IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BAD RIVER BAND OF THE LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS OF THE BAD RIVER RESERVATION,

Plaintiff,

v.

ENBRIDGE ENERGY COMPANY, INC., and ENBRIDGE ENERGY, L.P.,

Defendants.

ENBRIDGE ENERGY COMPANY, INC., and ENBRIDGE ENERGY, L.P.,

Counter-Plaintiffs,

v.

BAD RIVER BAND OF THE LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS OF THE BAD RIVER RESERVATION and NAOMI TILLISON, in her official capacity,

Counter-Defendants.

Case No. 3:19-cv-00602-wmc

Judge William M. Conley

DECLARATION OF CHAIRWOMAN ELIZABETH ARBUCKLE

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

1. I am the Chairwoman of the Bad River Band of the Lake Superior Chippewa Indians, a position to which I was elected in November 2025. Prior to being elected Chairwoman, I served one term as Senior Councilwoman on our Tribal Council, to which I was elected in November 2023.
2. I grew up on the Bad River Reservation. Our house was, and remains, on a dead-end dirt road, right next to Bear Trap Creek of the Kakagon Sloughs. My entire childhood was defined by my Ojibwe culture and family's connection to our water, land, and natural resources. In late summer, we went ricing and processed what we harvested in our own ricing shed, yard and home. It took the whole family to move hundreds of pounds of rice from stalk to the cannisters in our cupboards. I was the youngest, so I clocked in a lot of hours turning, winnowing, and picking rice. Wild rice wasn't a special treat, like it was for some of my friends. We harvested to live off of it all year and consumed it like a staple. I thought those days would never end, that our rice would always be plentiful, and our waters would never be threatened. But the world has changed, and although Bad River has done everything it can to keep our lands and waters clean and bountiful, climate change and other outside forces have taken a toll on our homeland and our people.
3. I earned a BA from the University of Wisconsin-Madison, and a PhD in Political Science from the University of Michigan. After spending ten years in academia, as a professor at the University of Wisconsin-Stevens Point and Northern Arizona University, I returned home to Bad River to raise my daughters in our culture. And I had in mind that if I was allowed the opportunity to give back to my community in service to my Tribe, I would accept that as a tremendous honor. I am grateful that I now have this opportunity to serve and speak up for my Tribe and people.
4. I am the proud mother of two daughters, Bella and Viddy, who are also members of the Band. Bella earned her Bachelor's degree in Biology last year and has since returned to the Reservation. She is currently our Bad River Energy Coordinator, helping our Tribe become more energy resilient and providing solar energy solutions

for our tribal members. Viddy is a junior in college and has spent the last two summers working as an intern for the Great Lakes Fish and Wildlife Commission, which works to protect and preserve Ojibwe treaty rights and natural resources in the ceded territory. I raised my girls to be proud of their culture and Tribe, to contribute in meaningful ways to our society, and to always stand up for and with the most vulnerable among us.

5. The Band has approximately 8,000 members. About 1,200 of us live on the Reservation, with another 1,000 members living in towns nearby the Reservation.
6. I am the third person to serve as the Band's Chair since Enbridge's easements for its Line 5 pipeline expired nearly thirteen years ago. These thirteen years have been painful ones for us. Enbridge's trespass on our sovereign land has harmed the Band in a multitude of ways, and it continues to do so.
7. The entire experience has been a significant infringement on our right to determine and execute our own plans for our land and people. Our community and future have been on hold, held hostage by a company that has been playing a full court press offense against us from the beginning. Our only option has been to play defense against one of the most well-funded, expertly staffed and unrelenting corporations in existence, a company which ultimately refuses to recognize our right to exercise sovereign control over the only remaining homeland we have. Enbridge's attitude reminds me at times of a quote from *Bury My Heart at Wounded Knee*, "Another Chief remembered that since the Great Father promised them that they would never be moved they had been moved five times. 'I think you had better put the Indians on wheels,' he said sardonically, 'and you can run them about whenever you wish.'"
8. Enbridge's trespass is a violation of our Tribe's sovereignty. In our 1854 Treaty with the United States, our ancestors agreed to cede a vast amount of territory for permanent homelands, which became our reservations where we would continue to govern ourselves as sovereign nations and to make a life from the rivers and streams, wetlands, and uplands that have always provided for us. This Treaty states "The United States agree to set apart and withhold from sale, for the use of the Chippewas of Lake Superior, the following-described tracts of land…" It then proceeds to list tracts, including the one that would become the Bad River Indian Reservation we

