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January 16, 2013

Doug Scott
Chairman
Illinois Commerce Commission
160 North LaSalle Street
Suite C-800
Chicago, IL 60601

RE: Case No. 12-0347 - Enbridge Flanagan South Pipeline Project

Dear Mr. Scott:

Illinois Farm Bureau is a voluntary not-for-profit membership organization controlled by farmers who join through their local county Farm Bureaus. Illinois Farm Bureau is the largest membership organization in the state representing Illinois farmers, and has over 80,000 farmer members.

The majority of farmer landowners impacted by the Enbridge Flanagan South pipeline project ("project") are Illinois Farm Bureau members. Accordingly, Illinois Farm Bureau has been actively involved in tracking the project, working with the Illinois Department of Agriculture in commenting on the Agricultural Impact Mitigation Agreement relating to the project, and providing landowner presentations to its membership regarding the project.

Part of Illinois Farm Bureaus involvement in the project includes review of the Illinois Commerce Commission ("ICC") proceedings to verify that information presented to the ICC is appropriate to allow the ICC to make as informed decision as possible when ruling on a case. In this regard, Illinois Farm Bureau is providing the following comments in order to insure the ICC has the appropriate information to base its decisions on the project.

ILLINOIS AGRICULTURAL ASSOCIATION® and AFFILIATED COMPANIES
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Agricultural Support Association • CC Services, Inc. • Cotton States Life Insurance CompanySM • Cotton States Mutual Insurance CompanySM • COUNTRY® Capital Management Company • COUNTRY Casualty Insurance Company® • COUNTRY Investors Life Assurance Company® • COUNTRY Life Insurance Company® • COUNTRY® Mutual Funds Trust • COUNTRY Mutual Insurance Company® • COUNTRY Preferred Insurance Company® • COUNTRY Trust Bank® • East Side Jersey Dairy, Inc. • Holyoke Mutual Insurance Company in Salem • Holyoke of Salem Insurance Agency, Inc. • IAA Credit UnionSM • IAA Foundation • Ice Cream Specialties, Inc. • Illinois Agricultural Auditing Association • Illinois Agricultural Holding Co. • Illinois Agricultural Service Company • Middlesex Mutual Assurance Company • Midfield Corporation • Modern Service Insurance Company • PFD Supply Corporation • Prairie Farms Dairy, Inc. • Shield Insurance Company

Office of the General Counsel

ILLINOIS AGRICULTURAL ASSOCIATION® and AFFILIATED COMPANIES

Page 2 of 3

In particular, Illinois Farm Bureau wants to inform the ICC of concerns that may exist with whether Enbridge is negotiating with landowners in good faith. It is our understanding that the ICC will look to whether Enbridge has conducted its negotiations in good faith in determining whether eminent domain is appropriate to grant in this case. Based on recent information provided to Illinois Farm Bureau, we request that the ICC explore Enbridge's recent actions before making a decision on eminent domain.

In making these comments, Illinois Farm Bureau notes that it does not have an official position on the project, does not represent any individual landowners, and has not formally intervened in this case. However, based on the status of the ICC case and the fact ICC staff has recommended that Enbridge receive a Certificate of Good Standing and Eminent Domain authority, we feel that alerting you to these concerns is the best way to help the ICC make as informed a decision as possible.

I. Enbridge Sets January 9, 2013 Date as Deadline to Negotiate, Despite No Indication of a Final Ruling by the ICC

Within the past week, Illinois Farm Bureau has received a number of complaints from its landowner members regarding a letter (see attached) received from Enbridge stating that landowner negotiations will cease on January 9, 2013. If a landowner refused to negotiate before that date, then Enbridge states that it will refer to the 1950's era easements that allow the company to place an additional pipeline on a landowner's property for an extremely nominal sum (in some cases amounting to only \$150).

Prior to this letter being sent out, Enbridge provided numerous testimony to the ICC that it will negotiate with landowners in good faith and pay them market value for the property that is impacted by the new pipeline. ICC staff acted on this testimony in making its recommendation to the ICC Board. As the ICC has yet to issue a final ruling on this case, and the ICC process could extend into the early summer, landowners are being unfairly coerced into signing off on a new agreement when there is still ample time to negotiate new terms.

In addition, Illinois Farm Bureau has received comments from landowners who received letters stating the January 9, 2013 deadline, even though the landowners were still in the process of conducting (and in some cases finalizing) negotiations. Some landowners also noted they received a letter with the January 9, 2013 deadline even though they had already agreed to new terms with Enbridge. Ultimately, this has resulted in a great deal of confusion among our landowner members as to how to continue to conduct good-faith negotiations with Enbridge.

II. Enbridge Refuses to Incorporate Agricultural Impact Mitigation Agreements into New Contracts with Landowners

Illinois Farm Bureau has been actively involved working with the Illinois Department of Agriculture in commenting on the Agricultural Impact Mitigation Agreement ("AIMA") relating to the project. As you are aware, the AIMA provides essential baseline protections to agricultural land during the pipeline construction process. As this is technically an

Office of the General Counsel

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Page 3 of 3

agreement between the Illinois Department of Agriculture and Enbridge, landowners are advised to incorporate the AIMA into their own easements in order to insure the landowner can enforce the protections outlined by the Department of Agriculture.

A number of landowners have complained that Enbridge refuses to incorporate the AIMAs into their easements. Illinois Farm Bureau cannot understand why Enbridge is not willingly to stand by the terms of the AIMA by acting in this fashion. It has recently come to our attention that Enbridge may be changing its course of action and agreeing to incorporate AIMAs into easements that are entered into from this date forward. However, this still means that a number of landowners have no guarantee the AIMA terms apply to them and this situation is another indication that Enbridge may not be acting in good faith in dealing with landowners.

III. Before Ruling on Eminent Domain Authority, Illinois Farm Bureau Requests Further Examination Into Enbridge's Negotiation Techniques

As previously noted, it is our understanding that the ICC will evaluate whether Enbridge has conducted its negotiations with landowners in good faith before determining whether eminent domain is appropriate to grant in this case. Based on the information provided above, we believe that a further examination of the negotiation process conducted by Enbridge is required before coming to a decision in this case.

Illinois Farm Bureau presents these public comments in the hope they will better inform the ICC when making decisions on this project, and appreciates any consideration you will give them before arriving at your decision on this case.

