

**STATE OF MINNESOTA  
MINNESOTA POLLUTION CONTROL AGENCY**

**IN THE MATTER OF:                    ENBRIDGE ENERGY, LIMITED PARTNERSHIP                    STIPULATION AGREEMENT**

**Part 1.    PARTIES.** This Stipulation Agreement (“Agreement”) applies to and is binding upon the following parties:

- a.    Enbridge Energy, Limited Partnership (“Regulated Party”); and
- b.    The Minnesota Pollution Control Agency (“MPCA”), which is authorized to enter into this Agreement under Minn. Stat. chs. 115 and 116.

Unless specified otherwise in this Agreement, where this Agreement identifies actions to be taken by the MPCA, the Commissioner or the Commissioner’s designees shall act on the MPCA’s behalf.

**Part 2.    PURPOSE AND SCOPE OF STIPULATION AGREEMENT.** The purpose of this Agreement is to resolve the alleged violations related to construction of the Facility (as defined below) known by MPCA on or before August 4, 2022, including but not limited to those set out in Part 6 of this Agreement (collectively the “Alleged Violations”), by specifying actions the Regulated Party agrees to undertake. By entering into this Agreement, the Regulated Party is settling a disputed matter between itself and the MPCA and does not admit that the Alleged Violations occurred. Except for the purposes of implementing and enforcing this Agreement, nothing in this Agreement constitutes an admission by any Party, or creates rights, substantive or procedural, that can be asserted or enforced with respect to any claim of or legal action brought by a person who is not a party to this Agreement. All citations are to the latest codification of the cited material unless otherwise indicated.

**Part 3.    AUTHORITY.** This Agreement is entered under the authority vested in the MPCA by Minn. Stat. chs. 115 and 116.

**Part 4.    DEFINITIONS.** Unless otherwise explicitly stated, the definitions in Minn. Stat. chs. 115, 115A, 115B, 115C, 116, 116B and in Minn. R. chs. 7000 to 7151 apply, as appropriate, to the terms used in this Agreement.

**Part 5.    BACKGROUND.** The following is the background of this Agreement:

- a.    The Regulated Party is a limited partnership registered in Delaware with a corporate address at 5400 Westheimer Court, Houston, Texas, 77056.
- b.    The Regulated Party constructed and operates the Line 3 replacement pipeline which transverses the northern part of the state of Minnesota in Kittson, Marshall, Pennington, Red Lake, Polk, Clearwater, Hubbard, Wadena, Cass, Crow Wing, Aitkin, Saint Louis, and Carlton counties, hereafter the "Facility." The Alleged Violations relate to the Regulated Party’s construction of the Facility.

**Part 5A. CONSTRUCTION STORMWATER (CSW) BACKGROUND.**

a. On October 8, 2021, the MPCA sent the Regulated Party an Alleged Violations Letter/Request for Information (AVL/RFI) by first class mail. The AVL/RFI was also emailed to the Regulated Party.

b. On October 12, 2021, the MPCA sent a revised AVL/RFI to the Regulated Party. A revised AVL/RFI was sent due to an incorrect date in the original letter. The MPCA also granted an extension to the 10 day response time on this date. The Regulated Party was given 20 days to respond to the AVL/RFI.

c. On October 28, 2021, the Regulated Party responded to the AVL/RFI. The response included a cover letter and attachments A, B, and C.

**Part 5B. INDUSTRIAL WASTEWATER (IWW) BACKGROUND.**

a. The Regulated Party was issued National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Permit No. MN0071366 (Permit) on November 13, 2020. The Permit authorizes the discharge of waters used in buoyancy control and hydrostatic testing of new pipeline. The Permit authorizes 23 surface water discharge locations and 26 upland discharge locations used for infiltration.

b. On October 8, 2021, the MPCA sent the Regulated Party an AVL/RFI by first class mail. The AVL/RFI was also emailed to the Regulated Party.

c. On October 12, 2021, the MPCA sent a revised AVL/RFI to the Regulated Party. A revised AVL/RFI was sent due to an incorrect date in the original letter. The MPCA also granted an extension to the 10 day response time on this date. The Regulated Party was given 20 days to respond to the AVL/RFI.

d. On October 28, 2021, the Regulated Party responded to the AVL/RFI. The response included a cover letter and attachments A, B, and C.

**Part 5C. INADVERTENT RETURNS BACKGROUND.**

a. On November 10, 2021, the MPCA sent the Regulated Party an AVL/RFI via email. The AVL/RFI was also sent via first class mail on November 15, 2021. The Regulated Party responded on November 10, 2021, requesting an extension of the 10-day response deadline; on November 12, 2021, the MPCA granted an extension; the Regulated Party was given 20 days to respond to the AVL/RFI.

b. On November 30, 2021, the Regulated Party responded to the AVL/RFI. The response included a cover letter, and attachments A, B, C, and D.

