

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

FILED

10 OCT -7 AM 8:35

*Lisa J. Madigan*  
CLERK OF CIRCUIT COURT  
WILL COUNTY, ILLINOIS

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, Illinois, )

Plaintiff, )

v. )

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

Defendant. )

No.

10CH06266

**VERIFIED COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES**

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, and *ex rel.* JAMES W. GLASGOW, State's Attorney for Will County, Illinois on his own motion, complains of the Defendant, ENBRIDGE ENERGY, LIMITED PARTNERSHIP, a Delaware limited partnership, as follows:

**COUNT I**

**SUBSTANTIAL DANGER TO THE PUBLIC HEALTH AND WELFARE**

1. This Count is brought on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), and by James W. Glasgow, State's Attorney for Will County, Illinois, on his own motion.

2. The Illinois EPA is an administrative agency of the State of Illinois, created by Section 4 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/4 (2010), and charged, *inter alia*, with the duty of enforcing the Act.

3. Count I is brought pursuant to the terms and provisions of Section 43(a) of the Act, 415 ILCS 5/43(a) (2010), and is an action to restrain an immediate and substantial danger to the environment and the welfare of persons.

4. At all times relevant to this Verified Complaint, Defendant ENBRIDGE ENERGY, LIMITED PARTNERSHIP (“ENBRIDGE”), was and is a Delaware limited liability partnership, duly authorized to transact business in Illinois.

5. At all times relevant to this Verified Complaint, Defendant ENBRIDGE ENERGY, LIMITED PARTNERSHIP (“Enbridge” or “Defendant”) was and is a Delaware corporation and is authorized to transact business in Illinois.

6. At all times relevant to this Verified Complaint, Enbridge owns and operates a 34-inch crude oil pipeline (“Pipeline”) beginning in Ashland, Wisconsin, and running through the Midwestern United States, including through the State of Illinois.

7. Upon information and belief, the Pipeline owned by Enbridge carries 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”).

8. On or before September 9, 2010, the Enbridge Pipeline began releasing an unknown quantity of crude oil from the subsurface pipeline to the ground surface in a business park in the vicinity of the Site.

9. On September 9, 2010, representatives of the Illinois EPA inspected the site and observed crude oil discharge flowing from the area around the Pipeline onto Parkwood Avenue,

entering a storm sewer catch basin and releasing into an unnamed creek. The unnamed creek flows 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.

10. 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.

11. 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.

12. Upon information and belief, on September 9, 2010, the Romeoville Fire Department ordered the evacuation of approximately 500 people from the business park out of a concern for potential vapor releases, including benzene.

13. Additionally, two community water supply wells are located approximately two-thirds of a mile from the Site. Water supply lines and private wells are also located in the vicinity of the incident site.

14. Upon information and belief, on September 9, 2010, Enbridge shut down the Pipeline by closing valves upstream and downstream of the spill. Upon information and belief, Enbridge's actions isolated approximately three miles of the Pipeline, which contained approximately 6,000 to 17,000 barrels of crude oil, according to Enbridge.

15. The release of crude oil and its degradation byproducts into the atmosphere, soil, surface water and groundwater can affect the respiratory and central nervous systems in humans if inhaled and potentially affect aquatic life in affected waters.

16. On September 10, 2010, the United States Environmental Protection Agency issued an Order for Compliance to ENBRIDGE ENERGY, LIMITED PARTNERSHIP under Section 311(c) of the Federal Water Pollution Control Act 33 U.S.C. § 1321(c) docket number 1321-5-10-003.

17. Crude oil, its constituents including benzene and other organic materials and their degradation byproducts will leach from and/or continue to be released into the environment until such time as the contaminants are identified and remediated.

18. Section 43(a) of the Act, 415 ILCS 5/43(a) (2010), provides as follows:

- a. In circumstances of substantial danger to the environment or to the public health of persons or to the welfare of persons where such danger is to the livelihood of such persons, the State's Attorney or Attorney General, upon request of the Agency or on his own motion, may institute a civil action for an immediate injunction to halt any discharge or other activity causing or contributing to the danger or to require such other action as may be necessary. The court may issue an ex parte order and shall schedule a hearing on the matter not later than 3 working days from the date of injunction.

