

**Testimony of Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
before the
House Committee on Transportation and Infrastructure

Enbridge Pipeline Oil Spill near Marshall, Michigan
September 15, 2010**

Chairman Oberstar, Ranking Member Mica, and members of the Committee, thank you for the opportunity to testify on the response of the U.S. Environmental Protection Agency (EPA) to the Enbridge Pipeline Oil Spill near Marshall, Michigan. My testimony will provide you with an overview of EPA's response following the pipeline release reported on July 26, 2010. I will also discuss future response activities.

Notification and Response

On July 26, 2010, at 1:33 p.m. Eastern time, Enbridge notified the National Response Center, which in turn notified EPA, that a pipeline release totaling an estimated 819,000 gallons of oil had occurred near Marshall, Michigan. The oil entered Talmadge Creek and flowed into the Kalamazoo River, a Lake Michigan tributary. Heavy rains caused the river to overtop existing dams and carried oil 30 miles downstream. In the end, the spill was contained approximately 80 river miles from Lake Michigan.

Federal Oil Spill Responsibilities

Under federal law, EPA is the lead agency for response to inland oil spills – like the Enbridge Marshall, Michigan, spill. The U.S. Coast Guard (Coast Guard) is the lead agency for spills that occur along the coast or in a coastal zone. The exact lines between the inland and

coastal zones are established by Memoranda of Agreement between regional EPA and Coast Guard offices. In this instance, if the Enbridge spill had occurred within 12 miles of Lake Michigan, the Coast Guard would have taken the lead. Regardless of where a spill occurs EPA and the Coast Guard have a strong relationship and work closely on oil spill response activities.

Response to the Enbridge Spill

As the federal agency in charge of the response to the Enbridge spill, EPA assumed a leadership role in the Unified Command and mobilized an Incident Management Team made up of federal, state, and local agencies. Members of the Unified Command include EPA, Calhoun County, Kalamazoo County, the City of Battle Creek, the Michigan Department of Natural Resources and Environment (MDNR), the Michigan State Police, and Enbridge. Key federal assisting and cooperating agencies include the U.S. Fish and Wildlife Service, the Coast Guard, the National Oceanic and Atmospheric Administration, the U.S. Geological Survey, the Department of Transportation, the Occupational Safety and Health Administration, and the Agency for Toxic Substances Disease Registry. By working together toward a common goal, EPA and its partners have been able to respond both to the oil spill and to the varied needs of the surrounding communities.

As the Unified Command was being set up, EPA began:

- monitoring the air for volatile organic compounds to protect public health;
- overseeing and providing technical expertise to Enbridge's cleanup effort;
- assessing water quality and sediment through visual and analytical methods; and

- evaluating more than 30 miles of contaminated shoreline, flood plain, and wetland areas through land, boat, and air surveys.

On July 27, 2010, the day after the spill was reported, EPA issued an Order under Section 311(c) of the Clean Water Act, directing Enbridge to conduct removal actions. The Order requires Enbridge to deploy appropriate oil recovery and containment equipment, perform air monitoring and sampling, perform water and sediment sampling of impacted areas, clean up all impacted areas, and properly dispose of all wastes. Section 311(b) authorizes the assessment of civil penalties of up to \$37,500 per day that Enbridge fails to comply with the Order or an amount up to three times the cost incurred by the Oil Spill Liability Trust Fund as a result of such failure. EPA also directed Enbridge to produce documents and information relevant to EPA's investigation into the source, extent, and nature of the oil spill, pursuant to EPA's authority under Sections 308 and 311 of the Clean Water Act.

Pursuant to the Order, on July 28, 2010, Enbridge notified EPA that the release was contained and no more oil was flowing from the release area to Talmadge Creek and the Kalamazoo River. The release was contained by mobilizing hundreds of response personnel and heavy equipment. Spill control structures such as soil berms, underflow dams, and containment boom were installed in Talmadge Creek and along the Kalamazoo River.

