

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

File No. 2: 73 CV 26

Hon. Richard A. Enslen

Plaintiff,

BAY MILLS INDIAN COMMUNITY,  
SAULT STE. MARIE TRIBE OF  
CHIPPEWA INDIANS, GRAND  
TRAVERSE BAND OF OTTAWA AND  
CHIPPEWA INDIANS, LITTLE RIVER  
BAND OF OTTAWA INDIANS, and  
LITTLE TRAVERSE BAY BANDS OF  
ODAWA INDIANS,

Plaintiff-Intervenors / Counter-Defendants,

vs.

STATE OF MICHIGAN, REBECCA  
HUMPHRIES, DIRECTOR,  
DEPARTMENT OF NATURAL  
RESOURCES, CHIEF, FISHERIES  
DIVISION, DEPARTMENT OF  
NATURAL RESOURCES, CHIEF,  
WILDLIFE DIVISION, DEPARTMENT  
OF NATURAL RESOURCES, CHIEF,  
LAW ENFORCEMENT DIVISION,  
DEPARTMENT OF NATURAL  
RESOURCES, RESOURCE  
MANAGEMENT DEPUTY DIRECTOR,  
DEPARTMENT OF NATURAL  
RESOURCES, AND THE MICHIGAN  
NATURAL RESOURCES COMMISSION,

Defendants / Counter-Claimants.

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*CONSENT DECREE*

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## FINDINGS AND ORDER

The Court hereby FINDS:

A. Defendants/Counter-Claimants State of Michigan, Michigan Natural Resources Commission, Michigan Department of Natural Resources (“MDNR”) Director, MDNR Fisheries Division Chief, MDNR Wildlife Division Chief, MDNR Law Enforcement Division Chief and MDNR Resource Management Deputy Director (collectively, “State”) filed a counterclaim in this action, *United States v. Michigan*, No. 2:73 CV 26 (W.D. Mich.) (“Litigation”), against Plaintiff-Intervenors/Counter-Defendants Bay Mills Indian Community, Sault Ste. Marie Tribe of Chippewa Indians, Grand Traverse Band of Ottawa and Chippewa Indians, Little River Band of Ottawa Indians, and Little Traverse Bay Bands of Odawa Indians (collectively, “Tribes”), seeking a declaration that, with limited exceptions, the Tribes no longer retain the right to hunt, and the other usual privileges of occupancy, secured by Article 13 of the 1836 Treaty of Washington on lands and inland waters within the boundaries of the territory ceded in the 1836 Treaty (“Inland Article 13 Rights”) (Dkt. No. 1473), and the Tribes filed a joint reply denying the State’s claim (Dkt. No. 1477). With the exception of disputed areas lying generally between the Ford and Escanaba Rivers in the Upper Peninsula and on the Thunder Bay Peninsula in Alpena County, the lands and inland Waters within the boundaries of the territory ceded in the 1836 Treaty are depicted in Appendix A, which is attached hereto and made a part hereof.

B. Plaintiff United States filed a supplemental complaint in the Litigation seeking a declaration that the Tribes retain Inland Article 13 Rights on lands and inland waters within the boundaries of the 1836 Ceded Territory that have not been required for settlement (Dkt. No. 1504), and the State filed an answer denying the United States’ claim (Dkt. No. 1516).

C. The Parties explored settlement of their respective claims regarding Inland Article 13 Rights, reached an agreement in principle on the terms and conditions of such a settlement, and have now stipulated to the entry of this Decree, which is intended to resolve conclusively such claims, and to provide for the protection of the resources in the 1836 Ceded Territory.

D. The Parties were represented by attorneys of their own choosing in negotiating and drafting this Decree, which was the product of arms-length negotiations by Parties of equal bargaining power. Accordingly, the Parties have agreed that any ambiguities in this Decree shall not be construed against any Party on the basis of the status of the Parties or by virtue of the fact that such Party drafted or assisted in the drafting of the relevant portion of this Decree. The Parties have further agreed that, in the event of any inconsistency between the terms of this Decree and the Parties' agreement in principle, the terms of this Decree shall be controlling.

E. Representatives of Amici Curiae (Michigan United Conservation Clubs, Coalition to Protect Michigan's Resources ("CPMR") [formerly Michigan Fisheries Resource Conservation Coalition ("MFRCC")], U.P. Whitetails Association, Inc. and Bays de Noc Great Lakes Sportsfishermen, Inc.) and applicants for intervention (MFRCC, Stuart Cheney, Robert Andrus and the Walloon Lake Trust and Conservancy) attended the Parties' settlement discussions and support the Parties' efforts to settle the Parties' respective claims regarding Inland Article 13 Rights on the terms and conditions set forth in this Decree. The Parties' Agreement in Principle set forth an agreement among the Parties and the applicants relating to intervention motions, the terms of which are set forth in Appendix M, which is attached hereto and made a part hereof.

F. This Decree is a fair and equitable resolution of the Parties' respective claims regarding Inland Article 13 Rights.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, AND DECREED that this Decree shall be entered as the Court's Judgment and Decree fully and finally resolving the Parties' respective claims regarding Inland Article 13 rights. Each Party shall be responsible for its own expenses incurred in procuring this Decree, including its attorneys' fees and costs. The Clerk is directed to enter Judgment accordingly.

## I. JURISDICTION

1.1 This Court has jurisdiction over the subject matter of the State's counterclaim and the United States' supplemental complaint pursuant to 28 U.S.C. §§ 1331, 1345, and 1346. This Decree implements the settlement of the Parties' respective claims with respect to Inland Article 13 rights under the 1836 Treaty of Washington.

1.2 This Court also has personal jurisdiction over the Parties. The Parties waive all objections and defenses that they may have with respect to the personal jurisdiction of the Court or to venue in this District for purposes of the entry, interpretation, modification or enforcement of this Decree.

1.3 The Court shall retain jurisdiction over the Parties and subject matter of this action to enforce this Decree and to resolve disputes arising under this Decree, subject to Section XXVII (Dispute Resolution), and to consider modifications of this Decree under Section XXVIII (Modifications).

## II. PARTIES BOUND

This Decree shall apply to and be binding upon the Parties, their officers, employees, agencies, subdivisions, successors, and assigns and shall remain binding notwithstanding any future rulings or determinations in any jurisdiction that may be inconsistent with the provisions of this Decree.

### III. DEFINITIONS

As used in this Decree, the following terms shall have the meanings ascribed to them in this Section III:

3.1 “1836 Ceded Territory” means the territory ceded in the 1836 Treaty of Washington, 7 Stat. 491.

3.2 “2000 Great Lakes Consent Decree” means the 2000 Consent Decree pertaining to the Tribes’ Great Lakes fishing rights (Dkt. No. 1458), as heretofore or hereafter amended.

3.3 “Bow” means a bow and arrow or a crossbow and bolt.

3.4 “CFA” means Michigan’s Commercial Forest Act, Mich. Comp. Laws, § 324.51101 *et seq.*

3.5 “Fish” or “Fishing” means the pursuing, capturing, catching, killing, or taking of fish, and includes attempting to pursue, capture, catch, kill, or take fish.

3.6 “Gather” or “Gathering” means to take or acquire possession of any wild plant or part thereof or other natural resource, and includes attempting to take or acquire possession of any wild plant or part thereof or other natural resource, but does not include Hunting, Trapping or Fishing.

3.7 “Hand Net” means a net or wire mesh bag of any circumference with a handle that can be lifted by one person.

3.8 “Handicapped Hunter” means a hunter who is unable to walk due to being a paraplegic or an amputee, or unable to walk unassisted due to a permanent disability caused by other condition, disease or injury.

3.9 “Harvesting Activities” means Hunting, Trapping, Fishing, or Gathering or any combination thereof.

3.10 “Hook-and-Line Gear” means any standard angling gear that uses a hook imbedded in natural bait or an artificial lure to attract and take fish by hooking them in the mouth and that is attached to a line to pull fish in for capture. Hook-and-Line Gear includes rods and reels and tip-ups fished in open water or through the ice, but does not include a trotline.

3.11 “Hunt” or “Hunting” means shooting, shooting at, pursuing, taking, catching, Trapping, or killing any wild animal or animals.

3.12 “Impoundment Nets” means trap nets or fyke nets, which are stationary nets attached to the lake bottom that capture fish by guiding them into enclosures.

3.13 “Inland Article 13 Rights” means the right to hunt, and the other usual privileges of occupancy, secured by Article 13 of the 1836 Treaty of Washington, 7 Stat. 491, on lands and inland waters within the boundaries of the territory ceded in the 1836 Treaty.

3.14 “Lake” or “Lakes” means an inland lake or lakes of any size, including natural and artificial lakes and drowned river mouths, except where the context clearly refers to the Great Lakes.

3.15 “Lake System” means an inland Lake and its tributaries.

3.16 “Long Seine” means a seine that is at least 12 feet in length but no more than 30 feet in length, and no more than four feet in depth.

3.17 “MDNR” means the Michigan Department of Natural Resources, its successor entities, and those authorized persons or entities acting on its behalf.

3.18 “Non-Walleye Lake System” means a Lake System that is not a Walleye Lake System.

3.19 “Parties” means, collectively, the United States, the State and the Tribes, and “Party” means any one of them.

3.20 “Protected Streams” means the Streams and Stream segments identified in subparagraphs c(i) and (c)(ii) of Paragraph 11.7 of this Decree, subject to any modifications in such Streams or Stream segments under subparagraph (i) of Paragraph 11.7 of this Decree.

3.21 “Short Seine” means a seine that is less than 12 feet in length, and no more than four feet in depth.

3.22 “Spear” means a hand, rubber, or spring-propelled spear.

3.23 “Specially Regulated Fishing Methods” means the use of Impoundment Nets or Long Seines at any time of the year to harvest any species of fish and the use of Spears, Bows, Hand Nets and Hook-and-Line Gear to harvest walleye in a Walleye Lake System during the Walleye Spawning Season for that Lake System.

3.24 The terms “State” or “State of Michigan” mean, collectively, the State of Michigan, the Michigan Department of Natural Resources, the Michigan Natural Resources Commission, MDNR Director, MDNR Fisheries Division Chief, MDNR Wildlife Division Chief, MDNR Law Enforcement Division Chief, MDNR Resource Management Deputy, and their successors and any authorized representatives acting on their behalf, or any one of them.

3.25 “Streams” means all rivers, streams, creeks and flowages.

3.26 “Trap” or “Trapping” means the taking of wild furbearing animals by means of a trap.

3.27 “Tribes” means, collectively, the Bay Mills Indian Community, the Sault Ste. Marie Tribe of Chippewa Indians, the Grand Traverse Band of Ottawa and Chippewa Indians, the Little River Band of Ottawa Indians, and the Little Traverse Bay Bands of Odawa Indians; “Tribe” means any one of them; and “Tribal” means of or pertaining to a Tribe.

3.28 “Walleye Lake System” means any Lake System known to have a walleye population maintained either by natural reproduction or stocking of cultured fish.

3.29 “Walleye Spawning Season” means the time of year when walleye reproduce. For purposes of this Decree, the Walleye Spawning Season is March 15 to the Friday before the last Saturday in April in Walleye Lake Systems in the Lower Peninsula and April 1 to May 14 in Walleye Lake Systems in the Upper Peninsula, unless changed under Paragraph 12.6 of this Decree.

3.30 “Waters” means inland Lakes and Streams.

#### IV. RECOGNITION OF TREATY RIGHTS

For the purpose of resolving the dispute as to the continued existence of the Tribes' Article 13 Rights, this Decree recognizes the existence of, and defines the extent of, the Tribes' Inland Article 13 Rights on the following lands and Waters within the boundaries of the 1836 Ceded Territory:

(a) Public lands and Waters (including, but not limited to, federal and State lands, which currently comprise, approximately, over 4,500,000 acres in the 1836 Ceded Territory);

(b) Private lands and Waters that are required to be open to the public under federal or State law, such as lands enrolled in the State's Commercial Forest Act (“CFA”) program (lands and waters that are open to the public under the Michigan Recreational Trespass Act because they are not fenced or posted in accordance with that Act are not required to be open under State law and are therefore not within this category of lands and Waters);

(c) Lands and Waters owned by a Tribe, a Tribal member, or the spouse of a Tribal member;

(d) Other private lands and Waters, including lands that are open to the public under the Michigan Recreational Trespass Act, which are not enrolled in the CFA program or another program pursuant to which they are required to be open to the public under federal or State law; and

(e) All other Waters that are open to the public for Fishing under federal or state law, including such Waters open to the public that are accessible through public rights-of-way and public road crossings or otherwise accessible to Tribal members by permission granted by the landowner or authorized lessee.

#### V. REGULATION OF TREATY RIGHTS

Each of the Tribes has the right to regulate its members' exercise of Inland Article 13 Rights, the extent of which is defined in this Decree. The State is prohibited from regulating or otherwise interfering with the exercise of such rights except as provided in this Decree. The State is also prohibited from prosecuting Tribal members for alleged Hunting and Fishing violations that preceded entry of this Decree, *provided* that the State may refer such alleged violations to the appropriate Tribe for prosecution under Tribal law.

#### VI. DEFINITION OF THE EXTENT OF INLAND ARTICLE 13 RIGHTS

6.1 This Decree defines the extent of the Tribes' Inland Article 13 Rights and imposes certain limitations on where, when, and how the Tribes may exercise those rights. The provisions of this Decree apply only to Inland Article 13 Rights; they do not: limit or expand the extent or exercise of the Tribes' Article 13 rights in the Great Lakes; limit or expand any provision of the 2000 Great Lakes Consent Decree; limit or expand any right (other than Inland Article 13 Rights) that a Tribe may have to authorize or engage in any activity on Tribal or trust land; or limit or expand the right of the Tribes or their members to undertake any other activity

pursuant to any other applicable law. The extent of the Tribes' Inland Article 13 Rights and the limitations on the exercise of those rights are set forth in this Decree.

6.2 Except as otherwise specifically provided below, the extent of the Tribes' Inland Article 13 Rights is defined as follows:

(a) Tribal members: (i) may Hunt, Fish, Trap, and Gather natural resources, without limitation as to the species (including non-native and artificially propagated species) targeted for harvest, the season or method of harvest, or the use of the resource harvested; (ii) may engage in other historically traditional activities (such as the construction and use of sweat lodges); and (iii) may obtain assistance from non-Tribal members to engage in the foregoing activities, as provided in Appendix C, which is attached hereto and made a part hereof; and

(b) Each of the Tribes may regulate the foregoing treaty-right activities of its members and enforce regulations pertaining to such activities. The Tribes may also engage in natural resources assessment, enhancement, and restoration activities as provided in Section XXI (Assessment Activities) and Section XXII (Restoration, Reclamation, and Enhancement Projects).

#### VII. LANDS AND WATERS ON WHICH TRIBAL MEMBERS MAY EXERCISE INLAND ARTICLE 13 RIGHTS

Except as otherwise provided below, Tribal members may exercise Inland Article 13 Rights, to the extent defined in Paragraph 6.2, on the following lands and Waters within the boundaries of the 1836 Ceded Territory, as depicted in Appendix A, *provided* that the Tribes shall not exercise Inland Article 13 Rights in disputed areas lying generally between the Ford and Escanaba Rivers in the Upper Peninsula or on the Thunder Bay Peninsula in Alpena County unless and until the dispute as to such areas is resolved by mutual agreement of the Parties or Court order:

(a) Public lands and Waters that are open to the public under federal or State law for the particular activity (*e.g.*, Hunting, Fishing, Trapping or Gathering), notwithstanding any species, season, method or use limitations in federal or State law, *provided that* in State, county and municipal parks, State wildlife refuges, formally designated State wildlife research areas, and formally designated State fisheries research areas, Tribal regulations shall only permit Hunting and Fishing in such areas where and at such times when the parks, refuges, and research areas are open to the public for Hunting and Fishing, and shall be no less restrictive than other State regulations limiting Hunting and Fishing in such areas, *and provided further* that such limitations shall not apply to a new or expanded park, wildlife refuge or wildlife or fisheries research area if the creation or expansion of the area was intended to limit treaty harvesting opportunities, and *provided further* that the State shall consult with the Tribes before creating a new or expanding an existing State park, wildlife refuge, wildlife research area or fisheries research area and shall attempt to avoid or minimize any adverse impact on the exercise of the Tribes' rights under this Decree as a result of such designation or expansion;

(b) Private lands and Waters that are required to be open to the public under federal or state law for the particular activity, such as Hunting and Fishing (but not Gathering) on lands enrolled in the State's CFA program, notwithstanding any species, season, method or use limitations in federal or state law, *provided that*, in the interests of social harmony, the Tribes or their members shall obtain permission from a CFA landowner in order to Hunt or Fish on his or her CFA lands outside State seasons and methods if the CFA landowner owns, in the aggregate, less than 1,000 acres in the CFA program, and *provided further that* generally applicable provisions of State law regarding the liability of CFA landowners arising from the activities of hunters or fishers on CFA lands, and generally applicable provisions of the CFA program

allowing CFA landowners to limit access to CFA lands subject to active timber harvesting operations shall apply to Hunting and Fishing by Tribal members on CFA lands, and *provided further that* nothing herein shall be construed to authorize the use of snowmobiles, all-terrain vehicles, or other motor vehicles on CFA lands if such use is otherwise prohibited under applicable law;

(c) Lands and Waters owned by a Tribe, a Tribal member or the spouse of a Tribal member;

(d) Other private lands and Waters owned by non-Tribal members, with permission from the owner or authorized lessee, *provided that*, in the case of private Waters, *i.e.*, a non-navigable Lake with no public access or a non-navigable stream segment on a parcel or parcels of private property, the grant of permission by a riparian owner does not violate the Michigan common law rights of any other riparian owners, and *provided further that*, except for special needs subsistence or ceremonial permits, which shall be limited in number, the Tribes shall restrict Hunting and Trapping on such lands and Waters in a manner consistent with State seasons and methods, and *provided further that*, during State seasons, permission shall be implied on lands and Waters open to the public for Hunting and Fishing under the Michigan Recreational Trespass Act, Mich. Comp. Laws, § 324.73101 *et seq.*, as now in force or hereafter amended, and *provided further that*, when permission is not implied, the Tribes shall require their members to possess written evidence of permission from the landowner or authorized lessee, or the name and phone number of the landowner or authorized lessee from whom they obtained permission, while Hunting on such lands; and

(e) All other Waters that are open to the public for Fishing under federal or State law notwithstanding any species, season, method or use limitations in federal or State law,

including such Waters open to the public that are accessible through public rights-of-way and public road crossings or otherwise accessible to Tribal members by permission granted by the landowner or authorized lessee, but only for purposes of Fishing in such Waters, *provided* that Tribal members exercising Fishing rights within the scope of subparagraph (a) of Paragraph 6.2 of this Decree shall not place Impoundment Nets on privately owned bottom lands if doing so is in violation of the Michigan common law riparian rights of the private bottom land owner. Nothing herein shall be construed as recognizing a right to Fish on private Waters not open to the public except those owned by a Tribe, a Tribal member or the spouse of a Tribal member or on which permission is obtained from a riparian owner as provided in subparagraph (d) of this Section VII (Lands and Waters on Which Tribal Members May Exercise Article 13 Rights).

#### VIII. COMMERCIAL HARVESTS

The Tribes shall not authorize their members to harvest for commercial purposes or sell wildlife, fish or other aquatic species, amphibians, reptiles, or timber, except for those species, other than timber, for which the State authorizes inland commercial harvests. Notwithstanding the foregoing, the Tribes may authorize their members: to commercially harvest fish that the State is targeting for eradication or reduction from a particular water body, and which the State does not intend to use for other fisheries management purposes, pursuant to clause (a) of Paragraph 11.2 of this Decree, *provided* that there is a mutually agreeable mechanism to assure that the harvested fish are from that particular water body; to engage in informal trade and barter within Tribal communities of any species lawfully harvested under Tribal regulations, *provided* that nothing herein shall authorize the re-sale of any fish or wildlife subject to such trade or barter; to commercially harvest furbearers and to sell furs; to Gather plants and the products thereof, such as wild berries, mushrooms, nuts and fruits, for sale or for use in producing salable

commodities, such as maple syrup, subject to the restrictions set forth in Section XX (Use of State Lands) regarding State lands; and to use the parts of harvested animals and plants for the manufacture of handicrafts and to sell such handicrafts. Except as otherwise provided in this section, the Tribes shall not authorize their members to sell parts of harvested animals contrary to State and federal laws and regulations.

#### IX. SALE OR TRADE OF LIVE ANIMALS

The Tribes shall not authorize their members to engage in the sale or trade of live wild animals except in accordance with federal or State law.

#### X. RESTRICTIONS ON HUNTING AND FISHING AT PARTICULAR LOCATIONS

10.1 The Tribes shall prohibit their members from Hunting with firearms and bows within 150 yards of an occupied building, house, cabin, or any barn or other building used in a farm operation, except with the consent of the owner or authorized lessee.

10.2 The Tribes shall limit their members' use of firearms to shotguns in that part of the 1836 Ceded Territory that lies within the shotgun zone designated by the State as of October 2006 (as set forth in Appendix D, which is attached hereto and made a part hereof), as long as the State imposes such a limitation on non-Tribal members. The Tribes shall consider whether to limit their members' use of firearms to shotguns in additional parts of the 1836 Ceded Territory that the State may designate as shotgun zones in the future, in light of the State's purpose for such designations and the effect of the limitation on Tribal members' treaty Hunting opportunities.

10.3 The Tribes shall adopt regulations that are no less restrictive than State regulations prohibiting Fishing within 300 feet of any of the State's salmon and steelhead egg collection weirs to the extent such regulations apply to Waters and shall prohibit Fishing for

Coho salmon within 300 feet of the lower weir on the Platte River as long as the State prohibits harvests of Coho salmon in such Waters. If the State adopts an emergency regulation prohibiting harvests of Coho salmon in other portions of the Platte River below the upper State-owned hatchery weir, in order to ensure adequate egg collections at that weir in a particular year, the Tribes shall adopt a parallel prohibition, which shall remain in effect during that year, but only until the State rescinds its prohibition or until sufficient egg collection is assured for that year, whichever occurs first. Except as otherwise agreed between the State and the Tribes, the Tribes shall prohibit the spearing of Atlantic salmon in the Torch Lake watershed. The Tribes shall also adopt regulations that: (a) are no less restrictive than State regulations prohibiting Fishing in Rock River (Alger County) between Rock River Dam and the foot bridge downstream from M-28; (b) except as otherwise provided under subparagraph (i) of Paragraph 11.7 of this Decree, prohibit the use of Spears and Bows to harvest steelhead in the Little Manistee River from the mouth of the Little Manistee River at its confluence with Manistee Lake upstream to 300 feet downstream from the Little Manistee River Weir; (c) prohibit the take or possession of northern pike in Potagannising River (Chippewa County) below the Potagannising Dam downstream to Maxton Road from April 15 to May 15; and (d) are no less restrictive than State regulations prohibiting Fishing within 100 feet of electrical lamprey control devices while in operation and the lamprey control barrier on the Betsie River. The Tribes may authorize their members to harvest Chinook salmon in the Little Manistee River from the mouth of the Little Manistee River at its confluence with Manistee Lake upstream to 300 feet downstream from the Little Manistee River Weir in accordance with subparagraphs (a) through (e) of this Paragraph 10.3.

(a) Any permits that are issued for the harvest of Chinook salmon in the portions of the Little Manistee River described above shall include bag and possession limits.

(b) Each year, the total harvest limit for Chinook salmon for Tribal fishers using Spears, Bows, dip nets or hands in the portions of the Little Manistee River described above shall be 10% of the lower 95% confidence limit for the average number of Chinook salmon returning to the Little Manistee River Weir in the previous four years. The Tribes shall only permit their members to use such gear from September 1 through November 14. During this period, the Tribes shall limit their members' harvest of Chinook salmon using such gear in the portions of the Little Manistee River described above in each consecutive 7-day period to: 15% or less of the total harvest limit for the season in each of the first three 7-day periods; 20% or less of the total harvest limit for the season in the fourth 7-day period; and 30% or less of the total harvest limit for the season in each of the remaining 7-day periods. If the State meets its egg-take quota for the year, the State shall immediately notify the Tribes that the total harvest limit for the season and the 7-day harvest limits may be rescinded for the current year.

(c) The Tribes shall prohibit Fishing using Hook-and-Line Gear from September 6 through October 15, or Spears at any time, in the southern end of Manistee Lake in the vicinity of the Little Manistee River at its confluence with Manistee Lake. The closed area is defined by a line extending from a squared red post located 100 feet southeast of the launch ramp at the MDNR Public Access Site on the east shore, extending southwesterly to a squared red post on the west shore located near the southern end of the Packaging Corporation of America's plant. If the State meets its egg-take quota for the year, the State shall immediately notify the Tribes that the Fishing closure may be rescinded for the current year.

(d) In order to provide sufficient egg-take to assure future statewide fish runs and to provide adequate harvest levels for all users over the long-term, the State and the Tribes shall confer in a timely manner about appropriate adjustments to State and Tribal harvests in

Waters in which fish destined for the State's egg-collection facilities are harvested if the State has concerns about securing adequate egg collection for Chinook salmon. In the event that the State demonstrates that adequate egg collection is threatened in a particular year, the Tribes shall prohibit harvest of Chinook salmon by their members in the portions of the Little Manistee River described above until such time as sufficient egg collection is assured for that year, as long as the State also prohibits the harvest of Chinook salmon by State-licensed fishers in that portion of the Little Manistee River during that period of time.

(e) The State and the interested Tribes shall review the appropriateness of the harvest estimation methodology, harvest limits, and weekly harvest distributions described in subparagraph (b) of this Paragraph 10.3 every 5 years to determine the adequacy of harvest opportunities for Tribal needs and the impact on egg collection, and make appropriate adjustments.

(f) The limitations on Tribal harvests in this Paragraph 10.3 shall be operative only to the extent the State imposes similar or more restrictive limits on State-licensed fishers.

10.4 The Tribes shall adopt regulations that are no less restrictive than State regulations for Fishing on trout Streams designated as Types 5, 6 or 7 as of October 2006 (as set forth in Appendix E, which is attached hereto and made a part hereof), as long as the State maintains the same or more restrictive regulations for non-Tribal members. The State shall consult with the Tribes prior to designating additional miles under its authorization to designate up to 212 miles of trout Streams as Types 5, 6 or 7. The Tribes shall consider adopting regulations that are no less restrictive than State regulations for Fishing on additional trout Streams designated as Types 5, 6 or 7 on a case-by-case basis (up to a total of 212 designated miles statewide) in light of the State's purpose for such designations and the effect of such

regulations on Tribal members' treaty Fishing opportunities. In the event that the current designation of Types 5, 6, or 7 is changed in name only, this provision shall be applicable to the successor designation.

10.5 The Tribes shall prohibit the use of Spears to take fish on Lakes designated by the State as Type D as of October 2006 (as set forth in Appendix F, which is attached hereto and made a part hereof), and shall adopt hook-and-line regulations on such Lakes that are no less restrictive than State regulations for such Lakes, as long as these are trout-only Lakes and the State imposes such prohibitions and regulations on non-Tribal members. The State shall consult with the Tribes prior to designating additional Type D Lakes. The Tribes shall consider adopting regulations that are no less restrictive than State regulations for Fishing on additional Type D lakes in light of the State's purpose for such designations and the effect of such regulations on Tribal members' treaty Fishing opportunities. In the event that the current designation of Type D Lakes is changed in name only, this provision shall be applicable to the successor designation.