Sincerely,

OFFICE OF THE GENERAL COUNSEL



Ryan Gammelgard
Attorney II
Illinois Farm Bureau

Enclosure

cc: Lula M. Ford
Erin M. O'Connell-Diaz
John T. Colgan
Ann McCabe



Flanagan South Pipeline Project
Enbridge (U.S.) Inc.
1409 Hammond Avenue
Second Floor
Superior, WI 54880
www.enbridge.com/flanagansouthpipeline
Toll-Free: 877-797-2650

December 26, 2012

[Redacted]

RE: Enbridge, Flanagan South Project Tract Number: [Redacted]

Dear [Redacted]

As you are aware, Enbridge Pipelines (FSP) L.L.C. ("Enbridge") plans to construct the Flanagan South Pipeline on your property. Enbridge's Flanagan South Pipeline Project (the "Project") is moving forward, with the start of construction anticipated in August 2013.

Enbridge has a perpetual easement on and across your property by way of a Right-of-Way and Easement Grant dated [Redacted] and recorded on [Redacted] (the "Easement"). The Easement grants Enbridge the right to construct and operate one or more pipelines within its right-of-way and the right to use lands immediately adjacent to each side of the right-of-way as is reasonably required during construction. The right to construct an additional pipeline on your property may be exercised upon payment to you as described in the Easement. For your convenience, a copy of the Easement is enclosed.

Enbridge plans to exercise its Easement rights to install the new pipeline and use lands adjacent to the right-of-way for temporary workspace to complete the work needed for this Project. Our agents have negotiated with you regarding the right-of-way on your property located in Fulton County, Illinois. However, to-date those negotiations have not been successful.

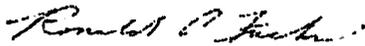
The amount to be paid for constructing the new pipeline is stated in the Easement and was negotiated at the time it was signed. Enbridge's practice is to adjust that amount to reflect present land value as part of our commitment to working fairly with landowners. Enbridge previously offered you the sum of \$[Redacted] as compensation for construction of the pipeline and use of temporary workspace. This offer was based upon the fair market value of the easement area plus 30% of the market price for the temporary workspace. ***This offer will expire on January 9, 2013.***

To accept the offer, please sign and complete the enclosed Additional Pipeline Rights Exercise and Receipt and W-9 tax form and ***mail them by January 9, 2013***, using the enclosed, self-addressed, stamped envelope. Upon receipt, Enbridge will promptly send you a check in the amount of \$: [REDACTED]

If you reject this offer, Enbridge will proceed with exercising its Easement rights and will arrange for payment to you for the amount required by the Easement, which is \$ [REDACTED]. Once Enbridge tenders this amount to you, it is entitled to begin construction of the pipeline on your property and plans to do so. Enbridge will tender this amount to you without prejudice to any of its existing rights.

However, Enbridge prefers to work with landowners to reach mutually satisfactory terms and a window of opportunity remains to attempt to do so. We would certainly welcome another meeting with you. Please contact the right-of-way agent for your area, Sam Weaver, at (715) 817-6155 as soon as possible to schedule an appointment. If we do not hear from you by January 9, 2013, we will consider our offer declined. Enbridge expects to begin construction of the Project in your area starting in August 2013 and will advise you in advance when construction is likely to begin on your property.

Sincerely,



Ron Fuchs

Enclosures:

Easement
Additional Pipeline Rights Exercise and Receipt
Tax Form W-9
Self-Addressed Stamped Envelope

To help you understand my survey answers, I would like to provide some background:

Our land is in Astoria, Illinois, a part of a family farm with Amish roots that dates to 1867. The part of that farm which I inherited consists of about 70 acres of woodlands and 164 acres of cropland. Time on the farm with my grandparents was an important and intrinsic part of my youth, and I have very serious regard for my current role as trustee of a family heritage. My husband and I now live in Durham, North Carolina, and spend approximately six weeks per year in Illinois actively working in the woodlands of the farm and keeping in close touch with farming activities and our rental farmer. Our primary goal in dealings with Enbridge thus far has been to protect our private property rights by establishing clearly the amount and legal location of all land Enbridge will be using for Flanagan South pipeline. Not having received a consistent or even reasonable accounting of land to be used until very recently (04/25/13) and still having remaining questions about this latest “unofficial” sketch we have finally been given, we have not been able to judge the adequacy of Enbridge’s offers or make a calculated counter offer.

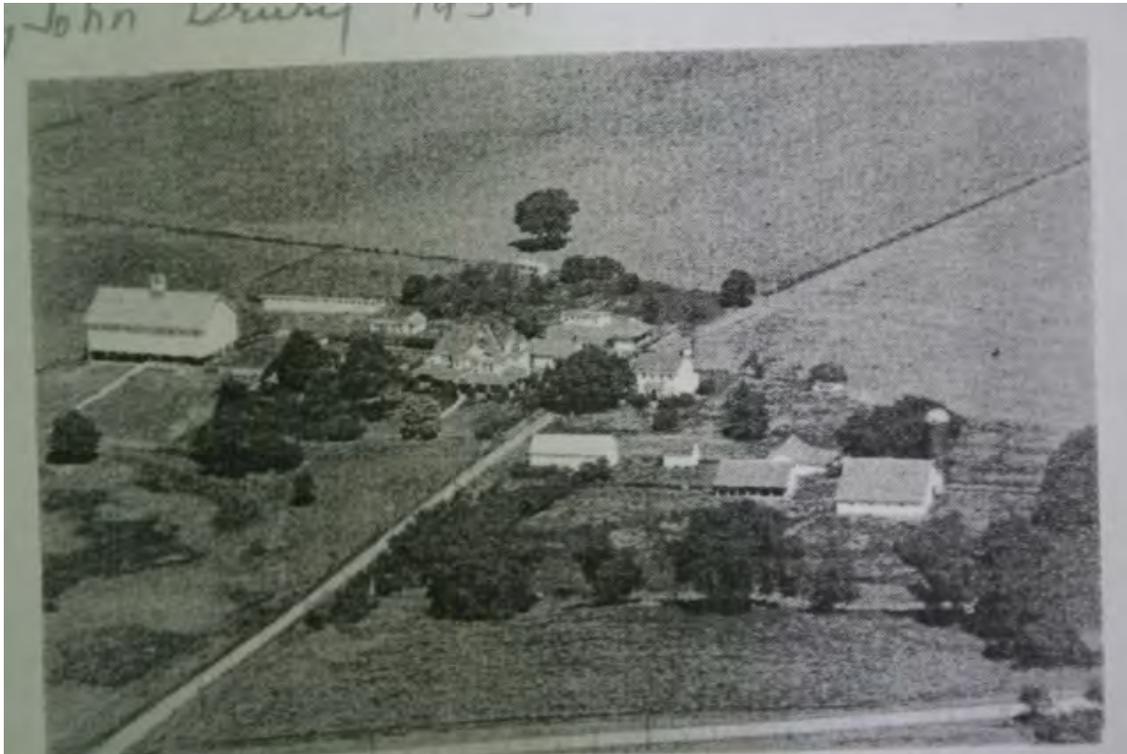
Our property definition concerns have involved especially the area where the Flanagan South pipeline enters our property from the east. This woodlands area presents a particularly problematic situation to Enbridge engineering. The pipeline must cross under a state highway and then a county road, make two turns, negotiate not only steep slopes up to 60° but also a meandering drainage area which is within six straight line miles of the Illinois river. Another area of concern is on neighboring land and also involves complicated construction over slopes and extensive wetlands, where Enbridge proposes construction space that lies within 100 feet of our property line. Both of these problematic construction areas have implications for that part of our property which lies in section 9, and *section 9 is not covered in the 1952 right of way*. Thus far, Enbridge agents have, seemingly by intent and amplified by multi-office inconsistencies, avoided any comprehensive response to our repeated questions regarding their very probable need for land in our section 9 property. All of this seems very clearly to us part of a concerted, devious, deceitful effort by Enbridge to force upon us their “Additional Pipeline Rights Exercise and Receipt” which would give them such ***expanded rights to our whole farm*** that issues of section 9 property would become irrelevant. How can this be negotiation in good faith?