know today. The Americans and the Ojibwe agreed on those words: "withhold from sale." They meant that. Our treaties and subsequent judicial interpretations include the right to decide who can be on and use our land. We have inherited and safeguarded these rights and do not take this responsibility lightly. Our ancestors paid dearly to preserve this remaining acreage of our homeland for us. It would be irresponsible and an insult for us to now give up our last remaining vestiges of what our ancestors worked so hard to maintain. Enbridge's unabated trespass taunts our people, and flouts our right to self-govern and live in peace on our own land.

9. Enbridge's trespass also creates a serious environmental burden and threat to our people, animals and plants. This peril has loomed over our community for years. We are steeped in fear and exhausted. This is our home. We appreciate the Court's monitoring-and-shutdown protocol, which offers some protection, and we have taken further action to lessen the risks at the Meander by developing and authorizing the check valve and log jacks projects. However, none of this can fully eliminate the possibility of pipeline rupture or address the other environmental risks associated with Line 5 operating on the Reservation.
10. It is maddening that Enbridge is now using these environmental-protection projects to justify extending its trespass. We offer an olive branch, and they fashion it into a whipping rod.
11. The log jacks were a significant and painful undertaking for the Band. My predecessor, Robert Blanchard, was concerned that the Court's monitoring-and-shutdown protocol would not sufficiently protect against a pipeline rupture at the Meander, so he asked a team of outside expert engineers (Wright Water Engineers, or "WWE") to develop a project that would provide further protection.
12. WWE developed the concept for the log jacks project to slow erosion while also avoiding permanent, perpetual impacts and pollution to Mashkiiziibii (the Bad River). WWE conceived the log jacks to be removable once the pipeline is no longer in operation, which was extremely important to Chairman Blanchard and others of us on Tribal Council who wish for Mashkiiziibii to resume her natural migration across the floodplain as she has being doing since time immemorial. **Exhibit 1** to this declaration is the letter that Chairman Blanchard sent to Enbridge to invite its

cooperation on the log jack project. We were promised by Enbridge that the log jacks would never be a permanent or even a long-term fixture on our land.

13. After Enbridge finalized the project proposal for the log jacks, addressing the insights and concerns of WWE and the Band's Mashkiiziibii Natural Resources Department (MNRD), the Tribal Council granted the necessary Clean Water Act Section 401 certification and Antidegradation Determination and voted to grant additional property permissions, discussed below, that MNRD and WWE had determined would be necessary for the project to be effective. I was serving as a Senior Councilwoman at that time and I had significant concerns about the logjack proposal. I said, "Why should we aid and abet their trespass? If we let them put those in, they will never take them out." My fellow Councilmembers and then-Chairman Blanchard disagreed with me. They argued that Enbridge had promised to take them out at the agreed time and that the company fully understood this obligation. I dearly wish that I had been wrong, but unfortunately my prediction has come true.
14. The permits require—in explicit conditions that Enbridge agreed to—that the log jacks would be removed by the end of September 2026. Approving this project was a painful decision. While the log jacks offer important protection against Enbridge's pipeline, they also amount to an accommodation of a company that has knowingly been trespassing on our land for more than a decade. I want be clear that our decision to allow the log jacks should be viewed as an attempt to protect against potential pipeline disaster. It should not be viewed as a tacit acceptance of Enbridge's encroachment.
15. The installation of the log jacks was a significant imposition on the Band and our Reservation environment. The project involved, among other things, clearing a large amount of Reservation forest land to create a staging area, weeks of installation in and disruption of Mashkiiziibii, hundreds of helicopter flights, thousands of hours of work by MNRD staff and tribal leadership, and continuing work by MNRD staff to monitor and inspect the log jacks, evaluate the impacts of installation and the effects of the project on our natural and cultural resources, and to coordinate remediation of the site, as well as ongoing analysis by MNRD and WWE of newly developing risks.

