

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH

ASHLAND COUNTY

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BAD RIVER BAND OF LAKE  
SUPERIOR CHIPPEWA INDIANS  
72682 Maple Street  
Odanah, Wisconsin, 54861

*Petitioner,*

-v.-

WISCONSIN DEPARTMENT OF  
NATURAL RESOURCES  
101 S. Webster Street  
Madison, Wisconsin, 53707

*Respondent.*

Case No:  
Case Code:  
Administrative Agency Review

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**PETITION FOR JUDICIAL REVIEW**

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The Bad River Band of Lake Superior Chippewa (“Band”), by and through its counsel Earthjustice, petitions this Court to review a final action of the Wisconsin Department of Natural Resources (“DNR”) under the Wisconsin Administrative Procedure Act (“WAPA”). Wis. Stat. §§ 30.209(3), 227.52, 227.53, 227.57, 281.36(3q). Enbridge Energy, LP (“Enbridge”) seeks to build a new 41-mile segment of the Line 5 petroleum pipeline through waterways and wetlands around the Band’s Reservation (“Project”). If constructed, the Project will surround the Band on three sides—all directly upstream of the Reservation—and will jeopardize territory adjoining the Reservation and the Band’s rights within Lake Superior. Enbridge needs a Chapter 30 waterway permit, a Chapter 281 wetland permit, a water quality certification, and approval from DNR to discharge stormwater from the Project’s construction activities in wetlands and waterways. On November 14, 2024, DNR granted Enbridge permits that authorize the company to dredge, fill,

convert, build structures in, and bridge over waterways and wetlands; a certification that the Project will comply with Wisconsin’s water quality standards; and a certificate of coverage under the Wisconsin Construction Stormwater General Permit (“Stormwater GP”). *See* DNR Docket # IP-NO-2020-2-N0047 (wetland and waterway permits); Docket # IP-NO-2020-2-N00471 (water quality certification); WDNR publication # WT-813 (10/11) (Stormwater GP certificate of coverage). DNR’s approval of the Project’s waterway and wetland construction permits, water quality standards compliance certification, and the associated Final Environmental Impact Statement (“FEIS”) fail to meet the standards of Wisconsin’s environmental laws. Wis. Stat. §§ 1.11 (Wisconsin Environmental Policy Act (“WEPA”)), 30.12 (Structures and Deposits in Navigable Waters), 30.20 (Removal of Material from Bed of Navigable Waters), 30.123 (Bridges and Culverts), 281.34 (Groundwater Withdrawals), 281.36 (Permits for Discharge into Wetlands; Mitigation), 283.31 (Wisconsin Pollution Discharge Elimination System (“WPDES”)).

## **PARTIES**

1. Petitioner Bad River Band of Lake Superior Chippewa is a federally recognized Tribal Nation with a Reservation located in northern Wisconsin. The Band’s government resides at 72682 Maple Street, Odanah, Wisconsin, 54861. The Band’s Reservation is located wholly within the Lake Superior Basin and partially within the watershed of the Bad River—“Mashkiiziibii”—the Band’s namesake. The Bad River Reservation is also connected hydrologically to other watersheds flowing into Lake Superior, such as the Fish Creek Watershed. The Anishinaabe, of which the Bad River Band is a part, have lived in this area for several hundred years, moving from the east as described in the Band’s traditional migration story in which the Band was instructed to find the place “where food grows on water.” The Reservation was formed in 1854 under the Treaty of LaPointe. Treaty of LaPointe, 10 Stat. 1109 (1854). The Band was a signatory to the earlier 1842 Treaty with the Chippewa, which ceded lands that became the State

of Wisconsin while retaining off-reservation rights to use and access resources in the ceded territory. Treaty with Chippewa, 7 Stat. 591 (1842). The Bad River Reservation is directly adjacent to Lake Superior and includes the Kakagon and Bad River Sloughs, internationally recognized wetlands where the Band's members harvest wild rice (*manoomin*), fish, and other beings for subsistence. The Band has a solemn responsibility and the legal right to preserve its homeland, environment, waters, culture, treaty-protected resources, and distinct lifeways.

2. Respondent DNR is an agency of the State of Wisconsin. Wis. Stat. § 15.34. DNR's principal office is at 101 S. Webster Street, Madison, Wisconsin. DNR has the authority to issue or deny permits for construction and point source discharges in Wisconsin waterways and wetlands. Wis. Stat. §§ 30.12, 30.20, 30.123, 281.34, 281.36, 283.31. DNR must prepare an Environmental Impact Statement ("EIS") whenever it takes a major action significantly affecting the quality of the human environment. Wis. Stat. § 1.11(2)(C). DNR is the agency that erroneously issued wetland and waterway permits, a water quality certification, stormwater discharge authorization, and associated FEIS for the Line 5 Project.

