

Staff Briefing Papers

Meeting Date: June 25, 2020

Agenda Item **2

Company: Enbridge Energy, Limited Partnership

Docket No. PL9/PPL-15-137

In the Matter of the Application of Enbridge Energy, Limited Partnership for a Routing Permit for the Proposed Line 3 Replacement Project in Minnesota from the North Dakota Border to the Wisconsin Border


Issues: What action should the Commission take on Enbridge Energy, Limited Partnership's May 5, 2020 Application for Approval of Route Width Variations and Permit Amendment?

Should the Commission change certain conditions in the Pipeline Routing Permit to improve the efficiency of the public safety liaison process?

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 Relevant Documents	Date
Enbridge Energy, Limited Partnership Application for Approval of Route Width Variations and Permit Amendment (May 3, 2019 Permit Amendment Application)	05/03/2019
Department of Commerce Energy Environmental Review and Analysis Comments and Recommendations on May 3, 2019 Permit Amendment Application	05/31/2019
Friends of the Headwaters Comments on May 3, 2019 Permit Amendment Application	05/31/2019

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Brandon and Jennifer Suonvieri Comments on May 3, 2019 Permit Amendment Application	06/03/2019
Enbridge Energy, Limited Partnership Reply Comments	06/07/2019
Enbridge Energy, Limited Partnership Response to Commission Staff’s Information Request	06/07/2019
Reissued October 26, 2018 Order Approving Pipeline Routing Permit with Conditions	05/01/2020
Reissued January 18, 2019 Order Clarifying Prior Order [October 26, 2018], Excluding Filing, and Denying Reconsideration	05/01/2020
Enbridge Energy, Limited Partnership Application for Approval of Route Width Variations and Permit Amendment (May 5, 2020 Revised Permit Amendment Application)	05/05/2020
Department of Commerce Energy Environmental Review and Analysis Comments and Recommendation on May 5, 2020 Revised Permit Amendment Application	06/05/2020
Minnesota Department of Public Safety Letter Regarding Public Safety Liaison (dated 05/28/2020)	06/05/2020

Attachments

Table 1 – Summary of Enbridge Route Amendment Requests
Attachment A – Proposed Language Changes to Order and Routing Permit

I. STATEMENT OF THE ISSUES

- What action should the Commission take on Enbridge Energy, Limited Partnership’s May 5, 2020 Application for Approval of Route Width Variations and Permit Amendment?
- Should the Commission change certain conditions in the Pipeline Routing Permit to improve the efficiency of the public safety liaison process?

II. PROJECT DESCRIPTION

Enbridge Energy, Limited Partnership’s (Enbridge) Line 3 Replacement Project is a new 330-mile long 36-inch diameter pipeline that will replace 282 miles of the existing 34-inch Line 3 pipeline in Minnesota (Line 3 Project). The pipeline route would cross portions of Kittson, Marshall, Pennington, Red Lake, Polk, Clearwater, Hubbard, Wadena, Cass, Crow Wing, Aitkin, St. Louis, and Carlton counties.

III. PROCEDURAL HISTORY

On April 24, 2015, Enbridge filed separate applications for a certificate of need and a routing permit for the Line 3 Project. The Commission issued separate orders finding the certificate of need and route permit applications substantially complete on August 12, 2015.

Between August 2015 and June 2018, the certificate of need and route permit applications were reviewed pursuant to the procedural requirements set forth in Minnesota rules and statutes which included public information meetings and accompanying comment periods; the preparation of a draft and final environmental impact statement (EIS), and a revised final EIS; public and evidentiary hearings; and an affirmative determination of final EIS adequacy by the Commission.¹

On October 26, 2018, the Commission issued its Order Approving Pipeline Routing Permit with Conditions (October 26 Order).

On January 18, 2019, the Commission issued its Order Clarifying Prior Order, Excluding Filing, and Denying Reconsideration (January 28 Order). The January 28 Order denied reconsideration of the October 26 Order and clarified the language of select sections of the pipeline routing permit.

On May 3, 2019, Enbridge filed an Application for Approval of Route Width Variations and Permit Amendment (May 3, 2019 Permit Amendment Application).

On May 10, 2019, the Commission issued a notice requesting comments on the May 3, 2019 Permit Amendment Application. In addition to the project service lists, the notice was also sent to the landowners potentially affected by a proposed modification. Initial comments were accepted until May 31, 2019 and reply comments until June 7, 2019.

