

1836 Consent Agreement

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PARTIES IN UNITED STATES v. MICHIGAN, 1836 TREATY GREAT LAKES FISHING ISSUE, AGREE TO 20 YEAR SETTLEMENT

John Bickerman, the mediator in United States v. Michigan, announced today that all parties have agreed to a 20-year settlement, resolving their long-standing differences concerning the implementation of 1836 Treaty fishing rights in portions of the waters of Lakes Michigan, Huron and Superior. Parties to the settlement include: Bay Mills Indian Community;

Grand Traverse Band of Ottawa and Chippewa Indians;
Little River Band of Ottawa Indians;
Little Traverse Bay Bands of Odawa Indians;
Sault Ste. Marie Tribe of Chippewa Indians;
the State of Michigan; and
the United States.

Conservation and sportfishing groups participating in the negotiations leading up to the agreement, including the Michigan United Conservation Clubs, the Michigan Fisheries Resource Conservation Coalition, the Michigan Fish Producers Association, and the Bay de Noc Great Lakes Sportsfishermen, also support the settlement.

The parties' agreement is embodied in a Consent Decree that has been submitted to Judge Richard A. Enslin, Chief Judge of the United States District Court for the Western District of Michigan. The parties' settlement will become final and binding once approved by the Court. Some of the terms of the Consent Decree will then take effect immediately.

The agreement of the parties reflects a creative and appropriate approach to the allocation, management, and regulation of State and Tribal fisheries in the waters of Lakes Michigan, Huron and Superior ceded by the tribes in the Treaty of Washington of March 28, 1836. Importantly, the parties have committed themselves to an ambitious plan to rehabilitate lake trout in Lakes Michigan and Huron. The parties believe that the measures agreed to in the Consent Decree, when fully implemented by 2006, will provide a meaningful opportunity to re-establish indigenous stocks of lake trout that will reproduce naturally. The parties have agreed to continue research to determine why lake trout rehabilitation efforts have not succeeded to date. All of the Lakes Michigan and Huron treaty waters will be subject to the lake trout rehabilitation plan. In Lake Superior where natural lake trout rehabilitation appears to have succeeded, a different regime will be exercised.

The heart of the agreement between the State and the Tribes calls for the removal of more than 14 million feet of annual large-mesh gill net effort. To accomplish this goal, many of the largest tribal gill net fishing operations will be converted to impoundment (trap net) operations. Conversion will be accomplished, in part, by the agreement of State commercial fishers in Bay de Noc to sell their trap net operations to the State which will then turn these operations over to tribal commercial fishers who choose to participate.

The Consent Decree opens waters closed in the 1985 Court decree. A description of the tribal fishing waters is referenced in Section IV.A. of the Consent Decree and is summarized in the maps attached to the Consent Decree.

The parties have agreed to work cooperatively to resolve issues that arise during the term of the agreement. The dispute resolution provisions of the agreement place a heavy emphasis on inter-governmental consultation between the Tribes and the State. Only if consultations fail to achieve resolution may a party petition the Court for relief. An important aspect of the settlement is the creation of a Technical Fisheries Committee ("TFC"). The TFC will be an inter-governmental body comprised of biologists that will seek to resolve issues using the best available science. The TFC will strive for consensus among all parties. The parties expect that fewer disputes will be referred to the Court than has been the experience over the last fifteen years.

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