

SETTLEMENT OF LAND CLAIM

WHEREAS, John M. Engler (the "Governor") is Governor and Chief Executive Officer of the State of Michigan, a sovereign State of the United States of America, admitted to the Union pursuant to the Act of January 26, ch. 6, 1837, 5 Stat. 144;

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized Indian Tribe (reorganized under Section 16 of the Indian Reorganization Act of June 18, 1934, 48 Stat. 984; 25 U.S.C. § 476);

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians asserts a right to property located on or near Charlotte Beach, Chippewa County, Michigan that was deeded in trust to the Governor of Michigan in 1857 for the use and benefit of two Chippewa bands named in the deed;

WHEREAS, the United States District Court for the Western District of Michigan, in a decision affirmed by the United States Court of Appeals for the Sixth Circuit, has ruled that the Sault Ste. Marie Tribe of Chippewa Indians and the Bay Mills Indian Community both trace their ancestry to the two Chippewa bands named in the deed and that both tribes have a potential claim to the Charlotte Beach Lands. See Bay Mills Indian Community v. Western United Life Assurance Company, 2000 WL 282455 (6th Cir. March 8, 2000).

WHEREAS, the Bay Mills Indian Community has sought judicial relief in both state and federal court to resolve the Tribe's outstanding land claims to the Charlotte Beach land;

WHEREAS, the Bay Mills litigation involving the Charlotte Beach Lands cannot resolve the Sault Ste. Marie Tribe of Chippewa Indians land claim for the Tribe and certain property owners, thus creating circumstances where persons in possession of these lands may have clouded title to the lands and may not have full enjoyment of the lands and their property rights;

WHEREAS, the Tribes' land claims negatively impact land values and the collection of real property taxes by local units of government;

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians desires to settle the Tribe's land claim for the well-being and economic benefit of the Tribe and its members;

WHEREAS, the Governor, as chief executive officer of the State of Michigan, and the alleged successor trustee for the Charlotte Beach Lands, desires to settle the land claim for the benefit of the State of Michigan and, in particular, the affected Charlotte Beach landowners;

WHEREAS, State law imposes certain duties on Executive Branch officials of the State of Michigan to investigate and resolve disputes or controversies over treaty rights and other rights of Indian Tribes, including the Tribe;

WHEREAS, the parties believe that resolution of the claim, in conjunction with the resolution of the claim of the Bay Mills Indian Community, will lead to a clearing of title of the Charlotte Beach Lands for the current property owners, and to improved government-to-government relations between the Tribes and the State of Michigan, and;

NOW, THEREFORE, the parties agree to enter into this Settlement of Land Claim, with the intent that this Settlement form the basis of action for the United States Congress to resolve and extinguish the Tribe's land claims to the Charlotte Beach Lands, and provide alternative lands to be taken in trust for the benefit of the Tribe, as land obtained in settlement of a land claim under section 20 of the Indian Gaming Regulatory Act, 25 U.S.C. § 2719(b)(1)(B)(i), all in accordance with the following terms and conditions:

THIS SETTLEMENT OF LAND CLAIM ("SETTLEMENT"), dated December 20, 2002, is entered into between John M. Engler, Governor of the State of Michigan, by and on behalf of the Executive Office of Governor (the "Governor"), and the Sault Ste. Marie Tribe of Chippewa Indians, a federally recognized Indian Tribe (the "Tribe") (collectively "the parties"). The parties agree that this Settlement is subject to the following terms and conditions:

1. This Settlement involves claims by the Tribe related to properties known as the "Charlotte Beach Lands" and described as Government Lots 1, 2, 3,

and 4 of section 7, T45N, R2E, and Lot 1 of section 18, T45N, R2E, Chippewa County, State of Michigan. It is in the best interests of the parties that final and full resolution of any and all remaining legal and equitable claims of the Tribe to the Charlotte Beach Lands or related to alleged duties of the Governor as trustee be achieved through amicable settlement.

2. The Tribe agrees to relinquish any and all legal and equitable claims to the Charlotte Beach Lands, including any alleged duties of the Office of Governor as trustee to the Charlotte Beach Lands, conditioned upon (1) approval by the United States of America of the extinguishment of any and all claims of the Tribe to the Charlotte Beach Lands, (2) approval by the United States of America of the extinguishment of any and all claims of the Bay Mills Indian Community to the Charlotte Beach Lands as provided in the Settlement of Land Claim entered into between the Governor of Michigan and the Bay Mills Indian Community on August 23, 2000 (the "Bay Mills Settlement"), and (3) the provision by the United States of America of alternative lands as described in paragraph 4 below, title to which is held in trust by the United States of America for the benefit of the Tribe.

