

Lake Superior Fishing Agreement 2005-2015



Bad River Band of Lake Superior Tribe of Chippewa Indians

Red Cliff Band of Lake Superior Chippewa

Wisconsin Department of Natural Resources

April 19, 2007



2005 STATE-TRIBAL
LAKE SUPERIOR
AGREEMENT

WHEREAS the State of Wisconsin Department of Natural Resources (hereafter referred to as the Department), the Bad River Band of Lake Superior Tribe of Chippewa Indians (hereafter referred to as the Bad River Tribe) and the Red Cliff Band of Lake Superior Chippewas (hereafter referred to as the Red Cliff Tribe, and collectively as the Tribes) agree that the Lake Superior fishery is an important resource which must be carefully managed, and

WHEREAS the Department and the Tribes agree that the management of the resource can best be handled on a cooperative basis, and

WHEREAS lake trout is the principle top predator in Lake Superior, the parties agree that the eventual goal is to restore self-sustaining populations at or near carrying capacity. Although great progress has been made, the parties agree to continue towards reaching this goal. Recognizing the key role sea lamprey control plays in achieving this goal, the parties agree to work in unison to support the U.S. Fish and Wildlife Service efforts via the Great Lakes Fisheries Commission in reducing sea lamprey abundance to levels agreed upon by the Commission, and

WHEREAS after extensive negotiations the Department and the Tribes have agreed on a Comprehensive Plan for the cooperative management of the Lake Superior fishery, and

WHEREAS the Department has agreed to exceed a 50% allocation of the lake trout quota in exchange for protection of the sport fishery and other concessions, and

WHEREAS it is the desire of the Department and the Tribes to reduce this agreement to writing:

NOW THEREFORE the Department and the Tribes agree as follows:

1. Commercial licensees of the Tribes shall be free to fish the Wisconsin waters of Lake Superior, except as otherwise provided in this agreement, and except as the Tribes may otherwise from time to time prescribe within the framework of this agreement.

Quotas

2. The total harvest of lean lake trout from W-1 and W-2 by all users, including assessment, during each fishing year (Nov. 28-Sept. 30) shall be limited to the following quotas for the next three fishing years after which the quota will be adjusted in increments of three year periods or as agreed to by the parties.

W-1: 14,500 lake trout
 W-2: 136,000 lake trout

2a. The Department and the Tribes agree that, in the interest of confining the lean lake trout mortality to a 45% total annual mortality rate as established by the Lake Superior technical committee, the aforesaid quotas are to be allocated between all state users and all tribal users as follows:

	WI-1	WI-2	Additional Allocation of State Fish for WI-2	TOTAL
State	13,300	60,700	-6,000	68,000
Bad River	500	36,500	2,000	39,000
Red Cliff	200	36,800	4,000	41,000
Assessment				
State	500	1,000		1,500
Bad River	0	500		500
Red Cliff	0	500		500
Total	14,500	136,000		150,500

The state quota encompasses all state users, including sport fishers. The tribal quota encompasses all tribal users, including home use fishers. Details on how the above allocations were derived are contained in Appendix I.

Bad River agrees to annually reserve 900 fish from its tribal quota for home-use harvest activity. Red Cliff agrees to annually reserve 400 fish from its tribal quota for home-use fishing. Any unused portion of these fish can be reallocated to the commercial component of the fishery no later than August 1. When and if home use fish are reallocated to the commercial fishery, a sum of 100 fish will be retained from the available balance for home use activity during the remainder of the quota year. The following formula will be used to calculate effort limitations for utilization of reallocated home use fish.

$$\frac{\text{Available Balance} - 100}{\text{Season 3 CPE}} \times 1,000 = \text{Effort Limitation for Reallocated Home Use Fish}$$

The number and serial numbers of any additional tags made available to the commercial fishers shall be reported to the Department.

In no instance may a commercial boat fish both commercial and home use nets at the same time. If such home use nets are fished by a commercial licensee, they must be labeled as home use and contain the same information as required for commercial nets.

2b. As used in this Agreement 'WI1 ' and 'WI2' refer to Wisconsin Statistical Districts 1 and 2 as defined in the Lake Trout Management Plan of the Lake Superior Technical Committee of the Lake Superior Committee of, the Great Lakes Fishery Commission. The line between the districts extends due north from the northernmost tip of Bark Point.

2c. Fishing years shall begin and end on November 28 and September 30, respectively. A "fishing week" shall be any week in which a party's fisherman lifts large mesh gill nets; a 'fishing day' shall be any day on which a party's fisherman fishes large mesh gill nets. Any latitudes or longitudes referred to in this agreement shall be determined using methods described in Appendix J.

Seasons

3. Except for fish harvested for tribal home use in conformity with Appendix F, the fishing season for lean lake trout and whitefish shall open on November 28 and close on September 30 of the subsequent year. No nets shall be set for lean lake trout and whitefish prior to the opening date. Fish harvested pursuant to the home use regulations of Appendix F may not be sold.

Tagging

4. That portion of the state and tribal lean lake trout quotas allocated to commercial fishing shall be enforced by the use of tags, distributed by the Department and the Tribes respectively.

4a. On or before November 1 of each fishing year each party shall notify the others of the proportion of the quota they intend to devote to noncommercial fishing, and shall reduce the amount of tags available to commercial users by the amount so allocated.

4b. At a time to be mutually agreed, assessment fisheries for the coming fishing year shall be reviewed by members of the State-Tribal Biological Committee in the interest of promoting cooperation and efficient efforts. Assessment information shall be exchanged according to the schedule in Appendix G.

4c. The Tribes shall monitor the non-commercial harvest of lake trout, notify the State of the methods of monitoring employed and provide information on the harvest, according to the schedule in Appendix G.

4d. The Memorandum of Understanding known as the "Home Use Agreement" is incorporated as part of this agreement as Appendix F and its provisions agreed to by all members.

4e. The State shall similarly monitor the sport harvest of lake trout, keep the Tribes apprised of the methods of monitoring employed and provide information on the harvest, according to the schedule in Appendix G. Tribal biologists/technicians may accompany state monitors.

4f. Should monitoring reveal that either the sport or home use fisheries have exceeded or are likely to exceed the amount allocated the responsible party agrees to take emergency measures to prevent the excess harvest. Should such measures be unavailable the excess shall be deducted from the allocation of the responsible party in the next fishing year.

