

SCOTT A. TURNER
SHERIFF OF AITKIN COUNTY

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Aitkin, MN 56431

218-927-7435 Emergency 911
Sheriff Fax 218-927-7359 / Dispatch Fax 218-927-6887
TOLL FREE 1-888-900-2138

Agenda
Add-on
2.1
Handout

MEMO

TO: Aitkin County Board

DATE: June 25, 2018

FROM: Sheriff Scott Turner

RE: Local Emergency Declaration

The heavy rains that occurred in Aitkin County between June 15th and June 17th, 2018, have had a severe and negative impact on the citizens of Aitkin County. The Morrison Township and Savannah State Park have reported damages as a result of that event and the conditions that those rains created.

Morrison Township has reported damages totaling \$50,000 for water on 450th Street and erosion along the Rice River on 405th Street.

Savannah State Park is reporting flood-related damages in the amount of \$1750.

The indicator amount for Aitkin County for the Minnesota Public Assistance Program under Minnesota statutes, Chapter 12B is \$29,811.68.

I have enclosed a prepared resolution for the Aitkin County Board to consider.

CERTIFIED COPY OF RESOLUTION OF COUNTY BOARD OF AITKIN COUNTY, MINNESOTA

ADOPTED June 26, 2018

By Commissioner: xx

20180626-0xx

Declaring a Local Emergency

WHEREAS, the heavy rainfall impacted the population of Aitkin County and its cities; and

WHEREAS, the June 15 through June 17, 2018, event has caused a significant amount of public property damage; and

WHEREAS, the Aitkin County Department of Emergency Management requests the Aitkin County Board of Commissioners to declare a LOCAL EMERGENCY for Aitkin County; for the heavy rainfall event of June 15 through June 17, 2018.

NOW, THEREFORE, BE IT RESOLVED, that the Aitkin County Board of Commissioners, acting on behalf of and for the people of Aitkin County, declare that a state of emergency exists within Aitkin County, with all the powers and responsibilities attending thereto as provided by Chapter 12 of Minnesota Statutes.

Commissioner xx moved the adoption of the resolution and it was declared adopted upon the following vote

FIVE MEMBERS PRESENT

All Members Voting Yes

STATE OF MINNESOTA}
COUNTY OF AITKIN}

I, Jessica Seibert, County Administrator, Aitkin County, Minnesota do hereby certify that I have compared the foregoing with the original resolution filed in the Administration Office of Aitkin County in Aitkin, Minnesota as stated in the minutes of the proceedings of said Board on the 26th day of June, 2018, and that the same is a true and correct copy of the whole thereof.

Witness my hand and seal this 26th day of June, 2018

Jessica Seibert
County Administrator

Handout
3B



022017

Part of Your Community

Important Safety Information – Natural Gas Pipelines

Please retain this brochure for your information.



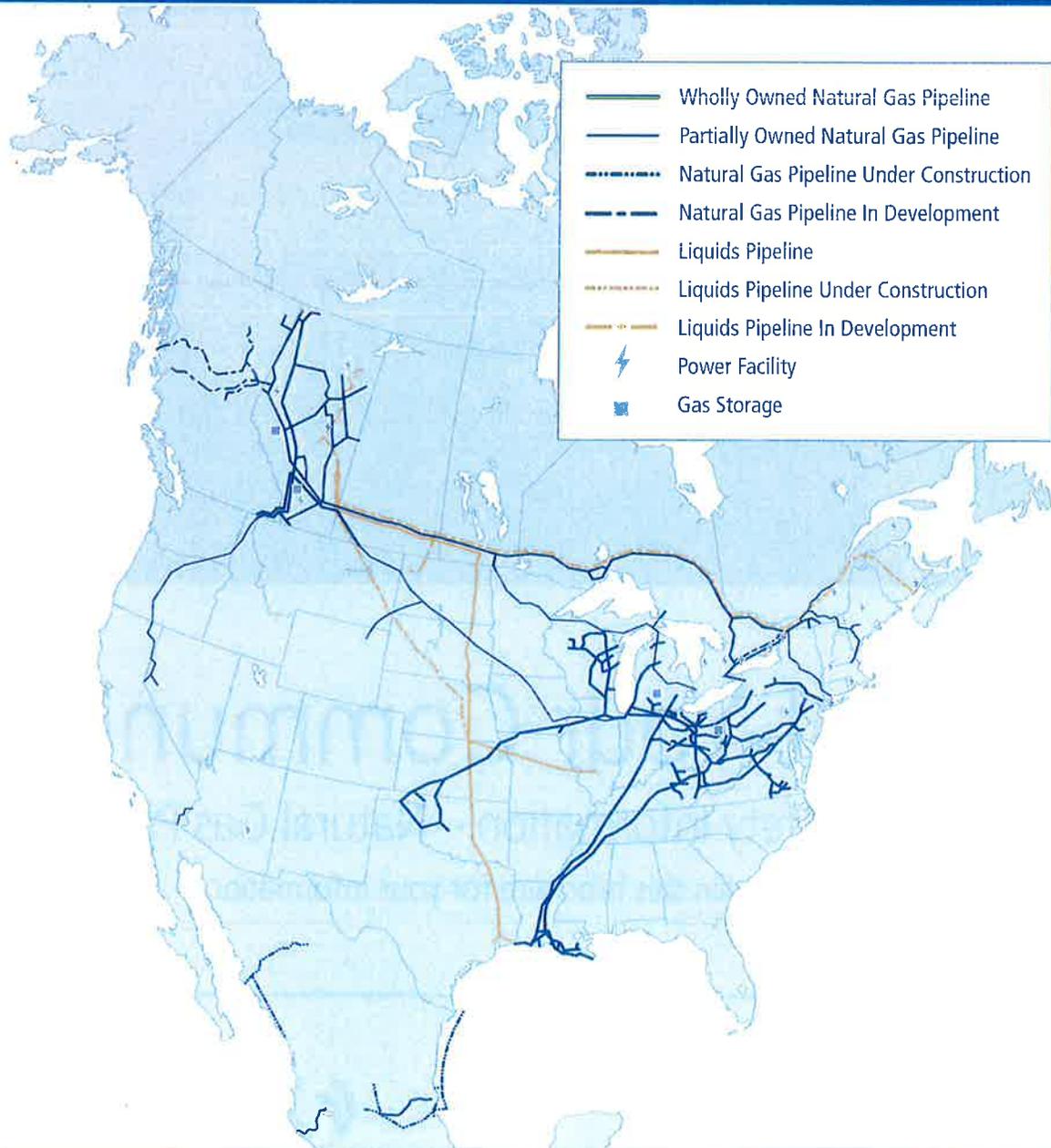
Why are you receiving this brochure?

