



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Matthew J. Frank, Secretary

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September 14, 2007

Case Track No. 2007-COEE-005

**Certified Mail**  
**Return Receipt Requested**

Mr. Shaun Kavajecz  
Enbridge Energy, LP  
119 N. 25th Street East  
Superior, WI 54880-5247

Subject: **NOTICE OF VIOLATION**, Chapters 30 and 281, Wis. Stats., Enbridge Energy, LP, Southern Access Expansion Project, Docket: IP-2006-N10001 through IP-2006-N11489

Dear Mr. Kavajecz:

The Department of Natural Resources (the Department) is issuing this Notice of Violation to Enbridge Energy, LP (Enbridge) for failure to follow the November 27, 2006 Dredging, Grading, Bridge/WQC Permit IP-2006-N10001 through IP-2006-N11489 (the permit). Multiple violations of the permit have been documented including: failure to implement erosion control measures; poor maintenance of erosion control measures; improper handling of dewatering discharges; and unauthorized placement of fill in wetlands. The attached table was created from the Independent Environmental Monitor reports and lists specific violations that have been documented to date.

The Department is requesting Enbridge cease all new construction activities associated with this project until such a time the Department can be reassured that Enbridge will comply with the conditions of the permit. It appears as if there is a need for Enbridge to provide better oversight at the point of construction to ensure permit compliance. It is imperative for Enbridge and their contractors to stay ahead of environmental issues in order to prevent future non-compliance.

On January 26, 2007 a Notice of Noncompliance was issued to Enbridge with a follow-up meeting held on February 5, 2007. On March 16, 2007 a second Notice of Noncompliance was issued and a second meeting was held on March 26, 2007. Despite this significant communication with Enbridge concerning the ongoing noncompliance, violations continue to be documented.

The Department is currently evaluating potential enforcement options which may include referring this case to the Department of Justice. Please be advised that Ch. 281.98(1), Wis. Stats., provides for forfeitures of not less than \$10 nor more than \$5,000 for each violation. Each day of continued violation is considered a separate offense.

Please provide a response to the Department's request to cease construction activities and how Enbridge intends to ensure compliance with permit requirements. In the meantime, please direct questions concerning this letter to me at (608) 261-0779.

Sincerely,

*David Edwards (electronic signature)*

David Edwards  
Environmental Enforcement Specialist  
Bureau of Law Enforcement

Encl: Non-compliance Tracking Table  
Report Types by Week Table

c: D. Siebert, Office of Energy - (OE/7)  
T. Boos, Office of Energy - (OE/7)  
B. Callan, Office of Energy - (OE/7)  
W. Sande, ACOE  
T. Hess, Merjent



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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Scott Hassett, Secretary

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March 16, 2007

Shaun Kavajecz  
Enbridge Energy, LP  
119 N. 25th Street East  
Superior, WI 54880-5247

Subject: NOTICE OF NONCOMPLIANCE  
Permittee Name: Enbridge Energy, LP  
Site Name: Southern Access Expansion Project  
Docket: IP-2006-N10001 through IP-2006-N11489

Dear Mr. Kavajecz:

I am writing in response to recent activities that occurred during construction of Enbridge Energy's Southern Expansion Project. We need a full report from you explaining the details of each incident listed below, the efforts you have taken to address the resulting impacts to the environment, and the efforts you have taken to address your process to prevent such actions in the future.

The Department of Natural Resources (Department) permit for this project includes jurisdiction under Ch. 30.12, 30.123, 30.19, 30.20, 281.36 (Wis. Stats.), and NR 103 and 299 (Wis. Adm. Code). The Department permit for this project requires the permittee to comply with specific plans, sequencing, and erosion control measures in order to prevent impacts to waterways and wetlands.

- 1) Inspection Date: 1-27-07  
Report # 1B-JV-011  
Tracks from a vehicle were documented below OHWM of a waterway which requires prior authorization from the WDNR and is not in compliance with permit conditions # 10 and 16.
- 2) Inspection Date: 2-17-2007  
Report # 1B-JV-023  
No resource monitor was present at the cultural site during trenching, which is not in compliance with permit conditions # 10 and 16.
- 3) Inspection Date: 2-20-07  
Report # 1A-DB-030, DO-W13  
Topsoil was not segregated from the subsoil which is not in compliance with permit conditions # 10 and 16.
- 4) Inspection Date: 3-05-07  
Report # 1A-DB-039, DO-W79  
Dewatering process was not adequate, thus sediment laden water was documented in the wetland which is not in compliance with permit conditions # 10, 26 and 27.
- 5) Inspection Date: 3-05-07  
Report # 1A-DB-039, DO-S10  
Dewatering process was not adequate, thus sediment laden water was documented entering the waterway which is not in compliance with permit conditions # 10, 26 and 27.

