

## Michigan Politics

By  
George Weeks



### 1836 Treaty Gets Historic Clarification in Michigan

Much was made of last week's historic deal between General Motors (GM) and the United Auto Workers (UAW) that reflected current economic realities, 70 years after a 44-day strike led to the UAW gaining power to bargain exclusively with GM on wages and working conditions.

More historically significant, after about 170 years, was last week's recognition/regulation agreement that at long last clarifies how five tribes can exercise fishing and hunting rights under the 1836 Treaty of Washington that ceded about 13.9 million acres in the northern Lower Peninsula and the eastern Upper Peninsula.

The treaty, covering about 37% of the state's land and water, was the single largest cession of land to the federal government by the first people of Michigan, and led to statehood in 1837.

As with the GM-UAW deal, the hunting/fishing agreement has some good for both sides and represents a reality check. The reality is that although U.S. District Judge Noel Fox ruled in 1979 that "Indians have a right to fish today wherever fish are to be found within the area of cession," there has been what Department of Natural Resources director Becky Humphries calls "legal uncertainty."

Fox said: "The mere passage of time has not eroded, and cannot erode, the rights guaranteed by solemn treaties that both sides pledged on their honor to uphold."

But there was prolonged controversy because of conflicting court cases and interpretations of a 1985 consent decree setting tribal and non-tribal fishing zones in portions of Lakes Superior, Michigan, and Huron.

During the legal battles, especially in the early days, there was animosity and occasional violence between tribal and sports fishers.

While tribes will get longer hunting seasons for some game, and have other benefits over non-tribal hunters, Marquette-based Jim Ekdahl, the Upper Peninsula DNR director and key negotiator on the agreement, said, "Michigan's natural resources will not be compromised."

In some tribes, only a small percentage of members hunt or fish – a far cry from earlier times when fish were needed for subsistence. Fishing was part of a way of life and a major factor in the formation, migration, and settlement pattern of Native Americans.

Treaty fishing controversies, in no small part, led to

what is now a major economic factor for the tribes and the state – Indian casinos.

In fact, it was a catalyst for the organization and federal recognition of such tribes as the Sault Ste. Marie Tribe of Chippewa Indians and the Grand Traverse Band of Ottawa and Chippewa Indians (GTB).

Former GTB Tribal Chairman Joseph Raphael, now a member of the tribal council, does not believe federal recognition "would have ever happened" had it not been for the fishing issue and the persistence of such GTB members as Arthur Duhamel, a tribal councilor who was arrested seven times in the 1970s for pressing his claim of treaty rights in Lake Michigan.

Raphael said: "After the 1979 (Judge) Fox decision, you needed to be a federally recognized tribe. Quite frankly, that was the instrument here. That was the push." (The comment was in this scribe's 1992 book, "Mem-ka-weh: Dawning of the Grand Traverse Band of Ottawa and Chippewa Indians.")

Fish and chips. Both part of the web of economic life for our first people.

*George Weeks retired last year after 22 years as political columnist for The Detroit News. His weekly Michigan Politics column is syndicated by Superior Features.*

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### Committee Faces Challenges of Wastewater Capacity

By Karen Gould

Mackinac Island's zoning ordinance allows the population to more than double, but its wastewater treatment facility is at 85% capacity, with little room available for expansion unless the city is able to lease additional state park land or buys private land. For now, growth is controlled by the limited capacity of the treatment plant.

With a new sewer moratorium in place through the end of January, the job of the Mackinac Island Moratorium Committee is to make a recommendation to City Council on the future of wastewater treatment. Engineers, hired in August, say the plant is near the end of its useful life.

As committee discussions continue, they often come back to zoning allowances, and a recommendation to make changes to the ordinance may be included in the committee's report.

Expected in January, the report will define the Island's future growth as the committee seeks to find a balance between demand and preservation.

Capacity of the wastewater treatment plant is measured in residential equivalent units (REUs), with each unit equal to the water use of a family of four. An REU is also equal to the anticipated sewage treatment of 250 square feet of restaurant or 2.8 hotel rooms.

Sitting on the committee as a non-voting member, Phil Porter, director of Mackinac State Historic Parks, volunteered to prepare a general report on growth impact. The wastewater plant sits on property the city leases from the Mackinac Island State Park Commission. Expansion of the plant could require more land, unless new technology allows more efficient use of the current space.

Any growth, said Mr. Porter,

affects the entire Island and its infrastructure. Estimates are that 250 to 300 new homes and condominiums could be allowed on the northwest side of Mackinac Island under the

"The decisions are huge. You have just scratched the surface."

– Bruce Zimmerman,  
public works director

existing zoning ordinance, and commercial property could be allowed to double in size.

He concluded a report he presented to the committee September 19 with a suggestion to control growth and plan for any expansion on Mackinac Island by continuing to limit the number of REUs allocated each year.

The committee must determine a level of Island growth it feels is acceptable, he said, and once that is accomplished, it can translate that growth into an REU allocation plan.

In addition to the treatment facility site, the Mackinac Island State Park Commission has provided park land for water and sewer lines, in-ground electric and cable television lines, Fire Station Number 2, a one million gallon

reservoir at Fort Holmes, 250,000 gallon reservoir at Fort Mackinac, the solid waste transfer and recycling facility at the old dump site, an Edison Sault Electric Company substation, Charter Communication cable television receiver satellite, and use of roads to transfer waste, landfill items, and recyclable material.

The engineering consultant, hired in August for \$35,435, is in the process of evaluating the plant and preparing a scientific report that will examine the impact on the Island and cost to residents from making plant improvements to expanding capacity. An interim report is due in November.

The wastewater treatment plant, said Bruce Zimmerman, the city's public works director, has been added to, piecemeal, four or five times since its construction in the 1970s, in reaction to growth.

"We can't do that any more," he said.

Cost of any expansion, including land, upgrading the pumping station, tearing up roads to add larger pipes or replace failing ones, are all issues the committee will be addressing once it receives the engineering report next month.

"The decisions are huge," Mr. Zimmerman told committee members. "You have just scratched the surface."



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