



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

August 7, 2019

Submitted for inclusion in the minutes and public record to the:

Grand Traverse County Board of Commissioners
Governmental Center
400 Boardman Ave.
Traverse City, MI 49684

Thank you, Chairman Hentschel, and fellow members of the Grand Traverse County Board of Commissioners.

I am Kelly Thayer, Deputy Director of FLOW (For Love of Water). FLOW is a Great Lakes law and policy center based in Traverse City working to protect our public trust waters across the entire Great Lakes watershed.

I have come this morning to comment on the resolution in your packet that you are being asked to approve in support of the proposed Enbridge Line 5 oil tunnel – and to ask a key question.

Since 2013, FLOW and its team of lawyers, scientists, engineers, and an international risk expert have studied the increasing threat to our Great Lakes, drinking water, Pure Michigan economy, and way of life from Line 5 in the Straits of Mackinac and, more recently, the proposed Line 5 oil tunnel.

Just last November during the lame duck legislative session, FLOW's leadership testified in front of a State of Michigan House Committee regarding the clearly unconstitutional nature of a bill that proposed to give Enbridge access for 99 years to our public waters and bottomlands for an oil tunnel.

In March, Michigan Attorney General Dana Nessel found that the tunnel bill that became law was, in fact, unconstitutional. In early June, Enbridge sued the State of Michigan to uphold the tunnel legislation. And in late June, the State of Michigan sued Enbridge to revoke the 1953 easement that conditionally authorized Enbridge to pump oil through the twin pipelines.

Attorney General Nessel's lawsuit alleges that Enbridge's continued operation of Line 5 in the Straits violates the Public Trust Doctrine, is a common law public nuisance, and violates the Michigan Environmental Protection Act based on potential pollution, impairment, and destruction of water and other natural resources.

It is critical for the Grand Traverse Board of County Commissioners to understand that – with the proposed resolution in your packet – the Board is being asked to interfere in ongoing litigation between the State of Michigan and Enbridge. In addition, there are at least four other active lawsuits against Enbridge and Line 5. Therefore, this type of resolution is misguided and not in Grand Traverse County's, nor the public, interest.

Why would the current Grand Traverse County Board, which – to our knowledge – has never studied nor discussed the threat from Line 5, take a leap of faith in supporting a Canadian oil pipeline company's alternative that diverts attention from the real problem – the bent, cracked, and encrusted oil pipelines in the Straits?

For the last six years, FLOW has studied Line 5 and more recently the proposed oil tunnel, and here are some key facts to consider:

- **Line 5 in the Straits is a 66-year-old clear and present danger** and would continue to decay and threaten the Great Lakes while Enbridge takes 5-10 years to study, seek permits, and possibly build an oil tunnel, if it's even feasible.
- **Enbridge's has a failed track record in Michigan.** Enbridge Line 5 has failed at least 33 times since 1968, spilling more than 1.1 million gallons of oil across Michigan and Wisconsin. In July 2010, Enbridge Line 6B burst near Marshall, Michigan, and dumped about 1 million gallons of heavy tar sands oil into the Kalamazoo River watershed. Line 6B was 41 years old when it failed; Line 5 is 66 years old and counting.
- **An oil tunnel would fail to address Line 5's threat** to the Great Lakes in the Straits and at the pipeline's more than 400 stream and river crossings in the Upper and Lower Peninsulas.
- **Line 5 serves mostly Canada's needs and not Michigan's.** FLOW research shows that our oil and propane needs can be met through other, existing pipelines and rail and truck alternatives. And Gov. Whitmer has formed an Upper Peninsula Energy Task Force to identify energy supply options. The system can adjust with smart planning.
- **Enbridge's proposal to allow electrical lines** and other infrastructure to occupy the proposed oil pipeline tunnel is a bad idea opposed by an Upper Peninsula electrical supplier and poses an explosion risk.
- **Climate change and related impacts** to the Great Lakes would worsen from an oil tunnel under the Straits transporting fossil fuels for the next 99 years.

For these reasons, and many more, we call on the Grand Traverse County Board of Commissioner to reject the resolution supporting a Line 5 oil tunnel in the Great Lakes or, failing that, to refer the topic to a study session where facts can be gathered and considered and all of the concerns of local constituents can be heard and taken into account.

Thank you for your time and consideration.

Kelly C. Thayer
Deputy Director
FLOW (For Love of Water)
Office: (231) 944-1568
Email: Kelly@FLOWforWater.org
Web: www.FLOWforWater.org