### **JURISDICTION AND VENUE**

3. DNR's decision to issue permits to Enbridge and certify the Project's compliance with water quality standards are final agency actions reviewable by this Court under WAPA, Chapter 30, and Chapter 281. Wis. Stat. §§ 30.209(3), 281.36(3q), 227.52, 227.53.

4. Ashland County is the appropriate venue because a review of agency actions must be held in the county where the petitioner resides, and the Band predominantly resides in Ashland County. Wis. Stat. § 227.53(1)(a)3.

### **FACTS**

5. Enbridge owns and operates Line 5, a 645-mile pipeline that transports crude oil and natural gas liquids (NGLs) from Superior, WI, to Sarnia, Ontario, Canada. Line 5 runs through

northern Wisconsin, the Bad River Reservation, and the Upper and Lower Peninsulas of Michigan before entering Canada. The Lakehead Pipeline Company (“Lakehead”), Enbridge’s predecessor, built Line 5 in 1953.

6. Line 5 currently crosses approximately 12 miles through the Band’s Reservation. Historically, Lakehead and Enbridge operated Line 5 on the Reservation pursuant to easements issued by the Bureau of Indian Affairs, in which the Band has an interest. Several of Enbridge’s easements with the Bureau expired in 2013. The Band did not provide consent for BIA to renew these easements due to concerns over oil spills, climate change, and pollution.

7. Enbridge continues to operate the pipeline across the Reservation despite the expiration of the easements. The Band filed an action against Enbridge in 2019 seeking an order to remove the pipeline from the Reservation. On September 7, 2022, the United States District Court for the Western District of Wisconsin ruled for the Band and found that Enbridge was operating Line 5 in illegal trespass. *Bad River Band of Lake Superior Tribe of Chippewa Indians of Bad River Rsrv. v. Enbridge Energy Co., Inc.*, 626 F. Supp. 3d 1030 (W.D. Wis. 2022). On June 16, 2023, the court ordered Enbridge to cease operating the 12-mile segment across the Reservation by June 16, 2026, among other remedies. *Bad River Band of Lake Superior Tribe of Chippewa Indians of Bad River Rsrv. v. Enbridge Energy Co., Inc.*, No. 19-CV-602-WMC, 2023 WL 4043961, at \*1 (W.D. Wis. June 16, 2023). Enbridge and the Band appealed the decision to the United States Court of Appeals for the Seventh Circuit. The case is pending.

8. Enbridge’s plan to build a new segment of Line 5 that would maintain the flow of oil and NGLs off the Reservation is the subject of this petition. The Project’s 41-mile proposed route surrounds the Reservation and is upstream of waters that flow through it or are hydrologically connected through Lake Superior.

9. On February 11, 2020, Enbridge submitted an application to DNR seeking permits to conduct construction activity in high-quality wetlands and rivers, springs, streams, and other water connected to its proposed route.

10. Enbridge proposes to permanently alter at least 101.1 acres of high-quality wetland and 186 waterways to build this new pipeline segment. These rich aquatic areas support habitat for numerous plants and wildlife. The majority of waters that the Project crosses and affects are directly connected to Lake Superior and the Kakagon and Bad River Sloughs—large, unique, wetlands on the Reservation that support vast stands of manoomin, habitat for threatened and endangered plants and animals, and provide critical migratory bird habitat.

11. On June 8, 2020, DNR issued a Notice of Pending Application and intent to prepare Draft and Final Environmental Impact Statements (“DEIS” and “FEIS” respectively) for the Project. The notice discussed the authorizations required for building structures, dredging and filling, bridging, and use of motor vehicles in waterways, as well as for filling, converting, and construction work in wetlands. DNR determined that its permitting decisions regarding the Project were major actions that significantly affected the quality of Wisconsin’s environment.

12. DNR sought public comment on the proposal and the scope of the EIS. The Band submitted comments on the notice of pending application on July 11, 2020.

13. DNR held a public hearing on its Notice of Pending Application on July 1, 2020. The agency received over 2,000 comments, many of which took issue with the completeness of Enbridge’s wetland and waterbody permit applications, public interest-related concerns, and the scope of DNR’s EIS.

