

TESTIMONY OF KATHRYN L. TIERNEY,
Tribal Counsel for the Bay Mills Indian Community
Accompanied by V. HEATHER SIBBISON,
Counsel for the Bay Mills Indian Community
Before the
JUDICIARY COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES
On
MARCH 14, 2008

TO PROVIDE FOR AND APPROVE THE SETTLEMENT OF CERTAIN LAND
CLAIMS OF THE BAY MILLS INDIAN COMMUNITY
(H.R. 2176)

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Chairman Conyers, Ranking Member Smith, and members of the Committee, thank you for the opportunity to be here today to testify on behalf of the Bay Mills Indian Community regarding H.R. 2176. My name is Kathryn Tierney and I serve as in-house counsel to the Bay Mills Indian Community. I am appearing today at the request of Jeffrey Parker, President of the Executive Council, which is the elected government of the Tribe.

As you know, President Parker testified on this legislation last month when he appeared before the House Resources Committee. The background of the claim and its settlement was covered extensively during that hearing. President Parker's written testimony, which is provided again for the benefit of this Committee, provides a detailed summary of the claim and the Tribe's efforts to resolve it. We hope that this distinguished Committee will support the State's and the Tribe's resolution of this longstanding land claim so that all affected parties, including the current landowners of the Charlotte Beach lands, can bring this painful chapter of history to a close. As you know, only Congress can resolve the land claim and provide clear title to the Charlotte Beach residents.

I am happy to answer any questions that the Committee may have regarding this important legislation.

TESTIMONY OF JEFFREY D. PARKER
Before the
RESOURCES COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES
On
FEBRUARY 6, 2008

**TO PROVIDE FOR AND APPROVE THE SETTLEMENT OF CERTAIN LAND
CLAIMS OF THE BAY MILLS INDIAN COMMUNITY
(H.R. 2176)**

Mister Chairman, and members of the Committee, I am pleased to be invited to present testimony on behalf of the Bay Mills Indian Community on H.R. 2176. I speak here today in my official capacity as President of the Executive Council, which is the elected government of our Tribe. The legislation before you is extremely important to my people; its importance will be better understood by my description of the history of the Tribe and the origin of this controversy.

The Bay Mills Indian Community is comprised of the bands of Sault Ste. Marie area Chippewa who signed a series of treaties with the United States beginning in 1795. My Tribe's modern-day Reservation is located at the juncture of the St. Mary's River and Lake Superior, in the Iroquois Point area of Michigan's Upper Peninsula, and on Sugar Island, which is just east of Sault Ste. Marie, Michigan, in the St. Mary's River Channel. My Tribe is one of four in Michigan which has maintained continuous government-to-government relations with the United States since treaty times. We adopted a Constitution in 1936 under the Indian Reorganization Act, and codified as our form of government the traditional Chippewa public forum, in which all adult members comprise the General Tribal Council. I represent a direct democracy, which votes every two years to select officers, known as the Executive Council. Our total enrollment is approximately 1,750 members. It is on their behalf that I speak today.

I am very proud to testify in support of this legislation, as it represents the final step in obtaining redress of a great wrong done to our people over 100 years ago, a wrong that has imposed continuing consequences to the present day. The Bay Mills Indian Community is deeply grateful to Congressman Bart Stupak for sponsoring H.R. 2176, and to Congresswoman Candice Miller and Congressman Patrick Kennedy for co-sponsoring it. I also wish to express my thanks to Chairman Rahall and Ranking Member Young for understanding how important this legislation is to my people and for holding this hearing today.

History of Our Land Claim

Dr. Charles Cleland, PhD., a preeminent Great Lakes Indian ethnohistorian, has reviewed the history of the Hay Lake/Charlotte Beach land claim. His report on the claim, directed to the members of the Committee, is attached as Attachment 1. I will attempt to summarize his findings in my testimony.

The Sault Ste. Marie area Chippewa bands, among many other bands throughout the Upper Great Lakes, participated in a series of cession treaty negotiations by which large tracts of land were sold to the federal government. These lands, which later became a large portion of the State of Michigan, were ceded to the United States in 1807, 1819, 1820, and 1836. The terms of the Treaty of 1836 are particularly significant to the story of my people.

The Treaty signed by our ancestors in 1836 promised to set aside certain lands for us in perpetuity. When the 1836 cession Treaty was sent to Congress for ratification, however, the Senate unilaterally inserted a provision which limited protection of the lands reserved under it to a five-year term. As a result, over the course of a relatively short period of time the Chippewa lost hundreds of thousands of acres of land, in direct contravention of the express terms of the Treaty that had been signed by them.

In part to rectify the injustices done by the 1836 Treaty, the United States in 1855 entered into another Treaty with our ancestors by which new lands were to be reserved for our use. Among these lands was property specifically identified by legal description in the 1855 Treaty at Hay Lake (the area in modern times known as Charlotte Beach). My Tribe's ancestors signed the 1855 Treaty with the express understanding that the Hay Lake/Charlotte Beach land would be set aside for our exclusive use, and that it would be protected from alienation and European settler encroachment.

