

**ENBRIDGE LINE 3  
REPLACEMENT PROJECT**

**Water Appropriation Permit  
Amendment**

**No. 2018 – 3420**

**(Construction Dewatering)**

**FINDINGS OF FACT, CONCLUSIONS AND  
ORDER**

Water Appropriation Permit No. 2018-3420

Enbridge Line 3 Replacement Project

June 4<sup>th</sup>, 2021

# MINNESOTA DEPARTMENT OF NATURAL RESOURCES

**In the Matter of the Amendment to Water  
Appropriation Permit No. 2018-3420**

**FINDINGS OF FACT  
CONCLUSIONS OF LAW,  
AND ORDER OF COMMISSIONER**

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After review of the amendment request, due investigation of relevant information, and consideration of comments, and based on the information and statements contained in the permit applications submitted by Enbridge Energy, Limited Partnership ("Enbridge"), the applicant's description of work proposed to be undertaken, and supplemental information in the administrative record contained within the MNDNR Permitting and Reporting System ("MPARS") or otherwise available to the Minnesota Department of Natural Resources, the Commissioner of the Minnesota Department of Natural Resources ("DNR") makes the following:

## FINDINGS OF FACT

### **I. EXECUTIVE SUMMARY**

1. Pursuant to the requirements of Minn. Stat. § 103G.271, Enbridge applied for and was issued four separate water appropriation permits as part of its proposed Line 3 Replacement Pipeline Project ("Project"). The permits issued seek to appropriate water for (1) hydrostatic testing and horizontal directional drilling, (2) trench and construction dewatering, (3) dust suppression, and (4) construction dewatering near the Gully 30 calcareous fen. These Findings of Fact only address Enbridge's water appropriation permit amendment for trench and construction dewatering ("Amendment"). The other three water appropriation applications and initial construction dewatering application were addressed in separate findings and have been issued permits.

2. The Project is intended to address mechanical integrity deficiencies on the existing Line 3 pipeline. The Project proposes to install approximately 337 miles of new 36-inch diameter pipe and associated facilities from the North Dakota-Minnesota border to the Minnesota-Wisconsin border. Enbridge's proposed pipeline route would generally follow the existing Line 3 pipeline from the North Dakota-Minnesota border in Kittson County to Enbridge's terminal facility in Clearbrook, Minnesota. From the terminal in Clearbrook, the pipeline would proceed south and generally follow the existing Minnesota Pipe Line Company's right-of-way to Hubbard, Minnesota. From Hubbard, the route would proceed east, following existing electric transmission line and railroad rights-of-way and traversing greenfield areas until crossing the Minnesota-Wisconsin border approximately five miles east-southeast of Wrenshall, Minnesota. The route would end at the existing Enbridge terminal in Superior, Wisconsin.

3. The Project has undergone significant review from the Public Utilities Commission (“PUC”). On April 24, 2015, Enbridge filed separate applications for a certificate of need (“CN”) and routing permit (“RP”) for the Project. The PUC authorized the Department of Commerce, Energy Environmental Review and Analysis Unit (“EERA”) to prepare a combined environmental impact statement (“EIS”). PUC referred the CN, RP, and EIS adequacy to the Office of Administrative Hearings for contested-case proceedings. Following the contested-case proceedings, and following the submittal of a revised Final EIS (“FEIS”) by EERA, the PUC eventually found the revised FEIS to be adequate, and granted the CN and RP contingent on certain modifications and conditions. The Minnesota Court of Appeals reversed the FEIS order for its failure to address the potential impacts to the Lake Superior watershed and remanded to the PUC for further proceedings. On remand, the PUC requested that EERA submit a second revised FEIS that included an analysis of the potential impact to the Lake Superior watershed. On May 1, 2020, after receiving public comments and hosting public meetings, PUC issued an order finding the second revised FEIS adequate and granting the CN and RP subject to certain modifications and conditions.

4. The permit amendment Enbridge seeks in this proceeding relates solely to the appropriation of water for construction dewatering of the pipeline corridor. Enbridge was issued permit no. 2018-3420 on December 8, 2020 for a total of 510.5 million gallons of water and are requesting to increase that volume through this amendment for a total volume of 4,982,768,568 gallons. A multitude of other permits and regulatory requirements will also apply to the Project prior to and during construction. Enbridge has completed 185.6 miles of installation out of the 330 miles total in Minnesota (56%), and has completed 136 waterbody crossings out of the total 227 waterbody crossings (60%). According to the amendment request memo from May 12, 2021, as of June 1, 2021 Enbridge will have appropriated 479,173,822 million gallons through trench dewatering.

## **II. AMENDMENT REQUEST AND COMMENT PROCESS**

### **A. Enbridge Submits Amendment Request for Groundwater Appropriation for Trench and Construction Dewatering.**

5. Enbridge proposes to appropriate groundwater for trench and construction dewatering for the remaining 144.5 miles to be constructed. Because the already completed and additionally proposed appropriation is in excess of one million gallons a year, a DNR water appropriation permit is required. See Minn. Stat. § 103G.271, subd. 4.

6. On November 8, 2020 Enbridge’s permit application submittal was considered final and complete including all the relevant plans such as the EPP (including attachments) and Invasive Species Management Plan. DNR’s decision on Water Appropriation Permit No. 2018-3420 (the “Initial Permit”) was based on the November 8, 2020 submittal and Enbridge was issued Permit No. 2018-3420 for a total appropriation volume of 510.5 million gallons. Enbridge submitted a permit amendment request on January 26, 2021. Enbridge submitted a \$150 check covering the amendment

permitting fee in accordance with the administrative rule for permit amendments. On May 12, 2021, Enbridge submitted a revised Amendment request based on comments received from MPCA and DNR staff during the Request for Comments Period described below. DNR's decision on Water Appropriation Amendment Permit No. 2018-3420 (the "Permit") is based on the May 12, 2021 revised submittal.

7. The Amendment is for an increase of the initial permitted volume from 510.5 million gallons up to 4.98 billion gallons. Enbridge proposes to use pumps and well point systems to appropriate water from along the pipeline corridor for construction dewatering activities including dewatering of the pipeline trench, dewatering the excavation area for the above ground facilities (i.e. valves sites and pump stations) and appropriation of water from the groundwater trench to use as buoyancy water in the push-pull pipe installation processes. The request for an increased volume of water is due to the encountering of more groundwater than originally anticipated. The original application estimated water volumes based on what was pumping during the Alberta Clipper project. A large portion of the Line 3 replacement pipeline is going through a new alignment area that is wetland and peatland dominated, and the company has converted some dewatering locations from the traditional sump pump dewatering to a well point systems. Well point dewatering produces a cleaner water and makes it easier to manage in regards to construction stormwater discharge requirements, but also appropriates larger volumes of water than traditional sump pump systems. Enbridge proposes that the groundwater will be pumped from the trenches with portable pumps at a maximum of 800 gallons per minute. If using a well-point system because traditional dewatering techniques are not feasible, the maximum pumping rate for the well-point system is 1,500 gallons per minute. To be consistent with any National Pollutant Discharge Elimination System ("NPDES")/State Disposal System ("SDS") permit issued by MPCA, the appropriation and discharges for well-point systems will be limited to a maximum of 1,500 gallons per minute (avg. 1,200 gallons per minute). This is a condition on the DNR water appropriation amended Permit. There are 23 groundwater installations listed in the Amendment. The Amendment request includes a Pipeline Maintenance Station ("PLM") at Hill City that is required to be constructed by the PUC route permit. These installations are areas of trench or other construction excavations where Enbridge anticipates construction dewatering to be necessary; the initial Permit authorization denoted by the wording of original estimate followed by requested Amendment revised estimate volume are listed below. *See Revised Amendment Request Memo, May 12, 2021, Table 5.*