This brochure contains important safety information about natural gas pipelines, and you live or work near a TransCanada pipeline. To help you understand the role you play in contributing to pipeline safety, we ask that you review the information provided. If you would like more information or have questions, please contact us at **public_awareness@transcanada.com** or call **1.855.458.6715**.

Please retain this booklet for your information.

En caso de emergencia relacionada con un oleoducto, llame al **1.800.447.8066**. Si desea recibir información de seguridad sobre los oleoductos en español, envíe un email a **public_awareness@transcanada.com** o llame al **1.855.458.6715**.

North American Assets



About Us

TransCanada is a leading North American energy infrastructure company with an industry leading safety record. For more than 65 years, we have been building, operating, and maintaining pipeline systems in a responsible and reliable way to meet the energy needs of North America.

What is Natural Gas?

- Natural gas is an energy source composed mostly of methane.
- Natural gas is said to be odorless, but some people detect a slight hydrocarbon smell. If the gas has been odorized, it could smell "skunk-like" or similar to rotten eggs.
- Natural gas is highly flammable and explosive.

Our Natural Gas Facilities

TransCanada owns and operates pipelines and other associated natural gas facilities including meter stations and compressor stations.

Pipelines

Pipelines are the safest and most efficient method to transport energy to market. Our pipelines are built using industry best practices, which include using the highest quality materials during the construction and implementing routine quality inspections and 24 hour monitoring programs throughout the life of the pipeline.

Meter Stations

Meter stations are facilities necessary within a pipeline system that measure the volume of natural gas transported by a pipeline. Natural gas is measured at all locations where it either enters the pipeline (receipt station) or leaves the pipeline (sales station).

Compressor Stations

As natural gas flows along a pipeline, it slows due to friction between it and the pipeline. This results in a loss of pressure along the pipeline. In order to make the gas flow continuously at the desired flow rate, it is re-pressurized at suitable locations along the pipeline. This is done by mechanically compressing the gas at sites connected to the pipeline known as compressor stations. The location and quantity of compressor stations required in a pipeline system is dependent on a number of factors, including the operating pressure of the pipeline, the diameter of the pipe used, elevation changes along the pipeline route and the desired volume of gas to be delivered.

Maintaining Pipeline Safety

- TransCanada conducts a rigorous pipeline maintenance program to ensure the integrity and safety of our systems. This includes but is not limited to ground surveys, cathodic protection, hydrostatic testing, investigative digs, patrols and in-line inspections.
- TransCanada works to meet all applicable federal and state safety standards.
- The pipeline facilities are constantly monitored to ensure safety and integrity of the entire system 24/7.
- The pipelines are equipped with multiple valves that can isolate sections of the pipeline, reducing the potential amount of product released.
- TransCanada patrols pipeline rights-of-way to identify any unsafe or unauthorized activity within the rights-of-way which could damage the pipeline.
- TransCanada's employees are trained to meet all mandated federal requirements for Pipeline Operator Qualifications in the U.S.
- In accordance with federal regulations, some segments along TransCanada's pipelines have been designated as High Consequence Areas (HCAs) where extra precautions are taken. For information regarding these measures, contact TransCanada and ask to speak with the US IMP Program Manager.

Your Safety

Unauthorized digging and crossing by contractors, farmers, landscapers and homeowners is a leading cause of pipeline incidents.

Excavation

Before conducting any excavation, either by hand or with machinery, contact your local One-Call center by calling '811' – America's national toll-free number for requesting underground utility location.

The One-Call Center will notify owners of buried facilities in your area, who will send representatives to mark these facilities with flags, paint or other marks, helping you avoid damaging them.

In most states, a notification to the One-Call center is required by law.

