

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

---

UNITED STATES OF AMERICA,

Plaintiff,

File No. 2:73-CV-26

and

Hon. Paul L. Maloney

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-Interveners,

vs.

STATE OF MICHIGAN, et al.,

Defendants.

---

**STIPULATION FOR ENTRY OF PROPOSED DECREE  
SUBJECT TO THE COURT’S CONSIDERATION OF OBJECTIONS**

Pursuant to the Court’s Order Extending the 2000 Great Lakes Fishing Consent Decree (“2000 Consent Decree”), ECF No. 2027, PageID.12020, the Bay Mills Indian Community, Grand Traverse Band of Ottawa and Chippewa Indians, Little River Band of Ottawa Indians, and Little Traverse Bay Bands of Odawa Indians, United States, and State of Michigan (“the undersigned parties”) herein submit the attached proposed successor decree subject to the following stipulations:

WHEREAS, the 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, hold treaty fishing rights under the Treaty of March 28, 1836, 7 Stat. 491 (the “1836 Treaty”), in the waters of Lake Huron, Lake Michigan, and Lake Superior, including connecting waters, that are within the area ceded in Article First of that treaty (the “1836 Treaty waters”); and

WHEREAS, the treaty fishing rights have been adjudicated in this case, in a decision reported at 471 F. Supp. 192 (W.D. Mich. 1979), *aff’d*, 653 F.2d 277 (6th Cir. 1981), *cert. denied*, 454 U.S. 1124 (1981), as well as in other decisions in this and other cases; and

WHEREAS, the Court has continuing jurisdiction over this case concerning the implementation, regulation, and enforcement of these treaty fishing rights, including jurisdiction to allocate the available harvest of fish in the 1836 Treaty waters; and

WHEREAS, the 2000 Consent Decree has governed the management of the fishery between the parties since its entry on August 8, 2000, ECF No. 1458; and

WHEREAS, the parties, with the involvement of *amici curiae*, have engaged in extensive mediated negotiations to draft a successor decree to address the changed nature of the fishery and shortcomings of the 2000 Consent Decree, and have worked to resolve their differences concerning management, allocation, and regulation of fishing in the 1836 Treaty waters; and

WHEREAS, the negotiations have resulted in agreement between the undersigned parties and are concluded as to the attached Proposed Decree; and

WHEREAS, the Proposed Decree details how fishing in the 1836 Treaty waters will be allocated, managed, and regulated by the parties for the next twenty-four years; and

WHEREAS, the parties recognize that the fishery in the 1836 Treaty waters is a shared resource and that, while the parties may have competing interests in the resource, they share a substantial material interest in the long term health of the 1836 Treaty waters and its fishery; and

WHEREAS, the parties agree that constructive communication, free exchange of information, consultation, and collaborative biological and law enforcement efforts are essential to sustain and enhance the resource; and

WHEREAS, the parties agree that the regulation and management of the fishery will promote the diversity and the availability of the fishery resources with the goal of providing sufficient quantities for present and future generations; and

WHEREAS, the parties agree that harvest limits and guidelines should be based on the best scientific evidence and fishery management methods available, including monitoring and assessment activities, and should be periodically adjusted as new information and methods become available; and

WHEREAS, the lake trout management regime set forth in Section VII of the Proposed Decree is based on the following assumptions: (1) the Great Lakes Fishery Commission and the parties signatory to the Joint Strategic Plan for Management for Great Lakes fisheries will continue to pursue lake trout rehabilitation; (2) lake trout rehabilitation is and will remain a viable goal in 1836 Treaty waters; (3) the United States will continue to rear lake trout at levels necessary to support lake trout rehabilitation; (4) available lake trout will be stocked consistent with the lake-wide rehabilitation plans and the Proposed Decree; (5) sea lamprey control efforts will continue to manage sea lamprey-induced lake trout mortality at acceptable levels; (6) if all parties abide by the lake trout management regime in the Proposed Decree, which includes continued lake trout stocking and continued sea lamprey control, it is expected to result in successful natural reproduction of lake trout in areas where successful natural reproduction is not currently occurring as of the date of entry of the Proposed Decree; (7) the lake trout management

regime of the Proposed Decree will not require significant reduction in effort by tribal commercial fishers and will provide greater stability for tribal commercial fishers; and

WHEREAS, native lake whitefish and introduced salmon in the 1836 Treaty waters of Lakes Michigan and Huron have declined since 2000; and

WHEREAS, the assumptions and management provisions for lake trout, lake whitefish and other species in the Proposed Decree are based on current knowledge about the fishery and the biology of these species; and

WHEREAS, there is disagreement between the undersigned parties and the Sault Ste. Marie Tribe of Chippewa Indians as to the terms of the Proposed Decree; and

WHEREAS, this Court has stated that it will allow all parties and *amici curiae* to file objections to the Proposed Decree, ECF No. 1985, PageID.11681; and

WHEREAS, the 2000 Consent Decree will expire upon the resolution of objections and entry of the successor Decree by the Court, ECF No. 2027, PageID.12021;

NOW, THEREFORE, the undersigned parties, by and through their respective counsel of record, hereby stipulate and agree to entry of the attached Proposed Decree, objections to which will be heard by this Court before entry of a final order.

Respectfully Submitted,

UNITED STATES OF AMERICA

Dated: December 11, 2022

/s/ Marisa Hazell

Marisa Hazell  
U.S. Department of Justice  
Indian Resources Section  
Environment-Natural Resources Div.  
P.O. Box 7611  
Ben Franklin Station  
Washington, DC 20044  
(202) 532-3055

Ryan D. Cobb  
Assistant U.S. Attorney  
330 Ionia N.W., Room 501  
Grand Rapids, MI 49503  
(616) 456-2404

STATE OF MICHIGAN

Dated: December 11, 2022

/s/ Kelly M. Drake  
Kelly M. Drake  
Assistant Attorney General  
Environment, Natural Resources & Agriculture Div.  
P.O. Box 30755  
Lansing, MI 48909  
(517) 335-7664

Christopher D. Dobyms  
Special Assistant Attorney General  
Environment, Natural Resources & Agriculture Division  
P.O. Box 30028  
Lansing, MI 48909  
(517) 284-5830

BAY MILLS INDIAN COMMUNITY

Dated: December 11, 2022

/s/ Kathryn L. Tierney  
Kathryn L. Tierney  
Rebecca Liebing  
12140 W. Lakeshore Drive  
Brimley, MI 49715  
(906) 248-3241

GRAND TRAVERSE BAND OF OTTAWA AND  
CHIPPEWA INDIANS

Dated: December 11, 2022

/s/ Rebecca Millican  
Rebecca Millican  
William Rastetter  
Olson, Bzdok & Howard, P.C.  
420 E. Front St.  
Traverse City, MI 49686  
(231) 946-0044

LITTLE RIVER BAND OF OTTAWA INDIANS

Dated: December 11, 2022

/s/ David A. Giampetroni  
David A. Giampetroni  
Kanji & Katzen PLLC  
303 Detroit St., Ste. 400  
Ann Arbor, MI 48104  
(734) 769-5400

Elise McGowan-Cuellar  
2608 Government Center Drive  
Manistee, MI 49660  
(231) 398-6821

LITTLE TRAVERSE BAY BANDS OF ODAWA  
INDIANS

Dated: December 11, 2022

/s/ James A. Bransky  
James A. Bransky  
9393 Lake Leelanau Dr.  
Traverse City, MI 49684  
(231) 946-5241