Although I fully understand that the ICC has little if any jurisdiction over the *content* of any contract between Enbridge and landowners, I offer the following in the hope that you, or someone you know of, may have an idea where such information might usefully be placed in order to further protect the private property rights of landowners.

In my answer (in separate attachment) to the survey question about Enbridge having an existing easement, I have described the document entitled 1952 *Right of Way* which my grandfather signed as having on the cover indication that the Spearhead pipeline across his property would be 187 rods long and also indicating payment of \$374, exactly \$2 per rod. Using charts of average price of agricultural land in Illinois in 1952, one can calculate that \$374 would purchase land 187 rods long with approximate width of anywhere from 15 to 25 feet. Perhaps, using terminology of the period, land one rod in width, 16 1/2 feet, was purchased by Sinclair.

If you consider this 1950 vintage aerial photograph of my grandfather’s farm buildings, buildings which lie wholly within the 90 acres of land described in the 1952 Right of Way as being land through which the 187 rod long pipeline *somewhere* would pass, I think anyone would agree that

an eldest son of Old Order Amish farmers would never have knowingly signed anything which in any way would ever impinge upon the very heart of his family's livelihood. He sold a narrow right of way a reasonable distance away from them, not a broad easement which encompassed and might threaten them.



And now I certainly do not wish to give a multi-tentacled Canadian corporate giant, Enbridge, *increased* rights and nearly unfettered access to *my whole farm in perpetuity* by signing their new “blanket easement” document, a document which has been so carefully word-crafted in a nearly incomprehensible legalistic and linguistic style, so completely misnomered as “Exercise of *Additional Pipeline Rights and Receipt*”, and so persistently forced upon me without clarification or alteration through so-called “positive contacts” and “negotiations” which have been fraught with guile, intimidation, evasion, confusion, and even lies.

Simply to compel Enbridge to define, using modern survey terms, the fifty feet to which they were so wisely limited by the ICC and then eliminate the unneeded property descriptions of *whole properties* from their “Exercise...and Receipt” documents would be an immensely helpful first step. With all the precision capabilities of GPS devices owned and used by Enbridge for their own purposes, why allow Enbridge to use the out of date “blanket easement” style of description—defining the pipeline as 50 feet somewhere within the whole farm? Perhaps Enbridge wants it thus, so they can then claim they can “do anything they want, at any time they want, anywhere they want” on the whole property over which they have a “blanket easement.”...These are the verbatim words dismissively flung at me by an Enbridge “project manager” within the month to substantiate why Enbridge owes me no damages in a long-standing, completely valid claim I have against them regarding the Spearhead pipeline... Please help Illinois landowners.

ICC Docket Number 12-0347 Negotiation Survey

- What is the name of the ROW Agent that contacted you?

Cristiann Weaver—initial phone call on 05/12/12

Cameron Kern—took over sometime before 06/07/12

Sam Weaver—became involved after 01/10/13 in interactions with our lawyer
—first dealt with us personally on 04/25/13

- Did you hire an attorney? If so, what was his/her name and phone number?

Attorney Ronald Weber, Canton, IL; phone 309-647-6317

Long-time family attorney.

Formally engaged for Flanagan South negotiations in early January 2013 after we received from the Superior, Wisconsin Enbridge office a particularly threatening letter and short-term deadline for response.

- What was the date of the last offer/counter-offer made regarding the easement contract?

Inconsistent offers which were unsubstantiated by property “sketches” have been received from Enbridge; our responses have been made without counter-offer. Details are as follow.

Two official “offers” and one “payment” check were issued by certified letter out of the Superior, Wisconsin office and passed through the Edwardsville, Illinois office to us:

1) 11/07/12: We received a certified letter that referred to an alleged “previous” offer of \$37,000+ and claimed to repeat that alleged offer. There was no accompanying sketch of pipeline plans for construction spaces. The certified letter had a chart of payments for variously designated spaces but gave no dimensions other than acreage, no price per acre, and no indication whatever of the location of the listed “additional temporary work space” of 0.5 acre. We had never received a previous offer. Speculating that perhaps such an offer had been in a certified letter which Cameron Kern alleged he had mailed with an inadvertently “reversed zip code,” we inquired about this possibility. Although we asked at least twice, Mr. Kern never told us the content of this “lost” letter, and he would not provide us with tracking information so that we could help with inquiries to the USPS.

We responded to this questionable offer of 11/07/12 by sending a certified letter detailing its inconsistencies and indicating desire to continue discussions. Our letter was sent to Mr. Ronald Fuchs with a certified copy to Mr. Douglas Aller, senior right-of-way agents in the Superior, Wisconsin office. We never got a response from either Mr. Fuchs or Mr. Aller.

