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## VIA ELECTRONIC TRANSMISSION

October 16, 2012

Mr. David Barrett  
Director, Central Region  
Office of Pipeline Safety  
901 Locust Street, Room 462E  
Kansas City MO 64106

Re: CPF 3-2012-5018 Notice of Proposed Violation and Proposed Civil Penalty  
May 21, 2009 - Enbridge Superior Terminal Sump Tank Overflow Incident

Dear Mr. Barrett:

The information contained herein is in response to the Notice of Probable Violation (Notice) and Proposed Civil Penalty received from the Office of Pipeline and Hazardous Materials Safety Administration (PHMSA) regarding the May 21, 2009 incident in Douglas County, WI at our Superior Terminal Facility. Enbridge submits the following written explanations, information and other materials in response to the proposed violations set forth in the Notice.

In the Notice, PHMSA identified probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. Enbridge's response to those items is as follows:

1. 195.52 *Immediate Notice of certain accidents.*

(a) *Notice requirements. At the earliest practicable moment following discovery of a release of the hazardous liquid or carbon dioxide transported resulting in an event described in § 195.50, the operator of the system must give notice, in accordance with paragraph (b) of this section, of any failure that:*

- (1) *Caused a death or a personal injury requiring hospitalization;*
- (2) *Resulted in either a fire or explosion not intentionally set by the operator;*
- (3) *Caused estimated property damage, including cost of cleanup and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000;*
- (4) *Resulted in pollution of any stream, river, lake, reservoir, or other similar body of water that violated applicable water quality standards, caused a discoloration of the surface of the water or adjoining shoreline, or deposited a sludge or emulsion beneath the surface of the water or upon adjoining shorelines; or*
- (5) *In the judgment of the operator was significant even though it did not meet the criteria of any other paragraph of this section.*

Enbridge recognizes the need for prompt NRC reporting and reports Accident's meeting NRC reporting criteria at the earliest practical moment, in accordance with § 195.52. Additionally, every attempt is made to meet the non-regulated PHMSA advisory which

gives further direction to make a telephonic report of an incident to the NRC in Washington, DC at the earliest practicable opportunity, usually one to two hours after discovering the incident.

Enbridge has written operating and maintenance procedures defining the reporting requirements under sections 195.50 and .52 which serve as the basis for the Company's Operating Regions' responsibilities and requirements when reporting pipeline system releases meeting immediate verbal reporting criteria to the NRC as well as 30-day reporting requirements to PHMSA.

In this instance, this event did not meet any of the NRC reporting criteria triggers based on the initial assessment, as the oil was immediately contained on-property in an isolated retention basin. However, it is often difficult to predict whether remedial costs are expected to exceed \$50,000. Enbridge chose to make the call to the NRC based on the uncertainty of whether the incident could potentially incur costs in excess of \$50,000. In addition, based on the early assessment, Enbridge felt the significance of the event warranted a call to the NRC even though initially it did not meet NRC reporting criteria.

The NRC reported incident time was 4:00 p.m. Central (local) time and the call received at the NRC at 7:32 p.m. Eastern, 6:32 Central. In light of the circumstances surrounding this event, Enbridge believes that it phoned the NRC at the earliest practical moment and met the reporting obligation under section 195.52.

*2. §195.402(a) c.3 Procedural manual for operations, maintenance, and emergencies.*

*(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.*

*(c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:*

*(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.*

**Enbridge Incident Investigation**

Enbridge has multi-faceted training and qualification programs, processes, and procedures in place designed to direct safe operations and performance of critical activities to prevent this type of event from occurring. In response to this event, Enbridge conducted an incident investigation to determine root cause and potential

contributing factors in order to identify where corrective measures were necessary to prevent the likelihood of recurrence.

Enbridge completed the investigation into this incident and a copy of the report was provided to PHMSA. The investigation determined that the main cause of the incident was the miscommunication between the PLM Team Lead and the Superior Area Electrical Technician, namely the failure to communicate the open vent line from the trap to the sump during the lock-out, tag-out (LOTO) procedure, and prior to conducting the isolate/de-isolate testing.

### **Corrective Actions**

As corrective actions to this incident, Enbridge revised the LOTO procedures, and included a detailed action/communication path and positive identification process during the isolation and de-isolation of equipment during LOTO. In addition, Enbridge developed a list of remedial actions to address some contributory factors to prevent the likelihood of recurrence, including but not limited to the following:

- Review of the LOTO system, training, hazard assessment system training, and safe work permit system training was performed to ensure that it is understood by applicable employees with those responsibilities;
- Re-training of the PLM Crew on LOTO procedures with emphasis on the use of the LOTO log;
- Review the O&MP LOTO written procedures for adequacy and compliance with OSHA regulations, particularly surrounding group lockout, key control, personal locks, and removal of locks and appropriate changes and retraining was conducted;
- Review of the trap sump pump system design and operation, including the system control logic, to evaluate if any changes would improve overfill protection and detection;
- Installation of a permanent thermal relief system.

### *3. 195.402(d)(v) Procedural manual for operations, maintenance, and emergencies*

*Enbridge failed to establish adequate procedures for responding to deviations from normal operation. Specifically, Enbridge's procedures for responding to a Sump Level High-High alarm for the Line 61 Pig Sending Trap Sump were inadequate because they did not require any specific corrective action to be taken by the Control Center Operator (CCO) due to the alarm being established as an S4 Severity Level (Warning).*

At the time that the alarm was configured, sumps with automatic sump pumps were provided a lower severity level since the only way the Line 61 trap sump could be filled was through the local operation. The Line 61 sump alarm was programmed correctly at the time. Since then, Enbridge adopted an alarm philosophy, wherein sumps with a single alarm are assigned a higher severity level in order to prompt operator intervention.

As with most accidents, multiple variables and contributing factors culminated in an event with the potential to cause significant consequences. Although processes and

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procedures were in place, Enbridge has implemented further safeguards to avoid recurrence.

Enbridge remains diligent in effectively monitoring the described processes and procedures to ensure they are effective and executed as required. This response is intended to further identify the circumstances and demonstrate the Company's adherence and improvements, pre- and post-incident, and the commitment to learn from these events in order to achieve our goal of zero incidents.

We appreciate the opportunity to provide additional details and clarifications, and accordingly request your further consideration of the information in this proceeding. Should you have any questions or require further information, please contact me at (715) 394-1445.

Sincerely,

A handwritten signature in black ink, appearing to read "Shaun Kavajecz". The signature is fluid and cursive, with a large initial "S" and a long, sweeping tail.

Shaun Kavajecz  
Manager, U.S. Pipeline Compliance  
Enbridge Energy Company, Inc.