

Court, however, has also acknowledged that the Fargo-Moorhead community will certainly benefit from permanent flood protection once the project is complete.” (*Id.*) Minnesota Statutes Section 103G.315 prohibits the DNR from issuing a public waters work permit or a dam safety permit if it is determined that the project plans are not reasonable, practical, and will not adequately protect public safety and promote the general welfare. Minn. Stat. § 103G.315. In issuing its Permit, the DNR found that the public safety and welfare would be adequately protected provided construction was completed pursuant to the DNR’s regulatory oversight and the 54 conditions listed in its Permit. (Permit Order, Conclusion ¶ 14; Naramore Decl., ¶ 17.) Currently, the DNR’s Permit is in abeyance as are the conditions that would ensure Minnesota citizens and its environment are adequately protected. Thus, the public interest weighs in favor of not allowing construction to proceed unless the Permit conditions are incorporated into a modified injunction during the pendency of the contested case hearing.

### **CONCLUSION**

For the reasons stated above, the Minnesota Department of Natural Resources respectfully requests this Court either deny the motions to modify its September 7, 2017, Order granting the preliminary injunction, or, in the alternative, modify the injunction to incorporate the conditions and requirements of the DNR’s permit until resolution of the contested case.