**Part 5D. ADDITIONAL ALLEGED VIOLATIONS AND NEGOTIATION OF AGREEMENT.** Between December 2021 and the date of this Agreement, the Parties negotiated this Agreement. During the course of the negotiations, the Parties discussed Alleged Violations including but not limited to those specifically identified in Parts 5A-5C which are also intended to be resolved through this Agreement.

**Part 6. ALLEGED VIOLATIONS.** In its Alleged Violations, the MPCA asserts that the Regulated Party has violated the following state statutes, rules, and/or permit conditions with respect to the construction and operation of the Facility:

- Minn. Stat. § 115.061(a);
- Minn. R. 7050.0210, subps. 2, 13;
- Minn. R. 7050.0150, subp. 3;
- Minn. R. 7050.0186, subps. 1b, 4, 6;
- Minn. R. 7001.0030;
- NPDES/SDS General Construction Stormwater Permit (MNR100001) Items 7.2, 9.17, 10.2, 11.4, 11.11(c);
- NPDES/SDS Industrial Wastewater Permit (MN0071366) Items 5.56.116, 5.57.125, 5.53.39, 5.55.77, 5.57.139, 5.57.156, 5.57.157, 5.57.159, 5.57.163.

**Part 7. CIVIL PENALTY.** The Regulated Party agrees to pay \$895,000 to the MPCA as a civil penalty for the Alleged Violations within 30 days of receipt of an invoice from the MPCA. An invoice for the civil penalty will be sent to the Regulated Party upon the Effective Date of the Agreement. Payment of the penalty amount of \$895,000 is to be by check or electronic payment payable to the Minnesota Pollution Control Agency and should not be submitted until an invoice from the MPCA is received. The check must be mailed to MPCA, P.O. Box 64893, St. Paul, Minnesota, 55164-0893; or to make an electronic payment, contact MPCA Fiscal Services at 651-757-2182.

**Part 7A. SUPPLEMENTAL ENVIRONMENTAL PROJECT.**

a. The Regulated Party has proposed and the MPCA accepts the proposal to perform Supplemental Environmental Projects (SEPs) at a cost to the Regulated Party of \$2,625,000. The SEPs may include the specific SEPs listed in Attachment A.

b. The Regulated Party agrees to expend the amount of money necessary to complete the SEPs as described, and agrees that the Regulated Party shall receive no payment or other compensation for the work performed in completion of any SEP. The Regulated Party shall maintain copies of all invoices, contracts, manifests, receipts, and any and all other documentation of the actual costs the Regulated Party incurs in completing the SEPs.

c. The Regulated Party may, as an amendment to this Agreement, propose to MPCA SEPs in addition to or replacing the SEPs listed in Attachment A.

d. The Regulated Party shall complete all SEPs within one year of the Effective Date of this Agreement unless the Regulated Party requests and MPCA grants an extension. Completion of the SEPs means installation of measures identified in Attachment A and does not include full satisfaction of all regulatory or permitting conditions that may be required for any individual SEP. The Regulated Party shall provide to MPCA progress reports on the SEPs by the following dates:

- December 31, 2022
- June 30, 2023
- A final report after completion of all SEPs

e. If the Regulated Party abandons a SEP prior to completion, the Regulated Party shall pay to the MPCA an additional civil penalty in an amount of two-times the SEP amount identified in Attachment A, as may be amended from time to time pursuant to Part 7A(c). The Regulated Party must pay this additional civil penalty within 30 days after notice by the MPCA that the additional civil penalty

is due. Payment of the penalty amount is to be by certified check payable to the Minnesota Pollution Control Agency. The check must be mailed to MPCA, P.O. Box 64893, St. Paul, Minnesota, 55164-0893; or to make an electronic payment, contact MPCA Fiscal Services at 651-757-2182.

**Part 8. *REGULATED PARTY REQUIREMENTS.***

**Part 8A. *REIMBURSEMENT OF MPCA COSTS.*** The Regulated Party shall pay to the MPCA the amount of \$1,500,000 for ongoing costs related to oversight activities associated with the Agreement. An invoice for the agency reimbursement costs will be sent to the Regulated Party upon the Effective Date of the Agreement. Payment of the agency reimbursement amount of \$1,500,000 is to be by check or electronic payment payable to the Minnesota Pollution Control Agency and should not be submitted until an invoice from the MPCA is received. The check must be mailed to MPCA, P.O. Box 64893, St. Paul, Minnesota, 55164-0893; or to make an electronic payment, contact MPCA Fiscal Services at 651-757-2182.

**Part 8B. *CSW REQUIREMENTS.*** The Regulated Party agrees to the following requirements:

a. Within 20 days of execution of this Agreement, the Regulated Party must submit a plan to identify and monitor specific wetland communities in which Construction Stormwater was discharged as detailed in CSW Violation Part 5A above. These locations should be included within the Special Wetland Communities Vegetation Monitoring Protocol (Rev 2, April 2022) and Section 2.5.2 of the Post-Construction Wetland and Waterbody Monitoring Plan (PCMP). Additionally, the Regulated Party must provide the MPCA a point feature GIS shapefile detailing the locations where field monitoring described within the protocol will occur. Field photos must be recorded and provided to the MPCA as part of the monitoring reporting as described in Section 4.0 of the PCMP.

