

INTRODUCTION

1. Enbridge admits that its Alberta Clipper pipeline involves building 384 miles of pipeline from the Canadian border at Neche, North Dakota, across Minnesota, to a terminal in Superior Wisconsin. All other allegations contained in Paragraph 1 constitute Plaintiffs' characterization of their case and/or set forth legal conclusions to which no response is necessary. To the extent a response is required, Enbridge denies those allegations.
2. Enbridge denies that the Southern Lights Diluent pipeline is integral to and connected with the Alberta Clipper pipeline. Enbridge denies all other allegations contained in Paragraph 2 to the extent they are inconsistent with the Environmental Impact Statement ("EIS") for the Alberta Clipper project or the Environmental Assessment ("EA") for the LSr pipeline.
3. Enbridge admits that the Alberta Clipper project will transport crude oil from Canada into the United States, but denies all other allegations contained in Paragraph 3.
4. The allegations of Paragraph 4 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.
5. The allegations of Paragraph 5 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.
6. The allegations of Paragraph 6 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

7. Paragraph 7 sets forth Plaintiffs' demands for relief to which no response is necessary. To the extent a response is necessary, Enbridge denies the allegations of Paragraph 7.

8. Paragraph 8 sets forth Plaintiffs' demands for relief to which no response is necessary. To the extent a response is necessary, Enbridge denies the allegations of Paragraph 8.

9. Paragraph 9 sets forth Plaintiffs' demands for relief to which no response is necessary. To the extent a response is necessary, Enbridge denies the allegations of Paragraph 9.

JURISDICTION

10. The allegations of Paragraph 10 set forth legal conclusions to which no response is necessary.

11. The allegations of Paragraph 11 set forth legal conclusions to which no response is necessary.

VENUE

12. The allegations of Paragraph 12 set forth legal conclusions to which no response is necessary.

PARTIES

13. Plaintiff SIERRA CLUB:

- a. Enbridge lacks sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 13(a). To the extent a response is necessary, Enbridge denies those allegations.

b. Paragraph 13(b) sets forth legal conclusions to which no response is necessary and/or allegations for which Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

c. Paragraph 13(c) sets forth legal conclusions to which no response is necessary and/or allegations for which Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

14. Plaintiff MINNESOTA CENTER FOR ENVIRONMENTAL ADVOCACY:

a. Enbridge lacks sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 14(a). To the extent a response is necessary, Enbridge denies those allegations.

b. Paragraph 14(b) sets forth legal conclusions to which no response is necessary and/or allegations for which Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

c. Paragraph 14(c) sets forth legal conclusions to which no response is necessary and/or allegations for which Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

15. Plaintiff INDIGENOUS ENVIRONMENTAL NETWORK:

- a. Enbridge lacks sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 15(a). To the extent a response is necessary, Enbridge denies those allegations.
- b. Paragraph 15(b) sets forth legal conclusions to which no response is necessary and/or allegations for which Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.
- c. Paragraph 15(c) sets forth legal conclusions to which no response is necessary and/or allegations for which Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.
- d. Paragraph 15(d) sets forth legal conclusions to which no response is necessary and/or allegations for which Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

16. Plaintiff NATIONAL WILDLIFE FEDERATION:

- a. Enbridge lacks sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 16(a). To the extent a response is necessary, Enbridge denies those allegations.
- b. Paragraph 16(b) sets forth legal conclusions to which no response is necessary and/or allegations for which Enbridge lacks sufficient information or

knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

- c. Paragraph 16(c) sets forth legal conclusions to which no response is necessary and/or allegations for which Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

17. Enbridge admits that the United States Department of State is a federal agency whose chief administrator is the Secretary of State. Enbridge also admits that the State Department processes applications for Presidential permits for the construction, operation and maintenance of facilities on the U.S.-Canada border. All other allegations contained in Paragraph 17 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

18. Enbridge admits that Hillary Clinton is the Secretary of State, pursuant to Executive Order 13337, 69 Fed. Reg. 25299 (April 30, 2004), is responsible for determining whether to issue permits for the construction, operation or maintenance at the borders of the United States of facilities for the exportation or importation of petroleum products or other fuels to or from a foreign country. All other allegations contained Paragraph 18 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

