UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
	)	**SUPPLEMENT TO ORDER FOR**
	)	**COMPLIANCE UNDER SECTION**
ENBRIDGE ENERGY PARTNERS,	)	**311(c) OF THE CLEAN WATER ACT**
L.P., *et al.*,	)	
Respondents	)	**DOCKET NO: CWA 1321-5-10-001**
	)	

1. On July 27, 2010, the United States Environmental Protection Agency ("EPA") issued Enbridge Energy Partners, L.P. an order pursuant to Section 311(c) of the Federal Water Pollution Control Act, 33 U.S.C. § 1321(c), as amended ("CWA") (the "Order"), which required Enbridge Energy Partners, L.P. to, *inter alia*, abate an imminent and substantial threat to the public health or welfare of the United States by performing removal actions in response to the spill of oil from a facility located at 16000 Division Drive in Marshall, Michigan ("facility") into the Kalamazoo River, by way of Talmadge Creek. *See* Order dated July 27, 2010 (Docket No. CWA 1321-5-10-001.)

2. On the basis of information regarding facility ownership and operation received by EPA in response to information requests issued under section 308 of the CWA, 33 U.S.C. § 1318, EPA now supplements paragraph 3 of the Order of July 27, 2010 to provide in its entirety as follows:

> 3. This Order applies to Enbridge Energy, Limited Partnership, Enbridge Pipelines (Lakehead) L.L.C., Enbridge Pipelines (Wisconsin), and Enbridge Energy Partners, L.P. The Order further applies to persons acting on behalf of Respondents, or who succeed to an interest in Respondents. Any change in ownership, partnership, or corporate status of Respondents, including but not limited to a transfer of assets or real or personal property will not alter the responsibilities under the Order.

3. The Order is further supplemented to: (1) replace all uses of the term "Respondent" with "Respondents"; and (2) conform all other language, as appropriate, to agree in number with the plural term "Respondents" (*e.g.*, "is" to "are").

4. On August 27, 2010, EPA directed Enbridge to prepare a Supplemental Modification to the Response Plan for Downstream Impacted Areas. On September 11, 2010, EPA received Enbridge's proposed Supplemental Modification to the Response Plan for Downstream Impacted Areas (RPDIA). The proposed modification to the RPDIA identified additional work necessary

to permanently recover submerged oil and oil-contaminated sediments in the Kalamazoo River system, and additional locations at which such work should occur. On September 16, 2010, Enbridge submitted further information regarding its proposed methods to recover submerged oil and oil-contaminated sediments.

5. EPA has determined that Enbridge must undertake additional cleanup work to recover submerged oil and oil-contaminated sediments. The Order's September 27, 2010 deadline for remediating surface oil contamination in Talmadge Creek, the Kalamazoo River and all shorelines (creek and river banks) remains in effect. The Order, as supplemented, now requires completion of all such additional work no later than October 31, 2010.

6. Accordingly, paragraph 18 of the Order of July 27, 2010 is supplemented to provide in its entirety as follows (**supplemented language in bold**):

> 18. Respondents must take the following immediate stabilization and mitigation actions:
>
> a. Stop the flow of oil into Talmadge Creek and Kalamazoo River by July 28, 2010;
>
> b. Notify EPA of the date and time that the flow of oil into Talmadge Creek and the Kalamazoo River stopped by July 28, 2010;
>
> c. Remediate the oil and contaminated soils in and around the immediate vicinity of the release by August 27, 2010;
>
> d. Deploy appropriate oil recovery and containment devices and equipment, *e.g.* skimmers, vacuum trucks, absorbent/containment booms by July 28, 2010, **and continuously thereafter until notified by EPA;**
>
> e. Perform air monitoring and sampling as directed by EPA and public health officials by July 27, 2010 and continuously thereafter until notified by EPA;
>
> f. Perform water and sediment sampling of impacted areas as directed by EPA by July 27, 2010 and continuously thereafter until notified by EPA;
>
> g. **Perform sampling of all private and public drinking water wells located within 200 feet of all impacted waterways for such time and in such manner as directed by EPA;**
>
> h. **Submit a report evaluating the potential short- and long-term impacts of the released oil on any groundwater with the potential to be a source of drinking water by October 31, 2010. Such a report shall take into account current and future hydrogeological conditions within the Kalamazoo River, and the potential for any such conditions (*e.g.* groundwater flow direction, flooding) to affect the release of oil to existing and potential drinking water sources;**
>
> i. Remediate all impacted areas (including shoreline) along Talmadge Creek, the Kalamazoo River, and Morrow Lake by September 27, 2010;
>
> j. **For submerged oil and oil-contaminated sediments, remediate all impacted areas in and along Talmadge Creek, the Kalamazoo River, and Morrow Lake by October 31, 2010;**
>
> k. **Perform operation and maintenance activities as directed by EPA until otherwise notified by EPA. Such operation and maintenance activities may**

include, but are not limited to: boom deployment, sorbent deployment, vacuum recovery, silt curtain deployment, aquabarriers, coffer dam construction, excavation at all impacted areas (including shoreline) in and along Talmadge Creek, the Kalamazoo River and Morrow Lake, and long-term sampling of existing and potential drinking water sources;

l. Dispose of all wastes at EPA approved disposal facilities; and

m. **On or before September 27, 2010, submit supplements to the Source Area Response Plan, the Sampling and Analysis Plan, the Quality Assurance Project Plan and the RPDIA describing the work required by paragraphs 18 g, h, j and k above;**

n. On or before November 27, 2010, submit a report to EPA describing in detail all work conducted by Respondents to satisfy the requirements of the Order, as supplemented. Such report shall also include monitoring and analytical data, disposal records, and all documentation related to the response actions conducted prior to the October 31, 2010 deadline; and

o. Commencing on December 27, 2010 and continuing monthly thereafter unless otherwise directed by EPA, submit a report detailing all work conducted pursuant to the Order, as supplemented, during the prior monthly period. Such monthly reports shall include all monitoring and analytical data, disposal records, and all documentation related to the response actions that have been created on or behalf of Respondents since the previous month's report.

7. Respondents may request a conference with EPA regarding the terms and requirements of this Supplement.

8. The effective date of this Supplement shall be the date of its receipt by the Respondents.

Ralph Dollhopf
Federal On-Scene Coordinator

9-23-2010 12:00 pm
Date

Received by: _____
Representing Respondents

9-23-2010 12:15 pm
Date