

Emmet County Lakeshore Association

Summer 2023 Newsletter



ENBRIDGE LINE 5 -- THE NEVER-ENDING SAGA BRIEF BACKGROUND

"The Line 5 pipeline of Enbridge Energy, Limited Partnership ("Enbridge") was built in 1953. The pipeline extends across the Straits of Mackinac for a distance of approximately 5 miles. The pipeline consists of two 24-inch pipelines and was installed pursuant to a permit issued by the State of Michigan. Line 5 transports daily up to 540,000 barrels - or 422.68 million gallons -- of light crude oil and liquid natural gas.

Because of the age of this line, previous mishaps concerning this line, as well as a major 2015 oil spill by Enbridge in the Kalamazoo River which cost approximately \$1 billion to clean up, many individuals and organizations have taken steps to have Line 5 removed from the Straits of Mackinac. The 2019 and 2020 newsletters provide much more detail concerning the history of these lines and the problems associated with Enbridge and Line 5.

Former Governor Snyder previously approved Enbridge's proposal to construct a tunnel in the bedrock underlying the Straits to house the pipeline, ostensibly to avoid a spill entering the waters of the Great Lakes. This proposal has brought opposition and challenges -- some against the tunnel with concerns about its environmental impacts, and others voicing a concern that during the 7 to 10 years it will take to construct

the tunnel, Line 5 continues to pose a threat of contaminating the Great Lakes if it should rupture. This newsletter will update the readers on what has transpired in enforcement efforts since ECLA's newsletter in 2022."

Over the past several years ECLA has been reporting on the Enbridge Line 5 petroleum pipelines crossing the Straits of Mackinac. The legal issues surrounding Line 5 and the proposed tunnel have grown increasingly complex.

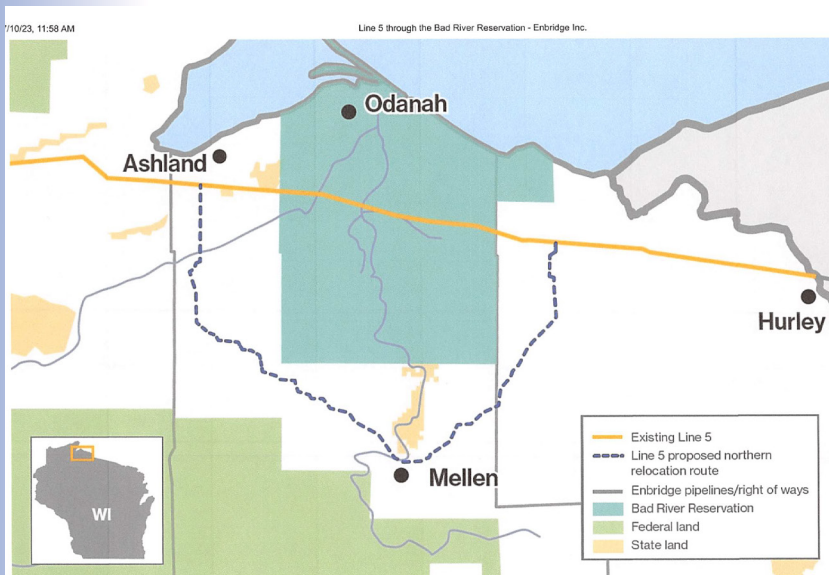
CURRENT DEVELOPMENTS

USACE REQUIRES MORE TIME TO COMPLETE THE REQUIRED EIS:

The U.S. Army Corps of Engineers ("USACE") has stated it needs more time to study the environmental impact of a tunnel. It has stated it will not be ready to release its Environmental Impact Statement ("EIS") until the spring of 2025, a requirement before tunnel construction can commence. This delay will likely mean that Line 5 will continue to transport fossil fuels until the tunnel is completed.

While those opposed to Line 5 applaud the USACE decision to study the environmental impact of the proposed tunnel, others have said this simply buys more time for Enbridge to continue running its 70-year-old pipelines, and that Enbridge never intends to build the tunnel but is buying whatever time it can get to continue operating the lines. It is interesting to note that Enbridge maintains it can build the tunnel for \$5,000,000. This estimate has not changed in several years. Many estimate the cost to be one-half billion dollars -- something Enbridge will not pay with the world of energy supply changing from fossil fuels to alternatives, or if at the time Enbridge needed to write the check, the price of oil had significantly dropped.

