

## **Sault Ste. Marie Tribe of Chippewa Indians Response to the Notice of Proposed Rulemaking**

August 24, 2007

U.S. Customs and Border Protection  
Office of International Trade  
Office of Regulations and Rulings  
Border Security Regulations Branch  
1300 Pennsylvania Ave., NW (Mint Annex)  
Washington, D.C. 20229

Re: Docket # USCBP-2007-0061  
Sault Ste. Marie Tribe of Chippewa Indians Comments to Notice of Proposed Rulemaking (NPRM): Documents Required for Travelers Departing From or Arriving in the United States at Sea and Land Ports-of-Entry From Within the Western Hemisphere (WHTI-Land Regs)

To Whom It May Concern:

The Sault Ste. Marie Tribe of Chippewa Indians has a long traditional connection to a Great Lakes homeland that predates European contact and has inhabited the territory since time immemorial. The request of comments for proposed rule changes concerning, "Documents Required for Travelers Departing From or Arriving in the United States at Sea and Land Ports-of-Entry Within the Western Hemisphere," is an important issue for our people. As a border tribe, the United States-Canadian boundary directly impacts our members' lives on a daily basis. Following the tragic events of September 11, 2001, the federal government has dramatically increased the U.S. Customs and Border Protection presence in our community. The NPRM offers even more scrutiny in the day-to-day affairs of our tribe. The lack of direct consultation on this matter and a deadline that appears to eliminate the opportunity of ever raising the issue of the border again, does not bode well for a fair hearing of tribal concerns.

The use of tribal identification cards to cross the border is a basic act of tribal sovereignty. A federal decision in the future, to enforce tribal members to obtain passports to cross back into the United States, is a rejection of this reserved sovereign right of access to both sides of the boundary. Concerns about how tribes issue and secure membership cards is a weak argument considering the damage this decision will do to the government-to-government relationship we have historically exercised between our people.

The Sault Tribe's connection to the First Nations communities continues to be social, political, cultural, and economic. In many real ways, we are the same people and participate as part of a larger Anishinaabek Nation (numbering 200,000 in the United States and 140,000 in Canada) that happens to be intersected by an international boundary. As one of the largest tribes geographically and by population in North American, the Ojibwe have long had to traverse the border between the United States and Canada in communities that stretched from Michigan to Montana. Our First Nations counterparts from Ontario to Manitoba have done the same. It is important to our future

survival as Anishinaabek to continue this interaction with our blood relatives the First Nations. It is likewise critical to have a good, respectful relationship with the United States government. We hope our comments will be considered and our rights respected in this environment of heightened homeland security.

### **Historical connection to both sides of the border**

Tribal history before European contact is remembered orally and through pictographs on birch bark, wampum, and stone. This ancient history connects our people to the Great Lakes since time immemorial. The pictographs that are still seen on the cliffs and outcroppings of the region are a testament to an understanding of our place in this world. Early stories talk about creation and the spiritual nature of our physical environment. Core cultural values have been taught by community elders, and continue to be passed to future generations of our people.

The stories are specific to sites on the Great Lakes and are real manifestations of our indigenous world view. For the tribes of Northern Michigan and Ontario, we share this common history as do the Ojibwe that have moved west of their original homeland. The migration story of the Anishinaabek that occurred before European contact specifies significant stopping points on this long journey. Our home in Bawating (Sault Ste. Marie) is one of the most important points in this journey. Ironically, much of this migration followed the border that now divides the United States and Canada.

The coming of the Europeans seriously impacted our ancestors lives as competition between the French and English, helped to cause a seventy year war between the Five Nations of the Iroquois, and the Algonquian Nations of the Great Lakes. This war did not end until 1701 with the signing of the Great Peace of Montreal. The presence of Europeans and trade goods put a tremendous amount of pressure on Anishinaabek society as our ancestors adjusted to a rapidly changing world.

In conflicts of the seventeenth century, our villages supported the French against the British until our allies suffered a final defeat in the French and Indian War. In Pontiac's Rebellion in 1763, the tribes of the Great Lakes reasserted their independence from the British in a defense of their homelands. During the Revolutionary War, and the almost constant state of conflict that lasted through the War of 1812, we fought to defend our homelands against American expansion.

Throughout these many years of conflict we continued to exercise our right to cross the border. As the United States and Great Britain struggled for control of North America, our warriors fought to retain tribal independence. In the Jay Treaty of 1794, the United States and Great Britain tried to define the border between the territories they claimed. Native practices and systems of trade, commerce, and mobility between territories existed long before European arrival to North America. The Jay Treaty by way of Article III was the European mechanism by which they were able to reiterate and recognize particular independent and pre-existing rights of Aboriginal Peoples. Article III of the Jay Treaty, as well as numerous other treaties and treaty councils held in the nineteenth century are

not the source of Native rights but examples of American recognition of a range of reserved rights, and as such constitute treaty rights and produce treaty protections.

Throughout the late nineteenth and into the twentieth century, contact over the border continued unabated. We have participated in First Nation ceremonies and cultural events for generations and continue the practice today. The First Nation communities are essential to helping our tribal members understand their heritage as Ojibwe people. Much of the cultural knowledge that we retain is the direct result of learning culture, and ceremonies from our relatives on the Canadian side of the boundary. Their history is different from the American experience due to policy of the British and Canadian governments to leave the First Nations at their traditional village sites. The First Nations did not experience as much displacement and land loss as their American counterparts, and as a result, retained many more fluent speakers of the language combined with an unbroken connection to the traditional leadership model of our ancestors.

### **Tribal Concerns**

To discuss our specific cultural and spiritual connections to both sides of the border at this time is inappropriate and offensive. Is the Department of Homeland Security going to determine the spiritual relevance of our tribal members to participate in cultural activities across the border? Garden River First Nation is only a couple hundred yards from our home on Sugar Island. Many of our families have relatives on the Canadian side of the St. Mary's River. These families and many tribal members continue to interact on a daily basis. To have to prove legitimacy to frequent the First Nations is preposterous and an infringement of the American Indian Religious Freedom Act. Are any other governments being asked to prove a spiritually relevant reason to travel, and how often they intend on crossing the border for religious purposes? We have no intention of sharing the location of fasting grounds or spiritual site information on either side of the border with the federal government in this kind of public forum. The nature of the questions points out an amazing lack of sensitivity to the original inhabitants and our Native American culture and spiritual philosophy.

Also by insisting on specific traditional points of entry, the Department of Homeland security fails to understand the geographical extent of the Ojibwe people. The Sault Tribe is just one part of a much greater whole and culturally we share many similarities with other Anishinaabek people across the United States and Canada. By limiting crossing to a few perceived traditional points, the federal government is compartmentalizing our tribes into separate entities. The restriction of the crossing points to just today's border tribes also makes no sense and is an unwarranted hobbling of the historic movement of many tribes across the border with Canada.

The lack of direct government-to-government talks for this NPRM and the language limiting the movement of our people across the border makes this process appear arbitrary and pre-decided. We hope this is not the case and that the indigenous people of North America will be able to continue to exercise our reserved right to cross the border

without the federal government determining the cultural relevance of our travel. The future prosperity of tribal nations should not be sacrificed because of the horrible acts of terrorists.

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