

**IN THE CIRCUIT COURT FOR THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS  
CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS )  
*ex rel.* LISA MADIGAN, Attorney )  
 General of the State of Illinois, and )  
*ex rel.* JAMES W. GLASGOW, State's )  
 Attorney for Will County, )

Plaintiff, )

v. )

ENBRIDGE ENERGY, LIMITED )  
 PARTNERSHIP, a Delaware limited partnership, )

Defendant. )

No. 10CH06266

2010 OCT -7 AM 9:15  
 CLERK, CIRCUIT COURT  
 WILL COUNTY, ILLINOIS  
 WILL COUNTY COURT BUILDING

FILED

**AGREED INTERIM ORDER**

This cause coming before the Court on Plaintiff's Motion to enter an Agreed Interim Order, the parties being given due notice; the Court having jurisdiction over the parties and subject matter and being duly advised in the premises;

NOW THEREFORE, Plaintiff having alleged violations of the Illinois Environmental Act, 415 ILCS 5/1 et seq. (2010) ("Act"), and the parties having agreed to the entry of this Agreed Interim Order, the Court enters the following Agreed Interim Order which shall remain in effect until further order by this Court. IT IS HEREBY ORDERED:

**I. BACKGROUND**

1. Plaintiff alleges in its Verified Complaint filed on October 7, 2010 ("Verified Complaint") that as the result of a September 9, 2010 release of crude oil and its constituents, including benzene, its degradation byproducts, including volatile organic materials, from an Enbridge crude oil pipeline located at or about 719 Parkwood Avenue,

Romeoville, Will County, Illinois Defendant violated the Act.

2. At all times relevant to the Verified Complaint, Enbridge Energy, Limited Partnership ("Enbridge") owns and operates a 34-inch crude oil pipeline ("Pipeline") beginning in Superior, Wisconsin, and running through the Midwestern United States, including through the State of Illinois.

3. The Pipeline owned by Enbridge is capable of carrying approximately 670,000 barrels of crude oil per day. A portion of the pipeline is located at or about 719 Parkwood Avenue, Romeoville, Will County, Illinois ("Site").

4. On or before September 9, 2010, the Enbridge Pipeline began discharging crude oil from the subsurface pipeline to the ground surface in the vicinity of the Site.

5. On September 9, 2010, Enbridge promptly notified the Illinois Emergency Management Authority ("IEMA") as well as other state and local agencies of the release.

6. Plaintiff alleges that on September 9, 2010 representatives of the Illinois Environmental Protection Agency ("Illinois EPA") inspected the site and observed crude oil discharge flowing from the area around Pipeline onto Parkwood Avenue, entering a storm sewer catch basin and discharging into an unnamed creek. The unnamed creek discharged directly into a retention pond. The retention pond flows into an unnamed tributary which then flows approximately one half mile to the Des Plaines River.

7. Additionally, on or about September 9, 2010, crude oil discharged from the Pipeline to the sanitary sewer or sewers in the vicinity of the Site, impacting a lift station and discharged to the Romeoville waste water treatment plant.

8. In addition to representatives from Illinois EPA, representatives from the Romeoville Fire Department, U.S. EPA, U.S. Fish and Wildlife Services and other governmental authorities responded to the Site on September 9, 2010.

9. On September 9, 2010, the Romeoville Fire Department ordered the evacuation of the nearby business park.

10. Plaintiff alleges that two community water supply wells are located approximately two-thirds of a mile from the Site and private wells are located in the vicinity of the Site. Water supply lines are also located in the vicinity of the Site.

11. On September 9, 2010, Enbridge shut down the Pipeline by closing valves upstream and downstream of the spill. Enbridge's actions isolated approximately three miles of the Pipeline.

12. On September 9, 2010, Enbridge promptly began to clean up the oil and those efforts continue as of the date of this filing under the supervision of the United States Environmental Protection Agency and other federal agencies.

13. On September 10, 2010, the United States Environmental Protection Agency issued an Order for Compliance under Section 311(c) of the Federal Water Pollution Control Act 33 U.S.C. § 1321(c).

