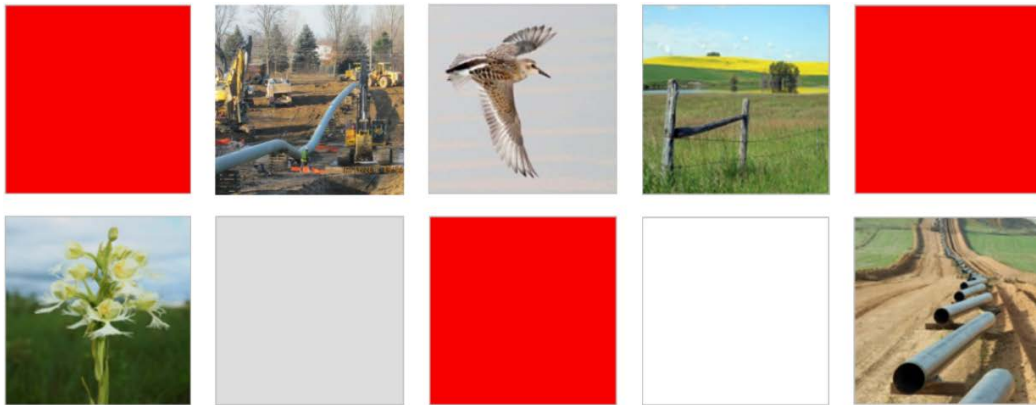


# **LINE 3 REPLACEMENT PROJECT**

## **Application for Pipeline Routing Permit**

**Minnesota Public Utilities Commission  
Appendix H**

### **Agricultural Protection Plan**



**Enbridge**

## AGRICULTURAL PROTECTION PLAN

April 2015

## TABLE OF CONTENTS

<b>DEFINITIONS .....</b>	<b>ii</b>
<b>PURPOSE AND APPLICABILITY .....</b>	<b>1</b>
<b>GENERAL PROVISIONS .....</b>	<b>1</b>
<b>MITIGATION MEASURES.....</b>	<b>3</b>
1. Right-of-Way Width.....	3
2. Pipeline Depth of Cover .....	4
3. Winter Construction .....	4
4. Temporary Erosion and Sediment Control .....	5
5. Topsoil Stripping, Trenching, Soil Storage, and Replacement .....	5
6. Repair of Damaged and Adversely Affected Tile.....	8
7. Agricultural Drainage Ditches .....	10
8. Rock Removal .....	10
9. Removal of Construction Debris .....	10
10. Compaction, Rutting, and Soil Restoration .....	10
11. Fertilization and Liming.....	11
12. Land Leveling .....	11
13. Prevention of Soil Erosion.....	11
14. Repair of Damaged Soil Conservation Practices .....	11
15. Interference with Irrigation Systems .....	12
16. Ingress and Egress.....	12
17. Temporary Roads.....	12
18. Weed Control.....	13
19. Pumping of Water from Open Trenches.....	13
20. Construction in Wet Conditions.....	13
21. Procedures for Determining Construction-Related Damages.....	13
22. Advance Notice of Access to Private Property .....	14
23. Indemnification .....	14
24. Tile Repair Following Pipeline Installation.....	14
<b>MANAGEMENT OF CHANGE PROCEDURE .....</b>	<b>14</b>

## APPENDICES

Appendix A	Mitigation Measures for Organic Agricultural Land
Appendix B	Management of Change Onsite Modification Request Form

## DEFINITIONS

Agricultural Inspector	On-site inspector retained by Enbridge to verify compliance with requirements of this Plan during construction.
Agricultural Land	Land that is actively managed for agricultural purposes, including: cropland, hayland, or pasture; silvicultural activities (i.e., tree farms); and land in government set-aside programs such as Conservation Reserve Program and Conservation Reserve Enhancement Program. Agricultural Land may also include land that is otherwise fallow but would likely be cultivated within 5 years of construction completion.
Agricultural Monitor	On-site third-party monitor retained and funded by Enbridge, but providing direct reports to the Minnesota Department of Agriculture and/or Wisconsin Department of Agricultural, Trade, and Consumer Protection and responsible for auditing Enbridge's compliance with provisions of this Plan.
APP	Agricultural Protection Plan.
ATWS	Additional Temporary Workspace.
BMP	Best Management Practices.
CFR	Code of Federal Regulations.
Cropland	Land actively managed for growing row crops, small grains, or hay.
Easement	The agreement(s) and/or interest in privately owned Agricultural Land held by Enbridge by virtue of which it has the right to construct and operate together with such other rights and obligations as may be set forth in such agreement.
EPP	Environmental Protection Plan
Final Cleanup	Pipeline construction activity that occurs after backfill but before restoration of fences and required reseeding. Final Cleanup activities include: replacing Topsoil, removal of construction debris, removal of excess rock, decompaction of soil as required, final grading, and installation of permanent erosion control structures.
Landowner	Person(s) holding legal title to Agricultural Land from whom Enbridge is seeking, or has obtained, a temporary or permanent Easement. The term "Landowner" shall include any person(s) authorized in writing by the actual Landowner to make decisions regarding the mitigation or restoration of agricultural impacts to such Landowner's property.
MDA	Minnesota Department of Agriculture
MOC	Management of Change procedure.
MN PUC	Minnesota Public Utilities Commission
Non-Agricultural Land	Any land that is not "Agricultural Land" as defined above.
NDA	North Dakota Department of Agriculture
ND PSC	North Dakota Public Service Commission

Person	An individual or entity, including any partnership, corporation, association, joint stock company, trust, joint venture, limited liability company, unincorporated organization, or governmental entity (or any department, agency, or political subdivision thereof).
Planned Tile	Locations where the proposed Tile installation is made known in writing to Enbridge by the Landowner either: 1) within 60 days after the signing of an Easement; or 2) before the issuance of a Routing Permit to Enbridge; whichever is sooner.
PSCW	Wisconsin Public Service Commission
Right-of-way	The land included in permanent and temporary Easements that Enbridge possess for the purpose of construction and operation.
Routing Permits	Routing permits issued by the ND PSC, MN PUC, and PSCW.
Spoil Storage Side	Non-working side of the construction Right-of-way where ditch spoil and temporary Topsoil are stored (as needed).
Tenant	Any person, other than the Landowner, lawfully residing on or in possession or control of the land that makes up the "right-of-way" as defined in this Plan.
Tile	Subsurface drainage systems and their aboveground appurtenances.
Topsoil	The uppermost horizon (layer) of the soil, typically with the darkest color and highest content of organic matter and nutrients.
Trench Crown	The placement of subsoil and Topsoil in the trench to a finished elevation somewhat above the surrounding ground surface to account for post-construction settling of soil returned to the trench.
TWS	Temporary Workspace
USC	United States Code
USDA	United States Department of Agriculture
USDOT	United States Department of Transportation
WDATCP	Wisconsin Department of Agricultural, Trade, and Consumer Protection

## **PURPOSE AND APPLICABILITY**

This Agricultural Protection Plan ("Plan") was developed by Enbridge in consultation with the Minnesota Department of Agriculture ("MDA") and the Wisconsin Department of Agricultural, Trade, and Consumer Protection ("WDATCP")<sup>1</sup>. Enbridge will include the Plan as part of applications for a Pipeline Routing Permit ("PRP") from the Minnesota Public Utilities Commission ("MN PUC") and a Public Interest Determination ("PID") from the Wisconsin Public Service Commission ("PSCW"). Through the MN PUC and PSCW public notice and review processes associated with the applications, other agencies (including the MDA and WDATCP), local authorities, Landowners, Tenants, and other stakeholders are able to review and provide comments on the Plan. This Plan will be incorporated by reference into the Routing Permits issued by the MN PUC and the Public Interest Determination issued by the PSCW. Once finalized, this Plan may also be incorporated by reference into other federal, state, and local permits.

