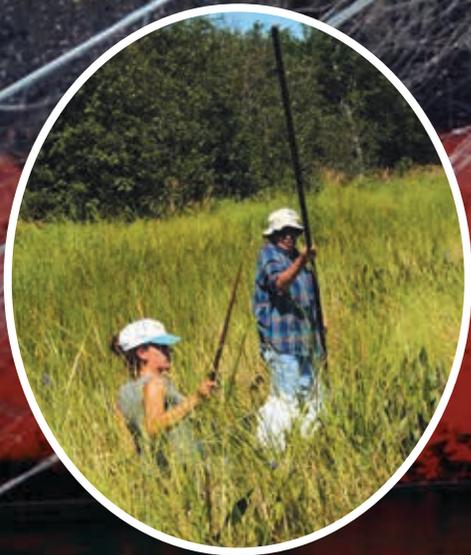
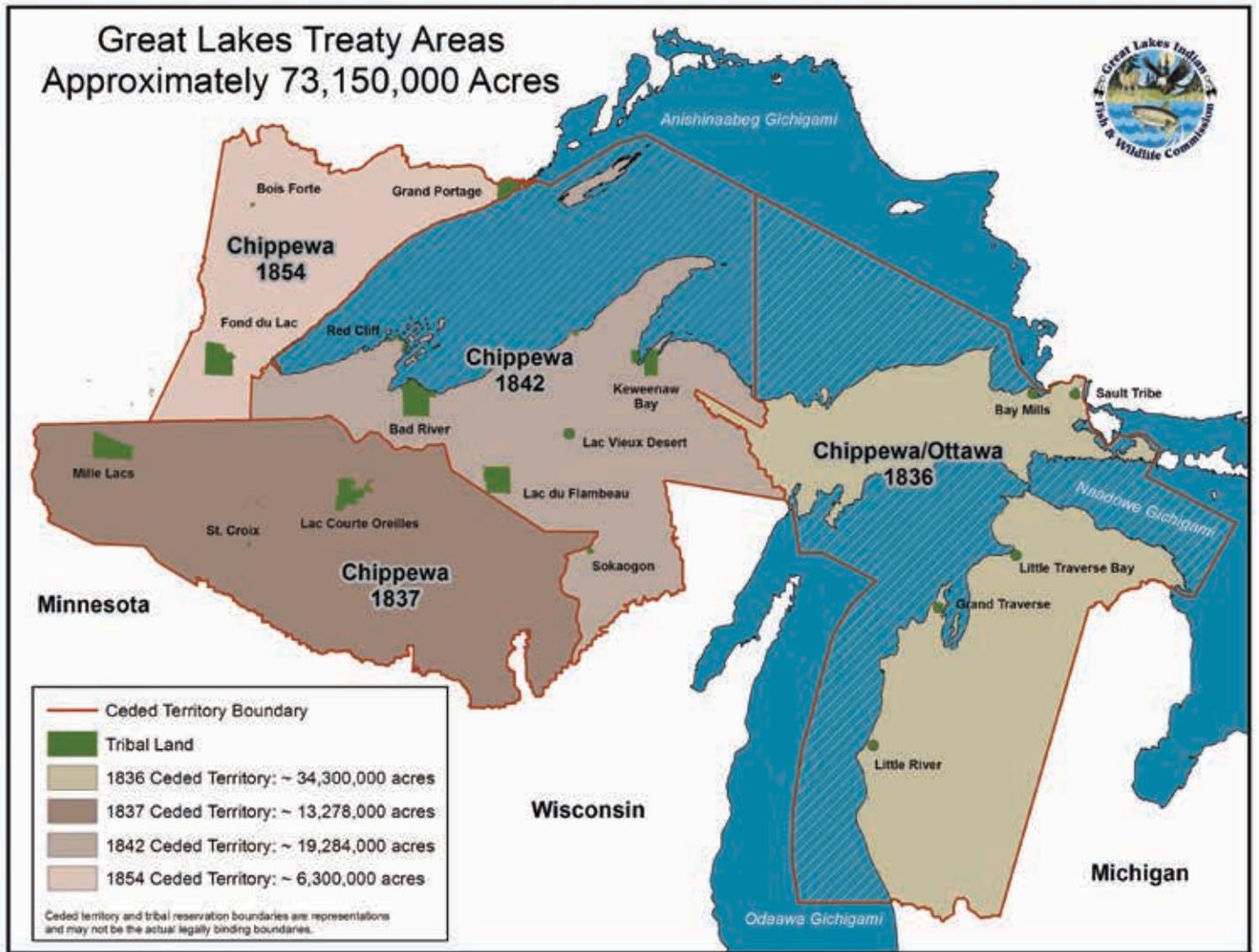


