



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

September 2, 2010

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

Re: U.S. EPA Notice of Disapproval of Enbridge Energy, Limited Partnership's August 29, 2010, submission in response to the §311(c) of the Clean Water Act Removal Administrative Order (Docket No. CWA 1321-5-10-001) issued by U.S. EPA on July 27, 2010

Dear Mr. Adams:

The United States Environmental Protection Agency (U.S. EPA) has completed its review of the following documents submitted by Enbridge Energy, Limited Partnership, (Enbridge) on August 29, 2010, pursuant to Paragraph 19 of the above-referenced Order and pursuant to U.S. EPA's August 27, 2010 letter:

- Supplement to Response Plan for Downstream Impacted Area (August 29, 2010)
- Supplement to Quality Assurance Project Plan (August 29, 2010)

U.S. EPA disapproves Enbridge's above described supplements due to the deficiencies described below. Specific comments are set forth below and shall be incorporated into the appropriate revised plans, pursuant to Paragraph 20 of the Order. I am directing that Enbridge incorporate the modifications requested below.

The Supplement to Response Plan for Downstream Impacted Area and the Supplement to Quality Assurance Project Plan, with required modifications, shall be submitted to U.S. EPA on September 3, 2010. Enbridge should submit the two referenced supplements with modifications in Microsoft Word format as well as in pdf.

The U.S. EPA reserves the right to disapprove, comment, or modify, as appropriate, the two referenced supplements upon their resubmission. In addition to the specific comments provided below, please add cross-references to all supplements which are related to the characterization of submerged oil. Also, include references to the already-approved plans.

MODIFICATIONS TO THE AUGUST 29, 2010 SUPPLEMENT TO RESPONSE PLAN FOR DOWNSTREAM IMPACTED AREAS

1. Include a discussion on the effect of anthropogenic introductions (i.e., Gabions, silt curtains) made during the response actions and incorporate those effects into the river/sediment characterization. Include in this discussion the effects of potential sediment disturbance resulting from boating activities related to the response.
2. Section 1:
 - a. Add that identification of depositional areas is also part of the qualitative characterization.
 - b. Provide a summary of Divisions A through E to ensure consistency with other documents.
 - c. Provide criteria for prioritizing sites and for sampling under the quantitative phase.
 - d. Provide additional descriptions indicating the plan for continued qualitative assessments performed concurrently with quantitative assessment.
 - e. Add a discussion of how data generated by the SCAT teams, sediment sampling teams and water sampling teams for the preceding week will be used to guide the current characterization/sampling activities.
 - f. Explain why benzene, toluene, ethylbenzene and xylenes (collectively as BTEX) are the only volatile organic compounds (VOCs) that will be analyzed in sediment samples.
 - g. Define the referenced risk-based analyses.
 - h. Explicitly state that the primary response action objective is the removal and/or abatement of oil and/or sheen that is either currently affecting navigable waterways and/or poses a threat of a release of visible oil or sheen to navigable waterways.
 - i. Provide a reference to the approved Sampling Analysis Plan (SAP) and state that the analysis referenced in the SAP shall be used, subject to adaptive management as approved by the Federal On-Scene Coordinator (FOSC).
 - j. Expand the reference of depositional areas in the last paragraph of this Section. Specifically, use language from Section 4.4.2 of the SAP where different types of sediment deposition areas (i.e., straight, narrow, and/or swiftly moving waterways) are identified.
3. Section 2:
 - a. Page 3: Eliminate the second period at the end of Item 1.
 - b. Add a discussion on Data Quality Objectives (DQOs) for qualitative evaluations (e.g., comparison of sites, oil/no oil, verification of existing geomorphic mapping).
 - c. Provide a description of the “predictive tools” that will be utilized as referenced in Item 4 of this Section.
 - d. In addition to the U.S. EPA referenced citation in the last paragraph of Section 2, please state that findings of the qualitative assessment (e.g., observations of sheen) will also be used to guide response actions when appropriate.

