

US EPA ARCHIVE DOCUMENT

Enbridge Energy, Limited Partnership  
1601 Pratt Avenue  
Marshall, Michigan 49068



August 24, 2012

Mr. Ralph Dollhopf  
Federal On-Scene Coordinator and Incident Commander  
U.S. Environmental Protection Agency  
801 Garfield Avenue, #229  
Traverse City, MI 49686

Re: In the Matter of Enbridge Energy Partners, L.P., *et al*,  
*Docket No. CWA 1321-5-10-001*

Dear Mr. Dollhopf:

Enbridge Energy, Limited Partnership (Enbridge) submits this letter to clarify our position regarding the need for active recovery of potential submerged oil upstream of the Ceresco Dam. At this time, Enbridge will not resume active recovery in advance of the completion of submerged oil quantification. Upon completion of quantification efforts and if results warrant, it will then be necessary to assess harm versus benefit to determine the most appropriate recovery method if any. It should be noted that existing empirical information suggests a minimal presence of submerged oil. In fact, the most significant evidence of submerged oil has been sheen which, when collected, has amounted to a volume of less than 1 gallon of product in total during 2012. Furthermore, the Michigan Department of Community Health (MDCH) determined in August 2011 that remaining residual product does not represent a human health risk.

Enbridge's position is that we have reached a point of diminishing returns where further invasive activities would do more harm than good. In fact, we strongly believe that such action solely for the purpose of aesthetics would both negatively impact the riverine environment and create a significant disturbance and inconvenience to local landowners and other river users. Enbridge will continue to work with the appropriate regulators to monitor and potentially respond should conditions change. The following details further support and clarify Enbridge's position.

#### **Background/Purpose**

During the Spring 2012 Submerged Oil Reassessment, submerged oil polygons identified as being "heavy" and "moderate" were identified within depositional areas upstream of the Ceresco Dam. A Late Summer 2012 Reassessment was commenced on August 22, 2012 to determine current submerged oil conditions. It should be noted that Enbridge has routinely stated that while the definitions of "heavy" and "moderate" submerged oil has remained the same since the beginning of this cleanup, the applicability of these definitions has changed over time (i.e.: a "heavy" in 2010 was significantly different than a "heavy" in 2011 which was different than a "heavy" today). That is, the amount of oil identified by "heavy" in 2012 is much less than what was indicated by "heavy" in 2010.

Since March 2012, Enbridge has been managing the sheen within the Ceresco Impoundment and along the entire Kalamazoo River system as part of our sheen management system. As an additional protective measure, Enbridge installed a control point at Ceresco and the Morrow Lake Delta during late June and early July of 2012. These measures have effectively controlled the sheen in the river system. To date in 2012, we have recovered a total of 1.38 gallons of oil through sheen management across the

entire river system. At the same time, boat use on the river required consumption of over 3,000 gallons of gasoline.

On August 20, 2012, the United States Environmental Protection Agency (U.S. EPA) provided a figure to Enbridge titled "2012 Poling Delineations, Moderates and Heavys, Total Acres Derived from Sub-Oil Boundaries" identifying nine "SOA Boundary" areas between mile post (MP) 4.75 and Ceresco Dam. The area delineated around these nine submerged oil areas covers approximately 20.8 acres and accounts for nearly all of the "heavy" and "moderate" polygons upstream of Ceresco Dam identified during the Spring 2012 Submerged Oil Reassessment.

Enbridge has reviewed the U.S. EPA's figure, as well as additional data sets, in an effort to make an informed decision regarding appropriate and reasonable response activities. We know that aggressive cleanup efforts such as dredging can be an effective means to recover residual submerged oil, but we also know that a balance needs to be made between oil abundance and risk and the harm on the environment that would result from recovery actions. An example has been used of an oiled goose at the beginning of the response could have had all of the oil recovered from it by plucking all of its feathers; however the goose may not survive this aggressive action. Instead, a balance needs to be achieved by which less aggressive measures are used to clean the goose so that in the end it can recover from both the oil and the cleaning. A river system can be viewed much like this goose. Repeated aggressive cleanup measures will have continued detrimental effects on the river.

The suggestion that Enbridge should dredge the identified 20.8 acres, especially prior to completion of on-going studies intended to support an informed decision-making process, contradicts the scientifically based approach used for the past year of this cleanup effort. In light of the suggested action, Enbridge has completed a review of the available information that exists for this site in an effort to evaluate what the appropriate next steps may be.