The service is free and could prevent accidents, fines, injuries or deaths.

Consequences of Unsafe Digging



Interrupted services such as electricity, gas and water.

Underground utilities are damaged every two minutes in the United States due to unsafe excavation work*.



Fines and repair costs to fix the underground utility line(s).

Enforcement guidelines are state-specific.



Risk of serious injuries and death.

Since 2008, the Pipeline and Hazardous Materials Safety Administration (PHMSA) has reported 98 injured workers and 17 fatalities due to damages done to underground infrastructures during excavation work**.

*2015, Common Ground Alliance, DIRT Report

** 2015, PHMSA, Serious Pipeline Incidents

Crossing and Encroachment

A crossing or encroachment is a temporary or permanent structure across, on, along or under a facility or pipeline right-of-way. A crossing can also mean equipment or machinery crossing over the pipeline right-of-way or facility site.

Like excavations, crossings and encroachments can pose a threat to the pipeline.

If you think your activity requires a crossing agreement with TransCanada, please contact us to better serve you and speed up your request, please provide the following information:

- Proposed activity – what are you planning to do?
- Location of proposed work (GPS coordinates are preferred)
- Make(s) and model(s) of any of the equipment that will cross/encroach the pipeline facilities
- Proposed activity date
- Axle load (weight)
- Your name and phone number
- Email address

Once you have received approval, the party completing the work must call '811' to request a locate of the pipelines at least three business days before beginning work.



Pipeline Location

- Most pipelines are buried underground in an area of cleared land often referred to as the “right-of-way”. The area on either side of the pipeline within the right-of-way must be clear of trees, shrubs, buildings, fences, structures or any other encroachments.
- Markers are used to indicate a pipeline’s **approximate** location as well as the name of the pipeline and the operator’s information.
- Only a TransCanada representative can determine the location and depth of the pipeline. Pipelines may not follow a straight course between marker signs.
- You can access further information regarding transmission pipelines in your community transporting natural gas or other fuels through the National Pipeline Mapping System (N.P.M.S.) at www.npms.phmsa.dot.gov.
- If you observe any unusual or suspicious activities near a pipeline, please immediately report the issue to law enforcement or the pipeline company.

Agriculture Safety

TransCanada wants to ensure the safety of anyone living or working near our facilities, and that includes America’s active farming community.

Normal farming practices can be completed without notice to TransCanada or contacting ‘811’ but ground disturbance and some other activities can pose a risk to underground utilities and may require permission or coordination.

These include:

- Ground leveling
 - Sludge spreading
 - Clearing/Brushing/Grubbing
 - Reducing or adding soil cover
 - Deep tilling/Sub-soiling
 - Trenching
 - Earth moving
 - Plowing
 - Drainage ditch clean out
 - Drain tile installation
 - Terracing
 - Fencing/Landscaping
 - Excavation
 - Augering
 - Stockpiling/Storage/Parking
 - Blasting activities
 - Building construction
 - Operating B-Trains
 - Controlled burning
-

Dig with **C.A.R.E.**



Call 811 before you dig

Or visit www.call811.com.



Allow required time for marking

Three business days.



Respect the marks

Lines are marked by flags, paint or other markers (normally yellow for pipelines).



Excavate carefully

Hand dig to determine exact locations of pipelines. A TransCanada representative must be present. All digging must take place during the time allotted by the TransCanada representative.

Pipeline Incidents

A pipeline incident could involve an uncontrolled or unplanned release of natural gas from the pipeline system. TransCanada's state-of-the-art leak detection systems, elevated safety features and specially trained staff make us confident leaks would be quickly identified and addressed.

In the unlikely event an incident should occur, TransCanada would immediately respond by shutting down the pipeline and dispatching emergency personnel to the location of the incident. Valves spaced at intervals along all TransCanada pipelines allow incidents to be quickly and effectively isolated.

Trained crews dispatched to the site work to further isolate the area and coordinate a response with local emergency services. TransCanada will not restart the pipeline until the issue has been identified and it is safe to do so.

TransCanada's policies and practices for emergency response planning go above and beyond the standard regulatory requirements for emergency response.



Warning Sign



Line Marker



Vent Marker



Aerial Marker

Pipeline Markers

- Pipeline marker signs contain important information, including the owner of the pipeline, the product shipped in the pipeline and emergency contact numbers.
 - TransCanada uses a variety of markers and signs along rights-of-way to alert people to the general location of its pipelines. Markers are typically placed where the pipeline intersects streets, railroads, rivers, fence rows and in heavily congested areas.
 - **Do not rely on pipeline markers or signs to show you the pipeline's location, path or depth.** Instead call '811'. TransCanada and other utilities will send a representative to the proposed excavation site to mark buried utilities at no cost to you.
 - It is against the law to willfully and knowingly deface, damage, remove or destroy any pipeline sign. If these signs are missing, damaged or otherwise unreadable, please contact TransCanada to replace them.
-



Safety in the Community

Safety is a core value at TransCanada. We make safety – for ourselves, each other, our contractors and for members of our communities – an integral part of the way we work.

TransCanada's operations extend across North America with established offices in key communities. Each region is fully staffed with qualified employees trained in pipeline safety and emergency response to ensure the safe and efficient operation of the facilities in the area.

