

United States Senate

WASHINGTON, DC 20510

May 17, 2016

The Honorable Anthony Foxx
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Dear Secretary Foxx,

We write to urge the Department of Transportation (DOT) to take action to better protect the Great Lakes from oil spills from pipelines. In particular, we ask the Department to establish regulatory requirements specific to inland offshore pipeline facilities that cross the Great Lakes. This action is warranted given the unique attributes of the Great Lakes and the potential for significant economic and ecological harm that would result from an oil spill.

We are deeply concerned about the risk of an oil spill from pipelines crossing the Great Lakes and its tributaries, particularly those crossing the Straits of Mackinac and the St. Clair and Detroit Rivers. For example, the Enbridge "Line 5" pipeline that carries up to 540,000 barrels per day of crude oil traverses nearly five miles under the Straits of Mackinac, which intersects Lake Huron and Lake Michigan. A recent University of Michigan study identified over 700 miles of coastline that could be harmed if an oil pipeline in the Straits leaked or ruptured. The potential for damages are only amplified because the Coast Guard acknowledges it does not have the capacity to sufficiently respond to a spill when wintertime ice blankets the Straits.

It is our understanding that despite the fact that pipelines in the Great Lakes have some segments that meet the definition of an onshore transportation facility and others that meet the offshore definition under the *Oil Pollution Act of 1990*, federal regulations treat these pipelines as onshore facilities. This determination is of significant consequence. For example, under the *Oil Pollution Act*, the liability for cleanup costs for owners or operators of onshore facilities are capped at \$634 million, whereas companies operating pipelines classified as offshore facilities are required to demonstrate they have sufficient resources to pay for all cleanup costs. In addition, spill response plans for offshore facilities must contain far more details about the response to worst case discharge scenarios. This causes us concern when the total clean-up cost of the Enbridge oil pipeline spill near Marshall, Michigan into the Kalamazoo River is at least \$1.2 billion, and Enbridge has estimated that a worst case discharge in the Straits of Mackinac could cost up to \$1 billion.

Given the unique characteristics of Great Lakes waters, we are concerned that the response plan requirements for owners and operators of Great Lakes pipelines are not adequate to prevent, respond to, and pay for a variety of oil spill scenarios. As the source of drinking water for 40 million people, and an economic engine that supports 1.5 million jobs in multi-billion dollar shipping, fishing and tourism

industries, it is imperative that we have stringent federal regulations that ensure the safety and integrity of the Great Lakes' oil pipeline network. Classifying pipeline segments that run through the Great Lakes as offshore transportation facilities would help achieve this objective. In addition, DOT should review current oil spill response plans for adequacy under the *Oil Pollution Act* and establish new response requirements to better protect our critical water resources.

Thank you for your consideration, and we look forward to your timely response.

Sincerely,



Gary C. Peters
United States Senator



Debbie Stabenow
United States Senator

CC: Admiral Paul F. Zukunft, Commandant of the U.S. Coast Guard
Administrator Gina McCarthy, Environmental Protection Agency
Administrator Marie Therese Dominguez, Pipeline and Hazardous Materials Safety Administration