2) 12/26/12: We received another certified letter from Superior, WI, via Edwardsville, IL. This letter cited one previous offer of \$32,000+ and had no enclosed description of property. We had never received an offer for a \$32,000+ amount. This 12/26/12 letter set a deadline of 01/09/13 for us to accept the \$32,000+ offer and to sign and return Enbridge’s enclosed and unaltered “Additional Pipeline Rights Exercise and Receipt” Document without an attached

Agricultural Impact Mitigation Agreement. If we were not to accept and sign, we were given the ultimatum that Enbridge would tender a check for \$374, the amount paid by Sinclair for the Spearhead 1952 Right of Way, and would then proceed to build Flanagan South by entitlement of the 1952 document.

At this point, we formally engaged our attorney Mr. Ronald Weber, and per instruction in the Enbridge letter, he responded to Mr. Sam Weaver. Mr. Weber's response included a request for ongoing discussions in order to clarify the inconsistencies in the six varied land use sketches and two offers then in hand. Our lawyer and Mr. Weaver continued interactions and eventually scheduled an on site meeting with us on 04/25/13. Meeting attendees included Judith Mace, Robert Mace, Ronald Weber, Cameron Kern, and Sam Weaver. The meeting was somewhat productive: Survey stakes for various pipeline spaces had been set out (in the woodlands only) and were discussed. A non-official, subject to change (per Sam Weaver) "Bing" computer sketch with generally readable scale and dimensions and reasonably logical designated work space was given to us. This sketch encompassed more area than had ever been indicated in previous communications. We continue to have questions about some boundaries indicated in this Bing sketch. Survey stakes for the field area were promised—and produced within three days. Mr. Weaver stated that Enbridge "was not giving out" the coordinates of the survey points. Evaluation of trees that would be destroyed pursuant to construction was scheduled—and occurred two days hence. (Compensation from Enbridge to us for the value of these trees is due by provision of the Agricultural Impact Mitigation Agreement, a contract between the State of Illinois and Enbridge, but such compensation had never been included in any previous offer.) There was no discussion of offer or counter-offer at this 04/25/13 meeting.

3) 05/10/13: Upon our return to North Carolina, we retrieved from the US Post Office a certified letter dated May 1, 2013, again signed by Mr. Fuchs from the Superior, Wisconsin office and sent via the Edwardsville, Illinois office. This letter claimed no response from us to a not-further-specified Enbridge offer, declared expiration of that offer, proffered a check for \$374, and claimed immediate entitlement to begin pre-construction activities and construction of Flanagan South pipeline under provisions of the 1952 Right of Way.

•Did Enbridge have an existing easement in place before the negotiation process was initiated?

Enbridge had previously purchased, third hand we believe, a Right of Way agreement dated January 3, 1952. On the cover of this document a length of 187 rods was specified for the Spearhead pipeline, and a payment equal exactly to \$2 per rod or \$374 was indicated in the document. The land description is in sections, quarter-sections, etc., and encompasses 90 acres. It is interesting that using average price of agricultural land charts from 1952, one can calculate that \$374 would have paid for land 187 rods long with approximate width of 15 to 25 feet—perhaps even one rod in width (16 1/2 feet) if using common terminology of the day. This would seem a reasonable right of way using 1952 construction techniques for a pipeline with Spearhead's 22 inch diameter. Thus, it would seem that Sinclair paid \$374 for a right of way 187 rods long of 15 to 25 foot width in an undefined location somewhere within a 90 acre area. The document is entitled Right of Way, and the word easement never appears in the document.

•Did you sign an easement contract: If so, please provide the date the contract was signed.

I have not signed an easement or a right of way contract because, despite repeated requests and continuing discussion, Enbridge agents have not provided 1) necessary legal definition of property, 2) an definitive offer consistent with definitive property description, 3) opportunity for meaningful negotiation.

•Provide any comments/concerns about the easement negotiation process representative of your personal experience with Enbridge's ROW agents.

Many concerns are covered in the above answers. In addition:

Both Enbridge Agent Kern, and now Agent Sam Weaver, have remained very personable but have not obtained from their company and delivered to us logical, consistent, and comprehensible information that we have repeatedly requested. Maps or sketches that would at least partially elucidate the complicated construction problems at the eastern entry of Flanagan South into our property (where all the engineering challenges as described in a separate document would occur) have finally been provided on April 25, 2013, only five days before senior right of way officers from a different office mailed to us a check for \$374, what they indicate is a final resolution giving them the right per the 1952 Right Of Way to begin pre-construction activities as well as construction of Flanagan South. No provision for further negotiation was indicated in this grossly intimidating letter. The letter is patently inconsistent with nearly concurrent information provided by local Enbridge right of way agents. The sketches provided to us on April 25 picture significant use of space on our "section 9" property, and section 9 is **not** included in the 1952 Right Of Way. Enbridge cannot legally proceed with their purported construction plans without a new agreement that encompasses our property on section 9. Enbridge agents have presented us with an impasse. By their own declaration from a senior official, they have ended negotiations, but they have not yet secured legal access to our section 9 property, which in separate local negotiations they currently purport to use.

We have, at least once a month, asked for a sketch or map detailing involvement of the above mentioned section 9 "abutting area" of our own land. We have been given various "reasons" such information is not available: Agent Kern said he "must get permission" from the neighboring property owner to share a map that would also show the neighbor's property. Agent Kern said the engineers were too busy with another problem to prepare the map until later. At one point we were given a sketch with temporary work space blackened in by hand that stopped at the border of section 9. The latest, 04/25/13, non-official Bing sketch created by Agent Kern on his company computer indicates space needed for the Flanagan South project which has never been indicated in any previous communications. It finally depicts additional temporary work space that extends well into section 9, but this Bing sketch is not legally definitive and also has other problems: For example, it shows an unexplained jog of the State highway boundary so the State land boundary appears to lie far into our land, thus making a portion of the pipeline right of way appear to lie on State land, not our land. (The Enbridge version of the State highway boundary does not conform to official State highway survey maps provided to us when

the highway was recently widened.) In summary, Agent Kern, now directly supported by Agent Weaver, has repeatedly given vague excuses and not provided requested, pertinent information about land use on a critical portion of my property, lack of which information materially inhibits good faith negotiations.

