

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
TRIBAL COURT

PHIL BELLFY; Director of Article32.org;
ARTICLE32.org; TIM LACROIX: Little Traverse
Bay Bands Tribal Member,

Plaintiffs,

v

RICK SNYDER: Michigan Governor;
DAN WYANT: MI DEQ Director;
HAROLD R. FITCH: MI DEQ Oil, Gas, and
Minerals Chief; RICK HENDERSON: MI DEQ
Field Operations Supervisor;
JILL VAN DYKE: MI DEQ Geologist, Water
Resources Division; ANDREW LEBARON: MI
DEQ Environmental Quality Analyst;
MARIO FUSCO: MI DEQ Environmental Engineer,

Defendants.

No. C-200-0914

HON. ALLIE GREENLEAF
MALDONADO

**ORDER GRANTING
DEFENDANTS' MOTION TO
DISMISS**

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ORDER GRANTING DEFENDANTS' MOTION TO DISMISS

At a session of said Court held on: _____

Present: HON. ALLIE GREENLEAF MALDONADO

Defendants moved to dismiss this case pursuant to LTBBRCP XVI(b)(2) for lack of personal jurisdiction. Having considered the evidence in the light most favorable to Plaintiffs, this Court finds as follows:

1. Defendants are state officials sued in their official capacity.
2. Defendants provided documentary evidence that they are not members of the Little Traverse Bay Bands of Odawa Indians (LTBB).
3. The issues presented in this case relate to fee lands ceded in the 1836 Treaty of Washington, owned by the State of Michigan, and located Excelsior Township, Kalkaska County, Michigan.
4. The reservation established for LTBB in the Treaty of 1855 does not include lands in Excelsior Township, Kalkaska County, Michigan.
5. The land in Excelsior Township, Kalkaska County, Michigan is not held in trust for LTBB.
6. Plaintiffs have provided no evidence supporting this Court's jurisdiction over nonmember defendants acting outside of reservation or trust lands.

This Court concludes as a matter of law that, under the facts presented above, LTBB Constitution, Article IV.B does not grant jurisdiction over Defendants in this case. *Heritage Interiors v GP Graham Construction Corp*, Tribal Court opinion in Docket No. C-043-0803 (October 2, 2003), confirms that this Court will look to federal precedent to determine the scope

of its civil jurisdiction over nonmembers. According to relevant federal precedent, including *Brendale v Confederated Tribes & Bands of Yakima Indian Nation*, 492 US 408; 109 S Ct 2994; 106 L Ed 2d 343 (1989) (White, J.) and *Strate v A-1 Contractors*, 520 US 438; 117 S Ct 1404; 137 L Ed 2d 661 (1997), tribal courts do not exercise civil jurisdiction over nonmembers acting on fee lands. As a result, this Court lacks jurisdiction over Defendants, regardless of whether this is considered a question of subject matter jurisdiction or personal jurisdiction.

For these reasons and those stated on the record, this Court GRANTS Defendants' Motion to Dismiss.

Allie Greenleaf Maldonado