19. Enbridge admits that James Steinberg is the Deputy Secretary of State. Enbridge also admits that through Department of State Delegation of Authority No. 245-1 (February 13, 2009), Secretary Clinton delegated to the Deputy Secretary of

State, to the extent authorized by law, all authorities and functions vested in the Secretary of State or the head of agency by any act, order, determination, delegation of authority, regulation, or executive order, now or hereafter issued. All other allegations contained in Paragraph 19 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

20. Enbridge admits that the United States Army Corps of Engineers (“Corps”) was a cooperating agency in the preparation of the State Department’s EA for the LSr pipeline and EIS for the Alberta Clipper pipeline. Enbridge also admits that Lieutenant General Robert L. Van Antwerp is the U.S. Army Chief of Engineers and Commanding General and District Engineer and that Colonel Jon L. Christensen is the District Engineer and Commander. All other allegations contained in Paragraph 20 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

21. Enbridge admits that the United States Forest Service is an agency of the Department of Agriculture with responsibility for the management and protection of the Chippewa National Forest and the wildlife resources therein. Enbridge also admits that the Forest Service issued special use permits to Enbridge for the construction and operation of the Alberta Clipper and Southern Lights Diluent pipelines and was a cooperating agency for the preparation of the State Department’s EIS for the Alberta Clipper pipeline. Enbridge also admits that Tom Tidwell is the Chief of the United States Forest Service and Rob Harper is the Forest Supervisor for the Chippewa National Forest. All other allegations contained in Paragraph 21 set

forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

FACTS

22. Enbridge admits that it has proposed to expand its existing pipeline system it owns and operates between Alberta, Canada and the United States by constructing the Alberta Clipper and Southern Lights Diluent pipeline projects. Enbridge denies all other allegations contained in Paragraph 22.
23. Enbridge admits the allegations contained in Paragraph 23 to the extent they are consistent with the EIS, and otherwise denies the allegations.
24. Enbridge admits the allegations contained in Paragraph 24 to the extent they are consistent with the EIS, and otherwise denies the allegations.
25. Enbridge admits the allegations contained in Paragraph 25 to the extent they are consistent with the EIS, and otherwise denies the allegations.
26. Enbridge admits the allegations contained in Paragraph 26 to the extent they are consistent with the EA for the LSr pipeline, and otherwise denies the allegations.
27. Enbridge lacks sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 27. To the extent a response is necessary, Enbridge denies those allegations.
28. Enbridge lacks sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 28. To the extent a response is necessary, Enbridge denies those allegations.

Regulatory Background

29. Enbridge admits the allegations contained in Paragraph 29.

30. Enbridge admits that it applied with respect to the Alberta Clipper and Southern Lights pipelines to: i) the U.S. Army Corps of Engineers for permits to dredge and fill wetlands and place structures in or under water-bodies pursuant to section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act; ii) the U.S. Forest Service for a special use permit to site and construct the pipelines through the Chippewa National Forest; iii) the U.S. Environmental Protection Agency for wastewater discharge permits pursuant to section 402 of the Clean Water Act; and iv) the Bureau of Indian Affairs for approval to cross certain Indian lands. All other allegations contained in Paragraph 30 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

31. Enbridge admits that the State Department acted as the lead federal agency on the Alberta Clipper project for purposes of NEPA and conducted the environmental review for purposes of NEPA. Enbridge denies all other allegations contained in Paragraph 31.

32. Enbridge admits the allegations contained in the first through third sentences of Paragraph 32, but denies that no other federal agency undertook an environmental review, or issued a separate notice, for the Southern Lights Diluent pipeline.

