



Michigan's Governor Snyder Disrespects Indian Treaty-Reserved Fishing Rights

The November 27, 2017 agreement between Governor Snyder and Enbridge overlooks and ignores the preexisting, paramount right reserved by the Michigan Indian Tribes' signatory to the March 28, 1836 Treaty of Washington (7 Stat. 491). The United States had to obtain legal title to the land before statehood could be granted to Michigan in 1837. The purpose of the 1836 Treaty was to acquire legal title from the Ottawa and Chippewa Indian Tribes who had inhabited the territory.

The treaty is not one-sided; it is a legal agreement between sovereign governments that benefits both parties. When they conveyed title, the Michigan Indian Tribes that signed the 1836 Treaty, reserved the right to fish in the Great Lakes for subsistence and commercial purposes; *and* the Mackinac Straits are historically, and remains today, the 1836 Treaty Tribes' most important fishing grounds. Governor Snyder's unilateral deal with Enbridge fails to take into consideration this fundamental aspect of the treaty-reserved fishing rights. As cited below:

“However, none of these cases deals with the situation at hand, which is the recognition of the *superior* rights of American Indians to fish certain waters. * * * However, as distasteful as it may seem to plaintiffs, they do not possess an "equal right" to fish in the waters of the coast of the State of Michigan. Judge Fox ruled, and the Sixth Circuit upheld, that the tribal fishers have an aboriginal, *superior* right to fish in certain waters.”

**Bigelow v. Michigan Department of Natural Resources*, 727 F.Supp. 346, at 352 (W.D. Mich. 1989).

Moreover, the 1836 Treaty Tribes have a property right protected by the Fifth and Fourteenth Amendments of the United States Constitution that must be taken into consideration. The federal court declared that the 1836 Treaty Tribes' treaty-reserved fishing rights in the Great Lakes' fishery resources (including Straits of Mackinac) "are property rights protected by the United States Constitution. *Grand Traverse Band of Ottawa and Chippewa Indians v. Director, Michigan Department of Natural Resources*, 971 F. Supp. 282, 288 (W.D. Mich. 1995), *aff'd*. 141 F.3d 635 (6th Cir. 1998), *cert. denied*, 525 U.S. 1040 (1998).

The Grand Traverse Band of Ottawa and Chippewa Indians will not tolerate the usurpation of the fishing rights reserved for Tribal people as identified in the 1836 Treaty. The fishing rights were part of the bargain that was made in exchange for 14 million acres of land, which enabled Michigan to achieve statehood in 1837. Governor Snyder: Simply return the land, or honor the Chippewa and Ottawa treaty-reserved fishing rights!

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