

Saginaw Chippewa Indian Tribe, et al

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Anticipated Questions

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Basics on the Lawsuit Itself

Why was there a lawsuit?

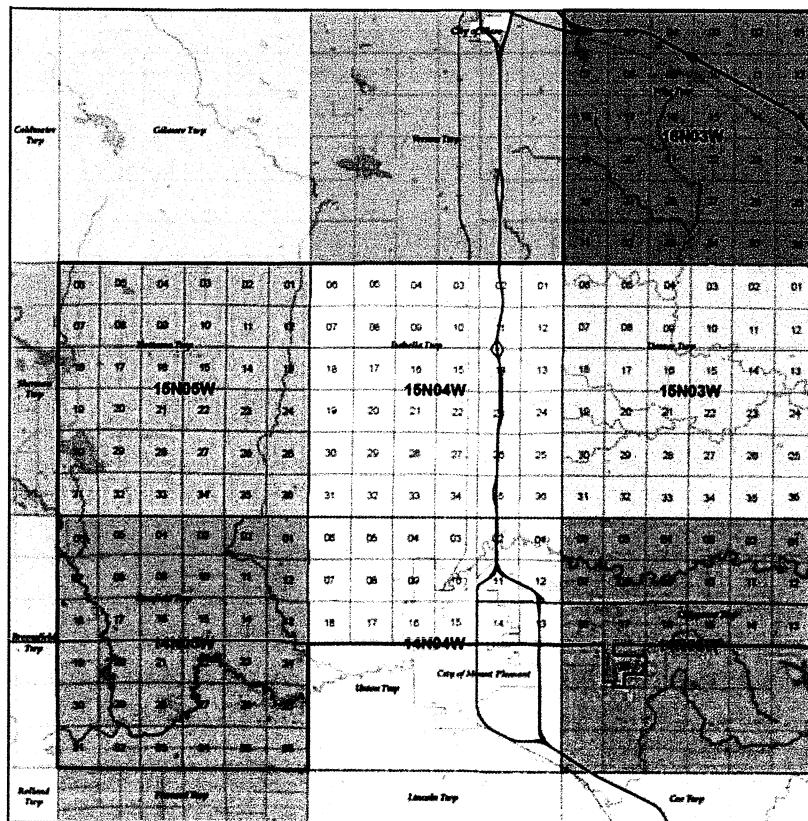
The Saginaw-Chippewa Tribe of Michigan long asserted that the U. S. Government set aside or reserved land for the permanent use of the Tribe through treaties written in 1855 and 1864. The State of Michigan has disagreed and consequently exerted jurisdiction over Tribal members and property in most parts of Isabella County.

In November 2005, the Tribe filed a lawsuit against the State of Michigan asking the Federal Court to settle the question and declare that parts of Isabella County identified as the "historic Isabella reservation" be recognized as the Isabella Reservation and permanently treated as Indian Country under federal law.

Exactly what land is involved?

The area has often been referred to as the "historic Isabella Reservation" and consists of:

- Wise Township
- Nottawa Township
- Isabella Township
- Denver Township
- Deerfield Township
- North half of Union Township, which includes the north half of the City of Mt. Pleasant
- North half of Chippewa Township



What was the lawsuit all about?

In the simplest terms, the lawsuit sought to settle the question of what was or should be the recognized boundaries of the Isabella Reservation. A decision would determine which governmental entity had jurisdiction over members of the Saginaw-Chippewa Tribe who live in parts of Isabella County.

What was wrong with how things were working before?

For the Tribe, it has been a question of sovereignty and self-government. Additionally, for all parties, there have been questions as to which is the proper governmental unit to exert jurisdictional authority in a variety of areas.

How did the County get involved?

In September of 2007, the County filed a motion with the Federal Court asking to join the lawsuit as a defendant. The Court allowed the County to do so November 2007.

Why did the County decide it needed to intervene (become a part of) the lawsuit when it was not initially sued?