Previously it was understood that the EIS would, among other things, determine the impact that the prolonged transportation of fossil fuels would have on climate change. However, the USACE recently announced that its environmental impact study will be limited to the area of the line under the Straits. This substantially limits its ability to study alternatives to Line 5 that are broader than just the section under the Straits, which is a significant



Line 5 pipeline safety

Safety is our top priority. We remain in near daily communication with Bad River staff to maintain the safe and reliable operation of the pipeline. We're pleased that the Band is committed to continuing to work with us on Line 5 operations and maintenance activities.

disappointment to those who want Line 5 to be replaced by an alternative.

THE MICHIGAN PUBLIC SERVICE COMMISSION:

In addition to the pending lawsuits, the USACE review, and the impact of the Wisconsin Court decision discussed below, the proposed tunnel is still being considered by the Michigan Public Service Commission, which will need to decide whether to permit the tunnel project. A decision adverse to Enbridge could scuttle the tunnel plans.

ENBRIDGE MOVES FORWARD WITH PLANNING AND DAMAGE PREVENTION:

While it cannot commence construction, Enbridge continues to work on its design and soil conditions for the tunnel. The anchor strike damaging Line 5 is being addressed by Enbridge establishing towers with high magnification cameras filming the passing vessels to determine if any is dragging an anchor. It also contacts the vessels with a two-way radio to obtain their confirmation that no anchor is deployed overboard.

Enbridge also has employed a campaign to promote the safety of the proposed tunnel and alleged concerns about the impact on the price and supply of petroleum, as well as jobs, if Line 5 is shut down.

THE LAWSUITS:

Both Governor Whitmer and Attorney General (“AG”) Nessel have filed lawsuits to shut down Line 5 running through Michigan. Both lawsuits were filed in Michigan State Courts and both lawsuits were removed by Enbridge to the U.S. Federal District Court. Enbridge’s removal request was based upon its position that its pipelines are regulated by the Pipeline and Hazardous Materials Safety Administration. It also asserts, as did the government of Canada, that the pipeline is the subject of a 1977 Treaty between Canada and the U.S. which controls what cannot be done to limit the energy supply to Canada and to the U.S.

Governor Whitmer dismissed her lawsuit which sought termination of Enbridge’s permit from the State while a Counterclaim filed by Enbridge is still pending in the 6th Circuit Court of Appeals. The Federal Court has granted the AG an interlocutory appeal to the 6th Circuit Court of Appeals on the question of whether the Federal or State Court should have jurisdiction. Appeals are typically not granted until a case is concluded. If the State Court is granted jurisdiction over the Federal Court by the 6th Circuit Court of Appeals, this will be seen as increasing the chances of the AG being successful in the litigation and having the Line 5 permit terminated. State Courts give deference to the Attorney General’s direction.

FINANCIAL ABILITY OF ENBRIDGE TO CONSTRUCT THE TUNNEL:

Enbridge has not posted any financial security to assure that if the tunnel construction begins it would be completed.

Enbridge recently merged with Spectrum Energy and has a very strong balance sheet, so even at a price tag of more than one-half billion dollars, Enbridge has the financial ability to complete the tunnel.

POSITIONS OF OPPONENTS TO THE TUNNEL AND LINE 5:

The opponents to the proposed tunnel break down into 3 groups. One group wants the tunnel and Line 5 dropped because of its long-term perpetuation of the use of fossil fuels. A second group views the tunnel as environmentally unsafe, with a risk of explosion within the tunnel and other possible hazards. A 3rd group likes the tunnel idea, but wants Line 5 discontinued until the tunnel is in place.

RECENT DEVELOPMENT -- A WISCONSIN COURT ORDER ON LINE 5:

The Bad River Band of Lake Superior Chippewa filed a lawsuit against Enbridge claiming the portion of Line 5 extending across its reservation in Wisconsin is a trespass and is damaging its reservation. AG Nessel filed an amicus brief (since Michigan is not a party to the case) claiming that Michigan had a stake in the outcome of the case, and supported the Tribe’s claim.

