



U.S. House of Representatives
Committee on Transportation and Infrastructure

James L. Oberstar
Chairman

Washington, DC 20515

John L. Mica
Ranking Republican Member

David Heysfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

September 1, 2010

James W. Coon II, Republican Chief of Staff

Mr. Patrick D. Daniel
President and Chief Executive Officer
Enbridge, Inc.
3000 Fifth Avenue Place
425 - 1st Street S.W.
Calgary, Alberta
T2P 3L8 Canada

Dear Mr. Daniel:

The Committee on Transportation and Infrastructure is conducting an investigation of Enbridge, Inc. and the rupture of Line 6B in Marshall, Michigan, which resulted in the release of more than one million gallons of crude oil into Talmadge Creek and the Kalamazoo River. The Kalamazoo River flows into Lake Michigan.

Pursuant to the investigation, Committee staff has conducted interviews with residents that live in several Michigan communities, including Marshall, Ceresco, Battle Creek, and Squaw Creek, and several businesses that operate in these communities. Staff has also met with Enbridge staff, including staff located at the claims offices in Battle Creek and Marshall, Michigan.

It is our understanding that Enbridge has convinced, or is seeking to convince, residents, workers, and business owners in the areas impacted by the spill to sign a "Full and Final Settlement Release". The release "discharges Enbridge, its employees, agents, partners, directors, and officers and affiliated companies and their agents, partners, directors, and officers, from and against all liability, claims, actions, causes of action, costs, and expenses, including without limitation claims for personal injuries, property damage, that [the signer] ever had, has, or may have against Enbridge, whether known or unknown related to the incident."¹

Many residents have stated that they felt pressured to sign the Enbridge liability release in return for air purifiers that they were led to believe would protect them from the health effects of Benzene and other volatile hydrocarbons released in the air as a result of the spill, air conditioners, and reimbursement for hotel and other expenses as a result of the evacuation. Other residents were

¹ Committee staff obtained the release from residents that signed the release and separately from staff of Enbridge.

urged to sign the release upon submittal of their claim forms to Enbridge at the claims centers. Many residents have reported to the Committee that they had no idea what they were signing.

We are equally distressed by Committee staff findings regarding Enbridge's efforts to urge residents who have experienced health effects from the oil spill to sign authorization forms for release of medical records.

Public health officials have urged citizens who have experienced health effects from the oil spill to seek medical care from their doctors. If residents do not have health insurance and they would like to talk with a doctor about their health related to the oil spill, they are instructed to call a 1-800 number, which connects to an Enbridge call center, or visit a claims center, for a referral to the family health center.

It appears from documents obtained by the Committee that Enbridge requests that concerned individuals complete an Authorization for Care, which provides the actual referral, and a medical release form entitled "Authorization for Release of Medical Records Pursuant to 45 CFR 164.508 (HIPAA)". The Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects the privacy and security of health information and provides individuals with certain rights with respect to their health information. Health care providers (e.g., doctors, clinics, nursing homes), health plans, and health care clearinghouses are required to comply with the law.

Enbridge's medical release form, which several residents impacted by the spill have signed or have been urged to sign, authorizes the disclosure and release of all medical information, including medical information unrelated to the oil spill, to any representative of Enbridge Energy Partners of Houston, Texas. Specifically, the form authorizes the release of "any and all inpatient admissions, all ER visits, outpatient clinic notes, diagnostic testing, radiology films, consults, doctors orders, progress notes, nurses notes, laboratory testing, social service records, reports, correspondence, consultations, memoranda, treatment plans, admission records, discharge summaries, medical summaries, diagnoses, and/or any writing of any kind ... [including] drug and alcohol records, communicable disease, HIV and AIDS records, and mental health records (not including psychotherapy notes)" to Enbridge. The form authorizes the release of any of these records for a period of one year from the date signed, or the date a claim has been legally concluded, to any representative of Enbridge Energy Partners, L.P., of Houston, Texas.

The form further authorizes health care providers to meet with and discuss the residents' medical and/or psychological condition or treatment with Enbridge representatives. Specifically, the form authorizes "any health care provider to release any and all tests, reports, notes (excluding psychotherapy notes) and all other information concerning my medical and/or psychological conditions and/or treatment and to meet with, discuss and/or to correspond and report directly to Enbridge or any representative(s) Enbridge may designate to discuss [their] medical and/or psychological condition(s) or treatment."

Enbridge's efforts to take legal advantage of Michigan residents under the stress of the immediate aftermath of the worst oil spill in the region's history are reprehensible.

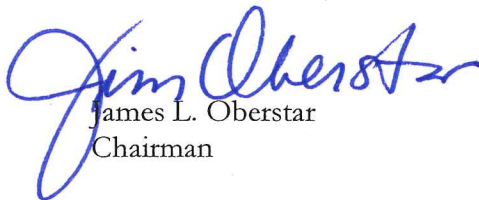
We are outraged that Enbridge would convince or seek to convince residents, workers, and business owners to sign release forms, which attempt to release Enbridge of all liability from claims – in some cases in exchange for an air purifier. We are equally distressed that Enbridge would convince or seek to convince residents with health effects from the oil spill to release all medical records and provide Enbridge with authority to discuss signatories' medical and psychological condition and treatment directly with residents' doctors.


We strongly urge Enbridge to voluntarily rescind any and all releases of full and final settlement and any and all authorizations for release of medical records that have been signed pursuant to the oil spill in Marshall, Michigan. We further request an immediate halt of Enbridge's practice of asking residents to sign authorization forms for release of liability or medical records.

In addition, we request copies of all full or partial releases of settlement for damages, receipts for any expense provided to Michigan residents or businesses as a result of the spill, records of any cash provided, or copies of any checks issued, pursuant to such expenses, settlements for damages, nuisance claims, or any payments made in similar nature. We further request copies of all authorizations for referral for medical attention and authorizations for release of medical records signed.

We request a written response indicating whether Enbridge will comply with this request, including our demand that Enbridge rescind liability releases and authorizations for release of medical records, no later than Friday, September 3, 2010. Please provide these materials to the Committee on Transportation and Infrastructure, 590 Ford House Office Building, Washington, D.C. 20515, no later than close of business on Wednesday, September 7, 2010.

Sincerely,


James L. Oberstar
Chairman


Mark H. Schauer
Member of Congress