3. The Governor and the Tribe understand and agree that the terms of this Settlement shall form the basis of action for the United States Congress to resolve and extinguish the Tribe's land claims to the Charlotte Beach Lands, and provide alternative lands to be taken in trust for the benefit of the Tribe, as lands obtained in settlement of a land claim under section 20 of the Indian Gaming Regulatory Act, 25 U.S.C. § 2719(b)(1)(B)(i).

4. The Governor specifically concurs in the provision by the United States of America of the following alternative lands to be held in trust for the benefit of the Tribe:

The lands chosen and acquired by the Tribe for transfer to the United States in trust for the Tribe as part of its reservation which shall consist of not more than two (2) parcels, each of which shall not exceed forty (40) acres, within the exterior boundaries of the State of Michigan, the location of which shall be limited as follows:

- A. One (1) parcel may be located within Section 14, 15, 16, 21, 22, 23, 26, 27, or 28 of T32N, R3W, Township of Corwith, Otsego County; provided, that the location shall

have been approved by the Village of Vanderbilt and by the Little Traverse Bay Bands of Odawa Indians.

- B. A second parcel, which may be located within one (1) of the following areas, at the option of the Tribe:
 - (i) Within Monroe County south of the Raisin River; provided, that the location shall have been approved by Monroe County and also by the city, village, or township in which the parcel is located; or
 - (ii) Within the City of Romulus; provided, that the location shall have been approved by the City of Romulus; or
 - (iii) Within the City of Flint; provided, that the location shall have been approved by the City of Flint.
- C. The approvals required by this section shall be by formal action of the governing body of the county, city, tribe, village or township, or by referendum vote of its residents or members, as the case may be.
- D. The Tribe may, at its option, accept only one (1) of the parcels of land described in sub. A or sub. B, above, as its alternative lands.

5. On August 20, 1993, the Governor and the Tribe signed a tribal-state gaming compact (the "Compact") under IGRA. The Compact was ratified by the Michigan House of Representatives on September 21, 1993, and by the Michigan Senate on September 30, 1993, and became effective on November 30, 1993, when the United States Secretary of the Interior published his approval of the Compact in the Federal Register as required by 25 U.S.C. § 2710(d)(8)(D). See, 58 Fed. Reg. 63262 (1993). The Governor and the Tribe agree that Section 9 of the Compact is not implicated by provision of the alternative lands by the United States of America to the Tribe. In the event that it might be determined that Section 9 of the Compact is implicated by the Tribe's conduct of gaming on the alternative lands, the Governor hereby waives Section 9 of the Compact and agrees not to take any action to enforce, or aid in the enforcement of, Section 9 of the Compact.

6. The Tribe agrees as follows:

- A. From and after the date upon which the United States of America accepts title to the first of the parcels of alternative lands, as described in paragraph 4 above, in trust for the benefit of the Tribe, and so long as there

is a binding Class III compact in effect between the State and the Tribe pursuant to IGRA, and no change in State law is enacted which is intended to permit or permits the operation of electronic games of chance, as defined in Section 3(A)(5) of the Compact, by any other person or entity (except up to three persons or entities operating such games in the City of Detroit as permitted by the Initiated Law of 1996, as amended by MCL 432.201, et seq., or a federally recognized Indian Tribe), and no other person or entity (except up to three persons or entities operating in the City of Detroit pursuant to the Initiated Law of 1996, as amended by MCL 432.201, et seq., or a federally recognized Indian Tribe) within the State lawfully operates electronic games of chance, as defined in Section 3(A)(5) of the Compact, the Tribe shall make payments as provided in subparagraph 6(B) of this Settlement.