14. The Band had the opportunity to review a preliminary draft of the DEIS. The Band submitted preliminary comments to DNR on December 10, 2021. The comments asserted that

DNR did not have adequate or up-to-date data to properly characterize the impacts of the Project and urged the agency to conduct additional review and consultation with the Band before publicly releasing the DEIS.

15. DNR issued the Project's DEIS on December 16, 2021. The agency held a virtual public hearing on February 2, 2022. The public comment period for the DEIS concluded on April 15, 2022. DNR received over 32,000 written comments on the EIS and 160 oral comments during a 10-hour virtual public hearing. The comments raised similar concerns about the public interest, completeness of Enbridge's application, and the scope of the EIS.

16. The Band submitted comments on the DEIS on April 15, 2022. The Band raised concerns regarding the scope of the EIS, inadequate baseline data, and DNR's analyses of environmental impacts, water quality, alternatives, wildlife, cultural resources, environmental justice, and public health. The Mashkiiziibii Natural Resources Department ("MNRD"), the Band's environmental agency, also prepared and attached a series of technical reports concerning these subjects.

17. In 2022, 2023, and 2024, MNRD and DNR held several technical meetings and consultations, and the Band submitted additional comments to DNR. During this period, DNR also required Enbridge to submit additional information.

18. During public comment, MNRD raised concerns about the adequacy of baseline wetland and waterway data that DNR used to analyze the Project's impacts.

19. In comments, MNRD alerted DNR that functional values will be lost when Enbridge converts forested wetlands and other high-quality wetlands to low-quality, less ecologically diverse, emergent wetlands.

20. As part of the Project’s permitting process, MNRD alerted DNR to disturbances caused by Enbridge’s activities along Line 5’s existing route within the Reservation. MNRD’s comments describe its concern that the existing Line 5 disrupts surface and groundwater flows, causing erosion, sedimentation, and increasing pipeline failure risk—such as in 2019, when approximately 49 feet of Line 5 was exposed and approximately 40 feet was left unsupported from below. The existing pipeline also is placed near a natural meander of the Bad River and MNRD has alerted DNR to the risks this poses to on-Reservation waters, communities, and Lake Superior. Additionally, MNRD staff have documented increases in the richness and distribution of invasive species on the Reservation due to maintenance and monitoring activity in the existing Line 5 corridor. The Band and MNRD raised these concerns to DNR on multiple occasions in comments, letters, and technical meetings throughout 2020, 2021, 2022, 2023, and 2024, noting that the proposed Project carries similar risks.

21. To build the new segment of Line 5, Enbridge will use trenching, blasting, Horizontal Direct Drilling (“HDD”), and direct boring. Trenching involves excavating spoils from the bed of a navigable water or wetland, placing the excavated material on timber matting, separated by soil type and other characteristics, placing the pipe into the trench, and then backfilling with the spoils. Enbridge will also use blasting if it encounters geohazards, such as boulders, or encounters bedrock. Blasting will reduce large features such as boulders or bedrock outcrops into more fine material when backfilled into the trench. Enbridge also proposes to use HDD at 13 river and stream crossings and direct bore at other crossings. The HDD method drills a path beneath a waterway using a “reamer” accompanied by drilling fluid comprised of chemical additives, clay, and water pumped into the area displaced by the drill. If the pressure inside a drill path exceeds groundcover pressure it will cause drilling fluid to seep through loose soil and

geological crevices and discharge into surface waters and elsewhere in the landscape. Drilling fluid releases are also possible at the entry and exit points of the HDD path. In the findings of fact in the wetland and waterway permit, DNR states that “[i]t is likely that the Project will experience an inadvertent release (“IR”) during one or more of the proposed trenchless installations.” MNRD and the Band’s comments also raised concerns related to the risk of drilling mud releases from HDD throughout this permitting process.

22. DNR released the FEIS on September 6, 2024, along with a determination of compliance with WEPA. Wis. Stat. § 1.11.<sup>1</sup>

23. The FEIS says: “Enbridge’s stated purpose for the proposed Project is to continue transporting crude oil and NGLs through its Line 5 pipeline, while decommissioning that portion of the line that crosses the Bad River Reservation.” FEIS at 5.

24. Regarding its analysis of wetland and waterway functional values and characteristics, the DNR states in the FEIS that the “available data were incomplete in the sense of a traditional baseline survey” and that “[t]he resulting modeled data layers were limited in accuracy by the quality and applicability of the model to the project area and by what data were used for the modeling exercise.” FEIS at 388.