16. The log jacks also required granting additional property rights to Enbridge. To accomplish the log jack installation, and to best ensure that the log jacks would remain in place, the Band granted Enbridge an easement and right-of-way on the river and the immediately upstream tribally owned parcel so that the log jacks could extend as far as necessary to anchor and protect them from dislodgment by river currents.
17. The Band also granted Enbridge an easement for a different portion of that same parcel for the construction, maintenance, and removal work, and it granted Enbridge an easement on a separate Band-owned fee parcel on the opposite side of the river for the new access road to the meander.
18. These easements and rights-of-way are in place for the duration of the court-ordered continued operation of the pipeline (plus a seven-month buffer for removal and restoration).
19. In addition to the log jacks, the Band also proposed and authorized the installation of a check valve to reduce the impact of a pipeline rupture. This was again a significant project. It involved the creation of a 1.6-mile temporary road for use by heavy machinery, disrupting or eliminating over 4 acres of wetlands and polluting numerous streams, and the expansion of numerous invasive species into our sensitive ecosystem. The disruption from this industrial construction project affected wolves, amphibians, and other wildlife in a remote location on the Reservation and physically impaired the ability of tribal members to hunt and gather on a significant swath of their Reservation homeland.
20. The check valve project reflects significant work by Enbridge, but it has also involved thousands of hours of work by MNRD and its contractors on the project from conception through continued remediation (including over 800 hours by WWE alone).
21. We have tried very hard to work cooperatively with Enbridge to reduce the risks of Line 5, and we remain committed to doing so while the pipeline remains in operation. This past fall, our former Tribal Council started meeting face to face with Enbridge representatives. We have been operating in good faith. I am outraged to think that our efforts to play by the rules and cooperate with Enbridge could be used to justify a longer trespass or dangerous reroute.

22. I also want to be clear that the log jacks and the check valve are only the tip of the iceberg in terms of the burden that Enbridge's continuing trespass has created for the Band.
23. For years, MNRD has been inundated with regulatory work associated with Enbridge safety and maintenance issues. In some years it has spent thousands of hours working on safety and mitigation projects and regulatory reviews associated with Line 5.
24. The Tribal Council has also spent an enormous amount of time on Enbridge issues unrelated to the litigation. Through dozens of formal Tribal Council sessions and working sessions we have needed to weigh the Band's sovereign interests, the risks of Enbridge's pipeline, the views of the community, and technical analyses from MNRD and outside experts about how best to manage the risks of Line 5. As Chairwoman, I have held three public forums to share information about this issue with our tribal members.
25. And while Enbridge touts that there has been no major oil release from Line 5 on the Reservation, its environmental record has been alarming and its so-called safety precautions have glaring flaws and weaknesses. MNRD has had to oversee remediation of the dangerous exposure of the pipeline at a tributary of Denomie Creek (referred to as Slope 18), which could have resulted in a significant release of oil but for MNRD's discovery of the exposure and the remediation work it then had to urge upon Enbridge and which it ultimately oversaw. The Band has also had to deal with the aftermath of an Enbridge helicopter crash on the Reservation that not only resulted in the tragic loss of life but created toxic contaminaton that MNRD had to address, and a situation in which another Enbridge helicopter accidentally dropped a multi-ton payload that barely missed the pipeline. MNRD also has to regularly track the risks of the pipeline at other sites on the Reservation, including at the left bank of the Bad River (at a location called Slope 6) and the White River, Denomie Creek, and other waterway crossings. All this work has taken substantial MNRD time and resources away from the other extremely important work that MNRD does to nurture and protect the natural resources of our homeland.
26. Enbridge's continued presence on our Reservation is unfortunately also a major burden on the Band's politics and community. Enbridge spends large sums of money

trying to influence our small electorate with "tribal engagement" personnel insuating themselves into our community, and giveaways and mailers urging Band members to demand their tribal leaders acquiesce to Enbridge's every desire.