The Regulated Party must commit to further remedial actions necessary to return these wetlands to preconstruction condition, alleviating any remaining nuisance conditions identified through monitoring, including, but not limited to addressing any invasive plant (IVS) populations expanding or resulting from discharge in accordance with the performance criteria established in Section 3.2 of the PCMP. This plan must be approved by the MPCA before implementing and the plan and its requirements and obligations are part of and enforceable under this agreement upon MPCA's approval.

**... This requirement has been completed.**

b. Immediately put in place protocols to ensure the Minnesota Duty Office will be notified immediately of discharges as required by Minnesota Statutes § 115.061.

**... This requirement has been completed.**

c. Within one (1) business day of execution of this Agreement, begin implementing the requirements of the Permit by selecting, installing, and maintaining best management practices (BMPs) identified in the SWPPP to address the issues identified in the violation listed above. Amend the SWPPP to include any adjustments made to correct the violations.

**... This requirement has been completed.**

d. Within one (1) day of execution of this Agreement, install redundant perimeter controls along the surface waters identified in the violation as identified above.

**...This requirement has been completed.**

e. Immediately upon execution of this Agreement, begin to monitor and visually check all dewatering activities identified in the violation above so that there are no nuisance conditions to waters of the state.

**... This requirement has been completed.**

f. Within one business day of execution of this Agreement, or as soon as conditions allow, perform maintenance activities to repair, replace or enhance the non-functional dewatering BMPs identified in the violation above.

**... This requirement has been completed.**

g. Within one (1) day of execution of this Agreement, begin documenting accurate findings in all inspection and maintenance reports. Specifically, the need for redundant perimeter control when construction activities take place within 50 feet of a surface water.

**... This requirement has been completed.**

**Part 8C. IWW REQUIREMENTS.** The Regulated Party agrees to the following requirements:

a. Immediately put in place protocols to ensure the Minnesota Duty Office will be notified immediately of discharges as required by Minnesota Statutes § 115.061.

**... This requirement has been completed.**

b. Immediately cease discharges resulting in nuisance conditions from hydrotest dewatering activities at the Pine River near MP 1017.4 and the Mississippi near MP 1069.7. Also, identify actions the Regulated Party will take to ensure that future nuisance conditions do not occur at these locations.

**....This requirement has been completed.**

c. Immediately cease the discharge of wastewater beyond the land application infiltration area, which occurred on September 2, 2021. Also, identify the factors leading to the runoff and the actions taken to prevent future runoff events.

**....This requirement has been completed.**

d. Immediately cease the unauthorized discharge of wastewater from the lake tank at WS007/LA307, which occurred on August 25, 2021. Also, confirm the source of the leak and identify the actions taken to prevent future releases from the tank.

**....This requirement has been completed.**

**Part 8D. INADVERTENT RETURNS AND WETLAND REQUIREMENTS.** The Regulated Party agrees to the following requirements:

a. Within 20 days of execution of this Agreement, the Regulated Party must submit a plan to identify and monitor specific wetland communities in which drilling mud was discharged as described in the Alleged Violations letter sent to Enbridge from MPCA on November 10, 2021, including those outside the Facility right-of-way (ROW). These locations should be included within the Special Wetland Communities Vegetation Monitoring Protocol (Rev 2, April 2022) and Section 2.5.2 of the PCMP. Additionally, the Regulated Party must provide the MPCA a point feature GIS shapefile detailing the locations where field monitoring within the protocol will occur and a description of, and schedule for, field monitoring for up to five years to identify any remaining sediment/drilling mud, or any newly

surfaced drilling mud impacts at these wetlands (in addition to the Special Wetland Communities Vegetation Monitoring Protocol), along with remedial plans to address any such impacts at these sites.

**....This requirement has been completed.**

b. Following the execution of this Agreement, the MPCA will provide a list of the wetland areas outside of the Facility ROW into which sediment and/or sediment-laden water discharged during construction of the Facility, as documented in associated Independent Environmental Monitor reports. The Regulated Party will be required to add these wetland areas to the Special Wetland Communities Vegetation Monitoring Protocol (Rev 2, April 2022) and Section 2.5.2 of the PCMP no later than 20 days of receipt of the MPCA list. Additionally, the Regulated Party must provide the MPCA a point feature GIS shapefile detailing the location where field monitoring within the protocol will occur.

c. Following the execution of this Agreement, the Regulated Party must propose a separate Site-Specific Water Quality Monitoring Plan for the area of the Willow River at or near MP 1066.5 into which drilling mud was discharged. The plan must include a proposed specific methodology, and justification for it, to monitor the area, together with areas immediately upstream and downstream, to ascertain whether this drilling mud discharge may have resulted in any long-term detrimental impacts to the river's beneficial uses and applicable water quality standards.