B. So long as the conditions set forth in subparagraph 6(A) remain in effect, the Tribe will make semi-annual payments as follows:

(i) Payment to the State of Michigan into the School Aid Fund established by section 11 of article IX of the Michigan Constitution of 1963, to the extent permitted by state law, or if not permitted by state law, to the Michigan Economic Development Corporation, a Michigan public body corporate created by an interlocal agreement effective April 5, 1999, pursuant to the Urban Cooperation Act of 1967, Act No. 7 of 1967, Ex. Sess., as amended, being sections 124.501 et seq. of the Michigan Compiled Laws. Such payments shall be in an amount equal to 8% of the net win derived from all Class III electronic games of chance, as those games are defined in Section 3(A)(5) of the Compact, which are operated by the Tribe pursuant to the Compact; provided, that if the first parcel of the alternative lands is located in Otsego County, such payment shall be based solely on the net win from electronic games of chance operated by the Tribe on that parcel unless and until a second parcel of alternative lands is taken into trust.

(ii) As used in this subparagraph, "net win" means the total amount wagered on each electronic game of chance, minus the total amount paid to players for winning wagers at such machines.

(iii) For purposes of these payments, all calculations of amounts due shall be based upon a calendar year beginning January 1 and ending December 31, unless the parties agree to a different fiscal year, and all payments due pursuant to the terms of this paragraph 6 shall be paid no later than sixty (60) days after January 1 and June 30 of each year. Any such payments due and owing from the Tribe in the year the United States of America accepts title to a parcel of the alternative lands in trust for the benefit of the Tribe or in the final year the Compact is in force, shall reflect the actual net win but only for the portion of the year that the United States of America holds title to the parcel of alternative lands, as described in paragraph 4 above, in trust for the benefit of the Tribe or the Compact is in effect.

C. The payments contemplated by this paragraph 6 are made in consideration for exclusivity in the Tribe's gaming activities consistent with subparagraph 6(A) above, and in consideration for the other agreements contained in this Settlement.

7. Pursuant to Paragraph 8 of an August 20, 1993, Consent Judgment and Order in Sault Ste. Marie Tribe, et al. v. John M. Engler, (W.D. Mich., No. 1:90-CV-611), the Tribe is obligated to make payments in the aggregate amount equal to two percent (2%) of the net win at each Class III gaming facility derived from all Class III electronic games of chance to local units of state government in the immediate vicinity of each Class III gaming facility. The Governor and the Tribe agree that if the Tribe operates a Class III gaming facility on the alternative lands described in paragraph 4 above, such payments shall be made as follows:

A. Payments to be made from revenues generated by the Tribe's existing gaming facilities in the Upper Peninsula of Michigan shall continue

to be made to local units of state government as provided in paragraph 8 of the Consent Judgment and Order referenced above.

- B. Payments to be made from revenues generated by each Class III gaming facility on the alternate lands described in paragraph 4, above, shall be made to the city, village, or township in which the facility is located; the county in which the facility is located; and the intermediate school district which serves the schools of the unit of government in which the facility is located (hereinafter, "Local Governments"). If these local governments desire, they may form a Local Revenue Sharing Board under applicable state law, consisting of one representative from each entity, to receive and disburse the semi-annual payments from the Tribe as described below. Decisions of the Local Revenue Sharing Board concerning the distribution of revenue shall require the unanimous vote of the three (3) representative Local Governments. The Local Revenue Sharing Board's sole function shall be to determine and make allocations of the tribal payments subject to the following limitations:

- (i) Of the payments made to each of the Local Governments, not less than one-eighth of the aggregate payments described above shall be paid to local public safety organizations for public safety purposes.
- (ii) Out of the aggregate payments described above, each Local Government shall receive no less than an amount equal to its share of ad valorem property taxes that would otherwise be attributed to the alternative lands and property thereon if those lands were subject to such taxation.
- (iii) Out of the aggregate payments described above, after deducting the payments described in the above subparagraphs, the Local Revenue Sharing Board shall allocate an additional portion of such payments to local units of government to

offset the actual costs incurred by local units of government as a result of the development of a Class III gaming facility on the alternative lands. The balance of the aggregate payments remaining after reimbursement of such actual costs may be utilized for any other lawful purpose of the Local Governments.

For purposes of these payments, all calculations of amounts due shall be based upon a calendar year beginning January 1 and ending December 31, unless the parties agree to a different fiscal year, and all payments due pursuant to the terms of this paragraph shall be paid no later than sixty (60) days after January 1 and June 30 of each year. Any such payments due and owing from the Tribe in the year the United States of America accepts title to a parcel of alternative lands in trust for the benefit of the Tribe, or in the final year the Compact is in force, shall reflect the actual net win generated by the facility on such land but only for the portion of the year that the United States of America holds title to the alternative land in trust for the benefit of the Tribe or the Compact is in effect.

