



NATIONAL WILDLIFE FEDERATION®
Great Lakes Regional Center®

National Wildlife Federation Position on HB 4540

The National Wildlife Federation (NWF) opposes HB 4540 as written. This bill is unnecessary and represents a step backward for the protection of Michiganders, the Great Lakes and wildlife in the region. The bill denies Michigan citizens the right to know about threats to their safety and environment—while allowing companies with a proven track record of accidents, spills, and abuse to dodge public disclosure laws that are designed to protect the state’s economy, environment, and way of life.

NWF is the organization that first exposed the potential dangers posed by Enbridge Energy’s Line 5 pipelines running directly under the Mackinac Straits through our 2012 report “Sunken Hazard.” Enbridge Energy is the company responsible for spilling more than 800,000 gallons of oil into the Kalamazoo River—the largest inland oil disaster in U.S. history. Since then, NWF has been requesting that pipeline regulators and Enbridge Energy release information about the integrity and safety of these pipelines, including inspection videos showing how the pipelines cross the Straits of Mackinac. These requests – squarely within the realm of public interest in protecting the Great Lakes – largely went unanswered from both Enbridge Energy and the Pipeline and Hazardous Materials Safety Administration (PHMSA), which regulates pipeline operations. In 2013, NWF sent divers to examine the state of the Mackinac pipeline. The footage shows pipelines suspended over the lakebed, some original supports broken away, and some sections of the suspended pipelines covered in large piles of unknown debris. In fact, the findings led to a fine and mandated corrective measures by Enbridge Energy since the supports did not meet the criteria in the easement Enbridge Energy received from the State of Michigan. This particular part of Line 5 is of utmost importance – the author of a 2014 University of Michigan study concluded “If you were to pick the worst possible place for an oil spill in the Great Lakes, this would be it.” HB 4540 would allow Enbridge Energy to stonewall citizens and the state of Michigan from having access to this kind of information.

As important as the Straits of Mackinac are, however, this portion of Line 5 is just one example of the risks of passing HB 4540. This bill casts an extremely broad net in terms of excluding public access to information. As drafted, “critical energy infrastructure” includes basic information “about the production, generation, transportation, transmission, or distribution of fuel or energy.” While federal statutes restrict the dissemination of some information to the public, HB 4540 goes much further. For example, unlike the parallel federal regulation promulgated by the Federal Energy Regulatory Commission protecting critical energy infrastructure information, this bill would create a blanket exemption from disclosure. In contrast, the federal regulation allows the release of critical energy infrastructure information under certain circumstances. For example, critical energy infrastructure information may be released to a landowner whose property is crossed by or in the vicinity of a project. In addition, critical energy infrastructure information may be released to others, including organizations, subject to a determination by a critical energy infrastructure information coordinator. These federal protections are already very stringent and are working: They create a very high burden for information access.

There is no viable reason why Michigan should restrict access to information more severely than the federal government does. This sweeping legislation is likely to have many unintended negative consequences by taking away the watchdog role of private landowners, citizen groups and others with legitimate reasons to access information on energy infrastructure. Michigan would be particularly ill-advised to shut down public access to information on pipelines and other energy infrastructure given that the Kalamazoo River is still recovering from the largest inland oil spill in U.S. history.

The National Wildlife Federation urges you to vote “no” on HB 4540 as proposed.

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National Wildlife Federation