By May 31, 2019, the Commission received comments from the Department of Commerce Energy Environmental Review and Analysis (DOC EERA) and Friends of the Headwaters. The Commission also received a comment letter from interested landowners Brandon and Jennifer Suonvieri dated May 31, 2019, but filed to eDockets on June 3, 2019.

¹ The Commission found the August 17, 2017 Final EIS to be inadequate in four respects as detailed in its December 14, 2017 Order Finding Environmental Impact Statement Inadequate. This triggered a requirement under Minn. R. 4410.2800, subp. 5, that a revised EIS be prepared to address the issues identified by the Commission within 60 days of the decision. A Revised Final EIS was issued on February 12, 2018. On May 1, 2018, The Commission issued its Order Finding [Revised] Environmental Impact Statement Adequate and Adopting ALJ Lipman's November 2017 Report as Modified (May 1, 2018 Order). The Commission denied requests to reconsider the May 1, 2018 Order on July 3, 2018.

Also, on May 31, 2019, Commission staff issued an information request that sought clarification and additional information from Enbridge on its Amendment Application. Enbridge filed reply comments and responses to Commission staff's information request on June 7, 2019.

On June 3, 2019, in response to certiorari appeals challenging the Commission's May 1, 2018 Order that determined the Revised Final EIS adequate, the Minnesota Court of Appeals reversed the order upon its determination that the Revised Final EIS was inadequate because it did not address the potential impact of an oil spill into the Lake Superior watershed. The decision changed the procedural requirements of the case and resulted in a postponement of the requested modifications being considered by the Commission.

On May 1, 2020, the Commission issued its Order Finding Environmental Impact Statement Adequate, Granting Certificate of Need as Modified, and Granting Routing Permit as Modified (May 1, 2020 Order). The order (1) determined the December 9, 2019 Second Revised Final EIS adequate; (2) approved the certificate of need by reissuing the September 5, 2018 Order and the January 23, 2019 Order with modifications; (3) granted a routing permit by reissuing the October 26, 2018 Order with modifications, the January 18, 2019 Order, and the May 17, 2019 Order.

On May 5, 2020, Enbridge filed a revised Application for Approval of Route Width Variations and Permit Amendment (May 5, 2020 Permit Amendment Application).²

On May 7, 2019, the Commission issued a notice requesting comments on the Amendment Application. In addition to the official service list, the notice was also sent to the landowners potentially affected by a proposed modification. Initial comments were accepted until May 28, 2020, and reply comments until June 4, 2020.

On May 28, 2020, the Commission received a letter from the Minnesota Department of Public Safety Regarding Public Safety Liaison (filed to eDockets on June 5, 2020).

On June 5, 2020, the Commission received comments from DOC EERA. These were the only comments received on the May 5, 2020 Permit Amendment Application.

² Prior to the reversal and remand of the Commission's May 1, 2018 Order by the Court of Appeals, Enbridge had submitted an Application for Approval of Route Width Variations and Permit Amendment on May 3, 2019. The decision changed the procedural requirements of the case which required Enbridge to refile its application. Previously, in response to the notice of comment period on the May 3 Amendment Application, the Commission received comments on May 31, 2019 from Friends of the Headwaters and the DOC EERA, and from interested landowners Brandon and Jennifer Suonvieri on June 3, 2019. Enbridge filed reply comments and responses to a Commission staff information request on June 7, 2019.

IV. STATUTES AND RULES

Under Minn. R. 7852.3400, a permittee may apply to the Commission for amendments on route location and conditions specified in a route permit.³ The permittee must submit an application for amendment that contains sufficient information for the Commission to determine the following:

- whether, in light of the criteria in parts 7852.0700 and 7852.1900, the requested changes are significant enough to warrant Commission study and approval;
- whether to order public information meetings near the affected area; and
- whether additional fees shall be assessed.

The Commission must make the above determinations within 45 days of the receipt of the application or, if it decides to study the application further, within 70 days.

In addition, Section 3.5 of the Line 3 Pipeline Routing Permit contemplates route width variations that are necessary because of (1) unforeseen circumstances encountered during the detailed engineering and design process; (2) federal or state agency requirements; or (3) existing infrastructure within the pipeline route, including but not limited to railroads, natural gas and liquid pipelines, high voltage electric transmission lines, or sewer and water lines. Any route width variations outside the designated route that are a result of one or more of these constraints must be reviewed by the Commission in accordance with Minn. R. 7852.3400.