27. This contributes to divisions within our community and within families. Enbridge has weaponized our poverty against us. And while this economic and political activity may fall within Enbridge's rights, it is infuriating to see them do this to vulnerable people, my people, on land that has been reserved by the United States government specifically to protect us. Enbridge's easements expired thirteen years ago. We have been living with this every day for thirteen years. There is a drip, drip, drip of slowly losing our patience, kindness, camaraderie, and grace we were once able to give each other. We are talking about the slow, painful tearing apart of the fabric of a community. Where is this Tribal community supposed to exist if not here? How has this company been able to supplant our desires for this land and our people, casting aside what our ancestors signed into law for us and this place? The three years of additional trespass that the Court has already allowed for Enbridge have been three long years for our community.
28. We are tired of Enbridge accusing us of non-cooperation, insincerity, and conspiracy against it and other fossil fuel companies. None of that is true. Having different hopes and dreams than Enbridge has for our home and people does not make us unreasonable.
29. The reroute is a case in point. Enbridge did not have to choose a reroute path that hugs our Reservation borders, but it did. And with it having done so, we of course have a responsibility to investigate and understand the reroute's threats to Reservation waters. After MNRD and our technical experts concluded that the threat is real, we have exercised our governmental responsibility (and our explicit authority under the Clean Water Act) to inform the agencies making the decision that it will harm our homeland.
30. Enbridge even admits to some of the threats but insists we should just accept them. During one of Tribal Council's meetings with them last fall, we were told the company will use dynamite to explode the hard rocks of the Penokee Mountains in order to lay this new reroute pipe. They freely admitted that these explosions will

increase the mercury levels in our watershed. They argue it is a reasonable amount of mercury and not a big deal. We say we already have some of the highest mercury levels of any water on earth. This is the water that we drink, that our fish and deer drink and then we eat, that our wild rice has to grow in. There are no more important concerns for us. To quote Chief Seattle, "When the last tree has been cut down, the last fish caught, the last river poisoned, only then will we realize that we cannot eat money."

31. We have very much appreciated this Court's recognition that we have a right to exercise the First Amendment to oppose the reroute. Our duly elected representatives, myself included, believe that such opposition is our responsibility to our homeland, our people, our ancestors, and the next seven generations. Our opposition is grounded in our well-informed and serious concerns about Enbridge's plan, including concerns of destruction to our aquifer borne out by the numerous drilling frac-outs that drained the aquifers and polluted the waters during Enbridge's reroute of Line 3 in Minnesota, which caused great injury to our sister tribes there.
32. We are joined in our opposition to the reroute by many of our non-Indian neighbors, who are being represented by Midwest Environmental Advocates and Clean Wisconsin in also lawfully contesting the permitting approval.
33. We do not enjoy fighting Enbridge. We chose not to renew Enbridge's easements, we pressed Enbridge to reroute outside the Mashkiiziibii watershed, and we opposed Enbridge's chosen reroute hugging the borders of our Reservation only because we believe that we have a duty to steward our homeland and its treasured resources for generations to come.
34. The great Nez Perce leader Chief Joseph said it best, "It does not require many words to speak the truth." Over the last 13 years, Bad River has traded millions of words with Enbridge. We've written letters, submitted court documents, provided testimonies, attended meetings, sent emails, and done everything else we could think of, all in an effort to communicate our feelings, concerns and our truth. It may not require many words to speak the truth, but it seems we have yet to discover how many times you have to say the truth before you will be heard.

35. Although I have used thousands of words in this document, I will conclude by following the example of one of my heroes and now speak our truth using only the necessary and correct words as I understand them: I believe Enbridge has trespassed for too long on our homeland. It has no right to expect any more of our hospitality regarding its pipeline and log jacks. We just want to live in peace here, as we always have. And like everyone who reads this document, we want to live in a place with clean water, a healthy ecosystem, freedom to prosper, and happy and thriving children and grandchildren.

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

Dated: February 13, 2026

/s/ Elizabeth Arbuckle
Elizabeth Arbuckle

Chairwoman of the Bad River Band of
the Lake Superior Chippewa Indians