19. Defendant, by causing the release of crude oil and its degradation byproducts at the Site, has created circumstances of substantial danger to the public health and welfare, in direct contravention of the requirements of the Act.

20. The substantial danger alleged herein shall continue until such time Defendant removes all contaminants from the Site and surrounding soil and groundwater; and demonstrates to Plaintiff that the activities complained of herein no longer present a danger to or threaten human health.

21. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides the following definition:

“PERSON” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

22. Defendant, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

23. Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), provides as follows:

- (a) Except as provided in this Section, any person that violates any provision of this Act or any regulation adopted by the Board, or any permit or term or condition thereof, or that violates any determination or order of the Board pursuant to this Act, shall be liable for a civil penalty of not to exceed \$50,000 for the violation and an additional civil penalty of not to exceed \$10,000 for each day during which the violation continues; such penalties may, upon order of the Board or a court of competent jurisdiction, be made payable to the Environmental Protection Trust Fund, to be used in accordance with the provisions of the Environmental Protection Trust Fund Act.

24. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), civil penalties can be assessed for violations of any provision of the Act.

25. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured, the health and safety of persons will be in substantial danger, and violations of the pertinent environmental statutes and regulations will continue until and unless this Court grants equitable relief in the form of immediate and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an immediate and preliminary injunction in favor of Plaintiff and against Defendant,

ENBRIDGE ENERGY, LIMITED PARTNERSHIP:

1. Finding that Defendant created and is maintaining a substantial danger to public health and welfare;

2. Enjoining the Defendant from creating any further substantial endangerment pursuant to Section 43(a) of the Act;
3. Ordering the Defendant to immediately delineate the nature and extent of soil, sediment, groundwater and surface water contamination by crude oil and its degradation byproducts, and remediate any and all soil, sediment, groundwater and/or surface water contamination found in consultation with the Illinois EPA;
4. Ordering Defendant to conduct water, soil and sediment sampling of impacted areas as directed by Illinois EPA;
5. Ordering Defendant to 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 as needed, and adjoining shorelines in consultation with the Illinois EPA;
6. Ordering Defendant to take all necessary steps to ensure that future circumstances of substantial endangerment will not occur pursuant to Section 43(a) of the Act;
7. Assessing a civil penalty pursuant to Section 42(a) of the Act, 415 ILCS 5/42 (a) (2010), against Defendant of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
8. Ordering Defendant pursuant to such 42(f) of the Act, 415 ILCS 5/42(f) (2010) to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiffs in their pursuit of this action; and
9. Granting such other relief as this Court deems appropriate and just.

## COUNT II

### WATER POLLUTION

1. This count is brought on behalf of the People of the State of Illinois, *ex rel.* Lisa Madigan, Attorney General of the State of Illinois, on her own motion, and *ex rel.* James W. Glasgow, State's Attorney of Will County, Illinois, on his own motion, pursuant to Sections 42(d) and (e) of the Act, 415 ILCS 5/42(d) and (e) (2010).

2-21. Plaintiff realleges and incorporates by reference herein paragraphs 2 and 4 through 17 and 19 through 24 of Count I as paragraphs 2 through 21 of this Count II.

22. Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), provides as follows:

No person shall:

- a. Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

23. Section 3.165 of the Act, 415 ILCS 5/3.165 (2010), provides the following definition:

“CONTAMINANT” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

24. Sediment and stormwater runoff containing crude oil, its constituents and its degradation byproducts are “contaminants” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2010).

25. Section 3.545 of the Act, 415 ILCS 5/3.545 (2010), provides the following definition:

WATER POLLUTION: is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or

is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds; fish, or other aquatic life.

26. Section 3.550 of the Act, 415 ILCS 5/3.550 (2010), provides the following definition:

“WATERS” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

27. The storm drain, earthen drainage ditch, the retention pond and the unnamed tributary to the Des Plaines River are each “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2010).