8. From and after the date upon which the United States of America accepts title to the first parcel of alternative lands in trust for the benefit of the Tribe, the Tribe agrees to limit its Class III gaming operations on Indian lands in Michigan and shall limit the number of Class III gaming licenses authorizing such gaming to five (5) licenses for facilities located upon the Tribe's trust lands in the eastern Upper Peninsula of Michigan and one (1) license per parcel for each facility located within the alternative lands identified in paragraph 4 above.

9. Prior to November 30, 2032, the Governor, on behalf of the State, will forbear from exercising its unilateral right to renegotiate or terminate the Compact pursuant to Section 12(C) of the Compact.

10. This Settlement constitutes the entire agreement among and between the parties. All rights and benefits herein provided by each party are conferred in exchange solely for the rights and benefits conferred by the other party in each paragraph of this Settlement. If any paragraph is held invalid by any court of competent jurisdiction, it is the intent of the parties that the remaining paragraphs or provisions shall continue in full force and effect. Unless this Settlement is superseded by a subsequent tribal-state compact in accordance with IGRA, no modification of this Settlement is binding on either party unless the modification is in writing, and (a) signed by the Governor, or the Governor's delegee, and (b) approved by a Resolution of the Tribe's Board of Directors.

11. The Tribe agrees that, should the Tribe bring a legal or administrative challenge to the payments specified in paragraph 6 of this Settlement, the Tribe will cease gaming activities on the alternative lands. Should a suit challenging the legality or validity of the payments specified in paragraph 6 of this Settlement be brought by any person or entity other than the Tribe, the Tribe agrees that it will take the following actions at the request of the Governor:

A. If the Tribe is not already a party to the action, it will move to intervene on the side of the party or parties who are defending the validity of the payments specified in paragraph 6 of this Settlement. Upon becoming a party, the Tribe will participate as a party in the defense of the validity of that payment.

B. If the Tribe is denied intervention, the Tribe shall seek to participate in such action as an amicus and, if permitted, will file memoranda or briefs to support the validity of the payments. The Tribe reserves the right to take actions consistent with this paragraph 11, even if not requested to do so by the Governor. The Tribe agrees that, if it fails to take the actions specified in this paragraph 11, upon request by the Governor, it will cease gaming activities on the alternative lands. Absent an order of a court of competent jurisdiction to the contrary, during the pendency of any challenge

to the payments specified in paragraph 6 of this Settlement, all such payments shall continue to be made by the Tribe.

12. Nothing in this Settlement is intended to or does alter any terms or provisions of either the Compact or the August 20, 1993, Consent Judgment and Order in Sault Ste. Marie Tribe, et al. v. John M. Engler, (W.D. Mich., No. 1:90-CV-611).

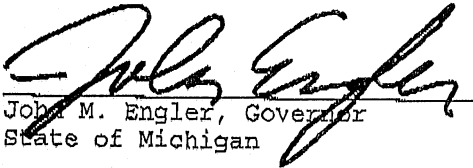
13. This Settlement shall be construed in accordance with and governed by the internal laws of the State of Michigan.

14. To the extent there is a dispute or controversy involving the terms of this Settlement, the parties agree that all actions or proceedings will be tried and litigated only in the Federal District Court for the Western District of Michigan. For the purpose of this Settlement, the Tribe expressly waives its sovereign immunity from suit and waives the jurisdiction of the Tribal Court should an action be commenced under this Settlement. This waiver is granted to the Office of Governor and to the State of Michigan, solely for purposes of resolving any dispute or controversy under this Settlement, including without limitation, enforcement of the Tribe's payment obligations set forth in this Settlement. The Tribe expressly submits and consents to the personal and subject matter jurisdiction, venue, and service of process of the Federal District Court for the Western District of Michigan, including any federal court to which a decision may be appealed, with respect to any dispute or controversy arising out of this Settlement.