One day after the 1855 Treaty was concluded, however, the United States Land Office allowed that very land at Hay Lake to be sold to non-Indian speculators. Hence, despite the fact that the United States agents induced our ancestors to sign the 1855 Treaty on the understanding that the Hay Lake/Charlotte Beach land would be included within our reserved lands, and despite the fact that the Senate ratified the 1855 Treaty with the legal description of the Hay Lake/Charlotte Beach lands still in place, the Tribe lost that land by virtue of the United States Land Office's actions.

In order to recover the Hay Lake/Charlotte Beach land, which was of central importance to us for historical, food gathering, and cultural reasons, the Bands used their annuity money to buy back what portion of it that they could. Upon advice of the Bureau of Indian Affairs agent at the time, trust title to the Hay Lake/Charlotte Beach land was conveyed from the land speculators to the Governor of the State of Michigan, to protect the land from further alienation and encroachment by the Trade and Intercourse Act's prohibition against the alienation of Indian lands without express Congressional consent.

My ancestors hunted and lived on the Hay Lake/Charlotte Beach property for nearly thirty years undisturbed by the State of Michigan. In the 1880s, however, Chippewa County determined that it would impose taxes on the property. Even though he held trust title, the Governor of the State of Michigan failed to respond to the tax assessment in any manner whatsoever. Despite repeated requests from our people to the Bureau of Indian Affairs for help, the federal government also took no action. Because neither the federal government nor the State of Michigan acted to protect our lands as was required by the Trade and Intercourse Act, the County moved to foreclose on the property and our ancestors were evicted.

I want to make you aware of what the Bureau of Indian Affairs' own agent wrote in 1880 about the impending sale of our Hay Lake/Charlotte Beach lands:

At the ``Sault'', the Old Chief Shaw wa no is in very destitute circumstances, and much agonized as his land which amounts to some 300 acres bought by annuity money and deed in trust to the Governor of this State many years ago, has been sold for taxes...*The Old man wished me to do something for him or ask the Government to provide the means to cancel this claim for taxes*, He is Old, sick & Blind; and all his people are very poor, simply sustaining life by fishing, picking berries, or an odd days work which chance may throw in their way...

Emphasis added. G. Lee, Michigan Indian Agent, in a letter to the Commissioner of Indian Affairs dated August 1880.

In 1916, we again petitioned the Bureau of Indian Affairs for help when on behalf of the Community tribal member William Johnson wrote to the Bureau begging for assistance in regaining the Hay Lake lands. The Bureau rebuffed his petition.

In 1925, an attorney, John Shine, wrote again on the Tribe's behalf, begging the Bureau for help in recovering the Hay Lake property. The Bureau again rebuffed the Tribe's petition for help.

In the 1970s, the United States' own expert witness (widely considered to be the preeminent historian of Indians in the Great Lakes area) in the U.S. v. Michigan treaty fishing rights litigation highlighted the existence of the Hay Lake/Charlotte Beach claim in her expert report submitted to the Federal District Court for the Western District of Michigan. See Report of Dr. Helen Tanner, dated April 1974, for the United States in U.S. v. Michigan, Civ. Case No. 2:73 CV 26 (W.D. MI).

In the 1980s, the Bay Mills Indian Community repeatedly petitioned the Department of the Interior to include the Hay Lake/Charlotte Beach claim on its list of protected historical Indian claims pursuant to 28 U.S.C. Sec. 2415. Through a Field Office of the Office of the Solicitor, Interior erroneously denied our Tribe's petition for the simple and only reason that the Hay Lake/Charlotte Beach land was held in trust by the State rather than the federal government. (A copy of that determination letter is attached as Attachment 2.) The Field Solicitor's refusal was not legally supportable. Existing federal court opinions made clear that the Indian Trade and Intercourse Act protects Indian lands held by states, and Congress had specifically directed Interior to protect all historical Indian claims except those that ``had no legal merit whatsoever." (See section 3(a) of Pub. L. 97-394.) Further, the Field Solicitor's refusal was inconsistent with general Interior policy because in fact *Interior had included on the final list of protected historical claims a fair number of state-held lands, including some held for state recognized tribes.*

The Tribe was not the only entity seeking resolution of the Hay Lake/Charlotte Beach claim. Property owners in the area were contacting both the Department of the Interior and the local Congressman, seeking help in their efforts to obtain clean title to their land. An example of that effort is correspondence with then-Congressman Bob Davis, attached as Attachment 3.

