



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Limited Oil Spill Funding Since the Enbridge Spill Has Delayed Abandoned Oil Well Cleanups; Emergency Oil Responses Not Impacted

Report No. 13-P-0370

September 4, 2013



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Report Contributors:

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Abbreviations

EPA	U.S. Environmental Protection Agency
FY	Fiscal Year
GAO	U.S. Government Accountability Office
OEM	Office of Emergency Management
OIG	Office of the Inspector General
OSC	On-Scene Coordinator
OSLTF	Oil Spill Liability Trust Fund
OSWER	Office of Solid Waste and Emergency Response

Cover Photo: An excavation of oil-contaminated soil from the overbank area at the Enbridge spill site. (EPA photo)

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Washington, DC 20460



At a Glance

Why We Did This Review

The U.S. Environmental Protection Agency, Office of Inspector General, received an anonymous hotline complaint about the EPA's management of emergency oil spill funding for the Enbridge pipeline spill.

On July 26, 2010, the Enbridge pipeline spill released more than 800,000 gallons of oil into the Kalamazoo River in Michigan. The responsible party, Enbridge Energy Partners, LLC, is cleaning up the spill.

As of February 24, 2013, the EPA's costs to oversee the cleanup totaled more than \$50 million. These costs are reimbursed by the Oil Spill Liability Trust Fund, which is administered by the U.S. Coast Guard.

This report addresses the following EPA Goals or Cross-Cutting Strategies:

- *Cleaning up communities and advancing sustainable development.*
- *Protecting America's waters.*

For further information, contact our Office of Congressional and Public Affairs at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2013/20130904-13-P-0370.pdf

Limited Oil Spill Funding Since the Enbridge Spill Has Delayed Abandoned Oil Well Cleanups; Emergency Oil Responses Not Impacted

What We Found

We reviewed hotline allegations that: (1) the EPA failed to request additional oil spill funding in response to its ongoing Enbridge pipeline spill costs and other uncontrolled oil discharges; (2) the EPA headquarters told regions there would be a shortage of emergency funding through 2014; (3) limited funding resulted in cleanup delays at known oil-discharge sites; (4) the EPA's administrative orders lacked required language specifying which costs can be recovered by the government; and (5) the EPA had not submitted requests for reimbursement of its Enbridge spill oversight costs. Our findings partially substantiated allegation 1 and substantiated allegation 3, but did not substantiate allegations 2, 4 and 5.

Also, according to EPA staff, the Enbridge spill has not impacted the EPA's ability to respond to classic emergency spills, such as tanker truck rollovers and pipeline breaks. However, EPA Regions 2 and 4 staff said limited funding due to the spill has caused delays and impacted their ability to respond to abandoned oil wells in their regions. Regions 2 and 4 have identified abandoned oil well sites that have leaking wells that impact or threaten surface waters. Cleanup delays at these sites could result in further contamination, posing a threat to wildlife, fish, and underground sources of drinking water. Although the EPA's Office of Emergency Management staff were aware of the risks, the OEM prioritized its limited funding for classic emergency oil spills. The OEM has not coordinated with Regions 2 and 4, or other regions, to develop a nationwide plan to address abandoned oil wells. Agency staff said they requested additional funding for the Enbridge spill. However, the EPA did not request additional funding for abandoned oil well removals.

We also found that the EPA lacks technical guidance on oil spills, which results in emergency responders using their discretion to develop and execute response actions. While this may be adequate and sufficient for typical emergency oil spills, the large-scale release of tar sands oil in the Enbridge spill had not been encountered before by the EPA. Oil spill guidance or a more robust application of lessons learned from major oil spill cleanups could provide essential information for other EPA regions to use in future spills of this nature.

Recommendations

We recommend that the OEM establish risk-based priority criteria for use by the regions in their requests to EPA headquarters for Oil Spill Liability Trust Fund funding and in implementing oil spill responses. We also recommend that the OEM develop a process for sharing lessons learned from large or unprecedented oil spills such as Enbridge. OEM agreed with both recommendations. One recommendation is complete, both are resolved, and no further response to the final report is needed from the agency.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

September 4, 2013

MEMORANDUM

SUBJECT: Limited Oil Spill Funding Since the Enbridge Spill Has Delayed
Abandoned Oil Well Cleanups; Emergency Oil Responses Not Impacted
Report No. 13-P-0370

FROM: Arthur A. Elkins Jr.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over the printed name.