15. This Settlement, entered into on the date set forth above, shall be filed with the Secretary of State's Office, State of Michigan, and shall be transmitted to the United States Congress by the Governor. This Settlement shall take effect upon approval by the Governor and the Tribe and action by the United States Congress, approving both this Settlement and the Bay Mills Settlement and making their terms binding and effective, resolving and extinguishing the land claims of the Tribe and the Bay Mills Indian Community to the Charlotte Beach Lands, and providing that the alternative lands described in paragraph 4 of this Settlement be taken in trust for the benefit

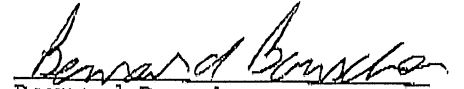
of the Tribe, as lands obtained in settlement of a land claim under section 20 of the Indian Gaming Regulatory Act, 25 U.S.C. § 2719(b)(1)(B)(i).

The Governor and the Tribe signify their understanding and acceptance of this Settlement by signing below.


John M. Engler, Governor
State of Michigan

Dated: 12/30, 2002

Governor's Seal


Bernard Bouschor
Chairman
Sault Ste. Marie Tribe of
Chippewa Indians
Dated: 12/30, 2002

Tribe's Seal

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To provide for and approve the settlement of certain land claims of the Sault Ste. Marie Tribe of Chippewa Indians. (Introduced in House)

HR 3048 IH

110th CONGRESS

1st Session

H. R. 3048

To provide for and approve the settlement of certain land claims of the Sault Ste. Marie Tribe of Chippewa Indians.

IN THE HOUSE OF REPRESENTATIVES

July 16, 2007

Mr. DINGELL introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To provide for and approve the settlement of certain land claims of the Sault Ste. Marie Tribe of Chippewa Indians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCEPTANCE OF ALTERNATIVE LANDS AND EXTINGUISHMENT OF CLAIMS.

(a) Definitions- For the purposes of this Act, the following definitions apply:

(1) ALTERNATIVE LANDS- The term `alternative lands' means those lands located in the city of Romulus, Michigan, and identified as alternative lands in the Settlement of Land Claim.

(2) CHARLOTTE BEACH LANDS- The term `Charlotte Beach lands' means those lands in the Charlotte Beach area of Michigan and described as follows: Government Lots 1, 2, 3, and 4 of Section 7, T45N, R2E, and Lot 1 of Section 18, T45N, R2E, Chippewa County, State of Michigan.

(3) SECRETARY- The term `Secretary' means the Secretary of the Interior.

(4) SETTLEMENT OF LAND CLAIM- The term `Settlement of Land Claim' means the agreement between the Tribe and the Governor of the State of Michigan executed on December 30, 2002, and filed with the Office of Secretary of State of the State of Michigan.

(5) TRIBE- The term `Tribe' means the Sault Ste. Marie Tribe of Chippewa Indians, a federally recognized Indian tribe.

(b) Land Into Trust; Part of Reservation-

(1) LAND INTO TRUST- The Secretary shall take the alternative lands into trust for the benefit of the Tribe within 30 days of receiving a title insurance policy for the alternative lands which shows that the alternative lands are not subject to mortgages, liens, deeds of trust, options to purchase, or other security interests.

(2) PART OF RESERVATION- The alternative lands shall become part of the Tribe's reservation immediately upon attaining trust status.

(c) Gaming- The alternative lands shall be taken into trust as provided in this section as part of the settlement and extinguishment of the Tribe's Charlotte Beach land claims, and so shall be deemed lands obtained in settlement of a land claim within the meaning of section 20(b)(1)(B)(i) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)(1)(B)(i)).

(d) Extinguishment of Claims- Upon the date of enactment of this Act, any and all claims by the Tribe to the Charlotte Beach lands or against the United States, the State of Michigan or any subdivision thereof, the Governor of the State of Michigan, or any other person or entity by the Tribe based on or relating to claims to the Charlotte Beach lands (including without limitation, claims for trespass damages, use, or occupancy), whether based on aboriginal or recognized title, are hereby extinguished. The extinguishment of these claims is in consideration for the benefits to the Tribe under this Act.

(e) Effectuation and Ratification of Agreement-

(1) RATIFICATION- The United States approves and ratifies the Settlement of Land Claim.

(2) NOT PRECEDENT- The provisions contained in the Settlement of Land Claim are unique and shall not be considered precedent for any future agreement between any Indian tribe and State.

(3) ENFORCEMENT- The Settlement of Land Claim shall be enforceable by either the Tribe or the Governor according to its terms. Exclusive jurisdiction over any enforcement action is vested in the United States District Court for the Western District of Michigan.

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