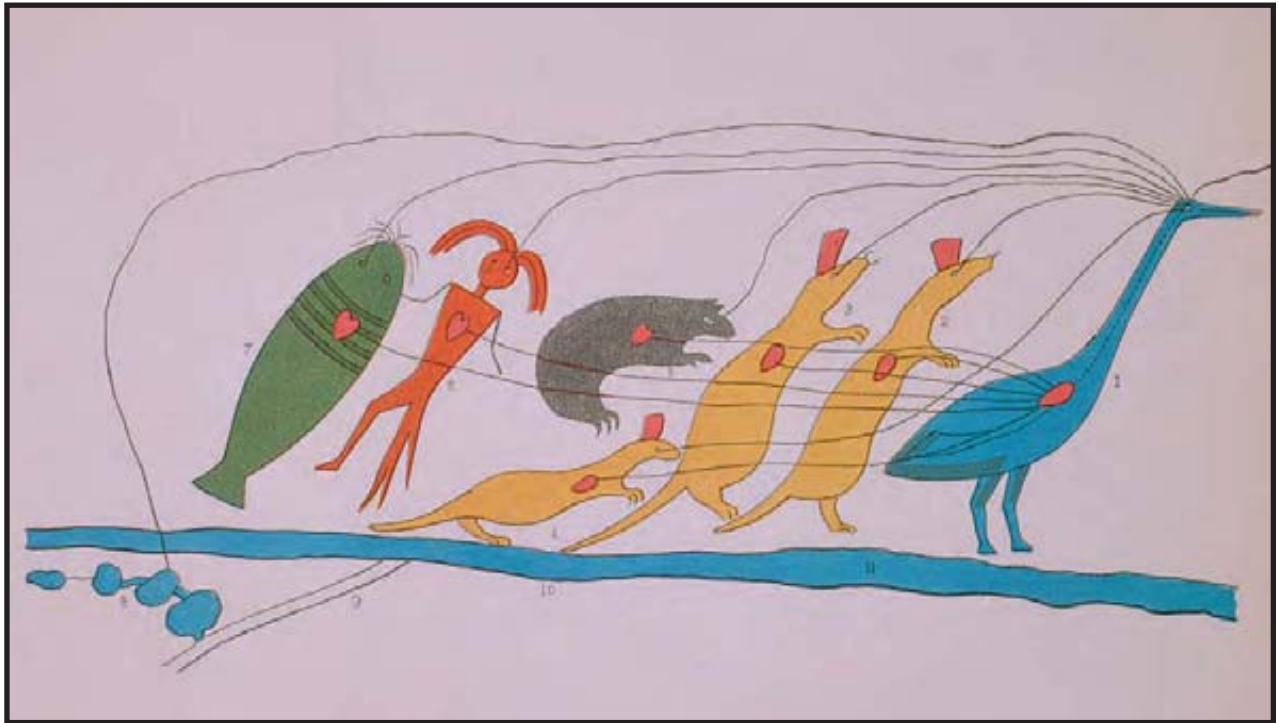


Symbolic Petition of Chippewa Chiefs, 1849



During the late 1840s, rumors circulated around Wisconsin that the Chippewa Indians who inhabited land near Lake Superior were destined to be removed from their homes and sent to inland 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 “totems,” 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 totems 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 totem.
2. Wai-mi-tig-oazh—He of the Wooden Vessel, a warrior of the Marten totem.
3. O-ge-ma-gee-zhig—Sky Chief, a warrior of the Marten totem.
4. Muk-o-mis-ud-ains—A warrior of the Marten totem.
5. O-mush-kose—Little Elk, of the Bear totem.
6. Penai-see—Little Bird, of the Man Fish totem.
7. Na-wa-je-wun—Strong Stream, of the Catfish totem.
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)

A Guide to Understanding Ojibwe Treaty Rights



Dedication

This publication is dedicated to the many Ojibwe people who have fought to retain their treaty-reserved rights and exercise them throughout the seasons.

Introduction

The Great Lakes Indian Fish and 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 have fostered social and political pressure to abrogate the rights held by Ojibwe bands.

GLIFWC has provided a counterpoint to rumors and accusations through accurate, educational materials on treaties, tribal government and the regulation of treaty rights. This booklet has been a cornerstone of GLIFWC's public education effort and has been widely used and distributed to member bands, schools, universities, and public libraries throughout the territories ceded by GLIFWC member bands.

Previously, GLIFWC published two treaty rights guide booklets, pertaining to Wisconsin and Minnesota respectively. This edition addresses treaty rights in the ceded territories of the 1836, 1837, 1842, and 1854 Treaties.

Acknowledgments

Miigwech, thanks, to the many people who have contributed their time and knowledge towards the composition of this booklet. In particular, GLIFWC Executive Administrator James Zorn; GLIFWC Biological Services Director Neil Kmiecik; and the late GLIFWC Executive Administrator James Schlender. Written by Sue Erickson, layout by Lynn Plucinski and photos by GLIFWC staff.

For more information

Contact GLIFWC's Public Information Office (PIO), P.O. Box 9, Odanah, Wisconsin 54861 or phone (715) 682-6619. This booklet can be downloaded from GLIFWC's website at www.glifwc.org. Copies can be ordered from PIO for \$4.00 each. Discounts apply for quantity purchases.

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Front cover

Traditional items on the cover are the handwork of Wassnoodeg Kwe (Northern Lights Woman), an Ojibwe from Flint, Mich., also known as Judy St. Arnold. She is of the Nigig Doodem or Otter Clan.

The background is her traditional wedding dress, handsewn from brain-tanned deer hide, using bone and sand beads on the fringe. The bead pattern on the woman's knife sheath is an old style floral design in colors common to the Great Lakes area and is one of four segments which would compose a belt. The knife handle is carved antler. The barrettes make use of traditional colors such as the pumpkin, cobalt blue, greasy yellow, pony trader blue, and dark red, with the occasional use of porcupine quills and tiny brass and silver beads. The barrette with the bead stick is based on a pattern found on a quill box from the early 1800s.

Each piece of Wassnoodeg Kwe's work has a particular spiritual significance to her, such as the round barrette with two flowers representing her two daughters. Taught by her grandmother, Wassnoodeg Kwe has been doing traditional handwork since she was eight.

Understanding treaty rights



The Ojibwe¹ 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 18th century, the Ojibweg 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.

“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

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 Ojibweg through cession treaties. Vast quantities of land were exchanged for promises of small amounts of money, schooling, equipment, and the like.

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.

¹There are several terms used in reference to the Ojibwe people. In this booklet, the term Ojibwe and its plural form, Ojibweg, will be used. The Ojibwe people often call themselves Anishinaabe (Anishinaabeg, plural) which in their language means Indian person or original people. An anglicized term for Ojibweg commonly used is Chippewa. (GLIFWC uses [A Concise Dictionary of Minnesota Ojibwe](#) by John D. Nichols and Earl Nyholm as a language reference.)