- Installation #1: Pipeline trench from Minnesota/North Dakota border to Donaldson pump station, Kittson County (12.6 miles) – original estimate: 1,843,296/revised estimate: 31,448 gallons
- Installation #2: Donaldson pump station, Kittson County (0.10 miles)– original estimate:10,000,000/revised estimate: 829,726 gallons
- Installation #3: Pipeline trench from Donaldson pump station to Viking pump station, Kittson & Marshall Counties (33.6 miles) – original estimate: 6,098,000/revised estimate:

1,466,134 gallons

- Installation #4: Viking pump station, Marshall County (0.10 miles) – original estimate: 21,000,000 /revised estimate: 870,179 gallons
- Installation #5: Pipeline trench from Viking pump station to Plummer pump station, Marshall, Pennington & Red Lake Counties (28.8 miles) – original estimate: 12,541,134/revised estimate: 3,667,555 gallons
- Installation #6: Plummer pump station, Red Lake County (0.10 miles) – original estimate: 10,000,000/revised estimate: 1,065,538 gallons
- Installation #7: Pipeline trench from Plummer pump station to end of Construction Spread 1, Red Lake and Polk Counties, (19.1 miles) – original estimate: 27,557,933/revised estimate: 5,475,038 gallons
- Installation #8: Pipeline trench from end of Construction Spread 1 to Clearbrook Terminal, Polk & Clearwater Counties, (13.1 miles) – original estimate: 5,733,794/revised estimate: 9,063,781 gallons
- Installation #9: Clearbrook pump station, Clearwater County (0.10 miles) – original estimate: 15,000,000/revised estimate 24,856,814 gallons
- Installation #10: Pipeline trench from Clearbrook pump station to Hubbard County line, Clearwater County (36.4 miles) – original estimate: 22,876,623/revised estimate: 784,197,013 gallons
- Installation #11: Pipeline trench from Hubbard County line to Two Inlets pump station, Hubbard County (13.3 miles) – original estimate: 7,572,080 /revised estimate: 34,416,969 gallons
- Installation #12: Two Inlets pump station, Hubbard County (0.10 miles) – original estimate: 10,000,000/revised estimate: 896,473 gallons
- Installation #13: Pipeline trench from Two Inlets pump station to end of Construction Spread 2, Hubbard County (9.0 miles) – original estimate: 8,974,616 /revised estimate: 42,203,185 gallons
- Installation #14: Pipeline trench from end of Construction Spread 2 to Backus pump station, Hubbard, Cass & Wadena Counties (41.5 miles) – original estimate: 23,921,037 /revised estimate: 2,837,033,847 gallons
- Installation #15: Backus pump station, Cass County (0.10 miles) – original estimate: 45,000,000 /revised estimate: 44,965,514 gallons
- Installation #16: Pipeline trench from Backus pump station to end of Construction Spread 3, Cass & Crow Wing Counties (31.3 miles) – original estimate: 19,251,396 /revised estimate: 244,752,992 gallons
- Installation #17: Pipeline trench from end of Construction Spread 3 to Swatara pump station, Cass & Aitkin Counties (6.9 miles) – original estimate: 11,475,494 /revised estimate: 3,570,484 gallons
- Installation #18: Swatara pump station, Aitkin County (0.10 miles) – original estimate: 30,000,000 /revised estimate: 4,077,316 gallons

- Installation #19: Pipeline trench from Swatara pump station to end of Construction Spread 4, Aitkin & St. Louis Counties (37.5 miles) – original estimate: 105,766,839 /revised estimate: 128,663,927 gallons
- Installation #20: Pipeline trench from end of Construction Spread 4 to North Gowan pump station, St. Louis County (9.6 miles) – original estimate: 38,895,327 /revised estimate: 230,024,353 gallons
- Installation #21: North Gowan pump station, St. Louis County (0.10 miles) – original estimate: 21,000,000 /revised estimate: 1,685,052 gallons
- Installation #22: Pipeline trench from North Gowan pump station to Minnesota/Wisconsin border, St. Louis & Carlton Counties (34.1 miles) – original estimate: 56,033,241 /revised estimate: 577,093,383 gallons
- Installation #23: Hill City PLM Station, Aitkin County - 1,861,846 gallons

8. Enbridge proposes to reuse water from construction dewatering for dust suppression and for invasive species control under Enbridge's Invasive and Noxious Species Management Plan, which is part of the EPP.

9. The total approved appropriation request permitted on December 8, 2020 is 510.5 million gallons of groundwater per year for construction dewatering activities associated with the pipeline construction. The appropriation Amendment requests 4,982,768,568 gallons of groundwater, this request is 4,472,227,758 gallons more than was approved in the original permit. Of this amount 1,861,846 gallons is for construction dewatering at one PLM station and 79,246,612 gallons of groundwater for construction dewatering at eight pump station facilities. The approved pumping rate for the construction dewatering spreads is up to 800 gallons per minute (range 400 gpm to 800 gpm); and the approved pumping rate at other locations using well point systems such as road bores, utility crossings, and valve excavations is 1,500 gallons per minute. Water removed from the construction trench will not be directly discharged to a surface water. Water will be discharged from the construction trench into a geotextile fabric and/or filter bag and then out into a well vegetated upland area in accordance with the EPP, unless in the case of pump stations, where the water will be discharged into an on-site storm water pond. In accordance with the EPP, if the storm water pond is not prepared at the time of construction, the pump station discharges will be released into a geotextile fabric and/or filter bag surrounded by a straw bale or hay bale structure and released into a well-vegetated upland area in accordance to the EPP.

10. Minn. Stat. § 103G.301, subd. 6 and Minn. R. 6115.0660, subp. 3(D) require an applicant to serve copies of the application and supporting material on the mayor of the city, secretary of the board of supervisors of the soil and water conservation district, or the secretary of the board of managers of the watershed district if the proposed project is within or affects a watershed district or soil and water conservation district or a city. This requirement was waived because MPARS, the DNR online permitting and reporting system, automatically sends electronic

notification and relevant documents to the appropriate entities during the application and evaluation process.