# Honoring Treaty Obligations



# Honoring Treaty Obligations: Federal-Tribal Partnership in the Great Lakes



**On the cover:** The exercise of treaty rights follows seasonal harvest patterns, including gathering birch bark in the summer, gathering wild rice and hunting deer and other animals in the fall, and fishing year-round.

# Natural Resource Treaty Rights in the Great Lakes Area

In the early to mid-1800s, the Tribes of the 1854 Treaty Authority, the Chippewa Ottawa Resource Authority (CORA), and the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) negotiated a series of land cession treaties with the United States. The Tribes sold, or ceded, their title to over 73 million acres of lands and waters. In return, the United States promised that the Tribes could continue their ways of life in their ancestral homelands. These treaty areas are commonly referred to as “ceded territories.” Treaty rights also endure within reservations and adjacent waters by virtue of the locations of the reservations.

## Member Tribes

### 1854 Treaty Authority

Bois Forte Band of Chippewa

Grand Portage Band of Lake Superior Chippewa

### CORA

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

### GLIFWC

Bad River Band of the Lake Superior Tribe of Chippewa Indians

Bay Mills Indian Community

Fond du Lac Band of Lake Superior Chippewa

Keweenaw Bay Indian Community

Lac Courte Oreilles Band of Lake Superior Chippewa Indians

Lac du Flambeau Band of Lake Superior Chippewa Indians

Lac Vieux Desert Band of Lake Superior Chippewa Indians

Mille Lacs Band of Ojibwe Indians

Red Cliff Band of Lake Superior Chippewa Indians

Sokaogon Chippewa Community (Mole Lake Band)

St. Croix Chippewa Indians of Wisconsin



**“Great Nations like great men must keep their word.”**

**—President George H. W. Bush**

**January 20, 1989**

May 2017

We provide this report as a reminder of the enduring United States treaty obligations to our member Tribes. These obligations remain the Supreme Law of the Land in strict Constitutional terms. As such, their fulfillment remains an inherently federal function.

Our Tribes have entered into land-cession treaties with the United States. They reserved hunting, fishing, and gathering rights in over 73 million acres in Michigan, Minnesota, and Wisconsin. Courts, including the United States Supreme Court, consistently have recognized and upheld those rights.

As treaty guarantor, the United States has been a long-standing partner in protecting and implementing our Tribes' rights. The federal government supports our Tribes' capacity to carry out the court-affirmed regulatory and co-management duties associated with the exercise of treaty rights.

As intertribal treaty commissions, we assist our Tribes to secure and implement their natural resource-based treaty rights in the Great Lakes region. Our respective Treaty Rights Protection and Implementation Programs touch the very core of long-standing federal Indian law and policy, including:

- Preservation of historically and culturally significant activities of Indian people;
- Fulfillment of federal treaty guarantees;
- Protection of significant subsistence and economic activity;
- Enhancement of tribal self-government; and
- Government-to-government dealings between Tribes and their federal, state, and local counterparts.

We greatly appreciate the decades of funding and other technical support that Congress and each Administration have provided to our commissions and our member Tribes. The federal government has wisely chosen to invest in our programs as efficient, cost-effective service delivery mechanisms at the appropriate governmental level.

We are particularly grateful to the Department of the Interior, Bureau of Indian Affairs, for our primary Rights Protection and Implementation funding, for full direct and indirect cost funding, for habitat restoration funding, and for invasive species funding. DOI funding in turn allows us to leverage complementary funding from other sources, public and private, including the Great Lakes Restoration Initiative.