10.6 The Tribes shall prohibit or restrict spearing of northern pike and muskellunge in a manner that is no less restrictive than 2006 State spearing restrictions with respect to these two species as set forth in Note 8 to Table 2 of the 2006 Michigan Fishing Guide (at p. 10) (as set forth in Appendix G, which is attached hereto and made a part hereof), as long as the State imposes similar or more restrictive limitations on non-Tribal members. The State shall consult with the Tribes prior to adopting additional restrictions on spearing of northern pike or muskellunge. The Tribes shall consider adopting regulations that are no less restrictive than such additional State regulations on a case-by-case basis in light of the State's purpose for such regulations and the effect of such regulations on Tribal members' treaty Fishing opportunities.

10.7 The Tribes shall adopt regulations that are no less restrictive than State Fishing regulations existing as of October 2006 (as set forth in Appendix H, which is attached hereto and made a part hereof) on the following designated quality Lakes: in Crawford County, Jones and Wakeley Lakes, and in Montmorency County, North and South Blue Lakes and Robarge (Pike) Lake, as long as the State imposes similar or more restrictive regulations on non-Tribal members. The Tribes shall consider adopting regulations that are no less restrictive than State regulations for Fishing on quality Lakes that may be designated in the future on a case-by-case basis in light of the State's purpose for such designations and the effect of such regulations on Tribal members' treaty Fishing opportunities.

10.8 The Tribes shall implement emergency closures of their members' harvesting activities that are no less restrictive than State emergency closures of harvesting activities by State licensees based on biological or public health or safety concerns. In order to implement this provision, the State shall provide notice to the Tribes as soon as practicable when such concerns arise and shall consult with the Tribes regarding the need for such closures. In the event that the Tribes enact emergency closures of their members' harvesting activities based on biological or public health or safety concerns, the Tribes shall notify the State as soon as practicable when such concerns arise and shall consult with the State regarding the need for closures of harvesting activities by State licensees. In the event the Parties disagree about the need for an emergency closure, they shall jointly commit to expedited dispute resolution. A Tribe objecting to the emergency closure shall have the burden to show that it is not necessary to close its members' harvesting activities to address the biological or public health or safety concerns identified by the State. As used in this Decree, "public health or safety concerns" do

not include concerns arising from social or political opposition to the exercise of Indian treaty rights.

10.9 Except as otherwise provided in this Paragraph 10.9, Tribal seasons shall be no less restrictive than State seasons for Hook-and-Line Gear Fishing for walleye in Streams tributary to the bays de Noc. The Tribes may authorize Hook-and-Line Gear Fishing and spearing for walleye between March 15 and May 15 on the Sturgeon River, a tributary to Big Bay de Noc in Delta County, the Escanaba River, a tributary to Little Bay de Noc in Delta County, the Days River, a tributary to Little Bay de Noc in Delta County, and the Rapid River, a tributary to Little Bay de Noc in Delta County. The Tribes that authorize Hook-and-Line Gear Fishing outside State seasons and spearing for walleye on these tributaries shall establish a permit system for such Fishing, which shall include the following provisions:

(a) The Tribal annual harvest of walleye using Hook-and-Line Gear outside State seasons and Spears under this Paragraph 10.9 shall not exceed 2,500 fish, except as provided in subparagraph (g) of this Paragraph.

(b) Tribal regulations for Hook-and-Line Gear Fishing outside State seasons and spearing for walleye under this Paragraph 10.9 shall include a field possession limit not to exceed twice the bag limit or 10 fish, whichever is less, a minimum size limit of at least 14 inches, and a daily bag limit not to exceed 10 fish. Tribal regulations shall require that walleye under the minimum size that are speared under this Paragraph must be retained as part of the daily bag limit without penalty to the fisher.

(c) The total number of permits issued for Hook-and-Line Gear Fishing outside State seasons and spearing for walleye under this Paragraph 10.9 shall be distributed among the four tributaries open to such Fishing such that no more than 20% of the total permits

issued shall be available for the Sturgeon River. In order to avoid concentration of harvest, the Tribes shall make reasonable efforts to distribute the harvest among the remaining tributaries open to Hook-and-Line Gear Fishing outside State seasons and spearing by Tribal members.

(d) The permits required under this Paragraph 10.9 shall be limited to Hook-and-Line Gear Fishing or spearing (but not both), shall include the name of the Tribal member, the date on which the permit is effective, the tributary for which the permit is issued, and the authorized method of harvest. The Tribes shall require their members to have a permit in possession when Fishing under the provisions of this Paragraph. The Tribes shall not issue more than one such permit to any member for any day under this Paragraph.

(e) The Tribes shall provide notice to the State before any use of Hook-and-Line Gear outside State seasons or any use of Spears may take place under this Paragraph 10.9, in accordance with a protocol adopted by the Parties under Paragraph 23.2 of this Decree. The notice provided to the State shall identify the body of water, the number of fishers, and the date on which Hook-and-Line Gear or Spears will be used, and shall be provided at least seven hours (and before 1:00 pm of the same day) before the use of Hook-and-Line Gear or Spears. The State and the Tribes shall share information on Waters where the use of Spears is permitted in accordance with a protocol adopted by the Parties under Paragraph 23.2 of this Decree.

(f) The Tribes shall require their members to submit harvest reports for the use of Hook-and-Line Gear outside State seasons or spearing of walleye under this Paragraph 10.9 within seven days after the harvest. The harvest reports shall indicate the date of harvest, the tributary where the harvest took place, and the number of walleye harvested. Final reports detailing the walleye harvest under this Paragraph 10.9 that include the information identified in this sub-paragraph shall be submitted to the State no later than June 30.

(g) Except for the Whitefish River, a tributary to Little Bay de Noc in Delta County, the Tacoosh River, a tributary to Little Bay de Noc in Delta County, and the four tributaries identified as open for Tribal Hook-and-Line Gear Fishing outside State seasons or spearing for walleye under this Paragraph 10.9, if a future estimate of abundance of adult walleye in any other tributary to the bays de Noc suggests that Tribal members may harvest walleye using Hook-and-Line Gear outside State seasons or Spears on such tributary, the State and the Tribes may mutually agree to such harvest, *provided* that it shall not exceed 5% of the estimated abundance of adult walleye in that particular tributary.

(h) The State and the Tribes agree to review, consult on, and as appropriate modify by mutual agreement, the provisions of this Paragraph 10.9 every 15 years, taking into consideration walleye abundance in the tributaries to the bays de Noc, the adequacy of Tribal harvest opportunities, and other relevant factors.

10.10 In applying the walleye protocol described in Section XII (The Use of Specially Regulated Fishing Methods in Inland Lakes and Their Tributaries), the Muskegon River and its tributaries between the Croton Dam and Muskegon Lake shall be considered part of the Muskegon Lake system. In determining maximum allowable exploitation rates and harvest levels for the Muskegon Lake system, the State and the Tribes shall allow sufficient escapement for walleye population rehabilitation and egg collection. The Tribes shall regulate their members' harvest of walleye in a manner that ensures that no more than 50% of the Tribes' allowable harvest in the Muskegon Lake system will be taken in the Muskegon River and its tributaries between the Croton Dam and Muskegon Lake.

10.11 As long as the State imposes similar or more restrictive limitations on State-licensed fishers, the Tribes shall prohibit their members' possession of brook and brown trout in

Streams designated Types 1, 2 or 4 as of October 2006 (as set forth in Appendix I, which is attached hereto and made a part hereof): (a) from October 15 through November 30 in the Lower Peninsula; and (b) from October 1 through November 15 in the Upper Peninsula.

## XI. GEAR AND METHODS OF TAKE

11.1 The Tribes shall: prohibit their members from Hunting with artificial lights, except when Hunting for species for which the State permits the use of artificial lights, such as coyote and raccoon; prohibit the use of toxins, live decoys, pitfalls, explosives, fully automatic firearms, and exploding bullets; and prohibit Hunting from aircraft, snowmobiles, motorized vehicles, and motorized vessels under power, *provided* that the Tribes may permit Hunting from standing motorized vehicles by Handicapped Hunters. The Tribes shall prohibit the molestation or breaking open of the house, hole, nest, burrow, or den of a badger, beaver, mink, muskrat, or raccoon, whether occupied or not. The Tribes shall also prohibit the setting of a trap on a beaver dam or lodge unless the trap is fully submerged below the water. The Tribes shall impose the prohibitions in this Paragraph 11.1 as long as the State imposes similar or more restrictive limitations on State-licensed hunters.

11.2 The Tribes shall prohibit their members from using gill nets or Impoundment Nets except that: (a) the Tribes may authorize the use of Impoundment Nets to harvest fish species that the State is targeting for eradication or reduction from a particular water body and may use gill nets to harvest such species if the State is targeting all fish species for eradication from a particular water body; (b) the Tribes may authorize the use of Impoundment Nets in inland Lakes in accordance with Section XII (The Use of Specially Regulated Fishing Methods in Inland Lakes and Their Tributaries); and (c) the Tribes may authorize the use of gill nets or Impoundment Nets in authorized assessment activities under Section XXI (Assessment

Activities), *provided* that under the foregoing exceptions to the prohibition of the use of gill nets and Impoundment Nets, gill nets and Impoundment Nets shall only be in the water during the authorized duration of the activities in question. Nothing in this provision shall require the Tribes to prohibit the use of seines, Hand Nets, or dip nets, *provided* that the Tribes' authorization of the use of such gear shall be subject to other applicable provisions in this Decree. The Tribes shall impose the prohibitions required in this Paragraph 11.2 as long as the State imposes similar or more restrictive prohibitions on State-licensed fishers.

11.3 The Tribes shall regulate their members' Fishing activities through the use of daily bag limits, possession limits, size limits and seasons, as well as any additional measures that may be necessary to address biological concerns. Except when engaged in spearing through the ice, the Tribes shall require their members to submit harvest reports for trout, salmon, walleye, northern pike, or muskellunge within seven days after the harvest when spearing, Bow Fishing, impoundment netting, seining, Fishing with hands, trot line Fishing or dip netting. The Tribes shall require that the harvest reports indicate the date of harvest, body of water where the harvest took place, and the number of fish harvested by species. Information on lengths and weights, and, if possible, sex of fish harvested by Tribal members shall be obtained by Tribal biological staff through sub-sampling of the harvest as appropriate, taking into consideration the need for such information and the costs of such sub-sampling, after consultation with the State through an annual review process.

11.4 Except in Streams, the Tribes may authorize the use of seines (but not purse seines), *provided* that Tribal regulations shall: (a) be no less restrictive than State regulations for harvesting minnows or other bait fish with the use of seines as of October 2006 (as set forth in Appendix J, which is attached hereto and made a part hereof); (b) include a two-gallon bag limit

for harvesting smelt with the use of seines if the State adopts a two-gallon bag limit or less for the harvest of smelt under State regulations; (c) be consistent with applicable provisions of Section XII (The Use of Specially Regulated Fishing Methods in Inland Lakes and Their Tributaries) for harvesting of other species; (d) limit seines to a maximum dimension of 30 feet by 4 feet; and (e) establish a maximum stretch mesh size of one and one-half (1.5) inches for Long Seines constructed of monofilament materials. The limitations on the use of seines in this Paragraph 11.4 shall be operative only to the extent the State imposes similar or more restrictive limits on State-licensed fishers, *provided* that the Tribes may issue a limited number of special ceremonial permits for the use of seines in Streams between December 1 and March 31, subject to the other provisions of this Paragraph.

11.5 As long as the State imposes similar or more restrictive limits on State-licensed fishers, the Tribes shall: (a) prohibit the use of more than four Fishing lines during open water Fishing conditions and the use of more than seven lines when ice Fishing; (b) require that tip-ups be identified by name; and (c) prohibit unattended tip-ups.

11.6 Except as provided in Paragraph 10.3, the Tribes may authorize the spearing of salmon, provided that Tribal regulations shall include a daily bag limit and a possession limit for spearing.

11.7 The Tribes may authorize spearing of steelhead, *provided* that Tribal regulations shall include a daily bag limit and a possession limit for spearing. The Tribes may open all Streams and Stream segments to their members for the spearing of steelhead, *provided* that Tribal regulations governing spearing for steelhead in Protected Streams shall be subject to the provisions of the protocol described in subparagraph (b) of this Paragraph 11.7 and the initial protections for adult steelhead identified in subparagraphs (c) through (e) of this Paragraph,

subject to any modification of those provisions under subparagraph (i) of this Paragraph. As used in this Paragraph, the term “Protected Streams” refers to the Streams and Stream segments identified in subparagraph (c)(i) and (c)(ii) of this Paragraph, subject to any modification in such Streams or Stream segments under subparagraph (i) of this Paragraph.

(a) The State desires to achieve self-sustaining steelhead populations through natural reproduction. In order to achieve this goal, the State provides protection for natural reproduction of steelhead by closing Types I and II Streams to harvest from October 1 through the last Saturday in April and by closing certain stream segments during the steelhead spawning season. These closures are a recognition of the fact that optimal habitat for juvenile steelhead is provided in Streams that have intrinsic habitat characteristics, which include a significant contribution of groundwater and favorable temperature conditions for juvenile survival and growth. The State believes that, in Michigan, the number of highly productive Streams or Stream segments with optimal habitat is limited and must be protected in order to provide wild fish for future generations.

(b) The State and the Tribes shall provide protections for steelhead that spawn in Streams or Stream segments in each watershed where juvenile steelhead are most likely to become smolts and thus provide recruits to future steelhead populations. In order to identify Streams of high production potential for steelhead smolts and to protect steelhead that spawn in such Streams, the Tribes and State agree to use and to continue the development of a protocol that includes: (a) a predictive model of the abundance of age-1 juveniles and thus future smolts as a scoping guide; (b) empirical information from field surveys and stream temperature information; (c) the protection of adult steelhead that spawn in these Streams; (d) realistic goals for natural production of steelhead consistent with the management objectives of the Lake

Committees for lakes Michigan, Huron, and Superior; and (e) any other relevant scientific information related to steelhead. The State and the Tribes shall provide for periodic peer review of the model(s) and data being used pursuant to the protocol described in this subparagraph to ensure that the model(s) and data are scientifically valid. The initial protections to be provided by the State and the Tribes under the protocol are those described in subparagraphs (a) and (c) through (e) of this Paragraph.

(c) Based on the protocol described in subparagraph (b) of this Paragraph 11.7, the State has identified the following locations, initially, as potentially highly valuable Streams for producing and maximizing survival to smolting of juvenile steelhead. Unless otherwise noted, stream segments under protection begin at the downstream confluence of the watershed with the Lake to which the watershed is a tributary.

(i) Within the following four Upper Peninsula groups of stream segments, the Tribes shall prohibit spearing of steelhead except from April 1 to April 15 and shall prohibit harvest of steelhead by all other methods from April 1 to the last Saturday of April (except for such methods with which, and at such times at which, the State permits steelhead harvests by State-licensed fishers):

1. Black River mainstem and tributaries upstream of the confluence of Peters Creek (Mackinac County, Lake Michigan Basin);

2. North Branch of the Pine River and its tributaries upstream of the Highway 40 bridge and mainstem of the Pine River and its tributaries upstream of the confluence with the North Branch of the Pine River (Mackinac and Chippewa counties, Lake Huron Basin);

3. North Branch of Carp River and its tributaries, and South Branch of Carp River and its tributaries (Mackinac County, Lake Huron Basin); and

4. Sucker River mainstem and its tributaries upstream of Seney Road Bridge (Alger County, Lake Superior Basin);

(ii) Within the following 11 Lower Peninsula groups of stream segments, the Tribes shall prohibit spearing of steelhead except from April 1 to April 15 and shall prohibit harvest of steelhead by all other methods from March 15 to the last Saturday of April (except for such methods with which, and at such times at which, the State permits steelhead harvests by State-licensed fishers):

1. Cedar Creek and its tributaries upstream from River Road and Bigelow Creek and its tributaries in the Muskegon River watershed (Lake Michigan Basin, Muskegon and Newaygo counties);

2. Skeel Creek and its tributaries and North Branch of the White River above Arthur Road in the White River watershed (Lake Michigan Basin, Oceana and Muskegon counties);

3. Baldwin River and its tributaries and all tributaries upstream of M-37 in the Pere Marquette watershed (Lake Michigan Basin, Lake and Newaygo counties);

4. Little Manistee River mainstem from Spencer's Bridge upstream, including all tributaries (Lake Michigan Basin, Lake County);

5. Above County Road 600, Bear Creek mainstem and tributaries in the Manistee River watershed (Lake Michigan Basin, Manistee County);

6. Dair Creek and its tributaries and Little Betsie River and its tributaries in the Betsie River watershed (Lake Michigan Basin, Benzie and Manistee counties);

7. The mainstem of the Platte River from the upper State-owned hatchery weir downstream to Platte Lake (Lake Michigan Basin, Benzie County), *provided* that this stream segment shall be considered a Protected Stream only if the State permits passage of steelhead past the upper State-owned hatchery weir;

8. The mainstem Jordan River and all tributaries above Graves Crossing (Lake Michigan Basin, Antrim County);

9. Little Ocqueoc River and its tributaries and Silver Creek and its tributaries in the Ocqueoc River watershed (Lake Huron Basin, Presque Isle County);

10. The mainstem Pigeon River and its tributaries upstream of Webb Road (Mullett Lake, Lake Huron Basin, Otsego County); and

11. The mainstem Sturgeon River upstream of Afton Rd (a.k.a. Webb Road or Wolverine Road near Wolverine) and the West Branch of the Sturgeon River and its tributaries (Burt Lake, Cheboygan and Otsego counties).

(d) Except as modified under subparagraph (i) of this Paragraph 11.7, the Tribal annual harvest of steelhead using Spears in Protected Streams shall not exceed 450 fish. Tribal regulations for the spearing of steelhead in such stream segments shall include a daily field possession limit not to exceed twice the daily bag limit, a minimum size limit of at least 16 inches, and a daily bag limit not to exceed three fish. Tribal regulations shall require that steelhead under the minimum size limit that are speared in such stream segments must be retained as part of the daily bag limit without penalty to the fisher.

(e) Except as modified under subparagraph (i) of this Paragraph 11.7, the total number of permits issued for spearing of steelhead in Protected Streams shall be distributed among the groups of Protected Streams in a manner that ensures that no more than 30 steelhead will be available for harvest from any one of the identified groups of Protected Streams. In order to avoid concentration of harvest, reasonable efforts should be made to evenly distribute the available permits among the stream segments within each of the identified groups of stream segments.

(f) The permits required for Protected Streams shall include the name of the Tribal member, the date on which the permit is effective, and the stream segment(s) for which the permit is issued. The Tribes shall require their members to have a permit in possession when spearing for steelhead in such stream segments. The Tribes shall not issue more than one such permit to any member for any day in such stream segments, and shall limit each permit to stream segment(s) within a particular group of Protected Streams.

(g) The Tribes shall provide notice to the State before any use of spears to harvest steelhead may take place in Protected Streams, in accordance with a protocol adopted by the Parties under Paragraph 23.2 of this Decree. The notice provided to the State shall identify the body of water, the number of fishers, and the date on which spears will be used to harvest steelhead, and shall be provided at least seven hours (and before 1:00 pm of the same day) before the use of spears. The State and the Tribes shall share information on Waters where the use of spears to harvest steelhead is permitted in accordance with a protocol adopted by the Parties under Paragraph 23.2 of this Decree.

(h) Unless the State and the Tribes mutually agree otherwise, the Tribes shall require their members to submit harvest reports for spearing of steelhead in accordance with

Paragraph 11.3 of this Decree, including the particular stream segment on which each fish is harvested. Information on lengths and weights, and, if possible, sex of steelhead harvested by Tribal members in Protected Streams shall be obtained by Tribal biological staff through sub-sampling of the harvest as appropriate, taking into consideration the need for such information and the costs of such sub-sampling, after consultation with the State through an annual review process.

(i) The State and the Tribes shall annually review, consult on, and as appropriate modify by mutual agreement the protocol described in subparagraph (b) of this Paragraph 11.7 and the specific provisions set forth in subparagraphs (a) and (c) through (e) of this Paragraph, based upon the results of the periodic peer review as required in subparagraph (b) of this Paragraph, additional information obtained through research or assessment by either the Tribes or the State regarding smolt production and/or abundance of adults within any stream, the effects of downstream (including Great Lakes) harvests or post-spawning harvests, or any other relevant scientific information related to steelhead, *provided* that the Tribes shall not be required to impose any additional restrictions on their members' harvests of steelhead in the following Streams in the Manistee River watershed: (1) Pine Creek and its tributaries and (2) below County Road 600, Bear Creek and its tributaries, including Cedar and Beaver Creeks and their tributaries, unless the State and the Tribes determine, by mutual agreement, that such restrictions should be adopted in exchange for mutually agreeable Tribal opportunities to harvest steelhead with Spears and Bows in the portion of the Little Manistee River described in Paragraph 10.3 of this Decree.

11.8 The Tribes shall adopt the following standards applicable to Impoundment Nets that may be used in inland Lake Systems.

(a) The Tribes shall prohibit the use of monofilament material in any part of an Impoundment Net.

(b) The Tribes shall prescribe the following maximum dimensions for Impoundment Nets:

(i) Pots shall not exceed eight feet in length by five feet in width by six feet in height.

(ii) Leads shall not exceed 150 feet in length or six feet in height.

11.9 As long as the State imposes similar or more restrictive limitations on State-licensed fishers, the Tribes shall close the following tributaries to Lake Superior to spearing: (a) Chocoley River; (b) Mosquito River; (c) Big Two Hearted River; (d) Little Two Hearted River; and (e) Anna River from its mouth upstream to the railroad crossing by Wagner Falls in Section 14, Township 46 North, Range 19 West.

11.10 The Tribes shall prohibit their members from snagging fish or retaining a fish not hooked in the mouth while engaged in Hook-and-Line Gear Fishing.

## XII. THE USE OF SPECIALLY REGULATED FISHING METHODS IN INLAND LAKES AND THEIR TRIBUTARIES

12.1 The Tribes may authorize their members to use Specially Regulated Fishing Methods in all Waters as provided in this Section XII, *provided* that the Tribes shall not authorize their members to use Impoundment Nets or Long Seines in tributaries to inland Lakes except where the use of such gear is permitted by State law or Paragraph 11.4 of this Decree. Nothing in this Section XII shall restrict the Tribes' authorization of their members' use of Short Seines.

12.2 Except as provided in Paragraph 12.7 of this Decree, the Tribes' authorization of their members' use of Specially Regulated Fishing Methods in Walleye Lake Systems shall be

subject to the provisions of the protocol set forth in Appendix B1, which is attached hereto and made a part hereof. The Tribes and the State shall manage their respective fisheries for walleye in Walleye Lake Systems in accordance with the protocol set forth in Appendix B1.

12.3 The Tribes' authorization of their members' use of Impoundment Nets and Long Seines in non-Walleye Lake Systems shall be subject to the provisions of the protocol set forth in Appendix B2, which is attached hereto and made a part hereof.

12.4 The Tribes shall require all Impoundment Nets used by a Tribal member for Fishing to be marked with at least two buoys, one attached to the end of the lead and the other attached to the pot. In addition, if the nets have wings, the Tribes shall require additional buoys to be attached to the end of each wing. The Tribes shall require the member's Tribal affiliation and identification number to be displayed on the buoys.

12.5 The Tribes shall provide notice to the State before any use of Spears in a Walleye Lake System during the Walleye Spawning Season for that Lake System or any use of Impoundment Nets may take place under a Tribal permit in accordance with the procedures set forth in a protocol adopted by the Parties under Paragraph 23.2 of this Decree. The notice provided to the State shall identify the body of water, the number of fishers, and the date(s) and 24-hour period(s) during which such gear may be used, and such notice shall be provided at least seven hours (and before 1:00 pm of the same day), prior to the use of Spears and at least 24 hours prior to the use of Impoundment Nets. The State and the Tribes shall share information on waters where the use of Spears or Impoundment Nets is permitted in accordance with a protocol adopted by the Parties under Paragraph 23.2 of this Decree.

12.6 The Walleye Spawning Season for Walleye Lake Systems in the Lower Peninsula or the Upper Peninsula may be changed by mutual agreement between the State and the Tribes.

12.7 The Tribes' authorization of their members' use of Spears, Bows, Hand Nets, or Hook-and-Line Gear to harvest salmon, steelhead, or sturgeon in accordance with other provisions of this Decree shall not be subject to any restrictions in this Section XII or in the protocols set forth in Appendix B1 and Appendix B2. The Tribes' authorization of their members' use of Spears or Hook-and-Line Gear to harvest walleye in tributaries to the bays de Noc in accordance with Paragraph 10.9 shall not be subject to any restrictions in this Section XII or in the protocols set forth in Appendix B1 and Appendix B2.

### XIII. DISEASE CONTROL

As long as the State enforces the following prohibitions, the Tribes shall prohibit their members from: (a) using bait as a method of take in the Hunting of deer and elk where prohibited by the State for the purpose of controlling disease; (b) importing live deer or elk into the State; (c) importing the carcass of a deer or elk into the State from a state or province in which Chronic Wasting Disease has been documented (unless the carcass is boned out and carved up); or (d) importing live turkeys, mute swans, skunks, or raccoons into the State. The Tribes shall also adopt regulations that are no less restrictive than State regulations that restrict the movement of ash products from emerald ash borer quarantine and eradication areas. In the event that fish or wildlife resources are threatened by diseases in the future, the Parties shall work cooperatively to take necessary measures to address the problem.

### XIV. TAGGING AND REPORTING REQUIREMENTS

The Tribes shall impose tagging and reporting requirements for bobcat, otter, fisher and marten, as long as the State imposes such requirements. The State shall cooperate with the Tribes in insuring that the Tribes have sufficient CITES tags for species subject to the

Convention on International Trade in Endangered Species, as listed in 50 C.F.R. Part 23, Appendices I, II, and III.

## XV. DEER HUNTING

15.1. Except as provided below, the Tribes shall impose the following restrictions on deer Hunting by their members as long as the State imposes similar or more restrictive limits on State-licensed hunters: (a) deer Hunting shall be limited to the period commencing the day after Labor Day and ending on the Sunday of the first full weekend in January (the “Tribal Deer Hunting Season”); (b) deer Hunting with firearms shall be prohibited during the period commencing on November 1 and ending on November 14; (c) each Tribal member shall be limited to a bag limit of five deer, no more than two of which may be antlered deer (*i.e.*, deer with at least one antler of three inches or more), during the Tribal Deer Hunting Season as a whole; and (d) each tribal member shall be limited to a firearm bag limit of two deer, no more than one of which may be an antlered deer, during the period commencing the day after Labor Day and ending on October 31. Notwithstanding the foregoing, the Bay Mills Indian Community may annually establish a collective bag limit for the total number of deer that may be harvested by Tribal members, which shall not exceed five times the number of Tribal members authorized by the Tribe to harvest the species. Another Tribe may adopt a quota number applicable to all of its licensed hunters in lieu of the foregoing bag limits, but only after further consultation with and agreement of the State.