TO: Mathy Stanislaus, Assistant Administrator
Office of Solid Waste and Emergency Response

This is our report on the subject review conducted by the Office of Inspector General of the U.S. Environmental Protection Agency. This report describes issues the OIG identified and makes recommendations to address these issues. The report represents the opinion of the OIG and does not necessarily represent the final EPA position.

Action Required

You are not required to provide a written response to this final report, because you agreed to all recommendations and provided corrective actions and completion dates that meet the intent of the recommendations. The first recommendation is resolved and open with corrective actions ongoing, and the second recommendation is resolved and completed.

Should you choose to provide a response to this final report, we will post your response on the OIG's public website, along with our memorandum commenting on your response. You should provide your response as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. We will post this report to our website at <http://www.epa.gov/oig>.

If you or your staff have any questions regarding this report, please contact Assistant Inspector General for Program Evaluation Carolyn Copper at (202) 566-0829 or copper.carolyn@epa.gov, or Director for Land Cleanup and Waste Management Tina Lovingood at (202) 566-2906 or lovingood.tina@epa.gov.

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Purpose

The U.S. Environmental Protection Agency, Office of Inspector General, received an anonymous hotline complaint that raised questions about the EPA's management of emergency oil spill funding for the Enbridge pipeline spill. We examined the following allegations: (1) the EPA failed to request additional oil spill funding in response to its ongoing Enbridge spill costs and other uncontrolled oil discharges; (2) the EPA headquarters told regions there would be a shortage of emergency funding through 2014; (3) limited funding resulted in cleanup delays at known oil-discharge sites; (4) the EPA's administrative orders lacked required language specifying which costs can be recovered by the government; and (5) the EPA had not submitted requests for reimbursement of its Enbridge spill oversight costs.

Background

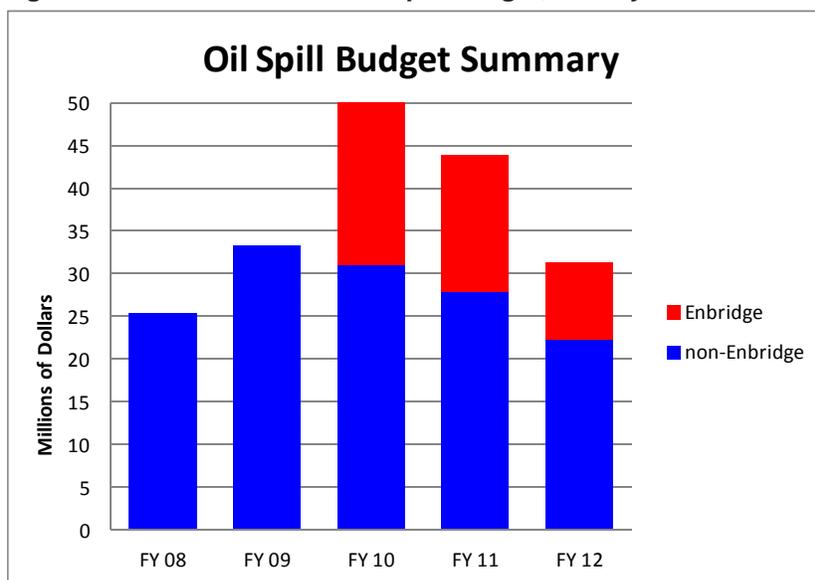
Under the Clean Water Act, the Oil Pollution Act, and the National Oil and Hazardous Substances Pollution Contingency Plan, the EPA is authorized to respond to actual or threatened oil discharges into the waters of the United States. The EPA is the lead federal response agency for oil spills occurring in inland waters. When an inland oil spill occurs, a regional EPA official is assigned to monitor or direct the response as the federal on-scene coordinator. Every year, the EPA manages or oversees responses to about 300 oil spills affecting U.S. inland waters.

