this case is set forth in this Newsletter.

We could not have accomplished this very expensive task without your financial help. If we are successful in the Court of Appeals, we are hopeful we will not need to come to you for additional financial support. Your generosity and that of your neighbors is so very much appreciated.

Sincerely,

Gary Rentrop

Lou Kasischke

Covid-19 Reported Cases

Through the winter and spring months of 2020 we were all pleased to see the Covid-19 confirmed total cases stuck at 22, week after week. It is of no surprise that as the summer season opened, the numbers moved off of the reassuring plateau of 22 cases. Following the 4th of July holiday weekend, nine additional new cases were reported bwy the Health Department of Northwest Michigan. It is important to note these new reported cases only refer to individuals residing in the area, and do not include individuals who have tested positive who do not reside here permanently. In fact, 5 to12 new cases have been reported daily since July 4th.

McGIRT v. OKLAHOMA—U.S. SUPREME COURT—JULY 2020 WHAT BEARING DOES IT HAVE ON OUR CASE?

The U.S. Supreme Court recently rendered a decision which had been anxiously awaited by many, including your Steering Committee, to see what effect it might have on the pending litigation with the Little Traverse Bay Bands of Odawa Indians (LTBB), in which the Tribe is seeking to have most of Emmet County and portions of Charlevoix County declared to be an Indian Reservation. In the recent Supreme Court case, McGirt had been convicted of rape by an Oklahoma state court. McGirt claimed the rape took place on an Indian Reservation. If McGirt was right, this would mean that one-third of Oklahoma was an Indian reservation, including all of the City of Tulsa. McGirt was correct, according to the Court. From the Supreme Court's discussion in a prior case, we had hoped the Court might change direction and look to how the claimed reservation area functioned during the past 100 years. Should not past practice in the area play into a determination as to whether or not an area is an Indian Reservation? The Court's answer: no. So the Court's decision in the McGirt case is of no help to us in the LTBB case, but neither does it hurt us. The LTBB claim that the McGirt decision (that only past promises of Congress as expressed in the treaty matter) helps their case is not correct, as explained in item 10 below. ECLA's view, along with the other Defendants in our case, is that the McGirt decision is not adverse -- it just doesn't advance a new principle that past practice matters in determining if a Reservation exists.

We can take away from the McGirt case the following:

1. Justice Gorsuch can likely be counted on to take the lead in supporting cases made by tribal groups (consistent with his District Court positions).

2. At least when it comes to finding if a reservation exists, the current Court will have little sympathy with arguments that rulings in favor of tribal assertion of reservation status will create many practical problems after a century or more of non-tribal jurisdiction over the subject property even if highly developed and populated by non-tribal citizens.

3. This Court will hold Congress to the promises made in treaties with native groups even if the tribe did little to assert the jurisdiction implicit in the treaty that included designating specific land with specified boundaries as Indian reservations.

4. This Court narrowed the grounds for disestablishment of a reservation to Congress clearly doing so.

5. This Court recognizes that use of the specific word "reservation" at the time does not carry much weight, as it was not a legal term of art then.

6. Under McGirt, what the treaty says is critical. Thus, if an allotment of a tract of land was meant to be temporary, that language better be in the initial treaty or a subsequent act of Congress.

7. It matters not what states might have done with respect to assuming authority and jurisdiction over reservation land for over a century. That would put power over the rule of law and "will not be tolerated".

8. It matters not if confirming a reservation includes a large city in whole or part, or half of a state.

9. While a case to confirm reservation status may be brought to the Court to decide the narrow question of jurisdiction over a single criminal prosecution case, that sets the stage for many years of sorting out the full range of jurisdictional issues like the governing functions of taxation, zoning, building codes, business regulations, education programs, social welfare, policing, etc.

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10. The position of the State and other Defendants (townships, cities, counties, ECLA and PORA) in the local lawsuit of Odawa v. Michigan Governor, et al., remains strong primarily because the subject treaty of 1855 did not include any grants of land to Indian tribal people in common and in perpetuity, but rather limited the scope of federal land parcel commitments to qualified individual tribal applicants, within a span of ten years, with 5 years at no cost followed by 5 years with preferred purchase selection priority. Upon expiration of that limited time period all federal public land within the land selection boundary was made available for public sale on a first-come, first-served basis. There was no treaty commitment or subsequent federal oversight of the property within the temporary boundary for land acquisition after the ten-year time window. This is very different than the Oklahoma case, where the land was explicitly "set apart" for the Tribe as a Tribe, with the Tribe to exercise jurisdiction. None of that happened in the Odawa treaty.

