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Judge rules individual Native Americans can't sue for loss of public land

By MORGAN SPRINGER • SEP 2, 2015

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Graymont mining project location map shows where Native Americans would lose access to natural resources.

DEPARTMENT OF NATURAL RESOURCES

A federal judge has dismissed a suit by Native American individuals who are fighting the loss of public land they've hunted and fished on for centuries. Judge Maloney says only tribes can sue, not individual Native Americans, according to an 1836 treaty. The treaty gives tribes the right to

Land in question

Michigan's Department of Natural Resources is in the process of selling roughly 2,000 acres of public land near Rexton in the Upper Peninsula, to a mining company, Graymont, LLC. (http://www.michigan.gov/dnr/0,4570,7-153-10368_11797_66953---,00.html)

When the sale goes through, Native Americans in the region won't be able to continue hunting, fishing or harvesting plants on the land.

Individual legal action

Phil Bellfy (<https://turtletalk.wordpress.com/2015/08/31/pro-se-effort-to-stop-michigan-dnr-land-transfer-to-mining-company-dismissed/>) is among six individuals who sued (<https://turtletalk.wordpress.com/2015/08/31/pro-se-effort-to-stop-michigan-dnr-land-transfer-to-mining-company-dismissed/>) the Department of Natural Resources when the Graymont deal was announced.

"My personal take on all of this was I was trying to get the court to agree that individual Native people have rights in that territory," Bellfy says. "And the judge said no."

But that doesn't sit well with Bellfy. "Those rights belong to us as native people, period," Bellfy says, "whether we're tribal members or not."

Bellfy is a citizen of the White Earth Nation and is not registered with any of the five tribes given usufructuary rights to public land under the 1836 treaty.

Bellfy says he took on this lawsuit because he wasn't confident tribes in the region would.

Tribal legal action

Aaron Payment, chairperson for the Sault Ste. Marie Tribe of Chippewa Indians (<http://www.saulttribe.com/>) and Chippewa Ottawa Resource Authority (<http://www.1836cora.org/>), says the five tribes have not yet decided to litigate but are not ruling it out.

"But when we look at the horizon and see the burgeoning trend of the state again either giving away or wholesale selling public lands for private interest that really benefit very few people, then we do see an erosion of our territory," says Payment.

The DNR's take on it

Ed Golder with the Department of Natural Resources has a different viewpoint. He says the Graymont deal is a good example of mutual respect between the DNR and area tribes. He says after many consultations with tribes, the Graymont deal was reduced from roughly 10,000 acres to around 2,000 acres.

Golder also says townships surrounding the parcel of land support the sale and are looking forward to job growth as Graymont begins its mining operation.

Golder says this narrative that Native Americans are losing access to public land is not true. He says the DNR has secured tens of thousands of acres for public use since 2008.

Both Payment and Golder say the land sale to Graymont not only affects Native American's access to the land but other hunters and people looking to recreate in the area as well.

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