



The Honorable Rick Snyder  
Office of the Governor  
P.O. Box 30013  
Lansing, Michigan 48909

June 7, 2017

Attorney General Bill Schuette  
G. Mennen Williams Building, 7th Floor  
525 West Ottawa Street  
P.O. Box 30212  
Lansing, Michigan 48909

**VIA Electronic Submission**

Dear Governor Snyder and Attorney General Schuette:

We are writing to urge you as legal trustees of the Great Lakes to exercise the leadership needed to prevent a catastrophic oil spill that would do grave damage to the Great Lakes, our drinking water, our fishery, tourism, riparian and public property, our economy, and our way of life.

Back in March 2017, we wrote a letter to you after Enbridge Energy Partners revealed new evidence of missing pipeline-coating protections in violation of the 1953 easement agreement with the State of Michigan. Today we are writing again as a result of a new, deeply disturbing revelation that—perhaps for years—Enbridge allowed its dual Line 5 pipelines in the Straits of Mackinac to operate in violation of the easement by failing to keep required anchor supports necessary for the pipeline’s structural integrity and longevity.

According to the October 12, 2016 Kiefner & Associates report, *Assessment of Span Exposures on the 20 inch Petroleum Pipelines Crossing the Straits of Mackinac*, large, potentially damaging gaps in anchor protection existed in 16 spans. Incredibly, this included a gap of 286 feet—nearly four times the 75 feet required in Enbridge’s binding agreement with the State of Michigan. The Kiefner report, moreover, makes it stunningly clear that Enbridge’s violations grow out of a corporate policy to blatantly ignore the 75-foot anchor support requirement in the easement agreement.

We believe the following require your consideration for immediate action to begin the processing of decommissioning Enbridge Line 5 in the Straits of Mackinac:

- Unsupported Line 5 span lengths are identified in the Kiefner report that were far in excess of anything previously revealed by Enbridge. The fact that 16 unsupported spans that evolved to exceed 286 feet almost certainly means the pipe has suffered damage regardless of how many anchor supports exist today. The exact language used in the Kiefner report to describe this: “The 2003 survey identified 7 spans longer than 140 ft in the east leg, with the longest being 224 ft, and 9 spans longer than 140 ft in the west leg, with the longest being 286 ft (due to a failed group bag support).”
- On Page 2 of the Kiefner report, the authors state that Enbridge’s policy was to ignore the 75-foot span requirement in violation of its easement agreement with the State of Michigan. The exact language in the report states: “A span of 140 ft was established by Enbridge as a criterion for taking corrective action.” This policy means that instead of taking corrective action when pipeline spans in the turbulent Straits exceeded 75 feet, for many years Enbridge was in likely violation of the 1953 easement and allowed likely fatigue and other structural damage to the pipelines.
- Enbridge’s unilateral decision given without notice to the State of Michigan to impose a weaker standard of care for maintaining Line 5 is a substantial breach of its duty to act as a “reasonably prudent person” under the 1953 easement agreement with the state.
- Inspections by ENB reportedly uncovered more than 200 instances in which excessive sections of its Line 5 pipelines had no support from the lake bottom or man-made anchors.

These intentional failures to comply with anchor requirements and adequately maintain the Line 5 pipelines in compliance with the easement agreement reflects a corporate pattern and practice that rises to gross negligence. The failures documented in the Kiefner report and in previous reports by Enbridge and Dr. Ed Timm with respect to missing pipeline coatings and water currents contribute to mounting evidence that the transport of crude oil through this pipeline infrastructure endangers and is likely to impair, harm or pollute the Great Lakes, its ecosystem, public and private property, and public health and safety.

Given the high degree of risk, your obligation on behalf of the state and as its leaders is to put the public interest in protecting the Great Lakes above the interests of Enbridge as a private occupant of Great Lakes bottomlands and waters. Public trust interests associated with the Great Lakes are by Michigan Supreme Court decisions paramount to Enbridge’s interest under the 1953 easement. Enbridge took the easement subject to this public trust.

Despite Enbridge's history of repeated span violations over decades, coupled with other compelling reports on risk, the State of Michigan has delayed fully investigating and enforcing the express terms of the 1953 easement with Enbridge.

This new evidence concerning the condition of Line 5's anchors is significant because it almost certainly means that the pipes have been damaged. In addition, the state has no reliable information on the extent of the potential structural damage to the pipelines. Taken with previous revelations of missing pipeline coatings, there is a compelling case for the state to begin the process of decommissioning Line 5. What more evidence does the state need of Enbridge's failure to exercise due care before taking enforcement action?

Sincerely,

Rev. Deb Hansen, Representative  
Concerned Citizens of Cheboygan and Emmet County

Jane A. TenEyck, Executive Director  
Chippewa Ottawa Resource Authority (CORA)

Mary Brady-Enerson, Michigan Director  
Clean Water Action

Mariah Urueta, Michigan Organizer  
Food & Water Watch

Liz Kirkwood, Executive Director  
For Love of Water (FLOW)

Chris Kolb, President  
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Greg Reisig, Co\_Chair  
Northern Michigan Environmental Action Council

David Holtz, Chair  
Sierra Club Michigan Chapter Executive Committee

Joanne Cromley, Representative  
Straits Area Concerned Citizens for Peace, Justice & the Environment

Bill Lakta, Representative  
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