Enbridge Oil Spill

On July 26, 2010, a 30-inch pipeline carrying tar sands oil ruptured near Marshall, Michigan, releasing more than 800,000 gallons of oil. The release entered Talmadge Creek and flowed 30 miles down the Kalamazoo River—a Lake Michigan tributary. The EPA issued an administrative order under its Clean Water Act authority, directing Enbridge Energy Partners, LLC, the responsible party, to conduct removal actions.

On October 3, 2012, the EPA notified Enbridge that more work was needed in Michigan's Kalamazoo River. To date, more than 1.1 million gallons of oil have been collected, and almost 200,000 cubic yards of soil and debris have been disposed. As of February 24, 2013, the agency's oil spill costs total more than \$50 million. The cost ceiling authorized by the U.S. Coast Guard is approximately \$56 million. Figure 1 shows the portion of EPA's Enbridge cleanup funding compared to its overall oil spill response budget. When Enbridge spill costs are excluded, total funding for other oil spills decreased beginning in fiscal year 2010.

Figure 1: The EPA's annual oil spill budget, fiscal years 2008–2012



Source: The EPA's Office of Emergency Management budget data and Enbridge spill situation reports.

Oil Spill Liability Trust Fund

The 1990 Oil Pollution Act provides funding for oil cleanups using the Oil Spill Liability Trust Fund. The OSLTF, which consists of a Principal Fund and an Emergency Fund, can provide up to \$1 billion per oil spill incident. The Emergency Fund is available for federal OSCs to respond to discharges, and for federal trustees to initiate natural resource damage assessments. A \$50 million annual Emergency Fund apportionment occurs at the start of each fiscal year and money is drawn down for the rest of the year until the fund is depleted.

To the extent that \$50 million is inadequate, the Maritime Transportation Security Act of 2002 granted authority to advance up to \$100 million from the Principal Fund for removal activities. The Principal Fund is used to pay claims and to fund the administration of the Oil Pollution Act by federal agencies. The EPA receives an annual oil spill appropriation from the Principal Fund, which is used for oil spill planning and support functions, including personnel and equipment.

The U.S. Coast Guard administers the OSLTF and manages the cost-recovery process for OSLTF-funded cleanups. As outlined in a 2012 Memorandum of Understanding with the Coast Guard, the EPA provides documentation of all removal costs to receive reimbursement from the OSTLF. Once the Coast Guard's National Pollution Funds Center has ensured that the EPA has the appropriate documentation to support the charges, the Coast Guard then bills the responsible party on behalf of the EPA. The Coast Guard carefully monitors ceilings for ongoing removal efforts to ensure that the OSLTF has adequate funds to cover all costs. Payments made by the responsible party are deposited into the OSLTF Principal Fund.

Scope and Methodology

We conducted our review from September 2012 to June 2013, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform our review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

To determine whether limited oil spill funding since the Enbridge spill has impacted other regions, we interviewed staff in the EPA's Office of Emergency Management, and emergency response staff in all 10 EPA regions. We reviewed reimbursement of the EPA's oversight costs for the Enbridge spill, as well as oil spill funding allocations to each region from FY 2008 through FY 2012. Finally, we reviewed the EPA and Coast Guard rules, policies, and guidance related to oil spill funding and cost reimbursement.

Prior Reviews

We reviewed the following EPA OIG and U.S. Government Accountability Office reports on the OSLTF and the Enbridge oil spill response:

- EPA OIG Report No. 11-P-0527, *EPA's Gulf Coast Oil Spill Response Shows Need for Improved Documentation and Funding Practices*, August 25, 2011.
- EPA OIG Report No. 11-P-0273, *EPA Actively Evaluating Effectiveness of Its BP and Enbridge Oil Spill Response Communications*, June 23, 2011.
- GAO Report No. GAO-10-795T, *Cost of Major Spills May Impact Viability of Oil Spill Liability Trust Fund*, June 16, 2010.
- GAO Report No. GAO-08-357T, *Major Oil Spills Occur Infrequently, but Risks Remain*, December 18, 2007.