A certified letter from a senior Enbridge ROW official cited our lack of response to a supposed offer from Enbridge that has never been received or explained despite our questions about it.

An offer from Enbridge arrived by certified mail without any sketch of property but with an itemized remuneration for amounts of property not consistent with *any* of *several* previous inconsistent sketches.

Our certified letter asking for clarification from senior Enbridge Right of Way Agents Fuchs and Aller has been afforded no response from the recipients.

Some information from Agent Cameron Kern has been absolutely incorrect: In a phone call on 12/13/12, Agent Kern stated that the Agricultural Impact Mitigation Agreement is a contract between the State of Illinois *and the landowners*. We pointed out that the cover letter and signatures for the AIMA clearly indicate it is a contract between the State and Enbridge, but Agent Kern insisted he was correct. Agent Kern also asserted that the AIMA absolutely does not need to be legally attached to any currently negotiated agreement with Enbridge. With much better authority, our attorney Ronald Weber clearly states the AIMA should be legally attached directly to any currently negotiated agreement with Enbridge for purposes of continued landowner protection. In the same 12/13/12 phone call, Agent Kern stated emphatically that Enbridge has the right under the 1952 “easement” to construct a pipeline “anywhere on our property” even though the 1952 Right of Way applies to only 90 acres of the property and specifically states that an additional pipeline must be “alongside” the existing Spearhead pipeline. All of these statements were made in concert with Agent Kern’s repeated urging to sign the frequently proffered, unaltered, often questioned Enbridge document.

Phone contact with ROW agents has been problematic. Agent Kern’s cell phone has spotty coverage, and his phone calls from his moving vehicle or from specific locations in his assigned area repeatedly have dropped out. We have received phone calls at virtually any time from both Agent Cristi Weaver and Agent Kern and were never asked about our convenience. Calls to our cell phone number have been particularly problematic since they more than once arrived when we were in a public space with no privacy. Unexpected calls both on the cell phone and to our home phone left us without relevant documents at hand or without supplies to take notes. The agent’s poor reception and my husband’s hearing difficulties amplified telephone problems and led to raised voices. Both agents never identified themselves before speaking but launched immediately into discussion.

Access to Agent Kern’s supervisory officer Sam Weaver was long blocked with comments such as “I’m not sure what phone he wants to use.” and “I’m not sure what is a good address.”

Our requests for information necessary to legally define land transactions have been ignored, rebuffed, or denied. In the latest incident, Sam Weaver in our presence responded to our lawyer’s

request for legal definition of positions of observed survey stakes that had been set out for a meeting on 04/25/13 with a blunt, “Enbridge is not giving that out.” Mr. Weaver continued by saying that 50 feet from the Spearhead pipeline is the only location that Enbridge would provide for Flanagan South, which is not sufficient since the location of the Spearhead pipeline has never been adequately defined in survey terms.

In her very first May 2012 phone call Cristi Weaver enlightened me of the possibility that Enbridge had the option of using eminent domain. In an on-site meeting with us on July 5, 2012, Cameron Kern managed gratuitously to work into his conversation that Enbridge certainly wanted to “avoid using eminent domain.” I finally lost count of how many times eminent domain phrasing was worked into conversations with ROW agents, all of them long before Enbridge had been granted the power of eminent domain in the ICC final ruling. I came to believe the phrase was part of a carefully crafted script to foster fear in landowners.

My copious notes detail many annoying and non-informative “contacts” with ROW agents Cristi Weaver and Cameron Kern, contacts which Enbridge brazenly counted as *positive* actions in the ICC hearings. These contacts were mostly of the type which began, “Do you have any questions?” By intent I always refrained from asking whether the agents had ever found answers to any of our previous questions and simply repeated the questions; thus, it was my concerted effort more than efforts of the agents which maintained contacts in the “positive” realm.

Enbridge’s so-called negotiation process has been rife with incomplete and inconsistent information provided or supported by four different Enbridge right of way agents. This information now includes seven different sketches of varying accuracy, none of which have legal standing; two dollar offers of differing amounts neither of which comport with any of the sketches; citation of a third offer never received but to which it is claimed we did not respond; and now a “final” solution and \$374 check issued as ultimatum by Enbridge because of our not accepting their “offer.” Enbridge has not yet negotiated for land they purport to use which is not included in the 1952 Right of Way they claim as sufficient.

The May 1, 2013, certified letter from Enbridge to “non-signing” landowners contained an ultimate \$374 resolution supposedly giving Enbridge immediate right to construct Flanagan South based on their 1952 Right Of Way. This letter followed upon and implemented a previous certified letter which had “warned” of such resolution. The previous letter was sent to “non-signing” landowners in a December 26, 2012, mailing. Together, these letters signify an orchestrated program of intimidation of landowners, not a program of good faith negotiation.



Flanagan South Pipeline Project
Enbridge (U.S.) Inc.
1409 Hammond Avenue
Second Floor
Superior, WI 54880
www.enbridge.com/flanagansouthpipeline
Toll-Free: 877-797-2650

December 26, 2012

[REDACTED]

RE: Enbridge, Flanagan South Project Tract Number: [REDACTED]

Dear [REDACTED]

As you are aware, Enbridge Pipelines (FSP) L.L.C. ("Enbridge") plans to construct the Flanagan South Pipeline on your property. Enbridge's Flanagan South Pipeline Project (the "Project") is moving forward, with the start of construction anticipated in August 2013.

Enbridge has a perpetual easement on and across your property by way of a Right-of-Way and Easement Grant dated [REDACTED] and recorded on [REDACTED] (the "Easement"). The Easement grants Enbridge the right to construct and operate one or more pipelines within its right-of-way and the right to use lands immediately adjacent to each side of the right-of-way as is reasonably required during construction. The right to construct an additional pipeline on your property may be exercised upon payment to you as described in the Easement. For your convenience, a copy of the Easement is enclosed.

Enbridge plans to exercise its Easement rights to install the new pipeline and use lands adjacent to the right-of-way for temporary workspace to complete the work needed for this Project. Our agents have negotiated with you regarding the right-of-way on your property located in Fulton County, Illinois. However, to-date those negotiations have not been successful.