14. Plaintiff alleges that crude oil and its degradation byproducts will leach from and/or continue to be released into the environment until such time as the contaminants are identified and remediated.

## **II. GENERAL PROVISIONS**

15. This Order is not a final resolution on the merits of Plaintiff's Verified Complaint, but rather addresses the Plaintiff's most immediate concerns regarding the

releases alleged in the Complaint. This Order does not, nor is it intended to, determine the liability of Enbridge, for the subject matter of the Complaint, except as to its compliance with the requirements of the Agreed Interim Order itself.

16. This Order shall apply to and bind the Plaintiff, Will County and Enbridge.

17. For purposes of this Agreed Interim Order, the term "Site" shall mean the area surrounding the Pipeline spill, including areas or media impacted by the released oil and any of its degradation byproducts.

### **III. IMMEDIATE ACTION**

18. On September 10, 2010, the United States Environmental Protection Agency ("US EPA") issued to Enbridge Energy, Limited Partnership an Order for Compliance pursuant to Section 311(c) of the Federal Water Pollution Control Act, 33 U.S.C. §1321(c) ("US EPA Order") requiring Enbridge to complete certain actions to address the release of contaminants in the form of crude oil and its constituents, including benzene, its degradation byproducts, including volatile organic materials into the atmosphere, soil, surface water and groundwater at and near the Site. The US EPA Order is attached hereto as Attachment A.

19. Enbridge shall provide to Illinois EPA copies of all work plans and other submittals Enbridge is required to provide to US EPA under the US EPA Order, including but not limited to all air, water, waste or product sampling and analytical data, Health and Safety Plan, Pipeline Repair Workplan, Sampling and Analysis Plan, QAPP, Oil Recovery and Containment Plan, Source Release Area Remediation Plan, Remediation Plan for Downstream Impacted Areas, Waste Treatment, Transportation,

and Disposal Plan, and weekly reports. For all plans and submittals described in paragraph 19, herein, that Enbridge already has submitted to US EPA, Enbridge shall submit copies to Illinois EPA within one (1) day of entry of this Agreed Interim Order. For all plans and submittals described in paragraph 19, herein, that Enbridge will submit to US EPA pursuant to the US EPA Order, such plans and submittals shall be simultaneously provided to Illinois EPA. The Parties understand that all work plans and other submittals provided pursuant to the US EPA Order are subject to US EPA review and US EPA's sole approval authority. Nothing herein restricts or is meant to limit Illinois EPA's ability to submit comments on such plans or submittals to US EPA or Illinois EPA's authority or jurisdiction under the Act.

20. Within 15 days of entry of this Agreed Interim Order, Enbridge shall identify the location of all water supply mains, water supply service lines, storm sewers and sanitary sewers in areas that might be impacted or threatened by the release of oil. As Enbridge's cleanup work progresses, if Enbridge identifies community water supply mains, water supply service lines, storm sewers or sanitary sewers in areas that have been impacted or threatened by the release of oil, then Enbridge shall inspect such mains, lines and sewers in coordination with the owner/operator of such mains, lines and sewers to determine whether the integrity of such mains, lines or sewers have been compromised. Within 10 days of completion of the activities required in paragraph 20, herein, Enbridge shall provide the results to Illinois EPA. The requirements of this Paragraph do not apply to the water main service line or sewer located immediately adjacent to, or beneath, the section of the Enbridge pipeline removed under the supervision of the National Transportation Safety Board that leaked on or before September 9, 2010.

21. Within seven (7) days of entry of this Order, Enbridge shall conduct a well survey to identify all private wells within one half mile of the Pipeline release and propose a plan to evaluate any impact on such private wells and whether the release might impact the Class III groundwater at and around the Romeoville Nature Preserve. Within ten (10) days after entry of this Agreed Interim Order, Enbridge shall provide the results to the Illinois EPA.

22. Within seven (7) days of entry of this Order, Enbridge shall provide to Plaintiff copies of all inspection reports of the section of the Pipeline within Illinois for the years 2000 through 2005 and information about all repairs made to this same section for the same time period.

