

The People's Land

ANISHINABE AKEENG

BC
Law

White Earth Anishinabe Nation
Via P.O. Box 356
White Earth, Minnesota 56591
1-218-983-3741

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ONEIDA TRIBE OF
INDIANS OF WISCONSIN

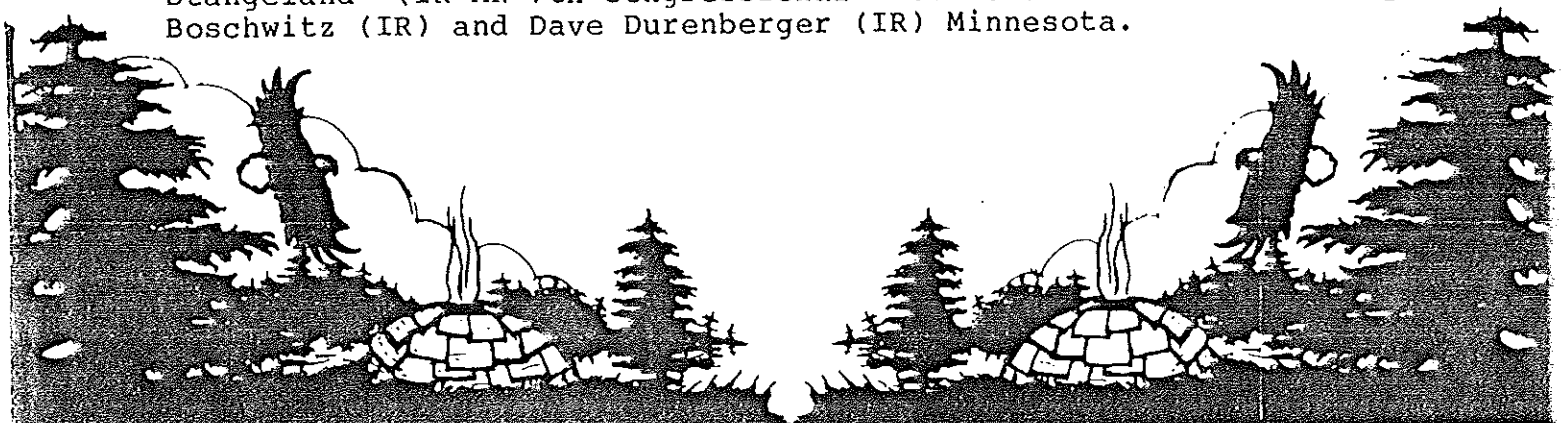
Purcell Powless, Chairman
Oneida Executive Committee
P.O. Box 365
Oneida, Wisconsin 54155

Dear Mr. Powless:

The United States government entered into the Treaty of 1867 with the Chippewas of the Mississippi Anishinabe on March 18, 1867, establishing the 837,120 acre White Earth Reservation. The 1867 Treaty designated White Earth as Tribal land. Twenty years later, however, Congress passed the 1889 Nelson Allotment Act, removing the land from Tribal control and imposing individual ownership. Individual Indian people were allotted parcels of land, usually 160 acres. The unilateral imposition of individual ownership was clearly a congressional move to break up the sovereign treaty lands of the Indian Nations, changing their way of life and abolishing their millenium-old economic system. The intent was assimilation. The result was the devastation of a tribal land base. Today, only six percent (6%) of the White Earth Nation is controlled by Anishinabe.

Investigations into these thefts have so far uncovered in excess of 200,000 acres of land which is being illegally occupied by state and federal government, corporations and some non-Indian property-holders. If the Department of Interior were to complete the mandated probates on all allotment files, coupled with a complete real-estate title audit, no doubt many more irregularities would be uncovered.

Anishinabe Akeeng (The People's Land) is a coalition of heirs and allottees to lands inside the boundaries of the 1867 Treaty White Earth Reservation. Anishinabe Akeeng, with the White Earth Tribal Council and the Minnesota Chippewa Tribe officially protests and totally rejects as unacceptable the proposed legislation S.1396 and H.R. 2678 introduced by Congressman Arlan Stangeland (IR-MN 7th Congressional District) and Senators Rudy Boschwitz (IR) and Dave Durenberger (IR) Minnesota.



On September 10-11, 1985 these bills, H.R. 2678 and S. 1396 had a first hearing before the House Interior Insular Affairs Sub-Committee and the Senate Select Committee on Indian Affairs.

