



# WHITE EARTH RESERVATION

CHAIRMAN Michael Fairbanks SECRETARY-TREASURER Leonard Alan Roy  
DISTRICT I Raymond Auginaush, Sr. DISTRICT II Kathy Goodwin DISTRICT III Eugene "Umsy" Tibbetts

January 29, 2020

Dear Band Members,

On January 24, 2020 the White Earth Reservation Business Committee (RBC) addressed the land transfer to Band Members in a letter titled **Minnesota Chippewa Tribe Land Transfer: Informed Consent**. The letter requested the assistance of Band members to request information related to the land transfer from the Tribal Executive Committee (TEC) and to contact Rep. Collin Peterson (D) related to congressional action.

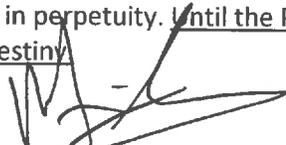
The RBC has since received a copy of a letter issued by the Non-removable Mille Lacs Band of Ojibwe to its Band Members that references the White Earth Nation's message. To clarify, the RBC respects and supports the inherent unassailable sovereignty of the People, the Mille Lacs Band of Ojibwe, the Minnesota Chippewa Tribe (MCT), and all other Bands that belong to the MCT. Bands currently manage MCT lands with or without the proposed land transfer. **The White Earth Nation asserts that Tribal members have a right to know the financial and beneficial interests of MCT lands.**

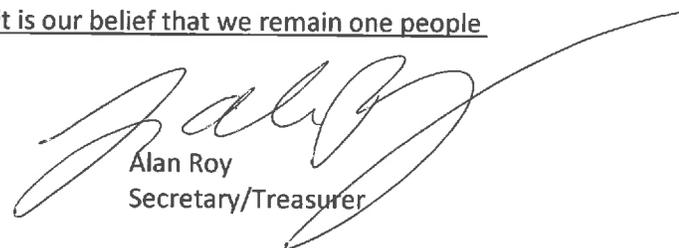
Similar concerns from 2010 were expressed about the proposed land transfer in a legal memorandum (enclosed) by Mr. Frank Bibeau (White Earth Band Member and attorney). When the White Earth Nation states that its inherent unassailable sovereignty shall not be sacrificed for congressional expediency, it also means that due process is required by Congress to consider taking away property rights, hearings are required to decide if it is necessary to take the property, and that just compensation would be due.

The RBC discussed the land transfer with Mr. Peterson on January 28, 2020. The White Earth Nation has a longstanding relationship with Mr. Peterson as he strongly supports Tribal sovereignty and White Earth Band Members. The RBC thanks Mr. Peterson for his support on all issues affecting our great nation. Mr. Peterson has not been involved with the land transfer that is being proposed by Minnesota Rep. Pete Stauber (R). However, Mr. Peterson will continue to support White Earth Nation's interests as expressed by the RBC.

Moving forward, the RBC will continue to seek administrative remedies with the TEC. This message was unanimously approved by the RBC during a Special Meeting in White Earth, Minnesota.

Like a mother that protects her family, so shall the White Earth Nation hold the MCT and all her Bands to her bosom in perpetuity. Until the People disunion the MCT, it is our belief that we remain one people with one destiny.

  
Michael Fairbanks  
Chairman

  
Alan Roy  
Secretary/Treasurer

**FRANK BIBEAU**  
**ATTORNEY AT LAW**  
**51124 COUNTY ROAD 118**  
**DEER RIVER, MINNESOTA 56636**

**Legal Memorandum**

Date: September 15, 2010

To: White Earth Tribal Council  
Joe Plumer, Tribal Attorney

RE: MCT Trust Lands TRF TO RESERVATIONS

This memo is a follow-up to the TEC Special Meeting at Black Bear on September 8, 2010 with regard to determining the value of MCT trusts lands prior to transfer to the various reservations. I did send a follow-up email September 9, 2010 to Tom Burr, Realty at MN Agency, BIA in Bemidji and MCT Attorney Mark Anderson. The email is as follows:

From: **Frank Bibeau** <frankbibeau@gmail.com>  
Date: Thu, Sep 9, 2010 at 11:26 AM  
Subject: BIA follow-up  
To: tom.burr@bia.gov, maa@jacobsonbuffalo.com  
Cc: gfrazier@mnchippewatribe.org, joep@whiteearth.com,  
Jim Schlender <jameshs@whiteearth.com>

Hi Tom and Mark,

Here are the three questions Chairwoman Vizenor asked to have the BIA provide detailed answers:

1. How much MCT land pre-dates the !RA, by reservation?

2. Which Executive Orders created MCT lands and how much on each MCT reservation?

3. How much land has the MCT acquired from buying individual allotments on each reservation?

I know Mark spoke of a Restoration XO, which I found for 29,000 acres of swamp land no one wanted to buy and a modification, see attached. Mark also spoke of other documents which I hope will be shared with all.

Please let me know where or what else I might look for to find this information, even contacts within the BIA.

Thanks,

Frank  
218-760-1258

Attachments (2) Executive Orders:

-Order for Restoration of 29,000 acres of Chippewa Swamp lands and

-1938 Dept Order Modifying Grand Portage lands.

