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CIVIL RIGHTS AND THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

VOLUME III: THE CHIPPEWA PEOPLE OF SAULT STE. MARIE

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November 1976

**CIVIL RIGHTS AND THE HOUSING AND COMMUNITY DEVELOPMENT ACT
OF 1974**

VOLUME III: The Chippewa People of Sault Ste. Marie

--A report prepared by the Michigan
Advisory Committee to the U.S.
Commission on Civil Rights

ATTRIBUTION:

The findings and recommendations contained in this report are those of the Michigan Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission. This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and Congress.

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LETTER OF TRANSMITTAL

MICHIGAN ADVISORY COMMITTEE
TO THE U.S. COMMISSION ON
CIVIL RIGHTS
November 1976

MEMBERS OF THE COMMISSION

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Sirs and Madam:

The Michigan Advisory Committee submits this report, the third in a continuing study of the civil rights aspects of the Housing and Community Development Act of 1974, as part of its responsibility to advise the Commission about civil rights problems within this State.

This report is interim in nature. It studies the treatment of the racially identifiable Indian community of Mar-Shunk by officials of Sault Ste. Marie: the equal provision of municipal services, the use of Federal categorical funds, and the use of general revenue sharing and housing and community development funds.

The Advisory Committee has found a pattern of discrimination existing in this city that has excluded the residents of Mar-Shunk from the benefits of municipal services paid for with general tax funds, a pattern of discrimination that has allowed Federal categorical programs in the predominantly nonminority area of the city but not in Mar-Shunk, a pattern of discrimination that has denied the benefits of general revenue sharing programs in Mar-Shunk, and a pattern of discrimination that has failed to provide adequate and appropriate housing and community development programs in the Mar-Shunk community.

Based on these findings, this Advisory Committee has directed recommendations to appropriate local, State, and Federal officials. It is the Advisory Committee's hope that the Commission will support these recommendations with specific actions. The Advisory Committee is also concerned

that there is a danger that our recommendations with respect to improved municipal services for the Mar-Shunk community, if incompletely carried out, could be subsequently exploited by government or private action, to the detriment of the Mar-Shunk community. We therefore recommend that the Commission's support of this report include insuring that the degree of implementation of these recommendations be monitored at least annually by Commission staff. We recommend that this include onsite review, Advisory Committee cooperation, and written progress reports to the Commission and the public.

The Advisory Committee is continuing its examination of the 1974 act and further reports and recommendations will be forthcoming.

Respectfully,

Jo-Ann Terry, Chairperson

ACKNOWLEDGMENTS

Volume III of Civil Rights and the Housing and Community Development Act of 1974 was written by Duane Lindstrom, research writer. The Michigan Advisory Committee's community development project, of which this report is the third of several to be issued, is under the immediate staff direction of Frank E. Steiner, equal opportunity specialist. Assistance in the research and preparation of the report was provided by Margaret V. Johnson, regional attorney; Delores Miller, administrative assistant; and Ada L. Williams and Sharon A. Rivers, support staff. The report was prepared under the supervision of Clark G. Roberts, regional director, Midwestern Regional Office.

Final production of the report was the responsibility of Vivian Hauser, Rita Higgins, and Audree Holton, supervised by Bobby Wortman, in the Commission's Publications Support Center, Office of Management.

Preparation of all State Advisory Committee reports is supervised by Isaiah T. Creswell, Jr., Assistant Director for Field Operations.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to denials of the equal protection of the laws based on race, color, sex, religion, or national origin, or in the administration of justice; investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to denials of equal protection of the law; maintenance of a national clearinghouse for information respecting denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

DOCUMENTATION

Supporting documentation cited in this report, as well as related documents not cited, are retained in the files of the Commission's Midwestern Regional Office, Chicago, Ill. Copies of files of Federal agencies are available to the public through requests made under Freedom of Information Act, 5 U.S.C.A. 552, as prescribed by the Commission's rules and regulations for the filing and granting of such requests, 45 C.F.R. 704, including procedures for requesting waiver of copying fees under certain conditions.

In order to facilitate such requests, detailed lists of documents on file pertaining to this study may be obtained from the Midwestern Regional Office as required by Federal law, 5 U.S.C.A. 552(a)(2). All inquiries for documents under the Freedom of Information Act should be sent to the director of the Commission's Midwestern Regional Office, 230 S. Dearborn St., Room 3251, Chicago, Ill. 60604.

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I. HISTORY

The Saint Mary's River is the boundary between the Upper Peninsula of the State of Michigan and Canada's Province of Ontario. The river rushes through a succession of rapids near its mouth at the southeast corner of Lake Superior before flowing on toward Lake Huron. Anishnawbeg Indians, later known as the Ojibway or Chippewa, were the first to settle by these rapids. Their coming is described in legend by Tug-waug-aun-ay, chief of the tribe's Crane family.

The Great Spirit once made a bird, and he sent it from the skies to make its abode on earth. The bird came, and when it reached half way down, among the clouds, it sent forth a loud and far sounding cry, which was heard by all who resided on the earth, and even by the spirits who make their abode within its bosom. When the bird reached within sight of the earth, it circled slowly above the Great Fresh Water Lakes, and again it uttered its echoing cry. Nearer and nearer it circled, looking for a resting place, till it lit on a hill overlooking Boweting (Sault Ste. Marie); here it chose its first resting place, pleased with the numerous white fish that glanced and swam in the clear waters and sparkling foam of the rapids. Satisfied with its chosen seat, again the bird sent forth its loud but solitary cry; and the No-Kaig (Bear clan), Awas-e-wug (Catfish), Ah-auh-wauh-ug (Loon), and Mous-o-neeg (Moose and Marten clan), gathered at his call. A large town was soon congregated, and the bird whom the Great Spirit sent presided over all.¹

Historical accounts of this Indian settlement, later named Sault Ste. Marie by the French, describe nearly 2 centuries of slow migration by the Ojibway from lands east of Montreal culminating in the discovery of the falls and rapids of the Saint Mary's in the 1500s. Here the migrating tribe began to separate, some families continuing on toward the West while others remained near the rapids, enticed by the abundance of fish and the nearby hunting grounds.

"It is a well authenticated fact," wrote William Warren in 1885, "that at the Falls of Sault Ste. Marie, the outlet of Lake Superior, the Ojibways, after separating from the Ottaways and Pottawatumees, made a long and protracted stay. Their village occupied a large extent of ground, and their war parties numbered many warriors..."²

The Ojibway lived undisturbed in the vicinity of the rapids for nearly three generations before the appearance of white Europeans in the early 1600s. According to Ojibway tradition, however, the coming of the white race was no surprise.

Long before the Ojibway were even aware of the white man's presence on this continent, their coming was prophesied by one of the old men of the tribe whose "great sanctity and oft-repeated fasts, enabled him to commune with spirits and see far into the future." William Warren, who first put the tradition on paper, wrote that the old man "prophesied that the white spirits would come in numbers like sand on the lake shore, and would sweep the red race from the hunting grounds which the Great Spirit had given them as an inheritance." The consequences of the white man's coming would be, according to the old man, "the An-ish-in-aub-ag," the ending of the world.³

Yet, when the French explorers and fur traders arrived at the rapids, they were not opposed by the Ojibway. On the contrary, according to William Warren, the two races coexisted quite peaceably.

On June 14, 1671, Sieur du Lusson, envoy of the King of France, established a treaty with the Chippewa. In return for the right to trade in the Chippewa's country and the right to pass freely among the Indian villages, the French promised the support of their nation against all enemies of the Chippewa.

"Every morning you will look towards the rising of the sun and you shall see the fire of your French father reflected towards you, to warm you and your people," envoy du Lusson promised. "If you are in trouble, you, the Crane, must arise in the skies and cry with your far sounding voice, and I will hear you. The fire of your French father shall last forever, and warm his children."⁴

Following this council, the Chippewa opened their lands and their villages to the French hunters, trappers, traders, and explorers whose numbers increased rapidly during the following years. The Chippewa upheld their treaty obligations. The French did not.

Defeated by the British in the Seven Years War, the French withdrew from Canada and the American Midwest, taking with them the protection promised to the Chippewa.⁵ The fire of the great French father, which was to last forever, was extinguished.

In the years that followed, trade in the Lake Superior region increased as did the number of white people who came to trap and fish. The bond of friendship that had existed between the Indians and the French was no longer in evidence, however. The British and the Americans, according to one historian, "looked on the Indian [only] as a tool or means of obtaining riches and other equally mercenary ends."⁶

Throughout the American Revolution and the War of 1812 the Chippewa in Sault Ste. Marie maintained their traditional Indian society. The new United States Government claimed sovereignty over the area after the defeat of the British, but the government had no physical presence in the area and posed no threat to the Chippewa Tribe.

In 1820 this situation changed when Michigan Governor Lewis Cass was enlisted by the Federal Government to acquire land in the Sault Ste. Marie area to be used for the construction of a fort. Although the Governor met with some initial opposition, the Chippewa tribal leaders signed a treaty in June of that year ceding 16 square miles of land along the Saint Mary's River to the U.S. Government.

The Indians were particularly careful, however, to retain their fishing rights to the river and their rights to land along the riverfront upon which they had built their homes, village, and ancestral burial site. Included in the treaty was the stipulation that: "The United States will secure to the Indians a perpetual right of fishing at the falls of St. Mary's and also a place of encampment upon the tract hereby ceded, convenient to the fishing ground...."⁷ This tract of land, plotted later by mapmakers, was approximately 60 acres in size and comprised nearly the

entire river frontage of the 16 square miles of land ceded to the government.⁸

Following the 1820 treaty council the Chippewa Tribe relinquished the 16-square-mile site to the Federal Government and Fort Brady was erected on the tract shortly afterward. The Chippewa upheld their treaty obligations. The Federal Government did not.

In June 1853 the riverfront homes, village, and sacred burial grounds of the Chippewa were destroyed and their fishing site ruined when the Saint Mary's Falls Ship Canal Company of New York began construction of a canal and locks on the river. The Federal Government did nothing to preserve the Indians' perpetual right to the land and fishing site. In fact, the U.S. Congress had authorized the canal's construction in an 1852 act and had financed the entire operation with the payment of 750,000 acres of land donated to the construction company.⁹

The pleas of the Indian population went unheard as their encampment site, fishing rights, and burial ground were obliterated under authority of the U.S. Government. A rare photo of the Indian village prior to its destruction is contained in Otto Fowles' 1925 book, Sault Ste. Marie and Its Great Waterway. The caption beneath the photo reads simply, "The site is now occupied by locks."

For 2 years the Chippewa sought justice for the broken treaty obligations and the land and fishing rights that had been taken from them. Finally, on August 2, 1855, after the canal and locks were finished, the U.S. Government signed an agreement to repay the Indians for the property and fishery that had been destroyed. The treaty was unique, however, in that it contained no fixed sum for the damages done.

The Commissioner of Indian Affairs, George Manypenny, had argued that the Indians had placed too high a value upon the land, and that the government should not pay such an exorbitant amount. Commissioner Manypenny insisted that the government pay an amount based upon a value to be determined by a "competent appraiser." The Chippewa finally agreed to this arrangement and signed the treaty in good faith.

As its "competent appraiser" the Federal Government sent Indian Commissioner George Manypenny. Having already signed the treaty and having no other recourse, Chief O-sha-

wa-no could only comment, "I would have preferred my Great Father had appointed a disinterested person to appraise the damages."¹⁰

Mr. Manypenny determined that the value of the land and fishing site was \$5,000. This was in spite of the fact that the Indians had been independently offered \$50,000 for the land alone, prior to the construction of the canal.¹¹ The final determination of the value of the land and fishing site was of little import for, according to available records, no payments were ever made by the Federal Government.¹²

The failure of the government to honor the treaty obligations did not dissuade the Chippewa from holding fast to their belief that a person must keep his word. Some years later the Indian agent in the Mackinac Indian Agency at Detroit wrote, "The memory of an Indian is very tenacious. He treasures up everything that is said by a government officer and regards his statements and verbal assurances as equally binding upon the government as the formal stipulations of a treaty."¹³

With this unflinching trust, the Chippewa entered into another treaty with the U.S. Government in 1836, this time ceding the major portion of the Upper Peninsula of Michigan to the government. The Chippewa, as was pointed out by the President of the United States, had become "very destitute" and the chiefs had let it be known that they were willing to "cede their lands to the United States on reasonable terms," so that they could purchase the staples necessary for their survival. Although the chiefs left the exact terms of the treaty up to their Indian agent (the treaty council was held in Washington, D.C., and only one of the Sault chiefs and his son were able to attend), they insisted upon two provisions: that they be able to hunt on the ceded lands as long as they were unoccupied, and that they be allowed to make such reservations on the land as they found proper.¹⁴

The Federal Government, however, had different intentions. By 1836 it had become a general congressional policy to move all Indians of the United States west of the Mississippi River. Therefore, the treaty with the Chippewa proposed to pay the Indians for their Michigan property by giving them large tracts of land west of the Mississippi, money to move to the new lands, and payments for machinery

and other items necessary to sustain themselves in the new lands.¹⁵

The treaty also called for annual cash payments to the Chippewa over a number of years and it included the two provisions insisted upon by the tribal leaders: the right to hunt on unoccupied land and the right to select land for perpetual reservations.

When the treaty went before the U.S. Senate for ratification, however, the final provision was eliminated. In its place the Senate inserted an amendment stipulating that Indians could remain on reservation lands for only 5 years, after which time they lost their rights to the land. As compensation for the elimination of these perpetual reservations the Senate allocated an additional \$200,000 to be paid to the Indians.

When the Indian leaders were called together for final approval of the treaty and were informed of its contents, they were told that no goods would be distributed among the tribe and no cash payments made under the treaty unless the leaders agreed to the price offered for the land and to the Senate amendment limiting their reservation rights to 5 years. In their immediate need for food, clothing, and shelter the leaders acquiesced.¹⁶

More than 100 years later the courts were to find that this treaty had taken unfair advantage of the Chippewa and that the Federal Government had provided an "unconscionably low" payment for the land ceded by the Indians.¹⁷

Following the signing of the Treaty of 1836, the Chippewa's vast landholdings in the Upper Peninsula were turned over to the Federal Government. The Chippewa upheld their treaty obligations. The Federal Government did not.

The Chippewa never received title to the lands west of the Mississippi that the government had promised as part payment for Michigan property turned over to the government by the Indians. The government insisted that the western lands belonged to the Indians only if they moved there. The Indians understood that the treaty provided these lands as payment whether they lived on them or not.¹⁸

The Federal Government held up other payments as well. Just 1 year after signing the treaty the government informed

the Chippewa that none of the cash payments due to them could be paid. In lieu of money the government asked the Indians to accept either one-half payment in goods or wait until the following year for payment. The Indians wanted no part of the government's ploy and asked that payments be made according to the treaty.

Faced with the Indian's insistence upon compliance with the treaty, government agents simply withheld one-half of the money due to the Indians. The government reported that these payments were reimbursed the following year, but many complaints remain on record alleging that funds were never received.¹⁹

The Treaty of 1836 also provided that the U.S. Government was to supply funds each year for the education of Indian children. These funds, under a general government policy at the time, were paid out to various missionary societies and churches which, in turn, were to undertake the educational activities. The Chippewa bitterly opposed this appropriation of funds, claiming that the churches used the money to educate white children instead of Indian children. One Indian leader reported that "not one Indian youth has been educated as it has been reported" in the missionaries' annual statements.

After suffering under this arrangement for nearly 20 years, the tribe became so incensed that it sent a letter to the Commissioner of Indian Affairs inviting him to come personally to Michigan and challenging him to find a single Indian child who attended mission schools who could even spell "baker."²⁰

The Federal Government's own Indian agent in Michigan noted in 1856 that:

The Indians are never informed how their [education] money is expended and they will now be very slow to believe that all the money due them from the United States under this head has ever been appropriated. I have myself but very recently been informed as to the disposition of this fund, and regret to say that, in my judgement, much of it has been very injudiciously expended.²¹

The 1836 treaty further required the government to provide \$150,000 in payments to half-breeds, the children of mixed Indian and white marriages. When the Chippewa became suspicious that the payments were not being made, they demanded to see the government's records to verify the status of this treaty obligation. The government refused to provide the Indians with any record of payments. At least one chief, however, was certain that the required payments had not been paid, since his wife, a white, and his children, half-breeds, had never received a single penny to which they were entitled.²²

The controversies surrounding the Treaty of 1836 grew to such proportions that another council had to be called in 1855 at Detroit. On July 31 of that year a treaty was signed that permanently abandoned the government's plan of moving Indians west of the Mississippi and instead provided Indians with lands in certain defined areas of Michigan.

The Chippewa and the Ottawa tribes together were to receive approximately 120,000 to 140,000 acres of land as payment for the sale of nearly the entire Upper Peninsula and the northern portion of the Lower Peninsula in the Treaty of 1836.²³ By comparison, the St. Mary's Falls Ship Canal Company received 750,000 acres, including the enormously profitable Calumet and Hecla mine, for constructing a canal and locks on the Saint Mary's River.²⁴

In addition, the Indians were to receive certain cash annuities as compensation for "shortcomings" under previous treaties. The 1855 treaty also provided that the reservations set up under the treaty of 1836 were to remain in effect until permanent land sites could be selected. These permanent selections were to be made in four specified areas of the Upper Peninsula, patents (deeds) were to be given to the Indians as proof of ownership, and the process was to be completed within a 5-year time limit.²⁵

The Federal Government, however, continued to experience difficulty in keeping its treaty obligations to the Indians.

Soon after the treaty was signed it was discovered that one of the four land sites offered up to the Chippewa by the government was actually under 12 to 18 inches of water. The Indians could not be persuaded to move to the site.²⁶

Selection of land in the other three sites became a drawn-out and confusing operation. The Indians were particularly anxious to obtain their patents because of the constant encroachment upon their property by whites who were competing for the valuable land. Federal Indian agents and Washington officials were unable to accommodate the Indians and in some instances actually took part in schemes to defraud the Indians.

One Michigan Indian agent, Henry C. Gilbert, informed the Chippewa that no deeds would be forthcoming unless each Indian paid him \$25 in cash for every selection of land. The money, he said, was "to cover expenses attached to the delivery and issuance" of the deeds.²⁷

In 1857 the Secretary of the Interior ordered that Agent Gilbert be removed from office based upon a 14-page compilation of official misconduct charges, including land fraud, neglect of duty, forgery, and kickback schemes. Agent Gilbert retired within a few weeks of the Secretary's order.²⁸

Agent Gilbert's replacement was unable to move ahead with the land selections, however, when he found that the books recording the Indian land lists contained so many "changes and errors" that an entirely new land register had to be printed.²⁹

In 1860 land allotments to the Indians were again postponed when the Republican Party won the national election and the Michigan agent, a Democrat, was replaced. When the new agent took office in 1861 a list of 83 land selections by Indians had been compiled. However, this list was not forwarded to Washington, D.C., until 3 years later in 1864.

