

THIRD AGREEMENT BETWEEN THE STATE OF MICHIGAN, MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY, AND MICHIGAN DEPARTMENT OF NATURAL RESOURCES AND ENBRIDGE ENERGY, LIMITED PARTNERSHIP, ENBRIDGE ENERGY COMPANY, INC., AND ENBRIDGE ENERGY PARTNERS, L.P.

This Third Agreement is entered between the State of Michigan, the Michigan Department of Environmental Quality, and the Michigan Department of Natural Resources (collectively referred to herein as “the State”), AND Enbridge Energy, Limited Partnership, Enbridge Energy Company, Inc., formerly known as Lakehead Pipe Line Company, Inc., and Enbridge Energy Partners, L.P. (collectively referred to herein as “Enbridge”) concerning those segments of Enbridge’s Line 5 pipeline (“Line 5”) that are located within the State of Michigan. This Third Agreement results from, and is intended to fulfill, the parties’ obligations under Paragraph I.G. of the Second Agreement between the State and Enbridge, entered October 3, 2018 (“Second Agreement”), in which the parties agreed to pursue further agreements to address Line 5’s crossing of the Straits of Mackinac (“Straits”).

WHEREAS, the Second Agreement affirms that the segments of Line 5 located within Michigan must be operated and maintained in compliance with all applicable laws that are intended to protect the public health, safety, and welfare and prevent pollution, impairment, or destruction of the natural resources of the State of Michigan, including the unique resources of the Great Lakes, and requires specified measures to further protect ecological and natural resources held in public trust by the State of Michigan;

WHEREAS, the Second Agreement remains in effect and the parties wish to supplement it pursuant to Paragraph I.G. of that Agreement by entering into this Third Agreement addressing the operation, replacement, and decommissioning of the existing Dual Pipelines at the Straits, conditioned upon and in conjunction with, an Agreement between Enbridge and the Mackinac Straits Corridor Authority (“Authority”) to design, construct, operate, and maintain a utility tunnel at the Straits to accommodate a replacement for the Dual Pipelines and other utilities (“Tunnel Agreement”);

WHEREAS, on December 19, 2018, Enbridge and the Authority entered into the Tunnel Agreement.

The Parties hereby agree as follows:

Article 1 Definitions and Interpretation

1.1. Definitions

- (a) “1953 Easement” means the “Straits of Mackinac Pipe Line Easement [granted by the] Conservation Commission of the State of Michigan to Lakehead Pipe Line Company, Inc. (Lakehead) executed April 23, 1953.
- (b) “Authority” means the Mackinac Straits Corridor Authority.
- (c) “Bare Metal” means any area on the Dual Pipelines where the metal pipe is visually exposed and in direct contact with water.
- (d) “Day” means a calendar day unless expressly stated to be a business day. In computing any period of time under this Third Agreement, where the last Day would fall on a Saturday, Sunday, or U.S. federal holiday or Michigan state holiday, the period shall run until the close of business of the next business day.
- (e) “Dual Pipelines” means the 4.09-mile portion of Enbridge’s Line 5 pipeline consisting of two 20-inch diameter seamless pipelines that cross the Straits.
- (f) “Enbridge Board of Directors” means the Enbridge Inc. Board of Directors.
- (g) “Enbridge” means Enbridge Energy, Limited Partnership or its successors and assigns.
- (h) “Government Approval” means all permissions, consents, approvals, certificates, permits, licenses, agreements, registrations, notices, exemptions, waivers, filings, and authorizations (whether statutory or otherwise) required by law.
- (i) “Heavy Crude Oil” means any liquid petroleum with an American Petroleum Institute gravity index of less than 22 degrees, including, but not limited to, diluted bitumen.
- (j) “Line 5” means the Enbridge light crude and natural gas liquids pipeline that extends from Superior, Wisconsin, through the Upper Peninsula of Michigan to the Lower Peninsula of Michigan and then across the U.S.-Canada international boundary to Sarnia, Ontario, Canada.
- (k) “PPI” means the Producer Price Index for Finished Goods published each year by the U.S. Department of Labor, Bureau of Labor Statistics or any lawful successor agency thereto.
- (l) “Second Agreement” means the agreement entered on October 3, 2018 between the State of Michigan, the Michigan Department of Environmental Quality, and the Michigan Department of Natural Resources AND Enbridge Energy, Limited Partnership, Enbridge Energy Company, Inc., and Enbridge Energy Partners, L.P.
- (m) “State of Michigan” means the State of Michigan and the Departments of Environmental Quality and Natural Resources.
- (n) “Straits of Mackinac” or “Straits” means that segment of water between the upper and lower peninsulas of Michigan that connects Lake Michigan and Lake Huron.

