

Fond du Lac Band of Lake Superior Chippewa

Reservation Business Committee

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Fond du Lac Exercises Sovereignty through Enforcement Action: Enbridge Energy to Pay \$1.45 Million for Violations of the Band's Environmental Ordinances and Permits

The Fond du Lac (FDL) Band of Lake Superior Chippewa, MN October 17, 2022 - Enbridge Energy will pay \$1.45 million for failure to follow the Band's environmental laws and permits as part of a joint enforcement resolution agreement the Fond du Lac Band (FDL) and the Minnesota Department of Natural Resources (DNR) reached with Enbridge Energy. During construction of the Line 3 replacement project, Enbridge breached the confining layer of an artesian aquifer located outside of, but near, the exterior boundary of the FDL Reservation, resulting in unauthorized groundwater flow onto the Reservation.

The civil enforcement agreement requires Enbridge to pay mitigation and penalty funds to FDL totaling \$1.45 million. This includes:

- \$105,000 in a civil penalty for violations of FDL's environmental ordinances;
- \$150,000 in funds for FDL and DNR to conduct ongoing monitoring;
- \$200,000 in projects to enhance water quality on the reservation, and;
- \$1,000,000 in financial assurance for restoration and mitigation of any future damages that may be discovered to on-Reservation waters and resources caused by the aquifer breach.

In addition to the payments to FDL, the DNR has ordered Enbridge to pay \$20,000 in an administrative penalty for appropriating waters of the state without a permit, and \$300,000 in Financial Assurance for future restoration and mitigation of off-reservation resources if needed.

"Today we assert our sovereignty through this enforcement action and demonstrate that the FDL Band will hold accountable any actors that violate our strong environmental standards. This agreement is an important step to protect the Band's resources and ensures that Enbridge will be liable for any future damage that may be discovered from the aquifer breach. The Band will continue to protect the natural resources within the boundaries of the Reservation to the utmost tenacity and evaluate any new information about environmental impacts of the construction as it becomes available" says Chairperson Kevin Dupuis.

As part of FDL and DNR's enforcement order, Enbridge is also required to comply with an approved Corrective Action Plan, Implementation Plan, and Groundwater Management Area-Monitoring Plan.

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On September 10th, 2021, Enbridge breached an underground artesian aquifer located outside of the FDL Reservation. Due to the location of the breach, uncontrolled groundwater from the aquifer was discharged within the boundaries of the Reservation and into the Stoney Brook watershed, upstream of Dead Fish Lake, an important manoomin (wild rice) water. It is estimated that 263.1 million gallons of groundwater were discharged onto the Reservation. Enbridge successfully repaired the aquifer breach on April 7, 2022, and all groundwater flow onto the Reservation was stopped.

As a sovereign entity, the Band adopted stringent water quality standards in 1998, which put regulations and safeguards in place that surpass those at the Minnesota State level. These water quality standards prompted decades of specialized, technical investment in stewarding our cultural and natural resources. Although the Band was not the permitting entity tasked with ultimately approving Line 3 or Enbridge's construction plans, the Band issued a 401-water quality certification and a wetland activity permit which imposed separate conditions on Enbridge to protect the Band's waters. In addition, FDL closely followed on-site events associated with Enbridge's construction plans on and near the Reservation. Once notified of the breach, FDL immediately allocated resources to independently assess the breach's ecological, cultural, and economic ramifications. The Joint Resolution Enforcement Agreement signed today constitutes FDL's enforcement and prosecution under FDL Ordinance #12/98 and FDL Ordinance #01/06 for Enbridge's actions. These actions, along with the Band's water quality standards ordinances, ensures the continued protection of FDL's resources.

The aquifer breach presented a complicated, multi-jurisdictional challenge involving rapidly changing developments and extensive investigation. Several public entities were involved in the response to the aquifer breach including the FDL, the DNR, the Minnesota Attorney General's Office, the Minnesota Pollution Control Agency, the Minnesota Department of Health, the United States Army Corps of Engineers, and St. Louis and Carlton Counties.

For more information about the Aquifer Breach near the FDL Reservation please visit: [AquiferFAQ_20221017.pdf \(fdlrez.com\)](#)

About Fond du Lac Band of Lake Superior Chippewa

Nagaajiwanaang, "Where the Water Stops." is the name of the homelands of the Fond du Lac Band at the time of the 1854 Treaty. We retained this name in Ojibwemowin for the present day Fond du Lac Reservation that was established under the 1854 La Pointe Treaty. Nagaajiwanaang (Fond du Lac Band) is one of the six Bands of the Minnesota Chippewa Tribe. There are three districts that make up the Fond du Lac Reservation: Bapashkominigong (Cloquet), Gwaaba'iganing (Sawyer), and Ashkibwaakaaning (Brookston). Today, our Band includes over 4,200 members. We have always been, and continue to be, a proud sovereign Ojibwe nation. We uphold all of our rights retained and agreed to within the 1825, 1826, 1837, 1842, 1847, and 1854 Treaties.