28. By causing the release of crude oil, its constituents and degradation byproducts, which are contaminants, into the storm drain which flowed to a drainage ditch which discharged to a retention pond and to an unnamed tributary to the Des Plaines River, Defendant ENBRIDGE caused, threatened or allowed the discharge of a contaminant into the environment so as to cause or tend to cause water pollution in Illinois, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

29. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the pertinent environmental statutes and regulations will continue until and unless this Court grants equitable relief in the form of an immediate and, after trial, permanent injunction.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after trial, permanent injunction and an order in favor of Plaintiff and against Defendant, ENBRIDGE ENERGY, LIMITED PARTNERSHIP:

1. Finding that Defendant has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
2. Enjoining Defendant from further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
3. Ordering the Defendant to immediately delineate the nature and extent of soil, sediment, groundwater and surface water contamination of crude oil and its degradation byproducts, and remediate any and all soil, sediment, groundwater and/or surface water contamination found in consultation with the Illinois EPA;
4. Ordering Defendant to conduct water, soil and sediment sampling of impacted areas as directed by Illinois EPA;
5. Ordering Defendant to 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 as needed and adjoining shorelines in consultation with the Illinois EPA;
6. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Defendant for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
7. Ordering Defendant to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
8. Granting such other relief as the Court deems appropriate and just.

### COUNT III

#### CREATING A WATER POLLUTION HAZARD

1-26. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 19 and 21 through 27 of Count II, as paragraphs 1 through 26 of this Count III.

27. Section 12(d) of the Act, 415 ILCS 5/12(d) (2010), provides, in pertinent part, as follows:

No person shall:

- d. Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

28. By allowing the release of crude oil, its constituents including benzene and its degradation byproducts including volatile organic materials to be discharged to the storm drain and which flowed from the storm drain to an earthened drainage ditch to a retention pond and to an unnamed tributary to the Des Plaines River and adjoining shoreline, Defendant created a water pollution hazard, in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2010).

29. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the pertinent environmental statutes and regulations will continue until and unless this Court grants equitable relief in the form of an immediate and, after trial, permanent injunction.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after trial, permanent injunction and an order in favor of Plaintiff and against Defendant, ENBRIDGE ENERGY, LIMITED PARTNERSHIP:

1. Finding that Defendant has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2010);

2. Enjoining Defendant from further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2010);

3. Ordering the Defendant to immediately delineate the nature and extent of soil, sediment, groundwater and surface water contamination of crude oil and its degradation byproducts, and remediate any and all soil, sediment, groundwater and/or surface water contamination found in consultation with the Illinois EPA;

4. Ordering Defendant to conduct water, soil and sediment sampling of impacted areas as directed by Illinois EPA;

5. Ordering Defendant to 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 as needed and adjoining shorelines in consultation with the Illinois EPA;

6. Assessing a civil penalty against Defendant of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

7. Ordering Defendant to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

8. Granting such other relief as this Court deems appropriate and just.

#### COUNT IV

#### **VIOLATION OF WATER QUALITY STANDARDS: OFFENSIVE CONDITIONS**

1-27. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 27 of Count II, as paragraphs 1 through 27 of this Count IV.

28. Pursuant to authority granted in Sections 13 and 27 of the Act, 415 ILCS 5/13 and 5/27 (2010), the Illinois Pollution Control Board ("Board") has promulgated rules and

regulations to control water pollution in Illinois, codified at 35 Ill. Adm. Code Subtitle C, Chapter I (“Board Water Pollution Regulations”).

29. Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203, provides, in pertinent part, as follows:

**Offensive Conditions**

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin . . . .

30. Defendant’s discharge of crude oil, its constituents including benzene and its degradation byproducts including volatile organic materials caused the waters of the retention pond and the unnamed tributary to the Des Plaines River to have visible oil and unnatural color and turbidity.

31. By allowing crude oil, its constituents including benzene and its degradation byproducts including volatile organic materials to enter the retention pond and the unnamed tributary to the Des Plaines River, where it caused visible oil, and unnatural color and turbidity, Defendant created “offensive conditions” as defined in 35 Ill. Adm. Code 302.203, in violation of Section 302.203 of the Board Water Pollution Regulations.

