

US EPA ARCHIVE DOCUMENT



November 13, 2012

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

Re: U.S. EPA Receipt of Enbridge's E4 Containment System Submittals in response to the Administrative Order issued by U.S. EPA on July 27, 2010, pursuant to §311(c) of the Clean Water Act (Docket No. CWA 1321-5-10-001) and Supplement to the Administrative Order issued by U.S. EPA on September 23, 2010

Dear Mr. Adams:

The United States Environmental Protection Agency (U.S. EPA) acknowledges receipt of the following letters submitted by Enbridge Energy, Limited Partnership ("Enbridge"):

November 8, 2012 Letter from Enbridge to the U.S. EPA notifying the U.S. EPA of Enbridge's intent to remove the E4.0 Containment System commencing on November 14, 2012

October 24, 2012 Letter from Enbridge to the U.S. EPA proposing a new submittal date for a revised Morrow Lake Delta and Morrow Lake Monitoring and Management Work Plan

November 5, 2012 Letter from Enbridge to the U.S. EPA proposing a new submittal date for a revised Morrow Lake Delta and Morrow Lake Monitoring and Management Work Plan

November 9, 2012 Letter from Enbridge to the U.S. EPA proposing a new submittal date for a revised Morrow Lake Delta and Morrow Lake Monitoring and Management Work Plan

Section 18 of Administrative Order ("Order") issued by U.S. EPA on July 27, 2010 pursuant to §311(c) of the Clean Water Act (Docket No. CWA 1321-5-10-001) requires Enbridge to deploy appropriate oil containment devices and equipment (i.e., containment booms); and Section 6.d of the Supplement to the Administrative Order ("Supplement") issued by U.S. EPA on September 23, 2010 requires Enbridge to provide containment until notified by the U.S. EPA. Further, Section 6.k of the Supplement and ensuing work plans require Enbridge to maintain the containment systems.

E4.0 CONTAINMENT SYSTEM REMOVAL PROPOSED BY ENBRIDGE

The U.S. EPA acknowledges that in Enbridge's opinion the E4.0 Containment System cannot be modified to withstand winter ice conditions. At Enbridge's request, the U.S. EPA has offered an alternative for modifying and/or reinforcing the E4.0 Containment System to withstand winter conditions. Specifically, on October 23, 2012, U.S. EPA provided Enbridge with a Technical

Memorandum prepared by U.S. EPA's contractor, Weston Solutions, Inc. regarding Submerged Oil Containment Strategy.

U. S. EPA is continuing to evaluate Enbridge's position that winter conditions on the Kalamazoo River preclude safe and successful installation and maintenance of subsurface containment structures. U.S EPA is also evaluating other winter containment alternatives. In addition, U.S.EPA has met on several occasions with MDEQ permitting staff to understand and coordinate on issues regarding permitting of winter containment structures in the impoundment areas of Ceresco, Mill Ponds and Morrow Lake Delta.

If Enbridge elects to remove the existing E4.0 Containment System rather than modifying that system to enable it to withstand winter ice conditions, Enbridge may have to reinstall a subsurface containment system at the downstream end of the Morrow Lake Delta or install other winter containment. Should Enbridge elect to remove the E4.0 Containment System, Enbridge shall provide a detailed work plan for removal of the E.4.0 Containment System to the U.S. EPA by 17:00 Eastern at least two working days before the system is removed. As discussed below, this plan shall also include a detailed description of how Enbridge proposes to manage any oil-containing sediments which may be disturbed during removal of the E4.0 Containment System. This plan will also be subject to U.S. EPA approval and shall conform to the requirements of the *Morrow Lake Delta and Morrow Lake Monitoring and Management Work Plan* approved by U.S. EPA on October 12, 2012. That document is further discussed below.

MORROW LAKE DELTA AND MORROW LAKE MONITORING AND MANAGEMENT WORK PLAN

In a letter dated October 12, 2012, the U.S. EPA approved (subject to required modifications described in the U.S. EPA's October 12, 2012 letter) Enbridge's *2012 Morrow Lake Delta and Morrow Lake Monitoring and Management Work Plan* ("Plan") dated August 28, 2012. The U.S. EPA's approval of the Plan required Enbridge to submit a revised Plan incorporating the changes required by the U.S. EPA by 17:00 Eastern time on October 24, 2012.

The U.S. EPA received an Enbridge letter dated October 24, 2012 asking to meet with U.S. EPA to discuss the required modifications to the Plan outlined in the October 12, 2012 approval. The October 24, 2012 letter also asked the U.S. EPA for an extension of time to revise the Plan to November 5, 2012. In letters dated November 5, 2012 and November 9, 2012, Enbridge again requested extensions for submitting the revised Plan to the U.S. EPA. While U.S. EPA has listened to subsequent proposals by Enbridge to further modify the Plan, and has expressed willingness to incorporate some of Enbridge suggested changes, U.S. EPA believes that there is no basis for Enbridge to have not submitted the Plan as approved by U.S.EPA by October 24, 2012. The Plan approved by U.S.EPA on October 12, 2012 with required modifications remains in effect. That Plan requires Enbridge to provide a separate workplan detailing the proposed approach to remove the E4.0 Containment System, including, but not limited to, a detailed description of how Enbridge proposes to manage any oil-containing sediments which may be disturbed during removal of the E4.0 Containment System. Pursuant to U.S. EPA's October 12, 2012 letter, Enbridge shall submit to U.S. EPA a revised Plan incorporating U.S. EPA's October 12, 2012 modifications by November 15, 2012. Enbridge is free to propose modifications to the Plan which U.S.EPA may then accept and approve in subsequent correspondence.

If you have any questions regarding this letter, please contact me immediately at (231) 301-0559.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph H. Dollhopf". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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

cc: L. Kirby-Miles, U.S. EPA, ORC
Karen Peaceman, U.S. EPA, ORC
M. DeLong, MDEQ
Records Center, U.S. EPA, Reg. V