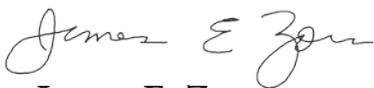
With this support, we have worked hard to become leaders in natural resource management. Our federal, state, and local partners look to us now more than ever precisely because Tribes are proven and respected managers. We are accountable in our work and achieve on-the-ground results that matter today and for future generations.

We provide objective scientific and biological studies. We are reliable sources of accurate information, data, and analyses. We are an integral part of law enforcement and public safety networks. We help sustain the Earth's bounty that in turn sustains the cultural, social and economic foundations of both tribal and neighboring communities.

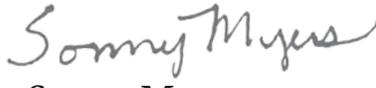
Our focus on youth is helping to develop tomorrow's leaders, biologists and other professionals. We now have programs that reconnect youth with their elders, language, and culture. We offer internships and other opportunities that assist educational pursuits and career development. These activities help to nurture vibrant communities and tackle the crisis of substance abuse that many youth currently face.

With an eye on future generations, we look to the federal government as a valued partner in fulfilling treaty promises.

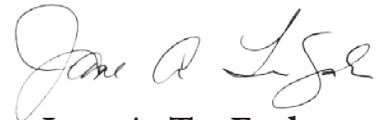
Respectfully Submitted,



**James E. Zorn**  
Executive Administrator  
Great Lakes Indian Fish  
& Wildlife Commission



**Sonny Myers**  
Executive Director  
1854 Treaty Authority



**Jane A. TenEyck**  
Executive Director  
Chippewa Ottawa  
Resource Authority

**“The mere passage of time has not eroded, and cannot erode, the rights guaranteed by solemn Treaties that both sides pledged on their honor to uphold.”**

**—United States Court of Appeals, Sixth Circuit, *US v. Michigan*, 1979**

## Land Cession Treaties in the Great Lakes Area

One of the primary purposes of these treaties is to provide a permanent right for tribal members to sustain themselves on ceded territory lands and waters by engaging in hunting, fishing, and gathering as they historically had. Federal and state courts have agreed.

Through the years, as tribal members were cited for violating state hunting and fishing laws, Tribes went to court to reaffirm their treaty-guaranteed rights. Federal and state courts consistently have upheld the existence of the treaty-reserved rights. They also established the legal requirements for a tribal self-regulatory system that conserves natural resources and protects public health and safety in the ceded territories.

**“And we...were placed on this land. From beginning to end it nourishes us: it quenches our thirst, it shelters us, and we follow the order of its seasons.”**

**—appeal of Mishi-Waub-Kaikaik  
upon consideration of a treaty,  
“Ojibway Ceremonies,”  
by Basil Johnston**



## Role of Intertribal Treaty Commissions

As agencies of their Tribes, the Great Lakes treaty commissions provide intertribal coordination to uphold and sustain legal obligations inherent in the Tribes' treaty-reserved rights. Their mission is two-fold:

- Ensure that their Tribes are able to exercise treaty-protected rights to meet subsistence, economic, cultural, medicinal, and spiritual needs; and
- Ensure a healthy, sustainable natural resource base to support those rights.

The commissions help their Tribes to:

- Meet specific federal treaty and statutory obligations;
- Fulfill conservation, habitat protection, and law enforcement functions required by federal court decisions affirming the Tribes' treaty rights;
- Effectively regulate harvests of natural resources; and
- Partner with local, state, and federal governments, educational institutions, and conservation organizations and other non-profit agencies.

With their commissions, Tribes have established comprehensive regulatory systems governing the exercise of ceded territory rights. They have adopted management plans and conservation codes that govern a broad range of harvest activities, including fishing, deer hunting, bear hunting, small game and furbearer hunting/trapping, wild rice gathering, and wild plant and forest products gathering.

And since the subsistence right to harvest fish is meaningless if the fish are not safe to eat or have disappeared because spawning grounds have been lost, Tribes work to prevent habitat destruction, restore and protect native species, and eradicate invasive species, with the benefit of preserving natural resources for tribal members and broader communities.