Review Results

According to EPA staff, the EPA's work on the Enbridge oil spill has not impacted the agency's ability to respond to classic emergency oil spills. However, two regions reported backlogs of planned removals at abandoned oil wells because of insufficient funding since the Enbridge spill. According to EPA regional staff, planned actions for abandoned wells commonly involved responding to oil discharges that were impacting or threatening surface waters.

The allegation that the EPA has not requested reimbursement for its Enbridge spill oversight costs was not substantiated. The agency has submitted and received cost reimbursement for all bills sent to the Coast Guard for the Enbridge Oil Spill through September 2012. The Clean Water Act provides authority for the

recovery of all government costs incurred and additional detail on cost-recovery language was not necessary in the administrative orders.

Finally, the agency staff explained that the EPA lacks technical guidance on oil spills, and relies on National Contingency Plan requirements and the expertise of the EPA’s OSCs to guide oil response actions. Oil spill guidance and a more robust application of lessons learned from major spills such as the Enbridge spill could assist EPA staff in identifying appropriate and cost-effective response actions for similar spills. Table 1 below summarizes the allegations addressed in our review and our findings.

Table 1: Allegations reviewed by OIG

OIG hotline allegation	Finding
(1) The EPA failed to request additional oil spill funding in response to its ongoing Enbridge spill costs and other uncontrolled oil discharges.	Partially Substantiated. The EPA stated it requested additional funding for the Enbridge spill. However, the EPA did not request additional funding for abandoned oil well removals.
(2) EPA headquarters told regions there would likely be a shortage of emergency funding through 2014.	Not substantiated. We found no evidence of such communications. The communications from EPA headquarters addressed the need to redirect unspent oil spill funding to the Enbridge cleanup at the end of FY 2010. Headquarters also discussed limited funding for abandoned oil well removals in Region 4.
(3) Limited funding resulted in cleanup delays at known oil-discharge sites.	Substantiated. The Enbridge spill reduced the overall amount of available reimbursable OSLTF funding. Limited funding impacted planned oil well cleanups in two regions. However, all regions stated they were able to respond to classic oil spill emergencies.
(4) The EPA’s administrative orders lacked required language specifying which costs can be recovered by the government.	Not substantiated. The Clean Water Act provides authority for the recovery of all government costs incurred and additional detail on cost-recovery language was not necessary in the administrative orders.
(5) The EPA had not submitted requests for reimbursement of its Enbridge spill oversight costs.	Not substantiated. The EPA submitted reimbursement requests and was reimbursed for its costs through September 2012.

Source: OIG analysis of hotline complaint allegations and interviews with EPA staff.

Funding for the Enbridge Spill Did Not Impact the EPA’s Response to Classic Oil Spill Emergencies

From FY 2010 through FY 2012, the EPA was able to maintain a small portion of its oil response funds in the agency’s headquarters reserve each year as a contingency for an emergency spill. Consequently, agency staff confirmed that the EPA’s work on the Enbridge spill has not impacted its ability to respond to

other classic emergency spills. Examples of classic emergency spills are tanker truck rollovers, oil pipeline breaks and significant spills at oil storage facilities. Although regional managers we interviewed said the Enbridge and Deepwater Horizon¹ oil spills reduced the overall amount of available reimbursable OSLTF funding, the OEM staff said they prioritized funding for classic emergency spills. All of the regions confirmed that they had enough funding to respond to all classic oil spill emergencies.

No Evidence of EPA Communications About Shortages of Emergency Oil Spill Funding

The OIG hotline complaint alleged that the EPA headquarters told regions there would likely be a shortage of emergency funding through 2014. The EPA's regional oil spill program managers did not recall or have documentation of communications from the EPA headquarters warning about funding shortages. These managers further indicated that discussions about funding shortages were largely limited to the EPA headquarters asking regions to identify unspent funding that could be redirected to the Enbridge cleanup. These discussions occurred shortly after the Enbridge spill at the end of FY 2010, and the regions reported these communications did not impact their oil spill programs.

In addition, after the Enbridge spill, Region 4 staff said they were told by EPA headquarters that there was insufficient funding for abandoned oil well removals. However, Region 4 did not describe or provide documentation of warnings about funding shortages through 2014, and the communications from EPA headquarters did not apply to classic oil emergencies.