V. ENBRIDGE MAY 5, 2020 AMENDMENT APPLICATION

Enbridge's May 5, 2020 Permit Amendment Application requests approval of 12 route width and centerline modifications to the permitted route of the Line 3 Replacement Project. As stated earlier, the application is considered a new application and revised the previous application filed on May 3, 2019. Staff has reviewed and compared both applications and determined that the information has not changed except that five of the previous modifications have been rescinded. As indicated by Enbridge in its application, the five modifications that were removed were defined as additional temporary workspace and provisions for temporary workspace are already contemplated in the routing permit. Staff agrees with this assessment.

All 12 of the modifications would result in either some portion of the pipeline right-of-way being placed outside the designated route. If approved, Enbridge has requested that the routing permit maps be replaced with the updated maps included with its May 5 Permit Amendment Application.

³ Also referenced in Section 10 of the Line 3 Pipeline Routing Permit.

In its application, Enbridge presents a description of each requested modification and the reason for the modification; an analysis and comparison of the potential human and environmental impacts of the modification; and maps depicting the modification in relation to the corresponding permitted route segment.

Generally, Enbridge maintained that:

- the modifications have similar or lesser human and environmental impacts as the corresponding section of the permitted route;
- the modifications have generally been designed to minimize impacts;
- the modifications have been included in permit applications to the Minnesota Department of Natural Resources (DNR), Minnesota Pollution Control Agency, and U.S. Army Corps of Engineers, and relevant local government units;
- Coordination with the potentially affected landowners concerning the modifications has occurred; and
- Land rights needed for each modification have been obtained, with the exception of the following:
 - Modification No. 6 (DNR License to Cross pending)
 - Modification No. 8 (pending purchase agreement)
 - Modification No. 11 (parcel located on northeast corner of the map, labeled T-167-1, identified as road right-of-way)
 - Modification No. 12 (DNR License to Cross pending)

The attached Table 1 (Summary of Enbridge Route Amendment Requests) identifies the changed numbering of the modifications and provides a general summary of each.

VI. COMMENTS ON AMENDMENT APPLICATION

A notice of comment period on Enbridge's May 5, 2020 Permit Amendment Application was issued by the Commission on May 7, 2020, requesting initial comments by May 28, 2020, and reply comments by June 4, 2020. The Commission received comments from the DOC EERA. These were the only comments received.⁴

A. DOC EERA Comments

⁴ As noted, a previous comment period was noticed for the May 2, 2019 Permit Amendment Application. Upon the close of that comment period the Commission received comments from DOC EERA, FOH, and interested landowners Brandon and Jennifer Suonvieri. FOH and the Suonvieri's did not resubmit comments on the revised May 5 Permit Amendment Application.

In its June 5, 2020 Comments and Recommendations, DOC EERA indicated that, based on its review of the May 5 Permit Amendment Application, it reaffirms the previous review detailed in its May 31, 2019 Comments and Recommendations. In those comments, DOC EERA concluded that:

- Enbridge had provided sufficient information to assess whether further study, public meetings, and additional fees are necessary as required under Minn. R. 7852.3400.
- The information and analysis provided by Enbridge demonstrated that the requested modifications are minor and that the potential impacts of the modifications were generally evaluated in the record of the case.
- The requested modifications are near or adjacent to the permitted route where extensive public outreach was conducted as part of the environmental review and permitting process.
- The information and analysis provided by Enbridge adequately characterizes the relevant tradeoffs associated with each modification and that the information is sufficient for the Commission to weigh the merits of the modifications relative to the criteria in Minn. R. 7852.1900.

DOC EERA continued to recommend that the Commission need not require further study, additional public meetings, or assess additional fees.

B. Comments Previously Received on the May 3, 2019 Application

FOH and the Suonvieri's did not provide new comments or refile their comments on the May 3 Permit Amendment Application. Staff provides brief summaries of their previous comments on the May 3 Permit Amendment Application below. Staff also summarizes Enbridge's June 7, 2019 Reply Comments related to the initial application.

1. Friends of the Headwaters Comments

FOH asserted that it was impossible to provide comments on whether the requested modifications increase or decrease the impacts of the permitted route because there was no environmental review conducted.

