

Ojibwe Treaty Rights



Symbolic Petition of Chippewa Chiefs, 1849

During the late 1840s, rumors circulated that the Chippewa (Ojibwe) Indians who inhabited lands south of Lake Superior were destined to be removed from their homes and sent to territories west of the Mississippi River, now Minnesota. In 1849 a Chippewa delegation traveled to Washington to petition Congress and President James K. Polk to guarantee the tribe a permanent home in Wisconsin. These delegates carried this symbolic petition with them on their journey.

The animal figures represent the various “doodems,” as determined by family lineage, whose representatives made the historic appeal. Other images represent some features of the tribe’s beloved north woods. Lines connect the hearts and eyes of the various doodems to a chain of wild rice lakes, signifying the unity of the delegation’s purpose.

This pictograph, originally rendered by the Chippewa on the inner bark from a white birch tree, was redrawn by Seth Eastman and appears in Henry Rowe Schoolcraft’s *Historical and Statistical Information Respecting the History, Condition, and Prospects of the Indian Tribes of the United States, Vol. 1* (1851).

The following legend details the pictograph’s numbered images and what they represent:

1. Osh-ca-ba-wis—Chief and leader of the delegation, representing the Crane doodem.
2. Wai-mi-tig-oazh—He of the Wooden Vessel, a warrior of the Marten doodem.
3. O-ge-ma-gee-zhig-Sky—Chief, a warrior of the Marten doodem.
4. Muk-o-mis-ud-ains—A warrior of the Marten doodem.
5. O-mush-kose—Little Elk, of the Bear doodem.
6. Penai-see—Little Bird, of the Man Fish doodem.
7. Na-wa-je-wun—Strong Stream, of the Catfish doodem.
8. Rice lakes in northern Wisconsin.
9. Path from Lake Superior to the rice lakes.
10. Lake Superior Shoreline.
11. Lake Superior.

(Reprinted with permission from The Wisconsin Historical Society)

Front cover image: Symbolic Petition of Chippewa Chiefs

A Guide to Understanding Ojibwe Treaty Rights



Dedication



To all the Ojibwe leaders, tribal members and other advocates—past and present—that help foster treaty-reserved rights, this publication is dedicated to you.

Introduction

The Great Lakes Indian Fish & Wildlife Commission (GLIFWC) was formed in 1984 to assist its eleven member bands in the implementation and protection of their off-reservation treaty rights. One of the most formidable obstacles to achieving these goals has been public misunderstanding and ignorance of treaties, treaty rights and tribal sovereignty. Ignorance opened the doors to unfounded fears and rumors which fostered social and political pressure to abrogate the rights held by Ojibwe bands.

GLIFWC provides a counterpoint to rumors and accusations through accurate, educational materials on treaties, tribal government and the regulation of treaty rights. This booklet is a cornerstone of GLIFWC's public education efforts, and previous editions have been widely used and distributed to member bands, schools, universities, and public libraries throughout the Great Lakes region.

Acknowledgments

Miigwech (thanks) to the many people who have contributed their time and knowledge towards the composition of this booklet. In particular, former GLIFWC Executive Administrator James Zorn; GLIFWC Division of Intergovernmental Affairs Director Ann McCammon Soltis; former GLIFWC Biological Services Director Neil Kmiecik and the late GLIFWC Executive Administrator James Schlender. Written by former GLIFWC Public Information Director Sue Erickson with contributions from GLIFWC Public Information Writer/Photographer Charlie Otto Rasmussen; GLIFWC Public Information Director Dylan Jennings; design and layout by GLIFWC Public Information Assistant Director Lynn Plucinski and photos by GLIFWC staff.

For more information

Contact GLIFWC's Public Information Office, P.O. Box 9, Odanah, Wisconsin 54861 or phone (715) 682-6619. Additional resources are available from our website at www.glifwc.org/publications.

Table of Contents

Understanding treaty rights	3
Treaty rights in Wisconsin, Minnesota & Michigan	8
Treaty rights in Wisconsin	9
Treaty rights in Minnesota	14
Treaty rights in Michigan	20
Great Lakes Indian Fish & Wildlife Commission.....	22
Partnering in resource management	26
The boat landing protest era	28
Appendix I—Popular misconceptions about Ojibwe treaty rights.....	31
Appendix II—An historical review.....	33
Appendix III—GLIFWC member tribes	42
Appendix IV—Treaties	45
Appendix V—Resource materials	54

Understanding treaty rights

The Ojibwe* people had long lived in the upper Great Lakes region by the time European explorers first entered the area. Ojibwe communities dotted the shoreline of Lake Superior on both the Canadian and United States sides and were scattered south across the northern third of Minnesota, Michigan and Wisconsin.

When first contacted by European explorers in the 17th century, the Ojibwe lived a semi-nomadic lifestyle, moving from camp to camp to harvest vital foods such as maple sap, fish, venison, and wild rice, according to the seasons.

As more and more settlers pushed into the Lake Superior region in search of timber and minerals, the United States government bought land from the Ojibwe through cession treaties. Vast quantities of land were exchanged for promises of small amounts of money, schooling, equipment, and trade goods.

“The utmost good faith shall always be observed towards the Indians; their land and property shall never be taken from them without their consent; and in their property, rights, and liberty, they shall never be invaded or disturbed, unless in just and lawful war authorized by Congress; but laws founded in justice and humanity shall from time to time be made for preventing wrongs being done to them, and for preserving peace and friendship with them.”

—The Northwest Ordinance, 1787

However, in many of these treaties, the Ojibwe leaders kept the right to hunt, fish and gather on lands they sold to the U.S. government in the mid-1800s. This would ensure that future generations would be able to survive and always have access to the foods important to the Ojibwe people.

Due to the foresight of those leaders, their descendants can exercise court-affirmed treaty rights in the Ceded Territories today. Ojibwe bands retaining treaty rights and now members of the Great Lakes Indian Fish & Wildlife Com-

mission (GLIFWC) include: the Bay Mills Indian Community, Keweenaw Bay Indian Community, and Lac Vieux Desert Band of Chippewa in Michigan; the Sokaogon/Mole Lake, Lac du Flambeau, Lac Courte Oreilles, St. Croix, Bad River, and Red Cliff Bands in Wisconsin, and the Fond du Lac and Mille Lacs Bands in Minnesota.

The agreements made between the Ojibwe and the United States are called *treaties*. Within the United States Constitution treaties are defined as the “supreme law of the land.” Treaties are legally binding agreements made between nations and have always been respected within the framework of United States federal law. Today, the rights kept by the Ojibwe to hunt, fish and gather on land they sold are referred to as *treaty rights*.

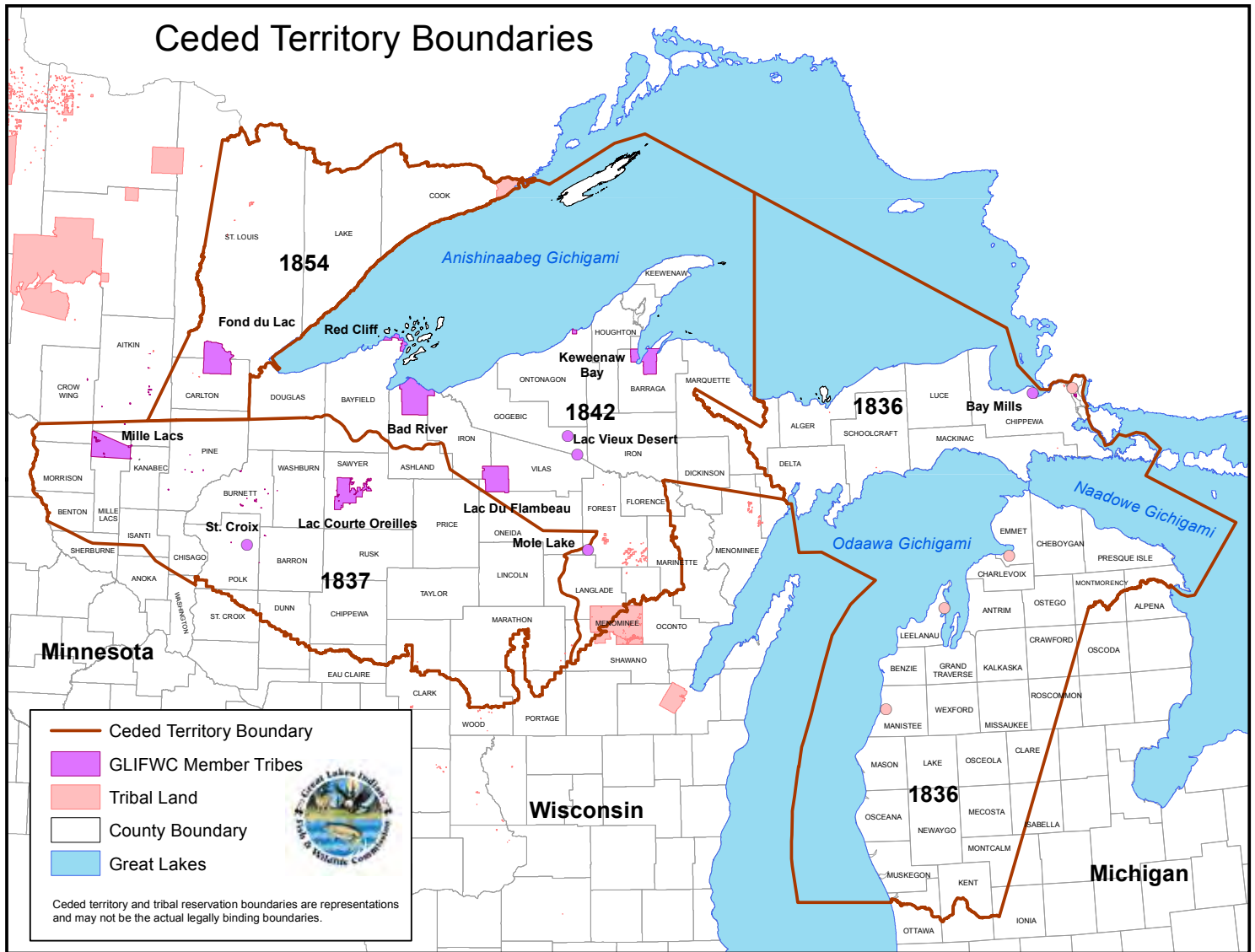
Treaty rights were reserved in a series of cession treaties, including the Treaty of 1836, ceding land in Michigan’s Upper and Lower Peninsulas and parts of the Great Lakes; the Treaty of 1837, ceding land in north central Wisconsin and east central Minnesota; the Treaty of 1842, ceding land in northern Michigan and Wisconsin and the western part of Lake Superior; and the Treaty of 1854, ceding land in northeastern Minnesota and creating reservations for many Ojibwe bands. (see map, page 4)

In legal terms, Ojibwe treaty rights are called *usufructuary rights*, which means the right to use property. Similar property rights are common in the United States. In Oklahoma, for instance, individuals sell their land but keep frailing rights.

This means they have the right to come onto the land and frail (or gather) pecans even though the land has been sold. It is also very common for individuals or governments to sell land but retain the mineral rights. This means the new owner has surface rights to the property (can build a house, farm and so on), but the holder of the mineral rights can drill or mine for minerals beneath the surface if he or she chooses.

State and federal courts have upheld the treaty rights of tribes in many significant court decisions across the nation. Several of those cases

*There are several terms used in reference to the Ojibwe people. In this booklet, the term Ojibwe will be used. The Ojibwe people often call themselves Anishinaabe which in their language means Indian person or original people. An anglicized term for Ojibwe commonly used is Chippewa. (GLIFWC uses **A Concise Dictionary of Minnesota Ojibwe** by John D. Nichols and Earl Nyholm as a language reference.)



have affirmed the treaty rights of the Ojibwe in the last forty years, including: the 1971 *Jondreau* decision, Michigan State Court; the 1972 *Gurnoe* decision, Wisconsin State Court; and the 1981 *U.S. v. Michigan (Fox)* decision, U.S. Federal District Court. All affirm tribal rights to fish in areas of the Great Lakes.

Decisions affirming inland hunting, fishing and gathering rights include the 1983 *Lac Courte Oreilles v. State of Wisconsin (LCO)* decision, also known as the *Voigt* decision, the 1997 *Mille Lacs* and *Fond du Lac* decisions in Minnesota's 1837 Ceded Territory, and the 1999 Supreme Court decision in favor of the Mille Lacs Band.

Most treaties were signed prior to the formation of the states of Michigan, Wisconsin and Minnesota. At the time there were no state

regulations over hunting, fishing and gathering activities.

As the territories became states and populations grew, the states passed laws governing hunting, fishing and gathering activities and enforced them against the Ojibwe people. Tribal members exercising off-reservation treaty rights were cited into state courts for violations of state conservation laws.

By the mid-1900s, tribes began to challenge in court the right of a state to enforce state law on off-reservation hunting, fishing and gathering activities in the Ceded Territories.

These legal challenges gave rise to the many federal and state court decisions which reaffirm Ojibwe treaty rights today. (See Appendix II)

Treaty history

In 1825 the Ojibwe participated in a treaty that defined the boundaries of the “Great Chipewewa Nation” and the “Great Sioux Nation.” In the 1825 Treaty, the United States recognized that the Ojibwe owned vast acres of what are now Minnesota, Wisconsin and Michigan.

The United States encouraged the signing of the 1825 Treaty in order to end continuing land disputes between the Ojibwe and the Sioux and secure a “peaceful frontier” for settlers. The treaty defined boundaries of land ownership for the Ojibwe.

Later, non-Indian interest in the mineral and timber resources in the midwest pushed the United States to enter into more treaties with the Ojibwe, such as the 1837 Treaty ceding lands in central Wisconsin and Minnesota, in order to secure land for mining and logging. In 1842 the Ojibwe ceded land north of the 1837 cession line in what is now northern Wisconsin and Michigan’s western Upper Peninsula. Provisions of the treaties did not indicate that the Ojibwe were to abandon their homelands. Instead, the government agreed that the Ojibwe could continue to “hunt, fish, and gather” in the Ceded Territories.

“The rights of Indian people to take fish and game and gather food are, and have historically been, an integral part of their subsistence as well as their culture and religious heritage. In turn they have formed a foundation for their trade and commerce. These rights were widely recognized in treaty negotiations and have been found by the courts to exist even where not specifically reserved in treaties.”

—American Indian Policy Review,
Commission of the
United States Congress, 1977

In the late 1840s, growing pressure from non-Indian settlement led to demands for the removal of the Ojibwe from their ceded lands. A disastrous effort at removal was orchestrated in February 1850 when President Zachary Taylor issued a Presidential Executive Order. Ojibwe residing on the south shore of Lake Superior were lured to the Minnesota Territory, left waiting at Sandy Lake as bitter winter weather approached, and then supplied with wholly inadequate and largely spoiled rations. Hundreds died.

Concerned about the federal removal policy, a delegation of Ojibwe, led by Chief Buffalo, traveled to Washington, D.C. in 1852 to petition Congress and President Fillmore for permanent homelands. The removal effort was abandoned in 1852 in the face of widespread protests from Indians and non-Indians alike. Federal courts have since found the Executive Order for removal to be invalid.

In the subsequent 1854 Treaty, more Ojibwe land was ceded in northeastern Minnesota. Reservations were also established in the 1837, 1842 and 1854 Ceded Territories where the Ojibwe people would be free from non-Indian intrusions and further threats of removal. The Mille Lacs reservation was established in the 1855 Treaty of Peace and Friendship.



Ziinziibaakwad—maple sugar. Fred and Mary Day, Mille Lacs Band of Ojibwe, make maple sugar circa 1948. (Monroe P. Killy photo, Minnesota Historical Society)

“Self-government is not a new or radical idea. Rather, it is one of the oldest staple ingredients of the American way of life. Indians in this country enjoyed self-government long before European immigrants who came to these shores did. It took the white colonists north of the Rio Grande about 170 years to rid themselves of the traditional pattern of the divine right of kings... and to substitute the less efficient but more satisfying Indian pattern of self-government. South of the Rio Grande the process took more than three centuries, and there are some who are still skeptical as to the completeness of the shift.”

—Felix Cohen,

“The Legal Conscience”

Yale University Press, Inc., 1960

As settlement grew, the vast territories of the midwest became the states of Michigan, Wisconsin and Minnesota, each with its own sovereign powers and ability to regulate its citizenry. Some territory of the Ojibwe nation was artificially divided by these state boundaries, and consequently, by the regulations that each state imposed upon the Ojibwe people within its boundaries.

Agreements made with the federal government in treaties were forgotten or set aside by state governments as they imposed state regulations on hunting, fishing and gathering activities within state boundaries. Ojibwe band members exercising treaty rights off-reservation were arrested and prosecuted under state law until the Ojibwe bands took their treaty claims into state and federal courts and ultimately won.

Lac du Flambeau elder and long-time tribal leader Tom Maulson smokes an Opwaagan (Pipe) prior to a 2013 hearing in U.S. District Court, Western District, Madison, on night hunting waawaashkeshi (deer) under treaty.

Tribal sovereignty

Understanding treaty rights requires understanding tribal sovereignty. Sovereignty refers to the right of inherent self-government and self-determination, or the freedom from external control.

When the European countries first began to occupy the land that is now the United States, they dealt with the native Indian tribes as sovereign governments under the guidelines of international law.

The tribes were respected as sovereign nations. When the United States became independent of England and became sovereign itself, the U.S. government continued to deal with the native tribes on a nation-to-nation basis, respecting the sovereignty of the tribes.

During the treaty era of United States history, the United States entered into many treaty agreements with the tribes. Although many U.S. citizens today believe that all tribes were conquered by the United States, the U.S. government and tribes actually sought to avoid conflict in many instances through the treaty-making process. In the case of the Ojibwe, the treaties resolved land issues without the necessity of war.





Onaakonigewin—judged in court. All eleven GLIFWC member bands have tribal courts. Lac du Flambeau Tribal Judge Garold Smith prepares to hold court. Inset: As sovereign nations, tribes provide a range of services to their members.

Today, the federally-recognized tribes in the United States still maintain certain aspects of their inherent sovereignty and are considered by the United States Supreme Court as “domestic, dependent nations.” Tribes have been brought under the protection of the United States and are no longer fully independent of the United States.

Nevertheless, they retain certain powers of sovereignty, including the right to determine tribal membership and to regulate themselves in the exercise of treaty rights.

In the 1934 Indian Reorganization Act, Congress intended to better organize tribal governments through the establishment of tribal constitutions, tribal councils and an election process. The Act fostered tribal self-regulation and decision-making, but often at the price of more traditional forms of tribal governance.

Today, many Ojibwe tribes exercise sovereignty by regulating off-reservation, treaty harvests. Tribal conservation codes govern off-reservation seasons and are enforced by tribal or state conservation wardens. Violators are cited into and tried in tribal courts.

Tribal government

Tribes maintain elected governments which actively pursue the objectives of sovereignty, self-determination and self-regulation. This means that tribal governments make their own decisions regarding the needs and goals of their tribes, establish tribal laws and ordinances, and make sure those ordinances are enforced.

The sovereign power of tribes is greatest over tribal members and tribal lands. The powers of tribes over non-Indians and non-Indian lands within reservations remains the subject of legal and political debate.

The tribal governing body is often referred to as a tribal council. On some reservations it may be called a reservation business committee (RBC) or tribal governing board. The number serving on a council or RBC varies according to each tribal constitution as do the length of terms.

Like other governments within the United States, tribal governments are concerned with a variety of community issues: economic development, social programs, law enforcement, natural

resource conservation, education, health, roads, water systems, and waste disposal issues, to mention a few. They seek to serve the needs of their constituents and are answerable to the tribal members.

“Treaties are at the heart of understanding tribal governments and the unique political status tribes and Indian people have in comparison to others. Treaty rights are not a handshake or a handout. They are binding, reciprocal commitments between two sovereigns. Powers lawfully vested in an Indian tribe through treaties are not delegated by Congress, but rather inherent powers of a sovereign which have never been extinguished.

—James Williams Jr.,
GLIFWC Board of Commissioners Chairman &
Lac Vieux Desert Band Tribal Chairman

Treaty rights in Wisconsin, Minnesota and Michigan

Treaty rights are exercised today in Wisconsin, Minnesota and Michigan in various ways. In some instances, tribes exercise their rights under federal court orders. This is the case in the Wisconsin 1837 and 1842 Ceded Territories and in the Minnesota 1837 Ceded Territory. In other instances, tribes exercise their rights as a result of state court rulings, such as in the Wisconsin and Michigan waters of Lake Superior. In some cases, litigation has been avoided altogether in favor of intergovernmental agreements that acknowledge and implement Ceded Territory, treaty-reserved rights. For example, all GLIFWC member tribes are signatories to a Memorandum of Under-

standing with the U.S. Forest Service that governs the tribes' gathering rights on four National Forests within the Ceded Territory.

The extent of a Ceded Territory does not always control what court will define the treaty rights. For example, the 1837 Ceded Territory is located both in Wisconsin and Minnesota. The *LCO* case affirmed the rights in the Wisconsin portion of the Ceded Territory and prevented the State of Wisconsin from interfering with the rights. The *Mille Lacs and Fond du Lac* cases affirmed the rights in the Minnesota portion of the Ceded Territory and prevented the State of Minnesota from interfering with the rights.





Red Cliff commercial fisherman Eric Peterson brings in Gichigami adikameg (Lake Superior whitefish) aboard his fishing tug. His family has been in the commercial fishing business for generations.

Treaty rights in Wisconsin

Six Ojibwe bands in Wisconsin exercise treaty rights in Wisconsin Ceded Territories as a result of the *LCO* ruling, and two of GLIFWC's member bands exercise commercial fishing rights in the Wisconsin waters of Lake Superior under the precedent of the *Gurnoe* decision. All treaty harvests are closely monitored through tribal regulatory systems.

The Lake Superior treaty fishery in Wisconsin

The Lake Superior treaty commercial fishery in Wisconsin targets whitefish, lake trout and herring. The fishery has long been important to the bands both for income and subsistence.

The Red Cliff and Bad River Bands exercise treaty fishing rights in Lake Superior under 10-year agreements with the State of Wisconsin which regulate the treaty commercial fishery. These agreements were negotiated after a 1972 Wisconsin Supreme Court decision, known as the *Gurnoe* decision, affirmed the reservation-based rights as provided in the Treaty of 1854.

The present agreement determines harvest quotas within specified fishing zones. It also establishes a number of effort and gear requirements and requires an exchange of biological information between the bands and the state.

Tribal regulations implementing the agreement impose these requirements on tribal members for both commercial and subsistence fishing. These regulations are enforced by tribal and GLIFWC wardens into tribal courts.

Exercising treaty rights in Wisconsin under LCO

Under the *LCO* case, the tribes first exercised their rights under a series of "interim agreements" negotiated with the Wisconsin Department of Natural Resources (WDNR) while the case was pending in federal court. Now, the tribes exercise their rights under the system of tribal self-regulation and cooperative management that the federal court ultimately approved.