The Wisconsin Judge assigned to the case sided with the Tribe, ordering Enbridge to shut down that portion of the line running through the reservation and gave it 3 years to do so while it undertook an alternative route (*see map of Line 5 - Bad River Reservation*). Why is this decision important to Michigan? This is a section of Line 5 before it reaches the Straits. If this section is shut down within the 3-year time period, the tunnel will not have been constructed (construction is now projected to commence in 2026 and completed in 2030, albeit these dates are very optimistic). If the order holds, this would mean Line 5 running through the Straits would be discontinued. Enbridge has appealed this decision.

SUMMARY:

The Line 5 dispute is on a course of 10 to 15 years before resolution unless there is a detour in its course if one or more of the following were to occur:

- a. The Wisconsin section of Line 5 is shut down within 3 years as required by the Wisconsin court decision, making the Straits section inoperable.
- b. The 6th Circuit Court of Appeals in the interlocutory appeal finds that the Michigan State Court has jurisdiction. This would likely bring about a relatively quick decision to shut down Line 5.
- c. The wild card. The price of oil reaches a price that makes constructing the tunnel not financially practicable.

THE STRAITS AREA -- AN AMAZING, UNIQUE AREA FOR THE INVENTORY OF BIRDS LAKES RESTORATION

The Christmas Bird Count: The Christmas Bird Count administered by the National Audubon Society has occurred in December each year since 1900. Among other locations in North America, the count takes place in the Straits area, including Mackinac Island. The data collected is essential in identifying long-term trends in bird populations. Counters count everything they can; they are looking for trends. The trends have shown that birds are moving farther north. We didn't use to have Cardinals here. Now we do. Purple finches used to be common in the Straits area; now with milder northern winters, the finches are moving further north. Birds are believed to be responding to climate change.



The Fall and Spring Banding of Raptors: The Straits are an attractive crossing area for migrating birds that prefer not to fly across the open lake. Last spring 68,000 birds representing 20 species migrated across the Straits.



was invited last fall by Nick Alioto, a student at MSU writing his thesis on the migration of Red-tailed Hawks, Scott Davis, director of Raptor Watch, and Ed Pike to join them in a camouflage blind to trap Red-tailed Hawks and Golden Eagles. You may know Ed who lives on Island View and is retired from the Michigan Department of Natural Resources.

Nets are strung up that are almost invisible to the eye. A starling and a bird call are used as bait to attract the raptors. Out of nowhere, a raptor swoops in and is hung up in the net. Ed or Nick quickly removes the bird from the net. A hood is placed on the head of the hawk which causes the hawk to become very calm. The bird is measured, vitals taken, and if the bird is strong enough and there are enough transmitters, a transmitter backpack is placed on the bird. The transmitter is solar powered and returns information on the hawk's location, speed and weather. Little is known about the Red-tailed Hawk and the transmitter signal is lost as it goes far north out of Canada. The Red-tailed is a common bird and provides information and lessons learned that are applicable to many other species. Anyone wishing to know more, or visit a banding, or provide a donation for the program can contact Scott Davis at scott@mackinacaptorwatch.org, or ECLA's president, Gary Rentrop, at grentrop@rentropmorrison.com.

WETLANDS ON YOUR PROPERTY AND THE U.S. ARMY CORPS OF ENGINEERS

In Emmet County, there are properties with wetlands that are in proximity to Lake Michigan. Previously, owners of land who wished to put in a driveway to cross their wetland needed to get a permit from the State of Michigan if the wetland met the criteria of a regulated wetland. The owner also needed to get a federal permit from the U.S. Army Corps of Engineers (the "USACE"). In order to obtain the required federal permit, a homeowner was frequently required by USACE to dedicate a conservation restriction, limiting the use of the wetland and immediate abutting property.

In the U.S. Supreme Court case of Sackett v. EPA, decided in June of this year, the Justices rendered an opinion that the USACE had no jurisdiction over the wetland if there was not a stream, river, or other continuous surface water connection of the wetland to the lake over which the USACE had jurisdiction.

INVASIVE SPECIES KNOCKING AT OUR DOOR

We have reported in the past on numerous invasive plant and animal species. This includes Beech Bark Disease, Oak Wilt Disease, Emerald Ash Borer, and the Hemlock Woolly Adelgid. In this issue, we will focus on two tree diseases not yet in Emmet County, but which may soon be knocking on our door.

BEECH TREES: The new disease reported in 3 lower Michigan Counties is the Beech Leaf Disease. The Beech trees were nearly devastated in Northern Michigan due to the Beech Bark disease, and its survivors may soon be confronted with the Beech Leaf Disease. A microscopic worm enters and spends the winters in the leaf buds, causing damage to the leaf tissue. The tree can then die within six to ten years.



