



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
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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