11. The Amendment proposes an appropriation of up to 4,982,768,568 gallons of groundwater to dewater the construction trench along the entire pipeline corridor. Dewatering is a process designed to remove accumulated water in trench areas that can interfere with construction. The Amendment proposes to dewater the trench by utilizing portable pumps and well-point systems and discharging the water from the trench into a geotextile filter bag in a well-vegetated upland location or, when uplands are not accessible, into a straw or hay bale dewatering structure. On average, construction dewatering will occur over a period of three days or less, except where special construction techniques will occur, such as tie-ins, road bores, horizontal direction drills (“HDD”) or mainline valve installations. For pump stations and PLM facility, the water will be discharged into a storm water pond whenever feasible. If the storm water pond has not been stabilized or is not operable, water will be discharged to a filtering device such as a geotextile filter bag in a well-vegetated upland area. Discharge of water used for buoyancy control would be regulated by a federal NPDES/SDS Permit. Information on site-specific characteristics on discharge and dewatering structures can be found in Attachment B, Section 5.1 of the EPP. *See* Initial Application, Supplemental Information, Section 6.2 and Attachment B, Section 5.1 of the EPP.

#### **B. The Amendment Was Circulated for Comment from Government Entities**

12. On March 11, 2021, the DNR requested comments on the Amendment request through MPARS from thirteen local soil and water conservation districts (“SWCD”), three watershed districts, and thirteen counties. In addition, the DNR sent out a request for comments to State and Federal agencies such as the USCOE, Board of Water and Soil Resources (BWSR), MPCA and DNR staff (EWR, Wildlife, Fisheries). *See* Minn. Stat. § 103G.301, subd. 7.

13. No comments were received from the thirteen SWCD’s, the three watershed districts, the thirteen counties, the USCOE, or BWSR. Comments were received by MPCA staff and DNR fisheries and will be addressed below.

14. On May 14, 2021 the DNR issued an e-mail notification to Tribal Natural Resource Directors staff to notify them of the proposed Amendment request and an invitation to an informational meeting with a question and answer session on the proposed Amendment. DNR held this meeting on May 27, 2021. Comments and questions were received by tribal staff and summarized below.

15. Minn. R. 6115.0670, subp. 2(A)(8) (directing DNR’s consideration of comments in review of applications for water appropriation permits). Comments relevant to the Amendment of Permit No. 2018-3420 are addressed below.

**i. Comments by MPCA and DNR Response.**

16. Comments were received from the MPCA during the request for comment period from March 11, 2021, to April 10, 2021.

- a. MPCA comments addressed how the additional water proposed for appropriation would be managed so that the discharge of that water would not create adverse impacts to nearby resources. The comments contained three general areas of interest; 1) Avoid inundation of small isolated depressional wetlands and other sensitive waters. 2) There have been some instances during project dewatering activities that resulted in failure of dewatering treatment systems. What is being done differently to prevent these failures in the future given the large increase in water appropriated? 3) Consider revisions to the Stormwater Pollution Prevention Plan (SWPPP) to commit to additional perimeter control on discharge locations that have the potential to discharge to surface water.
- b. In response to the MPCA comment on avoiding inundation of small isolated wetlands Enbridge provided a GIS shapefile showing the locations of the dewatering structures and efforts to avoid those wetlands. DNR met with Enbridge and MPCA to discuss this effort and made additional recommendations for additional analysis and efforts to avoid impacting these wetlands. Enbridge provided a June 3, 2021 letter with the subject “Supplemental Information for an Individual Water Appropriation Permit Amendment for Construction Dewatering Reference No. 2018-3420” that describes the effort and process of siting construction dewatering structures to address this issue.
- c. In response to preventing failure of dewatering structures Enbridge has implemented additional training for construction contractors, clarified continuous monitoring requirements and additional documentation of this requirement.
- d. Enbridge revised the SWPPP (Revision 4 dated May 28, 2021) that is required as part of the MPCA construction stormwater permit that commits to the additional perimeter controls for those areas where discharged water could reach surface water.

**ii. Comments from May 27, 2021 meeting with Tribal Natural Resource Staff and DNR Response.**

17. Comments were received during DNR informational question and answer session with Tribal Resource Staff May 27, 2021.

- a. Tribal Natural Resource Staff asked about the infiltration rates in the areas where water will be discharged. **DNR Response:** DNR asked MPCA staff about the infiltration rates as it relates to their stormwater discharge permit and MPCA provided a response indicating that there was not an analysis conducted on discharge infiltration rates, additionally the MPCA included a description of permit requirements that discharges shall not create



naissance conditions. MPCA also required the SWPP to be revised to address the increased discharges and to require additional parameter controls; avoidance of isolated depressional wetland areas; and the company provided the DNR a memo addressing MPCA concerns.

- b. Tribal Natural Resource Directors asked for a copy of the Environmental Impact Statement to ensure that it is in compliance with 40 CFR 1508.1, because the proposed Amendment to the permit is a significant difference in comparison to the original permit. **DNR Response:** DNR provided a link to the Environmental Impact Statement found on the PUC website; based on DNR review of the document the proposed Amendment request is not out of compliance with the document.
- c. Tribal Natural Resource Directors asked for a copy of a pipeline spread map in order to have a better understanding of the areas of increased water appropriations in relation to tribal lands. **DNR Response:** DNR provided the current spread map that the company has previously provided.

### iii. Internal Review Comments and DNR Considerations.

18. As part of the DNR review of the Amendment, the following topics were identified as issues that needed to be addressed.

- a. Groundwater appropriations for dewatering will be from surficial aquifers; amended volume is significant and infiltration BMPs must be robust; concerns for cumulative effects of moving this volume of water. **DNR consideration:** Enbridge is required to monitor all discharges under relevant MPCA permits and the EPP. All water appropriated will be groundwater. Except for the reuse activities approved herein, all groundwater will be discharged at well-vegetated upland locations or on-site storm water ponds at pumping stations. Enbridge will maintain logs of the daily water volume use totals for each water source and will provide logs to the DNR. The volumes will be recorded using a timing device in the trenches and flow meters at pump stations as per a condition of the Permit. Per the Environmental Monitor Control Plan (EMCP), Enbridge and the relevant agencies will have environmental inspectors on site to monitor all construction dewatering activities. The inspectors will inspect the work areas and ensure that all permit conditions and activities listed in the relevant plans are being followed. All disturbed areas along the dewatering locations and discharge locations will be reseeded if needed according to Appendix C of the EPP. Final restoration and monitoring activities would occur until final stabilization is achieved at each construction dewatering site, as regulated by the construction stormwater general permit and Revised May 2021 SWPPP, approved by MPCA.

### **III. ANALYSIS OF STATUTORY AND REGULATORY REQUIREMENTS**

19. The purpose of Minnesota Rules 6115.0600 to 6115.0810 is to provide for the orderly and consistent review of water appropriation permits in order to conserve and utilize the water resources of the state in the public interest. *See also* Minn. Stat. § 103G.101, § 103G.255. In the application of these parts, DNR is guided by the policies and requirements declared in Minnesota Statutes, chapter 103G.

#### **A. Required Content of Application**

20. All water appropriation permit applications must provide the information identified in Minn. Stat. § 103G.301, subd. 1 and Minn. R. 6115.0660. Unless otherwise waived by the DNR, applications for the appropriation of groundwater must include the information required by Minn. Stat. § 103G.287, subd. 1(a).