- 6) Inspection Date: 3-09-07  
Report # 1B-JV-044, DO-W86, 88, 89  
Erosion control devices were not properly implemented to prevent soil laden runoff from entering the wetlands which is not in compliance with permit conditions # 31, 32, 39, 40.
- 7) Inspection Date: 3-09-07  
Report # 1B-JV-036, WA-W10  
Topsoil was not properly segregated from the subsoil which is not in compliance with permit conditions # 10 and 16.
- 8) Inspection Date: 3-11-07  
Report # 1A-DB-046, Bluff Creek  
Soil was deposited below the OHWM which is not in compliance with permit conditions # 16 and 61.
- 9) Inspection Date: 3-12-07  
Report # 1A-DB-047, DO-W25  
Excessive rutting documented in wetland which is not in compliance with permit condition #82.
- 10) Inspection Date: 3-12-07  
Report # 1A-DB-047, DO-W79, 81-89  
Erosion control devices were not properly implemented to prevent soil laden runoff from entering the wetlands which is not in compliance with permit conditions# 31, 32, 39, 40. Also, excessive rutting documented in wetland which is not in compliance with permit condition #82.
- 11) Inspection Date: 3-12-07  
Report #2-JV-016, TA-W16  
Erosion control devices were not properly implemented to prevent soil laden runoff from entering the wetlands which is not in compliance with permit conditions # 31, 32, 39, 40.
- 12) Inspection Date: 3-12-07  
Report #2-JV-016, RU-W27  
Erosion control devices were not properly implemented to prevent soil laden runoff from entering the wetlands which is not in compliance with permit conditions # 31, 32, 39, 40. Also, excessive rutting documented in wetland which is not in compliance with permit condition #82.
- 13) Inspection Date: 3-13-07  
Report # 1A-DB-048, DO-W25, 26  
Excessive rutting documented in wetland which is not in compliance with permit condition #82.
- 14) Inspection Date: 3-13-07  
Report # 1A-DB-048, DO-W24  
Excessive rutting documented in wetland which is not in compliance with permit condition #82.
- 15) Inspection Date: 3-13-07  
Report # 1A-DB-048, DO-W22  
Excessive rutting documented in wetland which is not in compliance with permit condition #82.
- 16) Inspection Date: 3-13-07  
Report # 1B-JV-039, WA-W17  
Erosion control devices were not properly implemented to prevent soil laden runoff from entering the wetlands which is not in compliance with permit conditions # 31, 32, 39, 40.
- 17) Inspection Date: 3-14-07  
Report # 1B-JV-040  
Upland soils bladed into wetland which is not in compliance with permit conditions # 10, 16, 78.
- 18) Several other reports indicate upland soil was placed in the wetland for storage which is not in compliance with permit condition # 37.

Since the previous Notice of Noncompliance, dated January 26, 2007, Enbridge and WDNR have implemented a noncompliance tracking table to address the noncompliance reports and state the action

taken and how it will be resolved in the future. In an effort to address some of the noncompliance issues listed above, Enbridge called the WDNR on March 14, 2007, stating that Enbridge is aware of the noncompliance issues and has temporarily suspended activity in areas identified in the reports. You shall document which areas activities have been suspended and to what extent.

Because many of these non-compliance issues have been discussed during the recurring teleconferences between the Department, Merjent, and Enbridge, it appears that the breakdown of communication is occurring with the project's contractors. In order to facilitate the resolution of these issues, we have set up an enforcement meeting for Enbridge and their contractors with an Environmental Enforcement Specialist in Madison. The meeting will be held in Room 613 of the DNR Headquarters (GEF II), at 1:00 p.m. on March 26, 2007, to discuss these issues.

We request that you prepare and present a report detailing the facts of these incidents (the report may be a compilation of the tracking table mentioned above). The report must include the nature of each incident, the timing details, how and when the site was or will be restored, what you did to address the incident at the site and what you did to address the process breakdowns that resulted in noncompliance. The report shall be submitted to the Department on or before March 21, 2007.

