

December 15, 2020

Dear County Commissioners:

I am in full agreement with the letter from Northwest Michigan United for Racial Equity, which was read by Barbara Burkhardt at tonight's meeting.

I also fully support the decision to forward the request of the Grand Traverse Band of Ottawa and Chippewa Indians to seek redress under the Fifth Amendment of the U.S. Constitution – what's known as the Takings Clause – for the U.S. government's failure to uphold its commitments under the 1855 Treaty.

I was disheartened by the discussion at last week's executive meeting around the issue and what appeared to be a misunderstanding of at least one Commissioner as to how the Fifth Amendment works.

Commissioner Lautner asked, "Wouldn't that be like suing ourselves?" to which the Band's attorney, Mr. Petoskey aptly replied, "No, it would be a suit against the federal government."

I'd like to provide an example in an attempt to explain that the Fifth Amendment simply requires that private property must not be taken for public use, without just compensation.

Commissioner Lautner, imagine that the U.S. Dept. of Transportation proposes to construct a federal interstate highway, say an extension of I-75, directly through your family's farm and although they initially promised to pay you, they ultimately failed to pay that promised compensation to you. Would you just let it go, since suing the Dept. of Transportation would be like suing ourselves? No, of course not. You are entitled to just compensation for the loss of your farm and you would be well within your rights to seek redress through legal means.

The same is true here. The U.S. government entered into a formal Treaty with the Grand Traverse Band, promising to reserve a certain amount of land for the Band and then breached that promise by selling that same land to others. The Band is not seeking to reclaim the land; they are simply asking to be justly compensated for that taking of private property.

I encourage the Commission to support the Band's efforts to be given an opportunity to present all of the facts to the proper court and for their claim to be heard.

Best regards,

A handwritten signature in dark ink, appearing to read "Ellen A. Fred". The signature is fluid and cursive, with the first name being the most prominent.

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