



2000 Great Lakes Consent Decree FAQs

1. What is the 2000 Great Lakes Consent Decree?

In 1979, the U.S. District Court ruled that tribes signatory to the 1836 Treaty of Washington had a viable treaty right to fish in the Great Lakes. As a result of this ruling, the State of Michigan, the United States, and the tribes entered into Consent Decrees in 1985 and again in 2000 to implement the court's 1979 ruling. The 2000 Great Lakes Consent Decree is a settlement negotiated between the State of Michigan, five sovereign Michigan tribes that are signatory to the 1836 Treaty of Washington, and the United States. It is a legal document that defines the extent of tribal rights and describes how the State and the tribes will cooperatively allocate and manage the fisheries resources in the 1836 Treaty-ceded waters of the Great Lakes.

2. What is the background of the 1836 Treaty of Washington?

The 1836 treaty involved a territory purchase between the United States and Ottawa and Chippewa Indian Tribes of the northern Lower Peninsula and the eastern Upper Peninsula of Michigan. Treaties such as this often contained clauses in which tribes reserved hunting, fishing, and gathering rights. In the 1836 treaty, Article 13 provided that the Indians reserved the "right to hunt and the usual privileges of occupancy until the land is required for settlement." These usufructuary rights (rights that allow the use of a property owned by someone else) were retained even though the land and waters were ceded to the United States and in that regard are similar to mineral rights which can be retained by individuals even when surface land is sold. Federal courts, including the United States Supreme Court, have consistently held that the passage of time cannot erode the rights retained when these treaties were signed. In these Indian treaty cases, federal courts have ruled that under the Supremacy clause of the United States Constitution, that State laws must give way to Indian treaties.

3. Which tribes are involved in the 2000 Consent Decree and how much water is involved?

The tribes that are included in the Consent Decree are the Sault Ste. Marie Tribe of Chippewa Indians, the Bay Mills Indian Community, the Grand Traverse Band of Ottawa and Chippewa Indians, the Little Traverse Bay Bands of Odawa Indians, and the Little River Band of Ottawa Indians. The 1836 Treaty-ceded territory encompasses roughly 18,730 square miles of water in lakes Michigan, Huron, and Superior.

4. Who besides the State, the tribes, and the United States were included in the negotiations that led to the Consent Decree?

Several conservation groups were involved as amici curiae, including the Michigan United Conservation Clubs, Inc., the Michigan Fisheries Resource Conservation Coalition representing several conservation organizations, Bay de Noc Great Lakes Sportfishermen, Inc., and the Michigan Fish Producers Association.

5. How are Michigan's Great Lakes fisheries resources managed under the 2000 Consent Decree?

The Michigan Department of Natural Resources manages Michigan's resources based on the principles of sound scientific management and the 2000 Consent Decree is no different. In 1836 Treaty-ceded waters of the Great Lakes, the DNR, the tribes, and the United States co-manage fisheries resources. They coordinate research and assessment activities and regularly consult and exchange information with one another. The parties review one another's fish stocking proposals and collaboratively develop scientifically-based harvest limits for species such as lake trout and whitefish. Species that do not have specific harvest limits are managed with seasons, area closures, depth restrictions, gear restrictions, daily possession limits, and size limits. Any changes to the decree require approval of all seven parties.

6. Has the 2000 Consent Decree affected the opportunities of State-licensed fishers?

Under the 2000 Consent Decree, resources are shared between the State and the five tribes. The allocations differ among management units, but in general the tribes are allocated the majority of whitefish, the State harvests the majority of salmon, and lake trout are allocated approximately equally. Given that a major premise of the 2000 Consent Decree is lake trout rehabilitation, occasionally the allowable harvest results in situations where the State is required to change recreational fishing regulations to stay within our harvest limit. Similarly, the tribes have to regulate their fishers to stay within their harvest limits.