During the next 6 years no further action was taken. In 1870 a new agent was assigned to the Sault to work on the land selections. He was replaced the following year by yet another agent, Richard Smith, who, unfortunately, drowned in a boating accident as he was returning from Sault Ste. Marie to Detroit with the list of Indian land selections.

Another 2 years passed before a special Indian agent, specifically assigned to the Sault project, was able to return to the Chippewa to distribute their land patents. Although a great deal of controversy was still to follow

regarding the accuracy of certain patents, 1873 is officially recorded as the date the Sault bands received their land titles. They had waited nearly 18 years.³⁰

By comparison, the Saint Mary's Canal Company received patents for 750,000 acres of land less than 1 year after it had made its site selections.³¹

In addition to the 18-year wait, 13 years beyond the time limit stipulated in the treaty, serious questions arose regarding the quality and quantity of lands from which the Indians had to make selections. In addition to the previously mentioned site that was underwater, the Indian agent assigned to the Sault noted in 1871 that, "It was also reported that there was not a sufficient amount of desirable land to give to the Indians [in] the quantity to which they were entitled under the treaty of July, 1855...."

This problem was solved, according to the agent, by talking the Indians into accepting what limited property was available, even though it was questionable whether the lands met the treaty requirements.³²

The Federal Government was also unable to abide by its obligations for annual cash payments as stipulated in the 1855 treaty. In 1863 the Chippewa were informed that they would no longer receive their cash payments in coin (gold or silver) as required by the treaty. Instead, the government proposed payment in paper money.

The Indians argued bitterly that this change was not only a violation of the treaty but a dramatic cutback in the actual cash value received by the Indians. The Federal greenback, it was pointed out, was highly inflated and the Chippewa considered it nearly worthless. Federal officials ignored the plea, however, and proceeded to violate the treaty by making cash payments in greenbacks until 1869.

The officials did, however, attempt to soothe resentment over the broken treaty promise by offering to pay the Indians the difference between the value of the greenback and the value of the metal coin. The Chippewa rejected the plan when the Federal officials conceded that the additional payment was to be made with more greenbacks.

The Chippewa continued their plea to the government for reimbursement of the \$70,000 a year they claimed to be

losing. Finally, in 1870 the U.S. Congress, in recognition of the validity of the Chippewa claims, passed legislation to repay the Indians for their losses. The Chippewa were far from jubilant with the action of the legislators. The repayment was for only 1 year instead of the 5 years in which greenbacks had been used for payment. The 1-year payment was for only \$37,000 instead of the \$70,000 the Indians had calculated they were owed. And the repayment was made in greenbacks.

The tribe continued to demand compliance with the treaty obligations but the Federal Government considered the matter closed.³³

The Treaty of 1855 was the last treaty of import signed by the Sault Ste. Marie Chippewa, but it was not the last of their problems. In the years that followed Sault Ste. Marie began to boom. In 1887 the city was incorporated. The International Bridge and Railway crossing from the city to Canada was completed. Three railroad lines pushed into the city, linking the area to vast markets in the rest of the country.

A comprehensive sewerage system was constructed to serve the growing city and well-known sewer engineer Edward C. Burns was called in from New York to do the planning. A gas station franchise was granted and an electrolighting company was organized to provide lighting to streets and houses. A telephone system was established and a pumping station was built to bring water from Lake Superior into new houses being built throughout the city.³⁴

By 1897 the population had grown to 10,538, more than five times its size in 1880. By the early 1900s Sault Ste. Marie had become a major industrial center. The canal and locks on the Saint Mary's were expanded and boat traffic increased.³⁵ The city became so wealthy that, with few exceptions, it spurned WPA projects during the Depression. The city continued in prosperity through the early 1950s. (pp. 1131-33)³⁶

Chippewa Indians remained in the Sault Ste. Marie area throughout the continued growth of the city. Many descendants of the tribe remain there to this day. It is about these descendants that this report is written.

Notes to Section I

1. William Warren, History of the Ojibway Nation (St. Paul: Minnesota Historical Society, 1885), p. 87.
2. Ibid., p. 83.
3. Ibid., p. 117.
4. Ibid., pp. 131, 132.
5. Luman H. Long, ed., The World Almanac and Book of Facts: 1971 (New York: Newspaper Enterprise Association Inc., 1970), pp. 773, 774.
6. Warren, History of the Ojibway, p. 133.
7. Treaty with the Chippewa, June 16, 1820 (7 Stat. 206, Kapp. 187).
8. J. P. Richardson, letter to George W. Manypenny, Dec. 17, 1853, National Archives M 234, Roll 404:229-231.
9. Estelle L. Bayliss and Joseph E. Bayliss, River of Destiny: The Saint Mary's (Detroit: Wayne University Press, 1955), p. 103.
10. Notes of Agent H. C. Gilbert, National Archives M 234, Roll 405:602.
11. Sault Ste. Marie Chiefs, letter to Commissioner of Indian Affairs, Oct. 21, 1858, National Archives M 234, Roll 406:250-252.
12. Helen Hornbeck Tanner, Report: United States of America v. State of Michigan (Ann Arbor: Document prepared under contract with U.S. Department of Justice, 1974), p. 78 (hereafter cited as Tanner Report).
13. H. C. Gilbert, letter to George Manypenny, Dec. 10, 1853, National Archives M 234, Roll 404:184-190.
14. William Johnston, letter to Henry R. Schoolcraft, Nov. 17, 1835, National Archives M 1, Roll 72:324.
15. Tanner Report, p. 61.

16. C. A. Harris, letter to Henry R. Schoolcraft, July 6, 1836, National Archives M 1, Roll 41:9-10.
17. Bay Mills Indian Community v. U.S., 26 Indian Claims Commission 538 (Mar. 15, 1972).
18. Proceedings of a Council with the Chippeways and Ottawas, July 25, 1855, pp. 42-47, National Archives.
19. Ibid, p. 17. Also, Henry R. Schoolcraft, Personal Memoirs of a Residence of Thirty Years with the Indian Tribes on the American Frontiers (Philadelphia: 1851) pp. 596-97.
20. Andrew J. Blackbird, letter to George W. Manypenny, Nov. 22, 1855, National Archives, Roll 405.
21. Report of the Secretary of the Interior, "Report of the Commissioner of Indian Affairs," House Exec. Doc. 1, part 1, vol. 1, 34th Congress, 1st Sess. (Washington: Cornelius Wendell, 1856), Serial 840, p. 353.
22. Tanner Report, pp. 66, 67.
23. Ibid, p. 91.
24. Bayliss and Bayliss, River of Destiny, p. 105.
25. Tanner Report, pp. 18, 19.
26. A. M. Fitch, letter to Commissioner of Indian Affairs, Oct. 2, 1858, National Archives M 234, Roll 406:160-161.
27. Affidavit of Joseph Chase, Sept. 28, 1878, National Archives, Roll 414.
28. Jacob Thompson, Secretary of the Interior, letter to James W. Denver, May 14, 1857, National Archives, Roll 405.
29. Tanner Report, p. 21.
30. Ibid., pp. 21-23.
31. Irene D. Neu, "The Building of the Sault Canal, 1852-1855," Mississippi Valley Historical Review, vol. 40 (1953), pp. 22, 38, 44.

32. John J. Knox, letter to F. A. Walker, Dec. 8, 1871, National Archives M 234, Roll 409:684-689.

33. Bruce Rubenstein, Justice Denied: An Analysis of American Indian-White Relations in Michigan, 1855-1889 (Ann Arbor: Xerox University Microfilms, 1975), pp. 32-36.

34. Bayliss and Bayliss, River of Destiny, pp. 190-91.

35. Ibid., p. 192.

36. Page numbers in parentheses cited here and hereafter in text refer to statements made to the Michigan Advisory Committee at its open meeting in Sault Ste. Marie, Michigan, November 12, 13, 14, 1975, recorded in the transcript of that meeting. The transcript is on file with the U.S. Commission on Civil Rights, Washington, D.C., and with the Commission's Midwestern Regional Office, Chicago, Ill.

II. CURRENT CONDITIONS

Sault Ste. Marie is built, in part, on a 16-square-mile landsite ceded to the United States by the Chippewa Indians in 1820. The city has become a tourist town, drawing more than three-quarters of a million sightseers every year to watch huge ships pass through the Soo Locks and ship canal, one of the world's most heavily used waterways.¹

The ships no longer stop in Sault Ste. Marie, however. The industries that once made the city a major industrial center during the early 1900s began leaving the city in 1955. According to city officials, the natural resources of the area, lumber and fish, had been depleted nearly to the point of exhaustion. In addition, the city was isolated from major consumer markets, and increased shipping costs forced industries to move closer to their markets. In some cases, the products and production technologies of the city's industries had simply become obsolete. By 1963 the six major industries in the city, which employed more than 2,500 people, were all out of business, either ceasing operations altogether or moving elsewhere.²

The major employer is now government--Federal, State, and local--which accounts for 65 percent of all the jobs in Sault Ste. Marie and surrounding Chippewa County. Commercial businesses and the tourist trade make up the remaining available jobs.³ For many members of the work force there are no jobs at all. Unemployment in the city and county averaged more than 20 percent during 1975 and rose to nearly 28 percent in early 1976.⁴

As unemployment has risen, the population has fallen. Between 1960 and 1974 the city lost more than 25 percent of its residents, cutting the population to about 15,000.⁵

The population and employment stability has been further threatened by the Federal Government's proposed closing of nearby Kincheloe Air Force Base, a Strategic Air Command post whose \$36 million annual payroll affects the economy of not only Sault Ste. Marie but the three counties surrounding the base.

The Pentagon's plan to close the base was dropped in 1971 after meeting with heavy opposition. In March of 1976 the plan was revived and announced as a part of a national cutback in military spending.⁶

In 1968 Sault Ste. Marie celebrated its 300th birthday, making it the oldest city in Michigan and one of the oldest cities in the Nation. The city traces its origin to the first settlement by a French missionary, Jacques Marquette, who established a mission by the rapids in the summer of 1668. The mission was built in the Chippewa Indian village that had existed on the site for more than 100 years before Marquette's arrival.⁷

Descendants of the Chippewa Tribe still live in Sault Ste. Marie, comprising about 20 percent of the total population. (pp. 15, 750) They are widely spread throughout the area, owing, in part, to the destruction of the Chippewa's village in 1853 and the resultant scattering of tribal members.

Over the years many of the Chippewa families moved inland, settling in the southeast portion of present-day Sault Ste. Marie. The area is known as "Mar-Shunk," named after Marquette and Shunk Roads which cross near its center.⁸ It is the heaviest concentration of families of Indian heritage anywhere in the city. More than 70 percent of its 347 inhabitants are Indian. (p. 798)

The area is poor. The average yearly income of Mar-Shunk residents in 1970 was less than \$1,800 and had risen to only \$1,920 by 1974.⁹ By contrast the average per capita income for the county in 1970 was \$3,279, while in the State the average was nearly \$4,000.¹⁰ Unemployment is high among the American Indians in Mar-Shunk, nearly three times the already exorbitant rate of unemployment in the city and the county as a whole.¹¹

According to James Jannetta, research training and litigation coordinator for the Upper Peninsula Legal Services, Inc., the Mar-Shunk area is "the most blighted geographically identifiable neighborhood in the city. Its residents are low-income persons and most of its residents are American Indians. It is the only area of town for which that is true." (p. 777)

Father James Birney, pastor of the St. Isaac Jogues Parish located in the Mar-Shunk community and a resident of the Sault Ste. Marie area for more than 25 years, told the Michigan Advisory Committee:

Going back to the memory of the oldest living citizen of this city, it has always been identified as the area with bad roads, poor lighting, no sidewalks, poor water supply, and rural plumbing. The Mar-Shunk area has been, for years, the poor area of town. (p. 554)

The Sault Ste. Marie city manager acknowledged that Mar-Shunk "is void of improved roadways, sanitary sewers, and storm sewers. There is a very poor standard of living throughout the area, a lack of adequate housing and a general deterioration condition."¹² The city manager also noted that these problems in Mar-Shunk dated back more than 70 years.¹³

The executive director of the Eastern Upper Peninsula Economic Development District noted that the residents of Mar-Shunk, for the most part, are Indians who are either unemployed or underemployed. He characterized the area as "depressed."¹⁴

The director of the Michigan Civil Rights Commission's housing program, after touring the Mar-Shunk area in 1974, said, "There exists in Mar-Shunk by far the worst living conditions I have seen." (p. 452) The chairman of the board of the Tri-County Community Action Agency found that, "many of the homes within the area are badly deteriorated and several have dirt floors."¹⁵

The director of the Catholic Social Services of Upper Michigan stated that, "needless to say, the area is in all probability the most impoverished in the community of Sault Ste. Marie."¹⁶ The area director of the U.S. Department of Housing and Urban Development reported that, "the housing conditions on Shunk Road are among the worst in Michigan."¹⁷ The Governor of Michigan, William Milliken, called Mar-Shunk "a deplorable situation" and after personally touring the area in 1974 he characterized the living conditions as "incredible."¹⁸

The living conditions suffered by the Indians in Mar-Shunk are not of their own making, however. The community has become a dumping ground for the rest of the city.

"The whole south side of Sault Ste. Marie dumps its water into this area," Father James Birney reported to the Michigan Advisory Committee. "All the storm sewers of that whole area, including the high school area and the hill area come down and dump out [here]. It's a drain basin for the rest of the city." (pp. 503-04)

Wesley Bush, a member of the Sault Ste. Marie Planning Commission, acknowledged that Mar-Shunk is "the end of the drainage system" for the southern portion of the city. (p. 1158) Vernon Streeter, acting street engineer for Sault Ste. Marie from 1971-75, confirmed that approximately one-third of the city drains its storm sewage into the Mar-Shunk area. (p. 874)

When the sewer water reaches Mar-Shunk, however, it begins to back up. According to Mr. Streeter, the city's storm sewer system and much of its ditching system ends at the boundary lines of Mar-Shunk, and once the water reaches this area it begins to accumulate because there is no adequate drainage system out of the area. (pp. 880-83)

The city itself, in correspondence with the U.S. Department of Housing and Urban Development, has admitted that it has never provided an adequate drainage system for the Mar-Shunk neighborhood and that there is a complete lack of drainage in the area. Moreover, the city said, the few drainage ditches that have been provided "further complicated the problem" because they were so poorly constructed and maintained that sewer water accumulates in standing pools and then stagnates.¹⁹

The mayor of Sault Ste. Marie told the Michigan Advisory Committee that the drainage system in Mar-Shunk periodically "plugs up," and as a result storm water from the rest of the city "backs up into all areas of that whole district down there." (pp. 29, 30)

Amy Bricker, a resident of Mar-Shunk who lives near the outlet of a 5-foot-diameter storm sewer pipe that dumps the runoff from other portions of Sault Ste. Marie into Mar-Shunk, told the Advisory Committee:

Every spring when the snow melts and water starts running down, it all comes in my yard, from Ashmun Hill and all over. It all drains off in my yard and I almost have to use a rowboat to go outside. Several times it almost came in my kitchen door, the water ran so high. (p. 1061)

The resulting flooding conditions in Mar-Shunk compound yet another problem, sanitary sewers. According to city officials, the Mar-Shunk community has never been connected to the city's sanitary sewer system.²⁰ As a result the residents use either septic tanks or outhouses. The Tri-County Community Action Agency found in a 1970 study that out of 65 families surveyed, none was hooked up to the city sewer system, 37 used some form of septic tanks, and the remaining 28 families had no sewerage system of any form and had been using outhouses. The study further found that when the spring thaw brings the rest of the city's water flooding into the area, "every one of these septic tanks becomes unserviceable because of improper drainage."²¹

The septic tanks fill with the flooding storm sewerage from the rest of the city. When they overflow, they spill raw sewerage over the land. This raw sewerage combines with the flooding storm water to permeate the entire community.

Hazel Ward, a Mar-Shunk resident, told the Advisory Committee:

In the spring of the year and all summer long, our ditches are full of slimy green water. The children play in that water, they stick their fingers in their mouth. They don't know any better. It's all the drainage from the septic tanks. You can smell it. If you go near it, you smell it. (pp. 1115-16)

Describing this surface water which stands in pools in the Mar-Shunk area, Dr. James C. Terrian, director of the Chippewa County Health Department, said, "It's not fair to say it is standing water. It is a standing liquid which is approximately sewage. This is almost the equivalent of raw sewage." (p. 185)

The lack of proper drainage has resulted in increased health problems for the community. In the summer of 1971 a

team of four medical doctors, under the direction of the American Indian Foundation, conducted a survey of health conditions in Mar-Shunk. Their report concluded:

The most important single problem in the Shunk Road area appears to be the lack of sanitary facilities. Children were playing in the open drainage ditches. The Drop in Center, where most of the medical examinations were conducted, is located exactly over a cesspool.

As a result of the lack of drainage, the report found:

Infections appear to be the major problem. Impetigo, and infective dermatitis were very common. There were numerous ear infections, some with ruptured ear drums. Respiratory infections were also common. Other cardiopulmonary diseases included emphysema and hypertension. Several cases of conjunctivitis were seen. Tine tests for TB were positive in two individuals.

After completing their examinations of Mar-Shunk residents, the four doctors warned that the lack of proper drainage and resultant health conditions, "pose a threat, not only for infections in the Shunk Road area but also transmission of disease to other inhabitants of the city of Sault Ste. Marie."²²

Harriet Hollaway Shedawin, a resident of Mar-Shunk, told the Advisory Committee:

I've had this dermatitis [one of the infectious diseases reported in the doctors' study]. I spent 9-1/2 weeks in the hospital; it was beginning to spread to my hands. With the help of the doctor we arrested that, but I had to have treatments later on for another 6 months before they completely cured it. (p. 807)

Rosemary Gaskin, a Native American and an Indian specialist with the CAP agency, told the Advisory Committee of her experience in raising a family in Mar-Shunk.