- (o) “Straits Line 5 Replacement Segment” means that segment of 30-inch pipe that is to be constructed, operated, and maintained within the Tunnel to connect to Enbridge’s existing Line 5 pipeline on either side of the Straits so as to serve as a replacement to the Dual Pipelines.
- (p) “Tunnel” has the meaning set forth in the description provided in Section 6.1 of the Tunnel Agreement.
- (q) “Tunnel Agreement” means the agreement entered into on December 19, 2018 between Enbridge and the Mackinac Straits Corridor Authority.

1.2. In this Third Agreement unless the context otherwise requires:

- (a) the words “including,” “includes,” and “include” will be read as if followed by the words “without limitation”;
- (b) the meaning of “or” will be that of the inclusive “or,” that is meaning one, some or all of a number of possibilities;
- (c) a reference to any Party includes each of their legal representatives, trustees, executors, administrators, successors, and permitted substitutes and assigns, including any Person taking part by way of novation;
- (d) a reference to this Third Agreement or to any other agreement, document, or instrument includes a reference to this Third Agreement or such other agreement, document or instrument as amended, revised, supplemented or otherwise modified from time to time;
- (e) a reference to any Governmental Entity, institute, association or body is: (i) if that Governmental Entity, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Government Entity, institute, association or body are transferred to another organization, a reference to the reconstituted, renamed or replaced organization or the organization to which the powers or functions are transferred, as applicable; and (ii) if that Governmental Entity, institute, association or body ceases to exist, a reference to the organization which serves substantially the same purposes or objectives as that Governmental Entity, institute, association or body;
- (f) words in the singular include the plural (and vice versa) and words denoting any gender include all genders;
- (g) headings are for convenience only and do not affect the interpretation of this Third Agreement;
- (h) a reference to this Third Agreement includes all Schedules, Appendices, and Exhibits;
- (i) a reference to a Section or Schedule is a reference to a Section or Schedule of or to the body of this Third Agreement;
- (j) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning.

Article 2 Representations

2.1. Authority - Signatories for each Party represent that they have authority to enter into this Third Agreement.

Article 3 Relationship to Tunnel Agreement

3.1 Agreements Mutually Dependent - This Third Agreement is premised upon the existence, continued effectiveness of, and Enbridge's compliance with the Tunnel Agreement, under which Enbridge is required to design, construct, and operate and maintain the Tunnel to accommodate the Straits Line 5 Replacement Segment that will replace the Dual Pipelines.

Article 4 Continued Operation of Dual Pipelines Pending Completion of Tunnel and Activation of Line 5 Replacement Segment

4.1 The State agrees that Enbridge may continue to operate the Dual Pipelines, which allow for the functional use of the current Line 5 in Michigan, until the Tunnel is completed, and the Straits Line 5 Replacement segment is placed in service within the Tunnel, subject to Enbridge's continued compliance with all of the following:

- (a) The Second Agreement;
- (b) The Tunnel Agreement;
- (c) This Third Agreement;
- (d) The 1953 Easement; and
- (e) All other applicable laws, including those listed in Section V of the Second Agreement.

4.2 Provided that Enbridge complies with Section 4.1 above, the State agrees that:

- (a) The work done and to be done at the water crossings pursuant to the Second Agreement adds protections to the health, safety, and welfare of Michiganders and increases protection for Michigan's environment and natural resources.
- (b) Enbridge's compliance with Article 5 below demonstrates compliance with the specified conditions of the 1953 Easement.
- (c) The replacement of the Dual Pipelines with the Straits Line 5 Replacement Segment in the Tunnel is expected to eliminate the risk of a potential release from Line 5 at the Straits.
- (d) In entering into this Third Agreement, and thereby authorizing the Dual Pipelines to continue to operate until such time that the Straits Line 5 Replacement Segment is placed into service within the Tunnel, the State has acted in accordance with and in furtherance of the public's interest in the protection of waters, waterways, or bottomlands held in public trust by the State of Michigan.