The amount to be paid for constructing the new pipeline is stated in the Easement and was negotiated at the time it was signed. Enbridge's practice is to adjust that amount to reflect present land value as part of our commitment to working fairly with landowners. Enbridge previously offered you the sum of \$[REDACTED] as compensation for construction of the pipeline and use of temporary workspace. This offer was based upon the fair market value of the easement area plus 30% of the market price for the temporary workspace. **This offer will expire on January 9, 2013.**

To accept the offer, please sign and complete the enclosed Additional Pipeline Rights Exercise and Receipt and W-9 tax form and ***mail them by January 9, 2013***, using the enclosed, self-addressed, stamped envelope. Upon receipt, Enbridge will promptly send you a check in the amount of \$ [REDACTED]

If you reject this offer, Enbridge will proceed with exercising its Easement rights and will arrange for payment to you for the amount required by the Easement, which is \$ [REDACTED]. Once Enbridge tenders this amount to you, it is entitled to begin construction of the pipeline on your property and plans to do so. Enbridge will tender this amount to you without prejudice to any of its existing rights.

However, Enbridge prefers to work with landowners to reach mutually satisfactory terms and a window of opportunity remains to attempt to do so. We would certainly welcome another meeting with you. Please contact the right-of-way agent for your area, Sam Weaver, at (715) 817-6155 as soon as possible to schedule an appointment. If we do not hear from you by January 9, 2013, we will consider our offer declined. Enbridge expects to begin construction of the Project in your area starting in August 2013 and will advise you in advance when construction is likely to begin on your property.

Sincerely,



Ron Fuchs

Enclosures:

Easement
Additional Pipeline Rights Exercise and Receipt
Tax Form W-9
Self-Addressed Stamped Envelope



Flanagan South Pipeline Project
Enbridge (U.S.) Inc.
1409 Hammond Avenue
Second Floor
Superior, WI 54880
www.enbridge.com/flanagansouthpipeline
Toll-Free: 877-797-2650

[REDACTED]
[REDACTED]
[REDACTED]

May 1, 2013

Re: Tract # [REDACTED]

Dear [REDACTED]

By letter dated December 26, 2012, Enbridge Pipelines (FSP) L.L.C. ("Enbridge") reminded you of its plans to construct the Flanagan South Pipeline Project (the "Project") across your property pursuant to its rights under the existing Right-of-Way and Easement Grant dated [REDACTED] and recorded at the Fulton County Courthouse (the "Easement"). At the same time, Enbridge extended until January 9, 2013 the offer its agent made you for the exercise of these rights across your property located in Fulton County, Illinois.

Enbridge has not received a response from you to the offer, which has now expired. Therefore, as set forth in the December 26 letter, Enbridge is enclosing the amount required by the Easement to compensate you for the installation of an additional pipeline. Enclosed you will find a check in the amount of \$[REDACTED], as required by the Easement. Tender of this payment entitles Enbridge to begin construction and construction-related activities on the Easement.

Construction is anticipated to begin in August 2013; however, preparatory activities may soon take place (e.g., tree clearing, construction staking, surveying, locating other utilities, constructing access roads, etc.). This letter serves as notice of the commencement of such preparatory and construction activities. If you have any questions about the construction activity on your property, please contact Sam Weaver immediately at (715)-817-6155.

Sincerely,

A handwritten signature in cursive script that reads "Ronald C. Fuchs".

Ronald C. Fuchs

Enclosure: Check for Payment

CERTIFIED MAIL™



Enbridge (U.S.) Inc.
123 Rottingham Court
Suite C
Edwardsville, IL ~~62025~~
62025



7012 2920 0000 8251 4900



1000

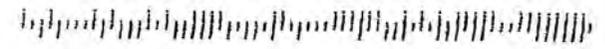
27705

U.S. POSTAGE
PAID
EDWARDSVILLE, IL
62025
MAY 01, 13
AMOUNT
\$6.11
00015798-02

[Redacted address lines]

LN
5/9

2770585587 0004



Bank of America N.A.
Northbrook, Illinois 60062

Enbridge Energy Partners, LP
119 N. 25th Street East
Superior, WI 54880-5247
Right of Way Account

70-2302
719

Dated April 30, 2013

2041036537

Pay to the Order of [Redacted] \$ [Redacted]

The sum of [Redacted] Dollars

For MLR check

R/W No. [Redacted]

⑈ 2041036537⑈ ⑆ 076923284⑆ 5590030002⑈

ICC Docket No. 13-0134
Staff Exhibit 1.0
Attachment 5
Page 8 of 1

Flanagan South Pipeline Project
Enbridge (U.S.) Inc.
City Center
1409 Hammond Avenue
Superior, Wisconsin 54880
www.enbridge.com/flanagansouthpipeline
Toll-free: 877-797-2650



May 15, 2012

CERTIFIED MAIL – Return Receipt Requested

[REDACTED]

Dear Landowner:

This letter is to notify you that on Tuesday, May 15, 2012, Enbridge Pipelines (FSP) L.L.C. ("Enbridge") filed an application with the Illinois Commerce Commission ("ICC") seeking a Certificate in Good Standing for the Flanagan South Pipeline Project (the "Project"). The letter includes contact and other information about the Project and the ICC-required Appendix A – "Statement of Information from the Illinois Commerce Commission."

Landowner Information

Enbridge is seeking land and land rights primarily for pipeline easements and pipeline construction. Enbridge currently owns land needed for some of the facilities and has much of the right-of-way needed through existing easements for the Spearhead Pipeline. Enbridge has been in contact with some, but not all, landowners along the Project route to acquire new right-of-way as needed. One of the requirements associated with filing the ICC application is to send all landowners a certified letter that includes project information and the ICC Statement of Information (see Appendix A).

Project Purpose and Description

The purpose of the Project is to provide expanded access for North American shippers of crude oil to the Cushing Hub for continued transportation to the U.S. Gulf Coast refinery complex. Enbridge continues to expand, enhance and reconfigure its mainline system to efficiently and economically transport crude oil needed to sustain the economy's growth and development. The Project includes the construction of a nearly 600 mile, 36-inch outside diameter interstate crude oil petroleum pipeline and seven pump stations beginning in Pontiac, Ill. and terminating in Cushing, Okla. with the majority of the pipeline generally adjacent to Enbridge's Spearhead Pipeline. The Illinois portion of the Project includes 168 miles of pipeline and adding pumping capacity at the station at the Flanagan Terminal, adjacent to the Forest Pump Station in Mason County and adjacent to the Quincy Pump Station in Adams County.