Limited Funding Since the Enbridge and Deepwater Horizon Spills Delayed Abandoned Oil Well Cleanups in Two Regions

The OIG hotline complaint alleged that limited funding resulted in cleanup delays at known oil-discharge sites. Regions 2 and 4 confirmed that they had to delay oil cleanups because of insufficient and incremental funding after the Enbridge and Deepwater Horizon spills. Both regions said the delayed cleanups were for planned removal actions at abandoned oil well sites rather than typical oil emergencies. The leaking oil wells were likely leaking into or threatening surface water.

Region 4 has a program to clean up thousands of abandoned oil wells in remote areas of Kentucky.² Regions 2, 3 and 6 are also dealing with abandoned oil wells. Leaking abandoned oil wells are a legacy of the oil production industry prior to the development of stringent requirements to plug wells that are no longer in use.

¹ The Deepwater Horizon oil spill, also known as the BP oil spill, occurred from April 20, 2010, through July 15, 2010, when a mobile offshore drilling unit exploded releasing approximately 4.9 million barrels of oil into the Gulf of Mexico.

² Region 4 also has abandoned oil wells in Alabama, Mississippi, and Tennessee.

Many of the wells are decades old, with some dating back to the late 1800s. For many of these wells, there are no clear responsible parties to properly plug and close the wells. According to Region 4, these are not classic emergency spills, but oil wells that are no longer in use and pose a large and chronic environmental problem for the region.

Region 4 staff explained that human health risks posed by the leaking wells are limited since most abandoned well sites in their region are in remote locations. However, delayed cleanups, particularly at high-priority sites identified by the EPA regions, increase the risk of further environmental contamination. For example, at the Oaks Community Leaking Oil Wells Area C site in Ohio County, Kentucky, EPA Region 4 estimated that the 31 leaking abandoned wells at the site would discharge between 620 and 1,240 gallons of crude oil daily. The wells are impacting or threatening surface waters, and pose a threat to adjoining shorelines, wildlife, fish and underground sources of drinking water.



An abandoned oil well site in Kentucky. (EPA photo)

Regions 2 and 4 have not had problems receiving the Coast Guard's approval to conduct the abandoned well removals, but were not allocated sufficient funding by the EPA's headquarters. Region 4 staff said they received less funding than requested in FYs 2011 and 2012, which contributed to a backlog of oil well removals. According to the OEM, Region 4 budgeted and requested \$5.5 million for oil removal funding in FY 2012 and only received \$3.8 million. The number of oil removals completed in Region 4 decreased from 100 in FYs 2009 and 2010

to 64 in FY 2011 and 79 in FY 2012. Region 4 managers also said that incremental oil funding has made it difficult to manage their program.

Since the Enbridge spill, the EPA's headquarters started authorizing partial funding multiple times throughout the year, rather than lump-sum funding at the beginning of the year or every 6 months. As a result, Region 4 managers said they were limited to working on a few oil wells at a time, rather than a large-scale cleanup. Region 4 managers said that with additional funding they would have prioritized planned oil well cleanups. Likewise, Region 2 had to postpone some planned removal actions because of insufficient funding after the Enbridge spill. The removals eventually were completed once additional funding was authorized.

Staff in one EPA region said they had not received all of the funding requested from the OEM for abandoned well removals, but in light of the fact that funding was limited after the Enbridge and Deepwater Horizon spills, the OEM had prioritized classic emergency spills over the planned well removals. The OEM staff explained that they try to give regions as much funding as the regions request, but the OEM still has to operate within the funding ceiling approved by the Coast Guard, and the OSLTF apportionment approved by the Office of Management and Budget.

Although the EPA successfully received approval to increase oil spill funds for the Enbridge spill, the OEM staff did not believe they would receive approval to increase funds for oil well cleanups. These cleanups are not considered classic emergencies, and the OEM did not seek additional funding for them. Region 4 managers reported that incremental funding has continued into FY 2013, and this has affected their ability to plan future removals at oil well sites. EPA staff said the agency does not yet have a nationwide plan to address abandoned wells sites.