HEMLOCK WOOLY ADELGID: This disease has not yet reached Emmet County but presents a tragic risk to stately Hemlock trees if it does. We are encouraged to look for this disease in the fall. It can be identified as the white fuzz on the underside of the leaf. See the photograph in this letter. If spotted, please notify Tip of the Mitt or the Michigan Department of Natural Resources. Individual trees can be treated but there are so many Hemlocks that staying on top of this disease will be difficult.



DEER TICK/ BLACKLEGGED TICK

A prior ECLA Newsletter discussed the various diseases ticks can carry. The most common is Lyme Disease which can be debilitating if contracted. So, have you experienced a tick bite? What to do? In the past, the Michigan Department of Natural Resources provided a free lab service where the ticks could be sent in for testing to see if the tick carried Lyme Disease. This service is no longer available. There are private companies that for a fee will provide this service.

What does a tick bite look like that may have passed the disease on to you? Look for redness around the bite that begins to broaden, eventually appearing as a bullseye. 80%

of those infected will experience the bullseye, which shows up in 3-30 days. There are various photographs of such a bite on the internet; however, the photograph in this newsletter of a tick bite on the arm of Dr. Richard Scott, a Cross Village resident, is excellent for showing the typical bullseye reaction to a Lyme Disease bite. We thank Richard for making this photo available. The disease is treated with antibiotics, typically doxycycline. Treatment should not be delayed when there is a broadening area of redness and certainly if the bullseye shows up.



WATER LEVELS



US Army Corps
of Engineers
Detroit District

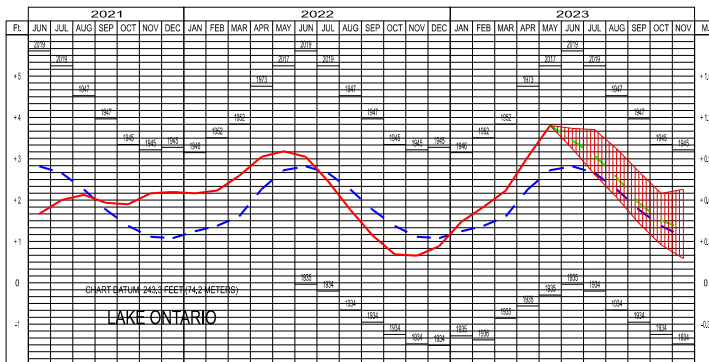
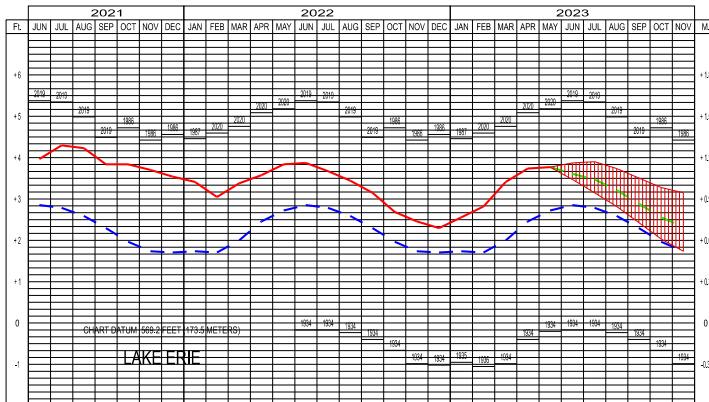
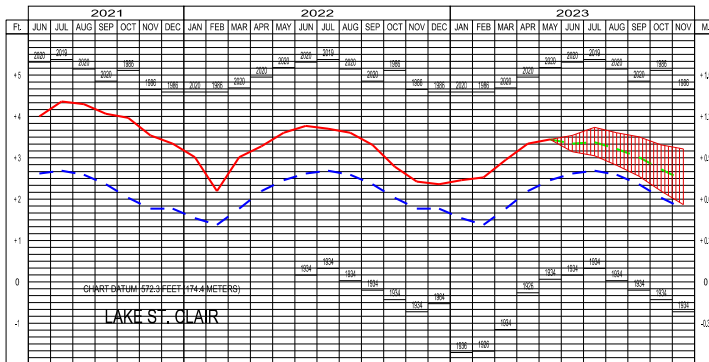
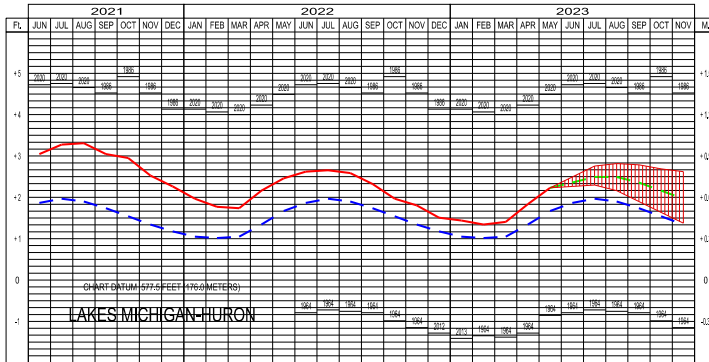
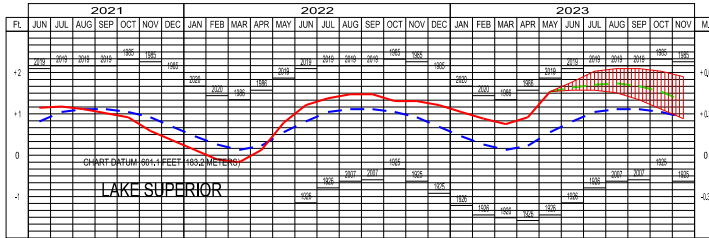


