



Weekly Message from the Tribal Chairman

May 4, 2005

Dear Menominee Tribal Members and Employees:

I apologize for not getting out last week's update out until today. As many of you know, those of us serving on the Legislature have had a busy week and this past Monday we had a marathon meeting that lasted nearly nine hours! So, this update will cover all of last week and some of the events from this week.

Meetings in Madison:

Last Monday I was in Madison and met with our lobbyist Joe Strohl and he briefed me on the bills that were being entertained by the Assembly's Committee on State Affairs on Tuesday and we discussed my testimony and he prepared me for various meetings that were scheduled with members of the Legislature.

On Tuesday at 10:00 a.m., I testified before the Committee on State Affairs on behalf of Assembly Bill-134, Wisconsin Tribal-State Council; Assembly Bill -135, Tribal Impact Statements; Assembly Bill -137, Indian Student Assistance Grant; Assembly Bill -138, Caregiver Background Check; and, the Assembly Joint Resolution that Recognizes Tribal Sovereignty. I was comfortable with each of the bills that I just used talking points as the basis for my testimony. I testified in favor of each bill and all the bills were drafted by Rep. Musser, who chairs the State Tribal Committee that Legislator Besaw serves on. Since this is just an advisory Committee, Rep. Musser uses his membership on the Committee on State Affairs as a vehicle to take action on the State Tribal Committee's recommendations.

I was the only Tribal Chairman to testify, even though Potawatomi Chairman Frank was in attendance at the hearing. I did greet him and after my testimony he met me outside the hearing room and thanked me for doing a good job.

Related to Assembly Bill -134, I did a brief interview with Wisconsin Public Radio that aired on Wednesday and I discussed why it was important to institutionalize a Tribal-State Council that would advise the Executive Branch.

From 11:30 to 3:00 p.m., I had a meeting every half hour with a different legislator, briefing them on our plans in Kenosha and telling them that the tribe will soon be releasing a study by Pricewaterhouse Coopers that specifically addresses the economic impact the Kenosha Project will have upon southeastern Wisconsin, the Milwaukee area and the State of Wisconsin. When this study is complete, we will make it available on the tribe's website.

Legislature tours Forest with MTE:

Last Wednesday seven legislators accepted MTE's invitation to tour the forest. We toured several areas along Hwy 55, County M and as you go back toward Pine Hills off Hwy 47/55. Marshall Pecore led the tour and we were also accompanied by Forestry staff, a few MTE Board members and the MTE Interim President. The tour proved to be educational, for we saw a range of forestry practices and different stages of regeneration efforts. In addition, it was really interesting to see how diverse the soil is across the reservation; for this is a major factor in assessing what species can best regenerate in any given area.

Tribal Legislature Attempts to Broker a Forestry Compromise:

On Thursday, April 28th the Legislature met in Special Session to review the recommendations of the MTE/MTL Task Force regarding how MTE might proceed with their spring cut in light of the actions taken by the Legislature on April 21st. The following new actions were taken by the Legislature:

1. That the MTE 2005-2006 summer cut Menominee bids be awarded and all other specified bids should be re-bid utilizing and in compliance with Menominee Preference (Ordinance 82-10, as amended) and P.L. 93-638 Indian Preference.
2. That for the 2005-2006 cutting season, the 1st Shelter Wood Cuts employ a single tree selection.
3. That MTE resume all prior Aspen cuts to completion.
4. That we allow the final cut of white pine under the following conditions: if it is regenerating, then it is okay to cut provided there are 1,000 seedlings per acre and if it is not regenerating, then don't cut any white pine unless there is proof that dollars are available for replanting; that all reasonable buffers be a part of final cuts including around wetlands and roadways, and that archeological sites are protected. [Note: A primary concern of the Legislature is that there are roughly 3,000 acres of pine that have not regenerated and we fear cutting pine could add to this acreage.]
5. That the conversion schedule be cut this summer 2005-2006.
6. That we approve the 2005-2006 summer Aspen because they are natural regenerated cuts.

These actions were taken only after a great deal of debate and after hearing from many of the Menominee loggers who would be most impacted by our decisions. We felt our actions would ensure that all the Menominee loggers would have work in the short term, while the planned Shelter Wood cuts are remarked for single tree selection. In addition, by our actions, we were telling MTE and the community that we want Menominee preference strengthened and enforced in the bidding process.

MTE Holds Special Meeting and Defies Actions of the Legislature:

On Friday, the Menominee Tribal Enterprises Board of Directors met in Special Session and "moved to allow the logging year 2005-2006 to proceed as scheduled and as provided in the Forest Management Plan, which is in its final year of completion. The motion passed – 5 to approve; 3 opposed (Cox, Caldwell and Peters), and 3 absent (J. Grignon, Pubantz, and B. Kaquatosh). MTE Board Chairman Besaw faxed me their motion at 4:00 p.m. and I immediately scheduled an Emergency Legislature Meeting for Monday at 8:00 a.m. This action means that MTE will proceed with the original

prescriptions, despite all the concerns and debate raised in the community and by the Legislature over clear cutting.