32. By violating Section 302.203 of the Board Water Pollution Regulations, Defendant also thereby, violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

33. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the pertinent environmental statutes and regulations will continue until and unless this Court grants equitable relief in the form of an immediate and, after trial, permanent injunction.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after trial, permanent injunction and an order in favor of Plaintiff and against Defendant, ENBRIDGE ENERGY, LIMITED PARTNERSHIP:

1. Finding that Defendant has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), and 35 Ill. Adm. Code 302.203;
2. Enjoining Defendant from further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), and 35 Ill. Adm. Code 302.203;
3. Ordering the Defendant to immediately delineate the nature and extent of soil, sediment, groundwater and surface water contamination of crude oil and its degradation byproducts, and remediate any and all soil, sediment, groundwater and/or surface water contamination found in consultation with the Illinois EPA;
4. Ordering Defendant to conduct water, soil and sediment sampling of impacted areas as directed by Illinois EPA;
5. Ordering Defendant to 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 in consultation with the Illinois EPA;
6. Assessing a civil penalty against Defendant of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
7. Ordering Defendant to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
8. Granting such other relief as this Court deems appropriate and just.

COUNT V

**DISCHARGING WITHOUT A NATIONAL POLLUTANT  
DISCHARGE ELIMINATION SYSTEM ("NPDES") PERMIT**

1-26. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 21 and 23 through 27 of Count II, as paragraphs 1 through 26 of this Count V.

27. Section 12(f) of the Act, 415 ILCS 5/12(f) (2010), provides, in pertinent part, as follows:

No person shall:

- f. Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES [National Pollutant Discharge Elimination System] permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

28. Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

NPDES Permit Required

- a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

29. Section 301.240 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.240, provides the following definition:

"CWA" means the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq., Public Law 92-500 enacted by Congress October 18,

1972 as amended by the "Clean Water Act", Public Law 95-217, enacted December 12, 1977, as amended.)

30. Section 1362(14) of the CWA, 33 U.S.C.A. §1362(14) (2007), provides the following definition:

- 14) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

31. The pipeline from which the crude oil and its degradation byproducts, including benzene and other organic materials flowed into the storm drain, and then discharged to the earthen ditch, to the retention pond which flows to an unnamed tributary to the Des Plaines River, constitutes a "point source," as that term is defined in Section 1362(14) of the CWA, 33 U.S.C.A. §1362(14) (2010).

32. Defendant has never had a NPDES permit from the Illinois EPA authorizing the point source discharge as alleged herein.

33. By allowing the discharge of crude oil, its constituents and its degradation byproducts into the storm drain, to the earthen ditch to the retention pond which flows to an unnamed tributary at the Des Plaines River from an unpermitted source, Defendant has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2010), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

34. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the pertinent environmental statutes and regulations will continue until and unless this Court grants equitable relief in the form of an immediate and, after trial, permanent injunction.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an order granting a preliminary injunction and, after trial, a permanent injunction in favor of Plaintiff and against Defendant, ENBRIDGE ENERGY, LIMITED PARTNERSHIP:

1. Finding that Defendant violated Section 12(f) of the Act and 35 Ill. Adm. Code Section 309.102(a);
2. Enjoining the Defendant from any further violation of Section 12(f) of the Act and 35 Ill. Adm. Code Section 309.102(a);
3. Assessing a civil penalty of Ten Thousand Dollars (\$10,000.00) against Defendant for each day of violation of Section 12(f) of the Act and 35 Ill. Adm. Code 309.102(a);
4. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2010), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and
5. Granting such other relief as this court deems appropriate and just.

## COUNT VI

### AIR POLLUTION

1. This count is brought on behalf of the People of the State of Illinois, *ex rel.* Lisa Madigan, Attorney General of the State of Illinois, on her own motion, and *ex rel.* James W. Glasgow, State's Attorney of Will County, Illinois, on his own motion, pursuant to Sections 42(d) and (e) of the Act, 415 ILCS 5/42(d) and (e) (2010).

