



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

April 6, 2020

Michigan Department of Environment, Great Lakes, and Energy  
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VIA ELECTRONIC SUBMISSION

**RE: FLOW COMMENTS ON THE UPPER PENINSULA ENERGY TASK FORCE DRAFT PROPANE REPORT**

Dear Members of the U.P. Energy Task Force:

For Love of Water (“FLOW”)<sup>1</sup> submits this letter to assist the U.P. Energy Task Force (“Task Force”) in its directive under the Governor Gretchen Whitmer’s Executive Order 2019-14. The Executive Order charges the Task Force with “considering all available information and make recommendations that ensure the U.P.’s energy needs are met in a manner that is reliable, affordable, and environmentally sound.” The Order also directs the Task Force to examine “alternative means to supply the energy sources currently used by U.P. residents, and alternatives to those energy sources.”

**We strongly support and urge the Task Force in its final report to adopt, prioritize, and schedule the implementation of the 14 recommendations in the draft propane report (Part 1)** in order to dismantle the Canadian energy monopoly over the Upper Peninsula and secure more diverse and renewable energy choices for U.P. residents. Highest priority, for example, should be given to recommendations with a full range of diverse alternatives that are not dependent on Line 5. We also urge the Task Force to evaluate all of the environmental and health impacts and risks that each alternative poses to air, water, and land resources. The Great Lakes and other natural resources remain at grave risk with the continued daily operation of Line 5, and must be fully considered in the final propane report.

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<sup>1</sup> FLOW is an independent law and policy center dedicated to the protection of water, health, and communities in the Great Lakes Basin, with offices in Traverse City, Michigan. Since 2013, FLOW has investigated, researched, and published a dozen reports addressing the risks of the now 67-year-old Line 5, existing alternatives to Line 5, worst-case scenarios, predicted economic damage and loss, and violations of the state’s agreement with Enbridge and state laws, including the strict protections for the public trust waters and bottomlands of the Straits of Mackinac, Lake Huron, and Lake Michigan. All of these reports are available for viewing on FLOW’s website, [www.ForLoveOfWater.org](http://www.ForLoveOfWater.org). In addition, FLOW would like to thank our expert Gary Street, M.S., P.E. for his invaluable comments and analysis in developing this public comment submission.

The precipitating force behind this urgent energy analysis is Enbridge’s increasingly risky 67-year-old Line 5 pipeline, which has ruptured or otherwise leaked at least 33 times since 1968<sup>2</sup>, and the failure to date to prioritize and assure a backup alternative for delivering propane in the Upper Peninsula. Line 5 is operating far past its life expectancy and continues to threaten the Great Lakes, public health, and drinking water supplies for thousands of Michiganders. With no backup plan for delivering alternative propane supplies to the U.P. in the event of a catastrophic Line 5 pipeline rupture, including in the dead of winter, the outdated pipeline also endangers the safety, security, and energy independence of Upper Peninsula residents who rely on propane to heat their homes.

The Task Force must act immediately with both short-term and long-term recommendations for the State of Michigan to resolve the clear and present danger posed by Line 5. As described in greater detail below, we believe that the most reliable, secure, lowest-cost and lowest-risk alternative in the short term is a combination of the recommendations on rail and truck, plus an increase in inventory in the Upper Peninsula. Accordingly, we urge the Task Force to prioritize this combination of short-term recommendations for meaningful state action on Line 5.

## **I. KEY ELEMENTS AND ACTIONS TO INCLUDE WHEN SCOPING AND IMPLEMENTING THE TASK FORCE RECOMMENDATIONS**

The following section identifies key elements and actions to analyze and include in the final Task Force report recommendations.