Since the decision came down there has been a class action filed on behalf of any Indians prosecuted in what has now been found to be reservation land seeking disgorgement of all fines and costs imposed by the state courts. A separate tribe is using the case to fortify their position against property taxation on fee lands in New York. We can expect in our LTBB case the Tribe will attempt to use the holding in the McGirt case to support its position of claimed reservation land under the 1855 treaty.

Emmet County Lakeshore Association and Protection of Rights Alliance Litigation Update: *Little Traverse Bay Bands of Odawa Indians v. Whitmer,* U.S. Sixth Circuit Court of Appeals

June 24, 2020

The Odawa Indians' reservation case continues, on appeal to the U.S. Sixth Circuit Court of Appeals. All principal briefs have been filed, with reply briefs by the Tribe and some local governments due August 15. After all briefing is completed, the parties will receive a date for oral argument. We expect that to take place either late this year or early next year.

Those who have followed this case will recall that the 1855 Treaty with the Ottawa and Chippewa provided that the federal government would temporarily remove from market certain lands within over 13 million acres that had been ceded by Indian tribes in 1836. For the ancestors of the Little Traverse Bay Bands of Odawa Indians, that land consisted of a 337 square mile area in Emmet and Charlevoix Counties, excluding land that had previously been sold by the federal government. Individual members of the Tribe were given five years to select parcels to be deeded to them to ultimately own in fee, and another five years during which they could purchase additional parcels. After that, the remaining lands could be sold by the federal government.

In 2015, the Tribe filed suit in federal court seeking a declaration that this process for individual Indians to acquire lands land to own in fee actually created a permanent Indian reservation encompassing the entire 337 square mile area, and that the Tribe has jurisdiction over that area. After four years of litigation, the U.S. District Court agreed with the Associations and other defendants that the Tribe's case had no merit, and dismissed the case.

The Tribe's Brief:

On appeal, just as they did at the trial court, the Tribe is attempting to lower the judicial standard for determining if a reservation exists. According to the Tribe, a reservation is created whenever there is (1) a defined body of land, (2) withheld from sale by the federal government, and (3) appropriated for Indian purposes. The Tribe argues that once these elements are present, a permanent reservation is established, and only can be disestablished if Congress

passes a law explicitly ending the reservation. In the Tribe's view, whether the Tribe itself holds or is granted land, or whether the federal government continues to oversee the land, is irrelevant.

Much of the Tribe's brief focuses on isolating portions of the District Court's opinion and selectively quoting passages out of context. A significant portion of the Tribe's argument claims that the District Court misunderstood and misinterpreted cases dealing with the status of "allotments," which are lands deeded to individual Indians within a tribal reservation. The Tribe argues that the stray use of the term "reservation" and "reserved" in the Treaty, and post-treaty use of the word by some federal officials, proves that a reservation was created. The Tribe disingenuously claims that the Court of Appeals has previously found the 1855 Treaty to have created a reservation, even though the case it cited did no such thing. The Tribe's brief is well written and persuasive on the surface, but is vulnerable upon deeper review.

The State's Brief:

The State's brief contains a thorough explanation of the historical context of the 1855 Treaty and subsequent treatment of the land. The brief is heavily dependent on fact-based arguments and cites to a multitude of historical documents to demonstrate that the 1855 Treaty cannot plausibly be read to have established a tribal reservation.

The State argues that neither facts nor law support the Tribe's proposed reservation-creation standard. The State explains that the 1855 Treaty was not an allotment treaty, as it neither uses the word allotment nor indicates a larger bounded commonly-held reservation. The State also point outs that while the Tribe clings to the fact that the Treaty uses the terms "aforesaid reservations" and "tracts herein reserved," once those terms are read in the context of the Treaty's other terms, it is clear those terms carry only their ordinary meaning, and do not operate as terms of art. Likewise, use of the word "reservation" in post-treaty historical documents is not informative. The word reservation was used in a variety of ways in the 1800s, even with respect to Indians. The State also argued that the historical record indicates that the Indians did not understand the 1855 Treaty to have established a reservation. To the contrary, they understood they would become landowners on the same terms as settlers, subject to state jurisdiction. Finally, the State demonstrates that the Tribe's claims that earlier decisions from the Court of Appeals compel a ruling in its favor are flatly incorrect.