From the 1983 Seventh Circuit ruling affirming the treaty rights until the 1991 final judgment in *LCO*, the tribes, through the Voigt Intertribal Task Force (VITF), and the State of Wisconsin, through the WDNR, negotiated over 40 interim season agreements. These agreements covered the harvest of fish, deer, small game, migratory birds, bear and wild rice in the Wisconsin 1837 and 1842 Ceded Territories (except Lake Superior). They established guidelines for each off-reservation season that the tribes enacted into tribal conservation codes.

The first interim season agreement provided for deer hunting in the fall of 1983. Although the tribes harvested only around 700 deer during the first season, this initial tribal harvest under the *LCO* decision engendered public controversy and misunderstanding surrounding the treaty rights.

The first spring spearing interim agreement was reached in 1985. Spring spearing, when tribal members are required to use designated boat landings, quickly became the focal point for public protest.

As the *LCO* case proceeded through its various subphases dealing with particular species and activities, the need for interim agreements disappeared. Each court ruling brought approval of more permanent regulations for governing treaty harvest, and the tribes enacted these regulations in their off-reservation conservation codes.

The tribes' off-reservation conservation codes are one part of a larger, tribal Ceded Territory management system. The elements of this system are:

Chippewa Intertribal Co-management Agreement: This is formally called the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory. Through this agreement, the tribes pledge to work together to make sure that they comply with the *LCO* case rulings. The tribes recognize that they share the treaty rights and that intertribal cooperation is necessary.

Natural Resource Management Plans: The tribes adopted Ceded Territory management plans for walleye, muskellunge, deer and bear. These plans lay out the tribes' shared management goals and set forth a common understanding of the types of regulations necessary to meet biological requirements.

Harvest Declaration Protocols: The tribes adopted harvest declaration protocols for fish (walleye and muskellunge), antlerless deer, bear, otter, fisher and migratory birds. The protocols require the tribes to tell the WDNR what the tribes intend to harvest in the upcoming seasons. If necessary, the state can then adjust state harvests to make sure that total harvest stays within biologically safe levels.

Conservation Codes: As part of the *LCO* case, the tribes adopted a model, off-reservation conservation code that contains the required regulations. The model code outlines the minimum level of regulation that the tribes must adopt to comply with the court's rulings. Each tribe must enact its own code that is no less restrictive than the model code. A tribe can choose to be more restrictive.

Tribal off-reservation harvest for any resource, be it fish, fowl, furbearer or plant, is governed by these conservation codes. The codes set seasons, define allowable harvest gear and methods, impose permit requirements, and set bag limits. They also impose a variety of other restrictions important for conservation of the resources, for public health and safety, and for meeting tribal needs.

The *LCO* decision

The *LCO* ruling applies to the hunting, fishing and gathering rights of the Ojibwe on ceded lands covering approximately one-third of northern Wisconsin, over 12 million acres, including land and water.

The *LCO* case in Wisconsin began in 1973 when the *LCO* Band of Chippewa filed suit against the State of Wisconsin for interfering with tribal hunting, fishing and gathering activities guaranteed in the Treaties of 1837 and 1842.

LCO lost in Federal District Court with a 1978 Summary Judgment in favor of the State of Wisconsin, and the action was dismissed. The 1978 Judgment said that all rights under the treaties had been revoked by the Treaty of 1854, which established *LCO*'s reservation.



Omaamiginaanaa-zhingobaandagoon—gathering balsam. For Lac du Flambeau zhingob (balsam) harvesters Clyde Mann (left) and Ken Jack, zhingob boughs are a source of seasonal income.

However, LCO appealed, and in 1983 the Seventh Circuit Court of Appeals reversed the District Court's ruling, holding that the rights reserved by the Treaties of 1837 and 1842 had not been revoked or terminated and continue to exist.

The Appellate Court returned the case to District Court for further proceedings to determine: 1) the scope of the treaty rights; 2) the extent to which the state may regulate the exercise of those rights; and 3) what damages, if any, the tribes may recover as a result of the state's infringement of the treaty rights.

The State of Wisconsin petitioned the United States Supreme Court to review the Seventh Circuit Court's decision. However, the Supreme Court chose not to review the case, leaving the Seventh Circuit's decision intact.

Five other Wisconsin Ojibwe bands joined the lawsuit, including the Bad River, Lac du Flambeau, Sokaogon/Mole Lake, Red Cliff, and St. Croix Bands. The six plaintiff tribes proceeded with the case in the District Court to further define the treaty right.

The District Court divided the proceedings into three phases:

Phase I: Declaratory Phase—determination of the nature and scope of the treaty rights;

Phase II: Regulatory Phase—determination of the permissible scope of state regulation;

Phase III: Damages Phase—amount of damages, if any, to which the tribes are entitled for infringement on treaty rights.

Nature and scope of the rights: Phase I

Phase I proceedings to determine the nature and scope of the treaty rights were held in December 1985 before Federal Judge James Doyle. Judge Doyle ruled that all resources in the Ceded Territory could be harvested by tribal members using all modern methods of harvest. Judge Doyle further ruled that the resources could be personally consumed, traded, or sold in the modern day market economy. Finally, Doyle held that the tribes are entitled to as much of the resources as will ensure their members a modest living.

Upon Judge Doyle's death in 1987, the case was assigned to Judge Barbara Crabb. The state sought to appeal Judge Doyle's ruling. However, Judge Crabb denied this request and proceeded with the case at the District Court level.

Tribal self-regulation: Phase II

On August 21, 1987, Judge Crabb reaffirmed the standard principles apparent in other treaty rights cases from throughout the country. She held that the state may regulate in the interests of conservation, provided those regulations: 1) are reasonable and necessary for the conservation of a species or resource; 2) do not discriminate against Indians; and 3) are the least restrictive alternative available.

Judge Crabb also ruled that the state may impose regulations if they are reasonable and necessary to protect public health and safety. However, she held that the tribes possess the authority to regulate their members and that effective tribal self-regulation precludes state regulation.

By agreement of all parties and of the court, Phase II of the LCO litigation was divided into "sub-phases" to address regulatory issues specific to each resource. They are as follows:

Walleye/muskellunge

The subphase proceedings that focused on walleye and muskellunge harvests were held in October 1988. Many of the issues were resolved by mutual agreement prior to the trial.

On March 3, 1989, Judge Crabb held that, as long as the tribes adopted regulations incorporating the biologically necessary conditions established by the state at trial, including the Safe Harvest Level (SHL) calculations, (see page 13) the tribes would be allowed to regulate their harvest of walleye and muskellunge.

Deer harvest/allocation

On May 9, 1990, Judge Crabb issued a decision resulting from the deer subphase and from various other issues presented for her resolution. As in her decision on walleye/muskellunge harvests, Judge Crabb said that state law could not be enforced provided that the tribes enact a system of regulations consistent with her decision. The tribes have done so.

The most significant aspect of the 1990 deer decision was Judge Crabb's ruling that the tribal allocation of treaty resources was a maximum of 50% of the resource available for harvest.

Other fish species

As to fish species other than walleye and muskellunge, the tribes and the state agreed that quotas were not necessary at this time. However, if the harvest increases significantly, a quota system for the species involved may be implemented.

Timber harvest

On February 21, 1991, Judge Crabb issued her timber decision. She ruled that the Ojibwe tribes did not reserve a treaty right to harvest timber commercially. However, the tribes did have a treaty right to gather miscellaneous forest products such as maple sap, birch bark, and fire wood, subject to non-discriminatory state and county regulations.

Damages: Phase III

In 1990 Judge Crabb ruled on the damages phase of the litigation, deciding that the tribes were not entitled to any damages.

No appeal: Litigation concludes

Later in 1991 both the tribes and the State of Wisconsin announced their decisions not to appeal any of the three phases of the LCO decision. With no further appeals, the lengthy litigation, begun in 1973 when the LCO Band first filed suit, came to a conclusion.

Litigation re-opened

In 2013 an aspect of the “Deer Trial” was reopened in Federal District Court, with six plaintiff Ojibwe tribes in Wisconsin seeking relief from a 1990 judgment prohibiting night hunting of deer.

Judge Crabb ruled that circumstances had not changed enough to warrant a review of her initial decision, and the tribes appealed. The

Seventh Circuit Court of Appeals overturned Judge Crabb’s decision in October 2014, ruling that circumstances had changed sufficiently and that the evidence that had been presented suggested that night hunting was unlikely to create a serious safety problem.

In October 2015, after the state unsuccessfully appealed to the U.S. Supreme Court, the District Court approved the tribes’ night hunting regulations.

The treaty spring spearing season under LCO

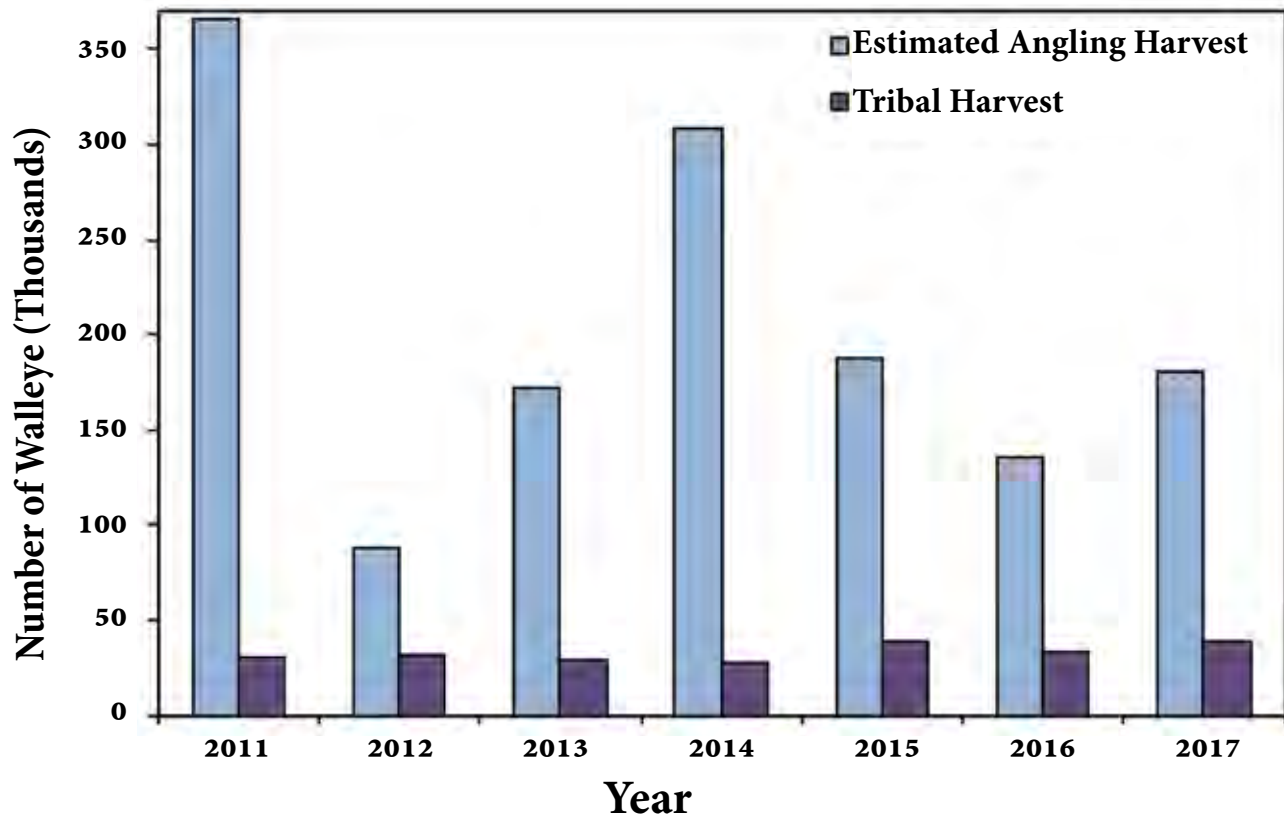
Since 1985, tribal members have exercised spring spearing within a system that not only provides for conservative harvest quotas, but also for intense monitoring of the catch. Although spring spearing was at one time the subject of controversy, seasons have been largely peaceful in recent years. (See The boat landing protest era in Wisconsin, page 28)

All landings open to spring spearing are monitored by biological and enforcement staff on a nightly basis. Permits are issued to tribal members which specify lake and bag limits for each night. Before leaving the landing with a night’s catch, fish are counted and measured to ensure compliance with the bag limit and size restrictions.

Waswaagonigewin—spearing by torchlight. Mole Lake/Sokaogon spearfisherman Travis Thorbahn lifts a speared ogaa (walleye) into his jiimaan (boat). Along with Josh and Leelyn VanZile, Thorbahn experienced good fishing on Long Lake in northeast Wisconsin during a treaty, spring spearing season.



Wisconsin Tribal and Estimated Angling Walleye Harvest



The Safe Harvest Level (SHL) system

Each spring tribes in Wisconsin are required to make declarations as to the number of walleye and muskellunge they intend to take from each lake they name for spearing. The quotas are determined on the basis of a SHL figure determined for each lake.

The “Safe Harvest Level” system was proposed by the State of Wisconsin and adopted by the court during the *LCO* litigation. The formula is used by biologists to calculate the number of walleye and muskellunge that can be safely harvested from each Ceded Territory lake.

The safe harvest system can be understood fairly easily. As agreed to by GLIFWC and WDNR biologists, 35 percent of a lake’s adult walleye population can be removed annually without jeopardizing the ability of that population to maintain itself. This 35 percent rate of exploitation can also be called the Total Allowable Catch (TAC).

The SHL figure is, on the average, one-third of the TAC, and as such, is a very conservative

More than 80% of the treaty walleye harvest is comprised of male fish. Large adult females—crucial to spawning success—spend very little time in the shallow waters where spring fishing takes place, while males typically linger, seeking reproduction opportunities.

harvest limit. In theory, taking 100 percent of the safe harvest has only a one in forty chance of exceeding the TAC. This management system ensures that spearfishing is highly unlikely to seriously impact fish populations even during natural downturns in population.

The fact that tribal quotas are typically less than 60 percent of the safe harvest level makes it even more unlikely that any harm will occur.

It is important to remember that in relation to the state-licensed harvest, the off-reservation harvests of popular sport species, such as walleye and muskellunge, have been small. Data for all of the off-reservation spearing seasons in Wisconsin demonstrate that the bands have never depleted or overharvested any resource.

Treaty rights in Minnesota

In 1999 the United States Supreme Court affirmed lower court rulings in favor of the bands which retained treaty rights in Minnesota's 1837 Treaty Ceded Territory. This included the Fond du Lac and Mille Lacs Bands in Minnesota and the Bad River, Lac Courte Oreilles, Lac du Flambeau, Mole Lake, Red Cliff and St. Croix Bands in Wisconsin. The Supreme Court ruling came after nine years of litigation.

In addition, the Fond du Lac Band's 1854 Treaty rights have been recognized by federal courts. They are currently in the regulatory phase of the litigation. The Bois Forte and Grand Portage Bands exercise treaty rights in Minnesota's 1854 Ceded Territory under an agreement with the state and assisted by the 1854 Treaty Authority.

Minnesota 1837 Treaty cases: *Mille Lacs Band v. State of Minnesota* and *Fond du Lac v. Carlson*

The Mille Lacs and Fond du Lac Bands each filed a lawsuit seeking affirmation of their 1837 Treaty rights in Minnesota. Mille Lacs filed its suit on August 13, 1990, and Fond du Lac filed its suit on September 30, 1992. The Fond du Lac lawsuit also involved the tribe's 1854 Treaty claims, as discussed on the following page.

These two lawsuits traveled parallel paths through the federal courts, having been assigned to different judges, and eventually were consolidated on certain issues.

Both sought a judgment declaring that the 1837 Ceded Territory rights continued to exist, defining the nature and scope of the rights, and defining the permissible scope, if any, of state regulation of the treaty harvest. They also sought a court order prohibiting enforcement of state fish and game laws against band members, except as specified by the court.

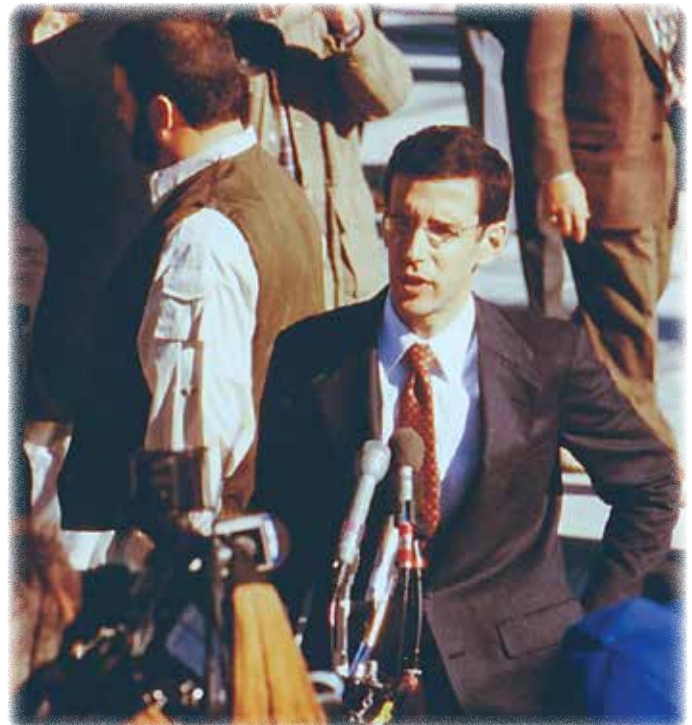
In terms of timing, the *Mille Lacs* case proceeded through the court first and drew the

majority of public attention. In 1993, the Eighth Circuit Court of Appeals allowed nine Minnesota counties and six individuals to join in the case against the band.

In 1994 after many months of negotiations, an attempted effort to resolve the *Mille Lacs* case through an out-of-court settlement failed. The proposed agreement was approved by the Mille Lacs Band, but was rejected by the State legislature. The agreement would have ended the *Mille Lacs* case. With its rejection, the litigation proceeded, with decisions ultimately being rendered in the band's favor.

The case was divided into two phases. Phase I was to determine whether the rights continued to exist, the general nature of the rights, and where the rights could be exercised. If the rights were found to continue, Phase II would address issues of resource allocation between treaty and non-treaty harvests and the validity of particular measures affecting the exercise of the rights.

A 1994 ruling in Phase I of the *Mille Lacs* case by Judge Diana Murphy affirmed the 1837 Treaty rights and found that the rights included the taking of resources for commercial purpose; were not limited to any particular methods, techniques or gear; and were subject to state regulation only to the extent reasonable and necessary for conservation, public health or public safety purposes.



Mark Slonim, attorney for the Mille Lacs Band of Ojibwe, being interviewed outside the U.S. Supreme Court following the Minnesota v Mille Lacs Band hearing, December 1998.

GLIFWC is one of five intertribal commissions in the United States. All assist their member tribes in the implementation of off-reservation treaty rights. Other commissions include: the 1854 Treaty Authority (Minnesota), the Chippewa Ottawa Resource Authority (CORA) (Michigan), the Northwest Indian Fisheries Commission (NWIFC) (Washington), and the Columbia River Inter-Tribal Fish Commission CRITFC (Oregon, Washington and Idaho).

The court also ruled that the band could prevent state regulation if it enacted its own regulations that met conservation, public health and public safety concerns. The court limited the exercise of treaty harvest on private lands to those lands open to public hunting by state law, such as tree growth tax lands. This ruling set the stage for Phase II of the *Mille Lacs* case.

In 1995, before Phase II proceeded, the six Wisconsin Ojibwe bands were allowed to join the case in 1995. These are the same bands whose treaty rights were affirmed in the *LCO* case for the Wisconsin 1837 Ceded Territory.

The *Mille Lacs* and *Fond du Lac* cases continued on separate tracks until the summer of 1996. At about the same time Phase II of *Mille Lacs* litigation was to begin, Judge Richard Kyle affirmed the *Fond du Lac* Band's 1837 Treaty rights.

Judge Kyle ruled that the *Fond du Lac* Band's rights in the 1837 Ceded Territory were the same as those that Judge Murphy found to exist for the *Mille Lacs* Band in her 1994 ruling. At the state's request, the court then joined the 1837 Treaty issues of the two cases for Phase II purposes and for these issues the cases proceeded on a consolidated basis.

In Phase II, the *Mille Lacs*, *Fond du Lac* and six Wisconsin bands cooperatively developed a proposed set of tribal regulations for the Minnesota Ceded Territory that was eventually approved by the court.

On January 29, 1997, Judge Michael Davis issued a ruling on Phase II issues and ordered that final judgment be entered in the *Mille Lacs* case. The court approved a stipulation between the bands and the state that set forth agreed-upon tribal regulations to govern the exercise of the rights, and, over the objection of the state, the court also approved two other regulations proposed by the tribes—one allowing deer hunting

in December at night while shining over bait and another allowing the use of gillnets in several lakes under 1,000 acres in size.

The court ruled that if the bands properly enact these regulations into tribal law and effectively enforce them, state laws do not apply. It also ruled that an allocation of natural resources between treaty and non-treaty harvests was unnecessary at the time.

Judge Davis also approved a dispute resolution process agreed to by the bands and state. This process called for the establishment of two committees, one for fishery issues and the other for wildlife and wild plant issues. These committees would be the primary cooperative management bodies where information would be exchanged, possible regulatory changes would be discussed, and issues would be resolved.

The bands and state agreed to mediate any unresolved disputes. If mediation fails, either party may ask the court to resolve the matter. The court agreed to maintain continuing jurisdiction over these matters.

The state, counties and landowners all appealed Judge Murphy's and Judge Davis' decisions in the *Mille Lacs* case. In April 1997, the Eighth Circuit Court of Appeals suspended treaty harvest while the case was on appeal, except for limited ceremonial fishing for the *Mille Lacs* Band.

On August 26, 1997, the Appellate Court upheld the lower court decisions in their entirety and in October 1997 lifted the suspension on treaty harvest. In November 1997 the Eighth Circuit rejected requests by the state, counties and landowners to reconsider its ruling.

At Minnesota's request, the United States Supreme Court agreed to review lower court rulings regarding the 1855 Treaty, the 1850 Removal Order and the effect of Minnesota's statehood on the bands' treaty rights.

On March 24, 1999, the Supreme Court upheld the treaty rights of the Ojibwe in Minnesota's 1837 Treaty Ceded Territory. This ruling effectively ended all debate over the existence of the bands' 1837 Treaty rights in Minnesota.



Implementation of the Minnesota 1837 Treaty rights

Based on the January 1997 District Court ruling, the exercise of the 1837 Treaty rights is governed by a number of documents and systems. These include: 1) the bands' natural resource management plans; 2) the Minnesota 1837 Ceded Territory Conservation Codes; and 3) tribal/state cooperative management agreements. Each of these is reviewed below.

Management plans structure 1837 Treaty harvest

As provided for in the *Mille Lacs* case 1997 final judgment, the bands adopted two management plans—one applying to fishery issues and the other applying to wildlife and wild plant issues. Both were initial five-year plans and were followed by second multi-year plans.

