

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

---

UNITED STATES OF AMERICA,

Plaintiff,

and

Case No. 2:73 CV 26

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,

Hon. Paul L. Maloney

Intervening Plaintiffs,

v.

**DECREE**

STATE OF MICHIGAN, et al.,

Defendants.

---

The Parties have engaged in extensive mediated negotiations to resolve their differences concerning allocation, management, and regulation of fishing in 1836 Treaty Waters upon expiration of the Order of the Court entered in this case on August 8, 2000. These negotiations have resulted in this Decree and related documents detailing how fishing in 1836 Treaty Waters will be allocated, managed, and regulated by the Parties for the next twenty-four (24) years. Six Parties have executed a Stipulation for entry of this Decree. The Court approves this Decree.

**THEREFORE, IT IS ORDERED AND DECREED:**

## CONTENTS

|      |  |    |
|------|--|----|
| I.   | INTRODUCTION. ....   | 1  |
| II.  | DEFINITIONS.....   | 1  |
| III. | INTERTRIBAL AGREEMENTS. ....   | 5  |
| IV.  | COMMERCIAL FISHING ZONES.....  | 5  |
|      | A. Tribal Commercial Fishing Zones and Regulations. ....                 | 5  |
|      | 1. Lake Michigan. ....   | 5  |
|      | a. Northern Lake Michigan Inter-Tribal Fishing Zone.....                 | 5  |
|      | b. Bay de Noc Zone .....   | 5  |
|      | c. Little Traverse Tribal Zone.....                                      | 7  |
|      | d. Lake Michigan Northern Development Zone .....                         | 8  |
|      | e. Grand Traverse Tribal Zone.....                                       | 8  |
|      | f. Little River Tribal Zone.....   | 13 |
|      | g. Southern Lake Michigan Development Zone .....                         | 15 |
|      | 2. Lake Huron. ....  | 15 |
|      | a. Northern Lake Huron Inter-Tribal Fishing Zone.....                    | 15 |
|      | b. Bay Mills Tribal Zone.....  | 16 |
|      | c. Sault Tribe Tribal Zone.....  | 16 |
|      | d. Southern Lake Huron Trap Net Zone .....                               | 17 |
|      | 3. Lake Superior.....  | 18 |
|      | a. Lake Superior Inter-Tribal Fishing Zone.....                          | 18 |
|      | B. State Commercial Fishing Zones .....                                  | 18 |
|      | C. Closed Commercial Fishing Zones .....                                 | 19 |
| V.   | RECREATIONAL FISHING. ....   | 22 |
| VI.  | REGULATION OF THE FISHERY. ....  | 23 |
|      | A. Tribal Regulation. ....   | 23 |
|      | B. State Regulation.....   | 25 |
|      | C. Gear Restrictions.....  | 25 |
|      | D. Spawning Closures.....  | 27 |
| VII. | LAKE TROUT AND LAKE WHITEFISH MANAGEMENT.....                            | 28 |
|      | A. Harvest. ....   | 28 |
|      | B. Management of Harvest.....  | 32 |
|      | C. Non-Shared Whitefish Management Units. ....                           | 32 |
|      | D. Lake Trout Refuges.....   | 32 |
|      | E. MI-8 .....  | 33 |
|      | F. Retention of Lake Trout by Tribal Fishers. ....                       | 33 |
|      | G. Retention of Lake Trout by State-Licensed or -Permitted Fishers. .... | 33 |

|       |  |    |
|-------|--|----|
| VIII. | MANAGEMENT OF OTHER SPECIES.....                       | 33 |
|       | A. Allocation and Harvest Limits .....                 | 33 |
|       | B. Salmon. ....  | 33 |
|       | C. Bloater Chubs.....                                  | 34 |
|       | D. Cisco. ....   | 34 |
|       | E. Menominee .....                                     | 34 |
|       | F. Walleye. ....                                       | 34 |
|       | G. Yellow Perch.....                                   | 35 |
|       | H. Smelt .....   | 35 |
|       | I. Other Species. ....                                 | 35 |
|       | J. Species Not Authorized for Commercial Harvest. .... | 36 |
| IX.   | STOCKING .....   | 36 |
|       | A. Lake Committee Role .....                           | 36 |
|       | B. Stocking Process. ....                              | 36 |
|       | C. Genetics.....                                       | 37 |
|       | D. Disease Considerations .....                        | 37 |
|       | E. Lake Whitefish Stocking Evaluation .....            | 38 |
| X.    | TRIBAL CHARTER BOAT OPERATIONS.....                    | 38 |
| XI.   | SUBSISTENCE FISHING .....                              | 38 |
| XII.  | TECHNICAL FISHERIES COMMITTEE (TFC). ....              | 40 |
|       | A. Purpose.....  | 40 |
|       | B. Membership and Authority .....                      | 40 |
|       | C. Tasks and Responsibilities.....                     | 41 |
|       | D. Modeling Subcommittee.....                          | 41 |
| XIII. | NOTICE AND CONSULTATION .....                          | 42 |
|       | A. Notice of Proposed Regulatory Actions .....         | 42 |
|       | B. Parties Receiving Notice.....                       | 43 |
|       | C. Local Consultation.....                             | 44 |
| XIV.  | INFORMATION SHARING.....                               | 44 |
|       | A. Biological Data .....                               | 44 |
|       | B. Commercial Harvest .....                            | 44 |
|       | C. Subsistence Harvest by Tribal Fishers.....          | 46 |
|       | D. Retail Sales Records .....                          | 46 |
|       | E. Tribally-Licensed Fish Wholesaler Reports .....     | 46 |
|       | F. State-Licensed Fish Wholesaler Reports .....        | 47 |
|       | G. State-Regulated Charter Boats.....                  | 47 |
|       | H. Recreational Harvest by State-Licensed Fishers..... | 48 |
|       | I. Exercise of State Authority.....                    | 48 |
|       | J. Recreational Harvest by Tribal Fishers.....         | 48 |
|       | K. Tribal Charter Boat Harvest.....                    | 48 |
|       | L. Salmon Weir Harvest.....                            | 48 |

|   |    |
|---|----|
| M. Environmental Contaminants.....                | 48 |
| N. Invasive and Non-Native Species .....          | 49 |
| O. Parity .....                                   | 49 |
| XV. INFORMATION GATHERING. ....                   | 49 |
| A. Research Priorities .....                      | 49 |
| B. Work Plans.....                                | 49 |
| C. Assessment Fishing by Commercial Fishers. .... | 49 |
| D. Information to be Gathered .....               | 51 |
| XVI. JURISDICTION AND ENFORCEMENT. ....           | 51 |
| A. Courts.....                                    | 51 |
| B. Enforcement Efforts.....                       | 51 |
| XVII. EXECUTIVE COUNCIL. ....                     | 55 |
| XVIII. DISPUTE RESOLUTION.....                    | 55 |
| A. Negotiation.....                               | 56 |
| B. Mediation .....                                | 56 |
| C. Judicial Resolution.....                       | 56 |
| XIX. FINANCIAL AND OTHER COMMITMENTS.....         | 57 |
| XX. ENVIRONMENTAL COMMITMENTS.....                | 58 |
| XXI. ACCESS SITES.....                            | 59 |
| XXII. RECONSIDERATION.....                        | 61 |
| XXIII. DURATION.....                              | 62 |
| XXIV. DISCLAIMERS.....                            | 62 |
| XXV. ATTORNEY FEES AND COSTS.....                 | 62 |
| XXVI. CONTINUING JURISDICTION .....               | 62 |

## **DECREE**

### **I. INTRODUCTION.**

This Decree governs allocation, management, and regulation of State and Tribal fisheries in the 1836 Treaty Waters during the term described in Section XXIII. It is the intent of the Parties to cooperatively manage a shared resource through regular communication at appropriate levels, collaboration on research of joint interest, sharing of data, scientific information, and perspectives in a transparent manner, timely and meaningful government-to-government consultation regarding decisions and actions that may impact another Party's fishery, and a respective commitment to responsible management actions and the enforcement of regulations used to implement those management actions. The Tribes are governed by the CORA Charter, Tribal Plan, and Tribal Code for management and regulation of their fisheries during this period. This Decree requires the Tribes to abide by the terms of these documents, as they may be amended from time to time in accordance with their terms.

This Decree sets forth additional provisions to address Federal, State, and Tribal management and allocation concerns. In the event of a conflict, the provisions of this Decree shall control over the provisions of the CORA Charter, Tribal Plan, and Tribal Code.

The health and long-term sustainability of the Great Lakes fishery is vital to the cultural, social, and economic well-being of the Tribes, the State of Michigan, and the United States.

According to the Tribes' oral histories, during a time of famine and desolation, the eight traditional clans Bear, Turtle, Deer, Loon, Crane, Marten, Bird, and Whitefish came together to discuss how to save the Anishinaabeg throughout the Great Lakes Region. After much debate and discussion, the Whitefish clan chose to sacrifice itself to provide for the well-being of the people. The Whitefish clan submerged itself in the Great Lakes and became the Whitefish that the Tribes fish today, and Great Lakes fish remain a primary source and means to sustain the health and prosperity of the Anishinaabeg.

In sharing these teachings and memorializing them in this Consent Decree, the Tribes emphasize the economic, cultural, traditional, spiritual, and historical significance of Tribal treaty fishing rights in the Great Lakes. The Great Lakes have been and will continue to be an integral part of the Tribes' way of life, and this Consent Decree will continue to carve that pathway for the next seven generations to come.

### **II. DEFINITIONS.**

- A. "1836 Treaty Waters" means all waters of Lake Huron, Lake Michigan, Lake Superior, and connecting waters, which are within the area ceded in Article First of the Treaty of March 28, 1836, 7 Stat. 491.

- B. “BSD” means Biological Services Division, which is the biological staff of CORA.
- C. “Break Wall” means a man-made barrier that breaks the force of waves, as found outside a harbor.
- D. “Commercial Fishing” means Fishing Activity engaged in for the purpose of sale of fish or parts of fish.
- E. “CORA” means the Chippewa Ottawa Resource Authority, an organization formed by the Tribes which has been delegated certain management and regulatory authority. “CORA Charter” means the *Chippewa Ottawa Resource Authority Charter and Rules of Procedure of the Chippewa Ottawa Resource Authority* attached as Appendix A (reproduced from ECF No. 1458, PageID.3337-3350), including any changes adopted in the future.
- F. “Electronic Reporting System” means an electronic platform that allows for direct paperless entry of harvest and purchase data by Licensed Fishers and wholesalers and includes data validation, records of changes made to entered data, and automated transmission capabilities.
- G. “Fishing Activity” means fishing for, or attempting to fish for, catch, or take any species of fish from 1836 Treaty Waters, including all related activities that occur in or on the water or ice until such time as the vessel is moored, tied up, grounded, or the vehicle used in ice fishing is parked on the land.
- H. “Gill Net” means a wall of webbing held vertically in the water by weights and floats and designed to capture fish by means of entanglement.
- I. “GLRC” means the Great Lakes Resources Committee, the committee of CORA charged with promulgating Tribal fishing regulations for and making other management decisions concerning Tribal fishing in the 1836 Treaty Waters.
- J. “Grid” means a geographical unit based on ten (10) minutes of latitude by ten (10) minutes of longitude and commonly used by Tribal, State, provincial, and federal governments for reporting fishery statistics. For purposes of this Decree, the area of a Grid shall include only those portions of a Grid that are within the boundaries of the State of Michigan and the 1836 Treaty Waters. Grids are shown on the Grid maps included in Appendix C. (Maps 1, 2, and 3.)
- K. “Harvest Limit” means a limitation on the annual harvest of Lake Trout, Lake Whitefish, or other species established during the term of this Decree.
- L. “HRG” means a harvest regulation guideline that represents a sustainable level of harvest for a given species and area in a single calendar year to guide regulations

and adaptive management as described in this Decree.

- M. “Impoundment Net” means a net designed to capture fish by deflection and to retain them in a live condition until removed (e.g., trap, pound, fyke, or hoop nets).
- N. “Lake Superior Lake Trout Management Unit” means a geographical unit as described in *A Lake Trout Restoration Plan for Lake Superior* (Great Lakes Fishery Commission, Ann Arbor, Michigan, 1996). For purposes of this Decree and for data compilation, the Lake Superior Lake Trout Management Units are aggregations of Grids as outlined on the Grid maps included in Appendix C. (Map 3.)
- O. “Large Mesh Gill Net” means a Gill Net having a diagonal Stretch Mesh measurement of four and one-half (4.5) inches or greater.
- P. “LEC” means the Law Enforcement Committee, described in Section XVI.
- Q. “Licensed Fisher” means a person who is licensed by a Tribe to fish by commercial, subsistence, or recreational means or by the State to fish by commercial or recreational means.
- R. “MDNR” means the State of Michigan, Department of Natural Resources.
- S. “Mile” means statute Mile.
- T. “Parties” means the Parties to United States v. Michigan, W.D. Mich. Case No. 2:73 CV 26, and does not include any person or entity granted *amicus curiae* status in the case.
- U. “Pier” means a permanent man-made structure built for use by the public extending from land out over the water.
- V. “Retail Outlet” means an individual or entity, other than a State- or Tribally licensed wholesaler, that purchases fish to be sold to the final consumer. Retail sale shall not include an individual sale by a commercial fisher to the final consumer.
- W. “Round Weight” means the total weight in pounds of fish prior to any form of processing, dressing, or eviscerating, and includes the weight of the head, entrails, and skin.
- X. “Seine” means a mesh net that meets all of the following requirements:
  - 1. Has weights on one (1) edge and floats on the opposite edge.
  - 2. Hangs vertically in the water.

3. Is used to enclose fish when its ends are either pulled together or drawn ashore.
- 
- Y. “Small Mesh Gill Net” means a Gill Net having a diagonal Stretch Mesh measurement of two and one-half (2.5) through three (3.0) inches.
  - Z. “State” means the State of Michigan and its agencies, including without limitation the MDNR and the other defendants, as well as successor agencies and officials.
  - AA. “Statistical District” means a geographical unit as described in Great Lakes Fishery Commission Special Publication Number 2. For purposes of this Decree and for data compilation, the Statistical Districts are aggregations of Grids as outlined on the Grid maps included in Appendix C. (Maps 1 and 2.)
  - BB. “Stretch Mesh” means the distance between the extreme angles of any single mesh, between and inside the knots, when the mesh is pulled taut by hand.
  - CC. “Subsistence Fishing” means a Treaty Fishing Activity solely to provide fish for personal or family consumption and not for sale or commercial exchange, but does not include recreational fishing as described in Section V.
  - DD. “TFC” means the Technical Fisheries Committee described in Section XII.
  - EE. “Trap Net” means an Impoundment Net consisting of a lead, heart, tunnel, and pot or crib, the webbing of which is held on the lake bottom by leads and upright in the water by floats and held in place by anchors.
  - FF. “Tribal Citizen” means an enrolled member of one of the five (5) Tribes.
  - GG. “Tribal Code” means the Chippewa Ottawa Resource Authority Commercial, Subsistence, and Recreational Fishing Regulations for the 1836 Treaty Ceded Waters of Lakes Superior, Huron, and Michigan, including any future changes adopted in accordance with the Tribal Plan and this Decree.
  - HH. “Tribal Plan” means the *Management Plan for the 1836 Treaty Great Lakes Waters* adopted by the Tribes and attached to this Decree as Appendix B, including any future changes adopted in accordance with the Tribal Plan and this Decree.
  - II. “Tribes” means the five (5) Tribes who are Parties to this action and are members of CORA: Gnoozhekaaning or the Bay Mills Indian Community (“Bay Mills”), Kchi Wiikwedong Anishinaabek or Grand Traverse Band of Ottawa and Chippewa Indians (“Grand Traverse”), Gaá Čhíng Ziibi Daáwaa Aníshinaábek or Little River Band of Ottawa Indians (“Little River Band”), Waganakising Odawak or Little Traverse Bay Bands of Odawa Indians (“Little Traverse”), and Bahweting Anishinaabe or Sault Ste. Marie Tribe of Chippewa Indians (“Sault



Tribe”).

JJ. “USFWS” means the United States Fish and Wildlife Service, Department of the Interior.

KK. “Whitefish Management Unit” means an aggregation of Grids as outlined on the Grid maps included in Appendix C. (Maps 4, 5, and 6.)

### **III. INTERTRIBAL AGREEMENTS.**

In addition to this Decree, the Tribes are governed by the CORA Charter, Tribal Plan, and Tribal Code. Taken together, these three documents set forth how the Tribes manage and regulate their fisheries cooperatively during the term of this Decree. These documents also contain commitments and agreements among the Tribes essential to that cooperation and the implementation of this Decree. The Tribes shall abide by the terms of the CORA Charter, Tribal Plan, and Tribal Code, including amendments adopted in accordance with the provisions of those documents and consistent with this Decree.

### **IV. COMMERCIAL FISHING ZONES.**

A. Tribal Commercial Fishing Zones and Regulations. Subject to the provisions of this Decree, including its closures and restrictions, the following waters are open to Tribal Commercial Fishing:

1. Lake Michigan. (Map 7.)

a. Northern Lake Michigan Inter-Tribal Fishing Zone. (Map 8.)

i. Description: Grids 115 through 118, 211 through 220, 310 through 320, 409 through 419, 509 through 516, 613, and the north half (N½) of Grid 614, except for the southeast quarter (SE¼) of Grid 314 and the south half (S½) of Grid 415.

ii. Regulations: This zone shall be open to fishers from all Tribes subject to the provisions of this Decree, the Tribal Plan, and the Tribal Code.

b. Bay de Noc Zone. (Map 9.)

i. Description: Grids 306, 308, 309, 406 through 408, and 506 through 508. For purposes of this Decree only, the Parties reserving the issue of the location of the western boundary of 1836 Treaty Waters in Lake Michigan, Tribal fishing is prohibited south of the line extending from the mouth of the Escanaba River in Delta County on the line of latitude at 45.7757 degrees and west

of the line at the shipping channel at longitude -87.025 degrees, as shown on a map included in Appendix C. (Map 9.)

ii. Regulations: Subject to the provisions of this Decree, the Tribal Plan, and the Tribal Code, the following regulations apply in this zone:

(a) This zone shall be open to fishers from Little Traverse and Sault Tribe.

(i) Little Traverse:

(a) No more than 12,000 feet of Large-Mesh Gill Net may be licensed with no more than 6,000 feet per license and no more than three (3) licenses.

(b) There shall be a fifteen (15) pound daily bag limit per license for Walleye from January 1 through May 14.

(c) Large Mesh Gill Nets must be set on the bottom in water fifty (50) feet deep or deeper, except that in October and November the minimum depth shall be thirty (30) feet.

(d) No fishing with Small Mesh Gill Nets is permitted.

(e) If Little Traverse desires to fish with Trap Nets in this zone, the Parties shall confer to determine an appropriate exchange of Gill Net effort for Trap Net effort.

(ii) Sault Tribe:

(a) No more than four (4) commercial licenses shall be permitted to fish in this zone.

1. Each Trap Net license shall be limited to no more than fifteen (15) Trap Nets.

2. Trap Net operations shall not retain Walleye.

3. No more than two (2) Large Mesh Gill Net licenses may be issued, with each being limited to no more than 6,000 feet of net.

4. There shall be a fifteen (15) pound daily bag limit per Large Mesh Gill Net license for Walleye from January 1 through May 14.
5. Large Mesh Gill Net must be set on the bottom in water fifty (50) feet deep or deeper, except that in October and November the minimum depth shall be thirty (30) feet.
6. No fishing with Small Mesh Gill Nets is permitted.
7. A Licensed Fisher shall not have at any time both Trap Net and Large Mesh Gill Net in the water in this zone.

c. Little Traverse Tribal Zone. (Map 10.)

- i. Description: Grids 517 through 519, the southeast quarter (SE $\frac{1}{4}$ ) of Grid 314, and the south half (S $\frac{1}{2}$ ) of Grid 415. (See Appendix D.)
- ii. Regulations: Subject to the provisions of this Decree, the Tribal Plan, and the Tribal Code, the following regulations apply in this zone:

(a) Commercial Fishing shall be limited as follows:

- (i) Trap Net fishing is permitted in all areas except for Grid 519.

(ii) Large Mesh Gill Net fishing:

(a) Grid 517 and that portion of Grid 518 that is west of a line of longitude at -85.05 degrees will be open to Large Mesh Gill Net fishing year-round.

(b) The area of Grid 518 that is east of a line of longitude at -85.05 degrees and all of Grid 519 will be open to Large Mesh Gill Net fishing from October 1 through May 1. During the period this area is open to Large Mesh Gill Net fishing, no more than two (2) commercially Licensed Fishers may operate, each with no more than six thousand (6,000) feet of net.

- (iii) Small Mesh Gill Net fishing. Grid 517 and that portion of Grid 518 that is west of a line of longitude at -85.05 degrees will be open to Small Mesh Gill Net fishing year-round.
  - (b) Salmon. A limited entry permit salmon fishery in Lake Michigan for Little Traverse fishers shall be authorized subject to the following restrictions: (Map 11.)
    - (i) Salmon fishing by Little Traverse fishers shall be permitted within one (1) mile from shore from Seven Mile Point in Grid 518 north to McGulpin Point in Grid 320, from August 1 through October 15. (See Appendix D.)
    - (ii) Nets may be fished at the surface in this fishery from September 10 through October 15. At all other times during the salmon season in this salmon fishery, nets shall be set at least eight (8) feet below the surface.
- d. Lake Michigan Northern Development Zone. (Map 12.)
  - i. Description: Grids 610 through 612, 709 through 711, 808 through 811, 908 through 910, and 1008 through 1010.
  - ii. Regulations: Subject to the provisions of this Decree, the Tribal Plan, and the Tribal Code, the following regulations apply in this zone:
    - (a) Grids 711, 811, 910, and 1010 shall be open to Grand Traverse Trap Net operations targeting Lake Whitefish; provided that the aggregate net effort shall not exceed twelve (12) nets in the water at any one time.
    - (b) Except as provided in sub. (a), above, Tribal Commercial Fishing in this zone shall be limited to a permit fishery targeting Bloater Chubs.
    - (c) Tribal Commercial Fishing for all other species shall be prohibited.
- e. Grand Traverse Tribal Zone. (Map 12.)
  - i. Description: Grids 615, 616, 712 through 716, 812 through 816, 911 through 916, 1011, and the south half (S½) of Grid 614. (See

Appendix D.)

- ii. Regulations: Subject to the provisions of this Decree, the Tribal Plan, and the Tribal Code, the following regulations apply in this zone:
  - (a) Trap Net operations. This zone is open to Trap Net operations except for Grids 915 and 916. If a Tribal fisher simultaneously fishes with Trap Nets in Grids within this zone that have different daily bag limits for Lake Trout, the daily bag limit for all of that Tribal fisher's Trap Nets shall not be more than the bag limit established in Section VII.F.1.b.
  - (b) Large Mesh Gill Net operations:
    - (i) Grids 615, 616, 715, 716, the south half (S½) of Grid 614, and the northern portion of Grids 815 and 816 extending one (1) Mile south from their northern boundary to a line of latitude at 44.9855 degrees shall be open year-round to Large Mesh Gill Net fishing.
    - (ii) Grids 712 and 713 shall be open to Large Mesh Gill Net fishing from the day after Labor Day through June 30.
    - (iii) In addition to the seasonal fishery set forth in sub. (b)(vi)(c) below, Grid 714 shall be open to Large Mesh Gill Net fishing from the day after Labor Day through April 30.
    - (iv) Grid 812 shall be open to Large Mesh Gill Net fishing from the day after Labor Day through the Friday before Memorial Day, subject to a spawning closure from October 15 through November 29.
    - (v) In addition to the seasonal fishery set forth in sub. (b)(vi)(d) below, Grids 813 and 814 shall be open to Large Mesh Gill Net fishing from the day after Labor Day through April 30, subject to a spawning closure from October 15 through November 29. For a period of three (3) years from the date of entry of this Decree, permits shall be required to fish Large Mesh Gill Net in Grids 813 and 814. Upon expiration of that three-year period, permits shall only be required for Large Mesh Gill Net fishing in Grids 813 and 814 from May 1 through the Friday before Memorial Day.

(vi) In addition to the open season set forth in subs. (b)(i)-(v), above, Large Mesh Gill Net fishing is allowed in the following areas only with a permit issued by Grand Traverse, and is subject to the following conditions:

- (a) Within the area of Grid 815 that is south of a line of latitude at 44.9855 degrees and north of a line of latitude at 44.901 degrees, Large Mesh Gill Nets may be set from the day after Labor Day through the Friday before Memorial Day. During the period that this area is open to Large Mesh Gill Net fishing, permits are required and aggregate Gill Net effort shall not exceed 4,500 feet per day, whether it be Large Mesh or Small Mesh.
- (b) Within the area of Grid 816 that is south of a line of latitude at 44.9855 degrees, Large Mesh Gill Nets may be set from the day after Labor Day through the Friday before Memorial Day. During the period that this area is open to Large Mesh Gill Net fishing, permits are required and aggregate Gill Net effort shall not exceed 4,500 feet per day, whether it be Large Mesh or Small Mesh.
- (c) In Grid 714, permits are required from May 1 through the Friday before Memorial Day. During this period, no more than 20% of the Tribal Lake Trout Harvest Limit for management unit MM-5 may be harvested, and no more than 10% of the Tribal Lake Trout Harvest Limit for management unit MM-5 may be harvested from May 16 through the Friday before Memorial Day.
- (d) In Grids 813 and 814, permits are required from May 1 through the Friday before Memorial Day. Collectively in these Grids, from May 1 through the Friday before Memorial Day, no more than 20% of the Tribal Lake Trout Harvest Limit for management unit MM-5 may be harvested, and no more than 10% of the Tribal Lake Trout Harvest Limit for management unit MM-5 may be harvested from May 16 through the Friday before Memorial Day.

- (vii) Grand Traverse shall provide to the State copies of permits issued under subs. (b)(v) and (vi), above, in advance of their effective date. For permits issued on the same day of fishing, notification that a permit was issued shall be provided to MDNR prior to fishing, with a copy of the permit to be provided within twenty-four (24) hours of issuance. For purposes of this sub. (b)(vii), notice of permit issuance and copies of permits shall be submitted via email to the MDNR Tribal Coordination Unit manager.

(c) Small Mesh Gill Net operations:

- (i) Grids 615, 616, 712 through 716, the south half (S½) of Grid 614, and the northern portion of Grids 815 and 816 extending one (1) Mile south from their northern boundary to a line of latitude at 44.9855 degrees shall be open year-round to Small Mesh Gill Net fishing.
- (ii) Grid 812 shall be open to Small Mesh Gill Net fishing from the day after Labor Day through the Friday before Memorial Day.
- (iii) In addition to the open season set forth in subs. (c)(i) and (ii), above, Small Mesh Gill Net fishing is allowed in the following areas only with a permit issued by Grand Traverse, and is subject to the following conditions:
  - (a) Within the area of Grid 815 that is south of a line of latitude at 44.9855 degrees and north of a line of latitude at 44.901 degrees, Small Mesh Gill Nets may be set from the day after Labor Day through the Friday before Memorial Day. During the period that this area is open to Small Mesh Gill Net fishing, permits are required and aggregate Gill Net effort shall not exceed 4,500 feet per day, whether it be Large Mesh or Small Mesh.
  - (b) Within the area of Grid 816 that is south of a line of latitude at 44.9855 degrees, Small Mesh Gill Nets may be set from the day after Labor Day through the Friday before Memorial Day. During the period that this area is open to Small Mesh

Gill Net fishing, permits are required and aggregate Gill Net effort shall not exceed 4,500 feet per day, whether it be Large Mesh or Small Mesh.

- (c) Grids 813-814 shall be open to Small Mesh Gill Net fishing from the day after Labor Day through the Friday before Memorial Day. Permits for Small Mesh Gill Net fishing shall be required in Grids 813-814 for a period of three (3) years from the date of entry of this decree. Upon expiration of that three-year period, permits shall no longer be required for Small Mesh Gill Net fishing in Grids 813-814.
- (d) Grand Traverse shall provide to the State copies of permits issued under sub. (c)(iii), above, in advance of their effective date. For permits issued on the same day of fishing, notification that a permit was issued shall be provided to MDNR prior to fishing, with a copy of the permit to be provided within twenty-four (24) hours of issuance. For purposes of this sub. (c)(iii)(d), notice of permit issuance and copies of permits shall be submitted via email to the MDNR Tribal Coordination Unit manager.
- (iv) This zone shall be open to Small Mesh Gill Net fishing year-round for Bloater Chubs except for Grids 915, 916, and the portion of Grid 815 south of a line of latitude at 44.901 degrees.
- (v) In Grids 812-814, from October 15 through November 29, Lake Trout shall not be targeted for harvest using Small Mesh Gill Net and retention of Lake Trout caught using Small Mesh Gill Net shall be prohibited.
- (d) Salmon. In those portions of Grids 715 and 815 within the boundaries of a line from the tip of Omena Point to buoy N"2" off Omena Point, then to buoy C"1" off Stony (Suttons) Point, and then due west to the intersection with the Leelanau Peninsula, salmon fishing shall be allowed from August 1 through October 30. (Map 11; see also Appendix D.)
- (e) Yellow Perch Closure. In Grid 715, those waters of Northport Bay west of a line from the tip of Northport Point to the R"2"



buoy (located at 45.1291, -85.5536 degrees) and north of a line from the R”2” buoy due west to shore shall be closed to Yellow Perch fishing and no retention of Yellow Perch is permitted in this area from January 1 through June 15. (Map 13.)

f. Little River Tribal Zone. (Map 14.)

- i. Description: Grids 1107 through 1111, 1207 through 1211, 1306 through 1310, 1406 through 1410, and 1506 through 1510.
- ii. Regulations: Subject to the provisions of this Decree, the Tribal Plan, and the Tribal Code, the following regulations apply in this zone:

(a) Trap Net fishing is permitted throughout this zone.

(b) Small Mesh Gill Net operations are limited to targeting Bloater Chubs with no more than two (2) vessels per fishing season, with each operation limited to no more than 24,000 feet of net in the water at any one time. Nets may only be set in water deeper than two hundred forty (240) feet.

(c) Large Mesh Gill Nets may be fished in this zone subject to the following:

(i) Only species authorized for commercial harvest in this zone may be targeted.

(ii) There shall be a fifteen (15) fish daily bag limit per vessel for Walleye, and a fifteen (15) fish daily bag limit per vessel for salmon.

(iii) Little River Band may operate one Tribally owned Large Mesh Gill Net vessel to be operated by a Tribally Licensed Fisher who is either a Little River Band tribal employee or an independent contractor to the Band as part of a historic preservation and cultural education program (“Program”). Fish harvested by this operation are intended to be primarily devoted to Program goals, though harvest unneeded for those goals may be sold.

(iv) Little River Band may authorize a second Large Mesh Gill Net vessel to be operated by a Tribally Licensed Fisher who is either a Little River Band tribal employee or an independent contractor to the Band.

The purpose of this vessel is to conduct a survey of commercial fish species to better understand their distribution and population dynamics that would support the Program described in sub. (iii), above, and to determine the potential for, and feasibility of, limited Commercial Fishing by Little River Band Tribal Citizens in the future. Fish harvested by this vessel are intended to be primarily devoted to the goals of the Program, though harvest unneeded for those goals may be sold.

- (v) The first time each vessel described in subs. (iii) and (iv), above, becomes active under these subsections, or after either vessel has not fished in five (5) consecutive years, Little River Band shall provide notice to MDNR and USFWS at least sixty (60) days prior to fishing. Notice shall be given ten (10) days prior to fishing in each subsequent fishing season as well as any time there is a change in the Licensed Fisher operating either vessel.
- (vi) MDNR, USFWS, and Little River Band shall collaborate on public education and outreach efforts aimed to avoid operational conflicts and promote mutual trust and understanding and undertake any other measures the Parties consider essential to the success of the Program.
- (vii) Each vessel shall be limited to 6,000 feet of Large Mesh Gill Net.
- (viii) Little River Band shall share with MDNR GPS coordinates of nets that are set as soon as possible on the day of setting. Either Little River Band or MDNR may make GPS coordinates available to the public to avoid operational conflicts with other users and promote public safety.
- (ix) In addition to the closures otherwise provided in this Decree, these Large Mesh Gill Net vessels shall not operate in Grids 1210 and 1211 from July 15 through Labor Day. Large Mesh Gill Net vessels shall not operate in Grids 1309-1310 and 1409-1410 from July 1 through Labor Day. After three (3) consecutive years of fishing under this sub. (c), MDNR and Little River Band may agree to modify these temporal Grid

closures by mutual agreement.