The plan must include an analysis of this reach of the river's pre-construction status, in terms of ability to meet its designated beneficial uses and applicable, relevant water quality standards. It must also include the length of time proposed for monitoring to ensure the drilling mud release has not caused long-term impacts. Further, the plan must identify the remedial action that will be implemented, if monitoring shows it is necessary, to return the river to its pre-construction status.

Please ensure the plan follows MPCA protocols and standard operating procedures for monitoring and data collection, available on the MPCA website at:

<https://www.pca.state.mn.us/water/water-monitoring-standard-operating-procedures>

and at:

<https://www.pca.state.mn.us/water/surface-water-field-data-submittal-review-and-reports>.

d. Within 30 days following the execution of this Agreement, the MPCA will provide the Regulated Party with a written description of specific deficiencies in the Site-Specific Water Quality Monitoring Plan required in Part 8D.c. Regulated Party submitted to MPCA on November 30, 2021, as Attachment C of Regulated Party's response to the MPCA referenced in Part 5C.b. above. Until the requirements in Part 8D.c. are met, within 30 days of receipt of each subsequent revised Site-Specific Water Quality Monitoring Plan submitted by the Regulated Party, MPCA will either confirm in writing that the submission satisfies Part 8D.c. or provide the Regulated Party a written description of specific deficiencies.

e. Within 30 days of execution of this Agreement, the Regulated Party must provide documentation demonstrating that the required compensatory mitigation has been provided pursuant to Attachment D of Regulated Party's response to MPCA referenced in Part 5C.b. above.

**...This requirement has been completed.**

f. Immediately suspend horizontal directional drilling (HDD) activities, contain the inadvertent releases of drilling mud, and notify the Minnesota Duty Officer.

**...This requirement has been completed.**

g. Immediately recover as thoroughly as possible, without further degrading wetlands and the Willow River, all released drilling mud, in accordance with the site-specific HDD Inadvertent Release Response Plans dated November 2020, and incorporated as part of the 401 Water Quality Certification.

**...This requirement has been completed.**

h. Within 10 days of the inadvertent release within the Willow River, update site-specific HDD Inadvertent Release Response Plans to reflect additional commitments for equipment, training, and notifications.

**...This requirement has been completed.**

i. Within 30 days of execution of this Agreement, the Regulated Party must provide documentation demonstrating that all rock and geotechnical fabric discharged by the Regulated Party and remaining in wetland W-1505 near mile posts 1057 through 1058.7 in Aitkin County have been removed.

j. Until the requirements in Part 8D.i. are met, for each submission of documents required in Part 8D.i. from the Regulated Party, within 30 days following the receipt of each submission, the MPCA will either confirm in writing that the submission satisfies Part 8D.i. or provide the Regulated Party a written description of specific deficiencies.

#### **Part 9. *PENALTIES FOR VIOLATIONS OF THIS AGREEMENT.***

a. If the Regulated Party fails to make any payment required under Parts 7, 7A or 8A within 30 days after receipt of the above-referenced invoices, the Regulated Party agrees to pay a late payment charge in an amount equal to 10 percent of the unpaid amount. If the Regulated Party fails to make any required payment within 60 days after receipt of an invoice from MPCA, the Regulated Party agrees to pay an additional late charge in an amount equal to 20 percent of the unpaid amount. If the payment, including late charges, is not received by the MPCA within 60 days after the receipt of an invoice from MPCA, the MPCA may immediately exercise any and all administrative and judicial remedies available to it to collect the amount due. The Regulated Party agrees to pay and shall also be indebted to the MPCA for its attorneys' fees and cost incurred by the MPCA in connection with its collection of the amounts owed pursuant to this Agreement.

b. If the Regulated Party fails to comply with requirements of Parts 8B-8D of this Agreement, the Regulated Party shall pay to the MPCA a penalty in the amount of \$5000.00 per requirement for each day of failure.

c. Penalties for failure to comply with requirements of Part 8B-8D of this Agreement shall accrue from the date the Regulated Party was to have fulfilled the requirement until the Regulated Party fulfills the requirement. Penalties shall not accrue while the MPCA considers a timely extension request under Part 14 or during dispute resolution under Part 12, unless the MPCA determines that the Regulated Party filed the request or initiated dispute resolution solely for purposes of delay. If the Regulated Party does not pursue dispute resolution under Part 12 for denial of a timely extension request, penalties shall accrue from the date the extension request is denied by the MPCA Case Contact. If the Regulated Party pursues dispute resolution for denial of an extension request and does not file a timely challenge in a court of competent jurisdiction as provided by Part 12, penalties shall accrue from the date of a Commissioner's dispute resolution decision against the Regulated Party until the Regulated Party fulfills the requirement that is the subject of the extension request.