33. Enbridge admits that the State Department determined it would prepare an EA for the LSr pipeline, and an EIS for the Alberta Clipper pipeline. All other allegations contained in Paragraph 33 set forth legal conclusions to which no response is

necessary and/or allegations for which Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

34. The allegations contained in Paragraph 34 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

35. Enbridge admits the allegations contained in Paragraph 35.

36. Enbridge admits the allegations contained in the first sentence of Paragraph 36 to the extent they are consistent with the EIS. Enbridge denies all other allegations contained in Paragraph 36.

37. The allegations contained in Paragraph 37 set forth legal conclusions to which no response is necessary and/or allegations for which Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

38. Enbridge admits that the State Department released a final EIS for the Alberta Clipper project on June 8, 2009 and that the EIS did not identify the Southern Lights Diluent or LSr pipelines as connected actions. Enbridge denies all other allegations contained in Paragraph 38.

39. Enbridge believes the citation from the EIS contained in Paragraph 39 speaks for itself. All other allegations contained in Paragraph 39 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

40. The allegations contained in Paragraph 40 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.
41. Enbridge admits that the State Department issued a Record of Decision (ROD) to issue a Presidential permit for the Alberta Clipper pipeline on August 20, 2009, along with a determination that the issuance of the Presidential permit would serve the national interest. The other allegations contained in Paragraph 41 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.
42. Enbridge admits the allegations contained in Paragraph 42.
43. Enbridge admits that on August 24, 2009, the Army Corps issued Enbridge permits to dredge and fill wetlands and place structures in or under water-bodies in connection with construction of the Alberta Clipper and Southern Lights Diluent pipelines. Enbridge lacks sufficient information or knowledge to form a belief as to the truth of the other allegations contained in paragraph 43. To the extent a response is necessary, Enbridge denies those allegations.
44. Enbridge admits the allegations contained in the first, third and fourth sentences of Paragraph 44. The other allegations contained in Paragraph 44 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

Environmental Impacts of the Project

A. Impacts of the Pipeline Construction and Operation

45. Enbridge admits that the construction of the Alberta Clipper pipeline would require the installation of approximately 326.9 miles of new 36-inch-diameter pipeline starting at the Canadian border in Neche, North Dakota, crossing Minnesota and the Chippewa National Forest and ending in a terminal in Superior, Wisconsin. Enbridge denies all other allegations contained in Paragraph 45 to the extent they are inconsistent with the EIS.

46. Enbridge denies the allegations contained in Paragraph 46 to the extent they are inconsistent with the EIS.

47. Enbridge admits that a portion of the Alberta Clipper pipeline will pass through an area identified by the Minnesota DNR as a calcareous fen in an order published in the Minnesota State Register on August 31, 2009. All other allegations contained in Paragraph 47 set forth legal conclusions to which no response is necessary and/or allegations for which Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

48. Enbridge denies the allegations contained in Paragraph 48 to the extent they are inconsistent with the EIS.

B. Impacts of Extracting and Refining Oil Sands Crude Oil

49. Enbridge denies the allegations contained in Paragraph 49 to the extent they are inconsistent with the EIS. To the extent the allegations contained in Paragraph 49

are not included in the EIS, Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

50. Enbridge denies the allegations contained in Paragraph 50 to the extent they are inconsistent with the EIS. To the extent the allegations contained in Paragraph 50 are not included in the EIS, Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

51. Enbridge denies the allegations contained in Paragraph 51 to the extent they are inconsistent with the EIS.

52. Enbridge denies the allegations contained in Paragraph 52 to the extent they are inconsistent with the EIS. To the extent the allegations contained in Paragraph 52 are not included in the EIS, Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

53. Enbridge denies the allegations contained in Paragraph 53 to the extent they are inconsistent with the EIS. To the extent the allegations contained in Paragraph 53 are not included in the EIS, Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

54. Enbridge admits that the Alberta Clipper pipeline project will supply U.S. refineries with crude from the Canadian oil sands. Enbridge lacks sufficient

information or knowledge to form a belief as to the truth of the allegations contained in the second sentence of Paragraph 54. To the extent a response is necessary to any other allegation contained in Paragraph 54, Enbridge denies those allegations.