- (x) At least thirty (30) days prior to the first occurrence of fishing under sub. (c) and upon the conclusion of any period of three (3) consecutive years of fishing under sub. (c), the Parties shall confer in good faith and consider whether the provisions of this subsection warrant modification, including but not limited to measures to more effectively address operational conflicts, to promote the success of the Program, and/or to provide additional limited commercial Large Mesh Gill Net fishing opportunities for Little River Band Tribal Citizens.

g. Southern Lake Michigan Development Zone. (Map 14.)

- i. Description: All 1836 Treaty Waters south of the northern boundary of the 1600 tier of Grids. (See Appendix D.)
- ii. Regulations: Subject to the provisions of this Decree, the Tribal Plan, and the Tribal Code, the following regulations apply in this zone:

- (a) This zone is open to fishers from all Tribes.
- (b) One (1) Trap Net operation may be licensed, with up to twelve (12) nets in the water at any one time with no retention of Lake Trout.
- (c) One (1) Small Mesh Gill Net operation targeting Bloater Chubs may be licensed, with no more than 24,000 feet of net in the water at any one time. Nets may only be set in water deeper than two hundred forty (240) feet.
- (d) Commercial Fishing with Large Mesh Gill Nets is prohibited in this zone, except that one Large Mesh Gill Net vessel may operate, subject to the provisions of sub. f.ii.(c), above, with no more than 4,000 feet of Large Mesh Gill Net in the water at any one time, which shall be considered part of the 6,000 feet per-vessel limit set forth in sub. f.ii.(c), above. This provision shall be subject to periodic review on the same terms as set forth in sub. f.ii.(c)(x), above.

2. Lake Huron.

a. Northern Lake Huron Inter-Tribal Fishing Zone. (Map 15.)

- i. Description: Grids 202, 207 through 209, 301 through 309, 401 through 410, 504, those portions of Grids 505 and 506 which lie north of a line of latitude at 45.598 degrees, and Grids 507 and 508.
  - ii. Regulations: Subject to the provisions of this Decree, the Tribal Plan, and the Tribal Code, this zone shall be open to fishers from all Tribes.
- b. Bay Mills Tribal Zone. (Map 15.)
  - i. Description: Those portions of Grids 505 and 506 which lie south of a line of latitude at 45.598 degrees, and that portion of Grid 606 that lies west of a line of longitude at -83.909 degrees.
  - ii. Regulations: Subject to the provisions of this Decree, the Tribal Plan, and the Tribal Code, the following regulations apply in this zone:
    - (a) In the area of Grid 506 that is south of a line of latitude at 45.55 degrees, the following conditions apply:
      - (i) From the last Saturday in April through June 30, Large Mesh Gill Nets and Trap Nets may only be set in depths of fifty (50) feet or less.
      - (ii) From July 1 through Labor Day, this area shall be open only to Small Mesh Gill Nets and small mesh Trap Nets.
- c. Sault Tribe Tribal Zone. (Map 16.)
  - i. Description: Those portions of Lake Huron within one (1) mile from shore and delineated by the following landmarks:
    - (a) St. Martin's Bay zone – Rabbit Back Point north and east to Brulee Point, but including all of Grid 202. (See Appendix D.)
    - (b) Cordwood Point zone – the area within one (1) mile from shore within Grids 404 and 504.
  - ii. Regulations: Subject to the provisions of this Decree, the Tribal Plan, and the Tribal Code, the following regulations apply in this zone:

- (a) The waters described in sub. i., above, shall be the Sault Tribe Tribal zone only during the salmon season from August 1 through October 15. At all other times, these waters shall be part of the Northern Lake Huron Inter-Tribal Fishing Zone.
- (b) The State of Michigan shall annually stock 250,000 spring fingerling Chinook Salmon in the St. Martin's Bay zone of Lake Huron.

d. Southern Lake Huron Trap Net Zone. (Map 15.)

- i. Description: For purposes of this Decree only, the Parties reserving the issue of the eastern boundary of the 1836 Treaty Waters in Lake Huron, Grids 509 through 512, 606 (only that portion east of a line of longitude at -83.909 degrees) through 611, 709, and those portions of Grids 612, 613, 710, 711, and 810 which are north of a line from the mouth of the Thunder Bay River in a straight line northeast through the northeast corner of Grid 711 to the international border, as shown on Map 15. (See Appendix D.)
- ii. Regulations: Subject to the provisions of this Decree, the Tribal Plan, and the Tribal Code, the following regulations apply in this zone:
  - (a) Except as provided in sub. (f), below, Tribal Commercial Fishing by any method other than Trap Nets shall be prohibited.
  - (b) Trap Net fishing in this zone shall be open only to Bay Mills and Sault Tribe Trap Net fishers.
  - (c) A total of four (4) Trap Net operations shall be authorized for this zone.
  - (d) Each Trap Net operation is limited to twelve (12) Trap Nets within the zone.
  - (e) From October 1 through November 5 and from November 30 through December 31, Walleye and Yellow Perch may be harvested in Trap Nets in this zone.
  - (f) Fishing for Bloater Chubs with Small Mesh Gill Nets shall be permitted by fishers of any Tribe under rules to be developed by CORA.
  - (g) A Tribal fisher who is fishing in this Trap Net zone may

simultaneously fish with Trap Nets in other grids of Lake Huron open to Trap Net fishing, provided that the daily bag limit for Lake Trout in that Tribal fisher's nets shall not be more than the bag limit established in Section VII.F.1.b.

- iii. The Tribes may authorize the Tribal fishers permitted to fish in this zone to obtain permits from the State to fish with Trap Nets in those waters within the State of Michigan south of the southern boundary of this zone and north of a line from the tip of North Point on Thunder Bay in a straight line northeast parallel to the southern boundary of this zone to the international border, as shown on Map 15 (see also Appendix D). The State shall issue a permit for Trap Net fishing for Lake Whitefish only in the area described above to any such fisher; provided that the aggregate net effort allowed by all such permits shall not exceed sixteen (16) nets. The permits shall incorporate regulations from the Tribal Code applicable to these fishers in this zone and may contain such other conditions as the State may impose. South of the line described in sub. i., above, the State shall have jurisdiction to enforce the permit conditions under State law.

### 3. Lake Superior.

#### a. Lake Superior Inter-Tribal Fishing Zone. (Map 17.)

- i. Description: All 1836 Treaty Waters of Lake Superior.
- ii. Regulations: This zone shall be open to fishers from all Tribes subject to the provisions of this Decree, the Tribal Plan, and the Tribal Code.

#### B. State Commercial Fishing Zones. (Maps 18 and 19.)

- 1. State-licensed or -permitted Commercial Fishing shall be prohibited in all 1836 Treaty Waters except the following:
  - a. Those waters of Lake Superior west of the Grids 1037, 1137, 1237, 1337, and 1437 and within a fifty (50) Mile radius of Marquette or Munising, depending upon which is the state fisher's home port, provided that State-licensed or -permitted fishing in such waters shall be restricted to the current or future holders of the existing State licenses for fishing out of these ports. (Map 18.)
  - b. Those waters within a fifty (50) Mile radius of Muskegon that are also within Whitefish Management Unit WFM-08, provided that State-licensed or -permitted fishing in such waters shall be restricted to the

current or future holders of the existing State licenses for fishing out of Muskegon. (Map 19.)

- c. Those waters within a fifty (50) Mile radius of Ludington that are also within Whitefish Management Unit WFM-07, provided that State-licensed or -permitted fishing in such waters shall be restricted to Bloater Chub fishing only and to the current or future holders of the existing State license for fishing out of Ludington. (Map 19.)
  - d. Those waters within a fifty (50) Mile radius of Leland that are also within Whitefish Management Unit WFM-06, provided that State-licensed or -permitted fishing in such waters shall be restricted to the current or future holders of the existing State licenses for fishing out of this port. (Map 19.)
2. In addition to the foregoing, the State shall refrain from issuing a Commercial Fishing license or permit within those waters of WFH-05 that are within the Disputed Zone or outside of 1836 Treaty Waters.
- C. Closed Commercial Fishing Zones. All Commercial Fishing is prohibited in the following areas:
1. The St. Marys River, east of a line extending from Point Aux Pins, Ontario, to Brush Point, Michigan, downstream to the Detour - Drummond Island ferry docks, including all of Potagannissing Bay from Hay Point (Drummond Island) west to Cherry Island and north to the international boundary. (Map 20; see also Appendix D.)
  2. Lake Michigan Grids 915 and 916 in Grand Traverse Bay. (Map 12.)
  3. Those portions of Lake Michigan Grid 306 that lie within 1836 Treaty Waters. (Map 9.)
  4. Those portions of Lake Huron Grids 303 and 304 described as follows: The Les Cheneaux channels, or entrances thereto, or waters adjacent thereto within a line drawn as follows: beginning at the southernmost point of land on the westerly side of McKay Bay; then southerly to the northernmost point of Boot Island; then along the eastern shore of Boot Island to its southernmost point; then along the south shoreline of Boot Island to a western point; then westerly in a straight line to a southern point of Government Island; then along the shoreline of Government Island to the point at which the distance between said island and LaSalle Island is the least, then westerly in a straight line to LaSalle Island; then along the eastern and southern shoreline of LaSalle Island to the point at which the distance between said island and Little LaSalle Island is the least; then westerly in a straight line to Little LaSalle Island; then westerly along the southern

shoreline of Little LaSalle Island to its westernmost point; then westerly in a straight line to the eastern shore of Marquette Island; then along the southwestern shore of Marquette Island to Coats Point; then northwesterly to the southernmost part of Brulee Point, except that Trap Net fishing targeting Lake Whitefish shall be permitted in that portion of Lake Huron Grid 303 within the area encompassed by a line from Coats Point on Marquette Island along the western shore of said island to Cube Point; then due west to the shore of the Brulee Peninsula; then southeasterly along said shore to the southern tip of Brulee Point; then southeasterly to Coats Point on Marquette Island, as shown on Map 21. (See Appendix D.)

5. Au Train Bay will be closed to Commercial Fishing from April 1 through May 15 south of a line of latitude at 46.455 degrees. (Map 22.)
6. Munising Bay will be closed to Commercial Fishing with the western boundary of the closed area being a line of longitude at -86.6886 degrees and the northeastern boundary of the closed area being a line of latitude at 46.473 degrees. During the months of November and December the northeastern boundary shall be a straight line between Sand Point and the East Channel Lighthouse in Grid 1634. (Map 22.)
7. The portions of Lake Superior Grids 1334, 1335, 1434, and 1435 known as Big Reef will be closed to Commercial Fishing, specifically the area that is east of a line of longitude at -86.55 degrees, and south of a line of latitude at 46.93 degrees, and west of a line of longitude at -86.37 degrees, and north of a line of latitude at 46.7 degrees. (Map 23.)
8. The portions of Lake Superior Grids 1130, 1131, 1230, and 1231 known as Stannard Rock will be closed to Commercial Fishing, specifically the area that is east of a line of longitude at -87.28 degrees, south of a line of latitude at 47.27 degrees, west of a line of longitude at -87.11 degrees, and north of a line of latitude at 47.13 degrees. (Map 23.)
9. Any area within one hundred (100) yards of any Break Wall or Pier; provided that this prohibition shall not apply to salmon fishing authorized by Section VIII.B.
10. Any area within a three-tenths (0.3) Mile radius of the mouth of the following streams, provided that this prohibition shall not apply to salmon fishing authorized by Section VIII.B.; and provided further that the TFC may review and approve changes to the list of streams in this sub. 10., and may also provide for seasonal closures:
  - a. Lake Superior.
    - i. Marquette County: Chocolay River;



- ii. Alger County: Miner's River, Rock River, Au Train River, Anna River, Mosquito River, Seven Mile Creek, and Hurricane River;
  - iii. Luce County: Blind Sucker River, Big Two Hearted River, and Little Two Hearted River; and
  - iv. Chippewa County: Tahquamenon River and Pendills Creek.
- b. Lake Huron.
- i. Mackinac County: Nunns Creek, Pine River, and Carp River;
  - ii. Cheboygan County: Cheboygan River;
  - iii. Presque Isle County: Ocqueoc River and Swan River; and
  - iv. Alpena County: Thunder Bay River.
- c. Lake Michigan.
- i. Delta County: Escanaba River, Days River, Tacoosh River, Rapid River, Whitefish River, Ogontz River, and Sturgeon River;
  - ii. Schoolcraft County: Thompson Creek, Manistique River, and Milakokia River;
  - iii. Mackinac County: Millecoquins River, Black River, Paquin Creek, Cut River, and Brevoort River;
  - iv. Emmet County: Carp Lake River and Bear River;
  - v. Charlevoix County: Pine River;
  - vi. Antrim County: Elk River;
  - vii. Grand Traverse County: Boardman River;
  - viii. Leelanau County: Leland River;
  - ix. Benzie County: Platte River and Betsie River;
  - x. Manistee County: Arcadia Lake Outlet, Portage Lake Outlet, and Manistee River;
  - xi. Mason County: Pere Marquette River;

- xii. Oceana County: Pentwater Lake Outlet, Silver Creek, and Stoney Creek;
  - xiii. Muskegon County: White River and Muskegon River; and
  - xiv. Ottawa County: Grand River.
11. The following provisions for harbor closures shall apply:
- a. Within St. James Bay, in Lake Michigan Grid 315, no Commercial Fishing may occur west of a line of longitude at -85.51 degrees. (Map 24.)
  - b. Near the Hammond Bay Harbor of Refuge, no Commercial Fishing may occur south of a line of latitude at 45.598 degrees and west of a line of longitude at -84.1575 degrees. (Map 25.)
  - c. Near the harbor of Rogers City, no Commercial Fishing may occur south of a line of latitude at 45.4345 degrees and west of a line of longitude at -83.7597 degrees. (Map 26.)
12. Additional closures may be recommended to the Parties on a case-by-case basis:
- a. By the TFC for biological purposes; and
  - b. By the LEC for navigation or safety purposes.

**V. RECREATIONAL FISHING.**

- A. Recreational fishing by State-Licensed Fishers is permitted throughout the entire 1836 Treaty Waters subject to State regulation.
- B. Tribal Citizens may engage in recreational fishing in the 1836 Treaty Waters under Tribal Code provisions or Tribal rules which incorporate or are substantially similar to the State recreational fishing rules. Tribal Citizens engaged in recreational fishing must have a Tribal citizenship identification card in their possession, but no further license shall be required.
- C. Harvest Estimation Methodology.
  - 1. The State shall estimate the recreational fishing harvest in 1836 Treaty Waters from charter boat catch reports, a creel survey or other harvest estimation methodology, and other appropriate data.

2. The harvest estimation methodology must be adequate to measure the recreational harvest in each unit in which a Harvest Limit calculation is required, or where an allocation of harvest opportunity is made, in this Decree. The State's harvest estimation methodology shall be subject to periodic review by the TFC in accordance with the provisions of Section XII.C.8.

## **VI. REGULATION OF THE FISHERY.**

### **A. Tribal Regulation.**

1. The Tribal fishery in the 1836 Treaty Waters shall be managed and regulated as provided in this Decree, the Tribal Plan, and the Tribal Code. Neither the Tribal Plan nor the Tribal Code shall be extended, modified, or replaced without notice and consultation as required in this Decree.
2. Each of the Tribes are governed by the CORA Charter and the Tribal Plan, and CORA shall amend the Tribal Code consistent with this Decree, as a part of the Tribes' management and regulation of fishing by their citizens in the 1836 Treaty Waters. Each of the Tribes shall manage its fishery and regulate its citizens in compliance with this Decree, the Tribal Plan, the Tribal Code, and decisions and orders of GLRC and the BSD Director made in accordance with the Tribal Plan.
3. Each of the Tribes shall promulgate regulations necessary to implement those portions of the Tribal Plan and this Decree which apply to that particular Tribe only, or which affect it in ways that are not reflected in the Tribal Code.
4. Each of the Tribes may promulgate additional and different regulations governing its citizens which are more restrictive than the provisions of the Tribal Code, provided that the regulations comply with the Tribal Plan and this Decree and do not involve matters that require uniformity among the Tribes.
5. The Tribal Code shall include the following license regulations:

#### **“License and Registration Definitions and Restrictions:**

- “a. A Commercial Fishing captain license entitles the individual holder to operate a fishing boat and to participate fully in all Commercial Fishing activities, including the capture and sale of all species pursuant to these Regulations. It further entitles the holder to employ helpers in such activities. Fees for such licenses may be set by individual Tribes. The license shall be valid during the calendar year for which it is issued. A person holding a Commercial Fishing

captain license shall not purchase, barter, trade, or sell subsistence caught fish.

- “b. A Commercial Fishing helper license entitles the individual holder to assist the holder of a Commercial Fishing captain license in Commercial Fishing activities. Fees for such licenses may be set by individual Tribes. The license shall be valid during the calendar year for which it is issued. A person holding a Commercial Fishing helper license shall not purchase, barter, trade, or sell subsistence caught fish.
- “c. A Subsistence Fishing license entitles the holder to engage in Fishing Activities for subsistence purposes. Fees for such licenses may be set by individual Tribes. The license shall be valid during the calendar year for which it is issued. Subsistence caught fish may not be purchased, sold, or commercially exchanged.
- “d. A Commercial Fishing vessel registration is necessary in order for any vessel to be utilized for Commercial Fishing. Anyone with a valid Commercial Fishing captain license may operate a properly registered Commercial Fishing vessel. Fees for such licenses may be set by individual Tribes.
- “e. A citizen of a Tribe who engages in recreational fishing shall not be required to have in his or her possession a fishing license but must have Tribal identification in his or her possession at all times.
- “f. No holder of a Commercial Fishing captain license, Commercial Fishing helper license, or Commercial Fishing vessel registration shall fish as an employee of or for shares with a person not licensed to exercise treaty fishing rights. This prohibition shall be liberally interpreted to prohibit a licensee from exercising treaty fishing rights for the benefit of non- Indians.

“License Regulations:

- “a. No citizen of a Tribe sixteen (16) years of age or older may engage in Fishing Activity within the Treaty ceded waters without having in his or her possession at all times a Commercial Fishing captain license countersigned under 25 C.F.R. Part 249, a Commercial Fishing helper license countersigned under 25 C.F.R. Part 249, or a subsistence license issued in accordance with these regulations, or, if engaged in recreational fishing, a Tribal identification.
- “b. No citizen of a Tribe may allow a person who does not possess a valid fishing license as required by subsection (a) of this section to aid or assist them while engaged in any Fishing Activity authorized by this

Code.

- “c. The license, permit or identification required by subsections (a) and (b) of this section shall be shown to any Enforcement Officer who makes a request therefor.
- “d. Each boat which is used by a citizen of the Tribes for Fishing Activity shall have affixed to it in a clearly visible manner the number of the Commercial Fishing vessel registration issued by a Tribe. Each snowmobile or off-road vehicle which is used by a citizen of a Tribe for Fishing Activity shall have affixed to it in a clearly visible manner a valid Tribal or State of Michigan snowmobile or off road vehicle registration.
- “e. Each boat which is used by a citizen of a Tribe for Commercial Fishing Activity must have on board at all times at least one person with a valid Commercial Fishing captain license.”

B. State Regulation. The State shall manage and regulate the State commercial and recreational fisheries in the 1836 Treaty Waters as provided in this Decree. The State shall not change the management or regulation of its fishery without notice and consultation as required in this Decree.

C. Gear Restrictions.

- 1. Except as otherwise approved by the TFC, the following are the only types of gear which shall be permitted for Commercial Fishing Activity:
  - a. Large Mesh Gill Nets;
  - b. Small Mesh Gill Nets;
  - c. Impoundment Nets;
  - d. Seines with one end attached to a person or object on the shore, provided that this requirement does not prohibit the use of purse seines as approved by the Executive Council; and
  - e. Hooks.
- 2. Trap Nets shall have a four and one-half (4.5) inch (Stretch Mesh) minimum pot mesh size, except:
  - a. Small mesh Trap Nets having a two and one-half (2.5) to three (3.0) inch (Stretch Mesh) pot mesh size may be used for fishing for Yellow Perch, Bloater Chubs, or other appropriate species as authorized by CORA.

- b. Small mesh Trap Nets having a one (1.0) to one and one-half (1.5) inch (Stretch Mesh) pot mesh size may be used solely for fishing for Smelt.
- 3. Nets shall be marked on the surface as follows:
  - a. Gill Nets. Gill Nets shall be marked in the following manner:
    - i. Gill Nets set in water greater than fifteen (15) feet shall be marked with a staff buoy at each end with at least four (4) feet exposed above the surface of the water with a single fluorescent orange flag a minimum 16"x16" in size bearing the license number of the fisher and affixed to the top of the staff.
    - ii. Ice poles a minimum of four (4) feet in length painted red or orange on the top and bearing the license number of the fisher may be used in all 1836 Treaty Waters when ice floes are present.
    - iii. Any Gill Net or portion of a Gill Net set in waters greater than fifteen (15) feet and within five (5) feet of the surface of the water shall be marked with a staff buoy at each end with at least four (4) feet exposed above the surface of the water with a single fluorescent orange flag a minimum 16"x16" in size bearing the license number of the fisher and affixed to the top of the staff. In addition, each such net shall also have either:
      - (a) An additional float, fluorescent orange in color, not less than one (1) gallon in size spaced every six hundred (600) feet or less along the length of the net that is within five (5) feet from the surface in water greater than fifteen (15) feet; or
      - (b) Standard commercially available fluorescent orange floats at least one and one-half (1.5) inches by four (4) inches in size along the cork line not less than every twelve (12) feet in water greater than fifteen (15) feet and within five (5) feet from the surface.
    - iv. Any Gill Net or portion of a Gill Net set in water less than fifteen (15) feet deep shall have: a fluorescent orange float not less than one (1) gallon in size, or a red or orange PVC float that is at least six (6) inches by fourteen (14) inches in size, on each end that is in water less than fifteen (15) feet deep. The floats at the ends of each net or gang of nets shall bear the license number of the fisher. In addition, each such net shall also have either:
      - (a) An additional float of the size described above spaced every

three hundred (300) feet or less along the length of the net that is in water less than fifteen (15) feet; or

- (b) Standard commercially available fluorescent orange floats at least one and one-half (1.5) inches by four (4) inches in size along the corkline not less than every twelve (12) feet in water less than fifteen (15) feet.

b. Trap Nets. Trap Nets shall be marked in the following manner:

- i. All Trap Nets must be marked with a staff buoy with at least four (4) feet exposed above the surface of the water with double fluorescent orange flags a minimum of 16"x16" in size marking the pot bearing the license number of the fisher and affixed to the top of the staff.
  - ii. A staff, buoy, or other marking at least one (1) gallon in size shall be used to mark the lead end and the king anchor.
  - iii. Ice poles. Poles a minimum of four (4) feet in length painted red or orange on the top and bearing the license number of the fisher, may be used in 1836 Treaty Waters when ice floes are present.
4. No Tribal commercial fisher shall use Large Mesh Gill Nets with mesh greater than five and one-half (5.5) inches Stretch Mesh measurement at any time in any 1836 Treaty Waters except when fishing for salmon under Section VIII.B. or as authorized by the TFC for species other than Lake Whitefish or Lake Trout.
5. Tribal Commercial Fishing gear shall not be set in a manner which completely blocks or entirely prevents the free passage of fish into and out of streams that flow into 1836 Treaty Waters.

D. Spawning Closures.

- 1. Except as otherwise determined by the Parties, all Commercial Fishing with Impoundment Nets and Large Mesh Gill Nets shall be prohibited from November 6 through November 29 to protect spawning Lake Trout and Lake Whitefish. Trap Nets may remain in the water during this period, provided that the tunnel is tightly tied shut and the pot is collapsed by removing the float pipes and tying down all four corners of the pot. No retention of Lake Trout or Lake Whitefish caught as bycatch in other gear types is permitted during this period.
- 2. To protect spawning Walleye, no more than fifteen (15) pounds Round Weight of Walleye may be retained per license per day from March 15

through the Friday before the last Saturday in April in the Lower Peninsula waters of lakes Michigan and Huron and from March 15 through May 14 in the Upper Peninsula waters of lakes Michigan, Huron, and Superior. The location the fishing vessel is launched and the fish are landed will delineate the Upper Peninsula and Lower Peninsula closure.

3. To protect spawning Yellow Perch, no more than fifteen (15) pounds Round Weight of Yellow Perch may be retained per license per day from April 1 through May 15 in lakes Huron and Superior and from May 1 through June 15 in Lake Michigan.

## **VII. LAKE TROUT AND LAKE WHITEFISH MANAGEMENT.**

### **A. Harvest.**

1. Lake Trout and Lake Whitefish harvest in management units in which the State and the Tribes share commercial Lake Whitefish fisheries shall be regulated by the Parties in accordance with Harvest Limits as provided in this Section. Harvest Limits shall apply to the total harvest of Lake Trout or Lake Whitefish by commercial, Tribal subsistence, recreational, and commercial assessment fishers as provided in Section XV.C. Harvest of Siscowet Lake Trout shall be dealt with separately by the TFC and the Parties, as needed.
2. Harvest Limits shall be set for the following Lake Trout Management Units and Whitefish Management Units:
  - a. Lake Trout.
    - i. Lake Huron
      - (a) Statistical Districts MH-1 and MH-2, combined as MH-12.
    - ii. Lake Michigan
      - (a) Statistical Districts MM-1, MM-2, and MM-3, combined as MM-123;
      - (b) Statistical District MM-4;
      - (c) Statistical District MM-5; and
      - (d) Statistical Districts MM-6 and MM-7, combined as MM-67.
    - iii. Lake Superior



- (a) Lake Superior Lake Trout Management Unit MI-5;
    - (b) Lake Superior Lake Trout Management Unit MI-6; and
    - (c) Lake Superior Lake Trout Management Unit MI-7.
  - b. Lake Whitefish
    - i. Lake Michigan
      - (a) Whitefish Management Unit WFM-06; and
      - (b) Whitefish Management Unit WFM-08.
    - ii. Lake Superior
      - (a) Whitefish Management Unit WFS-04; and
      - (b) Whitefish Management Unit WFS-05.
- 3. Harvest Limits must be set for spatial areas that allow for biological monitoring and assessment of fish populations. The management units in sub. 2, above, shall be adjusted if scientific information suggests a new alignment is more appropriate. Changes shall be made by the Executive Council if such changes are consensus recommendations of the Modeling Subcommittee (MSC) and TFC. If the management units are changed, the Executive Council shall adjust the allocations in subs. 7 or 9, below, as needed.
- 4. Harvest Limits shall be established as follows:
  - a. Harvest Limits shall be calculated by the MSC using the target mortality rates established pursuant to this Decree, no later than December 1 of the year prior to their intended effect. If the TFC concludes by consensus that the Harvest Limits are appropriate for management, the Harvest Limits are established at that level.
  - b. If one or more members of the TFC concludes that the Harvest Limits produced by the MSC in sub a. above are inappropriate for management, the TFC shall use professional judgment and all relevant data to establish Harvest Limits by consensus, no later than January 15.
    - i. If the TFC fails to reach consensus on Harvest Limit recommendations, multiple proposals shall be presented by the TFC to the Executive Council no later than January 31 with written biological justification for each one submitted.

- ii. If the TFC submits multiple proposals and the Executive Council cannot agree on a Harvest Limit by March 15, the following Harvest Limit shall be in effect for three (3) years unless and until the Executive Council reaches agreement on a Harvest Limit:
    - (a) If the Harvest Limit calculated by the MSC is lower than the most recent Harvest Limit, the effective Harvest Limit shall be the higher of (i) the Harvest Limit calculated by the MSC or (ii) the current Harvest Limit reduced by 25%.
    - (b) If the Harvest Limit calculated by the MSC is higher than the most recent Harvest Limit, the effective Harvest Limit shall be the lower of (i) the Harvest Limit calculated by the MSC or (ii) the current Harvest Limit increased by 25%.
5. Target annual mortality rates
- a. Prior to the signing of this Consent Decree:
    - i. The Executive Council shall adopt, with input from the TFC, target annual mortality rates at a species-specific level and management unit-specific level.
    - ii. The TFC shall develop a report that documents the target mortality rates adopted and describes how they are defined and used as the basis for calculation of Harvest Limits.
  - b. Review of target annual mortality rates:
    - i. The target annual mortality rates used to calculate Harvest Limits shall be reviewed and evaluated by the TFC at minimum every six (6) years beginning no later than 2028 for each species and management unit combination and may be changed, if scientific evidence suggests it is appropriate to do so, by consensus of the TFC.
    - ii. The review shall encompass all relevant data, including but not limited to factors that may influence the productivity of fish populations, such as stocking plans, invasive species impacts, habitat changes, and fish health factors.
    - iii. It is the intention of this subsection that target annual mortality rates will be adaptive in nature and the TFC will make changes as warranted by data and conditions within the Great Lakes.

6. Once approved, Harvest Limits shall be in place and held constant for each species and management unit combination for three (3) consecutive years. Initial Harvest Limits for all species and management units shall be in place upon the signing of this Decree. These will be followed by the phase-in of a staggered three-year cycle, as follows:
  - a. Lake Trout modeling will occur in 2023 to establish Harvest Limits for 2024, 2025, and 2026 (with three-year cycles repeating thereafter);
  - b. Lake Whitefish modeling will occur in 2024 to establish Harvest Limits for 2025, 2026, and 2027 (with three-year cycles repeating thereafter);
  - c. During 2025 (and every following three-year cycle): The TFC shall review target annual mortality rates as described in Section VII.A.5.b., review available data and management issues related to other species, and analyze other pertinent issues related to management of fish populations within 1836 Treaty Waters.
7. Lake Trout shall be allocated approximately equally between the State and the Tribes, though the precise allocation of each species varies from one management unit to another. The total Harvest Limit for each management unit shall be allocated as follows:

| <b>Management Unit</b> | <b>Tribal Share</b> | <b>State Share</b> |
|------------------------|---------------------|--------------------|
| MH-12                  | 55%                 | 45%                |
| MM-123                 | 87%                 | 13%                |
| MM-4                   | 55%                 | 45%                |
| MM-5                   | 40%                 | 60%                |
| MM-67                  | 10%                 | 90%                |
| MI-5                   | 40%                 | 60%                |
| MI-6                   | 50%                 | 50%                |
| MI-7                   | 70%                 | 30%                |

8. Additional Lake Trout Agreements:
  - a. Unless otherwise agreed by the Parties, in MM-123 the Tribal Harvest Limit shall be 550,000 pounds and the State Harvest Limit shall be 80,000 pounds unless the model-generated Harvest Limit produces a higher number for both the Tribal and State fishery.
  - b. In MI-5, for 2023-2026, the Tribal Harvest Limit shall be 60,000 pounds and the State Harvest Limit shall be 90,000 pounds.
9. The total Harvest Limit for each shared Whitefish Management Unit shall be allocated as follows:

| Management Unit | Tribal Share | State Share                   |
|-----------------|--------------|-------------------------------|
| WFM-06          | 70%          | Lesser of 30% or 65,000 lbs.  |
| WFM-08          | 55%          | Lesser of 45% or 500,000 lbs. |
| WFS-04          | 90%          | Lesser of 10% or 25,000 lbs.  |
| WFS-05          | 84%          | Lesser of 16% or 130,000 lbs. |

- B. Management of Harvest. The State and the Tribes shall manage their respective fisheries to avoid exceeding their respective annual Harvest Limits as provided in sub. A., above. It is the intent of this sub. B. that:
- a. Large deviations shall be rare and promptly addressed;
  - b. The fishery shall not be overly regulated in response to minor deviations caused by random fluctuations in the fishery or imprecision in assessment methods; and
  - c. On average neither the State nor the Tribes shall exceed their apportioned harvest opportunities.
- C. Non-Shared Whitefish Management Units. In all Whitefish Management Units which are not shared Whitefish Management Units listed in Section VII.A.2.b., above, the Tribes shall manage their commercial Lake Whitefish fisheries using HRGs developed by the Tribes. The Tribes shall notify the TFC within two (2) weeks of HRG establishment for non-shared management units.
- D. Lake Trout Refuges.
1. The following areas shall be Lake Trout refuges unless otherwise agreed by the Parties:
    - a. In Lake Huron, Grids 307 through 309 from October 1 through November 29. (Map 15.)
    - b. In Lake Michigan, two (2) locations:
      - i. Grids 413, 414, 513, 514, 515, 516, and 613; the south half (S½) of Grids 313, 314, and 415; the north half (N½) of Grid 614; and the northwest quarter (NW¼) of Grid 517. (Map 8; see also Appendix D.)
      - ii. Grids 1606, 1607, 1706, 1707, 1806, 1807, 1906, and 1907. (Map 14.)
  2. No Commercial or Subsistence Fishing with Gill Nets shall be permitted in any refuge. Commercial Fishing with Trap Nets is permitted, but retention of Lake Trout shall be prohibited. Retention of Lake Trout caught by

commercial, subsistence, or recreational fishers in any Lake Trout refuge shall be prohibited.