If you have any questions concerning the contents of this letter or the permit, please contact me at (608) 267-2770.

Sincerely,

Thomas M. Boos II  
Water Management Specialist  
Office of Energy

cc: William Sande- ACOE  
Michelle DeBrock-Owens- WDNR (NOR – Rhinelander)  
Tom Hess- Merjent  
Amy Smith- WDNR (AD/5)  
Dave Edwards- WDNR (LE/5)



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January 26, 2007

Shaun Kavajecz  
Enbridge Energy, LP  
119 N. 25th Street East  
Superior, WI 54880-5247

Subject: NOTICE OF NONCOMPLIANCE  
Permittee Name: Enbridge Energy, LP  
Site Name: Southern Access Expansion Project  
Docket: IP-2006-N10001 through IP-2006-N11489

Dear Mr. Kavajecz:

I am writing in response to recent activities that occurred during construction of Enbridge Energy's Southern Expansion Project. We need a full report from you explaining the details of each incident listed below, the efforts you have taken to address the resulting impacts to the environment, and the efforts you have taken to address your process to prevent such actions in the future.

The Department of Natural Resources (Department) permit for this project includes jurisdiction under Ch. 30.12, 30.123, 30.19, 30.20, 281.36 (Wis. Stats.), and NR 103 and 299 (Wis. Adm. Code). The Department permit for this project requires the permittee to comply with specific plans, sequencing, and erosion control measures in order to prevent impacts to waterways and wetlands.

- 1) Inspection Date: 1-13-07  
Report # 1A-DB-002  
A bridge was placed over a waterway that had not been previously identified as a waterway. The Department sent an email dated 1-17-2007 outlining several questions. This issue is pending until a response is submitted.
- 2) Inspection Date: 1-16-2007  
Report # 1B-JVV-003 NCR, wetland DO-W123  
Tree stumps were being removed from the temporary work space which is not in compliance with the application which is approved in the permit. Significant rutting took place which is not in compliance with permit conditions 78 and 82 due to the travel on unstable soils conditions. The stumps were then buried in the wetland, which is not an authorized fill material.
- 3) Inspection Date: 1-17-07  
Report # 1A-DB-004, wetland DO-W33  
Clearing in a wooded wetland took place beyond the permitted area (permit condition 90).
- 4) Inspection Date: 1-18-07  
Report # 1A-DB-005, wetland DO-W60  
Clearing in a wetland took place beyond the permitted area (permit condition 78).
- 5) Inspection Date: 1-19-07  
Report # 1A-DB-006, previously unidentified wetland between DO-W32 and DO-W33

Clearing took place in this wetland beyond the permitted width for the temporary workspace (permit condition 78). Explain how you plan to deal with previously unidentified wetlands, and insert the plan in to the Environmental Construction Plan (ECP).

6) Inspection Date: 1-20-07

Report # 1A-DB-007, wetland DO-W8, DO-W94 and Nemadji River (DO-S4)

Erosion control devices were not in place prior to grading adjacent to waterways and wetlands, which is not in compliance with the permit (permit conditions 32, 34, 39, 40).

7) Inspection Date: 1-22-07

Report # 1B-JV-007, wetland WA-W17 and WA-S3

Clearing in a wetland took place beyond the permitted area. The WA-S3 waterway bridge was potentially placed below the ordinary high water mark (OHWM). Provide the information as to whether or not that took place. The waterway is permitted to be crossed by a temporary clear span bridge made of mats.

8) Inspection Date: 1-25-07

Report # 1A-DB-009, waterway DO-S5

Stream bank was excavated below the (OHWM) which is not in compliance with the permit (permit condition 47). Structures were placed below the OHWM during the clear span bridge installation, which by definition, is not in compliance with the permit (permit condition 53).

In an effort to address the noncompliance issues listed above, Enbridge sent an email dated January 19, 2007, stating that Enbridge is aware of the noncompliance issues and has temporarily suspended clearing practices in wetlands while implementing corrective measures.

We have set up a meeting with an Environmental Enforcement Specialist in Madison in Room 613, at the DNR Headquarters on February 5, 2007, to discuss this issue. We request that you prepare and present a report detailing the facts of these incidents. The report must include the nature of each incident, the timing details, how and when the site was or will be restored, what you did to address the incident at the site and what you did to address the process breakdowns that resulted in noncompliance. The report shall be submitted to the Department on or before January 31, 2007.