Federal Court rules permit an applicant to intervene in a lawsuit when it can demonstrate an interest in the subject matter of the litigation and such intervention is needed to protect that interest.

The County believed that becoming a party to the lawsuit would best insure that its residents and property owners interests would be addressed and represented in the lawsuit.

How was this lawsuit different than the one from the 1990's?

In 1991, the United States and Saginaw Chippewa Indian Tribe sued the State, County, City and some townships challenging the assessment of property taxes on land owned by members of the Tribe within the Reservation boundaries. After a decision by the United States District Court for the Eastern District of Michigan, an appeal to the Sixth Circuit Court of Appeals, and an appeal to the United States Supreme Court, the case was resolved without deciding the boundary issue.

How much money did the County spend on legal fees during the lawsuit?

The County has been represented by the Isabella County Prosecutor's Office and as such, has incurred no attorney fees. There have been some expenses relative to trial preparation and the mediation process.

Why did the County determine it was in its best interests to settle the lawsuit instead of letting the Court decide?

Early in 2009 Judge Ludington encouraged the parties to enter into facilitative mediation. Once the parties agreed, the Judge appointed a mediator and issued a Court Order in March of 2009 initiating the process. Since then, settlement discussions have been managed by the mediator.

The settlement ends the lawsuit and resolves issues that could have remained unanswered even after a decision on the existence of the Reservation was determined by the Court. The three agreements reached between the County and the Tribe provide more detail and clarity than a single decision by the Court might have.

The lawsuit would likely have lasted for years. Any judgment on the issue of whether the reservation existed was liable to be appealed by the losing party. Ongoing litigation would have required additional resources and most likely cause the relationship between the parties to diminish.

Basics of the Court Order and Settlement Agreements

Primary Points relative to settlement

- The Reservation boundaries are mandated to include the five full townships and two half townships in Isabella County as the Tribe and U.S. Government contended.
- Generally, the Saginaw Chippewa Indian Tribe would assert sovereignty over matters affecting its members and the property owned by its members particularly in areas of law and ordinance enforcement and court jurisdiction.
- The Settlement has little impact over persons who are not members of the Tribe or property owned by anyone other than members of the Tribe. The settlement agreements do not assert Tribal sovereignty over persons who are not members of the Tribe or their property

What does being in Indian Country mean for me?

Recognition of Isabella Reservation boundaries by the Federal Court has the greatest impact on members of the Saginaw Chippewa Tribe who live within those boundaries. The Tribe will assert sovereignty over matters affecting its members and the property Tribal members own within the Reservation. State and local governments' authority is limited.

If you are not a member of the Saginaw Chippewa Indian Tribe, the settlement has little impact on you and no impact on your property. Regardless of where you may live, you are subject to city, county, and state regulations just as you have always been.

How will I know I am in Indian Country?

Certain federal government agencies like the Environmental Protection Agency and the Department of Interior have designated lands in Isabella County as Indian Country for years. Certain maps show an "Isabella Reservation" boundary around the seven townships in Isabella County. Some signage already exists in parts of the County. Eventually other signage may be erected.

What will be different for me?

If you are not a member of the Saginaw-Chippewa Indian Tribe you will likely notice no change in your daily life because of the mandated boundaries of the Isabella Reservation. You will still be subject to all State and local taxes, laws, ordinances and regulations.

If you are a member of the Saginaw-Chippewa Indian Tribe and a resident of one of the identified townships or the City of Mt. Pleasant living north of High Street (In Indian Country) you will experience some changes. The primary point in the Court ordered settlement is that the Tribe will exert more sovereignty in matters affecting you in terms of law and ordinance enforcement. Any legal claims will be adjudicated in Tribal Court or Federal Court. Necessary business licenses or building permits will be issued by the Tribe. But, you will still pay property taxes on land you own.

Is the County being divided with the identified townships going under the jurisdiction of the Tribe and the other townships within the County remaining under its jurisdiction?