With the exception of a small harvest for ceremonial use, no exercise of spring spearing and netting was allowed in 1997 due to the court-ordered stay. Therefore, in March 1998 the bands adopted a motion that changed the plan to begin with the 1998 season.

These plans provide the structure for treaty harvest while safeguarding the resources. They establish the basis for regulations contained in band, Ceded Territory conservation codes, particularly as to allowable harvest methods and the amount of species available for treaty harvest.

In some instances, such as for walleye and antlerless deer, the plans set low initial treaty harvest ceilings that have gradually increased in the following years.

While the plans provide for a limited, gradual implementation of the rights, they specifically do not limit or waive the full extent of the treaty rights.

Bagida'waawin—fishing with a net. Bad River treaty fishermen, Charlie Thannum, left, and his cousin Charlie Hornett, lift a net in Minnesota's Mille Lacs Lake while fishing for oga (walleye).

Fishery management plan

The fishery management plan establishes the framework for fishing in all waters in the Ceded Territory for all species and methods.

Particular provisions apply to Mille Lacs Lake, to all other lakes, and to rivers. The plan also contains an intertribal agreement, much like the *LCO* harvest declaration protocols, that describes how the bands will work together to declare their harvests for the upcoming fishing year.

Methods

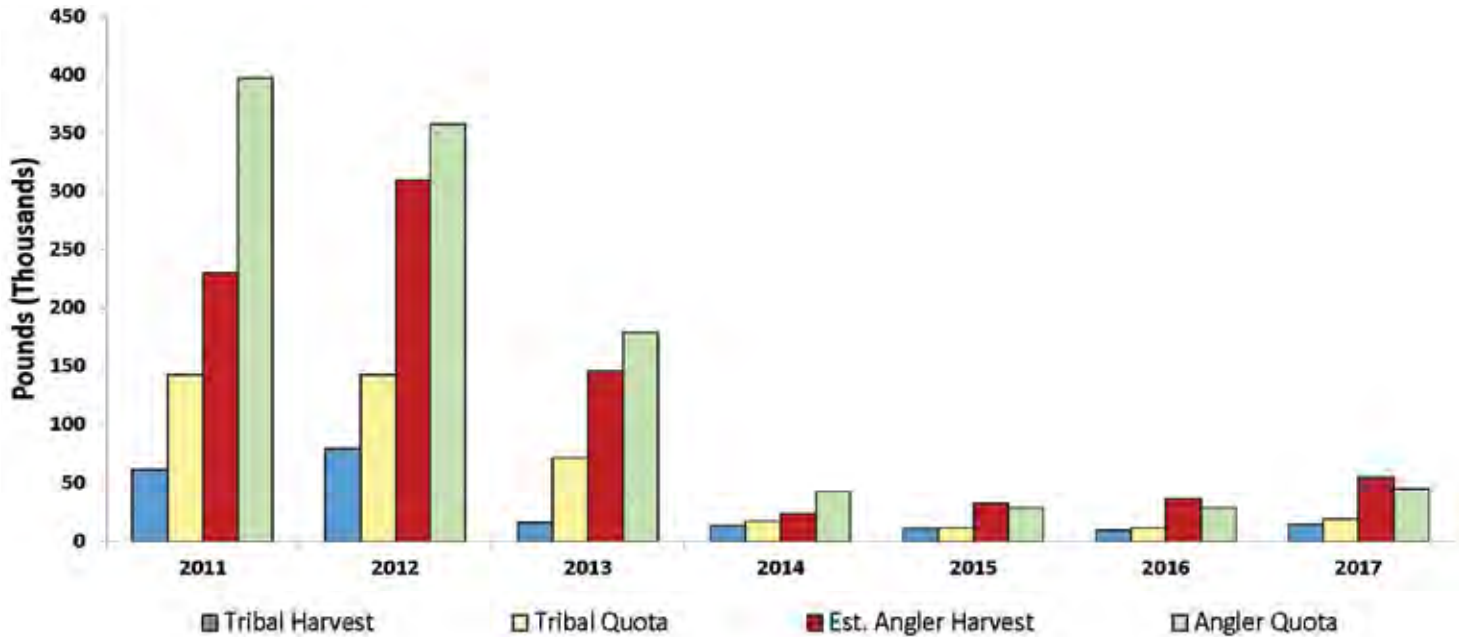
The plan allows for a number of fishing methods that may be used throughout the Ceded Territory. These include hook-and-line, open-water and ice spearing, setlines, set or bank poles, and various nets including gillnets, fyke nets and seines.

Some of these methods are limited to certain species and/or locations. In addition, some harvest methods are governed by daily bag limits, while other methods are governed by season caps or quotas.



Mille Lacs Lake 2011-2017

Tribal Harvest and Estimated State Angler Harvest of Walleye



1837 Treaty spearing & netting Mille Lacs Lake

For open-water spearing and netting in Mille Lacs Lake, the bands' principle objectives are: open-water walleye spearing, walleye netting, yellow perch netting, burbot netting, and tullibee netting. Walleye and yellow perch are managed by an annual quota which is divided between each of the bands selecting these methods. Northern pike are managed by a quota, also called a cap, which is also shared among the bands.

The Mille Lacs Lake treaty walleye harvest has been managed through a series of five-year treaty fisheries management plans since 1998. The eight participating Ojibwe tribes (two from Minnesota and six from Wisconsin) have incrementally increased their annual quota.

The first plan began in 1998 with a tribal quota of 40,000 pounds of walleye. Under the third five-year management plan, tribes were allowed an annual quota of 142,500 pounds to be shared by the eight tribes signatory to the 1837 Treaty. Individual tribal quotas are established, allotting each tribe a share of the overall quota.

From 2013-2016 fisheries officials managed Lake Mille Lacs ogaawag harvest quotas under single-year interim plans as the walleye population declined. The bands and state collaborated to sharply reduce mortality in adult fish, to stop

the decline and approved conservative five-year harvest management plans to allow the population to recover.

Water temperatures in Mille Lacs Lake reached a near-record high in July 2015, stressing the fish community. At that point, Minnesota Department of Natural Resources (MDNR) managers estimated that walleye hooking mortality was about 25 percent of released fish. Catch and release mortality numbers are added to the state quota, causing the numbers to climb.

The tribal net and spear fishery in Mille Lacs are strictly monitored with harvest numbers available daily. Tribal officials are prepared to close their fishery should the quota be met.

Both state and tribal fishery managers have been working diligently to understand the well-documented decline in the Mille Lacs walleye population. While the hatches are healthy, young walleye are not surviving to become adult walleye.

A Blue Ribbon Panel report released in 2014 highlighted a variety of factors that may be negatively impacting young walleye, such as cannibalism, decline in cool-water forage species like tullibees, and a myriad of impacts from invasive species like zebra mussels and spiny waterfleas. These exotic species both deplete food sources and increase water clarity, making small ogaawag more vulnerable to predation.



State and tribal biologists work together on a fall joint suspended gillnet survey in Mille Lacs Lake. The study, first undertaken in 2012, samples oga (walleye) at water column depths not normally sampled. Pulling a net are Ben Michaels (left), GLIFWC fisheries biologist, and Greg Berg, fisheries specialist with the Minnesota Department of Natural Resources.

Under the previous five-year plans, as well as interim plans, there has been no open-water spearing or netting for muskellunge in Mille Lacs Lake. Muskellunge incidentally caught in a net must be released if they appear capable of surviving, or turned over to the band authorities if not capable of surviving. As the northern pike population increased in recent years, tribal managers added expanded pike netting opportunities and established codes for open-water spearing. Prior to 2016, incidental netting harvest of northern pike was limited to 50% of the annual cap agreed to by the state and tribes.

Other lakes

As for lakes other than Mille Lacs Lake, the fishery plan authorizes open-water spearing, dip netting, fyke netting and seining in Ceded Territory lakes. In addition, gillnetting is authorized in all lakes over 1,000 acres as well as several others. Gillnetting for muskellunge and sturgeon is prohibited in these lakes.

Limited open-water spear and net fisheries can take place at what the plan refers to as “threshold” levels. Spearing or netting beyond these levels may take place only if a standard gillnet survey has been conducted within the previous 24 months and a harvestable surplus level has been established.

Rivers

Open-water spearing and fyke-netting are authorized for rivers, but no gillnetting in rivers is authorized. Lake sturgeon harvest is closed in rivers except for the St. Croix below Taylors Falls. During the spawning season, open-water spearing will be open on alternate days only. Muskellunge harvest in the Mississippi River may not exceed 10 per year.

Notification/harvest closures

No later than March 15 of each year, the bands notify the state of their declared open-water spearing and netting harvests for the upcoming fishing year, including the quotas and caps for each band’s open-water spear and net fishery.

The bands must also notify the Minnesota Department of Natural Resources no later than noon of the lakes or rivers designated for open-water spearing that night and of the location of any gillnetting activities. When a band’s quota for a species has been reached in any lake or river, spearing for that species in that particular body of water must stop.

When a band’s quota or cap for any species has been taken from a lake where gillnetting occurs, all gillnetting by that band in that lake must stop as well, unless another band agrees to release a portion of its quota or cap to that band.

Close monitoring of spearing and netting activities

Similar to the treaty spearing and netting under the LCO decision in Wisconsin, all open-water spearing and netting is strictly monitored by biological and enforcement staff. Spearing permits may not be issued unless a monitor is present at designated boat landings, and gillnetting may only take place if a monitor is available at a designated boat landing or at the location of the net lift.

All fish taken by open-water spearing or netting are identified to species, counted and weighed in the aggregate. Biological data from harvested fish are also collected.

Gillnetting

For treaty harvest using gillnets, the conservation code requires nets to be pulled twice a day, or more if water temperature concerns warrant it.

Netters are required to bring their catch to specified landings each day where biological staff are present to monitor the number and weight by species of all fish taken and record other data needed for fisheries management. In addition, conservation wardens from the Mille Lacs and Fond du Lac Bands, GLIFWC, and the MDNR monitor netters for compliance with the tribal conservation codes.

Under the bands' conservation code, the allowable mesh sizes (bar) that can be used by tribal netters are 1.25 to 1.75 inches, and gillnets cannot be larger than 100 feet long by four feet deep. In Mille Lacs Lake, the average length of walleye harvested by tribal netters from 1998-2012 was 17.7 inches. Because of spawning patterns in spring and other factors, most netted walleye have been males (91%), and a lesser percent females (7%) or unknown sex (2%).

Spearing

Spearers must use designated boat landings to launch and land and possess a nightly permit good for one lake and one night, which will include the bag limit selected by the band for that night and that lake.

Quota balances are adjusted each day by subtracting the total amount of fish taken on previous nights.

Size limits for tribal spearing have allowed only two walleye over 20 inches, one of which can be greater than 24 inches, to be taken under each permit. Tribal regulations can be changed by agreements between the tribes and the state.

In Mille Lacs Lake, the average length of walleye harvested by tribal spearers from 1998-2012 was 18.4 inches. Similar to netting, a majority of the walleye speared have been males (91%), and a lesser percent females (6%) or unknown sex (3%).

Giiwosewin—hunting. Lac du Flambeau member biskakone Johnson drags in a freshly harvested ayaabe (buck). Waawaashkeshi-wiiyaas (deer meat) remains an important source of food for many tribal members today.

Wildlife management plan

Five-year wildlife management plans provide for the harvest of bear, deer, wild turkeys, and furbearers in the 1837 cession area in Minnesota. In the first five-year span the bands agreed to manage many species on a quota basis, including bear, antlerless deer, wild turkey, fisher, bobcat, otter, and marten.

However, since no harvest of any wildlife species has required adjustments on the part of the state for its harvest, the state and the bands agreed that harvest quotas were not needed. In the second five-year plan, harvest thresholds were established for furbearers and wild turkeys. Similar changes were made for deer and moose in 2010. Under the threshold system there are no tribal quotas required unless tribal harvest exceeds a threshold value. If tribal harvest exceeds a threshold in one year, a tribal declaration, and thus a tribal quota, is required in the subsequent year. To date, no tribal threshold value has been exceeded.



Bucko Teeple, Bay Mills Indian Community member, harvested an omashkooz (elk) during an off-reservation treaty season in the 1836 Ceded Territory in Michigan's Lower Peninsula.

Treaty rights in Michigan

Several GLIFWC member tribes are exercising treaty rights in Michigan, both in the Great Lakes and inland. Some of this exercise is under the explicit provisions of court decisions and decrees that apply within Michigan.

Treaty fishing in Michigan's Lake Superior waters

The Keweenaw Bay, Red Cliff and Bad River Bands authorize treaty fishing in the 1842 Ceded Territory waters of Lake Superior in Michigan. This area includes a large portion of Lake Superior that lies off the shores of the western Upper Peninsula. In addition, Keweenaw Bay's reservation is located on Lake Superior and encompasses a portion of the lake. The 1971 *Jondreau* decision affirmed Keweenaw Bay's fishing rights in Lake Superior.

Fishing in Michigan's Lake Superior 1842 Treaty waters is governed by comprehensive tribal regulations. These regulations establish harvest quotas, set fishing seasons, establish permit requirements, and impose biological monitoring requirements. The regulations are enforced by tribal and GLIFWC wardens into tribal courts.

GLIFWC and tribal biologists conduct harvest monitoring activities and fish population assessments. This data is shared with other fishery managers around the Great Lakes. This allows for band/state cooperation to assess the status of the fishery resources and to set harvest quotas.

The Bay Mills Indian Community fishes in the waters of the 1836 Ceded Territory under the provisions of the *U.S. v. Michigan* federal court decision. That decision affirmed Bay Mills' fishing rights in the eastern part of Lake Superior and the northern parts of Lakes Huron



and Michigan. The *U.S. v. Michigan* decision also affirmed the rights of four other tribes—the Sault Ste. Marie Tribe of Chippewa, the Grand Traverse Band of Ottawa and Chippewa, the Little River Band of Ottawa and the Little Traverse Bay Bands of Ottawa—that are not members of GLIFWC.

The bands' 1836 rights on the Great Lakes are implemented under the 2000 Consent Decree, a 20-year agreement between the state and tribes that establishes a framework for the management and regulation of the fishery through the Chippewa Ottawa Resource Authority.

The 1836 Treaty rights in Michigan were the subject of a long series of court cases that encompassed both the Michigan State Supreme Court and United States Federal Courts. The litigation was between the State of Michigan and five tribes including the Bay Mills Indian Community; the Grand Traverse Band of Ottawa and Chippewa Indians; the Little River Band of Ottawa Indians; the Little Traverse Bay Bands of Odawa Indians; the Sault Ste. Marie Tribe of Chippewa Indians and the United States.

In a 1981 decision known as the *Fox* decision, District Judge Noel Fox wrote: “This court adopts the meaning of the 1836 treaty consistent with the canons of construction. Under the 1836 treaty of cession, the Indians granted a large tract of land and water area to the United States. At the same time they reserved the right to fish in the ceded waters of the Great Lakes.”

In 2000, the parties were able to resolve their long-standing differences concerning the implementation of tribal treaty-reserved fishing rights and agreed to a 20-year settlement. The agreement between the parties includes provisions regarding allocation, management, and regulation of state and tribal fisheries in the waters of Lakes Michigan, Huron and Superior ceded by the tribes in the 1836 Treaty. The parties have agreed to work cooperatively to resolve issues that arise during the term of the agreement through inter-governmental consultation between the tribes and the state.

An important aspect of the settlement is the creation of a Technical Fisheries Committee (TFC). The TFC is an inter-governmental body comprised of biologists that seeks to resolve issues using the best available science and strives for consensus among all parties.

Inland treaty rights in Michigan

Exercise of treaty rights in the 1842 inland Ceded Territory takes place under the rationale of decisions in other federal courts regarding Ceded Territories that extend into Michigan. The

1842 Ceded Territory extends across northern Wisconsin into Michigan’s Upper Peninsula.

While the *LCO* case specifically upheld the bands’ 1842 Treaty rights in Wisconsin, it is extremely likely that those same rights would be upheld in Michigan. Under the rationale of court cases interpreting the same or similar treaties in Wisconsin and Minnesota, band treaty regulations are designed to meet the state’s legitimate conservation public health and public safety concerns.

In October 2003, the State of Michigan requested the federal court to decide whether inland treaty rights in the 1836 Ceded Territory continue to exist, and if they do, where they can be exercised. In 2005, the parties explored the willingness of everyone to resolve all the issues related to 1836 Treaty inland rights by negotiation rather than litigation. Their efforts were finalized in a Consent Decree in September 2007.

In the Consent Decree, Michigan acknowledges permanent recognition of the tribes’ “Inland Article 13 Rights.” It also creates two categories of land and inland waters: those on which tribal members are subject to tribal seasons and those on which tribal members are subject to state seasons. Limited ceremonial use permits can be utilized anywhere in the 1836 cession area regardless of season but require the consent of the private landowner if used on private lands. The Consent Decree establishes that all activities of tribal members—whether hunting, fishing, trapping, or gathering—are subject to the exclusive regulation of their tribe. Tribal wardens have the primary responsibility to enforce these regulations, and violations are referred to the tribal court. The Consent Decree also provides for the allocation of scarce resources. (See Appendix II)



Tribal members Charlie Fox and Roger LaBine reseed manoomin (wild rice) in Lac Vieux Desert’s Rice Bay. Ojibwe people continue to rely on this traditional food and lead in manoomin enhancement in the Ceded Territories.

Great Lakes Indian Fish & Wildlife Commission

To assist them in effectively managing off-reservation resources and treaty seasons, the Ojibwe bands formed the Great Lakes Indian Fish & Wildlife Commission (GLIFWC). GLIFWC is an intertribal agency which facilitates intertribal co-management of off-reservation resources and treaty harvests in the 1837 and 1842 Ceded Territories in Wisconsin, the 1837 Ceded Territory in Minnesota and the 1836 and 1842 Ceded Territories in Michigan as well as treaty commercial fishing in Lake Superior.

GLIFWC is guided by its Board of Commissioners, composed of representatives from all member tribes, along with two standing committees, the Voigt Intertribal Task Force and the Great Lakes Indian Fisheries Committee. These committees advise the Board on issues relating to inland treaty rights and Lake Superior treaty fishing rights respectively.

Formed in 1984, GLIFWC's headquarters are located on the Bad River reservation in Wisconsin. Conservation officers are stationed near member reservations, and the Biological Services Division maintains a satellite office in Madison. GLIFWC maintains a permanent, full-time staff of about 83 employees, hiring seasonal part-time or temporary staff during seasons when additional help is required.

Biological Services Division

Both resource assessment and monitoring of treaty harvests are the responsibility of GLIFWC's Biological Services Division, which is divided into four sections, reflecting areas of primary concern to member tribes. These include the Lake Superior fishery, the inland fishery, wildlife/waterfowl/wild plants, and the environment.

Biological Services staff are involved with gathering and analyzing data and reviewing data collected by other agencies on the resources within public lands and waters of the Ceded Territories. This information and analysis provides a basis for member bands to make knowledgeable decisions regarding management of given resources, such as setting quotas and seasons for various species.

Each section of Biological Services focuses on specific areas of resource management:

The Great Lakes Section addresses issues pertaining to treaty-reserved rights on Gichigami (Lake Superior) and participates in inter-agency forums that involve all the Great Lakes. The section is concerned with all Lake Superior waters ceded in the Treaty of 1842. This area extends from the Minnesota/Wisconsin state line to the mouth of the Chocolay River near Marquette, Michigan, and includes tributaries which support anadromous giigoonh (fish). Staff monitor treaty commercial fishing harvests, carry out research activities, and perform annual stock assessments of fish populations.

The Inland Fisheries Section attends to fishery issues in the inland waters of the territory ceded by the 1836, 1837 and 1842 Treaties (except Lake Superior). Spring and fall walleye population surveys on speared, inland lakes and monitoring the tribal fish



Dewe'igan—Drum. GLIFWC Board of Commissioners' meetings open and close with the Dewe'igan.

John Coleman, GLIFWC environmental section leader, checks on water quality in a Lake Superior tributary near the Orvana Copperwood project in Michigan's Upper Peninsula.



photo by Cyrus Hester

harvests are primary responsibilities of inland fisheries staff.

The Wildlife Section works with wildlife including migratory birds, furbearers, waawaashkeshi (deer), and wild plants such as manoomin (wild rice) and wiigwaas (paper birch), within the public lands and waters of the 1836, 1837, 1842 and 1854 Ceded Territories. Monitoring of off-reservation wildlife and wild plant harvests is a primary responsibility for the section.

The Wildlife Section is also very much involved in restoration and enhancement efforts, such as wild rice reseeded and American marten management. GLIFWC has developed an effective invasive species program that incorporates education, inventory, control, and evaluation to manage invasive non-native plants. Studies of understory plants in the Chequamegon/Nicolet National Forest reflect tribal interest in the sustainability of various plants traditionally used by the Ojibwe people.

The Environmental Section addresses environmental concerns which impact any of the resources within treaty-Ceded Territories. This section is concerned with the health and integrity of ecosystems which sustain fish, wildlife and wild rice in territories ceded by GLIFWC member tribes.

In recent years, studies relating to the impact of proposed mining on treaty resources, mercury testing of walleye in speared lakes, and involvement with the Lake Superior Binational Program have been major areas of effort.

The activities of each section of the Biological Services Division are broken down into six strategies:

Inventory/classification/monitoring—Describing the extent, nature, and status of fish,

wildlife, and wild rice/wild plants of the Ceded Territories from the tribal perspective, utilizing current data from other resource agencies as available and applicable.

Harvest management—Monitoring off-reservation harvest and effort of tribal hunters, ricers, and fishermen, and the biological impacts of the harvest; assisting tribes in developing permit systems, quotas, or other means of managing harvests.

Enhancement—Investigating and implementing means by which tribes and GLIFWC can expand distribution and enhance the productivity of resources in the Ceded Territories.

Technical assistance to tribes—Providing technical assistance and advice to tribal governments regarding regulation and management of off-reservation fish, wildlife and wild plants, including technical assistance in negotiation and litigation.

Coordination and Liaison—Representing GLIFWC on interagency resource management committees and performing other liaison assignments as delegated by the Board of Commissioners.

Public Information—Maintaining communication with other natural resource agencies, tribal members who use treaty resources, the resource management professions, and the general public to ensure a technically proficient, well-respected resource management program.

Training and Professional Conferences—Attending professional conferences and training sessions to present information and to obtain information on relevant techniques and issues.

Gizhaadigewinini—game warden. A GLIFWC warden tags trapped nigigwag (otters) with CITES tags. CITES tags are a requirement under the Convention on the International Trade of Endangered Species (CITES), an international agreement aimed at protecting some species that are traded on the international market.

Off-reservation, treaty enforcement

GLIFWC's Enforcement Division is composed of 20 full-time wardens. All full-time wardens are fully trained and certified conservation officers.

GLIFWC wardens monitor tribal hunting, fishing and gathering activities on off-reservation ceded lands and waters.

