

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

SAGINAW CHIPPEWA INDIAN TRIBE)	
OF MICHIGAN,)	
)	
Plaintiff,)	
and)	
)	Case No. 05-10296-BC
THE UNITED STATES,)	Honorable Thomas L. Ludington
)	
Proposed Plaintiff-Intervenor)	
)	
v.)	
)	
JENNIFER GRANHOLM, Governor of the)	
State of Michigan in her official capacity,)	
MIKE COX, Attorney General of the State)	
of Michigan in his official capacity, JAY B.)	
RISING, Treasurer of the State of Michigan, and)	
the STATE OF MICHIGAN)	
_____)	

COMPLAINT IN INTERVENTION OF THE UNITED STATES

The United States, acting at the request of the Department of the Interior, and pursuant to the authority of the Attorney General, by and through its attorney Patricia Miller, complains and alleges as follows:

I. NATURE OF THE ACTION

1. The United States files this complaint in intervention pursuant to Federal Rule of Civil Procedure 24(c) against officials of the State of Michigan and the State of Michigan seeking a declaration that all lands within the boundaries of the six-township Isabella Reservation (“Reservation”) as established for the Saginaw Chippewa Tribe (“Tribe”) by

Executive Order and the Treaties of 1855 and 1864 are “Indian country” under 18 U.S.C. § 1151(a) and federal law.

II. JURISDICTION

2. This action arises under the Constitution and laws of the United States. This Court has jurisdiction pursuant to 28 U.S.C. § 1345, and relief may be awarded pursuant to 28 U.S.C. § 2201 and 2202.

III. VENUE

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because the events giving rise to the claims herein arose within the Eastern District of Michigan, and the land comprising the Reservation is located within such District.

IV. PARTIES

4. Plaintiff Tribe is a federally recognized tribe of Indians, see *Indian Entities Recognized to Receive Services from the United States Bureau of Indian Affairs*, 70 Fed. Reg. 71194, 71196 (Nov. 25, 2005). The Tribe is organized under the Indian Reorganization Act, 25 U.S.C. § 476 *et seq.*, and is a modern day successor of the Chippewas of the Saginaw, Swan Creek, and Black River. The Tribe is a sovereign entity responsible for governance on the Reservation.

5. Plaintiff-Intervenor United States brings this action on its own behalf and for the benefit of the Tribe, as trustee. The United States maintains a government-to-government relationship with the Tribe. The United States has “exclusive jurisdiction” to prosecute a statutorily-specified list of serious crimes committed by Indians on the Isabella Reservation pursuant to the Major Crimes Act, 18 U.S.C. § 1153.

6. Defendant Jennifer Granholm is the Governor of the State of Michigan and the administrative and executive head of the State. She is responsible for the overall adoption and administration of state agency policies and for the general execution of laws within the State.

7. Defendant Mike Cox is the Attorney General of the State of Michigan and chief legal officer of the State. He is responsible for representing the State in legal actions, for enforcing in court various state laws and regulations, and for advising state officials and agencies about legal matters within the state's jurisdiction.

8. Defendant State of Michigan is the State within which the Reservation is located and the entity that Defendants Governor and Attorney General represent.

V. DESCRIPTION OF THE RESERVATION LANDS AT ISSUE

9. On May 14, 1855, President Franklin Pierce issued an Executive Order that withdrew certain federal lands in Isabella County from sale and reserved them for the Saginaw Chippewa Indians of Michigan. I Charles J. Kappler, Indian Affairs: Laws & Treaties 846-47 (1904).

10. On August 2, 1855, the United States entered into a treaty with the Saginaw, Swan Creek and Black River bands of Chippewa Indians. 11 Stat. 633 (Aug. 2, 1855) (1855 Treaty). The Senate ratified the Treaty on April 15, 1856 and the President proclaimed it on June 21, 1856.

11. Article 1 of the 1855 Treaty withdrew from sale, for the benefit of the Saginaw Chippewa, all the unsold public lands within "six adjoining townships of land in the county of Isabella, to be selected by said Indians."

12. On October 18, 1864, the United States entered into a treaty with the Chippewa of

Saginaw, Swan Creek, and Black River. 14 Stat. 657 (Oct. 18, 1864) (1864 Treaty). The Senate ratified the Treaty on May 22, 1866, and the President proclaimed it on August 16, 1866.

13. Article 2 of the 1864 Treaty “set apart for the exclusive use, ownership, and occupancy of the said Chippewas of Saginaw, Swan Creek, and Black River, all of the unsold lands within the six townships in Isabella County, reserved to said Indians by the treaty of August 2, 1855.” Article 2 described the six townships as including five townships and two half-townships in Isabella County as follows:

The north half of township fourteen, and townships fifteen and sixteen north, of range three west; the north half of township fourteen and township fifteen north, of range four west, and townships fourteen and fifteen north, of range five west.

14. The six-township Reservation is located in central Lower Michigan in Isabella County, as set aside for the Indians under the terms of the 1855 and 1864 Treaties.

VI. ACTIONS OF THE DEFENDANTS

15. Defendants actively assert that only lands held in trust by the United States for the Tribe or its members within the Reservation are “Indian country” as defined in 18 U.S.C. § 1151(a) and under federal law.

16. Defendants deny that the boundaries of the Reservation as established by Executive Order and in the 1855 and 1864 Treaties continue to exist. Defendants do not treat the Reservation as “Indian country” as defined in 18 U.S.C. § 1151(a) and under federal law.

17. Defendants have attempted to impose state criminal law and criminal jurisdiction over tribal members within the boundaries of the Reservation in a manner inconsistent with its

status as “Indian country” as defined in 18 U.S.C. § 1151(a) and under federal law.

18. Defendants attempt to apply state law and attempt to assert state jurisdiction over the Tribe and its members within the boundaries of the Reservation, providing evidence that the State fails to treat the Reservation as “Indian country” as defined in 18 U.S.C. § 1151(a) and under federal law.

19. Defendants have attempted to impose state income taxes against tribal members who live and work within the boundaries of the Reservation, providing additional evidence that the State fails to treat the Reservation as “Indian country” as defined in 18 U.S.C. § 1151(a) and under federal law.

20. Defendants will continue to attempt to assert state jurisdiction over Indians within the boundaries of the Reservation in a manner that is inconsistent with its status as “Indian country” as defined in 18 U.S.C. § 1151(a) and under federal law unless and until this Court issues a declaratory judgment that all lands within the boundaries of the Reservation established by the 1855 and 1864 Treaties are “Indian country” as defined in 18 U.S.C. § 1151(a) and under federal law.

IX. PRAYER FOR RELIEF

WHEREFORE, the United States respectfully prays for the following relief:

21. A declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202 and other applicable law, declaring that all lands within the boundaries of the Reservation established by Executive Order and the 1855 and 1864 Treaties are “Indian country” as defined in 18 U.S.C. § 1151(a) and under federal law.

22. An Order granting any such further relief as the Court may deem appropriate

and just under the circumstances.

23. For costs of this action.

Respectfully submitted this 30th day of October 2006,

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s/ Patricia Miller
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CERTIFICATE OF SERVICE

This is to certify that on October 30, 2006, the United States' Complaint was filed electronically with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel of record.

s/ Patricia Miller
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