23. Pursuant to Section 10 of the Oil Spill Responders Liability Act, 740 ILCS 113/10 (2010), Enbridge shall reimburse Illinois EPA for all reasonable response and oversight costs incurred by its Office of Emergency Response and Bureau of Water staff relating to the release. Such payments shall be made payable to the Oil Spill Response Fund. Illinois EPA will issue invoices with standard supporting documentation for such costs and payment shall be made by Enbridge within 45 days of receipt, unless such costs, or any portion thereof, are disputed by Enbridge, pursuant to paragraph 31.

24. Pursuant to Section 10 of the Oil Spill Responders Liability Act, 740 ILCS 113/10 (2010), Enbridge shall reimburse Illinois EPA all reasonable response and oversight costs that may be incurred by its Bureau of Land relating to the release or by the Office of Community Relations pursuant to the community right-to-know requirements of the Act and 35 Ill. Adm. Code 1600. Such payments shall be made payable to the Hazardous Waste Fund. Illinois EPA will issue invoices with standard

supporting documentation for such costs and payment shall be made by Enbridge within 45 days of receipt, unless such costs, or any portion thereof, are disputed by Enbridge, pursuant to paragraph 31. The State reserves the right to pursue recovery of any other costs of investigation and pursuit of this matter.

#### IV. NOTICES

25. All submittals and correspondence relating to the requirements of this

Order shall be directed to the following persons as designated in:

##### FOR PLAINTIFF

Vanessa Horton  
Assistant Attorney General  
Illinois Attorney General's Office  
Environmental Bureau North  
69 W. Washington St., 18th Floor  
Chicago, Illinois 60602  
(312) 814-0608

John Waligore  
Assistant Counsel  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62794  
(217) 306-4247

Jody Kershaw  
Project Manager  
Division of Remediation Management, State Sites Unit, Bureau of Land  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62794

Yeric Yarrington  
Manager Engineering & Assessment  
Office of Emergency Response  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62794

Jay Patel  
Illinois EPA  
Division of Water Pollution Control  
Field Operations Section, Bureau of Water  
9511 West Harrison  
Des Plaines, IL 60016

Mary Tatroe  
Will County State's Attorney  
Chief, Civil Division  
57 N. Ottawa  
Joliet, Illinois 60432

**FOR DEFENDANT**

Terrance McGill  
Enbridge Energy, Limited Partnership  
1100 Louisiana St., Suite 3300  
Houston, Texas 77002  
(713) 821-2000

Byron F. Taylor  
Sidley Austin LLP  
1 S. Dearborn  
Chicago, Illinois 60603  
(312) 853-4717

**V. DUTY TO COOPERATE**

26. The Parties shall cooperate with each other in implementation of this Order.

**VI. COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

27. This Order in no way affects the responsibilities of Enbridge to comply with any other federal, state or local laws or regulations, including but not limited to the Act, and the Board Regulations, 35 Ill. Adm. Code and the US EPA Order for Compliance, Docket Number CWA 1321-5-10-003, issued September 10, 2010.

## VII. STIPULATED PENALTIES

28. If Enbridge fails to comply with any of the requirements of this Order, Enbridge shall pay to the Plaintiff stipulated penalties in the amount of \$250.00 per day, per violation, until such time that compliance is achieved.

29. Plaintiff is not required to provide Enbridge with notice of noncompliance for the imposition of stipulated penalties. However, in the event the Plaintiff determines that a violation that could be subject to stipulated penalties has occurred, Plaintiff will provide written notification of such violation to Enbridge as set forth in paragraph 25 of this Order. Failure by the Plaintiff to provide such written notification shall not be construed as a waiver of Plaintiff's right to seek stipulated penalties under this Order.

30. All stipulated penalties owed shall be payable within forty-five (45) calendar days of the receipt of written demand from Plaintiff, unless such penalties, or any portion thereof, are disputed by Enbridge, pursuant to paragraph 31. All penalties shall be paid by certified check or money order payable to the "Illinois EPA" for deposit in the Environmental Protection Trust Fund and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

The case name, case number and the Defendant's Federal Employment Identification Number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Vanessa Horton  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington St, 18<sup>th</sup> Flr.

