

US EPA ARCHIVE DOCUMENT

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VIA EMAIL & OVERNIGHT DELIVERY

Richard Karl
Superfund Division Director US EPA
Region 5 77 W. Jackson Blvd.
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Chicago, IL 60604-3507

VIA EMAIL & HAND DELIVERY

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. SWA 1321-5-10-001**

Dear Mr. Karl and Mr. Dollhopf:

Enbridge Energy, Limited Partnership ("Enbridge") sets forth below additional information to the Letter and Proposed Order issued by the U.S. Environmental Protection Agency ("U.S. EPA") on October 3, 2012 ("Proposed Order"), concerning the Line 6B release near Marshall, Michigan in July, 2010. This information updates Enbridge's position as set forth in the November 2, 2012 letter submitted to the U.S. EPA and to the presentation provided to the U.S. EPA on December 19, 2012 in Chicago. Enbridge continues to work cooperatively with U.S. EPA, the State of Michigan and other stakeholders to address remaining residual oil and to carry out all appropriate cleanup activities in a manner consistent with the National Contingency Plan ("NCP"), 40 C.F.R. Part 300.

Background

U.S. EPA issued its initial Administrative Order for this site on July 27, 2010. As presented in our November 2, 2012 letter, Enbridge has continued to work cooperatively with the Agency to achieve the environmental protection goals set forth under Section 311 of the Clean Water Act ("CWA") through appropriate cleanup and reclamation of areas impacted by the crude release from Line 6B.

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In close cooperation with U.S. EPA, Enbridge has continued work on various studies and conducted cleanup activities in accordance with the procedures set forth under approved plans and as directed by the NCP.

On Going Studies

Enbridge continues to assert that the existing knowledge-base must be advanced in cooperation with U.S. EPA and the State of Michigan to identify appropriate future assessment and recovery plans that are consistent with protection of the public health and welfare and the environment. A number of scientific studies – the majority being completed as directed by the Scientific Support Coordination Group (“SSCG”), with others in cooperation with the MDEQ, are underway or nearly complete.

Net Environmental Benefit Analysis

The August 8, 2012 Net Environmental Benefit Analysis (“NEBA”) prepared by the SSCG for the site, directly addressed the potential ecological effects of further oil recovery. In preparing the NEBA, the SSCG recognized that the NEBA process would benefit from further information, specifically: (1) additional acute and chronic sediment toxicity data, (2) toxicity and physical smothering associated with agitation toolbox techniques, (3) oil biodegradation rates, and (4) quantification of volume of remaining oil. See NEBA, at pg. 51.

Accordingly, Enbridge has urged that the U.S. EPA with support from Enbridge should: (1) complete the studies needed to fill in the data gaps identified in the NEBA; (2) develop updated biological risk metrics for the specific areas and species of concern using site-specific data; and (3) re-evaluate the various possible combinations of responses and levels of harm or risk of harm to determine the net benefit of the different potential responses available. This conclusion is confirmed in the Technical Review NEBA and Spatial/Temporal Evaluation of 10/1/2012 as detailed in our November 2, 2012 letter (attachment 5), which concluded that an updated quantification of harm and evaluation of benefits would be beneficial.

As detailed in our November 2, 2012 letter, Enbridge believes that further remediation must be consistent with the NCP’s requirement to protect the public health and welfare and the environment and that any future decisions on active recovery be based on the best information available including an updated and revised NEBA.

Enbridge once again requests that as the responsible party, it be allowed to participate in any and all discussions and revisions related to the NEBA.

Quantification of Oil Update

This study was initiated in the spring of 2012 in cooperation with the SSCG and U.S. EPA. The objective of the study is to distinguish between Line 6B oil and other hydrocarbon

contaminants not related to Line 6B that are present in the area affected by the release. The ability to discriminate will then be used to estimate the total amount of Line 6B oil remaining in the river system. Enbridge has been fully supportive of this study and has worked diligently with the SSCG and U.S. EPA to ensure that this critical task achieves scientifically defensible data. Forensic chemists from the U.S. EPA and Enbridge agree that the use of key diagnostic ratios, together with results from the analytical range finding and method detection limits studies, will be used for purposes of quantitation of Line 6B oil. The one remaining item that Enbridge and U.S. EPA chemists are working on is the use and application of the Line 6B detectability analysis results, which relates to a limited number of sediment samples with high background but relatively low Line 6B oil concentrations. Enbridge expects resolution on this item and believes this study is nearing completion. Finalization of this study is critical for updating the NEBA, to completing other ongoing studies, and for use as a decision making tool in determining future activities. To date, the diagnostic profiles from chemical fingerprinting of sediment samples from the Kalamazoo River indicate a mixture of urban pyrogenic and petrogenic signatures. While the total amount of hydrocarbons present in any given sample range from <100 ppm to more than 20,000 ppm, a significant number of the samples show that potential contributions from Line 6B are below detectable limits with concentrations generally ranging from <48 ppm to approximately 6,000 ppm.

