



# Tribal Need to Keep Asian Carp out of the Great Lakes

Derek J. Bailey, Chairman  
Grand Traverse Band of  
Ottawa and Chippewa Indians

# GTB Overview

- One of five Tribes party to the 1836 Treaty of Washington.
- Federal Reaffirmation on May 27, 1980
- Party to the 1985 Great Lakes Consent Decree
- Party to the 2000 Great Lakes Consent Decree
- Party to the 2007 Inland Consent Decree



# 1836 Treaty of Washington

- March 28, 1836 ceded to the United States approximately 1/3 of what is now known as the State of Michigan.
- Did not relinquish the right of the Ottawa and Chippewa Nations to hunt, fish, trap or gather.

## Treaty of Washington

In 1836, the Ottawa and Chippewa tribes ceded these lands to the U.S. government, but retained hunting and fishing rights.



- Approximate land area of Michigan: 37.1 million acres
- Approximate land area of 1836 treaty: 13.8 million acres
- Portion of Michigan covered by 1836 treaty: 37.2%

*The Detroit News*

# 1985 Great Lakes Consent Decree

- Following an extended legal battle in the 1970s, on May 7, 1979 the US District Court reaffirmed the fishing rights reserved to the Tribe(s).
- Signed on May 14, 1985 by the Tribe(s), USDOJ and State of Michigan. This Decree recognized the Tribes' right to commercially harvest and manage fish stocks within the Great Lakes.



# 2000 Great Lakes Consent Decree

- Signed on August 8, 2000, this 20-year agreement addressed many fishery concerns which remained following the expiration of the 1985 Consent Decree. (i.e., Fishery Management Issues- stocking, seasonal closures, fishing grids, etc.)
- Key issues of the 2000 Decree include the commitment by all parties to actively support lake trout rehabilitation in the Great Lakes, the expansion of Tribal fishing areas and opportunities and the conversion of some Tribal fishers from gill nets to trap nets.



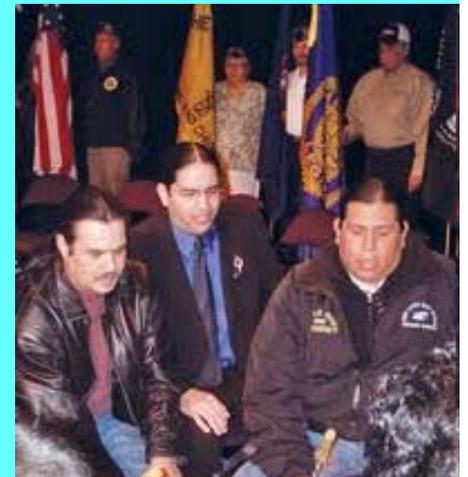
# 2007 Inland Consent Decree

- Signed in November 2007, this Decree recognizes the Tribes right to hunt, fish, trap and gather on public lands within the 1836 Treaty ceded territory.
- Recognizes the Tribe's ability to manage inland resources.
- Identifies and promotes ways for the Tribes and State to collaborate on joint management of the resources.



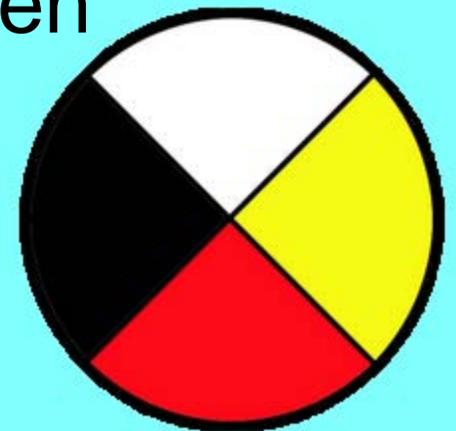
# Tribal Sovereignty

- Tribal sovereignty in the United States refers to the inherent authority of indigenous tribes to govern themselves within the borders of the United States of America. The federal government recognizes tribal nations as "domestic dependent nations" and has established a number of laws attempting to clarify the relationship between the federal, state, and tribal governments. The Constitution and later federal laws grant to tribal nations more sovereignty than is granted to states or other local jurisdictions.