4g. The regulation of the tagging of the commercial harvest of lean lake trout shall be as provided in Appendix D, attached to this agreement and herein incorporated.

4h. Except for the species enumerated in this paragraph, there shall be no restriction on the sale of any species of fish taken in Wisconsin waters of Lake Superior by Red Cliff and Bad River tribal commercial fishers.

Species not to be sold: brown, brook, rainbow and splake trout; salmon; lake sturgeon; bass; yellow perch, northern pike and panfish; except those harvested pursuant to paragraph 10d.

Refuges

5. In the interest of strengthening and reestablishing self-sustaining stocks of lean lake trout, the parties agree to establish the following refuges, closed to all fishing except as provided under paragraph 6 below.

5a. The Gull Island Shoals Refuge, more particularly described in Appendix A, attached to this agreement and herein incorporated.

5b. The Devils Island Refuge, more particularly described in Appendix A and herein incorporated.

6. The following limited fisheries shall be allowed within the refuges:

6a. For menominee, employing bottom nets of mesh size no greater than 2 3/4 inch stretch measure, within 7 fathoms of water adjoining Michigan Island, from November 5 through December 5. Float nets with a maximum stretch measured 3 inches may be fished in this area for lake herring from November 1 to December 15 out to a bottom depth of 25 fathoms. The net must be a minimum of two fathoms off the bottom. Buoys may be set in deeper water.

6b. The following area is set aside solely for tribal fishing during period 3 by boats not equipped with mechanical gill net lifters:

Within grid 1410, to a maximum depth of 110 feet, an area southwest of a line between a point at latitude $46^{\circ} 45.04'$, longitude $90^{\circ} 34.62'$ and a point at latitude $46^{\circ} 40.0'$, longitude $90^{\circ} 28.95'$. Within this area a minimum of 25% of the lifts will be jointly monitored to determine C.P.E. Joint monitoring may be conducted by biological or law enforcement staff.

Failure to reach the required number of monitorings will result in the action described in paragraph 19 of the agreement.

6c. For herring, employing nets of mesh size no greater than 3 inch stretch measure, south of a line running northwesterly from the northern tip of Devils Island, from November 15 through January 15.

6d. The area within the Devils Island refuge south of a line running northwesterly from the north tip of Devils Island to the refuges western boundary, thence due south to the southwest corner of the refuge and back to the north tip of Devils Island will be open to commercial fishing during Period 3 (June 1 to Sept. 30).

7. The Department, Tribes and U.S. Geological Survey shall regularly review the progress of rehabilitation within the Devils Island Refuge. The parties have reviewed the progress of lake trout rehabilitation and agree to the following:

Lake trout have been rehabilitated in WI-2 since 1996 based on the protocol developed by the Lake Superior Technical Committee of the Great Lakes Fishery Commission. The parties agree that full restoration has yet to be demonstrated. The current lake trout population is self-sustaining provided sea lamprey control continues and harvest is regulated. Full restoration would be shown when adult stock/recruitment relationships show density dependence on a unit wide basis, and also on both major spawning reefs (Gull Island Shoal and Devils Island Shoal). One of the two measures of density dependence has already been met as described in a WI-2 unit wide adult/recruitment relationship suggested by Corridan (2005). However data is insufficient to assess density dependence on Devils Island Shoal.

8. The Department and the Tribes shall undertake and/or continue studies to determine when the conditions described in paragraph 7 are achieved. Young-of-year trawling is currently being conducted by the U.S Geological Survey at Gull Island Shoal and the parties recommend that similar trawling be done at Devils Island Shoal. Also knowledge of older lake trout in spring and summer assessments, as estimated by the current Statistical Catch At Age (SCAA) model, is lacking due to selectivity of the gear. The parties agree to seek alternate data sources to better estimate older lake trout abundance.

Restricted Sport Fishing Areas

9. The parties agree to establish the following restricted areas, closed to net fishing except as provided in paragraph 10 below:

9a. The Minnesota Boundary - Iron River Area, out to a depth of 35 fathoms, more particularly described in Appendix B, paragraph 5.

9b. The Iron River Cranberry River Area, out to a depth of 15 fathoms, more particularly described in Appendix B, paragraph 4.

9c. The Cranberry River Bark Point Area, out to a depth of 12 fathoms, more particularly described in Appendix B, paragraph 3.

9d. Siskiwit Bay, from Roman Point to Squaw Point, more particularly described in Appendix B, paragraph 1.

9e. The Van Tassells Point Area as more particularly described in Appendix B, paragraph 6.

9f. The Chequamegon Bay Area, more particularly described in Appendix B, paragraph 10.

9g. The Hagens Beach Area, from June 1 through August 31, more particularly described in Appendix B, paragraph 8. The parties agree to review the continued need for the Hagens Beach Area after 3 years based on angler use information collected during ongoing state and tribal enforcement and resource monitoring activities.

9h. The Saxon Harbor Area, more particularly described in Appendix B, paragraph 9.

9i. The Bark Bay Area, more particularly described in Appendix B, paragraph 2.

9j. The Sand Cut Area, more particularly described in Appendix B, paragraph 7.

9k. The Gull Island Area more particularly described Appendix B, paragraph 11.

10. The restrictions in paragraph 9 above are subject to the following exceptions:

10a. Bark Bay shall be open from April 1 through though May 31 and for entrapment nets for white fish only for period 3.

10b. Nets of mesh size no greater than 3 inch stretch measure shall be allowed in waters greater than 15 fathoms, between the mouth of the Brule River and the mouth of the Iron River, from November 15 through December 31. Float nets (minimum of 2 fathoms off the bottom) of no greater than 3 inch stretch measure shall be allowed from the mouth of the Iron River to Bark Point from October 15 - December 31.

Entrapment nets will be allowed in W-1 from one mile east of the mouth of the Iron River to one mile west of Bark Point only during period 3, and only for whitefish. Entrapment pots must be a minimum of one half mile apart.

10c. Red Cliff fishers may harvest 5,000 pounds round weight of walleye annually within the restricted areas west of Bark Point and east of a point one mile west of Port Wing. Bad River fishers may harvest up to 50% of this amount through August 30 of each year. Red Cliff fishers will fish its 50% and any remainder of the 50% allowed to Bad River fishers, up to 5,000 pounds total, after August 30. Bad River fishers must report catches to the Red Cliff fisheries biologist by August 30 of each year. The 50% allowance to Bad River will be reviewed annually on the basis of biological stability and enforcement compliance.