We view the communities in which we operate as emergency response partners. We work collaboratively with these stakeholders on a continuous basis, inviting them to participate in exercises and training.

We work with emergency response officials to ensure everyone is familiar with local operations and is ready to respond in the event of an incident.

What to do if you strike a pipeline

A "strike" is any unauthorized contact with a pipeline and can include mechanical equipment like a backhoe or hand tools, such as a shovel. Whether or not the pipe appears to be damaged, if you strike a pipeline, it is important that you follow these steps:

1. Stop all excavation and construction. Shut off all machinery if safe to do so and move away from the area on foot – warn others to do the same.
2. Do not attempt to repair the pipe or operate any valves.
3. Call **'911'** as soon as you are in a safe location. Describe the situation and inform the operator of any injuries, leaking product or fire.
4. Call TransCanada's emergency number at **1.800.447.8066** and explain the incident. This number is available on all pipeline marker signs.
5. Do not continue your project until authorized by a TransCanada representative.

The safety of the surrounding population dramatically decreases when a pipeline is damaged. Contact TransCanada as soon as possible so we can make any necessary repairs.

Being a Partner in Pipeline Safety

Although a pipeline leak is rare, it is important to know how to recognize the signs. Use your senses of smelling, seeing and hearing to detect a potential pipeline leak

What you may smell

- Transmission lines that transport natural gas across the U.S. are rarely odorized, but may have a slight hydrocarbon smell. Distribution lines that transport natural gas to homes and businesses are odorized and could smell “skunk-like” or similar to rotten eggs.



What you may see

- Dead or dying vegetation on or near a pipeline in a normally green area
- Water bubbling or blowing into the air at a pond, creek or river
- Dirt being blown or appearing thrown into the air
- An accumulation of ice or frost over the pipeline (in the summer)



What you may hear

- A hissing, roaring or bubbling sound

If You Suspect a Leak

If you witness any of the typical signs listed, or any other unusual sights, sounds or smells near a pipeline location, it is important that you follow these steps:

- 1. Leave** the area immediately on foot – do not use motor vehicles or any equipment that could be a potential ignition source.
 - 2. Move** to a safe location, call ‘911’.
 - 3. Call** TransCanada’s emergency number: **1.800.447.8066**. This number can be found on all pipeline marker signs.
 - 4. Warn** others to stay away.
-

Standardized Color Code

When you request a locate, colored flags and/or paint are used to mark the location and type of underground utility



Proposed Excavation



Temporary Survey Markings



Electric Power Lines, Cables, Conduit and Lighting Cables



Gas, Oil, Steam, Petroleum or Gaseous Materials



Communication, Alarm or Signal Lines, Cables or Conduit



Potable Water



Reclaimed Water, Irrigation and Slurry Lines



Sewers and Drain Lines

Call Before You Dig – It's Free

Important Contact Information

One Call Center811

Online Locate Requests www.call811.com

Emergencies **1.800.447.8066**

General Inquiries

Email public_awareness@transcanada.com

Phone 1.855.458.6715

Landowner Inquiries

Phone 1.877.287.1782

Crossing or Encroachment Agreements

Email us_crossings@transcanada.com

Phone 1.877.287.1782

TransCanada is regulated by US Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) in the United States.

National Pipeline Mapping System (N.P.M.S.).

You can access further information regarding transmission pipelines located in your community transporting hazardous liquids or natural gas through the National Pipeline Mapping System at www.npms.phmsa.dot.gov.





CERF/CERA REPORT



MEMBER UPDATE

JUNE 2018

Vol. 14, No. 2

An Educational Publication of Citizens Equal Rights Foundation and Citizens Equal Rights Alliance



**A Message from the
Chair of CERA**
by Butch Cranford, CA

JUN 22 2018

**Arrow to the Heart
Book Review**

by Elaine Willman, MPA, MT

Just a brief note this month. As with any organization changes are sometimes necessary and we at CERA/CERF recently decided the CERA Report needed a facelift. To that end we are in the process of exploring and implementing some cosmetic improvements to the appearance of the Report.

In addition the Board decided it is time for the Report to be available electronically to allow the Report to be sent to your email addresses if you use email. An electronic version that you can more easily share with friends and neighbors who use email or other social media and are concerned with Federal Indian Policy and the impact it has on your community. You will still receive your regular copy of the Report in addition to the copy received via email.

As part of this project we invite you, our readers, to participate in improving the Report and you are invited to let us know what you like about the Report and what you do not like. We need and welcome your feedback. We need for you, our readers, to let us know what we can include in the Report that would be most helpful to you and your community.

If you have and use email please send your suggestions and comments to: bcranford4588@att.net.

If you would rather send written comments

send them to: CERF/CERF
P.O. Box 0379
Gresham, WI 54128.

www.citizensalliance.org

As the current Trump Administration tries to undo a decade of executive overreach by the Obama Presidency, so too do ordinary citizens who have barely survived monstrous federal bureaucracy. After years of enduring threats and persecution from corrupt government officials, Christopher Kortlander, owner of the historic town of Garryowen, Montana and Founding Director of the Custer Battlefield Museum, assembled a legal team that launched an aggressive defense against the federal government and won. Kortlander also had a front row seat on a suspicious election on the Crow and other Indian reservations that put Jon Tester into the Senate.