MONTHLY BULLETIN OF LAKE LEVELS FOR THE GREAT LAKES

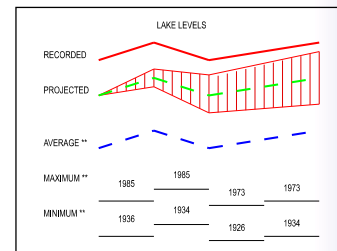
JUNE 2023

Monthly mean water levels for the previous year and the current year to date are shown as a solid line on the hydrographs. A projection for the next six months is given as a dashed line. This projection is based on the present condition of the lake basin and anticipated future weather. The shaded area shows a range of possible levels over the next six months dependent upon weather variations. Current and projected levels (solid and dashed lines) can be compared with the 1918-2022 average levels (dotted line) and extreme levels (shown as bars with their year of occurrence). The legend below further identifies the information on the hydrographs.

ELEVATIONS REFERENCED TO THE CHART DATUM OF EACH RESPECTIVE LAKE



LEGEND



The levels on the hydrographs are shown in both feet and meters above (+) or below (-) Chart Datum. Chart Datum, also known as Low Water Datum, is a reference plane on each lake to which water depth and Federal navigation improvement depths on navigation charts are referred.

All elevations and plots are referenced to the International Great Lakes Datum 1985 (IGLD 1985). IGLD 1985 has its zero base at Rimouski, Quebec near the mouth of the St. Lawrence River (approximate sea level).

Visit our website for more information:
<https://www.lre.usace.army.mil/greatlakes>

MAY MEAN LAKE LEVELS

(IGLD 1985)

	Superior	Mich-Huron	St. Clair	Erie	Ontario	
* 2023	FL	602.59	579.66	575.62	573.00	247.24
	M.	183.67	176.68	175.45	174.65	75.36
2022	FL	601.84	579.89	575.79	573.06	246.62
	M.	183.44	176.75	175.50	174.67	75.17
** MAX.	FL	602.92	581.92	577.36	574.41	248.69
	M.	183.77	177.37	175.98	175.08	75.80
Yr.		2019	2020	2020	2020	2017
	FL	599.61	576.57	572.24	569.03	243.14
** MIN.	M.	182.76	175.74	174.42	173.44	74.11
	Yr.	1926	1964	1934	1934	1935
** AVG.	FL	601.61	579.10	574.64	571.95	246.16
	M.	183.37	176.51	175.15	174.33	75.03

* provisional
** Average, Maximum and Minimum for period 1918-2022



More Stories of the Village by the Cross

Jane Cardinal

In 1837, the Michigan legislature established a geological survey to study the state's natural resources to be led by Douglass Houghton and assisted by Bela Hubbard *who would later call for a State Agriculture College and model farm in 1855...Michigan State College.*

“In the summer of **1838** I had the pleasure of visiting several villages of Ottawas, about L'Arbre Croche and Traverse Bays, of Lake Michigan. They had here formed several agriculture communities, with a total population of more than one thousand souls. All around was uninhabited wilderness.