No. All of Isabella County will still be under the jurisdiction of County government. The County's boundaries remain unchanged and intact.

The settlement agreements do not assert Tribal sovereignty over County residents who are not members of the Saginaw Chippewa Indian Tribe.

The jurisdiction issue only generally affects members of the Tribe and their property within the Reservation boundaries.

Will I be paying my property taxes to the Tribe now?

No. If you live in the County and own property, whether you are a Tribal member or not, you will pay your property taxes as before, whether that be to the County, City, a township or village.

Will Tribal members have to pay property taxes to the County, a township, or other jurisdictions?

Yes. Any individual or business owning property in the County will pay property taxes to support the services that are provided including police, fire, library, Isabella County Transportation Commission, Commission on Aging, the Medical Care Facility and the rest.

What about income taxes? Does the Tribe receive taxes based on my income if I live in Indian Country?

Tribal members will continue to pay federal income taxes as they always have. Tribal members living within the Isabella Reservation will be exempt from some state income taxes such as on income earned on the Reservation.

Persons who are not members of the Tribe will continue to pay income taxes to both the Federal and State government.

The Tribe does not receive shared revenue from the State.

Will the Tribe own my land; will I still be able to sell it?

The lawsuit was never about the Tribe taking land away from individuals who own property. Land ownership is unaffected by the settlement.

What does it mean if my house is in Indian country?

Land ownership is unaffected by the settlement.

There is no change in status to any piece of property owned by any individual in Indian Country. All property that was privately owned prior to the Court Order is still privately owned.

Will the value of my home/business be affected by this lawsuit?

There is nothing in this settlement that would lead us to assume a resulting impact or affect on land values.

As a County resident what will be different for me now that this is Reservation land compared to how it has been?

If you are not a member of the Tribe, there will be no change to the status of your property or business because of the settlement. There will be no change in the laws or ordinances you must follow or the opportunities or programs you can access.

If you are a member of the Tribe, however, Tribal government will continue to assert sovereignty over matters impacting you in terms of law and ordinance enforcement.

How is the title to my house affected by the settlement?

The settlement will not have any effect on the title to your home or your ability to sell your property unencumbered. This settlement has no impact on the private ownership of property.

Does the settlement affect the 2% allocations received by local government?

There is no tie between the settlement and 2% allocations.

Under the Compact (contract) the Saginaw-Chippewa Indian Tribe has with the State of Michigan, the Tribe distributes 2% of the income it generates from slot machines to local governmental units to help cover the cost of services and facilities impacted by the casino. This is a separate agreement reached between this Tribe and the State in 1993, which requires distribution of these funds, but provides latitude to the Tribe in how the funds are disbursed.

Are there any benefits to non-tribal members who live in Indian County?

Yes, and the County has already benefited from the Reservation's status as Indian Country. For example, the Tribe has received federal grants for road construction in Indian Country, and has used that money to maintain and pave roads within the Reservation. Because the Tribe can pay for these projects—projects that benefit both members and nonmembers—with federal money, the City, the County, and State could use their resources elsewhere. Similarly, the Tribe's Soaring Eagle Casino is the area's largest employer of both members and nonmembers.

Indian Reservations exist across the Country, and Isabella County is not the only local government that overlaps with an Indian Reservation.

Why didn't we hear more about this during the court process?

Two primary reasons:

- While the Tribe filed the original lawsuit five years ago and the County joined three years ago, the actual trial had not yet begun. The County does not publicly discuss information about on-going litigation. Doing so might disclose trial strategies, legal analyses or other information that would affect the County's chances of succeeding in the litigation.
- Once facilitative mediation began, all parties were bound by a confidentiality order. The order prohibited the disclosure of any information related to the mediation process or the substance of the discussions.

