

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ONEIDA NATION,

Plaintiff,

v.

Case No. 16-C-1217

VILLAGE OF HOBART, WISCONSIN,

Defendant.

ORDER DENYING DEFENDANT'S MOTION TO STRIKE

This matter is before the court on Defendant Village of Hobart's motion to strike the responsive expert report authored by Dr. Douglas Kiel, titled *A History of the Oneida Reservation Boundaries, 1934–1984*. The Village requests that the court strike Dr. Kiel's report because it is not a direct response to the initial report of its expert, Dr. Greenwald, and should have been disclosed by the initial expert disclosure deadline. The Village argues the report is non-responsive because Dr. Greenwald's report does not address the time period emphasized in Dr. Kiel's report, specifically, those years following the enactment of the Indian Reorganization Act (IRA). Plaintiff argues Dr. Kiel's conclusions regarding the Nation's reservation boundaries in the post-IRA period is relevant to the reservation's alleged disestablishment. It also maintains that Dr. Kiel's responsive expert report is relevant to Dr. Greenwald's ultimate conclusion that the Oneida Reservation was effectively diminished or disestablished.

Dr. Kiel's report appears to adequately respond to the findings and conclusions presented in Dr. Greenwald's initial report. The fact that it addresses facts and evidence not discussed by Dr. Greenwald does not make it improper. Dr. Greenwald is not allowed to set the parameters of what

is relevant and admissible by virtue of what she included in her report. In any event, the Village is not prejudiced by Dr. Kiel's responsive report because Dr. Greenwald replied to the post-IRA data contained therein. Accordingly, the Village's motion to strike will be denied.

IT IS THEREFORE ORDERED that Defendant's expedited motion to strike Plaintiff's responsive expert report (ECF No. 73) is **DENIED**.

Dated this 18th day of January, 2018.

s/ William C. Griesbach

William C. Griesbach, Chief Judge
United States District Court