

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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ST. CROIX CHIPPEWA INDIANS OF  
WISCONSIN,

Plaintiff,

v.

Case No. 18CV88-WMC

BRAD SCHIMEL, WISCONSIN  
ATTORNEY GENERAL,

Defendant.

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**CONSENT DECREE**

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The Parties, Plaintiff St. Croix Chippewa Indians of Wisconsin, a federally recognized American Indian Tribe, and Defendant Brad Schimel, Wisconsin Attorney General, agree to the dismissal of the Tribe's Complaint seeking declaratory judgment against Attorney General Schimel on the following terms:

WHEREAS Plaintiff adopted the *St. Croix Medical Cannabidiol Control Ordinance* on September 11, 2017, and seeks to move forward with the cultivation of industrial hemp and production and distribution of hemp and hemp oils (including cannabidiol oil or "CBD oil") on tribal lands pursuant to that Ordinance;

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WHEREAS the State of Wisconsin has adopted a civil/regulatory approach to the cultivation of industrial hemp and processing of CBD oil with the enactment of 2013 Wisconsin Act 267, 2017 Wisconsin Act 4, 2017 Wisconsin Act 100, and the promulgation of Wis. Admin. Code § DATCP 22 (EmR 1808);

WHEREAS the State of Wisconsin does not have jurisdiction under Public Law 280 to enforce state laws that are civil/regulatory in nature on tribal lands within the State;

WHEREAS the Parties have negotiated this Consent Decree in good faith and at arm's length, and agree that the settlement of this action through this Consent Decree without further litigation avoids the risks and costs of a protracted proceeding, is mutually beneficial to the Parties, and is a fair, reasonable, and appropriate means of resolving all claims in this action;

WHEREAS the Parties consent to the entry of this Consent Decree without further trial, argument, or appeal;

NOW, THEREFORE, with the consent of the Parties and without any admission or adjudication of the violations alleged in the Complaint, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED THAT:

1. This Court has jurisdiction over the Parties and the subject matter of this action pursuant to 28 U.S.C. § 1331 (providing jurisdiction based on a

federal question), and 28 U.S.C. § 1362 (governing actions brought by an Indian Tribe).

2. Under 28 U.S.C. § 1391(b)(2), venue is proper in this judicial district, the U.S. District Court for the Western District of Wisconsin, because a substantial part of the events or omissions giving rise to the claims have occurred in or a substantial part of property subject to this action is located in this judicial district.

3. Upon entry, the provisions of this Consent Decree shall apply to and be binding upon the Parties, as well as the Parties' officers, employees, agents, successors, and assigns.

4. Upon entry of this Consent Decree by the Court, Defendant shall:

- a. Affirm that, as of this date, Wisconsin law governing industrial hemp and CBD oil, *i.e.*, 2013 Wisconsin Act 267, 2017 Wisconsin Act 4, 2017 Wisconsin Act 100, and Wis. Admin. Code § DATCP 22 (EmR 1808), are civil/regulatory in nature and have no applicability on St. Croix tribal lands under Public Law 280;
- b. Take no action that interferes with implementation of the *St. Croix Medical Cannabidiol Control Ordinance* (dated September 11, 2017) on St. Croix tribal lands, including but not limited to any potential law enforcement activity; and

- c. Take no action that interferes with any tribally owned or operated business operating pursuant to the *St. Croix Medical Cannabidiol Control Ordinance* (dated September 11, 2017) on St. Croix tribal lands, including but not limited to any potential law enforcement activity.
5. Upon entry of this Consent Decree by the Court, Plaintiff shall:
  - a. Abide by the terms of the *St. Croix Medical Cannabidiol Control Ordinance* (dated September 11, 2017) in its current form.
  - b. Inform Defendant of any amendments to the Ordinance.
6. With regard to any amendments to the *St. Croix Medical Cannabidiol Control Ordinance*, or any changes to tribal law regarding the plant *Cannabis sativa L.*, the Parties agree as follows:
  - a. Plaintiff agrees to provide Defendant with a courtesy thirty (30) day comment and review period.
  - b. Defendant agrees to complete its review and comment within thirty (30) days.
  - c. The Parties agree to meet and confer, in person, within fifteen (15) days of submission of any comments by Defendant, to discuss and resolve any issues raised by Defendant.