It's hard when you sit here, and you raise five kids and have them come in the house walking home from school trying to avoid the mud puddles, falling in the ditches and coming out with green slime. Coming home and finding out that your bathtub doesn't work [because of flooded drains], washing them off with a little basin of water. It's frustrating. (pp. 1079, 1080)

Dr. Terrian, of the county health department, told the Advisory Committee, "The health difficulty in the Mar-Shunk area is greater than any other portion of the city. It's a disaster waiting to happen." (pp. 190, 197)

In spite of the Mar-Shunk area's current conditions, many of the residents of Sault Ste. Marie agree that the area is of great importance to the city's future. It is one of the few directions in which the city can expand with new development. "There is a great potential for the area," Mar-Shunk resident Barbara Pine told the Michigan Advisory Committee; "Where else can the city go?" (p. 607)

Joe Lumsden, president of the Sault Ste. Marie Tribe of Chippewa Indians, added, "If you look at an aerial map, there isn't any place else in the city to move to. That's all the corporate limits left that will be served by city services." (p. 919)

Joseph Knowles, planning consultant for Sault Ste. Marie, told the Advisory Committee, "Of course with sewers there, additional development will follow. To what degree is a guess at this point." (p. 132) Mayor Frank Pingatore told the Advisory Committee, "Let me tell you something, once sewer and water [facilities get installed]...that whole area is going to be developed. That's going to be a real area to look at." (pp. 43-44)

In 1964, the city's planning consultants estimated the anticipated growth potential of the area at 884 dwelling units. This estimate placed the future population potential at more than 3,500 individuals, nearly 10 times its present population. (p. 1171)

One city council member, Paul Frost, told the Advisory Committee that the area is of importance to the city's future. "If we're to grow...we cannot afford to leave this

property undeveloped. It is about two square miles of the city we're trying to develop." (pp. 231-32)

The fear among many residents, however, is that the area will be developed at the expense of the Chippewa Indians who presently own and live on much of the land.

"If they can price these people out of here, it's going to be a realtor's dream," noted Joseph Lumsden. "Sometimes I feel that there is an effort to forceably move these people out of this area." (p. 919)

Father James Birney expressed similar fears. "Maybe I'm a little prejudiced, but I've got the feeling that this [removal of the current Indian residents] has been the whole idea in the first place; just wait them out and they'll destroy themselves, and they'll be forced out of the area and the problem will be solved." (p. 499)

Barbara Pine, a past resident of Mar-Shunk, also agreed with Father Birney and Joseph Lumsden when asked whether she felt there was an effort being made to remove the current residents. "I suspect this; yes," she told the Advisory Committee. "[Afterwards] they will rename the place. It won't be known as Shunk Road anymore." (p. 608)

Although Sault Ste. Marie's mayor, Frank Pingatore, has publicly stated that he does not intend to move Indian residents from Mar-Shunk if they wish to remain in the area, residents point out three ways in which they believe they are being forced from their lands: condemnation and demolition of their buildings, sale of tax-delinquent properties, and excessive special assessments.

"What concerns me more [than anything] right now is the fact that there seems to be an attrition taking place," said Father Birney. "Since we made our petition to the city commission for a sewer, six of the homes have been torn down. We heard today that there was to be at least one more and possibly four more to be torn down. So that means in a course of a little over a year, we have lost one-tenth of the residents in this area. We had 99 homes when we took the census." (p. 499)

Russel Mauris, a retired assistant professor of chemistry at Lake Superior College and a sanitarian for the county during the summers of 1958-63, confirmed that Mar-

Shunk homes were being demolished. "I see fewer homes," Mr. Maures told the Advisory Committee. "Some of the houses that I had to inspect, one day they were there and the next day they were just out. In fact, just recently I saw three houses just disappear because they were condemned." (p. 1126)

Nearly all of the condemned and demolished residences have been rental units. According to Father Birney, as soon as these rental properties are vacated by a tenant, a county inspector comes in and condemns the building and it is torn down. "They are not substantial homes in the first place and just as soon as something happens to the individual that's living there--bang--it goes down. It's condemned and down it goes." (p. 535)

Dr. James C. Terrian, director of the Chippewa County Health Department which conducts the inspections of rental units, told the Advisory Committee that since 1973 at least 10 homes in Mar-Shunk have been condemned. He went on to tell the Advisory Committee that the condemnation procedures were necessary to prevent deteriorating health conditions.

Unfortunately the major vehicle open to us is the condemnation of property, which leads to the elimination of the house. This solves the problem in terms of that one house; but in terms of the community what it does is it eliminates a living place, so that, you know, we're caught on two prongs here. The problem is eliminated. But in truth, we diminish the size of the community and number of people that live there. We're violating a lot of sociological principles. We're not offering the people an option in terms of staying where they seem to have a preference for living. (pp. 188, 198)

The inspection and condemnation procedures that take place in Mar-Shunk do not take place in the other parts of Sault Ste. Marie, according to some area residents. Ms. Marilyn Burton, who owns apartments and rental units outside of Mar-Shunk told the Advisory Committee, "I am aware of no routine inspection done on rental units. This isn't just my own experience. I know other people that rent and I'm sure that this doesn't happen."

Ms. Burton went on to point out that when the city or county does receive complaints about a particular rental unit an inspector will come in to investigate. "If there is a substandard home that they have had complaints on, they do go in and they do go through a condemnation process. However, the landlord is usually given quite a bit of recourse to upgrade the property before it is condemned." (p. 949)

Mar-Shunk residents, however, have great difficulty in upgrading their homes, according to some observers. Beverly Johnson, director of the Sault Ste. Marie League of Women Voters, told the Advisory Committee that Mar-Shunk homeowners are denied building permits to remodel and improve their homes because of improper sanitary sewer facilities (outhouses and inoperative septic tanks) that are in violation of the health and housing codes. Since the city does not run a sewer line into the area, it is impossible for the residents to hook up to the proper sewerage system and thereby come into compliance with the housing code and become eligible for building permits. As a result, one resident of Mar-Shunk explained, "It runs down. Your property runs down and other people don't locate in the area." (p. 606) As the properties run down, consequently, condemnation and demolition of property increase.

Mar-Shunk residents also allege that when they are unable to pay their property taxes (because of their substandard incomes), real estate investors take possession of the land by paying up the back taxes. Although the purchase of tax delinquent property is provided for under State law, residents of Mar-Shunk maintain that they are particularly hard hit by the procedure because of their low income level. The residents not only lose their property but receive nothing in payment for their land.

"One of the things that really gets under my hide is when they start talking about developers coming in here and buying property," said Father Birney. "I think if you will look at the records, that most of those developers have bought back-taxed property. They are that kind of investors. They buy property that has gone for back taxes. This is the way the property is gotten." (pp. 536-37)

Sometimes residents are able to find enough money to buy back their property in time to prevent its purchase by investors. (p. 868) However, much of the land, according to

recent county tax records, has come into the possession of real estate investors and developers. One real estate development company alone has obtained nearly 10 percent of the land in Mar-Shunk through buying up tax delinquent property. (p. 729)

In addition, residents of Mar-Shunk argue they are faced with yet another form of taxation, the special assessment. These assessments are levied for certain city services such as water and sewer facilities. Many Mar-Shunk residents, already hard pressed to pay their real estate taxes, argue that they are unable to pay the special assessments and that they thereby become susceptible to losing their property for delinquent payments.

This process, discussed in greater detail in the following sections, has become a real fear among most Mar-Shunk residents and, according to one member of the Sault Ste. Marie City Commission, James Moody, "I think they are justifiable fears...." (p. 216)

Notes to Section II

1. Sault Ste. Marie, City Commission, Workable Program for Community Improvement (1968), p. 2.
2. Sault Ste. Marie, City Commission, WS-Mich-387 Shunk Road Storm and Sanitary Sewer Project (1971), pp. 1-2, supplemental description section (hereafter cited as WS-Mich-387).
3. United Synergistic Systems, Inc., 701 Planning Report for City of Sault Ste. Marie, Michigan (June 1975), p. 8.
4. Michigan Employment Commission, Civilian Labor Force and Employment Estimates.
5. George M. DeFrench, Sault Ste. Marie city manager, letter to James E. Peterson, Jan. 21, 1974, city manager's files.
6. Sault Ste. Marie Evening News, Mar. 11, 1976, p. 1.
7. Sault Ste. Marie Historical Sites, Inc., Tri-Centennial Brochure. Many historians disagree with the Historical Sites' conclusion that Marquette was the first non-Indian to establish a settlement at Sault Ste. Marie.
8. Perry v. City of Sault Ste. Marie, Civil Action No. M 76-2CA, Complaint for Declaratory and Injunctive Relief, p. 4.
9. George M. DeFrench, letter to William Nugent, Apr. 8, 1974, city manager's files (hereafter cited as DeFrench Letter, Apr. 8, 1974).
10. WS-Mich 387, p. 2, Chippewa County section.
11. Michigan Civil Rights Commission, Report and Recommendations on the Status of Indians in the City of Sault Ste. Marie (1972), p. 13.
12. R. L. Larson, Sault Ste. Marie city manager, letter to William Whitbeck, Dec. 20, 1971, city manager's files.
13. DeFrench Letter, Apr. 8, 1974.

14. H. James Bourque, letter to William Whitbeck, Dec. 23, 1971, Eastern U. P. Economic Development District files.
15. Ronald J. Calery, letter to Richard Larson, June 25, 1970, City Manager's files (hereafter cited as Calery Letter, June 25, 1970).
16. Victor G. Holliday, letter to Richard Larson, June 25, 1970, city manager's files.
17. William Whitbeck, letter to Rep. Philip Ruppe, Nov. 8, 1972, Commission files.
18. Sault Ste. Marie Evening News, Mar. 12, 1974.
19. Sault Ste. Marie, City Commission, Application for Federal Assistance for Public Works and Facility Type Projects (1970), attachment A.
20. Ibid.
21. Calery Letter, June 25, 1970.
22. Joseph T. Rogers, letter to Ronald Calery, Sept. 28, 1971, Commission files.

III. PROVISION OF MUNICIPAL SERVICES

Municipal services are services provided by cities to meet the needs of their residents. These services aim to promote the health, safety, and welfare of the people who live within the city and include such things as street paving, street lights, drainage sewers, water mains, sanitary sewers, fire hydrants, parks and recreational facilities, police and fire protection, traffic control signs, and transportation.

Cities may choose to fund these services through a variety of methods including: payment out of general tax revenues, special assessment of landowners benefiting from the service, or a per-use charge levied upon any resident who uses the service. Cities are not constitutionally required to provide any of these services out of general tax revenues. However, once a particular service is provided through general tax revenues, it cannot be provided to some citizens and withheld from other citizens.

A city may not, for example, use general tax funds to pave streets in the predominately white neighborhood and neglect to use general tax funds to pave streets in the predominately black neighborhood. The 14th amendment to the U.S. Constitution prohibits cities from discriminating against blacks, Chicanos, Puerto Ricans, Indians, or any other racial or ethnic group in the provision of municipal services.¹

In the city of Sault Ste. Marie, certain municipal services have traditionally been paid for from general tax funds while others have been funded through special assessments and use charges. Services traditionally supplied through special assessment of residents include street paving, repaving, and construction; sanitary sewers; and water mains. (pp. 92, 93, 96, 100) Services supplied by the city out of general taxes include street lights, traffic control signs, sidewalks, storm sewers, drainage ditches, fire hydrants, parks and recreational facilities, street and sidewalk cleaning, police and fire protection, and libraries. (pp. 93, 95, 96, 100, 103, 104, 105, 108) Certain other services, including garbage collection and ambulance service, are provided on a fee basis for actual usage. (pp. 101, 106)²

In one part of Sault Ste. Marie, the predominately (80 percent) white neighborhood, the city uses general tax funds to provide street lights, sidewalks, storm sewers, drainage ditches, fire hydrants, parks, recreational facilities, street cleaning, sidewalk cleaning, and adequately maintained roads. In another part of town, the predominately (70 percent) Indian Mar-Shunk neighborhood, the city has provided no sidewalks, no street cleaning, no sidewalk cleaning, inadequate ditches, no storm sewers, no parks, no recreational facilities, few street lights, few fire hydrants, and no adequately maintained roads.

According to James Jannetta, attorney for the Upper Peninsula Legal Services:

Mar-Shunk is provided with the fewest municipal services of any area of the city. It has dirt roads which are impassable in the spring and after heavy rains. The drainage is woefully inadequate. There are no sidewalks. Street lighting is inadequate. Only within the last year has municipal water been installed at full assessment to the residents. Lastly, there are no sewers. (pp. 777-78)

In its application for U.S. Department of Housing and Urban Development community development funds, the city admitted that Mar-Shunk is "characterized by...a lack of public improvements such as paved streets, sidewalks, sewer and water facilities. The residents of this area need public improvements...." Road, curb and gutter, sidewalk, and lighting improvements, according to the city, are lacking in the area.³

STREET LIGHTS

Until 1971 the city of Sault Ste. Marie did not install one street light to serve the more than 300 residents of Mar-Shunk.⁴ Yet, in other areas of the city, street lights had been provided since the early 1900s.⁵

The first street lights came to Mar-Shunk with a State-funded playground project where four street lights were installed in 1971. Ronald Calery, then a member of the Sault Ste. Marie City Commission, recalled the first time the playground lights were turned on:

It was like a 4th of July celebration. For the first time we had some lights. Kids could come out and play, and they could be protected; and it was very sad because I thought, "Hell, I've got a street light in front of my house [in the white neighborhood] and I never even thought what an advantage it is to me." (pp. 1082-83)

That same year the Sault Ste. Marie Evening News predicted that the installation of the playground lights "was the first solid evidence that the neighborhood would soon have its first street lighting system."⁶ The system never came, however. Although the city commission had voted to include the Mar-Shunk area in a 7-year program to replace all the street lights in the predominately white sections of the city with mercury vapor lights, few lights were ever actually installed in the Indian community. "Mar-Shunk ended up with a couple of street lights, but basically that was it," ex-councilman Calery told the Michigan Advisory Committee. "That program itself finally disintegrated [before the area got its lights] but we did get a couple." (p. 1081).

On February 4, 1974, City Manager George DeFrench made a report on the progress of the street lighting program in the portion of the city from Easterday Road to Three Mile Road, which includes Mar-Shunk. The predominately white neighborhood in this area consisted of approximately 250 platted city blocks and the predominately Indian portion of the area (Mar-Shunk) consisted of 43 platted blocks.

The white neighborhood received 254 street lights, slightly more than one per platted block. The Indian neighborhood received a total of three street lights, less than one per every 14 platted blocks.⁷

City officials do not agree on the way in which street lights are placed in a given area of the city. According to City Clerk D. K. Strickland, "The placement of...street lights [is] in accordance with recommendations made by the Police Department and the Traffic Safety Committee based upon such factors as usage, safety, and general welfare."⁸ According to the mayor of Sault Ste. Marie, however, "Street lights are put in on a request basis. You just call up the engineer's office and put in a request and it will go into the city budget. There is no city wide plan for street lighting."⁹

In addition to using general tax funds to purchase and install street lights, the city uses general tax funds to operate the lights. During 1973-74, the city budgeted \$51,483 for street lighting and in 1974-75, \$54,000 was budgeted.¹⁰ This tax money paid to operate approximately one street light per block in the white sections of town, but only one street light for every 14 blocks in the Indian section of Mar-Shunk.

Tony Nertoli, a member of the Sault Ste. Marie Housing Commission, described the current street lighting situation in Mar-Shunk. "There are three lights down there up to the corner of 9th and Shunk. One is shining and two are burnt out. From Shunk to Marquette there are no street lights. Everywhere else in town they have them." (p. 899)

Amy Brinker, a Mar-Shunk resident, claimed, "I have been fighting for street lights for 21 years. They always tell me they don't have the money." (p. 1064) Hazel Ward, another resident, told the Advisory Committee that she had to install and operate her own lights at her own expense because the city failed to install adequate lighting:

We do not have any lights; only our own security lights...for about a mile down the road I would say. Other than that, we have no lights whatsoever down there. It was black as pitch when I first moved down there, I was afraid to get out of the car and go into the house. (p. 1121)

Annie McKechnie, a Mar-Shunk mother of eight children, told the Advisory Committee, "I have asked for lights year after year, but we've never got them." (p. 824) Because there are no lights Mrs. McKechnie must make her small children stay indoors in the evening as do most other mothers in the area. They fear for the safety of their children because, according to the Sault Ste. Marie Evening News, "wild animals come into the neighborhood from the countryside, roaming the streets at night in search of food in garbage cans--bears, porcupines, and skunks."¹¹

"Those bears are a reality," Mar-Shunk resident Hazel Ward told the Advisory Committee. "Two weeks ago my neighbor two houses down the road went across the road, and there was a bear in the tree. So we got the bears. But we do not have any lights...." (p. 1115)¹²

FIRE PROTECTION

For years the Mar-Shunk area has received little benefit from the city's fire protection system. Father James Birney told the Michigan Advisory Committee:

There was no public water supply here until WPA days when a water project brought water to about half of the homes. Only a few fire hydrants were installed at that time and these produced so little pressure that they were practically useless. Fire protection was available but drastically limited by the poor water supply and the lack of hydrants. (p. 554)

Although a new water line was installed in the area in 1975, there is still a lack of hydrants according to residents. Mrs. Hazel Ward told the Advisory Committee:

You know where the closest fire plug is? Clean at the end of the water line...about three-quarters of a mile from my house. If there was a fire at my house or any of the rest of us that live along here [the plug would do no good except for] the guy at the end of the line. They put a ten-inch water main in and that's what we got--one fire plug. (p. 1119)

Although city officials insisted that "fire services are there," (p. 41) nearly every Mar-Shunk resident testifying before the Michigan Advisory Committee asserted that the area had an inadequate supply of fire hydrants. City Clerk D.K. Strickland, in a sworn affidavit of April 14, 1976, acknowledged that the Mar-Shunk area was treated differently than the nonminority section of town. "Fire hydrants in the city are installed on city streets at 1,000 foot intervals," Mr. Strickland said. "The exceptions are on Marquette Avenue between Shunk and Seymour in the Mar-Shunk area...and in the area between 20th Avenue and 32nd Avenue in the Mar-Shunk area...."¹³

Residents of Mar-Shunk further testified that, even if there were a proper number of hydrants, they would be of little use during much of the year when the unpaved roads in the area wash out and cut off all vehicular traffic, including fire trucks.

City officials conceded that during wet and rainy seasons of the year, "the existing roads are impassable."¹⁴ Thus the residents of the area are cut off from fire fighting equipment.