21. The initial application materials contains maps, plans, and the Amendment materials provide specifications for changes from the initial application describing the proposed appropriation of waters, as required by Minn. Stat. § 103G.301, subd. 1(a)(1). *See id.* § 103G.301, subd. 1(a).

22. The Amendment details the appropriations and changes to be made along with waters of the state affected by the proposed appropriations. *See* Minn. Stat. § 103G.301, subd. 1(b). Dewatering of the construction trench is needed to allow for safe working conditions and safe installation of the pipes. Open trenches can fill will water from surficial groundwater and/or precipitation. Dewatering of the trench is not anticipated to change the water and land resources as the water removed from the trench will be allowed to infiltrate into the surrounding groundwater. Unavoidable detrimental effects of the dewatering are minimal as the water will be allowed to infiltrate back into the groundwater. There are no alternatives to dewatering the trench because not dewatering would result in a major safety issue. Enbridge will employ conservation measures such as discharging water into a filtration bag to lessen sediment flowing out on to the ground surface and minimizing the amount of water pumped from the trenches to only that needed to complete the pipeline installation.

23. Enbridge properly submitted an Amendment request to increase appropriation volumes and included an additional installation for the appropriation of groundwater for trench construction dewatering and construction of facilities as part of the mainline construction. All 23 water appropriation locations for construction dewatering will be considered under the Permit. *See* Minn. R. 6115.0660, subp. 1.

24. Though Enbridge did not submit separate applications for each aquifer from which groundwater is proposed to be appropriated, Enbridge complied with Minn. R. 6115.0660, subp. 1 by submitting all information for each of the 23 water appropriation locations that would be required in

separate applications. All 23 water appropriation locations are requested under the Amendment and any decision on this Amendment will address all 23 locations. *See* Minn. R. 6115.0660, subp. 1.

25. As required by Minn. R. 6115.0660, subp. 2., the applicant has demonstrated evidence of ownership or a license to use the land overlying the groundwater source from which water will be appropriated. The initial application states that Enbridge will obtain landowner approval for water appropriation activities within the construction workspace as part of the landowner easement negotiations process prior to construction and prior to a decision by MNDNR on the application for a License to Cross Public lands. As of the October 2020 submittal of the initial application, 100% of private landowners had completed the easement negotiations with Enbridge. Enbridge submitted an affidavit certifying that it has ownership or control of, or a license to use, the land overlying the groundwater source or abutting the surface water sources from which water will be appropriated, as required by Minn. R. 6115.0660.

26. The Amendment was completed on water appropriation application forms through MPARS. Minn. R. 6115.0660, subp. 3(A). Enbridge has paid all applicable fees associated with the Amendment. Minn. Stat. § 103G.301, subd. 2; Minn. R. 6115.0060, subp. 1, Minn. R. 6115.0660, subp. 3(B); *see also* Minn. Stat. § 103G.315, subd. 12. The initial application contains aerial photographs, maps, and other descriptive data sufficient to show the location of area of proposed water use, the location of the proposed points of appropriations, the outline of the property owned or controlled by Enbridge in proximity to the areas of use. *See* Minn. R. 6115.0660, subp. 3(C)(1)-(3). Although the appropriation is for groundwater, the construction dewatering will be taking the surficial groundwater from the trench or shallow dewatering from surficial aquifers via well point installations. It is not for deeper water appropriations. Thus Minn. R. 6115.0660 subp. 3(C)(4) is waived.

27. As required by Minn. Stat. § 103G.287, subd. 1(a)(1), (4) and Minn. R. 6115.0660, subp. 3(H), the initial application materials and Amendment does not contain detailed information regarding the hydrogeology and hydrology or hydrologic studies of the aquifers that will form the source of water for the requested appropriation. The project did not provide aquifer testing or test hole logs as the project is not long term and is not appropriating from deeper aquifers. All water being removed is from the trench during the construction of the pipeline is surficial water (8 feet deep) or slightly deeper from shallow well points. The DNR waived the requirements of this statute and rule as the water appropriations will be from surficial aquifers and will be temporary in time and will have limited impacts to hydrology. *See* Minn. Stat. § 103G.287, subd. 1(5)(b).

28. As required by Minn. Stat. § 103G.287, subd. 1(a)(2), the initial application details the maximum daily, seasonal, and annual pumping rates and volumes for the groundwater appropriations requested by Enbridge. The amendment request included revised dewatering estimates based on dewatering activities that occurred under the original authorization. These estimates took into account precipitation and increased water appropriated from well point dewatering systems.

29. As required by Minn. Stat. § 103G.287, subd. 1(a)(3), the initial application submittal on November 8<sup>th</sup>, 2020 that applies to the Amendment contains information on groundwater reuse, and it is anticipated that no water treatment will be necessary for any proposed reuse of water.

30. As required by Minn. R. 6115.0660, subp. 3(F), the initial application that is also applicable to the Amendment contains details on Enbridge's water management strategy.

31. As outlined above, the Amendment is complete because all necessary and applicable information for evaluation has been provided by Enbridge or is otherwise available to the DNR. Sufficient hydrologic data are available to allow the DNR to adequately determine the effects of the proposed Amendment. *See* Minn. R. 6115.0670, subp. 3(C)(3). The information available to the DNR is adequate to determine whether the proposed appropriation volume and use of water is sustainable and protective of ecosystems, water quality, and the ability of future generations to meet their own needs.

#### **B. Consideration of Factors in Minn. R. 6115.0670, subp. 2(A).**

32. Minn. R. 6115.0670, subp. 2(A) details factors that the DNR must consider, if applicable, when considering an application for a water appropriation permit. The DNR's consideration of each of the applicable factors is set forth in greater detail below.

33. Minn. R. 6115.0670, subp. 2(A)(1): This rule requires the DNR to consider "the location and nature of the area involved and the type of appropriation and its impact on the availability, distribution, and condition of water and related land resources in the area involved." The DNR's review of the initial application and the Amendment and all supporting information in the record regarding the proposed location and nature of the area associated with the proposed appropriation shows that the appropriation is unlikely to impact the availability, distribution, and condition of water and related land resources in the area involved. Environmental impacts are not expected from temporary lowering of the water table as the water appropriation is from trench dewatering at eight feet deep and/or shallow well points installed within surficial groundwater aquifers and will only remove water that accumulates in the trench (i.e. precipitation and surficial groundwater). Enbridge is required to record and report all water removed from the trench to the appropriate agencies. All water removed from the trench will be allowed to soak back into the surrounding ground, infiltrating back into the surficial groundwater. Monitoring requirements are related to volumes of water removed from the trench during construction. Enbridge will maintain logs of daily use totals at each water source and will provide logs for periodic reporting as required by applicable agencies. The volume of water pumped will be monitored using a timing device in the construction dewatering trenches and flow meters at pump station facility dewatering locations as approved by condition of the Permit.

Dewatering activities will be conducted as described in the Construction Stormwater general permit and the revised May 2021 SWPPP, approved by MPCA and as described in the June 3, 2021 letter

“Supplemental Information for an Individual Water Appropriation Permit Amendment for Construction Dewatering Reference No. 2018-3420”. These activities include continuous on-site monitoring of dewatering activities as well as any other relevant requirement included in the EPP for the project.