**“We need to...remember where we came from and who we are because those treaties are us. That’s our life.”**

**—George Newago  
Red Cliff Band of Lake Superior  
Chippewa Indians**



## Treaty Protection and Implementation Programs

Tribes and their treaty commissions employ scientists, technicians, conservation enforcement officers, public information specialists, and policy advisors to carry out their comprehensive treaty rights protection and implementation programs. They also support tribal courts which adjudicate alleged offenders.



*Elders pass treaty knowledge to youth during a fall harvest camp.*

Their programs ensure that appropriate regulations are developed and implemented to enforce allowable harvest limits, protect public safety, and guarantee an ongoing supply of healthy fish, game, and plants for generations to come. They:

- assess natural resource populations, conduct biological and scientific research, and monitor and report harvest;
- develop management plans and conservation codes;
- provide law enforcement officers to enforce tribal conservation codes and to participate in regional emergency services networks;
- negotiate and implement agreements with state, federal, and local agencies;
- implement protocols between member Tribes and States for determining natural resource harvestable surpluses and treaty harvest limits/quotas;
- protect, enhance, and restore natural resources and habitat; and
- prepare and disseminate public information materials to counter misconceptions and minimize user conflicts.

Tribal conservation codes regulate the time, manner and place of ceded territory harvest activities. They establish things like season dates, bag limits, quota restrictions, and gear restrictions.



*Permits are required for ceded territory harvests to ensure that tribal members comply with the appropriate regulations.*

## Federal Support for Treaty Rights Programs

There is a long history of federal funding for treaty rights protection and implementation programs. For more than thirty years, Congress and each Administration have appropriated funding for these programs. That funding has been delivered via contracts with the Bureau of Indian Affairs (BIA) pursuant to the Indian Self-Determination and Education Assistance Act of 1975 (Pub. L. 93-638).

BIA support has leveraged significant funding from other important programs, such as the Great Lakes Restoration Initiative, US Fish & Wildlife Service invasive species initiatives, US Health & Human Services-Administration for Native Americans Social and Economic Development grants, and US Department of Justice COPS grants.

The federal government, as a treaty signatory, is required to uphold treaty rights. As such, it would be compelled to perform the services necessary to comply with federal court orders if the Tribes and their designated intertribal treaty commissions did not have the capacity to do so, including the protection and restoration of natural resources on which those rights are based.

### Authorizations

In addition to the treaties themselves, federal authorizations for treaty programs include:

- Court Decisions Affirming the Treaties, including: *Lac Courte Oreilles v. Voigt (LCO I)*, 700 F. 2d 341 (7th Cir. 1983), cert. denied 464 U.S. 805 (1983); *Lac Courte Oreilles v. State of Wisconsin (LCO X)*, 775 F.Supp. 321 (W.D. Wis. 1991); *Fond du Lac v. Carlson*, Case No. 5-92-159 (D. Minn. March 18, 1996) (unpublished opinion); *Minnesota v. Mille Lacs Band of Chippewa Indians*, 119 S.Ct. 1187 (1999); *United States v. State of Michigan*, 471 F. Supp. 192 (W.D. Mich. 1979); *United States v. State of Michigan*, 520 F. Supp. 207 (W.D. Mich. 1981); *People of the State of Michigan v. Jondreau*, 384 Mich. 539, 185 N.W. 2d 375 (Mich. 1971); *State of Wisconsin v. Gurnoe*, 53 Wis. 2d 390, 192 N.W. 2d 892 (Wis. 1972).
- Snyder Act, 25 U.S.C. s. 13.
- Indian Self-Determination and Education Assistance Act, (P.L. 93-638), 25 U.S.C. ss. 450f and 450h.
- Water Infrastructure Improvements for the Nation Act, Pub.L. 114-322 (authorizes the Great Lakes Restoration Initiative).