Prior the email I had already begun to look on-line for executive orders (XO) and found quite a few just after the IRA and MCT creation, which I will attach to this email. My review at this time suggests that aside from the 29,000 acres of swamp land being "restored", little if any land was newly created into trust. However, the practice of the US at the time of the IRA for the Consolidated Chippewa Indians of Minnesota and MCT seems that we were all expected to be *one tribe*. The Department Order for Grand Portage spells out the US intention here and with regard to Red Lake lands returned under the IRA.

On November 29, 1935, the First Assistant Secretary of the Interior, under authority contained in section 3 of the Indian Reorganization Act of June 18, 1934 (48 Stat. L., 984), upon

the recommendation of this Office, restored the undisposed-of opened lands of the Grand Portage Indian Reservation, Minnesota, consisting of 9,277.59 acres, to tribal ownership.

However, the 1938 Modifying Order concludes:

Departmental Order of November 29, 1935, restoring the undisposed-of opened lands of the Grand Portage Indian Reservation, Minnesota, to tribal ownership, is hereby modified to the extent of making the beneficiary the Chippewa Indians of Minnesota instead of the Grand Portage Band of Chippewa Indians of the Grand Portage Reservation.

(full copy attached to email).

There are also several, early 1900s court cases which reveal concepts and practices as tied to the Dawes Act or General Allotment Act and Clapp Amendment, which I am also attaching which give some explanations of land issues in MN.

Today, I called on Tom Burr to make sure he had received my 9/9 email. He confirmed receipt and as we talked, he spoke of his mentor who died, Ann Borsaw, who would have know much more about my questions. He then suggested I call Diane Zuelow-Giffen who was with WELSA for a long time and now resides in Federal Dam, MN.

I did call on Diane and she was very interested in my questions and we will discuss her thoughts more soon as my questions were new and intriguing for her.

The bottom line is virtually all trust lands stem from the treaties and individual allotments. Most of the MCT population is WE (maybe half then and now), therefore more allotments would occur on WE, and more lands being overall allotted. More lands transferred into fee and more lands lost.

A review of the treaties shows that lands were allotted to individuals in amounts of 160 acres often, but also 80 and 40 acre parcels. Therefore the more people there are living on a reservation is going to result in more trust

lands. The Dept Order for Grand Portage and the IRA seem to be the mechanism for change of names for possession of land, but neither Tom Burr now Diane Zuelow were aware of any quit-claim deeds or other conveyance documents. As such, it seems to have been a Department practice make lands held in common, contrary to 1854 language.

This MCT land situation could end up being a Cobell type case where the IRA or Interior Dept took lands set aside for the signatory bands Mississippi, Pillager and Winnibigoshish and others to make us be *one tribe*. Aside from the lands possibly bought later by the MCT from allottees I suspect all trust lands stem from the treaty lands and individual allotments. As such they would still be subject to treaty terms of 1854 whereby

The Chippewas of the Mississippi hereby assent and agree to the foregoing cession, and consent that the whole amount of the consideration money for the country ceded above, shall be paid to the Chippewas of Lake Superior, and in consideration thereof the Chippewas of Lake Superior hereby relinquish to the Chippewas of the Mississippi, all their interest in and claim to the lands heretofore owned by them in common, lying west of the above boundry-line.

Article 1. It would seem that if the Lake Superior Bands re-gained an interest in 1855 trust lands under the IRA formation of the MCT, then WE was not compensated, probably because it was not viewed as a loss to the reservation. It is inconsistent that WE buy back WE trust lands from the MCT.

Finally, Tom Burr and I discussed and I also checked with Diane Zuelow who agreed, that all lands currently taken into trust for individual bands still would be recorded with the ending "of the MCT". So WE lands are held in trust for WE band of the MCT. To make lands only in trust for only the band only would require a legislative fix due to the primary federal recognition of the MCT under the IRA.

Again, this 1854 treaty analysis also applies to the Nelson Act Settlement proceeds in that the Lake Superior Bands relinquished "to the Chippewas of the Mississippi, all their interest in and claim to the lands heretofore owned by them in common, lying west of the above boundry-line." What right of

interest has come to exist since 1854 to give the Lake Superior Bands a share of 1855 damages for loss of timber and lands?

**Conclusions:**

1. The vast majority of trust lands on any MCT reservation is due to population and allotment acreage sizes given out at different times and amounts---the luck of history, good or bad.
2. The MCT needs to prove clear title before attempting any need to determine value of any property that likely already belongs to WE.
3. If the MCT bought individual trust allotments along the way, the MCT needs to prove up the total number of acres, and determine the value of the WE share of MCT funds used for all MCT trust purchases on all 6 MCT reservations.
4. The Sandy Lake Band lands are in the 1855 ceded territory and should be under the possession or control of 1855 political-successor governments control with the actual treaty rights; WE and LL (unless new Sandy Lake law suit has some success).

**Recommendations:**

1. Draft a letter to MCT President DesChampe to recognize political history of various MCT bands, treaty rights of each band, and to seek a waiver of the appraisal process avoid wasting time trying to calculate property value for lands they do not own. The MCT was likely viewed (when it was created in 1936) as a custodial umbrella entity for trust lands, expected to develop into one tribe.
2. Do more legal research to determine if contrary information might still exist and evaluate any information which the MCT or BIA might yet provide. MCT should prove ownership, not just custodial name on a TAMMS system.