The Associations' Brief:

While the State focused mostly on factual arguments, the Associations' brief focuses on the law underlying the case. It points out that the issue in this case is whether the 1855 Treaty established a reservation as that term is used in 18 U.S.C. § 1151, making the area Indian Country in which the Tribe has the right to jurisdictional control. Indian Country is land that is (1) validly set apart, (2) for the use of the Indians as such (as a Tribe), and (3) under federal superintendence. The Associations use case law to further define each of those elements and explain why none of those factors are present here. In short, the federal government took no action to set apart land for any tribal purpose and there is no indicia of federal superintendence. Instead, the 1855 Treaty only allowed individual Indians to select and own land just as non-Indians did.

The Associations explain that the lower standard for reservation establishment argued by the Tribe has no basis in the law. The brief also brings the court's attention to the fact that many of the Tribe's arguments are simply diversionary tactics, such as claiming that the lower court misread allotment cases that the court did not rely upon. The Associations also point out, as did the other defendants, that while the Tribe clings to the fact that the words "reserve" and "reservation" are used in the Treaty, that term had no fixed legal definition in the 1800s.

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The Townships' Brief:

The Townships argue points not fully developed or raised in the other defendants' briefs. First, they compare other treaties from the same time, negotiated by the same federal representatives to highlight the differences between treaties that established reservations and the 1855 Treaty. Second, the Townships attack the Tribe's proposed reservation "test" and explain why it is an unworkable standard.

Turning to evidence in this case, the Townships point out that the Tribe failed to supply evidence that its ancestors believed they had received a tribal reservation under federal jurisdiction. The Townships explain why it is entirely plausible that the Tribe would not have wanted a reservation in the 1850s. They point out that the Odawa historically stressed (1) a willingness to become "civilized" and educated, (2) a desire to become state citizens, (3) their conversion to Christianity, and (4) a quest to become landowners. The Treaty Journal also reflects the same four themes stated above. Thus, there is nothing implausible about the Odawa striking a deal with federal negotiators to own land and live as any other citizen.

The Townships argue that the Tribe attempts to fill the evidentiary void with statements about federal Indian policy, post-treaty documents using the word "reservation", and generalities about Indian understanding. However, the Tribe's representation of federal Indian policy is incomplete, and thus inaccurate. The Townships provide the context missing from the Tribe's brief and explain that the 1855 Treaty accomplished goals of federal Indian policy at the time: ending indefinite annuities and making band members landowners.

The City and Counties' Brief:

The Cities and Counties cross-appealed the District Court's rejection of their argument that the Tribe's predecessors benefited from a legal position in two previous cases that is opposite of their legal position in this case. Thus, the Municipalities' brief not only responded to the Tribe's appeal, but also argued that there are other grounds to dismiss the Tribe's case.

Overlapping the briefs of other defendants, the Cities and Counties provided additional support for the argument that the Tribe proposed the wrong test to determine whether a reservation exists. They, too, provided a comparative analysis of other treaties from the same time period to demonstrate how the 1855 Treaty did not create a reservation. The Cities and Counties also attacked the Tribe's brief as one that used strawmen arguments, "responding" to conclusions not actually made by the District Court, and relying on out-of-context statements from historical documents and case law.

Next, the Cities and Counties focused on proceedings before the Indian Claims Commission ("ICC") in which the Tribe's ancestors had claimed additional compensation for land cessions under an 1836 Treaty. The Cities and Counties argued that had the 1855 Treaty given the Tribe a reservation, the ICC would have considered the value of that interest. The Cities and Counties argued that while the District Court pointed to the fact that the ICC proceedings only dealt with compensation for title to land, and not jurisdiction, the ICC assigned no offset whatsoever based on the 1855 Treaty. Thus, the Tribe's predecessors convinced the ICC that no interest in the land was conveyed under the 1855 Treaty.

From here, all parties will await the final briefs in August to see when the case will be argued. Additionally, the U.S. Supreme Court is soon to decide a case involving reservations in Oklahoma—that too may lead to some further briefing.