The objective of the Plan is to identify measures that Enbridge will implement to avoid, mitigate, or provide compensation for negative agricultural impacts that may result from pipeline construction. The construction standards described in this document apply only to construction activities occurring partially or wholly on privately owned Agricultural Land. Furthermore, Best Management Practices ("BMPs") identified in the Enbridge's Environmental Protection Plan ("EPP") may be installed on Agricultural Land in conjunction with mitigation measures outlined in this Plan.

Unless the easement or other agreement, regardless of nature, between Enbridge and the Landowner specifically requires the contrary, the mitigation measures specified in this Plan will be implemented in accordance with the conditions discussed below.

Appendix A sets forth the specific additional mitigation measures that will be applied specifically to Organic Agricultural Lands, such as Certified Organic farms or farms that are in active transition to become Certified Organic. Organic Agricultural Land is defined as farms or portions thereof, as described in the National Organic Program, Title 7 Code of Federal Regulations ("CFR") § 205.

## **GENERAL PROVISIONS**

All mitigation measures are subject to change by Landowners, provided such changes are negotiated in advance of construction and acceptable to Enbridge. If any provision of this Plan is held to be unenforceable, no other provision will be affected by that holding, and the remainder of the Plan will be interpreted as if it did not contain the unenforceable provision.

Enbridge will consider any federal, state, and local permit, including Routing Permits, to be the controlling authority. To the extent a mitigation measure contemplated by this Plan is determined to be unenforceable in the future due to requirements of other permits issued, Enbridge will inform the regulatory authority and will develop reasonable alternative measures. Enbridge will implement the mitigation measures and BMPs described in this Plan to the extent they do not conflict with the requirements of federal and state rules and regulations, and permits and approvals obtained by Enbridge. Certain provisions of this Plan require Enbridge to consult and/or reach agreement with the Landowner of a property. Enbridge will engage in a good faith effort to

<sup>1</sup> Enbridge also attempted to engage the North Dakota Department of Agriculture ("NDA") for purposes of Plan development. The NDA has not replied to-date. Nonetheless, Enbridge will apply this Plan to the entire project (including North Dakota Agricultural Lands). State-specific requirements may be referenced within this Plan.

secure the agreement. Tenants will not be consulted except where a Landowner has designated in writing that a Tenant has decision making authority on their behalf.

Enbridge will retain qualified contractors to perform mitigation measures; however, Enbridge may negotiate with Landowners to implement the mitigation measures that Landowners wish to perform themselves.

Enbridge will employ an Agricultural Inspector whose role is to verify compliance with the requirements of this Plan during construction of the pipeline. The Agricultural Inspector will be employed by and report to Enbridge, and will be a part of Enbridge's environmental inspection team.

The Agricultural Inspector will:

- Be a full-time member of Enbridge's environmental inspection team
- Provide construction personnel with training on provisions of this Plan before construction begins;
- Provide construction personnel with field training on specific topics, such as protocols for Topsoil stripping;
- Observe construction activities on Agricultural Land on a continual basis;
- Be responsible for verifying Enbridge's compliance with provisions of this Plan during construction;
- Work collaboratively with other Enbridge inspectors, right-of-way agents, and the Agricultural Monitor in achieving compliance with this Plan;
- Document instances of noncompliance and work with construction personnel to identify and implement appropriate corrective actions as needed; and
- Have the authority to stop construction activities that are determined to be out of compliance with the provisions of this Plan.

In addition to the Agricultural Inspector, an Agricultural Monitor will also inspect construction work on Agricultural Lands in Minnesota and Wisconsin. The Agricultural Monitor will be retained and funded by Enbridge, but will function as an independent third-party inspector providing direct reports to the MDA and WDATCP, and will be responsible for auditing Enbridge's compliance with the provisions of this Plan in Minnesota and Wisconsin, respectively. Enbridge will provide resumes of candidates who meet the qualifications of an Agricultural Monitor for review and final selection by the MDA and WDATCP.

The Agricultural Monitor will not be a member of Enbridge's environmental inspection team. The Agricultural Monitor will not have the authority to direct construction activities or manage Enbridge employees or contractors. The Agricultural Monitor will work through Enbridge's Agricultural Inspector and the MDA and WDATCP if compliance issues are identified. The Agricultural Monitor will have full access to Agricultural Land crossed in Minnesota and Wisconsin and will have the option to attend meetings where construction on Agricultural Land is discussed. Specific duties of the Agricultural Monitor will include:

- Participate in preconstruction training activities sponsored by Enbridge;
- Monitor construction and restoration activities on Agricultural Land for compliance with provisions of this Plan;
- Review Management of Change ("MOC") requests;
- Approve MOC Level 1 requests as appropriate;

- Report instances of noncompliance to Enbridge's Agricultural Inspector;
- Prepare regular compliance reports and submit them to the MDA and WDATCP;
- Act as a liaison between Landowners and the MDA and WDATCP when necessary and requested by the Landowner;
- Serve as a resource to investigate complaints at the direction of the MDA and WDATCP and to explain any proposed changes to this Plan during construction; and
- Maintain a written log of communications from Landowners regarding compliance with this Plan as well as report Landowner complaints to Enbridge's Agricultural Inspector or right-of-way representative.

Both the Agricultural Inspector and Monitor will have a bachelor's degree in agronomy, soil science, or equivalent work experience. In addition, the Agricultural inspectors and Agricultural Monitors will have demonstrated practical experience with pipeline construction and restoration on Agricultural Land.

Enbridge will provide each Landowner with a telephone number and address that can be used to contact Enbridge, during and following the completion of construction, regarding the agricultural mitigation work that is performed on their property or other construction-related matters. If the contact information changes following construction, Enbridge will provide the Landowner with updated contact information. Enbridge will respond to Landowner telephone calls and correspondence within a reasonable time.

Mitigation measures identified by Enbridge pursuant to this Plan, unless otherwise specified in this Plan or in an Easement or other agreement with an individual Landowner, will be initiated within forty-five (45) days following completion of Final Cleanup on an affected property, weather permitting or unless otherwise delayed at the request of the Landowner. If implementation of mitigation measures requires additional time, Enbridge will make temporary repairs, as needed, to minimize the risk of additional property damage or interference with the Landowner's access to or use of the property.

