



March 10, 2022

Mr. Karl Beaster
Enbridge Inc.
11 E Superior St., Suite 125
Duluth, MN 55802

SUBJECT: Reported Contamination at 2800 E 21st St., Superior, Wisconsin
DNR BRRTS Activity Name: Enbridge Terminal - Tank 5 Stairway
DNR BRRTS Activity #: 02-16-558993
DNR Facility-Wide BRRTS Activity #: 16-16-560657
DNR FID #: 816010580

Dear Mr. Beaster:

On May 31, 2012, Barr Engineering, Inc (Barr), on behalf of Enbridge Energy LP LLC, notified the Department of Natural Resources (DNR) that petroleum contamination was discovered at the location of the Tank 5 Stairway. DNR BRRTS Activity # 02-16-558993 was assigned to this hazardous substance discharge.

Based on the information that has been submitted to the DNR regarding this site, we believe Enbridge Energy LP LLC is responsible for restoring the environment under Wis. Stat. § 292.11, also known as the hazardous substances spill law.

This letter describes the legal responsibilities of a person who is responsible under Wis. Stat. § 292.11. This letter also provides a review of the actions taken to date to respond to the hazardous substance discharge, approval of the proposed remedial action and imposes continuing obligations (COs) associated with BRRTS Activity # 02-16-558993 under Wis. Stat. § 292.12 and Wis. Admin. Code chs. NR 724, 725, 726 and 727.

This letter clarifies that DNR regulatory oversight of the remaining contamination associated with BRRTS Activity # 02-16-558993 is being transferred to Facility Wide BRRTS Activity # 16-16-560657 per the Negotiated Agreement between Enbridge Energy LP LLC dated October 2, 2018 (Negotiated Agreement).

Legal Responsibilities

Your legal responsibilities to respond to the hazardous substance discharge referenced below must comply with applicable Wis. Stat. and Wis. Admin. Code sections.

The hazardous substances spill law, Wis. Stats. § 292.11(3), states:

- **RESPONSIBILITY.** A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands, or waters of the state.

Wis. Admin. Code chs. NR 700–NR 799 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems and case closure. Wis. Admin. Code ch. NR 140 establishes groundwater standards for contaminants that reach groundwater.

Immediate and Interim Actions

On January 22, 2014, the DNR received a Technical Memorandum from Barr from containing information on the immediate and interim actions taken under Wis. Admin. Code ch. NR 708. Actions taken included excavation of contaminated soil.

Negotiated Agreement and Remedial Action Plan

The Negotiated Agreement establishes a Facility Wide Environmental Repair Program (ERP) site for the Enbridge Energy Superior Terminal (Property). Hazardous substance discharge sites meeting the conditions established in the Negotiated Agreement can be transferred to the Facility Wide ERP site for continued regulatory oversight.

Based on the information provided by Barr, the DNR concurs with the recommendation made by Barr that the use of the performance standard as described in the Remedial Action Plan (RAP) for the Facility-Wide ERP site is an appropriate remedial action for the remaining soil contamination. The BRRTS Activity # 02-16-558993 will be transferred to the Enbridge Energy – Superior Terminal Facility Wide BRRTS Activity # 16-16-560657.

Continuing Obligations

The COs for BRRTS Activity # 02-16-558993 are summarized in the table below:

<u>Location BRRTS Activity #</u>	<u>COs Applied</u>
02-16-558993	Residual Soil Contamination Management and Industrial Soil Standards

CONDITIONS OF APPROVAL

The conditions specified below are legally required and include both COs and other requirements. Under Wis. Stat. § 292.12(5), Enbridge Energy LP LLC, any subsequent property owners and occupants of the property must comply with the conditions as explained in this letter.

DNR staff may conduct periodic, pre-arranged inspections to ensure that the conditions included in this letter are met. If these requirements are not followed, the DNR may take enforcement action under Wis. Stat. ch. 292 to ensure compliance with the closure conditions.