In the 1990s, we tried to obtain redress in the courts. Our efforts were unsuccessful. Our federal court case was dismissed on a procedural technicality (the court found that the mere possibility that the Sault Tribe might have a claim to the Hay Lake/Charlotte Beach land prevented the case from going forward). We fared no better in the state courts, which were unable to address our equitable claim for land, and had little understanding of the federal Indian legal issues before them. In both forums, our claim was dismissed on procedural grounds, the merits of the Bay Mills claim to the land unaddressed. Additionally, while these cases were pending, the Tribe was informed by the Department of the Interior that no court decision could unilaterally extinguish its claim to the Hay Lake/Charlotte Beach land. Extinguishment of the Tribe's claim required Congress to act, with or without a court order approving a land claim settlement.

In 2002, we entered into direct settlement negotiations with the Governor of the State of Michigan to resolve the claim. To Governor John Engler's credit, he determined that it would work with our Tribe to address this long-standing grievance. Subsequently, we were able to forge a settlement that addresses the needs and concerns of the Bay Mills Indian Community, of the State of Michigan, of the people living within the Charlotte Beach land claim area, and of the people living in Port Huron. That settlement, executed by the Bay Mills Indian Community and the State in August 2002, and as recently amended by agreement with Governor Jennifer Granholm, is the backbone of the legislation here before you today.

I underscore this history because I want the Congress to understand the long-standing importance that this land has held for my people. I want the Congress to understand that this land claim is not about gaming, not about forum shopping, not about modern-day business deals. This land claim exists because of negligence by Land Office staff, historical inaction by Department of Interior staff, and abandonment of trustee obligations by the Governor. Resolution of this land claim is about finally securing just compensation for the Tribe, finally being able to close this painful chapter of our history, and finally being able to shift our focus to the future. It is about finally achieving justice.

The Settlement

In commencing settlement negotiations with the Governor of Michigan, the Bay Mills Indian Community well understood that no agreement would be possible without compromise. Because achieving closure to this long-standing wrong was very important to our community, we worked hard to reach an accommodation with the Governor by which a resolution to our claim would serve both our goals.

The Tribe's goals were to recover lost lands, and to receive monetary compensation due us for having lost possession of those lands. The Governor's goals were to quiet title to the claim area property without displacement of the people living there, to construct a settlement that

would not have an impact on the State's budget, and to ensure that any replacement lands would be located in a community desirous of our presence there.

The Settlement accomplishes both the Tribe's and the Governor's goals in a fair and equitable manner. Indeed, we would like to think that the spirit of mutual respect and cooperation with which these negotiations took place should serve as a model for how such difficult and emotionally charged issues can be resolved. In addition, I note that the general structure of the Bay Mills settlement is consistent with other land claims settlements already enacted by Congress. (See, for example, the Torres- Martinez Desert Cahuilla Indians Claims Settlement ratified in the 106th Congress and codified at 25 U.S.C. sec. 1778, in which that tribe's claim for trespass damages was resolved with replacement lands and a related gaming opportunity.)

Indian Gaming

We understand that there is a reluctance to allow Indian land claim settlements to be used to as vehicles for the expansion of Indian gaming. We share that concern. We think, however, that the United States owes it our people, particularly given the long and unfortunate history of our dealings with the United States, to take a hard look at the merits of this land claim, and to understand the proposed settlement in the context of our land claim rather than through the filter of modern controversies surrounding Indian gaming.

If we had never been kicked out of our Hay Lake/Charlotte Beach property, if either the United States government or the State of Michigan had honored and enforced the Trade and Intercourse Act when Chippewa County sought to (and achieved) our dispossession through tax foreclosure sales, then everyone, everywhere, would understand the Hay Lake/Charlotte Beach property to be "Indian lands" held by the Tribe prior to the enactment of the Indian Gaming Regulatory Act (IGRA). Had our ancestors never been evicted by county tax assessors, we would continue to live there to this day, and we would be entitled, under IGRA, to operate an Indian gaming facility there.

The Governor made clear that he would not agree to my Tribe's recovery of the Hay Lake/Charlotte Beach land because it could result in the eviction of current landowners in the Hay Lake/Charlotte Beach area. The Governor instead offered his support for the concept of finding new lands to replace the Hay Lake/Charlotte Beach property in return for our agreement that our trust title to the Hay Lake/Charlotte Beach property would be extinguished by Congressional action. By agreeing to provide replacement land to the Tribe, the Governor has alleviated the anxiety of persons currently living in the Hay Lake/Charlotte Beach claim area that they might some day be evicted from their homes. By agreeing that such replacement lands should be eligible for gaming, the Governor has agreed that the replacement land should in fact have the same status as the lands we have agreed to give up--that is, the replacement land should be treated as if it, too, had been held by the tribe since the mid-nineteenth century.

The Governor insisted that we locate replacement lands in a community that was desirous of hosting us. We have done that. As you will hear directly from representatives of Port Huron today, that community affirmatively wishes our Tribe to locate its replacement lands there.