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<sup>1</sup> Wis. Dep’t of Nat. Res., *Final Environmental Impact Statement: Proposed Enbridge Line 5 Relocation Project* (Sept. 2024) (“FEIS”), available at [https://dnr.wisconsin.gov/sites/default/files/topic/EIA/Enbridge/EL5\\_FinalEIS.pdf](https://dnr.wisconsin.gov/sites/default/files/topic/EIA/Enbridge/EL5_FinalEIS.pdf); Wis. Dep’t of Nat. Res., *Determination on Wisconsin Environmental Policy Act (WEPA) Compliance for Proposed Enbridge Line 5 Relocation Project* (Sept. 2024) (“WEPA Compliance Determination”), available at <https://dnr.wisconsin.gov/sites/default/files/topic/EIA/Enbridge/Enbridge%20WEPA%20Compliance%20Determination%20FINAL%2009-6-24.pdf>



25. The FEIS concludes that the impact of the Project on wetland functional values is temporary because converted and filled wetlands may be restored to their original quality in several decades.

26. DNR acknowledges in the FEIS that pipeline construction in waterways and wetlands will result in take of two species listed by DNR as threatened: Braun's Holly Fern (*Polystichum braunii*) and potentially Sweet Coltsfoot (*Petasites frigidus*). MNRD has repeatedly requested that DNR require Enbridge to avoid taking any endangered and threatened species, including these rare plant species. Enbridge has not acquired an incidental take permit.

27. On November 14, 2024, DNR issued the Project's wetland and waterway permits, water quality standards compliance certification, and a certificate of coverage under the Wisconsin Stormwater Discharge General Permit ("Stormwater GP"). See DNR Docket # IP-NO-2020-2-N0047 (wetland and waterway permits); Docket # IP-NO-2020-2-N00471 (water quality certification); WPDES Permit No. WI-S067831-6 (Stormwater GP). The wetland and waterway permits are combined into a single permit document. The water quality certification is a separate action DNR must take to certify that the wetland and waterway permits comply with Wisconsin's water quality standards before federal permitting may proceed. The stormwater discharge certificate of coverage affirms that Enbridge will follow the conditions of the state's Stormwater GP. The permits and water quality certification each contain conditions that DNR states will ensure the Project's impacts will stay within the limits DNR has set.

28. In findings of fact appended to the wetland and waterway permits and the water quality standards compliance certification, DNR states: "The Department considers the basic purpose of the Project to be continuing the transport of crude oil and natural gas liquids (NGLs)

through Line 5 to Enbridge's existing delivery locations in approximately the same capacity as the existing line.”

29. With respect to waterways, the permit states Enbridge will dredge and fill waterways during trench construction and backfilling. DNR also approved Enbridge's plans to build structures in waterways, such as dams, dewatering equipment, and staging areas necessary for construction. The permit states Enbridge will build and then remove bridges and roadways to move equipment to and from construction sites. DNR also permitted Enbridge's use of construction vehicles in waterways.

30. As for wetlands, the permit states Enbridge plans to place temporary matting, excavate and backfill trenches and bore pits in wetlands, place permanent fill in wetlands, and convert high-quality forested wetlands to low-quality emergent wetlands.

31. Enbridge plans to install the pipeline in trenches in the bed of waterways and wetlands that the company intends to clear using conventional construction equipment as well as blasting if bedrock is present. Enbridge also plans to dewater waterways and wetlands using high-pressure pumps, sheet piling, and dams.

32. Enbridge also proposes to use blasting to clear geohazards from construction areas and trenches if conventional clearing is not possible.

33. In some areas, Enbridge intends to use Direct Bore and HDD methods to install the pipeline beneath a waterway or wetland, obviating the need for trenching. Enbridge proposes using HDD pipeline installation methods at 13 locations to cross underneath rivers and streams. In the wetland and waterway permits' findings of fact, DNR states that “[i]t is likely that the Project will experience an inadvertent release (IR) during one or more of the proposed trenchless installations.”

34. DNR also approved Enbridge's stormwater management strategy and requires the company to implement conditions and best management practices in the Wisconsin stormwater discharge general permit that aim to reduce runoff pollution from construction sites.

35. DNR's permits authorize Enbridge to alter wetlands and disturb waterways in the Iron County Forest, public land located in territory ceded by the Ojibwe nations in Wisconsin. Pursuant to treaties with the United States, the Band and its members retain the right to engage in hunting, fishing, gathering, and cultural practices on public lands in the ceded territory like the Iron County Forest.