#### **Available Information**

A substantial amount of data collection and analysis has been completed to date that supports a cautious and deliberate path forward, using the least invasive effective methods available. For example:

##### Sediment

Numerous sediment samples have been collected between the release and the present time in both reference locations and areas affected by the release of crude oil. These samples have been evaluated for texture, chemistry, and toxicity. The resulting evidence suggests adverse chronic effects to biota that can be related back to specific toxic constituents in the released crude are absent in the Kalamazoo River. It is clear that bioavailability of contaminants is low, and the contribution from stressors and contaminants of unrelated sources is high in the Kalamazoo River. Based on the lines of evidence considered in this evaluation, further development of site-specific ecological remedial endpoints based on sediment toxicity or specific chemical constituents in the sediment should not be needed.

Enbridge further notes the existence of various studies indicating that sediment disturbance from activities such as agitation and dredging "can result in the release of bioavailable organic and inorganic contaminants into the water column, which may cause toxicity or enhanced bioaccumulation" (EPA 2005 540-R-05-012 *Contaminated Sediment Remediation Guidance for Hazardous Waste Sites*).

### Water Quality

A robust data set of ground and surface water data collected during 2010, 2011, and 2012 indicates that:

- The Line 6B crude oil release and associated response have not affected local groundwater flows or quality,
- The Line 6B crude oil release and associated response have not caused any injury to drinking water wells, and
- Present water quality in Talmadge Creek and the Kalamazoo River is not causing or risking injury to designated uses.

These findings are supported by the MCDH reports and the lifting of all restrictions on use of the river by the counties.

### Biota

Biota data exist from wildlife response and periodic sampling of mussel, fish, and invertebrates. Sampling and analysis has included both community assessment and tissue contaminant testing. The resulting data indicate very small losses as a result of the Line 6B crude oil release and fairly rapid recovery of communities. Further, the tissue sampling does not point to any significant adverse impacts or risk as a result of the release and no ingestion concern.

The most recent version of the Net Environmental Benefits Assessment (NEBA) document we have reviewed reflects the understanding that, given existing conditions in the river, implementing active recovery practices (e.g. toolbox methods and dredging) would result in a negative net benefit. The NEBA development process also suggests a decreasing intensity of work over time rather than the more aggressive action recently suggested. The NEBA group did not recommend immediate active recovery. Rather, they recommended continued evaluation of various locations consistent with on-going work.

Therefore, appear to be no health-based or ecological-based drivers for active recovery. Rather, it appears the reason is solely based on aesthetics relating to the presence of sheen.

### **Enbridge's View of the Appropriate Plan Going Forward**

Enbridge sees the following as the appropriate steps for the area upstream of Ceresco Dam going forward:

- Conduct an enhanced Late Summer 2012 Reassessment,
- Determine locations within the Ceresco Impoundment that are actually causing sheen,
- Complete the Quantification of Oil Study,
- Complete the Effects of Agitation Study,
- Complete the Dose Response Study,
- Continue with Sheen Management,
- Continue Sediment Trap Monitoring and Maintenance,
- Determine appropriate measures for continued Remedial Activities using the Best Available Data and Consideration of Net Benefit,

The activities outlined above are appropriate measures for continuing to address submerged oil and are consistent with the path that Enbridge, U.S. EPA, and MDEQ have all been pursuing for the last several months. Enbridge sees no valid reason to deviate from that path now.

### Summary/Conclusion

The cleanup in the last year has been predicated on the use of science to make good decisions to balance the benefit of further cleanup with the harm of taking those actions. Enbridge believes that this remains an important priority of the decision making process. This cleanup is, and has been for some time, a remediation project and not a response. As a remediation project, a step wise approach needs to be followed to allow an understanding of the problem, the magnitude of the problem, the consequences of various options, and development of an approach to effectively address the problem.

The collection of additional data to more precisely identify the source(s) of the sheen in the Ceresco Impoundment, as well as the quantity of material present in these locations, coupled with evaluation as to the potential duration of the continued aesthetic impacts need to be determined prior to taking active recovery actions. These evaluations have already commenced. When they are complete, appropriate science-based decisions on next steps can be made.

Please contact myself or Enbridge's Incident Commander John Sobojinski if you have any questions.

Sincerely,

ENBRIDGE ENERGY, LIMITED  
PARTNERSHIP  
By Enbridge Pipelines (Lakehead) L.L.C.  
Its General Partner

A handwritten signature in black ink, appearing to read 'Richard Adams', with a long horizontal line extending to the right.

Richard Adams  
Vice President, U.S. Field Operations

CC: John Sobojinski, Enbridge  
Michelle DeLong, MDEQ