**VIII. DISPUTE RESOLUTION**

31. The parties shall use their best efforts to resolve any and all disputes or differences of opinion arising with regard to this Order, informally and in good faith within seven (7) days of written initiation of dispute resolution proceedings. If, however, a dispute arises concerning this Order that the parties are unable to resolve informally, either party may, by written motion, within three (3) days of conclusion of the informal resolution efforts, request that an evidentiary hearing be held before the Circuit Court for the Seventeenth Judicial Circuit, Will County, Illinois, to resolve the dispute between the parties. Upon the Plaintiff's establishment of a prima facie violation of the Order, the Defendant shall bear the burden of proving that it did not violate this Order.

**IX. FORCE MAJEURE**

32. For the purpose of this Order, *force majeure* is an event arising beyond the reasonable control of Enbridge which prevents the timely performance of any of the requirements of this Order. For purposes of this Order, *force majeure* shall include, but is not limited to, events such as floods, fires, tornadoes, other natural disasters, labor disputes beyond the reasonable control of Enbridge, wars, riots or other civil disturbance beyond the reasonable control of Enbridge.

33. When, in the opinion of Enbridge, circumstances have occurred that cause or may cause a delay in the performance of any of the requirements of this Order, Enbridge shall notify the Illinois Attorney General's Office ("IAGO") and the Illinois EPA in writing as soon as practicable, but oral notice shall be given to the IAGO and the Illinois EPA within 48 hours of the occurrence and written notice shall be given to the

IAGO and the Illinois EPA in accordance with paragraph 25 no later than ten (10) calendar days after the claimed occurrence. Failure to so notify the IAGO and the Illinois EPA shall constitute a waiver of any defense under this Section of this Order arising from said circumstances. Enbridge shall provide a detailed written description of the precise cause or causes of the claimed occurrence which resulted or will result in the delay, the nature of the delay and its expected duration, the measures taken or to be taken to prevent or mitigate the delay and the timetable under which such measures will be taken. Enbridge shall adopt all reasonable measures to avoid or minimize such delay.

34. If the parties agree that the delay has been or will be caused by circumstances beyond the control of Enbridge, the time for performance may be extended for a period not to exceed the length of the delay as determined by the parties.

35. In the event that the parties cannot agree that a *force majeure* event has occurred or the extent thereof, the dispute shall be resolved in accordance with Section VIII of this Order. Provided however, that the invocation of the Dispute Resolution provisions of Section VIII of this Order is not in and of itself a *force majeure* event. Enbridge has the burden of proving *force majeure* by a preponderance of the evidence as a defense to compliance with this Order.

36. An increase in costs associated with implementing any requirement of this Order shall not, by itself, excuse Enbridge under the provisions of this Section of the Order from a failure to comply with such a requirement.

#### X. RIGHT OF ENTRY

37. In addition to any other authority, the Illinois EPA, its employees and representatives, the Attorney General, her agents and representatives, and the Will

County State's Attorney, his agents and representatives, shall have the right of entry into and upon the portions of the Site owned by or under control of Enbridge and which is the subject of this Order, at all reasonable times for the purposes of carrying out inspections. In conducting such inspections, the Illinois EPA, its employees and representatives, the Attorney General, her employees and representatives, and the Will County State's Attorney, his agents and representatives, may take photographs, samples, and collect information, as they deem necessary.

#### **XI. EXTENSIONS AND MODIFICATIONS**

38. The parties may, by mutual consent, extend any compliance dates or modify the terms of this Order without leave of court. Any such agreed modification shall be in writing, signed by authorized representatives of each party and incorporated into this Order by reference. Any request for modification shall be made by Defendant in writing and shall be independent of any other submittal made pursuant to this Order. Moreover, notice of a request for any proposed modification shall be provided to the Plaintiff's representatives listed in paragraph 25 of this Order.

#### **XII. RESERVATION OF RIGHTS**

39. Nothing contained herein shall be deemed, at this time, an admission of any wrongful conduct or violation of any applicable statute, law or regulations thereunder by Defendant, nor a finding of fact or adjudication by this Court of any of the facts or claims contained in the Verified Complaint. The Plaintiff reserves the right to seek additional technical relief and civil penalties in this matter. This Order in no way affects any rights or causes of action that Enbridge may have against any person or entity, arising from or relating to the release, including but not limited to, any costs or expenses

incurred by Enbridge in response to the release.