Allegations About Reimbursement of EPA Oversight Costs Not Substantiated

The OIG hotline complaint alleged that the EPA's administrative orders lacked required language specifying which costs could be recovered by the government, and that requests for reimbursement had not been submitted by the agency. The Clean Water Act provides authority for the recovery of all government costs incurred and additional detail on cost-recovery language was not necessary in the orders. The EPA has requested and received reimbursement for all of its Enbridge costs through September 2012.

Lessons Learned From the Enbridge Spill Could Provide Valuable Information for Future Oil Spill Cleanups

During this review, we learned that the OEM lacks technical guidance specific to oil spills. According to OEM managers, the EPA relies on the requirements outlined in the National Contingency Plan to guide its oil response actions, as well

as the expertise of the EPA's OSCs. The determination of technical requirements, evaluation techniques, and the level of monitoring used when the EPA oversees oil spill cleanups are made at the discretion of the OSC. This allows OSCs the flexibility to address the unique nature and circumstances of each spill.

However, oil spill guidance and a more robust application of lessons learned from major spills such as Enbridge could better assist discretionary actions and support effective and efficient oil spill cleanups. The need for this is illustrated by the EPA's comments in their April 22, 2013, response to the U. S. Department of State concerning the Keystone pipeline: "We have learned from the 2010 Enbridge spill of oil sands crude in Michigan that spills of diluted bitumen (dilbit) may require different response actions or equipment from response actions for conventional oil spills. These spills can also have different impacts than spills of conventional oil."

To assist EPA regions with any future cleanups of this type, documentation of lessons learned would be beneficial to regional cleanup efforts. Better documentation of lessons learned could clarify appropriate response techniques and monitoring requirements for similar oil spills in the future. Documenting lessons learned could also aid agency discretion, and potentially lead to more transparent and predictable EPA decisions that could benefit interactions and outcomes with responsible parties.

The EPA's experience directing and overseeing the Enbridge spill cleanup presents an opportunity for sharing and applying lessons learned. Region 5 led a hot wash, or performance review, of its Enbridge response on March 22–23, 2011. The review sought feedback from all personnel who supported the Enbridge oil spill response in both on-site and off-site capacities. Comments from EPA Region 5 staff and personnel from 23 participating agencies provided feedback on response operations, and the structure and effectiveness of the EPA's Incident Command System. Region 5 and the OEM can use this review to identify areas of success, as well as areas in need of improvement when responding to future emergencies.

In addition, Region 5 can share its unique experience developing new techniques to remove submerged oil. After the Enbridge spill, cleanup crews initially responded by skimming oil from the surface—a technique commonly used for most types of oil. Within 1 month of the Enbridge spill, cleanup crews discovered that some of the heavy tar sands oil was submerged in the bottom of the river. The following spring, an EPA-directed reassessment found a moderate-to-heavy contamination covering more than 200 acres of the river bottom. This required dredging and excavation of oil from the riverbed, and led the EPA to develop new methods for detecting and recovering submerged oil. Among the advances made during the Enbridge cleanup were techniques used to agitate submerged oil from the riverbed so that the oil could be contained and collected from the surface.

A summary of best practices for handling submerged oil would be valuable for addressing future spills of this nature. Documentation of best practices could assist other responders in identifying appropriate and cost-effective cleanup strategies for future responses to submerged oil.

Conclusion

According to EPA staff, limited funding since the Enbridge spill has impacted the agency's ability to respond to abandoned leaking oil wells in two regions, but it has not impacted classic oil spill emergencies. Regional managers indicated that limited and incremental oil funding to the regions may further delay work at abandoned well sites and may affect future large-scale oil removals that are not considered classic emergencies. EPA staff said the agency does not yet have a nationwide plan to address abandoned wells. In addition, since the EPA lacks technical guidance on oil spills, emergency responders currently use their discretion to develop and execute response actions. The development of oil spill guidance, as well as a more robust application of lessons learned from major oil spills such as Enbridge, could support effective and efficient cleanups.