Marijuana Retailer Opens Store In Bear Creek Township

The state laws of Michigan allowed local municipalities to "opt out" of providing for locations in their communities for the sale of recreational marijuana. Bear Creek Township was a community that opted out. Unfortunately, just north of M-119 on US 31, there is Trust property owned by an Indian Tribe. Trust property is land owned by an Indian Tribe that has been conveyed to the Federal Government to be held in Trust for the benefit of the Tribe. The Little Traverse Bay Bands of Odawa Indians holds multiple parcels of such Trust land. Because the retail marijuana store recently established on US 31 is located on Trust land, Bear Creek Township residents and its Township Board have no control over the establishment, despite having opted out as permitted by state law. If the Tribe were to be successful in its appeal of the adverse district court ruling in its case, and if most of Emmet County and a portion of Charlevoix County were ultimately determined to be a reservation, the Tribe could establish retail shops for the sale of marijuana throughout its reservation.

The Bear Creek marijuana retail establishment is owned by Lume Cannabis Co., a privately held cannabis company.

Black legged Ticks, Lyme Disease, and Covid-19….What do we know.

In 2019 ECLA Newsletter, the subject of ticks and Lyme disease were discussed. Lyme disease is caused by bites from the black legged ticks which transmits a bacteria to humans. Black legged ticks are increasing in Northern Michigan due to the deer population from which they attach themselves. As the deer move about, the black legged tick is spread. Lyme disease can develop 1-3 days after a bite, if not treated with a specific antibiotic given by a doctor. The bite may become swollen, inflamed and resemble a bulls eye target. See a doctor quickly. To avoid tick bites, avoid working or walking in the woods or tall grasses. When necessary wear protective clothing and spray your long, light colored pants, socks and tall foot wear with tick repellent. After exposure to woods and grass, remove the clothing and check for ticks on your skin. Remove any tick with tweezers and wash the bite wound well. Showering is also recommended.

Lyme disease and COVID-19 virus share similar symptoms. The nonspecific symptoms include fatigue, headaches, and body aches and are shared by a wide variety of health conditions. Lyme disease and COVID-19 do have some similar symptoms. Early Lyme disease symptoms include general flu symptoms including fever and chills, head/ body aches, fatigue, swollen lymph nodes, and bulls eye rash. Fever and chills fatigue, muscle or body aches, head aches. are also symptoms of COVID-19. But Lyme disease does not cause respiratory symptoms such as shortness of breath, and coughing like COVOD-19. Also changes in taste and smell, sore throats, nausea/vomiting and diarrhea are commonly present in COVID-19, but not in Lyme disease.

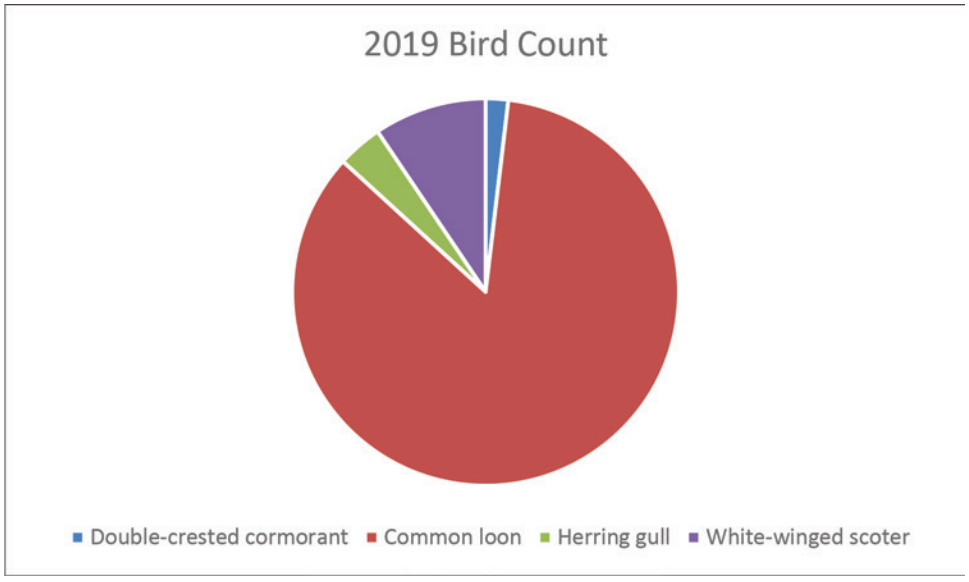
As we work through this difficult time with the more rapid spread of Covid-19 occurring in the North, we all want to enjoy the remaining Summer, Fall, and Winter seasons. Practicing recommended procedures to protect yourselves and others continue to be important. And hopefully next year will bring about a return to what we have come to experience as normal.