36. Enbridge's approved wetland mitigation plan states the company will purchase wetland bank service credits to compensate for the loss of functional values in damaged wetlands the company cannot practicably restore. The number of credits that are required to compensate for wetland losses is determined by wetland mitigation ratios. The ratio is higher for permanent impacts and lower for temporary ones. Similarly, ratios are higher for higher-quality wetlands. The FEIS and the DNR permits use wetland mitigation ratios that categorize decades-long losses of functional values as temporary impacts. The FEIS and the DNR permits also combine wetlands with overall low and medium functional values as one mitigation ratio which does not account for the higher functional values. Additionally, the overall functional value scores given to wetlands do not reflect the highest functional value in each wetland, which undervalues many of the wetlands. DNR also allowed Enbridge to purchase mitigation credits outside of the affected Bad River and Fish Creek watersheds.

37. The FEIS, wetland, waterway, and stormwater discharge permitting decisions, and water quality certification represent DNR's final action.

## GROUNDS FOR REVIEW

38. DNR has not addressed the Band's concerns about the impacts of the Project and its consequences for environmental and water quality on the Reservation, in Lake Superior, and in the ceded territory. The Band timely filed this action and a petition for a contested case before DNR on December 12, 2024, challenging DNR's decision to issue permits and authorizations for construction activities associated with the Project.

39. DNR committed reversible error, misinterpreted the law, deviated from prescribed procedure, and abused its discretion by issuing permits to Enbridge to build the Project through Wisconsin wetlands. Wis. Stat. § 281.36; Wis. Admin. Code § NR 300.07. DNR inadequately assessed functional values, failed to assess functional values from an appropriate baseline, miscategorized permanent alteration of wetlands lowering their functional value as a temporary impact, failed to ensure that Enbridge will restore and mitigate damages to wetlands, has not established that the Project will comply with water quality standards, and failed to require that Enbridge obtain the appropriate permits for point source discharges, dewatering, and take of threatened species. Consequently, DNR has not provided that "all practicable measures to minimize impacts to wetland functional values will be taken" and that "[t]he proposed project will not result in significant adverse impact to wetland functional values, in significant adverse impact to water quality, or in other significant adverse environmental consequences." Wis. Stat. §§ 281.36(3n)(c)2, 281.36(3t)(d), (f); Wis. Admin. Code § NR 300.07.

40. DNR committed reversible error, misinterpreted the law, deviated from procedure, and abused its discretion by authorizing Enbridge to build structures in waterways because the company is not a "riparian owner" of the areas where it plans to build, a basic requirement of authorizing the Project. Wis. Stat. §§ 30.12(1), (3m)(a); Wis. Admin. Code §§ NR 300.03(1), 329.03(13).

41. DNR committed reversible error, misinterpreted the law, deviated from procedure, and abused its discretion by approving Enbridge's plans to dredge and fill waterways. Wis. Stat. §§ 30.20, 30.208; Wis. Admin Code § NR 300.07. DNR's finding that Enbridge's dredging and filling proposal is consistent with the public interest in Wisconsin's waterways lacks substantial evidence and rests on arbitrary assumptions.

42. DNR committed reversible error, misinterpreted the law, deviated from procedure, and abused its discretion by approving Enbridge's plans to build bridges across waterways. Wis. Stat. §§ 30.123, 30.208; Wis. Admin Code § NR 300.07. DNR's finding that the bridges Enbridge plans to build are consistent with the public interest in Wisconsin's waterways lacks substantial evidence and rests on arbitrary assumptions.

43. DNR committed reversible error, misinterpreted the law, deviated from procedure, and abused its discretion by certifying that the Project complies with Wisconsin water quality standards. Wis. Admin Code. §§ NR 299.04-05. DNR does not have sufficient information regarding impacts to wetland functional values, water quality in waterways, and adverse effects to the use and enjoyment of Wisconsin's water resources to certify the Project's compliance.

44. DNR committed reversible error, misinterpreted the law, deviated from procedure, and abused its discretion by authorizing wetland and waterway disturbances without requiring Enbridge to obtain a permit authorizing take of Braun's Holly Fern and other potentially affected endangered and threatened species. Wis. Stat. § 29.604; Wis. Admin. Code §§ NR 328.36(1)(b), 329.04(3)(a)2, 345.04(3)(a)2. DNR may not authorize wetland or waterway disturbances resulting in take of an endangered or threatened species unless the applicant obtains an incidental take permit. Enbridge has not acquired a permit for incidental take of Braun's Holly Fern and thus lacks an essential precondition of its wetland and waterway permits.