### **A. PRIORITIZE REPORT RECOMMENDATIONS**

In its final propane report, the U.P. Energy Task Force should prioritize, and develop a robust timetable for implementation of, the 14 recommendations in the draft propane report (Part 1). There is an urgency for the State of Michigan to make decisions, demand action, and move forward. As this Administration knows well, Michiganders have been waiting for definitive state action for over six years to address the ongoing threat that Enbridge’s continued Line 5 oil and NGL operations pose every day to the Great Lakes and nearly 400 other vulnerable Michigan waterways. The 2018 anchor strike hitting the Line 5 pipelines located in the open waters of the Straits of Mackinac was a near catastrophic miss, and still no state action has been implemented. Since 2014, numerous independent studies have conclusively determined that alternatives to Line 5 are feasible, economically viable, and more protective of the Great Lakes, our way of life, and Michigan’s long-term energy needs.<sup>3</sup>

While some of the 14 recommendations depend on studies not yet fully defined by various State agencies and supported by Legislature, several can be implemented immediately while these other

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<sup>2</sup> See *The Guardian*, “[Critics seek to stop Great Lakes pipeline run by company with poor safety habits.](#)”

<sup>3</sup> See Graham Institute, “[Experts Recommend Shutting Down Mackinac Straits Oil Lines.](#)” December 4, 2015; [ASSESSMENT OF ALTERNATIVE METHODS OF SUPPLYING PROPANE TO MICHIGAN IN THE ABSENCE OF LINE 5](#); [MICHIGAN CRUDE OIL PRODUCTION: ALTERNATIVES TO ENBRIDGE LINE 5 FOR TRANSPORTATION](#); [MICHIGAN REFINING SECTOR: ALTERNATIVES TO ENBRIDGE LINE 5 FOR TRANSPORTATION](#); [Alternatives Analysis for the Straits Pipeline - Final Report](#); [Oil Spill Economics: Estimates of the Economic Damages of an Oil Spill in the Straits of Mackinac in Michigan](#), May 2, 2018; [Oil Spill Economics: Addendum A: Multi Billion dollar Economic Impact to Great Lakes Shipping, Steel Production, and Jobs](#), November 20, 2018; [FLOW Expert Report: Eliminating the Line 5 Oil Pipeline's Unacceptable Risk to the Great Lakes through a Comprehensive Alternatives Analysis and Systems Approach](#), December 14, 2015.

recommendations are studied and implemented within a reasonable time period. Those measures that can be implemented now include assurances of rail transportation of propane throughout Upper Peninsula (**recommendations 4 and 5**), increased propane storage capacity (**recommendations 1-3**), including at Kincheloe, and support for existing propane suppliers that are not dependent on Line 5 to enter the market, all of which could be accomplished in a matter of months. These alternatives should be given the highest priority and implemented as quickly as possible, and in advance of the onset of the winter of 2020-21, to the extent possible in order to best protect the public health and economic security of U.P. residents.

Timely and responsible management calls on the Task Force and State to set key milestones. The public has an urgent need for answers to key questions. U.P. residents should no longer be forced to pay unnecessarily high prices due to Enbridge's near total control of the market. Moreover, what happens if Line 5 ruptures in 2020? During the winter? Emergency response plans must be prepared, and ready for implementation.

#### **B. PRIORITIZE PROPANE DELIVERY BY RAIL AND RELATED STORAGE AS SHORT-TERM ALTERNATIVE FOR IMPLEMENTATION**

Because Line 5 remains a high risk short-term alternative for propane supply to the U.P., this option for U.P. propane supply must be replaced as soon as possible before the winter of 2020-21. A review of the Task Force's draft report recommendations makes clear that *the most reliable, secure, lowest cost and lowest risk alternative in the short-term is a combination of rail and truck plus an increase in inventory in the U.P.*

To implement this combination as the primary supply scenario for the U.P., the Task Force should focus on three key related actions: (1) insuring adequate transportation equipment and extending or expanding rail spurs as needed; (2) installing additional bulk storage so that inventories are available in the U.P. and purchases during seasonal low price periods can provide stable lower cost purchases for consumers; and (3) provide support mechanisms so consumers can expand their personal storage (e.g. two large tanks instead of one at their house or business). By crafting this short-term solution, everything else becomes secondary, such that it does not matter where the propane comes from or the opinions on the evolution of different supply sources. Moreover, U.P. supply chain purchasers and consumers will have full flexibility to purchase from anywhere and anytime as long as the railcars and trucks can get there. And finally, this short-term alternative provides the desperately needed Plan B in the event of a Line 5 rupture for a seamless transition and security of an alternative energy source for U.P. residents.