2-16. Plaintiff realleges and incorporates herein by reference paragraphs 2 and 4 through 17 of Count I as paragraphs 2 through 16 of this Count VI.

17. Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), provides as follows:

No person shall:

- a. Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act;

18. Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code Section 201.141, provides as follows:

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

19. Section 3.165 of the Act, 415 ILCS 5/3.165 (2010), contains the following definition:

“CONTAMINANT” is any solid, liquid, or gaseous matter, any odor or any form of energy, from whatever source.

20. Crude oil, its constituents including but not limited to benzene, and its degradation byproducts, including but not limited to volatile organic compounds, are each a “contaminant” as that term is defined in Section 3.165 of the Act.

21. Section 3.115 of the Act, 415 ILCS 5/3.115 (2010), provides the following definition:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

22. The emission of vapors from the release of crude oil, its constituents including benzene, and its degradation byproducts including volatile organic materials which are injurious to human, plant, aquatic and/or animal life, and to human, plant, aquatic and/or animal health, constitutes air pollution as defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2010).

23. Defendant, by their actions as alleged herein, have violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2010), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code Section 201.141.

24. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an order granting a preliminary injunction and, after trial, a permanent injunction in favor of Plaintiff and against Defendant, ENBRIDGE ENERGY, LIMITED PARTNERSHIP:

1. Finding that Defendant violated Section 9(a) of the Act and 35 Ill. Adm. Code Section 201.141;

2. Enjoining the Defendant from any further violation of Section 9(a) of the Act and 35 Ill. Adm. Code Section 201.141;

3. Ordering the Defendant to immediately delineate the nature and extent of soil, sediment, groundwater and surface water contamination of crude oil and its degradation byproducts, and remediate any and all soil, sediment, groundwater and/or surface water contamination found in consultation with the Illinois EPA;

4. Ordering Defendant to conduct water, soil and sediment sampling of impacted areas as directed by Illinois EPA;
5. Ordering Defendant to 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 as needed and adjoining shorelines in consultation with the Illinois EPA;
6. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Defendant for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
7. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2010), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and
8. Granting such other relief as this court deems appropriate and just.

## **COUNT VII**

### **COST RECOVERY**

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, pursuant to the terms and provisions of Section 10(d) (2010) of the Oil Spill Responders Liability Act, 740 ILCS 113/10(d), and is an action to recover removal costs incurred for overseeing response and cleanup activities arising from the release of crude oil and its degradation byproducts.

2 -16. Plaintiff realleges and incorporates by reference herein paragraphs 2 and 4 through 17 of Count I as paragraphs 2 through 16 of this Count VII.

17. Section 10(d) of the Oil Spill Responders Liability Act, 740 ILCS 113/10(d) (2010), provides as follows:

A responsible party is liable for any damage or removal costs, whether present or future, resulting from or arising out of any discharge, as defined in Section 5.

18. Section 5 of the Oil Spill Responders Liability Act, 740 ILCS 113/5 (2010), provides the following definitions:

“Damages” means damages of any kind for which liability may exist under the laws of this State resulting from, arising out of, or related to the discharge or threatened discharge of oil.

“Discharge” means an emission, other than natural seepage, intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

\* \* \*

“Oil” means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with a waste other than dredged spoil, but does not include petroleum, including crude oil or any fraction of crude oil, that is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of Section 101(14) of the federal Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601) and that is subject to the provision of that Act.

“Person” means an individual, a corporation, a partnership, an association, the State, a municipality, a commission, or a political subdivision of the State, or an interstate body.

“Removal costs” means the cost of removal incurred after a discharge of oil or when there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from an incident.

“Responsible party” means a responsible party as defined under Section 1001 of the Oil Pollution Act of 1990, Public Law No. 101-380 (33 U.S.C. 1001).

19. Section 1001(32) of the Oil Pollution Act of 1990, 33 U.S.C. 1001(32), defines “responsible party” as:

**(E) Pipelines**

In the case of a pipeline, any person owning or operating the pipeline.

20. The State of Illinois has incurred and will continue to incur costs as a result of the release of crude oil and its degradation byproducts into the environment.