High Water Levels May Keep Avian Botulism at Bay

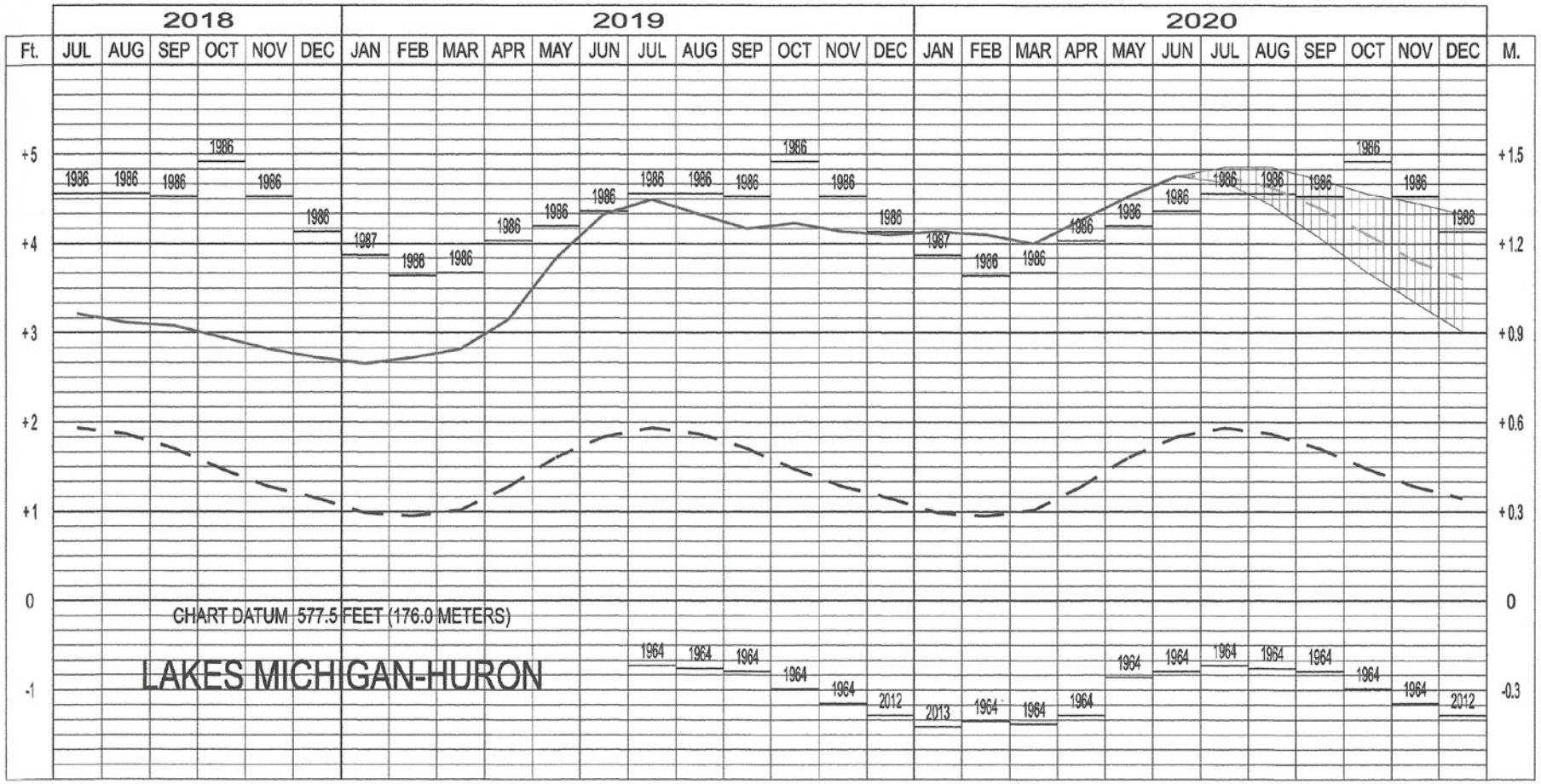
Courtesy of Caroline Keson, Watershed Specialist, Tip of the Mitt Watershed Council, (231) 347-1811

While the Great Lakes' high water levels are a bane to beach-lovers and riparian property owners, they could be a boon for birds. According to researchers from the University of Wisconsin-Madison, low water levels and higher water temperatures are associated with higher numbers of bird deaths from avian botulism. High water levels and cool lake temperatures appear to reduce the production of a naturally-occurring toxin called botulinum. Botulinum is a neurotoxin that makes its way from algae to water fowl, causing paralysis, and eventually death from botulism. If you've seen a dead bird on a Great Lakes beach, it is likely to have died from it.

