

CHAPTER 47A -- DECLARATION OF TAKING

47A.1 SECTION 1: FILING AND CONTENT.

In any proceeding in Tribal Court brought by and in the name of the Red Cliff Band of Lake Superior Chippewa Indians and under the authority of the Tribe to acquire land, or an easement or right of way in land, for the public use, the petitioner may file, with the petition or at any time before judgment, a declaration of taking signed by the authority empowered by law to acquire the land described in the petition, declaring that the land is taken for the use of the Red Cliff Tribe.

The declaration of taking shall contain or have annexed to it:

- (a) a statement of the authority under which, and the public use for which, the land is taken;
- (b) a description of the land taken that is sufficient to identify the land;
- (c) a statement of the estate or interest in the land taken for public use;
- (d) a plan showing the land taken; and
- (e) a statement of the amount of money estimated by the acquiring authority to be just compensation for the land taken.

47A.2 SECTION 2: VESTING OF TITLE.

On filing the declaration of taking and depositing in the court, to the use of the persons entitled to the compensation, the amount of the estimated compensation stated in the declaration:

- (a) title to the estate or interest specified in the declaration vests in the Tribe;
- (b) the land is condemned and taken for the use of the Tribe; and
- (c) the right to just compensation for the land vests in the persons entitled to the compensation.

47A.3 SECTION 3: COMPENSATION.

(a) *Determination and award.* Compensation shall be determined and awarded in the proceeding and established by judgment. The judgment shall include interest, in accordance with 42 U.S.C. sec. 3116, on the amount finally awarded as the value of the property as of the date of taking and shall be awarded from that date to the date of

payment. Interest shall not be allowed on as much of the compensation as has been paid into the court. Amounts paid into the court shall not be charged with commissions or poundage.

(b) *Order to pay.* On application of the parties in interest, the court may order that any part of the money deposited in the court be paid immediately for or on account of the compensation to be awarded in the proceeding.

(c) *Deficiency judgment.* If the compensation finally awarded is more than the amount of money received by any person entitled to compensation, the court shall enter judgment against the Tribe for the amount of the deficiency.

47A.4 SECTION 4: AUTHORITY OF COURT.

On the filing of a declaration of taking, the court:

- (a) may fix the time within which, and the terms on which, the parties in possession shall be required to surrender possession to the petitioner; and
- (b) may make just and equitable orders in respect of encumbrances, liens, rents, taxes, assessments, insurance, and other charges.

47A.5 SECTION 5: VESTING NOT PREVENTED OR DELAYED.

An appeal or a bond or undertaking given in a proceeding does not prevent or delay the vesting of title to land in the Tribe.

47A.6 SECTION 6: REQUIREMENTS OF CHAPTER 47 NOT APPLICABLE.

In proceedings initiated under this Chapter 47A, the requirements of RCCL Chapter 47 shall not apply.