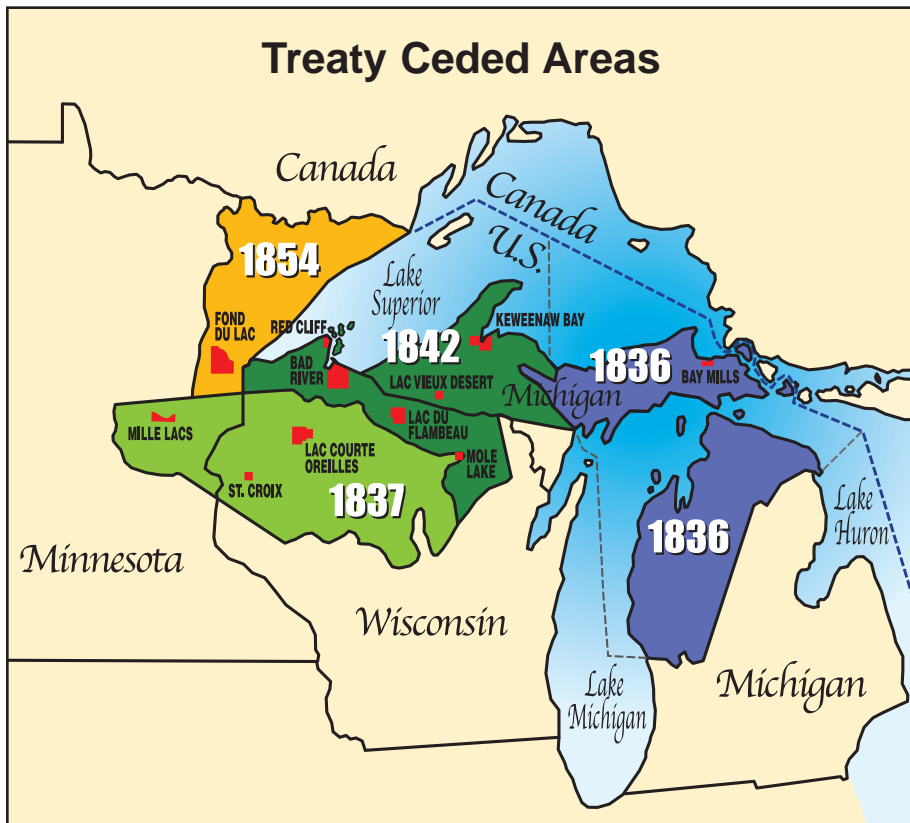
government in the mid 1800s. This would ensure that future generations would be able to survive and always have access to the foods important to the Ojibwe people.

Due to the foresight of those leaders, their descendants can exercise court-affirmed treaty rights in ceded territories today. Ojibwe bands retaining treaty rights and now members of the Great Lakes Indian Fish & Wildlife Commission (GLIFWC) include: the Bay Mills Indian Community, the Keweenaw Bay Indian Community, and the Lac Vieux Desert Band of Chippewa in Michigan; the Mole Lake/Sokaogon, 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 Ojibweg and the United States are called treaties. Treaties are legally binding agreements made between nations.

Within the United States Constitution treaties are defined as the “supreme law of the land.” They are legally binding agreements and have always been respected within the framework of U.S. federal law. Today, the rights kept by the Ojibweg 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)



eral of those cases have affirmed the treaty rights of the Ojibweg in the last several decades, including: the 1971 Jondreau decision, Michigan State Court; the 1972 Gurnoe decision, Wisconsin State Court; and the 1981 U.S. vs. Michigan 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 Voigt decision in Wisconsin, 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

In legal words, 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. Sev-

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 often 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.

“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**

Treaty history

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

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

Later, non-Indian interest in the mineral and timber resources in the midwest pushed the United States to enter into more treaties with the Ojibweg in order to secure land for mining and logging. In 1842 the Ojibweg 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 Ojibweg were to abandon their homelands.

Instead, the government agreed that the Ojibweg could continue to “hunt, fish, and gather” in the ceded territories.

Around 1850, growing pressure from non-Indian settlement led to demands for the removal of the Ojibweg from their ceded lands. A disastrous effort at removal was orchestrated in 1850 when President Zachary Taylor issued a Presidential Removal Order. Ojibweg 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 rumors of removal, a delegation of Ojibweg 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 Removal Order to be invalid.



Harvesting manoomin (wild rice). Manoomin continues to be an important food for Ojibwe people today and is harvested both on and off-reservation. (Photo courtesy of the Wisconsin Historical Society)

In the 1854 Treaty, more Ojibwe land was ceded, this time in northeastern Minnesota. Reservations were also established in the 1837, 1842 and 1854 ceded territories where the Indian 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."

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 their 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 recent years when the Ojibwe bands took their treaty claims into state and federal courts and won.

"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"

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 actually sought to avoid conflict in many instances through the treaty-making process. In the case of the Ojibweg, the treaties resolved land issues without the necessity of war.

Today, the federally-recognized tribes in the United States still maintain certain aspects of their inherent sovereignty and are considered by the U.S. 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



All eleven GLIFWC member bands have tribal courts. Above is Armella Parker, Bay Mills tribal judge.

at the price of more traditional forms of tribal governance.

Today, many Ojibwe tribes exercise sovereignty by regulating the off-reservation harvests. Tribal conservation codes govern off-reservation seasons. Tribal conservation codes are enforced by tribal or state conservation wardens, and 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 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 the 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 numbers 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.

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.

These differences exist not as a result of the tribes' choosing, but because under existing state law, each state can attempt to regulate the rights being exercised within

state boundaries, even though particular ceded territories were defined prior to the establishment of state boundaries. Therefore, the tribes must assert their rights on a ceded territory/state-by-state basis.

For example, the 1837 ceded territory is located both in Wisconsin and Minnesota. The Voigt case affirmed the rights in the Wisconsin portion of the territory and prevented the State of Wisconsin from interfering with the rights. The Mille Lacs case affirmed the rights in the Minnesota portion of the ceded territory and prevented the State of Minnesota from interfering with the rights.



Bruce Sonnenberg and John Bearhart Sr., St. Croix tribal members, harvest walleye from McKenzie Lake in Wisconsin.

Treaty rights in Wisconsin

Six Ojibwe bands in Wisconsin exercise treaty rights in Wisconsin ceded territories as a result of the Voigt ruling, and two of GLIFWC's member bands exercise fishing rights in the Wisconsin waters of Lake Superior under the Gurnoe decision. All off-reservation 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 rights.

The present agreement determines harvest quotas within specified fishing zones. The agreement 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 Voigt

Under the Voigt case, Federal District Court, 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 1990 final judgment in Voigt, the tribes, through the Voigt Intertribal Task Force (VITF), and the State of Wisconsin, through the WDNR, negotiated over 40 interim season agree-

Dwayne Peterson, Red Cliff commercial fisherman pulls a net aboard his fishing tug.

ments. 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 Voigt 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 Voigt 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 Comanagement 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 Voigt 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 state 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, migratory birds, and wild rice. 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 Voigt 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, set bag limits, and impose a variety of other restrictions important for conservation of the resources, for public health and safety, and for meeting tribal needs.

The Voigt decision

The Voigt ruling applies to the hunting, fishing and gathering rights of the Ojibweg on ceded lands covering approximately one-third of northern Wisconsin. It is named after a defendant in the case, Lester P. Voigt, formerly WDNR Secretary.