10d. Bad River small boat fishers shall have a harvest of perch and walleye within a mile offshore the reservation, beginning at the westernmost boundary of the reservation and extending northeasterly along the shoreline to Chequamegon Point, pursuant to an assessment project to be jointly developed by Department and Bad River biologists.

10e. Bad River fishers to harvest within a 1 1/2 mile strip off Bad River reservation borders, from Chequamegon Point eastward to the eastern border of the reservation.

10f. The Saxon Harbor Area to be open to tribal fishers from ice out to Friday of Memorial Day weekend. In addition, a herring fishery, employing nets no less than 2 1/2 and no greater than 3 inch stretch measure, at 14 fathoms and greater, from November 15 through December 15, for tribal fishers and, state fishers. Notwithstanding the stated terminus of the tribal spring fishery, once a tribe's harvest of lean lake trout reaches 731 fish its fishers shall withdraw from the Area.

10g. Nets may be fished under permit for the taking of rough or detrimental fish other than longnose suckers.

Stocking

11. The State will remove no more than 300,000 lake trout eggs annually from the Gull Island refuge.

Enforcement

12. The Department agrees to enact the various restrictions of this Agreement as administrative regulations enforceable against non-Indian fishers. Violations by non-Indians shall be prosecuted exclusively in state courts.

13. The Tribes agree to enact the various restrictions of this Agreement as ordinances enforceable against tribal members. Violations by tribal members shall be prosecuted exclusively in tribal courts.

14. The further respective enforcement powers and responsibilities of the parties shall be as stated in Appendix C, attached to this agreement and herein incorporated.

14a. The regulation of tribally licensed fish wholesalers operating off the reservation shall be as set out in Appendix E, attached to this agreement and herein incorporated.

14b. The Department and the Tribes agree to provide one another with copies of the regulations enacted pursuant to paragraphs 12 and 13 above within 10 days of their effective dates.

15. Because of the mutual concern for fair and effective enforcement, the parties agree to meet within 10 days of a request by either party to discuss concerns relating to enforcement of the terms of this agreement.

Duration

16. This agreement, if not reaffirmed or renegotiated, will terminate on November 27, 2015.

17. This agreement may be canceled by either party upon 60 days notice. Such notice shall be in writing, and subscribed by the respective signatory to this agreement, or his/her successor. However, the parties agree to exercise good faith in apprising each other of such grievances and problems in implementing this agreement as may arise, and to cooperate to resolve such matters to the greatest extent possible.

Waiver

18. While the parties agree to abide by the terms of this agreement, nothing in this agreement shall be construed as a waiver by any party of its rights in the Lake Superior fishery.

Regulation of Gill Net Effort

19. The parties agree to regulate the amount of large mesh gill net that may be fished during any season of the fishing year. The allowable effort for a party shall be based on the lean lake trout quota and the Catch Per Unit of Effort (CPE) monitored in the fishery of each party. Allowable effort shall be calculated for each of three seasons in the fishing year according to the formula in Appendix H with November 28 through March 31 comprising Season 1, April 1 through May 31 comprising Season 2, and June 1 through September 30 comprising Season 3 except as provided in paragraph 19d.

19a. CPE is defined as the average number of lean lake trout caught per 1,000 foot lift of large mesh gill net. CPE includes all dead and live lake trout. A separate CPE shall be used for each season except as provided in paragraph 19d. CPE values for Seasons 1 and 2 shall be decreased by 10% to account for return of live fish. CPE values for a given season shall be the average of the monitored CPE in that season during the preceding three years (hereafter referred to as three year rolling average) except as provided in paragraph 19b. Each party shall use its own separately calculated CPE for each season, except that a party failing to meet the standard set out in paragraph 19c for a season shall be deemed to have the three-party average CPE for that season in determining the remaining footage available, and that shall be its CPE for inclusion in the three year rolling average.

19b. Previous agreements have included the following provision: "If in any fishing year the actual jointly monitored CPE for any given season exceeds the rolling average CPE that was calculated for that season and year by more than 50%, the actual CPE shall be used in the following year rather than the rolling average. Unless the expected CPE in the next year is again exceeded by 50%, the CPE calculation for the next year will go back to the rolling average, using the prior three years." This provision is suspended for the 2006, 2007 and 2008 fishing years. The need for its reinstatement shall thereafter be evaluated by the parties.

19c. CPE values shall be based on a statistically adequate number of jointly monitored lifts, as joint monitoring is described in Section 22. A statistically adequate number will be obtained if during each season

1. at least 7% of all big boat lifts by each party or at least one big boat lift per fishing week by a party is jointly monitored; and
2. all big boats of that party are jointly monitored at least once during a season in which they fish.

The foregoing standard for joint monitoring shall be met unless a failure is due to unforeseen or hazardous circumstances unanimously agreed by the Biological committee for CPEs or the Law Enforcement Committee for effort monitoring.

The Biological Committee shall use the joint monitoring data collected under the foregoing standard during the 2006, 2007 and 2008 fishing seasons and thereafter conduct a scientific analysis of the statistical bias and power of the CPE monitoring. The parties shall evaluate the foregoing standard based on this analysis and may revise the standard if mutually agreeable.

If a signatory notifies the other parties in a timely fashion that it will have difficulties in providing a monitor(s) the other parties will temporarily (if possible) provide a monitor(s) until the initial party can once again provide a monitor(s).

19d. Any party shall have the option to calculate CPE and manage the allowable effort for seasons 1 and 2 combined. Allowable effort and CPE shall be calculated using procedures described in paragraphs 19, 19a, and 19b except that a single CPE for seasons 1 and 2 shall be calculated and used to compute allowable effort for both periods combined.

20. The Tribes agree to establish a system of effort control for large mesh gill nets placed in waters less than 330 feet (55 fathoms). The tribal systems shall allocate and enforce individual fishing effort limits in terms of maximum net footage allowed, based upon individual lake trout tag allocations. These systems, employing individual seasonal harvest declarations, individual net length markings and bimonthly catch and effort reports, shall be administered in such manner that the sum of the net footage allocated to and actually fished by each individual fisher, multiplied by the CPE applicable to each season during which the footage is actually fished, does not exceed the Tribe's annual lake trout quota. Except as provided in paragraph 19d, individual allocations shall be recalculated at the onset of seasons 2 and 3 to assure this result. The exceeding of an individual's annual allowable effort allocation shall be a prosecutable offense.