## **MITIGATION MEASURES**

### **1. Right-of-Way Width**

Prior to construction, Enbridge will establish the right-of-way width for construction and temporary workspace ("TWS") in Agricultural Lands based on prior project experience, engineering and construction requirements or best practices, and safety needs. The construction limits will be shown on alignment sheet drawings provided to the construction contractor, Environmental Inspector, Agricultural Inspector, Agricultural Monitor, and regulatory authorities.

- A. The typical construction workspace will be governed by the Routing Permits and other permits, but may be up to 120 feet wide in uplands, of which 50 feet will typically be retained in a permanent Easement, and 70 feet, respectively, will typically be TWS. The TWS will be used during construction for soil storage and operation of equipment and vehicles along the entire length of the pipeline. At certain select areas where the pipeline crosses natural geographic or larger man-made features such as roads, railroads, streams, or wetland crossings, a defined area of additional temporary workspace ("ATWS") will be required on each side of the feature.
- B. The construction boundaries of ATWS will be staked prior to the work at each location.



- C. If the area of the ATWS is not sufficient to perform the work and implement BMPs, Enbridge will refrain from construction in that area until an adequate work area is available and approved. Enbridge will discuss the need for ATWS with the construction contractor, construction inspection team, Agricultural Inspector, Agricultural Monitor, and the Landowner, and will not use any additional workspace until approved by the Landowner, Agricultural Monitor, and regulatory authorities, as applicable.

## **2. Pipeline Depth of Cover**

- A. Except for aboveground facilities, such as mainline block valves, and except as otherwise stated in this Plan, the pipeline will be buried with the following depths of cover on Agricultural Land:
  - 1) The pipeline will be constructed with a minimum depth of cover of 30 inches as required by U.S. Department of Transportation ("USDOT") regulations in 49 CFR §195.248. Section 216G.07 of the Minnesota Statutes further requires a minimum depth of cover of 54 inches unless waived by the Landowner. As a result, Enbridge will ask Landowners to waive the 54-inch-deep minimum cover requirement, as allowed by Minn. Stat. § 216G.07 and consistent with Enbridge's expansion projects in 1994, 1998, 2002, 2008, and 2009-2010.
  - 2) Where existing or planned Tile systems are present, the pipeline will be installed at a depth that will achieve at least a 12-inch-wide separation between the pipeline and overlying Tiles as described in Section 2.C. of this Plan.
- B. Enbridge will construct the pipeline under existing non-abandoned Tile and Planned Tile within six (6) feet of the surface, unless the Landowner determines otherwise in writing. Enbridge may install the pipeline over Tile that is buried deeper than six (6) feet. If, prior to construction, the Landowner plans to install a new Tile system, the Landowner must provide to Enbridge plans drawn by a qualified professional with experience in Tile design and installation. In determining the proper depth of the pipeline, Enbridge will accommodate the depth and grade needed for both existing and Planned Tile to function properly. Enbridge will not change the grade of existing Tile to accommodate the pipeline without the Landowner's advance written consent.
- C. A minimum of twelve (12) inches of separation will be maintained between the pipeline and Tile unless the Landowner agrees in writing to a lesser separation. If unforeseen physical conditions are discovered during construction that prevents minimum separation, the Landowner will be informed of the situation prior to the installation of the pipeline over the Tile. If a good faith effort is made and the Landowner is unavailable, the Agricultural Monitor will be informed and construction will continue.

## **3. Winter Construction**

Enbridge intends on avoiding construction in Agricultural Lands in the winter season. However, to protect the productivity of Agricultural Lands in the event that winter construction is unavoidable as a result of weather, permit acquisition, or any other unforeseen delays, the following mitigation measures are proposed:

- A. *Minimize Topsoil Stripping in frozen conditions.* Frozen conditions can preclude effective Topsoil stripping. When soil is frozen to a depth greater than the depth of the Topsoil, Topsoil cannot be efficiently stripped from the subsoil. If Topsoil stripping must proceed under these conditions, it will only be removed from the area of the trench. A ripper will be used to break up the frozen Topsoil over the trenchline and a backhoe will remove the Topsoil layer and store the material in a separate pile. The ripper will extend to the depth of Topsoil or to a maximum depth of eighteen (18) inches in the Red River Valley (In Minnesota) and twelve (12) inches elsewhere, whichever is less.
- B. *Minimize Final Clean-up activities in frozen conditions.* Frozen conditions can preclude effective Topsoil replacement, removal of construction debris, removal of excess rock, decompaction of soil as required, final grading, and installation of permanent erosion control structures. If seasonal or other weather conditions preclude Final Clean-up activities, the trench and temporary workspace areas will be backfilled, stabilized, and temporary erosion control measures will be installed until restoration can be completed. If Topsoil/spoil piles remain throughout the winter, the Topsoil/spoil piles will be stabilized by an application of mulch and a tackifier or other methods approved by the regulatory authority. To prevent subsidence, backfill operations will resume when the ground is thawed and the subsoil will be compacted (as needed) prior to Final Clean-up activities. The construction contractor must monitor these areas until final restoration is complete.
- C. Topsoil Stripping and Final Clean-up activities proposed in Agricultural Lands in frozen conditions in Minnesota and Wisconsin will be discussed with the MDA and WDATCP, respectively prior to commencement of these activities.

#### **4. Temporary Erosion and Sediment Control**

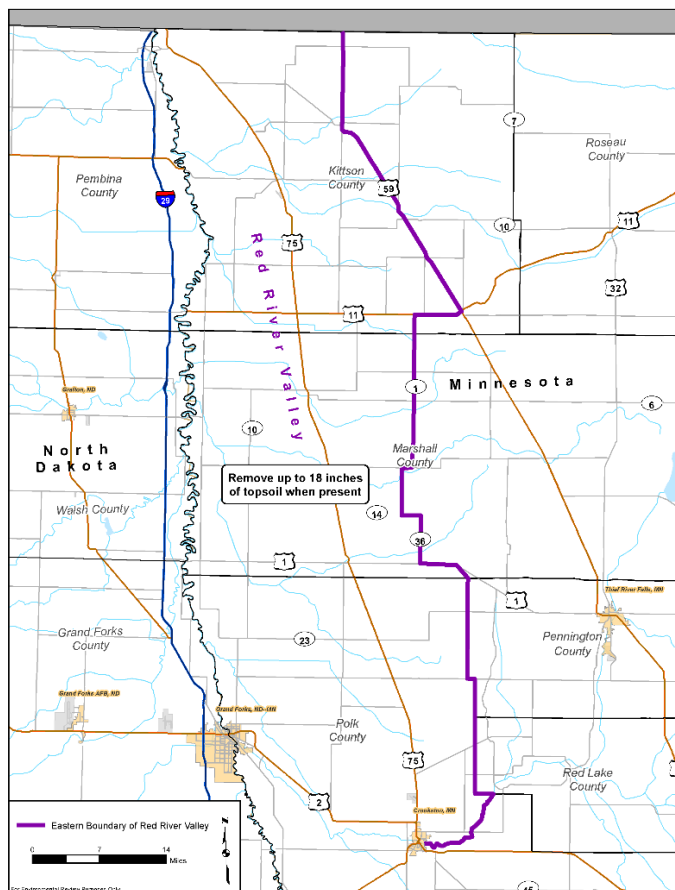
Temporary erosion and sediment controls will be implemented as required and are described in the EPP.