Describing the consequences of these conditions, Mar-Shunk resident Amy Bricker told the Advisory Committee, "Well, a few of my neighbors have [had fires] down the road further, but there is no hydrant....Anyway, by the time the fire truck gets there, they don't need them." (p. 1067)

Another resident, Barbara Pine, told the Advisory Committee that Mar-Shunk residents not only face the danger of losing their homes and lives because of the inadequate fire protection, but face the additional burden of increased fire insurance rates which are based, in part, on the proximity of the nearest fire hydrant. Two months after giving this testimony, Mrs. Pine's home in Mar-Shunk was damaged and later condemned when a fire broke out and extra fire fighting equipment had to be brought in to transport water because there was no hydrant near the home.

The lack of fire protection and fire hydrants that characterizes Mar-Shunk is not characteristic of the predominately non-minority area of the city of Sault Ste. Marie. Ms. Kathy Brandimore, a resident of a predominately white section of town, told the Advisory Committee that there were two fire hydrants within a block of her home, that there was adequate water pressure for the hydrants, and that she did not have to pay increased premiums for fire insurance. (p. 665) In addition, she explained, "In the spring we don't have to worry that the fire engine or ambulance will not be able to make it down the street in case of an emergency because of the road conditions." (p. 668)

ROAD MAINTENANCE

The roads in the predominately white neighborhoods of Sault Ste. Marie are maintained with general tax funds in such a way that they are usable year-round. The roads in Mar-Shunk are not.

In the predominately white neighborhoods of Sault Ste. Marie, many streets have been paved. In Mar-Shunk, not one road is paved. Instead, the residents have only gravel or dirt streets. During wet and rainy periods of spring,

summer, and fall these streets turn to mud. Residents of the area charge, and city officials agree, that during these periods the Mar-Shunk roads are unusable.

Charles Shedawin, a 20-year resident of Mar-Shunk, described the maintenance done on his road by the city. "This road has been graded about three times since I've lived here. I would say they put about three loads of gravel on it...in 20 years. That gravel has disappeared now." (p. 953)

Amy Bricker, another long-term resident, explained:

I guess in about the 21 years I've lived here I've seen them grade the road about four or five times. They've never fixed it. We call them down but they never get out of their truck. They just look. They ride down there and then they ride back. (pp. 1062, 1063)

Annie McKechnie told the Advisory Committee that poor road conditions often prevent delivery of the mail and prevent schoolbuses from picking up and dropping off children. Instead, the children must walk through the mud-filled streets to reach good roads. In desperation, the McKechnies have even attempted to haul in their own gravel to fill potholes where the schoolbuses refuse to travel. (p. 811)

According to Beverly Johnson, director of the Sault Ste. Marie League of Women Voters, the lack of proper road maintenance cuts off Mar-Shunk residents from the more critical necessities of emergency travel as well as fire, ambulance, and police protection. (p. 688)

Unfortunately, residents say, this is neither a rare nor short-lived experience. Father James Birney told the Advisory Committee, "There are many, many times that we have been 2 and 3 weeks without being able to go down the street. That's all there is to it, or you're going to be buried in 2 or 3 feet of mud." (p. 500) During the spring of 1976 the city closed the Mar-Shunk roads from March 1 through the end of May.¹⁵

Russel Mauris, a retired assistant professor of chemistry at Lake Superior College and one-time county sanitarian, noted the changes in Mar-Shunk's road condition

since his first visit to the community in 1957. "They haven't changed very much," he told the Advisory Committee. "I was afraid to come down here on anything but a good, dry day because I was afraid of getting my car stuck. The road maintenance has not appreciably increased. I see no real solid improvement." (p. 1126)

Complaints to the city by Mar-Shunk residents aimed at getting road maintenance have brought interesting responses. According to Barbara Pine, a group of women in the community called city hall to request that impassable and mud-filled roads be opened up with city equipment. The city responded by placing a sign at the head of the road reading, "Enter At Your Own Risk." The road, according to Mrs. Pine, was not cleared. (p. 584)

Annie McKechnie told the Advisory Committee that she has been rebuffed in her attempts to get city road maintenance. "I called [the city] manager a couple times to put some gravel on the road. He said, 'We don't have any gravel and we don't have any funds.'" (p. 822)

In addition to impassable roads caused by rain and mud during warm months, Mar-Shunk has further road problems in the cold winter months. Residents claim they are always last to have the snow plowed off of their roads. "In the wintertime we get some awful storms," Mrs. Muria Parr, a Mar-Shunk resident, told the Michigan Advisory Committee. "We call the city to come out here and plow our roads, and they tell us, 'Well, we're going to get the main parts [of town] first, and after we get done we'll be out there to plow you out.'" (p. 858)

Mrs. Pearl Marble, another resident, told the Advisory Committee that the schoolbus could not drive down her road after heavy snowstorms because of the lack of city snow removal. During these periods, Mrs. Marble walked her child through the snow in order to reach a main road upon which the bus could travel. (p. 861)

James Perry, vice president of the Original Band of Chippewa and a Mar-Shunk resident, told the Advisory Committee, "At one time, we called to have the roads plowed out and the city said they couldn't plow them. Our only way out [they said] would be to move to a different area." (p. 817)

Streets outside of the Mar-Shunk area, because they are paved, do not require the same maintenance as the unpaved roads in Mar-Shunk. However, according to city residents, these paved roads receive a good deal of city attention. Kathleen Brandimore, a resident of the predominately white area of Sault Ste. Marie, contrasted her road maintenance with that of the Mar-Shunk area.

I have a paved street. I have curbs and gutters and maintenance on all of that. We have a sidewalk. In the fall the city comes around and vacuums the leaves. In the summer the street is periodically cleaned. In the winter, except in blizzard conditions, my street, my alley, and my sidewalk are all plowed by 7:30 in the morning.

It has never been my experience to send my kids to school through water in the streets because our streets are paved. We do not have repair bills on automobiles that are damaged because of potholes in the road. And we are not cut off from public transportation in the spring. (p. 665-68)

In addition to providing roads, the city of Sault Ste. Marie spends approximately \$8,000 to \$10,000 a year to build and maintain sidewalks in the predominately white sections of the city. The predominately Indian area, Mar-Shunk, does not have a single sidewalk, with the exception of a short strip of concrete in front of the Finlayson Elementary School.

During the year 1974-75, Sault Ste. Marie spent \$472,615 on streets and street maintenance.¹⁶ In the predominately white area of town these tax dollars provided streets that were usable on a year-round basis, timely snow removal, periodic street cleaning, repair of damaged pavement, leaf vacuuming, no hindrance to emergency travel, and access to fire, ambulance, and police protection. In the predominately Indian area of Mar-Shunk, these tax dollars provided mud and dirt streets that were unusable for periods up to 3 weeks at a time, no street cleaning whatsoever, snow removal only after other portions of the city had been taken care of, and periodic isolation from fire, ambulance, and police protection, as well as emergency travel.

DRAINAGE

The city of Sault Ste. Marie uses general tax funds to provide residents with a drainage system. The predominately white sections of the city are provided with a drainage system consisting of ditches and storm sewers. The predominately Indian Mar-Shunk area is provided no storm sewers whatsoever and very few ditches. Mar-Shunk residents charge, and city officials admit, that the area has never been provided a proper drainage system. Further, the city-designed drainage system dumps the storm sewage from approximately one-third of the city into the back yards of Mar-Shunk residents (see section II). Thus, Mar-Shunk has not only been deprived of its own drainage system but has become the dumping ground for the drainage system that serves the predominately white neighborhood of the city.

In 1974 the Michigan Department of Civil Rights, after analyzing the Mar-Shunk situation, strongly urged the city to provide an adequate drainage system in the area. The department was later joined in its investigation by the U.S. Justice Department. Shortly thereafter, an agreement between the city and the department of civil rights to improve the conditions was reached.¹⁷

Unfortunately the city continued to treat the Mar-Shunk residents as their lowest priority and, according to city records, concentrated city funds and work effort in the predominately white sections of the city. Only after the needs of the white neighborhoods had been met would the city consider providing services in Mar-Shunk. For example, the city manager insisted during a May 6, 1974, city council meeting that work in Mar-Shunk would be done only "when street crews are free" after completing their other work. In another city council meeting during August of the same year, the city manager explained that work in the Mar-Shunk area could not be done because "the street department has had other jobs that must be done such as the triple seal coating on Seymour Street."¹⁸

In an August memorandum to the city manager, the superintendent of streets characterized the priority given to the Mar-Shunk area saying, "I think the work on [Mar-Shunk] could start in October or early November. It will take this long to catch up with other work that cannot wait...."¹⁹

Although the agreement between the city and the Michigan Department of Civil Rights called for completion of drainage work in Mar-Shunk by September 1, 1974, the city did not meet that deadline. In a January 8, 1975, letter to the department, the city manager explained, "Drainage work scheduled for September-October was completed in November, with the exception of Shunk Road [emphasis added]."

While drainage work in Mar-Shunk remained uncompleted through the following spring and summer, other sections of the city received prompt attention to their drainage needs. City commission records indicate that general tax funds were expended during this time in the predominately white section of the city for the installation of proper drainage systems.²⁰

Faced with flooding conditions and the city's refusal to provide adequate drainage, Mar-Shunk residents have attempted to dig their own drainage system. Charles Shedawin told the Michigan Advisory Committee that, "I had to make my own drainage ditch." (p. 959) Another Mar-Shunk resident, James Perry, said, "I ended up paying a fellow to dig a little ditch with a shovel, so the water would run out and down the ditch instead of all over our property. It used to run right under our house in the spring and in the fall when the septic tanks would overflow." (pp. 831-32)

Residents of Mar-Shunk have not only been denied storm sewers but, according to city officials, they have never been hooked up to the city's sanitary sewer system. According to City Manager George DeFrench, this absence of sanitary sewers is due to the fact that, unlike storm sewers, sanitary sewers are not installed with general tax funds. Instead, the city levies a special assessment on the landowners who benefit from the installation. Since Mar-Shunk residents have historically been unable to afford this installation cost, they have never had a sanitary sewer installed.²¹

The city manager's contention that sanitary sewers are traditionally provided only through special assessment is not borne out in city records, however. According to the official minutes of city council meetings a number of sanitary sewers have been provided without cost or assessment to the adjoining property owners. Examples include the Algonquin sewer project of 1940, the Osborn

Boulevard sewer project of 1962, and the I-75 business spur sewer project that is currently being provided.

At other times the city has provided sanitary sewers by charging "tap in" fees rather special assessments. Examples included the 11th Avenue and Seymour Street project of 1961 and the 5th Avenue West project of 1964.

In certain instances the city has negotiated individual arrangements with property owners for the installation of sanitary sewers without levying any special assessment. Examples include the Provincial House project of 1971, the trailer park project of 1968, and the Mission Road subdivision project of 1975.²² City records also show that during the past years the day-to-day costs of operating these sanitary sewers have been paid for, in part, with general tax funds.

Normally, such operating costs are paid through a sewer utility rate charged to each customer using the system. Sault Ste. Marie sewer customers enjoy one of the lowest sewer rates anywhere in the State of Michigan, according to City Manager DeFrench. The rate is so low, in fact, that it fails to supply adequate funds to cover the costs of the system and results in a deficit of approximately \$66,000 a year. This amount, accounting for 13 percent of the operating budget, is supplied out of the city's general tax funds.²³

As a result, the city's general tax funds are used to pay for operating a sanitary sewer system in the predominately white sections of the city, but no similar operating funds are provided for the Indian area. Mar-Shunk taxpayers, unable to afford the installation of their own sewers, are nevertheless required to subsidize the operating cost of a sanitary sewer that serves only the predominately white parts of town.

PARK AND RECREATIONAL FACILITIES

During 1974-75 the city of Sault Ste. Marie budgeted \$123,100 for parks and recreation and in the following year upped this figure to \$163,685.²⁴ Virtually none of the money is spent in the Mar-Shunk area. The city has built and maintained parks in the predominately white areas of the city but has never funded a single park in Mar-Shunk. There is, however, a small playground in the Mar-Shunk

neighborhood. It was provided in 1971 through the Michigan Department of Natural Resources.²⁵ The land upon which the facility was built was provided not by the city but by donation from its original owner to the Catholic Social Services. (p. 1079) When the State approved the playlot and allowed for construction to begin, the city claimed it had no money available to carry out the construction, even though the money was to be reimbursed by the State upon completion. The Roman Catholic Diocese put up the necessary funds to see that the lot was constructed.²⁶

When the residents asked the city to loan them city equipment with qualified drivers to assist in grading the area and spreading sand in the lot, they were refused. (p. 1078) Such requests for free use of city equipment were not uncommon. Less than a year before, in September of 1970, the city authorized the use of city equipment and crews to assist in preparations for a snowmobile race being promoted by some private citizens of the community.²⁷

Ronald Calery, who was a member of the city council at the time the playlot was constructed, told the Michigan Advisory Committee: "If there was any city cost involved in that development, then I am unaware of it, and I sat at that time as Chairman of the City Recreation Department." (p. 1079)

The city has often, however, provided funds for the construction of parks in other areas of the city. For example, in 1972 the city agreed to provide one-half of the funds for a \$30,000 project in Sherman Park. In 1972 the city also agreed to provide one-half of the cost of the \$27,000 Mission Road Park and one-half of the cost of the \$6,000 Minneapolis Woods Park.²⁸

The city has also done little in terms of maintaining the Mar-Shunk facility. "I think one quick look would tell you what it has had in terms of maintenance," said Mr. Calery. "A bare minimum." (p. 1104)

Residents of the area contend that the city does so little that they themselves are required to maintain the facility. Although City Manager George DeFrench told the Advisory Committee that the city does in fact spend funds to maintain the lot (p. 41), City Commissioner Alfred Babcock confirmed that little maintenance was done in the facility

and went on to argue that the local residents, not the city, were responsible for its maintenance:

We put a recreation park down there [in Mar-Shunk] and a few months later I went by and all I could see was the basketball hoops falling off, broken glass strewn around which the kids had to play on, and bags of garbage. If the people had any pride, they would form a committee to take care of their own instead of asking somebody else to take care of them. There evidently was not enough incentive and pride to take care of it themselves.²⁹

Outside of the Indian Mar-Shunk area, the city spends large amounts of money for park maintenance and improvement, as well as for recreational programs. According to Mr. Calery, the city spends from \$14,000 to \$14,500 on Riverside Park alone. (p. 1105) City council minutes indicate that in 1975 more than \$10,000 was to be spent to maintain Little League and other baseball diamonds.³⁰ During 1974-75, the city spent \$4,000 for the operation of a marina, \$10,100 for operation of a trailer park, \$57,000 for municipal parks, and \$52,000 for recreation.³¹

In addition to these funds, the city provides additional funds for the operations of the Pullar Building recreational center, used principally for ice skating and ice hockey. The city has used its funds to pay for such items as a \$15,000 ice resurfacers and \$8,600 for a new sound system in the building.³² When the city commissioners proposed remodeling the restrooms in the Pullar building, a local minister, the Rev. Theodore Doane, opposed such an expenditure of taxpayers' money, arguing that it would be inappropriate in light of the fact that some of Sault Ste. Marie's citizens living in Mar-Shunk had no indoor plumbing or sanitary facilities at all.³³ The city commissioners disagreed with Rev. Doane and approved spending nearly \$10,000 to make the Pullar Building's bathrooms nicer.³⁴

The city of Sault Ste. Marie has provided parks and recreational facilities in the predominately white portion of the city using city funds and maintained these facilities through the use of more than \$200,000 a year in taxpayers' money. The city has not provided any money for the construction of parks in the predominately Indian area of Mar-Shunk. The facility that does exist in the area is

maintained by the residents themselves and city expenditures in the area are "minimal," if any.

Notes to Section III

1. U.S., Commission on Civil Rights, The Other Side of the Tracks (1974), pp. 1, 2.
2. The method of funding municipal services in Sault Ste. Marie is currently the subject of controversy in Perry v. City of Sault Ste. Marie. The Michigan Advisory Committee has here used the testimony of the city manager and mayor at the Committee's November hearing for determination of funding methods. In certain cases the funding methods have varied in past years. These variations will be pointed out in further detail in the text.
3. Sault Ste. Marie, City Commission, Application for Housing and Community Development Funds (1975), p. 1, Statement of Needs Section, and p. 1, Objectives Section (hereafter cited as 1975 HCD Application).
4. Sault Ste. Marie Evening News, May 16, 1971, p. 1.
5. Estelle L. Bayliss and Joseph E. Bayliss, River of Destiny: The Saint Mary's (Detroit: Wayne University Press, 1955), p. 191.
6. Sault Ste. Marie Evening News, May 16, 1971, p. 1.
7. Sault Ste. Marie, City Commission, Official Procedures, Feb. 4, 1974.
8. Affidavit of D.K. Strickland, Perry v. City of Sault Ste. Marie, C.A. No. M 76-2CA, p. 2 (hereafter cited as Strickland Affidavit).
9. Frank E. Pingatore, tape transcript of testimony given to the Michigan Advisory Committee, Sault Ste. Marie, Michigan, May 26 and 27, 1976, Commission files (hereafter cited as May 1976 transcript).
10. Sault Ste. Marie, City Manager, 1975-1976 Municipal Budget (April 1975), p. B-7 (hereafter cited as Municipal Budget).
11. Sault Ste. Marie Evening News, May 16, 1971, p. 1.
12. Responding to a draft of this report, City Attorney Thomas G. Moher noted that bears and other wild animals have

been seen in other areas of the city as well as in Mar-Shunk and that "We fail to see where this point is pertinent or relevant." Letter to Midwestern Regional Office, U.S. Commission on Civil Rights, Sept. 15, 1976 (hereafter cited as Moher Letter).

13. Strickland Affidavit, p. 2. Responding to a draft of this report, City Attorney, Thomas G. Moher stated, "We object to the first sentence...that states the lack of fire protection and fire hydrants in Mar-Shunk is not characteristic of other neighborhoods in the City of Sault Ste. Marie. The statement is simply not factual. It is uncorroborated by any evidence." Moher Letter.

The Michigan Advisory Committee has concluded, however, that the sworn affidavit cited in this footnote, attested to in a court of law by the city clerk, is sufficient proof of fact.

14. Sault Ste. Marie, City Commission, Application for Federal Assistance for Public Works and Facility Type Projects (1970) attachment A.