In fall 2019, high water levels made it hard for volunteers to monitor beaches—some even had to resort to wearing waders or kayaking! The absence of beaches reduced collection points for washed up birds, so volunteers focused on coves and bays that were "hot spots" in previous years. In total, Watershed Council volunteers walked 120 miles of Lake Michigan shoreline in their search and found 66 dead birds. The mortality doubled over last year's count of 31 birds, but this is not as concerning compared to 2012 when 900 dead birds were documented. Common loons made up the majority of dead birds in the 2019 study, followed by white-winged scoters. Of the 66 birds found, ten were sent to the Michigan Department of Natural Resources to test whether avian botulism was the cause of death. Five of the ten birds likely died of avian botulism based on testing results. 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 (WHISPers), which can be viewed at **https://whispers.usgs.gov/home.**



LAKES MICHIGAN-HURON WATER LEVELS - JULY 2020



LEGEND

LAKE LEVELS

RECORDED

PROJECTED

AVERAGE **

MAXIMUM ** 1985 1985 1973 1973

MINIMUM ** 1936 1934 1926 1934

** Average, Maximum and Minimum for period 1918-2019

2020 Line 5 Article

BACKGROUND

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. Line 5 consists of a pair of pipelines along the bottomlands of the Straits. 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 ANCHOR STRIKES

Apart from concerns about the potential failure of an aged pipeline, a major risk factor for the integrity of Line 5 is the risk of anchor strikes.

A barge dragging its anchor in April of 2018 is believed to have sliced through three American Transmission Company cables, spilling more than 800 gallons of dielectric minerals, and to have marred and dented one of the 66-year old Enbridge pipelines. This experience demonstrated the risk of anchor strikes and raised concerns about the ability of Enbridge to respond to a spill. Wave action and floating ice delayed a response for 24 hours. Critics question what would happen in the event of a major Enbridge pipeline rupture and spill.

In June of 2020 what is believed to have been an anchor strike caused significant damage to an Enbridge support structure. Concerns again were amplified. What would have been the result if the damage had been a few inches higher on the pipeline itself or if a failure of the support structure had caused one of the pipes itself to rupture? Legal efforts to shut the lines down are discussed below under Legal Challenge by the Michigan Attorney General.

LEGAL CHALLENGES BY ENVIRONMENTAL GROUPS AND THE TRIBES

In addition to the legal challenges by the Michigan Attorney General's Office to the Enbridge pipelines and proposed tunnel in the past year, there have been several challenges by environmental groups. These groups include the National Wildlife Federation, the Environmental Law and Policy Center, and FLOW. To date, these challenges have been largely unsuccessful. The details of these challenges were discussed in ECLA's 2019 Newsletter.

The Chippewa Ottawa Resource Authority (CORA), which consists of 5 tribes, including the Little Traverse Bay Bands of Odawa Indians, has not been formally involved in the Attorney General's lawsuits. However, it has announced its intent to intervene in the proceeding before the Michigan Public Service Commission involving the tunnel construction. Its claim will be based upon claimed treaty rights under the 1836 Treaty of Washington -- a right to a "homeland, which includes access to clean Great Lakes water, both for a sustainable fishery and access to water in general."

LEGAL CHALLENGES BY THE MICHIGAN ATTORNEY GENERAL

- Enbridge filed suit against the state in the Michigan Court of Claims.
- Attorney General Nessel filed suits against Enbridge in the state Circuit Court. After the serious damage to the support structure described above, the Ingham County Circuit Court on June 25, 2020 ordered both lines shut down. This order was partially reversed on July 1, 2020 by the Michigan Court of Appeals, which allowed the undamaged line to continue in operation.

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ENBRIDGE NEEDS APPROVAL FOR THE TUNNEL FROM MULTIPLE GOVERNMENTAL BODIES

In addition to the Court proceedings, the following governmental bodies must approve the tunnel proposal:

- MDEGLE (formerly MDEQ), which addresses various potential environmental impacts.
- Mackinac Straits Authority, which would oversee construction of a tunnel.
- Michigan Public Service Commission.
  On June 30, 2020 after a contested case hearing, the Commission ruled Enbridge must complete a full permit review before it can build an oil pipeline tunnel beneath the Straits. The Commission rejected Enbridge's request to circumvent permit review based on Enbridge's claim that this work was "maintenance" authorized under its 1953 permit.
- Pipeline Hazardous Material Safety Administration (PHMSA).
  Staffing at this federal agency has been so severely cut back that they cannot possibly monitor the thousands of miles of pipelines in the U.S. PHMSA depends on the integrity of the oil companies' reporting documents.

