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April 14, 2016

Secretary of State John Kerry
United States Department of State
Mr. Chris Davy, Deputy Director
Office of Energy Diplomacy
Energy Resources Bureau
U.S. Department of State
2201 C. Street, NW, Suite 4428
Washington, D.C. 20520

RE: Public Comment for Presidential Permit Issued to Plains LPG Services, L.P. in May 2014 for Existing Pipeline Facilities on the Border of the United States and Canada under the St. Clair River—Docket Number DOS-2016-0004

Dear Secretary Kerry and Mr. Davey:

Plains LPG Services, LP ("Plains") has asked the Department of State to modify its May 2014 Presidential Permit to now allow it to transport crude oil through two 98-year old pipelines on the bottom of the St. Clair River between Michigan and Ontario, Canada. I urge you to deny that modification request for several reasons:

- The condition, integrity, and suitability of the pipelines for transporting crude oil is unknown and unverified.

- Releases of crude oil from the pipelines would endanger public health and the public trust resources of the Great Lakes and connecting waters that provide public water supplies to millions and play a central role in state and regional environment and economy.

- There is no demonstrated need to use these pipelines to transport crude oil given the availability of other means to transporting that product across the border and Plains' own recent statements that it does not actually intend to use them for that purpose.

- The additional reasons detailed by the Michigan Office of the Great Lakes in separate written comments on this subject.

Under these circumstances, Plains' proposed modification creates significant unnecessary risk, defies common sense, and does not serve "the national interest" as required by applicable law.

As Attorney General of the State of Michigan, one of my highest priorities is protecting the Great Lakes, our most precious natural resources. The Great Lakes literally define our state and are the lifeblood of our environment and economy. Here in Michigan, we are addressing potential risks to the Great Lakes from a variety of sources, including petroleum transportation. In 2104, I convened and co-chaired the Michigan Petroleum Pipeline Task Force, and my office is now working, in conjunction with the Michigan Departments of Environmental Quality and Natural Resources and the Michigan Agency for Energy to implement the recommendations contained in the Task Force's 2015 Report.[1] Among other things that includes conducting independent risk and alternatives analyses for other underwater petroleum pipelines operated by Enbridge Energy at the Straits of Mackinac.[2]

As noted above, with respect to the St. Clair River Plains pipelines at issue here, almost nothing is known about the construction of the pipelines in 1918. The current condition of the pipelines and their suitability for transporting crude oil has not been documented or independently verified. The May 2014 Presidential Permit for those pipelines involved the transportation of light liquid hydrocarbons or natural gas liquids. Under Plains' proposed modification, they could now be used to transport crude oil, a substance which is widely recognized to present much greater risks to public health and the environment if released into water. Thus, the proposed modification, if implemented, would dramatically increase those risks.

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[1] Available at http://www.michigan.gov/deq/0,4561,7-135-3306_73791-358801--,00.html.

[2] See http://www.michigan.gov/energy/0,4580,7-230-73789_74071---,00.html.

And, those risks are wholly unnecessary. There is no available evidence that these two pipelines have ever transported significant quantities of crude oil or are needed for that purpose now. Other larger, more modern and recently constructed pipelines already transport oil across the international border in the same area. The Plains pipelines at issue here—each of which reportedly consists of a five-inch dimeter liner inside an eight-inch diameter pipe—would not significantly increase the capacity to transport crude oil, even assuming such capacity was needed and that these pipelines could be verified as fit for that purpose (neither of which has been shown, of course). Even more tellingly, Plains recently issued a press release in which it stated that it does not actually intend to transport crude oil through these pipelines. That concession effectively precludes any finding that the proposed use of the pipelines to transport is needed to serve any economic or public interest.

Against this background, Plains' request fails the applicable legal standard for modification of a Presidential Permit. Under Executive Order 11423, the Secretary of State must determine if granting or modifying a Presidential Permit serves "the national interest." If the Secretary determines that the proposed modification does not serve the national interest, then the modification must be denied. Executive Order 11423, 3 CFR 742 (1966). Here, as outlined above, the proposed modification would substantially and unnecessarily increase risks to public health, safety and welfare. It would not advance or serve the "national interest" and should therefore be denied.

Sincerely,

Bill Schuette
Michigan Attorney General

cc: John W. Allan, Director, Michigan Office of Great Lakes
Valerie Brader, Executive Director, Michigan Agency for Energy
Keith Creagh, Director, Michigan Department of Environmental Quality