- (e) Based on currently available information, the State is not aware of any violation of the 1953 Easement that would not be addressed and cured by compliance with Section 4.1 and Article 5 of this Agreement.

4.3 Additional measures to assure integrity of Dual Pipelines:

- (a) Enbridge will implement an enhanced inspection regime for the Line 5 Dual Pipelines beginning in 2024 or sooner as specified in Appendix 1, attached to his Third Agreement, and continuing while the Line 5 Dual Pipelines are still in use. If the Line 5 Dual Pipelines are still in use in 2026, Enbridge will conduct a hydrotest (or an equally reliable alternative technology for confirming integrity and material strength) of the Line 5 Dual Pipelines unless the Tunnel and the Straits Line 5 Replacement Segment are expected to be completed and operational on or before December 31, 2026. Reports of the inspections will be made available to the State of Michigan for review. The inspection regime as described will be used to evaluate whether agreed upon technical criteria are being met. The enhanced inspection regime and the agreed upon criteria are specified in attached Appendix 1.
- (b) Enbridge agrees that it will not assert that these additional measures required under this Third Agreement or the measures regarding Line 5 water crossings other than the Straits required under Paragraph I.I. of the Second Agreement are preempted by federal law or otherwise unenforceable.

Article 5 Compliance with 1953 Easement

5.1 Financial Assurance:

- (a) Until the Dual Pipelines are permanently decommissioned, Enbridge will maintain compliance with the requirements of Paragraph I.J of the Second Agreement, supplemented and modified as follows:
 - (i) The \$1,878,000,000 minimum amount will be annually adjusted for inflation based on the PPI on October 1, 2019 and each year thereafter.
 - (ii) Enbridge will file with the State updated financial assurance information on an annual basis in a format consistent with Appendix 3 to the Second Agreement, beginning thirty (30) days after the effective date of this Third Agreement.
 - (iii) Enbridge will promptly notify the State in writing of any material change concerning the financial assurance information provided under Section 5.1(a)(ii). A material change shall be any change in the financial status of Enbridge that may prevent Enbridge from complying with Section 5.1(a)(i).

- (b) The State agrees that if Enbridge meets the requirements under Section 5.1 (a) of this Third Agreement, Enbridge will be deemed to satisfy its financial assurance obligations specified under Paragraph J of the 1953 Easement.

5.2 Pipeline Coatings:

- (a) Enbridge is committed to completing the implementation of the State-approved plan for visual inspection of pipeline coatings at all locations on the Dual Pipelines where screw anchor supports have been installed. Enbridge will promptly repair the coating at any and all locations where Bare Metal is identified as a result of such visual inspection. Enbridge will take all reasonable efforts to complete implementation by October 30, 2019.
- (b) Enbridge will, not later than March 31, 2019, submit to the State for review and approval, a work plan to, in conjunction with the Close Interval Surveys required under Section I.D of the Second Agreement, visually inspect pipeline coatings at sites to be specified in the work plan along the Dual Pipelines and to repair the coating at any and all sites where Bare Metal is identified. The work plan will include a proposed implementation schedule. Enbridge will implement the State-approved plan in accordance with the approved schedule.
- (c) If at any time, any other area(s) of coating damage along the Dual Pipelines where Bare Metal exists is identified, Enbridge will repair the identified area(s) as soon as practicable thereafter. Enbridge will notify the State within thirty (30) days after any Bare Metal is identified, and again thirty (30) days after the Bare Metal is repaired.
- (d) The State agrees, based upon currently available information, that Enbridge's compliance with the requirements under this Section 5.2 satisfies the requirements of Paragraph A (9) of the 1953 Easement.