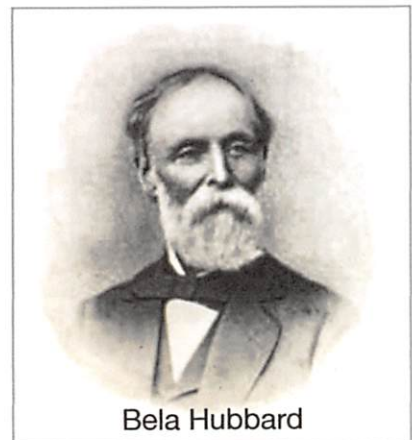
They dwelt in cabins built of logs, twenty to twenty-five feet square, and thatched on roof and walls with cedar bark, solidly constructed and comfortable.

The principal village, of about fifty cabins, was arranged in a regular street, sixtyfive feet wide, the houses opposite each other, and from fifty to one hundred feet part and most of them had private yards, filled with current bushes and other shrubbery.

The internal appearance was equally neat. There were several apartments, and the walls were adorned with highly colored pictures.

Upon the height, above the village, stood the Mission Church, a building of considerable size, with the dwelling of the priest adjoining, and in front a large white cross.

The farm on the upland, was worked in common and fine crops of Indian corn and potatoes were growing.”



Bela Hubbard

He further notes that it was probably two centuries earlier that the first seeds of Christianity were planted there by the zealous labors of Jesuit fathers.

Potato Soup Valley

Where did that name come from?

The version of the story in the news article on the right, is a bit harsh when compared to another version recalling a tale of settling Emmet after the Civil War when Union soldiers were granted 160 acres of Federal land. In 1931 Ethel Fasquelle wrote what she stated in the following was the truth mixed with a little fiction. The story features the Hart family "one of the oldest and sturdiest of the area."

— 1936 —
Potato Soup Valley, a hamlet west of Levering, was named by surveyors after they had supped on particularly unappetizing potato soup made from brackish water found in the valley. For many years the name had been dropped and forgotten, until Mrs. Elmer Kilpatrick, correspondent for The Graphic, took it 25 years ago as a heading for her column.



The Convent in the snow

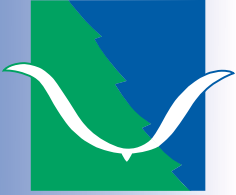
It was 1874 and winter had been long in arriving. Christmas was near. The two Hart brothers, Bob, Silas and son Pete left Cross Village with groceries and some practical Christmas gifts and started their return to the make-shift squatter's log shack they'd put together to begin "proving up" their land. The weather being unseasonably mild, they'd outfitted on the light side. They were some miles on their way when it started to snow. They'd brought neither snowshoes nor their rifles with which they could signal their position to the men at the Convent. Christmas was but three days away.

They needed shelter and reasoned that their best choice would be near a stream in the pit offered by a large fallen tree. The roots provided an overhang that when

woven with pine boughs would serve as shelter. They cut soft fir for bedding, hauled dead timber and started a fire. Two days passed. The steady snow fall deepened the gathering drifts. They had to keep the opening of their shelter free to make it to the spring which fortunately remained flowing. The bread and cold fish given at the Convent were gone. They were then forced to dig into the Christmas groceries meant for the family celebration at their homestead. Silas remembered the rich soups that his mother used to make with bacon, potatoes and onions. They knew they had to portion the failing reserves but the soup was glorious. The sky cleared on Christmas morning and they started a huge smokey fire in the clearing in hopes that they might be spotted.

At first they heard the dogs and then the Native American hunters on snowshoes sent from the convent. They brought snowshoes and stayed with them to within reach of their homestead.

"And that is why one of the loveliest valleys in the North country is still called "Potato Soup Valley", the name by which it was christened with snow on that Christmas Day in 1874. And why, so long as there is a living descendant of the pioneers of those days the quaint old name "Potato Soup Valley" will be a memorial to the homely dish that saved the lives of these sturdy backwoods settlers. And why too, if you should drop into the home of a descendant of Peter Hart on the twenty-second day of December, you are apt to enjoy a delicious bowl of the rich potato soup made after great-great-grandmother Hart's famous recipe."



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In unity, there is strength

Emmet County Lakeshore Association

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