A more detailed description of the effort calculation formula is found in Appendix H.

Individual fishing effort allocations or quotas may not be transferred except by writings signed by transferor and transferee, verified and dated by signature of the fisheries biologist and filed with that person who shall give notice to the other parties to the agreement upon reasonable request. No such transfer or claim of such transfer shall be entertained as a defense to a prosecution for exceeding fishing effort except where the written transfer was filed and verified prior to the date of the alleged offense.

21a. The Parties shall require their commercial fishermen to file harvest reports for the periods ending the 15th and last day of each month, which include records of catch and effort by day and location by grid. The reports shall be required to be received by the appropriate management agency no later than the third working day following the reporting period. The Parties agree to provide each other a summary report showing effort by day by grid within 6 working days of the end of the month.

21b. The Tribes agree to provide the Department the daily effort records of individual fishermen on a case-by-case basis upon a showing of law enforcement need.

22. Joint monitoring is defined as a big boat lift monitored by at least one state representative and one tribal representative. Joint biological monitoring shall not be conducted in conjunction with any enforcement activity unless requested by the biological staffs. However, joint law enforcement effort checks on the ice have the option of monitoring lifts for CPE data provided that such data is shared with biological personnel from the appropriate management agency within 6 working days. The number of monitorings forming the base for CPE calculations is set forth in paragraph 19c. Failure of one party to participate in the joint monitoring session after being notified by telephone of the proposed joint monitoring shall not result in the discarding of the data from that monitoring session. The telephone contact shall be made at a reasonable time, but no later than 9 p.m. on the evening before the monitoring, with the individuals involved in the monitoring effort. The telephone contact must be made at the number designated by the party being contacted, which shall have a functioning answering machine or service attached.

The biologists and the wardens of the parties shall meet within 20 days of the close of each of the three fishing seasons to calculate the actual observed CPE from that season. The biologists shall also determine whether the CPE calculation shall result in the effort adjustments required by Section 20 for seasons 2 and 3 or the exception to the CPE rolling average required by Section 19. The wardens will compare reported effort by grid by day with monitored effort.

Experimental Effort Carry Over System

23. The parties agree to evaluate an experimental large mesh gill net effort carry over system for three years beginning with the 2007 fishing year. Beginning with the cessation of the 2006 fishing year a party which so elects may carry over a portion of its unused 2006 allocation of lean lake trout to the following fishing year, which portion shall initially consist of the lower of the following:

1. The number of unused 2006 lean lake trout tags left over and turned into the party at the cessation of the fishing year;
2. The number of lean lake trout unfished by that party during the fishing year, calculated by dividing the amount of unused footage by that party's CPE for Season 3 of that year;

The portion thus calculated shall be further reduced by multiplying by 0.8531, reflecting an annual natural mortality rate of 0.1469, and which shall in no case exceed 25% of the party's 2006 lean lake trout allocation.

The resultant of that calculation shall carry over and be added to the party's 2007 lean lake trout allocation, where its corresponding footage allocation shall be subject to the season 1 CPE for that party for that year. Additional tags for the fish carried over shall be issued in accordance with Section 4.

The same carry over provisions shall be available to unused tags and effort in the 2007 and 2008 fishing years using the same procedures based on the appropriate year's information.

Following the implementation of the 2008 fishing year carry over provision, the parties shall review the results of the experiment and determine whether the carry over system should continue in future years. The review should consider factors directly attributable to the carry over of effort or quota, or those affecting implementation of the carry over system.

Large Mesh Gill Net Lifting

24. The parties agree that all large mesh gill nets shall have standard lifting requirements. Each gill net shall be lifted a minimum of (1) once every 72 hours (3 days) in open water less than 96 feet (16 fathoms) deep, or (2) once every 120 hours (5 days) in open water 96 to 210 feet (16 to 35 fathoms) deep, or (3) once every 240 hours (10 days) in open water more than 210 feet (35 fathoms) deep, or (4) once every 120 hours (5 days) in commercial ice fishing. The foregoing provision shall be subject to inclement weather and similar dangers provisions in a manner similar to Appendix D, paragraph 4.

Trap Net Fishing

25. 1. The parties agree that all trap nets shall have standard fishing requirements.

2. The pot or crib must be set, placed and operated in water not more than 90 feet (15 fathoms) deep except that any specific net fished in deeper water prior to November 27, 2005 may continued to be fished in that specific location for the duration of this agreement.

3. Each commercial fisher may use no more than 10 nets, pots or cribs.

4. Each trap net shall be lifted a minimum of once every 168 hours (7 days).

5. The fish holding pot portion of the net shall be rendered inoperable during the closed season for whitefish and lake trout and shall have the webbing removed from the water within 14 days after the close of the lake trout (open) season.

6. Nets may not be placed within $\frac{1}{2}$ mile of any other entrapping net, except that adjacent tribal licensees may, by mutual consent, maintain a shorter interval between their respective nets, provided that said interval is at least $\frac{1}{4}$ mile and the $\frac{1}{2}$ mile interval is maintained with any adjacent non-tribal net.

7. Nets may not be placed or operated during the months of April through September if the mesh covering the top of hearts of the nets is less than 14 inch stretch.

8. Nets may not be placed or operated from a boat or watercraft from November 28 through March 31.

9. Nets fished in the Van Tassells Point restricted fishing area may harvest only whitefish and lake herring.

10. Nets may not be placed or operated within 1 mile of a designated trout stream.

11. The location restrictions imposed in items 2 and 6 may be reopened after three years upon a showing that there are one or more additional tribal members ready and willing to operate entrapment gear but are precluded from obtaining an effective placement due to these restrictions.

Whitefish Statistical Catch at Age Model

26. The parties agree that for purposes of future management of whitefish in Lake Superior that it would be desirable to develop a Statistical Catch At Age (SCAA) model for appropriate grids and whitefish stocks. The whitefish SCAA would not necessarily lead to developing total allowable catches or quotas, but would be used to determine the health of the populations and sustainability of current harvest levels. The Biological Committee shall investigate the technical and financial requirements of developing this model and provide a report to the parties no later than 2008.

