FIRST MODIFICATION
OF THE
MEMORANDUM OF UNDERSTANDING

among

the State of Michigan,

acting through

the Department of Environmental Quality,

the Department of Natural Resources and the Department of Attorney General;

the United States Department of Interior,

acting through the Fish and Wildlife Service and the Bureau of Indian Affairs;

and the United States Department of Commerce

acting through the National Oceanic and Atmospheric Administration;

the Nottawaseppi Huron Band of the Potawatomi; and

the Match-E-Be-Nash-She-Wish Band of Pottawatomi

REGARDING NATURAL RESOURCE DAMAGE ASSESSMENT
AND RESTORATION FOR THE
ENBRIDGE PIPELINE OIL SPILL

FIRST MODIFICATION

OF THE

MEMORANDUM OF UNDERSTANDING

This First Modification of the Memorandum of Understanding (First Modification) regarding the Natural Resource Damage Assessment and Restoration for the Enbridge Pipeline Oil Spill is made effective upon the latest date of execution by and among the State of Michigan (State), acting through its co-trustees for natural resources, namely the Director of the Michigan Department of Natural Resources (MDNR), the Director of the Michigan Department of Environmental Quality (MDEQ), and the Attorney General of the State of Michigan (MDAG), respectively; The Nottawaseppi Huron Band of the Potawatomi (Huron Tribe), The Match-E-Be-Nash-She-Wish Band of the Pottawatomi (Gun Lake Tribe), the United States Department of the Interior (DOI), acting through its representatives, the Fish and Wildlife Service (Service) and Bureau of Indian Affairs (BIA); and the United States Department of Commerce (DOC), acting through the National Oceanic and Atmospheric Administration (NOAA), all of whom are collectively referred to as the "Trustees." This First Modification may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. By execution of this First Modification, the Trustees agree to be bound by all of the terms and conditions herein.

RECITALS

The Trustees acknowledge the accuracy of the following facts and circumstances surrounding the making of this First Modification:

1. Effective December 3, 2010, the State, acting through its then trustee and co-trustee for natural resources, namely the Director of the Michigan Department of Natural Resources and Environment (MDNRE) and the MDAG, respectively; the Huron Tribe; the Gun Lake Tribe; the DOI, acting through its representatives, the Service and the BIA; and the DOC, acting through its representative, NOAA, all of whom are collectively referred to as Trustees, entered into a Memorandum of Understanding (MOU) to ensure the coordination and cooperation of the Trustees in assessing damages for injuries to natural resources and natural resource services resulting from the discharge of oil into navigable waters including Talmadge Creek and the Kalamazoo River, Calhoun and Kalamazoo Counties, Michigan beginning on or about July 26, 2010 (the Spill), and the application of any damages recovered toward the restoration, rehabilitation, replacement, and/or acquisition of equivalent natural resources.

2. Section II.B (Additional Trustees) of the MOU states other natural resource trustees designated pursuant to 40 C.F.R. Part 300 - Subpart G may join the MOU though the modification procedures set forth in Section XII (Modification of Agreement). Any modifications require approval by all Trustees in writing.

3. On March 18, 2011, Governor of the State of Michigan Rick Snyder advised Lisa P. Jackson, Administrator of the United States Environmental Protection Agency that MDNRE had been abolished and the powers, duties, and responsibilities of MDNRE had been transferred to either MDNR or MDEQ. As a result of the abolishment of MDNRE, pursuant to Section 311 of the Federal Water Pollution Control Act and Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Governor Snyder designated the Director of the MDEQ, the Director of the MDNR, and the MDAG to serve as co-trustees of the State's natural resources.

TERMS OF MODIFICATION

Accordingly, in consideration of the recitals set forth above, the Trustees hereby agree that the MDNR and MDEQ shall be parties to the MOU and members of the Trustee Council with full rights and responsibilities as set forth in the MOU. Except as provided in the First Modification, all other terms, agreements and conditions of the MOU shall continue in full force and effect.

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REGARDING NATURAL RESOURCE DAMAGE ASSESSMENT

AND RESTORATION FOR THE

ENBRIDGE PIPELINE OIL SPILL

FOR THE STATE OF MICHIGAN:

Dan Wyant

Dan Wyant
Director, Michigan Department of Environmental Quality

DATE: 1/24/12

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REGARDING NATURAL RESOURCE DAMAGE ASSESSMENT

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ENBRIDGE PIPELINE OIL SPILL

FOR THE STATE OF MICHIGAN:

Rodney A. Stokes
Director, Michigan Department of Natural Resources

DATE: 1-13-12

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ENBRIDGE PIPELINE OIL SPILL

FOR THE STATE OF MICHIGAN:

Bill Schuette

Bill Schuette
Attorney General, State of Michigan:

DATE: January 12, 2012

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REGARDING NATURAL RESOURCE DAMAGE ASSESSMENT

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ENBRIDGE PIPELINE OIL SPILL

FOR THE UNITED STATES:

Charles M. Wooley
Acting Regional Director

For

Thomas O. Melius
Regional Director, Region 3, U.S. Fish and Wildlife Service,
Authorized Official for the Department of the Interior

DATE: 9/25/12

FIRST MODIFICATION

OF THE

MEMORANDUM OF UNDERSTANDING

among

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REGARDING NATURAL RESOURCE DAMAGE ASSESSMENT

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ENBRIDGE PIPELINE OIL SPILL

FOR THE UNITED STATES:

David Westerholm
Director, Office of Response and Restoration,
National Oceanic and Atmospheric Administration

DATE: 1/25/2012

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REGARDING NATURAL RESOURCE DAMAGE ASSESSMENT

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ENBRIDGE PIPELINE OIL SPILL

FOR THE TRIBE:

Homer A. Mandoka
Tribal Council Chairperson, Nottawaseppi Huron Band of the Potawatomi

DATE: January 19, 2012

FIRST MODIFICATION

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REGARDING NATURAL RESOURCE DAMAGE ASSESSMENT

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ENBRIDGE PIPELINE OIL SPILL

FOR THE TRIBE:

D.K. Sprague
Tribal Chairman, Match-E-Be-Nash-She-Wish Band of the Pottawatomi

DATE: 9-20-2012