If you have any questions concerning the contents of this letter or the permit, please contact me at (608) 267-2770.

Sincerely,

Thomas M. Boos II  
Water Management Specialist  
Office of Energy

cc: William Sande- ACOE  
Michelle DeBrock-Owens- WDNR (NOR – Spooner)  
Tom Hess- Merjent  
Amy Smith- WDNR (AD/5)  
Dave Edwards- WDNR (LE/5)



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## Oil spill tainted water table

### Recent pipeline leak seeped into deep hole in northern Wisconsin

By LEE BERGQUIST

[lbergquist@journalsentinel.com](mailto:lbergquist@journalsentinel.com)

*Posted: Feb. 15, 2007*

An oil pipeline spill on Feb. 2 in Rusk County - one of the largest such accidents of its kind in state history - has been found to have contaminated the local water table, officials confirmed Thursday.

The accident is one of two resulting in the release of at least 176,000 gallons of Canadian crude oil in northern Wisconsin since the beginning of the year.

Both are under investigation by the U.S. Office of Pipeline Safety and being reviewed by the state Department of Natural Resources.

The spills took place during construction of a 320-mile pipeline by Enbridge Inc. of Calgary, Canada, alongside its existing pipeline from Superior to near Whitewater.

The expansion has drawn criticism, and a lawsuit, from environmental groups including the Wisconsin Wetlands Association and the River Alliance of Wisconsin. The groups say the massive undertaking should have required a highly detailed environmental impact statement, instead of a less rigorous environmental assessment.

The DNR, which reviews such projects for effects on streams and wetlands, said the pipeline expansion did not rise to the level at which Enbridge needed to complete the more thorough analysis.

The operations in Wisconsin owned by Enbridge were formerly known as Lakehead Pipeline.

Enbridge is expected to seek permission shortly for construction of another pipeline - this time along private land where a pipeline doesn't currently exist.

The new pipeline would run through 23 miles of Rock County into Illinois, where the company also plans to add more capacity.

"Obviously, it does not make us feel very comfortable to trust Enbridge to do the right thing," said Lori Grant, policy program manager for the River Alliance.

"I think they are in a hurry to move forward with the project. It makes you wonder if these spills are a part of their M.O."

But Enbridge spokeswoman Denise Hamsher said, "We greatly regret what happened - and it's a spill we just won't accept."

She said the two spills are the first breaks in more than four years along the company's more than 8,000 miles of pipeline right of way in North America.

Enbridge says it operates the largest pipeline system in the world.

The company moves crude oil from northwest Canada to terminal locations, including Chicago, Detroit and Montreal.

Enbridge said the expansions are needed because of growing demand for Canadian crude - an alternative to Mideast oil.

Oil moved through Wisconsin is refined in Chicago.

The first of the two spills took place Jan. 1 in Clark County when 50,000 gallons of crude leaked onto farmland and into a drainage ditch.

Hamsher said the pipeline inexplicably cracked open and released crude until an operator could shut down the line from an operations center in Canada.

The oil was removed and returned to the pipeline, she said.

Crews will use equipment that runs the length of the pipeline to look for explanations for why the pipeline cracked, Hamsher said.

In the second accident, Feb. 2 near Exeland in Rusk County, crews mistakenly struck the existing pipeline while preparing to extend the new pipeline beneath a roadway.

Oil filled a large hole more than 20 feet deep before the flow was again shut down. But in this case, Enbridge and the DNR confirmed oil that was not removed seeped into the water table, a finding that could potentially affect local private water supplies.

But state officials and the company say the spill is in a remote locale where only one seasonal home lies within the immediate area.

Monitoring wells will be constructed around the accident site to determine the spread of the oil.

A spokesman for the Office of Pipeline Safety said it was premature to draw conclusions about the accidents.

DNR records show that the 1973 Lakehead Pipeline break in Jefferson County was the largest such break in Wisconsin.

The Feb. 2 spill appears to be the fourth biggest pipeline spill, according to DNR records, though officials at the agency said computerized records could be incomplete.

There have been other larger spills from bulk tanks, the DNR said.

In 2005, Enbridge reported 412,650 gallons of oil were spilled in its North American operations and largely contained within its operational facilities.

The two spills in Wisconsin this year would represent 43% of that figure.

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