Native Species Management

27. The Biological Committee will meet annually and report to the parties on the status of native species management in Lake Superior.

Annual Review

28. The parties agree to meet each year to discuss the implementation of the Agreement, including but not limited to the manner in which the joint law enforcement and biological monitoring provisions are accomplished. The meeting shall be held in September of each year. (with preference given to the week after Labor Day) with the first meeting to be held in 2006.

State Administrative Code

28. The State agrees to enact provisions regulating the effort of state commercial fishers which are no less restrictive than the effort restrictions of this Agreement. As of the date of this agreement such regulations are promulgated in ss. NR 25.05(2)(a), 25.06(1)(a) and 25.09(1), Wis. Adm. Code.

Previous Agreements

29. Unless specifically stated otherwise, this agreement supersedes all earlier agreements.

This agreement to take effect upon being subscribed by the parties.

The Red Cliff Band of Lake Superior Chippewa

By Patricia R. DePerry Dated: 4.19.07
Tribal Chair

The Bad River Band of Lake Superior Tribe of Chippewa Indians

By Peta Lemieux Dated: April 18, 2007
Tribal Chair

The Wisconsin Department of Natural Resources

By Scott Hansen Dated: April 19, 2007
Secretary

*Bad River signs on condition that these quota allocations shall neither nor be interpreted as precedent for future quota allocations and further asserts that following the termination of this agreement, tribal quotas must be allocated equally among those tribes participating in new agreements.

The Bad River signing is further conditioned on the agreement by the State to provide the Bad River Band the Band's choice of either the lake trout and whitefish harvested by the State's assessment fishing or the proceeds therefrom. Bad River also understands that the State agrees to rediscuss the allocation issue in good faith prior to re-evaluation of the quotas.

Appendix A – Refuges

1. Gull Island Refuge defined as all waters bounded by a line from the Gull Island light south to the northernmost point of Michigan Island and then proceeding in a southerly direction following the shoreline of Michigan Island to the Michigan Island light, thence southerly towards the center of the mouth of the Bad River in Ashland County to latitude $46^{\circ} 40'$, thence due east to the Michigan state line; thence northerly along the state line to latitude $46^{\circ} 59.3'$; from that point due west to longitude $90^{\circ} 26.5'$ and thence due south to the Gull Island light the place of beginning except that licensed commercial fishers may fish all that area within these external boundaries wherein the lake bottom lies at a depth of 35 fathoms (210 feet) or more;

2. Devils Island Refuge defined as all waters wherein the bottom lies at a depth of less than 35 fathoms northerly from a line beginning two miles north of the Outer Island light and extending westerly to the north end of North Twin Island, thence along the shoreline to the south end of North Twin Island, thence southwesterly to the north end of South Twin Island, thence northerly to the north end of Rocky Island, thence along the north shoreline to the northwest point of Rocky Island, thence northwesterly to the south end of Devils Island, thence along the shoreline to the north end of Devils Island, thence westerly to a point 2.5 Statute miles north of the York Island Shoal bell buoy.

Appendix B Restricted Areas

1. Siskiwit Bay. All waters of Siskiwit Bay bounded by the shoreline and a line extending from Roman Point to Squaw Point.
2. Bark Bay. All waters of Bark Bay bounded by the shoreline and a line extending from Roman Point to Bark Point.
3. Cranberry River - Bark Point. All waters from a line extending due north from the mouth of the Cranberry River at Herbster, easterly to the Bark Point Roman Point line wherein the bottom lies at a depth of less than 12 fathoms.
4. Iron River - Cranberry River. All waters from a line extending due north from the mouth of the Iron River, easterly to a line extending due north from the mouth of the Cranberry River at Herbster, wherein the bottom lies at a depth of less than 15 fathoms.
5. Minnesota Boundary - Iron River. All waters from a line extending due north from the mouth of the Iron River, westerly to the Wisconsin-Minnesota state line wherein the bottom lies at a depth of less than 35 fathoms, except that from November 15 through December 31 gill nets of 3" or less stretch measure may be used in that portion greater than 15 fathoms in depth, east of a line extending due north from the mouth of the Brule River.
6. Van Tassells Point. The area from the easterly most tip of Houghton Pt. northerly to the entry to the City of Bayfields Marina, then easterly to Pt. Defroid on Madeline Is., then southerly along the western end of the Island to the tip of Grants Pt., then southerly to Chequamegon Pt. on the western tip of Long Island. Hence easterly to the eastern most tip on Houghton Pt. Recreational fishing equipment will only be allowed except lake herring float nets will be allowed under the ice, entrapment gear may be fished June 1 to August 15 for whitefish only, and state and tribal bottom set large mesh gill nets (4.25 and 4 1/4 to 4 7/16 minimum size stretch measure for tribal and state respectively) will be allowed north of latitude 46 degrees 45 seconds, minimum of 19 fathoms only as ice sets (not from a boat) or as locally called, "ice fishing". Smelt pound nets will be allowed by permit in this area from ice-out to May 15. Gill nets of not greater than 1 3/4 inch stretch measure may be fished in this area for smelt and herring under the ice but must be at least a half mile from the mouths of any trout streams.
7. Sand Cut. All waters bounded by a line beginning at the Chequamegon Point light on the western end of Long Island extending northeasterly to the southernmost point of Madeline Island, thence due east to the western boundary of Gull Island Shoals refuge, thence southerly along the refuge boundary to latitude of 46° 40', thence due west to the mainland shoreline, thence northwesterly along the shoreline to the place of beginning, except within one and one-half mile of the mainland shoreline in Ashland County.

8. Hagens Beach. All waters east of Madeline Island between a line extending due east from the southernmost tip of Madeline Island to the western boundary of the Gull Island Shoals refuge and a line extending from the east end of Hagen Road to the western boundary of the Gull Island Shoals refuge from June 1 through August 31.

9. Saxon Harbor. Saxon Harbor area defined as all waters bounded by a line beginning at the mouth of Graveyard Creek extending due north to the southern boundary of the Gull Island Shoals refuge, thence due east to the Wisconsin-Michigan State line, thence southwesterly along the Wisconsin-Michigan State line to the mouth of the Montreal River, thence westerly along the mainland shoreline to the place of beginning.

10. Chequamegon Bay. All waters of Chequamegon Bay bounded by the shoreline and a line extending from the easterly most tip of Houghton Point, Bayfield County, to the Chequamegon Point light on the western tip of Long Island, Ashland County.