- E. MI-8. In Lake Superior Lake Trout Management Unit MI-8, the Lake Trout Harvest Limit, if any, shall be determined by CORA. (Map 27.)
- F. Retention of Lake Trout by Tribal Fishers.
  - 1. Trap Nets.
    - a. In areas where and at times when Large Mesh Gill Nets are permitted to be fished, CORA will establish a bag limit for Lake Trout caught in Trap Nets. Changes to the bag limit shall be subject to the Notice and Consultation provisions of this Decree.
    - b. In areas where and at times when Large Mesh Gill Nets are not permitted to be fished, a Lake Trout bag limit of two hundred (200) pounds Round Weight per vessel per day shall apply to all Tribal Trap Net fishers. No undersized Lake Trout shall be retained.
  - 2. All live, undersized Lake Trout caught by Tribal Gill Net fishers shall be released. No more than fifteen (15) pounds Round Weight per vessel per day of undersized Lake Trout may be retained by Tribal Gill Net fishers.
- G. Retention of Lake Trout by State-Licensed or -Permitted Fishers. State-licensed or -permitted commercial fishers may not retain Lake Trout.

#### **VIII. MANAGEMENT OF OTHER SPECIES.**

- A. Allocation and Harvest Limits. Any Party may request at the annual Executive Council meeting that a species referenced in this Section be subject to allocation and harvest limits. If a request is made, the TFC shall gather and assess all relevant available data related to the species and recommend to the Executive Council a process by which harvest limits could be developed. If the Parties cannot reach agreement on allocation between the State and the Tribes or the method used to set harvest limits, the matter may be resolved through dispute resolution as outlined in Section XVIII.
- B. Salmon.
  - 1. Commercial Fishing for salmon is prohibited except for incidental harvest or harvest in the Sault Tribe Tribal Zone as described in Section IV.A.2.c., the Little Traverse Tribal Zone as described in Section IV.A.1.c.ii.(b), or in the Grand Traverse Tribal Zone as described in Section IV.A.1.e.ii.(d). Except as otherwise provided in this Decree, the Tribes shall prohibit the retention of more than two hundred (200) pounds Round Weight per vessel

per day of salmon caught as incidental catch in Gill Nets, and shall prohibit any retention of salmon caught in Trap Nets.

2. Salmon nets shall be set in a manner that permits reasonable ingress and egress by shoreline residents.

C. Bloater Chubs.

1. The State and the Tribes shall manage their respective harvests of Bloater Chubs.
2. Commercial Fishing for Bloater Chubs with Small Mesh Gill Nets must occur in water two hundred forty (240) feet or deeper.

D. Cisco. The State and the Tribes shall manage their respective harvests of Cisco.

E. Menominee. The State and the Tribes shall manage their respective harvests of Menominee.

F. Walleye.

1. Subject to the gear restrictions, depth restrictions, spawning closures and other limitations within this Decree, the following waters are open to Tribal Commercial Fishing targeting Walleye:
  - a. Lake Michigan Statistical Districts MM-2, MM-3, MM-4, and MM-5.
  - b. Lake Huron
    - i. Grids 202, 207-209, 301-308, 401-408, 504-508, and the western portion of Grid 606 that is west of a line of longitude at -83.909 degrees.
    - ii. Grids 509-511, that portion of Grid 606 that is east of a line of longitude at -83.909 degrees, 607-613, 709-712, and 810-811 shall be open only from October 1 through December 31.
  - c. Lake Superior Lake Trout Management Units MI-5, MI-6, MI-7, and MI-8.
2. Walleye may not be targeted in Lake Michigan Statistical Districts MM-1, MM-6, and MM-7.
3. The State and the Tribes shall monitor Walleye populations through the collection of biological data from the catch of recreational, subsistence, and commercial fishers.

G. Yellow Perch.

1. Subject to the gear restrictions, spawning closures and other limitations within this Decree, the following waters are open to Tribal Commercial Fishing targeting Yellow Perch:
  - a. Lake Michigan Statistical Districts MM-2, MM-3, MM-4 and MM-5, with the exceptions noted below.
    - i. That portion of Grid 315 that is west of a line of longitude at -85.5 degrees shall be closed to Yellow Perch fishing and no retention of Yellow Perch is permitted in this area. (Map 24.)
    - ii. That portion of Grid 715 described in Section IV.A.1.e.(ii)(e). (Map 13.)
  - b. Lake Huron.
    - i. Grids 202, 207-209, 301-308, 401-408, 504-508, and the western portion of 606 west of a line of longitude at -83.909 degrees.
    - ii. Grids 509-511, that portion of 606 that is east of a line of longitude at -83.909 degrees, 607-611, 709, and those portions of Grids 612, 710, 711, and 810 that fall northwest of the line from the mouth of the Thunder Bay River described in Section IV.A.2.d.i. shall be open only from October 1 through December 31.
  - c. Lake Superior Lake Trout Management Units MI-5, MI-6, MI-7, and MI-8.
2. Tribal Commercial Fishing targeting Yellow Perch is closed and there shall be no retention of Yellow Perch in Lake Michigan Statistical Districts MM-1, MM-6, and MM-7.
3. The State and the Tribes shall monitor Yellow Perch populations through the collection of biological data from the catch of recreational, subsistence, and commercial fishers.

H. Smelt. Notwithstanding Section II.Y., Smelt may be harvested using Small Mesh Gill Nets and small mesh Trap Nets having one (1.0) inch to one and a half (1.5) inch Stretch Mesh or allowable Seines, subject to the river mouth closures described in Section IV.C.10.

I. Other Species. The commercial harvest of any other species is authorized unless specifically prohibited in sub. J., below. However, no Party shall target such

species without prior notice to the TFC. Any Party may request that the TFC design a protocol for assessment of such species to determine the appropriate management of the species. The TFC shall develop appropriate management measures based upon such assessment. If there is an issue of allocation between Tribal and State commercial fishers, there shall be a presumption in favor of the Tribal fishers.

J. Species Not Authorized for Commercial Harvest.

1. The following fish species shall not be targeted for harvest or offered for sale or exchange when taken as bycatch during Commercial Fishing activities: Muskellunge (except in Lake Michigan), Splake, Brown Trout, Brook Trout, Rainbow (Steelhead) Trout, Atlantic Salmon, Largemouth and Smallmouth Bass, and Northern Pike. Retention of such species when taken as bycatch during commercial Trap Net fishing is prohibited. Retention of more than twenty-five (25) pounds Round Weight per vessel per day of such species as bycatch during commercial Gill Net fishing is prohibited.
2. The following fish species shall not be targeted for harvest or offered for sale or exchange when taken as a bycatch during Commercial Fishing, and any catch shall immediately be returned to the water if alive or, if not alive, shall be turned in to the BSD, Tribal biological staff, or the nearest MDNR field office and shall not be retained in possession: Lake Sturgeon, Muskellunge (Lake Michigan only), and any fish species listed as threatened or endangered under the Federal Endangered Species Act.
3. If one or more Tribes rear and stock any species listed in sub. 1., above, for at least three (3) consecutive years, and data demonstrate that the Tribes' stocking efforts have substantially contributed to a commercially harvestable adult population, the Executive Council shall discuss Tribal commercial fishing opportunities for that species.

**IX. STOCKING.**

- A. Lake Committee Role. The Parties support the functions of the Lake Committee organized under the auspices of the Great Lakes Fishery Commission for each of the lakes containing 1836 Treaty Waters. Lake Trout reared by the federal government for stocking in the Great Lakes will continue to be stocked pursuant to rehabilitation and management plans. The State and the Tribes shall continue to use the Lake Committee process to oversee stocking practices of lakewide concern, such as lakewide stocking caps for certain species.
- B. Stocking Process.
  1. The Parties shall adopt a stocking table and any stocking activity that is in accordance with the Stocking Table may occur without prior approval from



the Parties.

- a. Each of the following shall be treated as a separate stocking zone: MH-1, MH-2, MM-1, MM-2, MM-3, MM-4, MM-5, MM-6, MM-7, MI-5, MI-6, MI-7, and MI-8. MH-1 shall include the St. Marys River for all species except Walleye, for which there will be a separate stocking zone.
  - b. For each stocking zone, the Stocking Table will denote the maximum number of fish per species for the most common life stage, as well as the acceptable strains. The Parties shall develop a life-stage-equivalent matrix within one (1) year of entry of this Decree.
  - c. The following changes to the Stocking Table require a proposal:
    - i. Addition or removal of a species into a stocking zone;
    - ii. Addition or removal of a strain into a stocking zone; and
    - iii. Decrease or increase to the maximum stocking number allowed per species into a stocking zone.
2. Stocking proposals may be submitted at any time. The TFC will be the forum where stocking proposals are reviewed. The Parties must respond in writing within forty-five (45) days of submission of the proposal, noting any questions and/or objections. Absent a formal objection from a Party, the proposal is deemed acceptable. If consensus cannot be reached on a stocking proposal, any Party may pursue dispute resolution under Section XVIII. of this Decree.
  3. Salmon or Steelhead stocked in a tributary to a stocking zone count toward the stocking limit in that stocking zone. Other species that are stocked below lower-most fish passage barriers of tributaries to a stocking zone and that are reasonably intended to spend the majority of their lives in the Great Lakes count toward the stocking limit in that stocking zone.
- C. Genetics. Within two (2) years of entry of this Decree, the TFC shall initiate the development of a native species stocking protocol that provides genetically sound guidance for native fish stocking. The protocol shall address the minimum number of pairs required to maximize genetic diversity, appropriate genetic strains for various areas of the 1836 Treaty Waters and contemplate both broodstock and wild sourced hatchery practices.
  - D. Disease Considerations. Within one (1) year of entry of this Decree, the Parties shall establish a protocol for monitoring existing and emerging diseases in hatcheries and establish a process for managing hatchery-raised fish if a disease is detected, consistent with the Great Lakes Fishery Commission's *Model Program for Fish Health Management in the Great Lakes*, as it may be amended

from time to time (current version available at [http://www.gllfc.org/pubs/SpecialPubs/Sp14\\_02.pdf](http://www.gllfc.org/pubs/SpecialPubs/Sp14_02.pdf)). The process should minimize risk to fisheries and aquatic resources in the Great Lakes.

- E. Lake Whitefish Stocking Evaluation. The Parties shall continue to evaluate the success of stocking Lake Whitefish as a possible means of recovering stocks. Upon entry of this Decree, the Parties shall collaborate regarding experimental design, evaluation, and program modification, including adjustments to the number and life stages stocked. Stocking levels pursuant to the experimental program shall not exceed the equivalent of five (5) million spring fingerlings per year, except as otherwise determined by the TFC. At the conclusion of the initial evaluation, Lake Whitefish may be added to the stocking table described in sub. B.1., above, based on the results of the evaluation.

#### **X. TRIBAL CHARTER BOAT OPERATIONS.**

- A. Any Tribe which authorizes or conducts a charter boat operation shall adopt safety inspection standards for its charter operations that are no less protective as those that exist under current State law for vessels carrying passengers for hire.
- B. Customers of Tribal charter operations who are not citizens of one of the Tribes shall be subject to applicable State law including, but not limited to, licensing requirements, rod limits, size and bag limits, daily Possession Limits, and seasons.
- C. Any Tribe which authorizes or conducts a charter boat operation shall report its charter boat harvest, including the number and weight of species caught by recreational fishers, and areas fished, to the State in accordance with provisions applicable to State-regulated charter boat operations, and the harvest shall be recorded by the State in accordance with those provisions.

#### **XI. SUBSISTENCE FISHING.**

- A. The Tribes shall develop standardized Subsistence Fishing reporting and sampling systems.
- B. Tribal Citizens who engage in Subsistence Fishing shall obtain a Subsistence Fishing license issued by their Tribe and shall abide by all provisions of the Tribal Code and applicable Tribal regulations governing Subsistence Fishing. In addition, Subsistence Fishing with Gill Nets or Impoundment Nets requires a Tribal permit which shall be limited both in duration and in the area where the fishing may occur. A copy of any license or permit issued by a Tribe under this subsection shall be provided promptly to MDNR, Fisheries Division and MDNR, Law Enforcement Division.
- C. Except as provided in sub. C.1-3, below, subsistence fishers shall have a

Possession Limit of one hundred (100) pounds Round Weight per calendar day aggregate catch of all species in possession and they may not sell or otherwise exchange for value any fish of their catch or any other subsistence fisher's catch. Subsistence Gill Netting is limited to one (1) net of three hundred (300) feet or less per subsistence fisher per day. No more than two (2) subsistence fishers may fish from a single vessel at the same time. The tying together of single Gill Nets to form a gang of nets is prohibited. Subsistence nets shall be marked at each end with an orange float equivalent to at least a one (1) gallon jug in size bearing the subsistence license number of the fisher.

1. Little Bay de Noc, Lake Michigan (Grid 306) from March 1 through May 14.
    - a. Subsistence fishers shall not use Gill Nets or possess Walleye north of a line drawn from Saunders Point to Hunters Point.
    - b. Subsistence Gill Nets shall not exceed one hundred (100) feet in length.
    - c. Subsistence fishers must obtain a permit prior to fishing and shall be limited to no more than ten (10) permits per thirty (30) day period. Permits are valid for a twenty-four (24) hour period that begins and ends at sunset. Upon issuance of any subsistence Gill Net permit for Grid 306, the issuing Tribe must provide notification to MDNR Fisheries and Law Enforcement Divisions prior to the twenty-four (24) hour period for which fishing is authorized. Notification shall include the date the permit begins and the license number of the fisher that has been permitted.
    - d. Subsistence fishers shall have a bag limit not to exceed twenty (20) fish for each permitted period (regardless of species).
  2. In Big Bay de Noc, Lake Michigan, subsistence fishers shall not use Gill Nets or possess Walleye beginning March 1 through May 14 in the waters of Grids 308 and 309 north of a line from St. Vitals Point to the northernmost tip of Garden Bluff.
  3. In the St. Marys River (as described in Section IV.C.1.) a subsistence Gill Net shall not exceed 100 feet in length.
- D. Subsistence Fishing is authorized in all 1836 Treaty Waters, except:
1. Subsistence Fishing with Gill Nets is prohibited in all Lake Trout refuges.
  2. Subsistence Fishing gear shall not be set in a manner which completely blocks or entirely prevents the free passage of fish into and out of streams that flow into 1836 Treaty Waters.

3. There shall be no Subsistence Fishing with nets:
  - a. Within one hundred (100) yards of any Break Wall or Pier; or
  - b. Within a three-tenths (0.3) Mile radius of the mouth of the streams listed in Section IV.C.10.
- E. All subsistence fishers who engage in any Fishing Activity under this Section must file catch reports with their Tribe, which shall provide the reports to CORA.
  1. Tribal regulations shall require, at a minimum, monthly reporting by Tribal subsistence fishers of Round Weight of species landed; location of fishing, by Grid; type and amount of fishing gear; and date. Data from the subsistence harvest reports of Tribal fishers shall be electronically compiled by CORA and shared with the State and USFWS by the 15<sup>th</sup> of the month following harvest. CORA shall also provide the State and USFWS with all biological data collected during Tribal subsistence sampling by March 31 of the year following harvest.
  2. Notwithstanding sub. C.1., above, subsistence harvest from Little Bay de Noc that occurs from March 1 to May 14 must be reported by each individual Tribal subsistence fisher weekly. CORA shall electronically compile the data and provide it to the State and USFWS by 5:00 PM each Wednesday following the week in which harvest took place.

## **XII. TECHNICAL FISHERIES COMMITTEE (TFC).**

- A. Purpose. There shall be a Technical Fisheries Committee (TFC) which shall be the primary body for consultation and collaboration on biological issues under this Decree.
- B. Membership and Authority. The membership of the TFC shall consist of the BSD Director and one (1) biologist from each of the Tribes, the MDNR, and the United States, though additional representatives of each Party may also attend and participate in TFC sessions. The TFC shall operate as a vehicle for discussion and exchange of information and viewpoints. Except as otherwise provided in this Decree, the TFC shall not act as a formal decision-making body. The TFC shall attempt to shape consensus on the matters and issues before it and shall take no action and make no determination without the consensus of all its members, except as provided in this Decree. No Party shall take any action that requires the approval of or a determination by the TFC unless and until the TFC provides the approval or makes the determination or the Party prevails in the dispute resolution process. The foregoing provision does not apply to actions that are subject only to TFC review, recommendation, or both. As to such matters, lack of consensus on the TFC shall not prevent a Party from taking actions consistent with this

Decree unless or until a Party opposing the action prevails in dispute resolution.

C. Tasks and Responsibilities. In addition to the specific duties described elsewhere in this Decree, the TFC shall have the following responsibilities:

1. Pursuant to Section VII.A.4., use professional judgment and all relevant data to develop and recommend to the Executive Council Harvest Limits as outlined in Section VII.A.4.b.
2. Review the commercial, recreational, subsistence, and assessment harvest of fish from the 1836 Treaty Waters.
3. Review and, upon request of the Executive Council, recommend such fisheries regulations as are biologically necessary to protect, preserve, or enhance the fishery resource within the 1836 Treaty Waters.
4. Review or recommend biological research, monitoring, and fishery assessment projects of the Parties within 1836 Treaty Waters.
5. Review, coordinate, and recommend programs related to environmental damage and risks to the ecosystem, including habitat changes, forage base conditions, and invasive species.
6. Facilitate the exchange of information as provided in Section XIV.
7. Meet jointly with the LEC, as needed, to facilitate information exchange and discussion related to management and enforcement of fishery regulations in the 1836 Treaty area.
8. At a minimum of every six (6) years, beginning in 2028, provide for review and continuous improvement of harvest estimating and reporting systems to assure that each Party is submitting valid harvest estimates or reports. The TFC shall review the methods of all harvest estimating and reporting systems to assure the designs of these systems provide:
  - a. Estimates and reports that are sufficient to satisfy the requirements of calculating harvest and effort limits as described in this Decree; and
  - b. Adequate coverage of management units defined by this Decree.

D. Modeling Subcommittee.

1. Membership. The Modeling Subcommittee ("Subcommittee") shall consist of one (1) or more biologists from each of the Tribes, the State, and the USFWS. Other fisheries professionals from agencies or universities that are

not Party to this Decree may attend meetings of the Subcommittee by invitation only, and if they are present to offer expertise or review of topics of relevance to the Subcommittee.

2. Tasks and Responsibilities. The Subcommittee shall have the following responsibilities:
  - a. Select a chair or co-chairs and establish terms of reference that ensure participation by all Parties, commitment to the tasks of the MSC, and a reasonable timeline for data submission and completion of tasks that allows for documentation and review of work products.
  - b. Recommend to the TFC data collection strategies necessary to monitor fish populations.
  - c. Analyze and summarize data from all Parties through the use of various fisheries models that allows for estimation of population-level parameters in all Lake Trout Management Units and all shared and non-shared Whitefish Management Units.
  - d. Conduct or utilize research aimed at continually improving stock assessment models.
  - e. Report fish population status for all Lake Trout Management Units and all shared Whitefish Management Units to the TFC according to a timeframe that allows for development of Harvest Limits, as described within this Decree. Report fish population status for all non-shared Whitefish Management Units to the TFC according to the same timeframe.
  - f. Meet at least annually to fulfill the tasks and obligations outlined above or other tasks assigned by the TFC.

### **XIII. NOTICE AND CONSULTATION.**

#### **A. Notice of Proposed Regulatory Actions.**

1. As used in this Section, “regulatory action” means the promulgation, adoption, enactment, modification, amendment, issuance, or rescission of:
  - a. Any provision of the Tribal Plan or Tribal Code, or any decision or order by GLRC or the BSD Director authorized by the Tribal Plan or Tribal Code.
  - b. Any State law, rule, or administrative action or order relating to or affecting fishing in the 1836 Treaty Waters.

- c. Any code, ordinance, rule, or administrative action or order of a particular Tribe relating to fishing in the 1836 Treaty Waters.
    - d. Categories of fishing licenses issued by a Tribe or CORA.
  2. Prior to taking any regulatory action, the Party taking the action shall, to the extent practicable and in good faith, provide written notice to the other Parties of the proposed action as follows:
    - a. If a change in a law, regulation, or Tribal Plan provision, at least thirty (30) days' notice.
    - b. If an administrative action or order that is not an emergency order, at least ten (10) days' notice.
    - c. If an emergency order as provided for in State or Tribal law, the most expeditious notice practicable under the circumstances.
  3. Upon the completion of any regulatory action, the Party taking the action shall provide a copy of the action to all other Parties within ten (10) days after the action is taken.
- B. Parties Receiving Notice. All notices required by this Decree shall be provided to the following entities and their designees:
  1. President, Bay Mills Indian Community.
  2. Tribal Chairperson, Grand Traverse Band of Ottawa and Chippewa Indians.
  3. Ogema, Little River Band of Ottawa Indians.
  4. Tribal Chairperson, Little Traverse Bay Bands of Odawa Indians.
  5. For Sault Ste. Marie Tribe of Chippewa Indians, the following officials:
    - a. Tribal Chairperson.
    - b. Chairperson of the Conservation Committee.
    - c. Chief of Police.
    - d. Lead Fisheries Biologist.
  6. Executive Director, Chippewa Ottawa Resource Authority.

7. Director, Biological Services Division, Chippewa Ottawa Resource Authority.
8. For the State of Michigan, the following officials:
  - a. Director, Michigan Department of Natural Resources.
  - b. Tribal Liaison, Michigan Department of Natural Resources.
  - c. Chief, Fisheries Division, Michigan Department of Natural Resources.
  - d. Manager, Tribal Coordination Unit, Fisheries Division, Michigan Department of Natural Resources.
  - e. Chief, Law Enforcement Division, Michigan Department of Natural Resources.
9. For the United States, the following officials:
  - a. Secretary of the Interior.
  - b. Midwest Regional Director, Bureau of Indian Affairs.
  - c. Region III Director, USFWS.
- C. Local Consultation. Upon request of a Party to any other Party or Parties, representatives from those governments shall meet from time to time to consult on matters of local concern. Representatives of local sport fishing interests, local environmental groups or local governments may request such a meeting through the State, or may attend by invitation of a Party.

#### **XIV. INFORMATION SHARING.**

The Parties agree to share with each other the following types of information:

- A. Biological Data. The Tribes, MDNR, USFWS, United States Geological Survey, and the National Oceanic and Atmospheric Administration shall share all biological data in their possession that is not protected by applicable law, including plans for, and results of, stocking, assessments, and other research and studies relating to the 1836 Treaty Waters. Data provided by the Parties shall be used only for fishery management. Absent approval by the producing Party, any use of such data for peer-reviewed publication purposes is prohibited. Nothing in this subsection shall be construed as creating an exemption from disclosure under applicable law.
- B. Commercial Harvest.



1. Each Party shall adopt and use an Electronic Reporting System for the collection, reporting, and sharing of information concerning commercial harvest of Great Lakes species. CORA shall own and operate the Tribes' Electronic Reporting System. The regulations of the Parties shall require, at a minimum, the submission of the following data by individual commercial fishers into their respective Electronic Reporting System for each day of fishing (Tribal staff may assist fishers, if necessary): fisher license number; weight of each species landed (regardless of whether it was sold or retained for personal use); location of fishing, by Grid; type and amount of fishing gear; date; and name of the person entering the data. Individual commercial fishers shall submit commercial harvest data not less than twice monthly, no later than 11:59 pm Eastern Time on the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Wednesdays of each month. Each submission shall include all fishing activities conducted from the previous reporting date through the Tuesday preceding each reporting date. At 11:59 pm Eastern Time on the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Wednesdays of each month, unless the Parties require more frequent reporting, the Tribes and the State shall share commercial harvest data with the Parties. The sharing of information shall be automated using the Party's Electronic Reporting System and include all new commercial harvest data submitted into the respective Electronic Reporting Systems since the last automated exchange, regardless of fishing date, as well as a list of records that have been changed with a description of each change from the original record. Each Party shall finalize its harvest data within two (2) reporting periods following the original reporting deadline.
2. Until such time as the Electronic Reporting Systems described in sub. 1., above, are fully implemented and operational, which shall occur no later than July 1, 2023, the Parties shall require bi-monthly reporting of harvest by commercially licensed fishers using fisher license numbers and shall transmit to the other Parties an electronic copy of such reports as soon as practicable.
3. The State of Michigan and its agencies will not use an individual Tribal fisher's catch report as the basis for issuing a ticket or citation to the reporting fisher. This prohibition is not intended to prevent the use of catch reports in support of investigation or prosecution based on a pattern of unlawful conduct but is intended to preclude the use of catch reports as a basis for the issuance of citations for minor, one-time or isolated infractions, such as the filing of a late catch report or the insignificant exceedance of a daily retention limit. The Parties shall make best efforts to maintain and improve the cooperation and coordination of their law enforcement agencies.
4. Commercial harvest data is confidential and protected from disclosure to non-parties. Commercial harvest data shared between the Parties under sub.

- 1., above, is considered private information to be used by Tribal, CORA, United States and State agency staff only.
  - a. Tribal commercial harvest data is not subject to disclosure under the Michigan Freedom of Information Act, Mich. Comp. Laws § 15.231 *et seq.*, as it may be amended from time to time, or any successor statute.
  - b. Except as otherwise required under this Decree, CORA shall not release commercial harvest data to non-parties unless required by an order from the appropriate Tribal court.
5. Notwithstanding sub. 4., above, commercial harvest data may be disclosed to non-parties as follows:
- a. Commercial harvest data may be provided in an anonymized format to other fisheries agencies and universities for bona fide scientific and management purposes.
  - b. Aggregate commercial harvest data may be disclosed to non-parties.
- C. Subsistence Harvest by Tribal Fishers. Tribal subsistence harvest shall be reported as required under Section XI.E.
- D. Retail Sales Records. GLRC or the Tribes shall adopt regulations requiring Tribally licensed commercial fishers to issue a bill of sale to any Retail Outlet purchasing fish from such fishers. The bill of sale shall contain the name of the Tribal fisher, the number and pounds, by species, of fish sold, the date of sale, and the signature of the fisher. Tribal fishers shall submit the information contained within each bill of sale to their respective Tribes on the same dates that commercial harvest data are transmitted. The information is deemed submitted when it is entered into an Electronic Reporting System, mailed by U.S. Postal Service, or delivered in person. A Tribe shall make the information from bills of sale available to another Party upon request.
- E. Tribally Licensed Fish Wholesaler Reports. GLRC or the Tribes shall require any Tribally licensed fish wholesaler to submit reports of all purchases of fish into the Tribe's Electronic Reporting System, indicating the name of the seller, the date, the seller's license number, the number and pounds of each species sold, and the price paid for each species. Data for purchases of fish shall be submitted not less than twice monthly, no later than 11:59 pm Eastern Time on the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Wednesdays of each month. Each submission shall include all purchases of fish made from the previous reporting date through the Tuesday preceding each reporting date. A Tribally licensed wholesaler shall require identification from each seller of fish. A Tribally licensed wholesaler shall purchase fish only from a State- or Tribally licensed commercial fisher, or other legal source of fish. Each Tribe shall provide the other Parties data regarding fish

purchased by fish wholesalers licensed by the Tribe at 11:59 pm Eastern Time on the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Wednesdays of each month. The sharing of information shall be automated using the Party's Electronic Reporting System and include all new records of fish purchased since the last update, regardless of transaction date, as well as a list of records that have been changed along with a description of each change from the original record. Each Tribe shall finalize its wholesale data within two (2) reporting periods following the original reporting deadline.

- F. State-Licensed Fish Wholesaler Reports. A record of each purchase of fish shall be submitted into the State's Electronic Reporting System, indicating the name of the seller, the date, the seller's identification number, the number and pounds of each species sold, and the price paid for each species. Data for purchases of fish shall be submitted not less than twice monthly, no later than 11:59 pm Eastern Time on the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Wednesdays of each month. Each submission shall include all purchases of fish made from the previous reporting date through the Tuesday preceding each reporting date. A State-licensed wholesaler shall require identification from each seller of fish. A State-licensed wholesaler shall purchase fish only from a State or Tribally licensed commercial fisher, or other legal source of fish. The MDNR shall provide CORA and USFWS with data regarding fish purchased by fish wholesalers licensed by the State at 11:59 pm Eastern Time on the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Wednesdays of each month. The sharing of information shall be automated using the State's Electronic Reporting System and include all new records of fish purchased since the last update, regardless of transaction date, as well as a list of records that have been changed along with a description of each change from the original record. The State shall finalize its wholesale data within two (2) reporting periods following the original reporting deadline. Full implementation of this paragraph shall occur no later than July 1, 2023. Until such time the State shall require bi-monthly reporting by State-licensed fish wholesalers and shall transmit to the other Parties an electronic copy of such reports as soon as practicable.
- G. State-Regulated Charter Boats. State-regulated charter boats, as defined in Mich. Comp. Laws § 324.44501, as it may be amended from time to time, or any successor statute, that operate in 1836 Treaty Waters must electronically report data from each trip, including number of anglers onboard, hours fished, location of fishing by Lake Trout Management Unit and primary Grid fished, and the number of each species harvested and released. Data for trips shall be submitted not less than twice monthly, no later than 11:59 pm Eastern Time on the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Wednesdays of each month. Each submission shall include all trips taken from the previous reporting date through the Tuesday preceding each reporting date. At 11:59 pm Eastern Time on the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Wednesdays of each month, the State shall share charter boat trip data with CORA and the USFWS. The sharing of information shall be automated using the State's Electronic Reporting System and include all new charter trips submitted since the last update, regardless of fishing date, as well as a list of trips that have

been changed with a description of each change from the original record. The State shall finalize charter boat data within two (2) reporting periods following the original reporting deadline. Full implementation of this paragraph shall occur no later than July 1, 2023. Until such time the State shall require bi-monthly reporting by State-regulated charter boats and shall transmit to the other Parties an electronic copy of such reports as soon as practicable.

H. Recreational Harvest by State-Licensed Fishers.

1. The MDNR shall provide by March 31 to CORA and USFWS data on State-licensed recreational fishing, including the number and weight of species caught by recreational fishers and areas fished. To the extent that recreational harvest or effort is estimated, the methodology used to derive the estimate shall also be provided, if requested.
2. The Parties agree to appoint a working group to study potential improvements to the present creel survey methodology during the first three (3) year Harvest Limit period (Section VII.A.6.), including, but not limited to, the adoption of an alternate reporting system for recreational harvest by State-Licensed Fishers, and require the working group to report its results in writing to the Executive Council at the conclusion of that three (3) year period. The written report shall include recommendations of concrete steps, if any, that can be taken to timely achieve the potential improvements. The Parties will thereafter cooperate in good faith to implement those recommendations, if any, which may include seeking appropriations to enhance or improve State recreational harvest estimation methodology.

- I. Exercise of State Authority. The State shall exercise its authority to issue orders that fulfill its requirements of this Section XIV.
- J. Recreational Harvest by Tribal Fishers. CORA shall provide to MDNR and USFWS such data as it possesses on Tribal recreational fishing.
- K. Tribal Charter Boat Harvest. The Tribes shall report to the State and the USFWS data related to Charter boats licensed by the Tribes. Reporting shall be in accordance with provisions applicable to State-licensed charter boat operations in sub. G, above.
- L. Salmon Weir Harvest. Upon request, the MDNR shall provide to the other Parties data relating to the weir harvest of salmon within 1836 Treaty Waters.
- M. Environmental Contaminants. Subject to the provisions of sub. A., above, the Tribes, the State, USFWS, and the United States Geological Survey shall share with each other in a timely manner any data concerning environmental contaminant levels in fish in 1836 Treaty Waters.

- N. Invasive and Non-Native Species. Subject to the provisions of sub. A., above, the Tribes, the State, USFWS, the United States Geological Survey, and the National Oceanic and Atmospheric Administration shall share with each other in a timely manner any data concerning intrusions of invasive species or non-native species into 1836 Treaty Waters and shall cooperate under the federal Aquatic Nuisance Prevention and Control Act of 1990 and the National Invasive Species Act of 1996.
- O. Parity. In the event that any of the electronic harvest reporting requirements set forth in this Section XIV. are successfully challenged by State-Licensed Fishers or wholesalers and are overturned as having been improperly imposed through this Decree, any such relief from these electronic harvest reporting requirements shall be mutually applied to Tribally Licensed Fishers and/or wholesalers (as applicable) in parallel fashion. Within thirty (30) days after the entry of a final opinion and order upon exhaustion of all appeals which invalidates electronic harvest reporting requirements, the Parties shall submit to the Court a stipulation amending this Section XIV. to create parity between State- and Tribally Licensed Fishers and/or wholesalers of the obligations contained therein.

