



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Ave., S.E.  
Washington, DC 20590

November 20, 2014

Mr. Desmond Berry  
Manager, Natural Resources Department  
Grand Traverse Band of Ottawa and  
Chippewa Indians  
2605 N. West Bay Shore Drive  
Peshawbestown, MI 49682

Dear Mr. Berry:

Thank you for your letter of September 24, 2014, outlining the concerns of the Grand Traverse Band of Ottawa and Chippewa Indians regarding Public Law 112-90 (Jan. 3, 2012), and the status of certain sections of the Act for the preservation of the Great Lakes. The Pipeline and Hazardous Materials Safety Administration (PHMSA) takes its responsibilities for ensuring the safety of the pipeline system seriously, and we appreciate constructive input from all of our stakeholders to help us achieve this objective. Please be assured that we share your commitment to the preservation of the Great Lakes.

The status of PHMSA's implementation of Public Law 112-90 is available from the "Pipeline Safety Act of 2011: Track Our Progress" link on the PHMSA website (<http://www.phmsa.dot.gov/>). PHMSA's Tribal Assistance Protocol is available from this same link, and a copy is enclosed.

PHMSA's current pipeline safety regulations emphasize the protection of waterways in several key areas. Pipeline operators must periodically inspect each hazardous liquid pipeline that crosses a navigable waterway to determine the condition of the crossing and take corrective actions as appropriate to mitigate identified integrity threats. The hazardous liquid pipelines must also be installed with valves located to protect certain water crossings, including the Great Lakes, and with an appropriate amount of cover over the pipeline beneath the bottom of the waterway. The Great Lakes and many other waterways are included in PHMSA's definition of "High Consequence Areas," which are subject to additional regulatory requirements associated with PHMSA's integrity management provisions.

In 2011, PHMSA issued Advisory Bulletin ADB-11-04 to heighten operators' awareness of the need to protect water resources. The bulletin communicated the potential for damage to pipeline facilities caused by severe flooding, and advised pipeline owners and operators of actions that should be considered to prevent and mitigate damage to pipeline facilities in case of flooding.

PHMSA, as part of its obligations under the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, also completed a study of hazardous liquid pipeline incidents at crossings of inland bodies of water with a width of at least 100 feet from high-water mark to high-water mark, to determine if the depth of cover over the buried pipeline was a factor in any accidental release of hazardous liquids. PHMSA submitted a report summarizing the results of this study to Congress in August 2013, and has made this report public on our website under the "Track our Progress" page. We will continue to look for ways to enhance our regulations, as appropriate, as we move forward.

PHMSA also requires that pipeline operators develop oil spill response plans for each onshore oil pipeline from which a release may reasonably be expected to cause substantial harm to navigable waters. These plans must be submitted to PHMSA for review and approval. Following the July 2010 Enbridge Energy pipeline spill into the Kalamazoo River, PHMSA has taken several steps to strengthen its program concerning these plans. In particular, PHMSA has ensured that significant improvements were made to the Enbridge Energy response plan that addresses the Line 5 pipeline crossing of the Straits of Mackinac. PHMSA coordinated the development and approval of this updated Enbridge Energy response plan with the U.S. Environmental Protection Agency, the U.S. Coast Guard, and the National Energy Board of Canada.

After accidental releases into the Kalamazoo River and in Wisconsin, in order to prevent the occurrence of another such event, our agency entered into a comprehensive Consent Agreement with the operator to oversee the development and implementation of improvements to operations covering the entire Lakehead pipeline system. As part of this effort, our staff has reviewed a great deal of information on the Line 5 pipeline crossing of the Straits of Mackinac, including construction records, underwater pipeline crossing inspections, and integrity management activities.

Thank you, along with your members, for your continuing support and interest in pipeline safety matters. I hope this information is helpful to you. If we can be of further assistance, please do not hesitate to contact the Community Assistance and Technical Services (CATS) person for the Central Region, Mr. Harold Winnie, at 816-329-3800 or [Harold.Winnie@dot.gov](mailto:Harold.Winnie@dot.gov).

Sincerely,



Timothy P. Butters  
Acting Administrator

Enclosure

## **PHMSA TRIBAL ASSISTANCE PROTOCOL**

The Pipeline and Hazardous Materials Safety Administration (PHMSA) is dedicated to providing Indian tribes (tribes) with technical assistance to help in their efforts to improve the safety and efficiency of tribal pipeline systems. Affirmed in treaties, Supreme Court decisions, and executive orders, PHMSA has a government-to-government relationship with Indian tribal governments, and provides technical assistance as requested.

PHMSA will consult with Indian tribes to provide technical assistance that will help the tribes regulate oil and natural gas pipelines subject to their jurisdiction. Direct participation, training, partnering and cooperative working relationships will enable tribes to benefit from PHMSA's technical expertise and experience. As resources allow, PHMSA's activities may range from assisting tribal technical experts to providing technical data necessary to help the tribes assess, plan and provide for safe pipeline facilities on tribal lands. Training may also be available to promote tribal knowledge and expertise in the oversight of pipeline systems. PHMSA personnel are available to assist tribes in several program areas including general project planning and technical support, emergency response planning and preparedness, and standardization and implementation of regulations. A more formal interaction with Indian tribes may develop in the future as a result of PHMSA's increased outreach activities.

For further information, please contact a Community Assistance and Technical Services (CATS) representative.

**National CATS Coordinator**

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