Zoning and Land Use Agreement

Primary Points within the Agreement

- The Tribe will create a zoning and land use ordinance to govern Tribal members fee lands within the Reservation.
- The ordinance will adopt the land use designated by local zoning units (County, township or village) at the time of this agreement.
- The ordinance will include a process for reviewing future land use changes on Tribal member fee lands, including notice to and input from adjacent property owners and the local unit of government with non-Tribal member zoning authority.
- Land use regulation among all zoning authorities will proceed in such a way as to promote the general welfare of all people within the Reservation and County.
- The Tribe and County will meet regularly to discuss current and future land use plans and needs.

What is the Advantage of the Settlement?

The overlap of reservation boundaries into other governmentally controlled areas (i.e. county or township) is not uncommon. Though some jurisdictional aspects of Indian Country are well-established by law, others are unsettled. Because of this, if the Court recognized the Isabella Reservation boundaries at trial, there would be no guarantee of what that would mean for the County or a township's ability to regulate land use had the Court found completely in favor of the Saginaw-Chippewa Indian Tribe.

The Zoning and Land Use Agreement between the County and the Saginaw Chippewa Indian Tribe removes the ambiguity, provides a level of stability in land use, creates comparable zoning procedures that currently exist among other local units of government, and memorializes the parties commitment to work together to promote appropriate land use for all citizens.

Since part of the County and several townships will be in a reservation, which government controls zoning, planning and land use decisions?

All property owned by non-Tribal members will be governed by the applicable local zoning authority, whether it is the County, a township or village. As to Tribal members residing within the Reservation, use of their fee lands will be governed by the new Tribal zoning ordinance.

As is always the case, however, local zoning rules do not supersede the independence of other governmental units. The Tribal, County, State, township or federal governments do not have to comply with local zoning restrictions with respect to land owned by those governments.

Revenue Agreement

Primary Points within the Agreement

- Property taxes and other assessments will continue to be collected on property that is owned by the Tribe or members of the Tribe.
- If the United States government places property within the County in trust for the Tribe, the Tribe will make a one time payment in lieu of taxes (PILOT) based upon a formula related to any objection by the County to the trust application.

What is the Advantage of the Settlement?

Land placed in Trust by the federal government is non-taxable. Because of the Agreement, if land is placed in trust on behalf of the Tribe, the County will receive a one time payment in lieu of taxes (PILOT).

Can the Tribe buy property within the County and take it off the tax roll?

Yes, just as they have always been able to do. This is unchanged by the settlement.

If the Tribe purchases property and the Federal government agrees to accept that property and keep it in "trust" for the benefit of the Tribe and its members, it would be non-taxable. All land owned by governmental bodies (County; State; University; Schools; U. S. Government) is non-taxable.

If land is placed in trust, how does it affect the County?

By definition, land placed in trust is owned by the Federal government and not subject to local taxation.

The Revenue Agreement Between the County and the Saginaw Chippewa Indian Tribe, however, establishes terms by which the Tribe will pay the County for some of the tax revenue that would be lost if land went into trust.

How does the PILOT work?

It is based upon a formula which recognizes both the Tribe's right to submit trust land applications and the County's right to oppose an application. To begin, if land is placed into trust by the United States, the Tribe will make a one time PILOT payment based upon the highest State Equalized Value of the property since purchased by the Tribe. Additionally the following formula is used:

- If the County does not object to the application, the PILOT will equal seven (7) times the taxes at the tax rate for the year the property is placed in trust.
- If the County objects to the relevant Bureau of Indian Affairs (BIA) office as to the trust application, and the application is granted, the PILOT will equal four (4) times the taxes.
- If the County objects to the BIA office, the application is approved and the County appeals the approval to the BIA Regional Director who then upholds the application, the PILOT is reduced to two (2) times the taxes.
- If the objection to the BIA office and the Regional Director are both denied, and the County then appeals to the Department of Interior, Board of Indian Appeals, which upholds the application approval, the PILOT would only consist of applicable taxes on a pro rata basis for the year the land was accepted into trust.

Does this PILOT formula apply to all lands placed in trust by the Tribe?