5.3 Maximum Span of Unsupported Pipe:

- (a) Based upon currently available information, there are no locations along the Dual Pipelines where the span or length of unsupported pipe exceeds the seventy-five (75) feet maximum specified in Paragraph A (10) of the 1953 Easement.
- (b) Until the Dual Pipelines are permanently decommissioned, Enbridge will continue to visually inspect the Dual Pipelines at least every two (2) calendar years to verify that no unsupported spans exceed the specified maximum. If at any time an unsupported span exceeding the maximum is identified, Enbridge will, within thirty (30) days after receiving the final report from the third-party contractor performing such inspection where a span exceedance is identified, submit to the State for review and approval, a work plan to promptly eliminate the exceedance through installation of additional anchor supports or other suitable means. Enbridge will implement the work plan as soon as practicable after receiving all

necessary federal or State permits or approvals required to conduct work to eliminate the exceedance.

- (c) As additional means of preventing exceedances of the maximum span, Enbridge will continue to implement the span management measures included in the federal Consent Decree, as amended, while the federal Consent Decree remains in effect.
- (d) The State agrees, based upon currently available information, that Enbridge's compliance with the requirements under this Section 5.3 satisfies the requirements of Paragraph A (10) of the 1953 Easement.

Article 6 Construction and Operation of Straits Line 5 Replacement Segment

6.1 Enbridge will design, construct, operate, and maintain the Straits Line 5 Replacement Segment within the Tunnel:

- (a) At its own expense; and
- (b) In compliance with all applicable laws and regulations and the terms of the Tunnel Agreement and the Tunnel Lease to be issued by the Authority under the Tunnel Agreement.
- (c) Nothing under this Third Agreement shall be construed to provide the State with authority over the design, operation, or maintenance of the Straits Line 5 Replacement Segment.

6.2 Enbridge will not transport Heavy Crude Oil through the Straits Line 5 Replacement Segment.

6.3 When Enbridge ceases use of the Straits Line 5 Replacement Segment, it will permanently deactivate the Straits Line 5 Replacement Segment in compliance with all applicable laws and regulations and Section 3.3 of the Tunnel Lease.

Article 7 Permanent Deactivation of Dual Pipelines

7.1 Enbridge agrees that as soon as practicable following completion of the Tunnel and after the Straits Line 5 Replacement Segment is constructed and placed into service by Enbridge, Enbridge will cease operation of the Dual Pipelines and permanently deactivate the Dual Pipelines.

7.2. Consistent with Paragraphs E, H, and Q of the 1953 Easement, the procedures, methods, and materials for replacement, relocation, and deactivation of the Dual Pipelines are subject to the written approval of the State, which the State agrees shall not be unreasonably withheld. At a minimum, any portion of the Dual Pipelines that remains in place after deactivation shall be thoroughly cleaned of any product or residue thereof and the ends shall be permanently capped to the satisfaction of the State, which shall not be unreasonably withheld.

7.3 The State and Enbridge agree that decisions regarding the method of deactivation, including potential removal of the Dual Pipelines should take into account short- and long-term effects of the deactivation method options and associated sediment and water quality disturbance on natural resources, particularly fishery resources, in proximity to the Straits. The options include: (a) abandoning in place the entire length of each of the Dual Pipelines; or (b) removing from the Straits the submerged portions of each of the Dual Pipelines that were not fully buried in a ditch and placed under cover near the shoreline of the Straits at the time of initial construction.

Article 8 Delay Events

8.1 Enbridge's performance under this Third Agreement shall be excused as a result of any Delay Event. For purposes of this Third Agreement, "Delay Event" is defined as any event arising from causes beyond the control of Enbridge, any entity controlled by Enbridge, or any of Enbridge's contractors, that delays or prevents the performance of any obligation under this Third Agreement, despite Enbridge's best efforts to fulfill the obligation. "Best efforts to fulfill the obligation" includes using best efforts to address the effects of any such event: (a) as it is occurring; and (b) following its occurrence, such that the delay and any adverse effects of the delay are minimized.

8.2 Automatic Delay Events - The Parties agree that the following circumstances automatically constitute a Delay Event:

- (a) The inability to undertake activities required under this Third Agreement due to the need to obtain a Government Approval or other legal authorization required to undertake such activities.
- (b) Acts of God, war, terrorist acts, pandemics, strikes, civil disturbances, and other causes beyond the reasonable control of Enbridge.
- (c) Unavailability of necessary materials or equipment because of industry-wide shortages.
- (d) An injunction or other judicial or governmental order preventing the timely performance of the obligation.

