



Enbridge Energy, Limited Partnership
5400 Westheimer Court
Houston, Texas 77056

July 20, 2020

Daniel Eichinger
Director
Michigan Department of Natural Resources
Executive Division
P.O. Box 30028
Lansing, MI 48909

Re: Your July 17, 2020 Letter Concerning Financial Assurance for the Line 5 Dual Pipelines in the Straits of Mackinac

Dear Director Eichinger:

I am writing in response to your July 17, 2020 letter requesting that Enbridge Inc. enter an agreement with the State “to provide sufficient Financial Assurance to cover a catastrophic release from the Dual Pipelines.”

Both your July 17 letter and your press release intimate that the State lacks today any written agreement to provide sufficient financial assurances to the State. That is simply not the case. As you know, but overlook in your letter, the State and Enbridge entered into two different agreements in 2018 (the October 2018 Second Agreement and the December 2018 Third Agreement).¹ Each of those Agreements set forth in detail the process agreed to by the State for Enbridge to satisfy the financial assurance requirement set forth in the 1953 Easement. The \$1,878,000,000 financial assurance provided by Enbridge under the Agreements specifically meets Enbridge’s potential “total quantifiable response liability for a worst-case discharge from the Line 5 Dual Pipelines” as identified in a 2018 report commissioned by the State which Enbridge agreed to use for the limited purpose of agreeing to the amount of its assurance.

The Enbridge signatories to the 2018 Agreements have fully satisfied their financial assurance obligations. The Second Agreement requires “the Enbridge entity or entities that own and operate Line 5, *or the parent companies of such Enbridge entity(ies)*, will maintain in force financial assurance mechanisms that meet or exceed.” (emphasis added). The Second Agreement requires that the Enbridge signatories file annually with the State “updated financial assurance information” to verify that this financial assurance obligation is satisfied. In furtherance of this commitment, the Enbridge signatories are required under the Agreements to “make available to the State for inspection and review information regarding the amount, availability, and changes to liability insurance that it maintains.” The Third Agreement enhances

¹ The signatories to those Agreements, which were executed following intensive negotiation, were your predecessor as the Director of the Department of Natural Resources, the Director of the predecessor agency to the Department of Environment, Great Lakes and Energy, and Gov. Snyder.



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this requirement by providing for an annual inflation adjustment of the \$1.878 billion and for notification of the State in the event that there is a material change in the financial assurance information identified by Enbridge.

In compliance with its obligations under the Agreements, Enbridge filed the required financial assurance forms with the State in 2018 and 2019, and will timely do so again later this year. The 2019 filing, which I have attached for your convenience, identifies Enbridge Inc. liquid and short-term assets far in excess of the required \$1.878 billion that are available to cover any Enbridge liability, as well as \$940 million in General Liability (including sudden and accidental) insurance issued to Enbridge, Inc., and as to which Enbridge Energy Partners, L.P. is a named insured. The information on the form underscores that Enbridge Inc., in its parent company capacity, stands behind the financial assurance obligations that we have made relative to the Dual Pipelines, as expressly contemplated by Agreements. At the same time, I'm sure that you are well aware that the substantial assets of Enbridge subsidiaries in the United States are more than sufficient to cover Enbridge's assurance obligations and that, under the Oil Pollution Act, the owner of the Dual Pipelines would be obligated as a responsible party to assume the cost of any cleanup.

As has always been the case, Enbridge is open to discussing the agreements and our financial assurances with you. Further, we suggest that any discussion that we might have on this issue could be made part of the semi-annual meetings that are contemplated under the Paragraph A.3 of the Second Agreement, but have yet to take place during the Whitmer Administration. While we have consistently stood ready to engage in such discussions with the State on matters pertaining to the Dual Pipelines, no representative of the State has expressed any interest in doing so since January 2019. We believe that periodic discussions of matters of interest to the State (including all offices that executed the Agreements) and to Enbridge would result in more fruitful dialogue between Enbridge and the State and the avoidance of misinformation.

I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael P. Kobayashi', with a long horizontal flourish extending to the right.

Mike Kobayashi
Vice President, US Operations

cc: Mr. Steve Chester
Mr. Peter Holran