

On April 10, 2015, the ALJ issued her final ID finding no violation of section 337. She found that, under her claim constructions, there was insufficient evidence to conclude that the respondents infringed the asserted claims or that FMC satisfied either the technical prong or the economic prong of the domestic industry requirement. She further found that the respondents showed by clear and convincing evidence that the asserted claims of the '952 patent are invalid under 35 U.S.C. 102(g).

On April 22, 2015, FMC filed a timely petition for review challenging nearly all of the ID's findings. On April 30, 2015, the respondents and the Commission investigative attorney timely opposed FMC's petition.

Having examined the record of this investigation, including the ALJ's final ID, the petition for review, and the responses thereto, the Commission has determined to review the final ID in part. The Commission has determined to review and set aside the ALJ's findings on the economic prong of the domestic industry requirement *See* 19 CFR 210.45(c).

The Commission has also determined to review the the ALJ's construction of "a temperature in the range of about 120 °C to about 160 °C" because it contains a typographical error. The ALJ cites the Commission's affirmation of her construction of the claim phrase during the temporary phrase of this investigation, but adds the word "about" to her quotation of the Commission's construction and to her final construction. Because the ID indicates the intent to be consistent with the Commission's construction, the Commission finds that the inclusion of the word "about" in the construction is a typographical error. On review, the Commission finds that "a temperature in the range of about 120 °C to about 160 °C" means "a temperature in the range of 120 °C (+/- 2.5 °C) to 160 °C (+/- 2.5 °C)." This minor change does not impact any of the ALJ's findings on infringement, invalidity, or the technical prong of the domestic industry requirement.

The Commission has determined not to review the remaining findings in the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 8, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Oil Pollution Act

On June 8, 2015, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of Michigan in the lawsuit entitled *United States, et al. v. Enbridge Energy Limited Partnership, et al.*, Civil Action No. 1:15-CV-590.

The United States, the State of Michigan, the Nottawaseppi Huron Band of the Potawatomi Indians and the Match-E-Be-Nash-E-Wish Band of the Pottowatomi filed this action seeking damages under the Oil Pollution Act for injuries to natural resources that occurred as a result of discharges of oil into Talmadge Creek, the Kalamazoo River and adjoining shorelines following a July 2010 rupture of the Line 6B oil pipeline owned and operated by various Enbridge entities. The State of Michigan also asserts claims for natural resource damages under State law.

Under the proposed Consent Decree, seven affiliated Enbridge entities ("Enbridge") will pay \$1,484,952, plus interest, to reimburse past natural resource damage assessment costs incurred by federal natural resource trustees and an additional \$150,000, plus interest, to reimburse natural resource damage assessment costs incurred by the two Tribes. The Consent Decree also requires Enbridge to complete a number of natural resource damage restoration projects in accordance with workplans and schedules established or approved under a separate State Consent Judgment in *Michigan Dep't of Env'tl. Quality v. Enbridge Energy Partners, L.P., et al.*, No. 15-1411-CE (Calhoun County Cir. Ct. May 13, 2015). In addition, Enbridge will pay \$2,265,048, plus interest, to a Restoration Account within the Department of the Interior's Natural Resource Damage Assessment and Restoration Fund, for joint use of federal, state, and tribal natural resource trustees. Of the Funds in the Restoration Account, at least \$1,703,174, plus interest, will be used to fund additional natural resource restoration projects consistent with a Restoration Plan that is subject to approval by the natural

resource trustees. Up to \$561,875 of the funds in the Restoration Account, plus interest, will be available for and applied as needed to fund Future Costs of federal and tribal natural resource trustees, including costs of restoration planning activities and costs of overseeing implementation of any natural resource restoration projects required under the Consent Decree. The proposed Consent Decree will resolve natural resource damages claims asserted against Enbridge in the complaint, but it does not resolve other claims against Enbridge arising from the July 2010 oil discharges from the Line 6B pipeline, including claims for injunctive relief and civil penalties under the Clean Water Act. The proposed Consent Decree reserves such claims for separate resolution.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division and should refer to *United States et al., v. Enbridge Energy Limited Partnership, et al.*, D.J. Ref. No. 90-5-1-1-10099/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email .....	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department Web site: <http://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$10.75 (25 cents per page reproduction cost) payable to the United States Treasury.

**Randall M. Stone,**

*Acting Assistant Section Chief,  
Environmental Enforcement Section,  
Environment and Natural Resources Division.*

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