2. Suonvieri Comments

Brandon and Jennifer Suonvieri (Suonvieri's) are landowners potentially affected by Enbridge's requested Modification No. 11 (Previously Modification No. 13). The Suonvieri's explained that

they entered into an agreement with Enbridge to expand their existing easement for the Line 3 Project with the assurance that the location of the pipeline and the pumping station would not change. The Suonvieri's acknowledged that Modification No. 11 would not directly affect their property; however, they maintained that the modification would result in the removal of trees that border their property and would result in a diminished view because they will see the pipeline right-of-way and pump station from their deck. The Suonvieri's argued that Modification No. 11 is in violation of the agreement they signed with Enbridge and will reduce the value of their home.

3. Enbridge

In its June 7, 2019 reply comments, Enbridge indicated agreement with the recommendations made by DOC EERA, declined to address the comments made by FOH, and provided additional information related to the comments made by the Suonvieri's.

Enbridge indicated that it had at one point proposed to locate the Gowan Pump Station on or near the Suonvieri parcel; however, after negotiations were unsuccessful, Enbridge relocated the Gowan Pump Station to its current location, approximately 1,000 feet from the Suonvieri's property, as depicted in the maps attached to the route permit. Enbridge explained that Modification No. 11 does not move any facilities closer to the Suonvieri parcel and argued that the modification does not affect the Suonvieri's property. Enbridge pointed out that it owns the property within which the modifications would be made, and that the location of the Gowan Pump Station site has not changed since it concluded negotiations with the Suonvieri's and executed easement agreements. Enbridge further stated that topography and trees will obscure the view of the pump station, and that the Gowan residence does not have a direct view of the pump station.

C. Public Safety Liaison

The pipeline routing permit includes a condition for the appointment of a public safety liaison. Generally, the requirements of the public safety liaison, as outlined in the permit, are to:

- Serve as the point of contact for the Commission, Enbridge, and local, state, tribal, and federal law enforcement authorities and social service task forces on public safety and security cost reimbursement and compliance issues directly related to Line 3 Project construction.
- Review Enbridge's compliance with the Minnesota Private Detective and Protective Agent Services laws and rules; and
- Assist with determining the appropriate level of funding of the Public Safety Escrow Account.

At this time, the Executive Secretary has reached an agreement with the Minnesota Department of Public Safety (DPS) to serve as the public safety liaison. The DPS provides the expertise concerning public safety matters related to the construction of the Line 3 Project that the Commission does not possess. The DPS filed a letter agreeing to serve as the Public Safety Liaison and follow the conditions outlined in the routing permit.

In reviewing the language of the routing permit related to the public safety liaison, staff believes there are certain changes to the language that could be made to improve the efficiencies of the appointment. The changes are suggested to provide administrative efficiency and would not change the Commission's overall enforcement authority over the conditions of the routing permit.

Staff's recommended changes to the reissued October 26, 2018 Order (changes from May 1, 2020 Order incorporated) and the reissued January 18, 2019 Routing Permit are provided in Attachment A.

VII. STAFF DISCUSSION

Staff agrees with the recommendations of DOC EERA that Enbridge has provided the required information the under Minn. R. 7852.3400, that an adequate analysis was performed for each modification relative to the criteria in Minn. R. 7852.1900, and that the modifications were generally evaluated in the record of the case. Staff recommends that the Commission grant the 12 modifications. Staff further recommends the modifications do not require further study, additional public meetings, or the assessment of additional fees.

Although, the Suonvieri's did not refile their comments, staff recommends that the Commission ask Enbridge the status of the negotiations. As for FOH's comments, staff believes the appropriate environmental review has been performed and is consistent with previous routing permit amendment requests considered by the Commission.

VIII. COMMISSION DECISION OPTIONS

A. Permit Amendment Application

1. Grant one or more of the 12 routing permit amendment requests and:
 - a. Amend the routing permit by replacing routing maps with the corresponding updated maps included with Enbridge's May 5, 2020 Permit Amendment Application.
 - b. Include additional conditions deemed appropriate.

2. Deny one or more of the 12 routing permit amendment request and require:
 - a. Further study of the modifications
 - b. Additional public meetings
 - c. Additional permitting fees
3. Take some other action deemed appropriate.