7. This Consent Decree resolves in its entirety the subject matter of Plaintiff's complaint, *i.e.*, Defendant's lack of jurisdiction to enforce state law regarding the cultivation of industrial hemp and the production of CBD oil on tribal lands. It does not address any matter not raised in Plaintiff's complaint.

8. This Consent Decree does not authorize or otherwise address the cultivation, production, and distribution of *Cannabis sativa* L. containing a delta-9 tetrahydrocannabinol (THC) concentration of more than three-tenths of one percent (0.3%) on a dry weight basis.

9. Any notifications under this Consent Decree shall be directed to the individuals at the addresses specified below by United States Mail or Overnight Courier and e-mail, unless these individuals or their successors give notice of a change to the other Parties in writing.

As to Plaintiff:

Angelica Ramirez, Attorney  
General Counsel  
St. Croix Chippewa Indians of Wisconsin  
24663 Angeline Ave., Webster, WI 54893  
(800) 236-2195 ext. 5334  
(715) 416-0484  
[angelicar@stcroixtribalcenter](mailto:angelicar@stcroixtribalcenter).

As to Defendant:

Maura FJ Whelan  
Wisconsin Department of Justice  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 266-3859

(608) 267-2223 (Fax)  
[whelanmf@doj.state.wi.us](mailto:whelanmf@doj.state.wi.us)

10. The Parties agree to cooperate in good faith in order to obtain the Court's review and entry of this Consent Decree.
11. Entry of this Consent Decree shall:
  - a. Cause dismissal, with prejudice, of Plaintiff's Complaint in this action; and
  - b. Resolve any claim by Plaintiff that Wisconsin's industrial hemp and CBD oil laws, in their present form, are civil/regulatory and not enforceable by the State under Public Law 280 on tribal lands within the State of Wisconsin.
12. This Consent Decree constitutes the final, complete and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Consent Decree, and supersedes all prior agreements and understandings between the Parties related to the subject matter herein. No document, representation, inducement, agreement, understanding, or promise constitutes any part of this Consent Decree or the settlement it represents, nor shall they be used in construing the terms of this Consent Decree.
13. The terms of this Consent Decree shall be enforceable in United States District Court for the Western District of Wisconsin. If any party seeks

enforcement of any duty or obligation or resolution of any dispute under this Consent Decree (hereinafter, "Claim"):

- a. The Parties first shall meet and confer in good faith to resolve such Claim amicably through discussions between the Parties ("Meet and Confer"). Such Meet and Confer, whenever possible, shall be in person and shall occur not later than ten (10) days after receipt of written notice describing the dispute, unless both Parties agree in writing to an extension of time; and,
- b. If the Parties fail to resolve the Claim by amicable discussions within twenty (20) days of the first Meet and Confer or thirty (30) days after written notice, either party may elect to resolve the Claim in the United States District Court for the Western District of Wisconsin.

14. Each Party shall bear all of its own attorneys' fees and costs related to this action.

15. Modifications to this Consent Decree may be made only upon written agreement of the Parties that shall be filed with the Court.

16. Each undersigned representative of the Parties certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Party to this document.

17. This Consent Decree may be signed in counterparts.

**THE UNDERSIGNED PARTIES** enter into this Consent Decree and submit it to this Court for approval and entry.



**IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2018

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**The Honorable William M. Conley  
United States District Judge**

**Signature Page for Consent Decree**

***St. Croix v. Schimel,***

**No. 3:18-cv-00088-wmc (W.D. WI)**

Dated: July 24, 2018



**Jeffrey A. Cornell, Attorney  
Counsel for St. Croix Band of Chippewa  
Indians of Wisconsin**

**Signature Page for Consent Decree**

***St. Croix v. Schimel,***

**No. 3:18-cv-00088-wmc (W.D. WI)**

Dated: July 27, 2018



Maura FJ Whelan  
Counsel for Brad D. Schimel  
Wisconsin Attorney General