45. DNR committed reversible error, misinterpreted the law, deviated from procedure, and abused its discretion by authorizing this Project without a Wisconsin Pollution Discharge Elimination System permit governing the discharge of drilling mud from discrete conveyances created by HDD into waters of the state. Wis. Stat. §§ 283.31(1), 281.36(10); Wis. Admin. Code § NR 103.06(1)(b). DNR found that drilling mud discharges are “likely” but has not set effluent limits, imposed necessary conditions, or characterized the potential impact of these discharges on water quality. Wis. Stat. §§ 283.31(1), (3), (4), 283.01(12), (13), (20); Wis. Admin. Code § NR 200.03(1). DNR has also failed to follow the notice and comment procedures regarding its proposal to authorize Enbridge to discharge drilling mud effluent from a point source into the waters of the state. Wis. Stat. §§ 283.39-49; Wis. Admin. Code. § NR 200.10.

46. DNR committed reversible error, misinterpreted the law, deviated from procedure and abused its discretion by authorizing Enbridge’s trench construction activities without a dewatering permit. The Project will require Enbridge to dewater more than 100,000 gallons of groundwater from trenches at construction sites, but Enbridge has not obtained the necessary dewatering permits from DNR. Wis. Stat. § 281.34; Wis. Admin. Code § NR 812.09(4)(a).

47. DNR committed reversible error, misinterpreted the law, deviated from procedure, and abused its discretion by determining that Enbridge is eligible for coverage under the Wisconsin General Stormwater permit and not requiring the company to obtain an individual stormwater permit. Wis. Stat. § 283.33; Wis. Admin. Code § NR 216.41. Enbridge is not eligible for coverage because this Project will violate water quality standards, impact threatened species, and cause discharges that violate water quality standards in receiving waters. *See* Stormwater GP at § 1.2.2 (wetland water quality standards); § 1.2.3 (endangered and threatened resources); § 1.2.5 (discharges violating water quality standards). An individual stormwater permit is necessary to

appropriately evaluate and address the Project's stormwater impact on the public interest in wetlands and waterways as well as impacts on wetland functional values.

48. DNR committed reversible errors, misinterpreted the law, deviated from procedure, and abused its discretion by determining that the FEIS prepared to evaluate the impact of DNR's permitting and certification decisions comply with WEPA. Wis. Stat. § 1.11; Wis. Admin. Code §§ NR 150.20, 150.30. The FEIS fails to rest its conclusions on substantial evidence relating to restoration, impacts, and mitigation; arbitrarily dismisses relevant information regarding the permanent nature of the Project's proposed effects on wetlands; improperly narrowed the Project's purpose such that its outcome was preordained; and failed to evaluate all practicable alternatives. Wis. Stat. § 227.57.

49. A stay of DNR's permits is necessary here to "prevent significant adverse impacts or irreversible harm to the environment." *Id.* §§ 30.209(1m)(c), 281.36(3q)(d). The Band is likely to succeed on the merits, DNR's permitting decisions will irreparably harm the Band's interests in the absence of a stay, no substantial harm will come to other interested parties if a stay is granted, and a stay is in the public interest.

50. By authorizing Enbridge to construct the Project in waterways and wetlands surrounding and upstream of the Reservation and adversely affect ecosystems, wildlife, aquatic organisms, cultural resources, and sacred spaces, DNR aggrieves the Band's substantial interests in preserving its homeland and sustaining its way of life.

### **PRAYER FOR RELIEF**

**WHEREFORE**, the Band respectfully requests this court grant judgment in its favor as follows:

1. **STAY** Enbridge's wetland and waterway permits, water quality certification, and DNR's final EIS while this action is pending.

2. **REVERSE** DNR's decision to issue Enbridge a Ch. 30 permit to construct the Project through Wisconsin's waterways.
3. **REVERSE** DNR's decision to issue Enbridge a Ch. 281 permit to construct the Project through Wisconsin's wetlands.
4. **REVERSE** DNR's decision to issue a water quality certification for the Project.
5. **REVERSE** DNR's decision to issue a determination of compliance and final environmental impact statement for the Project under the Wisconsin Environmental Policy Act.
6. **REVERSE** DNR's decision to issue Enbridge a Certificate of Compliance under Wisconsin's Stormwater General Permit.
7. Such other relief as the Court may deem just and equitable.

Respectfully submitted this 12<sup>th</sup> day of December 2024.

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*\*\*Applications for Pro Hac Admissions  
Forthcoming*