B. Public Safety Liaison

1. Accept the changes proposed by staff as provided in Attachment A to these briefing papers.
2. Take some other action deemed appropriate.

Table 1 – Summary of Enbridge Route Amendment Requests

Modification (05/05/2020 Application)	Modification (05/03/2019 Application)	Mile Post	County	Description
1	1	828	Marshall	The modification is proposed to avoid impacts to cultural resources identified during Tribal Cultural Resource field surveys. The modification would result in a different crossing location of the Tamarac River. The modification would result in approximately 4,939 feet of right-of-way outside the designated route.
2	3	915	Clearwater	The modification is proposed to avoid a landowner who did not want to accommodate the pipeline easement. The new right-of-way would cross a U.S. Fish and Wildlife Service (USFWS) conservation easement and was designed in consultation with the USFWS. The modification would result in approximately 3,736 feet of right-of-way outside the designated route.
3	4	925	Clearwater	The modification is proposed to allow for the installation of permanent cathodic protection (CP) bed to mitigate external corrosion of the pipeline. The modification would result in approximately 7,011 square feet of right-of-way outside the designated route. The modification is located entirely within county road right-of-way. Enbridge has received a permit from Clearwater County.
4	5	927	Clearwater	The modification is proposed to avoid USFWS wetland conservation easements and was designed in consultation with USFWS. The modification would result in approximately 7,081 feet of right-of-way outside the designated route.
5	6	931	Clearwater	The modification is proposed to accommodate the landowner’s request to move pipeline right-of-way to western property boundary to minimize impacts to farming activities. The modification would result in approximately 4,918 feet of right-of-way outside the designated route.

Table 1 – Summary of Enbridge Route Amendment Requests

Modification (05/05/2020 Application)	Modification (05/03/2019 Application)	Mile Post	County	Description
6	8	994	Wadena	The modification is proposed as a result of Enbridge acquiring land rights on a parcel that would require a shift of the pipeline right-of-way within the designated route and result in temporary workspace outside the designated route. The land is managed by the DNR. Additional permitting requirements are being coordinated with the DNR. The modification would result in approximately 3,073 square feet of temporary workspace outside the designated route. The modification is for temporary workspace only.
7	9	1019	Cass	The modification is proposed to accommodate a landowner’s request that an area required for a permanent CP bed be relocated from the landowner’s property (road right-of-way) to Enbridge-owned property. The modification would result in approximately 2,930 square feet of right-of-way outside the designated route. The area needed for the CP bed is on Enbridge-owned land.
8	10	1054	Aitkin	The modification is proposed to accommodate the siting of the Swatara Pump Station after additional design, engineering, and environmental considerations associated with RSA-22. The modification would result in approximately 17 acres of temporary workspace and permanent right-of-way outside the designated route. The area needed for the pump station and associated construction activities is on Enbridge-owned land.
9	11	1062	Aitkin	The modification is proposed to allow for the installation of a permanent CP bed ground bed to mitigate external corrosion of the pipeline. The modification would result in approximately 9,570 square feet of right-of-way outside the designated route.

Table 1 – Summary of Enbridge Route Amendment Requests

Modification (05/05/2020 Application)	Modification (05/03/2019 Application)	Mile Post	County	Description
10	12	1073	Aitkin	The modification is proposed to avoid a large wetland area. The modification would result in approximately 4,377 feet of right-of-way outside the designated route. Enbridge stated it has received land rights approval for the impacted parcels owned by Aitkin County.
11	13	1095	St. Louis	The modification is proposed to accommodate the landowners request to move the pipeline right-of-way west, closer to the location of the Gowan Pump Station location. The modification would result in approximately 2,422 feet of pipeline right-of-way outside the designated route. Enbridge stated it has received the necessary permits from St. Louis County.
12	16	1117	Carlton	The modification is proposed to allow for an improved crossing of Interstate 35 and co-location with existing pipelines (Lines 4, 13, and 67). The modification would also avoid a residence and a waterbody present on this segment of the designated route. The modification would result in approximately 5,165 feet of right-of-way outside the designated route.

Attachment A – Proposed Language Changes to Order and Routing Permit

Reissued October 26, 2018 Order Text at Pages 31-33

Safety measures. While Enbridge selected its APR to mitigate the extent to which the proposed pipeline's construction and operation will impinge upon the public, the Project will inevitably create some new risks and burdens. The revised sample Pipeline Routing Permit addressed steps to mitigate risks and burdens related to its Project. These considerations do not favor any pipeline route over the others.