#### **5. Topsoil Stripping, Trenching, Soil Storage, and Replacement**

- A. Full and partial Topsoil stripping methods are similar except for the area where the Topsoil is removed. With full Topsoil stripping, the Topsoil is removed from the entire working side (traffic lane, trench spoil storage, Topsoil storage piles, and trench area) of the right-of-way. Under partial Topsoil stripping, the Topsoil will not be removed from under the Topsoil storage piles. Topsoil will also be removed and segregated in other areas, such as bore pits at road and railroad crossings, where the footprint may be larger and/or irregularly shaped. Topsoil is typically stored on the outer most edge of the working side of the construction right-of-way, however, Enbridge may also store Topsoil on the spoil storage side of the construction workspace where there are workspace constraints. Typical details for each Topsoil stripping method are presented in the EPP.

Enbridge will use the following Topsoil segregation methods during construction on Agricultural lands. The method selected will be dependent on specific Landowner approvals or agreements, field conditions, regulatory authority or permit requirements and/or other factors.

- Modified Ditch-Plus-Spoil-Side Method – This method involves stripping Topsoil horizon from the spoil storage area, the pipeline trench, and the primary portion of the travel lane. The modified ditch-plus-spoil-side method would typically be used in active cropland in the Red River Valley (in Minnesota).
  - Full Right-of-Way Method – This method involves stripping Topsoil from the entire width of the construction right-of-way. On most Agricultural Land located outside of the Red River Valley (in Minnesota), Topsoil will be removed from the full right-of-way because this method typically results in less soil mixing between Topsoil and subsoil caused by equipment rutting over areas where Topsoil was not stripped. A larger volume of Topsoil will be generated using this method and, consequently, may warrant the need for Topsoil to also be stored on both sides of the construction right-of-way.
  - Trenchline-Only Method – This method involves removing Topsoil from over the proposed trench only, and may be used where Enbridge determines that the width of the construction right-of-way is insufficient for storing Topsoil and maintaining a sufficient width to perform construction activities and allow equipment to pass.
- B. The maximum depth of Topsoil stripping will be twelve (12) inches, except in the Red River Valley in Minnesota (see Figure below).



In the Red Lake Valley up to eighteen (18) inches of Topsoil may be stripped when present, unless otherwise agreed to with MDA. In this area, Enbridge will work with MDA to identify a suitable protocol for communicating the appropriate depth of Topsoil stripping to construction personnel. The Agricultural Inspector or the designated Enbridge inspector will observe Topsoil operations so that appropriate depths are removed.

- C. Equipment operators will be trained to discriminate between Topsoil and subsoil based on obvious color changes. In locations where the Topsoil/subsoil color changes are not easily distinguishable or variable, the Agricultural Inspector will determine the depth.
- D. Before removing Topsoil during wet soil conditions, the Agricultural Inspector will assess whether the moisture content in the surface horizon is suitable for grading. If the soil is considered too wet to segregate, stripping may be postponed. Based on the Agricultural Inspector's recommendation, Enbridge may allow Topsoil removal in areas where soils are persistently wet.
- E. Enbridge may also remove Topsoil from ATWS as dictated by site-specific conditions and Landowner agreements. Topsoil will be removed in all "cut and fill" areas prior to grading.
- F. In specific areas of deep Topsoil and as determined in consultation with the Agricultural Inspector and/or the Agricultural Monitor, the modified ditch-plus-spoil method will be used. However, the area requiring Topsoil stripping may be adjusted from the modified ditch-plus-spoil method where the Agricultural Inspector determines that such modification is necessary for safety or would be more protective of the soil resource. The adjusted method may include trenchline-only Topsoil segregation, such as in instances where Topsoil is removed under frozen conditions (i.e., winter construction). In all cases where modifications are proposed, approval from Enbridge, the MDA, the WDATCP, or other regulatory authority is required.
- G. If the Agricultural Monitor and the Agricultural Inspector cannot agree on the proposed adjustment in the Topsoil segregation method, the Agricultural Monitor will document the objection and provide documentation to the MDA and/or WDATCP and Enbridge.
- H. Trench spoil will be placed in a stockpile that is separate from Topsoil. Enbridge will maintain a minimum one (1)-foot-wide separation or place a barrier between Topsoil and subsoil piles to avoid mixing. In areas where the Topsoil has not been stripped from the subsoil storage area, subsoil can be stored on a thick layer of mulch or another physical barrier that identifies and protects the unstripped Topsoil.
- J. Backfilling will follow lowering the pipe into the trench. During trench backfilling, subsoil material will be replaced first, followed by Topsoil. To prevent subsidence, subsoil will be backfilled and compacted. Compaction by operating construction equipment along the trench is acceptable.
- K. Rock excavated from the trench may be included with backfill provided the rock content of the pre-construction soils is not significantly increased. In the event excess rock cannot be returned to the trench without substantially increasing pre-existing rock

content, rocks will be considered construction debris and removed (see Section 8 of this Plan).

- L. Replacing Topsoil will be initiated within fourteen (14) days after backfilling the trench. If seasonal or other weather conditions prevent compliance with this timeframe, temporary erosion control measures must be implemented and maintained until conditions allow completion of cleanup. Topsoil will be replaced across the stripped area as near as practicable to its original depth. A Trench Crown over the trenchline is permissible to offset potential settling. Following placement of the subsoil crown, Topsoil would be uniformly returned across the stripped area. The height of the crown will generally be equal to, or less than, twelve (12) inches at the center. Breaks in the crown may be cut to accommodate overland water flow across the right-of-way.

## **6. Repair of Damaged and Adversely Affected Tile**

If Tile is damaged during installation of the pipeline, the Tile will be repaired in a manner that restores operating condition. If Tile lines immediately adjacent to the construction area are adversely affected by the pipeline installation, Enbridge will restore the Tile, including the relocation, reconfiguration, or replacement of the Tile. The affected Landowner may settle with Enbridge for payment to repair, relocate, reconfigure, or replace the damaged Tile. In the event the Landowner chooses to perform the repair, relocation, reconfiguration, or replacement of the damaged Tile, Enbridge will not be responsible for correcting Tile repairs after completion of the pipeline and the Landowner's repairs. Enbridge is only responsible for correcting Tile repairs if the repairs were made by Enbridge or its agents or designees.

Prior to pipeline installation, Enbridge will contact Landowners to determine if Tile systems will be affected. Tile systems that will be damaged, cut, or removed during construction will be marked by placing a highly visible flag at the edge of the construction right-of-way directly over the Tile lines. These markers will not be removed until the Tile has been permanently repaired and approved and accepted by the Landowner, or the Agricultural Monitor.

The pipeline trench shall provide a minimum of twelve (12) inches of clearance, where practicable, between the pipe and drainage Tiles. In most situations, the pipe will be installed under the drainage Tile; however, where drain Tiles are deeper than six (6) feet Enbridge may elect to install the pipe above the Tile lines.

Enbridge will ensure that the construction contractor repairs damaged Tile in a manner consistent with industry-accepted methods. At the Landowner's request and with Enbridge's approval, local contractors may perform the repair, replacement, or reconfiguration of the Tiles damaged or cut during pipeline construction.

