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SETTLEMENT COMMUNICATION. INADMISSIBLE FOR ANY PURPOSE.

September 30, 2019

Chairman Michael Wiggins, Jr.
Members of the Bad River Band Tribal Council
Bad River Band of Lake Superior Chippewa Citizens
P.O. Box 39
Odanah, Wisconsin 54861

Via electronic mail to attorney@badriver-nsn.gov

Chairman Wiggins, Tribal Council Members, and Bad River Citizens,

Thank you, Chairman Wiggins, Junior Councilman Jennings, and Mr. Arnold for meeting with us on September 24, 2019 in Ashland. We thought the conversation was productive and that it gave us both an opportunity to forge new ways for the Bad River Band and Enbridge to work together.

The purpose of this letter is to formalize the settlement offer verbally presented to Chairman Wiggins at the meeting for the Tribal Council and the community to consider regarding the Line 5 claims, and the request for reimbursing the Band with the ongoing burden placed on its staff for the operational support of Line 5.

Settlement Offer for Lawsuit

The offer presented to Chairman Wiggins on September 24, included the following from Enbridge:

- \$12,000,000 to settle claims associated with the easements concerning the allotted parcels from 2013 through the end of 2019;
- \$2,000,000 paid annually beginning in 2020 until operation of Line 5 on the Reservation is discontinued by Enbridge; and
- \$10,000,000 to the Band upon start up and operation of the new route segment at which time, Enbridge will cease operation on the Bad River Reservation.

These payments would resolve the Band's alleged easement claims associated with allotted parcels in which the Band holds an interest, the pending lawsuit, and to address the immediate future while Enbridge is working to reroute Line 5 off the Reservation. As part of the settlement, Enbridge requires access to the Line 5 right-of-way for ongoing monitoring, maintenance, and inspections, all of which is aimed at ensuring continuous safe operation of the existing segment of Line 5 through the Bad River Reservation until the re-route is in operation. Enbridge commits to working with the Band to hire Tribal citizens to work on ongoing monitoring, maintenance projects, inspections.

As we have stated in past meetings, Enbridge is exploring options to re-route Line 5 outside the Bad River Reservation. Enbridge would like to work cooperatively with the Band on designing, permitting and constructing a re-route so it best meets the interests of the Bad River Band, other potentially affected Tribal nations, surrounding communities, Enbridge, and the permitting authorities.

We will look to collaborate with the Band on items such as hiring Bad River citizens to survey cultural resources to inform resource protection and bring concerns forward early and throughout the permitting process. We recommend the details of such collaboration be worked out during in-person settlement discussions and memorialized in a binding settlement agreement.

Natural Resources Department Funding

As was relayed to us in our meeting on Tuesday, we understand the burden that the ongoing operations of Line 5 has on your staff with the ongoing project reviews, permitting and general support. We propose, separately and distinctly from the above settlement, a monthly reimbursement of \$10,000 to supplement the existing permit fees we are paying to the Band. These payments would continue to be made to the Band until the re-route is operational and the existing easements across the Reservation are terminated.

We are open to further discussion on how we can optimize this payment and further reduce the burden on your staff. In addition, we are open to additional compensation for some of the larger projects discussed related to the Bad River meander related to the short-term erosion mitigation as well as longer term mitigation related to pipe replacement via a horizontal directional drill, slope 18 mitigation, as well as any other items as they may arise. We feel that these types of requests would be best suited for a face-to-face meeting with yourselves or your staff.

Direct Allottee Settlements

As mentioned in our meeting, we will begin working directly with individual allottees along the pipeline corridor to reach a separate settlement for compensating their property interests since 2013 and permits ongoing monitoring, maintenance, and inspections of Line 5 until the re-route is complete and service within the Reservation is discontinued. Attached is an example of the letter we will be providing each Individual Allottee.

Future Discussion Opportunities


As we have previously advised and stated again in our September 24th meeting, Enbridge also remains open to discussing an agreement with the Band based on the long-term operation of Line 5 within the Reservation where Allottee easements are renewed and the Band and Enbridge could commit to on-going cooperation on maintenance with attendant Band employment and economic development opportunities. With this on-Reservation settlement, Enbridge would be open to

rebuilding all or parts of Line 5 with your collaboration, input, and participation. If you are interested in either of these options, please let me know.

In the meantime, we understand that your stated preference is for relocating Line 5 off of the Reservation, and again we invite your collaboration, input, and participation in that process.

We also will be increasing our engagement with Bad River citizens to improve our relationship with the community as a whole, as we agree with your statements on Tuesday that such engagement must increase. We remain open and look forward to having a meeting with the full Tribal Council at your convenience. Please feel free to reach out to me directly, or via our attorneys to find an acceptable time to meet.

Sincerely,



Guy Jarvis
Executive Vice President, Liquids Pipelines
Enbridge Energy

Attachment

cc: Vern Yu, President & Chief Operating Officer, Liquids Pipelines
Brad Shamlala, Vice President, U.S. Liquids Pipelines Operations
Trent Wetmore, Director, Midwest Liquids Pipelines Operations
Riyaz Kanji, Bad River Legal Counsel