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Great Lakes Lawyers & Scientists Urge Gov. Snyder & AG Schuette: Imminent Hazard Requires Immediate Actions to Eliminate Oil Risk in Straits of Mackinac
Experts Call for Two-Step Process, with Immediate Measures and Prompt Action Plan

TRAVERSE CITY – Filling a void left by the state, a Great Lakes law and policy group and its scientific advisors released a report today calling on the Snyder administration to take interim steps – including the immediate temporary halt of oil flowing through two aging pipelines in the Mackinac Straits – and swiftly pursue an “action plan” to prevent an oil spill that likely could not be cleaned up and would threaten the state and regional economy, a vital fishery, and the drinking water supply for Mackinac Island and St. Ignace.

“The Michigan Task Force and Attorney General Schuette have determined that the magnitude of harm from a release of oil in the Straits is unacceptable, and that the days of these aging pipelines for transport of oil are limited,” **said Jim Olson, a Traverse City attorney and President of FLOW.** “According to FLOW’s scientific experts, the transport of oil under the Straits is an imminent hazard that is at the highest level risk. Based on standard hazardous management practices, this means that interim measures that significantly lower the risk must be immediately implemented. This also requires an immediate independent evaluation of alternative pipeline routes, capacity and logistics to eliminate the high risk of serious harm. Until this evaluation is done, the reasonable and prudent thing to do is to halt the transport of crude oil under the Straits.”

“An effective oil spill response and recovery is virtually impossible, particularly in winter months when the Straits are covered with four feet of ice,” **said Liz Kirkwood, FLOW’s Executive Director.** “According to our scientists, shutting off the flow of oil under the Straits won’t interfere with natural gas liquids, such as propane used for home heating, because they do not pose the same risk to the Straits and would continue to flow to residents in the Upper and northern Lower Peninsulas.”

The 33-page report on the Enbridge “Line 5” pipelines points to new findings, including the pipeline company’s own admission that tens of thousands of gallons of oil a day could leak into the Mackinac Straits undetected, to conclude that an “imminent harm” to the Great Lakes exists and must be stopped. The report also finds that at least one of the Straits pipelines is dented despite Enbridge’s reassurances otherwise and that the wooden slats meant to surround and protect the outside of the pipelines are missing.

“Analysis of these issues, as documented by several reports, now leads me to the conclusion that Line 5 is far more likely to present an imminent threat to health and property than not,” **said Ed Timm, PhD., PE, a former senior scientist and consultant to Dow Chemical’s Environmental Operations Business and member of the FLOW expert team.** “Immediate action should be taken to assure the safety of Line 5 while the legal deliberations go on.”

The report released by FLOW, an independent nonprofit organization that evaluates Great Lakes scientific and policy issues, is intended to fill and strengthen the gap left by a state task force report issued in July that made important recommendations for assessing the risk and seeking alternatives to the Enbridge oil pipelines, but lacked action steps and a timetable. The FLOW report charts a course with clear actions to the Snyder administration and Attorney General Schuette who are charged with the responsibility of implementing the state

task force recommendations and protecting the Mackinac Straits and Great Lakes from any release of oil with serious and catastrophic consequences.

The FLOW report concludes that the current use of Line 5 for the transport of crude oil “poses a high level of risk and imminent high magnitude of harm,” and proposes a specific action plan to eliminate the harm, including to:

1. Promptly conduct an independent expert alternatives assessment regarding transport of crude oil in Line 5 through the Straits segment, as called for by the state task force;
2. Convene and complete immediately an independent risk analysis based on credible, worst-case scenarios;
3. Require adequate financial assurances and an approved emergency response plan by independent qualified experts that conform to the level of risk and worst-case scenarios;
4. Require immediate submission of additional verifiable information from Enbridge and other qualified and independent sources.
5. Take immediate enforcement actions against Enbridge to address any material violations of the state-granted 1953 easement allowing Enbridge to occupy state bottomlands in the Straits.
6. Exercise the full authority under our constitution and laws, including common law and the public trust, that eliminate or prevent the failure of Line 5 under the Straits.

Built in 1953 during the Eisenhower administration, the aging Enbridge pipelines push nearly 23 million gallons of oil and natural gas liquids a day through the Mackinac Straits, which the company uses as a shortcut for its Line 5 route from Superior, Wis., to Sarnia, Ontario. Canadian-based Enbridge is infamous for its Line 6B pipeline that corroded and spilled 1 million gallons of heavy tar sands oil in 2010 into the Kalamazoo River watershed near Marshall, Michigan.

Enbridge estimates that a “worst-case” spill from Line 5 in winter would dump up to 360,000 gallons of oil in the Mackinac Straits and would cost as much as \$900 million to clean up, not including any damages to persons, property, or natural resources for which Enbridge is liable, nor for any fines or penalties. A U.S. Environmental Protection Agency on-site oil cleanup coordinator said in March 2015 that in good conditions, no more than half of the oil spilled in open water is ever recovered. The U.S. Coast Guard Commandant in April testified to Congress that he is “not comfortable” with the current contingency plans for a worst-case spill in the Great Lakes.

In the report, FLOW’s science and technical advisors reached several key findings, including that Enbridge’s own documents filed with the state show that 140,000 gallons of oil per day can leak into the Great Lakes at the Mackinac Straits from Enbridge’s aging Line 5 oil pipelines without Enbridge detecting it or triggering its “automatic” shutoff valves because of the technological limits of its equipment.

“A permanent solution – eliminating the Line 5 Straits crossing – may take time, but short-term action to immediately reduce the risk should be undertaken.” **said Rick Kane, a hazardous materials risk-management specialist and member of the FLOW expert team.** “The Line 5 crossing is a high risk due to the severe consequences of a leak and probability that a leak could occur from a number of causes, including a large failure or a smaller failure that would leak over a number of days or weeks below the system detection threshold, potentially releasing thousands of gallons per day, unknown to operators.”

The experts also found, similar to the findings underlying a recent formal notice sent by the National Wildlife Federation to the federal Department of Transportation, that Enbridge has never been required to do, and has never done, a competent emergency response plan based on a full and worst-case scenario of a rupture or release of crude oil in the Straits. In addition, Enbridge lacks sufficient capacity at the local level to respond, particularly in the winter when a response or clean up could not be done. The expert team also found that there is a lack of sufficient structural supports and wooden slat covers to protect Line 5 under the Straits, exposing the pipeline to currents, abrasion, and other failures.

For more information, visit www.FlowforWater.org and [view the full report here.](#)

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