

**STATEMENT OF
Congressman Mark Schauer
Member of Congress
Before the
Subcommittee on Energy and Environment
U.S. HOUSE OF REPRESENTATIVES
Hearing on Pipeline Safety Oversight And Legislation
September 23, 2010**

Mr. Chairman and Ranking Member Upton,

Thank you for holding this hearing today. It's important to the people in Michigan, where 286 miles of Enbridge's Line 6B lays.

According to the National Transportation Safety Board, on Sunday, July 25, 2010, at 5:58p.m., alarms began to sound in Enbridge Energy Partner's control room in Edmonton, Alberta, Canada, on Line 6B of Enbridge's Lakehead Pipeline.

Around 9:30 p.m. on Sunday, July 25, residents in the Talmadge Creek area, just south of Marshall, MI, began calling 9-1-1, to complain about a gas odor.

After multiple alarms went off for over 13 hours, Enbridge sent a technician to the site at 9:49 a.m. the next day to inspect the Marshall Pump station and did not find any leaks at pump station facility. The pump station is located three-quarters of a mile from the site of the rupture.

At 11:18 a.m., Consumers Energy reported to Enbridge that there was oil in the Talmadge Creek. The leak was confirmed by Enbridge personnel at 11:45 a.m. and they waited until 1:29 p.m., nearly two hours after confirmed discovery by their personnel, to report the spill to the National Response Center.

With this oil spill, I saw the unimaginable. The community was devastated that night and in subsequent days. One million gallons of heavy cold lake blend crude

oil poured into Talmadge Creek and then flowed almost 35 miles down the Kalamazoo River, a tributary to Lake Michigan.

Public health was compromised, and more than 60 homes were evacuated. Local medical centers have reported over 120 visits related to illnesses from the oil spill.

Over 1,400 oiled wildlife have been collected thus far. The spill area is still under advisories for drinking water, recreation, and fish consumption.

I never would have imagined that just after Congress held hearings on the BP Deep Water Horizon spill and strengthening the Oil Pollution Act, my community would be dealing with oil-coated geese and a river flowing black.

The ironies here are too many to cite.

Just 10 days before this spill, an executive of Enbridge Energy Partners testified before the Transportation and Infrastructure's Subcommittee on Railroads, Pipelines, and Hazardous Materials on its integrity management system and stated their response time for release incidents "can be almost instantaneous, and our large leaks are typically detected by our control center personnel." As we learned, this was not the case.

Additionally, it took Enbridge almost two hours to report this leak to the National Response Center. Current regulation requires pipeline operators to report incidents immediately upon discovery of a release. In 2002, PHMSA determined "immediately" to be defined as between one and two hours after discovery.

In an accident like this with people and the environment at risk, every second counts, which is why I introduced a bi-partisan bill, H.R. 6008, the Corporate Liability and Emergency Accident Notification Act (the CLEAN Act). This bill will clarify the Congressional intent of the term "immediately" in the reporting requirements of a spill incident to the National Response Center. The CLEAN Act will define "immediately" as no more than one hour after the discovery of an incident. My bill will also increase the current fines if a spill is not reported "immediately" to the National Response Center. Additionally, my bill seeks to increase transparency by directing the U.S. Department of Transportation to create a searchable, public database of all reportable hazardous liquids incidents.

On the very same day they testified before the Subcommittee on Railroads, Pipelines, and Hazardous Materials, Enbridge requested to the Pipelines and Hazardous Materials Safety Administration that it be allowed to operate Line 6B at reduced pressure for another two and a half years while it considered repairs to the identified defects to this pipeline. This is in addition to the one year that Enbridge had already been operating under reduced pressure while it considered what to do about known 390 defects in its pipeline since 2007 and has since only repaired 61 of these. There are still 329 unrepaired defects on Line 6B that remain today.

Mr. Chairman, under current regulations, railroad employees can lose their license to operate a train for exceeding the speed limit by ten miles per hour, failing to make a brake test, or occupying a main track without permission. Truck drivers can lose their commercial drivers license for speeding, making an erratic lane change, following another vehicle too closely or even bottoming out the undercarriage at a highway-rail grade crossing. Those are serious offenses – don't get me wrong – but a company that controls the longest petroleum pipeline in the world can spill one million gallons of crude oil, devastating a local community and sensitive environmental areas, and not have to fix all the anomalies in their pipeline. That concerns me to no end.

Our current laws and regulations are not working, as we have seen with this spill and others.

I am vehemently opposed to this pipeline restarting before it can operate safely. Given the recent releases in New York and Illinois, and the over 80 release incidents reported by Enbridge since 2002 on just the 6B Line, I have no confidence that it can.

Just a few days ago, the Department of Transportation issued additional corrective action provisions to their Corrective Action Order issued on July 28, 2010. I am pleased to see the Department of Transportation getting tough on Enbridge and forcing them to make repairs to Line 6B that will improve the safety of the line and help prevent future incidents like the spill in Marshall. Setting hard deadlines for repairs, requiring additional assessments of the entire line within 14 days of restart, and hiring Oak Ridge National Laboratories as a third-party

monitor during the restart process are all steps in the right direction toward ensuring the integrity of the line and reducing risks to the health and safety of our communities. I plan to follow this process through to completion, holding both Enbridge and PHMSA to the highest possible standards.

My concerns do not only extend to Enbridge's pipeline safety practices but also the company's practices with the spill claims process and labor practices at the oil spill clean-up site.

Citizens in my district were asked to sign waivers releasing Enbridge from any other liability in exchange for air purifiers or air conditioners. Others were asked sign waivers releasing all of their medical history to Enbridge in return for medical treatment. Some citizens have reported banks redlining people from buying their homes because it was in the vicinity of the oil spill. Additionally, Enbridge offered settlements to most of the witnesses testifying last week before the Transportation and Infrastructure Committee on the spill just 72 hours before the start of the hearing. This is outrageous to me.

Also, Hallmark Industrial LLC, an Enbridge subcontractor, was using illegal, undocumented workers to work on the spill clean-up site. There have also been reports of unsafe working conditions and workers who were not qualified with the proper certifications working on the spill clean-up. This is unacceptable.

This Enbridge pipeline spill is just one example of the need for further corporate responsibility and government oversight.

Mr. Chairman, I am pleased that you are holding this hearing today on pipeline oversight and safety. It is my sincere hope that with proper requirements for pipeline inspections and repairs, leak detection and spill reporting standards, we can work towards preventing devastating spills in the future and protect the safety of our communities and our environment.

Thank you again Mr. Chairman for holding this important hearing and allowing me to testify.