## Treaty Programs in Action— Activities and Accomplishments

Treaty rights protection and implementation programs are similarly structured yet appropriately tailored to address the specific needs of their respective Tribes. Intertribal treaty commissions operate only within specific delegated responsibilities. They are governed by bodies of tribal representatives and often use technical committees to address issues or species. Professional staff carry out programs in accordance with specific goals, deliverables, and outcomes. Program accomplishments are reported to governing bodies and funding sources.



### Systems of Intertribal Co-Management

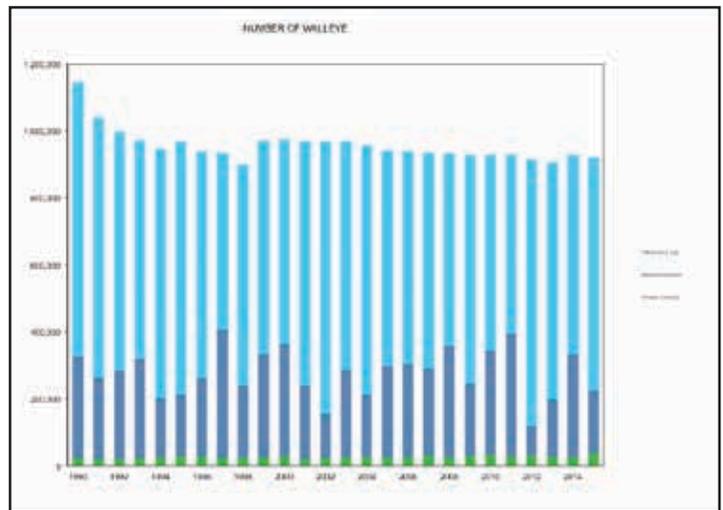
CORA provides a good example of how an intertribal treaty commission operates. In 2000, CORA's Tribes negotiated a comprehensive 20-year agreement with the State of Michigan and the federal government to govern allocation and management of upper Great Lakes fishery resources. The agreement was approved by a federal court. It set forth specific regulatory and management responsibilities among all of the parties. The Tribes delegated CORA to assist in meeting these responsibilities.

One key component was the formation of standing inter-agency committees tasked with addressing all pertinent fishery management issues, including the development of harvest limits for key species. Harvest limits are calculated using statistical catch-at-age computer modeling, and require extensive data collection and input from field assessments, commercial effort and harvest sampling, and other biological parameters. Tribal, state and federal biologists participate in data collection and in the annual harvest limit-setting process, with outside experts from universities and other agencies as needed.

## Partnering in Fisheries Management

Cooperative assessments of inland lake walleye populations are a prime example of inter-agency coordination. Large-scale population surveys are undertaken each spring and fall. Data are exchanged, reviewed through inter-agency committees, and reported to the public.

Managers calculate population estimates and determine allowable harvest levels for both tribal and state fisheries. Managers also monitor population trends, establish on-going population monitoring protocols, and prepare harvest reports.



This graph integrates, in a convenient way, data resulting from cooperative walleye population assessments and monitoring activities in the Wisconsin ceded territories. It reports on overall population size (light blue), state harvest (dark blue), and the comparatively small tribal harvest (green).



Walleye population assessments use electrofishing equipment to collect, fin-clip and then recapture fish. Biologists estimate population size using standardized statistical protocols. Here, a GLIFWC tribal crew dips for fish and an 1854 Treaty Authority crew “works-up” its catch before returning the fish to the water.

Joint tribal, state, federal and local fishery management efforts yield comprehensive knowledge about a shared resource, building a better foundation for informed management decisions by all concerned.



## Treaty Commercial Fishery

Tribal commercial fisheries are key contributors to a Great Lakes economy. They provide income for fishers and their families as well as for broader markets that meet demands of health-conscious consumers. Tribal fisheries supply stores, restaurants, and wholesalers—some of which are owned by Tribes or their members—with fresh fish, smoked fish, and value-added products such as fish spread.

Tribes tightly regulate their Great Lakes commercial fisheries through laws that establish seasons, gear requirements, locational restrictions, harvest limits, and reporting requirements. They also extensively monitor and assess fish populations. Biologists generate data and reports on fish size, growth, mortality, and abundance. They also collect eggs, implant tags, and conduct other research.