Christopher Kortlander's book, *Arrow to the Heart: The Last Battle at the Little Big Horn: The Custer Battlefield Museum vs The Federal Government*, exposes devastating government corruption and malfeasance that continues today. Akin to the Trump Administration draining the swamp, Kortlander names and exposes the corrupt federal law enforcement agents to expunge them from further harming other American citizens.

In an engrossing and entertaining narrative, Kortlander exposes crooked federal agents operating within the Bureau of Land Management (BLM) and National Fish and Wildlife Service (USFW). Over a period of years, agents orchestrated raids upon private citizens, making unwarranted high-profile arrests to further their careers, boost professional standing and justify more "law enforcement" funding for bloated federal agencies. These raids included the 2014 Bundy Ranch Standoff in Bunkerville, Nevada, Operation Cerberus Action that took place in rural Utah, and the 2009 and 2011 Gibson Guitar raids.

Operation Cerberus saw the suicide deaths of three of our fellow citizens as a result of over-the-top interrogations by BLM agents pursuing personal agendas. Dishonest agents seized personal property, purposely destroying people's lives-literally ending the life of three Americans.

Arrow reveals vicious actions of agents involved in these raids. Recently fired BLM Special Agent in Charge, Dan Love, who oversaw the Bundy Standoff and Operation Cerberus Action, was revealed by an inside whistleblower to have created "kill lists" naming people being investigated. Love was exposed for having created the lists long before any of the suicides took place. **Sealed court documents reveal that Love's BLM kill lists at Bundy Ranch included targeting those of Mormon faith, labeling them a dangerous cult.**

Kortlander also tells his own story beginning in the spring of 2005 when a federal raid took place at the Custer Battlefield Museum. Federal agents alleged that he was selling valuable historical artifacts with false provenance, and that he illegally possessed eagle feathers. It was while fighting these false allegations that Kortlander received a document from an unnamed government official detailing the level of corruption and espionage taking place in the law enforcement agencies of the Department of the Interior. Confirming what Kortlander was seeing take place all around him, the document also exposed BLM Agent Dan Love as one of the main perpetrators of malfeasance. There are stunning connections between Kortlander's Custer Battlefield Museum raid, the Gibson Guitar raid, and Operation Cerberus Action. Through never-before-published documents, *Arrow to the Heart* makes readers aware of how federal law enforcement agencies operated and overreached their authority before and during the presidency of Barack Obama.

In Chapter 7, Kortlander also unearths damning information concerning the election of Montana Senator Jon Tester. The author details voter fraud that took place in 2006 when Jon Tester was first elected the 51st Democrat to the United States Senate, shifting the political power of the Senate.

Because state election laws do not apply at polling precincts on some Montana Indian Reservations, several reservation ballot boxes were left unsecured, allowing voter fraud to occur, which pushed Tester to a narrow win in Montana and gave Democrats control of the U.S. Senate by a tiny 0.87% of the official vote. Kortlander's book contains documentation proving that the DNC and Tester's campaign wrote checks to influence individual tribal voters at the ballot station. This stunning information continues to have national implications as Tester seeks reelection in 2018.

With so much publicity in recent years covering the Cliven Bundy Ranch Standoff and the occupation of the Malheur National Wildlife Refuge, Kortlander's book exposes a growing and justified fear of federal encroachment on the Constitutional rights belonging to you, me and all US citizens.

Arrow to the Heart includes a powerful Foreward by Ammon Bundy, son of Cliven Bundy. Written while awaiting trial in solitary confinement in the federal detention center in Pahrump, Nevada, Bundy gives his thoughts on federal government overreach and the implications it has for the lives of all Americans.

To order your own copy go to

www.arrowtotheheartbook.com

Federal Indian Policy is unaccountable, destructive, racist, and unconstitutional. It is, therefore CERF and CERA's mission to ensure the equal protection of the law as guaranteed to all citizens by the Constitution of the United States.

Update on Mille Lacs Band Developments

by Randy Thompson

Mille Lacs County Tribal Attorney, MN

Over the past two years, there have been significant changes in the relationship between Mille Lacs County and the Mille Lacs Band of Ojibwe. Because that relationship affects every resident of our area, it's worth reviewing what's happened during this period, areas where the relationship is working well, where it's not and issues that we are working to address going forward.

A (Brief) History of our Cooperative Law Enforcement Agreements

In 1991, Mille Lacs became the first Minnesota county to enter into a Cooperative Law Enforcement Agreement with a Native American Tribe when the County and the Mille Lacs Band worked together to support the passage of Minn. Stat. §626.90. The statute allowed the Band to exercise state law enforcement authority within Mille Lacs County under a Mutual Aid/Cooperative Agreement with the Mille Lacs County Sheriff. The agreement remained in place for 16 years, until 2007, when the Band cancelled the agreement. A new agreement was negotiated and signed in January 2008 and remained in place until it was revoked by the County on June 21, 2016.