Where damaged Tile is repaired by Enbridge, the following procedures will apply:

- A. Before completing permanent repairs, Tiles will be examined on both sides of the trench for their entire length within the work area to check for damage by construction equipment. If Tiles are found to be damaged, they will be repaired to preconstruction conditions.

- B. Tiles will be repaired with material of the same or better quality as that which was damaged.
- C. Filter-covered drain Tiles will be replaced with filter-covered drain Tiles.
- D. If the Tile is clay, ceramic, or concrete, any connection made with new material must be made with commercially available connectors, wrapped in plastic, or sealed with Sakrete to prevent soil intrusion.
- E. If water is flowing through a damaged Tile, temporary repairs will be promptly completed and maintained until permanent repairs can be made.
- F. Where Tiles are damaged or severed by the pipeline trench, repairs will be made according to the following procedures:
  - 1) Where Tiles are severed by the pipeline trench, double-walled drain Tile pipe, or its equivalent material, will be used for Tile repairs.
  - 2) Within the trench, one and one-half (1.5) inch river gravel, four (4) inch crushed stone, sandbags, bags of Sakrete (or an equivalent), or poured concrete will be backfilled under Tiles, as needed, to provide support and prevent settling. Concrete blocks are also acceptable forms of support as are protective pads on the pipeline.
  - 3) The support member will be of sufficient strength to support loads expected from normal farming practices (i.e., loads up to a ten (10) ton point load) on the surface directly above the repaired Tile.
  - 4) The support member will extend a minimum of two (2) feet into the soil on both sides of the trench and will be installed in a manner that will prevent it from overturning. If the repairs involve clay Tile, the support member will extend to the first Tile joint beyond the minimum two (2) -foot-wide distance.
  - 5) There will be a minimum clearance as required by Section 2.C. of this APP.
  - 6) The grade of the Tile will not be changed.
- G. Enbridge will initiate efforts to complete permanent Tile repairs within a reasonable timeframe after Final Cleanup, weather and soil conditions permitting.
- H. Following completion of the Final Cleanup, Enbridge will be responsible for correcting repairs to Tile that fail, but only if Enbridge or its agents or designees made the initial repairs. Enbridge will not be responsible for Tile repairs that Enbridge has paid the Landowner to perform.
- I. Any necessary modifications to the configuration of existing Tile systems must be consistent with the U.S. Department of Agriculture ("USDA"), Natural Resources Conservation Service, and Minnesota Wetland Conservation Act restrictions, and other regulatory authorities on wetland drainage.

## **7. Agricultural Drainage Ditches**

Where the pipeline route crosses agricultural drainage ditches that are operated by the Landowner, the pipeline will be installed at a depth that is sufficient to allow for ongoing maintenance of the ditch. After the pipeline is installed, the ditch will be restored to its preconstruction contours with erosion controls as needed. Ditches that are operated and maintained by a public entity will be crossed in accordance with applicable permits.

## **8. Rock Removal**

The following conditions will apply on Agricultural Land:

- A. If trenching, blasting, or boring operations are required in bedrock, suitable precautions will be taken to minimize the potential for rocks to become mixed with the backfill.
- B. After the construction right-of-way has been decompacted as required in Section 10 of this Plan and the Topsoil replaced, Enbridge will remove rocks from the surface of the entire construction area so that the size, density, and distribution of rock on the right-of-way is similar to that on adjacent off-right-of-way areas. Enbridge will consult with the Landowner to identify suitable rock disposal locations on the construction right-of-way, or the rocks will be removed for disposal at another approved disposal location. Written authorization from the Landowner is required for disposal on the Landowner's property. Rock disposal will comply with any federal, state, or local regulations involving fill and disposal of construction debris.

## **9. Removal of Construction Debris**

Construction-related debris, material, and litter will be removed from the Landowner's property at Enbridge's expense. The Landowner or land-managing agency may approve leaving specific materials onsite that may provide for beneficial uses for stabilization or habitat restoration.

## **10. Compaction, Rutting, and Soil Restoration**

- A. In an effort to minimize soil compaction prior to trenching activities, Enbridge will, where practical, transport pipe joints (i.e., "stringing trucks") as closely as possible along the pipeline centerline.
- B. After construction, compaction of the subsoil will be alleviated on Cropland using deep-tillage equipment, as needed. Decompaction of the topsoil, if necessary, will be performed during favorable soil conditions. If the Agricultural Inspector and/or Agricultural Monitor determine that the soil is too wet, decompaction will be delayed until the subsoil is friable/tillable in the top eighteen (18) inches.
- C. Deep subsoil ripping in cropland will occur in all traffic and work areas of the pipeline right-of-way where there was full right-of-way Topsoil stripping, unless the Agricultural Inspector determines compaction has not occurred. This includes ATWS.
- D. Subsoil ripping equipment may include v-rippers, chisel plows, or equivalents.

- E. If the Landowner makes a written claim for damages related to soil compaction greater than that of immediately adjacent Agricultural Land owned by the Landowner but unaffected by pipeline construction, Enbridge will retain a Professional Licensed Soil Scientist, or an appropriately qualified professional engineer. The Professional Soil Scientist or engineer will perform a survey of the construction right-of-way, ATWS, and adjacent unaffected land owned by the Landowner for soil compaction using field equipment such as a soil penetrometer. In addition, where there are row crops, samples will be taken in the middle of the row, but not in rows where the drive wheels of farm equipment normally travel. Copies of the results of the survey will be provided to the Landowners making such claim within thirty (30) days of completion of the soil survey. These surveys for soil compaction will be completed at Enbridge's expense.
- F. Enbridge will restore rutted land as near as practical to its preconstruction condition.
- G. Enbridge will compensate Landowners, as appropriate, for damages caused by Enbridge during construction. Damages will be paid for the cost of soil restoration on the construction right-of-way and ATWS to the extent such restoration work is not performed by Enbridge.
- H. In the event of a dispute between the Landowner and Enbridge regarding what areas need to be deep tilled (i.e., "ripped") or chiseled, or the depth at which compacted areas should be ripped or chiseled, Enbridge will determine the appropriate actions based on the Agricultural Monitor's opinion.

**11. Fertilization and Liming**

Fertilizers and lime will be applied based on Landowner requirements.

**12. Land Leveling**

Following completion of the construction, Enbridge will restore the construction work areas as practicable to the original preconstruction contours. If uneven settling occurs or surface drainage problems develop as a result of pipeline construction, Enbridge will provide additional land leveling services within forty-five (45) days of receiving a Landowner's written notice, weather and soil conditions permitting. Alternatively, Enbridge will negotiate with the Landowner for reasonable compensation in lieu of restoration.

**13. Prevention of Soil Erosion**

Enbridge will install permanent erosion control devices during restoration to prevent erosion as described in Enbridge's EPP.

**14. Repair of Damaged Soil Conservation Practices**

Soil conservation practices (e.g., terraces, grassed waterways) that are damaged by pipeline construction will be restored to their preconstruction condition.