11. Gull Island. Those waters less than 35 fathoms lying north of the latitude $46^{\circ} 59.3'$ refuge line in grids 1212, 1312, and east of longitude $90^{\circ} 25.0'$ and south of latitude $47^{\circ} 05'$ in grids 1311 and 1211.

APPENDIX C Enforcement

1. As used herein 'inspect' and 'inspection' shall refer to such enforcement inspections as are not required to satisfy the probable cause and warrant requirements of the Fourth and Fourteenth Amendments. Inspections include the counting and observation of fish on commercial vessels at dockside by law enforcement personnel.

2. As used herein 'search' shall refer to such enforcement inspections as are required to satisfy the probable cause and warrant requirements of the Fourth and Fourteenth Amendments.

Inspections

3. The Tribes and their wardens shall have sole and exclusive authority to inspect tribal fishermen.

4. The Tribes agree that inspections are an important tool of law enforcement. The Tribes undertake to conduct at least 15 such inspections in the 1996 fishing year, and 25 in each fishing year thereafter, in an effective, unannounced manner, with due consideration given to state recommendations and specific tips. The tribes shall exchange inspection reports with the Department on a bimonthly basis, whether or not inspections are conducted during such period.

5. State wardens will on occasion, by agreement, accompany tribal wardens during inspections and searches at landings and at sea. The Tribes shall provide at least 7 such inspections or searches during the fishing year.

6. The Tribes and State shall cooperate with each other's proposals to assure that these accompanied inspections and searches are carried out in a secure and unannounced manner. The Tribes will provide the state with schedules, telephone numbers, contact persons and other information to facilitate action on short notice, provided that action is consistent with tribal guidelines on inspection hours and procedures and provided further that the state provide reciprocal information to the tribes.

7. In addition to other penalties, failure to allow an inspection or search authorized by this agreement shall be punishable by license suspension. A second violation shall be punished by a suspension for not less than 30 fishing days.

Searches

8. State wardens, having probable cause to believe that a tribal fishing violation has occurred that day or is occurring on Lake Superior, may stop and contact the violators on the water in the following manner:

(a) Upon observing the violation state wardens shall immediately notify tribal law enforcement authorities. Notice shall be given to the Tribe's designated representative, and shall include the nature of the observed violation and the location of the violator and state boat.

(b) State wardens shall use their best efforts to establish contact, including direct radio contact with the Tribe, radio and telephone contact through the sheriff's office or any other communications resource. A log shall be kept of all attempted contacts.

(c) State wardens may request permission from said violators to submit to a search of their vessel and its contents, provided that they inform the violator of their reasons for believing that a violation has occurred and apprise the violator of their efforts to contact tribal authorities. Suspects may refuse such search but shall then remain on site until a tribal warden arrives to conduct an inspection.

(d) If state wardens cannot establish contact with tribal law enforcement authorities within 1/2 hour, they shall apprise the violator of that fact and may then board and search the tribal boat for evidence of a suspected violation.

(e) If the tribal law enforcement boat can reach the location within 1 1/2 hours of the time that notice is given, the violator and the state boat shall proceed in the direction of a rendezvous, or, if it is deemed essential to establish the locus, or the violator refuses to proceed, shall remain at the location until tribal law enforcement arrives.

(f) Upon arrival of the tribal boat, boarding and inspection of the violator's vessel will be initiated by tribal law enforcement authorities. State law enforcement officers may assist.

(g) If tribal law enforcement authorities request and if the location of a tribal boat in violation is within 2 hours of a suitable port, the violator will proceed to that location accompanied by the state boat. Boarding and inspection will occur as in paragraph (f) above.

(h) Should tribal authorities be unable to arrive within 1 1/2 hours of contact, or should they fail to arrive within 30 minutes of the violator's arrival in port pursuant to paragraph (g) above, boarding and search by state wardens may take place as in paragraph (d) above.

(i) Should a search be conducted under paragraphs (d) or (h) above, state wardens shall promptly provide the Tribe with a report summarizing the procedures and results of such search.

9. State wardens, having observed a tribal violation during fishing on the Lake Superior ice, and that evidence of a violation is present, may conduct a search on the ice and seize evidence of the violation, provided that they first inform the violator of their reasons for believing that a violation has occurred, and provided also that wardens are unable to contact and secure tribal authorities to conduct the search.

10. State wardens, having probable cause to believe that a tribal fishing violation has occurred and that evidence of the violation is to be found in a tribal fisher's vehicle off the reservation, may stop such vehicle, and thereafter conduct a search and seize evidence of a violation, provided that they first inform the violator of their reasons for believing that a violation has occurred, and provided also that the stop occurs at such distance and time of day that it is not feasible to contact and secure tribal authorities to conduct the search.

Seizure

11. The state may seize tribal fishing gear set in areas closed to tribal fishing pursuant to this Agreement.

12. In any search authorized by this agreement, the state may seize evidence of a suspected violation.

13. State wardens shall promptly notify tribal authorities of a seizure and turn over the seized items to tribal authorities.

14. Items seized for evidence shall be held by tribal authorities where pertinent, except that fishing gear shall be returned to tribal fishermen upon stipulation as to ownership and physical description.

15. Fish seized and determined by the court to be contraband shall not be returned to the defendant, his agents or immediate family members. Should the fish be sold, the proceeds shall not be paid to the defendant, his agents or immediate family members.

Identification

16. At the beginning of each fishing year the Parties shall provide each other with a list of licensed fishermen and their license numbers.

17. Tribal nets shall be marked in such way as to designate the fisher's license number and tribe, specifically including the initials 'RC' or 'BR'.

All large mesh gill nets used by Tribal fisherman in waters less than 55 fathoms shall also include an informational tag placed in a secured pocket of the outside buoy. Each tag shall state the date on which the gill net was set, the length of the gang of nets and the license number of the fisherman.

18. State wardens may approach a tribal fishing boat when necessary for the purpose of obtaining the identification of occupants of the boat, previously unknown to the wardens, who are apparently engaged in fishing activities. Tribal fishermen, upon showing of proper authority, shall stop and cooperate with such inquiries.

19. State wardens may similarly approach a tribal fishing operation on the ice for the purpose of obtaining identification of persons, previously unknown to the wardens, apparently engaged in fishing activities. Tribal fishermen, upon showing of proper authority, shall cooperate with such inquiries.