15. May 1976 transcript.

16. Municipal Budget, pp. B-8, B-9. General Revenue Sharing funds were also spent on city streets. See chapter IV.

17. Lillian Benbow, memorandum to Don Bauder, Aug. 28, 1975, p. 1, Michigan Department of Civil Rights files.

18. Sault Ste. Marie, City Commission, Official Proceedings, Aug. 19, 1974.

19. Orville Anderson, memorandum to city manager, Aug. 7, 1974.

20. Sault Ste. Marie, City Commission, Official Proceedings, May 9, 1974.

21. George DeFrench, letter to James Hillman, Apr. 22, 1974, city manager's files.

22. Sault Ste. Marie, City Commission, Official Proceedings, Mar. 7, 1940; Aug. 6, 1962; Nov. 3, 1975; Oct. 16, 1961; July 6, 1964; May 25, 1971; Sept. 9, 1968; Nov. 17, 1975.

23. George DeFrench, letter to the mayor and city commissioner, Apr. 21, 1975, p. 3, city manager's files.
24. Municipal Budget, p. B-10.
25. Victor G. Horwath, letter to R.L. Larsen, Aug. 21, 1970, city manager's files.
26. Sault Ste. Marie, City Commission, Official Proceedings, May 24, 1971.
27. Ibid., Sept. 14, 1970.
28. U.S. Department of the Interior, Bureau of Outdoor Recreation, Project Proposal Nos. 21-00139, 21-00140, and 21-00141 (1972).
29. Sault Ste. Marie, City Commission, Minutes of Informal City Council Meeting, Mar. 6, 1974.
30. Sault Ste. Marie, City Commission, Official Proceedings, Oct. 16, 1974.
31. Municipal Budget, p. B-10.
32. Sault Ste. Marie, City Commission, Official Proceedings, Sept. 3, 1974, and Jan. 6, 1975.
33. Ibid., May 29, 1974.
34. Ibid., Nov. 4, 1974.

IV. USE OF FEDERAL FUNDS

Various agencies of the Federal Government provide funds to support programs and projects undertaken by the Nation's cities. In most cases, the Federal Government supplies only a portion of the total project cost and the city is required to provide a local share or "matching" grant in order to receive funding.

During the past 10 years the city of Sault Ste. Marie has applied for and committed local "matching" funds for a number of programs going into the predominately white areas of the city. At the same time, however, the city has refused to provide the local matching funds necessary to bring a single Federal program into the predominately Indian Mar-Shunk area, even though the city administration has publicly gone on record acknowledging the critical and pressing needs of that area of the city.

URBAN RENEWAL

During the early 1960s the city began making plans to apply to the Federal Government for funds to carry out an urban renewal program somewhere in the city. Although city officials were well apprised of the serious needs of Mar-Shunk residents for housing, roads, sanitary facilities, water, and other necessities, the city chose to exclude this area from the program's assistance. Instead, the city applied only for funds to update the downtown business district.¹

Paul Quinn, a member of the urban renewal study committee in 1964 and chairman of the urban renewal commission from 1965 to 1974, told the Michigan Advisory Committee that the commission selected the downtown business district because it felt the money "would best benefit the greater part of the community in a downtown project rather than spending it in a neighborhood improvement type of thing. The downtown project would reflect the greater benefit to the entire community." (p. 299)

Mr. Quinn acknowledged, however, that the commission which made the decision to spend the funds on downtown business improvement was composed exclusively of the business and professional community in the city. According to Mr. Quinn, not a single resident of Mar-Shunk was on the selection committee nor was there a single low-income person

on the committee. (pp. 301-02) In addition, not one Mar-Shunk resident or low-income individual sat on the Sault Ste. Marie City Commission, which had final authority over the selection of the project site.

On December 20, 1971, the city submitted its final application for urban renewal funds. In the application the city pledged to spend \$1,036,644 of its own money on the project in order to fulfill the requirement of 25 percent local funding. An additional "credit" of \$92,745 was allowed the city for money it had already expended in the urban renewal area on various improvements; another credit of \$216,000 was allowed for funds spent to improve Lake Superior State College. The city's total portion of the project was \$1,345,389.² As the project has progressed additional "credits" for non-cash grants in aid have reduced the amount of city funding going into the project. In addition, a pending grant from HUD may further reduce the city's capital outlay on the project to a total of \$515,386.³ The funds for this capital outlay by the city come from the city's general tax revenue, and thus each individual taxpayer within the city is required to subsidize a portion of the entire project.

According to the application, the purpose of the urban renewal project was to "encourage new commercial and office development." The basic thrust of project planning was the "retention and strengthening of the central business area by eliminating substandard, unproductive uses, making sites available for new business development...."⁴ Project objectives included:

The arrest of economic decline, elimination of structural deterioration, stabilizing the commercial, tax and employment base of the city, provide a physical framework in which the business area can regain its proper position of business leadership in the community and compete on an equitable basis, and improve the physical and physiological environment through restoration of buildings and introduction of human amenities.⁵

According to a 1975 analysis of the urban renewal program conducted by the deputy director of the Michigan Department of Civil Rights' Research and Planning Division, these objectives have not been reached. "There is little rehabilitation indicated and no new business indicated," his

report stated. "In fact it looks like the tax base is decreasing...."⁶

Although no new businesses have been attracted to the downtown urban renewal area, the project has been a benefit to certain businessmen and entrepreneurs who have purchased urban renewal land for expansion of their already existing financial operations. Many of those who have purchased urban renewal properties are coincidentally current or past members of either the urban renewal commission or the urban renewal citizens' advisory committee.

A January 30, 1975, analysis of the disposition of urban renewal properties done for the city by United Synergistics Systems Consultants found that of 19 parcels acquired thus far:

3 were being re-advertised after first bids were turned down.

3 were awarded to tax exempt units--Bayliss Library and War Memorial Hospital.

4 were retained by the city for parking lots, street improvements, green belts, or future acquisition.

9 have been sold for private commercial or business use.

Of the nine parcels awarded for commercial or business use, the following individuals received land:

Parcel 3 was awarded to John Lambros. Mr. Lambros is a member of the urban renewal commission.⁷ According to City Attorney Thomas Moher this purchase was never completed.

Parcel 5 was awarded to Barish Brothers. Barish Brothers is owned by Lester Oberman. Mr. Oberman is a member of the urban renewal citizens advisory committee. His wife was a member of the urban renewal commission until 1975.⁸

Parcel 8 was sold to the Sault Savings Bank. John Lambros, mentioned as the recipient of parcel 3, is a director of the bank. The bank's past

president, William Blackstock, served as president of the urban renewal citizens advisory committee.⁹

Parcel 11 (east one-half) was sold to the Robert Hovie Funeral Home. Mr. Robert Hovie, is a member of the urban renewal citizens advisory committee.¹⁰

Parcel 11-A (portion) was sold to the House of Bargains.

Parcel 17 was sold to Bob Fowler Insurance Agency. Robert Fowler is a member of the urban renewal citizens advisory committee.¹¹

Parcels 19, 20, and 21 were sold to Ken Cook and Associates.

As predicted in the city's application for funds, "individual merchants and entrepreneurs" have benefited from the urban renewal program. However, the city's promise that the program will benefit the "entire community through a stabilized tax and employment base" has not yet materialized.

MAR-SHUNK SEWER APPLICATION

In June of 1970 the city of Sault Ste. Marie applied to the U.S. Department of Housing and Urban Development for a grant to build a water and sewer system in the Mar-Shunk area. The \$491,800 requested was for 90 percent Federal support with a 10 percent local share.¹² In September of 1970 the city was notified by HUD that Federal law required that local communities provide at least 50 percent of the funding on sewer and water programs. The application for funds remained dormant for more than a year.

In November of 1971 the city resubmitted an application to HUD for a \$356,000 sewer and water project (the reduction was due to elimination of road construction costs) for Mar-Shunk. Again the city applied for 90 percent Federal funding and a 10 percent local share even though HUD had informed the city in writing that Federal law required a 50 percent local share.¹³

When HUD approved the project on a 50 percent funding level, the city refused to come up with its portion,

claiming it "did not have \$178,000 available to match the 50 percent Federal grant."¹⁴ Coincidentally, less than 1 month after the Mar-Shunk funds had been applied for, the city submitted its urban renewal application in which the city promised it could come up with more than a \$1,000,000 local matching share for the development of the predominately white downtown business district.¹⁵

The city's Mar-Shunk sewer application was different from its urban renewal application in yet another way. In the urban renewal application the city proposed providing more than \$1,000,000 of the local share out of in-kind services and city funds. In the Mar-Shunk sewer application, on the other hand, the city refused to provide any of the funds out of in-kind services or city funds and instead proposed that a special tax be imposed on the residents of Mar-Shunk in an amount equal to the necessary local share.¹⁶

PULLAR BUILDING APPLICATION--EDA

In the summer of 1972, following the city's claim that it could not come up with its share of the Mar-Shunk sewer funding, an application was filed by Sault Ste. Marie with the Economic Development Administration for improvements to be made at the Pullar Community Building. Among the items to be funded were a \$6,000 bleacher arrangement, \$10,000 in hockey sideboards, a \$100,000 refrigeration system for indoor ice, and \$300,000 in building materials. The city said it could provide 20 percent of the funding for the project, approximately \$93,000.¹⁷

This application was not approved by the EDA. The city, however, has proceeded with plans for the project, which by 1975 escalated in price to more than \$1,000,000. According to correspondence with HUD, the city said it expects to receive 50 percent of these funds from EDA and provide the remaining one-half million out of subscriptions and "city funds."¹⁸

INDUSTRIAL PARK--EDA

The city has received three grants from EDA for the construction of an industrial park and trade center. In 1970-71, \$116,000 was received for roads, water, and sewers in the park. In 1974, \$416,000 was received for phase II projects, including sewer installation, water, street work,

and an industrial building.¹⁹ For the phase II grant, the city agreed on February 11, 1974, to provide \$104,000 as the local share of the project. Approximately \$74,000 of this amount was provided from the water and sewer fund, and \$30,000 was taken from the capital outlay account.²⁰

When questions were raised at a city council meeting regarding the city's use of funds for a sewer in an industrial park but not in Mar-Shunk, the city promised to recover the \$104,000 at a later date through the sale of property to those industries moving into the industrial park.²¹ Thus far, however, the city has recovered little of its money. The first site in the industrial park was sold to Bunker Manufacturing in July of 1974. The city received \$1,300 for the sale.²²

The following year, in April, the city commission passed a set of "use covenants" regarding the industrial park. Although the document stipulated that "all municipal water supply mains and all municipal sanitary and storm water mains shall be" provided, the document makes no reference to charging industries for installation of these services. In fact the document stipulates that the purchaser is responsible only "to provide water and sewer connections from said water and sewer mains to said property owner's site at the expense of said site owner." At the city commission meeting at which the use covenants were discussed, the city attorney recommended that the city commission set a specified price per acre for the land, \$2,500, and include this price in the industrial development plan--phase I. The attorney's recommendation was not followed.²³ Even if the \$2,500 price had been adopted by the commission, it would not have provided enough funds to cover the city's portion of the sewer installation.

In addition, it is questionable whether any more sites in the industrial park will be sold. According to city commission minutes, the sites have been up for sale, without any bidders, for more than 16 years. Improved sites, offering full city services, have been available for 3 years. During those years one industry has purchased a site.²⁴ At that rate it will be more than 30 years before the park is fully occupied, and the city has recovered its funds.

Although the city was willing to subsidize the construction of water and sewer facilities in the industrial

park through this long term "loan" arrangement, city commissioners were unwilling to carry out a similar program in Mar-Shunk. During 1975 residents of the Mar-Shunk area proposed that their sewer be installed with city funds (in conjunction with certain Federal funds) and that the city commission recover its investment through uniform "tap in" fees levied against any household hooking up to the system. Since there is a great deal of undeveloped land in the Mar-Shunk area, which could be developed once city utilities were installed, it was felt by residents that the city would recover its money within a reasonable period of time and that this method of funding would substantially reduce the cost to those poverty level families already living in the area. (p. 769)

The city, however, rejected this funding method, claiming the collection of fees would be too difficult to administer. (pp. 730, 731) City records indicate, however, that at least two sewer systems outside of the Mar-Shunk area had been funded through such "tap in" fees in previous years.²⁵

PARK FACILITIES

As mentioned in the previous section, the city of Sault Ste. Marie has received funds from the U.S. Department of the Interior, Bureau of Outdoor Recreation, for the construction and improvement of park and recreational facilities.

In 1972 the city agreed to put up 50 percent of the funds (\$13,675 out of general funds) for the development of a portion of the Mission Road Park. Among other things, these funds paid for the construction of sanitary facilities in the park, including a toilet-shower building, trailer pads with underground utilities for campers, parking, roads, playground equipment, and landscaping.²⁶ At the same time the city was willing to use city funds to construct these sanitary facilities for campers and tourists, it steadfastly refused to use city funds to provide sanitary facilities for its own residents in Mar-Shunk.

That same year the city put up \$15,475 as matching funds to build 50 campsites, a boat landing, unloading pier, parking area, lifeguard raft, and road in Sherman Park and \$3,000 to construct a warming building and a luge run in Minneapolis Woods Park.²⁷ The city has never put up matching

funds to obtain Federal funds for a park or recreation facility in the Mar-Shunk area.

REVENUE SHARING

Prior to the passage of general revenue sharing legislation, Sault Ste. Marie officials had time and again expressed their "great concern" for the Mar-Shunk area, noting its "critical" housing and sewer conditions, its "impassable" roads, its "epidemic" health problems, and its "complete lack" of drainage. These problems persisted, the city said, because of "Sault Ste. Marie's lack of financial resources to assist the people in Mar-Shunk."²⁸

When the U.S. Congress passed the State and Local Fiscal Assistance Act of 1972 (revenue sharing), Sault Ste. Marie became eligible to receive more than \$400,000 a year from the Federal Government to use for: "a) ordinary and necessary maintenance and operation expenditures for public safety, environmental protection, public transportation, health, recreation, libraries, social services for the poor and aged, and financial administration, or b) ordinary and necessary capital expenditures authorized by law."²⁹ The revenue sharing program did not require cities to put up a "local share" or "matching grant" in order to receive the Federal funding.

The regulations implementing revenue sharing stipulated that a locality could use funds to "ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within its jurisdiction, where the purpose of such action is to overcome prior discriminatory practice or usage."³⁰

At the same time, the revenue sharing act prohibited the discriminatory use of revenue sharing funds by a locality, stating:

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under [the act].³¹

The new legislation, therefore, appeared quite promising to those residents concerned with the Mar-Shunk community. The city had recognized and documented the critical needs of Mar-Shunk. Funds were now available to provide for those needs. And the new law required that funds be used in a nondiscriminatory manner.

Yet, when the final appropriations for the first-year revenue sharing funds were voted on by the city council, there was nothing done for Mar-Shunk. Instead, the city decided to use the major portion of its funds to reduce assessments to be levied on individual landowners benefiting from the road resurfacing and reconstruction program the city intended to undertake.

Historically, Sault Ste. Marie had paid for road construction and reconstruction by assessing the individual landowners who benefited from the improvement. When revenue sharing funds became available, the city moved to alter this long-held policy and instead of assessing landowners for 100 percent of the project cost it assessed them only 12-1/2 to 25 percent of the cost, using revenue sharing funds to pay the remaining 75 to 87 1/2 percent.³² The program was necessary, city officials said, because many of the city streets had fallen into disrepair.

The street improvement program has been carried out only in the predominately white area of the city. Although one Mar-Shunk street was included in the original street program, it was later removed from the list.³³ No Mar-Shunk streets have been improved through this general revenue sharing program in the 4 years it has been operated by the city. (pp. 114-19)³⁴

Excluded from the benefits of the city street improvement program, the residents of Mar-Shunk pleaded with the city to undertake a similar program to install sanitary sewers in the Mar-Shunk area. Like road construction and reconstruction, sanitary sewers in Sault Ste. Marie had historically been paid for by assessing the individual landowners who benefited from the improvement. Residents argued that if revenue sharing funds could be used to lower assessments for a street construction program in the predominately white area of the city, the funds could also be used to lower assessments for sewer construction in Mar-Shunk.

The city council refused to accept their plea. When a resolution was submitted in March of 1974 to provide 75 percent of the cost for a sanitary sewer in Mar-Shunk out of general revenue sharing funds, the city council voted to set the resolution aside, stating only that "in the future, if warranted, it would be given every consideration."³⁵ The resolution has never received further consideration.

Thus, although the city was willing to change its assessment policies in order to accommodate the needs of the predominately white community, it would not change its assessment policies to accommodate the needs of the predominately Indian community.

Not all of the city's first-year funds were spent on the road improvement program, however, and the city has had additional revenue sharing funds available for other uses. According to City Commissioner Paul Frost, the commission decided not to spend any of these revenue sharing funds in Mar-Shunk because "there just wasn't enough money to go around" and "there just wasn't enough to do them any good." Commissioner Frost went on to say that although there was "no question about the needs" of Mar-Shunk residents, "There were some other immediate needs in the city at that particular point in time." (p. 250)

Among those needs, as listed in a city council resolution of February 5, 1973, were: \$15,000 for a "mini-computer," \$15,000 for improvements to be made at an ice rink, \$10,000 for a "revolving micro-strainer screen" at the water pumping station, \$9,000 for sidewalks (none of which were in Mar-Shunk), and \$10,000 to be placed in a special fund for the future purchase of "stock and equipment."³⁶

The following year, 1974, citizens of Sault Ste. Marie petitioned the city commission to provide revenue sharing funds to finance a portion of the cost of sewers in Mar-Shunk. Although more than 1,000 signed petitions were received from various church organizations, citizens, and residents of Mar-Shunk, the mayor claimed that "all [of the] revenue sharing money has been committed."³⁷ The city manager insisted that the more than \$400,000 in revenue sharing funds received each year had "all been designated for work on the streets."³⁸ The residents of Mar-Shunk were further told that, "since it had been decided by the city commission some time ago that revenue sharing funds would be used for roads," there was no money left for projects in

Mar-Shunk.³⁹ The mayor told the residents there could be no funding for sewers out of revenue sharing because all the money was committed to street paving, and this is what the money has been used for. "The commitment was made and the city commission is following that commitment...."⁴⁰

Although the city commission steadfastly refused to bend from this position and consider funding of the Mar-Shunk sewers, it willingly went beyond that commitment on other occasions, spending revenue sharing funds on a variety of projects other than the street paving program. On April 15, 1974 the city commission approved spending revenue sharing funds to help finance the installation of "underground utilities" in certain areas of the city.⁴¹ On September 3, 1974, the commissioners approved the use of revenue sharing funds to pave a parking lot at the Senior Citizens Clubhouse. On July 15 they approved the purchase of nearly \$8,000 of equipment for cemetery maintenance, and on the same day they approved the purchase of more than \$17,000 worth of trucks for the city. On September 16, 1974, the city council approved using \$25,000 of its revenue sharing money for terminal facilities at the local airport, and on October 7, it bought four cars for the police department costing more than \$17,000.⁴²

In fact, by end of the second year of the revenue sharing program, June 30, 1974, the city had spent less than 56 percent of its total funds on street construction projects. During the time the city had purchased approximately \$55,000 worth of general city equipment, \$15,000 in recreational equipment, and \$38,000 in public safety equipment. In addition, more than \$79,000 had been spent to operate and maintain city programs, including recreation, environmental protection, public safety, and assistance to the poor and aged. At the end of its second year of funding the city had more than \$200,000 of revenue sharing money in the bank.⁴³

During its third year of revenue sharing funds, the city spent \$106,000 to purchase more general city equipment, \$36,000 to operate and maintain a recreation program, and about \$2,000 for administrative purposes. Nearly \$400,000 was spent to lower assessments for street construction.

