

**NOTICE OF PROBABLE VIOLATION  
and  
PROPOSED CIVIL PENALTY**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

June 29, 2009

Mr. Terry McGill  
President  
Enbridge Energy Partners, L.P.  
1100 Louisiana  
Houston, TX 77002

**CPF 3-2009-5006**

Dear Mr. McGill:

On February 3, 2007, the Pipeline and Hazardous Materials Safety Administration (PHMSA) received a report of an incident involving the release of a hazardous liquid from a pipeline operated by Enbridge Energy Partners LP (Enbridge). The incident occurred near the town of Exeland in Rusk County, Wisconsin at Mile Post 84.9 on Enbridge's 24-inch crude oil pipeline designated as Line 14. The incident was reported to the National Response Center (NRC) (NRC Report No. 825338). The Central Region, Office of Pipeline Safety, initiated an investigation of the incident.

As a result of the investigation, it appears that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The item inspected and the probable violation is:

**1. §195.202 Compliance with specifications or standards.**

**Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this part.**

Enbridge did not follow its written “Construction Safety Program (CSP)” procedures for maintaining minimum clearance from an underground facility when excavating with powered equipment. On February 2, 2007, Enbridge’s contractor struck Line 14 at the Reichel Road crossing using powered equipment during excavation activities associated with the construction of a new 20-inch hazardous liquid pipeline that parallels existing Enbridge 24-inch (Line 14) and 34-inch pipelines. Section 10.12.4 of the CSP, entitled “Locating Underground Facilities” states:

CLEARANCES

Powered equipment shall remain at least two feet from an underground facility before it has been day lighted by hand or water washing.

Section 10.12.15 of the CSP requires Enbridge’s personnel to monitor and “maintain minimum allowable clearances to facilities with powered excavation equipment until day lighted” during an excavation.

To facilitate the use of a cleaning pig, a trackhoe was being used to drive a steel plate across the end of the trench box on the east side of Reichel Road. The markers were allowed to become covered over with spoils from the ditch and as a result the excavation for the new line became too close to Line 14. The impact ruptured a live, pressurized pipeline resulting in the release of approximately 3000 barrels of crude oil, a portion of which contaminated the local groundwater.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation and has recommended that you be preliminarily assessed a civil penalty of \$100,000 for item 1.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

In your correspondence on this matter, please refer to **CPF 3-2009-5006** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Ivan A. Huntoon  
Director, Central Region  
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*