Land and Land Rights

The Project route traverses the Illinois counties of Livingston, Woodford, Tazewell, Mason, Fulton, Schuyler, Brown and Adams and is generally adjacent to Enbridge's Spearhead Pipeline, for which Enbridge has easement agreements. Constructing and maintaining the Project will generally require an additional 50 feet of permanent easement space from landowners. The pump station facilities will require approximately 10 acres of additional space adjacent to each established site. In addition to the permanent easement space, Enbridge will also seek up to 85 feet of temporary workspace easement to use during the construction phase of the Project. Extra temporary workspace, ranging from 100 feet to 200 feet will be required in some locations, such as road, wetland and water-body crossings.

Regulatory Process

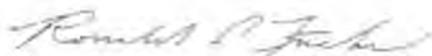
As part of the process, the ICC will separately send notices to landowners along the pipeline route and describe the process and opportunity to submit written comments or otherwise participate in the approval process for the Project. The Application also seeks eminent domain authority for Enbridge, should it become necessary to exercise such authority. Enbridge's goal is to acquire all land and easements through fair and equitable landowner negotiation discussions.

Attachment and Contact Information

The attached Statement of Information from the Illinois Commerce Commission contains important information about acquisition of rights-of-way by Illinois utilities/companies and includes information about landowner rights, including the right for participation in hearings and other opportunities for input. Please read it carefully.

If you have already met an Enbridge land agent, you are invited to contact that representative at any time to set up an appointment to continue discussions about this matter. If you have not met an Enbridge land agent, you can call the toll-free number at 877-797-2650 at any time to set up an appointment to begin discussions about this matter. Within about 14 days, Enbridge land agents will pursue the process of contacting landowners to discuss specifics of the pipeline and any new easement agreements that may be needed for portions of the route. You can also visit our website at www.enbridge.com/flanagan-south-pipeline for Project updates.

Sincerely,



Ron Fuchs
Senior Lands & ROW Specialist

Enclosure: Appendix A - Statement of Information from the Illinois Commerce Commission

mailed
where
+CTC
8-17-12
copy sent
12/10/12
copy sent
12/10/12
10-2012

JOHNSON & JOHNSON, P.C.
ATTORNEYS AT LAW

171 W. Lincoln Avenue
Lewistown, Illinois 61542
(309) 547-7433 - Phone
(309) 547-7435 - Fax

Andrew W. Johnson
Stephanie S. Johnson
Website: <http://jlaw.ustr.com>
E-mail: awj.jlaw@att.net or ssj.jlaw@att.net

205 E. Locust Street, Suite 2
P.O. Box 70, Canton, Illinois 61520
(855) 922-2686 - Phone
(309) 226-1442 - Fax

August 17, 2012

Douglas B. Aller
Enbridge Pipelines (FSP), LLC
1409 Hammond Avenue, Second Floor
Superior, WI 54880

COPY

Re: [REDACTED]

Dear Mr. Aller:

I represent [REDACTED] with regard to negotiation of the Right of Way and Easement Grants you have requested for an oil pipeline through their property in Fulton County, Illinois. I have reviewed the documents you submitted for their review and discussed them with my clients. It is my understanding that you have designated these documents "[REDACTED]" and "[REDACTED]" for reference. It is my understanding that as to both of these parcels, you are seeking a 50 foot wide permanent easement and an 85 foot wide temporary easement, with one parcel having 2120 linear feet of pipeline and the other having 810 linear feet of a single pipeline for transportation of oil. It is further my understanding that there is a location where you seek a larger parcel for a 200' x 100' road crossing. Additionally, it is my understanding that during construction you would need ingress and egress rights over a private gravel road for access to the construction site, and that the applicable measurements of this road are 61' wide by 1391 feet long. It is my understanding that you have offered \$[REDACTED] for these easements.

My clients believe a fair price for the permanent easements to be \$[REDACTED] per acre. I note the following calculations:

50' x 2120'	=	106000 square feet	=	2.43342 acre
50' x 810'	=	40500 square feet	=	0.929752 acre
200' x 100'	=	20000 square feet	=	0.459136 acre
				3.820076 acre
			x	\$[REDACTED] acre
				\$[REDACTED]

The temporary easements would properly be calculated at 30% of the permanent easement price, yielding the following calculations:

85' x 2120'	=	180200 square feet	=	4.13682 acre
85' x 810'	=	68850 square feet	=	1.58057 acre
61' x 1391'	=	84851 square feet	=	1.94791 acre
				<hr/>
				7.6653 acre
			x	\$ [REDACTED]
				<hr/>
			x	30%
				<hr/>
				\$ [REDACTED]

Total base easement cost: \$ [REDACTED]

Additionally, [REDACTED] in-law has a business located upon the property and needs to have the road open to traffic for ingress and egress to her horse stables. Further, during deer season, [REDACTED] have \$ [REDACTED] in income annually from sale of hunting rights from September to November. In light of these two factors, [REDACTED] would like to have the following inserted in paragraph FOURTH:

“In the event that Grantee’s activities upon the premises interfere with the ability of Grantors’ licensees to hunt upon the premises between September 1 and November 30, Grantee shall pay to Grantor the sum of \$ [REDACTED] as liquidated damages. Grantees shall not obstruct access at any time for patrons of the stable, arena, boarding areas, or trail rides operated by the business known as [REDACTED]. With regard to any day on which any obstruction occurs for period in excess of 15 minutes, Grantee shall pay to Grantor the sum of \$ [REDACTED] as liquidated damages. In the event the pipeline is severed during normal farming operations, Grantee agrees to indemnify and hold Grantor harmless for any damages to persons or property, including the pipeline itself, except where claims, injuries, suits, damages, costs, losses, and expenses are caused by the negligence or intentional acts, or willful omissions of Grantors, their heirs, successors, legal representatives, and assigns.”