Over the next several weeks, both EPA and Enbridge continued to add response personnel and equipment to contain the movement of oil and to remove contamination from affected areas. EPA observed significant progress during this time. In less than one week, response efforts

reduced heavy oil to a sheen over the majority of the creek and parts of the river. After an additional week, the sheen was visible only intermittently along the waterway.

On August 10, 2010, EPA and its partners in the Unified Command transitioned from the initial emergency response phase of the removal action into the longer-term phases of the removal action, which include clean up, remediation, and restoration activities. At this point, containment structures had stabilized oil movement in the creek and river.

Today work continues along Talmadge Creek and the Kalamazoo River to remove oil on streambanks, in flood plains, and in river sediments. More than 1,400 people continue to work on this response. The majority of cleanup efforts are currently focused on a 15-mile stretch of the most contaminated areas of the Kalamazoo River, removing contaminated vegetation, conducting mechanical cleanup of contaminated shoreline, and cleaning up pooled oil in the flood plain areas. Using Shoreline Cleanup Assessment Teams (SCAT) EPA continues to assess the impacted areas as the cleanup progresses. In addition, EPA and its partners are using SCAT teams to document progress along the shorelines and in flood plains, and make recommendations for additional cleanup activities.

During the course of the response, as much as 175,000 feet (33 miles) of absorbent and containment boom were deployed on a single day. A total cumulative amount of almost 450,000 feet (85 miles) of absorbent boom has been deployed. No dispersants of any kind were used during the response. As of September 9, 2010, the amount of soil and debris shipped off-site totals nearly 45,000 cubic yards and is being sent to licensed landfills for final disposal. More

than 9.5 million gallons of oil and water mixture have been collected from the spill site, creek and river. More than 200 boats currently are deployed on the river system for booming, skimming, and shuttling personnel and equipment. Total personnel onsite ranges on any given day from 1,300 to 1,800 workers. To date, EPA's costs for responding to the spill total \$17 million, which includes \$1.1 million in Pollution Removal Funding Authority agreements that EPA has entered into with assisting agencies. While we expect that total to rise during the coming months as clean up continues, I assure you that we will work to ensure that EPA's costs are recovered from Enbridge.

Communications and Outreach

In order to keep the community up-to-date on the status of response efforts, EPA organized public meetings in Marshall, Battle Creek, and Kalamazoo. At these public meetings, EPA and its partners discussed ongoing efforts to clean up the oil spill. EPA also held informal sessions so that the public could meet one-on-one with staff from EPA and other agencies. Additionally, EPA attended other community meetings to make sure that people are informed and could ask questions about our response efforts. Furthermore, during the first weeks following the spill, EPA held daily conference calls for members of Congress, congressional staff, state and local officials, and the media. These briefings are now held weekly.

Next Steps

Several critical deadlines are approaching, and EPA will monitor Enbridge's progress closely. Enbridge is required to clean up all contaminated areas along Talmadge Creek and the Kalamazoo River (including shoreline) by September 27, 2010. On November 27, 2010,

Enbridge must submit a final report to EPA. This report must detail all work completed, including monitoring and analytical data, disposal records, and all documentation related to the response.

We expect the environmental restoration work to extend into next year which will include restoring (i.e., backfilling, grading, and seeding) and monitoring all areas impacted by the release. The U.S. Fish & Wildlife Service is currently collecting data to inform future natural resource damage assessments. EPA will continue to lead the Unified Command and will oversee Enbridge's efforts to ensure that all necessary cleanup work gets done. In the coming months, long term restoration and monitoring oversight will transition over to MDNRE. EPA will work with MDNRE to oversee long-term monitoring to protect public health and the environment. EPA, in coordination with our federal, state, and local partners, is committed to protecting Michigan communities from any long-term environmental effects of the spill.

Conclusion

Thank you again for the opportunity to testify. I welcome any questions you may have.