15.2 Notwithstanding the foregoing, the Tribes may issue a reasonably limited number of special needs permits for subsistence deer Hunting and a reasonably limited number of special ceremonial permits that authorize their members to harvest deer for ceremonies (including, by way of example but not limitation, ghost suppers, weddings, or funerals) at any time. Deer

harvested pursuant to special ceremonial permits shall not count toward the bag limits set forth above.

#### XVI. WILD TURKEY HUNTING

The Tribes may authorize a spring male only wild turkey season beginning no earlier than April 15 and closing no later than June 15. For the fall either sex season, the Tribes may authorize a beginning date of no earlier than October 1 and a closing date of no later than November 14. The Tribes may authorize additional wild turkey harvest opportunities if the State authorizes such additional opportunities for State-licensed hunters. In addition, the Tribes may issue a reasonably limited number of special ceremonial permits that authorize their members to harvest wild turkey for ceremonies (including, by way of example but not limitation, ghost suppers, weddings, or funerals) at any time.

#### XVII. SPECIES IN NEED OF ALLOCATION

The Tribes shall limit their members' harvests of certain species for which current population levels necessitate an allocation of harvest opportunities, as provided in this Section XVII.

17.1 **Elk.** The State currently limits the harvest of elk through the issuance of a limited number of permits each year in designated elk management units. Each permit authorizes the opportunity to harvest a single animal; some of the permits are for either sex and some are for cows only. Except as otherwise provided below, the Tribes shall limit their members' harvest of elk in a given year to: (a ) the number of elk of either sex equal to 10% of the either-sex permits issued by the State in such year; and (b ) the number of female elk equal to 10% of the number of cows-only permits issued by the State in a year. Fractional numbers shall be rounded up to the next whole number in applying this provision. If the State issues less than a total of 101 permits

but more than 50, then the Tribes shall limit their members' harvest to a maximum of five elk of either sex and five female elk. If the State issues less than a total of 51 permits, the Tribes shall limit their members' harvest to a maximum of five elk in the same ratio of either-sex and cow-only permits that are issued by the State. The Tribes shall adopt regulations that are no less restrictive than State regulations governing the elk hunt, *provided* that the Tribes may allow tribal members to Hunt elk for up to 15 days after the closure of the State's last elk season. The Tribes may also transfer Tribal elk Hunting permits among Tribal members. The Tribes shall consult with the State before issuing Tribal elk permits in order to ensure that the geographical distribution of the permits is consistent with the State's management objectives.

17.2 **Bear.** The State authorizes harvests of limited numbers of bears in designated bear management units. The State and the Tribes shall consult regarding appropriate harvest levels for each bear management unit that encompasses lands within the 1836 Ceded Territory and make best efforts to achieve a consensus regarding such levels. The Tribes shall authorize their members to take no more than 10% of the available harvest in each such unit, *provided* that, if tribal members harvest 10% of the available harvest in any such unit in any year, the Tribes may authorize their members to take up to 12 ½% of the available harvest in that unit in subsequent years. The Tribes shall limit the harvest of bears to a season commencing no sooner than the beginning of the State's bear season and ending no later than the last day of the State's bear season. The Tribes may transfer Tribal bear permits among tribal members. Notwithstanding any other provision in this Paragraph 17.2, each Tribe may permit the harvest of up to two bears per year for ceremonial/medicinal purposes, which shall not count against the harvest limits set forth above. The Tribes may permit bears harvested for such

ceremonial/medicinal purposes to be harvested at any time (except that the Tribes shall not permit bears to be harvested in dens or in the visible vicinity of a cub).

17.3 **Lake Sturgeon.** The State of Michigan has a State-approved Lake Sturgeon Rehabilitation Strategy that outlines the status of lake sturgeon populations and recommends management actions, and the Little River Band has a Tribally approved Nmé (Lake Sturgeon) Stewardship Plan for the Manistee River that recommends management actions for reclamation and restoration activities. The State and the Tribes shall discuss strategies for rehabilitating sturgeon populations and, except as otherwise provided below, shall negotiate allocations of sturgeon harvest when sturgeon recovery provides for such harvest, including an allocation of sturgeon harvest in Black Lake when the sturgeon population, as determined by Tribal and State biologists, includes 750 mature fish (*i.e.*, 750 fish capable of breeding). The Tribes may authorize their members to harvest sturgeon in Otsego Lake as long as they impose a bag limit that does not exceed the bag limit imposed by the State. If a harvestable sturgeon population is developed in the Manistee River, the Tribes may authorize their members to take up to 50% of the harvestable amount.

17.4 For any species subject to allocation under this Section XVII, or for any species determined in the future to require allocation, each Tribe shall be entitled to one-fifth of the Tribal allocation, *provided* that the Tribes shall develop mechanisms to share the available Tribal harvest when a Tribe is unable to fully utilize its one-fifth share.

#### XVIII. MIGRATORY BIRDS

The Tribes shall regulate their members' harvests of migratory birds in accordance with the processes established for regulating Indian treaty harvests under the Migratory Bird Treaty

Act, 16 U.S.C. §§ 703-712, and its implementing regulations, as now in force or hereafter amended.

#### XIX. THREATENED AND ENDANGERED SPECIES UNDER STATE LAW

The Tribes shall provide for the protection of species listed as threatened or endangered under state law. This provision shall not prevent the Tribes from authorizing their members to harvest threatened or endangered plants for personal use for medicinal, ceremonial, or subsistence purposes.

#### XX. USE OF STATE LAND

20.1 **Gathering.** The Tribes may authorize their members to Gather plant materials and other natural resources on State lands for personal, medicinal, cultural, or traditional craft use, *provided* that such natural resources Gathered on State lands shall not be used for commercial purposes except as specifically provided in this Paragraph 20.1, and *provided further* that nothing herein shall authorize the excavation or mining of sand, gravel or other minerals on State lands. As described below, the State and the Tribes shall seek to avoid user conflict and other resource concerns arising from certain Gathering activities on State lands through a consultative process involving the local offices of the MDNR and the Tribes.

**(a) Maple Sap/Sugar Bushes.**

(i) The Tribes and the State shall work cooperatively through local MDNR and Tribal offices to determine the location of areas suited for the collection of maple sap and the production of maple sugar or maple syrup (collectively, “sugar bush operations”) on State Forest land.

(ii) The Tribes and the State shall work cooperatively to designate mutually acceptable areas for sugar bush operations through the use of the MDNR “Special

Conservation Area” (SCA) program. The Parties recognize that SCA designations for sugar bush operations may change over time. If a Tribe and the State are unable to designate mutually acceptable areas for such operations through the SCA program, they shall make good faith efforts to identify other mechanisms to designate areas for such operations. The designation of areas under the SCA program or another mechanism for sugar bush operations shall not preclude the use of such areas for other activities, such as MDNR timber and wildlife management practices, Hunting and Fishing, and other management activities.

(iii) The Tribes shall not permit their members to engage in sugar bush operations on State lands other than those designated under subparagraph (a)(ii) of this Paragraph 20.1, except as otherwise agreed by one or more Tribes and the State to accommodate one-time or occasional (as opposed to annual) use of a limited number of trees (no more than a total of twelve).

(iv) The Tribes shall require their members to obtain a Tribal permit before engaging in sugar bush operations on State Forest land. The Tribes shall develop and adopt regulations detailing the permit process. Before issuing permits for sugar bush operations involving more than a total of twelve trees, a Tribe shall negotiate with MDNR an agreed number of permits to issue, the number of trees and trees per acre that can be tapped, and the number of temporary structures that may be erected.

(v) Tribal regulations for sugar bush operations on State lands shall: prohibit the use of tubing; prohibit construction of new trails to access sugar bushes; prohibit permanent structures; and require that temporary structures be removed by the end of the maple syrup season.

(vi) The State shall not charge a fee for sugar bush operations pursuant to permits issued by the Tribes.

(vii) The Tribes may authorize their members to engage in personal sale of modest levels of maple sugar and/or maple syrup produced from State lands.

**(b) Firewood.**

(i) The Tribes and the State shall work cooperatively through local MDNR and Tribal offices to designate areas suitable for firewood collection, and to determine local restrictions that apply within MDNR Forest Management Units. The designation of areas for firewood collection under this subparagraph shall not preclude the use of such areas for other purposes.

(ii) The Tribes shall not permit their members to collect firewood on State lands other than those designated under subparagraph (b)(i) of this Paragraph 20.1.

(iii) The Tribes shall require their members to obtain a Tribal permit before collecting firewood on State lands. The Tribes shall develop and adopt regulations detailing the permitting process.

(iv) Tribal regulations for collecting firewood on State lands shall: prohibit Tribal members from cutting or Gathering trees except those that are dead and down; prohibit firewood collection within State timber sale contract areas unless written permission is obtained from the timber sale contractor; prohibit cutting or Gathering of trees marked with paint; prohibit cutting or Gathering of cedar and hemlock trees, *provided* that this provision shall not prohibit Gathering of cedar or hemlock boughs as provided below; provide that the collection of firewood is for personal use only and prohibit the sale of firewood; provide that firewood permits shall be issued for five standard cords per permit, and that only one permit per household

per year shall be issued; and require that Tribal members have a Tribal permit in their possession when collecting firewood.

(v) The State shall not charge a fee for collecting firewood pursuant to permits issued by the Tribes.

**(c) Conifer Boughs.**

(i) The Tribes and the State shall work cooperatively through local MDNR and Tribal offices to designate areas suitable for conifer bough collection. The designation of areas for conifer bough collection under this subparagraph shall not preclude the use of such areas for other purposes.

(ii) The Tribes shall not permit their members to collect conifer boughs on State lands other than those designated under subparagraph (c)(i) of this Paragraph 20.1.

(iii) The Tribes shall require their members to obtain a Tribal permit before collecting conifer boughs on State lands. The Tribes shall develop and adopt regulations detailing the permitting process.

(iv) Tribal regulations for collecting conifer boughs on State lands shall: prohibit collection of conifer boughs within 20 feet of the edge of roads, designated trails, or Streams; prohibit the establishment of new trails or roads to access collection areas; prohibit Tribal members from cutting down trees for the purpose of Gathering conifer boughs, removing boughs from trees less than 12 feet in height, or removing boughs from the upper half of a tree; prohibit Tribal members from Gathering cedar or hemlock boughs except for modest quantities for personal medicinal or limited ceremonial uses; prohibit collection of boughs for commercial

use, except for individuals making traditional handcraft items; and require that Tribal members have a Tribal permit in their possession when collecting conifer boughs.

(v) The State shall not charge a fee for collecting conifer boughs pursuant to permits issued by the Tribes.

**(d) Black Ash, Basswood and Ironwood.**

(i) The Tribes and the State shall work cooperatively through local MDNR and Tribal offices to designate areas suitable for collection of black ash, basswood and ironwood.

(ii) The Tribes shall not permit their members to collect black ash, basswood or ironwood on State lands other than those designated under subparagraph (d)(i) of this Paragraph 20.1.

(iii) The Tribes shall require their members to obtain a Tribal permit before collecting black ash, basswood or ironwood on State lands. The Tribes shall develop and adopt regulations detailing the permitting process.

(iv) Before issuing permits for the collection of black ash, basswood or ironwood on State lands, the Tribes shall negotiate with MDNR an agreed number of permits to issue, and the number of trees and trees per acre that can be used.

(v) Tribal regulations for the collection of black ash, basswood and ironwood on State lands shall: prohibit commercial use, except for individuals making traditional handcraft products; and require that Tribal members have a Tribal permit in their possession when collecting black ash, basswood, or ironwood.

(vi) The State shall not charge a fee for collecting black ash, basswood or ironwood pursuant to permits issued by the Tribes.

**(e) White Birch Bark.**

(i) The Tribes and the State shall work cooperatively through local MDNR and Tribal offices to designate areas suitable for white birch bark collection.

(ii) The Tribes shall not permit their members to collect white birch bark on State lands other than those designated under subparagraph (e)(i) of this Paragraph 20.1.

(iii) The Tribes shall require their members to obtain a Tribal permit before collecting white birch bark on State lands. The permits shall contain provisions to prevent permanent damage to the trees, such as seasonal limitations and limitations on the quantity of bark that may be removed. The Tribes shall develop and adopt regulations detailing the permit process. The Tribes shall provide copies of permits issued for the collection of white birch bark to the MDNR.

(iv) Before issuing permits for the collection of white birch bark on State lands, the Tribes shall negotiate with MDNR an agreed number of permits to issue, and the number of trees and trees per acre that can be used to collect white birch bark.

(v) Tribal regulations for the collection of white birch bark on State lands shall: prohibit collection of white birch bark within 33 feet of the edge of roads or designated trails; prohibit collection of white birch bark for commercial use, except for individuals making traditional handicraft items; and require that Tribal members have in their possession a Tribal permit when collecting white birch bark.

(vi) The State shall not charge a fee for collecting white birch bark pursuant to permits issued by the Tribes.

(vii) The Tribes and the MDNR shall annually review the impact to the resource resulting from this activity, and shall determine whether modification of birch bark harvest is required to protect birch trees on State land.

**(f) Collection of ground vegetation and shrubs.**

(i) The Tribes shall provide for the protection of species listed as threatened or endangered under state law, as provided in Section XIX (Threatened and Endangered Species under State Law).

(ii) Tribal members may Gather plants and the products thereof, such as wild berries, mushrooms, pine cones, nuts and fruits, for producing modest levels of commodities for personal sale and may use the parts of harvested plants for the manufacture and sale of handicraft products.

**20.2 Access.**

(a) The Tribes shall require their members to follow MDNR general camping registration procedures, including payment of camping fees, and all other applicable rules and regulations when camping in a developed campsite within a State Park or State Forest campground.

(b) The Tribes may authorize dispersed camping on State Forest land at least one-half mile away from a State Forest campground or the boundary of a State Park, except in those areas specifically closed to all camping by order of the Director of the MDNR. The Tribes shall require their members to post a cost-free MDNR camping permit on site and to follow State land use rules when camping on State Forest lands. The MDNR shall provide such permits to the Tribes at no charge for issuance to their members.

(c) In areas where the only public access to a Lake or Stream segment is located on lands owned or managed by MDNR, and a Tribal member is engaged in the exercise of a Tribal treaty-related Hunting, Trapping, Fishing, or Gathering right, the State shall waive any fees or launch costs associated with the Tribal member's use of such facilities, provided that space is available. To be eligible for the fee waiver, the Tribes shall require their members to:

(i) provide Tribal identification at the entrance to the area and post an approved Tribal identification placard or sticker in the window of their vehicle; and

(ii) comply with all applicable rules and regulations for the launch site.

(d) In a Michigan State Park where a Tribal member is engaged in the exercise of a Tribal treaty-related right (consistent with the terms of this Decree) the State shall waive any entrance fees associated with the Tribal member's use of such facilities. At other times and for other purposes, fees shall be required. To be eligible for the fee waiver, the Tribes shall require their members to:

(i) provide Tribal identification at the State Park entrance and post an approved Tribal identification placard or sticker in the window of their vehicle; and

(ii) comply with all applicable rules and regulations for the site.

(e) State park rangers may enforce State park regulations within State parks.

(f) The MDNR shall notify and consult with the Tribes before permanently closing an approved access road or trail. In the event that the MDNR establishes a program for seasonal closures of approved access roads or trails, the MDNR shall notify and consult with the Tribes before implementing any such seasonal closure.

20.3 ***Temporary Structures.*** The Tribes shall only authorize their members to place structures on State lands as provided in this Paragraph 20.3.

(a) With the exception of Hunting blinds, the Tribes shall not authorize their members to construct any structure on State lands from non-native, processed materials, such as dimensional lumber, plywood, siding or roofing, *provided* that the Tribes may authorize their members to use canvas tarps and the like on temporary structures if removed from the site after use.

(b) The Tribes may authorize their members to construct a temporary structure, such as a sweat lodge, which occupies up to 100 square feet, using on-site native materials, on State Forest lands, *provided* that the Tribes shall require their members to post a cost-free dispersed camping permit on site in accordance with subparagraph (b) of this Paragraph 20.2.

(c) The Tribes may authorize their members to construct a temporary structure, which occupies more than 100 square feet, using on-site native materials, on State Forest lands, *provided* that the Tribes shall require their members to post a cost-free dispersed camping permit on site in accordance with Paragraph 20.2, subparagraph b , and *provided further* that the Tribes shall not issue such permits to their members under this subparagraph without first consulting with and obtaining the concurrence of the local MDNR forest manager.

(d) The Tribes shall not permit their members to leave a temporary structure on State Forest lands for 15 days or more unless the Tribes first consult with and obtain the concurrence of the local MDNR forest manager.

(e) The Tribes may authorize their members to use Hunting blinds on State land in accordance with the following provisions:

(i) The Tribes shall require Hunting blinds of man-made materials on state land to legibly display, in letters at least 2” high, the name and an indication of Tribal

membership of the owner (as mutually agreed by the State and the Tribes). The Tribes shall not permit non-portable ground deer blinds utilizing man-made materials to be placed on State lands before November 6. The Tribes shall require that deer blinds be removed from State land within 10 days of the end of the last open day for Tribal firearm deer Hunting.

(ii) The Tribes shall not permit the placement of blinds of man-made materials in State Parks.

(iii) The Tribes shall require that portable blinds be removed from State land at the end of each day's Hunt.

## XXI. ASSESSMENT ACTIVITIES

The Parties recognize that the Tribes may desire to engage in assessment activities within the inland portion of the 1836 Ceded Territory in addition to, or in coordination with, assessment activities conducted by the State. The Parties shall meet at least annually to review State and Tribal assessment activities in order to minimize or avoid duplication of effort and to prevent interference with such activities. The State may object to a proposed Tribal assessment activity, *provided* that the State shall not object to such a proposed assessment activity without fully consulting with the Tribes and articulating a legitimate State interest for doing so within 60 days of being notified of the proposed activity. For purposes of this Section XXI, a "legitimate State interest," which might form the basis of the State's objection to such a proposed assessment activity, is limited to the following: (a) material biological harm to a resource; (b) a threat to public health or safety; (c) material interference with ongoing research projects; or (d) unreasonable redundancy of effort. In the event the State makes such an objection after fully consulting with the Tribes, the Parties shall jointly refer the matter to binding arbitration to be resolved within the next 60 days. The issue in the arbitration shall be whether the State has a

“legitimate State interest” for objecting to the proposed activity as defined in this Section XXI. The Tribes shall defer commencement of a proposed assessment activity during the 60-day period in which the State might object to such activities and, if the State does object, pending resolution of the objection by arbitration (but need not defer implementation pending an appeal of the arbitration award, unless otherwise ordered by the Court). An arbitration award under this Section may be vacated, modified or corrected on appeal only on the grounds set forth in the Federal Arbitration Act, 9 U.S.C. §§ 10-11, as now in force or hereafter amended. In carrying out assessment activities, the State and the Tribes shall utilize qualified biologists or other appropriately trained personnel. Tribal and State assessment activities shall be conducted in a manner consistent with accepted scientific principles using non-lethal methods whenever appropriate.

## XXII. RESTORATION, RECLAMATION, AND ENHANCEMENT PROJECTS

The Parties recognize that the Tribes may desire to engage in activities designed to restore, reclaim, or enhance fish, wildlife or other natural resources within the inland portion of the 1836 Ceded Territory through stocking, rearing, habitat improvement, or other methods. The Parties shall meet annually in order to minimize or avoid duplication of, or interference with, restoration, reclamation, and enhancement activities. With the exception of habitat projects on federal lands, which shall be subject to federal approval under applicable law, or on lands that are owned by the Tribes or their members, the Tribes shall not undertake new restoration, reclamation, or enhancement projects without State approval, *provided* that the State shall not withhold its approval without fully consulting with the Tribes and articulating a legitimate State interest for doing so within 60 days of being notified of the proposed project. In carrying out restoration, reclamation, and enhancement projects, the Tribes shall utilize qualified biologists or

other appropriately trained personnel. Restoration, reclamation, or enhancement projects that involve stocking or rearing of fish that migrate to the Great Lakes and back into streams, such as the Little River Band's Manistee River sturgeon enhancement project, shall be subject to the provisions of the 2000 Great Lakes Consent Decree and any successor thereto, rather than this Decree, *provided* that the State and the Tribes shall provide each other with a reasonable opportunity to review and comment on any proposal to initiate, alter or discontinue a restoration, reclamation or enhancement project that may affect harvest opportunities under this Decree.

### XXIII. CONSULTATION AND EXCHANGE OF INFORMATION

23.1 The State and the Tribes shall establish one or more committees to facilitate consultation and the exchange of information among the Parties. In addition to those matters set forth above, the State and the Tribes shall at least annually exchange: proposals for assessment activities; the results of assessment activities; a summary of State and Tribal licenses and permits issued and harvest and effort data pertaining to the inland portion of the 1836 Ceded Territory; and a summary of any other data and a copy of any reports regarding the condition of the resources in the inland portion of the 1836 Ceded Territory.

23.2 The Parties shall develop a protocol for these purposes, which shall provide for at least one annual meeting among the Parties or their representatives. The initial protocol to be adopted by the Parties is set forth in Appendix L, which is attached hereto and made a part hereof. The Parties may amend the protocol from time-to-time in accordance with its terms. The protocol, as initially adopted or hereafter amended, shall be enforceable as a component of this Decree.

23.3 The State and the Tribes shall work in good faith to coordinate resource assessment, restoration, enhancement, and harvest monitoring activities.

23.4 The State and the Tribes shall notify each other at least annually of proposed regulatory changes (including changes in management units or methodologies for determining the allowable harvest of any species) before they take effect (except where, due to an emergency or other matter beyond the control of the Parties it is not possible to provide advance notice) and seek to resolve any concerns arising from such changes before implementing them. Upon request, the State and the Tribes shall share information regarding the rationale for such changes and their anticipated effects (*e.g.*, changes in species abundance, distribution, or age or sex ratios). Upon request, the State and the Tribes shall provide similar information for any existing regulation, management unit or allowable-harvest methodology. The information provided shall be sufficiently detailed to enable the other Parties to fully understand the regulation, management unit or allowable-harvest methodology at issue and any underlying data associated with it, and to enable them to make constructive suggestions for improvements to such regulation, management unit or harvestable surplus methodology.

#### XXIV. LAW ENFORCEMENT

24.1 As a general principle, prosecutions of alleged violations of fish and game laws and regulations by Tribal members in the inland portion of the 1836 Ceded Territory shall be heard in a Tribal forum. This provision is predicated on: (a) the enactment of Tribal fish and game laws and regulations that are consistent with this Decree; and (b) the existence of a Tribal forum with subject matter jurisdiction to hear prosecutions of alleged violations of fish and game laws and regulations. As used in this Section XXIV, Tribal forum means either a Tribal Court or another mutually acceptable Tribal tribunal. In any Tribal forum in which such a prosecution is heard, upon request of a law enforcement agency whose officer will be a witness, the law

enforcement officer's testimony shall be presented by a tribal prosecutor or other trained legal advocate.

24.2 Except for the categories of violation specifically otherwise noted in this Decree, if the predicate requirements are met, the State shall be precluded from initiating prosecutions of the Tribes' members in State courts for violations of State law or regulations pertaining to Hunting, Trapping, , otherwise taking any species of wildlife, Fishing, or Gathering, when such acts are within the scope of this Decree or subject to Tribal regulations that are consistent herewith. This preclusion shall apply to the following statutes and their implementing regulations, as now in force or hereafter amended, and other similar statutes and regulations:

(a) endangered species protection [Part 365 of Art. III, Chap. I, Natural Resources and Environmental Protection Act (NREPA), Mich. Comp. Laws, § 324.36501 *et seq.*];

(b) wildlife conservation [Part 401, Art. III, Chap. II, NREPA, Mich. Comp. Laws, § 324.40101 *et seq.*];

(c) Hunting and Fishing licenses [Part 435, Art. III, Chap. II, NREPA, Mich. Comp. Laws, § 324.43501 *et seq.*];

(d) Fishing with Hook and Line Gear [Part 453, Art. III, Chap. II, NREPA, Mich. Comp. Laws, § 324.45301 *et seq.*];

(e) frogs [Part 455, Art. III, Chap. II, NREPA, Mich. Comp. Laws, § 324.45501 *et seq.*];

(f) mussels [Part 457, art. III, Chap. II, NREPA, Mich. Comp. Laws, § 324.45701 *et seq.*];

(g) fish shanties [Part 465, Art. III, Chap. II, NREPA, Mich. Comp. Laws, § 324.46501 *et seq.*]; and

(h) spearing fish in Houghton Lake [Part 485, Article III, Chap. II, NREPA, Mich. Comp. Laws, § 324.48501]

(i) sport Fishing [Part 487, Art. III, Chap. II, NREPA, Mich. Comp. Laws, § 324.48701 *et seq.*].

24.3 This Decree does not preclude the State from prosecuting in State court alleged violations by Tribal members of the provisions of the Michigan Penal Code, Mich. Comp. Laws, § 750.1 to 750.568, as now in force or hereafter amended. Violations of State or Tribal law pertaining to safety zone closures near occupied dwellings, trespass or recreational trespass, and hunter harassment, as defined in State or Tribal law or regulations consistent with this Decree, shall be concurrently enforceable by State and Tribal officers, with prosecution to occur in either State or Tribal courts, *provided* that nothing herein shall be construed as creating a right of a defendant to seek removal of a prosecution from State court to Tribal court or from Tribal court to State court, and *provided further* that Tribal members shall not be prosecuted in State court under circumstances in which non-Tribal members would not be prosecuted for the same offense. If the State issues a citation to a Tribal member for a violation of State law under this Paragraph 24.3 or Paragraph 24.5 of this Decree, it shall provide notice of the citation to the Tribal member's Tribe on the next business day or as soon thereafter as practicable. In the event that it is not practicable to provide notice of the citation to the Tribal member's Tribe on the next business day, the State shall explain in writing the reasons that the provision of such notice was impracticable. Notwithstanding the foregoing, the State's failure to provide notice of a citation

or a written explanation for such failure to the Tribal member's Tribe shall not constitute a defense to the citation.

24.4 Tribal members operating off-road vehicles, snowmobiles, boats or other vessels who are engaged in the exercise of a treaty-related Hunting, Trapping, Fishing or Gathering activity, shall not be subject to State vehicle or vessel registration requirements, provided that the Tribal member satisfies Tribal license requirements for the activity in question, is in compliance with applicable Tribal Hunting, Trapping or Fishing season limitations in Tribal law adopted pursuant to this Decree, and possesses evidence of being currently engaged in Hunting, Trapping, Fishing or Gathering, such as fish, game or common items related to Hunting, Trapping, Fishing or Gathering such as Fishing rods, tip-ups, firearms, traps, or nets.

24.5 On non-Tribally owned lands, operation of an off-road vehicle, snowmobile, or boat or vessel by a Tribal member in a manner that creates a threat to public safety or damage to the environment is enforceable by both State and Tribal officers under provisions of State or Tribal law or regulation, with concurrent jurisdiction in both State and Tribal court.