## **XV. INFORMATION GATHERING.**

- A. Research Priorities. The Parties shall collaborate on research that affects fisheries in 1836 Treaty Waters. The Parties shall compile and annually update a list of research priorities that shall be pursued through frequent consultation, collaboration, and cooperation with each other and with other agencies and universities. Initial research priorities are described in Appendix E and shall be reviewed annually and updated by the Parties by consensus as appropriate.
- B. Work Plans. For the purposes of information exchange, the Parties shall share plans for fisheries work to be conducted by agency staff at least two (2) weeks prior to the first meeting of the TFC annually, which shall include assessments, fisheries monitoring, habitat rehabilitation activities, stocking plans, and research projects. The TFC shall meet and discuss the exchanged information in order to maximize collaboration, leverage resources, minimize or avoid duplication of effort, and prevent interference with such activities. Plans for additional new work by agency staff developed after the work plans are submitted shall be shared on a reasonable timeline upon development but before the work occurs.
- C. Assessment Fishing by Commercial Fishers.
  - 1. Assessment fishing may be conducted by commercial fishers under permit from Tribes/CORA or the State. Such assessment fishing by commercial fishers shall be limited by the following, except as otherwise approved by the Parties:
    - a. The commercial fisher assessment harvest shall be included in the total

annual harvest of fish taken from a Lake Trout or Whitefish Management Unit, as the case may be.

- b. Details of planned assessments must be provided to the Parties no later than two (2) weeks before the first TFC meeting annually and must be reviewed by the TFC during its first meeting annually. Plans for assessments by commercial fishers developed thereafter shall be reviewed by the TFC at its next scheduled meeting or at an ad hoc meeting called for that purpose. These plans shall be shared with the TFC at least two (2) weeks before the meeting where they will be reviewed.
- c. State-licensed and Tribally licensed commercial fishers shall not be permitted to conduct assessment fishing in areas otherwise closed to Commercial Fishing by those fishers, respectively.
- d. If an assessment conducted by a Tribal or State commercial fisher will (1) harvest a species in an area where Commercial Fishing for that species is prohibited, (2) utilize commercial gear in an area or during a time period where the commercial use of such gear is otherwise prohibited, or (3) utilize gear not authorized for commercial use under Section VI.C.1., the following conditions apply:
  - i. If the assessment uses Gill Nets, the assessment shall be limited to a single operation using no more than 6,000 feet of Large Mesh Gill Net, Small Mesh Gill Net, or graded mesh Gill Net, as appropriate.
  - ii. A Party may object to a proposed assessment on one (1) or more of the following bases:
    - (a) Negative impact on an existing fishery;
    - (b) Material biological harm to a resource;
    - (c) A threat to public health or safety;
    - (d) Material interference with pre-established ongoing research projects; or
    - (e) Unreasonable redundancy of effort.
  - iii. Objections shall be resolved pursuant to the dispute resolution process specified in Section XVIII., and the assessment shall not commence until the dispute is resolved.

- iv. Assessments conducted by commercial fishers under this sub. C. shall not exceed three (3) years in length unless the Parties approve an extension.
- D. Information to be Gathered. The TFC shall gather the following information and ensure that the biological and other information necessary for management decisions shall be available to the Parties:
  - 1. Harvest information from commercial, subsistence, and recreational fishers and from wholesalers.
  - 2. Age composition.
  - 3. Length/weight composition.
  - 4. Maturity/sex ratio.
  - 5. Sea lamprey wounding and other lamprey-related data.
  - 6. Agency assessment indexing, such as bycatch per unit of effort.
  - 7. Fish stocking activities and plans.
  - 8. Fish diet.
  - 9. Fish health factors such as disease, contaminants, and nutritional deficiencies (e.g., thiamine).

## **XVI. JURISDICTION AND ENFORCEMENT.**

- A. Courts. Except as provided in Section IV.A.2.d.iii, the courts of the Tribes shall have exclusive jurisdiction over enforcement of Tribal laws or regulations governing the fishing activities of Tribal Citizens in 1836 Treaty Waters. The State shall not enforce its fishing laws and regulations against Tribal Citizens engaged in Fishing Activity within the 1836 Treaty Waters. The State shall not require State registration of boats used for Tribal treaty Fishing Activity within 1836 Treaty Waters.
- B. Enforcement Efforts.
  - 1. The State and the Tribes shall provide, support, and maintain adequately equipped law enforcement personnel and resources to provide for public safety, protection of the resource, ensure regulatory compliance, prevent harassment and vandalism, and maintain public confidence.
  - 2. Law Enforcement Committee.



- a. The Law Enforcement Committee (LEC) shall act as the primary body for consultation and collaboration on enforcement issues under this Decree.
- b. Membership. The LEC shall be composed of the chief law enforcement officer or designee of each Tribe and the chief law enforcement officer or designee of the MDNR. In the event that the Bureau of Indian Affairs shall provide conservation law enforcement services to any of the Tribes, the Michigan Agency's chief law enforcement officer or designee shall also be a member.
- c. Ex Officio Members. One (1) or more representatives from the USFWS, the United States Coast Guard, the United States Department of Justice, the Bureau of Indian Affairs, the Ontario Ministry of Natural Resources, and any other law enforcement agency deemed necessary may serve as ex officio members of the LEC. Ex officio members may provide information and assistance to the LEC but shall not vote.
- d. Functioning of Law Enforcement Committee.
  - i. The LEC shall attempt to shape consensus on the matters and issues before it.
  - ii. The LEC shall appoint one (1) of its members as Chair each year. The Chair shall be responsible for scheduling meeting locations, taking suggestions for agenda items, preparing and disseminating meeting agendas prior to meeting dates, and such other duties as the LEC shall decide.
  - iii. LEC meetings shall be sponsored by the member agencies on a rotating basis.
- e. Law Enforcement Committee Duties.
  - i. Each of the Tribes and the State shall commit one (1) position as available to work with a mutual-aid enforcement team pool each year. The team shall engage in group patrols at least eight (8) times per year. Patrols shall be scheduled by the LEC.
  - ii. The LEC shall create an annual work plan. Annual objectives in such plans shall address, at minimum, the following:
    - (a) Public safety issues, included but not limited to education of the boating public on recognizing and avoiding contact with Commercial and Subsistence Fishing nets;



- (b) Enforcement priorities;
- (c) Standardized report forms;
- (d) Coordination of shared resources;
- (e) Identification of training needs and the provision of identified training;
- (f) Protection of commercial gear from theft and vandalism;
- (g) Identification of areas of special law enforcement concerns;  
and
- (h) Sharing of enforcement information.

iii. Meetings:

- (a) The LEC shall meet four (4) times yearly, each January, April, July, and October, and at such other times as the Chair receives a request from a member to schedule a meeting.
- (b) Each meeting agenda shall include at minimum the following:
  - (i) Review and evaluation of the work plan and the activities of each member organization under the plan;
  - (ii) Revision as necessary of the work plan;
  - (iii) Sharing of case disposition information from the period since the last meeting of the LEC;
  - (iv) Review, evaluation, and forwarding with recommendations to CORA and MDNR of field suggestions for regulatory changes; and
  - (v) Review and evaluation of field suggestions for training needs.
- (c) The first meeting of the year shall also include:
  - (i) Preparation of the annual work plan;
  - (ii) Review of summary reports of all law enforcement activities of member agencies of the LEC during the

previous year;

- (iii) Review of training completed the previous year and of proposed training for the current year; and
    - (iv) Review of the status of current law enforcement resources and those to be made available during the current year.
  - (d) The April agenda shall also include at a minimum the compiling, publishing, and disseminating to member agencies of a summary report of the information contained in the standardized report forms.
- iv. The LEC shall investigate and recommend to CORA and MDNR improvements in marking and identification of fishing gear and equipment.
- v. Standard Complaint Handling Mechanisms.
  - (a) A standard complaint handling mechanism shall be established.
  - (b) A twenty-four (24) hour, toll free “hotline” shall be maintained for complaint calls relating to violations of fishing regulations, harassment of fishers, vandalism of fishing gear, and related matters. The “hotline” shall be monitored year-round by the MDNR Report All Poaching communications room operator. The “eight hundred” (“800”) line shall be funded by CORA.
  - (c) Each agency shall provide regularly updated call-out lists to expedite dispatch of complaints.
  - (d) Complaints shall be dispatched by radio, telephone, or other electronic means to the officer closest to the complaint location and shall be followed by a printed complaint form sent to the officer to whom the complaint was dispatched, and also to the agency licensing the subject involved in the complaint. It shall be the officer’s responsibility to complete and return the complaint form to their agency and to contact the complainant listed on the form to advise that the complaint has been handled.
- vi. Each law enforcement agency enforcing the Tribal Code shall have written policies and procedures for investigating complaints made against officers enforcing the Tribal Code, which shall

include a written report to the complainant of disposition of the complaint.

- vii. A report of the LEC shall be a standing agenda item for the annual Executive Council meeting. The report shall include activities of the LEC, as well as recommendations to improve public safety or enhance the efficiency or effectiveness of law enforcement.
- 3. Conservation officers of the MDNR may enforce the Tribal Code and any additional regulations of the Tribes pertaining to the fishery within the 1836 Treaty area.
- 4. The Tribes shall provide to the MDNR documentation of each person issued a Commercial Fishing license under 25 C.F.R. Part 249, a Commercial Fishing permit, or a Subsistence Fishing license.
- 5. The Sault Tribe shall dedicate at least one and one-half (1.5) full time officers at St. Ignace for enforcement of Commercial Fishing regulations under this Decree, the Tribal Plan, and the Tribal Code, including patrols in the area between St. Ignace and Alpena. Bay Mills shall dedicate at least one-half (0.5) full time officer to this effort.

#### **XVII. EXECUTIVE COUNCIL.**

- A. The Executive Council consists of the chairpersons of the Tribes, the Director of the MDNR, and the Secretary of the Interior, or their duly authorized representatives.
- B. The Executive Council shall meet and confer as necessary, but in no event less than annually, to review the status of the fishery resource, the implementation of this Decree, and any other matters appropriate for consideration by the Parties at the policy level.
- C. The Executive Council shall provide a forum for policy-level discussion and consultation, but it shall not have any decision-making authority unless otherwise expressly agreed by all of the Parties.
- D. A Party may request that the Executive Council convene an ad hoc committee consisting of one (1) representative from each Party to consider and make preliminary recommendations to the Executive Council regarding modification of any portion of this Decree.

#### **XVIII. DISPUTE RESOLUTION.**

Any dispute arising out of or relating to this Decree shall be resolved by the procedures set forth in this Section.

A. Negotiation.

1. It is the intent of the Parties that any dispute be resolved informally and promptly through good faith negotiations among the Parties. Should any dispute or controversy arise, the steps outlined in this sub. A. shall immediately be taken. However, matters identified in this Decree as requiring consent or agreement of all the Parties shall not be subject to dispute resolution under this Section.
2. If the dispute involves any matter within the tasks or responsibilities of the TFC, the Party raising the dispute shall first bring the matter before the TFC for discussion and an attempt to achieve consensus. If the TFC has not previously had the matter before it for discussion, the TFC shall be convened to discuss the dispute upon at least fifteen (15) days written notice to the members setting forth the particulars of the dispute. If the TFC fails to reach consensus on the matter, or if consensus on components of the dispute within the purview of the TFC does not resolve the entire dispute, any Party may proceed with the next step in dispute resolution under this Section.
3. Any Party may initiate negotiation proceedings by sending written notice to all other Parties setting forth the particulars of the dispute, the provision of this Decree involved, and a suggested resolution of the problem. The recipient Parties involved in the dispute must respond within ten (10) days of receipt with an explanation and response to the proposed solution, which response shall be sent to all other Parties.
4. If correspondence does not resolve the dispute, the Parties involved in the dispute and any other Parties who desire to attend shall meet on at least one (1) occasion within fifteen (15) days after the response by the recipient Parties and attempt to resolve the matter. If such a meeting does not produce a resolution, the Parties may proceed with mediation or judicial resolution as further provided in this Section.

B. Mediation. If the dispute is not resolved by informal negotiations among the Parties within fifteen (15) days or any mutually agreed extension of time after the first meeting of the Parties, the Parties may agree to attempt to resolve the matter by mediation. Unless the Parties agree to a different mediation procedure, voluntary facilitative mediation shall be conducted as provided in W. D. Mich. L. R. 16.3.

C. Judicial Resolution.

1. If the Parties do not agree to resolve the matter by mediation, or if mediation attempts are unsuccessful, a Party or Parties may seek relief from the Court as provided by the Federal Rules of Civil Procedure and the Local Rules of

the Western District of Michigan.

2. A Party desiring to initiate judicial resolution of the dispute shall file a notice pleading with the Court containing a concise description of the matters in dispute, certification that the Party seeking relief has complied with the dispute resolution procedures of this Decree, and a description of the relief requested. The other Parties may file a responsive pleading within thirty (30) days.
3. Unless the Parties agree that the dispute can be resolved by motion without the need for discovery or an evidentiary hearing, they shall request a scheduling conference under W.D. Mich. L.R. 16.1 to establish a timetable for disposition of the dispute.
4. In the event of an emergency involving this Decree posing a threat of immediate irreparable harm to the resource or a Party, a Party may seek immediate or temporary relief under Fed. R. Civ. P. 65 and applicable local court rules without following the procedural steps set forth in this Section.
5. Except as provided in the CORA Charter and Tribal Plan, the Tribes have not agreed to any restrictions upon their treaty rights other than those contained in this Decree. Accordingly, except as otherwise provided in Section XXII.B. in all disputes brought before the Court, the Court shall grant relief against the Tribes only if their disputed action or failure to act violates:
  - a. A provision of this Decree; or
  - b. The standards applicable to the regulation of Indian treaty fishing rights.

#### **XIX. FINANCIAL AND OTHER COMMITMENTS.**

- A. Subject to Congressional appropriation, the Department of the Interior shall provide \$21,000,000 in funding to be distributed and used as follows:
  1. \$1,500,000 to each of the Tribes for 1836 Treaty Waters fishing-related activities, including enforcement, biological support, access, and market development;
  2. \$4,000,000 to CORA for harvest reporting system acquisition, including ongoing system maintenance fees, as well as CORA-employed biological, environmental, management, and administrative staffing; and
  3. \$9,500,000 to CORA to create a fund, the interest and earnings of which shall be dedicated for supplemental retirement payments to Tribal commercial fishers.

- B. Funds provided under sub. A., above, shall not relieve the existing responsibility of the Department of the Interior for the continued support of Tribal programs, including direct funding of CORA.
- C. Funds provided under sub. A.2., above, shall not relieve the existing responsibility of the five CORA member Tribes to fund CORA administrative and BSD biological services unless and until sufficient annual direct funding of CORA occurs.
- D. If the funding described in sub. A., above, is not appropriated by the end of federal fiscal year 2026, the Tribes may jointly move to seek reconsideration under Section XXII. of this Decree.
- E. During the term of this Decree, the MDNR Director shall include in the Department's annual budget submission a request for funds to carry out the Department's responsibilities under this Decree, after discussion with the Tribes, which may occur through the Executive Council.

## **XX. ENVIRONMENTAL COMMITMENTS.**

Environmental conditions may impact the Great Lakes including 1836 Treaty Waters. Water quality, invasive species, and other factors may have impacts on the fishery resource.

- A. United States. Consistent with applicable law, and subject to the availability of appropriations, the United States, through its appropriate agencies, shall seek to:
  - 1. Continue to maintain, adjust, and enhance sea lamprey control under the auspices of the Great Lakes Fishery Commission to limit sea lamprey wounding rates and keep sea lamprey populations at reduced levels.
  - 2. Support and participate in the Lake Whitefish Stocking Evaluation under Section IX.E. of this Decree.
  - 3. Support and participate in research related to Lake Whitefish recruitment, survival, and rehabilitation.
  - 4. Continue to support and participate in the Invasive Mussel Collaborative, or its successor, to address invasive mussels.
- B. State of Michigan. Consistent with applicable law, and subject to the availability of appropriations, the State of Michigan, through its appropriate agencies, shall seek to:
  - 1. Continue to support sea lamprey control under the auspices of the Great

Lakes Fishery Commission to limit sea lamprey wounding rates and keep sea lamprey populations at reduced levels.

2. Support and participate in the Lake Whitefish Stocking Evaluation under Section IX.E. of this Decree.
3. Support and participate in research related to Lake Whitefish recruitment, survival, and rehabilitation.
4. Continue to support and participate in the Invasive Mussel Collaborative, or its successor, to address invasive mussels.

C. Environmental Committee.

1. There is created an Environmental Committee which shall consist of the personnel as designated from the chairpersons of the Tribes, the Director of the MDNR, and the Secretary of the Interior, or their duly authorized representatives.
2. The Environmental Committee shall meet and confer as necessary, but in no event less than biannually, to review topics of environmental concern, including but not limited to contaminants, pollution, invasive and non-native species impact on the fishery resource, and the deleterious effects of climate change.
3. The Environmental Committee shall provide information for review of the Executive Council for policy-level discussion and consultation, but it shall not have any decision-making authority unless otherwise expressly agreed by all of the Parties.
4. The Environmental Committee may facilitate notification requirements for the Parties regarding Section XIV.M. and Section XIV.N.

**XXI. ACCESS SITES.**

A. MDNR Public Access Sites.

1. Any land owned or managed by MDNR which provides public access to 1836 Treaty Waters shall be available to Tribal Citizens exercising their Tribal treaty fishing rights without payment of any fee or cost associated with use of such property. This includes launching of boats from MDNR designated boating access sites and parking of vehicles in designated parking lots, provided that space is available. Use charges may be collected for amenities provided to Tribal Citizens.

2. A Tribal fisher is exempt from payment of access site fees and costs. The Tribal fisher shall provide Tribal identification upon request of an MDNR employee and shall place a Tribal identification placard or sticker on the window or dashboard of their vehicle.

B. MDNR Public Access Sites Requiring a Permit.

1. Tribally licensed commercial fishers may moor or dock a registered fishing boat as authorized by a permit issued for a specific location by MDNR without charge, and may also park their tow vehicle in an area designated in the permit.
2. Permits issued for each location shall be issued annually to CORA, which shall provide to MDNR a list of the Tribally licensed commercial fishers to whom the permits are allocated, the names and registrations of the boats to be utilized, and the time period for which the permits are valid.
3. Each Tribal permittee shall display a copy of the permit on the dashboard or windshield of their vehicle and upon the fishing vessel which is moored or utilized by the Tribal fisher.
4. MDNR shall maintain each site in usable condition and shall expend such funds as it determines reasonable and necessary to restore, repair, maintain, improve or expand such sites, subject to the appropriation of funding by the Michigan Legislature. CORA and MDNR shall confer annually regarding such access site development and improvement, and to identify areas in which additional access sites should be constructed.
5. Each Tribally licensed commercial fisher who receives a permit issued under this Section is responsible for any damage their fishing vessel causes to the MDNR harbor infrastructure. Failure to timely address any damage may result in revocation of the permit by MDNR.

C. Access Sites on Federal Land.

1. Tribally Licensed Fishers may utilize any public access site owned or managed by an agency of the United States without payment of any fee or cost associated with the use of such property, including the launching of boats and parking of vehicles. Use charges may be collected for amenities provided to Tribal Citizens.
2. A Tribal fisher is exempt from payment of access site fees and costs upon provision of Tribal identification at the entrance to the site area and utilization of a Tribal identification placard or sticker on the window or dashboard of their vehicle.



3. Tribal commercial fishers may utilize, including mooring and docking activities, a public or Tribal only access site provided by an agency of the United States for fishing in 1836 Treaty Waters, without payment of any fee or cost. In the event that use is limited by the size of the boat launch or parking area, CORA shall be issued the available permits for distribution to Tribal commercial fishers, and shall notify the issuing agency of the names of the Tribal permittees, the name and registration of the fishing vessel, and the dates within which the permit is valid.
4. Parking of any tow vehicle is allowed in the area designated in the permit. The holder of such a permit shall carry a copy on board the fishing boat, and place a copy of the document on the dashboard of the tow vehicle.

## **XXII. RECONSIDERATION.**

- A. Any Party may request reconsideration of this Decree or any relevant Section or portion of it in the event that any of the following circumstances occurs:
  1. Unforeseen changes in circumstances arise not resulting from the fault of the requesting Party that significantly frustrate a purpose of this Decree.
  2. Material changes in circumstances arise not resulting from the fault of the requesting Party that significantly frustrate a purpose of this Decree.
  3. One (1) or more of the major assumptions upon which the Lake Trout and Lake Whitefish Management regime contained in Section VII. is premised proves to be or becomes materially incorrect through no fault of the requesting Party, and as a consequence the requesting Party has suffered a material and adverse change in fishing opportunity.
  4. After a period of six (6) years of good faith implementation, the implementation or enforcement of any aspect of this Decree that represents a significant departure from, or change to, the provisions of the Consent Decree entered in this case on August 7, 2000 results in unreasonable hardship, cost, or burden to a Party or a negative impact on an existing fishery.
- B. If a Party wishes to request reconsideration under this Section, it must provide a written statement of the basis for reconsideration to all other Parties. The matter shall then proceed under the dispute resolution provisions of Section XVIII. In such dispute resolution, if the Court determines that one of the circumstances described in sub. A., above, is present, the Court shall fashion relief under applicable Indian treaty rights law, including, but not limited to, the conservation and allocation principles under the 1836 Treaty. However, in fashioning relief, the Court shall consider the intent of the Parties as reflected in this Decree and shall preserve the basic structure of this Decree and its benefits and obligations

for all of the Parties to the maximum extent practicable.

**XXIII. DURATION.**

- A. This Decree shall take effect upon its entry by the Court; provided that there shall be no change in current regulations applicable to Tribal fishers until thirty (30) days after entry of this Decree or the adoption by CORA of the Tribal Code, whichever shall first occur. The Decree shall expire on the twenty-fourth (24<sup>th</sup>) anniversary of its entry.
- B. Upon expiration of this Decree, or if earlier terminated for any reason, the provisions, restrictions, and conditions contained in it shall no longer govern the Parties in any manner.

**XXIV. DISCLAIMERS.**

Neither this Decree nor the Tribal Plan is intended to identify, nor does either define, the maximum extent of the legal entitlement or authority of any of the Parties under the 1836 Treaty or existing law. The allocation of harvest opportunities between the Tribes and the State, and the restrictions imposed by this Decree upon harvest, shall be effective for the duration of the Decree. The Parties reserve all rights and claims they may have against each other with respect to regulatory issues or the allocation of harvest opportunities in the future, and nothing in this Decree shall limit, prejudice, or otherwise affect the assertion of such rights or claims upon expiration of the Decree, or create a precedent for future allocation or regulation. Any use or construction of this Decree to limit, prejudice, or otherwise affect such rights or claims or to use such as precedent is unauthorized and improper.

**XXV. ATTORNEY FEES AND COSTS.**

Each Party shall be responsible for its own expenses incurred in procuring this Decree, including responsibility for its own attorney fees and costs.

**XXVI. CONTINUING JURISDICTION.**

The Court shall retain continuing jurisdiction over this case for purposes of enforcing this Decree, the Tribal Plan, and the CORA Charter.

---

Paul L. Maloney  
U.S. District Court Judge

---

Dated

**APPENDIX A**

*Chippewa Ottawa Resource Authority Charter  
and  
Rules of Procedure of the Chippewa Ottawa Resource  
Authority*

(CORA Charter)

## CHARTER

### THE CHIPPEWA OTTAWA RESOURCE AUTHORITY

I. PURPOSE. The Chippewa Ottawa Resource Authority (“CORA”) is established by the Bay Mills Indian Community, the Grand Traverse Band of Ottawa and Chippewa Indians, the Little River Band of Ottawa Indians, the Little Traverse Bay Bands of Odawa Indians, and the Sault Ste. Marie Tribe of Chippewa Indians (collectively, “the Tribes”) for the purpose of ensuring the conservation and wise utilization of the natural resources reserved to the Tribes in the Treaty of March 28, 1836 (7 Stat. 491) (the “1836 Treaty”).

II. CREATION. CORA is created when each of the Tribes delegates to it the powers set forth in Article V. CORA's jurisdiction over members of a particular Tribe terminates when such delegation is rescinded or canceled; however, CORA's jurisdiction over members of other participating Tribes remains unimpaired.

III. COMPOSITION. CORA shall act through its Board, which is composed of the chief elected official of each Tribe and the chairperson of the Conservation Committee, Natural Resources Commission, or similar entity of each of the Tribes, or their alternates, and through the committees established in Articles VI. and VII. of this Charter (the “Committees”).

IV. CONSULTATION. In performing the duties and responsibilities set forth herein, the Board and the Committees may consult with available experts, including biologists and resource personnel of the United States Fish and Wildlife Service, the Bureau of Indian Affairs, the United States Forest Service, the Michigan Department of Natural Resources, the United States Geological Survey, the Great Lakes Fishery Commission, and the Tribes, and shall further

consult with the fishers, hunters, trappers, and gatherers of the Tribes, through their Tribal representatives, regarding protocols and regulations which affect them.

V. DUTIES AND RESPONSIBILITIES. The Board shall have the following duties and responsibilities:

A. To apply for, receive, and expend federal, tribal, state, and private funds for the purpose of conservation, enhancement, utilization, and protection of the Great Lakes and inland resources reserved by and to the Tribes in the 1836 Treaty.

B. To exercise all other duties and responsibilities enumerated in the Charter and the Rules of Procedure for CORA, and to exercise all other duties and responsibilities delegated by each of the Tribes.

C. To employ such staff as is necessary to carry out the duties and responsibilities of the Tribes embodied in this Charter, any order of the court in United States v. Michigan, W.D. Mich. No. 2:73 CV 26, any resource management plan adopted by the Tribes, and any agreement with the State of Michigan.

D. To maintain an intertribal biological staff, known as the Biological Services Division (“BSD”), which may be comprised of CORA staff, biologists employed by individual Tribes, and consultants.

VI. GREAT LAKES RESOURCES COMMITTEE.

A. The Great Lakes Resources Committee (“GLRC”) shall consist of the Board members, or their alternates, from each Tribe which is a member of CORA.

B. GLRC shall have the following powers and responsibilities, to be exercised consistently with the provisions of the Management Plan for the 1836 Treaty Great Lakes Waters (the “Plan”), the 2000 Consent Decree (the “Decree”), any successor to the Plan or the Decree,

and any court order entered in United States v. Michigan, W.D. Mich. No. 2:73 CV 26 (“Court Order”):

1. To develop protocols for the management, preservation, and enhancement of all species and habitats which are included within the Great Lakes resources as to which treaty rights were reserved by and to the Tribes in the 1836 Treaty, which protocols shall be designed to permit harvest of such resources by members of the Tribes, consistent with wise management, and which protocols may vary throughout the ceded territory.
2. To promulgate regulations, including emergency provisions necessitated by resource, safety, or other concerns, governing the exercise of the treaty fishing rights in the Great Lakes reserved by and to the Tribes in the 1836 Treaty, by members of the Tribes.
3. To coordinate the activities of the Great Lakes fishery law enforcement programs of the Tribes.
4. To participate in intertribal, interstate, and international bodies created for the purposes of preservation and enhancement of fishery resources and their habitats.
5. To receive reports from staff and from tribal, federal, and state biologists and to develop methods of reducing harvest of species when necessary to protect the resource, including but not limited to seasonal closures, zone closures, limitations on boat size, limitations on types or quantities of nets, and limitations on size, number or pounds of fish.

6. To perform any other duties and responsibilities imposed on GLRC or CORA, or assigned to the Tribes collectively, in the Plan, the Decree, any successor to the Plan or Decree, or any Court Order.

7. To exercise such additional powers and responsibilities as may be delegated to GLRC by the Tribes.

C. Disputes which may arise over decisions made or proposed but not made by GLRC, or the BSD, concerning any issue which may be within the purview of GLRC or the BSD, shall be resolved by the following process:

1. As soon as practicable after its formation, GLRC shall, by consensus of its representatives, appoint a dispute resolution panel consisting of two persons who are not members of a Tribe and are not currently employed by a Tribe or a Michigan or federal governmental or administrative agency. For purposes of this section, employees of a college or university are not considered employees of a governmental or administrative agency. One appointee shall have background and experience in mediation. One appointee shall have background and expertise in fisheries. Appointees shall be selected based on their qualifications, objectivity, and availability on a sporadic basis as needed. The appointments shall be for terms of five (5) years and may be renewed without limitation.

2. Each Tribe has created an entity to oversee natural resources management and policy, named as follows:

- a. The Bay Mills Indian Community: Conservation Committee;
- b. The Grand Traverse Band of Ottawa and Chippewa Indians: Natural Resources and Environmental Committee;



- c. The Little River Band of Ottawa Indians: Natural Resource Commission;
- d. The Little Traverse Bay Bands of Odawa Indians: Natural Resources Commission; and
- e. The Sault Ste. Marie Tribe of Chippewa Indians: Conservation Committee.

Hereafter these or their successors are referred to as the natural resources entities.

3. If a Tribe's natural resources entity does not agree with any decision, action, or inaction of GLRC or the BSD, including but not limited to limitations on entry or effort, or failure to impose limitations adequate to protect the resource, the following procedure may be followed:

a. The Tribe's natural resources entity shall pass a resolution stating its disagreement with a specific decision, action, or inaction of GLRC or the BSD. The resolution must set out the reasons for the disagreement, including the biological, economic, or other alleged violations of the CORA Charter, CORA policies or regulations, the Plan, the Decree, any successor to the Plan or Decree, or any Court Order. The natural resources entity must submit this resolution to GLRC and send copies to the natural resources entities of all other Tribes.

b. Within twenty (20) days of receiving the resolution, GLRC, and the BSD if involved in the decision, will hold a meeting with the natural resources entities of all Tribes to attempt to resolve the dispute. GLRC will give the chair of each natural resources entity ten (10) days written notice of the date, time, and location of the meeting. The written notice may be sent via facsimile to the natural resources entities of the Tribes.



c. Members of each natural resources entity, along with tribal biologists and legal counsel, may attend the meeting. At the meeting, the complainant natural resources entity shall be given full opportunity to expand on the concerns raised in its resolution, including presentation of any written documentation, such as biological or economic studies, and GLRC and/or the BSD will respond as appropriate. All other natural resources entities present at the meeting shall be given opportunities to address the issues. The purpose of the meeting is to reach a mutually agreeable resolution of the disagreement between GLRC and/or the BSD and the complaining natural resources entity. A natural resources entity must participate in the meeting or forfeit its right to invoke the dispute resolution procedure set out in subsection C.3.d.

d. If the process set out above does not result in successful resolution of the dispute, any natural resources entity that participated in the meeting may submit its position and supporting documentation to the dispute resolution panel created in subsection C.1. within twenty (20) days of the meeting with GLRC. The panel shall review the material and hold mediation session(s) between the natural resources entity(ies) and GLRC, and the BSD if involved, within thirty (30) days of receiving the material. If the mediation session does not result in a mutually agreeable resolution, the panel shall render a decision, which shall be final and binding on all Tribes.

e. Expedited review of an emergency closure order or failure to issue an emergency closure order shall occur if a natural resources entity challenges the issuance of, or the failure to issue, an emergency closure order by the BSD. The meeting described in subsections C.3.b. and C.3.c. above shall be held within ten (10) days of submission of the resolution described in subsection C.3.a. The panel shall hold a

mediation session between the complaining natural resources entity and GLRC within (10) days of receiving the challenge. GLRC will give the chair of each natural resources entity five (5) days written notice of the date, time, and location of the meeting. The written notice may be sent via facsimile to the natural resources entities of the Tribes. If the meeting does not result in the successful resolution of the dispute, any natural resources entity that participated in the meeting may submit its position and supporting documentation to the dispute resolution panel created in subsection C.1. within five (5) days of the meeting with GLRC. The panel shall review the material and hold mediation session(s) between the natural resources entity(ies) and GLRC, and the BSD if involved, within ten (10) days of receiving the material. If the mediation session does not result in a mutually agreeable resolution, the panel shall render a written decision, which shall be final and binding on all Tribes.

4. The Tribes agree that the decisions of the mediation panel shall be deemed a final determination on the merits and that judgment may be entered thereon by Court Order as provided in W.D. Mich. LCivR 16.6(e)(i). A party seeking relief from such an order shall do so by filing a motion to modify or vacate based upon one or more of the grounds set forth in 9 U.S.C. § 10(a) within 30 days of entry of the order.

VII. INLAND LANDS AND WATERS RESOURCES COMMITTEE.

A. The Inland Lands and Waters Resources Committee ("ILWRC") shall consist of the Board members, or their alternates, from each Tribe which is a member of CORA.

B. ILWRC shall have the following powers and responsibilities:

1. To study and monitor species of animals and plants which are included within the inland resources as to which treaty rights were reserved by and to the Tribes in

the 1836 Treaty, and the habitats of such species, in order to advise the Tribes on the status of such resources at any given time.

2. To develop protocols for the wise management, enhancement, preservation, and utilization of inland resources and the habitat of resources, which protocols shall be designed to permit harvest of such resources by members of each Tribe, consistent with wise management, and which protocols may vary throughout the ceded territory.