**XIII. SIGNATURE**

40. This Order may be signed in counterparts, all of which shall be considered one agreement.

**XIV. STATUS CONFERENCE WITH THE COURT**

41. This matter is set for status conference on November 10, 2010, at 9 am without further notice.

WHEREFORE the parties, by their representatives, enter into this Agreed Interim

Order and submit it to the Court that it may be approved and entered.

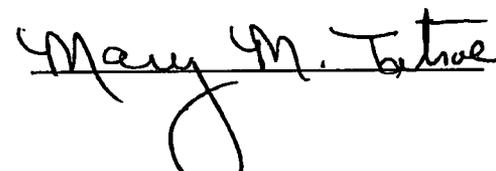
**AGREED:**

PEOPLE OF THE STATE OF ILLINOIS  
*ex rel.* LISA MADIGAN, Attorney General  
of the State of Illinois,

MATTHEW J. DUNN, Chief  
Environmental/Asbestos Litigation Division

By:  Date: 9/22/10  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

*ex rel.* JAMES W. GLASGOW,  
Will County State's Attorney

By:  Date: 10-7-10

ENBRIDGE ENERGY, LIMITED PARTNERSHIP

BY: Noel Whelan DATE: 10/6/10  
Title: ASSISTANT SECRETARY

ENTERED:

Bley  
JUDGE  
Date: 10/7/10

**CERTIFICATION**

I, PAMELA J. MCGUIRE, CLERK OF THE 12TH JUDICIAL CIRCUIT, WILL COUNTY, ILLINOIS, CERTIFY THIS TO BE A TRUE COPY OF AN ORIGINAL RECORD OF THIS CIRCUIT COURT.



SIGNED: Pamela McGuire 10-07-10  
CLERK DATE

FILED  
OCT - 7 PM 9:13  
Clerk of Court  
State of Michigan  
Westland

# ATTACHMENT A

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>IN THE MATTER OF:</b>	)	
	)	
	)	<b>ORDER FOR</b>
<b>ENBRIDGE ENERGY, LIMITED</b>	)	<b>COMPLIANCE UNDER SECTION</b>
<b>PARTNERSHIP,</b>	)	<b>311 (c) OF THE CLEAN WATER ACT</b>
<b>Respondent</b>	)	
_____	)	<b>DOCKET NO: CWA 1321-5-10-003</b>

**I. JURISDICTION AND GENERAL PROVISIONS**

1. The United States Environmental Protection Agency (EPA) is issuing this Order to Enbridge Energy, Limited Partnership (Respondent). This Order is issued pursuant to the authority vested in the President of the United States by Section 311(c) of the Federal Water Pollution Control Act, 33 U.S.C. § 1321(c), as amended (CWA). This authority has been delegated to the Administrator of the EPA by Executive Order No. 12777, 58 Federal Register 54757 (October 22, 1991), and delegated to the EPA Regional Administrators by EPA delegation No. 2-89 and redelegated to On-Scene Coordinators by EPA Region 5 Delegation No. 2-89.
2. This Order requires performance of removal actions in connection with the release of oil at or from a facility located at or about 719 Parkwood Avenue in Romeoville, Illinois. This Order requires the Respondent to immediately conduct removal of a discharge or to mitigate or prevent a substantial threat of a discharge of oil.

**II. PARTIES BOUND**

3. This Order applies to Respondent. This Order further applies to persons acting on behalf of Respondent, or who succeed to an interest in Respondent. Any change in ownership or corporate status of Respondent, including but not limited to a transfer of assets or real or personal property, will not alter Respondent's responsibilities under the Order.
4. Respondent must ensure that its contractors, subcontractors, and agents comply with this Order. Respondent will be liable for any violations of the Order by its employees, agents, contractors, or subcontractors.

**III. DEFINITIONS**

5. Unless otherwise expressly provided herein, terms used in this Order which are defined in Section 311 of the CWA, or in the Oil Pollution Act (OPA) shall have the meaning assigned to them in CWA or OPA. Whenever terms listed below are used in this Order or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply.