Anishinabe Akeeng, joined by representatives of the White Earth Tribal Council presented a unified front in staunch opposition to these bills. While the chairpersons of each committee, Congressman Bruce Vento (D-Minn.) and Senator Mark Andrews (R-N.D.) aligned their views and support for these bills to that of Minnesota Governor Rudy Perpich, Minnesota Senate Leader, Roger Moe, Collin Peterson, representatives of the three counties of Mahnomen, Becker and Clearwater which hold many of the clouded titles, representatives of the Department of the Interior, and representatives of the various non-Indian organizations on the White Earth Anishinabe Nation. All are defendants in lawsuits that are being filed in the state and federal courts to recover these lands. No wonder they have joined forces to ask the Congress of the United States to bail them out.

If we are to remain a nation of laws, then they must understand that we must play by the same set of rules. This legislation, if passed would legitimize the illegal taking of private property. Both peices of legislation propose to clear all existing and/or potential Indian land claims on the "property titles" of current land holders within the boundaries of our reservation. This is in return for a per capita payment as "settlement". The White Earth people as represented by these three organizations view these bills as slanted toward the non-Indian special interests and considers offers of "compensation" to be an insulting degradation to true property value and our property rights.

Furthermore, the legislation is a violation of our constitutional rights, due process and an illegal taking of individual property rights. The bill constitutes an attempt at a current taking by statute of the beneficial interest of heirs that are entitled to the lands rightfully belonging in trust. This bill also denies us equal protection under the Constitution. When, as a matter of law, the United States should be vigilant in the enforcement of statutes designed for the protection of Indian lands, this is an embarrassment to Congress.

Simply put, the United States Congress would reward the federal and state governments, corporations and immigrant settlers who hold our land illegally and further punish the Anishinabe, the victims of these criminal acts.

We hope that Senators Durenberger and Boschwitz and Representative Stangeland are willing to break from the dishonorable practices of the past which have created this situation.

We have a draft of alternative comprehensive legislative solutions that would be just, fair and realistic. We point to the recently proposed legislation to return part of the Black Hills to the rightful titleholders- the Sioux Nation as an example as such. (See S.B. 1453, Sioux Nation Black Hills Act, introduced by Senator Bill Bradley D-N.J.).

S. 1396 is scheduled for hearing and mark-up before the Senate Select Committee on Indian Affairs on November 7, 1985, so the situation is urgent.

We urge you to join us by informing members of the Senate Select Committee on Indian Affairs, the House Committee on Interior and Insular Affairs, and your senators and congressional representatives of your opposition to legislation which takes individual and tribal property rights.

An important point to make is while this legislation targets specifically, White Earth, with the passage of this legislation the precedent will be set as to how Congress or the courts deal with all other tribes who have similar fact situations pertaining to illegal taking of land. In reality, we at White Earth are "riding point".

In order to defend our lands against the attempted "congressional raid", and to take the offense in the federal courts (we have already filed some suits) we realize that this struggle will take considerable energy and financial resources.

We urge you to make a sizeable contribution to this cause. Checks should be made to Anishinabe Akeeng, via P.O. Box 356, White Earth, Minnesota, 56591; or funds can be transferred directly to Account #75-36-35, Anishinabe Akeeng, 1st American Bank, Box 827, Detroit Lakes, Minnesota, 56501. We are tax exempt. We ask, also that this urgent plea be published in your tribal newspapers.

Thank you.



Stanley Goodwin
Chairman, Anishinabe Akeeng



Vernon Bellecourt
Representative
Anishinabe Akeeng

Write or call:

Morris K. Udall (Arizona), Chairman
House Interior Insular Affairs Committee
1324 Longworth House Office Building
Washington, D.C. 20515
202-225-2761

Mark Andrews (North Dakota), Chairman
Senate Select Committee on Indian Affairs
Hart Building-Room 838
Washington, D.C. 20515
202-224-2251