I also wish to underscore that the Governor insisted that he would not approve appropriation of money from the State budget to compensate us for the damage done to us by having lost the use and benefit of these lands for more than a century. We have agreed to that; indeed, have agreed that we will try to achieve full compensation based on the money **we ourselves** make through economic development on the replacement lands. Those funds will generate the income we require in order to provide governmental services and programs to the Tribe's members and their families. Without that income, we would have no choice but to come back both to the State and the Federal Government, and insist that we be compensated for both parties' failure to protect our lands from alienation as required by the Trade and Intercourse Act.

For these reasons, I strongly and respectfully urge you to consider this settlement not through the lens of Indian gaming, but rather in the context of the long and well-documented history of the wrong done to my people, and in the context of the overall wisdom of a settlement crafted to create the greatest good for the most people.

Conclusion

I recognize that there are additional issues which may be of interest or concern to the Committee. I am happy to address any and all issues, and I welcome your questions today. I once again thank you for the opportunity to tell the Bay Mills Indian Community's story, and I respectfully urge you to support the efforts of the Bay Mills Indian Community, the citizens of Charlotte Beach and Port Huron, and the State of Michigan, by providing the necessary Congressional ratification of our settlement without further delay.

Mr. Chairman and members of the Natural Resources Committee of the U.S. House of Representatives:

My name is Charles E. Cleland and I am a Distinguished Professor Emeritus of Anthropology from Michigan State University. Since receiving my PhD in Anthropology from the University of Michigan in 1966, I have devoted my career to the study of the history and culture of the native tribes of the Upper Great Lakes region. I have authored several books and many journal articles on these topics and have likewise taught numerous courses related to the anthropology and history of the Great Lakes region. During my career and subsequent to my retirement from MSU in 2000, I have had frequent occasions to offer expert testimony in our federal courts as they were hearing cases involving treaty right issues.

I come before you today at the request of the Bay Mills Indian Community to discuss the historical events which precipitated the Charlotte Beach land claim over 130 years ago and which has been a point of bitter consternation for the Bay Mills Community ever since. My testimony today is also in support of H.R. 2176 which would resolve the long-standing Charlotte Beach land claim to the satisfaction of the Bay Mills Community.

The Charlotte Beach area is a part of the 13 million acre cession made by the Odawa (Ottawa) and Ojibwe (Chippewa) tribes of northern Michigan by the Treaty of Washington in 1836. By this cession the United States recognized the Charlotte Beach area to be part of the lands of the Ojibwe bands of Sault Ste. Marie. The Bay Mills Indian Community is a federally recognized successor in interest to five of the six bands that composed the Sault Ste. Marie Ojibwe.

On July 31, 1855 the Sault Ste. Marie bands became parties to the treaty of Detroit. This treaty was designed to settle the affairs of the Michigan Odawa and Ojibwe by allotting land in severalty to each family. These allotments were to be permanent homes guaranteed by the United States through certain restrictions against alienation which are described in the treaty. By practice, land was withdrawn near the locations of the various bands from which individuals could choose 40 or 80-acre parcels. Unfortunately, the allotment process was snarled, delayed, and often flawed by unforeseen circumstances.

In order to illustrate the historic relationship between certain parcels of land in the Charlotte Beach area of Chippewa County and the Bay Mills Indian Community I provide the following documented facts:

1. The Sault Ste. Marie Chippewa Chiefs who signed the Treaty of July 31, 1855 represented six separate and politically independent bands. These bands were composed of intermarrying families and were named from the geographic locations they frequented, or, more commonly, from their leaders. The six Sault Ste. Marie bands occupied the southeast coast of Lake Superior and its hinterlands from present day Marquette to Sault Ste. Marie and the St. Mary's River valley from the falls of the river to Drummond Island.¹
2. In 1855 the Sault Ste. Marie Chippewa bands consisted of the following:
 - a. *Oshaw-wan-no-ke-wain-ze* or *Oshawa-no*'s band, which was centered at the Rapids of the St. Mary's and the town of Sault Ste. Marie.
 - b. *Waub-o-jig* or *Waishkee*'s band, which was centered at Waiskey's Bay.
 - c. *Kay-bay-nodin*'s band, which had its summer village at the mouth of the Tahquamenon River.