But in addition to the conditions set forth in the sample permit, the Commission will direct Enbridge to take the following measures.

First, the Commission will designate ~~a~~ the Commissioner of the Minnesota Department of Public Safety (DPS Commissioner) as the Public Safety Liaison, and direct Enbridge to work with the Liaison to ensure proper execution of the Pipeline Routing Permit's public safety and private security provisions. The Liaison will be the point of contact for the Commission, the parties, and local governmental units on safety and security issues. The Liaison may retain staff and professional services, but this permit will provide no additional ~~have no~~ authority to oversee or direct law enforcement authorities.

Second, the Commission will direct Enbridge to develop public safety and security plans for this project. Before beginning construction in any county, Enbridge should obtain approval for these plans from the county sheriff or, if unable to do so, from the Commission.

Third, during construction, the Commission expects Enbridge to work with local authorities to prohibit public access to the right-of-way, if required for public safety and security. But in taking such actions, the Commission also expects Enbridge, its contractors, and its assigns to respect the rights of the public to legally exercise their constitutional rights without interference. Specifically, the Commission expects ~~these~~ Enbridge's agents to avoid engaging in counterinsurgency tactics or misinformation campaigns designed to interfere with the public's legal exercise of constitutional rights. Moreover, the Commission expects that these agents will comply with Minnesota's Private Detective and Protective Agent Services statutes and rules at all times. As a condition of the routing permit, the Commission will direct Enbridge to act accordingly.

Fourth, to address parties' concerns about problems that have arisen in other construction projects, the Commission will direct Enbridge to develop a Human Trafficking Prevention Plan to educate, equip, and encourage people associated with pipeline construction and operation, and members of the public generally, to prevent and report Project-related human trafficking.

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As part of this plan, Enbridge would maintain a toll-free hotline throughout the Project's construction for receiving reports of human trafficking. Enbridge must file the plan with the Commission 60 days before beginning construction, and incorporate the plan into its employee training and education as discussed in Section 4.7 of the Pipeline Routing Permit.

Moreover, Enbridge should develop this plan in coordination with the EERA, the Minnesota Human Trafficking Taskforce, and the Minnesota Indian Affairs Council (MIAC), and all Minnesota Tribes that wish to participate. EERA has agreed to formally extend invitations to the Minnesota Human Trafficking Taskforce, MIAC, and the governments of all Tribes in Minnesota or in MIAC for this purpose. Enbridge will be responsible for coordinating, completing, and delivering the plan—so Enbridge should document its efforts to engage these entities.

Safety expenses. Finally, parties noted that pipeline projects in other parts of the country have sometimes resulted in added burdens to law enforcement and social service agencies. Given the possibilities that the Project could cause similar effects, the Commission will direct Enbridge to help defray these added costs by creating, funding, and administering a Public Safety Escrow Trust as follows:

- A. The Public Safety Liaison must confer with law enforcement/social service agencies of affected local units of government, including tribal governments, about the appropriate sums required to meet the enhanced law enforcement and social service needs arising from the Project.
- B. The ~~Executive Secretary, after consulting with the~~ Public Safety Liaison, will determine the appropriate initial amount to be deposited into the Public Safety Escrow Trust Account, and any subsequent amounts.
- C. Before beginning construction, Enbridge must establish the Public Safety Escrow Trust Account in an independent US financial institution, designate the financial institution as trustee, and make deposits as specified.
- D. The ~~Executive Secretary~~ DPS Commissioner will establish a plan for distributing funds to enhance existing law enforcement agencies and social services task along the route.

The fund would have two parts. First, the ~~Executive Secretary~~ DPS Commissioner would arrange for providing funds, before construction begins, to help existing law enforcement and social service agencies along the route in combatting drug and human trafficking during pipeline construction. The Public Safety Liaison will coordinate these drug and human trafficking grants

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after consulting with local and tribal governments near the route, Minnesota Human Trafficking Taskforce, and MIAC.

Second, the fund would permit local units of government to seek reimbursement for the added costs for law enforcement, public safety, public health, planning, and other services arising from activities in and around the construction site during the term of the routing permit as a direct result of the pipeline construction. After having sought reimbursement from state or federal funding programs as appropriate, local units of government and tribal governments could submit to the Public Safety Liaison a written request for reimbursement. The request should contain an itemized list of expenses and sufficient detail to permit the ~~Commission~~ Public Safety Liaison to determine whether the services rendered were reasonable and appropriate additional ~~municipal~~ services uniquely provided due to the construction of the pipeline during the term of this permit.