d. The Regulated Party shall pay a penalty under this Part within 30 days after receiving written notice from the MPCA that the penalty is due, unless the Regulated Party has challenged the factual basis of a penalty asserted under this Part under the dispute resolution provision of Part 12, in which case the penalty, if still applicable, shall be due within 30 days of final resolution of the dispute under Part 12. The written notice shall specify the provision of the Agreement that the Regulated Party has not fulfilled and indicate the date penalties began to accrue. If the Regulated Party fails to make timely payment, the Regulated Party agrees to pay a late payment charge, in addition to the stipulated penalty, to be assessed as follows: 45 days after receipt of written notice, the Regulated Party shall be obligated to pay a late charge in an amount equal to 10 percent of the unpaid stipulated penalty; 60 days after receipt of written notice, the Regulated Party shall be obligated to pay an additional late charge in an amount equal to 20 percent of the unpaid stipulated penalty.

e. In dispute resolution before the Commissioner under Part 12, the Regulated Party can contest the factual basis for the MPCA's determination that the Regulated Party has not fulfilled a requirement of this Agreement covered by this Part. However, the Regulated Party waives its right to challenge, on legal grounds, the requirement that it pay penalties under this Part.

f. The Regulated Party shall not be liable for payment of penalties for failure to comply with requirements of Part 8B-8D of this Agreement covered by this Part if it has submitted to the MPCA a timely request for an extension of the schedule under Part 14 and the MPCA has granted the request. The MPCA's grant of an extension of schedule waives the payment of penalties covered by this Part only on the requirements for which the MPCA granted an extension of schedule and only for the time period specified by the MPCA in the grant of an extension. An extension of schedule for one requirement of Part 8B-8D does not extend the schedule for any other requirement of Part 8B-8D.

g. Any requirement of this Agreement may be enforced as provided in Minn. Stat. § 115.071. Payment of a stipulated penalty does not relieve the Regulated Party of its obligation to fulfill and complete requirements under the Agreement and to otherwise comply with the terms and conditions of the Agreement.

**Part 10. *RELEASE OF CLAIMS, COVENANT NOT TO SUE, AND RESERVATION OF REMEDIES.***

a. The MPCA hereby fully and completely releases the Regulated Party (including its affiliates, subsidiaries, successors, agents, and assigns) from liability for any Alleged Violations or related conduct known on or before August 4, 2022, including but not limited to claims identified in Part 6 of this Agreement or under the Water Pollution Control Act, Minnesota Environmental Response and Liability Act, or any statute of common law theory that MPCA could have pleaded in a civil action based on written information in the possession of the MPCA as of August 4, 2022 (hereinafter "Released Conduct"). MPCA further agrees not to exercise any administrative, legal, or equitable remedies against the Regulated Party related to the Alleged Violations and Released Conduct.

b. The MPCA reserves the right to enforce this Agreement or take any action authorized by law if the Regulated Party fails to comply with the terms and conditions of this Agreement. Further, the MPCA reserves the right to seek to enjoin violations of this Agreement and to exercise its emergency powers pursuant to Minn. Stat. § 116.11 in the event conditions or the Regulated Party's conduct warrant such action. Nothing in this Agreement shall prevent the MPCA from exercising these rights and nothing in this Agreement constitutes a waiver of these rights.

The MPCA reserves the right to pursue recovery for Natural Resources Damages pursuant to Minn. Stat. § 115.071, Minn. Stat. § 115B.04 or other laws.



c. Nothing in this Agreement shall prevent the MPCA from exercising these rights and nothing in this Agreement constitutes a waiver of these rights.

d. The Regulated Party agrees to waive all claims it may have claimed under Minn. Stat. § 15.472 for fees and expenses incurred in responding to the Released Conduct prior to August 4, 2022.

**Part 11. REPEAT VIOLATIONS.** Federal and state environmental programs establish harsher penalties for violations of environmental laws or rules that constitute repeat violations. In a proceeding to resolve future alleged violations by the Regulated Party, if any, occurring after the date of this Agreement, this Agreement shall not be deemed to limit, in any way, either parties' ability to make arguments or assert defenses related to whether the Released Conduct may be considered for purposes of determining penalties for subsequent conduct.

**Part 12. RESOLUTION OF DISPUTES.** The parties to this Agreement shall resolve disputes that arise as to any part of the Agreement as follows:

a. The Regulated Party, acting through its Case Contact (as named in Part 15 below), may initiate dispute resolution by providing to the MPCA's Case Contact a written statement setting forth the matter in dispute, the position of the party, and the information the party is relying upon to support its position.

b. Within 10 days, the parties must meet and confer to determine whether a resolution can be reached. By joint agreement, the parties may waive the need to meet and confer if the meeting is unlikely to resolve the issues raised by the Regulated Party. If the parties do not reach a resolution of the dispute and reduce such resolution to writing in a form agreed upon by the parties within 21 calendar days after the MPCA receives the statement of position from the Regulated Party, the Commissioner shall issue a written decision resolving the dispute. The written decision may address stipulated penalties assessed pursuant to Part 9. The Commissioner's decision shall be a final decision of the MPCA under Minn. Stat. § 115.05 for purposes of judicial review.