24.6 The provisions set forth in subparagraphs (a) through (c) of this Paragraph 24.6, by which State law enforcement officers shall have the authority to enforce Tribal regulations on non-Tribal lands, shall be effective only if, and only for so long as, the Parties are able to identify a mechanism by which Tribal law enforcement officers shall have the authority to: stop hunters and fishermen in the field in order to determine whether they are Tribal members; enforce Tribal regulations with respect to Tribal members; and, to the extent they are deputized under applicable law, enforce State regulations with respect to non-Tribal members. The State shall not be liable for the acts or omissions of Tribal law enforcement officers in the performance of their duties under this Decree and the Tribes shall not be liable for the acts or omissions of the

State's law enforcement officers in the performance of their duties under this Decree. Moreover, nothing in this Decree shall be construed to mean either that Tribal law enforcement officers are agents of the State or that State law enforcement officers are agents of the Tribes.

(a) Conservation officers of the MDNR are authorized to enforce a Tribe's regulations pertaining to Inland Article 13 Rights on non-Tribal lands and to institute proceedings in a Tribal forum through the issuance of a citation upon satisfaction of the following requirements:

- (i) certification as a law enforcement officer by MCOLES, or its successor agency; and
- (ii) successful completion of a cultural awareness program approved by the State and the Tribes.

MDNR shall provide the Tribes with updated lists of officers meeting these criteria.

(b) In order to assure professional, fair, and reasonable enforcement of the Tribes' regulations, any Tribe subject to this Decree may initiate a complaint of unprofessional conduct against a Michigan conservation officer, by means of filing the standard form available from the Law Enforcement Division of the MDNR. In order to assure transparency in the investigation of such charges, the chief law enforcement officer of the Tribe initiating a complaint shall be invited to:

- (i) participate in the investigation of such charges; and
- (ii) participate as a member of the review board that reviews the investigation, determines the validity of such charges and establishes any corrective or disciplinary actions that may be appropriate if officer misconduct is established.

(c) A MDNR conservation officer may:

(i) conduct routine inspections of boats, wagons, trailers, vehicles, snowmobiles, containers, packages, or other containers utilized by a person in a Harvesting Activity authorized by Tribal law;

(ii) stop and board any boat and stop any vehicle or snowmobile if the officer reasonably suspects there is a violation of Tribal law;

(iii) execute any process for enforcement of the provisions of Tribal law;

(iv) with or without a warrant, open, enter and examine boats, wagons, trailers, vehicles, snowmobiles and packages and other containers, in which the officer has probable cause to believe that contraband wild plants, wild animals, fish, or carcasses or parts thereof may be contained, or as part of a routine inspection authorized under subparagraph (c)(i) of this Paragraph 24.6; and

(v) if a violation occurs in the officer's presence, seize, with or without a warrant, any article which is subject to forfeiture under applicable Tribal law, or which may be required as evidence of a violation of applicable Tribal law, *provided* that any article so seized shall be delivered within 5 working days of the time of seizure into the custody of the Tribal member's Tribal forum, unless said article is immediately delivered into the custody of an officer of the Tribal member's Tribe. Officers shall exhaust all other practical means of gathering required evidence prior to seizing an article under this subparagraph.

24.7 The records of a Tribal court related to State or Tribal citations or arrests of Tribal members for alleged violations related to Hunting and Fishing under this Decree, including records of court dispositions of such citations or arrests, shall be accessible to MDNR conservation officers during normal business hours.

24.8 Each Tribe shall prepare an annual summary of citations and arrests of Tribal members for alleged violations related to Hunting and Fishing under this Decree, showing the date of violation, the agency initiating the citation or arrest, the location by county of the alleged violation, the charge filed, and the status or disposition of each incident. The report shall be provided to the State no later than the last day in February of the following year. Upon request, the State shall provide a Tribe comparable data for Hunting and Fishing violations prosecuted by the State.

24.9 If Michigan law is amended or modified in the future to provide the opportunity for the deputization of Tribal conservation officers by the MDNR, the State and the Tribes shall work together to develop a process to provide for deputization of such officers.

#### XXV. WILDLIFE SPECIES FOR WHICH THE STATE DOES NOT CURRENTLY PERMIT HUNTING

Except as otherwise provided in Section XVIII (Migratory Birds), the Tribes shall not authorize their members to harvest wildlife species that cannot lawfully be harvested under State law as of October 2006 (as set forth in Appendix K, which is attached hereto and made a part hereof), *provided* that if any such species is biologically capable of withstanding harvest and the Tribes express interest in such harvest, the State and the Tribes shall make best efforts to reach consensus regarding Tribal harvest of such species, and *provided further* that in the event such consensus is not obtained, the Parties shall utilize the dispute resolution process under this Decree to determine whether Tribal harvests may be permitted. For species designated as game species under Michigan law as of October 2006 (as also set forth in Appendix K), the issue shall be whether the State has a reasonable basis for prohibiting such harvests taking into consideration the Tribes' interest in allowing such harvests, *provided* that no harvest of moose shall be permitted by the State or the Tribes unless the State and the Tribes agree that such

harvest is appropriate and agree on an allocation of such harvest. For all other species, the issue shall be whether the State has a basis for objecting to the Tribes' proposed harvest regulations under Paragraph 26.2 of this Decree. Notwithstanding the foregoing, if in the future the State permits the harvest of any species that cannot lawfully be harvested under State law as of October 2006, the Tribes may also permit the harvest of such species. The State agrees to consult with the Tribes on issues of mutual concern regarding such species, including allocation.

## XXVI. CHANGES TO REGULATIONS

26.1 The Parties agree that management and regulation of fish, wildlife and other natural resources must be dynamic and respond to changing conditions. Accordingly, from time to time the State and the Tribes may change their harvesting regulations, provided that all such changes shall be consistent with the provisions of this Decree. The State and the Tribes agree to consult with each other about such changes in accordance with this Section XXVI and Section XXIII (Consultation and Exchange of Information).

26.2 The State may object to a proposed Tribal regulatory change, *provided* that the State shall not object to such a change unless, within 60 days of being notified of the proposed change, it consults with the Tribes and demonstrates that: (a) the change would cause demonstrable harm to the conservation of the resource at issue or a demonstrable threat to public health or safety; and (b) prohibiting the change is reasonable and necessary to prevent such conservation harm or public health or safety threat. If the State makes such an objection after fully consulting with the Tribes, the Parties shall jointly refer the matter to binding arbitration to be resolved within the next 60 days. The issue in the arbitration shall be whether the State has satisfied the foregoing standards. The Tribe or Tribes proposing the regulatory change shall defer implementation of the proposed change during the 60-day period in which the State might

object to the change and, if the State does object, pending resolution of the objection by arbitration (but need not defer implementation pending an appeal of the arbitration award, unless otherwise ordered by the Court). An arbitration award under this Paragraph 26.2 may be vacated, modified or corrected on appeal only on the grounds set forth in the Federal Arbitration Act, 9 U.S.C. §§ 10-11, as now in force or hereafter amended.

26.3 In the event that a reduction in fish or game populations requires more restrictive State regulations, the Tribes and the State shall consult regarding appropriate adjustments, if any, in Tribal regulations. The State may object to a Tribe's decision not to make such an adjustment in its regulations, *provided* that the State shall not make such an objection without consulting with the Tribes and demonstrating that: (a) a failure to make the adjustment would cause demonstrable harm to the conservation of the resource at issue; and (b) the adjustment is reasonable and necessary to prevent such conservation harm. If the State makes such an objection after fully consulting with the Tribes, the Parties shall jointly refer the matter to binding arbitration to be resolved within the next 60 days. The issue in the arbitration shall be whether the State has satisfied the foregoing standards. An arbitration award under this Paragraph 26.3 may be vacated, modified or corrected on appeal only on the grounds set forth in the Federal Arbitration Act, 9 U.S.C. §§ 10-11, as now in force or hereafter amended.

## XXVII. DISPUTE RESOLUTION

27.1 Any dispute relating to the interpretation, application or enforcement of this Decree shall be resolved by the procedures set forth in this Section XXVII. However, the decision of a Party not to agree or not to give its consent with respect to a matter identified in this Decree as requiring the mutual agreement or consent of the State and one or more of the Tribes shall not be subject to dispute resolution under this Section.

## 27.2 Negotiation

(a) It is the intent of the Parties that any dispute be resolved informally and promptly through good faith negotiations among the Parties. Should any dispute or controversy arise, the steps outlined in this Paragraph 27.2 shall immediately be taken.

(b) If the dispute involves any matter which is subject to an information sharing or consultation provision under this Decree or which is addressed by the Information Sharing and Consultation Protocol entered into pursuant to Paragraph 23.2 of this Decree, the Party raising the dispute must first comply with the applicable information sharing and consultation requirements and attempt to achieve consensus. If consensus on the matter is not achieved, or if consensus on components of the dispute does not resolve the entire dispute, the Party may proceed with the next step in dispute resolution under this Section.

(c) Any Party may initiate negotiation proceedings by sending written notice to the other Parties setting forth the particulars of the dispute, the provision of this Decree involved, and a suggested resolution of the problem. The recipient Parties involved in the dispute must respond within 20 days of receipt with an explanation and response to the proposed resolution, which response shall be sent to all other Parties.

(d) If correspondence does not resolve the dispute, the Parties involved in the dispute and any other Parties who desire to attend shall meet on at least one (1) occasion within fifteen (15) days after the response by the recipient Parties and attempt to resolve the matter.

(e) If the dispute is not resolved by negotiations within fifteen (15) days after the Parties' first meeting, or within any extended period of time to which the Parties agree, the matter shall be referred to the Executive Council established under the Information Sharing and Consultation Protocol entered into pursuant to Paragraph 23.2 of this Decree. The Executive

Council shall meet either in person or by teleconference within thirty (30) days of the referral to address the matter.

### 27.3 Mediation

(a) In the event that the entire dispute is not resolved at the meeting of the Executive Council, the Party raising the dispute may proceed to mediation. Unless the Parties agree to a different mediation procedure, Voluntary Facilitative Mediation (“VFM”), pursuant to W.D. Mich. LCivR 16.3, as now in force or hereafter amended, shall govern the mediation process; provided, however, that notwithstanding those rules: (i) the Parties hereby consent to mediation in accordance with this Section; and (ii) the Parties may agree to select a mediator with background and experience in the subject matter which gave rise to the dispute, even if said agreed-upon mediator is not on the list of Court-certified mediators.

(b) In the event the Parties cannot agree upon a mediator within ten (10) days after the party invoking mediation has initiated the process by written notice to all Parties, the mediator shall be selected by the Court’s ADR Administrator.

### 27.4 Judicial Resolution

(a) If the Parties do not resolve the matter through mediation, or if the Parties agree to waive mediation, a Party or Parties may seek relief from the Court as provided by the Federal Rules of Civil Procedure and the Local Rules of the Western District of Michigan.

(b) A Party desiring to initiate judicial resolution of the dispute shall file a notice pleading with the Court containing a concise description of the matters in dispute, a certification that the Party seeking relief has complied with the dispute resolution procedures of this Decree, and a description of the relief requested. The other Parties may file a responsive pleading within thirty (30) days.

(c) Unless the Parties agree that the dispute can be resolved by motion without the need for discovery or an evidentiary hearing, they shall request a scheduling conference under W. D. Mich. LCivR 16.1, as now in force or hereafter amended, to establish a timetable for disposition of the dispute.

(d) In the event of an emergency involving this Decree posing a threat of immediate irreparable harm to a resource or a Party, a Party may seek immediate or temporary relief under Fed. R. Civ. P. 65, as now in force or hereafter amended, and applicable local court rules without following the procedural steps set forth in this Section.

#### 27.5 Arbitration.

(a) The provisions in Paragraphs 27.1 through 27.4 of this Decree shall not apply to disputes that are subject to binding arbitration under Section XXVI (Changes to Regulations) or Section XXI (Assessment Activities). However, a Party must comply with the applicable information sharing and consultation provisions of Section XXVI, Section XXI, and the Information Sharing and Consultation Protocol adopted under Paragraph 23.2 of this Decree, before invoking arbitration. If a Party invokes binding arbitration under Section XXVI or Section XXI, the arbitration shall be conducted pursuant to W.D. Mich. LCivR 16.6, as now in force or hereafter amended; provided, however, that notwithstanding those Rules: (i) the Parties hereby consent to binding arbitration whenever this Decree calls for arbitration, which arbitration shall be final, binding and non-appealable; (ii) the provisions of the Federal Arbitration Act, 9 U.S.C. §§ 10-11, as now in force or hereafter amended, shall apply to any arbitration award or decree; and (iii) the Parties may agree to select an arbitrator with background and experience in the subject matter which gave rise to the dispute, even if said agreed-upon arbitrator is not on the list of Court-certified arbitrators.

(b) In the event the Parties cannot agree upon an arbitrator within 20 days after the Party invoking arbitration has initiated the process by written notice to all Parties, the arbitrator shall be selected by the Court's ADR Administrator. The arbitration proceedings shall be concluded within the time period specified in this Decree.

#### XXVIII. MODIFICATIONS

Except as otherwise provided by federal law applicable to the modification of consent decrees, modifications to this Decree shall be made only by mutual agreement among the Parties and approval by this Court. In the event the Parties desire to modify this Decree, the Parties shall present to this Court for its consideration a stipulation and a proposed order for modification of the Decree.

#### XXIX. FEDERAL LANDS AND FEDERAL LAW

29.1 To the extent a particular activity on federal land under the jurisdiction and control of the U.S. Forest Service, the U.S. Fish and Wildlife Service, the National Park Service, or any successor agency is otherwise subject to State regulation, the exercise of Inland Article 13 Rights on such lands shall be governed by the terms of this Decree and applicable federal laws and regulations. To the extent a particular activity on those federal lands would not otherwise be subject to State regulation, the exercise of Inland Article 13 Rights on those lands shall be governed by memoranda of understanding between the Tribes and the Forest Service, Fish and Wildlife Service, or Park Service, or any successor agency, respectively, and by applicable federal laws and regulations. The exercise of Inland Article 13 Rights on lands under the jurisdiction and control of any other federal agency shall be governed by memoranda of understanding between the Tribes and the agency or its successor and applicable federal laws and regulations.

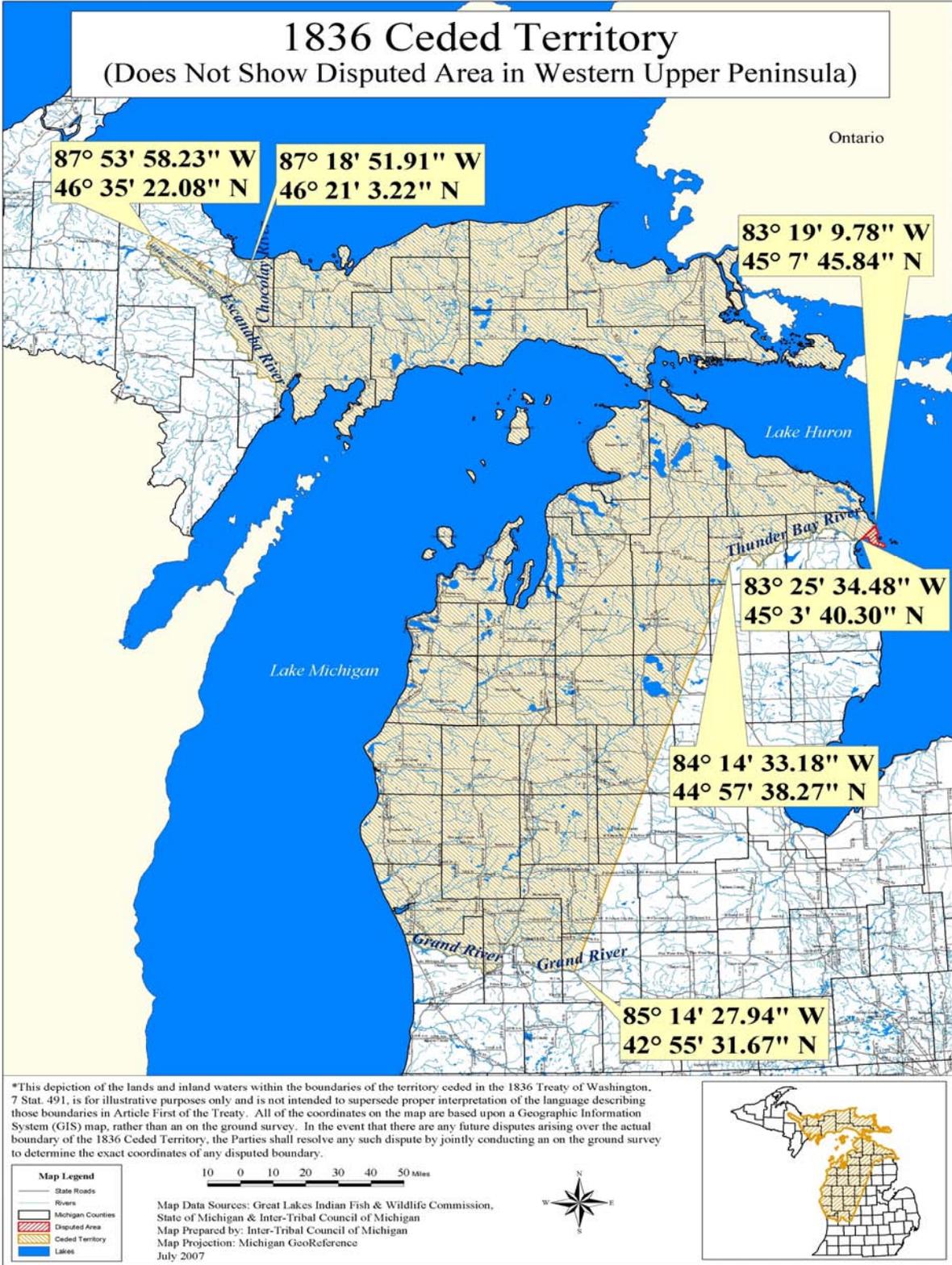
29.2 Issues concerning the applicability of particular federal laws or regulations to the Tribes' Inland Article 13 Rights shall be determined in accordance with prevailing law governing the applicability of federal law to Indian treaty rights. The Parties do not intend this Decree to limit or expand the application of federal law, including but not limited to the Endangered Species Act, to Indian treaty rights as determined under prevailing law.

Dated: \_\_\_\_\_

\_\_\_\_\_  
RICHARD ALAN ENSLEN  
SENIOR UNITED STATES DISTRICT  
JUDGE

Appendix A

LANDS AND INLAND WATERS WITHIN THE BOUNDARIES OF THE TERRITORY  
CEDED IN THE 1836 TREATY



## Appendix B1

### PROTOCOL FOR THE TRIBES' AUTHORIZATION OF THEIR MEMBERS' USE OF SPECIALLY REGULATED FISHING METHODS AND FOR MANAGEMENT OF TRIBAL AND STATE WALLEYE FISHERIES IN WALLEYE LAKE SYSTEMS

This Protocol is adopted in accordance with Section XII of the Decree. The provisions of this Protocol are intended to facilitate implementation of Section XII of the Decree but shall not relieve any party of any obligation it has under the Decree. In the event of any inconsistency between the provisions of the Decree and the provisions of this Protocol, the provisions of the Decree shall be controlling. Except as authorized by this Protocol or otherwise authorized in the Decree or by mutual agreement of the Tribes and the State, the Tribes shall prohibit their members from using Specially Regulated Fishing Methods in Walleye Lake Systems. However, notwithstanding any other provision of this Protocol, if the State permits State licensees to use Specially Regulated Fishing Methods in Walleye Lake Systems: (1) the Tribes may permit their members to use Specially Regulated Fishing Methods in Walleye Lake Systems subject to regulations that are no less restrictive than applicable State regulations; and (2) the Tribes and the State shall make appropriate adjustments, as may be necessary, to the provisions of this Protocol.

#### I. INTRODUCTION

1.1. **Use of Specially Regulated Fishing Methods in Walleye Lake Systems.** In accordance with Paragraphs 12.1 and 12.2 of the Decree, the Tribes may authorize their members to use Specially Regulated Fishing Methods in Walleye Lake Systems as provided in this Protocol, *provided* that the Tribes shall not authorize their members to use Impoundment Nets or Long Seines in tributaries to Walleye Lake Systems, except where the use of such gear is

permitted by State law or Paragraph 11.4 of the Decree. Short Seines are not subject to the provisions in this Protocol.

1.2. **Tribal and State Management of Walleye Fisheries.** The Tribes and State shall use this Protocol to manage their respective walleye fisheries in Walleye Lake Systems located within the 1836 Ceded Territory when use of Specially Regulated Fishing Methods is authorized. This Protocol is intended to provide the State and the Tribes with flexibility in managing their respective fisheries in Walleye Lake Systems and to provide a mechanism for modification as biological, environmental, and social circumstances might require.

1.3. **Management Procedures for Specially Regulated Fishing Methods.** The Tribes' authorization of their members' use of Specially Regulated Fishing Methods in a Walleye Lake System shall be subject to either the Threshold Level Procedures described in Section VI of this Protocol, or the Allocation-Based Procedures described in Section VII of this Protocol. The foremost objective for each of these management procedures is to maintain the total annual exploitation rate of Adult Walleyes in a Walleye Lake System by Tribal and State-licensed fishers at or below the agreed upon Total Allowable Annual Exploitation Rate, and to provide equivalent protections for other species of fish in a Walleye Lake System, as may be necessary, although the procedures differ in how this foremost objective is accomplished. Threshold Level Procedures require moderate management effort in accounting for harvest and Fishing activity and do not require population assessments. Allocation-Based Procedures require rigorous management by the State and the Tribes, including comprehensive monitoring of harvest and Fishing activity and population assessments.

1.4. **Choice of Management Procedures; Fishing Effort Limitations under Threshold Level Procedures.** The amount of Fishing Effort using Specially Regulated Fishing

Methods that the Tribes authorize in a particular Walleye Lake System shall determine whether Allocation-Based Procedures or Threshold Level Procedures shall be used in that Walleye Lake System. This Protocol establishes a Threshold Harvest Level applicable to the use of Specially Regulated Fishing Methods by Tribal members for each Walleye Lake System at a level that minimizes the risk that Tribal and State-licensed fishers will exceed the Total Allowable Annual Exploitation Rate for that Walleye Lake System. Unless one or more of the Tribes invokes Allocation-Based Procedures in a particular Walleye Lake System, the Tribes must limit their members' use of Specially Regulated Fishing Methods in that Walleye Lake System in accordance with Paragraph 6.5 of this Protocol. The Fishing Effort restrictions in Paragraph 6.5 of this Protocol are designed to ensure that the total harvest of Adult Walleyes with Specially Regulated Fishing Methods in a Walleye Lake System is below the Threshold Harvest Level for that Walleye Lake System.

1.5. **Tribal Authorization of Fishing with Methods Other Than Specially Regulated Fishing Methods Not Limited.** Except as provided in Section VIII of this Protocol, the Tribes' authorization of their members' use of fishing methods other than Specially Regulated Fishing Methods in Walleye Lake Systems is not limited by this Protocol, but Tribal members' harvests of Adult Walleye using such other methods shall be estimated and taken into account under Allocation-Based Procedures as set forth in Paragraphs 7.3 and 7.4(c) of this Protocol.

## II. DEFINITIONS

As used in this Protocol, the terms defined in Section III (Definitions) of the Decree shall have the meanings ascribed to them in that Section. In addition, the following terms shall have the meanings ascribed to them in this Section II:

2.1. “Adult Walleye” means a walleye that is at least 15 inches in length or a walleye of any size for which sex can be determined by extruding gametes.

2.2 “Fishing Effort” means the amount of time spent Fishing using a specified type of Fishing gear or method.

2.3 “Total Allowable Annual Exploitation Rate” means the proportion of fish that can safely be harvested from a fish population during a one-year period.

2.4. “Natural Recruitment Walleye Lake System” means a Walleye Lake System in which the population of Adult Walleyes is comprised of 50% or more walleyes that are naturally produced or in which the population of Adult Walleyes is comprised of unknown percentages of naturally produced and stocked walleyes.

2.5. “Overfishing” means the harvest of fish of any species by State and/or Tribal fishers at an annual exploitation rate that is greater than the Total Allowable Annual Exploitation Rate for that species in a particular Lake System.

2.6. “Stocked Walleye Lake System” means a Walleye Lake System in which the population of Adult Walleyes is comprised of more than 50 percent walleyes that are stocked.

2.7. “Threshold Exploitation Level” means the maximum annual exploitation rate for Adult Walleyes using Specially Regulated Fishing Methods in a Walleye Lake System that is allowed under Threshold Level Procedures.

2.8. “Threshold Harvest Level” means the maximum annual number of Adult Walleyes that can be authorized for harvest by the Tribes with the use of Specially Regulated Fishing Methods in a Walleye Lake System under Threshold Level Procedures. The Threshold Harvest Level is equal to the estimated number of adult fish times the Threshold Exploitation Level.

### III. WALLEYE LAKE SYSTEMS

Table 1 of this Protocol contains an initial list of Walleye Lake Systems in the 1836 Ceded Territory. The Tribes and the State shall add additional Lake Systems to the list of Walleye Lake Systems upon request of any Tribe or the State if those Lake Systems meet the definition of a Walleye Lake System in Paragraph 3.28 of the Decree. Similarly, the Tribes and the State shall remove Lake Systems from the list of Walleye Lake Systems upon request of any Tribe or the State if those Lake Systems no longer meet the definition of a Walleye Lake System in Paragraph 3.28 of the Decree. A request to add a Lake System to or remove a Lake System from the list of Walleye Lake Systems, including the supporting biological documentation, shall be made in writing and sent to the State and all Tribes by July 1 of the year preceding the year in which Lake System is to be added to or removed from the list of Walleye Lake Systems, or by such other date as may be mutually agreed upon by the State and the Tribes. The list of Walleye Lake Systems shall be updated with any changes by December 15 of the year the request was received.

### IV. WALLEYE POPULATION ESTIMATES

Walleye population estimates are essential to the proper management of walleye harvest under this Protocol. Walleye population estimates shall be calculated according to the following methods.

4.1. **Walleye Population Regression Equations.** Except as provided in Paragraph 4.2, the Tribes and the State agree to use the following regression equations to estimate the Adult Walleye population in each Walleye Lake System. In addition, the Tribes and the State shall review these equations and any substitute equations every five years and may change them by mutual agreement.

**Equation 1 -- Adult Population Estimate for a Natural Recruitment Walleye Lake System:**

$$\ln(N) = 1.519 + 0.956 \times \ln(A)$$

**Equation 2 -- Adult Population Estimate for a Stocked Walleye Lake System:**

$$\ln(N) = 1.037 + 0.897 \times \ln(A)$$

where for both equations,

$N$  = estimate of the Adult Walleye population, *i.e.*, the number of Adult Walleyes on the spawning grounds, and

$A$  = surface area of the Walleye Lake System in acres, excluding tributaries.

The Tribes and the State shall collaborate in a project to develop criteria for determining the classification of Walleye Lake Systems (*i.e.*, Natural Recruitment Walleye Lake Systems versus Stocked Walleye Lake Systems, including sub-classifications if appropriate) and regression equations for each classification type that are specific to Michigan, based upon empirical estimates of population sizes of Adult Walleyes derived for Walleye Lake Systems in the 1836 Ceded Territory. The design of the project shall commence within two years of the entry of the Decree by the Court. Upon mutual agreement of the State and the Tribes that a Michigan regression equation or equations developed in this project provides more accurate estimates than the corresponding Equation 1 or Equation 2 above, the Tribes and the State shall use the Michigan regression equation or equations in place of the corresponding Equation 1 or Equation 2 above. If such mutual agreement is not attainable by the State and the Tribes, the State and the Tribes shall each select an independent expert to determine the accuracy of a Michigan regression equation or equations developed in this project. If the selected experts are unable to agree, they shall jointly select a third expert to resolve the matter. In addition, the Tribes and the State shall continue to update the Michigan regression equation or equations with any new

empirical estimates of population sizes of Adult Walleyes derived for Walleye Lake Systems in the 1836 Ceded Territory.

