

Tribal board needs to defend our treaty rights



**DENISE CHASE, DIRECTOR,
UNIT IV**

The following resolution was added to the board agenda at the last meeting, "Initiation of Defense of Treaty Rights." I fully support this resolution. Our tribe has exclusive jurisdiction to enforce fishing rules against our tribal members while engaged in fishing activity within the 1836 treaty waters. We still have two of our commercial fisherman held in Delta County Jail because Delta County District Court prosecuted them for allegedly unlawfully conspiring to buy and sell fish taken without a commercial fishing license. If passed, this resolution directs our legal department to come back with a legal strategy in defense of the tribe's treaty fishing rights. The resolution was tabled for discussion at a board workshop and legal review. I and Tom Miller have been bringing this issue up continuously and hope the board will support defending our treaty rights.

RESOLUTION NO: INITIATION OF DEFENSE OF TREATY RIGHTS

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized Indian Tribe, organized under the Indian Reorganization Act of 1934, as amended; and

WHEREAS, in the Treaty of Washington of March 28th, 1836 (7 Stat. 491), the Chippewa and

Ottawa Tribes, consisting of the Bay Mills Indian Community, the Grand Traverse Band of Ottawa and Chippewa Indians, the Little River Band of Ottawa Indians, the Little Traverse Bay Bands of Odawa Indians and the Sault Ste. Marie Tribe of Chippewa Indians (hereafter the "Chippewa Ottawa Resource Authority" or CORA Tribes), reserved the right to hunt, fish and gather throughout the large portions of Lakes Michigan, Superior and Huron, and the 13, 921, 762 acres of land ceded to the United States in that Treaty comprising the area that would become the State of Michigan in 1837; and

WHEREAS, by virtue of the Treaty of 1836 between the United States and the Ottawa and Chippewa Nation, the Sault Ste. Marie Tribe of Chippewa Indians retains an aboriginal right to fish in the waters of the Great Lakes ceded by the Treaty of 1836 and these Treaty rights are essential to the Tribe and its members from a political, social, economic, cultural and subsistence perspective; and

WHEREAS, by virtue of litigation brought by the Sault Ste. Marie Tribe of Chippewa Indians, the Tribe has been adjudged to possess treaty-based fishing rights in the waters of the Great Lakes, see, e.g., *United States v. Michigan*, 471 F. Supp. 192 (W.D. Mich. 1979), on remand, 623 F. 2d 488 (6th Cir. 1981), aff'd, 653 F. 2d 277 (6th Cir.), cert. denied, 454 U.S. 1124 (1981) and these adjudicated Treaty rights are essential to the Tribe and its members from a political, social, economic, cultural and subsistence perspective; and

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is party to a 2000 Consent Decree entered into between the Sault Ste. Marie Tribe of Chippewa Indians, the United States and the State of Michigan governing fishing rights in the waters of the Great Lakes and these acknowledged Treaty rights are essential to the tribe and its members from a political,

social, economic, cultural and subsistence perspective; and

WHEREAS, section XVII (JURISDICTION AND ENFORCEMENT) of the 2000 Consent Decree establishes that: The courts of the Tribes shall have exclusive jurisdiction over enforcement of Tribal laws or regulations governing the fishing activities of Tribal members in 1836 Treaty waters. The State shall not enforce its fishing laws and regulations against Tribal members engaged in fishing activity within the 1836 Treaty waters.

WHEREAS, section II (Definitions), subsection D of the 2000 Consent Decree establishes that: "Commercial fishing" means a fishing activity engaged in for the purpose of sale of fish or parts of fish.

WHEREAS, in 2011, Delta County (MI) District Court prosecuted Tribal Members engaged in fishing related activities for unlawfully conspiring to buy and sell fish taken without a commercial fishing license.

WHEREAS, Under the terms of the 2000 Consent Decree, the Tribes have exclusive jurisdiction to enforce fishing rules against Tribal members who fish in 1836 Treaty waters. The State shall not enforce its fishing laws and regulations against Tribal members engaged in fishing activity within the 1836 Treaty waters.

WHEREAS, Delta County District Court lacks jurisdiction, pursuant to the Consent Decree, to prosecute members of the Sault Tribe of Chippewa Indians engaged in fishing activity within the 1836 Treaty waters.

WHEREAS, the State of Michigan, as a result of the actions of the Delta County District Court, is currently in breach of the 2000 Consent Decree

THEREFORE, BE IT RESOLVED, that the Sault Ste. Marie Tribe of Chippewa Indians hereby directs its legal department to immediately notify the State of Michigan that they are in breach of the 2000 Consent Decree,

BE IT FURTHER RESOLVED that the Chairman of the Tribe, or his designee, is authorized to execute or amend all documents relating to the filing of said notice to the State of Michigan.

BE IT FINALLY RESOLVED that the Sault Ste. Marie Tribe of Chippewa Indians hereby directs its legal department to formulate a legal strategy in defense of the Tribes Treaty Fishing rights. This strategy shall be presented to the Board for consideration by December 6, 2011.

Under the current agreement with the state of Michigan for gaming revenue sharing, 2 percent of the tribe's gaming revenue is set aside and made available to local unit of governments. For the fall 2 percent distribution our unit received \$74,941 to be distributed to various projects.

Some of the projects that were funded were: Christmas food and gift baskets, interactive classroom equipment (laptops, projectors, cameras and carts), equipment and uniforms for youth baseball, Escanaba Area School Title VII Program, Rapid River Betterment of youth Indian Education Program, meeting center for job training, GED, tutoring and community group functions, Ishpeming Title VII Indian Education (tutoring, field trips, cultural awareness activities and crafts), Gladstone Area Schools, Title VII Indian Education Program/ Cultural Enhancement Project, Manistique Title VII Indian Education Project, ice arena, kitchen renovations and open swim pool usage.

The Elder Heating Program opens up on Jan. 1. This program helps elders who didn't qualify for the LIHEAP income guide-

lines. If you want to apply, contact your local ACFS department to complete an application. You must meet all the program guidelines to be eligible.

The Unit I board seat that Joe Eitrem had remains vacant. It's unknown if it will be filled. In order for the nominated person to fill the seat, he or she would have to have seven board members who voted 'yes' for the appointment. There have been individuals nominated and not enough support by the board to appoint them. So it's very possible that the seat won't be filled before the next election.

The board approved minor changes to the Cultural Leave Promotion Policy. All team members are eligible for the use of cultural leave. You now have to submit your request 14 days in advance of the cultural event. The application now has to be turned in to the chairman's secretary at the administration office.

At the last board meeting, a motion was made to fund the Election Candidate Forums the Elder Committee will be holding in their units during the election cycles. The motion was voted down. A budget modification should have been prepared to vote on and staff to identify what budget it will go under. I asked that the budget mod be prepared for the next meeting so the board can take action.

Upcoming community events:

Dec. 10 – Delta County Children's Christmas party, 11 a.m.-1 p.m., Willow Creek Bldg., Suite 200

Dec. 17: Manistique Area Children's Christmas party, 11 a.m.-1 p.m., Manistique Tribal Center

(Delta, Manistique and Marquette elders' holiday dinners have already been held.)

I want to wish everyone a happy and healthy Christmas and New Year. If you need to reach me call (906) 341-6783 or email me at dchase@saulttribe.net.

Thank you,
Denise Chase