

FILED - MQ

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CLERK OF COURT
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

PHILIP C. BELLFY, ARTICLE 32.ORG, pro per;
MONICA CADY, pro per; WILLIAM J.
PERAULT, pro per; MARTIN REINHARDT, pro
per; NATHAN J. WRIGHT, HERBAL LODGE,
pro per; John Does; and Mary Does,

No. 1:15-cv-00282

Plaintiffs, pro se litigants

HON. PAUL L. MALONEY

v

MAG ELLEN S. CARMODY

KEITH CREAGH,

**EXPEDITED CONSIDERATION
REQUESTED**

Defendant.

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MOTION FOR PRELIMINARY INJUNCTION

EXPEDITED CONSIDERATION REQUESTED

Plaintiffs respectfully move this Court for a Preliminary Injunction restraining the Defendant from in any wise disposing of any of the Ceded Territory lands in question, as that acreage is detailed in the Exhibit accompanying this Motion (Exhibit 1 - the signed LTA).

Expedited Consideration is appropriate due to the fact that this case has been pending for nearly a year and the Plaintiffs are concerned that any further delay will give the Defendant the time to effectuate the pending sales, which, by the Defendant's own admission, will adversely impact the exercise of the Plaintiffs' 1836 Treaty of Washington Article XIII "usual privileges of occupancy" rights.

DNR Director Keith Creagh, the Defendant, proposes to dispose of roughly 10,000 acres of 1836 Ceded Territory to Graymont, LLC, through sale, transfer, and/or exchange ("disposition"). As set forth in the accompanying Memorandum of Law in support of this Motion, Director Creagh's approval of this proposed sale is contrary to his authority, and would serve to contradict his own binding judicial admission; it is, therefore, a capricious and arbitrary act that will impact the Plaintiffs' Treaty Rights. "Binding Judicial Admission," Docket #54, Ex. 1.


Plaintiffs are likely to succeed on the merits of their claims against Director Creagh simply because the Defendant has, through his own binding judicial admission, agreed with the Plaintiffs' claim that the proposed disposition/sale of Ceded Territory will impact Plaintiffs' exercise of their Article XIII Treaty rights, and, therefore, the Plaintiffs and the Defendant agree that the Plaintiffs will be irreparably harmed by the sale. Consequently, there is no genuine dispute of this material fact and Plaintiffs are entitled to the relief sought as a matter of law. Fed. R. Civ. P. 56(c).

Furthermore, through his own binding judicial admission, the Defendant has agreed with the Plaintiffs that the proposed sale will impact Plaintiffs' Treaty rights, and he has done so in that binding

judicial admission without any mention of any “public rights” interest of any relevance in this action to be considered by this Court. Consequently, and based on Director Creagh’s binding judicial admission that there is no “public interest” at stake in this proposed disposition of this Ceded Territory acreage, and, based on the undisputed fact that the Defendant makes no claim to any of his own interests in this proposed sale, there is no “public interest” that has been admitted by the Defendant that would justify his approval of the proposed disposition of any portion of the 1836 Ceded Territory.

Based on the undisputed fact that there is no genuine issue in this case –both the Defendant and the Plaintiffs agree that the proposed disposition will impact the Treaty rights of the Plaintiffs-- the Court should therefore grant an order restraining the Defendant from in any wise disposing of any of the Ceded Territory lands in question (the acreage is detailed in the accompanying Memorandum), pending the final decree, and to take any other action that this honorable Court deems just and appropriate, including, but not limited to, the reversal of any disposition of Ceded Territory acreage that may have already taken place.

Respectfully Submitted,

/s/ 
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Dated: xxxx xx, 2016