Among the reasons cited for the County's action was concern that the Band was improperly citing the 1991 statute as confirming the existence of the original 1855 Mille Lacs Reservation; concern about whether the Band was willing to follow Minnesota law regarding the exercise of law enforcement authority; and concern that the relationship between the County and the Band regarding law enforcement authority was no longer cooperative. The County Resolution revoking the agreement further stated that the criminal justice system should not be used as a tool to address boundary issues between the Mille Lacs Band and Mille Lacs County. Despite these concerns, however, the County stated its desire to negotiate a new Cooperative Agreement with the Mille Lacs Band.

Since then, the County and the Band have, at the urging of Governor Dayton, been engaged in a mediation process to settle their differences and to – hopefully – lay the foundation for a new Cooperative Agreement. The first mediation sessions were facilitated by the Minnesota Bureau of Mediation Services, but ended without a new cooperative agreement in June 2017. Governor Dayton, in the fall of 2017, again strongly urged the parties to return to mediation, this time before retired Judge Arthur Boylan who has helped mediate numerous matters since stepping down from the federal bench. Several mediation sessions have been held with Judge Boylan since November 2017, and

while no additional sessions are currently scheduled, those mediation efforts are continuing.

Tribal Law Enforcement Act/Assumption of Federal Concurrent Criminal Jurisdiction

In 2013, the Mille Lacs Band applied to the federal government for the right to assume federal concurrent criminal law enforcement jurisdiction in Indian country in Mille Lacs County. Because Minnesota is what's known as a "Public Law 280 State," meaning the state is authorized to assume criminal, as well as civil, jurisdiction in matters involving Native Americans and others in Indian country, Mille Lacs County opposed the Band's request, believing it was unnecessary from a public safety perspective. In addition, the County argued, a grant of federal concurrent criminal jurisdiction would likely trigger a reservation boundary dispute.

In January 2016, however, the federal government announced that it was approving the Band's request for federal concurrent criminal jurisdiction effective January 1, 2017. The assumption of federal concurrent criminal jurisdiction was granted throughout the original 1855 Reservation boundaries, which comprise the three Mille Lacs townships of Isle Harbor, South Harbor and Kathio, the three northern townships that wrap around the southern half of Lake Mille Lacs.

For reasons that remain unclear, the opinion by the Department of Interior's Solicitor General – known as the "M-Opinion" – was dated November 20, 2015, but was not shared with Mille Lacs County for approximately five months by the Mille Lacs Band and the U.S. Attorney's office. Even so, the process of implementing the decision continued and in December 2016, the Mille Lacs Band and the federal bureau of Indian Affairs entered into an agreement giving Mille Lacs Band police officers the right to exercise federal law enforcement authority within Indian country in Mille Lacs County.

In addition to the underlying disagreement on the need for and the appropriateness of a concurrent criminal jurisdiction, the Band and the County also disagree on the question of what constitutes Indian

country in Mille Lacs County: The Band claims that it is the entire 61,000-acre reservation established by the 1855 treaty that created the Mille Lacs reservation. The county and the State of Minnesota have long held that the 1855 Reservation was disestablished and that Indian country in Mille Lacs County is the land held in trust by the United States for the benefit of the Mille Lacs Band or its members. The total trust land is approximately 3,500 acres.

The Mille Lacs Band Sues Mille Lacs County

In November 2017, the Mille Lacs Band filed a lawsuit in United States District Court seeking a ruling on the extent of the Mille Lacs Band's criminal authority as well as a request for the determination of the reservation boundary issues. This is only the latest in a series of legal actions on this topic reaching back more than a century to the U.S. Supreme Court, which ruled in 1913 that the Band had "relinquished" the Reservation established in 1855.

Among the Band's requests in the current lawsuit is the ability to conduct tribal and federal investigations of non-Indians on public right-of-ways and land privately owned by non-Indians within the three townships of Isle Harbor, South Harbor and Kathio. The Band's current lawsuit is in its preliminary stages and will likely take several years before a final determination is made, following any appeals. The County, in turn, has filed a counterclaim asking the court to affirm that the 1855 Reservation was disestablished.

Despite the legal proceedings by the parties, the County and the Band continue to look for areas of shared interest. The County remains committed to the current mediation process and to continue good-faith efforts to negotiate a new cooperative state law enforcement agreement with the Mille Lacs Band.

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guaranteed to all citizens by the
Constitution of the United States.*

Once Upon a Time

by Rich Tallcot, TN

Once upon a time there was a Cayuga Indian Land Claim. The New York Cayuga and the Oklahoma Seneca-Cayuga tribes sued in 1980 to claim 100 square miles, evict all the people living on these lands and restitution in the billions of dollars for all the fish caught, timber cut and natural gas removed over the previous 200 hundred years. They had been paid for the land in 1789 by the state at four times what the federal government was paying at that time. They had reached six final negotiated settlements since the sale in 1790 to the State. The last settlement was through the Indian Claims Commission in which the Seneca-Cayuga accepted payment and the New York Cayuga rejected the offer and sued in court for what was an all or nothing claim.

The 1789 Treaty of Albany purchased *all* their lands and "of the ceded lands", meaning they belonged to the State, the Cayuga were given a use right to 100 square miles. Attorneys for the tribes called it a "set aside" and without getting into details the State agreed to Summary Judgment" rather than dispute the facts. Summary Judgment means all parties accept the facts as presented.