The Voigt case in Wisconsin began in 1973 when the Lac Courte Oreilles (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.



Maple sap bubbles in a kettle during the spring season in the sugarbush.

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.

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 in the lawsuit, including the Bad River, Lac du Flambeau, Sokoagon, 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 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 Voigt litigation was divided into "sub-phases" to address regulatory issues specific to each resource.

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, 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 with 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 yet necessary at this time. However, if the harvest in-

creases significantly, a quota system for the species involved will 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.

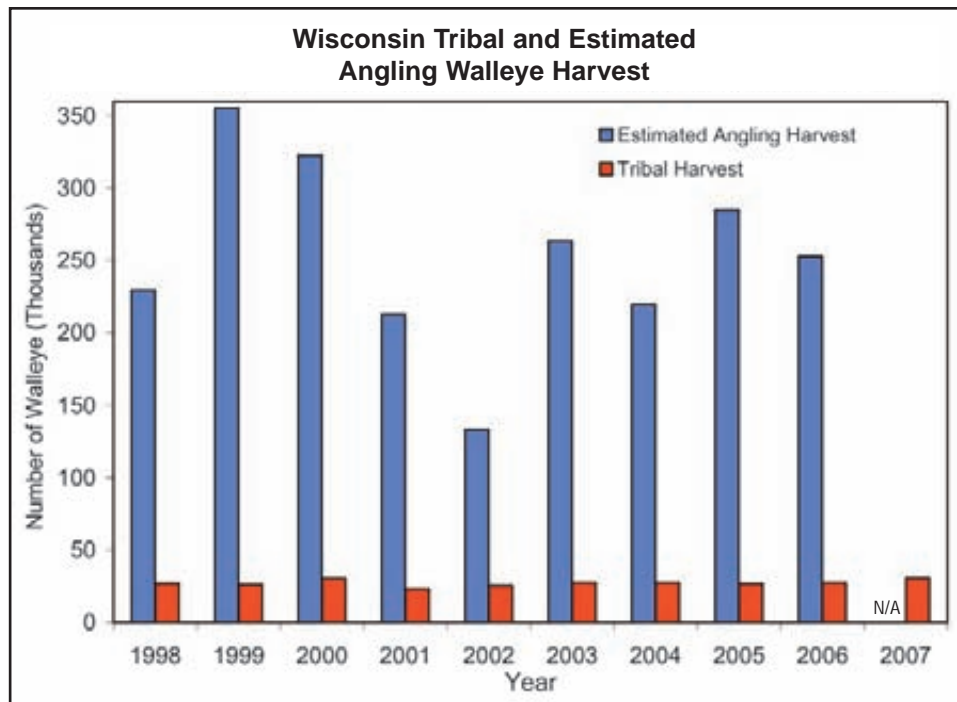
No appeal: Litigation concludes

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

The treaty spring spearing season under Voigt

The spring spearing season has always been the subject of the most controversy in Wisconsin, despite statistics that show tribal harvest does not damage the resource. For the past 20 years, 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.

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



The Safe Harvest Level (SHL) system

Each spring tribes in Wisconsin are required to make declarations as to the amount of walleye and muskellunge they intend to take from each lake they name for spearing. The quotas are determined on the basis of a Safe Harvest Level (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 Voigt 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.

In the Minnesota 1837 ceded territory, the management system is based on a five-year plan, one component of which sets predetermined, maximum limits on the pounds of walleye available to treaty fishermen per year from Mille Lacs Lake.

The safe harvest system can be understood fairly easily. As agreed to by GLIFWC and WDNR biologists, 35 percent of a lake's 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 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 bands have never depleted or over-harvested any resource.



Biological and enforcement staff monitor all spearfishing landings. Above, a Fond du Lac creel clerk measures walleye taken from Green Lake, Chisago County in Minnesota.

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.

For information about their treaty rights contact the 1854 Authority (see Appendix IV).

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 later in this booklet.

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.

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.

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 Voigt 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 de-

veloped 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 1000 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.



Fond du Lac tribal members prepare to return home after a night's spearing.



Gathering birchbark, another form of exercising off-reservation treaty rights.

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 U.S. 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 that the bands' treaty rights exist.

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 have adopted two management plans—one applying to fishery issues and the other applying to wildlife and wild plant issues. Both are initial five-year plans and will be 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, or the first year of the plan.

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 gradually increase in following years.

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

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 Voigt 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.

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. These species will be managed by an annual quota which will be divided between each of the bands selecting these methods.

Under the first five-year plan, the Mille Lacs Lake walleye quota was set at 40,000 pounds in 1998 and 55,000 pounds in 1999.

The tribal quota gradually increased to 100,000 pounds in 2002.

A similar second five year plan for the years 2003-2007 was developed by the tribes and provided to the State in December 2001. Under the new plan, a treaty harvest quota of 100,000 pounds for Mille Lacs Lake walleye will be maintained through 2007.

There is 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 bands.

There will be no open-water spearing for northern pike, and the plan does not contemplate netting targeted for northern pike.

Incidental netting harvest of northern pike will be limited to 50% of an agreed-upon harvestable surplus level. If this cap is reached, netting must cease for all species.

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 in Shakopee, Ogechie, Whitefish, Grindstone, Eleven, Pine, Razor and South Stanchfield Lakes.

Limited open-water spear and net fisheries could 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 quota has been established. Gillnetting for muskellunge and sturgeon is prohibited in these lakes.

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 will 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 DNR no later than noon of the lakes or rivers designated for open-water spearing that night and of the location of any gillnetting activities.