Actions by the Legislature at 05/02/03 Emergency Meeting on Forestry Issues:

The Legislature met in emergency session on Monday and took the following actions after deliberating in Executive Session for over eight hours:

1. Approved to send a packet of information to Attorney Jerry Strauss of Hobbs, Straus, Dean and Walker to have them review questions relating to the trust responsibility and that these costs come out of the Chairman's budget.
2. Approved sending a letter to the Bureau of Indian Affairs referencing a breach of trust responsibility.
3. Approved BIA 638 Forestry Corrective Action Plan that addresses non-compliance issues, as corrected. [Note: the Menominee Tribe holds this contract and we sub-contract forest management to MTE, though the Legislature is held accountable for MTE related non-compliance issues, because we are the primary contractor.]
4. Approved the development of an Emergency Ordinance supporting the motions of April 28th and that it be presented to the Legislature on Thursday, May 5, 2005.
5. Directed the Chairman to contact the media regarding the Legislature's actions.
6. Moved to begin the process of the removal of 5 members of the MTE Board of Directors for contract non-compliance and failure to adhere to the Menominee Tribal Legislature's actions of April 28, 2005 and continuing the policy of clear cutting.
7. Moved to authorize our attorneys to file a request for an injunction against Menominee Tribal Enterprises for any logging activities not in compliance with the Menominee Tribal Legislature's motions of April 28, 2005.

These actions again seem drastic, but as a government we had no other choice but to proceed in this fashion since all our efforts toward brokering some compromise around the clear cutting were ignored.

Tribe Files Motion for Temporary Restraining Order against MTE:

On Tuesday, May 3rd, our tribal attorneys filed a motion to for Temporary Restraining Order against Menominee Tribal Enterprises from taking the following actions:

1. Harvesting of white pine on the Menominee Indian Reservation via shelter wood – first cut silvicultural system.
2. Harvesting of white pine on the Menominee Indian Reservation via the shelter wood – final cut silvicultural system until such time that there is proof that the areas to be harvested pursuant to this silvicultural system are either:
 - a. regenerating at a rate of One Thousand (1000) seedlings of white pine per acre; or
 - b. Defendant provides proof that it has set aside adequate monies to replant white pine in these areas at a rate of One Thousand (1000) seedlings of white pine per acre.
3. Harvesting of any timber on the Menominee Indian Reservation via clear cutting or shelter wood – final cut silvicultural system unless such harvesting

allows for a reasonable buffer between the harvesting activity and any wetlands, streams, rivers, roadways, and identified archeological sites.

The Tribal Court on Tuesday, May 3, 2005 issued an Order for Temporary Restraining Order. In his opinion Judge Askenette ruled “it appears that there is a necessity for injunctive relief because:

1. Plaintiff (Menominee Tribe) stands to suffer the injury of the loss of its forest assets.
2. Such loss is irreparable as once the trees are harvested the nature of the asset is irretrievably changed.”

The Temporary Restraining Order (TRO) motion was granted and the Defendant (MTE), its officers, employees, and agents, including but not limited to persons or entities acting pursuant to contract with Defendant, shall refrain from implementing those forestry practices outlined above. The TRO by nature of its name is only temporary and will expire on May 13th at which time there will be a hearing to determine if it should be permanent or not.

We regret this conflict had to escalate to this degree and we had hoped that MTE would continue trying to work with the tribe, via the MTE/MTL Task Force. In addition, people need to remember that the Legislature was willing to compromise on some of their positions taken on 03/21/05. We wanted to ensure Menominee loggers had sufficient work, that there was sufficient volume being harvested to keep the mill running and that a stronger commitment to Menominee preference would be honored in the re-letting of the remaining bids that were originally let to non-Indian loggers.

In conclusion:

I hope you find this update informative and I will ask that our MIS Department post the statement I issued on 03/03/05 regarding the situation I highlighted above. I also did an interview with the Shawano Evening Leader and Wisconsin Public Radio regarding the Legislature’s concerns over clear cutting. Please know that we weighed our decisions with heavy hearts and felt that the safe keeping of our forest was our foremost responsibility. On a personal note, when I learned from the BIA that our tribe went from having the 10th largest allowable cut in the nation to now having the 3rd largest cut I became alarmed and thought this compelled the Legislature to assume a more active role in protecting our forest.

Thank you,

Michael Chapman
Tribal Chairman