Exchange of Information, Incident and Disposition Reports

20. In the interest of assuring the effective enforcement necessary for the success of the management plan, the parties agree to promptly exchange incident reports and other information bearing on violations and the disposition of reported commercial fishing cases.

21. Upon receipt of an incident report from state wardens, tribal authorities shall notify the state within 10 working days of whether a citation is to be issued.

22. Upon final disposition of such a case the tribe shall notify the state of such disposition within 10 working days.

23. The Tribes shall provide state witnesses with notice of pertinent hearings and such witnesses shall cooperate in case development.

24. Upon receipt of an incident report from tribal wardens involving non-tribal members, the state shall give the same notification as required of a tribe in paragraphs 21 and 22 above.

25. The tribal attorney, or such other person as may be specifically designated, shall be responsible for providing the notification required in paragraphs 21 and 22 above. Notification under paragraph 24, and inquiries as to the current status of any case, shall be directed to this person.

26. The DNR staff attorney responsible for Indian fishing matters, or such other person as may be specifically designated, shall be responsible for providing the notification required under paragraph 24. Notification under paragraphs 21 and 22, and inquiries as to the status of any case, shall be directed to this person.

27. At least once a year, on the 1st of February, the persons designated in paragraphs 25 and 26 above shall provide each other with summaries of all cases within the last calendar year in their respective jurisdictions dealing with Lake Superior fishing.

28a. The intent of the parties is to have joint patrols including both state and tribal wardens become routine. In furtherance of this goal, Red Cliff agrees to make two wardens available for two days a week and Bad River agrees to make one warden available a minimum of one day a week, with additional days to be agreed upon between enforcement staffs. Department and tribal wardens shall meet regularly and as frequently as necessary to establish and adjust patrol schedules.

28b. The Tribes each agree to authorize the other Tribe's wardens to enforce its ordinances pertaining to fishing in the Wisconsin waters of Lake Superior and to cite alleged violations thereof into its tribal courts. In addition, the Bad River Tribes authorizes wardens of the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) to so act with reference to Bad River members and references to tribal wardens shall include GLIFWC wardens so authorized.

28c. Where a tribal warden on joint patrol shall decide to board a tribal boat, inspect or seize a tribal catch or take similar law enforcement action involving tribal members, state wardens, acting under the direction of the tribal warden, shall be authorized to participate in conducting boarding, inspection, seizure or other action, and it shall not be an objection to a subsequent citation or prosecution that state wardens so participated.

28d. The parties agree to exchange monthly reports showing individual law enforcement effort, the number of joint law enforcement patrols, the officers involved, offenses discovered and a discussion of the effectiveness of the joint patrol system.

APPENDIX D Tagging

1. The State and the Tribes shall enact and maintain secure systems for the tagging of lean lake trout. Such systems shall employ serially numbered, once-lockable tags, identifying the issuing party, to be issued in fixed numbers to individual fishers pursuant to applicable quotas, and so recorded. Such systems shall further require lean lake trout harvested on open waters to be tagged, i.e., a tag affixed to the fish and securely locked, before docking, and lake trout harvested on the ice to be similarly tagged before being transported.

2. Such tags are to be valid only for the fishing year of issuance and are to be color coded so as to distinguish between any two consecutive fishing years. Additional costs borne by the Tribes in maintaining a color coded system are to be compensated by the Department.

3. On or before November 15th of each year, each party to inform the others in writing of the number, serial numbers and physical type of tag to be used in the coming fishing year.

4. To the extent tribal tagging regulations recognize an inclement weather exception, the regulations shall be construed to place the burden on the fisher to prove that inclement weather or similar dangers prevented the timely tagging of the fish. Failure to use available means of notifying tribal wardens in advance, and the fact that fish were dressed, shall constitute prima facie evidence that the failure to tag was not due to inclement weather.

5. The Tribes shall adopt regulations on the tagging of lake trout fillets which substantially conform to current state regulations, or shall adopt an alternative system for assuring the tagging of fillets, acceptable to the Department.

6. No lake trout harvested in Michigan shall be docked in Wisconsin unless they are tagged in conformity with a tagging system assuring the secure issuance of a limited number of tags. If the tags involved are furnished by Michigan tribal sources, the Tribes shall furnish the Department with the details and text of the regulations regulating the amount of tags and the methods of their issuance. If a secure system of limited tag issuance is not otherwise in place the Tribes agree to provide such a tagging system themselves, prescribed and enforced by their own ordinances.

7. No combined catch of Wisconsin and Michigan lake trout shall be docked in Wisconsin. Nor shall any fisher lift nets in Wisconsin with Michigan lake trout aboard.

8. Tribal fishers fishing in the Saxon Harbor area shall not have tags for Michigan lake trout in their possession.

9. All lean lake trout caught in gill nets set in waters less than 330 feet (55 fathoms) shall be kept and tagged except that live lake trout caught during Seasons 1 and 2 may be returned to the water.

APPENDIX E Tribal Wholesalers

1. The Tribes shall adopt and enforce regulations substantially similar to state regulations, requiring periodic reports and inspections from tribally licensed fish wholesalers.

2. Tribally licensed wholesalers, engaged solely in the purchase of fish from tribal fishers, shall be governed by paragraphs 13 and 14 of this agreement.

3. Tribal authorities shall promptly report to the Department all wholesale purchases from state licensees reported to the Tribes.

4. Nothing herein is intended to prevent purchase of fish from state licensees by tribal wholesalers.

Wholesalers wishing to purchase fish from state licensees shall so indicate to tribal authorities, who shall promptly notify the Department. The status of wholesalers so signifying shall be governed by applicable law, outside this agreement.

5. The purchase of fish from state licensees by a wholesaler who has not declared his intent to purchase from state licensees, shall be punishable by license suspension in addition to other penalties. A second violation shall be punished by a 30 day suspension, in addition to other penalties.

6. The Tribes agrees to provide the Department with records of tribal licensed wholesalers on a case-by-case basis upon a showing of law enforcement need to the appropriate tribal attorney.

APPENDIX F
Home Use Regulations

1. For subsistence fishing purposes, the Tribes will limit the use of gill nets to mesh sizes of 2 3/4" (stretch measure) or smaller, and 4 1/2" (stretch measure) or larger.