3. To promulgate regulations governing the off-reservation exercise of the inland fishing rights, hunting rights, trapping rights, and gathering rights throughout the ceded territory reserved by and to the Tribes in the 1836 Treaty by members of the Tribes and to consult with the Tribes in adoption of such regulations.

4. To coordinate the activities of the conservation law enforcement programs and the public relations activities of the Tribes with respect to such inland resources, and to undertake any other joint effort as to which the Tribes may delegate authority.

5. To participate in intertribal, interstate, and international bodies created for the purposes of preservation and enhancement of resources and their habitats.

6. To exercise such additional powers and responsibilities as may be delegated to ILWRC by the Tribes.

VIII. PROCEDURE. Each Committee and the Board shall conduct its meetings according to the attached Rules of Procedure and according to the terms of any delegations from the Tribes.

IX. RESERVATION OF POWERS TO THE TRIBES. The Tribes reserve the power to promulgate regulations governing treaty resource activities by their respective members. With

respect to regulations governing the Great Lakes fisheries, any such regulations promulgated by a Tribe shall be consistent with and no less restrictive than the regulations adopted by GLRC and shall be consistent with the Decree and the Plan. With respect to regulations governing inland resources, any such regulations promulgated by a Tribe shall be consistent with and no less restrictive than the regulations adopted by ILWRC, but, unless otherwise agreed, such regulations may differ from those of any other Tribe in those circumstances where, for conservation purposes, there is no need for uniformity.

X. AMENDMENT. The Charter or any of its Articles may be amended by concurrent action of the governing bodies of the Tribes; provided, no amendment shall be effective unless and until it shall have been adopted by all Tribes.

RULES OF PROCEDURE  
OF  
THE CHIPPEWA OTTAWA  
RESOURCE AUTHORITY

The following Rules of Procedure are enacted pursuant to Article VIII. of the Charter establishing the Chippewa Ottawa Resource Authority (“CORA”).

PART I - GOVERNING BODY

Section 1. The Board of CORA shall be constituted as set forth in Article III. of the Charter.

Section 2. The Board shall elect annually in November from among its members a Chairperson and Vice-Chairperson and shall appoint a Secretary who need not be from among its members. Should a vacancy occur in either elected position, the Board shall at its next regularly scheduled meeting elect a member to complete the unexpired term. The Chairperson and Vice-Chairperson shall at all times be from different Tribes, and representatives from a single Tribe may not serve as Chairperson for more than three consecutive years. Each Committee shall elect annually in December from among its members a Chairperson and Vice-Chairperson, who shall at all times be from different Tribes. Representatives from a single Tribe may not serve as a Committee Chairperson for more than three consecutive years.

Section 3. If a vacancy occurs on the Board, the Tribe from which such member was designated shall appoint a new member; however, the new member will not automatically fill an elected Board position held by his/her predecessor.

Section 4. A quorum of the Board and of each Committee shall consist of a simple majority, provided that at least one representative from each of the Tribes must be present.



Section 5. The designation of an alternate, pursuant to Article III. of the Charter, for any member of the Board or pursuant to Article VI.A. and Article VII.A. for any member of the Committees, shall be in writing, addressed to the Secretary, and signed by the member to be represented. There will be no proxies allowed; each member present shall have but one vote.

## PART II - OPERATING PROCEDURES

Section 1. The Board and each Committee shall hold regular meetings at least every three months and at such other intervals as the Board and each Committee shall decide.

Section 2. The Chairperson of the Board, or three voting members of the Board, may call special or emergency meetings of the Board or a Committee for the consideration of matters requiring immediate attention. The Chairperson of a Committee, or three voting members of the Committee, may call special or emergency meetings of his/her respective Committee for the consideration of matters requiring immediate attention. The Board and Committee members must be given at least 48 hours notice of any special or emergency meeting.

Section 3. The Board shall appoint a Secretary, whose responsibility shall be to keep official records of all proceedings of the Board and the Committees.

Section 4. The Secretary shall keep the records of CORA, including the records of the Board and the Committees, on file at an office so designated as the depository for such records.

Section 5. It shall be the duty of the Secretary to maintain separate files containing: (a) the Charter and Rules of Procedure of CORA as well as any amendments; (b) documentation of all protocols developed and regulations recommended or promulgated by each Committee, as well as any other official actions, with certification as to the effective date of each such promulgation or action; (c) recommendations or proposals regarding regulations governing the exercise by Tribal members of treaty resource rights reserved in the 1836 Treaty; (d) general

correspondence related to the activities of CORA and each Committee; and (e) any other records or documents that may be of value to the Board or the Committees.

Section 6. All matters brought before the Board or either Committee shall be adopted by a majority vote of those present, provided they constitute a quorum as set forth in Part I, Section 4, with the exception of amendments to these Rules, which are provided for separately in Part III of these Rules, and except where a particular protocol, agreement, or management plan adopted by the Tribes calls for a different vote.

Section 7. The Board or a Committee need not meet in person in order to transact official business. As an alternative to an in-person meeting of the Board or a Committee, including any meeting held according to the provisions of Article VI.C. of the Charter, the Secretary may arrange conference calls to dispose of urgent items of business, provided that the requirements of Part II, Section 2 are met. Also, the Secretary may be informed of votes on non-emergency matters by written or electronic communications. Any promulgation or action of the Board or a Committee shall be effective when the Secretary ascertains the vote of each member of the Board or Committee and certifies the effective date pursuant to Part II, Section 5(b).

Section 8. No member of the Board or either Committee shall speak for CORA without the expressed approval of the Board and then only on the specific issues authorized.

### PART III - AMENDMENTS

Amendments, additions, or deletions to these Rules may be made at any time by an affirmative vote of at least seventy-five percent of the members of the entire Board with a quorum present as set forth in Part I, Section 4, provided that there must be an affirmative vote of at least one representative of each Tribe.

CERTIFICATION OF ADOPTION

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary, Chippewa Ottawa  
Resource Authority



**APPENDIX B**

*Management Plan for the 1836 Treaty Great Lakes Waters*

*December 11, 2022*

*Revised Draft*

(“Tribal Plan”)

**MANAGEMENT PLAN**  
  
**FOR THE**  
  
**1836 TREATY GREAT LAKES WATERS**

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

December 9, 2022

## I. INTRODUCTION

This Plan is adopted by the five (5) plaintiff Tribes in United States v. Michigan, W.D. Mich. Case No. 2:73 CV 26: the Bay Mills Indian Community (“Bay Mills”), Grand Traverse Band of Ottawa and Chippewa Indians (“Grand Traverse”), Little River Band of Ottawa Indians (“Little River Band”), Little Traverse Bay Bands of Odawa Indians (“Little Traverse”), and Sault Ste. Marie Tribe of Chippewa Indians (“Sault Tribe”). Throughout this document, the term “Tribes” refers to these five (5) Tribes.

The purpose of this Plan is to describe how the Tribes will manage treaty fishing among themselves within “1836 Treaty waters,” that is, those portions of the Great Lakes and connecting waters ceded in the Treaty of Washington, March 28, 1836, 7 Stat. 491 (the “1836 Treaty”). This Plan implements and is coterminous with the twenty-four (24) year consent decree entered in United States v. Michigan by agreement of the parties to the case (the “Decree”).

The Tribes all are members of the Chippewa Ottawa Resource Authority (“CORA”). One of CORA’s two committees, the Great Lakes Resources Committee (“GLRC”), is the intertribal management body for the treaty fishery in 1836 Treaty waters. GLRC has broad authority to protect, preserve, and manage the fishery resources, promulgate regulations, coordinate law enforcement activities, participate in intergovernmental fisheries or environmental bodies, gather biological information, coordinate with other governments and other agencies to promote and take measures necessary to protect fish habitat and the environment, and develop methods for limiting harvest. It will exercise its authority consistent with the provisions of the Decree and this Plan.

Taken together, this Plan and the CORA Charter set forth the basis upon which the Tribes will manage and regulate their fisheries cooperatively during the term of the Decree. These documents contain the commitments and agreements essential to intertribal cooperation and to the implementation of the Decree. In addition, the Tribes, acting through GLRC, shall prepare and adopt regulations governing the exercise of treaty fishing rights in the 1836 Treaty waters by Citizens of the Tribes (the “Tribal Code”), as provided in Section VI.B.2. of the CORA Charter.

Terms used in this Plan shall have the meaning defined in the Decree. Whenever the Decree provides for some action to be taken by CORA, that action shall be taken by GLRC if the matter for action falls within GLRC’s duties and responsibilities under the CORA Charter.

## II. MANAGEMENT OBJECTIVES

- A. The overall long-term goal of the Tribes is to ensure that seven (7) generations from now Great Lakes fishing will continue to sustain the livelihood and subsistence of Tribal Citizens and provide healthy and safe food for Tribal people and others. In addition, the Plan includes elements designed to protect the fisheries resources and habitat upon which the Tribes’ rights depend.
- B. These goals are advanced by the following specific objectives which have guided the development of this Plan and the Decree:

1. Maintain existing fishing opportunities and secure additional harvest opportunities.
2. Adopt an effort-based management system.
3. Support lake trout rehabilitation in Lakes Michigan and Huron.
4. Support whitefish rehabilitation in Lakes Michigan and Huron.
5. Maintain and encourage multi-species fishery opportunities.
6. Maintain and build upon cooperative intergovernmental structures and activities.
7. Pursue and support environmental activities that protect and enhance Great Lakes fish stocks and habitat as well as Tribal fisheries.

### **III. EFFORT – BASED HARVEST MANAGEMENT**

- A. Introduction. Experience in regulating the treaty fishery has shown that fish stocks can be effectively managed, and the fishery resource properly protected from overharvest, by a flexible effort-based management system, as opposed to a strict quota-based system. Commercial fishing effort can be regulated through a variety of techniques, including regulations limiting entry, gear type, boat size, season, amount of gear, depth, and the like. This section of the Plan describes how effort-based management will be applied to regulate Tribal fishing in 1836 Treaty waters in those areas for those species where such management is consistent with the Decree.
- B. Harvest Regulation Guidelines (HRGs).
  1. The Biological Services Division (“BSD”) of CORA shall establish, evaluate, and adjust benchmark harvest levels for certain naturally reproducing fish stocks that are consistent with the sustained ability to harvest the stocks. These benchmark levels are referred to in this Plan as “Harvest Regulation Guidelines”, or “HRGs”, and will be employed as a gauge of long-term trends in the fishery as described in this section.
  2. HRGs shall be established, evaluated, and adjusted for whitefish in each whitefish management unit in which commercial harvest of whitefish is not shared with State commercial fishers under the Decree. HRGs may also be established, evaluated and adjusted for lake trout in Lake Superior Lake Trout Management Unit MI-8 and for other species, stocks, or locations when the BSD determines they are necessary or appropriate.

3. This section does not apply to the harvest levels established by the Tribes and the MDNR through the Technical Fisheries Committee (“TFC”) and Executive Council for whitefish and lake trout management units in which the fish are shared with State commercial fishers, pursuant to Section VII of the Decree.
4. In establishing, evaluating, and adjusting HRGs, the BSD shall, to the extent practicable, make use of the following:
  - a. Available information regarding:
    - i. fishing effort and catch in treaty and non-treaty fisheries, including commercial, subsistence, and recreational fisheries;
    - ii. fish population characteristics (*e.g.*, growth recruitment indices, mortality rates, age composition, length/weight composition, mortality/sex ratios derived from catch and effort information, sampling, assessment work, or other sources);
    - iii. stocking activities and plans;
    - iv. sea lamprey impacts;
    - v. bioenergetics;
    - vi. fish health factors; and
    - vii. environmental factors.
  - b. A population model or models it finds best suited for establishing, evaluating, and adjusting HRGs, to be developed by the Modeling Subcommittee of the TFC established in Section XII of the Decree.
5. In establishing, evaluating, and adjusting HRGs, including gathering and making use of information, the BSD shall consult with Tribal biologists (including consultants). The BSD and the Tribes shall employ the TFC as the primary body for consultation and collaboration with USFWS and MDNR on biological issues, and shall operate in accordance with the notice and collaboration provisions contained in the Decree.

C. Report to Great Lakes Resources Committee (GLRC).

1. The BSD, in consultation with the TFC and Tribal biologists (including consultants), shall present a written report to GLRC by March 1 of each

year, and shall provide a copy of the report to USFWS and MDNR at the same time the report is provided to GLRC. The report shall make recommendations for reductions in fishing effort if the BSD determines, on the basis of all information considered by it, that such reductions are necessary or appropriate to sustain the yield of any stock. The report may also recommend the availability of increases in fishing effort, if circumstances warrant, or other changes in the Tribal Code that the BSD determines advisable. In making recommendations for changes in fishing effort, the report shall highlight trend information and population characteristics in the relevant fish populations and describe alternative regulatory measures, which may be temporary or continuing in nature, to achieve the desired change. The report shall indicate the assumptions of fishing effort for the coming season upon which its recommendations are based. When effort-based management is being applied to two (2) or more fish stocks within an area, BSD recommendations shall take due account of the need to manage for the protection of all stocks.

2. Where harvest reductions are necessary, comparison of the actual harvest to the HRG will provide an approximate measure of the desired harvest reduction. However, a harvest exceeding the HRG in and of itself will not necessarily require a reduction in effort, because such a reduction may not be deemed necessary when other population parameters are considered. Conversely, if population characteristics and health indicators show a negative trend, it may be necessary to reduce effort even if the harvest is below the HRG.

D. Adjustment of Effort Management.

1. If the BSD report indicates that a harvest reduction is required for a particular fish stock during the next fishing season, GLRC shall adopt appropriate effort restrictions that are reasonably calculated to reduce the harvest in question in accordance with the report and other sections of this Plan. Conversely, if the report indicates that the harvest may be expanded for a particular stock, GLRC may ease effort restrictions in a manner reasonably calculated to expand the harvest in accordance with the report and other sections of this Plan.
2. The method or methods selected will vary depending on the nature of the area in question, the status of the fish stocks in that area, the extent of the harvest reductions required, and the type of fishing operations in use. There are a number of regulatory options for reducing effort, and new options are likely to be developed in the future as well. Currently, the main options for reducing harvest by regulation of effort include the following:
  - a. *Seasonal closures (temporary or permanent).* A temporary closure for an entire season would reduce the harvest by a predictable

amount for that season. A permanent closure for a portion of a season, such as during the spawning period, would help reduce harvest and protect spawning stock to promote future year classes.

- b. *Gear (net type) restrictions.* Effort reduction may be accomplished by restricting gear in certain areas.
- c. *Limiting net effort.* Limiting the number of feet of gill net or the number of trap nets per fisher, vessel, or area can be an effective technique for reducing harvest. Because of enforcement difficulties, this technique is most appropriate for trap net fisheries or for small, easily monitored gill net fisheries.
- d. *Depth restrictions.* Limiting the depth at which gill and trap nets may be set, on either a general or seasonal basis, can be effective in reducing harvest. This regulatory option may also entail enforcement difficulty and is most appropriate for trap net fisheries and small gill net fisheries.
- e. *Limited entry.* Limiting the number of fishers in a zone or area can be an effective harvest reduction method. This method can work effectively throughout the 1836 Treaty waters as well, because Tribal fishers generally move freely among stocks, distributing total effort so that no single stock becomes overfished. Entry may also be limited by area, Tribe, or specific fishers within an area. These options may be desirable for reasons other than harvest reduction as well.

- 3. Given the complex biological concerns surrounding the treaty fishery, and nonbiological considerations that affect Tribal fisheries management, effort restrictions will likely be a combination of the above techniques (or some yet to be developed) customized to the particular situation at hand. These customized strategies will likely be modified through time even if the desired harvest remains the same. GLRC shall pursue an adaptive management approach and may revise its effort reduction methods for a particular location or stock even when there is neither need to reduce nor opportunity to expand the harvest in question.

- E. In-Season Adjustments. Experience with the treaty fishery over the past four (4) decades indicates that overall fishing effort does not change substantially from year to year, and mid-season adjustments are likely to be needed seldom, if at all; however, in order to protect against unforeseen circumstances, effort monitoring and a process for in-season adjustments is necessary.

- 1. The BSD shall monitor fishing activity during the fishing season. Each Tribe shall notify the BSD immediately when it issues a new captain or

vessel license or when it allows an effort or vessel size increase for an existing licensee. The BSD shall also monitor monthly catch reports to identify substantial changes in overall fishing effort and to determine whether any inactive licensee has returned to the fishery. Subject to confidentiality provisions of the Decree, the BSD shall share effort information with the USFWS and MDNR.

2. If a substantial unforeseen increase in fishing effort occurs during a fishing season or if other unforeseen circumstances not considered in the BSD report suggest or require that an in-season adjustment is necessary or desirable, the BSD, with notice and consultation in accordance with the Decree, shall recommend to GLRC, based on all available data, that an in-season effort adjustment be made. GLRC shall then adopt additional effort restrictions in response to the recommendations or, if an easing of restrictions is indicated, GLRC may ease restrictions.
3. The BSD Director is authorized to act in emergencies as provided in Section VII. of this Plan.

#### **IV. TRIBAL ZONES**

Tribal zones established in the Decree shall be managed and regulated by GLRC on an intertribal basis as described in this Plan, subject to the provisions of the Decree. Within its zone a Tribe shall determine whether and to what extent fishers from other Tribes may fish in the zone. Within its zone a Tribe may prohibit fishing, or may allow fishing by its fishers only, in all or any portion of its zone in its sole discretion. If fishing by other fishers is allowed in its zone, a Tribe shall issue permits to those fishers. Each permit may impose fishing restrictions that are in addition to or more restrictive than those contained in the Tribal Code.

#### **V. INTERTRIBAL FISHING ZONES**

All zones established in Sections IV.A.1.(a),(b)and (g), A.2.(a)and (d), and A.3. of the Decree are intertribal zones in which two (2) or more of the Tribes are authorized to fish. Subject to any intertribal division of fishing opportunity in a particular zone contained in the Decree, in the event that it is necessary to reduce fishing effort in an intertribal zone or any portion of it, the following provisions shall apply:

- A. Restrictions shall be designed to protect those fishers who most depend upon fishing in the waters involved. GLRC shall seek to avoid restrictions that will impair the economic viability of fishing in the area in question. Management options presented to GLRC for reducing effort shall describe the economic impact of each as well as biological and other management considerations.
- B. If it is necessary to impose new restrictions limiting entry, vessel size, seasons, or gear type or effort, the restrictions shall be designed first to protect those who have most depended upon fishing in the waters involved over the preceding five (5) year



period. GLRC shall apply this principle in implementing restrictions, which may include restrictions upon individual fishers in furtherance of the principle. GLRC may adopt regulations providing for the continuation of the preference period when a fishing operation passes between family members and in other appropriate circumstances, and for a tolling of the period during illness or other justifiable absence from the fishery.

- C. The paramount measure of dependence upon the fishery shall be the percentage of a fisher's total catch derived from the waters involved during the preceding five (5) year period. If the paramount measure does not provide a clear basis for distinguishing among fishers, or some of them, GLRC shall take the following into account:
1. Dependence upon the fishery during the time prior to the five (5) year period.
  2. Proximity of the fisher's home port or residence to the area in question.
  3. Whether the fisher's Tribe has historically used the fishing grounds in question.
  4. Family tradition of fishing in the area in question.
  5. The seasonal pattern of the fisher's fishing activity.
  6. The practical prospect for relocation of fishing effort by the fisher into another area in which the available fishery may sustain additional effort that will not result in undue inconvenience or economic hardship.

## VI. MANAGEMENT OF SPECIES.

- A. Lake Trout. Lake trout harvest shall be managed in accordance with Section VII. of the Decree in all areas except Lake Superior Lake Trout Management Unit MI-8. In MI-8 the Tribes shall manage the lake trout harvest as provided in Section III., above, subject to the provisions of the Decree.
- B. Whitefish. Whitefish management units in which the commercial harvest is shared between Tribal and State commercial fishers shall be managed in accordance with Section VII. of the Decree. In all other management units, the Tribes shall manage their whitefish harvest as provided in Section III., above, subject to the provisions of the Decree.
- C. Salmon. Tribal commercial salmon harvest shall be conducted as provided in Section VIII.B. of the Decree.
- D. Other Species. Subject to the provisions of the Decree, the Tribes shall manage

their commercial harvest of bloater chubs, walleye, yellow perch, cisco, menominee, smelt and any other species the commercial harvest of which is not prohibited by Section VIII.J. of the Decree, in accordance with Section III., above, and may develop HRGs for such species when circumstances warrant.

## **VII. EMERGENCY ORDERS**

Experience regulating treaty commercial fishing in the Great Lakes suggests that emergency regulatory actions are seldom, if ever, necessary for such a fishery. Still, it is possible that some unforeseen event, such as an environmental catastrophe, could require an immediate regulatory response in order to prevent resource harm to a particular fish stock or within a particular area. For this reason, the BSD Director shall issue emergency orders closing, curtailing, or otherwise restricting fishing activity when substantial harm to the resource is imminent and the need for immediate action is evident. Emergency orders shall remain in effect until GLRC has been able to act upon the matter, as described more particularly in the Tribal Code.

## **VIII. MATERIAL PARTICIPATION IN THE FISHERY**

GLRC shall adopt regulations governing material participation in the treaty fishery. Material participation in or economic benefit from a treaty fishing operation by a person (other than immediate family) or entity not entitled to exercise 1836 Treaty fishing rights is prohibited, except as provided in Section VI.A.5. of the Decree.

## **IX. INTERAGENCY COOPERATION**

### **A. Consultation.**

1. The Great Lakes fishery and the ecosystem upon which it depends is surrounded by a number of states and provinces and straddles the international boundary between the United States and Canada. The actions of numerous local units of government and uncounted private parties also impact the fishery resource. It is imperative that the Tribes, through CORA and GLRC, actively participate in all existing entities which provide information concerning the Great Lakes resource to all regulatory bodies and develop recommendations or action plans to address resource concerns. To this end, the Tribes have actively participated in the Lake Committees of the Great Lakes Fishery Commission, and will continue to do so. Likewise, the Tribes have been active in the work generated through the Great Lakes Fish and Wildlife Restoration Act, and with the Great Lakes Restoration Initiative (GLRI) and will continue that participation as well.
2. In order to develop the most comprehensive data concerning the status of the resource and to implement as many enhancement and protection projects as possible, it is also imperative that the Tribes consult with other regulatory agencies concerning their research and action projects. Due to the trust relationship between the Tribes and the United States, such consultation

will be focused on the activities of the USFWS and the laboratories of the National Biological Service, the National Oceanic and Atmosphere Administration (NOAA), the United States Geological Survey (USGS), and the Environmental Protection Agency (EPA). Consultation shall also be held with those state and provincial agencies whose research projects of fishery protection and enhancement activities impact on the treaty fishery. The Tribes, through CORA and GLRC, shall serve as a consultative body to each and every entity whose regulation of the fishery and the Great Lakes ecosystem has an impact on the treaty fishery.

3. Consultation can best be facilitated through the establishment of working groups which meet regularly in order to identify areas of concern and develop comprehensive approaches to address them. The primary body for consultation and collaboration is the TFC created in Section XII. of the Decree. Enforcement issues are the province of another collaborative body, the Law Enforcement Committee, created in Section XVI.B.2. of the Decree.

- B. Information Gathering and Sharing. Effective management of the fishery is dependent on good information. The Tribes are committed to establishing the most efficient and timely means of obtaining information on the status of the fish stocks and the harvest of them. The Tribes are also committed to obtaining from any and all other sources in a timely manner whatever information they may have on these subjects. The Tribes shall cooperate with the information sharing and gathering provisions in Sections XIV. and XV. of the Decree, and shall freely share the information described in those sections with each other and with the BSD.

## **X. JURISDICTION AND ENFORCEMENT**

- A. Codes. The Tribal Code, as it may be amended from time to time in accordance with the CORA Charter, the Decree, and this Plan, shall apply to all commercial, subsistence, and recreational fishing activities of Citizens of the Tribes in 1836 Treaty waters. Each Tribe shall adopt the Tribal Code as part of its regulation of its treaty fishers. Each Tribe shall promulgate regulations necessary to implement those portions of this Plan or the Decree which apply to that particular Tribe only, or which affect a Tribe in ways that are not reflected in the Tribal Code. In addition, each Tribe may promulgate additional and different regulations which are more restrictive than the provisions of the Tribal Code, provided that the regulations are in accordance with the Decree and this Plan and do not involve matters which require uniformity among the Tribes. No Tribe shall adopt, amend, or rescind a rule, regulation, or order where such action would conflict with the substantive requirements of the Decree, this Plan, or the Tribal Code.
- B. Enforcement. The Tribal Code and the additional fishing regulations of each Tribe shall be enforced by Tribal conservation officers, who shall be authorized to enforce the Tribal Code and each Tribe's regulations. MDNR conservation officers shall be

authorized to enforce the Tribal Code and individual Tribal regulations as provided in Section XVI.B.3. of the Decree. Other enforcing officers may also be authorized from time to time. Enforcing officers shall exercise the authority and have the powers provided in the Tribal Code.

- C. Courts. Violations shall be prosecuted in the courts of each Tribe, as more particularly described in the Tribal Code. Most offenses are civil in nature, but a number of offenses are misdemeanors. The Tribal courts shall have the authority to impose civil or criminal penalties, as the case may be, suspend or revoke licenses, issue injunctions, and order forfeiture of personal property used in the commission of an offense.
- D. Compliance With Plan. All Tribes shall manage their fisheries and regulate their Citizens in compliance with the Decree, this Plan, the Tribal Code, and decisions of GLRC and the BSD Director made in accordance with this Plan. The BSD Director is hereby authorized to close fishing by Citizens of any Tribe or to implement other management measures authorized by or consistent with the Decree, this Plan, or the Tribal Code, necessary in order to prevent that Tribe from violating the provisions of the Decree, this Plan, the Tribal Code, or decisions of GLRC or the BSD Director made in accordance with this Plan.

## **XI. DISPUTE RESOLUTION**

Disputes among the parties concerning the Decree shall be resolved as provided in Section XVIII. of the Decree. Disputes among the Tribes concerning this Plan, the CORA Charter, or the Tribal Code shall be resolved in accordance with Section VI.C. of the CORA Charter.

## **XII. DURATION**

This Plan shall be coterminous with the Decree. This Plan may be amended at any time during its term by resolution of GLRC, subject to the applicable restrictions and notice and dispute resolution provisions contained in the Decree or the CORA Charter, as the case may be.

## **XIII. DISCLAIMERS**

- A. The allocation of treaty harvest opportunities among the Tribes, and the restrictions imposed upon treaty fishing which favor the fishers of one or more Tribes, are the product of compromise and negotiation among the Tribes, and shall be effective only for the duration of this Plan. The Tribes reserve all rights and claims they may have in relation to one another with respect to the allocation of treaty harvest opportunities in the future, and nothing in this Plan shall limit, prejudice, or otherwise affect the assertion of such rights or claims upon the expiration of this Plan, or create a precedent for future intertribal allocation or regulation. Any use or construction of this Plan to limit, prejudice, or otherwise affect such rights or claims or to use such as precedent is unauthorized and improper.

- B. This Plan is not intended to identify, nor does it define, the maximum extent of the legal entitlement of the Tribes under the 1836 Treaty. The allocation of treaty harvest opportunities between the Tribes and non-treaty fishers, and the restrictions imposed by this Plan upon treaty fishing, shall be effective only for the duration of this Plan. The Tribes reserve all rights and claims they may have against the State with respect to regulatory issues and the allocation of treaty harvest opportunities in the future, and nothing in this Plan shall limit, prejudice, or otherwise affect the assertion of such rights or claims upon the expiration of this Plan, or create a precedent for future allocation or regulation. Any use or construction of this Plan to limit, prejudice, or otherwise affect such rights or claims or to use such as precedent is unauthorized and improper.
- C. Upon expiration of the term of this Plan, or if earlier terminated for any reason, the provisions, restrictions, and conditions contained in it shall no longer govern the Tribes in any manner whatsoever.

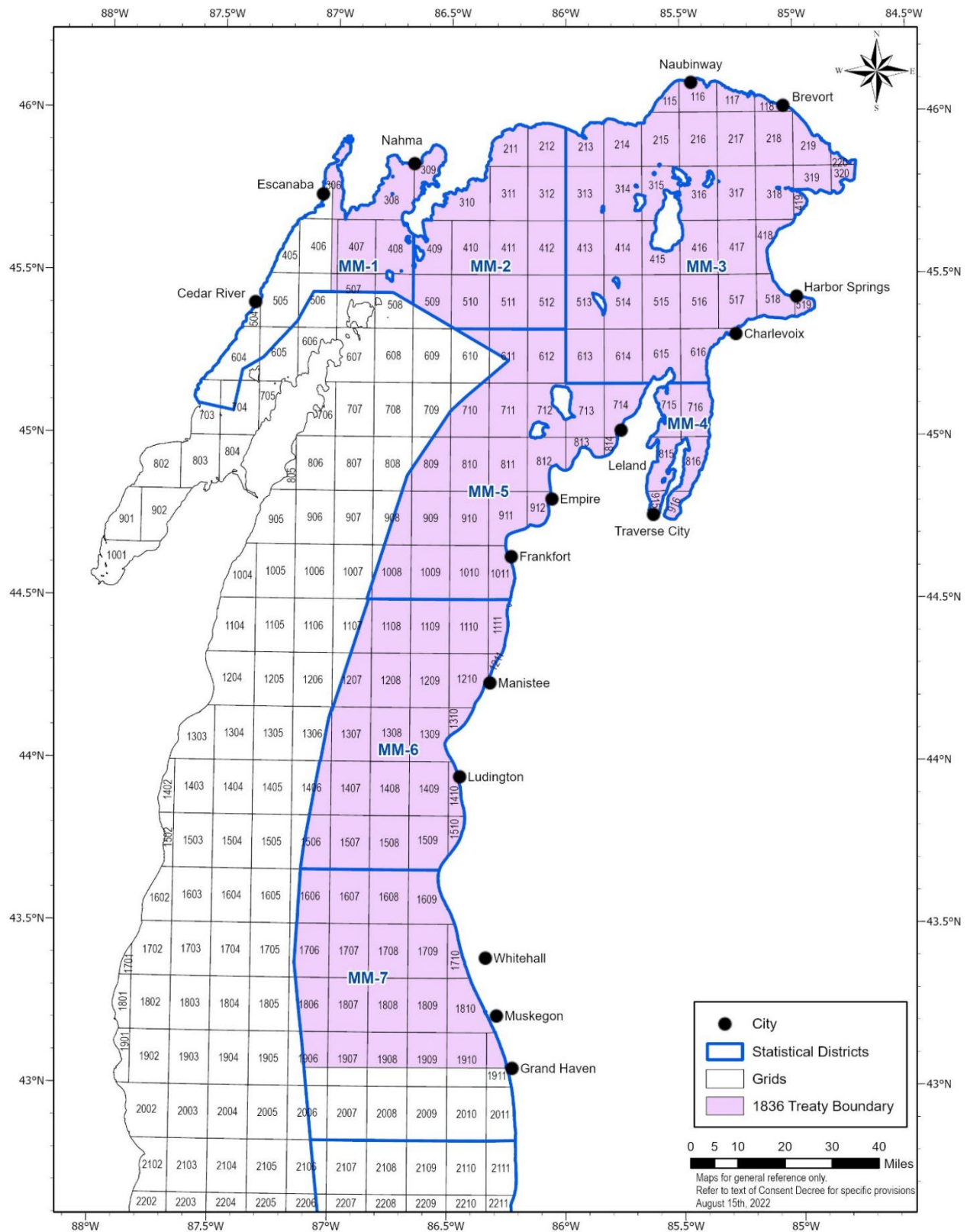
**APPENDIX C**

*Maps Depicting the Grids, Management Units, Statistical Districts, Zones, and Various Other Areas Described in the Consent Decree*

Maps for general reference only; refer to text of Consent Decree for specific provisions.