6. "Oil" shall have the meaning set forth in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), for the purposes of the work to be performed under this Order, and Section 1001(23) of OPA, 33 U.S.C. § 2701(23), for purposes of reimbursement of costs.
7. "Hazardous substance" shall have the meaning set forth in Section 311(a)(14) of the CWA, 33 U.S.C. § 1321(a)(14).
8. "Navigable waters" shall have the meaning set forth in Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and Section 1001(21) of OPA, 33 U.S.C. § 2701(21) and 40 C.F.R. Part 110.
9. "Facility" shall have the meaning set forth in Sections 311(a)(10) and (a)(11) of the CWA, 33 U.S.C. §§ 1321(a)(10) and (a)(11), and by Sections 1001(22) and (24) of OPA, 33 U.S.C. §§ 2701(22) and (24).
10. "Discharge" shall have the meaning set forth in Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2) and 40 CFR Part 110.1 for purposes of the work to be performed under this Order, and shall have the meaning set forth in Section 1001(7) of OPA, 33 U.S.C. § 2701(7), for purposes of reimbursement of cost.
11. "Order" shall mean this Order and all appendices attached hereto. In the event of conflict between this Order and any appendix, this Order shall control.
12. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 C.F.R. Part 300, including, but not limited to, any amendments thereto.

#### **IV. FINDINGS OF FACT AND VIOLATIONS**

13. The facility is a pipeline located at or about 719 Parkwood Avenue in Romeoville, Illinois.
14. According to the National Response Center (NRC) Report submitted by Respondent, on September 9, 2010, at approximately 1:00 pm Central Time Respondent's pipeline (a 34-inch pipe) began discharging an unknown quantity of crude oil into a storm drain. EPA responded to the reports and determined that the discharge flowed from the storm drain to an earthen drainage ditch. The earthen drainage ditch leads to an approximately 2-acre retention pond. The retention pond flows into an unnamed tributary which then flows approximately ½ mile to the Des Plaines River. To date, EPA representatives have observed both oil in the retention pond and temporary containment measures in the unnamed tributary. The discharged oil has flowed to the local wastewater treatment plant which has been forced to shut down. The National Weather Service is predicting a chance of showers and thundershowers on Friday and Saturday, September 10-11, 2010, which increases the risk of discharge to navigable waters.
15. On or about September 9, 2010, a discharge or a substantial threat of a discharge of oil, reached or may reach a tributary of the Des Plaines River or the Des Plaines River and/or the

adjoining shorelines. The unnamed tributary and the Des Plaines River are navigable waters of the United States.

16. Respondent is the owner and/or operator of the facility or vessel from which the discharge or substantial threat of a discharge took place.

#### V. ORDER

Respondent must comply with the following requirements:

##### Work to Be Performed

17. Respondent must perform the work necessary to complete the tasks described below within the dates specified and in accordance with the National Contingency Plan, 40 C.F.R. Part 300.

18. Respondent must identify a contact person responsible for the removal within 1 business day of issuance of this Order.

19. Respondent must take the following immediate stabilization and mitigation actions:

- a. Stop flow of oil from the facility by noon on September 14, 2010;
- b. Remediate source release by October 9, 2010;
- c. Deploy appropriate oil recovery and containment devices and equipment, *i.e.* skimmers, vacuum trucks, absorbent/containment booms by September 10, 2010 and thereafter;
- d. Perform air monitoring and sampling as directed by EPA and public health officials by September 10, 2010 and thereafter;
- e. Perform water, soil and sediment sampling of impacted areas as directed by EPA by September 10, 2010 and thereafter;
- f. Remediate all impacted areas in or along the storm sewer, sanitary sewer, utility corridors, the drainage ditch, retention pond, tributaries, and the Des Plaines River and adjoining shorelines, by November 9, 2010;
- g. Dispose of all site generated wastes at EPA approved disposal facilities;
- h. Record and track the volume of recovered oil during the response, including but not limited to oil, oily water and other oily materials (e.g., booms);
- i. Submit to EPA a copy of Respondent's most recent pipeline inspection report applicable to the facility by September 10, 2010; and
- j. Submit a final report to EPA detailing all work completed including monitoring and analytical data, disposal records, and all documentation related to the response by December 9, 2010.