COST OF THE TUNNEL AND TODAY'S OIL PRICES – IS ENBRIDGE BUYING TIME?

The cost of the proposed tunnel under the Straits is upwards of $500 million. Enbridge has an oil pipeline that runs east from Alberta, Canada, then crosses the Straits of Mackinac in a pair of pipelines, then runs south and east through Michigan, and ultimately ends up in a Canadian refinery in Sarnia, Canada. The line's future was in the production from oil sands located in western Canada.

However, oil prices have fallen so much that Exxon reported its first quarterly loss since 1988 and will shut down 75% of its oil rigs. Oil drillers are shutting down rigs in North Dakota's Bakken shale region. Oil prices have been in the range of $35 to $40 per barrel over the past 6 months. Bakken shale oil drilling requires a break-even price of $50 per barrel. New Canadian oil sands production requires an even higher price of at least $75 to $85 per barrel. Oil prices today simply do not support the substantial investment required for the construction of the tunnel.

So why is Enbridge pursuing the tunnel? That's the question. Are they actually intending on constructing the tunnel, or are they just creating the appearance of intending to do so? As discussed in ECLA's 2019 Newsletter, many believe that Enbridge is just buying time to allow the existing Line 5 to continue in operation as long as possible. This view that Enbridge does not intend to build the tunnel is supported by the fact that its financial statements identify no money for the construction of a tunnel.

BUOYED BY DECISIONS

Recent national events have buoyed the hopes of those seeking to shut down Line 5.

Atlantic Pipeline: These plans were dropped because of costly resistance from those concerned about the impact. The line was to go under the Appalachian Trail. No doubt declining oil prices played a role in this decision.
Dakota Access Pipeline: A Federal district court issued an injunction against the construction of this line pending the oil company providing an environmental review of its impacts.

Little Traverse Bay Ferry Service

A new non-profit ferry began service between Harbor Springs, Petoskey and Bay Harbor. It has been more than 80 years since a ferry service connected the three communities on the bay. The service will run between the promenade at Petoskey's Bayfront Park, Bay Harbor and Ford Park in Harbor Springs until September.

The ferry has a spacious deck and covered seating for 49 passengers and can accommodate handicapped travelers and bikes.

Please check their website at littletraversebayferry.com for weather conditions, schedule and COVID-19 requirements.

Asian Carp

Past Year's reporting regarding the Asian Carp threat to the Great Lakes.

The lack of reporting on the Asian Carp and the Great Lakes is due in large part to the success of the electrical barriers placed in the Chicago Sanitary and Ship Canal.

Asian Carp" includes four species

A. There are four species of Asian Carp: Bighead Carp, Silver Carp, Grass Carp, and Black Carp. In the 1960s, all four were introduced into commercial fish ponds in the southern United States to help manage algal overgrowth with their voracious appetites, but floods pushed them into the Mississippi River. There, the ravenous fish thrived, becoming some of the fastest-spreading invasive species in American history. These fish number in the millions in the Illinois River, not far from Chicago.
B. One species, the Grass Carp, has been caught in the Great Lakes. The Grass Carp is not present in sufficient numbers to create a breeding stock.
C. The Bighead Carp, which now comprises 97% of the Mississippi River biomass, has not yet been found in the Great Lakes. DNA from the species has, however, been found in the Great Lakes.

Asian Carp are still around, but the imminent threat has been reduced due to electrical barriers.

A. Two electrical barriers run by the U.S. Army Corps of Engineers are located in the Chicago Sanitary and Ship Canal. The barriers send out electrical impulses across a canal that is approximately 30 feet deep and 160 feet across.
B. The electrical barriers, while successful, are not a sure thing to stop the Carp from entering the Great Lakes. The barriers require constant maintenance. Electrical impulses can be interrupted by equipment problems, water chemistry, and boats passing over the electrical fences, and there are spaces within the electrical barriers where smaller fish can pass.

If the Asian Carp ever reach the Great Lakes, the consequences could be devastating:

A. With their voracious appetites, the Asian Carp would wreak havoc on the ecology of the Great Lakes.
B. The Carp would also pose a danger to boaters. When startled, the Asian Carp –which weigh upwards of 50 pounds -- accelerate and go airborne out of the water, and can strike boaters with significant force.

