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VIA EMAIL

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Re: Pipeline Safety Advisory Board September Meeting Agenda

Dear Valerie and Heidi:

I am writing to suggest several agenda items for the September meeting.

Discussion of Reports Submitted By Oil & Water Don't Mix and Straits Area Concerned Citizens and Approach to Investigating Interim Measures To Reduce Risk

At the end of the June meeting, I suggested that time be set aside at the September meeting to address the subject of interim measures to reduce the risk of a release from Line 5 and minimize damages should a release occur during the multi-year period required to fully implement any decision flowing from the technical studies. All public sentiment expressed directly to the Board and through every other avenue of public expression has requested that some kind interim action be taken as a matter of urgency, although there is no consensus as to what should be done or what is feasible.

The urgency for interim action has been prompted by reports submitted to the State and the Board most recently by Oil and Water Don't Mix on April 13, 2016, and the presentation and supporting materials submitted by Roger Gauthier on behalf of the Straits Area Concerned Citizens for Peace, Justice and the Environment to the Board on June 13, 2016. The FLOW group has submitted similar reports.

Within a year after the Line 6B rupture into the Kalamazoo River, Enbridge committed to a 285-mile, \$2.6 billion project to replace Line 6B across the states of Michigan and Indiana and across the St. Clair River, all completed by October 2014! Wouldn't it a great shame to allow the Kalamazoo situation to repeat at the straits by deferring remedial action on just 4 miles of pipeline until after a rupture has occurred?

I am sure the State is as concerned as its citizens that a leak of Line 5 not occur. It is important for the public to hear that the State takes the submissions seriously and is attempting to address the issues they raise.

Those submissions make a strong case that certain requirements of the straits pipeline Easement have been breached in a manner that increases the risk of a pipeline rupture and that the Enbridge Energy's oil spill response plan does not meet federal regulatory requirements and, regardless, does not provide for a response sufficient to address oil released from a pipeline rupture.

The Attorney General, MDEQ and MDNR have acknowledged Enbridge Energy has breached the Condition A (1) of the Easement with regard to pipeline supports as asserted by Oil & Water Don't Mix. These agencies have required action to cure under Condition C of the Easement. That action, although welcome to those concerned with the condition of Line 5, does not address the other breaches described in Oil & Water Don't Mix's report. The Board should have the opportunity to discuss and the public is entitled to learn how the State views the other breaches and what action, if any, it plans to take in their regard.

The alleged breaches indicate that the pipeline as built and as maintained does not meet the engineering standards in the Easement (inadequate supports, excess material loss due to corrosion, thin pipe wall sections, stress induced by too severe curvature in the pipeline during construction, and stresses cause by failure to install and maintain wooden slats around the pipeline circumference and may have incurred stresses that may significantly weaken the pipe), it might be worthwhile to discuss how the consultants retained to perform the two technical studies might assist the State evaluate those issues and identify feasible interim measures. Interim measures I have heard mentioned include reducing operating pressures in the pipeline, limiting product to natural gas and beefing up emergency response plans to better respond to winter conditions.

#### Enbridge Consent Decree

Related to the subject of interim measures is the Consent Decree in *United States v. Enbridge Energy*, Case #1:16-CV-914 (W.D. Mich.) that arises out of the Line 6B rupture. It contains a number of measures related to Line 5. It would be helpful to hear about the State's involvement, if any, in incorporating those provisions in the Consent Decree and whether the State has specifically considered how those requirements might address Line 5's safety in the short term.

#### Status of Technical Review Team

The State has stated that it will form a technical review team to assist in review of the consultants' work on the two technical studies. Is there anything to report on the formation of that team? It is important that expertise related to Great Lakes hydrological conditions, particularly in the straits, be added to that team.

Sincerely,

*R. Craig Hupp*

cc: Keith Creagh, Director, MDEQ (via email: creaghk@michigan.gov)  
Carol Isaacs, Chief Deputy Attorney General (via email: isaacsC@michigan.gov)