Thus, out of a total of \$1,367,000 in revenue sharing funds and interest, received by June 30, 1975, the city had spent less than two-thirds for street construction.⁴⁴

On March 31, 1976, after more than 3 years of insisting to Mar-Shunk residents that the city had no revenue sharing funds to spend on sewers, the city commission voted to spend \$75,000 out of general revenue sharing funds on a sewer project, the Riverside project. This new sewer system will serve a predominately white area of the city.⁴⁵

Notes to Section IV

1. "We would like to point out that the Urban Renewal program was initiated and administered in the City of Sault Ste. Marie by HUD, completely carried out at their direction, and the end result represents HUD's ideas and directives for the uses and expenditures of money provided by them. The city feels that the third paragraph [of section IV of this report] is totally inaccurate in that the City did not choose to exclude this area [Mar-Shunk] from program assistance. If this area was excluded from program assistance, it was done by HUD, who indicated to the City that they wished to have the money used to update the City's downtown business district." City Attorney Thomas G. Moher, letter to Midwestern Regional Office, U.S. Commission on Civil Rights, regarding draft of this report, Sept. 15, 1976.

Richard Paul, Director of Community Planning and Development in the Detroit Area Office of HUD, responded to City Attorney Moher's statement by saying, "It does not accurately reflect either HUD's policy or practice in regards to urban renewal projects." Telephone interview, Oct. 7, 1976.

2. Sault Ste. Marie, City Commission, Final Project Report, Part I and Part II, Application for Loan and Grant, Michigan R-189 (1971) Section A, Schedule 3, Schedule 4, and attachment titled "Summary of Prior Construction Within the Urban Renewal Area" (hereafter cited as Michigan R-189).

3. Richard Paul, letter to U.S. Commission on Civil Rights, Sept. 16, 1976.

4. Michigan R-189, "Report on Planning Proposal," pp. 1-2.

5. Ibid., "Project Summary Description," p. 1.

6. State of Michigan, Department of Civil Rights, Housing Program, Apr. 28, 1975, p. 5.

7. Sault Ste. Marie, City Commission, Application for Workable Program Certification or Recertification (1974), exhibit III (hereafter cited as 1974 Workable Program).

8. Ibid.

9. Sault Ste. Marie, City Commission, Workable Program for Community Improvement (1968), p. 25.
10. 1974 Workable Program, exhibit III.
11. Ibid.
12. Sault Ste. Marie, City Commission, Application for Federal Assistance for Public Works and Facility Type Projects (1970).
13. Sault Ste. Marie, City Commission, WS-MICH-387 Shunk Road Storm and Sanitary Sewer Project (1971), Supplement No. 1 (hereafter cited as WS-MICH-387).
14. George DeFrench, letter to James E. Peterson, Jan. 21, 1974.
15. Michigan R-189.
16. WS-MICH-387, Supplement No. 2.
17. Sault Ste. Marie, City Commission, Application to U.S. Department of Commerce, Economic Development Administration (1972), pp. 1.1, 6.1, 6.2.
18. Sault Ste. Marie, City Commission, Application for Housing and Community Development Funds (1975), p. 5, Short Term Objectives Section.
19. Affidavit of James Jannetta, Perry v. City of Sault Ste. Marie, CA No. M 76-2CA, p. 16.
20. Sault Ste. Marie, City Commission, Official Proceedings, Feb. 11, 1974.
21. Ibid.
22. Ibid., July 15, 1974. Also, City Attorney Thomas G. Moher, letter to Midwestern Regional Office, U.S. Commission on Civil Rights, Sept. 15, 1976.
23. Ibid., Apr. 7, 1975.
24. Ibid.
25. Ibid., Oct. 16, 1961, and July 6, 1964.

26. U.S., Department of Interior, Bureau of Outdoor Recreation, Project Proposal No. 21-00141 (1972).
27. U.S., Department of Interior, Bureau of Outdoor Recreation, Project Proposal No. 21-00140 (1972).
28. WS-MICH-387, Supplement No. 2.
29. 31 U.S.C. §1222 (a) (Supp. III, 1973).
30. 38 Fed. Reg. 9139 (1973).
31. 31 U.S.C. §1242 (a) (Supp. III, 1973).
32. Sault Ste. Marie, City Commission, Official Proceedings, Dec. 16, 1974. The 25 percent--75 percent formula applies to local roads while a formula of 12-1/2 percent--87-1/2 percent applies to major roads.
33. Ibid., May 7, 1973.
34. Some debate exists over the precise boundaries of Mar-Shunk and whether one of the reconstructed streets, Seymour, is in Mar-Shunk. City Manager George DeFrench told the Advisory Committee that this street was in the Mar-Shunk community. However, the Mar-Shunk Commission, the official city advisory commission appointed by the mayor, indicated that Seymour Street is not and "never has been" a part of Mar-Shunk (p. 531).
35. Sault Ste. Marie, City Commission, Mar. 4, 1974.
36. Sault Ste. Marie, City Commission, Resolution, Feb. 5, 1973.
37. Sault Ste. Marie, City Commission, "Minutes of Informal City Council Meeting," Feb. 6, 1974.
38. Ibid.
39. Ibid.
40. Ibid., Mar. 6, 1974.
41. Sault Ste. Marie, City Commission, Official Proceedings, Mar. 18, Apr. 1, Apr. 15, 1974.

42. Ibid., Sept. 3, Sept. 16, July 15, Oct. 7, 1974.
43. Sault Ste. Marie, City Commission, Revenue Sharing Actual Use Report, Aug. 10, 1973 and Aug. 12, 1974.
44. Ibid., Aug. 18, 1975.
45. Sault Ste. Marie Evening News, Mar. 31, 1976, p. 1.

V. HOUSING AND COMMUNITY DEVELOPMENT

The Housing and Community Development Act of 1974 will provide the city of Sault Ste. Marie with more than half a million dollars in community development funds during each of the years 1975-77. During the 5-year period 1975-79 the city will be entitled to receive a total of more than \$2.2 million in Federal funds from the program.¹

The purpose of the new community development program is "the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income."² Among the specific objectives of the act are "the elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally persons of low and moderate income," and "the elimination of conditions which are detrimental to health, safety, and public welfare...."³

The regulations for the program specify that funds may be used "to ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within [the recipient's] jurisdiction, where the purpose of such action is to overcome prior discriminatory practice or usage."⁴

To Sault Ste. Marie this new Federal program meant that funds would be available to undertake a comprehensive program to improve the Mar-Shunk community, eliminate the health hazards, and provide adequate drainage, sanitary facilities, roads, and other municipal services that had long been withheld from the area. The city was required to provide no matching funds and the grant was of sufficient size to enable the city to carry out an effective program.

City officials seemed to agree. Even before the act was officially passed by Congress, the city proposed using the funds for a comprehensive program of improvements in Mar-Shunk. In its 1974 application for recertification of its "workable program," the city outlined a strategy to fund various community projects. The "Mar-Shunk Neighborhood Improvement Program," according to the application, was to begin during the following 2 years with a \$650,000 sanitary sewer "to be funded under the Better Communities Act," the

title given to the Housing and Community Development (HCD) Act before its final passage in 1974.⁵

Residents of Mar-Shunk and the city at large were told by city officials that if Congress passed the act, the city would use those funds in Mar-Shunk. When citizens petitioned the city commission to use its already-available general revenue sharing funds for a sewer in Mar-Shunk, the commission members rejected the action, saying that decisions on Mar-Shunk improvements would be made when "special revenue sharing bills [HCD] are adopted."⁶

The Housing and Community Development Act was signed into law on August 22, 1974, and at the end of November the city held a meeting to discuss the use of the funds it was to receive. Beverly Johnson, a director of the Sault Ste. Marie League of Women Voters, attended the November 20 meeting and reported that city officials outlined a 3-year program for sewer installation in the Mar-Shunk neighborhood and a funding schedule totaling approximately \$655,000, with \$225,000 to be spent the first year, \$220,000 the second, and \$210,000 the third. (p. 651)

On December 2, 1974, the full city commission met to discuss HCD funding. Members and citizens who attended the session reported that at this meeting the commission agreed to fund the installation of a sanitary sewer in the Mar-Shunk area out of community development funds.

According to Father James Birney, as well as two other Sault Ste. Marie citizens who attended the meeting, the city moved to pay for the \$655,000 sewer project over a 3-year period, using \$225,000 out of the first year's HCD funds, \$220,000 out of the second year's funds, and \$210,000 out of the third year's funds. (pp. 514, 651, 762)

Stephen Youngs, who sat on the city commission at the time of the meeting, confirmed that at least \$600,000 had been allocated to the project. "We divided the Mar-Shunk sewer project into three payments," Mr. Youngs told the Michigan Advisory Committee. "Starting with \$225,000 for [the first year] and it was recommended...at least \$200,000 the second, and then \$175,000 for the third." (p. 1140)

Another commissioner, Warren C. Andrews, told the Advisory Committee that although he could not recall the exact dollar figure committed to the project, "We were

talking about an amount that would be...necessary to complete the project." (p. 263)

This commitment of \$600,000 to \$650,000 coincides with the amount of funding the city had indicated in its workable program that it would spend for the Mar-Shunk neighborhood improvement program.

Following the city commission's session on community development funding, the mayor of Sault Ste. Marie wrote a letter to the area director of HUD reiterating the commissioners' decision:

A major portion of this year's Community Development Block Grant entitlement funds (\$270,000) is scheduled for use in the Mar-Shunk segment of our community for sewer installations and grants for rehabilitation to obtain maximum utilization of the sewer project. The City Commission is on record as favoring similar treatment out of the next two years' funding.⁷

The city manager of Sault Ste. Marie also corresponded with the area director of HUD after the city council decision stating, "The belief of the City Commission and the citizens of Sault Ste. Marie is that the American Indians in the Mar-Shunk area must have these basic facilities. There is no other way to provide these than through maximum use of Community Development Block Grant funds."⁸

The city of Sault Ste. Marie, it appeared, was at last initiating an effort to provide equal municipal services, eliminate critical health problems, and improve living conditions in the Mar-Shunk area. Residents felt satisfied that long-awaited improvement projects were finally getting off the ground and that 3 years of HCD funding, totaling more than \$600,000, would be spent in the Mar-Shunk community. In the months that followed, however, hopes for improved conditions in Mar-Shunk began to dwindle.

City officials soon began to whittle away at the amount of HCD funding for the sewer project. In a preliminary application for HCD funds, submitted by the city to HUD in early December, project funding was cut to \$560,000. In a subsequent preliminary application, submitted in late December, funds were cut to \$460,000. Further, the application stated that the residents of Mar-Shunk would be

assessed for a portion of the project costs. (pp. 514-16)
This special assessment was cause for much alarm in the Mar-Shunk community.

The extreme poverty level in the area and the fixed incomes of most residents made special assessment taxes prohibitive. Many families did not have enough money to eliminate dirt floors and outside toilets, much less afford increased taxes due to special assessments. Residents were quick to realize that if special assessment taxes were levied, many of the area's residents would lose their homes and their land in forfeiture for nonpayment of the taxes.

This inability of Mar-Shunk residents to pay special assessment taxes was acknowledged by city staff and city commissioners as well. In a 1974 letter from the city manager to the executive director of the Michigan Commission on Indian Affairs, George DeFrench noted, "What was tabled at our most recent meeting was a motion to provide for sanitary sewers on an assessment basis, which area residents would not be able to pay for due to income levels."

The city manager went on to say, "The basic reason that lack of sanitary sewers has been a problem...is the inability of residents to pay their share of a sewer assessment along with the installation of a house lateral and indoor toilet fixtures." He further explained that, "The only way this problem is going to be solved [is to get] State or Federal funding to match the money the city would appropriate towards this project."⁹

In other correspondence the city manager went so far as to conclude, "If the city were to do the project [on a special assessment basis], most of the property and houses would revert to the city due to non-payment of taxes."¹⁰

Nevertheless, the city commission continued to talk about cutting back on HCD funds and requiring a special tax assessment of the families in Mar-Shunk. By the time the city submitted the final version of its HCD application, in June of 1975, the commitment of HCD funds had been reduced to \$225,000 and the source of the remaining funds, nearly \$500,000, was left up in the air. According to the HCD application, "Special assessment bonds are under study. It is the intent of the city to implement the use of subsequent years' community development funds to retire all or part of

a contemplated bond issue in preference to full assessment of area residents."¹¹

Mar-Shunk residents read this section of the application with guarded suspicion but continued to trust that the city commission would uphold its original commitment to fund the entire sewer project and would not impose a costly assessment.

Within 2 months, the worst suspicions of the residents had been confirmed. On August 20, 1975, the Sault Ste. Marie Evening News reported that the city commission intended to impose a special assessment on Mar-Shunk landowners to cover the entire remaining costs of the project.

The city's action brought an outcry from the Mar-Shunk community. Father James Birney appeared before the city commission pleading, "You promised \$225,000 each year for the next two years at the community development hearing. Since then you deny that. You have not shown good faith." Following the council meeting Father Birney was quoted as saying, "I feel we were misled progressively into believing we were going to get CD money on a 3-year basis. Now we are told we are only going to get \$225,000 for the first year and be assessed nearly half a million for the rest of the project."¹²

Other residents had an even greater fear that the city was attempting to devise the sewer funding in such a way that the citizens themselves would have to turn it down. "It was obvious at that point that the city's idea was to come up with a plan that the residents could not afford and would have to reject," said James Jannetta, attorney for the Mar-Shunk Neighborhood Committee. "The city could then wash their hands of the project." (p. 773)

City officials did little to dispel that fear. On August 27, 1975, Mayor Frank Pingatore was quoted in the Evening News as saying, "if we pass it [a resolution to use only \$225,000 of HCD funds for the sewer project and special assess Mar-Shunk residents for the remaining \$500,000], they still have the right to go to a referendum if they don't want it. If it's turned down, we still kept our part of the bargain."

Mar-Shunk residents were left with few alternatives. Only by agreeing to the special assessment would city officials allow the community to receive the HCD funds that had been promised. The residents knew, as city officials admittedly knew, that such a special assessment would be prohibitive and that many Indian families would lose their homes and property due to their inability to pay these taxes.

The city commission's refusal to provide full HCD funding of the project and its insistence upon a special tax assessment of neighborhood residents brought the sewer program to a halt. Paul Quinn, director of community development of Sault Ste. Marie, reported to HUD in late August 1975, that "progress in providing a sanitary sewer system in the Mar-Shunk area had developed into a complete stalemate."¹³

Instead of providing enough funding to finance the Mar-Shunk sewer project, the city commission had determined that other projects in the city were more deserving of the available money. Among the projects to be funded with first-year HCD funds, the city appropriated:

- \$20,000 to restore an old ship and two old houses as tourist attractions.
- \$8,000 to be spent on "additional rest room facilities, new barbeque equipment, and reconstruction of boat launching facilities" in two city parks.
- \$35,000 to "relocate and upgrade" water and sewer lines to serve retail businesses along the I-75 business spur.
- \$10,000 for sidewalks (none of which are in the Mar-Shunk area).
- \$80,000 to build a four-lane highway through town.¹⁴
- \$110,600 to be set aside to ensure completion of an urban renewal project designed to upgrade the downtown business district.¹⁵

According to the city's application, not one of these projects is identified as "principally benefiting" low- and moderate-income families. Instead, these projects

principally benefit the city's business community and middle- and upper-income population.

- Urban renewal---benefits downtown business and the community as a whole. Since the "community as whole" is predominantly middle and upper income these are the people principally benefiting from the project. Low- and moderate-income individuals make up a minority of the total population and thus a minority of the program beneficiaries.
- Tourist attractions---no beneficiaries listed.
- Sewer and water---benefits "retail businessmen."
- Four-lane highway---enables traffic to move through the city at a higher rate of speed. No beneficiaries are listed.
- Sidewalks and parks---benefits the "community as a whole" and thus is principally intended for the majority of the population, middle- and upper-income families.

Although the Mar-Shunk neighborhood program remained at a virtual standstill throughout the fall of 1975 because of a lack of funds, residents were encouraged by action taken by the city commission in December and by the hope that the commission would provide more funds for Mar-Shunk out of the \$553,000 available to the city for the second year of the HCD program.

On December 16, 1975, the city commission voted to establish a list of priority projects to be undertaken by the city during the following 3 years. The list of priorities was to be used to determine "which would take precedence in funding plans." The Mar-Shunk project was voted the city's number one funding priority.¹⁶

When hearings for the use of second-year HCD funds opened in January 1976, residents were confident that the city commission would abide by its decision to make the Mar-Shunk development project its top priority for city funding. Residents were further encouraged when recommendations received by the city commission through its citizens' participation process overwhelmingly advocated the use of "all or large portions of" the second-year HCD funds in the

Mar-Shunk community. Of 166 recommendations received, 69 proposed the use of HCD funds in Mar-Shunk. The next highest funding priority voted by the citizens was for "streets, street lights, signs and bridges," receiving a total of 14 votes.¹⁷

On March 5, 1976, the city submitted its application to HUD for HCD funds. The priority expenditures totaling 48 percent of all the available funds, was not for the city's number one priority, determined only a few months earlier, or the number one priority recommended through the citizens' participation process. Instead, the city had moved to use \$264,875 for projects relating to the downtown urban renewal development.¹⁸

These projects had been the third priority item determined by the citizens' participation process and had not even been listed in the city's own set of priorities voted on in December. The HCD application's second largest expenditure was also not related to either the city's number one priority determined in December or to the number one priority determined through the citizens' participation process. Instead, \$166,125 had been allotted to a street, sidewalk, and utilities program.