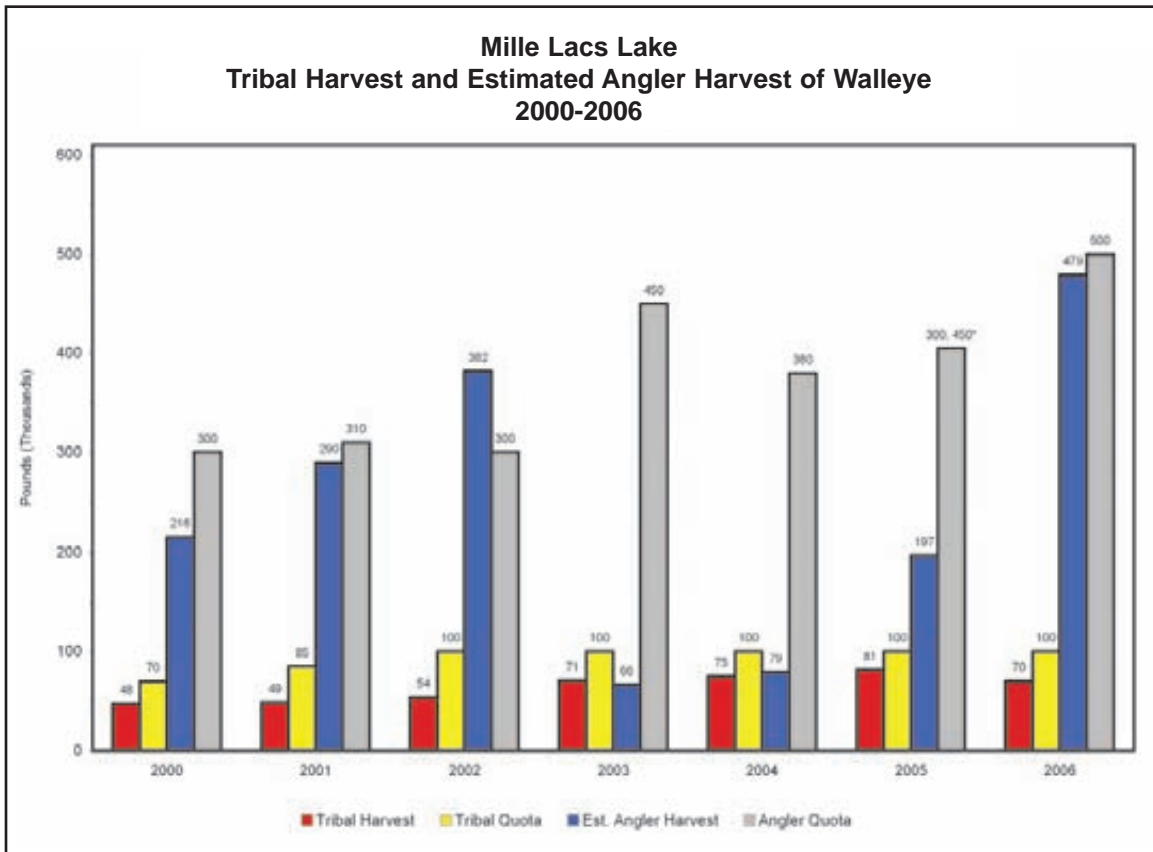
When a band’s quota for a species has been reached in any lake or river, spearing for that species in that particular body of

water must stop. When a quota for any species has been taken, all gillnetting by that band for all species must stop as well.

Close monitoring of spearing and netting activities

Similar to the treaty spearing and netting under Voigt in Wisconsin, all open-water spearing and netting will be strictly monitored by biological and enforcement staff. Spearing permits may not be issued unless a monitor will be present at all 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 will be counted by species, with other biological data from harvest samples collected at designated landings or net lift locations.



Gillnetting

For treaty harvest using gill nets, 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 will be present to monitor the number and weight of fish taken as well as record other data needed for fisheries management. In addition, conservation wardens from GLIFWC and the Minnesota DNR will monitor netters for compliance with the codes.

Under the bands' conservation code, spring gillnetting will limit band members to the use of a relatively small mesh, 1.25-1.75 inches, which basically selects for walleye in the 12-18" size range. Because of spawning patterns in spring these fish tend to be adult male walleye. In addition, length of net is limited to 100 feet. The use of short nets will also serve to limit the number of fish caught.

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.

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

Spearers are also limited to walleye 20" or under, with two allowed over 20" and one of those may be over 24".

Wildlife management plan

The bands are in the second five-year wildlife management plan that provides for the harvest of bear, deer, moose, wild turkeys, and furbearers. In the first five-year plan the bands agreed to manage many species on a quota basis, including bear, antlerless deer, wild turkey, fisher, bobcat, and otter.

However, since the harvest of most wildlife species has been negligible, the state and the bands agreed that harvest quotas were not needed. Rather, in the second five-year plan, harvest thresholds were established. With the exception of deer and moose, there are not tribal quotas required or declarations made unless tribal harvest exceeds these thresholds. If tribal harvest exceeds a threshold in one year, a tribal declaration is required in the subsequent year.

Quotas for treaty wildlife harvest

The plan limits the 1837 Treaty annual harvest of antlerless deer to a quota of 900 deer and to no more than 50% of the total quota in any management unit. *This represents less than 10% of the state's average annual antlerless deer harvest in the ceded territory.*

The plan also requires the bands to notify the state of their 1837 Treaty antlerless deer quotas no later than August 10 of each year.

Tribal moose harvest is now open throughout the 1837 ceded territories. Tribal moose quota remains five, as in the initial plan. Deer declarations cannot exceed 50% of the harvestable surplus in any permit area or more than 900 in total for all permit areas.



Mille Lacs tribal members David and Mary Sam participated in the first off-reservation deer season in the Minnesota 1837 Treaty ceded territory during the fall of 1997.

Treaty rights in Michigan

A number of 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 that apply within Michigan.

Other exercise is under the precedent of court decisions decided in other states regarding ceded territories that extend into Michigan. For example, the 1842 ceded territory extends across northern Wisconsin into Michigan's Upper Peninsula.

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

Treaty fishing in Michigan's Lake Superior waters

The Keweenaw Bay, Red Cliff and Bad River Bands authorize treaty fishing in Michigan's Lake Superior waters. The 1842 ceded territory 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 in assessing the status of the fishery resources and in setting harvest quotas.

The Bay Mills Band 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.

Annual population assessments are part of GLIFWC's fishery management program in Lake Superior. Mike Plucinski, GLIFWC Great Lakes fishery technician, holds a brown trout captured during assessments near the Keweenaw Bay reservation in Michigan.





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. For information, contact the Chippewa Ottawa Resource Authority (see Appendix IV).

Inland treaty rights in Michigan

The Keweenaw Bay and Lac Vieux Desert Bands authorize treaty hunting, fishing and gathering in the portion of the 1842 ceded territory in Michigan's western Upper Peninsula. There is no particular court case that specifically addresses these rights in Michigan's 1842 ceded territory.

However, the bands have enacted tribal regulations that are consistent with, or more restrictive than, the regulations approved in the Voigt case for the Wisconsin 1842 ceded territory. In addition, the bands undertake harvest monitoring and biological assessments in the Michigan 1842 ceded territory. They share data with the state to ensure coordination and cooperation.

The Bay Mills Band regulates the exercise of treaty rights in the inland portion of the 1836 ceded territory in Michigan's eastern Upper Peninsula and northern Lower Peninsula. In September 2003 the Michigan Attorney General asked a federal judge to declare that 1836 inland rights have generally expired, initiating litigation to settle the treaty claims of Bay Mills and four other tribes. Legal proceedings continue as of this printing.

Great Lakes Indian Fish & Wildlife Commission

In order to effectively manage off-reservation resources and treaty seasons after the Voigt decision, the Ojibwe bands formed the Great Lakes Indian Fish and Wildlife Commission (GLIFWC). GLIFWC is an inter-tribal organization through which the individual bands jointly manage the 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.

Formed in 1984, GLIFWC's headquarters are located on the Bad River reservation in Wisconsin. Satellite enforcement offices are maintained on 10 member reservations and the Biological Services Division maintains satellite office in Madison, Wisconsin. GLIFWC maintains a permanent, full-time staff of about 60 employees, hiring seasonal part-time or temporary staff during seasons when additional help is required.

Resource management *GLIFWC's 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 lake fishery, wildlife/waterfowl/wild plants, and the environment.

Biological Services staff are primarily involved with gathering data on the resource within public lands and waters of the ceded territories and then developing and interpreting the data obtained. This information 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 as follows:

The Great Lakes Section deals with issues pertaining to the treaty commercial fishery in Lake Superior. The Great Lakes fisheries section is concerned with all waters of the Great Lakes which are subject to treaty fishing by members of a Commission member tribe and tributaries which support anadromous (fish which go up river to spawn) runs. Staff monitor treaty harvests and perform annual fall and spring assessments on fish populations.