Stationed near all member reservations except the Fond du Lac reservation, GLIFWC wardens enforce codes adopted by each tribal council for off-reservation treaty seasons both inland and for the tribal commercial fishery in Michigan waters of Lake Superior. With the exception of criminal cases, violations are cited into the appropriate tribal court system for prosecution. The Fond du Lac Band provides its own off-reservation enforcement officers.

In addition to seasonal enforcement duties, GLIFWC wardens participate in training sessions throughout the year in order to sharpen skills and keep current on enforcement issues.

As certified safety instructors, GLIFWC's law enforcement officers implement a community policing model that integrates outdoor skills and hunter, ATV, snowmobile and boater safety classes. With multiple programs, such as summer and winter camp, targeting tribal youth, they also offer conservation related programs to encourage learning outdoor skills and pursuing conservation and law enforcement careers.

GLIFWC officers work cooperatively with federal, state and local law enforcement officials. They have participated in joint rescue operations, marijuana grows in the Ceded Territory, and other investigations.



Planning & Development

The Planning and Development Division addresses the changing needs of member tribes in response to federal court rulings, increased demand for natural resources and social misperceptions held by the non-Indian community.

One critical focus area for the Division has been the tribal commercial fishery in Gichigami. For generations tribal commercial fishermen have made a living from the bountiful lake dating back to the early fur trader era. Currently, they supply fresh fish, such as lake trout, whitefish and herring, to numerous family-owned restaurants located throughout Minnesota, Wisconsin and Michigan. However, today tribal fishermen must compete in a global market. To meet this challenge, GLIFWC assisted tribal entrepreneurs in improving fish processing techniques, marketing capacity, and developing new value-added product lines.

Similarly, GLIFWC seeks to assist native businesses that rely on manoomin (wild rice). Helping these small, family owned-and-operated businesses become more efficient improves their opportunities for growth and provides entrepreneurship training for tribal youth.

In addition, Planning and Development has been awarded several grants from the Administration for Native Americans to implement Ojibwe language programs related to treaty harvesting activities as well as a program promoting the use of healthy, traditionally harvested foods.

Division of Intergovernmental Affairs

The Division of Intergovernmental Affairs (DIA) assists member bands in securing the recognition, implementation and protection of the rights that the tribes reserved in the treaties. DIA works with the tribes, for instance, to coordinate intertribal co-management and to develop tribal model codes and ordinances. Staff also assist in the negotiation of intergovernmental agreements that recognize the tribes' rights and specify how tribes will implement their off-reservation treaty harvests. This includes helping to ensure that the quality of the environment is protected.

The DIA also engages other governments when management or permitting decisions may impact the natural resources that are the subject of the tribes' treaty rights.

With regard to environmental management and protection, DIA coordinates GLIFWC's participation in a number of intergovernmental

And such of them as reside in the territory hereby ceded, shall have the right to hunt and fish therein, until otherwise ordered by the President.

—Article 11, Treaty of 1854

Great Lakes initiatives including the Binational Program to Restore and Protect Lake Superior. It also assists its tribes in analyzing the implications of development proposals that may impact the Ceded Territories, including mining.

Public Information

The Public Information Office (PIO) provides current, pertinent information to tribal members and the general public on treaty-related issues. Off-reservation seasons and regulations, issues which may impact treaty rights or harvest, and basic education on treaty rights and tribal sovereignty are the primary focus of public education efforts.

Using a variety of media, including the GLIFWC website, Facebook and *Mazina'igan* (a quarterly newspaper), PIO keeps the tribal and the general public informed of current issues and activities relating to treaty rights and also provides a tribal viewpoint. Publications such as brochures, booklets, posters and YouTube videos are also produced as resource materials and are available through the website.

PIO answers information requests, coordinates media interviews, provides educational presentations, maintains a regular mailing for the newspaper, distributes publications to member tribes as well as schools and libraries, and provides outreach at education conventions, fairs, schools, and pow-wows.

Resources are available at: www.glifwc.org/publications/index.html.



GLIFWC conducts public outreach at events such as education conventions and fairs. Warden Mike Burns talks elk and birch with a fairgoer at the Minnesota State Fair.

Partnering in resource management

The Ojibwe bands and GLIFWC work with state, federal and local organizations on resource management because the resources are shared. The Ceded Territories are vast and so are the natural resources within them.

Co-management efforts often result in a more comprehensive knowledge of those resources, building a better foundation for informed management decisions.

The assessment of walleye populations in Wisconsin by the Joint Assessment Steering Committee is a prime example of co-management in action. Fishery assessment crews and electrofishing boats from the U.S. Fish & Wildlife Service (USFWS); the WDNR; the Bad River, Mole Lake, and St. Croix Bands; and GLIFWC all participate in population surveys for walleye in Wisconsin's

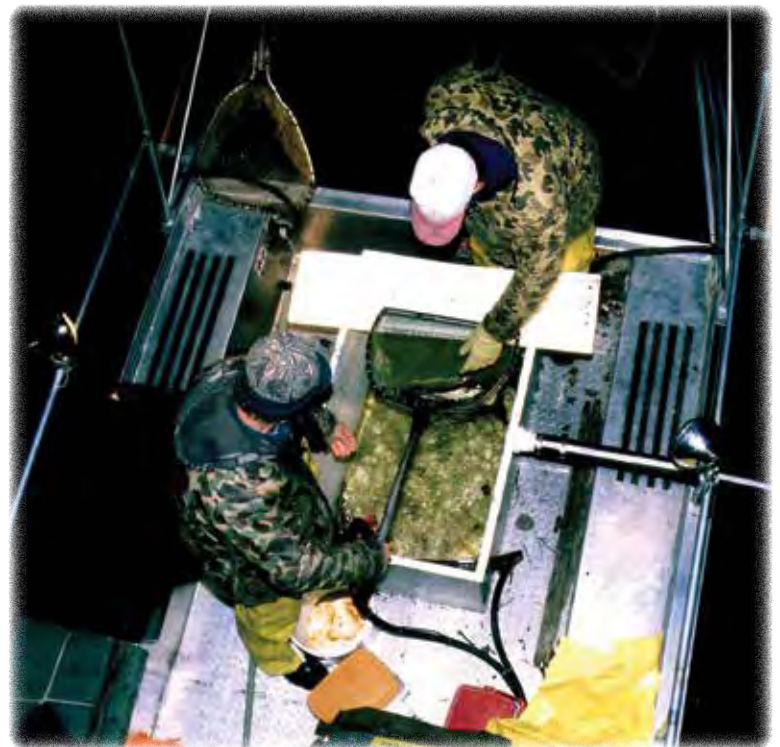
Ceded Territory every spring and fall. The data collected from these surveys are exchanged and reviewed through interagency technical committees and provides a basis for state and tribal biologists to monitor walleye populations and jointly calculate lake-specific safe harvest levels for them each year.

Joint walleye population assessments resulted from the work of the late Senator Daniel Inouye (D-Hawaii), formerly chairman of the Senate Committee on Indian Affairs, who sought to end the violent controversy in Wisconsin over spearfishing.

Inouye, with the support of the Wisconsin Congressional delegation, secured funding for a joint assessment of lakes in northern Wisconsin to determine whether tribal spearfishing was damaging the resources. The report from the joint assessment, entitled *Casting Light Upon the Waters*, was released in 1991 with the conclusion that tribal spearfishing was not damaging the fishery, but pressure on the fishery from many sources required ongoing, careful observation and assessment. This report is updated periodically and is entitled *Fishery Status Update*.



Spring and fall oгаа (walleye) assessments are performed on numerous walleye lakes throughout the Ceded Territory. In Wisconsin electrofishing crews from the Wisconsin Department of Natural Resources, the U.S. Fish and Wildlife Service, tribes, and GLIFWC work cooperatively to provide this comprehensive population assessment. The collected data are shared and used as a basis for establishing total allowable harvest figures. Pictured, a GLIFWC crew dips for fish, and a WDNR crew “works-up” its catch prior to releasing them back into the lake.



GLIFWC and its member bands have found numerous opportunities to work jointly with other agencies or organizations on a wide variety of resource management projects. For example, GLIFWC:

- Cooperates with the USFWS Sea Lamprey Control Program to assess sea lamprey populations in tributaries to Lake Superior.
- Participates in committees of the Great Lakes Fishery Commission, an international body that coordinates interagency cooperation in the management and protection of the Great Lakes fishery.
 - Works with member tribes and fishermen to manage and monitor the Michigan 1842 Treaty commercial fishery for lake trout and whitefish.
 - Participates in a long-term, joint study of American marten in Wisconsin, working extensively with the UW-Madison, WDNR and the Forest Service on the project.
 - Works with the USFS, WDNR and various weed management cooperatives to control loosestrife, leafy spurge and other invasive exotic species.
 - Shares data with county, state, tribal, and federal agencies from surveys of both upland and aquatic systems for invasive species, including aquatic invaders like Eurasian water milfoil, spiny water fleas, and zebra mussels.
 - Partners with USFWS, Bureau of Indian Affairs, 1854 Treaty Authority, and regional tribes on waterfowl population and wetland enhancement activities throughout the northern Midwest.
 - Partners with state, federal, county, and private agencies annually on wild rice restoration and management.
 - Participates in the Lake Superior Partnership parts of the Binational Program to Restore & Protect Lake Superior and the Great Lakes Water Quality Agreement, an international body dedicated to the protection of Lake Superior.
 - Participates in a number of Great Lakes protection and restoration initiatives and bodies including the Great Lakes Executive Committee (GLEC), which is charged with coordinating

and facilitating the implementation of the Great Lakes Water Quality Agreement and numerous GLEC subcommittees.

- Participates in a wide variety of fish and wildlife species management committees in Wisconsin, Minnesota and Michigan where collected data are shared.
 - Works with the USFS to implement a Memorandum of Understanding that is designed to advance the exercise of treaty gathering rights and to guide USFS consultation with tribal governments regarding environmental impacts of USFS projects.
 - Works with the WDNR and the USFS to develop wild plant harvest regulations for National Forests and Wisconsin State properties that are biologically sound and culturally appropriate.
 - Works with member tribes to implement an agreement with the US Park Service's Apostle Island National Lakeshore to provide for treaty hunting, gathering and camping on the Apostle Islands and has assisted the Park Service with deer management in the park.
 - In 2016, GLIFWC established a cooperative law enforcement agreement with the USFS to patrol forest lands and campgrounds.
 - Makes available resources, such as an airboat, survival gear, ATVs, and trained personnel, for regional rescue missions if necessary.
 - Works with the Bureau of Indian Affairs providing wildfire security when necessary, largely in the western states.
 - Works with USFS, National Park Service, UW-Extension, Wisconsin Historical Society in promoting curriculum and education on climate change as it impacts Ojibwe people.
 - Collaborates with WDNR to evaluate factors that might be influencing walleye recruitment in Wisconsin.
 - Collaborates with USFWS, Mille Lacs Band, and Fond du Lac Band to evaluate key walleye habitats in Mille Lacs Lake.
 - Chronic Wasting Disease (CWD) management which includes transport, testing, and providing comments on game farms and DNR rules.

The boat landing protest era in Wisconsin: 1985–1991

The affirmation of off-reservation treaty rights in the 1980's triggered a hostile reaction from some members of the Wisconsin public. Based on ignorance, misunderstanding and in some instances, racism, this hostility took shape in local organizations which formed to protest, and hopefully stop, the off-reservation treaty harvests.

With titles like Protect Americans Rights and Resources (PARR), Stop Treaty Abuse (STA), Wisconsin Alliance for Rights and Resources (WARR), these organizations and leaders rallied frequently in the mid-1980s, blaming the tribes and the “unequal” treaty rights for destroying natural resources and damaging the economy. They essentially predicted doom for the sustainability of regional communities and drove fear into the hearts of citizens who left meetings worried that their businesses and property values were at risk.

Protests at spearfishing landings swelled in 1987 through 1990, becoming violent in many cases and requiring additional law enforcement from metropolitan areas to be brought to the scene. Signs bearing racist and threatening messages, such as “Spear a pregnant squaw, Save two walleye,” appeared at rallies and landing protests. People were arrested; tribal members were hit with rocks and called hateful names. The hatred and controversy spilled through into schools,

forcing the Crandon School to shut down briefly, and even local churches became divided.

While protestors, many of whom were motivated by racial animus, tried to deny the tribes their fishing rights through interference, harassment and criminal activities, the State of Wisconsin asked the federal court in 1989 to stop tribal spearfishing, a practice outlawed by state statute, so that tribal harvest activities would not overlap with opening day of the state sportfishing season for fear of violence on the lakes. Federal Judge Barbara Crabb appropriately responded: “As a matter of law, the fact that some are acting illegally and creating justified fears of violence, does not justify abridging the rights of those who have done nothing illegal or improper.” (*Lac Courte Oreilles v. State of Wisconsin*, Docket No. 1027, No. 74-C-313-C, (W.D.Wis. June 5, 1989).

Tribal spearfishermen refused to be daunted by the threatening behavior and continued exercising their right to harvest, often under heavy guard. Meanwhile, tribal biological and enforcement staff monitored each and every landing, counting and measuring fish, collecting necessary data, and citing violations.

Treaty support groups also began to form, providing witnesses on the landings and advocates in the communities. Among these groups were the Midwest Treaty Network, Honor Our Neighbors Origins & Rights (HONOR), and the Waswagoning Treaty Association. Non-Indian and Indian voices joined in response to the many misconceptions and to reveal the racial overtones of the protest movement.

While tribal harvests continued to be well below state harvests, the issue of damaging the



Protests in Wisconsin often took an ugly twist at spearfishing landings with racism an obvious factor.

Fueling the fires in opposition to treaty rights, anti-Indian activists spread misinformation and fear at public rallies and encouraged protests at the boat landings.

resource was not resolved until 1990 when state, tribal and federal biological staff jointly performed population assessments of many lakes used by spearfishermen. Their 1991 report, *Casting Light Upon the Waters*, found tribal spearing was not depleting the resource, effectively eliminating the biological argument from the protesters.

Reports, such as the WDNR's 1981 tourism industry study also revealed that supposed tourism downturns in northern Wisconsin were occurring before tribal spearfishing even began and were a result of multiple factors not attributable to tribal spearing.

Finally, in 1991 the court issued a temporary injunction preventing STA and its members from engaging in protest activities on the landings. A permanent injunction was issued in 1992, and in



further proceedings, the court found that STA members and its leader Dean Crist were motivated by racial animus.

With the issues of resource depletion answered and the racial motivation of the protest confirmed, the protest on landings declined. While a few isolated incidents of harassment may still occur, tribal members today exercise their treaty rights peacefully.

This is not to say that tribal treaty rights are not still controversial or are fully accepted by all, but through public education endeavors, such as Wisconsin's Act 31 requiring education about tribes and tribal issues in school curriculum, and continued effective resource management, the voices of protest are quieter and much less prevalent today.

While the protests belong to the past, hateful and bitter sentiments towards tribal treaty rights still simmer in some areas, and efforts are still afoot to abrogate treaty rights through legal or political means. For many tribal people, scars still remain from being targets of such intense and venomous hatred. In an effort to promote healing, the 1989 Peace and Solidarity Run was initiated. The run's course connected many of the tribes involved and promoted intertribal solidarity and healing. This was the forerunner of today's Healing Circle Run, an annual event connecting ten of GLIFWC's member tribes. Using the Pipe, prayer and talking circles, participants are offered an opportunity to reflect, to heal and to find strength in solidarity.

In her 1994 finding that Dean Crist and STA were motivated by racial animus, she cites some of the testimony that led to her decision. It reads in part:

On posters and in verbal taunts, STA members and other protesters have expressed racial insults to plaintiffs, their family members and their friends, such as 'Timber nigger;' 'Save a walleye, spear a squaw;' 'Spear a pregnant squaw, save two walleye;' 'Custer had the right idea,' 'Scalp 'em;' 'Tom Maulson is a #%&!?' } Jew, he needs a Hitler;' 'You're a conquered nation, go home to the reservation;' 'wagonburners' and 'diarrhea face.' Defendant David Worthen has a poster in his bar that reads, 'Help Wanted: Small Indians for mud flaps. Must be willing to travel.'

Lac du Flambeau Band v. Stop Treaty Abuse—Wisconsin, 843 F. 3d 1190 (7th Cir. 1994) cert. denied 115 th S. Ct. 1823 (1995)

Tribes face opposition across Ceded Territory

Michigan

In 1971 the Jondreau Decision affirmed the right of Keweenaw Bay Indian Community to fish Lake Superior; that same year Bay Mills Indian Community launched their own treaty defense following the arrest of Abe LeBlanc. The pushback against tribal fishing soon took shape along the Gichigami shoreline from locations like Pendills Bay, west to Grand Marais, Munising and Marquette. Looking for a confrontation, loosely organized protestors searched out tribal members exercising fishing rights on Upper Michigan beaches and boat landings. Flat tires, vandalized fishing boats, blocked-off boat landings—and in one case an elder had his prosthetic leg forcibly removed and thrown into Lake Superior—became hallmarks of a vigilante movement against tribal members.

For some small boat fishermen and walk-in beach netters, guns became standard fishing gear through the mid-1970s. Leery of armed sport anglers and other non-natives that walked the beaches on evening patrols, tribal members were compelled to carry firearms for self-defense. While heated words were exchanged in face-offs, protestors reserved actual gunfire as a tool



of intimidation used in close proximity to native fishing boats. Anti-Indian sportsmen groups also carried cameras as a means to generate fear among tribal fishermen.

“They’d take photographs of [fishermen], and they made up wanted posters. Pictures of Bay Mills guys. And have them posted at different launch sites saying “Wanted: Dead or Alive,” recalled Bucko Teeple, a Bay Mills member who fished the contested waters of eastern Lake Superior beginning in September 1971.

Minnesota

After years of hostility in Michigan and full-on anti-Indian violence in Wisconsin, treaty opponents in eastern Minnesota made plans to tone down protests and avoid the kind of rhetoric that prompted a federal appeals court to declare “the stench of racism is unmistakable.”* With guidance from local and national anti-Indian groups, the Minnesota protest movement rapidly developed after the Mille Lacs Band sought federal court recognition of their 1837 Treaty rights.

Adopting a fundraising approach modeled after conservation organizations, groups like PERM held dinner banquets and raffled wildlife art to pay for lawsuits against the Mille Lacs Band of Ojibwe. Celebrity spokesmen like retired NFL football coach Bud Grant headlined rallies at the state capitol in St. Paul, assuring Minnesotans that Ojibwe people would despoil the lands and waters of the 1837 Ceded Territory. Despite the ensuring court losses, tribal opponents remain active in Minnesota.

From the shoreline to online

Since the rapid development of the Internet at the turn of the century, hate speech targeting Ojibwe people has largely moved to online pages that host chat rooms, social media, and other sites. Like shouting from a darkened boatlanding, anti-Indian activists use the anonymity of the Internet to launch insults and spread misinformation. Others openly exhibit their identities, calling for lawmakers to nullify treaty agreements despite court-issued guarantees.

Under threat from area sports fishermen, some Bay Mills Indian Community netters carried firearms for protection in the early 1970s before federal courts reaffirmed 1836 Treaty rights. Pictured on the shore of Lake Superior, Bay Mills members Clinton Parish and Bucko Teeple.

* *LdF v. STA*, p13 (1993)

APPENDIX I

Popular misconceptions about Ojibwe treaty rights

The courts have granted the Ojibwe treaty hunting and fishing rights.

Courts did not give hunting, fishing and gathering rights to the Ojibwe. Those rights were never relinquished. The Ojibwe have always had the hunting, fishing and gathering rights which were reaffirmed in the Wisconsin *LCO* decision and the Minnesota 1837 Treaty case. Those rights were retained by the Ojibwe when they ceded land to the United States through treaties made on a government-to-government basis.

Even though the Ojibwe never sold or gave up hunting, fishing and gathering rights, the illegal imposition of state law on tribal hunters/fishermen effectively discouraged off-reservation harvest by tribal members in years past, as they were liable to be arrested and prosecuted. This is why the treaty rights needed to be affirmed through court decisions.

Treaty rights are special rights enjoyed by the Ojibwe.

Actually the hunting, fishing and gathering rights of the Ojibwe are known legally as usufructuary rights and are a form of property right. Similar property rights include the retention of mineral rights on land when it is sold, or, as in Louisiana, retaining the right to fruil for pecans on land that is sold. Usufructuary rights allow people to keep the right to certain uses even though they sell the land. Property rights such as these are enjoyed by us all and are not a special right of Indian people.

The Ojibwe have unlimited hunting, fishing and gathering rights on the ceded lands.

When the *LCO* decision first hit the news in Wisconsin, the headlines proclaimed the Ojibwe's treaty rights to be unlimited. This, however, is not true. In fact, the Ojibwe, under the many court rulings in the *LCO* case, exercise off-reservation rights in a limited fashion, subject to quotas, seasons and tribally-adopted regulations.

In Minnesota, tribal harvest is also subject to the specifications of adopted court stipulations which limit treaty quotas, establish seasons and place other restrictions on the treaty harvests. Five-year management plans, one for the fishery and one for wildlife, provide the structure for a limited treaty harvest while safeguarding the resources.

When the 1924 Indian Citizenship Act was passed, the Ojibwe people gave up their tribal citizenship.

This is simply not true, nor should it be. When the Indian people were granted citizenship by the United States, no provisions indicated that they must forfeit their tribal membership.

The Act states that "granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such person to tribal or other property."

Most United States citizens are "dual" citizens simply because they are simultaneously citizens of towns, counties, states, and a nation. Each of these entities maintains a government regulating its citizenry to one extent or another. Similarly, Indian people retain membership in their tribes while also retaining United States citizenship.

The treaties signed are old and should not apply to today's circumstances.

Agreements between governments, or individuals, are not invalidated by age. Sometimes new agreements are negotiated if both parties consent, but age alone does not render an agreement or treaty invalid. The U.S. Constitution states that "treaties are the supreme law of the land." Recent federal court decisions define the scope and regulation of treaty rights, making them compatible with contemporary circumstances.

Treaties should only apply to full-blooded Ojibwe.

It is important to remember that treaty rights are not individual rights; they are tribal rights. The rights belong to the tribe as a body. Therefore, a person can exercise the tribally-owned treaty rights only as a member of the tribe under the regulations the tribe has established. Tribal membership is determined by the tribe as a sovereign, self-regulating government. Tribes determine membership through varying criteria. Some, for instance, use blood quantum, while others may use birthright. Members of a tribe which was signatory to a treaty reserving hunting, fishing and gathering rights can legally exercise those rights under their tribe's off-reservation ordinances.

The Ojibwe should only be able to use the methods of harvest available at the time of the treaties.

If the treaty signers (which would include both the U.S. and the tribes, since they were both parties to the treaty) were required to use 1854 technology, all residents of the Ceded Territory would be stuck using Hawken muzzleloading rifles to hunt, two-man crosscut saws to harvest trees, and hand-carved poles to fish. Most people would find being cemented in time unacceptable, and the courts have also refused to bind one party in time and not the other.



Protesters prepare for an on-water protest at a Stop Treaty Abuse rally held at Butternut Lake, Ashland County, in 1987. Signs used stereotyped images and slogans that were derogatory and often threatening.

