

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

August 15, 2010

Enbridge Energy Partners, LP
c/o Mr. Rich Adams
Vice President, Operations
Superior City Centre
Second Floor
1409 Hammond Ave..
Superior, Wisconsin 54880

Re: U.S. EPA Notice of Disapproval of Enbridge Energy, Limited Partnership's August 2, 2010 and August 12, 2010, submission in response to the Removal Administrative Order issued by U.S. EPA on July 27, 2010, pursuant to §311(c) of the Clean Water Act in Docket No. CWA 1321-5-10-001

Dear Mr. Adams:

The United States Environmental Protection Agency (U.S. EPA) has completed its review of the following document submitted by Enbridge Energy, Limited Partnership, (Enbridge) on August 12, 2010, pursuant to Paragraph 19 of the above-referenced Order and pursuant to U.S. EPA's request in its July 31, 2010 and August 10, 2010 letters:

Response Plan for Downstream Impacted Area

U.S. EPA disapproves Enbridge's Response Plan for Downstream Impacted Area (RPDIA) submitted on August 12, 2010, due to deficiencies described herein. Specific comments are set forth below and shall be incorporated into a revised RPDIA, pursuant to Paragraph 20 of the U.S. EPA Order. As set out below, U.S. EPA technical staff has been designated to direct Enbridge's revision of the plan. In addition, the Federal On-Scene Coordinator (FOSC), Ralph Dollhopf, has directed Enbridge to work with U.S. EPA to incorporate the modifications requested herein.

The final RPDIA, as amended, shall be submitted to U.S. EPA by no later than 1700 hours Eastern, August 15, 2010. The U.S. EPA's FOSC will then complete a final review. Any additional corrections of, or modifications to, the RPDIA will be made by Enbridge as directed by the FOSC. Enbridge is directed to submit the RPDIA in Microsoft Word format to allow for corrections or modifications to the electronic documents.

The U.S. EPA reserves the right to disapprove, comment, or modify, as appropriate, the RPDIA upon its resubmission.

RPDIA-Specific Comments

1. Section 8.3: Please modify the text to include “planting will incorporate native plant species along with non-invasive temporary cover crops.”
2. Section 6.1.2: Please add “when necessary to access or cross areas of soft substrates, plywood sheets or other appropriate methods will be used to avoid compressing soils”.
3. Please rename Section 3.1.1 from “Marshes” to “Riparian Zones and Stream Banks” to more accurately describe the areas described in this section.
4. Section 6.0: Monitoring of natural recovery in lieu of cleanup is not acceptable at a qualitative level. Please state that a quantitative monitoring plan, developed separately, to make judgments on whether natural recovery is occurring without unacceptable adverse effects will be submitted to the FOSC for approval prior to execution of such a plan.
5. Section 6.1.2: Please state that backfill of excavated areas will be with clean, weed-free top soil immediately following excavation around tree roots in the riparian zone as necessary to ensure tree survival.
6. Section 6.1.4: The RPDIA states that trees larger than 4 inch diameter at breast height (DBH) will be preserved, which is inconsistent with the criteria established in Attachment C. Please revise the text to state that trees larger than 2 inches diameter DBH will be preserved.
7. Section 6.1.6: Please amend this section to include the collection, cleaning, rehabilitation, and release of live oiled animals.
8. Section 8.1: Remove the word “within” from the first sentence.
9. Attachment A: Please correct the definition of NREPA.
10. Attachment B, page B-1: The third paragraph shall reference Tables 23 and 25, as well as Table 17.
11. Attachment B, page B-6: The reference to Table 22 is incorrect. It appears that the reference should be to Table 23. Please review the reference/labeling and the tables, and correct as appropriate.
12. Please change all references from the Unified Command (UC) and/or Incident Commander (IC) in the RPDIA Plan to reference the FOSC.

Additional Items for Consideration

In addition to the regulations listed, other Michigan regulations that may govern future actions included, but are not limited to: Air Pollution Control (Part 55); Soil, Erosion, and Sedimentation Control (Part 91); Hazardous Waste Management (Part 111); Liquid Industrial Wastes (Part 121); and/or Solid Waste Management (Part 115).

Burning of petroleum covered vegetation may be a violation of the Air Pollution Control part of the NREPA (Part 55). To utilize burning for disposal, the Company may need to obtain a variance from the Michigan Department of Natural Resource and Environment's (DNRE) Air Division's open burning regulations. To get a variance, Enbridge may need to characterize the materials to be burn, and model to ensure that there is no adverse exposure to the public from the burning. Such modeling would include an evaluation of the toxicity.

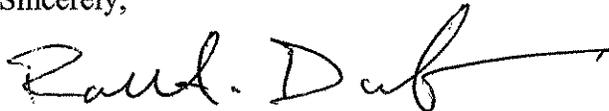
The removal of bank materials (Section 6.1.3) may not be covered by the General Permit and may require additional permitting under Parts 301 and 303 of the NREPA.

An emergency disposal approval may be needed from DNRE and/or Michigan's Environmental Resource Management Division (ERMD) for the handling of contaminated vegetation if more than a de minimus amount of vegetation is mixed with sediments and soils. The disposal of vegetation in a landfill or incinerator may require an emergency disposal approval from ERMD.

The nature of this emergency response effort demands an expedited and efficient review and approval process. U.S. EPA is providing competent and technical resources to ensure that a final comprehensive and functional RPDIA for this project can be in place by no later than 1700 hours on August 15, 2010.

U.S. EPA appreciates Enbridge's continued desire to conduct response efforts to the release from its 6B Pipeline, but requires that these efforts be conducted safely, promptly, and with appropriate resources and best technical practices.

Sincerely,



Ralph Dollhopf
Federal On-Scene Coordinator and Incident Commander
U.S. EPA, Region 5

cc: L. Kirby-Miles, U.S. EPA, ORC
J. Cahn, U.S. EPA, ORC
J. Kimble, U.S. EPA, Dep. FOOSC, FOOSC
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