34. Minn. R. 6115.0670, subp. 2(A)(2): This rule requires the DNR to consider “the hydrology and hydraulics of the water resources involved and the capability of the resources to sustain the proposed appropriation based on existing and probable future use.” The Amendment and supporting information in the record detail the hydrology and hydraulics of the water resources involved. After review, the DNR concludes that the evidence in the record shows the capability of the resources to sustain the proposed appropriations based on existing and probable future use in the area. All water removed from the trench for construction of the pipeline will be taken from surficial aquifers and not deep confined aquifers.

35. Minn. R. 6115.0670, subp. 2(A)(3): This rule requires the DNR to consider “the probable effects on the environment including anticipated changes in the resources, unavoidable detrimental effects, and alternatives to the proposed appropriation.” The initial application that is still applicable to the Amendment, details the temporary impacts during the pipeline construction dewatering and alternative options not selected. After review, the DNR concludes that the evidence in the initial application materials in the record shows that the anticipated volume changes identified in the Amendment to the resource will be temporary in nature because dewatering typically occurs in a period of three days or less. The water will be pumped out of the trench and/or shallow surficial groundwater aquifer well points and into a filtering device such as a geotextile filter bag discharging into a well-vegetated upland area or when uplands are not accessible either because of site conditions and/or distance, to a straw or hay bale dewatering structure which will allow infiltration back into the ground near the site or reused if quantities are available. All pump station dewatering will be discharged into a storm water pond located on site or, if one is not on site, discharged into a filtering device such as a geotextile filter bag for eventual discharge into a well-vegetated upland area. PLM station dewatering will be conducted via well points similarly to the pump station facilities. There are no alternatives to construction dewatering. Without construction dewatering, there would be a significant safety issue as working in the wet trench can cause slips, falls, and collapsing of the trench.

36. Minn. R. 6115.0670, subp. 2(A)(4): This rule requires the DNR to consider “the relationship, consistency, and compliance with existing federal, state, and local laws, rules, legal requirements, and water management plans.” As detailed herein, activities associated with the Project are subject to oversight under numerous state and federal permitting programs. The Permit is conditioned on a requirement that Enbridge obtain and maintain all additional permitting requirements imposed by applicable federal, state, or local law. The Permit is further conditioned

upon Enbridge having “all required discharge authorizations from local, state, or federal government units.” The DNR did not receive any comments from local, state or federal government units on the proposed water appropriation not detailed above for construction dewatering, but to the best of DNR’s knowledge, Enbridge’s proposed appropriations are consistent with state, regional, and local water and related land resources management plans. *See* Minn. Stat. § 103G.271, subd. 2.

37. Minn. R. 6115.0670, subp. 2(A)(5): This rule requires the DNR to consider “the public health, safety, and welfare served or impacted by the proposed appropriation.” As discussed herein, the proposed groundwater use is sustainable and will not harm ecosystems, degrade water, or reduce water levels beyond the reach of public water supply. The proposed use will only cause temporary impacts in groundwater resources and the initial application referenced in the Amendment document includes measures to minimize physical damage to the ecosystem through the use of BMPs and monitoring provisions.

38. Minn. R. 6115.0670, subp. 2(A)(6): This rule requires the DNR to consider “the quantity, quality, and timing of any waters returned after use and the impact on the receiving waters involved.” Any appropriation of water under the Permit is conditioned upon Enbridge having all required discharge authorizations. Discharge quality must meet applicable effluent limits and surface water quality standards, and violations of such requirements are subject to the regulatory jurisdiction of the MPCA. All water removed from the trenches during construction will be allowed to infiltrate back into the surficial groundwater aquifer after discharges into the geotextile filter bag, except for water placed in storm water ponds at pump stations. No water will be transported off site unless it is reused for buoyancy control, dust suppression activities, or decontamination of equipment for invasive and noxious species. Water will be discharged immediately from the trenches and allowed to infiltrate back into the aquifer in the surrounding areas. DNR does not anticipate that the quantity, quality or timing of the waters returned after use (infiltration) will have any impacts on any receiving waters as the company has made efforts to avoid discharges into susceptible wetlands and sensitive water and these discharges will need to comply with the revised SWPPP under the construction stormwater permit and the 401 water quality certification.

39. Minn. R. 6115.0670, subp. 2(A)(7): This rule requires the DNR to consider “the efficiency of use and intended application of water conservation practices.” The initial application materials are applicable to the Amendment and explains that, subject to DNR approval, Enbridge may reuse water pumped from the pipeline trench and pump station facilities to support fugitive dust suppression activities as noted in the application and additionally states that the water may be reused to support decontamination of equipment, as described in Enbridge’s Invasive and Noxious Species Management Plan, which was included as Appendix B of Enbridge’s EPP. The initial application notes that water may also be reused for buoyancy control purposes. If the water is not reused, it will be discharged per the BMP’s in the EPP.

40. Minn. R. 6115.0670, subp. 2(A)(8): This rule requires the DNR to consider “the comments of local and regional units of government, federal, and state agencies, private persons, and other affected or interested parties.” DNR did not receive any comments from local, state or federal agencies on the Amendment with exception of the MPCA. No comments received from private persons directly relate to the Amendment. The MPCA, DNR comments and comments from tribal governments are discussed above.

41. Minn. R. 6115.0670, subp. 2(A)(9): This rule is inapplicable to the DNR’s consideration of the Amendment because Enbridge does not propose any diversion of any waters to any place outside of the state.

42. Minn. R. 6115.0670, subp. 2(A)(10): This rule requires the DNR to consider “the economic benefits of the proposed appropriation based on supporting data when supplied by the applicant.” Enbridge did not provide any economic benefit data in the initial application or Amendment, but the FEIS does address this issue. The DNR relies on this analysis in its consideration of the initial application and Amendment.

43. As outlined above, DNR has considered each of the factors identified in Minn. R. 6115.0670, subp. 2(A).

### **C. Consideration of the Proposed Appropriation Under Minn. R. 6115.0670, subp.2(D).**

44. Minn. R. 6115.0670, subp. 2(D) details factors that the DNR must consider, if applicable, when considering an application for a water appropriation permit for appropriation of groundwater. The DNR’s consideration of each of the applicable factors is set forth in greater detail below.

45. Minn. R. 6115.0670, subps. 2(D)(1), (2), (4), and (5): These rules require the DNR to consider the “type and thickness of the aquifer,” “the subsurface area of the aquifer,” “existing water levels in the aquifer and projected water levels due to the proposed appropriation,” and “other hydrologic and hydraulic characteristics of the aquifer involved.” The Amendment proposes to use portable pumps at a depth of eight feet deep, and up to ten feet deep for well points. It is proposed that the groundwater will be pumped from the surficial aquifer at rates up to 800 gallons per minute on the trench, up to 1,500 gallons per minute at specialized locations such as valve sites. DNR has considered the above factors in evaluating the proposed appropriation and determined that water appropriated at the 23 sites is surficial water and the excavation where the water appropriation will be occurring is not deep enough to where it would penetrate confined

aquifers. The proposed appropriation will not have long-term effects on water levels in the surficial aquifer.