Examples of reimbursable expenses will include incremental expenses related to—

- coordination of public safety and emergency responders;
- public safety-related costs for maintaining the peace in and around the construction site;
- review and oversight of any private security services;
- public emergency management services;
- transportation management, parking, and traffic control services; and
- any other emergency first responder, public safety, public works, and public health-related services provided in and about the construction site as a direct result of the construction of the pipeline.

These measures should help Enbridge mitigate the Project's effects on human settlements generally.

Reissued October 26, 2018 Ordering Paragraphs 6-9 at Pages 31-33

6. The ~~Executive Secretary shall~~ Commission will designate a the Commissioner of the Minnesota Department of Public Safety (DPS Commissioner) as the Public Safety Liaison to work with Enbridge to ensure all the public safety and private security provisions of the Pipeline Routing Permit are executed appropriately. The Public Safety Liaison will be the point of contact for the Commission, the parties, and local governmental units on safety and security issues and may, with the Executive Secretary's approval, hire or contract for clerical and auditing services to fulfill the obligations under the permit. ~~The~~

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~~This permit will not provide the Public Safety Liaison with any additional authority is not to oversee or direct law enforcement authorities exercise any oversight or in any way direct law enforcement activities of authorities for local, state and federal agencies.~~

7. Enbridge shall work with local authorities to prohibit public access to the right-of-way during construction to promote public safety and security, as needed.
 - A. Enbridge and its contractors and assigns shall –
 - 1) respect the rights of the public to legally exercise their constitutional rights without interference,
 - 2) refrain from participating in counterinsurgency tactics or misinformation campaigns designed to interfere with the public’s legal exercise of constitutional rights, and
 - 3) comply with Minnesota’s Private Detective and Protective Agent Services statutes and rules.
 - B. Before beginning construction in any county, Enbridge shall obtain approval for its public safety and security plans from the county sheriff or, if unable to do so, from the Commission.
8. Enbridge shall develop a Human Trafficking Prevention Plan.
 - A. Enbridge shall design the plan to educate, equip, and encourage the public and those associated with pipeline construction and operation to prevent and report Project-related human trafficking. Enbridge shall establish a toll-free hotline for reporting human trafficking during the Project’s construction. Enbridge shall incorporate the plan into the employee training and education required by Section 4.7 of the Pipeline Routing Permit.
 - B. Enbridge shall develop the plan in coordination with the EERA, the Minnesota Human Trafficking Taskforce, and the Minnesota Indian Affairs Council, and all Minnesota Tribes that wish to participate. EERA will issue a written invitation to assist in the development of the plan to the Minnesota Human Trafficking Taskforce, MIAC, and the governments of all Tribes within the state MIAC and the governments of all Tribes within the state. Enbridge shall retain all other responsibilities for coordinating, completing, and implementing the plan, and shall document all efforts

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to engage the above entities. Enbridge shall file the plan with the Commission 60 days before beginning construction.

9. Enbridge shall create and fund a Public Safety Escrow Trust Account to help defray the costs of the added burdens to law enforcement and social service agencies along the pipeline route arising from the Project.
 - A. The Public Safety Liaison shall confer with law enforcement/social service agencies of affected local units of government, including tribal governments, about the appropriate sums required to meet the enhanced law enforcement and social service needs arising from the Project.
 - B. The ~~Executive Secretary, after consulting with the~~ Public Safety Liaison and the Tribal Liaison, shall determine the appropriate initial amount to be deposited into the Public Safety Escrow Trust Account, and any subsequent amounts.
 - C. Before beginning construction, Enbridge shall establish the Public Safety Escrow Trust Account in an independent US financial institution, designate the financial institution as trustee, and make deposits as specified. The financial institution shall manage the trust according to the terms of the Pipeline Routing Permit.
 - D. The ~~Executive Secretary~~ Public Safety Liaison shall establish a plan for distributing funds before construction begins to enhance existing law enforcement and social service agencies along the route in combatting drug and human trafficking during the Project's construction. The Public Safety Liaison shall coordinate these drug and human trafficking grants after consulting with local and tribal governments near the route, the Minnesota Human Trafficking Taskforce, and MIAC.
 - E. Local units of government may also seek reimbursement for the added costs for law enforcement, public safety, public health, planning, and other services arising from activities in and around the construction site during the term of the routing permit as a direct result of the pipeline construction. After having sought reimbursement from state or federal funding programs as appropriate, local units of government may submit to the Public Safety Liaison a written request for reimbursement. The request should contain an itemized list of expenses and sufficient detail to permit the ~~Executive Secretary~~ Public Safety Liaison to determine whether the services rendered were reasonable and appropriate additional ~~municipal~~ services uniquely