At the same time the Task Force advances this short-term recommendation to end U.P. propane reliance on Line 5 and to protect the Great Lakes, we urge the Task Force to complete its renewable energy plan in 2020. In developing the Part 2 report, the Task Force should focus on: (1) the date that the U.P. will no longer be dependent on Line 5; (2) recommendations for improving the balance of natural gas and propane availability to reduce energy costs for consumers; and (3) expanding the use of renewable, non-carbon based energy sources in the U.P. The Task Force's Part II energy landscape report will be critical in what Director Clark describes as evaluating "how the pieces can fit together so all parts of the state can take advantage of the energy revolution that is taking shape."

**Extend Rail Service to Rapid River.** Existing rail service is located within seven or so miles of the Rapid River facility. The cost of extending this service would be a fraction of the price of building a

\$500M+ tunnel under the Great Lakes for fossil fuel pipeline infrastructure. This option of transporting propane by rail comes with an acceptable level of risk when compared with the current risk Line 5 poses to hundreds of Michigan waterways, including the Great Lakes. In fact, the majority of propane nationwide is transported by this method. Neighboring Wisconsin offers a recent and poignant example<sup>4</sup> of propane shipment moving to rail after an aging pipeline was retired. In short, Enbridge's propane argument about Line 5 belies the facts that alternatives by rail are available and are safer than the status quo operations of Line 5. The final recommendations of the Task Force report should identify a timetable to put this alternative in place.

**Construct a New Rail Car Unloading Station for the Western U.P.** A new rail car unloading station could be constructed adjacent to an existing rail line for service to the western U.P. This alternative should be thoroughly evaluated as it may be even more attractive than extending the rail line from near Escanaba to the existing terminal at Rapid River.

**Expand the Existing Facility at Kincheloe.** Kincheloe is located in the eastern U.P., near Sault Ste. Marie. Propane arrives at Kincheloe via rail, and is off loaded into four 30,000 gallon storage tanks from rail cars at eight unloading spots. NGL Supply from Plains LPG Services recently acquired this facility. Because Kincheloe's propane operations are completely independent of Line 5, it would not be affected by a shutdown of Line 5. Additional storage capacity would provide an even greater propane reservoir for that portion of U.P. customers.

#### **C. ANALYZE THE REGIONAL PROPANE SUPPLY SYSTEMS, TRANSPORTATION MODES, AND ENERGY SYSTEMS FOR OPTIMAL DECISION MAKING**

**Conduct a Systems Regional Energy Analysis within PADD2.** The draft report should mention the role of Petroleum Administration for Defense Districts (PADD), which is a geographic region of 15 states created in WWII. Propane - or crude oil - that enters the PADD is available to all the states in the PADD. Because Michigan is not an island, the solution can be found within the larger energy system. By limiting the focus only on Michigan's energy needs, the Task Force cannot accurately make informed decisions about future propane supply and energy alternatives. In short, the state's energy analysis must take a systems analysis to problem solve, overcome potential propane shortages, and transition to long-term optimal energy solutions for the U.P.

**Conduct a Transportation Modes Analysis.** Rail, trucking, pipelines all present significant challenges and risks to public health, the environment, and the economy. But all are available and should be evaluated from a much broader matrix of energy, renewable energy, future energy and climate, environment, water and Great Lake risks, pricing and competition, diversity, affordability. Previous independent reports have been conducted, analyzing alternatives to Enbridge's Line 5 crude oil production.<sup>5</sup>

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<sup>4</sup> See "[Propane shippers shift from pipelines to rail](#)," StarTribune.com, October 31, 2014.

