

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

BAD RIVER BAND OF LAKE
SUPERIOR CHIPPEWA,

Plaintiff

-v.-

UNITED STATES ARMY
CORPS OF ENGINEERS,

Defendant

and

ENBRIDGE ENERGY, LIMITED
PARTNERSHIPS,

Intervenor-Defendant.

Civil Case No: 26-cv-01171-TNM

**SECOND DECLARATION OF NAOMI
TILLISON**

I, Naomi Tillison, declare the following on the basis of personal knowledge to which I am competent to testify:

1. The Bad River Band of Lake Superior Chippewa (“Band”) is a sovereign Indian Nation and a federally recognized Indian Tribe, with its Reservation located on the banks of Lake Superior in Northern Wisconsin. The Mashkiiziibii Natural Resources Department (“MNRD”) is the Bad River Band's natural resources department. I provided necessary background info on MNRD and the Proposed Line 5 Pipeline Reroute (“Project”) in my first declaration. ECF No. 22-3.
2. On July 31, 2026, I provided a declaration in the state proceedings, *Band River Band of Lake Superior Chippewa v. Wis. Dep’t of Nat. Res.*, Iron Cty. Cir. Ct. Case Nos. 2026-CV-08 and 2026-CV-10, regarding the inadvertent release (IR) of drilling fluids from Horizontal

Directional Drilling (HDD) in Vaughn Creek and Billy Creek and correspondence with Wisconsin Department of Natural Resources (WDNR) on these incidents. **A true and accurate copy of this declaration with all attachments is provided as Attachment 1.** Within the span of a month, my staff and I became aware of the release of natural gas liquids (NGLs) and three more IRs. I incorporate and submit that information herein.

3. On August 25, 2026, a liquefied natural gas spill occurred in Iron County, Wisconsin, when a parked semi rolled into an excavation at a construction site, hitting the exposed Line 5 pipeline and releasing natural gas liquids (NGLs), which included hydrocarbons such as propane and butane. The August 25th leak in Iron County released about 31,000 barrels—or 1.3 million gallons—of NGLs, Enbridge’s largest release reported to federal regulators.¹ Approximately another 2,000 barrels were estimated to remain liquid in the trench.² The pipeline section was isolated and shut down, and at least one nearby home was evacuated due to concerns about air quality, with a “no-fly” zone enacted.

4. I was notified of the NGL spill on August 25, 2026, by the WDNR 24-Hour Emergency Hotline and then subsequently received emails from both Enbridge and WDNR on August 25, 2026, which shared information about the incident with MNRD. **A true and accurate copy of this correspondence is provided as Attachment 2.**

5. WDNR sent a letter to Enbridge on August 27, requesting more information on the spill and what measures were being taken to mitigate. In that letter, WDNR requested Enbridge halt construction of the Reroute Project until matters were “sufficiently resolved.” **A**

¹ Danielle Kaeding, *Federal data shows Enbridge leak is the largest reported oil and gas spill in Wisconsin*, WPR (Sept. 9, 2026, 9:40 AM), <https://www.wpr.org/news/federal-data-enbridge-leak-largest-reported-oil-gas-spill-in-wisconsin>.

² John Burton, *Enbridge plans bypass around leak in the Line 5 pipeline in Iron County*, WXPB (Sept. 7, 2026, 7:16 AM), <https://www.wxpr.org/energy-environment/2026-09-07/enbridge-plans-bypass-around-leak-in-the-line-5-pipeline-in-iron-county>.

true and accurate copy of this correspondence is provided as Attachment 3. Enbridge instead halted work for only 48 hours for a “a project-wide safety stand-down for construction workers” starting on August 31. **A true and accurate copy of this correspondence is provided as Attachment 4.**

6. On August 29, 2026, Enbridge communicated the plan to install flaring stacks in order to burn off the remaining product in the 1-mile section of pipe.³

7. As a result of the NGL spill, the remaining contamination on the site, and the associated ongoing investigation, Enbridge began building a “temporary bypass”, about 1,500 feet long, around the release site. Construction on the bypass started on or before September 6, 2026. Enbridge restored the pipeline to operation on September 12th.⁴

8. On September 9, WDNR sent a follow-up letter requesting that Enbridge halt construction of the bypass. WDNR Secretary Karen Hyun stated in her letter:

Enbridge has continued to add to the growing list of environmental concerns and violations, demonstrating disregard for the environment, human health, and the statutory authority of the department. Regarding the Line 5 reroute construction, Enbridge has caused additional discharges to the environment since my earlier letter, which have caused continued frustration and profound unease for the department and the people of Wisconsin.