The Inland Fisheries Section attends to fishery issues in the inland waters of the territory ceded by the 1837 and 1842 Treaties (except Lake Superior). Spring and fall wall-



Mike Gustafson, Red Cliff tribal member, tags a fisher trapped during an off-reservation trapping season in Wisconsin.



eye population surveys on speared, inland lakes, and monitoring the tribal fish harvests are primary responsibilities of inland fisheries staff.

The Wildlife Section works with wild game and furbearers; wild plants such as manoomin (wild rice); and waterfowl within the public lands and waters of the 1837 and 1842 ceded territories. Monitoring of off-reservation harvests is a primary responsibility for staff; however, the wildlife section is very much involved in enhancement efforts, such as wild rice reseeded, purple loosestrife eradication and wetlands protection. GLIFWC has developed an effective noxious weed program that incorporates education, inventory, control, and evaluation to manage invasive non-native plants. Studies of understory plants in the Chequamegon Nicolet National Forest also reflect tribal interest in the survival 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 the Commission 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 the Commission 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 inter-agency resource management committees and performing other liaison assignments as delegated by the 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 insure 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.

Off-reservation, treaty enforcement

GLIFWC's Enforcement Division is composed of 20 full-time and 20-25 part-time temporary wardens. All full-time wardens are fully trained and certified conservation officers. In Wisconsin five GLIFWC wardens are cross-deputized with the state for conservation enforcement.

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

Stationed on 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 com-



GLIFWC enforcement officers provide hunter safety courses on reservation in addition to their regular duties. Above, Bad River Area Warden Vern Stone works with Bad River youth during a hunter safety class.

mercial 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.

They also offer conservation-related courses, such as hunter safety, snowmobile, ATV, and boating safety on member reservation. Many GLIFWC wardens are certified instructors in these fields.

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.

The provision of technical planning services helps GLIFWC and tribal governments in areas such as: increased enforcement capabilities; construction of fish hatcheries; expansion of public education on treaty rights and tribal resource management; promotion

of cooperative resource management; re-seeding of wild rice beds; and improvement of Lake Superior fisheries resource management.

This is accomplished by defining tribal needs and formulating plans or proposals which provide a means to meet those needs.

Planning and Development also coordinates grant projects, such as those from the Administration for Native Americans (ANA). Consequently, the division is involved in a wide range of activities including public speaking tours in communities stressed by treaty issues; a native outdoor skills youth project; mercury testing in lakes commonly speared; and upgrading tribal and GLIFWC Geographical Information Systems (GIS) capacities.

Division of Intergovernmental Affairs

The Division of Intergovernmental Affairs (DIA) assists member bands in effectively exercising the management and regulatory jurisdiction which the tribes reserved in the treaties.

DIA work with the tribes, for instance, in the development of tribal regulations and tribal courts to adjudicate violations of the tribal regulations. Staff also assist in the negotiation of state/tribal, federal/state/tribal, or inter-tribal agreements which allow for tribal harvests of off-reservation resources as well as in litigation pertaining to the treaties of member bands.

The DIA also assists on environmental and habitat issues, including mining and water quality issues.

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 edu-

cation on treaty rights and tribal sovereignty are the primary focus of public education efforts.

Information is distributed through a variety of media, including *Mazina'igan* (quarterly newspaper), brochures, videos, booklets, posters, and public speakers. PIO answers information requests on a weekly basis, maintains a regular mailing for the newspaper, distributes all publications to member tribes as well as schools and libraries within the ceded territories, and provides information booths at sport shows, state fairs, pow-wows, or environmental fairs.

Cooperative resource management

The Ojibwe bands and GLIFWC work in cooperation 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.

Cooperative management efforts often result in a more comprehensive knowledge of those resources, building a better foundation for informed management decisions by all concerned.

The cooperative assessment of walleye populations in Wisconsin by the Joint Assessment Steering Committee is a prime example of cooperative management in action. Assessment crews and electrofishing boats from the U.S. Fish and Wildlife Service (USFWS), the WDNR, the St. Croix and Bad River Bands, and GLIFWC all participate in large-scale population surveys for walleye in Wisconsin's ceded territory every spring and fall. Data collected are shared, and recommendations are made from a technical working committee regarding lake quotas.

Cooperative walleye population assessments resulted from the work of 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 that raged in 1985-1991.

He, 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.

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. Some of these are as follows:

Spring and fall electrofishing assessments of walleye in inland lakes provide important population data for fishery management. GLIFWC electrofishing crew members Tom Houle and Dave Parisien use nets to collect stunned fish.





Ron Parisien, GLIFWC wildlife technician, reseeds Crooked Lake, Gogebic County, Mich., as part of a cooperative project between GLIFWC, Lac Vieux Desert and the Ottawa National Forest. (Photo by M. J. Kewley)

GLIFWC has worked for several years in cooperation with the U.S. Fish & Wildlife Service (USFWS) Sea Lamprey Control Program to monitor and develop estimates of the lamprey population in Lake Superior.

GLIFWC biologists participate in committees of the Great Lakes Fishery Commission, an international body charged with the management and protection of the Great Lakes fishery.

GLIFWC continues to work with other agencies to study bobcat, marten and fisher populations in Wisconsin and their interaction with other wildlife species.

GLIFWC works to control purple loosestrife in the Fish Creek Sloughs and advance public education on loosestrife control.

GLIFWC, the USFWS, the Bureau of Indian Affairs (BIA), the 1854 Authority, and regional tribes participate in producing the "Circle of Flight" initiative to enhance waterfowl populations and wetlands throughout the northern midwest. "Circle of Flight" is coordinated through the BIA.

GLIFWC regularly attends and is a participating member of the Mississippi Flyway Council.

GLIFWC, the U.S. Forest Service, and the Wisconsin Department of Natural Resources cooperate annually on a large scale wild rice reseeding project.

GLIFWC participates in the Binational Program, an international initiative focusing on preserving Lake Superior and its watershed.

GLIFWC participates in a wide variety of fish and wildlife species management committees in Wisconsin, Minnesota and Michigan, such as the St. Croix Zebra Mussel Task Force and the Ruffe Control Committee.

GLIFWC participates in the USFWS Wolf Recovery Team.

Cooperation not only distributes the work load but reduces tensions as people work together towards common goals. This was found to be true in Wisconsin when hostility and protests at spearfishing landings were at their peak. Leaders in several communities sought ways to redirect confrontation toward goals common to both tribal and non-Indian communities.

For example, the Long Lake Chamber of Commerce contacted the St. Croix Band and a joint electrofishing project of Long Lake emerged with volunteer crews from the community, the St. Croix Band and USFWS. Together they obtained a current walleye population assessment on the large lake and later also stripped eggs from speared walleye for hatching, rearing and restocking.

Another grassroots project began in Wisconsin when the Cable area Fish for the Future organization approached the Bad River and Red Cliff Bands with an idea for cooperative fish rearing and stocking.