APPENDIX II

An historical review

1795 Treaty of Greenville

Signed in Ohio, this is the first treaty agreement entered into with the United States by the Chippewa.* This treaty established boundaries between the United States and several Indian nations.

1819 Treaty of the Saginaw

This treaty was significant to the 1836 Treaty with the Ottawa and Chippewa in that it is used to establish a portion of the southern boundary of the 1836 Treaty area.

1821 Treaty of Chicago

Significant to the 1836 Treaty with the Ottawa and Chippewa, this treaty, in conjunction with the 1819 Treaty of the Saginaw, is used to establish the southern boundary of the Ceded Territory in the 1836 Treaty with the Ottawa and Chippewa.

1825 Treaty of Prairie du Chien

Representatives of various tribes were called together to delineate their land holdings for the U.S. government. The United States was encouraging them to stop intertribal warring at the time and felt delineation of boundaries would help. This treaty established a portion of the boundaries used in subsequent treaties. However, due to the disbursement of the Chippewa nation, the Chippewa leaders present at Prairie du Chien requested that United States government hold a council at some part of Lake Superior to discuss and explain the 1825 Treaty of Prairie du Chien to the Chippewa nation.

1826 Treaty with the Chippewa

Signed at Fond du Lac, this treaty is the result of the stipulation of the Chippewa leaders at the 1825 Treaty of Prairie du Chien, calling for a council of the United States government and the Chippewa nation to explain the 1825 Treaty. In the 1826 Treaty the Chippewa do agree with

the stipulations set forth and the boundaries of the Chippewa nation as established in the 1825 Treaty of Prairie du Chien.

1827 Treaty with the Chippewa

This treaty, signed at Butte des Morts on the Fox River in the Territory of Michigan, established the border between the Menominee and the Chippewa. This treaty was referred to in the 1837 and 1842 Treaties setting portions of the boundaries ceded in the later treaties.

1836 Treaty with the Ottawa and Chippewa

Signed in Washington D.C., this treaty ceded large portions of what is now northern Michigan and the eastern portion of Michigan's Upper Peninsula to the United States. The tribes, however, stipulated "for the right of hunting on the lands ceded, with other usual privileges of occupancy, until the land is required for settlement."

1837 Treaty with the Chippewa

Signed at St. Peters, this was the first of several cession treaties which sold large tracts of land in north central and eastern Minnesota and northwestern Wisconsin. Although land was ceded, the Chippewa retained their right to hunt, fish and gather on Ceded Territories.

1837 Michigan gains statehood

1842 Treaty with the Chippewa

Signed at LaPointe, this treaty ceded further lands in northern Wisconsin and in the western part of Michigan's Upper Peninsula. With terms comparable to those in the 1837 Treaty, the tribes received payments to traders and half-bloods as well as a 25-year annuity schedule, to be divided between the Mississippi and Lake Superior Chippewa. The Chippewa leaders specifically retained the right to hunt and fish on the Ceded Territory.

*In the treaty era Ojibwe were commonly referred to as Chippewa.

1848 Wisconsin gains statehood

1850 Presidential Executive Order (Removal Order)

In February of 1850, President Zachary Taylor ordered the Chippewa living in ceded lands to prepare for removal, disregarding a request from Chippewa leaders who had come to Washington, D.C., in 1849 to grant them lands surrounding seven of their villages, plus their sugar orchards and rice beds. The tribes insisted they had never intended to leave and had signed the 1842 Treaty only to accommodate copper mining pursuits.

1852 Presidential Executive Order (Removal Order) suspended

President Millard Fillmore, Taylor's successor, rescinded the order following a meeting with a delegation of Ojibwe chiefs led by Chief Buffalo.

1854 Treaty with the Chippewa

Signed at LaPointe, this treaty formally abandoned the removal policy by establishing permanent homelands (reservations) for the Chippewa in Wisconsin, Michigan, and Minnesota. Remaining Chippewa land in Minnesota was also ceded at this time.

1855 Treaty with the Chippewa

Signed at Washington D.C., the treaty ceded land in the Minnesota territory for monetary and other stipulations. Reservations were also established in Minnesota.

1855 Treaty with the Ottawa and Chippewa

Signed in Detroit, this treaty reestablished the fishing and encampment rights established under the Treaty of 1820 for the Sault Ste. Marie Chippewa.

1858 Minnesota gains statehood

1866 Treaty with the Chippewa—Bois Forte Band

Signed at Washington D.C., this treaty ceded lands to the U.S. and set aside lands for the Bois Forte Band.

1924 Indian Citizenship Act

This Act of the U.S. Congress granted citizenship to all Native Americans in the country. The Act passed partially because of the many Indian people who had served during World War I. There was no provision in the Act, however, that required Indian people to relinquish tribal membership or identity.

1934 Indian Reorganization Act (IRA)

The policy of the United States Federal Government supporting tribal self-regulation was confirmed through this Act. It established, nationally, a policy of tribal self-government through a tribal governing body, the tribal council, and the ability of those elected governments to manage the affairs of their respective tribes.

1942 *Tulee v. the State of Washington*

The U.S. Supreme Court decided that because a treaty takes precedence over state law, Indians with tribal treaty rights can't be required to buy state licenses to exercise their treaty fishing rights. This was also the first case to rule that state regulation of treaty fisheries can only be for purposes of conservation.

1965 Keweenaw Bay Indian Community member arrested

Tribal member William Jondreau returned to shore aboard a small fishing boat with four lake trout taken from Keweenaw Bay in Lake Superior on June 1. An officer from the Michigan Department of Conservation issued a citation for illegal possession of trout and Jondreau was convicted in Baraga County Court. [see 1971 *People of the State of Michigan v. William Jondreau*].

1969 *U.S. v. Oregon* (Belloni decision)

Federal Judge Belloni held that the state is limited in its power to regulate treaty Indian fisheries. The decision indicated the state may only regulate when “reasonable and necessary for conservation,” and state conservation regulations must not discriminate against the Indians and must be the least restrictive means.

1969 Red Cliff, Bad River members arrested

On September 17, 1969 six enrolled members of the Red Cliff Band, including Richard Gurnoe, are arrested by Wisconsin Department of Natural Resources officers after pulling a gill net from Lake Superior that contained a white sucker. Around three weeks later, two Bad River Band members are cited by a state conservation warden while fishing with gill nets on Gichigami. A Bayfield County judge ruled that the 1854 Treaty did not protect their right to fish outside of state regulations. [see appeal: 1972 *Gurnoe v. Wisconsin*]

1971 *People of the State of Michigan v. William Jondreau* (Jondreau decision)

Reversed *People v. Chosa* (1930), 252 Michigan 154, 233 N.W. 205. The *Jondreau* decision reaffirmed the right of the Keweenaw Bay Indian Community members to fish in the Keweenaw Bay waters of Lake Superior without regard to Michigan fishing regulations.

1971 Bay Mills Indian Community member arrested

Commercial fisherman Abe LeBlanc was arrested on Lake Superior’s Pendills Bay, September 28, around 20 miles west of Sault Ste. Marie by a Michigan Conservation Officer. Fishing in 1836 Treaty waters, the Bay Mills Indian Community member was charged with using an illegal gill net and convicted in district court. [see appeal: 1981 *United States v. Michigan*]

1972 *Gurnoe v. Wisconsin* (Gurnoe decision)

The Wisconsin Supreme Court decided in favor of the Bad River and Red Cliff tribes. Based on the 1854 Treaty, the court found that fishing in the off-reservation waters of Lake Superior was a protected treaty right and that any regulations that the state seeks to enforce against the Chippewa are reasonable and necessary to prevent a substantial depletion of the fish supply. The State of Wisconsin and the tribes have successfully negotiated agreements for the treaty commercial fishing activity since the time of the decision.

1974 *U.S. v. Washington* (Boldt decision)

This decision from the U.S. District Court upheld the right of tribes in the Pacific Northwest to fish and to manage fisheries under early treaties; determined they are entitled to an opportunity to equally share in the harvest of fish in their traditional fishing areas, and found the state regulations which go beyond conserving the fishery to affect the time, place, manner and volume of the off-reservation treaty fishery are illegal. This decision was upheld by the U.S. Circuit Court of Appeals and the U.S. Supreme Court declined to review District Court rulings.

1974 LCO tribal members arrested

Fred and Mike Tribble, enrolled members of the Lac Courte Oreilles Band (LCO), were arrested, March 8, on Chief Lake by Wisconsin Department of Natural Resources (WDNR) wardens Milton Dieckman and Larry Miller for possession of a spear for taking fish from off-reservation waters and for occupying a fish shanty without name and address attached. The Tribble brothers were fishing off-reservation and were later found guilty of the charges by Sawyer County Circuit Judge Alvin Kelsey. [see appeal: *LCO case in Wisconsin*]

1975 Indian Self-Determination Act

This act by the U.S. Congress provided that tribal governments could contract for and administrate federal funds for services previously

provided through the federal bureaucracy. It allowed more individual tribal self-determination in both identifying needs and administering on-reservation programs. It served to bolster and make more meaningful the policy of tribal self-determination.

1981 *United States v. Michigan* (Fox decision)

The U.S. Federal District Court, Western District of Michigan, affirmed the rights of Bay Mills, Sault Ste. Marie and Grand Traverse Bands of Michigan Chippewa to fish in ceded areas of the Great Lakes in the boundaries of Michigan based on the 1836 Treaty. Judge Fox ruled the rights retained were not abrogated by subsequent treaties or congressional acts. Subsequent proceeding also upheld the tribes' rights to regulate their members.

2017 Fond du Lac Band and State of Minnesota sign 1854 MOU

The State of Minnesota and the Fond du Lac Band signed a memorandum of understanding (MOU) on December 12, ending litigation that began in 1992.

As legal experts on both sides debated the status of 1854 Treaty rights over the past quarter century, Fond du Lac authorities implemented both off-reservation natural resource assessments and tribal harvest seasons for species like moose and walleye. Tribal regulators freely shared data with their state counterparts, including fisheries and wild rice research from north-east Minnesota lakes.

The LCO case in Wisconsin

1975 Lac Courte Oreilles files suit against the State of Wisconsin

The Lac Courte Oreilles Band filed suit, March 18, on behalf of all its members in Western District Federal Court, requesting a court order directing the State of Wisconsin to stop enforcing state law against tribal members on the basis of the tribe's treaty-reserved rights to hunt, fish and gather off-reservation. Judge James Doyle

was presiding and Lester P. Voigt, then Secretary of the WDNR, was named as a defendant along with Sawyer County Sheriff Donald Primley, Sawyer County District Attorney Norman Yackel and the two arresting wardens.

Four years later Judge James Doyle ruled that the Lake Superior Chippewa Band members had relinquished their off-reservation rights when they accepted permanent reservations pursuant to the Treaty of 1854 and that the 1850 Presidential Removal Order had also withdrawn the rights in question. Lac Courte Oreilles appealed Doyle's decision to the U.S. Court of Appeals, Seventh Circuit.

U.S. Court of Appeals rules in favor of Lac Courte Oreilles

In its January 25, 1983 ruling the U.S. Court of Appeals for the 7th Circuit agreed with the Lake Superior Chippewa that hunting, fishing and gathering rights were reserved and protected in a series of treaties between the Chippewa and the United States government. This decision has become known as the *LCO* decision.

A three-judge panel reversed Doyle's earlier ruling, concluding that treaty rights were not relinquished in the 1854 Treaty when reservations were established and that the 1850 Removal Order had not extinguished the reserved treaty rights. The Seventh Circuit also returned the case to District Court to "determine the scope of state regulation" and the scope of the rights. This ruling was appealed by the State of Wisconsin to the U.S. Supreme Court. *LCO v. WI (LCO I)*, 700 F2d 341 (7th Cir. 1983).

1983 Refusal to Hear Appeal

The United States Supreme Court refused to hear the appeal, October 3, of the Seventh Circuit's ruling, known as the *LCO* decision. The refusal to hear the case affirmed the ruling of the 7th Circuit.

Five other Chippewa bands in Wisconsin who were signatories to the 1837 and 1842 Treaties joined with Lac Courte Oreilles in the final arguments, consequently the ruling applies to the rights retained by all six bands. The other bands include: Bad River, Red Cliff, St. Croix, Lac du Flambeau, and Mole Lake/Sokaogon.

1987 Doyle decision:

Scope of the treaty right

In February 1987 Judge James Doyle ruled on Phase I of the LCO litigation regarding the scope of the rights. Doyle found that the Chippewa tribes could: 1.) use traditional methods and sell the harvest employing modern methods of sale and distribution; 2.) exercise the rights on private lands if proven necessary to provide a modest living; 3.) harvest a quantity sufficient to ensure a modest living. Doyle also concluded that the state may impose restrictions which are proven necessary to conserve a particular resource. *LCO v. WI (LCO III)*, 653 F Supp 1420 (WD Wis 1987).

1987 Crabb decision:

Scope of state regulation

On August 21, 1987, Judge Barbara Crabb issued an order establishing the legal standards “for the permissible bounds of state regulation” of Chippewa off-reservation usufructuary activities. Crabb decided that “effective tribal self-regulation...precludes concurrent state regulation.” Judge Crabb further ruled that the state may regulate “where the regulations are reasonable and necessary to prevent or ameliorate a substantial risk to the public health and safety, and does not discriminate against the Indians.” *LCO v. WI (LCO IV)*, 668 F Supp 1233 (WD Wis 1987).

1988 Crabb decision:

Modest standard of living defined

Judge Barbara Crabb determined that the Chippewa’s “Modest living needs cannot be met from the present available harvest even if they were physically capable of harvesting, processing, and gathering it.” Thus, 100% of the resources in the ceded area were considered available for treaty harvest within limits that require resource conservation. *LCO v. WI (LCO V)*, 686 F Supp 266 (WD Wis 1988).

1989 Crabb decision:

Walleye and muskellunge

On March 3, 1989, Judge Barbara Crabb issued a decision relating to walleye and muskellunge which incorporated parts of both the

state and tribal plan. The decision required the “Total Allowable Catch” to be replaced by a far more conservative harvest level termed the “Safe Harvest.” Previously, walleye were allocated on a lake by lake basis with 7% of the adult population set aside for tribal quotas, 28% for sport harvest, and the remaining 65% for maintenance of fish stocks. However, the new Safe Harvest Level instituted another safety factor to be added to the 65% for maintenance of fish stocks, thereby reducing the combined harvest for tribal and sport users alike.

The Safe Harvest Level, calculated using statistical techniques considering age/reliability of population data, significantly reduces the harvest level for many lakes. For instance the total safe harvest in some lakes may be only 8% of the population, versus 35% in previous years. Using that Safe Harvest Level figure, the tribes may allocate up to 100% for tribal harvest quota. *LCO vs. WI (LCO VI)*, 707 F Supp 1034 (WD Wis 1989).

1989 Lac Courte Oreilles v.

State of Wisconsin

Judge Barbara Crabb denied the State of Wisconsin’s request for an injunction to stop tribal spearfishing, a practice outlawed by state statute, so that tribal harvest activities would not overlap with opening day of the state sport-fishing season for fear of violence on the lakes. Federal Judge Barbara Crabb responded: “As a matter of law, the fact that some are acting illegally and creating justified fears of violence, does not justify abridging the rights of those who have done nothing illegal or improper.” *Lac Courte Oreilles v. State of Wisconsin*, Docket No. 1027, No. 74-C-313-C, (W.D.Wis. June 5, 1989).

1990 Crabb decision:

Deer and small game

On May 9, 1990, Judge Barbara Crabb issued a decision on deer hunting and trapping of small game and furbearers under the 1837 and 1842 Treaties in Wisconsin.

Judge Crabb ruled that the tribes may hunt deer the day after Labor Day until December 31, but that they may not hunt at night by use of a flashlight. She also ruled that the tribes may hunt on publicly-owned lands and on privately-

owned lands that are enrolled in Wisconsin's Forest Crop Land and Managed Forest Land Tax Programs. At this time, tribes may not hunt on other privately-owned lands even if the owner consents. Similarly, the tribes may not place traps on the beds of flowages and streams which are privately-owned.

As to the apportionment and allocation of deer and other species, Judge Crabb ordered that "all of the harvestable natural resources in the Ceded Territory are declared to be apportioned equally between the [tribes] and non-Indians." It is unclear if the ruling applies to species other than deer, small game and furbearers. It is equally unclear to what extent, if any, previous rules on allocation of walleye and muskellunge are overturned or otherwise affected. *LCO v. WI (LCO VII)*, 740 F Supp 1400 (WD Wis 1990).

1991 Crabb decision:

Timber and forest products

On February 21, 1991, Judge Barbara Crabb issued a decision on timber rights. She ruled that the Chippewa tribes did not reserve a treaty right to harvest timber commercially. However, the tribes do have a treaty right to gather miscellaneous forest products, such as maple sap, birch bark, and fire wood; and are subject to nondiscriminatory state, and county regulations. The timber decision was the final step at the District Court level. *LCO v. WI (LCO IX)*, 758 F Supp 1262 (WD Wis 1991).

1991 LCO litigation concludes with no appeals

Both the six Chippewa Bands in Wisconsin and the State of Wisconsin were allowed the opportunity to appeal rulings in the Federal District Court concerning phases of *LCO*. However, the deadline for filing appeals in May 1991 passed with neither party appealing any issue.

On May 20, 1991, the Chippewa announced their decision not to appeal with the following message:

"The six bands of Lake Superior Chippewa, allied for many years in litigation against the State of Wisconsin in order to confirm and uphold their treaty right to hunt, fish and gather, and now secure in the conviction that they have preserved these rights

for the generations to come, have this day foregone their right to further appeal and dispute adverse rulings in this case, including a district court ruling barring them from damages. They do this, knowing that the subject of the latter ruling is currently before the United States Supreme Court of Appeals and other federal courts. They do this as a gesture of peace and friendship towards the people of Wisconsin, in a spirit they hope may someday be reciprocated on the part of the general citizenry and officials of this state."

Litigation re-opened

In 2013 an aspect of the "Deer Trial" was reopened in Federal District Court, Western District, with six plaintiff Ojibwe tribes in Wisconsin seeking relief from a 1991 judgment prohibiting night hunting of deer.

Judge Crabb ruled that circumstances had not changed enough to warrant a review of her initial decision, and the tribes appealed. The Seventh Circuit Court of Appeals overturned Judge Crabb's decision in October 2014, ruling that circumstances had changed sufficiently and that the evidence that had been presented suggested that night hunting was unlikely to create a serious safety problem.

In October 2015, after the state unsuccessfully appealed to the U.S. Supreme Court, the District Court approved the tribes' night hunting regulations.

1837 Treaty Case in Minnesota

1990: Mille Lacs Band files suit

The Mille Lacs Band filed a suit, August 13, against the State of Minnesota in federal court, claiming that the State's natural resource laws and regulations violated the Band's hunting, fishing and gathering rights guaranteed by the 1837 Treaty.

In *Fond du Lac v. Carlson*, the Band sought a judgment that would affirm the 1837 Treaty rights, define their nature and scope, and define the permissible scope of state regulation of treaty harvest, if any. It also sought a court order prohibiting enforcement of state fish and game laws against band members except as specified by the court.

1993 Fond du Lac Band files suit

The Fond du Lac Band filed a suit in federal court, September 30, similar to the Mille Lacs suit but sought affirmation of rights reserved in both the 1837 and the 1854 Treaties. Fond du Lac also asked the court to define the nature and scope of the rights and the degree of state regulation, if any, permitted over treaty harvests.

1993 Minnesota Legislature rejects proposed negotiated agreement

An effort to resolve the Mille Lacs 1837 Treaty issues out-of-court resulted in a proposed agreement between the State of Minnesota and the Mille Lacs Band of Ojibwe. The agreement contained many compromises between the parties.

For instance, Mille Lacs would have limited its spearing and netting to 4.5% of Mille Lacs Lake and limited its walleye harvest in that area to 24,000 pounds per year. The State would have paid the Band \$8.6 million a year and given them land in exchange for the limited harvest.

The proposed agreement was approved by the Mille Lacs Band but rejected in 1993 by the Minnesota Legislature, which sent the parties back to court to settle the dispute.

In 1993 other parties intervene in case

The United States joined the suit on behalf of the Mille Lacs Band in 1993, and a group of counties and six landowners joined the State of Minnesota.

Mille Lacs 1837 Treaty rights affirmed

The Phase I trial of the Mille Lacs 1837 Treaty case began in June 1994 and concluded on August 24, 1997 with a ruling from Judge Diana Murphy that the Mille Lacs Band did retain its treaty rights in the Minnesota 1837 Ceded Territory. Murphy ruled also that the treaty right includes the right to commercially harvest; that the rights were not limited to any particular techniques, methods, devices, or gear; and that the state could regulate treaty harvest only to the extent reasonable for conservation, public safety or public health reasons.

1995 Six Wisconsin bands intervene

Six Chippewa bands in Wisconsin, all signatories to the 1837 Treaty, were allowed to intervene, March 22, on the side of the Mille Lacs Band in a ruling from U.S. Magistrate Judge Lebedoff.

1996 Fond du Lac's 1837 Treaty rights affirmed

On March 18, 1996, Judge Richard Kyle, U.S. District Court, Fifth Division, affirmed the Fond du Lac Band's 1837 and 1854 Treaty rights. Judge Kyle ruled that the nature and scope of the 1837 Treaty rights held by the Fond du Lac Band were the same as the Mille Lacs 1837 Treaty right. However, he did not rule on the nature and scope of the 1854 Treaty right at that time.

1996 Rights of six Wisconsin bands affirmed

Judge Michael Davis ruled, March 29, that the six Wisconsin Ojibwe bands' 1837 Treaty rights in Minnesota were already recognized in the *LCO* case; that they extend to the Minnesota portion of the Ceded Territory; and that they are the same rights as affirmed for the Mille Lacs Band in 1994.

1996 Mille Lacs/Fond du Lac 1837 Treaty cases joined

On June 11, 1996 the Mille Lacs 1837 Treaty case and the Fond du Lac 1837 Treaty case were joined to be heard as one case. However, Fond du Lac's 1854 Treaty case was kept separate.

1997 Ruling ends trial phase of 1837 Treaty case

Judge Michael Davis, January 29, of the U.S. District Court of Minnesota ended the trial portion of two 1837 Treaty rights cases pursued by eight Chippewa bands by issuing a ruling which provided for the exercise of a treaty harvest. The scope and regulation of the treaty harvest were defined in court-accepted stipulations. Because issues regarding scope and regulation were resolved through stipulations which defined them, those issues were not included in the final decision and therefore cannot be appealed.

1997 Appellate court agrees to hear appeal, suspends exercise of treaty right

The State of Minnesota, April 9, petitioned for an appeal hearing of the District Court rulings. The petition was accepted by the Eighth Circuit Court of Appeals and arguments were scheduled to be heard by a three judge panel. The Court suspended the exercise of all treaty harvest in the Minnesota 1837 Treaty Ceded Territory until the appeal had been heard. However, the Court later issued another order allowing for a ceremonial harvest of 2,000 pounds of fish by the Mille Lacs Band only.