4.2. **Empirical Population Estimates of Adult Walleyes.** The Tribes and the State shall develop a mutually agreeable protocol for conducting walleye population assessments. An Adult Walleye population estimate derived from a walleye population assessment in a Walleye Lake System shall be used in place of the regression equations described in Paragraph 4.1. An empirical population estimate of Adult Walleyes for a Walleye Lake System shall be recorded and shall be used for five years, or until an empirical population estimate of Adult Walleyes is calculated from a new population assessment to replace it. After five years, an empirical population estimate of the Adult Walleyes for a Walleye Lake System shall be discarded and shall be replaced with the population estimate of Adult Walleyes using the applicable regression equation under Paragraph 4.1 of this Protocol.

4.3. **Alternative Methods.** Upon mutual agreement of the Tribes and the State, an alternative method for estimating the Adult Walleye population in a Walleye Lake System may be implemented. If the alternative method is not based on empirical population estimates from Walleye Lake Systems in Michigan, then the Tribes and the State shall determine and apply, as set forth in Paragraph 7.2 of this Protocol, mutually agreeable percentage reductions for the value of N in Equation 3, when Fishing under Allocation-Based Procedures in Walleye Lake Systems of 1,000 surface acres or more (excluding tributaries).

4.4. **Initial Estimates.** Table 1 of this Protocol sets forth the initial Adult Walleye population estimate in each Walleye Lake System listed in Table 1, using the methodologies set forth in Paragraphs 4.1 and 4.2 of this Protocol and available information on the surface area of Walleye Lake Systems (excluding tributaries) and the source of Adult Walleye recruitment in

such Systems. The Tribes and the State shall revise the Adult Walleye population estimates in Table 1 in accordance with Paragraphs 4.2 and 4.3 of this Protocol and/or on the basis of additional information on the surface area of Walleye Lake Systems (excluding tributaries) or the source of Adult Walleye recruitment in such Systems, as appropriate. A request to revise an Adult Walleye population estimate for a Walleye Lake System, including the supporting information, shall be made in writing and sent to the State and all Tribes by July 1 of the year preceding the year in which the revised estimate is to take effect or by such other date as may be mutually agreed upon by the Tribes and the State. The Adult Walleye population estimate shall be revised by December 15 of the year the request was received.

#### V. TOTAL ALLOWABLE ANNUAL EXPLOITATION RATES AND TOTAL HARVEST LEVELS

The Tribes and State shall manage their respective fisheries in accordance with this Protocol to prevent the combined harvest by Tribal and State-licensed fishers from exceeding the Total Allowable Annual Exploitation Rates and Total Harvest Levels for Adult Walleyes in Walleye Lake Systems.

5.1. **Total Allowable Annual Exploitation Rates.** The Total Allowable Annual Exploitation Rate for Adult Walleyes in each Walleye Lake System shall be 35% of the estimated Adult Walleye population in that Walleye Lake System, *provided* that the Total Allowable Annual Exploitation Rate for Adult Walleyes is subject to change on any Walleye Lake System by mutual agreement of the Tribes and the State. A request to change the Total Allowable Annual Exploitation Rate for Adult Walleyes in a Walleye Lake System, including the supporting biological documentation and duration of the proposed change, shall be submitted in writing to all Tribes and the State by July 1 of the year preceding the effective date of the proposed change, or by such other date as may be mutually agreed upon by the State and the

Tribes, and shall be reviewed by State and Tribal biologists to ensure that the change shall protect the walleye population in that Walleye Lake System and that the change shall comply with the objectives and rules of this Protocol. The Tribes and the State shall declare whether or not they agree with a requested change by December 15 of the year the request was received. If the Tribes and the State agree to change the Total Allowable Annual Exploitation Rate for a Walleye Lake System, then the new Total Allowable Annual Exploitation Rate for that Walleye Lake System shall be recorded and used in future management for the agreed upon duration or until changed by mutual agreement of the Tribes and the State under this Paragraph 5.1.

5.2. **Total Harvest Levels.** The Total Harvest Level for Adult Walleyes in any Walleye Lake System shall be calculated as shown in Equation 3.

**Equation 3 -- Total Harvest Level for Adult Walleyes:**

$$H_{tot} = N \times E_{tot}$$

where,

$H_{tot}$  = Total Harvest Level for Adult Walleyes;

$N$  = the estimated number of Adult Walleyes in the Walleye Lake System determined in accordance with Section IV of this Protocol; and

$E_{tot}$  = Total Allowable Annual Exploitation Rate as defined in Paragraph 5.1 of this Protocol.

VI. THRESHOLD LEVEL PROCEDURES FOR WALLEYE LAKE SYSTEMS

6.1. **Use of Threshold Level Procedures.** Unless one or more of the Tribes invokes Allocation-Based Procedures for a particular Walleye Lake System, the Threshold Level Procedures set forth in this Section VI shall be used if one or more Tribes authorizes its members to use Specially Regulated Fishing Methods in that Walleye Lake System.

**6.2. Objectives of Threshold Level Procedures; Methods for Achieving Objectives.** As set forth above, the foremost objective of Threshold Level Procedures is to maintain the total annual exploitation rate of Adult Walleyes by Tribal and State-licensed fishers in a Walleye Lake System at or below the Total Allowable Annual Exploitation Rate for that Walleye Lake System. A second objective is to maintain the total annual exploitation rates of other fish species in Walleye Lakes Systems at acceptable levels. A third objective of Threshold Level Procedures is to ensure that Tribal members have an opportunity to use Specially Regulated Fishing Methods in a Walleye Lake System to harvest Adult Walleyes and other fish species in that Walleye Lake System without requiring implementation of the more rigorous management practices required under Allocation-Based Procedures. These objectives are accomplished by: (1) setting a Threshold Exploitation Level with a corresponding Threshold Harvest Level in each Walleye Lake System, as set forth in Paragraphs 6.3 and 6.4 of this Protocol; (2) implementing a permit system that (a) controls harvest by limiting annual Fishing Effort by Tribal members using Specially Regulated Fishing Methods on each Walleye Lake System, such that the number of Adult Walleyes allowed for harvest using Specially Regulated Fishing Methods shall not exceed the Threshold Harvest Level for Adult Walleyes and (b) limits the use of Impoundment Nets and Long Seines to protect species other than walleye, both as set forth in Paragraph 6.5 of this Protocol; (3) applying daily bag limits, possession limits, and size limits, as set forth in Paragraph 11.3 of the Decree and Paragraph 6.5 and Section VIII of this Protocol; and (4) utilizing appropriate State management of State-licensed fishers to limit exploitation rates on Adult Walleyes by such fishers to the difference between the Total Allowable Annual Exploitation Rate for Adult Walleyes and the Threshold Exploitation Level, in the event that, on the basis of available information, the combined exploitation rates by State-

licensed fishers and Tribal fishers are expected to exceed the Total Allowable Annual Exploitation Rate.

6.3. **Threshold Exploitation Levels.** Except as provided below, the Threshold Exploitation Level for each Walleye Lake System, which shall be used to limit the annual Fishing Effort by Tribal members using Specially Regulated Fishing Methods, is:

(a) Ten percent (10%) of the estimated Adult Walleye population in Walleye Lake Systems of 1,000 surface acres or more, excluding tributaries, *provided* that, if the estimated Adult Walleyes population is *not* based on a Michigan regression equation under Paragraph 4.1 of this Protocol, an empirical population estimate under Paragraph 4.2 of this Protocol, or an alternative method under Paragraph 4.3 of this Protocol, the Threshold Exploitation Level for such lakes shall be six percent (6%) of the estimated Adult Walleye population in 2008, eight percent (8%) of the estimated Adult Walleye population in 2009, and ten percent (10%) of the estimated Adult Walleye population in 2010 and thereafter, and

(b) Five percent (5%) of the estimated Adult Walleye population in Walleye Lake Systems of less than 1,000 surface acres, excluding tributaries, in all years.

The Threshold Exploitation Level in a Walleye Lake System can be adjusted up or down by mutual agreement between the State and the Tribes. Requests for such an adjustment shall include the duration of the proposed change and the supporting biological documentation that demonstrates that the proposed change to the Threshold Exploitation Level will not result in a total annual exploitation rate that exceeds the Total Allowable Annual Exploitation Rate for Adult Walleyes. If a Tribe elects to fund a creel survey to obtain such information, the State shall cooperate in conducting the study. Requests to adjust a Threshold Exploitation Level shall be submitted in writing to the State and all Tribes by July 1 of the year preceding the effective

date of the proposed adjustment, or by such other date as may be mutually agreed upon by the State and the Tribes. Requests for an adjustment to a Threshold Exploitation Level shall be reviewed by State and Tribal biologists to ensure that any adjustment will protect the walleye population and populations of other fish species in that Walleye Lake System and complies with the objectives and rules of this Protocol. The Tribes and the State shall declare whether or not they agree with a requested adjustment to the Threshold Exploitation Level for a Walleye Lake System by December 15 of the year the request was received. If the Tribes and the State agree to adjust a Threshold Exploitation Level, the new level shall be recorded and shall be used in future management for the agreed-upon duration or until changed by the State and the Tribes under this Paragraph.

6.4. **Threshold Harvest Levels.** In order to apply the Fishing Effort limitations set forth in Paragraph 6.5 of this Protocol, the Threshold Exploitation Level for a Walleye Lake System shall be converted to a Threshold Harvest Level for that Walleye Lake System (*i.e.*, the number of Adult Walleyes that the Tribes can authorize their members to harvest using Specially Regulated Fishing Methods in that Walleye Lake System under Threshold Level Procedures). The calculation of the Threshold Harvest Level for a Walleye Lake System is shown in Equation 4.

**Equation 4 -- Threshold Harvest Level:**

$$H_{thl} = N \times E_{thl}$$

where,

$H_{thl}$  = Threshold Harvest Level;

$N$  = the estimated number of Adult Walleye in the Walleye Lake System, as determined in accordance with Section IV of this Protocol, and

$E_{thl}$  = the Threshold Exploitation Level for that Walleye Lake System, as determined in accordance with Paragraph 6.3.

**6.5. Fishing Effort Limitations under Threshold Level Procedures.**

(a) The Tribes shall limit their members' Fishing Effort for walleyes with Specially Regulated Fishing Methods in each Walleye Lake System subject to Threshold Level Procedures so that the number of Adult Walleyes allowed for harvest by Tribal members using such methods does not exceed the Threshold Harvest Level established for that Walleye Lake System under Paragraph 6.4. To achieve this objective, the Tribes shall require their members to obtain a Tribal permit for the use of Specially Regulated Fishing Methods that is specific to a Walleye Lake System and that specifies the starting date and time of each 24-hour period during which the permit is valid and a daily walleye bag limit. The number of walleyes allowed for harvest under each permit issued in accordance with this Subparagraph 6.5(a) shall equal the number of 24-hour periods for which the permit is valid times the daily walleye bag limit specified in the permit. The Tribes shall maintain a running tally of the number of walleyes allowed for harvest under such permits in each Walleye Lake System and, when the number of walleyes allowed for harvest under all such permits for a particular Walleye Lake System reaches the Threshold Harvest Level for that Walleye Lake System, the Tribes shall cease issuing permits for the use of Specially Regulated Fishing Methods to harvest walleyes in that Walleye Lake System.

(b) In addition to the limitation on the issuance of permits in Subparagraph 6.5(a), the Tribes shall limit the use of Impoundment Nets and Long Seines in each Walleye Lake System as provided in this Subparagraph 6.5(b). The Tribes shall limit each permit for the use of Impoundment Nets or Long Seines to the use of a single Impoundment Net

or a single Long Seine during one or more 24-hour periods. The total number of such 24-hour periods in all such permits in a particular Walleye Lake System shall be limited as follows:

i. No more than three (3) 24-hour periods per 100 surface acres per year in Walleye Lake Systems of 1,000 surface acres or more, excluding tributaries, rounded to the nearest whole number; and

ii. No more than one and one-half (1.5) 24-hour periods per 100 surface acres per year in Walleye Lake Systems of less than 1,000 surface acres, excluding tributaries, and rounded to the nearest whole number.

The Tribes shall maintain a running tally of the number of 24-hour periods in such permits for each Walleye Lake System and, when the number of such 24-hour periods under all such permits for a particular Walleye Lake System reaches the limit for that Walleye Lake System, the Tribes shall cease issuing permits for the use of Impoundment Nets or Long Seines for that Walleye Lake System.

(c) The provisions in Subparagraph 6.5(b) are intended to limit the amount of Fishing Effort with Impoundment Nets and Long Seines in order to protect species of fish other than walleyes. The Tribes and the State may by mutual agreement provide for an alternative mechanism to protect species of fish other than walleye in lieu of those provisions. A proposal to adopt an alternative mechanism to protect species of fish other than walleyes in a particular Walleye Lake System or Systems, including the supporting biological documentation and proposed duration of the alternative mechanism, shall be made in writing and sent to the State and all Tribes by July 1 of the year preceding the year in which the alternative mechanism is to be implemented, or by such other date as may be mutually agreed upon by the State and the Tribes. The Tribes and the State shall declare whether they agree to implement the proposal by

December 15 of the year the proposal was made. If the Tribes and the State agree to implement the proposal, the alternative mechanism shall be used for the particular Walleye Lake System(s) for which it was proposed for the agreed-upon duration or until changed by the State and the Tribes under this Paragraph.

(d) The permit system, running tally of walleyes authorized for harvest, and running tally of 24-hour periods under Impoundment Net and Long Seine permits shall be coordinated among the Tribes to ensure that the combined Tribal harvest of walleyes that is authorized using Specially Regulated Fishing Methods does not exceed the Threshold Harvest Level for a Walleye Lake System and that the number of 24-hour periods in which Impoundment Nets or Long Seines may be used does not exceed the applicable limitation under Subparagraph 6.5(b).

(e) In determining whether to cease issuing permits for a specific Walleye Lake System, the Tribes may take into consideration reliable information regarding the actual harvest of walleyes in a Walleye Lake System. Reliable information, with respect to Tribal harvests with Specially Regulated Fishing Methods, as used in this Paragraph, is limited to: (1) the release or cancellation of a permit before the effective date of the permit; (2) information verified on-site by professional biological or law enforcement personnel; or (3) other information as mutually agreed by the Tribes and the State. In issuing permits under the provisions of this Paragraph 6.5, the Tribes may determine on a case-by-case basis the walleye bag limit of each permit in order to best achieve Tribal management objectives.

**6.6. Permit Requirements under Threshold Level Procedures.** The permits required under Threshold Level Procedures shall include the name of the Tribal member, the date(s) and 24- hour period(s) during which the permit is effective, the Walleye Lake System for

which the permit is issued, and the walleye bag limit for each 24-hour period authorized under the permit. The permits and the walleye bag limits shall be consistent with the management objectives of the Tribal permit system and the Threshold Level Procedures. The Tribes shall require their members to have such permits in possession when Fishing under the provisions of the Threshold Level Procedures. The Tribes shall not issue more than one such permit per member for use in any Walleye Lake System during a 24-hour period.

6.7. **Monitoring Harvest under Threshold Level Procedures.** The Tribes shall require that Tribal members report harvests using Specially Regulated Fishing Methods under Threshold Level Procedures as a condition of receiving a fishing permit. The Tribes shall provide an annual summary of those harvest reports to the State and all Tribes by January 31 of the year following the harvests, or by such other date as may be mutually agreed upon by the State and the Tribes. This annual summary shall include the number of permits issued and the total number of fish harvested by species, gear type, and Tribe for each Walleye Lake System.

6.8. **Monitoring Fishing Activity under Threshold Level Procedures.** The Tribes shall monitor Fishing activity by Tribal members using Specially Regulated Fishing Methods under Threshold Level Procedures as necessary to ensure compliance with Tribal Fishing regulations and Tribal permits. The Tribes shall use professional biological or law enforcement personnel when monitoring of Fishing activity is deemed necessary under this Paragraph 6.8. If violations are detected, they shall be handled in accordance with law enforcement procedures described in Section XXIV (Law Enforcement) of the Decree.

6.9. **Monitoring Fish Populations under Threshold Level Procedures.** Biological surveys of the population of Adult Walleyes are not required under Threshold Level Procedures.

## VII. ALLOCATION-BASED PROCEDURES

7.1. **Use of Allocation-Based Procedures.** If one or more of the Tribes seeks to authorize its members to use Specially Regulated Fishing Methods in a Walleye Lake System in excess of the Threshold Harvest Level for that Walleye Lake System, or if one or more of the Tribes seeks to authorize Fishing Effort with Impoundment Nets or Long Seines for species other than walleyes in excess of the limitations set forth under Subparagraph 6.5(b) of this Protocol or those adopted under Subparagraph 6.5(c) of this Protocol, then Allocation-Based Procedures shall be used in that Walleye Lake System in accordance with this Section VII. The primary goal of Allocation-Based Procedures is to protect fish populations from Overfishing so that fishery resources are maintained in a healthy condition for the benefit of all current and future State and Tribal users, while at the same time providing the Tribes and the State with flexibility in managing Fishing activity of Tribal and State fishers and enabling the Tribes and the State each to harvest a specific species of fish in a Walleye Lake System at up to 50% of the Total Allowable Annual Exploitation Rate for that species .

7.2. **Objectives of Allocation-Based Procedures; Methods for Achieving Objectives.** As set forth above, the foremost objective of Allocation-Based Procedures is to maintain the total annual exploitation rate of Adult Walleyes by Tribal and State-licensed fishers in a Walleye Lake System at or below the Total Allowable Annual Exploitation Rate for that Walleye Lake System. A second objective is to maintain the total annual exploitation rates of other fish species in Walleye Lakes Systems at acceptable levels. A third objective of Allocation-Based Procedures is to enable Tribal members to harvest Adult Walleyes and other species of fish using Specially Regulated Fishing Methods in a Walleye Lake System in excess

of the Threshold Harvest Level for that Walleye Lake System. These objectives are accomplished by: (1) determining the Total Harvest Level that can occur in a Walleye Lake System in accordance with Section V of this Protocol, except that, if the estimated number of Adult Walleyes is *not* based on a Michigan regression equation under Paragraph 4.1 of this Protocol, an empirical population estimate under Paragraph 4.2 of this Protocol, or an alternative method that does not require the application of a percentage reduction for the value of N in Equation 3 when Fishing under Allocation-Based Procedures in Walleye Lake Systems of 1,000 surface acres or more (excluding tributaries) under Paragraph 4.3 of this Protocol, the value of “N” in Equation 3 shall be 70% of the estimated number of Adult Walleyes for lakes of 1,000 surface acres or more (excluding tributaries) and 50% of the estimated number of Adult Walleyes for lakes of less than 1,000 surface acres (excluding tributaries); (2) setting harvest limits for Tribal members using Specially Regulated Fishing Methods and for State-licensed fishers using other fishing methods, as set forth in Paragraph 7.4 of this Protocol; (3) completely monitoring harvests to ensure compliance with such harvest limits, as set forth in Paragraph 7.6 of this Protocol; and (4) applying daily bag limits, possession limits, and size limits, as set forth in Paragraph 11.3 of the Decree and Section VIII of this Protocol. In the event that the State or one or more Tribes believe these methods are insufficient to protect walleye or other species of fish in a Walleye Lake System, it shall propose additional methods to protect such fish, and the State and the Tribes shall consult for the purpose of developing such methods as provided in Paragraph 7.3 of this Protocol.

7.3. **Invoking Allocation-Based Procedures.** One or more Tribes may invoke Allocation-Based Procedures for any individual Walleye Lake System by declaring its intention to authorize the use of Specially Regulated Fishing Methods to harvest a number of Adult

Walleyes that exceeds the Threshold Harvest Level for that Walleye Lake System. Under Allocation-Based Procedures, the Tribes may declare their intent to authorize the use of Specially Regulated Fishing Methods to harvest up to 50% of the Total Harvest Level for a Walleye Lake System, less a reasonable estimate (based on information obtained under Subparagraph 7.6(b) of this Protocol) of the harvest by Tribal members using other fishing methods. The Tribe(s) shall notify the State of its intention to invoke Allocation-Based Procedures on any Walleye Lake System by July 1 of the year preceding the year in which the proposed harvests are to occur, or by such other date as may be mutually agreed upon by the State and the Tribes. Upon delivery and receipt of such notice, the State and the Tribes shall prepare to implement the Allocation-Based Procedures described in this Section VII, including, if necessary, the development of methods to protect species of fish other than walleye in Walleye Lake Systems.

**7.4. Harvest Regulations under Allocation-Based Procedures.**

(a) **State and Tribal Regulations.** After one or more Tribes declare its intent to invoke Allocation-Based Procedures in a Walleye Lake System, the State and the Tribes shall confer to determine the appropriate levels of harvest for Adult Walleyes and other species of fish by Tribal fishers using Specially Regulated Fishing Methods and by State-licensed fishers, including, if necessary, reductions in harvests by State-licensed fishers. Such levels of harvest for Adult Walleyes and other species of fish shall be based on: (1) the Total Harvest Level that can occur in a Walleye Lake System as determined in accordance with Section V and Paragraph 7.2 of this Protocol; and (2) the percentage of the Total Harvest Level declared by the Tribes under Paragraph 7.3 of this Protocol. In order to protect the resource, the State and the Tribes shall then take steps to regulate harvests by their respective fishers to remain within their

designated harvest levels, and to assess the walleye population, as necessary. The Parties understand that in all likelihood it may take up to three years to modify existing regulations governing State-licensed fishers to achieve the appropriate harvest levels for such fishers; however, best efforts shall be made to phase-in the necessary regulations as quickly as possible during any such period.

(b) **Non-Participating Tribes.** In the event that a Tribe decides not to participate in the additional management actions required under Allocation-Based Procedures, that Tribe shall restrict its members' Fishing Effort with Specially Regulated Fishing Methods in that Walleye Lake System in the manner set forth in Paragraph 6.5 of this Protocol so that the number of walleye allowed for harvest by its members using Specially Regulated Fishing Methods does not exceed one-fifth of the Threshold Harvest Level for that Walleye Lake System, *provided* that in applying Subparagraph 6.5(e) of this Protocol under these circumstances, "reliable information" shall be limited to: (1) the release or cancellation of a permit before the effective date of the permit; and (2) information obtained through voluntary compliance with the monitoring provisions set forth in Subparagraph 7.6(a) of this Protocol.

(c) **List of Lakes Subject to Allocation-Based Procedures.** A final list of all Walleye Lake Systems declared for management under Allocation-Based Procedures shall be developed by February 15 of the year in which Fishing under Allocation-Based Procedures will occur, or by such other date as may be mutually agreed upon by the State and the Tribes. The list shall indicate the maximum number of Adult Walleyes available for harvest by Tribal members using Specially Regulated Fishing Methods and other fishing methods, and the maximum number of Adult Walleyes that will be available for harvest by State-licensed fishers in each year that a Walleye Lake System is on the list. The Tribes are responsible for

determining allocations among the Tribes on Walleye Lake Systems declared for management under Allocation-Based Procedures. Annual allocations among the Tribes of harvests with Specially Regulated Fishing Methods can vary as the Tribes desire, but the sum of such allocations cannot exceed 50% of the Total Harvest Level less a reasonable estimate (based on information obtained under Subparagraph 7.6(b) of this Protocol) of the harvest by Tribal members using other Fishing methods.

(d) **Removal of Walleye Lake Systems from Allocation-Based Procedures.**

Walleye Lake Systems shall be removed automatically from the Allocation-Based Procedures list for the upcoming year if the Tribes do not declare their intention to harvest Adult Walleyes in excess of the Threshold Harvest Level using Specially Regulated Fishing Methods by July 1 of the year preceding the year in which the proposed harvests are to occur, or by such other date as may be mutually agreed upon by the State and the Tribes. In addition, if Tribal members did not attempt to harvest walleyes using Specially Regulated Fishing Methods from a Walleye Lake System that had been declared for Allocation-Based Procedures in the previous year, that Walleye Lake System shall be automatically removed from the Allocation-Based Procedures list for the following year. When a Walleye Lake System is removed from the Allocation-Based Procedures list, it reverts to being managed under Threshold Level Procedures.

7.5. **Permit System under Allocation-Based Procedures.** The Tribes shall require their members to obtain permits to fish with Specially Regulated Fishing Methods under Allocation-Based Procedures. The permits shall include the name of the Tribal member, the starting date and time of the 24-hour period(s) during which the permit is effective, the Walleye Lake System for which the permit is issued, and the walleye bag limit for each 24-hour period authorized under the permit. The permits and the walleye bag limit shall be consistent with the

management objectives of the Tribal permit system and the Allocation-Based Procedures. The Tribes shall require their members to have such permits in possession when Fishing under the provisions of the Allocation-Based Procedures. The Tribes shall not issue more than one such permit per member for use in any Walleye Lake System during a 24-hour period.

7.6. **Monitoring Harvest under Allocation-Based Procedures.**

(a) **Fish Harvested with Specially Regulated Fishing Methods.** The Tribe or Tribes that invokes Allocation-Based Procedures for a Walleye Lake System shall be responsible for monitoring the Fishing activity and harvests of the members of all the Tribes Fishing under Allocation-Based Procedures in that Walleye Lake System with Specially Regulated Fishing Methods. On each Walleye Lake System that is being managed under Allocation-Based Procedures, the responsible Tribe(s) shall identify specific sites on the shore of the Walleye Lake System being Fished where all Tribal fishers of the Tribes that invoked Allocation-Based Procedures shall check in before Fishing and check out after Fishing. At the time of check out, all Tribal fishers of the Tribes that invoked Allocation-Based Procedures shall present for examination all fish harvested. All fish harvested by Tribal members using Specially Regulated Fishing Methods under Allocation-Based Procedures shall be identified by species, counted, and recorded, and a sample of fish of each species harvested each day shall be measured, by professional biological or law enforcement personnel of the Tribe(s) that invoked Allocation-Based Procedures.

(b) **Fish Harvested with Fishing Methods Other Than Specially Regulated Fishing Methods.** The State shall conduct creel surveys to estimate fish harvested with Hook and Line Gear, whether by Tribal or State-licensed fishers, on Walleye Lake Systems declared for Allocation-Based Procedures, with the same frequency as the fish population

assessments required under Paragraph 7.7. The Tribes shall encourage and facilitate their members' cooperation with such surveys. The Tribes shall estimate the number of fish harvested by their members who use Fishing methods other than Specially Regulated Fishing Methods or Hook-and-Line-Gear in accordance with Paragraph 11.3 of the Decree.

(c) **Data Sharing.** The Tribes and the State shall share data regarding the total annual harvest by all Tribal and State-licensed fishers and information regarding the Fishing methods used by January 31 of the year following harvest, or by such other date as may be mutually agreed upon by the State and the Tribes.