White Earth Reservation Tribal Council

Resolution No. 001-85-018

- WHEREAS, the White Earth Reservation Tribal Council is the duly elected governing body of the White Earth Indian Reservation; and
- WHEREAS, the White Earth Reservation Tribal Council has determined that its mission is to promote the general well-being and protection of the rights of the constituents; and
- WHEREAS, H.R. 2678 was introduced in the United States House of Representatives on June 5th, 1985, by Mr. Stangeland and was referred to the Committee on Interior and Insular Affairs; and
- WHEREAS, the bill is proposed to be cited as the "White Earth Reservation Land Settlement Act of 1985" and purports to settle claims relating to certain allotted Indian lands on the White Earth Reservation and to remove clouds from titles to certain lands, in contravention to the interests of Indian heirs and members of the White Earth Band; and
- WHEREAS, sections 3(a), 3(b) and 4(c) relate to invalid tax forfeitures and other illegal sales, mortgages, and transfers of allotments and Section 5(a)(1) attempts, in return for a "compensation determination" to deem said transfers to have been made in accordance with the Constitution and laws of the United States applicable to the transfer of allotments and to ratify said transfers as of the date of transfer, when in fact said transfers were in contravention of the Constitution and laws of the United States applicable to the transfer of allotments, and
- WHEREAS, the bill also proposes that any action attacking title to land based on the lack of an heirship determination by the Secretary of the Interior with regard to any allotment or interest that may appear on the "Federal Register list" under section 6 of the bill would be forever barred unless the complaint were filed prior to enactment of the act, and bars an action under the Tucker Act, 1346(a)(2) and 1491 of title 28, United States Code unless a person entitled to compensation under the Act files the complaint within one hundred and eighty days of the issuance of the notice of the Secretary's compensation determination, and bars actions pursuant to the Tucker Act section 1491, title 28, United States Code, to the Claims Court unless filed in the Claims Court within one hundred and eighty days of the final judgment of a court of competent jurisdiction, and
- WHEREAS, the bill proposes that any tribe, band, or group of Indians or any individual shall have only one year after the "Federal Register list" that would be published under the bill, to submit to the Secretary any additional allotments or interests which should fall within the provisions of section 3(a), 3(b), 4(b), or 4(c), and the bill lists other limitations and time periods, despite the fact that the United States Department of the Interior has responsibility to probate the estates of may allottees whose estates were invalidly probated in State courts, and the United States could not conceivably carry out this responsibility within the time periods contained in the bill, which would foreclose the claims of rightful heirs that could be determined, and

WHEREAS, Section 7(a) of the proposed bill provides that compensation for loss of an allotment or interest shall be the fair market value of the land or interest therein as of the date of tax forfeiture, sale, allotment, mortgage, or other transfer or other transfer described in the bill, plus interest at 5 percentum, and under Section 7(b) of the bill the date of transfer applicable to interests described in section 3(b)(6) is proposed to be the last date on which any interest in the subject allotment was transferred by document of record by any other heir of the allottee; and

WHEREAS, the bill constitutes an attempt at a current taking by statute of the beneficial interests of the Indian heirs, without just compensation and without a valid public purpose, and fails to protect and preserve the beneficial interests of the heirs that are entitled to the lands that should be in trust, and along with the time limits and other provisions of the bill denies the heirs due process of law and equal protection of law under the United States Constitution, and violates numerous federal laws relating to the allotment of Indian lands, when as a matter of law the United States should be vigilant to the enforcement of statutes designed for the protection of Indian lands; and

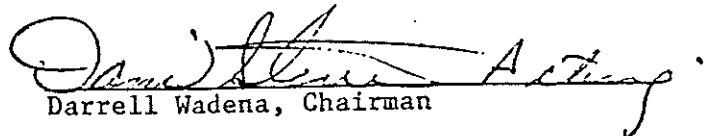
WHEREAS, in the Zay Zah case the Minnesota Supreme Court held that trust patents issued for White Earth allotments created vested rights which Congress could not abrogate without consent, and that the Department of the Interior, not the State courts, had jurisdiction and responsibility to determine the heirs of deceased White Earth Chippewas and to distribute their trust estates; and

WHEREAS, H.R. 2678 seeks to ratify and confirm unconstitutional and unlawful sales and transfers of allotments on the White Earth Reservation and in effect attempts to overrule the Zay Zah case and attempts to further implement and ratify the wrongful uses and perpetrations under the Clapp Amendment of 1906, in violation of law and federal policy and the Indian Reorganization Act of 1934 which was dedicated federal law for the permanent protection of trust properties; and

WHEREAS, at a meeting with the heirs and members of the White Earth Band on May 13, 1985, the Tribal Council voted to rescind any prior support for the proposed bill and to oppose the bill.

NOW, THEREFORE, BE IT RESOLVED, that the White Earth Tribal Council opposes H.R. 2678, and the companion bill by Mr. Boschwitz, and rescinds any prior support for the proposal or bill.

We do hereby certify that the foregoing resolution was duly presented and adopted by a vote of 2 for, 0 against, 0 silent at a meeting held on 7-25, 1985 at White Earth, Minnesota.


Darrell Wadena, Chairman


Jerry Rawley, Secretary/Treasurer