1997 Appellate court upholds District Court decision

A three judge panel of the Eighth Circuit Court of Appeals, August 26, upheld the ruling of the federal district court which affirmed the 1837 Treaty rights of the Chippewa. On October 27, 1997, the appellate court lifted its suspension on the exercise of the rights and on November 17, 1997 denied a petition that the case be reheard by all Eighth Circuit judges.

1998 Minnesota petitions the U.S. Supreme Court to hear an appeal

The U.S. Supreme Court, February 16, agreed to consider three issues in an appeal relating to the 1855 Treaty, the 1850 Removal Order, and the impact of Minnesota's statehood on the treaty rights.

1999 The U.S. Supreme Court Rules in favor of the bands

The U.S. Supreme Court, March 24, affirmed treaty hunting, fishing and gathering rights in the Minnesota 1837 Ceded Territory. This decision, entitled *Minnesota v. Mille Lacs Band*, served to end all debate, begun over twenty years ago when the LCO case was filed in 1974, that the Bands' treaty rights exist. The Court ruled in favor of the Bands on all three issues, finding that the 1850 Removal Order did not terminate the rights; that Minnesota's statehood in 1858 did not terminate the treaty rights; and that the 1855 Treaty with Mille Lacs did not terminate the Bands' treaty rights.

1836 Treaty Case in Michigan 1981 *U.S. v. Michigan: (Fox Decision)*

These cases involve a long series of litigation that encompassed both the Michigan State Supreme Court and United States Federal Courts between the Bay Mills Indian Community; the Grand Traverse Band of Ottawa and Chippewa Indians; the Little River Band of Ottawa Indians; the Little Traverse Bay Bands of Odawa Indians; the Sault Ste. Marie Tribe of Chippewa Indians; the United States; and the State of Michigan. U.S. District Judge Noel Fox, in the case that is often called the Fox decision wrote: "This court adopts the meaning of the 1836 treaty consistent with the canons of construction. Under the 1836 treaty of cession, the Indians granted a large tract of land and water area to the United States. At the same time they reserved the right to fish in the ceded waters of the Great Lakes."

He continued: "Because of the documented evidence demonstrating that the Indians were absolutely dependent upon fishing for subsistence and their livelihood, and reading the treaty as the Indians would have understood it, they would not have relinquished their right to fish in the ceded waters of the Great Lakes. Since the treaty does not contain language granting away the prior right to fish, that right remains with the Indians and was confirmed by the 1836 treaty."

Article thirteenth of the 1836 Treaty reads: "The Indians stipulate for the right of the hunting on the lands ceded, with the other usual privileges of occupancy, until the land is required for settlement." Judge Fox determined: "The language contained in Article Thirteenth of the Treaty of 1836, by its own terms could not have limited the Indians 'right to fish in the waters of the Great Lakes' because these large bodies of water could not possibly be settled by homes, barns and tilled fields. While the Indians might have been willing to give up their right to hunt on various parcels of land as that land became occupied with settlers, the vital right to fish in the Great Lakes was something that the Indians understood would not be taken from them and, indeed, there was no need to do so..."

1985 Consent Decree

Following extensive negotiations with the State of Michigan, Bay Mills Indian Community and two additional 1836 Treaty tribes established a regulatory agreement called the 1985 Consent Decree. The pact details management protocols for Great Lakes fish species including lake trout, walleye, whitefish, perch, salmon and bloater chubs, covering treaty-ceded waters of Lakes Superior, Michigan, and Huron. The compact helped lay the foundation for additional settlements that would keep the state and Michigan treaty tribes out of the courtroom, ushering in an era of natural resources co-management.

2000 Consent Decree

In 2000, the parties resolved their long-standing differences concerning the implementation of tribal treaty reserved fishing rights and agreed to a 20-year settlement. The agreement includes provisions regarding allocation, management, and regulation of state and tribal fisheries in the waters of Lakes Michigan, Huron and Superior ceded by the tribes in the Treaty of Washington of March 28, 1836. The parties agreed to work cooperatively to resolve issues that arise during the term of the agreement through inter-governmental consultation between the tribes and the state. An important aspect of the settlement is the creation of a Technical Fisheries Committee (TFC). The TFC is an inter-governmental body comprised of biologists that will seek to resolve issues using the best available science. The TFC strives for consensus among all parties.

2007 Consent Decree

In October, 2003, the State of Michigan asked the federal court to decide whether inland treaty rights continue to exist, and if they do, where they can be exercised. The five 1836 Treaty tribes along with the U.S., agreed that inland treaty rights needed to be resolved. In late summer of 2005, the parties explored the willingness of everyone to resolve all the issues related to 1836 Treaty inland rights by negotiation, rather than litigation. Their efforts were finalized in a Consent Decree in early September 2007.

The Consent Decree contains acknowledgment by the State of Michigan of the permanent recognition of tribes' "Inland Article 13 Rights." It also creates two categories of land and inland waters; those on which tribal members are subject to tribal seasons, and those on which tribal members are subject to state seasons. Limited ceremonial use permits can be utilized anywhere in the 1836 cession area regardless of season, but require the consent of the private landowner if used on private lands. The Consent Decree establishes that all activities of tribal members—whether hunting, fishing, trapping, or gathering—are subject to the exclusive regulation of their tribe. Tribal wardens have the primary responsibility of enforcement of these regulations and violations are referred to the tribal court. The Consent Decree also provides for the allocation of scarce resources.

APPENDIX III

GLIFWC Member Tribes

Wisconsin

❖ Bad River: Mashkii-ziibing (place of swampy river)

Treaties: 1837, 1842, 1854

72682 Maple Street • Odanah, WI 54861 • (715) 682-7111 • www.badriver-nsn.gov

With a climate moderated by Lake Superior, raised-bed planting grounds along the Bad River began producing crop yields long before French voyageurs entered the region. Those same explorers named the river “Bad” because of navigational challenges on the waterway known to indigenous residents as *Mashkii-ziibing*. Nearly 50% of the reservation is protected from timber cutting or any development activity through the 2001 Integrated Resources Management Plan.

❖ Lac Courte Oreilles:

Odaawaa-zaaga’iganing (Ottawa Lake)

Treaties: 1837, 1842, 1854

**13394 W. Trepania Road • Hayward, WI 54843
(715) 634-8934 • www.lco-nsn.gov**

A rich landscape of forest, wetland and water, Lac Courte Oreilles acquired its irregular shape when tribal chiefs accompanied surveyors sent to define the exterior boundary of the reservation.

The sprawling Chippewa Flowage, created under dubious circumstances by a power company in 1923, inundated the region’s most productive wild rice marshes, the Ojibwe village Post, and adjacent burial grounds. Nearly a century later, the Flowage is home to a productive fishery and miles of undeveloped shoreline. The cost of its creation, however, remains high for the community.

❖ Lac du Flambeau: Waaswaaganing (place of torch light)

Treaties: 1837, 1842, 1854

418 Little Pines Rd • Lac du Flambeau, WI 54538 • (715) 588-3303 • www.ldftribe.com

The Lac du Flambeau reserve is located within one of the largest concentrations of freshwater lakes in the world, including 260 on-reservation lakes. The William J. Poupart Sr. Fish Hatchery is the region’s oldest (1936) and most productive facility. Hundreds of thousands of native fish species, including walleye and lake sturgeon, are stocked into on and off-reservation waters annually.

❖ Red Cliff: Miskwaabikong (place of steep rock of red material)

Treaties: 1837, 1842, 1854

88385 Pike Road • Bayfield, WI 54814 • (715) 779-3700 • www.redcliff-nsn.gov

Occupying the northernmost reaches of mainland Wisconsin, the Red Cliff reservation takes its name from the striking bluffs that rim the Gichigami shoreline. Ojibwe band members under the legendary Chief Buffalo, from Madeline Island, settled at Red Cliff en masse following the 1854 Treaty with the United States. Tribal commercial fishing in the Apostle Islands, which began with early European visitors, continues today.

Tribal Hatcheries

The majority of GLIFWC member tribes operate fish hatcheries, contributing tens-of-millions of fish into Ceded Territory waters. On average, GLIFWC tribes release more than *30 million* fish a year including, walleye, muskellunge, yellow perch, lake sturgeon, and native trout species.

🌿 **St. Croix: Wezaawaagami-ziibiing (yellow river) and by each community.**

Treaties: 1837, 1842, 1854

24663 Angeline Avenue • Webster, WI 54893 • (715) 349-2195 • www.stcciw.com

Some 80 years after United States failed to reserve from public sale the land base of the St. Croix Tribe, federal authorities set aside a collective of scattered parcels that forms the core of today's reservation. During that long delay, tribal members subsisted on unoccupied woodlands near the St. Croix River in northwest Wisconsin. Twenty-first century reservation property includes riparian areas and uplands.

🌿 **Sokaogon Mole Lake: Zaka'aaganing (place of torch-stick lake)**

Treaties: 1837, 1842, 1854

3051 Sand Lake Road • Crandon, WI 54520 • (715) 478-7500 • www.sokaogonchippewa.com

The expected 7,600-acre reservation centered around Rice and Mole Lakes never materialized after the 1854 Treaty. Like St. Croix, the Sokaogon people spent decades labeled as a "lost tribe" until the United States established a land base on the east shore of Rice Lake. Following the successful bid to thwart the proposed Crandon Mine, Sokaogon added several thousand acres in 2003 when the band partnered with the Forest County Potawatomi Tribe to purchase former mining company woodlands.

Michigan

🌿 **Bay Mills: Ginoozhekaaning (place of the pike)**

Treaty: 1836

12140 W. Lakeshore Drive • Brimley, MI 49715 • (906) 248-3241 • www.baymills.org

The Bay Mills Indian Community is comprised of several historic Ojibwe bands in the far eastern Lake Superior region. Fishing on Gichigami, and the nearby waters of Lakes Huron and Michigan, continues to be a vital part of the Bay Mills Ojibwe lifeway centuries after the first net touched the water. Bay Mills is one of the founding GLIFWC member tribes and the only one in the 1836 Ceded Territory.

🌿 **Keweenaw Bay: Gakiiwe'onaning (or Wiikwedong) (place at the bay)**

Treaties: 1842, 1854

16429 Beartown Road • Baraga, MI 49908 • (906) 353-6623 • www.ojibwa.com

Situated on the large bay bearing the same name, Keweenaw Bay is the largest reservation in Michigan. Westward across the base of the Keweenaw Peninsula the reservation includes a 2,406-acre wildland parcel on Lake Superior at Sleeping Bay. Missionary and linguist Frederic Baraga completed the first Ojibwe language dictionary at Keweenaw Bay in 1852.

🌿 **Lac Vieux Desert = Gete-gitgaaning (old garden lake)**

Treaties: 1842, 1854

N4698 US 45 • Watersmeet, MI 49969 • (906) 359-4577 • (906) 358-4577 • www.lvdtribal.com

A pair of islands near the northern Lac Vieux Desert shore provided fertile planting grounds for early Ojibwe inhabitants. The mainland village served as a fur trade center, and band members famously used fur sale proceeds to purchase surrounding land after the United States failed to establish a proper reservation. Today, two Lac Vieux Desert communities are located near the old village and ten miles north at Watersmeet.

Minnesota

🌿 **Fond du Lac: Nagaajiwanaag (place where the water stops)**

Treaties: 1837, 1842, 1854

1720 Big Lake Road • Cloquet, MN 55720 • (218) 879-4593 • www.fdlrez.com

Situated on the south bank of the St. Louis River, the reservation includes ancient wild rice lakes which core sampling has dated to 3,000 years old. In recent decades, the tribe has successfully restored a number of manoomin lakes damaged by a state program that drained wetlands throughout Minnesota in hopes of creating suitable agricultural land.

🌿 **Mille Lacs: Misi-zaaga'iganiing (place of the big spread out lake)**

Treaties: 1837, 1842

43408 Oodena Drive • Onamia, MN 56359 • (320) 532-4181 • www.millelacsband.com

The main portion of the Mille Lacs reservation is located along the southwest corner of Lake Mille Lacs. The large Minnesota lake houses a diverse fishery where Ojibwe people continue to harvest traditional species including walleye, northern pike and yellow perch. The Band retains land in and around the communities of East Lake, Sandy Lake, Hinckley, McGregor, Minnewawa and Lake Lena.

APPENDIX IV

Treaties

Treaty with the Ottawa, etc. March 28, 1836

Articles of a treaty made and concluded at the city of Washington in the District of Columbia, between Henry R. Schoolcraft, commissioner on the part of the United States, and the Ottawa and Chippewa nations of Indians, by their chiefs and delegates.

Article First. [Designation of boundary lines ceded to the United States.]

Article Second. From the cession aforesaid the tribes reserve for their own use, to be held in common the following tracts for the term of five years from the date of the ratification of this treaty, and no longer; unless the United States shall grant them permission to remain on said lands for a longer period, namely: One tract of fifty thousand acres to be located on Little Traverse bay: one tract of twenty thousand acres to be located on the north shore of Grand Traverse bay: one tract of seventy thousand acres to be located on, or north of the Pieire Marquette river, one tract of one thousand acres to be located by Chingassanoo,—or the Big Sail, on the Cheboigan. One tract of one thousand acres, to be located by Mujeekeewis, on Thunder-bay river.

Article Third. There shall also be reserved for the use of the Chippewas living north of the straits of Michilimackinac, the following tracts for the term of five years from the date of the ratification of this treaty, and no longer, unless the United States shall grant them permission to remain on said lands for a longer period, that is to say: Two tracts of three miles square each, on the north shores of the said straits, between *Point-au-Barbe* and *Mille Coquin* river, including the fishing grounds in front of such reservations, to be located by a council of the chiefs. The Beaver islands of Lake Michigan for the use of the Beaver-island Indians. Round island, opposite Michilimackinac, as a place of encampment for the Indians, to be under the charge of the Indian department. The islands of the *Chenos*, with a part of the adjacent north coast of Lake Huron, corresponding in length, and one mile in depth. Sugar island, with its islets, in the river of St. Mary's. Six hundred and forty acres, at the mission of the Little Rapids. A tract commencing at the mouth of the *Pississowining* river, south of Point Iroquois, thence running up said streams to its forks, thence westward, in a direct line to the Red water lakes, thence across the portage to the Tacquimenon river, and down the same to its mouth, including the small islands and fishing grounds, in front of this reservation. Six hundred and forty acres, on Grand island, and two thousand acres, on the main land south of it. Two sections on the northern extremity of Green bay, to be located by a council of the chiefs. All the locations, left indefinite by this, and the preceding articles, shall be made by the proper chiefs, under the direction of the President. It is understood that the reservation for a place of fishing and encampment, made under the treaty of St. Mary's of the 16th of June 1820, remains unaffected by this treaty.

Article Fourth. In consideration of the foregoing cessions, the United States engage to pay to the Ottawa and Chippewa nations, the following sums, namely. *1st.* An annuity of thirty thousand dollars per annum, in specie, for twenty years; eigh-

teen thousand dollars, to be paid to the Indians between Grand River and the Cheboigun; three thousand six hundred dollars, to the Indians on the Huron shore, between the Cheboigan and Thunder-bay river; and seven thousand four hundred dollars, to the Chippewa's north of the straits, as far as the cession extends; the remaining one thousand dollars, to be invested in stock by the Treasury Department and to remain incapable of being sold, without the consent of the President and Senate, which may, however, be given, after the expiration of twenty-one years. *2nd.* Five thousand dollars per annum, for the purpose of education, teachers, school-houses, and books in their own language, to be continued twenty years, and as long thereafter as Congress may appropriate for the object. *3rd.* Three thousand dollars for missions, subject to the conditions mentioned in the second clause of this article. *4th.* Ten thousand dollars for agricultural implements, cattle, mechanics' tools, and such other objects as the President may deem proper. *5th.* Three hundred dollars per annum for vaccine matter, medicines, and the services of physicians, to be continued while the Indians remain on their reservations. *6th.* Provisions to the amount of two thousand dollars; six thousand five hundred pounds of tobacco; one hundred barrels of salt, and five hundred fish barrels, annually, for twenty years. *7th.* One hundred and fifty thousand dollars, in goods and provisions, on the ratification of this treaty, to be delivered at Michilimackinac, and also the sum of two hundred thousand dollars, in consideration of changing the permanent reservations in article two and three to reservations for five years only, to be paid whenever their reservations shall be surrendered, and until that time the interest on said two hundred thousand dollars shall be annually paid to the Indians.

Article Fifth. The sum of three hundred thousand dollars shall be paid to said Indians to enable them, with the aid and assistance of their agent, to adjust and pay such debts as they may justly owe, and the overplus, if any, to apply to such other use as they may think proper.

Article Sixth. The said Indians being desirous of making provision for their half-breed relatives, and the President having determined, that individual reservations shall not be granted, it is agreed, that in lieu thereof, the sum of one hundred and fifty thousand dollars shall be set apart as a fund for said half-breeds. No person shall be entitled to any part of said fund, unless he is of Indian descent and actually resident within the boundaries described in the first article of this treaty, nor shall any thing be allowed to any such person, who may have received any allowance at any previous Indian treaty. The following principles, shall regulate the distribution. A census shall be taken of all the men, women, and children, coming within this article. As the Indians hold in higher consideration, some of their half-breeds than others, and as there is much difference in their capacity to use and take care of property, and consequently, in their power to aid their Indian connexions, which furnishes a strong ground for this claim, it is, therefore, agreed, that at the council to be held upon this subject, the commissioner shall

call upon the Indian chiefs to designate, if they require it, three classes of these claimants, the first of which, shall receive one-half more than the second, and the second, double the third. Each man, woman, and child shall be enumerated, and an equal share, in the respective classes, shall be allowed to each. If the father is living with the family, he shall receive the shares of himself, wife and children. If the father is dead, or separated from the family, and the mother is living with the family, she shall have her own share, and that of the children. If the father and mother are neither living with the family, or if the children are orphans, their share shall be retained till they are twenty-one years of age; provided, that such portions of it as may be necessary may, under the direction of the President, be from time to time supplied for their support. All other persons at the age of twenty-one years, shall receive their shares agreeably to the proper class. Out of the said fund of one hundred and fifty thousand dollars, the sum of five thousand dollars shall be reserved to be applied, under the direction of the President, to the support of such of the poor half-breeds, as may require assistance, to be expended in annual installments for the term of ten years, commencing with the second year. Such of the half-breeds, as may be judged incapable of making a proper use of the money, allowed them by the commissioner, shall receive the same installments, as the President may direct.

Article Seventh. In consideration of the cessions above made, and as a further earnest of the disposition felt to do full justice to the Indians, and to further their well being, the United States engage to keep two additional blacksmith-shops, one of which shall be located on the reservation north of Grand river, and the other at the Sault Ste. Marie. A permanent interpreter will be provided at each of these locations. It is stipulated to renew the present dilapidated shop at Michilimackinac, and to maintain a gunsmith, in addition to the present smith's establishment, and to build a dormitory for the Indians visiting the post, and appoint a person to keep it, and supply it with firewood. It is also agreed, to support two farmers and assistants, and two mechanics, as the President may designate, to teach and aid the Indians, in agriculture, and in the mechanic arts. The farmers and mechanics, and the dormitory, will be continued for ten years, and as long thereafter, as the President may deem this arrangement useful and necessary; but the benefits of the other stipulations of this article, shall be continued beyond the expiration of the annuities, and it is understood that the whole of this article shall stand in force, and inure to the benefit of the Indians, as long after the expiration of the twenty years as Congress may appropriate for the objects.

Article Eighth. It is agreed, that as soon as the said Indians desire it, a deputation shall be sent to the southwest of the Missouri River, there to select a suitable place for the final settlement of said Indians, which country, so selected and of reasonable extent, the United States will forever guaranty and secure to said Indians. Such improvements as add value to the land, hereby ceded, shall be appraised, and the amount paid to the proper Indian. But such payment shall, in no case, be assigned to, or paid to, a white man. If the church on the Cheboigan, should fall within this cession, the value shall be paid to the band owning it. The net proceeds of the sale of the one hundred and sixty acres of land, upon the Grand River upon which the missionary society have erected their buildings, shall be paid to the said society, in lieu of the value of their said improvements. When the Indians wish it, the United States will remove them, at their expense, provide them a year's subsistence in the country to which they go, and furnish the same articles and equipments to each person as are stipulated to be given to the Pottowatomies in the final treaty of cession concluded at Chicago.

Article Ninth. Whereas, the Ottawas and Chippewas, feeling a strong consideration for aid rendered by certain of their half-breeds on Grand river, and other parts of the country ceded, and wishing to testify their gratitude on the present occasion, have assigned such individuals certain locations of land, and united in a strong appeal for the allowance of the same in this treaty; and whereas no such reservation can be permitted in carrying out the special directions of the President on this subject, it is agreed, that, in addition to the general fund set apart for half-breed claims, in the sixth article, the sum of forty-eight thousand one hundred and forty-eight dollars shall be paid for the extinguishment of this class of claims, to be divided in the following manner: To Rix Robinson, in lieu of a section of land, granted to his Indian family, on the Grand river rapids, (estimated by good judges to be worth half a million,) at the rate of thirty six dollars an acre: To Leonard Slater, in trust for Chiminoquat, for a section of land above said rapids, at the rate of ten dollars an acre: To John A. Drew, for a tract of one section and three quarters, to his Indian family, at Cheboigan rapids, at the rate of four dollars; to Edward Biddle, for one section to his Indian family at the fishing grounds, at the rate of three dollars: To John Holiday, for five sections of land to five persons of his Indian family, at the rate of one dollar and twenty-five cents; to Eliza Cook, Sophia Biddle, and Mary Holiday, one section of land each, at two dollars and fifty cents: To Augustin Hamelin junr, being of Indian descent, two sections, at one dollar and twenty-five cents; to William Lasley, Joseph Daily, Joseph Trotier, Henry A. Levake, for two sections each, for their Indian families, at one dollar and twenty-five cents: To Luther Rice, Joseph Lafrombois, Charles Butterfield, being of Indian descent, and to George Moran, Louis Moran, G. D. Williams, for half-breed children under their care, and to Daniel Marsac, for his Indian child, one section each, at one dollar and twenty-five cents.

Article Tenth. The sum of thirty thousand dollars shall be paid to the chiefs, on the ratification of this treaty, to be divided agreeably to a schedule hereunto annexed.

Article Eleventh. The Ottawas having consideration for one of their aged chiefs, who is reduced to poverty, and it being known that he was a firm friend of the American Government, in that quarter, during the late war, and suffered much in consequence of his sentiments, it is agreed, that an annuity of one hundred dollars per annum shall be paid to Ningweegon or the Wing, during his natural life, in money or goods, as he may choose. Another of the chiefs of said nation, who attended the treaty of Greenville in 1793, and is now, at a very advanced age, reduced to extreme want, together with his wife, and the Government being apprized that he has pleaded a promise of Gen. Wayne, in his behalf, it is agreed that Chusco of Michilimackinac shall receive an annuity of fifty dollars per annum during his natural life.