c. The Commissioner's decision shall become an integral and enforceable part of this Agreement unless the Regulated Party timely challenges the decision in a court of competent jurisdiction. Failure to timely challenge means the Regulated Party agrees to comply with the MPCA Commissioner's decision on the matter in dispute and to pay any penalties that accrue pursuant to Part 9 for failure to fulfill requirements of this Agreement that are the subject of the dispute resolution. Further, if the Commissioner's decision assesses penalties pursuant to Part 9 of this Agreement, the Regulated Party agrees to and shall pay the amount of penalty determined by the Commissioner within 60 days after receiving the Commissioner's decision.

d. Throughout any dispute resolution, the Regulated Party shall comply with all portions of the Agreement.

e. Nothing in this Part prohibits MPCA from seeking immediate injunctive or equitable relief from a court of competent jurisdiction if it has reason to believe that the Regulated Party is in violation of Part 8 of this Agreement.

**Part 13. VENUE.** Actions brought by the MPCA to enforce requirements and terms of this Agreement shall be venued in Ramsey County District Court.

**Part 14. EXTENSION OF SCHEDULES.** If the Regulated Party wants an extension of a deadline included in any schedule under this Agreement, including schedules established by approved submittals, the

Regulated Party must request the extension in writing at least ten days before the scheduled deadline, or as soon as possible before that date if the reason for the extension request arises less than ten days before the deadline.

Each deadline extension request shall separately specify the reason why the extension is needed. No requested extension shall be effective until approved in writing by the MPCA, acting through the MPCA Case Contact or the Commissioner.

The MPCA shall grant an extension only for the period of time the MPCA determines is reasonable under the circumstances. The written approval or grant of an extension request shall be considered an enforceable part of the Agreement.

The Regulated Party has the burden of demonstrating to the satisfaction of the MPCA that the request for the extension is timely, and that good cause exists for granting the extension. Good cause can include, but is not limited to, the following:

- a. An act of god; and
- b. Delays caused by the MPCA in reviewing timely submittals required by this Agreement, submitted by the Regulated Party in complete and approvable form, which make it not feasible for the Regulated Party to meet the required schedules.

An “act of god” is defined as an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

If the Regulated Party shows good cause through the occurrence of an “act of god,” such a showing does not excuse the Regulated Party from compliance. An “act of god” constitutes good cause solely for the purpose of demonstrating that the Regulated Party is entitled to an extension of the disputed deadline.

Good cause does not include unanticipated costs; increases in the cost to comply with Agreement requirements, permit conditions, or federal or state rules; or delays in MPCA review of submittals when the submittals are not in complete and approvable form.

The Regulated Party may challenge a decision by the MPCA to deny a request for an extension under this Part.

**Part 15. CASE CONTACT.** The MPCA and the Regulated Party shall each designate a Case Contact for the purpose of overseeing the implementation of this Agreement.

The MPCA Construction Stormwater Case Contact is Brian Green. The address, telephone number, and email address for Brian Green is: 7381 Airport View Drive SW, Rochester, MN 55902, 507-206-2610, and brian.green@state.mn.us.

The MPCA Industrial Wastewater Case Contact is Joseph Braun. The address, telephone number, and email address for Joseph Braun is: 714 Lake Avenue, Suite 220, Detroit Lakes, MN 56501, 218-846-8126, and joseph.braun@state.mn.us.

The MPCA 401 Case Contact is Anna Hotz. The address, telephone number, and email address for Anna Hotz is: 520 LaFayette Road North, St. Paul, MN 55155, 651-757-2512, and anna.hotz@state.mn.us.

The Regulated Party's Case Contact is Bobby Hahn. The address, telephone number, and email address of the Regulated Party's Case Contact is: Bobby Hahn, 26 East Superior Street, Suite 313, Duluth, MN 55802, 218-522-4751, and bobby.hahn@enbridge.com.

Either party may change its designated Case Contact by notifying the other party in writing, within five days of the change. To the extent possible, communications between the Regulated Party and the MPCA concerning the terms and conditions of this Agreement shall be directed through the Case Contacts.

**Part 16. APPLICABLE LAWS AND PERMITS.** This Agreement does not relieve the Regulated Party of the duty to comply with the requirements of all applicable federal, state, and local laws and regulations, including without limitation in the Regulated Party's undertaking actions to comply with this Agreement. Except when the MPCA has specifically authorized a different compliance method in Part 8, the Regulated Party must also comply with all applicable permits, orders, stipulation agreements and schedules of compliance. Nothing in this Agreement exempts or relieves the Regulated Party of its obligation to comply with local governmental requirements.