<sup>5</sup> For example, the 2018 London Economic International Report on [Michigan Crude Oil Production: Alternatives to Enbridge Line 5 for Transportation](#) concluded the following: "Enbridge has reported that by increasing operating pressure, it can expand capacity on Line 78, which already serves the Detroit/Toledo area refineries. If Line 78 capacity is expanded, the Michigan and Toledo refineries would not need crude oil by rail, and truck deliveries would have to compete with pipeline supplies. The cost to refiners would increase by an estimated \$0.40 per barrel. The impact on consumers would be less than one cent per gallon—an estimated 0.58 cents per gallon."

**Obtain Capacity Data and Other Information to Make Informed Decisions.** A map is needed of existing propane sources and potential in the future that could serve the U.P. The Task Force should secure independently sourced data on current and future propane capacity and storage capacity and other relevant questions.

**Explore Availability of Propane and Infrastructure from Marcellus Shale to Michigan:** The draft report's finding that a lack of access to propane from Ohio and Pennsylvania is not correct. It is more likely a function of lack of market in Lower Michigan, already supplied by other users. Moreover, BP Toledo perhaps others like Marathon are building a 50,000 bbl./day pipeline from OH and PA shale play.

#### **D. OVERSEE THE UNREGULATED, MONOPOLIZED PROPANE MARKET IN MICHIGAN**

**End U.P. Propane Reliance on Line 5:** To put an end to the Line 5 propane monopoly in the U.P., the following combined actions should be considered: (1) implement rail transportation of propane to a site in the western U.P. The site could either be Rapid River, or another site that is in the western U.P. and adjacent to an existing rail line; (2) strongly encourage additional propane storage tanks at Kincheloe coupled with financial incentives by the State to make this happen; (3) encourage propane suppliers that are not dependent on Line 5 for propane to enter and/or expand their market.

**Regulate the U.P. Propane Monopoly Market.** Propane in Michigan is currently unregulated and leaves the public vulnerable to price-gouging. This draft report underscores the need for the Michigan Public Service Commission ("MPSC") to get involved, and to expedite the completion of the second Task Force report examining all other energy options. The current completion date - March 31, 2021 - is too long to wait.

**Diversify the Propane Market.** The State of Michigan must do more to encourage other propane suppliers, those who are not dependent on Line 5, to serve the U.P. If for whatever reason Line 5 should be shut down for an extended period of time - or even permanently - free market forces would come into play. Suppliers who receive propane from sources independent of Line 5 would eagerly rush in to serve the void. It must be noted, however, that this scenario would not happen in the event of a short duration shut down of Line 5, as the cost of developing the needed infrastructure could not be justified.

**Recognize and Factor in the Volatility of Energy Markets.** The energy market is highly volatile, shifting every few months. Currently, we are witnessing some of the most turbulent times for energy companies that have huge long-term investments in Alberta crude oil sands and other formations. Accordingly, energy producers must always consider a variety of fluctuating market scenarios and develop strategies that keep competitors on edge while at the same time keep their customers at ease by casting a favorable outlook. Moreover, energy price volatility is part of this business model such that any slight cost increases from using alternatives to Line 5 propane are expected and anticipated.

**Integrate Planning for Energy and Water.** The Legislature should bring the private markets and fluctuation for propane wholesalers and retailers under Consumer Protection and the oversight and regulations by the MPSC. EGLE and Michigan cannot establish an integrative planning for energy, water, without all forms of energy under its regulatory oversight. Without consumer protections in place, many rural areas in Michigan have only one alternative, the private propane market. The high price in the U.P. is a function of a wholesaler monopoly, and a lack of other opportunities for competition by other propane suppliers and clean energy electricity producers.