**7.7. Monitoring Fish Populations under Allocation-Based Procedures.** Empirical population estimates of Adult Walleyes must be conducted as frequently as determined necessary by the Tribes and the State on Walleye Lake Systems declared for Allocation-Based Procedures by one or more Tribes. If an empirical population estimate of Adult Walleyes is deemed necessary, then the Tribe(s) that invoked Allocation-Based Procedures and the State shall share equally in obtaining the empirical population estimate of Adult Walleyes, unless otherwise mutually agreed upon by the Tribes and State. Surveys shall be conducted by professional biological personnel of the State and those Tribe(s) that invoked Allocation-Based Procedures. Unless the State and the Tribes mutually agree otherwise, they shall use the empirical population estimate of the Adult Walleye population in such Walleye Lake Systems in accordance with Section IV of this Protocol, except that an empirical population estimate of Adult Walleyes for a Walleye Lake System shall be recorded and shall be used for four years, or until an empirical population estimate of Adult Walleyes is calculated from a new population assessment to replace it. After four years, an empirical population estimate of the Adult Walleyes for a Walleye Lake

System shall be discarded and shall be replaced with the population estimate of Adult Walleyes using the procedures as set forth in Paragraph 4.1 of this Protocol.

#### VIII. BAG, POSSESSION, AND SIZE LIMITS AND SEASONS

The Tribes shall use bag, possession, and size limits and seasons to regulate their members' harvest of Adult Walleyes and other species of fish with Specially Regulated Fishing Methods in a Walleye Lake System in accordance with Paragraph 11.3 of the Decree, including daily bag and minimum size limits for the harvest of trout, bass, northern pike, and muskellunge and daily bag and possession limits for the harvest of bluegill, sunfish, crappie, lake whitefish, and yellow perch. In addition, the Tribes and the State shall impose at least a 14-inch minimum size limit on all walleye harvests. The Tribes shall require Tribal members who inadvertently spear walleyes that are less than the minimum size limit to retain them as part of the daily bag limit without penalty to the fisher, except that the Tribes shall prohibit the intentional targeting of walleyes below the legal size limit. The minimum size limit required by this Section VIII may be changed by mutual agreement of the Tribes and the State.

Table 1. – List of Walleye Lake Systems in the 1836 Ceded Territory with the initial determination of the source of recruitment and the Threshold Harvest Levels.

| Walleye Lake System Name          | County                      | Lake Surface Area (Acres) | Estimated Number of Adult Walleyes <sup>1</sup> | Source of Recruitment <sup>2</sup> | Threshold Harvest Level (Numbers of Adult Walleyes) |
|-----------------------------------|-----------------------------|---------------------------|---|------------------------------------|---|
| <b>Lakes ≥ 1,000 acres</b>        |                             |                           |   |                                    |   |
| Houghton Lake                     | Roscommon                   | 20,075                    | 59,297  | n                                  | 5,930   |
| Burt Lake                         | Cheboygan                   | 17,395                    | 42,032 <sup>3</sup>                             | n                                  | 4,203   |
| Charlevoix, Lake                  | Charlevoix                  | 17,268                    | 9,859 <sup>3</sup>                              | s                                  | 986   |
| Mullett Lake                      | Cheboygan                   | 16,704                    | 49,740  | n                                  | 4,974   |
| Big Manistique Lake               | Mackinac                    | 10,346                    | 11,856 <sup>3</sup>                             | n                                  | 1,186   |
| Black Lake                        | Cheboygan                   | 10,113                    | 14,013 <sup>3</sup>                             | n                                  | 1,401   |
| Indian Lake                       | Schoolcraft                 | 8,647                     | 26,506  | n                                  | 2,651   |
| Leelanau, Lake                    | Leelanau                    | 8,607                     | 54,665 <sup>3</sup>                             | n                                  | 5,467   |
| Grand Lake                        | Presque Isle                | 5,822                     | 4,641 <sup>3</sup>                              | n                                  | 464   |
| Long Lake                         | Alpena                      | 5,342                     | 3,695 <sup>3</sup>                              | n                                  | 370   |
| Hamlin Lake                       | Mason                       | 4,622                     | 5,467   | s                                  | 547   |
| Brevoort Lake                     | Mackinac                    | 4,315                     | 5,140   | s                                  | 514   |
| Muskegon Lake                     | Muskegon                    | 4,232                     | 37,890 <sup>3</sup>                             | s                                  | 3,789   |
| South Manistique Lake             | Mackinac                    | 4,133                     | 7,898 <sup>3</sup>                              | n                                  | 790   |
| Crooked-Pickerel lakes            | Emmet                       | 3,434                     | 10,963  | n                                  | 1,096   |
| Long Lake                         | Grand Traverse              | 2,911                     | 9,361   | n                                  | 936   |
| Hardy Dam Pond                    | Newaygo                     | 2,773                     | 8,936   | n                                  | 894   |
| Skegemog, Lake                    | Kalkaska/<br>Grand Traverse | 2,766                     | 3,449   | s                                  | 345   |
| Mitchell, Lake                    | Wexford                     | 2,649                     | 8,554   | n                                  | 855   |
| White Lake                        | Muskegon                    | 2,535                     | 3,190   | s                                  | 319   |
| Platte Lake                       | Benzie                      | 2,532                     | 3,186   | s                                  | 319   |
| Portage Lake                      | Manistee                    | 2,116                     | 2,712   | s                                  | 271   |
| Missaukee, Lake                   | Missaukee                   | 2,035                     | 2,619   | s                                  | 262   |
| Milakokia Lake                    | Mackinac                    | 2,031                     | 6,635   | n                                  | 664   |
| Otsego Lake                       | Otsego                      | 2,013                     | 2,594   | s                                  | 259   |
| Margrethe, Lake                   | Crawford                    | 1,922                     | 2,488   | s                                  | 249   |
| Paradise, Lake                    | Emmet                       | 1,912                     | 6,263   | n                                  | 626   |
| Bear Lake                         | Manistee                    | 1,873                     | 2,431   | s                                  | 243   |
| Bellaire, Lake                    | Antrim                      | 1,789                     | 5,877   | n                                  | 588   |
| North Manistique Lake             | Luce                        | 1,709                     | 1,527 <sup>3</sup>                              | n                                  | 153   |
| Intermediate Lake                 | Antrim                      | 1,571                     | 2,077   | s                                  | 208   |
| Hodenpyl Dam Pond                 | Wexford                     | 1,530                     | 5,061   | n                                  | 506   |
| Au Train (Cleveland Cliffs) Basin | Alger                       | 1,489                     | 4,932   | n                                  | 493   |
| McDonald Lake                     | Schoolcraft                 | 1,441                     | 1,922   | s                                  | 192   |
| West Twin Lake                    | Montmorency                 | 1,306                     | 1,759   | s                                  | 176   |
| Cadillac, Lake                    | Wexford                     | 1,172                     | 3,923   | n                                  | 392   |
| Croton Dam Pond                   | Newaygo                     | 1,129                     | 3,785   | n                                  | 379   |
| Millecoquins Lake                 | Mackinac                    | 1,123                     | 1,537   | s                                  | 154   |
| Tippy Dam Pond                    | Manistee                    | 1,086                     | 3,647   | n                                  | 365 <sup>4</sup>                                    |

Table 1. – Continued.

| Walleye Lake System Name              | County         | Lake Surface Area (Acres) | Estimated Number of Adult Walleyes <sup>1</sup> | Source of Recruitment <sup>2</sup> | Threshold Harvest Level (Numbers of Adult Walleyes) |
|---------------------------------------|----------------|---------------------------|---|------------------------------------|---|
| <b>Lakes ≥ 1,000 acres</b>            |                |                           |   |                                    |   |
| Manistee Lake                         | Manistee       | 1,051                     | 3,535   | n                                  | 354   |
| <b>Lakes &lt; 1000 acres</b>          |                |                           |   |                                    |   |
| Big Star Lake                         | Lake           | 890                       | 1,247   | s                                  | 62  |
| Gulliver Lake                         | Schoolcraft    | 881                       | 1,236   | s                                  | 62  |
| Manistee Lake                         | Kalkaska       | 874                       | 1,227   | s                                  | 61  |
| Au Train Lake                         | Alger          | 845                       | 2,869   | n                                  | 143   |
| Caribou Lake                          | Chippewa       | 829                       | 2,817   | n                                  | 141   |
| Fremont Lake                          | Newaygo        | 825                       | 1,165   | s                                  | 58  |
| East Twin Lake                        | Montmorency    | 820                       | 1,159   | s                                  | 58  |
| Chippewa Lake                         | Mecosta        | 791                       | 1,122   | s                                  | 56  |
| Beaver Lake                           | Alger          | 783                       | 2,668   | n                                  | 133   |
| Muskallonge Lake                      | Luce           | 762                       | 2,599   | n                                  | 130   |
| Silver Lake                           | Oceana         | 672                       | 969   | s                                  | 48  |
| Mona Lake                             | Muskegon       | 656                       | 949   | s                                  | 47  |
| Silver Lake                           | Grand Traverse | 609                       | 887   | s                                  | 44  |
| Fife Lake                             | Grand Traverse | 606                       | 884   | s                                  | 44  |
| Pere Marquette Lake                   | Mason          | 606                       | 884   | s                                  | 44  |
| Upper Herring Lake                    | Benzie         | 572                       | 839   | s                                  | 42  |
| Trout Lake                            | Chippewa       | 568                       | 1,963   | n                                  | 98  |
| Big Whitefish Lake                    | Montcalm       | 502                       | 746   | s                                  | 37  |
| Crooked Lake                          | Missaukee      | 490                       | 730   | s                                  | 37  |
| Round Lake                            | Delta          | 482                       | 720   | s                                  | 36  |
| Pentwater Lake                        | Oceana         | 482                       | 1,678   | n                                  | 84  |
| Lake Geneserath                       | Charlevoix     | 480                       | 717   | s                                  | 36  |
| Straits/Corner/Deep/Skeels Lake Chain | Delta          | 472                       | 706   | s                                  | 35  |
| Beaufort Lake                         | Baraga         | 467                       | 699   | s                                  | 35  |
| Little Lake                           | Marquette      | 460                       | 690   | s                                  | 35  |
| Lower Herring Lake                    | Benzie         | 450                       | 677   | s                                  | 34  |
| Spider Lake                           | Grand Traverse | 445                       | 1,554   | n                                  | 78  |
| Horsehead Lake                        | Mecosta        | 443                       | 667   | s                                  | 33  |
| Lincoln Lake                          | Kent           | 417                       | 632   | s                                  | 32  |
| Eight Point Lake                      | Clare          | 416                       | 1,457   | n                                  | 73  |
| Long Lake                             | Cheboygan      | 379                       | 494 <sup>3</sup>                                | n                                  | 25  |
| Rose Lake                             | Osceola        | 373                       | 572   | s                                  | 29  |
| Sixmile Lake                          | Antrim         | 369                       | 566   | s                                  | 28  |
| Round Lake                            | Emmet          | 353                       | 544   | s                                  | 27  |
| Big Bear Lake                         | Otsego         | 344                       | 532   | s                                  | 27  |
| Rogers Impundment                     | Mecosta        | 337                       | 1,192   | n                                  | 60  |

Table 1. – Continued.

| Walleye Lake System Name     | County         | Lake Surface Area (Acres) | Estimated Number of Adult Walleyes <sup>1</sup> | Source of Recruitment <sup>2</sup> | Threshold Harvest Level (Numbers of Adult Walleyes) |
|------------------------------|----------------|---------------------------|---|------------------------------------|---|
| <b>Lakes &lt; 1000 acres</b> |                |                           |   |                                    |   |
| Big Blue Lake                | Muskegon       | 336                       | 521   | s                                  | 26  |
| Stella Lake                  | Alger          | 332                       | 515   | s                                  | 26  |
| Thunder Lake                 | Schoolcraft    | 331                       | 514   | s                                  | 26  |
| Birch Lake                   | Antrim         | 325                       | 505   | s                                  | 25  |
| Lake Esau                    | Presque Isle   | 319                       | 497   | s                                  | 25  |
| Boardman Lake                | Grand Traverse | 317                       | 494   | s                                  | 25  |
| Lake Mecosta                 | Mecosta        | 312                       | 1,107   | n                                  | 55  |
| Pickerel Lake                | Newaygo        | 308                       | 481   | s                                  | 24  |
| Pike Lake                    | Luce           | 286                       | 1,019   | n                                  | 51  |
| Coldwater Lake               | Isabella       | 285                       | 449   | s                                  | 22  |
| Long Lake                    | Montmorency    | 279                       | 995   | n                                  | 50  |
| Bodi Lake                    | Luce           | 275                       | 435   | s                                  | 22  |
| Bass Lake                    | Marquette      | 273                       | 432   | s                                  | 22  |
| Deer Lake                    | Alger          | 266                       | 422   | s                                  | 21  |
| Lake Sapphire                | Missaukee      | 246                       | 394   | s                                  | 20  |
| Schweitzer Cr Flowage        | Marquette      | 245                       | 392   | s                                  | 20  |
| Hart Lake                    | Oceana         | 236                       | 379   | s                                  | 19  |
| Wolf Lake                    | Muskegon       | 225                       | 363   | s                                  | 18  |
| Big Lake                     | Osceola        | 212                       | 344   | s                                  | 17  |
| Long Lake                    | Clare          | 211                       | 762   | n                                  | 38  |
| Rainy Lake                   | Presque Isle   | 202                       | 730   | n                                  | 37  |
| Bills Lake                   | Newaygo        | 200                       | 327   | s                                  | 16  |
| Clifford Lake                | Montcalm       | 195                       | 320   | s                                  | 16  |
| Petes Lake                   | Schoolcraft    | 194                       | 703   | n                                  | 35  |
| Bass Lake                    | Kent           | 188                       | 682   | n                                  | 34  |
| School Section Lake          | Oceana         | 187                       | 308   | s                                  | 15  |
| Frenchmans Lake              | Chippewa       | 185                       | 305   | s                                  | 15  |
| Little Whitefish Lake        | Montcalm       | 180                       | 297   | s                                  | 15  |
| Monocle Lake                 | Chippewa       | 172                       | 626   | n                                  | 31  |
| Little Brevoort Lake         | Mackinac       | 163                       | 595   | n                                  | 30  |
| Nichols Lake                 | Newaygo        | 153                       | 257   | s                                  | 13  |
| Bass Lake                    | Luce           | 144                       | 529   | n                                  | 26  |
| Littlefield Lake             | Isabella       | 140                       | 237   | s                                  | 12  |
| Steuben Lake                 | Schoolcraft    | 136                       | 231   | s                                  | 12  |
| Robinson Lake                | Oceana         | 134                       | 228   | s                                  | 11  |
| Pleasant Lake                | Wexford        | 130                       | 222   | s                                  | 11  |
| Gooseneck Lake               | Delta          | 128                       | 219   | s                                  | 11  |
| Gemini Lakes                 | Schoolcraft    | 128                       | 219   | s                                  | 11  |
| East Lake                    | Luce           | 125                       | 214   | s                                  | 11  |
| Ocqueoc Lake                 | Presque Isle   | 125                       | 462   | n                                  | 23  |
| Big Lake                     | Otsego         | 124                       | 213   | s                                  | 11  |

Table 1. – Continued.

| Walleye Lake System Name     | County                | Lake Surface Area (Acres) | Estimated Number of Adult Walleyes <sup>1</sup> | Source of Recruitment <sup>2</sup> | Threshold Harvest Level (Numbers of Adult Walleyes) |
|------------------------------|-----------------------|---------------------------|---|------------------------------------|---|
| <b>Lakes &lt; 1000 acres</b> |                       |                           |   |                                    |   |
| School Section Lake          | Mecosta               | 122                       | 210   | s                                  | 11  |
| Kingston Lake                | Alger                 | 122                       | 451   | n                                  | 23  |
| Hackert Lake                 | Mason                 | 120                       | 207   | s                                  | 10  |
| Ess Lake                     | Montmorency           | 119                       | 440   | n                                  | 22  |
| Pretty Lake                  | Mecosta               | 116                       | 201   | s                                  | 10  |
| Long Lake                    | Mason                 | 107                       | 398   | n                                  | 20  |
| Boot Lake                    | Schoolcraft           | 106                       | 185   | s                                  | 9   |
| Lake Twentyseven             | Otsego                | 106                       | 394   | n                                  | 20  |
| Crockery Lake                | Ottawa                | 104                       | 182   | s                                  | 9   |
| Culhane Lake                 | Luce                  | 100                       | 176   | s                                  | 9   |
| <b>Totals</b>                | <b>1836 Territory</b> | <b>218,343</b>            | <b>508,507</b>                                  |                                    | <b>47,713</b>                                       |

<sup>1</sup> Unless otherwise indicated, the estimates of population size are based on 2007 Wisconsin Regression Equations for lakes with walleye populations in which the primary recruitment sources are either natural reproduction or stocked fish, whichever is appropriate.

<sup>2</sup> n = walleye recruitment is 50% or more from natural reproduction or walleye recruitment composition from naturally produced and stocked walleyes is unknown; s = walleye recruitment is more than 50% from stocked walleyes.

<sup>3</sup> Estimate of population size was based on a recent biological survey conducted by the Michigan Department of Natural Resources or the Tribes within the past 5 years.

<sup>4</sup> The State and the Little River Band of Ottawa Indians agree to cooperate in jointly conducting a population assessment at Tippy Dam Pond within two years of the entry of this Decree.

## Appendix B2

### PROTOCOL FOR THE TRIBES' AUTHORIZATION OF THEIR MEMBERS' USE OF IMPOUNDMENT NETS AND LONG SEINES IN NON-WALLEYE LAKE SYSTEMS

This Protocol is adopted in accordance with Section XII of the Decree. The provisions of this Protocol are intended to facilitate implementation of Section XII of the Decree but shall not relieve any party of any obligation it has under the Decree. In the event of any inconsistency between the provisions of the Decree and the provisions of this Protocol, the provisions of the Decree shall be controlling. Except as authorized by this Protocol or otherwise authorized in the Decree or by mutual agreement of the Tribes and the State, the Tribes shall prohibit their members from using Impoundment Nets or Long Seines in Non-Walleye Lake Systems. However, notwithstanding any other provision of this Protocol, if the State permits State licensees to use Impoundment Nets or Long Seines in Non-Walleye Lake Systems: (1) the Tribes may permit their members to use Impoundment Nets or Long Seines subject to regulations that are no less restrictive than applicable State regulations; and (2) the Tribes and the State shall make appropriate adjustments, as may be necessary, to the provisions of this Protocol.

#### I. INTRODUCTION

1.1. **Use of Impoundment Nets and Long Seines in Non-Walleye Lake Systems.** In accordance with Paragraphs 12.1 and 12.3 of the Decree, the Tribes may authorize their members to use Impoundment Nets and Long Seines throughout Non-Walleye Lake Systems as provided in Protocol described in this Appendix B2, *provided* that the Tribes shall not authorize their members to use Impoundment Nets or Long Seines in tributaries to Non-Walleye Lake Systems except where the use of such gear is permitted by State law or Paragraph 11.4 of the Decree. Short Seines are not subject to the provisions of this Protocol.

1.2. **Tribal Authorization of Fishing with Methods Other Than Impoundment Nets and Long Seines Not Restricted.** Except as provided in Section VI of this Protocol, the Tribes' authorization of their members' use of fishing methods other than Impoundment Nets and Long Seines in Non-Walleye Lake Systems is not limited by this Protocol.

## II. DEFINITIONS

As used in this Protocol, the terms defined in Section III (Definitions) of the Decree shall have the meanings ascribed to them in that Section and the terms defined in Section II (Definitions) of Appendix B1 shall have the meanings ascribed to them in that Section.

## III. NON-WALLEYE LAKE SYSTEMS

All Lake Systems that are not being managed as Walleye Lake Systems under Section III (Walleye Lake Systems) of Appendix B1 shall be managed as Non-Walleye Lake Systems under this Appendix B2.

## IV. INTERIM THRESHOLD LEVEL PROCEDURES FOR THE TRIBES' AUTHORIZATION OF THEIR MEMBERS USE OF IMPOUNDMENT NETS OR LONG SEINES IN NON-WALLEYE LAKE SYSTEMS

4.1. **Application of Interim Threshold Level Procedures.** Unless one or more of the Tribes invokes Allocation-Based Procedures for a Non-Walleye Lake System, the Tribes' authorization of their members' use of Impoundment Nets or Long Seines in Non-Walleye Lake Systems shall be subject to the Interim Threshold Level Procedures set forth in this Section IV.

4.2. **Objectives of the Interim Threshold Level Procedures; Methods for Achieving Objectives.** The foremost objective of Interim Threshold Level Procedures is to maintain the total annual exploitation rate of all species of fish in Non-Walleye Lake Systems at acceptable levels. A second objective of Interim Threshold Level Procedures is to ensure that Tribal members have an opportunity to use Impoundment Nets and Long Seines to harvest fish

in Non-Walleye Lake Systems without requiring implementation of the more rigorous management practices that will be required under Allocation-Based Procedures. These objectives are accomplished by: (1) implementing a permit system that controls harvest by limiting annual Fishing Effort by Tribal members using Impoundment Nets and Long Seines on each Non-Walleye Lake System, as set forth in Paragraph 4.4 of this Protocol; and (2) applying daily bag limits, possession limits, and size limits, as set forth in Paragraph 11.3 of the Decree and Section VI of this Protocol.

**4.3. Fishing Effort Limitations under Interim Threshold Level Procedures.** The Tribes shall limit their members' Fishing Effort with Impoundment Nets and Long Seines in each Non-Walleye Lake System in order to protect the fish populations in those Systems. The premise for these Fishing Effort limitations is that the Fishing Effort limitations under the Threshold Level Procedures, as set forth in Section VI of Appendix B1, are adequate to protect non-walleye species in Walleye Lake Systems and should likewise be adequate to protect non-walleye species in Non-Walleye Lake Systems. To achieve this objective, the Tribes shall require their members to obtain a Tribal permit for the use of Impoundment Nets and Long Seines that is specific to a Non-Walleye Lake System and that specifies the starting date and time of each 24-hour period during which the permit is valid. Fishing Effort with Impoundment Nets and Long Seines on a Non-Walleye Lake System shall be limited in accordance with Paragraph 4.4.

**4.4. Fishing Effort Limitations under Interim Threshold Level Procedures.** The Tribes shall limit the use of Impoundment Nets and Long Seines in each Non-Walleye Lake System as set forth in this Paragraph 4.4. The Tribes shall limit each permit for the use of Impoundment Nets or Long Seines to the use of a single Impoundment Net or a single Long

Seine during one or more 24-hour period(s). The total number of such 24-hour periods in all such permits in a particular Non-Walleye Lake System shall be limited as follows:

a. No more than three (3) 24-hour periods per 100 surface acres per year in Non-Walleye Lake Systems of 1,000 surface acres or more, excluding tributaries, rounded to the nearest whole number; and

b. No more than one and one-half (1.5) 24-hour periods per 100 surface acres per year in Non-Walleye Lake Systems of less than 1,000 surface acres, excluding tributaries, and rounded to the nearest whole number.

The Tribes shall maintain a running tally of the number of 24-hour periods in such permits for each Non-Walleye Lake System and, when the number of such 24-hour periods under all such permits for a particular Non-Walleye Lake System reaches the limit for that Non-Walleye Lake System, the Tribes shall cease issuing permits for the use of Impoundment Nets or Long Seines for that Non-Walleye Lake System.

4.5. **Permit Requirements.** The Tribes shall require their members to obtain a permit for the use of Impoundment Nets or Long Seines in a Non-Walleye Lake System that is specific to that Non-Walleye Lake System and that specifies the 24-hour period(s) during which the permit is valid. The permit shall include the name of the Tribal member, the date(s) and times during which the permit is effective, and the name of the Non-Walleye Lake System for which the permit is issued. The permit shall be consistent with the management objectives of the Tribal permit system and these Interim Threshold Level Procedures. The Tribes shall require their members to have such permits in possession when Fishing under the provisions of these Interim Threshold Level Procedures. The Tribes shall not issue more than one such permit per member for use in any Non-Walleye Lake System during a 24-hour period.

4.6. **Monitoring Harvest under Interim Threshold Procedures.** The Tribes shall require that Tribal members report harvests using Impoundment Nets or Long Seines under these Interim Threshold Level Procedures as a condition of receiving a permit. The Tribes shall provide an annual summary of these harvest reports to the State and all Tribes by January 31 of the year following the harvests, or by such other date as may be mutually agreed upon by the State and the Tribes. This annual summary shall include the number of permits issued and the total number of fish harvested by species, gear type, and Tribe for each Non-Walleye Lake System.

4.7. **Monitoring Fishing Activity under Interim Threshold Level Procedures.** The Tribes shall monitor Fishing activity by Tribal members using Impoundment Nets or Long Seines under Interim Threshold Level Procedures as necessary to ensure compliance with Tribal fishing regulations and Tribal permits. The Tribes shall use professional biological or law enforcement personnel when monitoring of Fishing activity is deemed necessary under this Paragraph. If violations are detected, they shall be handled in accordance with law enforcement procedures described in Section XXIV (Law Enforcement) of the Decree.

4.8 **Future Changes to Interim Threshold Level Procedures.** The State and the Tribes may modify these Interim Threshold Level Procedures by mutual agreement. Requests for such a modification, including the supporting biological documentation and the duration of the proposed change, shall be submitted in writing to the State and all Tribes by July 1 of the year preceding the effective date of the proposed modification, or by such other date as may be mutually agreed upon by the State and the Tribes. Requests for a modification to Interim Threshold Level Procedures shall be reviewed by State and Tribal biologists to ensure that the modification will protect the fish species in the affected Non-Walleye Lake System and complies

with the objectives and rules of this Protocol. The Tribes and the State shall declare whether or not they agree with a requested modification to Interim Threshold Level Procedures for a Non-Walleye Lake System by December 15 of the year the request was received. If the Tribes and the State agree to change Interim Threshold Level Procedures, the new procedures shall be recorded and shall be used for the particular Non-Walleye Lake System(s) for which it was proposed for the agreed-upon duration or until changed by the State and the Tribes under this Paragraph.

## V. ALLOCATION-BASED PROCEDURES

If one or more Tribes desires to authorize Fishing Effort in excess of the limitations set forth under Section IV of this Protocol, the Tribes and the State shall develop Allocation-Based Procedures to prevent the combined harvest by State and Tribal fishers from exceeding a mutually acceptable harvest level for any species. The primary goal of Allocation-Based Procedures is to protect fish populations from Overfishing so that fishery resources are maintained in a healthy condition for the benefit of all current and future State and Tribal users, while at the same time providing the Tribes and the State with flexibility in managing the Fishing activity of Tribal and State fishers. Under such Allocation-Based Procedures, the Tribes may declare their intent to authorize the use of Impoundment Nets and/or Long Seines to harvest up to 50% of the mutually acceptable harvest levels for any species in a Non-Walleye Lake System, less a reasonable estimate (based on information obtained under Paragraph 7.6(b) of Appendix B1 for that Non-Walleye Lake System) of the harvest by Tribal members using other fishing methods. A Tribe seeking to authorize Fishing Effort in excess of the limitations set forth under Section IV of this Protocol shall provide written notice to the State and all other Tribes at least one year preceding the year in which the Fishing Effort is to occur.