*Tribes license both larger fishing tugs, like this one, and smaller boats that engage in commercial fishing on the Great Lakes. Key species that support this important economic activity include whitefish, lake trout, perch, walleye, and other cool-water species that are in high demand by health-conscious consumers. The herring roe market is international, with exports heading to Scandinavian countries to supplement a fishery that collapsed there in the 1990s.*

*Tribal biologists undertake extensive Great Lakes fish assessments in coordination with their state and federal counterparts, such as this juvenile assessment in Lake Superior. Resulting data are used to establish necessary regulations, as well as to estimate population size and allowable harvest levels for both tribal and non-tribal fisheries.*





*Wild rice ripens in the fall. Tribal Rice Chiefs determine when harvest may proceed. Tribal regulations require harvesters to use smooth wooden ricing sticks. Ricers gently release the grain without damaging the plant. This method, passed down through generations of Rice Chiefs, has been adopted by the State of Wisconsin and is mirrored in its wild rice regulations.*

## **Wild Rice: The Food that Grows on Water**

Wild rice is a significant treaty resource. As the “food that grows on water,” it is an integral part of Ojibwe migration prophecies. It is a significant food staple and a valuable product in national and international markets. Wild rice plays an important role in many ceremonies and feasts.

Tribal treaty programs are leaders in wild rice management efforts, undertaking assessment, monitoring, research, and restoration activities. Their wild rice partnerships extend well beyond usual federal and state agency counterparts. They include counties, local lake associations, and conservation organizations such as Ducks Unlimited.

*Preserving existing rice stands and establishing new ones is an important goal. Ceded territory wild rice abundance today is far below historic levels. Since 1990, tribal treaty programs have restored more than 1,200 acres of rice in Wisconsin alone, increasing ceded territory abundance by about 25 percent.*



## Moose Management in Minnesota

Moose is an important part of a subsistence diet and the culture of Tribes in northeastern Minnesota. One animal can provide 400-700 pounds of meat. Moose numbers have declined nearly 50% since 2006.

Tribes and the 1854 Treaty Authority collaborate with federal, state, and academic institutions on moose research and population studies. The goal is to determine causes and potential remedies for a declining population. Particular focus is on improving moose habitat by identifying the best forage for these large herbivores.



*The 1854 Treaty Authority and its Tribes undertake aerial surveys to locate and track moose in northeastern Minnesota. These and other surveys generate information on animal health, movement, and population size. Necropsies are performed to determine mortality causes. These data feed into overall inter-agency coordination on moose management.*



Using a community-based policing approach, tribal conservation officers familiarize themselves with treaty harvest patterns near their duty stations. They schedule their patrols accordingly. They ensure that harvesters have all necessary permits and are complying with tribal codes. Violations are cited into tribal court.



Treaty harvesters must meet hunter safety training requirements. With a particular focus on youth, conservation officers conduct hunter, boating and ATV safety classes. The classes provide the necessary certifications under both tribal and corresponding state law.

## Conservation Enforcement and Public Safety

Conservation officers play important roles for tribal and neighboring communities. By enforcing tribal regulations, they ensure compliance with allowable harvest limits and safety regulations. They assist other agencies in broader law enforcement services and are often the first on-scene at emergencies. Tribal officers often carry credentials from state or local authorities.



Tribal conservation officers must complete annual training requirements, such as cold-water rescue, that provide broad public benefit. Other requirements include: legal and policy updates, firearms certification, emergency response and first-aid, Emergency Vehicle Operations Course training, and Defensive and Arrest Tactics training.

*Non-native Atlantic sea lamprey remain a significant source of mortality for lake trout and other species in the Great Lakes. A lamprey can kill up to 40 pounds of fish, significantly hurting both sport and commercial fisheries. Tribes and inter-tribal commissions partner with federal, state, and Canadian governments to implement a joint plan to combat sea lamprey.*



## **Invasive Species**

Tribal treaty programs address both aquatic and terrestrial invasive species. They involve prevention, eradication, mitigation, rapid response, and public outreach efforts. Their goal is to protect native species and habitats. Tribal programs coordinate their work with federal, state, local, and international counterparts.