## E. ANALYZE IMPACT TO THE GREAT LAKES AND THE STATE'S WATER RESOURCES

Not only does the current use and operation of Line 5 impose a monopoly on the U.P. propane market, Line 5 threatens the Great Lakes with a high risk of unacceptable and massive damage to water resources, water supplies, fishing (including tribal fishing rights). It is not acceptable to examine statewide energy options, including propane, without looking at the impacts to the Great Lakes, riparian property and businesses, lakes and streams, and the environment. Based on two independent academic reports, the economic and natural resource damage from a release of Line 5 in the Straits of Mackinac ranges from \$1.878 billion to \$6.3 billion. While alternative modes of transport--trains, trucks, or pipelines not located in the Straits or Great Lakes pose a risk of harm to water resources and the environment, none of the alternatives comes close to the profound damages of a Line 5 oil spill in the heart of the Great Lakes.

## F. PROVIDE ENERGY ASSISTANCE TO U.P. RESIDENTS

**Identify Financial Relief.** The draft report discusses the state providing financial relief to existing customers. This may be desirable from a short-term point of view, but it should not be considered a “permanent” fix.

**Expand Energy Conservation and Efficiencies with Incentives.** The draft report should dedicate a longer detailed discussion on energy conservation and efficiencies along with incentives for storage and diversification.

**Keep the Customer in Mind with Weatherization Solutions.** A propane surcharge to pay for weatherization or assistance is likely to be passed on to customers, further increasing the price and failing to address the continued problem of lack of energy competition and diversity in the U.P.

## II. CONCLUSION

The U.P. Energy Task Force draft propane report concludes that both short-term and longer-term feasible and prudent alternatives exist to decommission Line 5 and to secure reliable, safe, and affordable energy to U.P. residents based on adjustments within the energy system. This draft report further reaffirms other past independent research studies, including the 2018 London Economics International (“LEI”) Report titled [Assessment of Alternative Methods of Supplying Propane to Michigan in the Absence of Line 5](#).

While actual numbers may vary slightly given market volatility, conclusions about the viability of other alternatives to Line 5’s propane supply to the U.P. remain the same. The LEI report, for example, concludes that the lowest-cost alternative options to Enbridge Line 5 would be truck or rail from Superior, Wisconsin, and estimates the price increase to consumers in the Upper Peninsula would likely be about \$0.05 per gallon in 2018; this small price increase would be lost in the noise of typical fluctuating propane prices.

Given the current propane monopoly and lack of backup alternatives to Line 5, U.P. residents are exposed to substantial financial and safety risks. Moreover, Line 5 also poses unprecedented and devastating economic, environmental, and public health risks to the Great Lakes. A review of recommendations makes clear that the most reliable, secure, lowest cost and lowest risk alternative in the short-term is a

combination of rail and truck plus an increase in inventory in the U.P. The Task Force should urge the state to implement this short-term recommendation to end U.P. propane reliance on Line 5, and, at the same time, the Task Force should complete its renewable energy plan in 2020. Michigan and the Great Lakes cannot wait another year for more studies as Line 5 continues to age. In sum, with the help of this Task Force to prioritize recommendations and advance much needed energy planning, the State of Michigan can work as expeditiously as possible to decommission these aging oil pipelines and transition to safe and affordable energy alternatives for U.P. residents.

On behalf of FLOW, we thank you for the opportunity to provide this analysis and these comments. Should you have questions or want to discuss further, please contact us at your convenience.

Sincerely yours,

A handwritten signature in blue ink that reads "Liz Kirkwood". The signature is written in a cursive, flowing style.

Liz Kirkwood  
Executive Director  
FLOW

cc: Hon. Governor Gretchen Whitmer  
Hon. Attorney General Dana Nessel  
Hon. Senator Gary Peters  
Hon. Senator Debbie Stabenow  
Hon. Representative Jack Bergman  
Michigan Public Service Commission Chair Sally Talberg