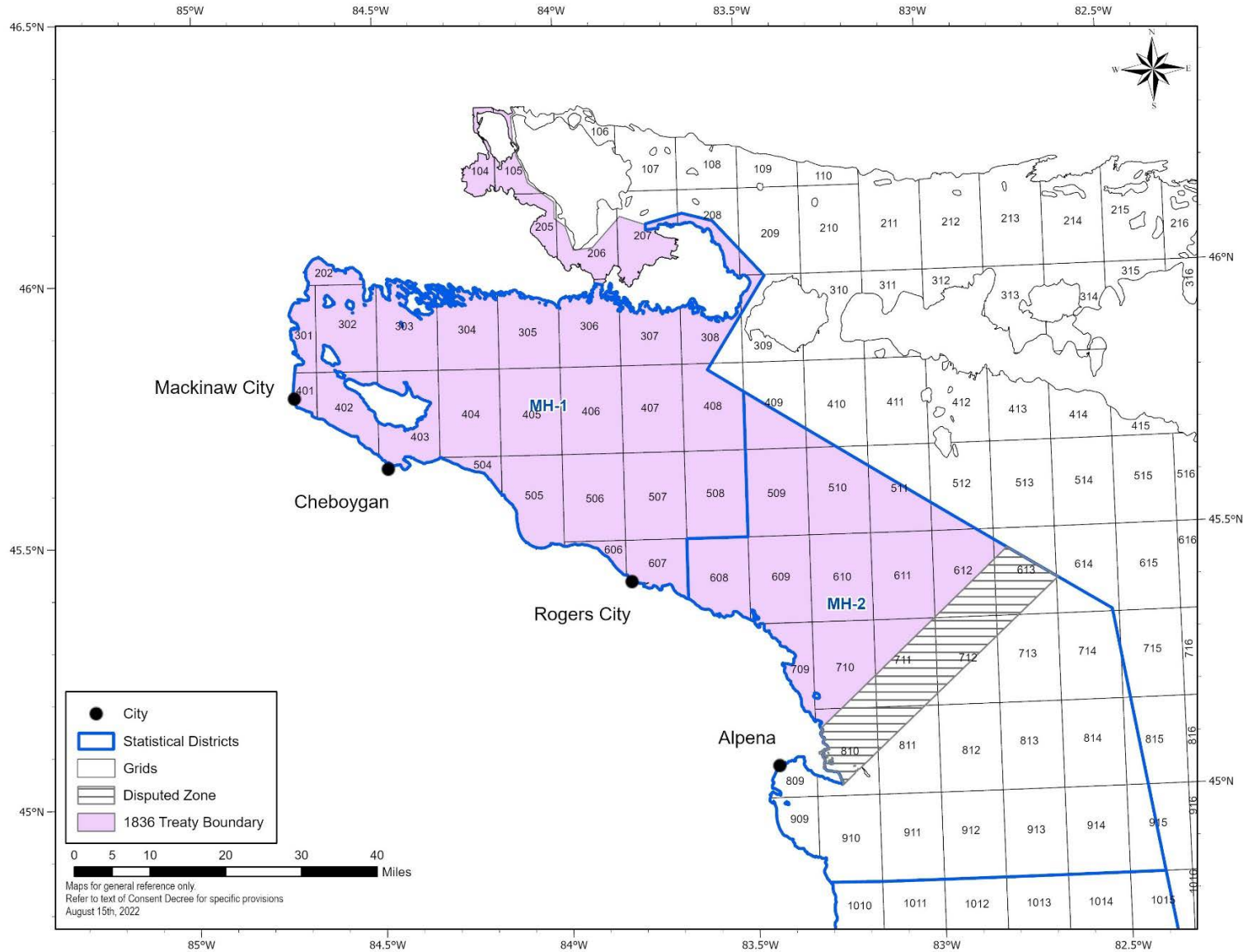
## Appendix C: Maps

APPENDIX C  
Proposed Decree  
Source: Maps  
Page 1 of 27



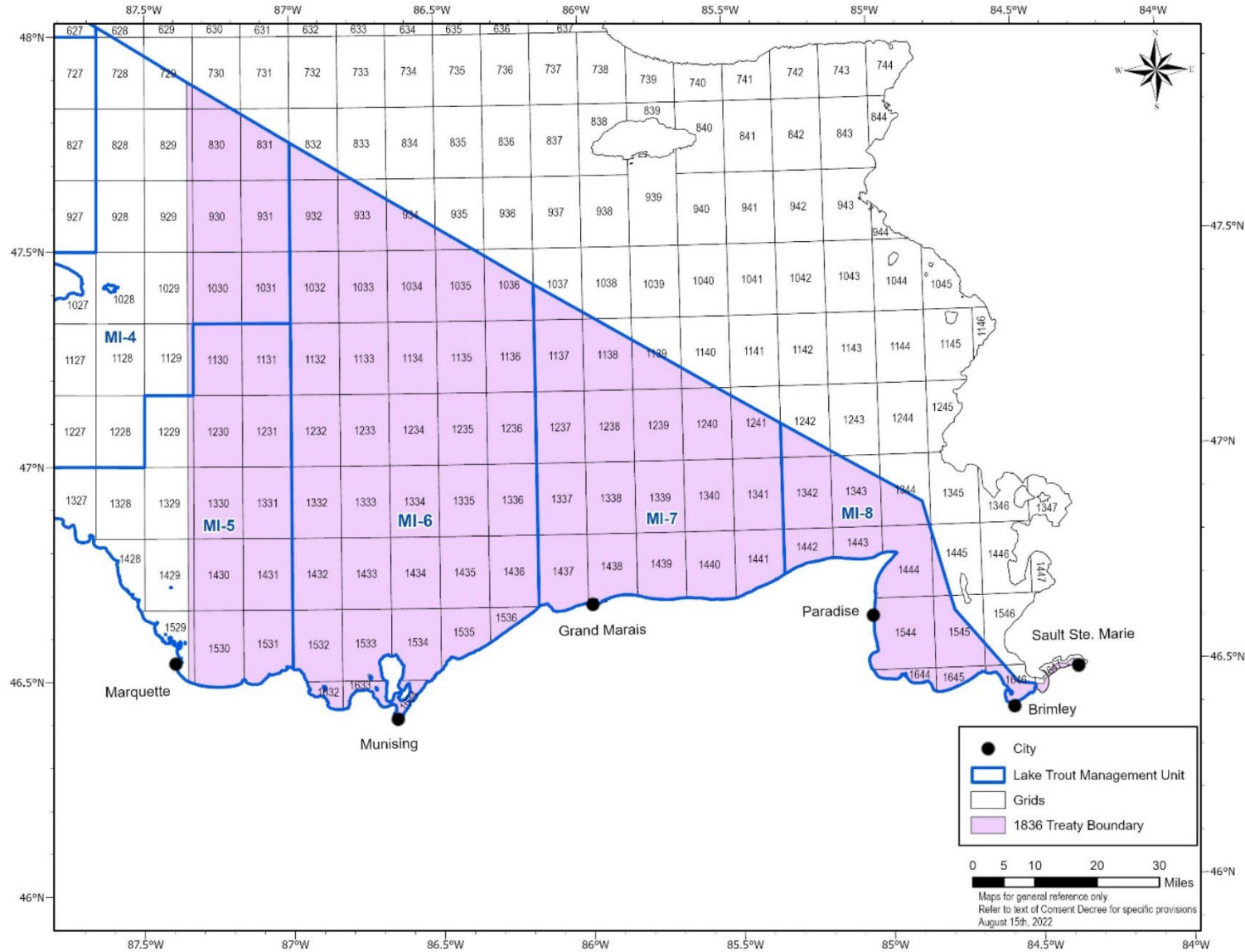
Map 1. Lake Michigan Grids and Statistical Districts.



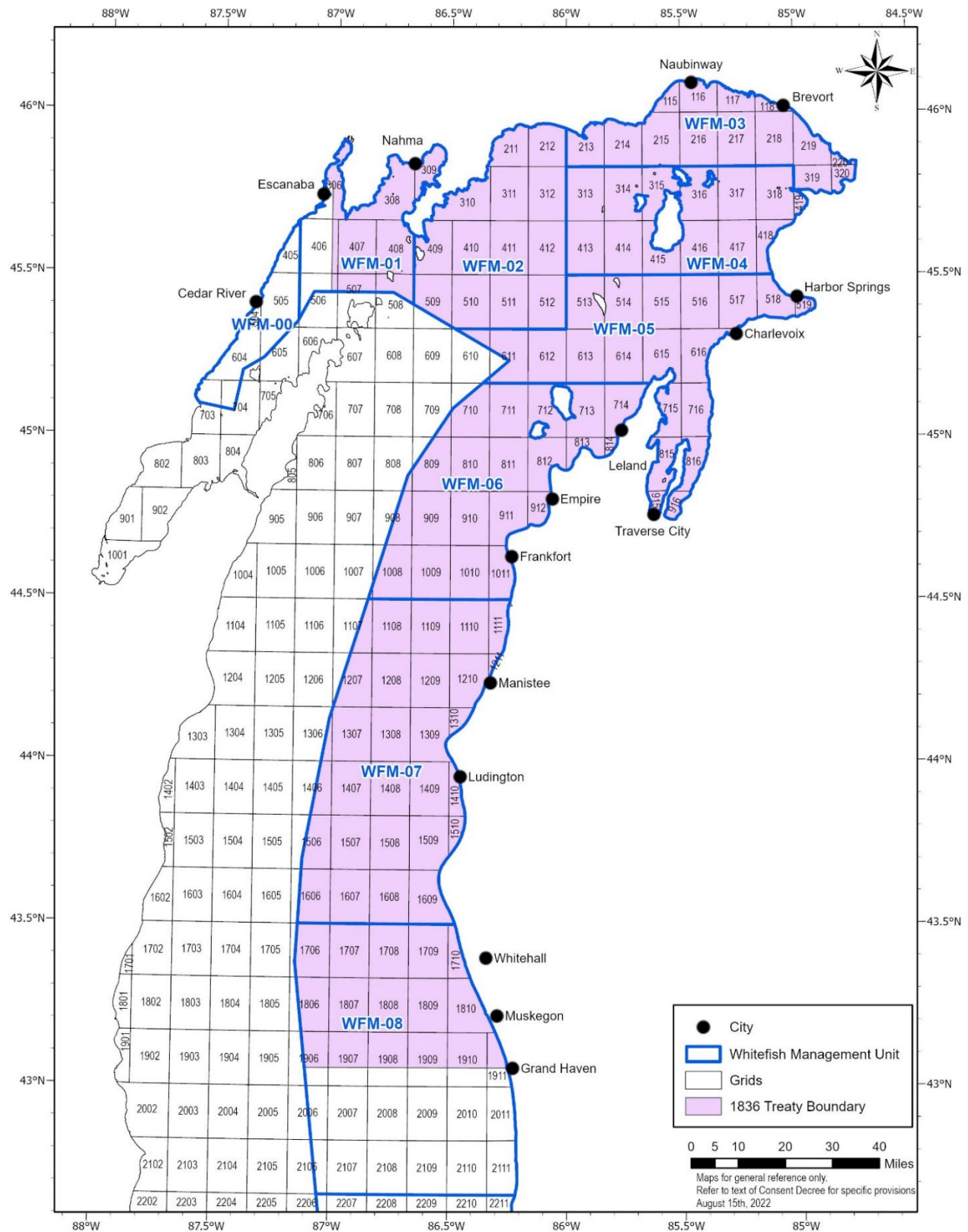


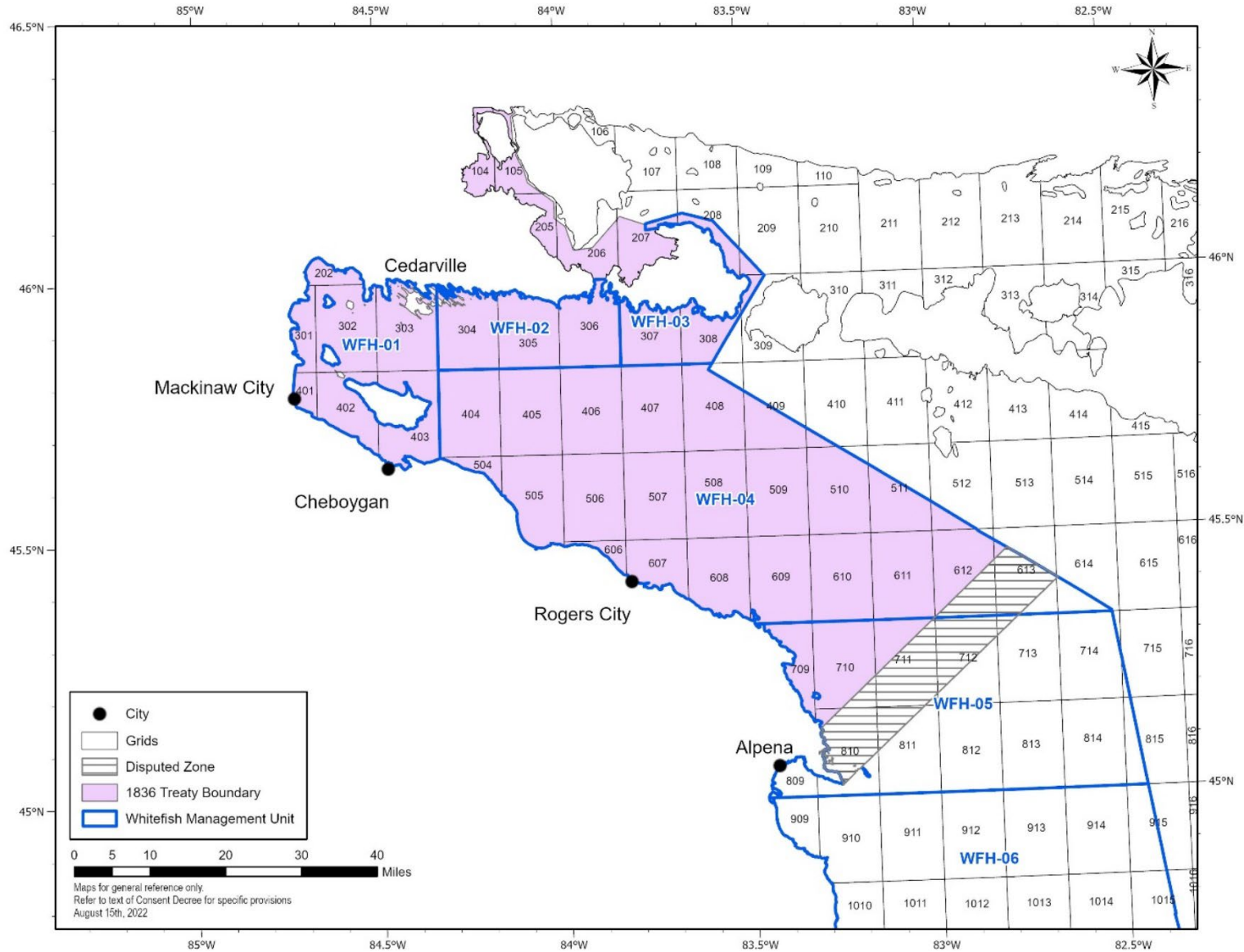
Map 2. Lake Huron Grids and Statistical Districts.



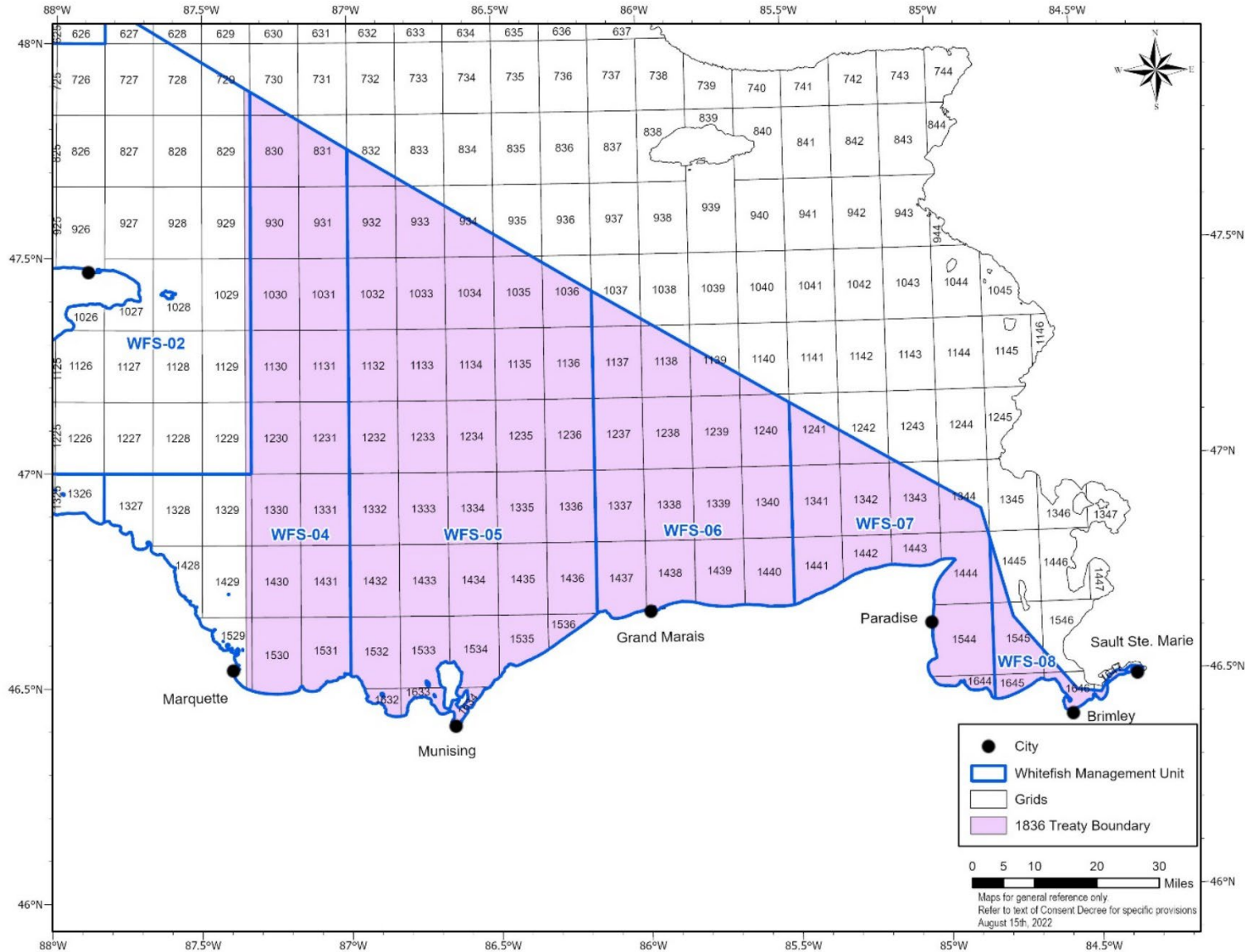


Map 3. Lake Superior Grids and Lake Trout Management Units.



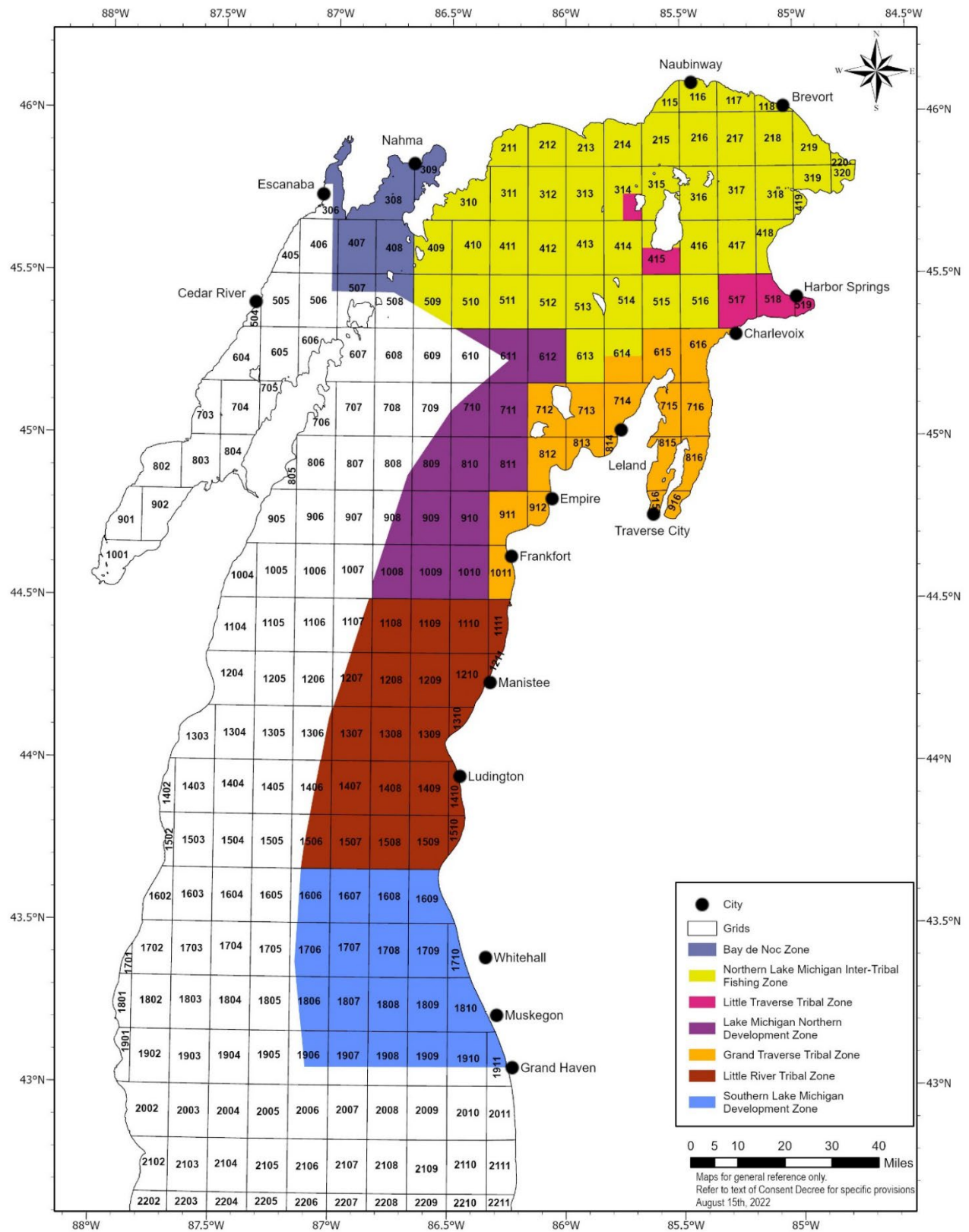


Map 5. Lake Huron Lake Whitefish Management Units.

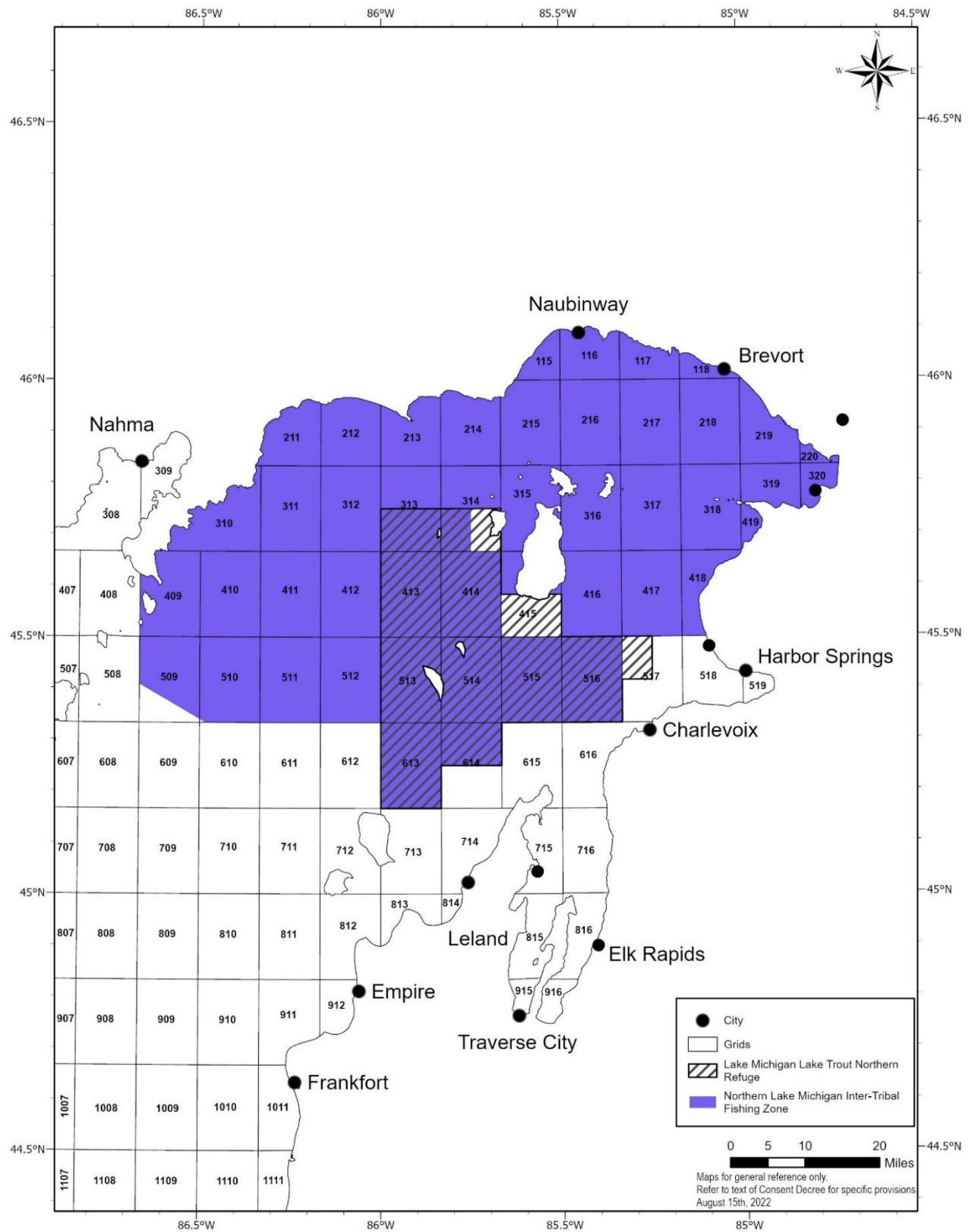


Map 6. Lake Superior Lake Whitefish Management Units.

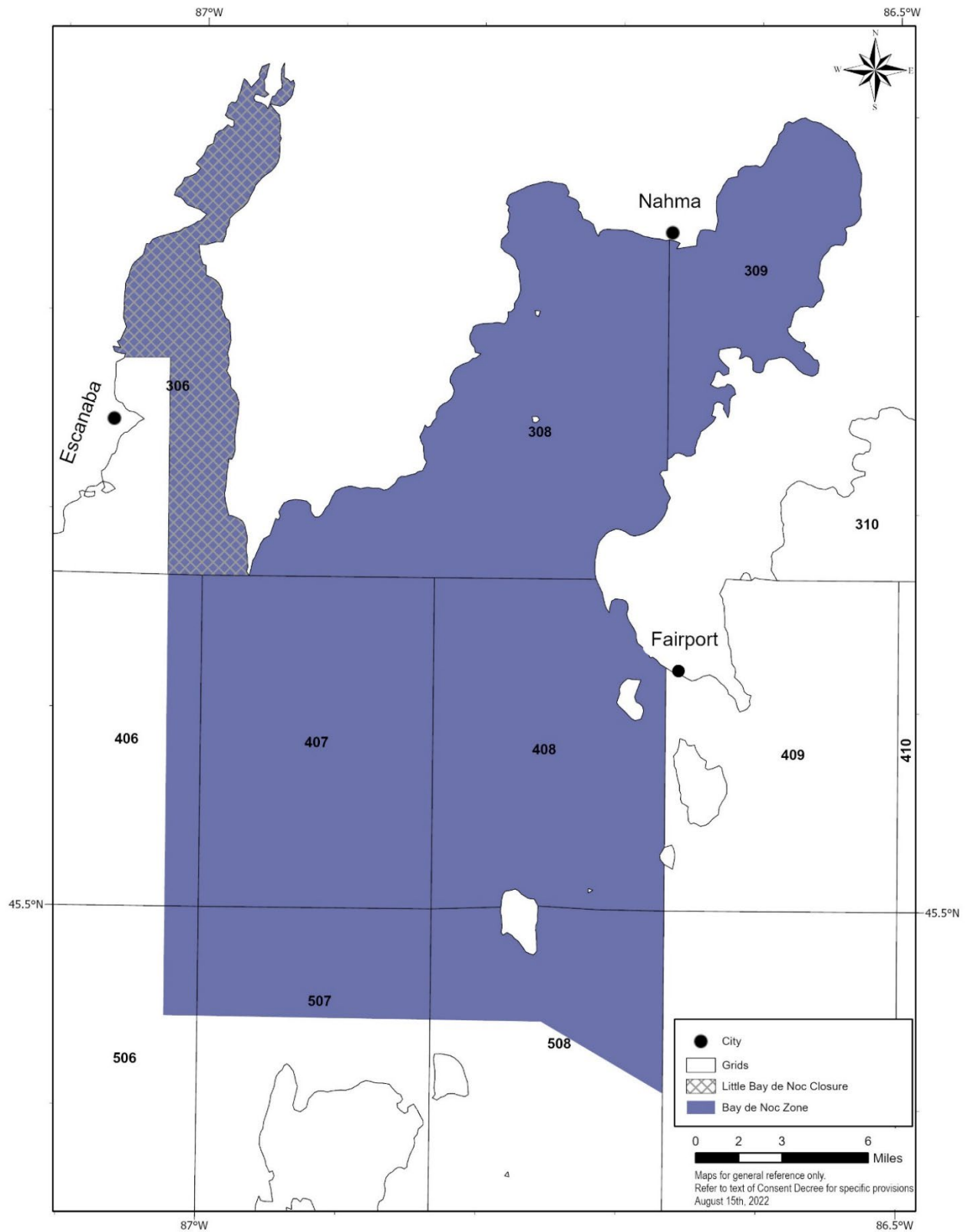




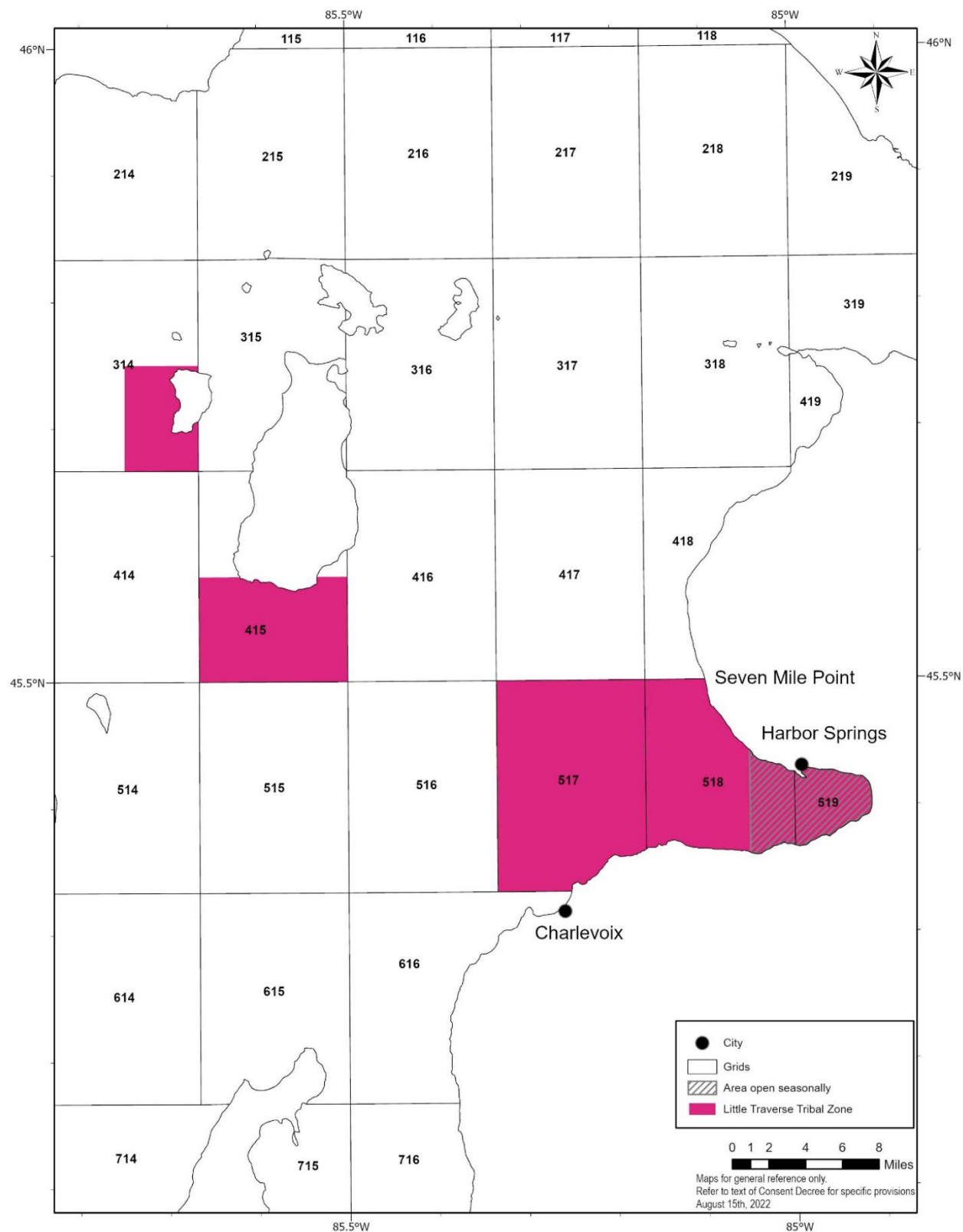
Map 7. Lake Michigan Tribal Fishing Zones.



