



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

C-14J

VIA EMAIL

December 9, 2021

David H. Coburn
William T. Hassler
Steptoe & Johnson LLP
1330 Connecticut Ave, NW
Washington, DC 20036
dcoburn@steptoe.com
whassler@steptoe.com

Re: *United States v. Enbridge Energy, Limited Partnership, et al.*, Civ. No. 1:16-cv-00914,
Consent Decree, **Demand for Payment of Stipulated Penalties (Fourth Set)**¹

Dear David and Bill:

Pursuant to Paragraphs 164.e, 167, and 168 of the Consent Decree in the above-referenced matter, the United States Environmental Protection Agency (“EPA”) hereby demands payment from Enbridge of stipulated penalties in the amount of \$2,978,700 for violations of the Consent Decree. This demand is being made by EPA with the assent of the United States Department of Justice.

Each of the incidents of noncompliance with the Consent Decree is described below, together with the amount of stipulated penalty demanded for the incident. Certain of the incidents referred to below involve multiple concurrent violations.

1. \$314,000 for running an annual Crack In-line Inspection (“ILI”) tool on Original US Line 3, CR-PW, 76 Days late (see Paragraphs 22.d, 28, 30, and 66 of the Consent Decree). For purposes of this stipulated penalty assessment, the period of violation extended from April 16, 2019, one year following the previous Crack ILI, until July 1, 2019, the date the Crack ILI tool was run.

¹ The First Set of Stipulated Penalties in the amount of \$1,863,000 was collected via the May 2, 2018 Stipulation and Agreement Regarding Assessment and Payment of Stipulated Penalties Relating to Timeliness of Certain In-Line Inspections. The Second and Third Sets of Stipulated Penalties in the amounts of \$3,697,150 and \$3,075,000, respectively, were collected via EPA’s May 8, 2020 Demand for Payment of Stipulated Penalties.

2. \$424,000 for calculating the Remaining Life of one Crack feature on Line 1, CR-PW, 98 Days late (see Paragraphs 44 and 60 of the Consent Decree). For purposes of this stipulated penalty assessment, the period of violation extended from April 11, 2019, the deadline for completing the calculation, until July 18, 2019, the date the calculation was completed.
3. \$831,600 for uploading Line 5, ENO-EMA, Nondestructive Examination (“NDE”) data to OneSource more than 60 Days after completing field investigations relating to the relevant ILI Tool Run (see Paragraph 77.d of the Consent Decree). For purposes of this stipulated penalty assessment, the violation extended during the 198-Day period from November 19, 2018, 60 Days after Enbridge approved the NDE data, until June 5, 2019, the date the NDE data was uploaded to OneSource.
4. \$831,600 for uploading Line 5, WNO-WMA, NDE data to OneSource more than 60 Days after completing field investigations relating to the relevant ILI Tool Run (see Paragraph 77.d of the Consent Decree). For purposes of this stipulated penalty assessment, the violation extended during the 198-Day period from November 19, 2018, 60 Days after Enbridge approved the NDE data, until June 5, 2019, the date the NDE data was uploaded to OneSource.
5. \$216,000 for failing to add 27 Corrosion features on Line 1, CR-PW, to the Dig List as Features Requiring Excavation (“FRE”) within 180 Days after completion of an ILI Tool Run (see Paragraphs 34.f and 37 of the Consent Decree). For purposes of this stipulated penalty assessment, the violation extended during the four-Day period from February 14, 2018, 180 Days after tool removal, until February 18, 2019, the date the data quality concerns were resolved.
6. \$234,500 for uploading Line 3, CR-PW, NDE data to OneSource more than 60 Days after completing field investigations relating to the relevant ILI Tool Run (see Paragraphs 39, 40, and 77.d of the Consent Decree). For purposes of this stipulated penalty assessment, the violation extended during the 107-Day period from May 19, 2019, 60 Days after Enbridge approved the NDE data, until September 4, 2019, the date the NDE data was uploaded to OneSource.
7. \$10,000 for a five-Day outage of the 24-hour Alarm on the entirety of Line 14 (see Paragraphs 92 and 102 of the Consent Decree). For purposes of this stipulated penalty assessment, the period of violation extended from December 7, 2018, the first Day of the outage, until December 12, 2018, the date the alarm was restored.
8. \$4,000 for failing to properly account for the combined depth of one intersecting Crack/Corrosion feature on Line 4, DR-FW, when making a Field Burst Pressure calculation that was incorporated into a required ILI tool depth bias analysis (see Paragraph 40 and Appendix B of the Consent Decree). For purposes of this stipulated penalty assessment, the violation extended during the two-Day period from October 11,

2018, the date the incorrect calculation was performed, until October 13, 2018, the date the feature at issue was repaired.

9. \$8,000 for imposing a Point Pressure Restriction (“PPR”) for one intersecting dent/Crack FRE on Line 3, GF-CR, four Days late (see Paragraph 59 of the Consent Decree). For purposes of this stipulated penalty assessment, the period of violation extended from November 14, 2019, two Days after the SML’s “PI Listing Approval Request Email,” until November 18, 2019, the date the PPR was imposed.
10. \$16,000 for imposing PPRs for eight Crack FRE on Line 6A, AM-GT, one Day late (see Paragraphs 46.b and 47 of the Consent Decree). For purposes of this stipulated penalty assessment, the period of violation extended from August 21, 2019, two Days after the SML’s “PI Listing Approval Request Email,” until August 22, 2019, the date the PPRs were imposed.
11. \$35,000 for failing to timely impose a PPR for one intersecting dent/Crack FRE on Line 5, MA-BC (see Paragraphs 34.f, 38.b, 46.b, and 59.b of the Consent Decree). For purposes of this stipulated penalty assessment, the violation extended during the 16-Day period from January 23, 2020, 182 Days after tool removal, until February 8, 2020, the date the FRE was repaired.
12. \$6,000 for repairing one intersecting dent/Corrosion FRE on Line 6A, PE-AM, three Days late (see Paragraphs 38.a and 58 of the Consent Decree). For purposes of this stipulated penalty assessment, the period of violation extended from January 15, 2020, 30 Days after the feature was added to the Dig List, until January 18, 2020, the date the FRE was repaired.
13. \$48,000 for imposing PPRs for eight Corrosion FRE on Line 6A, PE-AM, three Days late (see Paragraph 52.b of the Consent Decree). For purposes of this stipulated penalty assessment, the period of violation extended from July 1, 2019, two Days after the SML’s “PI Listing Approval Request Email,” until July 4, 2019, the date the PPRs were imposed.

Altogether, EPA demands payment from Enbridge of stipulated penalties in the amount of \$2,978,700 for the violations of the Consent Decree described above. EPA reserves the right to demand stipulated penalties for other violations of the Consent Decree.

As provided by Paragraph 167 of the Consent Decree, stipulated penalties shall be paid within 30 days of receiving a written demand. Stipulated penalties should be paid in the manner set forth in Paragraph 169 of the Consent Decree. Consistent with Paragraph 169 of the Consent Decree, the Financial Litigation Unit of the U.S. Attorney’s Office for the Western District of Michigan will send Enbridge written FedWire EFT instructions upon written confirmation from Enbridge that it intends to pay the amount demanded hereunder.

If you have any questions, please contact me at 312-353-4410.

Sincerely,

Matthew Russo
Associate Regional Counsel

cc: C. Mymko, Enbridge
D. Purvis, Enbridge
J. Runyan, Steptoe
S. Willey, DOJ
J. Warren, DOJ
C. Garypie, EPA R5/ORC
K. Peaceman, EPA R5/ORC
L. Welles, EPA OECA/OCE/WED