The district court noted that the 1789 Treaty of Albany was relatively short, containing only five paragraphs, and its terms were fairly straightforward. In the first decretal paragraph it succinctly stated that "the Cayugas do cede and grant *all* their lands to the People of the State of New York forever." This cession represented approximately 1600 square miles. The 1789 Treaty allowed the Cayuga to retain a portion of this land, however, "for their own use and cultivation but not to be sold, leased or in any other manner alienated or disposed of to others." This portion is roughly 64,000 acres, or about 100 square miles, located at the north end of Cayuga Lake, and it is the subject of this lawsuit.

That was where the court screwed up and the State didn't pursue that the alleged set aside was part of the "all" as stated in the Treaty. Granted that Harris Beach did argue in court that such would have resulted in a federal taking without compensation and it

was still state land. But Judge McCurn appeared to have his mind made up differently.

In 1794 the federal government made the Treaty of Canandaigua with the Iroquois Nation Confederacy acknowledging all prior state treaties as legal and guaranteeing all the Indian lands to be theirs forever until they chose to sell to the people of the United States. The hitch was this was all State land but never properly challenged by the State in the lawsuit.

July 22, 1790 Congress passed the Trade and Intercourse Act forbidding the purchase of Indian lands without the consent of Congress. That was in effect for two years. The 1793 Act section 13 stated that nothing in this act shall be construed to prevent any trade or intercourse with Indians living on lands surrounded by settlements of the citizens of the United States, and being within the jurisdiction of any of the individual states. That exclusion remained until the 1834 Act.

In Oct. 2001 a jury trial ensued awarding them \$35 million. The District Court ruling was accordingly, the court finds that the Cayuga are entitled to an award here of \$1,911,672.62 for the fair rental value of the claim area from July 27, 1795 to February 17, 2000, and \$35,000,000.00 for the future loss of use and possession of the claim area, as found by the jury on February 17, 2000, and to a further award of \$211,000,326.80 for prejudgment interest in connection with the reasonable rental award against the State making a total award of \$247,911,999.42, and the Clerk of the Court shall forthwith enter judgment in accordance herewith. IT IS SO ORDERED.

But the tribe rejected that \$248 million dollar ruling and appealed only to have their claim dismissed at the Second Circuit.

As litigation proceeded the DOI claimed that the reservation still existed because Congress, which never owned it, had not disestablished it. It never was federal land so Congress never had authority to do so, but this was never cleared up in court.

In 2005 the Second Circuit ruled in favor of the State based on Laches and in 2006 the appeal to SCOTUS (Supreme Court Of The United States) was denied. Laches is not just the passage of time but the actions and inactions by all parties over that time period. The State paid the federal government for the 1789 land purchase, the federal government then paid the Cayuga tribe which accepted payment and Congress never questioned the legality of any of it.

However this isn't about the land claim but a side note exposing shenanigans.

When people get served notice that they are being sued for everything they own as a result of a government action or inaction, they contact their politicians. In New York State you might better be trying to cut a deal with the Mob.

Senator Mile Nozzolio is a good man and I always agreed with his politics until we started fighting the land claim. He was elected in 1992 and in 2016 opted not to run for reelection prior to open heart surgery. His younger brother died of heart failure. 12 terms in the senate and 10 terms in the assembly before that gave him leverage.

The law firm representing Cayuga and Seneca Counties and State in the Cayuga land claim was Harris Beach. Not so oddly they hired Mike Nozzolio to their firm. They wanted a settlement any way they could get it and so did the State.

Early on one of the first settlements offered by the State was the 10, 536 acre Seneca Army Depot but the people organized and fought it and won following their trip to Washington D.C. About ten years later another group organized under the name Upstate Citizens for Equality (UCE). Membership was free and at one of the first informational meetings the Cayuga chapter had everyone sign in resulting in a combined membership of over 10,000 members. This followed another settlement proposal giving the tribe thousands of acres of land and evicting numerous people.

UCE was adamant about not accepting any settlement.

One thing that held up many settlement proposals was that numerous state legislators had investments in competing gambling firms.

The best thing that Mike did was get the State to agree that they would not accept a settlement unless both counties agreed to it.

May 9, 2013 Governor Cuomo announced a settlement with the Cayuga tribe in exchange for land in each county plus a casino in the Catskills. Although David Dresser, a past Seneca County legislator and consultant to their Indian Affairs committee and an attorney for Harris Beach helped put the agreement together, they neglected to include one of the tribes suing for the land or either county.

Prior to each county voting on the offer numerous county legislators in both counties received calls from Mike recommending they accept the offer. He was always careful not to have witnesses.

When the counties voted they were both meeting on the same night and the vote was close but each county had been called and informed that the other county had accepted the deal. No deal. Neither county accepted it.

Following that UCE managed to get six legislators in one county and five in the other who had all voted for settlement replaced in the next election.

At one point the Cayuga UCE put out a “wheel of influence” flyer connecting Mike Nozzolio working for Harris Beach and Harris Beach also representing Tom Wilmot who had the State DOT drastically change a traffic pattern on State Routes 5 and 20 preceding an attempt by the Seneca-Cayuga to build a casino. There were other dots connected but upon threat of lawsuit by Harris Beach I fortunately had evidence of everything stated. They acknowledged

that it was a huge law firm and each branch was not always privy to who other branches represented.