- d. *O-maw-no-maw-ne's* band located at Whitefish Bay.
 - e. *Piawbe-daw-sung's* band, which was centered at Garden River and Sugar Island.
 - f. *Shawan's* band, which was located near Hay Lake on the St. Mary's River downstream from the rapids.²
3. In 1853 the people of *Oshawa-no's* band, which then lived on a reservation that had been created by the Treaty of 1820 at the falls of the St. Mary's, were illegally displaced by the construction of the St. Mary's ship canal. Although *Oshawa-no* was given fishing privileges and a small island in the river as part of the compensation for the loss of the reservation by a Treaty of August 2, 1855, this band of Catholic Indians reestablished itself adjacent to the town of Sault Ste. Marie.³
 4. The Treaty of July 31, 1855 set aside several reservations from which the people of the Sault Ste. Marie bands could choose allotments from unsold public lands which had been temporarily withdrawn from the market.⁴
 5. On August 1, 1855, a week before the reserve land was withdrawn from public sale, two non-Indians, Joseph Kemp and Boziel Paul, purchased seven parcels of land on the Hay Lake reserve from the government. These purchases were apparently for the purpose of real estate speculation.⁵
 6. Two years later on October 12, 1857 several Indian persons used pooled annuity funds from the 1855 Treaty to purchase land from Boziel Paul and his wife Marie. These parcels included Lots 1, 2, 3, and 4 of Section 7, T. 45N, R. 2E and Lot 1 of Section 18, T. 45 N, R. 2E.⁶ These parcels include the present Charlotte Beach land.

7. On the advice of their Indian agent, the warranty deed for these parcels was written in the name of "Kinsley S. Bingham, Governor of the State of Michigan and his successor in office, in trust, for the use and benefit of the two bands of the Sault Ste. Marie Ottawa and Chippewa of Michigan of which *Oshawa-no* and *Shawan* were chiefs."⁷
8. This land was not purchased for the sole benefit of the individual purchasers, but for the bands to which they belonged.
9. The first allotment selections under the 1855 treaty were made in 1857. When the Hay Lake reservation, which had apparently been expressly made for the displaced band of *Oshawa-no* and the local band led by *Shawan*, was examined, it was determined that most of this reserve was flooded and uninhabitable. The little good, or high land, which was along the river, was the land that had been purchased by Paul and it was this land that was then privately purchased from Paul for the bands.⁸
10. In the meantime the other four Sault Ste. Marie Chippewa bands were making land selections in other places, mostly on Sugar Island and at Point Iroquois near the modern Bay Mills Community. Leaving aside the long, complicated details of the allotment process, by 1861 the bands of *Kay-bay-nodin*, *Omaw-no-maw-ne*, and *Waish-kee* made selections at Point Iroquois while *Piawabe-daw-sung's* band selected land on the east side of Sugar Island.⁹
11. By 1871 the people of *Oshawa-no's* and *Shawan's* bands had still not selected allotments. In that year special allotment agent John Knox reported new allotments at Sugar Island and some few at Hay Lake. These were likely to be members of *Oshawa-no's* band. In December of 1871 agent Knox reported that previous agents

Long and Smith had both promised *Shawan's* band allotments next to the land they had privately purchased at the Hay Lake reserve. He added that there was not sufficient desirable land to provide the Indians with the land they were entitled to under the 1855 treaty.¹⁰

12. The Hay Lake reserve (the area where Charlotte Beach is now located) was strongly associated with *Shawan's* band because they traditionally occupied this territory and because they had been promised land in this area. They together with *Oshawa-no's* band had already purchased private land there for their members.

13. Despite these facts there was not enough good land to allot *Shawan's* band and in 1871 its families were still almost landless. This problem was solved when "after a long deliberation" the bands allotted at Iroquois Point under Chiefs *O-maw-no-maw-ne* and *Wawbe-ga-kake* (son and successor to chief *Kay-bay-nodin* who signed the 1855 Treaty) agreed to allow *Shawan's* band to "become equal partners in selecting land claimed by the above chiefs and their bands."¹¹

14. The people of *Shawan's* band were thus allotted at Point Iroquois and were amalgamated with the people who eventually became the Bay Mills Indian Community.

15. In 1879 agent Luke Lea alerted the Indian Office to the fact that about 1,000 acres of land that had been purchased by Indians of the Sault Ste. Marie bands had been placed on the tax rolls. He estimated that this land could have been secured for about one dollar per acre but funds were not available for this purpose.¹²

16. The newly taxed land included that purchased for the use and benefit of *Oshawa-no's* and *Shawan's* bands in what is now the Charlotte Beach area of the old Hay Lake reserve. Although deeded to the Governor and his successor, the lands held for these bands was sold by the Auditor General of Michigan in 1884, 1885, and 1887 for taxes assessed from 1866 onward.¹³

17. By 1882 more than half of the Sault Ste. Marie Chippewa people were living on Sugar Island and in the City of Sault Ste. Marie. The remaining resided at Iroquois Point.

18. Clearly, the Bay Mills Indian Community as the successor group to the Point Iroquois bands can lay claim to the rights of *Shawan's* band, which was one of the four original bands that formed the community. This is particularly so since at least two of the original Bay Mills bands officially decided to take in *Shawan's* group. It is also clear that *Shawan's* band had the major claim to the Hay Lake (and therefore Charlotte Beach) region but that *Oshawa-no's* band also had a share in the Hay Lake area by virtue of purchase.

¹ Treaty of July 31, 1855. 11 Stat. 621.

² Tanner, H. H. 1974 Report U.S.A. v. Michigan No. M 26-73C.A. U.S.D.C.