55. Enbridge denies the allegations contained in Paragraph 55 to the extent they are inconsistent with the EIS.

56. Enbridge lacks sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 56. To the extent a response is necessary, Enbridge denies those allegations.

57. Enbridge lacks sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 57. To the extent a response is necessary, Enbridge denies those allegations.

58. Enbridge denies the allegations contained in Paragraph 58 to the extent they are inconsistent with the EIS. To the extent the allegations contained in Paragraph 58 are not included in the EIS, Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

59. Enbridge denies the allegations contained in Paragraph 59 to the extent they are inconsistent with the EIS. To the extent the allegations contained in Paragraph 59 are not included in the EIS, Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

60. Enbridge denies the allegations contained in Paragraph 60 to the extent they are inconsistent with the EIS. To the extent the allegations contained in Paragraph 60 are not included in the EIS, Enbridge lacks sufficient information or knowledge to form a belief as to their truth. To the extent a response is necessary, Enbridge denies those allegations.

LEGAL BACKGROUND

National Environmental Policy Act

61. The allegations of Paragraph 61 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

62. The allegations of Paragraph 62 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

63. The allegations of Paragraph 63 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

64. The allegations of Paragraph 64 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

65. The allegations of Paragraph 65 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

66. The allegations of Paragraph 66 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.
67. The allegations of Paragraph 67 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.
68. The allegations of Paragraph 68 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.
69. The allegations of Paragraph 69 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.
70. The allegations of Paragraph 70 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.
71. The allegations of Paragraph 71 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.
72. The allegations of Paragraph 72 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

Regulation of International Oil Sands Crude Oil Pipelines

73. The allegations of Paragraph 73 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

74. The allegations of Paragraph 74 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

75. The allegations of Paragraph 75 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

Administrative Procedure Act

76. The allegations of Paragraph 76 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of NEPA and the APA:

Failure to Evaluate a Full Range of Alternatives

77. Enbridge repeats and realleges its answers to paragraphs 1 through 76 as if fully set forth herein.

78. Enbridge admits that the Alberta Clipper and Southern Lights Diluent pipelines will be constructed simultaneously and in the same corridor. Enbridge denies all other allegations contained in Paragraph 78.

79. Enbridge denies that the “primary purpose” of the LSr pipeline is to replace the capacity of Line 13 which will be reversed and diverted to transport diluent. All other allegations of Paragraph 79 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

80. The allegations of Paragraph 80 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

81. The allegations of Paragraph 81 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

SECOND CLAIM FOR RELIEF
Violation of NEPA and the APA:
Failure to Adequately Analyze Indirect and Cumulative Impacts

82. Enbridge repeats and realleges its answers to paragraphs 1 through 81 as if fully set forth herein.

83. The allegations of Paragraph 83 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

84. The allegations of Paragraph 84 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

85. The allegations of Paragraph 85 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

86. The allegations of Paragraph 86 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

87. The allegations of Paragraph 87 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

88. The allegations of Paragraph 88 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

89. The allegations of Paragraph 89 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

90. The allegations of Paragraph 90 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

THIRD CLAIM FOR RELIEF
Violation of NEPA and the APA:
Failure to Adequately Evaluate Risks, Impacts, and Mitigation Measures Associated
with Spills and Operational Leaks

91. Enbridge repeats and realleges its answers to paragraphs 1 through 90 as if fully set forth herein.

92. The allegations in the first sentence of Paragraph 92 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations. Enbridge denies the allegation in the second sentence of Paragraph 92 to the extent that it can be read to suggest that the State Department relied exclusively on a future review process by PHMSA to assess the impacts of spills and leaks. Enbridge lacks sufficient information or knowledge to form a belief as to all other allegations contained in Paragraph 92.

93. Enbridge denies the allegations in the first through third sentences of Paragraph 93. The statements of the Forest Service and Plaintiffs' comments on the Draft EIS speak for themselves and require neither admission nor denial.

