

## PUBLIC NOTICE

### PUBLIC NOTICE OF DRAFT NPDES PERMIT TO DISCHARGE INTO WATERS OF THE UNITED STATES

U.S. Environmental Protection Agency  
Region 5, NPDES Programs Branch - WN-16J  
77 West Jackson Boulevard  
Chicago, Illinois 60604

**Public Notice No.: 09-11-01-A**

**Public Notice Issued On:** November 2, 2009

**Comment period ends:** December 2, 2009

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**Permit No.:** MN-0070092-1 (ISSUANCE)

**Application No.:** MN-0070092-1

**Name and Address of Applicant:**

Enbridge Alberta Clipper and Southern Lights Pipeline Projects  
Enbridge Energy, Limited Partnership and Enbridge Pipelines LLC  
1320 Grand Avenue  
Superior, Wisconsin 54880

**Receiving Water:** Waters of the United States within the exterior boundaries of the Leech Lake Indian Reservations

**DESCRIPTION OF APPLICANT'S FACILITY AND DISCHARGE**

Enbridge Energy, Limited Partnership in conjunction with Enbridge Pipelines (Southern Lights) L.L.C (referred to collectively as Enbridge) have applied for a Presidential Permit for the construction, operation, and maintenance of a proposed pipeline and associated facilities for importation of crude oil from Canada. The proposed Alberta Clipper Pipeline extends from Hardisty, Alberta, Canada to Superior, Wisconsin and will have the capacity to deliver an average of 450,000 barrels per day (bpd) of crude oil from a supply hub near Hardisty to an existing terminal in Superior. In the United States, the Alberta Clipper pipeline will consist of approximately 326.9 miles of new 36-inch-diameter liquid petroleum pipeline and associated facilities that will be installed primarily within or adjacent to the existing Enbridge pipeline corridor from the U.S./Canada border to the existing Enbridge terminal in Superior. In addition, a 20-inch-diameter liquid hydrocarbon pipeline (Southern Lights Diluent Pipeline) will be installed adjacent and parallel to the proposed Alberta Clipper Pipeline; from the Clearbrook terminal to the Superior terminal. The proposed projects will impact approximately 702.40 acres of land associated with the Leech Lake Band of Ojibwe Reservation.

Consistent with U.S. Department of Transportation safety requirements, the structural integrity of the new pipeline must be established prior to putting the pipeline in use for its intended operation. Hydrostatic testing is a common means of evaluating the integrity of pipelines. The pipeline is filled with water to an established pressured rating and the line checked for leaks and stability. Following

testing of the pipeline's integrity, the water must be released back to the environment. During these tests, water is used as the testing medium rather than as a process stream. Because no additives are used, it is anticipated that the water used will not change significantly and thus, will reflect the characteristics of the source from which it was appropriated. Hydrostatic test water discharges are typically one time events that may occur over 24 hours. Flow volume and discharge duration will be dependent upon the size and length of the pipeline segment being tested and the discharge pumping rate. A table of test segments and associated volumes is provided below.

In order to prevent the entrainment of fish or other species of concern during hydrostatic test water withdrawal from waterbodies, screening will be used and installed around the intake hoses. The permittee shall attempt to avoid backwater areas, slow flow areas, and the mouths of tributary streams when determining the location for hydrostatic intake hoses in waterbodies. Caution shall be used against appropriating in known spawning areas or during the spawning season.

To minimize impacts on surface waters and to prevent erosion, the permittee plans to discharge hydrostatic test water to a well-vegetated, upland area or an appropriate dewatering structure. Dewatering structures may include geotextile filter bags and/or a hay bale structures lined with geotextile fabric. The permittee shall use the discharge locations as identified in the October 5, 2009 e-mail from Natural Resource Group to EPA. Runoff from the site has the potential to reach the identified receiving waters. All hydrostatic testing activities will be monitored by environmental inspectors and the outflow rates adjusted, if necessary.

#### HYDROSTATIC DISCHARGE LOCATIONS – LEECH LAKE RESERVATION

Outfall Number	Receiving Water <sup>1</sup>	Milepost	Longitude (DMS)	Latitude (DMS)	County	PLSS	Estimated Volume (million gallons)
001	Pike's Bay	955.8	47° 22' 47"	-94° 35' 15"	Cass	T145N, R31W, S15	0.12 <sup>2</sup> 0.04 <sup>3</sup>
002	Mississippi River	986.0	47° 19' 24"	-93° 57' 34"	Itasca/ Cass	T144N, R26W, S3	0.20 <sup>2</sup> 0.06 <sup>3</sup>
003	Ball Club River	989.5	47° 19' 54"	-93° 53' 21"	Itasca	T145N, R25W, S31	7.60 <sup>4</sup> 2.35 <sup>5</sup>

1 Source water for hydrostatic test will be obtained from the receiving waterbody (except for Pike's Bay) or from a local municipal supply.  
2 36 inch (Alberta Clipper) Horizontal Directional Drill (HDD) test segment  
3 20 inch (Southern Lights) HDD test segment  
4 36 inch (Alberta Clipper) mainline test segment  
5 20 inch (Southern Lights) mainline test segment

**Discharge Limitations:****Hydrostatic Test Water****Effluent Limitations and Monitoring Requirements**

The permittee is authorized to discharge hydrostatic test water. Such discharges shall be limited and monitored by the permittee as specified below:

<b><u>Parameter</u></b>	<b><u>Effluent Limitations</u></b>	
	<b><u>Daily Min.</u></b>	<b><u>Daily Max.</u></b>
Total Discharge Volume (MG)		(Report)
Total Suspended Solids		30 mg/l
Dissolved Oxygen	5 mg/l	
pH (standard units)	6	9
Oil & Grease		10 mg/l
Chlorine, Total Residual		0.038 mg/L
Treatment System, Discharge and Receiving Water Inspection		(Report)

**Basis for limits:** Since there are no applicable effluent guidelines for this type of discharge, the effluent limitations and monitoring requirements for hydrostatic test water contained in this permit were developed using permit writer's judgment (PWJ) to protect state and tribal water quality standards where they are applicable and to be consistent with similar permits issued by the Minnesota Pollution Control Agency to similar dischargers.