³ Treaty of 1820. 7 Stat. 206.

Treaty of August 2, 1855. 11 Stat. 631.

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- ⁴ August 1, 1855. G. Manypenny to Commissioner of General Land Office.
- ⁵ December 31, 1855. J. Johnston to H. Gilbert.
- ⁶ US Patents. Chippewa County Court House, Liber 3, Page 10 and 149.
- ⁷ Warranty Deed, Chippewa County Courthouse. Liber 3, page 150.
- ⁸ October 2, 1858. A. Fitch to C. Mix.
- ⁹ Tanner, H.H. 1974 Report U.S.A. v. Michigan No. M 26-73C.A. U.S.D.C. page 21.
- ¹⁰ NAM M234 R. 409:684-689. December 8, 1871. J. Knox to F. Walker.
- ¹¹ NAM M234 R. 409:684-689. December 8, 1871. J. Knox to F. Walker.
- ¹² NAM M234 R. 415:123-130. February 4, 1880. L. Lee to Commissioner of Indian Affairs.
- ¹³ State tax land deeds. Chippewa County Courthouse. Liber 11, page 64, 100, 101, and 516.



United States Department of the Interior

IN REPLY REFER TO:

OFFICE OF THE SOLICITOR
Office of the Field Solicitor
686 Federal Building, Fort Snelling
Twin Cities, Minnesota 55111

BIA.TC.3776

June 24, 1992

Mr. Earl J. Barlow
Area Director
Bureau of Indian Affairs
Minneapolis Area Office
331 South 2nd Avenue
Minneapolis, Minnesota 55401

Attn: Rights Protection

Re: Rejection of Claim - No. F60-469-0010

Dear Mr. Barlow:

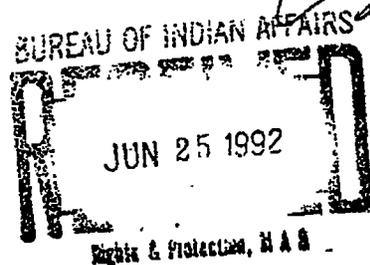
We have at your request again reviewed the above referenced claim and related materials in the file.

It is our opinion that the claim should be rejected for the reasons stated in our previous letters of October 21, 1982, and January 17, 1985. We are closing our file in this matter.

Sincerely,

Jean W. Sutton
For the Field Solicitor

Enclosure





United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245



IN REPLY REFER TO:

Real Estate
Technical Services
BCCO 2498

BUREAU OF INDIAN AFFAIRS
30 AUG 22 AM 10:32
MICHIGAN AGENCY

AUG 17 1990

Honorable Robert W. Davis
Member, United States House
of Representatives
144 S. 2nd Street
Alpena, Michigan 49707

Dear Mr. Davis:

Thank you for your letter of July 20 on behalf of Ms. Carla Syrstad of Barbeau, Michigan. Ms. Syrstad would like an updated status on her case which involves clouded title on land within the Charlotte Beach Subdivision in Barbeau, Michigan.

Because this case may involve a claim identified pursuant to the Indian Claims Limitation Act of 1982, we are forwarding your inquiry to our Minneapolis Area Office (Bureau of Indian Affairs, 15 South 5th Street - 10th Floor, Minneapolis, Minnesota 55402) for a direct reply. That office maintains administrative jurisdiction over certain Indian lands in the State of Michigan.

The Minneapolis Area Office will provide you with a direct response within 4 to 6 weeks.

Sincerely,

/s/ MARSHALL M. CUTSFORTH

Deputy to the Assistant Secretary -
Indian Affairs (Trust and Economic
Development)

Copy to your Washington Office

cc: Minneapolis Area Director, Attn: Rights Protection
w/incoming for a direct reply
Superintendent, Michigan Agency

200

ROBERT W. DAVIS
11TH DISTRICT, MICHIGAN

COMMITTEES:
ARMED SERVICES
MERCHANT MARINE AND
FISHERIES

2498-200

WASHINGTON OFFICE:
2417 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 226-4735
CALL TOLL FREE IN MICHIGAN:
1-800-492-8882

Congress of the United States
House of Representatives
Washington, DC 20515

DEPT. OF INDIAN AFFAIRS
30 AUG 22 AM 10:32
MICHIGAN AGENCY

July 20, 1990

Office of Indian Affairs
U. S. Department of Interior
Interior Building
C Street between 18th & 19th Streets
Washington, D. C. 20240

Dear Madam or Sir:

Because of my desire to be responsive to all of my constituents' inquiries, your consideration of the attached is appreciated.

Please investigate the statements made therein and provide a full report on your findings to my Alpena district office to the attention of Jerry Newhouse, returning the correspondence with your reply.

Thank you for your attention.