The Mar-Shunk neighborhood development program, the project that the city council had promised would "take precedence" in receiving funding, and had been the number one priority of the HCD citizens' participation process, receiving more than four times the recommendations of its nearest competitor for funding, was granted \$100,000, making it the third ranking project in the HCD application.¹⁹

The allocation of the additional \$100,000 to the Mar-Shunk project (in addition to the \$225,000 out of first-year HCD funds) caused little jubilation in the Mar-Shunk community. Shortly after the city submitted its second-year application, it was learned that the total cost of building the Mar-Shunk sewer had risen more than \$100,000 during the year it had gone unfunded, and that the allocation of these second-year funds thus had not even kept pace with rising project costs.²⁰

In June 1976, the city commission agreed with Mar-Shunk residents to use the already, allocated \$325,000 of HCD funds in a slightly different manner than originally anticipated. Instead of lowering the entire project cost,

up to \$225,000 of these funds were allocated to all or a portion of the individual assessments of low-income residents. This agreement, agreement, when carried out by the city commission, will would enable the sewer to be built and the low-income residents of the area to retain homes without threat of tax reversion.

This agreement did not come easily, however. James Jannetta, the attorney for the Mar-Shunk residents who negotiated the arrangement, noted that the city has historically ignored the Mar-Shunk community and that this action came only after "intense pressure from the Michigan Department of Civil Rights, two public hearings by the Michigan Advisory Committee to the U.S. Commission on Civil Rights, and initiation of a Federal court suit charging the city with discrimination against the Indian residents of Mar-Shunk."²¹ City Attorney Thomas G. Moher agreed, telling the Michigan Advisory Committee, "There is no doubt the city felt the heat."²²

Although agreement was finally reached regarding the funding mechanism for this particular project, other segments of the Mar-Shunk neighborhood improvement program remain unfunded and unstarted. According to the Housing and Community Development Act of 1974, no grant of HCD funds can be made to a city until that city submits an application that "describes a program designed to eliminate or prevent slums, blight, and deterioration where such conditions or needs exist and provide improved community facilities and public improvements, including the provision of supporting health, social, and similar services where necessary and appropriate."²³ In addition, no grant can be made unless the Secretary of HUD is satisfied that the city is using its funds "to give maximum feasible priority to activities which will benefit low- or moderate-income families or aid in the prevention or elimination of slums or blight."²⁴

Regulations governing the program stipulate that a city must "take into consideration any special needs found to exist in any identifiable segment of the total group of lower income persons in the community." The regulations then require that the HCD application include a plan that will meet these needs.²⁵

Evidence of need in the racially identifiable Mar-Shunk community is unmistakable. It has been documented and attested by residents, medical doctors, sanitary engineers,

city planners, religious leaders, county health officials, nonminority residents, social service agencies, the Governor, HUD, and a number of State agencies.

City officials do not deny the existence of these needs. In fact, the mayor, city manager, and members of the city commission have themselves characterized the conditions in Mar-Shunk as "critical" and "epidemic."

In spite of this evidence, however, the city commission elected to spend its HCD funding elsewhere. Among the projects the city proposed to fund in its second-year HCD application were:

- \$36,125 to relocate and extend utilities to businesses located along the I-75 business spur.
- \$21,500 to reconstruct a street.
- \$2,650 to construct a sidewalk.
- \$60,000 to be spent on improving a street.
- \$13,850 to be spent on a sidewalk.
- \$4,000 to improve the heating, toilets, floors, and walls of a gymnasium.
- \$500 for a "living memorial in honor of war veterans."
- \$219,875 for the downtown urban renewal project.
- \$45,000 for "contingencies."

According to this second-year application, not one of these projects was identified as "principally benefiting" low- and moderate-income families. Instead, these projects would benefit principally the business community or the total population.

These projects submitted in the city's second-year application were not funded, however. On June 10, 1976, the Michigan Advisory Committee to the U.S. Commission on Civil Rights submitted comments to the Detroit Area Office of HUD regarding the application (see appendix 1). On June 17, 1976, the Sault Ste. Marie community development director

informed the mayor and city commission that revisions in the HCD application had been requested by HUD and that such revisions had been made (see appendix 2). According to HUD²⁶, the approved projects for second-year HUD funding now include:

- Interest on urban renewal loan - - - - - \$73,957
- Reserved for project closeout - - - - \$145,918
- Contingencies for cost overruns
(anticipated use is for rehab loans and grants in Mar-Shunk area)- - - - - \$45,000
- Sewer improvement and extension
(Mar-Shunk area) - - - - - \$100,000
- Public Improvements---street,
sidewalk and utility expense on
Marquette St. (Mar-Shunk area) - - - - - \$32,000
- Administration - - - - - \$17,500
- B.C. Nason Gym reconstruction
(An activity for handicapped children
for the whole city; primarily for repair of
heating plant to keep this activity viable)-\$4,000
- Rehab loans and grants (Mar-Shunk area)-\$134,625

Although these revisions were made, there is evidence that the city of Sault Ste. Marie intends to abandon the Mar-Shunk neighborhood improvement program as its number one priority and use future HCD funds nearly exclusively outside of the Mar-Shunk community. This action was predicted by James Jannetta in November 1975 when he told the Michigan Advisory Committee:

It is my opinion that community development is heading the way revenue sharing and urban renewal have headed in Sault Ste. Marie; namely, that it will be used to enhance services to the already relatively over-serviced white majority, and will not only perpetuate but exacerbate existing racially discriminatory patterns in city services.
(p. 719)

Table 1

SAULT STE. MARIE, MICHIGAN1976--1980 COMMUNITY DEVELOPMENT AND IMPROVEMENT

		<u>PROJECTS</u>	
	<u>Order of Preference</u>	<u>Projected Cost</u>	<u>Comments</u>
	1. Tie in dead-end water mains, replace older hydrants.	\$50,000	Inspect total system.
	2. Water filtration plant, pump station, booster station, elevated storage (3 Mile Road).	80,000 (Ph. I)	Total cost \$2,200,000.
	3. Advance planning, environmental assessment.	70,000 (Ph. I)	\$55,000/\$15,000.
	4. I--75 Business Spur water installations, extensions.	35,000 (Ph. I)	
	5. I--75 Business Spur sewer tie-ins.	70,000 (Ph. I)	
	6. New water plant, phase II development.	200,000	
	7. Aune and Ashmun Bay park development.	35,000	Need matching funds.
	8. Expansion and renovation City Hall.	100,000	City/county project.

(continued)

Table 1 (continued)

	<u>Order of Preference</u>	<u>Projected Cost</u>	<u>Comments</u>
9.	West and south side street improvement.	100,000	\$25,000 per year.
10.	Replacement tree planting program.	15,000	
11.	City-wide storm sewer extension program.	150,000	
12.	City master planning program. 1977-80	25,000	
13.	Pullar multi-purpose recreational building.	115,000	
14.	1977--80 street renovation program, 4 phases.	200,000	\$50,000 per year.
15.	Mar-Shunk street and lights, phase III.	100,000	
16.	Bridge replacement, advance planning, 3 units	100,000	Spruce, Johnstone, and Fort streets.
17.	Sault Historic Sites waterfront program.	25,000	
18.	Storm and sanitary sewer separation, phase III.	200,000	
19.	Develop public works and public safety departments.	35,000	
20.	Lakeshore-Shallows sanitary sewer project.	200,000	Total cost
	TOTAL	<u>\$1,905,000</u>	\$2,500,000.

Less than 2 months later, in January of 1976, Mr. Jannetta's prediction was confirmed when the city released a document titled "1976-1980 Community Development and Improvement Projects" (see table 1). During the next 5 years, the document reveals, the city intends to use only \$100,000, out of a total of nearly \$2 million in community development funds, in the Mar-Shunk community. The "critical" and "epidemic" needs of Mar-Shunk are no longer the city's number one priority but have been moved to 15th in the city's "order of preference," coming after such higher priority projects as a water filtration plant, sewer and water extensions in other parts of the city, park developments, street improvements, renovation of city hall, and a tree planting program.

Notes to Section V

1. U.S. Congress, House of Representatives, Committee on Banking and Currency, Subcommittee on Housing, Directory of Recipients, 93d Congress, 2d Sess., 1974, p. 89.
2. 42 U.S.C. §5301 (c) (1975).
3. 42 U.S.C. §5301 (c) (1) and (2) (1975).
4. 39 Fed. Reg. 40147 (1974).
5. Sault Ste. Marie, City Commission, Application for Workable Program Certification or Recertification (1974), pp. 7-8.
6. Sault Ste. Marie, City Commission, Official Proceedings, June 3, 1974.
7. Frank Pingatore, letter to Elmer C. Binford, Apr. 10, 1975, city manager's files.
8. George DeFrench, letter to Elmer G. Binford, Mar. 31, 1975.
9. DeFrench, letter to James Hillman, Apr. 22, 1974 city manager's files.
10. DeFrench, letter to William Nugent, Apr. 8, 1974, city manager's files.
11. Sault Ste. Marie, City Commission, Application for Housing and Community Development Funds (1975), p. 1, Community Development Program section.
12. Sault Ste. Marie Evening News, Aug. 27, 1975.
13. Paul Quinn, letter to Irene Jenkins, Aug. 25, 1975, HUD Detroit Area Office files.
14. This highway has been strongly opposed by Sault Ste. Marie residents who have protested its construction (Sault Ste. Marie Evening News, Jan. 9, 1976).
15. This funding was required by HUD to protect the Federal Government's financial interest in the project.

16. Sault Ste. Marie, City Commission, Official Proceedings, Dec. 16, 1975, and Sault Ste. Marie Evening News, Dec. 17, 1975.
17. Sault Ste. Marie Evening News, Feb. 6, 1976.
18. Approximately \$110,000 of the amount was required by HUD to be set aside to protect the Federal Government's financial interest in the project.
19. Sault Ste. Marie, City Commission, Application for Housing and Community Development Funds (1976), Community Development Program Section.
20. Sault Ste. Marie Evening News, Apr. 26, 1976.
21. James Jannetta, telephone interview, June 30, 1976.
22. Frank E. Pingatore, tape transcript of testimony given to the Michigan Advisory Committee, Sault Ste. Marie, Michigan, May 26 and 27, 1976, Commission files.
23. 42 U.S.C.A. §5304 (a) (3) (1975).
24. Ibid., (b) (2).
25. 39 Fed. Reg. 40144.
26. Richard Paul, letter to Commission Staff, Sept. 16, 1976.

FINDINGS

FINDING 1:

The Michigan Advisory Committee to the U.S. Commission on Civil Rights finds that the Mar-Shunk area of Sault Ste. Marie is a racially identifiable Native American community. The percentage of Indians living in Mar-Shunk is nearly four times the percentage of Indians in the city's population as a whole. The area's residents are economically poor and the average family has an income 40 percent below the average income in the county. Unemployment is high, nearly three times the unemployment rate in the city and the county. The area has been characterized by a lack of paved streets, sidewalks, street lights, drainage, sanitary sewers, storm sewers, fire protection, parks, and recreational facilities. Although the city of Sault Ste. Marie as a whole has experienced economic hardships in the past 15 years, the Indian community of Mar-Shunk continues to be the most depressed area of the city.

FINDING 2:

The Michigan Advisory Committee finds that the city of Sault Ste. Marie provides municipal services, including drainage systems, storm sewers, street lights, usable roadways, fire protection, parks, recreational facilities, and sidewalks, out of the city's general tax funds. The Advisory Committee finds that these municipal services are not provided in the predominately minority community of Mar-Shunk in the same manner and degree as they are provided in the predominately nonminority area of the city.

- Drainage---City funds are used to provide drainage in the predominately nonminority area of Sault Ste. Marie. Residents of Mar-Shunk charge, and city officials confirm, that no adequate drainage system has ever been installed with city funds in the predominately Indian Mar-Shunk community.

- Storm sewers---Many predominately nonminority neighborhoods have had storm sewers installed through city funds. Residents of Mar-Shunk charge, and city officials confirm, that not a single storm sewer has been installed in the predominately minority community of Mar-Shunk.

•Street lighting---City funds are used to provide adequate street lighting in the predominately nonminority areas of Sault Ste. Marie. Residents of Mar-Shunk charge, and city officials confirm, that street lighting in Mar-Shunk is improper and insufficient and that the area is in great need of proper lighting.

•Usable roads---City funds are used to maintain streets and roads in a passable and safe condition in the predominately nonminority area of the city on a year-round basis. Mar-Shunk residents charge, and city officials confirm, that roads in the Mar-Shunk community are not maintained in an open and passable condition on a year-round basis, that roads are unusable each year for periods of up to 3 weeks at a time, and that the city periodically must post signs closing the roads to vehicular traffic.

•Fire protection---City funds are used to provide fire protection, fire-fighting equipment, and fire hydrants in the predominately nonminority area of the city. Residents of Mar-Shunk charge, and city officials confirm, that fire hydrants have been installed at less frequent intervals in Mar-Shunk than in any other residential section of the city. Residents of Mar-Shunk also charge fire-fighting equipment is often useless to Mar-Shunk because of the city's failure to maintain roads open and passable to emergency vehicle traffic. City officials confirm that the roads are impassable at certain times of the year.

•Parks and recreation---City funds have been used to provide parks and recreational facilities in the predominately nonminority area of the city. Mar-Shunk residents charge, and city officials confirm, that city funds have never been used to provide a park or recreational facility in the Mar-Shunk community. City funds are also used to pay for maintenance of these parks and facilities. Residents of Mar-Shunk charge and city officials confirm, that little, if any, of these city funds are spent in Mar-Shunk.

•Sidewalks---City funds have been used to construct and maintain sidewalks benefiting individual property owners in the predominately nonminority area of the city. Mar-Shunk residents charge, and city officials

confirm, that the city has never constructed a sidewalk benefiting individual property owners in Mar-Shunk and that no city funds have ever been spent to maintain such a sidewalk in Mar-Shunk.

The Advisory Committee concludes from this evidence that there exists in Sault Ste. Marie a pattern of discriminatory neglect in the provision of city-funded municipal services. The Advisory Committee further concludes that this pattern of discrimination in the provision of such municipal services is a violation of the 14th amendment to the U.S. Constitution.

FINDING 3:

The Michigan Advisory Committee finds that the city commissioners of Sault Ste. Marie have failed to direct Federal categorical grant programs to the predominately Indian Mar-Shunk area in the same manner as such programs have been provided in the predominately nonminority area of the city.

- Most Federal categorical grant programs require that the recipient city provide a "matching" or "local" share of the project budget, ranging from 10 to 50 percent of the total cost.
- The city of Sault Ste. Marie has obtained such Federal grants and has provided its local share through the use of the city's general tax funds and other funds.
- In each and every case, these Federal programs have been located outside of the Mar-Shunk area among the predominately nonminority population of the city.
- Federally funded programs that would be of assistance to "critical" needs of Mar-Shunk residents have been available to the city. However, city commissioners have refused to provide any "local" or "matching" share in order to secure such programs for the predominately Indian population in Mar-Shunk.

The Advisory Committee concludes from this evidence that there exists in Sault Ste. Marie a pattern of discriminatory neglect in the location of federally funded categorical grant programs that constitutes a violation of the 14th amendment to the Constitution and Title VI of the

Civil Rights Act of 1964. There also exists a pattern of discriminatory neglect in the use of the city's general tax funds whereby such funds have been used as "matching" local shares for programs in the predominately nonminority area of the city, but such funds have never been used for "matching" local shares for programs in the predominately minority community of Mar-Shunk.

The Advisory Committee concludes that the pattern has resulted in a violation of the 14th amendment of the U.S. Constitution.

FINDING 4:

The Michigan Advisory Committee finds that the Sault Ste. Marie City Commission has used its general revenue sharing funds to provide programs in the predominately nonminority area of the city in a different manner than it has used such funds to provide programs in the predominately minority community of Mar-Shunk.

- The city commission spent approximately \$900,000 in general revenue sharing funds (66 percent of the total) on a street paving and street construction program between 1973 and 1975. Each and every street that benefited from this program was located in the predominately nonminority area of the city. Not one street in the predominately minority area of Mar-Shunk was included in this program.

- The city commission of Sault Ste. Marie has used general revenue sharing funds to lower special assessments for projects benefiting residents of the predominately nonminority area of the city, but has refused to use general revenue sharing funds to lower special assessments for projects benefiting residents of the predominately minority area of Mar-Shunk, even when petitioned to do so by city residents.

- The city commission has used general revenue sharing funds to pay a portion of the cost of building a sewer in a predominately nonminority area of the city. The city commission of Sault Ste. Marie refused to use general revenue sharing funds to pay a portion of the cost of a sewer project in the predominately minority community of Mar-Shunk.

•On a number of occasions from 1973-75, members of the city commission of Sault Ste. Marie informed Indian residents of Mar-Shunk, both publicly and privately, that improvement projects for their neighborhood could not be funded with general revenue sharing funds because "all" of these funds had been committed to and were being spent on the street paving and road construction program. This, however, was untrue.

•The city commission of Sault Ste. Marie has ignored a provision of the general revenue sharing law allowing the use of funds to "ameliorate an imbalance in services or facilities provided to any geographical area or special group of persons within its jurisdiction where the purpose of such action is to overcome prior discriminatory practice or usage." Even though officials confirm that they were well aware of the lack of services and facilities in Mar-Shunk, no general revenue sharing funds were used to provide such services. Instead, the city commission chose to fund additional projects in the predominately nonminority area of the city such as new sidewalks, an ice rink, and new playground equipment.

The Advisory Committee concludes from this evidence that there exists in Sault Ste. Marie a pattern of discriminatory usage of general revenue sharing funds.

Further, the Advisory Committee finds that Indian residents of Mar-Shunk were deceived by city officials regarding the amount of available general revenue sharing funding, the city's commitment regarding these funds, and the actual usage of these funds by the city, and that the nondiscrimination assurances signed each year by officials of the city of Sault Ste. Marie have been false and in error, and that such false assurances are in violation of Title 18, section 1001, a criminal provision of the United States Code.

The Advisory Committee finds this pattern of discriminatory action in violation of the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. §1242 (c) (Supp. III, 1973), and a violation of the 14th amendment to the U.S. Constitution.