No, it does not apply to lands already placed in trust by the United States, but only future trust application lands. Additionally, due to the preference of the BIA to approve applications for trust land, during the course of negotiating the settlement, and after individual review by the Board of Commissioners, specific provisions were reached as to PILOT payments for lands currently in application status (i.e. applications that are currently pending with the BIA), or where it was anticipated a trust application was forthcoming.

Does the PILOT include all typical property taxes?

The PILOT includes most taxes and assessments. Excluded are City and the State education tax (SET), as the City and State have their own revenue or tax agreements with the Tribe. Also not included are township taxes. Individual townships may negotiate their own agreements related to trust lands and local taxes.

Will non-Tribal members pay property taxes to the Tribe?

No. non-Tribal members will continue to pay property taxes to the same local unit of government as before.

Will members of the Tribe have to pay property taxes?

Yes. Tribal members owning property in the County will continue to pay property taxes to support the services that are provided to residents including police, fire, library, Isabella County Transportation Commission, Commission on Aging, the Medical Care Facility and the rest.

Law Enforcement Agreement

Primary Points within the Agreement

- Sheriff deputies will be cross-appointed to enforce both Federal and Tribal law regardless of whether the victim, witnesses and/or suspects are, or are not, members of the Tribe.
- The parties will continue to work together on various task forces and other joint efforts
- All convictions will be reported to the Law Enforcement Information Network regardless of what courts are involved in the prosecution; traffic offenses will be reported to the Secretary of State

What is the advantage of the Agreement?

If the lawsuit resulted in the court simply determining that the Isabella Reservation, as requested, had existed since 1855, it likely would have continued the patchwork jurisdiction problems that local law enforcement has faced.

The Law Enforcement Agreement reached by the County and the Saginaw-Chippewa Indian Tribe contains several procedures designed to improve certainty, understanding and safety.

- It establishes that officers from the Tribe and the County will be cross-appointed.
- It ensures that information from driving records and past convictions will be shared with all law enforcement officials.
- It assures that all local law enforcement can work together in joint efforts regardless of boundaries.
- Similar law enforcement agreements have also been reached between the Tribe, City and State.
- Resolution of the Reservation boundary issue also clearly identifies the appropriate prosecuting entity for a criminal incident, whether the State (through the County Prosecutor), City, Tribe, a township or the Federal government.

Will non-Tribal members fall under the jurisdiction of Tribal law or Tribal police?

Persons who are not members of the Tribe are governed by local and State statutes as well as Federal law but not subject to Tribal law or Tribal court action. The settlement does not extend Tribal sovereignty over non-tribal members or their property.

Under this settlement, the Saginaw Chippewa Indian Tribe has more sovereignty or jurisdiction over matters affecting its members and the property members own. Tribal members acting within the Reservation will be subject to Tribal law and ordinances and Federal law.

Who will have criminal law enforcement authority within the Reservation?

Indian tribes do not have authority to enforce their criminal laws against non-Indians and the settlement agreement does not change that rule. Non-Indians will continue to be subject to all local, state, and Federal criminal laws. Conversely, state and local governments generally do not have authority to enforce their criminal laws against Indians within a reservation; Indians are instead subject to both Tribal and Federal criminal laws.

For some time, the County Sheriff has deputized Tribal police officers to enforce State and local law anywhere in the County; when doing so, Tribal officers are acting under State and local law, not under tribal law, and any non-Indian who is arrested by a deputized Tribal officer is charged and prosecuted in the State court system, not in Tribal court. Under the agreement, this arrangement will become mutual. Tribal officers will be deputized to enforce State and local law; State and local officers will be deputized by the Tribe to enforce tribal law, and the Tribe will also consent to State and local officers receiving Federal appointment to enforce Federal law. All officers will be committed to providing mutual aid and support to better protect public safety in a cooperative multi-jurisdictional manner.

I am not a member of the Tribe. Do Tribal Police have the right/ability to arrest me?

