



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

November 21, 2013

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

**Re: Response to Enbridge Energy, Limited Partnership's letters of November 2, 2013 and November 11, 2013 regarding completion of work required by U.S. EPA's March 14, 2013 Administrative Order**

Dear Mr. Adams:

Thank you for your submittal and letter of November 2, 2013 and November 11, 2013, respectively. In response to your November 2<sup>nd</sup> submittal seeking approval for a submerged oil removal plan for the Morrow Lake Delta and Morrow Lake ("the Delta"), U.S. EPA verifies that the dredging methods proposed are consistent with those already approved and that the activities in that plan have been required since May 13, 2013.

EPA has reviewed Enbridge's November 11<sup>th</sup> letter, which proposed a two phased plan for completion of the work required by the March 14, 2013 Administrative Order ("Order") issued by U.S. EPA. Enbridge also requested that U.S. EPA approve a ten month extension to the December 31, 2013 completion date currently required by the Order. U.S. EPA does not believe that the information provided justifies your proposed delay and the Agency, therefore, denies your request. U.S. EPA directs Enbridge to continue to perform the required work until all tasks outlined in the Order are complete and to prepare a plan for project completion, as described in this letter.

Although we recognize that the work required by the Order is unlikely to be completed by December 31, 2013, U.S. EPA believes that had Enbridge taken appropriate steps earlier as requested, it would not require an extension now. In particular, U.S. EPA believes that Enbridge has continuously failed to prepare adequate contingency plans for a project of this nature. For example, U.S. EPA acknowledges that failure to obtain a site plan approval for use of the CCP property for a dredge pad was a setback in the timely completion of the work in the Delta. However, Enbridge failed to prepare any contingency plans recognizing the possibility of such an occurrence. Enbridge has known since at least the middle of July 2013 that there was serious opposition to its proposed use of the CCP property. When it became clear in August 2013 that opposition to the site use might delay the project, U.S. EPA directed Enbridge to "conduct a

more detailed review of your options in short order.” Although your letter claims that Enbridge “has considered such alternatives,” your logs indicate that Enbridge did not hold initial discussions with the majority of these property owners until long after the final decision to abandon plans for use of the CCP property. These contact logs do not demonstrate that Enbridge fully explored and reviewed alternative options in a timely manner so as to avoid delay in completion of the work. Although Enbridge claims that use of identified alternative properties would be denied by Comstock Township, Enbridge did not present any site plans to the Township for approval (other than use of the county park for staging of frac tanks). To the extent that any of Enbridge’s contingency plans include the use of land for dredge pads, U.S. EPA believes that Enbridge should begin multiple submissions for property use until one is accepted. Specifically, site approval and access for sites D, H<sup>1</sup>, L and K should be pursued without further delay.

Enbridge claims that it cannot install winter containment in the Delta to prevent the potential migration of sediments to the lake. To support that claim, Enbridge has attached a letter from STS directing Enbridge to remove anchors and associated soft containment during winter months as these structures could damage STS’s turbines. However, none of the correspondence provided by Enbridge discusses the use of more secure containment methods, such as metal sheet piling, which may not pose the same risks as soft containment structures. Enbridge should consider using sheet piling to construct cells which would both allow winter work and contain the sediment during that work. Enbridge should therefore try to obtain access from STS for this specific work, and for other appropriate work, for the winter timeframe. Use of sheet pile cells would allow continued operations during the winter, especially in the southern zone of the Delta outside of the main river channel. Removal of oiled sediments prior to the spring thaw will lessen the potential oiled sediment transport in the spring to Morrow Lake via increased river velocities from rain and ice melt.

Finally, U.S. EPA is unwilling to allow Enbridge to wait until after the likely spring high velocity river flush to reinstall the E-4 containment structures. U.S. EPA has reviewed Enbridge’s modeling, which Enbridge claims supports its requested timeline, and has found it incomplete. The model has not incorporated, and does not match, field observation of flow velocities and water levels and their potential to impact upstream critical structures if containment is in place. Moreover, U.S. EPA completely disagrees with Enbridge’s assertion that there is no evidence of migration of submerged oil during high flow events. The results of three years of poling and sheen tracking demonstrate that Line 6B oil is mobile during periods of high flow. Now that Enbridge has a five year permit from MDEQ for the E-4 containment system, U.S. EPA reiterates that this containment must be in place immediately upon thaw conditions in the spring.

By this letter, U.S. EPA directs Enbridge to continue work until all tasks outlined in the Order are complete. U.S. EPA directs Enbridge to prepare a comprehensive plan detailing methods and timing for the completion of all remaining work required by the Order in the Delta, even if that

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<sup>1</sup> Your November 11 letter states that U.S. EPA “asked Enbridge to delay consideration of this site” until an estate proceeding was complete. U.S. EPA did not ask Enbridge to delay; rather, on October 31, 2013, U.S. EPA advised Enbridge that the Agency would provide Enbridge with an appropriate contact for the site. U.S. EPA gave that contact information to Enbridge on November 4, 2013.

work extends into a timeframe of delinquency. Enbridge must include contingencies in this plan and describe in detail how compliance and coordination with all impacted and appropriate units of local and state government will be achieved, including permitting, for all facets of the proposed action so that Enbridge can get the work required by the Order completed.

Although Enbridge's proposed two phase approach may have components that can be incorporated into a final plan, it should not be considered the approved way forward. U.S. EPA believes that pausing the work cycle until new piling can be done in June or July of 2014 could again result in a wasted construction season in the Delta. Enbridge should consider and utilize a combination of techniques in the plan. For example, several dredge pad sites have been identified by Enbridge. Enbridge should obtain approval for one of these sites, or a combination of smaller sites, so as to support hydraulic dredging in conjunction with the current approved approach and any potential dry excavation techniques. Enbridge should also consider other winter work techniques, such as cell build out and dewatering in the Delta via sheet piling.

As always, U.S. EPA will continue to work with Enbridge to develop adequate plans and complete the work required by the Order. However, nothing in this letter excuses any noncompliance with the Order nor does it serve as the granting of any extension to any deadline in the Order. U.S. EPA reserves all its rights to pursue an enforcement action for any noncompliance with the Order.

If you have any questions, please contact me immediately at (734) 692-7688.

Sincerely,



Jeffrey Kimble  
Federal On-Scene Coordinator  
U.S. EPA, Region 5

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