94. The allegations of Paragraph 94 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

95. The allegations of Paragraph 95 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

FOURTH CLAIM FOR RELIEF
Violation of NEPA and the APA:
Failure to Adequately Evaluate the No Action Alternative

96. Enbridge repeats and realleges its answers to paragraphs 1 through 95 as if fully set forth herein.
97. The allegations of Paragraph 97 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.
98. Enbridge denies the allegations contained in the first and third sentences of Paragraph 98. The allegations in the second sentence of Paragraph 98 concerning the current forecasts of the U.S. Energy Information Administration require neither admission nor denial as those forecasts speak for themselves.
99. Enbridge denies the allegations contained in the first and third sentences of Paragraph 99. The EIS citation in the second sentence of Paragraph 99 speaks for itself and thus requires neither admission nor denial. The EIA forecasts described in the fourth and fifth sentences of Paragraph 99 speak for themselves and thus require neither admission nor denial. Plaintiffs' description of their comments on the final EIS in the last sentence of paragraph 99 requires neither admission nor denial. To the extent a response is necessary, Enbridge denies those allegations.
100. The allegations of Paragraph 100 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

101. Enbridge denies the allegations contained in the first and second sentences of Paragraph 101. All other allegations of Paragraph 101 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

102. The allegations of Paragraph 102 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

103. The allegations of Paragraph 103 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

104. The allegations of Paragraph 104 set forth legal conclusions to which no response is necessary. To the extent a response is necessary, Enbridge denies those allegations.

FIFTH CLAIM FOR RELIEF
Violation of NEPA and the APA:
Failure to Adequately Evaluate the Diluent Project
in the LSr Environmental Assessment

105. Plaintiffs' fifth claim for relief was dismissed by this Court in its February 24, 2010 Order, available at *Sierra Club, et al. v. Hillary Clinton, et al.*, Civ. No. 09-2622, Dkt. 185, pg. 22-23 (D. Minn. Feb. 24, 2010). Consequently, no response is required by Enbridge to paragraphs 105 through 111.

SIXTH CLAIM FOR RELIEF
Violation of the United States Constitution and the APA

112. Plaintiffs' sixth claim for relief, was dismissed by this Court in its February 24, 2010 Order, available at *Sierra Club, et al. v. Hillary Clinton, et al.*, Civ. No. 09-2622, Dkt. 185, pg. 23-25 (D. Minn. Feb. 24, 2010). Consequently, no response is required by Enbridge to paragraphs 112 through 115.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiffs lack standing to challenge the federal permits issued to the Alberta Clipper and Southern Lights Diluent pipelines.

SECOND AFFIRMATIVE DEFENSE

Some or all of Plaintiffs' claims are barred by the doctrines of waiver and/or laches.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs have failed to state a claim upon which relief can be granted.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are moot.

FIFTH AFFIRMATIVE DEFENSE

To the extent applicable to it, Enbridge incorporates by reference herein each and every affirmative defense asserted, or to be asserted, by any Federal Defendants.

SIXTH AFFIRMATIVE DEFENSE

Some or all of Plaintiffs' Claims are not subject to judicial review, including Plaintiffs' claims challenging the issuance of a Presidential Permit by the U.S. Department of State.

SEVENTH AFFIRMATIVE DEFENSE

Enbridge gives notice that it intends to rely upon such defenses as may arise during the proceedings in this case and hereby reserves the right to amend its answer and defenses accordingly.

WHEREFORE, Intervenor-defendant, Enbridge Energy, Limited Partnership, respectfully request that this Court deny Plaintiffs relief requested, dismiss the First Amended Complaint with prejudice, and grant Intervenor-defendant such other relief as the Court deems appropriate.

RESPECTFULLY SUBMITTED this 10th day of March, 2010.

s/ John F. Beukema
JOHN F. BEUKEMA (Minn. Bar. No. 8023)
Faegre & Benson LLP
220 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901
Tel: (612) 766-8832
Fax: (612) 766-1600
jbeukema@faegre.com

DAVID H. COBURN (Admitted pro hac vice)
Steptoe & Johnson LLP
1330 Connecticut Ave., NW
Washington, DC 20036
(202) 429-8063
(202) 429-3902
dcoburn@steptoe.com