46. Minn. R. 6115.0670, subps. 2(D)(3) and (6): These rules require the DNR to consider the “area of influence of the proposed well(s)” and “probable interference with neighboring wells.” Based on the information provided in the Amendment and initial application materials, the depth of the trench is eight feet deep and the pumping will be appropriating surficial groundwater. There is expected to be no impact to wells along the pipeline corridor as the proposed depth of the trench should not impact any confined aquifers, where domestic and municipal water supplies are usually located. Most wells are set deeper than the proposed dewatering trench and the pipeline corridor is generally not located close to communities or private homes.

47. As outlined above, the DNR has considered each of the factors identified in Minn. R. 6115.0670, subp. 2(D).

**D. Consideration of Additional Requirements and Conditions For Dewatering Under Minn. R. 6115.0710.**

48. Minn. R. 6115.0710 details additional requirements and conditions for water appropriation permits for dewatering, i.e., for the purpose of removing excess water. *See* Minn. R. 6115.0670, subp. 5. The Amendment involves dewatering.

49. An applicant for an appropriation permit involving dewatering “must show there is a reasonable necessity for such dewatering and the proposal is practical.” Minn. R. 6115.0710(A). Enbridge has demonstrated that there is a need to dewater the trench for pipeline construction to help facilitate safe working conditions for Enbridge and reduce the risk for impacts that could rupture the pipeline such as rocks. Dewatering of the trench will help strengthen the trench walls and prevent the risk for wall slumping/failures.

50. An applicant for an appropriation permit involving dewatering “must show that the excess water can be discharged without adversely affecting the public interest in the receiving waters, and that the carrying capacity of the outlet to which the waters are discharged is adequate.” Minn. R. 6115.0710(B). Enbridge has provided diagrams related to the discharge for the trench dewatering. The discharge locations associated with the pipeline trench dewatering are within the same general area as the appropriation locations. There will be no direct discharges to surface waters from the groundwater dewatering activities with the exception of water that is reused for buoyancy control. The initial application materials applicable to this Amendment states that all



groundwater will be infiltrated back to the groundwater source except for any water that is reused. See Section 5.1 of the EPP and Attachment C and D from the Initial Application, Supplemental Information for the site-specific information on discharge and dewatering locations. Dewatering activities will be conducted as described in the Construction Stormwater general permit and the revised May 2021 SWPPP, approved by MPCA and as described in the June 3, 2021 letter “Supplemental Information for an Individual Water Appropriation Permit Amendment for Construction Dewatering Reference No. 2018-3420”. These activities include continuous on-site monitoring of dewatering activities.

51. Enbridge’s proposed dewatering under the Amendment, is subject to the conditions therein, is not prohibited by any existing law. *See* Minn. R. 6115.0710(C).

52. As outlined above, the DNR has considered each of the factors identified in Minn. R. 6115.0710.

**E. Consideration of Factors in Minn. R. 6115.0750 and 6115.0770.**

53. The Amendment is for a temporary, one-time appropriation of groundwater, for not more than 12 months. *See* Minn. R. 6115.0750, subp. 2.

54. Enbridge will measure and keep monthly and annual records of the quantity of water used or appropriated at the point of taking for each installation under the Permit. *See* Minn. R. 6115.0750, subp. 3(A).

55. Enbridge will instrument each installation for appropriating water with a flow meter or timing device on trench pumps and flow meters at well points and pump stations to measure the quantity of water appropriated within ten percent of the actual amount of withdrawal. *See* Minn. R. 6115.0750, subp. 3(B).

56. Enbridge will be required to monitor water volumes at each spread. *See* Minn. R. 6115.0750, subp. 3(C).

57. Enbridge will report water use based on the calendar year by February 15 of the following year on forms provided by the commissioner (through MPARS) as well as pay the water appropriation use fees. *See* Minn. R. 6115.0750, subp. 4.

58. Enbridge is requesting an amendment to the original permit asking for an increase in water volumes for the construction dewatering. The request is a major modification (increase) in water withdrawn. The request came in on the appropriate forms (via MPARs) and has been reviewed as a new application using the original information provided by the company and new information submitted during the amendment review. *See* Minn. R. 6115.0750, subp. 5.

59. Enbridge has provided a detailed description for its proposed water use indicating that water will only be utilized as needed, monitoring will be conducted to prevent negative impacts to aquatic organisms and the water appropriated will be allowed to infiltrate following its discharge. This demonstrates the best available means and practices for assuring wise use and development of waters of the state in the most practical and feasible manner possible to promote the efficient use of waters. *See* Minn. R. 6115.0770.

#### **F. The Proposed Appropriation Satisfies Minn. Stat. § 103G.287**

60. Minn. Stat. § 103G.287, subd. 2. provides that “groundwater appropriations that will have negative impacts to surface waters are subject to the applicable provisions in section 103G.285.” The DNR has analyzed the potential impacts of the proposed groundwater appropriation on surface waters. Negative impacts to surface waters resulting from the proposed appropriation are not anticipated. The water removed will be surficial groundwater from the trench. All water removed from the trench will be allowed to infiltrate back into the ground or be reused in other activities such as push-pull pipeline buoyancy, dust suppression or decontamination for invasive species. Impacts will be temporary in nature.

61. Under Minn. Stat. § 103G.287, subd. 3, the DNR is authorized to establish water appropriation limits to protect groundwater resources. In establishing such limits, the DNR must “consider the sustainability of the groundwater resource, including the current and projected water levels, water quality, whether the use protects ecosystems, and the ability of future generations to meet their own needs.” DNR has concluded that protection limits are not necessary because the Project only involves a temporary appropriation from surficial and not confined aquifers. Ecosystems will be protected as Enbridge will only be temporarily pumping the water that fills in the construction trench, water will be discharged into a nearby well vegetated location and allowed to infiltrate back into the groundwater.

62. Under Minn. Stat. § 103G.287, subd. 4(a), the commissioner may designate groundwater management areas and limit total annual water appropriations and uses within a designated area to ensure sustainable use of groundwater that protects ecosystems, water quality, and the ability of future generations to meet their own needs. Water appropriations and uses within a designated management area must be consistent with a groundwater management area plan approved by the commissioner that addresses water conservation requirements and water allocation priorities established in section [103G.261](#). The Amendment will be dewatering the construction trench through the Straight River Groundwater Management area. The Straight River Groundwater Management Area Plan limits appropriations from confined aquifers; the Amendment only proposes appropriations from surficial aquifers and is therefore consistent with the plan.