## **15. Interference with Irrigation Systems**

- A. If it is feasible and mutually acceptable to Enbridge and the Landowner, temporary measures will be implemented to allow an irrigation system to continue to operate across land on which the pipeline is being constructed.
- B. If the pipeline right-of-way and/or ATWS interfere with an operational (or soon-to-be operational) spray irrigation system, Enbridge will inform the Landowner of the need to take the Irrigation system out of service. Enbridge and the Landowner will agree upon an acceptable amount of time the irrigation system may be out of service. If Enbridge and the Landowner are unable to agree on the amount of time within ten (10) days of Enbridge informing the Landowner of the need to take the irrigation system out of service, construction will proceed and the Landowner will be asked to take the irrigation system out of service.
- C. If, as a result of pipeline construction, interruption of an irrigation system results in crop damages, either on the right-of-way or off-right-of-way, compensation of Landowners will be determined as described in Section 21 of this Plan.

## **16. Ingress and Egress**

Prior to pipeline construction, Enbridge will identify the means of entering and exiting the right-of-way should access to the right-of-way not be practical or feasible from adjacent tracts or from public highway or railroad rights-of-way, consistent with Enbridge's Easement rights. Temporary access ramps may be constructed using locally obtained Topsoil as needed to facilitate the movement of equipment between public highways and the right-of-way.

## **17. Temporary Roads**

- A. If public roads do not provide sufficient access, Enbridge will attempt to use existing farms roads for access to and from the right-of-way, subject to approval from the Landowner or Enbridge's Easement rights. If Enbridge needs to construct a new temporary access road across Agricultural Land, the location will be made in collaboration with the Landowner. Temporary roads that are needed during construction will be located to minimize impacts on the landowner's or tenant's use of the agricultural land. If temporary roads in Agricultural Lands require gravel stabilization, geotextile construction fabric will be placed beneath the rock to add stability and to provide a distinctive barrier between the rock and soil surface. During restoration of the right-of-way, temporary access roads will be removed or restored to preconstruction conditions, except as described in Section 17C of this Plan.
- B. Temporary roads will be designed so as not to impede drainage and will be constructed to minimize soil erosion.
- C. Following construction, new temporary roads may be left intact through mutual agreement of the Landowner and Enbridge unless otherwise restricted by federal, state, or local regulations.
- D. If the temporary roads are to be removed, the Agricultural Land on which the temporary roads are constructed will be returned to its previous use and restored to a condition

equivalent to what existed prior to construction. Restoration techniques for temporary roads will be similar to those used in restoring the construction right-of-way (e.g., decompaction).

#### **18. Weed Control**

Enbridge has identified and will implement weed control measures as described in the EPP.

Enbridge will provide weed control at its aboveground facility sites (e.g., mainline block valve sites, pump stations) to avoid the spread of weeds onto adjacent Agricultural Land during operation activities. Weed control spraying, will be conducted in accordance with applicable regulatory authorities.

#### **19. Pumping of Water from Open Trenches**

- A. Enbridge will identify locations for discharging water pumped out of trenches in consultation with the Agricultural Inspector and Landowner, to the extent practicable.
- B. When dewatering trenches, Enbridge will discharge the water in a manner that will minimize damaging adjacent Agricultural Land, crops, and/or pasture. Such damages may include, but are not limited to, inundation of crops for more than twenty-four (24) hours and deposition of sediment in cropland and drainage ditches. If water-related damage during discharge from trenches results in a loss of yield, compensation of Landowners will be determined as described in Section 21 of this Plan.
- C. Discharge of water will be conducted in accordance with the EPP, federal and state regulations, and permit conditions.

#### **20. Construction in Wet Conditions**

- A. Should the Agricultural Monitor determine that continued construction in wet conditions could result in damage to soil structure and compromise future cropland productivity, the Agricultural Monitor may request Enbridge's Agricultural Inspector to temporarily halt the activity on a Landowner's property until the Agricultural Monitor consults with Enbridge's Environmental Inspector and Construction Manager. Should Enbridge elect to continue construction activities over the objection of the Agricultural Monitor, Enbridge will retain a Professional Licensed Soil Scientist or an appropriately qualified professional engineer, at its own expense, to perform a survey of the construction right-of-way, ATWS, and adjacent unaffected land owned by the Landowner for soil compaction, prior to final restoration and using the procedures described above.

#### **21. Procedures for Determining Construction-Related Damages**

- A. Enbridge will negotiate in good faith with Landowners who assert claims for construction-related damages. The procedure for resolution of these claims will be in accordance with the terms of the Easements.
- B. Negotiations between Enbridge and any affected Landowner will be voluntary in nature and no party is obligated to follow a specific procedure or method for computing the amount of loss for which compensation is sought or paid, except as otherwise

specifically provided in the Easements. In the event a Landowner should decide not to accept compensation offered by Enbridge, the compensation offered is only an offer to settle, and the offer shall not be introduced in any proceeding brought by the Landowner to establish the amount of damages Enbridge must pay. In the event that Enbridge and a Landowner are unable to reach an agreement on the amount of compensation, any such Landowner may seek further recourse as provided in the Easement.

## **22. Advance Notice of Access to Private Property**

- A. Enbridge or its agents will provide the Landowner with a minimum of twenty-four (24) hours' notice before accessing his/her property for construction, in addition to any regulatory notifications.
- B. Prior notice will consist of a personal or telephone contact, whereby the Landowner is informed of Enbridge's intent to access the land. If the Landowner cannot be reached in person or by telephone, Enbridge will mail or hand-deliver to the Landowner's home a dated, written notice of Enbridge's intent. The Landowner need not acknowledge receipt of the written notice before Enbridge enters the property.

## **23. Indemnification**

Indemnification obligations relating to the pipeline installation covered by this Plan shall be determined in accordance with the terms of the Easements and applicable law.

## **24. Tile Repair Following Pipeline Installation**

- A. If, after pipeline installation, the Landowner must make repairs to the Tile system within the right-of-way, or plans to install a new Tile system, the Landowner must obtain Enbridge approval of the work plan prior to commencing any activities within the right-of-way. Enbridge may impose such requirements and limitations on the work as necessary to protect the safety and integrity of Enbridge's facilities. The Landowner will be responsible for contacting 811 or the local one call center prior to any excavation near the pipeline and complying with all necessary requirements imposed by Enbridge to protect the safety and integrity of Enbridge's facilities.

Enbridge will, at its own expense, follow the procedures below.

- B. An Enbridge representative will be present while the excavation work is being performed, but will not perform the excavation work. If the pipeline is above the Tile system, Enbridge will be responsible for reasonable extra costs incurred by the Landowner to excavate and expose the pipeline in accordance with Enbridge's requirements for protection of the pipeline.

## **MANAGEMENT OF CHANGE PROCEDURE**

As a result of variable field conditions during construction, Enbridge established a MOC procedure to allow this Plan to be modified as needed during construction. The MOC procedure allows for modifications to mitigation measures, construction alignments, plans, designs, methods, and construction work areas governed by this Plan. These modifications will involve discussions amongst representatives of Enbridge, the Agricultural Inspector, the Agricultural Monitor, and the

MDA and/or WDATCP, or other regulatory authorities. Some authority for approval/denial may be delegated to the Agricultural Monitor by the MDA and/or WDATCP, or other regulatory authorities. The MOC process can also be used to clarify discrepancies discovered in project documents and/or to distribute information to team members. Three MOC levels (Levels 1, 2, and 3) will be used to categorize and process requests. Enbridge will not conduct activities that deviate from approved activities without prior authorization by the MDA and/or WDATCP, or other regulatory authorities.