**Part 17. OTHER CLAIMS.** Nothing herein shall release the Regulated Party from any claims, causes of action or demands in law or equity by any person, firm, partnership or corporation not a signatory to this Agreement for any liability it may have arising out of or relating to the release of any pollutant or contaminant from its operations. Neither the Regulated Party nor the MPCA shall be held as a party to any contract entered into by the other party to implement the requirements of this Agreement.

**Part 18. HOLD HARMLESS AGREEMENT.** The Regulated Party agrees to indemnify, save and hold the MPCA, its agents and employees harmless from any and all claims or causes of action arising from or on account of acts or omissions of the Regulated Party, its officers, employees, agents, or contractors in implementing the activities conducted pursuant to this Agreement; provided, however, that the Regulated Party shall not indemnify the MPCA or save or hold its employees and agents harmless from any claims or causes of action arising out of the acts or omissions of the MPCA, or its employees and agents.

When the Regulated Party is required to hold the MPCA harmless, the MPCA shall give the Regulated Party notice of any claim or cause of action subject to this Part and the Regulated Party has the right to participate in the defense against any claim or cause of action. No settlement shall be effective against the Regulated Party unless the Regulated Party agrees to the settlement. Nothing herein waives or modifies the provisions of the Minnesota Tort Claims Act, Minn. Stat. §§ 3.732, et seq., and other applicable law to actions that occur after the Effective Date of this Agreement.

**Part 19. SUCCESSORS, AGENTS AND CONTRACTORS.** This Agreement shall be binding upon the Regulated Party and its successors and assigns and upon the MPCA, its successors and assigns. If the Regulated Party sells or otherwise conveys or assigns any of its right, title or interest in the Facility, the conveyance shall not release the Regulated Party from any obligation imposed by this Agreement, unless the party to whom the right, title or interest has been transferred or assigned agrees in writing to fulfill the obligations of this Agreement and the MPCA approves the transfer or assignment. The

Regulated Party shall ensure that the Regulated Party's agents, contractors and subsidiaries comply with the terms and conditions of this Agreement.

**Part 20. AMENDMENTS.** Except with respect to extensions of schedules granted under Part 14, additional or replacement SEPs or extensions in Part 7A, and approved submittals under Part 8, this Agreement may be amended only by written agreement between the parties.

**Part 21. EFFECTIVE DATE.** This Agreement shall be effective on the date of the signature of the last party.

**Part 22. TERMINATION.** The provisions of this Agreement shall be deemed satisfied and terminated when the Regulated Party receives written notice from the MPCA that the Regulated Party has demonstrated, to the satisfaction of the MPCA, that all terms of the Agreement have been completed. Termination of this Agreement does not release the Regulated Party from any duty to comply with any state statutes, rules or permit conditions, whether or not they are cited in this Agreement. The Regulated Party agrees that it shall retain all records related to this Agreement for three years following its termination. Termination of this Agreement does not release the Parties from Parts 10 (Release of Claims, Covenant Not To Sue And Reservation Of Remedies), 11 (Repeat Violations) and 18 (Hold Harmless Agreement), which terms shall survive the termination of this Agreement.

**BY THEIR SIGNATURES BELOW, THE UNDERSIGNED REPRESENT THAT THEY HAVE AUTHORITY TO BIND THE PARTIES THEY REPRESENT**

**ENBRIDGE ENERGY, LIMITED PARTNERSHIP**

**By: Enbridge Pipeline (Lakehead) L.L.C.**

**Its: Managing General Partner**

By: Barry P Simonson

Barry Simonson

Director of Projects

Date: October 17, 2022

**STATE OF MINNESOTA**

**POLLUTION CONTROL AGENCY**

By: Katrina Kessler

Katrina Kessler

Commissioner

Date: October 17, 2022

**Attachment A**  
**Supplemental Environmental Projects**

<b><u>Project</u></b>	<b>Total Cost</b>	<b>Description</b>	<b>Notes</b>
<b><u>Clear Creek - Nemadji River watershed</u></b>	\$842,451	Clear Creek, a trout stream - extensive culvert alignment, 35 tons of sediment/year, 35 pounds/phosphorus/year reduction. Carlton SWCD	Clear Creek is an important trout stream in the Nemadji Watershed. Currently, fish passage at the CSAH 4 culvert is impossible during all but the highest flows because the stream flows under the culvert, removing access to almost 2 miles of coldwater headwaters. In addition, approximately 35 tons of sediment are eroded into the stream each year due to the poor alignment and placement of the culvert. Clear Creek is impaired for TSS downstream of the structure, along with aquatic macroinvertebrates and fish. The public has told us there were historic fishing opportunities in Clear Creek that have been lost due to undersized structures.
<b><u>Spring Creek - Nemadji River watershed</u></b>	\$80,086	Spring Creek, a trout stream - extensive culvert alignment, 35 tons of sediment/year, 35 pounds/phosphorus/year reduction. Carlton SWCD	Spring Creek and County Road 104: Spring Creek is a high quality brook trout stream in the Nemadji watershed. It is an important cold water tributary to the Blackhoof River, the watershed's best known trout stream. A series of undersized and perched culverts are significantly affecting aquatic organism passage and causing approximately 35 tons of sediment annually. The stream is not currently impaired, but is a stream we wish to protect due to its trout populations.