FINDING 5:

The Michigan Advisory Committee finds that the city commission of Sault Ste. Marie has not used funds provided by the Housing and Community Development Act of 1974 in a manner prescribed by the letter and spirit of this law.

- The city has not used its funds "principally for persons of low and moderate income." Of the city's 14 proposed projects, only 2 were indentified by the city as principally benefiting low- and moderate-income families.

- The projects funded by the city commission do not reflect the funding priorities established in the city's own citizens' participation activities.

- Where the needs of the low- and moderate-income community have been identified (in the case of Mar-Shunk), the activities undertaken by the city with HCD funds have been plainly inappropriate to meeting the needs and objectives described in the application and in other available data. Of the total number of documented, critical needs in Mar-Shunk, only one, the installation of a sanitary sewer, has been included for funding by the city. The remaining needs, including health care, drainage, lighting, passable roads, fire protection, parks and recreation, sidewalks, and social services, have been ignored.

- The city commission has failed to "describe a program, which is designed to eliminate or prevent slums, blight, and deterioration where such conditions or needs exist, and to provide improved community development facilities and public improvement, including the provision of supporting health, social, and similar services where necessary and appropriate." Although the need for such programs has been demonstrated, the city has refused to use HCD funds to provide "health, social, and similar service" in Mar-Shunk.

- The city commission has virtually ignored a provision of the HCD regulations allowing the use of funds, "to ameliorate an imbalance in services or facilities provided to any geographical area or specific group of persons...where the purpose of such action is to

overcome prior discriminatory practice or usage." While city officials admit that there is an absence of municipal services in Mar-Shunk, no such services, with the exception of a sanitary sewer system, have been provided for in the HCD applications.

•Although regulations pursuant to the HCD Act indicate that sites for public facilities and programs should be selected to ensure benefit to "any identifiable segment of the total group of lower-income persons in the community," such as the Indians in Mar-Shunk, no such consideration was made by the Sault Ste. Marie city commission. Of 14 projects to be funded with first- and second-year funds, only 2 have been located so as to be of direct benefit to this "identifiable segment" of the population.

•The city council has not used its HCD funds "so as to give maximum feasible priority to activities which will benefit low -or moderate-income families and aid in the prevention or elimination of slums or blight." Instead, the city commission has used HCD funds to provide benefits to the business community and to middle- and upper-income portions of the population.

•The city commission has indicated in written documents that it intends to use little of its future HCD funding in the racially identifiable area of Mar-Shunk and that this community has now been placed among the lowest priorities for community development spending. This, in spite of HCD regulations requiring that an applicant shall give special consideration to the needs of "any identifiable segment of the total group of lower-income persons in the community."

•There is no factual basis on which to assume that the city of Sault Ste. Marie will act to ameliorate imbalances of services and improvements available to the Mar-Shunk community without the sustained involvement of outside agencies.

The Advisory Committee concludes from this evidence that there exists in Sault Ste. Marie a pattern of discriminatory neglect and discriminatory use of HCD funds.

RECOMMENDATIONS

RECOMMENDATION 1:

The Michigan Advisory Committee to the U.S. Commission on Civil Rights recommends to the mayor and members of the Sault Ste. Marie City Commission that the city initiate an immediate program to provide municipal services to the Mar-Shunk area in the same manner as such services are provided in nonminority neighborhoods of the city. The program should include each specific service to be provided (as listed in Finding 2) and a specific timetable for the inception of the services. The city commission should move to make this program its number one priority and provide all available city and Federal funds to the project until it is complete. The project should be carried out in such a manner that residents of the area will not be deprived of their homes or landholdings.

RECOMMENDATION 2:

The Michigan Advisory Committee to the U.S. Commission on Civil Rights recommends to the Honorable Wendell Miles that this report be made a part of the record in the case of Perry v. City of Sault Ste. Marie, C.A. No. M76-2CA, which deals with the unequal provision of municipal services in the Mar-Shunk community, and that its contents be considered in the deliberations regarding this case.

RECOMMENDATION 3:

The Michigan Advisory Committee recommends to the Assistant U.S. Attorney General, Civil Rights Division, Department of Justice, that an evaluation of the unequal provision of municipal services to Native American residents of the Mar-Shunk area be conducted and that the Division consider intervention on behalf of the plaintiffs, Indian residents of Mar-Shunk, in the case of Perry v. City of Sault Ste. Marie, C.A. No. M76-2CA.

RECOMMENDATION 4:

The Michigan Advisory Committee recommends to the Office of Civil Rights, Economic Development Administration, Department of Commerce, that a Title VI compliance review of the actions of the city of Sault Ste. Marie and its expenditure of EDA funds be undertaken in order to determine

the extent of discriminatory neglect, the denial of equal municipal services, and the denial of benefits of Federal EDA funding to the Native American community of Mar-Shunk. Where violations of Title VI of the Civil Rights Act of 1964 are found, EDA should defer any future funding to Sault Ste. Marie contingent upon:

- 1) Submission of adequate proof that municipal services are now being provided equally to Mar-Shunk as they are provided to the predominately nonminority area of the city.

- 2) The adoption, by the city, of a comprehensive plan, including goals and timetables, for a Mar-Shunk community improvement plan encompassing all documented needs of this minority community. Such a comprehensive plan shall be designed and carried out in such a manner so as not to deprive residents of their homes or landholdings.

RECOMMENDATION 5:

The Michigan Advisory Committee recommends to the Equal Opportunity Division of the Department of Housing and Urban Development that a Title VI compliance review of the action of the city of Sault Ste. Marie and its expenditure of HUD funds be undertaken in order to determine the extent of discriminatory neglect, the denial of equal municipal services, and the denial of benefits of Federal HUD funding to the Native American community of Mar-Shunk. Where violations of Title VI of the Civil Rights Act of 1964 are found, HUD should defer any future funding to Sault Ste. Marie contingent upon:

- 1) Submission of adequate proof that municipal services are now being provided equally to Mar-Shunk as they are provided to the predominately nonminority area of the city.

- 2) The adoption, by the city, of a comprehensive plan, including goals and timetables, for a Mar-Shunk community improvement plan encompassing all documented needs of this minority community. Such a comprehensive plan shall be designed and carried out in such a manner so as not to deprive residents of their homes or landholdings.

RECOMMENDATION 6:

The Michigan Advisory Committee to the U.S. Commission on Civil Rights recommends to the Compliance Division, Office of Revenue Sharing, Department of Treasury, that an audit and compliance review be conducted in the city of Sault Ste. Marie to determine any violation of the nondiscrimination provisions of the revenue sharing act. The office should take proper enforcement action, as prescribed in 31 U.S.C.A. 1242 (b), to remedy such violations of the law.

RECOMMENDATION 7:

The Michigan Advisory Committee recommends to the governor of Michigan that he avail himself of the opportunity provided in 31 U.S.C.A. 1243 (a) to "review and comment" on the assurances submitted by the city of Sault Ste. Marie certifying that general revenue sharing funds are not being used in a discriminatory manner. The Advisory Committee recommends that the Governor designate the Michigan Department of Civil Rights to conduct such a review of these assurances in order to determine their validity and that the department submit a written report to the Governor on its findings. The Advisory Committee further recommends that the Governor forward the department's comments along with his own to the Compliance Division of the Office of Revenue Sharing.

RECOMMENDATION 8:

The Michigan Advisory Committee recommends to the U.S. Attorney General that a compliance review be conducted regarding the general revenue sharing expenditures made by the city of Sault Ste. Marie and that under the power granted in 31 U.S.C.A. 1242 (c) a civil action be brought against the city for engaging in any "pattern or practice" found to be in violation of civil rights law.

Further, the Michigan Advisory Committee recommends to the U.S. Attorney General that the "assurances" signed by officials of the city of Sault Ste. Marie alleging that general revenue sharing funds were being spent in a nondiscriminatory manner be made part of this review and that they be found in violation of 18 U.S.C. 1001.

RECOMMENDATION 9:

The Michigan Advisory Committee recommends to the Equal Opportunity Division, U.S. Department of Housing and Urban Development, that an onsite compliance review be conducted in the city of Sault Ste. Marie before December 1976 regarding the city's application for and use of housing and community development funding. Particular attention should be paid to progress on planned activities in Mar-Shunk under HCD programs. Comparison should be made between progress on Mar-Shunk and progress on other HCD activities undertaken by the city.

HUD should consider that failure to show substantial progress in Mar-Shunk would be grounds for disapproval of all HUD funds going to the city except those specifically designed to meet the needs of Mar-Shunk residents or any other identifiable segment of the low-income population.

MIDWESTERN REGIONAL OFFICE
230 South Dearborn Street, 32nd Floor
Chicago, Illinois 60604
Telephone (312) 353-7371

June 10, 1976

Richard Paul, Director
Community Planning and Development
Detroit Area Office
Department of Housing and Urban
Development
477 Michigan Avenue
Detroit, Michigan 48226

Dear Mr. Paul:

This is to transmit comments of the Michigan Advisory Committee to the U.S. Commission on Civil Rights regarding the application of the City of Sault Ste. Marie for funds under the block grant program of the Housing and Community Development Act of 1974. These comments pertain to the application for funds for Fiscal Year 1977.

By way of preface it should be noted that our agency staff is aware of your timeline for decision on the Sault application, and that you have told our staff that the position of your office will be decided by this Friday, June 11, so as to be able to honor the HUD policy of "Congressional clearance" through which the HCD 75 day clock is to include a five day period of notification to the relevant Congressperson, to enable the latter to announce the granting of funds. These comments are transmitted at this late date because we only received Sault Ste. Marie's latest written revision of their application on June 8. Given these realities, we suggest that you treat the comments below having implications for your funding decisions in two ways: 1. in those cases wherein you may be withholding approval of funding (either as a whole or for parts of the application) that you include those items listed below which you agree should be denied approval for the moment; and 2. that in the event that you have granted overall funding approval to the application by receipt of this letter, that expenditure of funds for individual line items which are objectionable be denied until the problems in the application are rectified. In the latter event the grant would be understood as "conditionally approved" pending certain changes.

The essential comment of the Advisory Committee at this time is that the allocation of only \$100,000 of the FY 77 block grant to public works in the Marquette-Shunk Rd. area of the city is plainly inappropriate to the needs of that area as identified in the city's statement of needs in the application. The city

Richard Paul
June 10, 1976
page 2

has extensively documented, for HUD and other State and Federal agencies, the extreme lack of municipal services in the Mar-Shunk area. The area lacks sanitary sewers, storm sewers or drainage, sidewalks, paved streets, adequate night lighting, adequate water service, adequate fire protection, and has an unusually high number of substandard dwellings. The Advisory Committee recommends that HUD require a commitment of funds higher than \$100,000 to that area of the city.

Secondly, there is the likelihood that Mar-Shunk residents may be forced from their homes and land if they receive no assistance in paying assessments for the proposed sanitary sewer. The city, however, has announced no firm agreement to provide such assistance, although we understand that discussions on this matter are now being held between city officials and attorneys representing Mar-Shunk residents. We recommend that expenditure of all block grant funds for FY 77 be conditioned on an agreement between the city and Mar-Shunk residents providing assistance for payment of the sanitary sewer special assessment so that no residents need lose their land or homes because of inability to pay that assessment.

The Advisory Committee is aware of the efforts of HUD to achieve improvements in this year's Sault Ste. Marie application, but if the Mar-Shunk sewer is allowed to be constructed with inadequate protections for nearby Native American property owners, it will have been a self-defeating project with a disproportionately negative impact on local minority persons. We are hopeful that the city has finally chosen to install that sewer so as not to force local residents from their homes. Given the city's history of providing services to that area, however, we feel that it is imperative that their HCD application be conditioned this year on such an arrangement.

Thirdly, we recommend that additional block grant funds from the FY 77 application can be made available to the Mar-Shunk area if certain questionable public works items for other parts of the city are disapproved. We therefore suggest that HUD disapprove all proposed public works, facilities, and site improvements which cannot be shown to have a significant, direct benefit to low and moderate income families. This should include, but not necessarily be limited to, I-75 business spur utilities (\$36,125), Bingham Avenue (\$60,000), Meridian St. reconstruction from Easterday to 4th Ave. (\$21,500), McKinley School sidewalk from 20th to Sherman Park (\$13,850), Riverside Dr. reconstruction from 3 Mile to Gardenville Rds. (\$45,000), Eureka St. (\$20,000), and Davitt

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sidewalk from 8th to 12th Ave. (\$6,075). It is our understanding that the last item, listed by the city as "Washington School new sidewalk", is actually located more than eight blocks from Washington School, the latter being located at the corner of 2nd Ave. and Parnell.

Please call our regional office to discuss details of the above recommendations. We conclude, based on our information, that each of the above items recommended for disapproval fails to meet the maximum feasible priority benefit to low and moderate income persons test and, in fact, has little or no direct benefit to low and moderate income persons or minority persons.

Our staff understands that your staff may, in fact, have already disapproved one or more of the items listed above. In that event, please take these comments as a statement of support for your decisions. On items which we recommend disapproval and on which you have not registered a negative comment with the city, I urge your close attention.

At its May 25 meeting in Sault Ste. Marie the Michigan Advisory Committee went on record as concurring with the March 24, 1976 negative A95 comment of the Michigan Department of Civil Rights regarding the FY 77 Sault Ste. Marie block grant application. We would appreciate receiving a copy of any reply made by HUD to that comment. We also request a copy of Mr. Binford's May 27 letter to the city, apparently regarding deficiencies in the first and/or second application version, cited in J. Paul Quinn's June 2 transmittal of the third version to your office.

Also at its May 25 meeting, the Advisory Committee expressed considerable negative response to the city's second Urgent Needs application. Since we understand that that application has been recommended for funding in a scaled-down version by your office, we request a copy of that recommendation and the revised application for urgent needs funding supported by your office. Some indication of the timeline likely to be followed by your headquarters office regarding that request would also be helpful to our decision-making process.

We understand the pressure under which you must operate to meet the "75 day clock" deadlines regarding block grant applications, for we, too, have been limited by that procedure in registering our comments. Nevertheless we urge your consideration of these recommendations. According to statewide Native American

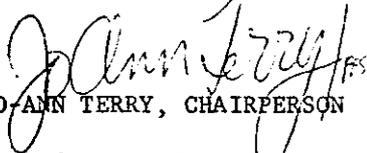
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spokespersons the Sault Ste. Marie situation is not atypical of Michigan cities having significant Native American populations. A truly fair resolution of the Sault's imbalance of services problem could, therefore, serve as a model for other cities.

This Advisory Committee's final report on implementation of the 1974 HCD act in Sault Ste. Marie (and related issues there) will be published this summer. All persons and agencies affected by that report will be given the opportunity to comment on it before publication so as to insure accuracy of fact. That report--the third in a series on the act's implementation in Michigan--is planned to be followed by a fourth focusing on the role of HUD in the implementation of the act. The second report in this series covers, as you know, the phase-out of Model Cities, and is set for release during July. In the final Sault Ste. Marie report we will have additional recommendations for your office.

Thank you for your continuing cooperation in this effort.

FOR THE MICHIGAN ADVISORY COMMITTEE


JO-ANN TERRY, CHAIRPERSON

cc: Advisory Committee members

John A. Buggs, Staff Director

James H. Blair, Assistant Secretary for Fair Housing and
Equal Opportunity, DHUD

Ruth Rasmussen, Executive Director, Mich. Dept. of Civil Rights

James Hillman, Executive Director, Mich. Commission on Indian Affairs

Isaiah T. Creswell, Jr., Director of Field Operations, USCCR

City of Sault Ste. Marie, Michigan

COMMUNITY DEVELOPMENT DIRECTOR

J. PAUL QUINN

409 ASHMUN STREET
SAULT STE. MARIE, MICH. 49783

PHONE: (906) 635-1521

URBAN RENEWAL
HOUSING DEVELOPMENT
COMMERCIAL DEVELOPMENT
REHABILITATION PROGRAMS
NEIGHBORHOOD IMPROVEMENT

June 17, 1976

Mayor
City Manager
City Commissioners
Urban Renewal Commission members

Gentlemen:

Enclosed for your information is a copy of the final revision to the 1976-77 Community Development Block Grant application.

These revisions were requested by Blanche Gavin, C. D. Program Manager, of the Detroit Area Office of HUD.

There seems to be a remarkable correlation between these HUD requested revisions and the enclosed letter of June 10, 1976 from the U.S. Commission on Civil Rights to the Detroit Area Director of Community Development.

HUD has requested that we reply to previous Civil Rights Commission "negative" comments on our Community Development applications. You may wish to consider similar action on this current Civil Rights Commission "negative" comment letter.

Sincerely,



J. Paul Quinn
Community Development Director

cc. Mr. Tom McHer, City Attorney
Mr. Charles Burleigh - Miller, Canfield, Paddock & Stone

Encs.

May 4, 1976

PROPOSED PRIORITY LIST
COMMUNITY DEVELOPMENT PROJECTS

Streets, Sidewalks, Utilities	<u>Allocation</u>
1975-76 funds	\$ 10,000.00
1976-77 funds	166,125.00
1976-77 funds (substitute projects)	<u>45,000.00</u>
	<u>\$221,125.00</u>

**ONLY PROJECT ALLOWED BY HUD
AND CIVIL RIGHTS COMM.**

<u>Priority Number</u>	<u>Construction Projects</u>	<u>Estimated Cost</u>
1.	I-75 Business Spur Utilities - supplemental (\$35,000 1975-76 funds)	\$ 47,000.00
2.	Meridian Street - Easterday to 4th Avenue	21,500.00
3.	Lincoln School Sidewalk - Minneapolis, 10th to Marquette	2,650.00
4.	Marquette Street - Seymour to Shunk	32,000.00
5.	Bingham - Bridge to Easterday, 4-lane	60,000.00
6.	McKinley School Sidewalk - 20th to Sherman Park	13,850.00
7.	Riverside Drive - Refinish and surface 3 Mile Road to Gardenville Road	<u>45,000.00</u>
		<u>\$222,000.00</u>

Alternate Projects

8.	Eureka Street, 1300 ft., add two lanes	\$ 20,000.00
9.	Seymour Street - Marquette to 3 Mile Road	60,000.00
10.	Finlayson School Sidewalk - Seymour to Shunk Road	20,000.00
	Washington School Sidewalk - Davitt from	6,075.00

The above estimates are preliminary, subject to engineering specifications and project estimates.

City determination of priority listing is immediately required to permit early preparation of Environmental Assessments and advertising prior to request for funding authority.

U. S. COMMISSION ON CIVIL RIGHTS

WASHINGTON, D. C. 20425

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