Tribes are especially concerned about invasive species that disproportionately affect treaty resources, such as: phragmites that threatens wild rice; sea lamprey that threatens lake trout; spiny water fleas, zebra mussels, and rusty crayfish that threaten walleye; and garlic mustard that threatens a wide range of plants used for subsistence, ceremonial and medicinal purposes.



*Non-native phragmites is spreading into the ceded territories. It threatens wild rice, native plant communities, and wildlife habitat in wetlands and along shorelines. Tribal biologists extensively survey lakes, streams, and phragmites dispersal vectors. They report new occurrences and initiate rapid response activities with federal, state, and local partners.*

## Focus on Youth

Tribal treaty programs understand the importance of exposing young people to tribal lifeways and careers in natural resource fields. For example, GLIFWC and its Tribes offer a number of outdoor skills workshops including seasonal outdoor activity camps, kids' fishing events, workshops on wild rice stick carving, and seminars on trapping and archery.

For older youth, GLIFWC provides internships that expose students to careers in natural resource fields. Students are paired with professionals that work in areas including fisheries assessments and harvest monitoring, wild rice management and furbearer research. Students are also exposed to cultural activities and events. Through attendance at meetings of GLIFWC's governing board and committees, they observe tribal sovereignty and intergovernmental coordination in action.

*To foster youth development, GLIFWC partners with the USDA Forest Service to conduct Camp Onji-Akiing (From The Earth), a 5 day outdoor adventure camp for youth in grades 4 through 8. Located in the Ottawa National Forest in Michigan's Upper Peninsula, this camp explores culture, lifeways and traditional knowledge while exposing youth to the fields of biology, botany, forestry, and enforcement, among others.*



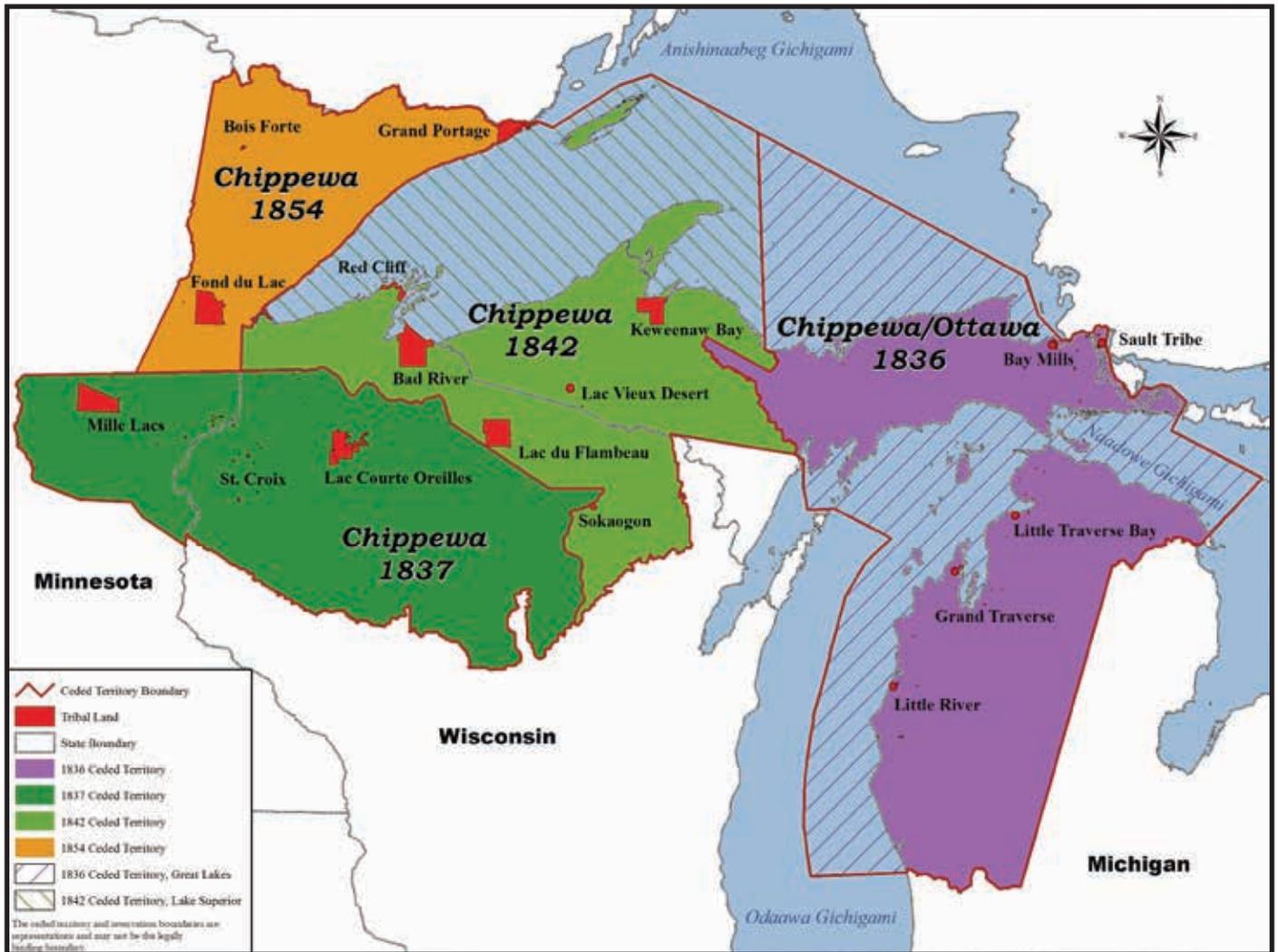
*Interns get hands-on training in biological monitoring –in this case, assessing the forage base in Lake Lac Vieux Desert on the Michigan-Wisconsin border. In 2016, GLIFWC hosted 23 interns, 19 of which were Native Americans.*

