

Fond du Lac Band of Lake Superior Chippewa Reservation Business Committee

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February 19, 2019



Amy C. Hawkins
Vice President, Government Affairs
BNSF Railway
500 New Jersey Avenue, NW
Suite 550
Washington, DC 20001

Chairman
Kevin R. Dupuis, Sr.

Secretary/Treasurer
Ferdinand Martineau, Jr.

Dist. I Representative
Wally J. Dupuis

Dist. II Representative
Bruce M. Savage

Dist. III Representative
Roger M. Smith, Sr.

Executive Director,
Tribal Programs
Miyah M. Danielson

**Re: Tribal Authority and the Current Situation at BNSF Train
Derailment Site**

Dear Ms. Hawkins:

On behalf of the Fond du Lac Band of Lake Superior Chippewa, I write to express our continuing concerns and deep disappointment with BNSF's intentional disregard of the Band's sovereign, regulatory authority and our established Emergency Operations Plan, which applies to disaster responses on the Fond du Lac Reservation.

Since the massive BNSF coal train derailment which occurred within our Reservation boundaries on February 16, 2019, BNSF has avoided appropriately interfacing with our Emergency Management Personnel and Tribal Administrators, apparently appointing its regional spokesperson, Amy McBeth, as the sole managing point of contact with our government leaders. One of many upsetting facts is that we were not appropriately notified of the derailment by Ms. McBeth—or any other representative of BNSF—until approximately five (5) hours after the actual occurrence on our tribal land.

Of deeper concern, BNSF initiated its own operations and heavy equipment missions on and around the derailment site without any contact with us whatsoever, blatantly disregarding the jurisdictional government authority of the Fond du Lac Band, our established Emergency Operations Plan, and our ordinances. BNSF personnel on-site have continued to operate in a non-cooperative and disrespectful manner, willfully leaving our administration, government department leaders, and critical responders out of site management communications and planning meetings, while attempting to actually restrict our personnel's access to the site and essential information.

Because this incident occurred on Reservation land, BNSF's cleanup operation is subject to the Band's regulatory authority, ordinances, and

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policies. We require site access in order to enforce the Band's water quality standards and employment laws. We require BNSF's cooperation in order to implement the Band's Emergency Operations Plan.

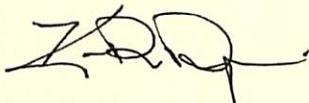
Over the past 72 hours, we have demanded access to the site and to be provided with BNSF's plans for the emergency response. We have attempted to establish a cooperative relationship in order jointly respond to this incident. BNSF has failed to provide an acceptable response and we have been unable to access the site.

We believe it is in BNSF's interest to immediately accommodate these demands. BNSF should make arrangements and should recognize the Band as the lead agency for this incident. If BNSF fails to do so, we will review all of our options, which may include stopping work on the project or filing a lawsuit to obtain site access.

To be clear, the Fond du Lac Band of Lake Superior Chippewa will endeavor to work with BNSF to achieve optimally positive outcomes from this unfortunate event; however, we will not tolerate willful disregard of our authority on our own lands from any outside agency, interest, or individual.

I extend my thanks, in advance, for your cooperation, and welcome positive dialogue moving forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Dupuis', with a stylized flourish at the end.

Kevin R. Dupuis, Sr.
Chairman