Article Twelfth. All expenses attending the journeys of the Indians from, and to their homes, and their visit at the seat of Government, together with the expenses of the treaty, including a proper quantity of clothing to be given them, will be paid by the United States.

Article Thirteenth. *The Indians stipulate for the right of hunting on the lands ceded, with the other usual privileges of occupancy, until the land is required for settlement.*

In testimony whereof, the said Henry R. Schoolcraft, commissioner on the part of the United States, and the chiefs and delegates of the Ottawa and Chippewa nation of Indians, have hereunto set their hands, at Washington the seat of Government, this twenty-eighth day of March, in the year one thousand eight hundred and thirty-six.

Henry R. Schoolcraft, Commissioner

Treaty with the Chippewa

July 29, 1837

Articles of a treaty made and concluded at St. Peters (the confluence of the St. Peters and Mississippi rivers) in the Territory of Wisconsin, between the United States of America, by their commissioner, Henry Dodge, Governor of said Territory, and the Chippewa nation of Indians, by their chiefs and headmen.

Article 1. The said Chippewa nation cede to the United States all the tract of country included within the following boundaries:

Beginning at the junction of the Crow Wing and Mississippi rivers, between twenty and thirty miles above where the Mississippi is crossed by the forty-sixth parallel of north latitude, and running thence to the north point of Lake St. Croix, one of the sources of the St. Croix river; thence to and along the dividing ridge between the waters of Lake Superior and those of the Mississippi, to the sources of the Ocha-sua-sepe a tributary of the Chippewa river; thence to a point on the Chippewa river, twenty miles below the outlet of Lake De Flambeau; thence to the junction of the Wisconsin and Pelican rivers; thence on an east course twenty-five miles; thence southerly, on a course parallel with that of the Wisconsin river, to the line dividing the territories of the Chippewas and Menominies; thence to the Plover Portage; thence along the southern boundary of the Chippewa country, to the commencement of the boundary line dividing it from that of the Sioux, half a days march below the falls on the Chippewa river; thence with said boundary line to the mouth of Wah-tap river; at its junction with the Mississippi; and thence up the Mississippi to the place of beginning.

ARTICLE 2. In consideration of the cession aforesaid, the United States agrees to make to the Chippewa nation, annually, for the term of twenty years, from the date of the ratification of this treaty, the following payments.

1. Nine thousand five hundred dollars, to be paid in money.

2. Nineteen thousand dollars, to be delivered in goods.

3. Three thousand dollars for establishing three blacksmith shops, supporting the blacksmiths, and furnishing them with iron and steel.

4. One thousand dollars for farmers, and for supplying them and the Indians, with implements of labor, with grain or seed; and whatever else may be necessary to enable them to carry on their agricultural pursuits.

5. Two thousand dollars in provisions.

6. Five hundred dollars in tobacco.

The provisions and tobacco to be delivered at the same time with the goods, and the money to be paid; which time or times, as well as the place or places where they are to be delivered, shall be fixed upon under the direction of the President of the United States. The blacksmiths shops to be placed at such points in the Chippewa country as shall be designated by the Superintendent of Indian Affairs, or under his direction. If at the expiration of one or more years the Indians should prefer to receive goods, instead of the nine thousand dollars agreed to be paid to them in money, they shall be at liberty to do so. Or, should they conclude to appropriate a portion of that annuity to the establishment and support of a school or schools among them, this shall be granted them.

ARTICLE 3. The sum of one hundred thousand dollars shall be paid by the United States, to the half-breeds of the Chippewa nation, under the direction of the President. It is the wish of the Indians that their two sub-agents Daniel P. Bushnell, and Miles M. Vineyard, superintend the distribution of this money among their half-breed relations.

ARTICLE 4. The sum of seventy thousand dollars shall be applied to the payment, by the United States, of certain claims against the Indians of which amount twenty-eight thousand dollars shall, at their request, be paid to William A. Aitkin, twenty-five thousand to Lyman M. Warren, and the balance applied to the liquidation of other just demands against them which they acknowledge to be the case with regard to that presented by Hercules L. Dousman, for the sum of five thousand dollars; and they request that it be paid.

ARTICLE 5. *The privilege of hunting, fishing, and gathering the wild rice, upon the lands, the rivers and the lakes included in the territory ceded, is guaranteed to the Indians, during the pleasure of the President of the United States.*

ARTICLE 6. This treaty shall be obligatory from and after its ratification by the President and Senate of the United States. Done at St. Peters in the Territory of Wisconsin the twenty-ninth day of July eighteen hundred and thirty-seven.

Henry Dodge, Commissioner

Treaty with the Chippewa

October 4, 1842

Articles of a treaty made and concluded at La Pointe of Lake Superior, in the Territory of Wisconsin, between Robert Stuart commissioner on the part of the United States, and the Chippewa Indians of the Mississippi, and Lake Superior, by their chiefs and headmen.

ARTICLE I. The Chippewa Indians of the Mississippi and Lake Superior, cede to the United States all the country within the following boundaries; viz: beginning at the mouth of Chocolate river of Lake Superior; thence northwardly across said lake to intersect the boundary line between the United States and the Province of Canada; thence up said Lake Superior, to the mouth of the St. Louis, or Fond du Lac river (including all the islands in said lake); thence up said river to the American Fur Company's trading post, at the southwardly bend thereof, about 22 miles from its mouth; thence sought to intersect the line of the treaty of 29th July 1837, with the Chippewas of the Mississippi; thence along said line to its southeastwardly extremity, near the Plover portage on the Wisconsin river; thence northeastwardly, along the boundary line, between the Chippewas and Menomonees, to its eastern termination, (established by the treaty held with the Chippewas, Menomonees, and Winnebagoes, at Butte des Morts, August 11th 1827) on the Skonawby river of Green Bay; thence northwardly to the source of Chocolate river; thence down said river to its mouth, the place of beginning; it being the intention of the parties to this treaty, to include in this cession, all the Chippewa lands eastwardly of the aforesaid line running from the American Fur Company's trading post on the Fond du Lac river to the intersection of the line of the treaty made with the Chippewas of the Mississippi July 29th 1837.

ARTICLE II. *The Indians stipulate for the right of hunting on the ceded territory, with the other usual privileges of occupancy, until required to remove by the President of the United States, and that the laws of the United States shall be continued in force, in respect to their trade and intercourse with the whites, until otherwise ordered by Congress.*

ARTICLE III. It is agreed by the parties to this treaty, that whenever the Indians shall be required to remove from the ceded district, all the unceded lands belonging to the Indians of Fond du Lac, Sandy Lake, and Mississippi bands, shall be the common property and home of all the Indians, party to this treaty.

ARTICLE IV. In consideration of the foregoing cession, the United States, engage to pay to the Chippewa Indians of the Mississippi, and Lake Superior, annually, for twenty-five years, twelve thousand five hundred (12,500) dollars, in specie, ten thousand five hundred (10,500) dollars in goods, two thousand (2,000) dollars in provisions

and tobacco, two thousand (2,000) dollars for the support of two blacksmith shops, (including pay of smiths and assistants, and iron steel &c.) one thousand (1,000) dollars for pay of two farmers, twelve hundred (1,200) dollars for pay of two carpenters, and two thousand (2,000) dollars for the support of schools for the Indians party to this treaty; and further the United States engage to pay the sum of five thousand (5,000) dollars as an agricultural fund, to be expended under the direction of the Secretary of War. And also the sum of seventy-five thousand (75,000) dollars, shall be allowed for the full satisfaction of their debts within the ceded district, which shall be examined by the commissioner to this treaty, and the amount to be allowed decided upon by him, which shall appear in a schedule hereunto annexed. The United States shall pay the amount so allowed within three years.

Whereas the Indians have expressed a strong desire to have some provision made for their half breed relatives, therefore it is agreed, that fifteen thousand (15,000) dollars shall be paid to said Indians, next year, as a present, to be disposed of, as they, together with their agent, shall determine in council.

ARTICLE V. Whereas the whole country between Lake Superior and the Mississippi, has always been understood as belonging in common to the Chippewas, party to this treaty; and whereas the bands bordering on Lake Superior, have not been allowed to participate in the annuity payments of the treaty made with the Chippewas of the Mississippi, at St. Peters July 29th 1837, and whereas all the unceded lands belonging to the aforesaid Indians, are hereafter to be held in common, therefore, to remove all occasion for jealousy and discontent, it is agreed that all the annuity due by the said treaty, as also the annuity due by the present treaty, shall henceforth be equally divided among the Chippewas of the Mississippi and Lake Superior; party to this treaty, so that every person shall receive an equal share.

ARTICLE VI. The Indians residing on the Mineral district, shall be subject to removal therefrom at the pleasure of the President of the United States.

ARTICLE VII. This treaty shall be obligatory upon the contracting parties when ratified by the President and Senate of the United States. In testimony whereof the said Robert Stuart commissioner, on the part of the United States, and the chiefs and headmen of the Chippewa Indians of the Mississippi and Lake Superior, have hereunto set their hands, at La Pointe of Lake Superior, Wisconsin Territory this fourth day of October in the year of our Lord one thousand eight hundred and forty-two.

*Robert Stuart, Commissioner
Jno. Hulbert, Secretary*

Treaty with the Chippewa

September 30, 1854

Articles of a treaty made and concluded at La Pointe, in the State of Wisconsin, between Henry C. Gilbert and David B. Herriman, commissioners on the part of the United States, and the Chippewa Indians of Lake Superior and the Mississippi, by their chiefs and headmen.

ARTICLE 1. The Chippewas of Lake Superior hereby cede to the United States all the lands heretofore owned by them in common with the Chippewas of the Mississippi, lying east of the following boundary line, to wit: Beginning at a point, where the east branch of Snake River crosses the southern boundary line of the Chippewa country, running thence up the said branch to its source, thence nearly north, in a straight line, to the mouth of East Savannah River, thence up the St. Louis River to the mouth of East Swan River, thence up the East Swan River to its source, thence in a straight line to the most westerly bend of Vermillion River, and thence down the Vermillion River to its mouth.

The Chippewas of the Mississippi hereby assent and agree to the foregoing cession and consent that the whole amount of the consideration money for the country ceded above, shall be paid to the Chippewas of Lake Superior, and in consideration thereof the Chippewas of Lake Superior hereby relinquish to the Chippewas of the Mississippi, all their interest in and claim to the lands heretofore owned by them in common, lying west of the above boundary-line.

ARTICLE 2. [Designation of boundary lines]

ARTICLE 3. The United States will define the boundaries of the reserved tracts, whenever it may be necessary, by actual survey, and the President may, from time to time, at his discretion, cause the whole to be surveyed, and may assign to each head of a family or single person over twenty-one years of age, eighty acres of land for his or their separate use: and he may, at his discretion, as fast as the occupants become capable of transacting their own affairs, issue patents therefor to such occupants, with such restrictions of the power of alienation as he may see fit to impose. And he may also, at his discretion, make rules and regulations, respecting the disposition of the lands in case of the death of the head of a family, or single person occupying the same, or in case of its abandonment by them. And he may also assign other lands in exchange for mineral lands, if any such are found in the tracts herein set apart. And he may also make such changes in the boundaries of such reserved tracts or otherwise, as shall be necessary to prevent interference with any vested rights. All necessary roads, highways, and railroads, the lines of which may run through any of the reserved tracts, shall have the right of way through the same, compensation being made therefor as in other cases.

ARTICLE 4. In consideration of and payment for the country hereby ceded, the United States agree to pay to the Chippewas of Lake Superior, annually, for the term

of twenty years, the following sums, to wit: five thousand dollars in coin; eight thousand dollars in goods, household furniture and cooking utensils; three thousand dollars in agricultural implements and cattle, carpenter's and other tools and building materials, and three thousand dollars for moral and educational purposes, of which last sum, three hundred dollars per annum shall be paid to the Grand Portage band, to enable them to maintain a school at their village. The United States will also pay the further sum of ninety thousand dollars, as the chiefs in open council may direct, to enable them to meet their present just engagements. Also the further sum of six thousand dollars, in agricultural implements, household furniture, and cooking utensils, to be distributed at the next annuity payment, among the mixed bloods of said nation. The United States will also furnish two hundred guns, one hundred rifles, five hundred beaver traps, three hundred dollars' worth of ammunition, and one thousand dollars' worth of ready made clothing, to be distributed among the young men of the nation, at the next annuity payment.

ARTICLE 5. The United States will also furnish a blacksmith and assistant, with the usual amount of stock, during the continuance of the annuity payments, and as much longer as the President may think proper, at each of the points herein set apart for the residence of the Indians, the same to be in lieu of all the employees to which the Chippewas of Lake Superior may be entitled under previous existing treaties.

ARTICLE 6. The annuities of the Indians shall not be taken to pay the debts of individuals, but satisfaction for depredations committed by them shall be made by them in such manner as the President may direct.

ARTICLE 7. No spirituous liquors shall be made, sold, or used on any of the lands herein set apart for the residence of the Indians, and the sale of the same shall be prohibited in the Territory hereby ceded, until otherwise ordered by the President.

ARTICLE 8. It is agreed, between the Chippewas of Lake Superior and the Chippewas of the Mississippi, that the former shall be entitled to two-thirds, and the latter to one-third, of all benefits to be derived from former treaties existing prior to the year 1847.

ARTICLE 9. The United States agrees that an examination shall be made, and all sums that may be found equitably due to the Indians, for arrearages of annuity or other thing, under the provisions of former treaties, shall be paid as the chiefs may direct.

ARTICLE 10. All missionaries, and teachers, and other persons of full age, residing in the territory hereby ceded, or upon any of the reservations hereby made by authority of law, shall be allowed to enter the land occupied by them at the minimum price whenever the surveys shall be completed to the amount of one quarter section each.

ARTICLE 11. All annuity payments to the Chippewas of Lake Superior, shall hereafter be made at L'Anse, La Pointe, Grand Portage, and on the St. Louis River; and the Indians shall not be required to remove from the homes hereby set apart for them. *And such of them as reside in the territory hereby ceded, shall have the right to hunt and fish therein, until otherwise ordered by the President.*

ARTICLE 12. In consideration of the poverty of the Bois Forte Indians who are parties to this treaty, they having never received any annuity payments, and of the great extent of that part of the ceded country owned exclusively by them, the following additional stipulations are made for their benefit. The United States will pay the sum of ten thousand dollars, as their chiefs in open council may direct, to enable them to meet their present just engagements. Also the further sum of ten thousand dollars, in five equal annual payments, in blankets, cloth, nets, guns, ammunition, and such other articles of necessity as they may require.

They shall have the right to select their reservation at any time hereafter, under the direction of the President; and the same may be equal in extent, in proportion to their numbers, to those allowed the other bands, and be subject to the same provisions.

They shall be allowed a blacksmith, and the usual smithshop supplies and also two persons to instruct them in farming, whenever in the opinion of the President it shall be proper, and for such length of time as he shall direct.

It is understood that all Indians who are parties to this treaty, except the Chippewas of the Mississippi, shall hereafter be known as the Chippewas of Lake Superior. Provided, that the stipulation by which the Chippewas of Lake Superior relinquishing their right to land west of the boundary line shall not apply to the Bois Forte band who are parties to this treaty.

ARTICLE 13. This treaty shall be obligatory on the contracting parties, as soon as the same shall be ratified by the President and Senate of the United States. In testimony whereof, the said Henry C. Gilbert, and the said David B. Herriman, commissioners as aforesaid, and the undersigned chiefs and headmen of the Chippewas of Lake Superior and the Mississippi, have hereunto set their hands and seals, at the place aforesaid, this thirtieth day of September, one thousand eight hundred and fifty-four.

*Henry C. Gilbert,
David B. Herriman,
Commissioners*



Biindaakoozh—make an offering of tobacco.

Treaty with the Chippewa

February 22, 1855

Articles of agreement and convention made and concluded at the city of Washington, this twenty-second day of February, one thousand eight hundred and fifty-five, by George W. Manypenny, commissioner, on the part of the United States, and the following-named chiefs and delegates, representing the Mississippi bands of Chippewa Indians, viz: Pug-o-na-ke-shick, or Hole-in-the-day; Que-we-sans-ish, or Bad boy; Wand-e-kaw, or Little Hill; I-awe-showe-we-ke-shig, or Crossing Sky; Petud-dunce, or Rat's Liver; Mun-o-min-e-kay-shein, or Rice-Maker; Mah-yah-ge-way-wedurg, or the Chorister; Kay-gwadaush, or the Attempter; Caw-caug-e-we-goon, or Crow Feather; and Show-baush-king, or He that passes under Everything, and the following-named chiefs and delegates representing the Pillager and Lake Winnibigoshish bands of Chippewa Indians, viz: Aish-ke-bug-e-koshe, or Flat Mouth; Be-sheck-kee, or Buffalo; Nay-bun-a-caush, or Young Man's Son; Maug-e-gaw-bow, or Stepping Ahead; Mi-gi-si, or Eagle, and Kaw-be-mub-bee, or North Star, they being thereto duly authorized by the said bands of Indians respectively.

ARTICLE 1. The Mississippi, Pillager, and Lake Winnibigoshish bands of Chippewa Indians hereby cede, sell, and convey to the United States all their right, title, and interest in, and to, the lands now owned and claimed by them, in the Territory of Minnesota, and included within the following boundaries. [Designation of boundary lines]

And the said Indians do further fully and entirely relinquish and convey to the United States, any and all right, title, and interest, of whatsoever nature the same may be, which they may now have in, and to any other lands in the Territory of Minnesota or elsewhere.

ARTICLE 2. There shall be, and hereby is, reserved and set apart a sufficient quantity of land for the permanent homes of the said Indians; the lands so reserved and set apart, to be in separate tracts.

For the Mississippi bands of Chippewa Indians: The first to embrace the following fractional townships, viz: forty-two north, of range twenty-five west; forty-two north, of range twenty-six west; and forty-two and forty-three north, of range twenty-seven west; and, also, the three islands in the southern part of Mille Lac. Second, beginning at a point half a mile east of Rabbit Lake; thence south three miles; thence westwardly, in a straight line, to a point three miles south of the mouth of Rabbit River; thence north to the mouth of said river; thence up the Mississippi River to a point directly north of the place of beginning; thence south to the place of beginning. Third, beginning at a point half a mile southwest from the most southwestwardly point of Gull Lake; thence due south to Crow Wing River; thence down said river, to the Mississippi River; thence up said river to Long Lake Portage; thence, in a straight line, to the head of Gull Lake; thence in a southwestwardly direction, as nearly in a direct line as practicable, but at no point thereof, at a less distance than half a mile from said lake, to the place of beginning. Fourth, the boundaries to be, as nearly as practicable, at right angles, and so as to embrace within them Pokagomon Lake; but nowhere to approach nearer said lake than half a mile therefrom. Fifth, beginning at the mouth of Sandy Lake River; thence south, to a point on an east and west line, two miles south of the most southern point of Sandy Lake; thence east, to a point due south from the mouth of West Savannah River; thence north, to the mouth of said river; thence north to a point on an east and west line, one mile north of the most northern point of Sandy

Lake; thence west, to Little Rice River; thence down said river to Sandy Lake River; and thence down said river to the place of beginning. Sixth, to include all the islands in Rice Lake, and also half a section of land on said lake, to include the present gardens of the Indians. Seventh, one section of land for Pug-o-na-ke-shick, or Hole-in-the-day, to include his house and farm; and for which he shall receive a patent in fee simple.

For the Pillager and Lake Winnibigoshish bands. [Designation of boundary lines]

And at such time or times as the President may deem it advisable for the interests and welfare of said Indians, or any of them, he shall cause the said reservation, or such portion or portions thereof as may be necessary, to be surveyed; and assign to each head of a family, or single person over twenty-one years of age, a reasonable quantity of land, in one body, not to exceed eighty acres in any case, for his or their separate use; and he may, at his discretion, as the occupants thereof become capable of managing their business and affairs, issue patents to them for the tracts so assigned to them, respectively; said tracts to be exempt from taxation, levy, sale, or forfeiture; and not to be aliened or leased for a longer period than two years, at one time, until otherwise provided by the legislature of the State in which they may be situate, with the assent of Congress. They shall not be sold, or alienated, in fee, for a period of five years after the date of the patents; and not then without the assent of the President of the United States being first obtained. Prior to the issue of the patent, the President shall make such rules and regulations as he may deem necessary and expedient, respecting the disposition of any of said tracts in case of the death of the person or persons to whom they may be assigned, so that the same shall be secured to the families of such deceased person; and should any of the Indians to whom tracts may be assigned thereafter abandon them, the President may make such rules and regulations, in relation to such abandoned tracts, as in his judgment may be necessary and proper.

ARTICLE 3. In consideration of, and in full compensation for, the cessions made by the said Mississippi, Pillager, and Lake Winnibigoshish bands of Chippewa Indians, in the first article of this agreement, the United States hereby agree and stipulate to pay, expend, and make provisions for, the said bands of Indians, as follows, viz:

For the Mississippi bands: Ten thousand dollars (\$10,000) in goods, and other useful articles, as soon as practicable after the ratification of this instrument, and after the appropriation shall be made by Congress therefor, to be turned over to the delegates and Chiefs for distribution among their people.

Fifty thousand dollars (\$50,000) to enable them to adjust and settle their present engagements, so far as the same, on an examination thereof, may be found and decided to be valid and just by the chiefs, subject to the approval of the Secretary of the Interior; and any balance remaining of said sum not required for the above-mentioned purpose shall be paid over to said Indians in the same manner as their annuity money, and in such installments as the said Secretary may determine; Provided, That an amount not exceeding ten thousand dollars (\$10,000) of the above sum shall be paid to such full and mixed bloods as the chiefs may direct, for services rendered heretofore to their bands.

Twenty thousand dollars (\$20,000) per annum, in money, for twenty years, provided, that two thousand dollars (\$2,000)

per annum of that sum, shall be paid or expended, as the chiefs may request, for purposes of utility connected with the improvement and welfare of said Indians, subject to the approval of the secretary of the Interior.

Five thousand dollars (\$5,000) for the construction of a road from the mouth of Rum River to Mille Lac, to be expended under the direction of the Commissioner of Indian Affairs.

A reasonable quantity of land, to be determined by the Commissioner of Indian Affairs, to be ploughed and prepared for cultivation in suitable fields, at each of the reservations of the said bands, not exceeding, in the aggregate, three hundred acres for all the reservations, the Indians to make the rails and inclose the fields themselves.

For the Pillager and Lake Winnibigoshish bands: Ten thousand dollars (\$10,000) in goods, and other useful articles, as soon as practicable, after the ratification of this agreement, and an appropriation shall be made by congress therefor; to be turned over to the chiefs and delegates for distributions among their people.

Forty thousand dollars (\$40,000) to enable them to adjust and settle their present engagements, so far as the same, on an examination thereof, may be found and decide to be valid and just by the chiefs, subject to the approval of the Secretary of the Interior; and any balance remaining of said sum, not required for that purpose, shall be paid over to said Indians, in the same manner as their annuity money, and in such installments as the said Secretary may determine; provided that an amount, not exceeding ten thousand dollars (\$10,000) of the above sum, shall be paid to such mixed-bloods as the chiefs may direct, for services heretofore rendered to their bands.