Recommendations

We recommend that the Assistant Administrator for Solid Waste and Emergency Response:

1. Establish risk-based priority criteria (e.g., imminent threat, emergency response and non-emergency response abandoned oil well work) for use by the regions in their requests to EPA headquarters for OSLTF funding and in implementing responses.
2. Develop a process for sharing lessons learned from large or unprecedented oil spills such as Enbridge, to assist EPA staff nationwide in responding to similar events in the future and to provide transparency in EPA decision-making.

Agency Response and OIG Evaluation

The Office of Solid Waste and Emergency Response did not agree with our wording of recommendation 1, but provided an alternative that the OIG finds acceptable, including a corrective action plan with milestone dates. We therefore agree on this recommendation. OSWER will develop risk-based priority criteria for use by regions in their requests for funding. This will provide an opportunity for regions to identify and prioritize abandoned oil well cleanups using defined risk-based criteria, and will support increased OSLTF funding requests if warranted by the defined workload and potential environmental risk. Based on the agency's response, this recommendation is resolved and open with corrective actions underway.

OSWER agreed with recommendation 2 and provided milestone dates for actions that have already occurred. One of these actions, a presentation by Region 5 staff at the 2011 International Oil Spill Conference, is available online at <http://ioscproceedings.org/doi/pdf/10.7901/2169-3358-2011-1-422>. Additionally, OEM indicated that OSC reports completed at the end of a removal action provide another process for sharing lessons learned from oil spills. If completed, such a report may provide additional valuable information on lessons learned. This recommendation is considered resolved and completed.

Appendix A contains OSWER's response to our draft report and planned actions to address our recommendations. We reviewed OSWER's technical comments and made revisions to the report as appropriate.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
1	9	Establish risk-based priority criteria (e.g., imminent threat, emergency response and non-emergency response abandoned oil well work) for use by the regions in their requests to EPA headquarters for OSLTF funding and in implementing responses.	O	Assistant Administrator for Solid Waste and Emergency Response	12/31/2013		
2	9	Develop a process for sharing lessons learned from large or unprecedented oil spills such as Enbridge, to assist EPA staff nationwide in responding to similar events in the future and to provide transparency in EPA decision-making.	C	Assistant Administrator for Solid Waste and Emergency Response	04/30/2011		

¹ O = Recommendation is open with agreed-to corrective actions pending.
 C = Recommendation is closed with all agreed-to actions completed.
 U = Recommendation is unresolved with resolution efforts in progress.

Agency Response to Draft Report and OIG Comments

MEMORANDUM

SUBJECT: Response to Office of Inspector General Draft Report No. OPE-FY12-24 "Review of Hotline Complaint Regarding the EPA's Management of Emergency Oil Spill Funding for the Enbridge Pipeline Spill," dated June 14, 2013

FROM: Mathy Stanislaus
Assistant Administrator

TO: Carolyn Copper
Office of Program Management

Thank you for the opportunity to respond to the issues and recommendations in the subject draft audit report. Following is a summary of the Agency's overall position, along with its position on each of the report recommendations. For the report recommendation with which the Agency agrees, we have provided high-level intended corrective actions and estimated completion dates to the extent we can. For the report recommendations with which the Agency does not agree, we have explained our position and proposed an alternative to the recommendation. For your consideration, we have included a Technical Comments Attachment to supplement this response.

OIG Response: The OIG reviewed the technical comments and made revisions to the report as appropriate.

AGENCY'S OVERALL POSITION

The Agency agrees with the identified need to develop a process for sharing lessons learned from large incidents such as Enbridge. In fact, since 9/11 the Agency has utilized an informal process for developing and sharing lessons learned from responses to diverse large incidents. The Agency does not agree with the report recommendation to develop a national plan to prioritize and address abandoned oil wells. Currently, Regional oil programs prioritize resources to address both emergencies and their specific needs.