Enbridge anticipates that two types of minor route field realignments/modifications may be required after issuance of the routing permits that would not require approval of the Agricultural Monitor, the MDA and/or WDATCP, or other regulatory authorities: 1) minor realignments that are requested by the Landowner; and 2) minor realignments required due to site-specific conditions (e.g., steep slopes and other constructability concerns).

When these modifications are requested by Landowners or determined necessary for constructability and they do not affect other Landowners or sensitive environmental areas, such as wetlands, Enbridge will review all of the preconstruction surveys, documentation/collection, and mitigation, but will not request written approval of the Agricultural Monitor, MDA and/or WDATCP, or other regulatory authorities unless required by the terms of applicable permit(s). However, the Agricultural Inspector will inform the Agricultural Monitor of these minor adjustments.

Enbridge will request written approval from the Agricultural Monitor for all other modifications that would affect additional Landowners, or change construction procedures or methods, before commencing construction in or near any of these areas.

### **Level 1 Modification**

Level 1 modifications are site-specific, minor changes to project specifications or mitigation measures that provide equal or better protection to environmental and agricultural resources. These minor modification requests can be reviewed and either approved or denied by the Agricultural Monitor in the field during normal construction operations.

Examples of Level 1 modifications include:

- Modifying the Topsoil segregation methods based on site-specific conditions;
- Using alternative soil stockpile locations (i.e., along the non-working (spoil) side of the right-of-way);
- Allowing the use of existing access roads that have not been previously approved, provided adequate cultural, wetland, and biological survey coverage is documented, if the use would be considered “like-use;” and
- Shifting extra workspace along the right-of-way a short distance where the overall disturbance remains the same, surveys have been completed, no sensitive resources would be affected, the workspace remains within the area permitted by the routing permits, and property access is available.

A Level 1 modification may also be used to document and disseminate agency-directed changes to mitigation measures. To initiate a Level 1 modification request, the Agricultural Inspector or other designated Enbridge representative will complete a modification request form (see Appendix B) and obtain the appropriate signatures (to be determined by Enbridge). Landowner approval will be obtained by Enbridge for those modifications requiring such approval. The

Agricultural Inspector will contact the Agricultural Monitor to review the proposed change. The Agricultural Inspector and the Agricultural Monitor will collaborate to evaluate the site-specific situation and determine if the modification is appropriate, feasible, and justified.

The Agricultural Monitor may approve a reasonable Level 1 modification request if, in the Agricultural Monitor's opinion, the results of implementing the change will provide equal or better protection for the resource than the original mitigation measure or if the original mitigation measure is not applicable to that specific site. If a Level 1 modification request is approved in the field, the Agricultural Monitor will sign the modification form.

The Agricultural Monitor will document the modification approval and transmit the approved form to the MDA and/or WDATCP, or other regulatory authority. If the modification exceeds the Agricultural Monitor's authority level, the Agricultural Monitor will inform the Agricultural Inspector that a Level 2 or Level 3 modification request is required.

## **Level 2 Modification**

A Level 2 modification request exceeds the field decision authority of the Agricultural Monitor and requires review and final approval by the MDA and/or WDATCP, or other regulatory authority. Level 2 modification requests generally involve project changes that would affect an area outside of the previously approved work area, but are still within the corridor previously surveyed for cultural, wetland, and biological resources. Level 2 modification requests typically require the review of supplemental documents, correspondence, and records, and may require applicable agency approval.

Examples of Level 2 modifications include:

- Reducing the width or depth of Topsoil segregation in agricultural fields;
- Reducing the area to be decompacted or using an alternative method to decompact subsoil;
- Use of ATWS outside of the previously approved work area but within the previously surveyed corridor;
- The use of existing access roads that have not been previously approved if the use would not be considered "like-use" that could be approved as a Level 1 modification;
- Modifying a previously approved access road in ways not previously identified; and
- Increasing the width of the construction right-of-way at locations other than those allowed by Routing Permits, Enbridge Construction Alignment Sheets, and Enbridge's EPP.

To initiate a Level 2 modification request with the MDA and/or WDATCP, and other regulatory authority, the Agricultural Inspector or other designated Enbridge representative will fill out a modification request form, prepare the appropriate supporting documentation, and obtain the required signatures. The designated Enbridge representative will complete and submit the modification request form and supporting documentation by e-mail (scanned copy) or fax to the regulatory authority. The regulatory authority will review the request and supporting documentation. Landowner approval will be obtained by Enbridge for those modifications requiring approval. The regulatory authority will also discuss the request with the Agricultural Monitor.

If the Level 2 modification request is approved, the regulatory authority will sign the modification request and e-mail the approved form (scanned copy) to the designated Enbridge representatives and the Agricultural Monitor. The modification may be implemented in the field as soon as the regulatory authority and all other applicable agencies have approved the modification.

### **Level 3 Modification**

Level 3 modification requests generally involve project changes that would affect an area outside of the previously approved work area, and that are also outside the corridor previously surveyed for cultural resources, wetlands, and biological resources.

Examples of Level 3 modifications include:

- Extra workspaces, access roads, or route realignments for which landowner approval has not been obtained (i.e., condemnation tracks);
- Certain changes to mitigation measures or construction/restoration procedures; and
- Extra workspaces, access roads, or route realignments outside the previously surveyed corridor that require additional surveys and agency approvals that affect resources of sufficient sensitivity to require a formal letter approval from other regulatory authorities.

To initiate a Level 3 modification request, the Agricultural Inspector or other designated Enbridge representative will fill out a modification request form, prepare the appropriate supporting documentation, ensure the required environmental surveys have been completed, and obtain the required signatures. The designated Enbridge representative will submit the modification request form and supporting documentation by e-mail (scanned copy) or fax to all applicable regulatory authorities. The regulatory authorities will review the request and supporting documentation and consult with other agencies as necessary. The MDA and/or WDATCP may also discuss the request with the Agricultural Monitor. If sensitive biological species and/or habitat are encountered during the additional surveys, documentation of consultation with applicable agencies will be provided with the modification request. The MDA and/or WDATCP will consult with the regulatory authorities and receive appropriate agency approvals before authorizing the modification.

If the Level 3 modification request is approved, the MDA and/or WDATCP will sign the modification request and e-mail the approved form (scanned copy) to the designated Enbridge representatives and the Agricultural Monitor. The modification may be implemented in the field as soon as the approved modification is received. All agency-approved mitigation measures will adhere to the modification if it is approved by the MDA and/or WDATCP.

## **Appendix A**

### **Mitigation Measures for Organic Agricultural Land**

## **INTRODUCTION**

This appendix identifies mitigation measures that apply specifically to farms that are Certified Organic or farms in Minnesota that are in active transition to become Certified Organic, and is intended to address the unique management and certification requirements of these operations. All protections provided in the Plan must also be applied to Organic Agricultural Land in addition to the provisions of this appendix.