EPA is the appropriate authority for purposes of certifying the proposed discharge under Section 401 of the Clean Water Act regarding discharges within the Leech Lake Indian Reservation. Clean Water Act Section 401 certification is not needed from the state or the Leech Lake Tribe as neither have water quality standards applicable to the receiving water at the points of discharge.

**ESA and NHPA Compliance**

The permittee has applied to the U.S. Department of State (DOS) for a Presidential Permit for the construction, operation, and maintenance of facilities at the U.S./Canada border for a proposed pipeline and associated facilities for importation of crude oil from Canada. DOS receives and considers applications for Presidential Permits for such oil pipelines pursuant to the authority delegated to it by the President of the United States under Executive Order (EO) 13337. DOS has determined that issuance of a Presidential Permit would constitute a major federal action that may have a significant impact upon the environment within the context of the National Environmental Policy Act of 1969 (NEPA).

As the lead federal agency for the NEPA environmental review of the proposed Alberta Clipper Project (proposed Project), DOS prepared a Final Environmental Impact Statement (FEIS) in compliance with the requirements of NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 Code of Federal Regulations [CFR] 1500–1508). As part of the FEIS, Endangered Species Act (ESA) and National Historic Preservation Act (NHPA) requirements have been and are being addressed. Though this NPDES permit action is a separate federal action, the impacts related to the discharge of hydrostatic test waters were addressed as part of the FEIS. Since protection of archeological and cultural resources is also a permit condition, impacts to known sensitive resources would be avoided, and therefore, we believe that with the issuance of the permit and its associated discharges, no sensitive resources will be affected and have satisfied our requirements under the NHPA. In addition, since protection of threatened and endangered species and its critical habitat is also a permit condition, we do not believe that the issuance of the permit and its associated discharges will have an effect on those species, and therefore, believe we have met our requirements under the ESA.

### **TENTATIVE DETERMINATION**

On the basis of preliminary staff review and application of applicable standards and regulations, the Acting Regional Administrator of EPA, Region 5 proposes to reissue a permit to Enbridge Energy, Limited Partnership and Enbridge Pipelines LLC subject to certain effluent limitations and special conditions.

### **COMMENT PROCEDURES and PUBLIC HEARING**

The determination to issue the NPDES permits is tentative. EPA's comment and public hearing procedures may be found at 40 CFR 124.10, 124.11, 124.12, and 124.13. The following is a summary of those procedures:

1. The comment period during which written comments on the draft permits may be submitted extends to December 2, 2009.
2. During the comment period, any interested person may request a public hearing by filing a written request which must state the issues to be raised. The last day for filing a request for public hearing is December 2, 2009.
3. In appropriate cases, including those where there is significant public interest, the EPA Regional Administrator may hold a public hearing. A decision has not yet been made as to whether a public hearing will be held for this permit. Public notice of such a hearing will be circulated in at least one newspaper in the geographical area of the discharge and to those persons on the EPA mailing list at least 30 days prior to the hearing.
4. All comments received later than December 2, 2009, may be considered in the formulation of final determinations.
5. Written comments or requests for a public hearing must be delivered or mailed to: John A. Colletti, U.S. Environmental Protection Agency, Region 5, NPDES Programs Branch - WN-16J, 77 West Jackson Boulevard, Chicago, Illinois 60604

The application and Public Notice numbers should appear next to the EPA address on the envelope and on each page of any submitted comments. It is important that all viewpoints are considered before taking action. Therefore, we greatly appreciate your time and effort in participating in the public participation process. EPA will notify the applicant and each person who has submitted written comments or requested notice of the final permit decision.

### **PETITION TO REVIEW**

Within 30 days following the service of notice of the Acting Regional Administrator's final permit decision, any person who filed comments on the draft permit or participated in a public hearing, if held, may petition the Environmental Appeals Board to review any condition of the permit decision. The petition should be sent to the following address: Environmental Appeals Board, MC 1103B, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460.

### **AVAILABILITY OF DOCUMENTS**

The application, draft permit, including proposed effluent limitations and special conditions, statement of basis, and other documents contained in the administrative record, are available for inspection and may be copied at a cost of 15 cents per page at the Chicago Regional offices of the Environmental Protection Agency anytime between 9:00 a.m. and 4:00 p.m., Monday through Friday. You may also view the public notice, statement of basis, and draft permit on Region 5's website at "<http://www.epa.gov/region5/water/npdestek/notices.htm>". All data submitted by the applicant is available as part of the administrative record. For more information, please contact John Colletti at (312) 886-6106 or by e-mail at 'colletti.john@epa.gov'.

Please bring the foregoing to the attention of anyone you know that would be interested in this matter.