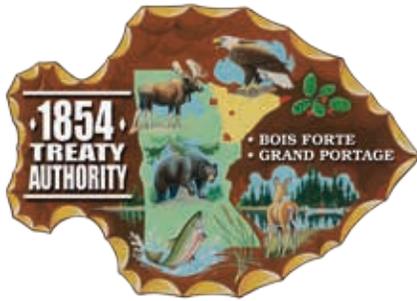


Seasonal camps provide youth with an opportunity to learn about treaty rights and to engage in treaty harvest activities. Kids learn from elders about treaties and how important treaty rights are to their communities. They also learn such things as how to sew fishing nets, to ice fish, and to safely handle weapons.



# Great Lakes Treaty Areas





### **1854 Treaty Authority**

4428 Haines Road  
Duluth, Minnesota 55811-1524  
(218) 722-8907

[www.1854treatyauthority.org](http://www.1854treatyauthority.org)

**Norman W. Deschampe, Chairman**

**Sonny Myers, Executive Director**

The 1854 Treaty Authority assists two tribal nations  
in northeastern Minnesota.

See Treaty of LaPointe (1854) 7 Stat. 591.



### **Chippewa Ottawa Resource Authority**

179 W. Three Mile Road  
Sault Ste. Marie, Michigan 49783  
(906) 632-0043

[www.1836cora.org](http://www.1836cora.org)

**Aaron A. Payment, Chairman**

**Jane TenEyck, Executive Director**

CORA assists five tribal nations in Michigan.  
See Treaty of Washington (1836), 7 Stat. 491.



### **Great Lakes Indian Fish & Wildlife Commission**

72682 Maple Street  
Odanah, Wisconsin 54861  
(715) 682-6619

[www.glifwc.org](http://www.glifwc.org)

**Michael J. Isham Jr., Chairman**

**James E. Zorn, Executive Administrator**

GLIFWC assists eleven tribal nations  
in Michigan, Minnesota and Wisconsin.  
See Treaty of Washington (1836), 7 Stat. 491;  
Treaty of St. Peters (1837), 7 Stat. 536;  
Treaty of LaPointe (1842), 7 Stat. 591; and  
Treaty of LaPointe (1854), 10 Stat. 1109.