AGENCY'S RESPONSE TO REPORT RECOMMENDATIONS

Agreements

No.	Recommendation	High-Level Intended Corrective Action(s)	Estimated Completion by Quarter and FY
2	Develop a process for sharing lessons learned from large or unprecedented oil spills such as Enbridge, to assist EPA staff nationwide in responding to similar events in the future and to provide transparency in EPA decision-making.	1.1 Evaluate the emergency response phase of an incident via a hot wash, meeting, or other appropriate mechanism.	Completed: March 2011 (Enbridge) Process to be continued for future unprecedented oil spills.
		1.2 Identify strengths, weaknesses, areas for further development, and follow-up action as appropriate.	Completed: March 2011 (Enbridge) Process to be continued for future unprecedented oil spills.
		1.3 Communicate the lessons learned through the emergency response program leadership (i.e., Superfund Division Directors, Removal and Oil Program Managers); to, with, between, and among OSCs; standing meetings (i.e., Superfund Division Directors and/or Removal Managers); and at national meetings, as appropriate.	Completed: International Oil Spill Conference April 2011 (Enbridge) Process to be continued for future unprecedented oil spills.

OIG Response: The agency agreed with the recommendation and provided a corrective-action plan based on past actions. We located and reviewed the 2011 International Oil Spill Conference presentation referenced under Corrective Action 1.3 at <http://ioscproceedings.org/doi/pdf/10.7901/2169-3358-2011-1-422>.

In further discussions, OEM staff noted that OSC reports completed at the end of a removal action provide another process for sharing lessons learned from oil spills. According to OEM, OSC reports are generated upon completion of a removal activity from a major discharge of oil; a major release of a hazardous substance, pollutant or contaminant; or when requested by the national response team or regional response team. The OSC report documents the situation as it developed, the actions taken, the resources committed, and the problems encountered. An OSC report on the Enbridge spill, once cleanup is completed, may provide additional valuable information on lessons learned.

This recommendation is resolved with actions completed.

Disagreements

No.	Recommendation	Agency Explanation/Response	Proposed Alternative
1	Develop a nationwide plan to prioritize and address abandoned oil wells that can be remediated using OSLTF funding. This plan should include an option to request an increase in funding from the Coast Guard, if warranted by the workload and potential environmental risk.	The Agency's highest priority is to respond to classic emergencies via Regional execution utilizing OSLTF funding, which the USCG administers. Statutorily, the Regions use the OSLTF based on an On Scene Coordinator's (OSC's) determination for oil removal response actions to address various threats to navigable waters, including those to abandoned on-shore and/or off-shore oil production facilities. Specifically abandoned oil well threats can vary significantly based on multiple factors, including number of wells within the former facility, well pressure, volume of discharge, depth to oil, interconnection with groundwater, and proximity to surface water. These non-emergency oil removal response actions may also be implemented to compliment and/or supplement existing state/local activities. However, not every Region response to abandoned oil wells, and each Region prioritizes its funding to address specific needs beyond classic emergencies. Therefore, a nationwide prioritization plan would have limited benefit and may actually adversely impact Regional flexibility to address threats.	Working with Regions, HQ will ensure that risk-based priority criteria (e.g., imminent threat, emergency response and non-emergency response abandoned oil well work) are established for use by the Regions in their requests to HQ for OSLTF funding and in implementing responses. By end of 1 st Quarter FY14.

OIG Response: The agency disagreed with the recommendation and suggested an alternative recommendation and corrective action. The agency agreed that EPA headquarters staff would work with regions to ensure that risk-based priority criteria are established for use by the regions in their requests to EPA headquarters for OSLTF funding and in implementing responses by December 31, 2013. OEM staff clarified that by establishing risk-based criteria, regions will have an opportunity to identify and prioritize abandoned oil well cleanups to support increased OSLTF funding requests if warranted by the workload and potential environmental risk. We believe that the proposed alternative and corrective actions meet the intent of the recommendation. Based on the agency's comments, the revised recommendation is: "Establish risk-based priority criteria (e.g., imminent threat, emergency response and non-emergency

response abandoned oil well work) for use by the regions in their requests to EPA headquarters for OSLTF funding and in implementing responses."

This recommendation is resolved and open with agreed-to corrective actions pending.

CONTACT INFORMATION

If you have any questions regarding this response, please contact Gilberto Irizarry, Director, Program Operations and Coordination Division on (202) 564-7982 or Joshua Woodyard, Director, Business Operations Center on (202) 564-9588.

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