# Seventh Generation Philosophy

- Tribal teachings instruct us to think in terms of seven generations. Imagine seven generations prior to this present one and seven generations forward into the future from this one.
- This philosophy is a guiding principle to the Anishinaabek (Native People) and therefore is what we consider when making important decisions.

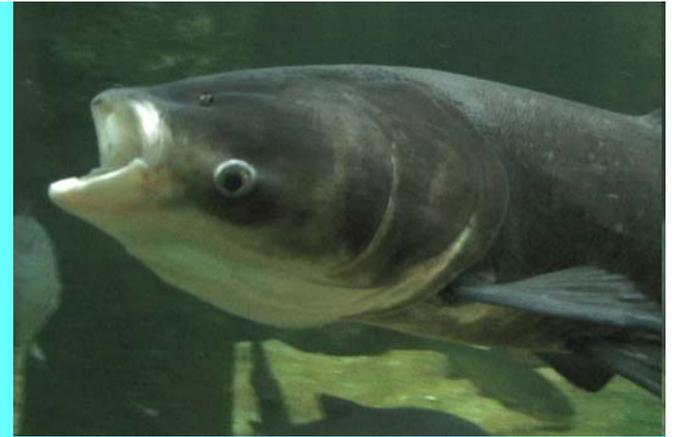


# Asian Carp: Threat to the Anishinaabek

- Since time immemorial the Anishinaabek have harvested fish from the Great Lakes as a means of sustenance.
- Traditional ceremonies and feasts take place regularly in Tribal communities where fish is a desired item.
- Tribal Nations have a clan system in which fish is still a clan to this day.
- The harvesting of fish still takes place today as evidenced by the Consent Decree's now in place.
- Not only do Tribes have a Treaty right to harvest fish from the Great Lakes, but we have a mandate to ensure that this right is not diminished.



# Facts



- The threat of Asian carp entering into the Great Lakes is well known.
- Time has shown how quickly Asian carp can take over a lake/river system and how quickly they can displace and diminish the native fish population.
- E-DNA has documented Asian carp above the electric barrier on the Chicago Shipping and Sanitary Canal.

# Current GTB Actions

- Adopted Tribal Council Resolution: #10-28.269 “Concerns Regarding the Asian Carp Threat to the Great Lakes” (March 17, 2010)
- Filed a motion to intervene as a plaintiff in current litigation (US District Court Case #1:10-CV-4457)
- Filed a resolution with the four other Chippewa-Ottawa Resource Authority (CORA) tribes (#12-17-09) to “Protect the Great Lakes Watershed from Asian Carp”

# Examples of Other Efforts

- Midwest Alliance of Sovereign Tribes (MAST)  
Resolution: # 04-10 “Expressing Tribal Concerns Regarding the Asian Carp Threat to the Great Lakes”  
(March 9, 2010)
- Inter Tribal Council of Michigan Resolution regarding the Asian Carp threat to the Great Lakes
- City of Frankfort, MI Resolution: # 2010-1 “Resolution in support of protecting the Great Lakes from Asian Carp”
- Kevin A. Elsenheimer, House Republican Leader, State Representative, 105<sup>th</sup> House District- Resolution requesting tribes to participate in the Federal Litigation. Additionally this resolution reaffirms the State’s respect for the treaties between the State and the Tribal Nations

# Tribal Position

- Tribal property rights reserved by Treaty with the United States are the “supreme Law of the Land” by virtue of the supremacy clause (Article V, clause 2) of the United States Constitution.
- The Treaty right to fish is a property right and the federal government has a trust obligation to the Grand Traverse Band (as well as other tribes) to protect tribal property.
- The federal government must act to protect tribal property by any and all means at their disposal.



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