



Protecting the Common Waters of the Great Lakes Basin  
Through Public Trust Solutions

October 12, 2017

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Mr. James Milne, Env Manager Mr. Thomas Graf, Env. Specialist Great Lakes Submerged Lands Unit Michigan Department of Environmental Quality P.O. Box 30458 Lansing, Michigan 48909-7958	Mr. Scott Rasmusson Great Lakes Shorelands Unit Gaylord District Office Michigan Department of Environmental Quality 2100 West M-32 Gaylord, Michigan 49735

VIA ELECTRONIC SUBMISSION

**FLOW (FOR LOVE OF WATER) SUPPLEMENTAL PUBLIC COMMENTS ON THE JOINT APPLICATION OF ENBRIDGE ENERGY TO OCCUPY GREAT LAKES BOTTOMLANDS FOR ANCHORING SUPPORTS TO TRANSPORT CRUDE OIL IN LINE 5 PIPELINES IN THE STRAITS OF MACKINAC AND LAKE MICHIGAN [2RD-DFDK-Y35G]**

Dear Michigan Department of Environmental Quality Director Grether; GLSL Unit Chief Milne; and GLSL Unit Specialist Graf; other State Officials; and staffs:

Since Enbridge's original joint permit application in May 2017 to authorize 22 new additional anchors along Line 5 pipelines on the lake's bottomlands, new damaging information about Enbridge's past anchors have emerged and must be considered by the State of Michigan and U.S. Army Corps of Engineers under the Great Lakes Submerged Lands Act ("GLSLA"), the Michigan Environmental Protection Act ("MEPA"), Clean Water Act ("CWA") and other relevant federal statutes. Accordingly, FLOW now submits further supplemental comments based on this new evidence.

In May 2017, Enbridge submitted its original joint permit application to your agencies to authorize 22 new additional anchors on the lake's bottomlands to stabilize the Line 5 pipelines. For Love of Water (FLOW) initially submitted [formal comments](#), together with technical reports and other attachments, during the public comment period on the above matter ending June 29, 2017. FLOW then submitted [supplemental comments](#) on August 4, 2017, laying out the legal duty to broaden the scope of review beyond the lake foot bed where the anchors connect and require Enbridge to submit a comprehensive environmental impact and alternatives analysis demonstrating no harm to the waters and no feasible and prudent alternatives. Moreover, FLOW introduced a technical report, identifying more evidence of damage to Line 5 in the Straits, including bends, ovalities, and coating damage. Finally, FLOW maintained that the state should require Enbridge to apply for a new occupancy agreement or permit under the GLSLA

because the design of the new screw-anchor and bracket design structures for Line 5 were not originally authorized by the state's 1953 easement.

### **New Evidence of Enbridge's Own Anchors Causing Pipeline Coating Damage Requires Full Scope of Review under the Law**

As part of a consent decree with the federal government over the 2010 Line 6B oil spill into the Kalamazoo River, Enbridge conducted an August 30<sup>th</sup> underwater inspection of Line 5 pipelines, which revealed that the screw-anchors themselves are causing damage to the pipeline coating and creating bare metal gaps in the cathodic protection. Seven bare areas on the pipeline were identified the size of dinner plates. Enbridge downplayed these seven exposed metal gaps, describing them the size of Band-Aids and explaining that the coating on the east leg of the dual 20-inch underwater pipeline was scratched by an abandoned 3-inch, 750-foot cable that was "inadvertently snagged during the recent inspection."<sup>1</sup>

The State of Michigan appropriately expressed grave concern and demanded a work schedule for the repairs to Line 5's coating gaps. Director Brader from the Michigan Agency for Energy ("MAE") also raised the important factor of human error in pipeline disasters, noting that Enbridge's Line 6B massive oil spill was caused in large part by operators' 17-hour delay. The Line 5 human error evidence coupled with Enbridge's culture of withholding information about the true condition of their aging 64-year-old dual pipelines is very problematic because Enbridge has already installed 128 similar screw-anchor supports around the Line 5 pipelines since 2002. The question remains: what is the condition of the pipeline coating in 121 other locations?

In sum, this new evidence triggers the need for a broad scope and extensive review that includes the entire 4.6 mile span of the pipelines, not just the lakebed footprint. This evidence triggers DEQ's duty under GLSLA and MEPA to demand that Enbridge file a comprehensive assessment examining and demonstrating no adverse risk, endangerment, impacts, and no feasible and prudent alternative. The DEQ and US Army Corps of Engineers are in no position to legally authorize the outstanding 22 anchor permits.

### **Conclusion**

In light of these recent and significant evidentiary disclosures, we request that the DEQ re-examine the scope of review and demand a full application in which Enbridge must establish no unacceptable risk or likely effects to waters, fishing, and public and private uses, and no feasible and prudent alternatives to Line 5 based on existing or feasible capacity of overall pipeline system in the Great Lakes.

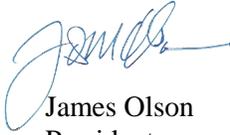
Once more FLOW appreciates every effort moving forward the State makes to assure to the highest duties and standards to comply with the laws and public trust duties and principles that apply to this matter. Should you have any questions or desire further information, we are willing to meet with you and technical experts to discuss the above.

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<sup>1</sup> Garret Ellison, "Inspections show Line 5 coating gaps larger than disclosed," MLive, September 14, 2017 [http://www.mlive.com/news/index.ssf/2017/09/line\\_5\\_coating\\_inspection.html](http://www.mlive.com/news/index.ssf/2017/09/line_5_coating_inspection.html)

Thank you.

Sincerely yours,



James Olson  
President



Elizabeth R. Kirkwood  
Executive Director

CC: Charles Simon, Chief, Regulatory Office, Corps Detroit District  
Kerrie Kuhn, Chief, Permits, Corps Detroit District  
Michigan Governor Rick Snyder Michigan  
Attorney General Bill Schuette MDNR  
Director Keith Creagh  
U.S. Senator and Hon. Gary Peters  
U.S. Senator and Hon. Debbie Stabenow