Sincerely,

ROBERT W. DAVIS
Member of Congress

Enclosure

90 JUL 31 P2:43
DEPT. OF INDIAN AFFAIRS
EXECUTIVE SECRETARIAT

DISTRICT OFFICES:

- 2400 U.S. 41 WEST
MARQUETTE, MI 49855
(906) 228-3700
- 118 N. 22ND STREET
ESCANABA, MI 49829
(906) 798-4504
- 147 W. MAIN STREET
GAYLORD, MI 49735
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- 144 E. 2ND STREET
ALPENA, MI 49707
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- 111 N. MAIN STREET
CHEBOYGAN, MI 49721
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- CITY-COUNTY BUILDING
SALT STE. MARIE, MI 49783
(906) 826-0405
- 100 PORTAGE
HOUGHTON, MI 49931
(906) 482-2464
- 318 W. MITCHELL STREET
PETOSKEY, MI 49770
(516) 347-4560

Congressman Bob Davis
144 S. 2nd. Ave.
Alpena, Michigan 49707
July 16, 1990

Several years ago I made inquiries to your office about the legal ownership of the properties in the Charlotte Beach Subdivision in Barbeau, Michigan. The residents had, then, just become aware that we could not get title insurance for resale or financing. We learned that the property was sold just before a Federal Treaty with the Indians went into affect. I am on vacation and don't have my records with me, but, if memory serves me right, the land was then put in trust with the State and was finally sold for non-payment of taxes. The opinion given at the time was that it did not appear to be part of the Treaty and the Federal government would possibly release it and we could then pursue the case on a state level.

Maybe, 4 years ago I was told the person reviewing cases had left that position and no one had replaced him. About 2 years ago my brother Richard Reinhart was trying to buy a summer home and made inquiries with an Indian Affairs office in Washington D.C. and again no progress seemed to be made. Now just this passed spring a Bill Isaacson who now resides in Escanaba and was trying to sell a home here talked to Mr. Davis' representative in Escanaba and came away with the impression some action may be in the works.

So, to finally get to the point, I would like to know the latest status of the case. Is there more that my neighbors and I could do to speed things up?

Although, this is our home of record, my husband is in the Coast Guard and we are living in Wisconsin. I will be in Barbeau until the middle of August. After that time please contact me in Wisconsin. Thank you for your efforts.

Sincerely,

Carla Syrstad
30 BB Charlotte Beach
Barbeau, Michigan 49710
1-906 632-0265

or,

4821 Church Rd.
Platteville, Wisconsin 53818
1-608 568-7670

319 Court Street
Sault Ste. Marie, MI 49783-2194

(906) 635-6330
(906) 635-6325 FAX



Earl Kay
Chairman

CHIPPEWA COUNTY COMMISSIONERS

February 1, 2008

Honorable Nick J. Rahall II, Chairman
Honorable Don Young, Ranking Member
United States House of Representatives
Committee on Natural Resources
Washington, DC 20515

Re: Value of Real Property at Charlotte Beach, Chippewa County, MI

Dear Sirs:

As the issue of the impacts of the potential ratification of the land claim settlement between the Bay Mills Indian Community and the Governor of the State of Michigan is of current concern to you and the members of your committee, I write to confirm to you the real impacts that the land dispute which is the subject of your on February, 6, 2008, has had on the property owners in Charlotte Beach, Chippewa County, Michigan.

As Chairman of the county Board of Commissioners and a life-long resident of the area, I would like you to be aware that the land dispute surrounding properties in our Charlotte Beach area has had, and continues to have, a real and significant impact on the values of the property. For many years, and up to the present time, the dispute between the Tribe and the State of Michigan concerning the taking of these lands has clouded the titles to those properties making the obtaining of "clear" title, impossible.

The inability of our residents to receive such title, thus title insurance, has been and continues to be a major impediment to the transfer of these properties at Charlotte Beach, making the sale of an ownership interest in any of these properties at fair market value difficult, to say the least. Until or unless this situation is rectified, the property values in this area will remain greatly reduced, hindered by these title issues for now and into the future.

Thank you for taking this issue and my comments into consideration.

Sincerely,

A handwritten signature in black ink that reads "Earl Kay". The signature is written in a cursive style.

Earl Kay
Chairman

CURRICULUM VITA

Charles E. Cleland
2008

Current Titles

Distinguished Professor Emeritus of Anthropology, Michigan State University
Curator Emeritus of Great Lakes Archaeology and Ethnology, MSU Museum

Address

19899 Gennett Road, Charlevoix, MI 49720
(231) 547-6220
e-mail: cceleland@charlevoixwireless.com

Education

B.A. Biology, Denison University, Granville, OH 1958
M.S. Zoology, University of Arkansas, Fayetteville 1960
M.A. Anthropology, University of Michigan, Ann Arbor 1964
Ph.D. Anthropology, University of Michigan, Ann Arbor 1966

Professional Organizations

Society for American Archaeology
American Society for Ethnohistory
Society for Historical Archaeology
Conference on Michigan Archaeology
Michigan Archaeology Society
Registered Professional Archaeologist