Map 8. Northern Lake Michigan Inter-Tribal Fishing Zone.

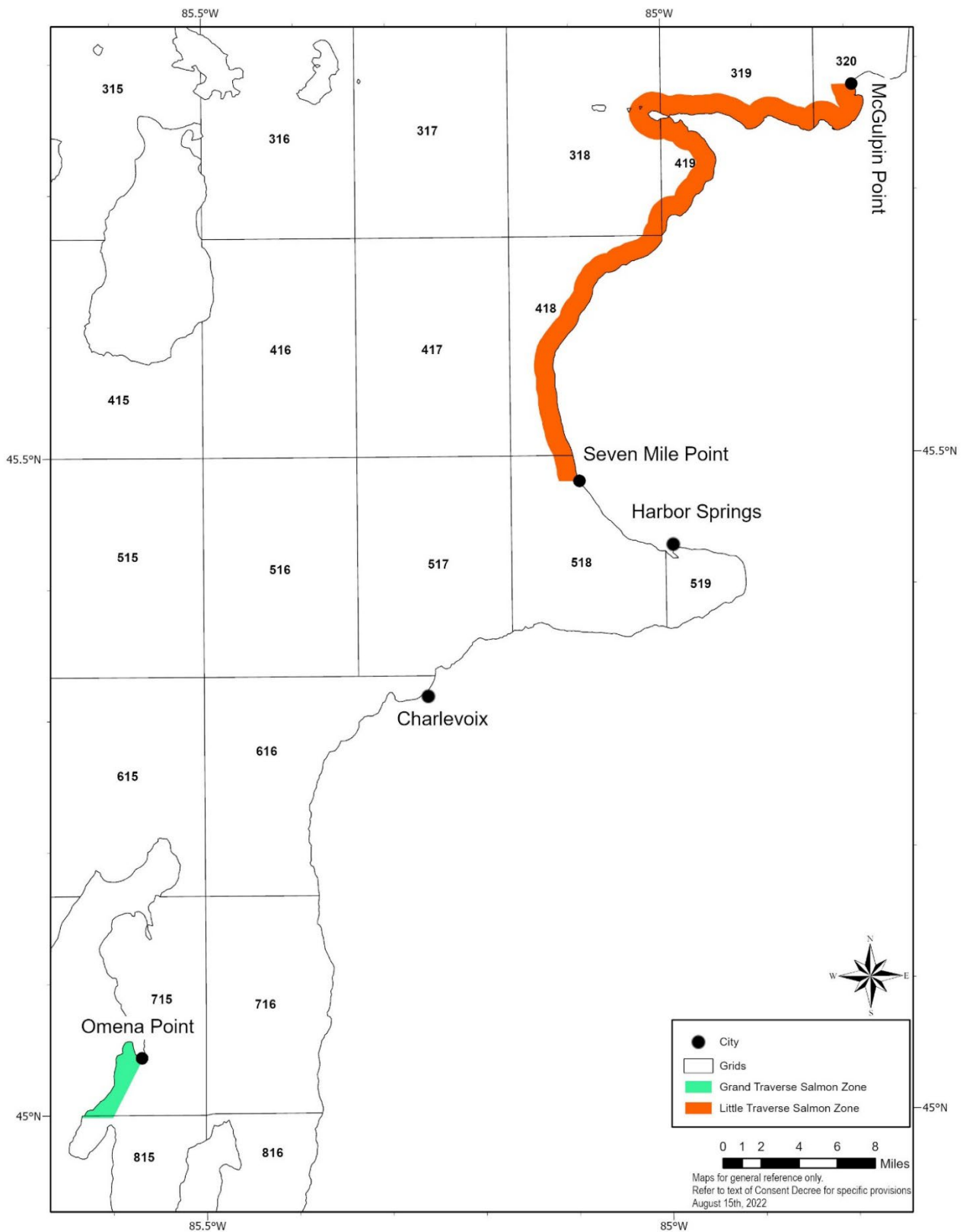


Map 9. Bay de Noc Zone.

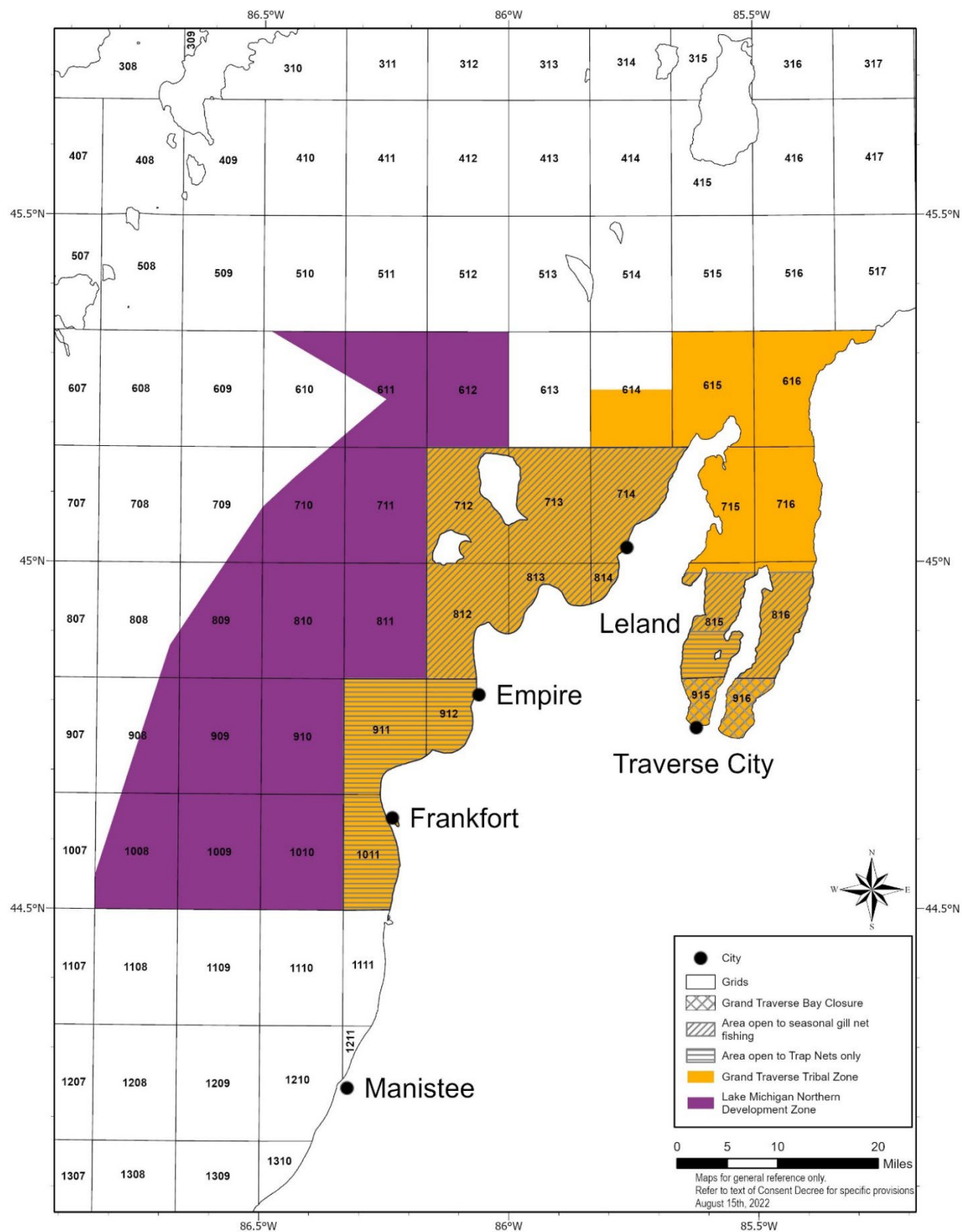


Map 10. Little Traverse Tribal Zone.

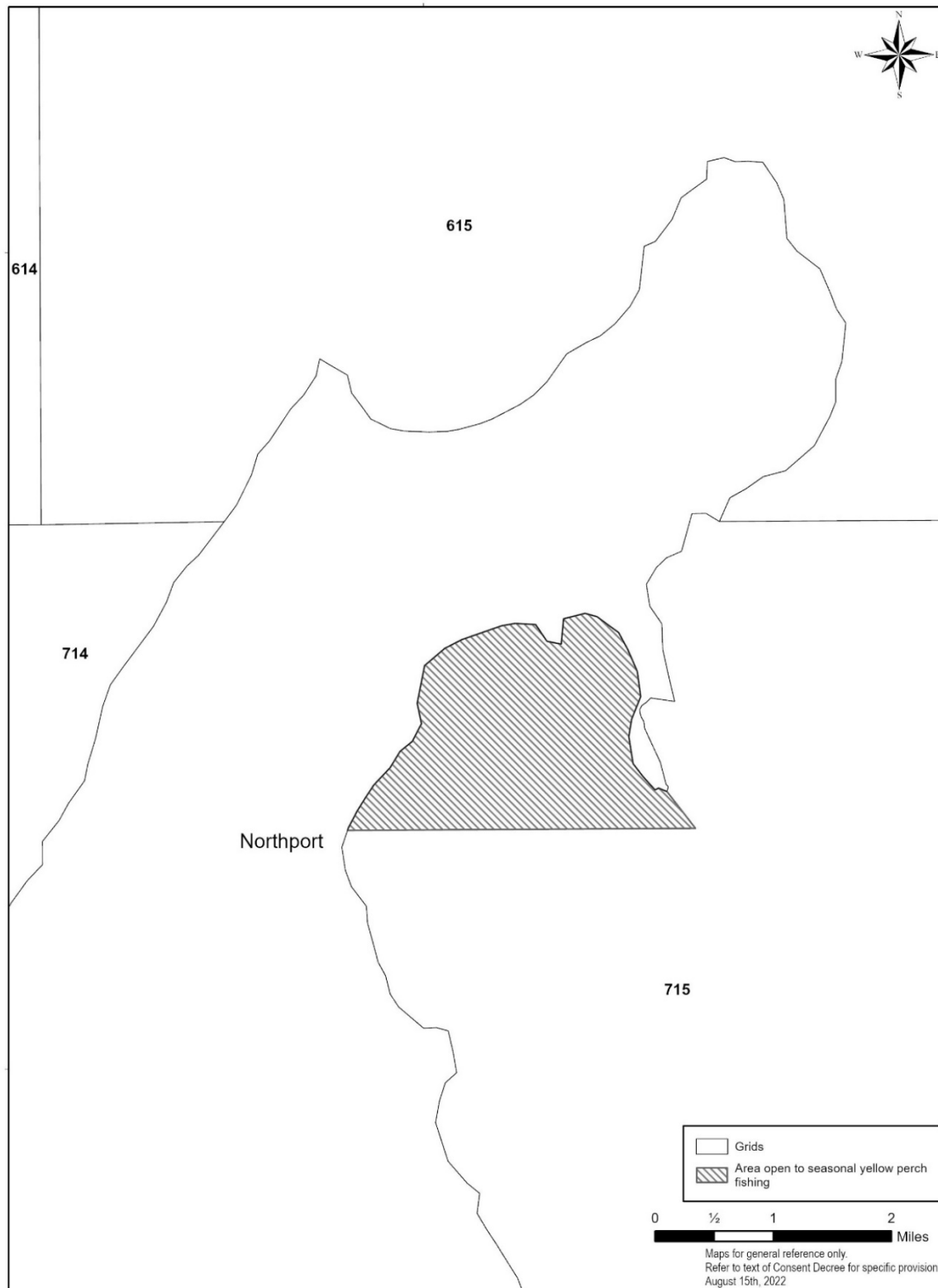




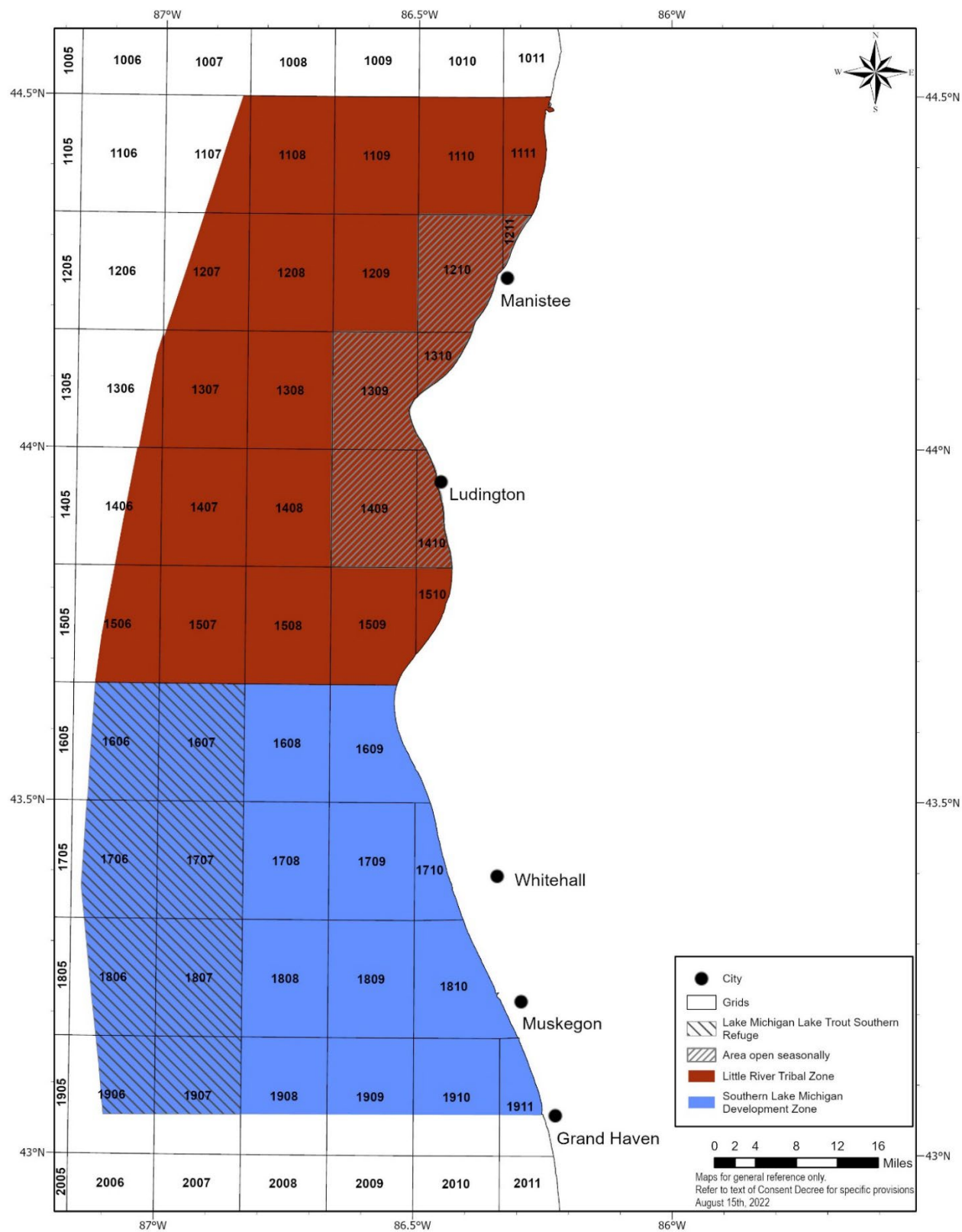
Map 11. Little Traverse and Grand Traverse Salmon Zones.



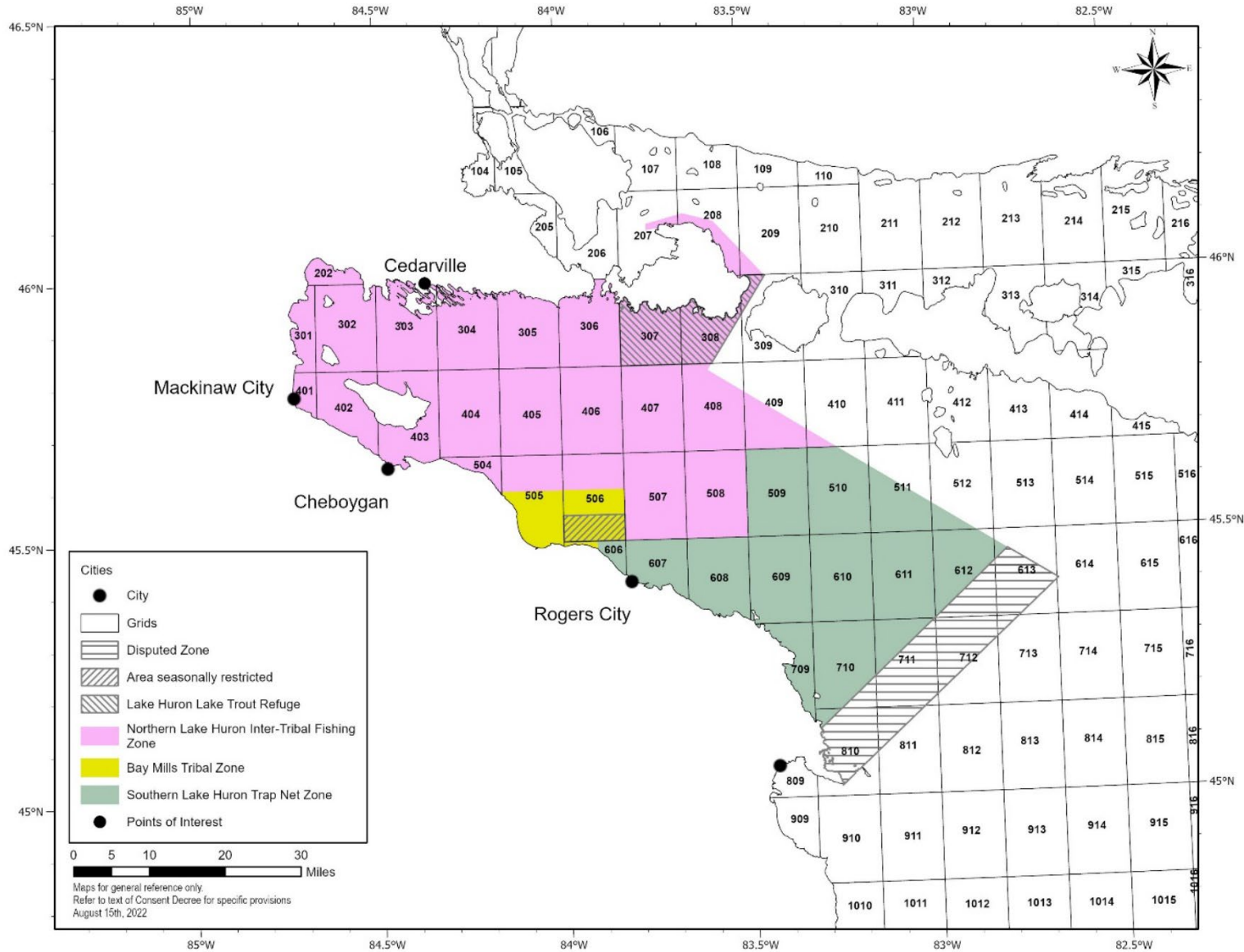
Map 12. Lake Michigan Northern Development Zone and Grand Traverse Tribal Zone.



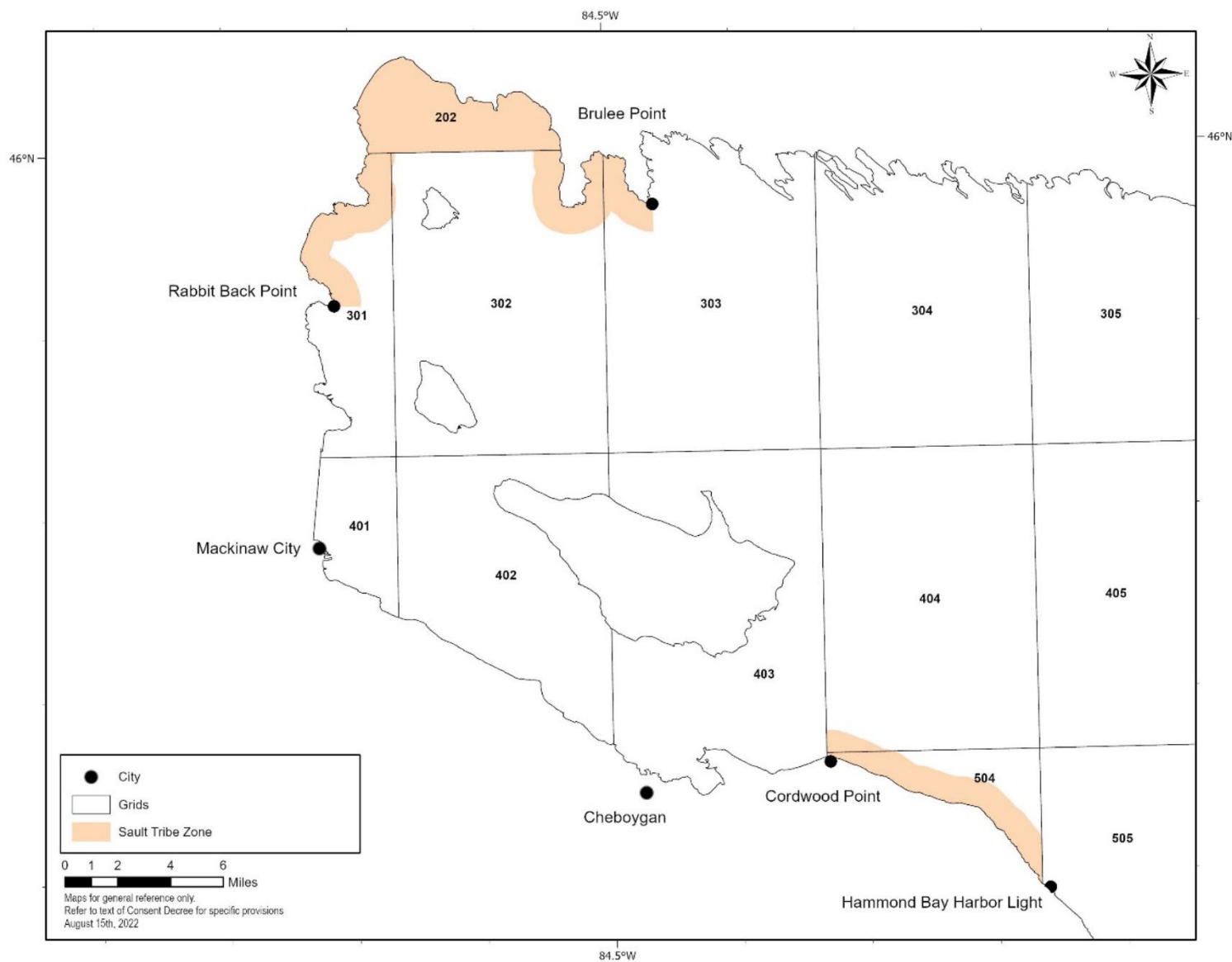
Map 13. Northport Bay Yellow Perch Closure.



Map 14. Little River Tribal Zone and Southern Lake Michigan Development Zone.

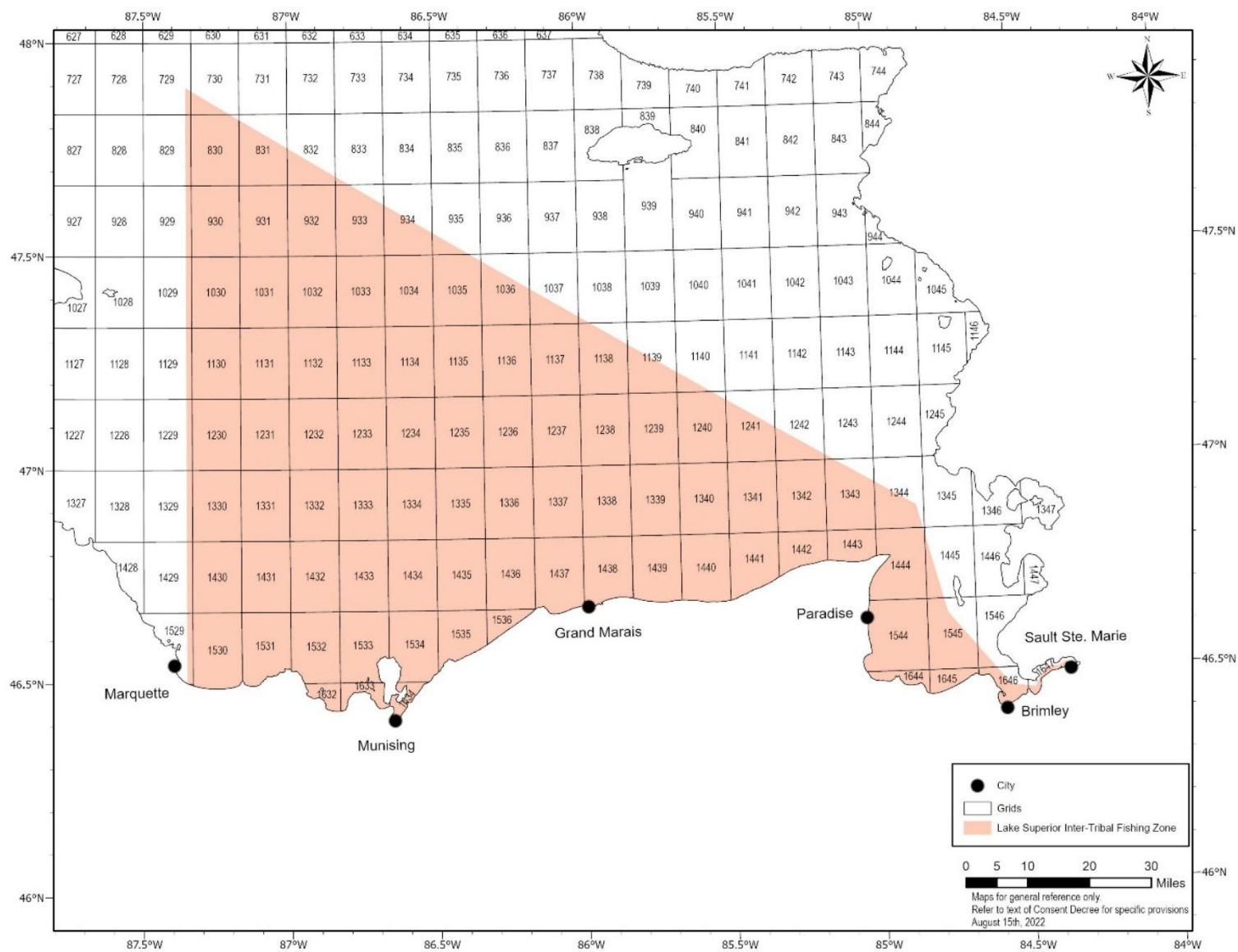


Map 15. Lake Huron Fishing Zones.

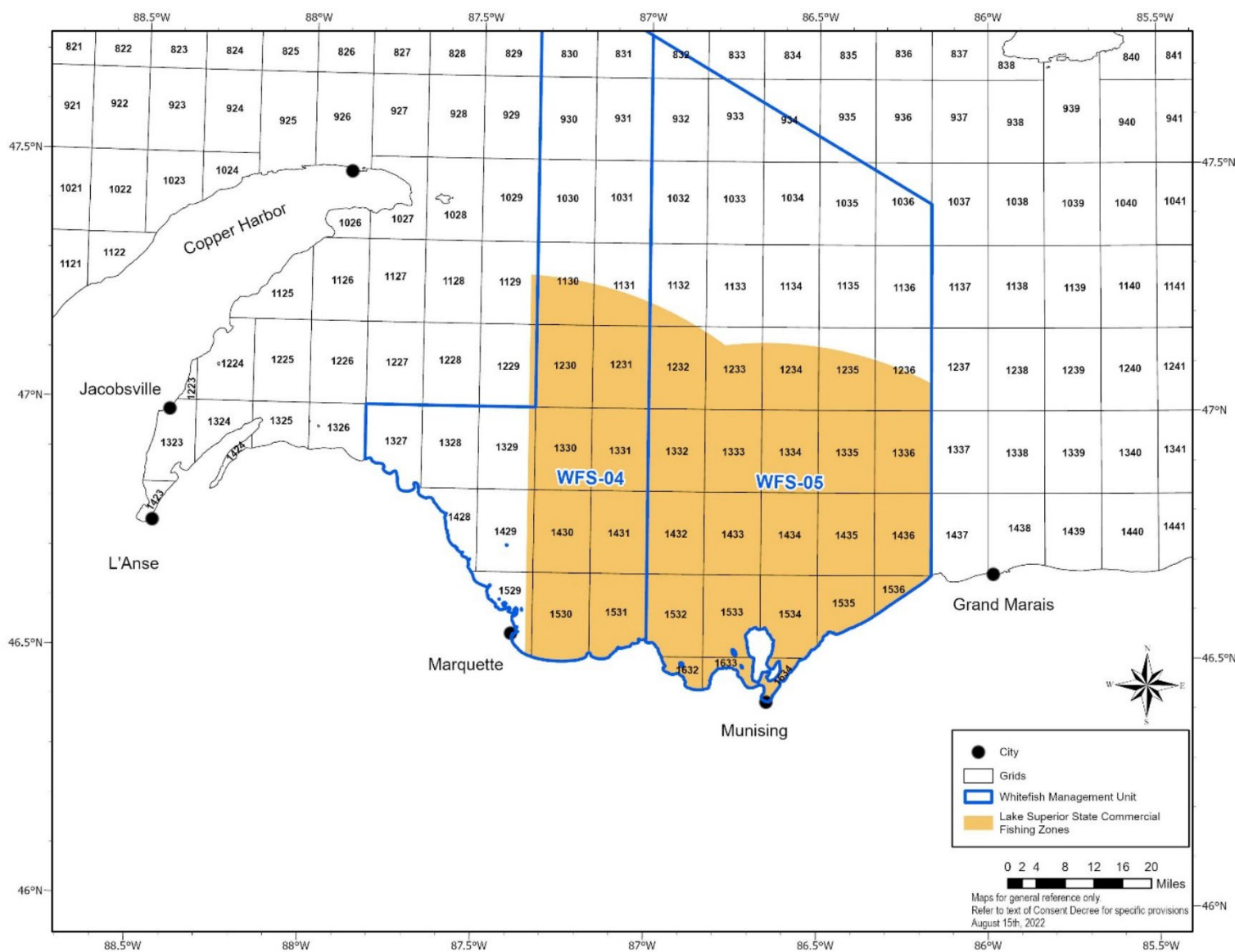


Map 16. Sault Tribe Tribal Zone.



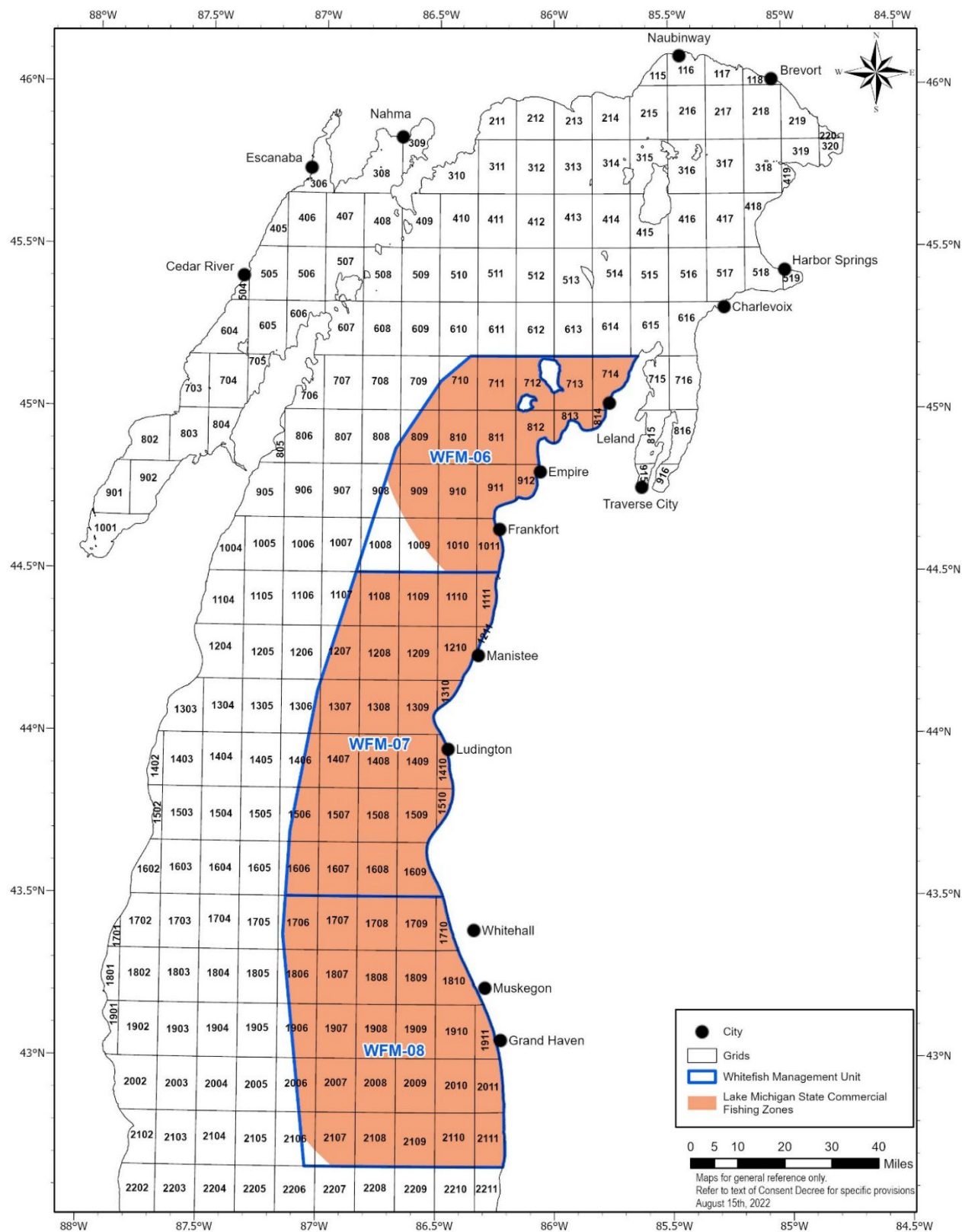


Map 17. Lake Superior Inter-Tribal Fishing Zone.

