

**Emmet County Lakeshore Association
The Protection of Rights Alliance Foundation
P.O. Box 277
Harbor Springs, MI 49740**

Update: *Little Traverse Bay Bands of Odawa Indians v. Whitmer*
February 1, 2022

As 2022 begins, we are hopeful, cautiously so, that the Little Traverse Bay Bands of Odawa Indians' ("Tribe") claim that 337 square miles of Northern Michigan is their reservation is nearing the end of its course.

On January 24, the Emmet County Lakeshore Association and the Protection of Rights Alliance filed a brief with the United States Supreme Court asking the Court to deny the Tribe's petition requesting the Court to review and overturn the unanimous decision we won last year in the United States Court of Appeals. Governor Whitmer, on behalf of the State of Michigan, also filed a brief in response, as did Emmet and Charlevoix Counties, the cities of Harbor Springs and Petoskey, and the affected townships. In total, the various defendants filed four sets of arguments.

Once briefing on the Tribe's petition for certiorari is complete, the Court will most likely act quickly. We anticipate that the Tribe will file a short reply to the briefs in opposition, which should result in the Justices discussing the petition during their February 25 conference. The decisions made at that conference will be published in an order on Monday, February 28.

If the Court simply decides to deny the petition, that decision will be reflected in the February 28 order, and the case will be over. There are, however, other options for the Court, including:

- Holding the case over for a future conference. This could occur if the Justices wish to hold the case to await other tribal reservation cases that may be coming to the Court for review as well. It could also mean that the Court is having a clerk perform a final review prior to granting the petition.
- Calling for the views of the United States Solicitor General, the country's top appellate lawyer. In more complex cases where federal interests are implicated, it is not unusual for the Court to want the federal government's opinion as to whether the Court should hear the case. Many factors would enter into the Solicitor General's consideration, and her office would meet with the parties before reaching a decision. If the Court does ask for the Solicitor General's views, we would anticipate that her brief would be filed with the Court in May, with the Court's decision on whether to take the case occurring in June.
- Granting the Tribe's petition. This is unlikely without the Solicitor General being asked to first offer an opinion, but is possible. If the petition is granted, then there would be briefing on the merits and an argument likely late this calendar year.

Given that four federal judges have already carefully considered and rejected the Tribe's claims, and that the Court of Appeals quickly rejected the Tribe's request for the whole court to rehear the case, we remain optimistic.

The Association and the Protection of Rights Alliance want to thank each of you for your generous contributions in support of our defense in this case, and your continued willingness to contribute as needed.

Sincerely,

Gary Rentrop
President, ECLA

Lou Kasischke
President, PORA