21. ENBRIDGE is liable for the State’s removal costs.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this court enter an order in favor of Plaintiff and against Defendant, ENBRIDGE ENERGY, LIMITED PARTNERSHIP:

1. Finding that ENBRIDGE is liable for the removal costs incurred by the Plaintiff as a result of the release of crude oil into a storm drain which flows to a drainage ditch then to a retention pond and an unnamed tributary of the Des Plaines River, pursuant to Section 10(d) of the Oil Spill Responders Liability Act, 740 ILCS 113/10(d); and

2. Grant such other and further relief as this Court deems appropriate and just.

**COUNT VIII**

**COMMON LAW PUBLIC NUISANCE**

1. This count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, on her own motion, and *ex rel.* JAMES W. GLASGOW, State’s Attorney of Will County, Illinois, on his own motion. The Attorney General is the chief legal officer of the State of Illinois having the powers and duties prescribed by the law, ILL. CONST. Article V, Section 15 (1970). The Will County State's

Attorney is an elected county officer having the powers and duties prescribed by the law, ILL. CONST. Article VI, Section 19 and Article VII, Section 4 (1970). This count is brought pursuant to the power of the Attorney General and State's Attorney to institute an action on behalf of the People of the State of Illinois to abate a public nuisance and to protect the health, safety and welfare of the People of the State of Illinois.

2-17. Plaintiff realleges and incorporates by reference herein paragraphs 2 and 4 through 17, and 19 through 20 of Count I, as paragraphs 2 through 17 of this Count VIII.

18. The release of crude oil and its degradation byproducts into the atmosphere, soil, surface water and groundwater can affect the respiratory and central nervous systems in humans if inhaled and potentially affect aquatic life in affected waters.

19. On September 9, 2010, crude oil was observed in the storm drain, the drainage ditch and the retention pond at the Site.

20. Defendant, by its actions, caused an unreasonable and substantial prejudice to the public health and welfare and the environment, to wit, the release of crude oil; a) impacted storm sewers and sanitary sewers surrounding the Site, the Romeoville Waste Water Treatment Plant, a drainage ditch and a retention pond; b) threatened ground water surrounding the site in addition to the Des Plaines River; and also poses a possible threat to two community water supply wells, water supply lines and private lines located in the vicinity of the incident site; c) threatened wildlife in the area surrounding the Site; and d) caused the evacuation of approximately 500 people from the industrial park and closed several businesses located in the industrial park due to concerns for potential vapor releases, including benzene.

21. As a consequence of their actions as alleged herein, Defendant has created and maintained a public nuisance at common law.

22. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured, and violations of the applicable and pertinent environmental statutes and regulations will continue unless and until this court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an order granting a preliminary injunction and, after trial, a permanent injunction in favor of Plaintiff and against Defendant, ENBRIDGE ENERGY, LIMITED PARTNERSHIP:

1. Finding that Defendant's actions alleged herein constituted a common law public nuisance;

2. Enjoining Defendant from further acts constituting a common law public nuisance;

3. Ordering the Defendant to immediately delineate the nature and extent of soil, sediment, groundwater and surface water contamination of crude oil and its degradation byproducts;

4. Ordering the Defendant to perform water, soil and sediment sampling of impacted areas as directed by Illinois EPA;

5. Ordering the Defendant to remediate any and all soil, sediment, groundwater and/or surface water contamination of crude oil and its degradation byproducts in consultation with the Illinois EPA;

6. Ordering Defendant to 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 in consultation with the Illinois EPA;

7. Ordering Defendant pursuant to 415 ILCS 5/42(f) (2010) to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

8. Granting such other relief as this court deems appropriate and just.

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

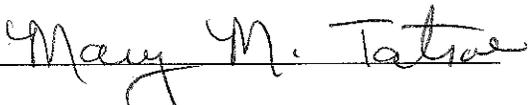
MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY:

  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

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

By:

  
Assistant State's Attorney  
Will County State's Attorney's Office  
57 N. Ottawa, Joliet, IL 60432

Of Counsel:

REBECCA A. BURLINGHAM  
VANESSA C. HORTON  
Assistant Attorneys General  
Environmental Bureau  
69 West Washington Street, 18th Floor  
Chicago, Illinois 60602  
(312) 814-3776  
(312) 814-0608

STATE OF ILLINOIS        )  
                                      ) SS.  
COUNTY OF WILL         )

**VERIFICATION**

I, Warren "Bud" Bridgewater, being first duly sworn on oath, state:

1. At all times relevant to the forgoing Verified Complaint for Injunctive Relief and Civil Penalties, I have been employed as the Manager of the Emergency Operations Unit, Illinois Environmental Protection Agency ("Illinois EPA"), Office of Emergency Response.

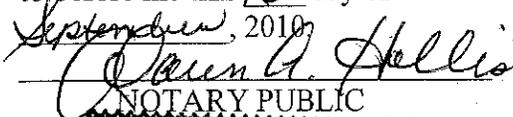
2. As part of my employment with the Illinois EPA, my duties include managing and supervising technical staff that respond to a variety of environmental emergencies.

3. I have read the foregoing Verified Complaint for Injunctive Relief and Civil Penalties, and I am aware of the contents thereof, specifically the contents of Counts I, VII involving allegations regarding the substantial danger of crude oil to the environment and costs incurred by the State of Illinois.

4. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I certify that the factual allegations set forth in Verified Complaint for Injunctive Relief and Civil Penalties, Counts I and VII, relating to the substantial danger of crude oil to the environment and costs incurred by the State of Illinois to be true in substance and in fact, except as to matters therein stated to be on information and belief, and as to such matters I certify as aforesaid that I believe the same to be true.



SUBSCRIBED AND SWORN  
to before me this 16<sup>th</sup> day of

September, 2010  




STATE OF ILLINOIS        )  
  ) SS.  
COUNTY OF WILL        )

**VERIFICATION**

I, Tracey Hurley, being first duly sworn on oath, state:

1. At all times relevant to the forgoing Verified Complaint for Injunctive Relief and Civil Penalties, I have been employed as an Environmental Protection Specialist III by the Toxicity Assessment Unit of the Illinois Environmental Protection Agency (“Illinois EPA”).

2. As part of my employment with the Illinois EPA, my duties include evaluating exposure and risk from chemical contamination of air, soil, groundwater, and surface water.

3. I have read the foregoing Verified Complaint for Injunctive Relief and Civil Penalties, and I am aware of the contents thereof, specifically the contents of Counts I, VI and VIII involving allegations regarding potential harmful effects of crude oil and its degradation byproducts to humans, aquatic life and plant life.

4. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I certify that the factual allegations set forth in Verified Complaint for Injunctive Relief and Civil Penalties, Counts I, VI and VIII relating to the potential harmful effects of crude oil and its degradation byproducts to humans, aquatic life and plant life to be true in substance and in fact, except as to matters therein stated to be on information and belief, and as to such matters I certify as aforesaid that I believe the same to be true.

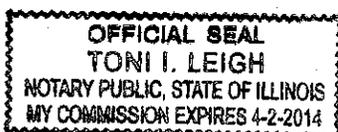
*Tracey E. Hurley*  
\_\_\_\_\_

SUBSCRIBED AND SWORN

to before me this 17 day of

September, 2010.

*Toni Leigh*  
\_\_\_\_\_  
NOTARY PUBLIC



STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF WILL            )

**VERIFICATION**

I, Lynn Dunaway, being first duly sworn on oath, state:

1. At all times relevant to the forgoing Verified Complaint for Injunctive Relief and Civil Penalties, I have been employed as an EPS III by the BOW, Illinois Environmental Protection Agency ("Illinois EPA"), Springfield Office.

2. As part of my employment with the Illinois EPA, my duties include Provide hydrogeologic expertise for special projects, reports and BOW Permit programs. Project management for BOW regulated sites.

3. I have read the foregoing Verified Complaint for Injunctive Relief and Civil Penalties, and I am aware of the contents thereof, specifically the contents of Count I, involving allegations of community water supply wells, water supply lines and private wells.

4. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I certify that the factual allegations set forth in the Verified Complaint for Injunctive Relief and Civil Penalties, Count I relating to community water supply wells, water supply lines and private wells to be true in substance and in fact, except as to matters therein stated to be on information and belief, and as to such matters I certify as aforesaid that I believe the same to be true.

Lynn Dunaway

SUBSCRIBED AND SWORN  
to before me this 16 day of  
September, 2010.

Cynthia L. Wolfe  
NOTARY PUBLIC



STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF WILL        )

VERIFICATION

I, Jim Clark, being first duly sworn on oath, state:

1. At all times relevant to the forgoing Verified Complaint for Injunctive Relief and Civil Penalties, I have been employed as an Emergency Responder by the \_\_\_\_\_, Illinois Environmental Protection Agency ("Illinois EPA"), Des Plaines Regional Office.

2. As part of my employment with the Illinois EPA, my duties include responding to environmental emergencies.

3. I have read the foregoing Verified Complaint for Injunctive Relief and Civil Penalties, and I am aware of the contents thereof, specifically the contents of Counts I, IV and VIII involving allegations regarding the discharge of crude oil, the substantial danger of crude oil to the public health and welfare, and the visible oil in a retention pond, storm drain, drainage ditch and an unnamed tributary to the Des Plaines River.

4. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I certify that the factual allegations set forth in Verified Complaint for Injunctive Relief and Civil Penalties, Counts I, IV and VIII, relating to the discharge of crude oil, the substantial danger of crude oil to the public health and welfare, and the visible oil in a retention pond, storm drain, drainage ditch and an unnamed tributary to the Des Plaines River.

5. to be true in substance and-in fact, except as to matters therein stated to be on information and belief, and as to such matters I certify as aforesaid that I believe the same to be true.

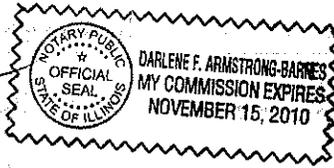
Jeri Clark

SUBSCRIBED AND SWORN

to before me this 16<sup>th</sup> day of

September, 2010.

Darlene Armstrong Barnes  
NOTARY PUBLIC



STATE OF ILLINOIS        )  
                                      ) SS.  
COUNTY OF WILL        )

**VERIFICATION**

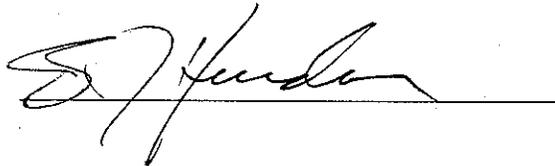
I, Bruce Yurdin, being first duly sworn on oath, state:

1. At all times relevant to the forgoing Verified Complaint for Injunctive Relief and Civil Penalties, I have been employed as the Manager of the Field Operations Section by the Bureau of Water, Illinois Environmental Protection Agency ("Illinois EPA"), Springfield Office.

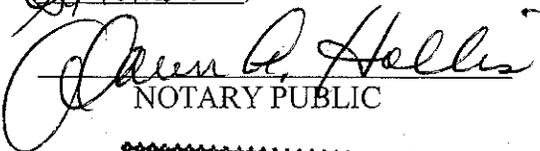
2. As part of my employment with the Illinois EPA, my duties include overseeing the investigation and enforcement of water pollution matters that occur in the State of Illinois.

3. I have read the foregoing Verified Complaint for Injunctive Relief and Civil Penalties, and I am aware of the contents thereof, specifically the contents of Counts II and V involving allegations regarding waters of the State of Illinois and point source locations.

4. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I certify that the factual allegations set forth in Verified Complaint for Injunctive Relief and Civil Penalties, Counts II and V, relating to waters of the State of Illinois and point source locations to be true in substance and in fact, except as to matters therein stated to be on information and belief, and as to such matters I certify as aforesaid that I believe the same to be true.



SUBSCRIBED AND SWORN  
to before me this 16<sup>th</sup> day of  
September, 2010.



NOTARY PUBLIC