20. Within 2 business days from the effective date of this Order, Respondent must develop and submit to EPA for approval, a Work Plan and schedule for completing the actions described above. Respondent must begin work within 1 business day of EPA approval of the Work Plan. The Work Plan must include the following tasks:

- Health and Safety Plan

- Pipeline Repair Workplan
- Sampling and Analysis Plan
- QAPP
- Oil Recovery and Containment Plan
- Source release Area Remediation Plan
- Remediation Plan for Downstream Impacted Areas
- Waste Treatment, Transportation, and Disposal Plan

21. Respondent must submit the Work Plan and all reports to:

Samuel Borries  
 U.S. EPA  
 On-Scene Coordinator  
 Superfund Response Section  
 77 W. Jackson Blvd. (SE-5J)  
 Chicago, IL 60604  
[Borries.samuel@epa.gov](mailto:borries.samuel@epa.gov)

and

Randa Bishlawi  
 U.S. EPA  
 Office of Regional Counsel  
 77 W. Jackson Blvd. (C-14J)  
 Chicago, IL 60604  
[Bishlawi.randa@epa.gov](mailto:Bishlawi.randa@epa.gov)

EPA will approve, disapprove and require modifications, or modify Respondent's Work Plan. Once approved or approved with modifications, Respondent's Work Plan and schedule become an enforceable part of this Order.

#### Reporting Requirements

22. Respondent must submit a written report to EPA concerning actions to be performed and actions undertaken pursuant to this Order every 7 calendar days beginning on September 13, 2010, and thereafter until termination of this Order, unless otherwise directed in writing by EPA personnel. These reports must describe all significant developments during the preceding period, including work performed and any problems encountered, analytical data received during the reporting period, volume of oil recovered during the response, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

23. Respondent may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Order, provided such claim is allowed by Section 308(b)(2) of CWA, 33 U.S.C. § 1318(b)(2). EPA shall only

disclose information covered by a business confidentiality claim to the extent permitted by, and by means of the procedures set forth at 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Respondent. Respondent must not assert confidentiality claims with respect to any data or documents related to site conditions, sampling or monitoring.

Access to Property and Information

24. Respondent must provide access to the facility, to off-site areas where access is necessary to implement this Order, and to all documents related to conditions at the facility and work conducted under the Order. Respondent must provide this access to EPA and the United States Coast Guard and their contractors and representatives.

**VI. RESERVATION OF RIGHTS AND PENALTIES**

25. This Order shall not preclude EPA from taking any action authorized by the CWA, the OPA, the National Contingency Plan, or any other applicable law. EPA reserves the right to direct all activities including off-facility shipping, disposal and all other matters. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order or from taking any other legal or equitable action as it deems appropriate and necessary, or to require the Respondent in the future to perform additional activities pursuant to the CWA, the OPA, or other applicable law.

26. Respondent must notify EPA of any response actions that are not described in this Order.

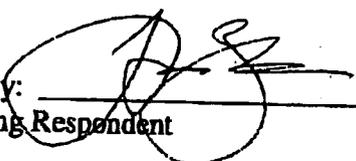
27. Violation of any term of this Order may subject Respondent to a civil penalty of up to \$37,500 per day of violation or an amount up to three times the cost incurred by the Oil Spill Liability Trust Fund as a result of such failure under Section 311(b)(7)(B) of the CWA, 33 U.S.C. § 1321(b)(7)(B), as adjusted by 74 FR 626 (Jan. 7, 2009) (to be codified at 40 C.F.R. 19.4).

**VII. EFFECTIVE DATE**

28. The effective date of this Order shall be the date of the receipt of this Order by the Respondent.

  
On-Scene Coordinator

9-10-10  
Date

Received by:   
Representing Respondent

9-10-2010  
Date

Copy of Signed Order to: Patrick Daniel, Enbridge Energy Limited Partnership,  
Fax: 403-231-3939