Continuing Obligations to Address Soil Contamination

Residual Soil Contamination Management (Wis. Admin. Code chs. NR 718, NR 500–536 or Wis. Stat. ch. 289) Soil contamination remains at the location of soil sample Tank 5-S-3 as indicated on the enclosed map Figure C.4, Estimated Extent of Residual Impacts. If soil in the location(s) shown on the map is excavated in the future, the property owner at the time of excavation must sample and analyze the excavated soil to determine if contamination remains. If sampling confirms that contamination is present, the property owner at the time of excavation will need to determine whether the material is considered solid waste and ensure that any storage, treatment or disposal complies with applicable standards and rules. Contaminated soil may be managed under Wis. Admin. Code ch. NR 718, with prior DNR approval.

In addition, all current and future owners and occupants of the property need to be aware that excavation of the contaminated soil may pose an inhalation or other direct contact hazard and as a result, special precautions may need to be taken to prevent a direct contact health threat to humans.

Industrial Soil Standards (Wis. Stat. § 292.12(6), Wis. Admin. Code §§ NR 720.05(5), NR 727.07(5))

Soil contamination remains at the location of soil sample Tank 5-S-3, as shown on the enclosed map Figure C.4, Estimated Extent of Residual Impacts. Samples contained benzene, ethylbenzene, and xylene in concentrations that were less than the industrial direct contact RCLs but exceeded the non-industrial direct contact RCLs.

The land use of the property is restricted to industrial and may not be used or developed for residential, commercial, agricultural or other non-industrial use until soil contaminant levels no longer exceed non-industrial direct contact RCLs as the result of additional remediation or natural attenuation and the DNR has reviewed and approved a request to modify this condition of closure.

Other Requirements

Pre-Approval Required for Well Construction (Wis. Admin. Code § NR 812.09(4)(w))

DNR approval is required before well construction or reconstruction for all sites identified as having residual contamination and/or COs. This requirement applies to private drinking water wells and high capacity wells. To obtain approval, the property owner is required to complete and submit Form 3300-254, *Continuing Obligations/Residual Contamination Well Approval Application*, to the DNR Drinking and Groundwater program's regional water supply specialist. A well driller can help complete this form. The form is available online at dnr.wi.gov, search "3300-254." Additional casing may be necessary to help prevent contamination of the well.

DNR Notification Requirements (Wis. Admin. Code §§ NR 727.07, NR 726.15(2))

The property owner is required to notify the DNR at least 45 days before taking the following actions. DNR may require additional investigation and/or remedial action, if necessary, to protect human health and the environment:

- Before removing a structural impediment.
- Before changing the use of the property to a non-industrial use.

Send written notifications to the DNR using the Remediation and Redevelopment (RR) Program Submittal Portal at dnr.wi.gov, search "RR submittal portal." Questions on using this portal can be directed to the contact below, or to the environmental program associate (EPA) for the regional DNR office, found at dnr.wi.gov by searching "RR contacts" and selecting the EPA tab.

CLOSING

Site-related information can be found online in BRRTS on the Web (BOTW). Go to dnr.wi.gov and search "BOTW." Use the BRRTS Activity numbers found at the top of this letter. The site can also be found on the map view, Remediation and Redevelopment Sites Map (RRSM), by searching "RRSM."

The DNR appreciates your efforts to restore the environment at this site. If you have any questions regarding this decision or anything stated in this letter, please contact the DNR Project Manager, John Sager at (715) 919-7239 or john.sager@wisconsin.gov or me at (715) 208-4004 or christopher.saari@wisconsin.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher A. Saari". The signature is fluid and cursive, with a small mark at the end.

Christopher A. Saari
Northern Region Team Supervisor
Remediation and Redevelopment Program

enclosures:

Figure C.4, Estimated Extent of Residual Impacts

cc: Ryan Erickson, Barr