A true and accurate copy of this letter is provided as Attachment 5.

9. Today, September 14, 2026, we received notice from Enbridge that construction on the bypass was completed, and the Line 5 pipeline was put back into operation over the weekend. **A true and accurate copy of this correspondence is provided as Attachment 6.**

³ *Enbridge responds to Line 5 Natural Gas Liquids release in Wisconsin*, ENBRIDGE (last updated Sept. 14, 2026, 11:03 AM), <https://www.enbridge.com/media-center/media-statements/enbridge-responds-to-line-5-ngls-release-in-wisconsin>.

⁴ *Id.*

10. On August 29, 2026, another HDD IR was reported. This IR was on Krause Creek as reported by a private citizen on the spill hotline. **A true and accurate copy of this correspondence is provided as Attachment 7.**

11. Another HDD IR occurred on September 2, 2026, releasing 100 gallons while drilling under the Potato River. I was notified on September 2, 2026, through the WDNR 24-Hour Emergency Hotline. **A true and accurate copy of this correspondence is provided as Attachment 8.**

12. Another HDD IR occurred on September 3, 2026, releasing 20 gallons while drilling under the Brunsweler River. I was notified on September 4, 2026 of the IR when WDNR shared information about the incident with MNRD via email, including through the WDNR 24-Hour Emergency Hotline. **A true and accurate copy of this email and associated attachments is provided as Attachment 9.**

13. WDNR has issued at least one new notice of noncompliance to Enbridge, attached to WDNR's September 9, 2026, letter. **A true and accurate copy of this notice is provided as Attachment 5.**

14. Per the Water Quality Certification, WDNR stated Enbridge "shall not discharge drilling mud into wetlands, waterways, or sensitive areas." WQC Condition ¶ 115, AR002417. Drilling mud is created by mixing water and clay and may include other proprietary constituents. Below is a list of all known site spills to date, along with their identification numbers, available on DNR's Remediation and Redevelopment Database⁵.

- a. June 27, 2026, IR, Vaughn Creek, Spill ID No. 20260627NO26-1
- b. July 9, 2026, Diesel Fuel Spill, Spill ID No. 20260709NO02-1

⁵ *Open Spill Incidents*, WIS. DEP'T OF NAT. RES., <https://apps.dnr.wi.gov/rrbotw/sp-openspillincidents> (last accessed Sept. 11, 2026).

- c. July 10, 2026, Diesel Fuel Spill, Spill ID No. 20260710NO02-1
- d. July 12, 2026, IR, Vaughn Creek, Spill ID No. 20260713NO26-1
- e. July 12, 2026, IR, Vaughn Creek & Wetlands, Spill ID No.
20260713NO26-2
- f. July 16, 2026, dewatering discharge, Vaughn Creek tributary, Spill ID No.
20260722NO26-1
- g. July 25, 2026, IR, Billy Creek, Spill ID No. 20260727NO02-1
- h. August 18, 2026, IR, Spill ID No. 20260819NO02-1
- i. August 25, 2025, NGL spill, Spoon Creek tributary, Spill ID No.
20260825NO26-1
- j. August 29, 2026, IR, Krause Creek, Spill ID No. 20260830NO02-1
- k. September 2, 2026, IR, Potato River, Spill ID No. 20260902NO26-1
- l. September 3, 2026, IR, Spill ID No. 20260904NO02-1

15. On September 11, 2026, I directed a letter to the Corps regarding several spills and hazardous incidents that have occurred during the construction of the Project. MNRD requested that the Corps suspend its Section 404 and Section 10 permits issued to Enbridge. **A true and accurate copy of this letter is provided as Attachment 10.**

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 14, 2026,

/s/Naomi Tillison
Naomi Tillison

Director of the Mashkiiziibii Natural Resources
Department of the Bad River Band of Lake Superior
Tribe of Chippewa Indians