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Native American Rights Fund and Earthjustice join Enbridge fight

BAY MILLS — As Enbridge continues to move forward with plans to build a tunnel to house Line 5 under the Straits of Mackinac, Bay Mills Indian Community continues to fight.

This week, BMIC added a few new tools to their belt — enlisting the services of Earthjustice and the Native American Rights Fund to assist in the legal battle against Enbridge.

Earthjustice is a nonprofit public interest environmental law organization working to protect people's health, to preserve magnificent places and wildlife, to advance clean energy, and to combat climate change.

NARF has provided specialized legal assistance to Indian tribes, organizations, and individuals nationwide since 1970. NARF works in such critical areas as tribal sovereignty, treaty rights, natural resource protection, voting rights, and Indian education.

Both organizations are representing BMIC pro bono.

"We are pleased to expand our presence in the Midwest and stand with Bay Mills in defense of the Great Lakes—the largest freshwater system in the world—and the incredible and complex ecosystems that have sustained the Anishinaabe people for generations," said Gussie Lord, director of Tribal Partnerships at Earthjustice. "Bay Mills has consistently voiced its concerns about the continued operation of Line 5 through the Straits of Mackinac and across other ceded territory in Michigan where it holds treaty-protected rights."

BMIC and its new legal advocates intend to pursue all avenues to prevent the construction of the tunnel and the pipeline's presence in treaty-ceded waters.

On behalf of BMIC, Earthjustice and NARF attorneys filed a Petition to Intervene to participate as a party in the Enbridge Line 5 Tunnel Project proceedings before the Michigan Public Service Commission.

"With their application to move a section of the Line 5 pipeline to a tunnel dug under the Straits of Mackinac, Enbridge proposes a significant project that could have extreme impacts on the area's waterways and wildlife. Over the years, the tribe has consistently fought to protect their fishing and hunting rights. Yesterday's filing continues that fight.

NARF is proud to stand with the nation to ensure that the Bay Mills Community's fishing lifeways and tribal homelands are adequately protected for generations to come," said NARF Staff Attorney David Gover.

The legal team will also submit comments, on behalf of Bay Mills, opposing Enbridge's request to issue a declaratory ruling. The oil giant is claiming that, due to the original 1953 easement under the Great Lakes, the project can now skirt any additional review by the Commission—including any review of environmental impacts.

BMIC — as well as many other tribes, environmentalists, and citizens — disagrees with that position.

"It is extremely important for Bay Mills Indian Community to take up this battle against Enbridge," said Whitney Gravelle, BMIC in-house counsel. "Since time immemorial, the Great Lakes have been an integral part of Bay Mills' way of life, and they will continue to be an integral part of tribal culture, tradition, and economy for many generations to come. By failing to consider the dangers Line 5 poses to treaty-fishing rights, cultures, and traditions of the Anishinaabe, we risk killing the heart of Turtle Island — the heart of North America."

The public comment period is open to anyone who would like to submit. Written or electronic comments will be accepted no later than May 13, officials said. Electronic comments are to be e-mailed to mpscdockets@michigan.gov and should reference case number U-20763. Written comments may be addressed to: Executive Secretary, Michigan Public Service Commission, 7109 W. Saginaw Hwy, Lansing, MI 48917.

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