<b><u>Leech Lake River, Cass County</u></b>	\$200,000	Urban stormwater analysis for the Leech Lake River Comprehensive Watershed Management Plan. The stormwater projects were identified within communities in the watershed, and a cost benefit analysis was done. Two projects ready to move forward in 2023: Longville and Federal Dam.	The Longville and Federal Dam project could be ready to go by mid-summer. These projects came out from a 1W1P project that did stormwater assessments for those 4 cities.
<b><u>Hines Lake (Hubbard County)</u></b>	\$30,000	Stormwater project—sediment entering lake from road and public access erosion	Construction could be completed in 2023 if funding is received.
<b><u>Hellcamp Creek (Hubbard County)</u></b>	\$15,000	Improving road crossing to allow fish (Natural Spawning Native Trout) crossing for spawning; Project is in design.	Could be executed in 2023 if funding is received.
<b><u>Beach Drive by Second Crow Wing Lake (Hubbard County)</u></b>	\$55,000	High amount of runoff that washes out road leading to sediment/nutrients ending up in 2nd Crow Wing Lake. Project has been designed. Awaiting funding. Working with Crow Wing Lake Township	Could be executed in 2023 if funding is received.
<b><u>Newfolden FDR Project-MSTRWD</u></b>	\$800,000	Provide for better movement of flood waters to not impact city of Newfolden, improve bank stability and water quality	
<b><u>Grade Stabilization Structures (410) Project in RLF Twp. Section 14 - CSAH 19 (Contract with Red Lake County)</u></b>	\$46,625	Red Lake River IWIP – Red Lake County SWCD Project List	Joint project with Red Lake County Highway Dept and Red Lake Co SWCD. Replace culvert under CSAH 19, add erosion control measures
<b><u>Voyager's View in Red Lake River Section 15</u></b>	\$17,300	Red Lake River IWIP – Red Lake County SWCD Project List	Streambank and shoreland protection project along 600 feet of eroded streambank on the Red Lake River
<b><u>Grade Stabilization Projects (3) - RLF Twp. Sect 21</u></b>	\$4,300	Red Lake River IWIP – Red Lake County SWCD Project List	Three grade stabilization projects that will reduce runoff velocity and sediment into the Red Lake River

<b><u>Grade Stabilization Structure (410) - Louisville 34</u></b>	\$12,500	Red Lake River IWIP – Red Lake County SWCD Project List	Replace grade stabilization structure that has reached the end of its life new drop structure and riprap
<b><u>Grade Stabilization Project - Gervais Section 8</u></b>	\$11,500	Red Lake River IWIP – Red Lake County SWCD Project List	Replace old drop structure and outlet pipe to stabilize area before it enters the Red Lake River
<b><u>Red Lake County Ditch 62 Outlet Stabilization - River Township Section 32</u></b>	\$17,400	Red Lake River IWIP – Red Lake County SWCD Project List	Replace old ditch outlet pipe with new cement culvert and riprap to protect downstream outlet ditch
<b><u>Grade Stabilization Project - Lake Pleasant Section 15</u></b>	\$9,400	Red Lake River IWIP – Red Lake County SWCD Project List	Replace old drop structure and outlet pipe to stabilize area before it enters the Red Lake River
<b><u>Keene Creek Park Culvert-Okerstrom Road (City of Hermantown)</u></b>	\$70,000	Joint project with MN Trout Unlimited and South St. Louis SWCD	Total funding needed up to \$315,000 but grant funding application also pending.
<b><u>Beltrami County Natural Resource Management Department</u></b>	\$13,570	Add erosion control and safety measures to steep embankment on Mississippi River	Install 30 timbers parallel to river to fix erosion and safety issues on Government Lot 3 of Section 23-T146N-R32W (Frohn Township), that is located on a steep hillside and as a result of lack of vegetation, is depositing sand and sediment into the Mississippi River. The depositing of sand/sediment degrades the fisheries habitat, especially pike and muskies, in that area of the river.

<b><u>Beltrami County</u></b>	\$250,000	Project is located within the Clearwater River, a designated trout stream, near the city of Pinewood in Buzzle Township, Beltrami County. The primary objective will be restoring instream and riparian habitat and removing perched culverts to improve fish and mussel connectivity. Location is within a mile of Line 3.	Total project cost is approximately \$3-4 million. Have secured approximately \$3m but still need to meet matching funds requirement
<b><u>Mississippi Headwaters Board</u></b>	\$150,000	Remove Mercury contamination from Whiskey Creek in Baxter	
<b><u>Total for all projects</u></b>	<b>\$2,625,132</b>		