## VI. BAG, POSSESSION, AND SIZE LIMITS AND SEASONS

The Tribes shall use bag, possession, and size limits and seasons to regulate their members' harvest of species of fish with Impoundment Gear or Long Seines in a Non-Walleye Lake System in accordance with Paragraph 11.3 of the Decree, including daily bag, possession, and minimum size limits for the harvest of trout, bass, northern pike, and muskellunge and daily bag and possession limits for the harvest of bluegill, sunfish, crappie, lake whitefish, and yellow perch.

## Appendix C

### NON-MEMBER ASSISTANCE

***General Principle 1.*** A Tribal member may engage in Hunting, Fishing, Trapping, or Gathering with any other person who is not a member of an 1836 Treaty Tribe, provided that the non-member possesses a license from, and complies with, the laws of the State of Michigan governing the subject activity.

***General Principle 2.*** No Tribal member may be assisted in carrying out a usufructuary activity by a person who is not a member of an 1836 Treaty Tribe, unless the non-member is the spouse, parent, grandparent, child, grandchild, or sibling of the Tribal member, and the Tribal member is physically present during the activity.

***General Principle 3.*** Permitted assistance by authorized non-members (as defined in General Principle 2) shall not include using a Spear or other gear to harvest fish, using a firearm or Bow, setting or placing traps or snares, uprooting a plant, or removing parts of plant from a plant left growing.

***General Principle 4.*** Any person may assist a Tribal member holding a Disabled Hunter's Permit, but shall not Hunt or carry a firearm or Bow unless authorized to do so by Tribal or Michigan law.

## Appendix D

### STATE SHOTGUN ZONE AS OF OCTOBER 2006

**The dividing line between the northern rifle deer hunting zone and the southern shotgun zone is as follows:** Starting at a point on the Lake Michigan shoreline directly west of M-46, then easterly to M-46, then easterly along M-46 to US-131 at Cedar Springs, southerly on US-131 to M-57, easterly on M-57 to Montcalm Road on the Kent-Montcalm county line, southerly on Montcalm Road and the Kent-Ionia county line to M-44, easterly on M-44 to M-66, northerly on M-66 to M-57, easterly on M-57 to M-52 near Chesaning, northerly on M-52 to M-46, easterly on M-46 to M-47, northerly on M-47 to US-10 west of Bay City, easterly on US-10 to I-75, northerly on I-75 and US-23 to Beaver Road (about 1 mile north of Kawkawlin), easterly to Saginaw Bay, north 50 degrees east to the International Boundary.

Appendix E

STREAMS DESIGNATED TYPES 5, 6 & 7 AS OF OCTOBER 2006

| <u>County</u>        | <u>Streams</u>   |
|----------------------|--|
| Alger .....          | None   |
| Alpena .....         | None   |
| Antrim .....         | None   |
| Benzie .....         | None   |
| Charlevoix .....     | None   |
| Cheboygan .....      | None   |
| Chippewa .....       | None   |
| Clare .....          | None   |
| Crawford .....       | <b>AuSable Mainstream</b> , from Burton's Landing downstream to Wakeley Bridge, <b>Manistee River</b> , from M-72 downstream to CCC Bridge; <b>North Branch AuSable River</b> , from Sheep Ranch downstream to confluence with Mainstream, <b>South Branch AuSable River</b> , from Lower High Banks downstream to confluence with Mainstream, <b>South Branch AuSable River</b> , from Chase Bridge downstream to Lower High Banks. |
| Delta .....          | <b>Escanaba River</b> , from Boney Falls Dam downstream to mouth of Silver Cr. (T40N, R23W, Sec. 11)   |
| Emmet .....          | None   |
| Grand Traverse ..... | None   |
| Ionia .....          | None   |
| Isabella .....       | None   |
| Kalkaska .....       | <b>Manistee River</b> , from M-72 downstream to CCC Bridge.  |
| Kent .....           | None   |
| Lake .....           | <b>Little Manistee River</b> , from Spencer's Bridge (T19N, R13W, Sec. 5) downstream to Johnson's Bridge (T20N, R14W, Sec. 24), <b>Pere Marquette River</b> , from M-37 downstream to Gleason's Landing (T17N, R13W, Sec. 18).   |
| Leelanau .....       | None   |

|                   |      |
|-------------------|------|
| Luce .....        | None |
| Mackinac .....    | None |
| Manistee .....    | None |
| Marquette.....    | None |
| Mason .....       | None |
| Mecosta.....      | None |
| Missaukee .....   | None |
| Montcalm.....     | None |
| Montmorency.....  | None |
| Muskegon .....    | None |
| Newaygo.....      | None |
| Oceana .....      | None |
| Osceola .....     | None |
| Oscoda.....       | None |
| Otsego.....       | None |
| Ottawa .....      | None |
| Presque Isle..... | None |
| Roscommon .....   | None |
| Schoolcraft.....  | None |
| Wexford.....      | None |

Appendix F

LAKES DESIGNATED TYPE D AS OF OCTOBER 2006

| <u>County</u>        | <u>Lakes</u>   |
|----------------------|--|
| Alger .....          | None   |
| Alpena .....         | None   |
| Antrim .....         | None   |
| Benzie .....         | None   |
| Charlevoix .....     | None   |
| Cheboygan .....      | <b>Twin Lake #1</b>  |
| Chippewa .....       | None   |
| Clare .....          | None   |
| Crawford .....       | None   |
| Delta .....          | None   |
| Emmet .....          | None   |
| Grand Traverse ..... | <b>Sand Lake #2</b>  |
| Ionia .....          | None   |
| Isabella .....       | None   |
| Kalkaska .....       | None   |
| Kent .....           | None   |
| Lake .....           | None   |
| Leelanau .....       | None   |
| Luce .....           | <b>Deer Lake, Moon Lake, Sid Lake</b>  |
| Mackinac .....       | None   |
| Manistee .....       | None   |
| Marquette .....      | <b>Keyhole Lake (East), S. Kidney Lake (T45N, R26W, Sec 28), Pauls Lake (North), Pauls Lake (South), Rockingchair Lake (North), Rockingchair Lake (South), Strawberry Lake</b> |
| Mason .....          | None   |
| Mecosta .....        | None   |
| Missaukee .....      | None   |
| Montcalm .....       | None   |
| Montmorency .....    | None   |
| Muskegon .....       | None   |
| Newaygo .....        | None   |
| Oceana .....         | None   |
| Osceola .....        | None   |
| Oscoda .....         | None   |
| Otsego .....         | None   |
| Ottawa .....         | None   |
| Presque Isle .....   | None   |

Roscommon.....None  
Schoolcraft.....**Dutch Fred Lake, Ned's Lake,  
Twilight Lake**  
Wexford.....None

Appendix G

NOTE 8 TO TABLE 2 OF THE 2006 MICHIGAN FISHING GUIDE (p. 10)

The following lakes are closed to spearing of northern pike and muskellunge, except that northern pike may be speared on waters as marked (\*) from Jan. 1 – end of February.

| <u>County</u>        | <u>Lakes</u>  |
|----------------------|---|
| Alger .....          | None  |
| Alpena .....         | <b>Fletcher Floodwaters</b>                         |
| Antrim .....         | None  |
| Benzie .....         | None  |
| Charlevoix .....     | None  |
| Cheboygan .....      | <b>Cornwall Impoundment</b>                         |
| Chippewa .....       | <b>Caribou Lake</b>                                 |
| Clare .....          | <b>Budd Lake</b>                                    |
| Crawford .....       | None  |
| Delta .....          | <b>*Dana Lake</b>                                   |
| Emmet .....          | None  |
| Grand Traverse ..... | None  |
| Ionia .....          | None  |
| Isabella .....       | None  |
| Kalkaska .....       | None  |
| Kent .....           | <b>Campau Lake and Murray Lake</b>                  |
| Lake .....           | None  |
| Leelanau .....       | None  |
| Luce .....           | None  |
| Mackinac .....       | <b>Brevoort Lake</b>                                |
| Manistee .....       | None  |
| Marquette .....      | <b>Fish Lake</b>                                    |
| Mason .....          | None  |
| Mecosta .....        | None  |
| Missaukee .....      | None  |
| Montcalm .....       | None  |
| Montmorency .....    | <b>Fletcher Floodwaters and West<br/>Twin Lakes</b> |
| Muskegon .....       | <b>Mona Lake</b>                                    |
| Newaygo .....        | None  |
| Oceana .....         | None  |
| Osceola .....        | None  |
| Oscoda .....         | None  |
| Otsego .....         | <b>Big Bear Lake and Otsego Lake</b>                |
| Ottawa .....         | <b>Lake Macatawa</b>                                |

Presque Isle.....None  
Roscommon.....None  
Schoolcraft.....**Big Bass Lake, Grassy Lake, and  
McKeever Lake**  
Wexford.....None

## Appendix H

### STATE FISHING REGULATIONS EXISTING AS OF OCTOBER 2006 APPLICABLE TO CERTAIN DESIGNATED QUALITY LAKES

Crawford County, Jones Lake: open season June 1 – Sept. 30, catch and release Fishing with artificial lures; live bait in possession is unlawful.

Crawford County, Wakeley Lake: open season June 15-Aug. 31, catch and release Fishing with artificial lures; live bait in possession is unlawful.

Montmorency County, North and South Blue Lakes and Robarge (Pike) Lake: open season is the last Saturday in April – Sept. 30, catch and release only, artificial lures only.

Appendix I

STREAMS DESIGNATED TYPES 1, 2, & 4 AS OF OCTOBER 2006

Except as otherwise noted, Type 1 Streams are not listed in this Appendix. A complete list of streams designated Type 1 as of October 2006 is being filed separately with the Court.

| <u>County</u>    | <u>Streams</u>  |
|------------------|---|
| Alger.....       | <b>Anna River</b> , from Railroad Bridge (T46N, R19W, Sec. 14) downstream to Lake Superior, <b>Au Train River</b> , from Powerhouse below M-94 downstream to Lake Superior, <b>Indian River</b> , from “Wide Waters” (T44N, R19W, Sec. 13) downstream to Indian Lake, <b>Laughing Whitefish River</b> , from Forks (T47N, R22W, Sec. 22) downstream to Lake Superior, <b>Miner’s River</b> , from Miner’s Falls downstream to Lake Superior, <b>Rock River</b> , from Railroad Bridge (T47N, R21W, Sec. 22) downstream to Lake Superior, <b>Sable Creek</b> , <b>Sucker River</b> , upstream limit is Old Grand Marais/Seney Road Bridge. |
| Alpena .....     | <b>Devils River</b> , from U.S. 23 Bridge downstream to Lake Huron, <b>Long Lake Creek</b> , downstream limit is Lake Huron.  |
| Antrim .....     | <b>Elk River Bypass</b> , from Bypass Dam downstream to Lake Michigan, <b>Grass River (inc. Clam Lake and Clam River)</b> , from Lake Bellaire downstream to Torch Lake, <b>Intermediate River</b> , from Intermediate Dam downstream to Lake Bellaire, <b>Jordon River</b> , from Graves Crossing downstream to Lake Charlevoix, <b>Manistee River</b> , from Headwaters downstream to M-72.   |
| Benzie.....      | <b>Betsie River</b> , from Kurick Rd. downstream to M-22, <b>Platte River</b> , from US 31 East of Honor downstream to Lake Michigan.   |
| Charlevoix ..... | <b>Boyne River</b> , from P.H. Dam downstream to Lake Charlevoix, <b>Jordon River</b> , from Graves Crossing downstream to Lake Charlevoix.   |
| Cheboygan.....   | <b>Black River</b> , from Tin Shanty Bridge Road downstream to Tower Dam, <b>Maple River</b> , from Dam (T36N, R4W, Sec. 10) in Emmet County downstream to mouth, <b>Mill Creek</b> , <b>Pigeon River</b> , from Dam (T32N, R1W, Sec. 19) downstream to   |

M-68 Bridge, **Pigeon River**, from M-68 Bridge downstream to mouth, **Sturgeon River**, from Afton Rd. (Also Called Webb Rd. or Wolverine Rd.) downstream to mouth.

Chippewa..... **Albany Creek**, from bridge below lamprey weir to Lake Huron, **E. Br. Tahquamenon River**, downstream limit is North Hulbert Road (T46N, R07W, Sec. 9) Bridge, **Halfaday Creek**, from Lakeshore Drive downstream to Lake Superior, **Pendill's Creek**, from Second Dam (T47N, R4W, Sec. 28) downstream to Lake Superior.

Clare ..... None

Crawford..... **AuSable River Mainstream**, from Grayling City Dam downstream to Burton's Landing, **AuSable River Mainstream**, from Wakeley Bridge downstream to Rainbow Bend Powerline (T26N, R2E, Sec 4), **Manistee River**, from Headwaters downstream to M-72.

Delta ..... **Bark River**, from 9 Road (Section Line Between T38N, R24W, Sec. 20 & 29) downstream to Lake Michigan, **Big Fishdam River**, from County Road 2222 Bridge (T41N, R18W, Sec. 9) downstream to Lake Michigan, **Days River**, from Highway M-35 Bridge downstream to Lake Michigan, **Escanaba River**, from the mouth of the W. Br. Escanaba R. (T43N, R25W, Sec. 3) downstream to Boney Falls Dam (T41N, R24W, Sec. 2), **Ford River**, from T43N, R27W, S. 35 (Dickenson County) downstream to L. Michigan, **Rapid River**, from County Road S-15 (T42N, R21W, Sec. 19) downstream to Lake Michigan, **Sturgeon River**, from County Road 442 Bridge (T42N, R20W, Sec. 13) downstream to Lake Michigan, **Tacoosh River**, from 29th Lane (County Road G-24) downstream to Lake Michigan, **Whitefish River**, from 38th Road (U.S.F.S. 2236) downstream to Lake Michigan.

Emmet ..... **Maple River**, from Dam T36N, R4W, Sec. 10, Emmet County downstream to mouth.

Grand Traverse..... None

Ionia..... **Dickerson Creek, Fish Creek**, from Sidney Rd. downstream to confluence with Maple River, **Prairie Creek, Sebewa Creek and Tributaries**.

Isabella..... None

Kalkaska ..... **Manistee River**, from CCC Bridge (T26N, R6W, Sec 26) downstream to US 131, **Rapid River**, from Antrim (Rugg) Pond downstream to Torch River,

|                |   |
|----------------|---|
|                | <b>Torch River</b> , from Torch Lake downstream to Lake Skegemog.   |
| Kent .....     | <b>Ball Creek</b> , downstream limit is confluence with Rogue River, <b>Buck Creek</b> , downstream limit is confluence with Grand River, <b>Coldwater River</b> , from Freeport Rd. downstream to confluence with Thornapple River, <b>Nash Creek</b> , downstream limit is confluence with Rogue River, <b>Rogue River</b> , downstream limit is confluence with Grand River.   |
| Lake .....     | <b>Little Manistee River</b> , from Johnson's Bridge downstream to Manistee Lake, <b>Pere Marquette River</b> , from Gleason's Landing (T17N, R13W, Sec. 18) downstream to Indian Bridge (Reek Rd.), <b>Pine River</b> , From Elm Flats Public Access Site to confluence with Tippy Dam backwaters, <b>Baldwin River</b> (Type 1).  |
| Leelanau ..... | None  |
| Luce .....     | <b>Blind Sucker River</b> , upstream limit is Blind Sucker Flooding Dam, <b>E. Br. Fox River, including tributaries</b> , downstream limit is M-28, <b>Two-Hearted River</b> , upstream limit is Reed & Green Bridge.   |
| Mackinac ..... | <b>Black River</b> , upstream limit is Peters Truck Trail Footbridge, <b>Brevoort River</b> , upstream limit is Brevoort Lake, <b>Carp River</b> , mainstream only, <b>Crow River</b> , upstream limit is Outfall of Amadon Pond, <b>Milakokia River</b> , upstream limit is Inland-Limestone Co. Railroad Bridge (T41N, R13W, Sec 1), <b>Millecoquins River</b> , upper limit is H-40 Bridge, <b>Pine River</b> , from H-40 Bridge downstream to Lake Huron. |
| Manistee ..... | <b>Betsie River</b> , from Kurick Rd. downstream to M-22, <b>Little Manistee River</b> , from Johnson's Bridge downstream to Manistee Lake, <b>Manistee River</b> , from Hodenpyl Res. downstream to Red Bridge, <b>Pine River</b> , from Elm Flats Public Access Site to confluence with Tippy Dam backwaters.   |
| Marquette..... | <b>Big Garlic River</b> , from Forks (T49N, R27W, Sec. 12) downstream to Lake Superior, <b>Carp River</b> , from Deer Lake Dam (T48N, R27W, Sec. 27) downstream to Morgan Creek, <b>Dead River</b> , from Hoist Dam (T48N, R26W, Sec. 9) downstream to County Rd. 510 Bridge (T48N, R26W, Sec. 15), <b>Escanaba River</b> , from the mouth of the W. Br. Escanaba R. (T43N, R25W, Sec. 3) downstream to Boney Falls Dam (T41N, R24W, Sec. 2), <b>Ford</b>     |

|                  |   |
|------------------|---|
|                  | <b>River</b> , from T43N, R27W, S.33 (Dickinson County) downstream to L. Michigan, <b>Harlow Creek</b> , from Railroad Bridge (T49N, R26W, Sec. 24) downstream to Lake Superior, <b>Iron River</b> , from Lake Independence Dam to Lake Superior.   |
| Mason .....      | <b>Big S. Branch Pere Marquette River</b> , from confluence of Beaver/Winnepesaug Creeks downstream to confluence with Pere Marquette River, <b>Little Manistee River</b> , from Johnson's Bridge downstream to Manistee Lake, <b>Pere Marquette River</b> , from Gleason's Landing (T17N, R13W, Sec. 18) downstream to Indian Bridge (Reek Rd.), <b>Sable River</b> , from Freesoil Rd. (T20N, R15W, Sec. 21) downstream to Hamlin Lake.                             |
| Mecosta.....     | <b>Little Muskegon River, Muskegon River</b> , from US-10 downstream to River Bend Bluffs Public Access site (T15N, R9W, S31).  |
| Missaukee .....  | <b>Clam River</b> , from Lachance Rd. (T22N, R8W, Sec. 21) downstream to Blue Rd (T22N, R8W, Sec. 27).  |
| Montcalm.....    | <b>Dickerson Creek.</b>   |
| Montmorency..... | None  |
| Muskegon .....   | <b>White River</b> , from Hesperia Dam downstream to Lake Michigan.   |
| Newaygo.....     | <b>Big S. Branch Pere Marquette River</b> , from confluence of Beaver/Winnepesaug Creeks downstream to confluence with Pere Marquette River, <b>Little S. Br. Pere Marquette River</b> , from Carlson Bridge (16 Mile Rd.) downstream to Oxbow Bridge (Forman Rd.), <b>Muskegon River</b> , from Croton Dam downstream to Bridge Street (New Bridge T12N, R13W, S24) Garfield Twp., <b>Tamarack Creek, White River</b> , from Six Mile Rd. downstream to Baseline Rd. |
| Oceana .....     | <b>North Branch Pentwater River</b> , from Oceana Dr. downstream to confluence with mainstream of Pentwater River, <b>North Branch White River</b> , from Arthur Rd. downstream to confluence with White River, <b>Pentwater River</b> , from Hart Dam downstream to confluence with Pentwater Lake.  |
| Osceola .....    | <b>Muskegon River</b> , from US-10 downstream to River Bend Bluffs Public Access Site (T15N, R9W, S31).   |
| Oscoda.....      | <b>AuSable River Mainstream</b> , from Wakeley Bridge downstream to Rainbow Bend powerline (T26N, R2E, Sec. 4), <b>AuSable River Mainstream</b> , from Mio Dam down to the Mio Powerline at (T26N,  |

R3E, S. 7), **AuSable River Mainstream**, from McKinley Bridge downstream to 4001 Bridge).

Otsego..... **Black River**, from Tin Shanty Bridge downstream to Tower Dam, **Manistee River**, from Headwaters downstream to M-72, **Pigeon River**, from Dam (T32N, R1W, Sec. 19) downstream to M-68 Bridge.

Ottawa ..... **Crockery Creek Mainstream Only**, from Moore Rd (T10N, R13W, Sec. 4) in Muskegon County downstream to confluence with Grand River (Ottawa County), **Sand Creek**.

Presque Isle..... **Ocqueoc River**, from Barnhart Lake downstream to Lake Huron.

Roscommon..... None

Schoolcraft..... **Indian River**, from “Wide Waters” (T44N, R19W, Sec. 13) downstream to Indian Lake, **Manistique River**, upstream limit is Papermill Dam, **Thompson Creek (Type 1)**.

Wexford..... **Manistee River**, from CCC Bridge downstream to US 131, **Manistee River**, from US 131 downstream to M-115, **Pine River**, from Elm Flats Public Access Site to confluence with Tippy Dam backwaters.

## Appendix J

### STATE REGULATIONS FOR HARVESTING MINNOWS OR OTHER BAIT FISH WITH THE USE OF SEINES AS OF OCTOBER 2006

Long Seines shall not be used for the harvesting of minnows and other bait fish. Short Seines shall not be used to take minnows from trout streams or from Big Glen L. or any of its tributaries for ½ mile above their mouths.

## Appendix K

### BIRDS NOT PROTECTED BY THE MIGRATORY BIRD TREATY ACT (16 U.S.C. §§ 703-712) AND MAMMALS THAT CANNOT LAWFULLY BE HARVESTED UNDER STATE LAW AS OF OCTOBER 2006

#### I. BIRDS

| <u>Species</u>   | <u>Game Species</u> |
|--|---------------------|
| Gray Partridge, <i>Perdix perdix</i> [Accidental]                                      | Yes                 |
| Spruce Grouse, <i>Falcipennis canadensis</i>   | No                  |
| Sharp-tailed Grouse, <i>Tympanuchus phasianellus</i>                                   | Yes                 |
| Greater Prairie-Chicken, <i>Tympanuchus cupido</i><br>[Extirpated, last recorded 1981] | No                  |
| Eurasian Jay, <i>Garrulus glandarius</i> [Accidental]                                  | No                  |
| European Goldfinch, <i>Carduelis carduelis</i> [Casual]                                | No                  |
| Greenfinch, <i>Carduelis chloris</i> [Accidental]                                      | No                  |
| Linnet, <i>Carduelis cannabina</i> [Accidental]  | No                  |
| Eurasian Tree Sparrow, <i>Passer montanus</i> [Accidental]                             | No                  |
| Red-cheeked Cordonbleu, <i>Uraeginthus bengalus</i> [Accidental]                       | No                  |

#### II. MAMMALS

| <u>Species</u>  | <u>Game Species</u> |
|---|---------------------|
| Least Shrew, <i>Cryptotis parva</i>                             | No                  |
| Big Brown Bat, <i>Eptesicus fuscus</i>                          | No                  |
| Silver-haired Bat, <i>Lasionycteris noctivagans</i>             | No                  |
| Red Bat, <i>Lasiurus borealis</i>                               | No                  |
| Hoary Bat, <i>Lasiurus cinereus</i>                             | No                  |
| Little Brown Bat / Little Brown Myotis, <i>Myotis lucifugus</i> | No                  |
| Northern Bat / Northern Myotis, <i>Myotis septentrionalis</i>   | No                  |
| Indiana Bat / Indiana Myotis, <i>Myotis sodalis</i>             | No                  |
| Evening Bat, <i>Nycticeius humeralis</i>                        | No                  |
| Eastern Pipistrelle, <i>Pipistrellus subflavus</i>              | No                  |
| Cougar, <i>Felis concolor</i>                                   | No                  |
| Canada Lynx, <i>Lynx canadensis</i>                             | No                  |
| Gray Wolf, <i>Canis lupus</i>                                   | No                  |
| Wolverine, <i>Gulo gulo</i>                                     | No                  |
| Moose, <i>Alces alces</i>                                       | Yes                 |
| Prairie Vole, <i>Microtus ochrogaster</i>                       | No                  |

## Appendix L

### INFORMATION SHARING AND CONSULTATION PROTOCOL

This Information Sharing and Consultation Protocol (“Protocol”) is adopted in accordance with the Decree, including, but not limited to, Paragraphs 23.1 and 23.2 thereof. Each term defined in the Decree shall have the meaning ascribed to such term in the Decree when used in this Protocol.

The provisions of this Protocol are intended to facilitate implementation of the Decree, but shall not relieve any Party of any obligation it has under the Decree. Further, nothing in this Protocol shall preclude consultation or information sharing among the Parties in addition to the consultation and information sharing provided for herein.

In the event of any inconsistency between the provisions of the Decree and the provisions of this Protocol, the provisions of the Decree shall be controlling.

The Parties shall review the terms of this Protocol every five years, and may modify it at any time by mutual agreement.

#### I. EXECUTIVE COUNCIL

1.1 The Parties hereby establish the Executive Council to facilitate consultation and exchange of information among the Parties under the Decree.

1.2 The Executive Council shall consist of the chairpersons of the Tribes, the Director of MDNR, and the Secretary of the Interior, or their duly authorized representatives.

1.3 The Executive Council shall meet and confer as necessary, but in no event less than annually, to review the status of inland resources, the implementation of the Inland Consent Decree, and any matters appropriate for consideration by the Parties at the policy level.

1.4 The Executive Council shall provide a forum for policy-level discussions, but shall not have any decision-making authority unless otherwise expressly agreed by all of the Parties.

## II. CONSULTATION REGARDING CREATION OR EXPANSION OF CERTAIN SPECIAL USE AREAS

2.1 The State shall notify the Tribes and the United States in writing as soon as possible of any proposal made or undergoing substantive review by the State to create a new or expand an existing State park, wildlife refuge, formally designated wildlife research area or formally designated fisheries research area in the 1836 Ceded Territory, and in any event shall notify the Tribes and the United States at least 90 days before approving any such proposal.

2.2 Upon the written request of any Tribe, the State shall respond in writing to any questions the Tribes may have regarding the proposal. Further, within 30 days of receiving notice from the State under Paragraph 2.1 of this Protocol, any Tribe may request a meeting with the State in order to discuss the proposal and its effects on the exercise of the Tribes' rights under the Decree. The meeting shall take place within 30 days of the date of the Tribe's request for a meeting under this Paragraph 2.2. Upon the request of any Tribe, the MDNR Director, or his or her authorized representative, shall attend the meeting. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 2.2.

2.3 The notices required under Paragraphs 2.1 and 2.2 of this Protocol shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

## III. FISH BEING TARGETED FOR ERADICATION OR REDUCTION

3.1 The State shall notify the Tribes and the United States in writing of any plans to target any species or stock of fish from a particular water body for eradication or reduction under

Section VIII (Disease Control) or Paragraph 11.2(a) of the Decree, provided that nothing in this Paragraph shall be construed to require the State to provide notice to the Tribes and the United States of an emergency eradication or reduction of fish from a particular water body. When required, such notice of eradication or reduction plans may be provided through the transmission of work plans by May 1 of each year or by other means so long as the notice is provided at least 90 days notice before such eradication or reduction plans are carried out. The State shall also notify the Tribes and the United States of any plans to rescind a plan to target any species or stock of fish from a particular water body for eradication or reduction under Section VIII (Disease Control) or Paragraph 11.2(a) of the Decree. The notices required by this Paragraph shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

3.2 The Tribes shall notify the State and the United States in writing at least 45 days in advance if they intend to authorize their members to commercially harvest fish identified in a notice provided under Paragraph 3.1 of this Protocol and/or to use impoundment nets or gill nets to harvest such fish. The notices required under this Paragraph shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

3.3 If one or more Tribes notify the State that they intend to authorize their members to commercially harvest fish identified in a notice provided under Paragraph 3.1 of this Protocol, the State and the affected Tribes shall develop a mutually agreeable mechanism to assure that the harvested fish are from the particular water body identified in the notice in the period before the Tribal authorization becomes effective. In the event of a disagreement regarding such a mechanism, and upon the request of any Tribe, the MDNR Director or his or her authorized

representative shall consult with the Tribes in effort to resolve such disagreement. The Tribes may request the assistance of the United States in the development of such a mechanism and in any discussions with the State under this Paragraph 3.3.