The result has been joint egg gathering from speared fish during the spearing season. The eggs were fertilized and hatched in tribal hatcheries. The fry were reared in either tribal or Cable area ponds and stocked in lakes from which they were taken.

The anti-Indian movement, from STA to the KKK

From what has historically been scattered, regional pockets of either disgruntled citizens or racist organizations, the anti-Indian movement has emerged as a national coalition to abrogate the rights of Indian tribes. An umbrella organization called CERA (Citizens Equal Rights Alliance) is a national body with many smaller, regional anti-Indian groups as members.

The rise of anti-Indian organizations and national networking correlates with the recent strengthening of tribal governments as they assert legally-affirmed rights. For some this is perceived as threatening, and consequently the exercise of treaty rights off-reservation can let loose simmering racism and hostility.

Tribal rights encompass many areas which can be perceived as threatening to non-Indian people. For one, the right to self-government is being asserted by many tribes. Treaty-reserved rights, such as those to hunt, fish and gather and tribal rights to water, land and minerals may be perceived as threatening traditional state jurisdiction, as well as access to wealth.

The anti-Indian movement as we know it today is actually a composite of small, regional organizations scattered throughout the country and generally centered on one or two issues: Indian treaty rights or jurisdiction.

The movement became most vocal and organized during the early days of the Boldt decision, a federal court decision in the State of Washington which reaffirmed the fishing rights of Indian tribes in the Northwest during the 1970's. S/SPAWN (Steelhead/Salmon Protective Association & Wildlife Network), Redmond, Wash., was one of the leading organizations and remains active today.

Anti-Indian groups in Wisconsin include Protect Americans' Rights and Resources (PARR) and Stop Treaty Abuse (STA). Other groups, such as Equal Rights for Everyone (ERFE) and Wisconsin Alliance for Rights and Resources (WARR), have disbanded. While the protest launched by these groups became violent and racial during the early years of Ojibwe spearfishing, a federal court ruling substantially fining STA leaders helped curtail protest in the 1990s.

In Minnesota, several organizations have been active in opposing the 1837 treaty rights of the Ojibweg. A lead organization is Proper Economic Resource Management (PERM), which is led by Mark Rotz and has Bud Grant, former coach for the Vikings football team, as a spokesperson.

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



The Mille Lacs Lake Association and The Hunting & Angling Club (THACC) also oppose the treaty rights of Ojibwe in Minnesota.

In Michigan, anti-treaty organizations have been the Michigan United Conservation Clubs (MUCC) and Enough Is Enough (EIE). Also, the Klu Klux Klan rallied in Ironwood, Mich., in the fall of 1997 with national as well as state leaders speaking. Tribal spearfishing was ridiculed publicly and racial comments about Indian people were among the many demeaning, prejudiced remarks from the KKK speakers during the event. A new KKK chapter was formed in Mercer, Wis.

Protest and racism in Wisconsin

Violence at Wisconsin boat landings, which ultimately drew national attention, began as early as 1985, when rocks were thrown at Indian people present during spearfishing at Butternut Lake, Ashland County. Protests, including violence, extensive verbal abuse, and threats escalated to a peak in the spring of 1989.

The "protest" activities included death threats, use of effigies, rock throwing, use of wrist rockets (a lethal, sling-shot type weapon), pipe bombs and harassment of fishermen on the lakes by creating large wakes. Some tribal fishing boats were swamped. Ojibwe fishermen were hit with rocks or other objects both on and off the water. Treaty supporters and Ojibwe fishermen received death threats.

These protest activities were documented in the federal court case brought by the ACLU on behalf of the Lac du Flambeau tribe and many tribal members to stop the activities of STA and its members.

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. However, a 7th Circuit Court of Appeals decision overturned Judge Crabb's permanent injunction in 1993 and remanded the case to the district court for a trial on a question of fact involving the motivation of STA and Dean Crist.

In 1993 Crist announced that the American Rights Foundation was replacing the then inactive STA/Wisconsin. The new organization raised money to continue litigation against treaty rights.

In a March 15, 1991, decision, Federal Judge Barbara Crabb described much of the protest activities which was being called in question:

"Protesters have dragged heavy objects through the spawning beds to stir up the lake bottom and make it difficult to see fish. Also they have played leapfrog with spearing boats, blocking the path of a boat by pretending to fish by hook-and-line so that the spearer has to go around the protester boat, and then moving quickly in front of the spearing boat again.

Another protest tactic is shining boat lights into the faces of spearers so that they cannot see to fish or into the eyes of the boat driver so that he cannot guide the boat. At some boat landings STA members launch boats and remain close to the landing so that they can verbally harass plaintiffs and other spearers and impede their progress as they try to move their boats out to the spawning areas.

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.'

Families and friends of spearers have been threatened with violence and assaulted and bat-



tered. During the 1990 spearing season, protesters began the practice of blowing whistles loudly, often directly in the ears of spearing supporters. Protesters have encircled spearing supporters, causing them great anxiety.

Also, protesters have hit and shoved spearers' family members and friends and yelled racial and sexual insults at them. One seventeen-year-old boy was told by a protester, 'I'm going to remember you. I'm going to get you, you mother-@!?!%#.'

As a result of anti-Indian protest activities massive numbers of enforcement personnel had to come to spearfishing landings in Wisconsin each spring, including riot squads from the metropolitan areas, to help assure the safety of the Ojibwe spearfishermen and families. This effort incurred monumental expenses for the Wisconsin taxpayers.

The suit filed by the ACLU on behalf of the Lac du Flambeau tribe, Wa-swa-gon Treaty Association, and four tribal members against Dean Crist and certain members of STA served to deter protest activities. Violation of this order would result in arrest by federal marshals and contempt proceedings in federal court. This served to keep the harassers off the lakes and quiet the boat landings considerably.

Another court action resulted in STA leader Dean Crist being responsible for the payment of \$182,000 in damages as a result of his protest activities during spring spearing seasons. An appeal ruling brought the case back to trial before Federal Judge Barbara Crabb in August 1993 to determine whether or not the protest launched by STA and Crist was motivated by a racial animus. Judge Crabb ruled early in 1994 that racism motivated the STA protest activities.

Since 1991 the protest on spearfishing landings in Wisconsin has dissipated. How-

ever, individuals and organizations continue to actively oppose treaty rights and seek to abrogate the treaties through other forums, both legal and political.

PERM leaders from Minnesota have visited PARR functions in Wisconsin and vice versa. Both are members of CERA, the national umbrella organization; both lobby state and federal legislators heavily, and PERM was actively involved in the 1837 litigation in Minnesota. Those organizations continue to be politically active in opposition to treaty rights.

White Supremacist movement and the anti-Indian movement

Leonard Zeskind, Center for Democratic Renewal, Kansas City, feels there are connections between some individuals involved in the anti-Indian groups and white supremacist organizations, which the Center tracks nationally. Terrorist type tactics and agendas which simply relate to the annihilation of Indian tribes and culture suggest those connections. The recent presence of the Klu Klux Klan in the heart of Indian Country must also raise some serious concerns.