Chronic Toxicity Study Update

A draft work plan to evaluate the possible chronic effects of Line 6B oil on aquatic organisms has been submitted to the MDEQ. Enbridge anticipates refining this draft plan in working group sessions with the MDEQ in anticipation of implementation in the spring of 2013. This work plan will evaluate multiple lines of evidence to evaluate if the remaining amount and concentration of Line 6B oil adversely impact ecological receptors. The evaluation of the possible effects will rely on the methods identified under the Quantification of Oil study which is nearing completion.

Dose Response – Toxicity Study Update

A draft work plan to estimate the concentration at which the Line 6B oil demonstrates an adverse effect on aquatic organisms has been submitted to the MDEQ. Enbridge anticipates refining this draft plan in working group sessions with the MDEQ in anticipation of implementation in early summer of 2013. Implementation of this task will establish a dose response curve for sediments to which increasing concentrations of Line 6B oil has been added. The goal is to define a concentration of Line 6B oil at which adverse ecological effects could be anticipated. The implementation of this study requires the completion of the Quantification of Oil study.

Agitation Study Update

The primary objective of this study was to evaluate the effectiveness of the submerged oil toolbox in recovering Line 6B oil. All field work was completed in the summer of 2012, samples have been collected and recently analyzed, and suspended sediment distribution data has recently been received from the U.S. EPA. A report of findings presenting the results and an evaluation of the results is nearing completion. The final missing component of this study is the ability to quantify how much Line 6B oil is present in the samples collected for that study.

Sediment Cohesion

As detailed in Enbridge's November 2, 2012 letter to the EPA, the key assumption underlying the Proposed Order is that submerged oil is likely to migrate during high-flow events. *See, e.g.*, October 3 Letter, at pgs. 2-3 (identifying the threat that submerged oil will "migrate further downstream following future high River flow events if the submerged oil is not recovered."); *see also* October 1, 2012 Fitzpatrick Letter ("Fitzpatrick Letter"), at pgs. 6, 8, 10-11 (discussing the potential impact of high-flow events). The hydrodynamic model does not support this conclusion. To the contrary, the model suggests that it is highly unlikely that residual oil entrained in silt would leave Morrow Lake under any conditions modeled (including a 100-year flood event). The hydrodynamic modeling implies that most of any remaining submerged oil should settle in long-term depositional areas and that remobilization is unlikely. Based on the available modeling, only minimal amounts of sediment (potentially containing Line 6B oil) movement are predicted during the highest flow events such as the 50-year and 100-year flood events. Based on modeling, any unexpected migration (beyond designated sediment traps) is unlikely.

To further assess the mobility of sediment, a draft work plan to evaluate erodability of soft sediments has been submitted to the MDEQ. Enbridge anticipates refining this draft plan in working group sessions with the MDEQ. This work plan will evaluate multiple lines of evidence to evaluate the potential erodability of the river sediments including the possible effect of response activities on the erodability of sediments.

End Points

Enbridge continues to ask for direction regarding U.S. EPA end points. The U.S. EPA stated during the December 2012 meeting in Chicago that a document presenting U.S. EPA endpoints was nearly complete and would be provided to Enbridge. Throughout the project, Enbridge has requested that the U.S. EPA provide end points related to response actions. As of this date, the identification and definition of project end points has not been provided. The clear identification of project end points is crucial to the implementation of any future response actions.

Conclusion

Enbridge appreciates that U.S. EPA has provided an opportunity to express views on the U.S. EPA's Proposed Order. Again, Enbridge shares U.S. EPA's goal of protecting the public health and welfare and the environment. The current issue is how best to achieve those goals. The current version of the NEBA supports continued active sheen management as the means of responding to the circumstances in the River which has the fewest environmental impacts. The proper evaluation of the proposed active removal, can only be done once additional data is made available from the several on-going studies, particularly the submerged oil quantification study expected to be completed in the very near future.

Once again, Enbridge respectfully requests that the U.S. EPA consider postponing any order for immediate active recovery pending an evaluation of the on-going studies and that Enbridge is allowed to participate in any revisions to the current NEBA.

Sincerely,

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



Richard L. Adams
Vice President, U.S. Field Operations

cc: Robert Kaplan, U.S. EPA, Region 5 (via email only); Karen Peaceman, U.S. EPA, Region 5 (via email only); Michelle DeLong, MDEQ (via email only); Mark DuCharme, MDEQ (via email only); William Creal, MDEQ (via email only); Polly Synk, MDEQ (via email only); John Sobojinski, Enbridge (via email only); Joel Kanvik, Enbridge (via email only); David Coburn, Steptoe & Johnson (via email only)