2. During the open season for lake trout, the Tribes agree to limit the length of subsistence fishing nets to a total of 800 feet per fisherman. During the closed season for lake trout, the Tribe agrees to limit the length of such nets to a total of 500 feet per fisherman. At all times, said nets will be marked by at least one buoy at the lakeward end of the net and said buoy will contain information required by tribal regulations.

3. During the closed season for lake trout, the Tribes agree to restrict gill net placement so that no part of any net extends beyond 1,320 feet from the shoreline into waters adjacent to the Reservation.

4. The Tribes will each provide quarterly subsistence fishing harvest information on forms supplied by the Department. Each Tribe will affix authorized tags to all species of game fish taken. The Tribes agree to review the reporting and enforcement systems with the Department at six month intervals after the effective date of this agreement. The Department will compensate the Tribes for the actual costs of reporting and tagging.

5. For purposes of enforcing these provisions, the Department will refer all detected violations of this agreement to Tribal enforcement authorities. The Tribe will provide the Department with records of disposition in such cases. Department and Tribal enforcement personnel will endeavor to work cooperatively.

APPENDIX G

State reports and information to be furnished to Red Cliff Fisheries Dept. and Bad River Fisheries Dept. by May 1, each year:

Lake trout spawning assessment
Creel Census
Commercial Statistics
General Cruise Schedule
Lake Herring spawning assessment
Spring lake trout assessment

Food habit studies - when available
Stocking - All species stocked and proposed to be stocked

Red Cliff reports to be furnished to Wis. DNR by May 1, each year:

Commercial catch statistics
Home use catch statistics
General cruise schedule
Lake trout spawning assessment
Whitefish spawning assessment
Food habit studies - when available
Stocking - All species stocked and proposed to be stocked

Bad River reports to be furnished to Wis. DNR by May 1, each year:

Commercial catch statistics
Home use catch statistics
Walleye spawning study - when available
Stocking - All species stocked and proposed to be stocked

Joint Reports to be completed by State, Red Cliff and Bad River:

CPE report at the end of each fishing period
Lake trout quotas every 3 years

APPENDIX H
Calculation of Seasonal Effort Limitations

The following formulas will be used to calculate seasonal effort limitations based upon seasonal CPE's and the total number of fish available at the onset of each season. CPEs are calculated as described in paragraphs 19a and 19b.

Season 1

$$\begin{array}{l} \text{Available Quota} \\ \text{-----} \\ \text{Season 1 CPE} \end{array} \quad \times \quad 1,000 = \text{Season 1 Effort Limitation}$$

Season 2

$$\begin{array}{l} \text{Unused effort from Season 1} \\ \text{-----} \\ 1,000 \\ \text{-----} \\ \text{Season 2 CPE} \end{array} \quad \times \quad \begin{array}{l} \text{Season 1} \\ \text{CPE} \end{array} \quad \times \quad 1,000 = \text{Season 2 Effort Limitation}$$

Season 3

$$\begin{array}{l} \text{Unused effort from Season 2} \\ \text{-----} \\ 1,000 \\ \text{-----} \\ \text{Season 3 CPE} \end{array} \quad \times \quad \begin{array}{l} \text{Season 2} \\ \text{CPE} \end{array} \quad \times \quad 1,000 = \text{Season 3 Effort Limitation}$$

If a party elects to calculate CPE and allowable effort for Seasons 1 and 2 combined pursuant to paragraph 19d, the calculations above would be modified as follows:

Season (1+2)

$$\begin{array}{l} \text{Available Quota} \\ \text{-----} \\ \text{Season (1+2) CPE} \end{array} \quad \times \quad 1,000 = \text{Season (1+2) Effort Limitation}$$

Season 3

$$\begin{array}{r} \text{Unused effort from Season (1+2)} \\ \hline 1,000 \\ \hline \text{Season 3 CPE} \end{array} \times \begin{array}{r} \text{Season (1+2)} \\ \text{CPE} \end{array} \times 1,000 = \begin{array}{r} \text{Season 3} \\ \text{Effort Limitation} \end{array}$$

The allowable effort for each individual fisherman shall be calculated in the same manner as the overall tribal effort, except that the fishermen's individual fish quota shall be used instead of the tribal fish quota.

Appendix I.

The numbers derived in the allocation table for 2005 were derived as follows.

These lean lake trout allocations are derived as follows: The initial quotas of 14,500 for WI-1 and 136,000 for WI-2 were first reduced by the numbers needed for assessment. The remaining fish, 14,000 for WI-1 and 134,000 for WI-2 were divided equally between the state and the tribes (combined) yielding an initial allocation of 7,000 for each group in WI-1 and 67,000 for each group in WI-2. The Bad River and Red Cliff tribes further agreed to an equal allocation of the tribal share resulting in 3,500 for each tribe in WI-1 and 33,500 for each tribe in WI-2. At this time the tribes have less need of an allocation in WI-1 and more of a need for an allocation in WI-2. Conversely, at this time the state has more of a need for an allocation in WI-1 and less of a need for an allocation in WI-2. Hence the parties agree to a voluntary, non-precedential exchange of fish between WI-1 and WI-2. Bad River retains 500 fish in WI-1 and exchanges 3,000 fish with the state resulting in a total allocation of 36,500 in WI-2. Red Cliff retains 200 fish in WI-1 and exchanges 3,300 fish with the state resulting in a total allocation of 36,800 fish in WI-2. The state allocation in WI-1 increases by 6,300 to 13,300, and decreases in WI-2 by 6,300 to 60,700. The state further agrees to a transfer of 6,000 fish from its WI-2 allocation to the tribes in exchange for other considerations by the tribes resulting in a final allocation of 54,700 in WI-2. The tribes agree that 2,000 of these fish shall be allocated to the Bad River tribe resulting in a final WI-2 allocation of 38,500, and that 4,000 of these fish shall be allocated to the Red Cliff tribe resulting in a final WI-2 allocation of 40,800.

Appendix J.

Latitudes and Longitudes contained in this agreement are derived from NOAA Coast and Geodetic Survey nautical chart 14966, 22nd edition, published March 25, 1995. The horizontal datum used in this chart is North American Datum of 1983 (NAD 83) which is considered equivalent to the World Geodetic System 1984 (WGS 84). Global Positioning System (GPS) units used to find these coordinates should be set to one of these map datums to ensure the closest possible match with the stated coordinates.