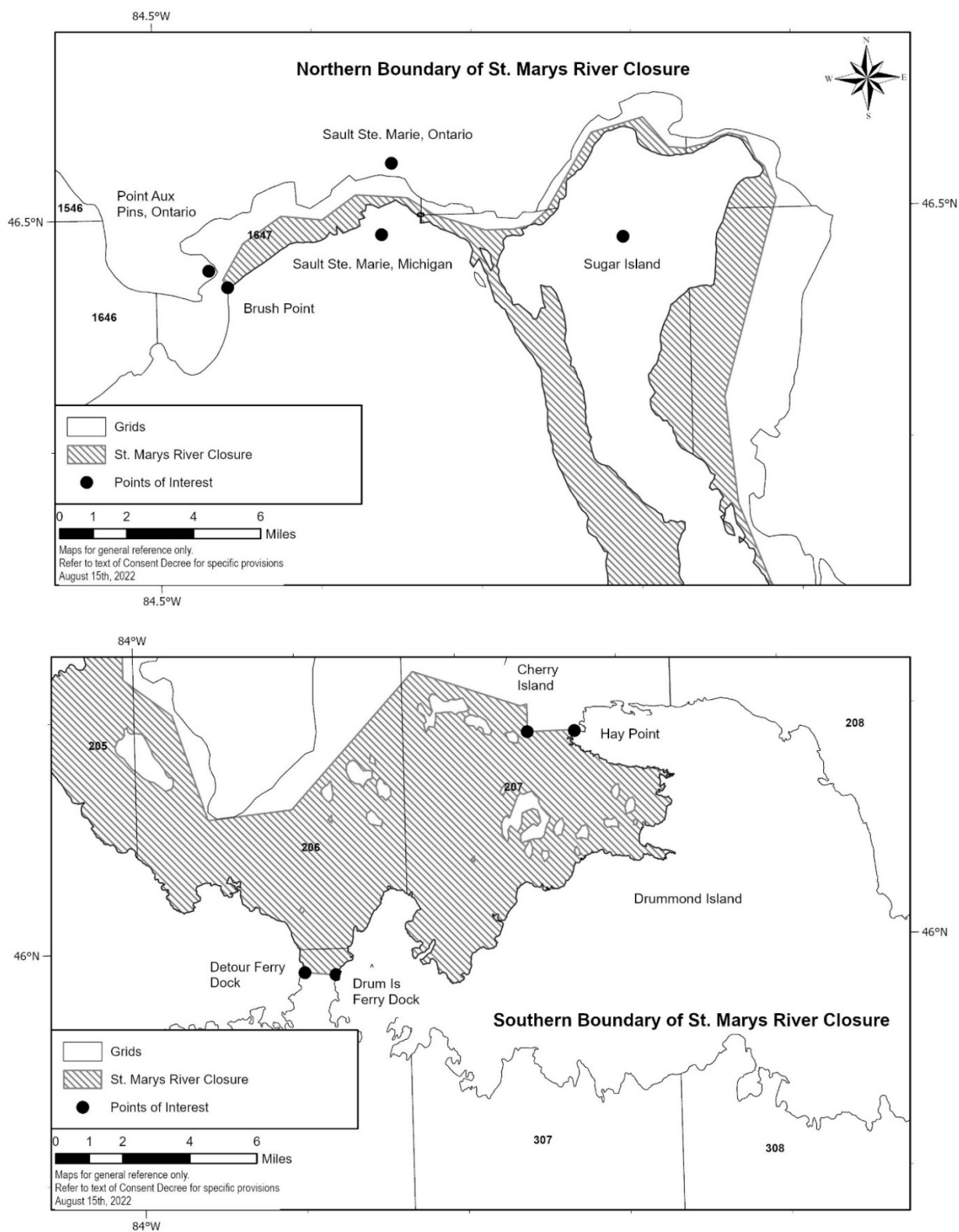


Map 18. Lake Superior State Commercial Fishing Zones.

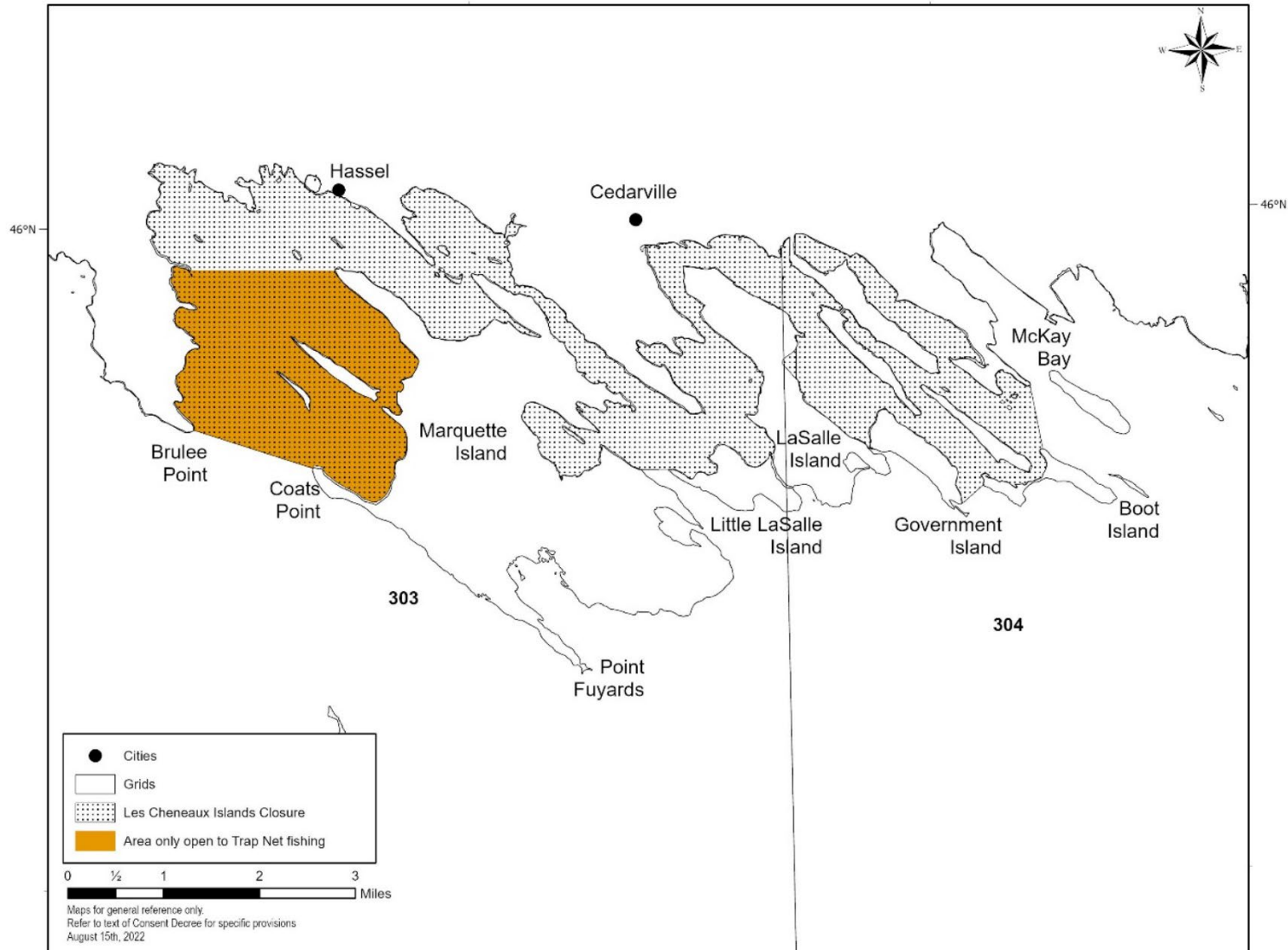




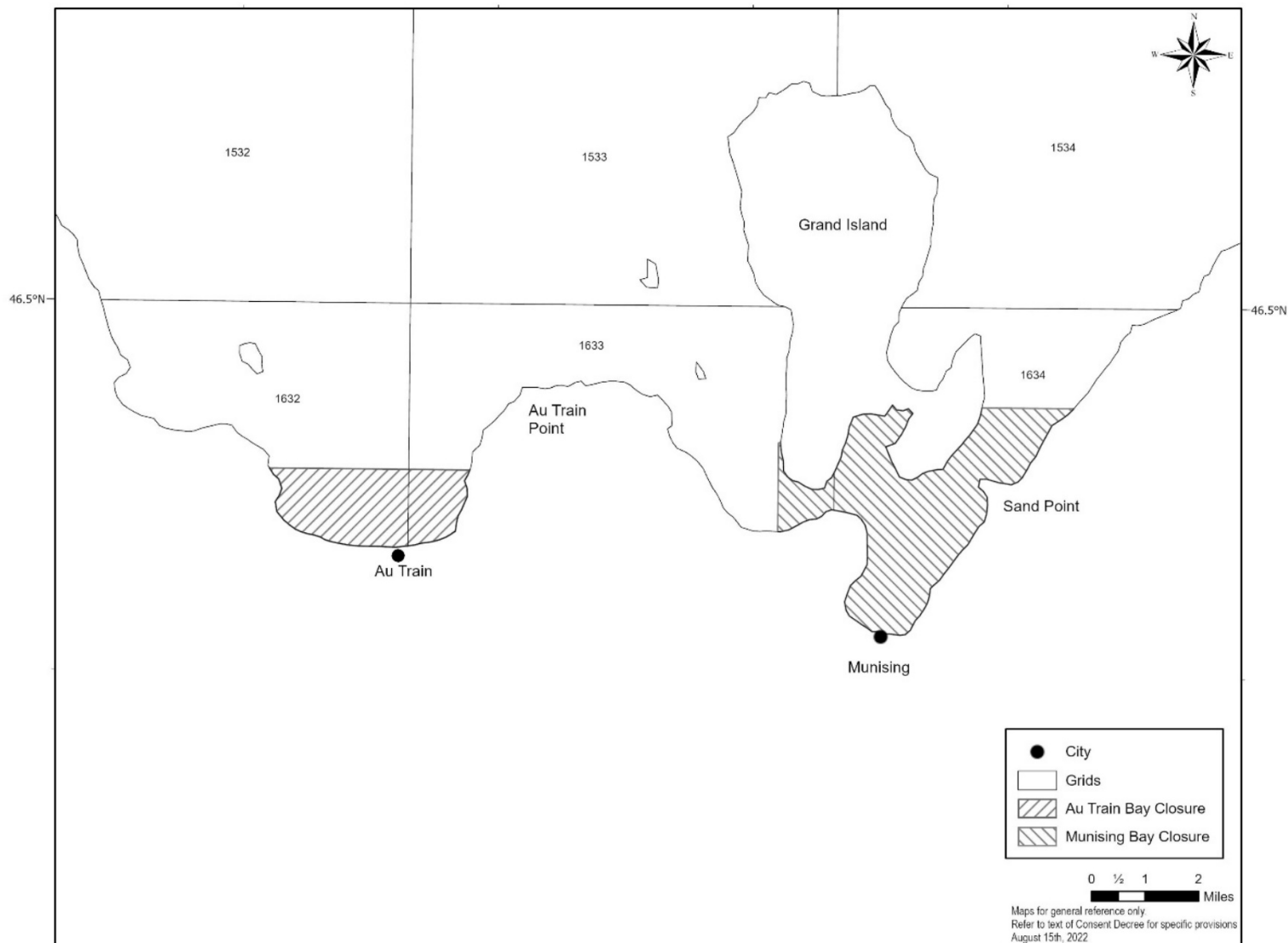
Map 19. Lake Michigan State Commercial Fishing Zones.



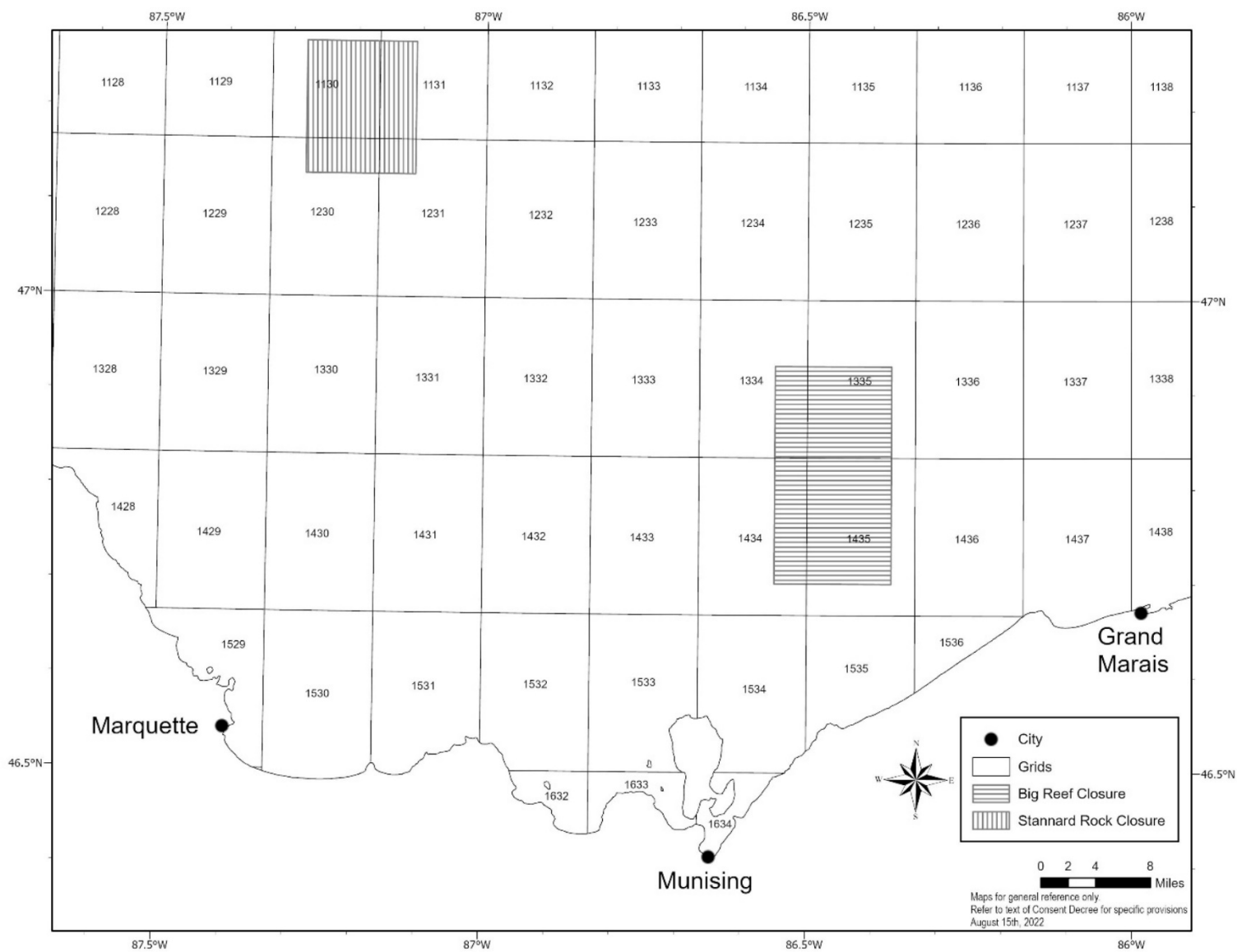
Map 20. St. Marys River Closure.



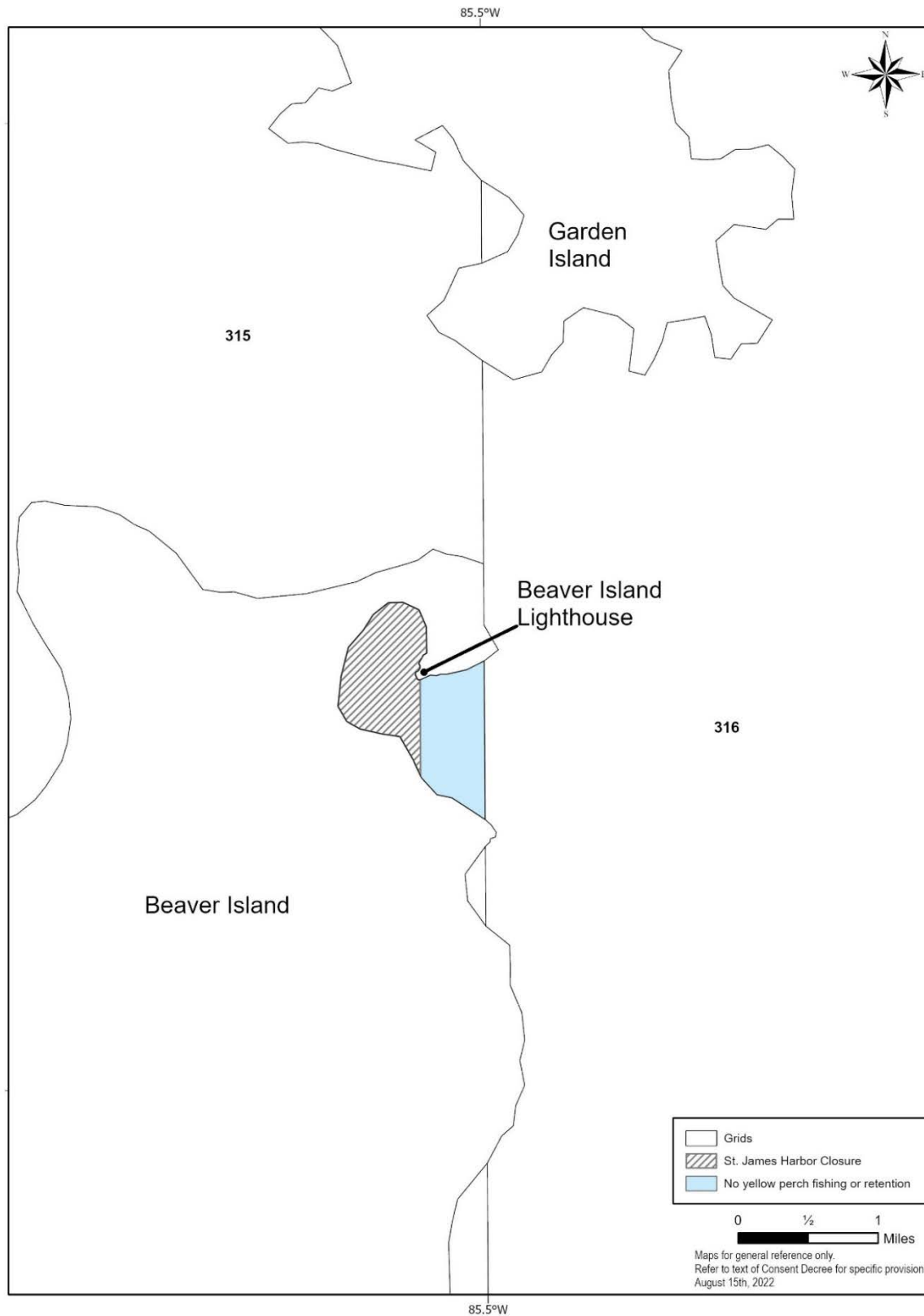
Map 21. Les Cheneaux Islands Closure.



Map 22. Au Train and Munising Bay Closures.



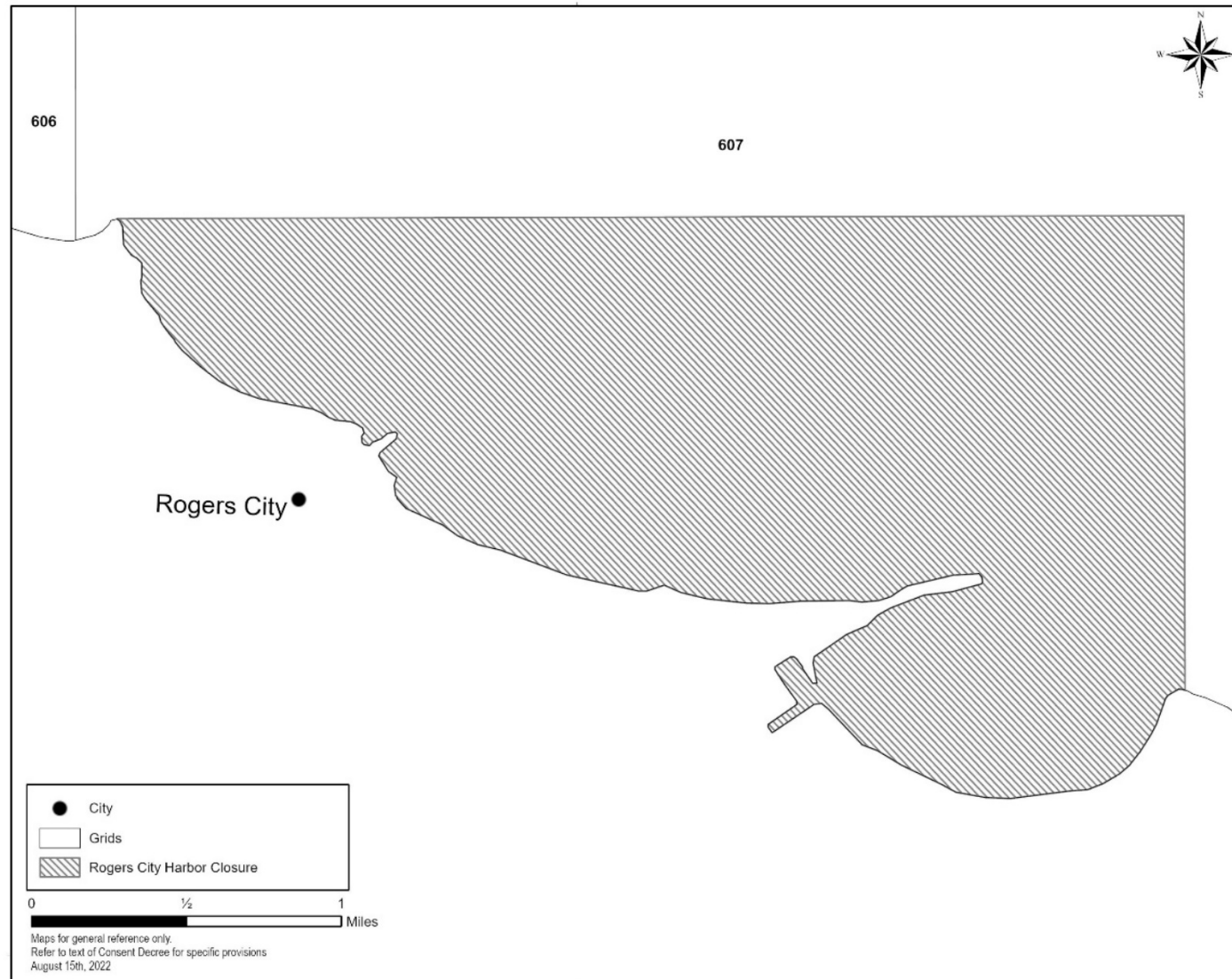
Map 23. Big Reef and Stannard Rock Closures.



Map 24. St. James Harbor Closure.







Map 26. Rogers City Harbor Closure.





Map 27. Lake Superior Lake Trout Management Unit MI-8.

**APPENDIX D**

*GPS Coordinates*

GPS Coordinates for general reference only; refer to text of  
Consent Decree for specific provisions.

## **Appendix D: GPS Coordinates for boundaries described in the Decree**

### Little Traverse Tribal Zone (Section IV.A.1.c.i. – Map 10)

- The western border of the southeast quarter of Grid 314 is a line of longitude at -85.75 degrees.
- The northern border of the southeast quarter of Grid 314 is a line of latitude at 45.75 degrees.
- The northern border of the south half of Grid 415 is a line of latitude at 45.583 degrees.

### Little Traverse Tribal Salmon Zone (Section IV.A.1.c.ii.(b)(i) – Map 11)

- Seven Mile Point is located at 45.4787 degrees latitude and -85.0913 degrees longitude.
- McGulpin Point is located at 45.7801 degrees latitude and -84.793 degrees longitude.

### Grand Traverse Tribal Zone (Section IV.A.1.e.i. – Map 12)

- The northern border of the south half of Grid 614 is a line of latitude at 45.25 degrees.

### Grand Traverse Tribal Salmon Zone (Section IV.A.1.e.ii.(d) – Map 11)

- The tip of Omena Point is located at 45.0412 degrees latitude and -85.5696 degrees longitude.
- The N“2” buoy is located at 45.0393 degrees latitude and -85.5711 degrees longitude.
- The C“1” buoy is located at 44.9982 degrees latitude and -85.6001 degrees longitude.

### Southern Lake Michigan Development Zone (Section IV.A.1.g.i. – Map 14)

- The southern boundary of 1836 Treaty Waters is a line of latitude extending west from the north bank of the Grand River at 43.0586 degrees.

### Sault Tribe Tribal Zone (Section IV.A.2.c.i.(a) – Map 16)

- Rabbit Back Point is located at 45.916 degrees latitude and -84.7134 degrees longitude.
- Brulee Point is located at 45.9693 degrees latitude and -84.4621 degrees longitude.

### Southern Lake Huron Trap Net Zone (Section IV.A.2.d.i. – Map 15)

- The southeastern border of this zone is a line extending from a point on shore in Grid 810 located at 45.1294 degrees latitude and -83.3193 degrees longitude due northeast to a point at

the Michigan-Ontario border located at 45.4637 degrees latitude and -82.7982 degrees longitude.

Lake Huron Disputed Zone (Section IV.A.2.d.iii. – Map 15)

- The southeastern border of this zone is a line extending from the tip of North Point on Thunder Bay located at 45.0201 degrees latitude and -83.2646 degrees longitude due northeast to a point at the Michigan-Ontario border located at 45.4029 degrees latitude and -82.6624 degrees longitude.

St. Marys River Closure (Section IV.C.1. – Map 20)

- Point Aux Pins, Ontario is located at 46.4773 degrees latitude and -84.4614 degrees longitude.
- Brush Point is located at 46.4703 degrees latitude and -84.4552 degrees longitude.
- Hay Point is located at 46.0947 degrees latitude and -83.7234 degrees longitude.
- Cherry Island is located at 46.0914 degrees latitude and -83.7555 degrees longitude.
- Drummond Island Ferry Dock is located at 45.9923 degrees latitude and -83.8974 degrees longitude.
- DeTour Ferry Dock is located at 45.9887 degrees latitude and -83.8795 degrees longitude.

Les Cheneaux Islands (Section IV.C.4. – Map 21)

Beginning at the southernmost point of land on the westerly side of McKay Bay (45.9733 degrees latitude, -84.28 degrees longitude); then southerly to the northernmost point of Boot Island (45.9639 degrees latitude, -84.278 degrees longitude); then along the eastern shore of Boot Island to its southernmost point; then along the south shoreline of Boot Island to a western point (45.9586 degrees latitude, -84.2908 degrees longitude); then westerly in a straight line to a south point of Government Island (45.9557 degrees latitude, -84.2953 degrees longitude); then along the shoreline of Government Island to the point at which the distance between said island and LaSalle Island is the least (45.9644 degrees latitude, -84.315 degrees longitude), then westerly in a straight line to LaSalle Island (45.9644 degrees latitude, -84.3153 degrees longitude); then along the eastern and southern shoreline of LaSalle Island to the point at which the distance between said island and Little LaSalle Island is the least (45.9623 degrees latitude, -84.3362 degrees longitude); then westerly in a straight line to Little LaSalle Island (45.9623 degrees latitude, -84.3364 degrees longitude); then westerly along the southern shoreline of Little LaSalle Island to its westernmost point (45.9620 degrees latitude, -84.35905 degrees longitude); then westerly in a straight line to the eastern shore of Marquette Island (45.962 degrees latitude, -84.3656 degrees longitude); then along the southwestern shore of Marquette Island to Coats Point (45.9631 degrees latitude, -84.4359 degrees longitude); then northwesterly to the southernmost part of Brulee Point (45.9693 degrees latitude, -84.462 degrees longitude), except

that Trap Net fishing targeting whitefish shall be permitted in that portion of Lake Huron Grid 303 within the area encompassed by a line from Coats Point (45.9631 degrees latitude, -84.4359 degrees longitude) on Marquette Island along the western shore of said island to Cube Point (45.9932 degrees latitude, -84.4303 degrees longitude); then due west to the shore of the Brulee Peninsula (45.9932 degrees latitude, -84.4619 degrees longitude); then southeasterly along said shore to the southern tip of Brulee Point (45.9693 degrees latitude, -84.462 degrees longitude); then southeasterly to Coats Point (45.9631 degrees latitude, -84.4359 degrees longitude) on Marquette Island.

Lake Michigan Lake Trout Northern Refuge (Section VII.D.1.b.i. – Map 8)

- The northern border of the southern half of Grids 313 and 314 is a line of latitude at 45.75 degrees.
- The northern border of the southern half of Grid 415 is a line of latitude at 45.583 degrees.
- The southern border of the north half of Grid 614 is a line of latitude at 45.25 degrees.
- The southern boundary of the northwest quarter of Grid 517 is a line of latitude at 45.4167 degrees.
- The eastern boundary of the northwest quarter of Grid 517 is a line of longitude at -85.25 degrees.

**APPENDIX E**

*Research Priorities*

December 11, 2022

## **Appendix E – Research Priorities**

- A. Lake Trout Rehabilitation. The Parties shall undertake an evaluation of the factors impeding successful Lake Trout rehabilitation, with frequent consultation and cooperation throughout the process. The research subjects shall include, but not be limited to, the following:
1. The effects of abiotic and biotic factors on survival of Lake Trout early life stages.
  2. The effects of genetic diversity of Lake Trout on reproductive success, spawning site preference, and biotic interactions. Stocking strategies (and stocking experiments) need to be designed to determine the mechanisms for maximizing phenotypic diversity in Lake Trout strains.
  3. Thiamine deficiency syndrome (TDS) and other health concerns, to understand how these may impact Lake Trout rehabilitation.
  4. Early life predation.
- B. Lake Whitefish. The Parties shall undertake an evaluation of the factors impeding successful Lake Whitefish recruitment, with frequent consultation and cooperation throughout the process. The research subjects shall include, but not be limited to, the following:
1. The effects of abiotic and biotic factors on survival of Lake Whitefish early life stages.
  2. Lake Whitefish aquaculture techniques.
  3. Pre-recruit habitat occupancy.
  4. Lake Whitefish-specific health concerns (e.g., immunology).
  5. Habitat degradation (and rehabilitation strategies).
- C. Dreissenid Mussels. The Parties shall undertake an evaluation of options for the control and mitigation of the impacts of Dreissenid mussels on the 1836 Treaty fishery, with frequent consultation and cooperation throughout the process. The research subjects shall include, but not be limited to, the following:
1. Targeted treatment or physical removal in northern lakes Michigan and Huron.
  2. Encourage, support and actively implement new biological, chemical, and physical control techniques.
  3. Continued active engagement with the Invasive Mussel Collaborative.
- D. Sea Lamprey. The Parties shall support the establishment and refinement of sea lamprey wounding targets for important commercial species, including Lake Whitefish.