[REDACTED] would like the ROW to expressly incorporate the construction standards of the Agricultural Impact Mitigation Agreement between Enbridge Pipelines (FSP) L.L.C. and the Illinois Department of Agriculture dated August 2, 2012, as applicable to both the initial construction and any future construction undertaken pursuant to the easement. Construction methods and practices should further be undertaken in a manner designed to reduce the impact of the possible spread of soybean cyst nematodes, such as power washing and/or fumigating equipment, undertaking a monitoring plan, and an agreement to compensate my clients for any loss of yields which results from soybean cyst nematode damage within a four year period following construction. Compaction

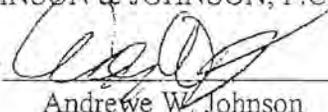
testing and well-water sampling should be performed upon the right-of-way before and after construction at Enbridge's expense. Copies of any documentation of the results of such studies, as well as copies of any aerial photographs, and documentation of locations of any temporary or permanent survey markers on my clients' property.

Additionally, in the first paragraph on page one of the right of way easements, the phrase "or any material or substance that can be conveyed through a pipeline" should be deleted to restrict the use solely to petroleum products. My clients will not agree to a blank check to, for example, flow sludge through the pipeline instead of oil. The easement should specify that the pipeline will be removed in the event its use is discontinued for twenty-four (24) consecutive months.

Please review this matter and advise with regard to the acceptability of the revised terms and consideration. I look forward to working with you to resolve this matter. Thanking you, I remain,

Very truly yours,

JOHNSON & JOHNSON, P.C.

BY: 

Andrew W. Johnson

cc: 

COPY

ACKNOWLEDGMENT OF REPRESENTATION

To: Douglas B. Aller, Sam Weaver and/or any other agents of Enbridge Pipelines (FSP), LLC

We, [REDACTED] individually and as Trustee of the [REDACTED] dated September 4, 2009, and [REDACTED] individually and as Trustee of the [REDACTED] TRUST dated September 4, 2009, hereby acknowledge and confirm that we are represented by Attorney ANDREWE W. JOHNSON of JOHNSON & JOHNSON, P.C. with regard to negotiations with regard to an easement for a pipeline proposed to run across our land in the [REDACTED] [REDACTED] of the [REDACTED] Tax ID [REDACTED]. We direct Enbridge Pipelines (FSP), LLC to communicate with our attorney, ANDREWE W. JOHNSON with regard to this matter and not to communicate directly with us. We specifically confirm that the proposal submitted via Attorney ANDREWE W. JOHNSON's letter to Douglas B. Aller dated August 17, 2012 contains the terms of our counteroffer to the proposal submitted by Enbridge regarding such property.

Dated: January 9, 2013.

[REDACTED]

Individually and as Trustee

[REDACTED]

Individually and as Trustee

Subscribed and Sworn to before me this 9 day of January, 2013.

Michele Torres
Notary Public



Ma/1/12
Call over
CT Rub
+ Fairs
CT
- Nelson
3-15-1
CT

JOHNSON & JOHNSON, P.C.
ATTORNEYS AT LAW

171 W. Lincoln Avenue
Lewistown, Illinois 61542
(309) 547-7433 - Phone
(309) 547-7433 - Fax

Andrew W. Johnson
Stephanie S. Johnson
Website: <http://www.jilaw.biz>
E-mail: awj.jilaw@att.net or ssi.jilaw@att.net

212 E. Chestnut Street, P.O. Box 70
Canton, Illinois 61520
(309) 647-4200 - Phone
(309) 647-4211 - Fax

March 13, 2013

Gerald A. Ambrose
Sidley & Austin
One South Dearborn
Chicago, IL 60603

COPY

Re: [REDACTED]
Fulton County, Illinois
Your client: Enbridge Pipelines (FSP), LLC

Dear Mr. Ambrose,

I am writing to follow up on our conversation last week regarding your client, Enbridge Pipelines, and my clients, [REDACTED].

It is my understanding from your call that Enbridge is claiming that it has sent surveyors to do work relating to the pipeline and that my clients have done something to obstruct their access or refused them entry. When questioned, you had no specifics with regard to who supposedly did what or when it supposedly occurred. Your insinuation was that my clients should cooperate with whatever Enbridge or its surveyors wanted to do before Enbridge would enter into good faith negotiations as to the proposed easement and you alluded to the right of condemnation that your client may have subsequent to the ICC's certification. We discussed your claim that the surveyors could demand access via a 30 day written notice pursuant to some statute that you referenced by name but not by citation. I note that any condemnation action requires good faith negotiation before filing, and that Enbridge has not done so to date, although my clients and I certainly invite your client to promptly enter into such negotiations.

Enclosed for your reference are copies of my letters to Douglas Aller of Enbridge Pipelines dated August 17, 2012, and January 14, 2013. As we discussed, Enbridge has not responded to the counteroffer contained in such correspondence and one of its employees has on two occasions made appointments to meet with me regarding this matter and then failed to show up without calling to cancel. As we also discussed, any communications Enbridge has for the [REDACTED] should be submitted through me and Enbridge personnel or contractors should not make direct contact with the [REDACTED]. It is my understanding that someone named Joel from Enbridge is supposedly going to be contacting me to discuss negotiations of the easement.

Other than your phone call, I have had no direct communication from Enbridge requesting access to the property. I assume at this point that there was some misunderstanding caused by Enbridge personnel or contractors showing up unannounced without communicating through my office in advance. If you have specific claims of facts that you want me to discuss with my clients regarding the details of some incident, please apprise me of those facts, including who supposedly did what and when it supposedly happened, and I will address them. If you have a written notice you would like to send containing a citation of the legal authority under which you claim a right to enter the property, please send it to my attention with specific dates that your client's contractors want access and I will evaluate it and respond.

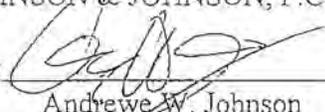
As I mentioned when we talked, the fastest way to resolve this issue will be for Enbridge to promptly enter into good faith negotiations, which would include responding to our counteroffer that has been open for over six months. I look forward to hearing from the Enbridge agent that you referenced soon, as my clients would like to resolve this matter promptly. However, it is manifestly unreasonable to expect that Enbridge personnel will be welcomed with open arms at my client's property if they do not respond to the counteroffer and disregard my direction to communicate with my clients through my office instead of approaching them directly.

Neither you nor any Enbridge personnel should contact my clients directly at any time with regard to this matter or attempt to enter onto the property without previous communication. Misunderstandings can be avoided by discussing these matters in advance. Hopefully, the whole issue can be resolved promptly through good faith negotiations.

Thank you in advance for your cooperation in resolving this matter. I remain

Very truly yours,

JOHNSON & JOHNSON, P.C.

BY: 

Andrew W. Johnson

cc: 