CAKE
Charlevoix•Antrim•Kalkaska•Emmet
Cooperative Invasive Species Management Area

Free Hemlock Surveys:
Help Us Save Our Hemlocks!

A Tree Worth Saving

Michigan is characterized by many different species of evergreens that blanket the state's northern landscape. One of these beloved evergreens is the eastern hemlock (Tsuga canadensis). Hemlocks are identified by their grooved bark, short needles with silvery undertones, and drooping branches. Often found along ravines, hillsides and stream banks, the eastern hemlock offers habitat for wildlife and provides shade to water bodies, effectively lowering stream temperatures and increasing oxygen for fish and other aquatic species. It is estimated that there are over 100 million mature hemlocks in the Great Lakes State. Unfortunately, this beautiful tree is now under threat from an invasive species: the hemlock woolly adelgid (Adelges tsugae).

The Threat: Hemlock Woolly Adelgid

Hemlock woolly adelgid (HWA) is a small insect that is obligate to hemlock trees. The pest feeds upon the stored energy reserves of hemlocks at the base of the needles. Over time, this action kills needles and branches, and can kill the tree in as little time as 4-10 years if left untreated. As adults, HWA are small, flightless brown insects. As young, the adelgid is recognizable in white, fluffy ovisacs at the base of hemlock needles during the winter months. Originally native to East Asia, HWA was accidentally brought to eastern North America in the 1950's; since then, it has spread throughout eastern North America and has decimated hemlock populations throughout the Appalachians. Now, it has made its way to Michigan, putting the state's hemlock population at risk.

What is Being Done?

To combat this oncoming threat, The Nature Conservancy is facilitating a survey and detection project along the 500 mile eastern coastline of Lake Michigan. Surveys are performed primarily along shoreline areas, as the main vectors for this species are believed to be people and birds. Every Cooperative Invasive Species Management Area (CISMA) along the lakeshore is participating in this project. From November-March, the Charlevoix, Antrim, Kalkaska and Emmet Cooperative Invasive Species Managment Area (CAKE CISMA) is actively taking requests for surveys, cost-free to landowners through this grant project.

If you have hemlocks on your land, we are requesting permission to access your property to perform a free survey of your hemlock trees and confirm that Northern Michigan remains free of this pest. Please fill out the form and return it to the CAKE CISMA at the Antrim Conversation District, at 4820 Stover Road, Bellaire MI - 49615. WIth your help, we can preserve and protect Michigan's hemlock population.

Landowner Consent for Hemlock Woolly Adelgid Survey

Landowner Information:
Survey for Eastern Hemlock Trees, Hemlock Woolly Adelgid and Elongate Hemlock Scale
Landowner Name(s): _____
Mailing Address: _____
Property Address(s): _____
Property Legal Description (See Deed or Tax Form): _____
_____
_____
Daytime Phone(s): _____
Email Address: _____
Tenant Name (if applicable): _____
Tenant Telephone: _____
Special Instructions Regarding Property Access (landscape features, animals, gates, preferred access times, etc.)

The undersigned ("Landowner"):

1. Authorizes CAKE CISMA, The Nature Conservancy ("TNC"), and their respective authorized agents and contractors, to enter and cross the above-described property ("Property"), during the period from _____ to _____, for the purposes of surveying the Property for eastern hemlock trees, the presence of hemlock woolly adelgid and elongate hemlock scale, and for evaluating and inspecting this surveying work (collectively, "Survey Work").

2. Agrees that the information collected from the Survey Work on the Property may be used by CAKE CISMA, TNC, and the Michigan Department of Natural Resources ("DNR") for any non-commercial purposes and will be public information.

3. Release TNC and the DNR from all claims, damages, liabilities, losses and costs to the Landowner that may arise or result from the presence of CAKE CISMA and their authorized agents and contractors on the Property, and their performance.

4. Represents, for the benefit of CAKE CISMA, TNC and DNR, that the undersigned owns the Property, and has the requisite authority to grant the authorizations provided in this document and to sign this document without the need for approval from any other party, or if any such approvals are needed they have already been obtained.

Landowner acknowledges that it has read the terms of this document and agrees to the stated terms.

Printed Name of Landowner	Signature of Landowner	Date

Printed Name of Landowner	Signature of Landowner	Date

Emmet County Lakeshore Assocation
Post Office Box 277
Harbor Springs MI 49740

In unity, there is strength

Emmet County Lakeshore Association

Board of Directors

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