The District Attorney Rich Swinehart in Seneca County had recommended they get a different law firm. Rich told me that Mike set up a “conference” with him supposedly to include the tribes and the state but when the DA arrived it turned out to be just him and Mike who admonished him for trying to fire his law firm. Following that Mike announced that the State would not pay legal fees to the counties unless they used the same law firm. Mike knew the Cayuga County chairman Roger Mills felt obligated for Mike’s endorsement and getting Roger elected.

Bill Dorr working for Harris beach did an excellent job and my only complaint was that he wanted a settlement. We had many vociferous discussions at county board meetings and he emphasized that once back in court that the judge’s ruling may not be in our favor. Proceeding with appeal to the Second Circuit I had educated some county legislators on what to appeal. Noting a footnote by Justice Roberts in the Oneida land claim he questioned why the counties had not argued Laches. Bill had no intention of arguing laches claiming that Judge McCurn had already ruled against Laches and that he could be reprimanded by making a frivolous claim. But he finally agreed to include that and that’s why we won.

Attorney Brian Laudadio, who switched law firms, revealed that Harris Beach made about three million dollars fighting the Cayuga land claim and that Mike had been paid a fair percentage of that.

Of course everything was all legal and not really a bribe but as Chet Banner, one of those evicted in the Seneca land claim – which wasn’t a land claim, said everything is 99.9 percent politics.

After we defeated the Cayuga Land Claim Senator Nozzolio sent out a mailer exclaiming that “we won”.

Of course then the tribes filed Fee to Trust applications to circumvent their land claim losses.

The Cayuga tribe bought dozens of properties and outright refused to pay taxes on them. They knew from the NY Oneida tribe doing the same thing that SCOTUS had ruled the land was taxable but tribal sovereign immunity barred enforcement to foreclose on the properties.

However in the Sherill case the NY Oneida made the unprecedented move of dropping their sovereign immunity *after* the Supreme Court accepted the case because they and most every other tribe in the country were scared to death that SCOTUS would rule on sovereign immunity because when SCOTUS makes a ruling it applies to the whole country. Then after the land was ruled taxable the NY Oneida used their sovereign immunity to prevent enforcement of it and the smallest city in the State broke from fighting tribal lawsuits was enticed to accept an offer to accept payment in lieu of taxes for five years and then renegotiate.

So Seneca County proceeded with a lawsuit claiming “in rem” (suit against the land rather than the tribe) for failure to pay property taxes. The NY Cayuga refused to drop their sovereign immunity and tribal immunity and enforcement of the law under municipal jurisdiction was in line to be appealed to SCOTUS. A ruling on that would affect the whole country and tribal sovereign immunity would again be in jeopardy. The county had the tribe right where they wanted them. But somehow Harris Beach missed the deadline to file an appeal to SCOTUS claiming they marked the wrong date on their calendar. The firm was fired after that.

With billions of dollars at stake and the multitudes of New York State legislators being caught and arrested for numerous reasons it makes one question if law firms are susceptible to being paid more by the defendants or their supporters to merely forget to file an appeal. Of course that’s *not* an accusation but just a thought.

Misrepresentatives and attorneys are not always exposed, arrested or convicted. Within the past fifteen

years fifteen State assemblymen, eleven senators and a state comptroller were charged and convicted. Those are just the ones that were sentenced to prison mostly for accepting bribes, fraud and extortion.

In addition one governor, two assemblymen and most recently the State Attorney General resigned after being exposed but not charged.

14th Amendment to the U.S. Constitution

Ratified July 9, 1868

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any laws which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.



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HONORING NAOMI BRUMMOND

Those who live in the Lord never see each other for the last time... She must have been quite the firecracker as a little girl in Texas because she remained a sizzling little sparkler well into her '80s in Nebraska. Naomi transferred from Nebraska to God's Heaven on May 9th. There she will no doubt, be one of God's finest Parliamentarians and Servants.



CERF and CERA celebrate the privilege of having Naomi Brummond as a vigorous member of our Board for over 20 years. She stood for things. Big things. And if you stood for the *wrong* things you *heard* from her politely, but candidly and clearly too.

She stood for big things...like an undying devotion to our country and its U.S. Constitution, our beautiful Pledge of Allegiance, National Anthem and the American Flag. She stood for big things....like raising her family and working their lands in very rural Pender, Nebraska, while keeping an ongoing engagement in the community school system, and every single community event within her reach. Naomi's the spitfire little woman that daily demonstrates the importance of God, Country, Family and Friends.

And she walked in Tall Cotton as well. The Eagle Forum Founder, Phyllis Schlafly, was a very close friend, and numerous federal and state elected officials kept Naomi's phone on their speed dial. She is and always will be deeply appreciated and respected at every level of life.

Naomi stood for big things...like keeping an ever-present sense of humor and joyful countenance contagious to everyone around her. Spend fifteen minutes with Naomi and walk away feeling centered in God, County, deep mutual friendship and a warm sense of well being. She was just that kind of fine, fine woman. *Naomi and her buoyant Spirit will be with us always....*