The Center for World Indigenous Studies issued a report, *Competing Sovereignties in North American and the Right-Wing and Anti-Indian Movement*. The study states: "Individuals associated with the Anti-Indian Movement now appear to have occasional, if not frequent association with Right-Wing Extremist groups. This tide of Non-Indian reaction rides on the back of discontent, racism, economic troubles and uncertainties about land and natural resource rights which are partly connected to the long-term struggle between Indian Nations, neighboring states and the United States government."

Judge Crabb ruled early in 1994 that racism motivated the STA protest activities.

Counterpoint to racism: Treaty support groups

At first the pro-treaty voice was small and fragmented in northern Wisconsin in comparison to the blast of anger and racism from anti-Indian groups. However, organized treaty support organizations began to grow as the racism and protest worsened.

Several brave Wisconsin women were among the first to publicly denounce the protesters and support the treaty rights. The three formed an organization called ORENDA and refused to let PARR and ERFE speak for the total non-Indian community.

Other treaty support organizations, such as Citizens for Treaty Rights, began to provide a counter-presence at boat landings and served as witnesses of the violence and racism demonstrated at boat landings. They, along with other organizations and individuals, provided a peaceful witness at the Wisconsin spearfishing landings and offered a pro-treaty perspective to the media.

The Midwest Treaty Network, a coalition of many small treaty support groups, coordinated much pro-treaty activity in Wisconsin, providing public education on treaty issues and training for witnesses at landings.

Their presence at the landings in 1990 resulted in a fully-documented report on the actions of protesters as well as enforcement officials as they were observed. The Network is also active in treaty-related issues, such as mining and oil drilling as they impact the treaty-ceded areas.

HONOR Resource Center offers a wide variety of reading materials regarding tribes nationally. Separate from HONOR, Inc. and operated by Tom Metz, pictured to the right, the Resource Center features selections appropriate for all ages and reading interests. The Resource center can be reached at 920-582-0311.

In 1987 a national organization in support of treaty rights formed in Wisconsin called "Honor Our Neighbors Origins & Rights" (HONOR). HONOR recently disbanded, closing its doors in December 2006, HONOR worked with tribal governments on issues of concern, provided a non-Indian voice countering those of the anti-Indian organizations and networked nationally. HONOR Resources, Inc., which retails a large selection of reading materials on tribes and tribal issues, is still operating and remains a valuable source of reliable information.

Active in the struggle to promote trust and cooperation between tribal and non-tribal communities is the Mille Lacs Area Human Rights Commission that was chartered in 2005 with the Minnesota Human Rights Commission. It's mission is to "work within the Mille Lacs Area communities to promote civil and human rights, eliminate hate, prejudice and discrimination and to create a community that embraces diversity."

Both the Midwest Treaty Network and the Mille Lacs Area Human Rights Commission maintain websites for more information.



Popular misconceptions about Ojibwe treaty rights



The courts have granted the Indians 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 Voigt 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 Indians.

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 frail 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 Voigt 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 Voigt 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. Two 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 Indian 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 U.S. 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 U.S. 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 Indians.

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. Determination of tribal membership is achieved through 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 Indians should only be able to use the methods of harvest available at the time of the treaties.

Federal courts have ruled that the Ojibweg may use modern methods of harvest. Nothing in the treaties states that the Ojibweg could not use improved equipment or methods. However, some argue that if the Ojibweg want to exercise rights retained in old treaties, they should use the methods and equipment of that time.

If that argument is pursued, the Ojibweg could likewise insist that all the development and exploitation that has diminished the resources on the ceded lands should be removed as well. Rolling back time for one party of an agreement is neither logical nor fair. If the Ojibweg are to go back in time, then the non-Indian side should also move backwards in time. That would be very costly, indeed.



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 inter-tribal 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. 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.

1848 Wisconsin gains statehood

1850 Presidential 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 Removal Order suspended

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 Chippewas.

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 vs. 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.

1969 U.S. vs. 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.

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.

1972 Gurnoe vs. 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.

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 administrating on-reservation programs. It served to bolster and make more meaningful the policy of tribal self-determination.

1974 U.S. vs. Washington (Boldt decision)

This decision from the U.S. District Court upheld the right of tribes in the Northwest to fish and to manage fisheries under early treaties; determines they are entitled to an opportunity to equally share in the harvest of fish in their traditional fishing areas, and finds 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.

1981 United State vs. 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.

The Voigt case in Wisconsin

March 8, 1974 LCO tribal members arrested

Fred and Mike Tribble, enrolled members of the Lac Courte Oreilles Band (LCO), were arrested on Chief Lake by Wisconsin Department of Natural Resources (WDNR) wardens Milton Dieckman and Larry Miller for possession of a spear for taking fish on inland 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.

March 18, 1975 Lac Courte Oreilles files suit against the State of Wisconsin

The Lac Courte Oreilles Band filed suit 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.

January 25, 1983 U.S. Court of Appeals rules in favor of Lac Courte Oreilles

In its January 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 Voigt 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 vs. WI (LCO I), 700 F2d 341 (7th Cir. 1983).

October 3, 1983

The United States Supreme Court refused to hear the appeal of the Seventh Circuit's ruling, known as the Voigt 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.

1987 Doyle decision: Scope of the treaty right

In February 1987 Judge James Doyle ruled on Phase I of the Voigt 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 vs. 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 vs. 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 vs. 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).

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 vs. 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; subject to nondiscriminatory state, and county regulations. The timber decision was the final step at the District Court level. LCO vs. WI (LCO IX), 758 F Supp 1262 (WD Wis 1991).

May 20, 1991: Voigt 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 Voigt. 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.”

1837 Treaty Case in Minnesota

August 13, 1990 the Mille Lacs Band files suit

The Mille Lacs Band filed a suit 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 vs. 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.

September 30, 1993 the Fond du Lac Band files suit

The Fond du Lac Band filed a suit in federal court 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 lbs. 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.

August 24, 1994 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.

March 22, 1995, six Wisconsin bands intervene

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

March 18, 1996 Fond du Lac's 1837 and 1854 Treaty rights affirmed

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.

March 29, 1996 rights of six Wisconsin bands affirmed

Judge Michael Davis ruled that the six Wisconsin Ojibwe bands' 1837 Treaty rights in Minnesota were already recognized in the Voigt 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.



June 11, 1996 Mille Lacs/Fond du Lac 1837 Treaty cases joined

In the summer of 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.

January 29, 1997 ruling ends trial phase of 1837 Treaty case

Judge Michael Davis 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.

April 9, 1997 the appellate court agrees to hear appeal and suspends exercise of treaty right

The State of Minnesota 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.

August 26, 1997 appellate court upholds District Court Decision

A three judge panel of the Eighth Circuit Court of Appeals 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.

February 16, 1998 Minnesota petitions the U.S. Supreme Court to hear an appeal

The U.S. Supreme Court 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.

March 24, 1999 the U.S. Supreme Court rules in favor of the bands

The U.S. Supreme Court 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 *Voigt* 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.

APPENDIX III

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; eighteen thousand dollars, to be paid to the Indians between Grand River and the Cheboigan; 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 Chiminonoquat, 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.



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 Winnebagos, 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) 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 head-men.