#### IV. EMERGENCY PROHIBITIONS OF COHO HARVESTS IN THE PLATTE RIVER

4.1 The State shall inform the Tribes as soon as possible of an impending emergency regulation prohibiting harvests of Coho salmon in portions of the Platte River and shall provide written notice to the Tribes and the United States in the event it adopts such an emergency regulation in accordance with Paragraph 10.3 of the Decree, and shall document the basis for such emergency regulation. The notice required under this Paragraph shall be sent via facsimile and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

4.2 Upon receipt of a notice provided under Paragraph 4.1 of this Protocol, the Tribes shall adopt an emergency regulation prohibiting harvests of Coho salmon in portions of the Platte River in accordance with Paragraph 10.3 of the Decree on the next business day or as soon thereafter as practicable, but in any event within three business days of receipt of such notice.

4.3 The State shall notify the Tribes and the United States if it rescinds its prohibition or if sufficient egg collection is assured for the year, whichever occurs first, as provided in Paragraph 10.3 of the Decree. The notice required by this Paragraph shall be delivered to the Tribes and the United States within 24 hours of such rescission or assurance, and shall be sent via facsimile and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

## V. TRIBAL CHINOOK HARVESTS IN PORTIONS OF THE LITTLE MANISTEE RIVER

5.1 On or before June 30 of each year, the State shall notify the Tribes and the United States in writing of the number of Chinook salmon returning to the Little Manistee River weir in the preceding year. The notice required under this Paragraph shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

5.2 On or before July 31 of each year, the State and the Tribes shall confer regarding the seasonal and weekly harvest limits prescribed in subparagraph 10.3(b) of the Decree for the current year, and seek to resolve any disagreement with respect thereto. In the event they are unable to resolve any such disagreement, the MDNR Director and the Little River Band's Natural Resources Director or their authorized representatives, as well as representatives from other interested Tribes, shall confer in an effort to resolve the disagreement. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 5.2.

5.3 The State shall send the notices required by Subparagraphs 10.3(b) and 10.3(c) of this Protocol within 24 hours of meeting its egg-take quota for the year via facsimile and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

5.4 If the State seeks to prohibit the harvest of Chinook salmon by Tribal members in portions of the Little Manistee River in a particular year under Subparagraph 10.3(d) of the Decree, it shall provide written notice to the Tribes and the United States that it intends to prohibit the harvest of Chinook salmon by State-licensed fishers and document the basis for its concern that adequate egg collection is threatened in that year. The notices required by this

Paragraph shall be sent via facsimile and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol. Upon the request of any Tribe, the State and the Tribes shall meet as soon as practicable, and in any event within one week of the date of receipt of such notice, to discuss the need for such a prohibition. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 5.4.

5.5 The five-year review provided for in Subparagraph 10.3(e) of the Decree shall take place at or in conjunction with a meeting of the Executive Council. The State and the Tribes shall notify each other and the United States in writing of any questions or concerns they have regarding the harvest estimation methodology, harvest limits, and weekly harvest distributions described in Subparagraph 10.3(b) of the Decree or their impacts on harvest opportunities for Tribal members or egg collection at least 90 days in advance of the designated meeting, and shall respond in writing to any such questions and provide a copy of any such response to the United States at least 30 days in advance of the meeting. The notices and responses required by this Paragraph shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 5.5.

## VI. LONG-TERM EGG COLLECTION FOR CHINOOK SALMON

6.1 The State and the Tribes shall notify each other and the United States in writing if they have concerns regarding adequate egg collection for Chinook salmon to provide for future statewide fish runs and adequate harvest levels for all users over the long-term. The notices required by this Paragraph shall identify the basis for the concerns and possible solutions, and

shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

6.2 Upon receipt of a notice under Paragraph 6.1 of this Protocol, the State and the Tribes shall meet and confer in a timely manner about appropriate adjustments to State and Tribal harvests in Waters in which fish destined for the State's egg-collection facilities are harvested. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 6.2.

## VII. SPECIAL FISHING DESIGNATIONS AND REGULATIONS

7.1 The State shall notify the Tribes and the United States in writing as soon as possible of any proposal: (a) to designate additional trout streams as Types 5, 6 or 7; (b) to designate additional Type D lakes; (c) to adopt additional restrictions on spearing of northern pike or muskellunge; or (d) to designate additional quality lakes under Paragraphs 10.4, 10.5, 10.6 or 10.7 of the Decree, and in any event shall notify the Tribes and the United States at least 90 days before approving any such proposal. The notices required under this Paragraph shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

7.2 Upon the request of any Tribe, the State shall respond in writing to any questions the Tribes may have regarding the proposal, and shall meet with the Tribes upon request of any Tribe to discuss the proposal and its effects on the exercise of the Tribes' rights under the Decree. The meeting shall take place within 60 days of the date of the notice provided to the Tribes and the United States under Paragraph 7.1 of this Protocol. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 7.2.

7.3 If the State adopts any such proposal, the Tribes shall consider adopting regulations that are no less restrictive than those adopted by the State in accordance with Paragraphs 10.4, 10.5, 10.6 and 10.7 of the Decree.

#### VIII. TRIBAL NOTICE OF CERTAIN FISHING ACTIVITIES

The Tribes shall provide the notices of Fishing activities required by Subparagraphs 10.9(e) (certain walleye harvests in bays de Noc tributaries), 11.7(g) (certain steelhead harvests in Protected Streams) and 12.5 (certain uses of Spears or Impoundment Nets) of the Decree to the State by electronic mail or other mutually agreeable methods to the persons and addresses identified in Section XVIII (Notices) of this Protocol, within the time frames specified in the Decree.

#### IX. TRIBAL WALLEYE HARVESTS IN TRIBUTARIES TO THE BAYS DE NOC

9.1 The Tribes shall provide the final harvest reports required by Subparagraph 10.9(f) of the Decree to the State by first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

9.2 The Tribes and the State shall notify each other and the United States by July 1 of the year preceding the year in which the harvest is to occur if they believe an estimate of abundance of adult walleye in a tributary subject to Subparagraph 10.9(g) of the Decree suggests that Tribal members may harvest walleye using Hook-and-Line Gear outside State seasons or Spears on such tributary. The notices required by this Paragraph shall explain the basis for the estimate of abundance and any proposal for such harvests and shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

9.3 Upon request of the State or any Tribe, the State and Tribes shall meet to discuss whether to implement the proposed harvest. The meeting shall take place before December 1 of the year in which the notice was provided under Paragraph 9.2 of this Protocol. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 9.3.

9.4 The fifteen-year review provided for in Subparagraph 10.9(h) of the Decree shall take place at or in conjunction with a meeting of the Executive Council or at such other time that is convenient for the State and the Tribes. The State and the Tribes shall notify each other and the United States in writing of any questions or concerns they have regarding walleye abundance in tributaries to the bays de Noc, the adequacy of Tribal harvest opportunities, and other relevant factors at least 120 days in advance of the designated meeting, and shall respond in writing to any such questions at least 30 days in advance of the meeting. The notices and responses required under this Paragraph shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

## X. STEELHEAD

The annual review and consultation required by Subparagraph 11.7(i) of the Decree shall take place at or in conjunction with the annual meeting of the Executive Council or at such other time that is convenient for the State and the Tribes. The State and the Tribes shall notify each other and the United States in writing of the results of the periodic peer review required under Subparagraph 11.7(b) of the Decree, additional information obtained through research or assessment by the State or the Tribes regarding smolt production and/or abundance of adult steelhead within any stream, the effects of downstream (including Great Lakes) harvests or post-spawning harvest, or any other relevant scientific information relevant to steelhead, at least 60

days before the meeting. The notices required under this Paragraph shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

## XI. ELK AND BEAR HARVESTS

11.1 By May 30 of each year, the State shall notify the Tribes and the United States of the numbers and geographic distribution of either-sex and cow-only elk permits it intends to issue in the coming year. The notices shall be sent via facsimile and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

11.2 Within 30 days of receipt of the notices required by Paragraph 11.1 of this Protocol, the Tribes shall notify the State and the United States of the number and geographical distribution of either-sex and cow-only elk permits they intend to issue in the coming year. The notices required under this Paragraph shall be sent via facsimile and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

11.3 If the State has concerns about the geographic distribution of Tribal elk permits, the State and the Tribes shall consult to resolve such concerns in order to ensure that the geographic distribution of the permits is consistent with the State's management objectives, as provided in Paragraph 17.2 of the Decree. Upon the request of any Tribe, the MDNR Director or his or her authorized representative shall meet with Tribal representatives to seek to resolve such concerns. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 11.3.

11.4 On or before January 1 of each year, the State and the Tribes shall meet to discuss appropriate bear management within the 1836 Ceded Territory, including harvest levels and the geographic distribution of the harvest for the upcoming year, and shall make best efforts to

achieve a consensus regarding such levels and distribution as provided in Paragraph 17.2 of the Decree. Upon request of any Tribe, the State shall provide a written summary of the basis for its management strategy to the Tribes and the United States at least 30 days in advance of such meeting. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 11.4.

## XII. LAKE STURGEON

12.1 The State and the Tribes shall discuss strategies for rehabilitating lake sturgeon populations at the meeting provided for in Paragraph 15.2 of this Protocol. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 12.1.

12.2 If the State or any Tribe believes that lake sturgeon recovery allows for harvest of a lake sturgeon population in the 1836 Ceded Territory, it shall notify all other Parties of the basis for its position and propose a regulation and/or allocation to allow for such harvest. The notices required by this Paragraph shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notice) of this Protocol.

12.3 Upon the request of the State or any Tribe, the State and the Tribes shall meet within 30 days of receipt of a notice provided under Paragraph 12.2 of this Protocol to discuss whether the lake sturgeon population identified in the notice can withstand harvest and, if so, an appropriate regulation and/or allocation to allow for such harvest. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 12.3.

## XIII. EMERGENCY CLOSURES

13.1 The State and the Tribes shall notify each other and the United States in writing as soon as practicable when concerns arise regarding the need for emergency closures of Harvesting

Activities under Paragraph 10.8 of the Decree. The notices required by this Paragraph shall identify with specificity the biological or public health or safety concerns giving rise to a need for an emergency closure and the extent of the proposed closure, provide appropriate supporting documentation, and be sent via facsimile and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

13.2 Upon receipt of a notice provided under Paragraph 13.1 of this Protocol, the State and the Tribes shall meet as soon as practicable to consult regarding the need for such closures. Upon the request of any Tribe, the MDNR Director or his or her authorized representative shall attend the meeting. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 13.2.

#### XIV. USE OF STATE LANDS

14.1 The Tribes and the State shall meet within 90 days of entry of the Decree to discuss and determine the location of those State lands that are suitable for each of the following activities by Tribal members: (a) collection of maple sap and production of maple sap and sugar; (b) firewood collection; (c) conifer bough collection; (d) collection of black ash, basswood and ironwood; and (e) collection of white birch bark.

14.2 The State lands designated for each of the activities listed in Paragraph 14.1 of this Protocol shall be reviewed by the Tribes and the State at least every five (5) years to determine whether such lands continue to be suitable for the activity.

14.3 On or before February 1 of each year, the Tribes and the State shall meet to determine: (a) for sugar bush activities involving more than 12 trees on State lands, the number of Tribal permits to be available, the number of trees and trees per acre that may be tapped, and the number of temporary structures that may be erected; (b) the number of Tribal permits

available for harvest of black ash, basswood, or ironwood on State lands, whether separate permits are required for each species, and the total number of trees and trees per acre that may be harvested by Tribal permittees on State lands; (c) the number of Tribal permits available for the harvest of white birch bark on State lands, and the total number of trees and trees per acre that may be harvested by Tribal permittees on State lands; and (d) the impact of white birch bark collection on State lands to the resource and the need to revise collection restrictions on State lands.

14.4. The Tribes shall conduct the meetings and discussions required by Paragraphs 14.1 through 14.3 of this Protocol with the local office of the MDNR with management responsibility for the State lands at issue. If the Tribes and the local office of the MDNR are unable to reach agreement on the matters under discussion, the MDNR Director or his or her authorized representative shall consult with the Tribes in an effort to resolve the matter. The Tribes may request the assistance of the United States in the meetings and discussions required under Paragraphs 14.1 through 14.3 of this Protocol or in any consultations under this Paragraph 14.4.

14.5 The State shall notify the Tribes and the United States in writing as soon as possible of any proposal to permanently close an approved access road or trail, and in any event shall notify the Tribes and the United States at least 90 days before approving any such proposal. The notices required under this Paragraph shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol. Upon the request of any Tribe, the State shall respond in writing to any questions the Tribes may have regarding the proposal, and shall meet with the Tribes to discuss the proposal, its effects on the exercise of the Tribes' rights under the Decree, and possible alternatives to the proposal. The meeting shall take

place within 60 days of the date of the notice provided to the Tribes and the United States under this Paragraph. Upon the request of any Tribe, the MDNR Director or his or her authorized representative shall attend the meeting. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph. In the event that the State establishes a program for seasonal closures of approved access roads or trails, the State shall notify the Tribes and the United States of any proposed seasonal closures and consult with the Tribes regarding such proposals in accordance with the provisions of this Paragraph 14.5.

14.6 A Tribe shall consult with the local MDNR forest manager before issuing a permit to construct a temporary structure on State Forest land if the structure is larger than 100 square feet. The Tribe shall consider the concerns of the local MDNR forest manager, and make such revisions to the proposed temporary structure permit as are needed to address the expressed concerns. The Tribe shall not issue such a permit without the concurrence of the local MDNR forest manager. However, if the Tribe and the local MDNR forest manager are unable to reach agreement regarding the permit, upon request of the Tribe the MDNR Director or his or her authorized representative shall consult with the Tribe in an effort to resolve the matter.

#### XV. INFORMATION SHARING AND CONSULTATION REGARDING ASSESSMENT, RESTORATION, RECLAMATION, AND ENHANCEMENT ACTIVITIES

15.1 On or before April 1 each year and at other times as necessary, the State and the Tribes shall notify each other and the United States in writing of new proposals for assessment, restoration, reclamation, and enhancement activities relating to wildlife and plant resources in the inland portion of the 1836 Ceded Territory for the 12-month period starting October 1 of such year. On or before March 1 each year and at other times as necessary, the State and the Tribes shall notify each other and the United States in writing of new proposals for assessment, restoration, reclamation, and enhancement activities relating to fisheries resources in the inland

portion of the 1836 Ceded Territory for the 12-month period starting April 1 of such year. The notices required under this Paragraph shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

15.2 Within 60 days of receipt of the notices required under Paragraph 15.1 of this Protocol, the State and the Tribes shall meet to review new proposals for State and Tribal assessment, restoration, reclamation, and enhancement activities in order to minimize or avoid duplication of effort and to prevent interference with such activities. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 15.2.

15.3 If the State intends to object to a Tribal proposal for an assessment, restoration, reclamation, or enhancement activity under Section XXI (Assessment Activities) or Section XXII (Restoration, Reclamation, and Enhancement Projects) of the Decree, it shall notify the affected Tribe or Tribes and the United States of its objection at least two weeks in advance of the meeting provided for in Paragraph 15.2 above, and the MDNR Director or his or her authorized representative shall either attend the meeting or consult with the affected Tribe or Tribes regarding the objection thereafter. The affected Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 15.3.

15.4 In the event of a change in the State's or the Tribes' assessment plans after the meeting provided for in Paragraph 15.2, the State and the Tribes shall notify each other of such changes as soon as practicable but no later than 24 hours before conducting the changed activity. The notices required under this Paragraph shall be sent via facsimile and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

## XVI. INFORMATION SHARING AND CONSULTATION REGARDING NATURAL RESOURCES, HARVEST DATA, AND HARVEST REGULATIONS

16.1 Unless otherwise provided in the Decree, the State and the Tribes shall exchange and provide to the United States in writing the following information pertaining to the inland portion of the 1836 Ceded Territory at least 60 days before the annual meeting of the Executive Council: (a) the results of assessment activities; (b) a summary of State and Tribal permits issued and harvest and effort data; (c) a summary of any other data and a copy of any reports regarding the condition of the resources; and (d) proposals for regulatory changes (including proposed changes in management units or methodologies for determining the allowable harvest of any species, and proposals to authorize harvests of species that could not lawfully be harvested under State law as of October 2006). In addition, upon request of the State or any Tribe, the State and the Tribes shall provide the information required in Paragraph 23.4 of the Decree regarding any existing regulation, management unit, or allowable harvest methodology. The foregoing information shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

16.2 At or in conjunction with the annual meeting of the Executive Council, the State and the Tribes shall meet and consult regarding the information exchanged under Paragraph 16.1 of this Protocol. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 16.2.

16.3 If the State intends to object to a Tribal proposal for a regulatory change under Paragraph 26.2 of the Decree or a Tribe's refusal to make a regulatory change requested by the State under Paragraph 26.3 of the Decree, it shall notify the affected Tribe or Tribes and the United States of the basis for its objection at least 14 days in advance of the meeting provided for

in Paragraph 16.2 of this Protocol, and the MDNR Director or his or her authorized representative shall attend the meeting.

16.4 A Party producing data or reports under Paragraph 16.1 of this Protocol shall retain ownership of such data and reports and no other Party shall publish or otherwise disseminate such data or reports without the prior written approval of the producing Party, except as required by law or as necessary in connection with the resolution of a dispute under the Decree, *provided* that if the producing Party makes such data or reports available to the public, the other Parties may use such data or reports in a manner consistent with applicable copyright protections.

#### XVII. WILDLIFE SPECIES FOR WHICH THE STATE DOES NOT CURRENTLY PERMIT HUNTING

17.1 If a Tribe desires to authorize its members to harvest a wildlife species that cannot lawfully be harvested under State law as of October 2006, the Tribe shall notify the State, the other Tribes, and the United States of its desire to do so in accordance with Section XXV (Wildlife Species for Which the State Currently Does Not Permit Hunting) of the Decree. The notice shall set forth the bases for the Tribe's belief that the species is biologically capable of withstanding harvest, the Tribe's proposed harvest regulations for the species, and, if the species is a game species under Michigan law as of October 2006, the Tribe's interest in harvesting the species and shall include appropriate supporting documentation. The notices required under this Paragraph shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

17.2 The State shall respond in writing to a notice provided under Paragraph 17.1 of this Protocol within 60 days of receipt of the notice and shall provide a copy of its response to all of the Tribes and the United States. If the State intends to object to the Tribe's proposal to

authorize harvest of the species or the Tribe's proposed harvest regulations, the State shall set forth the bases for its objection and any proposed alternative harvest regulations for the species in its response and shall include appropriate supporting documentation. The State's response shall be sent via first class and electronic mail to the persons and addresses identified in Section XVIII (Notices) of this Protocol.

17.3 Upon request, the State and the Tribes shall meet within 60 days after the Tribes receive the State's response to discuss the Tribes' proposal and the State's response, and the State and the Tribes shall make best efforts to reach consensus regarding the Tribe's proposed harvest. The Tribes may request the assistance of the United States in any discussions with the State under this Paragraph 17.3.

#### XVIII. NOTICES

18.1 Unless changed in accordance with Paragraph 18.2 of this Protocol, the notices required by this Protocol shall be provided to the following persons and addresses:

Bay Mills Indian Community:

All notices shall be sent to:

President, Executive Council  
Bay Mills Indian Community  
12140 W. Lakeshore Dr.  
Brimley, MI 49715  
phone: (906) 248 3241  
fax: (906) 248 3283

Tribal Attorney  
Bay Mills Indian Community  
12140 W. Lakeshore Dr.  
Brimley, MI 49715  
phone: (906) 248 3241  
fax: (906) 248 3283

Biological Services Director  
Great Lakes Indian Fish & Wildlife Commission

P.O. Box 9  
Odanah, WI 54861  
phone: (715) 682 6619  
fax: (715) 682 9294

Grand Traverse Band of Ottawa and Chippewa Indians:

All notices shall be sent to:

Tribal Chair  
Grand Traverse Band of Ottawa and Chippewa Indians  
2605 N. West Bay Shore Drive  
Peshawbestown, MI 49682  
phone: (231) 534-7750  
fax: (231) 534-7010

Natural Resources Department  
Grand Traverse Band of Ottawa and Chippewa Indians  
2605 N. West Bay Shore Drive  
Peshawbestown, MI 49682  
phone: (231) 534-7500  
fax: (231) 534-7576

Legal Department  
Grand Traverse Band of Ottawa and Chippewa Indians  
2605 N. West Bay Shore Drive  
Peshawbestown, MI 49682  
phone: (231) 534-7610  
fax: (231) 534-7600

William Rastetter  
Of Counsel to Olson, Bzdok & Howard, P.C.  
420 East Front Street  
Traverse City, MI 49686  
phone: (231) 946-0044  
fax: (231) 946-4807

Little River Band of Ottawa Indians:

All notices shall be sent to:

Director, Natural Resources Department  
Little River Band of Ottawa Indians  
159 Brick Yard Rd.  
Manistee, MI 49660  
phone: (231) 398 2183

fax: (231) 398 8873

Senior Inland Fish Biologist  
Little River Band of Ottawa Indians  
159 Brick Yard Rd.  
Manistee, MI 49660  
phone: (231) 398 2193  
fax: (231) 398 8873

Senior Wildlife Biologist  
Little River Band of Ottawa Indians  
159 Brick Yard Rd.  
Manistee, MI 49660  
phone: (231) 398 2187; (231) 398 2188  
fax: (231) 398 8873

Little Traverse Bay Bands of Odawa Indians:

All notices should be sent to:

Tribal Chairperson  
7500 Odawa Circle  
Harbor Springs, MI 49740  
phone: (231) 242 1402  
fax: (231) 242 1412

LTBB Natural Resources Director  
7845 Odawa Circle  
Harbor Springs, MI 49740  
phone: (231) 242 1678  
fax: (231) 242 1690

LTBB General Counsel  
7500 Odawa Circle  
Harbor Springs, MI 49740  
phone: (231) 242 1405  
fax: (231) 242 1415

Sault Ste. Marie Tribe of Chippewa Indians:

All notices shall be sent to:

Tribal Chairperson

523 Ashmun Street  
Sault Ste. Marie, MI 49783  
phone: (906) 635 6050  
fax: (906) 632 6587

Conservation Committee Chairperson  
523 Ashmun Street  
Sault Ste. Marie, MI 49783  
phone: (906) 635 6050  
fax: (906) 632 6587

General Counsel  
523 Ashmun Street  
Sault Ste. Marie, MI 49783  
phone: (906) 635 6050  
fax: (906) 632 6587

State of Michigan:

All Notices shall be sent to the Director of the MDNR; the appropriate MDNR Division Chief; and the Department of Attorney General, Division Chief of the Environment, Natural Resources, and Agriculture Division.

MDNR Director  
Mason Building – 6<sup>th</sup> Floor  
P.O. Box 30028  
Lansing, MI 48909  
Phone: (517) 335-4873  
Telefax: (517) 335-4242

Chief of MDNR Fisheries Division  
Mason Building – 8<sup>th</sup> Floor  
P.O. Box 30446  
Lansing, MI 48909  
Phone: (517) 373-3375  
Telefax: (517) 373-0381

Chief of MDNR Wildlife Division  
Mason Building – 4<sup>th</sup> Floor  
P.O. Box 30444  
Lansing, MI 48909  
Phone: (517) 373-9311  
Telefax: (517) 373-6705

Chief of MDNR Law Enforcement Division  
Mason Building – 4<sup>th</sup> Floor  
P.O. Box 30031  
Lansing, MI 48909  
Phone: (517) 335-3427  
Telefax: (517) 373-6816

Chief of MDNR Forest, Mineral, and Fire Management Division  
Mason Building – 5<sup>th</sup> Floor  
P.O. Box 30452  
Lansing, MI 48909  
Phone: (517) 372-1246  
Telefax: (517) 373-2443

Chief of MDNR Parks and Recreation Division  
Mason Building – 3<sup>rd</sup> Floor  
P.O. Box 30257  
Lansing, MI 48909  
Phone: (517) 335-4827  
Telefax: (517) 373-4625

Michigan Department of Attorney General  
Division Chief - Environment, Natural Resources, and Agriculture Division  
(ENRA Division)  
G. Mennen Williams Building – 6<sup>th</sup> Floor  
P.O. Box 30755  
Lansing, MI 48909  
Phone: (517) 373-3540  
Telefax: (517) 373-1610

United States:

All notices shall be sent to:

Secretary of the Interior  
1849 C Street NW  
MS 6100  
Washington, D.C. 20240

Regional Director  
U.S. Fish and Wildlife Service, Region 3  
Bishop Henry Whipple Federal Building  
1 Federal Drive  
Fort Snelling, MN 55111

Regional Director  
Bureau of Indian Affairs, Midwest Regional Office  
Bishop Henry Whipple Federal Building, Room 550  
1 Federal Drive  
Fort Snelling, MN 55111

Field Solicitor  
Office of the Solicitor  
Bishop Henry Whipple Federal Building, Room 686  
Fort Snelling, MN 55111

18.2 The Parties shall exchange and update email addresses for each person identified in this Section XVIII (Notices). Any Party may change the persons through or addresses at which it is to receive notices under this Protocol by notifying all other Parties in writing of the change. A notice under this Paragraph 18.2 shall be sent via first class and electronic mail to the persons and addresses identified under this Section XVIII (Notices).

## Appendix M

### AGREEMENT AMONG THE PARTIES AND PROPOSED INTERVENORS

The Parties' agreement in principle set forth the following agreement among the Parties and the Michigan Fisheries Resource Conservation Coalition ("MFRCC"), Stuart Cheney, Robert Andrus and the Walloon Lake Trust and Conservancy relating to intervention motions:

“MFRCC, the Walloon Lake Trust and Conservancy, Stuart Cheney and Robert Andrus (“Proposed Intervenors”) previously have sought and been denied intervention in this case and presently have an appeal pending in the Court of Appeals for the Sixth Circuit from the denial of their most recent motion to intervene. The United States and the Tribes have opposed Proposed Intervenors’ motions to intervene; the State has not. In furtherance of a settlement on the terms and conditions set forth in this Agreement: (1) the Proposed Intervenors agree to voluntarily dismiss their pending appeal pursuant to Fed. R. App. P. 42(b), with the Parties to bear their own costs and attorneys fees, and not to file a new motion to intervene at this time; and (2) the Parties agree that if, in the future, the Proposed Intervenors file a new motion to intervene, the Parties will not claim that they have been prejudiced by, or that such a future motion is untimely because of, the Proposed Intervenors’ withdrawal of their pending appeal or their failure to file a new motion to intervene at this time. Nothing herein shall preclude any party from opposing such a future motion to intervene on any other grounds.”