4. Section 3.1: Delete the definition of NRT since it is defined earlier in the document.
5. Section 3.2:
 - a. Add provisions for including effects of a major precipitation event into the characterization.
 - b. Add “through the qualitative analysis” between “characterization” and “is.”
6. Section 3.3:
 - a. Add provisions for manmade structures that may be encountered during differing flow conditions. For example, a sewer line runs across the Kalamazoo River west of Helmer Road and, during low flow conditions, the line can impede canoe travel.
 - b. Add a discussion on how the anthropogenic findings will affect the analyses/evaluation being performed.
7. Section 3.4: Describe how the information discussed in this section will be used in the overall analysis. For example, once the river reaches have been defined, will similar depositional features within the downstream impacted areas be characterized, eliminating a more extensive bathymetric survey?
8. Section 3.6:
 - a. Add the identification of areas of dynamic equilibrium where there may be short term deposition that later is re-suspended.
 - b. Provide metrics for determining if the referenced survey will be needed.
9. Add a section discussing the use of Geographical Information System (GIS) and how it will be incorporated into the work (*e.g.*, how poling transects are being recorded.)
10. Section 3.7: In the last sentence, replace “should” with “shall.”
11. Section 4.2: Add a description of the qualifiers “upstream” and “downstream” as used in this Section. Clarify if the confluence of Talmadge Creek and the Kalamazoo River is the dividing line between upstream and downstream.
12. Section 4.3:
 - a. Add a discussion on how waterway bottom samples will be collected in the event of no recovery using the acetate sleeves.
 - b. Describe how and where data forms will be archived.
 - c. Provide minimum thicknesses required for the collection of sediment samples.
 - d. Provide the anticipated depth of sediment sample collection.
 - e. Provide some estimates of the number of samples contemplated.

- f. 4th full paragraph: Explain the rationale for the limitation of two samples. If the two samples represent different substrates that may have received different amounts of oiling because of physical differences, two samples should be a minimum. However, if the samples are intended to differentiate between “pre-spill” and “post-spill” conditions, additional samples may be required.
 - g. Provide some metrics to aid in the subjective evaluation described in the last paragraph.

- 13. Section 4.4: identifies that cores will be collected using stainless steel sampling tubes with acetate liners. However, only acetate liners, without stainless steel tubes, have been used to date. Include a provision/methodology for collecting samples without stainless steel tubes.

- 14. Section 4.5: clarify what field screening activities will be performed, if any, on the sediment samples.

- 15. Section 5.1:
 - a. Amend this section to include a sample handling protocol consistent with the planned operation of evaluation at an off-site facility (*e.g.*, the airport). This protocol shall include a description of the entire sample processing plan from time of collection through delivery to the analytical laboratory. Include in the protocol the procedure for any remaining sample spoils that require on-site handling and/or disposal.
 - b. Confirm or revise the preserving of samples on ice upon collection.
 - c. Provide an exact time for reporting of analytical results, rather than using the term “fast.”

- 16. Section 5.2:
 - a. The accuracy ± 0.5 meters referenced is inconsistent with the Check Valve Sampling Standard Operating Procedure. Make these consistent and revise as necessary.
 - b. Define “unreasonable error” as used.

- 17. Section 6.1:
 - a. Add bullet items for site description and photographs.
 - b. Provide information about forms being used during the qualitative characterization.
 - c. Require a signature on field forms for the recorder/observer.

- 18. Section 6.2:
 - a. Reference is made to placing samples on ice in the field. Confirm that this is true, and modify if necessary.
 - b. Require sampler’s initials on sample labels.

Provide copies of field data collection forms for both (qualitative and quantitative) assessment phases.

MODIFICATIONS TO THE AUGUST 29, 2010 SUPPLEMENT TO QUALITY ASSURANCE PROJECT PLAN

Sediment Logging Standard Operating Procedure (Tetra tech EC, Inc.)

1. Add fine black muck to the types of sediments which may be encountered.

Check Valve Sampling Standard Operating Procedure (Tetra tech EC, Inc.)

1. Section 4:
 - a. Confirm that watercraft will be anchored as described (e.g., 3 anchors) since this is not the method observed during preliminary actions related to the assessment of submerged oil.
 - b. Add a camera to the equipment list.
2. Section 5.1: The accuracy ± 1 meter referenced is inconsistent with the Supplement to the Response Plan for Downstream Impacted Area. Make these consistent and revise as necessary.
3. Section 5.2: Confirm that water depth measuring devices will be attached to a disc as indicated since this is not the method observed during preliminary actions related to the assessment of submerged oil.
4. Section 5.3: Item 5 indicates that unused cores (duplicates) will be discarded. Please consider retaining the supplemental cores until the primary core for a given location has been processed and analyzed.

The nature of this emergency response effort demands an expedited and efficient review and approval process. U.S. EPA is providing resources to ensure that final comprehensive and functional supplements for this project can be in place as soon as possible. Accordingly, as stated above, please submit your revised supplements by no later than September 3, 2010.

Sincerely,



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

cc: L. Kirby-Miles, U.S. EPA, ORC
J. Cahn, U.S. EPA, ORC
J. Kimble, U.S. EPA, Dep. IC, FOOSC
M. Durno, U.S. EPA, Dep. IC, Section Chief
Records Center, U.S. EPA, Reg. V