Offices Held

President--Society for Historical Archaeology 1973
Chair--Michigan Historical Preservation Advisory Council 1970-1972
Member--Committee on the Recovery of Archaeological Remains, Society for American Archaeology 1974-1978
President--Society of Professional Archaeologists 1977-1978
Chair--Coordinating Council of National Archaeological Societies 1977
Grievance Coordinator--Society of Professional Archaeologists 1985-1987
Member--Executive Board of Society for Historical Archaeology 1982-84
Chair--Committee on Ethics, American Anthropological Association 1986
Member--Executive Committee, Society of Professional Archaeologists 1986-88
Member--Executive Committee, Society of Professional Archaeology 1993-1995

Honors

Distinguished Faculty Award--Michigan State University 1978
Distinguished Service Award 1991--Society of Professional Archaeologists
Presidential Recognition Award – 1997—Society of Professional Archaeologists
J.C. Harrington Medal – 2002—Society for Historical Archaeology

Distinguished Service Award – 2003 – Register of Professional Archaeologists
Presidential Recognition Award – 2004 – Register of Professional Archaeologists
Festschrift Volume – 2004- An Upper Great Lakes Archaeological Odyssey:
Essays in Honor of Charles E. Cleland. Edited by William A. Lovis. Detroit:
Wayne State University Press.

Field Research:

Two million dollars in grants for research on 20 major field projects [1967-2000].

Publications:

1961

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1963

A Late Archaic Burial from Washtenaw County, Michigan.
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1964

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1965

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1966

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Arbor.

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1967

(with J. Kearney) The Vertebrate Fauna of the Chesser Cave Site, Athens County, Ohio. In Studies in Ohio Archaeology, edited by O. Prufer and D. McKenzie, pp. 43-48. The Press of Western Reserve University, Cleveland.

(with J. Kearney) The Vertebrate Fauna of the Graham Village Site, Hocking County, Ohio. In Studies in Ohio Archaeology, edited by O. Prufer and D. McKenzie, pp. 79-94. The Press of Western Reserve University, Cleveland.

(with J. Kearney) The Vertebrate Fauna of the Morrison Site, Ross County, Ohio. In Studies in Ohio Archaeology, edited by O. Prufer and D. McKenzie, pp. 206-209. The Press of Western Reserve University, Cleveland.

1968

(with L. Stone) Archaeology as a Method for Investigating the History of the Erie Canal System. Historical Archaeology 1967 1(1):63-69.

(with J. Fitting) The Crisis of Identity: Theory in Historic Sites Archaeology. In The Conference on Historic Site Archaeology Papers 1967 2(2):124-138. Raleigh, NC.

(with G. Peske) The Spider Cave Site. In The Prehistory of the Burnt Bluff Area (assembled by J.Fitting). Museum of Anthropology, University of Michigan, Anthropological Papers 34:20-60. Ann Arbor.

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1969

(with J. Brown) The Late Glacial and Early Postglacial Faunal Resources in Midwestern Biomes Newly Opened to Human Adaptation. The Quaternary of Illinois: University of Illinois College of Agriculture Special Publication 14:114-122. Urbana.

(with E. Wilmsen) Three Unusual Copper Implements from Houghton County, Michigan. The Wisconsin Archaeologist 50(1). Menasha.

(with R. Clute) A Late Woodland Burial from Muir, Ionia County, Michigan. Michigan Archaeologist 15(3):78-85. Ann Arbor.

(with J. Fitting) Late Prehistoric Settlement Patterns in the Upper Great Lakes. Ethnohistory 16(4):289-302. Tucson.

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Comparison of the Faunal Remains from French and British Refuse Pits at Fort Michilimackinac: A Study in Changing Subsistence Patterns. Canadian Historic Sites: Occasional Papers in Archaeology and History 3:7-23. Ottawa.

1971

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1972

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Review of The Prehistory of Salts Cave, Kentucky (by Patti Jo Watson). Michigan Archaeologist 18(1):43-44. Kalamazoo.

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1976

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1977

(editor) For the Director: Papers in Honor of James B. Griffin. Museum of Anthropology, University of Michigan, Anthropological Papers 61. Ann Arbor.

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1981

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1982

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1985

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Editor and contributor. The Society for Historical Archaeology and Its First Twenty-Five Years. Historical Archaeology. 27(1).

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1995

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1998

From the Northern Tier: Essays in Honor of Ronald Mason. ed. by C. Cleland and R. Birmingham. Wisconsin Archaeologist. Vol. 79(1) 240pp.

The Mason-Quimby Line Revisited (with M.B. Holman and J.A. Holman) in From the Northern Tier: Essays in Honor of Ronald J. Mason. ed by C. Cleland and R. Birmingham. Wisconsin Archaeologist 79(1) pp. 8-27.

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2000

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