The provisions of this appendix will apply to Organic Agricultural Land for which the Landowner has provided to Enbridge a true, correct, and current version of the Organic System Plan within sixty (60) days after the signing of the Easement for such land or sixty (60) days after the issuance of a PRP to Enbridge by the MN PUC, whichever is sooner. In the event the Easement is signed later than sixty (60) days after the issuance of the PRP, the provisions of this appendix are applicable when the Organic System Plan is provided to Enbridge at the time of the signing of the Easement. In instances where Enbridge is in possession of the Easement prior to submitting its MN PUC application, the Landowner must provide the Organic System Plan to Enbridge no later than sixty (60) days after the issuance of the PRP. Enbridge recognizes that Organic Agricultural Land is a unique feature of the landscape and will treat this land with the same level of care as other sensitive environmental features.



## DEFINITIONS

Unless otherwise provided to the contrary in this appendix, capitalized terms used in this appendix shall have the meanings provided below and in the Plan. In the event of a conflict between this appendix and the Plan with respect to definitions, the definition provided in this appendix will prevail but only to the extent such conflicting terms are used in this appendix. The definition provided for the defined words used herein shall apply to all forms of the words.

Apply	To intentionally or inadvertently spread or distribute any substance onto the exposed surface of the soil.
Certifying Agent	As defined by the National Organic Program Standards, 7 CFR § 205.2.
Decertified or Decertification	Loss of Organic Certification.
Organic Agricultural Land	Farms, or portions thereof, that have been Certified Organic.
Certified Organic	“Certified” as defined in 7 CFR § 205.2.
Organic System Plan	As defined by the National Organic Program Standards, 7 CFR § 205.2.
Prohibited Substance	As defined in 7 CFR § 205.2. Prohibited Substances are further described in 7 CFR §§ 205.600-607.

## **ORGANIC SYSTEM PLAN**

Enbridge recognizes the importance of the individualized Organic System Plan to the Organic Certification process. Enbridge will work with the Landowner, the Landowner's Certifying Agent, and/or a USDA-approved organic consultant to identify site-specific construction practices and develop an organic construction plan that will minimize the potential for Decertification as a result of construction activities. Enbridge also recognizes that Organic System Plans are proprietary in nature and confidentiality will be respected.

## **PROHIBITED SUBSTANCES**

Enbridge will avoid the application of Prohibited Substances onto Organic Agricultural Land. No herbicides, pesticides, fertilizers, or seed will be applied unless requested and approved by the Landowner. Likewise, no refueling, fuel, or lubricant storage or routine equipment maintenance will be allowed on Organic Agricultural Land. Equipment will be checked prior to entry to make sure that fuel, hydraulic, and lubrication systems are in good working order before working on Organic Agricultural Land. If Prohibited Substances are used on land adjacent to Organic Agricultural Land, these substances will be used in such a way as to prevent them from entering Organic Agricultural Land.

## **SOIL HANDLING**

Topsoil and subsoil layers that are removed during construction will be stored separately and replaced in the proper sequence after the pipeline is installed. Unless otherwise specified in the site-specific plan described above, Enbridge will not use this soil for other purposes, including creating access ramps at road crossings. No Topsoil or subsoil (other than incidental amounts) may be removed from Organic Agricultural Land. Likewise, Organic Agricultural Land will not be used for storage of soil from non-Organic Agricultural Land.

## **EROSION CONTROL**

On Organic Agricultural Land, Enbridge will, to the extent feasible, implement erosion control methods consistent with the Landowner's Organic System Plan. On land adjacent to Organic Agricultural Land, Enbridge's erosion control procedures will be designed so that sediment from adjacent non-Organic Agricultural Land will not flow along the right-of-way and be deposited on Organic Agricultural Land. Treated lumber will not be used in erosion control measures on Organic Agricultural Land.

## **WATER IN TRENCHES**

During construction, Enbridge will leave an earthen plug in the trench at the boundary of Organic Agricultural Land to prevent trench water from adjacent land from flowing into the trench on Organic Agricultural Land. Likewise, Enbridge will not allow trench water from adjacent land to be pumped onto Organic Agricultural Land.

## **WEED CONTROL**

On Organic Agricultural Land, Enbridge will, to the extent feasible, implement weed control methods consistent with the Landowner's Organic System Plan. Prohibited Substances will not be used for weed control on Organic Agricultural Land. In addition, Enbridge will not use

Prohibited Substances for weed control on land adjacent to Organic Agricultural Land in such a way as to allow these materials to drift onto Organic Agricultural Land.

### **MITIGATION OF NATURAL RESOURCE IMPACTS**

Enbridge will not use Organic Agricultural Land for the purpose of required compensatory mitigation of impacts on natural resources such as wetlands or woodlands unless approved by the Landowner.

### **MONITORING**

In addition to the responsibilities of the Agricultural Monitor described in the Plan, the following will apply:

- The Agricultural Monitor or a trained Organic Inspector (trained through a USDA-approved Organic Inspection Program and retained by Enbridge) will routinely monitor construction and restoration activities on Organic Agricultural Land for compliance with the provisions of this appendix and will document activities that could result in Decertification; and
- Instances of noncompliance will be documented according to International Organic Inspectors Association protocol consistent with the Landowner's Organic System Plan, and will be made available to the MDA, the Landowner, the Landowner's Certifying Agent, and to Enbridge.

If the Agricultural Monitor is responsible for routinely monitoring activities on Organic Agricultural Land, he or she will have been trained in such activities by the International Organic Inspectors Association, at Enbridge's expense if necessary.

### **COMPENSATION FOR CONSTRUCTION DAMAGES**

The settlement of damages will be based on crop yield and/or crop quality determination and the need for additional restoration measures, and will proceed in accordance with the terms of the Easement. Unless the Landowner of Organic Agricultural Land and Enbridge agree otherwise, at Enbridge's expense, a mutually agreed upon professional agronomist will make crop yield determinations, and the MDA Fruit and Vegetable Inspection Unit will make crop quality determinations. If the crop yield and/or crop quality determinations indicate the need for soil testing, the testing will be conducted by a commercial laboratory that is properly certified to conduct the necessary tests and is mutually agreeable to Enbridge and the Landowner. Fieldwork for soil testing will be conducted by a Professional Soil Scientist or Professional Engineer licensed by the State of Minnesota. Enbridge will be responsible for the cost of sampling, testing, and additional restoration activities, if needed. Landowners may elect to settle damages with Enbridge in advance of construction on a mutually acceptable basis or to settle after construction based on a mutually agreeable determination of actual damages.

### **COMPENSATION FOR DAMAGES DUE TO DECERTIFICATION**

Should any portion of Organic Agricultural Land be Decertified as a result of construction activities, the settlement of damages will be based on the difference between revenue generated from the land affected before Decertification and after Decertification, for the entire period of time the land is Decertified, so long as a good faith effort is made by the Landowner to regain certification.

**Appendix B**  
**Management of Change Onsite Modification Request**  
**Form**