63. Under Minn. Stat. § 103G.287, subd. 5, the DNR “may issue water-use permits for appropriation from groundwater only if the [DNR] determines that the groundwater use is sustainable to supply the needs of future generations and the proposed use will not harm ecosystems, degrade water, or reduce water levels beyond the reach of public water supply and private domestic wells . . .” Based upon the Amendment and initial application materials, DNR has determined that the proposed groundwater appropriations are sustainable to supply the needs of future generations. The appropriation of groundwater, under the conditions set forth in the Amendment and detailed in Section 5.1 of the EPP and Attachment C and D from the Initial Application, the revised May 2021 SWPPP, approved by MPCA and as described in the June 3, 2021 letter “Supplemental Information for an Individual Water Appropriation Permit Amendment for Construction Dewatering Reference No. 2018-3420” will not harm ecosystems, degrade water, or reduce water levels beyond the reach of public water supplies and private domestic wells as the appropriation will be temporary and will only remove surficial groundwater from a small area for the construction of the pipeline and pump station facilities. Further, except for water that is reused, water will be returned (infiltrated) back to the groundwater source.

64. As outlined above, the DNR has reviewed the Amendment for compliance with Minn. Stat. § 103G.287 and determines that the Permit satisfies the applicable statutory requirements.

#### **G. The Proposed Appropriation Satisfies Minn. Stat. § 103G.293.**

65. Under Minn. Stat. § 103G.293, water appropriation permits “must provide conditions on water appropriation consistent with the drought response plan” established by the DNR. The Permit contains a condition requiring compliance with the statewide drought plan.

#### **H. The Proposed Appropriation Satisfies Minn. R. 6115.0670, subp. 3.**

66. Issuing a permit on the proposed appropriation would not violate any of the limits imposed under Minn. R. 6115.0670, subp. 3(A). Subpart 3(A)(1) is inapplicable because the proposed appropriation does not involve an out-of-state diversion of waters. As detailed herein, the quantity of available waters of the state in the area involved are adequate to provide the amounts of water proposed to be appropriated. Minn. R. 6115.0670, subp. 3(A)(2). As detailed herein, and based upon the Amendment and initial application materials, the proposed appropriation is reasonable, practical, and will adequately protect public safety and promote the public welfare. Minn. R. 6115.0670, subp. 3(A)(3). The Amendment is consistent with state, regional, and local water and related land resources management plans. Minn. R. 6115.0670, subp. 3(A)(4). There is no unresolved conflict between competing users for the waters involved. Minn. R. 6115.0670, subp. 3(A)(5).

67. Minn. R. 6115.0670, subp. 3(B) applies to approvals of a “surface water appropriation application.” This subpart is inapplicable as the proposed appropriation is for groundwater only.

68. As required by Minn. R. 6115.0670, subp. 3(C)(1), the amounts and timing of the proposed appropriation is limited to the safe yield of the aquifer to the maximum extent feasible and practical. This subpart is inapplicable as the proposed appropriation is from surficial groundwater and not confined aquifers.

69. After the analysis and review of the record detailed herein, the DNR has not found substantial evidence establishing a direct relationship of ground and surface waters exists such that the appropriation would have an adverse impact on surface waters through reduction of flows under Minn. R. 6115.0670, subp. 3(C)(2).

70. After the analysis and review of the record detailed herein, the DNR concludes that sufficient hydrologic data are available to allow the DNR to determine the effects of the proposed appropriation in accordance with Minn. R. 6155.0670, subp. 3(C)(3).

71. As outlined above, DNR has considered the Amendment under Minn. R. 6115.0670, subp. 3 and approval of the Amendment satisfies the applicable regulatory requirements.

### **I. The Proposed Appropriation Satisfies Minn. Stat. § 103G.223.**

72. Minnesota Statutes § 103G.223 only permits water appropriations that cause temporary reductions in groundwater resources affecting a calcareous fen:

(a) Calcareous fens, as identified by the commissioner by written order published in the State Register, may not be filled, drained, or otherwise degraded, wholly or partially, by any activity, unless the commissioner, under an approved management plan, decides some alteration is necessary or as provided in paragraph (b). Identifications made by the commissioner are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

(b) The commissioner may allow water appropriations that result in temporary reductions in groundwater resources on a seasonal basis under an approved calcareous fen management plan.

Minn. Stat. § 103G.223.

73. In a separate findings of fact, conclusions and order, DNR has approved Enbridge's request for no effect concurrence for several calcareous fens located near the pipeline route, including the Chester 24 calcareous fen. The approved CFMP includes a condition requiring monitoring of water levels in piezometers near the Chester 24 fen. DNR staff received a monitoring report on May 26, 2021. The initial monitoring report indicated that the construction and appropriation activity has not has a long-term impact on the Fen; water levels are recovering with spring conditions and majority of the pipeline has been constructed through this area. DNR staff are confident that the additional requested volume in the Amendment, duration and location of the dewatering will not impact the Chester 24 fen, but will continue to obtain additional information to inform the groundwater model for the area and any future decisions. DNR has not set a protective groundwater elevation that would require Enbridge to cease dewatering. If monitoring indicates that water levels have not returned to pre- construction levels as a result of the Project, a Calcareous Fen Management Plan will be required for the Chester 24 fen that includes additional monitoring and required corrective procedures. The Permit is consistent with Minn. Stat. § 103G.223 because DNR does not anticipate any reduction in groundwater resources at the Chester 24 fen, and in the unlikely event that impacts would occur, any reduction in groundwater resources would be temporary.

**J. The Proposed Appropriation Satisfies Minn. Stat. § 103G.801.**

74. All appropriations located with the Great Lakes -- St. Lawrence River basin will comply the Great Lakes – St. Lawrence River Basin Water Resources Compact codified at Minn. Stat. § 103G.801. The Permit requires that all water from water appropriation installation locations located within the Great Lakes – St. Lawrence River basin must be limited for use within the watershed and allowed to infiltrate into the ground surface. *See* Minn. Stat. § 103G.801.

**K. The Proposed Appropriation Satisfies the Prohibition on State Actions Affecting the Environment.**

75. The Minnesota Environmental Policy Act (“MEPA”) prohibits State actions that cause pollution, impairment or destruction:

No state action significantly affecting the quality of the environment shall be allowed, nor shall any permit for natural resources management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of air, water, land, or other natural resources located within the state, so long as there is a feasible and prudent alternative consistent with the reasonable

requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, and destruction.

Minn. Stat. § 116D.04, subd. 6.

76. "Pollution, impairment or destruction" is defined by Minnesota law as:

conduct . . . which violates, or is likely to violate, any environmental quality standard, limitation, rule, order, license, stipulation agreement, or permit of the state or any instrumentality, agency, or political subdivision thereof which was issued prior to the date the alleged violation occurred or is likely to occur or any conduct which materially adversely affects or is likely to materially adversely affect the environment.

Minn. Stat. § 116B.02, subd. 5.

77. In reviewing the administrative record, including the FEIS, the Amendment and the applicable initial application, materials the DNR considered the quality and severity of any adverse effects of the Project on groundwater, including any potential long-term adverse effects to that resource, the types of resource at issue, the potential significant consequential effects of the proposed appropriation on other natural resources, and the direct and consequential impacts of the proposed appropriation on the environment.

78. As detailed herein, the proposed appropriation under the Amendment, subject to the conditions of the water appropriation permit, will comply with all applicable state environmental protection standards, including the requirements of Minnesota Statutes chapter 103G and Minnesota Rules chapter 6115 governing water appropriations.

