



January 25, 2016

To: Michigan House of Representatives Natural Resource Committee  
Re: House Bill 4540 (H8)

We are writing to voice our opposition to House Bill 4540 as currently written (H8 substitute), which exempts information on existing and proposed energy infrastructure from Michigan's Freedom of Information Act (FOIA) disclosure requirements. The Wolfpack is a Southeast Michigan-based group of community and business leaders who come together to lend their collective clout to issues and projects regarding conservation.

HB 4540 (H8) directly contradicts the findings from Governor Snyder's Petroleum Pipeline Task Force, which called for "increase[ing] transparency and facilitate[ing] public participation in decision making" around oil pipeline siting and permitting. It also undercuts Governor Snyder's Executive Order 2015-12 which created a Pipeline Safety Advisory Board that is currently working to implement the recommendations of the Task Force, including increased transparency. At a time when trust in all levels of Michigan government to protect public health and safety is declining while concerns about the Mackinac Straits pipeline run high, this bill would be a step in the wrong direction.

As written (H8 substitute), HB 4540 creates an unprecedented blanket exemption from public disclosure that would prevent Michigan stakeholders and landowners from accessing a broad array of information on pipelines and other energy infrastructure, including safety and inspection records, data on pipeline corrosion and leaks, and conditions of wells. If enacted this bill would:

- Establish an expansive and sweeping definition of critical energy infrastructure in order to create a FOIA exemption that goes well beyond what is in place in other states and on the federal level,
- Effectively prevent landowners from accessing information on energy infrastructure located on or near their properties,
- Create a complex and resource intensive public disclosure process that includes two separate FOIA requests and a potential court case if the critical energy infrastructure designation is maintained at the agency level.

Transparency and public oversight are paramount to protecting our health and our land, air and water from potentially devastating failures of our energy infrastructure. Disclosure policies, like Michigan's Freedom of Information Act, enable public scrutiny and hold energy companies accountable for the quality and maintenance of their infrastructure. Disclosure also provides Michiganders directly impacted by energy infrastructure, such as landowners, the information they need to access potential dangers and to protect their private property and their communities. The important role transparency plays in environmental and public safety was exactly what the Petroleum Pipeline Task Force report called out in the following statement: "The information and assurances provided by Enbridge to date do not resolve outstanding concerns about the Straits Pipelines and their future operation. With so much at stake, neither the State nor the public has the information needed to independently validate Enbridge's conclusions, and to determine whether Enbridge's present and intended future operation of the Straits Pipelines is consistent with its legal obligations under the Easement." Unfortunately, as currently written, HB 4540 would exacerbate the problem that the Task Force identified as in need of a solution.

Over the past 2 years, much needed attention has been directed to Enbridge's Line 5 -- the 63- year-old pipeline that transports 23 million gallons of oil every day under the Straits of Mackinac. We are profoundly concerned about the threat Line 5 poses to our Great Lakes, our recreational economy, fisheries, local communities and our "Pure Michigan" lifestyle. Large gaps in information on the condition and operation of Line 5 persist even after the Pipeline Task Force concluded its lengthy study, and without public access to information about the knowns and unknowns regarding pipeline safety, our clean water and our communities are at risk. If enacted, the sweeping exemption language in HB 4540 would effectively veil even more safety information on energy infrastructure, like Line 5, in secrecy and severely limit the public's fundamental right to know the state of infrastructure that is running through our backyards and under our Great Lakes.

The bill sponsor has raised legitimate concerns on the need to factor security and safety into decisions about public disclosure of information on energy infrastructure. However, addressing those concerns through HB 4540 is unnecessary given already existing federal and Michigan state provisions for security. Federal FOIA law already includes exemptions for disclosure of information related to energy infrastructure and provides consistent coverage across all states. Michigan's FOIA law also contains exemptions for safety and security that carefully balance those concerns with the public interest in disclosure. There has been no rationale put forth by the bill's supporters about

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why Michigan should stand alone and above federal law in restricting access to information about energy infrastructure.

For the reasons above and ultimately for the protection of Michigan citizens and the Great Lakes, we respectfully ask members of the House Natural Resources Committee to oppose HB 4540 (H8) Supporting this bill would undo some of the important work that state officials has recently initiated to ensure Michigan's petroleum pipelines are operating safely and with strong benefits to Michiganders.

Sincerely yours,

Martha Darling



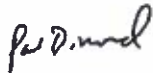
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