8.3 Other Delay Events - The Parties further agree that any other circumstance included within the definition of Delay Event in Section 8.1 may on a case-by-case basis be determined by Enbridge and the State to constitute a Delay Event.

8.4 Notice - If a Delay Event occurs, Enbridge will notify the State of the Delay Event within a reasonable time after Enbridge is aware that a Delay Event has occurred. The notice will describe the Delay Event, the anticipated duration of the Delay Event, if known, and the efforts taken by Enbridge to minimize the delay and any adverse effects of the delay.

8.5 Disputes - Any dispute between the Parties relating to the existence or duration of a Delay Event will be resolved in accordance with Article 9, Dispute Resolution.

Article 9 Dispute Resolution

9.1 Except as otherwise specified in this Third Agreement, the Parties agree to the following procedures to resolve all disputes between them arising under this Third Agreement.

9.2 Informal Dispute Resolution - First, designated representatives of the Parties will engage in good faith efforts to informally resolve the dispute for a period of up to sixty (60) days, provided that the Parties may mutually agree in writing to extend that period.

9.3 Optional Mediation - If the dispute is not resolved informally through Section 9.2, the Parties may, through mutual written agreement, select a neutral mediator to facilitate the resolution of the dispute. Unless otherwise agreed, the parties will equally share the costs of the mediator's services.

9.4 Judicial Dispute Resolution - If the dispute is not resolved informally through Section 9.2, or, if applicable, through Section 9.3, either Party may submit the dispute to a court of competent jurisdiction for resolution.

Article 10 Termination

10.1 Term. This Third Agreement shall remain in effect until such time that the Dual Pipelines are decommissioned, unless terminated in accordance with 10.2 or 10.3 below.

10.2 Termination by the State. The State may terminate this Agreement if: (i) after being notified in writing by the State of any material breach of this Agreement, Enbridge fails to commence remedial action within ninety (90) days to correct the identified breach or fails to use due diligence to complete such remedial action within a reasonable time thereafter; (ii) the dispute resolution procedures of Article 9 are followed with respect to the breach; and (iii) the final judicial resolution of the dispute is in favor of the State's position that the Agreement should be terminated.

- 10.3 Termination by Enbridge. Enbridge may terminate this Agreement:
- (a) By written notice to the State if: (i) Enbridge has involuntarily ceased operation of the existing Line 5 Dual Pipelines as a result of a court order or at the direction of a Governmental Entity at any point during the design or construction of the Tunnel; or (ii) Enbridge has voluntarily chosen to permanently cease operations on the existing Line 5 Dual Pipelines at any point during the design or construction of the Tunnel;
 - (b) If: (i) after being notified in writing by Enbridge of any material breach by the State of this Agreement, which shall include but not be limited to any unreasonable impairment by the State of Enbridge's ability to construct the Tunnel or construct, operate, and maintain the Straits Line 5 Replacement Segment within the Tunnel in accordance with the Tunnel Agreement and the Lease, the State has failed to commence remedial action within ninety (90) days to correct the identified breach or impairment or failed to use due diligence to complete such remedial action within a reasonable time thereafter; (ii) the dispute resolution procedures of Article 9 are followed with respect to the breach; and (iii) the final judicial resolution of the dispute is in favor of Enbridge's position that the Agreement should be terminated.

10.4 Survival.

The assurances provided in Section 4.2 above shall survive in the event of termination of this Third Agreement, under Sections 10.3(b) and (c).

Article 11 Amendment

This Third Agreement may be amended only through written agreement executed by authorized representatives of both Parties.

Article 12 Notices

12.1 Unless otherwise agreed to by the Parties, all notices, submissions, or communications required under this Agreement must be in writing and served either by personal service, by prepaid overnight courier service or by certified or registered mail to the address of the receiving Party set forth below (or such different address as may be designated by such Party in a notice to the other Party, from time to time). Notices, consents, and requests served by personal service shall be deemed served when delivered. Notices, consents, and requests sent by prepaid overnight courier service shall be deemed served on the day received, if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if not received during the recipient's normal business hours. Notices, consents, and requests sent by certified or registered mail, return receipt requested, shall be deemed served ten (10) business days after mailing.