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provided as a result of the construction of the pipeline during the term of this permit.

- F. Examples of reimbursable expenses include incremental expenses related to—
- 1) coordination of public safety and emergency responders;
 - 2) public safety-related costs for maintaining the peace in and around the construction site;
 - 3) review and oversight of any private security services;
 - 4) public emergency management services;
 - 5) transportation management, parking, and traffic control services; and
 - 6) other emergency first responder, public safety, public works, and public health-related services provided in and about the construction site as a direct result of the construction of the pipeline.

Reissued January 18, 2020 Route Permit Language

5.5 Public Safety and Security

Prior to construction, the Permittee will submit for approval a security plan to the Sheriff's Office in each county where construction is to take place. The security plan and Sheriff's Office approval of the plan shall also be filed with the Commission. The Permittee will work with local authorities to prohibit public access to the right-of-way during construction to promote public safety and, as needed, security.

At all times during the term of this permit the Permittee, the Permittee's contractors and assigns shall respect the rights of the public to legally exercise their Constitutional rights without interference by the Permittee unless determined to be a public safety concern. The Permittee, the Permittee's contractors and assigns will not participate in counterinsurgency tactics or misinformation campaigns to interfere with the rights of the public to legally exercise their Constitutional rights. At all times during the term of this permit the Permittee shall comply with Minnesota's Private Detective and Protective Agent Services laws and rules, and make their records evidencing compliance available for inspection to the Public Safety Liaison and the local Sheriff's Office throughout construction.

5.5.1 Public Safety Escrow Account

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Prior to construction, the Permittee shall establish a Public Safety Escrow Account with an independent United States financial institution. The Public Safety Escrow Account will be managed by the selected financial institution as the trustee and in accordance with the terms of this permit. The amount of initial and additional deposit shall be determined by the ~~Commission's Executive Secretary after consultation with the~~ Public Safety Liaison. To receive payment from the Public Safety Escrow Account, Local Government Units (LGU) shall submit in writing an itemized request to the Public Safety Liaison sufficient to ~~recommend to the Commission's Executive Secretary~~ determine whether services rendered were additional ~~municipal~~ services uniquely provided as a result of construction of the pipeline during the term of this permit in addition to being reasonable and appropriate. Prior to payment from the Public Safety Escrow Account, the LGU must seek reimbursement from any existing state or federal funding programs that may exist for reimbursement of such expenses and restitution when appropriate. Any amounts not distributed within 180 days of the completion of construction shall be released back to the Permittee.

Covered additional municipal services include those incrementally additional services provided by a LGU for public safety, public health regulation, planning and other services uniquely provided as a direct result of the pipeline construction during the term of this permit for activities in and around the construction site. Additional municipal services include at a minimum the following:

- Public safety and emergency responder related coordination services;
- Public safety related costs for maintaining the peace in and around the construction site;
- Review and oversight of any private security services;
- Public emergency management services;
- Transportation management parking and traffic control services; and
- Any other emergency first responder, public safety, public works, and public health regulation services provided as a direct result of the construction of the pipeline occurring in and about the construction site.

5.5.2 Public Safety Liaison

Prior to construction, ~~the Commission's Executive Secretary shall select an individual to be the Public Safety Liaison between the Commission, the Permittee, and the LGUs to~~ the Public Safety Liaison shall ensure all public safety and private security provisions of this permit are executed appropriately. The Public Safety Liaison may hire or contract for clerical and auditing services to fulfill the obligations under the permit ~~after seeking approval from the Commission's Executive~~

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~~Secretary~~. The Public Safety Liaison is not to exercise any oversight or in any way direct ~~the law enforcement activities of authorities for local, state, and federal agencies~~ law enforcement authorities.