

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DETERMINATION REGARDING  
WISCONSIN ENVIRONMENTAL POLICY ACT COMPLIANCE FOR ENBRIDGE ENERGY CO.  
PERMIT 13-DCF-129

FINDINGS OF FACT

The Department of Natural Resources (Department) finds that:

1. In August 2013, the Department received an application for an air pollution control construction permit from Enbridge Energy Co., to construct three new large (24.5 million gallons each) crude oil storage tanks, be authorized additional tank landing events in tanks T41 – T42, be authorized tank cleaning emissions from tanks T35 – T45, construct and modify associated fugitive piping components associated with Line 61, and construct a new diesel emergency generator, at the pipeline terminal facility in Douglas County, Wisconsin.
2. The Department determined that the application was complete on April 14, 2014.
3. A permit and hearing notice was published in the Wisconsin State Journal and on the Department's web page on April 18, 2014.
4. A public hearing was held at the request of the applicant on May 5, 2014. The hearing was held in the Superior Public Library at 15030 Tower Ave., Superior, WI.
5. The public review period ended on May 19, 2014.
6. The Department received 235 comments at the hearing and during the comment period.
7. The Department prepared a summary of comments and the Department's responses.
8. Since the potential emissions from the proposed project would be less than 100 tons per year, this project was classified as a Type III action under the previous version (prior to 04/01/2014) of Chapter NR 150, Wis. Adm. Code, and did not require preparation of an environmental analysis.
9. Effective April 1, 2014, ch. NR 150, Wis. Adm. Code, was repealed and recreated.
10. Under s. NR 150.20 (2) (a) 4, Wis. Adm. Code, effective April 1, 2014, issuance of permit 13-DCF-129 is an equivalent analysis action.
11. Under ss. NR 150.20 (3) (b), and NR 150.35, Wis. Adm. Code, effective April 1, 2014, the Department may also determine that there is prior compliance for any departmental action.
12. Prior to the construction of the Enbridge's original Southern Access (Line 61) pipeline project, the Department and US Army Corps of Engineers prepared an environmental assessment (EA) in the fall of 2006. The Department held three public informational hearings regarding the Southern Access project in September 2006 in Hayward, Marshfield and Portage, Wisconsin. The Department received and responded to several comments, issuing an amended EA in November 2006. This included a determination that the EA process met the requirements of ch. NR 150, Wis. Adm. Code and s. 1.11 Wis. Stats., for the Southern Access project.

13. In 2008 – 2009, the Department prepared an EA for Enbridge’s Alberta Clipper pipeline project which included 13 miles of pipeline in Douglas County, Wisconsin, and improvements to the Superior Terminal. The U.S. State Department also prepared a federal environmental impact statement on the Alberta Clipper pipeline project. The Department received and responded to a number of comments, and determined that the EA process met the requirements of ch. NR 150, Wis. Adm. Code and s. 1.11 Stats., for the Alberta Clipper project

CONCLUSIONS OF LAW

The Department concludes that:

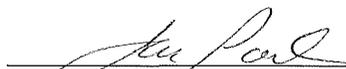
1. The Department’s EAs prepared for the Southern Access and Alberta Clipper projects provide prior compliance for analysis under the Wisconsin Environmental Policy Act, s. 1.11, Stats., and ch. NR 150, Wis. Adm. Code, for issuance of permit 13-DCR-129.

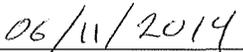
DETERMINATION

The Department has determined that there is prior compliance for the issuance of permit 13-DCF-129 under ss. NR 150.20 (3) (b), and NR 150.35, Wis. Adm. Code.

  
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Kristin Hart, Chief  
Air Permits and Stationary Source Modeling Section  
Air Management Program

  
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Date

  
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James Pardee, Wisconsin Environmental Policy Act Coordinator  
Bureau of Energy, Transportation and Environmental Analysis

  
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Date