As to the State of Michigan:

Attn: Deputy Director
Michigan Department of Environmental Quality
525 W. Allegan
Post Office Box
Lansing, MI 48909-7528

Attn: Natural Resource Deputy
Michigan Department of Natural Resources
525 W. Allegan
Post Office Box 30028
Lansing, MI 48909-7528

As to Enbridge:

Attn: Vice President of US Operations, Liquids Pipelines
7701 France Avenue South, Suite 600 – Centennial Lakes Park I
Edina, MN 55435

With a copy to Corporate Secretary
5400 Westheimer Court
Houston, TX 77056

With a copy to Director of Great Lakes Region
222 Indianapolis Blvd., Suite 100
Scherverville, IN 46375

With a copy to Associate General Counsel U.S. Law
26 East Superior Street, Suite 309
Duluth, MN 55802

And an emailed copy to legalnotices@enbridge.com

12.2 Notice of any change by a Party of the designations or addresses listed in Section 12.1 above will be promptly provided to the other Party.

Article 13 No Third-Party Beneficiaries

13.1 This Third Agreement is intended for the exclusive benefit of the Parties hereto and their respective successors. Nothing contained in this Third Agreement shall be construed as creating any rights or benefits in or to any third party. This Third Agreement does not give rise to a private right of action for any person other than the Parties to this Third Agreement.

Article 14 Miscellaneous

14.1 Approvals under this Third Agreement - Each Party agrees that whenever this Third Agreement provides for it to approve, concur with, or jointly act with the other Party, such approval, concurrence, or joint action will not unreasonably be withheld.

14.2 Good Faith - The Parties agree to act in good faith in the interpretation, execution, performance, and implementation of this Third Agreement.

14.3 Execution. This Third Agreement may be executed in counterparts without the necessity that the Parties execute the same counterpart, each of which will be deemed an original, but which together will constitute one and the same agreement. The exchange of copies of this Tunnel Agreement by electronic or hard-copy means shall constitute effective execution and delivery thereof and may be used in lieu of the original for all purposes.

14.4 Governing Law. This Third Agreement shall be construed, interpreted, and applied in accordance with the laws of the State of Michigan without reference to its conflict of laws rules.

14.5 Entire Agreement. This Third Agreement and Schedules hereto, contain all covenants and agreements between the State and Enbridge relating to the matters set forth in this Third Agreement.

14.6 Severability. If any provision of this Agreement will be held illegal, invalid, or unenforceable by a court of competent jurisdiction, the same will not necessarily affect any other provision or provisions herein contained or render the same invalid, inoperative, or unenforceable, and the Parties will expeditiously negotiate in good faith in an attempt to agree to another provision or provisions (instead of the provision which is illegal, inoperative or unenforceable) that is legal, operative, and enforceable and carries out the Parties' intentions under this Agreement.

Article 15 Assignment

15.1 Either Party may assign, charge, or transfer its rights or obligations under this Third Agreement provided that it obtains the written consent of the other Party.

FOR THE STATE OF MICHIGAN

Name: Rick Snyder

Title: Governor

Dated: _____

Name: Keith Creagh

Title: Director, Michigan Department of Natural Resources

Dated: _____

Name: C. Heidi Grether

Title: Director, Michigan Department of Environmental Quality

Dated: _____

FOR ENBRIDGE ENERGY, LIMITED
PARTNERSHIP
BY: ENBRIDGE PIPELINES (LAKEHEAD)
L.L.C. AS GENERAL PARTNER

FOR ENBRIDGE ENERGY PARTNERS, L.P.
BY: ENBRIDGE ENERGY MANAGEMENT,
L.L.C. AS DELEGATE OF ITS GENERAL
PARTNER

Name: Bradley F. Shamla
Title: Vice President, U.S. Operations
Dated: _____

Name: Bradley F. Shamla
Title: Vice President, U.S. Operations
Dated: _____

Name: Al Monaco
Title: Authorized Signatory for Enbridge
Pipelines (Lakehead) L.L.C.
Dated: _____

FOR ENBRIDGE ENERGY COMPANY,
INC.

Name: Bradley F. Shamla
Title: Vice President, U.S. Operations
Dated: _____

Name: Guy Jarvis
Title: Executive Vice President – Liquids
Pipelines
Dated: _____