7. How are tribal fishing activities regulated?

Generally, tribes regulate their own members within the limitations of the 2000 Consent Decree. Tribal members may fish commercially, recreationally, or for subsistence purposes and the regulations differ among methods and area. The 2000 Consent Decree defines such things as commercial fishing zones, gear and/or depth restrictions, spawning closures, and species authorized for commercial harvest.

8. Where may tribal members engage in fishing under the 2000 Consent Decree?

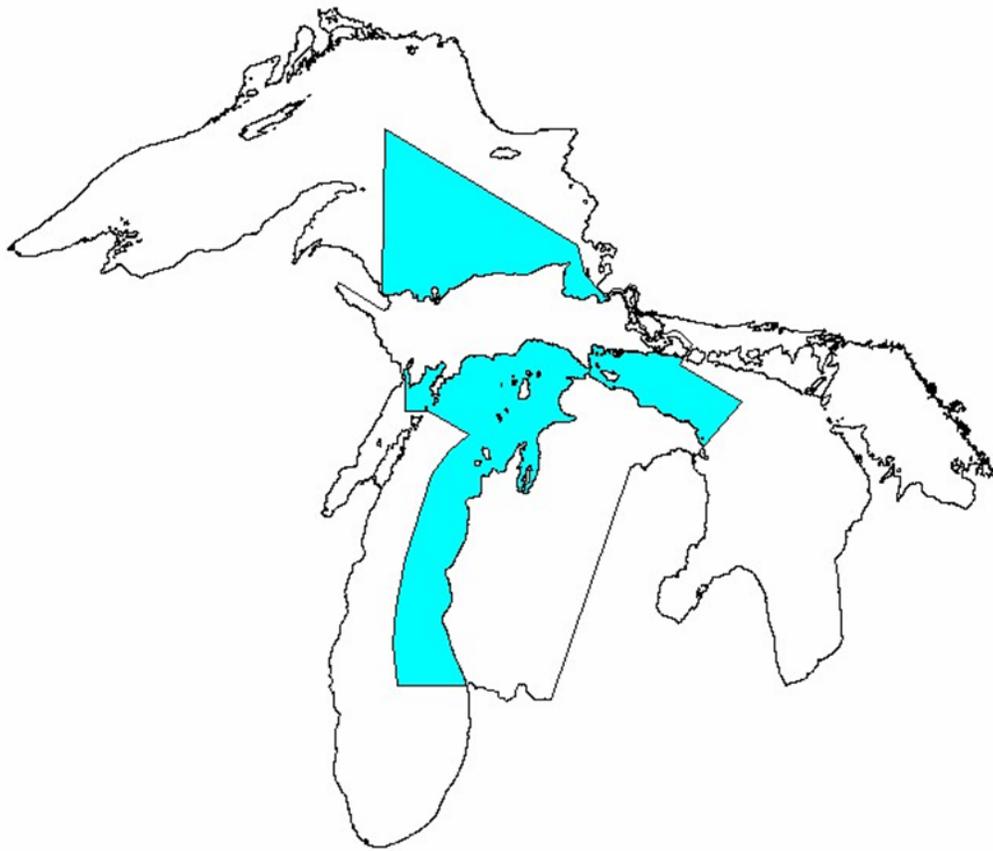
Most areas within the 1836 Treaty-ceded waters of the Great Lakes are open to tribal fishing; however certain areas are closed to commercial fishing (e.g. the majority of the St. Marys River or Little Bay de Noc) or netting of any sort to allow for fish migrations or for safety reasons.

9. How are provisions of the 2000 Consent Decree enforced?

All parties to the 2000 Consent Decree maintain law enforcement staff that enforce the provisions of the Decree.

10. When will a new Consent Decree be negotiated?

The 2000 Consent Decree will expire in August of 2020. Negotiations among the parties for a new Consent Decree will likely begin in late 2018 or early 2019.



1836 Treaty-ceded waters of the Great Lakes.