



**\*\*\*PRESS RELEASE FOR IMMEDIATE RELEASE\*\*\***  
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## **COURT DENIES ONEIDA ACTION AGAINST HOBART**

On November 16, 2015, the Village of Hobart received a favorable decision from the Federal District Court relating to the abandoned railroad right-of-way running through the Village. The ruling stems from the Village's initiation of a storm water management plan, as required by the Environmental Protection Agency, and associated special charges on property. As part of the Village's storm water utility, charges were asserted equally against all parcels within the Village of Hobart. The Oneida Tribe of Indians of Wisconsin refused to pay the storm water fees for land titled under its own name as well as land owned by the United States held in trust for the Tribe's free use and benefit. Eventually, the Tribe acknowledged its obligation to pay the storm water charges on all fee (taxable) land, but continued to contest its obligation to do so for its trust (non-taxable) land. A previous ruling indicated that storm water management fees are akin to a tax and therefore cannot be asserted against Indian trust land.

Despite this earlier ruling, the Village continued to assert its storm water charges on the parcels within the Village of Hobart that comprise an abandoned railroad right-of-way running through the Village, more or less along County Highway J. The Tribe objected claiming these were trust parcels for which they owed nothing. The Village's position in this regard was that the United States, contrary to the Tribe's contention, did not recognize the abandoned railroad parcels as being held in trust for the benefit of the Tribe and therefore the charges were appropriate. Despite the Village's numerous information requests, the United States was unable to provide any documentation that the abandoned railroad right-of-way parcels were held in trust status.

On July, 10, 2015, the Tribe filed an action against the Village attempting to force the Village to discontinue the assertion of the storm water charges on the railroad parcels. On November 16, 2015, the Court denied the Tribe's motion. The Court noted: "without the knowledge of the DOI" [Department of Interior] the Tribe recorded a document with the Brown County Register of Deeds stating that the record should be changed to show

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that the land is owned by the United States of America in trust for the Oneida Tribe of Indians of Wisconsin.” The Court ruling also noted: “what the Village learned...was that the DOI did not acknowledge any interest in the railroad parcels.”

The Court also held that the Village’s continued attempts to assert and collect storm water management fees on the railroad parcels could not be construed as inappropriate “in light of the Tribe’s failure to disclose to the Village and the Court its unsuccessful efforts to obtain a DOI determination of its claim of trust ownership of the railroad parcels.”

The ruling represents an important victory not only for the Village, but for rights and protections of the property owners adjacent to the abandoned railroad who also claim ownership interest in the subject parcels.

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ENCLOSURES: [United States District Court Eastern District of Wisconsin, “Order Denying Motion for Contempt”](#)