Ten thousand six hundred and sixty-six dollars and sixty-six cents (\$10,666.66) per annum, in money, for thirty years.

Eight thousand dollars (\$8,000) per annum, for thirty years, in such goods as may be requested by the Chiefs, and as may be suitable for the Indians, according to their condition and circumstances.

Four thousand dollars (\$4,000) per annum, for thirty years, to be paid or expended, as the chief may request, for purposes of utility connected with the improvement and welfare of said Indians; subject to the approval of the Secretary of the Interior: Provided, That an amount not exceeding two thousand dollars thereof, shall, for a limited number of years, be expended under the direction of the Commissioner of Indian affairs, for provisions, seeds, and such other articles or things as may be useful in agricultural pursuits.

Such sum as can be usefully and beneficially applied by the United States, annually, for twenty years, and not to exceed three thousand dollars, in any one year, for purposes of education; to be expended under the direction of the Secretary of the Interior.

Three hundred dollars' (\$300) worth of powder, per annum, for five years.

One hundred dollars' (\$100) worth shot and lead, per annum, for five years.

One hundred dollars' (\$100) worth of gilling twine, per annum, for five years.

One hundred dollars' (\$100) worth of tobacco, per annum, for five years.

Hire of three laborers at Leech Lake, of two at Lake Winnibigoshish, and of one at Cass Lake, for five years.

Expense of two blacksmiths, with the necessary shop, iron, steel, and tools, for fifteen years.

Two hundred dollars (\$200) in grubbing-hoes and tools, the present year.

Fifteen thousand dollars (\$15,000) for opening a road from Crow Wing to Leech Lake; to be expended under the direction of the Commissioner of Indian Affairs. To have ploughed and prepared for cultivation, two hundred acres of land, in ten or more lots, within the reservation at Leech Lake; fifty acres, in four or more lots, within the reservation at Lake Winnibigoshish; and twenty-five acres, in two or more lots within the reservation at Cass Lake: Provided, That the Indians shall make the rails and inclose the lots themselves. A saw-mill, with a portable grist-mill attached thereto, to be established whenever the same shall be deemed necessary and advisable by the Commissioner of Indian Affairs, at such point as he shall think best; and which, together, with the expense of a proper person to take charge of and operate them, shall be continued during ten years: Provided, That the cost of all the requisite repairs of the said mills shall be paid by the Indians, out of their own funds.

ARTICLE 4. The Mississippi bands have expressed a desire to be permitted to employ their own farmers, mechanics, and teachers; and it is therefore agreed that the amounts to which they are now entitled, under former treaties, for purposes of education, for blacksmiths and assistants, shops, tools, iron and steel, and for the employment of farmers and carpenters, shall be paid over to them as their annuities are paid: Provided, however, That whenever, in the opinion of the Commissioner of Indian Affairs, they fail to make proper provision for the above-named purposes, he may retain said amounts, and appropriate them according to his discretion, for their education and improvement.

ARTICLE 5. The foregoing annuities, in money and goods, shall be paid and distributed as follows: Those due the Mississippi bands, at one of their reservations; and those due the Pillager and Lake Winnibigoshish bands, at Leech Lake; and no part of the said annuities shall ever be taken or applied, in any manner, to or for the payment of the debts or obligations of Indians contracted in their private dealings, as individuals, whether to traders or other persons. And should any of said Indians become intemperate or abandoned, and waste their property, the President may withhold any moneys or goods, due and payable to such, and cause the same to be expended, applied, or distributed, so as to insure the benefit thereof to their families. If, at any time, before the said annuities in money and goods of either of the Indian parties to this convention shall expire, the interests and welfare of said Indians shall, in the opinion of the President, require a different arrangement, he shall have the power to cause the said annuities, instead of being paid over and distributed to the Indians, to be expended or applied to such purposes or objects as may be best calculated to promote their improvement and civilization.

ARTICLE 6. The missionaries and such other persons as are now, by authority of law, residing in the country ceded by the first article of this agreement, shall each have the privilege of entering one hundred and sixty acres of the said ceded lands, at one dollar and twenty-five cents per acre; said entries not to be made so as to interfere, in any manner, with the laying off of the several reservations herein provided for.

And such of the mixed bloods as are heads of families, and now have actual residences and improvements in the ceded country, shall have granted to them, in fee, eighty acres of land, to include their respective improvements.

ARTICLE 7. The laws which have been or may be enacted by Congress, regulating trade and intercourse with the Indian tribes, to continue and be in force within the several reservations provided for herein; and those portions of said laws which

prohibit the introduction, manufacture, use of, and traffic in, ardent spirits, wines, or other liquors, in the Indian country, shall continue and be in force, within the entire boundaries of the country herein ceded to the United States, until otherwise provided by Congress.

ARTICLE 8. All roads and highways, authorized by law, the lines of which shall be laid through any of the reservations provided for in this convention, shall have the right of way through the same; the fair and just value of such right being paid to the Indians therefor; to be assessed and determined according to the laws in force for the appropriation of lands for such purposes.

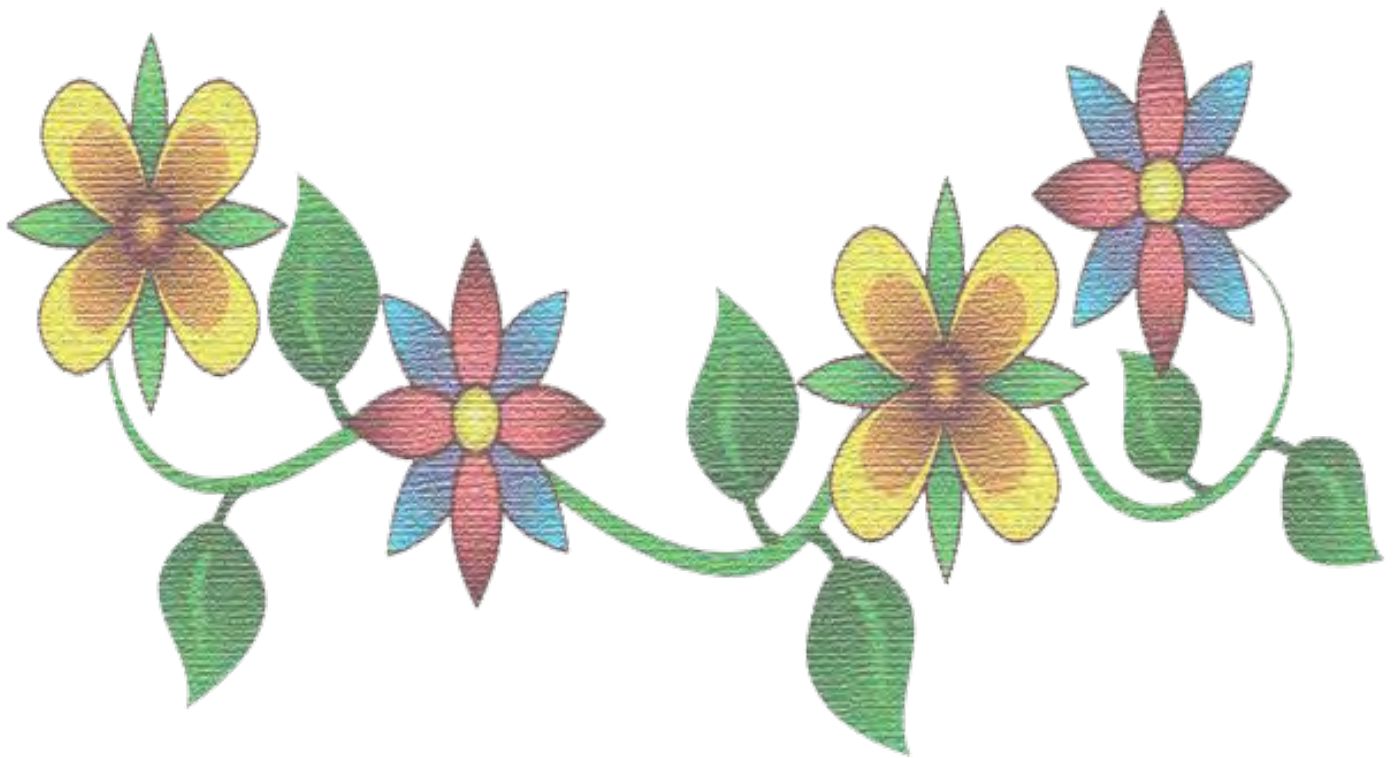
ARTICLE 9. The said bands of Indians, jointly and severally, obligate and bind themselves not to commit any depredations or wrong upon other Indians, or upon citizens of the United States; to conduct themselves at all times in a peaceable and orderly manner; to submit all difficulties between them and other Indians to the President, and to abide by his deci-

sion in regard to the same, and to respect and observe the laws of the United States, so far as the same are to them applicable. And they also stipulate that they will settle down in the peaceful pursuits of life, commence the cultivation of the soil, and appropriate their means to the erection of houses, opening farms, the education of their children, and such other objects of improvement and convenience, as are incident to well-regulated society; and that they will abstain from the use of intoxicating drinks and other vices to which they have been addicted.

ARTICLE 10. This instrument shall be obligatory on the contracting parties as soon as the same shall be ratified by the President and the Senate of the United States.

In testimony whereof the said George W. Manypenny, Commissioner as aforesaid, and the said chiefs and delegates of the Mississippi, Pillager and Lake Winnibigoshish bands of Chippewa Indians have hereunto set their hands and seals, at the place on the day and year hereinbefore written.

George W. Manypenny, Commissioner



APPENDIX V

Resource Materials

GLIFWC offers most of our publications in PDF format which can be downloaded from our website at www.glifwc.org. GLIFWC's Public Information Office (PIO) can be reached by phone at 715.682.6619; email lynn@glifwc.org; or mail at PO Box 9, Odanah, WI 54861.

Following are some of the materials published; contact PIO for pricing information. Additional materials are available at www.glifwc.org/publications; also check out the GLIFWC Facebook page.

Newspaper & supplements

MAZINA'IGAN

A quarterly newspaper emphasizing treaty issues and treaty resource management activities. For a free subscription contact GLIFWC at 715.682-6619 or email lynn@glifwc.org.

Youth Publications

Gimaamaa-akiiminaan gimiigwechiwendaamin (Thankful for our Mother Earth)—This is the latest kid's treaty rights activity booklet. Follow a young Anishinaabe boy as he grows up with Anishinaabe practices and values. This edition takes you through the many steps involved with akwa'waawin (spearing through the ice). Help the characters prepare for spearing through the ice while learning some Ojibwemowin along the way. ©2016

Gimaamaa-akiiminaan gimiigwechiwendaamin (Thankful for our Mother Earth)—This edition follows manoominikewin (wild ricing) and the work it takes to process manoomin. Help the characters prepare for ricing season while learning some Ojibwemowin along the way. ©2016

Anishinaabe Coloring & Activity Book—This 28-page coloring and activity book features line drawings of Ojibwe seasonal hunting and gathering activities, animals, fish and four pages of kid's activities. ©2016

Cultural Posters

GLIFWC produces a new poster annually.

Media

Ogichidaag Storytellers video series—The Ogichidaag Storytellers is a video project that aims to educate the public about the treaty rights struggles faced by Ojibwe tribes in northern Wisconsin and Michigan during the 1960s-1980s. These short, first-person educational documentaries not only depict how extraordinary the struggles for legal recognition were, but also how treaty rights have personal, cultural and spiritual implications for what it means to be Ojibwe. These videos can be viewed at: www.glifwc.org/publications/#Media

Brochures

GLIFWC; Wild Rice Ecology-Harvest-Management; GLIFWC Law Enforcement in the Ceded Territory; Lake Superior Indian Fishery; Sandy Lake Tragedy & Memorial; Plants Out of Place; Help Stop Aquatic Hitchhikers; and Target: Leafy Spurge.

Atlas

Gidakiiminaan (Our Earth)—The Gidakiiminaan atlas is an 80-page atlas that identifies the Anishinaabe (Ojibwe) names of lakes, rivers, islands, bays, and other locations in northern Wisconsin, the Upper Peninsula of Michigan, and east central Minnesota. Some of these are the pre-European names. Included in the atlas is a translation of the original name and a table that identifies the modern location name with the Anishinaabe name. © 2007

Books

Ojibwe Journeys: Treaties, Sandy Lake & The Waabanong Run—This book explores key events in the history of Ojibwe people in the greater Lake Superior region. Soon after Ojibwe leaders negotiated treaties with the United States in the mid-1800s, tribal members embarked on a journey to maintain their reserved rights to natural resources. Through traditions that include distance running, spiritual living, and a growing legal prowess, Ojibwe people have struggled against formidable governments and anti-Indian groups.

Plants Used by the Great Lakes Ojibwa—This book includes a brief description of plants and their use, reproduced line drawings, and a map showing approximately where each plant is distributed within the ceded territories. This book contains a variety of information on 384 species of plants. It is hoped that this book is not viewed merely as a scientific document for ethnobotanical use. Rather we hope to convey both the essence and spirit of an Anishinabe world view which carries with it the respect for each of the living things on this planet that we call Aki. 440 pages; paperback ©1993

Minwaajimo: Telling a Good Story—Minwaajimo means “telling a good story,” and in this case it is the story of GLIFWC member tribes’ treaty struggles and the development of GLIFWC as an intertribal agency designed to assist in the protection and implementation of those rights. This 336-page book provides both the edited versions of presentations along with the submitted professional papers of panelists. Accompanying each book is a DVD with recordings of the actual presentations. © 2011

Where the River is Wide: Pahquahwong and the Chippewa Flowage—This book provides a look at historical events as they occurred in the Chippewa Flowage. Some events have been overlooked or forgotten as the region enjoys the benefits of the Chippewa Flowage as it is today. The book is seventy-two pages and includes black and white photos. .

Language Resources

Nenda-gikendamang ningo-biboonagak (winter storybook)—The storybook tells about Nigig and his journey to spear fish in the winter. Along the way he meets Waagosh, Bizhiw, Ma’iingan, and Gijigaaneshii. ©2015

Nenda-gikendamang ningo-biboonagak (winter workbook)—Directed at children in grades K-5, the workbook includes coloring pages, word search, crossword puzzles, and other activities to teach and strengthen the language skills of youth at different levels. ©2015.

Nenda-gikendamang ningo-biboonagak (winter teacher/parent)—The teacher/parent edition will help teachers and parents guide children to learn and improve their Anishinaabe language. The storybook and workbook are both monolingual in Anishinaabe only. The teacher/parent edition includes Anishinaabe plus English translations of activities and the storybook. ©2015

Nenda-gikendamang ningo-biboonagak (spring storybook)—The storybook picks up where Biboon left off. Nigig finds Makwa waking up hungry from his winter sleep. Nigig takes Makwa to the sugarbush, and with the help of friends, makes syrup and maple sugar candy. They then continue to set gill nets and spear fish by torchlight. ©2016

Nenda-gikendamang ningo-biboonagak (spring workbook)—Directed at children in grades K-5, the workbook includes coloring pages, word search, crossword puzzles, and other activities to teach and strengthen the language skills of youth at different levels. ©2015

Nenda-gikendamang ningo-biboonagak (spring teacher/parent)—The teacher/parent edition will help teachers and parents guide children to learn and improve their Anishinaabe language. The storybook and workbook are both monolingual in Anishinaabe only. The teacher/parent edition includes Anishinaabe plus English translations of activities and the storybook. ©2016

Nenda-gikendamang ningo-biboonagak (summer storybook)—Nigig and friends explore traditional Anishinaabe cultural activities, working together to garden harvest birch bark, and gather berries. ©2016

Nenda-gikendamang ningo-biboonagak (summer workbook)—Directed at children in grades K-5, the workbook includes coloring pages, word search, crossword puzzles, and other activities to teach and strengthen the language skills of youth at different levels. ©2016

Nenda-gikendamang ningo-biboonagak (summer teacher/parent)—The teacher/parent edition will help teachers and parents guide children to learn and improve their Anishinaabe language. The storybook and workbook are both monolingual in Anishinaabe only. The teacher/parent edition includes Anishinaabe plus English translations of activities and the storybook. ©2016

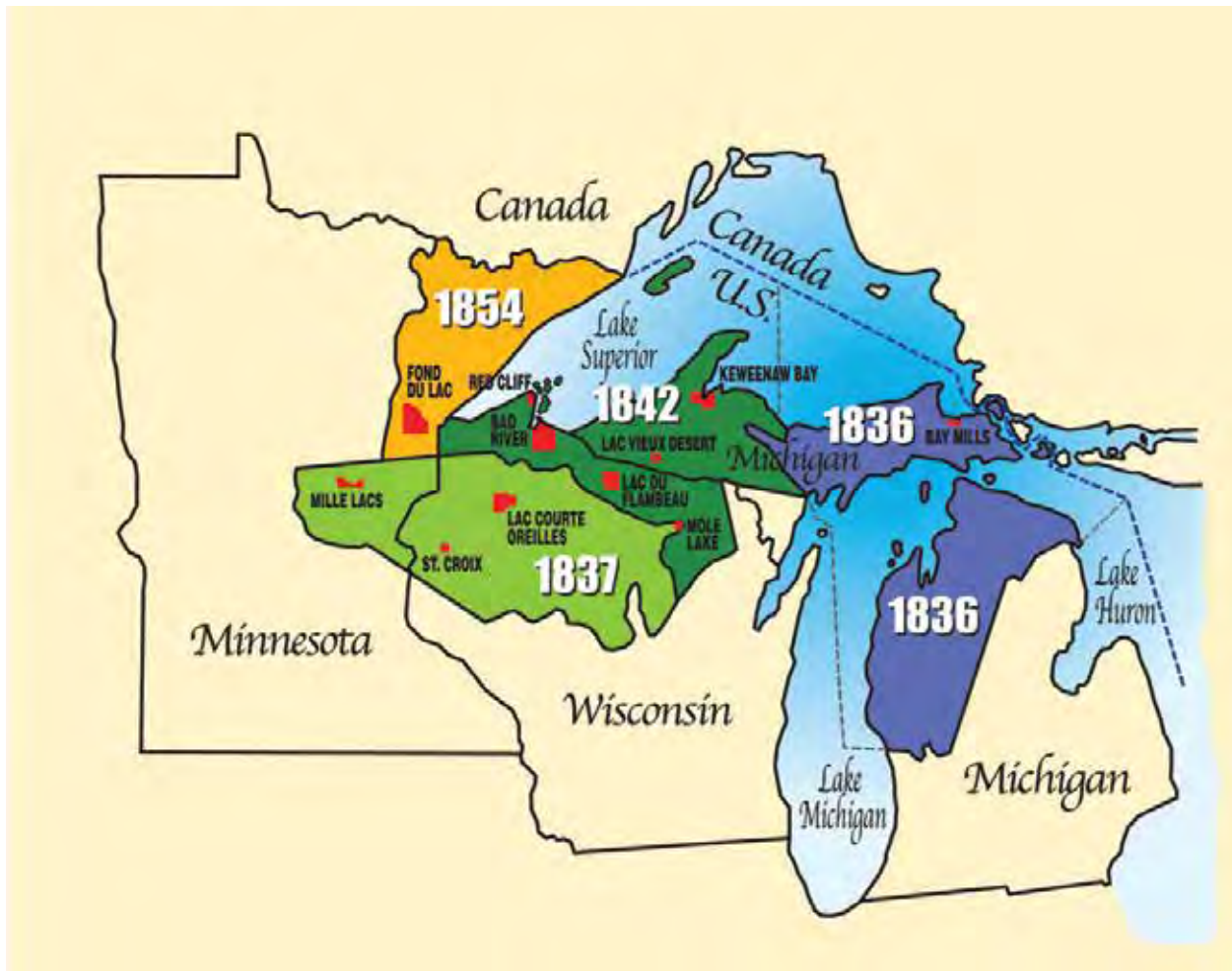
Nenda-gikendamang ningo-biboonagak (fall storybook)—Nigig and friends explore traditional Anishinaabe cultural activities. Working together, the characters learn about playing lacrosse, harvesting manoomin (wild rice), and preparing food for the long winter. ©2017

Nenda-gikendamang ningo-biboonagak (fall workbook)—Directed at children in grades K-5, the workbook includes coloring pages, word search, crossword puzzles, and other activities to teach and strengthen the language skills of youth at different levels. ©2017

Nenda-gikendamang ningo-biboonagak (fall teacher/parent)—The teacher/parent edition will help teachers and parents guide children to learn and improve their Anishinaabe language. The storybook and workbook are both monolingual in Anishinaabe only. The teacher/parent edition includes Anishinaabe plus English translations of activities and the storybook. ©2017

Inaadiziwin (Way of Life)—This Anishinaabe Language DVD utilizes the harvesting seasons of the Ojibwe to teach the language. Developed as a language resource, the DVD identifies words and phrases that relate to the differing seasons of the Anishinaabe. The inter-active DVD also includes 12 short video clips for most of the seasons including spearing a fish through the ice and tanning a deer hide. Working with speakers and tribal harvesters, the DVD includes language lessons for spearing through the ice, sugar bush, wild rice harvesting/processing, trapping, snaring, hunting, spring spearing, gill net fishing, and hide tanning.

Dibaajimowinan: Anishinaabe Stories of Culture and Respect—This book provides another valuable language resource for Ojibwemowin learners as well as interesting stories from Ojibwe elders translated into English. The final product is a collection of 34 stories in a book and an accompanying MP3 formatted CD with over six hours of the stories recorded in Anishinaabe.



Michigan

Bay Mills Indian Community
 12140 W. Lakeshore Drive
 Brimley, MI 49715
 906.248.3241
www.baymills.org

Keweenaw Bay Indian Community
 16429 Beartown Road
 Baraga, MI 49908
 906.353.6623
www.ojibwa.com

Lac Vieux Desert Band
 N4698 US 45
 Watersmeet, MI 49969
 906.358.4577
www.lvdtribal.com

Minnesota

Fond du Lac Band
 1720 Big Lake Road
 Cloquet, MN 55720
 218.879.4593
www.fdlrez.com

Mille Lacs Band
 43408 Oodena Drive
 Onamia, MN 56359
 320.532.4181
www.millelacsband.com



Wisconsin

Bad River Band
 72682 Maple Street
 Odanah, WI 54861
 715.682.7111
www.badriver-nsn.gov

Lac Courte Oreilles Band
 13394 W. Trepania Road
 Hayward, WI 54843
 715.634.8934
www.lco-nsn.gov

Lac du Flambeau Band
 418 Little Pines Road
 Lac du Flambeau, WI 54538
 715.588.3303
www.ldftribe.com

Red Cliff Band
 88385 Pike Road
 Bayfield, WI 54814
 715.779.3700
www.redcliff-nsn.gov

St. Croix Band
 24663 Angeline Avenue
 Webster, WI 54893
 715.349.2195

Sokaogon/Mole Lake Band
 3051 Sand Lake Road
 Crandon, WI 54520
 715.478.7500
www.sokaogonchippewa.com



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