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 nec-

essary 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*



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-we-durg, or the Chorister; Kay-gwa-daush, 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 agree-

ment, 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 decision 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 IV

Resource materials

GLIFWC offers many of our publications in PDF format which can be downloaded from our website at www.glifwc.org. GLIFWC's PIO can be reached by phone at (715) 682-6619; by fax at (715) 682-9294; e-mail at pio@glifwc.org; or by mail at P.O. Box 9, Odanah, Wisconsin 54861. The following materials are published by PIO, contact PIO for pricing information.

MAZINA'IGAN. A free quarterly newspaper emphasizing treaty issues and treaty resource management activities.

Seasons of the Ojibwe. Details GLIFWC activities and harvest totals for all major off-reservation tribal, hunting, fishing, and gathering seasons.

Ojibwe Treaties: Understanding & Impact. This publication is aimed at 4th-8th grade students promoting cultural awareness and background information on Ojibwe treaties. Includes activities and Ojibwe stories and legends.

BIZHIBAYASH: Circle of Flight. This publication features 21 tribal and intertribal wetland and waterfowl enhancement success stories.

Cultural Posters. GLIFWC produces a new poster annually.

Growing Up Ojibwe. This 20-page supplement to the *MAZINA'IGAN* is written for elementary students and contains activities.

Brochures. Ojibwe Treaty Rights & Resource Management; Wild Rice Ecology-Harvest-Management; Enforcement of Off-Reservation Treaty Seasons, Sandy Lake Tragedy & Memorial; Lake Superior Indian Fishery; Plants Out of Place and Target: Leafy Spurge.

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.

Ojibwe Journeys: Treaties, Sandy Lake and 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. *Ojibwe Journeys* includes an explanation of treaty rights fundamentals and an intimate look into the lives of some Ojibwe people today.

Plants Used by the Great Lakes Ojibwa. This book includes a brief description of the plant and its use, reproduced line drawings, and a map showing approximately where each plant is distributed within the ceded territories.

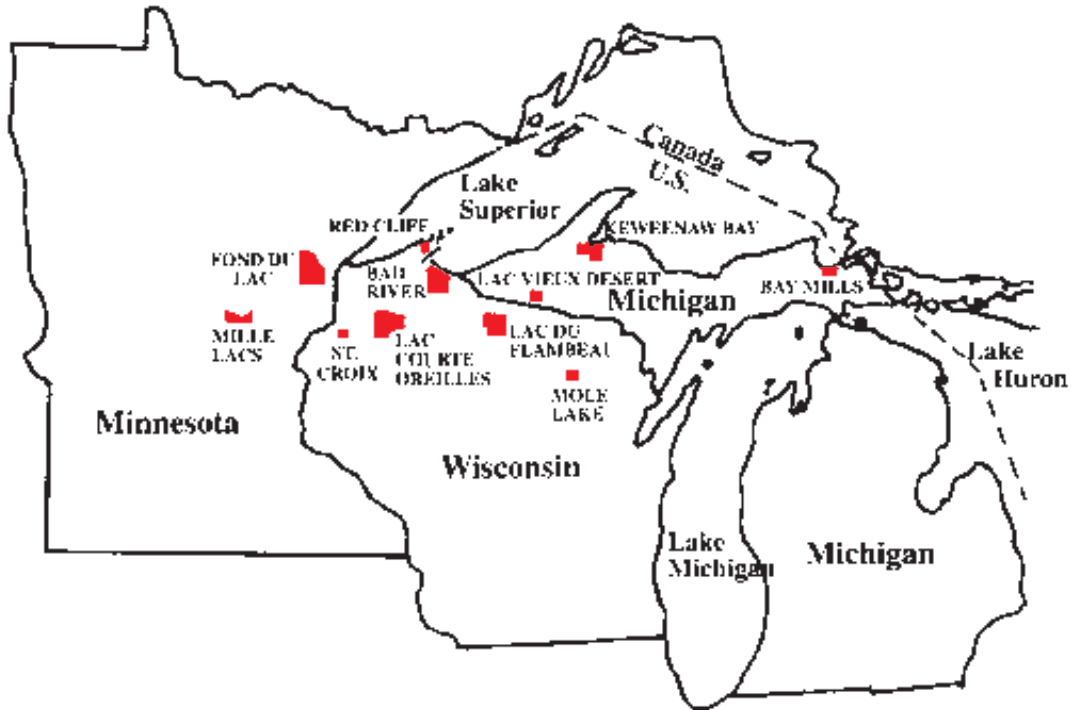
Non-Medicinal Plants Used by the Great Lakes Ojibwe. This CD was originally produced with funds from the Administration for Native Americans. The project included meetings with over 230 elders from GLIFWC's 11 member bands and identified over 200 plant and plant parts that have a food and/or utility use. Some of the identified uses were: foods, drinks, dyes, hair conditioners, perfumes, etc.

Other resource materials may be available through:

CORA—Chippewa Ottawa Resource Authority. The Authority ensures the conservation and enhancement of the Great Lakes fishery resource, public education on fishing rights, and enforcement of the 1985 Consensus Agreement. CORA can be reached at 179 W. Three Mile Road, Sault Ste. Marie, Michigan 49783, phone (906) 632-0043 fax (906) 632-4411 or www.1836cora.org.

1854 Authority—The 1854 Authority is an inter-tribal agency governed by the Reservation Tribal Councils of the Bois Forte and Grand Portage Bands of Lake Superior Chippewa. The Authority regulates and maintains the exercise of off-reservation treaty rights in the territory ceded to the United States government under the Treaty of 1854. The ceded territory encompasses approximately five million acres in northeastern Minnesota. The 1854 Authority can be reached at Airpark Square, 4428 Haines Road, Duluth, Minnesota 55811-1524, phone (218) 722-8907 fax (218) 722-7003 or www.1854authority.org.

GLIFWC Member Tribes



Michigan

Bay Mills Indian Community
12140 W. Lakeshore Drive
Brimley, MI 49715
(906) 248-3241
www.baymills.org

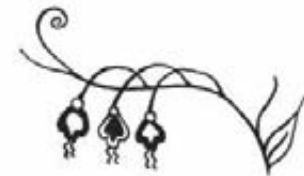
Keweenaw Bay Indian Comm.
16429 Bear Town Road
Baraga, MI 49908
(906) 353-6623
www.kbic-nsn.gov

Lac Vieux Desert Band
P.O. Box 249
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.millelacsjibwe.org



Wisconsin

Bad River Band
P.O. Box 39
Odanah, WI 54861
(715) 682-7111
www.badriver.com

Lac Courte Oreilles Band
13394 W. Trepania Road
Hayward, WI 54843
(715) 634-8934
www.lco-nsn.gov

Lac du Flambeau Band
P.O. Box 67
Lac du Flambeau, WI 54538
(715) 588-3303
www.lacduflameautribe.com

Sokaogon Chippewa Community
3086 State Highway 55
Crandon, WI 54520
(715) 478-2604
www.sokaogonchippewa.com

Red Cliff Band
88385 Pike Road, Hwy 13
Bayfield, WI 54814
(715) 779-3700
www.redcliff-nsn.gov

St. Croix Chippewa Band
24663 Angeline Avenue
Webster, WI 54893
(715) 349-2195
www.glitc.org/pages/scc.html