



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GRETCHEN WHITMER
GOVERNOR

GARLIN GILCHRIST II
LT. GOVERNOR

May 11, 2021

VIA E-MAIL

Vern Yu
Executive Vice President
President, Liquids Pipelines
Enbridge
200, 425 – 1st Street SW
Calgary, Alberta T2P 3L8
Canada

Dear Mr. Yu:

Re: Enbridge's Potential Liability for Continued Operation of Straits Pipelines after May 12, 2021

As you are aware, the State has taken action to revoke and terminate the 1953 Easement authorizing Enbridge's use of certain State-owned bottomlands for the Line 5 Straits Pipelines. The State's November 13, 2020 Notice of Revocation and Termination of Easement provides that the revocation and termination each take legal effect 180 days after the date of the Notice. Accordingly, after May 12, 2021, the 1953 Easement is no longer in effect.

Enbridge has announced that it will not comply with the Notice, has sued the State in federal court, and has wrongfully removed from Michigan's courts the State's action to enforce its revocation and termination under Michigan law. The State is confident it will ultimately prevail, and the 1953 Easement will be deemed to have been legally revoked or terminated as of May 12, 2021.

Accordingly, the State is putting Enbridge on notice that, should the State prevail and the revocation and/or termination of the 1953 Easement be upheld, Enbridge will be liable to the State for its continued use of the Straits Pipelines after the effective date of the Notice. Specifically, Enbridge's continued occupation and use of State-owned bottomlands in the absence of a valid and effective easement constitutes an intentional trespass. In addition, to the extent that Enbridge benefits financially from that use and operation after May 12,

2021, it will be liable for unjust enrichment, which will require disgorgement to the State of all profits derived from its wrongful use of the State's property.

The State intends to assert claims for trespass and unjust enrichment against Enbridge at the appropriate time when the pending motion for remand in the State's lawsuit has been decided.

In sum, please be advised that Enbridge's continued operation of the Straits Pipelines after May 12, 2021 is at its own risk. If the State prevails in the underlying litigation, Enbridge will face the prospect of having to disgorge to the State all profits it derives from its wrongful use of the easement lands following that date.

Sincerely,



Gretchen Whitmer
Governor



Daniel Eichinger
Director
Department of Natural Resources