79. The potential effects on natural resources resulting from the Project and project alternatives were comprehensively analyzed within the Amendment and initial application materials. Enbridge will monitor and report the volume of water removed along the pipeline corridor to the DNR as part of the Permit.

80. The Project will be subject to other state and federal requirements and must comply with all applicable environmental protection standards, including the requirements of the permit and the requirements of an NPDES/SDS permit under the regulatory authority of the MPCA. Wetland mitigation for unavoidable wetland impacts will be required under an approved wetland replacement plan and under a federal wetlands permit issued by the USCOE. Wetland monitoring will be required

under these state and federal wetlands requirements. Water quality monitoring for discharges will be required by the MPCA.

81. Compliance with these regulatory requirements serves to ensure that the proposed appropriation of water under the Permit will not result in pollution, impairment, or destruction of natural resources.

82. As outlined above, the DNR has considered the proposed appropriation under the Permit in accordance with MEPA, and determines that the proposed appropriation satisfies the applicable statutory requirements.

Based upon the above Findings of Fact, the DNR makes the following:

## CONCLUSIONS

1. In order to “conserve and use water resources of the state in the best interests of its people and to promote the public health, safety, and welfare,” it is the regulatory policy of the State to “control the appropriation and use of waters of the state.” Minn. Stat. § 103A.201, subd. 1. The Legislature delegated the DNR the authority to develop a water resources conservation program for the state that includes the “conservation, allocation, and development of waters of the state for the best interests of the people.” Minn. Stat. § 103G.101, subd. 1. Similarly, the Legislature directed the DNR to adopt rules for the allocation of waters based on statutory water allocation priorities. Minn. Stat. § 103G.261.
2. The DNR has the authority to issue water appropriation permits in accordance with its general authority to administer “the use, allocation, and control of waters of the state.” See Minn. Stat. § 103G.255(1).
3. The DNR has the discretion to waive a hearing on a water appropriation permit application and order a permit to be issued or denied without a hearing. Minn. Stat. § 103G.311, subd. 4.
4. Minn. Stat. § 103G.315, subd. 2 requires that the DNR make findings of fact on issues necessary for determination of the application considered. Orders by the DNR must be based upon findings of fact made on substantial evidence. *Id.*
5. Enbridge’s proposed appropriation of waters of the state requires a water appropriation permit. Minn. Stat. § 103G.271, subd. 1, 4; Minn. R. 6115.0620.

6. The DNR has the authority to impose conditions on any water appropriation permit it issues. Minn. Stat. § 103G.315, subd. 1; Minn. R. 6115.0670, subp. 3.
7. If the DNR concludes that the plans of an applicant for a water appropriation permit are reasonable, practical, and will adequately protect public safety and promote the public welfare, then the DNR must grant the permit. Minn. Stat. § 103G.315, subd. 3.
8. The Amendment is complete and Enbridge has provided all information required for review under applicable statutes and rules. *See* Minn. Stat. §§ 103G.287, subd. 1(a), 103G.301, subd. 1, Minn. R. 6115.0660.
9. Any application information required under Minn. Stat. § 103G.287, subd. 1. not discussed herein is waived on the grounds that the information provided with the Amendment and applicable details discussed in the initial application materials is adequate to determine whether the proposed appropriation of water is sustainable and will protect ecosystems, water quality, and the ability of future generations to meet their own needs. *See* Minn. Stat. § 103G.287, subd. 1(b).
10. Any information required by Minn. R. 6115.0660, .0670 and .0710 not discussed herein is waived as unnecessary or inapplicable. *See* Minn. R. 6115.0660, subp. 4; Minn. R. 6115.0670, subp. 4.
11. As detailed in the factual findings above, the DNR has reviewed and analyzed the record before the agency in connection with its consideration of applicable factors. *See* Minn. R. 6115.0670, subp. 2.
12. As detailed herein, Enbridge's proposed groundwater use is sustainable to supply the needs of future generations and is subject to all applicable permitting and regulatory requirements. When appropriated in accordance with these requirements, and in compliance with the conditions of the permit, the proposed appropriations will not harm ecosystems, degrade water, or reduce water levels beyond the reach of public water supply and private domestic wells. *See* Minn. Stat. § 103G.287, subd. 5.
13. Enbridge's proposed reuse of groundwater to support: (1) buoyancy control in the push-pull installation process; (2) the fugitive dust suppression activities described in water appropriation permit no. 2018-3421; and (3) the decontamination of equipment described in Enbridge's Invasive and Noxious Species Management Plan is approved.



14. Enbridge has shown that there is a reasonable necessity for dewatering and that its dewatering proposals are practical. Minn. R. 6115.0710(A). The proposed dewatering will be temporary. Enbridge has shown that the excess water can be discharged without adversely affecting the public interest, receiving waters or groundwater. Minn. R. 6115.0710(B). The proposed dewatering, in accordance with the conditions contained therein is not prohibited by any existing law. *See* Minn. R. 6115.0710(C).
15. Enbridge has met its burden of proving by substantial evidence that the proposed project is reasonable, practical, and will adequately protect public safety and promote the public welfare. Minn. Stat. § 103G.315, subds. 3, 6(a).
16. The DNR concludes that the appropriation and use of water under the water appropriation permit, subject to the conditions contained therein, is reasonable, practical, and will adequately protect public safety and promote the public welfare. *See* Minn. R. 6115.0670, subp.3. (A)(3). Accordingly, the Amendment must be granted. *See* Minn. Stat. § 103G.315, subds. 3, 5. The conditions, terms, and reservations included in the Permit are reasonably necessary for the safety and welfare of the people of the state. Minn. Stat. § 103G.315, subd. 6(b).
17. Appropriations under the permit, subject to the terms and conditions therein, will not result in pollution, impairment, or destruction of natural resources. *See* Minn. Stat. § 116B.02, subd. 5.
18. Any Findings of Fact that might properly be termed Conclusions and any Conclusions that might properly be termed Findings of Fact are hereby adopted as such.

Based upon the foregoing Findings of Fact and Conclusions, the DNR now enters the following:

## **ORDER**

1. The DNR hereby waives any contested case hearing on the Amendment pursuant to Minnesota Statutes § 103G.311, subd. 4.
2. Based upon all the files, records, and proceedings in this matter and upon the DNR's Findings of Fact and Conclusions, Water Appropriation Amendment to Permit No. 2018-3420 is hereby issued to Enbridge subject to the conditions set forth in the Permit.

3. The applicant or the applicable municipality, watershed district or soil and water conservation district may file a demand for a hearing on the Amendment in accordance with Minnesota Statute § 103G.311, subd. 5 and Minnesota Rule 6115.0670, subp. 3, within 30 days after mailing or electronic transmission of notice of this Order.

DNR Authorized Signature *wet or e-signature*:

// /s/ Randall Doneen //  
Approved and adopted this 4<sup>th</sup> day of June 2021

EWR CAR SECTION MANAGER  
STATE OF MINNESOTA  
DEPARTMENT OF NATURAL RESOURCES