Yes, and they have for quite some time. The Isabella County Sheriff has the authority to deputize officers from any other law enforcement agency to assist with the needs in the County. Saginaw-Chippewa Tribal Police officers, like Mt. Pleasant Shepherd and Central Michigan University officers, have been deputized by the County Sheriff for several years and can respond to calls for service, stop traffic violations or provide back-up anywhere in the County.

In such circumstances, the Tribal officer is exercising state and local law enforcement authority, rather than Tribal authority. If arrested your case would then be reviewed, and if appropriate, prosecuted by either the Isabella County Prosecutor's Office, the Mt. Pleasant City Attorney or possibly the U.S. Attorney's Office.

Do State, County, or City officers have the authority to arrest Tribal members?

Under the terms of the new Law Enforcement Agreement, and similar agreements between the Tribe, City and State, any local police officer can now respond to an incident and, if appropriate, effectuate the arrest of a Tribal member. If a Tribal member is arrested within the Reservation, he would be cited under Tribal Code or possibly charged under Federal law. If arrested outside the Reservation, a Tribal member case would be handled in the same manner as a non-Tribal member.

Who will I call if I have a problem?

Any resident with an emergency should call 9-1-1. When Central Dispatch receives a call for help, operators will dispatch the closest car.

Member of the Tribe always had the ability to choose between 9-1-1 or a call to Tribal Dispatch to summon police or fire assistance. They still do.

I am not a Tribal member. What will happen if there is a problem between me and Tribal member? Who do we call then? Would only Tribal police be able to intervene or make an arrest?

Under the terms of the new Law Enforcement Agreement any police agency could intervene and affect an arrest of either party. If you are arrested you would be cited under City or State codes. If you are to be "lodged" you will be taken to the County jail and prosecuted most likely by the City or County Prosecutor. Your case would be handled in the Isabella County Trial Court.

If a member of the Tribe is arrested and the incident took place within the Reservation, either the Tribal Criminal Code or Federal law would be used. Tribal members would typically be lodged in the County jail and prosecuted in Tribal or Federal Court.

Are the Tribal police my police protection since I now live on the Reservation?

The primary police protection for all residents outside the City of Mt. Pleasant are the Sheriff's Department, Tribal Police Department and Michigan State Police. If in need of a police response, call 9-1-1, they will dispatch the closest car to respond.

The Agreement does recognize an area of land east of the City of Mount Pleasant, upon which is located various Tribal governmental operations, businesses and neighborhoods (identified as the Tribal Enclave), in which Tribal Police will provide primary patrol and response. Other police agencies continue to patrol on main highways throughout this area, and also respond to emergency calls or engage in "fresh pursuit" of suspects as the situations arise.

Are there major differences between Tribal laws and State and local laws? Are things that are illegal for some us OK for my neighbor who is a Tribal member?

There are undoubtedly some differences between Tribal laws and State and local laws and ordinances. All police agencies have and will continue to work cooperatively to apply and enforce applicable laws.

Other Agreements

Other Agreements reached by the Saginaw Chippewa Indian Tribe and the parties to the Lawsuit

State of Michigan

- Indian Child Welfare Act Agreement between the Tribe and the Michigan Department of Human Services
- Law Enforcement Agreement between the Michigan Department of State Police and the Tribe
- Memorandum of Understanding Regarding Conservation between the Michigan Department of Natural Resources and Environment and the Tribe
- Tax Agreement between the Tribe and the State of Michigan
- Memorandum of Agreement between the Tribe and the State of Michigan, Michigan Department of Treasury (income tax issues)

City of Mount Pleasant

- Zoning and Land Use Agreement between the City of Mount Pleasant and the Tribe
- Law Enforcement Agreement between City of Mount Pleasant and the Tribe
- Revenue Agreement between the City of Mount Pleasant and the Tribe
- Local Regulation Agreement between the City of Mount Pleasant and the Tribe